

Minutes

Clark County Board of Zoning Appeals

Regular Meeting ~ 2:00 pm.
Tuesday, January 25, 2018

Springview Government Center
3130 East Main Street
Springfield, Ohio 45505

Mrs. Jerri Taylor, Vice-Chairperson of the Clark County Board of Zoning Appeals of Clark County Ohio, called the meeting to order at 2:00 pm. and asked for the Roll Call.

Present For Roll Call: Mrs. Jerri Taylor, Mr. Paul Hazlett, Ms. Janie Riggs, Mr. Rick Smith and Mr. David Minard.

Absent For Roll Call: None

Also in Attendance: Mr. Allan Neimayer and Mrs. Jennifer Tuttle of Clark County Community and Economic Development.

Vice-Chairperson Taylor explained how the meeting will be conducted. She then asked if any Board members needed to abstain from any of the cases. Hearing none, Vice-Chairperson Taylor asked if there are any comments regarding the minutes. Hearing none she asked for a motion to approve the minutes.

Approval of the December 28, 2018 Minutes

Motion by Mr. Smith, seconded by Ms. Riggs, to **Approve** the minutes as presented.

VOTE:
Yes: Mr. Smith, Ms. Riggs, Mrs. Taylor and Mr. Hazlett
No:
Abstain: Mr. Minard.

Motion carried.

Mr. Neimayer noted that Mr. Minard would be a full-voting member for this meeting.

Variance Case #BZA-2018-01 ~ Property Owner: Louise Tropp & Phyllis Garlough ~ Applicant: Full Gospel Pentecostal Church; Reverend Clinton McIntosh ~ Location: 5379 Dayton-Springfield Rd.; Mad River Township ~ Request: Variance to Chapter 6, Section B, 2, d) to allow an off-premise sign at 42 ft. from centerline of Dayton-Springfield Rd. instead of the required 100 ft.; and 40 ft. from centerline of Fowler Rd. instead of the required 60 ft.

Vice-Chairperson Taylor asked for the Staff Report.

Mr. Neimayer, Senior Planner, stated the subject property is located at 5379 Dayton-Springfield Rd., located on both sides of the road, and consists of 68.19 total acres. The property is zoned A-1 on the north side and R-1 on the south side. He pointed out that Full Gospel Pentecostal Church is located at 2500 Fowler Rd., approximately 405 ft. north of the intersection with Dayton-Springfield Rd. He explained the Applicant received a letter dated December 1, 2016 from the County Engineer's Department regarding the existing off-premise church sign located in the right-of-way of Dayton-Springfield Road. The Applicant worked with the Community & Economic Development Department to relocate the sign, however the new location would have been inside the active farm land and not acceptable to the property owners. Hence the Applicant has filed this variance request to allow the off-premise sign at 42 ft. from the centerline of Dayton-Springfield Road and 40 ft. from the centerline of Fowler Road.

Mr. Neimayer explained that Chapter 6, Section B, 2, d) of the Zoning Regulations states an off-premise sign shall not be located closer to the public right-of-way than the established building (front) setback of the zoning district, in addition to a 30 ft. setback from any adjoining lot line. The front setback under A-1 zoning is 50 ft. from the right-of-way. Per the Thoroughfare Plan, the Dayton-Springfield Rd. ROW is 100 ft., 50 ft. from centerline, and the Fowler Rd. ROW is 60 ft., 30 ft. from centerline. Mr. Neimayer stated to comply with zoning

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Variance Case #BZA-2018-02 ~ Property Owner: New Carlisle Associates, LLC ~ Agent: Edward Kress, Attorney ~ Location: 640 S. Dayton-Lakeview Rd.; Bethel Township~Request: Variances under Chapter 5: 1) Section A, 1, C, 2) & Figures 5-A & 5-B to reduce the 20 ft. minimum parking aisle width; 2) Section B, 20 & 21 to reduce the minimum number of off-street parking spaces to 166; and 3) Section A, 1, f) to reduce the 10 ft. minimum setback of a parking lot area from the right-of-way; plus a variance to Chapter 6, Section B, 3) to increase the size of an on-premise sign from 100 sq. ft. to 111 sq. ft., and increase the size of an electronic message display sign from 16 sq. ft. to 46.24 sq. ft.

