

BOARD OF ZONING APPEALS

JULY 8, 2013

The meeting was called to order at 5:30 p.m. by Chairperson Becky Williams. Board members present were: Jason Decker, Eric Nicely, Jonathan Smith, and Becky Williams (4). John Brown was absent. Also present was Planning and Zoning Administrator Brody Walters.

Mr. Nicely moved to approve the minutes of the June 10, 2013 meeting as written. Mr. Smith seconded and they were unanimously approved.

ZONING VARIANCE 17-13 – Brian Heil (Toledo Sign) on behalf of Penske Truck Leasing requests two (2) zoning variances to permit the installation of a new free-standing sign. The subject property is located at 12222 Williams Road and is zoned PBP (Planned Business Park). These variances would permit the applicant to install a 56'9" high free-standing sign with a 188.5 S.F. message panel.

NOTE: 1250.32(a) *Permanent Signs Allowed*

PBP Zoning:	Max Height: 6'
	Max Size: 48 S.F.
	Location: 10' setback

NOTE: 1250.39 *Other Administrative Procedures*

The Board of Zoning Appeals may grant a variance only if it finds that all of the following apply:

- (a) That the literal enforcement of the requirements of this chapter would involve practical difficulties based on the presence of special conditions and circumstances which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district. (see factors 1-6)
- (b) That granting the variance will not cause a substantial adverse effect to property or improvements in the vicinity or will not materially impair the intent and purposes of the requirement being varied or of this chapter, and is the minimum variance necessary to provide relief.
- (c) That the variance would not adversely affect the delivery of governmental services (e.g. water, sewer, refuse).
- (d) That the variance as granted would not confer on the applicant any special privilege, or deprive the applicant of rights, when compared with those rights commonly enjoyed by immediately adjoining properties.
- (e) That the variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for those conditions reasonably practicable.

1. The applicant is requesting a zoning variance to permit a sign that is 50'9" higher than otherwise permitted. The total height of the sign is proposed to be 56'9".
2. The applicant is requesting a zoning variance to permit a sign panel that is 8'1" x 20'9" or 188.5 S.F. The proposed sign is 140.5 S.F. larger than what would otherwise be permitted.

Recommendation:

1. No recommendation provided.
2. No recommendation provided.

Mr. Walters reviewed the above application for two zoning variances. Brian Heil of Toledo Sign was present on behalf of Penske. The Board reviewed the criteria needed to approve a variance for a sign and found a. – e. to be true. Mr. Smith moved to approve Zoning Variance 17-13 as submitted. Mr. Decker seconded, and it was unanimously approved.

ZONING VARIANCE 18-13 – April Smucker on behalf of Kingston Residence of Perrysburg requests one (1) zoning variance to permit the installation of a new free-standing sign. The subject property is located at 333 E. Boundary Street and is zoned RM (Multiple Family). This variance would permit the applicant to install a free-standing sign within the required 25' setback.

NOTE: 1250.32(a) Permanent Signs Allowed

RM Zoning:	Max Height: 6'
	Max Size: 32 S.F.
	Location: 25' setback

NOTE: 1250.39 Other Administrative Procedures

- (a) That the literal enforcement of the requirements of this chapter would involve practical difficulties based on the presence of special conditions and circumstances which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district. (see factors 1-6)
- (b) That granting the variance will not cause a substantial adverse effect to property or improvements in the vicinity or will not materially impair the intent and purposes of the requirement being varied or of this chapter, and is the minimum variance necessary to provide relief.
- (c) That the variance would not adversely affect the delivery of governmental services (e.g. water, sewer, refuse).
- (d) That the variance as granted would not confer on the applicant any special privilege, or deprive the applicant of rights, when compared with those rights commonly enjoyed by immediately adjoining properties.
- (e) That the variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for those conditions reasonably practicable.

1. The applicant is requesting a zoning variance to install a new free standing sign with at 1' setback from the property line along E. Boundary Street, which is 24' closer than would otherwise be permitted.

Recommendation:

1. No recommendation provided.

April Smucker of Kingston Residence was present. She distributed packets to the Board members. She said that they are looking to replace the existing 4' sign with a 5'6" sign in the same location. Mr. Walters said that the existing sign overhangs the right of way by a foot or two so the new sign would have to be moved back. Ms. Smucker said that they have no problem moving it, but they would like to locate at right on the property line because of existing landscaping. She added that it looks like the other signs on East Boundary are in line with their existing sign. The Board reviewed the criteria in 1250.39 a-e, finding them all to be true. Mr. Decker moved to approve Zoning Variance 18-13 with the change from 1' from the property line to 0' from the property line. Mr. Nicely seconded, and it was unanimously approved.

ZONING VARIANCE 19-13 – April Smucker on behalf of Kingston Residence of Perrysburg requests one (1) zoning variance to permit the installation of a new free-standing sign. The subject property is located at 345 E. Boundary Street and is zoned RM (Multiple Family). This variance would permit the applicant to install a free-standing sign within the required 25' setback.

