

Board of Zoning Appeals
June 16, 2016
Minutes

Chairman Feick called the meeting to order at 4:31 PM. The following members were present: Dr. William Semans, Mr. Kevin Zeiher, Mr. John Mears, and Chairman John Feick. Also present were Commissioner Richard Brady, Ms. Casey Sparks and Ms. Angie Byington from the Planning Department, Mr. Trevor Hayberger from the Law Department and Debi Eversole as Clerk.

There were four voting members present.

Mr. Zeiher moved to approve the minutes from the May 19, 2016 meeting. Dr. Semans seconded the motion to approve as amended. Motion passed, all in favor.

Chairman Feick swore in audience and staff members that wished to speak for or against any application.

Ms. Sparks briefed the room that Matthew and Denise Gundlach had submitted an application for a variance of 7' to allow the construction of a residential addition at **221 Cable Street**. Mr. Gundlach contacted Staff late last week to inform us that the distance from the front property line to the proposed addition will be 14', which would require an 11' foot variance. The applicant stated that surveyor had provided updated measurements after the application had been submitted. Staff has received comments from the neighbors indicating their support of the proposed variance. Staff recommended approval as the addition will not go past the existing residence and it does not appear it will create a line of site issue from the adjacent alley. In regards to the distance of the proposed driveway, the area will be limited however the applicant does plan on storing the cars in the garage. The surrounding properties have similar driveways with limited distance.

Mr. Gundlach, 221 Cable Street commented that he is requesting the variance because he did not have the correct measurements when he started the planning process and wants to do the right thing.

Ms. Sparks stated that Staff had received feedback from a surrounding neighbor that was in full support of the variance.

Mr. Zeiher moved to approve the application. Mr. Mears seconded the motion. Dr. Semans confirmed that the existing garage will be demolished prior to the addition being built. Roll was called and the motion passed, all in favor.

Hawaiian Pools, on behalf of Tim Boals, had submitted an application to utilize a hard safety cover for a swimming pool in lieu of fencing around the property located at **175 Sunset Drive**. The existing property is surrounded by the bay and the applicant desires an open an unobstructed view of the bay. The Board of Zoning Appeals had approved a similar case last year on Cedar Point Drive. Staff has recommended approval as the majority of the property is adjacent to the bay and the hard cover will restrict access to the pool.

There were no audience comments for or against the application.

Dr. Semans moved to approve the application. Mr. Mears seconded the motion. Roll was called and the motion passed with the vote of 3/0, Chairman Feick abstained.

Ms. Sparks stated that John Frankel, on behalf of Lloyd Willis, has submitted an application to appeal a zoning violation issued by the Planning Department. The violation was issued to the property owner for operating a commercial business within a residentially zoned area. Staff has received several responses from surrounding property owners stating that they do not want to see a commercial business within their residential area. The Board also received letters from property owners that were distributed this evening. The applicant is requesting to utilize the property to store and repair roll off containers. A trash service previously operated out of this facility, however it is Staff's understanding that the trash service operation ceased for more than a year. Once the use ceased operations for more than a year it becomes non-conforming and is required to comply with the current regulations for this zoning district. Staff recommends denial of the appeal.

D.J. Swearingen, on behalf of Attorney John Frankel, is present with Mr. Willis and Mr. Don Bowers on behalf of the appeal. He provided pictures of the property to the Board. He followed by asking Mr. Willis the following questions.

How did you acquire the property and describe the property. Mr. Willis answered that the property was in the Canfield family and that his wife was a Canfield. When she passed away, he became executor of the estate. The Canfield business was established between 1934 and 1938. The current property is approximately 5 acres but was an approximately 10 acre farm at one time. W.G. Canfield sold part of the property to the City which is now a nursery next to Mr. Willis's property. The property operated as a garbage business for many years. Mr. Willis came in the picture around 1970-1971. Mr. Willis felt that the Canfield business always served the community with good customer service and reasonable rates.

How long has the property been used as a commercial service? Mr. Willis answered that the property was a commercial use since he had owned the property, except when FSI left and didn't remove their items, including 68 cans of garbage. He stated that Mr. Bowers disposed of all of the garbage left on the property.

