

PROPERTY MAINTENANCE APPEALS BOARD
Monday, April 10, 2023 at 1:00 p.m.
141 N. Front St. Columbus, OH 43215
First Floor Conference Room

The Property Maintenance Appeals Board met at 141 N. Front Street – First Floor Conference Room, at 1:00 p.m. on April 10, 2023. The following members were present:

Pamela Palmer, Chair
Patrick Dukes
Katie McCann
Tony Riffe

City Attorney Robert Tobias was present as counsel to the Board. Property Maintenance Inspection Specialist Cassandra Scurlock was present as Board Secretary.

Old Business:

None.

New Business:

PMA-495

The applicant was represented by Chris Gayton with Amerock fence company and Patrick Demary with Demary Truck company. Code Enforcement was represented by Code Enforcement Officer Specialist (CEOS) Margaret Lafferty.

The request is for a variance to CCC 4525.13, to allow an electric fence at 1041 Ridge St. Chris Gayton, with Amerock fence, said the electric fence would be located inside of the existing fence at the property. The business operating at that location is vulnerable to crime and theft. The electric fence is powered by a 12volt DC battery and charged by solar panel. Demary business has trucks, vans and tools that are prone to theft. This is a business that needs the fence. It is not harmful. A child could stand barefoot in water and touch the fence, and it wouldn't injure them. The electric fence would only be activated during close of business.

Patrick Demary, with Demary trucking business, said theft has been an increasing problem, especially within the last 2 ½ - 3 years. He has not been able to control it. People have cut the fence to get onto the property. His business has lost customers because they have to make a claim to insurance due to theft. Mr. Demary said that he doesn't want to spend the money to install the electric fence, but the business needs this in order to protect the business assets as well as customer assets.

Board chairperson Palmer asked if there has been a BZA application. CEOS Lafferty said that she did not see one in the system. Board secretary, Scurlock, provided that there is a pending zoning application. CEOS Lafferty advised the board that a notice of violation has been issued to the neighboring property, which is zoned ARO, but is currently being used as a landscaping business.

Chris Gayton also brought up Ohio State Code (3781.1011), which in his opinion, would allow the electric fence inside of the existing fence. There was some discussion among the Board members, Board attorney Tobias and Mr. Gayton. Board attorney Tobias disagreed with Mr. Gayton's opinion, and advised that the City may apply code that is more stringent.

Board chairperson Palmer asked for additional testimony regarding the financial impact. Mr. Demary said that the losses have escalated since about 2020. He said that he has lost customers and catalytic converters have been stolen from many trucks parked at the property. Additionally, the insurance company will eventually drop your coverage after too many claims. He is often paying for the losses out of pocket, instead of filing insurance claims.

The Board began discussions, regarding restricting the variance to apply to the property while the current business is operating in a same or similar manner.

A finding of fact was made by the Board, to accept the evidence submitted and to accept the testimony as true and accurate. A motion for the finding of fact was made by Patrick Dukes and seconded by Katie McCann. Motion granted 4-0.

A motion was made by Patrick Dukes and seconded by Katie McCann to approve the variance, with the condition that the variance remains effective while the current tenant is operating business in the same/similar manner. Motion granted 4-0.

Variance Approved, with the condition that the variance remains effective while the current tenant is operating business in the same/similar manner, 4-0

PMA-496

The appellant, Attorney Brian Smith, was not present. Board Secretary Scurlock provided to the Board that she has communicated with Attorney Smith via email. Mr. Smith had said he would not be available to attend the March PMAB meeting. When Mr. Smith was notified that he would be placed on the April PMAB meeting agenda, he said that he would likely not be able to attend that meeting either. Board Secretary then read the final email response sent by Mr. Smith on March 1, 2023 "I will see what I can do regarding attendance on April 10, 2023. If I am unable to attend, my point would be that the City of Columbus has the burden of proof regarding who is the owner of the property. She has never lived at this residence, does not hold the mortgage, has no leasehold estate, and is the administrator".

Board member McCann asked about a reasonable amount of time to hear the appeal. Board member Riffe provided that it may be reasonable to table until the June PMAB meeting. Board member Riffe asked Code Enforcement Officer (CEO) Retherford if there is an imminent danger at the property. CEO Retherford said that this is a vacant structure, the owner is deceased, the appellant is an heir of the deceased owner, and that the property could pose a potential danger. CEO Retherford has had Environmental Blight Abatement (EBA) at the property at least twice to secure openings.

