

**BOARD OF ZONING APPEALS
MINUTES OF MEETING
JULY 14, 2014**

MEMBERS PRESENT: Carl Zani, Eric Moulton, Dick Mickley, Alex Kessler, Scott Zwiezinski, and Harry McMannis. Barbara Taylor was excused.

OTHERS PRESENT: Leonard Andrews, Terry Emery, Rob Pristas, Crista Miller, Randy Mattan, Bob Parrott, John Gore, Martin Pratt, Bob Buckley, Karen Page, Robert Sements, Chad Seaberg, Carrie Beebe, Michael Anderson, Deborah Groat, John Clem, Ryan Horns, Donald Boerger, Miriam Kahn, Code Enforcement Officer Derek Hutchinson, City Planner Greg DeLong, and Secretary Barb McCoy.

MEETING CALLED TO ORDER: The meeting was called to order at 7:00 p.m.

APPROVAL OF MINUTES: The minutes of the meeting of June 9, 2014, were approved as presented. Roll call was unanimous.

AGENDA ITEMS:

OLD BUSINESS: None.

NEW BUSINESS:

To hear a request for a variance to permit 11' front setback for construction of fence along Clydesdale Way vs. 25' front setback required; R-2 zoning district. Filed by Michael Anderson, 2002 Shetland Street, Marysville, Ohio 43040.

COMMENTS OF ZONING INSPECTOR AND/OR CITY PLANNER: Mr. DeLong stated a letter from the School and one from Nationwide Children's Hospital was part of their application. He stated the variance request does not appear to meet the findings under Section 1129.13 of the Planning & Zoning Code.

COMMENTS OF REQUESTER:

Michael Anderson stated fences are not permitted in the Woods at Mill Valley North. However, they have three year old twin boys that are both autistic and very mobile. They are working with Dominion Homes for a variance from the Homeowners Association to permit this fence. They need it for the safety of their twins to make sure they are kept in yard if they manage to get out of the house. They have locks on all the doors and windows but they have managed to get out before. It is important for their safety and allows them areas to reinforce development. The fence goes out 11' towards the side yard and will enclose the patio.

COMMENTS OF CITIZENS: John Clem, neighbor of the applicant, stated he had sent a letter to the City where he states he is in favor of this request. He was here to express his support and to say he has

no objections. It won't only be an improvement to their property but will be for the safety of the children.

DISCUSSION BY BZA MEMBERS: Mr. McMannis asked if 4' tall is high enough. He has a 17 year old grandson with autism and knows how it is over the years. Mr. Anderson stated his parents live in Mill Valley and they have a 4' fence and they do well at their house.

Mr. Moulton asked what the Homeowners Association says. Mr. Anderson stated they have been supplied with the ADA guidelines with some restrictions. They are working with them.

Mr. Moulton asked if this fence would be conditional to the property. Mr. DeLong stated variances go with the property, not the property owners.

Ms. Beebe stated there is not enough room for the children to develop without a fence. Mr. Anderson stated they would have to remove six mature trees to put the fence in the location that is permitted by ordinance.

Mickley made the motion to approve the request; seconded by Mr. Moulton. Question put, stood:

Mr. Moulton Yes	Mr. Mickley Yes	Mr. Kessler Yes
Mr. Zwiezinski Yes	Mr. McMannis Yes	Mr. Zani Yes

The variance was approved.

To hear a request for an appeal to the decision of the Design Review Board for demolition of the building at 222 S. Main Street B-3 zoning district. Filed by Tim Aslaner, Law Director, City of Marysville, 209 S. Main Street, Marysville, Ohio 43040.

COMMENTS OF ZONING INSPECTOR AND/OR CITY PLANNER: Mr. DeLong stated the applicant is proposing to appeal a decision by the Design Review Board at their June 11, 2014 meeting. At the Design Review Board meeting, the Board voted 4-2 to deny the applicants request to demolish a structure located at 222 S. Main St.

