

TO: Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney *lgb*
DATE: June 13, 2011
SUBJECT: Lamar Advertising of Michigan v. City of Troy

Enclosed please find a copy of a lawsuit that was recently filed against the City of Troy by Lamar Advertising of Michigan Inc.. Plaintiffs have filed this as an appeal, and due to the very short appellate deadlines, the City has already been required to initially respond. In addition to the appeal, Plaintiffs also assert a complaint against the City, where they allege that the damages exceed \$25,000, the minimum jurisdiction of the Oakland County Circuit Court.

Plaintiffs appeal the decisions of the Troy Building Code Board of Appeals in denying requested variances to allow for two billboards along I-75. These applications involved the property at 1051 Naughton and 1931 Austin in the City of Troy. The Troy Building Code Board of Appeals denied the requested variances at the March 2, 2011 meeting, and these minutes were approved on May 4, 2011, starting the appellate time clock. Plaintiffs also challenge the constitutionality of the City's sign ordinance, arguing that billboard signs are completely precluded from the City. In the complaint, Plaintiffs assert that Troy has violated the Home Rule Cities Act (Count I), imposed an unconstitutional prior restraint on speech (Count II), violated Plaintiff's constitutional due process rights (Count III), and violated Plaintiff's First and Fourteenth Amendment free speech rights (Count IV).

Absent objections from City Council, our office will represent the City's interests. As always, please let me know if you have any questions.

Approved, SCAO

Original - Court
1st copy - Defendant

DAVENPORT
COUNTY

11-119339-AA

STATE OF MICHIGAN
JUDICIAL DISTRICT
6th JUDICIAL CIRCUIT
COUNTY PROBATE

SUMMONS AND COMPLAINT



JUDGE MARTHA D. ANDERSON
LAMAR ADVERTISING v TROY CITY

(248) 858-1000

Court address

Courthouse Tower, 1200 N. Telegraph Rd., Dept. 404, Pontiac, MI 48341-0404

Plaintiff's name(s), address(es), and telephone no(s).
Lamar Advertising of Michigan, Inc.
6405 N. Hix Road
Westland, MI 48185
(734) 729-6430

Plaintiff's attorney, bar no., address, and telephone no.
J. Adam Behrendt (P58607)
Trevor M. Salasli (P74703)
Bodman PLC
201 W. Big Beaver Road, Suite 500, Troy, MI 48084
(248) 743-6000

v

Defendant's name(s), address(es), and telephone no(s).
City of Troy
500 West Big Beaver Road
Troy, MI 48084
(248) 524-3300

SUMMONS NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. YOU HAVE 21 DAYS after receiving this summons to file a written answer with the court and serve a copy on the other party or take other lawful action with the court (28 days if you were served by mail or you were served outside this state). (MCR 2.111(C))
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

MAY 28 2011 AUG 24 2011

This summons expires Court clerk **BILL BULLARD JR.**

*This summons is invalid unless served on or before its expiration date.

This document must be sealed by the seal of the court.

COMPLAINT Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.

Family Division Cases

- There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.
- An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.
- The action remains is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
------------	-------	---------

General Civil Cases

- There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in _____ Court.
- The action remains is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
------------	-------	---------

VENUE

Plaintiff(s) residence (include city, township, or village) Westland, MI	Defendant(s) residence (include city, township, or village) Troy, MI
Place where action arose or business conducted Oakland County	

05/25/2011

Date

Signature of attorney/plaintiff

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

PROOF OF SERVICE



TO PROCESS SERVER: You are to serve the summons and complaint not later than 91 days of expiration on the order for second summons. You must make and file your return with the court clerk. If you are unable to complete service you must return this original and all copies to the court clerk.

JUDGE MARTHA D. ANDERSON
LAMAR ADVERTI v TROY CITY

CERTIFICATE/AFFIDAVIT OF SERVICE/NONSERVICE

OFFICER CERTIFICATE

OR

AFFIDAVIT OF PROCESS SERVER

I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party (MCR 2.104[A][2]), and that: (notarization not required)

Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)

- I served personally a copy of the summons and complaint,
- I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint,

together with _____
List all documents served with the Summons and Complaint

_____ on the defendant(s):

Defendant's name	Complete address(es) of service	Day, date, time

- I have personally attempted to serve the summons and complaint, together with any attachments, on the following defendant(s) and have been unable to complete service.

Defendant's name	Complete address(es) of service	Day, date, time

I declare that the statements above are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Mileage fee	Total fee
\$		\$	\$

Signature _____

Name (type or print) _____

Title _____

Subscribed and sworn to before me on _____ Date _____ County, Michigan.

My commission expires: _____ Date _____ Signature: _____ Deputy court clerk/Notary public

Notary public, State of Michigan, County of _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the summons and complaint, together with _____ Attachments

_____ on _____ Day, date, time

Signature _____ on behalf of _____

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

Lamar Advertising of Michigan, Inc.,

Appellant/Plaintiff,

v.

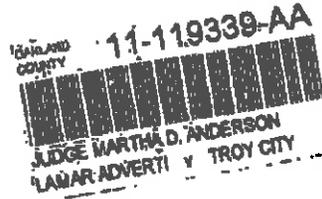
City of Troy,

Appellee/Defendant.

Case No.

Hon.

CLAIM OF APPEAL AND COMPLAINT



BODMAN PLC

By: J. Adam Behrendt (P58607)

Trevor M. Salaski (P74703)

201 W. Big Beaver Road, Suite 500

Troy, MI 48084

(248) 743-6000

Attorneys for Appellant/Plaintiff

RECEIVED FOR FILING
OAKLAND COUNTY CLERK
2011 MAY 25 P 3:44
BY: DEPUTY COUNTY CLERK

There is no other civil action between these parties arising out of the same transactions as alleged in this complaint pending in this Court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge.

CLAIM OF APPEAL AND COMPLAINT

Appellant/Plaintiff Lamar Advertising of Michigan, Inc. ("Lamar") files this claim of appeal arising from the March 2, 2011 decision of the City of Troy Building Code Board of Appeals denying Lamar's request for a variance from the City of Troy Sign Ordinance to erect two billboard structures adjacent to I-75 in Troy and complaint. In support of its claim of appeal and complaint, Lamar states as follows:

JURISDICTION AND VENUE

1. Lamar is a Michigan corporation with its principal place of business in Westland.
2. Appellee/Defendant City of Troy ("City") is a Michigan municipal corporation organized under the Michigan Home Rule City Act and located in Oakland County.
3. The Court has jurisdiction over Lamar's claim of appeal under Const 1963, art 6, § 28 and MCL 125.3605.
4. The Court has jurisdiction over Lamar's complaint because it seeks equitable and declaratory relief and damages in excess of \$25,000.
5. Venue is proper in this judicial circuit for Lamar's complaint.

COMMON ALLEGATIONS

6. Lamar is an outdoor advertising company. Lamar erects outdoor advertising displays, commonly known as billboards, throughout Southeast Michigan on property it leases or, in some cases, owns. Lamar earns revenue by charging advertisers to display their messages on its billboards.

7. Lamar seeks to erect billboards on properties it leases located at 1051 Naughton and 1931 Austin in the City.

8. Lamar obtained permission to erect a billboard on the properties from the respective land owners.

9. The Michigan Department of Transportation issued the necessary sign permits under the Highway Advertising Act, MCLA 125.301, *et seq.* to Lamar. Exhibit A, MDOT Permits.

10. The properties are zoned for light industrial use. The property located at 1051 Naughton is currently used for light manufacturing and the property located at 1931 Austin is primarily used for storage of heavy equipment.

11. The City regulates signs through its sign ordinance. See Exhibit B, Sign Ordinance

12. The Sign Ordinance does not expressly allow billboard advertising or mention billboards in any zoning district. It does, however, permit "Ground Signs," which it defines as "[a] freestanding sign supported by one or more uprights, braces, or pylons located in or upon the ground and not attached to any building."

13. The Sign Ordinance allows one ground sign on property in light industrial districts, among other zoning districts, subject to specified standards, as well as one additional ground sign subject to the following controls:

- a. The sign is set back a minimum of 200 feet from any street right-of-way.

- b. The sign is located at least 1,000 feet from any sign exceeding 100 square feet in area.
- c. The sign does not exceed 300 square feet in area.
- d. The sign does not exceed 25 feet in height. See Exhibit B, § 85.02.05(5).

14. Upon information and belief, there is only one existing billboard in the City. The City, however, has taken action to remove the billboard including attempting to cite its owner for a misdemeanor related to changing the message on the sign.

