

**WEST CHESTER TOWNSHIP
BOARD OF ZONING APPEALS
August 10, 2016 – Regular Meeting**

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

MEMBERS ABSENT:

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

CALL TO ORDER: 6:30 PM

ADJOURNMENT 7:42 PM

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

Mr. Whited stated that BZA case 16-13 has been withdrawn.

BZA 16-12 Ramona Lisa Abner and Marilyn Combs

Ms. Walton was sworn in by Mr. Whited

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 and stated the case was a continuation from last month.

Mr. Whited excused Mr. Cavens and called Mr. Simmons to hear the case. Mr. Simmons heard the testimony for the case last month.

**Applicant: Crystal Abner
20 High Street
Hamilton, Ohio 45011**

Ms. Abner went over the items in her testimony last month. She also stated that she some research on the question of whether someone could do tattoos with her certification. She stated they could not. She stated it is a Permanent Makeup certification only and that those already certified in tattoo come to them for the Permanent Makeup certification. She stated they both act under the same laws as the Health Board but are different certifications. She gave some ideas of wording that could be used as a condition of approval for natural application.

Mr. Lenz asked for clarification that the tattoo and permanent makeup were separate licensed in the State of Ohio.

Ms. Abner stated they were. She reiterated that Tattoo artists come to their program for certification.

Mr. Lenz clarified that they need two licensed to do both.

Ms. Abner stated that was correct.

Mr. Lenz asked if Ms. Abner did the certifying or if it was done by the State.

Ms. Abner stated Mona Lisa's Permanent Makeup does the certification.

Mr. Riddell asked if the certification was required to get the license.

Ms. Abner stated yes.

Mr. Riddell clarified that they were one of the places that provides the certification and asked if they still had to go to the State to get the license.

Ms. Abner stated that after they take their course and do their hours at the training center and then they can do permanent makeup.

Mr. Riddell asked who requires the certification.

Ms. Abner stated the Health Department.

Mr. Riddell asked if they had to file paperwork with the Board of Health.

Ms. Abner stated yes.

Mr. Simmons asked who filed the paperwork.

Ms. Abner stated it was filed by the student in their County.

Mr. Simmons asked if that included the certification from her facility.

Ms. Abner stated yes.

Mr. Moeller asked how they train the tattoo artists.

Ms. Abner asked if he was referring to permanent makeup.

Mr. Moeller stated no. He asked if she was qualified to certify for tattooing.

Ms. Abner stated they are not certified to do body tattoo and only permanent makeup.

Mr. Simmons stated the literature refers to more personal types of cover-ups and asked if that fell into the category of body art.

Ms. Abner clarified the services they provide.

Mr. Lenz asked if they use the same tools and materials as a tattoo parlor.

Ms. Abner stated that they do and that is why they fall under the same State laws.

Mr. Whited asked for clarification on the license and certifications.

There was discussion regarding there being one license and two different certifications for tattooing and permanent makeup.

Mr. Simmons asked what the certification was called.

Ms. Abner stated Permanent Makeup.

Mr. Moeller asked if any of the employees were licensed to do tattoo.

Ms. Abner stated no.

Mr. Simmons stated that most people think of make up as facial in orientation and asked if the other services provided still fall under the permanent makeup certification.

Ms. Abner stated there are two different levels and that it does fall under the Permanent Makeup certification but it's an advanced level.

Mr. Simmons asked if that type of procedure is recognized as part of the certification.

Ms. Abner stated it was.

Proponent: None

Opponent: None

Neutral: None

Board Deliberation

Mr. Simmons stated in his view there is clearly a differentiation. He stated he felt that way last month and thinks it was further clarified tonight.

Mr. Lenz stated he recalled that the reason for postponing the case was to come up with some restrictive language because it is a use interpretation.

Mr. Whited stated they have not been provided any verbiage.

Mr. Simmons stated he had provided some verbiage to staff who engaged legal council.

Ms. Walton stated in conversations with council it was determined that as long as the three Use Interpretation standards are met there is no need for a definition.

Mr. Whited read the Use Interpretation standards.

