

**BOARD OF ZONING APPEALS
MEETING
JUNE 22, 2010**

MEMBERS PRESENT: Lynne Matthews, Chairman
Henry Bauman, Richard Kilmer, Ray Rose

MEMBERS ABSENT: David Baird, James McClary, Robert Sween

OTHERS PRESENT: Teri Tubbs, Zoning Official
Joan LeBeau, Chief Planner
Lisa Hannon, Zoning Coordinator
Robert Spanos

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting - July 27, 2010

APPROVAL OF MINUTES

- A. Meeting of May 25, 2010
 - Mr. Kilmer MOVED, Mr. Bauman SECONDED approval of the May 25, 2010 minutes. MOTION CARRIED UNANIMOUSLY.

PUBLIC HEARINGS

- Ms. Matthews provided a brief review of the quasi-judicial process, noting the previous month's agenda packets had included material relative to same. She reminded members comments should focus specifically on that for which a variance was being requested.
- Recording Secretary Kelly swore in all participants.
- A. V-05-10 - Request for a variance pursuant to the City of Punta Gorda, Florida, Code of Ordinances, Chapter 26, Section 16.10, to allow a third ground sign, conforming in size, on a single parcel with multiple tenants instead of two signs as is required per Chapter 26, Section 11.3(g)(4); and to allow the sign to be less than 300 feet from another ground sign on the parcel as is required per Chapter 26, Section 11.3(g)(5). Said sign is proposed to be located on the private property addressed as 615 Cross Street, placed near the corner of West Helen Avenue and Cross Street where a non-conforming sign was previously located, and be no more than 10 feet in height and 44 square feet in area, which is smaller than is permitted per Chapter 26, Section 11.3(g)(8) which allows a sign to be 15 feet in height and 64 square feet in area.
LEGAL: Block 80, Lot 00P1, PUG, as recorded in Plat Book 1, Page 23, of the Public Records of Charlotte County, Florida [long legal description on file at the City of Punta

Gorda, Urban Design Division, 126 Harvey Street, Punta Gorda, Florida 33950 or by calling (941)575-3372].

A/K/A Cross Trails Shopping Center, 615 Cross Street, Punta Gorda, Florida

- Ms. Teri Tubbs, Zoning Official, displayed an overhead of the subject location as well as existing and proposed signage, as delineated in the agenda material, stating same was located where U.S. 41 curved to the north, limiting visibility of other signs on the property. She noted the shopping center was set back from the frontage with the parking area located close to the road. She explained the currently vacant unit had 13,746 square feet of rental space and a face sign on the building near the Helen Street entrance, which was not as visible as a ground sign while traveling on U.S. 41. She mentioned an existing, non-conforming pole sign had been located on the property but was removed as required by City Code when it became blank. She announced the tenant space on the existing ground signs were bound by lease agreements and thus could not reasonably be changed to accommodate additional tenants. She pointed out the shopping center's configuration was unique and rendered the space unattractive to a viable, national tenant without the availability of a ground sign. She mentioned U.S. 41 was a one-way street in this area, thereby further reducing visibility for a tenant on the north end of the building. She explained the proposed sign was smaller than the ground sign on neighboring property and would be approximately 155 feet away from another ground sign, adding the requested sign would help the owner attract a new commercial use to the area which in turn would benefit other commercial properties. She stated the applicant was requesting a ground sign of ten feet in height and forty-four square feet in sign area, which was smaller than would be permitted. She confirmed the third ground sign was not in conflict with the intent of City Code, adding the Code did not address properties with three street frontages and the ability to have a third sign for that additional frontage. She advised the present condition was caused by the vacation of the 13,746 square feet of space by the former tenants coupled with the City's requirement for removal of the previously existing, non-conforming pole sign once same became blank. She summarized the proposed request did not involve any use which was prohibited in the Highway Commercial (HC) zoning district, confirming the requested variance was consistent with the Comprehensive Plan. She concluded the proposed ground sign design was consistent with the shopping center's architecture and other signs, albeit on a smaller scale, adding the application met the criteria required for a variance; thus, the Urban Design Division recommended approval of V-05-10.

