

**PAINESVILLE TOWNSHIP
BOARD OF ZONING APPEALS
MEETING MINUTES**

Tuesday, April 13, 2021

Painesville Township Office 55 Nye Rd. Painesville Twp., OH, 44077

Present: Tom Hill, DaveENZerra, Randy VanBuren, Dave Lindrose, Dale Lewis (Alternate)
Absent: Ken Sullivan
Zoning Inspector: Rich Constantine, Harley DeLeon
Legal Counsel: Jason Hartzell

Chairman, Tom Hill called the meeting to order at 6:30 P.M. The Pledge of Allegiance was recited. The Public Hearing was held by video conference, and in-person due to respectful response to the coronavirus mandates in the State of Ohio. A roll call revealed that a quorum was present.

Legal Advisor Jason Hartzell swore in the persons who were present to speak, separately with each case; and intended to testify during the public hearing.

Public Hearing:

- **Case 21-BZA-01** (Continued from March 9, 2021):

Applicant Hema Jay One LLC filed a Variance Application for property located at 880 Oakwood Blvd. (PPN 11-B-041-G-08-066-0). The request is to allow a 31' by 15' pole building to maintain a 0 foot setback from the main dwelling in violation of Section 15.02(C)(5) which requires a minimum separation of ten (10) feet between accessory structures and a dwelling.

Chairman let the Board know that the applicant would not be in attendance. Zoning Inspector Harley DeLeon stated that the applicant had gotten a survey of the proposed property. The applicant was waiting on the survey documents, and asked that **Case 21-BZA-01** be continued for the May 11, 2021 Meeting.

Dale Lewis voiced concerns that with a 0 foot setback, the proposed structure is no longer an accessory building. The structure would be considered an addition. Dale Lewis questioned if the proposed structure would need to be inspected by a Building Inspector.

A discussion was held pertaining to the photos of the proposed structure attached to the Variance Application.

DaveENZerra commented that to his knowledge of the discussion at the March 9, 2021 Meeting, the Board had asked for a Building Permit to be required if the Variance was passed. DaveENZerra asked for Zoning Inspector Rich Constantine to assist.

Zoning Inspector Rich Constantine replied that was correct.

A discussion was held pertaining to the discovery of the proposed structure in violation, and the Board trying to rectify the violation post build of the proposed structure.

Dave Lindrose asked Rich Constantine if plans had been drawn for the proposed structure.

Rich Constantine replied no.

Harley DeLeon replied there were not any plans drawn, as Zoning Staff had found out of the proposed structure after it was built. Harley DeLeon continued that the Applicant had been told a Building Permit would be needed, but Zoning would need to be addressed before applying for a Building Permit.

Chairman asked Legal Advisor Jason Hartzell for guidance if the Board could request structure approval before approving the Variance Request.

Jason Hartzell replied that he did not think Lake County would issue a Building Permit without knowing if Zoning Requirements have been met.

Randy VanBuren asked the Board if a condition can be written in the approval that the proposed structure must meet safety requirements and is approved by the Building Department. If the structure does not meet the requirements, the variance approval is null and void.

A discussion was pertaining to what procedure the Board would need to follow, and what the proper procedure to acquiring a Building Permit is.

Chairman asked Zoning Inspector Rich Constantine if the Zoning Staff knew of what steps the Applicant would need to take for the Variance.

Rich Constantine replied that the Zoning Staff knew of the violations of the proposed structure, that a survey had been done, but Zoning Staff had not received the documents to go over. Rich Constantine let the Board know that he did not think a decision could be made without the proper information presented at the current meeting.

A discussion was held regarding clarification on the proper steps the Board would need to take after all the information was presented.

Chairman entertained a motion to continue **Case 21-BZA-01** for the May 11, 2021 Meeting.

Dale Lewis commented that the Applicant did not need a variance for the proposed structure if it was considered an addition and not an accessory. The Applicant would need a variance for the addition for the side and rear property line setback

A discussion was held regarding the proposed structure possibly being determined as an addition. If this was correct, the Board would then have to consider different parameters; the rear and side yard clearance areas.

Zoning Inspector Rich Constantine suggested that the Board possibly schedule an inspection of the proposed structure to determine if the structure is an addition.

Chairman agreed that the proposed structure would need to be inspected.

Dave Enzerra asked Zoning Staff if the Board could request guidance from the Fire Department pertaining to the property and what was being stored in the proposed structure prior to the May 11, 2021 Meeting.

Zoning Inspector Harley DeLeon stated that she had received some comments from the Fire Chief, and that there were no concerns. Harley DeLeon let the Board know she could arrange an inspection from the Fire Chief.

Chairman agreed with Harley DeLeon to an inspection from the Fire Chief, and asked input from the Fire Chief pertaining to how the proposed structure would be classified.

A discussion was held pertaining to a possibly change to the variance request dependent on how the proposed structure is classified.

Randy VanBuren made a motion to continue **Case 21-BZA-01** for the May 11, 2021 Meeting. Dave Lindrose seconded.

Roll Call: Enzerra; Aye, Lewis; Aye, VanBuren; Aye, Lindrose; Aye, Chairman; Aye.
Motion carried.