NOTE: 1250.32(a) *Permanent Signs Allowed*

RM Zoning:	Max Height: 6'
	Max Size: 32 S.F.
	Location: 25' setback

NOTE: 1250.39 *Other Administrative Procedures*

(a) That the literal enforcement of the requirements of this chapter would involve practical difficulties based on the presence of special conditions and circumstances which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district. (see factors 1-6)

(b) That granting the variance will not cause a substantial adverse effect to property or improvements in the vicinity or will not materially impair the intent and purposes of the requirement being varied or of this chapter, and is the minimum variance necessary to provide relief.

(c) That the variance would not adversely affect the delivery of governmental services (e.g. water, sewer, refuse).

(d) That the variance as granted would not confer on the applicant any special privilege, or deprive the applicant of rights, when compared with those rights commonly enjoyed by immediately adjoining properties.

(e) That the variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for those conditions reasonably practicable.

1. The applicant is requesting a zoning variance to install a new free standing sign with a 2' setback from the right-of-way along S.R. 795 and a 1' setback from the right-of-way along E. Boundary Street. These setbacks are 23' and 24' (respectively) closer to the property line than would otherwise be permitted.

Recommendation:

1. No recommendation provided.

Mr. Smucker said that since their old sign was not setback 25', they did not plan that as part of the project. She said the 25' setback would change the design of the parking lot and they would have to reconstruct it. Ms. Williams said that she would like to see the sign moved away from the corner and moved further east on SR 795. The Board reviewed the criteria in 1250.39 a. – e. and found them all to be true. Mr. Decker moved to approve Zoning Variance 19-13 noting the change to the application that the sign will be setback 0' from the property line along 795 and setback 10' from the property line on East Boundary Street. Mr. Smith seconded, and it was unanimously approved.

ZONING VARIANCE 21-13 – Pradeep Vij, President of Utopia Construction, Inc. requests eight (8) zoning exceptions and eight (8) variances to permit the construction of eight (8) single residences. The subject properties are located at: 1567 N. Redhawk, 1569 N. Redhawk, 1575 N. Redhawk, 1577 N. Redhawk, 211 Blue Jacket, 219 Blue Jacket, 227 Blue Jacket, and 235 Blue Jacket Road and are each zoned R-3 (Single Family Residential) with a Community Development Plan (CDP) overlay. The CDP was created to permit a zero lot line allowance to permit the construction of attached condos. This exception would permit the developer to construct separate single family residences with the less than required side yard and rear yard setbacks of the R-3 zoning district.

NOTE: *1230.01 Intensity and Dimensional Standards*

R-3 Zoning:	Front Yard = 35'
	Rear Yard = 35'
	Side Yard Min = 8'
	Side Yard Total = 20'
	Min. Dwelling Size = 1,200 S.F.

1. The applicant is requesting zoning exceptions to reduce the required side yard setbacks which would permit two single family residences (1 per lot) rather than a connected condominium that would span two lots. The exceptions would permit the minimum side yards to be six (6) feet and the total of each of the two side yards to be approximately 12 feet, rather than the standard R-3 side yards of 8 feet minimum and 20 feet total.

2. The applicant is requesting zoning variances to reduce the required rear yard setbacks which would permit the proposed residential structures to be located 11' from the rear property line.

****Recommendation:**

1. The Planning and Zoning staff recommends approval of the zoning exceptions based on the opinion that the character of the neighborhood would not be compromised and additionally the single family units would be a more preferable development.
2. The Planning and Zoning staff recommends approval of the zoning variances based on the fact that this plot plan is consistent with the existing homes in the neighborhood and the property abuts a significant common open space which provides ample setback from properties to the rear. (Ch. 1275.02(c)(3) – B, C, D, E)

1. **This recommendation is consistent with previous BZA applications (#4-12 on 6/20/12, #11-12 on 7/18/12, #2-13 & #3-13 on 2/11/13) which were identical requests and were approved.

Mr. Walters reviewed the above request. Pradeep Vij was present and said that all of these properties back up to I-75. Alvin Tinta of 203 Blue Jacket and Dan Murphy of 1583 N. Redhawk were present to express concerns that the proposed structures will not look good because they will not be joined like their property. Mr. Vij explained that these residences will be just like the others he has built in that area.

Mr. Smith moved to approve Zoning Exception 21-13. Mr. Nicely seconded, and it was unanimously approved.

The Board reviewed the criteria in 1275.02(c)(3) finding B, C, D, and E to be true. Mr. Nicely moved to approve Zoning Variance 21-13. Mr. Smith seconded, and it was unanimously approved.

