

BOARD OF ZONING APPEALS MEETING
AUGUST 27, 2019
7:00 P.M.

I CALL MEETING TO ORDER

Meeting called to order by Mr. Ramirez

II ROLL CALL

Members Present: Joe Ramirez, Dave Nienaber, Jeffrey Anderson, Robert Weidlich, Carolyn Ghantous, Douglas Stahlgren, Carmen Daniels

Staff Present: Gregg Taylor

III PLEDGE OF ALLEGIANCE

IV MINUTES OF THE REGULAR MEETING OF JULY 23, 2019

Chairman Ramirez: At this time the chair will accept a nomination to approve the minutes from our last meeting.

Mrs. Ghantous: Move to adopt.

Mr. Anderson: Second.

Chairman Ramirez: Moved and second, all in favor by voice vote.

(Minutes were approved with a vote of 6-0 with Mrs. Daniels abstaining.)

Chairman Ramirez: One abstention, Mrs. Daniels was absent.

V CHAIRMAN'S STATEMENT.

Ladies and Gentlemen, this is a Public Hearing, and all testimony given in cases pending before this Board is to be made a part of the public record. All testimony and discussion relative to said variance is recorded, and it is from this recording that our Minutes are taken.

Citizens testifying before this Board are directed to sign in on the clipboard in the rear of the room, take their place at the podium, state their name and addresses and the facts as they are pertinent to the subject before this Board.

As this is a Public Hearing, being sworn in prior to giving testimony is required by law.

At this time, please stand up, raise your right hand and repeat after me:

President Ramirez: If you think you may want to testify make sure that you have signed in at the back. Okay. Raise your right hand and repeat after me:

*I (state your name)
Do solemnly swear
To tell the truth, the whole truth
And nothing but the truth,
So help me God.*

Please be seated. Please be advised that anyone who was not standing and sworn in cannot testify unless they request the Chair to be sworn in as they come up to the podium.

Chairman Ramirez: At this time please remember to turn off or turn down your cell phones or any other communication devices.

VI CORRESPONDENCE

None.

VII REPORTS

Report on Council

Mrs. Ghantous: Thank you Mr. Chairman. City Council met on August 21st. We had a long meeting for a change. The first item was Greg Karle, the Director at the Community Center talked about the ComeUnity Bash that is coming up on September 7th from 3 to 9. If you have never been you should come it is a wonderful time. Events for all ages, all ages of children, great food. It is just a really really good time. Anyway, this year it is on September 7th 3 to 9 and Greg said that it is not going to rain. So we know who to hold responsible. Like I said we had a long meeting. We had nine ordinances and two resolutions so I will read through this information as quickly as possible. We had Ordinance No. 25-2019, reducing and recertifying special assessments levied for the purpose of constructing certain improvements and that was specifically the parking garage and the office phase 2 over at Pictoria. That passed with a 7 to 0 vote. Then we had Ordinance No. 26-2019 and that was levying a special assessments for the improvements of driveway aprons and the public right-of-way related to the 2018 street program. That passed with a 7 to 0 vote. Ordinance No. 27-2019 authorizing the Mayor and Clerk of Council to enter into an agreement with Next Step Networking for technical support services. That passed with a 7 to 0 vote. Ordinance No. 28-2019 authorizing the Ohio Department of Transportation to provide bridge program inspection services for the city. That passed with a 7 to 0 vote. Ordinance No. 29-2019 an ordinance amending sections 152.33(B) and removing 152.33(C) of the Codified Ordinances of Springdale and that is speaking specifically to the grading of land or yard so that water flows away from buildings and specifically that water would not flow to your neighbor's house to flood your neighbor's back yard. We have had a problem with that so we are revising that. That was a first reading so there wasn't any action taken. This next ordinance is kind of related. Ordinance No. 30-2019, an ordinance creating section 152.38 of the Codified Ordinances to address regulations for swimming pool, hot tubs and spas. So that was a first reading and no action taken. So, in other words there are going to be something written into the ordinance about not draining your hot tub into your neighbor's back yard because we have had some problems with that and swimming pools. So we will be talking about that and making a vote at the next meeting. Ordinance No. 31-2019 amending Ordinance No. 20-2019 to revise the pay table for full and part-time seasonal employees. That was a first reading so no action was taken. Ordinance No. 32-2019 authorizing the Mayor and Clerk of Council to enter into a contract with Kerry Ford for the purchase of two 2020 Ford Explorers. That passed with a 7 to 0 vote. That is for the Fire Department use. Ordinance No. 33-2019 authorizing the Mayor and Clerk of Council to enter into a contract with Lebanon Ford to purchase two 2020 Ford Explorer police package cruisers. That passed with a 7 to 0 vote. Then we had Resolution No. R11-2019 and that was authorizing the filing of continuing disclosures related to the March 2017 street improvement bonds. That was passed with a 7 to 0 vote. The last one was Resolution No. R12-2019 authorizing the City Administrator to file an application with the Ohio Public Works Commission for local transportation improvement funds and/or state capital improvement program funds and authorizing the Mayor and Clerk of Council to execute all contracts and any other documents. That was specifically related to the CSX bridge on East Kemper Road. That passed with a 7 to 0 vote. That is all that I have unless Jeff has something that he would like to ad.

Mr. Anderson: No but that felt shorter than the meeting itself so maybe it was.

Mrs. Ghantous: It was a long one.

Mr. Anderson: Thank you.

Mrs. Ghantous: That concludes my report. Do you guys have any questions?

That's it, thank you.

Chairman Ramirez: Thank you for that report. Mine will be much shorter than that.

Report on Planning Commission

Chairman Ramirez: Planning Commission met August 13, 2019. Two items, Tri-State Signs on behalf of Jake Sweeney Mitsubishi, 169 Northland Boulevard, Springdale, Ohio, the development plan. It's in reference to LED accent lighting for the Mitsubishi to match the Mitsubishi lighting package. The second item was PSA Architects on behalf of Red Dog pet resort and spa and the Circle Self-Storage at 12000-12050 Princeton Pike, Springdale, Ohio, final development plan. That was approved, they made all of the changes that we have asked of them and that was also approved with a 6 . 0 vote. That is all that I have on Planning unless we have questions. Okay, thank you.

VIII OLD BUSINESS

- A. DeCastro Management LLC, dba Kerry Automotive, 155 West Kemper Road and 150 Northland Boulevard, Springdale, Ohio, submitted a request for a Variance from Section 153.351(B) & (C) to increase the light levels.
(Application 34781) **Public Hearing** (continued)

Chairman Ramirez: Mr. Taylor.

Mr. Taylor: Thank you Mr. Chairman. As you mentioned, you folks have seen this before. It was previously tabled by this group and was referred back to the applicant to see if they couldn't get a little bit closer to coming into compliance with the ordinance. There has been a significant amount of work on their part in order to acquire photometric data for basically these lights with some shields on them and some dimming as I am told. I believe the photometric plan that you have which is, well this is the complex of course. The Ford dealership at the corner of Kemper and Northland and then the Buick dealership opposite of Boggs Lane there. This is the plan that you all have. It is at half size which is pretty challenging to read, however; staff has reviewed this and the long and the short of it is that this plan with a few exceptions along Kemper and along Northland, essentially complies with the regulation. There are a few areas at the right-of-way line on Northland and Kemper where the photometrics indicate that it is over the 2.5 foot-candles that is allowable, however; at the driving lane along the curb line they are in compliance. I believe that the photometric plan reflects changes that have not currently been made is that correct? The dimmers are not on yet?

Someone talking from audience not on mic: No, we have ordered the dimmers (talking from audience not audible.)

Mr. Taylor: But what I am getting at is what the folks see is not what

Chairman Ramirez: Gregg, excuse me. For sake of the secretary and his comments could you please step up here if he is going to ask you questions so we have you on record. Please state your name and address.

Mr. Sturm: Kevin Sturm, 6830 Powerline Drive, Florence, Kentucky.

Chairman Ramirez: Thank you. Could you please restate?

Mr. Sturm: Yes sir. The dimming modules were ordered two weeks ago. The photometrics we used to determine how much dimming needed to occur on the modules to reach the levels that we show on the drawings. So, as soon as they come in they will be installed on the lights.

Mr. Taylor: Thank you. Incidentally, these folks brought full size copies of the photometrics if you all are interested, there's enough for each one of you if you want to look through them. They are here in fact. So, the long and the short of it is, I think

staff's conclusion is that they are pretty close to compliance with the code and would recommend you folks grant this variance. Mrs. McBride, guest speaker today, as you note, her firm has written the staff report so if you have any further questions, she'd be happy to answer them as well. That is all that I have.

Chairman Ramirez: Thank you. Representative please step forward in case members have questions and again state your name and address.

Mr. Emmert: Good evening, my name is Andrew Emmert, attorney for the applicant.

Chairman Ramirez: Thank you. Could you give us a brief, what changes were made? I know that Gregg was pretty specific on that you are meeting the current requirements and I guess going forward talking about the dimmers, what we can look for and a time frame for that?

Mr. Emmert: I can speak to some of that. It may need to be embellished by Kevin Sturm, but there were shields that were installed on the lights I think. Originally, the old set of lights, I think we took down, was it seven? Seven lights, pardon me? Why don't you come on up.

