



MINUTES

BOARD OF ZONING AND BUILDING APPEALS THURSDAY, NOVEMBER 17, 2016 6:30 PM

PLACE: COUNCIL CHAMBERS
7232 E. MAIN ST, REYNOLDSBURG, OH 43068

A. CALL TO ORDER

PRESENT: Rettke, Linder, Donovan
ABSENT: Enfinger

2. APPROVAL OF MINUTES

1. Board of Zoning and Building Appeals – Regular Meeting – October 20, 2016

Minutes stand approved.

3. APPROVAL OF AGENDA

Agenda stands approved.

4. SWEARING IN OF SPEAKERS

Chairman Rettke: If you are going to speak before us tonight, we need you to sign in, state your name and address for the record, and we will also have you do the oath. Please stand and raise your right hand. Do you swear or affirm that the testimony you will give in front of the Board will be truthful? If so, please answer, "I do." (*"I do" heard twice.*) Thank you.

B. PUBLIC COMMENT

C. UNFINISHED BUSINESS

D. NEW BUSINESS

1. **1755 Lancaster Ave.; Application #175439; Applicant Edwin J. Williams, Jr.; Business Name: Offices of Dr. Gina Nichols; Variance from Section 1179.04(B)(4) of the Reynoldsburg City Code, to Permit a Parking Lot Within the Required Front Setback.**

Mr. Havener: 1755 Lancaster Ave - Dr. Gina Nichols Medical Office Building - Variance. Application: #175439 - Variance. Location: Property is located on the west side of Lancaster Ave. Between John Street and Lancaster Ave. Existing Zoning: NC - Neighborhood Commerce District. Request is for a variance from Section 1179.04(b)(4) of the Zoning Code to allow a parking lot with a required front setback. Current Use: Medical Office Building. Applicant: Edwin J. Williams. Proposal - The applicant is requesting the Board review and approve a variance from Section 1179.04(b)(4) of the Zoning Code to permit a parking lot to be located within the front setback and with a setback of 10FT from the public ROW. Site Context - The site is an existing small office building. Neighboring uses include a multi-family housing complex in the AR-3 Zoning District to the north and

west. To the east, the property abuts large lot residential homes in the R-1 Zoning District. Staff Review - This item was referred to the Planning & Zoning Division from the Code Compliance Division. The applicant had a previously approved minor site plan that complied with the Zoning Code, but elected to completely disregard that plan during the construction phase of the project. The applicant met with Staff and decided to apply for a variance to address the zoning violation. Site Context - This was previously a single family home that was converted to office use. Due to the size of the parcel, the applicant claims a hardship in that the lot does not allow for adequate parking spaces. The purpose of this regulation is to prevent parking lots in commercial districts from being too close to the public ROW and allow an area for the installation of landscaping. The applicant does have a lot with existing trees and has provided a revised landscape plan that mitigates some of the negative aspects of the location of the parking with a landscape buffer. Regardless, Staff will never support a variance for a project with a previously approved site plan when that site plan is disregarded during the construction phase. Staff Recommendation - The Board should apply the standards for review of variances contained in Section 1147.05 of the Zoning Code and determine if the requested variance complies with those standards.

Chairman Rettke: Thank you. Any discussion.

Mr. Donovan: What is the purpose of having a larger parking lot? And, What are you going to do with the site?

Mr. Williams: Good evening. My name is Edwin Williams. I am Dr. Nichols architect that submitted the original plans.

Mr. Donovan: How big of a parking lot are you asking for?