15. The Sign Ordinance provides an appeals process for "any person aggrieved by any decision, ruling or order from the Building Inspector." Exhibit B, § 85.01.08(A). The aggrieved party can appeal to the Building Code Board of Appeals which "has the power to grant specific variances of th[e Sign Ordinance], upon showing each of the following:

- "a. The variance would not be contrary to the public interest or general purpose and intent of th[e Sign Ordinance]; and
- "b. The variance does not adversely affect properties in the immediate vicinity of the proposed sign; and
- "c. The petitioner has a hardship or practical difficulty resulting from the unusual characteristics of the property that precludes reasonable use of the property." *Id.* at § 85.01.08(B).

16. The City's regulation of signs constitutes a prohibition of billboards.

17. In February 2011, Lamar applied to the City's Building Department for permits to erect its proposed billboards. The applications described the proposed billboards as 70 foot tall, 672 square feet ground signs adjacent to I-75. Exhibit C, Troy Sign Permit Applications. The proposed sign at the Naughton site had a 5 foot setback, and the proposed sign at the Austin site had a 6 foot setback. *Id;* see also Exhibit D, Building Code Board of Appeals' March 2011 Meeting Minutes.

18. The City's Building Department denied Lamar's applications.
19. Lamar objected to the denial and timely applied to the City's Building Code Board of Appeals for the issuance of variances to permit the construction of the billboards.
20. The City's Building Code Board of Appeals denied Lamar's request for the issuance of a variances on March 2, 2011.
21. The minutes from the City's Building Code Board of Appeals' March 2011 meeting were approved on May 4, 2011. See Exhibit D.
22. Lamar timely files this appeal with the Court and appeals the decision of the City's Building Code Board of Appeals on the grounds that it does not comply with the constitution and law of the state of Michigan, is not supported by competent, material, and substantial evidence on the record, and reflects a misrepresentation of the relevant zoning ordinance provisions.

CLAIM OF APPEAL

23. Lamar incorporates paragraphs 1-22.
24. Lamar, under MCL 125.3606, appeals from the decision of the City's Building Code Board of Appeals to deny Lamar the variances to install the requested billboards.

WHEREFORE, Lamar respectfully requests that the Court reverse the decision of the City's Building Code Board of Appeals and award such other relief as is just and equitable, including the entry of a final order requiring the City's Building Code Board of Appeals to issue the requested building permits.

COMPLAINT
COUNT I - VIOLATION OF THE HOME RULE CITIES ACT

25. Lamar incorporates paragraphs 1-24.
26. The City is a Home Rule City.
27. The Home Rule City Act permits the City to provide in its charter provisions for "licensing, regulating, restricting, and limiting the number of locations of billboards within the city." MCL 117.4i(f).
28. The Home Rule City Act does not permit the prohibition of billboards within a city.
29. The City exceeds its authority under the Home Rule City Act because its Sign Ordinance is a *de facto* prohibition of billboards.
30. Lamar has suffered and will continue to suffer damages because the Sign Ordinance prevents Lamar from enjoying its right to erect the billboards.
31. Lamar has suffered and will continue to suffer monetary damages because it is unable to earn income from advertisers for the display of messages on the billboards.

WHEREFORE, Lamar requests judgment in its favor declaring the City's Sign Ordinance in violation of the Home Rule City Act, enjoining the City from interfering with Lamar's erection of the proposed billboard structures, and granting Lamar such further relief as the Court deems just.

COUNT II - UNCONSTITUTIONAL PRIOR RESTRAINT

32. **Lamar incorporates paragraphs 1-31.**

33. **The Sign Ordinance, by requiring permits and site plan approval, imposes an unconstitutional prior restraint on speech.**

34. **The City has enacted and enforced its Sign Ordinance under color of state law.**

35. **The requirement of government approval, by way of a license, permit, or otherwise, before engaging in expression, is a prior restraint that is presumed to be unconstitutional.**

36. **The requirements of permits and site plan approval are presumptively unconstitutional prior restraints on Lamar's free speech because they lack the definite and objective standards required for them to be constitutional.**

37. **The Sign Ordinance unconstitutionally grants discretion to the City' Building Code Board of Appeals in its decision to approve specific variances because it lacks narrow, objective, and definite standards to guide the Board's decision. Indeed, under its ad hoc and discretionary review process, the City has granted in one form or another every Sign Ordinance variance requested from January 2008 to the present – except for Lamar's.**

38. **The Sign Ordinance lacks the procedural safeguards that the First and Fourteenth Amendments require in any scheme that imposes a license or permit requirement on expression.**

39. **Lamar has suffered and will continue to suffer financial harm because of its inability to erect and use its proposed billboards in the City.**

40. Lamar will continue to be subject to an unconstitutional prior restraint of speech unless the Court enjoins enforcement of the requirements of permits and site plan review approval for erection and use of billboards in the City.

WHEREFORE, Lamar prays for judgment against City granting Lamar injunctive and declaratory relief and awarding it damages in an amount to be determined at trial, together with attorney fees authorized by 42 U.S.C. 1988, plus costs and interest.

COUNT III - VIOLATION OF DUE PROCESS

41. Lamar incorporates paragraphs 1-40.

42. The City enacted its Sign Ordinance under color of state law.

43. Sections 85.02.04 and 85.02.05 of the Sign Ordinance unconstitutionally limit the right of Lamar and others to the enjoyment of private property protected by the First and Fourteenth Amendment of the United States Constitution without due process of the law.

44. The Sign Ordinance does not directly advance a substantial governmental interest.

45. The Sign Ordinance is an unconstitutional *de facto* exclusion of billboards in the City.

WHEREFORE, Lamar prays for judgment against City granting Lamar injunctive and declaratory relief and awarding it damages in an amount to be determined at trial, together with attorney fees authorized by 42 U.S.C. 1988, plus costs and interest.

COUNT IV - VIOLATION OF PLAINTIFF'S FIRST AND FOURTEENTH AMENDMENT FREE SPEECH RIGHTS

46. Lamar incorporates by reference paragraphs 1-45.

47. **Billboard advertising is a form of speech protected under the First and Fourteenth Amendments to the U.S. Constitution.**

48. **To satisfy the First and Fourteenth Amendments, any attempt by the City to regulate or restrict Lamar's billboard advertising must directly advance a substantial government interest and be narrowly tailored to reach no further than necessary to achieve that interest.**

49. **The City has acted under color of state law in its attempts to prohibit Lamar from erecting and maintaining its proposed billboards.**

50. **In the Sign Ordinance, the City as enacted location and sign area requirements for billboards.**

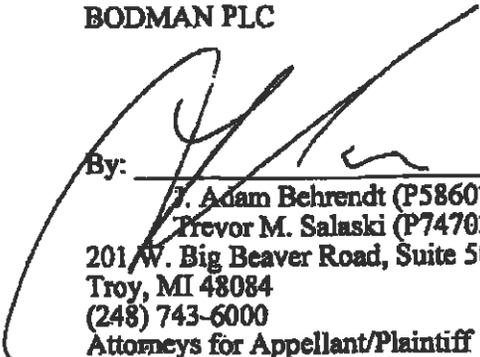
51. **Under the Sign Ordinance, the Building Code Board of Appeals has the power to grant specific variances of the Sign Ordinance. See Exhibit B, § 85.01.08(B)**

52. **Variances of the Sign Ordinance have been granted by the City on an ad hoc and arbitrary basis so as to undermine all of the governmental interests the Ordinance purports to advance.**

WHEREFORE Lamar prays for judgment against City granting Lamar injunctive and declaratory relief and awarding it damages in an amount to be determined at trial, together with attorney fees authorized by 42 U.S.C. § 1988, plus costs and interest.

Respectfully submitted,

BODMAN PLC

By: 

J. Adam Behrendt (P58607)

Trevor M. Salaski (P74703)

201 W. Big Beaver Road, Suite 500

Troy, MI 48084

(248) 743-6000

Attorneys for Appellant/Plaintiff

May 25, 2011

Michigan Department
of Transportation
2221 (09/08)

**COMMERCIAL SIGN LOCATION
PERMIT APPLICATION**

HAP0001190

HAP Application No.

APPLICATION AND PERMIT TO ERECT/MAINTAIN A COMMERCIAL SIGN ADJACENT TO STATE TRUNKLINE

This information is required by authority of P.A. 106 of 1972 in order to obtain a permit.

Pursuant to P.A. 281 of 2002, all permit fees are non-refundable.

Submit all four completed copies. Forms not filled out accurately, completely and legibly will be returned.

