

BOARD OF ZONING APPEALS

**Springfield, Ohio
Monday July 16, 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, Ms. Rhonda Zimmers, Mr. James Burkhardt, and Ms. Denise Williams

MEMBERS ABSENT: Ms. Mark Brown, Ms. Dori Gaier and Mr. Mathew Ryan

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

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SUBJECT: Approval June 18, 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-09 request from Laura Fazio for a conditional use permit to establish an animal specialty service at 715 N Bechtle Ave. 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 conditional use permit to establish an animal specialty service. Dogs will be outside from the hours of 6:00 A.M. to 6:00 P.M. The business is currently located at 1608 Upper Valley Pike. The applicant is also seeking a variance from the minimum number of parking spaces required. Chapter 1153.02(b) requires one spot per 300 sq ft of floor space. Because of the use, no more than 12 spaces are needed for the business. Most of the animals will be dropped off. The applicant also requests a variance from Chapter 1118.04(a)(1) to allow for outside runs for animals.

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: 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: It would 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: Unknown. The property does not have traditional street access. The best use would be one connected to using rail access.

2. Whether the variance is substantial;

Staff Comment: No.

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. A variance is the only way to allow for a reduced number of parking spaces.

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 1153.02(b) to allow for a maximum of 12 parking spaces.

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.

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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: No. Outside runs are an integral part of the business.

2. Whether the variance is substantial;

Staff Comment: No. Outside runs are often associated with this type of business.

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 1118.04(a) to allow for outside runs.

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

Mr. Burkhardt questioned where parking would be.

Mr. Thompson explained that the parking would be on the existing asphalt and the applicant planned to mark the twelve spaces. Mr. Thompson explained that the business did not have a need for a lot of parking spaces but would have enough room for more.

Ms. Zimmers questioned the surrounding properties.

Mr. Thompson showed on the map that there was a fire station along the property.

Ms. Zimmers explained she would be concerned if there were residences in the area that could be disturbed by barking dogs but that was not a factor.

Ms. Zimmers asked if there had been any complaints.

Mr. Thompson explained he received a call from a neighboring company that made corrugated cardboard pizza boxes, they expressed concern about smell. Mr. Thompson explained that the concerns they had would be handled through the building permit process.

Ms. Williams asked if the dogs would be outside.

Mr. Thompson explained that there would be dog runs outside.

Ms. Williams asked if the property was fenced in.

Mr. Thompson explained that it was not fenced in. Mr. Thompson explained there was a proposed site plan but there were no official building plans.

Ms. Zimmers questioned where the other Wags' N' Wiggles location was.

Mr. Thompson stated the other location was located in a shopping center off of upper valley.

Ms. Zimmers explained that she was curious if there would be two locations.

Mr. Thompson explained there would not be.

Ms. Williams asked if there were any further questions for Mr. Thompson. Hearing none, Ms. Williams asked if the applicant would like to speak.

Ms. Laura Fazio, 3871 Miller Road. Springfield, OH 45502.

Ms. Fazio explained Wags' N' Wiggles was located. Ms. Fazio explained that the dogs would be outside during the day weather permitting. Ms. Fazio explained that there will be fencing for the dogs that will be divided for them to play and get exercise. Ms. Fazio explained that the dogs would only be outside during the hours of operation from 6:30 AM to 6:30 PM.

Ms. Williams asked if the board had any questions for Ms. Fazio. Hearing none, Ms. Williams asked if there was anyone else that wished to speak.

M. Chuck Battelle, 1258 Bluegrass Boulevard. Batavia, Oh 45103.

Mr. Battelle explained that he owned the Dairy Queen located in front of the property. Mr. Battelle questioned where the building would be located.

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

Mr. Battelle questioned where the fence would be.

Ms. Fazio explained that the fence would be on the north end of property out of the back.

Mr. Battelle questioned the easement rights.

Ms. Fazio explained the easement rights.

Mr. Battelle explained his concerns about the easement rights for the delivery trucks.

Mr. Thompson explained that the easement right would not impact the deliveries.

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. 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-09.

MOTION #1: Motion by Ms. Zimmers to approve Case # 18-A-09 request from Laura Fazio for a conditional use permit to establish an animal specialty service at 715 N. Bechtle Ave. in a CC-2, Community Commercial District. Seconded by Ms. Anderson.

MOTION #2: Motion by Ms. Zimmers to approve Case # 18-A-09 request from Laura Fazio for a variance for less parking at 715 N. Bechtle Ave. 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. Good use of property.
2. Benefit business owners in the area.
3. No opposition.

VOTE:

#1

YEAS: Mr. Burkhardt, Ms. Anderson, Ms. Zimmers, and Ms. Williams.

NAYS: None.

#2

YEAS: Mr. Burkhardt, Ms. Anderson, Ms. Zimmers, and Ms. Williams.

NAYS: None.

Motion Approved 4 to 0

Board Comments:

None.

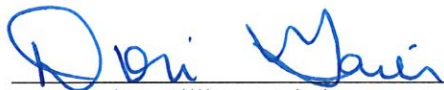
Staff Comments:

None.

Subject: Adjournment

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

Chairperson Denise Williams adjourned the meeting at 7:54 pm.



Ms. Denise Williams, Chairperson

Ms. Dori Gaier, Vice-Chairperson