Mr. Williams: She has added six additional spaces. Only one additional space was initially approved. So we have five spaces beyond what was originally approved. Obviously, at the time that we were preparing the initial plans, we were complying with the setbacks, but in the process of Dr. Nichols getting the space renovated, and u[on evaluating the space for her patients, she came to the determination that there was not going to be adequate parking. And, as we were talking today, she has gotten into the space now, and has had to adjust/reduce her hours and patient load to have sufficient parking. It is kinda land locked, and there is no other place to park. The additional parking is helpful, but it is still mitigating some of her ability to operate in the fashion that she needs to. So, she took it upon herself during the construction phase to make the adjustment and then decided we would come ask for the variance. Obviously, this was done without prior approval, but she is looking to get some consideration because of the hardship with operating her business. With this site, we are still going to provide a landscape buffer. I am not sure that it is going to materially impact the functionality or the context of the site, with us violating the setback requirements, even though I know Staff is not recommending it. But, because of the hardship, Dr. Nichols is asking for your strong consideration, if at all possible. She understands that if you don't, she is going to have to take out the parking. I have prepared her for that. We are hoping you will give her some strong consideration so that she can properly operate her business. She made a pretty substantial investment in the property, to be in town. Obviously I know you

like businesses to come into town to utilize spaces, and that is what she is trying to do. But, she still has to be able to operate her business effectively.

Mr. Donovan: How many of these spaces will be taken up by employees.

Dr. Nichols: I have a garage for two cars, and we do utilize the garage. There is also a lot that is approximately a quarter of a mile, and that is where I have told the staff, we really do not have enough parking.

Mr. Havener: Mr. Chair, I would like to bring to your attention that prior to the construction and during the phase of entertaining whether to purchase this property, we had met with Dr. Nichols, and we had discussed the project at that time. And, the issue of the additional parking was brought up during our discussions with the Planning Administrator, and we had expressed to Dr. Nichols that if that was going to proceed, that she would have to get a variance to get that accomplished. We did not guarantee that it would be approved, but we said with the conditions that there was a chance that it could be. Unfortunately, as we all know now, Dr. Nichols moved ahead without getting the variance. Unfortunately, because of that, Staff cannot approve it. Again, just asking for your consideration per 1147.05. If you believe what was done is ok and does not go against 1147.05, then your recommendation and consideration is what we need to have this evening. I just wanted to make it clear that it was discussed.

Pastor Linder: There are also some spots on the left as well, when you are facing the front of your building? Is there any room on the left to park? Do you use those spaces as well?

Mr. Williams: yes, in addition to the six new spaces that she added to the front, there are six existing spaces. One was kind of converted to a handicap parking space because there was not one previously. So, there are nine now on the left side, as you are referring to it, and three on the right side. What was approved was one on the right side, and just maintaining the original six on the left side.

Pastor Linder: Maybe it is more anecdotal, but the discussion with Staff, and then the decision to move ahead, how did that come about? Necessity at the moment?

Mr. Williams: Obviously, when I prepared the plans, and had discussions with Eric, and we reached the agreement with what we could do to add, we only could add the one additional space. Obviously that was approved. I got her plans approved and stepped back. I did not know that this had happened. I was not engaged to do construction administrative services during construction, just getting plans approved. So, it was not until after she had subsequent discussions and understood that she might be able to get the variance, she kinda took it that ok proceeding while contractor is on site to get it done, and didn't completely understand that she needed to get that done before the fact. Then after she had she discovered that it really did and that is when she engaged me to help put together the variance request. Obviously she is a doctor and not a designer and sometimes they understand the discussion but not the ramifications or the process it has to follow to get things accomplished. We are literally throwing ourselves at the mercy of the court, so to speak, and hoping that you will give her

some consideration. She is trying to operate a business in the community and to be effective in taking care of her patients. We understand that you don't have to approve this and she will have to figure out another way to make it work.

Chairman Rettke: Just so I am clear, what we have in front of us does not meet the existing new conditions?

Mr. Havener: You should have a copy of the old plan and behind the new plan is the old drawing. There were three parking spaces in front of the building and three to the south, across the drive. You can see they are indicated in the one drawing as being concrete paving. The nearest space to the building was originally planned and the two others are an extension of the original plan, and the three on the south are all new spaces.

Chairman Rettke: What was the required setback?

