

**SPECIAL MEETING**

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

**DATE: December 10, 2013**

**AGENDA**

**TIME: 7:00 P.M.**

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**WORKSESSION – 6:30 P.M.**

**1. CALL TO ORDER**

**2. ROLL CALL**

**3. APPROVAL OF MINUTES**

- a. Approval of Minutes of Regular Session of September 24, 2013
- b. Approval of Minutes of Regular Meeting of September 24, 2013

**4. NEW BUSINESS**

- a. Mark & Sarah Patsolic, 100 Harriman Ave., Bedford, Ohio 44146 is seeking relief from Section 1947.07 (a) of the Codified Ordinances which require a minimum of at least 6 foot setback in any residential area from the rear lot line.

**5. MISCELLANEOUS**

**6. ADJOURNMENT**

The Board of Zoning Appeals met in a Special Work Session at Bedford City Hall on Tuesday, December 10, 2013 at 6:35 P.M. Present: Kristy Glasier, John Trzeciak, Sharyna Cloud [joined at 6:55 p.m.], Jim Wagner. Absent: Dennis Kotmel. Also in attendance were City Manager Hank Angelo, Building Commissioner Calvin Beverly and Secretary Lorree Villers.

The Board did not have any corrections to the September 24, 2013 Work Session or Regular meeting minutes as prepared by Mrs. Hollo in Secretary Villers absence.

Mr. Beverly reminded everyone Mark and Sarah Patsolic's barn caught fire in December 2012. He understood the neighbors were not concerned about them rebuilding their barn. He explained previously the Planning Commission approved the non-conforming commercial use of the barn on August 6, 2013 and City Council approved the Planning Commission's recommendation on August 19, 2013. On September 24, 2013, Mark and Sarah Patsolic were before the Board of Zoning Appeals seeking a height variance and City Council approved the Board of Zoning and Appeals recommendation on October 7, 2013.

Mark and Sarah Patsolic, 100 Harriman Street, application this evening was seeking relief from Section 1947.07 (a) of the Codified Ordinances of the City of Bedford which required a minimum of at least a 6 foot setback in any residential area from the rear lot line. Mr. and Mrs. Patsolic are seeking relief from this Section in order to construct the building foundation 4.5 ft. from the rear lot line.

After review of the drawing, there was some concern regarding the roof water run-off, the location of the building and if there was enough area to maneuver a vehicle in the front. The request was to rebuild the barn as it was and remain at the back footer location, which was 4' 6" off the back property line. Mark and Sarah Patsolic claimed if the barn was moved forward it would cost an additional \$4,000 in unnecessary concrete replacement and reduce clearance into the parking bays. The Board was trying to understand the hardship request for \$4,000 for additional concrete; the space in question was only 18 inches that ran along the front of the barn. Mr. Angelo explained a hardship could not be considered as an economic hardship. (see attached Section 1919)

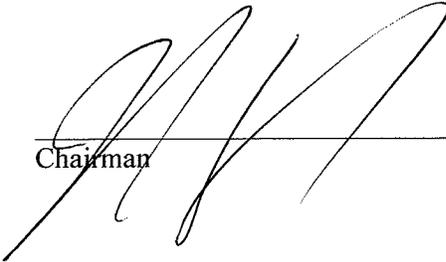
There was discussion that this was a residential lot (R-2) but Mark and Sarah Patsolic had been using their barn for a commercial business for many years without complaints from the surrounding neighbors. It was understood the business started out very small with smaller type equipment but now the equipment had increased in size. The question was, should Mark and Sarah Patsolic continue to run their home business out of their barn which was located in an R-2 area. Another question was if the barn was going to be used as a living space/rental; it was believed it was not going to be used as a rental.

Section 1947.03 (a), "NONCONFORMING USES" spoke to any nonconforming building or structure which has been damaged may be reconstructed and used as before if it is done within 12 months of such calamity, unless damaged more than 50% of its fair market value, as determined by the BZA, in which case reconstruction shall be in accordance with the provisions of this Code. (see attached)

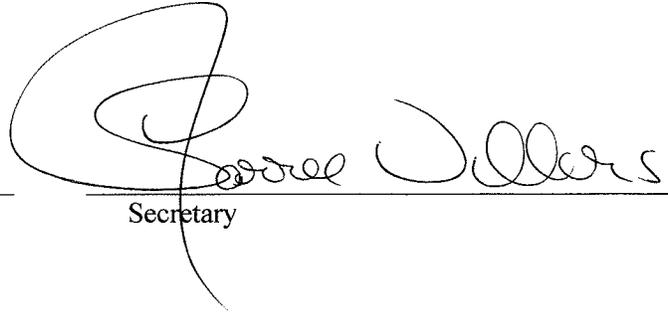
The Board felt the problem was that Mark and Sarah Patsolic were constantly changing their minds and it would be a lot easier if they made a final decision and then file their application instead of going through the application process as piece meal. Plus, the information submitted to the Board was not clear so Mark and Sarah Patsolic would have to clarify at the regular meeting this evening.

