

**WEST CHESTER TOWNSHIP
BOARD OF ZONING APPEALS
July 13, 2016 – Regular Meeting**

MEMBERS PRESENT: Mr. Whited, Mr. Simmons, Mr. Lenz, Mr. Riddell, Mr. Moeller

MEMBERS ABSENT: Mr. Cavens

STAFF PRESENT: Cathy Walton, Property Advisor
Tim Valentine, Property Advisor
Aaron Wiegand, Community Development Director

CALL TO ORDER: 6:30 PM

ADJOURNMENT 9:04 PM

Mr. Whited called the meeting of the West Chester Board of Zoning Appeals to order.

BZA 16-13 Kane Hospitality

Mr. Whited read into the record a statement stating the applicant has requested their case be postponed until the August 10, 2016 meeting.

Mr. Whited made a motion to postpone BZA case 16-13 to the August 10, 2016 meeting.

Mr. Moeller seconded the motion.

Aye: Mr. Simmons, Mr. Riddell, Mr. Lenz, Mr. Moeller

Nay: None

BZA 16-12 Ramona Lisa Abner and Marilyn Combs

Ms. Walton was sworn in by Mr. Whited

Ms. Walton presented the staff report including a PowerPoint presentation, current zoning in the area, aerials, background of request, staff comments and case history. Ms. Walton stated that the applicant is requesting a use interpretation for the property 6936 Tylersville Road to allow permanent pigmentation in a B-1 District. Ms. Walton reviewed the standards for a use interpretation with the board members.

Mr. Lenz asked for clarification on the difference in address from the paperwork received by the Board and the address presented tonight.

Ms. Walton stated the original application had the incorrect address and that was the reason for the previous continuance.

**Applicant: Crystal Abner
3700 Canal Road
Hamilton, Ohio 45011**

Ms. Abner stated that they are trying to create a hair salon and make up studio. She stated that permanent makeup studios are regulated under tattoo and piercing laws for safety. She also stated the applicant does not do any standard tattooing. She stated the tattooing done is permanent eyebrows, eyeliner and lip pigmentation. She stated most of the clients have had cancer or are older women not wanting to have to put make up on every day.

Mr. Simmons stated he felt this was an interesting direction for the use of tattoos. He also asked the applicant if it was leaning in more of a medical direction.

Ms. Abner stated it was and that dermatologists often have a makeup artist on staff for these services or will refer patients to Mona Lisa. She also stated Mona Lisa has been in this business for 16 years and is one of the few in the County that is certified to teach this. She reiterated it is more of a medical/beauty use and not a typical tattoo.

Mr. Simmons asked if there was any intention to expand the business into a typical tattoo parlor.

Ms. Abner stated no that the owner has been in this business for 16 years and it's just permanent makeup and cosmetic services.

Mr. Riddell asked if the same equipment is used.

Ms. Abner stated they did use a lot of the same equipment and that is why they are regulated under the tattooing laws.

Mr. Lenz asked if this was a growing business that they wanted to move.

Ms. Abner stated she and Mona Lisa want to combine their businesses and move to West Chester.

Proponent: None

Opponent: None

Neutral: None

Board Deliberation

Mr. Moeller stated he was very comfortable with the use and thinks it's conducive to the area.

Mr. Lenz agreed.

Mr. Simmons stated he believes this is a fantastic concept but believes if the Board is going to differentiate the use from a tattoo parlor they should include language to make sure it would not grow into a tattoo parlor.

Mr. Riddell agreed.

Mr. Moeller questioned if that was within the Board's rights.

Mr. Whited stated there were a couple of issues. He stated this was already permitted in a B-2 and reiterated the Board would need to differentiate the two and also stated if the Board approves it in this location there is nothing to prevent them from expanding into a full blown tattoo parlor.

Mr. Simmons stated that was his concern and his reason for the clarification that this was leaning toward a medical application.

Mr. Riddell asked if the Board was allowed to place conditions on an approval.

Ms. Walton stated yes.

Mr. Riddell recommended a condition that it not be a body art and to use the applicants description of applications used.

Ms. Walton stated the Board first needed to differentiate between a body art studio and this use.

Mr. Whited stated that if ownership changes the use could change.

Mr. Simmons disagreed and stated it could be tied to clinical applications.

Mr. Whited reiterated that this can be done in a B-2 and that the businesses around this expect to have the benefit and protection of being surrounded by B-1 uses.

Mr. Simmons stated that in all industries you have segmentation of different businesses even within the same industry.

Mr. Whited stated the Board cannot create the zoning code and they already allowed it to go into a B-2. He stated it was up to the Trustees to create or alter zoning code.

Mr. Lenz stated the Board was also to check the spirit and intent of the code.

Mr. Whited stated he has a tattoo and it is the same process. He reiterated it is an honorable thing they are doing but why do they need to force this into a B-1.

Mr. Lenz stated they don't have to force it.

Mr. Whited stated there are other options.

