

BOARD OF ZONING APPEALS
Meeting Minutes
Wednesday, August 16, 2017

Call to Order

Those members present: Paul Brady, Roger Ames, Prue Dana, Michael Schnipper, and Rosmarie Shaughnessy.

Those members excused: None.

Staff members present: Sam Perry, Jung-Han Chen, and Jessica Brockman.

Staff members excused: Stephen McHugh.

Approval of Minutes of the July 19, 2017 Regular Meeting

Mr. Ames made motion to approve the minutes as written. Mr. Schnipper seconded the motion. All were in favor.

Adjudication Hearings

BZA-2017-09, 5299 College Corner Pike, variance to Section 1149.05(a)3, minimum off-street parking, Sheldon Jennings, Appellant, Agent (Tabled, July 19/17)

Mr. Ames made motion to remove from table BZA-2017-09. Ms. Dana seconded the motion. All were in favor.

Mr. Chen stated that the applicant contacted staff to clear up differences in interpretations from the August BZA meeting and both agreed to continue the request as originally submitted. Mr. Chen provided a determination based on facts presented that the request was valid and that there were practical difficulties with being a corner lot, thus allowing the additional parking.

No discussion followed.

Ms. Dana made motion to approve BZA-2017-09, variance to section 1149.05(a)3 be granted based upon the request was not substantial, and there was practical difficulty shown being a corner lot. Mr. Ames seconded the motion.

AYE: Mr. Ames, Ms. Schnipper, Ms. Dana, Ms. Shaughnessy, Mr. Brady

NAY: None (0)

ABS: None (0)

BZA-2017-10, 315 S. Poplar Street, variance to Section 1151.05(d)(1), sign regulations for multi-family developments, Scott Webb, Applicant, Agent

Mr. Brady recused himself. Ms. Dana stepped in to guide deliberation. All were in favor.

Ms. Dana swore in Mr. Perry.

Mr. Perry provided a review. Mr. Perry stated that the request was from Mr. Scott Webb on behalf of Park Place Real Estate for a variance to a restriction that only permits free standing signs in the R2MS District for a multi-family building. Mr. Perry stated the sign was for apartments called New England Square, involving 7 parcels. Mr. Perry described the sign size. Mr. Perry referred to the two existing wall signs on some of the structures. Mr. Perry also noted that buildings were considered nonconforming land

uses, and therefore Section 1137.10(d) would also apply: No new signs are permitted for nonconforming land uses.

Mr. Perry noted this was formerly a dead-end street and was continued in 2014, and that Campus Commons was located behind these apartments.

Mr. Perry reviewed the Decision Standards on page 8 of the agenda. Mr. Perry stated that the property has existed as a residential rental property for many years without the sign, the variance is considered substantial, describing other sign locations, the sign would alter the essential character of the neighborhood by permitting it, the owner's predicament was not articulated by the applicant. Also, the spirit and intent would not be observed and substantial justice done by granting the variance request.

Mr. Perry also noted that another relevant factor is that per Section 1137.10(d), no new signs are permitted for nonconforming land uses, and that substantial evidence that supports the variance request was not shown.

There were no questions.

Mr. Scott Webb was sworn in.

Mr. Webb stated that the sign did fit the requirements: sign size, location and construction of. Mr. Webb referred to the site, as having 7 parcels and only two existing wall signs. Mr. Webb stated that his client wants to replace the existing signs with something more appropriate for the neighborhood that are way finding and attractive. Mr. Webb referred to the street having once been a dead-end street and since now as a through street the wall signs are less effective. Mr. Webb stated his client preferred a nicer quality sign. Mr. Webb referred to there being a lot of existing free standing signs in the area and, therefore, the sign proposed fit into the neighborhood better than the existing non-compliant wall mounted signs.

Mr. Webb concluded that the variance was not substantial, and that the essential character would not be affected, and the existing wall signs did not reflect the signage of the area.

Mr. Schnipper responded that a practical difficulty was not seen here and that he had problems understanding Mr. Webb's statement that his client would have problems renting without the variance. Mr. Schnipper referred to Mr. Webb's explanation from a wayfinding standpoint, however it was not the Board's responsibility to review identifications of structures or their improvements.

Ms. Shaughnessy made motion to close public hearing BZA-2017-10. Mr. Ames seconded the motion.

The BZA reviewed the Decision Standards:

1. The property in question would yield a reasonable return without the variance;
2. The variance is substantial;
3. The essential character of the neighborhood would be altered;
4. The variance would not affect delivery of government services;
5. Speculating that the property owner purchased the property with the knowledge of the zoning restriction;
6. That the property owner's predicament can be obviated as signage exists;
7. The spirit and intent behind the zoning requirement would not be observed by granting the variance;
8. Other factors, if granting we would be making a nonconforming property more nonconforming.

Mr. Ames made motion to deny BZA-2017-10, based upon that the request was substantial, did not fit the code and there was no practical difficulty. Mr. Schnipper seconded the motion.

AYE: Mr. Schnipper, Ms. Shaughnessy, Mr. Ames, Ms. Dana (4)

NAY: None (0)

ABS: None (0)

The variance request was denied.

Old Business

Mr. Brady rejoined the BZA meeting.

New Business

Mr. Chen announced there were no cases to be heard for September and suggested the BZA consider a work session refresher and begin a little earlier than the regular start time. All agreed and it was announced it would begin at 6:00 p.m.

Adjournment

Mr. Ames made motion to adjourn the meeting. Ms. Dana seconded the motion. All were in favor. The meeting adjourned at 7:57 p.m.