

**PLAIN TOWNSHIP BOARD OF ZONING APPEALS
PLAIN TOWNSHIP HALL
2600 EASTON STREET NE, CANTON, OHIO 44721
MINUTES OF REGULAR MEETING
AUGUST 1, 2001**

The meeting was called to order by Chairman James McVay, with Robert Soles, John Pavlis, Rich Scopelite, David Tissot, and Michelle Bell present. Timothy Reichel was absent.

Motion made by Mr. Pavlis to approve the minutes of July 5, 2001. Mr. Tissot seconded the motion. All members were in favor except Mr. Soles whom abstained.

Mr. Tissot read the statement of duties.

Chairman McVay administered the oath and expressed the fire department comments into the record.

Motion made by Mr. Tissot to lift Appeal #1037-01-A from the table. Mr. Scopelite seconded the motion. All members were in favor. Mr. McVay read a letter of withdrawal into the record for Appeal #1037-01-A since a survey had been conducted on the property and was determined a variance wasn't needed.

Motion made by Mr. Soles to lift Appeal #1043-01-A from the table. Mr. Pavlis seconded the motion. All members were in favor except Mr. Tissot who opposed the motion.

Mr. Tissot stated that he had just received the information requested from the last meeting and would like to table the Appeal until the information could be analyzed.

Amy Habinski, representative of SureCom, 6655 Parkland in Solon, Ohio stated that the construction engineer was present as well as other professionals, including a lot of residents opposed to the request and felt the Board would be doing an injustice to all if the Appeal was tabled.

Mr. McVay asked if she was prepared to answer questions that were in the request letter from the last meeting. Ms. Habinski stated yes.

Ben Ockner, attorney, 2600 ErieView Tower in Cleveland, Ohio stated that there is a question if the request may be exempt from zoning.

Dick Kuhn, 1428 Market Avenue N, stated that he had not seen the response letter from SureCom and in his opinion, would like the Appeal tabled until everyone had a chance to see the letter.

Motion made by Mr. Pavlis to table Appeal #1043-01-A until the September 5, 2001 meeting. Mr. Tissot seconded the motion. Vote: Mr. Pavlis, yes; Mr. Scopelite, yes; Mr. Soles, No; Mr. Tissot, Yes; Mr. McVay, No.

The Appeal was tabled until September 5, 2001.

The remaining Appeals were heard:

APPEAL #1044-01-A

Applicant/B & B Holdings LLC, PO Box 36695, Canton, OH 44735; Owners/Christopher J. Bourquin and Sabrina M. Freudeman, PO Box 36695, Canton, OH 44735 -- Requests the following for a proposed division of property without plat for the creation of two new properties and the construction of two (2) single family residences on the north side of 23rd Street NW, known as 3036 25th Street NW, part of parcel 52-01643:

1. Variance of 13 ft. lot width at the building line (60 ft. required – 47 ft. requested) for each lot.
2. Variance of 3 ft. lot frontage (50 ft. required - 47 ft. requested) for each lot.
3. Variance of 234 sq. ft. lot area (9,000 sq. ft. required - 8,766 sq. ft. required) for each lot.

Article VII, Section 703.3; Minimum Lot & Yard Requirements.

The property is zoned R-1, Single Family Residential District and R-2, One and Two Family Residential District and is located in the Southeast Quarter of Section 31.

Christopher Bourquin, 6695 Lake O' Springs, was in attendance to present the Appeal. Mr. Bourquin stated that the existing house will

be remodeled for the other applicant Sabrina Freudeman, which she will move into within three to four months.

Sabrina Freudeman, 3045 25th Street NW, stated that two, single family dwelling will be constructed instead of a duplex on the remaining land south, which will be divided into two parcels.

John Byham, 2510 Wertz Avenue NW, stated that he owns the property adjacent to the project and in his opinion the new construction will ruin tree roots and questions where the sanitary sewer will be connected since the existing sewer in the area is private.

Mr. McVay asked the applicants to answer the questions. Ms. Freudeman stated that the trees will stay for privacy and building setbacks will be met. She couldn't answer regarding the sewer. Mr. Bourquin stated that Ms. Freudeman has public sewer on 25th Street.

Albert Meyer, 3018 23rd Street NW, stated that the streets are too narrow to handle more traffic congestion since there are already new condos on the street. He also pointed out that most houses have septic in the area.

Mr. McVay pointed out that sewer is not a zoning issue.

Mr. Pavlis stated that the property is currently zoned R-2 which allows duplexes. Mr. Bourquin stated that they are proposing to build two single family homes instead of a duplex. Mr. Pavlis then questioned the hardship since a duplex can be built. Ms. Freudeman stated that they feel the proposed homes will be more consistent with the condos on the other side of the street.

Teri Baker, 3026 25th Street NW, stated that she doesn't like the ideas of the homes being built sideways. Mr. Pavlis stated that the plan depicts two single homes facing front.

