

Board of Zoning Appeals

July 21, 2016

Members present: Chairman Phil Rooney; David Russell, Secretary; Doug Warren, and Sharon Rooney. Present on behalf of the City is Todd Richard, Zoning Administrator, from the Zoning Department and Deidre Ramthun, Recording Secretary.

The meeting was called to order at 6:00 p.m. by Mr. Rooney. Mr. Rooney introduced the members to the audience and the general rules were reviewed.

Case #54908-BA-16 (1800 Tiffin Avenue) was introduced. Mr. Richard read his comments as follows: Filed by Findlay Shopping Center, LLC, regarding a proposed pylon sign. The applicant is seeking a variance from sections 1161.12.9A; 1161.12.9D1; 1161.12.12A3; and 1161.12.12B of the City of Findlay Zoning Ordinance. Respectively, these sections: (1) limit the site to one pylon sign; (2) limit the size of the sign to 200 square feet of total sign area; (3) limit a sign with an electronic message center to a height of 15 feet; (4) limit the size of the electronic message center to 25% of the approved sign area. The applicant has proposed an additional sign to a site that currently has two pylon signs; is 265 square feet in area; is 30 feet in height; and is exceeding the maximum allowable area to the message center by 1%.

A goal of the current sign code is to reduce clutter along the major commercial corridors – or at least keep it from getting any worse. This proposal will make it worse and probably encourage similar proposals if this variance is granted. The Board has heard and denied a few similar requests that are far less intrusive than this proposal.

The code does allow additional signage for large sites along long segments of frontage. An additional pylon is permitted for every 1,000 feet of frontage. An additional low profile sign is permitted for every 500 feet of frontage, with a maximum of 3 low profile signs permitted. The longest segment of frontage on this site is approximately 1,400 feet along Tiffin Avenue. Those low profile signs are limited to 32 square feet in area.

This is a large site in a high traffic volume area with a very high degree of visibility. Wall signs are virtually limitless. Perhaps a roof sign should be considered.

Overall, this request has no merit.

Mr. Warren directed a question to Mr. Richard, that when he drove around it appears that the idea of a low profile sign, there are no low profile signs right now; isn't that right? Mr. Richard commented that on Tiffin Avenue you have Jimmy John's, Arby's Tire Man. Mr. Warren stated he means at the shopping center. Mr. Richard stated, that at the shopping center, that is correct; there is no low profile sign. Mr. Warren commented that they have the ability to put two along Tiffin Avenue, is that right? The fact that they have an additional pylon sign today, does that impact the number of low profile signs they can

have? Mr. Richard stated that the additional sign that's there is Best Buy and that was granted a variance ten years ago. Sites with more than 500 feet of frontage on the same public or private through street can have two low profile signs on one frontage not exceeding 32 square feet each provided there is 250 feet of separation between the signs, and in no instance shall any one site contain more than three low profile signs. One pylon sign may be used in lieu of a permitted additional low profile sign for sites with over 500 feet of frontage or over five acres in size; and then it talks about the out lots. When we looked at that, it says that one pylon sign can be used in lieu of a low profile sign. We looked at the one taken up by the variance as one of those. Mr. Warren stated that at the time that variance was granted, they also changed and lowered the Findlay Village Mall sign that sits back off Tiffin Avenue. That all happened at the same time. Without a variance, they can have one low profile sign along Tiffin Avenue. Mr. Richard stated, "I think so, yes", and Mr. Warren agreed with the statement. Mr. Richard changed his answer and stated that an additional low profile sign is permitted for every 500 feet of frontage. If we're going with the idea that they're allowed one sign for every 500 feet, they would need at least 1,500 feet of frontage along Tiffin Avenue and they only have 1,400 feet. They haven't met that third, 500 foot segment for that third sign. Mr. Warren stated because you're counting that they have two signs already that are basically fronting Tiffin Avenue. Mr. Richard commented that he thinks the idea was to allow with that kind of frontage, the ratio of one sign for every 500 feet with a limit on it and then a separation; so my answer would be no, they cannot have a low profile sign.

