

BOARD OF ZONING APPEALS

Springfield, Ohio

Monday September 17, 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, Mr. Mark Brown, Mr. James Burkhardt and Ms. Denise Williams

MEMBERS ABSENT: Ms. Rhonda Zimmers and Ms. Dori Gaier

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

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SUBJECT: Approval August 20, 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 the minutes stand approved.

SUBJECT: Case #18-A-13 Request from Don Wright Realty for variances from Chapter 1142 for construction of storage units at 3000 E Main St. in a Twp. I-1, Light Industrial 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 variances from Chapter 1142 to build new storage units. The property is located in Transect 4, Suburban Fringe of the Eastern Edge Overlay and is zoned Springfield Township I-1, Light Industrial District. The variances are from Chapter 1142.03(C)(2)(A), (C), (D), and (E) for no civic zones, exceeding 20' maximum setback, fence screening, and the use of steel on the exterior.

The storage units will be used for RVs. The buildings will be located behind the Dollar Tree.

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 site could be constructed to meet the Eastern Edge standards.

2. Whether the variance is substantial;

Staff Comment: Yes, however, the structures will be located behind an existing development and will not be as visible if it were built close to the street.

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: The land was purchased prior to the adoption of the Eastern Edge plan.

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

Staff Comment: No. Variance are the only way to allow for the proposed layout.

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 1142.03(C)(2)(A), (C), (D), and (E) for no civic zones, exceeding 20' maximum setback, fence screening, and the use of steel on the exterior.

Ms. Williams asked if the board had any questions for Mr. Thompson.

Mr. Ryan asked if the property was previously granted a variance when the Dollar Tree was built.

Mr. Thompson explained that similar variances were granted to the dollar tree. Mr. Thompson explained that there hasn't been development in the Eastern Edge without needing a variance.

Ms. Williams asked if the applicant or the applicant's agent wished to speak.

Mr. Art Harden 10534 Success Lane. Centerville, OH 45458, requested to review the proposed idea on the projector. Mr. Harden explained that his company would like to use the existing slab from a previous structure and do it in the most cost effective way possible. Mr. Harden explained that the buildings would be storage facilities and there would be no need for parking. The only parking shown would be for outdoor storage. Mr. Harden explained that the buildings would have power for the RV's. Mr. Harden explained the location of the gate. Mr. Harden explained they were trying to market both lots for future development that would be compatible with the Dollar Tree. Mr. Harden explained they would like to move the entrance closer until the future development starts and then it would revert back. Mr. Harden explained that he had been the engineer for the dollar tree and stated there were variances. Mr. Harden stated there was conflicting languages in the overlay of zoning. Mr. Harden explained that the previous plan had three lots to potentially be developed. Mr. Harden stated that all three would have had basically the same configuration. Mr. Harden explained that location and the landscaping. Mr. Harden explained that they felt the plan in front of the board was the best use and if approved planned to start as soon as they were able.

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 Mr. Brown.

Approval by voice vote.

Ms. Williams stated that the public hearing was now closed and asked for a motion to approve Case #18-A-13.

MOTION: Motion by Mr. Ryan to approve Case #18-A-13 Request from Don Wright Realty for variances from Chapter 1142 for construction of storage units at 3000 E Main St. in a Twp. I-1, Light Industrial District. Seconded by Ms. Anderson.

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

1. The use meets the needs of the area.
2. There is no opposition.
3. It is a good location.

YAYS: Mr. Ryan, Mr. Brown, Mr. Burkhardt, Ms. Anderson and Ms. Williams
Nays: None.

Motion Approved 5 to 0

SUBJECT: Case #18-A-14 Request from Aisha Williams for a conditional use permit for a personal service establishment (barber shop) at 109 E College Ave. in a CO-1, Commercial Office 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 conditional use permit for a personal service establishment – barber shop. The building is currently vacant. A similar request was approved in January 2018. The change of use requires parking to be improved to current standards, including 2 parking spaces per parlor chair.

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:

- (1) 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.

- (2) 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.

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

Staff Comment: Yes.

- (4) 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 commercial structure.

- (5) 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.

- (6) 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, it will not.

- (7) 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 with the condition any parking spots be improved with new asphalt or sealed and marked.

Ms. D. Williams asked if the board had any questions for Mr. Thompson. Hearing none, Ms. D. Williams asked if the applicant or the applicant's agent wished to speak.

Ms. Aisha Williams 700 Montgomery Avenue, thanked the board for hearing their case. Ms. A. Williams expressed her views and plans for the neighborhood. Ms. A. Williams stated they had been talking with neighbors and everyone seemed excited for the business to open.

Ms. Anderson questioned if Ms. A. Williams had employees or barbers.

Ms. A. Williams stated there was one master barber named Ty Wilson. Ms. A. Williams explained they would be doing interviews to hire more before the grand opening if approved.