Mr. Sturm: Do I need to state my name again?

Chairman Ramirez: Please.

Mr. Sturm: Kevin Sturm, Sturm Electric.

Chairman Ramirez: Thank you.

Mr. Sturm: I did use louvers by the way. So, I guess I will just give my steps that I have taken since the first notice of the violation. We lowered the heads to 90 degrees almost immediately. We ordered normal back shields which did not do the job. We came to this meeting and we tabled it to do better. So, we ordered deeper back shields for all of the lights along West Kemper going around the corner through Northland Boulevard. That didn't do enough for me so we custom manufactured mid-way plates. If you look at a picture of the pole heads you will see that there is actually two modules of LED lights. So, I had a big one in the back and we have another one right in the middle to try and louver the light and shoot it straight down. I think it actually just reflected it backwards. So, at that point I said that there is no way that I am going to be able to shield this and we called in a meeting with GE and we have dimming modules which we are going to be installing on the pole heads themselves. We are going to dimming it 60% to get the lighting levels down to where we can bring it to the level it needs to be at. It's a challenge because we are right on the property line, I mean right on it. If I shine the light straight down at all it gets over so we are really dimming these lights to bring them down as far as we can go. We also installed front shields. There's two pole heads that face towards West Kemper that I didn't want any carry over light from that so I installed two front shields on those. Then we were brought to know that the back area of Buick in the back corner is actually adjacent to woods which then lead to the, I wrote this down, I believe it is the Country Squire Apartment clubhouse. So, we will be turning, I just found that out Thursday, so we are going to be turning two heads that were pointed towards that away from that and putting side shields on all of those lights so we bring that light level down to under .5 foot candles so it meets the adjacent level to a residential area. I apologize in being so long in between but every time I order something it takes like two months to get stuff in which is what I would expect dimming modules to be, about 4-6 weeks lead time.

Chairman Ramirez: Thank you. At this time I think we have a couple people that have questions.

Mr. Sturm: Please.

Chairman Ramirez: Mrs. Ghantous.

Mrs. Ghantous: Thank you Mr. Chairman. So, it sounds to me like you did dim back lot. Remember last time we have the gentleman in the audience who was getting a

lot of light and his backyard.

Mr. Sturm: From what I could tell and I am glad that I went the day after our meeting to see his house. He actually doesn't live on the back part, he lives on West Kemper and while I didn't walk to his backyard, Olde Gate Road is right next to his house if you are to go straight past Kerry Ford you'd have those other small automotive repair places and then Olde Gate Road. There in the road and it's actually in the front corner is I'm guessing what he saw and what he sees is actually the underside of the lights. The elevation change is steep. I don't know what to do about that because it's literally like me looking up and seeing the underside of this light. I don't think he sees it now because the leaves have grown and I've made a couple dozen trips out there at night and I don't see them on that corner of West Kemper and Olde Gate Road anymore because the leaves have come back. I don't know how to block the light from underneath beyond just starting to remove pole heads unfortunately. I've looked and I have tried to find what his problem light was so I could install something on it, I just don't know how to address looking up and seeing it.

Mrs. Ghantous: I believe you've been especially conscientious and I really appreciate that. It sounds like you went to a lot of trouble to try to solve his problem. I wish he was here tonight so we could talk to him about it. I guess we will have to wait and see but it sounds like when there are leaves on the trees he's going to have, not have a problem only when there aren't leaves on the trees, he's going to have a problem.

Mr. Sturm: What I couldn't figure out is why, because we really didn't change the orientation of any of those pole heads in terms of which direction they were facing. We obviously oriented them down. So, the only confusion I have is why it was a problem now and not a problem before because there was still a light head towards that direction and I don't know if it was when we lowered the heads to come into compliance on that that it just then exposed that light. I never stood on that road and looked at it prior to replacing the heads.

Mrs. Ghantous: Did you guys take it that when that gentleman was here that it was a new problem for him? He seemed like there had been long term aggravation building up of light in his back yard or did I misinterpret that?

Mr. Anderson: That's certainly how I understood it but I suspect that it might be the temperature change to. I think the older lights were quite yellow and diffused. I think the new LEDs are whiter so it might be more noticeable. But I agree, I don't know what else you could do short of taking mast heads away.

Mrs. Ghantous: Well thank you for everything you did. I guess we will just have to wait and see if he comes back. I think probably if there was an idea you would have come up with it. It sounds like you that from every angle.

Mr. Sturm: Yes ma'am.

Mrs. Ghantous: I appreciate that.

Chairman Ramirez: Mr. Anderson.

Mr. Anderson: Thank you Mr. Chairman. I also wanted to acknowledge the work that was done. I know I was asking a lot of questions the last meeting and I appreciate the fact that you did do all the work trying the hoods and the louvers and dimmers. I know that's not a simple test that we are asking you to do. It's a lot easier for us to talk about how we grant these if you have exhausted are other options so I appreciate that work and that was quite a bit. I was asking a lot of questions about it because it felt like we didn't exhaust those options yet.

Mr. Sturm: Sure, I was impressed with your intelligence when asking them all.

Mr. Anderson: My other question is really probably for staff, there's two things. One, in the last meeting we had there was this comment made that this would not be unusual, that this was just giving them the same exception that other auto dealerships in the area have. Would we asked what those examples were for other

variances staff had told this I believe that there were none that they were aware of so we're not sure where that came from. Is in your report again Mrs. McBride. Is there a variance that is in Springdale all ready for other dealerships or is it surrounding areas that you're aware of?

Mrs. McBride: Well, certainly surrounding areas I am aware that but I also think that when we looked at the new BMW dealership when they were going through things, I think their light levels were a little higher but a lot of the dealerships have re-lamped and not come to the city for permits. So has Target for example. So, if you drive around the city you're going to see but in his complaint driven and so there are, I believe there are other dealerships that do not comply with our current lighting regulations.

Mr. Anderson: But we haven't given a variance for any of those yet? It would just be similar to what is on the community just ipso facto?

Mrs. McBride: That would be correct.

Mr. Anderson: Then my last question on this is, I guess I am unclear about what the variance is that we are requesting. When are we to the report, and then we talked about adding additional dimmer modules, I don't want to do a blanket, you can do whatever with lighting, I want to be able to have it be specific to a foot candle addition to a certain distance. When I read the report I guess it talks about the two boundaries one of them being in compliance and the other one not, so can you help me understand what is the specific variance that we need?

Mrs. McBride: So, the boundary to the west which is adjacent mostly to residential use permits 0.5 foot candles of the property line and they are in, we made them aware of that and they are in compliance with that. So that boundary is completely in compliance. What I would suggest is because there's not just one spot on one boundary line where it might exceed, there are some hot spots close to the fixtures themselves, as Mr. Taylor was indicating those are at the right-of-way line not necessarily the pavement one. Now the code says right-of-way so what I would suggest that the board do, if you are considering approving this is to adopt and reference this photometric lighting plan because that has the specific, this is what staff reviewed okay and it has the specific locations limited that they are where they do exceed the permitted to 2.5 foot candles at the right-of-way.

Mr. Anderson: So, this photometric plan is a projection based on the dimmers that would be installed? We don't know if they will actually achieve these numbers?

Mrs. McBride: That's correct but if we suspect that there not then we will go out with a light meter and if there's a variation then we will let the applicant know and then they can either try to correct them or come back to you all to try to get further relief.

Mr. Anderson: And are you comfortable with the applicant just referring to this as the standard? You believe these are true numbers with the dimmers?

Mr. Sturm: I do.

Mrs. McBride: Just let me say, it is not unusual at all for a board or a commission to approve a photometric lighting plan for example for a new Kroger store that isn't even constructed to make sure that the light levels that the property lines and within the parking fields and so forth match what is required by code. That is not unusual.

Mr. Anderson: Is there a reference number on this plan that we should include in the variance or a date or how do we refer I guess I am thinking of the practicalities of one make the motion. How do we reference the specific plan?

Mrs. McBride: So, I would if it was me I would reference the photometric lighting plan by Sturm Electric Incorporated, I'm sorry I am probably butchering your name, and that it has a date of 8/23/19 sheet E1.0 and I would also make a reference that it was the one that was reviewed by staff and referenced in the staff report.

Mr. Anderson: Thank you that is all of my questions.

Chairman Ramirez: Mr. Taylor, you had your light on?

Mr. Taylor: Sorry about that.

Chairman Ramirez: Mr. Nienaber.

Mr. Nienaber: Thank you. Mr. Sturm, when you were describing what you had done to try to check out the residential area out to the west, the fellow in question lived three doors beyond, further west from Olde Gate.

Mr. Sturm: Yes sir.

Mr. Nienaber: So, is that roughly the area that you were checking?

Mr. Sturm: Yes, I was standing on Olde Gate Road, I didn't want to go trouncing through back yards but that is where I tried to get as my point of reference.

Mr. Nienaber: Okay.

Mr. Sturm: I Googled the address but I didn't want to trespass. So, I stood on Olde Gate Road and walked up and down to see where I could find lights.

Mr. Nienaber: If, and unfortunately he is not here tonight and these are not even in place yet anyway, is there a way to put a mask on whatever one the offending one is after the fact?