Vice-Chairperson Taylor asked for the Staff Report.

Mr. Neimayer stated the subject property is comprised of two parcels: Parcel #010-05-00031-112-027 (5.06 acres), 640 S. Dayton-Lakeview Rd. and Parcel #010-05-00031-112-026 (2.53 acres), 570 McAdams Dr. The property is zoned B-3 (General Business District). The shopping center was built in 1963 and zoning for Bethel Township was adopted in 1964. McAdams Drive was a service road with McAdams Drive and the parking lot separated by guardrail. He stated parking aisles were single lane with diagonal parking. He stated ODOT's safety improvement project of SR 235 resulted in the realignment of McAdams Drive and adjustment of right-of-way. The Applicant sites that due to this realignment of McAdams Drive a portion of the parking area has been reduced leaving the parking area in a legal non-conforming status. To remain in full zoning compliance, the Applicant is requesting variances to allow a minimum of 166 parking spaces, no 10 ft. setback/landscaping buffer between the parking lot and abutting roadway, and no 20 ft. wide internal circulatory roadway in the parking lot. In addition, the SR 235 project has required the Applicant's free-standing sign to be relocated. Because the Applicant has chosen to replace the former sign with a new larger sign, the Applicant is requesting additional variances to increase the size of an on-premise sign from 100 sq. ft. to 111 sq. ft., and increase the size of an electronic message display sign from 16 sq. ft. to 46.24 sq. ft.

Mr. Neimayer explained the sections of Zoning Regulations that pertain to these variances requests. Chapter 5, Section A, 1, C, 2) and Figures 5-A & Figure 5-B: The required parking area aisle width is dependent on one-way or two-way traffic flow plus the parking angle. Per Table 5.1, the required parking aisle width is 13 ft. (for one-way traffic; 45-degree parking angle). For the main portion of the parking area, the existing aisle width is approximately 19 ft. The issue is with the new ROW of McAdams Drive where the new ROW abuts existing parking spaces.

Chapter 5, Section B, 20 & 21: The minimum number of off-street parking spaces is dependent on the type of land use. Because there is a mix of land uses associated with the subject property, there is no one formula to calculate the required number of parking spaces. Furthermore, some formulas are based on "net" floor area that excludes areas not open to the public such as areas for storage, processing or packaging of merchandise and office space. Parking Formulas: Retail Sales or Service Establishments: one (1) space for each 200 sq. ft. of net floor area; Eating and Drinking Places, Bars, Taverns, and Night Clubs: one (1) space for each 100 sq. ft. of net floor area. Previously, Staff had met with Jeff Smith, P.E, Traffic Factory, consultant for the Applicant, to discuss off-street parking at the subject property. Per Staff's letter dated January 6, 2017 to Mr. Smith, Staff concluded there would be 153 remaining off-street parking spaces after the SR 235 project (based on the data provided).

Chapter 5, Section A, f: states in part, "In no case shall any part of the parking area be closer than ten (10) feet to any established street or alley right-of-way, or any proposed right-of-way designated on the Official Thoroughfare Plan of Clark County. With exception of points of ingress and egress, as approved by the appropriate local, state, or federal agencies, this setback shall be in the form of a landscaped buffer upon which no permanent structure shall be located."

Mr. Neimayer showed the aerial photos of the shopping center. McAdams is no longer a through street. The parking is a legal nonconforming, but the required number of off-street parking spaces will fluctuate depending on actual use.

The sign request came after the request for the parking. Legal counsel advised Staff to add the sign to the parking case.

Mr. Neimayer then explained the Zoning Regulations from Chapter 6, Section B, 3): the surface (display) area of a free standing sign shall not exceed 100 sq. ft. per side. The Applicant's proposed new sign would be 111 sq. ft. Chapter 6, Section B, 3, h, 3): The message area of an Electronic Message Display Sign (EMDS) shall not exceed 8 ft. in width and 2 ft. in height (16 sq. ft. display area). With the Applicant's proposed new sign, the EMDS sign would be 12.33 ft. in width by 3.75 ft. in height (46.24 sq. ft. display area).

