

CITY OF PIQUA, OHIO
BOARD OF ZONING APPEALS MEETING MINUTES
TUESDAY, APRIL 26, 2011

MUNICIPAL GOVERNMENT COMPLEX - COMMISSION CHAMBERS

CALL TO ORDER

At 6:00 Chairperson Mr. Reindel called the meeting to order. The Chair read the Introductory Statement of BZA Duties and outlined the order of business to be followed. The Chair reviewed the meeting conduct procedures and swore in those persons in attendance. The Chair asked all persons present to stand and raise their right hand. The Chair administered an oath to all persons present to testify before the BZA asking them to swear or affirm to tell the truth, and to acknowledge their intent to abide by the oath administered by stating, "I do" or "opposed". All persons present stood and took the oath to tell the truth with all persons present stating "I do".

ROLL CALL

Members Present: Steve Reindel, Chair, Dan Patrizio, Vice Chair, Shawn Hicks, and Mike Taylor

Members Absent: Skip Murray

Staff Members: Chris Schmiesing, and Joni Kakatolis, Clerk

Attendees: Todd Huntington, GPD Group
520 S. Main St., Ste. 2531
Akron, OH 44311

MEETING MINUTES

Mr. Reindel noted one error on Page 3 wherein Shawn Hick's name was misspelled. The Clerk will correct that error prior to posting the February 11, 2011 minutes.

A motion to approve the February 11, 2011 meeting minutes was made by Dan Patrizio, seconded by Shawn Hicks and the motion was carried with a vote of 4-0.

OLD BUSINESS

None

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NEW BUSINESS

1. Resolution BZA 03-11

A resolution requesting a variance to reduce the number of waiting spaces provided prior to the point of order from the 8 spaces required to 3 spaces.

The Clerk read the agenda item.

Mr. Schmiesing presented the Staff Report which recommended approval of this resolution indicating that the proposed improvements will be essentially the same as the use of the site that has existed at this location for many years with no concerns regarding the nonstandard number of waiting spaces provided and the proposed improvements will, in many ways, lessen the degree of nonconformance with other applicable standards. With reference to the history of the use of this parcel and in recognition of the surrounding uses found in this area, it is staff's opinion that the waiting space reduction variance as requested, will allow for a reasonable use of the land.

Mr. Schmiesing also presented that a good portion of the business conducted at this location is facilitated by the drive thru service window and therefore, it is essential to the success of this business operation that drive thru traffic be moved past the service window efficiently. As such, the restaurant fast food use found at this location has developed a business operations process that moves vehicles from the order point to the pick up window in a manner that prevents backups from occurring in the drive thru lane. Should it become necessary, there are additional waiting spaces available in the maneuvering lane of the parking facility that would accommodate waiting vehicles without concern that vehicles would back into the public right of way. The restaurant fast food use has existed at this location for many years with no waiting space concerns having been raised previously and considering the proposed improvements there is a significant reinvestment in the site and the community in general.

It is the staff's recommendation that this variance be approved.

Mr. Hicks asked Mr. Schmiesing if there had previously been a request when the existing building was built and if so, was that granted at that time. Mr. Schmiesing responded that he did not have information on the previous building. Mr. Hicks asked if it is common for a property owner to update their property with just updated materials and come before BZA for approval. In response, Mr. Schmiesing indicated that it is not uncommon for businesses to feel compelled to update their marketing and advertising. In this situation, we have non-standard conditions.

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Mr. Patrizio asked Mr. Schmiesing if in his past experience companies typically decrease the location of the parking spaces or go to the shopping complex if there is a back up. Mr. Schmiesing commented that he was not sure there was a default. He has experienced it both ways and could not recall entering this establishment and having to wait at the drive way entrance or the maneuvering lane. He was always able to pull right up.

Mr. Patrizio indicated that on the lot itself, not Taco Bell's but the entire lot, he has observed quite a few pot holes. Mr. Schmiesing indicated that this is something that could be addressed with the property maintenance company and that he would follow up with the proper people to see if there was something that could be done.

