

Minutes of the City of Vandalia Board of Zoning Appeals
May 9, 2018

Agenda Items

1. Call to Order
2. Attendance
3. New Business
 - a. **BZA 18-10** – Variance to City Code Section 1276.10 “Curb Openings” and Section 1280.09 “Schedule of Parking Spaces” – 3675 Wyse Rd. & 6661 Homestretch Rd.
 - b. **BZA 18-11** – Variance to City Code Section 1276.02 “Fences and Walls” – 1201 Bailey Ave.
4. Approval of BZA Minutes of March 28, 2018 & April 11, 2018
5. Communications
6. Adjournment

Members Present:	Mr. Michael Flannery, Mr. Aaron Hathaway, Mr. Scott Fullam
Members Absent:	Mr. Christopher Prokes
Others Present:	Colette Coscuella, Roddy Keish, Rob Cron, Mustafa Shakmanov, Ufuk Adiyaman, Joe Roller 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 June 18, 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 18-10** – Variance to City Code Section 1276.10 “Curb Openings” and Section 1280.09 “Schedule of Parking Spaces” – 3675 Wyse Rd. & 6661 Homestretch Rd.

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

Ms. Holloway gave the report from Staff explaining that the Applicant, Mustafa Shakmanov, had requested two variances as part of a proposed development. She noted that the proposed development consisted of a 60,000 square foot building to house truck and heavy equipment sales and service use and warehouse use at 3675 Wyse Road and 6661 Homestretch Road. She stated that the first variance request was a variance from City Code Section 1280.09 "Schedule or Parking Spaces" in order to permit 27 passenger vehicle spaces instead of the required 58. She advised that the Applicant had stated that they would only need about 20-25 passenger vehicle spaces and had provided 22 truck spaces in addition to the 27 passenger vehicle spaces. Ms. Holloway then referenced a portion of the site plan, which showed area for future parking build out if needed. She advised that Staff was recommending approval with the following conditions:

1. Variance be approved only if the concurrent Conditional Use request for a Truck and Heavy Equipment Sales and Service and Warehouse be approved.
2. If parking issues arise, the Applicant take action to install all 58 required parking spaces.
3. In the event of a building expansion, the Applicant provide additional parking for the expansion based on the ratios provided in the City Code Section 1280.09 "Schedule of Parking Spaces".

Ms. Holloway then went through the next variance request regarding curb openings, noting that the Applicant had requested a third curb opening where two was the maximum permitted on a corner lot. She noted that they had proposed utilization of two existing openings and addition of one on the eastern side of the Wyse Road frontage, about 70 feet from the Wyse/Homestretch intersection. She added that Staff generally supported a third curb opening due to the expanse frontage of the property, but felt 70 feet was too close to the intersection. She went on to say that Staff would recommend the opening be moved at least 100 feet from the intersection and be designated as an exit and right turn only opening.

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

Joe Roller asked if they redesigned the driveway according to Staff's recommendation would they have to come back to the BZA. Mr. Flannery said Staff would review it. Mr. Roller said unless there were questions, they were ok with Staff's recommendations. He added that they were hopeful to resolve these matters so they could start construction.

Rob Cron advised Mr. Roller of an existing fire hydrant and catch basin that would have prevented them from locating the driveway in their proposed location without incurring substantial costs.

Mr. Flannery asked if there were any questions before they closed the public hearing.

Mr. Flannery closed the public hearing and proceeded through the variance criteria for each variance separately beginning first with the variance to 1280.09 "Schedule of Parking Spaces".

- (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 outside of the fact that there is a significant amount of frontage for this property.

- (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 the property in question would yield a reasonable return and there could generally be beneficial use of the property without the variance.

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

The Board agreed that the property owner, Spirit Life Church, did not purchase the property with knowledge of this zoning restriction.

- (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 to allow less parking would not alter the character of the neighborhood, nor would it seem to permanently impair the appropriate use of adjacent property.

- (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 of avoiding paving unnecessary space 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 as the Applicant proposed to build out parking based on the needs of their business and has provided for an area of expanded parking should it become warranted.

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

The Board determined the variance request was substantial.

Mr. Hathaway made a motion to recommend approval of the requested variance from City Code Section 1280.09 "Schedule of Parking Spaces" with the following conditions:

1. Variance be approved only if the concurrent Conditional Use request for a Truck and Heavy Equipment Sales and Service and Warehouse be approved.
2. If parking issues arise, the Applicant take action to install all 58 required parking spaces.
3. In the event of a building expansion, the Applicant provide additional parking for the expansion based on the ratios provided in the City Code Section 1280.09 "Schedule of Parking Spaces".