Mr. Riddell stated everything the Board does happens because they want something that varies from the code. He also stated they are not rewriting the code and are not there to enforce the code. He stated he believes they could approve this with conditions that don't allow for a traditional tattoo parlor.

Mr. Whited stated it was a tattoo no matter what you call it.

Ms. Walton stated the Board discussion had been on conditioning the use and reminded them that there needed to be a definition to differentiate this from a tattoo parlor.

Mr. Simmons read a statement he believes may define the use.

Mr. Whited stated he has what Mr. Simmons described and it is his tattoo.

Mr. Riddell asked for the applicant to come back.

**Crystal Abner
3700 Canal Road
Hamilton, Ohio 45011**

Mr. Riddell asked for clarification on the services offered by the applicant.

Ms. Abner stated the only other services offered are areola pigmentation after a breast removal and to blend skin discoloration. She stated there is never art or pictures.

Mr. Riddell clarified that none of the services were just for show and all are related to skin blemishes, balding, and makeup.

Ms. Abner stated that was true. She also reiterated she is a licensed cosmetologist and that this would part of a beauty salon.

Mr. Whited clarified there was a different license for the pigmentation.

Mr. Moeller asked for clarification on the difference in licensing.

Ms. Abner stated they are only certified for permanent makeup and is not sure about the tattoo requirements.

There was Board discussion regarding the licensing and equipment used in tattoo and permanent pigmentation.

Mr. Simmons stated they are talking about the application and purpose.

Mr. Whited stated it was all the same licensing.

Ms. Abner stated they have never done any body piercing.

Board Deliberation

Mr. Whited reiterated that what they are doing is honorable but why does it have to be in a B-1 when it is already approved for a B-2.

Mr. Simmons reiterated his point about segmentation.

Mr. Moeller stated Planning and Zoning laws don't make provisions for that.

Mr. Simmons stated that is why the Board is here.

Mr. Whited referred to the staff report and the need to differentiate the use from a tattoo parlor. He stated it is the same thing.

Mr. Simmons stated it's different in how it is applied.

Mr. Whited stated it was a needle with ink being put into the body which is the same as a tattoo.

Mr. Riddell questioned why it would be excluded from B-1. He stated this is a remnant from a past era and doesn't have a problem with approval with conditions.

Mr. Simmons suggested they talk about how to differentiate the uses.

Mr. Riddell stated it was the same in principal and that they use the same equipment but they are serving a different clientele.

Ms. Walton clarified that a tattoo parlor use was not permitted or prohibited and the Board decided that it was a use to be permitted in a B-2.

Mr. Simmons made a motion to approve BZA case 16-12 with conditions and language to differentiate between this use and a tattoo parlor.

There was Board discussion regarding the language needed.

Mr. Riddell stated he would second the motion if he had the verbiage.

Mr. Whited stated he could not see clear language that will define the difference and limit it.

Mr. Simmons stated he believes they should try.

Mr. Riddell stated each case stands on its own and there are no precedents being set.

Mr. Lenz stated a condition could define what is not allowed.

Mr. Whited reiterated the process was the same and only called something different.

There was further discussion regarding the need for language to differentiate the uses.

Ms. Walton clarified that in most circumstances each case does stand on its own but because this is a Use Interpretation to determine whether future cases will also be allowed in a B-1.

There was discussion regarding the difference in Use Interpretation applications and other applications.

Mr. Lenz stated he didn't believe they knew enough about how to word it to approve it.

Mr. Riddell agreed.

Mr. Moeller stated he doesn't believe they have the expertise to come up with the language.

Mr. Riddell asked staff if the case could be continued and staff help with the defining language.

Ms. Walton stated the case could be continued.

Mr. Simmons withdrew his motion

Mr. Riddell made a motion to continue BZA case 16-12 to the August 10, 2016 meeting for language clarification.

Mr. Simmons seconded the motion.

Aye: Mr. Simmons, Mr. Riddell, Mr. Lenz, Mr. Moeller, Mr. Whited

Nay: None

BZA 16-14 Clifton and Cassandra Hastings

Ms. Walton was sworn in by Mr. Whited

Ms. Walton presented the staff report including a PowerPoint presentation, current zoning in the area, aerials, background of request, staff comments and case history. Ms. Walton

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stated that the applicant is requesting a variance for the property 9885 Meadow Hills Drive to allow an addition to encroach the rear yard setback requirement. Ms. Walton reviewed the standards for a variance with the board members.

Mr. Lenz asked for clarification that it was the same footprint as the previous deck.

Ms. Walton stated it was.

Mr. Whited gave history on why decks were permitted to encroach 8' into the setback.

Mr. Riddell asked if they had not removed the deck and were only screening it, would they still need the variance.

Ms. Walton stated they would.

