

BOARD OF ZONING APPEALS MEETING

TIPP CITY, MIAMI COUNTY, OHIO

December 16, 2015

Meeting Chairman McFarland called this meeting of the Tipp City Board of Zoning Appeals to order at 7:29 p.m. which was held at the Tipp City Government Center, 260 S. Garber Drive, Tipp City, Ohio.

Roll Call Roll call showed the following Board Members present: Michael McFarland, Carrie Arblaster, Isaac Buehler, and Steve Stefanidis. Others in attendance: City Planner/Zoning Administrator Matthew Spring and Acting Board Secretary Kelly Rowlands. David Nelson, Monica Meilinger, and Jon Cowell were in attendance on behalf of Orthopaedic Institute of Dayton.

Citizens signing the registrar No citizens signed the registrar.

Board Minutes 10-21-2015 Chairman McFarland asked for discussion. There being none, Chairman McFarland **moved to approve the October 21, 2015 meeting minutes as written**, seconded by Ms. Arblaster. **Motion carried.** Ayes: McFarland, Arblaster, Buehler, Stefanidis. Nays: None.

Citizens Comments There was none.

Administration of Oath Ms. Rowlands swore in representatives of the Orthopaedic Institute of Dayton and Mr. Spring.

Chairman's Introduction Chairman McFarland explained the guidelines and procedures for the meeting and public hearings. He advised the applicant that any person or entity claiming to be injured or aggrieved by any final action of the BZA shall have the right to appeal the decision to the court of common pleas as provided in ORC Chapters 2505 and 2506.

New Business Case No. 15-15 Orthopaedic Institute of Dayton Signage Variance Request **Case No. 15-15: Jon Cowell – Select Signs for Orthopaedic Institute of Dayton – 70 Weller Drive - Lot: IL 4151** – The applicant requests a variance to Code § 154.11 (B)(3)(x)(B) to allow the utilization of 100% of the available window area (northern façade) for signage rather than the maximum of 50%.
Zoning District: HB – Highway Business
Zoning Code Section(s): § 154.11 (B)(3)(x)(B)

Mr. Spring provided the following report:

In association with the construction of the new Orthopaedic Institute of Dayton at 70 Weller Drive the applicant seeks a variance to Code §154.11(B)(3)(x)(B) to allow the utilization of 100% of the available window area for signage (on the northern façade of the building) rather than the maximum of 50%.

Code specifically states:

Where window signs are permitted, such sign shall not occupy more than 50 percent of the window area to which it is attached.

The applicant proposes the utilization of 100% of the available window area for signage (on the northern façade of the building).

The review criteria was provided to Board Members in Mr. Spring's Staff Report.

Going further, Mr. Spring noted some additional points related to this case:

- The area of the window array in question is ± 604.3 square feet. Code §154.11(B)(3)(x)(B) allows the utilization of ± 302 square feet (50%) without requiring a variance.
- A permit is not required for window signage.
- Window signs are permitted on all principal structures in accordance with the following:
 - All signs located within, attached or mounted to, or located inside of the building but positioned to be visible from outside of any window, shall be deemed a window sign.
 - Where window signs are permitted, such sign shall not occupy more than 50 percent of the window area to which it is attached.
 - Window signs are not permitted in any window of a space used for residential uses or purposes.
 - Window signs are permitted in windows on any floor where there is nonresidential activity.

Mr. Spring did provide a sample motion for the Board's review.

Chairman McFarland asked if there were any further questions for Staff. There were none.

Chairman McFarland asked the applicant to step forward and state their name and address for the record.

Mr. David Nelson, 313 Deerpark Circle, Kettering, Ohio, approached the dais.

Mr. Nelson started out by thanking the Board for allowing him to speak this evening. Kettering Health Network and OID are very excited to be in the new facility in Tipp City.

Different window options and graphics have been explored for the new building that fit within the 50% coverage requirement. However, after review, it was decided that none of the options looked professional, nor did the options convey the image or message that the new facility is striving to achieve.

Based on the location of the building (right on I-75) and the intended audience (which would be cars traveling down the road at 70 mph), it was determined that 50% area images would be too small to recognize and the message would be lost.

The intent of the window graphic is not to advertise a specific brand or name. There is no branding included in the proposed image. The real goal is to promote a healthy and active lifestyle and to inform the community how this new facility can provide support.

Periodically, the graphic will be changed. The change will probably occur every 1 or 2 years. The change will be done to maintain a professional appearance and also to inform the community about expanded services.

In conclusion, Mr. Nelson stated that he is looking forward to a continued partnership with the City of Tipp City and he wanted to thank the BZA members for considering this variance.

With the possibility of graphics changing every 1 to 2 years, Chairman McFarland inquired if the signage would ever include wording.

Mr. Nelson responded that the intention is to not include any wording. If the decision was made to use words, the City of Tipp City would be notified and approval would be sought.

Ms. Arblaster asked if a second variance would be needed.

Mr. Spring answered that they would not need a second variance.

Chairman McFarland commented that he did not consider the proposed image to be a sign. Instead, he considered it to be a mural. It is his concern that this is going to be similar to the Warrior Racing case.

Mr. Spring followed up by saying that as the Zoning Administrator, it is his opinion that it is a sign. The image is included to draw attention to the building and that is one of the primary definition of a sign. Words or logos are not required for a graphic to function as signage.

Ms. Arblaster asked for clarification that it is not necessary to include an amendment to the variance stating that words cannot be included in any future images.

Mr. Spring agreed with Ms. Arblaster and mentioned that it is critical to remember that any review of signage doesn't include looking at the content of the sign. Content is irrelevant.

Mr. Stefanidis inquired as to whether or not the sign is illuminated.

