

**BOARD OF ZONING APPEALS
MINUTES FOR THE
March 21, 2019 MEETING**

Pursuant to written notice, the meeting of the Board of Zoning Appeals (the “BZA”) was called to order by Acting Chairman Ken Valentine at 7:30 pm on Thursday, March 21, 2019, in the Council Chambers of the Village of Evendale Municipal Building. Attending were members Dave Harwood, Rhett McGregor, Mike Reed, Tom Shanks and Ken Valentine. Supporting the BZA was Pam Morin (staff). Also present were the persons listed on Exhibit A attached hereto and incorporated by reference herein.

There was a brief discussion regarding the election of the new chairman of the Board of Zoning Appeals. Mr. McGregor made and Mr. Reed seconded the motion to nominate Mr. Harwood as chairman. There was no further discussion. The motion passed with a vote of 4 – 0, with one abstention.

After all those present who planned on giving testimony were duly sworn in by Mr. Harwood, the following appeal was on the agenda:

1. Applicant, Kyle Johnson, owner of Mr. Handyman, 10268 Reading Road, Evendale, Ohio, appealing the Building Commissioner’s decision to deny the installation of a second wall sign and is seeking a variance as per Section 1284.01 of the Village of Evendale Zoning Code.

Section 1284.02 of the Code establishes the parties entitled to appeal to the BZA. “Any application for appeal to the Board of Zoning Appeals may be filed by any person adversely affected by an order, decision, determination, or failure to act of the Building Commissioner or the Planning Commission”.

Section 1284.05(d)(1) and (2) further elaborates on the standards for sign variances:

- Variances may be recommended where without granting the variance would result in “unnecessary hardship peculiar to the property and not based on conditions created by owner”. Unnecessary hardship may not include economic advantage.
- “Where the granting of the variance will not unduly injure adjoining property”.

Mr. Johnson provided the following testimony:

- The second sign would be placed on the north side of the second story facade providing southbound visibility.
- The second sign would be identical to the existing sign on the south side of the second story façade.
- There is an existing ground sign.
- Not having a sign on the north side is a public safety issue. Customers and delivery trucks drivers often miss the building because of the lack of visibility.

Mr. Reed summarized the following findings of facts:

- By letter dated February 7, 2019, Don Mercer, Building Commissioner of the Village of Evendale, Ohio, denied applicant’s request for a building permit to install a second sign on

the single tenant building located at 10268 Reading Road, Evendale, Ohio. A copy of said rejection letter, shall be marked as *Exhibit B*, is on file in the Building Department and is incorporated by reference herein.

- Applicant filed an appeal dated February 20, 2019 with the Evendale Zoning Board of Appeals within the required 14 days following the denial of the applicants requires. A copy of said appeal, shall be marked as Exhibit C, is on file in the Building Department and is incorporated by reference herein.
- After proper notice to the required parties, the BZA held a hearing on March 21, 2019, said date being within the required time. A copy of said notice is marked as Exhibit D, is on file in the Building Department and is incorporated by reference here in.

Included in the packet were minutes from the May 24, 2016 BZA meeting. The previous owners had requested a building permit requesting the installation of five wall signs on this property. This request was tabled because the applicant was not present. No further action was taken

After hearing the testimony of those testifying and reviewing the written evident submitted to the BZA, Mr. Reed made and Mr. Valentine second the motion to approve the variance request. There was no further discussion. The motion passed with a vote of 5 – 0.

2. Applicant, Martini on Ice LLC, 10765 Reading Road, has submitted a request for a variance from Schedule 1248.07 of the Village of Evendale Zoning Code requiring a total minimum lot size of two acres and is seeking a variance as per Section 1284.01 of the Village of Evendale Zoning Code.

Tom Hodges, Attorney, was present representing Martini on Ice LLC. Mr. Hodges stated that the prospective end user of the new lot was Dunkin', formerly known as Dunkin' Donuts. Martini on Ice LLC is requesting to subdivide the north east section of their parking lot into a .65-acre parcel. Wendy's lot, located across the ingress/egress into the Sports Plus, is 1.103 acres. Their development was approved in the mid-80's when the minimum lot size was one acre. No variance was required.

Mr. Hodges stated that they are not requesting any other variances, such as permitted uses, setbacks, signage, or parking requirements. Their development will be similar to Wendy's.

Mr. Harwood observed that some events at Sports Plus the parking lot is filled to capacity. Mr. Hodges reassured the committee that this development has ample parking for Dunkin's customer on the north side of the parcel.

The BZA members expressed numerous concerns about traffic congestion on Reading Road turning into this area, the traffic pattern around the building and the stacking of cars in their drive through lane. Mr. McGregor stated that north bound traffic turning left from Reading Road into Wendy's gets backed up. He expressed concern that adding another food service building may compound the traffic congestion.

Pat Gilligan, Gilligan Company, made the following points:

- 55% of Dunkin's business is drive through.

- Their peak hours are between the hours of 5 am – 11:30 am which is not the same as Wendy's peak times;
- Their goal is to handle each transaction within 140 seconds in an attempt to keep traffic moving;
- Their lot design allows the stacking of five cars.

Mr. Reed expressed his concern that their request is a 135% difference in the allowable lot size.

Mr. Shanks made a motion to approve the variance as presented; Mr. Valentine seconded this motion. Mr. McGregor amended this motion that the development must receive Planning Commission's approval of the traffic issue. The motion failed with a vote of 2 – 3.

The final order of business was review of the minutes from the October 1, 2018 meeting of the BZA. A motion was made by Mr. Valentine and seconded by Mr. McGregor to approve the minutes of the October 1, 2018 meeting as read. The motion passed by a vote of 4 in favor, 0 against and 1 abstention.

Upon a motion made by Mr. McGregor, seconded by Mr. Valentine and unanimously adopted, the meeting was adjourned at 8:30 pm.

Attest:

David Harwood, Chairman
Board of Zoning Appeals