

**REGULAR MEETING
AGENDA**

**BOARD OF ZONING APPEALS
STATE OF OHIO
COUNTY OF CUYAHOGA**

**DATE: January 27, 2015
TIME: 7:00 P.M.**

WORK SESSION – 6:30 P.M.

Elect 2015 Chairman
Elect 2015 Vice-Chairman
Discussion of 2015 appointments

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)

4. NEW BUSINESS

- a. Motion to Elect 2015 Chairman (roll call)
- b. Motion to Elect 2015 Vice-Chairman (roll call)
- c. Jacqueline Barbee, 77 Southwick Drive, Bedford is seeking relief from Section 903.02 (4) (A) of the Codified Ordinances which states “(4) Number of driveway aprons. – (A) Each lot shall have only one driveway”. The owner(s) were issued a permit to resurface an existing driveway. Upon visiting the job site it was discovered that in fact a second curb cut, apron and driveway had been installed.
(roll call)

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, January 27, 2015 at 6:40 P.M. Present: John Trzeciak, Jim Wagner, Kristy Glasier, Sharyna Cloud. Absent: Dennis Kotmel. Also in attendance: City Manager Michael Mallis, Building Commissioner Calvin Beverly and Secretary Lorree Villers.

The Board did not have any corrections to the April 22, 2014 Work Session or Regular meeting minutes as prepared by Secretary Villers. Mrs. Glasier and Mrs. Cloud were absent on April 22, 2014 and would have to abstain. Secretary Villers would have to ask Mr. Montello or research if the minutes would be approved this evening because of the two that had to abstain. There would be two votes to approve but there was the absence of Mr. Kotmel; she felt his vote was necessary. Mr. Kotmel was absent this evening even though he said he was attending the meeting and she was counting on his vote.

The Board nominated Mr. Trzeciak as the 2015 Chairman and Mr. Wagner as the 2015 Vice-Chairman.

Jacqueline Barbee, 77 Southwick Drive, Bedford is seeking relief from Section 903.02 (4) (A) of the Codified Ordinances which states “(4) Number of driveway aprons. – (A) Each lot shall have only one driveway”. The owner(s) were issued a permit to resurface an existing driveway. Upon visiting the job site it was discovered that in fact a second curb cut, apron and driveway had been installed.

Mr. Beverly explained the home was built in 1946 with a very, very short drive which had been an issue for previous owners. The home was purchased in 2012 by Jacqueline Barbee so she was a relatively new homeowner. The problem was when a car was parked in the drive the vehicle overhung/impeded the sidewalk and apron which was actually a violation of the City Codes. The apron and sidewalk added together were longer than the drive itself. He pointed out the wording on the application, as filled out by the contractor, as “replacement” and “resurface” but what actually occurred was a new installation of a second drive. During the application process the Building Department was not aware there was going to be a new second drive installed, a new apron with a curb cut. The new improvements/installations were not discovered until Inspector Stouffer was called to perform an inspection. At the time of the inspection, Mr. Stouffer did not know if the applicant/contractor had gone through the correct process with the Building Department and the Board. After Mr. Beverly was made aware of the situation, he visited the site and spoke to the homeowner plus he had received some neighboring complaints. The Board not only had questions concerning the Codified Codes but they also had concerns because the homeowners had some disabilities. The Board had requested prior to the meeting the presence of Assistant Law Director Montello so he could interpret the Codified Ordinances that pertained to this issue, define the word “driveway” and address the fact that these ladies were disabled. The Administration determined prior to the meeting that Mr. Montello’s presence was not necessary. The Board and Mr. Beverly were not in agreement on a few issues and the Board struggled to make a decision being concerned their decision could lead to a lawsuit.