Bob Parrott, President of the Union County Historical Society, stated he is a life long resident and owns a building that was built in 1907 in the Historic District. He stated he proposes this is not a valid appeal and requested the Board of Zoning Appeals not hear the agenda item. He stated he feels the City failed to file the request in the proper time period allotted. Additionally, the City violated the Open Meetings Act, also known as the "Sunshine Law". City Council never granted the mayor the right to seek out the appeal process. No motion was made. No discussion was held in front of the public. Council never authorized this appeal. Someone decided to file an unauthorized appeal. We do not know who filed it or who authorized it. The public was never given the opportunity to speak on it.

COMMENTS OF REQUESTER: Tim Aslaner stated the Design Review Board determined on June 11 the structure in question had historical or architectural significance. That was the burden. The City had to show to the letter of the law the structure had no historical significance.. The City feels it has met that

burden. The City agrees there may be economic viability and deterioration has not progressed to the point where it is not feasible to restore the structure. The City knows it is an old house. We know that a former mayor once lived in that house. There have been 67 known mayors in the City of Marysville. They had the following three areas to determine if the proposed structure could be torn down. Historical Significance; Economic Use and Deterioration. Mr. Aslaner stated he appreciates all the work the Historical Society does. However, they are not looking at factors through the objective lens that they should be. This is an appeal.

Mr. Parrott stated according to 1136.05, he has very strong argument the City is not following the code. These are factors by Planning Commission, City Council, Historical District.

Mr. Aslaner stated the factors do not apply. Applying all factors don't fit. They are not using common sense. 1136.05 (a)1-8 states: In considering designation of any area, property or similar object in the City of Marysville as an historic district or landmark, the City Planning Commission and City Council shall apply the following criteria:

- 1) Its character, interest, or value as part of the development, heritage or cultural characteristic of the City of Marysville, Union County, the State of Ohio, or the United States of America. What is the character, interest or value of this house. How do you define that. At the Design Review Board we had many citizens testify. They have driven by that house for years. They never saw anything significant or of value in that house. It's an old house. It was built in 1850, it's 164 years old. We know that a former mayor lived there. He moved away and did not stay here. There have been 67 mayors for the City of Marysville. The house does not even resemble the original house. The siding is vinyl, it has asphalt shingles.
- 2) Its location as a site of a significant historical event. I feel it's important to look at these things. There is no evidence what-so-ever that there is any historical event associated with this structure.
- 3) Its identification with a person who significantly contributed to the culture and development of the City. Again, the key is significant that contribution to the culture and development of the City. We know Mr. Franks and Mr. Sellers lived there. A grocer and a banker. We cannot attach any significant events or achievements to these individuals. Mr. Franks contributed to the City, but was it significant?
- 4) Its exemplification of the cultural, economic, social or historic heritage of the City. Does this structure at 222 S. Main Street exemplify the economic, social historic heritage of the City. We do not know of any significant characters that lived in the house. We simply know that a mayor and grocer lived there. Exemplification is the key word there.
- 5) Its embodiment of distinguishing characteristics of an architectural type.
- 6) Its embodiment of elements of architectural design or detail or materials or craftsmanship which represent architecture of significant character, charm, or grandeur. This is self explanatory; you've all seen the house.
- 7) Its unique location or singular physical characteristics representing an established and familiar visual feature of a neighborhood or of the City. Again, you've been through the house. Ms. Kahn is here to testify and answer any questions you may have. There is no unique period character architecture for this house.
- 8) Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural type.

These are the eight characteristics that were discussed at the Design Review Board that the Historical

Society has held its hat on and I believe the Design Review Board hung its hat on. These characteristics should not be applied. Anyone with common sense knows they do not. There is no historical significance. Everything has a history.

Many citizens, 4th, 5th and 6th generation families did not know the house existed. The structure is simply an early Marysville house that has to-date lost its original architectural integrity. There has been no showing that the home's character, interest or value can even be defined, let alone be tied to the development, heritage or cultural characteristic of the City. There is no authority in the code that these eight criteria should be applied. Everything has history. Whether it is significant or not is to be determined. Dr. Miriam Kahn submitted a report. She has a Ph.D. in History, MA, MLS and a BA. She is a recognized consultant preservationist. She is a preservationist. She was reluctant at first to take on the task. She relied on three factors from the National Register and she based her decision on three factors of the National Register.

