

BOARD OF ZONING APPEALS

MARCH 9, 2015

The meeting was called to order by Chairperson Becky Williams at 5:30 p.m. Board members present were: John Brown, Craig Pickerel, Jonathan Smith, and Becky Williams (4). Absent was: Jason Decker (1). Also Present was Julie Liebenthal, Zoning Inspector.

Mr. Brown moved to nominate Mr. Smith as Chairman. Ms. Williams seconded and it was approved 3-0. Ayes: Mr. Brown, Mr. Pickerel, Ms. Williams (3). Abstain: Mr. Smith (1).

Mr. Brown made a motion to nominate Becky Williams as Vice Chairperson. Mr. Smith seconded and it was approved 3-0. Ayes: Mr. Brown, Mr. Pickerel, Mr. Smith (3). Abstain: Ms. Williams (1).

Ms. Williams made a motion to approve the minutes of December 10, 2014 as written. Mr. Brown seconded and they were approved 3-0. Ayes Brown, Smith, Williams (3). Abstain: Pickerel (1).

ZONING EXCEPTION 01-15 — Richard Wehrle, on behalf of Retreat Associates requests one (1) zoning exception to permit the construction of a new residence. The subject property is a corner lot located at 3105 Chapel Creek Dr. and is zoned R1 (Single Family Residential). The requested exception would permit the applicant to construct a residence within the required 50' setback from the front property line (Hull Prairie Road side).

NOTE: *1230.01 Intensity and Dimensional Standards*

R-1 Zoning:

Front Yard = 50'

Rear Yard = 60'

Side Yard Min = 10'

Side Yard Total = 25'

Min. Dwelling Size = 1,800 SF

1. The applicant is requesting a zoning exception to reduce the required front yard setback. The exception would permit the front yard along Hull Prairie Road to be 40', rather than the normally required 50'.

Recommendation:

1. The Planning and Zoning Administrator recommends denying the applicant's request. The requested exception is for the construction of an attached garage that would require the installation of an unnecessarily large and undesirable driveway configuration. It is the opinion of the Planning and Zoning Administrator that the applicant has failed to provide evidence of a hardship and has based the application only on preference. There are several configurations for this home's layout that would provide a more desirable end result while permitting the proposed house with a relocated garage structure.

Ms. Liebenthal stated that upon meeting with Mr. Wehrle following his initial recommendation, Planning and Zoning Administrator Brody Walters, although not changing his recommendation to deny the applicants request, has lessened in his opposition to the request. This modification was documented in an e-mail forwarded to board members, a copy of which is attached hereto and made a part of these minutes.

Mr. Wehrle was present and offered a brief history of the subdivision in which this lot is located. He stated that development in this subdivision was started prior to being annexed into the City of Perrysburg around 1994. As a result of the annexation, the setback requirements of this lot were increased, thus restricting the buildable dimensions of this lot. The structure for which the variance is requested is to act as a carriage house, however, it is classified as a garage and must be attached to the house per Ms. Liebenthal. He stated that the prospective home purchaser has developed a medical condition resulting in an aversion to sunlight. The carriage house location, as proposed, would help to shade the living areas giving relief from sunlight. The prospective purchasers also intend to use the carriage house as a workshop. A portion of the carriage house intrudes onto the setback.

Mr. Wehrle stated that the current set back will allow a 90' house to be built on the 150' lot. The home that is planned is 100'. This is including the carriage house, and is similar in size to other upscale homes in the subdivision. He noted that as this is a corner lot, it is considered to have two front yards, and the side yard setback is much larger than other properties in the development.

Mr. Pickerel asked if there were any alternatives available to address the intrusion into the setback. Mr. Wehrle said that discussions with his architect and with Mr. Walters, did not result in any practical solutions. Ms. Williams asked if the location of the carriage house was the only issue, ie. if the carriage house did not exist, there would not be any issue. Mr. Wehrle confirmed that it was. Mr. Smith asked if the house could be pushed back on the lot. Mr. Wehrle said that this would not be possible.