Mr. Sturm: If we could identify it and we could see which way it was hitting him from, there's front shields, there's side shields, there's back shields that I can do. It would depend how he sees it.

Mr. Nienaber: Right.

Mr. Sturm: It may be looking actually, him saying come and look and see. The only way I don't know how to do it is literally if he is looking up and he is getting a downward angle. I don't know how to shield underneath.

Mr. Nienaber: Olde Gate does sit lower than his neighborhood so let's see if he comes back complaining.

Mr. Sturm: But if he does, yes sir, we can put a side shield on if that would or I can, I'm putting GE in business with all of the shields I'm getting so one more won't hurt and I'm happy to do it.

Mr. Nienaber: Great, thank you.

Mr. Sturm: You're welcome.

Chairman Ramirez: Mr. Taylor.

Mr. Taylor: Sorry, this isn't a false alarm. I just would want to point out that according to the photometric plan, not even all the way up to past the CarX, there's zero light bleed and our code doesn't really have a way to address a problem where he may be looking underneath a light, it shouldn't be lighting up his yard. That's the bottom line. He may be able to see it but I think assuming the photometric plan is correct that that's not something that we have a way to really regulate. That's all.

Chairman Ramirez: Thank you. At this time, we do appreciate you working with staff and DeCastro Management on getting this as close to the code as we could. At this time, we do not have any other lights so Chair would accept the motion to approve. Mr. Anderson.

Mr. Anderson: Thank you Mr. Chairman, let me give this a try. I'd like to make a motion to approve application 34781 for DeCastro Management LLC, doing business as Kerry Automotive at 155 West Kemper Road & 150 Northland Boulevard

for a variance from section 153.351 B & C to increase light levels not to exceed the photometric plan submitted by Sturm Electric, Inc. dated 8/23/19 reference number E1.0 which was reviewed by staff and referred to in the staff report.

Chairman Ramirez: Do we have a second?

Mr. Nienaber: Second.

Chairman Ramirez: Moved and second, Secretary please poll the members.

(Secretary polled the members and the motion was approved with a vote of 7 to 0.)

Chairman Ramirez: Thank you sir. You have been approved with 7-0.

Mr. Sturm: Thank you all very much.

Chairman Ramirez: Thank you for coming back in.

IX NEW BUSINESS

A. Tri-State Signs on behalf of Jake Sweeney Mazda, 135 Northland Boulevard, Springdale, Ohio, to consider variances from Section 153.459 to allow for a pole sign on the property. (Application 35280) **Public Hearing**

Chairman Ramirez: Mr. Taylor.

Mr. Taylor: Thank you Mr. Chairman. This is a CAGIS shot of the property. The little strip center is to the north and interesting enough Kerry is right across the street from these folks. This is at 135 Northland. It is zoned GB. This is a site plan that indicates where they would like to place the Mazda pylon sign. There exists currently the sign that you see on the left here, it says Jake Sweeney and used cars and so forth and what they want to do is demolish that sign and replace it with this Mazda pylon sign. So, the sign is smaller and shorter than the existing sign however; some years back we rewrote our zoning code basically to prohibit these sorts of signs in a GB zone unless it was bordered on an interstate highway. So, the real issue here is it they chose to reface the existing sign they can keep it but it has to do with Mazda's branding and so forth. So, I think the issue before commission is how do you feel about this reduction in height and size? Again, Mrs. McBride is here should you have further questions but that's basically all that I have on this. Thank you.

Chairman Ramirez: Thank you. Representative please step forward and state your name and address and give us the reason behind your request.

Mr. Weeks: Steve Weeks, Tri-State Signs, 9077 Sutton Place, Hamilton. We are requesting the brand standard for Mazda to remove the larger square footage and larger overall height sign to bring something down that's closer to the zoning code than what it is today in both height and square footage.

Chairman Ramirez: Members have questions for the applicant? Mr. Anderson.

Mr. Anderson: Thank you Mr. Chairman. So, the fact that it is on poles and not by an interstate is why, what would be a valid sign if they were starting from scratch for this type of installation?

Mrs. McBride: If they were starting, well as Mr. Taylor indicated, because that sign is there, they could reface that but they would be allowed a ground sign that would be 8ft tall.

Mr. Anderson: Thank you. For the record, I think the new sign is more visually appealing than the current one by a fair margin. I guess the challenge I have is do we have other precedent that we are aware of where we have gone closer to code and granted a variance as opposed to just enforcing code? Is this new ground? I'm thinking two other signs in the area like the pole sign down here that used to be Beef Brady's and the Days Inn. We covered up one of the signs but it is still a pole

sign. Is refacing the only option, is there other places where we have granted these variances?

Mr. Taylor: I don't know that we have. I'm not, well the short answer is that I do not believe that this board has granted variances specific for this purpose. The refacing, and that's the reasoning behind the Beef ~~Dr~~Brady's sign existing. That was actually the subject of a court thing that we went through and that had more to do with abandonment than the actual case whether a pole sign, to pole or not to pole I guess.

Mr. Anderson: For the record I do feel that it is an appropriate use of a variance. I was curious if we had any experience of have done it before. My personal preference is that it's moving in the right direction and it's more appealing and it fits with the character of the neighborhood. It feels like an appropriate use of a variance to me but that is just my opinion.

Chairman Ramirez: Mr. Weidlich.

Mr. Weidlich: Thank you. Sir, do you know what the Mazda branding requirements are relative to signage?

Mr. Weeks: This does meet. This is Mazda's brand standard as far as the logo goes. This is one of their standards, yes.

Mr. Weidlich: I mean the height, and width and such?

Mr. Weeks: Absolutely, yes.

Mr. Weidlich: Square footage and all is part of the Mazda standard?

Mr. Weeks: Correct.

Mr. Weidlich: Okay, thank you.

Chairman Ramirez: Mrs. Ghantous.

Mrs. Ghantous: Thank you Mr. Chairman. If my memory serves me correct this is the first time we have had somebody come and ask for this since we changed, since we made the change that it could only be near highways. Does anybody remember anything any differently? So, I guess the reason I said that was to say we haven't made the exception before but I don't recall being asked to make the exception before either. We haven't denied it before that I am recalling unless somebody else remembers that.

Chairman Ramirez: Mr. Taylor.

Mr. Taylor: I think that you are correct in that it just hasn't come before the board. I mean the code was changed in 2014?

Mrs. McBride: 2017, this edition is 2017.

Mr. Taylor: Yeah but the change came about 2015.

Mrs. McBride: 2015.

Mr. Taylor: 2015. So, it is a fairly recent thing. There have been a couple of cases actually before planning commission regarding wall signage where there were some things that were not approvable but because there is branding involved. Primarily what I am thinking about is the cabinet signs, the Kerry Ford dealership for example. Planning Commission allowed them to have a wall cabinet sign because that was part of Ford's branding and there really wasn't any way to do it out of channel letters. So, while it is not the same, I think some of the same logic could possibly be applied because I think there's some pressure is brought by the manufacturers to meet these branding standards and I think that you are 100% correct that this is moving certainly in the right direction from what we currently have. I think, you know, at some level

you guys have the kind of make a decision about where we're headed. I think that's it on that comment.

Chairman Ramirez: Thank you. I will note for the record that we are not adding a new sign and we are replacing a sign and the new sign is 50% smaller than the current sign even though it doesn't meet the new specifications. At this time, I see no other lights. Chair will accept a motion to approve. Mr. Anderson.

Mr. Anderson: Thank you Mr. Chairman. I'd like to make a motion to approve application 352804 Tri-State Signs on behalf of Jake Sweeney Mazda at 139 Northland boulevard, for a variance from section 153.459 to allow for a pole sign on the property on the condition that this is replacing an existing sign and not to construct a new or additional sign on the space.

Chairman Ramirez: Do we have a second question?

Mrs. Ghantous: Second.

Chairman Ramirez: Mrs. Ghantous second. Secretary please poll the members.

(Secretary polled the members and the motion was approved with a vote of 7 to 0.)

Chairman Ramirez: Thank you, that has been approved with a 7 to 0 vote.

Mr. Weeks: Thank you.

B. Tri-State signs on behalf of Jake Sweeney Mitsubishi, 169 Northland Boulevard, Springdale, Ohio to consider a variance from section 153.459 to allow the construction of a ground mount sign exceeding 8 feet in height. (Application 35281)
Public Hearing

Chairman Ramirez: Mr. Taylor.

