

BOARD OF ZONING APPEALS

MINUTES

6:33 p.m.

May 15, 2019

Council Chambers

MEMBERS PRESENT: Harrison Case, Kevin Meehan, Chris Benison, Heidi Cook, and Garrett Tomblin

MEMBERS ABSENT: None

STAFF: John Whitmore, AICP

- I. **CALL TO ORDER AND ROLL CALL:** Case called the meeting to order 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 17, 2019 hearing. No corrections noted, and minutes approved as presented.
- III. **UNFINISHED BUSINESS:** None.
- IV. **NEW BUSINESS:**
 - **V19-15 / Langdon / 333 Lyndhurst Street:** Request by Daniel F. Langdon for variance relief from Section 1331.08 as it relates to setback requirements for an accessory carport structure; Second Ward Tax District, Tax Map 36, Parcel 230; R-1A, Single-Family Residential.

Whitmore presented the Staff Report.

Case recognized Daniel Langdon of 333 Lyndhurst Street who stated the variance is necessary to position the carport in order to allow for easier vehicular access from the road.

Bension asked if the property boundary runs down the middle of the hedge line. Langdon provided an illustration to show where the property line is located.

Case referred to the Staff Report to note additional images were provided to further explain the parcel and the requested location of the carport structure.

Whitmore inquired if the fence runs along the property line. Langdon confirmed.

There being no further questions or comments by the Board, Case asked if anyone would like to speak in favor of or in opposition to the variance petition. There being none, Case declared the public hearing closed and asked for Staff recommendations, which were read by Whitmore.

Case noted that surrounding property owners had received notification of the request and there have been no objections or correspondence to the petition. Whitmore confirmed.

Case inquired if the structure would require additional variances other than setback relief. Whitmore stated the setback was the only issue identified with the proposed accessory structure.

Case expressed there are unique conditions associated with the property such as the narrowness of the lot and the existing hedges.

Benison asked how far the southern edge of the eave will be located from the property line. Langdon stated the eave will be approximately 30 inches from the property line and provided further explanation on the proposed structure.

Case noted the existing structure was already non-conforming. Langdon confirmed.

Case expressed favor in there still being a portion of the property that can be accessed in case of an emergency.

Benison asked if the structure will have gutters. Langdon confirmed.

Benison asked if additional concrete will need poured. Langdon stated he will add more concrete and provided further explanation.

Cook made a motion to find in the affirmative for all of the Finding of Facts for V19-15 as presented; seconded by Benison. Motion carried unanimously.

NOTE: The following findings 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:

A similar styled canopy improvement is currently located in same vicinity and the new accessory structure would be used for the same automobile storage manner, which does not appear to have adversely affected the public realm or property rights.

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:

The property abuts a vegetative buffer and the existing single-family dwelling is extremely close to the side parcel boundary. The limitations in providing a driveway appear to limit the development of an accessory structure to be accessed by and to store an automobile.

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

The proposed location of the carport will provide safe passage for an automobile, once on-site, while recognizing the existing alignment of the driveway, narrow access for the driveway, the existing vegetative buffer, and the larger side setback of the adjoining home to the south of the petitioner's realty.

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

On-street parking along Lyndhurst Street is restricted by yellow curb and permit parking. The development of off-street parking, particularly garage storage, appears to advance reductions to on-street parking congestion, while recognizing site constraints of the petitioner's property.

Cook moved to approve Case No. V19-15 with the Staff recommended condition; seconded by Benison. Motion carried unanimously.

Case reminded Mr. Langdon that the Board's decisions can be appealed to Circuit Court within thirty 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.

- **V19-16 / Chase Bank / 461 High Street**: Request by Crystal Miller of City Neon, Inc., on behalf of Chase Bank, for variance relief from Article 1369 concerning signage; Third Ward Tax District, Tax Map 26, Parcels 75 and 76; B-4, General Business District.

Whitmore presented the Staff Report.

Case recognized Crystal Miller of City Neon, on behalf of Chase Bank, who provided further explanation of the proposed sign.

Case asked if there will be three (3) commercial tenants planned for the building and if there would be a master sign plan for those tenants. Miller stated they have had discussions with the owner on what the code allows for signage on that building.

Whitmore referred to the Staff Report to provide further explanation on the placement of the tenants and stated additional variances may be possible in the future with this building.

Case asked if the signs would be illuminated. Miller stated they will not be internally illuminated but will include external down lighting.

Whitmore provided further explanation on the proposed signage and stated the lighting is permitted as proposed.

There being no further questions or comments by the Board, Case asked if anyone would like to speak in favor of or in opposition to the variance petition. There being none, Case declared the public hearing closed and asked for Staff recommendations, which were read by Whitmore.

Meehan made a motion to find in the affirmative for all of the Finding of Facts for V19-16 as revised; seconded by Tomblin. Motion carried unanimously.

NOTE: The following findings 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 proposed square footage of signage requested will be divided onto two faces of the building. Each face that will have signage faces a street; High Street on the front of the building and Forest Avenue that connects High Street to the parking lot at the rear of the building. The proposed signage is non-illuminated and will pose not threat, harm, or injustice to the residents or surrounding property owners.

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:

The signage appears to complement existing signage in the area and will permit day-time natural visual glow by the use of translucent materials.

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

The small downtown lot does not allow the room for more traditional ground signage that could be used for way finding purposes. The tenant will utilize the front signage for pedestrians and motorists traveling High Street, and the Forest Avenue sign to attract pedestrian traffic from further down High Street.

