

REGULAR MEETING

BOARD OF ZONING APPEALS
STATE OF OHIO
COUNTY OF CUYAHOGA

DATE: October 27, 2015

AGENDA

TIME: 7:00 P.M.

WORK SESSION – 6:30 P.M.

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **APPROVAL OF MINUTES**

- a. Approval of Minutes of Work Session of April 22, 2014 (roll call)
- b. Approval of Minutes of Regular Meeting of April 22, 2014 (roll call)
- c. Approval of Minutes of Work Session of January 27, 2015 (roll call)
- d. Approval of Minutes of Regular Meeting of January 27, 2015 (roll call)

4. **NEW BUSINESS**

- a. Jake Friedl, 445 Lamson Ave., Bedford is seeking relief from Section 1927.05 of the Codified Ordinances of the City of Bedford for a variance to construct a 1,935 square foot home, not including the two car attached garage (roll call)
- b. Bentbrook Development, LLC is seeking relief from Section 1927.05 of the Codified Ordinances of the City of Bedford for setback variances for six (6) separate parcels to build single family dwellings in Phase 1 (roll call) (Bentbrook Development, LLC has acquired the allotment with the intentions of constructing 18 single family homes in Phase 1 and 20 single family homes in Phase 2)

5. **MISCELLANEOUS**

6. **ADJOURNMENT**
(roll call)

PLEASE TURN OFF ALL CELL PHONES BEFORE BOARD OF ZONING & APPEALS MEETING

(Board of Zoning & Appeals Minutes and Agendas posted at www.bedfordoh.gov)

The **Board of Zoning Appeals** met in a Work Session at Bedford City Hall on Tuesday, October 27, 2015 at 6:05 P.M. Present: John Trzeciak, Jim Wagner, Dennis Kotmel. Absent: Sharyna Cloud, Kristi Glasier. Also in attendance: Law Director John Montello (joined at 6:55 p.m.), Building Inspector Richard Hickman and Secretary Lorree Villers. Absent: Building Commissioner Calvin Beverly.

The Board did not have enough people for passage of the minutes this evening for the April 22, 2014 Work Session and Regular meeting minutes and the January 27, 2015 Work Session and the Regular meeting minutes. They would have to be addressed at the next meeting along with tonight's meeting minutes.

Jake Friedl, 445 Lamson Ave., Bedford is seeking relief from Section 1927.05 of the Codified Ordinances of the City of Bedford for a variance to construct a 1,935 square foot home, not including the two car attached garage.

Mr. Hickman explained the original home was razed in 2011. He understood the applicant was going to reside in the home. There were flood plain issues the Board nor Mr. Montello could address so Mr. Montello called the City Engineer Joe Ciuni. Mr. Ciuni explained the flood plain issues would be addressed separately by Inspector Rob Brown and Joe Ciuni and it wasn't the Board's decision. The Board felt the home would be better suited for the lot if it were moved forward so it would be closer to the street and further out of the flood plain. A new home on Lamson Avenue was better than a vacant/empty lot. Sometimes new construction gave the neighbors the incentive to improve their homes and new construction improved/increased the value of the neighborhood. It was October and the Board wondered when the applicant planned to break ground because of the uncertainty regarding the flood plain. The Board had some questions for the applicant before a decision could be made.

Bentbrook Development, LLC is seeking relief from Section 1927.05 of the Codified Ordinances of the City of Bedford for setback variances for six (6) separate parcels to build single family dwellings in Phase 1 (Bentbrook Development, LLC has acquired the allotment with the intentions of constructing 18 single family homes in Phase 1 and 20 single family homes in Phase 2)

On September 30, 2015, Mr. Beverly informed Secretary Villers that Chris Chubbuck was making changes regarding the setback variances; however, the packets had already been delivered. Mr. Beverly knowing he would be absent for the October 27, 2015 meeting informed Secretary Villers and Inspector Richard Hickman that Mr. Chubbuck was to submit the revised plans by Friday, October 2, 2015 so she could PDF them to Board members; the original information sent to the Board members was now incorrect. Secretary Villers passed additional information submitted to the Building Department on October 26, 2015 from Matthew Neff, GPD Group Senior Project Manager, dated September 30, 2015. The Board took a moment to review the information.

