

**PLAIN TOWNSHIP BOARD OF ZONING APPEALS
PLAIN TOWNSHIP HALL
2600 EASTON STREET NE, CANTON, OHIO 44721
MINUTES OF REGULAR MEETING
APRIL 6, 2005**

The meeting was called to order by Chairman Bob Soles, with Timothy Reichel, James McVay, Bob Stewart, Ginger Ferencz, Michelle Mahoney and Stephanie Metzger present.

Motion made by Mrs. Ferencz to approve the minutes of March 2, 2005. Mr. Stewart seconded the motion. All members were in favor.

Mr. McVay read the statement of duties. Mr. Soles expressed the fire department comments into the record.

The following Appeals were heard:

APPEAL #1155-05-A

Applicant/ James Locker, 918 Clarendon Avenue SW, Canton, Ohio 44710. Owner/ Sam & Angeline Volpe, 3206 27th Street NW, Canton, Ohio 44708; Request the following to convert an existing residential dwelling into a commercial use at 1840 Whipple Avenue NW:

1. 8,520 sq. ft. lot area variance (15,000 sq. ft. required – 6,480 sq. ft. requested).
2. 3 ft. lot width at the building line variance (75 ft. required – 72 ft. requested).
3. 15 ft. north, side yard variance (25 ft. required – 10 ft. requested).
4. 8 ft. south, side yard variance (25 ft. required – 17 ft. requested).
5. Variance of 1 parking space (8 required – 7 requested).
6. 5 ft., side yard landscape strip waiver where 5 ft. of landscaping is required between the parking area and the street right-of-way line for Lake Heights Road NW (5 ft. required – 0 ft. requested).

Article VII, Section 712.3; Lot Requirements.

Article VII, Section 712.4; Yard Requirements.

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

Article IX, Section 901.2 E 3; Parking Yard Restrictions.

The property is zoned B-1, Neighborhood Business District and is located in the Southwest Quarter of Section 31.

There were no attendees for or against the Appeal.

Mr. Soles administered the oath.

Mr. James Locker, 918 Clarendon Avenue SW, stated that he needs some variances for the existing building on the property.

Mr. Soles asked if he was converting the residential home to a commercial business.

Mr. Locker said yes. It will be a tattoo business. He has owned Hammer's tattoo's for 10 years now in Perry Township on Tuscarawas. He is tired of renting a space and has decided to buy this building. He closed on the property last week. This is a very clean business, he just needs variances on the property.

Mr. Soles asked if there would be any changes to the building.

Mr. Locker said no. The property has been vacant for a year and a half and he has to completely remodel the inside but nothing on the outside.

Mr. Soles asked how many people will be there at one time.

Mr. Locker said he has 1 employee and 2 subcontractors that switch days and times. Everything is done by appointment only.

Mr. Soles said that only 1 person can receive a tattoo at a time.

Mr. Locker said yes.

Mr. McVay said that the zoning is B-1 and there are businesses all around. He is not destroying the look of the property; it will still look like a house.

Mr. Reichel asked what the outside will look like.

Mr. Locker said that he will add a wheelchair ramp, which he will be the first tattoo place in Ohio to follow OSHA rules.

Mr. Reichel asked if he would have any signs.

Mr. Locker said yes but nothing elaborate.

Mr. Reichel said that there will only be 2 people tattooing.

Mr. Locker said yes, there will be 3 rooms.

Mr. Soles asked if they did tattoos only.

Mr. Locker said no, one of the tattooists also does body piercing.

Mrs. Ferencz asked if Mr. Locker could cut down part of the side of the home to make it meet setbacks.

Mr. Locker said no, the home is already there.