The Board struggled with a decision because of the unanswered questions. They wondered if the regular meeting would have to be continued to a future date.

Work session adjourned at 6:59 P.M.

A stylized, cursive handwritten signature consisting of several large, sweeping loops.

Chairman

A handwritten signature that begins with a large, circular flourish, followed by the name "Carol J. Jones" in a cursive script.

Secretary

Bedford, Ohio

December 10, 2013

The Board of Zoning Appeals met in special session at Bedford City Hall on Tuesday, December 10, 2013 at 7:02 P.M. The roll was called: Present: Kristy Glasier, John Trzeciak, Sharyna Cloud, Jim Wagner. Absent: Dennis Kotmel. Also in attendance were City Manager Hank Angelo, Building Commissioner Calvin Beverly and Secretary Lorree Villers.

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

Motion made by Glasier seconded by Wagner to approve the minutes of the Work Session of September 24, 2013. The roll was called. Vote – Yeas: Glasier, Trzeciak, Wagner, Cloud. Nays: None. Motion carried unanimously.

Motion made by Glasier seconded by Wagner to approve the minutes of the Regular Meeting of September 24, 2013. The roll was called. Vote – Yeas: Glasier, Trzeciak, Wagner, Cloud. Nays: None. Motion carried unanimously.

Mark & Sarah Patsolic, 100 Harriman Ave., Bedford, Ohio 44146 is seeking relief from Section 1947.07 (a) of the Codified Ordinances which require a minimum of at least 6 foot setback in any residential area from the rear lot line

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.

Present: Mark and Sarah Patsolic, 100 Harriman Avenue, Bedford, Ohio 44146.

Mark and Sarah Patsolic, previously sworn in, explained their application this evening was seeking relief from Section 1947.07 (a) of the Codified Ordinances of the City of Bedford which require a minimum of at least 6 foot setback in any residential area from the rear lot line. Mr. and Mrs. Patsolic are seeking relief from this Section in order to construct the building foundation 4.5 ft. from the rear lot line.

Mr. Patsolic showed pictures of their barn that caught fire on December 23, 2012. They want to rebuild the barn as it was as a 2 ½ story, 3 bay barn. He asked to keep the setback the same in the same footer trench. He stated the hardship was if they moved the barn to the required six feet it made the back and front foot trenches connected. A density fill would have to be poured in the original footer, take the new footer out and half the density fill in the front and back footers. This would cost “double the amount”.

Mr. Trzeciak thought the existing footer was gone. Mr. Patsolic clarified the existing footer trench was still there. If the barn was moved to the required six feet, the footer trench would have to be filled and then dig half of it back out and moved forward. He showed the current trench and the new trench overlapping. This would cause double the work, the area in front of the barn would have to be removed which would move the barn closer to the island/flower bed. Mr. Trzeciak asked what the dimension was from footer to footer. Mr. Patsolic said the six foot mark was in the middle of the current footer. Moving the barn closer to the island/flower bed would limit maneuverability between the new barn and the island/flower bed.

Mr. Trzeciak referred to the September 24, 2013 height variance request, which was approved by Council on October 7, 2013. He mentioned the additional fill that was going to be needed to raise the building. Mr. Patsolic thought the September 24, 2013 request was for height only, not dirt fill plus he did not know the thickness of the dirt that was going to be needed.