Mr. Taylor: Thank you Mr. Chairman. This is by way of a preview here this is kind of a complicated case. The applicant, which you know as referenced in your agenda, requests a variance to allow a sign in excess of 8 feet in height but one of the issues here is our interpretation of whether this is a ground sign or a pylon sign. So, let me kind of run through what we have here and then Mrs. McBride is here to answer the questions possibly as our expert on our zoning code and I think also can probably give some background on the reasoning behind the changes that were made in as we discussed in 2015. Again, this is the site, that's Boggs Lane, it's along Northland, Boggs to the north, Tri-County to the south. This, and I apologize for the orientation I did as good as I could here, kind of rotating this thing to give you the same orientation but basically there is an existing pole sign here and this is a directional sign that they're proposing and this is the new pylon sign that they're proposing. This is a pretty helpful photograph. This was extracted from the information from your packet but the red rectangle here represents the new Mitsubishi pylon and you can see the existing Jake Sweeney body shops on kind of down here in the foreground. This is where the directional sign would be. This is, is called a monolith, and the issue here I think goes to the intent of the code and staff believes that this is a pylon sign basically because it is so tall. It is 23 feet tall. Just by virtue of, I think a little and the detail, this indicates how the sign is fabricated. In any case, there's some variances required here no matter how it is interpreted. If it is, if the contention is that it is a ground sign, clearly it needs a variance for height. The setback requirement for a ground sign is only basically 10 feet from the right-of-way line and the reason for that of course is that ground signs are limited to 8 feet in height. For a pole sign, the setback is supposed to be equal to the heights of the sign. So, what's currently proposed, if you look on your site plan there's a dimension of 16 feet from the right-of-way line to the pole sign although the note indicates that it would be a minimum of 15 feet. So, I think the issues here are, we have an existing pole sign and unlike the previous case they wish to keep the existing sign and they wish to erect an additional sign. So, then the issue is how do you feel about the addition of a sign to begin with, that's issue number one. Then issue number two is how big is it and

how far from the right-of-way is it placed? I think that that's about all that I have on that.

Chairman Ramirez: Thank you. Could you please step forward again?

Mr. Weeks: Steve Weeks, Tri-State Signs, 9077 Sutton Place, Hamilton.

Chairman Ramirez: Thank you. Are there any questions for the applicant? Mr. Nienaber.

Mr. Nienaber: Thank you. As I've made through all of the documents it looked like you arrived in a 23-foot tall monument because of bushes that were along the right of way or along the same area. Does it need to be that tall if the bushes were gone or is that not within the realm of possibility?

Mr. Weeks: I am not sure if it is just all of the bushes. The height is for a couple reasons so it can be seen going towards Kemper Road because there are, I believe, trees in that right-of-way planted there are probably Springdale. The height is also to get above the vehicles. The height is just to get it up to get it visible. And that is really what we're trying to do is to get it visible. We certainly don't need people rear ending each other on Northland Boulevard because that is the curb cut that they're going to be pulling into the first one right there and that entrance. If we put it down too low that you can't see in. That does present a problem also.

Mr. Nienaber: How strongly do they feel about keeping that original pylon?

Mr. Weeks: The original pylon is for advertising for basically it is another company. I mean yes it is still Jake Sweeney but it is the body shop. That's part of their business as is Pre-Owned and as is the Mitsubishi dealer. So, the additional sign is for the Mitsubishi dealership only. We currently have a body shop sign here and that is for the body shop.

Mr. Nienaber: Okay.

Mr. Weeks: We can't dual brand the Mitsubishi sign. It doesn't meet the brand standard.

Mr. Nienaber: Yeah, I know how the various manufactures defend their brand and you can't do that. I just was hoping there was a way to do without the

(Someone talking from the audience not on mic.): ð .. they don't play well together.

Mr. Nienaber: No. Thank you.

Chairman Ramirez: Mr. Anderson.

Mr. Anderson: Thank you Mr. Chairman. So, can you give me some of your thinking on why the setback requirement couldn't be adhered to? I have real concerns about adding another monolith sign, the reason there's setbacks they is for safety issues as well as general look and feel. Why can't it at least, you know there are two separate things but first on the setback, why can't you adhere to the setback requirements outside of what is this kind of sign?

Mr. Weeks: I guess there was a little, possibly it was confusion on my part, the setback, this is what we call a ground sign because the sign goes clear to the ground. It's not a pole, so in our mind the setback, what we applied for was correct. Until I got the staff notes I was not aware that it didn't meet the setback requirements until yesterday. If it is moved back it is going to move it back into, it is going to block the whole front two rows of vehicles. Am I correct on that?

(talking off mic from audience)

Mr. Anderson: Could you, we can't hear you if you are not on the mic for the record so if you would come up if you have to respond and a name.

Mr. Sweeney III: Jacob Sweeney III, 1237 Martin Drive, Cincinnati, Ohio. If we move the sign further back it's literally going to be into the lot and blocking cars, not to mention that it is on a curve. It would be blocked partially by the buildings so it would be less effective from visibility from Kemper Road.

Mr. Anderson: So, the alternative to moving it back would be to shrink the sign so that the setback requirement wouldn't need it to be as far back.

Mr. Sweeney III: It would be to make it taller so that you could see it.

Mr. Anderson: There are different ways and that is what I am trying to understand is have we explored the options that would comply with the code first. I understand that this what you'd prefer.

Mr. Sweeney III: I think based on the size of the signs that the manufacture offers for the brand so we felt that this was the best choice. The other signs were smaller and they wouldn't be visible and this was the smallest that would be visible and I don't know what you would, dimensionally narrower.

Mr. Weeks: The trees do present a problem that are in front of the dealership with height. When we lower them down with the sign down, again you don't see the sign until you are right on top of the curb cut to pull in to that location.

Mr. Anderson: Have you looked at adjusting landscaping. So, I am trying to figure out what is required as a variance as opposed to what would be convenient. Alright, so, my preference in a variance is that there needs to be a reason. There has to be either a precedent or there has to be a reason with the lot or some other constraint that you can't conform to it right. Trees and landscaping can be adjusted, signs can shrink or grow, they can be different types of signs, I'm trying to understand are all of those not options or is this just what we want.

Mr. Weeks: Well that is what we want, but we also have other obstacles. We have drainage right in front of that. We have the, which that's storm water, I believe that's a storm water sewer right in front of the location. So, moving it back into the parking lot, I mean we are going to be losing two rows of parking which that's not really an option.

Mr. Anderson: Am I looking at the right picture to understand what you are describing. So, you are talking about this red block right and you are saying that you can't move it forward and make it smaller to comply because this is not, this is drainage?

Mr. Weeks: This is drainage underneath there.

Mr. Sweeney III: There's storm water right there.

Mr. Anderson: There isn't a sign option further down to the corner or further up that would comply?

Mr. Weeks: I'm not sure where you are talking about, which direction?

Mr. Anderson: Either go up the road or down the road and shrink the sign. There's no place else on the lot to put another ground sign?

Mr. Weeks: What we've got is the current conditions with the trees are Springdale's and they are all up and down Northland Boulevard. So, putting something right in front of the trees they completely block them. Those are out in the right-of-way. We are trying to keep it close to the curb cut for electrical purposes and just being able to keep it by the entrance of the dealership. There is not a way to comply with the eight feet and make the sign visible on that property. To make it visible from both directions.

Chairman Ramirez: Mrs. McBride.

Mrs. McBride: Just a couple of things. The one thing that I know the board is aware of this is the board needs to consider what the special and unique circumstances are to this property at 169 Northland that differentiate it from other properties that are zoned GB in our community and other properties that are zoned GB also have landscaping. We require the landscaping out in front of car parking lots and they have car parking lots up to the required setback. So, I think the board needs to think about that very carefully rather than setting a precedent. The second thing that I would say, and it was an idea that I had just sitting here tonight, would be if the other existing pylon sign on this site is not tied to Mitsubishi, that it is tied to a body shop and to the leasing which is what it advertises then drop that to an eight foot tall ground mount sign, truly a ground mount sign and potentially if the board is agreeable, move forward with the Mitsubishi sign.

Mr. Anderson: So, the thinking there is that you keep the same amount of non-compliance on a lot that exists today but let them prefer which they want to prefer so essentially refacing one of the signs?

Mrs. McBride: Well you would still be granting a variance because you are only allowed to have one sign regardless if it is a ground sign or if you choose to make it a pylon, you are only allowed to have one sign on this site because it is not a corner lot. It just has frontage on Northland. So, the variances that are being asked for is the addition of a second sign plus the height, plus the setback and then the board would also need to, because they are asking for red LED lighting around the perimeter of it on the sides of the sign. That would typically go to our Planning Commission. They did act on as you heard, at the Planning Commission last month approved similar lighting on the building but they also want to include that on the sign so I would ask that if the board is going to approve that sign that they include the LED lighting as well. Does that make sense?

Mr. Anderson: It does. So, to close up, my question though is, I want you to be successful, I want you to have advertising and make it easy to find. I am just trying to find a way that doesn't give you and your lot special accommodations when they aren't required. What do you think about changing the signage so that we don't add additional pole signs or additional monument signs? Is that an option so that we can at least be consistent with what we have done as a board so far?

