

Minutes of the City of Vandalia Board of Zoning Appeals
August 22, 2018

Agenda Items

1. Call to Order
2. Attendance
3. New Business
 - a. **BZA 18-18** – Variance to City Code Section 1282.14 “Nonconforming Signs” – 2700 W. National Road
4. Approval of BZA Minutes of July 25, 2018
5. Communications
6. Adjournment

Members Present:	Mr. Michael Flannery, Mr. Scott Fullam, Mr. Christopher Prokes and Ms. Amber Aivalotis-Weaver
Members Absent:	
Others Present:	Brian West, Amber Holloway and David Marlow

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 September 17, 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 18-18** – Variance to City Code Section 1282.14 “Nonconforming Signs” – 2700 W. National Road

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

Mr. Marlow gave the report from Staff explaining that the Applicant, Park-N-Go, was requesting a variance to permit the use of an existing nonconforming sign on property located at 2700 W. National Rd. He went on to say the Applicant was requesting the use of a nonconforming sign that had been abandoned for more than 90 days, where the Code dictates that a nonconforming sign shall immediately lose its nonconforming designation and must be brought into compliance when it was part of an establishment that discontinued its operation for a period of 90 days or

more. Mr. Marlow stated the sign was nonconforming due to its height, 27 feet where 6 feet is the maximum permitted, and its size, 144 square feet where 35 feet is the maximum permitted pursuant to City Code Section 1282.09 "Sign Regulations By District". He noted that the base of the existing sign did not contain landscaping or a base of exposed brick or stone, as required by City Code Section 1282.08 "General Regulations".

Mr. Marlow mentioned the Applicant submitted a letter of justification wherein they explained the existing monument sign was approved by City of Vandalia when constructed in October of 2006 and that the Thrifty Car Rental operated the location from 2004 until 2017, then it sat vacant for over a year, which was the reason for his requested variance. Mr. Marlow went on to say that the Applicant continued to state the well-known sign must be brought into compliance with the current zoning regulations unless they received a variance as requested.

Mr. Marlow noted that the Applicant mentioned from a financial perspective, the larger sign had made the property and any business more valuable because of its visibility. He went on to say that demolishing or cutting it down would be cost prohibitive and would harm the value of the property and business. Mr. Marlow stated that the Applicant noted the wonderful visibility of the monument sign was one of the things that made the property so attractive to lease and renovate. Mr. Marlow continued to mention the Applicant said that his family had invested \$50,000 to-date in improvements to make the property an attractive showplace for Vandalia and the neighborhood and that the new zoning regulations for signs was in the works, but a variance was the only feasible method to remedy the situation today.

Mr. Marlow noted that the Zoning Code Steering Committee had proposed a National Road Sign Overlay District that would allow two square feet per lineal foot of street frontage with a maximum square footage of 150 square feet and the maximum height of a freestanding sign shall be 25 feet. He went on to state that however, Council had not had the opportunity to discuss the proposal and if adopted, the sign would exceed the maximum height permitted by 2 feet and would comply with the provision on square footage.

Mr. Marlow stated that Staff was recommending the Board of Zoning Appeals recommend denial of the requested variance from City Code Section 1282.14 "Nonconforming Signs" for the purposes of allowing the use of an existing nonconforming sign that had been abandoned for more than 90 days on property located at 2700 W. National Road. He went on to state that however, if the Board decides to recommend approval of the requested variance, Staff recommends there be a condition so that the base of the sign must come into compliance with Code Section 1282.08(e), and include a minimum of a 4-foot tall landscaped bed constructed of exposed brick or stone.

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

Mr. West stated the existing monument sign on his property was approved by City of Vandalia and constructed in October 2006. He went on to say the sign was 27 feet tall with two 6x12-foot sign faces on each side. Mr. West mentioned that due to its unique construction, it reminded him a lot of the 2001 movie *A Space Odyssey* and the sign was a local landmark and curiosity. He noted that Thrifty Car Rental operated the location for 13 years and the sign was within the zoning for at least some of that time period. Mr. West said that if you compared the sign to other Highway Business signs in the neighborhood such as, Toyota, Nissan and Ford the structure was similar in height and the overall square footage to well respected signs in the neighborhood. He stated that his property probably has three times as much lineal frontage as

any of the car dealers, so even though the sign was rather large it looked fairly small in comparison to the property.

