



Agenda

BOARD OF ADJUSTMENT
Tuesday, March 5, 2019 at 6:00 P.M
City Council Chambers
City Hall 1st Floor - 200 Lincoln Avenue

A. ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. APPROVAL OF AGENDA

D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSION:

MINUTES: February 5, 2019

FINDINGS/CONCLUSIONS:

Case #2018-112. 635 Harkle Road Special Use Permit.

Case #2018-113. 100 Siringo Road Christian Brother's Residence Special Use Permit.

Case #2018-115. Food Depot Height Variance.

E. OLD BUSINESS

F. NEW BUSINESS

1. **Case #2019-07. 2350 Fox Road Sign Variance.** Greg James Eichman, Owner, of About The Music, Inc. requests approval of a variance to Subsection 14-8.10(B)(4), prohibiting a wall sign of more than three colors; and to Subsection 14-8.10(E)(6)(b) a wall sign exceeding twenty percent of wall area. The property is approximately 1.09 acres and is zoned I-1 (Light Industrial) (Margaret Ambrosino, AICP, Case Manager, mkambrosino@santafenm.gov, 955-6656)

G. STAFF COMMUNICATIONS

H. MATTERS FROM THE BOARD

I. ADJOURNMENT

NOTES:

New Mexico law requires the following administrative procedures be followed by zoning boards conducting "quasi-judicial" hearings. In "quasi-judicial" hearing before zoning boards, all witnesses must be sworn in, under oath, prior to testimony and will be subject to cross-examination. Witnesses have the right to have an attorney present at the hearing. The zoning board will, in its discretion, grant or deny requests to postpone hearings. Persons with disabilities in need of accommodations, contact the City Clerk's office at 955-6520, five (5) working days prior to meeting date.

RECEIVED AT THE CITY CLERK'S OFFICE

DATE: February 15, 2019

TIME: 3:06 PM

Board of Adjustment Meeting Index
March 5, 2019

Item		Page
Call to Order	Gary Freidman, Chair of the Board of Adjustment called the meeting to order at 6:00 p.m. held at the City Council Chambers.	1
Roll Call	A quorum was established with roll call.	1
Pledge of Allegiance		1
Approval of Agenda	Mr. Werwath moved to approve the agenda as presented with a second from Ms. Hawkins.	1,2
Approval of Minutes from February 5, 2019 Approval of Findings/Conclusions: Case #2018-112 653 Harkle Rd. Case#2018-113 100 Siringo Rd. Case# 2018-115 Food Depot Height Variance	Mr. Maahs moved to approve the minutes and Findings and Conclusions for the cases listed (Case 2018-112, 2018-113 and 2018-115) as presented with a second from Ms. Hawkins.	2
Old Business		2
New Business: Case #2019-07 2350 Fox Rd. Sign Variance		2-6
Staff Communications		6
Matters from the Commission		7
ADJOURNMENT	There being no further business to come before the Board of Adjustment the meeting was adjourned at 7:03 p.m.	7
SIGNATURES		7

**MINUTES OF THE MEETING OF THE
BOARD OF ADJUSTMENT**

200 Lincoln Ave. Santa Fe, NM

March 5, 2019

6:00 p.m.

A. CALL TO ORDER & ROLL CALL

Gary Freidman, Chair of the Board of Adjustment called the meeting to order at 6:00 p.m. held at the City Council Chambers. A quorum was established with roll call.

PRESENT:

Gary Friedman, Chair

Rachel L. Winston, Vice Chair

Douglas Maahs

Patricia Hawkins

Daniel H. Werwath

Donna Reynolds

NOT PRESENT/EXCUSED:

Coleen Dearing

OTHERS PRESENT:

Donna Wyant, City Land Use Department

Noah Berke, City Land Use Planner Manager

Margaret Ambrosino, City Land Use

Greg James Eichman, About the Music

Linda Vigil, Stenographer

NOTE: All items in the packet for all agenda items were incorporated herewith by reference. The original packet is on file with the City Land Use Staff. Any additional attachments will be labeled as exhibits.

B. PLEDGE OF ALLEGIANCE

C. APPROVAL OF AGENDA

MOTION: Mr. Werwath moved to approve the agenda as presented with a second from Ms. Hawkins.

VOTE: The motion passed by unanimous voice vote.

D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSION:

MINUTES: February 5, 2019

FINDINGS/CONCLUSIONS:

Case # 2018-112 635 Harkle Road Special Use Permits

Case # 2018-113 100 Siringo Road Christian Brother's Residence Special Use Permit

Case # 2018-115 Food Depot Height Variance

MOTION: Mr. Maahs moved to approve the minutes and Findings and Conclusions for the cases listed (Case 2018-112, 2018-113 and 2018-115) as presented with a second from Ms. Hawkins.

