

Board of Zoning Appeals
June 21, 2007
Minutes

The Chairman called the meeting to order at 4:30 p.m. The following members were present: John Feick, Kevin Zeiher, Walt Matthews and Bill Semans. John Mears was excused. Carrie Handy and Gary Packan were present to represent the Department of Community Development, Amanda Keegan was present to represent the Law Department and Jeff Rosekelly was present to represent the Engineering Department.

The first order of business was to approve the minutes from the previous meeting, May 17, 2007. Mr. Zeiher moved to approve the minutes; Mr. Matthews seconded the motion, which carried unanimously.

Chairman Feick stated that anyone who wished to speak needed to be sworn in and he proceeded to swear them in.

Chairman Feick commented that the Board looked at each application as an individual, each of the applications stood on their own merit, the Board judged each application on its own, and not by what had been done in the past. Everything had its own unique set of circumstances and that's what they considered when making a decision.

The first item on the agenda was an application for a variance to the maximum building height for the property located at 529 E. Water Street, filed by Mark Gacka on behalf of the Sandusky Yacht Club.

Mrs. Handy stated the applicant was requesting a variance to allow a building 12 stories high or 120 feet. The height regulations for that section of Shoreline Drive only permitted a height of 45 feet.

Chairman Feick asked if anyone wished to speak in favor of this request.

Mark Gacka spoke on behalf of the Yacht Club. He stated that the request was part of a larger request that had been put together in the original application. There had been a number of parts, one of which had been a petition for vacation of the Perry Street right of way, north of Water Street and that had been denied by Planning Commission. It would be going to City Commission on July 23rd to be considered. Mr. Gacka stated that they would also like to have the water between Battery Park & the Yacht Club's current docks made available for public bid and they had talked to Mike Will when he was still with the City. The Yacht Club had said that they were willing to pay the underwater rights and lease as well as 10% of any of the revenue that the docks may generate. The third thing

was the height variance which would allow offering housing to the club's membership. Mr. Gacka stated that there was a demand for it and they also wanted to expand their club facilities.

Mr. Gacka stated they believed that all of this benefited the City and Erie County through increased tax revenue and employment. They would also be generating significant real estate taxes. They wanted to take all of this to the membership in September at their annual meeting and get things started if the membership approved.

Chairman Feick clarified that they hadn't asked the membership yet if they could do this. Mr. Gacka stated that they were getting all their plans in a row to take it to them and show them the financing, the financial aspect, and what the City was willing to do. They also had parking issues to resolve.

Mr. Gacka commented that they had been turning down a lot of banquet business because they didn't have adequate space to handle both the membership and the banquet business. He stated the Board of Directors & the Trustees have approved the concept plan. He asked if there were any questions he could answer for the Board.

No one else spoke in favor of the request and no one spoke against the request.

Dr. Semans commented that the variance from 45 ft. to 120 ft. was substantial and would be a big change in the look of the waterfront of the downtown and the waterfront in general. He personally had a problem with that size of building in that location on the water side of Water Street. He commented that he felt there was a good reason that 45 ft. had been established as maximum height along the north side of Water Street.

Mr. Gacka commented that one of the things that they were very sensitive to with the request that they would make of the City was that they were not asking for anything that the City has not already granted in this zoning district. He stated that the Board had already granted a FAR of 2 for a property in the Paper District so that was one of the reasons so they didn't feel this request was out of line. Mr. Gacka commented that the other thing they had done was look from the street and there wouldn't be any more blockage of the view than what was already there; there was the possibility that there might be a smaller footprint widthwise and there would be a better view of the water when they were finished.

Chairman Feick reminded them that the other variance that was granted was a completely different set of circumstances, different application, and different size of building. Mr. Gacka commented that it was the same height and it was

actually a little bit larger in square footage than the building they were looking at, and all he was saying was that it was something that the City had granted before. They weren't the first ones that asked for it and they didn't feel that they were the first ones that would be recommended for it.

Mr. Zeiher asked if the plans that the Yacht Club had would be subject to a PUD. Mrs. Handy stated that they weren't subject to a PUD because they hadn't requested that kind of zoning, but they would be subject to site plan approval by the Planning Commission. Mrs. Handy stated that the right of way was going to City Commission for approval, but she didn't think they needed that to build the building. Mrs. Handy commented that the lease for the dock space for the water would also have to go to City Commission for approval.

Mr. Zeiher commented that rather than do this piecemeal, it would make more sense to do it all at once. Mrs. Handy stated that they couldn't force someone to do a PUD.

Mr. Zeiher agreed with what Dr. Semans said, he didn't have a problem with a 12 story building, but he did have a problem with a 12 story building on the waterfront. He was sensitive to maintaining as many sightlines to the water as they could; he thought that was what was unique about the downtown at this point.