Mr. West said that in regards to the variance criteria he did not believe there were any physical circumstances or conditions, but from a financial perspective the sign probably costs \$30,000 to demolish it and replace it with something else. Mr. West noted that cost would be a hardship when they were trying to get the business up and running. He continued to note that they were taking a 40-year-old business that was family owned and moved it a mile down the street. Mr. West mentioned he believed the new location would be great for them, but customers were saying they could not find them and they were driving past the entrance two or three times and were having to call them or follow a bus to get in.

He went on to ask if the current temporary sign he had was about the same size as what was in the current zoning. Mr. Marlow stated he did not know what the size of his temporary sign was. Mr. West stated it was 24 square feet. Mr. Marlow stated that 35 square feet was the maximum permitted. Mr. West asked if the maximum height permitted was 6 feet. Mr. Marlow stated yes.

Mr. West stated the temporary sign was lost when looking at a photo he provided to the Board in the meeting. He continued saying that the sign was lost when you add the 400 lineal feet of frontage along National Road and the additional 1,000 lineal feet along Dog Leg Road. Mr. West mentioned that demolishing the sign would be cost prohibitive and would harm the value of the property and the business. He noted that he was not aware of the 90-day regulation when he entered into the lease and did not know if he could have kept the property occupied. Mr. West went on to say that he had already put a fresh coat of paint on the sign and it looked much better. He stated that in the packet provided to the Board there was a photo that showed the proposed new sign faces. Mr. West mentioned that he hoped the Board would support him and his family owner business by granting of the variance, so that they could keep and improve the unique landmark and keep their business running.

Mr. Flannery asked the Applicant if he were granted the variance what would he do to the sign. He went on to ask if the Applicant had seen the condition provided by Staff about the landscaped bed. Mr. West said he did not notice the condition until he had read back over it that morning, but would certainly be willing to come into compliance in that area.

Mr. Fullam asked if the document provided to the Board was what the Applicant was proposing the sign to look like. Mr. West stated yes.

Mr. Marlow asked if the sign would have the same image on both sides of the sign. Mr. West said that the sign would have the same message on both sides.

Mr. Prokes asked Staff that back in 2006 when Thrifty Car Rental opened if the sign was in compliance with the zoning codes or if there was a variance granted. Ms. Holloway stated that Staff did not find a variance on record for the sign. Mr. Marlow stated Staff assumed because there was no variance that the sign was in compliance with the zoning code.

Mr. West asked if Staff knew what the sign limit was back then. Ms. Holloway stated she would have to look at the old Code book, but it was based on the lineal frontage and that was how the auto dealerships ended up with that type of sign as well.

Mr. Prokes stated they could not live in the hypothetical, but the Zoning Code Steering Committee had suggested a National Road Overlay District which was pretty popular because

the need to maintain a business structure in which was effectively a part of the city's central business district and as the airport grows in terms of freight it seems that was a pretty high priority for the Zoning Code Steering Committee.

Mr. Marlow stated that Staff understood there was a lot of signs on National Road that were not currently in compliance and the Steering Committee wanted to work with the businesses to come into compliance, but the existing sign was 27 feet and the proposed new maximum height of a sign was still only 25 feet and something to keep in mind.

Mr. Flannery noted the proposed new square footage would be more. Mr. Marlow stated that yes, the sign would meet the square footage requirement, but not the height.

Mr. Holloway mentioned that Council had not seen the new sign proposal.

Mr. Fullam asked if there was any time frame for when Council would see the proposal. Ms. Holloway said Council would see the proposal on Monday August 27th, however would not vote until the proposed new Code was brought to them. Mr. Fullam asked how long it would be until Council voted. Ms. Holloway said the earliest would be October.

Mr. Fullam noted that he thought it seemed silly to make a decision on the variance when it could be overwritten in the matter of a couple weeks and where they had someone who was trying to invest in the community and to grow his business and to make him tear the sign down hypothetically and then all of a sudden Council approved of the 25-foot maximum sign height then the Applicant only missed the height requirement by 2 feet. He went on to say he hated to put things off, but wanted to find a way to be fair to everyone and that if there was no proposed change in height he believed it would make his decision easier.