VOTE: The motion passed by unanimous voice vote.

E. OLD BUSINESS

No old business.

F. NEW BUSINESS

CASE # 2019-07 2350 Fox Road Sign Variance

Staff Report:

Ms. Ambrosino explained the case included in the packet. The caption will need to be changed because the square footage was not exceeded. The property is zoned correctly and the signage is not in compliance with the code, it exceeds the three color provision.

The Board issued the Special Use Permit in December. The permit is to operate as a private lodge. At the time of the permit application, they did look at the sign and gave options. They could take off the existing sign and correct the colors or try to meet the criteria. An ENN was not needed.

The applicant's responses to meet all the criteria not all were met. They are recommending denial.

Mr. Berke explained that should the Board decide to approve the application after hearing the applicant's report they will have to review all conditions.

Questions for staff:

Chair Freidman asked about the issue with the wall on the title. Can they remove that?

Ms. Ambrosino states that is correct. They do meet the wall criteria.

Applicant's Presentation:

Greg James Eichman (2350 Fox Rd. Santa Fe) thanked the staff and those in attendance this evening. Mr. Eichman read aloud his response (*see packet*).

Questions from the Board:

Ms. Winston asked who installed the sign. Mr. Eichman stated it was an artist.

Chair Freidman asked how long the signs have been there. Mr. Eichman states it has been a year.

Mr. Eichman showed some photos of the Meow Wolf sign with more than three colors that is very close by to his business.

Chair Freidman asked if anyone knew who did the work on the Meow Wolf sign. Mr. Eichman does not know.

Mr. Maahs asked if Meow Wolf is subject to the same conditions.

Mr. Berke stated all signs are subject to the code. If they were to inventory all signs they would find a lot with the same issue. Mr. Berke explained he would look at it at a case by case basis. He would like them to review what is in front of them this evening.

Mr. Wewarth has an issue with the selective application and not enforcing the rules and the laws on all businesses. The example is three blocks away and it is a non-conforming sign.

Mr. Berke is not sure who did the sign review on Meow Wolf. He worked on the parking portion, it has been a while he isn't sure. He agrees there is a lot of selective application. The code is very outdated.

Mr. Berke discussed the issues with other businesses in town that have had to change their signs to conform with the code.

Mr. Werwath mentioned the federal case that was recently won because of signage.

Mr. Berke explained the case involved a church and the sign they had showing times of service.

Mr. Eichman asked that the Board consider the condition on the first criteria. (See packet) He filled out a sign permit ad was told at the time he couldn't do it.

Mr. Eichman asked the board to reconsider the criteria of the sign to match the color of the building. Mr. Eichman showed some other photos that do not match the side of the building that are all next door to his.

Ms. Ambrosino showed the font on the signs in the photos are different as well and non-conforming.

Mr. Werwath states there is a need to update the code. Mr. Eichman showed his colors, and stated they blend better than any of the others.

Chair Freidman asked about that criteria. Mr. Berke states the purpose of the condition is not to charge or delay another permit, but rather to comply with the construction code. The board is to evaluate their decision based on the applicant's responses.

Mr. Eichman states the sign has been up for a year and hasn't fallen. He is afraid this will be an endless loop, then he will have to do this again. His resources are limited.

Ms. Ambrosino explained in condition one, where it explains if the Board overturns staff's recommendation, the applicant will go through the permitting process again. It is a variance to the colors. If they grant this, they can take it to the building permitting that is different and for construction.

Mr. Berke explained the applicant is saying he doesn't think he has to meet the first condition. Mr. Eichman stated, if Land Use can meet with him to make sure the sign is hung properly he willing to do so.

Mr. Berke states it meets all the other requirements just the color does not comply. The city won't permit it if it isn't safe.

Chair Freidman explained that protects the owner.

Mr. Maahs asked what the process is, if they approve the sign is Mr. Eichman subject to pull permits and would the existing sign be inspected.

Mr. Berke states they have reviewed it and it is zoned correctly.

Ms. Reynolds asked if the variance would expire in 2022, then Mr. Eichman would be back here asking for another variance. There could be a new sign ordinance by then.

Mr. Werwath if the color of definition is in the code. What is the functional definition?

Ms. Ambrosino stated they had a recent discussion with the new Director about black and white and if they are the absence of color and where they apply.

