

BOARD OF ZONING APPEALS MEETING  
SEPTEMBER 16, 2014  
7:00 P.M.

I CALL MEETING TO ORDER

The meeting was called to order at 7:00 p.m.

II ROLL CALL

Members Present: Carolyn Ghantous, Robert Weidlich, Lawrence Hawkins III, Jane Huber, Ed Knox, Dave Nienaber and Joe Ramirez

Others Present: Randy Campion, Building Inspector

III PLEDGE OF ALLEGIANCE

IV MINUTES OF THE REGULAR MEETING OF AUGUST 19, 2014

Chairman Weidlich: Board Members, we have our Minutes from the August 19, 2014 Board of Zoning Appeals meeting. Does anyone have any additions or corrections?

Mrs. Huber: I move to adopt, as written.

(Mrs. Ghantous seconded the motion and with a unanimous "aye" vote from the Board of Zoning Appeals Members, the Minutes of the August 19, 2014 meeting were approved.)

V CORRESPONDENCE

Chairman Weidlich: We have no correspondence.

VI REPORT ON COUNCIL

(Mr. Hawkins gave a summary report of the September 3, 2014 City of Springdale Council Meeting.)

Mrs. Huber: Mr. Hawkins, when did Council approve the aggregation?

Mr. Hawkins: I believe we approved the aggregation in our August meeting. I think most folks have found that the aggregation program that the City has, ends up being a very good deal. Obviously if someone wants to do something different they can. You should also note that if you do go into a different program and you change your mind later, there may be fees and costs for terminating that program early.

Mr. Knox: Given the various requirements that the State has laid upon us, it will probably be the middle of November before the new rates take effect.

VII REPORT ON PLANNING COMMISSION

(Mrs. Ghantous gave a summary report of the September 9, 2014 Planning Commission Meeting.)

VIII CHAIRMAN'S STATEMENT AND SWEARING IN OF APPLICANTS

IX OLD BUSINESS

(No Old Business presented at this meeting.)

X NEW BUSINESS

- A. Chairman Weidlich: The first order of business this evening is the owner of 989 Ledro Street is requesting a variance to allow a garage conversion to remain. Said variance is from Section 153.105(B) "A single two-car garage and related parking area is required..." Would the representative for 989 Ledro Street please come to the podium?

Mr. Dan O'Neill: I live at 989 Ledro Street with my wife Sheri. We have lived there since 1970. I have come before the Board requesting a variance as stated, hoping that my previous garage conversion to living / storage space will be approved under a variance.

(At this time Mr. Campion read the Staff comments.)

Chairman Weidlich: Is there anyone in the audience that would like to speak on behalf of this application?

(No one came forward to speak to this request and the public portion of the hearing was closed.)

Mr. Knox: I note on the diagram that you submitted that there are two exits, something that I am very much interested in for safety purposes; however, one of the exits goes toward the garage door. Can you manually open that door if the electricity fails?

Mr. Dan O'Neill: The door is an interior door that you open with a handle and that exits into the storage space and then the garage door comes open manually.

Mr. Knox: As long as you have two exits, it makes me happy.

Mr. Dan O'Neill: Yes, two exits.

Mrs. Huber: I would like to compliment you on your lovely property; beautiful. We must have had, when Heritage Hill was developed, a developer who wanted to utilize every square inch whether it was to code or not. I have been here all of my life but I can't remember if we were under County Building at the time that was built, or not. I have no problem with what you have.

Mr. Ramirez: I also commend you on the property and the upkeep of the property. I will be in favor of this and the reason being, the unusual landscape and the unusual side of the yard, it looks like you don't have any room to move to an expansion in the backyard. I will be voting positive.

Chairman Weidlich: I would like to reiterate what Mr. Ramirez said, a corner lot is a difficult piece of property the way that they situate houses, so I will be supporting your request also. If there is nothing else, could we have a motion please?

Mrs. Huber: I move to grant a variance to Section 153.105(B) "A single two-car garage and related parking area is required..."; so as to allow a garage conversion to remain on property located at 989 Ledro Street.

(Mr. Knox seconded the motion.)