- Mr. Kilmer observed one of the photographs depicted a sign with two blank spaces, asking if that was still the case.
- Ms. Tubbs replied she did not believe so.
- Mr. Kilmer recalled the existing vacant space had been occupied by one tenant, AutoZone, asking why five tenant signs were proposed.
- Ms. Tubbs replied the proposed sign could be configured to accommodate single or multiple tenants, stating the 13,746 square feet could be “subdivided” if needed. She clarified the maximum number of tenants would be five.
- Mr. Rose commented on a second sign for a second street, stating it seemed same would typically be placed so as to primarily face that second right-of-way (ROW). He explained the signs were located very close to each other whereas the third sign was hidden by the nearby bank.
- Ms. Tubbs agreed the sign by West William Street was barely visible when driving toward same. She explained those two signs were closer together than allowed by City Code and were thus part of the variance request. She clarified City Code required a separation of 300 feet; however, the approximate distance was 155 feet.
- Mr. Bauman opined the sign facing West William Street was intended more for U.S. 41 North. He questioned the number of signs being requested, further asking if same would be left to the tenant’s discretion or would the number be determined as part of the variance decision.
- Ms. Tubbs replied contingencies could be imposed. She explained the number was dependent upon what tenant or tenants could be secured and the space desired out of the 13,746 square feet of available space. She noted the applicant felt the site had the potential to attract a fairly large tenant, thereby only needing one sign area; however, the proposal would allow for smaller tenants. She reiterated the Board could incorporate conditions and safeguards into their recommendation.
- Mr. Bauman commented he personally saw no reason to impose any restraints, stating same should be left to the landlord and tenant.
- Mr. Kilmer questioned the applicant’s immediate plans for the sign in the event the variance was approved.
- Ms. Tubbs replied City Code did not allow a blank sign structure; thus, any permit application would denote the proposed tenancy.
- Mr. Kilmer asked if a “For Lease” sign could be put in place.
- Ms. Tubbs replied City Code did not prohibit same.

- Ms. Matthews disclosed she had visited the site, stating “For Lease” signs were already in place. She recalled the previous blank sign had been required to be removed once the tenant vacated the site, asking why a new, potentially blank sign would be allowed.
- Ms. Tubbs explained the former sign was a non-conforming design, specifically pole signs were not permitted. She pointed out the proposed sign was in compliance with City Code as to size and design whereas the pole sign was not.
- Ms. Matthews asked if a third sign was being requested due to the other signs being already filled with tenants. She expressed surprise if this was the case as “For Lease” signs were in place.
- Ms. Tubbs replied the entire Cross Trails Shopping Center was not fully occupied. She explained AutoZone occupied the subject space for several years, adding the pole sign had been specifically for that business; thus, AutoZone had not had a large sign face on the other, existing ground signs.
- Ms. Matthews noted the tower sign was visible from a distance of 155 feet at that intersection.
- Ms. Tubbs stated she understood tenants in the shopping center were guaranteed specific sign space as part of their lease. She expressed her belief the majority of units were full; thus, there would be no more room on the sign.
- Mr. Rose asked what type of signage was allowed on the building itself.
- Ms. Tubbs replied a façade sign facing U.S. 41 South was permitted.
- Mr. Kilmer confirmed AutoZone had a panel sign in addition to the large pole sign; thus, it seemed a new tenant would be allowed the same.
- Ms. Tubbs agreed, contingent upon the terms of their lease.
- Mr. Bauman recalled the sign near Coastal Dental had a “For Lease” panel, stating there were other, vacant panels as well; however, the variance application stated there was no sign space available. He expressed confusion as to why any tenant would not have space available on the existing two signs.
- Ms. Tubbs responded she would have the applicant’s representative address same.
- Mr. Robert Spanos, applicant’s agent, stated AutoZone had a small panel on the ground sign near the dental office. He explained AutoZone did not have a large panel as they had been authorized by the City to erect the non-conforming pole sign, which was much larger. He pointed out when heading south on U.S. 41 around the curve, potential customers had already passed the entrance into the shopping center by the time the existing sign could be viewed. He commented all potential tenants tended to shy away from the subject area of the Cross Trails Shopping Center because of poor

sign visibility. He then stated the proposed sign was not intended for use as a leasing mechanism nor would it probably be erected until a tenant was secured.

- Mr. Kilmer commented the applicant was more in favor of one large tenant, stating he understood the reasoning behind same; however, the proposed sign provided for five smaller tenants, questioning the advantage of same. He suggested the large sign be modified to add space.
- Mr. Spanos referred to the overhead of the proposed sign, delineated in yellow, stating the road configuration of U.S. 41 caused drivers to miss the entrance into the shopping center, thus the reason behind the vacancy.
- Mr. Kilmer recommended the yellow sign be removed and replaced with a new sign in the area depicted in pink on the overhead. He opined doing so would greatly improve visibility.
- Mr. Spanos responded costs prohibited same, pointing out the existing, large sign entailed a cost of \$80,000. He reminded members of the significant improvements made to the Cross Trails Shopping Center, stating the owners wished to keep the plaza alive.
- Mr. Kilmer confirmed Mr. Spanos would stipulate to delaying construction of the sign until a tenant was secured; thus, approval of the variance would not assist in renting the space.
- Mr. Spanos disagreed, explaining if the variance was approved, he would be able to reassure a potential tenant such signage would be allowed. He noted a deal with a grocery store had fallen through due to the inability to properly advertise same.
- Mr. Bauman clarified the applicant planned to use the entire sign if one tenant was found to occupy the entire 13,746 square foot area.
- Mr. Spanos agreed, stating same would most likely be part of the lease.
- Ms. Matthews commented the Board may wish to restrict usage of the sign specifically to the occupant or occupants of the 13,746 square foot section.
- Mr. Spanos countered such a restriction would not allow for adequate advertising in the event the area was "subdivided."
- Ms. Matthews clarified her suggestion allowed for signage for multiple tenants, albeit within the 13,746 square foot area.
- Mr. Rose suggested prohibiting duplicate signage on the first two signs as an alternative to Ms. Matthews' recommendation.
- Mr. Kilmer suggested perhaps delaying a decision on the variance until the site was leased.

