

A regular meeting of the Troy Planning Commission was held Wednesday, February 14, 2018, at 3:30 p.m. in Council Chambers, second floor, City Hall, with Chairman Alan Kappers presiding. Members Present: Beamish, Wolke, Snee, Titterington, McGarry and Mahan; Assistant Development Director Davis.

The minutes of the January 10, 2018 meeting were approved.

**HISTORIC DISTRICT APPLICATION, 10 W. RACE STREET, FOR THE REFACE OF AN EXISTING FREESTANDING SIGN TO READ "TROY'S QUICK MART"; OWNER: P&P SONS HOLDING LLC; APPLICANT: SIGN DYNAMICS BY JENNIFER LAMBERT** The applicant was not present. Staff reported: property is zoned B-3, Central Business District; current freestanding was issued a permit in 1985; sign would be 29.75 square feet per face for a total of 59.50 square feet, which is the allowed sign size; sign faces to be flat Lexan with first surface translucent vinyl; colors to be PMS 200 Fire Red and white; and staff recommends approval based on:

- Property is located on edge of the historic district,
- The building and freestanding sign were constructed in a modern style,
- Building is not historically significant.
- A sample of the sign material and color was reviewed by the Commission.

Mr. Davis noted that there is no historic district oversight on the building as the building itself is not in the District, although the sign is, and Staff was hesitant to make the recommendation as they would prefer to see something more in keeping with the District.

Mr. Titterington commented that this area is very visible, one property away from a new multi-million dollar investment, the area is likely recognized by most people as being part of the downtown, it is across the street from an iconic structure that may likely be on the market in the next year, and he would like to see something a little more in keeping with the Historic District than what has been proposed. Mr. Davis said that staff asked the applicant if he wanted to reconsider the application, but the applicant declined to do so.

Mrs. Snee asked about legal grounds to object to the sign, and said she would like to a sign with a more muted color.

Mr. Kappers commented that he understands keeping pace with what someone would like to see in the area in the future; he feels the color is too dramatic and probably not historic to the period. Mr. Davis commented that the prior sign had a very similar red color but red was only 1/3 of the sign size. Mr. Kappers commented that he does not feel the red is appropriate for the historic district.

A motion was made by Mr. Titterington, seconded by Mrs. Snee, to table the application for 10 W. Race Street and that the applicant be asked to submit an application for a more muted color that would be more in keeping with the historic district.

**MOTION PASSED, UNANIMOUS VOTE**

**PROPOSED AMENDMENT TO THE ZONING CODE – SECTION 1137.08 OF THE CODIFIED ORDINANCES TO REFLECT THE MOST RECENT OHIO SUPREME COURT LISTING OF THE SEVEN FACTORS THAT ARE TO BE CONSIDERED BY A BOARD OF ZONING APPEALS WHEN CONSIDERING A VARIANCE APPLICATION**

Staff reported that in order to comply with the Ohio Supreme Court findings in the case of *Duncan v. Village of Middlefield*, the Director of Law and City Staff are asking that Planning Commission considers recommending to City Council amendments to Section 1137.08 of the Codified Ordinances (Zoning Code) to implement language changes related to standards for variances. The request further noted that the Board of Zoning Appeals (BZA) hears requests for variances from the Zoning Code when the Zoning Code results in practical difficulties or unnecessary hardship for property owners; in order to determine when practical difficulties exist, a set of criteria has been set for the BZA to consider and weigh; In *Duncan v. Village of Middlefield*, 23 Ohio St. 3d 83 (1986), the Supreme Court of Ohio defined a practical difficulty as existing whenever an area zoning requirement (e.g., frontage, setback, height) unreasonably deprives an owner of a permitted use of his property; the Court listed the following seven factors that, at a minimum, are to be considered and weighed when making the determination of whether a "practical difficulty" exists: currently all the criteria would have to be met and the amendment would not require all to be met; and staff summarized that the proposed language adds the additional criteria for consideration as well as revises the BZA's responsibilities in hearing and deciding variance requests:

- (1) whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- (2) whether the variance is substantial;
- (3) whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- (4) whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);
- (5) whether the property owner purchased the property with knowledge of the zoning restriction;
- (6) whether the property owner's predicament feasibly can be obviated through some method other than a variance; and,
- (7) whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Mr. Kappers asked Mr. Wolke if, as the Commission's BZA appointee, if he had any comments regarding the proposed Ordinance changes, with Mr. Wolke commenting that he would support the recommendation of the Director of Law.

**Public Hearing:** A motion was made by Mr. Wolke, seconded by Mr. Titterington, that the Planning Commission not hold a public hearing on the proposed amendment to Section 1137.08 of the Codified Ordinances, as provided by the Director of Law and attached hereto.

**MOTION PASSED, UNANIMOUS VOTE – COMMISSION WILL NOT HOLD A PUBLIC HEARING**

**Recommendation on the proposed Zoning Code Amendment:** A motion was made by Mrs. Snee, seconded by Mrs. Mahan, that the Troy Planning Commission recommends to Troy City Council that Zoning Code Section 1137.08 of the Codified Ordinances of the City of Troy, Ohio be amended as provided by the Director of Law and attached hereto, regarding the criteria to be considered and weighed by the Board of Zoning Appeals when such Board is making a determination related to where a "practical difficulty" exists when hearing an appeal.

**MOTION PASSED, UNANIMOUS VOTE**

**COMPREHENSIVE PLAN.** Mr. Titterington stated that the updated Comprehensive Plan is about ready to be presented to the Commission. Mr. Davis commented that he did not know if it needed to be deferred pending the current branding initiative. Mr. Titterington stated he did not see the branding as part of the Comprehensive Plan. Mr. Kappers asked about what changes to the Plan may have resulted from the MKSK study (re the riverfront and downtown). Mr. Titterington commented that the plan does not include adopting the MKSK study/branding and only references that there has been a study. Mr. Kappers commented that as he does not agree with all of the MKSK Study, he wanted to be sure the Comprehensive Plan does not indicate approval of the study as the Plan needs to be a planning document.

There being no further business, the meeting adjourned at 3:45 p.m.

Respectfully submitted,

\_\_\_\_\_ Chairman

\_\_\_\_\_ Secretary