

**WEST CHESTER TOWNSHIP
BOARD OF ZONING APPEALS
May 14, 2014 - Regular Meeting**

MEMBERS PRESENT: Mr. Hackney, Mr. Lenz, Ms. Minton, Mr. Cavens, Mr. Moeller

MEMBERS ABSENT: Mr. Whited

STAFF PRESENT: Greg Porta, Code Enforcement Officer
Cathy Walton, Code Enforcement Officer

CALL TO ORDER: 6:31 PM

ADJOURNMENT 7:15 PM

Mr. Hackney called the meeting of the West Chester Board of Zoning Appeals to order. Mrs. Walton called the roll. Mr. Hackney stated he would swear in all those planning to testify individually when they came to the podium.

14-04 Two Brothers Brick Paving on behalf of Brad & Michelle Evans

Staff Report

Mrs. Walton stated that the applicant is requesting a variance to allow an addition to encroach the rear yard setback requirement. She presented the case including the current zoning in the area, PowerPoint presentation, aerials, site views and case history. Mrs. Walton reviewed the variance standards for the board members.

Mr. Lenz asked staff if there was a setback for the planned unit development (PUD) to the back of the property.

Mrs. Walton stated there was not one until the final development plan was submitted.

Mr. Hackney questioned what the actual size of the patio roof was.

Mrs. Walton stated she didn't have that information handy that the applicant could answer that question when he testified.

Applicant: Mr. Mark Rhodus 355 Teakwood Ln., Springboro, Ohio 45066
Mr. Rhodus was sworn in.

Mr. Rhodus stated he submitted color renderings of the project for the boards review. He stated that the roof would extend out from the house approximately 12' past the rear bump out of the house and approximately 20' total.

Mr. Hackney asked if the construction of the landscaping and in-ground pool would be going on at the same time as the patio.

Mr. Rhodus stated that he applied for a separate permit for the rest of the project so that it could start while waiting for the outcome of this case, and that it would be finishing up at the same time.

Mr. Cavens questioned whether the project had been submitted and approved by the HOA.

Mr. Rhodus stated it was approved by the HOA.

Proponent-None

Opponent-None

Neutral-none

Board Deliberation

Mr. Hackney closed the public portion of the hearing and asked if there were any comments from the board.

Mr. Lenz stated that he noticed that the surveys plat stated that the rear yard setback was 30 feet which was wrong.

Mr. Cravens agreed.

Mr. Hackney stated he had no issues with this request based on the berm between the two properties.

Mr. Moeller stated he believed the applicant had a greater risk with the commercial development behind the property than the commercial property had with the applicant and his project.

All board members agreed.

Mr. Moeller made a motion to approve case 14-04 with the following conditions

- 1. The covered patio can never be enclosed.**
- 2. The variance is approved for the extent needed to construct the patio roof only.**
- 3. A fire extinguisher must be located in the patio area.**

Mr. Lenz seconded the motion.

Aye: Mr. Lenz, Ms. Minton, Mr. Moeller, Mr. Cavens, Mr. Hackney

Nay: None

14-05 Stacy Felchner for Bass Pro Shops

Staff Report

Mrs. Walton stated that the applicant is requesting a variance to allow a construction sign to exceed the development standards for a temporary construction sign. She presented the case including the current zoning in the area, PowerPoint presentation, aerials, site views and case history. Mrs. Walton reviewed the variance standards for the board members.

Mr. Lenz stated that a construction sign was required to state the name of the architect, engineer and contractor but he did not see any of that on the proposed sign.

Mrs. Minton stated that it did address that in the staff report comments.

Mr. Lenz agreed and then continued that in the report there were no other comments from outside agency and asked if staff requested comment from ODOT about billboards along the highway and did not receive one.

Mrs. Walton confirmed that was correct.

Mr. Hackney asked staff what the allowable sign size would be once the building was constructed.

Mrs. Walton stated that wall signage would be based on the size of the building and that ground signage would be based on the linear frontage along the right of way.

Mr. Hackney then asked what the standard size of a billboard would be.

Mrs. Walton stated that our code allows for a maximum of 448 SF.

Mr. Whited stated from the presentation that they were three days shy of the two year date.

Applicant: Ms. Stacy Felchner, 300 Cincinnati Mills Drive, Cincinnati, Ohio 45240
Ms. Felchner was sworn in.

