

BOARD OF ZONING APPEALS MEETING
JANUARY 15, 2019
7:00 P.M.

I CALL MEETING TO ORDER

Meeting called to order by Mr. Ramirez

II ROLL CALL

Members Present: Joe Ramirez, Dave Nienaber, Jeffrey Anderson, Robert Weidlich, Carolyn Ghantous

Members Absent: Gregory Johnson, Carmen Daniels

Staff Present: Randy Campion

President Ramirez: Please note that the start of the meeting was 7:03pm. We are going to move the item number four to later on in the meeting. We have the election of the officers. We will take a verbal vote if that is okay with everyone.

(Verbal vote to move the item 5-0 in favor of moving the item.)

President Ramirez: Okay we will move that to later on.

President Ramirez: Do we have a motion to accept the summary of the minutes from the meeting on December 18, 2018. Oh, sorry, please stand for the Pledge of Allegiance.

III PLEDGE OF ALLEGIANCE

IV MINUTES OF THE REGULAR MEETING OF DECEMBER 18, 2018

President Ramirez: Okay, now the summary of the minutes for the regular meeting December 18, 2018, do we have a motion accept those minutes as stated.

Mr. Nienaber: I move to accept the minutes.

Mr. Anderson: Second.

President Ramirez: We have a move and a second. By voice vote.

(Voice vote taken and the minutes were adopted with a voice vote of 5 to 0.)

V CORRESPONDENCE

None

VI CHAIRMAN'S STATEMENT

President Ramirez: Before go into the next step.

Chairman's Statement

Ladies and Gentlemen, this is a Public Hearing, and all testimony given in cases pending before this Board is to be made a part of the public record. All testimony and discussion relative to said variance is recorded, and it is from this recording that our Minutes are taken.

Citizens testifying before this Board are directed to sign in on the clipboard in the rear of the room, take their place at the podium, state their names and addresses and the facts as they are pertinent to the subject before this Board.

As this is a Public Hearing, being sworn in prior to giving testimony is required by law.

At this time, if you plan on coming before the board, please stand up, raise your right hand:

I (state your name)
Do solemnly swear
To tell the truth, the whole truth
And nothing but the truth,
So help me God.

Please be seated.

At this time make sure that cell phones are turned off or in the mute mode and I'll do that myself.

VII REPORTS

A. Report on Council

President Ramirez: Mrs. Ghantous.

Mrs. Ghantous: Thank you Mr. President. City Council met on January 2nd. The first item that took place that evening, we were introduced to three new employees. Elizabeth Johnson who is our new Fitness Center Manager at the Rec. Paul Hansen is a Fire Fighter/Paramedic. Brandon Padilla, is a Fire Fighter/Paramedic. We had one ordinance that evening and that adopting the annual appropriation estimated receipts ordinance for the fiscal year ending 12/31/2018 and that passed with a 7-0 vote. Then we had three resolutions. Resolution R20-2018 and that was a resolution proposing an increase in the income tax to 2% and directing that increase to be submitted to the electors and that was a third reading of that resolution. No action was taken. The final reading will take place tomorrow evening and the vote will then take place as well if anybody would like to come and participate in that conversation. Then there was Resolution R1-2019 authorizing the investment of Municipal Bonds. That passed with a 7-0 vote. Then there was Resolution R2-2019 requesting advanced payment from the Hamilton County Auditor and that also passed with a 7-0 vote. That is all that I have unless Jeff would like to add something.

Mr. Anderson: Just a reminder for the other folks on the Board that we do have a new Law Director that started in January. I think we mentioned it in the last meeting that that was happening. That is effective. So, if you see email from him, just know that is a real change and that does not change our process for accessing the Law Director it is still what we were using before but just so you are aware that change happened January 1st.

Mr. Weidlich: I just have one question for you. The public vote on the income tax, will that be on the Spring Ballot of the Fall Ballot?

Mrs. Ghantous: Spring.

Mr. Weidlich: Okay, thanks.

