

BOARD OF ZONING APPEALS

Springfield, Ohio

Wednesday, February 21, 2018

7:00 P.M.

City Forum, City Hall

Meeting Minutes

(Summary format)

Chairperson Denise Williams called the meeting to order at 7:00 P.M.

MEMBERS PRESENT: Ms. Jeannette Anderson, Mr. Mathew Ryan, Ms. Rhonda Zimmers, Mr. Mark Brown, Mr. James Burkhardt Ms. Dori Gaier, and Ms. Denise Williams

MEMBERS ABSENT: None

OTHERS PRESENT: Stephen Thompson, Planning, Zoning, and Code Administrator Cheyenne Pinkerman, Community Development Specialist

SUBJECT: Approval January 17, 2018 meeting minutes.

Ms. Williams asked if the board had any corrections to add to the minutes.

Ms. Williams asked the board members to voice yes if they were in favor of approving the minutes. Members voiced yes.

Ms. Williams asked if any opposed to voice nay. Hearing none, Ms. Williams stated minutes stand approved.

SUBJECT: Case #18-A-05 Request from the Clark County Agricultural Society for a variance from Chapter 1153.04(a) to allow for gravel parking lots at 3900 Laybourne Rd. in a CH-1, Commercial Highway District

Ms. Williams stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

Mr. Thompson gave the staff report.

The applicant is requesting a variance from Chapter 1153.04(a) to allow for gravel parking lot. The Agricultural Society currently uses the area to the south of the lake for overflow parking. The area is currently grass. The parking area would only be utilized during events where the current parking is not sufficient.

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.

Then subsequent to this case, in Duncan v. Village of Middlefield, (1986) 23 Ohio 3d 83, the Ohio Supreme Court more fully explained the practical difficulty standards. The factors to be considered and weighed in determining whether a property owner seeking a variance has encountered a practical difficulty in the use of his/her property include, but are not limited to:

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;

Staff Comment: Yes. The parking area could be constructed of approved material.

2. Whether the variance is substantial;

Staff Comment: Yes. Gravel is not an approved material for parking. However, there are properties in the area that have gravel drives.

3. 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.

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

Staff Comment: No. This property is not connected to the storm water/sewer system.

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

Staff Comment: Yes.

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

Staff Comment: No. A variance is the only way to allow for a gravel parking area.

7. 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 a variance from Chapter 1153.04(a) to allow for gravel parking lot.

Ms. Williams asked if the board had any questions for Mr. Thompson. Hearing none, Ms. Williams asked if the applicant would like to speak.

Mr. Dean Blair, 6938 Neer Rd. Mechanicsburg, OH, stated he would answer any questions from the board.

Ms. Anderson questioned why they chose gravel over black top.

Mr. Blair explained that they received grants from the Springfield Foundation and the cost of black top would cost more than gravel.

Ms. Williams asked if there was anyone else that wished to speak at that time. Hearing no further discussion, Ms. Williams asked if there was a motion to close the public hearing.

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

Ms. Williams stated that the public hearing was now closed and asked for a motion to approve Case #18-A-05.

MOTION: Motion by Ms. Zimmers to approve Case #18-A-05 Request from the Clark County Agricultural Society for a variance from Chapter 1153.04(a) to allow for gravel parking lots at 3900 Laybourne Rd. in a CH-1, Commercial Highway District. Seconded by Mr. Brown.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. A gravel lot would be appropriate for the location.
2. Similar variances have been approved in the area.
3. There is no opposition.

VOTE:

YEAS: Ms. Jeannette Anderson, Mr. Mathew Ryan, Ms. Rhonda Zimmers, Mr. Mark Brown, Mr. Burkhardt, Ms. Dori. Gaier, and Ms. Denise Williams

NAYS: None

ABSTAIN: none

Motion Approved 7 to 0

SUBJECT: Case #18-A-06 Request from Cassano's Inc. for a variance from Chapter 1150.01(a) to allow for new construction with a 10.5 foot setback instead of the required 20 feet at 2123 S Limestone St. in a CC-2, Community Commercial District.

Ms. Williams stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

Mr. Thompson gave the staff report.

