

MINUTES OF THE REGULAR MEETING
OF THE
WORTHINGTON BOARD OF ZONING APPEALS
JULY 1, 2010

The regular meeting of the Worthington Board of Zoning Appeals was called to order at 7:37 P.M. with the following members present: R. Hunter, L. Reibel, R. Dorothy, C. Crane, and D. Falcoski. Also present was D. Phillips, Chief Building Inspector.

Those present recited the Pledge of Allegiance.

Mr. Falcoski asked if only the May 6, 2010 minutes are ready for approval and Mr. Phillips replied that was correct. He asked for comments, additions, deletions, or correction of the minutes. Mr. Hunter moved that the May 6, 2010 minutes be approved as submitted. Ms. Crane seconded the motion and all members voted 'aye'. The minutes were approved.

Mr. Falcoski asked those that plan to speak fill out speaker slips and to be sworn. Mr. Phillips swore in the witnesses prepared to comment at tonight's meeting.

AGENDA ITEM B-1 – Appeal – Decision of the Building Inspector – 35 Howard Avenue (Dolores DiCenzo) BZA 17-10.

Mr. Falcoski asked for Staff comments.

Mr. Phillips said on May 13, 2010, the Chief Building Inspector found the exterior of the dwelling at 35 Howard in extremely poor repair. Photographs of the property were presented with a narrative including: the western half of the north wall is laterally deflected approximately 6 inches to the south relative to the foundation below; the deck on the west side has failed decking, portions of the roof have failed, and a corner of the roof is vertically deflected approximately 12 inches relative to the opposite corner; the south wall is laterally deflected approximately 6 inches to the north relative to the foundation and portions of the brick veneer have failed, collapsed, and fallen from the structure; portions of the east side are in poor to very poor repair including cracked brick veneer and rotated structural steel members; a number of wooden structural members are visibly damaged from years of water infiltration. The very large lateral and vertical deflections are indications the building is in extreme structural distress, and the collapsed of portions of the brick veneer are indications the brick ties have failed or the supporting structure the brick ties are secured to have failed. The Chief Building Inspector declared the dwelling poses an imminent danger and declared an emergency. The appellant was ordered to vacate the premises within seven days and to safeguard the premises with 14 days. The appellant was further ordered to apply for either a building permit or a demolition permit within 30 days, and have the violations corrected within 30 days of

permit issuance. The owner has the right to seek modification or withdrawal of the notice and order by appearing before the Worthington Board of Zoning Appeals.

Mr. Phillips continued to say the appellant is asking for modification or withdrawal of the notice but it is not clear to staff what specifically the appellant is seeking. In a phone conversation with the appellant on May 13, 2010, Ms. DiCenzo advised a week was not sufficient time to vacate the property and she needed more time. She was advised an appeal would stay action by the City. The number of days from May 13, 2010 until July 1, 2010 is 49 days and ample time appears to have elapsed for the appellant to vacate the premises, secure the premises, and to secure a building or demolition permit. Modifying or withdrawing the notice would not appear to be in the best interest of the general public.

Dolores DiCenzo, 35 Howard Avenue, addressed the Board and said the property is sold and will close on July 20. The buyer will demolish the structure according to the contract. Mr. Falcoski asked staff to make copies of the contract for the Board.

Mr. Falcoski asked for the closing date and Ms. DiCenzo replied July 20.

Mr. Hunter said the appeal is the decision of the Building Inspector ordering the repair or demolition of the structure. Change of ownership does not necessarily affect the order because the order is on the property, and Mr. Phillips can comment further on that when he returns. Mr. Hunter said the Board does not need to spend a lot of time discussing this if it will be developed. The appellant is here because she is the current owner and will need to ask Mr. Phillips how the change of ownership will affect the order.

Mr. Hunter asked at this moment in time, who owns the property, and Ms. DiCenzo responded affirmatively. Mr. Hunter stated the property may be in contract but a lot of things could happen between now and July 20 to any real estate contract especially given the circumstances. The appellant is technically the owner and the person responsible to comply with the orders, and sees no reason to change the proceedings this evening.

Ms. DiCenzo said she has been a resident of Worthington for 45 years and thinks a little bit of kindness and leeway would be appreciated. A fire chief walked through and said this house is not going to fall down. It is double beamed and the foundation is strong on the house.

Mr. Hunter asked if the appellant occupies the house and Ms. DiCenzo replied she does not. Mr. Hunter said the house is subject to vandalism or other entry that the appellant cannot control with falling bricks on the property and it is pretty dangerous. Ms. DiCenzo said Worthington is pretty safe and in 45 years she never locked her doors and no one has ever entered the house and does not think there will be vandalism. Mr. Hunter said less than a half a mile from this property on McCoy Avenue there has been incidences of vandalism.