DISTRIBUTION UPON RESUBMISSION: Original - Region Office, Copy - Permitting, Licensing Office, & Landowner

SIGN DATA - FOR OFFICE USE ONLY

CONTROL SECTION 03174	DIR. S	MILE POINT 10.4	SEG. 2	DIR. Right	ACCOUNT 5132	PERMIT NO. 97360	EXPIRATION MONTH YEAR 09 2011
FEE PAID \$ 100			<input type="checkbox"/> INTERSTATE <input checked="" type="checkbox"/> FREEWAY		INTERIM PERMIT NO. 824		

APPLICANT DATA

SIGN OWNER LAMAR ADV OF WESTLAND			LAND OWNER FRANCO		
MAILING ADDRESS 8408 HX ROAD			MAILING ADDRESS 1051 Neuhoff		
CITY WESTLAND	STATE MI	ZIP CODE 48189	CITY TROY	STATE MI	ZIP CODE 48063
TELEPHONE NO. 734-728-8430			TELEPHONE NO. 248-435-8172		

- Pursuant to the provisions of P.A. 106 of 1972, application is hereby made for a commercial sign permit.
If soiling, the date of erection was (Month) _____ (Day) _____ (Year) _____.
- LOCATION: State Hwy. No. 1-75 Side of Road Right, Left/Right; 5 feet back from the pavement or face.
Nearest crossroad or overpass: Stephenson
The sign will be 1000 feet (or fraction of a mile) N (N.E.S.W.) of that Crossroad. If Rural, Town _____ Range _____ Section _____
The sign location will be in the political jurisdiction of Troy (City/Village/Township), in Oakland - 63 County.
- ZONED: INDUSTRIAL according to the zoning ordinance of the above municipality or county.
Complete a. or b. only if critical to the sign's legality:
a. The location is within one mile of _____, an incorporated municipality.
b. The location is within 500 feet of a structure devoted to commercial or industrial purposes, on the same side of the road, which is _____.
- SPACING: The sign will be more than 500 feet 1000 feet from the nearest off-premise sign or sign panel on the same side of the road.
Answer only if the highway is an interstate highway or freeway and is not within an incorporated municipality:
Is the sign location at least 500 feet from any interchange, intersection of grade or rest area? YES
- ILLUMINATION: Illuminated
- MESSAGE DISPLAY: Static Multiple Message Electronically Varying
- SIZE OF SIGN INCLUDING BORDER AND TRIM: Width 45 ft. x Height 14 ft. = 572.0 sq. ft.
- ADVERTISING LEGEND: _____

9. SIGN DESIGN: Circle number type, indicate which panel and draw arrow pointing north.

1 Panel 
 2-Panel Back to back 
 2-Panel Side to side 
 2-Panel V shape 

ROADWAY

CERTIFICATION: I swear, under penalty of perjury, that the information given in this application is accurate and correct and that the sign or sign structure was not/will not be prohibited by Section 18 of P.A. 106 of 1972. I hereby certify that I have secured the necessary authorization or permission from those who have an interest in the sign location to erect and maintain the sign described in this application. I have read, (accept and I will comply with all) conditions printed on the attached information and Conditions form.

SIGN OWNER OR AUTHORIZED AGENT - SIGNATURE 	DATE 08/13/2010
APPROVED FOR MICHIGAN BY Melissa Stefford	DATE 08/13/2010

Michigan Department
of Transportation
2223 (03/08)

**COMMERCIAL SIGN LOCATION
PERMIT APPLICATION**

HAP0001168

HAP Application No.

APPLICATION AND PERMIT TO ERECT/MAINTAIN A COMMERCIAL SIGN ADJACENT TO STATE TRUNKLINE

This information is required by authority of P.A. 106 of 1972 in order to obtain a permit.

Penalty to P.A. 501 of 2002, all permit fees are non-refundable.

Submit all four completed copies. Forms not filled out accurately, completely and legibly will be returned.

DISTRIBUTION UPON ISSUANCE: Original - Region Office, Copy - Permittee, Lansing Office, & Landowner

SIGN DATA - FOR OFFICE USE ONLY						
CONTROL SECTION	DIR	MILE POINT	SEQ	SRD	ACCOUNT	PERMIT NO.
83174	N	7.86	4	Right	5132	97348
PMS PWD A 100			<input type="checkbox"/> INTERSTATE <input type="checkbox"/> FREEWAY <input checked="" type="checkbox"/> OTHER N.H.L.		INTERNAL PERMIT NO. 845	

APPLICANT DATA

SIGN OWNER LANAR ADY OF WESTLAND			LAND OWNER KNIGHT CONSTRUCTION		
MAILING ADDRESS 8409 HEX ROAD			MAILING ADDRESS 1984 Amsln		
CITY WESTLAND	STATE MI	ZIP CODE 48186	CITY TROY	STATE MI	ZIP CODE 48063
TELEPHONE NO. 734-728-8430			TELEPHONE NO. 248-688-1030		

- Permit to the provisions of P.A. 106 of 1972, application is hereby made for a commercial sign permit.
If existing, the date of expiration was (Month) _____ (Day) _____ (Year) _____.
- LOCATION: State Hwy. No. 176 Side of Road Right (Left/Right) 6 feet back from the pavement or fence.
Nearest crossroad or overpass: E. Maple Road
The sign will be 1300 feet (or fraction of a mile) N (N,E,S,W) of that Crossroad. If Rural, Town, _____ Range _____ Section _____
The sign location will be in the political jurisdiction of Troy (City/Village/Township), in Oakland - 83 County.
- ZONED: INDUSTRIAL, according to the zoning ordinance of the above municipality or county.
Complete a. or b. only if critical to the sign's legality:
 - The location is within one mile of _____ an incorporated municipality.
 - The location is within 500 feet of a structure devoted to commercial or industrial purposes, on the same side of the road, which is _____.
- SPACING: The sign will be more than 500 feet / 1000 feet from the nearest off-proximity sign or sign permit on the same side of the road.
Answer only if the highway is an interstate highway or freeway and is not inside an incorporated municipality.
Is the sign location at least 800 feet from any interchange, intersection at grade or rest area? YES
- ILLUMINATION: Illuminated
- MESSAGE DISPLAY: Static Multiple Message Electronically varying
- SIZE OF SIGN INCLUDING BORDER AND TRIM: Width 48 ft. x Height 14 ft. = 672.0 sq. ft.
- ADVERTISING LEGEND:

8. SIGN DESIGN: Circle structure type, indicate which panel end draw arrow pointing north.

1 Panel 
 2-Panel Back to back 
 2-Panel Side to side 
 2-Panel V shape 

ROADWAY

CERTIFICATION: I affirm, under penalty of law, that the information given in this application is accurate and correct and that the sign or sign structure was not/will not be prohibited by Section 18 of P.A. 106 of 1972. I hereby certify that I have secured the necessary authorization or permission from those who have an interest in the sign location to erect and maintain the sign described in this application. I have read, I accept and I will comply with all conditions printed on the attached Information and Conditions form.

SIGN OWNER OR AUTHORIZED AGENT - SIGNATURE 	DATE 08/13/2010
APPROVED FOR MDT BY (Name of the Roadway) Melissa Stafford	DATE 08/13/2010

Chapter 85 - Signs

85.01.00 Administration

85.01.01 Title and Purpose

- A. **Short Title:** This Ordinance shall be known as and may be cited as the City of Troy Sign Ordinance.
- B. **Findings and Purpose:** It is hereby determined that proliferation of signs in the City is unduly distracting to motorists and pedestrians, creates a traffic hazard, and reduces the effectiveness of signs needed to direct and warn the public. It is also determined that the appearance of the City is marred by proliferation of signs. It is also determined that proliferation of signs restricts light and air. It is also determined that proliferation of signs negatively affects property values. It is also determined that proliferation of signs results in an inappropriate use of land. The purpose of this Ordinance is to control the occurrence and size of signs in order to reduce the aforementioned negative effects. It is also determined that the signs of least value to people within the City are those which carry commercial messages other than the advertisement of any product, service, event, person, institution or business located on the premises where the sign is located or indicates the sale or rental of such premises. It is also determined that the regulations contained in this Ordinance are the minimum amount of regulation necessary to achieve its purposes. It is also determined that restrictions in this Ordinance on the size of signs, their height and placement on real estate, are the minimum amount necessary to achieve its purposes.

85.01.02 Enforcement:

- A. This Chapter shall be administered and enforced by the Zoning Administrator as provided for in Chapter 3 of the Troy City Code.
- (Rev. 06-07-2010)
- B. **Responsibility of Compliance:** The owner of any property on which a sign is placed, and the person maintaining said sign are equally responsible for the condition of the sign and the area in the vicinity thereof.
- C. **Removal of Signs:** Should any sign be found unsafe, insecure, improperly constructed or not in accordance with the requirements of this Chapter, the Sign Erector and/or Owner shall be required to make the sign safe, secure and otherwise in compliance with the requirements of this Chapter within 30 days of written notice. If the Sign Erector or Owner fails to comply within the allocated 30-day period, then the Zoning Administrator shall remove the offending sign within 48 hours from the time of written notification. However, if the enforcing official determines that a sign is unsafe and an immediate hazard to health or safety, then the sign shall be removed or repaired at the owner's expense within 48 hours of written notification of such condition.

