



CITY of MEDINA

Board of Zoning Appeals

Board of Zoning Appeals

Meeting Date: October 13, 2016

Meeting Time: 6:00 pm

Present: Bert Humpal, Brandilynn Fry (alternate), Paul Roszak, Rob Henwood, Mark Williams, Jonathan Mendel, (Community Development Director), Justin Benko (Associate Planner) Sandy Davis (Administrative Assistant)

Absent: Kris Klink

Minutes: Mr. Williams made a motion to approve the minutes from the September 8, 2016 meeting as submitted. Mr. Roszak seconded the motion.

Vote:

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

The Court Reporter swore in everyone who will give testimony.

Old Business: None

New Business:

1. Z16-20 119 N. Elmwood Renz Ins. Agcy. VAR

Mr. Benko gave a brief overview of the case. Mr. Benko stated this is a variance from Section 1129.07(a) of the Planning and Zoning Code to permit to construct two parking spaces in the front yard which is prohibited in the M-U District

Mr. Benko stated the property is located on the west side of N. Elmwood Avenue north of W. Liberty Street and south of W. Friendship Street.

Mr. Benko stated the applicant is proposing the addition of two parking spaces in the front yard for Rentz Insurance. Mr. Benko stated the property is located in the M-U

zoning district which prohibits parking in the front yard of the building. Mr. Benko stated due to the size of the parcel, there is not room for parking in the rear of the building; therefore, the applicant is seeking a variance to allow for the construction of two paved parking spaces in the front yard. Mr. Benko stated the parking spaces would be for customers.

Mr. Benko stated the existing site can still be used as an insurance agency without the granting of a variance.

Mr. Benko stated the variance may be substantial as it is a 100% variance from the code

Mr. Benko stated the essential character of the neighborhood may not be substantially altered. Mr. Benko stated this section of the M-U zoning district is all commercial and government uses. Mr. Benko stated similarly the property to the south, although fronting W. Liberty Street, has similar paving to the applicant's proposal along N. Elmwood. Mr. Benko stated additionally, the applicant proposes a landscaping buffer between the sidewalks and proposed parking spaces to soften the edge.

Mr. Benko stated the variance would not adversely affect the delivery of governmental services.

Mr. Benko stated the code requirements have been in effect for a significant time period and the owner had knowledge of the code requirements.

Mr. Benko stated the owner's predicament could not feasibly be obviated without a variance. Mr. Benko stated the subject's site is small and there is not sufficient space for compliant parking in the rear of the property.

Mr. Benko stated the likely intent of the requirements is to provide a standard and predictable amount of development and site disturbance for a given parcel and to encourage uniformity in the M-U district and maintain a more residential site character.

Mr. Benko 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 1129.07(a).

Present for the case was Dave Sabol, Architect, 10065 Echo Hill Drive, Brecksville, Ohio. Also present was Pat Renz, property owner. Mr. Renz stated he has lived in Medina since 2000 and moved the business to Medina in 2009. Mr. Renz stated he purchased the property in April with the intent of moving the agency into it.

Mr. Sabol stated the project consists of adding two parking spaces for customers and to improve the property and safety for customers to pull in and out from the street. Mr. Sabol stated by creating the parking spaces, customers will be able to pull out straight into the street rather than backing out. Mr. Sabol stated there are no other options on the site due to the layout of the backyard having very little available space. Mr. Sabol stated

the City staff has been very helpful in guiding him. Mr. Sabol stated they will do the landscaping on the outside once they determine if the variance is approved.

Mr. Henwood asked if joint or shared parking was considered. Mr. Renz stated the property to the left has apartments on the upper floor whose tenants use the parking spots.

Mr. Renz stated half of the area requested as parking is brick patio. Mr. Renz stated there was a deck there at one time which was removed. Mr. Renz stated the brick patio will be removed. Mr. Renz stated the parking in the rear of the property belongs to that property owner and is filled most of the day for their businesses. Mr. Renz stated they could probably use more parking. Mr. Renz stated his customers use the public parking much of the time and all of the staff park off site.

Mr. Renz stated he would landscape with box hedges. Mr. Williams asked if there is currently signage on the property. Mr. Renz stated he submitted a sign request to the city for a ground sign on the right side of the walkway.

Mr. Sabol stated the paving material will be concrete.

Mr. Roszak made a motion to approve a variance to Section 1129.07(a) of the Planning and Zoning Code to permit to construct two parking spaces in the front yard which is prohibited in the M-U District subject to a landscaping buffer being added to the sidewalk and parking area. Mr. Roszak stated the approval is based on the finding that the variance will not alter the essential character of the neighborhood or the adjoining properties and they will not suffer substantial detriment as a result of the variance.

The motion was seconded by Mr. Williams.

