June 26, 2015

To: Members of the Board of Zoning Appeals

From: Don Phillips, Chief Building Inspector

Subject: Staff Comments for the Meeting of July 2, 2015

C. **Items of Public Hearing**

1. Variance – Side Yard Setback – Condensing Unit – **198 Halligan Ave.** (Fran Welsh) **BZA 25-15**

Findings of fact:

1. This property is an existing lot of record in the R-10 district where the side yard setback requirement is 8 feet and the sum of the 2 side yards requirement is 20 feet.

2. The applicant has replaced the existing air conditioner condenser in the west side yard, approximately 8 feet from the west property line. The requested variance is 4 feet.

The following conclusions are presented:

1. The proposed location is adjacent to the neighbor's open yard and mitigates the substantial nature of the variance request.

2. The essential character of the neighborhood should not be substantially altered.

3. The delivery of governmental services should not be affected.

The following motion is recommended:

THAT THE REQUEST BY THE FRAN WELSH FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW A CONDENSER TO REMAIN AT 198 HALLIGAN AVENUE, AS PER CASE NO. BZA 25-15, DRAWINGS NO. BZA 25-15 DATED JUNE 1, 2015 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

2. Variance – Parking Lot Landscaping – **6150 Huntley Rd.** (Kelly Tamulonis) **BZA 26-15** (Amendment to BZA 35-01)

Findings of fact:

1. This property is in the I-2 district where parking lot landscaping requires a minimum of 2 inches of tree diameter measured at breast height (dbh) for each 6 parking spaces.

2. As part of the redevelopment of the site, the Board of Zoning Appeals approved a site plan on October 4, 2001 granting variances including the required parking lot landscaping. The required amount of landscaping is 41 inches of tree trunk based upon 65 car parking spaces and 63 truck parking spaces. The number of trees proposed was 12 in the parking lot providing 24 inches of tree trunk assuming a 2 inch diameter tree. Another 24 trees were proposed in the tree lawn adjacent to the Huntley Road right-of-way. The total tree count approved was 36 trees.

3. The rationale provided by the appellant in 2001 included reducing the number of tree islands on the site to facilitate truck movement. Two of the 3 islands in the area where most of the truck traffic was anticipated were installed.

4. On January 14, 2014 staff was informed via an aerial photograph that the 12 parking lot trees were missing. The photograph further shows the 3 tree islands for the office parking area to the south were not installed, a tree island near the northwest corner of the property was not installed, the north drive approach was not removed, and the mounding continued in the place of the removed drive approach.

5. A Notice of Violation and Order to Correct dated May 23, 2014 was served upon the owner of the property on May 28, 2014.

6. On February 11, 2015 a complaint was filed in Worthington Mayors Court alleging a violation of the Zoning Ordinance. That case has been continued 3 times pending the outcome of this hearing.

7. The current applicant is proposing the modification of the 2001 site plan by:
    a. Removing 12 parking lot trees and 2 tree islands.
    b. Option 1: 22 of the previously required trees in the tree lawn and 3 existing trees will be increased by 20 evergreen trees. Five of those evergreens are proposed to shade some of the parking to the north. The total proposed tree count will be increased to 45 trees. The requested variance is to reduce the parking lot landscaping to 5 trees or 10 inches dbh.
    c. Option 2: 22 of the previously required trees in the tree lawn and 3 existing trees will be increased by 11 evergreen trees and 9 deciduous trees. Five of those added trees, 3 ever green and 2 deciduous trees, are proposed to share some of the parking to the north. The total proposed tree count will be increased to 45 trees. The requested variance is to reduce the parking lot landscaping to 5 trees or 10 dbh.

The following conclusions are presented:

1. The practical difficulty cited has not been a problem for other properties within Worthington. Landscaping irrigation can be provided to ensure the viability of the trees. The design of the parking lot can also direct surface water towards tree islands. Lastly, roof water can also be directed to the tree islands. There are other properties within Worthington with parking lot trees; some irrigated, some not. Similarly trees have been planted near fire department connections and fire hydrants, both public in the right-of-way, and private on private property, throughout Worthington. Required annual testing of these devices ensures the discovery of tree roots damaging these devices so they can be promptly repaired.