The applicant, Todd Huntington with GPD Group addressed the Board indicating that his company is the architectural engineer for Taco Bell. He indicated that this is a lease property and the lease will continue for approximately 20 years. An 8 car stack is a standard with Taco Bell nationwide. Having been to the site several times, he has not seen any problems.

Mr. Patrizio asked why they are doing this and Mr. Huntington responded that there are 2 options - one is to remodel and the other is to tear down and rebuild. It is about marketing - image. There is more equipment now and the site will not accommodate the improvements. They would rather spend the money now then to come back later and patch it. It will be all new.

Mr. Reindel indicated that Mr. Huntington has presented the Board with additional documents that were not included in the original package.

Mr. Patrizio asked if increased traffic was expected with the change. Mr. Huntington responded that they do project additional traffic but nothing they cannot control. This is a 62 seat dining room.

Mr. Patrizio asked if they do a projection on future sales and Mr. Huntington responded positively but indicated he did not have the information. Mr. Patrizio asked for an estimate to which Mr. Huntington responded approximately 15%.

Mr. Taylor asked if the increase was to 62 seats and what it is currently. Mr. Huntington responded that currently it is 52 seats but that the seating does not really play into the drive thru. He also indicated that 60% of sales are at the drive thru.

There was no public comment.

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Mr. Schmiesing readdressed the Board indicating that he did receive a phone call from an adjacent property owner Steve Speranza with Tolson Enterprises. Mr. Speranza was curious to the nature of the project and when sharing the details with him, he was completely satisfied and expressed no concern.

Mr. Schmiesing indicated again that this is a special use and they have already been before the Planning Commission who approved it.

The Board deliberated and the comments were as follows:

Mr. Patrizio

Has never encountered traffic problems and do not see future problems. Also sees efficiencies with the improvements.

Mr. Patrizio made a motion to approve the variance.

Mr. Reindel

Agrees with Mr. Patrizio. Knows that this is a non standard use because of the lot size and the building proposed is similar to the present footprint. It will continue to be a non standard use with changes. Not a deviation from what is currently there. Based on what is there presently and because it is always a non standard, recommends approval as well.

Mr. Taylor

Indicated he appreciates the thoroughness of the staff report. He too has personally visited this site and has shopped around the site and has not seen an issue. This is a unique site that has been in operation for years and the changes are minimal.

Mr. Taylor seconded the motion to approve the variance.

Mr. Hicks

Says that as a Father of young children he has been through the drive thru and likes the newness of the building. Says it is reasonable and there is no major deviation so it seems like common sense to agree and approve.

A vote was taken and Resolution BZA 03-11 was approved with a vote of 4-0.

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2. Resolution BZA 04-11

A resolution requesting a variance to reduce the number of off street parking spaces from 68 spaces required to 25 spaces.

The Clerk read the agenda item.

Mr. Schmiesing presented the Staff Report indicating the proposed improvements will be essentially the same as the use of the site that has existed at this location for many years with no concerns regarding off street parking and the proposed improvements will in many ways, lessen the degree of nonconformance with other applicable standards. With reference to the history of the use of this parcel and in recognition of the surrounding uses found in this area, staff's opinion is that the parking reduction variance as requested will allow for a reasonable use of the land.

Mr. Schmiesing also indicated that a good portion of the business conducted at this location is facilitated by the drive through service window. It is important to note that there is a significant amount of adjacent off-street parking immediately adjacent to this parcel. While not a part of the subject parcel, it is probable that patrons in need of the referenced adjacent off street parking would find this alternative location suitable to satisfy their needs. Further considering that the restaurant fast food use has existed at this location for many years with no off street parking concerns having been raised previously, and considering the proposed improvements will represent a significant reinvestment in the site and the community, Staff recommends that this variance be approved.

Mr. Patrizio asked how many parking spaces would be removed to which Mr. Schmiesing responded 4 in the front and 2 others.

The applicant, Todd Huntington with GPD Group addressed the Board indicating that currently there are 25 spaces on the site. There should be more but there is a single dumpster enclosure. There should be two dumpsters and this situation will be correct by putting both inside an enclosure on the NE corner.

Mr. Patrizio asked how many are typical for a building this size to which Mr. Huntington responded 30. Very seldom is it at capacity so they are comfortable going down to 25 since it is such a small layout. This will accommodate employees and customers.

