

ZONING BOARD OF APPEALS
TUESDAY, MAY 20, 2014 @ 7:00P.M.

CALL TO ORDER: 7:05 p.m.

COMMISSIONERS: Chairman - Mr. Lee Todd

Mr. Ahmad Taylor

Mr. Sam Anderson, Jr.

Ms. Patricia Hollis

Ms. Elcine Kirkendolph

Mr. Joseph Sinclair

Mr. Carlos Bueno

Mr. William Carrington – Alternate

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

MR. SABO: Anderson?

MR. ANDERSON: Here.

MR. SABO: Hollis?

MS. HOLLIS: Here.

MR. SABO: Chairman Todd.

MR. TODD: Here.

MR. SABO: Taylor?

MR. TAYLOR: Here.

MR. SABO: Kirkendolph?

MS. KIRKENDOLPH: Here.

MR. SABO: Carrington?

MR. CARRINGTON: Here.

MR. SABO: Sinclair?

MR. SINCLAIR: Arrived 7:15 p.m.

EXCUSED: Bueno.

ABSENT:

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

COMMUNICATIONS: William Carrington in the new alternate for the ZBA.

ADOPTION OF MINUTES: April 15, 2014.

COMM. HOLLIS MADE A MOTION FOR APPROVAL OF THE MINUTES FOR April 15, 2014 AND COMM. ANDERSON SUPPORTED.

CHAIRMAN BUENO: Roll call, please.

VOTE: AYES: Hollid, Anderson, Carrington, Todd.
NAYS: None.
ABSTAIN: Taylor, Kirkendolph.

Vote 4-0-2 for approval of the April 15, 2014 Minutes.

OLD BUSINESS: None.

NEW BUSINESS:

PUBLIC HEARING NUMBER: ZBA-14-08 DIMENSIONAL VARIANCE REQUEST

Finding of facts presented by Mr. Bowdell.

Property Description: 915 Cesar E Chavez; Parcel Number: 14-19-255-004; 14-19-255-001; 14-19-225-002; 14-29-255-003
Applicant – inFORM Studio
Owner – Dort Properties, LLC

Dimensional Variance Request:

Section 2.312(B) – Dimension and Design Standards: Required setback requirement in an M-1, Limited Industrial zoning district shall be no less than 15 feet.

Claimed Practical Difficulty:

The Applicant stated:

“The setback along Inglewood Ave. is required to be 15 ft. The existing building on the site is setback beyond the 15 ft. required setback from the property line. The proposed building addition is proposed to be constructed 5’ to 8’9” of the side-yard property line. The request is for a 10 ft. side yard variance in order to accommodate the new heat treating processing equipment needed for facility growth and expansion. The new heat treating processing equipment requires a minimum clear floor area as indicated in the proposed addition which encroaches into the required setback by approximately 10 feet. The limited size of the property has adverse effect on the site circulation, parking and use of the building.

Staff Findings:

1. The property is zoned M-1, Limited Industrial district.
2. On May 7, 2014, the applicant received site plan and special exception permit approval subject to a variance from the Zoning Board of Appeals for side setback (street) requirements.
3. According to Section 2.312(b) of the Zoning Ordinance the side setback (street) of a building shall be 10 feet.
 - a. The applicant has proposed 5’ to 8’9” feet side setback along Inglewood Ave. (10 ft. variance requested).
4. Surrounding property zoned M-1, Limited Industrial District and C-3, Corridor Commercial Mixed Use district.

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.

Practical Difficulty – A nonuse variance shall not be granted unless the Zoning Board of Appeals finds that there is a practical difficulty in the way of carrying out the strict letter of this ordinance. In determining whether a practical difficulty exists, the Zoning Board of Appeals must find that:

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. – The constraints of the Zoning Ordinance do not restrict the applicant from using the property for a permitted use. The site is already in operation as a heating facility; however, the required floor area needed to accommodate the heat treating processing equipment, in conjunction with the setback requirement and shape/location of the site may create a situation that may be unnecessarily burdensome to the applicant/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 requested would provide the applicant with the necessary square footage to accommodate the new heat treating processing equipment. The proposed variance request, along with, the specific location of this site (along Inglewood Ave, and the railroad) appears to be consistent and not detrimental to the adjacent properties in the M-1, Limited Industrial district.

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

May meet this standard – The property is somewhat uniquely shaped. The existing building occupies the majority of the existing site. The applicant has acquired additional property along Inglewood Ave. Due to the square footage required for the heating facility, in order to construct the addition; some type of variance would be required.

4. The problem is not self-created.

May/May not meet this standard - The problem is self-created from the standpoint that the applicant is seeking to construct a building addition at the site; however, the limited lot area of the site and the square footage requirement of the heat treating facility is not self-created.

