

BOARD OF APPEALS MINUTES

On Tuesday March 8, 2005, at 7:00 p.m. the Town of Clarence Zoning Board of Appeals will hear the following requests for variances:

APPEAL NO I
Bank of Akron
Commercial

Requests the Board of Appeals approve and grant a sixteen and three quarter square foot (16.75 sq.ft.) variance to allow a forty eight and three quarters square foot (48.75 sq.ft.) sign at 9865 Main Street.

APPEAL NO I is in variance to L.L. 181 - B (1) Sign district specifications.

APPEAL NO II
Tim Berndt
Agricultural

Requests the Board of appeals approve and grant a one hundred fifty five foot (155') variance creating a two hundred fifty five foot (255') front yard setback for the construction of a new home at 8185 Goodrich Road.

APPEAL NO II is in variance to Article V, section 30-27 B, size of yards.

ATTENDING: **Ronald Newton**
 John Brady
 Raymond Skaine
 Arthur Henning
 Eric Heuser

ABSENT: **John Gatti**

INTERESTED **E. Peter Forrestel II**
PERSONS: **Bernie Kolber**
 Tim Berndt

MINUTES

Motion by Raymond Skaine, seconded by John Brady to approve the minutes of the meeting held on February 8, 2005 as written.

Raymond Skaine	AYE
John Brady	AYE
Arthur Henning	AYE
Ron Newton	AYE
Eric Heuser	ABSTAIN - absent last meeting.

MOTION CARRIED.

APPEAL NO I
Bank of Akron
Commercial

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Appeal No I is in variance to L.L. 181 - B (1) Sign district specifications.

DISCUSSION:

E. Peter Forrestel II expressed his opinion that a 48.75 sq. ft. sign would increase the visibility (of the bank).

Arthur Henning stated that he had not seen any signs on Main Street, or in the area, in comparison to what Mr. Forrestel is proposing. Arthur questioned Mr. Forrestel why he felt this sign is needed. Mr. Forrestel responded he had two reasons: 1.) The “time and temperature” sign would be a public service. 2.) To increase the visibility in the daytime as well as at night.

Mr. Forrestel informed the Board that currently they have two (2) “time and temperature” signs located in Akron and Clarence Center which have become landmarks. Arthur questioned Mr. Forrestel if the proposed sign would be the same height as the current sign. Mr. Forrestel replied it would be a little higher. Mr. Forrestel assured the Board that the sign would remain in the same location.

Raymond Skaine stated that the Board of Appeals is bound to look at five (5) proofs of Town Law.

- 1.) Mr. Skaine stated that he felt this sign would change the character of the neighborhood. Mr. Skaine stated that there are no other flashing signs on Main Street.
- 2.) Mr. Skaine stated that he feels Mr. Forrestel’s business has increased during the three years of operation, so a larger sign would not be beneficial.
- 3.) Mr. Skaine stated that 50% increase in size is a

substantial variance request.

- 4.) Mr. Skaine stated that an illuminated sign would have an adverse affect on the neighbors.
- 5.) Mr. Skaine feels alleged difficulty was self-created because, in Mr. Skaine's opinion, Mr. Forrestel's business is prospering with the current sign.

Eric Heuser agreed with Raymond Skaine's comments. Eric also added that there are no other signs on Main Street of that character.

Ron Newton clarified the trees are on the right-of-way. and Mr. Forrestel's sign is outside the right-of way. Mr. Newton stated his concern of a traffic safety issue in regards to the sign being a distraction. Ron Newton stated that increasing the sign by 50% and the potential traffic hazards far outweigh the need of a 50% increase in sign usage.

ACTION:

Motion by Raymond Skaine, seconded by Eric Heuser to **DENY** Appeal No I as requested based on the Town Law Section 267 regarding area variance. Copy attached.

Ron Newton	AYE
John Brady	AYE
Ray Skaine	AYE
Eric Heuser	AYE
Arthur Henning	NAY

MOTION CARRIED.

APPEAL NO II
Tim Berndt
Agricultural

Requests the Board of Appeals approve and grant a one hundred fifty five foot (155') variance creating a two hundred fifty five foot (255') front yard setback for the construction of a new home at 8185 Goodrich Road.

APPEAL NO II is in variance to Article V, section 30-27 B, size of yards.

DISCUSSION:

Tim Berndt stated that after talking to Engineer Tim Lavocat, it was determined that because of the size of the property and the flood zone, there would not be enough room in front of the barn to build and be able to save the barn Mr. Berndt continued by saying that he would like to keep the barn the way it is.

Ray Skaine stated that he is in favor of saving the barn if Mr. Bendt can reconstruct it.

Ray Skaine read aloud a memo from the Town Engineering Department. The memo stated:

The proposed setback of 255 feet does not impact compliance with the Local Law 03-2000 Flood Damage Prevention.

All proposed construction and/or filling operations on subject lot must be in accordance with all requirements set forth in Local Law 03-2000 and will be reviewed for compliance prior to issuance of a building permit.

Building restrictions and conditions will apply for compliance with Local Law 03-2000 since the proposed structure will be located within the density floodway.

A floodplain development permit is required prior to any land disturbance on the property.

Ray Skaine asked Mr. Berndt if he is willing to be in compliance with Local Law 03-2000. Mr. Berndt responded by saying he would be willing to do whatever is needed.

Arthur Henning questioned what type of house Mr. Berndt intends on building Mr. Berndt stated that it would be an old farm house to fit into the character of the neighborhood.

Ron Newton stated that he would like the old house demolished before a permit is issued for a new build.

Raymond Skaine requested the trees along the north remain as a buffer for the neighbors. Ray stated that as a condition, he requests a tree located on the front of property be saved.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning to **APPROVE** Appeal No II as requested with the following conditions:

- 1.) Applicant will eliminate the residence and maintain the barn before a new build permit is issued.
- 2.) Be in compliance with the letter from Tim Lavocat regarding Local Law 03-2000.

ALL VOTING AYE. MOTION CARRIED.

Meeting adjourned at 7:30 p.m.
Ronald Newton, Chairman