Criterion A – Structures that are associated with events that have made a significant contribution to the broad patterns of our history.

Criterion B - Structures that are associated with the lives of significant persons in our past. Having a mayor living in the house is not enough. It is nonsensical to think every mayor's house in the City should be historic. We've had 67 mayors for the City of Marysville. Yes he was an early mayor but he left the City of Marysville after his term. He was mayor from 1853-1860. George Sellers was a grocer and banker. He was not the first banker in Marysville – was not even founder of the first three banks in Marysville. Does a former mayor, surgeon, trial lawyer is not enough.

Criterion C – Structures that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction. There is no period molding left. Three porches have been removed. The footprint of the structure is not the same. If any previous owner thought this was a historical structure, they would have renovated it as such. They did not. It looks nothing like the house from 1850. There are no decorative features. The house has been modified. If this house was significant by any of its previous owners, they would have tried to keep it looking like the original structure. We are not arguing that it's not an old house. It has vinyl siding and an asphalt roof.

This is an appeal. It is not a trial. You can ask questions. The Design Review Board voted 3-3 on the question of whether there was any historical significance. They then voted 4-2 against approving the Certificate of Appropriateness to demolish the house. The appeal is to reverse the decision of where the house is not historically significant enough to demolish the house.

Mr. Mickley asked if the decision remains the same, does the City have any plans on the use of the house. Mr. Terry stated the City has not looked into uses. They looked at moving the structure but there are extreme costs involved. \$30,000+ and that doesn't include where they are moving it to and the obstructions in the streets. Zanesville recently moved a 2 story house and the total cost was \$210,000. We are not interested in spending the money to move forward with that.

Mayor Gore stated another alternative would be for the Historical Society to move the house. The City

would be more than happy to give it to them.

Mr. Parrott stated there are two parts to my argument. This is not a valid appeal. I have been a member of the Union County Historical Society for 30 years and president for 25. I have been involved with many events. I feel there is not a valid appeal. They have failed to file in the time period as provided in the Code. On June 11, 2014 the Design Review Board heard the request for Certificate of Appropriateness to demolish the house at 222 S. Main St. The Design Review Board denied that certificate. The City had two choices. You can accept the ruling or appeal to the BZA within 20 days. They had until July 1 2014. They filed on June 24, 2014. Was it properly authorized? I say it was not. Nobody in this room denies the City of Marysville is a public body. Public body is defined in the ORC as any board, commission, committee, council, or similar decision-making body of a state agency, institution, or authority, and any legislative authority or board, commission, committee, council, agency, authority, or similar decision-making body of any county, township, municipal corporation, school district, or other political subdivision or local public institution. The City of Marysville must comply with the ORC. They must follow the rules of open meetings otherwise known as the Sunshine Law - "All meetings of any public body are declared to be public meetings open to the public at all times. A member of a public body shall be present in person at a meeting open to the public to be considered present or to vote at the meeting and for purposes of determining whether a quorum is present at the meeting." Council had to make the decision to appeal or not. City Council had to make in a public hearing within 20 days of June 11, 2014 whether to appeal the decision. If you look at the City Council meeting minutes of June 12 and June 26 (minutes given to be made part of record), there is only one mention of the Design Review Board. Mr. Failor reported on the Design Review Board on four items. There was no decision to appeal or authorization to accept the Design Review Board decision.

Mr. Parrott stated at the June 12, 2014 City Council meeting, the minutes reads as follows: "Mayor Gore reported that the Design Review Board met on the demolition of property next to the proposed Partners Park. The application was denied by the Board. There is an appeal process. One option is to stop the construction of Partners Park and make a parking lot. After talking to the sponsors of the park, they encourage the City to move forward with Partners Park. Will end up with a total of 34 parking spaces. The closing on the house is scheduled for next Tuesday." There was no motion, no recommendation. City Council never authorized after 20 days past decision not to appeal. They met against public hearing process. Decision was not made. Public was not given opportunity to speak. This is not a proper appeal.

Mayor Gore stated City Council passed an ordinance to purchase the property located at 222 S. Main and empowered him to go ahead with the process. He made application and the next step is to appeal.