Mrs. Ghantous: If you haven't heard the explanation behind that, it's really interesting. I don't know if you watch the Council meetings. Mayor Webster has given the details of that each meeting that we have and then of course he will go over it again tomorrow but it is enlightening. Unfortunate and enlightening.

President Ramirez: Thank you for that report.

B. Report on Planning Commission

President Ramirez: Planning Commission met on January 8th. We had six members present. Rich Bauer could not be there. We had the election of officers. They stayed the same. Mr. Darby as the Chairman, Vice Chairman, Dave Okum and Secretary, Rich Bauer. Rich Bauer, by the way, gave notice that he would accept the nomination previous to the meeting knowing that he was not going to be there. Our meeting minutes were approved 6-0. Under old business we had the Pretzel Baron on Northland Boulevard. They came before us the previous month looking to shield the silos, the four silos that are quite large, 36 foot silos. They came with a very nice plan with samples of the materials that were going to be used and they had two scenarios that they brought before us and each one was acceptable and that was passed with a 6-0 vote. Under new business, we had what used to be the Justin's restaurant or Riley's Restaurant. A new business called My Clinic, Our Health My Clinic and it was for signage. So, FastSigns came before us and what they were asking for was less than what the code required so that was passed with a 6-0 vote. Next, Mi Tierra Mexican Restaurant at 401 West Kemper Road, Springdale, Minor Improvement requiring Planning Commission approval, again this is another signage. We asked for a couple of modifications. They wanted a panel sign plus some graphics around it and we came to an agreement and that was passed with a 6-0 vote. Finally, Mi Cozumel; that is at 11700 Princeton Pike, it is the one next to Macy's at the mall. Again, they wanted to add something to their signage to state actually that it was a restaurant. Previously it just said Mi Cozumel. Again, it was a minor change and we allowed to add the term that it was a restaurant. That again, was passed with a 6-0 vote. That is all that I have unless we have questions? Yes, ma'am.

Mrs. Ghantous: Where is that Mi Tierra, 401 West Kemper Road? Where was that?

President Ramirez: Oh, it is in the old plaza where the auto parts place is, it was a kind of like a small COSTCO type, wholesale.

Mrs. Ghantous: Did they take that whole space?

President Ramirez: As far as I know they got

Mrs. Ghantous: I mean the whole

President Ramirez: As far as I know it is just where that wholesale shop was.

Mrs. Ghantous: That's a big space.

President Ramirez: Was it? It is going to be a grocery as well.

Mr. Anderson: It is just the side though, it is not the full Thriftway, it was where the wholesale, not the whole one.

Mr. Weidlich: Merchandise Mart.

Mr. Anderson: Yeah, Merchandise Mart.

Mrs. Ghantous: That was a big space.

Mr. Anderson: Was it?

President Ramirez: So it will be a restaurant and grocery sales.

Mrs. Ghantous: What is there estimated opening?

President Ramirez: None was given. Any other questions on that? Mr. Campion it looks like you something.

Mr. Campion: (talking off mic. not audible.)

President Ramirez: About a month?

Mr. Campion: Yes.

VIII OLD BUSINESS

None

IX NEW BUSINESS

- A. Conrex Property Management, 11833 Lawnview Avenue, Springdale, Ohio. Application for a Zoning Variance from section 153.252(G)(1) of the zoning code to allow the conversion of a garage to living space.

President Ramirez: Mr. Campion.

Mr. Campion: Request to eliminate a garage at 11833 Lawnview Avenue. The subject property is zoned Residential Single Household-High Density. The applicant has requested that the garage remain converted to living space. Section 153.252(G)(1) table 252-2 requires that residences have a garage at least 240 square feet. The garage has been converted for some time. The Springdale Building Department has no record of a variance or permit issued for the garage conversion. The applicant has indicated that the garage was converted to living space prior to purchase in 2018. The building department has a 2006 photograph indicating the conversion has been in place since at least that time. The garage requirement was placed in the Zoning Code to reduce the need for on-street parking, and to provide a place to store lawn, play, and yard equipment without the need to construct accessory structures on residential property. In this case, the conversion has existed essentially unnoticed for at least 12 years. It appears the granting of this variance will neither establish an unwanted precedent nor will its approval adversely impact the surrounding properties. Gregg H. Taylor, Building Official.

