

ZONING BOARD OF APPEALS  
TUESDAY, JANUARY 21, 2014 @ 7:00P.M.

CALL TO ORDER: 7:05 p.m.

COMMISSIONERS: Chairperson Laurie Slade  
Mr. Sam Anderson, Jr.  
Mr. Carlos Bueno  
Ms. Patricia Hollis  
Mr. Ahmad Taylor  
Mr. Lee Todd  
Ms. Elcine Kirkendolph – Alternate  
Mr. Joseph Sinclair – Alternate

CHAIRMAN SLADE: I will call the meeting to order. Roll call, please.

MR. SABO: Bueno?

MR. BUENO: Here.

MR. SABO: Taylor?

MR. TAYLOR: Here.

MR. SABO: Todd?

MR. TODD: Here.

MR. SABO: Hollis?

MS. HOLLIS: Here.

MR. SABO: Anderson?

MR. ANDERSON: Here.

MR. SABO: Sinclair?

MR. SINCLAIR: Here.

MR. SABO: Slade

CHAIR SLADE: Here.

EXCUSED: None.

ALSO PRESENT: Mr. James Sabo, Professional Planner  
Mr. Gordan Bowdell, Associate Planner

**COMMUNICATIONS:** None.

**ADOPTION OF MINUTES:** December 17, 2013.

COMM. BUENO MADE A MOTION FOR APPROVAL OF THE MINUTES FOR December 17, 2013 AND COMM. TODD SUPPORTED.

CHAIRPERSON SLADE: Roll call, please.

VOTE: AYES: Bueno, Todd, Sinclair, Anderson, Hollis, Slade  
NAYS: None.  
ABSTAIN: Taylor

Vote 6-0-1 for approval of the December 17, 2013 Minutes.

**OLD BUSINESS:** None.

**NEW BUSINESS:** **6.1 ZBA-14-01**

Finding of Facts presented by Mr. Sabo.

MR. SABO: **Property Description:** 1375 Baldwin Avenue, Sidwell # 14-17-131-015

**Dimensional Variance Request:** Dimensional (Non-Use) Variance of Section 5.108(a)(3) Structurally Alter a Nonconforming Sign for the existing pole sign at 1375 Baldwin (Rocket Restaurant) and to add an electronic reader board sign to replace the existing changeable copy panels of the pole sign below the heptagon portion of the sign.

Section 5.108(a)(3) states that “legal nonconforming signs may continue to exist when maintained in good condition but may not be “(3) Extended, enlarged, relocated, or structurally altered.” The applicant is seeking a dimensional (non-use) variance to structurally alter the existing nonconforming sign. They wish to reconfigure the existing sign by adding a new LED

reader board electronic sign to replace to changeable copy portion of the sign and by adding a new reader board LED portion of the sign. The height of the sign will remain unchanged and the area of the sign will remain unchanged. The existing “individual letters” portion of the sign measures 14.67 square feet and the proposed reader board will have the same dimensions.

**Claimed Practical Difficulty:** As stated, the applicant is requesting to structurally alter the existing non-conforming pole sign as described for the Rocket Restaurant. (Dimensional Variance) The applicant has stated that the existing sign ordinance does not allow for alteration of existing nonconforming signs. They state that changes in sign technology allow them to better convey their message to the public, but the ordinance does not allow them to update their sign, which, unintentionally penalizes their operation. Additionally, changes in the way that commercial businesses convey information (i.e. LED reader board message signs) is permitted by the ordinance for new signs, but not for existing nonconforming pole signs.

The applicant states that the ordinance specifically allows his business to continue using the nonconforming pole sign only if it’s well maintained and kept in good condition, but the ordinance does not allow him to update his sign and replace the old and dilapidated plastic letter sign box portion of the sign, which will keep the sign in good condition. The applicant believes the ordinance is contradictory because it does not allow his business to maintain the pole sign and update it to 2014 standards.

**Staff Findings:**

1. The subject site is zoned C-3 and is the location of the existing nonconforming pole sign and Rocket Restaurant.
2. The requested variances are intended to update the existing signage and maintain the sign in a good condition.
3. The existing sign panels for Rocket Restaurant heptagon portion of the sign are weathered and faded. If the ZBA considers approval of the variance, they may wish to add conditions for maintaining and updating the entire sign.
4. The proposed sign will not increase the total sign area of the pole sign and will meet the other provisions the sign ordinance.
5. If the entire sign is updated and well maintained, the variance request seems reasonable and valid under the circumstances presented.

