

PRAIRIE TOWNSHIP BOARD OF ZONING APPEALS
Minutes of the June 12th, 2018 Meeting

Members Present: Bill Gallaer, Doug Owsley, Christy Overla, Bruce Steele and Mark O'Loughlin

Members Absent: None

Others in Attendance: Connie Swisher, Dana Scott, Alicia Armentrout and Cassady Critchfield (Zoning)

Mr. O'Loughlin called the meeting to order at 7:00 P.M.

Mr. O'Loughlin asked for a motion to approve the minutes of the March 13th, 2018 meeting.

Mr. Owsley made a motion to approve the minutes as written. There was a second by Mr. Steele. All members voted in favor to approve.

Mr. O'Loughlin swore in those wishing to speak.

Old Business: None

New Business: A) Variance Application No. 622-VA-18

Applicant: Mike Haynam, Appliance Factory, 321 W. 84th Avenue, Thornton, CO 80260

Location: 24 South Greener Avenue, Columbus, Ohio 43228

Request: To grant a Variance from the provisions of Sections 1809 #1, #2 and #3; to allow the applicant to raise a portion of the roof and install a wall sign containing more than one logo, and not utilize channel letters or an awning as the Resolution requires in the West Broad Street Corridor Overlay District.

Ms. Swisher gave the facts of the request. Property is owned by Jegs High Performance. Property is 7400 sq. ft. with 11,000 sq. ft. existing structure. Ms. Swisher gave sign requirements for the West Broad Street Overlay District. Applicant wants to raise a portion of the roof to place a sign with 54 sq. ft. and with more than one logo. Ms. Swisher showed pictures of existing store and where the new store will be located. She showed pictures of the proposed sign with the proposed roof changes.

Existing pole signs are already permitted on this property.

Speaking for was Mike Haynam, speaking on behalf of Appliance Factory and Mattress Kingdom. He gave company background, which has been around for 30 years. They give discounts to the customers thru the manufacturers. They are 28th largest dealer in the nation with 600 employees. There is already one location on Sawmill Road. Sign will use channel letters. He explained how important signage is to the business.

Mr. Owsley asked if company had looked at using an awning sign and Mr. Haynam said that yes, they have but it would be challenging for them to do so.

Nobody spoke against.

Ms. Overla made a motion to accept the application as written. Mr. Gallaer seconded the motion.

Mr. Owsley made the comment that one of the things that we try to accomplish is a uniform standard in the Overlay District and maintain that standard going forward. He felt that allowing this variance would be in objection to that standard.

Mr. Owsley discussed determining factors on whether or not to grant the variance:

- 1) Whether or not that the property will yield a reasonable return or whether there can be any beneficial use of the property without a variance - yes
- 2) Is the variance substantial - yes
- 3) Whether the variance would adversely affect delivery of governmental services - no
- 4) Whether the property owner purchased the property with knowledge of zoning restrictions - yes
- 5) Whether the property owner's predicament feasibly can be obviated through some method other than a variance - yes
- 6) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance - no

Ms. Overla made a motion to accept the variance as written.

Mr. Steele seconded the motion.

Roll Call Vote:	Mr. Steele	Against
	Mr. Owsley	Against
	Ms. Overla	Against
	Mr. Gallaer	Against
Chairman	Mr. O'Loughlin	Against

The Variance is Not Granted

New Business: B) Variance Application No. 623-VA-18

Applicant: Dean Bollinger, 41 Fellows Avenue, West Jefferson, Ohio 43162
Location: Parcel No. 240-002350 Fernhill Avenue, Columbus, Ohio 43228
Request: To grant a Variance from the provisions of Sections 930 Table 2 Dimensional Requirements; to allow the applicant to construct a new single Family Home closer to the front and rear setback than the Resolution requires.

Ms. Scott gave the facts of the application. Proposed new home will be approx.: 1420 sq. ft. With a two car garage at the rear of the house. Proposed front setback is 25 feet from Fernhill and 15 feet from Palmetto. Proposed rear setback is 20 feet from Palmetto. The resolution requires that all structures in R-6 zoning district must be 30 feet from the front right of way and at least 30 feet from rear property line as well. Ms. Scott showed pictures of the property.

Speaking for was Dean Bollinger (Architect) stating that home would be two stories facing Fernhill. He stated that he tried to line up the setbacks with other lots on the street. There will be no basement, only a crawl space.

Mr. Steele made a motion to accept the variance as written. Mr. Owsley seconded the motion.

Roll Call Vote: Mr. Steele For
Mr. Owsley For
Ms. Overla For
Mr. Gallaer For
Chairman Mr. O'Loughlin For

The Variance is Granted

New Business: E) Variance Application No. 626-VA-18

Applicant: Dean Bollinger, 41 Fellows Avenue, West Jefferson, Ohio 43162
Location: Parcel No. 240-002352 Fernhill Avenue, Columbus, Ohio 43228
Request: To grant a Variance from the provisions of Section 930 Table 2 Dimensional Requirements; to allow the applicant to construct a new family Home closer to the front and rear setbacks than the Resolution requires.

