

**BOARD OF ZONING APPEALS**

**Springfield, Ohio**

**Wednesday, February 17, 2016**

**7:00 P.M.**

**City Forum, City Hall**

**Meeting Minutes**

**(Summary format)**

The meeting was called to order at 7:00 P.M. by Ms. Williams.

MEMBERS PRESENT: Mr. James Burkhardt, Mr. James Smith, Mr. Matthew Ryan, Ms. Zimmers, Mr. Mark Brown, Ms. Dori Gaier and Ms. Denise Williams

MEMBERS ABSENT: None

OTHERS PRESENT: Stephen Thompson, Planning, Zoning, and Code Administrator, Jennifer Tuttle, Community Development Specialist

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SUBJECT: Approval of January 20, 2016 meeting minutes.

Ms. Williams made a motion to approve the minutes and asked the board members to voice yea if they were in favor of approving the minutes. Members voiced yes.

Ms. Williams asked if any opposed to voice nay. Hearing no nays, Ms. Williams stated minutes stand approved.

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**SUBJECT:**

**Case #16-A-03** Request from Craig Dillon, applicant, for a variance from Chapter 1155.06 to allow for a single-color digital dynamic display signs within in Residential Sign Districts at 531 W Harding Rd. in G, Green Space, Park, and School District.

**Case #16-A-04** Request from Craig Dillon, applicant, for a variance from Chapter 1155.06 to allow for a single-color digital dynamic display signs within in Residential Sign Districts at 431 W John St. in G, Green Space, Park, and School District.

**Case #16-A-05** Request from Craig Dillon, applicant, for a variance from Chapter 1155.06 to allow for a single-color digital dynamic display signs within in Residential Sign Districts at 1500 Tibbetts Ave. in G, Green Space, Park, and School District.

**Case #16-A-06** Request from Craig Dillon, applicant, for a variance from Chapter 1155.06 to allow for a single Color digital dynamic display signs within in Residential Sign Districts at 521 Mountjoy St. in G, Green Space, Park, and School District.

**Case #16-A-07** Request from Craig Dillon, applicant, for a variance from Chapter 1155.06 to allow for a single color digital dynamic display signs within in Residential Sign Districts at 721 E Home Rd. in G, Green Space, Park, and School District

**Case #16-A-08** Request from Craig Dillon, applicant, for a variance from Chapter 1155.06 to allow for a single color digital dynamic display signs within in Residential Sign Districts at 800 E McCreight Ave. in G, Green Space, Park, and School District.

**Case #16-A-09** Request from Craig Dillon, applicant, for a variance from Chapter 1155.06 to allow for a single-color digital dynamic display signs within in Residential Sign Districts at 631 S Yellow Springs St. in G, Green Space, Park, and School District.

**Case #16-A-10** Request from Craig Dillon, applicant, for a variance from Chapter 1155.06 to allow for a single-color digital dynamic display signs within in Residential Sign Districts at 1802 Clifton Ave. in G, Green Space, Park, and School District.

**Case #16-A-11** Request from Craig Dillon, applicant, for a variance from Chapter 1155.06 to allow for a single-color digital dynamic display signs within in Residential Sign Districts at 651 E Home Pl. in G, Green Space, Park, and School District.

**Case #16-A-12** Request from Craig Dillon, applicant, for a variance from Chapter 1155.06 to allow for a single-color digital dynamic display signs within in Residential Sign Districts at 721 E Home Rd. in G, Green Space, Park, and School District.

Mr. Thompson gave one staff report for cases 16-A-03 to 16-A-12.

The applicant requests a variance from Chapter 1155.06 to construct a single-color digital dynamic display in a residential sign district. The proposed signs will replace the monument signs located at the school. The new signs will replace the current signs and be placed in the same location. They will be approximately seven feet tall and six feet wide and the digital display portion of the signs will be two feet tall and six feet wide.

**ANALYSIS for Variance:**

The Board may grant a variance only where there exists a “practical difficulty” as defined by the courts in Ohio in established case law. The Ohio Supreme Court’s decision in *Kisil v. City of Sandusky*, (1984) 12 Ohio State 3d 30, is a land mark decision in establishing common law governing variances by distinguishing between “use” and “area variances.” Area variances involve an exception from such requirements as yard, lot, and height standards. The Supreme Court established that a practical difficulty must exist before an area variance can be granted.

