

Minutes

City of Hartford Zoning Board of Appeals

January 26, 2022

Call to Order – Member Kevin Volm called the meeting to order at 5:37 p.m. in the Common Council Chambers, Hartford City Hall, 109 N. Main Street.

The minutes from November 2, 2021 were reviewed. Motion by Flanagan to accept the minutes, second by Savage. Motion Carried.

Roll Call – In attendance were members Todd Bultman, Nicole Flanagan and Kevin Volm.

Alternate present – Bill Savage

Member Volm read the purpose notice, reviewing requirements for members, applicants and audience during a Zoning Board of Appeals meeting. Mr. Volm asks Mr. Drew if applicants want to proceed with only four members because the vote will need to be unanimous. Mr. Drew defers the question to the applicant in the audience. Applicant's response was to go ahead with the meeting and the request. Mr. Volm asked Mr. Drew if all parties had been notified and that all certification requirements have been met for the agenda item to which Mr. Drew replied that they had.

Member Volm asked if there were any objections to waiving the reading of the application. Hearing none, he requested a motion. Motion by Flanagan, second by Bultman to waive the reading of the application. **Motion Carried.**

Member Volm asked if there were any objections to waiving sworn testimony. Hearing none, he requested a motion. Motion by Bultman, second by Flanagan to waive sworn testimony. **Motion Carried.**

Mr. Drew reads and explains the following:

Variance Public Hearing – Variance from to increase the maximum ground sign size from 125 square feet to 299.7 square feet, by combining the total signable area allowance for 1201-1241 Bell Avenue, Tax Key#: 36-2203-003-001.

Festival Foods (DBA MKB Hartford, LLC) owns the three properties that make up the former Hartford Plaza. The two large parcels (see attached map lots 2 and 3) are zoned B-2 Community Business and the smaller lot on the northeast (Lot 1) is zoned B-5 Highway Business District. The Festival Foods grocery store under construction is located on the 1275 Bell Avenue lot. Their intent is to demolish the remainder of the existing buildings and build new on the 1201 Bell Avenue Lot.

The B-2 District allows ground signs of up to 125 square feet with one such sign allowed per 400 feet of street frontage. Festival would like to reallocate the allowable area from multiple signs on two lots into one large master sign of almost 300 square feet, plus a

smaller sign at the secondary entrances of each lot. The sign would include space for numerous tenants. This would be placed near the intersection of Bell Avenue and Plaza Drive and serve as an anchor point for the primary entrance to the shopping center.

Festival Foods believes that one larger master sign would be more attractive than two large signs, one on each side of the primary entrance at Plaza Drive, which would create a tunnel effect, and perhaps create confusion for passersby. In addition, given that the properties in question are setback more than 200 feet from the primary thoroughfare (STH 60/ East Sumner Street), Festival Foods believes that one larger sign is warranted to ensure that all of the business signs can be easily read by passersby.

Need for the Variance – Under the current standard for reviewing an area variance, the applicant must demonstrate that strict application of the Code would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity with such regulations unnecessarily burdensome in order to be granted an area variance. These criteria also indicate that the applicable board should focus on the purpose of the zoning law. The purpose statement of the signage portion of the Zoning Code is included below.

No variance to the provisions of this ordinance shall be granted by the Zoning Board of Appeals unless it finds that all the following facts and conditions exist and so indicates in the minutes of its proceedings:

Preservation of Intent: No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.

Signs are a permitted accessory use in the B-2 Community Business District.

The intent of the signage maximum area requirement is to regulate the size and location of all signs in order to minimize possible adverse impacts on nearby properties, as well as to minimize traffic safety impacts of signs.

Staff does not believe that the granting of a variance to allow a larger sign would cause overcrowding or create other negative impacts on surrounding properties. The nearest building will be the new Culver's restaurant, which will be at least 165 feet away from the proposed enlarged sign. The sign will meet the height requirement of 35 feet and so would not be any more likely to cast shadows farther onto adjacent properties. Staff also believes that one large sign on the south side of the intersection of Bell Avenue and Plaza Drive would create fewer traffic safety concerns than two smaller signs that flank the intersection, this could hinder visibility at entrance.

Staff finds that this first condition has been met.

Exceptional Circumstances: There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be so general or recurrent in nature as to suggest that the zoning ordinance be changed.

There are only four B-2 Community Business District properties in the City (Wal-Mart, the Piggly Wiggly shopping center, and these two lots). The Wal-Mart property houses one primary business, with two smaller businesses inside. The Piggly Wiggly shopping center received a variance many years ago to allow the placement of their primary ground sign within private right-of-way adjacent to STH 60/East Sumner Street. The Festival Foods lot and adjacent B-2 lot are the only two B-2 lots in the City with numerous tenants (as in a shopping Center) without the ability to place a sign directly adjacent to the primary thoroughfare. They seek to compensate for this disadvantage by building one primary multi-tenant sign that is larger, and thus of comparable visibility to drivers on STH 60/East Sumner Street as the Piggly Wiggly shopping center sign.

Staff finds that this condition has been met.

Economic Hardship and Self-Imposed Hardship not grounds for Variance: No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for granting of a variance.

The basis of seeking the variance is not directly economic gain or loss. Rather, the basis of seeking the variance is loss of use of the property for a use that has been permitted: specifically, the loss of signage in the most visible area to numerous tenants. Without the variance, smaller tenants in the shopping center would be relegated to signs on the far sides of the development, and thus be less visible to passersby. Alternately, the applicant could address this issue by placing two 125 square foot signs flanking the primary entrance at Bell Avenue and Plaza Drive, but that would create other issues as described above.

The lot has existed for at least 30 years. The current owner did not create the problem outlined in the “Exceptional Circumstances” section.

