



CITY of MEDINA

Board of Zoning Appeals

Board of Zoning Appeals

Meeting Date: January 10, 2019

Meeting Time: 5:30 pm

Present: Brandilyn Fry, Sam Livingston (alternate), Bert Humpal, Rob Henwood, Mark Williams, Jonathan Mendel, (Community Development Director), Sandy Davis (Administrative Assistant)

Absent: Paul Roszak

Mr. Humpal swore in Rob Henwood for a new term on the Board of Zoning Appeals ending on 12/31/21.

Mr. Henwood made a motion to approve the minutes of December 13, 2018 meeting as submitted. The motion was seconded by Mrs. Fry.

Vote:

Fry	<u>Y</u>
Humpal	<u>Y</u>
Williams	<u>abstain</u>
Henwood	<u>Y</u>
Livingston	<u>Y</u>
Approved	4-1

Mr. Henwood made a motion to retain Bert Humpal as Chairman and Mark Williams as Vice-Chairman for 2019. The motion was seconded by Mr. Livingston.

Vote:

Fry	<u>Y</u>
Humpal	<u>Y</u>
Williams	<u>Y</u>
Henwood	<u>Y</u>
Livingston	<u>Y</u>
Approved	5-0

The Court Reporter swore in all attendees.

New Business:

1. Z19-01 901 W. Smith Rd. Centerra Group VAR
Mr. Mendel gave a brief overview of the case. Mr. Mendel stated Ellet Sign Company is representing Centerra Coop. Mr. Mendel stated this is a variance to Section 1147.06(c)(4) of the Planning and Zoning Code to permit a third canopy sign on the existing canopy when a third sign is not permitted.

Mr. Mendel stated the property is zoned I-1 Industrial. Mr. Mendel stated the business is on the north side of the 900 block of West Smith Road

Mr. Mendel stated the applicant requests a variance for a third 22.9 square foot canopy sign for Centerra on the west side of the existing filling station canopy, which is not permitted by Section 1147.06(c)(4) of the Planning and Zoning Code.

Mr. Mendel stated this section of the code defines when a façade may be considered a building frontage on which a canopy sign may be placed. Mr. Mendel stated in specific situations a primary and secondary sign may be permitted, but a third sign is explicitly prohibited.

Mr. Mendel stated when a sign variance is requested, as in this case, a practical difficulty must exist. Mr. Mendel stated there are seven factors that the BZA should consider when evaluating whether or not a practical difficulty exists. Mr. Mendel stated the Board shall weigh the following factors to determine whether an area variance should be granted:

1. ***Construction of a conforming sign would obstruct the vision of motorists or otherwise endanger public health.***

Mr. Mendel stated this is not applicable as the applicant can be approved for the following conforming signage – two new canopy signs and a new ground sign.

2. ***A conforming sign would be blocked from the sight of passing motorists due to existing buildings, trees, or other obstructions.***

Mr. Mendel stated the possible conforming signage (two canopy signs and ground sign) should be readily visible to drivers on W. Smith Road and within the subject site.

3. ***Construction of a conforming sign would require removal or severe alteration to significant features on the site, such as removal of trees, alteration of the natural topography, obstruction of a natural drainage course, or alteration or demolition of significant historical features or site amenities.***

Mr. Mendel stated none of the possible conforming signage would require severe alteration to significant site features.

4. *A sign that exceeds the allowable height or area standards of this Ordinance would be more appropriate in scale because of the large size or frontage of the premises or building.*

Mr. Mendel stated the proposed third canopy sign would be in addition to two permitted canopy signs on the south and east sides of the canopy and a new ground sign on the south side of the subject property providing visibility to the drivers on West Smith Road.

5. *The exception shall not adversely impact the character or appearance of the building, lot or the neighborhood.*

Mr. Mendel stated the proposed third canopy sign may impact the subject site's or the immediate vicinity's character as the proposed sign may negatively add to the amount of existing signage already present in the neighborhood.

6. *The variance sought is the minimum necessary to allow reasonable use, visibility, or readability of the sign.*

Mr. Mendel stated the possible conforming signage on the subject site could be considered readily visible from all appropriate vantage points inside and outside the subject site.

7. *The variance will be consistent with the general spirit and intent of this Ordinance.*

Mr. Mendel stated sign regulations are established in the Planning and Zoning Code to promote clarity in sign communications; to balance sign communications; to promote a harmonious relationship between sign types, sign locations and land uses; and to protect the public health, safety and welfare from the hazards resulting from indiscriminate placement.

