

## **ONING BOARD OF APPEALS**

### **Regular Meeting**

**March 27, 2018**

Present: Chairman Steve Haberkorn, Vice Chairman Vern Johnson, Members Elliott Church, Russ Boersma and Ross DeVries. Also present was Community Development Director John D. Said, Assistant Community Development Director Corey Broersma, and Recording Secretary Laurie Slater.

Absent: Bob Swartz

The meeting was called to order by Chairman Haberkorn at 5:30 p.m., and he explained the Public Hearing process to the audience.

Hearing declared open to consider a petition for variances submitted by Jamie Hart on behalf of Evoqua Water Technologies for property located at 2155 112th Avenue, known more specifically as parcel number 70-16-22-200-037. Petitioner is requesting the following variances for the purposes of constructing multiple temporary signs: 1) A nonuse variance for 1 portable sign from the maximum number of 1 portable sign permitted on a property; resulting in 2 portable signs; 2) A nonuse variance of 108 square feet in the maximum 60 square foot allowable size for a portable sign; resulting in a portable sign of 168 square feet; 3) A nonuse variance of 188 square feet in the maximum 60 square foot allowable size for a portable sign; resulting in a 2nd portable sign of 248 square feet; and 4) A nonuse variance of 30 days from the 30 day maximum number of continuous days a portable sign may be displayed during a 6 month period; resulting in a portable sign being displayed for 60 continuous days, twice a year. The subject property is zoned General Industrial (I-2).

Present for this request was Chris Waldraff, Plant Manager of Evoqua Water Technologies.

Mr. Waldraff explained to the Board that Evoqua Water Technologies just changed names and would like to market the new name and reintroduce itself to the neighbors and the community. They have launched a nationwide campaign with large signage that would go across the front façade of the building. The signage to the left of the entryway would be 168 square feet in size. While the signage to the right of the entryway would be 248 square feet in size. They are requesting the signage to be allowed to be in place for 60 consecutive days rather than the 30 days allowed by ordinance twice a year; once in the spring and once in the fall. Some of the signage would be advertising for skilled trades workers. The company has grown 40 to 50 percent and continues to grow. They are having a tough time recruiting, especially skilled trades. Other marketing and recruiting avenues they are currently using are billboards and radio ads. They have also communicated with Lakeshore Advantage.

The Board discussed what temporary signage Evoqua Waters Technologies could have at the road and just how far off the road that would be. They could have a temporary sign that would be approximately 17 feet off the road right-of- way.

The Board asked Mr. Waldraff to explain the signage. He responded that the water and the words “Dive In” were meant to be eye catching. The signage on the other side would be recruitment and getting their new name out there.

The Board asked staff if they were aware of any similar variance requests being granted within the Township. They replied that they were not aware of any.

There was no one present in the audience to speak to this request.

\*\* It was moved by Mr. Boersma and supported by Mr. DeVries to close the hearing. Motion carried.

The Board went over the four standards to review when considering a nonuse variance request for two portable signs.

Would strict compliance with the minimum area, yard setbacks, frontage, height, bulk, density, or other regulations of the Zoning Ordinance be unnecessarily burdensome? – No, strict compliance would not be unnecessarily burdensome for the applicant. This is a marketing campaign and there are other avenues for marketing such as billboards.

Would granting the requested variance do substantial justice to the applicant as well as to other property owners in the zoning district, or would a lesser relaxation than that applied for provide substantial relief to the property owner and be more consistent with justice to other property owners in the district? – There has not been anything like this requested before. This is substantially larger than what is allowed – 693% larger than permitted.

Is the plight of the property owner/applicant due to the unique circumstances of the property (e.g. an odd shape or a natural feature, such a wetland or stream) and not to general neighborhood conditions in the area? - The building is set back from the road. They do have the option of a smaller portable sign closer to the road that is allowed by ordinance for seeking skilled trades employees. They have alternative solutions for their campaign and advertising for workers.

Are the practical difficulties alleged self-created? - yes.

\*\* It was moved by Mr. Church and supported by Mr. Boersma to deny the request for two portable signs. Motion carried.

Next the Board went over the standards to review when considering a nonuse variance request for signage that is larger than the 60 square feet allowed by ordinance. They are asking for the two portable signs to be 168 square feet for the first one and 248 square feet for the second sign.

Would strict compliance with the minimum area, yard setbacks, frontage, height, bulk, density, or other regulations of the Zoning Ordinance be unnecessarily burdensome? – No, strict compliance would not be unnecessarily burdensome for the applicant. They are asking for four times what is allowed.

