



**Board of Zoning Appeals
January 21, 2025 - 6:30 PM
233 South Main Street, Monroe, Ohio**

Call to Order

- Roll Call

Approval of Minutes

- Board of Zoning Appeals minutes for the December 17, 2024 meeting

Old Business

New Business

Adjournment



**Board of Zoning Appeals
Minutes
December 17, 2024**

The Board of Zoning Appeals of the City of Monroe met in regular session at 6:00 pm on December 17, 2024. The meeting was held in the Council Chambers located at 233 South Main Street.

Call to Order

Mr. Adam called the meeting to order at 6:08 p.m.

Roll Call

Members present: Lorenzo Adam, Casey Walters, Matt Romito.

Members absent: Mike Morris, Josh Mason

Staff members present: Tom Smith, Development Director, Kameryn Jones, Assistant Development Director, Jameson Cole, Planner and Michelle Layman, Planning and Zoning Specialist.

Mr. Walters made a motion to excuse Mr. Morris and Mr. Mason from tonight's meeting. Seconded by Mr. Romito.

Voice vote; motion carried

Approval of Minutes

Mr. Adam requested a motion to approve the minutes from the May 15, 2024 Board of Zoning Appeals meeting.

Mr. Walters moved to approve the minutes from the May 15, 2024, Board of Zoning Appeals meeting. Seconded by Mr. Romito.

Voice vote; motion carried.

Old Business

None.

New Business



Public Hearing: Case No. 2024-4- Consideration of a variance application from COR3 Design regarding the window area requirement for Take 5 Oil Change.

Mr. Adam stated the following:

The request will be presented by staff. Following this presentation, anyone wishing to speak in favor of the proposal will be given an opportunity to speak. After all proponents have spoken, the opponents will be given an opportunity to present their case. Speakers are asked not to repeat the same ideas which have been previously presented but indicate that they agree with a previous speaker. All persons speaking are subject to cross examination and must be sworn. The Board has the opportunity to question any speaker after they have completed their presentation. Once the public hearing is closed, individual speakers have no right to comment during discussion by the Board of Zoning Appeals.

Mr. Adam asked all those wishing to speak during this public hearing (including staff) to stand and raise their right hand to be sworn in.

Having been sworn in, Mr. Cole gave the following presentation:

Background:

- Micah Smith of COR3 Design, on behalf of Take 5 Oil Change, has applied for variance regarding the minimum building window area requirement.
- COR3 Design requests that the façade be permitted to have less than the minimum required window area.
- The applicant seeks to allow a decrease in window area from 30% minimum to 18% on the south side and 14% on the north side of the building.
- The proposed site is .6432 acres and is zoned GC General Commercial.

Variance Purpose:

- 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.

Variance Request:

- To allow a decrease in the minimum window area requirement from 30% to 18% on the south facing façade (SR 63) and 14% on the north facing façade (Clarence F Warner)

Mr. Cole reviewed Table 1204.07-2 and the proposed site plan.



Mr. Cole reviewed the variance purpose as follows:

- 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.
- Monroe Planning and Zoning Code grants the Board of Zoning Appeals powers and duties regarding requests to vary from the code:
 - 1. Development Review. The BZA shall have the authority to review and make recommendations or final decisions on the development review applications denoted in Table 1207.10-1, Development Review Summary.
 - 2. Implement the Comprehensive Plan. The BZA shall interpret the provisions of this code in such a way as to carry out the intent and purpose of the Comprehensive Plan.) Hear and decide on any questions related to the interpretation of the code text or the zoning map and zoning district boundaries.
 - 3. Interpreting Code Text and Zoning Map. The BZA shall hear and decide on any questions related to the interpretation of the code text or the zoning map and zoning district boundaries.
 - 4. Assistance. The BZA may call upon any city department for assistance in the performance of its duties and it shall be the duty of such departments to render such assistance to the BZA as may reasonably be required.

Mr. Cole reviewed the variance criteria as follows:

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.
 - This site may differ from similar commercial properties within the same zoning district in that the lot may be more narrow than other sites within 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 may yield a reasonable return and be of beneficial use without the requested variance as any other permitted use within the zoning district.
- Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures.
 - The variance requested is substantial as the request is a 12% and 16% decrease



from the City minimum window area requirement. It is the interpretation of Staff that it is not necessary to make use of the land.

