

CITY OF AURORA
OHIO
BOARD OF ZONING APPEALS
Meeting Minutes
January 11, 2012

The Aurora Board of Zoning Appeals met in a regularly scheduled meeting Wednesday, January 11, 2012 in the Council Chambers at City Hall. The meeting was called to order at 7:30 p.m. by Vice Chairman Terese Fennell.

ROLL CALL:

Present: Bernard McCarrell
Jeff Iammarino
Peter French
Terese Fennell
Tony Gramm
Absent: Tony Carr
Also Present: Doug Paul, Legal Advisor
Denise Januska, City Planner
Susan Dombeck, BZA Clerk

ORGANIZATIONAL:

MOTION: To nominate Terese Fennell for Chairman for 2012.

Mr. McCarrell moved for approval; Mr. French seconded.

MOTION: To close the nominations for Chairman.

Mr. French moved for approval; Mr. Gramm seconded, and the motion carried, 5-0, on a roll call vote

Yeas: Mr. French, Mr. Gramm, Mr. McCarrell, Mr. Iammarino, Mrs. Fennell

Nays: None

MOTION: To nominate Peter French for Vice Chairman for 2012.

Mr. McCarrell moved for approval; Mrs. Fennell seconded.

MOTION: To close the nominations for Vice Chairman.

Mr. McCarrell moved for approval; Mr. Gramm seconded, and the motion carried, 5-0, on a roll call vote.

Yeas: Mr. McCarrell, Mr. Gramm, Mr. French, Mr. Iammarino, Mrs. Fennell

Nays: None

MOTION: To nominate Susan Dombeck for Clerk for 2012.

Mrs. Fennell moved for approval; Mr. McCarrell seconded.

MOTION: To close the nominations for Clerk.

Mrs. Fennell moved for approval; Mr. McCarrell seconded, and the motion carried, 5-0, on a roll call vote.

Yeas: Mr. McCarrell, Mr. French, Mr. Gramm, Mr. Iammarino, Mrs. Fennell

Nays: None

Mrs. Fennell asked for input on whether the work session, as a part of the meeting, is necessary. She mentioned that the standing rules do not require a work session and asked for comments. Mr. French stated that the only time the work session was used was when clarification of a request was needed, but he felt that could be done during the regular review.

MOTION: To exclude the work session as part of the meeting agenda.

Mr. McCarrell moved for approval; Mr. French seconded, and the motion carried, 5-0, on a roll call vote.

Yeas: Mr. McCarrell, Mr. French, Mr. Gramm, Mr. Iammarino, Mrs. Fennell

Nays: None

The members had a discussion on the checklist of the seven factors to be considered for each review. It was decided that each factor did not have to be read aloud, and the members only had to cite which item(s) helped them make their decision and why.

Mrs. Fennell raised the subject of having a time limit for speakers when necessary. There was a long conversation and the members decided to let the Chairman make that decision on an individual basis.

Mr. Paul gave the oath to the staff and audience members that planned to speak during the meeting.

AMENDMENTS TO THE AGENDA:

There were no amendments to the agenda.

APPROVAL OF MINUTES:**MOTION: To approve the minutes of November 9, 2011 as printed.**

Mr. French moved for approval; Mr. Gramm seconded, and the motion carried, 4-0-1, on a roll call vote.

Yeas: Mr. French, Mr. Gramm, Mr. McCarrell, Mrs. Fennell

Nays: None

Abstentions: Mr. Iammarino

OLD BUSINESS:

There was no old business.

NEW BUSINESS:

CRGRE LLC (FOR WENGER ORTHODONTICS), 75 NORTH CHILLICOTHE [1112017]
A variance is requested from Section 1159.16(b)(4)(B)(1)(c) of the Aurora Codified Ordinances to allow a second wall sign

Jack Burge represented the applicant. He presented photographs of the sign for the previous business, which was there for 15 years. He said that the previous tenant, as well as all of the other tenants, had a sign on the front of their building as well as the rear.

Mr. Burge explained that when they submitted their applications for the sign permits, they discovered that there was never a variance for the second sign. He stated that they are asking to put the same sign on the back as they are on the front. He said the signs for the front of the building and the monument are allowed and done.

Mr. Burge stated that the applicant assumed that he could have the same type of signage that already existed. He added that people can access the business from the rear door, but most people use the front entrance.