Chairman Rooney did not need to swear in Anya Ryjkova because she is an Attorney for J J Gumberg, 1051 Brinton Road, Pittsburgh, Pennsylvania. We are here to request a variance on this sign. She addressed the Zoning Ordinance and stated that the standard for variance is undue hardship and the unique circumstances applying to the property. We are the mall owner of this commercial property and that corner of the lot which is about 98 or 96 (I have it on the application) thousand square feet has been empty for a couple of years just because of the economic conditions around the country. A lot of malls are going out of business; a lot of tenants are trying to keep their business alive; so as a mall owner, it's been very challenging to find a tenant that will be vibrant and thriving in that portion of the property. As you know, this is not a residential property so it's not easy to find a tenant of that size that would be willing and able and happy to take this property and go with it. We scouted the market and located Big R who is quite successful and has a lot of stores in Illinois in communities of approximately this size and structure and Big R caters to the spirit of this community because it has a mixture of city and agricultural products, just a variety of products that attracts smaller communities. Big R has been successful in these communities. That's why we are quite excited that their interests met up and we're having a common ground talk with them now firming up the deal. This sign came up as the integral part of the deal and Big R tradition in front of the stores, they do have this big, beautiful Big R sign notifying the community they are coming in to make people excited. We realize that economic hardship and economic interest is not something that the variance gets granted on. They realize that their argument is not economic hardship, but the opportunity to have this commercial space leased so this mall stays living and vibrant and they have a tenant there that is paying rent, that is occupying the space, so economic hardship is not quite their argument, just we are deprived of the use of our property without having a viable tenant in there and would like to use that property and have an appropriate use of the property; so if anyone can find a tenant and put it in there and suggest a tenant to us, if that would be easier, we would go with them. This wasn't an easy fit to find them and locate them, and having a tenant as I underlined will help to eliminate this undue hardship of not being able to use this commercial property; and second standard is, for granting the variance for the Board, is a unique circumstance applying to the property. A unique circumstance in this case kind of goes hand-in-hand with this undue hardship that we are deprived of a reasonable use of this commercial space. This space is standing empty. We do pay taxes, real estate taxes, on it; we maintain the property; but the place is unoccupied

and unused; and it's very important for a mall to have a live and vibrant anchor tenant which is a very large tenant in the mall because that draws traffic to other smaller tenants in the mall. Jim is going to speak and touch more on that because once one anchor tenant goes and if the second tenant leaves, then the mall is usually beyond salvaging and the property and commercial value of the property goes down and that drives away small commercial tenants. We are requesting this variance from the general common sense commercial standpoint asking you to allow us to use our commercial property and to bring this tenant into this community. Big R has a very big and viable potential and the gentleman that will speak after me will touch more on that. I hope this community will be as excited and as welcoming to them.

There were no further questions.

Chairman Rooney did not need to swear in Jim Murphy because he is an Attorney for J J Gumberg, 1051 Brinton Road, Pittsburgh, Pennsylvania. He has been with J J Gumberg Company for 35 years. She (Anya Ryjkova) is a recent addition to our legal department as I am on my way out, so to speak, after all these years. We have been involved with Findlay Village Mall for 46 years. We obtained the property, what's been the property of J J Gumberg and Company, in 1970. In 1981 we raised another half million dollars in capital and brought in K-Mart. In 1998 we totally redeveloped the mall and built a new Penney building, built a new K-Mart building, built Elder Beerman, put a new wing on and from 2000 until today operated very successfully. Unfortunately we fell to the closing of Sears stores two years ago. Sears is closing, you probably know, all over the country, even in Chicago which is their home base. We make this request very seriously because we have been invested in this community for 46 years both economically as well as trying to be good citizens. I have a list of malls that have closed in Ohio. It's unbelievable – two in Toledo, one in Tiffin. There's a list if you look at dead malls.com of all these malls that have closed in Ohio; some are very close, 20 to 40 miles away. Our property is unique because we're the only regional mall in Findlay, Ohio and we're proud to be that but we want to preserve it. We don't want to go the way of all these other centers that are anchored by Penney's and Sears that have either closed or been demolished or on the brink. According to the New York Times, 24 of these malls have closed since 2010 and another 60 are on the brink simply because there aren't anchor tenants to replace people like Penney's, Sears, and Macy's. We are fortunate to find Big R. They are, for lack of a better word, an agricultural department store serving agricultural owners and workers as well as general population. They have a lot of things that pertain particularly to farmers and farms, but they also have apparel and sporting goods, other things that the general populous would be interested in. We had a similar situation in Butler, Pennsylvania, which is 30 miles north of Pittsburgh; very similar in population in a rural farm community surrounding it, to Findlay. We were able to put in Rural King which is an operation similar to Big R and it is unbelievable the amount of business and traffic that it brought to the mall. The farmers get up early so they are at the mall knocking on the doors before the other stores open quite frankly. There are no retailers that are going to come to malls other than right on the west coast and right on the east coast, but those of us who are in between the two coasts, you're talking about a huge million square foot regional mall, they're just not coming anymore. For us, most of them are closing a number of their stores. K-Marts and Sears combined a couple of years ago and they're closing a lot of K-Marts and a lot of Sears. Once you lose two anchors, you're on your way, a slippery slope, to a dead mall. Akron lost several malls, Cleveland's lost several malls, and, as I said, as close by as Toledo and Tiffin. The mall in Bowling Green is suffering. So we don't make this request without a lot of thought. I can't tell you that this new retailer would fail without this signage, but I think it's reasonable to honor their reasonable request to try to help them as much as you can to let them be a success and bring some vibrancy back to that end of the mall. It is much harder, if not impossible, to revive a dead mall than to try to preserve it, and we're here asking for something that will help to try to

