

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

Agenda Items

1. Call to Order
2. Attendance
3. New Business
 - a. **BZA 18-28 – Appeal of Zoning Administrator’s Decision Regarding A Sign – 626 W National Road**
 - b. **BZA 18-29 – Variance to City Code Section 1282.09 “Sign Regulations By District” – 600 S. Dixie Drive**
4. Approval of BZA Minutes of November 28, 2018
5. Communications
6. Adjournment

Members Present:	Mr. Scott Fullam, Mr. Christopher Prokes, Mr. Michael Flannery and Ms. Amber Aivalotis-Weaver
Members Absent:	
Others Present:	Joyce Orange, Shirley Lassiter, Tom Luebbe, Jane Fiehrer, Barry Boettcher, David Edmonds 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 appeal and 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 January 7, 2019 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 18-28 – Appeal of Zoning Administrator’s Decision Regarding A Sign – 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 Vandalia Church of Christ had filed an appeal regarding the Zoning Administrator’s decision to require the property owner to remove a nonconforming free-standing sign. He continued by saying the Zoning Administrator notified Vandalia Church of Christ by sending three separate letters with the most recent letter dated

November 2, 2018 notifying the owner of a violation regarding the free-standing sign on the property where City Code Section 1282.14 (a)(4) stated that a nonconforming sign shall immediately lose its nonconforming designation and be brought into compliance or removed if the sign was part of an establishment that discontinued its operation for a period of 90 days or more. Mr. Marlow mentioned that a copy of the most recent violation letter was included in your packet.

He noted that the water for the building was turned off on October 17, 2017, thus it was assumed that the use discontinued at or before that time. He continued to note that the Ohio Building Code does not allow an active use without active water. Mr. Marlow explained that the building had previously been used as a "Place of Worship" which was defined as a religious institution that a congregation of any denomination, that regularly attend to participate in or hold religious services, meetings and other activities, including buildings in which the religious services were held and which may include accessory indoor uses such as, but not limited to, day care or educational institution facilities. Mr. Marlow mentioned that the Applicant stated on their appeal application that the existing use of the property was a collection point for disaster relief for natural disasters for the Church of Christ.

Mr. Marlow stated that the free-standing sign was nonconforming due to the area of the sign exceeding 35 square feet, the height of the sign exceeding 6 feet and the sign not being a monument sign.

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

Mr. Edmonds mentioned that he was the preacher for the church and with him was Barry who was one of the elders for the church. He asked if he could lead off with a prayer and with no objection and said a prayer. He mentioned that he had packets for the Board of Zoning Appeal members. Mr. Edmonds explained that they did not have any intent of keeping the sign and had full confidence that when they sold the property that the new owner would take it away. He mentioned that the expense of cutting down the sign was on their mind but also right now they were still using the facility and were challenging the ruling that it had been abandoned. Mr. Edmonds stated that he had talked to Mr. Marlow soon after receiving the first letter and asked to please talk to him before making an excessive decision and was just polite to do. He noted that in the brochure he handed out about the disaster response that they went all over the country to help during natural disasters. Mr. Edmonds explained that the building at 626 W National Road was being used by the disaster response team as a storage facility and were going there periodically to help organize and get the packages ready. He noted that they used to have church service there but moved to South Brown School Road about three years ago. Mr. Edmonds explained that they turned the water off as there was a bad leak between the road and the building and did not want to have to pay the cost as they planned on selling. He mentioned that their teen groups also used the facility for gatherings and although they did not have meetings on Sunday morning they did have meetings there periodically and in one of the exemptions it mentioned daycares and educational institutional facilities.

Mr. Flannery asked if they put a portable toilet in when they turned off the water. Mr. Edmonds answered no as they did not stay there for many hours and they did not serve food.

Mr. Prokes asked how the teenagers went to the restroom. Mr. Edmonds answered that they did not stay the weekends there and were only there for a couple of hours.

Mr. Fullam asked if the water was still turned off. Mr. Edmonds replied correct.

Ms. Orange asked if that would be a safety or health issue. Mr. Marlow answered that the Ohio Building Code did not allow an active use without water being turned on so right now if they have a use or storage they were doing it illegally without water being turned on even storage. He continued to state the properties use was a place of worship and not storage so if they were using it for storage they would be running into fire hazards and building codes that probably were not abiding by right now.

Mr. Prokes asked if they building had an active fire suppression system. Mr. Edmonds said no.

Mr. Prokes asked what the plan was for all the storage when they sold the property. Mr. Edmonds answered that they planned to build a larger warehouse in Tipp City.