Vote:

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

Mr. Mendel gave an update on demolition of the Chamber of Commerce building and also the Masonic Temple building. Mr. Mendel stated a permit has been issued for the chamber building and environmental remediation will begin on the Masonic Temple on Monday for the inside of the building and the full structure demo will begin on August 28th and will take approximately 6 weeks.

2. Z16-21 232 W. Smith Cin-Dees Place VAR

Mr. Benko gave a brief overview of the case. Mr. Benko stated this is a variance request from Section 1147.07(J) of the Planning and Zoning Code to allow a 26.8 square feet, five feet eight inches tall electronic message center sign to be located in the TCOV where they are prohibited.

Mr. Benko stated the property is located on the south side of W. Smith Road west of S. Huntington Street and east of S. Court Street.

Mr. Benko stated the applicant is proposing the installation of a full color LED electronic message center sign. Mr. Benko stated the property is zoned C-2 and is located in the TCOV. Electronic message center signs are prohibited in the TCOV. The proposed sign is compliant in size and height.

Mr. Benko reviewed the following factors for the board to consider 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. Benko stated construction of a conforming sign would not obstruct the vision of motorists. Mr. Benko stated the request is for an EMC sign in an area where they are prohibited.

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

Mr. Benko stated conforming signage would not be blocked from the sight of passing motorists due to existing trees or other obstructions.

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. Benko stated conforming signage would not require removal or severe alteration to any significant features on the site.

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. Benko stated the variance is for size compliant EMC sign in an area where they are prohibited.

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

Mr. Benko stated the property is located in the TCOV. One of the primary objectives of the TCOV is to provide uniformity in the design standards applicable to arterial corridors having varied underlying zoning. Mr. Benko stated the property is zoned commercial and the properties directly across the street are occupied residential sites. Mr. Benko stated an LED sign may adversely impact the neighborhood due to the signs proximity to residential properties.

Mr. Benko stated the location of the existing sign is actually located on the neighboring property. Mr. Benko stated any new sign would need to be located 5 feet from the front lot line. Mr. Benko stated staff will work with the applicant to find a compliant location during the sign permitting process.

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

Mr. Benko stated the variance sought is the minimum necessary for the electronic message center sign because they are prohibited in the district. Mr. Benko stated a conforming non-EMC sign would be as visible and legible.

Present for the case was Andrew Kason, Vice President, Cin Dees Corporation. Mr. Kason stated the business is a bar and grille which has events that change weekly. Mr. Kason stated a standard message board would not be sufficient to inform the public of the events.

Mr. Kason listed the events that Cin Dees hosts. Mr. Kason stated the sign is currently located on Wheeling & Lake Erie's property which originally was owned by the bar. Mr. Kason stated there was an easement at that time and he is working to get a letter showing the business has permission to put the sign in that location if approved.

Mr. Humpal stated he knows there have been other businesses in the TCOV that have been granted permission for an EMC sign. Mr. Humpal asked if this is one of those districts. Mr. Mendel stated it is not.

Mr. Mendel stated he received an e-mail today from Mary Chiller, no address given. Mr. Mendel read the e-mail to the board as follows:

"I am writing in regards to the appeal filed by Andrew Kason for a variance to the zoning code that applied to the electronic message center sign. I live across the street from where he would like the sign placed. Having a glowing electronic sign across the street from where my family sleeps would be an added nuisance to what is already a busy area. The other homeowners in the neighborhood do not occupy those houses. That bright sign would have little effect on their daily lives but would have an effect

on property value. I understand Mr. Kason wanting to bring more attention to his business. But I cannot see how having an obnoxiously bright sign would be a benefit to the majority of the people in the area or the community. Thank you for your consideration in this matter. Sincerely, Mary Chiller”

Mr. Kason stated he understands Ms. Chiller’s concern about the bright light. Mr. Kason stated the sign is not all that bright and has dimming features at night.

Mr. Benko stated the code requires a photoelectric eye to be auto dimming.

Mr. Humpal stated the board has put time restrictions on this type of sign in the past. Mr. Kason stated he would be agreeable to turning it off at a time that is mutually acceptable.

Mr. Mendel stated the address for Mary Chiller is 213 W. Smith Road which is directly across the street from the applicant’s property.

Mr. Williams asked the reason for the EMC. Mr. Kason stated the copy is too difficult to change and the sign board would need to be too large in order to fit a week’s worth of information. Mr. Williams asked if all color is now permitted. Mr. Benko stated all color is permitted. Mr. Benko stated the time for message changes remains at 30 seconds. Mr. Benko stated animation is prohibited. Mr. Kason listed the types of messages that will be on the board.

Mr. Henwood stated he understands how the changeable copy would be valuable to this business but unfortunately, this district does not allow EMC signs. Mr. Kason stated the Eagles and Gionino’s Pizza received variances for EMC signage.

