

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

Agenda Items

1. Call to Order
2. Attendance
3. New Business
 - a. **BZA 18-05** – 237 S. Dixie Dr. – Variance to 1282.14 “Nonconforming Signs”
4. Approval of BZA Minutes of February 28, 2018
5. Communications
6. Adjournment

Members Present:	Mr. Michael Flannery, Mr. Aaron Hathaway & Mr. Christopher Prokes
Members Absent:	Mr. Scott Fullam
Others Present:	Mark Schlater 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 April 16, 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 a quorum of members were present.

3. New Business

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

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

Ms. Holloway briefed the Board, reminding them that they tabled the request at their February 28, 2018 meeting in order to allow time for the owner to weigh in on the matter. She noted that an email from the owner was at each members seat. She summarized the issue for the Board, noting the Applicant had requested a variance to allow signage on property located at 237 S. Dixie Drive. 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. Ms. Holloway read the email from the owner for the record.

Mr. Flannery invited the Applicant wished to speak.

Mr. Mark Schlater said he was fine with moving the sign back from the roadway and even removing the lower panel to reduce the square footage.

Mr. Flannery asked Ms. Holloway if it was as simple as just moving the sign back. Ms. Holloway explained that the sign was nonconforming for several reasons including height, size, construction being a post and panel sign where a monument sign is required and the setback of the sign. She noted that the Board could recommend that the existing sign be moved back.

Discussion around each of the signs ensued. Mr. Schlater asked if the Board would allow them to keep the wall sign and one panel on the freestanding sign. Mr. Flannery stated that they were trying to work through various options. The Board discussed the possibility of removing the wall sign in order to lessen the overall square footage. Ms. Holloway suggested window signage could be an option for Mr. Schlater as that did not require a permit. Mr. Schlater expressed concerns with removing the wall sign he paid for and purchasing something new for the window.

Mr. Prokes asked the Board members if they would be willing to consider a variance to move the sign back from the property line. Mr. Hathaway stated that did not resolve the other issues at hand including the style of the sign.

Mr. Schlater stated the property owner was very clear that they would not be installing a new sign. He went on to say that he was not willing to put \$3-5 thousand into a monument sign for a 2 year lease. He added that he thought it was better for the community if the Board allowed him to move the sign back.

With no further comments, Mr. Flannery closed the public hearing.

(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;

The Board agreed that there were generally no unique physical circumstances or conditions with the property that burden this property heavier than another property in the same zoning district.

(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 determined the property would yield a reasonable return and could be beneficially utilized without granting of the variance.

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

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 the variance, if authorized, may alter the character of the neighborhood because many other businesses on that stretch of roadway had installed freestanding monument signs in order to comply with the code.

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

Mr. Prokes stated that he disagreed with Staff's comment in the report for number 5 because the owner weighed in on the matter. All agreed. Ms. Holloway asked the Board to clarify their determination on item 5, noting that the owner did weigh in via email the evening before, and asking the Board to specifically address the criterion.

The Board agreed the owner's predicament likely could 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 not be observed and nor substantial justice done by granting the variance.

(7) Whether the variance is substantial.

The Board agreed that the variance of request was substantial due to a request of 128% more signage than that which was permitted. Mr. Flannery noted that the applicant was willing to reduce the square footage.

Mr. Hathaway stated that he was having a problem with criteria 6. He stated that he felt the spirit and intent of the zoning provision would not be met even if the sign were moved. He added that it was not all about visibility, that it was also its incompatibility with the neighborhood. Mr. Prokes stated that granting the variance does encourage the uses survival, but barring substantial investment and losing a business, he felt what was discussed was a good compromise.

Mr. Prokes made a motion to recommend approval of the variance request with the following condition:

1. The sign be moved back 5 feet from the property line and the lower sign panel be removed

The motion failed for lack of a second.

Mr. Hathaway made a motion to recommend denial of the requested variance. Mr. Prokes seconded the motion. The vote was 2-1 in favor of denial with Mr. Prokes voting no.

The motion failed for lack of a concurrent vote of three members.

Mr. Schlater expressed concerns with being approved following a negative recommendation by the Board. He said he was very disappointed with his first experience trying to open a business in Vandalia.

4. Approval of February 28, 2018 Minutes

Mr. Hathaway made a motion to recommend approval of the February 28, 2018 minutes. Mr. Prokes seconded the motion. The motion passed 3-0.

5. Communications

Ms. Holloway noted that the Board had an upcoming agenda item for the April 11th meeting.

6. Adjournment

The meeting was adjourned at 6:39 p.m.

Michael Flannery
Chairman