- Mr. Spanos responded the uncertainty of whether or not the variance was approved would impede negotiations with potential tenants. He reiterated he had lost the above mentioned grocery store due to same.
- Ms. Tubbs interjected reconstruction of the yellow sign on the corner, as mentioned earlier, would not be allowed to be that size. She explained it was an existing, non-conforming sign.
- Ms. Matthews called three times for anyone to speak on V-05-10.
- Mr. Rose MOVED, Mr. Bauman SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Ms. Matthews stated she did not object to the proposed sign contingent upon not allowing any duplication of signage within 150 feet.
- Mr. Kilmer suggested prohibiting "For Lease" signage.
- Mr. Bauman opined the application satisfied the criteria required for a variance.
- Mr. Bauman MOVED, Mr. Rose SECONDED to recommend approval of V-05-10 based upon the evidence and testimony presented with the following conditions: (1) no sign structure to be constructed on the site until a lease holder was established for the 13,746 square foot area; (2) once constructed, no duplication of businesses listed on the new sign and the other, two existing signs.
- Ms. Tubbs asked if the Board wished to apply the second condition to both of the other two signs or only to the closest.
- Mr. Bauman replied his intention was for both signs.
- Mr. Rose MOVED to AMEND to include no restriction as to the third sign.
- Mr. Bauman SECONDED the AMENDMENT.
- Ms. Matthews called for a vote on the AMENDMENT.
- MOTION CARRIED UNANIMOUSLY.
- Ms. Matthews called for a vote on the original motion as amended.
- VOTING AYE: Bauman, Rose Matthews.
- VOTING NAY: Kilmer.
- MOTION CARRIED.
- Mr. Kilmer commented the Board was often presented with situations described as hardships, stating he was not open to financial hardships. He opined applications such as V-05-10 represented inconveniences as opposed to hardships.
- Ms. Matthews cited a section of the rules of evidence for quasi-judicial proceedings as follows: "Not all admissible evidence may be the basis of a finding by the Board. Only competent, substantial evidence may be the basis of findings. As noted above,

competent, substantial evidence is defined as relevant and material evidence that a reasonable mind would accept as adequate to support the conclusions reached.”

NEW BUSINESS

- A. Evaluation and Appraisal Report (EAR) for the City of Punta Gorda Comprehensive Plan 2025
- Ms. Joan LeBeau, Chief Planner, made a PowerPoint presentation, as delineated in the agenda material, stating adoption of an EAR was required by the State once every seven years, basically providing an assessment of the Comprehensive Plan. She explained an EAR was the principle process for updating local comprehensive plans, adding it reflected changes in local conditions. She continued an EAR would include State policies on planning and growth management and evaluate how the community had addressed major planning issues through implementation of its Comprehensive Plan. She noted the EAR also suggested how the Comprehensive Plan should be revised to address community objectives, reflect changing conditions and trends and account for changes in State requirements. She advised a Comprehensive Plan must be “fluid” in order to be of benefit. She announced the community’s role was critical to the entire process in order to identify major issues, citing “no safe pedestrian crossing on U.S. 41” as an example. She provided a brief review of the following elements of the Comprehensive Plan: Future Land Use; Transportation; Recreation & Open Space; Conservation & Coastal Management; Capital Improvements. She mentioned the Conservation and Coastal Management Elements may be separated, adding staff would also address climate adaptation. She announced a Public Workshop was scheduled for July 15, 2010, in Council Chambers, explaining same would be broken down into three sessions, morning, afternoon and evening.
 - Mr. Bauman asked if the Department of Community Affairs (DCA) mandated inclusion of certain elements in the Comprehensive Plan.
 - Ms. LeBeau replied State Statute required same.
 - Mr. Kilmer asked if the Citizen’s Master Plan would be reflected in the Comprehensive Plan.
 - Ms. LeBeau replied affirmatively, confirming staff would continue to work with community stake holders.

STAFF COMMENTS

- A. Results of City Council Action on June 16, 2010
- Ms. Tubbs announced V-04-10 was continued by City Council to December 1, 2010, with the applicant’s agreement, to allow for building plan approval as well as approval from the Burnt Store Isles (BSI) Civic Association (CA).

- Mr. Kilmer questioned the basis for requiring an architectural review for a driveway variance.
- Ms. Tubbs replied Mayor Harvey Goldberg advised although the actual building was not part of the variance request, the vast majority of public comment related to same. She continued the applicant was asked to address those issues in order to deal with citizens' concerns in general. She mentioned the applicant would also research options and costs to relocate utilities.

MEMBER COMMENTS

- Mr. Kilmer announced he would not be available for the Board's next meeting date of July 27, 2010.

ADJOURNMENT

- Meeting Adjourned: 4:57 p.m.

Lynne Matthews, Chairman

Mary Kelly, Recording Secretary