

**BEECH GROVE BOARD OF ZONING APPEALS  
MEETING MINUTES  
WEDNESDAY, MARCH 4<sup>th</sup>, 2015**

Julie Weaver called the meeting to order at 1:00 p. m.

**ROLL CALL:** Attending were Board Members, Julie Weaver, Dawn Whalen, Diana Hendricks, Rick Greenfield, Clerk Treasurer Dan McMillan, and City Attorney Craig Wiley. Absent, Kathy Arsenault.

**RULES OF PROCEDURE:** Clerk Treasurer Dan McMillan read the Rules of Procedure and City Attorney Craig Wiley swore in those giving testimony at the meeting.

**CONTINUED PETITIONS:** 2014 – DVB- 007 Saint Francis Hospital 1600 Albany Street, 116 North 13th Avenue, 218 North 16th Avenue, 209 North 17th Avenue, Center Township, CD # 20.

**Gregory Ilko of Crossroads Engineering**-was representing the petitioner Sisters of Saint Francis Health Services, Inc. Saint Francis is requesting a variance of development standards of the Commercial Zoning Ordinance to legally establish parking lots with zero-foot front, side and rear setbacks and transitional yard setbacks (minimum 10 foot setbacks and 20 – foot transitional yards required) and to allow for the division of the site into two parcels creating lots with zero-foot parking side

**Remonstrators:**

**Frank Mascari**- thanked the Board for their service on the BZA and all the people for coming. He stated the decision today could affect Beech Grove for years to come, and he understands Greg Ilko' s position, but what he has heard is that if this variance is not approved the agreement with Dealpoint Merrill, a west coast company, cannot close and expires. This company started this deal over a year and a half ago and it has just stalled. Dealpoint wants to reuse every square foot of the building and there is 985,000 square feet so that is not possible. They tried this in Ohio and it did not work. Deal Point wants tax abatements. No one even knows for sure what the planned usage of the building is. Deal Point has portrayed the property to be "in move in condition".

Summarizing Frank Mascari- TWG is a local developer that has an interest in the property. TWG is owned by Joe Whitsett, who is a former Beech Grove resident and a local developer. TWG wants to tear down the tower, refurbish the historical site on 17<sup>th</sup>, turning it in to senior living and build homes on the remainder of the property. TWG would also like to purchase the buildings across from St. Francis on the west side of 17<sup>th</sup> and possibly lease a portion back to St. Francis for use to provide emergency services to the community. Also, TWG is not requesting any tax abatements. He would look for assistance with constructing streets and sewers. TWG bought the Star/News Building downtown and refurbished it.

**Comments:** The City of Beech Grove, nor the RDC have been kept apprised of the developments on the property, because St. Francis is a private business as well as Dealpoint Merrill, but future deterioration of this property or bad business decisions regarding the use of this property affects all of Beech Grove, not just the surrounding neighborhood and it affects property values.

**Dick Utterback**, (former City Councilman) - spoke in opposition to the variance. He questioned what the need was for 1500 parking spaces, and what Dealpoint Merrill has planned for the St. Francis buildings, including the buildings on the west side of 17<sup>th</sup>. He is in complete agreement with the plans that TWG has for refurbishing the 17<sup>th</sup> street properties and the plans for new homes.

**Phyllis Kendall**- she spoke in opposition to the variance and adding 1500 parking spaces because she is concerned about the traffic issues it would cause. This property is near to two schools and a fire station. The additional traffic would only compound existing traffic issues.

**Joe Griffin**- spoke in opposition to the variance. He stated the citizens do not have any information. The Franciscan values claim to be a good neighbor, but the actions of St. Francis have not been indicative of their values. They have not included the citizens of Beech Grove on the plans for that property. He thinks St. Francis needs to be more open and honest about that property because the citizens, the taxpayers deserve that. He also asked what St Francis would have done and he read the prayer of St. Francis.

**Marcia Cleary**- spoke in opposition to the variance. Her concerns are what a California company would do with this building if there is a loss of tax abatements and who would be responsible for the building if Dealpoint Merrill purchased the property and then in a few years down the road decide to walk away.

**Reginald Sipes**- spoke in opposition of the variance. Today is the first he has heard anything about this and he stated that the citizens have no information.

**Chuck Fox**- an 80 year resident spoke in opposition to the variance and he is in favor of the property being sold to someone who is local.

**Staff:**

Staff recommends approval of the variance petition subject to the site plan file-dated December 4th, 2014.