Mr. Aslaner stated the Mayor is right on point. This matter does not have to have a new ordinance. The day to day operation of the City does not require an ordinance be passed. Discussion was held on the ordinance for purpose of using house as uptown parking and Partner's Park. Mayor has authority to make the decision that was made. Nothing was made in secret. There is no violation of open meeting act. City Council is not required to make the decision to make the case of appeal. There has been authority given already. The Mayor was given the power to make sure the property was obtained.

Mr. Parrott stated he has the minutes from the 20-day period. No appeal was ever mentioned at City Council. The ordinance was not passed during that time. It had to be made in that 20 day period. You

cannot preauthorize something that has never happened.

Mr. Mickley stated if original ordinance authorizes the Mayor to take steps necessary to make it a parking lot that would include appeal and all paperwork needed. They agreed with approval of the ordinance.

Mr. Zwiezinski stated City Council is very vocal. If there were concerns, the concerns would have been very verbal. They could have voiced their dismay. They did not come forward. Not sure following what is being said.

Mr. Aslaner stated he wanted to stress the fact that the Mayor authorized by Council to purchase this property for specific public purpose. He asked Mr. Parrott to show where it stated City Council has to file formal action. Council has been through this. In order to obtain for the purpose, the house has to be demolished. There is no further action. We are acting on Council's action already. There are no other alternatives.

Deb Groat, City Council member, stated she was present at the City Council meeting where legislation was passed for this project. As far as the 20 day appeal process, City Council would never have time to do legislation for that. The legislation was passed months ago. The appeal is within the appropriate action given to the Mayor.

Mr. Zwiezinski asked if she has ever been in situations for City Council where the Mayor was given the power to act on something like this. Mrs. Groat stated she has been involved in many pieces of legislation where City Council and staff has been given the authority to act on Council's behalf. Not where there has been something like this, but many times. This has always been the understanding on the project for Partner's Park. This is why I am here tonight. The vote on April 10th by City Council was to allow the Mayor to purchase the property, tear it down and put in parking for Partner's Park. It was a piece of the plan. Cannot imagine the building staying and putting parking in the area around the building.

Discussion was made on whether a vote should be taken on allowing the case to be heard. Mr. Aslaner stated the legal conclusion should be before the Court of Common Pleas. The Board decided to move forward on the appeal.

Mr. Parrott discussed the code which states the City of Marysville, contains numerous historic structures and other architectural and special features which are considered assets that establish the character of the community. No one disputes that. The City admits it; everyone knows this building is in a protected historic district. It was built in 1850 – the structure is 164 years old. It was built in the first 30 years of the town's history. The building is in good condition, healthy and perfectly usable.

Mr. Parrott presented slides showing photos of the Union County Historical Society log cabin; posted signs at entrance of City of Marysville for the historic uptown Marysville; 1819 Plat map for town of Marysville that shows the original lot where this structure is located.

Mr. Parrott stated five years from now we will reach our 200th anniversary. What are we going to have left from the history of our town. The lot at 222 S. Main was purchased for \$75 in 1847 by the founder

of the town's daughter, Mary – whom the town was named after. Trying to impress how connected this house is to the history of Marysville. It was sold by the founder's daughter to William Frank. If this building survives to our 200th anniversary, the building will be 170 years old. It will have been here in Marysville for almost as long as the town has been in existence.

Mr. Parrott reviewed the biographies of Mr. Frank. He came to Marysville in 1837. Mr. Frank operated a successful furniture manufacturing business making cabinets, chairs, spinning wheels and other household and business furniture in the early days of Marysville. He started his business in 1839 in the old courthouse building on E. 5th St. In 1849 Frank moved his factory to S. Main Street. In 1839 he became Justice of the Peace. He purchased the lot in 1848. He built his home in 1850 and he has strong reason to believe he built his own house with his own carpenters. House was built very well. He was one of the leading businessmen in town. He was the mayor for six terms in this City.

A photo of the house at the corner of S. Main and 7th Street was shown. It is believed to be the oldest house in the City. A photo was shown of an 1844 building that was demolished for the new City Hall building.

Mr. Aslaner stated this is completely irrelevant. If Mr. Parrott has complaints about how the City manhandled items in the past, this is not the place to bring them up. Today they are here to discuss 222 S. Main Street.