There were no further questions from the Board to Mr. Huntington.

There was no public comment.

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The Board deliberated and the comments were as follows:

Mr. Patrizio

Indicated again that he has been to the location at its peak time and did not see any need for parking spaces. Indicated that there was no overflow and that reducing the spaces by 6 will not have a bad effect.

Mr. Patrizio made a motion to approve the variance.

Mr. Reindel

Agreed with Mr. Patrizio. Indicated there are plenty of additional spaces available in the surrounding area in the unlikely event all of the spaces are full. He does not believe the reduction is going to be an issue for customers. Mr. Reindel likes the idea regarding the waste improvement and it will bring better aesthetics to the property.

Mr. Hicks

Indicated the resolution is very reasonable.

Mr. Hicks seconded the motion to approve the variance.

Mr. Taylor

Indicates that the parking code as it is, is excessive. If they were doubling the seating capacity, that would be a concern but it isn't. Since 60% of the business is drive thru, Mr. Taylor agrees with the previous comments of the Board.

A vote was taken and Resolution BZA 04-11 was approved with a vote of 4-0.

3. Resolution BZA 05-11

A resolution requesting a variance to reduce the minimum 5 ft. setback from the lot line to the parking lot to the 2ft. (west lot line) and 0 ft. (east lot line) setbacks.

Mr. Schmiesing addressed the Board indicating that the proposed improvements will be essentially the same as the use of the site that has existed at this location for many years with no concerns regarding the nonstandard parking lot setbacks provided and the proposed improvements will in many ways lessen the degree of the nonconformance with other applicable standards. With reference to the history of the use of this parcel and in recognition of the surrounding uses found in this area it is staff's opinion that the parking lot setback variance as requested will allow for a reasonable use of the land. Staff recommends approval of the variance.

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Mr. Patrizio asked if everything is going to be on all the existing property and the answer was the improvements that are there now are being replicated. Maybe a foot here and there, but not enough to make any visible difference. Mr. Huntington indicated that they are not changing much of what is there now. The drive isle will be a little bigger and it does make a difference to give people more space for maneuverability.

Mr. Patrizio asked if there would be a barrier there and the response was that affirmative and it is just a 6 inch curved island with shrubs in between. Mr. Patrizio wanted to know if there would be any trees there and the response was that since it is only 1 foot, there is probably nothing that would be viable there. Mr. Patrizio clarified that he was speaking about the green space on the side to which Mr. Huntington responded that their lease only took them to the lot line and that it would be Home Depot's property.

There were no further questions and no public comment.

The Board deliberated and the comments were as follows:

Mr. Patrizio

Reiterated that he has never seen anything wrong with the current setbacks. If anything, it would enhance the site with the wider drive thru. Mr. Patrizio indicated he saw no reason not to approve this request.

Mr. Reindel

Said that this is a non standard use with regard to the lot size and acknowledged Staff's comments with regard to 2006. The setbacks in one case on the east side butts up against an access drive and green space which is not currently being used. On the west side, even though it is a small amount, there is some space there and he didn't think it would infringe on the adjacent property. Mr. Reindel agrees that the variance should be approved.

Mr. Taylor

Agreed with the comments regarding the green space and did not see any issues.

Mr. Hicks

Agrees with the comments and liked the staff's report. He indicated that in a sense, this property would seem to be grandfathered because the rules discussed happened after the property was established.

A motion was made by Mr. Patrizio to approve the variance. Mr. Hicks seconded the motion.

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A vote was taken and Resolution BZA 05-11 was approved with a vote of 4-0.

4. Resolution BZA 06-11

A resolution requesting a variance to increase the 25 sq. ft. primary detached sign maximum area allowance and the 8 ft. maximum height allowance to 93 sq. ft area and 27 ft. height respectively. On April 21, 2011 Mr. Schmiesing provided the Board with an amendment to the proposed request. The revised drawings amended the proposed height and area variance request to significantly lessen the degree of nonconformity of the proposed sign reconstruction and also adds landscaping at the base of the existing support pole.

