

Minutes of the City of Vandalia Board of Zoning Appeals
February 28, 2018

Agenda Items

1. Call to Order
2. Attendance
3. New Business
 - a. **BZA18-04**– 264 N. Dixie Dr. – Variance to 1280.09 “Schedule of Parking Spaces”
 - b. **BZA 18-05** – 237 S. Dixie Dr. – Variance to 1282.14 “Nonconforming Signs”
4. Approval of BZA Minutes of January 24, 2018 & February 14, 2018
5. Communications
6. Adjournment

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| Members Present: | Mr. Michael Flannery, Mr. Aaron Hathaway, Mr. Scott Fullam & Mr. Christopher Prokes |
| Members Absent: | |
| Others Present: | Mike Baker, Will Ashcraft, Jeff Baker, Mark Schlater, John McGee and Amber Holloway |

1. Call to Order

Mr. Flannery called the meeting to order at 6:00 p.m. Mr. Flannery described the BZA as a recommending body that evaluates the BZA application and stated that the City Council makes the final decision on all variance requests, but will not hold a public hearing such as BZA. He noted that City Council will hear the requests at the meeting on March 19, 2018 at 7:00 p.m. Mr. Flannery then swore in those who intended to speak during the public hearing.

2. Attendance

It was noted that all members were present.

3. New Business

- a. **BZA 18-04 – Variance to City Code Section 1280.09 “Schedule of Parking Spaces” – 264 N. Dixie Drive**

Mr. Flannery introduced the item and asked for the report from Staff.

Ms. Holloway gave the report from Staff explaining that the request was for a parking variance for MPower Gym, LLC. She stated that MPower currently operated in the tenant space at 270 N. Dixie Drive and wished to expand to 264 N. Dixie Drive right next-door in order to allow space for sports performance training (running). She

explained that whenever a building or use constructed or established prior to the effective date of this Code is changed or enlarged to create a new for an increase of ten percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. She advised that the increase from retail to personal service was an increase of 20% in required parking. She made note of a variance granted by the Board in December 2016 and an existing parking easement agreement between MPower and the Masonic Lodge.

Mr. Flannery invited the Applicant to speak on the item. Mr. Jeff Baker explained the request the need to expand their use into the adjacent space. He stated that it was strictly for kids and sports performance.

Mr. John McGee interjected, stating that he owned the building next door. He advised that he was unaware of the meeting as he was not notified. Mr. Flannery stated that he was present now, and asked him to take a moment to express his concerns. Mr. McGee stressed that parking in the center was horrible, noting that he can no longer park in front of his own building. Mr. Mike Baker addressed Mr. McGee, stating that they can better guide their patrons to park in the overflow area, adding that he was unaware other tenants were having issues. Mr. McGee reiterated his concerns with the other tenants not being notified because the City sends notices to people on the tax records not the tenants and said this business was taking away spaces from other businesses already established to give them to someone else. Mr. Flannery asked if Mr. McGee had considered reserving spaces for his patrons. McGee said that would be unenforceable. Mr. M. Baker stated that it would be no problem to ask his patrons to park elsewhere and that they were not using them because they had not asked the patrons to do so.

Mr. McGee said if the clients do not move over, he has no recourse. Mr. Fullam said it did not sound like they were doing anything to expand their membership, rather open more space for existing clients. Mr. J. Baker said they could make a big difference by simply directing people to park at the Masonic. Mr. Ashcraft said they had no idea they were causing the neighbors any grief. Mr. McGee responded that the fact that MPower even had to apply for a variance should tell them there was an issue.

With no further comments, Mr. Flannery closed the public hearing and proceeded through the variance criteria.

(1) Whether, unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions with the property or the neighborhood in which the property is located that burdens the property heavier than other property in the same zoning district;

Mr. Prokes said there was nothing really unusual about this property.

The Board agreed that there were not particularly exceptional unique physical circumstances or conditions that burden this property heavier than another outside of the fact that the shopping center is divided into separate lots in individual ownership.

(2) 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 Board agreed that there was little opportunity for reasonable use of the property without the variance as there was no room for parking expansion and many of the uses in the Neighborhood Business District would trigger a change of use and need to provide additional parking.

