

BOARD OF ZONING APPEALS MEETING
THURSDAY, MARCH 28, 2024 5:30 P.M.
COUNCIL CHAMBERS
40 W MAIN ST, NEWARK, OH 43055

MINUTES
PUBLIC HEARING

1. CALL TO ORDER

CALL TO ORDER- Steve Layman Board Chair called the Thursday March 28, 2024 Board of Zoning Appeals Meeting to order.

Present:

George Carter	Zoning Inspector
Eddie Hunt	Member (Not present)
John Paul	Member
Jack Gienger	Member
Phil Claggett	Member
Steve Layman	Board Chair

2. APPROVAL OF MINUTES

Minutes of the January 25, 2024 meeting

Motion and second to approve minutes of February 22, 2024, motion passed by acclamation

3. OLD BUSINESS

APPLICATION BZA-22-10

Applicant: Josh Darfus
Owner: Darfus Real Estate & Management LLC
Location: 398-400 Mt. Vernon Road
Project: New Retail Post Frame Building
Reference: 125.2

Josh Darfus, 398 - 400 Mt. Vernon Rd. – Good evening, Gentlemen. I'll try to be brief. I was here in 2022 seeking a variance to build a small retail store at 398 – 400 Mt. Vernon road. We had to table the first time I was here. There were concerns from the community about off street parking. So we went away, hired an architect to do a lot rendering showing the required number of spots. We came back the following month. There was some new opposition from the

community regarding set backs in regards to line of sight. Had the building been in the proposed location up on the corner, some neighbors were concerned about making left hand turns out of there and not being able to see. So the compromise was, Steve, I think you were the one who scratched this up. We moved the building back away from Mt. Vernon Rd 10 feet and to the south away from W. North St. by 10 feet.

Mr. Layman – Can we see it?

Mr. Darfus – Absolutely. In exchange from moving the building back in those directions, we eliminated one required parking spot. According to the architect, that still left us with enough parking to satisfy zoning requirements, however, when the civil engineer went in and actually did the measuring and laying out the lot for the excavation and storm sewer and what not, he came to the conclusion there was going to need to be a retaining wall, removing the existing retaining wall on W. North St. replacing that with when the storm sewer gets runs out, and then also leaving that point of egress out of the parking lot onto W. North St. to continue the traffic flow in off of Mt. Vernon Rd. and then exiting onto W. North St. would require putting a slope to the lot and that also eliminated one space for one parking lot.

Mr. Layman - This is approved or not?

Mr. Darfus – This is what we came with. The one that has the drawings on it was what we left with this was the original compromise. So we moved the building back and back to address concerns from the community about this line of sight here and turns out of there.

Mr. Layman – So the only access is here?

Mr. Darfus – No. We still have the curb cut. So ingress to the property off of Mt. Vernon road, and then egress onto W. North St.

Mr. Layman – Anyone here about this application is free to come up and look at these drawings.

Mr. Darfus – Would you like me to step back or stay up here?

Mr. Layman – You're fine. Anyone here to speak for or against this application?

Mr. Carter – So that big retaining wall going all the way under what are you guys doing?

Mr. Darfus – The retaining wall would have to be taken out because I think the storm sewer runs under it and then it would be replaced. The new retaining wall would actually come up onto the property because of this new slope for that point of egress.

Mr. Carter – I just remember this retaining wall that was put down here was horrible.

Mr. Darfus – It's right here. Yeah, it's pretty gnarly. So that will go away, get a nice new one put in there wrapped around onto the lot. There's plenty of room for 3 or even 4 spots here, but when you put that retaining wall in to hold this slope back, then you got 2 spots that you can't back out of. So the Civil Engineer is showing then only you would have a handicap spot and 2 spots over here because of that retaining wall allowing the required room to maneuver in and

out of. That still leaves plenty of on street parking in front of the building without impacting any of the neighbors. In the time since I have been here in 2022, I drive by that lot at least twice a day, nine months out of the year and I've never seen anything other than a school bus parked there when it's just waiting in between dismissals. I don't see that being an issue for on street parking if off street is full. But, I'll leave that up to you.

Mr. Layman – Where's your employee going to park?

Mr. Darfus – I am the employee.

Mr. Layman – Where are you going to park?

Mr. Darfus – I would probably use one of the off streets. So it would leave the one handicap spot and one other. We are talking about an 800 square foot store here, so it's not going to be pulling in a lot of traffic. 99% of my business is mail order, honestly, the purpose of this is to satisfy requirements that I have a physical location.

Mr. Layman – One last call for anyone here to speak for or against this application. So, to summarize, we've got a curb cut and inbound off of Mt. Vernon Rd. and out off of North St.

Mr. – Correct.

Motion to approve, subject to review and approval of site plan by City Engineer, Second, Motion passed

APPLICATION BZA-23-37

Applicant: Kathleen Miceli
Owner: Kathleen Miceli
Location: 589 Kenwell Dr.
Project: Conditional Use - Short term Rental
Reference: 16.4

Kathleen Miceli,(740)973-3586 – I was here in November.

