

SPECIAL MEETING

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

DATE: September 7, 2011

AGENDA

TIME: 7:00 P.M.

WORKSESSION – 6:30 P.M.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF MINUTES**
 - a. Approval of Minutes of Work Session of August 23, 2011
 - b. Approval of Minutes of Regular Meeting of August 23, 2011
4. **NEW BUSINESS**
 - a. Appeal of Charles Miller of Doty & Miller, Architects, 600 Broadway Avenue, Bedford, Ohio, on behalf of Milano Monuments, 14600 Brookpark Road, Cleveland, Ohio. Mr. Miller is seeking to construct a new sales office at 443 Broadway Avenue, Bedford, Ohio. They wish to place the building a distance of 5-feet from the rear property line in violation of Section 1938.06(c) of Bedford Ordinances for the B-2A Zoning District, which requires a minimum 10-foot rear yard setback. (Tabled 8-23-11)
5. **MISCELLANEOUS**
6. **ADJOURNMENT**

Bedford, Ohio

September 7, 2011

The Bedford Board of Zoning Appeals met in a Special Work Session at Bedford City Hall on Wednesday, September 7, 2011 at 6:30 p.m. Present: John Trzeciak-Chair, Jim Wagner, Kristy Glasier and Sharyna Cloud. Absent: Dennis Kotmel. Also in attendance were Building Commissioner Phil Seyboldt and BZA Secretary Lorree Villers.

The Board had no issues with the August 23, 2011 meeting minutes.

The Board reviewed and discussed the application and drawings that were resubmitted since this issue was tabled at the August 23, 2011 meeting.

Mr. Trzeciak questioned whether the dumpster was part of the building. He thought the dumpster with an enclosed fence might be considered a structure. After a short discussion, it was determined the dumpster area was not part of the building structure. Mr. Wagner noted he had no problem with the fence that was installed around the dumpster because it was a requirement.

Mr. Trzeciak wondered if the setback included the porch overhang because Mr. Milano's property abutted the neighbor's property behind. He noted the residential house was sitting on a B-2A zoning and wondered what would happen if the elderly lady Ms. Flask no longer lived there whether it would be considered residential or commercial. He thought if it was considered commercial it would be a worthless lot if the proposed building was constructed because of all the requirements. He questioned whether the driveway should be moved to Broadway Avenue instead of East Glendale. Mrs. Glasier thought moving the drive accomplished nothing. Mr. Seyboldt pointed out moving the drive would make the parking lot smaller and Mr. Milano would not have the required five parking spaces.

Mr. Trzeciak said he was sensitive to the house-vs-building and not building-vs-building because the spacing should be 15 feet. He added this should be treated as a permanent residence.

Mr. Trzeciak and Ms. Cloud both agreed the lot was too small for the proposed structure.

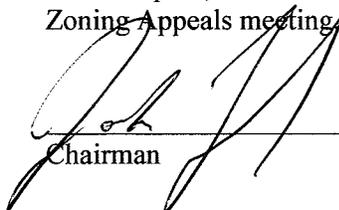
It was determined the house would be grandfathered in the B-2A zoning. Mr. Trzeciak thought Ms. Flask's property would be devalued.

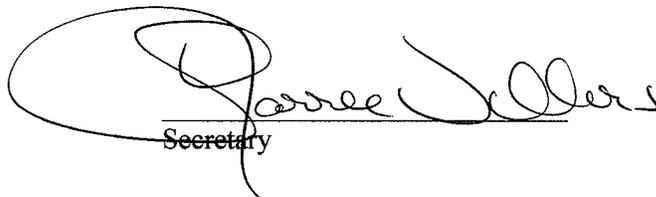
Mrs. Glasier and Mr. Wagner wondered if square footage could be considered a hardship. The Board could not find the reason for a "hardship" and would have to consider that information when they received it this evening from Mr. Miller.

Discussion of the work session was concluded.

ADJOURNMENT

At 6:58 p.m., Bedford Board of Zoning Appeals adjourned to conduct the Special Board of Zoning Appeals meeting.


Chairman


Secretary

The Board of Zoning Appeals met in Special Session at Bedford City Hall on Wednesday, September 7, 2011 at 7:00 P.M. The roll was called: Present: John Trzeciak-Chair, Jim Wagner, Kristy Glasier and Sharyna Cloud. Absent: Dennis Kotmel. Also in attendance were Building Commissioner Phil Seyboldt and BZA Secretary Lorree Villers.

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

Motion made by Wagner seconded by Glasier to approve the minutes of the work session of August 23, 2011. The roll was called. Vote – Yeas: Trzeciak, Wagner, Glasier, and Cloud. Nays: None. Motion carried unanimously.