The revised submittal reduces the existing 28 foot height of the sign by 8 feet and reduces the 97 sq.ft. area of the sign by 48 sq.ft.

Mr. Schmiesing indicated that what is there now is a sign that was satisfactory to code in its day but as all are aware, the sign code was overhauled in 2006. Today's standard would have the sign that is there to be much smaller. The applicant and Mr. Schmiesing arrived at the agreement of 49 ft. X 20 ft. The applicant felt this was a reasonable reduction while still allowing them to introduce the elements they were looking to incorporate. There are unique and peculiar circumstances based on the history of the building. They are bringing the sign closer to the existing standards.

Mr. Patrizio indicated that he noticed there are a lot of sign requests before the BZA. He is willing to forego the Boards approval to give Mr. Schmiesing the authority to make the decisions. This would be on modifications only - not new businesses.

Mr. Schmiesing indicated that the BZA is here to serve the community and look for solutions to help them achieve their goals. It is not a one size fits all mentality.

Mr. Patrizio indicated that if an existing sign gets smaller, he didn't have a problem with Mr. Schmiesing negotiating it. If it is bigger, they could still be in front of the Board.

Mr. Schmiesing indicated that when the request is first received he typically meets with the applicant and tries to guide them to a place that all are satisfied with.

Mr. Patrizio asked if he had an existing business - it should be an easy process to get it modified within reason. If the business does not want to comply - they can go before the Board.

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Mr. Schmiesing indicated he would do some research.

Mr. Patrizio asked if the McDonald's sign was in compliance and Mr. Schmiesing said it was probably from the previous sign code.

Mr. Patrizio indicated he was looking at the signs and sees what we have and can see that some of the signs attract the people. He also commented that having a bigger sign is not always a bad thing.

Mr. Schmiesing said there have been lengthy conversations regarding signs and acknowledged Mr. Patrizio's point.

Mr. Hicks asked what the hot buttons were when the current sign code was established.

Mr. Reindel indicated that although it is appropriate to ask these questions, in good faith and in fairness to the applicant, it should be done at a later time.

Mr. Schmiesing indicated that at some point in the future, the BZA should enter into a joint session with the Planning & Zoning Board.

Mr. Huntington clarified that the existing sign is 97 X 28. Taco Bell is on top of the sign and Pizza Hut is on the bottom. Obviously, we want someone coming into Piqua to see our sign. We do not have a 1 acre site but we would like to see the 49 ft. sign as a compromise.

Mr. Patrizio asked what Mr. Huntington's experience was with other cities. Mr. Huntington responded that there is no consistent pattern. In Columbus, they permit a bigger sign. Some other cities do not want larger signs on a 2 lane road. Our standard signs are 93 ft.; 32 ft. reader board.

There was no public comment.

The Board deliberated and the comments were as follows:

Mr. Patrizio

Indicated that he has driven by and did not see the existing sign sticking out like a sore thumb - it is comparable to all the others in the area. He would not have had a problem with the original request. Mr. Patrizio would vote for approval of this resolution.

Mr. Reindel

Acknowledged this is probably the most contentious thing that the Board deals with - signs. He would have probably voted to deny this request initially because again, in 2006 there was a sign committee along with Planning Commission and there was a lot of discussion and

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argument about what was established. Mr. Reindel did want to mention that this is a land lease that is less than 1 acre and Taco Bell is making an effort to advertise in the same manner as the other businesses in the area. The peculiar circumstances are the easements. There was a compromise with Taco Bell and the City and I like that. All of those reasons changed my opinion and I am going to vote to approve this.

Mr. Taylor

Indicated we have a very unique situation. Visually you have what looks like an acre plus lot. It is a very unique situation approving the compromise.

Mr. Hicks

Indicated he was conflicted. He does not know the history and has concerns about the tree. He would almost root for Taco Bell to keep the existing sign. He is not convinced either way.

Mr. Patrizio

Asked if the tree was looked at and the response from Mr. Huntington was that they were aware that there was an issue with having the tree in sight but one thing they were not concern with was with the traffic on 36 - they will see the sign. They would like to have it bigger but respect the code.

Mr. Hicks

Again indicated he is conflicted and sees that Taco Bell is trying to improve.