Mr. Hawkins: In terms of deliberation and discussion, I would note for the record that it is a corner lot and there are exceptional circumstances, there is no rear yard space and there is no practical way to add space without needing a variance to the

side or rear yard. The property neighboring the applicant on either side is very close and there is not much space to add onto the property. That being said, I would ask to amend the motion or ask if Mrs. Huber was also including that the applicant is to maintain an operable garage door.

Mrs. Huber: I will alter my previous motion to add that the applicant is to maintain an operable garage door.

(Mrs. Huber called the vote and with a unanimous "aye" vote from the Board of Zoning Appeals Members the request for variance was approved.)

- B. Chairman Weidlich: The next item is the owner of 311 Northland Boulevard is requesting a variance to construct a 3,300 s.f. addition within the 50' rear yard setback. Said variance is from Section 153.252(A) "The minimum rear yard setback for properties in this district shall be 50 feet when abutting a residential district." Would the representative for 311 Northland please come to the podium?

Mr. Kenneth Miller: I am with Furlong Building Enterprises and I have been hired by Servatii to build a freezer on the rear of the building that they just purchased at 311 Northland Boulevard. As we dove into the design of this, we realized that the location of the freezer impeded on the 50' setback requirement that was needed by zoning. Moving the freezer would conflict with his operations on how he needs to manufacture his products, store his products and ship his products. We are requesting a variance to the 50' setback to allow us to place that freezer where we originally intended.

(At this time Mr. Campion read the Staff comments for the Servatii's request.)

Chairman Weidlich: Is there anyone in the audience that would like to speak on behalf of this application?

Mr. Gary Gottenbusch: I am the owner of this Servatii Pastry Shop and I didn't want to come before the Board to ask for variance, I just wasn't aware of the setback. It will look more pleasant than the back of the building currently looks. We appreciate being here and again I didn't want to come back and ask you again for another variance but I was really surprised about the 50 feet, it does about a parking lot obviously, and I saw no windows from any apartments facing the back of the building. It will be white and clean and well maintained.

Chairman Weidlich: Is there anyone else in the audience that would like to speak on behalf of this application?

(No one else from the audience came forward and this public portion of the hearing was closed.)

Mr. Hawkins: When you went to Planning Commission did you have any discussion with regard to the buffer yard requirements that were discussed by Staff?

Mr. Kenneth Miller: Items A, B, and C, referring to the plantings? No, we didn't. We are o.k. with any of those that need to be done to satisfy the requirements.

Mr. Hawkins: O.K.

Mr. Knox: Mr. Campion, if these gentlemen plant 3' high bushes on the top of that berm, given that path that seems to be quite well worn, do you think any of those bushes will last? I am questioning whether they really need to put bushes on top of that because backing onto a parking lot, there will be no light or anything coming from it anyway, do they really need that?

Mr. Campion: I think the path is foot traffic from the Colony Apartments.

Mr. Knox: Oh yes, I saw somebody come by there as I was looking at the property.

Mr. Campion: I don't know the answer to your question.

Mrs. Huber: Sir, would you be able to do as the Building Department has asked and replace the dead tree?

Mr. Gary Gottenbusch: Absolutely, we will replace the dead tree and we have maintained the property as we have been working on the interior, as well. So far, I think there have been no complaints about grass cutting or paint or anything. I wasn't aware of the tree because I usually don't go behind the building, but I will now. I like trees.

Mrs. Huber: Is Servatii taking that whole building?

Mr. Gary Gottenbusch: Yes.

Mrs. Huber: That is good for Springdale.

Mr. Gary Gottenbusch: We are happy to be here. My father started fifty years ago in Hyde Park and my brother and I actually purchased the building and we are going to continue working in this location producing cookies and pretzels, our primary manufacturing is in this building.

Mr. Hawkins: I will note for the record that it appears that the variance is not substantial and the proposed setback is about 85% of the required setback, also it appears that there aren't any apartments directly facing this building.

Chairman Weidlich: If there is nothing further, can we have a motion?

Mr. Hawkins: I move to grant a variance for the owner of 311 Northland Boulevard to construct a 3,300 s.f. addition within the 50' rear yard setback. Said variance is from Section 153.252(A) "The minimum rear yard setback for properties in this district shall be 50 feet when abutting a residential district" and the applicant shall also comply with the buffer yard requirements of Section 153.608.

