

**VILLAGE OF YELLOW SPRINGS  
BOARD OF ZONING APPEALS  
MINUTES**

**IN COUNCIL CHAMBERS @ 7:00 P.M.**

**Wednesday, May 11, 2016**

**CALL TO ORDER**

The meeting was called to order at 7:00 p.m. by Ted Donnell, Chair.

**ROLL CALL**

Ted Donnell, Chair, Steve Conn, Kingsley Perry, Ellis Jacobs and Alternate Dan Reyes were present, as was the Zoning Administrator for the Village, Denise Swinger.

**REVIEW OF AGENDA**

There were no changes made to the agenda.

**REVIEW OF MINUTES**

Minutes for BZA Meeting of June 10, 2015. Perry MOVED and Conn SECONDED a MOTION TO APPROVE THE MINUTES AS WRITTEN. The MOTION PASSED 3-0 on a voice vote.

Minutes for BZA Meeting of October 28, 2014. Conn MOVED and Reyes SECONDED a MOTION TO APPROVE THE MINUTES AS WRITTEN. The MOTION PASSED 5-0 on a voice vote.

**PUBLIC HEARINGS**

Application from Select Signs for a variance seeking relief from the permitted signs requirement at 888 Dayton Street, a PUD Zoning District and Gateway Overlay District.

LOCATION: 888 Dayton Street

ZONING DISTRICT: PUD & Gateway Overlay District

APPLICANT: Select Signs Company

PROPERTY OWNER: Dayton Mailing Services, Inc.

REQUESTED ACTION: Request for a variance to the number of signs allowed on the property.

GREENE CO. PARCEL ID: #F19000100030001200, F19000100030001400, F19000100030001500.

Donnell RECUSED HIMSELF from the Board, stating that he will be representing DMS with regard to the hearing.

Steve Conn assumed the Chair, and OPENED THE VARIANCE HEARING.

Ken Soward, Executive Vice President for Dayton Mailing Service stated that DMS has contracted with Select Signs to provide signage to the building at 888 Dayton Street. He noted the difficulty of providing signage given the diversity of businesses and the multiple entrances.

Swinger then introduced the discussion by noting that within business and industrial districts the code currently permits three total and two types of sign.

Swinger noted exempted signs. She noted that the property is a PUD, stating that Section 1254.03 of the PUD Requirements states "any use permitted by right or conditional approval in any zoning district may be permitted within a PUD" and "In the case of a mix of uses, the zoning requirements applicable to each use category shall apply to that use." This property is also in a Gateway Overlay District, but there are no additional allowances or restrictions for signs beyond the requirements of Chapter 1266.

Swinger tallied the current signs at 888 Dayton Street, including temporary signs, commenting that the number exceeds the permitted number by one sign.

In 1266.05 Permitted Signs - it states "In any B or I district, a maximum of two types of signs and three total signs per principal building shall be permitted on any lot, regardless of the number of tenants." However, the code doesn't clearly differentiate between "permitted" signs and "signs exempt from a permit" when it comes to the total number of signs allowed per principal building on any lot. Swinger explained that Planning Commission is finalizing revisions to the zoning code and intends to add the word "permitted" so it will read "types of permitted signs" and "total permitted signs" to clarify this.

In the "Signs Exempt from a Permit" section of the zoning code some of the signs have certain requirements regarding the number allowed, but others do not. For example, there is no limit to the number of directional signs, but only two incidental signs per business are allowed.

The Clerk read in the proposed change to the zoning code proposed by Planning Commission as follows: "In the case of a multi-tenant building where the maximum number of permitted signs has been reached, one additional sign per tenant shall be permitted."

Swinger noted that the earliest this might go into effect would be the end of July.

Swinger suggested that BZA go beyond what Select Signs is requesting, given that, for example, Dr. Gronbeck's office needs signage as well, which would then be in excess of the current requested limit.

Swinger described the existing and proposed signs, providing photos.

Ted Donnell spoke, noting that he was the architect at the time the building was purchased from Antioch Bookplate. The intent at the time, he stated, was to brand the building as a multi-tenant structure with a common (888 Dayton Street) entry point. Tenant identification would then have occurred interior to the building. When DMS purchased the building, the PUD stayed in place, and the multiple tenants stayed in place, but the entries are now exterior and require exterior signage.