Mr. Simmons stated the use is like a Beauty Salon.

Mr. Riddell stated his position has not changed and he thinks this is clearly different than a Tattoo parlor. He stated he believes this is something that could coexist in that place and not be a detriment.

Mr. Moeller stated it matters how well it is monitored.

Mr. Simmons stated they could consider a condition that only the Permanent Makeup certification be allowed.

Mr. Whited stated this is the first they have heard of this use and since it is under the Health Department it is a County by County certification and what it is today could change tomorrow and is concerned with adding that clause.

Mr. Lenz stated he did not see a danger in adding it and it's pretty straight forward. He also stated that his concern is that last month there was talk of this setting a precedence and if the restriction is put on it that addresses the issue.

Ms. Walton stated that council also let staff know that although is setting precedent, each case can still be considered on a case by case basis.

Mr. Riddell doesn't anticipate the mixing of tattooing being a problem.

Ms. Walton clarified that since the request for the Permanent Makeup certification use the condition was not necessary but could be added.

There was discussion regarding adding a condition to any approval.

Mr. Whited asked if they were approved for permanent makeup and began doing tattooing, if they would be in violation of their own application.

Ms. Walton stated they would.

There was further discussion regarding adding a condition to approval.

Mr. Simmons made a motion to approve BZA case 16-12 with the condition that Permanent Makeup certification be allowed only and no body art or body modification certification be used in this location

Mr. Moeller seconded the motion.

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

Nay: Mr. Whited

Mr. Cavens reentered the meeting.

BZA 16-19 James and Marilyn Fieher

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 5808 Sun Lin Court to allow an addition to encroach the rear yard setback requirement. Ms. Walton reviewed the standards for a variance with the board members.

**Applicant: James Fieher
5808 Sun Lin Court
West Chester, Ohio 45069**

Mr. Fieher presented photos, an aerial, and a written statement signed by his neighbors in favor of this case. He went over the plan for the covered porch. He stated the aerial view and pictures will show that the addition will be the same size as the existing patio slab. He went over the variance standards and how he felt his request met those standards. He stated approval of the roof will make this usable space for him and his family. He stated the Homeowners Association has reviewed and approved the plans.

Mr. Lenz asked if the patio slab would be torn out.

Mr. Fieher stated it would.

**Proponent: Brent Rapp
7030 Gail Sue Drive
West Chester, Ohio 45069**

Mr. Rapp stated he thinks this is a great idea and will allow the applicant and his family to enjoy the property.

Opponent: None

Neutral: None

Board Deliberation

Mr. Cavens stated he liked it.

Mr. Whited and Mr. Moeller agreed.

Mr. Cavens stated the reasons the setbacks are there are so someone doesn't put a large house on a small lot and he's not doing that.

Mr. Moeller stated it is not making it worse than it is.

Mr. Riddell stated he is enhancing the house, the neighborhood and the Township.

Mr. Cavens made a motion to approve BZA case 16-19.

Mr. Lenz seconded the motion.

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

Nay: None

BZA 16-20 Brent Rapp

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 7030 Gail Sue Drive to allow detached garage to exceed the permitted square footage. Ms. Walton reviewed the standards for a variance with the board members.

**Applicant: Brent Rapp
7030 Gail Sue Drive
West Chester, Ohio 45069**

Mr. Rapp stated he bought the property knowing that what he wanted to do was put in an out building for his off road vehicles. He stated he wants to be able to store his vehicles. He stated his trailer is a 36' gooseneck used for his recreational vehicles. The trailer will be

moved to the back and won't be as visible. He stated the lean to area is a place for his family to relax. He stated he also owns a truck that won't fit into his garage and he wants to have a place to store it from the elements. He stated he has one of the smallest houses in the neighborhood on one of the largest lots. He went over several of the variance standards. Mr. Rapp also went over several recent and proposed upgrades to his property.

Mr. Lenz asked Mr. Rapp if he was going to pave the area to be fixed near the street that is currently gravel.

Mr. Rapp stated he was.

Mr. Lenz stated the application state this was a pole barn.

Mr. Rapp stated it is a garage.