ZONING VARIANCE 22-13 – Stephen Chovanec requests two (2) zoning variances to permit the construction of an addition to a single-family residence within the required front yard setback. The subject property is located at 402 E. Seventh Street and is zoned R-3 (Single Family Residential). This exception would permit the applicant to construct an addition 3'4" from the side property line and 11'4" from the front property line.

NOTE: *1230.01 Intensity and Dimensional Standards*

R-3 Zoning:	Front Yard = 35'
	Rear Yard = 35'
	Side Yard Min. = 8'
	Side Yard Total = 20'

1. The applicant is requesting a zoning variance to permit the construction of a residential addition 3'4" from the side property line, which is 4'8" closer than would otherwise be permitted.

2. The applicant is requesting a zoning variance to permit the construction of a residential addition (attached garage) 11'4" from the front property line (along Sandusky St.), which is 23'8" closer than would otherwise be permitted.

Recommendation:

1. It is recommended to approve the applicant's request. The existing portion of the home is also 3'4" from the property line and the neighbor to the east is sufficiently setback from this side property line and would not likely suffer any detriment. (Ch. 1275.02(c)(3) – A, C, D, F)

2. It is recommended to approve the applicant's request. The lot is very irregularly shaped and the right-of-way along this property provides a large open space (which is larger than most other residential setbacks) between Sandusky Street and the proposed garage. (Ch. 1275.02(c)(3) – A, C, D, F)

Mr. Chovanec stated that he feels the proposed addition would be the best utilization of the property. The Board reviewed the criteria in Section 1275.02(c)(3) finding A, C, D, and F to be true. Mr. Smith moved to approve Zoning Variance 22-13. Mr. Nicely seconded, and it was unanimously approved.

ZONING VARIANCE 23-13 – Kevin Rantanen requests two (2) zoning variances to permit the construction of a shed within the required rear yard and side yard setbacks. The subject property is located at 113 Silver Maple Drive and is zoned R-3 (Single Family Residential). This exception would permit the applicant to construct a shed 3' from the rear and side property line.

NOTE: *1250.61 Accessory Buildings and Uses.*

(b) Accessory buildings, such as garages and utility building, may be located in a rear yard, provided that such buildings are separated from the main structure by at least ten (10) feet and are set back at least five (5) feet from the side and rear lot lines.

1. The applicant is requesting a zoning variance to permit the construction of a utility shed 3' from the rear property line, which is 2' closer than would otherwise be permitted.

2. The applicant is requesting a zoning variance to permit the construction of a utility shed 3' from the side property line, which is 2' closer than would otherwise be permitted.

Recommendation:

1. It is recommended to deny the applicant's request. A 5' setback from the property line does not appear to pose any challenges and the 5' setback would allow any current or future maintenance of the structure to be performed without using a neighboring property's land. (Ch. 1275.02(c)(3) – B, C, D)

2. (Same as above.)

Ms. Williams recused herself from this application so Mr. Smith acted as Chairman.

Kevin Rantanen said that he believed that because his house was in the old part of town that he was exempt from the 5' setback. He presented the Board with a letter from his neighbor, Barry McNamee, 115 Silver Maple Drive. In the letter Mr. McNamee said that he does not object to the shed being placed closer to his property line. Mr. Walters said that based on the neighbor's letter, he would change his recommendation and recommend that the variance be approved. The Board reviewed the criteria in 1275.02(c)(3) finding B, C, D, and E to be true.

Mr. Nicely moved to approve Zoning Variance 23-13. Mr. Decker seconded and it was approved 3-0. Ayes: Decker, Nicely, Smith (3). Abstain: Williams (1).

ZONING VARIANCE 24-13 – Tim and Amy Wozny request one (1) zoning variance to permit the construction of a raised deck within the required rear yard setback. The subject property is located at 1294 Tricia Court and is zoned R-3 (Single Family Residential). This exception would permit the applicant to construct a deck 17' from the rear property line.

NOTE: 1230.01 Intensity and Dimensional Standards

R-3 Zoning:

Front Yard = 35'

Rear Yard = 35'

Side Yard Min = 8'

Side Yard Total = 20'

1. The applicant is requesting a zoning variance to permit the construction of a raised deck 17' from the rear property line, which is 18' closer than would otherwise be permitted.

Recommendation:

1. It is recommended to approve the applicant's request. The proposed pool is partially above ground and partially below ground and the decking is not likely to cause a sight obstruction or any other negative impact to adjacent properties. (Ch. 1275.02(c)(3) – C, D, E, G)

Timothy Wozny was present. Mr. Nicely said that he visited the property and feels the deck would enhance the yard. Ms. Williams added that it is also a safety factor. The Board reviewed the criteria of 1275.02(c)(3) finding C, D, E and F to be true. Mr. Decker moved to approve Zoning Variance 24-13. Mr. Nicely seconded, and it was unanimously approved.

There being no further business, the meeting adjourned at 6:50 p.m.

Respectfully submitted,

Mary Jo Sutton