

MINUTES
REGULAR MEETING OF THE CITY OF CLEVELAND
BOARD OF ZONING APPEALS
TUESDAY, JULY 9, 2019 AT 12:00 PM
CLEVELAND MUNICIPAL BUILDING 190 CHURCH STREET NE

The regular meeting of the Board of Zoning Appeals was called to order by Charlotte Peak, Chairman, at 12:00 Noon.

Members present included Charlotte Peak, Clint Taylor and Dan Moore

Members absent included Ray Garner and Ed Brown.

Staff present included Jonathan Jobe, Director of Development and Engineering Services, Joe Fivas, City Manager, and Darla Jenkins, Executive Secretary.

Others present included Ben Berry of Berry Engineers, Dustin Tommey of City Fields, Josh Taylor, Rusty Lanford of City Fields, Greg Presnell of CEC/Knoxville Councilman Bill Este and Councilman Tom Cassada .

The minute of the June 11, 2019 regular meeting was presented for approval.

Dan Moore made a motion to approve the minutes and Clint Taylor seconded the motion. A vote of 3-0 passed the motion.

There were no Public Hearings.

There was no Old Business.

In New Business,

- a. Request by MPA Corporation for a variance for property located 1708 Wildwood Ave SE (Tax Map 57L Group R Parcel 8.00). Property is zoned Commercial Highway Zoning District (pg1).**

Councilman Bill Estes of the Second District of the City of Cleveland stated he was against this request. He said staff recommended the denial of the request due to not finding any need which would warrant a variance on the new construction. He also was concerned about the way processes in government work. The information being presented today is not the same as the initial presentation by the applicant to the city council. The applicant had certain guidelines they must meet according to square footage, parking, signage, etc. Bill Estes stated it was a bad work around for the applicant to come to the BZA for a variance instead of coming back before the

city council. He asked the BZA to deny this request and if possible, send this back to the city council to petition for a change in the alteration.

Charlotte Peak stated the city council had spent months drafting the particular requirements for the liquor licenses and the parameters of issuing a liquor store license. It also had the footprint of the building, the parking spaces, the square footage, and everything included before he could be permitted for the liquor store permit. She did not think it was fair to kick it to the BZA after it was permitted. It's its own entity. The city council decided what the parameters were for the permit. It's not the same as a building permit. She thought this was totally different. It requires a special permit based on it being liquor. We must look at it is just a building, just a structure, but it's not. It also has liquor.

Bill Estes commented there was certain precedent on kicking it back to the city council because certain permitting entities have wanted to change their location, so they come back to us. He said the city council had been open to hearing the requests from applicants.

Jonathan Jobe said it's basically even if it's a standalone building, it still shouldn't get a variance. Even if the building was selling shoes, it could fit on the lot. There are no hardships to provide a variance. It's a 4,600 square foot building that the applicant could do something to and it would fit on the lot. It's not an irregular lot. There is no hardship in this situation.

Clint Taylor asked if the square footage played a part in the council approving the liquor permit.

Jonathan Jobe stated there is a square footage requirement

Charlotte Jones made a motion to deny the request but to send anything that's been permitted by/for liquor stores back to the city council with any changes that it don't come before us. Anything that has to do with the original permit, if there is one change on it, it goes back to city council, who granted it to them in the first place.

Charlotte Jones asked for a second or did she need to withdraw here motion for a few minutes. Charlotte Jones withdrew her motion.

Ben Berry of Berry Engineering stated in the liquor process is that the submittal to get approval the city required submittal of financial information and other information not site specific and site specific information which is a survey of the

property, where the building sits on the property with the purpose of that being measuring the distances churches, schools and other uses where it has to meet the separation. The city council is not approving a site plan. They are approving a general building location to check that this site meets the space requirements.

Jonathan Jobe stated it was more than that. The city checked for square footage, windows, etc. There're other things in the requirements and the review was very detailed. One of the requirements is that it met our zoning code, and this doesn't now. The side set back was seventeen (17) feet on the first generation of this drawing. They were told no. Then they came back with a twenty (20) feet setback. This drawing would have been told no, too.

Ben Berry stated there were two requests to this proposal. The setback approval of existing building and the plans for the new building. The existing building would be renovated. Footprint would remain the same.