Staff finds that this condition has been met.

Preservation of Property Rights: The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

Similar to the criterion answer in (C), without the variance, smaller tenants in the shopping center would be relegated to signs on the far sides of the development, and thus be less visible to passersby. Alternately, the applicant could address this issue by placing two 125 square foot signs flanking the primary entrance at Bell Avenue and Plaza Drive, but that would create other issues as described above, like creating a tunnel affect. Staff believes that strict application of the ordinance in this instance would be “Unnecessarily Burdensome” to the property owner.

Staff finds that this condition has been met.

Absence of Detriment: No variance shall be granted that will create substantial detriment to adjacent property and will materially impair or be contrary to the purpose and spirit of this ordinance or the public interest.

Even with the proposed ground sign area increase, the nearest structure would be at least 165 feet away and the impact on adjacent properties would be minimal, especially since the sign will still meet the same height requirement (35 feet). As a result, the increased signage area as proposed would not create a substantial detriment to the adjacent properties.

Staff finds that this condition has been met.

Other Considerations: Under the new standard, the applicant must demonstrate that strict application of the Code would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such regulations unnecessarily burdensome in order to be granted an area variance.

Staff believes that the applicant has demonstrated that this standard has been met. With the information provided, if a variance is not granted it appears that the Code would unreasonably prevent the owner from using the property for a use that has been permitted. Without a variance, smaller tenants in the shopping center would be relegated to signs on the far sides of the development, and thus be less visible to passersby. Alternately, the applicant could address this issue by placing two 125 square foot signs flanking the primary entrance at Bell Avenue and Plaza Drive, but that would create other issues as described above.

Given that the applicant has met all of the current Code requirements and the Wisconsin Supreme Court decisions for granting an area variance, Staff believes that a Variance should be granted.

However, the applicant erred in their belief that they would be entitled to 6 total ground signs on the two B-2 zoned lots. After measuring the street frontage area of Lots 2 and 3, Staff has determined that lot 3 is entitled to two ground signs, not three (approximately 506 feet of street frontage). Lot 2 (Festival Foods) has approximately 807 feet of street frontage and is entitled to up to three signs. The “Shoppes” secondary sign that the application references is on Lot 1 and is zoned B-5 Highway Business District. It is entitled to up to two 75 square foot signs. In total, the applicant is entitled to the amount of signage that they propose, but it is allocated somewhat differently.

Recommendation: Staff recommends **APPROVAL** of a variance request for 1275 Bell Avenue from the maximum ground sign area of 125 square feet up to a maximum sign area of 300 square feet for one sign in the proposed development area (Lots 1, 2 and 3 of the attached Certified Survey Map), subject to the provision that no more than four total ground signs can be erected within the 3-lot development area.

This recommendation is based on findings that

1. Exceptional circumstances warranting a variance exist and that granting the variance would not be recurrent in nature;

2. The variance is necessary to preserve rights generally enjoyed by other properties in the B-2 Community Business District.

Discussion and Consideration – Member Kevin Volm requested any appearances in favor of the variance request. The applicant, Aaron Aspenson of MKB Hartford, LLC. Approached the podium to say that they are obviously in favor of the request and the description Mr. Drew gave was accurate. He wanted to clarify that the request is not to go any higher or add square footage to the total allowed for signage. They are just asking to combine the totals onto one monument sign when you drive in. Our other option was to make 2 monument signs the way the code is written and we thought that aesthetically, one sign was more aesthetically pleasing and serves all the tenants. Mr. Volm asked for clarification on exactly where the sign is going to be placed. Mr. Aspenson mentioned that it would be on the Southwest side of the entrance area, across from Dairy Queen. Mrs Flanagan asked where the other signs would be going. Mr. Aspenson responded that there would be one on the east entrance between the Shoppes mall area and the Festival Building. Another at the northeast corner of the lot and one at the far Northwest end of the lot. Mr. Volm asked if the other side of the development where Sentry used to be could potentially have similar signage. Mr. Drew explained that they want is the one larger sign they are proposing. Mr. Volm wanted to clarify that the board is only voting on the size of the sign not any of the content of the signs. Mr. Drew responded that he was correct. Mr Volm asked if there were any other appearances in favor of the request. Grant Duchac with Excel Engineering representing Festival foods, address, 100 Camelot Drive, Fond du Lac. Excel and Festival have had a long standing relationship working on the development project. He mentioned that they are looking to provide an anchor sign and that it will complement the development and redevelopment of the area. It gets all the tenants on one anchored sign. Kevin Volm asked if there was anyone else who would like to speak on behalf of the signage. Then asked if there was anyone apposed and noted that there was nobody else in attendance but required to ask three times. No further discussion was requested by the board members.

Mr. Volm asked for a decision for the Zoning Board of Appeals but then asked Mr. Drew if the approved findings of fact will be included in the motion. Mr. Drew said that he assumed that the motion made was to approve it with the finding of fact that was included with the packet. To which board members Flanagan and Bultman replied yes. Mr. Drew said that, yes it will be included with the findings of the variance.

Mr. Volm asked for a decision from the Zoning Board of Appeals. Motion by Flanagan to approve, second by Bultman. **Motion Carried** (unanimous).

Mr. Drew explains that the second agenda item was canceled because during the research of the request it was found that there was a deeply buried conditional use permit that allowed what they were seeking which was a decrease in a setback in a residential area. This particular subdivision already has a Conditional Use Permit to allow one side yard setback be reduced on corner lots which this was.

Meeting adjourned by call of Mr. Volm at 6:03pm.

Zoning Board of Appeals, January 26, 2022

Respectfully Submitted,
Justin Drew, City Planner