

**PLAIN TOWNSHIP BOARD OF ZONING APPEALS
PLAIN TOWNSHIP HALL
2600 EASTON STREET NE, CANTON, OHIO 44721
MINUTES OF REGULAR MEETING
JUNE 1, 2005**

The meeting was called to order by Chairman Bob Soles, with James McVay, Bob Stewart, Ginger Ferencz, Fred Rossetti, Steve Peroz and Stephanie Metzger present.

Motion made by Mr. McVay to approve the minutes of May 4, 2005. Mr. Stewart seconded the motion. All members were in favor. Mr. Rossetti abstained.

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

Motion made by Mr. Stewart to lift Appeal #1159-05-A from the table. Mrs. Ferencz seconded the motion. All members were in favor.

The following Appeals were heard:

APPEAL #1159-05-A

Applicant & Owner/ Frank Irwin, 1936 Harmon Place NE, Canton, Ohio 44705; Request the following to construct a 22 ft. x 20 ft. (440 sq. ft.) detached residential accessory (garage) structure on the property at 1936 Harmon Place NE:

1. 19 ft. east, side yard variance (25 ft. required – 6 ft. requested).
2. 17 ft. south, rear yard variance (25 ft. required – 8 ft. requested).
3. 132 sq. ft. variance (800 sq. ft. permitted – 932 sq. ft. requested).

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

Article VII, Section 721.3; Lot Requirements.

The property is zoned I-1, Light Industrial District and is located in the Northeast Quarter of Section 34.

There were no attendees for or against the Appeal.

Mr. Soles administered the oath.

Mr. Frank Irwin, 1936 Harmon Place NE, stated that he turned the drawing into the Zoning Department.

Mr. McVay said that this appeal is for a garage to be 11' 10" from the rear property line, but the drawing is not to scale.

Mr. Irwin said the drawing is not to scale.

Mrs. Ferencz said that on the first request, he wanted a 19 foot variance on the East side, now he only wants to be 8 feet away.

Mr. Irwin said that he always wanted 8 feet from the side property line.

Mr. Stewart said that originally he wanted a 17 foot South yard variance, now he wants 11' 10".

Mr. Irwin said from the fence to the back of the new garage will be 11' 10" away.

Mrs. Ferencz said that the drawing is out of proportion.

Mr. Irwin said it is not to scale.

Mr. Soles asked why he needed to build a 20 ft. x 22 ft. garage.

Mr. Irwin said he has a few cars, bikes, mowers and stuff outside that he would like to fit into a 2 car garage.

Mr. Soles asked if he considered a smaller garage.

Mr. Irwin said no a 20 ft. x 22 ft. is the smallest size that will store all of his stuff.

Mr. McVay said that a 20 ft. x 22 ft. is a standard 2 car garage.

Motion by Mr. Stewart,

WHEREAS, Applicant & Owner/ Frank Irwin, 1936 Harmon Place NE, Canton, Ohio 44705; requests the following:

- **17 ft. east, side yard variance (25 ft. required – 8 ft. requested).**
- **13 ft. 2 in. south, rear yard variance (25 ft. required – 11 ft. 10 in. requested).**
- **132 sq. ft. variance (800 sq. ft. permitted – 932 sq. 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:

- **17 ft. east, side yard variance (25 ft. required – 8 ft. requested).**
- **13 ft. 2 in. south, rear yard variance (25 ft. required – 11 ft. 10 in. requested).**
- **132 sq. ft. variance (800 sq. ft. permitted – 932 sq. ft. requested).**

 X grant the following:

Seconded by Mr. McVay,

DISCUSSION:

Mr. Stewart said that this appeal was tabled at the last meeting and Mr. Irwin was asked to bring in a drawing showing the exact location of the garage, and that is what he did.

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

Appeal #1159-05-A is therefore APPROVED.

APPEAL #1163-05-A

Applicant & Owner/ Eugene Greene, 3632 Blackburn Road NW, Canton, Ohio 44718; Request the following to construct a 4 ft. x 19 ft. (152 sq. ft.) two-story residential attached garage on the property at 3632 Blackburn Road NW:

1. 4 ft. west, side property line variance (7 ft. required – 3 ft. requested).

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

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

There were no attendees for or against the Appeal.

Mr. Soles administered the oath.

Mr. Eugene Greene, 3632 Blackburn Road NW, stated that his current garage is a really tight squeeze. He would like to widen it by 4 feet and everything will look just like the existing house.

Mr. Soles asked what the nature for the expansion is.

Mr. Greene said that he has a mini van and a truck and right now it is just too tight. His existing garage size is only 19 ft. x 17ft.

Mr. Soles asked how long he has lived in the home.

Mr. Greene said he purchased it in 2000.

Mr. Soles asked what is going on the second floor.

