



Mr. Brazill asked for a clarification regarding the PUD zoning (Planned Unit Development). Mr. Brown described this as development tool which allows large, mixed-use projects to proceed which have site plans that are inconsistent with the base zoning, but still deemed to be desirable. In this case, the townhouses were part of the 100-acre Rosepark PUD. Here, the townhomes have very small yards, but are surrounded by open space owned by the Homeowners Association.

Mr. Roberts questioned compliance with the fire code. Mr. Brown said it is compliant because it meets the minimum five-foot setback from the property line.

Mr. Wilmer would feel more comfortable knowing the opinion of the property owner that is most effected by the project. Ms. Haller agreed. Chairman Bader reminded the board that the neighbor was notified of the Public Hearing.

Regarding question #2: *Show that the benefit sought by the applicant cannot be achieved by some other feasible method that would not require a variance.*

Chairman Bader noted that since the existing rear yard is nonconforming, a variance would be required for any addition proposed on this property. Mr. Brown confirmed that the townhome is already within the setback.

Regarding question #3: *Show that the requested variance is not substantial.*

Ms. Haller feels it is substantial. Five feet is not much of a setback.

Chairman Bader agreed that the difference between a 5-foot and 30-foot setback is substantial. However, limited setbacks are consistent with other homes in the neighborhood.

Mr. Brazill asked if the addition would extend beyond the footprint of the existing patio. Mr. Willardson said he believes it is the same footprint. He mentioned that the existing brick patio is to be removed.

Regarding question #4: *Show that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*

Mr. Roberts mentioned the fence that acts as a separator between neighbors. There is one present off the short axis of the patio, but not the long axis. The neighbor directly behind the existing patio has only one window overlooking the proposed sunroom addition.

Chairman Bader agreed. The neighbors' views would not be greatly impacted.

Regarding question #5: *Show that the alleged hardship is not self-created.*

Ms. Haller believes it is.

Mr. Wilmer noted the nonconformity was created by the construction under the Planned Unit Development.

Chairman Bader asked if there were any other comments or questions. Hearing none, he called for a motion.

Mr. Roberts moved that the board Approve the application as submitted and presented for the following reasons:

- #1. The granting of the variance will not produce an undesirable change in the character of the neighborhood create a detriment to nearby properties.
- #2. The benefit sought by the applicant cannot be achieved by some other feasible means that would not require a variance.
- #3. The variance is not substantial.
- #4. The proposed variance will not have an adverse impact on the environmental conditions in the neighborhood.
- #5. The hardship is not self-created.

Ms. Henshaw seconded the motion, which *carried* with a vote (5-2)

Ryan Wilmer	Voting	YES
John Roberts	Voting	YES
Roger Brazill	Voting	NO
Julie Harris	Voting	YES
Susan Haller	Voting	NO
Carol Henshaw	Voting	YES
Joseph Bader	Voting	YES

**ITEM 02      Application #22-019: 170 South Main Street, KIX ON MAIN, requesting an Area Variance necessary to display a wall sign on the south face of the building. In accordance with the Sign Schedule of the Zoning Ordinance wall signs are only permitted on walls facing a street or parking lot.**

No one was present to represent the application. Mr. Brown described the proposal. The business name and logo has been installed on the exposed brick, on the south wall of the adjacent building. It has been cited as a zoning violation. The property owner of the wall, Jeff Anthony has authorized the application.

Chairman Bader opened the Public Hearing. No one came forward. No written comments were received. Mr. Brown spoke with Denise Chaapel, the Downtown Manager, but she said the Business Improvement District did not have the opportunity to discuss the application as a board, so she was not comfortable speaking on their behalf. Chairman Bader closed the Public Hearing.

This is a request for an Area Variance and the board will be weighing the benefit of the variance to the applicant against the detriment of the variance to the neighborhood. Chairman Bader led the board through the required five-part test.

Beginning with question #1: *Show that the granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.*

Mr. Brazill finds the sign to be unobtrusive. It is relatively small compared to the Rent-A-Center sign on the adjacent building.

Mr. Roberts believes the applicant discovered the brick was in poor condition when they removed the metal siding to install the awning. The brick was parged and the artwork was then added. He questioned the visibility of the sign when the awning is up.

Mr. Wilmer mentioned the applicant's plans to install a permanent awning. If this is completed, the sign would likely not be noticeable from the street.

Regarding question #2: *Show that the benefit sought by the applicant cannot be achieved by some other feasible method that would not require a variance.*

Mr. Brazill believes the benefit sought is to enhance the area where the brick has been patched.

Chairman Bader asked for clarification regarding zoning for signs versus murals. Mr. Brown explained that a mural would not require approval from the Zoning Board of Appeals, but would require Planning Commission approval as an alteration to a historic building. It was his determination that this was a sign since the graphic is almost identical to the approved sign that hangs over the entry.

Regarding question #3: *Show that the requested variance is not substantial.*

Chairman Bader does not believe it is substantial compared to neighboring signs. It faces traffic on the opposite side of the road, which makes it even less noticeable. He said that other downtown restaurants have signs on the sides of their buildings, although these are corner lots that face a street or parking lot.

Regarding question #4: *Show that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*

Chairman Bader referred to potential safety concerns if the sign was to distract drivers. In this case he does not believe it would be an issue, since it is not lit.

Regarding question #5: *Show that the alleged hardship is not self-created.*

Mr. Roberts said the applicant made the decision to install the sign, therefore, it is self-created. Chairman Bader agreed.

Chairman Bader asked if there were any other comments or questions. Hearing none, he called for a motion.

Mr. Brazill moved that the board Approve the application as submitted and presented with the following conditions:

1. Approval is for the existing sign only.
2. Sign shall not be lit.

The application was approved for the following reasons:

- #1. The granting of the variance will not produce an undesirable change in the character of the neighborhood create a detriment to nearby properties.
- #4. The proposed variance will not have an adverse impact on the environmental conditions in the neighborhood.

Mr. Wilmer seconded the motion, which *carried* with a roll call vote of (7-0):

Ryan Wilmer	Voting	YES
John Roberts	Voting	YES
Roger Brazill	Voting	YES
Julie Harris	Voting	YES
Susan Haller	Voting	YES
Carol Henshaw	Voting	YES
Joseph Bader	Voting	YES

**ADJOURNMENT**

Ms. Harris moved to adjourn the meeting at 7:43, seconded by Mr. Wilmer and carried by unanimous voice vote (7-0).

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Richard E. Brown, Secretary

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Joseph Bader, Chairman