Mr. Boettcher asked if the water was turned back on if that would help. Mr. Marlow answered that based on Staff's decision that it had been discontinued for more than 90 days and that it needed to come into compliance as the zoning code wants any nonconforming use to come into compliance and so because it was a nonconforming sign we want it to come into compliance with our current code and so since based on Staff's decision it had been discontinued for more than 90 days we were pursuing this right here. Mr. Edmonds stated that it was discontinued by city definition and not a discontinued use of the property. Mr. Marlow that was why we were here today as you were appealing that decision.

Mr. Fullam mentioned that the water had been turned off for over a year and asked how long ago they moved out of the church. Mr. Edmonds answered they moved out in August of 2016.

Ms. Orange asked if it had been inspected since the water had been turned off. Mr. Marlow said the city had not inspected it. Ms. Orange asked if they still had gas and electric in the building. Mr. Edmonds answered yes and that he had an appointment with the Fire Chief tomorrow at 10:30am for an inspection.

Mr. Marlow mentioned that the Applicant believed that whoever bought the property would take down the sign, but Staff felt if they were granted of the appeal that they did not see why the new property owner would want to have to tear down the sign as they would probably want to keep using it and also Staff sent out a violation letter to Capitol Cleaner for the same reason as they had discontinued their operation for more than 90 days and their compliance date was in February and so if the appeal was granted and they caught wind of it they also might come in and then we would not be getting the nonconforming signs into compliance which was the ultimate goal for the zoning code was to have signs to come into compliance. He continued to state that the Pizza Hut and Speedway sign a few years ago that came into compliance with the sign code.

Mr. Marlow mentioned that if they are granted of the appeal then as long as the new owner came in within 90 days they could legally keep the sign. Mr. Edmonds noted that if it wasn't a church who bought the property he didn't think they would want to keep it.

Mr. Edmonds asked if Capitol Cleaner was still using their facility. Mr. Marlow answered no.

Mr. Flannery asked that because it was an appeal and not a variance that they did not go through the usual variance criteria. Mr. Marlow answered that they would go straight to a motion.

Ms. Orange mentioned that she was concerned about the health and safety factor with the water being turned off.

Mr. Flannery closed the public hearing.

Mr. Fullam made a motion to recommend the nonconforming free-standing sign be removed as the sign was part of an establishment that had discontinued its operation for a period of 90 days or more.

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

Mr. Marlow mentioned that the item would be discussed at the December 17th City Council Study Session at 6pm in the Large Conference Room and would be voted on at the City Council's January 7th meeting. Mr. Flannery noted that the best time to talk to City Council would be at their study session.

Mr. Edmonds stated that he was disappointed that they came to this conclusion because he didn't see the harm in keeping the sign until they sold it and they were using it for good and that he had not had much help from the city in selling the property.

Mr. Boettcher asked that if December 17th was the last time for them to interject with Council. Mr. Marlow answered that at that meeting Council would discuss it and on January 7th they just go straight into voting and there isn't much of a discussion. Mr. Boettcher asked what time the December 17th meeting was at. Mr. Marlow answered 6pm.

Ms. Orange requested to be sent the minutes from that night's meeting.

- a. **BZA 18-29** – Variance to City Code Section 1282.09 “Sign Regulations By District” – 600 S. Dixie Drive

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

Mr. Marlow gave the report from Staff explain that Sign Connection had requested a variance to allow a 92 square foot wall sign at 600 S Dixie Drive for the Butler High School. He mentioned that the wall sign would be situated above the main entrance on the south side of the building which maintained 330 feet of building frontage facing E Alkaline Springs Road. Mr. Marlow noted that City Code Section 1282.09 “Sign Regulations by District” permitted wall mounted signage in the Public Facilities (PF) District at a ratio of one square foot of sign area per one foot of building frontage on which the sign was to be located and the maximum square footage per building was 50 square feet.

Mr. Marlow stated that the text “Butler High School” was 36 feet wide by 2 feet tall, or 72 square feet and the “Aviator” logo was approximately 3.5 feet wide by approximately 5.5 feet tall, or 20 square feet. He explained that there was an existing wall sign to the far east of the proposed wall sign which was situated above the main entrance into the basketball arena and read “Vandalia – Butler Student Activity Center”. He noted that the existing wall sign was over the maximum 50 square foot maximum.

Mr. Marlow mentioned that the Applicant noted in their letter of intent that the location of the entrance to the school was unique because it was on E. Alkaline Springs Rd., and the address of the school was S. Dixie Dr. They mentioned that the building sat back from the road over 400' causing the need for a larger sign than zoning would allow and that because of the large setback

on a side street, a larger wall sign was needed on the building to reasonably identify where the main entrance was. Mr. Marlow noted that they explained that the sign permit had been applied for to conform with the zoning code, but the size allowed would not identify the entrance properly and the neighborhood was predominantly commercial, and the sign was non-illuminated and it would not alter the character of the neighborhood. They stated that the variance would represent the practical size for a wall sign on a 600' frontage.

