

Board of Zoning Appeals Minutes
October 29, 2020 – 6:00 pm
233 South Main Street, Monroe, Ohio

The Board of Zoning Appeals of the City of Monroe met on October 29, 2020. The meeting was held at Monroe City Hall.

Call to Order

The meeting was called to order at 6:05 pm by Mr. Nerenberg. Members also present were Mr. Adam, Mr. Walters, and Mr. Robbins.

Members moved to excuse Mr. Howard from the meeting.

Also present were: Kevin Chesar, Director of Development/Zoning Enforcement Officer; Kameryn Jones, Planner; Nick Baxter, Community Service Specialist.

Approval of Minutes

Mr. Robbins moved to approve the minutes from the February 10th, 2020 meeting; seconded by Mr. Adam. Voice vote. Motion carried.

Mr. Robbins moved to approve the minutes from the September 9, 2020 meeting; seconded by Mr. Adam. Voice vote. Motion carried.

Business

Mr. Nerenberg opened the Public Hearing at 6:07pm.

BZA-2020-5— Consideration of a variance request related to proposed window signage and wall covering exceeding the max permitted area at 1303 State Route 63

Ms. Jones stated Mr. Justen Scalf on behalf of Sherwin Williams requested variances to allow the installation of window signage and the installation of window darkening/tint. The applicant seeks to install approximately 43.5 square feet of window signage/graphics (each) on four windows across two walls of the tenant space. The applicant also wishes to place 55.2 square feet of window tint (each) on four windows across two walls of the tenant space. The Sherwin Williams retail space is located in the C-1 Highway Commercial zoning district.

A variance from the requirements of this code may be granted by the BZA when the BZA determines that such a variance will not be contrary to the public interest and that, due to special conditions, practical difficulty or unnecessary hardship exist that prevent strict application of this code.

To allow an increase in the maximum square footage permitted for window signage, which is 30% of the window area, to 44.1%. The applicant seeks to place window graphics along the center of the window

panels, equaling 43.5 square feet of the window area, on both windows along the west and south sides of the building (4 total windows).

Section 1204.10(C) outlines this requirement as the following: Where window signs are permitted, such sign shall not occupy more than 30% of the window area. The sign area is based on the window area, regardless of the presence of an awning. To allow an increase maximum permitted tinted or darkened (spandrel) glass, which is 20% of window area visible from the public right-of-way, to 55.9%. The applicant seeks to cover the remainder of the window area not covered by window graphics with window tint/darkening, equaling 55.2 square feet of the window area on both windows along the west side and both windows along the south side of the building.

Section 1210.05(D) outlines this requirement as the following: Blank walls, those devoid of openings such as windows and transparent doors, shall be prohibited on the front façade of any building. In no case shall a building have blank walls parallel to a public street or to its tangent, if the street is curved. Building elevations that are visible from a public street should contain windows that occupy at least 25% of the total wall surface area. The bottom edge of the windows shall not be higher than three feet above grade on the ground floor. Only 29% of the windows that can be seen from all public rights-of-way, excluding alleys, shall be opaque, including spandrel glass.

The following factors shall be considered and weighed by BZA to determine practical difficulty. Staff's findings are listed after each criterion: *Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures, or conditions.* There are no special conditions or circumstances unique to this site in the same zoning district. *Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.* The property is of beneficial use without the proposed variance as the business is currently operational and other tenants in the same building are operational. *Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures.* The variance is substantial. When combining both the proposed darkened (opaque) glass and the proposed window signage, it would eliminate the requirement of the code to provide at minimum 25% transparent windows or openings. Furthermore, the code already provides relief by allowing 20% of the window area to incorporate dark glass and 30% window signage, which effectively could equal 50% window blockage. The applicant claims the regulations prevent the reasonable use of the space by limiting the amount of glass they can utilize for display and inventory. As such is the case, it would appear that their rationale is an issue with a lack of reasonable leasing of adequate store space and is a self-imposed hardship. It is the interpretation of Staff that is beyond the minimum necessary to make reasonable use of the property as the business is currently open and operating. *Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance.* The character of the neighborhood would be substantially altered with the granting of this variance. Monroe has invested significant time and financial resources to enhance our main gateway at State Route 63 and Interstate 75. Almost 15 years has been spent to address derelict buildings and abandoned signage with demolition, upgrading Planning and Zoning Code aesthetic and

signage regulations, and building substantial interchange enhancements. These all have resulted in a better planned, welcoming, and orderly climate to promote and maintain property values while serving as an attractive area for future business. If the variances were granted, they would continue in perpetuity for business property regardless of the future business that may occupy the site. By the precedent that could be set if approved, other business would most likely seek to similar variances that would destroy the intent of the City's efforts to create a valuable, attractive, safe environment.

Whether the variance would adversely affect the delivery of governmental services such as water, sewer, and refuse pickup. The variance could adversely affect the delivery of governmental services. As

indicated under Department Comments, Police has stated they prefer visibility through windows and doors when they respond to calls. *Whether special conditions or circumstances exist as a result of actions of the owner.* There are no special circumstances regarding this site. The applicant is currently conducting business operations. The original owner was a party to the design approval process for the building and understood the window requirement per architectural standards in the Planning and Zoning Code. The current applicant's request, acting in the capacity of the "lessee owner", is directly a result of the desire for more blocked glass and potentially for more brand visibility. As previously stated, it would appear that the lack of leasing adequate storage space for inventory is a result of the actions of the business owner. Further, when originally applying for signage related to the building earlier this year, the applicant was made aware of City sign regulations and limits on window coverage.