Mr. Mendel stated the BZA must weigh the above seven factors for the requested variance and determine if a practical difficulty exists that would merit a variance from Section 1147.06(c)(4).

Present for the case was Debbie Kuhar, Ellett Sign, 3041 East Waterloo Road, Akron, Ohio. Ms. Kuhar stated with the sign being set back from the road, visibility may be compromised. Ms. Kuhar stated this is the reason for requesting the logo on 3 sides. Ms. Kuhar stated it makes people more comfortable if they are not familiar with the area and they can see the signs while approaching the site.

Ms. Kuhar stated the Centerra Group would also like the third sign for easy identification. Ms. Kuhar explained what will be changed with the monument sign which is not part of this application and will be addressed before the Planning Commission later in the evening.

Mr. Humpal stated for the record the west side of the canopy facing the west where there is a 1.5 story building next door.

Mr. Williams asked if there is currently a sign on all sides of the canopy. Mr. Mendel stated there is not.

Ms. Kuhar stated the logo would be centered on all elevations. Mr. Williams stated he is having difficulty finding a practical use for the west facing sign since it is a strictly prohibited use which the board must be really careful about randomly approving a strictly prohibited use. Mr. Williams stated the canopy is far enough back from the street that he does not personally see a utility for making a legal exception, especially since the city has set the standard.

Mr. Henwood stated he understands all that the applicant was saying however, it is important that the applicant understand the criteria for the board to consider for a variance is established very clearly in the regulations which Mr. Mendel reviewed. Mr. Henwood stated Mr. Mendel talked about the elements that make a variance able to demonstrate that a practical difficulty exists. Mr. Mendel stated none of the arguments presented by the applicant addressed the question as to a practical difficulty exists given the criteria the board is to consider. Mr. Henwood stated he does not see a basis for the variance at all.

Ms. Kuhar stated she is new and maybe did not present her case very well. Ms. Kuhar stated the customer is looking at ease of identification when notifying clients where to go. Ms. Kuhar gave examples of getting lost and not seeing the signage.

Mr. Henwood stated the applicant must make the argument based on the rationale that the board is permitted to accept and these arguments do not do that.

Ms. Kuhar asked if the board would allow two elevations. Mr. Henwood stated two elevations are permitted. Ms. Kuhar asked the board if they are agreeable with the front logo facing 901 W. Smith Road and another on one of the other east or west side. Ms. Kuhar stated she thinks her client will be fine with two signs.

Mrs. Fry recommended the second sign go on the west side because on the east side the building next door extends out very far and the sign would not be visible until you are on top of it.

Ms. Kuhar stated the sign would be centered on the façade.

Mr. Henwood made a motion to deny the variance for the third canopy sign on the basis that the variance is not the minimum necessary to allow reasonable use, visibility, readability of the sign and it is not consistent with the general spirit and intent of the ordinance.

Mr. Williams seconded the motion.

Vote:

Williams	<u>Y</u>
Fry	<u>Y</u>
Humpal	<u>Y</u>
Henwood	<u>Y</u>
Livingston	<u>Y</u>
Approved	5-0

2. Z19-02 941 N. Court Street Aspen Dental VAR

Mr. Mendel gave a brief overview of the case. Mr. Mendel stated this is a variance request for 941 N. Court Street with FastSigns representing Aspen Dental.

Mr. Mendel stated there are two separate variances. One is for a variance request from Section 1147.06(c)(4) of the Planning and Zoning Code to permit permanent window signs on the south building façade where they are not a permitted as it is not a building frontage for window signage purposes and a second variance from Section 1147.14(e) of the Planning and Zoning Code to allow 100% window signage area per window when 25% window signage area is allowed per window on the east building façade.

Mr. Mendel stated the business is located in the south tenant space of the new building at the north end of Medina Shopping Center. Mr. Mendel stated the property is zoned C-3 Commercial.

Mr. Mendel stated when a sign variance is requested, as in this case, a practical difficulty must exist. Mr. Mendel stated there are seven factors that the BZA should consider when evaluating whether or not a practical difficulty exists. Mr. Mendel stated the Board shall weigh the following factors to determine whether an area variance should be granted:

1. Construction of a conforming sign would obstruct the vision of motorists or otherwise endanger public health.

Mr. Mendel stated this is not applicable as the applicant has already constructed conforming signs permitted under the zoning code (wall sign and tenant panel in the ground sign) and the proposed are window signs.

2. A conforming sign would be blocked from the sight of passing motorists due to existing buildings, trees, or other obstructions.

