



WASHINGTON TOWNSHIP BOARD OF ZONING APPEALS MINUTES
April 13, 2015

The Washington Township Board of Zoning Appeals met in regular session on April 13, 2015 in the Meeting Room of Washington Township Government Center. Members of the Board present were Mr. Schwartz, Mr. McDaniel, Mr. Klepacz, Mrs. Mulligan and Mr. Roberts. Mr. Schmidt was excused. Call to order at 7:00 p.m.

Pledge of Allegiance

Mr. Schwartz explained the hearing procedure.

Mr. Schwartz administered the oath to all persons testifying.

Case A-1700 Charles Di Pasquale request a Use Variance to Allow Auto Dealership Office Land Use located at 9346 Dayton-Lebanon Pike

Zoning Manager, Ryan Lee, presented the case.

The applicant is requesting a use variance to permit an auto leasing and sales use within a B-2 zoning district. The B-2 district does not permit auto sales and leasing. These uses are principally permitted within the B-4 zoning district alongside other types of land uses that focus predominantly on outdoor sales and storage.

The applicant approached the Development Services office in order to get signage for the auto sales office which is 180 square foot of office space in the northeast portion of the applicant's unit at 9346 Dayton-Lebanon Pike at the rear of the building. The applicant was advised that the land use itself was not permitted in a B-2 zoning district and through those discussions he was advised to submit a use variance. This issue was discussed with staff as there were no external vehicles taking part place of the request.

The applicant submitted a floor plan and photos showing the space itself and external access to the building for the board's review.

Mr. Lee advised the powers and duties of the Board of Zoning Appeals that include "The Board shall have the power to authorize upon application in specific cases, such variances to allow uses not otherwise permitted by this Zoning Resolution whereby owing to special conditions, a literal enforcement of the resolution will result in unnecessary hardship, so that the spirit of the

resolution shall be observed and substantial justice done.” In this case, the applicant is stating the proposed auto sales and leasing land use will be limited to a 180 square foot office space for internet sales with no outdoor display of cars. He further states that there will be no exterior changes to indicate a car lot to neighboring properties.

There was email correspondence from April 8, 2015 has been included in the board’s packet. Within this email, Mr. Di Pasquale offers additional information pertaining to the request. He references an outdoor lot obligated by the Bureau of Motor Vehicles, but states that there will be no display of vehicles.

The applicant did reference a previous approval on Marco Lane. While there is no precedent established with variance cases which are viewed on their own merit. Mr. Lee feels that it is worth noting that was reviewed and approved with conditions that there would be no outdoor storage coinciding with the auto sales and leasing use. The previous cases their inventory lot was internal to the building and no external evidence of the land use.

Staff does not take issue with use as proposed so long as there is no exterior storage or sales of cars. According to the applicant’s statements, the land use will function as an office use consistent with the permitted uses in the B-2 zoning district.

Staff recommends approval of the requested variance, case no. A-1700, subject to the following:

1. *The sales and leasing of automobiles shall be conducted within a completely enclosed building. The outdoor display of automobile(s) for commercial purposes is prohibited.*
2. *The land use variance does not include servicing of automobiles.*

Charles Di Pasquale, 9346 Dayton-Lebanon Pike, Washington Township, Ohio, I have been sworn in. I have been a dentist for 39 years in the Washington Township in the same location. I appreciate the opportunity for you to hear me. This is a professional office and in no way will this interfere with the professionalism that has been there for 39 years. I will continue with my dentistry in that office. I would like to review the letter that was submitted in the application to support my position. I currently have a license with the Ohio Bureau of Motor Vehicles which allowed the license to be granted at this location. I have passed the inspection. I have to bridge the gap with the State and the Township because they defer to the Township. You have my fate in your hands with respect to this.

The State also indicated they needed a lot to have cars there which is a state requirement. They did indicate to me at the inspection which was recently within the last few months that they do not demand display of vehicles. The reason is the nature of the business it’s not really a dealership it’s a license that I have and want to house in 180 square feet. I will do a lot of

internet sales Craigslist and because of that no one needs to park a vehicle on a lot anymore. The information was told to me by the Bureau of Motor Vehicles and I can guarantee that there will be no car on the lot for sale. I will do everything by telephone and if I did anything in the office it would be within the 180 square feet at this location. I would not bring down the professionalism of my dentist office. It's a small area in the rear of the building and like I said it has passed inspection with Bureau of Motor Vehicles and it's professionally done. It is the minimum that the Bureau of Motor Vehicles needs and you will not see anything but the sign. The sign is required that this is in anyway related to cars. The building itself is about 2,664 square feet and I'm only using the 180 square feet that no one even knows exists.

I feel this is a very minimal variance and asking for your approval which the Bureau of Motor Vehicles has already allowed it. I have indicated in my letter besides the sign requirement there will be no signs, balloons, flyers, pitches, lights, ads, traffic structures, storage or debris. If you drive back there you will not know that I have this license. I have 50 patients a day coming to my office and the last thing I need is cars in the parking lot with no license.

The minimum to operate is 2 hours a week and any activity will happen on Friday's 10:00 a.m. - 12:00 p.m. This is a very minimal situation which will go vertically unnoticed. There is no precedence because you take everything in on its own as you should. The business located at 20 Marco Lane has a lot outside and a lot of cars storage inside and professionally done. They actually do this all the time and on a much greater scale. They are well within the guidelines that you set and mine is very minimal with respect to that.