Chairman Feick asked if the Yacht Club had talked with the developer of the Marina district with regards to doing something along with them. Mr. Gacka stated that they had met with John Eyman and they had come to the conclusion that it was best if they did it themselves. Mr. Gacka stated that one of the reasons for the 12 stories was because that was what they needed to build the number of units that they wanted to for economic reasons and also for the demand. Another reason that height came up was because that is what Mr. Eyman told them he would be granted. Mr. Gacka commented that he understood the Board's concerns, but he asked them to understand what the club's position was, the property right next to them was going to have a building at that height. Chairman Feick stated that they didn't know that since they hadn't seen any plans and no one has requested a variance at this time. He suggested that if the Yacht Club was looking at something that the developer was doing the exact same thing on, the Yacht Club could get their property changed to something different; more of a water use and put the residential piece of it further away.

Dr. Semans commented that he had personal concerns with regards to the Marina District development and his gut feeling was that he would certainly like to see an overall plan by the City towards the development of the waterfront instead of a shot gun approach with high rise condominiums all along the

waterfront. He stated that they had to go about it the right way. Dr. Semans asked what the time frame with Surf's Up was.

Gary Packan stated that with the current developer, they were going to a November ballot. He stated that they had been a lot of press on that, preliminary renderings in the first go round had been in the newspaper and the developer was currently working on some revisions based on comments and some 3D renderings to give people a perspective on how the plan would be set up. Those may be available by the end of July. Mr. Packan commented that there had been a considerable amount of discussion over the past year on the project as a whole, this one hasn't had very much public discussion at this point, but the developer was working on getting them plans as soon as possible. Nothing has been presented to the Board yet since they were still trying to make modifications to the plans.

Mr. Packan stated that the Surf's Up portion of the development would be one of the first phases of the development and there were some agreements that needed to be worked out with ODNR because that land had been developed from a land & water conservation fund. ODNR were the keepers of that fund with regards to the grants through the National Park Service and that property had to be relocated to another site in the City on the waterfront. Once approval for the project goes forward, then they would start that in motion.

Mr. Packan commented that he wasn't privy to all discussions with the City Manager although he had talked with the Yacht Club about some of the project and he felt that the City was fortunate to have someone wanting to do development in the community at market rate. In the past, people have asked for some sort of City assistance so it was nice to see this. The Marina District partnership, from his perspective, would be great if the Yacht Club could work with John Eyman since they were neighbors. The Yacht Club property was on submerged land and the City would need to be a partner in that development because of the submerged land lease and ODNR wanted it to run through the City if a residential use was going on the property.

Dr. Semans commented that although there were separate parcels of land & separate projects for the Yacht Club & John Eyman's development, being of similar character, he thought it would be easier for the Board to deal with the variances at the same time, if they could see it all at once. He commented that if one were approved, he didn't see how the other one wouldn't go. The big question was, were they going to go?

Mr. Gacka stated that they needed to take the Marina District project out of the question, because they didn't consider it their issue. He stated that they had been asked by a number of members for housing in the area. The Yacht Club

has come to the City in good faith, they have the money to do it, and if they want to do it and go forward, the members would pre-buy the condos, there would be no financing that would be required and it would only benefit the City and the County.

Mr. Gacka commented that the City was making it very difficult to invest and that was coming now in two instances. Maybe the Marina development project will go, but the Yacht Club project was a fairly certain project financially and they weren't asking for anything that the City hadn't already granted in the same zoning district. Mr. Gacka reiterated that this wouldn't change the views of the waterfront.

Chairman Feick called for a motion. There were some questions as to whether some of the Board members had a conflict of interest and could vote on this issue. Mrs. Keegan stated she would try to get an answer from the Law Director before the end of the meeting. Mr. Matthews moved to table the application until the end of the meeting; Mr. Zeiher seconded the motion, which carried unanimously.

The next item on the agenda was an application for a variance to the maximum permitted fence height for the property located at 1006 Warren Street, filed by Daniel Dix.

Chairman Feick asked if anyone wished to speak regarding this request. Dan Dix, 1002 Warren Street stated that he had purchased this property and he wanted to fence it in.

Chairman Feick clarified that Mr. Dix already owned the house. He commented that he saw utility services being cut. Mr. Dix stated that the house was scheduled for demolition. He stated that this fence would give them privacy and a yard they could use and it would be an improvement to the neighborhood.

Mr. Zeiher asked if Mr. Dix was raising the level of the yard. Mr. Dix stated that he wasn't raising it in the area of this fence; he approached the Board and explained the grade of the property and where he was raising the grade.

Wendy Walter, 4702 W. Mason Road, stated that her mother owned 1008 Warren Street and she was concerned about the drainage issues caused by raising the grade of the property. She commented that the rear yard fence that was erected on top of the retaining wall was above the allowed six foot height. Mr. Dix stated that he wasn't done with the work yet. Chairman Feick explained how the fence would be measured when it was finished; it would be measured from the grade of the property on Mr. Dix's side.