The Canfield Company operated out of the property and was purchased by whom? Mr. Willis answered Fultz and Son purchased the Canfield Garbage business.

The equipment was left on the property when Mr. Bowers took over? Mr. Willis answered that most of the equipment was taken when Fultz and Son left, but they left several tires, drums of oil and trash for Mr. Willis to deal with.

How is Mr. Bowers currently using the property? Mr. Willis answered that Mr. Bowers uses the property as a transfer station and occasionally paints containers on the property. Mr. Bowers has made physical repairs to a garage, painted and installed insulation. Mr. Willis stated that Mr. Bowers is a neat and clean person and wants his containers and facility to look nice for the city.

Does Mr. Bowers' activity on the property make a lot of noise? Mr. Willis answered not exceptionally.

Are there any smells that you notice from his activity on the property? Mr. Willis stated there is no smell that he is aware of since most of the containers are filled with wood and concrete from tearing things down.

Have any neighbors ever complained to you prior to this date? Mr. Willis answered that he had not had a complaint at all until now.

Do you see any other trucks or heavy equipment coming down Pipe Street? Mr. Willis answered that it is a heavily traveled street by busses, trucks, heavy equipment, and trucks with trailers behind them.

The traffic had never been a concern for Mr. Lloyd, but he stated that it may bother someone else. It's a heavily used street and only until recently has the weather taken a toll on the condition of the street.

Would you be ok with a variance that only limited the commercial use to Mr. Bowers' use of the property with his commercial activities? Mr. Willis answered that he would have no problem at all with Mr. Bowers using the property.

There are a few questions for Mr. Don Bowers, 3063 Co. Rd. 290, Vickery, Ohio. Can you let the Board know what you do about your business and your relationship with Mr. Willis? Mr. Bowers answered that he is in the sanitation business and trash roll off business for Cyclone Services formerly operating as Bowers Sanitation for many years. W.G. Canfield owned Mr. Bowers' father's business in 1959, so he has known the Canfield's his whole life and he is 60 years old. He has known that the Canfield's operated out of that facility. When they sold, FSI came in. When FSI left, a lot of their stuff remained. Mr. Bowers came in and cleaned up the property. He worked out an agreement with Mr. Lloyd to use his facility. Mr. Bowers' business is located in White's Landing, and they don't have the room or time to take the containers to White's Landing for maintenance. Mr. Lloyds building is not occupied so Mr. Bowers had been using the building for container maintenance and a staging yard.

Can you describe the staging business that you are operating? Mr. Bowers answered that when they empty boxes, they have to take them all the way back to White's Landing, 14 miles out of town, then return making an unnecessary 28 mile trip. It makes more sense to drop off the containers here in town to be available and close for the next customer. Cyclone now also services the Sandusky area since FSI is out of business.

How long are the roll off containers on the Willis property? It can be an hour, a day, or a week. Since the landfill closes at 3:00, sometimes they have to bring full containers to the property but they are gone the very next morning. Mr. Bowers' business does not stop at 3:00 when the landfill closes.

Are these mostly from construction jobs? Mr. Bowers stated that 90% of the containers are from construction sites. There is occasionally home clean up jobs, but that includes items from a basement, furniture, etc. Trash jobs are kept separate so there is no trash being stored on Mr. Willis's property.

So you are using the Willis property as a staging area to service the City of Sandusky jobs that you have? Mr. Bowers answered yes.

And when you first arrived at the property, there was still equipment left over from FSI? Mr. Bowers answered yes, and there is still stuff there that he does not believe that they will be picking up.

Is there anything else that you would like to add on behalf of Mr. Willis? Mr. Bowers answered that he has known the family for a very long time.

Mr. Willis, is there anything else that you would like to add? Mr. Willis responded that he had talked to his closest neighbor, who owns the nursery, and he asked if he had any problem with the containers being stored there. The neighbor replied no to him and Mr. Willis feels that if the closest neighbor doesn't have a problem, nobody else should either.

Is this neighbor to the north of your property? Mr. Willis stated that yes, he is to the north side of him and he thinks his name is Scott.

Mr. Swearingen asked to offer a few closing remarks.

