

BEFORE THE CITY OF GREENSBURG ZONING HEARING BOARD

In the matter of:
Joseph, Robin & Sandra Lee Moyer

Variance
Section 265-128

Property Location:
150 Madison Ave.

Hearing Date:
January 20th, 2010

PROCEDURAL BACKGROUND

The application dated December 30th, 2009 by Joseph, Robin and Sandra Lee Moyer of 422 Sandworks Road, Hunker, Pa. 15639, are requesting that a determination be made by the Zoning Hearing Board for a Variance to the City Code, Section 265-128 in relationship to the area requirements. Applicant(s) desire relief from the Zoning Code in order to duplex the property located at 150 Madison Avenue, Greensburg, Pa. Subject property has 3465 sq. ft. of land area and in order to duplex the property needs to have 7200 sq. ft. of land area. Currently the subject property is a single family dwelling. Subject property is zoned R-2 General Residence District.

Members of the board present: Charlotte Kuhns, Chairwoman, Mark Dent, Mary Clymer, Patsy Iapalucci and Marilyn Crimboli.

Also Present: Lou DeRose, Solicitor and Barbara J. Ciampini, Planning Director.

There were no objections to advertising or procedure at the hearing. Patsy Iapalucci made a motion to deny the request because of the lack of the square footage and the overcrowding of the neighborhood. Marilyn Crimboli seconded the motion. The motion passed 5-0 vote.

Lou DeRose: Before we go any further don't we usually reorganize at the beginning of each year?

Barbara Ciampini: Yes, we can do that first, just like we did at yesterday's hearings.

Lou DeRose: What this means is, at the first meeting of every year we elect our Chair person our Vice Chair person and Secretary. Charlotte is the Chairwoman right now who is the vice chair?

Barbara Ciampini: We might not have one for the Zoning Hearing Board. We might just have a chairperson and that's really all we need.

Lou DeRose: We really should have a vice chair. I don't know what the ordinance says.

Barbara Ciampini: I don't know. I know we don't need a secretary because there is nothing here for them to sign.

Lou DeRose: So we should have someone elect a Chair and a Vice Chair for this year. We should discuss if you want to stay as chair person.

Charlotte Kuhns: I'll do it again.

Marilyn Crimboli: I nominate Charlotte Kuhns for Chairperson.

Lou DeRose: Okay we have a motion on the floor; we need a second for that.

Patsy Iapalucci: I second the motion.

All were in favor.

Lou DeRose: Now you should entertain a motion for a vice chair.

Charlotte Kuhns: I'd like to nominate Patsy Iapalucci for vice chair. I need a second.

Marilyn Crimboli: I second the motion.

All were in favor.

DISCUSSION

The property is located at 150 Madison Avenue, City of Greensburg. Joseph, Robin and Sandra Lee Moyer of 422 Sandworks Road, Hunker, Pa. 15639 are requesting a determination to be made by the Zoning Hearing Board, to the City Code, Section 265-128, in relationship to the area requirement. Applicant(s) desire relief from the Zoning Code in order to duplex the property located at 150 Madison Avenue, Greensburg, Pa Subject property has 3465 sq. ft. of land area and in order to duplex the property needs to have 7200 sq. ft. of land area. Currently the subject property is a single family dwelling. Subject property is Zoned R-2 General Residence District.

Margaret Moyer: The property is an extremely large home with a lot of square footage. It's in very poor condition and needs renovated in my opinion. The area is zoned R-2 and the people who want to purchase the property want to convert it to a duplex, but with your ruling of the square footage of the land that it has to be 7200 square feet to duplex. Quite truthfully that doesn't apply to three fourths of the properties in the City of Greensburg. This one does not meet that criteria. I don't envision too many people purchasing this home to make it a single family dwelling. The cost of restoring it and couple with that is refinancing because of the condition and what any lender would want done to the house. It's priced as it is because of the condition.

Lou DeRose: As I understand it and I know the application says that it is currently a single family dwelling. Has it ever been duplexed?

Margaret Moyer: I can't answer that, not to my knowledge but I don't know.

