

BOARD OF ZONING APPEALS MINUTES

November 17, 2020

Mr. Jaskiewicz called the meeting to order at 6:30 PM via zoom

Members present were Michael Terry, Janika Adler, Tom Jaskiewicz, and Brad Swank

Visitors: Christie Hatcher, Dondi Hatcher, Eric Medici, Paul Lafayette and Tim Dawson

Ms. Brill Zoning Communication:

- Welcomed the new members, Mr Terry and Mr Swank.
- Stated that the Board will most likely be meeting in December to review another variance application
- Staff was moving forward will interviewing firms for the Zoning Code Update. Interview conclude on Friday and a selection is hoping to be made by December.

Mr. Jaskiewicz asked for a motion to approve the July 28, 2020 minutes. Ms. Adler motioned, seconded by Mr. Jaskiewicz. Two yea votes with Mr. Terry and Mr. Swank abstaining

Mr. Jaskiewicz confirmed with Ms. Brill that proper notices were sent for the public hearings.

New Business:

- Case # VAR-2020-003 Variance Application to install a sign at Lil e's Ice Cream (461 W Main St, Parcel ID 180003040000)
 - Ms. Brill gave the staff report regarding the application and explained that pole signs are prohibited in the zoning code and the pole should have been declared abandoned along with the previous sign from the previous business and therefore removed.
 - Mr. Lafayette swore in Mr. and Mrs. Hatcher and asked if there were any witnesses. He followed up by stating, this BZA hearing took place via videoconference pursuant to the declaration of emergency and the amendments to Ohio Revised Code Section 121.221 approved by the general assembly and House Bill 197, which permits public entities to hold public hearings by electronic means.
 - Mr. Jaskiewicz opened the public hearing at 6:41pm.
 - Mr. and Mrs. Hatcher offered that in December of 2018 they updated the property and were advised by Village Staff that they would need a variance to erect a sign on the existing pole. They decided to wait until this year when they started gaining more business.
 - No witnesses spoke on the matter
 - Mr. Jaskiewicz stated that he did not have an issue with the proposed sign. He asked the applicant if they have considered a ground sign. Ms. Hatcher did not wish to peruse that route. Mr. Hatcher clarified that the top of the sign would be at 13'.
 - Mr. Swank asked about the electric company's setback requirements. Mr. Hatcher stated that as long as the sign was below the telephone lines which are at roughly 18', the electric company stated they had no issues.
 - Ms. Adler asked if a ground sign was the only other option. Ms. Brill stated that the business currently has window signs and would be subject to the regulation of not more

than 10% of the window being covered. They could also have a wall sign there would just be concerns of where that would be located given the building design.

- Mr. Jaskiewicz stated that given the nature of the sign proposed, not being illuminated and there already being an existing pole, he had no issue with the application.
- The applicant stated that they would be willing to remove the sign in the off season. Mr. Lafayette stated that if the sign were to be removed then it would have to come back in front of the BZA.
- Mr. Terry stated that he believed that the sign is an enhancement and tended to agree that without illumination that is would not be out of line.
- Mr. Lafayette advised the Board to go through the evaluation criteria and wait to make a decision on the application until the Finding of Fact. Mr. Jaskiewicz not hearing other comments from the Board moved to the evaluation criteria listed in Chapter 1138.05 for deliberation.
 - a. *Said Area Variance will not be contrary to the public interest:* Mr. Jaskiewicz stated that the sign was not. No other comments
 - b. *Said Variance is justified due to special conditions:* Mr Jaskiewicz stated that the special condition was the existing pole was not vacated from a procedural standpoint and they current owner made an effort to make the pole blend with the building. Mr. Terry concurred
 - c. *Literal enforcement of the zoning ordinance would result in practical difficulty:*
 1. *Whether there can be any beneficial use of the property without the variance;* Mr Jaskiewicz gave his opinion and stated, the business would still receive business without the sign but they might get more business with the new sign. Mr. Terry stated that the business is operating
 2. *Whether the variance is substantial:* Mr. Jaskiewicz believed so because pole signs are prohibited completely in the Village. No further comment
 3. *Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance:* Mr Jaskiewicz stated no. No further comment
 4. *Whether the variance would adversely affect the delivery of governmental services:* Mr. Jaskiewicz stated no. No other comments.
 5. *Whether the property owner purchased the property with knowledge of the zoning restriction:* Ms. Hatcher stated no
 6. *Whether the property owner's predicament feasibly can be obviated through some method other than a variance;* Mr Jaskiewicz stated that other sign options were discussed earlier
 - d. *That the spirit of the Zoning Ordinance will be observed and substantial justice done if the area variance is granted:* Mr. Jaskiewicz stated that the variance was

minor in nature. The sign was not substantially larger than what is allowed in the code.

e. *That the variance is based on need not convenience or profit:* Mr. Jaskiewicz did not believe that profit was a driving factor.