- It is Mr. Willis's contention that the commercial use of the property never stopped.

- FSI bought out Canfield, FSI's equipment remained on the property up until the date that Mr. Bowers came in to operate as his commercial use.
- The commercial use never did cease
- This is a very limited commercial use, hidden from the street by a hill on one side and trees on the other.
- No smells are associated with the use, as it had been a trash business in the past it is now a staging area for roll off containers. This saves Mr. Bowers the round trip to Vickery then back to Sandusky when he is servicing jobs here.
- The applicant would be in agreement with a limited variance so that Mr. Bowers can use the property as a staging area for his business. Mr. Willis would be ok with that.

Chairman Feick asked if there was anyone else that wished to speak in favor of the application.

Cleo O'Donnell, Pipe Street is Mr. Willis's neighbor across the street for 16 years. He stated that he always got along with the Willis's, Canfields and their employees. He felt that the Willis's and Canfield's have helped the City of Sandusky. He added that the Willis's always treated him nicely.

Mr. Swearingen added that although he can appreciate the City's position on this matter, the property is 5 acres with a lot buffering the neighbor's to the north. It's not as if there are houses right next to where Mr. Bowers is operating.

Chairman Feick asked if there was anyone that wished to speak against the request.

26:39 Dale Kriss 2238 Pipe Street stated that it is hard for him to speak against Mr. Willis, as he's known him for a long time and used to work for the Canfields. He gets along with Mr. Willis. Mr. Kriss stated that he's had issues with the city regarding the condition of the street. He claimed his problem with the application is that he has a stone driveway and the wind blows the dust his way. He's also worried about his property value going down. He has also had to pick up items that blew out of the containers like caution tape. Mr. Willis stated that he had no idea of Mr. Kriss's complaints.

Chairman Feick asked if there was anyone else that wished to speak against the request. With no response, he turned to the Board for questions.

32:10 Chairman Feick asked if Mr. Willis knew when Fultz left the property. Mr. Willis answered he didn't know the actual date that they left. He stated that as long as their equipment was still on the property, he viewed it as they never left. Chairman Feick asked when Fultz stopped paying rent. Mr. Willis answered that he was not sure. Mr. Swearingen stated that the last check was dated September, 2013.

Chairman Feick then asked Mr. Bowers when he started working from the property. Mr. Bowers answered that he started the clean up around October of 2014. Mr. Feick clarified the question and asked when he stated bringing the containers in. Mr. Bowers answered that he thought it was February, 2015.

Chairman Feick then asked what exactly they were appealing. Mr. Swearingen stated that the appeal was to the violation of operating a commercial business out of a residential property. Mr. Swearingen added that they would like to apply for a use variance. He continued to say that the use never changed as FSI's commercial equipment never left the property up until the time that Mr. Bowers came in to clean up the property.

Mr. Feick stated that if FSI stopped using the property and stopped paying rent in September, 2013 and Mr. Bowers did not start operating on the property until February, 2015 then the use had stopped for over one year.


Mr. Mears asked Staff if there was any other use that could be placed at the property to bring in a profit. Ms. Sparks answered that it was her understanding that a portion of the property is being rented. This falls within the guidelines of a residential property use.

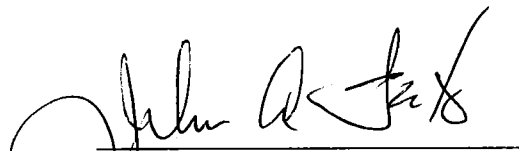
Dr. Semans stated that since the operation ceased for 12 months or more, he moved to uphold the violation. Mr. Zeiher abstained. Mr. Hayberger advised to change the motion to deny the appeal rather than uphold the violation. Dr. Semans clarified. Mr. Mears seconded. Roll was called. The motion carried 3/0 as Mr. Zeiher abstained from the vote. The appeal was denied.

Chairman Feick asked for any other business. With no further business, the date of the next meeting will be July 21, 2016.

Mr. Mears moved to adjourn the meeting. Mr. Zeiher seconded. Meeting was adjourned at 5:23PM

APPROVED:


Debi Eversole, Clerk


John Feick, Chairman