Ms. Anderson questioned when the barber shop would be open.

Ms. A. Williams stated they had to meet the state board requirements but planned to open within thirty days pending approval.

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

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

Ms. D. Williams stated that the public hearing was now closed and asked for a motion to approve Case #18-A-14.

MOTION: Motion by Mr. Burkhardt to approve Case #18-A-14 Request from Aisha Williams for a conditional use permit for a personal service establishment (barber shop) at 109 E College Ave. in a CO-1, Commercial Office District. Seconded by Ms. Anderson.

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

1. Good use of property and no opposition.
2. Close to the college.
3. Putting a vacant structure to use.

VOTE:

YAYS: Mr. Ryan, Mr. Brown, Mr. Burkhardt, Ms. Anderson and Ms. Williams

Nays: None.

Motion Approved 5 to 0

SUBJECT: Case #18-A-15 Request from The Conscious Connect for a conditional use permit and variance from Chapter 1152.02 to establish a community center and construct a fence without a principal structure at 1615 Woodward Ave. in a RS-5, Low-Density, Single-Family Residence 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 conditional use permit and variance to create a community center and to construct a fence without a principal structure. The Conscious Connect owns the property and would like to construct a shelter house, ½ basketball court, children’s play area, and fence around the north, west, and south side of the parcel.

Chapter 1152.02 prohibits the construction of accessory structures on a parcel without a principal structure.

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:

- (1) 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.

- (2) 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.

- (3) Will be harmonious with and in accordance with the general objectives, or with any specific

objective of this Springfield Zoning Code;

Staff Comment: Yes.

- (4) 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.

- (5) 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.

- (6) 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, it will not.

- (7) 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.

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 fence is not required by the zoning code.

2. Whether the variance is substantial;

Staff Comment: Yes, however, the applicant is trying to create a safe place for people to congregate.

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. Variance are the only way to allow for the proposed layout.

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 1152.02 to construct a fence without a primary structure.

Ms. Williams asked if the board had any questions for Mr. Thompson.

Mr. Ryan asked the need for the conditional use.

Mr. Thompson explained in an RS-5 District, community centers are a conditional use. Mr. Thompson explained the different types of uses within the district. Mr. Thompson explained that a community center is considered a non-residential conditional use in that district. Mr. Thompson explained the different uses under RS-5. Mr. Thompson explained in dense residential areas, the previous city commission wanted to make sure everyone had a chance to voice their opinions on whether a conditional use would be appropriate in their neighborhood.

Ms. Williams questioned how the shelter house would be a community center.

Mr. Thompson explained it would be considered a community center because it's a place where people meet and gather. Mr. Thompson explained that other similar community center in Springfield.

Mr. Karlos L. Marshall. 1838 Woodward Avenue. Springfield, OH 45506, stated he was the co-founder and president of the Conscious Connect Redirect Corporation. Mr. Marshall explained the different things his company had done throughout Clark County. Mr. Marshall explained that his company works closely with Clark County Land Bank. Mr. Marshall explained all the awards their company had received and their goals with blighted properties to better communities. Mr. Marshall explained the plans for the property in question.

Mr. Burkhardt questioned the hours of use.

Mr. Marshall explained the hours of operation would be from sun up to sun down.

Mr. Ryan questioned where the fence would be.

Mr. Marshall stated the fence would run along the back and sides of the property. Mr. Marshall stated the end of the fence would line up with the porches of the two properties on either side.

Mr. Thompson explained it would be approximately twenty-five feet depending on what the set back of the other properties were.

Ms. Williams asked if there were any further questions for the applicant. Hearing none, Ms. Williams asked if there were any other interested parties that wished to speak.

Mr. Gary Brown 4122 Southwest Circle. Springfield, Ohio 45504, explained that he owned the property next to where the potential community center could be. Mr. Brown explained that it was a rental unit. Mr. Brown applauded the efforts of the Conscience Connect. Mr. Brown explained that his tenants had found Frisbees in the yard from the Frisbee golf basket. Mr. Brown explained that there would be no room for a basketball court and feared that the basketballs would end up on his property. Mr. Brown expressed his concerns about there being no restrooms. Mr. Brown expressed his concerns about the parking. Mr. Brown explained that he had concerns about the fence going up and making it easier for people to dump. Mr. Brown would like the area to stay

the way it is. Mr. Brown stated he did not agree with putting a fence up, building a shelter house, and no restrooms. Mr. Brown explained that there were other neighbors concerned about the community center. Mr. Brown stated that he would lose tenants because the property would have too many people there and be disruptive.

Ms. Williams asked if the tenants were aware of the community center and if they had expressed their concerns about the community center.

Mr. Brown stated his tenants did not care about anything except providing for their kids.

Ms. Williams reiterated that Mr. Brown stated he would lose his tenants if the community center was built, Ms. Williams stated her question was if the tenants were aware of the community center and if they had expressed their concerns about the community center.

