

BOARD OF ZONING APPEALS

Meeting Minutes

Wednesday, February 18, 2015

Call to Order

Those members present: Prue Dana, Paul Brady, Jack Cohen, and Mike Schnipper.

Those members excused: John Barnhart.

Staff members present: Sam Perry, and Steve McHugh.

Staff members excused: Amy Blankenship.

Approval of Minutes of the January 21, 2015 Regular Meeting

Ms. Dana made motion to approve the January 21, 2015 minutes as written. Mr. Cohen seconded the motion. All were in favor.

Adjudication Hearings

BZA-2015-02 - 201-203 S. Locust Street, Ohio Valley Goodwill Industries, variance to Section 1143.12(d)(4)(A) 60% glazing requirement on the ground floor, between 2.5' and 7' above grade, Section 1143.12(d)(6) 50% front facade finish requirement with natural materials, and Section 1149.05(a)(1) prohibited parking spaces in front yard setback, Scott Webb, Applicant/Agent

Mr. Schnipper made motion to enter into Public Hearing BZA-2015-02. Ms. Dana seconded the motion. All were in favor.

Mr. Perry provided an overview. Mr. Perry described the variance request for 201-203 S. Locust Street, on behalf of Goodwill Industries, for a donation center and retail store.

Mr. Perry described the property and its past uses. Mr. Perry described the demolition and the plan to retain structures and that overall the applicant was redeveloping the site. Mr. Perry described the proposed parking. Mr. Perry referred to the General Business (GB) District Supplemental Regulations, which require at least 60% storefront window area on the front façade, as well as at least 50% natural materials such as brick, and that the proposed design fell short of the requirements and included no natural materials on the façade. Mr. Perry noted that the vehicle management code prohibited parking spaces in the required 35' front yard setback area, yet several parking spaces on the site plan encroach into the minimum front yard setback. Mr. Perry described the number of windows on the storefront.

Mr. Perry noted that the site was surrounded on three sides by rights-of-way, having two fronts and two sides. Mr. Perry reviewed the site plan, the requested locations for parking and the structures' layouts. Mr. Perry also displayed renderings of the new structure and remodel. Mr. Perry discussed the brick and glazing. Mr. Perry noted that the owner could demolish everything and start with a clean site, but had chosen to keep some of the existing structures. Mr. Perry reviewed the Decision Standards. Mr. Perry stated there would be no negative impact from the variance request. Mr. Perry stated that the owner was probably aware of the zoning restriction. Mr. Perry stated that the façade glazing and natural materials could be obviated through other methods but the parking variance could not. Mr. Perry inquired the BZA if seeing the reuse of an existing structure as relevant, and if the existence of where the building is located limited placing parking at another location. Mr. Perry referred to the narrowing of the buffered area between the ROW and parking spaces. Mr. Perry discussed installing curbing to protect the narrowed buffer.

Mr. Perry referenced the Planning Commission Concept Review Summary in their agenda packet and asked Mr. McHugh explain. Mr. McHugh stated that there were no recommendations based upon the information from the Planning Commission comments; that when there is a development over one acre, a concept review is required by the Planning Commission.

Mr. Brady inquired about curbing and if the BZA could put a requirement on a variance decision. Discussion followed. Mr. McHugh stated it would be a decision for the BZA to make. Mr. Perry stated the BZA could place a requirement based upon Decision Criteria spirit and intent. Mr. Cohen referred to Engineering comments included in the agenda. Mr. Perry stated that the comments would be a part of the building permit approval and was not related to the variance request. Mr. Cohen inquired about glazing and if that wouldn't be part of the nonconforming structure section of the code. Mr. Perry explained that glazing hadn't been reviewed as a nonconforming structure issue.

Mr. Scott Webb, the applicant, was sworn in. Mr. Webb explained that Goodwill was in the donation business more so than a retail business. Mr. Webb displayed the site layout. Mr. Webb explained that his client took advantage with his design of the view coming down Locust Street, since the site is hidden. Mr. Webb reviewed the setback requirement (parking prohibited in front yard setback) noting that parking was not in the setback but the driveway was; and that his client was reducing the front setback on the sideyard. Regarding earlier discussion of curbing, curbing would be an additional expense. Mr. Webb displayed the existing building that would be staying and what would be done to the building which included a corner entrance and drop off center. Glazing and natural materials would be added at appropriate locations. Mr. Webb agreed with Mr. Perry that the building had a lot of exterior perimeter; however, the submitted design has helped break it up.

Ms. Dana inquired about the drop off area. Mr. Webb described the process for drop off.

Mr. Webb referenced the Planning Commission Concept Review Summary included in the agenda and that the review didn't have anything to do with the variances being discussed.

Mr. Cohen referred back to the curbing discussion and concerns that the landscaped area would be driven upon and inquired Mr. Webb for his suggestions. Mr. Webb stated that he didn't feel driving in the landscaped grassed area occurred or would be a problem. Mr. Perry noted that plantings would help define the space.

Mr. McHugh reiterated to the Planning Commission that the information from the Planning Commission Concept Review Summary was informational only for the BZA and to give the weight as they felt appropriate.