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

Appears to meet this standard – It appears that the spirit of the ordinance will be observed. The property is located on the corner of Cesar E Chavez and Inglewood Ave. Inglewood does not appear to be highly trafficked, it is one of the two streets

that connect Cesar E Chavez with Durant Ave. All the surrounding property in this immediate area is zoned M-1, Limited Industrial District.

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

Appears to meet this standard – Inglewood does not appear to be a heavily traveled street. Although the proposed building addition encroaches into this side setback, it does not appear that the proposed encroachment would impair public health, safety, comfort, morals, or welfare of the inhabitants of the City.

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

Meets this Standard – On May 7, 2014, the Planning Commission granted the applicant with Site Plan and Special Exception permit approval.

RECOMMENDATION: To approve the proposed variance request (ZBA-14-08) for Heat Treating Services to reduce the required side street setback from 15 feet to 5 feet as the request appears to meet the criteria for practical difficulty described in Section 6.407 of the Zoning Ordinance.

Ken Van Tine, 235 North Main St, Northville, architect for the project, Ken Rograde, 13 Hollow Pine Dr. were present. Mr. Van Tine clarified that they were limited to placing the addition to the north side of the building and the reason for the variance request was to enable trucks to enter with massive equipment for expansion.

CHAIRMAN TODD DECLARED PUBLIC HEARING OPEN.

Terry, 655 Inglewood inquired whether the company would be interested in purchasing the properties across the street from the facility on Inglewood Ave.

The applicant stated they are very interested in purchasing the properties for the right price and stated they have been in communication with the neighbors regarding their property.

CHAIRMAN TODD DECLARED PUBLIC HEARING CLOSED.

COMM. SINCLAIR MADE A MOTION TO APPROVE THE PROPOSED VARIANCE REQUEST (ZBA-14-08) FOR HEAT TREATING SERVICES TO REDUCE THE REQUIRED SETBACK FROM 15 FEET TO 5 FEET AS THE REQUEST APPEARS TO MEET THE CRITERIA FOR PRACTICAL DIFFICULTY DESCRIBED IN SECTION 6.407 OF THE ZONING ORDINANCE.

COMM. HOLLIS SUPPORTED.

CHAIRMAN TODD: Roll call please.

VOTE: AYES: Sinclair, Hollis, Anderson, Kirkendolph, Taylor, Carrington,
Chairman Todd.

NAYS: None.

ABSTAIN: None.

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

PUBLIC HEARING NUMBER: ZBA-13-16 DIMENSIONAL VARIANCE

Finding of facts presented by Mr. Bowdell.

Property Description: 69 E. Walton Blvd.; Parcel Number:14-08-455-037
Applicant – AutoZone / Brian Siddall
Owner – AutoZone Stores, Inc.

Dimensional Variance Request:

Section 5.105(C)(d) – Building Mounted Signs C-1, C-3, and C-4 districts: 2 square feet per lineal foot of ground floor frontage or 100 square feet, whichever is less. Buildings or uses with more than one street frontage may have additional wall signs with an area equal to 50 percent of that permitted in the primary frontage.

Section 5.108(A)(3) – Non Conforming Signs: Signs existing at the time of enactment of this ordinance and non-conforming provisions, but which were constructed in compliance with previous regulations shall be regarded as legal nonconforming signs and may continue to exist when maintained in good condition, but may not be:

1. Changed to a different nonconforming use unless such different use is found by the board of appeals appointed and acting under this ordinance, as amended, to be no more detrimental than the previous use.
2. Re-established after discontinuance for more than 12 months.
3. Extended, enlarged, relocated, or structurally altered.

Variance requested: structurally alter a non-conforming pole sign.

Claimed Practical Difficulty:

The applicant stated:

Section 5.105(C)(d) – Building Mounted Signs

“Due to the nature of the property, the building is turned so that the main entry doors are facing East away from the main street. This results in there not being a sign above the entry doors. The rear sign is being requested due to the fact that the building is very close to the street and a rear wall sign will provide good branding visibility to our store. This is obviously the least important of the three signs. The street facing sign and the sign facing the parking lot (above the entry) are the most important. We believe they are crucial to business.”

Section 5.108(A)(3) – Non Conforming Signs

“AutoZone has planned to simply reface the existing pylon sign at this site but when we went to survey the sign, we found someone had removed the sign cabinet from the pylon pole. This results in a hardship that we did not create. We propose that e install a sign cabinet on the still existing pylon pole that is smaller in size and shorter in height than the previous sign. We estimate the previous sign to be about 8 ft x 12 ft and also approx. 30 feet in height. We are proposing a 5 x 8 sign at 22 feet in height.”

