

BOARD OF ZONING APPEALS MEETING
MARCH 21, 2017
7:00 P.M.

I CALL MEETING TO ORDER

The meeting was called to order by Joe Ramirez at 7:00 p.m.

II ROLL CALL

Members Present: Carmen Daniels, Holly Emerson, Carolyn Ghantous, Joe Ramirez, Michael Wilson, Meghan Sullivan-Wisecup

Members Absent: David Nienaber

City Staff Present: Anne McBride, City Planner; Randy Campion, Building Inspector; Jeff Forbes, Law Director's Office

III PLEDGE OF ALLEGIANCE

IV PUBLIC HEARING STATEMENT AND SWEARING IN

V MINUTES OF THE REGULAR MEETING OF FEBRUARY 21, 2017

Mr. Ramirez: At this point, if members have reviewed the Minutes, would somebody like to motion to approve those minutes?

Mrs. Sullivan-Wisecup motioned to approve; Mrs. Ghantous seconded the motion and the minutes were approved as published with a vote of 5-0. Mr. Wilson abstained from the vote.

VI CORRESPONDENCE - None

VII REPORTS

A. Report on Council

Mrs. Ghantous: City Council met on March 15th. The first information that we got was from the Chairman of the Finance Committee, Mr. Bob Diehl. He reported that they had authorized funds to hire an additional police officer and he/she, the new police officer, should be hitting the streets late summer. Mayor Webster had a proclamation commending the Springdale Chamber of Commerce for their 20th anniversary and their contribution to the City. The Nuisance Animal Control Program was reinstated. Then we had three Ordinances. Ordinance 16-2017 was approving a major modification to the Planned Unit Development and Preliminary Development Plan for the Northwest Business Center. That's over by Pictoria Tower, and that passed with a 7-0 vote. Ordinance 16-2017, authorizing the Mayor and the Clerk of Council/ Finance Director to enter into an amended agreement with CBTS related to job retention and creation of an incentive agreement. CBTS started out with approximately 150 employees, and they will be adding about 200 more, so it's beneficial for us to have them in the City. That passed with a 7-0 vote. The last Ordinance was 17-2017, authorizing the Mayor and Clerk of Courts/ Finance Director to re-engage O'Rourke Wrecking Company to demolish the former Sheraton Hotel. That passed with a 7-0 vote. The work there is supposed to begin on April 17th, and it will be completed in 128 days. That concludes my report unless you have questions.

B. Report on Planning Commission

Chairman Ramirez: Report on Planning Commission from March 14th. Under Old Business, the Cincinnati Center for Autism at 305 Cameron Road was looking for a Conditional Use Permit, and this is probably their third time before Planning Commission, and that was passed with a 6-1 vote. Under New Business, the Domino's pizza chain locating at, locating to the former Happy's Pizza at 11424 Springfield Pike, came before us for signage and as requested, all signage was passed as a minor improvement. Under New Business, Tri-County Mall at 11700 Princeton Pike, Springdale, was looking for a major change to the Preliminary PUD. In short, what they're looking to do is tear down the old Dillard's, add outside entrances to the mall going around the mall similar to what you might see up at Liberty Township, and after a good discussion with them (I think it's going to be a nice improvement), that was passed with a 7-0 vote as well. Finally, we had Gilhart Enterprises, which is the former Princeton Bowl at 11711 Princeton Pike, a revision to the approved PUD. Unfortunately for them, we did have some discussion with them, but they did not get their packet to us until the day before at midnight and Staff did not have adequate time to review that, so in the end we tabled that an upcoming meeting. Any questions on any of those subject matters?

VIII OLD BUSINESS - None

IX NEW BUSINESS

- A. Ronald Estes with Center Management, 12140 Springfield Pike, Springdale, Ohio, Administrative Appeal for the removal of the pole sign (Application #31848)

Mr. Ramirez: Would the applicant please come up? Please make sure the mic is on, and please state your name and address.

