

Members Present: Lisa Carpenter
Tim Cron
Tim Schneider
Reece Timbrook, Chairman

Others Present: Nia Holt, Community Development Director
Dalma Grandjean, Law Director
Katie Lewallen, Clerk of Council

CALL TO ORDER: The Board of Zoning Appeals meeting was called to order at 6:30 p.m.

ROLL CALL: Mrs. Carpenter, present; Mr. Cron, present; Mr. Schneider, present; and Mr. Timbrook, present.

APPROVAL OF MEETING MINUTES: Having no comments or corrections, the minutes stand approved.

APPROVAL OF AGENDA: Mr. Cron moved, seconded by Mr. Schneider, to approve the agenda. Agenda was approved.

Chairman Timbrook stated that speakers need to adjust the microphone when making public comments.

PUBLIC HEARINGS/REVIEW:

- a. **BZA Case #23-0003 – 2600 Valley Pike (Parcel ID# I39 00717 0072)** – B-2, General Business District.
Variances from UDO Section 1107.09(C)(1)(c) to allow a commercial structure to encroach into the required side yard setback when adjacent to residential properties.

Ms. Holt took the oath to give sworn testimony. She stated this is for two variances to allow encroachment into the required side yards: north side yard request for a 40' encroachment or 80 percent setback from the required 50', south side yard request for a 41.5' encroachment or 83 percent setback from the required 50'. She presented the zoning map of the property in the B-2 General Business Zoning District. She stated it was formerly two lots consolidated as one. The proposal is for an auto accessory business with the existing structure being the retail space. She presented an aerial map showing where an accessory structure would be placed to store inventory for the retail use. She presented the site plan showing the entryways and where the variance requests were in relation to the property. She presented site photos from various directions along with adjacent properties in the area. She stated the applicant has an existing business that is across the intersection. Staff finds that the requested variances to allow an encroachment into the side yard are not adequately justified and does not meet the standards

for approval. Staff recommends denial of the requested variances as the request is substantial, will place a commercial structure with flammable inventory near residential properties, and will undermine the spirit and intent behind the zoning code requiring the larger setback between commercial and residential districts should the variance be granted. In addition, with regard to Variance 2, the setback does not meet the fire safety requirements which is a minimum 10' around the entire building. Staff recommends denial of the two variances.

Mr. Timbrook asked if the fire code safety concern is a requirement for both variances or just for Variance 2. Ms. Holt stated the requirement is for 10' around, which is being met with Variance 1. He asked to view the site plan map again to confirm that the property backs up to R-3, and it is in a B-2 next to other commercial properties. Ms. Holt stated the commercial properties next to it are residentially used. The code states the setback is for residential. The code doesn't call out district or use, just straight residential.

Mrs. Carpenter stated it looks like the cars from the parking lot will be right below the residential windows next door. Ms. Holt stated the cars would be right at the window. Mr. Timbrook stated that is not in this variance. Ms. Holt stated they have discussed it with the applicant and that would fall under a different variance application with a landscape buffer.

Discussion was had on the residential behind the property and the vacant building. Ms. Holt stated while no one lives there, someone owns it, and someone could live there. Mr. Timbrook stated the width of the back property lot is barely 50' feet.

Chairman Timbrook opened the public hearing at 6:40 pm. Mr. Youseff Elzein took the oath to give sworn testimony. He stated that they are not violating any fire codes. He stated that the building code, the fire code, requires a building to have access to the site with 150' hose reel, and they meet that requirement of the NFPA, so they are not violating any fire code. When they appeared before the board last year, they were given zero setback from the Valley site. It is residential, but zoned business. He stated the fire department changed their mind after a month or so and required a 10' setback. This made them have to reappear before the board because then they didn't meet the setback from the neighboring property. They have provided everything the fire department required last year. This year, the fire department told them they wanted 20' to allow the apparatus to get close to the building. It is only 54' long. They have the 150' hose reel required to fight any fire should anything happen. He is not sure where they are violating the fire code. He told Ms. Holt that if they give 20' as requested, they are already in the neighbors yard. He stated the owner was interested in buying the house. He stated that they knew the City of Riverside bought the house. Ms. Holt stated the City did not buy the house. Mr. Elzein replied that the claim was the owner of the house approached the City to buy it, but somebody else bought it, so there is some confusion on who owns it. He stated they did not received any information from the Landbank on buying that house, but it is still abandoned and vacant. He stated they proposed a fence all around the property to protect either side of the house and even the house Mrs. Carpenter mentioned would have a fence. It is already abutting the property. Whoever authorized that to happen, it is still a business. He stated it used to be a bar. He stated

they did their best to meet the city's conditions. He stated that they may be in front of them again for landscaping. He stated he was not able to continue the job back when the city manager spoke with the applicant last November. The interpretation of the regulations between himself and the city came to an impasse. He was notified by Ms. Holt that they would have to reapply for the variance.

Mr. Schneider asked him if the existing structure on the property would be demolished or refurbished. Mr. Elzein stated it will be the primary retail structure on the site. They will apply for the permitting and follow the proper regulations of the county as long as they meet the zoning conditions. This is why they need the zoning certificate for the permitting process to continue.

Mrs. Carpenter stated that the fire department is saying one thing and he is saying another. This has to be cleared up. Mr. Elzein stated Ms. Holt has an email she shared with him based on the question of a 20' setback around the building as long as they meet the 150' hose reel requirements. Ms. Holt commented that it is not for around the building; it is for the road leading up to. He stated they have a 24' entrance so the apparatus can reach up to the building.