Mr. Layman – We said no tenants under 35 years of age?

Ms. Miceli – 25 years of age.

Mr. Layman – 120 days only. Review hearing at March BZA hearing. Anyone here to speak for or against this application?

Ms. Miceli – We've had one in January, a couple in February, we had no one in March. I have someone coming in April to come watch the eclipse. We had one five star rating and it said, "Amazing piece of space with lots of room. I'd definitely visit again. Absolutely loved it. Thank you very much". That's my big, one rating.

Mr. Layman – We are trying not to get ahead of the city. They are slowly but surely working their way towards making a decision on what to do with Air BnBs. It is a conditional use right now. Would you agree to a one year granting of conditional use?

Ms. Miceli – Just like I've been doing? Yes. I don't find anything wrong with that. I could rent it to anybody I wanted to if I was not doing an Air BnB, but I was

doing this because I am trying to get short term rental people that are nice, and I'm only doing it like a 3 to 5 days. I'm not doing a lot of rentals. But I think it's a nice thing. I'm not doing anything out of the ordinary to try to make the neighborhood not be nice. I'm trying to do the best that I can. I did 2 years of refurbishing that whole place. I've worked very hard to do it. My husband passed away 2 years ago, and I've been on my own. So, this is my something that I wanted to do for me and not have anything opposed to it. I was hoping it would be a good thing for the neighborhood, nothing bad. And I think that I have shown that I have done a good job.

Mr. Layman – And I think we are in agreement of that. It's been moved by Phil Claggett to grant a one year conditional use with no tenants under 25. We're just trying to keep students out.

Ms. Miceli – Yes. I'm trying to go for the actually trying to do with surgeons, traveling nurses, professors, we're trying to do that. Now, this family that is coming in is just coming in for the eclipse. The mom and dad live on Manor Dr. They already live there. They're just having their kids come in to watch the eclipse in April.

Motion to approve with provision that no tenants under 25, Second, Motion passed. Variance granted for one year.

Ms. Miceli – Thank you. Thank you very much. Appreciate it.

4. NEW BUSINESS

APPLICATION BZA-24-08

Applicant: Frank Rosato
Owner: Southgate Co.
Location: 1555-1567 W. Main St.
Project: Wall Sign
Reference: 135.8

Mr. Rosato – Thank you for the opportunity. Southgate all of you know this we built 2 buildings on if you don't know I'll fill you in quickly. On W. Main St between Westmore and Terrace they are 2 sister buildings they look almost identical. The first one was built 10-12 years ago the second was 3 or 4 years behind that. The signs we've had on the building the first building we built, which is the building our office is in, are all about 3 by 10 or the only difference from that is the sign that Southgate actually has on the corner of the building that we occupy. Now the next building a tenant actually applied for a sign permit and was denied, and it was because that at some point in time the building that that parcel sits on was rezoned to permit a jeweler to operate out of that building as a business instead of an office, and the office sign requirement, I forget the amount of square footage, but the permitted signs for an office and a building are obviously quite different. We follow what we have been installing on the building, which is a 3 by 10, flat panel, metal sign and we want to allow our tenants to do the same. So, since that is a multi tenant building, even though we like you guys, we don't want to come in every other month for a sign variance

for that particular building. We're asking that the building be allowed a maximum of 4 signs. 30 square feet each, for a total of 120 square feet if I'm not mistaken. Are my numbers right or wrong? Because I don't have that in front of me Mr. Carter. (inaudible) I don't know how it got that way. I really don't. I was told, though, by Mr. Carter that it was rezoned because Matinger Jewelers operated out of the west end of the building. She was not our tenant, though. She was a tenant of the folks that owned Aaronsburg.

Mr. Layman - So if that was GO, how much time?

Mr. Rosato – It's very small. It's really just a continuity thing also. We wouldn't deviate from what we already started, and actually there is already signage on that particular building from a previous tenant. Which is Verdantis now.

Motion to approve, Second, Motion passed

APPLICATION BZA-24-09

Applicant: Jaymie Oliver
Owner: OOOH! Advertising – DBA Oliver Outdoor
Location: Multiple Locations
Project: Billboard Digital Conversion
Reference: 135.10

Jaymie Oliver – We are seeking to upgrade already established billboard assets to digital. Some of them are just putting a digital on the backside, and 2 of the units are adding digital to those structures. I do have a folders for each of those.

Mr. Layman – Anyone here to speak for or against this application? One of them is 8 seconds, and your folder says 6 to 8 seconds, and we've asked for 8 seconds.

Mr. Oliver – Yes sir, those are 8 seconds. And that will remain.

Mr. Layman – We also said no scrolling.

Mr. Oliver – No, not for the state that's not permissible.

Mr. Layman – I think we also said no white or yellow background.