Mr. Pickerel quoted dimensions of other homes in the subdivision from the Wood County Auditors. He noted that the adjacent homes have a smaller footprint than the home to be built. Mr. Wehrle said this is due to the carriage house. Mr. Smith requested a summation of the reasons the requested exception is necessary. Mr. Wehrle said that it is the homebuyers preference. Ms. Williams noted that Mr. Walters still recommends denying the request.

Ed Bryant, also of Retreat Associates was in attendance and re-iterated the dimensional challenges of placing the home on the existing lot. Mr. Wehrle inquired about the text of Mr. Walters e-mail to the board members. Ms. Liebenthal stated that Mr. Walters indicated he was much less opposed than he was initially.

Ms. Williams reviewed the definition between a variance and an exception. Mr. Smith asked if there were any comments from neighbors. Ms. Liebenthal stated that Lori Melchoir, a neighbor across the street from the site agreed with Mr. Walter's recommendation, however, she has not offered a response after being informed of Mr. Walters modified opinion.

Ms. Williams made a motion to follow Mr. Walters opinion and deny Zoning Exception 01-15. Mr. Brown seconded and the denial of Zoning Exception 01-15 was unanimously approved.

ADMINISTRATIVE APPEAL, 02-15 – Heidi Steinker of Beck Suppliers, Inc. requests one (1) administrative review concerning the interpretation and application of Ch. 1250.29 Sign Regulations. The subject property is located at 25570 Dixie Hwy. and is zoned C-4 (Highway Commercial).

NOTE: *Administrative Review: To hear and decide appeals where it is alleged by the applicant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Inspector or any other administrative official in carrying out or enforcing any provisions of this Zoning Code.*

Chapter 1250.30(a) Definitions: Area of Sign: The entire area enclosing the extreme limits of the message(s), comprised of writing, representation, emblem or any figures of similar character, together with any frame or other material or color forming an integral part of the display.

Table 1250.32(a) – Wall Sign: Maximum size 10% of façade up to 75 Square Feet

1. The applicant is seeking an administrative appeal regarding the interpretation of the size of the sign proposed to be placed upon the gas pump canopy.

Recommendation:

1. None provided.

Heidi Steinker of Beck Suppliers and Neil Jeakle of National Illumination and Sign Co, were present. Ms. Steinker stated that her company acts as an intermediary between the oil companies and the independent station operators. The site owner's branding agreement with Exxon is set to expire and the owner desires to acquire branding from the Marathon Oil Company. She noted that the main issue is that the canopy is being interpreted as signage. Other gas stations in the vicinity (BP, Speedway, Circle K) are fully branded. The branding of these stations were done prior to the determination that a canopy may also be considered a sign. This site was previously branded prior to being annexed in 2006.

Ms. Steinker further noted that Marathon Oil requires their branded stations be fully supported (imaged) to conform to their standards. She noted the strong community partnership that Marathon Oil has shown in cities where they have a presence. She mentioned that Marathon has expressed the desire to make this site a flagship station and that if they are not able to be fully supported at this site, they intend to use a location in Sylvania instead. If the site is not allowed to fully support the Marathon brand it will revert to being an unbranded site. It will have the same appearance as it does now, but without the Exxon logo. She stated that Beck Suppliers will continue to supply the station, but that it will not be as competitive with the other stations.

She stated that Marathon has 3,600 stations that are all signed the same. They desire to have all of their stations appear the same, and are not willing to vary the appearance of only one of its locations. She noted the number of Marathon employees living in Perrysburg who would benefit from a Marathon station in the city.

Mr. Jeakle stated that unbranded sites tend to be less desirable as there is not the same level of cleanliness and presentation required of them compared to a branded site.

Ms. Williams clarified that any changes to the pre-annexed configuration of sites requires the site owner to bring the site up to the standards of the newer code. She asked Ms. Liebenthal if the lettering or color of the Marathon signs is at issue.

Ms. Liebenthal stated that the blue and red color of the stripe on the side of the canopy is being interpreted as part of the Marathon logo therefore a sign. The "Marathon" lettering does not exceed the permitted dimensions for a sign in the Corridor Overlay, however, with the blue/red stripe on the canopy being interpreted as part of the corporate logo and hence part of the sign, the allowable dimension is exceeded.