Ms. Reibel said she is a neighbor of the property, lives on Orchard Street, her son has mowed the lawn of the subject property, and asked if the new owners are planning to renovate the property. Ms. DiCenzo replied she thinks they will demolish the structure. Ms. Reibel asked if they will build another single family home and not an apartment building, and Ms. DiCenzo replied she thinks they want to build two houses.

Ms. Crane asked what the appellant is seeking. Ms. DiCenzo replied she is seeking more time.

Sandra DiCenzo, 876 Hartford Street, addressed the Board and stated she is the daughter of the appellant. She is asking for more time. The contract is a cash offer with the only contingency is a feasibility study to seek a rezoning to build two, single family houses on the lot. This is not the first offer, but is a firm, cash offer from a builder, whose only contingency is the feasibility study. Mr. Falcoski asked how much additional time is being sought. Ms. Sandra DiCenzo replied it will become the buyer's problem on July 20, and if the appellant demolishes the house, she will have a problem with the active contract because it requires the buyer to demolish it for the fixed purchase price, the contract may become void. Ms. Crane said the contract may have to be rewritten but needs staff to determine if the decision of the Building Inspector is overturned, what that means, if it means more time is granted or if the building is declared habitable. Mr. Hunter said the meeting should be recessed for five minutes until staff returns from making copies of the contract so the issues can be addressed.

Mr. Hunter moved to recess the meeting for five minutes and Ms. Crane seconded the motion. All members voted 'aye' and the meeting was recessed.

Mr. Phillips rejoined the meeting and Mr. Falcoski called the meeting to order.

Ms. Crane said the appellant was asked what she is seeking and she replied more time. Ms. Crane asked if the decision of the Building Inspector is overturned, what action is the Board taking – is the Board saying the property is habitable. Mr. Phillips replied if the appellant is seeking more time, the question is more time to do what. What is the additional time for. The structure is an imminent danger to the general public, it is not safe for people to enter the building, in Mr. Phillips' professional opinion. If the Board wants to modify the order, the Board will have to determine how the order is to be modified. What additional time does the appellant require to do whatever the appellant wants to do. Mr. Phillips said 49 days has elapsed but it is not clear how much more time the appellant needs nor what activities the time will be used for.

Ms. Dolores DiCenzo said she is closing on July 20 and the new owner will demolish the house and is why she is seeking more time. Mr. Phillips said he understands that but that has nothing to do with the order. Ms. DiCenzo replied she knows but is hoping Mr. Phillips can be kind and give some consideration to the deal because the contract says they will demolish the house. She said the house is safe and feels it is safe – the porch no, but the house yes.

Ms. Reibel said this house is an extremely historic property. The foundation dates back to the Civil War. Ms. DiCenzo said the rest of the structure is over 100 years old. Ms. Reibel said this is the original building in the Park Highlands subdivision and she lives in the next block south on Orchard Drive. It is called Orchard Drive because there was an orchard associated with the original farm house and all the property from South Street to the edge of Colonial Hills is related to this structure. It is extremely historic and the historical society may be interested to know this property is in danger. She understands there are some hazards associated with it but someone was living there until a couple of months ago. She thinks the interior is in better shape than the exterior and we should not rush to judgment on this historic property that is one block away from the historic district of Worthington, that was recently placed on the National Register of Historic Places.

Ms. Dorothy asked why was the property inspected. Mr. Phillips replied a neighbor complained about the property and prompted an inspection.

Mr. Hunter said he is not willing to vote against a professional engineer and jeopardize the City with anything that may happen in this situation. What the Board would be doing by overturning the decision is saying the property is habitable and safe and he cannot do that. Ms. DiCenzo said no one is living there. Mr. Hunter said that does not matter because someone can walk into that property tomorrow and she would not have any control over it.

Ms. DiCenzo asked who will be making the decision tonight and Mr. Phillips replied the five members of the Board of Zoning Appeals.

Ms. Dorothy said the proposed owners who offered the contract, why are they not here tonight, do they understand what is happening. The contract says the removal of the building will be the sole responsibility of the buyer and the buyers own expense but it does not say when the building will be removed or if they are going to demolish the building. Ms. Dorothy asked why has Ms. DiCenzo not told the buyer when to demolish the building. Ms. DiCenzo replied she supposes her real estate agent has told them. Ms. Dorothy said that is a piece of information the Board is missing, that is what Mr. Phillips is asking, what are you going to do with the property if additional time is granted. Ms. Crane replied the Board has no interest in this property but was interrupted by the appellant.

Ms. DiCenzo asked if the contract states it is up to the buyer to demolish the structure and read from the contract that the demolition of the building is the sole responsibility of the buyer and at the buyers own expense. Mr. Hunter said that is true if the contract is completed. A lot of things can happen in any real estate transaction between now and the closing. Ms. DiCenzo said a lot of things could have happened 30 days ago and you were kind enough to give the 30 days then, why are you not willing to give me 30 days more.