Mr. Estes: Mic seems to be working. Can everybody hear me? For the record, my name is Ronald Estes. My address is 34120 Woodward Avenue, Birmingham, Michigan, 48009. I am here on behalf of the property owner of 12140 Springfield Pike, Thomas Costello. Mr. Costello has owned the property for approximately over twenty years, since it was a Bennigan's restaurant, and worked with the Bargas owners for several years to keep them in the location. His intention is ultimately to redevelop the property. We have been actively marketing the property. We would prefer to probably change it to either a national restaurant or we've had some interest from retail users in the area. It just came to our attention with the sign, I believe in late December or early January, your Staff, the Building Department Staff, very helpfully brought the Ordinance to our attention. Initially in our office, I believe the understanding was, before it got to me, that it was similar to other Ordinances that we've seen across the country where when we have a tenant go out, they ask that we replace the panels, flip the panels, or do something to where there's no longer advertising for that tenant. We do that across the country. We have properties in twelve states. That's what we've seen in the past, so when we received a notice that Staff believed that was the issue, we set about coordinating with the Building Department to undertake that. When it was turned over to me, I realized that we had something more significant, and I talked to Mr. Taylor and the Building Department, and I understand that ultimately, Springdale's goal is to, the issue is with the fact that the sign is not in any disrepair or anything like that. No one's alleging anything like that. It's just that you want to get rid of the pole sign as a non-confirming use, and I understand that and the one thing I will say is, the sign that's there is not an unattractive sign. I think that when we lease it to a new tenant, we certainly can do things to make it look a little bit nicer, maybe add some decorative elements to it that a tenant would probably like, but to go without a sign for a property like that during a marketing period, and have to not be

able to firmly tell a new tenant that we're going to have a sign for them, especially because this property. I don't know if everyone's familiar with it. It's the former Bargas, just off of 275, which sits really, really low in front of the La Quinta Inn. So when we market the property, and I'm the one who personally takes the marketing calls on this parcel, signage and visibility is an issue and what we would request from the variance perspective is to, we'd ask for one of two alternatives. One would be to get a variance to keep the sign until we get a new tenant, because the building hasn't been abandoned. We've had it (unintelligible) locked up. It's landscaping time now, so we're going to send out the landscape guys to get everything cleaned up around the sign like we do. To have a variance to allow us to keep the sign for a new tenant, and then in the meantime we can either work with the Building Department to do with the panels whatever they would like. We can turn them and paint them a neutral color. We can put up a For Leasing sign, which would be our preference. We'd love to be able to have additional leasing display there. Many municipalities don't like that, frankly, as I'm sure you guys are all aware. Alternatively, we would ask for an additional twelve-month period from the end of this hearing. If we lease it and get a new tenant for the sign panel and for the building, then we have twelve months from today. So, which is about a six-month extension from the time we would probably have under the Ordinance, depending on how you read it. I just know that we can't do anything with the quality of tenant that we want in a six-month period. The stop and start with tenants, we're talking to Hertz who is considering doing one of their car sales there. That's something we would like, or all the national food chains that we've talked to it takes a while to get those tenants together. I'm happy to answer any questions.

Chairman Ramirez: We'll get that in a moment. Next, comments from the Staff.

Mrs. McBride provided Staff comments.

Mrs. Emerson: Yeah, I had a couple clarifications. What is the difference between a legal non-conforming sign and then the no conforming sign?

Mrs. McBride: Non-conforming sign? I'm sorry.

Mrs. Emerson: There's a legal non-conforming sign "may be maintained and structural parts repaired or restored to a safe condition if required and if a permit is issued" and then you have in C, "a non-conforming sign shall be allowed to remain for more than six months..." So what is the difference between a legal non-conforming and a non-conforming?

Mrs. McBride: A legal non-conforming sign would be if the use was still in that, if Bargas was still there. That's a legal non-conforming sign. They're not, those signs are no longer permitted there, but is legally permitted if Bargas was still there.

Mrs. Emerson: Okay.