Motion by Mr. Stewart,

WHEREAS, Applicant/James Locker, 918 Clarnedon Avenue SW, Canton, Ohio 44710 & Owner/Sam & Angeline Volpe, 3206 27th Street NW, Canton, Ohio 44705; requests the following:

7. **8,520 sq. ft. lot area variance (15,000 sq. ft. required – 6,480 sq. ft. requested).**
8. **3 ft. lot width at the building line variance (75 ft. required – 72 ft. requested).**
9. **15 ft. north, side yard variance (25 ft. required – 10 ft. requested).**
10. **8 ft. south, side yard variance (25 ft. required – 17 ft. requested).**
11. **Variance of 1 parking space (8 required – 7 requested).**
12. **5 ft., side yard landscape strip waiver where 5 ft. of landscaping is required between the parking area and the street right-of-way line for Lake Heights Road NW (5 ft. required – 0 ft. requested).**

WHEREAS, the applicant or a representative has appeared in person before this Board at an adjudication 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. 8,520 sq. ft. lot area variance (15,000 sq. ft. required – 6,480 sq. ft. requested).
2. 3 ft. lot width at the building line variance (75 ft. required – 72 ft. requested).
3. 15 ft. north, side yard variance (25 ft. required – 10 ft. requested).
4. 8 ft. south, side yard variance (25 ft. required – 17 ft. requested).
5. Variance of 1 parking space (8 required – 7 requested).
6. **5 ft., side yard landscape strip waiver where 5 ft. of landscaping is required between the parking area and the street right-of-way line for Lake Heights Road NW (5 ft. required – 0 ft. requested).**

Seconded by Mr. Reichel,

DISCUSSION:

Mr. McVay said that this Board considered the property right next to Mr. Locker's a few months ago for a jewelry store to go in. He would be in favor of this appeal.

Vote: Mrs. Ferencz, **YES**; Mr. Stewart, **YES**; Mr. McVay, **YES**; Mr. Reichel, **YES**; Mr. Soles, **YES**.

Appeal #1155-05-A is therefore APPROVED

APPEAL #1156-05-A

Applicant/ Craig T. Conley, 220 Market Avenue South, Suite 604, Canton, Ohio 44702; Owner/ Anthony M. Petitti Jr, 1804 Lakeside Avenue NW, Canton, Ohio 44708; Request permission to expand a nonconforming use for a 38 ft. x 64 ft. (2,272 sq. ft.) attached accessory structure (garage) constructed without a permit.

Article X, Section 1001.1; Nonconforming Uses.

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

There were no attendees for or against the Appeal.

Mr. Criag Conley, 220 Market Avenue South, stated that he is Mr. Petitti's attorney and he will be presenting the case tonight. He said that Mrs. Mahoney has been out to the property and has measured the buildings and came up with the same measurements as him.

Mr. Soles asked Mrs. Mahoney if she agrees with the measurements.

Mrs. Mahoney said yes.

Mr. Conley said that they are permitted to enlarge a nonconforming structure by 25% and that is what they are asking the Board for. This case has been through court for some time and in order to satisfy the court and the township they were required to apply for this appeal. The building being built without a permit is not the issue for this Board tonight, just the nonconforming use enlargement. Honestly, this is a no brainer. They are allowed to enlarge by 25% and that is what they are doing.

Mr. Soles said that he would like to hear from Attorney Traub on how this is nonconforming.

Mr. Randy Traub said that if the Board grants this then the court case is done, but if not, the township will be back in court.

Mr. Soles asked which buildings are nonconforming.

Mr. Conley said the houses are preexisting to zoning. The commercial business use was satisfied through the court. The large building without a permit was resolved through himself, Mrs. Mahoney, and Mr. Traub. They closed in the original existing garage to become living space and connected the new garage to the existing home. Mrs. Mahoney has investigated it. He is embarrassed to say, but Mrs. Mahoney actually came up with measuring the buildings for a nonconforming use enlargement.

Mr. Soles read the Nonconforming Use section in the Zoning Resolution Book. He said he doesn't understand how he can add the 2 homes together.

Mr. Conley said that if you add the 2 houses and multiply by 25% it all works out.

Mr. Soles asked if all of the structures are attached.

Mr. Conley said no, there is a house on the left side, a garage in front, and another house on the right side with the garage in question attached to it. Mrs. Mahoney supports this application.

Mr. Soles wants to know what is nonconforming about this.