Ms. Reibel asked if the property is in contract and the Board can be assured the building is secured, can this appeal be tabled until the next meeting. By that time, the building will be sold and the new owner can come to the next meeting with more information. Mr. Phillips said once the property has transferred, a new notice of violation will be served to the new owner. The previous owner will no longer be liable under the order being appealed tonight. Mr. Phillips said he believes this order needs to be enforced.

Mr. Hunter said someone wants to buy this property and turn it into two lots. That is not a done deal nor does that happen very quickly. Ms. DiCenzo said that is more taxes for Worthington and the lot is 144 feet wide. Mr. Hunter said he sees a single lot and knows the procedures for lot splits to place two homes on this property. It is not a simple or short term process. It is not quick and it is not tomorrow. Ms. DiCenzo said they will have to demolish it quickly and then it will be safe, and said yes, it will take a long time to place two building on the property.

Mr. Falcoski asked if the City will move in immediately after this meeting to demolish this building and Mr. Phillips replied no. Mr. Falcoski asked what happens after this hearing tonight. Mr. Phillips replied if the appeal is denied, time frames in the Notice restart beginning July 2 – seven days to vacate personal belongings, 14 days to secure the structure, 30 days to secure permits. If those actions are not taken, then a complaint will be filed in Franklin County Environmental Court probably in about three months. Ms. Crane said there is time in the process to allow the closing to proceed and Mr. Phillips replied there is time in addition to the 49 days that have already elapsed.

Ms. Falcoski asked if the personal belongings have been removed from the building and Ms. DiCenzo replied nothing of value remains in the building, only junk is in the building.

Ms. Crane asked if the appeal is granted, the building is declared habitable and someone could move back into the house and Mr. Phillips replied that is correct. Ms. Crane said looking at the condition of the property and trusting in the competence of the City staff, she cannot say this is a habitable structure. Ms. Crane is not sure if it would be different if it was in the historic district. Mr. Hunter said it is not in the Architectural Review District. Mr. Phillips said he has ordered other unsafe structures in the district to be demolished under an emergency order and would not have to be approved for demolition by the Architectural Review Board.

Mr. Falcoski said Ms. DiCenzo is closing in 19 days and if the Board agrees with the staff recommendation, seven days from today to vacate the structure. Mr. Phillips said and then 14 days to secure the structure - the two car garage is open, 30 days to apply for a demolition permit or a building permit to repair. Mr. Falcoski said if the Board agrees with staff's recommendation, the appellant has time, the closing can occur, and the buyer will be responsible for these items and Mr. Phillips replied that is correct and said the City of Worthington will not interfere with this real estate transaction.

Mr. Falcoski asked if the appellant understands and Ms. DiCenzo replied she does not understand because she cannot hear. Mr. Falcoski said if this board votes to deny the appeal, the timeframes in the order restart, and by the time the deadlines pass, this property will have been sold and the buyer will be responsible for rehabilitating the structure or tearing it down.

Ms. Crane asked if these time frames will be renewed with the buyer and Mr. Phillips said he would serve a new Notice of Violation to the buyer and the deadlines will restart again. Ms. Crane said there would be time for community members to voice concerns about the future of this structure. Mr. Phillips replied he is not sure how those concerns could be voiced. Ms. Crane asked why would there not be time. Mr. Phillips replied there would be time but no forum to voice the concerns. Mr. Hunter said this property is not in the Architectural Review District. Ms. Crane said she is aware of that but was thinking more in terms of private community organizations such as the historical society or the neighborhood association if there is one ,and there would be time to make their voices heard. Ms. DiCenzo said something inaudible. Ms. Crane said property owners have certain rights. Ms. DiCenzo said she is just trying to sell the property. Mr. Falcoski said it appears she has time to sell the property as the order is written.

Mr. Falcoski asked if anyone in the audience would like to speak for or against this appeal request.

Ms. Sandra DiCenzo said the garage can be secured in that time period, the house is locked, and she can move into it and someone can vandalize her empty house on Hartford Street. She would be happy to live in the house, all the utilities are on. It is not as bad on the inside as you would think by looking at the outside. The house was inhabited until approximately two months ago.

Ms. Crane said before you secure the property, it must be vacated. Ms. Dorothy said securing the property is making sure everything is closed. Mr. Hunter said if the appeal is not upheld, the building is not habitable and Ms. Dorothy said the Board would not want anyone in the house. Ms. Dolores DiCenzo said no one would be in the house and she only wants to sell the property.

Mr. Falcoski asked if a yes vote on the motion denies the appeal. Mr. Phillips replied the appellant has appealed the decision of the Building Inspector and a yes vote on the motion as written, is agreement with the appellant to overturn the decision. Mr. Hunter said he would modify the motion.