- 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.
 - A 12% and 16% decrease is a significant change and may create a considerable contrast between the new building and the recently constructed buildings in the immediate area.

- Whether the variance would adversely affect the delivery of governmental services such as water, sewer, and refuse pickup.
 - The variance would not impact the delivery of governmental services.

- Whether special conditions or circumstances exist as a result of actions of the owner.
 - The requested variance is due to the proposed building design's inability to meet both the minimum window area requirement and the state energy code requirements.
 - In their application, the applicant acknowledges that the hardship could be seen as self-imposed but stated that the building size is restricted due to the size of the lot, which does not allow them to increase the size of the building, which they state would then allow for more window area.

- Whether the property owner's predicament can feasibly be removed through some method other than a variance.
 - The applicant stated that due to the size of the building and restrictions due to lot size, the requested variance is their only option
 - It is difficult from a zoning standpoint to determine potential alternatives for what is also building code related. Staff contact our third-party building services provider, National Inspection Corporation (NIC), to obtain clarification on the reported energy code failure the applicant provided to the City. NIC noted the following: "At a quick glance, the roof insulation R-Value is lower than typical, there is no slab insulation, and the U-Factor of the glazing is higher than typical."
 - Though Staff is uncertain if correcting these areas may allow the building to satisfy energy code requirements, it does raise the question as to whether there are other factors at play other than window area (materials, construction styles, etc.) that would enable the building to be constructed at its proposed size while also meeting minimum zoning requirements.

- Whether the spirit and intent behind the code requirement would be observed and



substantial justice done by granting a variance.

- The requested variance may not meet the spirit and intent behind the code. The amount of relief being granted is significant.
- 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 may provide the applicant a privilege over the other development in commercial areas where this requirement applies. As previously noted, recently constructed commercial buildings in Monroe have been able to satisfy the zoning code minimum requirements applicable at the time of their construction.

Department Comments:

- Public Works/Engineering: No comment.
- Police Department: No comment.
- Fire Department: No comment.

Public Comments:

- No public comment has been received since 12/13/24.

Staff Recommendation:

- As a reminder, the applicant shall be required to supply evidence that demonstrates that the literal enforcement of this code will result in practical difficulty for an area/dimensional variance.
- Every decision by the BZA is accompanied by written findings of fact based on testimony and evidence and specifying the reason for granting or denying the application.

Staff's review is based on code interpretations as well as the potential for precedents that could affect overall enforcement of City standards and regulations. The BZA's approval, denial, or modification is not required to be based on all the above criteria being met. No single factor listed above may control and not all factors may be applicable in each case. Each case shall be determined on its own facts.

Mr. Adam asked if this application has gone through Planning Commission. Mr. Cole stated it hasn't.

Micah Smith on behalf of Take 5 Oil Change spoke. Mr. Smith explained the limitations they are experiencing due to the site and the fact that this is an oil change facility. Mr. Smith reviewed



the dimensions of the facility. Mr. Smith also stated there are limitations due to Ohio Energy C8de.

Mr. Adam asked for confirmation of the total square footage.

Mr. Romito asked if there are any other Take 5 Oil Change locations that are similar to the proposed design. Mr. Smith stated they did make a few changes to attempt to meet the window requirement for the City but they still fell short. He also stated some possible changes he was trying to make such as glass overhead doors and changes with the insulation would effect meeting Ohio Energy Code. Mr. Smith stated if they were to meet the window requirement they will fail the energy code by 1%.

Mr. Smith explained that the proposed doors would allow them to pass energy code by 4%.

Mr. Romito asked how they have been able to meet the requirements at other Ohio locations. Mr. Smith explained that the different locations do not have the 30% window requirement.

Mr. Walters asked if they were to install transom windows above the garage doors would that meet code. Mr. Smith explained that per our code the widow would have to start at a maximum of 3 feet above finished floor. Mr. Smith stated they would exceed the minimum numbers by 40 sq ft on the northern side and 20 sq ft on the southern side if they were able to do this.