Whether the property owner's predicament can feasibly be removed through some method other than a variance. It would appear that normal business operations are occurring without the requested signage and window blocking and that the predicament could be resolved with the option to "by code right" block 20% of the window with darkened treatment in addition to the 30% window signage. *Whether the spirit and intent behind the code requirement would be observed and substantial justice done by granting a variance.*

The intent of the code would not be observed by permitting an increase in signage of this size. The code is purposeful in regulating the size of signage for reasons ranging from encouraging the general attractiveness of the community to promoting the reasonable, orderly, and effective display of signs for all businesses as specifically stated in 1214.01 (A), Promote and protect to the public health, safety, comfort, morals, and convenience; (B), Enhance the economy and the business and industry of the City by promoting the reasonable, orderly, and effective display of signs and thereby encourage increased communication with the public; and (E), Promote signs that are compatible with their surroundings. Regarding window coverage generally, commercial architectural standards require a minimum window area on all walls facing or visible from a public right-of-way. The intent of this requirement would not be observed by allowing 100% blockage of the vast majority of the windows that were required as part of the Planning Commission approval of the building. The code already provides relief by permitting up to 20% to be opaque or completely blocked. The spirit and vision for the Planning and Zoning Code comes from the Comprehensive Plan. Chapter 9 of the Comprehensive Plan states that care should be given in creating "Pride of Place" to create attract physical amenities and assets and specifically refers to appealing signage a part of the goal: *Encouraging Quality Design One of the City's mission statements (outlined in Chapter 3) recognizes the importance of creating "Pride of Place" through high quality physical assets and attractive amenities. For the City to continue to stand out as a desirable community, it must ensure that its physical presence is aesthetically pleasing to residents and visitors through well-designed structures that complement the overall architectural feel of the community. Improving the Gateway It is especially important that the entrances to the City look attractive and inviting with appropriate landscaping, lighting, and appealing signage.* To that end, a deviation for a business regarding signage that already has the ability for wall signage, freestanding signage, temporary signage, and sandwich board signage is not merited. *Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.* The granting of this variance

would provide the applicant a significant privilege that has been denied by regulation to similarly situated buildings in the same zoning district. It should also be noted that multiple businesses in recent years have been able to comply with the window requirement and in many cases have complied with code requirements.

Ms. Jones stated that Public Works/Engineering had no comment. Police Department commented that having visibility inside retail storefronts is preferred. Officers scan the store or building through the glass doors and windows before entering on calls for service. It is preferred for windows to not be blocked all the way. The fire Department commented that it is generally not an issue, however, all interior finishes must comply with Chapter 8 of the OFC, which covers flammability ratings.

Ms. Jones stated that no public comment has been received as of Monday, 10/26.

Ms. Jones stated that staff recommends denial of the variance request due to the size of the request and the absence of special circumstance or hardship in addition to the factors reviewed above. Regarding the variance request for window darkening/tinting, staff recommends denial of the variance request due to the size of the request and absence of special circumstances or hardship in addition to the review of the factors above.

Mr. Nerenberg asked Ms. Jones if curtains or blinds are prohibited from windows. Mr. Chesar stated that in the zoning code update in around 2013, the intent was to have visual interest and have them aesthetically pleasing and from a design standpoint, having blank walls create no aesthetic appeal. Mr. Nerenberg said if they want 44% on the front and back, then police can see inside the building in the front of the building.

A BZA member asked if the windows from the side of building be seen from the public ROW on WK Robinson and Premium Outlets Drive. Ms. Jones stated that it's on the corner of the building and can be seen from SR 63.

Mr. Scalf discussed the pictures that he presented to the BZA members and discussed that it is a safety issue for wanting more tinting because the windows are directly viewing into their storage shelves and the tinting will help to shield the product from the outside. He stated that if the tinting would be approved, the applicant would be okay if the paint swatch stickers didn't get approved.

Mr. Nerenberg motioned to close the public hearing. Moved, and seconded. Voice vote. Motion Carried. Public hearing closed at 6:57pm.

Mr. Adam stated that he is okay if the bottom of the windows are tinted an additional 20%. Ms. Jones stated that it would be more than 20% either way.

A BZA member asked what percentage total for everything. Ms. Jones stated it is 30% currently in the zoning code. Mr. Chesar stated that you can do 30% with signage, of an opaque window which is a total of 50% total coverage. It doesn't include how dark. Mr. Chesar said it can't be completely dark, but it needs to be opaque so no light goes through, but you want to be able to see into the outside. He stated the applicant wants to do 100% tinting.

Mr. Adam asked if the tint could be reduced at all? Mr. Sculf said it would be a plan B, to have it as light as it can to not be opaque. Mr. Chesar stated that they could look it up in the Zoning Code but he is not aware of anything in the Code.

Mr. Adam made a motion to deny the variance. Another BZA member seconded. Mr. Nerenberg asked for a roll call vote. Mr. Chesar asked for clarification. Mr. Nerneberg said their reason for denial is because the Zoning Code is more unclear.

Mr. Nerenberg made a motion to deny the darkened glass from 20% to 55%. A BZA member asked if they get approved for the stickers, and the tinting gets approved, they want to make sure it's not going to be an issue for emergency services. Mr. Nerenberg voted yes. Mr. Robbins voted yes. Mr. Walters voted yes. Mr. Adam voted yes. Motion carried.

Mr. Adam made a motion to deny the variance for the signage on the window. Seconded by Mr. Nerenberg. Mr. Nerenberg voted yes. Mr. Robbins voted yes. Mr. Walters voted yes. Mr. Adam voted yes. Motion carried.

Mr. Nerenberg stated that the applicant needed to renegotiate because the code isn't really conducive to what they are wanting.

Adjournment

Mr. Walters motioned to adjourn the meeting; seconded by Mr. Adam. Motion carried. The board of zoning appeals meeting adjourned at 7:45pm.

Respectfully submitted by:

Alaina Hagenseker
Planning & Zoning Specialist