

**BOARD OF ADJUSTMENT MEETING MINUTES**

BOA\_AF\_03-20-2024

Acting Chair Cunningham called to order the March 20, 2024, regularly scheduled meeting of the Board of Adjustment at 5:30 p.m. in Council Chambers, West Des Moines City Hall, located at 4200 Mills Civic Parkway, in West Des Moines, Iowa, and electronically through Zoom.

Roll Call: Blaser, Christiansen, Cunningham..... Present  
Pfannkuch, Stevens..... Absent

**Item 1 – Consent Agenda**

**Item 1a – Minutes of March 6, 2024**

Acting Chair Cunningham asked for any corrections to the meeting minutes of March 6, 2024. Hearing none, Acting Chair Cunningham declared the minutes approved as presented.

**Item 2 – Old Business**

There were no Old Business items.

**Item 3 – Public Hearings**

**Item 3b – 805 S 100<sup>th</sup> Street – VARIANCE for a Reduction of Setback to accommodate a louvered (covered) pergola – Jeff Kafer – VAR-006332-2024**

Acting Chair Cunningham stated that he was going to address Item 3b prior to Item 3a. He informed that he would need to recuse himself from hearing the item due to a conflict of interest. With his recusal, there would not be a quorum to vote, therefore item 3b will be continued to the next meeting.

**Item 3a – 950 Jordan Creek Parkway, Unit 1130, HomeGrown Restaurant – Variance of the Sign Code to accommodate an additional thirteen (13) sq ft of wall signage – Kevin Himes – VAR-006345-2024**

Acting Chair Cunningham opened the public hearing and asked the Recording Secretary to state when the public hearing notice was published. The Recording Secretary stated that the notice was published on March 11, 2024, in the Des Moines Register.

Moved by Board Member Christiansen, seconded by Board Member Blaser, the Board of Adjustment accepted and made a part of the record all testimony and documents received at this public hearing.

Vote: Blaser, Christiansen, Cunningham..... Yes  
Pfannkuch, Stevens..... Absent

Motion Carried

Acting Chair Cunningham asked Staff if there had been any written comments. Planner Brinkman noted there was a memo on the dais from the property owner expressing support for the variance. She added that there was a clerical error in the Staff report regarding dates of publication of the public hearing, stating that the notice was published on March 11, and mailed to property owners on March 6. This will be corrected.

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David Edleston, Thrive Restaurant Group, 1877 N Rock Road, Wichita, Kansas, presented their request for a variance for additional signage for HomeGrown. He informed that the primary sign does not indicate to visitors the type of establishment and cited nearby Giordano's as having a similar secondary sign for clarification. This will be a Breakfast/Lunch restaurant, part of a chain which has another store downtown Des Moines and a at a number of other locations. Mr. Edleston presented elevation drawings showing a sign on the wall of the restaurant facing Jordan Creek Parkway with the restaurant name, and a smaller sign hanging from the awning below the wall sign, stating this is a Daytime Eatery.

Acting Chair Cunningham clarified that the secondary sign was attached to the awning directly below the primary wall sign. Mr. Edleston affirmed that it is.

Acting Chair Cunningham stated he would ask staff to clarify the requirements for awning sign vs. wall sign. Mr. Edleston stated they had not discussed that.

Acting Chair Cunningham questioned whether the awning sign could be wall mounted below the primary sign. Mr. Edleston indicated they would have no objections.

Acting Chair Cunningham indicated that he was sympathetic to their proposal, however the Board would have to interpret according to the variance statutes, which require not granting the request would cause unnecessary hardship resulting from the property not being able to yield a reasonable rate of return from any use. He concluded that this is a difficult standard to meet.

Mr. Edleston responded that this restaurant is new to the market, and it would not be clear what products or services HomeGrown was offering without the larger brand awareness. He asserted that for them it would be a hardship.

Board Member Blaser commented that bringing a number of outlets to the area, they should work with Staff to determine what was best.

John Lassaux, 805 City Center Drive, Carmel, Indiana, with CRG Residential, owner and developer of the Cunningham Project, expressed their support for the project and the signage, agreeing that it will help identify it as a restaurant. He noted that CRG and the Landlord appreciate HomeGrown minimizing the heights of the sign to under 1 foot on the awning, and not cluttering the building. He added that West Des Moines is one of the top visited cities in Iowa and concluded that he had provided a letter of support. He noted the similarity of this request to existing signage at Giordano's.

Kevin Himes, Luminous Neon LLC, 1429 N. 4<sup>th</sup> Avenue, Hutchinson, Kansas, introduced himself as the project manager for the sign company. He answered the question regarding moving the sign onto the wall, agreeing that it is an option if needed, however there were reasons for the owner to place it on the awning.