Resident George Mazzaro, 186 Eldridge Road, said that it is a commercial area and there should be no problem with the request. He asked that the members consider an approval.

Mrs. Fennell stated that the way the building is set up, and to make sure that the patients know the office's location, having a sign would help with the economic value and beneficial use. She felt that the applicant assumed that the current signs were allowed and was unaware of any restrictions. Mrs. Fennell thought that the request should be approved and that it is appropriate for the sign issues on the checklist.

Mr. French said that it is appropriate for the proposed location, and that it will only be viewed by shoppers in the center. He added that the surrounding properties would not suffer any detriment or be substantially altered if the variance is granted. Mr. Gramm agreed and stated that he did not feel that the variance is substantial or that it would affect the government services. Mr. Iammarino agreed with both members and saw no reason to deny the request.

MOTION: To grant the application of CRGRE LLC (for Wenger Orthodontics) for a variance from Section 1159.16(b)(4)(B)(1)(c) of the Aurora Codified Ordinances for the property known as 75 North Chillicothe Road in a C-2 commercial shopping district where the code allows the maximum of one wall sign on a building to allow to erect a second wall sign, one on the front and one on the rear of the building.

Mr. McCarrell moved for approval; Mr. French seconded, and the motion carried, 5-0, on a roll call vote.

Yeas: Mr. McCarrell, Mr. French, Mr. Gramm, Mr. Iammarino, Mrs. Fennell

Nays: None

Mr. McCarrell said that when reviewing the checklist he was not against any of the items listed and found no reason to deny the request. Mr. French stated that he did not see any reason to deny the variance and the suitability of that sign to the character of the neighborhood were the reasons he voted for the approval.

Mr. Gramm thought that it was suitable for the business to have the second wall sign and would enhance the business economically. Mr. Iammarino said he saw no reason to deny the variance, and Mrs. Fennell agreed and stated that she believed the owner did not purchase the property with the knowledge of the zoning regulations in place. She also felt that the sign was suitable for the proposed location.

BARRY & CARA KIRTLEY, 192 NORTH CHILLICOTHE [1112018]

A variance is requested from Section 1155.06(e)(2) of the Aurora Codified Ordinances to allow an accessory building 20 feet high instead of the maximum allowed height of 15 feet

Barry Kirtley explained that they purchased the property with the intent to construct a large accessory building, but since then the code was revised and he was unaware of the change. He said they have a large camper and other vehicles and equipment to house inside the proposed building. The zoning code was changed on the height allowed for the building, but he said he needs the height for the camper. Mr. Kirtley added that the original plan was for a larger building but he scaled it down as a compromise to do everything he could to follow the code.

Per an inquiry by Mrs. Fennell, Mr. Kirtley confirmed that the existing accessory building will be torn down and removed. He told the members that the original plan had the building height set at 22 or 23 feet with a 16 foot ceiling height. The current plan is down to a 12 foot ceiling height. He added that a back door will be included in case they acquire a larger recreational vehicle. That way they could have a larger door to back the vehicle in that way.

Mrs. Fennell noted that two of the neighbors signed the petition in agreement with the plan.

Mr. Mazzaro felt that the request would improve the site and urged the members to approve it.

Mr. Gramm felt the plan is a definite enhancement and would improve the character of the neighborhood. Mr. French agreed and said when any steps are taken to enhance the property it does not affect the adjoining properties in a negative way. He did not think it was a substantial variance, and said that the building could be made smaller but then would not serve the purpose of its construction. Mr. French did not feel there was any

negative issue with the plan.

Mrs. Fennell did not think that it would be a substantial variance. She noted that it is only five feet more than what the code allows and the applicant did state he reduced the original plan to try to be as close to the requirements as possible and still be able to use the building as desired. Mrs. Fennell then pointed out that he purchased the property prior to the zoning code change. She believed that the building would fit in with the essential character of the neighborhood, and with all of the open space around the site she thought it wouldn't be a hindrance.

Mr. McCarrell and Mr. Iammarino agreed with the comments and didn't think anything else needed to be added.

MOTION: To grant the application of Barry and Cara Kirtley for the variance from Section 1155.06(e)(2) of the Aurora Codified Ordinances for the property known as 192 North Chillicothe in a R-3 residential district where the code allows an accessory structure to be only 15' (fifteen feet) high when a lot is less than three acres to construct an accessory structure which is 20' (twenty feet) high.

