

CITY OF GASTONIA
ZONING BOARD OF ADJUSTMENT

September 27, 2018

Minutes

The regular meeting of the Zoning Board of Adjustment was held on Thursday, September 27, 2018, at 9:05 a.m. in the City Council Chambers at City Hall.

Board Members present: Chairman Lee Taylor Jr., William Marino, Sidney Craig, & James Nebo

Board Members absent: Melanie Blankenship

Staff present: Charles Graham, Assistant City Attorney; Joe Gates, CZO, Zoning Administrator; and Chrystal Howard, Secretary

Chairman Taylor called the Board of Adjustment meeting to order.

Item I: Approval of July 26, 2018 Minutes

Board Member Marino made a motion to approve the minutes of July 26, 2018 and Board Member Craig seconded the motion. The motion was approved unanimously (4-0).

Chairman Taylor explained the variance and special exception process. Because of the quasi-judicial format of these hearings it is required by North Carolina law to swear in persons that speak before the commission and offer evidence. Ms. Howard administered the oath to speakers.

Item II: Public Hearing #9085 – Dixie Glass Company of Gastonia Inc. / Scott Shook – 3201 W. Franklin Blvd.

Chairman Taylor opened the public hearing and recognized Mr. Joe Gates, CZO, Zoning Administrator for staff presentation.

Mr. Gates thanked the Board for being present. Mr. Gates stated the subject property is zoned I-2 (General Industrial District) and the existing building was built in 1976. Mr. Gates referred the Board to the survey on agenda page 2-6, Example 1. Mr. Gates showed the currently location of the existing building. The area shaded in red represents the area in nonconformance by today's standard. The applicant outlined the existing area inside the setback as 1,492 sq. ft. and 8.3 ft. north end from the property line and 3.3 ft. south side from the property line. The proposed attached building on the north end would be 24.4 ft. from the property line and in compliance. The current side setback in the industrial district is 20 ft. On the south end the building would be 14.9 ft. from their existing property line. This is a 5.1 ft. encroachment into the required side yard setback. The new addition is proposed to have an area of 146 sq. ft. encroaching into the required side yard setback. Mr. Gates finished his presentation by reading a portion of Section 3.3.5(B) – Other Nonconforming Principal Structures and referred the Board to Figure 3.3.4-1 and Table 7.3-1 Bulk and Use Chart: Industrial Zone Setbacks on agenda page 2-7.

Mr. Gates reiterated the proposed new building area inside the setback of 146 sq. ft. in conformity. Board Member Nebo asked if this area was more than double than the existing area inside the setback and Mr. Gates answered it was not and explained the existing area and proposed areas in setbacks. Mr. Gates referred the Board to Figure 3.3.4-1 on agenda page 2-7 and read what the Board of Adjustment can consider, and then he read a portion from Section 3.3.5(B) on agenda page 2-6 and interpreted this using Example 1. Further explanation ensued on understanding Section 3.3.5(B) and how it relates to the applicant's request.

Mr. Gates commented on proposed statements in either the affirmative or negative that are included in the staff report when the Board is ready to make their motion.

Chairman Taylor recognized Mr. Eli Witherspoon, 3201 W. Franklin Boulevard of Gastonia, NC. Mr. Witherspoon stated he is with Pinnix Construction and is the representative for Scott Shook with Shook Family Real Estate II LLC. Mr. Witherspoon is present to answer any questions of the Board.

Board Member Nebo asked Mr. Witherspoon if he believed that the extension should be granted based on the information presented and that the building was in compliance. Mr. Witherspoon answered with the special exception procedural ordinance for this request, it is in compliance with less than double the space and within less than half of the distance closest to the property line. He continued according to the ordinance their request is well within compliance.

Chairman Taylor prepared the Board on what was needed to be addressed in their motion and that the request meets the special exception criteria.

Board Member Nebo made the motion to approve the special exception request as presented based on the proposed building not doubling more than existing building in setback and the proposed building does not come any closer to the property line than the existing building and based on the meeting the criteria of Section 3.3.5(B) – Other Nonconforming Principal Structures, Section 5.12.1 - /Authority (Special Exceptions) and Section 5.12.2 – Special Exception Procedures that the following findings of fact are both found in the affirmative finding:

1. The expansion will not result in a consequential, deleterious effect on any adjoining property, such as loss of light, air or vista, or creation of noise, vibration, or other environmental effects.
2. The expansion will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise be detrimental to the public welfare.

Board Member Marino seconded the motion and the motion was unanimously approved (4-0).

Item III: Public Hearing #9088 – ID Associates / Rosalyn Holderfield – 3580 E. Franklin Blvd

Chairman Taylor opened the public hearing and recognized Mr. Joe Gates, CZO, Zoning Administrator for staff presentation.