Hearing no other comments, Mr. Hunter moved:

THAT THE REQUEST BY DOLORES DICENZO TO APPEAL THE DECISION OF THE BUILDING INSPECTOR TO MODIFY OR WITHDRAW THE NOTICE AT 35 HOWARD AVENUE AS PER CASE NO. BZA 17-10, BE DENIED BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND THE MATERIAL PRESENTED AT THE MEETING.

Ms. Dorothy seconded the motion.

Ms. Crane said the Board typically words motions in the positive and Mr. Hunter replied given the circumstances of this appeal, a motion to deny seems more appropriate. Ms. Crane said a yes vote agrees with the findings of staff and a no vote agrees with the appellant and Mr. Phillips replied that is correct.

Mr. Falcoski asked for a roll call and Ms. Reibel voted 'no' because the historic nature of the building warrants more time should be granted; and Ms. Crane, Ms. Dorothy, Mr. Hunter, and Mr. Falcoski voted 'yes'.

Mr. Falcoski said the appeal was denied and suggested that Ms. DiCenzo and the buyer make an appointment with Mr. Phillips so that everyone understands what the order means and what will be required after closing.

AGENDA ITEM B-2 – Variance – Side Yard Setback – Deck – 503 Colonial Ave.
(Kevin Norviel) BZA 18-10

Mr. Falcoski asked for staff comments.

Mr. Phillips said this property is an existing lot of record in an R-10 district with a minimum side yard setback requirement of 6'. The applicant is proposing to construct an 8 foot by 12 foot deck with pergola, 3.09 feet from the west property line. The requested variance is for 2.91 feet.

Mr. Phillips continued to say the small lots in this neighborhood make it difficult to construct usable outdoor living areas without variances. Staff saw few choices in this particular case. The hand drawn site plan showing the existing house 3 foot 8 inches from the west property line did not appear to be correct and the survey dated September 11, 2001 sealed by Jiremiah Conkle was assumed by staff to be a more accurate survey. The essential character of the neighborhood should not be substantially altered nor the delivery of governmental services be affected.

Maureen Blackburn, 503 Colonial Avenue, addressed the Board and added nothing to the staff comments. Mr. Hunter asked if the deck is no closer to the property line than the house itself and Mr. Phillips replied that is correct and will be one foot further from the property line than the existing house.

Ms. Dorothy asked if the neighbors were consulted about the project and Ms. Blackburn replied she is aware a letter was sent and she spoke to the couple to the east who are moving and have no problem. The letter was sent to the other neighbor and they made no contact with her or asked any questions. Ms. Dorothy thanked Ms. Blackburn for the improvement to the neighborhood. Mr. Hunter said the deck will provide a more usable step out from the doorway.

Mr. Falcoski asked if there was anyone in the audience who would like to speak for or against this variance request.

Seeing no one, Ms. Crane moved:

THAT THE REQUEST BY KEVIN NORVIEL FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE CONSTRUCTION OF A DECK AT 503 COLONIAL AVENUE, AS PER CASE NO. BZA 18-10, DRAWINGS NO. BZA 18-10 DATED MAY 25, 2010, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND AS PRESENTED AT THE MEETING.

Mr. Hunter seconded the motion. All members voted 'aye' and the motion passed.

AGENDA ITEM B-3 – Variance – Front Yard Setback – Fence – 6670 Worthington-Galena Rd. (Worthington Christian Schools/Grace Brethren Church) BZA 19-10

Mr. Falcoski asked for staff comments.

Mr. Phillips said this property is in an S-1 district with a front yard setback requirement of 60 feet. The applicant is proposing to erect an approximately 75 foot long, 40 inch tall fence parallel and approximately 8 feet from a student walking path connecting the parking area of the main school building to Worthington-Galena Road. A portion of this fence may be out of the front yard setback, the majority of the fence will be in the entire 60 foot front yard setback, and a portion will be in the public right of way. The requested variance is to allow a portion of the fence to be entirely in the 60 foot front yard setback. The Director of Public Service has authority to approve the fence in the public right of way and does not oppose granting such approval, if the variance is granted. Additional information may be required before the Right of Way Work Permit is issued for the fence.

Mr. Phillips continued to say the intent of the fence is to channel pedestrians towards the walk from the main entrance to the school. The City Engineer has determined the 40 inch tall fence should not cause sight distance issues for northerly bound traffic on Worthington-Galena Road. The property is very large and greatly mitigates the substantial nature of the variance request, and the fence would not appear to substantially alter the neighborhood. The delivery of governmental services should not be affected.

Eric Smith, 180 Knight Dream Street, Delaware, addressed the Board, and did not add to staff comments.

Mr. Hunter stated there is a flashing light at the crosswalk and he has seen students not get to the crosswalk before they cross the street, can appreciate the safety value of the proposed fence, and thinks it is much more attractive solution than the rather ugly guardrail further north on Worthington-Galena Road in front of the residences. He does not like fences in front yards but thinks this would be a reasonable exception. Mr. Smith said many times, students are cutting across the grass in between buses and that is a more concerning safety issue.