Mr. Schnipper made motion to reconvene to Regular Meeting. Ms. Dana seconded the motion. All were in favor.

Ms. Dana made motion to approve BZA-2015-02, variances 1143.12(d)(4)(A), 1143.12(d)(6), 1149.05(a)(1) based upon the reuse plan for an existing structure which at this time has no glazing on the front or existing natural materials, the proposed development will greatly enhance the area, and that without the reuse of the building now, they would not be able to have a reasonable return, which is what their business is about. The variance is substantial, the neighborhood would be enhanced, the variances would not affect government services; Ms. Dana stated she wasn't sure the applicant knew of the zoning code, cannot be feasibly obviated because of the three frontages of which the development is located; the spirit and intent is observed. Mr. Schnipper seconded the motion.

AYE: Mr. Cohen, Mr. Schnipper, Ms. Dana, Mr. Brady (4)

NAY: None (0)

ABS: None (0)

BZA-2015-03 - [14 S. Poplar Street, Alley, variance to Section 1143.10\(c\)\(1\)A.1 3,000 square foot minimum lot size requirement in the Uptown \(UP\) District, Section 1137.05\(c\) lot reduction allowance for a nonconforming use or structure, Scott Webb, Applicant/Agent 25](#)

Mr. Schnipper made motion to enter into Public Hearing BZA-2015-03. Mr. Cohen seconded the motion. All were in favor.

Mr. Perry described the alley lot located behind 16 S. Poplar Street (formerly StadiUm Bar & Grill) and the recent demolition and construction. Mr. Perry described a past approved Conditional Use at the site. Mr. Perry stated that the variance request was to transfer a six foot strip of property to the property fronted on S. Poplar Street. Mr. Perry stated that it came to the Staff's attention that the owner of the property located in the alley preferred to transfer the property. Mr. Perry stated the new structure was approved to be built with no setback along the west property line. Mr. Perry continued that in order to accommodate building code requirements, a perpetual six foot access easement between the two buildings was proposed, approved and required to be recorded prior to occupancy; the owners of the two properties decided instead to transfer that land area rather than use the agreed upon easement. Mr. Perry stated that the new lot line would follow the east building wall.

Mr. Perry reviewed the variance requests: 1. minimum lot size and 2. nonconforming lot - making a nonconforming lot even more nonconforming.

Mr. Perry reviewed the decision criteria: the square footage is substantial given that the lot is already 6.5% smaller than permitted; the variance would not negatively alter the essential character of the neighborhood; delivery services would not be impacted; the property owner was aware of the zoning restriction; the owner's predicament can be obviated, since the building permit has been issued; any relevant factors, the safe ingress and egress to the adjacent building.

Mr. Perry stated that staff didn't see any sufficient evidence to warrant the variance request.

Mr. Scott Webb was sworn in.

Mr. Webb stated this was a proposed easement transfer and that it seemed more complicated than needed to be in his opinion.

Mr. Webb displayed the final site plan and egress. Mr. Webb explained that in 2005 a back stairwell and beer garden existed and that the courtyard was removed and replaced with a 3-unit building. Mr. Webb stated that the stairwell had to remain because the StadiUm Bar and Grill needed the egress. Mr. Webb continued that since the properties were owned by the same person no changes were made. In 2014 the front portion of Lot 38 was sold. The deed was drafted based on the original lot lines from the original plat of the City, leaving the stair on the wrong lot. An easement was drafted as a temporary solution to the problem. The owner was not aware that they did not own the stairs. Once presented, Staff realized we were changing a nonconforming lot.

Mr. Webb stated the easement has been recorded with Butler County. Therefore, the lots should have been separated in 2005, but it didn't occur, and thought the easement solved the problem. Mr. Webb stated that they realized it should have been done in 2005 when there was no minimum lot size in the UP District requirement. The 2005 construction of the three unit building should have required the lots to be separated. Mr. Webb continued that the new owner would prefer to own his exit.

Mr. Perry concluded that after hearing the additional information from the applicant, that the decision would come down to cleaning up the issue and having the stairs belong to the owner. Mr. McHugh stated that the purpose was to lessen the nonconformity; however, it would actually increase the nonconformity.

Ms. Dana made motion to close the Public Hearing. Mr. Schnipper seconded the motion. All were in favor.

Mr. Schnipper stated that the easement solved the problem; and that therefore there was no need for a variance since it

could be obviated another way and that he didn't see granting the variance based upon either one of them.

Mr. Brady stated he didn't see a need that the applicant was requesting something that he did.

Ms. Dana stated she liked to see things cleaned up.

Mr. Schnipper made motion to deny variance 1143.10c1a.1 minimum lot size and 1137.05c nonconforming lots since approval would increase the nonconformity of the property and that another means has been obviated to alleviate their predicament. Mr. Cohen seconded the motion.

AYE: Mr. Schnipper, Mr. Brady, Mr. Cohen (3)

NAY: Ms. Dana (1)

ABS: None (0)

Old Business

Mr. Perry reported that there were no cases for next month.

New Business

There was none.

Adjournment

Ms. Dana made motion to adjourn the meeting. Mr. Cohen seconded the motion. All were in favor.

The meeting was adjourned at 8:28 p.m.