This is my request, intention and its professional request. I wish for you to grant me this small variance to me. If the variance is declined there is no downside to the Township it will still be professionally maintained. The Bureau does require a small area for parking but we have enough parking spaces for staff and patients. I've had this license for 12 years and this small area and everyone's said ok and it passes. I want you to see my real need for this not just something that I'm able to do but as I retire later on in life.

Mrs. Mulligan asked about hours by appointment and how many will that be. Mr. Di Pasquale advised by appointment only more likely in the evenings.

Mr. McDaniel asked how long has there been a dealer license. Mr. Di Pasquale advised 12-14 years at various locations and easier for him to do it out of this location. When he approached the Bureau of Motors Vehicles maybe a year ago they come out and inspected the site and recommendations. He also noted that once he completed the recommendations he was approved. The sign was an issue and he needs to work that out with Development Services and see if the Bureau approves of that sign on the building instead of protruding out.

No citizens voicing concerns, questions or comments.

Public hearing closed.

Board deliberation.

Mr. McDaniel advised the two conditions that staff recommended takes care of his concerns.

MOTION- Mr. McDaniel moved to approve Case A-1700 Charles Di Pasquale request a Use Variance to Allow Auto Dealership Office Land Use located at 9346 Dayton-Lebanon Pike as submitted with the following conditions 1) the sales and leasing of automobiles shall be conducted within a completely enclosed building. The outdoor display of automobile(s) for commercial purposes is prohibited 2) the land use variance does not include servicing of automobiles. Motion was seconded by Mr. Roberts.

VOTE- Mr. Klepacz, yes; Mrs. Mulligan, yes; Mr. Roberts, yes; Mr. McDaniel, yes; Mr. Schwartz, yes

Case A-1701 Bruce and Deborah Hyman request a Setback Variance to Reduce the Front Yard Setback for Covered Entry located at 1230 Wood Mill Trail

Zoning Manager, Ryan Lee, presented the case.

The applicant requests a two (2) foot front yard setback variance for a covered entry addition to the single-family dwelling. The applicant is requesting to encroach into the required front yard area of the property as established by the Township Zoning Resolution provisions.

A setback variance to locate an open-sided covered entry addition to the residential dwelling within the required front yard area of an R-3 zoned parcel. The request would reduce the setback requirement from 50 feet to 48 feet.

The property is currently zoned R-3, Single Family Residential which obligates a front yard setback of 60'; however, the applicant's property is currently non-conforming to this requirement having an existing setback of 50'. The neighboring lots abutting the subject property are also non-conforming to front yard setback provisions. The nonconforming setback of the neighboring lots allow for a reduction in the R-3 required front yard setback as Article 7, Section 5 Development Standards, D. Decreased Front Yard stated above.

The R-3 district permits a front porch to project into a front yard a distance not to exceed six (6) feet, provided it is open on three (3) sides, except for railing or banisters. This is consistent with the applicant's submitted plans and renderings indicating that this will be an open-sided structure. However, the requested covered entry exceeds the maximum permitted encroachment and extends 8' from the established setback.

The applicant's request is therefore to permit a two (2) foot additional encroachment of the covered entry, having an overall setback of 48' to the Agne Court right-of-way. The proposed covered porch is consistent with additions and improvements of surrounding properties. The variance application submitted alongside the request includes images of the proposed addition, site plan indicating the proposed location, and narrative statement.

Staff feels as though the request is not substantial given the existing build out of the surrounding lots and would not be detrimental to the neighborhood.

The applicant had received a variance for reduction of side yard setback in the past for this area but does not relate to the variance request before the board.

The board received in their packets letters of support from surrounding neighboring properties for the variance.

Staff recommends approval of the requested variance, subject to the site plan submitted with Case A-1701.

Mike Fahrenholz, Quality Building & Remodeling, 1230 Wood Mill Trail, Washington Township, Ohio, I have been sworn. The Hymon's would like to add a covered porch on the side as they plan on living in the house the rest of their lives. If they have the side porch covered it will make it more convenient and easy to get in and out of the weather. They have a nice large area for guests to park and the covered porch would be nice and they receive a lot of deliveries from UPS and FedEx it would keep those out of the weather, also. The neighboring property below I measured her porch and she is 42' feet of the setback. There also is a property around the corner I was not able to measure it but it was within the 45' foot range. It is not unusual for this neighborhood to have these types of structures that we are proposing.

Mr. Klepacz asked if this was their main entrance. Mr. Fahrenholz answered that the front entrance is about 50-60 feet from the street so they use the side entrance mainly.

No citizens voicing concerns, questions or comments.

Public hearing closed.

Board deliberation.

Mr. Schwartz feels it seems to fit into what the neighborhood already has on porch additions.

MOTION- Mr. Roberts moved to approve Case A-1701 Bruce and Deborah Hymon, 1230 Wood Mill Trail, request for a setback variance to reduce the front yard setback for covered entry from 50 feet to 48 feet as submitted. Motion was seconded by Mrs. Mulligan.

VOTE- Mr. Klepacz, yes; Mrs. Mulligan, yes; Mr. Roberts, yes; Mr. McDaniel, yes; Mr. Schwartz, yes

Additional Business:

Mr. Lee advised of a workshop meeting with the Law Director is being arranged to review Rules & Procedures and address any items.

Meeting adjourned.

Next Regular Meeting Date – April 27, 2015

Richard Schwartz, Chairman