Ms. Crane said the dotted line on the site plan is the extent of the fence and Mr. Smith replied that is correct. It will be placed eight feet from the sidewalk because of the existing trees.

Mr. Falcoski asked if anyone in the audience would like to speak for or against this variance request.

Steve Hedge, 6653 Worthington-Galena Road, addressed the Board and said he lives across the street and asked if the fence will be on just the one side of the walkway. Mr. Smith inaudibly replied. Mr. Hedge said so it is just on the one side. He is not sure the students are going to follow it anyway, he grew up across the street, raised three boys, and does not think the fence will accomplish its mission and thinks the kids are going to walk around it. The cross walk is the most important thing but the fence will likely not work as envisioned. Mr. Hunter said he would like to see the cross walk across the front of the property and parallel to Worthington-Galena Road and Mr. Hedge said there is a lot of traffic there.

Mr. Falcoski asked if he was opposed to the fence and Mr. Hedge said he is not opposed to it but it is not in keeping with the neighborhood since you do not see fences in the front yard. But if it is for safety reasons and it does its job, then it is worth it.

Mr. Falcoski asked if the fence will be made of wood and Mr. Smith inaudibly replied.

Mr. Falcoski asked if anyone in the audience would like to speak for or against this variance request.

See no one, Ms. Dorothy moved:

THAT THE REQUEST BY WORTHINGTON CHRISTIAN SCHOOLS AND GRACE BRETHREN CHURCH FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK TO ALLOW CONSTRUCTION OF A FENCE AT 6670 WORTHINGTON-GALENA ROAD, AS PER CASE NO. BZA 19-10, DRAWINGS NO. BZA 19-10 DATED JUNE 2, 2010, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Mr. Hunter seconded the motion. All members voted 'aye' and the motion carried.

AGENDA ITEM B-4 – Variance – Temporary Signs – 6880 N. High St. (Timothy A. Bass, AIA, LEED AP) BZA 20-10

Mr. Falcoski asked for staff comments.

Mr. Phillips said this property is in a C-2 district and subject to architectural review. Temporary signs are prohibited except through a Temporary Use Permit, in the C-5 district, and the following exceptions; real estate signs, construction signs, political signs, and historical markers. The applicant is proposing five temporary signs as follows: no wait, event in progress, immediate seating available; extra parking with an arrow; happy hour, Mon-Fri, 4:00 pm – 7:00 pm, in bar only \$4 appetizers; group reservations welcome, host your next meeting or party at J. Liu; and Sunday brunch buffet. The requested variance is to allow temporary signs.

Mr. Phillips continued to say some of the temporary signs appear to be advertising that could be incorporated into the existing ground mounted sign. Changes to the building mounted signage would probably not be appropriate. In either case, changes to these signs would require approval of the Architectural Review Board. Some of the temporary signs are directional or informational. The zoning code allows for permanent directional signage, and with a variance for changeable copy to cover these signs, they could function as a temporary sign. This alternative could obviate the owner's predicament. Directional signage is subject to approval by the Architectural Review Board. Staff has prepared different motions, depending on the desire of the Board, to approval some, or all, of the temporary signs.

Tim Bass, 36 King Avenue and Jason Liu, 6880 North High Street, addressed the Board. Mr. Bass said he is seeking relief from the zoning ordinance. The use at this site is very consistent with the uses in the downtown commercial district, a restaurant is more active, and temporary signage is allowed there. The proposed signs are consistent with those found in the downtown commercial district. The property is rather large so they end up being fairly insignificant. They are made nicely, not cheap, and consistent with J. Liu's branding. The facility and the signs are consistent with what you would find in a C-5, and the uses are the same. During the development process, the design was held to the C-5 standard in terms of the Architectural Review Board, extending the building out towards High Street, and the building is perhaps less expressive as a restaurant because of that or identifying it as a more active parcel, as opposed to a bank on one side and a senior living facility on the other side of the property. More importantly, because this business is so much different than the businesses on either side, granting of this variance for temporary signs for this use would not establish precedence for the other businesses on High Street – they could not point to their operation needing temporary signs.

Mr. Bass continued to say these types of urban signs indicate active involvement in a property, especially the way Mr. Liu uses them. The extra parking sign does not get placed in one spot, Mr. Liu will monitor the parking lot and it is moved to the aisle that has parking available. Staff commented that some of the information could be placed on the monument sign but that sign is subtle and simple and does not see how to do this

without using a banner or subscript. Another reason for the temporary nature of this request is none of the information is permanent. The buffet comes and goes, it is not a permanent feature, and the signs become an active information management system. If this restaurant was a mile down the road, this would not be a problem.

Mr. Bass continued to say another aspect for this variance request is it may add to the safety aspect or a more efficient use of the site because Mr. Liu does share the parking with the bank and has a close relationship with both of the banks - CF and PNC. Managing where people go during the day is important.

