

**WEST CHESTER TOWNSHIP
BOARD OF ZONING APPEALS
February 12, 2014 - Regular Meeting**

MEMBERS PRESENT: Mr. McCormick, Mr. Whited, Mr. Moeller,
Mr. Hackney, Mr. Lenz

MEMBERS ABSENT: Ms. Minton

STAFF PRESENT: Cathy Walton and Gregory R Porta, Code Enforcement
Officers

CALL TO ORDER: 6:30 PM

ADJOURNMENT 8:15 PM

Mr. McCormick called the meeting of the West Chester Board of Zoning Appeals to order. Mrs. Walton then called role. Mr. McCormick swore in those giving testimony.

14-02 Stan Ladrick, RSL Architecture, for Impact Fleet Services

Staff Report

Mrs. Walton stated that the applicant was requesting a variance from the requirement that a use first permitted in a General Business (B) District be completely within three hundred feet of the road right-of-way in a General Industrial (M) District as stated by the West Chester Township Zoning Resolution, Article 24 subsection 24.022. Mrs. Walton presented the staff report including the current zoning in the area, PowerPoint presentation, aerials, site views and case history.

Applicant: Stan Ladrick, RSL Architecture, 8927 Rossash Road, Cincinnati, Ohio

Mr. Ladrick presented additional information about the owners of the business Impact Fleet Service to the Board. He indicated that the site is unusual and there are issues preventing them from utilizing the property in the preferred way. He stated that they will service more commercial trucks than private vehicles so they don't believe they are violating the spirit of the zoning resolution.

Mr. Lenz asked Mr. Ladrick about the additional three (3) feet of fill for the parking lot spilling over into the flood plain, when the Flood Damage Prevention Regulations require that the flood plain could not be altered. He stated that the parking lot having to be raised three (3) feet was a surprise since they had already met with Butler County and there was

no mention of this. He stated that the flood plain mitigation would have to be worked out in the process of site plan approval with Butler County.

Mr. Moeller asked Mr. Ladrick about the access to the site through the existing cross access easement from the adjoining development.

Mr. Lenz asked Mr. Ladrick why that access wouldn't work verses the direct access from Windisch Road as requested.

Mr. Ladrick stated that in discussions with the owner, they would prefer their own access so they are not restricted by the three (3) properties to the north.

Proponent: None

Opponent: Mr. Dan Meador, 9912 Windisch Road, West Chester, Ohio 45069

Mr. Meador stated that he is the regional director for First Industrial Realty Trust the owner operator for the five (5) buildings to the north of the site in question. He stated that he is concerned that the use as a commercial / automotive repair shop is not compatible with the uses within his development. He further stated that he would hope that the board would not approve the variance request for this use.

Mr. Lenz asked Mr. Meador the use of the five building to the north is office/warehouse.

Mr. Meador stated yes.

Applicant: Stan Ladrick, RSL Architecture, 8927 Rossash Road, Cincinnati, Ohio

Mr. Ladrick stated that the properties to the north were developed for industrial uses including semi-truck and box truck traffic similar to his proposed use. He believed that this would mean that his use would not change the type of traffic that was entering and exiting the site. He further stated that any development would require more traffic to pass through the access on a regular basis.

Mr. Lenz asked Mr. Ladrick if the operations within the proposed development generated a lot of noise.

Mr. Ladrick stated that it would not and that all the proposed vehicle work would be done completely within the building and no outside work on the vehicles would be done.

Proponent: Mr. Steve Hodash, 8511 Wyoming Club Drive, Cincinnati, Ohio

Mr. McCormick swore in the witness.

Mr. Hodash stated that First Industrial had ulterior motives for coming out against this application and explained why he believed this.

Opponent: Mr. Dan Meador, 9912 Windisch Road, West Chester, Ohio 45069

Mr. Meador stated that he wanted to make it clear that they did not need the parcel in question for their planned development to the north.

Neutral: None

Board Deliberation

Mr. Moeller pointed out that any conversation or dealings with this property have no bearing on the case and Mr. Whited agreed.

