

BOARD OF ZONING APPEALS

MARCH 14, 2016

The meeting was called to order at 5:30 p.m. by Chairman Craig Pickerel. Board members present were Greg Bade, John Brown, Jason Decker, Niki Decker, and Craig Pickerel (5). Also present was Mark Easterling, Zoning Inspector.

Approval of Minutes

Mr. Brown moved to approve the minutes of the February 8, 2016 meeting as submitted. Mr. Bade seconded and they were unanimously approved.

APPLICATION, 05-16 – Sarah Churchill on behalf of Primrose School of Perrysburg is requesting one zoning variance to permit a six (6) foot fence to be built in the front and side yards of the property. The property is located at 7123 Lighthouse Way, is zoned as PBP (Planned Business Park), and is located in the Urban Village Overlay.

The requested variance would permit the applicant to build a six (6) foot fence in the front and side yards.

NOTE: *Chapter 1250.42 Fences, Walls, Structural Screens, Hedges, and Screen Plantings*

PBP (Planned Business Park) Zoning:

	Max Height	
	Permitted	Restricted
Front Yard	4'	6'
Side Yard	4'	6'

1. The applicant is requesting approval to build a six (6) foot fence in the front and side yards surrounding the building.

Recommendation:

1. No recommendation provided.

Mr. Easterling reviewed Application 5-16. Ms. Churchill stated that Primrose School is a child care facility for children aged six weeks to pre-kindergarten and before and after school care for elementary aged children. She said that they are requesting permission for the six foot fence because of safety issues. Mr. Brown asked if the fence shown in the pictures is representative of the fence they plan to install. Ms. Churchill said that it is. Mr. Bade asked why the fence needs to go across the front of the building. Ms. Churchill stated that there is access directly from the classrooms to the playground area. Mr. Bade expressed concern about the aesthetics of the fence across the front. Ms. Churchill said that Primrose is part of a franchise and she has seen how it will look and has no concerns with the aesthetics.

Mr. Brown moved to approve Application 5-16 as submitted. Ms. Decker seconded and it was unanimously approved.

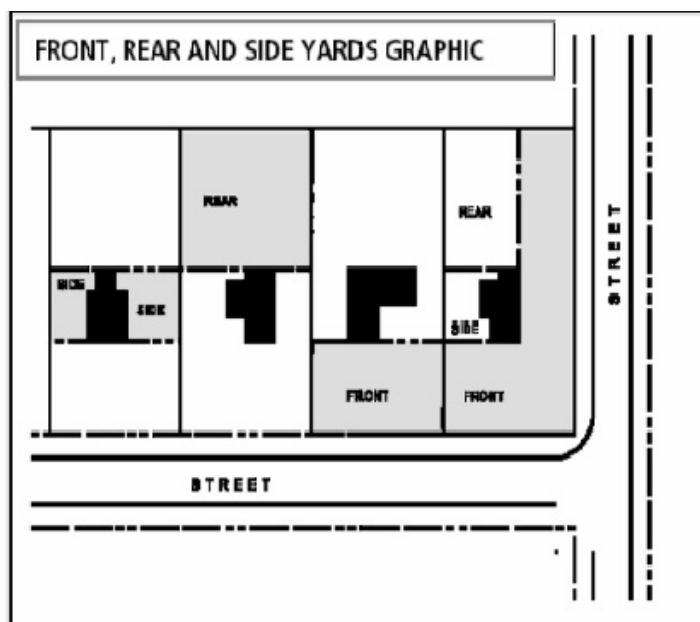
APPLICATION, 06-16 – Richard Speer is requesting an administrative appeal of the definition of a front and a rear yard on a corner lot. The property is located at 26504 Carronade Drive and is zoned as R-3 Single Family Residential.

The requested appeal would redefine the definition of a front and rear yard on this property which would allow the applicant to place a pool in what is now the side yard. This is not an appeal to place a pool in the side yard.

NOTE: Chapter 1275.02(1): Appeals to the Board of Zoning Appeals may be taken after the initial applications to the Zoning Inspector for permit or, where it is apparent that such application would be in vain and useless, appeals may be made by initial applications to the Board. In either event, the procedural provisions of this chapter shall apply and be followed.