Would granting the requested variance do substantial justice to the applicant as well as to other propertyowners in the zoning district, or would a lesser relaxation than that applied for provide substantial relief to the property owner and be more consistent with justice to other property owners in the district? – There is no injustice to the applicant. This is a means of marketing and can be solved other ways. Our ordinance has a provision for portable signage for 30 days twice a year and everyone has the same opportunity.

Is the plight of the property owner/applicant due to the unique circumstances of the property (e.g. an odd shape or a natural feature, such as a wetland or stream) and not to general neighborhood conditions in the area? - The building is set back from the road. They do have the option of a smaller portable sign closer to the road that is allowed by ordinance for seeking skilled trades employees. They have alternative solutions for their campaign and advertising for workers.

Are the practical difficulties alleged self-created? - yes.

\*\* It was moved by Mr. Boersma and supported by Mr. Johnson to deny the portion of the request for a variance of 108 square feet in the maximum 60 square foot allowable size for a portable sign; resulting in a portable sign of 168 square feet; and the variance of 188 square feet in the maximum 60 square foot allowable size for a portable sign; resulting is a 2nd portable sign of 248 square feet. Motion carried.

Next the Board went over the four standards to review when considering a nonuse variance for 30 days from the 30-day maximum number of continuous days a portable sign may be displayed during a 6-month period; resulting in a portable sign being displayed for 60 continuous days, twice a year.

Would strict compliance with the minimum area, yard setbacks, frontage, height, bulk, density, or other regulations of the Zoning Ordinance be unnecessarily burdensome? – No, strict compliance would not be unnecessarily burdensome for the applicant.

Would granting the requested variance do substantial justice to the applicant as well as to other

property owners in the zoning district, or would a lesser relaxation than that applied for provide substantial relief to the property owner and be more consistent with justice to other property owners in the district? – There is no injustice being done to the applicant.

Is the plight of the property owner/applicant due to the unique circumstances of the property (e.g. an odd shape or a natural feature, such a wetland or stream) and not to general neighborhood conditions in the area? - There is no uniqueness to the property.

Are the practical difficulties alleged self-created? - yes.

\*\* It was moved by Mr. DeVries and supported by Mr. Boersma to deny the request for a portable sign to be displayed for 60 continuous days, twice a year as presented. Motion carried.

Hearing declared open to consider a petition for multiple variances submitted by Timothy Lubbers on behalf of VTR Properties, LLC for property located at 11305 East Lakewood Boulevard, known more specifically as parcel number 70-16-22-200-014. Petitioner is requesting the following variances in conjunction with a proposed building addition: 1) A use variance from the concrete or asphalt paving requirement for driveways, parking areas, and any approved outdoor storage areas; resulting in areas surfaced with gravel or similar material; and 2) A nonuse variance of 1 evergreen tree per 25 feet and 1 shrub per 5 feet from the east property line's greenbelt requirements; resulting in 0 evergreen trees and 0 shrubs along the east property line. The subject property is zoned I-2, General Industrial.

Present for this request was Tim Lubbers third generation owner of Busschers.

Mr. Lubbers explained to the Board that they would like to add 80 feet on to the building with the red roof on the west side of the property. They will be using the addition for storage of equipment.

Also present for this request was Edward Zwyghuizen of Gen 1 Architectural Group.

Mr. Zwyghuizen addressed the paving requirements. He explained that the heavy equipment used by Busschers on a daily basis would tear up the asphalt. There are heavy vehicles loaded and unloaded on a daily basis.

There is asphalt around the office building.

He further explained that the landscaping required by ordinance between the two uses, commercial and industrial on the east lot line would result in the semi deliveries not being able to get into the property to drop off the supplies. The semi has to cut across the neighboring property to get in to make the

delivery. The placement of the mail boxes created this situation. They have no option to purchase any surrounding property.

Approximately half way back on the east property line the property to the east is one to three feet lower than the applicant's property making for drainage issues. There are drains on the west side of the property and also a parking lot drain.

Jim Ondersma of 11283 Chicago Drive stated that Busscher's has been a good neighbor and they have no objections with the proposed project.

One concern the Board had was with debris being tracked onto the road from the business. The area of asphalt was covered with debris and one could not see that there is an area that is already paved.

Mr. Lubbers stated that they clean it about every six weeks, but they would be willing to maintain it better.

There was further discussion about how these variances just now came about since the business has been operating out of the same location for several years. The building they are proposing the expansion to has been there for seven years.

Mr. Broersma explained that the expansion opens itself up to site plan review. At that time anything that is out of compliance, should be brought up to compliance. Zoning of the adjacent property was changed from Industrial to Commercial in 2004, thus creating the need for screening between the two properties. Mr. Lubbers will be going before the Planning Commission to get permissions for outdoor storage of materials and equipment.

