



MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

July 2, 2015

A. Call to Order – 7:30 p.m.

1. Roll Call - the following members present: R. Hunter, L. Reibel, D. Falcoski, B. Seitz and C. Crane. Also present was D. Phillips, Chief Building Inspector and L. Brown, Director of Building and Planning.
2. Pledge of Allegiance
3. Affirmation/swearing in of witnesses.
4. Mr. Hunter moved to approve the June 4, 2015 minutes, seconded by Mr. Seitz. The minutes were approved.

B. Items of Public Hearing

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

Mr. Phillips reviewed the staff memo.

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.

Conclusions:

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

Discussion:

Terry Welsh, 198 Halligan Avenue, had nothing to add to staff comments,

Ms. Crane asked if there was anyone in the audience to speak for or against this proposal.

Motion:

Mr. Seitz moved:

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.

Ms. Reibel seconded the motion and all members voted “aye” thereon.

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

Mr. Phillips stated that in front of each Board member is a site plan from previous case BZA 35-01 which had been left out of the packets. Mr. Phillips reviewed the staff memo.

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.

Conclusions:

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.

Discussion:

Ms. Crane asked if the Board member has a site plan and a parking lot plan that was approved in 2001 that was not implemented and now is being asking to change what had been approved. Mr. Phillips replied that is correct.

Mr. Falcoski asked if this violation was found due to an aerial photograph and Mr. Phillips replied the owner of the property had hired a firm to do due diligence of the zoning requirements for the property. That firm asked if the photo they sent the City showed a violation and Mr. Phillips stated it did. After several months of follow up and no response from representatives, an order was issued.

Kelly Tamulonis, 65 East State Street, Suite 550, said she believes this situation is due to the previous owner, stating she is part of the management company for the current owner since July of 2014.

Mr. Hunter asked why this has been delayed three times in Mayors Court and Ms. Tamuloris stated in the beginning she did not understand the process, then she was off work, and finally because they had to get a design professional involved.

Mr. Hunter asked what is the implementation plan and Ms. Tamuloris replied to get it priced as soon as possible but needs to wait until fall or spring to plant trees. Mr. Hunter disagreed.

Mr. Brown stated that staff would be willing to extend 90 days which would allow planting in the fall.

Ms. Crane stated she did not understand why this was never completed when the building was constructed, that this requirement passes from one owner to another owner. What was previously approved reduced substantially what was required and believes there is no reason it should not be done, even if water has to be hauled in by trucks.

Mr. Hunter and Mr. Brown gave examples of recently planted trees planted with water envelopes around them during their initial growing season and since then, have been part of an irrigation system.

Mr. Seitz stated the 2001 approval was for thirty six trees, but both option one and two are for forty five trees. Mr. Phillips replied the Zoning Ordinance requires trees in the parking lot and they are proposing no trees in the parking lot excepting at the perimeter. Mr. Brown stated staff believes it will help to screen the building and the large sea of asphalt.

Ms. Crane asked if there was anyone in the audience to speak for or against this proposal.

Motion:

Mr. Hunter moved:

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 WITH THE FOLLOWING CONDITION: THE WORK COMMENCE NO LATER THAN NINETY DAYS FROM THIS DATE AND FINISHED NO LATER THAN ONE HUNDRED AND TWENTY DAYS FROM THIS DATE

Mr. Seitz seconded the motion, Ms. Reibel, Mr. Seitz, Mr. Falcoski, and Mr. Falcoski voted yes. Ms. Crane voted no. The motion was approved.

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

Mr. Phillips reviewed the staff memo.

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.

Conclusions:

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.

Discussion:

Mike Rubing with GPD Group Architects, 520 South Main Street, Akron, stated the existing ATM and surround is being replaced to be like the new ATM and surround.

Ms. Crane asked if there was anyone in the audience to speak for or against this proposal.

Motion:

Mr. Hunter moved:

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.

Mr. Seitz seconded the motion and all members voted “aye” thereon.

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

Mr. Phillips reviewed the staff memo.

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.

Conclusions:

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.

Discussion:

Thomas Linzell with M&A Architects, 775 Yard Street, Suite 325, said the original submittal requesting ten colored banners and have reduced it to two banners plus a yard signs.

Mr. Hunter stated he is not predisposed to approving this because during the development process the Commission did not pick the location of the leasing office or the location and size of the banners. He believes a ninety day Temporary Use Permit is sufficient and does not like where they are located and how the banners are being permanently attached to the building even though they are temporary.

Phillip Philippou, 3504 Wyoga Lake Road, Cuyahoga Falls, stated there have been conversations with staff who encouraged the locations, two up high and one down low, and stating it is a twelve to eighteen month process to get all units leased in both buildings.

Ms. Crane asked if there was anyone in the audience to speak for or against this proposal.

Motion:

Ms. Reibel moved:

THAT THE REQUEST BY M+A ARCHITECTS AND WORTHINGTON SQUARE ACQUISITION LLC FOR A TEMPORARY USE PERMIT TO ALLOW TEMPORARY SIGNAGE FOR NINETY DAYS FROM INSTALLATION 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.

Mr. Falcoski seconded the motion. Ms. Reibel, Mr. Falcoski, and Mr. Seitz voted yes. Mr. Hunter and Ms. Crane voted no. The motion was approved.

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

Mr. Phillips reviewed the staff memo.

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 freestanding sign.

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

Conclusions:

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.

Discussion:

Ms. Crane asked if this will have any effect on the banners hanging on the building and Mr. Phillips replied no.

Bill Lhota, 838 Cambridge Court, stated he is representing the board of the McConnell Art Center and they have had four public meetings and neighborhood outreach. Mr. Hunter said the Architectural Review Board had no opposition during their meeting and feels it is appropriate for the location.

Mr. Falcoski asked about illumination and Mr. Lhota replied there will be ground lighting on each side.

Ms. Crane asked if there was anyone in the audience to speak for or against this proposal.

Motion:

Mr. Hunter moved:

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.

Ms. Reibel seconded the motion and all members voted “aye” thereon.

Mr.Falcoski to adjourn, seconded by Ms. Reibel. The meeting adjourned at 8:24 PM.