

**Minutes of the City of Vandalia Board of Zoning Appeals**  
**April 25, 2018**

**Agenda Items**

1. Call to Order
2. Attendance
3. New Business
  - a. **BZA 18-08** – 6680 Poe Avenue – Variance to City Code Section 1282.09 “Sign Regulations by District”
  - b. **BZA 18-09** – 7655 Poe Avenue – Variance to City Code Section 1286.03 “Extensions; Alterations”
4. Approval of BZA Minutes of March 28, 2018 & April 11, 2018
5. Communications
6. Adjournment

<b>Members Present:</b>	Mr. Michael Flannery, Mr. Aaron Hathaway, Mr. Scott Fullam & Mr. Christopher Prokes
<b>Members Absent:</b>	
<b>Others Present:</b>	Joseph McQuillen, John Westheimer, David Coleman, Jeff Sergent, Tom Shumaker, Dan Wheeler 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 May 21, 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 was present.

**3. New Business**

- a. **BZA 18-08** – 6680 Poe Avenue – Variance to City Code Section 1282.09 “Sign Regulations by District”

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

Ms. Holloway gave the report from Staff explaining that the Applicant, Dan Wheeler of Poe Avenue Park Center, LLC., has requested a variance to allow a 110 square foot wall sign at 6680 Poe Avenue for the Dayton Physicians Network. She explained that the

building in question was the northernmost building on the lot and maintained 82 feet of building frontage along Poe Avenue. She went on to say that City Code Section 1282.09 permitted wall mounted signs in the Office/Industrial Park Zoning District at a ratio of one square foot of sign area to one foot of tenant's building frontage on which the sign is to be located, with a maximum square footage per tenant of 100 square feet. Ms. Holloway advised that the proposed sign contained a tall logo for Dayton Physicians Network, and even though the rest of the sign was smaller, the measurement standards in the Code required enclosing the sign with a geometric shape, which ultimately included the void space above the lettering in the square footage of the sign.

Ms. Holloway stated that staff was recommending approval of this request.

Mr. Flannery invited the Applicant to speak on the matter.

Mr. Dan Wheeler stated that the logo is what makes the sign 5 feet tall. He stated that they were requesting a variance because of the way the sign was configured, with a tall logo and narrow lettering. He noted that the sign needed to be legible from the highway and without a variance, it would not be. Mr. Wheeler added that the frontage in question was the narrowest portion of this building.

Mr. Prokes, referencing the staff memo, asked what two signs would be removed to accommodate this sign. Mr. Wheeler said Earhart Petroleum and Dayton Physicians; both signs were 32 square feet each.

There were no further questions from the Board. Mr. Flannery asked if the Applicant would like to add anything additional prior to the Board closing the public hearing. Mr. Wheeler said no, he would just appreciate their support.

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;**

The Board agreed that the unique circumstance burdening this property is that the narrowest portion of the building is that which fronts the public street. Having the narrowest portion (82 lineal feet) of the building facing the street reduces the amount of signage available per tenant by 20 square feet.

**(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 for larger signage.

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

The Board agreed that the property owner likely purchased the property with some general knowledge of the sign code, however did not believe that the tenant who leased the space was aware of the size restrictions or the measurement standards.

**(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 did not feel the variance, if authorized, would alter the character of the neighborhood as there are multiple businesses along Poe Avenue with very visible signage.

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

The Board did not feel the property owner's predicament could be eliminated without the variance.

**(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.

**(7) Whether the variance is substantial.**

The Board agreed that the variance request was rather substantial as the request was for 37.5% more signage than permitted.

Mr. Prokes made a motion to recommend approval of the requested variance from City Code Section 1282.09 to permit a 110 square foot wall sign at 6680 Poe Avenue. Mr. Fullam seconded the motion. The motion carried 4-0.

b. **BZA 18-09** – 7655 Poe Avenue – Variance to City Code Section 1286.03  
“Extensions; Alterations”

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

Ms. Holloway gave the report from Staff, explaining that the Applicant, Tom Shumaker acting on behalf of Rush Truck Centers of Ohio, had requested a variance to allow the expansion of a nonconforming use at 7655 Poe Avenue for the Rush Truck Center of Dayton. She went on to say that the use of the property fell under “Truck, Heavy Equipment Sales and Service” as they sell, lease and service tractor trailer trucks. She noted that the particular use was only conditionally permitted in the O/IP and I Zoning Districts and was not permitted in the Highway Business District where this property was located, despite being operated in this manner since the 1970's.

