

SUMMARY MINUTES OF BOARD OF ADJUSTMENT ACTION HELD JULY 14, 2015

CALL TO ORDER – 7:00 P.M.

PLEDGE OF ALLEGIANCE -

ROLL CALL OF MEMBERS – Those Present: T.O. Owens, Chairman; Jenny Riley, Secretary, Kathy Drulard, Cindi Kreutzer, Ted Terranova

Not Present: Christine Duncan, Dave Marquez

ALSO PRESENT: Reid Betzing, Sr. Ass't. City Attorney; Rita McConnell, Community Development Director, Rob Smetana, Planning Manager, Gary Hammond, Senior Planner; James Cramer, Planner I, Jodi Baros, Administrative Specialist

APPROVAL OF MINUTES FOR June 23, 2015 – The minutes for June 23rd stand approved as printed.

PUBLIC HEARING –

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**VAR2015-0013 - VACATED**

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**VAR2015-0012 IRG, LLC (Walmart) 9212 W. 58<sup>th</sup> Ave.**

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The public hearing was opened.

The property was posted and the fee was paid.

Mr. Owens stated the option to suspend the case due to only 4 members being present.

Andrew Moon, 211 N Record St Suite 222 Dallas TX, stated that he wants to proceed and wanted to allow Maureen Phair to give history about the site before he proceeds.

Maureen Phair, Arvada Urban Renewal Authority (AURA), spoke about the history of Ralston Fields area (Arvada Triangle). She spoke of the upgrades and rebranding efforts. The first phase is Arvada Plaza and Walmart will be their first anchor store and they want to give the area a new vibe.

Mr. Moon stated that they have worked with AURA for several months to coordinate this sign and want to identify the area that is being redeveloped in this sign.

Nancy Young, 7706 Robinson Way, stated that AURA has adopted their own sign code and that the approval of this variance would encourage others to follow suit and other city entities, like AEDA, would also want to use their own sign code.

Susan Shirley, 6173 Allison St, stated that a set of massive Walmart signs is not the ambiance that we, as citizens, are going for and asked that the variance not be supported.

Additional Comments from Staff

Rita McConnell spoke on behalf of the staff and stated that the overall sign dimensions are causing the variance in this case. She stated that The City will be working on a Sign Code update and will be modifying the Land Development Code and we will work on the sign code updates quicker than the rest of the updates due to issues arising on signs in general.

Mr. Terranova asked about the development of the Alternate Sign program and is this already bought in by the City Council?

Ms. Phair stated that she has worked with Ms. McConnell regarding the alternative sign program and it is already in the process but the issue is really the time that the program takes (4-6 months) will conflict with the deadlines that Walmart are under.

Mr. Terranova stated the he feels that he is getting two staff recommendations. Can I get one staff recommendation?

Ms. McConnell stated that there are two standards here and that as staff we could not check all the boxes.

Ms. Drulard asked what the timeframe is for the Alternative Sign program?

Ms. McConnell stated that it is a process and can take anywhere from 4-6 months.

Ms. Riley asked about the illuminating of the sign and what hours it was going to be lit?

Mr. Moon stated that the the only area that will be lit is the Walmart panel and the Walmart spark. He does believe that the Walmart will be a 24 hour store and may be lit all that time.

Mr. Owens asked how AURA came up with the sign concepts?

Ms. Phair stated that a company was hired to design the sign and AURA agreed with the designs.

Closed the Public Hearing

Ms. Drulard stated the she does not see a practical difficulty in this case. However, she would support the Alternative Sign Program.

Mr. Owens stated that he does support this variance and without it the sign would be back quite a distance from the road.

Mr. Terranova supports the variance and made the point that we have recently supported another sign and do not want to appear prejudice. It is very important that we support branding for a company and we want to help it be successful.

Ms. Riley stated that she does support the variance and appreciates that the company is willing to support the branding of this location. She also mentioned the vacated right of way.

DISCUSSION OF MOTION:

MOTION:

It was moved by Mr. Owens that variance request VAR2015-0012 IRG, LLC (Walmart), 9212 W. 58<sup>th</sup> Ave., requests a variance to construct two freestanding monument signs that measure 89.05 sq. ft. in size and setback 10 ft. from the front property line one on W. 58<sup>th</sup> Ave. and the second on Independence St., when Sec. 6.17.4(A) limits the size of a monument sign to 32 sq. ft. when set back 10 ft. from a front property line, be granted.