The section of the September 24, 2013 minutes read as follows: *"Mrs. Patsolic said they want to be able to put the footer back in where it was at the back line. The side could come off ten feet, it is far enough away from the neighbor's garage. But in the back, if they build forward, they have to redo all the cement and would not be able to have a privacy area. They want to be able to keep that island. They are concerned the barn would be too close to the island if built forward."*

*Mr. Beverly clarified he said the setback requirement is 6 feet off the rear and 10 feet from another structure. Mrs. Patsolic said right now it is 4 ½ feet off the back property line and 11 ½ feet away from the side property to the neighbor's garage.*

*Mrs. Glasier stated this request is different than the variance seeking here. Mr. Trzeciak explained what is on the application is a height variance, not rear line variance. Mr. Angelo said this cannot be brought up at this point. When Mr. Angelo previously met with Mr. & Mrs. Patsolic, the concern was the height variance and there is a very good case to present it to the Board of Zoning Appeals for the height variance. There was no discussion about moving those setbacks on the back and the side. It will cause another delay to seek a variance for the side and back lot. Mrs. Patsolic stated they cannot go any further into the driveway. It would just cause more cement work and it would bring the barn into that middle island and it would be too close to get the vehicles into the barn. Mr. Beverly stated he never mentioned 10 feet from the back. It is 10 feet from the structure on the adjacent property, but it is only six feet from the rear property line. The current footer is 4 ½ feet off the property line. The building would have to be moved only 1 ½ feet from the current foundation. Mr. Angelo told Mrs. Patsolic she has the right to come back to the Board of Zoning Appeals for the rear line setback if she wants."*

Mr. Trzeciak asked for clarification regarding their hardship. Mr. Patsolic said the hardship was in excess of \$4,000 and the front of the drive would have to be removed. Mr. Wagner understood the 18 inch area that ran across the front of the barn was being removed. Mr. and Mrs. Patsolic said some of the concrete was being fixed and the other part replaced. Mr. Patsolic said he could fix it or cut it out and move the barn forward. He questioned if the BZA was suggesting moving the barn forward; he was asking to keep the barn in the same location off the rear property line. Mrs. Patsolic said the concrete would have to be removed up to the next cut line if they moved the barn forward. Mr. Wagner asked where the trench for the drain was located. Mr. Patsolic replied the trench for the drain was a couple feet away from the current concrete edge. However, the next cut line would be approximately 6 feet from the barn.

Mr. Trzeciak understood there was eight (8) feet of new concrete in front of the garage so with the approximate 18 inches of concrete being removed they would only be pouring seven (7) feet of new concrete. Mr. Patsolic stated the hardship additional costs were the duplication of labor and materials in the front and rear footer. Mr. Trzeciak asked if they were keeping the existing side footers. Mr. Patsolic clarified they were moving ten (10) feet from east to west; keeping the rear footer in the same location. Mrs. Glasier questioned the other hardship was "reduced clearance into bays. She was puzzled as to why a car would not fit. Mr. Patsolic explained if the barn was moved forward there would be encroachment on the island/flower bed, his wife drove a Durango SUV. Mrs. Patsolic added it was a privacy issue too. Mr. Beverly explained it was common practice in construction the foundation was over dug/dug bigger so the footer could be poured and then back filled; the barn needed to be 12 inches higher. Mr. Patsolic reiterated the hardship additional costs were the duplication of labor and materials in the front and rear

footer if the barn was moved forward. The material to be used for the footer was called density fill; the trench could not be filled with dirt only. The Board was not convinced the hardship was \$4,000 of concrete. Mr. Trzeciak noted the barn was a foot low on grade because of the height of the building. Mr. Beverly said in this case there was a need for fill that would need to be compressed. Mr. Patsolic pointed out the Board was speaking to the previous variance; not this variance. The height of the barn was not the issue; it was the location of the barn. If Mr. Patsolic was not awarded the variance, he would be forced to spend additional money to pour an extra wide footer so he could move the barn forward. Mrs. Cloud clarified Mr. Patsolic would have to pour a density-fill material to stabilize the trench. Mr. Beverly explained the foundation had to be 42 inches below grade and on virgin soils. If dirt/fill needed to be brought in; it would have to be compacted. Mr. Trzeciak asked if the new footer was below grade and met the specifications. Mr. Patsolic said the old footer sat on good soil and he thought it met the specifications. He pointed out this issue was not the reason they were before the Board this evening; the location of the barn was what needed to be addressed.

Mrs. Patsolic clarified the issue this evening was the location of the barn; not the depth of the footer. Mr. Patsolic did not have an issue digging the footer deeper to meet the requirements/specifications. Mrs. Cloud clarified the problem was the location of the barn; the Patsolics could repair the 18 inches of concrete in the front, however, if the barn was moved forward the front footer would have to be moved forward which was an additional cost.

Mr. Trzeciak stated the application spoke to \$4,000 in unnecessary concrete replacement and not the footer. Mr. Patsolic said his point was the additional costs; why would they want to pay additional costs and create additional issues. The hardship was the cost of \$4,000+ in additional costs to move the building.

