

BOARD OF ZONING APPEALS

SEPTEMBER 14, 2015

The meeting was called to order at 5:30 p.m. by Chairman Jonathan Smith. Board members present were John Brown, Jason Decker, Craig Pickerel, Jonathan Smith and Becky Williams (5). Also present was Julie Liebenthal, Zoning Inspector.

Mr. Decker moved to approve the minutes of the August 10, 2015 meeting as submitted. Mr. Pickerel seconded and they were approved 4-0. Ayes: Brown, Decker, Pickerel, Smith (4). Abstain: Williams (1).

ZONING VARIANCE, 13-15 - Susan Hudson requests one (1) zoning variance to permit the construction of a deck on the front of an existing residence. The subject property is located at 265 Margaret Pl. and is zoned R-3 (Single-Family Residential).

NOTE: 1230.01 *Intensity and Dimensional Standards*

R-3 Zoning:

Front Yard = 35'

Rear Yard = 35'

Side Yard Min = 8'

Side Yard Total = 20'

NOTE: 1230.02(b) *Front Yard Exception*

When fifty percent (50%) of the developed frontage in one (1) block on one (1) side of the street has front yards that are greater or less than the minimum front yard required, any building to be erected thereon shall not project beyond the average of the existing front yards, except that a minimum front yard of fifteen (15) feet shall be maintained in all instances.

1. The applicant is requesting a zoning variance to reduce the required front yard setback. The variance would permit the front yard to be 15', rather than the permitted 21' minimum within a developed block of existing homes that encroach into the standard 35' front yard setback. The average setback was determined to be 21.57'.

Recommendation:

1. The Zoning Inspector recommends approval of the zoning variance subject to input provided by neighboring property owners prior to and/or during the meeting. Variance criteria a,b,c,d and e are satisfied.

Ms. Liebenthal reviewed Zoning Variance 13-15. Ms. Hudson was present and she stated that her mother is disabled and uses a walker and wheelchair. She said the steps may need to be changed but they won't extend out any further. Mr. Pickerel asked why she is not including a ramp. Ms. Hudson said that she feels the ramps are too slippery in the winter. Mr. Decker asked if any comments other than those provided by Ms. Hudson have been received. Ms. Liebenthal said she has received no comments. Ms. Williams noted that there is another deck across the street. Mr. Pickerel asked if it could be any smaller because all the other front facades on that side of the street line up. Ms. Williams stated that if it were smaller it might be difficult to maneuver the wheelchair.

Mr. Decker moved to approve Zoning Variance 13-15 finding B, C, D and E of Chapter 1275.02(c)(3) to be true. Ms. Williams seconded and it was unanimously approved.

ZONING VARIANCE, 14-15 – Scott Smith of Scott Consulting, Inc. requests one zoning variance to permit the installation of a wall sign, which will exceed the permitted maximum square feet of 10% of a respective facade. The subject property is located at 580 Craig is zoned C-4 (Highway Commercial).

NOTE: 1250.32(a) *Permanent Signs Allowed*

Retail business district C-4: 10% of façade permitted for wall signage

NOTE: 1250.39 *Other Administrative Procedures*

The Board of Zoning Appeals may grant a variance only if it finds that all of the following apply:

- (a) That the literal enforcement of the requirements of this chapter would involve practical difficulties based on the presence of special conditions and circumstances which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.
- (b) That granting the variance will not cause a substantial adverse effect to property or improvements in the vicinity or will not materially impair the intent and purposes of the requirement being varied or of this chapter, and is the minimum variance necessary to provide relief.
- (c) That the variance would not adversely affect the delivery of governmental services (e.g. water, sewer, refuse).
- (d) That the variance as granted would not confer on the applicant any special privilege, or deprive the applicant of rights, when compared with those rights commonly enjoyed by immediately adjoining properties.
- (e) That the variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for those conditions reasonably practicable.

1. The applicant is requesting a zoning variance to permit a sign that is 27.99 square feet larger than otherwise permitted. The total square footage of the sign is 126.99.

