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Press Release

Board of Zoning Appeals approves two variances, denies two

Board authorizes Family Dollar to have three signs, but only one oversized

ARKANSAS CITY, Kan. (October 13, 2015) — The Arkansas City Board of Zoning Appeals approved two variances, but denied two others during a regular meeting Monday night at City Hall, 118 W. Central.

The sign variances were requested by development firm JTS Investments LLC, on behalf of Family Dollar and its new location currently under construction at 1313 N. Summit St.

All four motions were approved unanimously. Board members in attendance were board chair Mary Benton, JoLynn Foster and Charles Jennings. Members Carl Mills and Marcia Weston were absent.

After an hour-long hearing during which the board members heard arguments from people on both sides of the issue, they ultimately decided to approve a requested variance allowing Family Dollar to have three lighted signs, rather than just the two allowed in municipal code.

The board also approved a variance to allow one of those signs, which will be mounted on a marquee on the front of the store facing Summit Street, to be much larger than normally allowed.

But the board denied variances regarding the size of the other two signs, a wall sign on the north side of the building that faces First Street and a pole sign on the northeast corner of the property.

That action will force Family Dollar to put in much smaller signs that it originally had requested. The decision was a concession to concerned property owners who live in the surrounding neighborhood.

The sign issue originally arose because the area is zoned as a multi-use district with both commercial and residential characteristics. To preserve the community character, code limits items such as signage to the requirements of the most restricted zoning under which the land use would be allowed.

In this case, Family Dollar had to meet C-1 (commercial offices and service businesses) zoning requirements, which restrict the size of wall signs to 32 square feet and pole signs to 48 square feet.

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JTS Investments had requested a front wall sign of 144 square feet and a side wall sign of 75 square feet, plus a pole sign of 96 square feet. Only the first nonconforming sign was approved.

City Planner Josh White originally recommended allowing all three signs, but not allowing any of them to exceed the C-1 zoning's size requirements. His recommendation was based on several factors:

- He agreed with the applicant, JTS Investments, that the requested signs normally would be allowed in a C-2 (restricted commercial) district, but due to the mixed use of the area, he determined that more restrictive sign regulations are necessary in order to preserve the character of the neighborhood. The board generally agreed with this philosophy.
- White agreed with the applicant that the location and design of the signs do not appear to impact the neighborhood adversely, but disagreed with JTS' assertion that the size of the signs would not have a negative impact. Citizen feedback seemed to support White's determination.
- He did not agree that limiting the size of the signs would create a hardship for the company, but did allow that eliminating the third sign could represent a hardship. The board eventually diverged from this finding in the case of the large front sign because the size restriction allowed would have represented around 10 to 15 percent of the marquee that already has been constructed. It was designed to accommodate a larger sign and a smaller sign would not fit aesthetically with the look of the building, company officials said. The board sided with them in allowing the variance, which will permit the sign to fill more than a quarter of the marquee space.

Officials with JTS and Family Dollar said they had not run into some of these issues before with other stores. They claimed they were not aware of the mixed-use restrictions when the project began.

Complicating the matter is the presence of nonconforming signs at adjacent businesses that were grandfathered in before the mixed-use zoning was created in 2013 as part of the Comprehensive Plan.

The board looked at photos of several similar Family Dollar stores, including a few in Wichita, but Jennings observed that the adjacent housing was of a much higher density, such as apartments and assisted living facilities. He felt the residential character on Summit Street was more subdued.

Ken Harader, who lives behind the new store on First Street, said his greatest concern was that if the board approved all of the variances, it would set a precedent for any future business development along Summit Street in the mixed-use district. Ultimately, it could lead to more nonconforming signs.

A compromise solution was reached after company officials admitted that the front sign was their highest priority for a variance, followed by the pole sign, with the side sign having the lowest priority.

All decisions of the Board of Zoning Appeals are final and do not require approval by the City Commission. The board's decisions only can be appealed in district court.