Discussion was held on the building in the alley coming down and the agreement with the area in the lobby at City Hall.

A photo of the third oldest building is 1846 Cyprian Lee House located at 118 W. 6th Street. If you lower the standards of demolishing, any building like this will come down also. Fourth oldest building is 120 W. 4th Street constructed in 1847. The Historical Society has not been vocal until this point. The older buildings in Marysville are coming down. It is ironic the City code protects this building but the biggest threat in our town is actually the City. Chapter 1136.13 of the City code discusses the demolition of structures in the historic district. That is why the Design Review Board voted the way they did, they had to enforce the code. It states the last alternative for a building is for demolition. They can only approve a demolition when no historical significance is found. No significance. If they can show it does have historical significance if they can prove to you it has no economic use or it is such a deteriorated point where it needs demolished. 1136.05(a) 1-8 – In considering the designation of any area, property, structure...as an historic district or landmark, the City Planning ... Its character, interest, or value as part of the development, heritage or cultural characteristic of the City of Marysville, Union County, the State of Ohio, or the United States of America. (2) Its location as a site of a significant historical event. (3) Its identification with a person who significantly contributed to the culture and development of the City. (4) Its exemplification of the cultural, economic, social or historic heritage of the City. (5) Its embodiment of distinguishing characteristics of an architectural type. (6) Its embodiment of elements of architectural design or detail or materials or craftsmanship which represent architecture of significant character, charm, or grandeur. (7) Its unique location or singular physical characteristics representing an established and familiar visual feature of a neighborhood or of the City. (8) Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style.

One of the arguments is the house has been restored to unrecognizable from the original structure. It does still have the same footprint. Because it has been restored with asphalt roofing and vinyl siding. What is the remedy? The City says to run a bulldozer through it. I say restore it. The structure at 118 W. 6th Street has asphalt roofing and new additions. Would you allow that house be torn down? I don't think so.

Discussion was held on the house at 118 W. 6th Street looking historic because of the brick and the house at 222 S. Main Street looking like it was constructed in the 1940's or 1950's.

Discussion was held on the location of the cabinet factory and why it was torn down if it was so important. Mr. Parrott stated there was no protective ordinance in place at the time.

Mr. Zwiezinski stated he personally doesn't see Mr. Frank as being historically significant. No one ever he spoke to from Marysville has ever heard of the guy. Yes, it is an old building and it sits in the historic uptown district. Don't see where the significant contribution was made. Based on information given, Mayor Gore's house should be designated historical. Not speaking for the Board, speaking on behalf of himself. Don't see it being architecturally significant. Struggling to see, other than it's an old building.

Mr. Moulton stated he gets into a lot of older homes and it seems from the lay standpoint if you're going to conjure up a historic home, you're going to see brick, copper gutters, etc. When you walk by a house like this, it does not seem like it's historic, from the structure, not the district.

Mr. Parrott asked if it could be put into that condition. You look at German Village in the 1970s and look now. You have to have the eyes to see the possibility.

Mr. Moulton stated there the houses were clustered. You have a white elephant by itself. To leave it amongst sea of black top is a travesty.

Mr. Parrott discussed the buildings to the south of the structure. The Design Review Board liked the idea of having three houses in a row that are as old as they are.

Mr. McMannis stated three people voted against it and did not agree with it.

Mr. Parrott discussed the report filed by Ms. Kahn. They did not hire someone from Marysville or Union County, they hired Ms. Kahn who is not from here. She may have all kinds of knowledge about other matters but she does not know the history of Marysville. When you try to talk about how this building is historical to Marysville and render an opinion, you can't really say who is important and who is not. She said the building could not get on the National Register of historic buildings and the Design Review Board said they were not trying to get it on the National Register. The old Henderson House is the only house in Marysville that is on the Register. She got information from the recorder's office. The Design Review Board looked at the criteria from the code and she look at the criteria from the National Register. This is an appeal and the decision of the Design Review Board should be correct unless this Board finds it is incorrect. This building is an important example of home in 1850's Marysville. 164 year old surviving pioneer of beginning days of our town. 4th oldest building in historic building. Connected to important people in the early history of Marysville. With 30 years of working

with the Historical Society, I have the experience. For this reason I ask the Design Review Board's decision be upheld and the appeal be denied.

