



CITY of MEDINA

Board of Zoning Appeals

Board of Zoning Appeals

Meeting Date: March 14, 2019

Meeting Time: 6:00 pm

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

Absent: None

Mr. Henwood made a motion to approve the minutes of February 14, 2019 meeting as submitted. The motion was seconded by Mr. Williams.

Vote:

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

Mr. Humpal swore in Paul Roszak for a new term beginning January 1, 2019 through December 31, 2021.

The Court Reporter swore in all attendees.

Mr. Mendel stated the first applicant on the agenda has requested to be put second on the agenda as they are waiting for another member of their team to arrive. Mr. Humpal agreed to alter the agenda order.

New Business:

1. Z19-05 754 N. Court Street Terri Comstock VAR

Mr. Mendel gave a brief overview of the case. Mr. Mendel stated this is a request for a variance to Section 1147.07(a) of the Planning and Zoning Code to allow a 2.5 ft. setback from the right of way when a 5 ft. setback is required and a variance request to Section 1147.14(b) of the Planning and Zoning Code to allow a 10 foot tall ground sign when 6 feet tall is the maximum allowed.

Mr. Mendel stated the property is located on the east side of the 700 block of North Court Street and is zoned C-3 Commercial.

Mr. Mendel stated the applicant seeks variances from Sections 1147.07(a) and 1147.14(b) to replace a ground sign that was removed as part of the ODOT Route 42 project.

Mr. Mendel stated the proposed sign is 10 feet tall and 27.25 sqft in sign area and with a 2.5 foot setback from the front (west) property line. Under 1147.07(a) and 1147.14(b), the subject property is only permitted a ground sign a maximum 6 feet tall and setback at least 5 feet from a front property line.

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 construction of a conforming sign may obstruct the vision of motorists. Mr. Mendel stated a conforming sign could obstruct the visibility into/from the property for motorists and pedestrians.

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 signage would likely be obstructed by the existing building on the subject property to northbound traffic.

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 conforming signage could require the removal of at least one parking space and would still be visually blocked by the building on the subject property to northbound traffic.

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 sign may be more appropriate in scale with the subject site than a compliant sign due to specific site conditions.

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

Mr. Mendel stated the proposed ground sign may not be noticeably nonconforming given surrounding neighborhood context.

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

Mr. Mendel stated conforming signage may not provide sufficient visibility and readability, due to an existing building on the subject property.

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 variances from Section 1147.07(a) and 1147.14(b).

Present for the case was Dave Sterrett, Medina Signs, 411 W. Smith Rd., and also property owner Terri Comstock, 754 N. Court Street.

Mr. Sterrett reviewed the north and south bound approach photographs provided in the packet. Mr. Sterrett stated the property lost quite a bit of existing right of way frontage. Mr. Sterrett stated due to the road widening project the existing flower bed lost approximately 3 feet.

Mr. Sterrett stated the sign is approximately 2.5 feet off the right of way. Mr. Sterrett stated that centers the sign in the existing flower bed. Mr. Sterrett stated if they were to reuse the existing sign, even with a variance of 2.5 ft. off the curb they would still be into the first parking spot. Mr. Sterrett stated the curbing would need to be replaced also.

Mr. Humpal stated they will consider both variances together.

Mr. Williams stated the legally mandated 5ft setback would put the sign right on the curb edge or very near there. Mr. Sterrett stated yes. Mr. Williams stated that could make it problematic turning into and accessing the property. Mr. Sterrett stated it would make it problematic seeing the sign on the north approach because it would be behind the

building because the building sits on the sidewalk line and the right of way goes up to the front face of the building. Mr. Williams stated visibility coming out of Goodyear which is the next parking lot would be better with a higher sign than what is being requested.

Mr. Williams stated he is sure his board members disagree with a higher sign but he likes the idea of being able to see under the sign in an average vehicle. Mr. Sterrett stated when exiting that driveway, vehicles would need to pull out onto the sidewalk to see oncoming traffic which puts vehicles in front of the sign. Mr. Sterrett stated the building blocks the view of the sign until the front wheels are about half way through the sidewalk before you can get a view of the northbound cross traffic.

Mr. Roszak asked the reason for the code requiring a five foot setback. Mr. Mendel stated it is probably at some point, there is an intent and you need to put a number on it that everyone is agreeable with. Mr. Mendel stated 5 feet from the bumper of a vehicle is about where a driver is sitting.

Mr. Humpal stated in this particular case, because of the setback of the buildings, the façade signs are not visible from almost any direction.

Mr. Roszak stated he does not have a problem with the sign other than the overall height. Mr. Roszak stated he knows the board has reviewed other cases where the board questioned why the name of the plaza must be on the top of the sign if you have the separate names of the businesses because it adds height to the sign. Mr. Roszak stated he thinks the height could be reduced if the round sign on top was removed.