Mr. Oliver – We buy the Apple product of digital billboards, we spend, and that's what the Kesslers have done for years. Some of them out there are junk. But, what we buy is top of the line and they have a great auto dimming feature. That's why we buy them, to make them soothing for our clients as well as everybody around, so I believe that addressed the white white which is not what we want to put up anyway, but they're also auto dimming to keep them a soothing tone as well.

Mr. Layman - There is one out on 16 and it was yellow or lime.

Mr. Oliver – Most likely if I had to put any money on it, it was just one of the cheaper brands. You can buy them for a quarter of what we spend for them probably less, and that's probably what that was because it certainly was not a Watchfire product.

Mr. Layman – You talk in terms of lumens, I'm not educated enough with lumens. So that's what we're trying to prevent is that blinding.

Mr. Oliver – 100%. We don't want that either because it's not soothing for the client.

Mr. Layman – Anyway, that’s what we’ve done in the past is digital.

Mr. Oliver – Did you need further documentation on anything as far as that goes because I have that right here what you’ve mentioned as far as the lighting, auto dimming.

Mr. Paul – Watchfire is that a national...

Mr. Oliver – Yes, sir. They are one of the biggest, you’ve heard of Dactronics, and there’s only 3, Watchfire is made in Indiana.

Mr. Paul – So they supply, and you just facilitate? But this is what is used all over the country? With Minimal issues.

Mr. Oliver – Yes.

Mr. Paul – So if we were to grant this, the only way there would be an issue is if we have complaints that we would then have to deal with? Can we do that or not?

Mr. Layman – What would happen if we attached your study to an approval letter, and then if we had an issue with brightness, the city could have you either come back before us and agree to change, because these are computer driven?

Mr. Oliver – Yes, sir. These are easily addressed questions for sure.

Mr. Layman – And then if we get into an argument you would fund the engineer of our choice to come and talk to us to help educate us.

Mr. Oliver – Sure. I understand. We are about as easy to work with.

Mr. Layman – We don’t know what we’re doing. We’re not engineers. I couldn’t tell you what 5 lumens was if my life depended on it. It’s not like we’re going to make you take it down, we’re going to make you change your computer program. We need an engineer to help us, and then send you the bill.

Mr. Oliver – We can further dim it. We just want to be right at the ambient light and each location has a different ambient light level and the sign takes it into consideration.

I will say most of the units that we’re asking for already have a digital on them and there hasn’t been an issue and we’re actually adding the newer technology of that very same manufacturer.

Motion to approve, Second, application conditionally approved subject to the lighting study that the applicant has provided, the terms of that, for each of the signs being granted conditional approval. Further condition is you can’t change your digital sign more that 8 seconds, no scrolling, and no moving pictures. And if we have an argument about the brightness of the light that we cannot resolve between us, the applicant agrees to pay for the consulting engineer for the city.

Mr. Oliver- Agreed.

APPLICATION BZA-24-10

Applicant: Lee Auer

Owner: Lee Auer

Location: 382 Eddy St.

Project: Fence

Reference: 88.1

Lee Auer 382 Eddy St.— Seeking a variance to have a 6 foot fence around entire property. Current rules because it's a corner property, I'm only allowed to go a certain length from the street. I'm seeking variance to be able to go within 4 feet of the sidewalk which is then about 8 feet from the street right there on the corner on the side by facing north towards Shield St. I believe this will help beautify my property. It will allow me the privacy that I believe everyone deserves. I am hopeful that you guys will consider approval.

Mr. Layman – Anyone here to speak for or against this application?

Motion to approve, Second, motion passed

APPLICATION BZA-24-11

Applicant: Randy & Andrea Fields

Owner: Randy & Andrea Fields

Location: 1171 Cranwood Dr.

Project: Fence

Reference: 88.1

Resident, 1171 Cranwood Dr. – Applying for a variance for a privacy fence for our new house.

Mr. Layman – Anyone here to speak for or against this application?

Dave Martin – I live at 1200 Cranwood which is a couple houses down north from their house. I was just wondering what kind of fence it was. Is it a 6 foot privacy fence? Would it have to be a privacy fence?

Resident - The reason we were seeking the variance for the privacy fence is we lived at the house for 5 months now, we are new to the neighborhood. There is an apartment complex at the end of Cranwood, and there are a lot of walkers. I live there with my wife and 2 children and we just want to have privacy for our family and protection and safety as so we are seeking the variance.

Motion to have set back off the property to be 23 ½ feet. Second, motion passed

THE NEXT SCHEDULED BOARD OF ZONING APPEALS MEETING WILL BE HELD ON THURSDAY, APRIL 25, 2024 5:30 P.M. THE DEADLINE FOR AGENDA ITEM SUBMITTAL IS APRIL 1, 2024, 4:30PM.

5. ADJOURNMENT - Motion to adjourn, second, passed by acclamation

Chairman, Board of Zoning Appeals

Secretary, Board of Zoning Appeals