

Board of Zoning Appeals
Monday, October 11, 2010
7:20 P.M.

Chairman Scott Gluth called the Board of Zoning Appeals to order at 7:20 P.M.

The following members were present: Chairman Scott Gluth, Mayor Fred Conley, Bill Eberle, Gary Quisno and Jim Smith.

Also in attendance was Rob Pauley, Village Administrator/Zoning Administrator, and Deb DiMasso, Administrative Assistant.

A motion was made by Bill Eberle and seconded by Jim Smith that the September 13, 2010 minutes be approved. On roll call vote, all were in favor of said motion. Motion carried.

Decision Hearing #1: Variance Request to Section 153.043 General Yard Requirements, (D) Yard Exceptions, (2) Garage & Accessory Buildings to allow a variance of 6 ½' from the front of the principle structure in lieu of the required 10' from the rear of the principle structure, requested by Gary Cagle, 604 E. Water Street, property owner.

Administrator Pauley stated there is a private sewer easement from the Wright house (181 Behlman Road, Florence and Jack Brown, current owners) that goes through a portion of the property. This does not affect the proposed placement of the garage.

Mayor Conley asked Administrator Pauley if any similar variance requests have been granted. Administrator Pauley stated that he did not find anything similar.

Bill Eberle asked Mr. Gary Cagle if the proposed placement is the absolute minimum that the garage could be set back without losing trees or having flooding issues with the proposed garage. Mr. Gary Cagle stated yes.

A motion was made by Bill Eberle and seconded by Mayor Fred Conley that the variance request be granted to Section 153.043 General Yard Requirements, (D) Yard Exceptions, (2) Garage & Accessory Buildings to allow variance of 6 ½' from the front of the principle structure in lieu of the required 10' from the rear of the principle structure for Gary Cagle, 604 E. Water Street, property owner. On roll call vote, those in favor of said motion were Scott Gluth, Mayor Fred Conley, Bill Eberle, and Gary Quisno. Jim Smith abstained. Motion carried. Variance granted.

Decision Hearing #2: Variance Request to Section 153.462 Parking Space Requirements, requested by Oak Green, LLC, (dba Community Markets), 229, 245 & 279 W. Water Street, property owner.

Administrator Pauley asked the Board to refer to the packet notes regarding the parking requirements and the variances that were previously granted to create a timeline. The usable floor space of the Community Market according to the Ottawa County Auditor's website is 27,542 sf. We were able to find a parking easement agreement from what was Star Bank (currently US Bank), which provided for 10 parking spaces. The copy of the agreement that we have expired in November 1995, and we assume the agreement continues. Current aerial maps from the Ottawa County Auditor's website, as well as Google Earth, indicate there are currently 20 spaces on the left short area, 37 parking spaces in the center area, and 4 spaces along the Portage River. By adding the 10 parking spaces identified in the US Bank easement, that brings the total number of parking spaces for Community Markets to 71. In August 1988, Community Markets applied for a variance of parking spaces for an expansion of the building. At that point, there was a need for 165 parking spaces. The Board of Zoning Appeals at that time, allowed a variance to reduce the number of parking to 136 spaces, as well as, approve the downsizing of the size of the parking spaces. Typically the size of a parking space is 10' wide by 20' long. The 1988 variance approved the reduction in size to 9' wide by 20' long. The 1988 standard required was one parking space for every 125 sf of usable space. The current parking requirement is one parking space for every 250 sf.

The current parking requirements have been updated and applying today's current parking requirement the Community Market would be considered "other" use in commercial district and would require one parking space for every 300 sf. This would require a total number of parking spaces for the Community Market of 92 parking spaces. Administrator Pauley asked if there are easements that the owners know of that would fulfill the total parking requirements for Community Markets. Mike Needler Jr. stated there is a parking easement with the VFW parking lot (251 W. Main Street) that provides additional offsite parking for the Community Markets.

Administrator Pauley stated that the Village's Code allows for off-site parking, provided that it is within 300' of the parcel. Administrator Pauley asked Mr. Needler Jr. if he knew how many spaces were available on the parcel (VFW parking lot). Mr. Needler Jr. estimated that there were approximately 25 spaces.

Mike Bassett stated when the Bassett family owned all the parcels he thought there 20 – 25 parking spaces at the VFW property. He explained that previously, there was an agreement to use this VFW lot as part of the required parking when Bassett's IGA (currently known as Community Markets) had

applied for the 1988 variance along with the two spaces of at Bassett Family Trust property.

Administrator Pauley stated that applying today's parking standard for the "other" use in a Commercial District, the total number of parking spaces required someplace would be 92. With the spaces that have been identified within the property limits, as well as the 10 spaces at the US Bank, that would leave a shortfall of 21 parking spaces. If the VFW parking easement can identify at least 21 parking spaces, the parking easement that is associated with the Bassett Family Trust property could be relieved.

Administrator Pauley deferred to Solicitor Jim Barney. Solicitor Jim Barney asked Mike Bassett if the VFW agreement was an easement or an agreement. Mike Bassett thought it is was an agreement. He also stated that the grocery store could use the VFW's parking lot and the VFW could use the grocery store's parking lot for evening events/functions.

Mark Mulligan proposed that the Board, approve the variance upon satisfactory proof to the village administrator that there are at least 21 spaces on the VFW property. Solicitor Jim Barney stated that generally speaking the law provides that a conditional variance can be granted if the Board chooses to do so. He suggested the variance could be approved with the condition that the Village Administrator will not issue the permit until he is satisfied that the agreement exists and that the number parking spaces exists.

Mark Mulligan stated he would be more than happy to submit the agreement to Solicitor Jim Barney for his review and approval.

A motion was made by Jim Smith and seconded by Bill Eberle to approve the variance request to Section 153.462 Parking Space Requirements, requested by Oak Green, LLC, (dba Community Markets), 229, 245 & 279 W. Water Street, property owner, to remove the parking/traffic easement on the Bassett's property (235 W. Main St.), contingent upon submitting parking easement of a minimum of 21 spaces on the VFW Community Hall property in a form and matter satisfactory to Village Solicitor James Barney and Village Administrator Rob Pauley. On roll call vote, all were in favor of said motion. Motion carried.

A motion was made by Scott Gluth and seconded by Bill Eberle that the meeting be adjourned. On roll call vote, all were in favor of said motion. Motion carried. Meeting adjourned at 7:48 P.M.



Scott Gluth
Chairman