

BOARD OF ZONING APPEALS

JANUARY 11, 2016

The meeting was called to order at 5:32 p.m. by Brody Walters. Board members present were John Brown, Jason Decker, Niki Decker, and Craig Pickerel (4). Greg Bade arrived at 5:47 p.m. Also present were Brody Walters, Planning and Zoning Administrator and Mark Easterling, Zoning Inspector.

ELECTION OF CHAIRMAN AND VICE-CHAIRMAN

Mr. Decker nominated Mr. Pickerel to be Chairman. Mr. Brown seconded and it was unanimously approved.

Mr. Pickerel nominated Mr. Decker to be Vice-Chairman. Mr. Brown seconded and it was unanimously approved.

APPROVAL OF MINUTES

Mr. Decker moved to approve the minutes of the December 14, 2015 meeting as submitted. Mr. Brown seconded and they were unanimously approved.

APPLICATION 01-16 – Ramesh Patel of Sunrise Hospitality, Inc. requests one zoning variance to permit an off-street parking facility to be located within a required front yard setback. The subject property is located near the intersection of Carronade Drive and Hulls Trace. The parcel numbers associated with this request include; Q61-400-090105001007, Q61-400-090105005000 and Q61-400-090105004000. The zoning of these parcels is C-4 (Highway Commercial).

The requested variance would permit the applicant to install a parking lot within the required front yard setback.

NOTE: *1230.02(i) Accessory Uses: Off-Street Parking in Front Yard.*

No accessory use or 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. Ord. 103-2007. Passed 7-10-2007.

1. The applicant is requesting approval to construct an off-street parking facility part of which would be located within the required front yards of both Carronade Drive and Lake Vue Drive. In total the area within the required front yard setback would provide parking for approximately 56 vehicles.

Recommendation:

1. Variance criteria C and D could be met.

Mr. Walters reviewed Application 1-16. Tom Worline of the JDI Group and Ramesh Patel were present to represent the applicant. Mr. Pickerel asked if Mr. Patel plans on a structure being built on the future lot to the south of the proposed hotel. Mr. Patel said he does. Mr. Brown asked if this request to allow parking in a required front yard is similar to other properties in the area. Mr. Worline said he believes so looking at an aerial view. Mr. Brown asked if these parking spaces would be over and above the required number. Mr. Worline said that they are right at the minimum requirements. Mr. Brown asked about the other lot. Mr. Worline said that the lot would be the site of future retail or a restaurant. Mr. Pickerel asked if they would have the same problem on that lot, and Mr. Worline said that they hope to keep it outside of the setback but they don't have an exact use yet. Mr. Pickerel asked what they plan to do if this request is not approved. Mr. Patel said he would use the other lot, but it would strain his budget. Mr. Brown asked if Mr. Patel was aware of the limitations on where parking could be located when he purchased the property. Mr. Patel said he purchased the property in 2007 and when he built Candlewood Suites he did not need as much parking. Mr. Worline said that nine or ten years ago they didn't know what would be put here. Mr. Pickerel asked if there were any comments received from neighbors. Mr. Walters said there were no comments received. Mr. Decker and Mr. Pickerel said that they are having trouble arriving at the four criteria required under Chapter 1275.02(c)(3). Mr. Worline said that if the zoning appeal is not granted the other lot will probably be used for detention and additional parking and he feels that this lot is a development opportunity and it would look better with a retail building there. Mr. Bade said that he also is having a hard time finding four criteria.

Mr. Decker moved to deny Application 1-16. Seconded by Mr. Bade. Ayes: (5). Nays: (0).

APPLICATION 02-16 – Bob Hemminger on behalf of Owens Illinois (OI) requests a zoning variance to permit the installation of a sign within the required setback along N. Wilkinson Way. The subject property is located at 1899 N. Wilkinson Way and is zoned I-2 (General Industrial).

The requested variance would permit the applicant to install a permanent freestanding sign with a zero foot setback from the public right-of-way (25' closer than is otherwise permitted).

NOTE: 1250.32(a) *Permanent Signs Allowed*

I-2 Zoning:

Setback: 25' from right-of-way

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. (see factors 1-6)
 - (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 approval to install a permanent freestanding sign within the public right-of-way (as shown on the application). Signs other than those maintained by governmental agencies are not permitted to be located within the right-of-way so this request has been modified administratively to change the location of the sign from the right-of-way to the closest point outside of the right-of-way. This change was made because a variance to permit a sign in the right-of-way is not a valid request and could not be approved.