Mr. Mendel stated conforming wall and ground signs have already been approved and installed on this property identifying the tenant/business. Mr. Mendel stated the proposed window signs appeared to be intended to provide sales/services information for actual and potential customers. Mr. Mendel stated on the premise or passing the site, customers' view of conforming window signage may be not blocked.

3. Construction of a conforming sign would require removal or severe alteration to significant features on the site, such as removal of trees, alteration of the natural topography, obstruction of a natural drainage course, or alteration or demolition of significant historical features or site amenities.

Mr. Mendel stated no conforming window signage proposed for the east façade would require severe alteration to significant site features.

4. A sign that exceeds the allowable height or area standards of this Ordinance would be more appropriate in scale because of the large size or frontage of the premises or building.

Mr. Mendel stated the proposed window signs on the east façade of the tenant space may be considered appropriate to the scale of the building, but it is still four times larger than the 25% maximum coverage permitted.

Mr. Mendel stated the proposed window signs are not permitted for the south building façade due to the façade design. It is a 100% variance and could be considered inappropriate.

5. The exception shall not adversely impact the character or appearance of the building, lot or the neighborhood.

Mr. Mendel stated the proposed wall sign may impact the subject building's or the immediate vicinity's character as the proposed signs may negatively add to the amount of existing signage already present within the subject site and neighborhood.

6. The variance sought is the minimum necessary to allow reasonable use, visibility, or readability of the sign.

Mr. Mendel stated the proposed window signs for the east façade would be readily visible from all appropriate vantage points and the window signs' messages on the east façade could be easily communicated with conforming signage.

7. The variance will be consistent with the general spirit and intent of this Ordinance.

Mr. Mendel stated sign regulations are established in the Planning and Zoning Code to promote clarity in sign communications; to balance sign communications; to promote a harmonious relationship between sign types, sign locations and land uses; and to protect the public health, safety and welfare from the hazards resulting from indiscriminate placement.

The BZA must weigh the above seven factors for the requested variance and determine if a practical difficulty exists that would merit a variance from Sections 1147.06(c)(4) and 1147.14(e).

Present for the case was Paul Brilla from FastSigns representing Aspen Modernistic. Mr. Brilla stated the reason for the variance request is because they share the parking lot on the south corner which has a lot of window and drive through traffic so they would like to utilize the windows. Mr. Brilla stated with the corner suite, they have a lot of windows and the zoning code says 25% allowable of the actual window pane. Mr. Brilla stated the proposed signs are taking up 100% of the window pane area of one pane. Mr. Brilla stated the east façade window signage is basically their business model as they are a national brand. Mr. Brilla stated this is what they use at every location and they ask for a variance if it is not permitted. Mr. Brilla stated his client states that businesses that are not allowed the window graphics see a reduced income. Mr. Brilla stated it helps grow their business and spread their promotions. Mr. Brilla stated this is what they have expressed to him.

Mr. Brilla stated he brought a sample as there are two ways to apply this to the window. Mr. Brilla stated one way would be a full vinyl decal to cover 100% of the window and then a second option is to use a different material, Window-Perv, which would still be exceeding the 25% but people inside the building can see out but people outside cannot see in too easily. Mr. Brilla proposed 50/50 Window-Perv so ½ the window is printable and ½ is full glass.

Mr. Brilla stated with the scale of the building he does not think the requested window signage will impact the building much.

Mr. Humpal addressed the board to let them know the same applicant came before them last month regarding the south side wall sign variance. Mr. Humpal stated he wanted to inform the two board members that were not present at that meeting that the variance was denied at that meeting.

Mr. Henwood stated the board is limited to consider the variance based on the 7 factors for a practical difficulty. Mr. Henwood stated based on what has been presented does not present a practical difficulty and he will not approve a variance for either request.

Mr. Brilla asked if a financial loss would demonstrate a practical difficulty. Mr. Humpal stated it is not proven so it does not. Mr. Livingston stated there are three other dental offices on the same street who are subject to the same sign regulations so he is not sure the argument can be made that Aspen would be harmed if everyone is following the same code.

Mr. Brilla asked if he came back with profits and losses of businesses that have window graphics and ones that do not, would that be a practical difficulty. Mr. Livingston stated no because they need to look at the 7 criteria for a practical difficulty. Mr. Livingston

stated the argument about a loss in revenue does not fall into the practical difficulty parameters at all.

Mrs. Fry asked if the board is reviewing this based on the fact it is an applied window graphic versus a paper or vinyl sign put in the window.

Mr. Mendel stated yes, a paper or vinyl sign intent is not to be permanent. Mr. Mendel stated applied vinyl signage intent is a permanent explanation of services and products. Mr. Mendel stated temporary signs are limited in duration per year and in square footage.