Mr. Sterrett stated typically, any sign that you see in any multi-tenant location has the name of the plaza on the top. Mr. Roszak stated he noticed that the name of the plaza is on the south side of the building itself, he is not sure about the north side. Mr. Sterrett commented that other than to identify the plaza, Comstock's had a railroad crossing gate out front years ago which many people associate the railroad with the name. Mr. Sterrett stated the sign was to look like a crossing gate.

Mr. Humpal stated he does not have any objection to the request. Mr. Roszak asked if the owner thought about putting the sign on the building itself rather than on the top of the sign. Mr. Sterrett stated it wasn't even a consideration.

Mr. Sterrett stated other than the I.D. sign on the top, the panels heights and widths are equivalent to what was on the old sign that was removed. Mr. Sterrett stated the need to be stacked vertically in order to fit it on the new curb. Mr. Sterrett stated the sign is less than the maximum square footage at 27 sq. ft. when 40 sq. ft. is permitted. Mr. Sterrett stated the idea was to have the nostalgic look of Comstock Junction which has been there for 45 years and the height was necessary to keep the tenant panels readable from any measurable distance and have everybody represented on the sign. Mr. Sterrett stated they have 2 extra spots on the sign but one is an "available unit" and the other is to be used for advertising space is available. Mr. Sterrett stated there is one vacant space in there now.

Mr. Roszak stated he does not have a problem with the sign panels at all. Mr. Sterrett stated he could reduce the size of the round sign on top slightly but anything smaller than that would not look right as it would not be in scale with the tenant panels. Mr. Roszak asked if the circle could be lowered to meet the tenant panel sign. Mr. Sterrett stated it needs a few inches in between the two signs. Mr. Sterrett stated it is proposed at 4" between and he could change it to 2" but it would not be a significant difference.

Mrs. Fry asked the height the board approved for the Skidmore sign a month or so ago. Mr. Mendel stated it was 10 or 12 feet. Mr. Sterrett stated it was 13 feet high.

Mr. Humpal asked if the sign is lit. Mr. Sterrett stated they plan on lighting it externally.

Mrs. Fry stated if they removed the top circle on the sign, the sign would be lost. Mrs. Fry stated she understands the design standpoint of the applicant. Mrs. Fry stated she thinks in this situation the applicant is bound by the flowerbed and they need to go vertical.

Mr. Sterrett commented on the scale of the street.

Terri Comstock, property owner, stated the reason to have Comstock's Junction on the sign is because that is what people call it. Ms. Comstock that is the only name people relate to. Ms. Comstock stated they have the hydrant, a "do not block" sign and a pole behind it. Ms. Comstock stated they are fighting a lot on the site to make a sign visible.

Mr. Williams made a motion to approve a variance to Section 1147.07(a) of the Planning and Zoning Code to allow a 2.5 ft. setback from the right of way and a variance request to Section 1147.14(b) of the Planning and Zoning Code to allow a 10 foot tall ground sign when 6 feet tall at 754 N. Court Street based on the finding that the construction of a conforming sign would be blocked from the site of passing motorists due to existing buildings, trees, or other structures.

The motion was seconded by Mrs. Fry.

Vote:

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

The Court Reporter swore in the applicants for case Z19-04.

2. Z19-04 629 N. Huntington Medina Huntington R.E. Group LLC VAR

Mr. Mendel gave a brief overview of the case. Mr. Mendel stated this is a variance request from Section 1155.06(d)(3)C of the Planning and Zoning Code to permit a freestanding solar collection system at 629 N. Huntington St. and 550 Miner Dr. to be setback zero feet from the shared property line between the two properties instead of the minimum required 5 foot setback on each side of shared property line. Mr. Mendel stated the properties are zoned R-2, Medium Density Residential.

Mr. Mendel stated the applicant proposes a 2.5 acre freestanding solar collection system in the south portions of the subject properties. Mr. Mendel stated this project would collect solar radiation for conversion to electricity for use within the buildings at 550 Miner Dr. (Medina Meadows nursing home), 629 & 635 N. Huntington St. (Echelon senior independent and assisted living).

Mr. Mendel stated for this proposal, Section 1155.06(d)(3)C requires compliance with the minimum setbacks for accessory uses, which in this case is a minimum 5 foot setback from the shared property line between 550 Miner Dr. and 629 N. Huntington St. Mr. Mendel stated the applicant proposes zero setback from the shared property line.

Mr. Mendel stated this project will also be reviewed by the Planning Commission for a Conditional Zoning Certificate this evening.

