

CITY OF PIQUA, OHIO
BOARD OF ZONING APPEALS MEETING MINUTES
TUESDAY, AUGUST 25, 2009

MUNICIPAL GOVERNMENT COMPLEX - COMMISSION CHAMBERS

CALL TO ORDER

At 6:00 Chairperson Mr. Reindel called the meeting to order. The Chair read the Introductory Statement of BZA Duties and outlined the order of business to be followed. The Chair reviewed the meeting conduct procedures and swore in those persons in attendance. The Chair asked all persons present to stand and raise their right hand. The Chair administered an oath to all persons present to testify before the BZA asking them to swear or affirm to tell the truth, and to acknowledge their intent to abide by the oath administered by stating, "I do" or "opposed". All persons present stood and took the oath to tell the truth with all persons present stating "I do".

ROLL CALL

Members Present: Steve Reindel, Chair, Rebecca Harrison, Pat Jenkins,
Jimmy Reedy and Mark Spoltman
Staff Members: Stacy Wall, Chris Boeke, Chris Schmiesing, and Joni Kakatolis, Clerk
Attendees: Terry and Jane Cotrell, 415 N. Downing Street, Piqua, OH 45356.

MEETING MINUTES

Pat Jenkins made a motion to approve the July 28, 2009 meeting minutes. The motion was seconded by Jimmy Reedy and all voted aye.

OLD BUSINESS

There was no Old Business to discuss at this meeting.

NEW BUSINESS

1. **Resolution BZA 11-09**

An appeal to the July 29, 2009 Property Maintenance Code violation at the property located at 301 Gordon St., Piqua, Ohio.

Mr. Boeke presented staff comments indicating that the Health Dept. received a complaint from the tenant at 301 Gordon Street regarding the ceiling fan in the kitchen. An inspection was done and a notice was sent to Mr. Cotrell, the property owner regarding the violation. Mrs. Cotrell contacted the Health Department and upon re-inspection on August 10, 2009, it was determined that the repairs had been completed in a satisfactory manner.

Mr. Cotrell addressed the Board and indicated that his appeal is with regard to a misinterpretation of the code. He disputes that it is his responsibility to maintain the interior of the structure and that the tenant complained because he had recently served her with a 3-day eviction notice.

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Mr. Cotrell presented the Board with copies of Ohio Revised Code and Section 305 of the International Property Maintenance Code.

Mrs. Wall addressed the Board and clarified that Section 305.1 indicates that the "interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition".

Mr. Cotrell stated that he was not aware the fan was in the unit and that the tenant installed the fan and removed the light fixture that was previously there. He felt that the damage was done when the tenant tried to remove the ceiling fan. Mr. Cotrell indicated that the appeal could have been avoided if Mr. Boeke would have contacted him by phone. Mr. Cotrell indicates that the tenant should have been cited and not the property owner.

The Chair asked Mr. Cotrell if he had obtained a security deposit from the tenant to which the response was yes. The Chair clarified the Rules of the Board of Zoning Appeals. Mr. Spoltman disagreed with Mr. Cotrell regarding who should have been cited and requested that Mrs. Wall re-address the issue which she did summing up that the occupants responsibility is cleanliness and the owners responsibility is the structure. Mrs. Wall also relayed to the Board that they do not have the ability to render a legal opinion. Mrs. Wall asked Mr. Cotrell if he had a lease shifting the burden of responsibility of the structure to the tenant and Mr. Cotrell indicated that he did not.

Mr. Cotrell continued that he wanted clarification that the issue was not his responsibility.

Mr. Reddy asked how the Board gets to Ohio Revised Code from the Code to which the Chair pointed out that the Board was not present to debate the law and the Board could only rule if it is a violation. The Chair went on to say that the Board's job is to determine if the evidence submitted is a violation. He pointed out to Mr. Cotrell that he was present before the Board because he is the property owner and additionally pointed out that the issue had been abated.

Mr. Reedy commented that he understood Mr. Cotrell's concern but that the matter is a moot point.

