

The **Board of Zoning Appeals** of the City of North Royalton met on **February 27, 2013** to hold a Public Hearing in the Council Chambers at 13834 Ridge Road. The meeting was called to order by Chairman Dan Kasaris at 7:30 p.m.

Present: Chairman Dan Kasaris, Vice-Chairman Robert Jankovsky, Victor Bull, Anthony Rohloff, Dale Gauman, Prosecutor Donna Vozar, Building Commissioner Dan Kulchytsky, Secretary Lynn Brinkman.

Mr. Kasaris: Can we have a motion to approve the January 23, 2013 Minutes as submitted.

Moved by Mr. Bull, seconded by Mr. Jankovsky to **approve the Minutes from January 23, 2013.**

Mr. Kasaris: Will the clerk please call the roll.

Mr. Jankovsky: Yes.

Mr. Bull: Yes.

Mr. Rohloff: Yes.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Ms. Brinkman: We would like to welcome the applicants who are requesting a variance tonight. We will be conducting our meeting tonight in such a manner that the Public Hearing and the Open Meeting will be combined. At this time the applicant and the public are permitted to come up to the microphone and speak either for or against the variance being requested. At this time the Board will also ask their questions and then either grant or deny the variance.

Public Hearing / Open Meeting

(BZA13-03) Archer Corporation / Ohio Catholic Federal Credit Union request a variance to **Chapter 1284 "Signs", Section 1284.04 "Measurement Standards", paragraph (f)(1) & (f)(2)**, of the City of North Royalton Zoning Code, for relief from the **signage** requirement relative to a **building unit which does not have a secondary street**. They are also seeking relief from the signage requirement relative to a **building which does not have direct frontage and a customer entrance from the secondary street**. They are also seeking relief from the signage requirement **permitting no more than two building signs per building / unit and for signage that exceeds the square footage allowed**, for this property located at **5600 Wallings Road**, zoned for Local Business, also known as **PPN: 489-11-015**.

Public Hearing Notices were sent to property owners within 500 feet of the property in question and posted for the required period of time.

The Chairman recognized anyone wishing to be heard.

Mr. Kasaris: So we actually have three variances combined within one request. Could we have it broken down?

Mr. Kulchytsky: Mr. Chairman. We actually have a total of four variances being required. If you look through the actual document there are three under Section 1284.04 (f)(1) and then one variance under Section 1284.04 (f)(2).

Mr. Kasaris: This should have been broken up so that we could vote on each one separately instead of as one large request.

Mr. Kulchytsky: It is located on the sheet entitled "Referral Information from Building Department". It is such a long ordinance that it is broken down separately on that sheet.

Mr. Kasaris: I am referring to the agenda – it is listed there as one variance under BZA13-03 when there should actually be four variances.

Ms. Brinkman: If I may – they are all covered under "variances required" found on the second page of the referral information.

Mr. Kasaris: So what happens if we vote in favor of three of these items and vote against one of them. They are separate variances.

Mr. Kulchytsky: Then they would not be able to proceed with the signage that they requested. The installation of this sign requires the passage of all four of these variances.

Mr. Kasaris: So we could have up to four votes. Could you both raise your right hand please. Do you both solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God? Please state your names for the record.

Mr. Shaft: Yes. My name is Joseph Shaft.

Mr. Kiko: Yes. My name is Peter Kiko and I am with Archer Corporation.

Mr. Shaft: I work for the credit union. I am here tonight but I am not really seeking a variance because the previous tenant, Charter One, had a sign on the side of the building such as we are requesting to place. So you already granted that to Charter One so we are not asking for anything that you had not already allowed Charter One to do in the past. Here are some pictures if you would like to see them.

Mr. Kiko: Those photos were taken off of Google Earth yesterday.

Mr. Kasaris: I am going to mark this as Exhibit 1.

Ms. Vozar: The fact that this sign was located on the side of the building does not necessarily indicate that a variance had been granted. Just for the record, the City records speak for themselves. We do not have any evidence before us at this time that shows that a variance had been granted. Is that listed anywhere in your application?

Mr. Shaft: We were unaware of this until yesterday. We were told that we needed to apply for a variance. We just found out about this so we decided to supply you with those photos.

Mr. Rohloff: Mr. Shaft, did you say that you had information that a variance had been granted for this sign?

Mr. Shaft: No. I figured that you must have granted a variance for this in the past because I did not think that you would have allowed a sign to be put up without your permission.

Mr. Kasaris: (To the Building Commissioner) It appears from the photos that there had been two signs on this unit. Are you aware of this?

Mr. Kulchytsky: I am not aware that any variance had been granted. We did do preliminary research and we had not come up with anything to indicate that. We can do further research but nothing had come up in our initial review.

Mr. Kasaris: Do you know how long Charter One was there? Please approach the microphone. Raise your right hand please. Do you swear to tell the truth, the whole truth and nothing but the truth, so help you God? State your name and address.

