

MINUTES OF THE
FAIRFIELD BOARD OF ZONING APPEALS

February 1, 2012

Chairman Ron Siciliano called the Board of Zoning Appeals hearing to order at 6:00 p.m. at the Fairfield Municipal Building, 5350 Pleasant Ave.

Roll Call

Lynda McGuire, Secretary, called the roll of the Board of Zoning Appeals. Present members were Ron Siciliano, Debbie Pennington, Joseph Koczeniak, Chad Oberson, Don Carpenter, Scott Lepsky and Jack Wessler. Rick Helsinger, Building Official and John Clemmons, Law Director were also present.

Pledge of Allegiance

Minutes of the Previous Meeting

The minutes from the Board of Zoning Appeals meeting held on January 4, 2012 were approved as submitted. Motion carried 7-0.

Old Business

Case No. BZA-11-0032 – Promotional banner as awning, proposed signage exceeds total allowable – 1131 Magie Ave.:

Scott Lepsky, seconded by Debbie Pennington, made a motion to remove this case from the table. Motion carried 7-0.

Alan Hudson, D. C. is requesting variances to use a banner as an awning, and exceed the total allowable square footage.

Property Owner's Comments

Alan Hudson spoke regarding the variance. The banner was removed in January. He said he understood that if the banner was framed and supported completely at the top, it would be approved. The size of the sign hasn't changed. Ron Siciliano asked if the City had any discussions with the owner over what was expected with the new awning. Mr. Hudson said there would be framework all around the perimeter of the banner, with sleeves sewn inside for the framework, stretched tight to appear more like a canopy and bolted to the front of the building. Rick Helsinger said there was an internal meeting and the definitions of awnings and canopies were discussed. It was determined that if Mr. Hudson could come up with a frame for the fabric and it could be stretched tight, then it would be evaluated and determined whether or not it be acceptable. John Clemmons said they found a definition of awning in the building code; it is defined as "material stretched over a framework." There is a difference between the definition of canopy and awning, based on the way it's attached to the building. He thinks a definition of awning needs to be put in the zoning code in the future. Mr. Helsinger reminded everyone that the size of the awning still needs approval. Mr. Hudson feels he has a hardship because of the location and size of his space. Mr. Clemmons asked for clarification on the "pockets" that Mr. Hudson referenced. There are no pockets, more like a sleeve for the framework, and no air can blow through. It will be strongly secured to the building, and after the framework is installed, the eyelets that are currently on the banner will not be seen. Mr. Oberson asked if it was now considered a sign. It is a sign because of the lettering on it, so the only variance they will be approving is for the size.

Public Hearing

There was no comment from the audience.

Board Re-Convened

Don Carpenter, seconded by Debbie Pennington, made a motion to approve the variance to exceed the total allowable square footage. Motion carried 7-0. Ron Siciliano said to make sure the applicant talks to the Building Department for approval on the awning.

Tim Bachman, Director of Development Services asked for feedback on the board's feelings on awnings. He will be rewriting the code to include awnings, and is aware that there was a big debate on the issue at the December BZA meeting. He feels these will be "popping up" everywhere, since it is an inexpensive way to advertise. Mr. Siciliano feels that awnings should be framed up, and should be made to fit and be flush to the building. They should be one piece of fabric with no openings. Mr. Oberson said it should be made of continuous material, not be made of vinyl and should flow with the building. The primary use should not be for a sign. He referenced the fabric over at the center where Fairfield Hardware is located. Mr. Lepsky said it should be designed and engineered as an awning, and put in writing. Mr. Wesseler thinks the awnings should be permanent, and a part of the building. Ms. Pennington said they should be permanently attached.

New Business

Case No. BZA-12-0001 – Variable Message Reader Board – 5381 Dixie Hwy.:

Yongqing Cao is requesting a variance to install a Variable Message Reader Board in the C-3A zoning district.

STR thinks the board needs to follow the ordinance in this case. The pole sign is already non-conforming, because pole signs are not allowed in this zone.