Mr. Iammarino moved for approval; Mr. Gramm seconded, and the motion carried, 5-0, on a roll call vote.

Yeas: Mr. Iammarino, Mr. Gramm, Mr. French, Mr. McCarrell, Mrs. Fennell

Nays: None

Mr. Iammarino said he voted for the variance because it met all the criteria for approval.

Mr. Gramm felt the building would improve the property and help make the neighborhood look better. He did not think the variance was substantial.

Mr. French stated that he did not see anything on the checklist that would be a negative to keep him from voting for the variance. He added that it would beautify the neighborhood and does not detrimentally affect any of the neighboring properties, nor is the variance substantial.

Mr. McCarrell said that there was nothing in the request that would make him decide to deny the variance.

Mrs. Fennell agreed and stated that the main reason she voted to approve it is because she does not feel it is substantial, especially since the applicant moved the location to a spot as low as possible in order to try to comply with the code requirements.

MDF DEVELOPMENT (FOR JUST FOR YOU BAKERY), 238 EAST GARFIELD [1112019]

A variance is requested from Section 1159.16(b)(3)(a)(1) of the Aurora Codified Ordinances to allow the total square footage for signs to be 38.2 square feet instead of

the maximum allowed 28.5 square feet

Lisa Rains, owner of the business, was in attendance. She explained that she has been at the current location since April of 2011 and one of the most common remarks she hears from customers is that a sign is needed to help identify the business.

Ms. Rains thought that a simple sign would help the business tremendously because there is much traffic on that road and she needs the walk-in business. She said if that part of the business doesn't improve the business may not survive. A wall sign would be a large help for walk-in customers.

Mr. Gramm asked if the wall sign would replace the sign on the awning. Ms. Rains informed him that it would be a replacement since the awning sign is only a temporary sign.

Mr. Mazzaro stated that the sign is needed for the business and would fit in the immediate area. He asked the members to approve the request.

Mrs. Fennell thought that the sign would help the business. She also felt that the sign is suitable for the proposed location.

Mr. French said that it was demonstrated and affirmed why a sign is needed to identify that property. He explained that one of the items listed in the signs checklist states that the applicant must affirmatively demonstrate that the use to which the signs relates cannot be properly identified without the requested variance. He added that the applicant proved the point well. Mr. French then commented that it would not affect the government services nor is the variance substantial.

Mr. McCarrell asked if she purchased the property with knowledge of the code, and Mrs. Fennell pointed out that Ms. Rains is not the owner but a tenant of the building. Mrs. Januska noted that the applicant is allowed a wall sign.

Mr. Gramm said that the predicament can be solved through some other method, which is to make the sign smaller. But he thought that in this circumstance the sign would need to be larger to have economic feasibility.

MOTION: To grant the application of Just For You Bakery, MDF Development, for a variance from Section 1159.16(b)(3)(A)(1) of the Aurora Codified Ordinances for the property known as 238 East Garfield Road in a C-1 shopping district, where the code allows a maximum of 28.5 square feet of total signage, to allow wall signage totaling 38.2 square feet.

Mr. French moved for approval; Mr. Gramm seconded, and the motion carried, 5-0, on a roll call vote.

Yeas: Mr. French, Mr. Gramm, Mr. McCarrell, Mr. Iammarino, Mrs. Fennell

Nays: None

Mr. French stated that there were no issues to make him consider denying the request. He did not feel that the variance was substantial or a detriment to the neighborhood. He felt it was appropriate for the proposed location.

Mr. Gramm thought that the variance was not substantial and that the sign would help with the business' economic return.

Mr. McCarrell said that no government services would be hindered and that the applicant had no previous knowledge of the zoning regulations.

Mr. Iammarino did not feel that the variance would adversely impact the area.

Mrs. Fennell thought it was suitable for the proposed location and would help yield a reasonable economic return. She mentioned that it is almost impossible to know there is a bakery in the building without a sign.

MISCELLANEOUS:

Mr. French began a conversation on the new format for reviewing and explaining the reason for a decision. The members decided to comment on the factors during the review and state their reasons for their decision after the vote for at least one more meeting. After that they will decide if the format needs to be revised.

ADJOURNMENT:

Mr. French moved to adjourn at 8:27 p.m.; Mr. Gramm seconded, and the motion carried, 5-0, on a voice vote.

Terese Fennell - Chairman

Susan Dombeck - Clerk
AUDIO TAPE ON FILE