Ms. Felchner stated she believed that the sign would not only benefit the Bass Pro Shops but also the undeveloped properties around it as well as the Streets of West Chester Development. She stated the owners wanted everyone in the community that this project was going forward and to show we are look forward to being a part of West Chester. She also stated that at the time of the drawings for the sign were made they had not signed on any architects and engineers so if that was an issue they would be happy to put them onto the sign.

Mr. Moeller asked how the size was determined, why was 10' X 40' chosen.

Ms. Felchner stated that it is typical for coming soon signs for all locations of new stores throughout the country.

Mr. Moeller asked again how much signage area would be allowed after construction.

Mrs. Walton stated that a maximum 48 square feet ground signs would be allowed with the total number allowed based on the linear frontage of the property on the right of way.

Mr. Hackney asked the applicant whether she had a time frame for when construction was going to begin and when it would be completed.

Ms. Felchner stated that they are planning on breaking ground within the next 60 days, and from that point it typically takes about a year.

Mr. Hackney stated then we are talking about a year and a half to two years duration for the sign.

Ms. Felchner stated not necessarily, that it would depend on when they got approval for their permanent signage.

Mr. Cavens asked then it could be less than a year.

Mr. Felchner stated yes.

Mr. Lenz asked then it would be down definitely prior to opening.

Ms. Felchner stated yes it was only meant for a temporary basis.

Mr. Cavens asked why they decided to set the sign back 100 feet.

Ms. Belchner stated that it is a large sign and they want to maximize their visibility from any advantage point possible their architects determined.

Mrs. Minton asked staff, if for some reason the construction halted what then would become of the sign. Would staff have a way to have it removed?

Mrs. Walton stated that the sign is allowed to exist through construction, so she was unsure if staff could have the sign removed.

Mr. Hackney then asked could the board put a specific time period for the sign to be up.

Mrs. Walton stated yes.

Mr. Moeller then asked the applicant if they were confident whether they could run this business with the small permanent signage they were going to be allowed.

Ms. Belchner stated no, but it depended on how much signage they were approved for.

Board discussion followed about the allowable signage.

Mr. Cavens asked the applicant whether other cities and townships have been ok with this size.

Ms. Belchner stated yes.

Mr. Cavens asked has it worked out well.

Ms. Belchner stated yes.

Mr. Cavens asked and have you not completed any of the stores you have started.

Ms. Belchner stated no.

Applicant Representative: Mr. Mike Dunham, 300 Cincinnati Mills Drive, Cincinnati, Ohio 45240 Mr. Dunham was sworn in.

Mr. Dunham stated that he feels they were asked to put this sign up to confirm that the project was going forward, and that they have been continually asked whether the project was for real. They want to assure other developers they are coming so that they would move forward with their plans for the undeveloped properties surrounding Bass Pro Shops development. The other signage will come as the development progress and we submit elevations and request wall and ground signs.

Mr. Cavens stated that it is not just a throw away sign that is well constructed and meant to let people know you are coming.

Mr. Hackney asked whether there were outlots on the Bass Pro Shops development that that they are seeking to sell.

Mr. Dunham stated that they are still in the development of their property and when the engineering is done maybe, but they do not have it planned for significant out parcels to be developed.

Mr. Moeller asked what the probability as we sit here tonight that this project will go forward. What are the unresolved issues that are left?

Mr. Dunham stated that he could not put a percentage on it, but that they have purchased the property and have closed on it.

Mr. Cavens stated that Bass Pro Shops has already made a very substantial financial contribution to the community as indicated by the purchase of the property.

Proponent: None

Opponent: None

Neutral: None

Board Deliberation

Mr. Hackney closed the public portion of the hearing and asked if there were any comments from the board.

Mr. Cavens stated that he had no issues with the sign and believed they have already committed a large financial stake to the community by purchasing the land.

Mr. Hackney wanted to point out to the board that in the staff's presentation that there were several items the applicants were asking a variance from for a temporary construction sign and wanted to know if any of the board members had issue with any of them. He then asked staff to run through each individual section requiring a variance.

Mrs. Walton stated each individual section of the variance request.

Mr. Cavens stated that he wanted to address item "f" of the zoning resolution and that he understood the concerns for the time frame of the sign being erected and suggested that they discuss a time limit for the sign to be up. He believes that they should have a specific time that it can go up and must be taken down.

Board discussion of the time frame issue proceeded.