Mr. Lenz stated a pole barn is a type of construction.

Mr. Rapp stated basically it was going to be a stick structure.

Mr. Moeller asked if the driveway would be paved back to the garage.

Mr. Rapp stated it would.

Mr. Cavens asked if the Board wanted the garage to be shrunk down would it still be feasible for him to build.

Mr. Rapp stated it would not.

Mr. Cavens asked him to explain why.

Mr. Rapp stated his truck is large and it doesn't make sense for him to just be able to put the truck in there and that he still needs workshop space.

Mr. Lenz asked the purpose for the 10' sliding door on the back.

Mr. Rapp stated he is no longer doing that.

There was discussion regarding the size of the applicant's house and other houses in the area.

**Proponent: James Fieher
5808 Sun Lin Court
West Chester, Ohio 45069**

Mr. Fieher stated he thinks this is going to be a great thing.

Opponent: Dan Meehan
9412 Patti Circle
West Chester, Ohio 45069

Mr. Meehan stated he passes this home all the time and has concerns about this being a business in a residential area. He stated the trailer does not belong in a residential area unless it is recreational. He also stated concerns he has for the material being used to build the building not being common in a residential area.

Mr. Whited stated the applicant indicated the building was to be stick built.

Mr. Cavens asked if this was an HOA community.

Mr. Whited stated no.

Mr. Meehan reiterated that these types of buildings are not typically built in residential neighborhoods. He stated he also has concerns about the garage door size and believes the character of the building is not residential. He stated he is also concerned about lot coverage with this size building. He discussed the difference in level of control in neighborhoods with an HOA and those without.

Mr. Riddell asked Mr. Meehan asked how far he lived from the applicant.

Mr. Meehan stated it was about three blocks and that he passes the applicant's house all the time.

Mr. Lenz asked Mr. Meehan if he understood the only issue the Board was addressing was the size of the building. He stated many of Mr. Meehan's concerns could not be addressed by the Board.

Mr. Meehan asked if there was a certain size truck permitted to be parked in residential areas.

There was discussion regarding commercial verses recreational size trucks.

The Board recalled the applicant.

Brent Rapp
7030 Gail Sue Drive
West Chester, Ohio 45069

Mr. Cavens asked for clarification that the applicant was talking about a pickup truck.

Mr. Rapp indicated he was and stated it was a Dodge 3500.

Mr. Cavens reiterated the applicant was not in an HOA community.

Mr. Rapp stated he would not live in an HOA community.

Mr. Cavens clarified that Mr. Rapp could build the garage without Boards approval except for the size.

Mr. Whited asked what the exterior material would be.

Mr. Rapp stated it was aluminum siding.

Mr. Cavens asked if the siding would match the home.

Mr. Rapp stated it would.

There was discussion regarding the materials used to build the garage.

Mr. Lenz stated that Mr. Rapp testified that it was going to be sick built but is now saying it will be a pole barn.

Mr. Cavens stated he guessed he would be putting 2 x 4's between the poles.

Mr. Rapp stated he would.

There was further discussion regarding the materials used to build the garage.

Mr. Rapp indicated he has a 27 acre lot that he stores his commercial equipment and would not be storing commercial equipment on the property.

Neutral: None

Board Deliberation

Mr. Lenz stated there was point brought up about lot coverage and this district is 50% and he is nowhere near that.

Mr. Whited stated he had no problem with this. He stated the applicant is enhancing the area and has a unique situation that there is no house directly behind him.

Mr. Cavens agreed he had no problems.

Mr. Moeller asked if there were any negative comments received from neighbors.

Ms. Walton stated just Mr. Meehan.

Mr. Riddell stated his lot is similar to Mr. Rapp's and he would like to have a garage similar to the one being proposed. He also stated that he has personal experience with regards to the truck and trailer. He stated West Chester should not steer itself towards HOA standards. He discussed the issues with the commercial truck definition previous to the changes being made. He stated Mr. Rapp's truck is a legal residential truck.

Mr. Moeller stated his opinion is that the lot can accommodate this size garage.

Mr. Cavens stated he is only here because he has a smaller home.