Mrs. McBride: The non-conforming sign is because, it's not a legal non-conforming sign because Bargas is no longer there.

Mrs. Emerson: Okay, and then my next question is, if this new tenant comes in and goes to Planning, you're telling me that Planning is allowed to put a pole sign in Route 4 Corridor area, in that district?

Mrs. McBride: If they feel it's appropriate, yes.

Mrs. Emerson: I thought there was only allowed to be street signs, markers, through that corridor.

Mrs. McBride: The Code calls for ground-mounted signs, but if Planning Commission thought that it was appropriate, they could approve a taller sign than a ground-mount

sign. They approved a sign taller than what's permitted, for example, for the new Tire Discounters, because it sits down, where the sign was going, it sits down lower than State Route 4, so they approved a sign that was taller than what would be permitted in the Corridor Review District.

Mrs. Emerson: Okay, and then there's a variance with this property, correct, for a pole sign?

Mrs. McBride: That's my understanding. I was not here when that was granted.

Mrs. Emerson: Is that true, Mr. Forbes?

Mr. Forbes: I have no idea if a variance had been granted.

Mrs. Emerson: I was told there was a variance for a pole sign there, and a variance, to my understanding, stays with the property. Now wait, let me finish. So if that's true, that should be allowed to stay because a variance stays with the property. How did that pole sign stay between Bennigan's and Bargas then? Because Bennigan's had that pole sign too, correct? So how did that occur?

Mrs. McBride: Again, I wasn't part of the discussion at that point in time, but my understanding would be that when Bennigan's moved out, that it wasn't six months until Bargas moved in.

Mrs. Emerson: Do you know of that, Mr. Costello?

Mr. Estes: That I'm not sure of. That was before my time with the company. Having looked back at it, I do know that Bennigan's was in a bankruptcy process, so I couldn't tell you either way. I know that it's gone. Sometimes they possess right up to the very last second. Sometimes they don't, so I couldn't tell you that. But that was also our understanding that the property when it was originally developed always sat low, which is why you see all the signs there, including the Tire Discount store on the very corner, has an existing pole sign there now today. The only difference between their pole sign and ours is that it doesn't have a Bargas logo on it. It has some other language that says we're not here, or something to that effect. But again, I don't want to step on Staff's toes. Again, that's what we're, if the Planning Commission is going to have to re-evaluate this if we bring it in to them anyways, we would respectfully request that we take that into consideration as we sit here now. It's easier for me to market it to a tenant, which is in everyone's best interest, if I have a sign there and I can say this is what we're going to be asking for in this location. This is what they've given, the Planning Commission has given it a pass. We can't promise that. Our practice, nationally, is to be good neighbors, stay in front of these things, as I've tried to be with Staff since I got notice of this. I drove four and a half hours to be here. I appreciate everyone's time tremendously, and I'm the only thing on the agenda. I hate being that person. The only good thing is that I'm from Columbus originally, so I've got a Donatos pizza in my car for the trip back tonight. So we take it very seriously as well. With the Planning Commission, we know that we're in that situation. Springdale has a beautiful downtown district or the Development District. We think it's great. We do know that we stick out a little bit right now. We want to change that. Tenants drive that. Al Tallman said, "I don't build centers. Tenants build centers." We're all kind of handcuffed to that, but when we're coming back to Planning Commission, we always come in with our prospective tenant and sit down with the Planning Commission and ask them, what do you want here? What do you like here? We want to fit in with what you're doing. At the same time, here's what this particular tenant's concerns are and what they have to have. I can tell you, sitting there, if a tenant drives by and they see no sign, they're going to think no sign, and they might not even call me, and then every tenant that does that is one that we're not going to be able to bring to Springdale. So that's why we asked for the time. We'd love to be able to keep it, or the existing variance. If not, a twelve-month period should give us some time to do that, or we could respectfully come back and ask for, we'd give you an

update on where we are with leasing. As far as setting a precedent, which is always a huge concern with BZAs, obviously we understand that, I drove today. I drove around everywhere. Other than the one, again, directly across from us, I didn't see any other pole signs in that area other than the ones for the lower buildings that have been obviously approved like the Tire Discount, and those kinds of things. And those are much less traditional pole signs. You can tell that there's been some regulation involved with that. We would respectfully request, that's why we're asking for the type of variance that we're asking for. I think it's good for everyone, and we understand that you want a beautiful corridor, and we want to be part of it.

