

RECORD OF PROCEEDINGS

Minutes of

Etna Township Board of Zoning Appeals

Meeting

DAYTON LEGAL BLANK CO., FORM NO. 10148

March 22nd,

2011

Held

19

The adjudicatory hearing was called to order at 6:08 p.m. by Vice Chairman Cox. The roll call showed members Rick Cox, Roger Digel-Barrett, Dallas Maynard, Mark Schaff and clerk Laura Brown present.

The use variance application VA11-02 was regarding Section 1202.02 to allow a portion of a proposed sign to have moving and intermittent lights and an area variance request from Sections 1205.1 and 406.1 to allow the same proposed sign to increase the allowable sign size at 9702 Hazelton-Etna Road (Parcel #010-018624.00.001). Vice Chairman Cox explained the process. The applicant, Charles Gang and Zoning Administrator, Chris Harkness were sworn in.

Applicant Charles Gang explained what he would like to do with the signage at the Shell Station. He presented four pictures for exhibits: Exhibit 1 is Pataskala Banking Company sign, Exhibit 2 is Southwest Licking School District sign, Exhibit 3 is BP Duke Duchess Shoppe sign, and Exhibit 4 is Speedway sign showing the signage in the area.

Mark Schaff stated the Zoning Commission is working on the sign text in the Zoning Resolution. Charles Gang stated it would cause him probables to wait for the Zoning Commission to finish the text.

Chris Harkness presented a staff report and presentation regarding the signage. Factors for consideration regarding the area variance are as follows: The existing free-standing/ground sign on the property is already not in conformance with the sign regulations because of its size at 87 sq. ft. A valid permit has already been obtained by the applicant for an 84.5 sq. ft. free-standing/ground sign. The applicant has mentioned the size of nearby signs. There are two nearby gas stations that have larger signs because they are non-conforming and above the existing allowable size limits as well. However, there is one nearby gas station that has an even smaller sign than the existing Sunoco sign or the proposed Shell sign within Permit #4726. The Zoning Resolution does not allow for the granting of a variance based upon "the grounds of convenience or profit" (Section 512.B) nor "because of the presence of non-conformities in the zoning district" (Article 2-Variance Definition). Chris Harkness reviewed the practical difficulties standards for area variance from the Zoning Resolution.

Factors for consideration regarding the use variance are as follows: The applicant has mentioned the existence of two other electronic message boards within the township. One is located at the Southwest Licking School District Administrative offices. This sign was permitted under an exemption in the Zoning Resolution (Section 1204.4). The second sign is located at the Pataskala Banking Company and was permitted through a variance granted by the Etna Township Board of Zoning Appeals on October 24, 2006. The previous variance and existence of similar signs are a factor to consider but the request at hand must still meet the standards for a use variance in order to be granted. This fact has been explained and confirmed by the Licking County Prosecutor's Office. The Zoning Resolution does not allow for the granting of a variance based upon "the grounds of convenience or profit" (Section 512.B) nor "because of the presence of non-conformities in the zoning district" (Article 2-Variance Definition). The Etna Township Zoning Commission is currently undertaking a review of the sign regulations within the zoning resolution. Two items they are discussing are the electronic message boards and LED signs. It would seem destructive to grant a variance that is contrary to the existing zoning resolution and may even be non-conforming with future regulations when electronic message boards may be permitted within the township. Of the four gasoline stations near the SR 310 and I-70 interchange, none currently have an electronic message board. No similar business to the Shell station and convenience store has an electronic message board within the township. Chris Harkness reviewed the standards for the use variance.

Staff recommends that the Board of Zoning Appeals deny the requested area variance because the Standards for 'Practical Difficulties' (Section 512.B) have not been met.

Staff recommends that the Board of Zoning Appeals deny the requested use variance because the Standards for 'Unnecessary Hardship' (Section 513.B) have not been met.

Mark Schaff and Dallas Maynard clarified the non-conforming issues with the signage and what the Board of Zoning Appeals is permitted to approve. Chris explained that he was able to issue a permit to reduce the size of the sign that was non-conforming but is not able to issue one to make the sign larger. Chris Harkness explained that if the Board Zoning Appeals feels the standards have been met for an area and use variance then the Board Zoning Appeals can approve the application.

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The board asked questions about what is permitted for signs currently in the Zoning Resolution. As long as the applicant can stay within the 87 square feet it is permitted. A zoning permit that has been issued can be amended prior to construction. Charlie Gang stated the signage is what Shell recommends for their signage.