Mr. Sweeney III: I would respectfully disagree that other dealerships don't have more than one sign. Across the street with the Kerry group they have 1, 2, 3, 4 signs including the sign that was the previous Mitsubishi sign. They have the Ford dealership where they had their Ford sign and they had a Mitsubishi sign and I don't think the Mitsubishi sign was prominently placed which is one of the reasons that they gave the franchise up and I agreed to pick it up from Mitsubishi and part of what I am doing with them is this design, this whole new look that the Planning, I don't know if everybody saw the dynamic slope last time I was here, is to make this dealership more visible. Being from Springdale, being here for 50 years and seeing the prominence of our dealerships and their location, I've always felt that the Northland positions, and we have owned this property before, they have always have, I would say have failed because of their lack of visibility from Kemper Road. There's no doubt in our business that the visibility of the locations on Kemper are much more valuable than the ones on Northland. I think that unless something is changed where these things become visible to that traffic pattern, I think those franchises, whatever they are, will continue to be challenged. To give you an example the GMC/Buick store, I think they have been challenged based on their signage. I think what Ford has done is great but they still, the Kerry Group still has a second sign there that I think they have internet sales there but they have an old sign that was the old Mitsubishi sign. What I am trying to is create a, I want to say a virtually relevant, visible thing that when you turn the corner on Northland Boulevard that you are going to see that there is a Mitsubishi dealership in Springdale and I think that this sign from a manufacture, they want to have it as well as the dynamic slope and I think it is key to the success of this venture. I think otherwise, I think we are going to be fighting the awareness of this dealership in Springdale. That's what I believe.

Mr. Anderson: And I appreciate that. I want you to be successful. Part of the challenge here tonight is that this is the Board of Zoning Appeals and we have a

narrow scope of what we do and the way that we do it. Some of the things that I am hearing you describe are really adjustments that need to happen with establishing a PUD or changing the zoning of that property as a whole to allow signs. We are the Board of Zoning Appeals for a specific issue. What you are describing is greater than what we can give you tonight. So, I am trying to figure out just specifically with this request what can we do. But if it doesn't work out, I don't want you to think it is over. There are other ways that we can help you.

Mr. Sweeney III: I understand. Thank you. This is pretty essential to the success of this situation. I don't know how I need to say it any other way. I think we need to have this sign and it needs to be visible for the success of this franchise. I know what I am asking for. I understand but I am not, I wouldn't be the only dealership on Northland Boulevard with more than one pole sign. You can literally look across the street and see three. One of them isn't even representing a make any more.

Ms. Kwaitkowski: Jill Kwaitkowski, 7107 Patterson, Cincinnati. To go back to your question to whether or not we can do this other ways and still have both brands on one sign versus two signs, Mitsubishi will not allow dual branding.

Mr. Anderson: No, I wasn't implying that it would be both of the brands on one sign, it would be converting the pole sign that you have for the auto repair to a ground sign that would be compliant and then this would be the currently non-confirming type sign so that as a site we've maintained the amount of non-compliant signage.

Ms. Kwaitkowski: Okay.

Mr. Anderson: Right, so, I don't want to say down grading but it would be changing the current pole sign to a ground sign that would not need a variance and then adding this monument sign that would replace that pole sign on the site so that you would have the same number at the end of the day. So different signs.

Ms. Kwaitkowskiki: Okay. So, what Anne said?

Mr. Anderson: Yes.

Ms. Kwaitkowski: So, we'd shrink the existing sign to eight feet?

Mr. Anderson: The exiting sign that is there would come down from a pole and be a ground sign and would shrink to be conforming and then you would have this monument sign.

Mr. Sweeney III: (talking off mic. not audible) o BMW. I'd have to get with the other manufacturer. I would have to literally go through this process as kind of a

Mrs. McBride: It's not BMW.

Mr. Anderson: It's not BMW, it is the auto body, it is the other one that is on your site.

Mr. Sweeney III: Yes, it is, that's

Mr. Anderson: Oh, it's Jake Sweeney Auto Body. Is that the one we are talking about?

Mr. Sweeney III: It is part of their compliance. The auto body is Jake Sweeney's, we own the body shop but it is a BMW certified body shop. So that part of being a BMW certified body shop there's required signage that they have and that sign is what they require.

Mr. Anderson: That's good information.

Mr. Sweeney III: That's the challenge here.

Mr. Anderson: So, it's Jake Sweeney but it's part of the BMW part of the business so it has its own requirements.

Mr. Sweeney III: Part of their business. Correct.

Mr. Anderson: Even though it's on the same lot? I mean the same frontage? Sorry.

Mr. Sweeney III: It is a different facility, yes. So, actually the body shop is a BMW certified body shop and they require that sign as part of their, it is a BMW branded body shop.

Mr. Anderson: But they require that pole sign or do they require a sign that could be a ground sign?

Mr. Sweeney III: Well that was the sign that they required when we did it how many years ago. That was their requirement. So, I could ask today if they could waive that to allow another manufacturer to have the sign that they want. I would say the chances are slim to none on that one but.

Chairman Ramirez: There's no statement on that sign that says it is a BMW sign.

Mr. Sweeney III: Oh yeah, it's a big BMW rondel.

Chairman Ramirez: The one that I am looking at, Jake Sweeney it says body shop.

Mr. Sweeney III: It would say BMW certified auto body.

Chairman Ramirez: On the building?

Mr. Sweeney III: No, it is on the thing and then on the building which I'm relocating that.

Mr. Anderson: So, on this, wait, on this picture it doesn't show that.

Mr. Sweeney III: It doesn't say BMW certified auto?

Mr. Anderson: Are we talking about the same sign? On this sign it says Jake Sweeney and then there are three blank panels and then it says body shop best lease.

Mr. Sweeney III: I apologize, it's actually on the entrance which that sign is being relocated on the inside that says BMW certified body. It's their sign.

Mr. Anderson: But we are talking about the same sign?

Mr. Sweeney III: We are talking about the same, you are correct.

Mr. Anderson: It currently does not say BMW but it is being refaced?

Mr. Sweeney III: It's their sign. What do they call that flag, there's a new flag sign on the building. It's a big thing on the door but it's their look. That's all I the same,

Chairman Ramirez: Signage on the building stays where it says Jake Sweeney body shop on the building, stays?

Mr. Sweeney III: No. That's coming off.

Chairman Ramirez: Okay. Mr. Weidlich.

Mr. Weidlich: Thank you. I am going to throw another little kink in here. Have you considered moving the sign to the other side of the driveway? It looks like you could possibly do it and lose maybe one parking space there.

Mr. Weeks: We did. That would be my preference but that is where you're going over top of the culvert and we weren't far enough away from what they call the offset. It didn't fit in there physically. It wasn't going to allow people to drive through the front of the building. It will close that front off. The size of the foundation and the

landscaping that would have to be put in there to meet the requirements, we couldn't get it to fit there.

Mr. Sweeney III: So, if you are referring to where those two trees are and that car is?

Mr. Weidlich: Right.

Mr. Sweeney III: It wouldn't work.

Mr. Weeks: That's actually where we originally were trying to propose it and it just does not physically fit.

Mr. Weidlich: There seems to be a concern about the bushes there so I just thought that was a pretty reasonable option to switch it over. Is there any chance, I think it has already been brought up, trimming these bushes back or re-landscaping that and dropping the height of the Mitsubishi sign?

Mr. Weeks: Well it's the trees to. How many trees do you have back up Northland? I don't think that they are your trees.

Mr. Sweeney III: They are not our trees.

Mr. Weeks: I think they are Springdale's trees.

Mr. Sweeney III: They are Springdale's trees.

Mr. Weeks: They are all in the right-of-way there down Northland.

Mr. Weidlich: I only see one tree there. I don't see any coming from the right side.

Mr. Sweeney III: No, there's one, two, three.

Mr. Weeks: Isn't there two more.

Mr. Weidlich: Well there's, okay there's two.

Mr. Sweeney III: I apologize.

Mr. Weeks: I don't know if Gregg's got another picture or not.

Mr. Taylor: They all have this.

Mr. Anderson: Is the tree the only thing that would keep that from being an option? I feel like that is something we could solve other ways.

Ms. Kwaitkowski: How short are you wanting to make it. It won't be visible with eight feet. So, are you wanting just to go smaller than the 23 or at 8 feet?

Mr. Anderson: I'd like to confirm with the code is what I am trying to figure out. So, it depends on the distance that's back from the setback and the current signage right is our preference. If the tree is the only thing preventing us from having a conforming sign then we can talk about the tree.

Mrs. McBride: The sign won't be conforming at all because they are not allowed to have it.

Mr. Anderson: Because it is a pylon?

Mrs. McBride: Because they are not entitled to a second sign period.

Mr. Anderson: It is a second sign. It would be fewer variances at size.

Mrs. McBride: I'd give you that.

Mr. Anderson: Thank you. The number of variances concerns me. Those carry in perpetuity with the property right? So, you own it now and there's two signs and then you sell it and it is a different business and they would be entitled to that same amount of signage in perpetuity. So, I am trying to figure, I feel a little bit like I am being held hostage right. I want your business to be successful and you are telling me the only way that can happen is if we grant special privileges for your signage for this site that carry with the property in perpetuity. Not just for Mitsubishi and Jake Sweeney but then the next business or the next business if it doesn't work. So, what other options do we have other than take it or leave it?

Mr. Weeks: What you were just speaking about in perpetuity of the variance carrying on to the next owner, next owner, what if you wrote that into the approval the variance upon selling of the property would not follow through with the sale?

Mr. Anderson: I don't think that that is legal. Mrs. McBride, is that, I don't believe that is possible. It gets attached to the plat.

Mrs. McBride: I'm not an attorney, as the board knows, but no, I don't believe that that is possible to do.

Mr. Anderson: Which is why we are always very hesitant and try to find ways to make it work.

