

MINUTES
REGULAR MEETING OF THE OWOSSO ZONING BOARD OF APPEALS
CITY OF OWOSSO
FEBRUARY 20, 2018 AT 9:30 A.M.
CITY COUNCIL CHAMBERS

CALL TO ORDER: The meeting was called to order by Chairman Randy Horton at 9:30 a.m.

ROLL CALL: Was taken by Tanya Buckelew.

MEMBERS PRESENT: Chairman Randy Horton, Vice-Chairman Christopher Eveleth, Secretary Daniel Jozwiak, Alternates Matt Grubb and John Horvath

MEMBERS ABSENT: Board Members Tom Taylor and Kent Telesz.

OTHERS PRESENT: Ms. Susan Montenegro, Assistant City Manager and Director of Community Development; Mark Agnew, Agnew Graphics.

AGENDA: IT WAS MOVED BY SECRETARY JOZWIAK AND SUPPORTED BY VICE-CHAIRMAN EVELETH TO APPROVE THE AGENDA FOR THE FEBRUARY 20, 2018 REGULAR MEETING AS PRESENTED.

YEAS: ALL. MOTION CARRIED.

MINUTES: IT WAS MOVED BY SECRETARY JOZWIAK AND SUPPORTED BY ALTERNATE HORVATH TO APPROVE THE MINUTES OF NOVEMBER 21, 2017 AS PRESENTED.

YEAS: ALL. MOTION CARRIED.

COMMUNICATIONS:

1. Staff memorandum
2. ZBA minutes from November 21, 2017
3. Variance application – 640 N Shiawassee
4. Public notice – 640 N Shiawassee

COMMISSIONER/PUBLIC COMMENTS: None.

PUBLIC HEARINGS:

1. 640 N SHIAWASSEE – VARIANCE – (RESOLUTION)

Ms. Montenegro stated only 1 comment was received from a neighbor on Pine St. that stated was in favor of this variance request.

1. VARIANCE REQUEST – 640 N SHIAWASSEE

Mark Agnew, Owner of Agnew Graphics, presented the history of the sign that was installed 18 years ago, at which time met the 5' setback requirement. Since then MDOT has widened Shiawassee St. two times and City of Owosso recently revised the Sign Ordinance requiring a 10' setback.

The current sign is 47 square feet; with the new sign proposed is 53 square feet. The sign base was installed 18 years ago to meet any future upgrades of the sign, including a larger sign, as the base was constructed to sustain additional weight.

Mr. Agnew also noted there are 31 signs on M-21 that would not meet the revised 10' setback. If the businesses wanted to upgrade their signs, it would involve either a ZBA Variance or move the sign back 10' which in most cases would be in driveway, parking areas.

AT THIS TIME, CHAIRMAN HORTON OPENED THE PUBLIC HEARING. NO ONE SPOKE.

UPON MOTION OF VICE-CHAIRMAN EVELETH, SECONDED BY ALTERNATE GRUBB, THE PETITION FOR VARIANCE AS APPLIED FOR IS APPROVED AS ALL OF THE FACTS OF FINDING WERE MET AS WELL AS ONE OF THE SPECIAL CONDITIONS AS LISTED BELOW.

- A. This is a request for a use variance subject to Section 38-504(3) of the Zoning Ordinance. The applicant must show that a variance meets ALL of the factors expressed in Section 38-504(3) a. 1-9. in order for the variance to be granted.

Factor 1: (Section 38-504(3) a.1.) "Will not be contrary to the public interest or to the intent and purpose of this chapter."

The Board finds that Section 38-504(3) a.1. has been met.

Factor 2: (Section 38-504(3) a.2.) "Shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a conditional use permit or a temporary use permit is required."

The Board finds that Section 38-504(3) a.2. has been met.

Factor 3: (Section 38-504(3) a.3.) "Is one that is unique and not shared with other property owners."

The Board finds that Section 38-504(3) a.3. has been met *due to MDOT has widened Shiawassee St. /M-52 two times in the last 18 years.*

Factor 4: (Section 38-504(3) a.4.) "Will relate only to property that is under control of the applicant."

The Board finds that Section 38-504(3) a.4. has been met.

Factor 5: (Section 38-504(3) a.5.) "Is applicable whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome."

The Board finds that Section 38-504(3) a.5. has been met.

Factor 6: (Section 38-504(3) a.6.) "Was not created by action of the applicant (i.e., that it was not self-created.)"

The Board finds that Section 38-504(3) a.6 has been met for the following reasons:
The request is not self-created, but rather created by MDOT widening Shiawassee St. /M-52 two times in the last 18 years causing additional hardship.

Factor 7: (Section 38-504(3) a.7.) "Will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets or increase the danger of fire or endanger the public safety."

The Board finds that Section 38-504(3) a.7. has been met.

Factor 8: (Section 38-504(3) a.8.) "Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located."

The Board finds that Section 38-504(3) a.8. has been met.

Factor 9: (Section 38-504(3) a.9.) "Is applicable whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the area, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners."

approved 02-20-2018

The Board finds that Section 38-504(3) a.9. has been met:

B. Special Conditions. When all of the foregoing basic conditions can be satisfied, a variance may be granted when any one (1) of the following special conditions can be clearly demonstrated:

1. "Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this chapter. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land."
2. "Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district."
3. "Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district."

The Board finds that Section 38-504(3) b.1. has been met due to MDOT widening Shiawassee St. /M-52 two times in the last 18 years, therefore reducing the setbacks.

ROLL CALL VOTE WAS TAKEN:

AYES: VICE-CHAIRMAN EVELETH, ALTERNATE GRUBB, ALTERNATE HORVATH, SECRETARY JOZWIAK, CHAIRMAN HORTON.

NAYS: NONE.

ABSENT: BOARD MEMBERS TAYLOR AND TELESZ.

ZBA recommends to the Planning Commission to review the current Sign Ordinance and the setback requirements.

BUSINESS ITEMS: None

COMMISSIONER/PUBLIC COMMENTS: None.

ADJOURNMENT:

MOTION BY ALTERNATE HORVATH AND SUPPORTED BY VICE-CHAIRMAN EVELETH TO ADJOURN AT 9:55 A.M. UNTIL THE NEXT REGULARLY SCHEDULED MEETING ON TUESDAY, MARCH 20, 2018, IF ANY REQUESTS ARE RECEIVED.

YEAS: ALL. MOTION CARRIED.

Dan Jozwiak, Secretary