**AUTHORIZATION:** Section 6.407 Dimensional Variance

**Authority** – The Zoning Board of Appeals may grant a dimensional (nonuse) variance to provide relief from a specific standard in this Ordinance relating to an area, a dimension or a construction requirement or limitation, upon the concurring vote of a majority of the members of the Zoning Board of Appeals.

1. Compliance with strict letter of the restrictions governing area, setback, frontage, height, bulk, lot coverage, density or other dimensional or construction standards will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with such restrictions unnecessarily burdensome.

May meet the standard, compliance with the strict letter of the ordinance is somewhat reasonable for the existing conditions, but is not desirable from the applicant's perspective.

2. A grant of the variance will do substantial justice to the applicant as well as to the other property owners in the district, and a lesser variance will not give substantial relief to the applicant as well as be more consistent with justice to other property owners in the zoning district.

May meet the standard, a lesser variance will provide little or no relief to the applicant as they are not changing the size or area of the sign. Other property owners may not believe a variance is necessary.

3. The plight of the applicant is due to the unique circumstances of the property.

Meets the standard, the applicant has an existing nonconforming pole sign that cannot be changed with permission from the ZBA.

4. The problem is not self-created.

May meet the standard, while the applicant is proposing the change, the existing nonconforming condition (pole sign) is not self-created.

5. The spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done.

May meet the standard. Opinions may vary on strict compliance with the ordinance versus the conditions under which a variance may be considered.

6. There is compliance with the standards set forth in *Sect 6.401.B*.

Meets the standard.

7. Compliance with standards for discretionary decisions contained in *Sec 6.303*.

Not Applicable.

**RECOMMENDATION:** To approve the variance request for PF-14-01, 1375 Baldwin Ave. Rocket Restaurant subject to the following:

1. Replace the existing weathered heptagon sign panels of the (Rocket Restaurant) sign with new (non-weathered) sign panels.

Petitioner Mark Kalji, Rocket Restaurant, 1375 Baldwin Avenue appeared and indicated that the older model plastic signage was dangerous during high winds and would occasionally dislodge and might have the potential of harming pedestrians or vehicles. Petitioner also states that the LED panel will actually be smaller than previous message board.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING OPEN.

No public comments.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING CLOSED.

COMM. HOLLIS MADE A MOTION TO APPROVE THE VARIANCE REQUEST FOR PF-14-01, 1375 BALDWIN AVENUE, ROCKET RESTAURANT, SUBJECT TO THE FOLLOWING CONDITIONS:

1. REPLACE THE EXISTING WEATHERED HEPTAGON SIGN PANELS OF THE (ROCKET RESTAURANT) SIGN WITH NEW (NON-WEATHERED) SIGN PANELS.

COMM. TAYLOR SUPPORTED.

CHAIRPERSON SLADE: Roll call please.

VOTE:           AYES:           Hollis, Taylor, Sinclair, Anderson, Bueno, Todd, Slade.  
                  NAYS:           None.  
                  ABSTAIN:       None.

Vote 7-0-0 for approval of the variance request.

## **6.2 ZBA-14-02**

Finding of Facts presented by Mr. Bowdell.

MR. BOWDELL:       **Property Description:**       500 Centerpoint Pkwy, Sidwell #14-34-454-001

**Variance Request:**   Request for Dimensional Variance

Section 5.105(c)(1)(f) – M-1 and M-2 Districts. Wall signs and wall mount sign may have a maximum area equal to 15 percent of building façade area not to exceed 200 square feet maximum.

Request: The applicant is seeking to have an additional wall sign that exceeds 200 sq. ft. maximum. Applicant has a current 199 sq. ft. sign on Centerpoint Parkway entrance (southeast corner) and is seeking to have an additional 199 sq. ft. sign on the Meadow Dr. entrance (southwest corner) **(198 sq. ft. variance requested)**

**Claimed Practical Difficulty:**       The applicant is having difficulty adequately advertising/identifying his business from both entrances to the property. The applicant believes that the ordinance inadvertently penalizes them from having an additional wall sign on the second side street frontage of their property.