Mr. Marlow stated that it should be noted that the proposed Zoning Code that City Council had had their first reading on would increase the maximum square footage of wall signage from 50 square feet to 75 square feet and if adopted, the existing wall sign including the proposed wall sign would exceed the maximum square footage by at least 67 square feet.

Mr. Marlow mentioned that Staff was recommending the Board of Zoning Appeals recommend denial of the requested variance from City Code Section 1282.09 "Sign Regulations by District" in order to allow a 92 square foot wall sign at 600 S Dixie Drive.

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

Mr. Luebbe introduced himself as the Principal and Ms. Fiehrer was with Sign Connection. Ms. Fiehrer asked if Staff was recommending denial. Mr. Marlow answered yes. She asked what the reason was for. Mr. Marlow answered that because the sign would exceed the maximum square footage of 50 for wall signs in that district.

Ms. Fiehrer mentioned that she had been in the sign business for about 22 years and had only applied for a sign variance about 3 or 4 times because she knew the sign code was very valuable to a community and she knew the only way for a sign variance to be approved was because of a hardship. She mentioned that in BZAs packet she provided a photo of what the size of the sign would be if it complied with the code and that the photo was taken in the parking lot and not on the road.

Mr. Luebbe stated that the wall that the sign would be place on was 540 feet away from Alkaline street.

Ms. Fiehrer mentioned that the code would have only allowed the letters to be 12 inches in height which would have only allowed the sign to be seen from a maximum 120 feet away.

Mr. Prokes asked if the letters would light up. Mr. Luebbe answered that they were not illuminated.

Mr. Prokes asked if they had any plans to replace the sign by the street near the baseball field. Mr. Luebbe answered no. Ms. Fiehrer mentioned that a lot of facilities would have a ground sign and a wall sign.

Mr. Prokes stated that the property was unique because of the setback and there was little chance the building or property would become something other than a public facility. He continued to explain that as a point of pride in the community in his opinion that identifying the school in as many ways as possible was something he would be considering in his decision.

Mr. Fullam asked if they had thought about compromising and taking the logo off. Ms. Fiehrer answered that they had looked at it without the logo but thought it looked better with it.

Mr. Prokes asked if the Staff had heard back from any adjacent property owners. Mr. Marlow answered that the Historical Society was the only property owner to contact Staff and they were in favor of the variance request.

Mr. Fullam asked Mr. Marlow that when he was calculating the square footage he was taking into consideration the SAC sign. Mr. Marlow answered yes. Mr. Fullam mentioned that if Council approved of the new zoning code then the proposed sign would only be 17 square feet over the maximum square footage permitted.

Mr. Flannery closed the public hearing and proceeded through the variance criteria.

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;

BZA Response: The Board felt that the setback from the road was an unique physical circumstance that burden the 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;

BZA Response: The Board felt the property in question would yield a reasonable return and the property could be beneficially utilized without the variance.

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

BZA Response: The Board believed 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;

BZA Response: The Board felt the character of the neighborhood would not be altered.

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

BZA Response: The Board felt the property owner's predicament could not be feasibly eliminated through some method other than a variance.

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

BZA Response: The Board felt the spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting of the variance.

- (7) Whether the variance is substantial.

BZA Response: The Board felt the variance was not substantial.

Mr. Prokes made a motion to recommend approval of the requested variance from City Code Section 1282.09 "Sign Regulations by District" in order to allow a 92 square foot wall sign at 600 S Dixie Drive.

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

Mr. Marlow mentioned that the item would be discussed at the December 17th City Council study session at 6pm in the Large Conference Room and would be voted on at City Council's January 7th meeting which will be at 7pm.

4. Approval of November 28, 2018 Meeting Minutes

Mr. Fullam made a motion to recommend approval of the November 28, 2018 meeting minutes. Mr. Prokes seconded the motion. The motion was approved 4-0.

5. Communications

Mr. Marlow stated that the scheduled December 26th BZA meeting had been cancelled due to no items on the agenda. He mentioned that Staff would send out BZAs 2019 meeting schedule sometime in the next few weeks and that if any BZA member was interested in joining the steering committee for the comprehensive plan please notify Staff by the end of the year.

Ms. Aivalotis-Weaver and Mr. Flannery both notified Mr. Marlow they were interested.

Adjournment

The meeting was adjourned at 6:56 p.m.

Michael Flannery
Chairman