Mrs. Ghantous: Holly, where did you hear that there was a variance?

Mr. Champion: There is a variance.

Mrs. Ghantous: So, how come we all weren't told there was a variance?

Mr. Champion: I don't know.

Mrs. Ghantous: Oh. Okay.

Mr. Estes: I was not informed.

Mr. Champion: There is a variance on the property, but I don't know what the variance is for. I can go to the office and dig it up.

Mrs. Ghantous: I'm pretty sure we have to know that before we decide.

Mr. Champion: It could be a variance for the height of the sign. It could be a variance for some other reason.

Mrs. Ghantous: I think we have to know though. If we're going to speak to this matter tonight, I think we have to know what that variance was.

Mr. Forbes: Again, I don't know what the nature of the variance was, but what I would say is, let's assume for a second that it was a variance to allow a pole sign. What that variance would do at the time that it was issued is then basically make that sign a legal conforming sign. It means it complies with the code, even though it doesn't. Then during the course of Zoning Code amendments, it was determined that there, that pole signs are no longer permitted in the City of Springdale. Even though there was a variance that may have been issued to allow that in the first place, once the Code was changed to say we no longer permit pole signs in the City, it made it a legal non-conforming use, and then once the Bargas use was discontinued for more than six months, that legal part of being a non-conforming use drops off. So, I understand and we'll see what the variance was, but I don't want you to be caught up in whether or not there was a variance issued before, because that's not what is before this Board now. What's before this Board is even if there had been a variance, it then became a non-conforming use when the Bargas use was discontinued. That's the notice that was sent by the City department, and then that's the question on appeal that's before this Board now. Was the determination of the Building Official correct?

Chairman Ramirez: I believe that makes it easier on me, at least.

Mrs. Ghantous: I have a question then. So last month when we were talking about the Princeton Bowl sign, I thought we agreed that that sign had to come down because Princeton Bowl had been out of business for over six months. That's different than what we're talking about tonight?

Chairman Ramirez: It should be the same subject.

Mrs. Ghantous: I guess my confusion is, you're talking about with the new Zoning Code we don't allow pole signs anymore.

Mrs. McBride: That's not totally true.

Mrs. Ghantous: Okay, that's what I thought, because we didn't discuss that with Princeton Bowl. We didn't discuss anything about the change about pole signs. We just discussed that the use that was represented on that sign was no longer in use, no longer in business, and for that reason, he has to remove that sign. I thought this was exactly the same thing.

Mrs. McBride: It is the same thing. The issue is that the user that's represented on the sign has been gone for over six months.

Mrs. Ghantous: Period. That's what we're talking about.

Mrs. McBride: And the Code says then it has to come down. I would just, real quick, to let the Planning Commission know, that they actually have five months from the date of the Order to remove that sign, so you would have five months, but you could have five months theoretically of that sign up from January, the date of the Order, before that would have to be removed.

Mr. Estes: Respectfully, I understand. I didn't really want to come in and parse the words of the Ordinance. Wasn't really why I came in. I understand, and as I said, we've seen it across the country. I understand, absolutely, the goal of the Ordinance in that particular district is to get rid of pole signs, and we are probably going to get it in the future anyways because of the unique nature of our parcel. So the way it reads, I would argue that, it's been probably said, the panels themselves, that use is no longer there. The sign itself is still what it was intended for, which is for advertisement of that parcel, that property. The pole sign itself is there to advertise for our property. The panels are what have currently been vacated. The sign itself is not in disrepair. We haven't stopped intending to use it for the commercial development of the property. We're advertising the property. So it says "the use of the land or the building". So if the building itself has been changed because Bargas is no longer there, or because the Bargas panel is no longer there, because in commercial real estate, it's almost impossible to turn spaces over to quality tenants in six months. You'd have the signage up and (unintelligible). If we had abandoned or torn down the building, which we haven't done. I would be here saying there's no way. We can't have a sign. But because we still intend to use the building, we haven't abandoned or vacated it. The tenant has vacated it and went to their other space, but under this, I don't think any building would ever be able to maintain their sign from one tenant to the next because there's always, especially in today's market, there's always at least a six-month period. We haven't abandoned the property. It's not in disrepair.

