

Board of Zoning Appeals
Meeting Minutes
June 23, 2010

Chair Joe Weinstein convened the Board of Zoning Appeals meeting at 6:00 p.m. Present were Joe Weinstein, Dave Robinson, Paul Wilkerson, Bob Juve, Russ Hose, Neal Call and Naureen Dar. Zoning Inspectors Sue Schultz and Matt Springer were present.

NEW BUSINESS

PUBLIC HEARING

APPLICANT & LANDOWNER: **JOHN & CINDY FITZGIBBONS**

LOCATION: **2361 S. CLEVE-MASS RD.**

ZONING DISTRICT: **C-1 COMMERCIAL**

VARIANCE: **SECTION 420-4 (A) FRONT YARD DEPTH & SECTION 601-4 (F) HARD SURFACE PARKING**

Mr. Weinstein opened the public hearing.

Mr. Weinstein swore in all persons who wished to speak, as well as Ms. Schultz and Mr. Springer.

Ms. Schultz presented the application and stated the applicant was before the Board this evening requesting to operate a gift shop within the Commercial-1 district. Ms. Schultz stated that a gift shop is a permitted use. The Gift shop will occupy two existing structures on the lot. First, a detached garage consisting of 900 square feet and secondly a barn which consists of 1,000 square feet. Both structures have lofts which will not be occupied or used as part of the gift shop.

Ms. Schultz stated that five (5) parking spaces are required per each building for a total of ten (10) total spaces. The landowners are providing fifteen (15) parking spaces. Parking must be twenty (20) feet from the road right-of-way and the applicants have met this requirement. No septic or well will be connected to the garage or barn and therefore the Ohio Environmental Protection Agency (OEPA) has no objection to the proposed Use.

Ms. Schultz stated that on July 6, 1998, the Board of Zoning Appeals declared the house a legal non-conforming Use that enabled the structure to be used as a residential dwelling.

Ms. Schultz stated that the existing barn is 38.2' feet from the edge of the road. The barn was built in 1888. Ms. Schultz asked the Board if a Variance would be necessary for the reduction in setback from the road right-of-way since the barn was constructed prior to zoning being enacted.

The Board collectively determined that a Variance was not necessary since the barn was constructed prior to Zoning being enacted.

Ms. Schultz stated that the applicant is requesting to use gravel rather than hard surface parking as required by the current Zoning Resolution.

Mr. Wilkerson asked if the County Engineers had reviewed the proposed parking.

Mr. Springer stated that the Engineers office reviewed the proposal and didn't object to the parking surface being gravel as opposed to a hard surface.

Mr. Robinson asked if the applicant would maintain the gravel surface so that weeds and uneven spots are eliminated on an as-needed basis.

Mr. John Fitzgibbons stated that gravel has been brought in almost yearly to even out low-lying areas and to cover any vegetation that has grown through the

previous year's cover.

Ms. Schultz stated that the property has two (2) existing driveways that fail to be separated from an intersection by two-hundred (200) feet. Ms. Schultz stated that the first driveway is approximately ninety-five (95) feet from the intersection of Summit Road and S. Cleveland-Massillon Road and the second driveway is approximately thirty-five (35) feet from the same intersection. Ms. Schultz asked if the Board felt a Variance was necessary for a reduction.

The Board collectively determined that a Variance was not necessary since the driveways were installed prior to Zoning being enacted.

Mr. Fitzgibbons stated that he would like to use gravel rather than a non pervious hard surface material. Mr. Fitzgibbons continued by saying that he is trying to keep the look of the area as rural and natural as possible. Furthermore, a non-pervious surface would only lead to unnecessary runoff.

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

Mr. Wilkerson moved to close the public hearing, Mr. Juve, second.

Mr. Weinstein called for a vote.

Roll call on the motion:

Aye: Dave Robinson, Paul Wilkerson, Joe Weinstein, Bob Juve, Russ Hose
Nay: None
Abstain: None

Mr. Hose moved to approve the application as submitted and allow the applicant to use gravel rather than hard surface material for the parking lot, Mr. Juve, second.

Mr. Weinstein called for a vote.

Roll call on the motion:

Aye: Dave Robinson, Paul Wilkerson, Joe Weinstein, Bob Juve, Russ Hose
Nay: None
Abstain: None
The motion carried.

PUBLIC HEARING
APPLICANT & LANDOWNER: TIM COUCH
LOCATION: 730 SUGAR RD.
ZONING DISTRICT: R-3 RESIDENTIAL
VARIANCE: ART. III, SECTION 302 (K) SUBSTANDARD LOT OR RECORD (SIDE YARD SETBACK)

Mr. Weinstein opened the public hearing.

Mr. Weinstein swore in all persons who wished to speak.

Ms. Schultz stated that the applicant is proposing to build an addition onto his existing home. The applicant is requesting to reduce the required ten (10) foot side yard setback to five (5) feet at the narrowest point of the addition. Ms. Schultz stated that the parcel is less than .5 acre.

Ms. Schultz stated that the practical difficulties or unnecessary hardship was answered by the applicant in saying, "The age of the house, the septic location, the

irregular lot lines, limited lot size and the interior layout of the house has limited the location of the proposed addition.”

Mr. Weinstein asked the applicant what the total size would be for the proposed addition.

Mr. Tim Couch stated that it would be approximately 900 square feet. Mr. Couch continued by saying that due to the present location of the septic system, a certain portion of his property cannot be used for the addition. Therefore, the proposed addition encroaches closer to the side property line.