A motion was made by Tony Riffe and seconded by Katie McCann to amend the motion to table from 60 days to 30 days. Motion granted 4-0.

Table Appeal until PMAB meeting on May 8, 2023, 4-0

PMA-498

The appellant, Makesha West, was present. Additionally, Attorney Jennifer Turk and Matthew Sears were present. Code Enforcement was represented by Code Enforcement Officer (CEO) Matthew Mercer and Code Enforcement Officer Supervisor (CEOS) Aric Schmitter.

CEO Mercer provided testimony explaining the exhibits of the case packet and describing the annual licensing requirement for a residential care facility. The property had been issued notice for violation of CCC 4561.02. CEO Mercer advised the Board that the determination was made, in part, with input from Christine Leed (Zoning Department) that had explained via email the property operation is similar to recovery housing and those are licensed as residential care facility. It is a permitted use, but the annual license and inspection is required. CEOS Schmitter provided additional information regarding a rooming house definition.

Board member McCann inquired about the cost of license. CEOS Schmitter said, the number may not be exact, but he believes it is about \$235 for the initial application and year, then \$185 per year after that.

Jennifer Turk, attorney representing property owner Alvis Inc, said that the property should not be classified as a residential care facility. She said that the use is transitional housing. Makesha West said she does not believe the residential care facility is accurate to describe the use, because the women that reside there don't require supervision. The women have had some type of trauma, mental health or AOD, and they are currently in remission. At this time, the property has five bedrooms but three are occupied. The bedrooms are not shared, and they do have shared common areas. The residents are like roommates, and they live independently.

Board member McCann asked about the difference between a rooming house and residential care facility. CEOS Schmitter said that a residential care facility is a type of rooming house. Jennifer Turk said that it may be rooming house, but not a residential care facility. Makesha West said that if the property is classified as a residential care facility, then there will be additional state guidelines that they will not meet since it does not apply, such as treatment, medicine, etc.

A finding of fact was made by the Board, to accept the evidence submitted and to accept the testimony as true and accurate. A motion for the finding of fact was made by Tony Riffe and seconded by Patrick Dukes. Motion grated 4-0.

A motion was made by Katie McCann and seconded by Patrick Dukes to deny the appeal. Motion granted 4-0.

Deny Appeal, 4-0

PMA-501

The applicant was represented by Hannah Snyder with the architect company and Jesse Rodgers and Chris Harkins with Specialty Bicycles company. Code Enforcement was represented by Code Enforcement Officer (CEO) Paola Turner.

Hannah Snyder explained that she and Brian Burkhart (not present) are the site developers and engineers. Ms. Snyder provides the site plans, which detail the proposed barbed wire fence location and distance to neighboring residential property. The barbed wire fence is located on the south side of the property, to protect the bay area where trucks go in to deliver merchandise. The barbed wire fence is approximately 185 feet away from the residential property, and there is another fence and landscaping that separate the barbed wire fence from the residential property.

Mr. Rodgers provided information regarding the financial impact, since the truck deliveries are effectively a trade-zone until they process and sell the materials. If stolen, that could be several

millions of dollars in a year. The site is currently being developed, as a warehouse with a 10-year lease and option to renew.

A finding of fact was made by the Board, to accept the evidence submitted and to accept the testimony as true and accurate. A motion for the finding of fact was made by Patrick Dukes and seconded by Katie McCann. Motion grated 4-0.

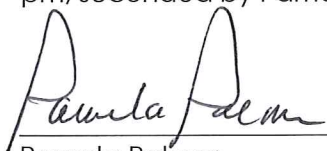
A motion was made by Katie McCann and seconded by Patrick Dukes to approve the variance, with the condition that the variance is effective on the south-side of the property and remains effective while the current tenant is operating business in the same/similar manner. Motion granted 4-0.

Variance Approved, with the condition that the variance is effective on the south-side of the property and remains effective while the current tenant is operating business in the same/similar manner, 4-0

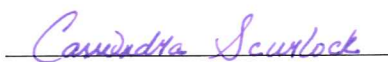
A motion was made by Katie McCann and seconded by Patrick Dukes to accept the meeting minutes from March 13, 2023. Voting members: Patrick Dukes, Katie McCann, Tony Riffe. Approved 3-0

Introduction of meeting minutes taker, Jody Young, who was substituting for Mike Schwab for the April meeting.

There being no further business, Katie McCann made a motion to adjourn the meeting at 2:42 pm, seconded by Pamela Palmer. Meeting adjourned 4-0



Pamela Palmer
Chairperson



Cassandra Scurlock
Secretary