preserve the mall. As you know, there is a lot of frontage on Tiffin. There is a lot of signage up and down. We think our signage, with this new sign, would be appropriate for the size of the property. We say we are unique, we are the only enclosed mall in the area and it would not look out of place, if you look at our signage that we have at the end of the mall when we brought in Dunham's and Best Buy and TJ Maxx, if you look at signage and you look at the mall identification signage in the middle, it would not be inappropriate to have a pylon at the other side to identify the anchor down there. We were very fortunate to be able to convert that K-Mart building into three good-sized tenants. You'll not be able to do that today; the cost would be prohibitive. You would not be able to find retailers who could pay the rent to cover the cost of changing that Sears building into several tenants. Separating utilities, putting in additional bathrooms and everything, anybody that would pay the rent to cover those costs would not be a successful retailer. With the closing of Sears, we are 34% vacant. That's way too high. We need to get back viable, in the 10% area; and of course, filling that space would go a long way towards that. Like I said, we didn't make this request lightly. We don't think that our tenant is asking for anything unreasonable. We know the reason for your ordinance, we understand that sign clutter is not something that's desirable; but quite frankly, if the signage is done properly, placed properly, it provides a service to the public to find what they're looking for, and nothing is worse than the clutter of a closed and boarded up mall. We're doing everything we can to prevent that and the Big R is providing us a real viable chance to preserve the property, serve the community, pay our taxes, and hopefully continue to be a good citizen as we think we have been for 46 years. We're not a company that comes in, flips our property, and leaves. I think you know that by the amount of time we've been here. So we respectfully request that the variances we ask for, for the Big R sign, be granted.

Mr. Warren asked what percentage of people in this regional area, do you think, know where the Findlay Village Mall is? Mr. Murphy responded that he's sure it's a high percentage.

Mr. Warren said that he is trying to understand. You're making it sound like this sign is life or death. Mr. Murphy responded, "No, I said I couldn't tell you that. What I could tell you is they're new to the area, they feel very strongly that they need identification, and anything that they reasonably request we should give them to help them be successful."

Mr. Warren asked what percentage of agricultural people that, by word of mouth, understand there's a Rural King or Big R at the Findlay Village Mall need a sign in order to find that facility? Mr. Murphy said, "I can't, I don't know." Mr. Warren said, "I can't either, but I tell you what, it goes back to a very high percentage know where the mall is." Mr. Murphy replied, "Right". Mr. Warren continued, "If you know where the mall is, you're going to find Big R." Mr. Murphy commented, "You're going to find it, but this is a tool that all retailers, cause you see the signs, not only in Findlay but all over the United States of America." Mr. Warren said, "I'm familiar with Big R and this is not a typical setting for Big R at the Findlay Village Mall. They're usually in much smaller communities and out by themselves. So I can understand why when you're sitting by yourself, but I just want you to understand where I am in my mind. When I understand that Big R is moving into the Findlay Village Mall, I do not need a sign in order to go find them. That's the advantage of being at the mall." Mr. Murphy stated, "I can only tell you that in the 35 years that I've been doing this, I've been dealing with retailers all over the country. They feel signage is extremely important with regard to any location they're in. They would like to have the idea that when somebody is driving up and down that highway, they see the Big R sign and they know that the retailer is there." Mr. Warren commented, "I appreciate that. I understand that a retailer feels more signs is good, but I'm going back to the necessity from a marketing perspective of identifying and finding this location and knowing that it's there by a sign on Tiffin Avenue, and I'm not there."

Mrs. Rooney stated that she has a question for Todd. "What is their recourse if they can't do this; what is the suggestion that you have for this?" Mr. Richard replied, "The wall signage has many possibilities. Sears had a big sign on the wall, as you recall. There's a roof sign; roof signs are permitted to be as tall as the structures are allowed to be in that district, and I think in that district it's 60 feet."

