



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning and Economic Development Division

m e m o r a n d u m

TO: Bruce K. Walden, CAO

FROM: Rob Kowalski, AICP, Senior Planner

DATE: August 2, 2001

SUBJECT: ZBA-01-MAJ-11: A request by Bigfoot Foodstores, Inc. for a Major Variance to allow the increase in the allowed area for a freestanding sign from 50 square feet to 78 square feet at 1809 N. Cunningham Avenue.

Introduction

Bigfoot Foodstores, Inc. has recently completed construction of a new gas station / convenience store at 1809 N. Cunningham Avenue. The store has been open to the public since the end of June.

They are requesting a major variance to have a 78-square foot freestanding sign identifying the business. The Urbana Zoning Ordinance allows freestanding signs for such businesses to be a total of 50 square feet in area. The sign currently erected on the site represents the full 78 square feet requested for the variance. The top part of the sign contains the Bigfoot logo and is 50 square feet in area. The price display for gasoline is directly below the logo sign and represents an additional 28 square feet. In order to accommodate the grand opening for the end of June 2001, Bigfoot was issued a temporary sign permit to allow the price display part of the sign to be erected. It is understood that if the variance is not granted, the logo portion of the sign may remain but the price display area of the sign will have to be removed.

On July 26, 2001 the Urbana Zoning Board of Appeals voted unanimously to recommend approval of the request to increase the area to 78 square feet.



Discussion

Description of the Site

The site is located on the southwest corner of Cunningham Avenue and Kenyon Drive. Access to the gas station is accommodated from both Cunningham and Kenyon. The site is zoned B-3, General Business which is consistent with zoning for most of the uses on Cunningham Avenue.

The immediate area can generally be characterized as commercial and industrial in nature. There are a number of commercial uses designed to attract highway travelers including Motel 6, Freedom Gas Station, Cracker Barrel, Stake and Shake and Eastland Suites. Immediately south of the site is a used car lot.

Background

The City and Bigfoot Foodstores entered into an agreement to annex 1809 North Cunningham Avenue into the city limits and permit the construction of the gas station / convenience store. The annexation agreement did not address the specifics of signage except that any proposed signs must meet the requirements of the Urbana Zoning Ordinance. The details for the desired signs were not submitted for review until 6 weeks prior to the anticipated grand opening of the store. This is a common practice as signs are typically the last phase of construction of the site. When the sign plans were submitted, it was immediately noticed that the request was for a 78 square foot sign. Bigfoot explained that it was their understanding that the price display area of the sign does not count toward the total area of the sign. It has always been city practice to include this as the total area of the sign. Considering the timing of the opening of the store, city staff issued a permanent sign permit for the logo portion of the sign that meets the 50-square foot requirement and a temporary sign permit for the price display portion of the sign. Bigfoot was then advised to either consider reconstructing their sign or apply for a variance.

Variance Justification

The subject parcel contains two frontages, one on Cunningham Avenue and the other of Kenyon Drive. The Urbana Zoning Ordinance permits one 50-square foot freestanding sign per frontage. In this case, Bigfoot is permitted to have two freestanding signs on the site. In their application for a variance, Bigfoot justifies the request by indicating that they are technically permitted a total of 100 square feet of freestanding signs but is only requesting 78 square feet. They indicate that if the variance is not granted, one of their options is to remove the price display portion of the current sign and place it on a second freestanding sign pole. They indicate, and staff concurs, that this would be a less desirable solution since it would create an unnecessary second freestanding sign cluttering the site and area that currently has a multitude of freestanding signs.

Bigfoot also justifies that the development is located in an area with a predominance of commercial uses of which many have freestanding signs much larger than the one proposed. In this area, most of the existing commercial uses are located outside the city limits and are required to

meet the sign requirements of Champaign County which are less stringent than the City of Urbana. The Bigfoot sign is considerably smaller than the Freedom Gas Station sign on the east side of Cunningham Avenue and comparative in size to the Speedway gas station to the south. The sign is also comparative in size if not smaller than existing signs for used car lots, restaurants, and other business and industrial related uses in the area.

