

ZONING BOARD OF APPEALS
Regular Meeting
October 26, 2021

The meeting was called to order by Chairman Boersma at 5:30 p.m.

Present: Chairman Russ Boersma, Vice-Chairman Ross De Vries, Members Jack Vander Meulen and Elliott Church. Also present were Community Development Director Corey Broersma and Recording Secretary Laurie Slater.

Absent: Robert De Vries

Public Comments: None

** It was moved by Vander Meulen and supported by De Vries to approve the Minutes of September 28, 2021 as written. Motion carried.

Chairman Boersma explained the Public Hearing process to the audience.

Hearing declared open to consider a petition for a nonuse variance submitted by Anchor Sign, Inc. on behalf of Holland Retail Management LLC for property located at 12344 James Street, known more specifically as 70-16-21-200-084. Petitioner is requesting a variance for additional wall signage. The subject property is zoned C-2 Community Commercial.

Present for this request was Jim Herni of Anchor Sign, Inc., Charleston, South Carolina.

Mr. Herni explained to the Board that WellNow Urgent Care services are run the same as Aspen Dental. They are a walk-in clinic that would be doing urgent care, COVID check-ups, as well as physicals.

The entry point of the building faces James Street, making the smaller side of the building their primary entry façade, allowing them 112.8 square feet of wall signage. WellNow's concerns are that they are on a side road and patients won't be able to see them. They want to make themselves available to be found quickly.

Signs "B" and "C" allow visibility as people come through the area. Sign "A" takes up a lot of the square footage allowed. Sign "E" is a monument sign that will be in compliance with the ordinance. The applicant would like the side elevation to have signage, not to show off, but to make people aware they are there.

There was discussion in regards to the size of the signage compared to Chick-Fil-A (across US-31) and the definition of primary entry facade.

Mr. Herni stated that they are open to downsizing. Looking at the site plan, sign "D" is unnecessary as it faces the back parking lot. Sign "C" is unnecessary as the new Popeye building to the east of WellNow would block the signage from vehicles approaching from the east. That

leaves them with signs “A”, “B” and “E”. They could make sign “B” smaller. WellNow wants to achieve signage for the customer, but fit into the community.

Mr. Church had questions of Staff. Community Development Director, Corey Broersma answered that there have been no complaints about not being able to find a business as far as he knew since he has been employed by Holland Charter Township. In Mr. Broersma’s opinion, yes, the Ordinance does allow for enough signage. In 2018 there were new standards for the monument signs – 50 square feet allowed and since at least 2000 the rule for wall signage has been 10% of the primary entry façade.

Mr. Church further questioned Mr. Herni about signage at other WellNow locations throughout the United States. Mr. Herni stated that WellNow started in NY. They are partners with Aspen Dental. They are moving to the north east and mid-west, not to the south east as of yet. He did not know exactly how many WellNow’s there were in the US.

Mr. Church further commented that a variance is granted for a need, for example the business couldn’t be located without signage, however, wanting larger signs for marketing purposes is not a hardship. Can you comply? Does granting the variance serve the people going there?

Mr. Herni asked that they consider the hardship a better sight line. Give WellNow more availability of sight line with signs “A”, “B” and “E”. Less looking at a GPS for moms with children in the vehicle, and other patients on a busy highway.

There was discussion of other urgent care facilities in Holland Charter Township and if they were granted more signage. Mr. Broersma stated that to his recollection, there has not been any variance for more wall signage granted to other urgent care facilities.

Present in the audience to speak to this request was Mr. Nelis of Dutch Village. His comment was that there is another door on the east side of the building. He felt that they should consider the east side of the building the front façade for calculating the 10% for wall signage.

** It was moved by Vander Meulen and supported by De Vries to close the hearing. Motion carried.

The Board went over the standards to review when considering a nonuse variance request.

1. ***That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:***
 - a. ***Exceptional narrowness of the width or depth of a lot of record, or irregular shape.***
 - b. ***Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.***
 - c. ***Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.***
 - d. ***Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.***

There is nothing unique about the property. It does not directly border US-31, nor does the front door, but the west side will have good visibility.

2. ***That the unusual circumstances do not apply to most other lots of record in the same manner or to the same extent to other lots of record in the same zoning district.***

There are no unusual circumstances of the lot. The business is unique and wants to be more visible.

3. ***That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.***

The facility is equally useful no matter what signage goes on it.

4. ***That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.***

Vander Meulen commented that signage is getting smaller everywhere.

5. ***That the applicant shall not have created the problem for which the variance is being sought.***

The applicants desire to have larger signage on other sides of the building makes this self-created.

6. ***That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.***

The proposed variance serves the interest and convenience of the applicant only, it will not serve the public interest nor the spirit of the Zoning Ordinance. The building would be equally accessible with the option of smaller wall signage. Granting this variance would set a precedence for more wall signage.

** It was moved by De Vries and supported by Church to deny the request based on the answers to the standards. Motion carried unanimously by roll call vote.

Next on the agenda was a tabled item from the September 28, 2021 ZBA meeting.

**It was moved by Boersma and supported by De Vries to remove from the table a petition for a nonuse variance submitted by Benjamin Hulst/Zero Latency LLC for property located at 2522 Van Ommen Drive, known more specifically as 70-16-16-377-013. Petitioner is requesting a variance to required parking. The subject property is zoned C-2 Community Commercial. Motion carried.

Present for this request was Benjamin Hulst of Zero Latency LLC and Craig Gengler of Driesenga and Associates.