Mr. Mahmoud Rababah, 2577 Valley Pike, Riverside, Ohio, took the oath to give sworn testimony. He stated that after the last approval an email was sent by the city manager and his engineer has quit on him. He is willing to give it another try to do something. Chairman Timbrook asked him if he is unable to add the structure on the back of the lot, would he still be able to make use of the lot for his business. Mr. Rababah stated he has a business across the street from the lot. He added that he bought the lot because the city manager, Mark, suggested to him to buy the lot and convert it to commercial in order to use it. He remembered he visited him at the shop. Mr. Rababah told him at that time if the city will approve it to be commercial, then he can use it. He went ahead and bought it. He stated the process goes slowly and when he finished, he was no longer there at the city. He would like to have the property to use it for his current business, extra storage, so he can meet the fire department requirements. That is what was in his plan, but if there is no way, then he will have to think about something else. Ms. Holt stated that storage is not permitted in the B-2 zoning district. Mr. Rababah stated he is selling rims and accessories and he needs more space. He is not going to do restoration on that property; he needs to have more space. Ms. Holt stated she was trying to understand how they wanted to use the space. Mrs. Carpenter stated she thought it was for retail. Mr. Elzein stated it will be retail. It is owned by the same owner and does not mean a continuation of his other business. He runs a tire replacements store; this location will be retail. He stated when they were before them last year, they created this site to complement that business by moving some of the tires from the existing store to the new location as part of his retail business, only. It will be retail to sell the tires, if a person buys the tires and wants them installed, then they will go to the other site to have the tires installed. The new location will be selling rims and tires, not to install on that site. Mrs. Carpenter asked if there was a business plan they can see. Mr. Elzein stated he is already selling from that store online; he is selling rims. They are storing the rims at that building. Mrs. Carpenter asked if there will be signage and people going in and out to this location. Mr. Elzein stated everything is done like a store like AutoZone, but on a smaller scale, or he can sell rims online. That is the intent of

the new business is retail. Discussion was held on customers coming in and out of the store.

Mr. Cron asked if the second building they want to build on that site is storage or retail. Mr. Elzein stated it was storage for an accessory building to the retail. Mr. Cron stated that is what Ms. Holt is asking. Ms. Holt stated it cannot be storage for the other business across the street. If the site is going to be retail and there will be stored tires there, then the primary use of the site needs to be retail. Mr. Elzein stated he agreed. He did not know why they were being questioned about this again when they discussed it last year. He stated that Mr. Rababah would like to stay in Riverside, but if they cannot approve it, he will just abandon it.

Chairman Timbrook closed the public hearing at 6:55 pm.

Board members discussed the case and the two variances and the unique shape and size of the lot. Mr. Schneider asked is it makes a difference if using the accessory building for non-flammable storage. Ms. Holt stated it could make a difference. She stated the applicant bought the property and created this situation. The lot was residential prior, and some of those setbacks are not as great; R-3 has a 5' setback instead of a 50' setback. She stated if it wasn't flammable and still commercial, there would be a 50' setback, regardless. Staff was not in favor of the rezoning in the first place. City council approved the rezone. She added that it would take some unique planning for this property. Discussion continued on the setback and the surrounding properties; and the fire code requirements along with city code requirements.

Chairman Timbrook moved, seconded by Mr. Cron, to deny the request on Case #23-0003, 2600 Valley Pike, Variance 1 – north side yard setback. Roll call went as follows: Mr. Timbrook, yes; Mr. Cron, yes; Mrs. Carpenter, yes; and Mr. Schneider, yes. **Motion carried – variance denied.**

Chairman Timbrook moved, seconded by Mr. Cron, to deny the request on Case #23-0003, 2600 Valley Pike, Variance 2 – south side yard setback. Roll call went as follows: Mr. Timbrook, yes; Mr. Cron, yes; Mrs. Carpenter, yes; and Mr. Schneider, yes. **Motion carried – variance denied.**

ZONING ADMINISTRATOR DISCUSSION TOPICS:

a. Development Procedures Text Amendment – Ms. Holt provided background on Chapter 1105 Development Procedures. This is where they find the variance and appeal procedures. Planning Commission passed the recommended text changes a few months ago and it is now before council. She reviewed the general changes, which include preapplication meetings, reapplying after denials, consolidated zoning permit, and adjusted time frames. The BZA related changes include appeals procedure – applicants need to list basis of appeal and related UDO code sections, major variance threshold increased to 20 percent, and variances consolidated with waivers. Chairman Timbrook stated that is a huge change and will help the citizens. Anyone who has an appeal will be much better prepared to lay out the case and give the board a chance to dig into what the problem is with the interpretation of the code. This is a frustrating process for people. Ms. Holt states they hope it sets them up to better understand the process. She commented that there are waivers that can go with variances such as a design

waiver going with a fence height (dimensional variance), it would be heard by BZA and not have to go to both planning commission and BZA. She added that the text amendment will go into effect this fall.

b. BZA Recruitment – Ms. Holt stated that they are still looking for another member for the BZA. She asked the BZA to let Riverside friends and neighbors know they are looking. A retreat will be forthcoming.

ADJOURNMENT: Mr. Schneider moved, seconded by Chairman Timbrook, to adjourn. All were in favor. The meeting was adjourned at 7:10 pm.

Chair

Date