Motion made by Wagner seconded by Glasier to approve the minutes of the regular meeting of August 23, 2011. The roll was called. Vote – Yeas: Trzeciak, Wagner, Glasier, and Cloud. Nays: None. Motion carried unanimously.

Appeal of Charles Miller of Doty & Miller, Architects, 600 Broadway Avenue, Bedford, Ohio, on behalf of Milano Monuments, 14600 Brookpark Road, Cleveland, Ohio. Mr. Miller is seeking to construct a new sales office at 443 Broadway Avenue, Bedford, Ohio. They wish to place the building a distance of 5-feet from the rear property line in violation of Section 1938.06(c) of Bedford Ordinances for the B-2A Zoning District, which requires a minimum 10-foot rear yard setback. (Tabled August 23, 2011)

Ms. Villers, BZA Clerk, read the new business as submitted, “Appeal of Charles Miller of Doty & Miller, Architects, 600 Broadway Avenue, Bedford, Ohio on behalf of Milano Monuments, 14600 Brookpark Road, Cleveland, Ohio. Mr. Miller is seeking to construct a new sales office at 443 Broadway Avenue, Bedford, Ohio. They wish to place the building a distance of 5-feet from the rear property line in violation of Section 1938.06(c) of Bedford Ordinances for the B-2A Zoning District, which requires a minimum 10-foot rear yard setback.”

Chuck Miller of Doty & Miller Architects, 600 Broadway Avenue, Bedford, Ohio having previously been sworn in, stated there were some revisions to the original application and drawings. He referred to the violation to the set-back requirement of 15 feet to any adjacent building that was mentioned at the August 23, 2011 meeting. He noted he brought new illustrations this evening for the Board’s review. Mr. Trzeciak questioned who signed the application and blueprint. Mr. Miller replied Mr. Milano signed the application and his sister signed the blueprint because they were co-owners of the company. He explained the first illustration showed the location of the proposed building with the surrounding buildings. He pointed out the two side streets, the existing neighbor’s home and garage which were 3 foot 1 inch off the fence line which was on the residences property and the existing flower shop which was built on the property line. He stated he was asking for a variance from 15 feet to be reduced to 10 feet from the flower shop and 15 feet to be reduced to 8 foot 1 inch on the residential side. He clarified he was asking for a 5 foot and 6 foot 11 inch variance. He noted the lot was small and the lot already had 2 sidewalks, a phone box, the 15 foot setbacks, a required 50 foot setback from the intersection and the required five parking spaces. He noted with all the requirements met it reduced the buildable footprint of the building of 20%.

Mr. Trzeciak asked if they considered the drive being placed on Broadway Avenue. Mr. Miller explained the building had to be 50 feet from the intersection and it would be very difficult to have the adequate parking spaces with ample turnaround space and allow space for a dumpster. He noted because of the requirements the layout was very tight. He thought the drive being on the side street would be safer than pulling out on a busy street like Broadway. He pointed out the continuous landscaping and the secured windowless back of the building. He noted they considered several options and thought this was the best solution so all the requirements would be met. He presented an aerial view for the Board to review. The Board noted the aerial view did not match the drawing. Mr. Miller agreed that the drawings didn't match because they submitted an updated and more accurate drawing for this meeting. There was discussion that the proposed building could not be built past the neighboring residential porch. He pointed out the quality of the materials that would be on the outside of the building. He added the proposed building would be built per the Ohio Building Code standards which meant it would have fire proof wall materials and roof materials because of the 15 foot requirement between building to building. Mr. Trzeciak noted it was not a fire safety issue but rather a standard of living because of the space issue.

Mr. Wagner asked if the building was the absolute minimum size for this operation. Mr. Miller replied they could probably do business in a 6 x 6 foot building but the owner was trying to get the best he could out of his investments. He added all the large stones would be stored inside the building so there would be nothing outside.

Mr. Trzeciak asked if anyone in the audience wanted to speak on behalf of the appeal. Nobody came forward.

Mr. Trzeciak asked if anyone in the audience wanted to speak against the appeal.

John Flask, 5923 Broadview Road, Parma, Ohio having previously been sworn in, stepped forward to speak on behalf of his mother that owned the 100 year+ home on the back of this property on East Glendale that was zoned commercial. His concerns were the 15 foot setback because if the home was removed would she be entitled to a variance. He questioned the value of the home if something happened and it needed rebuilt because the lot would then be approximately 31 feet wide.

Therese Chatman, 451 Broadway Avenue, Bedford, Ohio owner of Carol James Florist, having previously been sworn in, said she was concerned about the parking problem for her business. The street parking in front of her store was shared with the Day Care Center, Mugs Bar & Grill and the Coffee Cup across the street which had ample parking but their customers take her spaces in the morning. She added she lost some additional parking spaces do to a fire hydrant and the required footage that was necessary for corner parking. Ms. Cloud asked if Ms. Chatman had her own parking spaces besides the street. Ms. Chatman replied no she only had street parking.