Mr. Greene said a bedroom and sewing room.

Mr. Soles asked what he would do if the appeal was not granted.

Mr. Greene said he would just have a tough time putting his vehicles in his existing garage.

Mr. Soles asked if he has any outside storage.

Mr. Greene said that he has a 10 ft. x 12 ft. shed that he keeps his lawn equipment in.

Mr. McVay asked if he has spoken to any of the neighbors.

Mr. Greene said yes, none of them have a problem with it. The closest neighbor is almost 20 feet away.

Mrs. Ferencz asked if there would still be 16 feet between homes.

Mr. Greene said yes.

Motion by Mr. Stewart,

WHEREAS, Applicant & Owner/ Eugene Greene, 3632 Blackburn Road NW, Canton, Ohio 44718; requests the following:

- **4 ft. west, side yard variance (7 ft. required – 3 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:

- **4 ft. west, side yard variance (7 ft. required – 3 ft. requested).**

Seconded by Mr. Rossetti,

DISCUSSION:

Mr. Soles said that Mr. Greene has shown a practical difficulty and since no one is here to contest this appeal, he would be in favor.

Mrs. Ferencz said that he has shown difficulty.

Mr. Stewart said that if the 4 foot addition will look the same as the house now, he is in favor.

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

Appeal #1163-05-A is therefore APPROVED.

APPEAL #1164-05-A

Applicant/ Living Bread Radio, Barbara Gaskell, 4365 Fulton Drive NW, Canton, Ohio 44718; Owner/ Diocese of Youngstown, 144 West Wood Street, Youngstown, Ohio 44503; Request a Conditional Use Certificate to erect two (2) 300 ft. Wireless Telecommunication Towers and a 12 ft. x 15 ft. (180 sq. ft.) equipment enclosure on a vacant parcel of land located on Diamond Street NE, Parcel #52-80341.

Article VII, Section 701.2 B; Conditionally Permitted Uses.

The property is zoned R-R, Rural Residential District and is located in the Southwest Quarter of Section 2.

There were no attendees for and six against the Appeal.

Mr. Soles administered the oath.

Ms. Barb Gaskell, 4365 Fulton Drive NW, stated that she is the Director of Living Bread Radio. She would like to clarify that this conditional use permit says wireless telecommunication tower, but it is an AM radio station tower, no other use. It is necessary to relocate the broadcasting towers from their current Jackson Township location to behind Little Flower Parrish because the lease expires soon. There will be 2 towers no taller than 300 feet. The one tower is needed to block signals to the East which is required by the FCC. A 12 ft. x 16 ft. shed is needed to store items. There will be an access gravel drive from Little Flower to the shed. They have received conditional approval from RPC. There will not be any strobe lights on the tower; it is only an AM radio tower, no cellular uses or anything else. There will be an 8 ft. fence with barb wire around it which is required. She has some pictures of the existing towers.

Mr. Soles administered the oath.

Mr. Steve Ochs, 2121 Applegrove Street NE, stated that he has 3 main concerns. Safety and health risks such as cancer. Property value decreasing. The financial problems of the radio station should not allow it to be shifted to Plain Township. And they must inquire with the other towers around to place this tower on their land.

Mr. Soles said that this is Conditionally Permitted in an R-R district as long as they can meet all of the conditions.

Mr. Soles administered the oath.

Mr. Don Kee, 1681 Applegrove Street NE, stated that he is in opposition. He is a licensed electrical engineer and he is concerned about the area families' health. These towers will cause interference, radiation hazards, decrease property values and other things. He suggests continuing the meeting for a month and he will do a study to prove how bad an AM tower is.

Mr. Soles administered the oath.

Mr. Charles West, 1881 Applegrove Street NE, stated that these towers are going to affect more people than just the adjacent neighbors that were sent a letter. These towers are not appropriate in a residential area. These towers are an example of a contribution to the decline of the quality of housing. According to the list there is no technical necessity and according to the Ohio Revised Code they do not meet general standards. He also suggests a continuance of this appeal so other studies can be made.

Mr. Soles said that by law only the adjacent property owners are required to receive a notice, and only the Board member can table an appeal.

Mr. Soles administered the oath.

Mrs. Kelly Ochs, 2121 Applegrove Street NE, stated that these towers can cause an interference with her TV, phone or radio. It is a city code that the towers can not have an affect on her phone, TV or radio. The Diocese of Youngstown owns 177 other parcels of land in Stark County, why can't they build towers on one of them. Studies have been done for health affects. She has two kids and she has wires in her head from brain surgery, she doesn't want the health risks for her family. The area she lives in is residential, not commercial.

Mr. Soles said that towers are permitted in an R-R district as long as all of the conditions have been met.

Mr. Soles administered the oath.

