



CITY of MEDINA

Board of Zoning Appeals

Board of Zoning Appeals

Meeting Date: November 12, 2015

Meeting Time: 6:00 pm

Present: Bert Humpal, Mark Williams, Kris Klink, Jim Bigam, Jonathan Mendel, (Community Development Director), Justin Benko (Associate Planner), Sandy Davis (Administrative Assistant)

Absent: Mark Pinskey

Minutes: Due to not having a quorum present of the board members who attended the October meeting, the meeting minutes from October were not presented for approval at this time.

Announcements: None

Old Business: None

New Business:

1. Z15-30 1035 Burntwood Drive Nick Shimanayez VAR

Mr. Benko gave a brief overview of the case. Mr. Benko stated this is a variance request from Section 1155.01(C) of the Planning and Zoning Code to allow a six foot tall fence in the front yard when a three feet tall fence is permitted by code.

Mr. Benko stated the property is located on the northeast corner of the Jasper Lane and Burntwood Drive intersection.

Mr. Benko stated the applicant has proposed a six feet tall fence for the rear yard that continues into the side yard and stops fifteen feet from the sidewalk. Mr. Benko stated the house is located on a corner lot, and per Code section 1113.05 (D), properties are required to meet the minimum front yard setbacks facing both streets. Mr. Benko stated the applicant has submitted a variance request to section 1155.-1(c) of the Planning and Zoning Coe to allow a six foot tall fence in the front yard.

Mr. Benko stated the existing site can still be utilized as a single family residential dwelling without the grant of a variance.

Mr. Benko stated the fence is three feet taller or 100% taller than what is allowed by code.

Mr. Benko stated the essential character of the neighborhood may not be substantially altered. Mr. Benko stated the fence will be located 15 feet from the closest sidewalk

Mr. Benko stated the fence could be limited to the rear yard or reduced in size to three feet.

Mr. Benko stated the intent is to maintain an open look in front and corner lot side yards throughout the City by limiting fence heights within the front yards to maximum 3 feet tall, open designs.

Present for the case was property owner Nick Shimanayev. Mr. Shimanayev stated they would like to put a fence around the yard because it is a corner lot and putting a fence any other way would hinder the use of the yard. Mr. Shimanayev stated he would like the fence for privacy and safety for his children.

Mr. Humpal asked if the neighbors have been notified. Mr. Benko stated yes and there have been no responses.

Mr. Bigam asked the type of fence. Mr. Shimanayev stated it will be a typical wooden dog eared, pre-manufactured privacy fence, 6 feet tall, either treated or painted. Mr. Shimanayev stated there will be no opening between the slats.

Mr. Shimanayev stated the six foot fence will be 15 feet from the concrete sidewalk on Jasper Lane. Mr. Benko reviewed other fences in the area that are six feet tall.

Patrick from 1041 Burntwood, an adjoining property owner, stated after listening to the proposal, he has no objections but does have a suggestion. Patrick suggested pushing back the fence from the corner of the garage.

Mr. Shimanayev stated he would be willing to move the fence back a few feet if it is necessary for approval.

Mr. Williams stated the spirit of the code requirement is that the neighborhood be open. Mr. Williams stated this would put a six foot barrier within 15 feet of the sidewalk. Mr. Williams stated he thinks this is what Chairman Humpal is concerned about. Mr. Humpal stated that is correct.

Mr. Williams stated he would be more comfortable if the fence were pushed back from the corner of the garage a few feet or more.

Mr. Shimanayev stated there are two properties in the neighborhood, one on Timber Trail where the fence is up against the sidewalk, and another on Timber Trail which is a corner property that has a fence within 15 to 18 feet of the sidewalk.

Mr. Mendel stated until the updates were completed on the Planning and Zoning Code last year, the fence requirements did allow for this scenario. Mr. Mendel stated the old fence code requirements allowed up to a six foot fence at a minimum of ten feet from a front property line. Mr. Mendel stated what is being proposed tonight would have been approved without a variance under the old fence code requirements.

Mr. Shimanyev stated when they purchased the property in May of this year, they looked at similar fences in the neighborhood which all indicated that his request was permitted.

Mr. Klink made a motion to approve a variance to Section 1155.01(C) of the Planning and Zoning Code to allow a six foot tall fence in the front yard when a three feet tall fence is permitted by code, at 1035 Burntwood Drive, based on the finding that the essential character of the neighborhood would not be substantially altered. Mr. Klink stated the approval is subject to the fence along the Burntwood Drive be set back 10 feet from the corner of the garage.

The motion was seconded by Mr. Williams.

Vote:

Humpal	<u>N</u>
Klink	<u>Y</u>
Williams	<u>Y</u>
Bigam	<u>Y</u>
Approved	3-1

2. Z15-32 Burger King 971 N. Court Street VAR

Mr. Benko gave a brief overview of the case. Mr. Benko stated this is a variance request from Section 1147.14(D) of the Planning and Zoning Code to allow a second wall sign to be installed on the side of the building, a variance request from Section 1147.14(B) of the Planning and Zoning Code to allow a second ground sign to be installed at the rear of the property.

