

Board of Zoning Appeals Meeting Minutes
November 19, 2008
6:00 p.m.

Chairman Joe Weinstein convened the Board of Zoning Appeals meeting at 6:00 p.m. Present were Paul Wilkerson, Robert Juve, Russell Hose, Bill Daniel, Neal Call, Dave Robinson and Joe Weinstein. Sue Schultz and Matt Springer Asst. Zoning Inspectors were present.

NEW BUSINESS:

PUBLIC HEARING

APPLICANT: **DOUG BENJAMIN**

LANDOWNER: **DOUG BENJAMIN**

LOCATION: **2673 KIBLER ROAD**

ZONING DISTRICT: **R-3 RESIDENTIAL**

VARIANCE: **ART. III, SEC. 302 Q. ACCESSORY BUILDING**

Chairman Weinstein opened the public hearing.

Chairman Weinstein swore in all persons that wished to speak.

Chairman Weinstein swore in Asst. Zoning Inspectors Sue Schultz and Matt Springer.

Ms. Schultz stated that the landowner was requesting a variance from Article III, Sec. 302 Q. Accessory Building. An accessory building must be placed a minimum of fifteen (15) feet behind the house and a minimum of five (5) feet off rear and side lot lines. The accessory building was built without first obtaining permits and is not located fifteen feet behind the house.

Ms. Schultz read Question #12 from the Variance application: Please explain the practical difficulties or unnecessary hardship which justifies this application for a variance: "Our property is low lying and not too far behind, north of our house, floods three to six times per year. We built our shed closer to our house on highest ground possible to prevent damage. We also installed limestone under the shed to facilitate drainage."

Chairman Weinstein asked for comments from the floor.

Mr. John Gemind stated he lives at 2662 Kibler Road which is directly across the street from the applicant and his property also borders Pigeon Creek.

Mr. Gemind testified that there is a considerable amount of flooding to all the nearby properties despite efforts made by the Copley Township Service Department.

Mr. Gemind stated that property owners in the area are changing the way they construct new projects due to this flooding and therefore sees no problem with the applicant's accessory building being placed in its current location.

Chairman Weinstein asked for additional comments from the floor.

Mr. Alan Taylor stated he is a neighbor and lives at 2657 Kibler Road. Mr. Taylor stated he was comfortable with the location of the accessory building but opposes the dog shed/fence. Mr. Taylor also expressed his concern over the amount of flooding which occurs to his property and the surrounding neighbors.

Chairman Weinstein suggested to Mr. Taylor that he should attend a Trustees meeting and bring this concern to their attention.

Chairman Weinstein asked for additional comments from the floor.

Mr. Douglas Benjamin stated he is the applicant and lives at 2673 Kibler Road. Mr. Benjamin stated he constructed the accessory building in the present location due to the elevated ground and flooding concerns.

Chairman Weinstein asked Mr. Benjamin when the accessory building was constructed.

Mr. Benjamin said, "September of 2008."

Chairman Weinstein asked Mr. Benjamin if he was aware of the Zoning Resolution and setback requirements.

Mr. Benjamin said, "No".

Mr. Robinson asked Mr. Taylor if his basement stays dry.

Mr. Taylor said, "Yes, but my sump-pump runs continually."

Chairman Weinstein asked for additional comments from the floor. None were offered.

Mr. Robinson motioned to close the public hearing. Mr. Hose second.

Chairman Weinstein called for a vote. Mr. Robinson, aye, Mr. Hose, aye, Mr. Juve, aye, Mr. Wilkerson, aye.

Chairman Weinstein asked for discussion.

Chairman Weinstein stated this qualifies for a hardship.

Mr. Robinson motioned to approve the variance request as presented. Mr. Hose second.

Chairman Weinstein called for a vote. Mr. Robinson, aye, Mr. Hose, aye, Mr. Juve, aye, Mr. Wilkerson, aye. Motion carried.

PUBLIC HEARING

APPLICANT: **THE BEER FACTORY**

LANDOWNER: **2799 COPLEY LLC**

LOCATION: **2799 COPLEY ROAD**

ZONING DISTRICT: **C-4 -COMMERCIAL**

VARIANCE: **ART. VI PARKING REQUIREMENTS**

Chairman Weinstein opened the public hearing.

Chairman Weinstein swore in all persons who wished to speak.

Ms. Schultz stated that there were three options before the Board: 1) a reduction in the number of parking spaces required for this Use (162 required, 125 proposed (a difference of 37 parking spaces; 2) to land bank a designated area for the 37 remaining parking spaces; 3) or designate an area for the additional parking spaces on an impervious (not paved) area.

Question #12 from the Variance application: Please explain the practical difficulties or unnecessary hardship which justify this application for a Variance: "Unable to obtain building permit from Summit County and unable to open business, number of parking spaces provided."

