

BOARD OF ZONING APPEALS  
April 20, 2021  
6:30pm Via Videoconference

The meeting was called to order by Mr. Swank at 6:30pm.

**Roll call:** Members: Tom Jaskiewicz (absent), Brad Swank, Michael Terry, Janika Adler (absent), Diana McCoy

Also present: Taylor Brill (Zoning Official), Doug Holthus (Solicitor)

Visitors: David Compton (applicant), Keith Miller (property owner)

Approval of February 23, 2021 Meeting Minutes - Motion to approve by Mr. Terry, seconded by Mr. Swank. Three yeas votes.

Reading of Allowance to hold video conference HB 197. The applicant agreed to the virtual hearing.

**Swearing in of Speakers** – David Compton and Keith Miller were sworn in by Mr. Holthus.

**Public Comment:** No comment

**Communications:** Ms. Brill shared a few items that Staff is working on:

- Staff is working through the Code Enforcement Officer hiring process. This person may have communication with BZA through the appeal process.
- The date for the Zoning Code Rewrite Steering Committee meeting will be May 3 at 6pm. Mr. Jaskiewicz will be on the committee representing BZA.

**Old Business:** Nothing to report.

**New Business:**

1. VAR-21-2: 300 S. Jefferson St: Area Variance

Ms. Brill explained that this is a sign variance for Miller Furniture in the Community Business District and in the Development Corridor. The Committee is being asked to consider an animated/digital sign. The Zoning Code current prohibits changeable signs. Per the zoning code, the current sign is also nonconforming due to the base. The sign does meet height requirements and signage set back requirements. Staff is recommending that the board consider if the area variance complies with our codes. Currently, staff is recommending that the Board consider a different sign for the company that would ensure driver safety. There are other signs along this corridor that required a variance. Typically, with the advertising signs, the flashing images can create environmental clutter and distractions for drivers.

Mr. Terry asked for some clarification on the non-conforming nature of the current sign. Ms. Brill responded that, if the modification is denied, the current signage would not have to meet requirements. However, if the modification is confirmed, it will be required to meet code. Mr. Swank asked if all proper notices were made. Ms. Brill responded that the neighbor notice and the public notice were completed.

Mr. David Compton spoke to the nature of the sign. Digital signage is used at multiple businesses now. The sign will be controlled by the business, including the brightness. It can be shut off at certain hours.

The business owner explained that the signage is helpful in advertising the sales that the store holds. The business is trying to draw more people in with a digital sign. The messages would be professional and classic. Mr. Miller was not aware that the sign is not currently in code.

Mr. Swank asked if the sign would have a static image, or would it be changing? Mr. Miller responded that the images would be displayed for a few seconds and then changed. All members have seen the mockup picture that was provided. Mr. Terry asked if the location of the sign was changing; the business owners responded that no it would just be replacing the current sign. However, if the current sign needs to be updated to meet code, it will change the cost and scope for the owners.

The committee discussed the potential risk to the public due to the flashing lights.

Special conditions were read by Mr. Swank and considered by the board:

A. That said area variance will not be contrary to the public interest. *Determined to be not applicable.*

B. That said area variance is justified due to special conditions: *Due to the intention of the business of trying to find new ways to advertise, special conditions could be considered.*

C. That the literal enforcement of the Zoning Ordinance will result in practical difficulties. The factors to be considered and weighed in determining whether practical difficulties have been encountered shall include, but not be limited to the following:

1. Whether there can be any beneficial use of the property without the variance; *Determined to be not applicable.*

2. Whether the variance is substantial; *Determined to be not applicable.*

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; *No one from the neighborhood came to testify regarding the changes.*

4. Whether the variance would adversely affect the delivery of governmental services (e.g. water, sewer, garbage); *Determined to be not applicable.*

5. Whether the property owner purchased the property with knowledge of the zoning restriction; *The property owner was not aware of the code when purchasing the property.*

6. Whether the property owner's predicament feasibly can be obviated through some method other than a variance. *Yes, the owner has shown sale signs before, but maybe not to the same effect.*

D. That the spirit of the Zoning Ordinance will be observed, and substantial justice done if the area variance is granted. *Mr. Terry noted that the ordinance is there to prohibit lighted signs, so the spirit would most likely not be observed.*

E. That the variance is based on need not convenience or profit. *This variance could potentially be considered for profit.*

Mr. Terry asked the board and Ms. Brill and Mr. Holthus about how they felt about potential supplementary conditions. Ms. Brill responded that content of the sign cannot be regulated. Timing of the sign would be difficult to enforce.

Mr. Compton noted that the signs have the capability to turn on with a switch; public service messages can be displayed. Examples may include time and temperature, snow days, etc. Mr. Compton also has traffic data that he can distribute to the board before a decision is made. Mr. Miller explained that they applied for a sign due to the nature of the other signs in the area. Their sign would probably have less movement than other signs that are currently digital on the corridor. Advertising is hard due to the limiting nature of the sign regulations. They will focus on modern, classic designs.

All names and addresses of the applicants are on record. Deliberation is complete and the board will meet next week to discuss the decision. There are no further public comments.

Ms. Brill added that although timing and lighting cannot be enforced, the zoning code is in place to regulate traffic safety. The present character of the area should be considered for future planning. Currently, these signs are prohibited but we are seeing a lot of variance applications. If the board is ok with digital signs, they could add them as a permissible item in the future.

Motion to adjourn by Mr. Terry, seconded by Mr. Swank.

**Meeting adjourned at 7:05pm.**