Lou DeRose: Any evidence of that in the house?

Margaret Moyer: I never noticed anything. Based on what we saw it has been a single family.

Charlotte Kuhns: Does anyone have any questions?

Mark Dent: The garage in the back, how many cars does that hold?

Margaret Moyer: Well, first of all, the garage in the back is collapsing and the City either wants it taken down or fixed. The buyer anticipates restoring the garage unless it's totally hopeless. And providing the parking in back you wouldn't have all these cars on the street.

Mark Dent: There is enough parking there for 2 cars?

Margaret Moyer: It's a two car garage.

Mark Dent: So basically one family could fit in there?

Margaret Moyer: Right. Well, actually I think there is enough room to park a car along the side, isn't there? No, I stand corrected on that.

Mark Dent: Don't they have parking in the front of their house? I'm not sure how that works. If you own the house you can park in the front of it?

Barbara Ciampini: It's not in front of your home, you get a street permit to park your car.

Mark Dent: Do you get one per house?

Barbara Ciampini: I believe it's two. And you get a visitor's pass.

Margaret Moyer: Is that provided for them? Am I correct?

Marilyn Crimboli: You wouldn't have anywhere else in the back; it didn't look like there was room on the side.

Margaret Moyer: The garage is a two car garage.

Patsy Iapalucci: It doesn't necessarily mean that they get those parking spaces on the street. Anybody can park there that lives on that street.

Barbara Ciampini: Yes under those circumstances, but if they would be creating a new duplex then they would have to create parking spaces on the site, not on the street. Four spaces would be needed

Margaret Moyer: There are a number of duplexes and single family homes, but there is a duplex on the corner and the buyers have a duplex across the street with an apartment over the garage. When they purchased it the house was already a duplex. This is directly across the street.

Lou DeRose: I think the legal problem here is that we all understand that the neighborhood, the immediate neighborhood has some duplexes and most likely they precede our ordinance or in other words they may be illegal. We also are aware that you need 7200 square feet and you only have 3465 to deal with. Getting a Variance requires a compelling necessity, you have the burden of

showing that there is no other way to use or market this property without making it a duplex. Quite frankly I find that hard to overcome because while your opinion is as the Realtor and the buyers' opinion that it may be difficult to find someone to buy it for a single family dwelling. That doesn't mean that it's impossible to find somebody.

Margaret Moyer: I don't mean to imply that. I am saying the overall condition of someone buying it to live in they have to be strong and financing would enter into it. Especially the changes they've made with government today and the loans.

Lou DeRose: We understand that and that just clashes with the notion that it has to be a real necessity to give you a variance. Beyond that problem this board has, over the years that I've been here, we have granted some variances but never to the point of, it's more than 50% that would be a terrible stance for the board to take when a lot of the other homes probably fit into that same category. They could then come here and say well you did it for the property at 150 Madison Ave. so why can't you do it for us? We only need 47%. I think legally that would be hard to defend. Their hearts may want to help but legally we are not in a position to do that.

Margaret Moyer: May I ask if any notification went out to the residences that surround this property? Was there any objection of any kind? Did letters go out stating that we were applying for a variance?

Patsy Iapalucci: I know one lady that lives down at the end of the block and she told me she wasn't for it. It's so tight on that street now. You can't even go to the store and get a quart of milk without losing your parking space.

Lou DeRose: To answer your question, Margaret notices did go out to the neighborhood in the usual legal fashion, by posting the notice and sending it to the residents within so many feet. There may be persons here who are just politely waiting for you to be done and start asking questions and get up and say nay we don't think it's a good idea. So that is a problem, it isn't really if they like it or don't like it it's about is it a candidate for a variance and as I've said I think it is not, it's almost a matter of law.

Margaret Moyer: I understand your point regards to the size of the lot but I also mentioned and I deal with a lot of properties in Greensburg and Greensburg properties are usually 35 x 100, 50 x 100 and they don't meet the criteria that is required. Quite truthfully if I took a stab I would say 70% don't unless they are in the housing plans. So it's like nobody can change anything in R-2. In this particular case this property and evidentially the party representing the sellers was unable to attend this meeting. They have the need to sell the property and it's just sitting there. Actually to the neighbors it would look much better if it was

renovated and restored then to just have it deteriorating there but that is up to what their outlook is on things.