(Mrs. Ghantous seconded the motion and with no further deliberation or amendments to the motion, the Board of Zoning Appeals voted 7-0 in favor of granting the variance.)

- C. Chairman Weidlich: The next item, we have been asked by the owner because he was not able to be here this evening, to continue this. The owner of 246 Balsam Court is requesting a variance to allow a garage to be converted to living space. Said variance is from Section 153.105(B) "A single two-car garage and related parking area is required." Since we have been asked to continue this, Board Members would someone like to make a motion?

Mrs. Huber: So moved to table.

(Mr. Knox seconded the motion to table this item until the next Board of Zoning Appeals meeting and with seven "aye" votes the motion was approved.)

- D. Chairman Weidlich: The owner of 11535 Jake Sweeney Place is requesting a variance to allow a 0' side yard setback and total sign area of 416 s.f. Said variances are from Section 153.221(A) "The minimum side yard setback...shall be 12' " and from Section 153.531(C)(1)(b) "General Business...: Maximum gross area of signs =  $(W \times 1.5) + 40$  square feet."

Mr. Scott Csendes: I am with KZF Design, representing Jake Sweeney. (At this time, Mr. Csendes gave a packet of information to each of the Board of Zoning Appeals Members.) Mr. Sweeney and Sweeney BMW are proposing an approximately 4,800 s.f. addition to the front edge of the existing BMW building and it is part of BMW's 2016 program, it will be one of the first dealerships in the state and I believe the third in the country that is on the cutting edge of this new product. It involves expanding the showroom as well as expanding the existing

service drop-off area which is currently on the right side, as you face the building from Jake Sweeney Place. It will include significant improvements to the interior as well as the exterior of the building. We are requesting a variance for additional building signage, approximately 52 s.f. over what the current variance that is on record permits. We are also requesting a setback reduction on a portion of the north side of the building to 0', a length of about 20' and that is a kind of unique situation that I will explain in a second. Part of Sweeney's plan here, we have the certified pre-owned store on the property to the north of us; we have the BMW store located second lot in from Kemper Road and as was mentioned we received last month, conditional approval to go and modify the former Delhi site where there is a retention pond and that old ugly pre-engineered metal building, we are going to turn that into a car display area for approximately 180 vehicles. The idea is that all along Jake Sweeney Place, that becomes a BMW appearing complex, as a single piece. Now, it is made up of multiple properties, primarily due to business decisions related to Mr. Sweeney and his family. Ideally, from the consumer's eye and the perception, they want to create one continuous piece and one continuous property all related to the BMW brand. The area which the setback issue occurs is where there is a curved wall on the lower building; there is a property line that literally runs right through that curved surface. Somehow, for some reason it encroached onto the adjacent property when it was constructed in 2006 or 2008. It crosses from Sweeney's property onto Sweeney's pre-owned property and reenters the BMW property, as it moves west. Basically, the proposed plan is extending that white rectangular box to the right or to the east to extend the drop off lanes. It is a two-lane drop off and the idea is to continue the two lanes to the east. If we aren't permitted the setback, we won't be able to get two cars into the drop off area, we will have one door. We are trying to extend the existing structure to the east approximately 20'. As for signage, we are proposing signage totaling 188' of pole signage which is basically the existing sign would be reused in its existing condition. Relative to the building signage there is 228 s.f. of building mounted signage proposed, it meets the BMW standards for their dealership as part of this 2016 package, bringing this to 416 s.f. As was mentioned in the Staff comments, a previous variance was approved in 1989 to allow 364 s.f. Essentially the signage package, the signage that we have on the building now is the Jake Sweeney sign on the front of the building. It is an internally illuminated edge-lit sign, there is on the curved portion of BMW a medallion sign, and right now that is pretty much what they have. The new prototype requires them to add a sign indicating that service entrance and they have size standards for it. The signage increase, we are essentially adding the service sign. The Jake Sweeney sign is approximately 44" tall, the signs with the BMW medallion are the same but they sit on a larger white backdrop, the letters are internally illuminated but it just sits on a bigger board as is up there and that is why we have the square footage increased on that. Essentially, the real signage is the same, the border is bigger increasing our square footage on that side and adding the service sign.