Mr. Mike Fierro, 2012 Diamond Street NE, stated that he is adjacent to this property and a devote member of Little Flower Church. He is also concerned about health risks. There is a lot of wildlife on this property and they will all be impacted by the towers going in.

Mr. Soles administered the oath.

Mr. Walter Sodik, 2275 Applegrove Street NE, stated that there are WHBC towers already existing on Diamond that were placed out in the county 30 or 40 years ago. Someone obviously knew back then that they were bad and needed to be placed in the middle of nowhere. The towers emit radiation that causes cancer. He has been a doctor for 25 years and has seen a lot of studies and deaths over these towers.

Mr. Soles asked if the radio station has provided any written contact with other wireless services within close proximity.

Ms. Gaskell said that they cannot collocate these towers. They aren't cell towers. They cannot be located on another tower. They have to have 2 independent AM towers.

Mr. Soles asked if the 2 AM towers are the same.

Ms. Gaskell said no. They can only locate these towers in certain parts of the County. They need 6 to 7 acres of land for the towers. The station is only on during the day from sun up to sun down. They cannot locate these towers in Hartville, Massillon or other areas because they would be out of area.

Mr. Soles asked if they would be purchasing the land or leasing it.

Ms. Gaskell said it is a 99 year lease.

Mr. Soles asked if the land has any frontage.

Ms. Gaskell said no, the land was donated by the church and they are a non profit organization. They run off of donations.

Mr. Soles said that there was no letter provided regarding interference with TV's or radios.

Ms. Gaskell said Mr. Glasser can answer those questions.

Mr. Soles asked if they have had any complaints where they are located at now.

Ms. Gaskell said there has only been 1 complaint where a neighbor had purchased a new computer and it wasn't working. So they purchased a filter for him and they haven't heard any other complaints.

Mr. Soles administered the oath.

Mr. William Glasser, 7161 Fenwick Avenue NE, stated that the radio towers are 2 different frequencies.

Mr. Soles asked if it was possible to have 1 AM tower on another tower.

Mr. Glasser said yes but very expensive.

Mr. Soles asked if he could place the radio tower on WHBC's towers.

Mr. Glasser said that he has discussed it with WHBC but they would actually have to put 2 more towers on that land, it cannot go on an existing tower. He did not pursue that option because this is a nonprofit organization and doing that would be too costly.

Mr. Soles asked if locating the towers on WHBC property is feasible.

Mr. Glasser said yes.

Mr. Soles asked if the cost is what is prohibiting them from doing that.

Mr. Glasser said yes, and the FCC requirements are also prohibiting that location. The towers will have to be moved away from the city, but can't go towards Hartville because of the signal. This is the best possible location for the towers.

Mr. Soles asked if there was a safety or health risk with these towers.

Mr. Glasser said no, not really. The frequencies can't make your blood boil. The radiation is not as hazardous to your health as a microwave is.

Mr. Soles asked if there would be any TV interference or anything.

Mr. Glasser said it is a low possibility, but if it does happen then they will provide filters for the home owners' products. They would follow all of the FCC regulations.

Mr. McVay asked if it would be less expensive to build new towers than to use the WHBC location.

Mr. Glasser said yes. If the radio station had the budget then that would warrant a feasibility study on locating the towers at the WHBC site, but since they are non profit it is just not economical.

Mr. Stewart asked if they could put the towers at the other WHBC location in the Southwest part of Canton.

Mr. Glasser said they have 5 towers there, and these 2 towers would have to beam in the opposite direction, so no it is not possible.

Mr. Rossetti said that on the site plan the shed is only 75 feet from the side property and it will need to be 150 feet, or half the height of the tower.

Mr. Glasser said that they can move the building it isn't a problem.

Mr. Rossetti said that according to the conditions the towers are supposed to be painted gray.

Mr. Glasser said it is FCC rules to paint them red and white.

Mr. Rossetti asked if they had any insurance on the towers.

Ms. Gaskell said no not yet.

Mrs. Ochs asked what would happen if the radio station failed.

Mr. Glasser said that in the lease it states they would have to remove the towers.

Motion by Mr. McVay,

WHEREAS, Applicant/Living Bread Radio, Barbara Gaskell, 4365 Fulton Drive NW, Canton, Ohio 44718; Owner/ Diocese of Youngstown, 144 West Wood Street, Youngstown, Ohio 44503; requests the following:

- **Conditional Use Certificate for two (2) 300 ft. Wireless Telecommunication Towers and a 12 ft. x 15 ft. (180 sq. ft.) equipment enclosure on a vacant parcel of land located on Diamond Street NE, Parcel #52-80341.**

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:

- **Conditional Use Certificate for two (2) 300 ft. Wireless Telecommunication Towers and a 12 ft. x 15 ft. (180 sq. ft.) equipment enclosure on a vacant parcel of land located on Diamond Street NE, Parcel #52-80341.**

Seconded by Mr. Stewart,

DISCUSSION:

Mr. Soles said that he is in favor of what they are doing, but they have not met the requirements of Plain Township such as the frequency interference problem, setback for shed, no written application made with WHBC, and general standards were not met. This is a noble purpose, but being a non profit organization isn't a reason to grant a Conditional Use Permit when all of the conditions have not been met.

