

Board of Zoning Appeals Public Hearing Meeting January 25, 2016 Minutes

The BZA Meeting was called to order by Chairman Stanard at 6:00 pm.

PRESENT AT ROLL CALL: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

Others Present: Rick Loconti, Building Commissioner; Jeff Filarski, Village Engineer; Aimee Lane, Law Director; Sherri Arrietta, Clerk of Council; Theresa Dean, Assistant Clerk

Mr. Stanard began the meeting with the announcement of several notes and administrative changes. Aimee Lane is now the Law Director for the Village of Moreland Hills. Mr. Stanard extended his thank you and appreciation for Mrs. Lane retaining her seat as an advisor to the Board of Zoning Appeals and Planning Commission. He also extended his thank you to the resident members of the Board of Zoning Appeals and Planning Commission for their service throughout 2015 and continued contributions in 2016, noting their donation of time and talent to the benefit of the community. Mrs. Robin Cooper's term as a member of the Board of Zoning Appeals ended after the Special December BZA meeting; she was nominated to serve another 6-year term at the January 6, 2016 Council Organizational meeting. At this time, Mrs. Cooper was sworn in by Mayor Renda. Mr. Stanard welcomed Theresa Dean as the new Assistant Clerk and Administrative Assistant to the Building Department. Finally, Mr. Stanard thanked Councilman Fritz and members of the Village Council for the opportunity to continue serving as the Chair of the Planning Commission for the 2016 calendar year.

Mayor Renda made a motion seconded by Mrs. Cooper to approve the minutes from the Special BZA Meeting of December 9, 2015.

ROLL CALL:

AYES: Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS: None

ABSTENTIONS: Mr. Bolek

MOTION CARRIED

At this time, Mrs. Lane administered the oath to those who wanted to speak at the hearing this evening. Chairman Stanard declared the public hearing open at 6:06 pm.

551 Chagrin Boulevard
Depth variance for Flag Lot

Mr. Dennis Nevar, attorney with Kenneth J. Fischer Co, L.P.A., and Mr. Jason Friedman, owner, were present. Mr. Friedman stated that the variance he is requesting is regarding a lot on a piece of property he owns in the entity of Chagrin Boulevard River Development LLC. The property is located on Chagrin Boulevard, just west of Bentleyville Road. The total property, which is approximately 25 acres in size, is planned to be developed with a street and eight (8) lots total (seven lots are currently approved). One of the lots that will ultimately be subdivided is Mr. Friedman's lot for his personal new home, which is the referenced flag lot for which Mr. Friedman is requesting the variance. In order to develop that specific lot and start construction on his home, he must subdivide it from the current single lot zoning. This requires a long driveway to be installed to access the site. The length of the drive is longer than permitted for a flag lot of that size. Therefore, the request is for a temporary variance to enable the subdivision for this specific lot; the driveway will ultimately be dedicated to a street. When the improvements for the other lots and the road are completed, Mr. Friedman will return with a permanent subdivision site plan for which approval will be requested.

No one in the audience offered comment; therefore, Mr. Stanard declared the public hearing closed at 6:09 pm.

Mr. Fritz commented that the variance requested is significant but temporary. Mr. Bolek asked if granting this variance is contingent upon it being temporary. Mrs. Lane gave background information about the property: this property went through preliminary plan approval several years ago when it was under different ownership, with site improvements also approved. However, the project never moved forward. Within the last few months, Mr. Filarski has been working with the developer's engineer to do an updated review of the improvement plan. The way the Village's ordinances read, both the road and utility improvements need to be put in so the developers can submit a final subdivision plat to the Planning Commission. Mr. Friedman indicated that development of the site for the entire subdivision has begun with the clearance of trees and that construction of the road should be started during the week of February 1, 2016. His intention is to install and complete the subdivision; this is also required by the terms of the bonds he has placed with the Village. He also stated that the subdivided lot must be provided as collateral to his bank for financing the construction of his home. Without the temporary variance, Mr. Friedman would need to postpone construction until late April, once the road is completed. Mr. Bolek asked if the drive for this flag lot is considered a drive or a road; Mr. Friedman replied that it is being installed as a road but temporarily being designated as a drive, and Mr. Filarski confirmed that it will be built to Village standards. In essence, the property is being temporarily designated as three lots with a drive, even though the intention is to eventually develop all lots. Mr. Stanard referenced the original lot split of the property, showing that seven had previously been approved but not recorded. Mrs. Cooper asked how the lot is currently recorded with the county; Mrs. Lane answered that it is recorded as one lot. This temporary three-lot split, if approved, will be recorded with the county, and once Mr. Friedman returns with his final subdivision plan, the final plan will be recorded and will replace what is on record with the county at that time. Mr. Friedman stated that he expects to be completed with site improvements in thirty to sixty days. The ability to lay asphalt will be dependent upon weather, but once that is completed, he will return with the eight-lot subdivision plat to be approved by Planning and recommended to go to Council.