- Mr. Jaskiewicz closed the public hearing at 7:13 PM. Ms. Adler made a motion to table the application and Mr. Jaskiewicz seconded. 4 yea votes
- Case # VAR-2020-004 Variance Application to install a sign at a new business (132 N Chillicothe St, Parcel ID 04-00244.00)
 - Ms. Brill gave the staff report regarding the application and explained that the proposed projecting sign was over the allowed 9sqft sign area and 3ft projection distance off of the building face. Due to where the business was located a Certificate of Appropriateness was filed and granted by matter of law due to some unforeseen circumstances.
 - Mr. Lafayette swore in Mr. Dawson and Mr. Medici and the public hearing was opened at 7:20 PM. Mr. Lafayette also stated that this BZA hearing took place via videoconference pursuant to the declaration of emergency and the amendments to Ohio Revised Code Section 121.221 approved by the general assembly and House Bill 197, which permits public entities to hold public hearings by electronic means
 - Mr. Dawson stated that in order to have some consistency in marketing and branding the sign will resemble the one installed at the Grainery. He stated that he was not aware of the sign regulations and has made a substantial investment in his marketing strategy.
 - Mr. Medici testified against the proposed sign stating that it will not match the character of the Historic Uptown District and impact the area in a negative light. He stated that it did not fall within the sign regulations that had been discussed by DRB in 2019. Ms. Brill clarified that there was nothing codified that stated additional sign regulations Mr. Medici mentioned for the Uptown Historic District.
 - Mr. Jaskiewicz stated that some of the concerns the witness brought forth are not for the BZA to decide. Mr Lafayette confirmed that the BZA could not consider the regulations in chapter 1327. Also stated that the DRB was unable to schedule another meeting after the October cancellation that would satisfy the advertisement guidelines and the 60 deadline to approve the application.
 - Mr Jaskiewicz clarified that the sign was to be lighted. Mr. Dawson stated that a very small portion would be, only the letters.
 - Mr. Jaskiewicz asked Mr. Dawson if he considered making the sign smaller to meet the sign regulations. Mr. Dawson stated that he was not opposed but did not believe that 6" would make much difference. Mr. Jaskiewicz stated that maybe limiting the amount of variance would make it more palatable. Mr. Dawson stated that he would be willing to make the sign 40 ½" to meet regulation is necessary.
 - Mr. Terry stated that he needed to make a trip to the Uptown to evaluate the nature of the sign. He was not concerned with the size but more so with the illumination.
 - Mr. Swank asked about the illumination element and if it was permitted. Ms. Brill stated that for what was proposed it would meet code. Ms. Adler asked if there were other illuminated signs. It was confirmed that there were at least three others in the area.

- Mr. Jaskiewicz asked if the sign mast was regulated in our zoning code. Ms. Brill stated no. Mr. Medici stated that the DRB was reviewing new sign regulations as of August 2019. Mr. Jaskiewicz asked Mr. Lafayette to confirm that the BZA could not evaluate based off of this proposal since it had not been passed by Council. Mr. Lafayette stated that we are bound by the current code.
- Mr. Jaskiewicz not hearing other comments closed the public hearing at 7:50 PM and moved to the evaluation criteria listed in Chapter 1138.05 for deliberation.
 - a. *Said Area Variance will not be contrary to the public interest:* Mr. Jaskiewicz stated that the sign was not. No other comments
 - b. *Said Variance is justified due to special conditions:* Mr Terry stated that it is special because it is linked to the Grainery. No other comments
 - c. Literal enforcement of the zoning ordinance would result in practical difficulty:
 1. *Whether there can be any beneficial use of the property without the variance;* The business would still receive business without the sign but the proposed sign would create consistency in marketing efforts. Mr. Terry agreed stating that there was beneficial use without
 2. *Whether the variance is substantial:* Mr. Jaskiewicz posed if the 11.5 sqft was substantial based off of the permitted 9 sqft. Also reiterated that the applicant had openness to reducing the size.
 3. *Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;* Mr Jaskiewicz stated no to both and Mr. Swank agreed.
 4. *Whether the variance would adversely affect the delivery of governmental services:* Mr. Jaskiewicz stated no. No other comments
 5. *Whether the property owner purchased the property with knowledge of the zoning restriction:* Mr. Dawson stated no
 6. *Whether the property owner's predicament feasibly can be obviated through some method other than a variance;* Mr Jaskiewicz stated he had not other thought and no other comments from Board.
 - d. *That the spirit of the Zoning Ordinance will be observed and substantial justice done if the area variance is granted:* Mr. Jaskiewicz stated that the variance was minor in nature. The sign was not substantially larger than what is allowed in the code.
 - e. *That the variance is based on need not convenience or profit:* Mr. Jaskiewicz did not believe that profit was a driving factor. Stated that a visibly larger sign might be more easily seen form SR 161, which might have been the applicant's goal with the business sign.

- Mr. Jaskiewicz asked Mr. Dawson if he would want to consider submitting a smaller sign. Mr. Dawson stated no due to the fact that it would have to go back in front of the Design Review Board if he did and it would prolong the process of getting approval.
- Mr. Terry motioned to table, seconded by Mr. Swank to table the application to the next meeting. 4 yea votes

The next meeting will be on November 24, 2020 at 6:30PM via Zoom, where the Board will hear the Findings of Fact.

Mr. Terry motioned to adjourn and the meeting was adjourned at 8:15 PM.

Minutes submitted by Taylor Brill, Zoning Official