Mr. Falcoski asked if the site is at the maximum for permanent signage and Mr. Bass replied it is. Mr. Falcoski asked if the signs are taken inside in the evening and Mr. Bass replied they are.

Ms. Dorothy asked for the definition of a temporary sign and Mr. Phillips replied a sign that is not permanently embedded in the ground. Ms. Dorothy asked if there is any time element - must a sign be permanent, and Mr. Phillips replied that is correct.

Mr. Falcoski asked if the signs are placed only as needed, for instance, if extra parking is needed, that sign is placed on the property. The happy hour Monday through Friday, does that get placed every day. Mr. Liu inaudibly replied. Mr. Bass said typically all five signs are not placed at the same time. Mr. Liu said sometimes there is a wedding party on the second floor, the parking lot is appears full, but the restaurant is empty. The signs are intended to encourage people to enter the restaurant and not think it is full. Mr. Falcoski said the no wait sign is extremely effective and is very much needed. Mr. Hunter has used both the extra parking and the no wait signs. Mr. Falcoski said the signs are being used for very good reasons.

Mr. Hunter said he would not know how the Architectural Review Board would react and only speaks for himself. The no wait and the extra parking signs are informational and very useful. The happy hour sign would not draw him in, but that is a little bit of advertising like some of the others. On the other hand, the applicant makes a good point that these sandwich-type signs for restaurants in the downtown C-5 district, like the Worthington Inn, are okay. He follows the rules like the downtown – the signs are there during business hours and then taken in. Mr. Hunter suggest Architectural Review go first in approving these signs, but would like to hear what this Board thinks about these signs since both Boards need to work together. He will carry comments forward to the Architectural Review Board, or if the Board would wish to vote, this would have to go to Architectural Review anyway.

Mr. Bass said he knows the property is in a review district and would not have any issue appearing before the Architectural Review Board but it is a zoning ordinance. Mr. Hunter said it is a zoning ordinance for this Board but if this Board decides the signs are allowed, it goes beyond the maximum. Mr. Bass asked if the Architectural Review Board reviews temporary signage and Mr. Hunter said that is what he understands. Mr. Phillips said that is not correct, temporary signs in a C-5 are not subject to Architectural

Review. Mr. Hunter said this property is not C-5 and Mr. Phillips said temporary signs are not permitted anywhere except in a C-5 and are not subject to Architectural Review in a C-5. Mr. Hunter asked if this would require a change to the development plan and Mr. Phillips replied no, if this variance is granted, this property would be allowed to have temporary signs.

Mr. Falcoski said this matter is before this Board because the property is in a C-2 district and Mr. Phillips replied that is corrected. Mr. Bass said because the property is C-2 and are not permitted temporary signs, he is seeking relief from that ordinance. Mr. Hunter said given that these are sandwich boards, they are temporary in nature, are used for event notification and traffic management, and a little bit of advertisement, he will vote for the variance request, in this specific instance, in this specific location.

Mr. Falcoski said if another C-2 applicant requests a similar variance in future, given that Mr. Bass has stated these temporary signs are very germane to this business, this Board will have the authority to say no to that future applicant. Mr. Hunter said that is correct, and would not vote for a temporary sign for a bank advertising a CD rate on a daily basis.

Mr. Hunter said he has some wording concerns about the happy hour and banquet signs, especially one of the five because it is a pure advertising sign. The extra parking sign is extremely useful. The no wait sign is especially useful if there is a function that uses the capacity of the second floor, it looks like the place is packed, and has walked in with immediate seating on the first floor and felt lonesome in a couple of occasions.

Ms. Crane said the Board has to be careful which of the motions to approve, the first motion is vague and allows five temporary signs at this address, which would transfer to a different owner and Mr. Phillips replied that is correct, it would be a permanent variance for that property. Ms. Crane said this would be for any kind of five temporary signs. The last motion is much tighter but does that mean that appetizers will not be more than \$4 forever. Mr. Bass replied this would be an opportunity to eliminate the happy hour sign from consideration. Mr. Falcoski said his opinion is to take the \$4 off the sign to eliminate the feel of advertisement.

Ms. Crane is leaning towards the second motion because that one has the informational signs and eliminates the more advertising oriented signs like group reservations welcome, host your next meeting or party. She is not sure a sign on the property is a way to get that message across. Mr. Falcoski said he is not sure how the motion should be worded, Mr. Hunter said the person making that motion can modify any one of these, and Mr. Phillips said the person making the motion can word it completely differently than what staff had prepared. Mr. Falcoski said the Board needs to decide which signs should be approved. Ms. Crane said she does not want to vote no because of the wording of the motion.