President Ramirez: Thank you. Would the applicant for that property please step forward, state your name and address.

Mr. Lynam: My name is William Lynam with Conrex Property Management, 110 Boggs Lane.

President Ramirez: Please could you give us a little background on the history of this enclosure as you know it and why you believe that we should grant a variance.

Mr. Lynam: Yes, we purchased the property in 2018, we notice that there was no garage so we constructed a little 5x4 plastic tub shed in the back yard for placement of lawn equipment and did not know that there were no permits pulled or anything like that until we did our rental inspection process with Brian Ward and he brought

that to my attention. We listed it as a five bedroom home thinking that that was a bedroom. That's all I have on it.

President Ramirez: Okay. Questions for the applicant? Mr. Anderson.

Mr. Anderson: Thank you. This might be a question for the Building Department and the rest of the board. Do you recall when the Zoning Code was updated to prohibit the garage changes? Was it around the same time or was it before then?

Mr. Champion: As long as I have been here since about 2008 it's been in the Zoning Code but I don't know when it actually went into effect.

Mr. Anderson: Do you know if this conversion meets the other requirements for a bedroom if it had gotten the variance?

Mr. Champion: Not from a zoning stand point but from a building stand point once something has been in existence for more than two years it is hard for us to tell them they can't do it. So, from a building stand point it meets all of the requirements of the building code but it does not meet the Zoning Code.

Mr. Anderson: Thank you.

President Ramirez: Mr. Champion, any idea how many other situations we might have that are similar to this?

Mr. Champion: We didn't really know about a lot of these until we started the rental licensing program and then we discovered quite a few of them. Several people on the board could probably comment to that. That is usually how we find them out. This one, from the pictures on the outside you can tell that it was converted. I don't know when it was converted but it's obvious that it is a conversion. I don't know if there is a picture. Let me see if I've got a picture.

President Ramirez: I'm sorry. Mr. Nienaber.

Mr. Nienaber: Thank you. As of about two years ago when we put the new zoning laws into place, we were kind of hoping that there was an end to all of this. So, I just want to put into the record here that Mr. Taylor's remarks say in this case the conversion has existed essentially unnoticed for the last 12 years. It appears grating this variance will neither establish an unwanted precedent nor will its approval adversely impact the surrounding properties. With that in mind, usually we are looking for a specific reason to grant a variance and in this case we are dealing with a situation where it has been in place for a dozen years already and so as long as we are not establishing a new precedent, again, I'm fine with going ahead with it. Thank you.

President Ramirez: Thank you for those comments. Myself, I would like to see it not advertised as a five bedroom home since there are no five bedroom homes in that area. But, going forward I guess it's occupied at the moment?

Mr. Lynam: Correct.

President Ramirez: Do you have a long term lease on that?

Mr. Lynam: Twelve month.

President Ramirez: Okay. Are you okay with not advertising it as a five bedroom home going forward?

Mr. Lynam: Absolutely.

President Ramirez: Any other questions for the applicant?

Mrs. Ghantous: I have a question.

President Ramirez: Sorry, Mrs. Ghantous.

Mrs. Ghantous: What is your thinking behind that?

President Ramirez: Just, being advertised as a five bedroom when there are no five bedrooms on that street and

Mrs. Ghantous: (talking off mic. not audible) he should be able to call it a bedroom

President Ramirez: Yes but

Mrs. Ghantous: the law says it is a bedroom

President Ramirez: In exchange for that it is also in non-compliance so it should not be a bedroom because he should not have a conversion. Mr. Anderson.

Mr. Anderson: Thank you Mr. President. Just from history on this board can we think of other situations where we have granted variances to long standing changes when they are discovered through the rental property program? It sounds like this has happened before. What have we done in those cases to the other board members recollections?

President Ramirez: As far as I am concerned I don't remember granting variances, especially after the code was changed. It is unusual that we have found one though that has been that long. Usually it's just somebody recently that has decided to make a conversion and did not get a building permit.