Mr. Colozza: My name is Angelo Colozza and I am the owner of the building. Charter One Bank had moved into the unit in 2004.

Mr. Kasaris: Do you know what process Charter One had gone through to secure that sign on the side of the building.

Mr. Colozza: They did that themselves. They had received approval from the City. A year ago they actually changed the color of the sign and had to go through this whole process. So you had to be aware that the sign was there.

Mr. Rohloff: You said that they had gone through the City.

Mr. Colozza: They had put up a sign with red letters which they had to change to green because that was their new color.

Mr. Rohloff: You put up the sign initially?

Mr. Colozza: They put the sign up. I do not know exactly in what year but it has been up there for many years.

Mr. Rohloff: You know that they went through the City to do that.

Mr. Colozza: I had to sign off for them to change the color of the sign from red to green.

Mr. Kasaris: Thank you. Why do you need a sign on the side of the building?

Mr. Shaft: It allows for more visibility. When you are coming up Wallings Road from the east, heading west, you really cannot see the sign in the front because of the way that the road curves. We wanted to have that sign on the side because we just moved from across the road, from Cleat's Plaza, and we wanted to have more visibility. Directly to the side of us is Drug Mart's parking lot so it is wide open on that side. As I said, as you are coming down Wallings Road it would really give us more visibility.

Mr. Kiko: You can also see from the photographs I gave you illustrating the Charter One sign on the side of the building that it increases the visibility for that unit as you are coming down the street.

Mr. Kasaris: Does anybody else have any other questions? When did you move into the building?

Mr. Shaft: We moved into the building in November of 2012.

Mr. Kasaris: When did Charter One exit the building?

Mr. Colozza: I believe that they vacated the building on February 23rd.

Mr. Kasaris: So they were in the building from 2004 until February 23, 2012. Was it empty then for a period of time?

Mr. Colozza: They vacated the building in February. I received the key in May and then they started the process of getting the place ready.

Mr. Bull: Could either the Assistant Law Director or the Building Commissioner get us some information about a possible variance that may have been issued previously?

Ms. Vozar: We will obviously have to research the matter and determine whether or not a variance was granted. It would have been nice to know before now. As part of this whole process we actually do spend time looking into these things. If a variance had been granted it would not have been that long ago. I am also not sure if that had actually been construed as a sign versus an ornament that had been placed on the building itself.

Mr. Colozza: It stated "Charter One Bank".

Ms. Vozar: That is something that we will have to look into.

Mr. Rohloff: When was that sign put up there?

Mr. Colozza: I am not sure the exact year but I would guess that it had been up there a good six or seven years. They did not put it up when they initially moved in but over time I guess that they pursued it and were given permission to put it up. They changed ownership at one time. The Royal Bank of Scotland purchased Charter One Bank so they had to change the color scheme. That was a big deal. I cannot believe that they vacated the place after all that they had gone through for that sign. They closed 65 or 66 locations and just a few months prior to that they went through that whole process of changing the color.

Mr. Kasaris: As the owner of the building would you have any record of City approval for those signs?

Mr. Colozza: I was not involved. They took it upon themselves to make application for any changes. I did not have any issue with them changing the color of the sign or anything – why would I care.

Mr. Kasaris: What about with the initial erecting of the sign?

Mr. Colozza: When Charter One signed the lease they had talked about naming rights for the building. They had talked about renaming it Charter One Plaza. I just wanted them to sign the lease so I was very flexible.

Mr. Jankovsky: I believe that the City's sign ordinances have been changed numerous times in the past. Mr. Colozza stated that the second sign had been up for a number of years. Could it be possible that the second sign pre-dated a current ordinance?

Mr. Kasaris: That is a good question. I think that is something that we should know before we proceed.

Mr. Jankovsky: In any event I do not know how it really affects this particular request. What the previous tenant did does not have to be a key figure in our decision today.

Mr. Kasaris: I do not know if they actually need a variance if there had been an approved sign on the building before.

Ms. Vozar: Again, if there was already a variance issued for that specific location the variance usually runs with the land. At the same time the landowner, not just the tenant, would have had to consent to the application. We therefore will have to spend some time researching this matter to determine whether a variance had been granted on that parcel because that would have implications on this application. Based on that, Mr. Chairman, my recommendation would be to have this item tabled until we have the opportunity to review this. Do you agree Mr. Building Commissioner?

Mr. Kulchytsky: I would tend to agree with that. As far as the other question presented earlier there had been a change in November of 2006 to this particular section of the code. The extent of that change is not clear.

Mr. Kasaris: Thank you.

Mr. Rohloff: I tend to agree. I think that my decision will be greatly influenced upon finding out whether this variance had been issued before.

Mr. Jankovsky: I have no comment to offer at this time. I will go along with whatever a majority of the Board decides.

Mr. Kasaris: Can I have a motion to table BZA13-03.