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

Staff Comment: Yes, the school could keep its current non-digital sign.

Whether the variance is substantial;

Staff Comment: Yes, this variance is substantial because multi-color digital dynamic displays are prohibited within residential sign districts.

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

Staff Comment: No, it would not. These signs are not for commercial purposes.

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

Staff Comment: No.

Whether the property owner purchased the property with the knowledge of the zoning restrictions;

Staff Comment: The owner purchased the property prior to the sign code adoption.

Whether the property owner’s predicament can be obviated through some method other than a variance; or

Staff Comment: No, it could not.

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

Staff Comment: Yes, it would. Schools have events, which in the past require using temporary signs for advertising. Digital dynamic displays are a solution to reduce the number of temporary signs and present a more aesthetically pleasing appearance.

**STAFF RECOMMENDATION:**

Approval of the variances request from Chapter 1155.06 to allow for a single-color digital dynamic display sign in a

residential sign district.

Ms. Williams asked if the Board had questions for Mr. Thompson.

Ms. Gaier asked if all the signs would be single color signs.

Mr. Thompson answered yes and noted he had a typo in the staff report that stated sign would be a multi-color.

Ms. Zimmers asked if there were other digital signs in residential areas.

Mr. Thompson stated several churches had single-color digital signs.

Hearing no further questions, Ms. Williams asked if the applicant wished to speak.

Craig Dillon, 1934 Audubon Dr., took the podium to answer questions.

Ms. Williams asked if the signs could be changed remotely.

Mr. Dillon answered yes and the all signs would comply with the zoning code.

Ms. Zimmers asked if anyone received objections.

Mr. Thompson answered no.

Ms. Williams asked if anyone from the audience wished to speak. No audience members voiced concerns.

Hearing no further comments, Ms. Williams asked for a motion to close the public hearing.

**MOTION:** Ms. Gaier made a motion to close the public hearing. Seconded by Mr. Burkhardt.

**MOTION:** Motion by Ms. Gaier to approve a variance from Chapter 1155.06 to allow for a single-color digital dynamic display sign within a Residential Sign District in G, Green Space, Park, and School District. Seconded by Mr. Brown.

**MOTION:** Mr. Ryan made a motion to reopen the public hearing to ask a question. Seconded by Mr. Burkhardt.

Mr. Ryan asked if all digital signs are prohibited under G or in residential areas.

Mr. Thompson explained it was the sign district that requires the variance, not the zoning.

Ms. Zimmers asked if the sign would flash.

Mr. Thompson told the Board that sign code states it has to be a static image and if it malfunctions, it will go black.

Ms. Williams asked for a motion to close the public hearing.

**MOTION:** Ms. Gaier made a motion to close the public hearing. Seconded by Mr. Burkhardt.

**MOTION:** Motion by Ms. Gaier to approve a variance from Chapter 1155.06 to allow for a single-color digital dynamic display sign within a Residential Sign District in G, Green Space, Park, and School District for cases 16-A-03 to 16-A-12. Seconded by Ms. Zimmers.

Hearing no further discussion or questions, the Board determined the following Findings of Facts:

1. No opposition.
2. Logical use for schools and it helps to eliminate yard signs.
3. Will not look out of place in neighborhood.

4. Approved similar signs in the past.

Ms. Williams asked for the vote.

**VOTE:** YEAS: Mr. James Burkhardt, Mr. Matthew Ryan, Ms. Zimmers, Mr. Mark Brown, Ms. Dori Gaier and Ms. Denise Williams. NAYS: NONE. ABSTAINS: NONE.

**Approved 6 to 0.**

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**SUBJECT Case #16-A-13** Request from Tom Owens, applicant, for a conditional use permit to allow for an automotive or truck oriented use at 1030 Upper Valley Pike in a CC-2, Community Commercial District.

Mr. Thompson gave the staff report.

The applicant requests a conditional use permit to allow for an automobile or truck oriented use in the vacant commercial space.

