

BOARD OF ZONING APPEALS MEETING

TIPP CITY, MIAMI COUNTY, OHIO

March 18, 2015

Meeting	Chairman McFarland called this meeting of the Tipp City Board of Zoning Appeals to order at 7:30 p.m. which was held at the Tipp City Government Center, 260 S. Garber Drive, Tipp City, Ohio.
Roll Call	Roll call showed the following Board Members present: Michael McFarland, Carrie Arblaster, Steve Stefanidis, and Isaac Buehler. Others in attendance: City Planner/Zoning Administrator Matthew Spring, and Board Secretary Kimberly Patterson.
Citizens signing the registrar	Citizens attending the meeting: David Frye. Bret Musser was present but did not sign in.
Board Minutes 12-17-2014	Chairman McFarland asked for discussion. There being none, Chairman McFarland moved to approve the February 18, 2015 meeting minutes as written , seconded by Mr. Stefanidis. Motion carried. Ayes: McFarland, Stefanidis, Buehler, and Arblaster. Nays: None.
Citizens Comments	There was none.
Administration of Oath	Mrs. Patterson swore in citizens and Mr. Spring.
Chairman's Introduction	Chairman McFarland explained the guidelines and procedures for the meeting and public hearings. He advised the applicant that any person or entity claiming to be injured or aggrieved by any final action of the BZA shall have the right to appeal the decision to the court of common pleas as provided in ORC Chapters 2505 and 2506.
New Business Case No. 04-15 Brett Musser Parking Spaces	Case No. 04-15: David Frye – Bon Builders for Brett Musser/Muss Ventures LLC – Owner - 1540 Harmony Drive, Lot: IL 4139 – The applicant requested a variance of 12 spaces to the off-street parking requirements of Code Table 154.10-1. Zoning District: GB – General Business Zoning District Zoning Code Section(s): Code Table 154.10-1 Mr. Spring stated that on October 8, 2013, the Planning Board approved a Special Use permit for the property located at 1540 Harmony Drive for use as an automobile repair garage (<i>Musser's All in One Tire and Auto Center</i>). Subsequently, on October 14, 2014 Planning Board approved the associated site plan for the automobile repair garage structure (Special Use) to include 26 total off-street parking spaces. Per Law Director Caldwell and Code §154.01(J)(4) – <i>Processing of Applications</i>

Commenced or Approved Under Previous Regulations, since the Special Use permit had not expired, and was issued under the previous Zoning Code, the site plan review for the Special Use requirements for the site plan was also reviewed under the previous zoning code.

Mr. Spring noted that even though the project was originally approved under the old zoning code, and had not begun to be constructed, the proposed variance request; reduction in off-street parking, must be reviewed under the new zoning code. It was important to note that there are specific differences between the old code and the new code regarding the number of off-street parking spaces required and the parameters by which that required number can be modified or varied.

Mr. Spring stated that as originally approved, the automobile repair garage required 26 off-street parking spaces computed as follows:

Old Code

§154.078(E)(12) stated:

Automobile service stations and auto repair, painting and body shops: 2 spaces for each service bay, plus 1 space for each employee and service vehicle, with a minimum of 6 spaces.

The proposed automobile repair garage will have 8 service bays, 10 employees, and 0 service vehicles. Therefore, under the old code the automobile service station required 26 off-street parking spaces ($[8(2) = 16] + 10 + 0 = 26$).

New Code and Variance

Under the existing (new) code the proposed automobile repair garage requires 35 off-street parking spaces as delineated in the variance request described below.

Variance #1

Code Table 154.10-1 indicates:

Automotive Repair (Heavy) and/or Automotive Service Station and Parts Sales:

One space per 300 square feet of indoor floor area, plus two spaces per service bay (service bay may not be counted as a parking space).