Mr. Havener: Originally 30FT. There is now a setback of 10 to 8FT. There is a fair amount of right-of-way to the edge of the road, as you can tell on the drawing. I would say it is 20 to 25FT. I would also like to point out to the Board that the new plan is showing an extension of the proposed vegetation and evergreen screen, to be extended along the front of the parking spaces, and along the side closest to Lancaster Ave.

Chairman Rettke: Did those trees and signs stay, or are they gone to accommodate the additional parking?

Mr. Williams: Nothing was destroyed. As you can see, it sits back even though we are clearly violating the setback, it sits back fairly far from the street. There is a lot of vegetation there. It is not that obtrusive, to say the least. Clearly we are not falling within the setback requirements, but from a practical matter, it is pretty buffered. If we put an evergreen screen that will hide the cars, I think it will do a lot to mitigate it. As Mr. Havener indicated, it does sit fairly far back from the street. It is not like you have this parking at the street line.

Mr. Havener: The trees that you are seeing will be just behind the right-of-way.

Pastor Linder: What are the hours you are operating now to accommodate for better parking.

Dr. Nichols: My hours are 9 to 6, Monday thru Thursday, and Friday 9 to noon. I am there the 2nd and 4th Saturdays as well. Not so much my hours, but the patient load. I am accustomed to seeing up to 60 patients a day. What I have done is stated nothing more than 4 patients an hour. I have just cut back on the amount of patients. I have been in practice since 2005. Initially started in Pickerington, and I have a patient load of approximately 20,000 patients. I see a lot of patients.

Chairman Rettke: Was there a reason we could not move that parking to the rear of the property?

Mr. Williams: There is a pretty substantial drop off of the grade beyond the existing parking

lot, to the tune of about 6 to 8FT or so, and that would have been tremendously challenging to fill in.

Mr. Havener: I confirm that. There is a substantial drop in the back that detoured that from happening.

Mr. Donovan: You had an approved site plan and totally disregarded it. Is there a reason why?

Dr. Nichols: I get so busy working and seeing patients that I do not even remember he and I speaking about a variance. As he stated, we did talk about the parking. That was the main concern. I just remember having a good feeling and hope, about being able to make the space work for me, because parking was the main issue. It was challenging getting the space ready to move in, back in March, started on it in May, and just moved in on November the 1st. So, it was very challenging. I am not sure exactly what really happened. I'm really not. I apologize, it just was something that happened. I am not familiar with how to read plans myself.

Mr. Williams: In order to make this work for her, it was a substantial investment to buy the building and then the renovation. Originally we were discussing me being involved with the construction as well because I am a Design Builder, but she did not have the budget to do all of the things, so she took it upon herself to act as her own general contractor. So, in addition to managing her medical practice, she was acting as her own general contractor to get the construction done. She was under a lot of pressure and I think she was just trying to get things done and for them to work for her.

Chairman Rettke: I am going to let the Board know my thoughts and feelings. A., I know it could be a hardship. I think she acted recklessly without a site plan approved. I believe staff made it clear. We do see this quite often on parking, with a lot of sites and it does detour applicants to pick other sites, that are more reasonable. We have rejected other ones because parking was not sufficient. So, to allow this sets a bad tone and character to do whatever you want and then ask for forgiveness. Whether right or wrong, those were the cards she dealt and played. I have a hard time saying yes to it. I really do. There has been a nice investment made. It does not look bad, but setbacks are there for a reason. Coming from an engineering side, highway side, that will be problems if that is widened and who will bare the cost of that? We can say she bares all cost, but I don't think that holds up, I really don't. Once we allow this to happen, they widen that road, and everybody knows that road needs widened, we have had people complaining about that for years. People have come in and said it backs up. If you widen the road, it is not going to be 30FT. They will probably put in sidewalks. I hate to say no, but that is the way I am leaning. Any other discussion or comments?

Mr. Havener: Regarding your concern of any contractual obligation on her part for relocation down the road, that is a question I would have to propose to Council and see if that would be something that would be possible to get in writing, but tonight I can not say.