There was further discussion among the Board about what areas of the property it would make sense to pave, because of the heavy equipment and vehicles loading and unloading daily. They further discussed the screening

Dan Veltema of Springbrook Properties 11291 Lakewood Blvd, property to the east, was in the audience and spoke to this issue as well. He felt the screening would make his drainage issue worse. There is a stream of muddy water that flows from Busscher's to the back of his building when it rains.

Mr. Zwyghuizen stated that they are working with Nederveld to take care of the drainage issues with an onsite storm water management plan.

\*\* It was moved by Mr. Church and supported by Mr. DeVries to close the hearing. Motion carried.

The Board went over the four standards to review when considering a use variance request from the concrete or asphalt paving requirement for driveways, parking areas, and any approved outdoor storage areas; resulting in areas surfaced with a gravel or similar material.

That the property cannot be used for any of the uses permitted in the district in which it is located. The means that none of the uses (by right or special use permit) allows a reasonable economic return on the use of the property. - The heavy equipment will just break up the asphalt on the back half of the property – they would not be able to use the back half of the property. However, the front half of the property could comply with the paving ordinance. There has been no adverse effect of debris on the roadway. Wherever possible, they should comply.

That the plight of the property owner is due to unique circumstances peculiar to the property (i.e. odd shape or a natural feature like a stream or wetland) and is not due to general neighborhood conditions. – The unique circumstances are not necessarily due to the property, but to the use.

That the proposed use would not alter the essential character of the area. – The use would not change – The property has been here for more than 50 years used in the same capacity.

That the problem was not self-created. – No, it was not self-created.

\*\* It was moved by Mr. Boersma and supported by Mr. Johnson to require paving from the north edge of the primary building to the west where the employees park and south to Lakewood, with the stipulations that 1) the drainage problems are resolved and 2) the pavement is maintained. Motion carried.

The Board had further discussion about the greenbelt. Staff stated that there is a utility easement that runs east-west and they would like to see a greenbelt on the back half of the property, north of the easement.

The Board went over the four standards to review when considering a nonuse variance of 1 evergreen tree per 25 feet and 1 shrub per 5 feet from the east property line's greenbelt requirements; resulting in 0 evergreen trees and 0 shrubs along the east property line. The subject property is zoned I-2, General Industrial.

Would strict compliance with the minimum area, yard setbacks, frontage, height, bulk, density, or other regulations of the Zoning Ordinance be unnecessarily burdensome? – The greenbelt would be unnecessarily burdensome on the southern portion of the property as there are access issues for semi-trucks due to the placement of the mail boxes.

Would granting the requested variance do substantial justice to the applicant as well as to other property owners in the zoning district, or would a lesser relaxation than that applied for provide substantial relief to the property owner and be more consistent with justice to other property owners in the district? – A lesser relaxation would provide relief for the owner. No greenbelt on the southern portion of the east property line to allow for semi deliveries.

Is the plight of the property owner/applicant due to the unique circumstances of the property (e.g. an odd shape or a natural feature, such a wetland or stream) and not to general neighborhood conditions in the area? - The uniqueness is the semi-trucks having to cross the neighboring property to make deliveries.

Are the practical difficulties alleged self-created? – No, it has been that way a long time.

\*\* It was moved by Mr. Church and supported by Mr. Boersma to grant a lesser relaxation. The greenbelt is to run from the south edge of the red roofed building at the east property line and north to the back of the property. Motion defeated with 2 in favor and 3 in opposition (Haberhorn, Johnson, DeVries).

\*\* It was moved by Mr. DeVries and supported by Mr. Johnson to grant the request as presented – no greenbelt. Motion carried with 3 in favor and 2 in opposition (Church, Boersma).

Hearing declared open to consider multiple variances submitted by Jon Gilmore on behalf of AMERCO Real Estate Company for property located at 463 East Lakewood Boulevard, known more specifically as parcel numbers 70-16-21-100-026, -040, and -042. Petitioner is requesting the following variances for the purposes of renovating 2 existing buildings: 1) A nonuse variance of 10 feet 10 inches from the required 15-foot side yard setback along the west property line; resulting in a side yard of 4 feet 2 inches; and 2) A variance of 16 feet 7 inches from the required rear yard along the north property line; resulting in a rear yard of 8 feet 5 inches. The subject property is zoned General Commercial (C-2).

It was moved by Mr. Church and supported by Mr. DeVries to remove from the table a variance request from November 2017 for a petition to extend a nonconforming use submitted by AMERCO Real Estate Company on behalf of the Russell & Lillian Veldheer Trust for property located at 463 East Lakewood, known more specifically as parcel number 70-16-21-100-026, -040, and -042. Petitioner is requesting an extension of the nonconforming use for two (2) existing buildings in order to convert them to self-storage facilities. The existing buildings are nonconforming because they fail to comply with the required building setbacks. The subject property is zoned C-2, General Commercial. Motion carried.