Mr. Spring stated that the proposed automobile repair garage would have an area of 5,600 square feet and have 8 service bays. Therefore, under the new code, the automobile service station requires 35 off-street parking spaces ($[5600 \div 300 \approx 18.6] + [8(2) = 16] \approx 34.6 = 35$).

Review Criteria §154.03(K)(4)

(4) Review Criteria

Decisions on variance applications shall be based on consideration of the following criteria:

(a) Where an applicant seeks a variance, said applicant shall be required to supply evidence that demonstrates that the literal enforcement of this code will result in practical difficulty for an area/dimensional variance as further defined below.

(b) The following factors shall be considered and weighed by the BZA to determine practical difficulty:

(i) Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions;

(ii) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

(iii) Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;

(iv) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;

(v) Whether the variance would adversely affect the delivery of governmental services such as water, sewer, electric, refuse pickup, or other vital services;

(vi) Whether special conditions or circumstances exist as a result of actions of the owner;

(vii) Whether the property owner's predicament can feasibly be obviated through some method other than a variance;

(viii) Whether the spirit and intent behind the code requirement would be observed and substantial justice done by granting a variance; and/or

(ix) Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

(c) No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts.

Mr. Spring noted the following:

- There was an existing DP&L pole, wires, and associated guy wires that encroach on the property and prohibit the site plan from being constructed as approved on 10/14/14.

- As a condition of approval on 10/14/14, the Planning Board required that the existing DP&L pole, wires, and associated guy wires be relocated so as to be completely out of the drive aisle and off-street parking area at the applicant's expense.
- If the pole & wires, etc. were to be relocated, the site could be built as originally approved and would not require a variance.
- The applicant had indicated that the DP&L pole relocation was not cost effective.
- The property contains easements as follows:
 - 10' utility easement on the north property line
 - 10' utility easement on the south property line
 - 5' utility easement on the east property line
 - 25' utility easement on the west property line
- The proposed variance request of a parking reduction was predicated on the assumption that the existing guy wires, only will be relocated by DP&L at the applicant's expense.

Chairman McFarland asked if there were any further questions for Staff. There was none.

Mr. David Frye, 2620 Vista Ridge Drive, Troy, Ohio 45373, contractor for applicant Bret Musser, approached the dais. Mr. Frye explained the obstructions and issues with the DP&L pole due to the nature of the business. Cars would not be staged for future work because of the turn key operation and this was the reasoning's as to why the business "Musser Tire" would not need all the parking spaces.

Board members found the following: if two guy wires were removed would have to curb around the pole then lose two spaces; cost of moving and relocating the pole was costly; lot was big enough (2.387 acres) for 35 spaces required of the new code; turnkey operation such as routine maintenance oil changes, tire rotations, etcetera; when property was surveyed did not recall the pole nor did it appear to be on the property; DP&L was creating a hardship due to lack of willingness to work with the property owner; there will not be a tow truck at this business; there was off street parking available if needed.

Mr. Bret Musser, 815 Charrington Way, approached the dais. Mr. Musser stated that the business "Musser Tire" was geared toward maintenance of a vehicle which was a quick turnaround of cars being worked on.

Chairman McFarland asked for further discussion. There being none, Mr. Stefanidis **moved to grant a variance of 12 spaces to the off-street parking requirements of Code Table 154.10-1 for automobile repair garages for the property located at 1540 Harmony Drive**, seconded by Mr. Buehler. **Motion carried.** Ayes: Stefanidis, Buehler, Arblaster, and McFarland. Nays: None.

Old Business

There was none.

Miscellaneous

There was none.

Chairman McFarland welcomed Mr. Stefanidis to the Board.

Adjournment

There being no further business, Chairman McFarland **moved to adjourn the meeting**, seconded by Ms. Arblaster and unanimously approved. **Motion carried.** Chairman McFarland declared the meeting adjourned at 7:59 p.m.



Board Chairman, Michael McFarland

Attest: 
Mrs. Kimberly Patterson, Board Secretary