Mr. Benko stated the applicant is seeking a variance for a second wall sign and a second ground sign for the Burger King Restaurant. Mr. Benko stated the applicant is also seeking site plan approval for façade changes at the November 12, 2015 Planning Commission meeting. Mr. Benko stated the proposal reduces the dining room in the front of the building by eight feet. Mr. Benko stated the proposal calls for updated facades to provide a more modern look to the restaurant.

Mr. Benko stated there is a wall sign fronting N. Court Street with the Burger King name in white channel letters with a small Burger King logo. Mr. Benko state the applicant is proposing a Burger King logo sign for the front of the building, and since the property is located on a corner lot, the applicant is proposing a second Burger King logo sign for the

secondary frontage and is seeking a variance to allow for a second logo sign on the secondary frontage.

Mr. Benko stated Burger King currently has a legal non-conforming Pole sign that will be taken as part of the ODOT widening of North Court Street. Mr. Benko stated the applicant has proposed a code compliant ground sign for North Court Street. Mr. Benko stated the applicant believes traffic will increase on Northland Drive once the ODOT widening of N. Court Street begins. Mr. Benko stated the applicant is seeking a variance for a second identical ground sign to be located at the rear of the building by the Northland Drive entrance.

Mr. Benko stated the proposed ground sign provided with the packet was larger than the actual submittal so a copy of the compliant ground sign has been obtained.

Mr. Benko stated a conforming sign would not obstruct the vision of motorists or otherwise endanger public health. Mr. Benko stated this factor is not applicable because the request is not a sign size or sign location variance but rather a variance to allow additional signage.

Mr. Benko stated the variance request does not affect the size of the sign. Mr. Benko stated the second wall sign may be appropriate because the south wall has the primary entrance for the restaurant. Mr. Benko stated the additional logos may look appropriate in scale with the modernization of the exterior of the building.

Mr. Benko stated the second ground sign may be appropriate in scale for the rear of the building because during the ODOT widening of N. Court Street, and upon completion, the Northland Drive entrance will serve as the primary entrance for the restaurant.

Mr. Benko stated the second wall sign may be consistent with the district. Mr. Benko stated Arby's restaurant to the north and Dickey's BBQ pit across the street have additional wall signage.

Mr. Benko stated the second ground sign may not adversely impact the neighborhood. Mr. Benko stated First Merit Bank is located on the northeast corner of the N. Court Street and Northland Drive intersection. Mr. Benko stated First Merit Bank has one ground sign fronting N. Court Street and a second ground sign fronting Northland Drive.

Mr. Benko stated the variance sought is the minimum necessary for the second wall sign.

Mr. Benko stated the variance sought for the second ground sign is the minimum necessary because the sign would be located at a primary entrance for the restaurant along a well-traveled connector street.

Present for the case was Andy Riiel, Architect. Mr. Riiel stated he has no further comments at this time.

Mr. Humpal asked if any of the signs will have color, movement, or blinking. Mr. Riigel stated no.

Mr. Klink asked Mr. Riigel to walk through the application and show the board which signs will be removed and which signs are new. Mr. Riigel complied.

Mr. Riigel stated the new monument sign cannot be put in the front on N. Court Street because there is a 30 foot gas easement there.

Larry Hayward from Carrols Corporation addressed the board. Mr. Hayward stated along with the remodeling of the building, the signage fits the traffic flow with ODOT taking the front entrance. Mr. Hayward stated entering from N. Court Street will be a nuisance with all the traffic after the widening. Mr. Hayward stated there will only be one entrance onto the property after the ODOT project.

Mr. Mendel stated after the ODOT project, there will be no northbound left hand turning onto the site because there will be landscaped islands in the center of N. Court at the intersection of N. Court and Northland.

Mr. Hayward explained A3 is the additional sign and makes the site visible from Boardman Alley.

Mr. Riigel stated the A3 sign will be 10 feet back from the center portion of the building.

Mr. Bigam made a motion to approve a variance to Section 1147.14(D) of the Planning and Zoning Code to allow a second wall sign to be installed on the side of the building and a variance to Section 1147.14(B) of the Planning and Zoning Code to allow a second ground sign to be installed at the rear of the property at 971 N. Court Street, Burger King as submitted.

The approval is based on the finding that the variance shall not adversely impact the character or appearance of the building, lot, or neighborhood and the variance is the minimum necessary to allow reasonable use, visibility, or readability of the sign.

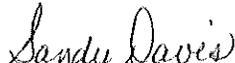
The motion was seconded by Mr. Williams.

Vote:

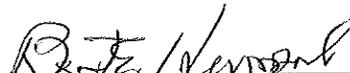
Humpal	<u>Y</u>
Klink	<u>Y</u>
Williams	<u>Y</u>
Bigam	<u>Y</u>
Approved	4-0

Having no further business, the meeting was adjourned.

Respectfully submitted,



Sandy Davis



Bert Humpal, Chairman