ANALYSIS for Conditional Use:

In considering an application for a conditional use, the Board shall give due regard to the nature and condition of all adjacent uses and structures, and the consistency therewith of the proposed use and development. Before authorizing a use as a conditional use, the Board shall review the facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that the proposed conditional use at the proposed location:

Would not be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of noise, smoke, odor, vibration, dust and dirt, cinders, noxious gases, glare and heat, fire and safety hazards, sewage wastes and pollution, transportation and traffic, aesthetic and psychological effects. The Board shall use and give recognition to those performance standards which are available in model codes or ordinances, or have been developed by planning, manufacturing, health, architectural and engineering organizations, and can be applied to the proposed use, to assist it in reaching a fair and objective decision;

Staff Comment: Yes, it would not.

Is in fact a conditional use as established under the provisions of this Springfield Zoning Code as eligible to be permitted in the district involved;

Staff Comment: Yes.

Will be harmonious with and in accordance with the general objectives, or with any specific objective of this Springfield Zoning Code;

Staff Comment: Yes.

Will be designed, constructed, operated and maintained as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;

Staff Comment: Yes, it is an existing building.

Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;

Staff Comment: Yes.

Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

Staff Comment: Yes.

Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. Upon authorizing a conditional use, the Board shall impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this Springfield Zoning Code for the particular conditional use, as the Board may deem necessary for the protection of adjacent properties and the public interest.

Staff Comment: Yes.

**STAFF RECOMMENDATION:**

Approval of the conditional use permit.

Ms. Williams asked if the Board had questions for Mr. Thompson.

There were no questions for Mr. Thompson.

Ms. Williams asked if the applicant wished to speak.

The applicant did not wish to speak.

Hearing no further comments, Ms. Williams asked for a motion to close the public hearing.

**MOTION:** Mr. Burkhardt made a motion to close the public hearing. Seconded by Ms. Zimmers.

**MOTION:** Mr. Ryan made a motion to approve the conditional use permit to allow for an automotive or truck oriented use at 1030 Upper Valley Pike in a CC-2, Community Commercial District. Seconded by Mr. Brown.

Hearing no further discussion or questions, the Board determined the following Findings of Facts:

1. Good use of space.
2. Good fit for the property.
3. No opposition.

Ms. Williams asked for the vote.

**VOTE:** YEAS: Mr. James Burkhardt, Mr. Matthew Ryan, Ms. Zimmers, Mr. Mark Brown, Ms. Dori Gaier and Ms. Denise Williams. NAYS: NONE. ABSTAINS: NONE.

Approved 6 to 0.

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**SUBJECT Case #16-A-14** Request from Barry Harshbarger for a variance to allow for less than 60% windows on street facing side, facade less than two stories, and metal exterior materials.

Mr. Thompson gave the staff report.

The applicant requests variances from the Unified Plan Overlay District design standards for the expansion of KK Tool. The expansion would be approximately 3,053 square feet of the production area. The variance requests includes less than 60% glass on the street facing side, a façade that is less than two stories, and metal exterior materials. The expansion is for their manufacturing area.

ANALYSIS for Variance:

The Board may grant a variance only where there exists a “practical difficulty” as defined by the courts in Ohio in established case law. The Ohio Supreme Court’s decision in *Kisil v. City of Sandusky*, (1984) 12 Ohio State 3d 30, is a land mark decision in establishing common law governing variances by distinguishing between “use” and “area variances.” Area variances involve an exception from such requirements as yard, lot, and height standards. The Supreme Court established that a practical difficulty must exist before an area variance can be granted.

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

Staff Comment: No, the expansion requires the variances in order to accommodate their manufacturing needs.

Whether the variance is substantial;

Staff Comment: No.

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

Staff Comment: No, the expansion faces W Washington Street, railroad tracks, and the SCAT bus depot. Variances from the design standards would not affect the character of the area.

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

Staff Comment: No.

Whether the property owner purchased the property with the knowledge of the zoning restrictions;

Staff Comment: The owner purchased the property prior to the UPOD code adoption.

Whether the property owner’s predicament can be obviated through some method other than a variance; or

Staff Comment: Yes, the expansion could incorporate the design guideline standards.

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

Staff Comment: Yes, the UPOD design standards do not specifically address manufacturing uses and the design standards are not easily incorporated into manufacturing uses.