Mr. Gates stated the subject site located at 3580 E. Franklin Blvd is an existing commercial retail location. The last use on record at this location was Kmart. The applicant is proposing wall signage on the building and Mr. Gates identified the proposed sign location on the building. Mr. Gates referred the Board to agenda page 3-4, the applicant's letter explaining what they are applying for and how they meet the variance approval criteria. Mr. Gates referenced agenda page 3-9 the proposed sign and sq. ft., and agenda page 3-8. He stated the site plan was approved. The building will be split into two tenant spaces and the applicant and the store they are representing will take the northern portion. The applicant is proposing a 559.3 sq. ft. sign. The base ordinance, for commercial structures and commercially zoned properties, maximum sq. ft. regardless of the area or wall size is 100 sq. ft. The ordinance has the Sign Flexibility option and additional sq. ft. recognizes the distance a building is from the required setback. Mr. Gates explained the base ordinance of 100 sq. ft. and a graduated scale that allows a larger percentage of sq. ft. Mr. Gates referred the Board to the last page of their agenda on actions that the Board of Adjustment can take when reviewing an application. Mr. Gates summarized the information above. He continued that wall signs on any wall face shall not cumulatively exceed 10 percent of the wall area or 100 sq. ft. City Council recently approved a text amendment, for clarification reasons, that states wall signs on any wall face shall not cumulatively exceed 10 percent of the wall area or 100 sq. ft. whichever is less. Mr. Gates provided an example. Mr. Gates continued by displaying the picture on agenda page 3-13 and explained principle building distance setback from the required front setback. Based on the site plan that is currently under review for this property, Site Plan 9090, the closest tenant wall for this use is approximately 390 ft. from the required front yard setback of 30ft. This would allow for a total of 275 sq. ft. of wall signage to be placed on the wall according to the chart, assuming the applicant followed the correct procedures for submitting the packet of information necessary for approving the Sign Flexibility option. To date, staff has not received an application requesting the use of the Sign Flexibility option at this location. Mr. Gates referred the Board to Section 12.1.3 – Sign Area Computations to assist with explanation on determining area of sign. He commented that staff was unable to find the prior sign size since it predates retention records. Mr. Gates read to the Board highlighted sections under Section 12.8 Nonconforming Signs on agenda page 3-12 and provided examples. Mr. Gates finished his presentation by stating ID Associates – Rosalyn Holderfield, is requesting a 459% increase in base allowable sign area for wall signs.

Chairman Taylor understood that the applicant did not request the Sign Flexibility option and asked if it would be appropriate for the applicant to change their decision to accept the Sign Flexibility option and will it need to be presented again to the Board? Mr. Gates stated the Sign Flexibility option occurs at the administrative level and not a Board decision. If the applicant decides to move forward with what the ordinance allows, they can apply tomorrow and it would be handled at the administrative level.

Chairman Taylor reminded the Board the options the Board of Adjustment may take and Mr. Gates referred the Board to Section 5.14.4 Action by the Board of Adjustment. Attorney Graham stated if it is the desire of the Board to have the applicant fall back to the Sign Flexibility option, he suggested denying the request. The applicant can apply for what is allowed in the Sign Flexibility option and it will be reviewed and approved by staff. Attorney explained his representation on adding conditions to justify and denying a motion. Based on the possible Board decisions, brief discussion occurred amongst the Board on the appropriateness of their motion options.

Chairman Taylor inquired if Sports Authority will be listed on the multitenant sign. Mr. Gates stated they have access to the multitenant sign and a sign face replacement would only be necessary.

Chairman Taylor inquired if the new tenant for the other half of the old Kmart building has access to the multitenant sign. Mr. Gates stated he had not evaluated this and this may need to be worked out with their property owner. Chairman Taylor stated he could see this coming to the Board for another sign request. Mr. Gates stated this tenant could have a wall sign. Further discussion ensued on the possibilities for the new tenant and requirements of a property owner. The property owner notated on their plan proposing an additional multitenant sign on I-85 portion. Mr. Gates presented a copy of the approved plan to the Board members. Mr. Gates explained the approved site plan for the development, location of the sign, required setbacks and the distances. Brief discussion ensued amongst the Board. Mr. Gates clarified that the only sign being discussed for this hearing is the primary wall sign.

No further questions were asked by the Board.

Chairman Taylor recognized Rosalyn Holderfield, ID Associates Inc., 1771 Industrial Road, Dothan of Alabama and Brett Mashchak, Academy Sports and Outdoors, 3557 Garden Ridge Way, Orlando of Florida. Ms. Holderfield stated she appreciated Mr. Gates assistance with this process. Ms. Holderfield provided some background on Academy Sport's standard signage size. Their proposal recognizes the sign ordinance and reduced their signage size from 9 ft. to 8 ft. letter size. The flexibility option was discussed with staff but was different from their requirement. The 275 sq. ft. of wall signage reduces their letter size significantly from their standard. Ms. Holderfield would like to comprise and meet with what they feel is necessary for exposure while staying within the spirit of the ordinance. They are willing to reduce their letter size to 7 ft. tall. Ms. Holderfield explained their calculation totaling 559.3 sq. ft. which included dead space. After reducing the letter size to 7 ft. tall lettering and using their original boxed calculation, including dead space, the total calculation is 418.2 sq. ft. Using 7 ft. tall lettering and revising their method, their calculation totals approximately 345 sq. ft. She stated this will be comparable to the building size and an approximate 25 percent increase over the flexibility option and no longer grossly over the allowed amount. Ms. Holderfield finished her presentation by referring the Board to agenda page 3-4 and briefly summarized their letter of intent variance approval criteria.