Mr. Hickman explained to the Board the applicant now wished to address the following:

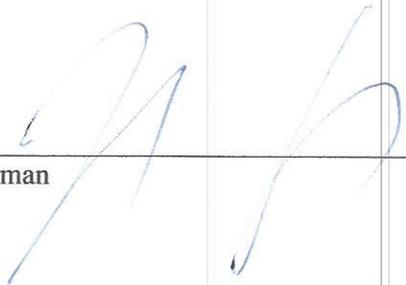
- 1) Front yard setback variances of sublots 13, 14, 15, 16, 17, 18, 19 and 20. Thirty-five (35) feet was required and 20 feet is provided for a 15 foot variance.
- 2) The rear yard setback variance for sublots 14 and 15. Thirty (30) feet was required and the final setback would depend on the dimensions of the dwelling being built.

While Mr. Montello had the City's Engineer Joe Ciuni on the phone he asked if he had seen the Bentbrook Phase I plat. Mr. Ciuni said he had and he did not have any issues with the plat. The Board

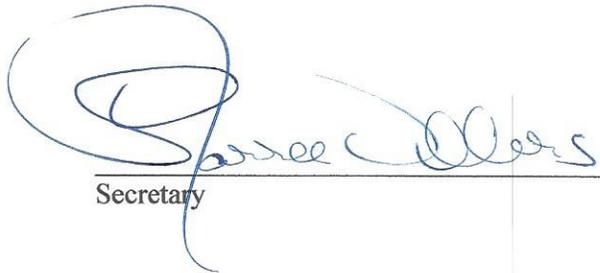
closely reviewed sublots 14 and 15 because of the request of the front and rear variances. Plus the Board was not sure what the footprint was for the homes to be built on these two sublots. After discussion was held the Board did not have any issues with the eight (8) front yard setback variances. Chairman Trzeciak reviewed the documents to make sure they were signed and stamped for approval; he hoped the applicant/owner was present this evening for questions. Mr. Wagner shared the 2007 history of the property when it was proposed as a HOA for condos but the new owner had a single family development in mind for the property. It was determined a lot of questions needed to be answered/addressed for sublots 14 and 15 because of the front and rear variance requests.

Work Session adjourned at 7:18 P.M.

Chairman



Secretary



The **Board of Zoning Appeals** met in Regular Session at Bedford City Hall on Tuesday, October 27, 2015 at 7:20 P.M. The roll was called: Jim Wagner, Dennis Kotmel, John Trzeciak. Absent: Sharyna Cloud, Kristi Glasier. Also in attendance: Building Inspector Richard Hickman, Law Director John Montello and Secretary Lorree Villers. Absent: Building Commissioner Calvin Beverly.

Motion made by Wagner seconded by Kotmel to excuse the absence of Kristi Glasier. The roll was called. Vote – Yeas: Wagner, Kotmel, Trzeciak. Nays: None. Motion carried unanimously.

Motion made by Wagner seconded by Kotmel to excuse the absence of Sharyna Cloud. The roll was called. Vote – Yeas: Wagner, Kotmel, Trzeciak. Nays: None. Motion carried unanimously.

Secretary Villers stated for the record the minutes of the Work Session of April 22, 2014, the Regular Meeting of April 22, 2014, the Work Session of January 27, 2015 and the Regular Meeting of January 27, 2015 could not be approved this evening due to lack of members. Motion made by Wagner seconded by Kotmel to table the minutes as stated by Secretary Villers. The roll was called. Vote – Yeas: Wagner, Kotmel, Trzeciak. Nays: None. Motion carried unanimously.

Chairman Trzeciak informed those present that according to a ruling made by the Law Department anyone wishing to speak at a public meeting is to rise, raise their right hand and the following oath administered. "Do you solemnly swear and affirm that the statements you are about to make are the truth." Then give your name and address for the record.