(Rev. 06-07-2010)

Chapter 85 - Signs

85.01.03 Definitions: For the purpose of this chapter, certain terms, words and tenses used herein, shall be interpreted or defined as follows:

Board of Appeals: Board of Appeals means the Building Code Board of Appeals.

Business Development: One or more uses within a building or buildings that share common parking facilities.

Department: The Planning Department of the City of Troy, its officers, inspectors and other employees.

(Rev. 06-07-2010)

Ground Sign: A freestanding sign supported by one or more uprights, braces, or pylons located in or upon the ground and not attached to any building.

Owner: A person, firm, partnership, association or corporation and/or their legal successors.

Person: Any individual firm, partnership, association or corporation and their legal successors.

Political Sign: A sign whose message relates to: The election of a person to public office, or to a political party, or to a public issue, which shall be voted on at an election called by a public body.

Projecting Sign: A sign which is affixed to any building or part thereof, or structure, which extends beyond the building wall or parts thereof, or structure, by more than twelve (12) inches.

Public Property: All publicly-owned property, including streets, rights-of-way, and everything affixed thereto and there over.

Road Closure Construction Sign: A sign permitted when road lane(s) adjacent to a property are closed, due to road construction activity, for a period of 30 or more calendar days.

(Rev. 06-07-2010)

Roof line: The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs, the deck line of mansard roofs, and the average height between eaves and ridge boards for gable, hip and gambrel roofs.

Roof Sign: A sign that is erected, constructed or maintained upon, and projects above or beyond the roof or parapet.

Sign: A sign means any structure or wall or other object used for the display of any message, and includes but is not limited to any bill, poster, placard, handbill, flyer, painting,

Chapter 85 - Signs

balloon, streamer or other similar object in any form whatsoever which contains printed or written matter in words, symbols, or pictures, or in any combination thereof attached to or affixed to the ground or any structure.

Sign Erector: Any person engaged in the business of erecting, altering, or removing signs on a contractual or hourly basis.

Wall Sign: A sign attached to, painted on, or placed flat against the exterior wall or surface of any building, no portion of which projects more than 12 inches from the wall, and which may not project above the roof or parapet line.

Zoning Administrator: The City Manager or his/her designee, the person charged with the administration of this Ordinance.

85.01.04 Requirements for Permits

- A. **Permit Required:** It is unlawful for any person to erect, re-erect, alter, or relocate any sign without obtaining a permit from the Zoning Administrator and paying the applicable permit fee, as set forth in Chapter 60 of the City Code.

(Rev. 06-07-2010)

Exceptions:

1. Sign Permits shall not be required for street signs, which are erected by the City, State or Federal Government for street direction or traffic control.
 2. Sign Permits shall not be required for signs located on the interior of buildings.
 3. Sign Permits shall not be required for signs that are not visible from any adjacent right-of-way which do not exceed thirty-six square feet.
 4. Sign Permits shall not be required for small ground signs for uses other than one and two family dwellings, as long as the signs are not more than two square feet in area.
 5. Sign Permits shall not be required for temporary signs, as set forth in Section 85.03.02 of this Chapter.
 6. Sign Permits shall not be required for flags that are allowed by Section 85.03.04.
- B. **Permit Application:** Applications for sign permits shall be made upon forms provided by the Department and shall contain the following information:
1. Name, address and telephone number of applicant.

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2. Name and address of the Sign Erector.
3. Location of the building or structure to which the sign is to be attached or lot where the sign is to be erected.
4. Position of the sign in relation to nearby buildings, structures, property lines, and existing or proposed rights-of-way.
5. The zoning district of the real property where the sign is to be located.
6. Two copies of the plans and specifications for the proposed sign and the method of construction and attachment to the building or placement in the ground.
7. If deemed necessary by the Zoning Administrator, two copies of stress sheets and calculations, bearing the signature and seal of a registered professional engineer or architect, which show the structure as designed for dead load and wind pressure, and demonstrate that the proposed sign will satisfy the regulations adopted by the City of Troy.

(Rev. 06-07-2010)

8. Such other information as the Zoning Administrator may require to demonstrate that the proposed sign would meet full compliance with this and other applicable laws of the City of Troy and the State of Michigan.

(Rev. 06-07-2010)

C. Contractor Registration Required:

1. All Sign Erectors, as defined in Section 85.01.03 of this Chapter, shall annually register with the Department. The Sign Erector registrations shall expire April 1st of each year. The registration fee is as set forth in Chapter 60 of the City Code.
2. Insurance Requirement: The following insurance is required before a sign permit will be issued:
 - a. Insurance Certificates: Before a permit is issued for the erection of a sign, the installing company shall submit a Certificate of Insurance for Public Liability in the amount of One Hundred Thousand (\$100,000) Dollars for injuries to one person and Three Hundred Thousand (\$300,000) Dollars for injury to more than one person, and Property Damage insurance in the amount of Twenty-Five Thousand (\$25,000) Dollars for damage to any property due to the actions of the Sign Erector or any of their agents or employees. This Certificate shall be submitted to the Planning Department, and approved by the City's Risk Manager or his/her delegate.

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(Rev. 06-07-2010)

- b. Lapsing of Insurance: Sign Erectors shall maintain the above referenced insurance coverage at all times in order to be eligible to obtain sign permits. If the insurance coverage lapses at any time, the City can automatically revoke the right of a Sign Erector to obtain sign permits.
- c. Notification of Change: A Sign Erector shall notify the Planning Department of any change in address, or any change in ownership or management that differs from what is indicated on the Insurance Certificates.

(Rev. 06-07-2010)

- D. Permit Fees: Permit fees are as set forth in Chapter 60 of the City Code.

85.01.05 Prohibited Signs

- A. Signs in Right-of-Way: No sign shall be located in, project into, or overhang a public right-of-way or dedicated public easement, except as provided below:
 - 1. Signs established and maintained by the City, County, State, or Federal Governments may be located in the right of way.
 - 2. Banners advertising civic events may be permitted on lighting poles within the median of Big Beaver Road, between Rochester Road and Cunningham Drive, for a period not to exceed thirty days, subject to the approval of the City Manager.
 - 3. In its discretion, City Council may approve an agreement to allow residential development identification signs in the medians of boulevard entrance streets. Any such agreement shall require continuing liability insurance and also provide satisfactory maintenance of the sign, as well as any other condition that is deemed necessary by the Troy City Council to protect the right of way. The agreement must also indicate the City Council's approval of the proposed design and materials for the sign. The residential development identification sign shall not exceed five feet in height, and shall not be more than 50 square feet in area. The height of such signs shall not exceed 30" when located in the corner clearance area depicted in Figure 85.01.05 A.

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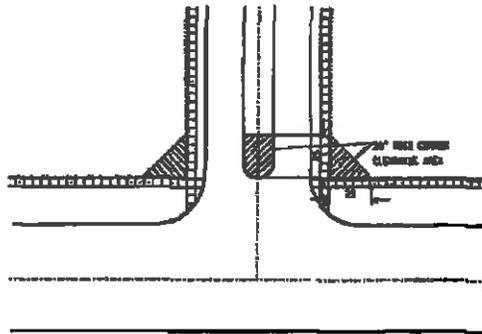


Figure 85.01.05 A

- B. **Corner Clearance:** Signs higher than 30 inches shall be prohibited in the triangular area formed at the intersection of any two street right-of-way lines (existing or proposed) by a straight line drawn between said right-of-way lines at a distance along each line of 25 feet from their point of intersection. No sign shall be located in that area, or project into, or overhang into the area.
- C. **Roof Projecting Signs:** Roof signs and projecting signs are prohibited.
- D. **Fire Escapes:** No signs of any kind shall be attached to or placed upon a building in such a manner as to obstruct any fire escape.
- E. **Support Location:** No pole, cable or support of any nature shall be placed on any publicly owned property, street right-of-way, or proposed street right-of-way.
- F. **Traffic Interference:** No advertising device shall be erected or maintained which simulates or imitates in size, color, lettering, or design any traffic sign or signal or other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse traffic.
- G. **Flashing Signs:** Flashing or intermittent illumination of signs shall be prohibited.
- H. **Neon Tubes:** Installation of neon tubing used as borders or accent strips on the exterior of any building shall be prohibited.