Mr. Mendel 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. Mendel stated the existing properties can still be used for a solar collection system without granting a variance.

B. Whether the variance is substantial;

Mr. Mendel stated the variance may not be substantial. Although the request is 100% of the minimum required, the adjacent property owners that could be most affected are the entities requesting the variance.

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. Mendel stated the proposal is located in an area that is currently a large area of undeveloped private open space with no existing occupied buildings or land uses adjacent within 125 feet to the south.

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

Mr. Mendel 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. Mendel stated when the applicant inquired with City staff at the conceptual development stage for this project, City staff informed them of the regulations for solar installations.

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

Mr. Mendel stated there is sufficient area within the proposal to permit the inclusion of the 10 foot wide gap in the installation along the shared north-south property line between 550 Miner Dr. and 629 N. Huntington St.

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

Mr. Mendel stated the likely intent of the requirement was regulating the setback of individual freestanding solar installations within a typical single family residential rear yard adjacent to another single family residential yard. Mr. Mendel stated the setback is designed to mimic the minimum setback of a shed or detached garage.

Mr. Mendel stated the BZA must weigh the above seven factors to determine if a practical difficulty exists that would merit a variance from Section 1155.06(d)(3)C.

Present for the case was Brian Casey, MC Solar Consulting. Mr. Casey stated he was brought in on this project to conduct a feasibility study for the Echelon Group. Mr. Casey stated there is a long term lease and option to purchase the piece of property which is owned by ASG. Mr. Casey stated they are acquiring leasehold rights to that property. Mr. Casey stated that property will be contiguous with the Echelon property. Mr. Casey clarified the property lines.

Mr. Humpal asked the applicant if they were to split the difference and have the 10 foot setbacks, how it would affect the engineering in connecting of the panels in terms of cost and such. Mr. Casey stated you end up breaking up the strings which are wired to a certain length so it does affect the efficiency of the system by having to do that so if they need to they can subdivide the array in the middle which would break up the system and create additional cost and probably force them to lower the size of the system. Mr. Casey

stated it would not be able to provide as much power to the property and offset as much of their electric costs as the proposal as submitted.

Mr. Williams asked the anticipated lifespan of the system. Mr. Casey stated they run the model at 30 years but the current technology on solar panels can last well into 40 years. Mr. Casey stated they are expecting somewhere in the range of 20 to 30 years. Mr. Casey stated technology and efficiency will have improved to such a point that most likely they would be replaced with 450 or 600 watt panels and have more power out of the array in about 20-25 years. Mr. Casey stated the infrastructure is steel and conduit and cable so it is good until it is removed. Mr. Casey stated the panels lose power at about 3/10 of a percent per year so a system over 20 years will lose approximately 6% of production.

Mrs. Fry asked if the other piece of the property is acquired, is the variance still needed. Mr. Mendel stated as the variance is being requested now under the existing lot line, it become immaterial because now the line is moved. Mr. Mendel stated if the new property is dropped at 5 feet from the west side of what is proposed as phase 1, then they are compliant. Mr. Mendel stated if they go build more and they continue the strands, they may need to come back for a variance.

Mr. Humpal stated since this is under lease, they are not changing the title of the Real Estate as to the owner of record. Mr. Mendel stated as a land lease they are not changing the dynamics of the lot lines but if they transfer the property and change the dimensions of the lot, the lot lines must be 5 feet from the arrays.

Mr. Casey stated ASIG had their attorneys check with their lenders about trying to unwrap some of the language in their lending agreements to see if they could release that piece of land to sell it now but it could not be done. Mr. Casey stated that is included in the agreement, there is an option in there for them to do a purchase on it.

Mr. Williams asked if there are any ramifications to the residents at Union Square Apartments. Mr. Mendel stated that will be review by the Planning Commission this evening.

Mr. Williams asked for suggested motion language to include mention of the lease as a justification. Mr. Mendel stated it is immaterial because the ownership of 550 Miner Drive property has already consented to the fact that this application has been made for a variance so they are part of the applicant technically.

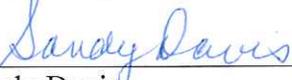
Mr. Williams made a motion to approve a variance request from Section 1155.06(d)(3)C of the Planning and Zoning Code to permit a freestanding solar collection system at 629 N. Huntington St. and 550 Miner Dr. to be setback zero feet from the shared property line between the two properties based on the finding that the property owners predicament could not feasibly be obviated through some other means due to engineering difficulties with the system.

Mr. Roszak seconded the motion.

Vote:
Fry Y
Humpal Y
Williams Y
Henwood Y
Roszak Y
Approved 5-0

Having no further business, the meeting was adjourned.

Respectfully submitted,



Sandy Davis



Bert Humpal, Chairperson