Recommendation:

1. The Zoning Inspector recommends denying the zoning variance. First, the sign is currently located on the North façade, and was approved prior to the 2013 sign code revision; the sign does not comply with the current code on either the North or the South façades. Therefore it is considered legal non-conforming and as such is not encouraged to continue. Second, the sign appears considerably large for the proposed Southern Façade. Variance criteria c is satisfied.

Ms. Liebenthal reviewed Zoning Variance 14-15. Mike Devolder of Tolson and Scott Smith of Scott Consulting, Inc. were present on behalf of American Table. Mr. Smith said that the challenge is in the way the area is calculated. He said that the size of the sign would not change, and they could put it in a single line legally on the rear but they prefer not to do that. Mr. Devolder said that they want to get their tenant more exposure on Eckel Junction Road without them having to buy a new sign. Mr. Smith said he is not sure if there was a change in the Code or a change in the interpretation since the sign was installed. Ms. Liebenthal stated that the Code was changed. Ms. Williams said that she will be abstaining due to a relationship with American Table. The Board reviewed the criteria for granting a variance for a sign and Mr. Decker said he would have a hard time saying criteria a is true. He said the difference is between moving an existing sign versus having to pay for a new sign.

Mr. Decker moved to deny Zoning Variance 14-15. Mr. Brown seconded and the motion was approved 4-0. Ayes: Brown, Decker, Pickerel, Smith (4). Abstain: Williams (1).

ZONING VARIANCE, 15-15 – Jennifer Janney of Harmon Sign, requests one (1) zoning variance to permit the installation of a wall sign that exceeds the permitted 10% maximum square feet per façade. The subject property is located at 26520 North Dixie Hwy and is zoned C-4 (Highway Commercial), within the CO (Corridor Overlay).

NOTE: 1250.32(a) *Permanent Signs Allowed*

Corridor Overlay Zoning: 10% up to 75 square feet per façade

NOTE: 1250.39 *Other Administrative Procedures*

The Board of Zoning Appeals may grant a variance only if it finds that all of the following apply:

- (a) That the literal enforcement of the requirements of this chapter would involve practical difficulties based on the presence of special conditions and circumstances which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.
- (b) That granting the variance will not cause a substantial adverse effect to property or improvements in the vicinity or will not materially impair the

intent and purposes of the requirement being varied or of this chapter, and is the minimum variance necessary to provide relief.

- (c) That the variance would not adversely affect the delivery of governmental services (e.g. water, sewer, refuse).
- (d) That the variance as granted would not confer on the applicant any special privilege, or deprive the applicant of rights, when compared with those rights commonly enjoyed by immediately adjoining properties.
- (e) That the variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for those conditions reasonably practicable.

1. The applicant is requesting a zoning variance to permit a wall sign that is 27 square feet larger than is otherwise permitted. The total square footage of the sign is 92.

Recommendation:

1. The Zoning Inspector recommends denying the zoning variance, as the proposed square footage appears considerably large for the proposed façade in relation to itself and other business establishments in the Corridor Overlay. Criteria c is satisfied.

Ms. Liebenthal reviewed Zoning Variance 15-15. Prakash Karamchandani of Balance Pan-Asian Grille and Aaron Wiens of Tolson Enterprises were present on behalf of the applicant. Mr. Karamchandani said that Balance Pan-Asian Grille is a young brand and it is very important to them that all letters be lower case. He said that if you ignore the top of the b and the leaf with the l, it will bring it down 21'. Ms. Liebenthal explained that there are two issues with the proposed sign. The first is that only one sign is allowed per façade and the other is that no signs are allowed on architectural features. There was a lengthy discussion regarding interpretation of architectural features and what sign Mr. Karamchandani would like to install. Since what he wants is not consistent with what was submitted by the sign company as part of the variance request, Ms. Williams moved to table Zoning Variance 15-15. Mr. Decker seconded and it was unanimously approved.

There being no further business, the meeting adjourned at 6:59 p.m.

Respectfully submitted,

Mary Jo Sutton