Barbara Ciampini: If I may clarify for the board and the audience, an R-2 doesn't mean duplex. The 2 does not mean duplex, it's just a designation for the General Residence District zone of the City. It doesn't mean you're automatically given the ability to become a duplex. That 2 doesn't have anything to do with it.

Margaret Moyer: But R-2 does signify duplexes where permitted in that area.

Barbara Ciampini: Multi-family uses are permitted if you meet the specific criteria. That is correct.

Margaret Moyer: I have one of your old maps but I don't know if it's up to date or not.

Barbara Ciampini: We haven't had many zoning changes over the years so I wouldn't think it changed much. Historically, for those of you who aren't aware of this- in the mid 80's there was a group of residents who came to the City and wanted changes made to the land area verses the actual square footage of the property, based on the fact, that most of these neighborhoods were built prior to automobiles, two cars per family or 4 cars per family. So the older neighborhoods were not built for automobiles. The residents came to the City and said "can you reduce the land area to stop this epidemic from occurring"? Margaret is probably correct. There are probably a lot of places out there that don't meet the criteria but there are a lot that do. That's how this all came about. The code has been this way since mid 1980's it's been a long time.

Lou DeRose: In the mid 80's I don't remember what year it was.

Barbara Ciampini: I was here when it happened so 1985-1986?

Margaret Moyer: I think the house itself, I do understand what you are saying about the size of the lot but again I don't know how many people will be ready and able to purchase this property and renovate it as a single family home. Even if investors purchase it and flip it as they say, what they would have to put into it, to recoup that in a single family sale. With this market we have I'm a little doubtful. If the neighbors are content in looking at something that is deteriorating which doesn't help their properties and anything around you weakens your property value. Like I said the buyer does own a property and maintains it on that very street. If you want a history of what they do and how they take care of thing that is evidence.

Lou DeRose: Thanks, Margaret.

Charlotte Kuhns: Is there anyone in the audience speaking for this request? Is there anyone in the audience speaking against this request?

Kristie Johnson: I live at 142 Madison Avenue. My house is approximately two houses down from this site. There have been four (4) foreclosures of properties in this block. Two of them have been flipped and sold and they are working on them and doing very nicely. When you say it's not marketable, I only see a *Howard Hanna* sign in the front of that property for a few months and had been vacant for 4 months after the previous tenants left. The preachers family that had 13 plus people in that house and five cars parked out front and a dilapidated garage in the back and they never used it but it could be functional. You can't even walk in between either one of those houses; I don't know how it can be a duplex. It's always been maintained since the tenants have left. As far as getting two permits in a single family house, that is not correct. If you have off street parking it's only one parking permit and one visitor pass. Unfortunately most of our neighbors have lied to the police and they park out front but they have two or three parking spaces in the rear. The duplex that is two doors in the other direction, I think it's 138, 136 Madison Ave. with four parking spots in the back that you can fit and it is really a good size apartment compared to the place that we live next door to. I've only lived at this property for a little over 5 years. Houses are selling. They are being bought. There is a house across the street that sat for about a year then it was sold and now we have good neighbors. It's a beautiful house. It was in pretty good condition comparatively, however, the condition of the home at 139 or 137 is in terrible shape. It was flooded out all the way to the first floor and it's a terrible eyesight. The property that we are talking about today is not an eyesore, it may not have a front porch roof, but it's kept clean. I'm not worried about the value of my property because I know someday, (we're patient people) and we will sit it out and wait for good tenants, good homeowners to move in there. I would hate to see a home that cannot fit two families in there with no parking in the back and no parking out front, because they are only allowed one. And like I said they lie to the police department like a lot of them have done on the block which creates more of a problem with parking and when I have to come home and I can't park anywhere in the front of my house. Typically our neighbors try stay in their spots and our visitors try to park in the front of the abandoned homes. When I looked at this and saw that they wanted a Variance to the ruling of the 7200 square feet in order to have a duplex and I can't see legally how they can do that. I would hope that this board would not allow that. Thank you.