Charlotte Jones stated the original submission met all the requirements and asked what's wrong with the original submission.

Ben Berry state the design has been developed further. It's the kind of tweets that occur between a conceptional plan and a final plan.

Jonathan Jobe said if they go back to the original size, they will be fine.

Bill Estes stated there was two issues. The building changed size and if the variances that are submitted not, the liquor license application would not pass.

Dustin Tommey of City Fields stated he echoed everything said and it was bad precedence for the approval process that's so greatly different what the original plan was and it was not good for the neighborhood first place. The building being larger and asking for special permission is not good precedence.

Clint Taylor made a motion to approve the variance for an existing building sitting at the back of the lot. Dan Moore seconded the motion. A vote of 3-0 passed the motion. 3-Approve 0-No 2- Absent

Charlotte Peak made a motion to deny the request of the proposed store on the site that would replace the existing main building. Dan Moore seconded the motion to deny the request. A vote of 3-0 passed the motion to deny. 3-Approve 0-No 2- Absent

b. Request by Asha Brothers, LLC for a variance for property located 2325 Georgetown Rd NW (Tax Map 41N Group L Parcel 1.00). Property is zoned Commercial Highway Zoning District (pg8)

Councilman Tom Cassada of Third District of the City of Cleveland stated he was against the setback that infringes on the house behind it. He stated the only reason for the setback was to make the store larger. The store has already applied and asked if has been approved.

Jonathan Jobe said the original submittal will work with the liquor.

Bill Estes stated it was R3 in the back and It's treated as an R1 because of the single-family home and he asks they operate under R1 that what I am asking you to do.

Tom Cassada ask the commission to deny the request because it will infringe and only has to the with the store being larger. There are no other hardships. State law requires you to have a purpose to do the set back and, in this case, they don't.

Ben Berry of Berry Engineers said the primary reason for the request was because they did not want a long skinny rectangle for a building. The lot is narrow, and the building size is inefficient, and they are looking to square it up more, less linear and rectangular. They wanted to lessen the footage along Georgetown.

He stated they looked at the buffer in front of the single-family home and were able to provide the buffer in the front of the building and Westside Drive. He said they would include an eight-foot wooden fence and put all the evergreen tree and shade trees that are required. The portion where the setback variance is being required, the normal buffer if fifteen (15) feet wide with evergreen trees. We will have a wall that's in the back painted fifteen (15) feet tall, which is the height of the building. Without doors and windows on that side, the building will create the buffer.

Jonathan Jobe added the original building was a 4,500 square foot building.

Charlotte Peak said the customer had a 4,500 square foot building that would have worked, and she could not get over the special request or the special parameters the city council has put forth. She stated she understood putting the buffer zone in. Charlotte Peak stated the narrow lot did not create a hardship. If there was a workable store that was proposed originally, she would suggest going back to that.

Charlotte Peak made a motion to deny the request for the above stated reasons. Dan Moore seconded the motion. A vote of 3-0 passed the motion to deny. 3- Approve 0-No 2- Absent

- c. Request by Cleveland State Community College for a variance for property located on Adkisson Dr NW and Normal Chapel Rd (Tax Map 41D Group G Parcel 15.00). Property is zoned PI Professional Institutional Zoning District (pg11).**

Clint Taylor made a motion to approve the request and Dan Moore seconded the motion. Voting 3-0, the motion passed. 3-Approve 0-No 2- Absent

- d. Request by Ronald & Margaret Samples for a variance for property located at 1645 Johnson Boulevard (Tax Map 58P Group K Parcel 10.00). Property is zoned R2 Low Density Single and Multi-family Residential Zoning District (pg16).**

Dan Moore made a motion to approve the request and Charlotte Peak seconded the motion. A vote of 3-0 passed the motion. 3-Approve 0-No 2- Absent

- e. Request by W.E. Properties for an administrative review of the interpretation and application of the zoning ordinance related to issuance of sign permits at 4550 North Lee Hwy and at 26 Paul Huff Parkway (Tax Map 42 Parcels 51.00 & 3.01). Properties are zoned CH Commercial Highway Zoning District (pg21).**

This item was postponed to the August meeting.

There was no Staff Report.

There was no Board Member Report.

The meeting was adjourned at 12:23 P.M.