**Staff Findings:**

1. The property is zoned M-1, Limited Industrial district.
2. The property was approved for a 199 square foot wall sign on the southeast corner of the property facing Centerpoint Parkway.
3. Section 5.105(C)(1)(f) restricts the maximum area of wall signs to 200 sq. ft.
  - a. Applicant is seeking to add an additional wall sign on the southeast corner of the building; the proposed sign will be facing Meadow Drive.
4. The proposed sign meets the definition of a Building-Mounted Sign: A display sign that is painted on, adjacent to or attached to a building wall, door, window or related architectural feature. Such signs include, but are not limited to awning, canopy, projecting, and wall signs.
5. Section 5.105(C)(1)(f) states that Building-Mounted Signs in an M-1 district may have a maximum area equal to 15 percent of the building façade area not to exceed 200 square feet.

**AUTHORIZATION:**

Section 6.407 Dimensional Variance

**Authority** – The Zoning Board of Appeals may grant a dimensional (nonuse) variance to provide relief from a specific standard in this Ordinance relating to an area, a dimension or a construction requirement, or limitation, upon the concurring vote of a majority of the members of the Zoning Board of Appeals.

1. Compliance with strict letter of the restrictions governing area, setback, frontage, height, bulk, lot coverage, density or other dimensional or construction standards will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with such restrictions unnecessarily burdensome.

May/may not meet this standard. Although the variance request would not prevent the owner from using the property for a permitted purpose, because of the placement and size of the building, to conform to the 200 sq. ft. maximum provision could be unnecessarily burdensome to the owner.

2. A grant of the variance will do substantial justice to the applicant as well as to the other property owners in the district, and a lesser variance will not give substantial relief to the applicant as well as be more consistent with justice to other property owners in the zoning district.

Appears to meet this standard. The proposed variance appears to provide justice to both the applicant and the surrounding property owners. Due to the placement and size of the building, a lesser variance would not provide justice to the applicant. The site has two separate drive approaches off to separate streets.

3. The plight of the applicant is due to the unique circumstances of the property.

Meets this standard. The site contains a very large building with a large front and side setback. Due to the size of the building and the location of the entrances, additional sign and square footage appears to be appropriate.

4. The problem is not self-created.

Meets this standard. The problem is self-created from the stand point that the applicant is seeking additional square footage; however, the unique shape of the property and size and placement of the building is not self-created.

5. The spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done.

Meets this standard. It appears that the proposed additional square footage meets the intent of the sign ordinance. The proposed wall sign does not appear to negatively affect surrounding or neighboring properties and is appropriate in size to the area of the building.

6. There is compliance with the standards set forth in Section 6.401(B).

Meets this standard. The proposed variance will not impair an adequate supply of light and air to adjacent property or will unreasonably increase the congestion in public streets or increase the danger of fire or endanger the public safety or unreasonably diminish or impair established property values within the surrounding area or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City.

7. There is compliance with the standards for discretionary decisions as contained in Section 6.303.

Not applicable.

**RECOMMENDATION:** To approve the proposed 198 sq. ft. dimensional variance request ZBA-14-02, 500 Centerpoint Parkway for Woodworth Inc. to allow an additional 199 sq. ft. Building-Mounted sign on the southwest corner of the building.

Petitioner Dan Woodworth, Woodworth Inc., 500 Centerpoint Parkway and Nick Trifon from Signs by...Crannie appeared and stated the additional sign was necessary primarily due to the closure of Centerpoint Parkway being a through street off Opdyke Road.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING OPEN.

George Dederian, owner of Ultimate Soccer Arena, and adjacent neighbor to 500 Centerpoint Pkwy stated his support for approval of the additional signage. He also indicated his concern that the building area was once dark and desolate prior to the occupancy of Woodworth Inc. and is ecstatic that Woodworth Inc. is making it viable and bringing back business to this area.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING CLOSED.

COMM. TOOD MADE A MOTION TO APPROVE THE PROPOSED 198 SQUARE FEET DIMENSIONAL VARIANCE REQUEST ZBA-14-02, 500 CENTERPOINT PARKWAY FOR

WOOLWORTH INC. TO ALLOW AN ADDITIONAL 199 SQUARE FEET BUILDING-MOUNTED SIGN ON THE SOUTHWEST CORNER OF THE BUILDING. COMM. ANDERSON SUPPORTED.

CHAIRPERSON SLADE: Roll call please.

VOTE: AYES: Todd, Anderson, Sinclair, Bueno, Taylor, Hollis, Slade.  
NAYS: None.  
ABSTAIN: None.

Vote 7-0-0 for approval of the dimensional variance request.

**PUBLIC COMMENT:** None.

**MISCELLANEOUS:** None.

MOVED BY to adjourn:

All in Favor: Ayes: All Nays: None Abstain: None

**ADJOURNMENT:** 7:31 p.m.