

City of Norton
BOARD OF ZONING & BUILDING APPEALS
Thursday, March 22, 2007

The Board of Zoning & Building Appeals convened for a public hearing in Council's Chambers of the Safety Administration Building. Chairman Richard Easterling called the meeting to order at 6:00 p.m.

I. ATTENDANCE:

PRESENT: Richard Easterling, Todd Bergstrom, Nick Genis, William Helmick,
Michael Droppleman

ALSO PRESENT: Jeff Pritchard, Director of Planning and Community Development
Russ Arters, Superintendent of Building and Zoning
Pat Ryan, Building and Zoning Inspector

The Board welcomed the new Building and Zoning Inspector, Pat Ryan.

II. SWEARING IN:

Chairman Easterling announced that anyone from the audience wanting to speak for or against any of the applications before the Board would need to sign in. He explained that since the Board of Zoning & Building Appeals (BZA) is a quasi-judicial Board, anyone wanting to speak at the hearing would have to be sworn in. He asked them to stand, raise their right hand, and repeat after him, "I solemnly swear to tell the truth, the whole truth, and nothing but the truth so help me God."

III. PUBLIC HEARINGS:

A.) BZA Application A 2-2007:
3487 Barber Road/PPN 4700306
Barber Road Storage, LLC, Owner
Dennis Pedro, Agent
Requesting a Variance to Section 1472.13(a);
Uses Prohibited in Riparian and Wetland Setbacks.
[To construct additional storage units.]

Chairman Easterling convened the public hearing on BZA Application A 2-2007, which was filed on Thursday, March 1, 2007. He reported that the secretary sent notices via first-class mail at least ten days before the original hearing as required by Section 6.03 of the Charter of the City of Norton, Ohio. He asked the applicant to step forward and present his opening statement.

Mr. Dennis Pedro (agent), 521 Harding Avenue, Barberton, Ohio 44203, approached the Board and stated that the Barber Road Storage consisted of several buildings and he wanted to construct an additional building that would be climate controlled. He discovered that the proposed location was inside a wetland and that a new ordinance requires a variance in order to construct within a wetland.

Chairman Easterling asked the applicant what reasons he could give that the BZA should grant his request. Mr. Pedro said that an additional building would improve business for Barber Road Storage.

Chairman Easterling asked if there were any questions or comments from the Board.

Mr. Nick Genis noted that the site plan submitted with the application shows only one proposed building. He wondered if the applicant planned any future construction on the site. Mr. Pedro said this would be the last building on that site unless he razed one of the existing buildings and rebuilt it. Mr. Genis asked if the environmental study site plan or the site plan submitted with the application was the most accurate. Mr. Russ Arters said that the site plan submitted with the application was most accurate because an engineer prepared it.

Mr. Jeff Pritchard said he requested a wetland delineation so the BZA could better understand the property in question. He said it shows that the entire site is within a 100-year floodplain and it also identifies the categories of the wetlands, such as the wetland to the west is a category two wetland. Mr. Pritchard added that the applicant significantly reduced the size of the building that he wanted to build.

Mr. Easterling wondered if the proposed building location met the setback requirements for the wetlands and for the property lines. Mr. Pritchard yes, in accordance to Section 1472.10 of the Norton Codified Ordinances. He said that they were trying to work with the applicant because this was a difficult site for building. He added that the applicant shifted the position of the building in order to meet the setback requirements. Mr. Pritchard added that the area is all gravel, which was a plus in terms of not having a pervious surface area.

Mr. Michael Droppelman wondered to which wetlands would drainage be directed. Mr. Pedro said that drainage would be directed to the category two wetland, which dries up in the warm weather.

Mr. Easterling wondered if the building would have a footer. Mr. Pedro said no, the building would be on a concrete slab. Mr. Easterling asked if openings of the units would be on the ends of the building. Mr. Arters explained that there would be individual storage units inside the building. People will park outside and use a cart to load and carry things into their unit.