Mrs. Ghantous: But what it says is, "after the use of the building for which the sign relates," and so to me that... I feel sorry for you. I'm a realtor. You don't have to tell me. I know everything you're saying is true, but what this says is, "the use for which the sign relates." That's pretty clear.

Mr. Estes: I guess my argument is that there's two different parts of the sign. There's the sign itself, the structure of the sign, and then there's the panels. In our business, when I refer to the sign, I'm really referring to the panels. I'm referring to the sign itself. So we have, if we'd torn down a building then I would argue that we have abandoned the structure of the sign that is allegedly non-conforming. The panels themselves, what if I had, what if we had built it and never put anybody in there and we just had it for lease and we just kept it for lease forever? It hasn't changed use. But then if we stopped leasing it or having it for lease, and we put Bennigan's up, then it's non-conforming. So I understand what the goal is, and I think there's an opportunity for the Board to make a decision that allows us to have some time so they can come back to the Planning

Commission and then work all this out.

Mrs. Ghantous: Well, we'll work with you. The Planning Commission will work with you when you get a tenant and we'll come up with a plan that allows that business to market themselves on a sign, just like we did for Tire Discounters, but unfortunately it says "the use for which the sign relates." So, the use isn't there anymore.

Mr. Estes: Then we'll take the panels down. I know that's not how it works.

Mrs. Ghantous: It's unfortunate, I clearly see that the marketing piece is a real problem for you. There's no doubt about it.

Mr. Estes: It is a very unique parcel.

Mrs. Ghantous: Unfortunately, that's not what it says, and that's not what this is about, so I think it's fairly clear that the Building Official was correct in his enforcement and his interpretation of the way this is worded.

Chairman Ramirez: At this time, Mr. Forbes, could you comment on the variance and if anything has changed by looking at this? It looks like the variance was for the distance more so than the sign itself.

Mr. Forbes: Correct. When you read the variance that was issued in 1984, it's essentially a setback variance that allows the sign to be closer to the property line than what the Code would otherwise allow.

Mrs. Daniels: Who would be the individual or group of people that could extend him if we were to say yes, if what Mr. Taylor sent to him was correct? Who would be able to extend it? Is that possible to get the extension past the five months, as you said? Would anybody?

Mrs. McBride: I don't, I'll defer to Mr. Forbes, but I don't believe that... The Code allows five months for it to come down. It's already been up for a period of time since it has been vacant. I don't believe that there's an entity that can extend that five-month period. You know, they can come in, as I said, to Planning Commission when they get a new user, but I don't think that that five months can be varied.

Mrs. Daniels: So the objective is that the pole, the entire thing, would have to be removed.

Mrs. McBride: Correct.

Mrs. Emerson: I had a couple questions. So, in the PUD area, which was where Princeton Bowl was at, you're telling me they allow pole signs.

Mrs. McBride: Pole signs can be approved in a PUD.

Mrs. Emerson: So it would be no trouble or distress for that tenant from last month's BZA meeting to go before Planning and get a pole sign.

Mrs. McBride: If Planning Commission felt that that was appropriate.

Mrs. Emerson: But they're allowed to have pole signs in that PUD area, correct?

Mrs. McBride: If Planning Commission approves them.

Mrs. Emerson: But they're allowed there.

Mrs. McBride: I'm not trying to be argumentative. They are only permitted if Planning

Commission approved them.