STAFF RECOMMENDATION:

Approval of the variance request from Chapter 1141.02 to allow for construction of a building less than 60% glass on the street facing side, façade that is less than two stories, and metal exterior materials.

Ms. Williams asked if the Board had questions for Mr. Thompson.

There were no questions for Mr. Thompson.

Ms. Williams asked if the applicant wished to speak.

Mr. Barry Harshbarger, 3793 Randee Lane, stated he could answer questions if anyone had any.

There were no questions for the applicant.

Ms. Williams asked if anyone from the audience wished to speak.

Tom Heaphey, 1988 Westgate Road, stated he owned a business at 149 W Jefferson, which is located one block away from proposed addition. He stated he was concerned about having another steel structure downtown. Mr. Heaphey stated he was renovating his business and was putting more glass to make it a nicer cityscape. He stated he could see the property out of the windows on the north side of his building. He stated he doesn't want to see another metal structure. Mr. Heaphey stated he wasn't against manufacturing, but he didn't want to see more metal. He asked if the Board should give a variance on a project when plans hadn't been presented.

Ms. Zimmers asked if the applicant had plans.

Mr. Thompson projected the plans for the Board to see.

Mr. Harshbarger stated the addition would be an extension using similar materials that are on the current building.

Mr. Brown asked if the reason for less windows was due to manufacturing.

Mr. Harshbarger answered yes.

Ms. Zimmers asked what was located in the proposed location.

Mr. Thompson told Ms. Zimmers it was a parking lot.

Hearing no further comments, Ms. Williams asked for a motion to close the public hearing.

**MOTION:** Ms. Gaier made a motion to close the public hearing. Seconded by Mr. Brown.

**MOTION:** Mr. Ryan made a motion to approve a variance to allow for less than 60% windows on street facing side, facade less than two stories, and metal exterior materials. Seconded by Ms. Gaier.

Hearing no further discussion or questions, the Board determined the following Findings of Facts:

1. The UPOD was not designed to prevent existing owners from expanding.
2. The UPOD doesn't address manufacturing standards.
3. The addition materials will be uniform to the current structure and area.

Ms. Williams asked for the vote.

**VOTE:** YEAS: Mr. James Burkhardt, Mr. Matthew Ryan, Ms. Zimmers, Mr. Mark Brown, Ms. Dori Gaier and Ms. Denise Williams. NAYS: NONE. ABSTAINS: NONE.

Approved 6 to 0.

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**SUBJECT Case #16-A-15** Request from the City of Springfield, applicant, for a variance from Chapter 1161.02(h)(1) & (2) to allow for a fence to not be replaced at 1885 W First St. in a CH-1, Commercial Highway District.

Mr. Thompson gave the staff report.

The variance is in response to the Erie Express Interceptor Sewer line that will be constructed along the western boundary of the property. The project will require the fencing and landscaping to be removed. The owner has requested to not replace them when the project is complete in order to better market the site for a new tenant.

ANALYSIS for Variance:

The Board may grant a variance only where there exists a "practical difficulty" as defined by the courts in Ohio in established case law. The Ohio Supreme Court's decision in *Kisil v. City of Sandusky*, (1984) 12 Ohio State 3d 30, is a landmark decision in establishing common law governing variances by distinguishing between "use" and "area variances." Area variances involve an exception from such requirements as yard, lot, and height standards. The Supreme Court established that a practical difficulty must exist before an area variance can be granted.

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

Staff Comment: Yes.

Whether the variance is substantial;

Staff Comment: Yes, the variance is substantial.

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

Staff Comment: No, it will not.

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

Staff Comment: No.

Whether the property owner purchased the property with the knowledge of the zoning restrictions;

Staff Comment: The owner purchased the property prior to the sewer line project.

Whether the property owner's predicament can be obviated through some method other than a variance; or

Staff Comment: Yes, the fence and landscaping could be replaced.

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

Staff Comment: Yes.

STAFF RECOMMENDATION:

Approval of the variance request from Chapter 1161.02 to allow for the fence and landscaping to not be replaced.

Ms. Williams asked if the Board had questions for Mr. Thompson.

Ms. Zimmers asked if the fence or shrubs ran the whole length or just parking lot.

Mr. Thompson stated he thought it was the entire property.