Mr. Wilkerson asked if the neighboring property located to the north was vacant.

Mr. Couch stated that Mr. Ronald Stewart owns this property but a significant portion of his property is an open field. Mr. Couch continued by saying that he received the signatures of approval from not only Mr. Stewart but the abutting property owners on all contiguous sides with the exception of one which is a vacant property located within the City of Fairlawn and is being handled by a commercial real estate firm.

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

Mr. Robinson moved to close the public hearing, Mr. Juve, second.

Mr. Weinstein called for a vote.

Roll call on the motion:

Aye:	Dave Robinson, Paul Wilkerson, Joe Weinstein, Bob Juve, Russ Hose
Nay:	None
Abstain:	None

Mr. Hose moved to approve the application as submitted and allow the applicant to construct a residential addition so long as the closest point of the addition does not encroach any closer than five (5) feet to the side property line, Mr. Juve, second.

Mr. Weinstein called for a vote.

Roll call on the motion:

Aye:	Dave Robinson, Paul Wilkerson, Joe Weinstein, Bob Juve, Russ Hose
Nay:	None
Abstain:	None

The motion carried.

OLD BUSINESS

PUBLIC HEARING

APPLICANT: MANN ARCHITECTS

LANDOWNER: DR. THOMAS HANDEL

LOCATION: 270 S. CLEVE-MASS RD.

ZONING DISTRICT: C-2 COMMERCIAL

VARIANCES:

- 1. SECTION 601-4 (B). DRIVEWAY SEPARATION MINIMUM OF 200 FEET FROM OTHER DRIVES.**
- 2. SECTION 601-4 (C). INTERNAL CIRCULATION REQUIREMENTS: PARKING AREA MUST HAVE THRU CIRCULATION**

Mr. Weinstein opened the public hearing.

Mr. Weinstein swore in all persons who wished to speak.

Mr. Springer stated that the applicant was before the Board on May 26, 2010 requesting two Variances. First, Section 601-4 (C) requires that all parking areas sharing common entrances or drives, or servicing the same use and providing for 20 or more parking spaces, shall have thru circulation. No dead end aisle shall serve more than 19 cars nor be less than 24 feet in width. Mr. Springer stated that due to the configuration of the existing lot, it would be extremely difficult if not impossible to create a second point of thru circulation.

Mr. Springer stated that the second Variance request is from Section 601-4 (B), which requires that driveway separations be a minimum of 200 feet from other drives. Mr. Springer stated that the lot consists of only 90 feet of road frontage and is less than ten (10) feet from the neighbors drive directly to the north. Mr. Springer stated that based upon the close proximity, the Board requested the applicant to table the Variance request and explore other potential options for a shared drive with the neighbors.

Mr. Springer stated that meetings were held between the applicant, the property owner to the north and south of the subject lot, a representative from the County Engineers office and the Zoning Department Staff. Unfortunately, an agreement could not be reached with the property owner to the north and thus a shared driveway is not possible.

Mr. Springer stated that upon review by the County Engineers office, it is likely that the minimum requirements for site distance can be achieved. However, the property owner and applicant is strongly encouraged to remove as much of the existing vegetation and trees located along S. Cleveland-Massillon Rd. as possible. In doing this, the site visibility will be increased for both oncoming traffic as well as vehicles exiting/entering Dr. Handel's site.

The Summit County Engineers office proposed that if the Board were to approve the reduction in driveway separation, it be approved with the condition that all site distance requirements be satisfied during the site plan review process.

Mr. David Mann stated that per the Boards request on May 26, 2010, a meeting was held with the property owner to the north to discuss the possibility of sharing a common drive. Unfortunately, the neighbor did not believe the proposed shared drive would be in their best interest. Therefore, Dr. Handel's drive location hasn't changed in terms of location.

Mr. Mann stated that unfortunately due to the size and layout of the exiting property few possibilities exist for the access to be relocated but will continue to work with the County Engineers office during the site plan review process and would be agreeable to satisfying their requirements for site distance.

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

Mr. Robinson moved to close the public hearing, Mr. Juve, second.

Mr. Weinstein called for a vote.

Roll call on the motion:

Aye:	Dave Robinson, Paul Wilkerson, Russ Hose, Joe Weinstein, Bob Juve
Nay:	None
Abstain:	None

Mr. Weinstein moved to approve the Variance requests as submitted with the condition that the applicant and property owner satisfy the requirements set

forth by the Summit County Engineers office as it pertains to the driveway location and the minimum site distance requirements during the site plan approval process, Mr. Juve, second.

Mr. Weinstein called for a vote.

Roll call on the motion:

Aye: Dave Robinson, Paul Wilkerson, Russ Hose, Joe Weinstein, Bob Juve
Nay: None
Abstain: None

Mr. Weinstein asked the Board to review the minutes from the May 26, 2010 meeting.

Mr. Weinstein stated that he will abstain from voting as will Russ Hose and Bob Juve since they were not present at the May 26, 2010 meeting but asked that alternates Neal Call and Naureen Dar vote since they were in attendance.

Mr. Robinson moved to approve the minutes of the May 26, 2010 Board of Zoning Appeals meeting as submitted, Mr. Wilkerson, second.

Mr. Weinstein called for a vote.

Roll call on the motion:

Aye: Dave Robinson, Neal Call, Paul Wilkerson, Naureen Dar
Nay: None
Abstain: Joe Weinstein, Bob Juve, Russ Hose
The motion carried.

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

Approved By:

Submitted By:

Joe Weinstein, Chair

Matt Springer, Zoning Inspector