85.01.06 Inspections

- A. **Concealed Work:** In cases where fastenings are to be installed and enclosed in such a manner that the Building Inspector cannot easily remove material to see the fastenings and material used, the Sign Erector must advise the Zoning Administrator so that the inspection may be made before concealment.

(Rev. 06-07-2010)

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- B. **Compliance Certification:** All signs shall be inspected at original installation; if found to comply with this chapter, the sign shall be issued a certificate of compliance.
- C: **Inspections of Existing Signs:** The Zoning Administrator can inspect existing signs to determine compliance with the provisions of this chapter.

(Rev. 06-07-2010)

85.01.07 Non-Conforming Signs:

- A. **Intent:** It is the intent of this Chapter to encourage eventual elimination of signs that, as a result of the adoption of this Chapter, become non-conforming. It is considered as much a subject of health, safety, and welfare as the prohibition of new signs in violation of this Chapter. It is the intent, therefore, to administer this Chapter to facilitate the removal of illegal non-conforming signs while simultaneously avoiding any unreasonable invasion of established private property rights.
- B. **Continuance:** A non-conforming sign shall be maintained in good condition. A non-conforming sign may be continued, but shall not be:
1. Replaced by another non-conforming sign; or
 2. Structurally altered so as to prolong the life of the sign; or
 3. Expanded; or
 4. Re-established after damage or destruction to the sign, if the estimated expense of reconstruction exceeds 50% of the estimated replacement cost of the sign.

85.01.08 Appeals:

A. Procedure

1. Any person aggrieved by any decision, ruling or order from the Building Inspector may appeal that decision to the Board of Appeals. The appeal shall be made by filing an application for a hearing with the Department. The application shall specify the grounds for the appeal. The Zoning Administrator shall transmit the application and all other documents relating to the appeal to the Board of Appeals. Upon receipt of the Appeal Application, the Building Inspector shall administratively establish a date of the Public Hearing.

(Rev. 06-07-2010)

2. The Zoning Administrator shall notify all owners of real property within 300 feet of the real property that is proposed as the site of the sign subject to the

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appeal. The notice shall be sent by U.S. Mail to the owners at the address listed with the Troy Assessing Department, and shall be postmarked no less than 14 days before the date of the Public Hearing.

(Rev. 06-07-2010)

B. Powers of the Board of Appeals

1. The Board of Appeals has the power to grant specific variances from the requirements of this Chapter, upon a showing of each of the following:
 - a. The variance would not be contrary to the public interest or general purpose and intent of this Chapter; and
 - b. The variance does not adversely affect properties in the immediate vicinity of the proposed sign; and
 - c. The petitioner has a hardship or practical difficulty resulting from the unusual characteristics of the property that precludes reasonable use of the property.
2. Duration of Variances: The Board of Appeals shall not grant any variance for a period that exceeds 15 years. All variances shall terminate at the expiration of the period of time set by the Board of Appeals, or upon alteration or reconstruction of more than 50% of the sign, whichever occurs first.

85.01.09 Violations

- A. It shall be unlawful for any person to erect, construct, maintain, enlarge, alter, move, or convert any sign in the City of Troy, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this Chapter. Any person violating any of the provisions of this Chapter shall be responsible for committing a Municipal Civil Infraction subject to the provisions of Chapter 100 of the Code of the City of Troy. Each day that a violation continues is deemed a separate Municipal Civil Infraction. Sanctions for each violation of Chapter 85 shall include a fine of not more than \$500, costs, damages and injunctive orders as authorized by Chapter 100. Any sign constituting an immediate hazard to health and safety is deemed a nuisance and may be removed by the Zoning Administrator at the expense of the owner of the sign or other responsible party, in the discretion of the Zoning Administrator.

(Rev. 06-07-2010)

- B. Signs in Public Right-of-Way: In addition to the penalties prescribed in paragraph 85.01.09 A, any sign erected in violation of this Chapter may be removed by the Zoning Administrator or his/her authorized representative and stored in a safe location for at least 48 hours. During this period of time, the owner of the sign may

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obtain the sign from the Zoning Administrator upon request and payment of a fee of Fifty Dollars (\$50) for each sign to cover the costs of removal and storage. After 48 hours, the Zoning Administrator may dispose of the sign.

(Rev. 06-07-2010)

- C. **Public Nuisance:** Signs installed after the effective date of the adoption or subsequent amendment of this Chapter that are in violation of this Chapter are hereby declared to be public nuisances, and may be abated by the City. The City can take any legal action to abate the public nuisance. The collection of removal fees from the Owner, Sign Erector, or other responsible person shall not preclude the City from prosecuting the responsible person.

85.02.00 General Provisions

85.02.01 Construction Requirements

- A. **Material Requirement:** All signs shall be designed and constructed in conformity to the provisions for materials, loads, and stresses of the latest adopted edition of the Michigan Building Code and the requirements of this Chapter.
- B. **Fastenings:** All signs must be erected in such a manner and with such materials to remain safe and secure during the period of use and all bolts, cables, and other parts of such signs shall be kept painted and free from corrosion. Any defect due to the fault of the Sign Erector shall be repaired by the Sign Erector.
- C. **Changeable Message Signs:** The message change cycle of a changeable message sign shall be not less than one minute per message, except in a combined time and temperature sign, where the change cycle shall not be less than 30 seconds.
- D. **Revolving Signs:** Signs that revolve shall make no more than four complete revolutions per minute.
- E. **Proximity to Electrical Conductors:** No sign shall be erected so that any part, including cables, guys, etc, will be within six feet of any electrical conductor, electric light pole, street lamp, traffic light, or other public utility pole or standard.

85.02.02 Illuminated Signs:

- A. **Illumination:** Only listed electrical devices shall be used for the illumination of signs. These listed electrical devices shall be installed in accordance with the requirements of the regulations adopted by the City of Troy. No open spark or flame may be used for display purposes unless specifically approved by the Zoning Administrator.

(Rev. 06-07-2010)

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- B. Shielding from Residential Districts: Any lighting used to illuminate signs shall be directed away from and shall be shielded from any adjacent residential zoning districts and shall not adversely affect driver visibility on adjacent public thoroughfares.

85.02.03 Identification of Sign Erector:

- A. Sign Erector's Imprint: Every sign, other than temporary signs herein defined, must carry the identification of the Sign Erector, in clearly legible letters.
- B. Re-hanging: In case of re-hanging or re-erection of any sign, the Sign Erector must place his/her identification and the date of the re-hanging on the sign.

85.02.04 Measurement of Signs:

- A. Sign Area: For the purpose of this Chapter, the area of the sign shall include the total area within any circle, triangle, rectangle or other geometric shape enclosing the extreme limits of writing, representation, emblem or any similar figure, together with any frame or other material forming an integral part of the display or used to differentiate such sign from the background against which it is placed, and is further calculated as follows:
1. Single Face Sign: For a single face sign, the area shall be computed as the total exposed exterior surface in square feet.
 2. Multi-faced Signs: When the sign has two or more faces, the area of all faces shall be included in computing the area of the sign.

Exceptions:

1. For a sign that has two or more faces placed back to back, the area shall be computed as one-half the total exposed exterior surface area in square feet.
2. For a sign that has two or more faces so arranged that the faces are greater than 24 inches from one another or such sign with any two faces that form a "V" is greater than 15 degrees, the area shall be computed as a single face sign.
3. Wall Signs: When a sign consists solely of writing, representation, emblems, logos, or any other figure or similar character which is painted or mounted on the wall of a building or a self-supporting wall or fence, without distinguishing border, the area of such sign shall be computed as if it were framed by a border consisting of horizontal and vertical lines touching the outer limits of the sign and extending not more than one foot from smaller sign elements. However, in no instance shall there be any line having a dimension of less than one foot.

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- B. **Sign Height:** The height of the sign is measured from the ground to the highest point of the sign from the ground.

85.02.05 Allowable Signs:

- A. The Zoning District Regulations and Table 85.02.05 set forth the allowable signs in each zoning district. These are in addition to the signage that is exempted from permits by Section 85.01.04 A.
- B. Nothing in this Chapter shall be construed so as to prohibit ideological or non-commercial advertising on any sign on which commercial advertising is allowed.
- C. **Specific Zoning District Regulations**
1. **R-1 and R-2 Districts:** Signs in single-family and two-family districts shall be allowed as follows:
 - a. For Special Approval Uses listed in Chapter 39, Section 10.30.00 of the Troy City Code: One sign not to exceed 100 square feet in area.
 - b. **For Subdivision Entrances:** A maximum of two signs not exceeding a total of 100 square feet in area.