Mr. Cavens made a motion to approve BZA case 16-20.

Mr. Moeller seconded the motion.

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

Nay: None

ADMINISTRATIVE MATTERS

Ms. Walton stated deadline for next month is next Wednesday.

Meeting minutes from June 8, 2016 and June 22, 2016 were approved.

The next meeting will be Wednesday September 14, 2016 at 6:30 pm.

The board adjourned the July 13, 2016 meeting at 7:42 pm.

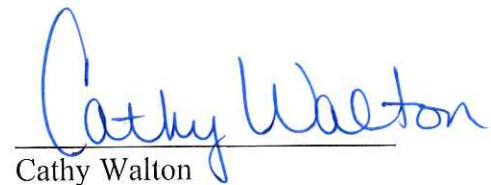
These Minutes do not purport to be the entire record. A complete transcription of these proceedings was taken under supervision of the Secretary from an audiotape and may be obtained upon written request. Any charges for preparing such transcripts shall be borne by the person requesting same and must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

BZA Chairman:



Larry Whited

BZA Secretary:



Cathy Walton

**WEST CHESTER TOWNSHIP
BOARD OF ZONING APPEALS
RESOLUTION GRANTING
APPEAL NO. BZA 16-12**

WHEREAS, Mona Lisa Abner and Marilyn Combs, on May 10, 2016, filed Appeal No. 16-12 with the Board of Zoning Appeals under Article 8, subsection 8.052 of the West Chester Township Zoning Resolution, seeking a Use Interpretation to allow permanent pigmentation, as applied to the property at 6936 Tylersville Road containing Parcel # M5640-129-000-105 in Section 24, Town 3, Range 2 (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said appeal on August 10, 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, uses not specifically listed as permitted by the B-1 (Neighborhood Business) District if the proposed use is determined to be of the same general character of those permitted in the B-1 (Neighborhood Business) District; 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 8.052

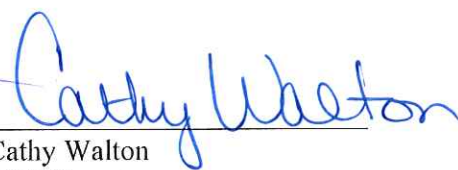
THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby grant the request for a Use Interpretation.

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 10th day of August 2016 and journalized on the 14th day of September 2016.



Larry Whited
BZA Chairman



Cathy Walton
BZA Secretary

**WEST CHESTER TOWNSHIP BOARD OF ZONING APPEALS
RESOLUTION GRANTING
APPLICATION NO. BZA 16-19**

WHEREAS, James and Marilyn Fiehrer, on July 13, 2016 filed Application No. 16-19 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 16' as applied to the property at 5808 Sun Lin Court, West Chester Ohio 45069 and containing Parcel # M5620-464-000-019 in Section 36, Town 3, Range 2; (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on August 10, 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

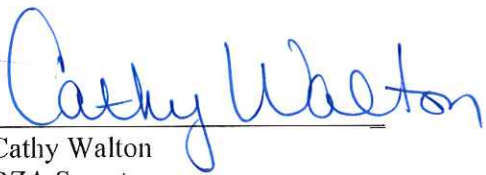
THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby grant the request to allow a building addition to encroach the rear yard setback by 16'.

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 10th day of August, 2016 and journalized on the 14th day of September, 2016.



Larry Whited
BZA Chairman



Cathy Walton
BZA Secretary

**WEST CHESTER TOWNSHIP BOARD OF ZONING APPEALS
RESOLUTION GRANTING
APPLICATION NO. BZA 16-20**

WHEREAS, Brent Rapp, on July 13, 2016 filed Application No. 16-20 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 832SF detached garage where a 624SF garage is permitted as applied to the property at 7030 Gail Sue Drive, West Chester Ohio 45069 and containing Parcel # M5620-118-000-009 in Section 21, Town 3, Range 2; (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on August 10, 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 a 832SF detached garage.

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 10th day of August, 2016 and journalized on the 14th day of September, 2015.



Larry Whited
BZA Chairman



Cathy Walton
BZA Secretary