- **Case 21-BZA-02:**

Applicant Cher Safranek, Managing Member, submitted a Conditional Use Application on behalf of CCM Shop LLC for property located at 1808 North Ridge Rd. (PPN 11-B-031-A-00-007-0). The request is to allow Outdoor Dining and Outdoor Recreation (Volleyball) in association with the permitted use as an indoor restaurant/bar.

Chairman found no error in the Zoning Inspector requiring a Conditional Use Permit under 12.02(L) No one was available to speak for or against the request.

Rich Constantine let the Board know that a virtual meeting link had been sent to the managing members, and confirmed the meeting information had been received. Rich Constantine explained that the proposed operation was the former Sam and Tommy's. The proposed operation would have the same set up as the former restaurant that was located.

Chairman needed clarification on the Hours of Operation for the proposed business.

A discussion was held regarding possible weekend hours.

Dave Lindrose asked Zoning Staff if Case 21-BZA-02 was continued until the May 11, 2021 Meeting, would the restaurant's volleyball court be able to open in time for the warm weather.

Rich Constantine commented that the business would be able to open indoor pending permits. Outdoor opening depended on weather. Rich Constantine believed the restaurant would like to take advantage of the weather as soon as possible.

Chairman asked if the previous Sam and Tommy's had had a license to be open until 2:30 A.M.

Zoning Inspector replied that the operation prior to the proposed restaurant had operated with closing hours by 2:30 A.M.

Chairman clarified that no one was present to speak against the request.

A discussion was held regarding Hours of Operation being Friday through Saturday 11 A.M. to 2:30 A.M.

Outdoor dining would have the same hours, but have live music would be from 6 P.M. to 10 P.M.

Legal Advisor Jason Hartzell let the Board know that according to the restaurant's social media page, volleyball would start the first week of June 2021.

Chairman commented that the application was thoroughly written.

A discussion was held regarding if the live music would be outdoors. The Board perceived that there would be live music on the outdoor patio.

A discussion was held regarding improvements to the property including the volleyball court.

A discussion was held pertaining to adding conditions to the use.

Chairman asked the Board to make a motion.

Dave Lindrose made a motion to approve **Case 21-BZA-02** with the conditions as followed:

1. Hours of Operation: Sunday through Thursday 11 A.M. to 12 A.M. (Midnight), Friday and Saturday 11 A.M. to 2:30 A.M. Outdoor dining 11 A.M to 2:30 A.M. Friday and Saturday, Live Music Friday and Saturday 6 P.M. to 10 P.M.
2. Outdoor Seasonal May through September, weather permitting.
3. Occupancy: 106 people
4. Employ approximately 20 people
5. Five (5) year Conditional Use.

Randy VanBuren seconded.

Roll Call: Lindrose; Aye, VanBuren; Aye, Dale; Aye, Enzerra; Aye, Chairman; Aye.

Motion carried.

- **Case 21-BZA-03:**

Applicants Daniel & Rhonda Gamber filed a Variance Application for property located at 29 Pineview Dr. (PPN 11-A-025-B-00-012-0). The request is to allow construction of a 1,536sqft detached garage in violation of Section 14.02(C)(4) which requires that no accessory building be larger than 875sqft.

Chairman found no error in the Zoning Inspector requiring a Variance.
Legal Advisor Jason Hartzell swore in Daniel Gamber to speak in favor of the request.

The applicant Daniel Gamber stated that he would like to add a detached garage on his property for storage. The applicant continued that he would be storing a motorhome, and other vehicles of sorts. The applicant continued that there will be a dirt driveway to the proposed structure until funds were available to install a better access. The applicant stated that he did attach letters of support from his contiguous neighbors to his application. The applicant let the Board know that he has also been approved for a Building Permit from Lake County.

Chairman asked what type of construction the proposed building would be.
The applicant replied that the foundation would be brick, and the structure would be a two by six wooden structure with vinyl siding, windows, and have a asphalt shingles roof.
Chairman asked if power would be run to the proposed structure underground.
The applicant replied not right away. The applicant also plans for plumbing to run water in the future. To wash vehicles and a sink.
Chairman asked the applicant's property was sewer or septic
The applicant replied septic.

Chairman asked if there was anyone else to speak in favor of the request. Hearing none. Chairman asked if there was anyone to speak against the request. Hearing none. Chairman asked if the Board had any questions or comments.

Randy VanBuren stated that the application was asking for 1,536 sq ft structure, but the drawing included with the application was showing a structure of around 1,440 sq ft. Would the drawing need to match what was written on the application.

A discussion was held pertaining to the dimensions given on the initial application. Harley DeLeon stated that that was 48 foot width, by a 32 foot depth; which equaled 1,536 sq ft.

The applicant replied that the proposed structure will be 45 by 32 sq ft. The applicant continued that there had been a confusion in the actual square footage in quotes and builder.

Chairman asked Legal Advisor Jason Hartzell if the request would need to be changed to reflect 1,440 sq ft.

Legal Advisor Jason Hartzell stated that the request would need to be amended to be 45 by 32 or 1,440 sq ft.