Recommendation:

1. No recommendation provided.

Mr. Walters reviewed Application 2-16. Mr. Hemminger said that the sign was intended to be placed there temporarily and was placed by Harmon Sign. Mr. Walters stated that the City allowed the sign to be there for seven days for an Open House. Mr. Hemminger said that this sign is similar to two others that were approved last year and they would like to be consistent for safety vehicles and visitors. Mr. Decker clarified that the sign has to be moved. Mr. Walters said that it does; it cannot be located within the public right-of-way. Mr. Bade said that since it has to be moved anyway he would recommend it go 3' in from the right-of-way. Mr. Pickerel asked if we know the setbacks at the other plazas. Mr. Walters said he does not know. Mr. Decker said the problem with 3' is that it is a random number.

Mr. Decker moved to approve Application 2-16 with the understanding that the entire sign has to be moved out of the right-of-way. Mr. Brown seconded. Ayes: (5). Nays: (0).

APPLICATION 03-16 – Eric Vlaz on behalf of B&B Repairs, Ltd. requests an administrative appeal pertaining to the zoning classification of a business use. The subject property is located at 25481 N. Dixie Highway and is zoned C4 (Highway Commercial).

NOTE: 1215.02 Definitions

“Automotive Repair – Light” – Includes repair or replacement of automotive components for maintenance purposes, such as tires, mufflers, glass, etc. This does not include any item described by the definition of General Automobile Repair.

“Automotive Repair – General” – Includes engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair, overall painting, undercoating or steam cleaning of automobiles.

“Commercial Vehicle” – A vehicle designed or licensed by the state for the carriage of freight or merchandise.

NOTE: 1225.08 Use Regulations

C4 zoning district:

“Automotive Repair – Light” = Permitted

“Automotive Repair – General” = Requires Special Approval

“Commercial Semi-Truck Sales/Service” = Not Permitted

1. The applicant is requesting an appeal to the decision to place the B&B Repairs use in the use category of “Commercial Semi-Truck Sales/Service”. The applicant is requesting this use be reclassified to “Automotive Repair – Light”. Upholding the current category of “Commercial Semi-Truck Sales/Service” would not permit the business to continue their business operations at this location.

Recommendation:

1. No recommendation provided.

Mr. Walters reviewed Application 3-16. Robert Maurer, owner of the property, and Eric Vlaz and Brian Banas of B & B Repairs were present. Mr. Vlaz said that this started with the City requesting that the business obtain a Certificate of Occupancy. He said that they lease the building and they could actually fit into three or four categories. He said the intended use was always geared towards truck and trailer repair and service, maintenance and repair on commercial motor vehicles and outside storage of trailers on a small scale. He said that they also could be considered warehousing and garage

services. Mr. Brown asked if work is done at this facility or if it is just parts pick-up. Mr. Vlaz said they do both. He said that vehicles broken down on the road would be sent to the closest location. Mr. Walters said that there have been 30 to 40 trailers stored outside and he noted that warehousing is also not a use permitted in C4 districts. Mr. Vlaz said that he is using warehousing as a generic term, no forklift is needed. Mr. Brown asked how long the business has been there. Mr. Vlaz said they have been there since August. Mr. Brown asked what the previous use of the building was. Mr. Maurer said that prior users have all been truck related businesses. He said the building was built fifteen years ago as a truck repair facility and it has always been used for truck/semi-truck repairs. He added that former Law Director Pete Gwyn told him that the non-conforming use could continue. Mr. Walters stated that the last Certificate of Occupancy issued for that address was for Accessquip and it was not listed as a truck facility. It is his interpretation that a non-conforming use can continue until it is discontinued which would have happened when Accessquip was there. Mr. Maurer said that Accessquip had a delivery truck; even Tekela's has a truck. Mr. Walters stated that the Planning and Zoning Division would consider a delivery vehicle different than repairing vehicles on site. Mr. Maurer said that they would consider it a hardship if the business can't continue. He said that even if it was rented to a non-truck company he still rented the parking lot to individual truck drivers to keep their trucks there overnight. Mr. Walters said that there are aerial views over a significant number of years that do not show trucks parked there. Mr. Maurer said that is because they would have only been there at night. Mr. Banas said that if a truck wants to park across the street at the hotel it won't be allowed to and they would be willing to let it park in their parking lot. Mr. Pickerel asked if there is actual truck service that occurs at this facility. Mr. Banas said that it does not now because they are not allowed to. Mr. Bade said that commercial semi-truck sales and service only falls under industrial and no matter how you stretch, it does not fit under C4. Mr. Maurer said that the issue is whether it's a legal non-conforming use. He said that the non-conforming use should be continued and this may be a compensable loss. Mr. Walters clarified that the non-conforming use is not before the Board.

Mr. Bade moved to deny Application 3-16. Seconded by Mr. Decker. Ayes: (5). Nays: (0).

OTHER BUSINESS

Mr. Walters introduced Mark Easterling, the new Zoning Inspector to the Board.

There being no further business, the meeting adjourned at 6:52 p.m.

Respectfully submitted,

Mary Jo Sutton