

BOARD OF ZONING APPEALS

Minutes of Meeting

October 20th, 2020

4:30 pm

Attendance: Members Dave Lundgren, Chairman; Mike Aeling, Vice Chairman; Arnold Hirvela; Billy Ray; Eddie Williams; Zoning Inspector Shane Howard, Assistant Law Director William Morris, Kim Palmer, Engineering Aid.

Meeting held by telephone conference due to COVID-19 pandemic: The meeting was called to order by Chairman Lundgren at 4:41 pm due to technical difficulties. Due to the COVID-19 pandemic, BZA members participated by Zoom conference. All members present.

Virtual Kiosk:
No one attended

1. Minutes from the August 18th, 2020 meeting:

Aeling makes the motion to approve the minutes with Ray seconding. Hirvela abstains from vote due to absence from meeting. Roll call vote. Motion passes. Minutes approved.

Chairman Lundgren read the Board of Zoning Appeals procedures including appellant recourse.

2. Jeff Biery/Alliance Dairy Queen– 1635 W. State St. -- Appeal #20-012

Sign variance for animation, motion, and a changing rate of 8 seconds. Sec1134.07(i)&(j)

Shane Howard is sworn in: Zoning Inspector, 504 E. Main St. Alliance, OH 44601. Alliance Dairy Queen has an electronic sign. Alliance Zoning Code states that the sign cannot change any quicker than 15 seconds from frame to frame and does not allow any motion between those frames. Dairy Queen is asking for 8 seconds instead of 15 seconds with motion within that time.

Letter of support also received from the First Baptist Church regarding this issue.

Williams asks if this would be considered as two separate variances. Howard responds yes: one for movement and one for reduction.

Lundgren asks Howard to explain what Alliance already has in place in regards to signs. Howard explains there are a total of 10 in the city that we know of. We have had issues in the past with some starting out with 15 seconds and then after time they are sped up. There have been some violations issued. Others have set it and left the time alone. This sign is a new sign that has been up for less than 2 months. The issue was brought up when the owner was sent a violation letter because of the rate of the sign and the animation.

Jeff Biery is sworn in: owner of Dairy Queen, 1635 W. State St, Alliance, OH. The owner said his position is that he wasn't told any of this. When he swapped out his sign he was told he did not need a permit by the sign company since they were just swapping out the sign. He then received the notice and spoke with Howard about it. He has paid \$30,000 for a sign and pays thousands of dollars a month in advertising with 95% of it having motion. He is asking for 8 seconds because he loses so much in advertising at 15 seconds. It is one sign per car.

Howard reads letter from First Baptist Church 1659 W State St. Email received 10/19/20:

“Greetings Mr. Howard and members of the Board of Zoning Appeals,

First Baptist Church of Alliance located at 1659 W. State Street **would like to speak in support** of the October 20, 2020 Agenda: Item 2. *Sign variance for animation, motion, and a changing rate of 8 seconds.*

As you may be aware, First Baptist Church of Alliance has had a LED sign in place for almost five (5) years and has followed all associated Zoning rules.

Being one of the first "groups" to use this technology on State Street, other than Carnation Mall & Roy's Car Wash, we have maintained our sign change rate at 15 seconds per image and no animation. However, we, according to the traffic pattern, are missing approximately 60-80% of the potential viewers due to the traffic on West State Street. (previous studies indicated average daily traffic on West State Street at 35,000 vehicles)

Further, if during the past five (5) years there has been no discernable increase in vehicular accidents directly attributable to LED sign distraction or for that matter, during the past 6-8 months of "unofficial testing" of the rate of sign change and animation that has occurred, we respectfully request a re-evaluation of the rules.

Thank you for the opportunity to speak to this Board on this topic and in support of Alliance businesses and faith based organizations.

Respectfully,
David Daniels, Secretary
Secretary
First Baptist Church of Alliance”

Lundgren asks if there is anyone else to speak in favor or in opposition. – No one comes forward.
Declares this public portion of the meeting now closed.

Board Members Begin Discussion

Hirvela asks if there is any technical data showing that the 8 seconds is more distracting or causes more accidents.

Lundgren says that at a practical matter not technical at a 15 second rate a car traveling at 35 mph would cover a pretty long distance without seeing any change in the sign even 8 seconds would be significant.

Williams explains that it is hard for him to make a decision either way without having more scientific data or research to either support or not support this variance. Once we do this for one business, and there are at least 10 businesses in town that have digital signage, it is going to set a precedent. He thinks for this reason it should be approached cautiously. ODOT or the Federal Highway Administration might have research or guidance provided on this. There are digital billboards going up into every city. Maybe the data can be applied to the situation here in Alliance.