**Applicant: Clifton Hastings
9885 Meadow Hills Drive
West Chester, Ohio 45069**

Mr. Hastings stated the previous deck was tiered and not structurally sound so it had to be removed. He also stated that he purchased the home a year ago and this was planned at that time. He stated he would not have purchased the home if he had none it may not be possible to build the addition. He discussed the neighborhood and how his addition would not cause any issues for his neighbors. He discussed the neighborhood having a Facebook page to discuss items and that he had posted this there and he had no negative responses.

Mr. Lenz stated the request is pretty straight forward.

Mr. Whited agreed.

Mr. Riddell stated that he applauds the applicant for reaching out to his neighbors.

Proponent: None

Opponent: None

Neutral: None

Board Deliberation

Mr. Whited stated it looks like a no brainer to him.

Mr. Lenz agreed and stated if you look at the lot, the house is set back 56' from the frontline with a 30' requirement and with the woods behind it sees no problem.

Mr. Lenz stated there was plenty of distance and plenty of buffer.

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Mr. Simmons made a motion to approve BZA case 16-14.

Mr. Lenz seconded the motion.

Aye: Mr. Simmons, Mr. Riddell, Mr. Lenz, Mr. Moeller, Mr. Whited

Nay: None

BZA 16-15 Brent Niese for Matthew and Michelle McNally

Ms. Walton was sworn in by Mr. Whited

Ms. Walton presented the staff report including a PowerPoint presentation, current zoning in the area, aerials, background of request, staff comments and case history. Ms. Walton stated that the applicant is requesting a variance for the property 7358 Coachford Drive to allow an addition to encroach the rear yard setback requirement. Ms. Walton reviewed the standards for a variance with the board members.

Mr. Whited asked for clarification that the request was for two corners of the additions not the entire addition.

Ms. Walton stated that was correct.

**Applicant: Brent Niese
810 Burns Avenue
Cincinnati, Ohio 45215**

Mr. Niese stated that the owners have lived in the property for 25 years and this is something that they hadn't considered when they purchased the property but with aging parents moving in they are looking to make the changes. He also stated they have letters from three neighbors saying they agree with the plans. He stated they looked at several options but given the existing location of the garage and living room it made more sense to place the additions where they are.

Mr. Lenz asked if Mr. Niese was the architect.

Mr. Niese stated he was.

Mr. Moeller asked if the siding on the additions will be compatible.

Mr. Niese stated they are matching materials to the existing brick and siding.

Proponent: None

Opponent: None

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Neutral: None

Board Deliberation

Mr. Lenz stated it was important to note that it was just the corners of the two additions in question and considers it a minor request.

Mr. Lenz made a motion to approve BZA case 16-15.

Mr. Whited seconded the motion.

Aye: Mr. Simmons, Mr. Riddell, Mr. Lenz, Mr. Moeller, Mr. Whited

Nay: None

BZA 16-16 Northshore Construction and Development for Scott Street Partners-X, LLC

Ms. Walton was sworn in by Mr. Whited

Ms. Walton presented the staff report including a PowerPoint presentation, current zoning in the area, aeriels, background of request, staff comments and case history. Ms. Walton stated that the applicant is requesting a variance for the property 9538 and 9598 Civic Centre Boulevard to allow two signs larger than permitted and a variance from the sign base material requirement. Ms. Walton reviewed the standards for a variance with the board members.

Mr. Whited asked for clarification on the parties that signed the Service Agreement.

Ms. Walton stated it was the property owners within the Streets of West Chester.

Mr. Whited asked for clarification that the Service Agreement specified the materials to be used for signs.

Ms. Walton stated that was correct.

Mr. Whited questioned if the Board has the authority to make changes to the Service Agreement.

Ms. Walton stated the Board did not have the authority to vary from the agreement. The Board should be looking at the Zoning Resolution that the sign base be the same material as the building.

Mr. Lenz asked if this was across the street from the big fence.

Ms. Walton stated it was.

Mr. Simmons stated it was next to Smokey Bones.

Mr. Lenz asked if staff knew what the exterior materials for the buildings would be.

Ms. Walton stated she had not seen them but the material for the proposed sign does not match what is approved in the Service Agreement.

Mr. Riddell stated these would be shared signs for the whole business district.

Mr. Lenz stated it was just for this parcel.

Ms. Walton clarified there would be one sign each on two parcels.

Mr. Moeller asked how much signage each parcel is permitted.

Ms. Walton stated each parcel is allowed one 48SF sign.

Mr. Simmons stated this request would be in lieu of the four signs.

Ms. Walton stated that was correct.

There was discussion regarding the reduction in the square footage of permitted signs.

**Applicant: David Noell
Northshore Construction and Development
6160 Cedar Bluff Court
Cincinnati, Ohio 45233**

Mr. Noell reiterated that they are permitted four 48SF signs and that they are proposing two. He also stated that they are multi-tenant signs and the request for the larger sign is so each tenant panel can be visible. He stated there are several concepts being proposed for the building materials.

Mr. Simmons questioned if the applicant was familiar with the sign at the entrance to the Streets of West Chester and asked if this was similar to what is being proposed.