NOTE: Chapter 1215.02 (203):

- A. *Front Yard: An open space extending the full width of the lot, depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building. All yards abutting a street shall be considered front yards for setback purposes.*
- B. *Rear Yard: An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between rear lot line and the nearest point of the main building. On corner lots the rear yard is opposite the narrowest frontage.*
- C. *Side Yard: An open space between a main building and the side lot line. Extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the main building.*



1. The applicant is requesting an administrative appeal of the definition of a front and a rear yard on a corner lot.

Recommendation:

1. No recommendation provided.

Mr. Easterling reviewed Application 6-16. Mr. Speer stated that his side yard lies directly behind his house and he has a 16' easement that runs through his property so he loses half of his rear yard. He said that it is a safety issue because he can't see his rear yard from inside the house and he has six kids and they wouldn't be able to see them in the pool. Mr. Speer added that his realtor and a representative from the pool company said that he would be able to install a pool. Mr. Bade said that he understands Mr. Speer's concerns, but the realtor and pool guy are not the ones to turn to for zoning information. He added that the Board's role in this application is to determine where the rear yard is. Mr. Speer said that he checked on Google maps and he saw a lot of pools in front and side yards. He said that if it was okay before 2006, why isn't it okay now. Mr. Decker said that visually looking at the house the area he wants to locate the pool looks like a rear yard, but the Code is clear. Mr. Brown stated that by definition that area is a side yard. Ms. Decker said that although it might look better there, the Board can't change the definition. Mr. Brown stated that it is an administrative appeal and it's their job to determine if the definition is applied correctly and he believes that it has been.

Mr. Decker moved to deny Application 6-16. Mr. Bade seconded, and the motion was unanimously approved.

APPLICATION, 07-16 – Laurel (Lindie) Stevens of Case Construction Co. is requesting an administrative appeal concerning the interpretation and application of Ch. 1250.32(c) pertaining to free standing signs. The property is located at 27207 N. Dixie Highway, is zoned as C-4 Highway Commercial, and resides in the Corridor Overlay district.

The requested appeal would allow for the applicant to replace sign a panel that has been removed from the single standing pole with a 76.25 SF sign panel (not including pole height). The frame was completely removed from the pole and has been for more than three months. The applicant also has a freestanding sign in the front yard that is less than 250 feet from the requested replacement.

NOTE: *Chapter 1275.02(1): Appeals to the Board of Zoning Appeals may be taken after the initial applications to the Zoning Inspector for permit or, where it is apparent that such application would be in vain and useless, appeals may be made by initial applications to the Board. In either event, the procedural provisions of this chapter shall apply and be followed.*

NOTE: *1245.34(4): All new and replacement signs within the Corridor Overlay from the effective date of this Zoning Code shall be limited to a freestanding sign no higher five (5) feet, pursuant to the specifications outlined in the sign standards in the sign standards of Section 1250.29.*

NOTE: Table 1250.32(a):

	Special District
District	CO (Corridor Overlay)
Maximum Height	6'
Maximum Size	48 SF
Location	10' Setback
Quantity	1 per street frontage, plus 1 for each add'l 500 feet

NOTE: 1250.37(a): *Abandoned Signs: Except as otherwise provided in this Zoning Code, any sign located on a zoning lot that becomes vacant or unoccupied for three (3) months or more or any sign which pertains to a time, event or purpose that no longer applies to the zoning lot, shall be deemed to have been abandoned. Permanent signs applicable to an occupancy temporarily suspended because of a change of ownership or management shall not be deemed abandoned unless the zoning lot remains vacant or unoccupied for a period of six (6) months or more. Any nonconforming sign that, for a period of three (3) consecutive months, advertises goods, products, services or facilities no longer available or that directs persons to a location where such goods, products, services or facilities are no longer available shall be deemed to have been abandoned.*

1. The applicant is requesting an administrative appeal to the decision that the sign has lost its non-conforming status. The applicant is requesting the free standing pole be permitted to have a new sign installed upon it.

