

VILLAGE OF CUYAHOGA HEIGHTS
PLANNING COMMISSION & ZONING BOARD OF APPEALS
OCTOBER 17, 2007

Mayor Contipelli called the meeting to order at 6:00 p.m. Clerk Biro called the roll. Those present were Councilperson Ralph Faragone, Russell Hartman, Michael Mallos, Oliver Vaccher and Mayor Contipelli. Also attending was Building Commissioner Norman Casini, and Law Director Ken Fisher.

Mr. Faragone moved, seconded by Mr. Hartman that the revised minutes of the August 15, 2007 and minutes of September 19, 2007 meeting be accepted and placed on file. All voting aye, none opposed; motion carried.

COMMUNICATIONS:

From Ken Fisher, Law Director:

An e-mail to Clerk Biro regarding the approval of indemnification language by Lawyer Lou McMahon in the Fabrizzi restricted permit approved at the September 19, 2007 meeting.

From Norman J. Casini, Building Commissioner:

A letter to Members of the Zoning Board regarding a request for a 50' x 200' cover-all building to store pipes and equipment at 4545 East 71st Street in the Village of Cuyahoga Heights.

From Norman J. Casini, Building Commissioner:

A letter to Members of the Zoning Board requesting a time delay to correct/replace dented metal siding for Stanek Windows Corporation, 4570 Willow Parkway in the Village of Cuyahoga Heights.

Mr. Faragone moved, seconded by Mr. Mallos that the communications be accepted as read and placed on file.

DISCUSSION:

Mayor Contipelli opened the floor for discussion. Mr. Casini reviewed the application and stated that the storage facility would be located behind the building, the area would be cleaned up and items would be placed under cover. Mr. Mallos questioned the materials being used regarding surface and support. Ms. Carlisle stated she submitted drawings and pictures for what she is requesting. The surface would be gravel not concrete and the supports would be 8' x 8' wooden posts.

Mr. Faragone clarified that the proposed building will be behind the machine shop not behind the building Ms. Carlisle owns. Ms. Carlisle owns the property behind several buildings on the east side of East 71st Street. Mr. Faragone stated that Mr. Mallos and himself toured the area with Ms. Carlisle and recommended that a clean up of the area be

done before the variance is issued. Ms. Carlisle commented that most of the items discussed with Mr. Faragone and Mr. Mallos were already taken care of.

Mr. Casini recommended that the structure be turned at a ninety (90) degree angle to move the structure away from the property line.

Mr. Mallos moved, seconded by Mr. Vaccher to approve a variance request for a 50' x 200' cover-all building to store pipes and equipment from Anne Carlisle at 4545 East 71st Street in the Village Cuyahoga Heights, OH after the maintenance of the area is completed and approval of Building Commissioner regarding the position and composition of the structure. All voting aye, none opposed; variance approved.

Mayor Contipelli opened the floor for discussion on Stanek Windows Corporation.

Mr. Ronald Isroff Esq., attorney for Stanek Windows, addressed the Board and reviewed the violations that were issued by the Building Commissioner. Mr. Isroff stated that most of the violations were corrected and discussed the practicality of repairing the siding to the manufacturing facility. Thru discussions with Mr. Casini, it was agreed that a time extension be granted to repair the siding because the time frame to remove an attached storage shed will make it impossible to maintain the daily operation of the manufacturing facility. Mr. Isroff also stated that the tenant, Stanek Windows, is obligated by the end of its lease agreement in 2008 to make repairs to the siding. Mr. Casini agreed in writing that with all the other repairs made, he would withdraw his notice of violation on the condition that Stanek would repair the north side of the building by the summer of 2008 and the south side by the fourth (4th) quarter of 2008. Based on this letter, the company, Stanek Windows, is withdrawing and dismissing their appeal.

Mr. Alan Rothenbeucher, attorney for the landowner RCMD Realty/Ron Stanek prior owner of Stanek Windows, stated that under the Village's code, the tenant, Stanek Windows, did not have the right to make the appeal: only the owner has the right. Mr. Rothenbeucher reviews various code sections regarding time restriction for repairs and continuous repairs to buildings to avoid deterioration. Mr. Rothenbeucher stated that the code talks about blight of the community if changes are not continually made and the less improvements made the value of the property declines. The value is important to his client, RCMD Realty, because the building owner is attempting to refinance.

Mr. Rothenbeucher stated that the fundamental thing here that is improper is a non-owner brought the appeal to the Board not the owner of the building. This may force the building owner to go to court to obtain a TRO (temporary restraining order) to stop this action if the law is not complied with the Village's building code. The landowner is asking to continue making the improvements and not wait until the end of the lease. The landowner feels that this is improper under the code and under the contract between tenant and landowner. Mr. Rothenbeucher stated the land owner's objection because they feel this whole issue should not have been appealed, the notice of violation should stand, and as the owner, they would have agreed to the notice of violation and the changes be made within the required ninety (90) days.

Mr. Robert Mesata, President of Stanek Windows, reviewed why it would be a hardship to the company if these repairs were made today. Mr. Mallos asked if this would delay operations. Mr. Mesata replied that it would and there would be a possibility that more damage could happen even after these repairs are made due to the handling of materials in the daily operations.

Mr. Fisher stated that this is a landlord/tenant dispute and the Village is not party to this dispute. Mr. Fisher reviewed 1446.01 of the Code and ruled that the majority of our immediate concerns have been addressed and substantial improvements have been made. Mr. Fisher upheld Mr. Casini's ruling to extend the time to the tenant to correct the final violation in the time period allowed. Mr. Fisher believed that there is standing on behalf of the tenant to file this appeal as well as withdrawal this appeal. Mr. Fisher is sympathetic to the landowner but feels the Village is acting properly in this situation.

Mr. Fisher's recommendation is that the Board should take no action regarding a time delay request from Ronald H. Isroff, Esq. for Stanek Windows Corporation at 4570 Willow Parkway in the Village of Cuyahoga Heights, Ohio to correct/replace dented metal siding. The landowner may have separate recourse but that is not the Village's issue.

Mr. Casini reviewed the action he took regarding the violation repairs and feels the granting of the time delay on the siding is within his capacity as the Building Commissioner. In conclusion, the Board took no action on this issue.

Mr. Mallos presented a letter from the Ohio Department of Transportation regarding the Signage on the I-77 corridor. District 12 has adopted procedures allowing business to cut down trees and vegetation and landscape the land for better identification along the Interstate. Mr. Casini stated his concern regarding the aesthetics of that area in the Village. After a discussion, the Board agreed to schedule a workshop just to discuss this signage ordinance and the ruling by the Ohio Department of Transportation.

WHEREFORE, there being no further business being presented before this Board, Mr. Mallos moved, seconded by Mr. Faragone that the meeting be adjourned. All voting aye, none opposed; motion carried.

Passed: January 16, 2008

ATTEST:

Mayor and Chairman of the Board

Clerk of Council