2. The requested variance is substantial. A substantial variance was already granted in 2001 to reduce its parking lot landscaping from 41 inches to 24 inches. The current request reduces the landscaping from 24 inches to 10 inches.

3. The purpose of trees in parking lots is to mitigate the heat island effects of large parking areas and provide shaded parking for cars. Additional benefits can be found in the United States Environmental Protection Agency publication *Reducing Urban Heat Islands: Compendium of Strategies, Trees and Vegetation* available at http://www.epa.gov/heatisland/resources/pdf/TreesandVegCompendium.pdf.

4. If the Board approves a variance, Option 1 is preferred by staff. The evergreen trees provide a visual buffer of the building from Huntley Road during the winter. Two motions are prepared for the Board's consideration.

5. The essential character of the neighborhood should not be substantially altered.

6. The delivery of governmental services should not be affected.

The following motion is recommended:
THAT THE REQUEST BY KELLY TAMULONIS AND GARRISON HUNTLEY LLC FOR A VARIANCE FROM CODE REQUIREMENTS FOR PARKING LOT LANDSCAPING USING OPTOIN 1 AT 6150 HUNTLEY ROAD, AS PER CASE NO. BZA 26-15, DRAWINGS NO. BZA 26-15 DATED JUNE 3, 2015, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

The following motion is appropriate:
THAT THE REQUEST BY KELLY TAMULONIS AND GARRISON HUNTLEY LLC FOR A VARIANCE FROM CODE REQUIREMENTS FOR PARKING LOT LANDSCAPING USING OPTION 2 AT 6150 HUNTLEY ROAD, AS PER CASE NO. BZA 26-15, DRAWINGS NO. BZA 26-15 DATED JUNE 3, 2015, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

3. Variance – ATM Sign **– 6900 N. High St.** (GPD Group/PNC Bank) **BZA 27-15**

Findings of fact:

1. This property is in the C-3 district where each business is permitted 1 building mounted sign.

2. The applicant is proposing to place another automated teller machine (ATM) on the property, which will include a 67 inch by 15 $^{1}/_{8}$ inch sign with logo and name on the top of the ATM. The existing building has a wall mounted sign above the main entrance and above the existing ATM. This request will be the third wall mounted sign. The requested variance is to allow a third wall mounted sign.

3. The property is subject to, and the signage has been approved by, the Architectural Review Board.

The following conclusions are presented:

1. The requested variance is not substantial given the sign's location and visibility from North High Street.

2. The essential character of the neighborhood should not be substantially altered.

3. The delivery of governmental services should not be affected.

The following motion is recommended:
THAT THE REQUEST BY GPD GROUP, PNC BANK, AND OHIO NATIONAL BANK FOR A VARIANCE FROM CODE REQUIRMENTS FOR SIGNAGE TO ALLOW AN ATM SIGN AT 6900 NORTH HIGH STREET, AS PER CASE NO. BZA 27-15, DRAWINGS NO. BZA 27-15 DATED JUNE 4, 2015 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

4. Temporary Use Permit – Signage **– 160 W. Wilson Bridge Rd.** (M+A Architects/The Heights at Worthington Place) **BZA 28-15**

Findings of fact:

1. This property is in the C-2 district where the temporary signs are not permitted and real estate signs are limited to 13 square feet in area.

2. The applicant is proposing to attach 2, 3 foot by 8 foot double faced banners onto the south elevation of the building totaling 96 square feet in area and 3 foot by 8 foot double faced real estate sign totaling 48 square feet in area. No specific time frame was proposed.

3. The Board of Zoning Appeals can grant a Temporary Use Permit for up to 6 months.

The following conclusions are presented:

1. Staff typically grants Temporary Use Permits to businesses to help them with grand openings and other special events. These are typically a single banner, generally conforming with signage requirements, and for a reasonable amount of time. For instance, a grand opening banner for a new restaurant would be granted a Temporary Use Permit for perhaps a couple of weeks, or 30 days in the case of an apartment building to ensure people know it is now open. In this particular case, the size of the development and its uniqueness in the community warrants additional attention being drawn to the building.