It was determined the contractor was at fault because of the way he filled out the application and the City needed to decide if he was to be held accountable by prosecution for his misleading’s. Discussion was held whether the Codified Codes needed to be amended/reviewed concerning driveway/residential parking areas. Mr. Wagner told a story that his neighbor moved years ago because of a similar type situation. Back then the City felt the homeowners should park at Ellenwood daily/overnight and walk 500 feet to their home in all types of weather. He felt this was totally unacceptable and the codes need addressed, he too, was in a situation when his mother was ill. He thought it was a shame to lose good residents or home sales because of Code violations, short driveways and parking issues. He thought Bedford’s focus was to bring in young families for a thriving City and to support the school system. This

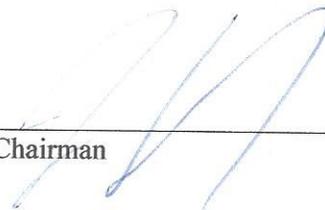
could be hard to do with driveway/parking issues. Mr. Mallis felt it was better to deal with these types of situations on a case by case basis instead of changing the Codified and possibly creating more issues. In this case, the problems were the contractor mislead the City/homeowner, the homeowner was unaware, the new installation was already completed and the variance process was not followed. This could have been dealt with accordingly had it been done correctly. Mr. Beverly said the contractor was not a known businessman in Bedford and he felt the contractor was only concerned with getting a job and making money. It was pointed out that anyone purchasing a home in Bedford already knows the driveway was short before they purchased the home but in reality, they normally don't know the Codified Codes or other issues like not being able to install an additional drive. Discussion was held of a resident that wanted to park beside his garage which was also an unknown violation to the resident.

The question arose as to how many cars a homeowner was allowed to park at their home because some homes only had room for one car; that was okay if you were single and had no visitors. What was a family to do in this type of situation when their children started to drive and still lived at home at this young age? There was discussion about a Taft home that ended up converting their garage into a livable space because their drive was similar, however, nobody knew where these family members parked. With short drives being an issue, it affected the resale of these homes because most families have two or more cars and periodic visitors. It was also determined that Ms. Barbee's new improvements needed to be landscaped for a nicer appearance.

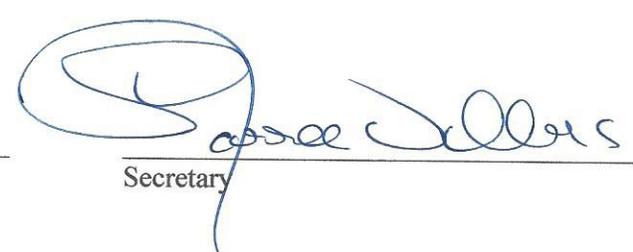
It was determined that this was definitely a hardship and could be approved if the Board approved the variance of the new driveway, new apron and curb cut since the Board felt the original 4-6 foot area was not really considered a driveway or even an adequate parking area. Any vehicle in this area impeded the sidewalk and would be in violation.

Work Session adjourned at 7:08 P.M.

Chairman



Secretary



Bedford, Ohio

January 27, 2015

The **Board of Zoning Appeals** met in Regular Session at Bedford City Hall on Tuesday, January 27, 2015 at 7:10 P.M. The roll was called: Kristy Glasier, Sharyna Cloud, Jim Wagner, John Trzeciak. Absent: Dennis Kotmel. Also in attendance: City Manager Michael Mallis, Building Commissioner Calvin Beverly and Secretary Lorree Villers.

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

Motion made by Glasier seconded by Wagner to elect Mr. Trzeciak as the 2015 Chairman. The roll was called. Vote – Yeas: Glasier, Cloud, Wagner, Trzeciak. Nays: None. Motion carried unanimously.

Motion made by Glasier seconded by Cloud to elect Mr. Wagner as the 2015 Vice-Chairman. The roll was called. Vote – Yeas: Glasier, Cloud, Wagner, Trzeciak. Nays: None. Motion carried unanimously.

Motion made by Wagner seconded by Trzeciak to approve the minutes of the Work Session of April 22, 2014. The roll was called. Vote – Yeas: Wagner, Trzeciak. Abstain: Glasier, Cloud. Nays: None. Motion carried.

Motion made by Wagner seconded by Trzeciak to approve the minutes of the Regular Meeting of April 22, 2014. The roll was called. Vote – Yeas: Wagner, Trzeciak. Abstain: Glasier, Cloud. Nays: None. Motion carried.

As discussed at the Work Session, Secretary Villers would have to ask Mr. Montello or research if the minutes would be approved this evening because of the two that had to abstain. There would be two votes to approve but there was the absence of Mr. Kotmel; she felt his vote was necessary. If the minutes were not approved due to the lack of votes, she would place them on the next meeting agenda along with this evening's minutes.

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.