Mr. Humpal stated if the east side window signage was 25% of the window pane, a variance would not be required. Mr. Mendel stated that is correct.

Mr. Mendel stated the window storefront systems with large mullions are a difficulty for signage. Mr. Mendel stated if the storefront was one large pane of glass, 25% of that area would be permitted.

Mr. Williams stated because the mullions separate the pane, do they get 50% because of the Window-Perv if they use it, does it count as 50% area or are they still viewed as 100% area. Mr. Mendel stated the text itself looks to be 1/3 of the window pane, maybe 25% just eyeballing it. Mr. Mendel stated if the material was more see-through, it could be considered built in shading with the text on top of it and would need to be no more than 25% of the area of the pane, it would be ok.

Mr. Livingston stated his understanding is the outside will still show almost a full pane of background with the Window-Perv. Mr. Mendel stated that is correct.

Mr. Williams asked if the applicant uses the Window-Perv product, would it count as 50% coverage because of the holes in it or is it considered full coverage going with the outside outline. Mr. Mendel stated it would be considered full coverage unless it presents from the outside of the building as no background color or shading.

Mr. Williams stated last year a case came before the board which had a provision of medical services for the signage. Mr. Williams stated he feels the board should be consistent with their thought process. Mr. Williams stated a variance was granted at that time based on a doctor saying the residents have a need to know those medical services were available. Mr. Williams stated he disagreed with that variance at that time because there was another option available.

Mrs. Fry asked if the area shown in white would be the perforated material to appear solid or transparent. Mr. Brilla the white areas are emulating glass and they will stay glass and the blue areas are the graphics.

Mr. Williams stated he sees no hardship for the south side signage. Mr. Brilla stated the thought process from his client is since they were denied the illuminated sign on the

building so they would like to incorporate something smaller and more allowable as a window graphic with the traffic at the site. Mr. Henwood stated it is not allowable.

Mr. Humpal suggested making a motion on the variance for the south side and having the applicant come back with a new proposal for the east side.

Mr. Henwood stated it is up to the applicant and he is going to say no to the south side variance. Mr. Henwood stated if the applicant would like to present something new for the east side, he would need to request a continuance. Mr. Henwood stated he would vote no for the east side as well since a practical difficulty has not been demonstrated.

Mr. Brilla asked for clarification of proof of the practical difficulty. Mr. Henwood stated they were reviewed by Mr. Mendel as the 7 practical difficulties. Mr. Henwood reviewed the 7 criteria and clarified their meaning.

Mr. Henwood stated the only argument presented has been that the client wants it.

Mrs. Fry stated she thinks there are solutions that would meet the requirements for the east façade.

Mr. Henwood suggested working with the city staff for a solution try to conform with the regulations. Mr. Henwood stated there is no practical difficulty.

Mr. Humpal asked the applicant if he would like to table the variance request for the east side to give him time to work with his client. Mr. Brilla stated he would say no, he would prefer to go back to the drawing board with his client since they are not proving any practical difficulty.

Mr. Mendel stated the applicant has a right to a decision by the Board of Zoning Appeals or a right to continue they case themselves. Mr. Mendel stated the board could address each variance separately.

Mr. Henwood made a motion to deny the request for a variance to Section 1147.06(c)(4) to permit permanent window signs on the south building façade where they are not permitted as it is not a building frontage for window signage purposes. The denial is based on the finding that granting the variance is not the minimum necessary to allow for reasonable use, visibility, readability of the sign and granting the variance is not consistent with the general spirit and intent of the ordinance.

Mr. Williams seconded the motion.

Vote:

Williams	<u>Y</u>
Fry	<u>Y</u>
Humpal	<u>Y</u>
Henwood	<u>Y</u>

Livingston Y
Approved 5-0

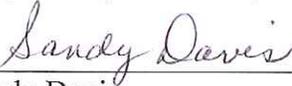
Mr. Henwood made a motion to deny a variance to Section 1147.14(e) to allow a 34.7 sq. ft. window sign on the east façade or 100% window signage area per window when 25% window signage area is allowed per window on the east building façade based on the finding that the variance is not the minimum necessary to allow for reasonable use, visibility, readability of the sign and granting the variance is not consistent with the general spirit and intent of the ordinance.

The motion was seconded by Mr. Livingston.

Vote:
Williams N
Fry Y
Humpal Y
Henwood Y
Livingston Y
Approved 4-1

Having no further business, the meeting was adjourned.

Respectfully submitted,



Sandy Davis



Bert Humpal, Chairperson