Mr. Noell stated the sign would be decorative metal.

Mr. Whited asked why they are asking to vary from the signs everyone else had to put up.

Mr. Noell stated the majority of the signs are single tenant and that the proposed signs would have multiple names on them. He stated the signs will represent four different buildings and they are trying to create a sign acceptable enough to compliment any of the four buildings.

Mr. Whited asked if the materials have been defined, why it mattered that it was a multi-tenant sign.

Mr. Noell asked for clarification if Mr. Whited was referencing the material.

Mr. Whited stated he was.

Mr. Noell stated out lot one has a contemporary theme, out lot two has brick and decorative awnings, out lot three which could be cement board/faux wood and they are not sure about out lot four so he is not sure which material to take from which building.

Mr. Lenz clarified that Mr. Noell was trying to use materials neutral to all four parcels.

Mr. Noell stated yes.

Mr. Lenz stated the signs down the street match the building they are in front of and this is a different situation.

Mr. Whited stated he believed the material is all the same on the monument signs.

Ms. Walton stated that was correct.

Mr. Noell stated he believes the signs complement each individual building. He stated the Steak n Shake sign goes with Steak n Shake building.

Mr. Whited asked if the material request was due to a cost factor or if it was aesthetics.

Mr. Noell stated he had two proposals. He stated they looked at a brick sign as well and they are comparable in cost.

Mr. Simmons asked if the other sign conformed to the materials.

Mr. Noell stated they started off trying to complement the building for the lot that each sign was on and later found it did not complement all four lots cumulatively.

Proponent: None

Opponent: None

Neutral: None

Board Deliberation

Mr. Lenz stated he was confused on their rights and responsibilities with regard to the material of the signs. He asked what the Board had to do with the Service Agreement.

Ms. Walton stated nothing. She explained that the Service agreement shows the required materials for the building and that the proposed sign would not any of the required materials.

Mr. Lenz clarified that the request is from the specific zoning requirement that the materials have to match.

Ms. Walton stated that was correct.

Mr. Riddell stated since there were four buildings on the lot, the applicant would be wrong no matter which building he matched.

Ms. Walton stated that he would be required to match the building that was on the same lot as the sign.

Mr. Lenz stated that was a very precise interpretation that does not fit the situation.

Mr. Simmons agreed.

Mr. Lenz stated he felt this was a nice neutral solution that doesn't conflict with any of the buildings.

Mr. Simmons stated that it will help with traffic flow as some of the buildings are set back.

Mr. Whited stated there are two questions on the table. One is the size and he has no problem with that. Second, he stated visibility does not relate to the materials. He stated if the sign is on lot one it makes sense to him that it match the building on lot one the same as all the others have been required to do. He stated the benefit is that everyone is consistent and this a departure from the signatory agreement.

Mr. Simmons stated the buildings in the development have different facades.

Mr. Whited stated the point is to match the material of the building the lot is on. He also stated that if they were doing the four signs that were permitted, each one would have to match the building of the lot it was on.

Mr. Simmons stated that if future development continues to change the façade on the buildings there will be signs with different material.

Mr. Whited stated that was the case currently since they all match the buildings. He also stated everyone signed off on it and asked why depart from what they agreed to.

Mr. Moeller made a motion to approve BZA case 16-16 as submitted contingent on the materials used are those permitted in the Zoning regulations.

Mr. Riddell stated he had not had a chance to make his point before the motion was made.

He stated he has been on record that the signage requirements in the code are too restrictive and doesn't have an issue with the size of the signs in this request. He also stated that he doesn't see a problem with the material and stated he believed the applicant explained it well having multiple buildings with different materials.

Mr. Lenz stated he believes when the regulation was written they did not anticipate the situation of multiple tenant signs.

Mr. Whited stated there was no way to know what this area would turn into. He also suggested that Mr. Moeller withdraw his motion and that the Board deal with the size first.

Mr. Moeller made a motion to approve the two signs as submitted with regards to size.

Mr. Whited requested Mr. Moeller withdraw his motion so that he could make a motion with more clarification.

Mr. Moeller withdrew his motion.

Mr. Whited made a motion to approve the requested size and height variance use to a total of 59.5SF for two signs each at a height not to exceed 8' 11" under the condition that these signs be made available to any businesses located on the parcels and no additional ground mounted signs will be permitted on any of the parcels.

Mr. Simmons seconded the motion.

Aye: Mr. Simmons, Mr. Riddell, Mr. Lenz, Mr. Moeller, Mr. Whited

Nay: None

Mr. Whited asked if staff could be called to testify.

Aaron Wiegand, Community Development Director was sworn in.

Mr. Wiegand stated he wanted to give some clarification to the service agreement. He stated the agreement was signed in April of 2016 between all parties. He also stated it is the properties that are all party to the Civic Centre Boulevard extension and was available for any questions in reference to the agreement.