Ms. Holloway stated that the Applicant had requested to expand the building by 12,935 square feet to add additional service bays and storage areas. She stated that City Code Section 1286.03 "Extensions; Alterations" provided that no nonconforming use be enlarged, extended, reconstructed or structurally altered.

Ms. Holloway noted that Staff was recommending approval provided that the Applicant provide additional loading spaces to accommodate all inventory and trucks for service so as to limit trucks/trailers being stored in the public right-of-way.

Mr. Flannery invited the Applicant to speak on the item.

Mr. Tom Shumaker addressed the Board and introduced guests from Rush Trucking. He then proceeded through a PowerPoint presentation to the board. While showing an aerial of the site he made note of the particular building areas and the issues in the parking lot. He stated that many of their items are being stored in containers outside due to the lack of the space in the building, which was creating parking issues.

Mr. David Coleman explained that trailers are being parked on the street on occasion due to trucks being towed in during non-business hours. He admitted that they had not done a good job of policing that with their employees.

Mr. Joe McQuillen discussed changes to the site including new trailer spots, new windows, façade upgrades and new asphalt for the entire lot.

Mr. Shumaker stated that they are trying to make the facility more efficient, attractive and suit Rush's needs into the future. Mr. McQuillen stated that they could resolve the trailer issue with no problem, adding that they would like to put in directional signs for after hour tow-ins to prevent the issue. He suggested that the City mark the street for no parking. Mr. Prokes asked if the property was fenced. Mr. McQuillen stated that it was but that the tow drivers had access to the gate.

Mr. McQuillen discussed several suggestions for parking expansions. Ms. Holloway stated that a variance would likely be necessary due to impervious surface coverage limitations.

Mr. Prokes asked about the plan and timing for the renovation. Mr. McQuillen said it would occur in three phases with the paving being the third phase. He added that they would like to start in June and should be done sometime next spring.

Mr. Flannery asked if there was anything additional they would like to add. Mr. Coleman stated that he appreciated the consideration of the Board and stated that the proposal would improve things for their employees and the property.

- (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 not unique physical circumstances or conditions that affect 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 agreed that the property would yield a reasonable return and could be beneficially utilized without the variance.

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

The Board agreed that the property owner likely did not purchase the property with knowledge of the zoning restriction as the property had been utilized in this manner since 1976.

**(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 did not feel the variance, if authorized, would alter the character of the neighborhood and that allowing the building expansion would likely improve the appearance of the site.

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

The Board did not feel the property owner's predicament could be eliminated without the variance.

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

The Board did not feel that the spirit and intent behind the zoning provision would be observed by granting the variance as the intent of the code was to permit nonconformities but not encourage their survival.

**(7) Whether the variance is substantial.**

The Board agreed that from a quantitative standpoint, the variance to allow a 40% expansion was substantial, however from a qualitative standpoint, the expansion would improve the functionality and aesthetics of the property.

Mr. Hathaway made a motion to recommend approval of the variance to City Code Section 1286.03 to allow a 12,935 square foot building expansion at 7655 Poe Avenue with the following condition:

- Additional loading spaces be provided on the site in order to accommodate all inventory and trucks for service so as to limit trucks/trailers being stored in the public right-of-way.

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

#### **4. Approval of March 28, 2018 and April 11, 2018 Meeting Minutes**

Mr. Prokes made a motion to recommend approval of the March 28, 2018 meeting minutes with one correction. Mr. Hathaway seconded the motion. The motion passed 3-0. Mr. Fullam abstained from the vote.

Mr. Fullam made a motion to recommend approval of the April 11, 2018 meeting minutes as presented. Mr. Prokes seconded the motion. The motion carried 3-0. Mr. Hathaway abstained from the vote.

#### **5. Communications**

Ms. Holloway stated that there would be items for the May 9 meeting. She also provided a brief update on the planned timing for the zoning code rewrite.

#### **6. Adjournment**

The meeting was adjourned at 6:54 p.m.

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**Michael Flannery**  
*Chairman*