(Rev. 08-06-2007)
 - c. **For Subdivisions Under Development:** One sign not to exceed 100 square feet in area is allowed until such time as a certificate of occupancy is issued for all homes in the subdivision.
 2. **R-M, RI-T, CR-1 and C-F Districts:** Signs in Multiple Family Housing or Cluster Housing, and Community Facility Developments shall be allowed as follows:
 - a. One sign not to exceed 100 square feet in area.
 - b. One additional sign not to exceed 36 square feet in area.
 - c. No sign shall be located closer than 30 feet to any property line of an adjacent R-1 or R-2 District.
 3. **All O and R-C Districts:** Signs in Office and Research Center districts shall be allowed as follows:
 - a. One wall sign for each building, not to exceed 10% of the area of the front of the structure, to a maximum size of 200 square feet in area.
 - b. One ground sign for each building in accordance with Table 85.02.05.

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- c. One additional ground sign for each building, not to exceed thirty-six square feet in area, if the site fronts on a major thoroughfare.
 - d. Each tenant on the ground floor may have one wall sign, which shall not exceed 20 square feet in area. The sign must be located on the face of the area occupied by the tenant.
 - e. No sign shall be located closer than 30 feet to any property line of an adjacent R-1 or R-2 district.
4. B-1, B-2, B-3 and H-S Districts: Signs for each business development in the Commercial Districts shall be allowed as follows:
- a. One ground sign in accordance with Table 85.02.05.
 - b. One additional ground sign, not to exceed thirty-six square feet in area, if the site fronts on a major thoroughfare.
 - c. The required setback for ground signs from adjacent residentially zoned property shall be the same as for buildings within the zoning district.
 - d. Any number of wall signs, such that the total combined area of all wall signs for each tenant shall not exceed 10% of the front area of the structure or tenant area. Wall signs must be located on the face of the area that is occupied by the tenant.
5. M-1 Districts: Signs for each M-1 development shall be allowed as follows:
- a. One ground sign in accordance with Table 85.02.05.
 - b. One additional ground sign, not to exceed thirty-six square feet in area, if the site fronts on a major thoroughfare.
 - c. One wall sign for each building, not to exceed 10% of the area of the front of the structure, up to a maximum of 100 square feet.
 - d. One wall sign, not to exceed 20 square feet in area, for each tenant in multi-tenant buildings. Tenant signs must be located on the face of the area that is occupied by the tenant.
 - e. One additional ground sign, provided it complies with all of the following:
 - 1. The sign is set back a minimum of 200 feet from any street right-of-way.

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2. The sign is located at least 1,000 feet from any sign exceeding 100 square feet in area.
 3. The sign does not exceed 300 square feet in area.
 4. The sign does not exceed 25 feet in height.
- f. A dealership within a Planned Auto Center shall be allowed the following additional signage:
1. One ground sign, in accordance with Table 85.02.05.
 2. Two wall signs, with each sign being 20 square feet in area or less.
- g. No sign shall be located closer than 50 feet to any property line of an adjacent R-1 or R-2 district.

TABLE 85.02.05 STANDARDS FOR GROUND SIGNS			
Zoning District	Minimum Setbacks*	Maximum Height	Maximum Area
All R and C-F	10 ft. from Street	12 ft.	See Section 85.02.05,C,1 & 85.02.05,C,2
All B, H-S, O, R-C and Planned Auto Centers in M-1	0 ft. - 20 ft.	10 ft.	50 sq. ft.
	20 ft. - 30 ft.	20 ft.	100 sq. ft.
	30 ft. +	25 ft.	200 sq. ft.
M-1	10 ft.	12 ft.	100 sq. ft. Max. See Section 85.02.05,C,5,e

* Indicates setback from existing street right-of-way, or from planned right-of-way (Master Thoroughfare Plan), whichever is greater.

85.03.00 General Exceptions: The regulations of this Chapter shall be subject to the following exceptions.

85.03.01 Special Event Signs

A. Signs advertising a Special Event may be allowed for events that include, but are not limited to, grand openings, vehicle shows/displays, craft shows, benefit rummage/bake sales and festivals, as long as a Special Event Sign permit is issued. The application for a Special Event sign permit shall be submitted to the Zoning Administrator, and shall include the following:

1. Plans indicating the following:
 - a. Site layout (building location, parking, etc.)

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- b. Number, size and location of proposed signs, including banners, flags, cold air balloons, and other forms of signage.
2. Documentation detailing the purpose of the event and desired dates for the placement of the Special Event signs.
3. If the applicant for the Special Event Sign permit is not the property owner of the site where the signage is proposed to be located, then the written approval of property owner must be submitted with the application.
4. The required application fee, as set forth in Chapter 60 of the Troy City Code.

Exception: All fees for a Special Event sign application shall be waived for all non-profit applicants who provide satisfactory proof of the non-profit status to the Zoning Administrator.

- B. A Special Event Sign permit shall be issued for not more than seven (7) consecutive days within any twelve (12) month period.
- C. No more than four off-site signs related to a Special Event may be permitted. Such off-site signs shall each be limited to six (6) square feet in area. Applicant must also submit written approval from the owners of properties where the off-site Special Event Signs are proposed to be located. This permission must be provided prior to the issuance of a permit.

85.03.02 Temporary Signs

- A. Temporary signs include, but are not limited to the following:
 1. For a single dwelling or building or vacant land: an on-site real estate sign, advertising the premise for sale, rent or lease.
 2. For a single dwelling or building or vacant land: an off-site real estate sign for the purpose of providing direction to another premise that is offered for sale, rent, or lease.
 3. An on-site sign advertising an on-going garage, estate or yard sale.
 4. An off-site sign for the purpose of providing direction to another premise that is having a garage, estate or yard sale, as long as the dates of the sale are clearly indicated on the sign.
 5. Non-commercial signs, which contain non-commercial informational or directional messages.
 6. Political signs.

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7. Holiday or other seasonal signs.
 8. Construction signs for buildings under construction.
- B. All temporary signs must comply with all of the following regulations:
1. **Size of Temporary Signs:** The total aggregate sign area of all temporary signs on any one site shall not exceed fourteen (14) square feet. The maximum size of individual temporary signs shall not exceed six square feet in area. Temporary signs shall not be higher than forty-two (42) inches above average mean grade of the yard on which it is placed.

Exceptions:

1. For uses other than one and two family dwellings, signs for buildings under construction shall be a maximum size of 10% of the square foot area of the front of the structure, and not more than 10 feet in height.
 2. One sign advertising the sale or lease of vacant land, when the parcel exceeds two acres in area, shall be allowed to have a size equal to 15 square feet of sign area per acre of land or 15 square feet of sign area per 100 lineal feet of thoroughfare frontage. In no case shall the sign be allowed to exceed 100 square feet of sign area or be more than 10 feet in height.
2. **Location of Temporary Signs:**
- a. Temporary signs shall not be attached to any utility pole or be located within any public right-of-way
 - b. Temporary signs shall not be located closer than twenty (20) feet to the edge of the traveled portion of the roadway and shall not be located in a dedicated right-of-way.
 - c. Temporary signs shall not be erected in such a manner that they will or reasonably may be expected to interfere with, obstruct, confuse or mislead traffic.
 - d. Temporary signs cannot be placed or constructed so as to create a hazard of any kind.
 - e. Prior to the erection or placement of a temporary sign, the permission of the property owner where the sign is to be located must be secured.
 - f. Signs shall be located so as to comply with the corner clearance requirements of Section 85.01.05 B.

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3. **Time Limitations for Temporary Signs:** Each temporary sign shall be removed within 60 days of placement.

Exceptions

1. Where there is a valid contract for work on the premises that exceeds sixty (60) days, then temporary signs shall be permitted on the premises for the length of the contract.

85.03.03 Road Closure Construction Signs

One road closure construction sign, not exceeding 36 square feet in area, shall be permitted for each owner or tenant of a building located on property adjacent to a road lane that is closed due to construction activity for a period of 30 or more calendar days. Road closure construction ground signs shall not exceed 10 feet in height and shall be located outside of the right-of-way. Road closure construction wall signs shall be placed flat against the exterior surface of the building, shall not project more than 12 inches from the building surface, and shall not project above the roof or parapet line. Road closure construction signs shall be removed upon the opening of all road lanes adjacent to the property

(06-07-2010)

85.03.04 Signs on Motor Vehicles

- A. No person, corporation, partnership or other legal business entity shall stand or park a motor vehicle on public or private property in the City of Troy for the purpose of advertising same "for sale" or "for trade".