Mr. Whited stated that they could condition the approval with all work would be required to be performed inside the building, which would mitigate any visual issues with the neighbors.

Mr. Hackney asked Mrs. Walton, if all the properties in question and the ones to the north are zoned M-2, what uses would be allow per the zoning code? Was there a list?

Mrs. Walton stated that everything that is allowed in West Chester per the zoning resolution, would be allowed in an M-2 Industrial District, however there are restrictions stipulated for certain types of uses that are permitted first in another zoning districts such as in this case.

Mr. Hackney stated that he believed that if the business owner didn't have any issues with being 300' off the road then he believed it shouldn't be an issue with the board. He stated that he believed that the 300' rule was put there for the advantage of the business owner and their customers coming to the business.

Mr. Lenz agreed.

Mr. McCormick stated that the distance from the road is driven by the drainage issues and not by choice.

Mr. Moeller stated that this area is an industrial area not only reserved for office/warehouse and the use requested, he believed, was an industrial use.

Mr. McCormick made a motion to approve the variance requested for case #14-02, with the following conditions:

- 1. All storage of parts and maintenance work must be done completely within the proposed building at all times.**
- 2. The complete building be within 400 of a fire hydrant.**
- 3. Approval of Butler County Zoning for the flood mitigation issues.**

4. Approval by the Butler County Engineers office for all development issues.

Discussion: Mr. Whited expressed concern for any trucks that would possibly be parking in the grass area and oil being spilt and being washed away. How would that be prevented?

Mrs. Walton stated that it would be in violation of the zoning resolution and would then become an enforcement issue for staff to bring all issues into compliance.

Mr. McCormick stated his motion again.

Mr. Lenz seconded the motion.

Aye: Mr. Hackney, Mr. Lenz, Mr. Moeller, Mr. Whited, Mr. McCormick

Nay: None

14-03 Mr. Brandon Slater

Staff Report

Mrs. Walton stated that the applicant was requesting a variance to allow an accessory structure to exceed the size as specified by the West Chester Zoning Resolution Article 10 subsection 10.151. Mrs. Walton presented the staff report including the current zoning in the area, PowerPoint presentation, aerials, site views and case history.

Mr. Hackney asked staff about the allowable size calculation of 868 SF, and whether that was taking in consideration the basement?

Mrs. Walton stated that staff uses the basement in all cases to calculate for living space.

Mr. Whited asked staff if that was in all cases whether it was a finished or unfinished basement.

Mrs. Walton again answered yes.

Mr. McCormick stated that any further discussion on this issue should be in deliberations.

Applicant: Mr. Brandon Slater, 9262 Gregg Drive, West Chester Township, Ohio

Mr. McCormick swore in the applicant.

Mr. Slater stated that per the zoning resolution he would be allowed to build a 36' X 24' garage and he is asking for a 38' X 30' garage. He continued to explain the reasoning for the 6' deeper in size was for the longer wheel based of the classic vehicles that he owns. He further explained that he felt that with the placement of the garage it would not be readily visible from the street. Mr. Slater stated that he planned on using similar materials as was on the home in brick and siding. He was also willing to put up landscaping around the building to break up the view from the neighbors.

Mr. Whited asked if the applicant had an existing attached two car garage.

Mr. Slater confirmed that he does have an attached two car garage.

Mr. McCormick asked where the classic cars are currently stored.

Mr. Slater described the various locations off site. He further explained that is why he is requesting a larger garage, so that he doesn't have any of his cars including the ones that he drives (5) regularly sitting outside in the driveway because he doesn't believe that is very visually appealing.

Proponent: None

Mr. McCormick ready into the record the petition received by staff in opposition of this application.

Opponent: Ms. Bonnie Bollie, 9272 Gregg Drive, West Chester, Ohio

Ms. Bollie stated she lived directly next door to the proposed garage site. She stated that she had three reasons why she is in opposition to this request; The garage will be directly across from their newly renovated deck and will block their park like view of the back yard area; the proposed garage size is like building a second home on the lot; the support shown by the amount of signatures from the surrounding neighborhood that were on the petition against allowing the garage this size.

