



BOARD OF ZONING APPEALS MINUTES May 1, 2019

MEETING

LOCATION: City Council Chambers, City Building

MEMBERS PRESENT: Christopher Amburgey Roger Daniel Dan Ward
Todd Moore Jerry Heidenreich

STAFF

PRESENT: Ashley Combs, Planning Director
Austin Eidemiller, Zoning Inspector

OTHERS: Michael Halonen

Chairman Todd Moore called the meeting to order at 5:30 P.M. The roll was called by Planning Director, Ashley Combs. A voting quorum was present for the meeting.

Ms. Combs announced that Austin Eidemiller, the City's new Zoning Inspector was present and introduced him to the board. The board welcomed Austin and Ms. Combs said that Austin would be the Board of Zoning Appeals staff liaison going forward.

ELECTION OF CHAIRMAN & VICE CHAIRMAN

A nomination and motion were made and seconded to have Mr. Moore continue to serve as the Board of Zoning Appeals Chairman. A nomination and motion was made for Mr. Heidenreich to serve as the Board of Zoning Appeals Vice Chairman. The motions for Chairman and Vice Chairman carried unanimously through roll call.

ACCEPTANCE OF PREVIOUS MEETING MINUTES

Mr. Moore presented the March 6, 2019 meeting minutes and asked if there were any needed corrections or additions. With there being none, Mr. Moore asked for a motion. A motion was made and seconded to accept the March 6, 2019 meeting minutes as presented. The motion was approved unanimously through roll call.

VARIANCE CASE #3-19

DEMINSIONAL HEIGHT VARIANCE - 3451 CINCINNATI DAYTON ROAD (WAFFLE HOUSE)

Mr. Moore introduced Variance Case #3-19 as a request by applicant Waffle House Inc. for sign height variance approval to allow for a pole sign to be 50 foot in height at the property located at 3451 Cincinnati Dayton Road (Dixie Highway), Franklin, OH 45005. The property is zoned B-2 Business Commercial and only allows for a sign to be a maximum of 10 feet in height. The variance height requested is a total of 40 feet and to allow for the sign cabinet to be 80 square feet in size.

Ashley Combs, Planning Director, presented the case. She used a PowerPoint presentation.

Ms. Combs noted the location of the property and displayed property and surrounding

property photos. Ms. Combs explained the background of the project and displayed a zoning map. Ms. Combs displayed pictures of the existing building on the property.

Ms. Combs said that the surrounding properties have the following uses and zoning designations:

North: B-2 Community Business District (Office Park/Movie Cinema)

West: B-2 Community Business District (Vacant Commercial)

East: B-2 Community Business District (Pierson Car Sales)

South: B-2 Community Business District (Car Sales Lot)

Ms. Combs explained that the property is zoned B-2 Business where restaurants are principally permitted uses. The site plan for the proposed Waffle House restaurant meets all Middletown Development Code requirements (for landscaping, parking, setbacks, etc.) with the exception of the proposed restaurant pylon pole sign. She noted that there are other restaurants nearby that also have pole signs that exceed height requirements of the zoning code (Frisch's, Olive Garden, Wendy's, and Cracker Barrel).

Ms. Combs said that the proposed sign height is 50 feet, which is 40 ft. more than the permitted 10 ft. maximum height identified in the zoning code. Per the applicant, the reason for the requested sign variance is due to the topography of the site and visibility from State Route 122 and Interstate 75. They have identified that the sign variance is the crucial factor to securing the construction of Waffle House at this location.

Ms. Combs said that per discussions with the applicant, the City of Middletown had a Waffle House at one time, but it was taken through eminent domain when the interchange was constructed.

Ms. Combs stated that the proposed Waffle House sign size of 80 sq. ft. would meet the zoning code size requirements due to the property having over 200 feet of road frontage along Cincinnati Dayton Road. She displayed the chart from the Middletown Development Code and said that the zoning code identifies that the maximum sign height is 10 ft. and maximum sign size of 80 sq. ft.

Ms. Combs pointed out that per the Middletown Development Code the requirement for legal notice for variance requests, meeting notice letters for the proposed sign variance were sent to all property owners within 200 feet and no comments were received about the requested variance.

Ms. Combs displayed the area and dimensional review criteria that the board is to use to make their decision. Ms. Combs concluded her staff report.

Mr. Moore asked the board if they had any questions for staff. Ms. Combs and the board discussed the blue highway signs and the possibility of Waffle House being able to utilize that signage in lieu of receiving a sign height variance.

Mr. Halonen, Waffle House applicant, entered the meeting and came forward to speak for the project. Mr. Halonen was sworn in to speak. Mr. Halonen agreed with staff's report and

added that he was sorry for being late due to traffic coming from their Cincinnati office. Mr. Haonen discussed the variance request and the issue of not being able to get onto the blue highway signs. He said that Waffle House has been unsuccessful due to them being full with other tenants.

Mr. Moore closed the public hearing and asked for staff recommendation.

Ms. Combs said that based on the staff report provided and compliance with the requirements outlined in the Middletown Development Code for a dimensional variance, staff recommended approval of for sign height variance approval to allow for a pole sign to be 50 foot in height.

The board discussed staff's recommendation. Ms. Combs said that staff sees issues with the topography of the area having visibility coming in from Interstate 75 and State Route 122. Ms. Combs said that the topography was seen as a hardship and was one of the main reasons for staff's recommendation for approval of the height variance.

The board discussed the surrounding restaurants that have the pylon signs similar to the requested height are properties that had been annexed by the City of Middletown and had not been subject to any city regulations in the past.

The board discussed the request and that it is beyond the spirit and intent of the zoning code. The request is for a 40 foot variance and the code only allows for a maximum height of 10 foot high sign for that property. The City's new zoning code was adopted last year (March 2018) and there is an issue with setting a precedent.

The board discussed the topography hardship that is present. They determined that the restaurant visibility issue could be solved by other means, such as the blue highway signage that tells the driver as they exit how far and the direction to the restaurant. They also discussed that people now use smart phone technology and could easily find the location. Mr. Halonen said that Waffle House restaurants are more of an impulse restaurant that drivers find as they are looking for a pylon sign before making an exit into a community.

The board concluded their discussion and moved to making a motion.

A motion was made to approve the sign height variance, however, there were only 3 votes for approval and there were 2 votes that were made for denial of the variance. The motion for the sign height variance was denied through roll call without having a majority vote.

ADJOURNMENT

With no further business to conduct, there was a motion to adjourn at 6:45 pm. The motion passed unanimously.

MINUTES HAVE BEEN APPROVED BY BOARD OF ZONING APPEALS.

Todd Moore
Chairman

Austin Eidemiller
Zoning Inspector