Jake Friedl, 445 Lamson Ave., Bedford is seeking relief from Section 1927.05 of the Codified Ordinances of the City of Bedford for a variance to construct a 1,935 square foot home, not including the two car attached garage.

Present: Jake Friedl, property owner of 445 Lamson Avenue, Bedford, Ohio.

Mr. Friedl, previously sworn in, submitted revised drawings to the Board for review. The home would be 1,883 square feet instead of 1,935 as originally submitted.

The Board took a few minutes to review the new documents. Mr. Hickman noted Mr. Friedl still exceeded the 30% allowance. The new documents showed the home at 26 foot in width. Mr. Wagner asked if the applicant would be opposed to moving the home forward to match the other homes setbacks on the street and to alleviate the flood plain problem. Chairman Trzeciak agreed moving the home forward would make the street look more symmetrical. Mr. Friedl thought it was at the 35 foot setback. Mr. Montello explained after discussion with the City's Engineer Joe Ciuni the home couldn't be built on the flood plain unless the home was elevated. Mr. Friedl said he previously spoke to Mr. Beverly about the flood plain and Mr. Beverly did not have any specifics regarding the flood plain. He had hoped to break ground in 2015. Mr. Montello understood there were additional costs to construct a home on a flood plain. Mr. Friedl asked what the height needed to be. Mr. Montello thought it was one (1) foot. Mr. Friedl said the variance was for 200 square feet and the drawings met the setback requirements. Chairman Trzeciak explained the Board was offering a front setback variance to avoid flood plain problems. The Board would not hold him to a specific front setback footage this evening; however, an amount less than 35 feet would be acceptable because the porch would only be affected. Mr. Montello thought the City Engineer should have been given the option to review the application request prior to the meeting. He said if the Board approved the request it would be on the condition upon the approval of the City's Engineer. The FEMA and EPA was not clear about building requirements for flood plain areas. One requirement was a vent type system to allow water to ingress and egress under the structure in a one (1) foot high area. Mr.

Montello said the house design would have to go before the Planning Commission for approval. Mr. Montello asked if the applicant intended to reside in the home. Mr. Friedl replied, yes.

Chairman Trzeciak asked if there were any further comments from those in the audience this evening regarding the construction of the new home.

Judy Motts, 437 Lamson Avenue, previously sworn in, explained she lived directly behind the vacant lot beside the Recreation Center swimming pool. The flood plain was behind her house with a little creek, the land was eroding and the City and the City's Engineer were aware. She called the Cuyahoga Soil and Water Conservation who visited the site. This area floods like a lake and there was a loss of two children who drowned years ago. The area that had the bar/grade collected debris and the City had to come and clean the area. Surrounding neighbors over the years had filled in their yards because their homes were flooding. She asked Mr. Friedl if the proposed home was one or two story. Mr. Friedl replied, two. Mrs. Motts said a two story home had to have a side yard width of eight (8) feet per Section 1927.05 with a minimum of 50 foot frontage. The Board corrected Mrs. Motts and told her the code reads six (6) feet not eight (8) because the home had an attached garage. Mrs. Motts said originally the property had two homes on it and someone built three homes on the property in this area. She stated the homes in the area were smaller and if the home was built too far back she would lose her privacy. Mr. Wagner stated the Board had requested the home be moved forward on the lot to avoid the flood plain issues and this would also give her privacy. Mrs. Motts stated her lot was 60 foot wide with three (3) additional 40 foot lots. She thought the new home would be a fire hazard if it were built too close. She stated the rear yard depth should be 30 feet and the front 35 feet. Mr. Montello explained the applicant was requesting a "variance" for "Lot Area, Frontage and Yard Requirements". Mr. Hickman reiterated the home was going to be moved forward so she would have her privacy. Mrs. Motts understood the home would be further from her home. She asked if the garage was going to be in the backyard. Chairman Trzeciak noted the garage was in the front of what appeared to be a slab home. Mrs. Motts understood the additional costs to dig a basement and she told a story about when the original home was razed the basement was backfilled. Mr. Friedl clarified the proposed home did have a basement and the garage was the only slab area and it was located 65 feet from the back of the lot. Mrs. Motts pointed out the current driveway was opposite of the garage. Chairman Trzeciak stated that was not the responsibility of this Board. Mrs. Motts wanted a little home and she started to repeat her previous concerns. Mrs. Motts was confused of the definitions of a "two story" and "two family" home. It was explained to her "two story" meant two levels and "two family" was more than one family. Mrs. Motts questioned why the applicant wanted to build a large home on the lot.