Opponent: Barry Sebralla, 6993 Dublin Court, West Chester, Ohio

Mr. Sebralla stated that with a garage this size it will be seen in the fall and winter and will detract from the look of the neighborhood. He also stated that he was concerned about the amount of mechanical work that is now done out in the driveway and with the larger garage the potential for a possible business being conducted out of the garage along with the noise.

Opponent: Hanna Huseman, 9252 Gregg Drive, West Chester, Ohio

Mrs. Huseman stated that she lived directly next door to the proposed garage site. She stated that her first concern is with the proposed driveway going down the side of house

right next to their home. She also stated that she was concerned about the drainage issues that the additional concrete is going to cause. She further stated that they just purchased the home and is worried about the property values going down due to the large building. Her final concern is the lack of a fire hydrant close enough with the oils and other liquids being stored in the proposed garage.

Opponent: Greg Haas, 9312 Gregg Drive, West Chester, Ohio

Mr. Haas read a letter into the record from a neighbor who could not be in attendance. The letter was signed Michael F. Dunn, 6998 Dublin Ct., West Chester, Ohio.

Mr. Haas stated that his concerns are with parking problems and extra traffic that he believes will come to the proposed garage.

Opponent: Judy Fletcher, 9271 Gregg Drive, West Chester, Ohio

Ms. Fletcher stated that she lives directly across the street from the applicant. She also stated that the noise now when he is working on cars is very loud when he revs the engine. She continued to say that it goes on pretty much every Saturday during good weather.

Neutral: None

Board Deliberation

Mr. Whited asked staff about a noise ordinance and who would enforce it.

Mrs. Walton stated that there is currently a noise ordinance that is enforced by the West Chester Police Department.

Mr. McCormick stated that the applicant could build an 868 SF without a variance if he so choose.

Mr. Lenz asked staff for verification on the methods used to calculate the allowable size of a detached garage. The board continued to discuss the method of how staff calculates the allowable size detached garage.

Mr. Hackney stated he believed that 868 SF was plenty big, and he saw no reason to approve the request.

Mr. Lenz stated that the word "substantial" comes to mind because the request is very much larger than the allowable twenty five percent.

Mr. Moeller stated that he believed they should leave the issue with the fire hydrant to the West Chester Fire Department and should not enter into their decision.

Mr. Whited stated that he did not think he could support this large of a garage in this area.

**Mr. Moeller made a motion that they do not approve BZA application #14-03.
Mr. Whited seconded the motion.**

Aye: Mr. Lenz, Mr. Moeller, Mr. McCormick, Mr. Whited, Mr. Hackney

Nay: None

ADMINISTRATIVE MATTERS

The Board approved the minutes and resolutions from the last meeting.

Mr. McCormick gave the date for next month's meeting and adjourned the meeting.

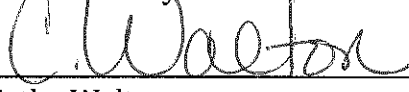
These Minutes do not purport to be the entire record. A complete transcription of these proceedings was taken under supervision of the Secretary from an audiotape and may be obtained upon written request. Any charges for preparing such transcripts shall be borne by the person requesting same and must be prepaid.

BZA Vice-Chairman:



Cliff Hackney

BZA Secretary:



Cathy Walton

**WEST CHESTER TOWNSHIP BOARD OF ZONING APPEALS
RESOLUTION GRANTING
APPLICATION NO. BZA 14-02**

WHEREAS, Stan Ladrick, RSL Architecture, for Impact Fleet Service, on January 15, 2014, filed Application No. 14-02 with the Board of Zoning Appeals under Article 8, subsection 8.04 of the Zoning Resolution, seeking a variance from the requirement that a use first permitted in a B district be completely within three hundred feet of the road right-of-way in an M district as applied to the property at 9964 Windisch Road, containing Parcel #M5610-031-000-095, 022 & 67 in Section 32, Town 3, Range 2 (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on February 12, 2014, notice of which was given to parties in interest in writing and also by publication in a newspaper of general circulation in the Township at least ten (10) days prior to date of the hearing in accordance with Section 519.15 of the Ohio Revised Code; and

