

Minutes of the City of Vandalia Board of Zoning Appeals
September 12, 2018

Agenda Items

1. Call to Order
2. Attendance
3. New Business
 - a. **BZA 18-19** – Variance to City Code Section 1282.13 “Standards for Temporary Signs” – 626 W. National Road
4. Approval of BZA Minutes of August 22, 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:	Alan Woodward, Rob Cron 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 October 1, 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 18-19** – Variance to City Code Section 1282.13 “Standards for Temporary Signs” – 626 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, Alan Woodward, on behalf of Vandalia Church of Christ had requested a variance to permit the use of an existing nonconforming sign on property located at 626 W. National Road. He stated that the Applicant was requesting the use of a 100 square foot temporary sign in the Highway Business Zoning District, where 64 square feet was the maximum square footage permitted for a single-sided banner in the Highway Business Zoning District pursuant to City Code Section 1282.13 “Standards for Temporary Signs”. Mr. Marlow noted that City Code Section 1282.03 “Definitions” defines a temporary sign as, “A sign of any type, which is placed for a specified period of time, for

a specific purpose, and is not, nor intended to be, permanently attached to a building, structure, or the ground.” Mr. Marlow said that the temporary sign was erected without a proper permit.

Mr. Marlow mentioned that the Applicant submitted a letter of justification wherein they explained in the short time they have had the sign erected on the side of the building he had received multiple calls from legitimate sources wanting to develop the property, which had ranged from the fast food industry to general land developers. Mr. Marlow noted that he mentioned several companies were interested in remodeling the old building to lease out the space and he did not believe there were any negative impacts of the sign, as there was only upside to the property being marketed. Mr. Marlow stated the Applicant said their only goal with the sign was to get more visibility to either lease the property or sale the property, which was being accomplished, so that they could make the property something that benefited the city rather than leave it in its current state of limited use by a church and saw the sign as a temporary real estate sign that made no negative impact on the community and would hopefully expedite getting the property properly used to benefit the city as a whole.

Mr. Marlow stated that the variance request was for the square footage of the sign and not the location of the sign. He noted that if granted the variance, the Applicant would be permitted to relocate the 100 square foot temporary sign as close as two feet away from the public right-of-way.

Mr. Marlow stated that Staff was recommending the Board of Zoning Appeals was recommending denial of the requested variance from City Code Section 1282.13 “Standards for Temporary Signs” for the purposes of allowing the use of an existing 100 square foot temporary sign on property located at 626 W. National Road.

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

Mr. Woodward stated the church owns the property but had moved to Brown School Road about three or four years ago and the vacant church was currently being used for their disaster response program and stores all of their items that were about to be shipped to the Carolinas. He mentioned they had been trying to sell the property and his job was to buy properties, fix them up, and then either lease or sell the property. He mentioned that since he attends the church he would help them out. Mr. Woodward said he erected the sign not thinking about permits as he had erected other signs before in other municipalities and had never had any issues pop up. He noted his intent was to not be a sign person, but his intent was to lease out the building. He said he had already put the sign up and it had been generating interest. He stated that the owner of the other temporary sign on the property receives about one or two calls a month about potential buyers, where his sign had generated two or three calls a week. He noted that people who drive by the church do not even know there was a church there even though there was a big free-standing sign along National Road and because of this he stated he believed there was a unique circumstance as you could drive by the church a hundred times and not notice it. He noted his job was to not have vacant properties in the City of Vandalia.

Mr. Prokes asked Staff if with the zoning code update if this issue would be a moot point. Mr. Cron stated that the new law did not allow municipalities to regulate the message on signs, but this sign was still a temporary sign and did not meet city regulations. Mr. Marlow stated that temporary signs could be up to 64 square feet, but a temporary real estate sign could only be 24 square feet.

Mr. Woodward stated he did not have any intentions of moving the sign off of the building. Mr. Marlow said that he did not believe Mr. Woodard wanted to move the sign, but wanted to be clear that he could move the sign as close as two feet from the public right-of-way.

Mr. Prokes asked if they could attach a condition where the sign could only stay on the building. Mr. Marlow answered yes.

Mr. Flannery asked if the sign was cut down to 64 square feet if the Applicant would not get the response that he was getting now. Mr. Woodward stated he did not know whether he would or not.

