

BOARD OF ZONING APPEALS

MINUTES

6:30 PM

May 18, 2016

City Council Chambers

MEMBERS PRESENT: Bill Burton, George Papandreas, Linda Herbst, and Colin Wattleworth

MEMBERS ABSENT: Jim Shaffer

STAFF: John Whitmore, AICP

- I. **CALL TO ORDER AND ROLL CALL:** Burton called the meeting to order at 6:30 p.m. and read the standard explanation of the how the Board conducts business and rules for public comments.

- II. **MATTERS OF BUSINESS:**
 - A. Minutes for the April 25, 2016 hearing: Wattleworth noted an error to the minutes. Whitmore stated Staff would make correction. Papandreas moved to approve as corrected; seconded by Herbst. Motion carried unanimously.

- III. **UNFINISHED BUSINESS:** None.

- IV. **NEW BUSINESS:**
 - A. **V16-13 / Research Park Shoppes / 51 Donahue Drive:** Request by Kisha Dlugos of City Neon, Inc., on behalf of Research Park Shoppes, for variance relief from Article 1369 concerning signage at 51 Donahue Drive; Tax Map 4, Parcels 18.5, 19 and 20; B-5, General Business District.

Whitmore presented the Staff Report.

Burton recognized Crystal Miller on behalf of City Neon of 1095 Chaplin Hill Road who explained the shops will be located in the Industrial Park and a larger sign is needed to attract business to this new development.

Papandreas asked for further explanation on the location of the sign as presented in the Staff Report. Whitmore explained the sign will be located as illustrated in the Staff Report and noted the sign fits within the 20-foot requirement for directory signs to be located from the right-of-way and entrance.

Wattleworth asked why monument signs are not permitted in this location. Whitmore explained that monument signs are not allowed in the B-5 District per the Planning and Zoning Code.

There being no additional comments or questions by the Board, Burton asked if anyone was present to speak in favor of or in opposition to the petitions.

Burton recognized David Biafora of 6200 Mid-Atlantic Drive who noted illuminated signs are not allowed and asked the Board to follow the Code and Ordinances of the City. Biafora noted the establishment is located in a Research Park and not an Industrial Park as stated by the petitioner and the sign proposed is too big.

Burton recognized James Giuliani of 256 Prairie Avenue who stated the proposed sign is a self-imposed hardship and asked the Board to follow the rules of the City.

There being no further public comments, Burton offered the petitioner a chance at rebuttal. The petitioner declined.

There being no further comments, Burton declared the public hearing closed and asked for Staff recommendations.

Whitmore read the Staff recommendations.

Wattleworth asked why the ordinance states that illuminated signs are not allowed in the B-5 District. Whitmore explained that Directory Signs are for establishments with multi-tenants and there are specifications in the ordinance on Directory signs as opposed to monument signs.

Papandreas suggested to review the Findings of Facts individually. Whitmore read the Findings of Facts presented in the Staff Report.

Wattleworth asked if signs are allowed to be illuminated by-right at that location. Miller confirmed and noted the owner could illuminate their signs should they choose that option.

Burton directed Biafora to leave Council Chambers due to his disruptive behavior.

Papandreas expressed the sign ordinance needs to be reworded as the Board grants variance relief often and the current ordinance does not allow for a very big sign. Papandreas noted that most sign variances are self-imposed and stated that if the Board feels the request for the variance reasonably exceeds the definition of self-imposed then it would be a judgement call by the Board members.

Papandreas expressed the proposed sign is not big enough to be viewed from the road.

Papandreas suggested to approve the proposed sign but asked for the Planning Office to start with changes to the sign code at their earliest convenience.

Wattleworth expressed the project would be put at a disadvantage by penalizing the developer for being in the City limits when there are illuminated signs across the street that are allowed because they are not within the City.