Kathy Williams, 491 Lamson Avenue, previously sworn in, questioned the side yard width. The Board clarified the applicant submitted new drawings this evening and the applicant met the requirements as supplied by Mrs. Motts. Mrs. Williams pointed out the other homes on the street had wider side yard widths.

Mrs. Motts again pointed out there were single family homes on Lamson. Chairman Trzeciak noted, she, too, lived in a single family home. Mrs. Motts replied she lived in a ranch style home. Chairman Trzeciak reiterated her ranch was a single family home. Mrs. Motts replied, "She knew, she was just saying". She said a resident from the audience wanted to know if Mr. Friedl moved if he was going to make the home a Section 8 rental. Chairman Trzeciak replied that specific question/concern was not the Board's responsibility. Mr. Montello stated the same question could be asked of that resident or Mrs. Motts herself. Mrs. Motts said the applicant replied, no.

Motion made by Wagner seconded by Kotmel to approve the variance for Jake Friedl, 445 Lamson Avenue, Bedford who is seeking relief from Section 1927.05 of the Codified Ordinances of the City of

Bedford for a variance to construct the revised drawings of a 1,883 square foot home, not including the two car attached garage on the condition of the City Engineers and Planning Commission approval subject to compliance with all city codes and ordinances.

The roll was called. Vote – Yeas: Wagner, Kotmel, Trzeciak. Nays: None. Motion carried unanimously.

Secretary Villers informed Mr. Friedl the final approval would be before Council on November 2, 2015 at 8:00 p.m. and the same location for consideration.

Bentbrook Development, LLC is seeking relief from Section 1927.05 of the Codified Ordinances of the City of Bedford for setback variances for six (6) separate parcels to build single family dwellings in Phase 1 (Bentbrook Development, LLC has acquired the allotment with the intentions of constructing 18 single family homes in Phase 1 and 20 single family homes in Phase 2)

Present: Matthew Neff, GPD Group Senior Project Manager/Engineer, 5595 Transportation Boulevard, Garfield Heights.

Mr. Neff, previously sworn in, presented a large drawing of Phase I with an amendment of eight (8) variance requests instead of six (6) as stated on the original application.

The requested variances were for: 1) front yard setback variances of sublots 13, 14, 15, 16, 17, 18, 19 and 20. Thirty-five (35) feet was required and 20 feet is provided for a 15 foot variance. 2) the rear yard setback variance for sublots 14 and 15. Thirty (30) feet was required and the final setback would depend on the dimensions of the dwelling being built.

The Board did not have much concern about the other seven (7) sublots on Hubble Way but subplot 15 was definitely a concern. They wanted to focus on subplot 15 before discussing subplot 14.

Sublot 15:

Mr. Neff approached the Board with a drawing/plat. The Board requested Mr. Neff to draw house footprints on subplot 15 for review. Mr. Neff showed them several scenarios with the three footprints that were being offered. The main concern/focus was for subplot 15 because of its small size and shape; it had one angled corner at the rear of the property. It was determined the choice of the home would determine whether there was a need for a variance; however, the Board felt the only option was for the developer to find a different style/footprint for subplot 15. Mr. Montello asked if a minimum or maximum could be determined for the three homes. Mr. Neff didn't think it could be done easily. Mr. Hickman explained he had previously discussed this with Mr. Beverly and they determined a 30' x 30' home with a 20' x 24' garage could fit on the lot. Mr. Neff said the proposed home drawings did not have that size footprint; they were approximately 40' x 42' which included a tuck under garage. He understood subplot 15 could be considered undevelopable with its size, shape and the three footprints that he had to work with. Mr. Neff said the Willard home was the smallest footprint and that was what was being considered for subplot 15. Chairman Trzeciak stated it was impossible for the Board to approve a variance when Mr. Neff did not know what he wanted to build on the lot. Mr. Neff clarified there were only three footprints that were being offered at this time; however, the buyer could pick their own design. Chairman Trzeciak stated the Board needed the other two home dimensions before a variance approval could be considered. Mr. Neff apologized to the Board; he should have been prepared and calculated a worst case scenario. The Board determined subplot 15 would have to be re-visited at another meeting. Mr. Neff explained the colonial footprint was buildable for sublots 14 and 15; however the variance request for subplot 15 was in case the buyer wanted a ranch style home. The ranch was 12-14 feet deeper. Mr. Hickman questioned if the 30%

maximum density requirement had been determined. Mr. Neff thought it had been addressed by Mr. Beverly. Chairman Trzeciak said the requirement was 35' and with the 20 foot setback variance and the rear setback would be a minimum of 15' for subplot 15. Mr. Neff said the goal was to put the smallest house on this specific lot. Mr. Montello suggested since the Board was not comfortable with the situation the other option was for Mr. Neff to address subplot 15 at another meeting. Mr. Wagner did not have a problem with the rest of the development but subplot 15 was the issue. Again, the Board felt the only option was for the developer to find a different style/footprint for subplot 15. The Board suggested sublots 14 and 15 be combined for construction of one home. Mr. Neff could not make that decision.

Sublot 14:

Mr. Neff explained he requested the rear yard setback in case the buyer wanted to build a ranch style home; however, a 1 ½ or 2 story colonial would fit without a variance. Mr. Hickman pointed out sublots 14 and 15 were smaller lots than the rest on Hubble Way. Chairman Trzeciak pointed out the only subplot affected by subplot 15 was subplot 11 because the homes would be 15' apart. The Board was not only focused on subplot 15 but the other neighboring sublots that would be affected. Mr. Neff pointed out subplot 11 would have a 1 ½ or 2 story built on it not a ranch which allowed a 30' rear yard. The home currently being built on subplot 10 had a compliant rear yard. The houses next door to subplot 10 were also in compliance.

Chairman Trzeciak requested clarification from Mr. Neff of what he was now requesting. Mr. Neff clarified he was requesting 20' front yard variances for all of Hubble Way which included sublots 13, 14, 15, 16, 17, 18, 19 and 20 and rear setbacks only for sublots 14 and 15. The Board determined subplot 14 rear lot variance request was not an issue because of the options of footprints. Mr. Neff said the ranch home was 54' deep x 39' wide with a 12' by 18' corner of no construction. Mr. Hickman asked if the 30% maximum density requirement was exceeded. Mr. Neff roughly calculated 31% which included the garage, so yes the maximum density was okay. Mr. Hickman pointed out there were some challenges with Hubble Way. Chairman Trzeciak understood the request for the 20' front yard setback but with the additional request of the 15' rear setback only added concern. He said if the Board required the 35' setback the lot became absolutely worthless. The 20' foot setback and the additional 15' was the issue. Mr. Neff was willing to re-visit subplot 15 with a different design. Mr. Hickman thought Mr. Neff was asking to modify the original application request for sublots 14 and 15. Mr. Wagner did not feel subplot 14 was an issue for the rear variance. Chairman Trzeciak stated subplot 15 violated "everything" including the 30% maximum density. There was no determination if subplot 15 violated the 30% maximum density. Mr. Montello suggested subplot 15 be addressed at a later date.