Property Owner's Comments

Yongqing Cao spoke regarding the variance. The building is 100 feet from the street and hard to see. They purchased the sign before they knew they needed a variance for it. Mr. Siciliano asked where the LED is going to be placed on the sign. The LED will be installed on the bottom of the existing pole sign. John Clemmons asked if a manual Reader Board sign would be allowed. If the pole sign was legal, they could have a manual reader board. Ms. Pennington asked about the sign height. The pole sign is 24'. Mr. Kozeniak stated that hardship is the reason for a variance. The existing pole sign is very visible; what is the hardship? Mr. Siciliano said a lot of signs come to BZA. The code was recently rewritten, and electronic signs are more affordable now. He thinks if the electronic sign was allowed, it would not increase their visibility. Mr. Oberson thinks the LED would help, but there is no hardship for the LED. Mr. Cao said the pole sign with the LED was submitted as a whole, and the City asked them to hold the LED part of it and get a variance. Mr. Siciliano said he is not in favor of the variance.

Public Hearing

Samuel Yi, Dixie Hwy spoke regarding the variance. He asked why the daycare LED sign was approved a few blocks up the street. They have the frontage to allow for the sign; they originally asked for a pole sign and were turned down. They now have two ground signs. Mr. Siciliano suggested they keep the sign, and if the ordinance changes, he will already have the sign. Mr. Yi asked if they could use the LED sign like a wall sign. The same rules apply for a wall sign. They would not be able to use the LED sign on the wall. He said they are a new used car business and it is hard to compete with the others. They need to stand out. Mr. Siciliano suggested they used promotional signage as allowed.

Board Re-Convened

Scott Lepsky, seconded by Joseph Kozeniak, made a motion to deny the variance as submitted. Motion carried 7-0.

Case No. BZA-12-0002 – Over 35% of front yard paved – 4661 Anthony Wayne Ave.,

Curt and Marilyn Compton are requesting a variance to leave over 35% of their front yard paved.

STR had no comment on this case.

Property Owner's Comments

The Compton's spoke regarding the variance. They can't park on the shared driveway that is on their property, and there is no street parking in that area. The yard is beveled; the cars were parking in the grass and getting stuck back there. The newly paved area looks nice. Mr. Siciliano asked for clarification on what parts of the concrete were factored in when they figured the 35%. Part of the area figured in can't be parked on at all. He asked why the owners did not park in the back and keep all of the parking behind the house. Mr. Compton said he has a lot of family that comes over, with small children and babies and they shouldn't have to park in the back and walk all the way around to get in the house. He doesn't want them to have to walk thru the elements to get in the house. He usually has 4 or more cars parked in the front of the house. They wanted to build a garage in the back, but they are already over their 35% of allowable accessory structures. Mr. Oberson stated that he sees their hardship; it's unfortunate that it is being counted in the square footage total. There is a home built behind their's and they share a driveway. That is the hardship. Mr. Kozeniak asked if they could have paved behind the house. Mr. Helsinger said the 35% is only factored in the front yard; they are allowed 1400 sq ft of concrete in the front yard. Mr. Siciliano is concerned about all of the cars in front of the house, and what people could park there if the Compton's moved out. The inspector came out and found that they had paved this area, they did not get the required no cost zoning certificate. There is no street parking allowed in this area because it is an older street and it narrows. Mr. Oberson thinks it's an unusual circumstance; they would not be setting precedence.

Public Hearing

There was no comment from the audience.

Board Re-Convened

Chad Oberson, seconded by Jack Wessler, made a motion to approve the variance as submitted. Motion carried 6-1, Ron Siciliano dissenting.

Mr. Helsinger reminded the Compton's to apply for the required zoning certificate.

Case No. BZA-12-0003 – Fence with posts and supporting rails on the outside – 5659 Boehm Dr.;

Christi Harrison is requesting a variance to install sections of fencing with the posts and supporting rails on the outside of the fence.