Mark Schaff would like the board to delay this request for three weeks for Charlie Gang to try to get the Kroger signage into the already issued permit. Mark Schaff would like to study the precedent with the two electronic signs that are in currently in the township.

Roger Digel-Barrett thinks the electronic signage are traffic hazards.

Mark Schaff moved to recess the public hearing at 6:59 a.m. to give the opportunity so Mr. Gang and Mr. Harkness to investigate the possibility of flexibility and other options within the existing permit for the sign (VA11-02). The motion was seconded by Roger Digel-Barrett and the roll call on the motion was as follows: Roger Digel-Barrett, yes; Rick Cox, yes; Dallas Maynard, yes; and Mark Schaff, yes.

Approved as read _____

Approved as corrected/amended 4-26-11

Laura Brown
Laura Brown, Clerk

Rick Cox
Rick Cox, Chairman
vice

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The adjudicatory hearing was called to order at 7:00 p.m. by Vice Chairman Cox. The roll call showed members Rick Cox, Roger Digel-Barrett, Dallas Maynard, Mark Schaff and clerk Laura Brown present.

The use variance application VA11-03 is regarding Section 1202.02 to allow a portion of a proposed sign to have moving and intermittent lights at 9700 Hazelton-Etna Road (Parcel #010-018624.00.002). Vice Chairman Cox explained the process. The applicant, Charles Gang and Zoning Administrator, Chris Harkness were sworn in.

The applicant Charlie Gang presented a picture of the sign he would like to install at the Dairy Queen, Exhibit #1. The Dairy Queen requires the property owner to updated the signage. If he does not upgrade his sign by May 1st, 2011 he will be in default of his franchise.

Chris Harkness provided an overview of the case. This case is similar to the previous case. Variance #1, use variance to allow for a proposed sign with moving, intermittent, and/or rotating lights. Factors for consideration: The applicant has mentioned the existence of two other electronic message boards within the township. One is located at the Southwest Licking School District Administrative offices. This sign was permitted under an exemption in the Zoning Resolution (Section 1204.4). The second sign is located at the Pataskala Banking Company and was permitted through a variance granted by the Etna Township Board of Zoning Appeals on October 24, 2006. The previous variance and existence of similar signs is a factor to consider but the request at hand must still meet the standards for a use variance in order to be granted. This fact has been explained and confirmed by the Licking County Prosecutor's Office. The Zoning Resolution does not allow for the granting of a variance based upon "the grounds of convenience or profit" (Section 512.B) nor "because of the presence of non-conformities in the zoning district" (Article 2-Variance Definition). The Etna Township Zoning Commission is currently undergoing a review of the sign regulations within the zoning resolution. Two items they are discussing are the electronic message boards and LED signs. It would seem destructive to grant a variance that is contrary to the existing zoning resolution and may even be non-conforming with future regulations when electronic message boards may be permitted within the township. No similar business to the Dairy Queen restaurant has an electronic message board within the township.

Staff recommends that the Board of Zoning Appeals deny the requested use variance because the Standards for 'Unnecessary Hardship' (Section 513.B) have not been met.

Charlie Gang is required by Dairy Queen to complete the signage requirements within his franchise and this is why he cannot wait for the Zoning Commission to complete the updates to the sign code. This sign will not flash; it is only a picture that will stay there for a while then the picture will change. It will be an added cost for them to return and update the sign at a later date. Charlie Gang would prefer to do the entire sign at this time. Charlie Gang presented a picture of the current sign, Exhibit 2.

The Board of Zoning Appeals discussed their options and discussed the fact that the Zoning Commission currently is working on the sign code.

Judy Gang was sworn in and stated if the reader board is removed he will not be able to advertise daily specials. It is difficult to change this type of reader board.

If all eight of the unnecessary hardship standards have been met then the board should grant the use variance. The board discussed the eight standards.

Chris Harkness explained the standards for use variance and area variances. Rick Cox stated the sign at the bank was approved under area variance criteria prior to the zoning code being changed when use variance were added.

Roger Digel-Barret moved to close the public testimony portion of the public hearing at 7:42 p.m. The motion was seconded by Mark Schaff and passed without objection.

Mark Schaff stated his decision is dictated by the regulations for Use Variance and believes that next year the applicant will have more flexibility to pursue all aspects of the application.