Ms. Kwaitkowski: Well, if we did a shorter sign, you would only have two variances then if we did it within the, if we are going to consider it a pole sign, if we went with and remained with the 16 feet off of the property line then if we made the sign 16 feet we would no longer need a variance for the right-of-way setback and we would only need two variances, one to keep the existing and one instead of 23 feet, 16 feet verses the allowable 8.

Chairman Ramirez: You would need a variance for the light as well, the LED.

Ms. Kwaitkowski: And the LED. Correct.

Chairman Ramirez: Mr. Nienaber.

Mr. Nienaber: Thank you. Going back to Mr. Weidlich's question about, what if you push it a little further north to where those trees are, and your remark was, it would take up too much, that it was too big. The sign is only eight feet wide, that is not as deep as one car that you would have parked along that area. I don't understand your objection to that thought.

Ms. Kwaitkowski: That was our original location. We actually went out there with tape measures and it is not just the size of the sign but that drainage ditch that is right there. If you dig for foundation, kind of all before you dig, it is going to cause a problem being that close.

Mr. Weeks: We have to have so many feet from the edge of the sign to where cars are going to be driving or we are going to have people cutting that corner and hitting the sign. That presents a problem because now we are going to have to put bollards in to try to keep people off of it. If you have ever been through the front of that dealership, there's a cars width right now to get between the front of the building and the cars that are parked along the front line.

Mr. Nienaber: Right but this is not near as long as a car.

Ms. Kwaitkowski: Correct but in order to get away from the drainage ditch and not have to worry about impeding into that, it did create the width as much as a car.

Mr. Nienaber: This is only a drainage ditch? It isn't anything that is underground?

Mr. Weeks: No, it's storm.

Ms. Kwaitkowski: No, like a

Mr. Sweeney III: There is a pipe or something.

Mr. Nienaber: There is a culvert under there?

Ms. Kwaitkowski: There is a grate over the

Mr. Weeks: It is storm water through there.

Mr. Nienaber: I guess what I was asking is, is it more than just a swale? There's actually something underground there?

Ms. Kwaitkowski: Correct. There is a big pipe underground.

Mr. Nienaber: Okay.

Mr. Weeks: The distance we have to, the easements we have on that, we have to get back off of that. It pushes it so far up, plus we have to put a curb around there and we do have to have some distance between the sign and the vehicles that are going to be driving through the front of that.

Mr. Nienaber: Right.

Mr. Weeks: There is not enough room there. The sign would be damaged in short.

Ms. Kwaitkowski: We did look at all of those options.

Mr. Nienaber: Thank you.

Ms. Kwaitkowski: We would love to put it there. We wanted it there.

Mr. Sweeney III: That's where, I sat there and said that's where I wanted and they said no, no, no and gave me all of the reasons why.

Mr. Nienaber: I can think of a number of different ways you can put it over top of there the same as Central Parkway sits on top, the whole thing is a bridge because it is sitting over the canal. So, I don't see how you couldn't engineer to place it unless there is a constraint on how close you are allowed to be to that swale.

Ms. Kwaitkowski: Correct.

Mr. Weeks: I believe that there's probably easements on the storm water sewers.

Mr. Taylor: If the, well, there's probably not a specific easement, however; it is in our right-of-way and I imagine that we would have something to say about building over an existing storm sewer. I think that would probably be hard pressed to get that passed the Engineering Department and the Public Works Department in all fairness. I don't know, the sign no matter what is going to have to be in some sort of a landscaping bed. I don't know if there is a possibility of eliminating of, not a row of parking spaces but a couple parking spaces where you can basically put the sign in the parking lot and landscape around it and meet the setback requirement. I am not trying to design the project here just

Ms. Kwaitkowski: Where we are putting it is on the edge of a parking stall. It is within

Mr. Weeks: We are taking two parking spots to put it in.

Ms. Kwaitkowski: To get the landscaping.

Mr. Weeks: It is just on the other side.

Ms. Kwaitkowski: Then we can come to some concessions on the height of it to get it within the allowable setback.

Mr. Taylor: And still meet the branding requirement?

Ms. Kwaitkowski: Absolutely.

Chairman Ramirez: Mrs. Daniels.

Mrs. Daniels: Hello. So, if we don't approve this second signage, how will you market that Mitsubishi?

Ms. Kwaitkowski: It's

Mrs. Daniels: You don't have any other options?

Ms. Kwaitkowski: It is a Mitsubishi required sign with the DVI. It is called a DVI program. It is their Dealer Visual Identity program and they have four requirements that a new dealership cannot stray from and that's the dynamic slope, the entrance gate, the monolith sign and the LED and fascia. All of those elements are going through the Building Department right now.

Chairman Ramirez: But the sign doesn't have to be 23, that's not a requirement for the sign to be 23 feet?

Ms. Kwaitkowski: It doesn't need to be 23 feet, no.

Chairman Ramirez: So, we have had a lot of discussion and as Mr. Anderson said, we really want it to work whatever we come up with we want you to have traffic flow. We want people to know where you are. You have heard what we have had to say, is there any concession that you can make to help us out to make this a good decision? Because we are going to vote and if we vote on it the way that it is and if we don't like the way that the request is, it will just be denied.

Ms. Kwaitkowski: Right.

Chairman Ramirez: And then you will have to come up with something else. So, if you can help us modify that, maybe we can help you.

Ms. Kwaitkowski: We can reduce the overall height to hopefully be within the allowable setback.

Chairman Ramirez: It would be a monument sign.

Ms. Kwaitkowski: If we are to call this a pole sign and the setback needs to be the required height equals setback then we can make some concessions with that. I am trying to see if we have one.

Chairman Ramirez: Mrs. Daniels.

Mrs. Daniels: I have a question for you. Is it possible, because I don't want us to put you on the spot trying to make decisions right now on what's best, is there a way that we can table this and you can come back with some different options?

Ms. Kwaitkowski: The whole program, we have some other

Mr. Sweeney III: All of those other things that I brought the previous meeting can't happen until we have the decision on this sign.

Mrs. Daniels: Could you go to the mic. she can't hear.

Mr. Sweeney III: Sorry. All of those other things that we brought in the previous meeting can't happen until we have a decision on a sign as part of this DVI program with Mitsubishi.

Chairman Ramirez: Mr. Stahlgren.

Mr. Stahlgren: My question is if we want to allow the smaller sign even though there would be some variances, would you be requesting. We have been hearing about blockage of trees and the mature trees that are there. Would you be requesting,

would the height of the sign be lower now that some trees be removed, trimmed?
Would a 16-foot sign be still visible enough with the trees that are there?

Mr. Sweeney III: I assume it would be.

Mr. Weeks: I think what we would want to do is when we get the sign in and then if we could agree on a size, if the trees are blocking, all we would ask is that Springdale give us some relief and help us out with the trees because you know putting a sign up that is not visible it is not doing anybody any good. And they are blocking some of the visibility of the signage. But if something could be agreed on that is smaller and gets closer to what the zoning code is it is still a variance but moving in the right direction.

Chairman Ramirez: Mr. Taylor.

Mr. Taylor: Not to put a fly in the ointment here but I am not sure that you all have the authority to waive off, to make a bunch of other requirements. You know taking down trees that may require them to replace them elsewhere. I think you have to kind of stick to the questions that are in front of you. This is a personal comment, I think the closer that you guys can come to what Mr. Anderson suggested, the more palatable this is to the board. I understand that you are dealing with people who don't particularly want to play nice with one another but your existing sign is huge and it currently doesn't identify BMW in any way, shape, or form and it barely identifies a body shop and also the leasing thing that you guys have. So, it would seem to me, and again I don't profess to understand the intricacies of dealing with manufactures.

Mr. Sweeney III: Either do I sometimes.

Mr. Taylor: But, if there would be some way that that existing sign could be, that there's a way to create the Mitsubishi brand, which I think everybody wants to see, and I think they all, everybody sitting here understands that you have got to have your dynamic slope, you've got to have your LED on the building, you've got to have your entrance gate and the missing link is the monolith sign. I think we understand that but the complication for the City going forward is, we have this other sign and we are working as a City, pretty hard to stay within our guidelines. It just seems to me that if there's some way that we can move on that sign, you know maybe some combination of all of these things. Again, this board can grant a variance to have a second sign on a property. That's something that they have the ability to do. They can change the height requirement. They can change the setback requirement. Those are the issues that they are allowed to deal with. I think it is a very hard decision to try to get all three of those things on this particular property. That is all that I have.

Chairman Ramirez: Mr. Weidlich.

Mr. Weidlich: Thank you. Mr. Taylor just hit pretty much on what I was going to bring up again was reducing that current sign to a monument sign for your body shop and leasing and move ahead with working on your Mitsubishi sign. That's for was again.

Mr. Sweeney III: Can you approve the proposed sign

Ms. Kwaitkowski: On a contingency.

Mr. Sweeney III: On the contingency because I have to go back to a different manufacture and have that conversation. I would be willing to do that and I understand that I would have to do one or the other but obviously there not here so I mean.

Mr. Weidlich: I guess I'm confused.