Acting Chair Cunningham asked for any other questions or comments from the audience and upon hearing none, declared the public hearing item closed.

Emani Brinkman, Development Services Planner, clarified that the sign code states that all signage on the building would be included in the square footage total, whether it was on the wall or the awning. The applicant was aware of this, then chose to install a sign which used 39.9 square feet of the allowed 40 feet. They are now asking for a variance to hang an additional sign, having already used all of their square footage. The second sign will exceed what they have for allowed wall signage.

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Acting Chair Cunningham asked whether the wall sign is 39 feet long. Ms. Brinkman clarified that the total square footage of the wall sign is 39 square feet. The wall sign measures 19 feet wide by 2 feet tall.

Acting Chair Cunningham asked if the Daytime Eatery sign was added, would they still be in the allowed 40 square feet. Ms. Brinkman responded they would not, as they are asking for 13 square feet more.

Board Member Christiansen stated they have the wall sign up, and asked if they could reduce the existing sign so that the two signs together could fit within the 40 square foot limit.

Planner Brinkman answered that the applicant had originally come in with a request for 3 signs, and they were told that it was more than they were allowed. They then came in with a request for one sign, which was approved. This was followed by asking for a variance for an extra sign.

Board Member Christiansen pointed out that historically, the Board has rejected requests by Dillard's, Dick's Sporting Goods, and another business to exceed their allowed sign square footage. He stated he could see their intent, but the applicant had put up the wall sign knowing they maxed out their square footage.

Development Coordinator Linda Schemmel inserted that it is very important that the sign code variance decisions be applied equally. She added that Giordano's has more signage as their building width facing the street is greater. Ms. Schemmel stated that Staff are willing to work with the applicant, and informed that Staff had indicated the Eatery sign could be put on the glass facing the street.

Board Member Christiansen asked whether the applicant was eligible for a monument sign. Development Coordinator Schemmel replied that they were, wall and monument signage is two separate allowances. She stated it was something they could pursue. Board Member Christiansen commented that they appear to have chosen not to have a monument sign.

There were no additional questions for Staff by the Board.

Acting Chair Cunningham asked if the Board would like to discuss further or make a motion.

Board Member Christiansen commented that the sign is up, but with additional negotiations, they could do something on the windows. He concluded that the Board has been strict with other well-known franchises.

Acting Chair Cunningham stated that the ordinance is pretty clear that this is square footage, not linear, and that the wall sign was interpreted to include this. He added that he was sympathetic, and hoped there were some other alternatives.

Board Member Christiansen inserted that the petitioner could kick this down the road, however if the Board voted it down, what channels would they have going forward? He asked if they would have other opportunities to revisit this.

Development Coordinator Schemmel responded that the Board could continue the item without a vote, however once a variance is denied, the applicant would have to appeal to the District Court.

Board Member Blaser asked Staff's involvement if the applicant decided to continue.

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Development Coordinator Schemmel answered that if no decision was made to deny it, Staff could continue to work with applicant to find something that meets the current code. For the request in front of them, Staff didn't find a demonstrated hardship.

Acting Vice Chair Cunningham stated this doesn't fall in the special exceptions category. Ms. Schemmel agreed.

Acting Vice Chair Cunningham noted that the applicant had the option to withdraw the request.

Board Member Christiansen added that they would get different Board members at the next meeting, as this was his last meeting.

Acting Chair Cunningham indicated the Board would vote unless the applicant chose to withdraw.

Mr. Edleston informed that the applicant would prefer to withdraw at this time and discuss alternate options further with staff. He noted that it was helpful hearing comments from staff and would have conversation regarding options such as the use of glass. He noted that having a fire wall to the south with no windows, they were trying to get the most natural light through the front windows, however they would explore options and work within the Code.

The Board took no action on the withdrawn item.

### **Item 4 – New Business**

There were no New Business items.

### **Item 5 – Staff Reports**

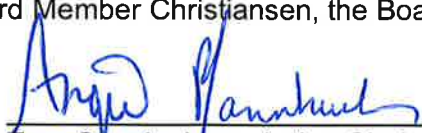
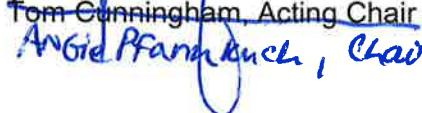
There were no Staff Reports. Board Member Christiansen was thanked for his years of service. The next meeting of the Board will be held on Wednesday, April 3.

### **Item 6 – Adjournment**

Acting Chair Cunningham asked for a motion to adjourn the meeting.

Moved by Board Member Blaser, seconded by Board Member Christiansen, the Board of Adjustment meeting adjourned at 6:12 PM.

  
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Jennifer Canaday, Recording Secretary

  
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Tom Cunningham, Acting Chair  
  
Angie Pfannkuch, Chair