The owner of 510 Neil Street stated that his property abutted the rear of 1006 Warren and he was also concerned about raising of the grade. He showed pictures of the properties. There was more discussion with regards to the grading of the property and possible flooding of adjacent properties.

Chairman Feick commented that the area that they were being asked to consider for a variance was not the area that was being raised so that was a separate issue that the Board had no control over. He suggested that if the neighbors had an issue with drainage, they should contact the Engineering Department.

Mr. Zeiher moved to approve the variance to allow a six foot high fence in the side yard, Mr. Matthews seconded the motion. The motion was made subject to the Engineering Dept. making sure that fence complied with the height regulation and the drainage issue was addressed. All voted in favor of the motion.

Mrs. Keegan stated that the Law Director was of the opinion that as long as the Board members didn't have a fiduciary responsibility to the Yacht Club and they were not employees of the Yacht Club, then they were free to vote. Dr. Semans moved to return the variance for the Sandusky Yacht Club to the table, Mr. Matthews seconded the motion and the matter was reconsidered.

Dr. Semans asked for staff comments. Mr. Packan stated that with the Marina District project being adjacent to the Yacht Club, there should be some flow as to how they were both laid out. He commented that it would be great to see the Yacht Club & John Eyman work together and he hadn't been involved when they had met together.

Mr. Gacka stated that they had exhausted all possibilities with Mr. Eyman and one of the things that the City should take into consideration was that this was a private development on private land and in the Marina District project, there were a number of goals outlined and the yacht Club could meet all financial goals for the County and the City with this development. Mr. Gacka commented that the Yacht Club could increase employment a lot more than what Mr. Eyman could by just putting in a small restaurant and additional condos. Mr. Matthews asked how much they were looking at increasing employment. Mr. Gacka stated that right now, their payroll exceeded a million dollars and that would vary throughout the year, but it was for over 100 people. They would like to double that. They also paid the wait staff & kitchen staff, \$12-\$15/hour with health insurance and pension benefits. He thought the City would be happy to have this development.

Dr. Semans commented that there were reasons that the zoning code was set at 45 feet. Mr. Gacka asked why there was already a variance granted to the height code then. Dr. Semans commented that was a different type of issue, that area was in an industrial section of the waterfront, it was blighted and in this case, they weren't talking about a blighted area. He stated that he had been to a lot of yacht clubs & sailing clubs that didn't have 120 ft. buildings. Dr. Semans stated that they had to look at the entire waterfront and what was best for the City.

Mr. Gacka commented that for the financial goals that were outlined for phase I of the Marina District project, they could accomplish that on the Yacht Club property and the City could leave the public property public and they could get it done earlier.

Mr. Zeiher agreed those things were important to the City but their scope of examination was 45 ft. to 120 ft. and that was all that they were being asked to look at. Chairman Feick commented that if this were across the street, it would be a totally different set of circumstances, but on this specific piece of property, it was a great difference. Mr. Gacka stated that he was very disappointed that they took this type of attitude towards economic development in the City and the County. They didn't own the property across the street, they owned the property on the water and they would like to do something with that property, it would only benefit the City and the County economically.

Mrs. Handy asked if it would help the Board make a decision if they had a 3D rendering of that area so that it would give them a better picture of what it would look like.

Dr. Semans stated that he was disappointed that there couldn't be any cooperation between the Yacht Club and John Eyman. He was also disappointed that he hadn't seen 3D renderings of the Marina project and he was disappointed that he didn't see them for the Yacht Club. Dr. Semans stated that he would personally like to see this tabled and see if some more cooperation could be had between the two projects so they could address the overall look of the City and the waterfront as opposed to a piecemeal, patchwork attack on the whole thing.

Mr. Gacka stated that they had attempted to do that and they had been trying this for a while. Mr. Packan stated that staff would be available to sit down with the two parties to try to discuss some of the issues in a short time frame and work out any concerns.

Mr. Zeiher stated that they could come back in a month and he thought that by having a better picture of what was going to be there, including next door, and trying to work it all out together, would be the way to go.

Dr. Semans moved to table the motion; Mr. Zeiher seconded the motion, which carried unanimously.

The last item on the agenda was an application for a variance to the allowed location of an accessory structure for the property located at 903 Cedar Point Road, filed by Dave Maddux from the Arcus Group on behalf of Jim & Nancy Murray.

The architect showed pictures of the proposed cabana to the Board. He discussed the proposed project and Mrs. Handy stated that staff had no objection to approval of the variance.

No one spoke against the request and Dr. Semans moved to approve the motion; Mr. Zeiher seconded the motion which was approved unanimously.

There was no further business before the Board, and the meeting was adjourned at 5:35 p.m.

Carrie Handy, Chief Planner

John Feick, Chairman