(Renumbered: 06-07-2010)

Exceptions:

1. Properly licensed auto dealerships and properly licensed used car lots.
2. The owner of a motor vehicle who places a "for sale" or "for trade" sign on or within the vehicle provided:
 - a. The vehicle is located only on the vehicle owner's residential property; and
 - b. The owner of the vehicle displays a clearly visible sign on the vehicle indicating the owner's name and address; and
 - c. Not more than one vehicle is displayed on the residential property.
3. The owner of non-residential property who places or allows to be placed a "for sale" or "for trade" sign on or within the vehicle provided:

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- a. Not more than one vehicle is displayed on the nonresidential property; and
 - b. The owner of the vehicle displays a clearly visible sign indicating the nonresidential property owner's consent to the display of the vehicle.
- B. A displayed message containing a phone number in or on a parked motor vehicle that is or was visible constitutes a presumption that it is or was for the purpose of offering the vehicle for sale or trade.
- C. Proof that the vehicle described in the complaint was parked in violation of this Section, together with proof that the defendant named in the complaint was at the time of the cited parking the registered owner of the vehicle constitutes a presumption that the registered owner is responsible for the violation.

85.03.05 Flags

(Renumbered: 06-07-2010)

- A. The display of the flag of the United States of America or other political subdivision thereof shall not be regulated by this Chapter when attached to a structure or standardized flagpole.
- B. The display of not more than one flag, such as but not limited to, corporate, civic, social, cultural, church or club group shall be permitted if flown in conjunction with an American flag of equal or greater size.

(09-12-2005)



SIGN PERMIT APPLICATION

CITY OF TROY
DEPARTMENT OF BUILDING INSPECTIONS
500 W. BIG BEAVER ROAD
TROY, MICHIGAN 48064
Phone: 248-524-3344
Fax: 248-889-3120

SIGN

Date: _____ BUILDING PERMIT # _____

Project Information

Job Address: 1051 NAUGHTON Suite # _____ Parcel ID # 20-27-277-016
Property Owner: FRANKO LLC Address: 1051 NAUGHTON Phone # 248-838-4172
Type of Sign: Ground Wall Special Event Zoning District: M-1
Sq. Ft. Area of Front of Building Structure: _____ Land Area (if parcel is vacant): _____
Sign Size: Width 48" Height 14' Sq. Ft. Area: 672 SQ FT.
Ground Sign: Height from grade to top of sign 70" Distance from ultimate right-of-way 6'
Are other signs located on property? No Yes Type Pole Size 4'x12'
Copy on sign: PREMIUM AIR SYSTEMS

Illuminated Sign Yes No Electrical Connections by: PHILLIPS HEATING

SIGN PERMIT FEE SCHEDULE			
Size	Wall Sign Painted on Wall	Wall Sign Structurally Attached	Ground Sign
Under 100 sq. ft.	\$ 75.00	\$ 100.00	\$ 125.00
100 to 199 sq. ft.	\$100.00	\$ 125.00	\$ 150.00
200 to 300 sq. ft.	\$ 100.00	\$150.00	\$ 175.00
Special Event		\$30.00	

Applicant Information

Name: LANCE ADVERTISING CO. Phone: 734-296-4800 Fax: 734-296-4413
Address: 4405 N. HAYES RD. City: WESTLAND State: MI Zip: 48135
e-mail: L.ADV@GMAIL.COM
Signature of Applicant: _____ License # _____

FOR OFFICE USE ONLY:

Variance Granted? No Yes Date: _____

Special Stipulations: _____

Date approved: _____ Fee: _____ Approved by: _____



SIGN PERMIT APPLICATION
CITY OF TROY
 DEPARTMENT OF BUILDING INSPECTIONS
 500 W. BIG BEAVER ROAD
 TROY, MICHIGAN 48064
 Phone: 248-624-3344
 Fax: 248-689-3120

SIGN

Date: _____ BUILDING PERMIT # _____

Project Information

Job Address: 1331 AUSTIN Suite # _____ Parcel ID # 20-26 401-028
 Property Owner: KNIGHT CONSTRUCTION Address: 1-131 AUSTIN Phone # 248-689-4030
 Type of Sign: Ground Wall Special Event Zoning District: M-1
 Sq. Ft. Area of Front of Building Structure: _____ Land Area (if parcel is vacant): _____
 Sign Size: Width 42' Height 14' Sq. Ft. Area: 672 SQ. FT.
 Ground Sign: Height from grade to top of sign 70' Distance from ultimate right-of-way 6'
 Are other signs located on property? No Yes Type POLE Size 6 X 12'
 Copy on sign: KNIGHT CONSTRUCTION

Illuminated Sign Yes No Electrical Connections by PHILLIPS LIGHTING

SIGN PERMIT FEE SCHEDULE			
Size	Wall Sign Painted on Wall	Wall Sign Structurally Attached	Ground Sign
Under 100 sq. ft.	\$ 75.00	\$ 100.00	\$ 125.00
100 to 199 sq. ft.	\$ 100.00	\$ 125.00	\$ 150.00
200 to 300 sq. ft.	\$ 100.00	\$ 150.00	\$ 175.00
Special Event		\$ 30.00	

Applicant Information

Name: LAMAR ADVERTISING CO. Phone: 734-729-6430 Fax: 734-729-6413
 Address: 615 N. HUXLEY City: WESTLAND State: MI Zip: 48135
 Signature of Applicant: [Signature] License # _____

FOR OFFICE USE ONLY:

Variance Granted? No Yes Date: _____
 Special Stipulations _____

Date approved: _____ Fee: _____ Approved by: _____

The Chairman, Ted Dziurman, called the meeting of the Building Code Board of Appeals to order at 8:32 AM on Wednesday, March 2, 2011 in the Lower Level Conference Room of Troy City Hall.

PRESENT: Ted Dziurman
Teresa Brooks
John Szerlag

ABSENT: Michael Carolan

ALSO PRESENT: Mitch Grusnick, City of Troy Building Official
Gerald Rice, Recording Secretary
Lori Bluhm, City Attorney

ITEM #1 – APPROVAL OF MINUTES – MEETING OF JANUARY 5, 2011

Motion to approve by Mr. Szerlag
Seconded by Ms. Brooks

MOVED, to approve the minutes of the meeting of January 5, 2011 as written.

Yeas: 3 – Dziurman, Brooks, Szerlag

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED.

PUBLIC HEARINGS

ITEM #2 – VARIANCE REQUEST. JIM ANDERSON, HURON SIGN CO., 767 W BIG BEAVER, for relief of Chapter 85 in order to enlarge an existing 50 square foot ground sign to 75.4 square feet.

Petitioner is requesting relief of Chapter 85 Sign Code in order to enlarge an existing 9.5 foot high, 50 square foot ground sign to 75.4 square feet in size and 13.5 feet in height. Plans indicate maintaining the existing 5 foot, 9 inch setback. Table 85.02.05 limits signs in O-S-C zoning districts with setbacks less than 20 feet to 50 square feet maximum in size and a maximum height of 10 feet.

Mr. Antone mentioned the PNC Center is a 25 story 533,000 square foot building. They are bucking the market and are 82% leased and have signed another tenant for a full floor (8th). They have the 17th floor close to having another tenant from outside of Troy. With all these deals, signage is an absolute must. They have 6 nameplates on their monument sign. One of the things they have quickly realized is Doran Mayhew is going to be moving in 2-3 years and that will open 3 floors. They are asking the sign nameplate to go from the existing 6 nameplates to a proposed 10. They feel they cannot bring in the tenants without offering signage. It has been a requirement in all of

their proposals. The existing one is full; the new one will have four additional nameplates.

Mr. Szerlag asked how tall the nameplates are.

Mr. Anderson stated they are 9 inches high, for an additional 3 feet.

Mr. Antone stated they are not going to have reveals. The sign caps are going to be new so it doesn't look like an afterthought.

Mr. Dziurman opened the item to the public.

Mr. Grusnick stated there were no public hearing notice responses on this item.

Motion to approve by Mr. Szerlag
Seconded by Ms. Brooks

MOVED, to grant the request of Jim Anderson, Huron Sign Co., 767 W Big Beaver, for relief of Chapter 85 in order to enlarge an existing 50 square foot ground sign to 75.4 square feet.

Yeas: 3 – Dziurman, Brooks, Szerlag

MOTION TO GRANT VARIANCE CARRIED.

ITEM #5 – VARIANCE REQUEST. JERRY WYZA, INTEVA PRODUCTS, 1401 CROOKS, for relief of Chapter 85 in order to install a third ground sign measuring 35 square feet.

Petitioner is requesting relief of Chapter 85 in order to install a third ground sign on this property measuring 35 square feet. Section 85.02.05 limits the number of ground signs at this location to a maximum of 2.

The Building Code Board of Appeals at its January 5th, 2011 meeting approved a similar variance request to install a third ground sign. This approval was granted with the stipulation of a 25 foot setback from the north edge of Equity Drive. The petitioner has reapplied for the sign permit with a proposed location 54 inches from the north edge of Equity Drive.