Mr. Marlow stated the temporary sign along National Road was 24 square feet on each side and he would be permitted another 40 feet so it was over double the square footage of the existing sign along National Road.

Mr. Prokes asked if the variance was not passed could the Applicant place a 64 square foot sign along National Road. Mr. Marlow answered yes, but the sign could only be single-sided as a two-sided banner can only be 32 square feet.

Mr. Prokes asked if the Applicant had to have the text "Bison Investment Group" on the sign or if he could fold that text underneath the sign. Mr. Woodward said he did not as it was a family company.

Mr. Woodward asked if there were complaints about the sign. Mr. Marlow said he did not receive any calls from adjacent neighbors and he was informed of the sign by Amber Holloway who he did not know whether she received a complaint or not.

Mr. Woodward asked if it was an Ohio code or a City of Vandalia code. Mr. Cron said the restriction on the size of the sign is a city code.

Mr. Prokes asked if there were any proposed changes from the Steering Committee about this type of regulation. Mr. Marlow answered no.

Mr. Woodward asked why Elder Beerman was allowed to have a large temporary sign. Mr. Cron said that each city had their own sign regulations.

Mr. Flannery asked if the Applicant would be opposed with the Bison Investment Group text being folded up. Mr. Woodward said that if that allows him to keep the sign erected he would roll that portion of the sign up.

Mr. Flannery asked if the sign's square footage was 80 if it would still be considered substantial. Mr. Marlow said that it would depend on each person's definition of what they believed to be substantial.

Mr. Fullam asked what the timeframe was. Mr. Woodward said that he hoped to have the property leased by November.

Mr. Marlow stated that the current zoning code states that temporary signs can not be up for more than 30 days and if you want to keep the sign up for a longer period of time you have to receive another permit up to four permits, so the maximum length of time a temporary sign can

stay up for was four months in a calendar year. He continued to state the temporary sign had yet to receive a sign permit, but had been erected for approximately a month and half.

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 temporary 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 alter the character of the neighborhood as there were not any known temporary signs in the neighborhood with a square footage larger than 64, the location of the sign was adjacent to a fairly dense residential neighborhood and the requested 100 square foot sign did not appear to be necessary for a building that was approximately 145 feet from National Road, especially when a temporary sign was permitted to be as close as two feet from the public right-of-way.

- (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 by applying for a temporary sign with a maximum square footage of 64 and locating the sign closer to the road for maximum visibility.

- (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 64 square feet was the maximum square footage permitted for a temporary sign with a single-sided banner in the Highway Business Zoning District.

(7) Whether the variance is substantial.

The Board agreed the variance was substantial.

Ms. Aivalotis-Weaver asked if temporary signs were permitted up to four months per calendar year. Mr. Marlow answered that yes it was based on a calendar year.

Mr. Marlow stated that if the Applicant wanted to keep the same sign that they would have to come back for another variance in 2019.

Mr. Prokes made a motion to recommend approval of the requested variance from City Code Section 1282.13 "Standards for Temporary Signs" for the purposes of allowing the use of an existing 100 square foot temporary sign on property located at 626 W. National Road with the following conditions:

1. The Applicant shall apply for his first of 2 temporary sign permits no later than seven calendar days following City Council's potential approval of this request on October 1, 2018
2. The sign shall not be moved from the existing structure
3. The Applicant shall fold the lower portion of the sign with the words "Bison Investment Group" underneath the sign

Ms. Aivalotis-Weaver seconded the motion. The motion carried 4-0.

Mr. Marlow mentioned to the Applicant that his requested variance would be heard at the September 17th City Council study session.

4. Approval of August 22, 2018 Meeting Minutes

Mr. Fullam made a motion to recommend approval of the August 22, 2018 meeting minutes. Mr. Prokes seconded the motion. The motion was approved 4-0.

5. Communications

Mr. Marlow stated that the Zoning Code Steering Committee would meet one final time on Tuesday September 18th at 5:30pm in the Large Conference Room to discuss the major proposed changes to the zoning code. There were three items on the September 26th Board of Zoning Appeals meeting. Mr. Marlow continued to state that there was a parking variance at 260 N. Dixie Dr. and two front yard setback variances at 3131 Stop Eight Road and 6025 Miller Lane.

6. Adjournment

The meeting was adjourned at 6:38 p.m.

Michael Flannery
Chairman