July 26, 2001 Zoning Board of Appeals Meeting

The Board considered the case at their meeting on July 26th. A representative from Bigfoot testified and offered the variance justification described above. There was no one from the public to speak in favor or against the case. The Board was presented with correspondence related to the case. One letter each in support and opposition were presented.

Variance Criteria

In order to review a potential variance, Section XI-3 of the Urbana Zoning Ordinance requires the ZBA to make findings based on variance criteria. The following is a summary of the Board's findings as they pertain to this case and the criteria outlined in the ordinance:

1. *Are there special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance?*

The Board found that the special circumstance in this case related to the shape of the parcel and its location at the intersection of Kenyon Road and Cunningham Avenue. Since this site has two separate frontages, it is allowed two separate freestanding signs of 50 square feet each. Because of the shape of the lot at this location, two signs are not practical as it would be at a typical T-intersection. The petitioner proposes just one sign with 78 square feet rather than two separate signs with a total of 100 square feet.

2. *The proposed variance will not serve as a special privilege because the variance requested is necessary due to special circumstances relating to the land or structure involved or to be used for occupancy thereof which is not generally applicable to other lands or structures in the same district.*

The Board found that the proposed variance is not a special privilege because according to the ordinance, the petitioner is permitted to have two separate signs at 50 square feet each. The proposal for just one sign is requested because the shape of the lot at this unusual intersection makes it impractical to have two signs. For this reason, the Board found the request for one 78-square foot sign justified and reasonable.

3. *The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner.*

The Board found that the developer was aware of the need for the variance prior to constructing the sign. Although the sign is currently erected on the site, it was allowed under a temporary situation to allow Bigfoot to open for business and adequately display a price for its product. If the variance is not granted, it is understood that the price sign will need to be removed.

4. *The variance will not alter the essential character of the neighborhood.*

The Board found that the character of the area is heavily commercial and that the use and its sign are entirely compatible with the characteristics of the area.

5. *The variance will not cause a nuisance to the adjacent property.*

The Board found that the variance will not be a nuisance to any of the adjoining properties.

6. *The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.*

The Board found that the petitioner is requesting only the amount of variance needed to accommodate the proposal.

Options

The Urbana City Council has the following options this case:

- a. The Urbana City Council may grant the variance as requested based on the findings outlined in this memo; or
- b. The Urbana City Council may grant the variance subject to certain terms and conditions. If Council elects to impose conditions or grant the variance on findings other than those articulated herein, they should articulate its findings in support of the approval and any conditions imposed; or
- c. The Urbana City Council may deny the variance requests. If Council elects to do so, they should articulate findings supporting its denial.

Staff Recommendation

Based on the findings outlined herein, staff recommends that the Urbana City Council concur with the Zoning Board of Appeals and **GRANT** the variance as requested.

Attachments: Proposed Ordinance
 Location Map
 July 26, 2001 ZBA Minutes

c: Jeff Marshall, Design and Planning

Prepared by:

Rob Kowalski, AICP
Senior Planner

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ORDINANCE NO. 2001-08-087

AN ORDINANCE APPROVING A MAJOR VARIANCE

(Increase in the allowed area of a freestanding sign from 50 square feet to 78 square feet at 1809 North Cunningham Avenue -- Case No. ZBA-01-MAJ-11)

WHEREAS, the Zoning Ordinance provides for a major variance procedure to permit the Zoning Board of Appeals and the City Council to consider criteria for major variances where there are special circumstances or conditions with the parcel of land or the structure; and

WHEREAS, the petitioner, Bigfoot Foodstores, Inc., has submitted an application requesting a major variance to allow the increase in the allowable area of a freestanding sign from 50 square feet to 78 square feet at 1809 North Cunningham Avenue; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-01-MAJ-11; and

WHEREAS, after due publication in accordance with Section XI-10 of the Urbana Zoning Ordinance and with Chapter 65, Section 5/11-13-14 of the Illinois Compiled Statutes (65 ILCS 5/11-13-14), the Urbana Zoning Board of Appeals (ZBA) held a public

hearing on the proposed general variance on July 26, 2001, and the ZBA, by a unanimous vote of its members, recommended to the City Council approval of the requested variance; and