Mr. Tissot stated why a duplex wasn't considered and what hardship they had. Ms. Freudeman stated integrity of the neighborhood.

Mr. McVay stated that they are dividing the property into substandard lots. Mr. Bourquin stated that some lots in the area are 50' wide.

Mr. Pavlis stated that he was initially against the appeal, but feels two single family homes are better than one duplex.

Mr. Tissot questioned if each home would have a garage. Ms. Freudeman stated both would have a double car garage with an extra cement parking pad.

Mr. Soles stated that the property was just purchased with the intent to split and didn't see a practical difficulty established for approval of the appeal. Mr. Bourquin stated that a hardship isn't present, the variance requested is just a preference. Mr. Soles stated because the applicants were aware of the zoning requirements and construction can be completed regardless, practical difficulty had not been demonstrated.

Motion by Mr. Tissot,

WHEREAS, applicant/B & B Holdings LLC & owners/Christopher J. Bourquin and Sabrina M. Freudeman; propose a division of property without plat for the creation of two new properties and the construction of two (2) single family residences on the north side of 23rd Street NW, known as 3036 25th Street NW, part of Parcel 52-01643; and

WHEREAS, said applicant or a representative has filed with the Plain Township Board of Zoning Appeals an appeal and hereby requests the following:

- 1. Variance of 13 ft. lot width at the building line (60 ft. required - 47 ft. requested) for each lot.
- 2. Variance of 3 ft. lot frontage (50 ft. required - 47 ft. requested) for each lot.
- 3. Variance of 234 sq. ft. lot area (9,000 sq. ft. required - 8,766 sq. ft. required) for each lot.

WHEREAS, the applicant or a representative has appeared in person before this Board at a public hearing on said application and the Plain Township Board of Zoning Appeals has duly considered this application pursuant to Ohio Revised Code 519.14; and

NOW, THEREFORE, BE IT HEREBY RESOLVED, by the Plain Township Board of Zoning Appeals to:

X grant the following:

- 1. Variance of 13 ft. lot width at the building line (60 ft. required - 47 ft. requested) for each lot.
- 2. Variance of 3 ft. lot frontage (50 ft. required - 47 ft. requested) for each lot.
- 3. Variance of 234 sq. ft. lot area (9,000 sq. ft. required - 8,766 sq. ft. required) for each lot.

Seconded by Mr. Soles,

Mr. McVay stated that he was against the Appeal since a hardship had not been presented especially since the applicants were creating two substandard lots.

Vote: Mr. Pavlis, yes ;Mr. Scopelite, yes ;Mr. Soles, No;Mr. Tissot, No;Mr. McVay, No .

Appeal #1044-01-A is therefore denied.

APPEAL #1045-01-A

Applicant & Owner/Steve M. Antoniadis, 1325 Cleveland Avenue NE, Canton, OH 44703 -- Requests a 4 ft. east, rear yard variance (15 ft. required - 11 ft. requested) to construct a 16 ft. x 42 ft. (602 sq. ft.) attached accessory structure (deck) at 6230 Beverly Avenue NE.

Article VII, Section 702.3; Minimum Lot and Yard Requirements.

The property is zoned R-1, Single Family Residential District and is located in the Northwest Quarter of Section 15.

Mr. Steve Antoniadis, 6230 Beverly Avenue NE, stated that the variance is needed since the construction of the deck was a surprise wedding gift from his parents.

Mr. McVay questioned the hardship. Mr. Antoniadis stated that he would have to tear down 4 feet of his deck.

Mr. Pavlis asked if there are any structures behind is house. Mr. Antoniadis stated yes 200 ' behind.

Mr. Soles stated that the hardship is requisite.

Mr. Antoniadis stated that he didn't expect the gift.

Mr. Scopelite stated that the deck was built in error.

Motion by Mr. Pavlis,

WHEREAS, applicant & owner—Steve M. Antoniadis; has filed an application to obtain a Zoning Permit to construct a 16 ft. x 42 ft. (602 sq. ft.) attached accessory structure (deck) at 6230 Beverly Avenue NE; and said application was reviewed and denied by the Plain Township Zoning Director on March 20, 2001; and

WHEREAS, said applicant has filed with the Plain Township Board of Zoning Appeals an appeal from said action of the Zoning Director and hereby requests the following:

- ◆ 4 ft. east, rear yard variance (15 ft. required – 11 ft. requested).

WHEREAS, the applicant or a representative has appeared in person before this Board at a public hearing on said application and the Plain Township Board of Zoning Appeals has duly considered this application pursuant to Ohio Revised Code 519.14; and

NOW, THEREFORE, BE IT HEREBY RESOLVED, by the Plain Township Board of Zoning Appeals to:

X grant the following:

- ◆ 4 ft. east, rear yard variance (15 ft. required – 11 ft. requested).