Ms. Scott gave the facts of the request. Property is located at 168 Fernhill. Vacant parcel that measures 60 x 105. Zoning is R-6 and surrounded by R-6. Proposed new home will be 1974 sq. ft. and have a 2-car garage. It will be constructed at 25 feet from the front right of way line and 20 feet from rear line. Resolution states that all structures must be at least 30 feet from lot lines. Ms. Scott showed pictures of the property.

Speaking for was Mr. Bollinger (Architect) explaining that the facts are the same as his previous variance request except for different lot. (See 623-VA-18)

Nobody spoke against.

Mr. Steele made a motion to accept the variance as written. Mr. Gallaer seconded the motion.

Roll Call Vote: Mr. Steele For
Mr. Owsley For
Ms. Overla For
Mr. Gallaer For
Chairman Mr. O'Loughlin For

The Variance is Granted

New Business: C) Variance Application No. 624-VA-18

Applicant: Stephen Torsell, Homes on the Hill, 3659 Soldano Boulevard, Columbus, Ohio 43228
Location: 110 Pasadena Avenue, Columbus, Ohio 43228
Request: To grant a Variance from the provisions of Sections 930 Table 2 Dimensional Requirements; to allow the applicant to construct a new single Family Home with less floor area than the Resolution requires.

Ms. Critchfield gave the facts of the request. Board of Trustees for Prairie Township owns the lot. .14 acre parcel and the original house was demolished in 2017. Zoned R-6 and surrounded by R-6 on all sides. Lot is 50 x 118 and is a parcel that is legal non-conforming. New home is to be 808 sq. ft. and have a 2-car garage. The Resolution requires that all principal structures be a minimum of 1200 sq. ft. Ms. Critchfield showed pictures of the property.

Speaking for was Alex Abdicoff (Homes on the Hill) who stated that they are a non-profit that rehabs and builds affordable housing. What they are trying to do here is build a home at a lower price point construction wise and a lower purchase point for the buyer to be able to purchase the home.

Mr. Steele asked why not build a larger house, such as the two 1200 sq.ft. Models that they recently completed on Maple? Mr. Abdicoff answered that they are trying to build a more affordable model.

Speaking was John Lambert, 109 Maple Drive, who wanted know if the shade from the garage would be coming on to his property because of his landscaping and trees. Board answered that it is going to be a standard size garage.

Speaking against was Bill Valentine, who worried that low income families might move into the homes and not maintain them.

Speaking to clarify on who can buy these homes was Steve Torsell (Applicant). He stated that this is not a subsidized property, these houses will sell for about 120-150k, and the applicants will have to qualify for a mortgage just like any other homebuyer. It would follow that the homeowner would have a good employment and credit record. The concept for the smaller square footage is that there is a new market for smaller quality homes.

Mr. Owsley made a motion to approve the variance as written. Mr. Steele seconded the motion. Mr. Owsley stated that he wanted discussion on the determining factors of the request:

- 1) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance - yes
- 2) Is the variance substantial - yes
- 3) Whether or not that the property will yield a reasonable return or whether there can be any beneficial use of the property without a variance - no

Roll Call Vote:	Mr. Steele	For
	Mr. Owsley	For
	Ms. Overla	For
	Mr. Gallaer	For
Chairman	Mr. O'Loughlin	For

The Variance is Granted

New Business: D) Appeal Application No. 130-AP-18

Applicant: Rick Rodger, ESQ. Attorney at Law, 126 West Fifth Street, Marysville, Ohio 43040

Location: 951 Military Drive, Galloway, Ohio 43119

Request: To consider an appeal filed on behalf of Shilo and Stephanie Cain for review of a decision made by the Prairie Township Field Inspector in a violation letter dated February 16, 2018, which states the property was in violation of Sections 300, 320, 350, 351, 568 #2, 920 and 1015 of the Prairie Township Zoning Resolution disputing that the applicant is operating a Home Occupation and parking a commercial vehicle in an R-6 Zoning District.

Ms. Armentrout gave the facts of the request. Emails regarding the appeal that came in today and were passed out to Board Members. Property is a .188 acre parcel located in the Westpoint Subdivision. Zoning is R-6 and surrounded by R-6 on all sides. Application request is to consider an appeal of a decision made by the Prairie Township Field Inspector in a violation letter dated February 16, 2018. It states that the property is in violation of several sections of The Zoning Resolution. Applicant is disputing operating home occupation and parking a commercial vehicle in an R-6 zoning district.

Ms. Armentrout read the violation history to the Board. She showed pictures of the property and areas where the vehicle is being parked. Online searches show operating address of 951 Military Drive.

On June 1, 2018, a sign was posted concerning the Appeal Application public hearing and it was removed three days later. Sign was reposted on June 8th and it was removed two days later.

Speaking for was Rick Rodger (Applicant, Attorney for Shilo and Stephanie Cain). He stated that there no home occupation going on in this location. He stated that the investigation was flawed and they never once contacted Shilo or Stephanie Cain and asked them about this business. He stated that Zoning never came to the home and looked to see if there was a plumbing business be offered out of that home. He said that his clients receive no mail for that business at this location, received no supplies at this location, no deliveries, doesn't organize his business from this location and is simply parking his truck. He stated that Mr. Cain could not park in front of his house because parking is restricted in front of his house.