Donnell recommended that the Board approve signage for each tenant with an exterior exposure to the building.

Donald Gronbeck, tenant of the building, spoke to the difficulty posed by signage in terms of customer confusion. He stated that he would like a sign where his temporary sign sits currently, as well as an indicator on the ground sign for 888 Dayton Street and a wall sign.

Conn referenced a map marked with four entry points, noting that these are entrance points for different businesses.

Conn received clarification that the request does not involve size variance; only the number of signs.

Jacobs noted that Donnell's proposal allows for flexibility, since it gives a sign per tenant.

Conn brought up the concern regarding an upper limit for the number of signs.

Reyes brought up the case of other multi-tenant buildings and wondered how a BZA decision might affect those structures.

Jacobs received clarification that the Planning Commission proposal does not set an upper limit on the number of signs.

Swinger responded to a concern raised by Reyes, stating that while the existing "traffic control" sign is above the height regulation, it is grandfathered in.

Donnell reminded BZA that 888 Dayton Street is a PUD, and can therefore receive conditions which would not then apply to another zoning area.

BZA considered the notion of framing the language around entry points rather than around the number of tenants.

Reyes suggested acting only on the application at hand with the addition of Dr. Gronbeck's requested signs.

In response to a suggestion from Conn, Swinger noted that directional signs can only identify by logo.

Swinger suggested a ground sign for each entry point (there are six).

Tom Cooper of DMS noted that there are now seven tenants, but that they share some entry points.

Conn noted that BZA could now permit as many as seven wall signs, given the current number of tenants.

Swinger restated, commenting that it would be four perimeter signs. Conn corrected that it would be five perimeter signs and seven wall signs.

The Clerk suggested whether given the flexibility within a PUD, BZA could permit a business name in lieu of a logo to solve Dr. Gronbeck's directional sign dilemma.

Working together, BZA and Swinger crafted the language for the variance.

Conn MOVED to GRANT THE VARIANCE REQUEST AS FOLLOWS: Within the 888 Dayton Street PUD, up to FIVE ground signs and up to ONE wall sign PER business/tenant shall be permitted. Additionally, exempted directional signs within the PUD may contain EITHER business name OR logo.

Perry SECONDED.

The Clerk read the variance standards and Conn called the votes as follows:

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance; Reyes: Y, Conn: Y, Jacobs: Y, Perry: Y.
  - (2) Whether the variance is substantial; Reyes: N, Conn: N, Jacobs: N, Perry: Y.
  - (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance. Reyes: N, Conn: N, Jacobs: N, Perry: N.
  - (4) Whether the variance would adversely affect the delivery of governmental services such as water distribution, sanitary sewer collection, electric distribution, storm water collection, or refuse collection. Reyes: N, Conn: N, Jacobs: N, Perry: N.
  - (5) Whether the property owner purchased the property with knowledge of the zoning restriction. Reyes: Y, Conn: Y, Jacobs: Y, Perry: Y.
  - (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance. Reyes: Abstain, Conn: N, Jacobs: N, Perry: N.
  - (7) Whether the existing conditions from which a variance is being sought were self-created. Reyes: Y, Conn: Y, Jacobs: N, Perry: Y.
  - (8) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Reyes: Y, Conn: Y, Jacobs: Y, Perry: Y.
- (b) The Board shall determine, after weighing the factors described above and any other factors the Board deems relevant, whether the property owner has shown practical difficulties so inequitable as to justify granting a variance to the property owner.

Conn CALLED THE VOTE, and the MOTION PASSED 5-0 on a ROLL CALL VOTE.

#### **AGENDA PLANNING**

There was no Agenda Planning.

#### **ADJOURNMENT**

There being no further business, Perry MOVED and Reyes SECONDED a MOTION to adjourn. The MOTION PASSED 4-0. Meeting ADJOURNED at 7:49pm.

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Steven Conn, Acting Chair

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Attest: Judy Kintner, Clerk