Mr. Simmons asked if the applicant signed the agreement.

Mr. Wiegand stated yes, the landowners are signatory.

Mr. Simmons asked if there was any language in the agreement that would allow for any wiggle room for situations such as this.

Mr. Wiegand stated there was not.

Mr. Whited stated that if the Township is a signatory on the agreement that the Board has an obligation to enforce the agreement.

Mr. Simmons asked if there was ever any discussion that may have anticipated this situation.

Mr. Wiegand stated he is not aware of any.

Mr. Lenz clarified that the agreement only applies to the Streets of West Chester extension.

Mr. Wiegand stated that was correct.

Mr. Lenz asked for clarification that the agreement stated that the sign material has to match building material.

Mr. Wiegand stated the agreement a very specific building look was agreed upon and the sign goes with it because of the existing Zoning resolution requirement.

Mr. Simmons asked for clarification that all the parcels in this application will owned by one land holder.

Mr. Wiegand stated that is correct.

Mr. Whited asked if the tenants of these parcels will be landowners.

Mr. Wiegand stated the signatories to the agreement are landowners so the companies that go on the lots are bound by the agreement.

Mr. Whited stated it was irrelevant how many different businesses were on the lot or how they are arranged. He stated, it is the lot and the sign is on the lot and is supposed to match the material of the building.

Mr. Riddell suggested the applicant come back forward.

**Applicant: Marie Ellis
Scott Street Partners
6160 Cedar Bluff Court
Cincinnati, Ohio 45233**

Ms. Ellis stated she is with Scott Street and clarified that the Service Agreement is a superseding agreement to the previous agreement in place. She stated that only certain areas of the agreement were addressed and the materials section was in the previous agreement. She stated that when Scott Street signed the agreement, their property was only one lot. She gave a history of their property and the need for the split into four parcels. She also gave information on proposed tenants and the difference in looks of each of the buildings. She stated they are trying to do something unique.

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Mr. Lenz asked for clarification of the sign location. He stated that by the time you get to the sign you will have passed the building on that lot and the sign is actually closer to the adjoining lot and the argument could be made that the sign should be on the other lot.

Mr. Riddell told the applicant he felt she had done an excellent job with the Entertainment district and he is happy with what has been happening all the way down Civic Centre.

Ms. Ellis stated she was too and that they have been on the property a long time and discussed the many property changes in that area.

Proponent: None

Opponent: None

Neutral: None

Board Deliberation

Mr. Simmons stated that you would wind up with a hodge podge of signage if you have to match the development.

Mr. Riddell stated that each time the Board issues a ruling they are overruling a signatory of some kind and it does not matter to him if the Township signed an agreement.

Mr. Lenz stated that is why the Board is here.

Mr. Simmons stated that this was not something that was anticipated at the time and thinks the Board has to use common sense in its deliberation.

Mr. Lenz reiterated that this is an excellent solution for the problem in trying to match up with four or five different buildings. He stated you can't anticipate everything.

Mr. Simmons made a motion to approve the signs as submitted with regards to material.

Mr. Lenz seconded the motion.

Aye: Mr. Simmons, Mr. Riddell, Mr. Lenz, Mr. Moeller

Nay: Mr. Whited

BZA 16-17 McGill, Smith, Punshon, Inc. for Storopack

Ms. Walton was sworn in by Mr. Whited

Ms. Walton presented the staff report including a PowerPoint presentation, current zoning in the area, aerials, background of request, staff comments and case history. Ms. Walton stated that the applicant is requesting a variance for the property at 4663 Dues Drive to allow a portion of the building to exceed the height regulations. Ms. Walton reviewed the standards for a variance with the board members.

Mr. Whited clarified of the location of the request in regards to the silos that were approved.

Mr. Simmons asked for clarification of the location of the expansion in 2009.

Ms. Walton stated she was unsure.

Mr. Lenz stated they could ask the applicant.

Ms. Walton stated the area that they are proposing the expansion is currently 42'.

Mr. Simmons asked for additional clarification on the proposed expansion.

Ms. Walton stated that would be a question for the applicant.

Mr. Moeller asked if this would stick out from other buildings in the area.

Ms. Walton stated she did not know the height of the other buildings in the area but that there had not been any variances granted for height.

**Applicant: Dave Clark
McGill Smith Punshon
3700 Park 42 Drive, Suite 190B
Cincinnati, Ohio 45241**

Mr. Clark stated he wanted to clarify a few statements made by staff. He clarified the area of expansion in 2009 and that the roof line was 28'.

Mr. Simmons asked the height of the high point.

Mr. Clark asked if Mr. Simmons was referring to the addition or the main building.

There was discussion regarding the building.

Mr. Clark stated the addition was actually 48' and stated in 2015 there was approval for 60' silos. He said this variance request was to change an 1800SF footprint of the addition constructed last year.

Mr. Simmons clarified the location of the request.