The applicant asked to withdraw the previous request.

The Board proceeded with the new variance request.

Present for this request was Bill Rains and Jon Gilmore.

Mr. Rains explained that U-Haul reuses old buildings whenever possible rather than tear them down. Demolishing the buildings result in tons of debris to get rid of. Their plans for the site are for the first existing building to be transformed into a retail store with a showroom. The second existing building at the rear of the property would be used for storage.

The property backs up to Sam's Club. The existing building on the west currently blocks the view of the dumpsters of Northgate from the traffic going by on the road. The existing house and two smaller garages will be removed from the property. There are two new buildings proposed on this property on at the front of the property and in the rear.

Mr. Gilmore explained that the small businesses that have U-Haul as an auxiliary to their main business have to many people moving in and out of the area. The businesses have no place to park the overflow of trucks and trailers.

The existing buildings will be refaced, remodeled and reroofed if necessary. The driveways will all be paved and there will be a green space. The rest of the plan complies with ordinance, only the two existing buildings will be out of compliance. There will be screening all around the property.

Chuck Rozema of Northgate Appliance was in the audience. He had no concerns with the proposed plan. He believes, however, that 1½ feet of the existing building on the west property line is on Northgate property. He further stated that he is not excited about the storage that is proposed to be on the property, but how the property is proposed to look and be used is more important.

Mr. Broersma commented that this plan is not what was presented to the Planning Commission and that they would have to have a look at this plan as there is more road front space being used.

\*\* It was moved by Mr. Devries and supported by Mr. Johnson to close the hearing. Motion carried.

The Board went over the four standards to review for a nonuse variance. They first considered the variance for the north property line building; a variance of 16 feet 7 inches from the required rear yard along the north property line; resulting in a rear yard of 8 feet 5 inches. The subject property is zoned General Commercial (C-2).

Would strict compliance with the minimum area, yard setbacks, frontage, height, bulk, density, or other regulations of the Zoning Ordinance be unnecessarily burdensome? – The buildings were on site prior to Sam’s Club being built. There has been no adverse effect of a business being run from this property in the past, should not interfere moving forward.

Would granting the requested variance do substantial justice to the applicant as well as to other property owners in the zoning district, or would a lesser relaxation than that applied for provide substantial relief to the property owner and be more consistent with justice to other property owners in the district? – It would be just to grant this request to the applicant. The building has been there a long time. It has not been an issue in the past, should not interfere now.

Is the plight of the property owner/applicant due to the unique circumstances of the property (e.g. an odd shape or a natural feature, such a wetland or stream) and not to general neighborhood conditions in the area? - The building has been there a long time. Repurposing it is a good thing.

Are the practical difficulties alleged self-created? – No, they purchased the property in the condition that it is in.

\*\* It was moved by Mr. DeVries and supported by Mr. Johnson to approve the request as presented. Motion carried with one opposition from Mr. Church.

The Board next considered the building on the west property line, going over the same four standards. A nonuse variance of 10 feet 10 inches from the required 15-foot side yard along the west property line; resulting in a side yard of 4 feet 2 inches.

Would strict compliance with the minimum area, yard setbacks, frontage, height, bulk, density, or other regulations of the Zoning Ordinance be unnecessarily burdensome? – Ordinances are for the protection of others. The building has in place for a long time. The neighbor is okay with the building being there as it is.

Would granting the requested variance do substantial justice to the applicant as well as to other property owners in the zoning district, or would a lesser relaxation than that applied for provide substantial relief to the property owner and be more consistent with justice to other property owners in the district? – Allowing AMERCO to repurpose the building only affects the appliance store. They are okay with it. It is a perfectly usable building, it doesn’t make sense to tear it down.

Is the plight of the property owner/applicant due to the unique circumstances of the property (e.g. an

odd shape or a natural feature, such a wetland or stream) and not to general neighborhood conditions in the area? – The buildings have been there for 30-40 years.

Are the practical difficulties alleged self-created? - No, the situation is not self-created. The property was purchased as it is.

\*\* It was moved by Mr. Church and supported by Mr. DeVries to approve the request to use the existing building in its current location keeping within the footprint of the existing building and so long as the building exists and the survey as submitted is correct (must determine if 1½ feet of the existing building is on Northgate property) and so long as the building looks the same as presented on the plans. Motion carried.

There were no public comments.

The minutes of January 23, 2018 were approved as written.

The meeting adjourned at 7:52 p.m.

Respectfully submitted,

Laurie Slater

Recording Secretary