Mr. Bass said if specific signs are approved, then Mr. Liu will have to return to this Board to modify those temporary signs and Ms. Crane said yes, and if five unspecified signs are approved for the property then the next owner, if it is a bank, would be advertising on these temporary signs. Mr. Falcoski asked if the motion can be specific to

this owner and Mr. Phillips no. Mr. Hunter said the motion can be specific to informational wording. Mr. Bass asked if it can be tied to the use and Mr. Phillips replied if that is what the Board decides. Mr. Bass said the Board has flexibility.

Mr. Falcoski said his only suggestion is to remove the \$4 appetizer and he likes all of the signs. Ms. Dorothy asked if the Board is approving how many signs can be permitted at one time and Mr. Liu replied inaudibly. Mr. Bass said not all of the signs would be necessarily seen at the same time from High Street, for instance, the extra parking sign would likely be in the back. Mr. Lui said he would not place all of the signs in the front and be visible to the public and continued to say something inaudible.

Mr. Phillips said another solution would be for the Board to approve two temporary signs with no specification of any language. These signs could be placed anywhere on the site saying whatever is appropriate at that time. Mr. Phillips was trying to avoid writing 15 different motions for the many possibilities. Mr. Falcoski said there could be 500 different combinations.

Ms. Dorothy asked if the signage in a C-5 has language limits and Mr. Phillips replied there are no language requirements but limits on the number of colors, the size of the sign, as such. Mr. Hunter said some of those limitations apply to all signs, and in a C-5 district, the sandwich board style is unique to that district and started years ago with the Christmas Store and the Santa Claus that appeared all the time.

Ms. Dorothy asked if any of these rules would apply to these signs if approved. Mr. Phillips replied his interpretation would be, if anywhere from one to five temporary signs are permitted, the temporary sign provisions of C-5 would apply to this property and would apply those rules to these signs, unless this Board overrules him when the owner appeals the decision of the Building Inspector.

Mr. Hunter asked for the current size of the signs and Mr. Bass replied two feet by four feet. Mr. Liu said each sign is two sided. Ms. Crane said they are nice signs and does not have a problem with them. If they stay with the property and the design are not governed by any restriction, it could allow another owner to place signs that are not desirable. Ms. Reibel said the Board could approve two directional signs and one (inaudible) sign.

Mr. Bass said perhaps the signs could be tied to the use to prevent a bank from placing temporary signs.

Ted Oatts, 130 Greenglade Avenue, addressed the Board and asked why would more restrictions be placed on this property that you are not placed on the people downtown. This is almost endearing, like a Norman Rockwell picture postcard or Currier and Ives, from seasonal signs. It is beautiful and creates an ambiance for the restaurant itself and thinks you would not want to place any more restrictions on this property than any other business. Mr. Hunter replied the key difference is, taking a business directly down the street that has functions, events, large scale meetings – Holiday Inn. They may want temporary signs and they come close to having a restaurant and meeting facilities similar

to this location so if signs are approved here, a precedent may be set and they may want signs also. In this particular case, if the Board stays with a specific set of informational signs, and perhaps broadened with a little bit of advertisement, but are informational. The Board would be able to deny future requests if the future request is not appropriate. Mr. Falcoski said he has no problem with the request that if this were only J. Liu. He should not be treated any differently than any other restaurant downtown, he has a hardship given his building looks a certain way, that is, look similar to the other commercial buildings around it, and you should have every opportunity to promote your business. He understands Mr. Hunter's concerns so how does the Board do the right thing without setting a precedent. Mr. Bass said perhaps the owner of the property should be required to place the signs since he spends three days a week at this location and three days a week at the Dublin location. Mr. Hunter said he wished he had more owners like Mr. Liu since he does a great job, and if he could craft the motion for his business, he would not have any problem giving him almost carte blanche. Mr. Falcoski asked if restaurant use can be in the motion and Mr. Hunter replied he did not think that is possible. Mr. Phillips replied he thinks the motions can be stated anyway they desire.

Mr. Falcoski asked if there was anyone in the audience who wished to speak for or against this variance request.

See no one, Mr. Hunter moved:

THAT THE REQUEST BY TIMOTHY A. BASS FOR A VARIANCE FROM CODE REQUIREMENTS PROHIBITING TEMPORARY SIGNS TO ALLOW TEMPORARY SIGNS WITH THE FOLLOWING QUALIFICATIONS:

A) NO MORE THAN TWO FEET BY FOUR FEET, TWO SIDED SANDWICH BOARD-STYLE SIGNS

B) THE SIGNS ARE AS FOLLOWS:

- 1. NO WAIT, EVENT IN PROGRESS, IMMEDIATE SEATING AVAILABLE, AS PRESENTED IN THE MATERIAL**
- 2. EXTRA PARKING WITH AN ARROW, AS PRESENTED IN THE MATERIAL**
- 3. HAPPY HOUR, MON-FRI, 4:00 PM – 7:00 PM, IN BAR**
- 4. GROUP RESERVATIONS WELCOME, HOST YOUR NEXT MEETING OR PARTY**
- 5. SUNDAY BRUNCH BUFFET, AS PRESENTED IN THE MATERIAL**

AT 6880 NORTH HIGH STREET, AS PER CASE NO. BZA 20-10, DRAWINGS NO. BZA 20-10 DATED JUNE 4, 2010, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND PRESENTED AT THE MEETING.