Mrs. Emerson: But here, where we're talking here where Bargos is, that's a Corridor that really doesn't allow pole signs unless there's a special issue.

Mrs. McBride: That's correct, and hasn't for twenty years.

Chairman Ramirez: I'd like to note on that too, on the last month with the Princeton Bowl, it's a pretty similar situation as yours. Unfortunately, Bargos restaurant is no longer there and that pole sign was for Bargos. We had the same situation with the client last month with Princeton Bowl no longer being in operation as Princeton Bowl.

Mr. Forbes: Just as a procedural reminder, because of the nature of this appeal, any motion that would be coming from this Board typically states in the positive, would be a motion to affirm the decision of the Building Official.

Mr. Wilson: Are there any other options if we agree with Mr. Taylor?

Chairman Ramirez: I believe in question is whether or not Mr. Taylor was correct in stating that the sign should come down or not. It wasn't for an extension of the sign, so I think what we're voting on of hearing before the Commission today is whether or not Mr. Taylor was correct in his request to have the sign taken down.

Mr. Estes: Mr. Ramirez, if I may follow up on Mr. Wilson's question, because I did have that question as well. Mrs. McBride, you indicated that there is no one that we could seek a variance for this from, and I would like to rephrase that another way. The City Official is seeking to enforce an Ordinance which says that we have a non-conforming use on our property, that should be removed. To whom should I apply to seek a variance of my non-conforming use? Is that what you're trying to ask, Mrs. Daniels? There has to be someone. Who gives variances here? You guys, right? We do this across the country, so that's when I came in. We've done this, not with signs, but we have requested a variance. We aren't arguing that we don't have a non-conforming use. I could argue that but I didn't want to do that. I wanted to say okay. I'm assuming, I knew the goal of this Ordinance, and I respect it. The goal is to get rid of pole signs. Candidly, that's why you have six-months' notice, because you know that no one can comply with that. But if we do have a non-conforming use on our property, we come in, I've shown you reasons why we would be seeking a variance based on hardship, the nature of our property, the nature of the marketing, the nature of the Corridor, the conditions. It's hard to get quality tenants, and we've asked for a variance. I've given you the alternative of giving me a permanent variance or a variance for a period of time, and if the BZA is not the entity to whom I should be applying, to whom should I be applying so I can file that when I get back to my office tomorrow?

Chairman Ramirez: This is the Board that would grant a variance or deny a variance. Now a short-term variance, that's not something this Board does, so we would either say what you have is non-conforming and there will be no variance to change that. So that's the Zoning Code, and that's what we're here to determine. If there was an unusual circumstance or hardship for you because of the type of property, then we could give a variance. Like I said, we have similar properties here in town that also were vacant for a period of time, and because of the pole sign situation of not going forward with pole signs in some situations, that's not to say that you can't have a pole sign going forward for your new tenant. I know it's going to be hard to market without putting a for sale or for lease sign up there, but we did approve the Tire Discounters because of the scope of the land. Now that was an unusual circumstance, so because of the mounding there, a ground sign would not work for Tire Discounters and that's why we went and approved that. That's not saying that you can't have a pole sign in the future at that Bargos site. It's just that at the moment, it's non-conforming.

Mr. Estes: Again, just so I can be clear, because that's how I understood it too, Mr.