Mr. Clark discussed the 2015 addition and the equipment that was to be used. He also discussed new technology available and the need for the current request. He explained the silos height of 60' and the current request for 69'.

There was discussion regarding the screen wall for the silos and the other buildings in the area.

Mr. Moeller questioned if there were any external emissions in the manufacturing process.

Mr. Clark stated the Plant Manager was there and could address that.

Mr. Riddell asked what type of material is being brought in.

Mr. Clark stated they are polyethylene pellets.

**Michael Genevro
4663 Dues Drive
West Chester, Ohio 45069**

Mr. Genevro stated he is the Facilities Manager for Storopack. He stated the project is important because they have gone through a tremendous amount of growth. He stated they have doubled in size in the one year he has been there. He stated they are looking forward to the new technology.

Proponent: None

Opponent: None

Neutral: None

Board Deliberation

Mr. Lenz stated when you invest in an industrial site you think you know what's going to happen in the future but you're always wrong. He thinks this is wonderful thing.

Mr. Riddell asked if the Fire Department was asked for comment and if they replied with no comment.

Ms. Walton stated that was correct.

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Mr. Simmons stated they clearly care about the way the building looks. He stated they are very good corporate neighbors. He stated that in looking at what's around this building he does not have any issue with them extending the height.

Mr. Riddell stated that in a previous case it was mentioned that the reason for the 50' height limit was due to the Fire equipment that the Township had when the code was written.

Mr. Moeller stated he likes that it is more efficient land use.

Mr. Riddell stated he does not have a problem with the request.

Mr. Moeller made a motion to approve 16-17.

Mr. Lenz seconded the motion.

Aye: Mr. Simmons, Mr. Riddell, Mr. Lenz, Mr. Moeller, Mr. Whited

Nay: None

BZA 16-18 David Moats

Ms. Walton was sworn in by Mr. Whited

Ms. Walton presented the staff report including a PowerPoint presentation, current zoning in the area, aerials, background of request, staff comments and case history. Ms. Walton stated that the applicant is requesting a variance for the property at 4280 Tylersville Road to allow a reduction in the frontage requirements. Ms. Walton reviewed the standards for a variance with the board members.

Mr. Simmons asked if the road that goes back to the property is maintained by the Township.

Ms. Walton stated it is a private drive and is not sure how the easement reads for maintenance but it is not maintained by the Township.

Mr. Whited asked if Mr. Wiegand could be called to clarify the requirements for sub dividing.

**Aaron Wiegand
Community Development Director
9577 Beckett Road, Suite 100
West Chester, Ohio 45069**

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Mr. Wiegand stated that he does not know the historical intent of the 200' frontage but it is true that residential lots have smaller frontage requirements than agricultural lots. He stated most residential lots require 100' frontage.

Mr. Whited stated he assumed the County had concern about the amount of curb cuts.

Mr. Wiegand stated he did not know the history.

Mr. Lenz clarified that the County wants the unrecorded easements recorded as part of this request.

Ms. Walton stated that was correct.

Mr. Lenz stated the easement is shared with more than just these two properties and is more complicated than it looks.

Mr. Whited agreed.

**Applicant: David Moats
4280 Tylersville Road
West Chester, Ohio 45069**

Mr. Moats stated he has lived in the property for 23 years and it has about a 6000SF house. He stated he loves the area and would like to split the lot and build a smaller home. He stated he can share a driveway with the current neighbors and not have to have access to Tylersville Road. He stated he understood there are easement questions and they can all be resolved with a good surveyor.

Mr. Whited stated the applicant has another option to rezone this to residential and it would then meet frontage requirements.

Mr. Moats stated the issue is the taxes would go up dramatically. He stated the tax consequences are astronomical.

Mr. Whited talked about the on the taxes on the land and building in an agricultural zone. And asked the applicant if his statement that regarding the tax consequences was in regards to the land.

Mr. Moats stated that was correct.

Mr. Lenz stated it appeared the access to his current house is from a road that first crosses his neighbor's property. He asked if the applicant would maintain the functionality of the current conditions.

Mr. Moats stated that was correct.

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Mr. Lenz asked if all necessary steps would be taken to record the necessary easements.

Mr. Moats stated it would and it would take cooperation from his neighbors but it would be done.

Mr. Whited asked if there was an existing easement and maintenance agreement.

Mr. Moats stated the maintenance agreement is loosely defined as repairs will split three ways.

Mr. Lenz clarified that there is no anticipation of a request to put in a separate driveway.

Mr. Moats stated there was not. He also stated his deed defines the easements across the property.

Proponent: None

**Opponent: Ron Swift
4220 Tylers Estates Drive
West Chester, Ohio 45069**

Mr. Swift stated opposition is a strong term. He is not sure he is opposed yet but looking for more information. He stated he wanted the Board to understand him and his neighbors' concerns. He thanked the Board for sending notice of the hearing. He stated he just wanted to make sure what the owner wants to do doesn't impinge on what they have paid for on the other side. He pointed out his property on the aerial. He stated he and his neighbors paid a 50% premium for their lots based on the wooded area behind the houses. He asked the Board to consider the homeowners behind the property and asked that their property values not be dropped. He reiterated that he felt opposition was a strong word but he wanted the Board to hear his concerns.