Lundgren states those are valid points. He says that there is a concern that we are rewriting the ordinance because this is not a special circumstance on this particular sign. He asks Howard if this area has been addressed in the new Zoning Code that is coming out.

Howard states that the change rates have stayed the same in the new Zoning Code.

Lundgren further states that Williams' concern is real that if we say yes we are rewriting the ordinance. There are no unique circumstances here. It may be realistic that the ordinance needs to be changed but he is unsure if it is our position to do that.

Aeling says he is in agreement with Williams. We should table it so we can get some more information. He finds a lot of those signs to be distracting especially at night and early evening. 15 seconds, 8 seconds, everyone is trying to change the time to get someone's attention. And usually it's the driver. Next, someone might be asking for 3 seconds.

Ray says there are probably many studies at the Department of Transportation for multiple states and he thinks that he should be able to find more data on this.

Lundgren tells Mr. Biery the Board would like to table this issue to give him the opportunity to present more evidence /information to the Board. If that is acceptable to him. If not, they can vote on it tonight based on a motion to accept or reject. He asked Mr. Biery if he would be willing to come back next month with some evidence to support his application.

Mr. Biery states that the Board's comments are fair and he can get more information for them.

Lundgren says that the Board wants to support businesses in the community but wants to do it with more knowledge.

Hirvela makes motion to table the application until next month. Williams seconds. Roll call vote. All are in agreement. Tabled.

3. Eric Marsili – 1617 W. State St. -- Appeal #20-013

Reduced parking variance for a Beauty Salon 27 to 18. Sec1150.04 Table(24)

Eric Marsili is sworn in. 1617 W State St Alliance. He is asking for a reduction to the necessary parking spaces to comply with the current Codes. He has 18 spaces available. He explains they are a hair salon with a total of 6 hair stations and a total of 6 employees and feels that 18 spaces is more than sufficient. The problem has come about because they are counting a couple manicure stations and pedicure stations that would require more parking. But the same employees work at both stations. They are not additional people working there. The Zoning Inspector walked through before and said everything was fine and that they had more than enough and now he is no longer the inspector. He has invested \$35,000 into this in wasted rent and utilities, an architect, equipment, and now told he can't open the way it is set up. He says if he has to take away half the stations he won't be able to open.

Lundgren asks if employees are employees or independent contractors.

Mr. Marsili states that he has a total of 6 employees: his wife and 5 others. They have a total of 6 stations they occasionally use the nail stations. They won't all be utilized at the same time.

Lundgren asks if employees are full or part time.

Mr. Marsili said they are full time. At no given time will there ever be working more than 6 people.

Lundgren asks if he thinks he will have any issues with parking having 18 spaces. Marsili says his understanding is that he needs 2.5 per station and so he needs 15 spaces and he has 18. He doesn't see any issue since there won't be more than 6 people working at any given time.

Ray asks what days the full staff is there. Marsili replies their busiest day is probably Saturday. Most days there are only a few people working.

Ray said that he and his wife ran a 9 station salon in New Philadelphia. He says you will have overlap for people coming and leaving the parking lot. Ray asks if he anticipates with the place he has that people will be trying to park on the side street. Mr. Marsili says no. He doesn't feel that would be an issue.

Howard explains that the Zoning Code states 1 space for each employee and 2 for each chair. Each barber chair, manicure chair, etc. He had said there were 5 employees so that is the 27 parking spots required. He also explained that when Mr. Marsili said someone had been there in the past he was talking about Roger Westfall, our Building Inspector, and Roger was talking about the Building requirements not the Zoning requirements for the lot.

Lundgren asks if there is anyone else to speak in favor or in opposition. – No one comes forward.
Declares this public portion of the meeting now closed.

Board Members Begin Discussion

Ray says that he owned a salon in New Philadelphia and there is a lot of overlap especially Fridays and Saturdays: those were the busiest days. There are people coming and going. He also doesn't think there is any way to guarantee they are not going to hire more stylists, pedicurist or manicurists.

Aeling feels that with 6 employees he doesn't know how he could put eight employees in there without them walking all over each other let alone having 16 customers in there at the same time.

Aeling makes motion to grant the variance. Hirvela seconds. Roll call. All are in agreement. Motion passes.

4. Other Business

Howard mentions that there are other items on the agenda besides Dairy Queen so there will definitely be a meeting next month.

Aeling makes motion to adjourn. Williams seconds. All are in agreement
The meeting adjourned at 5:25 pm.

Respectfully Submitted by:
Candice Martin
Engineering Clerk