Mr. Brian Caton stated that he operates the Beer Factory at 2799 Copley Road and that additional parking spaces could be placed on the property at a later time if the Board would allow them to operate with the current parking.

Chairman Weinstein asked how many additional parking spaces could be land banked.

Mr. Caton stated fifteen (15) additional parking spaces could be land banked behind the building for future demand.

Chairman Weinstein asked what type of business was operating in this location.

Mr. Caton said "A winery and a brewery".

Ms. Sue Schultz stated she would prefer to have additional parking spaces land banked for future demand.

Chairman Weinstein asked Mr. Caton how many employees will be working in this location.

Mr. Caton said, "four (4)."

Chairman Weinstein asked Mr. Caton how many parking spaces did they have at their previous location.

Mr. Caton stated they had approximately fifteen (15).

Chairman Weinstein asked Mr. Caton when receive their highest volume of guests.

Mr. Caton said, "We experience as many as ten (10) guests at a time and this occurs in the evenings or on weekends."

Chairman Weinstein asked if there was a bar inside the facility.

Mr. Caton said, "Yes, the bar is available for those who are making their wine and beer. However, it would also be open to those who would like to watch a game on TV."

Chairman Weinstein asked if they have a liquor license.

Mr. Caton said, "Yes."

Mr. Wilkerson asked the Assistant Zoning Inspectors how they concluded It's Your Winery and Beer Factory needed a total of 162 parking spaces.

Ms. Schultz stated that Township officials went to the facility and measured the different areas of the building and the type of usage occurring in that area. Ms. Schultz continued by saying that the use occurring in a particular area was then matched with the parking requirements stated in the Zoning Resolution.

Chairman Weinstein asked for additional comments from the floor. None were offered.

Mr. Robinson motioned to close the public hearing. Mr. Hose second.

Chairman Weinstein called for a vote. Mr. Robinson, aye, Mr. Hose, aye, Mr. Juve, aye, Mr. Wilkerson, aye.

Chairman Weinstein asked for discussion.

Mr. Robinson stated that the applicant has enough land space but not enough asphalt parking spaces.

Mr. Robinson motioned to approve the variance for the usage of an additional 37 gravel parking spaces as opposed to the required 162 asphalt parking spaces. Mr. Hose second.

Chairman Weinstein called for a vote. Mr. Robinson, aye, Mr. Hose, aye, Mr. Juve, aye, Mr. Wilkerson, aye. Motion carried.

PUBLIC HEARING

APPLICANT: **JUST THAT TWIST**

LANDOWNER: **MAGGIE WALKER**

LOCATION: **1463 S. CLEVE-MASS. ROAD**

ZONING DISTRICT: **C-3 COMMERCIAL**

VARIANCE: **ART. V, SEC. 501-2-G. REDUCTION IN SETBACK – NO SIGN SHALL BE LOCATED CLOSER THAN 10 FEET FROM ANY STREET RIGHT-OF-WAY LINE; ART. V, SEC. 501-5-4 TEMPORARY SIGNS ARE VALID FOR THIRTY DAYS.**

Chairman Weinstein opened the public hearing.

Chairman Weinstein sworn in all persons who wished to speak.

Ms. Sue Schultz stated that the applicant was requesting a low-rise (double sided) sign in the front yard that would be two feet from the right-of-way line. The Zoning Resolution states that no sign shall be located closer than ten feet from any street right-of-way. The existing structure sits 42 feet from the centerline of S. Cleve-Mass. Road. The right-of-way on S. Cleve-Mass. Road is 60 feet (30 feet on each side).

Ms. Schultz stated the applicants are also requesting a temporary banner to remain until December 31, 2008, at which time their permanent sign could be made and put up in the yard. Temporary signs are valid for thirty (30) days.

Question #12 from the Variance application: Please explain the practical difficulties or unnecessary hardship which justifies this application for a Variance: "Wall sign won't fit on building and property looks like a residence not a business without a visible sign in front of building".

Ms. Janet Clover stated that we are requesting a small ground sign to be placed at 36 feet from centerline of Cleveland-Massillon Rd.

Chairman Weinstein asked for additional comments from the floor. None were offered.

Mr. Robinson motioned to close the public hearing. Mr. Hose second.

Chairman Weinstein called for a vote. Mr. Robinson, aye, Mr. Hose, aye, Mr. Juve, aye, Mr. Wilkerson, aye.

Chairman Weinstein asked for discussion.

Mr. Wilkerson made a motion that the application for the reduction in the setback and temporary sign be approved as submitted, Mr. Hose, aye, Mr. Juve, aye, Mr. Robinson, aye. Motion carried.

With no further business to come before the Board, the meeting was adjourned at 6:45 p.m.

FUTURE MEETING DATE: Wednesday, December 17, 2008.

Approved By:

Submitted By:

Joe Weinstein, Chairman

Matt Springer, Assistant