Barbara Ciampini: I stand corrected, the Police Department does ask or they may also survey property to see if there is off street parking and it is adjusted if there is off street parking.

Charlotte Kuhns: Does anybody else wish to speak?

Nick Strizzi: I live at 143 Madison Ave. I've lived here since 1964. Just like she said the homes are being well taken care of. I can't see where we can put something like this in this square footage. We have apartments on this street now with no off street parking. There are five (5) apartments three (3) in the front and two (2) in the back and one on the corner with two (2) apartments upstairs and a empty storeroom downstairs and none of these have off street parking. There is another one beside this one with a house in the front and one in the back. There isn't off street parking there either. So we have a problem. If you go to the store then you will have a hard time finding a place to park when you come back. We have to live by the law. I have an investment there and I am trying to take care of it. I feel sorry for the person who wants to do this but when you look at the figures you can't do it. So if you let him do it then the neighbor will come up and say I want to do it also. I just don't know how it's going to work. Thank you.

Randy Johnson: I live at 142 Madison Ave. Something else that I am not sure that you are aware of but a couple houses down there is a tailor business and occasionally there several cars there at a time and that adds to the congestion of parking.

Charlotte Kuhns: Can I have a motion on this request?

Patsy Iapalucci: I am going to make a motion, but before I do there are two reasons. One is the lack of square footage, and if we would approve of the lot we are creating an injustice to the people in this neighborhood because it's already overcrowded. I make a motion to deny the request.

Marilyn Crimboli: I second the motion.

Charlotte Kuhns: Does anybody have any questions on the motion?

VOTE:

Marilyn Crimboli	Yes
Patsy Iapalucci	Yes
Mark Dent	Yes
Mary Clymer	Yes
Charlotte Kuhns	Yes

All were in favor.

BEFORE THE CITY OF GREENSBURG ZONING HEARING BOARD

In the matter of:
Dino's Greensburg, Inc.

Appeal Decision
of the Zoning Officer

Property Location:
1020-S. Towne Square Drive

Hearing Date:
January 20th, 2010

PROCEDURAL BACKGROUND

The application dated January 5th, 2010 by Dino DeCario, of *Dino's Greensburg, Inc.*, is appealing the decision of the zoning officer related to their request to erect an electronic sign at their new Dino's location at 1020- S Towne Square Drive, Greensburg, Pa. Subject property is zoned C-2 Business District.

Members of the board present: Charlotte Kuhns, Chairwoman, Mark Dent, Mary Clymer, Patsy Iapalucci and Marilyn Crimboli.

Also Present: Lou DeRose, Solicitor and Barbara J. Ciampini, Planning Director.

There were no objections to advertising or procedure at the hearing. Mary Clymer made a motion that the decision of the zoning officer be overruled and that we grant his request for a sign in that location at that size. I would like to also add to my motion, so in diversion to that location and as same size as the graphics that was presented to us at this Zoning Hearing Board meeting today. Marilyn Crimboli second the motion. The motion passed, 5-0 vote.

BEFORE THE ZONING HEARING BOARD
CITY OF GREENSBURG
DECISION OF THE ZONING HEARING BOARD

FINDINGS

OWNER: Joseph, Robin, and Sandra Lee Moyer

LOCATION: 150 Madison Avenue
Greensburg, PA 15601

NATURE OF APPEAL: Variance
Section 265-128

ZONING DISTRICT: R-2, General Residence District.

This matter comes before the Zoning Hearing Board of the City of Greensburg on the Variance request of Joseph Moyer et al. with respect to a change relating to the area requirements. The applicant desires to duplex the house but does not have sufficient square footage to comply with zoning ordinance.