Mr. Williams stated his hesitation is the residential area the business is in.

Mr. Mendel stated the Eagle’s EMC sign was on Rt. 42, Lafayette Road, which is on a major highway on the very edge of the TCOV and is a much more consistently commercial area.

Mr. Mendel reminded the board that variances do not set precedence because every property is unique. Mr. Mendel stated the TCOV ends at the city owned railroad tracks underpass on Lafayette Road.

Mr. Henwood made a motion to disapprove the variance request to Section 1147.07(J) of the Planning and Zoning Code to allow a 26.8 square feet, five feet eight inches tall electronic message center sign to be located in the TCOV where they are prohibited based on the finding that the variance is not consistent with the general spirit and intent of the ordinance and it would have an adverse impact on the character and the appearance of the neighborhood.

The motion was seconded by Mrs. Fry.

Vote:

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

3. Z16-22 1004 N. Court Mattress Warehouse VAR

Mr. Benko gave a brief overview of the case. Mr. Benko stated this is a variance request from Section 1147.13 (C) of the Planning and Zoning Code allow a second 48.6 square foot wall sign to be installed on the front of the building instead of the maximum 12.5 sqft.

Mr. Benko stated the property is located on the east side of N. Court Street south of Reagan Parkway and north of Forest Meadows Drive.

Mr. Benko stated the applicant is seeking a variance for a second wall sign to face N. Court Street for the nearly completed Mattress Warehouse store. Mr. Benko stated the applicant was granted a sign permit for a compliant wall sign on the south façade which is above the customer entrance and faces the parking lot. Mr. Benko stated the proposed second wall sign is to identify the store to traffic traveling south on N. Court Street. Mr. Benko stated the proposed sign is identical in size and detailing to the sign on the south façade.

Mr. Benko stated the Board shall weigh the following factors to determine whether an area variance should be granted:

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

Mr. Benko stated construction of conforming signage would not obstruct vision of motorists.

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

Mr. Benko stated conforming signage would not be blocked from the sight of passing motorists due to existing trees or other obstructions. Mr. Benko stated the request is for a second wall sign in excess of area allowed by code on the N. Court Street façade.

- 9. 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. Benko stated conforming signage would not require removal or severe alteration to any significant features on the site.

10. *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. Benko stated buildings with secondary road frontage are permitted to have a secondary wall sign that is one square foot in area for every four feet of linear building frontage. Mr. Benko stated this building does not have secondary road frontage but an entrance on the one street frontage. Mr. Benko stated due to the large blank wall fronting N. Court Street, the size of the sign may appear appropriate in scale and may actually provide visual relief to the blank wall.

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

Mr. Benko stated the variance may not impact the character of the neighborhood. Several businesses on this section of N. Court Street have multiple walls signs. Mr. Benko stated the sign on the N. Court façade may provide some visual relief to the blank wall.

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

Mr. Benko stated the variance sought may not be the minimum necessary because the sign could be reduced in size to a code compliant 12.5 sqft. Mr. Benko stated the approved wall sign is not visible to traffic traveling south on N. Court Street.

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

Mr. Benko 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. Benko 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 code section 1147.13(C).

Present for the case was Ed Gonzales, owner of Pilot Signs. Mr. Gonzales stated the main reason for the signage is visibility for traffic coming from the north. Mr. Gonzales stated having a sign

on the west elevation looks better aesthetically. Ms. Fry asked who determined the location of the existing sign on the south elevation. Mr. Gonzales stated it is typically the owner and the tenant.

Mr. Henwood stated he is curious why the west elevation was not chosen first. Mr. Gonzales stated he is not sure. Mr. Benko stated the primary customer entrance is on the south elevation. Mrs. Fry asked who determines the primary and secondary signage location. Mr. Mendel stated the code reads that a business may have two signs if it is a corner building and the owner may choose which will be the primary and the secondary wall signs. Mr. Mendel stated in instances where the business entrance is not on the street facing side, they may have 2 signs. Mr. Mendel stated the owner in this instance chose the main sign to be on the south elevation over the customer entrance and they may still place a 12 sq. ft. sign on the west elevation. Mr. Mendel stated the applicant can decide which is the primary wall and which is the secondary wall.

Mr. Roszak asked if there is a free standing sign by the road. Mr. Gonzales stated there is not.

Mr. Benko stated the signage consists of just the block letters. Mr. Benko stated it would be compliant in size if they had chosen this as the primary frontage. Mr. Williams asked why that size is necessary on the front. Mr. Gonzales states it is about visibility. Mr. Gonzales stated if it was made to 12 sq. ft. the mattress would be about five inches tall.

Mr. Henwood stated he is uncomfortable with this situation because the zoning code is clear. Mr. Henwood stated it is more advantageous to have larger copy for visibility but he is not comfortable with allowing it.