Discussion was held on the log cabin at the historical society on W. 6th Street. When asked if this house can be moved Mr. Parrott stated they have 0% interest in moving the house because it is cost prohibitive. Does it make sense to move a historical house out of the historic district.

Mr. McMannis questioned what could the house be used for in its present location. Mr. Parrott stated a café, building with brochures in it to go with park. That would be up to the City.

Karen Page stated the Chamber, Historical Society, library, and visitor's convention center put together a walking tour in 2006. The building at 209 S. Main street was not on the walking tour. 306 S. Main was on the tour – making you jump two houses to that structure. At some point someone did not think that structure was important enough.

Donald Boerger stated as a citizen living in the historic district of Marysville there are many houses that have been modified. He discussed not blaming either the City or the Union County Historical Society for houses losing their integrity. He continued his discussion on historic district and structures.

Martin Pratt stated as a citizen he feels it is important to look at the historic buildings in this City. We have a code. It would be easy if the house looked like it did in 1850. There are no pictures. It would be a guess to take it back to the original structure. Chapter 11367.03(c) states "Promote, preserve and enhance the historic integrity and special features of the district.". Letter (b) encourages new construction. You must look at the identification of the person. You need to follow the code.

Bob Sements stated he has a fond respect to what the City wants to do moving forward. He is with Bob Parrott with the history because he is a history teacher. Go talk to people who know the history. Go to Mr. Parrott in the future ahead of time. City leaders should be proactive. He presented a picture of the old Carnegie Library that was demolished at 5:00 am one morning. You have to present a compromise. Let people decide or compromise with City and Historical Society. Can it be used in Partner's Park. Nice attraction if you rip off the siding. Can we use it? Pride has to step aside and work together.

Mayor Gore stated he respects the passion Mr. Parrott has for this community but he is very disappointed with how Mr. Parrott has attacked Ms. Kahn because she isn't from Marysville and challenged the integrity of the City by meeting behind closed doors and violating the Sunshine Law. Council gave him the task. He addressed the building with the vice president of the Union County Historical Society. He was told in front of witnesses he said the building was not historical. Ms. Miller was at meeting he was at and said he couldn't find a list of the Historical Board members. He received a phone call from Mr. Parrott all upset because he had asked for the list. Mr. Parrott called upset challenging him. Later he found the Board knows nothing about it. Mr. Parrott said his vice president doesn't speak for the society. He's an archivist. The answers should be the same. Whatever vendetta against the City Mr. Parrott has is very disappointing. He read a statement where the City created their own problem. We are trying to contribute to uptown. Mr. Parrott did not know as much as he lets on. He said he didn't have time to do research for two new requests for Design Review Board. He said 2,500 people lived in the town in 1850. At best we know only 400 people lived here. Want to apologize to Dr. Kahn. It has come down to when referring to the Historical Society we refer to Mr. Parrott.

Mr. Aslaner stated they procured Ms. Kahn because they were required to have a professional determine if the house was historic. She came in with objective criteria. According to our code these factors should not have been applied by the Design Review Board. We are not asking for the appeal because it is good for the City or good for the park. We are asking the Board of Zoning Appeals to follow the code. About 20 times Mr. Parrott said historical but he only said significance one time. The property owners should receive permission to demolish the house.

Mr. Moulton made the motion to approve this agenda item; seconded by Mr. Zani. Question put, stood:

Mr. Mickley Yes

Mr. Kessler Yes

Mr. Zwiezinski Yes

Mr. McMannis Yes

Mr. Zani Yes

Mr. Moulton Yes

The appeal was approved with the Certificate of Appropriateness approved.

Mr. Parrott requested 30 days to allow the Historical Society to remove relevant items from the structure. Mr. Aslaner stated 30 days is not in the code. The City stated that would be too long and throw things even further behind.

Mr. Zwiezinski stated the time frame is to be worked out with the City.

ADJOURNMENT:

There being no further business to come before the Board of Zoning Appeals, the meeting adjourned at 9:12 p.m.