At this time, Mrs. Lane stated that the applicant for the property located at 551 Chagrin Boulevard is seeking a variance of 736 feet for the maximum lot depth for a flag lot at this property. The findings of fact are as follows:

1. Special conditions and circumstances do exist that are peculiar to the land or structure involved and are not applicable generally to other lands or structures in the same zoning district. The maximum lot depth variance for the proposed "flag lot" identified as sub lot "B" is necessary to ensure frontage on a publicly dedicated street (Chagrin Boulevard) until completion of Site Improvements, including the interior roadway as shown on the Plat. Upon completion and acceptance of the Site Improvements, including the interior roadway, a Final Plat will be submitted for review and approval wherein the "staff" portion of sub lot "B" will have been utilized to construct the interior roadway for public dedication on the Plat. Thereafter, sub lot "B" will have frontage on a publicly dedicated street (the interior roadway to be accepted by the Village) and the maximum lot depth variance will become moot as sub lot "B" will comply with the Village's maximum lot depth requirements.
2. The property will not yield a reasonable return and there cannot be beneficial use of the property without the variance, as approval of the requested maximum lot depth variance is necessary to allow for commencement of home construction on sub lot "B" and to effectuate the immediate release of sub lot "B" from a mortgage encumbering same.
3. The variance is not substantial as it will become moot upon approval of the Final Plat. Additionally, the requested maximum lot depth variance is the minimum necessary to provide frontage on Chagrin Boulevard.
4. The essential character of the neighborhood would not be substantially altered as the adjoining properties, which are wholly owned by the Applicant, are undeveloped and the requested maximum lot depth variance will become moot upon approval of the Final Plat.
5. The variance would not adversely affect the delivery of governmental services.
6. The property owner purchased the property with knowledge of the zoning requirements of the U-1 Dwelling House District and intends to develop the property in accordance with such requirements.
7. There are no special conditions or circumstances that were a result of the actions of the owner.
8. The owner's predicaments cannot be obviated through some method other than a variance as the requested maximum lot depth variance is necessary to create sub lot "B" and allow for the commencement of home construction thereon and to effectuate the immediate release of sub lot "B" from a mortgage encumbering same.
9. The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the requested maximum lot depth variance, especially where such variance will become moot upon approval of the Final Plat.
10. Granting the requested maximum lot depth variance will not confer any special privilege that would be denied to others in the district, especially where such variance will become moot upon approval of the Final Plat.
11. It is unknown if a literal interpretation of the provision of this Code would deny rights commonly enjoyed by other properties in the same district. However, granting the requested maximum lot depth variance will allow for the commencement of home construction on sub lot "B" and effectuate the immediate release of sub lot "B" from a mortgage encumbering same. Additionally, such variance will become moot upon approval of the Final Plat.

Mrs. Cooper made a motion seconded by Mr. Stanard to accept the findings of facts.

ROLL CALL:

AYES: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS: None

MOTION CARRIED

Mrs. Cooper made a motion seconded by Mayor Renda to approve Mr. Friedman's request for the depth variance for the flag lot at 551 Chagrin Blvd. subject to the findings of fact.

ROLL CALL:

AYES: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS: None

MOTION CARRIED

Mayor Renda made a motion seconded by Mr. Pogatschnik to adjourn the meeting at 6:21 pm.

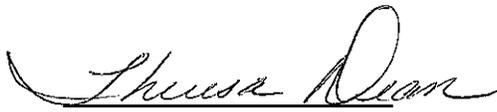
ROLL CALL:

AYES: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS: None

MOTION CARRIED

Respectfully Submitted:

A handwritten signature in cursive script, reading "Theresa Dean". The signature is written in black ink and is positioned above the printed name.

Theresa Dean, Assistant Clerk