After proper notice was given according to the Greensburg Zoning Ordinance and the Pennsylvania Municipalities Planning Code, a public hearing was held on Wednesday, January 20, 2010 at 4:00 p.m. at the Greensburg City Hall, Greensburg, Pennsylvania. Notice of the hearing was properly published in the Tribune Review newspaper and the property was posted by the Zoning Officer in advance of the hearing. At the public hearing a representative of the applicant, Margaret Moyer, appeared and offered testimony in support of the application. Three neighbors appeared in opposition to the Variance request.

FINDINGS OF FACT

1. That the applicant has standing before the Zoning Board by virtue of an agreement to purchase.
2. That the applicant was represented by Margaret Moyer, a realtor.
3. The property only has 3465 sq. feet. The property in this district needs 7200 sq. feet.
4. It is the intention of the applicant to change the property to a duplex from its current and original status as a single family residence.
 5. Three neighbors appeared to oppose the request over parking and general maintenance concerns.
6. There has been little, if any, effort to market the property as a single family dwelling.

CONCLUSIONS

- A. On the basis of the testimony submitted by the applicants and the facts contained in the application itself, and all of the exhibits presented to the Zoning Board, the Zoning Hearing Board is of the opinion that the applicants have not met their burden of proof with respect to the granting of a Variance request pursuant to the requirements of the Pennsylvania Municipalities Planning Code.

- B. That the granting of this Variance would not be in keeping with the dictates of the City Ordinances and the applicable law.

- C. There has not been a showing of marketing efforts sufficient to warrant the granting of a variance.

- D. The allowance of a duplex with a variance of this many square feet would not be in keeping with character and development of the neighborhood.

- E. It is the opinion of the Board that the Grant of the Variance would be detrimental to the character of the neighborhood and would adversely affect public health or welfare. Accordingly, this application is Denied.

Zoning Officer

Date: February 10, 2010

DISCUSSION

The property is located at 1020 S-Towne Square Drive, City of Greensburg. Dino DeCario, owner of *Dino's Greensburg, Inc* of Greensburg is appealing the decision of the zoning officer related to their request to erect an electronic sign at their new Dino's location at 1020 S-Towne Square Drive, Greensburg, Pa. Subject property is zoned C-2 Business District.

Dino DeCario: I am opening the *Dino's* at the Greensburg Commerce Park. Actually what I would like to do is just place a sign, I think you have the picture of what I would like to do, it's a changeable sign and I think it would be a lot neater. Where I am located I am not in the City it's out on Route 30 and presently there are several other ones and I thought it would be worth the appeal because I'm within the City limits, I am in the City and I understand that, but I'm out on Route 30. It would just be a lot neater sign instead of a reader board with changing letters and everything else. It fits the building within the guidelines but not within the City guidelines along Route 30. I am asking for an appeal of the zoning officer to use that sign which is 28" by 96".

Lou DeRose: Dino, the board identify off the record but not on the record of the sign that your requesting is 28 X 96?

Dino DeCario: Yes.

Lou DeRose: It would fit immediately above the front door?

Dino DeCario: Yes. There was a grill sign there that I removed.

Lou DeRose: Because the record other then this photo doesn't have anything in it. Am I correct that the sign is an electronic sign which is really just, if you looked at it without any words on it, it's like a blackboard type of sign?

Dino DeCario: Yes.

Lou DeRose: With LED lights in it?

Dino DeCario: Yes.

Lou DeRose: There is no trim, there is no boarder, is that correct?

Dino DeCario: Yes.

Lou DeRose: The wiring or attachments are all behind it?

Dino DeCario: They are already in from the Damon's sign.

Lou DeRose: So it's the same thing?

Dino DeCario: It's the same.

Patsy Iapalucci: Is this going to be on 24 hours or just while your open?

Dino DeCario: It will probably stay on all the time. It's really not feasible to turn them off and on. It's an LED sign; it does not use much electricity.

Charlotte Kuhns: Does anybody else have any questions?

Barbara Ciampini: He's not requesting a Variance, he is appealing my decision.

Lou DeRose: This motion has to be if you are incline to approve the sign and approve his request, Dino's request then, what you're doing is moving that the decision of the zoning officer be overruled and that the sign maybe erected. A little tricky but that's the motion if you're in favor of it.