Mr. Conley said it is considered nonconforming because the houses were built before zoning and the regulations allow a 25% enlargement on all buildings built before zoning existed.

Mr. Stewart said that the new building without a permit was built after zoning.

Mr. Conley says that they are entitled to a 25% expansion.

Mr. Soles asked Mr. Conley to explain the diagram to the Board.

Mr. Conley explained how they came up with a 25% expansion.

Mr. Soles asked why they added 2 separate buildings together to get the 25% expansion.

Mr. Conley said that it is one parcel of land so they are permitted to expand by 25%.

Mr. Soles said that the enlargement is to not exceed 25%, so why did they add 2 separate structures together to get the 25%.

Mr. Conley said that they are permitted to add 25% either attached or detached from the existing structures. Mr. Traub isn't standing up to disagree with anything that is being said.

Mr. Soles said that in the application it talks about the use of the property being a commercial landscaping business.

Mr. Conley said that the court has required all of the commercial items to be removed.

Mr. Soles asked if he is in violation.

Mr. Conley said that as far as he knows he is not in violation. Mrs. Mahoney is a pit bull dog and hasn't brought any complaints to his attention.

Mrs. Mahoney said that the Zoning Office has received a complaint about an ongoing business use, the Chairman has a letter and some pictures.

Mr. Soles read the letter from Dan Bennett into the record.

Mr. Conley said that the pictures submitted are not relevant to this appeal tonight.

Mr. Soles said that he agrees.

Mr. Conley said that there are 13 adjacent neighbors on the mailing list and only one guy raises the devil inappropriately. Mrs. Mahoney can check out the property.

Mr. Stewart asked if the accessory structure has been built and is in use.

Mr. Conley said yes. The court ordered them to apply for this permit.

Mr. Stewart said that according to the court order that if this is approved tonight then the case is over.

Mr. Traub said that if the Board rejects this tonight, then the settlement is null and they will be taken 2 steps back in the process.

Motion by Mr. Reichel,

WHEREAS, Applicant/Craig T. Conley, 220 Market Avenue South, Suite 604, Canton, Ohio 44702 & Owner/Anthony M. Petitti Jr, 1804 Lakeside Avenue NW, Canton, Ohio 44708; requests the following:

- **Expand a nonconforming use for a 38 ft. x 64' (2,272 sq. ft.) attached accessory structure (garage) constructed without a permit.**

WHEREAS, the applicant or a representative has appeared in person before this Board at an adjudication 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:

- **Expand a nonconforming use for a 38 ft. x 64' (2,272 sq. ft.) attached accessory structure (garage) constructed without a permit.**

Seconded by Mr. McVay,

DISCUSSION:

Mr. McVay said that it sounds like all of the parties have reached an agreement and he does not want to cause the Township any more expense so he will vote for it.

Mr. Reichel said that the heavy equipment in the photos needs to be looked into by the Zoning Department. The photos show that there is activity on the property and he doesn't like it. Michelle should put this place under a microscope.

Mr. McVay said that the Petitti's were in here before and they ignored the Plain Township Regulations and the Board's decision. This is very irritating. They need to clean up their property this is a residential district and they owe it to the neighbors to look nice.

Mr. Stewart said that he agrees with everyone's comments.

Mr. Reichel said that this is very disconcerting. There have been 2 or 3 other hearings. He is not at all pleased to hear that there have been threats made to the neighbors.

Mr. Soles said that personally he is not convinced that the structures can be expanded under the nonconforming regulations.

Vote: Mrs. Ferencz, **ABSTAIN**; Mr. Stewart, **YES**; Mr. McVay, **YES**; Mr. Reichel, **YES**; Mr. Soles, **NO**.

Appeal #1156-05-A is therefore APPROVED

APPEAL #1157-05-A

Applicant & Owner/ David A. Shaffer, 4601 Packard Avenue NW, Canton, Ohio 44709; Request the following for a 36 ft. x 38 ft. (1,368 sq. ft.) attached residential accessory structure (garage) constructed without a permit, in addition to the existing 1,008 sq. ft. attached residential accessory structure (garage), and the existing 590 sq. ft. detached residential accessory structure (shed) on the property at 4601 Packard Avenue NW:

1. 1,466 sq. ft. variance (1,500 sq. ft. permitted – 2,966 sq. ft. requested)
2. 15 ft. south, corner lot side yard variance (20 ft. required – 5 ft. requested).