Mrs. Patsolic asked if any of the neighbors object to the location of the building. Mr. Trzeciak pointed out nobody was in the audience so apparently there were no objections. Mrs. Patsolic understood someone went door to door and discussed this variance with their surrounding neighbors. She asked if the Building Department mailed a notice to the neighbors. Mr. Beverly replied he had personally spoken to the neighbors.

Mr. Patsolic said he was told by an anonymous person that after the barn had burned the City was supposed to contact them to let them know if more than 50% of the structure was burned. He reiterated he was told the City was supposed to send some type of letter. He showed a picture of the burned barn and pointed out not more than 50% was damaged. He stated he was never sent the letter that stated that less than 50% was burned. Mrs. Glasier asked Mr. Patsolic who was supposed to send him this letter in which he speaks of. Mr. Patsolic replied he did not know. Mr. Beverly thought the letter in which Mr. Patsolic was referring to was for the height variance; the code speaks to structures being only 15 foot high and if the damage was less than 50% then the applicant could rebuild as it was as far as the height. The Patsolics wanted their new barn 27 feet in height. Mr. Patsolic, again, said he was told he was supposed to get a letter for the City that if less than 50% was damaged. Secretary Villers asked for the name of this anonymous person. Mr. Patsolic would not give his informant's name. Mrs. Cloud asked if Mr. Patsolic read the City codes. Mr. Patsolic stated he was told that if more than 50% was still standing after the fire he was grandfathered. Mrs. Glasier asked if there was a "grandfather" clause. Mr. Beverly said if the structure was less than 50% it could be built as it previously was before the damage as far as the height. Mr. Patsolic said he was not saying less he was saying more than 50%. Mr. Beverly said if a structure was more than 50% the applicant would lose the grandfather clause; if it was less than 50% the structure could be rebuilt at the same height. The discussion was regarding the "height" not location of the structure. Mr. Patsolic stated his informant type commissioner told him something different and this person was very knowledgeable on the topic.

Mr. Angelo clarified that he had worked with Mr. Stouffer regarding the height variance. The City Code reads 24 feet and the Patsolics wanted 27 feet which was addressed at a previous meeting which ended up in the Patsolics favor. Mr. Patsolic understood that but he was told by his informant type commissioner that reviewed the paperwork that if more than 50% was remaining, he was grandfathered. Mr. Angelo asked Mr. Patsolic to repeat what he just said because what Mr. Patsolic was saying was the opposite; it was less than 50% burned was grandfathered; if the majority was remaining after the fire the Patsolics would be grandfathered with what they had before the damage which was a 24 foot high structure. When the Patsolics contacted the City for the height variance it was understood to be grandfathered to the 24 foot height per the City Code. There was confusion between the City and the Patsolics. The City was unaware what the Patsolics really wanted which was the structure to be built three (3) feet higher totaling 27 feet. The City approved the height variance for the Patsolics allowing them to build the new structure at 27 feet in height. Mr. Angelo suggested Mr. Patsolic contact his informant type commissioner so the Board could understand what this person was referring to.

Mrs. Patsolic thought the City still believed the barn was originally 24 foot high. She stressed the barn has never been 24 foot high; the City misread the print from the beginning, which was not their fault. She said it was some type of attic truss that was 24 inches; not 24 feet. Mrs. Patsolic pointed out the City did not give them a height variance of three (3) feet. Mr. Patsolic clarified they were only asking for what they previously had and with more than 50% of the remaining structure; he was grandfathered. Mr. Beverly asked what percentage their insurance company felt the loss was of the burned structure. Mr. Patsolic replied, his insurance company did not make that determination. He was waiting for a letter from the City that somebody was supposed to send him that stated that there was less than 50% left of the structure; he had more than 50% remaining. It didn't matter what his insurance determined; what mattered was the City Code. He said the City Code stated that if they had more than 50% remaining they were grandfathered. Mr. Beverly noted the City Code was in regards to the height. Mr. Patsolic felt Mr. Beverly was splitting hairs because if they rebuilt at 27 feet, they would have to rebuild at almost the exact same size. Mr. Beverly pointed out the Patsolics were given a 12 foot variance because of the way the current code read. Mr. Patsolic said, no, they were grandfathered. Mr. Angelo said the Patsolics were grandfathered to rebuild exactly what they previously had before the fire. Mr. Patsolic replied exactly, which was 27 feet in height.