Barbara Ciampini: I think if we are going to do that we need to mention the square footage and that is the dimensions Dino, the 28 X 96?

Dino DeCario: Yes

Lou DeRose: You would be bound Dino if it is approved to that sign.

Dino DeCario: Yes. That is square inches not square feet.

Charlotte Kuhns: Would someone like to make a motion?

Mary Clymer: I would like to make a motion that the decision of the zoning officer be overruled and that we grant his request for a sign in that location at that size.

Lou DeRose: Not only at that size but as shown to us by *RK Neon Company* as given to the board so there is no question as to what you're entitled to. (See Exhibit A).

Barbara Ciampini: You might also want to add to that because of the location. He's on Route 30, so if you could add that it would make the situation site specific.

Mary Clymer: I would like to also add that to my motion, so in diversion to that location and as same size as the graphics that was presented to us at this Zoning Hearing Board meeting today.

Marilyn Crimboli: I second the motion.

Lou DeRose: Let me just state for the record that the reason was clear because of the location, you are and your fellow business people there at Greensburg Commerce Park are about the only highway frontage that we have on Route 30. I think there is no other spot that comes close. We have a lot on Pittsburgh Street and Otterman Street and Main Street, so you're it and really we are looking at that this is a very special situation and not setting any precedent for any other area. I urge you to keep that in mind as you vote.

VOTE:

Marilyn Crimboli	Yes
Patsy Iapalucci	Yes
Mark Dent	Yes
Mary Clymer	Yes
Charlotte Kuhns	Yes

Charlotte Kuhns: Motion passes 5-0.

Pasty Iapalucci: I make a motion to adjourn.

Mary Clymer: I second the motion.

Meeting adjourned at 5:00

BEFORE THE ZONING HEARING BOARD
CITY OF GREENSBURG
DECISION OF THE ZONING HEARING BOARD

FINDINGS

OWNER: Dino's Greensburg, Inc.

LOCATION: 1020-S Towne Square Drive
Greensburg, PA 15601

NATURE OF APPEAL: Appeal of the Zoning Officer denial of sign permit

ZONING DISTRICT: C-2, Business District.

This matter comes before the Zoning Hearing Board of the City of Greensburg on the appeal request of Dino DeCario, owner of Dino's Greensburg, Inc., with respect to the denial of the installation of a sign on his new business

After proper notice was given according to the Greensburg Zoning Ordinance and the Pennsylvania Municipalities Planning Code, a public hearing was held on Wednesday, January 20, 2010 at 4:00 p.m. at the Greensburg City Hall, Greensburg, Pennsylvania. Notice of the hearing was properly published in the Tribune Review newspaper and the property was posted by the Zoning Officer in advance of the hearing. At the public hearing, the applicant appeared and offered testimony in support of the application/appeal.

FINDINGS OF FACT

1. That the applicant has standing before the Zoning Board by virtue of his ownership of a new business about to open in Greensburg Commerce Park.
2. The sign in question would be 28" by 96" atop the entrance door to the business.
3. The sign would replace a sign in the same location from a previous business and would be electronic with LED lights within, without a border.
4. All of the wiring and attachments are already in place from the former sign.

CONCLUSIONS

- A. On the basis of the testimony submitted by the applicant and the facts contained in the application itself, and all of the exhibits presented to the zoning Board, the Zoning Hearing Board is of the opinion that the applicant has sustained its burden of proof with respect to the request to overturn the decision of the Zoning Officer.
- B. The business property sits along side Route 30 in the only area within the city with direct frontage on the highway.
 - C. Since within sight distance of this proposed sign are other similar signs located within Hempfield township, there appears to be no good reason to block this proposal.
- D. It is the opinion of the Board that the overturning of the decision of the Zoning Officer is a reasonable result for this application.
- E. The decision of the Zoning Officer to disallow the business to erect the sign is hereby reversed .
- F. The Zoning Officer is directed to issue the appropriate permit allowing the electronic sign erection as set forth in the transcript restricted to the size and location contained within the transcript.

Zoning Officer

Date: February 5, 2010