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Roger Digel-Barrett moved to deny the request for use variance from Section 1202.2 in the case of VA-11-03 on the basis that the existing Zoning Resolution of Etna Township prohibits this sort of sign. The motion was seconded by Mark Schaff and the roll call was as follows: Dallas Maynard, no; Roger-Digel-Barrett, yes; Rick Cox, yes, and Mark Schaff, yes. Motion passed 3-1.

Roger Digel-Barrett moved to close the hearing at 7:45 p.m. The motion was seconded by Mark Schaff and passed unanimously.

Approved as read _____

Approved as corrected/amended 4-26-11

Laura Brown
Laura Brown, Clerk

Rick Cox
Rick Cox, Vice Chairman

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Rick Cox called the regular meeting to order at 7:47 p.m. The roll call showed members Rick Cox, Roger Digel-Barrett, Dallas Maynard, Mark Schaff and clerk Laura Brown present.

The regular meeting was to approve the minutes from the February 22nd, 2011 adjudicatory hearing.

Mark Schaff moved to approve the minutes as corrected. The motion was seconded by Roger Digel-Barrett. Roll call: Rick Cox, yes; Roger Digel-Barrett, yes; Dallas Maynard, abstain; and Mark Schaff, yes. The motion passed.

Mark Schaff moved to adjourn at 7:52 p.m. The motion was seconded by Roger Digel-Barrett and passed by unanimously.

Approved as read _____

Approved as corrected/amended 4-26-11

Laura Brown
Laura Brown, Clerk

Rick Cox
Rick Cox, Vice Chairman

March 22nd,

2011

Held

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The adjudicatory hearing was called to order at 8:54 p.m. by Vice Chairman Cox. The roll call showed members Rick Cox, Roger Digel-Barrett, Dallas Maynard, Mark Schaff and clerk Laura Brown present.

The area variance application VA-11-01 was to decrease the front yard setback requirement from 15 feet to 8.3' or 9.3' at 840 Columbus Street (Parcel #010-023502-00.000). The applicant, Steven Little and Zoning Administrator, Chris Harkness were sworn in.

Steven Little presented information regarding the deck he would like to construct. He will be construction an awning over the deck.

Chris Harkness presented his staff report on variance #1, Decrease the Front Yard Setback requirement from 15' to 9.3'(or 8.3'): The factors for consideration are as follows: The applicant has proposed two different versions of the proposed deck. One that shows a 22' x 11' deck and a second that would be a 22' x 12' deck. The proposed addition would be either flush with or one foot closer than the existing attached garage. The attached garage is only 8.3' away from the Canal Street right-of-way and is considered non-conforming. The Canal Street right-of-way (66') is slightly larger than most township roads (60') which accounts for some of the need for a variance. The lots within Etna Proper are smaller than most of the other lots within the township at approximately 67' x 133'. A previous area variance (VA-09-01) was granted under very similar circumstances within Etna Proper for a reduction of the front yard setback when a non-conforming structure already existed on the property within the same setback. He provided the practical difficulties standards that apply to area variances.

Staff recommends that the Board of Zoning Appeals approve the requested area variance because the standards for 'Practical Difficulties' can be met and recommends option 2 to 9.3'.

Roger Digel-Barrett moved to close the public testimony portion of the hearing at 8:09 p.m. The motion was seconded by Dallas Maynard and passed by unanimous vote.

The members discussed whether to allow extra room for the deck and whether the applicant needed room for steps. The steps are not relevant, the applicant is installing them on the other side of the deck.

Chris Harkness explained the existing non-conforming use of the location of the garage and said he supports the variance for the 9.3' setback from the right-of-way.

Dallas Maynard moved that the variance be allowed for the 9.3' setback from the right-of-way (even with the garage). The motion fails for the lack of a second.

Rick Cox moved to approve the requested area variance (VA-11-01) to reduce the front yard setback along Canal Street from 15 feet to 7.5 feet. Roger Digel-Barrett seconded and the roll call on the motion was as follows: Dallas Maynard, no; Roger Digel-Barrett yes; Rick Cox, yes; and Mark Schaff, yes. The motion passed 3-1.

Roger Digel-Barrett moved to close the hearing at 8:15 p.m. The motion was seconded by Mark Schaff and passed without objection.

Approved as read _____

Approved as corrected/amended 4-26-11

Laura Brown
Laura Brown, Clerk

Rick Cox
Rick Cox, Vice Chairman