Mr. Easterling asked if the weight of the building would hurt the wetlands. Mr. Arters said that the weight of the building would not affect the wetland. He added that soil-boring testing should be performed.

Mr. Droppelman wondered if there would be any restrooms in the proposed building. Mr. Arters said that the restrooms were located in the front building.

Mr. William Helmick asked Mr. Arters if building plans would be submitted to the Building Department for approval. Mr. Arters said yes, for the building permit.

It was discussed that no modification of the drive would be needed.

Mr. Easterling asked if the entire lot used to be wetlands. Mr. Pedro said the owner filled in some of the wetlands about 13 years ago.

Mr. Todd Bergstrom said that the building seemed to be within the required percentage of area coverage. Mr. Arters said that 50 percent coverage of the site area was allowed and this site, with the proposed building, would still be under that percentage. Mr. Bergstrom said it seemed the applicant was doing the best he could to avoid the wetlands.

There was discussion at this time regarding the Wetland and Other Waters Delineation Report.

Mr. Arters mentioned that he visited the site and the wetland areas were flagged. Mr. Genis asked if the applicant planned to flag any existing wetlands for this project or in the future. Mr. Pedro said no. He said he would just use what is there as best he could. There was further discussion regarding flagging the wetlands to keep them from being disturbed by equipment as construction is being done.

Chairman Easterling thanked the applicant and asked if there were any further questions or comments from the Board; there were none. He then asked three times if anyone present wanted to speak for or against the application; no one spoke. Chairman Easterling asked the Board members if they were ready for a motion or would they prefer to deliberate. They agreed to deliberate, so he closed the public portion of the hearing to entertain a motion.

Chairman Easterling reconvened the hearing and called for a motion. **Mr. Genis moved to approve BZA Application A 2-2007, regarding a variance to Section 1472.13(a)-Uses Prohibited in Riparian and Wetland Setbacks; to construct additional storage units, on the property known as 3487 Barber Road/PPN 4700306, for the following reasons: 1.) No filling to existing wetlands shall be permitted by this variance; 2.) The proposed building exterior dimensions have been sized to afford**

ample open space between the proposed building and existing wetlands; 3.) The existing wetlands in proximity to and adjacent to the proposed building shall be suitably marked per paragraph 1472.09(f); 4.) This variance is based upon information per site plan dated 02/19/07 identified as 'site A', Barber Road Storage; and 5.) No additional buildings or additions to existing buildings shall be permitted by this variance by the current owner or future owners. Mr. Helmick seconded the motion. **ROLL CALL: Mr. Genis-Yea, Mr. Helmick-Yea, Mr. Droppleman-Yea, Mr. Bergstrom-Yea, Mr. Easterling-Yea.** The motion passed 5-0, approving BZA Application A 2-2007, by BZA Resolution No. 03-2007. The resolution was sent to the Administration for it's action and to Council for it's information.

The applicant thanked the Board. Chairman Easterling informed him to contact the Building Department in a couple of days regarding his building permit.

IV. OLD BUSINESS:

A.) Advise During Deliberations:

Mr. Easterling said that he asked Mr. Mike Lyons, Law Director, if the Board could ask advise from someone during deliberations if there is an issue before them that is new. Mr. Lyons said that deliberations could only include the five members. If they needed advise, it could be given as testimony during the hearing of an application.

B.) Public Notifications:

Mr. Pritchard said that the Administration was considering the possibility of sending variance notifications by certified mail. After researching the Charter, however, he discovered that the 200' circumference that was currently being used to notify was being very generous. Mr. Pritchard said they were considering certified mail only for the adjacent property owners and to those directly across the street. The rest of the property owners in the 200' circumference would be sent regular mail. The cost would be significant and the text in the Charter would have to be changed. He said that notifying only the adjacent owners and those directly across the street is following the Charter. Mr. Easterling said that sometimes people refuse certified mail because it is usually not good news. Mr. Arters said that if the Building Department's certified mail is refused, they ask the Norton Police to hand deliver it. Ms. Pat Ryan suggested writing 'notification of meeting' on the outside of the envelopes. After further discussion Chairman Easterling asked for a roll call for the record regarding sending notifications by certified mail. The motion was unanimous to request that the Administration move forward with looking into sending variance notifications by certified mail.