Mr. Simmons asked if the applicant could be recalled.

**Applicant: David Moats
4280 Tylersville Road
West Chester, Ohio 45069**

Mr. Simmons asked if Mr. Moats planned to remove the forested area behind the property.

Mr. Moats stated he did not. He stated his neighbors appreciate the forested area and pond that adds value to their house. He stated he plans to build a small house on an area that has a lot of dead ash trees that will be removed.

Mr. Simmons asked if the properties that back up to the applicant would remain forested.

Mr. Moats stated they would. He also stated the property is zoned agricultural and if he wanted to put a pig farm in there he could.

Neutral: Kevin Webster
4308 Tylersville Road
West Chester, Ohio 45069

Mr. Webster stated he is one of the three properties that are a part of the driveway. He wanted to make two comments. He stated he has been there 28 years and understood the zoning requirements of 200' at the time and it was a plus to him. He also stated that he understands things evolve and he is not here so much to say yes or no but to give the Board information. His second comment is that the plot sizes and the lot configurations are very funky. He discussed the driveway and the easements. He stated his interest is to make sure the easements are done right and completely. He stated the unknowns are a concern for him.

Mr. Whited stated that Mr. Webster's concerns were not something the Board could address and suggested he contact a Real Estate attorney.

There was discussion regarding the easements and responsibilities.

Board Deliberation

Mr. Lenz stated he felt this was a reasonable request and feels strongly that in the process of making the cut in the property that any easements that are not properly recorded need to be recorded.

Mr. Riddell stated it was not the Board's responsibility to address easements and that the only request in front of the Board was the variance.

Mr. Whited read the comments received from the Butler County Engineer and stated it needed to part of the approval.

Mr. Riddell stated that is a requirement for the applicant and asked staff if the Engineer's office had to approve the request.

Ms. Walton stated they did and stated that the Township also required easements be recorded prior to issuing Zoning certificates.

Mr. Whited stated he is opposed to the request and stated that it would be better for all concerned if it were rezoned to residential.

Mr. Moeller stated he is uneasy about how many easements there are and how many are actually recorded.

Mr. Lenz stated that can made a condition of approval.

Mr. Moeller stated he agrees with Mr. Whited in terms of foregoing the 200' requirement.

Mr. Whited stated a decision should not be based on a tax question.

There was discussion regarding the way the property would be taxed as a residential zone.

Mr. Riddell stated it was not the Board's place to tell someone how to use their property. He stated the request for a reduction in the frontage. He stated he believes this is a reasonable request. He stated he is going to consult staff about the Board's role in enforcing easements and is comfortable in continuing this case for him to gather information.

Mr. Lenz stated the Board is not requiring or writing easements but placing a condition that it get resolved.

There was discussion regarding a previous case where an easement issue came up.

Mr. Riddell stated he would not turn this to residential because of zoning restrictions.

Mr. Lenz stated if you drive down Tylersville you will not notice a difference.

Mr. Lenz made a motion to approve BZA case 16-17 with the condition that all easements be resolved as recorded and any maintenance agreements requested by the Butler County access management regulations be resolved.

Mr. Simmons seconded the motion

Aye: Mr. Simmons, Mr. Riddell, Mr. Lenz

Nay: Mr. Whited, Mr. Moeller

ADMINISTRATIVE MATTERS

Ms. Walton stated there were two cases for the August meeting in addition to the two continued cases.

The next meeting will be Wednesday August 10, 2016 at 6:30 pm.

The board adjourned the July 13, 2016 meeting at 9:04 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:



Larry Whited

BZA Secretary:



Cathy Walton

**WEST CHESTER TOWNSHIP BOARD OF ZONING APPEALS
RESOLUTION GRANTING
APPLICATION NO. BZA 16-14**

WHEREAS, Clifton and Cassandra Hastings, on May 27, 2016 filed Application No. 16-14 with the Board of Zoning Appeals under Article 8, subsection 8.04 of the West Chester Township Zoning Resolution, seeking a variance to allow a building addition to encroach the rear yard setback by 6' as applied to the property at 9885 Meadow Hills Drive, West Chester Ohio 45069 and containing Parcel # M5620-079-000-026 in Section 14, Town 3, Range 2; (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on July 13, 2016 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, the board has considered all of the information and testimony presented at the public hearing and concludes that the requested variance from the terms and conditions of the Zoning Resolution will not be contrary to the public interest and is consistent with the standard for variances set forth in the Zoning Resolution, paying particular attention to Section 8.053


THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby grant the request to allow a building addition to encroach the rear yard setback by 6'.

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 13th day of July, 2016 and journalized on the 10th day of August, 2016.