Ramirez. And I understand you guys, unfortunately for me and my client, a month ago you had a very similar situation. I was not here for that proceeding. I don't know if they offered the same explanations or the same hardships. I don't know if they sit ten feet below Springdale road where you can only make a left-hand turn onto the property in front of a hotel and next to a Tire Discounters store and next to another vacant tire store that sits in a similar situation. So we have a unique situation that would allow the BZA to do what a BZA is supposed to be empowered to do. You guys have obviously done a very good job as a BZA because you have a wonderful corridor, so I can see that with my own eyes. If not, in the same circumstances, under any circumstances, I respect what the Board decides and we're going to go forward and we're going to keep continuing to work hard to market the property. I'm just trying to explain why we're requesting a variance, to ask the Board to be sure this is the entity to whom we should be applying and that if in fact, in essence being denied, then we'll respect that and we'll move forward, but I just want to make sure that I've done everything for my client to make sure that all of his property interests going back to 1984 (he's been paying tax on this property since 1984. I'm sure he's never missed one payment. I guarantee. You can go check. He's never missed once.) that his property interest is being enforced to the greatest extent that you feel comfortable with doing it, knowing that his goal is to market the property and that's why he's asking for the sign, that and the fact that when he comes in for the Planning Commission because of the unique district that he's in, the pole sign is going to be an issue that's going to be regulated to that point, so you're not giving him an infinite run on this. When he decides he's going to redo the building, because as you say, even if he paints it, which obviously he's going to do to lease that, then that's when that issue would be brought up again.

Chairman Ramirez: You know you have five months from January. That doesn't give you a whole lot of time, but that does give you some time before you have to take down the sign. Possible in that term there that the sign could remain and you could just recreate that sign for the new client.

Mrs. McBride: Just a couple of things. First of all, this Board would not hear a variance on that sign. If, for example, you were coming in and you wanted to do a pole sign in that particular piece of property, it would actually be the Planning Commission here that would hear this. Typically it is the Board of Zoning Appeals, but because that property is in Corridor Review District, it then becomes under the jurisdiction of the Planning Commission. What you potentially could do during this five-month period is you could file an application with the Planning Commission to allow you to have a pole sign on that property.

Mr. Estes: Okay, that's very, very helpful.

Mrs. McBride: So that, I mean that's the only thing that I can think of. Again, the issue that's before this Board this evening is whether or not Mr. Taylor was correct in his interpretation of this Section. I personally feel that he was correct, but so that's what's before this Board.

Mr. Estes: That clears up. Thank you, Ms. Daniels for asking that question, Mr. Wilson also. Now I know I should go to the Planning Commission and we can do a potentially preemptive approach with them, saying we're going to be developing his property. This is the kind of sign we want. Would we be able to go ahead and build this sign? That kind of thing. Because the unique nature of the property that we've discussed here tonight isn't going to change. It's helpful to know that so I should be approaching from that perspective.

Chairman Ramirez: That being said, do you still want us to proceed with a motion to grant or deny?

Mr. Estes: Mrs. McBride, one question I would ask. Would my five months start after the vote tonight?

Mrs. McBride: No it's from the Order in January.

Mr. Estes: You were saying five months as if I have five months.

Mrs. McBride: I previously had referenced the Order in January, so it's five months from the Order.

Mr. Estes: So I have like two months. Okay. I have what I have.

Chairman Ramirez: We'll still vote on the variance if we have somebody come forward with a motion.

Mr. Estes: I'll withdraw my request for the variance since Planning Commission is the appropriate entity.

Mrs. McBride: Your request was not a variance. You appealed Mr. Taylor's decision.

Mr. Estes: No I understand, but I think Mr. Ramirez had indicated that I had requested on the record a variance, but I would be requesting that you vote on the application, the appeal application. That's what I've been sent to have you do.

Chairman Ramirez: Yours is an administrative appeal?

Mrs. McBride: Correct. Of Mr. Taylor's decision.

Mr. Estes: I must ask you to do that as a matter of form, because it's not my appeal to waive. It's my client's, and he's not here to waive it.

Chairman Ramirez motioned to approve.

Mrs. McBride: You uphold Mr. Taylor's decision.

Chairman Ramirez: As I understand it, we need to give a positive and then vote. It doesn't have to be a positive vote, even though...

Mr. Forbes: Right. To keep things simple, Mr. Taylor issued a decision. The applicant has appealed that decision. The only question before this Board is, do you affirm the decision of Mr. Taylor? Yes or no. That would be an appropriate motion. This Board could make a motion to affirm the decision of Mr. Taylor.