Mr. Nelson responded that the option is available. Current plans include both ground and soffit mounted lighting. These lights are on switches and can be turned on and off. The graphic can also be backlit as well. So, if the lights are on in the building, the sign will be illuminated.

Mr. Stefanidis also asked if the sign will fasten on the inside or outside of the building.

Mr. Nelson answered that the sign will be attached on the outside.

Mr. Stefanidis then questioned if plans are being made for any additional signage identifying the business.

Mr. Nelson replied that exterior signage is planned. Both Orthopaedic Institute of Dayton and Kettering Health Network will be included.

Ms. Arblaster sought clarification that neighbors are notified in this situation just like when residential variances are pursued.

Mr. Spring responded that all neighboring were notified. In this particular case, Menards owns the vast majority of property surrounding the facility. There were no responses.

With no further questions for Mr. Nelson, Chairman McFarland asked for further discussion from Board Members.

Mr. Buehler questioned what happened with Warrior Racing. Chairman McFarland mentioned it earlier, but Mr. Buehler is not familiar with the case.

Chairman McFarland said it was his understanding that the City of Tipp City lost the case and had to pay court costs and fees to Warrior Racing. It was determined that the image was a mural and not a sign.

Mr. Spring expanded upon Chairman McFarland's comments. The City of Tipp City actually won in Common Pleas Court, but the decision was appealed by Warrior Racing. The appeal is what the City of Tipp City lost. The decision actually says that it is a sign, Code was followed, and

everything is in order. However, the original decision was overruled because the Code was inconsistent. During the process, the City of Tipp City attempted to amend the Code, but it didn't really help. The decision could have been appealed to the Supreme Court, but the City chose not to do so.

Mr. Buehler followed up by asking what the rules are for murals.

Mr. Spring responded by saying that murals are one of the most controversial types of signage. Murals can be seen as either a sign or a work of art. It is difficult to define each.

Mr. Stefanidis noted that in this case the applicant is proposing an exterior mounted, illuminated item. In his opinion, that is a sign. It doesn't matter what it says. He has no problem with the proposal.

Ms. Arblaster questioned whether or not the applicant has an alternative plan should the requested variance be denied.

Monica Meilinger, 1121 Quiet Brook Trail, Centerville, Ohio, approached the dais. Ms. Meilinger is in charge of the graphics team for Kettering Health Network.

The graphics team tried really hard to keep within the 50% limit. From the beginning they wanted the big mural, but then they received the guidelines that it needed to be 50%. A few different options were tried, both were within the guidelines. When the building started coming together, the team visited the site and found that the options would not be visible from the highway. It would almost be a waste of money to have the graphic because no one would be able to see it.

The overall goal was not necessarily to advertise, but rather bring awareness to the types of services that are now available in the community. It is supposed to be a fun, quick graphic.

Going back to the original question from Ms. Arblaster, Ms. Meilinger stated that she is not really sure what the plan will be if the requested variance is denied. It may not be worth it to spend the money on the graphic at a reduced size.

Mr. Buehler asked if words were added to the graphic would the entire space be used.

Ms. Meilinger responded by saying that she didn't feel that words would work. Due to the fact that the audience would be individuals traveling on a highway, words would not be visible.

Mr. Buehler followed up by asking Ms. Meilinger for her professional opinion regarding another graphic artist adding words to the image. More specifically, if Ms. Meilinger was no longer in charge of the project, would someone else form the same opinion about including words on the graphic?

Ms. Meilinger stated that given the location and the audience, it would be treated as a billboard, which would include 9 words or less. That would be the only amount that can be read and processed in a short span of time.

Mr. Buehler then mentioned that with the columns, words would be broken up and it would just not work.

Ms. Meilinger agreed.

Going further, Ms. Meilinger stated that in the future they have played with the idea of using an athlete from the community in the image.

Chairman McFarland expressed that something could be added to the motion stating that words cannot be used in the image in the future.

Mr. Buehler responded by saying that it just didn't seem feasible that words would ever be used due to the columns.

Mr. Stefanidis said he didn't think verbiage could be added to the motion disallowing words in future images.

Mr. Spring agreed with Mr. Stefanidis' thought. Content is not something that the City of Tipp City can dictate.

Mr. Buehler asked if the building was ever sold, would the variance be transferred to the new owners.

Mr. Spring answered that the variance would be transferrable.

Ms. Arblaster stated that it is her opinion that the intended audience and the speed at which they are traveling represents a hardship and a reason that a variance is needed.

Chairman McFarland pointed out that the only people who will see the image will be those travelling southbound on I-75 because the image is on the north side of the building.

There being no further discussion, Mr. Stefanidis **moved to grant a variance to Code §154.11(B)(3)(x)(B) to allow the utilization of 100% of the available window area (northern façade only) for signage rather than the maximum of 50%, for the Orthopaedic Institute of Dayton**

Old Business

located at 70 Weller Drive, seconded by Ms. Arblaster. **Motion carried.**
Ayes: Stefanidis, Arblaster, McFarland, and Buehler. Nays: None.

Miscellaneous

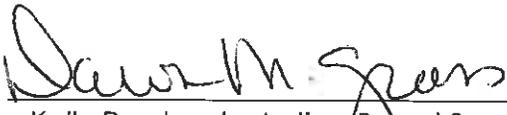
There was none.

Mr. Spring congratulated Ms. Arblaster on her City Council win. He also wished everyone a Merry Christmas and Happy New Year.

Adjournment

There being no further business, Ms. Arblaster **moved to adjourn the meeting**, seconded by Mr. Buehler and unanimously approved. **Motion carried.** Chairman McFarland declared the meeting adjourned at 7:54 p.m.


Board Chairman, Michael McFarland

Attest: 
~~Mrs. Kelly Rowlands, Acting Board Secretary~~

Mrs. Dawn M. Gross, Board Secretary