The following motion is recommended:

THAT THE REQUEST BY M+A ARCHITECTS AND WORTHINGTON SQUARE ACQUISITION LLC FOR A TEMPORARY USE PERMIT TO ALLOW TEMPORARY SIGNAGE FROM JULY 3, 2015 TO JANUARY 3, 2016 AT 160 WEST WILSON BRIDGE ROAD, AS PER CASE NO. BZA 28-15, DRAWINGS NO. BZA 28-15 DATED JUNE 12, 2015 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

5. Variance – Sign – **300 W. Dublin-Granville Rd.** (McConnell Arts Center of Worthington)
BZA 29-15

Findings of fact:

1. This property is in the S-1 district where off premise signs and temporary signs in the form of a banner are not permitted.

2. The applicant, McConnell Arts Center of Worthington, is located at 777 Evening Street and is surrounded by the subject property.

3. The applicant is proposing to construct a 13 foot 4 inch by 6 foot 5 inch double faced freestanding sign atop a 15 foot by 3 foot 3 inch base. The sign will allow the placement of 10 foot by 4 foot 6 inch banners on each side to advertise events, consisting of various graphics, styles, sizes, and colors. The base will have the logo and name of the tenant of the adjacent building. The requested variances are to allow the off premise sign, and to allow banners on the free standing sign.

4. The sign is subject to, and have been approved by, the Architectural Review Board.

The following conclusions are presented:

1. The site of the arts center is significantly set back from State Route 161, a regional thoroughfare. Placement of this sign on its property could require a very large sign to be easily seen from that state route. It seems reasonable to allow it to be placed on the adjacent property, relatively close to the state route, to keep the size of the sign more in keeping with others in the community. This mitigates the substantial nature of the off premise sign variance request.

2. The McConnell Arts Center of Worthington was granted a similar variance in 2009 to allow banners on the south elevation of the building. This allows the center the ability to change its signage several times a year without seeking special approvals. Changeable copy signs, such as bulletin boards, are permitted for semi-public uses such as the arts center, but are limited to 15 square feet in area. In this particular case, the banners will be placed tight to the sign to give the illusion of a more permanent sign. This mitigates the substantial nature of the banners variance request.

3. The essential character of the neighborhood should not be substantially altered.

4. The delivery of governmental services should not be affected.

The following motion is recommended:
THAT THE REQUEST BY MCCONNELL ARTS CENTER OF WORTHINGTON AND BOARD OF EDUCATION OF THE WORTHINGTON CITY SCHOOL BOARD FOR A VARIANCE FROM CODE REQUIRMENTS FOR SIGNAGE TO ALLOW THE CONSTRUCTION OF AN OFF PREMISE SIGN WITH BANNERS AT 300 WEST DUBLIN-GRANVILLE ROAD, AS PER CASE NO. BZA 29-15, DRAWINGS NO. BZA 29-15 DATED JUNE 12, 2015 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Reference

Portions of Section 1129.05

(b) Exceptions. In hearing and deciding appeals, the Board shall have the power to grant an exception in the following instances:

(5) Temporary use permits. A temporary use permit may be granted where the temporary use of a structure or premises in any district where such temporary use shall be for a period of more than ninety days is proposed for a purpose or use that does not conform to the regulations prescribed elsewhere in this Zoning Ordinance for the district in which it is located, provided that such use be of a temporary nature and does not involve the erection of a substantial structure. A temporary use permit for such use shall be granted in the form of a temporary and revocable permit, for not more than a six-month period, subject to a six months' renewal and such conditions as will safeguard the public health, safety, convenience and general welfare.

(c) Area Variances. The Board shall have the power to hear and decide appeals and authorize variances from the provisions or requirements of this Zoning Ordinance. In authorizing a variance, the Board may attach conditions and require such guarantee or bond as it may deem necessary to assure compliance with the objective of this Zoning Ordinance. The Board may grant a variance in the application of the provisions of the Zoning Ordinance when it is determined that practical difficulty exists based on the following factors:

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

(2) Whether the variance is substantial;

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

(4) Whether the variance would adversely affect the delivery of governmental services (e.g. water, sewer, garbage);

(5) Whether the property owner purchased the property with knowledge of the zoning restriction;

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

(7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.