The applicant is requesting a variance from Chapter 1150.01(a) to allow for new construction with a 10.5 foot setback instead of the required 20 feet. The current Cassano's restaurant will remain open until the new restaurant is completed.

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.

Then subsequent to this case, in Duncan v. Village of Middlefield, (1986) 23 Ohio 3d 83, the Ohio Supreme Court more fully explained the practical difficulty standards. The factors to be considered and weighed in determining whether a property owner seeking a variance has encountered a practical difficulty in the use of his/her property include, but are not limited to:

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;

Staff Comment: Yes, however, the current restaurant would have to be demolished prior to the constructions of the new restaurant.

2. Whether the variance is substantial;

Staff Comment: Yes. It is a 53% reduction in the front yard setback. However, corner lots are subject to front yard setbacks on multiple sides of the property. It will conform to the front yard setback along S Limestone St.

3. 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.

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

Staff Comment: No.

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

Staff Comment: Yes.

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

Staff Comment: No.

7. 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 a variance from Chapter 1150.01(a) to allow for new construction with a 10.5 foot setback instead of the required 20 feet.

Ms. Williams asked if the board had any questions for Mr. Thompson. Hearing none, Ms. Williams asked

if the applicant or the applicant's agent wished to speak.

Mr. Chris Casano, 1700 East Stroop Road, Kettering, OH, explained that he would answer questions from the board. Mr. Casano explained that the drive through would be a pick up window so there wouldn't be a long line of cars. Mr. Casano explained that the company had been in the community for a long time and has been a great support. Mr. Casano explained that the company would like to give back to the community and make the restaurant nicer and more convenient.

Ms. Anderson questioned the location of the new building.

Mr. Casano explained the establishment would stay open during the construction of the new building.

Mr. Thompson showed on the map where the exact location would be.

Ms. Anderson explained that she had concerns with parking.

Mr. Casano explained that the parking issue would be addressed. Mr. Casano explained during the construction of the new building, the dine-in feature would be suspended until the new location opened into the full restaurant.

Ms. Zimmers questioned when the new building would be torn down if that would address the parking issue.

Mr. Thompson showed on the map where the proposed parking spots would be located.

Ms. Williams asked if Mr. Casano founded Casano's.

Mr. Casano explained that his grandfather started the restaurant chain. Mr. Casano explained that Springfield had been very good for their business.

Ms. Williams asked if there was anyone else that wished to speak at that time. Hearing no further discussion, Ms. Williams asked if there was a motion to close the public hearing.

MOTION: Ms. Zimmers made a motion to close the public hearing. Seconded by Mr. Ryan. Approval by voice vote.

Ms. Williams stated that the public hearing was now closed and asked for a motion to approve Case #18-A-06.

MOTION: Motion by Mr. Burkhardt to approve Case #18-A-06 Request from Cassano's Inc. for a variance from Chapter 1150.01(a) to allow for new construction with a 10.5 foot setback instead of the required 20 feet at 2123 S Limestone St. in a CC-2, Community Commercial District. Seconded by Ms. Anderson.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. There is no opposition
2. It is a good development for the neighborhood.
3. The new building will comply with the setback along S Limestone St.

VOTE:

YEAS: Ms. Jeannette Anderson, Mr. Mathew Ryan, Ms. Rhonda Zimmers, Mr. Mark Brown,
Mr. Burkhardt, Ms. Dori Gaier, and Ms. Denise Williams

NAYS: None

ABSTAIN: none

Motion Approved 7 to 0

Board Comments:

Ms. Gaier questioned a previous case involving and electronic sign.

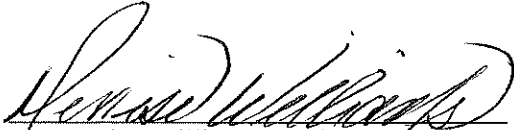
Staff Comments:

Mr. Thompson explained that meeting packets would be available on the website. Ms. Williams explained that she would still like a hard copy.

Subject: Adjournment

Ms. Burkhardt made a motion to adjourn the meeting. Seconded by Ms. Gaier.

Chairperson Denise Williams adjourned the meeting at 7:25 pm.



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