Vice-Chairperson Taylor asked if the request was for two signs or one. Mr. Neimayer responded it is for one sign.

Vice-Chairperson Taylor asked if the Board had questions for Staff.

Vice-Chairperson Taylor asked Mr. Neimayer the following to clarify the different requests:

1. Some of the isles will be compliant and some will not? Mr. Neimayer responded the drive isles comply except near the ATM.
2. What happens if business picks up and they need more parking? How do we adjust? Mr. Neimayer stated as a shopping center parking will fluctuate and the owner would have to bring it to Staff for evaluation. Could parking be expanded? Mr. Neimayer responded yes, but on the other parcel away from shopping center.
3. Request is for no buffer/ landscaping? She asked if there was a buffer before. Mr. Neimayer responded no.

Mr. Smith asked if the service road ended. Mr. Neimayer stated it is no longer a through road.

Vice-Chairperson Taylor asked if ODOT had issues with the sign. Mr. Neimayer referred the Board to the letter from ODOT that stated they are okay with the parking. He stated they were not aware of the sign.

Vice-Chairperson Taylor stated the request for the digital sign is 3 times the allowed. She stated she was worried about sight issues. Mr. Neimayer showed the location of the sign and stated it was further away from the road (SR 235).

Ms. Riggs asked about the height of the sign. Mr. Neimayer it will comply with regulations.

With no further questions for Mr. Neimayer, Vice-Chairperson Taylor opened the public hearing at 2:37_pm.

Sam Brinker, Attorney, 1 S. Main St., Dayton, was sworn in. Mr. Brinker stated there are several requests in front of the Board and staff explained them well. He stated ODOT did a taking to make it (SR 235) safer and the reconstruction affected the parking area for the Community Market (the shopping center). He stated he understood it was "grandfathered in" but they want to make sure the taking would not trigger any changes and verify the current regulations do not apply because of the taking. Mr. Brinker showed a map of the before parking lot with 192 spaces and the new layout with 166 spaces. He stated losing parking spaces meant his client (the Applicant) had to reconfigure the parking area. He stated if it was the owner's redevelopment he understood there would be zoning issues. The Applicant is asking to recognize the ODOT taking is not the owner's choice and the Applicant would have had the benefit of the additional parking. The Applicant wants the benefit granted and not have any obstacles if future development occurs. Mr. Brinker stated the sign request came late, but the request is due to the square footage being greater than that allowed under zoning regulations. He stated the sign is a nice new LED that will look great on the property. He reminded the Board the need for the ODOT taking was due to safety. He noted his client was very cooperative with ODOT and they have not had an issue with any of the requests.

Vice-Chairperson Taylor asked if there was anyone else wishing to speak for or against this case. No one spoke for or against the case.

Vice-Chairperson Taylor closed the public hearing at 2:44 p.m. and asked for discussion from the Board.

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Mr. Hazlett stated that Ms. Riggs knows the area and she has observed that there have never been issues with parking.

Ms. Riggs stated there has never been an issue with parking at the shopping center, even when the shopping center was at capacity. She stated once the new flow is learned, it will be ok.

Vice-Chairperson Taylor stated the signage is lacking and you do not know what businesses are there.

Mr. Smith stated the sign will be back far enough to not distract.

Ms. Riggs stated reduces access. No lighting.

Mrs. Taylor stated best option with something they do not have control over.

Hearing no further discussion from the Board, Vice-Chairperson Taylor asked for a motion.

Action on Variance Case #BZA-2018-02 ~ Property Owner: New Carlisle Associates, LLC ~ Agent: Edward Kress, Attorney ~ Location: 640 S. Dayton-Lakeview Rd.; Bethel Township ~ Request: Variances under Chapter 5: 1) Section A, 1, C, 2) & Figures 5-A & 5-B to reduce the 20 ft. minimum parking aisle width; 2) Section B, 20 & 21 to reduce the minimum number of off-street parking spaces to 166; and 3) Section A, 1, f) to reduce the 10 ft. minimum setback of a parking lot area from the right-of-way; plus a variance to Chapter 6, Section B, 3) to increase the size of an on-premise sign from 100 sq. ft. to 111 sq. ft., and increase the size of an electronic message display sign from 16 sq. ft. to 46.24 sq. ft.