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

The tenant will be able to keep the signage on par with their corporate styling across the nation and provide adequate commercial advertising in keeping with the design of the structure. The signage design will function to promote the individual business use and appears strengthen downtown's overall commercial corridor.

Meehan moved to approve Case No. V19-16 without conditions; seconded by Cook. Motion carried unanimously.

Case reminded Ms. Miller that the Board's decisions can be appealed to Circuit Court within thirty 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.

- **V19-03 / ALDI, Inc. / 1351 Earl L. Core Road**: Request by Rory Garr, on behalf of ALDI, Inc., Saxonburg Division, for variance relief from Section 1347.04 regarding building setbacks; Sixth Ward Tax District, Tax Map 31, Parcels 101.2 and 101.5; B-2, Service Business District and B-5, Shopping Center District, respectively.

Whitmore presented a combined Staff Report for V19-03 and V19-04.

Case recognized Stephanie Albright of APD Engineering and Architecture, on behalf of ALDI, Inc., who provided a presentation of the proposed project and further explanation of the variances requested. Albright further explained the intersection and access points along with landscaping placement.

Case asked if they are working with WVDOH to replace the intersection. Albright confirmed.

Whitmore noted there are conditions listed with the Planning Commission approval and stated they are working on the intersection with WVDOH.

Case referred to the parking variance petition and noted that a lot of businesses in that corridor have parking in between Earl L Core Road and the business. Whitmore confirmed and stated *Popeyes Louisiana Kitchen* recently received a similar variance.

Case asked if there were any objections to combining the public hearing for V19-03 and V19-04. No objections were noted.

There being no further questions or comments by the Board, Case asked if anyone would like to speak in favor of or in opposition to the variance petition. There being none, Case declared the public hearing closed and asked for Staff recommendations, which were read by Whitmore.

Cook made a motion to find in the affirmative for all of the Finding of Facts for V19-03 as presented; seconded by Tomblin. Motion carried unanimously.

NOTE: The following findings 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 increased front yard setback will provide additional buffer between roadway traffic and building. With defined sidewalks along the road and connectivity to the building, the increased setback does not appear to create any adversity. The proposed setback also creates an opportunity for a connection between the adjoining parking lot thereby advancing desired best access management practices, particularly for exiting left turns serving multiple development sites.

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:

AE Zone floodplain restrictions of the site necessitates unique building placement. Additionally, exceeding the maximum front setback standard creates an opportunity for a connection between the adjoining parking lot to the east of the site.

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

The existing floodplain conditions restrict physical development of the site. The proposed siting of the building appears to observe best floodplain management practices. The increased front setback appears to reflect the predominate development pattern with the Earl Core Road commercial corridor.

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

The variance will enable infill redevelopment of the site while observing floodplain restrictions, creating an adjoining parking lot connection, and appears to keep with the predominant development pattern of the Earl Core Road commercial corridor.

Cook moved to approve Case No. V19-03 without conditions; seconded by Tomblin. Motion carried unanimously.

- **V19-04 / ALDI, Inc. / 1351 Earl L. Core Road**: Request by Rory Garr, on behalf of ALDI, Inc., Saxonburg Division, for variance relief from Section 1347.06 regarding parking and loading standards; Sixth Ward Tax District, Tax Map 31, Parcels 101.2 and 101.5; B-2, Service Business District and B-5, Shopping Center District, respectively.

Benison asked if the proposed plan meets the minimum amount of parking spaces required. Whitmore confirmed.

Cook made a motion to find in the affirmative for all of the Finding of Facts for V19-04 as presented; seconded by Benison. Motion carried unanimously.

NOTE: The following findings 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 proposed parking located between the building and the Earl Core Road right-of-way utilizes space created by AE Zone floodplain development restrictions. The resultant site design reflects the predominant development pattern of the Earl Core Road commercial corridor, which does not appear to adversely affect the public realm or private property rights.

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:

Floodplain conditions restrict siting the building to further from the Earl Core Road right-of-way than permitted by-right. The resultant space created by the AE Zone of the floodplain creates an opportunity to develop requisite parking spaces and provide a connection between the adjoining parking lot. The parking lot connection advances best access management practices. The front-yard parking spaces should serve as a traffic calming measure to reduce speeds and heighten driver awareness. The resultant site design reflects the predominant development pattern of the Earl Core Road commercial corridor.

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

The parking placed between the road and the building make efficient use of space to provide convenient parking spaces to the users of the store, while providing an effective connection with the adjoining parking lot. The proposed site design appears to reflect the predominant development pattern of the Earl Core Road commercial corridor.

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

The variance will enable infill redevelopment of the site while observing floodplain restrictions, creating an adjoining parking lot connection, and utilizing otherwise unoccupied space to provide parking that is consistent with the predominant development pattern of the Earl Core Road commercial corridor and is permitted in the AE Zone of the floodplain.

Tomblin moved to approve Case No. V19-04 without conditions; seconded by Meehan. Motion carried unanimously.

Case reminded Ms. Albright that the Board's decisions can be appealed to Circuit Court within thirty 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:

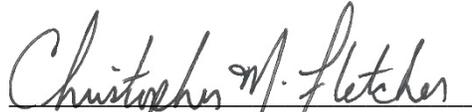
Whitmore informed the Board there is a large agenda for the June meeting and asked the Board members to provide him their availability as future field trips for conditional use permit applications are anticipated.

VI. ADJOURNMENT: 7:33 p.m.

MINUTES APPROVED:

June 16, 2019

BOARD SECRETARY:


Christopher M. Fletcher, AICP