

BOARD OF ZONING APPEALS

Springfield, Ohio

Monday October 15, 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: Mr. Mathew Ryan, Mr. Mark Brown, Mr. James Burkhardt, Ms. Rhonda Zimmers, Ms. Dori Gaier and Ms. Denise Williams

MEMBERS ABSENT: Ms. Jeannette Anderson

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

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SUBJECT: Approval September 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 the minutes stand approved.

SUBJECT: Case #18-A-16 Request from Macray Company for a variance from Chapter 1155.06 for a single-color, dynamic digital sign at 1801 St. Paris Pike in a Residential Sign 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 1155.06 to install a new, single-color dynamic digital display sign. The new sign will be 36 square feet per side. Chapter 1155.06 prohibits dynamic digital signs in the Residential Sign District.

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 is currently a church with a compliant sign.

2. Whether the variance is substantial;

Staff Comment: Yes, however, similar signs have been constructed at several church sites in the City.

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 current sign code.

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 sign.

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 1155.06 to install a new, single-color dynamic digital display sign.

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

Ms. Zimmers asked if there had been any opposition from the neighbors.

Mr. Thompson stated there had not been any opposition.

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

Mr. Brian Roberts, MacRay Company, 100 West North St, Springfield, OH, explained that the church had done a lot of updates in the building and it was time to update the sign. Mr. Roberts explained the church would like to update to an LED sign and stated the board had approved similar signs in the past. Mr. Roberts stated he could answer any questions the board may have about the sign.

Ms. Williams asked if the board had questions for the applicant.

Ms. Zimmers explained her concern for the houses across the street.

Mr. Roberts explained that the sign would sit back 26 feet from the road and would also have a dimming feature. Mr. Roberts explained that the sign would be less bright as the sun goes down and when the sun comes up it would get brighter.

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-16.

MOTION: Motion by Ms. Zimmers to approve Case #18-A-16 Request from Macray Company for a variance from Chapter 1155.06 for a single-color, dynamic digital sign at 1801 St. Paris Pike in a Residential Sign District. Seconded by Ms. Gaier.

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

1. There is no opposition.
2. Similar signs have been approved in similar areas for churches.
3. The sign would have an automatic dimming sensor.

YAYS: Mr. Ryan, Mr. Brown, Mr. Burkhardt, Ms. Zimmers, Ms. Gaier and Ms. Williams.

NAYS: None.

Motion Approved 6 to 0

SUBJECT: Case #18-A-17 Request from Jeannette Anderson for a conditional use permit for a community center at 1735 Clay St. in a RS-8, Medium-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 to start a community center. The center would focus on helping pre-kindergarten aged kids prepare for school and other community-centered activities.

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 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.

- (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.

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

Ms. Zimmers asked if there had been any opposition from the neighbors.

Mr. Thompson explained that he received a phone call from a neighbor that had questions. Mr. Thompson stated he explained the intention and the neighbor didn't have any concerns.

Ms. Zimmers asked about the licensing and other permits that the applicant would need.

Mr. Thompson explained the first step was going through zoning. Mr. Thompson explained that the building would need inspected by the building and fire department upon zoning approval.

Ms. Gaier questioned if the conditional use permit was different from the conditional use that was approved for the daycare facility on Lagonda Avenue.

Mr. Thompson explained that it was different because it would not be a daycare center, it would be a learning center to get young kids ready for school.

Ms. Zimmers asked if there would be certain hours of operation.

Mr. Thompson stated that would be a question for the applicant.

Mr. Ryan stated there wasn't any parking and questioned if that would be an issue.

Mr. Thompson explained that it would not be an issue due to the fact that the building is an existing structure and there was on street parking available.

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

Ms. Jeannette Anderson, 2071 Portage Path, Springfield, OH, asked what the hours of operation would be and the age range of the children attending. Ms. Anderson explained that the hours would be in the morning- afternoon, 8:00 a.m. - 3:00 p.m. Ms. Anderson stated the idea would be to target preschoolers to get them ready for kindergarten. Ms. Anderson explained young people in the community suggested tutoring after school as well and would take the hours to 7:00 p.m. at the latest. Ms. Anderson explained the tutors would be volunteers from local colleges. Ms. Anderson explained her reasoning behind wanting to open the learning center. Ms. Anderson explained the learning center would hopefully be a stepping stone in revitalizing the surrounding area.

Ms. Williams questioned how many teachers would be there.

Ms. Anderson explained that the teachers would be volunteers and explained that she has several volunteers interested.

Ms. Williams questioned how many students would the learning center take at one time. Ms. Anderson explained that the getting the zoning approved would be the first step and then the after the inspections the fire department would give her the amount of children/ people that would be allowed. Ms. Williams explained that the structure used to be a house and has a full service kitchen. Ms. Anderson explained some of the parents in the area do not know how to cook, Ms. Anderson stated she was not going to have cooking classes but could show them the basics of how to cook if needed. Ms. Anderson explained the importance of education and

community.

Ms. Williams asked if the board had any further questions. Hearing none, 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. Gaier made a motion to close the public hearing. Seconded by Ms. Zimmers. Approval by voice vote.

Ms. Williams stated that the public hearing was now closed and asked for a motion to approve Case #18-A-17.

MOTION: Motion by Mr. Burkhardt to approve Case #18-A-17 Request from Jeannette Anderson for a conditional use permit for a community center at 1735 Clay St. in a RS-8, Medium-Density, Single-Family Residence District. Seconded by Ms. Zimmers.

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

1. It will be a benefit to the neighborhood.
2. There is no opposition.
3. It is a good use of a vacant structure.

VOTE:

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

NAYS: None.

Motion Approved 6 to 0

Board Comments:

Board members parking in the basement and possibly mailing card keys with packet. Mr. Thompson explained the board would not be able to get key cards. Ms. Williams asked for Mr. Thompson to ask them to reconsider.

Staff Comments:

None.

Subject: Adjournment

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

Ms. Williams adjourned the meeting at 7:21 pm.

A handwritten signature in cursive script, appearing to read "Denise Williams".

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