

**Miami Township
Board of Zoning Appeals
Tuesday, March 5, 2018**

Members of the Board of Zoning Appeals present:

James Hamilton, Chairman
Fred Sinder
John Broz
Gregory Clatterbuck
Richard Poore

Members of Miami Township Staff present:

Kyle Hinkelman, Deputy Director
Alex Carlson, Planner

Others Present:

Ashley Newnam, WD Partners
Erik Hingst, Walmart

GENERAL MEETING

Mr. Hamilton called the meeting to order at 6:02 PM.

Action on minutes from February 5, 2018

Mr. Clatterbuck motioned to approve the minutes from February 5, 2018, Mr. Poore seconded the motion, and the vote was all ayes. The motion passed.

THE OATH

Mr. Hamilton administered the Oath of Truth to the following people:

Alex Carlson, Planner, Miami Township
Kyle Hinkelman, Deputy Director, Miami Township
Ashley Newnam, WD Partners
Erik Hingst, Walmart

NEW BUSINESS

Case # BZA 820-18 – Variance – Wal-Mart 8800 Springboro Pike

Mr. Hamilton made a motion to open case # BZA 820-18, Mr. Clatterbuck seconded the motion, and the vote was all ayes.

Mr. Carlson stated that the case was properly filed, advertised, and the required surrounding property owners were notified.

Mr. Carlson explained that the applicant was requesting a variance for the Walmart located at 8800 Kingsridge Drive.

Mr. Carlson further explained that the location was currently zoned "B-3", Business District and that the applicant was seeking a variance from Article 7 of the Miami Township Zoning Resolution which prohibits parking between a primary structure and a public roadway. He explained the intent of Article 7 is to limit surface area parking and improve pedestrian aesthetics while also providing safer pedestrian access to buildings.

Mr. Carlson told the Board that the applicant noted on the application that the intent is to offer a clicklist type service and that the orientation of the building, safety concerns, and the costs involved in an interior remodeling of the building in order to use existing spaces warranted a variance in this case.

Mr. Carlson noted that the adjacent Southtown shopping center does have parking between the building and the roadway but explained that was constructed prior to the current code restrictions in regards to parking.

Mr. Carlson informed the Board that the Kroger at Austin Landing currently has spaces reserved for clicklist delivery that would require a path across a high traffic area of the parking lot in which no accidents or issues having been reported.

Mr. Carlson presented a potential layout that would only require the removal of a single handicap space and three regular spaces to create an eight new spaces that could be used for the desired service. He further noted that the addition of the eight parking spaces in this proposal would be significantly over the number of spaces currently required as is the current number of parking spaces available now.

Mr. Carlson stated the applicant did not provide any proof that an alternate option was cost prohibitive and that there was no data suggesting that there would be any safety hazards in the proposed location.

Mr. Carlson stated that Staff was recommending that all incidental and directional signs meet section 4106 of the Zoning Resolution. He further recommended that the Board enact additional conditions that would require the applicant to provide a landscape plan showing 4" caliper red maple trees, and the replacement of two smaller trees with one large tree. He noted the applicant did provide elevations showing an increased number of trees, but no formal landscape plan was provided.

Mr. Clatterbuck stated that he felt there would have to be a retaining wall in that location in order to park cars in the proposed area.

Mr. Sinder asked for clarification on the location of the proposed parking and Mr. Carlson noted the location on the presented map.

Mr. Hamilton asked if one handicap space were removed if there would be an adequate number of handicap spots without it and Mr. Carlson confirmed that there was.

Mr. Broz asked if this case was in reaction to the code changes that were recently put into effect and if there were any other variance requests made in regards to these changes. Mr. Carlson confirmed that the recent code changes did affect the proposed request and that this was the only request since that change.

Mr. Hamilton asked if the applicant would like to speak and Ms. Ashley Newnam of WD Partners came forward.

Ms. Newnam stated that this type of business model was the future of retail and was needed to remain relevant in a competitive market. She suggested that the orientation of the building made it difficult to place parking for this service in the Staff proposed area due to pedestrian and shopper traffic both inside and outside the building and would interfere with truck delivery. She noted that she felt with these changes the parking and would have a better aesthetic than before and noted that other retailers that have offered this service have smaller paths to their parking areas than this location.

Mr. Eric Hingst came forward and noted that there was a heavy volume of both pedestrian and automobile traffic at the front of the store so therefore was proposing that the parking for this service be placed on the side of the building adjacent to Kingsridge Road. He noted that the delivery preparation took place 200 feet from the front of the store and that there was no main traffic on the proposed side. He explained that the coolers were located on that side of the store where the materials would be staged for pickup.

Mr. Hingst explained that employees would have to come thru the store with materials and to the busiest section of the parking lot in order to deliver the products to customers parked in that area.