Mr. Brown explained he was worried about the current tenants, he was worried about future tenants and not being able to rent the property.

Ms. Williams repeated her question.

Mr. Brown stated he told the tenants.

Ms. Williams asked what his current tenant's response was.

Mr. Brown explained that the response varies.

Ms. Williams asked if the board had any further questions for Mr. Brown.

The board stated they had questions for Mr. Thompson.

Ms. Anderson asked if Mr. Thompson received any complaints.

Mr. Thompson stated he received a complaint from someone that lived across the street that shared similar concerns that Mr. Brown had.

Ms. Anderson asked what the concerns were.

Mr. Thompson explained one concern was people playing basketball all night.

Mr. Ryan questioned if the community center closing at dusk was enforceable.

Mr. Thompson stated that was correct.

Mr. Ryan explained that he understood the concern about the lack of a restroom. Mr. Ryan questioned if there was a requirement for a restroom facility in the community center.

Mr. Thompson explained a restroom was not required because there was not an enclosed structure. Mr. Thompson stated they were able to put a temporary facility if they wished.

Mr. Burkhardt asked if the enforcement would be the same as a park.

Mr. Thompson explained the enforcement would be up to Conscious Connect and that they had worked with the police department on other projects.

Mr. Burkhardt asked if the board could include that into the variance.

Mr. Thompson explained the board could make the condition that the park could only be used from sun up to sun down.

Ms. Williams stated that she would like the curfew also enforced. Ms. Williams asked Mr. Marshall to step back to the podium and asked if he would consider the concerns the board members had.

Mr. Marshall stated they would consider the temporary restroom facilities and would be happy to take into consideration the neighbors' concerns as well. Mr. Marshall suggested having restroom facilities would give a reason for people to stay. Mr. Marshall explained that the property would be a community center but would remain private property.

Ms. Williams explained that she needed to hear if the Conscious Connect would work with the police on enforcing the curfew.

Mr. Marshall stated he would work with the Police Chief. Mr. Marshall explained that the fence would protect the property. Mr. Marshall explained that it would make the property safer and would no longer be a walk through. Mr. Marshall explained that he had talked to a lot of the neighbors in the area and would be addressing their concerns. Mr. Marshall explained that the basketball court would not be right next to Mr. Brown's property, it would be to the left. Mr. Marshall explained they believed the community center would attract potential home owners and residents. Mr. Marshall stated they believed the center would increase property values.

Mr. Brown explained his worries about parking and attracting people that were not from the area. Mr. Brown expressed his concerns about illegal dumping.

Mr. Ryan asked what the city recommendation was.

Mr. Thompson stated it was approval.

Ms. Williams asked if there was a motion to close the public hearing.

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

Ms. Williams stated that the public hearing was now closed and asked for a motion to approve Case #18-A-15.

MOTION: Motion by Mr. Ryan to approve Case #18-A-15 Request from The Conscious Connect for a conditional use permit to establish a community center at 1615 Woodward Ave. in a RS-5, Low-Density, Single-Family Residence District with a curfew being enforced with signage and the consideration of facilities. Seconded by Ms. Anderson.

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

1. Mostly foot traffic in the neighborhood.
2. Property looks better.
3. Understand concerns, police chief involved, patrolling making it safer.
4. Facilities may cause longer stays.

VOTE: Conditional Use:

YAYS: Mr. Brown, Mr. Burkhardt, Ms. Anderson and Ms. Williams.

NAYS: Mr. Ryan.

Motion Approved 4-1.

MOTION: Motion by Mr. Ryan to approve Case #18-A-15 Request from The Conscious Connect for a variance from Chapter 1152.02 to establish a community center and construct a fence without a principal structure at 1615 Woodward Ave. in a RS-5, Low-Density, Single-Family Residence District. Seconded by Mr. Burkhardt.

VOTE: Variance:

YAYS: Mr. Ryan, Mr. Brown, Mr. Burkhardt, Ms. Anderson and Ms. Williams.

NAYS: None

Motion Approved 5 to 0

Board Comments:

Board members parking in the basement and possibly mailing card keys with packet.

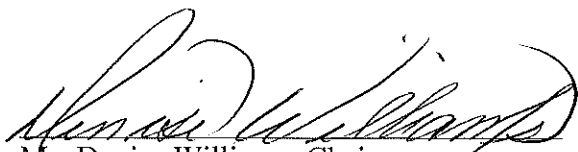
Staff Comments:

None.

Subject: Adjournment

Ms. Anderson made a motion to adjourn the meeting. Seconded by Ms. Ryan.

Ms. Williams adjourned the meeting at 8:10 pm.

A handwritten signature in black ink, appearing to read "Denise Williams". The signature is written in a cursive style with a large, looping initial "D".

Ms. Denise Williams, Chairperson

Ms. Dori Gaier, Vice-Chairperson