Ms. Overla asked why Mr. Cain does not park in his driveway? Mr. Rodger answered that this was a good question and certainly may be an option.

Mr. Rodger said that when the notice of violations were given, Mr. Cain was told to file a conditional use permit and so he did. Mr. Cain got the application, filled out the application and was going to pay his fees and zoning rejected his application.

Mr. Rodger stated that information on the internet was not provided or paid for by Mr. Cain.

Mr. Gallaer asked what the legal structure was of the plumbing business? Mr. Cain stated that it was an LLC.

Mr. Gallaer asked in the filings what is the official business address? Mr. Cain said that it was now a P.O. Box and that was filed on March 15, 2018. Zoning stated that this change was after the violation notice occurred.

Mr. Rodger once again stated that Mr. Cain is simply parking his truck and not conducting a home business.

Speaking for was Shilo Cain (951 Military) stating that he is a plumber for several hospitals and time is of the matter when responding to their calls. Mr. Steele stated that many people are on call and have to go other places to get their vehicle. He stated that we are here to talk about the home based business. Mr. Rodger responded that everyone keeps wanting to talk about this truck and just because a truck is parked there doesn't mean you are conducting a business. Mr. Rodger stated that there is no evidence of him conducting a business.

Ms. Overla asked about the previous filed incorporation papers and what was that address? Mr. Cain stated that it was 951 Military Drive. He stated that he did it for a mailing address. Mr. Gallauer asked why it was changed recently in March? Mr. Cain stated that is when it seemed to be an issue because Zoning thought they had a home business because of that address on paperwork.

Mr. Steele asked if Mr. Cain was a member of the BBB and Mr. Cain replied that he was. Mr. Steele stated that the BBB membership is not free and Mr. Cain said he just used the Military Drive address as a mailing address. Mr. Steele stated that people find business addresses through the BBB.

Mr. Owsley asked who took down the public hearing signs and Mr. Cain replied that the first he didn't know who did it but the second one he took down when he mowed the grass. He stated that he put it back up and the picture may have taken while the sign was down for yardwork.

Speaking for was Joe Deniaks (936 Military Drive) stating that Mr. Cain doesn't run a business from that address?

Speaking for was Joe Landingham (943 Military Drive) and he stated that he had never seen a customer there or delivery van which you would need to run a home based business.

Speaking for was Matt Baulger (928 Military Drive) stating that he had never seen anything out of the ordinary to suggest a business being run from that address?

Speaking was Monica Hall (911 Military Drive) who said that she was not for or against, but stated that the truck parking has not been a problem for people on Military Drive because the truck is parked on Master Drive. The truck was parked on Military for several years. The people on Master that pass it every day is why they have an issue. She was curious where the actual business is located and not a PO Box.

Mr. Rodger stated the business operates out of a storage facility and it is not in Prairie Township.

Ms. Armentrout offered a rebuttal. She stated that Mr. Cain did apply for a Conditional Use but did not meet the criteria. He wanted to have a Conditional Use, not for a home based business but to park his commercial vehicle there. She stated that a Conditional Use for a commercial vehicle would be outdoor storage or parking other than equipment temporarily used on the site and may not be permitted within any residential district unless Board of Zoning Appeals grants Conditional Use. This applies to rural districts only and he is not in a rural district. Commercial vehicles have to be inside of a garage.

Ms. Armentrout stated that Mr. Cain did not want to apply for Conditional Use home occupation because he stated he was not running a home occupation.

Ms. Swisher reminded Board members that the appeal tonight was only to decide if Ms. Armentrout made an error.

Mr. Steele announced to audience that we are here to decide if Zoning Inspector made any errors in writing the violations.

Ms. Armentrout stated that when Mr. Cain was first cited back in February, at the bottom of every letter sent out it states that they have 20 days to appeal the decision. It has been 91 days from time violation letter sent until Township received the appeal letter.

Mr. Rodger stated that the whole timeline is off because Zoning said to file Conditional Use and it was denied. So that took up some of the time.

Speaking was Mr. Wilesky (4756 Hilton Ave.) saying that whole issue of whether or not there is a business there or not would be a lot simpler if the operator of the business would provide his real physical address, where the business really is. Had he done this there would be little or no issue as to whether or not there is a business here.

At 8:33 pm, Mr. Owsley made a motion to recess for private deliberations for the purpose of discussing the merits of the application.

Ms. Overla seconded. All members voted in favor.

The Board returned to session at 9:05 pm.

Chairman O'Loughlin asked for a motion to continue the appeal application until July 10, 2018 at 7 pm to allow time for the board to obtain and clarify questions by the Prairie Township's Legal Counsel.

Mr. Owsley made the motion to table. Mr. Gallaer seconded the motion. All members voted in favor.

Adjournment: 9:07 pm

Submitted by Bill Gallaer