WHEREAS, Article 8 et. seq. of the Zoning Resolution empowers the Board to authorize upon appeal in specific cases, variances from the terms and conditions of the Zoning Resolution as will not be contrary to the public interest, and that are consistent with the criteria provided within the Zoning Resolution; and

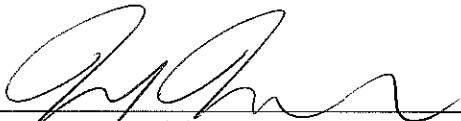
WHEREAS, through findings of fact, the Board found that the request met the Practical Difficulties test as set forth in Duncan v. Middlefield (1986), 23 Ohio St.3d 83, 491 N.E.2d 692, that testimony showed the setback location would not be excessive and the essential character of the neighborhood would not be altered.

THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby grant the variance to allow a use first permitted in a B district not to be completely within three hundred of the road right-of-way in an M district with the following restrictions:

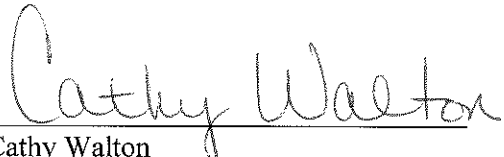
1. All parts storage and maintenance work must be done completely within the building.
2. All fire hydrant requirements must be met.
3. Meet all Butler County Engineer's and Butler County Building and Zoning requirements.

BE IT FURTHER RESOLVED, that all plats, plans, applications and other data submitted be and are hereby made a part of this Resolution.

Adopted at a regularly scheduled meeting of the West Chester Township Board of Zoning Appeals in session on the 12th day of February, 2014 and journalized on the 12th day of March, 2014.



Mark McCormick
BZA Chairman



Cathy Walton
BZA Secretary

**WEST CHESTER TOWNSHIP
BOARD OF ZONING APPEALS
RESOLUTION DENYING APPLICATION NO. BZA 14-03**

WHEREAS, Brandon Slater, on January 15, 2014 filed Application No. 14-03 with the Board of Zoning Appeals under Article 8, subsection 8.04 of the West Chester Township Zoning Resolution, seeking a variance from the accessory structure size requirements as applied to the property at 9262 Gregg Drive, West Chester Ohio 45069 and containing Parcel # M5620-159-000-034 in Section 21, Town 3, Range 2; (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on February 12, 2014 notice of which was given to parties in interest in writing and also by publication in a newspaper of general circulation in the Township at least ten (10) days prior to date of the hearing in accordance with Section 519.15 of the Ohio Revised Code; and

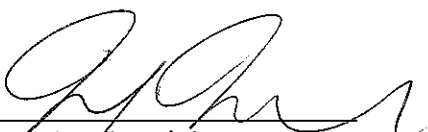
WHEREAS, Article 8 et. seq. of the Zoning Resolution empowers the Board to authorize upon appeal in specific cases, variances from the terms and conditions of the Zoning Resolution as will not be contrary to the public interest, and that are consistent with the criteria provided within the Zoning Resolution; and

WHEREAS, Through finding of fact, the Board determined that the proposed 38' x 30' garage would be detrimental to the surrounding neighborhood in that it would be obtrusive to the surrounding neighbors and that the proposed building would not be compatible in size, character, scale and intensity with adjacent existing homes.

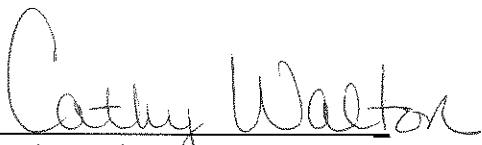
THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby deny the request for a variance as stated in application No. 14-03.

BE IT FURTHER RESOLVED, that all plats, plans, applications and other data submitted be and are hereby made a part of this Resolution.

Adopted at a regularly scheduled meeting of the West Chester Township Board of Zoning Appeals in session on the 12th day of February, 2014 and journalized on the 12th day of March, 2014.



Mark McCormick
BZA Chairman



Cathy Walton
BZA Secretary