After looking at the pictures presented by the applicant, Chairman Taylor inquired about the computation of the geometric design size, such as the exact size of each letter versus the example in Section 12.1.3. Mr. Gates answered that the example is showing the area of a sign face computed by using one of the smallest basic geometric shapes and it encompasses the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed and gave an example. If using channel letters without a backdrop, the calculation would be based on using up to three geometric design shapes. Ms. Holderfield commented that she had changed her 335.1 sq. ft. to approximately 345 sq. ft. to reflect squaring up a few letters. The calculations were computed by contouring these letters in the example provided instead squaring them. Mr. Gates commented that the calculations are not exact and the 345 sq. ft. is a rough estimate.

Board Member Craig inquired if 10 percent allowance is over or under. Mr. Gates reiterated the ordinance requirement that wall signs on any wall face shall not cumulatively exceed 10 percent of the wall area or 100 sq. ft. whichever is less. Mr. Gates reiterated the Sign Flexibility options for buildings set further back from the road.

Brief discussion ensued on the Sam's Club wall signs and the Sign Flexibility option.

Chairman Taylor asked if the applicant requested a sign on the backside of their building, would it have the same criteria of 10 percent of the wall area or 100 sq. ft. whichever is less based on the setback from the road. Mr. Gates stated it would be on the front setback. Chairman Tylor asked if it is the same for the side with the same criteria and Mr. Gates stated he was correct and every building has the right to put a sign on every elevation. The wall area is per wall elevation that is eligible. Chairman Taylor commented about having a visible sign from Franklin Boulevard. Ms. Holderfield stated that they currently do not have any intention of adding any additional wall signs. The main sign is on the front of their building and they do not see a need to add signs to the side or rear of building.

Board Member Nebo requested confirmation that their intention is to place a sign on the multitenant sign on Franklin Boulevard and Ms. Holderfield confirmed that it was their intention.

Mr. Mashchak reiterated the setback and sq. ft. distance. If they can get to 300 sq. ft. allowable front signage, they can do something to make everything work out for everyone at this location. Chairman Taylor commented on the need of 200 percent above the criteria. Mr. Gates commented that the distance, when determining the percent increase the property is eligible for, is measured from the required setback to the building wall. Mr. Gates showed the measurement area on the screen. He continued that if measuring from the right-of-way to the front door of building the measurement is 457.35 ft., but this is not how the ordinance calculates the percentage increase. This is difference in calculations between the applicant and the ordinance.

No further questions were asked by the Board.

Brief discussion ensued on the voting options. Chairman Taylor shared his thoughts and entertained a motion. No discussion ensued.

Board Member Nebo made a motion to approve the application for a variance with fair and reasonableness and to be stated clearer with further discussion. Chairman Taylor commented that the motion is with conditions and needs to meet the hardship for Section 5.14.5 criteria. Board Member Nebo stated the request does not meet all criteria in Section 5.14.5 and he does not want it to appear that the Board simply denied it, because he does not believe 100 sq. ft. is sufficient. Chairman Taylor stated if the Board denies this request, staff can work with the applicant to increase the size to 275 sq. ft. Mr. Gates read Section 5.14.5 A-C - Variance Approval Criteria. After further discussion, Board Member Nebo withdrew the motion. Board Member Nebo made the motion to deny the request as presented and Board Member Marino seconded the motion. The vote was unanimously approved (4-0).

Chairman Taylor stated to the applicant that he hopes that they'll take the option to work with staff to come up with something that will be appropriate and meets the ordinance requirements. He continued that the Board appreciated and thanked them for attention and time.

Item IV: Other Business or Announcements

Chairman Taylor requested a correction to the roster for chair and vice-chair positions.

Discussion Date of November/December Meeting:

Chairman Taylor stated that the Board needs to discuss the dates for the combined November/December meeting. The date recommended was Thursday, December 6, 2018. Board Member Marino made the motion to change the meeting to the first Thursday of December at 9 a.m. in the City Council Chamber Room and Commissioner Nebo seconded the motion. The motion was unanimously approved (4-0).

Chairman Taylor requested staff to notify Board members of changes to term or appointment position by email or phone. Mr. Gates stated staff will continue with current notifications and will follow-up with members of City Council updates. Mr. Gates will also address these concerns with City Council.

Mr. Gates stated staff has not receive any applications for public hearing to be heard by the Board of Adjustment; therefore, there will not be a Board of Adjustment meeting scheduled in October. The October 25, 2018 meeting has been cancelled.

There being no further business or announcements, Chairman Taylor adjourned the meeting at 11:02 a.m.

Respectfully Submitted:

Chrystal Howard, Secretary

Zoning Board of Adjustment
City of Gastonia, NC

Chairman Lee Taylor Jr.

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