(At this time Mr. Campion read the Staff comments for the Jake Sweeney BMW variance request.)

Chairman Weidlich: Is there anyone else in the audience that would like to speak on behalf of this application?

(No one else from the audience came forward and the public portion of the hearing was closed.)

Mr. Hawkins: Has there been any consideration, in regards to Staff comments about reducing the signage of the service doors, so that you are a lot closer to the current variance?

Mr. Scott Csendes: The service sign, as noted in the report, there are two small directional signs there now and that is an issue that they have now, in getting people to the right place. There are a number of functional reasons and they are pretty clear on the reasons that we need to do this.

Mr. Hawkins: With regard to a possible smaller size, what have you looked at in terms of exploration that would be the bare minimum that would be still effective with regards to folks being able to see where they are going?

Mr. Scott Csendes: With the service sign, the area that is totaled up to figure out the square footage is including the panel that it sits on; correct?

Mr. Campion: That is correct.

Mr. Scott Csendes: So, that height of that panel is 3'; I believe the lettering is 24" or 22", so if we shrink the panel down to 16' then we are getting close to the 10'. We are a bit penalized by BMW to have that panel to offset it from the building and have that 3' x 16' area that is white background that is considered signage. The actual sign is somewhere in the neighborhood of under 30 s.f. of actual letters.

Mr. Hawkins: So, you are saying that the letters are 2'?

Mr. Scott Csendes: It is like 2' x 14', when it is all said and done.

Mr. Hawkins: Is there a way to have that paneling cut down, so that you are working with just more of the lettering?

Mr. Scott Csendes: It is all purchased from a standard program of signage that is fabricated and prepped and you buy it off of the shelf, they typically don't do the custom stuff and I am not saying that it is not possible. It certainly could be done but BMW always has their standards. I think the applicant would be willing to pursue an option where we reduce that background size, if that helps.

Mr. Hawkins: It would be nice, you are not getting anything out of the white background panel. On another note, what discussion has there been about joining those two properties into one and I understand that there may be some different issues? Has there been any discussion about making that one whole piece of property?

Mr. Scott Csendes: Yes, when they purchased the Delhi site next door there was a discussion to replat things overall because the lot to the south, on the eastern half of the existing Delhi site, is parking display for the BMW and the thought was to create a property line and make the BMW building absorb that lot and make that front on Northland, where there is currently Sweeney used cars and make that a separate property and then possibly do something with the certified pre-owned side. Their dealership group is a complicated one and it was considered but for reasons that aren't shared with their architect, they elected not to do that.

Mr. Hawkins: So, you are saying that discussion, to your knowledge, is dead and they are not considering that anymore?

Mr. Scott Csendes: Correct, at least not today.

Mr. Hawkins: Is there any other variance that has already been granted with regard to the building, that is already there and how that goes over two lines of property?

Mr. Campion: In relation to what was just discussed, if they combine it then they would only be allowed one pole sign per property, where now they have several. So, you would probably have additional variances that would be required. The setbacks would get rid of some problems. As noted in the comments, he is showing that there is an existing pole sign at the BMW and the variances were granted in 1989 that increased it to 248'.

Mr. Hawkins: But was there any other variances in terms of the setback with regard to the building?

Mr. Campion: No, there is no record of that.

Mr. Knox: We have had situations before on signs, and I am addressing the service sign, right now, how far back from the road is that service sign?

Mr. Scott Csendes: I want to say it is probably around 120' or 130'.

Mr. Knox: One of the things that we are working currently on the Code and one of the things that we will be looking at is allowing bigger signs if they are a greater distance off the road. I would be happier if you could get rid of the excess and leave the sign 2' high and whatever length it is right now.

Mr. Scott Csendes: We are willing to do that. BMW needs to hear that is not permitted and then we would move to the next step.