Mr. Sweeney III: So, my question is that if I would, and I don't use the word stipulation, I understand which are asking and I'm grateful that you would allow me,

for considering allowing me to have a second sign for Mitsubishi if I can get BMW to allow me to

(Siri on someone's cell iPhone picked up part of the conversation and tried to help.)

(Peals of laughter)

Mr. Sweeney III: I'm sorry. I turned it off.

Mr. Anderson: So, I believe we have the opportunity to state eight total square footage of pole signs on the site right? So, then it would just be a question of negotiating down theirs to meet your requirement is that correct Mrs. McBride and Mr. Taylor?

Mrs. McBride: Right, and also addressing the height issue in the location issues.

Mr. Anderson: To answer your question, do we have the ability and a variance to give you something tonight that you would then have to go and negotiate with the other business partner,

Mr. Sweeney III: Right.

Mr. Anderson: We have the technical ability to do that just by adding a stipulation of total square footage of pole signs on the site. Right?

Mrs. McBride: And limiting that to two.

Mr. Anderson: And limiting it to two.

Mr. Weidlich: I guess I'm still confused on that current sign. Nowhere does it say BMW on it. So how come they have such a big say so in that when their brand isn't even recognized.

Mr. Sweeney III: I think the Germans think that they own the patent on a white monolith sign and silver letters. In their world that's their sign. That's their look. Now they change it several times but it seems like anything along there, their dealership for the area, that's what their signs look like. Not all of them have their logo but some of them will have their chrome script. You'd think that they owned their own font.

Chairman Ramirez: But that is not going to affect somebody pulling up and saying I know that that is a chrome signs of that is BMW.

Mr. Sweeney III: In my opinion

Chairman Ramirez: Maybe you would.

Mr. Sweeney III: Not in my opinion. I mean their opinion. I would be willing to go and have that conversation based on this project with dynamic slope and Mitsubishi and I think it can be pretty effective. I just don't want to have to come back before you and say okay this is, you've got two people that don't get along and they are going to drop it by half, can I have this? It is playing a game and I would rather be okay BMW we are going to reduce your body shop sign from 25 feet to 15 feet, how do they feel about that.

Mr. Anderson: Ideally they would be similar signs from a visual standpoint right? We are talking about to make it more consistent. Part of zoning is to make it consistent so ideally they would be of similar build the nature. I understand the Mitsubishi sign would have red neon and how that branding but it shouldn't be a different type of sign altogether like a pole sign and then a monument.

Ms. Kwaitkowski: Right and that's why they are both going to be monolith signs.

Mr. Sweeney III: I don't think the sign itself and style would change, I think it would just be about height.

Chairman Ramirez: Mrs. McBride, I have a question. Are we considering this 23-foot or 17 foot sign a monument sign or a pole sign?

Mrs. McBride: Well, as you notice the exhibit we were just handed says pylon on it so our code does not define pylon sign so I would but we do define both pole signs which this does not meet the definition of and ground signs which this would meet the definition of ground sign although it does not meet the intent of the ground signs when we redid the code.

Chairman Ramirez: Okay. So, at this time would you like us to vote on the application as presented or would you like to make in modification and then let us vote?

Mr. Sweeney III: I'm willing to do that part with BMW.

Ms. Kwaitkowski: We would like to make the modification to reduce the height to the new proposed sign that allow a contingency to be put in there that he will go, the dealer, we'd go back to BMW to reduce the height of the existing sign.

Chairman Ramirez: That part would be on you whether they approve it or not. That wouldn't affect us in any way. We would state where it needs to be and if you can't make it happen then it won't happen.

Ms. Kwaitkowski: So, you would just give us a contingency on the allowable square footage of signage for two signs on the site?

Mr. Anderson: It would be the number of signs, the types of signs, the lighting, the setback and the total size between those two signs on the site is what would be stated for the variance.

Ms. Kwaitkowski: Okay.

Mr. Anderson: So, you would have the ability inside of that to negotiate however you need to conform with those requirements.

Ms. Kwaitkowski: Correct. That sound good.

Mr. Anderson: There would also be, but the square footage I think there would be two numbers for that right? There's the square footage in total but then they would also be and limit per sign how big it could be right? It is not a slider that you can have, it's not just you right, it is the next owner or you know 100 years from now have combined the signs and I have a giant one.

Ms. Kwaitkowski: Correct.

Mr. Anderson: Did I get all of that right?

Mrs. McBride: Yeah.

Mr. Weeks: Currently we are 30 square feet below the allotted square footage for a single sign on the property. We're only 70 square feet on the square footage. So we are below the square footage for signage in agro with both of those signs if they were approved.

Chairman Ramirez: Also, along with that if you're going to take the sign off of the building that counts is signage as well.

Mr. Weeks: No, I don't think

Ms. Kwaitkowski: The existing Jake Sweeney?

Chairman Ramirez: The one that says body shop, that will go away?

Mr. Sweeney III: All of that is going away. Everything that is on the building because of the current project with a dynamic slope has got to be removed so there would be any signage.

Ms. Kwaitkowski: That's the other reason we want to keep the Pre-Owned because that will no longer be advertise on the face of the building.

Chairman Ramirez: Mr. Nienaber.

Mr. Nienaber: Help me. I feel like we're playing games on naming the sizes of the signs because the M5117 that you just passed out claims that it is a 30 square foot sign but 7 feet by 17 feet is way more. You are only identifying the upper most part it is a sign.

Ms. Kwaitkowski: The branding. Correct.

Mr. Nienaber: I see the whole thing as a sign the same with this one. So if we end up putting together a variance motion, do we identify the overall square footage of the signs were only the nomenclature parts of the sign?

Chairman Ramirez: That's for Anne.

Mrs. McBride: So, the way that our code reads is a sign is any display, figure, drawing, painting, placard, poster or other device placed or designed to be visible from a public right-of-way or joining property which is designed, intended, or used to convey a message, advertise, inform or direct attention to a person, institution, organization, activity, place, object or product. So that is the definition of a sign okay. The gross area which is what we actually calculate this to make sure that it conforms with the code is a much longer definition but basically what it says is the entire area including all of the surfaces placed or designed to be visible from the public right-of-way and measured as the area enclosed by the closest shape rectangle which completely encloses the sign face the size of which may contact with extreme point or edges of the sign excluding the supporting structure if such structure does not form a part of the advertisement of the sign proper. The area of the sign composed of characters are words if such characters or words stand-alone without framing or additional backdrop which is attached directly to a large uniform building wall surface shall be smallest rectangle which encloses the entire group or characters of word. So basically what that means it is we put a box around the Mitsubishi Motors and the logo. We don't do a box around the logo and then a box around Mitsubishi and a box around motors. People try that all the time, that doesn't work. We box out the entire.

Mr. Anderson: But the fact that there is a LED lights over the rest of the enclosure does that make that part of the sign?

Mrs. McBride: The LED lights is a separate issue so it is as I understand it, not visible on the same side as the Mitsubishi Motors it is on the sides the ends of it. If you are facing the sign you might see a little red glow maybe I don't know but you're not looking at the LED.

Mr. Nienaber: That still leaves the question open that is that all one rectangle?

Mrs. McBride: Well

Mr. Taylor: The way our sign code reads is the sign itself, in this case is 5 foot eight and half inches tall and 5 foot four and one quarter inches wide because the copy from the left side of the M to the right side of the I is supposed to be 5q1/4+and then from the top of the logo, the little red logo, to the bottom of the word Motors is supposed to be 5q8 1/2+so that is where that 30.56 square feet comes from.

Mr. Nienaber: Thank you.

Chairman Ramirez: Mr. Weidlich.

Mr. Weidlich: Thank you. I don't know maybe this is for staff. Say the board would grant them a variance for the sign with a contingency for them to get BMW to reduce the size of the other one and BMW doesn't agree to that, where does this board stand then on the decision it might make like that?

Mrs. McBride: I think that is where Mr. Anderson's idea comes in where do you say a maximum of two signs on this site. No sign of which is to exceed, I don't know 15 feet in height, whenever the board feels is appropriate, with a total sign area not to exceed 75 square feet and no one sign is it contained more than 40 square feet of sign area.

Mr. Weidlich: Okay, in that case we'd still be granting a second sign on the property?

Mrs. McBride: That's correct, but you would be tying in the maximum sign area that you could have on any one sign, the maximum height the you could have on any one sign. Now if they can't fulfill that with BMW and the leasing in the body shop, they can come back to you all, they have other options that they could pursue.

Mr. Weidlich: Thank you.

Chairman Ramirez: Mrs. Daniels.

Mrs. Daniels: What is the current square footage on the current sign it is there now, Jake Sweeney it says body shop is all the way down there on the bottom?

Mr. Weeks: Thirty-four square feet.

Mrs. Daniels: Thirty-four for the whole thing, okay. It's so do you break them up, Jake Sweeney and then you do the other one, does the top of Jake.

Mr. Weeks: We wrapped a rectangle around Jake Sweeney, and then around the others.

Mrs. Daniels: Then the rectangle, okay.

Mr. Weeks: A lower portion of the body shop and the leasing.

Mrs. Daniels: There's leasing in there? Okay I see it.

Mr. Weeks: Yes.

Chairman Ramirez: So, the way that we are now I think we're looking at four variances for the sign size, set back, the LED's and allow for two signs. So, you understand?