Ms. Zimmers asked if there had been any complaints from residents.

Mr. Thompson answered no.

Ms. Zimmers asked whose obligation it would be to put the soil back once the fence and shrubs were removed.

Mr. Thompson stated it would be the city's responsibility since it is a city project.

Mr. Brown asked if the city was obligated to put the fence and shrubs back.

Mr. Thompson answered no.

Ms. Gaier asked if the variance were to be approved if the new owner would be obligated to replace the screening or would the variance stay with property.

Mr. Thompson stated the variance stays with the property.

Ms. Zimmers asked if the new owner would have to put up a fence.

Mr. Thompson answered no and stated if approved, it would no longer be a requirement for property.

Mr. Ryan asked why the variance was being requested.

Mr. Thompson stated Target contacted the City Manager and stated they did not want to replace the fence, so the city manager requesting.

Ms. Williams asked Mr. Thompson to clarify whether the variance stays with the property regardless of owner.

Mr. Thompson told Ms. Williams that the variance would stay with the property; therefore, the property owner would not have to replace the screening.

Ms. Zimmers asked if disapproving the variance would put the fence replaced.

Mr. Thompson answered yes.

Mr. Thompson stated the property owner does not want to replace the screening because they feel it is more marketable without the fence.

Mr. Ryan asked if any residents made any complaints.

Mr. Thompson told the Board all residents were notified and he did not receive any complaints.

Mr. Brown asked if the sewer project was on right-of-way the city already owns.

Mr. Thompson answered no, and stated the sewer project will be on private property.

Ms. Gaier asked if it was part of negotiation process to gain rights.

Mr. Thompson answered yes.

Mr. Ryan asked if the city was going to gain easement to put in the sewer line.

Mr. Thomson stated the project was a mandate from EPA. He stated it was a new sewer line to wastewater treatment plant. He stated the city would be acquiring easements along the way.

Ms. Zimmers asked if the variance could set a precedent along the whole way to Dayton Ave.

Mr. Thompson said it could.

Ms. Gaier stated she didn't like that the approval of the variance would be permanent.

Mr. Burkhardt asked if the board could put the requirements back on if the business had a change of use.

Mr. Thompson answered yes.

Mr. Brown stated EPA is mandating the sewer project.

Mr. Burkhardt stated the city is ordered by EPA to do the sewer project and he didn't want to hinder the sewer line project. He stated the project is for the community.

Ms. Zimmers stated something pleasing to the eye also affects the city. She stated a fence/screening would help with noise and trash reduction.

Mr. Ryan stated if residents aren't objecting, then why should the Board deny. He stated the screening protects residents and he was glad the city has requirements for new, but he felt this project was different.

Ms. Zimmers stated she was concerned about the real estate. She stated she felt the residents might not be able to sell their homes without having a fence to screen.

Hearing no further comments, Ms. Williams asked for a motion to close the public hearing.

**MOTION:** Ms. Gaier made a motion to close the public hearing. Seconded by Ms. Zimmers.

**MOTION:** Ms. Gaier made a motion to approve a variance from Chapter 1161.02(h)(1) & (2) to allow for a fence to not be replaced at 1885 W First St. in a CH-1, Commercial Highway District.

Hearing no further discussion or questions, the Board determined the following Findings of Facts:

1. No opposition from residents.
2. Removing the screening may cause noise and trash issues for the residents.
3. Removing and not replacing the screening may affect residential home values in the area.
4. Removing the screening and not replacing will not hinder the sewer project.

Ms. Williams asked for the vote.

**VOTE:** YEAS: Mr. James Burkhardt and Mr. Matthew Ryan. NAYS: Ms. Zimmers, Mr. Mark Brown, Ms. Dori Gaier and Ms. Denise Williams. ABSTAINS: NONE.

DISAPPROVED 4 to 2.

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**SUBJECT: Board Comments**

None.

**SUBJECT: Staff Comments**

Mr. Thompson told the Board the City Planning Board liaison, Jeanneute Anderson, would begin her term at the next meeting.

**SUBJECT: Adjournment**

Ms. Williams adjourned the meeting at 7:52 p.m.



Ms. Williams, Chairperson  
Ms. Gaier, Vice-Chairperson