Jacqueline Barbee, 77 Southwick Drive, Bedford is seeking relief from Section 903.02 (4) (A) of the Codified Ordinances which states "(4) Number of driveway aprons. – (A) Each lot shall have only one driveway". The owner(s) were issued a permit to resurface an existing driveway. Upon visiting the job site it was discovered that in fact a second curb cut, apron and driveway had been installed.

Present: Jacqueline Barbee, 77 Southwick Drive, Bedford, Ohio.

Jacqueline Barbee, previously sworn in, said she did not consider the existing driveway an actual driveway. She purchased the home three years ago and after one year of living here she asked someone at City Hall if she could put in another drive and thought it was okay. She showed her Building Department Permit and Tommie's Construction contract and said it did not state anything about "resurfacing". She stated it would be "stupid to resurface". She offered a copy of the contract for the Board to review. She referenced some "notes" that were filed at City Hall that states "new driveway". She said the City's Inspector approved the project before and after the concrete was poured and that was why she was surprised to see Mr. Beverly at her home even though the permit was in the window.

Mrs. Cloud asked Ms. Barbee if she reviewed the application the contractor filled out. Ms. Barbee replied there was some type of paperwork emailed to her but she did not notice any words that spoke to "resurfacing". She said the contract spoke to a new driveway. Mr. Wagner quoted from the contract "Resurface asphalt driveway" and there was not an asphalt driveway; the original drive was concrete. He felt the paperwork had contradictions. Ms. Barbee said the new driveway was asphalt and the apron was cement. Mr. Trzeciak noted the permit application was September 25, 2014 and the contract was September 28, 2014. Mr. Beverly stated the Building Department did not review any contracts between the resident and the contractor prior to issuance of a permit. Ms. Barbee questioned why the Inspector did not say anything about the project. Mr. Beverly explained the City Inspector only has an address and what they were to inspect. The Inspector does not know if the permit was issued legally or illegally. Ms. Barbee thought the City Inspector knew the ordinances. Mr. Beverly said this specific Inspector explained to him once a permit was issued he assumed the proper steps had been taken and the permit was issued legally. The Inspectors did not investigate to determine if the permit was issued legally or illegally before the inspection was completed. The Inspector was not to blame. Mr. Trzeciak and Ms. Barbee determined the project was done in September 2014.

Mr. Trzeciak asked those in the audience if they wished to speak.

Jim O'Neil, 155 Gould Avenue, suggested the driveway leading to the house be demolished if at all possible to eliminate the extra drive. Ms. Barbee said she needed the original driveway as ingress/egress of her garage which led into her home. Mr. O'Neil was okay with the recent drive installation. He referred to a couple corner lot homes that could abolish the existing driveway and install a new drive.

Jim Fertig, 82 Southwick Drive, said he had been in real estate for 18 years and his personal experience with this home was the complaints of the very, very small driveway essentially there was no available parking. He knew the history of the property leading back to 1975. He felt with the new driveway installation it would be easier to sell and would increase the value of the home.

Secretary Villers stated for the record a letter from Gary and Lenore Nipper, 116 Grand Boulevard, they both felt strongly that the Ordinance should be upheld in all fairness to the other residents in the area. (see attached)

Mr. Wagner felt the Law Director should have been present as he requested to interpret and clarify the issues for the Board this evening. Without the legal opinion of the Law Director, he assumed this applicant's request was a hardship; the driveway could not be parked on legally and the Codified Code allowed one (1) driveway per home and if the driveway was not adequate then was it really a usable driveway or considered a driveway. This home was not the only home in the City that had this very same issue.

Mr. Trzeciak said the current driveway was inadequate to be considered a driveway. Mr. Wagner thought a variance was not needed in this specific case because the driveway wasn't really a driveway. Mr. Wagner struggled with the decision/motion and that was why he requested the Law Director be present this evening. He referred to the young family with children that moved out of the City because of the same situation; he felt this was a silly thing/code forcing residents to move. He stated residents should have access to their own homes and in this current situation it was not possible. Mr. Trzeciak noted it was a unique lot and unique situation so there was no need for a variance.

Jim O'Neil, 155 Gould Avenue, asked if Ms. Barbee could build a garage in the future connecting to the new driveway. Mr. Trzeciak said this issue before the Board was not the construction of the new garage so it would not be discussed. Mr. O'Neil pointed out the neighbor on Eldred might have a problem with a

future garage restricting their view. Ms. Barbee was not interested in a garage but a possible car port. Mr. Trzeciak reiterated the Board was not deciding on the construction of the new garage or carport so it would not be discussed.