This motion is based on Findings No. 1 through 8 on Page 12 of the Staff Report.

As to Finding No. 1, the special circumstance or condition includes the fact that the applicant vacated right of way and placing the sign 30 feet from the road would cause difficulty to see.

The following votes were cast on the motion:

Those voting Yes: Owens, Terranova, Riley

Those voting No: Drulard

Those absent: Duncan, Marquez

Those abstained: Kreutzer

The variance is granted.

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**VAR2015-0014 Merrill Miller 7403 Deframe St**

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The public hearing was opened.

The property was posted and the fee was paid.

Mr. William Day, 7403 Deframe St., stated that he hired Landmark Garage to build a garage and it was almost completed when their neighbor complained about the drainage and the side setback. The drainage issues were being corrected and signed off by Matt Knight in the City's engineering department. The garage was placed in error of 2 feet by Landmark Garage it was set 5.5 feet from the property line and should have been 7.5 feet.

Mr. Owens marked the photos from Mr. Day as Exhibit A and included them for anyone to see.

Ms. Lori Johnson, 7397 Deframe St., stated she had prepared photographs to show the drainage issues that they are experiencing from water seeping underneath the driveway and the pad has shifted and water came seeping out on a day that we had no rain. We feel that neighbors should not be able to build or make improvements that clearly impact their neighbors in such a negative way.

Mr. Owens marked the photos for Ms. Johnson as Exhibit B.

Mr. Day stated that he thought it was about the distance and not the water and he showed video of drainage issues that they have experienced ongoing in their neighborhood ever since they have lived there. Complaining neighbors should fill the cracks in their driveway.

Mr. Owens asked if there were any comments from the staff.

Mr. Cramer stated that there are no comments from staff.

Mr. Terranova asked if the 7.5 feet setback would cause any issue with the drainage on this property.

Mr. Cramer stated that engineering would need to answer that question.

Mr. Terranova asked if a permit was issued.

Mr. Cramer stated that yes a permit was issued.

Ms. Kreutzer asked staff if the property qualifies as a small lot.

Mr. Cramer stated that this is not the intent of this PUD.

Ms. Riley asked if there is an overhang on the garage and what is the opening of the garage?

Mr. Day stated that yes there is an overhang and the opening is approximately 10 feet.

Closed the Public Hearing

Mr. Owens stated that he cannot support this variance. This is obviously a mistake by the contractor and it needs to be corrected.

Mr. Terranova stated that there is a reason for the code and we have to assume that the building is not there and the contractor will need to correct their error.

Ms. Riley stated that she is having a problem with a special circumstance with this lot and cannot support this variance.

Ms. Kreutzer stated that she did see that a special circumstance was in the report regarding access to the garage doors.

DISCUSSION OF MOTION:

MOTION:

It was moved by Mr. Terranova that variance request VAR2015-0014 Merrill Miller 7402 Deframe St, requests a variance to construct a 536 sq. ft. detached garage setback 5.5 ft. from the side (south) property line when Sec. 6.2.1 requires a minimum side setback of 7.5 ft., be granted.

This motion is based on Findings No. 1 through 8 on Page 14 of the Staff Report.

As to Finding No. 1, the special circumstance or condition includes the fact that the garage would not be as easily accessible if there were a 7.5 foot setback.

The following votes were cast on the motion:

Those voting Yes: Kreutzer

Those voting No: Owens, Terranova, Riley, Drulard

Those absent: Duncan, Marquez

Those abstained:

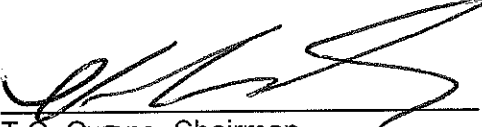

The variance is denied.

OTHER ITEMS – By-laws discussions

The next meeting is scheduled for July 28, 2015 with two cases.

MEETING ADJOURNED at 8:25 P.M.

  
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Jenny Riley, Secretary

  
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T.O. Owens, Chairman  
  
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Jodi Baros, Administrative Specialist