Chairman Ramirez reworded his motion to approve; Mr. Wilson seconded the motion. Mr. Taylor's decision was upheld with five affirmative votes and one opposed (Mrs. Emerson).

Chairman Ramirez: Sir, we've upheld that, and if you care to go to Planning Commission.

Mr. Estes: I look forward to working with the Board in the future.

X DISCUSSION

Mr. Campion: I wanted to make sure the Board was clear as to their role in this situation. The reason that it doesn't require a variance from this Board is that you were just voting on the decision of Gregg Taylor and his interpretation of the Code. And the reason it will go to Planning Commission is because pole signs aren't allowed in the Zoning Code, and this Board only grants variances to the Code. Planning Commission has the authority to, in certain districts, go beyond the Code.

Mrs. Daniels: Is there a reason why they're not told that from the beginning that he had that option to go to the Planning Commission, so that he would have been less confused on what his options were? I know I heard him say can you flip the signs or whatever. Could we not just give them more information up front so that they're aware of what their options are? It seems like this is the second time we've been put on the spot where we can only say yes, or we make you all look bad if we don't say yes.

Mrs. Emerson: You could have said he can go to Planning Commission and ask for an extension of time, ask for six months, and if that doesn't come across...

Mrs. McBride: He can't do that. That's not what he can do. What I said was, he can go to Planning Commission and ask Planning Commission to approve a pole sign for that location. Planning Commission doesn't have the ability, nor does this Body, to vary from that five months.

Mrs. Emerson: So he has no options but to go to Planning Commission and ask for a pole sign which really isn't allowed in that Corridor, so he really has no options. Correct?

Mrs. McBride: He has the option when a new user comes in to present that.

Mrs. Emerson: If Planning wants to put a pole sign in that Corridor, which you really don't want to put a pole sign in. So it's not like Princeton that we knew more clearly on that one, because apparently Princeton has a better chance of getting a pole sign in that PUD than they are in the Corridor. So it would be much easier, if I was a betting woman, to put a pole sign in a PUD area than it's going to be where this man's at, at Bargas, because we don't want pole signs in that Corridor. We want them down. In Princeton PUD area, you can get pole signs. See what I'm saying? He's really not left with any options. He's at the mercy of the Planning Commission on whether they want to reinstate a pole sign.

Mr. Forbes: Let me be clear. He's not at the mercy of anyone. This City has a Zoning Code that provides the rules of what types of signs are allowed, in what types of places. Over the last few years, this Board, Planning Commission, and City Council were consulted. We went through a long process to adopt a new Zoning Code. Those are the rules that property owners have to abide by. So I wouldn't say that he's beholden to Planning Commission. That is an option that he has, but he, like any other property owner who owns property in certain districts or certain corridors, there's a rulebook that you have to follow, and that's the Zoning Code. That's all I can tell you about that. What are people's options? The options that are spelled out in the Zoning Code for different properties located in different districts that may or may not be in Corridor Districts as well. It's just the Code.

Chairman Ramirez: Comments or questions?

Mrs. McBride: If I could, Mr. Chair, I just want to make the Board aware that registration is closing this week. I hope that you all have been made aware of the Allor Planning and Zoning Workshop. Registration does close on Friday. We're getting close to the 200 mark which is the maximum, so if you are interested in going, if you could let the City know then they can get you registered, and hopefully we'll see you next Friday at the workshop.

Chairman Ramirez: A comment: I did go to that and it was well worth it for members. A lot of subject matter, some great speaking. I would recommend members going to that, and the City will pay for that.

Mrs. McBride: And it does include breakfast, lunch, and happy hour.

Mrs. Daniels: It was nice last year.

XI ADJOURNMENT

Mr. Wilson moved to adjourn; Mrs. Sullivan-Wisecup seconded the motion and the Board of Zoning Appeals meeting adjourned at 7:54 p.m.

Respectfully submitted,

_____, 2017

Chairman Joseph Ramirez

_____, 2017

Secretary Carmen Daniels