Mr. Rossetti said that there is a major liability issue, the towers need to be gray, and the shed doesn't meet setbacks.

Mr. Stewart said that he cannot support this request at this time.

Mrs. Ferencz said that the health and safety issues were not addressed.

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

Appeal #1164-05-A is therefore DENIED.

APPEAL #1165-05-A

Applicant & Owner/ Richard Ungashick, 4924 Sharonwood Avenue NW, Canton, Ohio 44718; Request a west, front yard variance of 10 ft. from the street right-of-way line of Sharonwood Avenue NW (10 ft. required – 0 ft. requested) for a fence along the west side property line at 4924 Sharonwood Avenue NW.

Article VI, Section 602.10; Fences, Walls & Hedges.

The property is zoned R-1, Single Family Residential District is located in the Southwest Quarter of Section 19.

There was one attendee for and two against the Appeal.

Mr. McVay asked to be excused from this appeal since he lives in the neighborhood.

Mr. Soles administered the oath.

Mr. Richard Ungashick, 4924 Sharonwood Avenue NW, stated that he wants to put a white vinyl fence all the way to his front property line. There is 3 ft. to 4 ft. tall hedges on the property now. He needs this fence to stop encroachment on his property. He submitted pictures.

Mr. Soles administered the oath.

Mr. Andrew Lazaris, 4924 Darlington Rd NW, stated that he has known Mr. Ungashick for 30 years and he is a fine neighbor. He has been harassed by this neighbor for years now, and this fence would be an asset to the community. He should be able to work in his own yard without being harassed by his neighbor. There are other places in the neighborhood that have 4 foot to 5 foot hedges right along the road.

Mr. Soles said that other violators don't constitute this being ok. Mr. Ungashick has to provide a practical difficulty.

Mr. Soles administered the oath.

Mr. David Miner, 4806 Darlington Road NW, stated that he is the President of the Avondale Association and the Ungashick's came to a meeting asking for this fence. The committee members are all in opposition. The members have a few reasons; the main one is safety concerns. Also it clearly states in the deed restrictions that no fences are permitted. He said he is aware that the neighbors do not get along and he is sensitive to their problems, but a 3 foot fence won't solve their problem. He is unaware of the hedges being in the right of way, but he will look into it.

Mr. Soles said that a fence is permitted in the front of the home as long as it maintains a 10 foot setback from the right of way.

Mr. Soles administered the oath.

Mr. James Ross, 4934 Sharonwood NW, stated that he is Ungashick's neighbor and the shrubs are on his property and not in the right of way, but he will move them if they are.

Mr. Soles said he just wants to hear facts.

Mr. Ross said that the fence is a safety hazard for his grandkids and dogs.

Motion by Mr. Stewart,

WHEREAS, Applicant & Owner/ Richard Ungashick, 4924 Sharonwood Avenue NW, Canton, Ohio 44718; has filed with the Plain Township Board of Zoning Appeals an application and hereby requests the following:

- **West, front yard variance of 10 ft. from the street right-of-way line of Sharonwood Avenue NW (10 ft. required – 0 ft. requested) for a fence along the west side property line at 14924 Sharonwood Avenue NW.**

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:

- **West, front yard variance of 10 ft. from the street right-of-way line of Sharonwood Avenue NW (10 ft. required – 0 ft. requested) for a fence along the west side property line at 14924 Sharonwood Avenue NW.**

Seconded by Mrs. Ferencz,

DISCUSSION:

Mr. Soles said that he is not in favor of this appeal based on a few facts, the fire department and road department both made comments about being opposed. Whenever the fire or road department thinks that this is a safety hazard for pedestrians this Board really takes that into consideration. There is no practical difficulty here. It is simply a neighbor dispute. The neighbors need to try to get along. He understands why a fence is being requested, but it cannot extend that far towards the road. He supports the comments of the Plain Township road and fire department.

Mr. Rossetti said that if he puts a vinyl fence right along the bushes that is going to cause more of a problem. The bushes will grow and break down the fence. This fence needs to be setback 10 feet from the right of way.

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

Appeal #1165-05-A is therefore DENIED.

No further business pending the meeting adjourned at 9:18 pm.

PLAIN TOWNSHIP BOARD OF ZONING APPEALS

STEPHANIE A. METZGER, SECRETARY