

June 28, 2018

The Ellettsville, Indiana, Board of Zoning Appeals met on Thursday, June 28, 2018, at Ellettsville Town Hall. Terry Baker called the meeting to order at 6:00 p.m. and Pat Wesolowski led the Pledge of Allegiance.

Roll Call: Members present were Terry Baker, President; Russ Ryle, Vice President; Todd Lare and Pat Wesolowski. Fred Baugh was absent.

Approval of Minutes

Terry Baker entertained a motion for approval of the minutes for the meeting on May 24, 2018. Russ Ryle so moved. Todd Lare seconded. Motion carried.

New Business

Request for a Variance from Development Standards to Allow an Additional 32 ft² of Freestanding Signage, 5560 W. State Road 46 (Domino's Pizza); Petitioner: Custom Sign and Engineering, Inc.; Case No. BZA2018-03

Kevin Tolloty, Planning Director, explained the Petitioner requested a variance to add a 32 ft² manual reader board to the current freestanding sign. Current sign is 78 ft². Town Code allows freestanding signs up to 80 ft². Property is zoned Commercial 3. Staff recommended the variance be denied. If the Board of Zoning Appeals ("BZA") does not approve the request, it must state which of the following criteria were not met:

1. It will not be injurious to the public health, safety, morals, and general welfare of the community.
2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
3. The strict application of the terms of the zoning ordinance will not result in practical difficulties in the use of the property.
4. Approval does not interfere substantially in compliance with the existing comprehensive plan.
5. Approval is not based solely on financial hardship or mere convenience.
6. The approval is in conformance with all other Town ordinances.

Staff recommended denial of the variance because of the criteria for practical difficulty. Practical difficulty implies there are unique conditions to the property which are not found in this case. Strict compliance that would prevent the landowner from using the property for a permitted use does not apply in this case. The particular request for a lesser relaxation of the ordinance standard that would provide substantial justice to the landowner is not an issue. The fourth consideration, the need for the variance not being the result of self-created actions by the current/former property owner is not necessarily the case with this petition.

The need for this variance is entirely due to the installation of a new sign. Petitioner could've used the existing sign or a smaller sign. Petitioner is in compliance with Town ordinances for the time being. However, Petitioner did attempt to install the first sign without a permit and ran afoul of the sign code by putting up banners without a permit. The pole used by the previous tenant is being utilized for Petitioner's sign. The sign used by the previous business was a legal non-conforming sign that could've been used by flipping the panels. Then, Petitioner would have been able to keep his reader board with the excess square footage. Petitioner removed the reader board and cabinet. Once any portion of a legal non-conforming sign is removed then it loses that status and has to be brought up to code.

Pat Wesolowski asked if the reader board will be 8' x 4'. Mr. Tolloty answered yes. Mr. Ryle stated although the other signs along State Road 46 were erected before the current sign code, are they in compliance? Mr. Tolloty answered based on looking at them, they are. Mr. Ryle commented the first criteria states approval will/will not be injurious to public health, safety, morals and the general welfare of the community. He doesn't want to see a sign war. If someone gets a bigger sign, then another business will want a larger one. Granting this request would be injurious to public welfare because they're going to ignite a sign war. He doesn't think they want people trying to read sign boards while in the heavy traffic on State Road 46. Granting this application would be injurious to the public health. Mr. Wesolowski asked if the request is granted and another business wanted the same sign, would they have to come before the BZA. Mr. Tolloty answered yes. Mr. Wesolowski thinks businesses who come into the community have to make a living and the Town should do whatever it can to help them. He spoke with seven people and they did not know whether or not Dominos was open because there are no signs. The Town needs to help businesses to survive but he does not approve of gaudy signs. The request should be granted. Mr. Tolloty advised the Petitioner was made aware they could've used the prior sign that was allowed by Town Code. If this variance is granted then other businesses will request the same. Mr. Wesolowski would vote yes if it is for the betterment of the business.

Terry Baker disagrees and thinks you need to take everyone else in consideration. Dominos knew the regulations and it was their decision to only put their logo on the sign. They could have had a smaller logo sign and the reader board. Mr. Wesolowski added they could have kept the prior sign which was okay. There was a lengthy discussion on Long John Silvers, Food Truck Wednesday, Jiffy Treet and produce signs. Mr. Lare asked if the Petitioner was made aware of the sign code before the sign was installed and why they were here.