In reference to the number of parking spaces that are required by ordinance, Mr. Gengler directed the Board to the draft of a floor plan of the facility. He pointed out the areas of the building that should not count towards the square footage that calculates the number of parking spaces that need to be made available for customers. In his calculation the number of parking spaces that should be made available is 48 and they have proposed 27 in the updated plan. They have eliminated the enclosed garbage dumpster area and put parking there. The amount of trash that will be generated by customers can be accommodated with a residential size waste container. They added three parking spaces on the northside of the detention basin. They now show 27 parking spaces on the property, previously it was 12.

The parking is based on 8 people playing, 8 people suiting up, 8 people suiting down, assuming everyone drove separately, and four staff members. Four staff members is very generous for what is needed to run this facility. Also, the only way there would be 8 people in all three scenarios is if people are arriving very early or leaving very late. This is a reservation-based business. If customers can't find parking on the premises, they are using their play time to find parking, that is not a good business model to have that sort of problem. They make money by moving people through, not by them hanging out.

Other than the parking shown on the revised site plans, they are locked on parking unless they obtain variances for landscaping, the setbacks and the width of driveway to the back of the building.

The Board asked Staff about the number of parking spaces and what areas of the building could take the square footage down. Mr. Broersma answered that he is willing to consider the employee break room, the office area, the charging area, and the mechanical area could be subtracted from the total square footage of the building's indoor recreation use to allow for a change in the number of required parking spaces. The arena, the suit up area, the suit down area, concession area and the waiting/racing simulator would count towards the square footage.

Mr. Hulst commented that once people have played their session, there is nothing else to do other than get a drink and leave.

Mr. Church asked if they had looked at other properties.

Mr. Hulst answered that it is not the number of customers that is going to keep them in business, it is the experience the customer has that will keep them coming back. The business model stays the same, only eight people in the arena at a time to avoid shoulder to shoulder arena play. He reminded the Board that originally, they bought the building to be a hydroponics warehouse. He further stated that virtual gaming fits in with the surrounding neighborhood of the roller rink and Long-Range Archery businesses.

Vander Meulen was questioned about what basis did the Planning Commission approve the Special Use. Vander Meulen replied that they agreed that this would be a good use of the property. With the other businesses in the area, this was a logical use for the parcel.

There was discussion among the Board members as to whether a Special Use can be revoked if the applicant does not follow the stipulations of the Special Use set by the Planning Commission, which in this case, getting a variance for the parking was one of those conditions. The Board wanted to make sure that should parking become an issue, the Township would be protected, in that they could impose the stipulations upon the applicant. It was the consensus of the Board that parking would probably not be an issue, but if it was, they had recourse.

Mr. Broersma stated that they can revoke the Special Use if the conditions are not met. There are procedures in place for doing so.

There was discussion among the Board on what the 27 parking spaces was based on. It was the consensus of the Board to base it on the number of people that can play at one time.

Mr. Broersma pointed out to Mr. Gengler that some adjustments need to be made to the entry dimension, parking spaces and the aisle to meet the ordinance requirements.

Mr. Hulst agreed to the limitation set on the occupancy – 22 players and 4 staff. There are 27 parking spaces on the site plan with one of them being a handicap parking space.

The closing the public hearing and the public comment portions of the meeting took place at the September 28, 2021 meeting. No individuals were present for further comment.

There was further discussion about limiting the occupancy versus the limited number of vehicles. This is a group activity by definition on a smaller scale – 8 people. People could ride together or bring someone with them who wants to observe. Riding together would open up parking spaces. Or a dad needs to unexpectedly have to bring a child for some reason.

Staff explained the arena is defined as an 8-person game. To speak to the intent of this significant variance, you should tie the number of parking spaces, number of occupants, and number of games to the use.

The Board went over the standards to review when considering a nonuse variance request.

- 1. That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:***
 - e. Exceptional narrowness of the width or depth of a lot of record, or irregular shape.***
 - f. Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.***
 - g. Extraordinary location of an existing building or structure that allows no other***

- practical or feasible location for expansion because of exceptional land features.*
- h. ***Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.***

There is nothing unique about the property. The use is unique. The size of the building with the size of the lot and putting a different use in it has resulted in the practical difficulty. Also, the US-31 frontage restrictions.

2. ***That the unusual circumstances do not apply to most other lots of record in the same manner or to the same extent to other lots of record in the same zoning district.***

The building was put in the center of the lot. No traffic can get around the building. The building was previously a warehouse.

3. ***That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.***

The applicant has been granted a Special Use to use the building in this capacity by the Planning Commission with the stipulation they obtain a variance from the ZBA for the parking.

4. ***That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.***

With the archery store and the roller rink in the neighborhood, this use fits in here. There needs to be extra conditions so that customers are not using adjacent properties for parking.

5. ***That the applicant shall not have created the problem for which the variance is being sought.***

The applicant purchased the building and then they changed direction. Yes, it is self-created, but the virtual gaming has a higher value for the Township than a hydroponics warehouse that could be there.

6. ***That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.***

Granting this variance would not be contrary to the public interest if enough limits are in place to allow the Township to make sure it is within the spirit of this ordinance. If customers are parking on adjacent properties, it is not safe for the public. Must have limits in place to rectify should there be an issue with parking.

** It was moved by Vander Meulen and supported by De Vries to approve the request with the following stipulations:

1. Variance is limited to the use not expanding beyond 1 virtual reality area;
2. Occupancy is limited to a maximum of 26 people at any time (22 players and 4 staff) per the applicants stated operations plan;
3. There is to be 26 parking spaces and one handicap parking space for a total of 27 parking spaces. Parking lot improvements are to meet the Township ordinance.
4. Parking violations will result in revoking this non-use variance and their Special Use Permit given a condition of the Planning Commission granting the Special Use was a variance for the parking.

Motion carried unanimously by roll call vote.

The meeting adjourned at 7:20 pm.

Respectfully Submitted,

Laurie Slater
Recording Secretary