Mr. Anderson: What about prior to that? When those came up obviously there was a flurry of them when the code first changed. Was there a standard that we used just to be consistent?

President Ramirez: Yes, we were not granting garage conversions previous.

Mr. Anderson: So the ones that were converted, we had them unconverted?

President Ramirez: I don't know if we have a history, I don't remember that. I don't know if anybody else has a history of un-converting a property.

Mr. Anderson: Okay.

President Ramirez: Mr. Weidlich.

Mr. Weidlich: I guess it was back 2014/2015, we had two of them within about 2-3 months that where one lady couldn't sell her house because she did not have a variance for the conversion but that was done prior to her buying the home as well. So, we granted that one. Then we had one of our police officers trying to sell his home and he also had the same situation where it was done prior to him buying the home and he is trying to sell it so we granted that one also because of it was done before the people bought the home basically.

President Ramirez: Mrs. Ghantous.

Mrs. Ghantous: I was just going to say that the most recent one was the lady, just right down the street here who tried to sell her house and the buyers couldn't get a

loan because the underwriter discovered that it hadn't been, which that is just bazar that that happened but it really happened. The underwriter found out that it was not permitted so she lost that buyer and before she put her house back on the market she came to us and said hey, this conversion was done before I ever bought the house so we did not make her undo it. I do not remember ever having anybody undo it because the ones that I remember over the most recently let's say four or five years, it was converted before those people bought the house. I don't remember one that we have had where we were dealing with somebody who, let's say they just did it the same owners did it, I don't remember us having that case do you Bob?

Mr. Weidlich: Well we had the one where had a little hiccup in the motion where he had a hinged garage door instead of an overhead garage door left on his home.

Mrs. Ghantous: Yeah but then we did away with that whole door thing.

Mr. Weidlich: Yeah because we were trying to discourage people from converting garages and taking away parking and storage space.

Mrs. Ghantous: But we did not make him undo it.

Mr. Weidlich: No, he had is variance to do it but the motion to grant it was missing a component let's say.

Mrs. Ghantous: But, I don't believe that have been faced with the type of application where having them undo it would have been appropriate because the ones we have had at least in the last four or five years they were all like this gentlemen when they bought it, it was like that and sometime the people before that bought it when it was like that so it was one or two owners removed who actually did the conversion.

Mr. Weidlich: Several we had too, were not being used as a bedroom so I don't believe that they need an egress window if it is not a bedroom, is that right Mr. Champion?

Mr. Champion: That is correct.

Mr. Weidlich: So, there is a few like that as well that got those through.

Mrs. Ghantous: So, Jeff we have not had anybody undo it.

Mr. Anderson: I appreciate the history. I do note for the record that this is another one of those situations where we have precedent in the past where it has come up and a prior owner after a substantial period of time and it has come to light through a rental inspection or some other means. That does sound to me like an unusual situation and it is something that we are still just in the process of cleaning up. I don't believe that this sets a new precedent that we would be approving garage conversions. We are simply acknowledging the past that has happened.

Mrs. Ghantous: I agree.

Mr. Anderson: Thank you.

President Ramirez: Mr. Nienaber.

Mr. Nienaber: Just to observe that in the last two years since the new zoning laws went in, we have not approved any new conversions. All we are really doing is still mopping up things that were done in the past. Thank you.

President Ramirez: Thank you. Mr. Champion.

Mr. Campion: I think that the board would classify this as a non-conforming existing condition as if it was converted before the zoning code even changed because there is a period of time when we need to discover that it is there and 12 years is quite a period of time to go by.

President Ramirez: Mr. Anderson.

Mr. Anderson: Thank you. Does that mean that the recommendation is that we would do a different sort of motion for the variance? Are you just having us acknowledge for the record that it is a non-conforming request?

Mr. Campion: I would just acknowledge that is a non-conforming condition and it is up to board if they want to grant a variance for this.

Mr. Anderson: We would propose the variance change in the usual manor?

Mr. Campion: Yes, but the reason behind it is because it is an existing condition.

Mr. Anderson: Thank you.

