

## **ZONING BOARD OF APPEALS**

### **Regular Meeting December 14, 2010**

Present: Chairman Steve Haberkorn, Vice-Chairman Vern Johnson, Secretary Marty Corbin, Members Norm Nykamp and Elliott Church. Also present was Zoning Administrator Jon Mersman, Assistant Zoning Administrator Meghann Reynolds and Recording Secretary Laurie Slater.

Absent: None

The meeting was called to order by Chairman Haberkorn at 5:30 p.m. Mr. Haberkorn explained to the audience the public hearing process.

1) Hearing declared open to consider a petition for a Use Variance and an Expansion of a Non-conforming Use submitted by Nancy E. Storey for property located at 98 River Hills Drive to add an addition to the west side of a non-conforming residence with a side yard of 4.5 feet. The addition will have the same side yard deficiency as the existing residence. The requested variance is 2.5 feet from the required 7 feet side yard. The property is zoned R-2 Residential (70-16-20-476-024).

Present for this request was Nancy Storey and Dan Haggerty.

Mr. Haggerty explained to the Board that the original house was built in the 1920's and the addition of the garage was in the 1940's, before the 7 foot side yard setback requirement.

There is currently a porch and a shed behind the house that will be removed to allow for the addition. They intend to extend the existing wall from the garage to add a bedroom and bathroom. The wall will not encroach any further than the garage already does.

The closest neighbor is 100 feet from the building. Mr. Haggerty said that they have talked to the neighbor and he has no objections to the addition. If anything it will make for an improved view with a clean single line view. There are also trees between the two houses that block the view.

Although the house is a two story house, the addition would be one story high. The siding and roofing would match the existing house.

There was no one present in the audience to speak to this request.

\*\* It was moved by Mr. Nykamp and supported by Mr. Johnson to close the hearing. Motion carried.

The Board went over the standards to review when considering a nonuse variance request.

1. Strict compliance would be unnecessarily burdensome. The addition of the garage already encroaches towards the property line. The applicant is not asking for any more than what already exists.
2. Granting this request would do substantial justice to the applicant as well as to other property owners in the district. There is no harm to the neighbor. The closest house is 100 feet away. There is no lesser relaxation that makes sense. Granting this request would be consistent with what's already there. The garage already encroaches on the setback.
3. The unique circumstances of the property is that it was developed in the 1920's. The addition of the garage was in the 1940's. Mr. Mersman, Zoning Administrator, believed the side

yard setback at that time to be 5 feet.

4. The situation is not self created. The garage, which was added in the 1940's, already encroaches on the setback.

\*\* It was moved by Ms. Corbin and supported by Mr. Johnson to grant the request as submitted and that the siding and roofing of the addition is to match the existing structure. Motion carried.

2) Hearing declared open to consider a petition for a Use Variance submitted by Donna Van Dine-Ward for property located at 13136 New Holland Street. The request is to receive a use variance to continue to use this industrial zoned property for residential purposes as it has been for over 40 years. The property is zoned I-2 Industrial (70-16-05-200-011).

Present for this request was Donna Van Dine-Ward and Greg Ward.

Mrs. Van Dine-Ward explained to the Board that she is trying to refinance her property. In order to do so, she must obtain a letter stating that she would be allowed to rebuild if her house were to burn down.

Mrs. Van Dine-Ward further explained that they have owned the property for 16 years. The house was built 60 years ago. It was once a part of a blueberry farm. The previous owners split the house from the blueberry fields and sold it. At some point the Township would have had to approve the split. The parcel has been rendered useless as far as an Industrial use because it is too small (1.46 acres).

There was no one in the audience to speak to this request.

\*\* It was moved by Mr. Church and supported by Mr. Nykamp to close the hearing. Motion carried.

The Board went over the standards to review when considering a use variance request.

1. The property cannot be used for any of the uses permitted in the district in which it is located. The property is too small for an industrial building in a size that would allow for a reasonable economic return.
  2. The property was bought at this size 16 years ago. The Township allowed the split of this parcel with a residence on it in an industrial area.
  3. The proposed use would not alter the essential character of the area. It has existed for 60 years.
  4. The problem was not self-created.
- \*\* It was moved by Mr. Nykamp and supported by Mrs. Corbin to grant the request as presented. Motion carried.

3) Hearing declared open to consider a Nonuse Variance petition submitted by Ben Muller Realty and Aldi Inc. for adjacent properties at 2863 West Shore Drive, to expand an existing commercial shopping mall. The request asks that the following variances be granted; (1) a variance of 25 feet from the required 25 feet rear yard permitting a zero lot line between attached structures for the south parcel; (2) a variance 15 feet from the required 15 feet side lot line for a zero lot line on the northern parcel; (3) a parking variance to allow 156 spaces for the combined stores with useable square footage of 28,956, a variance of 47 spaces; (4) a variance to allow 26% lot coverage on the northern parcel, a variance of 1%; (5) Grant permission for two signs to be erected on the southern parcel, a 75 square foot sign to identify Aldi's and a 100 square foot sign to be erected along West Shore drive to identify the neighborhood shopping center to be placed on Aldi's property. These actions are requested to allow a significant addition to an existing shopping center on property owned by two entities. The property is zoned C-2 General Commercial (70-16-16-180-004 and 005).

Present for this request was David Kapusansky of Aldi, Inc.

Mr. Kapusansky explained to the Board Aldi's and Ben Muller Realty have been granted a lot split by the Township Board contingent on the ZBA's granting the requests being considered at the December 14th ZBA Meeting. The split would be at the back of what was previously the Fireplace Center, approximately  $\frac{1}{4}$  of the existing West Shore Retail Center building. That part of the building would be demolished, as well as the old Dairy Queen building.