Ms. Crane seconded the motion. All members voted 'aye' and the motion carried.

AGENDA ITEM B-5. Extension of Non-Conforming Use & Setback Variances – House Addition and New Garage – 698 Plymouth St. (Philip DeYanni) BZA 21-10

Mr. Falcoski asked for staff comments.

Mr. Phillips said the property is an existing lot of record with a single family dwelling in an S-1 district, where a single family dwelling is neither a permitted nor a conditional use. The minimum setback requirements for S-1 are 60 feet for front and rear yard, 25 feet for either side yard, and the sum of the two side yards must total a minimum of 60 feet. The existing lot is 50.30 feet wide and no buildings are permitted to be enlarged nor constructed without setback variances, regardless of the use. The applicant is proposing to expand the existing, nonconforming use by constructing an addition and a detached garage. The entire project requires an extension of a nonconforming use and variances from setback requirements. The Residential Code of Ohio requires walls constructed within the three foot fire separation distance be a minimum one hour fire-resistive rated for exposure from both sides including the underside of projections. Openings are not permitted in the wall.

Mr. Phillips continued to say The entire block bound by Plymouth on the west, Greenwich on the east, Granville on the north, and New England on the south is zoned S-1. The 2005 Comprehensive Plan does not indicate any change from dwelling uses for this particular parcel. The existing dwelling is extremely small and does not meet the needs of a modern family. The essential character of the neighborhood should not be substantially altered and the delivery of governmental services should not be affected.

Philip DeYanni, 13774 Days Spring Way, Pickerington addressed the Board and said they will be keep the existing foundations so nothing is moving closer to the side property lines, adding to the rear due to the depth of the lot, building up by adding a second story, and adding a two car detached garage.

Mr. Hunter said the basic footprint is not changing and Mr. DeYanni replied just the addition at the rear of the home that does not change the side yards.

Mr. Falcoski asked if the garage requires a variance and Mr. Phillips replied the required setbacks for this property does not allow any structure without a variance. Mr. Hunter asked if this applied to residential and Mr. Phillips replied S-1 requires 60 feet for the sum of the side yards and the lot only 50 feet wide so it is impossible to build any structure on this property without a variance. Mr. Hunter asked if this property were R-10, would this lot be buildable and Mr. Phillips replied it would.

Ms. Crane asked why this property is S-1 and Mr. Phillips replied he does not know, it was zoned S-1 in 1971. Mr. Hunter said he recalls there is a church on the block and several properties were owned by the church and S-1 fit those particular uses. A lot has changes since then. The church is still there but the other properties changed ownership. Mr. DeYanni said it is all residential excepting the church.

Mr. Phillips presented a page from the 2005 Comprehensive Plan and said the majority of the block is shaded green, signifying parks. The yellow is the church, and the rest is the same color as the surrounding residential, which means the comprehensive plan is saying there are no future plans for this block other than what is currently there – parks, a church, and residential.

Mr. Hunter said at the time of the comprehensive plan the church owned multiple properties and was looking at expansion in place but eventually moved onto another location since their congregation was outgrowing current and future plans for this location. A lot of that property went back to residential ownership and not church ownership. Perhaps this should be a code review issue and Municipal Planning Commission recommendation that this zoning be changed to R-10, but this does not help the applicant. He has no problems with the plans for this property and fits better than a church use since these are narrow lots.

Ms. Dorothy says the house looks terrific and the only concern would be the one foot off the property line for the garage, and concern about maintaining that one foot sliver of land. Mr. DeYanni replied the proposed location on the lot is consistent with the others in the neighborhood. Ms. Dorothy asked if the neighbors were consulted and Mr. DeYanni replied no but they were properly notified and there has been a sign at the property for three weeks.

Mr. Falcowski asked if there was anyone in the audience wishing to speak for or against this variance request.

Seeing no one, Mr. Hunter moved:

THAT THE REQUEST BY PHILIP DEYANNI FOR AN EXTENSION OF A NON-CONFORMING USE AND VARIANCES FROM CODE REQUIREMENTS FOR SETBACKS TO CONSTRUCT AN ADDITION AND NEW GARAGE AT 698 PLYMOUTH STREET, AS PER CASE NO. BZA 21-10, DRAWINGS NO. BZA 21-10 DATED JUNE 4, 2010, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND MATERIAL PRESENTED AT THE MEETING.

Ms. Reibel seconded the motion. All members voted ‘aye’ and the motion carried.

Ms. Crane moved that the meeting be adjourned, which was seconded by Ms. Dorothy. The meeting adjourned at 8:58 P.M.