Mr. Warren commented, "They can shuffle their existing sign that has multiple retailer signs on their existing sign." Mr. Richard commented, "Sure, they can; that's just like a face change. That's what Dick's Sporting Goods had to do with Hobby Lobby. Those are really the only two options without requiring any kind of variance." Mrs. Rooney stated, "If this sign were allowed to be there and something happened that Big R did not make it, is that sign stuck there or does someone have to take it down completely and remove it? What happens then?" Mr. Richard replied, "Usually the variance goes with the land, so someone else could use it." Mr. Murphy asked, "Were you referring to putting additional signage on the mall identification sign?" Mr. Warren replied, "I did not say additional, I said you could shuffle that; that's your sign and your square footage and you can use it how you want." Mr. Murphy commented, "We could, except we have long term leases there with tenants such as Penney and Elder Beerman that prohibit you from putting another tenant up there." Mr. Warren stated, "It's your sign and you can shuffle it how you want." Mr. Murphy said, "But we are restricted by legal, binding contracts from doing that so we can't do everything we want." A question was asked about the sign that says Findlay Village Mall at the top and everyone knows it's the mall sign. Mr. Murphy replied, "Right, that is the pylon that identifies the mall; that is correct. There are no tenants on that identification at the mall. You see pylon signs at malls where they'll have 20 tenants stacked on there. You couldn't possibly read all those and know. I think they're probably the most useless signs there are."

Mr. Rooney asked, "Is your lease contingent on getting this sign?" Mr. Murphy replied, "I have not been involved in the lease negotiations so I don't know that and will defer to Mr. Reitano. He's the Executive Vice President of Development and Leasing and dealt directly with Big R and can tell you what their discussions have been and can go more into the reasons why they feel they need this necessary identification."

Chairman Rooney swore in Fred Reitano, J J Gumberg Company, Findlay Village Mall, Findlay, Ohio. He informed the Board of Zoning Appeals about Big R. Mr. Reitano stated that they are a privately held family-run business established in 1964 by the Crabtree family. Joda Crabtree, second generation, basically runs the business. He was prepared to be at the meeting last Thursday but we didn't have a quorum and wasn't able to make it tonight. They are based in Watseka, Illinois. They have 19 stores, primarily in Illinois, but also in Indiana. They are looking to grow that into the state of Ohio. Findlay and some other markets in Ohio, western Ohio, are under consideration right now. They are a farm and home store but they do have departments such as apparel, athletic wear, leisure wear, sporting goods, pet supplies, automotive, farm and livestock, home improvement, toys, and a whole variety of things. We think they fit the community very, very well seeing as Hancock County, and particularly Findlay, eighty percent of the land use is crop use. There's 230 something thousand acres of agricultural and farms – 831 farms based on the statistics that I've looked at. They will employ about 70 full time and part time employees in the community. We've struggled and you've heard the stories from Anya and Jim, and I'm more involved in the leasing aspects of it so I've been involved in that with one other member of my team. We've had to, over the years, as you know, the movie theatre went out, and that was vacant for quite a long time. We've had to come up with an alternative use, which is not unusual for malls today. We put Cedar Creek Church in which, I think, has been a benefit for the community. It doesn't necessarily augment during the week a lot of sales for other retailers but, certainly, we have to

go to those alternative type uses. Having Big R, for us, after being two years in April that Sears went out, and we've overturned every stone looking for someone. Big R has come to the table. They're 98,000 square feet. For the reasons we outlined, we think they're going to be good. I know we've been good neighbors. I'm not trying to toot our own horn, but we work with the community and the mall walkers, the children's museum, and everything else. As Jim said, we've been here for a lot of years and we'd still like to be here. We're privately held as well, our company. One thing for the record too, I know that the Mayor and current Administration are not real pro pylon sign people. I understand that, and we respect that. We're not here out of disrespect to any of that. We're just here to try to play our case. I know you asked why they want a sign, why is it so important, and you also asked if the lease is contingent upon it. I'll answer those questions. If it wasn't important, if just the building signage alone was sufficient, it's not just like a \$5,000 pylon sign. This pylon sign will probably cost \$50, \$60, \$70,000 to put up with the reader board and all. I mean, for them to want to do that, I think answers the question loudly like, hey, it's that important to us. If we needed a smaller sign, if we didn't think we needed a sign, and your point's well taken; almost everybody in the area knows you mention Findlay Village Mall, maybe it's because they're only a 19 store chain. They're not big like Lowe's or Menard's or somebody like that coming in and they're going into uncharted waters which is why they are looking to have a little bit of an edge. They're willing to spend tens of thousands of dollars to get that sign just to have a little bit of an edge so people are ensured that they know who they are. I think that answers that question. Our lease, they're not signing the lease. We're pretty well through it until we get some kind of resolution on the sign. So that's where that is too which is another reason we're here. Yes, some of the malls in the area have suffered. We think we've done a pretty good job in keeping the mall intact especially with some of the things that have happened. We expect to be here for a long time. We hope you understand where we are and what we're trying to do and garner your support.