STR recommends the ordinance be followed. They believe there are alternatives to having the posts installed on the outside.

Property Owner's Comments

Christi Harrison spoke regarding the variance. She has an old fence and wants to replace it. The neighbors put up a fence, and she wants to maintain the continuity of the smooth side of their fence around the rest of the property. They would like to put up the same exact fence as the neighbor. Mr. Siciliano doesn't see the hardship in this case. He agrees with STR; there are other options. Mr. Oberson said it costs more for a double sided fence, but there is no hardship. Ms. Harrison said that the house 2 doors away have what she is asking for and would like to know why they can keep theirs. The fence could have been put up without a permit, or was grandfathered in.

Public Hearing

There was no comment from the audience.

Board Re-Convended

Jack Wesseler, seconded by Scott Lepsky, made a motion to deny the variance as submitted. Motion carried 7-0.

Case No. BZA-12-0004 – Roof sign in D-1 zone, exceeds total allowable – 690 A Nilles Rd.:

Ed Langley, with Kessler Sign Co. for Hot Head Burritos is requesting a variance to install an internally illuminated roof sign, which will exceed the total allowable square footage, in the D-1 zoning district.

STR recommends the board follow the D-1 ordinance regarding roof signs on this case.

Property Owner's Comments

Zach Kettering spoke regarding the variance. Roof signs should be allowed because there are already roof signs there. There are no ground signs available for this property and no façade for a sign, so there are no other options. The franchise requires the sign they are asking for, to increase visibility for their customers. Their space sits back from the street and closes at 10:00 pm. The other businesses in the strip center close earlier than them, so they need a lit sign to attract the public and to show they are open. In order to compete with the other restaurants in the downtown zone, they need the internally lit roof sign. The sign will not obstruct anyone's view at all. They believe Hothead Burritos is good for this area. Mr. Siciliano said the computer store was granted a variance for a roof sign. He thought it was a good fit in the strip center, since there were other ones there. There was discussion regarding the existing ground sign at the location. That sign is not their's to use; it is on another parcel and is owned by a different landlord.

Ed Langley spoke regarding the variance. He showed the board pictures of the existing signs at the strip center. The building is 140 feet from the curb, and farther for opposing traffic. The existing green sign band is 18" wide and the characters are 13" high. The letters will be very hard to read. You have to know that the business is there. The existing roof sign letters on the adjacent building are also very small and hard to read. The proposed sign is the official franchise sign, and will be internally illuminated with white LED lighting. This is a more efficient way to light, and neon signs are not really done anymore. The cost to operate them is minimal. Mr. Helsinger said the city is trying to eliminate roof signs as much as possible. They will lose their grandfathering status on the existing roof sign because they are changing it. There was discussion on Porter Paints and Fairfield Hardware needing variances on their signs. If they were to reface the sign they wouldn't need a variance. Mr. Bachman feels there are serious inconsistencies with the signage on the whole building. There was discussion regarding existing signage, and how different all of them are in that strip center. He is hesitant to introduce yet another roof sign in this strip.

Kevin Kettering, franchise owner, spoke regarding the variance. Taco Bell, which is right next door to the strip center, has a bright sign at the street and on the building. All of the other surrounding fast food businesses also have them. He understands that the illuminated signs are allowed, it's just the roof sign that needs a variance. Mr. Siciliano asked how much say the franchise had in the sign design. They regulate the size and the look of the sign; the basic logo is the same for all of them. They want the sign to be illuminated 24 hours a day, 7 days a week; it is cheap to light all of the time. There was discussion on the definition of a roof sign. Mr. Kozeniak asked if there were any alternatives to the proposed sign. Mr. Helsinger said a window sign would be acceptable. They could also reface the existing roof sign and use the existing flood lights and they wouldn't need a variance. Mr. Bachman referenced an internal meeting that the applicants had with the city in regard to sign alternatives that would help to avoid having to obtain a variance. Mr. Clemmons stated the computer company next door had to get a new zoning variance for their roof sign; they lost their non conforming status because the sign had been previously removed. Mr. Kozeniak thinks the different signs in the strip center look ugly, but where do you draw the line? There is no symmetry in the strip center at all. He feels that he should preserve what the code requires since there is an alternative. Mr. Kessler feels the existing signage is very outdated; it is over 15 years old. They want to use today's technology. This will be the 25th local location for the store. It is listed in the top 100 growing companies in the U.S. Mr. Oberson agrees that the building is the problem. It needs remodeled like Reigert Square remodeled their space; they added a facade to accommodate for signage. Mr. Lepsky says the city recently built the Justice Center, and the Community Arts Center; which brings up the image of the downtown district. The new sign ordinance was written with the strip center sitting there. The people who wrote it knew