Moved by Mr. Rohloff, seconded by Mr. Bull to **table BZA13-03 until the next meeting in March.**

Ms. Vozar: Mr. Chairman, before you call for the vote does the applicant agree to having this matter tabled.

Mr. Shaft: I do not think that I have a choice.

Ms. Vozar: You can ask that we move forward without the information.

Mr. Shaft: I would ask that you go forward without the information.

Ms. Vozar: Without the information? The Board would then assume that there is no variance on the property and that, without a variance, you are not permitted to have that second sign. Without the City having a record of the variance they will assume that that was a nonconforming, not permitted sign.

Mr. Colozza: I think that we need to find the records which allowed Charter One to have the second sign.

Ms. Vozar: So you are consenting to the matter being tabled.

Mr. Shaft: Yes. I just did not think that this was to be that big of a deal because there are no property owners who will be directly affected by this.

Ms. Brinkman: (Directed at Mr. Kiko) You are the representative here tonight from Archer Corporation – is that correct?

Mr. Kiko: Correct.

Ms. Brinkman: You are in agreement to having this item tabled.

Mr. Kiko: Yes.

Mr. Kasaris: Anyone else wishing to speak? Clerk please call the roll.

Mr. Bull: Yes.

Mr. Rohloff: Yes.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Mr. Jankovsky: Yes.

Ayes – five. Nays – none.

Motion carried (5-0). Item tabled.

Ms. Brinkman: (To the applicant) You can contact me later this week and I will be able to let you know if I was able to find any information pertaining to a variance possibly having been granted or anything that would justify why a second sign was put up.

Mr. Kiko: Thank you. I would appreciate that.

Miscellaneous

Mr. Kasaris: Our Law Department was successful in upholding our denial of the requested variances for Zillich Interiors. We prevailed on Mr. Zillich's appeal in front of Judge Joseph Russo. He has the ability to ask the Court of Appeals to review that decision. I do not know if he intends to file this notice of appeal but he has the ability to do that.

RE-ORGANIZATION OF THE BOARD OF ZONING APPEALS FOR THE "2013" CALENDAR YEAR

ELECTION OF CHAIRPERSON

Mr. Kasaris: At this time I will open up the process for the nomination of a Chairperson.

Moved by Mr. Rohloff, seconded by Mr. Jankovsky to **nominate Dan Kasaris as Chairperson of the Board of Zoning Appeals.**

Mr. Kasaris: Are there any other nominations for Chairperson for the 2013 calendar year? (No response.) I then close the nominations.

Mr. Kasaris: Will the clerk please call the roll to elect Dan Kasaris as Chairperson.

Mr. Rohloff: Yes.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Mr. Jankovsky: Yes.

Mr. Bull: Yes.

Ayes – all. Nays – none.

Motion carried (5-0).

Dan Kasaris is elected Chairperson for the calendar year of 2012.

ELECTION OF VICE-CHAIRPERSON

Mr. Kasaris: We will now open the floor for nominations of a Vice-Chairperson.

Moved by Mr. Jankovsky, seconded by Mr. Gauman to **nominate Anthony Rohloff as Vice-Chairperson of the Board of Zoning Appeals.**

Mr. Kasaris: Any other nominations? Will the clerk please call the roll.

- Mr. Gauman: Yes.
- Mr. Kasaris: Yes.
- Mr. Jankovsky : Yes.
- Mr. Bull: Yes.
- Mr. Rohloff: Yes.

Ayes – all. Nays – none.

Motion carried (5-0).

Anthony Rohloff is elected Vice-Chairperson for the calendar year of 2013.

Mr. Kasaris: What I would also like to do, though it is not indicated on our agenda, is to announce that Mr. Rohloff has indicated to me that he will not be able to attend the meeting on July 24th. If on that date I was not able to attend and our Vice-Chairperson would not be in attendance how would we proceed? This would be in the odd event that we would be missing both Chairperson and Vice-Chairperson. Donna, how would the Board proceed?

Ms. Vozar: At that point we would have to move forward and have someone sit in your position and take on those duties. We would not need to have anything formal today to handle that but it would certainly be nice to know in advance if a member is not able to be in attendance. It would be best if we could know a month or two in advance but we could always handle it the night of the meeting.

Mr. Kasaris: Thank you. Anything else? May I have a motion to adjourn.

Moved by Mr. Jankovsky, seconded by Mr. Rohloff to **adjourn the B.Z.A. meeting of February 27, 2013.**

Mr. Kasaris: Clerk, please call the roll.

- Mr. Kasaris: Yes.
- Mr. Jankovsky: Yes.
- Mr. Bull: Yes.
- Mr. Rohloff: Yes.
- Mr. Gauman: Yes.

Ayes – all. Nays – none.

Motion carried.

The Board of Zoning Appeals Meeting adjourned at 7:50 p.m.

Approved: _____

Chairperson

Date: _____

3-27-13

Attest: _____

Lynn M. Briskman
B.Z.A. Secretary