Article VI, Section 602.5; Accessory Uses, Buildings and Structures.

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

The property is zoned R-2, One & Two Family Residential District is located in the Southwest Quarter of Section 20.

There were no attendees for or against the Appeal.

Mr. Soles administered the oath.

Mr. Doc Shaffer, 4601 Packard Avenue, stated that he didn't think he needed a permit for this garage. When George was in charge of zoning, he received a permit for a garage and thought that it covered all garages.

Mr. Soles said that Mrs. Mahoney and the legal department sent numerous zoning violation letters, why didn't he respond to them.

Mr. Shaffer said that he didn't get his mail.

Mrs. Mahoney said that all letters are sent certified then if they are returned they are sent by regular mail.

Mr. Soles asked who lives with him that he didn't see any of his mail.

Mr. Shaffer said no one, he just didn't get his mail.

Mr. Soles asked how he found out about the meeting tonight that he needed to apply for.

Mr. Shaffer said he spoke to Michelle on the phone.

Mrs. Mahoney said that Doc owns a sign company and they speak frequently about his signs, so at that point in time she mentioned the Board application that he needed to fill out.

Mr. Soles asked what the garage is used for.

Mr. Shaffer said that he has a van, limo and motorcycles. He doesn't do any work out of it and it doesn't even have electric.

Mr. Soles asked why he has all of those portable signs.

Mr. Shaffer said that those are stored on the back of his lot which is located in the City of Canton.

Mr. McVay asked if he stores all of the signs on City property.

Mr. Shaffer said that there are a few on the Township property.

Mr. McVay said that a business use is not permitted in a residential district.

Mr. Shaffer said that it has been there for 30 some years and most of it is in the City.

Mr. McVay asked Mrs. Mahoney if it was all in the City.

Mrs. Mahoney said that some is in the Township but most is in the City.

Mr. Soles asked how long the shed has been on the property.

Mr. Shaffer said that he built it 20 years ago as a playhouse for his kids.

Mrs. Ferencz asked if it was moveable.

Mr. Shaffer said no, it is on a slab.

Motion by Mr. McVay,

WHEREAS, Applicant & Owner/David A. Shaffer, 4601 Packard Avenue NW, Canton, Ohio 44709; requests the following for a 36 ft. x 38 ft. (1,368 sq. ft.) attached residential accessory structure (garage) constructed without a permit:

- 1. 1,466 sq. ft. variance (1,500 sq. ft. permitted – 2,966 sq. ft. requested)**
- 2. 15 ft. south, corner lot side yard variance (20 ft. required – 5 ft. requested).**

WHEREAS, the applicant or a representative has appeared in person before this Board at an adjudication 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. 1,466 sq. ft. variance (1,500 sq. ft. permitted – 2,966 sq. ft. requested)
2. 15 ft. south, corner lot side yard variance (20 ft. required – 5 ft. requested).

Seconded by Mr. Reichel,

DISCUSSION:

Mr. Reichel said that he knows Doc has run funeral processions for years now, but he has been in trouble with his signs before and he can't buy that Doc never received any of the letters.

Mr. Soles said that he doesn't believe that any practical difficulty was shown.

Mrs. Ferencz said that she believes no difficulty was shown either.

Mr. Stewart said that he was out at the property today and he is running a business from that property.

Vote: Mrs. Ferencz, **NO**; Mr. Stewart, **NO**; Mr. McVay, **NO**; Mr. Reichel, **NO**; Mr. Soles, **NO**.

Appeal #1157-05-A is therefore DENIED

No further business pending the meeting adjourned at 8:26 pm.

PLAIN TOWNSHIP BOARD OF ZONING APPEALS

STEPHANIE A. METZGER, SECRETARY