Mr. Weeks: Yes.

Chairman Ramirez: Mr. Anderson.

Mr. Anderson: I just wanted to make sure that we have captured the updated request. I guess I know you mentioned the setback, what would the setback variance be in this case if say this ground sign of 30.56 square footage, what setback variance with a need to be ever put the sign where they've got it indicated?

Mr. Taylor: I would suggest that they wouldn't get one. It is 17 feet tall so they can move it 2 feet and they would make it 17 feet.

Mr. Anderson: That was my read to so I just wanted to make sure that that's what your understanding was. So, we wouldn't need a setback variance in this case?

Chairman Ramirez: Are you talking about the 17-foot sign or the 23-foot sign?

Mr. Anderson: Any of the signs. The setback requirement would be current based on the smaller signage. So, as I understand it if this updated ground sign were put in it would not need a variance and if they were to shrink their other sign to meet it,

that BMW, body shop lease sign ground sign, the replace that one would not be a setback variance either. Is that right? So there is no setback variance required. So it is the size of the sign. It is multiple variances for the size right? Because we're talking about the number of signs, the size of the signs and then lights. Right? That's it.

Mrs. McBride: The size in terms of both the square footage and the height.

Mr. Anderson: Yes.

Ms. Kwaitkowski: Correct.

Mr. Anderson: But both the square footage and height is in the same section of code so it is one variance inside of that with just multiple adjustments or variances. So, then the question is what is the total square footage that we are talking about requesting? So, we understand the updated request is for two ground signs with no setback changes. If this updated one is 30.56 square foot in just over 17 feet tall, do we just double that?

Mr. Taylor: The existing signage is 34 square feet, maybe it is appropriate to reduce the height but not change the size of the sign possibly. So, they would have a total of 65 square feet. The maximum of two signs, total square footage not to exceed 65 square feet, no single sign can be more than 34 square feet. Is that correct?

Mr. Anderson: And then height?

Mr. Taylor: The height would not exceed, I guess 18 feet. Is in its 17.7 or something?

Mrs. McBride: 17q1+

Mr. Taylor: So maybe 17 feet 2 inches. Is that reasonable?

Mr. Anderson: The current Jake Sweeney sign is labeled a pylon sign and the existing documents in how it is defined. The new sign we are talking about is a ground sign. Does that mean that we are redefining the BMW sign or they would have to replace it with a ground sign that

Mrs. McBride: Under the same provisions that we are considering this as a ground sign that this would also be considered a ground sign.

Mr. Anderson: So, it's still the monolith look but we have clarified, we are not redefining we are clarifying what we're seeing here. It was a ground sign to begin with.

Mrs. McBride: It is still a pylon as they call it a pylon. We don't define pylon yet. So, we have to call that a ground sign.

Mr. Anderson: We would call it a ground sign for the variance?

Mrs. McBride: Both of them are called ground signs. Correct.

Mr. Anderson: Well just because we talked about the concern before with a number of pole signs on the site. Based on these definitions there's zero pole signs on the site.

Ms. Kwaitkowski: Correct.

Mrs. McBride: That's correct.

Mr. Anderson: Currently.

Mrs. McBride: There would be one additional ground sign that you are granting the variance on.

Mr. Anderson: Because the site is only allowed one ground sign because it is not a corner lot.

Mrs. McBride: Allowed one ground sign. It is not on a corner lot. Right.

Mr. Anderson: And then lastly, at least from me. For the record I do recognize for the record that the site is difficult to place a sign and it would be appropriate to use a variance for placement to allow visibility so that the business can be successful at least from my perspective due to the nature of the drainage and the way that the building is positioned on the site. It is appropriate from my view to use a variance I just want to make sure that is the right one.

Chairman Ramirez: Can I go back to the setback again? As I am reading here, it says as propose the setback would be 16 feet from the right-of-way when the code requires a minimum of 28 feet back from Northland Boulevard right-of-way.

Mrs. McBride: Yes, and that's when the sign was to be 28 feet tall.

Chairman Ramirez: So, you mentioned that any size but 28 feet is more that comes into play.

Mr. Anderson: I think it has to be the number and based on the height of the signed so since the sign shrunk where they are keeping it does not require a variance.

The Chairman Ramirez: What number did we come up with?

Mrs. McBride: Could I make a suggestion because again the code, ground sign pole signs, in the body is calling this a pylon sign so, I think that I would put in there the provision that the signs the setback no less than 17 feet off of the right-of-way just to be very clear. That that would be a condition of any approval.

Chairman Ramirez: So, I believe Mr. Anderson are you willing to make a motion?

Mr. Anderson: I will if I can get one more question answered from Mrs. McBride. Then I believe that I'll be ready for a motion that the rest of the board is. Is all of the variances that we have talked about included in section 153.459? That is the reference that I have on the application but we have made some adjustments I wanted to make sure that I get the sections correct.

Mrs. McBride: Okay, 153.459 and then you are going to look at C and you're going to now go to C 3 which is the ground signs. Then you are going to go through, everything I think is contained within that.

Mr. Anderson: Okay good. So, 153.459(C)(3). And one last check before we make the motion that that's all right? So, you've heard what we have discussed, is that consistent with the request that you're making to us? I don't want us to force a variance on you that you are not meeting. Is what we have described what you're asking for?

Mr. Sweeney III: I think so, yes.

Mr. Weeks: Yes.

Ms. Kwaitkowski: Yes.

Mr. Sweeney III: Thank you.

Mr. Anderson: Are you ready for me Mr. Chairman?

Chairman Ramirez: We're ready.

Mr. Anderson: I would like to make a motion to approve application 35281 for Tri-State Signs on behalf of Jake Sweeney Mitsubishi at 169 Northland Boulevard, Springdale Ohio for a variances to section 153.459(C)(3) that with the following variances: that the site will be allowed to have a maximum of two signs not to exceed

65 square feet in total with no one sign over 34 square feet and no individual sign to exceed 17 square feet and each of the signs to be set back no less than 17 feet from the right-of-way.

Chairman Ramirez: Do we have a second?

Mr. Weidlich: Second.

Chairman Ramirez: Second by Mr. Weidlich. Do we have a landscape requirement on that?

Mrs. McBride: Yes, that is contained in there in the code.

Chairman Ramirez: Secretary we please poll the members.

(Secretary polled the members and the motion was approved by a vote of 7 to 0.)

Chairman Ramirez: Okay it has been approved 7 to 0. That was easy right?

Ms. Kwaitkowski: Thank you very much.

Mr. Sweeney III: Thank you very much.

Mr. Weeks: Thank you.

Mr. Weidlich: Now we need the LED lighting.

Mr. Anderson: I'm sorry there is still one more variance that we need to go through Mr. Chairman. We did not address the LED lighting which is a separate issue. Is that Planning Committee or is that us?

Mrs. McBride: Well, it could go back to the Planning Commission that these guys are really kind of anxious to move on. So, I would suggest that the board of zoning appeals just simply take a vote that it is appropriate to include. It is not a variance but it is appropriate to include the proposed red LED lighting on the edges of the sign or the sides of the sign.

Mr. Anderson: So, could I ask a question on that just because of longevity and lighting? We have talked a lot in here about lighting. Do we need to make sure that the illumination level is referenced in that? I don't want 20 years from now there to be disco lighting on the side of a sign and be able to point back to this variance. Is there something that we can reference in that motion?

Chairman Ramirez: On the Planning Commission we addressed that.

Mrs. McBride: I would ask the applicant because we don't have anything in the code relative to.

Ms. Kwaitkowski: I know that in our Planning Commission meeting for the rest of it, it was just put in the, guess it wasn't the light levels but if the light went out that

Mrs. McBride: All on or all off.

Chairman Ramirez: You turn it all off.

Mrs. McBride: That is one of the Planning Commissions.

Chairman Ramirez: The lights cannot flicker or flash.

Ms. Kwaitkowski: Correct.

Chairman Ramirez: Okay.

Mr. Anderson: So, what is the Board of Zoning Appeals, what's our roll in that other than to note that we understand that this sign could have lighting?

Mrs. McBride: That's pretty much your role in that.

Mr. Anderson: Mr. Chairman would you like me to make that as a motion as a reference? Or what would you like us to do?

Chairman Ramirez: For the record we will put it in there.

Mr. Anderson: For the record I would like to note that we understand or should be make a motion to recognize that the lighting that this sign could have LED lighting on the sign as an accent light.

(Voice vote taken and approved 7 to 0.)

Chairman Ramirez: Okay, we will take that and recommendation.

Mr. Weeks: Thank you.

Ms. Kwaitkowski: Thank you.

Mr. Sweeney III: Thank you, appreciate it.

X DISCUSSION

None.

XI ADJOURNMENT

Chairman Ramirez: Finally, subject matter, motion to adjourn.

Mr. Nienaber: So moved.

Mr. Anderson: Second.

Chairman Ramirez: Moved and second all in favor by voice.

(Motion to adjourn approved by vote of 7 to 0.)

Chairman Ramirez: We are adjourned.

Respectfully submitted,

_____, 2019 _____
Chairman, Joseph Ramirez

_____, 2019 _____
Secretary, Carmen Daniels