The Aldi's store would be built in the middle of the lot with a zero lot line on the north side of the Aldi's building as well as a zero lot line on the south side of the West Shore Retail Center building. There would be a small exit corridor between the buildings. The corridor between the buildings would create a 26% lot coverage a variance of 1% from the required 25%.

The new structure would be brick. The existing Center would be updated to match the Aldi's building.

Mr. Kapusansky further explained that they are requesting a variance on the number of parking spaces required. They are asking to be allowed a total of 156 parking spaces for a useable square footage of 28,956; 203 are required by ordinance. Aldi's would have 78 parking spaces on their parcel. Aldi's is a limited assortment grocery store. The store hours would be 9:00 a.m. until 8:00 p.m. The West Shore Center businesses would have the same access to the parking as they currently do. There are three restaurants in the Center. Their peak time for parking would be the lunch hour and evening hours.

The issue of signage was addressed. Aldi's is proposing two signs, one to represent West Shore Retail Center and one for Aldi's only. The existing 100 square foot sign representing the neighborhood shopping center along West Shore Drive would be refurbished advertising the shopping center and Aldi's. A 75 square foot sign identifying Aldi's only would be along the US-31 corridor. The property fronts on three roads, West Shore Drive to the east, Felch Street to the south and US-31 to the west. The two properties share a common wall and a common driveway. The existing West Shore Center pylon sign would be relocated on the northern parcel on the US-31 corridor.

Mr. Kapusansky addressed the four standards stating that without the variance the existing

building could not be renovated. The property fronts on three streets limiting where one can build on the property. This is a mixed use development with shared parking. Aldi's did consider other placement. This option is the one with the smallest variances needed.

The Ottawa County Road Commission has concerns about the egress and ingress to the center. (See attached e-mail)

Aldi's has proposed to move the existing Dairy Queen driveway 10 feet to the north and widening it. The OCRC have concerns about truck deliveries in regards to turn movement and stacking at the light on West Shore Drive and Felch. Mr. Kapusansky explained that since they are a limited assortment grocery store most of their stock comes from their warehouse. One truck comes daily and this is at night. West Shore Drive is not an all weather road so the truck would have to approach from the south. They could leave to the north because they would be empty upon departure. The only other deliveries would be of milk and beer and wine and these are smaller trucks.

New proposals have been presented to the Ottawa County Road Commission. Mr. Kapusansky did not have any feedback on the new proposals as of this meeting.

There was no one present in the audience to speak to this request.

\*\* It was moved by Mr. Nykamp and supported by Mr. Johnson to close the hearing. Motion carried.

The Board went over the standards to review when considering a nonuse variance. They first went over the standards for the zero lot lines.

1. Strict compliance would be unnecessarily burdensome to the applicant. To make both buildings comply with the setbacks would create a smaller building area for the store and the required parking. Allowing the zero lot line for both sites is aesthetically wise. It would eliminate a building that has been sitting idle becoming an eyesore. Granting this request would allow the property to be recreated in a way consistent with today's development standards.

2. Granting this request would do substantial justice to both applicants. It would be consistent with what has been granted for similar requests in Holland Township. The West Shore Retail Center would be updated to match the new construction.

3. The property is unique in that it is surrounded by road on three sides with access to only one.

4. The situation is self-created but it makes sense to put the building there. It keeps the lot coverage variance down to 1%. It will make the corner more appealing.

\*\* It was moved by Mr. Nykamp and supported by Mr. Church to grant the request for the zero lot lines with the stipulation that the Ottawa County Road Commission needs to approve the proposed egress and ingress. Motion carried.

The Board next considered the standards on the parking variance.

1. Strict compliance would be unnecessarily burdensome. The utilization of parking, Aldi's during the day and the restaurants more in the evening, offsets the number of parking spaces needed at any given time. It also eliminates the look of blacktop by parking spaces not being used.

2. Granting this request provides justice for both the applicant and the other businesses in the center as the parking would be accessible by the other businesses in the center. There will be a shared parking agreement between Aldi and West Shore Center LLC. Also, Aldi's is a limited assortment grocery store, which does not have the same parking needs of conventional stores.

3. The property is unique in that it is surrounded by road on three sides.

4. The situation is self-created. There is a parking agreement in place between Aldi and West Shore Center LLC, which works to address parking problems.

\*\* It was moved by Mr. Church and supported by Ms. Corbin to grant the request for the parking variance request as presented contingent upon approval of the Ottawa County Road Commissions approval of the proposed egress and ingress. Motion carried.

1. Strict compliance would be unnecessarily burdensome. The Center would lose its' existing signage on the access road of West Shore Drive. Customers need direction.

2. Granting these two signs would be consistent with what has been granted for similar requests along the US-31 corridor.

3. The property is unique in that it fronts on three roads. Also, the two parcels have a common wall and common driveways.

4. The situation is not self-created. The property fronting on both an access road and a major highway make it necessary for signage on both sides of the property.

\*\* It was moved by Mr. Church and supported by Mr. Nykamp to grant the request for the signage as is illustrated on the plan presented to the Zoning Board of Appeals contingent on the developers working out the problems with the Ottawa County Road Commission. Motion carried.

The minutes of November 23, 2010 were approved as printed.

\*\* It was moved by Mr. Nykamp and supported by Mr. Church that the slate of officers continue as is and to cast a unanimous ballot for these officers. Motion carried.



The meeting adjourned at 6:50 p.m.

Respectfully submitted,

Laurie Slater  
Recording Secretary