Lori Hoover, 455 Broadway, Bedford, Ohio owner of the Day Care Center, having previously been sworn in, pointed out on the drawing the large L-shaped property that she owned. She stated when her tenants come home in the evening the customers that were at Mugs Bar & Grill were illegally parked on her property even though she has it posted. Her concern with the proposed building was the number of employees that were going to be working there. Mr. Miller replied probably two employees. Ms. Hoover pointed out two parking spaces would be used by employees. Mr. Miller pointed out there was enough space for an employee to park in front of the dumpster if need be. Ms. Hoover thought Mr. Miller was going to remove all the fencing. Mr. Miller clarified the rear fence was on Ms. Flask's property, however the Milano's had concerns of the Day Care

children shortcutting through their property. Ms. Hoover stated there was no fence between her Day Care and the proposed building. Mr. Miller said the other fence that was on the Milano's property would be removed. Ms. Flask remarked from the last row of Council Chambers, "Not mine." Ms. Hoover said her concern was the size of the building because many years ago a video store was not granted anything and that building was much smaller. Her concern was the parking for her business because it was already an issue.

Mrs. Glasier stated a video store would have a lot more customers than a monument business. Ms. Hoover thought the video store had ten parking spaces and a smaller building.

Carla Flask, 15 East Glendale, Bedford, Ohio, having previously been sworn in, said her concern was quality of living with a rubbish dumpster being next to her front yard. She understood it was a monument company but she felt there would be vermin because the bank that was located in the area had the same issue. She added the bank relocated the dumpster on another corner away from their property. She thought it would be hard to sell their family home with the location of the dumpster. Mr. Miller stated the dumpster would be the smallest container. He added this business would only generate paperwork. Mr. Trzeciak asked if a business was required to have a dumpster. There was a short discussion whether or not a dumpster was required for a business. He added the dumpster would be enclosed with a fence.

Mr. Trzeciak mentioned the proposed building could not extend past the front of the home next door. Mr. Miller explained again the one display was not accurate.

Dave Batergrif, 15 East Glendale, Bedford, Ohio, having previously been sworn in, asked was the setback from the property the building or the dumpster because they sit on their porch. The Board replied, "anything". Mr. Trzeciak noted the front porch was covered with a roof so it would be included. Mr. Batergrif thought the dumpster location was "worse" because it was a few feet off the sidewalk.

Mr. Miller asked Mr. Seyboldt if a business was required to have a dumpster. Mr. Seyboldt did not believe a business was required to have a dumpster. He was not aware of any regulations that required a dumpster, however, if a business had one it had to be enclosed. Mr. Miller noted this business generated so little rubbish so if the dumpster was an issue then they would make other arrangements. He added if the dumpster was in violation of any setbacks then they would preclude installing a dumpster. Mrs. Glasier mentioned if the dumpster was removed it would help Ms. Chatman and the quality of life concern. She pointed out there was concern whether the home next door would be considered less in value.

Mr. Trzeciak asked for clarification regarding the variance. Mr. Miller replied eight foot five inches. Mr. Trzeciak mentioned there were also overhangs. Mr. Miller said there were overhangs but that was considered of approximately 24 inches. Mr. Trzeciak noted there would be three feet between the buildings.

Judy Motts, 437 Lamson Avenue, Bedford, Ohio, having previously been sworn in, stated East Glendale had a lot of traffic from the bank, the Coffee Cup restaurant, the car dealer, Mugs Bar & Grill. She said the signal light was removed on the corner, which was the reason for the several accidents that happen in this intersection. She said East Glendale had plenty of speeders, the children don't use the sidewalk and she felt there was a problem with the parking situation because the Milano customers were going to use East Glendale. She thought this was going to be a major headache. She noted there were children running

across the street because of the playground, the City Recreation Center and the pool. She thought everyone was supposed to recycle so the paper should be shredded. She complained about the semi-trucks that picked up and delivered the vehicles. She stated the children that were at the Day Care run along the property line across the street into the bank parking lot to shortcut to Dairy Queen. She added the bank manager was always in the parking lot yelling at the children. She explained there was a home behind Mugs Bar and the Day Care which she had concerns with if it caught fire because a fire truck could not get back to it. She added the drive was between the Day Care and another home and she did not think a fire engine could use the drive.

Lori Hoover said, "that was land locked my property and it was L-shaped now and if you put a building there a fire truck could get in but wouldn't get out." Mr. Trzeciak asked if she had a driveway. Ms. Hoover replied she had one egress off Broadway Avenue. She explained it was difficult for the parents to pick up their kids because she had 3 or 4 instructors cars plus the cars of the two residential properties apartments upstairs. She stressed it was very difficult for the parents to turnaround in her parking lot.