Mr. Angelo asked the dimensions of the foot print. Mrs. Patsolic said 28 feet by 38 feet as the original structure. She stated the building was the same size as it previously was and all they were asking was to rebuild the barn like it was in the same location. She yelled, "This has been one flipping year and it could have been built by now". Mr. Patsolic said his wife's family has been in Bedford 51 years, he has run his business in Bedford for 30 years and served the Senior Citizens. Mr. Trzeciak said their character was not in question. Mr. Patsolic said all they were asking for was two (2) feet and he was told this should have been done a long time ago and it should have been done without going through the process they've had too. Mr. Trzeciak apologized for their inconvenience but the Board needed specifics. He felt because of all the confusion the Board needed additional information before they could make a determination. The footer needed clarified, the grandfather clause needed researched, Mr. Patsolic's informant type commissioner needed to submit information so everyone could be on the same page and clearance between the island and the new building needed to be determined.

Mrs. Glasier asked if a financial burden was acceptable for a hardship and reduced clearance into the bays as stated on the application. She was expecting to discuss the financial hardship and bay issue. Mr. Patsolic said all he was asking was to rebuild the new barn in the same location. The closest building to their barn was 12 feet away; off to the left side of the structure and nothing was behind it. The gutter line

would drip on his property and all they were asking for was less than two (2) feet. The Patsolics wanted approval to rebuild their barn in the same location.

Mr. Trzeciak suggested tabling this issue until Mr. and Mrs. Patsolic could submit additional information or the Board could vote this evening possibly turning down their request. He felt the information needed was specifics on the footer, the final footprint of the building, research whether there was a grandfather clause and to prove the financial hardship. Mrs. Glasier said according to the ORC; financial burden could not be a hardship. Mr. Patsolic asked how a money issue did not count as a hardship; it made no sense. Mr. Angelo explained the Code was written based on topography for example, a creek, transmission line or slope of the property. Mr. Patsolic said if they had to move the new barn and there was an additional cost of \$4,000 to \$10,000; how this could not be deemed as a hardship. Mr. Trzeciak explained the Patsolics could build their building today but they chose not too because the Patsolics did not want the building moved. The City was in agreement that the building could be rebuilt; the problem was the location. Mr. Patsolic said he wanted to make it easier on everybody that worked there and to put it in the original footer trench. Mr. Trzeciak replied it was not the Board's job to make things easier for the crew digging the hole but rather follow the codes. Mr. Patsolic asked what constitutes a hardship. Mr. Trzeciak said they could get their approval today to build the new barn according to the current City Codes; that was their choice. Mr. Patsolic remembered a previous comment from Councilwoman Zolata and Councilman Batten who understood moving the location of the new barn would restrict the area.

Mr. Trzeciak said a hardship would be that they could not build their building for a certain reason; however, the City was saying they could per the City Codes. The Patsolics did not want to build their new barn in a different location because it would be additional work for the crew digging the trench and additional costs. Mr. Patsolic said it wasn't so much the additional work but the additional costs. The Board wanted to work with the Patsolics instead of voting this evening against their request. Additional information was necessary so the right decision could be made. There was concern whether the documents were acceptable. Mr. Beverly clarified the preliminary construction documents were acceptable.

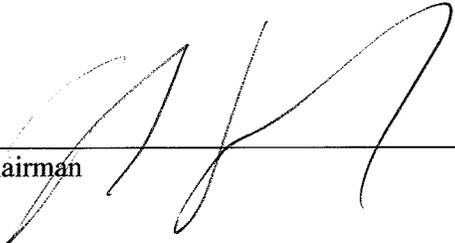
Motion made by Wagner seconded by Glasier to table this issue until additional information was submitted by Mark and Sarah Patsolic, 100 Harriman Road, and additional information researched by Building Commissioner Calvin Beverly. The roll was called. Vote – Yeas: Glasier, Trzeciak, Wagner, Cloud. Nays: None. Motion carried unanimously.

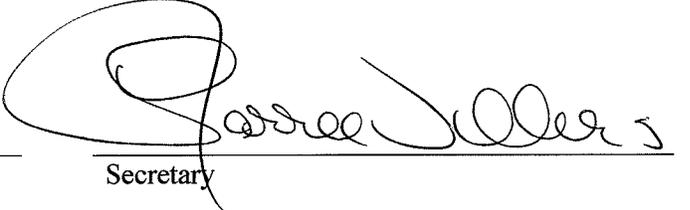
It was determined the next meeting would be scheduled after the additional information was submitted and the meeting requirements met.

ADJOURNMENT

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

Meeting adjourned at 7:46 P.M.

  
Chairman

  
Secretary