Chapter 5: 1) Section A, 1, C, 2) & Figures 5-A & 5-B to reduce the 20 ft. minimum parking aisle width

Motion by Mr. Smith, seconded by Mr. Minard, to **Approve** the Variance request as presented.

VOTE: **Yes:** Mr. Smith, Mr. Minard, Ms. Riggs and Mr. Hazlett.
 No: None.

Motion carried.

Chapter 5: Section B, 20 & 21 to reduce the minimum number of off-street parking spaces to 166

Motion by Mr. Smith, seconded by Ms. Riggs, to **Approve** the Variance request as presented.

VOTE: **Yes:** Mr. Smith, Ms. Riggs, Mr. Minard and Mr. Hazlett.
 No: None.

Motion carried.

Chapter 5: Section A, 1, f) to reduce the 10 ft. minimum setback of a parking lot area from the ROW

Motion by Mr. Smith, seconded by Ms. Riggs, to **Approve** the Variance request as presented.

VOTE: **Yes:** Mr. Smith, Ms. Riggs, Mr. Minard and Mr. Hazlett.
 No: None.

Motion carried.

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Chapter 6, Section B, 3) to increase the size of an on-premise sign from 100 sq. ft. to 111 sq. ft.

Motion by Mr. Smith, seconded by Ms. Riggs, to **Approve** the Variance request as presented.

VOTE: **Yes:** Mr. Smith, Ms. Riggs, Mr. Minard and Mr. Hazlett.
 No: None.

Motion carried.

Chapter 6, Section B, 3) increase the size of an electronic message display sign from 16 sq. ft. to 46.24 sq. ft.

Motion by Mr. Smith, seconded by Ms. Riggs , to **Approve** the Variance request as presented.

VOTE: **Yes:** Mr. Smith, Ms. Riggs, Mr. Minard and Mr. Hazlett.
 No: None.

Motion carried.

Election of Officers for 2018

Motion by Mr. Hazlet to nominate Mrs. Jerri Taylor as Chairperson and Mr. Rick Smith as Vice-Chairperson, seconded by Ms. Riggs.

VOTE: **Yes:** Mr. Hazlett, Ms. Riggs, Mr. Minard, Mr. Smith and Mrs. Taylor.
 No: None.

Motion carried.

Staff Comments

Mr. Neimayer stated there were no cases for February.

He stated the Connect Clark County Road Show was in the last phases. He encouraged them to visit and announced the next Road Show location is at library in New Carlisle. He also encouraged them to visit website. Mr. Neimayer asked what the Board wanted to see from the Plan as it relates to BZA. Chairperson Taylor asked for an overview. Mr. Neimayer stated staff would use the February BZA meeting date as a comprehensive plan overview.

Mr. Neimayer asked the Board for guidance on EMDS signs. He stated that the Board had agreed to 32 sq. ft. in the past, but this request was for 44 sq. ft. He asked if there is a limit the Board was comfortable with. Mr. Smith stated he felt it depends on what is being advertised and the size of the business. He noted it was the size of business in portion with size of sign. He further explained in this case the sign is in a good location, being so far off of the road, so size was not much of an issue. Mr. Neimayer stated he did not feel there was a need for a EMDS like at the Rose Center in Huber Heights. He asked the Board to think about the EMDS size and how should the zoning regulation be amended.

Mr. Smith commented that the sign at the fairgrounds was too bright.

Chairperson Taylor made the request to staff that all sign requests be required to have a visual layout (3D mock up) something to illustrate the request.

In other business, Mr. Neimayer asked the Board to review their Rules of Procedures to see if any revisions need to be made.

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Mr. Hazlett asked if Staff had identified another member to replace Mr. Greenwood. Mr. Neimayer stated no. Mr. Hazlett and Ms. Riggs stated they may know someone interested. Mr. Neimayer encouraged them to have them fill out the appointment member information form.

Adjournment

Motion by Mr. Smith, seconded by Mr. Minard, to Adjourn.

VOTE: Motion carried unanimously.

The meeting was adjourned at 3:12p.m.

Mrs. Jerri Taylor, Chairperson

Mr. Thomas A. Hale, Secretary