Mr. Smith reviewed other options his client would consider if they were able to have this variance approved including a full brick front. Mr. Adam asked if the full brick would mitigate the issue. Mr. Smith stated that it would not.

Mr. Smith explained several changes they have already made with building materials in an effort to satisfy energy code but still fell short of meeting it.

Mr. Romito asked if the size of the building was the standard size. Mr. Smith stated it is. He went on to explain that even if they were to increase the size of the building they would still have issues meeting code.

Mr. Adam brought up the fact that he has seen some Take 5 Oil Change locations that have a front office that would increase the window percentage. Mr. Smith explained that wouldn't affect this project because the issues are on the other sides of the building.

Mr. Romito asked if there were any other oil change locations in Monroe that have faced this issue. Mrs. Jones stated the only location that does oil changes is Tire Discounters but that was built years ago under different code.



Mr. Adam asked if they could review the information Mr. Smith brought. Mrs. Jones stated they can but that they will need to be sure to notate that when accepting the documents for the hearing.

Mr. Walters asked if the top of the garage doors could be glass. Mr. Smith stated that will still fail energy code as there is not insulation value with the glass.

Mr. Smith provided elevations that reflect the all brick façade.

Mr. Adam asked if insulating the interior wall would affect the percentage numbers. Mr. Smith stated insulating the wall would serve no purpose.

Mr. Romito asked if the 3 ft requirement was removed could they then meet the 30%. Mr. Smith stated yes, he could put transom windows above the garage doors which would meet code.

Mr. Romito asked why the City has the 3 ft requirement. Mrs. Jones stated she believed it was a way to discourage certain types of uses.

No opponents or other comments from staff were reported.

Mr. Adam stated they are adding the exhibit received from Mr. Smith to the submitted documents.

Mr. Romito moved to accept the documents for the record including the all brick elevation document and Com Check documents provided by Mr. Smith. Seconded by Mr. Walters. Voice vote. Motion carried.

Mr. Walters moved to close the public hearing. Seconded by Mr. Romito. Voice vote. Motion carried.

Deliberative session by board

The Board discussed the options presented.

Mr. Romito asked when the window requirement was implemented. Mrs. Jones stated that it has been a requirement for as long as she has been with the City. She is unsure about other cities but mentioned that she could look into it if they would like her to.

The Board discussed the option of not requiring the applicant to meet the 3-ft window requirement. They asked Mr. Smith if this would allow them to meet the energy code. Mr. Smith confirmed that it would.



Mrs. Jones reminded the Board that they need to be clear about the reasons for granting the variance. This will ensure that no precedent is set for future projects.

Mr. Adam asked Mr. Smith if there was any way to meet the additional 1% requirement to comply with the Ohio Energy Code. Mr. Smith stated that they had tried several different approaches but were unable to meet the requirement.

Mrs. Jones noted that the applicant has not yet gone through site plan review, as they expressed difficulty meeting the window requirement, which brought the case before the BZA. Once the variance is resolved, the applicant can proceed with submitting plans as usual.

Mr. Adam requested clarification on the 3-ft window requirement. Mrs. Jones provided an explanation.

Mr. Adam expressed a desire for more information regarding the energy code from the applicant. Mrs. Jones stated that if the Board felt more information was needed, they could table the case until next month.

Mr. Romito moved to approve Case No. 2024-4 as follows:

Mr. Romito made a motion to allow a decrease in the minimum window area requirement from 30% to 18% on the south facing façade (SR63) and 14% on the north facing façade (Clarence F Warner), citing unique hardship regarding the 3 service doors and inability to meet the state energy code regulations, and to waive the regulation that windows may not be placed higher than 3' above grade on the ground floor in order to allow for transom windows to be installed above the service doors in order to achieve 30% window area on both facades. Seconded by Mr. Walters.

Roll call vote. 3 ayes. Motion carried.

Meeting adjournment

Mr. Walters moved to adjourn the meeting at 7:25 p.m.; seconded by Mr. Romito. Voice vote. Motion carried.

Respectfully submitted by:

Michelle Layman
Planning and Zoning Specialist