Chairman Rettke: I thought I read something somewhere.

Mr. Havener: They did basically include that in their proposal that they would be responsible, and take ownership, if road expansion would occur, or utilities needed to be relocated for another reason, and that they would take on the responsibility of the removal of parking lot to accommodate. If it would require a more formal agreement between the City and Dr. Nichols, I could ask the City Attorney and see what he would be more comfortable with.

Mr. Williams: I think Dr. Nichols would be completely in agreement with doing something like that, don't you?

Mr. Havener: I know it is a major concern and I understand your concern, and if I can take it further and discuss it with the City Attorney to make you more comfortable, perhaps we table (postpone) the issue tonight and revisit at the next meeting.

Chairman Rettke: That would make it a little bit easier.

Ms. Menningen: How long do you have on the variance application to respond?

Chairman Rettke: If we tabled it and it expired, it would go down as a no, and she could re-file. What was the cost of the filing, \$400?

Mr. Havener: \$450. And I assume we could probably work with her on that.

Mr. Donovan: I prefer tabling it.

Mr. Williams: Obviously, at this juncture, whatever Dr. Nichols can do. Clearly, I think what Mr. Havener is recommending seems to be eminently fair and reasonable. And, we are willing to work with you.

Chairman Rettke: No one will remember this and someone will ask why that driveway is there and then the City of Reynoldsburg will have to tear it up and improve upon it and make it back to the original characteristics, prior to the construction, and bare that costs on something that should not have been there in the first place. It is either that or you eat \$40,000.

Mr. Williams: That is fine with us. We are willing to allow you guys to table it to get back on the agenda, or whatever, if it expires.

Mr. Havener: We will talk to the Planning Administrator. If we would have a meeting in December, would that be a problem for the Board members.

Pastor Linder: On my behalf, I am scheduled to be out of town on the day.

Mr. Havener: As soon as we get things confirmed with both the City Attorney and Eric, we

will let everyone know what the situation is.

Mr. Williams: We appreciate any consideration. To even allow us to do what you are proposing is going way above and beyond, so thank you.

Chairman Rettke: I do not want people to say that we did it for you.

Mr. Williams: I understand and I have prepared my client that is what probably was going to happen. What you are even considering is way above and beyond what I would normally have anticipated. This quite candidly was pretty cut and dry.

Chairman Rettke: When it comes down to parking, that is the number one stickler on pretty much everything we review. All that up and down Brice Road from Main to Livingston has parking issues. People wanted to convert those houses and not have adequate parking. We had deals where they tried to share it, where they would try to get agreements with an adjoining tenant and try to make things work. At times it does, but rather than somebody go in there and bulldoze it out real quick and then ask for forgiveness. It is harder to say no to, but you have to stand your ground to keep that from happening.

Mr. Williams: I understand.

Chairman Rettke: I think tabling it is the best idea. Maybe we can work out something where the City is protected. The City seems to have Staff that kind of agrees with it and then it might sit a little easier, I think. So, since you are in agreement with tabling it, I move that we table Item D.1., 1755 Lancaster Ave., until the January meeting of the BZBA, potentially to be heard in December.

(Vote)

In that time we will get with the City Attorney, find what is binding with for all parties, and get with Eric and make sure he is in agreement. I have a hard time going against Staff.

Mr. Williams: You have gone way above and beyond and we greatly appreciate the consideration and will live with whatever. We clearly appreciated the effort to give some consideration to Dr. Nichols.

RESULT:	TABLED [UNANIMOUS]	Next: 12/12/2016 6:30 PM
MOVER:	Anthony Rettke, Chairman	
SECONDER:	Richard Donovan	
AYES:	Rettke, Linder, Donovan	
ABSENT:	Enfinger	

E. OTHER BUSINESS

F. ADJOURNMENT

Eric Snowden

Chairman

Planning Administrator