Chairman clarified with the applicant that the application would be changed to reflect the 1,440 sq ft. The applicant agreed to the application change.

Randy VanBuren voiced concern of drainage for the proposed structure.

Zoning Inspector Rich Constantine stated that there wasn't regulation in the Resolution, but that it was a part of the County to regulate.

Chairman asked the applicant if ground water run off had been mentioned in the Building Permit.

The applicant replied no.

A discussion was held pertaining to the groundwater runoff being handled by the Building Permit.

Chairman asked the Board to make a motion.

Dave Enzerra made a motion to approve **Case 21-BZA-03**, amended reflect construction of a 1,440 sq ft

detached garage; as opposed to a 1,536 sq ft, with dimensions of 45 feet by 32 feet. Dave Lindrose seconded.

Roll Call: Enzerra; Aye, Lindrose; Aye, Lewis; Aye, VanBuren; Aye, Chairman; Aye.
Motion carried.

Chairman clarified journalizing the case to the applicant.

Dave Lindrose made a motion to journalize **Case 21-BZA-03**. Randy VanBuren seconded.

Roll Call: Lewis; Aye, Lindrose; Aye, VanBuren; Aye, Enzerra; Aye, Chairman; Aye.
Motion carried.

- **Case 21-BZA-04:**

Applicant Chuck Stewart of Giant Eagle filed a Variance Application for property located at 1201 Mentor Ave. (PPN 11-A-009-0-00-002-0). The request is to allow installation of two canopies, two point of sale kiosks, and two lift gate mechanisms with proposed setbacks from the Mentor Avenue right-of-way of twenty-two (22) feet at their nearest point and thirty-six feet at their furthest point in violation of Section 22.05(A) which requires in any B-1, B-2 or B-3 district that no structure of any kind except signs be erected within fifty (50) feet of the right-of-way sideline of a road.

Chairman found no error in the Zoning Inspector requiring a Variance.

Legal Advisor Jason Hartzell swore in Chuck Stewart, who was speaking in favor of the request.

Chuck Stewart explained that the request was for the installation of two canopies, two kiosks, and two lift gate mechanisms. The canopies were accessory structure and away from the main building. And would be open. The carwash was wanting to add a member only lane for membership to the carwash.

Chairman asked if there was anyone else to speak in favor of the request. Hearing none. Chairman asked if there was anyone to speak against the request. Hearing none. Chairman asked if the Board had any questions or comments. Hearing none. Chairman asked if the Zoning Inspectors had any concerns.

Zoning Inspector Rich Constantine and Zoning Inspector Harley DeLeon had no concerns.

Chairman asked the Board to make a motion.

Dave Lindrose made a motion to approve **Case 21-BZA-04**. Dave Enzerra seconded.

Roll Call: Lindrose; Aye, VanBuren; Aye, Lewis; Aye, Enzerra; Aye, Chairman; Aye.
Motion carried.

Randy VanBuren made a motion to journalize **Case 21-BZA-04**. Dave Lindrose seconded.

Roll call: Enzerra; Aye, VanBuren; Aye, Lewis; Aye, Lindrose; Aye, Chairman; Aye.
Motion carried.

Regular Meeting:

Chairman asked if the Board had any edits to the **March 9, 2021 Meeting Minutes**. The Board agreed the Meeting Minutes had no edits. Chairman stated for the record that the **March 9, 2021 Meeting Minutes** were approved.

Old Business: None

New Business:

- **Case 11-BZA-02R21:**

Applicant Michael Brown, submitted a Conditional Use Application on behalf of Mike Brown Customs for property located at 869 Richmond Rd. (PPN 11-B-069-0-00-001-0). The request is for 5 year renewal of the existing Conditional Use Permit which originated on April 12, 2011. Original conditions were 5 year term and hours of operation Monday through Friday 8AM to 8PM and Saturdays from 8AM to 3PM.

Chairman asked Legal Advisor Jason Hartzell if the applicant would need to be sworn in. Jason Hartzell replied that it was not a Public Hearing, the applicant would not need to be sworn in.

Applicant Michael Brown let the Board know that business has been good, with the exception of the Pandemic occurring. The applicant continued that improvements have been made to the building of the business. There were plans for continuing improvements when funds were available.

Chairman asked Zoning Inspector Rich Constantine if he had any concerns.

Zoning Inspector Rich Constantine replied he had none.

Chairman asked the Board to make a motion.

Dave Lindrose made a motion to renew the Conditional Use Permit of **Case 11-BZA-02R21** with the conditions as followed:

1. Five (5) year Conditional Use.

Randy VanBuren seconded.

Roll Call: Lewis; Aye, Lindrose; Aye, VanBuren; Aye, Enzerra; Aye, Chairman; Aye.
Motion carried.

Zoning Inspector Rich Constantine let the Board know that he will be retiring on April 23, 2021. Rich Constantine thanked the Board for all of their help.

The Board congratulated Rich Constantine and thanked him for all of his hard work.

Chairman adjourned the meeting at 7:40 P.M.

Next official meeting date is Tuesday, May 11, 2021.

Respectfully submitted,



Tom Hill, Chairman



Rachel Muro, Secretary