It was determined the Board would approve the eight (8) front yard setback variances; however, they needed to determine what to do with sublots 14 and 15 regarding the rear setbacks. Mr. Hickman pointed out if the developer was creative with these two lots there would be no need for another meeting for variances; a different footprint was required to avoid a variance request. The front yard setback request was to keep all the homes uniform on Hubble Way. Mr. Neff requested the front yard setback on sublots 14 and 15 and he would address the rear of subplot 15 at another meeting. Everyone agreed it was a possibility a person could purchase sublots 14 and 15 for the construction of one home. Mr. Hickman asked what the rear yard dimension for subplot 14 was. Mr. Neff replied approximately 27 feet depending on the style of the home. He explained the focus was not to build an odd/different type home on subplot 14. Chairman Trzeciak pointed out two out of the three homes did not need the rear yard setback; however, the applicant was asking in case a ranch style home was going to be constructed. It was determined the applicant only needed this evening the eight (8) front setback variances for sublots 13, 14, 15, 16, 17, 18, 19 and 20. The Board agreed sublots 14 and 15 would not have the rear setback variances this evening.

Chairman Trzeciak explained the problem with granting a "blanket" variance was the builder could be slow in the winter and if a "blanket" variance was issued the builder might build the biggest home he could in order to finish a home to move on to another project. This was not in the best interest for the person buying a home or the City. Mr. Neff understood.

It was determined if Mr. Neff needed to come back for the rear yard setback variances he would not have to follow the requirement per §1919 of the Codified Ordinances since the procedures were previously adhered to; basically the rear yard setbacks were being tabled in case there was a need for another meeting. Mr. Montello felt since the procedure was followed and if anyone was going to object they would be here this evening. The Board needed additional information for the rear yard setbacks that couldn't be provided this evening. Secretary Villers informed Mr. Neff the BZA meetings were held the 4th Tuesday of every month; however, he needed to have the information into Mr. Beverly at least two weeks or more prior to the 4th Tuesday. This would allow adequate time for Mr. Beverly to review the information and allow Secretary Villers to get a quorum to set up the meeting.

Chairman Trzeciak asked if there were any further comments from those in the audience this evening regarding the request for the Bentbrook Development for Phase I.

Dot Schwende, 513 Lamson Avenue, previously sworn in, was not in favor of a development of this nature going into an area like this one. She remembered the original project in 2007. She didn't think it was wise to expand the single family homes even though they were new homes. She thought the vacant homes should be reduced in number before new homes were built. She felt single family homes added stress to the schools. She thought the City was looking for professional single people to live in Bedford and did not think this development was going to be an asset for Bedford at this point and time.

Motion made by Wagner seconded by Kotmel to approve the front setback variances for sublots 13, 14, 15, 16, 17, 18, 19 and 20 for a 15 foot variance for Bentbrook Development, LLC who is seeking relief from Section 1927.05 of the Codified Ordinances of the City of Bedford for front setback variances for eight (8) separate parcels to build single family dwellings in Phase 1 and subject to compliance with all city codes and ordinances. The roll was called. Vote – Yeas: Wagner, Kotmel, Trzeciak. Nays: None. Motion carried unanimously.

Motion made by Wagner seconded by Kotmel to approve the rear yard setback variance for sublots 14 and 15 depending on the dimensions of the dwelling being built and subject to compliance with all city codes and ordinances. The roll was called. Vote – Yeas: None. Nays: Wagner, Kotmel, Trzeciak. Motion failed unanimously. Mr. Neff understood he could request another meeting if he needed a variance.

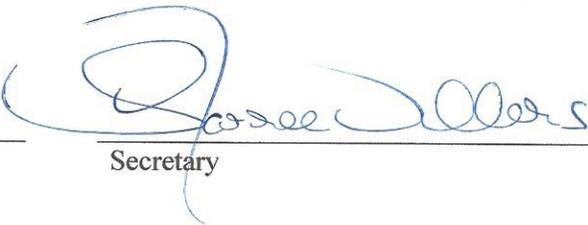
Secretary Villers informed Mr. Neff the final approval would be before Council on November 2, 2015 at 8:00 p.m. for consideration.

ADJOURNMENT

There being no further business to come before the Board, motion made by Wagner seconded by Kotmel to adjourn. The roll was called. Vote – Yeas: Wagner, Kotmel, Trzeciak. Nays: None. Motion carried unanimously.

Meeting adjourned at 8:25 P.M.

Chairman



Secretary