Papandreas expressed he has no problem with the proposed sign and would be willing to make a motion to approve but noted the Board needs to decide what qualifies as a self-imposed hardship. Papandreas expressed that the Board will get scrutinized for not following the Code even though he feels that signs should be an exception.

Discussion ensued by the Board members on policy issues and how it relates to the current sign code and all members agreed the sign code needs updated to conform to current standards.

Whitmore stated that Staff will investigate the sign ordinance at the direction of the Board.

Papandreas asked if the petition should be tabled until the sign code is rewritten as it would be unfair to the petitioner to deny the request just to make a point.

Burton noted that if the petition is tabled then it will have to be presented again at the next hearing in June. Burton asked Staff if the petition could be postponed for a certain amount of time and Whitmore stated the applicant is requesting action now.

Burton expressed the sign ordinance has caused problems for years.

Papandreas agreed and stated the sign would be too small to see from the road and a variance is necessary in order for the sign to be visible.

Burton stated that per Roberts Rules of Order that the petition would have to be brought back to the Board in June if they decided to table the petition. Burton noted that amending the sign ordinance will take time as the Planning Commission would have to rewrite the sign ordinance and then would have to be reviewed by City Council and could take up to six months for final approval.

Burton made a recommendation to withdraw the application and come back in a couple months after an amendment has been made to the sign ordinance.

Burton recognized the petition, Michelle Boyers of City Neon, who stated they can't speak on behalf of the petitioner as they are just the representative.

Wattleworth asked if the project feasibility depends on the monument sign. Burton expressed that he feels the sign is critical in order to let people know the location of the establishment.

After discussion, Board members decided to make a motion on the petition in order to remain consistent with how sign variances have been treated in the past.

Papandreas made a motion to find in the affirmative for the all the Findings of Facts for V16-13 as presented; seconded by Herbst. Motion carried unanimously.

NOTE: The following Findings of Fact were included in the motion.

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The variance will allow for a multi-tenant monument sign with interior lighting while recognizing unique conditions of the site and surrounding built environment without compromising public health, safety, or welfare. The proposed design of the sign appears to be consistent with other commercial messaging within the immediate area of State Route 705.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

Other business establishments located along West Virginia State Route 705, but outside the City's corporate boundary, have existing pylons with visibility to the public and the petitioner desires similar visibility. It appears that the distance from the roadway of the proposed sign along with the speed and volume of vehicles along West Virginia State Route 705 warrants a ground sign larger than the

maximum area standard to ensure visibility to the motoring public. Additionally, some tenants may be open during evening hours through the year, which appears to warrant illumination of the proposed ground sign.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

It will allow the petitioner to promote the shops of the new plaza more effectively than a conforming directory sign would allow.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The sign will help to promote business for tenants and the community. The addition of the larger and illuminated sign will also increase the visibility of future tenants.

Papandreas moved to approve V16-13 as requested; seconded by Herbst. Motion carried unanimously.

Burton reminded Ms. Miller that the Board's decisions can be appealed to Monongalia County Circuit Court within thirty (30) days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

V. ANNOUNCEMENTS:

Staff had no comments.

Papandreas asked if there is a specific order for projects that are to go before the Planning Commission and the Board of Zoning Appeals. Papandreas expressed that projects should go before the Planning Commission first, but asked what prohibits the project moving forward to the BZA after presentation has been made. Burton explained the BZA has no power to force a project to be presented to them and the petitioner has the right to postpone a petition until an action has been completed by the Planning Commission.

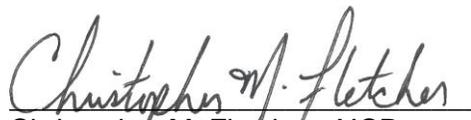
Papandreas inquired if the petitions should be advertised if they will not be presented to the BZA. Burton explained that advertising expedites the petitions should an approval occur by the Planning Commission.

VI. ADJOURNMENT: 7:45 PM

MINUTES APPROVED:

June 15, 2016

BOARD SECRETARY:


Christopher M. Fletcher, AICP