V. NEW BUSINESS:

None.

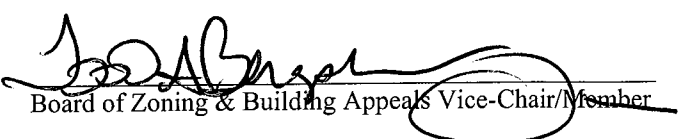
VI. CONSIDERATION OF MINUTES:

The Board reviewed the minutes of their Tuesday, January 23, 2007, meeting and Chairman Easterling called for a motion. **Mr. Helmick moved to approve the minutes of Tuesday, January 23, 2007, as submitted; seconded by Mr. Bergstrom.** **ROLL CALL: Mr. Helmick-Yea, Mr. Bergstrom-Yea, Mr. Droppleman-Abstain, Mr. Genis-Yea, Mr. Easterling-Yea.** The motion passed 4-0-1, approving the minutes as submitted. They were signed and processed accordingly.

VII. ADJOURNMENT:

Chairman Easterling announced that the next meeting was scheduled for Tuesday, April 17, 2007, at 6:00 p.m. There being no further business coming before the Board, Chairman Easterling adjourned the meeting at 6:49 p.m.


Board of Zoning & Building Appeals Chair Vice-Chair


Board of Zoning & Building Appeals Vice-Chair/Member

4.17.07
Date

RESOLUTION
BOARD OF ZONING & BUILDING APPEALS
MARCH 22, 2007

BZA RESOLUTION NO.: 03-2007

RE: BZA Application A 2-2007
3487 Barber Road/PPN 4700306
Barber Road Storage, LLC, Owner
Dennis Pedro, Agent
Requesting a Variance to Section 1472.13(a):
Uses Prohibited in Riparian and Wetland Setbacks.
[To construct additional storage units.]

The Board finds that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure. True ___ False

The Board shall further make the finding that the granting of the variance will be in harmony with the general purpose and intent of the ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare. True ___ False

In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with the ordinance as provided by Section 1254.04(c)(1F2) of the Codified Ordinances of the City of Norton, Ohio.

The following conditions and safeguards are hereby made a part of the requested variance:

Motion to ~~approve~~/table/deny BZA Application A 2-2007, regarding a variance to Section 1472.13(a)-Uses Prohibited in Riparian and Wetland Setbacks; to construct additional storage units, on the property known as 3487 Barber Road/PPN 4700306, for the following reason(s):

(See Attached.)

Vote on Motion: FOR 5 AGAINST 0 ABSTAIN 0

Therefore BZA Application A 2-2007 is hereby:

APPROVED

DENIED ___

TABLED ___

This resolution shall be sent to:

Administration for it's action or for it's ___ information, and
Council for it's ___ action or for it's information.


Board of Zoning & Building Appeals ~~Chair/Vice-Chair~~


Board of Zoning & Building Appeals ~~Vice-Chair/Member~~

03.22.07
Date

BZA Resolution No. 03-2007

- 1.) No filling to existing wetlands shall be permitted by this variance;
- 2.) The proposed building exterior dimensions have been sized to afford ample open space between the proposed building and existing wetlands;
- 3.) The existing wetlands in proximity to and adjacent to the proposed building shall be suitably marked per paragraph 1472.09(f);
- 4.) This variance based upon information per site plan dated 02/19/07 identified as 'site A', Barber Road Storage; &
- 5.) No additional buildings or additions to existing buildings shall be permitted by this variance by the current owner or future owners.