WHEREAS, after due and proper consideration, the City Council of the City of Urbana has determined that the major variance referenced herein conforms with the major variance procedures in accordance with Article XI, Section XI-3.C.3.d of the Urbana Zoning Ordinance; and

WHEREAS, the City Council agrees with the following findings of fact adopted by the ZBA in support of its recommendation to approve the application for a major variance:

1. The special circumstance in this case relates to the shape of the parcel and its location at the intersection of Kenyon Road and Cunningham Avenue. Since this site has two separate frontages, it is allowed two separate freestanding signs of 50 square feet each. Because of the shape of the lot at this location, two signs are not practical as it would be at a typical T-intersection. The petitioner proposes just one sign with 78 square feet rather than two separate signs with a total of 100 square feet.

2. The proposed variance is not a special privilege because according to the ordinance, the petitioner is permitted to have two separate signs at 50 square feet each. The proposal for just one sign is requested because the shape of the lot at this unusual intersection makes it impractical to have two signs. For this reason, the Board found the request for one 78-square foot sign justified and reasonable.
3. The developer was aware of the need for the variance prior to constructing the sign. Although the sign is currently erected on the site, it was allowed under a temporary situation to allow Bigfoot to open for business and adequately display a price for its product. If the variance is not granted, it is understood that the price sign will need to be removed.
4. The character of the area is heavily commercial and that the use and its sign are entirely compatible with the characteristics of the area.
5. The variance will not be a nuisance to any of the adjoining properties.
6. The the petitioner is requesting only the amount of variance needed to accommodate the proposal.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

The major variance request by Bigfoot Foodstores, Inc., in Case #ZBA-01-MAJ-11 is hereby approved to allow the increase in the allowable area of a freestanding sign from 50 square feet to 78 square feet in the City's B-3, General Business Zoning District, at 1809 North Cunningham Avenue, in the manner proposed in the application for the major variance in that case.

The major variance described above shall only apply to the property located at 1809 North Cunningham Avenue, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION:

Tract I

A tract of land containing one acre described as follows: The measurement starting from a stone at the Northwest corner of the Southwest Quarter of the Southwest Quarter of Section 4, Township 19 North, Range 9 East of the Third Principal Meridian; thence with a line West 21 poles and 11 links to center of road; thence South 19 degrees West five hundred and fifty-two and five tenths feet to a stone in the center of the road which is the Heater Road to a stone which is the Southeast Corner of the one acre tract hereby conveyed; thence West two hundred and thirty-five feet and six inches to the Southwest corner of said one acre, at which a stake is set; thence North 165 feet to a stake at the Northwest corner of said one acre; thence East 309 feet to a stake in the center of said road which is the Northeast corner of the said one acre; thence South on center of said road 174 feet

five inches to the beginning, which is the Southeast corner of said one acre, situated in the Town of Urbana, in the County of Champaign, in the estate of Illinois, except that portion occupied as the Kankakee and Urbana Traction right of way and also except North Sixty feet of the West One Hundred Twenty Feet of said tract, subject to and easement for ingress and egress over the North Twenty Feet of said tract except the West One Hundred Twenty Feet thereof, (as shown on a Quit Claim Deed dated January 2, 1986 and recorded March 3, 1987 in the Champaign County Recorder's Office in Book 1508 at page 236 as Document Number 87R4588)

PERMANENT PARCEL #: 91-21-04-301-017

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the City Council of the City of Urbana, Illinois, at a regular meeting of said Council on the _____ day of _____, 2001.

PASSED by the City Council this _____ day of _____,

_____.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, _____.

Tod Satterthwaite, Mayor

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois.

I certify that on the _____ day of _____, 2001, the corporate authorities of the City of Urbana passed and approved Ordinance No. _____, entitled "AN ORDINANCE APPROVING A MAJOR VARIANCE "(Increase in the allowed area of a freestanding sign from 50 square feet to 78 square feet at 1809 North Cunningham Avenue -- Case No. ZBA-01-MAJ-11)" which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No. _____ was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the _____ day of _____, 2001, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this _____ day of _____, 2001.