President Ramirez: Anyone else? At this time Chair would accept the nomination.
Mr. Anderson.

Mr. Anderson: Thank you Mr. President. I would like to make a motion to approve application 34590 for 11833 Lawnview Avenue, granting a variance due to non-conforming existing structure to section 153.252(G)(1), table 252-2 granting a conversion of a prior existing garage into living space.

Mr. Weidlich: I second that.

President Ramirez: Thank you, have a second. Secretary please poll the member.

(Ms. Morsch, acting Secretary in Mrs. Daniel's absence called roll and the variance was approved with a vote of 5-0.)

President Ramirez: Sir your variance has been approved.

Mr. Lynam: Thank you.

President Ramirez: Thank you for coming in.

B. Bayer Becker, on behalf of Maple Knoll Communities, 11100 Springfield Pike, Springdale, Ohio. Application for a Zoning Variance from section 153.253(D)(8)(c) to allow a reduction of space required between two buildings from 20 feet to 15 feet.

President Ramirez: Will the member please come forward. I should state this before we get into this, as you notice we only have five members and we will require all five members to give you a positive vote. You are welcome to table it if you would like or just go forward and make your presentation.

Mr. Back: I think we will go forward this time thanks.

President Ramirez: Mr. Campion.

Mr. Campion: Request: To construct two multi-family dwellings separated by approximately 15' at the Coventry Court Villas on the Maple Knoll campus, 11100 Springfield Pike. The subject property is zoned Public Facilities (PF). The applicant

wishes to construct multi-family buildings as shown on the plan accompanying the application. The minimum distance between buildings per Section 153.253(D)(8)(c) is 20' Section 153.253(D)(8)(c) states the following: *The minimum distance between buildings shall be 20 feet.* The plans accompanying the application were approved by Planning Commission on December 11, 2018 meeting subject to the granting of this variance by the Board of Zoning Appeals. The Planning Commission and staff support this request for a variance. A statement of conditions and findings listing the factors for consideration of the granting of a variance is included. Each of the factors should be considered by the board. As stated in 153.206(B)(4)(j), "No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts." Gregg H. Taylor, Building Official.

President Ramirez: Thank you. Please state your name and address and the reason that you are looking for the variance.

Mr. Back: Yes sir. My name is John Back and I am with Luminaut, 1100 Sycamore Street, Cincinnati, Ohio 45202. We are the architect for the project. I will keep my comments brief out of respect for the board's time here. We kind of have three points to make. The setback for this project that we are asking the variance for is in the middle of the two buildings you see to the south of the lot here. So, this setback really does not affect any neighboring properties it effects only the buildings within our project. The setback that we are asking for the variance for as well does not affect any of the other existing properties on the Maple Knoll Campus. So, the project is entirely within that existing campus and the setbacks from the edges of the other buildings are basically within the zoning code. So, the project was designed with this sort of very small clearance to be interior facing and not to affect anyone else. The third point that I will make is that these Villas which are independent living Villas are designed so that residents can age in place. So, we sort of went to some lengths to make sure that when people age they can still remain in their homes here and each unit has the same clearances, the same size bathrooms, bedrooms and that makes sort of the size of each unit static to achieve those clearances. So, that is why you will see in the report it is a little bit difficult to reduce the units to get that extra five feet. So, those are sort of the three points that we wanted to make to night and I hope that you will take staff and Planning Commission's recommendation and grant the variance for us. Thank you.

President Ramirez: Thank you. Members do you have questions for the applicant?
Mr. Anderson.

Mr. Anderson: Thank you. Just one question from the process side. I know just over the fence to the south where that line is, that is Glendale. Did we notify those property owners of the variance as well? They would be the ones impacted potentially by seeing the houses crammed together. Did they get notices or do we not?

Mr. Campion: I think we are only required to notify people in our city limits.

Mr. Anderson: Okay. Thank you.

President Ramirez: I think we are okay with the setback, the 50 foot setback. I think what is in question is the 15 feet between the properties which should, what the code requires 20 feet. Is there no way to accommodate the 20 feet? I know you spoke of reducing the size of the properties but can it be moved either left or right to accommodate the 15 feet.