Mr. Schmiesing addressed the Board indicating there were a couple of different ways to introduce the signage. Mr. Schmiesing explained the community's logic indicating it was more appropriate to scale down. Staff is recommending approval of the proposed revised submittal.

Mr. Patrizio asked Mr. Schmiesing if when the review was done regarding signs, did the committee feel that the signs were too much for people when they came off the interstate. Mr. Schmiesing indicated that the consensus was that they are necessary and appropriate but what is there now was excessive. The signs need to be in scale with the property it advertised.

Mr. Patrizio asked what the result would be if they did not amend the ordinance and Mr. Schmiesing indicated that they Board would be saying they accept the sign as originally proposed.

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Mr. Patrizio made a motion to approve the variance.

Mr. Reindel seconded to approve the variance as amended reducing the existing 28 foot height of the sign by 8 feet and reduces the 97 sq.ft. area of the sign by 48 sq.ft.

Mr. Patrizio clarified that he did not make a motion to approve it as amended; his motion to approve was for the original request.

There was no second to this motion and the motion failed.

Mr. Reindel asked for a motion to approve the variance AS AMENDED.

Dan Patrizio made a motion to approve the variance as amended. Mr. Taylor seconded the motion.

A vote was taken and Resolution BZA 06-11 is approved as amended with a vote of 3-0. Mr. Hicks abstained.

4. Resolution BZA 07-11

A resolution requesting a variance to increase the maximum 32 sq. ft. menu board sign area allowance and the maximum 8 ft. menu board height allowance to 44.5 sq. ft. and 8.7 ft.

Mr. Schmiesing presented the staff report indicating that the proposed improvements will be essentially the same as the use of the site that has existed at this location for many years with no concerns regarding the nonstandard menu board signage; and, with reference to the history of the use of this parcel and in recognition of the surrounding uses found in this area the staff recommends approval of this request.

There were no questions from the Board.

Mr. Huntington indicated that the curved black line in the drawings is a screen wall that is behind the menu board to give separation and enhances the appearance. This allows the accommodation of all menu items.

Mr. Patrizio asked if the board is bigger or smaller than the current board to which Mr. Huntington responded it is about the same size.

There were no further questions and no public comment.

The Board deliberated and the comments were as follows:

Mr. Reindel

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Indicated that the sign would be in compliance and that the proposal satisfies the city requirements and the exception is to the size of the property. The Board would be less than permissible and recommended approval.

Mr. Patrizio

Indicated that the sign did not look too far out of the guidelines. He did not think it would cause harm or impair anything and also recommends approval.

Mr. Taylor

Agreed and had nothing else to add.

Mr. Hicks

Indicated as his personal opinion he was questioning why we have such rules on such things. He indicated that the previous comments were agreeable to him and also would recommend approval.

Mr. Patrizio made a motion to approve the variance and the motion was seconded by Mr. Hicks.

A vote was taken and Resolution BZA 07-11 was approved with a vote of 4-0.

OTHER BUSINESS

Board of Zoning Appeals Rules of Decorum

Procedures

Code of Ethics

Mr. Reindel indicated that all members should review these items for future meetings.

Mr. Schmiesing indicated that we have stepped up the process in the past and with new members it would be worthwhile to review these on your own time and postpone a more thorough conversation for when Mr. Murray could be present. These procedures help the attendees to understand that this is a bit more formal because of the judicial portion. Mr. Schmiesing also commented on the deliberation process and how effective that has become. If for any reason an appeal would be filed, this information is very important.

Mr. Reindel complimented the Board on their comments and expressed his gratitude to the current members.

Mr. Schmiesing spoke of the importance of having context of the reasons the Board members arrived at their decision. He also indicated that Planning and Zoning is always available to assist. The

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job of the Board is to determine if the community standard is being satisfied and if not, what the unique circumstances are. For instance, why can one person do something different than someone else? The Board's responsibility is to say these are our standards, why can you not conform and then make a determination.

ADJOURNMENT

With no further business to conduct a motion to adjourn was made by Shawn Hicks seconded by Dan Patrizio. With all those present in favor the meeting was adjourned at 8:00PM.