

MINUTES OF THE REGULAR MEETING  
BOARD OF ZONING APPEALS

January 5, 2012

**A. Call to Order – 7:30 p.m.**

1. Roll Call - the following members present: B. Seitz, R. Hunter, C .Crane, L. Reibel and D. Falcoski. Also present was D. Phillips, Chief Building Inspector.

2. Pledge of Allegiance

3. Oath of Office

4. Election of Officers – Ms. Crane nominated for Chair, Mr. Falcoski nominated for Vice Chair and Ms. Reibel nominated for Secretary. Motion made by Mr. Hunter and seconded by Mr. Falcoski. All members said “aye” thereon.

5. Motion made by Mr. Hunter to approve December 1, 2011 minutes. Ms. Reibel seconded the motion and all members voted “aye” thereon.

6. Affirmation/swearing in of witnesses.

**B. Unfinished Business**

1. Variances – Setback at Alley Right-of-Way – Fence; Wall Signs – 5617 N. High St. (Kelma LLC) BZA 43-11

Discussion:

Mr. Phillips reviewed the facts from the application.

Ms. Crane confirmed that the sign graphics have not been approved by the Architectural Review Board.

Mr. Falcoski asked if the bump out on the front of the building did not exist then this variance would not be required. Mr. Phillips stated that is correct.

Ms. Crane asked if there were four tenants, then there could be four signs. Mr. Phillips stated yes and if there were two tenants there could be two signs, one tenant could have one sign. The applicant is requesting two signs for one tenant, one on each façade.

Mr. Falcoski asked if the Architectural Review Board approved the sign boxes. Mr. Phillips stated the Board approved four boxes and only three boxes are being used right now. Mr. Phillips then showed the locations of the boxes.

Joel Mazza, 155 W. Southington, Riverlea stated the building was originally designed for three tenants on the first floor and one tenant in the lower level. Currently one tenant is utilizing two suites on the first floor and would like to utilize the two signs. One sign would advertise the tenant business name of Natalie's Coal Fire Pizza and the other sign would advertise live music information of which the graphics still need to go before the Architectural Review Board.

Ms. Crane then stated the variance for the fence is required because there is an alley. Mr. Phillips said that is correct.

Ms. Crane asked if anyone in the audience wished to speak for or against the variance request. Mark Tremer, 140 W. Lincoln Ave. stated he is glad the building is being used.

Findings of fact:

1. This property is in a C-2 district with a 30 foot rear yard setback requirement and each business is allowed 1 building mounted sign. Fences must be setback from the right-of-way line to the building setback line.
2. There is an alley to the west and the rear of the property with the existing building being approximately 11 feet 8 inches from the west right-of-way.
3. The applicant has erected a fence in the northwest corner of the site beginning at the west end of the existing building and extending to the east with a portion of the fence in the rear yard setback. The proposed fence will be approximately 11 feet 8 inches from the west property line and the requested variance is 18 feet 4 inches.
4. The applicant also proposes a second wall mounted sign for the tenant to the south. The requested variance is a second wall mounted sign for a business.
5. The fence and signage is subject to the Architectural Review Board. The fence has been approved by that Board.
6. Signs are subject to the requirements of the Ohio Building Code and variances granted by this Board do not grant variances from the requirements of the Ohio Building Code

Conclusions:

1. Setback variances were granted in January of 2011 for the exterior alterations nearing completion. The fence will be used by the veterinary clinic, is an open style, and will be at the rear of the property. The requested variance does not appear substantial.
2. The original concept of 4 building mounted signs for the 4 tenants is being modified due to tenant requirements. Half of the building is being used by the veterinary clinic with one of its signs, and the south half of the building will be housing a second tenant offering various services and the additional sign will allow more descriptive language. A single, larger sign would not require a variance but the architecture of the

building, with portions of the façade not in the same plane, does not allow a single sign. All graphics on these signs are subject to approval by the Architectural Review Board and that Board will not likely approve two identical signs on the building. These factors mitigate the substantial nature of the variance request.

3. The essential character of the neighborhood should not be substantially altered.
4. The delivery of governmental services should not be affected.

Mr. Hunter moved:

**THAT THE REQUEST BY KELMA LLC FOR A VARIANCE FROM CODE REQUIREMENTS FOR REAR YARD SETBACK AND SIGNAGE TO ERECT A FENCE AND A SECOND WALL MOUNTED SIGN FOR A SINGLE BUSINESS AT 5617 NORTH HIGH STREET, AS PER CASE NO. BZA 43-11, DRAWINGS NO. BZA 43-11 DATED NOVEMBER 8, 2011, 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 and all members voted “aye: thereon.

### **C. Items of Public Hearing**

1. Variance – Side Yard Setback – Air Conditioner -140 W. Lincoln Ave. (Mark Tremer) BZA 01-12

Discussion:

Mr. Phillips reviewed the facts from the application.

Ms. Crane asked for questions from the Board.

Ms. Crane asked to the applicant to address the Board.

Mark Tremer, 140 W. Lincoln Ave. stated he has lived at this property for 25 years and the condensing unit has always been in the same spot. The unit is not directly in anyone’s view, there is a tree and a bush screening one side and a very large bush screening the other side.

Mr. Hunter stated this property does not have much traffic.

Ms. Crane stated there is no one in the audience to speak for or against this variance.

Findings of fact:

1. This property is an existing lot of record in an R-10 district with a minimum front yard setback of 30 feet, and adjacent side yard setback of 20 for corner lots.

2. The applicant is proposing the replacement of an existing air conditioner condenser in the side yard, with the screening required by the zoning code. The requested variance is to allow the condenser in the side yard.

Conclusions:

1. The regulation of condenser unit location was started in 1988. Corner lots typically impose additional restrictions to the use of property, as is the case with this property. Relocating the condenser still allows the condenser to be seen from the right of way and the extra length of refrigerant lines may impact the performance of the air conditioner. It appears the previous unit was in place at the proposed location and the Division of Building Regulation has no record of inquiries about the condenser. All of these factors mitigate 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.

Mr. Falcoski moved:

**THAT THE REQUEST BY MARK TREMER FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW THE PLACEMENT OF AN AIR CONDITIONER CONDENSER AT 140 WEST LINCOLN AVENUE, AS PER CASE NO. BZA 01-12, DRAWINGS NO. BZA 01-12 DATED DECEMBER 1, 2011, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.**

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

Mr. Falcoski moved to adjourn the meeting at 7:54P.M., Mr. Hunter seconded the motion. All members said “aye” and the meeting adjourned.