

BOARD OF ADJUSTMENT

MEETING MINUTES

December 6, 2018

City Hall – Council Chambers

Regular Members Present: Larry Caldwell, Tim Kelley, Skip Smallwood, William Whitlock

Regular Members Absent: Charles Haubold

Alternate Members Present: David Hinton

Alternate Members Absent: Ray Buhs, Ed Hart

Staff Present: Carol Peters, Ryan Shrimplin

Call to Order

Vice-Chairman Smallwood called the meeting to order at 7:00 p.m. Mr. Hinton served in place of Mr. Haubold.

Approval of Minutes

The minutes of the September 6, 2018 Board of Adjustment meeting were unanimously approved upon motion made by Mr. Kelley and seconded by Mr. Hinton.

ZONING CODE VARIANCES

1. A public hearing was held on the request of Keystone Design Architects for a variance from Section 30-334(f)(4)a, C-2 (Highway Commercial District) front yard setback requirements, at 3451 William Street. Pam Davidson, applicant, explained that her client constructed a tunnel car wash on the subject property. A large attached canopy was supposed to be constructed over the pay stations. It was recently discovered, however, that the width of the lanes for the pay stations had not been designed to accommodate larger trucks. Widening the lanes would require extending the length of the large canopy, thus encroaching on the front yard setback. Her client has decided to use two (2) small freestanding canopies – one over each pay station – instead. Even with this change, a portion of the northernmost canopy would encroach on the front yard setback by four (4) feet.

A staff report was submitted to the Board, containing the following findings of fact in reference to the variance request:

Criterion #1: The variance request arises from a condition which is unique to the property in question and which is not ordinarily found, and is not created by an action or actions of the property owner or the applicant.

Finding: The space constraint created by the building's position relative to the right-of-way line (thus preventing the northernmost canopy from being moved out of the setback) is a condition unique to the subject property.

Criterion #2: Approval of the variance request will not adversely affect the rights of adjacent property owners or tenants.

Finding: The proposed encroachment is minor and involves only an overhang as opposed something more substantial, such as walls. There are provisions in the Zoning Code that allow architectural projections in a setback, such as uncovered porches, unenclosed balconies, and ornamental features; however, these provisions only apply to principal structures. There is also a provision in the Zoning Code that allows vehicle fueling station canopies to encroach in a setback under certain conditions. The proposed encroachment by the pay station canopy is far less significant than an encroachment by a vehicle fueling station canopy. Given the location of the property and the pay station canopies, there will be no adverse effect on adjacent property owners or tenants if the variance request is approved.

Criterion #3: The strict application of the provisions of the Zoning Code from which the variance is requested will constitute unnecessary hardship upon the utilization of the property.

Finding: If the variance request is denied, the applicant will be forced to forgo a canopy over the northernmost pay station, resulting in an inconvenience for customers, service technicians, and others during inclement weather, thus constituting an unnecessary hardship.

Criterion #4: Approval of the variance request will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

Finding: As discussed previously, the encroachment is minor and is limited to an overhang in the front yard setback, and denial of the variance will result in an inconvenience for the public. Thus, the public will not be adversely affected if the variance request is approved.

Criterion #5: Approval of the variance request is consistent with the general spirit and intent of the Zoning Code.

Finding: The unique condition of the subject property, the unnecessary hardship that will result if the request is denied, and the lack of an adverse effect on the adjacent property owners, tenants, and the public form the basis for approving the variance request in keeping with the general spirit and intent of the Zoning Code.

Based on the above findings, staff recommended approval of the variance request.

Vice-Chairman Smallwood opened the public hearing. Ms. Adrienne Henry, Drury Southwest Development, requested more information regarding the locations of the canopies. She was then presented with a copy of the site plan showing the proposed canopy locations. Ms. Henry stated that she had no further questions or comments. Seeing no other appearances to speak, Vice-Chairman Smallwood closed the public hearing. A motion was made by Mr. Kelley and seconded by Mr. Whitlock to approve the variance request. The motion passed by a vote of 5 in favor, 0 in opposition, and 0 abstaining. (Aye: Caldwell, Hinton, Kelley, Smallwood, Whitlock) Vice-Chairman Smallwood called for a motion to adopt the staff report as the Board's Findings of Fact and Conclusions of Law. Mr.

Hinton made a motion to adopt, and Mr. Kelley seconded the motion. The motion passed by a unanimous vote.

2. The Commission reviewed the request of Jordan Janet for an extension of a variance granted on June 7, 2018 from Section 30-322-(e)(5)a of the Zoning Code to allow a five (5) foot encroachment for a new single-family dwelling in the front yard setback, and Section 30-322-(e)(5)b of the Zoning Code to allow a ten (10) foot encroachment for a new single-family dwelling in the rear yard setback, at 1904 Sue Annes Trail. Mr. Kelley recused himself from the discussion and vote due to his residence being near the subject property. Mr. Shrimplin explained that Mr. Janet obtained the variance last June because he was preparing to purchase the property and wanted to make sure he could build the house per his plans. At that meeting, Mr. Janet had informed the Board that he would not begin construction of the house until 2019 and would need an extension of the variance prior to its expiration. A motion was made by Mr. Whitlock and seconded by Mr. Hinton to approve a 180-day extension of the variance. The motion passed by a vote of 4 in favor, 0 in opposition, and 1 abstaining. (*Aye: Caldwell, Hinton, Smallwood, Whitlock; Abstain: Kelley*)

Staff Communication

Vice-Chairman Smallwood asked about future plans for City Hall. Mr. Shrimplin explained that the City hired an architectural consultant to conduct a space needs study for City Hall, which included an assessment of needs for each functional area. The study also evaluated three City-owned facilities for potential to accommodate the space needs: the current City Hall, the Common Pleas Courthouse, and the former Police headquarters. Upon review of the consultant's findings, it was determined that none of these facilities were feasible for adapting to the space needs. One option that may be considered is demolishing the current City Hall and constructing a new one on the site. The City Council will be discussing a plan for these and other buildings in the near future.

Adjournment

Upon motion made by Mr. Caldwell and seconded by Mr. Kelley, the meeting was adjourned unanimously at 7:15 p.m.

Respectfully submitted,


William Whitlock
Secretary