the building was there. As the opportunities present themselves, they can get rid of these types of signs. Mr. Siciliano agrees to a certain degree, but what other options do they have? Mr. Lepsky said they could reface the existing sign. Mr. Carpenter feels the problem is a brand issue. Can they put their logo on the existing sign? Mr. Lepsky stated again that they can reface the existing sign and use a flood light on it. Mr. Kettering stated that in the internal meeting, they did not discuss using the existing roof sign at all. Mr. Bachman asked again, and Mr. Kettering said they did discuss using the roof sign, but they do not want to reuse the existing sign. It will not be as noticeable; the internally illuminated signs are more noticeable than the externally lit signs. He also feels that they look old fashioned as opposed to their proposed modern sign. The sign they are proposing is more in line with their competitor's signs. Mr. Lepsky understands, but does the brand image diminish because the lights are on the outside? Ms. Pennington asked how many locations Mr. Kettering owned locally. There are 3 locations, and all of the signs are the type they are asking for in Fairfield. Mr. Clemmons suggested the owners forego the roof sign and asked if they would be willing to build a ground sign instead. Mr. Kettering thought they would have more resistance with a ground sign than with a roof sign and hasn't even considered it. Mr. Siciliano thinks the ground sign would actually meet less resistance with the board. Mr. Clemmons prefers a ground sign over a roof sign; they are trying to get rid of roof signs, not bring them up to date. Mr. Kessler thinks if they get a ground sign, everyone in the strip will want one, and it will be hard to see all of them. How would you stagger them? Mr. Oberson thinks the problem is Porter Paint and Fairfield Hardware's signs. The precedent has already been set with these signs. He wants to be business friendly, and wants to look at the center as a whole. If they want to spend more money to make it look nice, why not allow it? They need the sign in order to have a successful business there. Mr. Bachman said the issue is that they are in a shopping center; the other restaurants they mentioned are stand alone buildings. He thinks if they are approved, everyone else in the center will want the roof signs. Is this the precedent the board wants to set? Mr. Lepsky feels a ground sign would be a better option in keeping with the new sign ordinance. Mr. Kettering would like if the center had a façade on it to place a sign on, but there isn't and he is just using what is available to him. Ms. Pennington thinks a ground sign would be seen better than a roof sign. A ground sign would eliminate some parking, and hasn't been discussed with the owner of the building. A ground sign would have to be two feet in from the right of way. Mr. Bachman suggested they table the case and discuss it further, but because the owner wants an answer at this meeting, the case was not tabled. If they can't use this space, there is no where else in Fairfield for them to locate the new business. There was discussion on the size of the sign. For the entire parcel, their sign size is under what is allowed, because the business next door has a smaller sign. Mr. Kessler offered to reduce the size of the sign, but that is not the major issue at hand.

Board Re-Convened:

Don Carpenter, seconded by Chad Oberson, made a motion to approve both variances. Motion was denied 3-4, Jack Wessler, Scott Lepsky, Joseph Kozeniak, and Debbie Pennington dissenting.

Adjournment:

Chad Oberson, seconded by Debbie Pennington, made a motion to adjourn. Motion carried 7-0.

Ron Siciliano, Chairman

Lynda McGuire, Secretary