The Chair reiterated the process of the BZA and that the Board cannot render a legal opinion and that the Board's job is to determine if the information represented by staff indicates a violation.

There was no Public Comment and Public Comment was closed.

The Chair commented that for the reasons stated he feels that there is a violation and it has been fixed so it is abated and believes that the appeal should be denied. Mr. Spoltman agreed with the Chair that the appeal should be denied as did Mr. Jenkins, Mrs. Harrison and Mr. Reedy.

A motion was made by Mark Spoltman to deny the appeal and the motion was seconded by Mrs. Harrison. The appeal was denied with a vote of 5-0.

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2. **Resolution BZA 12-09**

A request for a variance to allow two (2) primary permanent detached signs with zero (0) foot front lot line setbacks to be located at 110/116 W. High Street, Piqua, Ohio.

Mr. Schmiesing present staff comments recommending the Board approve the requested variance and stating that the proposed nonconformities represent the best opportunity for the placement of signage at this location in a manner that is mindful of the buildings historical architecture and sensitive to the impact the signage will have on the immediate surroundings. He indicated that if authorized, the variances would yield the property owner a reasonable use of the property; the proposed variances would not result in a substantial deviation from the code requirements, would not substantially alter the character of the neighborhood or be a detriment to the adjoining properties, would not adversely affect the delivery of government services, would not relieve the property owner from conforming to all other applicable standards, would solve a problem that can not be remedied by other means and would preserve the spirit and intent of the zoning requirements and serve substantial justice with reference to the circumstances and conditions known to exist within the neighborhood concerned.

Mrs. Wall pointed out that a Motion to amend the Agenda was required as this item was not presented within the 24 hour notice requirement.

Mr. Jenkins had several questions regarding the timing and questioned whether there is anything in writing to indicate how these items come before the Board.

Mr. Schmiesing indicated that the policy is the Boards policy and that the reason that the item was brought forward was to eliminate any delay.

Mrs. Wall again pointed out the need for a Motion to amend the Agenda and Mr. Jenkins believed that there was a 15 day time period for submission. Mr. Jenkins also questioned the parties who make up Piqua Downtown Redevelopment Project LP to which Mrs. Wall responded.

Mr. Reedy indicated that he has seen no signage for the restaurant located at this site and wanted to know if there would be some in the future. Mr. Schmiesing indicated that a package has been presented by the restaurant but nothing had been received from Winan's. Mr. Reedy also expressed his concern regarding vandalism to the sign.

Mr. Spoltman asked what the policy was for short notice of agenda items to which Mr. Schmiesing explained that the package is to be sent to the members 10 days in advance of the meeting date.

Mr. Reindel requested a motion to hear the agenda item due to the lack of the 10 day notice.

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Mrs. Wall explained that the Board could:

1. Amend the Agenda and hear the item (recommended)
2. Deny the item and it would be heard at the next regularly scheduled meeting
3. Approve and agree to table the item and vote on it at the next regularly scheduled meeting

Mr. Reedy made a motion to hear the agenda item which was seconded by Mrs. Harrison. All voted Aye and the motion was carried.

Mr. Jenkins made a motion to table the item until the next regularly scheduled meeting which was seconded by Mr. Reedy. This motion was denied with a vote of 3-2.

Mr. Spoltman indicated that he thought the matter should be acted on in a timely manner and Mrs. Harrison agreed. A motion by Mr. Spoltman to approve BZA 12-09 was made and seconded by Mrs. Harrison. This motion was approved with a vote of 3-2.

OTHER BUSINESS

Mr. Spoltman requested to be excused at 7:00 p.m. and was excused by the Board.

Chris Schmiesing did a Powerpoint presentation of the Principals of Land Use. There was a brief discussion and the Board thanked Mr. Schmiesing for putting the presentation together.

ADJOURNMENT

With no further business to conduct it was moved by Pat Jenkins and seconded by Jimmy Reedy that the meeting be adjourned. With all those present in favor the meeting was adjourned at 7:20PM