Larry Whited
BZA Chairman



Cathy Walton
BZA Secretary

**WEST CHESTER TOWNSHIP BOARD OF ZONING APPEALS
RESOLUTION GRANTING
APPLICATION NO. BZA 16-15**

WHEREAS, Brent Niese, for Matthew and Michelle McNally, on June 14, 2016 filed Application No. 16-15 with the Board of Zoning Appeals under Article 8, subsection 8.04 of the West Chester Township Zoning Resolution, seeking a variance to allow a building addition to encroach the rear yard setback by 6.5' as applied to the property at 7358 Coachford Drive, West Chester Ohio 45069 and containing Parcel # M5620-319-000-032 in Section 30, Town 3, Range 2; (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on July 13, 2016 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, the board has considered all of the information and testimony presented at the public hearing and concludes that the requested variance from the terms and conditions of the Zoning Resolution will not be contrary to the public interest and is consistent with the standard for variances set forth in the Zoning Resolution, paying particular attention to Section 8.053

THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby grant the request to allow a building addition to encroach the rear yard setback by 6.5'.

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 13th day of July, 2016 and journalized on the 10th day of August, 2016.



Larry Whited
BZA Chairman



Cathy Walton
BZA Secretary

**WEST CHESTER TOWNSHIP BOARD OF ZONING APPEALS
RESOLUTION GRANTING
APPLICATION NO. BZA 16-16**

WHEREAS, Northshore Construction & Development, for Scott Street Partners-S, LLC. , on June 14, 2016 filed Application No. 16-16 with the Board of Zoning Appeals under Article 8, subsection 8.04 of the West Chester Township Zoning Resolution, seeking a variance to allow a two 59.5SF ground signs at a height of 8'11". The request also includes a variance from the sign base material requirement as applied to the property on Civic Centre Boulevard, West Chester Ohio 45069 and containing Parcel #M5610-032-000-138 and #M5610-032-000-139 in Section 33, Town 3, Range 2; (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on July 13, 2016 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, the board has considered all of the information and testimony presented at the public hearing and concludes that the requested variance from the terms and conditions of the Zoning Resolution will not be contrary to the public interest and are consistent with the standard for variances set forth in the Zoning Resolution, paying particular attention to Section 8.053


THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby grant the request to allow two 59.5SF ground signs at 8' 11" tall that do not require the base materials tot match the building with the following conditions:

1. Signs must be made available to the tenants on all four referenced parcels.
2. No additional ground mounted signs will be permitted within the development.

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 13th day of July, 2016 and journalized on the 10th day of August, 2016


Cliff Hackney
BZA Chairman


Cathy Walton
BZA Secretary

**WEST CHESTER TOWNSHIP BOARD OF ZONING APPEALS
RESOLUTION GRANTING
APPLICATION NO. BZA 16-17**

WHEREAS, McGill, Smith, Punshon, for Matthew and Michelle McNally, on June 15, 2016 filed Application No. 16-17 with the Board of Zoning Appeals under Article 8, subsection 8.04 of the West Chester Township Zoning Resolution, seeking a variance to allow a building addition to exceed the building height restrictions by 19' as applied to the property at 4663 Dues Drive, West Chester Ohio 45069 and containing Parcel # M5620-050-000-035 in Section 30, Town 3, Range 2; (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on July 13, 2016 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, the board has considered all of the information and testimony presented at the public hearing and concludes that the requested variance from the terms and conditions of the Zoning Resolution will not be contrary to the public interest and is consistent with the standard for variances set forth in the Zoning Resolution, paying particular attention to Section 8.053


THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby grant the request to allow a building addition to extend to 69' in height.

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 13th day of July, 2016 and journalized on the 10th day of August, 2016.



Larry Whited
BZA Chairman



Cathy Walton
BZA Secretary

**WEST CHESTER TOWNSHIP BOARD OF ZONING APPEALS
RESOLUTION GRANTING
APPLICATION NO. BZA 16-18**

WHEREAS, David Moats, on June 16, 2016, filed Application No. 16-18 with the Board of Zoning Appeals under Article 8, subsection 8.04 of the Zoning Resolution, seeking a variance to reduce the lot frontage requirements as applied to the property at 4280 Tylersville Road, containing Parcel #M5610-010-000-018 in Section 12, Town 2, Range 2 (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on July 13, 2016, 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, the board has considered all of the information and testimony presented at the public hearing and concludes that the requested variances from the terms and conditions of the Zoning Resolution will not be contrary to the public interest and are consistent with the standard for variances set forth in the Zoning Resolution, paying particular attention to Section 8.053

THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby grant the variance to allow a reduction in the lot frontage requirements to 100' with the following restrictions:

1. All required easements be recorded.
2. Any maintenance agreements by the Butler County Engineer's Office be resolved.

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 13th day of July, 2016 and journalized on the 10th day of August, 2016



Larry Whited
Chairman



Cathy Walton
BZA Secretary