Mr. Flannery stated that if the Board wanted to move the Applicant forward to Council they could make the condition in regards to the landscaped bed which would make the height a little less, if not he did not know if the Board should make the Applicant cut 2 feet off the height of the sign.

Mr. West asked if there was anything he could do with the grading. Mr. Marlow stated that issue was why there was a proposed condition by Staff that the landscaped bed be 4 feet tall.

Mr. Prokes stated that in part he agreed with Mr. Fullam with the criteria about the character of the neighborhood because when you drive on National Road there are not too many signs that were not tall because they were like that for a reason. He went on to say it did present a safety issue from the airport perspective, but if it did get hit by a plane then there would be a larger problem at hand. If they were to continue push potential expansion and businesses in that part of the community, while zoning was different in some cases compared to other parts of National Road he thought that character wise it did not fall to far outside. Mr. Flannery stated that was probably their thought process when it was built as they were permitted to build the sign.

Ms. Aivalotis-Weaver stated that the sign had not caused any problems up to this point.

Mr. Flannery stated that the Applicant's problem was that the sign had sat there for a period of time, however if it had not sat there for a period of time the Applicant could had been issued a permit.

Mr. Prokes mentioned that if that area of town continued to grow those businesses who were not able to have a larger sign would be put at a competitive disadvantage as their signs would

not be as noticeable as the car dealership signs. He went on to say he agreed with Staffs comment that if they decide to recommend approval that the landscape must come into compliance.

Mr. Flannery asked the Applicant if he had any thoughts on what type of base he would like. Mr. West replied he did not have a strong preference for either stone or brick, but that they would design something that looked nice and met all current Code requirements in regards to the base.

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 there were generally no unique physical circumstances affecting the property more than another 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 in question would yield a reasonable return without the variance as the zoning code was not restricting the property of having a free-standing sign.

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

The Board felt the property owner did not purchase the property with knowledge of the 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 felt that the variance, if authorized, would not alter the character of the neighborhood as the sign had been in existence for over ten years and other signs along National Road and west of Helke Road were of similar height and size. The adjoining lots had at least 2-acres of land and were all zoned either Highway Business, Agriculture or Office/Industrial Park.

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

The Board felt the property owner's predicament could be eliminated by coming into compliance however, compliance would reduce the signs height to 6 feet and the signs square footage to 35.

(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 the spirit and intent behind the zoning requirement would be observed, nor substantial justice done by granting the variance as the Code clearly states that any nonconforming sign that had been abandoned for more than 90 days must come into compliance.

(7) Whether the variance is substantial.

The Board agreed the variance was substantial.

Ms. Aivalotis-Weaver made a motion to recommend approval of the requested variance from City Code Section 1282.14 "Nonconforming Signs" for the purposes of allowing the use of an existing nonconforming sign that had been abandoned for more than 90 days on property located at 2700 W. National Road with the following condition:

- The base of the sign must come into compliance with City Code Section 1282.08(e), and include a minimum of a 4-foot tall landscaped bed constructed of exposed brick or stone

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

Ms. Holloway mentioned to the Applicant that his requested variance would be heard at the September 4th City Council study session and voted on by Council at their September 17th Council meeting.

4. Approval of July 25, 2018 Meeting Minutes

Mr. Prokes made a motion to recommend approval of the July 25, 2018 meeting minutes. Ms. Aivalotis-Weaver seconded the motion. The motion was approved 3-0. Mr. Fullam abstained from the vote.

5. Communications

Mr. Marlow stated that there was one item on the scheduled September 12th Board of Zoning Appeals meeting for a sign and that there would be a special Council meeting on August 27th at 6pm in the Large Conference Room to discuss the zoning code rewrite and that all were welcome to join as they discussed the major proposed changes in the zoning code.

Mr. Prokes motioned to appoint Mr. Fullam as Vice-Chairman to the Board of Zoning Appeals. Ms. Aivalotis-Weaver seconded the motion. The motion was approved 4-0.

6. Adjournment

The meeting was adjourned at 6:32 p.m.

Michael Flannery
Chairman

Board of Zoning Appeals
August 22, 2018

City Council Packet September 17, 2018
Reports from Boards and Commissions