Mr. Back: No it cannot. To meet the Zoning Code with the existing buildings and the existing property line over to the east we can't shift the buildings around there. That was what I was kind of referring to when we sort of, when we knew that there had to be a non-conforming distance, when we knew we were going to go for a

variance we specifically chose to make it in between the buildings in the project so that it would not affect the other existing buildings.

President Ramirez: Mr. Anderson.

Mr. Anderson: Thank you. So, I'm not an architect but can you explain to me why they're just not connected like the ones on the other side so there isn't setback requirement between the buildings? I mean if you squish them together there is no variance either.

Mr. Hahn: My name is Jeremiah Hahn, I too am with Luminant the architects. To touch on that, we wanted to make sure, we went through the Planning Commission and to appeal the aesthetics of each of the units to we wanted to, rather than ganging together each of those two buildings and have a long, almost apartment style building we thought aesthetically fitting into the adjacency of the neighborhoods it would help the rhythm as you progress through the neighborhood and it would also allow access for maneuverability for residents to get back behind within the back yards and travel around the buildings as well.

Mr. Back: It seemed like it was the appropriate density for the existing neighborhood back there. That is why we broke those up and it also provides an opportunity for more daylight for interior residents there.

Mr. Anderson: So, six is enough but eight is too many? Is that kind of the punch-line? Okay because you have on the north south you have six of them and on the east west you've got eight. Okay.

President Ramirez: Anyone else? At this time the Chair will accept a motion to accept the variance. Mr. Weidlich.

Mr. Weidlich: I was just going to make a comment. I'm viewing this as a development on private property basically, which it is and I don't have a problem with the 15 feet variance request.

Mr. Back: I appreciate it, thank you.

President Ramirez: Okay, now the Chair will accept the motion. Mr. Anderson.

Mr. Anderson: Thank you. I'd like to make a motion to approve application 34617 for Coventry Court Villas on Maple Knoll campus at 11100 Springfield Pike, granting a variance to Section 153.253(D)(8)(c) reducing the minimum distance between buildings from 20 feet to 15 feet.

President Ramirez: Do we have a second?

Mr. Nienaber: Second.

President Ramirez: Secretary please poll the members.

(Ms. Morsch, acting Secretary in Mrs. Daniel's absence called roll and the variance was approved with a vote of 5-0.)

(Talking off mic. not audible.)

Mr. Back: Thank you very much, thank you for your time.

(Talking off mic. not audible.)

Mr. Back: Appreciate it.

X DISCUSSION

President Ramirez: Anything for the good of the board here that you would like to discuss. Mr. Anderson.

Mr. Anderson: Thank you. Just maybe we can talk about it now. What do people think about postponing the Officer appointments till the next meeting? Do we have a concern about that? Is there a reason compelling, procedural reason that we should be aware of that we need to do that today?

President Ramirez: As far as I know there's, the appointments don't expire. I don't know. That would be the only reason that I could think of. If not, I don't have an issue with moving them. Anybody else?

Mr. Anderson: I know from my preference would be wait till we had fuller representation.

President Ramirez: Mr. Weidlich are you okay with that?

Mr. Weidlich: Yes.

(President Ramirez took a voice vote to postpone the Officer nominations till the February 19, 2019. Voice vote approved 5-0.)

President Ramirez: Okay we are going to move that till next month's business, the election of the officers. Anything else for discussion? Thank you for filling in there Liz, you do a fine job. We are going to elect you to stay on next year as well.

(Laughter)

Mr. Anderson: She's not going to show up next time now. We've set a dangerous precedent that if you don't show up there's no appointment.

XI ADJOURNMENT

President Ramirez: Finally we will accept a motion to adjourn.

Mr. Nienaber: Motion to adjourn.

Mr. Weidlich: Second.

President Ramirez: All in favor by voice vote.

(Adjournment approved 5-0.)

President Ramirez: We are adjourned.

Respectfully submitted,

_____, 2019

Chairman, Joseph Ramirez

_____, 2019

Secretary, Carmen Daniels