Seconded by Mr. Tissot,

Vote: Mr. Pavlis, yes ;Mr. Scopelite, yes;Mr. Soles, no;Mr. Tissot, yes;Mr. McVay, yes .

Appeal #1045-01 is therefore approved.

APPEAL #1046-01-A

Applicant/ Rick Morgan-Gordon Food Service, 420 50th Street SW, Grand Rapids, MI 49501; Owners/Evelyn, Nick, & Louis Eustathios, 4901 Lawndale Street NW, Canton, OH 44708;-- Requests a variance of 31 parking spaces (95 required – 64 requested) for the construction of a new marketplace retail food service store (Gordon Food Service) on 1.68 acres of vacant land (Part of parcels #52-17037, #52-14950, #52-13853) with 278 ft. of frontage on the east side of Whipple Avenue NW, and approximately 278 ft. north of 42nd Street NW.

Article IX, Section 901.1 J; Parking and Loading Requirements.

The property is zoned B-2, General Business District and is located in the Northwest Quarter of Section 30.

Mr. Rick Morgan, 420 55th Street-Michigan, stated that their store sells prepared food items with 13,000 products in distribution centers. The property is 1.68 acres and they need a variance of 31 parking spaces since the steep hill on the property has a 40' transition area that can't be used. They have done studies on other stores with regards to traffic volume and the 64 parking spaces they are providing is adequate.

Mrs. Paralee Lewis, 4305 42nd Street NW, lives behind the proposal and thinks that a buffer should be provided.

Mr. Morgan stated that he had met with Mrs. Lewis regarding a grading easement, but it was later determined it wasn't needed since a 4' retaining wall could be built.

Mr. McVay asked if the retaining wall would on be 4' high. Mr. Morgan responded that was correct.

Mr. Pavlis asked if a buffer of pines could be planted. Mr. Morgan stated that there wouldn't be much area to plant that the Lewis' would be able to see.

Mr. Tissot asked if 64 parking spaces was average. Mr. Morgan stated that they have a lot of stores with higher volume and less parking spaces and the company wouldn't invest 1 million dollars on a project if there wasn't enough parking. Mr. Tissot then questioned the number of spaces for employees. Mr. Morgan replied between 3 and 6.

Mr. Soles questioned the type of store. Mr. Morgan replied comparable size to Aldi's but more wholesale to churches, hospitals and schools. Mr. Soles questioned the products. Mr. Morgan replied produce, cleaning items, and frozen bulk similar to Sam's club. Their highest sales time is during graduation for parties. Mr. Soles questioned the square footage. Mr. Morgan replied 14,500 sq. ft. Mr. Scopelite asked if the stores prepare food. Mr. Morgan replied that only food slicing for meat. Mr. Scopelite then asked if the store would be retail and distribution. Mr. Morgan stated yes.

Mr. Pavlis stated that the adjacent AutoZone is 120 ft. x 122 ft. which only has 72 parking spaces.

Motion by Mr. Soles,

WHEREAS, applicant/Rick Morgan-Gordon Food Service & owners/Evelyn, Nick & Louis Eustathios; have filed an application for the construction of a new marketplace retail food service store (Gordon Food Service) on 1.68 acres of vacant land (Part of parcels #52-17037, #52-14950, #52-13853) with 278 ft. of frontage on the east side of Whipple Avenue NW, and approximately 278 ft. north of 42nd Street NW; and

WHEREAS, said applicant or representative has filed with the Plain Township Board of Zoning Appeals an appeal and hereby requests the following:

- ◆ **Variance of 31 parking spaces (95 required - 64 requested).**

WHEREAS, said applicant or a representative has appeared in person before this Board at a public hearing on said application and the Plain Township Board of Zoning Appeals has duly considered this application pursuant to Ohio Revised Code 519.14; and

NOW, THEREFORE, BE IT HEREBY RESOLVED, by the Plain Township Board of Zoning Appeals to:

X grant the following:

- ◆ **Variance of 31 parking spaces (95 required - 64 requested).**

Seconded by Mr. Scopelite,

Mr. Soles stated that the applicant has met the variance requirements because of the topography of the land and testimony is consistent with the parking documentation of the other stores.

Vote: Mr. Pavlis, yes ;Mr. Scopelite, yes;Mr. , Soles, yes ;Mr. Tissot, yes ;Mr. McVay, yes .

Appeal #1046-01-A is therefore approved.

APPEAL #1047-01-A

Applicant & Owner/Calvary Temple Assembly of God, 3951 Fulton Drive NW, Canton, OH 44718 -- Requests a variance to allow construction of a second principal building (60 ft. x 120 ft.; 7,200 sq. ft. Family Life Center) on one lot with the existing 7,168 sq. ft. principal building

(Church Sanctuary) at 3951 Fulton Drive NW.