Ms. Motts suggested the BZA members visit the property. Everyone on the Board informed Ms. Motts that they had previously visited the site. Mrs. Glasier stated when she visited the site she spoke to Ms. Flask and she was told the City insisted on a driveway all the way back. Ms. Flask remarked from the last row, "when Andy owned it." Mrs. Glasier asked Mr. Seyboldt how this affected the Boards decision. Mr. Seyboldt was confused as to how a fire truck getting to this home affected their decision because there was a driveway beside the Day Care leading to the house. So he asked how this new building impacted it. Ms. Hoover replied, "it would land lock it" because there was only one egress. Mr. Trzeciak clarified when the original building was torn down the City made the owner of the empty lot put a drive in so there was access to Lori Hoover's property for safety reasons. Mr. Seyboldt said he knew of no such law anywhere that required a property owner to provide fire protection to an adjacent property owner. Ms. Flask stated the City of Bedford forced Andy Krasinski to do it and he had to build the fence. Mr. Seyboldt stated there was fire truck access by using the driveway of the property in question to the building in question. Mr. Flask insisted Mr. Krasinski was forced by the City to install the drive and fence. She added he did not want to do it but the City made him do it. Ms. Cloud asked if the property was empty at the time. Ms. Flask stated there were four little buildings.

Mr. Trzeciak asked if anyone else wished to speak. Mrs. Glasier said her opinion was that the people work and live around the proposed building had substantial concerns and she felt the removal of the dumpster was a very little part. She stated the Board's responsibility was to find a "hardship" and she felt the owner bought too small of a lot and after they had met all the requirements it became a problem. She felt the owner should have considered everything prior to purchase. Mr. Wagner understood some of complaints but one concern of his was the fact that there was no access for a fire truck; however, he was more concerned about evaluating someone's property. He noted the zoning for the Flask property was zoned for business not residential and this would affect a new building structure in the future. Mrs. Cloud concurred with the other Board members and she took into consideration the concerns that were brought and discussed this evening but her main concern was the quality of life. She agreed with Mrs. Glasier that the owner should have taken into consideration everything prior to the property purchase. She asked if the property owner Mr. Milano considered another location that would have suited him better. Mr. Miller did not have any knowledge of that.

Mr. Miller stated they had met all the other setbacks and so forth that were required. He got the impression that if they changed the 15 feet separation between both adjacent buildings and they didn't have a setback for the dumpster, the property could be developed as presented because there would no

longer are any variances. He listed they would be 15 feet from both the adjacent buildings, the drive 50 feet from the intersection, the required number of parking spaces and all the other building setbacks then they would have no variance requests and they could move forward. He noted because other businesses do not have adequate parking on their site and because others don't like the fact the traffic light was removed along with the other complaints, doesn't mean Mr. Milano can't develop his property. The Board noted their job was to ensure the setbacks were followed. Mr. Miller commented then his request would be going to the Planning Commission for consideration.

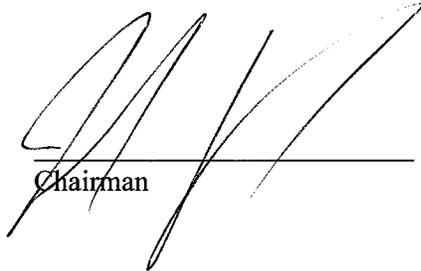
Ms. Motts thought she heard Mr. Miller was going to reinstall the traffic light. Mrs. Cloud reminded Ms. Motts that she had told the Board that the traffic had increased after the bank was built. She noted the traffic light issue had nothing to do with this application and it was a separate issue.

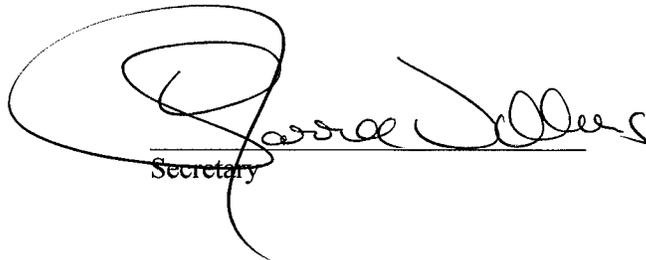
Motion made by Glasier seconded by Wagner to approve this appeal. The roll was called. Vote – Yeas: None. Nays: Trzeciak, Glasier, Wagner and Cloud. Motion failed unanimously.

Motion made by Wagner seconded by Glasier to adjourn. The roll was called. Vote – Yeas: Trzeciak, Glasier, Wagner and Cloud. Nays: None. Motion carried unanimously.

ADJOURNMENT

Meeting adjourned at 7:40 P.M.


Chairman


Secretary