

**BOARD OF ZONING APPEALS
MEETING
APRIL 24, 2007**

MEMBERS PRESENT: Lynne Matthews, Chairman
Henry Bauman, David Brower, Brian Duffy,
Randy Fassett, Richard Kilmer, James McClary

OTHERS PRESENT: Teri Tubbs, Zoning Official
Lisa Hannon, Zoning Coordinator
Al Benkner, Ed Wotitzky

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting - May 22, 2007
- C. Last Scheduled Meeting - March 27, 2007

APPROVAL OF MINUTES

- A. Meeting of March 27, 2007
 - Mr. Bauman MOVED, Mr. Duffy SECONDED approval of the March 27, 2007 Minutes.
 - MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

- A. Public Hearing
 - Recording Secretary Kelly swore in all participants.
 - 1. V-02-07 - 212 West Virginia Avenue - Grant a variance to the Land Development Regulations (LDRs) per Section 11.4(d)(7), Page 26-124, of the City Code to allow a new ground sign that is 69.36 square feet in area, instead of 16 square feet in area as permitted, and is 9.67 feet in height, instead of a maximum of 5 feet in height, as permitted by City Code, to be installed in the front parking lot of the commercial building located at 212 West Virginia Avenue.
 - Ms. Teri Tubbs, Zoning Official, displayed an overhead of the site location, as delineated in the agenda material, stating a proposed restaurant with a zero lot line setback had been approved for the vacant lots to the northeast, thus increasing the difficulty in advertising businesses within the subject building. She noted the building was constructed in 1979 and was set back from the fronting right-of-ways (ROWS) of West Virginia Avenue and Sullivan Street. She displayed an overhead of the original ground sign which had sustained significant damage in the hurricane and had been removed, stating the structure had been built to the then-in-effect Code in 1979, which actually encouraged this type of signage. She advised a hardship had been placed on the property owner because of that fact. She confirmed the granting of this variance

would not be detrimental to the adjacent properties or to the district's character. She pointed out the proposed sign location was the same as for the previous sign, with a parking stall on one side and a driveway on the other, providing the basis for the request for increased height to be visible above vehicles. She mentioned the proposed sign incorporated the architectural style of the building. She concluded the application met the criteria required for a variance, adding approval of the variance would allow permanent signage for businesses in the building. She announced staff's recommendation for approval of V-02-07.

- Mr. Fassett clarified the proposed sign was in lieu of the signs attached to the building.
- Ms. Tubbs agreed with the exception of small, directional, internal signs.
- Mr. Fassett asked if the sign was lighted.
- Ms. Tubbs replied it was not.
- Mr. Kilmer commented Section 11.4(d)(7) spoke to setbacks of 15 feet or more, questioning the need for a variance.
- Ms. Tubbs replied the ordinance more contemplated a single business while the subject location housed several businesses. She explained it would be difficult to obtain adequate signage, visible above the height of vehicles, for five businesses within 16 square feet.
- Mr. Kilmer questioned the basis for the decision to go to 69 square feet, noting the significant difference from the 9 feet allowed by Code.
- Ms. Tubbs replied the actual lettered portion of the sign was 5' x 8', adding the 69 square foot measurement began 1 foot from grade.
- Mr. Duffy commented this building was constructed in 1979 when it was desirable to have buildings constructed back from the street, noting the opposite was true at this time.
- Ms. Tubbs agreed, stating signage would address that issue.
- Mr. McClary clarified the former sign was 12 feet in height.
- Mr. Al Benkner, applicant, pointed out the proposed sign was actually reduced in height but still adequate for business purposes. He noted the building sat back 90 feet from the center of the road as required by City Code in 1979.
- Mr. McClary opined the proposed sign was more attractive.
- Ms. Matthews asked if the sign would be installed up to the sidewalk.
- Mr. Benkner replied affirmatively.
- Ms. Matthews asked what type of restaurant/structure would be constructed adjacent to this building.

- Ms. Tubbs replied the restaurant was the new location for The Perfect Caper and would have a zero lot line.
- Mr. Fassett noted the proposed sign was only one square foot larger than a sheet of plywood, stating he believed same was acceptable.
- Mr. Kilmer confirmed all the temporary sign banners would be removed. He clarified the individual businesses would be identified on their doors, adding a small directory sign would be placed against the building near the stairs.
- Mr. Brower questioned the occupancy rate of the building.
- Mr. Benkner replied 100%.
- Mr. Brower asked if the current leases were long term.
- Mr. Benkner replied the leases would be up for negotiation in one year.
- Mr. Brower asked if the rent was at or below market.
- Mr. Benkner replied rents were currently below market as they had been negotiated six years prior; however, he would try to keep rental rates under market.
- Mr. Brower asked if any of the tenants indicated they would not renew if adequate signage was not provided.
- Mr. Benkner replied affirmatively for all of the tenants.
- Mr. Brower questioned the types of businesses renting at this time.
- Mr. Benkner replied primarily office use, with one retail on the second floor. He noted the previous sign was not totally destroyed in Hurricane Charley; however, the City had requested permission to remove same when another hurricane threatened the area. He stated he had not been advised he would not be permitted to replace the sign.
- Ms. Tubbs explained the previous City Code prior to that adopted in April 2005 did not permit ground signs in the former Commercial Business District (CBD).
- Mr. Brower asked if there was an amortization schedule in the new sign ordinance requiring removal of a non-conforming sign within a specific period of time.
- Ms. Tubbs replied affirmatively for both the previous as well as existing Code; however, it had never been tested. She explained Article 17 required signs which were more than 50% damaged to be removed and brought into conformity.
- Mr. Ed Wotitzky, applicant's attorney, commented construction of the adjacent restaurant would hide the building and any signage allowed as a matter of right. He requested a favorable recommendation to City Council.
- Mr. Fassett MOVED, Mr. Kilmer SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Mr. Fassett MOVED, Mr. Bauman SECONDED to recommend approval of V-02-07 based upon the evidence and testimony presented. MOTION CARRIED UNANIMOUSLY.

ADJOURNMENT

- Meeting Adjourned: 4:28 p.m.

Lynne Matthews, Chairman

Mary Kelly, Recording Secretary