

AGENDA ITEM SUMMARY

December 4, 2018

City Council

STAFF

Noah Beals, Senior City Planner/Zoning
Chris Van Hall, Legal

SUBJECT

Resolution 2018-121 Making Findings of Fact and Conclusions of Law Regarding the Appeal of the Zoning Board of Appeal's Approving a Variance, with One Condition, for 216 North College Avenue.

EXECUTIVE SUMMARY

The purpose of this item is to make Findings of Fact and Conclusions regarding the appeal of the Zoning Board of Appeals granting a variance with condition for the property located at 216 North College Avenue. City Council heard the appeal on November 27, 2018 and voted to uphold the Zoning Board of Appeals decision by a vote of 4-1. (Nays: Martinez; Overbeck, Summers absent)

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

On September 13, 2018, the Zoning Board of Appeals granted a variance with condition for the property located at 216 North College Avenue. The variance allowed the property additional sign allowance to the maximum of 1,836 square feet for a period of five additional years. On September 27, 2018, the owner of the off-premise signage filed an appeal with the following allegations:

- The Board failed to properly interpret and apply Land Use Code ("Code") Section 3.8.7.1(D)(3)
- The Board failed to properly interpret and apply Code Section 3.8.7.1(A)(3)
- The Board's decision conflicts with the Federal Highway Beautification Act

On November 27, 2018, City Council considered the appeal allegations and testimony from parties in interest. After discussion, the City Council found and concluded based on the evidence in the record and presented at the November 27, 2018, hearing that the ZBA properly interpreted and applied Land Use Sections 3.8.7.1(D)(3) and 3.8.7.1(A)(3) and that the ZBA's decision did not conflict with the Federal Highway Beautification Act and Colorado Outdoor Advertising Act.

RESOLUTION 2018-121
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING THE
APPEAL OF THE ZONING BOARD OF APPEAL'S DECISION APPROVING A
VARIANCE, WITH ONE CONDITION, FOR 216 NORTH COLLEGE AVENUE

WHEREAS, on September 13, 2018, the Zoning Board of Appeals (the "ZBA") reviewed and approved Appeal #180021, which granted a variance for the property located at 216 North College Avenue (the "Property") to increase the Property's sign allowance from 636 square feet to 1,836 square feet in order to accommodate 4 existing rooftop off-premise signs, in addition to on-premise signage for tenants of the Property related to voluntary redevelopment of the Property, with the condition that the variance will expire on October 1, 2023, which is when the initial term of the current lease between the Property owner and Lamar Advertising (the "Appellant") expires (the "Variance"); and

WHEREAS, on October 1, 2023, the Variance will expire and the Property owner will need to come into compliance with existing sign allowance provisions of the Land Use Code, by reducing the total signage on the Property in a manner of their choosing; and

WHEREAS, on September 27, 2018, Appellant filed an appeal (the "Notice of Appeal") of the ZBA approval of the Variance with the City Clerk; and

WHEREAS, the Appellants asserted in the Notice of Appeal that the ZBA failed to properly interpret and apply Land Use Code Sections 3.8.7.1(D)(3) and 3.8.7.1(A)(3); and

WHEREAS, on November 27, 2018, the City Council, after notice given in accordance with Chapter 2, Article II, Division 3, of the City Code, considered the appeal, reviewed the record on appeal, and heard presentations from the Appellant; and

WHEREAS, after discussion, the City Council found and concluded based on the evidence in the record and presented at the November 27, 2018, hearing that the ZBA properly interpreted and applied Land Use Sections 3.8.7.1(D)(3) and 3.8.7.1(A)(3) and that the ZBA's decision did not conflict with the Federal Highway Beautification Act and Colorado Outdoor Advertising Act; and

WHEREAS, Council finds that Appellant's appeal is without merit in its entirety and is denied; and

WHEREAS, City Code Section 2-55(g) provides that no later than the date of its next regular meeting after the hearing of an appeal, City Council shall adopt, by resolution, findings of fact in support of its decision on the appeal.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that, pursuant to Section 2-55(g) of the City Code, the City Council hereby makes and adopts the following findings of fact and conclusions:

1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.
2. That the grounds for appeal stated in the Notice of Appeal conform to the requirements of Section 2-48 of the City Code.
3. That based on the evidence in the record and presented at the November 27, 2018, City Council hearing, the ZBA's September 13, 2018, decision on the Variance is upheld in its entirety.
4. The Appellants' allegation that the ZBA failed to properly interpret and apply the Land Use Code is without merit and is denied in its entirety.
5. That adoption of this Resolution shall constitute the final action of the City Council in accordance with City Code Section 2-55(g).

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 4th day of December, A.D. 2018.

Mayor

ATTEST:

City Clerk