(3) Whether the property owner purchased the property with knowledge of the zoning restrictions;

Mr. Hathaway noted that the Applicant has tried to offer a solution.

The Board agreed that the property owner did not purchase the property with knowledge of the zoning restrictions.

(4) 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 Board agreed that the variance, if authorized, would not alter the character of the neighborhood, nor would it seem to permanently impair the use of an adjacent property.

(5) Whether the property owner's predicament feasibly can be eliminated through some method other than a variance;

The Board agreed the owner's predicament likely could not be feasibly eliminated through some other method.

(6) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and

The Board agreed that the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance as the Applicant had sought alternative options for providing parking.

(7) Whether the variance is substantial.

The Board agreed that the variance was substantial.

Mr. Hathaway asked if requiring the Applicant to utilize the overflow spaces could be an added condition in addition to those provided by Staff. Ms. Holloway stated that they could require that.

Mr. Prokes made a motion to recommend approval of the requested parking variance at 264 N. Dixie Drive with the following conditions:

1. The Applicant provide directional signage to direct patrons to overflow lot and verbally direct their patrons to fill the lot in a fashion that least impedes other businesses in the shopping center
1. The Applicant provide a parking lot revision plan and ensure that overflow spaces are paved and striped in accordance with Code within 90 days of approval of the variance request

Mr. Hathaway seconded the motion. The motion passed 4-0.

Ms. Holloway reminded the Applicant that the appeal would be discussed at the Council Workshop on Monday March 5th at 6pm. She let Mr. McGee know that he was welcome to attend the workshop as well.

b. **BZA 18-03** – 237 S. Dixie Drive – Variance to 1282.14 “Nonconforming Signs”

Ms. Holloway gave the report from Staff explaining that the Applicant had requested a variance to allow signage on property located at 237 S. Dixie Drive. She noted the Applicant installed several sign panels, two to an existing freestanding sign and one to the wall of the building, without proper permits. Ms. Holloway stated that the use of the property was nonconforming due to being a commercial use in a Residential Multi-Family District and two of the signs were attached to a nonconforming freestanding sign. She noted that adding to a nonconforming sign was considered an enlargement, which is prohibited by Code unless the sign is brought into conformance, or removed. She also advised that nonconforming uses were permitted just one 12 square foot sign. She noted that Staff had no objection to the 12 square foot wall sign that was placed on the building, but that they did not recommend approval of allowing the enlargement of the freestanding sign.

Mr. Flannery asked if the Applicant wished to speak. Mr. Mark Schlater introduced himself and explained the service his company provided. He advised that Montgomery County had approached him and asked him to take over their lease at this location. He said that the building manager told him it was ok to put signs out and he paid a contractor to do so, believing that they would get all permits needed. Mr. Schlater stated that if this variance fell through, he would likely have to walk away from the lease as they could not survive in this location without signage.

Discussion ensued amongst the Board on how to bring the freestanding sign into conformance. Mr. Prokes suggested removing a panel in order to reduce this request. Mr. Fullam stated that he would like to see a different sign at this property as he felt the current one made it difficult for visibility. The Board agreed they were not comfortable requiring a change to the sign without the property owner present. Ms. Holloway stated that the Board could table the request until the next meeting in order to request the property owner's presence. Mr. Schlater said he was unavailable March 14th but could be available March 28th.

Mr. Fullam made a motion to table the requested variance until March 28th, 2018. Mr. Prokes seconded the motion. The motion passed 4-0.

4. Approval of January 24, 2018 Minutes

Mr. Hathaway made a motion to recommend approval of the January 24, 2018 minutes. Mr. Prokes seconded the motion. The motion passed 3-0 with Mr. Flannery abstaining.

5. Approval of February 14, 2018 Minutes

Mr. Hathaway made a motion to recommend approval of the February 14, 2018 minutes. Mr. Fullam seconded the motion. The motion passed 3-0 with Mr. Prokes abstaining.

6. Communications

7. Adjournment

The meeting was adjourned at 7:06 p.m.

Michael Flannery
Chairman