The motion was seconded by Mr. Hathaway. The motion carried with a 3-0 vote.

It was recognized following this meeting that the truck parking stalls could count toward the overall parking count and therefore the variance was a variance of nine spaces.

The Board then proceeded through the criteria for the variance from City Code Section 1276.10 "Curb Openings".

- (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 outside of the fact that there is a significant amount of frontage for this property.

- (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 the property in question would yield a reasonable return and there could generally be beneficial use of the property without the variance. It was noted, however, that a significant amount of frontage along Wyse Road exists the desire to separate truck and passenger vehicular traffic was understood.

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

The Board agreed that the property owner, Spirit Life Church, did not purchase the property with knowledge of this zoning restriction.

- (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 to allow a third curb opening would not alter the character of the neighborhood, nor would it seem to permanently impair the appropriate use of adjacent property provided, however, the opening was

installed 100 feet from the Wyse/Homestretch intersection and designated as an exit and right turn only opening.

(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 determined the variance request was insubstantial due to the expanse frontage of the lot.

Mr. Fullam made a motion to recommend approval of the requested variance from City Code Section 1276.10 "Curb Openings" for the purposes of allowing a second curb opening along Wyse Road with the following conditions:

1. Variance be approved only if the concurrent Conditional Use request for a Truck and Heavy Equipment Sales and Service and Warehouse be approved.
2. The easternmost proposed curb opening along Wyse Road be moved west from the intersection of Wyse and Homestretch a minimum of 100 feet, and such opening be designated for "Exit Only" and "Right Turn Only"

The motion was seconded by Mr. Hathaway. The motion carried with a 3-0 vote.

- b. **BZA 18-11** – Variance to City Code Section 1276.02 "Fences and Walls" – 1201 Bailey Ave.

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

Ms. Holloway gave the report from Staff, explaining that the Applicant, Colette Coscuella, requested a variance to allow a 48" tall fence in Zone "A", the decorative fence zone. She stated that Zone "A" was the area lying between the street right of way line and a line parallel to and a minimum of fifteen feet behind the existing front line of the building foundation. She noted that the fence was constructed 10 feet behind the existing front foundation line. Ms. Holloway went on to say the Applicant was issued a permit in March 2018 for a 42" tall wooden fence, however, the fence was erected by the contractor at 48 inches in height. She stated that Staff was recommending denial of the request.

Mr. Roddy Keish, 1191 Bailey Avenue, stated that the fence looked nice and it would be complicated to shorten it. He added that 6 inches in height was not noticeable to the eye and it was an improvement over the chain link that was there before.

Ms. Coscuella stated that she got a permit and she and Ms. Holloway had both spoken with the contractor so she did not feel she needed to check in to make sure the contractor was doing what they were asked to do. She stated that she tried to do everything legit by getting a permit.

Mr. Fullam asked how diligently Ms. Coscuella tried to contact Lowe's. Ms. Coscuella stated that she wanted the fence the way it was so her son contacted Amber and asked what they could do. Mr. Keish reiterated that 6 inches did not make much visual difference.

Mr. Flannery asked if Ms. Coscuella was asking for a variance to leave the fence as it was. Ms. Coscuella said yes, she likes the fence as it is.

Mr. Flannery asked if there was anything else the Applicant would like to add prior to closing 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 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 but noted that the property owner was made aware of the requirements prior to issuance of a fence permit.

(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 fence location and height was particularly in character however, felt that adjoining properties would not suffer a substantial detriment if the variance was approved.

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

The Board agreed that the predicament could be eliminated by lowering the fence 6 inches.

(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.

(7) Whether the variance is substantial.

The Board agreed the variance was insubstantial.

Mr. Fullam made a motion to recommend denial of the variance to City Code Section 176.02 "Fences and Walls" to allow a 48 inch tall fence in Zone "A" at 1201 Bailey Avenue.

Mr. Hathaway seconded the motion. The motion passed 3-0.

4. Approval of April 25, 2018 Meeting Minutes

Ms. Holloway stated that Mr. Fullam noted that page four of the minutes did not reflect a second to a motion. She noted the error was corrected. Mr. Hathaway made a motion to recommend approval of the April 25, 2018 meeting minutes with the change. Mr. Fullam seconded the motion. The motion was approved 3-0.

5. Communications

Ms. Holloway stated that there would be items for the May 23 meeting. She also noted that the new City Planner, David Marlow, would start later that week.

Mr. Hathaway made a motion to excuse Mr. Prokes from the meeting. The motion was seconded by Mr. Fullam. Motion carried 3-0.

6. Adjournment

The meeting was adjourned at 6:45 p.m.

Michael Flannery
Chairman