This property was rezoned in 2008 to include the C1 – C2 & C3 usage. Today is not to determine what type of usage is permitted for the property. The zoning is in place.

This request today would legally establish setbacks for all of the parking lots associated with the former Saint Francis Hospital site and allow for the division of the property without causing the need to establish side setbacks in the parking lots adjacent to the new property lines.

The size of the buildings and parking lots expanded for just under a century, beginning in 1913 when the hospital was established. As the hospital grew, residential properties were converted to surface parking lots. Variances can be found for some of the expansions, but not all.

This petition would legally establish the parking setbacks for the entire property as most of the surface lots have been constructed with a zero-foot setback or transitional yard when ten or twenty-foot setback would be required under current regulations. Additionally, this petition would allow for the property to be split into several tracts without the need for creating parking setbacks adjacent to the new property lines.

The parking lots have existed without setbacks for decades with no known issues. Additionally, while the property may be split into several parcels, the intent is for it still to function as one integrated site. Therefore, the appearance and function of the site will remain unchanged.

The petitioner has another avenue that they can use if it is not approved today and that would be grandfathering this in. If the parking lots were installed in 1969 and it can be proven with aerial photographs, then they will be issued a certificate. There would not be a hearing on this.

Frank Mascari stated that the Tower wasn't built until 1973, so most of those parking spaces were not there.

Many questions were asked and different scenarios brought forward, but none were in favor of approval.

#### **Petitioner Rebuttal:**

**Greg Ilko-**They are not asking to increase the number of parking spaces. We are just trying to get the nonconforming aspects of the sight legal. This has nothing to do with the zoning.

**Clerk Treasurer McMillan-** questioned why no signs were placed on Buffalo Street. Because of the sign placement only being on Albany Street and 17<sup>th</sup> Avenue, the neighbors that live adjacent to those parking lots on Buffalo Street had no idea that the parking lots on Buffalo Street were included.

**Greg Ilko-**stated that they complied with ordinance and that there is not any regulation as to where the signs have to be placed. The signs are just to let people know that there is a Public Hearing in this area. It is the responsibility of the public to review what the public hearing is for. The signage is not the all-inclusive.

#### **Remonstrators Rebuttal:**

**Mike Butler-** the fact that they did not notify the neighbors and the poor signage that was used is wrong. St Francis should have made sure that all their neighbors were aware of the hearing, so they could be informed and speak to the issue.

**Heather Clark-** spoke in opposition to the variance.

**City Attorney Craig Wiley** -stated that 2 separate issues that need to be decided. Those issues are as follows:

**1) Was proper notice given?**

**Greg Ilko** -questioned why proper notice would be an issue. He stated that all legal notifications were met.

**Clerk Treasurer McMillan** -explained that property owners north of Buffalo never received notice on this.

**Greg Ilko** -explained that they followed all legal requirements on notification.

**Linda Ahlbrand**- also explained that the petitioner used Indianapolis signs; which are more informative than Beech Grove placards.

Many others stated that they disagree that proper notification was given because many of the neighbors were unaware of what the hearing was for. Lack of signage and poor signage were some of the issues raised.

**City Attorney Craig Wiley**- advised that he believes that proper legal notice was given.

Rick Greenfield made a Motion that proper notice was given. Diane Hendricks seconded the motion; which was approved by unanimous voice vote.

**2) Merits of the Petition- 2014-DVB- 007-** Rick Greenfield made a Motion that the variance be denied. Dawn Whalen seconded the Motion; which was approved by a 3-0 vote. Julie Weaver abstained

**NEW PETITIONS:** None

**READING OF MINUTES:** Clerk – Treasurer Dan McMillan

Dan read the minutes from the January 7th, 2015 BZA meeting. Dianne Hendricks made a Motion to approve the minutes as presented. Dawn Whalen seconded the Motion which was approved by unanimous voice vote.

On behalf of the BZA Clerk treasurer Dan McMillan welcomed Dawn Whalen to the Board. Dawn is replacing Joe Haag, who resigned.

**ADJOURNMENT:**

Dawn Whalen made a Motion to adjourn; Rick Greenfield seconded the Motion, The motion was approved by unanimous voice vote.

Voted on and approved this \_\_\_\_ day of \_\_\_\_\_, 2015.

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Diana Hendricks

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Dawn Whalen

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Rick Greenfield

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Julie Weaver

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Kathy Arsenault

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Dan McMillan, Secretary

Prepared by: Dan McMillan