Staff Findings:

1. The property is zoned C-3, Corridor Commercial Mixed Use district.
2. According to Section 5.105(C)(d), one building mounted sign is permitted with a maximum area of 100 sq. ft.
3. The existing building and approved building addition encroach into the front setback requirement.
4. The entry of the building is to the east of the property, adjacent to the parking lot.
5. The previous occupant (Blockbuster) had an existing pole sign. Applicant is seeking to reuse/structurally alter this pole sign.

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.

Practical Difficulty – A nonuse variance shall not be granted unless the Zoning Board of Appeals finds that there is a practical difficulty in the way of carrying out the strict letter of this ordinance. In determining whether a practical difficulty exists, the Zoning Board of Appeals must find that:

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.

Building Mounted Sign: Meets this standard - Although the provisions of the Zoning Ordinance do not prevent the owner from using the property for a permitted use, the location of the entry doors and the building encroachment into the front setback appears to be burdensome to the applicant for business visibility.

Pole Sign: May/May not meet this standard – The pole sign is non-conforming and the applicant could construct a ground sign in the same location of the previous pole sign. However, it may be unnecessarily burdensome to the applicant to remove the existing pole sign to construct the ground sign.

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/May not meet this standard – Although it appears that additional signage should be provided due to the unique circumstances of the property, it does appear that 3 building mounted signs and a pole sign is excessive for the site. A lesser variance of two additional building mounted signs and a ground sign (no pole sign) or one additional building mounted sign and a pole sign appears to be more appropriate.

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

Meets this standard – The property is unique as the parking lot and entry doors are to the east of the building and the building encroaches into the front setback requirement, which appears to create a hardship with visibility and occupancy of the site.

4. The problem is not self-created.

Meets this standard – There are unique circumstances at the site that appear to conflict with the visibility of the site. However, it appears the requested sign variances are excessive and a lesser variance would be more appropriate.

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

May meet this standard – The intent of the sign ordinance is to regulate outdoor signs to enhance aesthetics within the city, as well as to enhance traffic safety. The proposed wall signs and pole signs do not appear to detract from the aesthetics of the building or surrounding area; and appear to be necessary for traffic visibility on Walton Blvd. Although it appears that some type of variance should be granted, the planning department believes a lesser variance would provide the applicant with substantial justice.

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

Meets this standard

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

Not Applicable

RECOMMENDATION:

To approve a lesser variance for Section 5.105(C)(d) for one additional building mounted sign with an area of 54.31 sq. ft. and a variance for Section 5.108(A)(3) to allow the applicant to structurally alter the non-conforming pole sign to reconstruct a 22 ft. tall pole sign with a 5'2" x 8' sign cabinet.

Or

To approve the variance request for Section 5.105(C)(d) for two additional building mounted sign with an area of 54.31 sq. ft. each and deny the proposed variance from Section 5.108(A)(3).

Brian Siddall, 123 South Front St, Memphis, AutoZone commented on the thoroughness of the report given by Mr. Bowdell. The applicant states that the first recommendation of the report is best fit for AutoZone but leaves it to the discretion of the Board. Upon inspection of the property, the applicant states that the additional signage for the rear wall sign is excessive because of two large trees blocking its visibility but the sign facing the street, the sign above the entrance facing the parking lot and the pylon sign are crucial to the vitality of the business.

CHAIRMAN TODD DECLARED PUBLIC HEARING OPEN.

None.

CHAIRMAN TODD DECLARED PUBLIC HEARING CLOSED.

COMM. TAYLOR MADE A MOTION TO APPROVE A LESSER VARIANCE FOR SECTION 5.105(C)(d) FOR ONE ADDITIONAL BUILDING MOUNTED SIGN WITH AN AREA OF 54.31 SQ. FT. AND A VARIANCE FOR SECTION 5.108 (A)(3) TO ALLOW AUTOZONE (ZBA-14-09) TO STRUCTURALLY ALTER THE NON-CONFORMING POLE SIGN TO RECONSTRUCT A 22 FT. TALL POLE SIGN WITH A 5'2" X 8' SIGN CABINET. COMM. CARRINGTON SUPPORTED.

VOTE: AYES: Sinclair, Hollis, Anderson, Kirkendolph, Taylor, Carrington, Chairman Todd.

NAYS: None.

ABSTAIN: None.

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

PUBLIC COMMENT: None.

MISCELLANEOUS: Commissioner Sinclair apologized for his absence at last month's meeting.

ADJOURNMENT: MOVED BY COMM. HOLLIS TO ADJOURN.

COMM. TAYLOR SUPPORTED.

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

7:31 p.m.