

BOARD OF ZONING APPEALS

Springfield, Ohio

Monday, May 20, 2019

7:00 P.M.

City Forum, City Hall

Meeting Minutes

(Summary format)

Chairperson Dori Gaier called the meeting to order at 7:00 P.M.

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

MEMBERS ABSENT: Ms. Denise Williams and Mr. James Burkhardt

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

SUBJECT: Approval April 15, 2019 meeting minutes.

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

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

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

Case #19-A-16 Request from Paul Dowdy for a variance from Chapter 1155.06 for a single-color digital dynamic display sign at 200 Snyder St. in a RS-5, Low-Density, Single-Family Residence District.

Ms. Gaier 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 1155.06 to add a single-color digital dynamic display to an existing sign. The new display will replace the existing lower portion of the sign and not increase the overall area of the sign.

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.

2. Whether the variance is substantial;

Staff Comment: Yes. Digital dynamic displays are not permitted in Residential Sign Districts. However, multiple digital displays have been approved for churches.

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. The property is located along major commercial corridor.

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 property was purchased prior to the change in the sign code.

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

Staff Comment: Yes. A digital display could not be added.

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 for a variance from Chapter 1155.06 for a single-color digital dynamic display.

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

Ms. Anderson questioned if there had been any complaints.

Mr. Thompson stated there had been no complaints.

Mr. Ryan questioned the current zoning on the lot.

Mr. Thompson stated the lot was zoned RS-5, low density, single family residence district. Mr. Thompson stated he assumed the property was rezoned back in 2001 when the entire city was rezoned. Mr. Thompson explained the structure may have been lumped into the zoning even though it was not a residential structure.

Ms. Zimmers questioned what was across the street.

Mr. Thompson stated the former Hardees restaurant and Super Dave's Drive Thru was across the street.

Ms. Gaier stated it was all commercial across the street.

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

Mr. Paul Dowdy, 339 Tamarack Dr. Springfield, OH, stated he represented the church at 200 Snyder St. Mr. Dowdy thanked the board and Mr. Thompson. Mr. Dowdy explained the sign actually had three colors available but would use only one if that was what they needed to do. Mr. Dowdy explained the church planned to purchase the ambient light sensor with the sign as well.

Ms. Gaier stated similar signs that were approved in the past had the sensor on them.

Mr. Dowdy questioned if the sign could be approved as a multi-color digital sign.

Mr. Gaier asked Mr. Thompson about switching from a single-color digital sign to a multi-color digital sign would be ok.

Mr. Thompson explained the board would include the change in their motion.

Ms. Gaier asked if single-color digital signs were the only signs approved in the past.

Mr. Thompson stated he believed that was correct but would have to check.

Ms. Zimmers questioned if the schools had single –color digital signs.

Mr. Thompson stated he believed that to be true.

Ms. Zimmers questioned what the difference was between a single-color and a multi-color digital sign.

Mr. Thompson explained single- color would be one color for the background and lettering. Multi-color would multiple colors and could also have static images. Mr. Thompson explained images were not allowed. Mr. Thompson stated the applicant told him the sign would be limited to three colors on the sign they were ordering.

Mr. Dowdy explained they would only use one color at a time and the color options would be red, yellow and green.

Ms. Zimmers explained she was just trying to understand the coloring.

Ms. Gaier asked if the board had any questions for the applicant. Hearing none, Ms. Gaier asked if there was anyone else that wished to speak at that time. Hearing no further discussion, Ms. Gaier asked if there was a motion to close the public hearing.

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

Ms. Gaier stated that the public hearing was now closed and asked for a motion to approve Case #19-A-16.

MOTION: Motion by Mr. Ryan to approve a variance from Chapter 1155.06 for a multi-color digital dynamic display sign at 200 Snyder St. in a RS-5, Low-Density, Single-Family Residence District. Seconded by Ms. Anderson.

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

1. There were no objections.
2. The sign will have an ambient light meter to adjust sign brightness based on ambient light.

YEAS: Ms. Zimmers, Mr. Brown, Ms. Anderson, Mr. Ryan, and Ms. Gaier.

NAYS: None.

Motion Approved 5 to 0

Case #19-A-17 Request from Lisa Smedley for a variance from Chapter 1156.01(b) for a privacy fence in a front yard setback at 1737 Stratford Pl. in a RS-5, Low-Density, Single-Family Residence District

Ms. Gaier 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 1156.01 to construct a privacy fence over 2.5 feet tall in a front yard. The applicant constructed privacy fence along Englewood Rd, which is considered a front yard since it is a corner lot. The fence is set back from the back of the sidewalk and does not interfere with visibility of traffic.

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.

2. Whether the variance is substantial;

Staff Comment: Yes. However, the fence is setback from the back of the sidewalk.

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. There are other fences of this type in the area.

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: No.

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

Staff Comment: Yes. The fence could be moved back to match the setback of the house.

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

Staff Comment: Yes. The fence is setback from the back of the sidewalk, which is the intent of this code to maintain a certain aesthetic.

STAFF RECOMMENDATION:

Approval for a variance from Chapter 1156.01(b) for a privacy fence over 2.5 feet tall in a front yard setback.

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

Ms. Gaier asked if there were any complaints.

Mr. Thompson stated there were no complaints.

Ms. Gaier asked if the board had any questions for Mr. Thompson. Hearing none, Ms. Gaier asked if the applicant wished to speak. Hearing none, Ms. Gaier asked if there was anyone else that wished to speak at that time. Hearing no further discussion, Ms. Gaier asked if there was a motion to close the public hearing.

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

Ms. Gaier stated that the public hearing was now closed and asked for a motion to approve Case #19-A-17.

MOTION: Motion by Mr. Brown to approve a variance from Chapter 1156.01(b) for a privacy fence in a front yard setback at 1737 Stratford Pl. in a RS-5, Low-Density, Single-Family Residence District. Seconded by Ms. Zimmers.

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

1. There were no objections.
2. It is set back from the sidewalk.
3. It fits in with the neighborhood.

YEAS: Ms. Zimmers, Mr. Brown, Ms. Anderson, Mr. Ryan, and Ms. Gaier.

NAYS: None.

Motion Approved 5 to 0

Board Comments:

None.

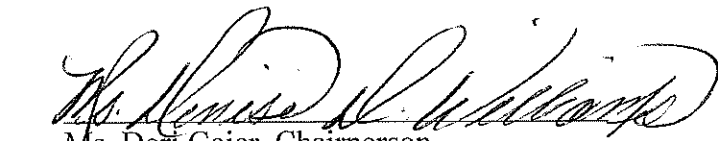
Staff Comments:

None.

Subject: Adjournment

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

Ms. Gaier adjourned the meeting at 7:22 pm.



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