Ms. Winston asked when this part of the City was annexed. Mr. Berke stated 2003. Ms. Ambrosino stated the area was carved out as an industrial area.

Public Comment:

There is no public comment.

Comments from the Board:

Mr. Maahs expressed his concern this is a double standard while it is true they didn't submit for a permit it is subject to the liability under code. There is a business in the same neighborhood where it didn't apply. He isn't sure how to rule on it.

Ms. Hawkins asked if they are being asked to decide two things. The need for the building permit and the sign safety and an exception for the color?

Chair Friedman states it is a variance to the color. Part of it is to agree with approval if it is granted the applicant would have to submit a permit.

Ms. Ambrosino explained it is up to the board to decide on the criteria and the permit conditions be upheld.

MOTION: Ms. Hawkins moved approve the sign variance in the case of 2019-07 because of the colors.

Ms. Hawkins would allow for an amended motion including each condition.

Mr. Berke states the approval must be a yes or no for each criteria and make a finding as to why it met or did not meet it.

Ms. Winston asked if the criteria is conditional and what the n/a means.

Ms. Ambrosino stated the answer to conditional is really a yes or no.

It was decided to go off the record to briefly discuss how to form the amended motion.

Chair Friedman called the meeting back to order.

MOTION: Ms. Winston moved to amend the previous motion to approve the variance in the case of 2019-07 to approve the colors, along with the findings for the following criteria:

Criteria 1- finding there is an inherent conflict in the applicable regulations that cannot be resolved by compliance with the more restrictive provision that's provided in Chapter 14-1-7. Criteria 2- finding the special circumstances make it infeasible for reasons other than financial cost to develop the property in compliance with the standards of Chapter 14 based on the unique characteristic of the established logo which is their established brand. Criteria 3-the finding of the intensity of the development shall not which is not allowed in properties within the vicinity which is subject to the same relevant provisions of Chapter 14 being Meow Wolf, which we reviewed during the testimony. Criteria 4- the minimum variance the reasonable use of the land or the structure, we do not believe that the factor A is applicable but factor B that the consistency and purpose of Chapter 14 and the purpose and sections from which the variance is granted and the applicable goals and policies of the general plan a positive finding. Criteria 5-the variance is not contrary to the public interest. Criteria 6-that there are no additional or special findings in Chapter 14 other than the conditions from staff that will apply, a second from Mr. Werwath.

Mr. Berke asked if Ms. Winston seconded the approval or amended the motion. Chair Freidman stated the original motion only stated the amended was to go over the criteria and the reasons why it should be granted with the conditions from staff.

Ms. Ambrosino did not catch criteria 3.

Ms. Winston states she could use the other signs that are in the vicinity of the building.

Mr. Berke states he heard the intensity is not as intense as other buildings in the vicinity.

VOTE: The motion passed by voice vote.

Chair Freidman explained to Mr. Eichman the approval of the variance with the conditions they believe it is a proper condition they will have to approve a sign permit application.

Mr. Eichman asked for the board to consider an amendment to the color that needs to match the building. Chair Freidman explained it is granted and covered with it.

G. STAFF COMMUNICATIONS

Mr. Berke reported there will be a meeting next month for a change in use for a former hotel to become housing. He asked the Board to review the code.

Ms. Ambrosino states there will be another sign variance issue as well.

Mr. Berke explained again that the sign variance is outdated but the new Director wants all variances brought forward. Each one is a case by case basis.

Mr. Maahs asked if there will be any ongoing sign code discussions. Mr. Berke states the federal case lead every department to look at it, groups have called out municipalities on it.

A brief discussion was held on the regulations the City currently enforces in the downtown area.

A brief discussion was held about branding and logos.

Mr. Berke stated the City should provide a packet of information to new businesses to tell them what they need to do. They could work on it, with Economic Development and others. Mr. Berke states it could be a nice welcome to businesses.

Ms. Reynolds asked if the Fire Marshall inspected the property (2350 Fox Rd.).

Ms. Ambrosino states she spoke to them and they were approved.


H. MATTERS FROM THE COMMISSION

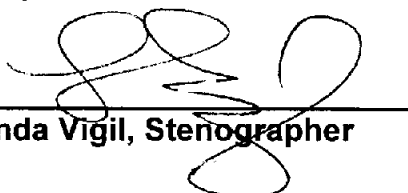
There were not any further matters from the Commission.

I. ADJOURNMENT

There being no further business to come before the Board of Adjustment the meeting was adjourned at 7:03 p.m.

SIGNATURES



Gary Friedman, Chair

Linda Vigil, Stenographer