Recommendation:

1. No recommendation provided.

Mr. Easterling reviewed Application 7-16. Lindie Stevens was present on behalf of Case Construction Co. She said that they have taken a while to decide what to do with the sign and they want to restore the sign to what it was with new graphics. Mr. Decker clarified that since the sign has been down more than three months it has lost its non-conforming status. Mr. Brown asked why the sign came down, and Ms. Stevens said that it had some damage. Mr. Bade said that all parties agree that the sign has been down for more than three months. Mr. Decker asked if the pole is considered a sign. Mr. Easterling said it is not and if the frame and pole had remained, the non-conforming status would not have been lost.

Mr. Bade moved to deny Application 7-16. Mr. Brown seconded and the motion was unanimously approved.

APPLICATION, 08-16 – Laurel (Lindie) Stevens of Case Construction Co requests one zoning variance to permit the installation of a permanent wall sign. The property is located

at 27207 N. Dixie Highway, is zoned as C-4 Highway Commercial, and resides in the Corridor Overlay district.

NOTE: 1250.32(a) Permanent Signs Allowed

C-4 Zoning (Corridor Overlay):

Max Size: 10% of the façade, up to 75 SF

Max Qty: 1 per façade, up to 3 façades

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. D*
- C. That the variance would not adversely affect the delivery of governmental services (e.g. water, sewer, refuse). F*
- 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 approval for a wall sign replacement. The replacement sign is approximately 534 SF (19.2% of the facade).

Recommendation:

1. No recommendation provided.

Mr. Easterling reviewed Application 8-16. He stated that the proposed sign is the same size as what is there. Ms. Stevens said that it is the same size but will wrap around and be a new graphic. Mr. Decker clarified that the size is being measured as one graphic even with the gap so that's why it is so large.

Mr. Brown moved to approve Application 8-16 as submitted, finding B,C, D, and E of 1275.02(c)(3) to be true. It was seconded by Mr. Bade and unanimously approved.

APPLICATION, 09-16 – Cynthia Lipinski is requesting one zoning variance to permit the installation of a six (6') fence in her side yard. The property is located at 191 Birchcrest Drive, is zoned as R-3 Single Family Residential.

NOTE: 1250.42(a)(5) Fences, Walls, Structural Screen, Hedges and Screen Plantings: *For fencing purposes the side yard shall consist of the area*

between the front of the house to the midpoint of the side yard. Any portion of yard between the midpoint of the house and the rear façade of the home shall constitute a rear yard for fencing purposes only.

1. The applicant is requesting permission to install a 6' tall fence along the side of her residence that extends beyond the midpoint of said residence.

Recommendation:

1. Variance criteria B, C, and D could be met.

Mr. Easterling reviewed Application 9-16. He added that Ms. Lipinski would also like to put the 6' fence in her front yard. Ms. Lipinski said that the 4' split rail fence in her front yard is about 1' from the sidewalk and that is the same area the 6' privacy fence would go. Mr. Brown asked what type of fence she is proposing. Ms. Lipinski said that it would be a beige vinyl fence to match her house. She said that her dogs can jump a four foot fence and she does not have a lot of privacy because it is a corner lot. She said that the fence would not obstruct her neighbors' view because it would stop at their garage – right about where her deck ends. Mr. Easterling said that a 6' fence would be allowed to the midpoint of the house in the side yard but this request goes beyond that point.

Vince Roberts, 196 Birchcrest Drive, said that he lives across the street and he is requesting that this be denied based on aesthetics and past precedent. He said that he would recommend against any fence in the front yard. Ms. Decker asked if the split rail fence goes all the way around the perimeter of the house. Ms. Lipinski said that it does. Mr. Decker asked if Ms. Lipinski would be okay with following the line that delineates what is her rear yard as shown in the exhibit attached to her application. Ms. Lipinski stated that if she is not approved for a six foot fence in her front yard, she will put it where it is permitted. The Board separated this variance request into 9-16a for the front yard fence and 9-16b for the side yard fence. Mr. Brown asked Mr. Roberts if he is objecting to the fence in the front, side or both. Mr. Roberts said he objects to both. Mr. Bade said that he has concerns about going all the way to the sidewalk with the fence.

Mr. Bade moved to deny Application 9-16a, the request for a 6' fence in a front yard. Mr. Pickerel seconded and the motion was approved.

Mr. Decker moved to approve Application 9-16b, the request for a 6' fence in a side yard as submitted. Mr. Bade seconded and the motion was unanimously approved.

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

Respectfully submitted,

Mary Jo Sutton