Mrs. Ghantous: We were able to get some information from Mr. Sweeney at the Planning Commission and he explained how they are at the mercy of BMW in their packaging and there is not really a lot of room for negotiation if you are a BMW dealership. According to what he was saying, you are going to have their sign package, period.

Mr. Scott Csendes: BMW North America has a book that is very thick of all the standards that we need to do, everything down to the tile in the bathrooms and if we want to deviate, we have a donkey-kong process that we need to go through to get it approved. This is part of the 2016 program, so it is very new and on the front edge of what they are doing. Being in that situation, they have zero tolerance for deviation from the standards. Because it is new and they want to set the precedents for the rest of their dealers; once you allow one thing in exception then everybody wants the exception. As much as we would love to do a lot of things, Mr. Sweeney is forced to do it. There are only two BMW dealerships in the area, they are exclusive and part of the reason is that they control these tiny little details so that the experience of buying a luxury car is an exact certain way that they want it do be. From the minute you see the building to driving up to it, to the minute you walk in and sit in the cars, to how the colors are laid out of the cars in the display lot, to all kinds of stuff. Truthfully, his hands are very, very tied. Right now, we are trying to work with them over some of the smallest details and they don't budge. It usually ends up coming out of Mr. Sweeney's pocket and that is part of doing business and he understands that. The fact that it is a new program adds a level to the exclusiveness that this dealer holds to maintain their brand, not only domestically but globally and we don't have a whole lot of ability to push back.

Mr. Ramirez: Below the current BMW sign is some block stick-on lettering, will that maintain and go forward with the new plan?

Mr. Scott Csendes: We actually asked to reuse that sign because it is only 6 years old and if you take a look at their proposed sign, the only difference is that it is on this white background. It is basically plain and has push through type letters that are illuminated at the edge.

Mr. Ramirez: I am speaking of above the door where it has "Jake Sweeney Chevrolet Imports Incorporated", I don't know if that goes against his square footage?

Mr. Scott Csendes: I don't know but we would be happy to take that off. I am pretty sure that is coming off.

Mr. Campion: That would count toward the square footage.

Mr. Hawkins: I would note that the expansion of the property is significant with regard to that size of the property, additional signage would be appropriate. I would also note that it appears the signage for the dealership, specifically from BMW is proprietary in nature and needs to be consistent to be in line with that corporation and that entity's very essence.

Mr. Nienaber: I guess my observation is that it is an international manufacturer and they want to call the tune and to some extent we have to be aware of that. With regard to the signs, the bulk of the signs is a big white space and under other definitions we might consider that part of the wall and only the letters as the sign. Sweeney is kind of bound by a worldwide branding program, so I don't know that they have a lot of sway. With regard to the lot variances, I see it all as a common property ownership and so a property line variance doesn't strike me as that important of an issue.

Chairman Weidlich: If there is nothing else, could we have a motion please?

Mr. Hawkins: I move that a variance be granted to the owner of 11535 Jake Sweeney Place requesting a variance for total sign area of 416 s.f. Said variance is from Section 153.531(C)(1)(b) "General Business...: Maximum gross area of signs = (W x 1.5) + 40 square feet."  
(Seconded by Mr. Nienaber and with a 7-0 "aye" vote from the Board of Zoning Appeals Members the variance for the total sign area was approved.)

Chairman Weidlich: We will move on to a motion for the 0' lot line setback.

Mr. Knox: I move to grant a variance to the owner of 11535 Jake Sweeney Place for a 0' side yard setback. Variance is from Section 153.221(A) " The minimum side yard setback...shall be 12'..."  
(The motion was seconded by Mrs. Ghantous.)

Mr. Nienaber: Do we need to include the direction of the variance?

Mr. Knox: Yes, I would like to include the direction, the north side of the property for the 0' setback.

(Mrs. Huber called the vote and with a 7-0 vote in favor of the variance from the Board of Zoning Appeals, the request was approved.)

## XI DISCUSSION

(No Discussion presented at this meeting.)

## XII ADJOURNMENT

Mr. Hawkins moved to adjourn, Mr. Nienaber seconded the motion and the Board of Zoning Appeals meeting adjourned at 7:59 p.m.

Respectfully submitted,

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Chairman Robert Weidlich

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Secretary Jane Huber