Mrs. Rooney commented, "You said that they haven't signed the lease and they want resolution on the signage; so no, they won't come here if they don't get the signage, is that what you're saying?"

Mr. Reitano replied, "Right now they're holding up the signing of the lease, yes; so are they going to if we say we failed, we can't get the signage, are they going to want to come back with another kind of sign?" Mrs. Rooney stated, "My office personally was on Tiffin Avenue and I had to go by the signage, and you passed it and you couldn't even see my sign. It was not good and yes, I needed advertising, but it was Zoning, so that happened. I'm now downtown and there's nothing I could do but put it on my building. I have to conform to that. It's not like there can't be a sign somewhere to show where it is on the building. When I go to the mall, personally, I'm not reading your signs as I'm passing by, I'm looking at the buildings. I don't know how anybody else does it, but when you're looking at the signs, you're saying that's not it, that's not it. I just look and that's just the way it is. My personal feeling is once we say yes, and we've had many people since I've been on this board, at least four and they have every reason and no, we can't come if we don't have it; but the minute we say yes to one person, we have to say yes to everybody else, and then what are we going to do." Mr. Reitano replied, "I understand. I've worked with Tony Iriti and the Economic Development people and we collectively went after Target very, very heavily and I know you realize that too, that everybody wanted Target. We begged them to come. The other thing that Big R's used to are incentives. They are in a lot of small towns in Illinois and Indiana, smaller than Findlay, but maybe they've been spoiled, but they do get signs, they get incentives, sales tax; where here, and I don't mean this as a slight to the City, but there are no real incentives to participate in. This is one thing they were kind of insistent on and why we're here."

Mr. Richard stated that there is no other communication.

Mr. Richard added, "We recognize your presence here in Findlay; it's not unnoticed. Our opinion isn't in any way disrespecting your presence here in the City." It was replied, "No, we don't feel that way."

Mr. Rooney stated, "I understand how much everyone hates signs now, but I'm going to make a little bit of a case for these people. I'd rather have another sign up there than have a vacant mall. You can't tell me it's contingent on this. If you'd have said we don't get this tenant if we don't get this sign, I think that's a special circumstance. A boarded up mall is a lot worse than another sign, in my opinion."

Mr. Richard commented, "We have a lot of malls closing, as the gentleman said, and my guess is that some of those malls had all the signage they probably ever needed." Mr. Rooney agreed and stated, "It has nothing to do with the sign, it has to do with the tenant thinking he needs it and if they can't get the tenant, they have 90,000 square feet they can't fill up. The sign is immaterial whether these guys make it or not, but if it makes them think they're going to come in here, and I know that has nothing to do with Zoning, but I'm just saying what the special circumstance is. This is and always has been a unique Zoning situation because we're talking about a building that sits on 15 acres. There isn't anybody else in town that takes up that kind of retail space and has 1,400 feet of frontage. I understand that if they don't get this sign, they're probably going to come here anyway, but you never know that; that's just my opinion."

Mr. Warren made a motion that we don't approve and, unfortunately, I feel like we need to be business friendly. The only basis I've heard here as a special condition and it's really written down here is all about getting a tenant and I don't believe that's a special condition for us. The other one, the magnitude of the variance as noted on the application as being extremely insubstantial and insubstantial and I disagree with that. I think when you're asking for four variances all related to one sign structure that it's not insubstantial, but primarily based on lack of a special condition or circumstance that warrants; his basis for that is, the mall has been there for all these years, we haven't had a sign there and all of a sudden for that to have changed and especially knowing that variances have been granted in the past already for high rise signs, the mall already has signage that exceeds the Zoning regulations and required variances in the past. I think it's a mistake to go further down the road with additional variances. A motion was made by Mr. Warren to deny these requests. Mrs. Rooney seconded the motion. The motion was approved by a vote of 3-1. The request is denied.

Mr. Rooney reviewed the June 8, 2016 minutes and made a motion to approve the minutes as written. The motion was seconded by Mrs. Rooney. The motion to approve the minutes passed 4-0.

Mr. Richard stated that there are currently two cases for next month.

The meeting was adjourned.



Chairman



Secretary (Asst)