Mr. Moeller stated that he was struggling with the aesthetics of a sign this size at this location.

Further Board discussion continued.

Mrs. Walton suggested to the board that if they want to put a specific time limit on the sign that it should be that time limit or final inspections whichever comes first.

Mr. Hackney made a motion to approve BZA Case #14-05 with the following conditions:

- 1) The temporary construction sign can be erected for no more than 24 months or prior to the issuance of final zoning certificate whichever comes first.**

There was board discussion on the motion.

Mr. Cavens seconded the motion.

Aye: Mr. Cavens, Mr. Hackney, Mr. Lenz, Mrs. Minton

Nay: Mr. Moeller

ADMINISTRATIVE MATTERS

Mr. Hackney questioned how many cases were scheduled for next month.

Mrs. Walton stated the deadline is next week but we have one potential case.

Mr. Hackney stated that it is necessary for the board to elect new board officers and wanted to determine when the board wanted to accomplish that item.

Mr. Moeller stated because there are four out of five full time members in attendance, he made a motion that Mr. Hackney be the new chairman and Ms. Minton be the vice-chairwoman.

The motion was not second therefore no vote was taken.

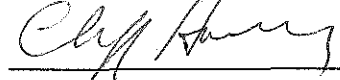
By virtue of no vote it was decided to wait until the full board was present and Mr. Hackney would act as the interim chairman.

Mr. Hackney stated that the next Board of Zoning Appeals meeting was June 11, 2014.

The board adjourned the May 14, 2014 meeting at 7:15 PM.

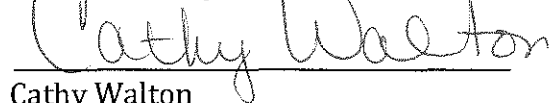
These Minutes do not purport to be the entire record. A complete transcription of these proceedings was taken under supervision of the Secretary from an audiotape and may be obtained upon written request. Any charges for preparing such transcripts shall be borne by the person requesting same and must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

BZA Chairman:



Cliff Hackney

BZA Secretary:



Cathy Walton

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

WHEREAS, Stay Felchner, for Bass Pro Shops, on April 16, 2014, filed Application No. 14-05 with the Board of Zoning Appeals under Article 8, subsection 8.04 of the Zoning Resolution, seeking a variance to allow a construction sign to exceed the development standards for temporary construction signs as applied to the property at 5992 Allen Road, containing Parcel #M5610-032-000-126 in Section 32, Town 3, Range 2 (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on May 14, 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 construction 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:

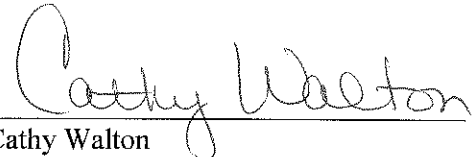
1. The temporary construction sign may be in place no longer than two years or upon the issuance of a Final Zoning Certificate of Use, whichever comes first.

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 14th day of May, 2014 and journalized on the 11th day of June, 2014.



Cliff Hackney
BZA Vice-Chairman



Cathy Walton
BZA Secretary

**WEST CHESTER TOWNSHIP BOARD OF ZONING APPEALS
RESOLUTION GRANTING
APPLICATION NO. BZA 14-04**

WHEREAS, Two Brothers Brick Paving, on April 16, 2014, filed Application No. 14-04 with the Board of Zoning Appeals under Article 8, subsection 8.04 of the Zoning Resolution, seeking a variance to a rear yard setback requirement as applied to the property at 7275 Weatherby Court, containing Parcel #M5620-461-000-019 in Section 18, Town 3, Range 2 (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on May 14, 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 covered patio with a rear yard setback of 36.5' with the following restrictions:

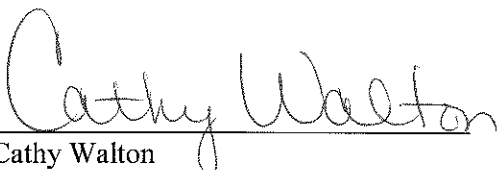
1. The patio can never be enclosed.
2. The variance is for the footprint of the addition only.
3. An ABC fire extinguisher is installed near the cooking area as recommended by the West Chester Fire Department.

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 14th day of May, 2014 and journalized on the 11th day of June, 2014.



Cliff Hackney
BZA Vice-Chairman



Cathy Walton
BZA Secretary