Scott Eppers, Custom Sign & Engineering, Inc., explained when they first started signage for Domino's they contacted the City of Bloomington Planning Department because it is a Bloomington address. They were told a permit was not required by them. They were never told to contact the Town of Ellettsville. They were in the process of putting up the logo sign and were stopped until they obtained a permit. The prior sign board was removed by Long John Silvers. Mr. Tolloty had a conversation with someone about their options before the sign board was removed so they were aware of it. They applied for the sign permit but was told the square footage was too large according to Town Code. The reader board was destroyed when they removed it. They put the sign up then filed for the variance. There was a lengthy discussion on Long John Silvers and Domino's signs, reader boards and the permit process. Mr. Ryle asked the dimension of the Domino on the sign. Mr. Eppers

answered it is 6'4" x 12'5". Mr. Ryle asked if 5' x 10' is the industry standard for reader boards. Mr. Eppers replied it is larger than the industry standard which is 4' x 8'.

Mike Harding, Owner of Domino's, has three Domino's stores. He spent \$1 Million to renovate this location. Mr. Wesolowski asked if the reader board needed to be so large. Mr. Harding doesn't think so but it seems it would fit okay. Mr. Eppers thinks it would look proportionate. The square footage is considerably less than what was there previously. This would be a hardship for Domino's. Mr. Harding added the sign would be used for community messages. He lives and works in Bloomington and is heavily active in all aspects of the community. Mr. Wesolowski asked the smallest sign they would agree to. Mr. Eppers explained the maximum reading distance is 400'. The sign would have 8" letters but if a smaller reader board would have to be 6" with a maximum reading distance of 300'. There are several lanes of traffic and they want to be effective. Mr. Wesolowski reiterated he is for the business but a 4' x 8' is a large sign to add to it. Mr. Eppers suggested a 3' x 8' reader board would be 24 ft² so they would be 22 ft² over what's permitted by Town Code.

Terry Baker entertained a motion. Pat Wesolowski made a motion to accept the variance with the stipulation that it be reduced to 3' x 8' for Case No. BZA2018-03. Todd Lare seconded. Roll call vote: Terry Baker – no; Russ Ryle – no; Todd Lare – yes; and Pat Wesolowski – yes. Motion failed, 2-2.

Russ Ryle made a motion to table. Pat Wesolowski seconded. Motion carried.

The next BZA meeting was scheduled for July 26, 2018, beginning at 6:00 p.m.

Scott Eppers asked what would be pleasing to the BZA. Mr. Ryle's concern is broader than their specific situation. Every time a requirement is waived the Town ends up having a perpetual problem. Can you put up a smaller Domino? Mr. Harding answered he could but it cost \$30,000 to get a new logo. He would rather keep the Domino and roll with the punches on the reader board. Then, the \$30,000 could be put back into the community. Mr. Eppers asked if another Long John Silvers closed could the logo go on that sign. Mr. Ryle calculated it would put the sign at 112 ft² while the code allows 80 ft². There was a discussion on banner requirements. Mr. Tolloty asked if they wanted a reader board why didn't they have a smaller Domino. Mr. Eppers answered it was already built. There was a discussion on jurisdictions. Mr. Tolloty explained the sign code is to prevent large signs on the State Road 46 corridor. The reason behind a variance is that Ellettsville's Code somehow prohibits you from doing something you would otherwise normally be allowed to do. In this case he doesn't see a variance is needed. There was a discussion on the appropriate size letters for drivers to read and increased traffic on State Road 46.

Schedule Monthly Meeting Dates

Kevin Tolloty, Planning Director, would like to schedule monthly meeting dates in 2019 for the BZA. If something would have to go to the Plan Commission, the second Tuesday or Wednesday of the month would work best. It was decided BZA meetings would be held on the second Wednesday of the month in 2019.

Adjournment

Board of Zoning Appeals, June 28, 2018

Terry Baker entertained a motion to adjourn. Pat Wesolowski made a motion to adjourn. Russ Ryle seconded. Motion carried. Meeting adjourned at 6:47 p.m.

Terry Baker, President

Fred Baugh

Todd Lare

Pat Wesolowski

Russ Ryle

Denise Line, Secretary