Mr. Jeakle questioned the interpretation of a sign in the eyes of the City of Perrysburg. He noted that a stripe is not considered a sign in other municipalities in his experience. He stated that he was present at the time of the code review in 2006 in an advisory capacity with the Toledo Area Sign Contractors Association. He did not see in any of the notes from that time period anything classifying a stripe as a sign. Mr. Pickerel noted that this is a logo swap from Exxon (single colored stripe) to Marathon (multi-colored stripe). Ms. Liebenthal stated that a color on the canopy is ok but not a combination of colors that comprise a company brand.

She noted that there has been an attempt by the Planning and Zoning division to be consistent in the interpretation of sign regulations. She referenced a recent ruling involving Planet Fitness, who wished to present a large purple facade with yellow lettering. She noted that it was interpreted that this facade was in effect a large sign. The same standards were also used in determining the ruling in this case. She noted that this is a tool that is used to insure the ethical execution of the code.

Mr. Smith questioned if they were to consider the interpretation or the varying of the interpretation of the code. Ms. Williams clarified the administrative review nature of this hearing which is to determine if errors were made in the original ruling. She stated that she was also in attendance for discussions held at the time of the updates to the ordinance. She believes that the interpretation of the use of color as part of a sign is consistent with what was included in the updated code.

Mr. Smith questioned the use of colors in the definition of signage. Mr. Brown disagreed with the interpretation of the code in this case, but understand the rational in the ruling. Mr. Smith believes as long as the structure is not lit, it should be acceptable. Mr. Brown asked if there has been any resident feedback? Ms. Liebenthal stated there has not.

Mr. Smith moved to approve Administrative Appeal 02-15 on the condition that the canopy structure not be lit and to appear as depicted in drawings provided to the board, a copy of which is attached hereto and made a part of these minutes. Mr. Brown seconded and it was approved 3-1. Ayes: Brown, Pickerel, Smith (3). Nays: Williams (1).

ZONING VARIANCE, 03-15 – Randolph Katz on behalf of Midas Auto Service requests one zoning variance to permit parking within the required front yard. The subject property is located at 26420 N. Dixie Highway and is zoned C4 (Highway Commercial). This variance would permit the applicant to install ten 9' by 20' parking spaces within the first 50' of the front property line.

NOTE: *1230.02(i) Provisions governing interpretation and application of yard requirements*

No accessory use of structure, off-street parking facility or material or equipment storage shall be located in the required front yard without the approval of the Board of Zoning Appeals.

1. The applicant is requesting a zoning variance to permit the installation of ten 9' by 20' parking spaces within the required front yard setback.

Recommendation:

1. The Zoning Inspector recommends approval of the 10 parking spaces in the required front yard. This site is within the Corridor Overlay and is therefore required to provide a screen wall and landscaping to screen the view of the parking area.

Ms. Liebenthal stated that she has determined that per 1275.02(C3) items B, C, D, and G of the Duncan Factor are true in this case.

Greg Feller from Feller, Finch was present and stated that although the parking spots are to be located within the 50" set back, the required landscaping and screening between the parking area and Route 25 will be provided. He noted that the site plan had already been approved by the planning commission, and that a previous variance allowing the parking spaces was approved but has since expired. Ms. Liebenthal referenced previously approved variance 27-13. Mr. Brown asked what the screening would consist of. Mr. Feller could not recall the details but stated that it met the requirements of the code.

Ms. Williams asked why the parking spaces are 9'X20' instead of 10'X20'? Ms. Liebenthal stated that it was Planning and Zoning Administrator Brody Walter's opinion that these spaces would serve as a staging area for automobiles waiting for service as opposed to a parking area for customers like a shopping center. Mr. Smith asked for the Duncan Factors to be reviewed by the Board, and noted that 4 of the 7 factors must be found to be true.

Ms. Williams moved to approve Zoning Variance 03-15 as submitted based on Duncan Factors B, C, D, and G as recommended by the zoning inspector. Mr. Smith seconded and it was unanimously approved.

There being no further business, the meeting was adjourned at 6:30 p.m.

Respectfully submitted,

David L Atkinson