Mr. Hingst noted that he would be agreeable to any landscaping requirements and to address any issues with the sidewalk and grass area on the Kingsridge Road side.

The Board discussed parallel parking compared to side by side parking on that side of the building as well as the topography and its effect in regards to drainage and ice.

Mr. Broz asked if the cooler used for staging could be moved.

Mr. Hingst stated that the backroom was pretty small and there wasn't any room to move the cooler and the current location made it difficult to maintain the quality of the grocery items.

Mr. Poore asked if the pickup was intended only for grocery items or would it include things like large furniture and Mr. Hingst stated that larger items and things like paint would not be included.

Mr. Poore asked about pharmacy traffic in which Mr. Hingst replied there was a lot but it was more controlled.

The Board discussed the pharmacy layout.

Mr. Hamilton asked about the number of spaces being proposed and Mr. Hingst stated that it was due to the location and size of the store.

Mr. Clatterbuck stated that he would be in support of parallel parking in that location.

Mr. Hamilton asked what the fire code was in that location.

Mr. Hinkelman noted that the fire department would need to review any proposed plan.

Mr. Clatterbuck noted that the issue is with the proposed location.

Mr. Clatterbuck asked if there were any more questions or comments from the Board, the applicant, or other public comments and there were none.

Mr. Hamilton made a motion to close the public hearing and enter into deliberation. Mr. Clatterbuck seconded the motion and the vote was all ayes. The motion passed.

The Board returned from deliberation and voted on the following findings of fact:

FINDINGS OF FACT FOR AREA VARIANCES

In each specific case, the Board of Zoning Appeals shall not grant an area variance unless it shall make specific findings of fact directly based upon the particular evidence presented to it.

1. The Board shall determine that **ONE OR BOTH** of the following factors are met by the request:

A. The conditions upon which an application for a Variance is based are particular to the subject property with respect to the physical size, shape or other characteristics of the premises or adjoining premises, differentiating it from other premises in the same district; or

Board Comments: *"No, there is applicable space to put elsewhere."*

B. The variance would result in an improvement of the property that is more appropriate and more beneficial to the community than would be the case without granting of the Variance.

Board Comments: *"No, there can be beneficial use of the property without granting the variance."*

2. In granting an Area Variance, the Board shall also determine that **ALL** of the following factors are met by the request:

A. The essential character of the neighborhood would not be substantially altered, and adjoining properties would not suffer a substantial detriment as a result of the Variance;

Board Comments: "Yes."

B. The spirit and intent behind the subject zoning requirement would be observed and substantial justice done by granting the Variance;

Board Comments: "No, site does not provide what the intent of the zoning resolution is."

C. The Variance is not substantial and is the minimum necessary to afford relief to the applicant and achieve an appropriate and beneficial improvement of the property; and

Board Comments: "Yes."

D. The Variance would not adversely affect the delivery of governmental services (e.g. water, sewer, garbage).

Board Comments: "Yes."

3. In granting an Area Variance, the Board shall also **CONSIDER** the following factors:

A. Whether the property owner purchased the property with knowledge of the zoning restriction;

Board Comments: "No, the zoning restriction did not go into effect until 2017."

B. Whether the property in questions will yield a reasonable return or whether there can be any beneficial use of the property without the Variance; and

Board Comments: "Yes, the parking spots can go in the present parking area."

C. Whether the property owner's predicament feasibly can be obviated through some method other than a Variance.

Board Comments: "Yes, staff has provided an area for the parking needed."

Mr. Poore made a motion to deny case # BZA 820-18 and Mr. Broz seconded the motion. The vote was all ayes and the motion passed.

Mr. Hamilton stated, "Thank you for coming this evening and for the application. It has been denied as applied for. You heard some of our rationale and our findings of facts. I

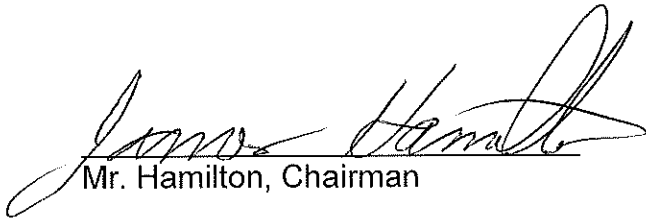
think the Board was unanimous in this decision, thinking there could be another way to handle this service you want to provide to the community."

OTHER BUSINESS

Mr. Poore made a motion to accept the Board of Zoning Appeal Rules & Regulations as submitted and Mr. Broz seconded the motion. The vote was all ayes and the motion passed.

Mr. Hamilton made a motion to adjourn the meeting at 7:52 p.m., Mr. Sinder seconded the motion, and the vote was all ayes. The motion passed.

Respectfully Submitted,
Nicole Kessel, Recording Secretary



Mr. Hamilton, Chairman