Article VI, Section 603.2; Principal Building.

The property is zoned R-1, Single Family Residential District and B-1, Neighborhood Business District and is located in the Southwest Quarter of Section 30.

Ron Clymer, 3951 Fulton Drive NW, was in attendance to present the Appeal. Mr. Clymer stated that the variance is needed so that a separate structure can be built for a family life center. If the new structures has to be attached to the existing sanctuary, the Stark County Building Department would require that the old building be brought up to the current building codes. The building codes have changed since the sanctuary was built in 1970. The lavatories would have to be enlarged and a firewall would have to be constructed between the new and the old, which will add an additional expense of 30-40%.

Mr. Tissot stated that they are building a new structure and excusing the safety of the old building.

Mr. Clymer stated that the lavatories need to be larger because of the handicap regulations concerning wheelchair accessibility since there has to be a 5' circle and 5' stall. If the lavs have to be changed, they will lose a classroom and that would be hardship especially since the building is block construction. The church didn't realize the building wasn't up to code and thought everything was ok since the structure is inspected by the fire marshall each year.

Mr. Pavlis stated that he has a problem with the church not being up to the disability code and questioned the architect's capability regarding such.

Mr. Scopelite stated that the Appeal could be tabled.

Mr. Pavlis stated he would like that especially to know the cost of the updating.

Mr. McVay stated that the architect could be present at the next meeting.

Motion made by Mr. Soles to table Appeal #1047-01-A to the 9/5/01 Board of Zoning Appeals meeting. Mr. Tissot seconded the motion. All members were in favor.

APPEAL #1048-01-A

Applicant & Owner/Campbell Oil Company, 611 Erie Street, PO Box 907, Massillon, OH 44648-0907--Requests the following to construct a 35 ft. x 80 ft. convenience store, 12 ft. x 72 ft. equipment room, and 16 ft. x 56 ft. carwash, all attached, at 4332 Hills & Dales Road NW:

1. 22 ft. south, rear yard variance (25 ft. required – 3 ft. requested).
2. 7 ft. north, front yard variance (40 ft. required – 33 ft. requested).

Article VII, Section 713.4; Yard Requirements.

The property is zoned B-2, General Business District and is located in the Northwest Quarter of Section 31.

Jennifer Schumacher architect with Hammontree, 5233 Stoneham Road, stated that the variances are needed to update the present station, which will be similar to the store at Easton Street and Market Avenue. The present station previously had variances granted in 1987 with a conditional use and the current request needs lesser variances. The new structure will no longer need the conditional use permit and the current canopy is 23 feet back and the proposal will be 33 feet back.

Mr. McVay asked if they would maintain the same rear setback and change the front setback from 23 feet to 33 feet. Mr. Schumacher stated yes only the structures will be larger.

Bob Engel branch manager with Campbell Oil, 611 S. Erie, was in attendance. He stated that they need the new structure to compete with other marketers in gasoline; the convenience store products pick up profits.

Mr. Scopelite asked the time frame of construction. Mr. Engel replied six to seven weeks.

Motion by Mr. Scopelite,

WHEREAS, applicant & owner/Campbell Oil Company; has filed an application to obtain a Zoning Permit to construct a 35 ft. x 80 ft. convenience store, 12 ft. x 72 ft. equipment room, and 16 ft. x 36 ft. carwash, all attached, at 4332 Hills and Dales Road NW; and

WHEREAS, said applicant or representative has filed with the Plain Township Board of Zoning Appeals an appeal and hereby requests the following:

1. 22 ft. south, rear yard variance (25 ft. required – 3 ft. requested).
2. 7 ft. north, front yard variance (40 ft. required - 33 ft. requested).

WHEREAS, the applicant or a representative has appeared in person before this Board at a public hearing on said application and the Plain Township Board of Zoning Appeals has duly considered this application pursuant to Ohio Revised Code 519.14; and

NOW, THEREFORE, BE IT HEREBY RESOLVED, by the Plain Township Board of Zoning Appeals to:

X _____ modify the application.

modification to be:

1. 22 ft. south, rear yard variance (25 ft. required – 3 ft. requested).
2. 7 ft. north, front yard variance (40 ft. required - 33 ft. requested).

to construct a 35 ft. x 90 ft. convenience store, 12 ft. x 80 ft. equipment room, and 16 ft. x 56 ft. carwash, all attached.

Seconded by Mr. Pavlis,

Vote: Mr. Pavlis, yes ;Mr. Scopelite, yes;Mr. Soles, yes ;Mr. Tissot, yes ;Mr. McVay, yes .

Appeal #1048-01-A is therefore approved.

No further business pending, the meeting adjourned at 8:45 PM.

PLAIN TOWNSHIP BOARD OF ZONING APPEALS

Michelle Bell, Secretary