Secretary Villers asked for permission to speak because the Board was struggling with the wording for the motion. She asked Mr. Beverly for his assistance in wording the motion. Mr. Beverly said there needed to be a determination of the definition of what a "driveway" was or wasn't, what a "garage" was or wasn't; there was nothing to specify the size of a structure to whether it was a garage or not. There was nothing in the Codified Ordinances to determine whether it was a driveway by its length or not. He thought the intent of the Codified Ordinances as it was written intended it to be considered a driveway because it had an existing curb cut. A driveway regardless of its shortness was an infringement upon the public right-of-way so the homeowner was not able to park in their own driveway. He suggested using the angle of a hardship to grant the variance for the second curb cut, the apron and new driveway based on the condition that the existing driveway could not be used for parking which was an infringement and a violation. He believed it was considered a driveway. He felt this issue should be tabled this evening and someone needed to confer with the Law Director. Secretary Villers asked why Mr. Montello wasn't present this evening because she had specifically asked for the City's Law Director to be present at the Board members request. The Board made it clear to her that some of them had questions/concerns for the City Law Director to answer. Mr. Beverly thought this issue was going to be "cut and dry" so he told Mr. Montello he didn't see a reason for his presence. The issues this evening could have been addressed had the Law Director attended and there wouldn't be another need for a meeting.

Mr. Wagner thought to make a big investment in a home and then to find out after the fact that the homeowner could only have one vehicle did not make any sense. He felt the residents in this same situation should be allowed to have access to their homes and another vehicle. He personally experienced the same situation at his mother's home when she was ill; nobody could park in the drive and spend the night to take care of her.

Mr. Trzeciak disagreed with Mr. Beverly to say that Ms. Barbee's driveway was defined/considered a "driveway" since it was inadequate. Ms. Barbee's garage floor should not be considered the driveway; the driveway starts at the garage door to the lot line. He pointed out the City does not have a definition of a driveway but there was a definition for a "parking space". Mr. Beverly said "parking spaces" were for commercial not residential. Mr. Trzeciak and Mrs. Cloud agreed there was only four (4) feet from the garage door to the sidewalk. Mr. Trzeciak and Mr. Wagner felt there was a need for a variance because Ms. Barbee did not have a legal driveway. Mr. Beverly respectfully disagreed. Mr. Wagner said if a resident can't park in their own driveway then how can it be considered a driveway. He said if a person was to park a motorcycle in the driveway it would have to be parked diagonally to fit. Mr. Beverly again disagreed. He stated there was nothing in the Codified Ordinances that stated a homeowner had to be able to park in their own driveway. The entire Board was confused as to the purpose of a driveway than just to have access to their own garage. Mr. Beverly stated that was correct; the purpose of this driveway was to allow the homeowner access to their own garage. Mr. Wagner said that might have been okay in 1946 when families only had one car but times have changed. It was time the City helped these unique homeowners in this very situation. He said he would have been very upset to find out after purchasing a home that he was only allowed to have one vehicle.

Mr. Trzeciak was not in favor of tabling this issue this evening as suggested by Mr. Beverly. Mrs. Cloud understood what everyone was saying but in this situation a variance was needed. Mr. Trzeciak suggested a variance for a curb cut and an apron because she did not have two driveways. Mr. Beverly respectfully disagreed; there were two driveways. Mrs. Glasier understood there were two driveways but couldn't the

hardship be that she should be able to park in her driveway without breaking the law. The Board agreed the current driveway was inadequate.

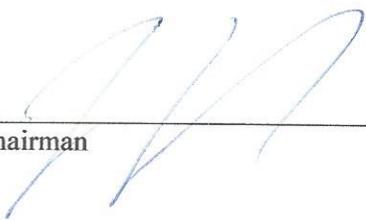
Motion made by Glasier seconded by Wagner to approve the variance for the second curb cut, apron and driveway that had been previously installed because the existing driveway was inadequate. The existing driveway does not allow the homeowner to park their vehicle without impingement upon the other driveway. The roll was called. Vote – Yeas: Glasier, Cloud, Wagner, Trzeciak. Nays: None. Motion carried unanimously.

ADJOURNMENT

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

Meeting adjourned at 7:43 P.M.

Chairman



Secretary