Mrs. Fry asked if the sign on the south was moved to the west side, would it be in compliance. Mr. Benko stated it would be in compliance.

Mr. Williams stated he is inclined to grant the variance because of safety. Mr. Williams stated the west side is facing a very busy Rt. 42 and he does not want traffic slowing to look at the sign.

Mrs. Fry stated she agrees about safety but disagrees because she feels there should have been some thought to what the front of the building should be and where the primary sign should be placed before just putting a sign up on the south side and asking for forgiveness.

Mr. Roszak made a motion to deny a variance to Section 1147.13 (C) of the Planning and Zoning Code allow a second 48.6 square foot wall sign to be installed on the front of the building instead of the maximum 12.5 sqft. based on the finding that it is not necessary to allow reasonable use, visibility, or readability.

The motion was seconded by Mrs. Fry.

Vote:

Humpal	<u>Y</u>
Fry	<u>Y</u>
Williams	<u>N</u>
Henwood	<u>Y</u>
Roszak	<u>Y</u>
Approved	4-1

4. Z16-23 945 E. Smith Wade Kovach VAR

Mr. Benko gave a brief overview of the case. Mr. Benko stated this is a variance request to Section 1155.01 (C) of the Planning and Zoning Code to allow a 4 foot tall fence in the front yard when a 3 feet tall fence is permitted by code.

Mr. Benko stated the property is located on the northwest corner of the E. Smith Road and Yorkshire Drive intersection.

Mr. Benko stated the applicant has proposed a 4 feet tall open split rail fence for the rear yard that continues into the side yard and stops five feet from the sidewalk. Mr. Benko stated the fence will have 14 gauge welded wire on the inside of the fence. Mr. Benko stated the property is located on a corner lot, 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 1155.01 (c) of the Planning and Zoning Code to allow a four foot tall fence in the front yard. .

Mr. Benko stated the applicant shall show by a preponderance of the evidence that the variance is justified, as determined by the Board. Mr. Benko stated the Board shall weigh the following factors to determine whether an area variance should be granted:

A. *Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;*

Mr. Benko stated a fence can still be installed on the subject property without the granting of a variance.

B. *Whether the variance is substantial;*

Mr. Benko stated the fence is one foot or 55% taller than what is allowed by code.

C. *Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;*

Mr. Benko stated the essential character of the neighborhood may not be altered. Mr. Benko stated the fence is an open split rail fence design which may mitigate some of the visual impact on the neighborhood. Mr. Benko stated the neighbor to the rear (north) of the applicant has an identical fence.

D. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);

Mr. Benko stated the variance would not adversely affect the delivery of governmental services.

E. Whether the property owner purchased the property with knowledge of the zoning restrictions;

Mr. Benko stated the zoning ordinances were in effect when the applicant decided to build the fence.

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

Mr. Benko stated the fence could be placed thirty feet off of the sidewalk fronting Yorkshire Drive which would meet the required setbacks for fences on a corner lot or the fence could be reduced in size to three feet.

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

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.

Mr. Benko 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 1155.01 (C).

Present for the case was property owner Wade Kovach. Mr. Kovach stated the neighbor to the rear has the same fence and height and the adjacent corner property has the same fence with three rail split rail and mesh in between. Mr. Kovach stated this is a large section of the side lot and he would like to make this as part of his back yard. Mr. Kovach stated a three foot fence is too short for larger pets.

Mr. Henwood asked if this would require a setback variance as well. Mr. Mendel stated no, it is just to allow a four foot fence in the front yard.

Mr. Williams made a motion to approve a variance to Section 1155.01 (C) of the Planning and Zoning Code to allow a 4 foot tall fence in the front yard when a 3 feet tall fence is permitted by code base on the finding that the essential character of the neighborhood would not be altered because of the open design of the split rail fence.

The motion was seconded by Mr. Roszak.

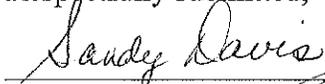
The motion was seconded by Mrs. Fry.

Vote:

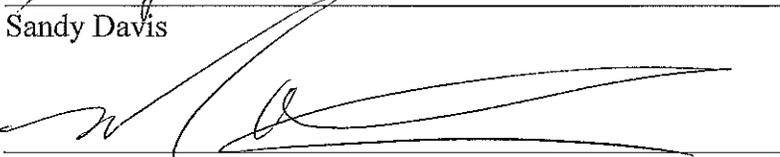
Humpal	<u>Y</u>
Fry	<u>Y</u>
Williams	<u>Y</u>
Henwood	<u>Y</u>
Roszak	<u>Y</u>
Approved	5-0

Having no further business, the meeting was adjourned.

Respectfully submitted,



Sandy Davis



~~Bert Humpal~~, Chairman

Mark Williams, Vice-Chair & Interim Chair