Mr. Dziurman asked if the representatives from Lamar Advertising if they minded item 5 being heard prior to items 3 and 4. They had no objection.

Mr. Grusnick stated additional information has been submitted showing the placement of this sign and its proposed new location would be in a utility easement, however the easement is a private and maintained by the property owner. The City DPW and Engineering Departments had no objection to the proposed location.

Mr. Sorenson stated the 25 foot setback was trying to avoid the water main easement. By placing it at 25 feet it was actually placing it in the water main easement. When he saw the ruling he knew it was against what he had talked about with City Engineers. They worked with Antonio (Engineering Dept.) and revised the sketch so they would stay out of the water main easement. If they complied with what the Board approved they would be in the water main easement. It is an ingress/egress easement which is also used for private utilities.

Mr. Grusnick clarified that Equity Drive is a private road and there is no required minimum setback. The reason the variance is necessary is this is a third ground sign.

Ms. Brooks stated there was a map from Engineering they used to approve the location.

Mr. Sorenson stated they are plotting the actual easement on the drawing. They know exactly where it is and where they are placing it is more accurate.

Mr. Dziurman opened the item to the public.

Ms. Brooks motioned to approve the third ground sign.

Mr. Szerlag seconded.

Motion to approve by Ms. Brooks
Seconded by Mr. Szerlag

MOVED, to grant the request of Jerry Wyza, Inteva Products, 1401 Crooks, for relief of Chapter 85 in order to install a third ground sign measuring 35 square feet.

Yeas: 3 – Dziurman, Brooks, Szerlag

MOTION TO GRANT VARIANCE CARRIED.

ITEM #3 – VARIANCE REQUEST. ROBERT P. ZUVER FOR LAMAR ADVERTISING CO., 1051 NAUGHTON, for relief from Chapter 85.02.05 (c) (5) of the Sign Code in order to place a 70 foot tall, 1584 square foot ground sign setback 5 feet from the property line adjacent to I-75.

Petitioner is requesting relief of Chapter 85.02.05 (c) (5) of the Sign Code in order to place a 70 foot tall, 1584 square foot ground sign setback 6 feet from the property line adjacent to I-75. The following variances are requested:

- A 195 foot variance to the required 200 foot setback from the I-75 right of way
- A variance from the requirement the sign be located at least 1000 feet from any sign exceeding 100 square feet in area
- A 1284 square foot variance from the requirement that the sign not exceed 300 square feet in area

- A 45 foot variance from the requirement that the sign not exceed 25 feet in height

Mr. Behrendt suggested hearing items 3 and 4 at the same time for expediency.

Mr. Szerlag stated he would like to hear them separately in case their hardships are different.

Mr. Dziurman asked for clarification for the setbacks.

Mr. Behrendt stated it is for 5 feet.

Mr. Behrendt is an attorney for Lamar Advertising. He stated Lamar is a nationwide sign company that sees a need for billboards in the Troy area. There are no billboards available. The ordinance provided by the City of Troy does not prohibit billboards, but effectively does not allow them anywhere in any district within the City. As the Board knows, under the Home Rule City's Act, cities can regulate billboards, they can't necessarily abolish [those] billboards. What Lamar is trying to do is put an industry standard billboard in an area appropriate for billboards and what Lamar would like to do is find an area in the City of Troy that is appropriate for a billboard. Mr. Behrendt offered that the I-75 corridor near Rochester Road is one of those. He brought colored pictures with photoshops of the billboards depicting where the locations are, bird's eye view of the billboards as well as the permits provided by the State of Michigan. Billboards are predominately local business. Over 80% of their advertisers use billboards to promote local business. The billboards they are proposing to erect at this location would be an industry standard size. The 190 foot variance setback is not necessarily a 190 foot variance setback. The issue is the measurement is from the local access road, but not from the freeway where they would be located. Lamar's billboard would be 5 feet off of the freeway in a safe area.

Mr. Dziurman asked if Mr. Behrendt meant 5 feet from the fence line along the freeway.

Mr. Behrendt stated the manner in which the zoning ordinance is written, they are not necessarily seeking a 190 foot variance from the freeway or trying to violate the ordinance in such a fashion. What they are trying to do is put the billboard near the road so it can be seen as opposed to on the surface street where a billboard has to look over. Also, they are looking to make the sign an industry standard size sign. The 1280 foot variance is not accurate. They want the billboards to be back-to-back. There would be a face approaching northbound and southbound traffic. Both faces would be 670 feet. The height issue—while the City does not prohibit billboards it doesn't allow them at a height where they can be seen. He also brought studies and determinations from South Carolina; Virginia Tech University; Albuquerque, New Mexico; Rochester, Minnesota, Ohio ODOT, Virginia VDOT stating billboards do not lead to driver distraction. They become part of the landscape like any other sign and do not lead to safety issues. Lamar tries to be a regional player to use billboards for local commerce. Near the 696 corridor on I-75 there are some electronic billboards with large computer

screens that allow signs to change messages. Under the Highway Advertising Act those are legal and can be used in Michigan. They promote local boosters, amber alerts, weather concerns and the like on a pro bono basis. These billboards also present an opportunity for Lamar to give back to the community. Lamar's proposal is to put these billboards in an area that would establish that the City of Troy does allow billboards and to avoid future controversy that says the City does not and to put them somewhere you would expect them to be. Mr. Behrendt submitted the studies for the record.

Mr. Grusnick stated a question the building department will have in issuing a permit is plans that indicate a sign that is back-to-back that we have copy on both halves of the sign. Other docs the M-Dot application indicate a v-shape.

Mr. Behrendt stated it isn't a v-shaped sign, per se, but there is a slight v-shape. M-DOT requires each face of a sign have its own permit application.

Mr. Grusnick stated they will be v-shaped for exposure with the turns in I-75.

Mr. Shopshea stated there is a mistake with the plot plan, the sign is a v-shape. The building print shows a 20 foot v. They have no way to 3-dimensionally show that without using a top view.

Mr. Dziurman opened this to the public.

Larry Keesling is a Troy resident. He was the City's Planning Director for almost 33 years. During that time he was involved occasionally with the sign ordinance and has seen it upheld in past court challenges. The national advertising case the City upheld its ordinance in the Circuit Court. In the Gannett case it upheld its ordinance in the Circuit Court. The manner was appealed and upheld by the Michigan Court of Appeals. Ordinance was the same then as it is now and it does provide for the location of billboards referred to as additional sign-in potential M-1 locations. He urges the Board to deny these very excessive requests for variances to the sign ordinance. There are locations that can be provided and these are not two of them. There is a setback problem and they are not even trying to find a suitable location. Courts have found the ordinances reasonable in the past these are reasonable. He reiterated he was only occasionally involved in the sign ordinance.

Mr. Behrendt stated there is no location in the City of Troy for these signs. They would have the same problems on any other location as they have on this one. There is no other location he can put a sign of this size. The sign ordinance that Mr. Keesling referred to in the case in the 1990s was rewritten. The fact that there had been prior challenges is irrelevant to the challenge that exists here.

Ms. Brooks asked if we know if the proposed locations are clear of easements.

Mr. Grusnick stated the proposed locations are clear of any easements at the rear of the properties.

Ms. Brooks stated she has some information from 1986. It is in a supervisor's plat number 10. It was platted in 1927 and there was a 20 foot easement reserved to the City of Troy for installation of utilities. It doesn't look like this lot is affected by that. She also stated there is construction on the slope between I-75 and down onto this lot where there is a significant slope with some cattails in the area and is concerned about the drainage.

Mr. Shopshea stated the slope would not be an issue because the signs would be located on private property.

Ms. Brooks asked if there was drainage.

Mr. Shopshea stated there are no drainage ditches there.

Mr. Szerlag wanted to take a moment to go over the powers of the Board of Appeals. Chapter 85 Signs. 85.01.08 section B states:

Powers of the Board of Appeals

1. The Board of Appeals has the power to grant specific variances from the requirements of this Chapter, upon a showing of each of the following:
 - a. The variance would not be contrary to the public interest or general purpose and intent of this Chapter; and
 - b. The variance does not adversely affect properties in the immediate vicinity of the proposed sign; and
 - c. The petitioner has a hardship or practical difficulty resulting from the unusual characteristics of the property that precludes reasonable use of the property.

These conditions aren't individual, they are conjunctive and all must be met. He does not see these conditions being met and moves to deny the request.

Ms. Brooks 2nds.

MOTION CARRIES.

Motion by Mr. Szerlag to deny the request
Seconded by Ms. Brooks

MOVED, to deny the request of Robert P. Zuver for Lamar Advertising Co., 1051 Naughton, for relief from Chapter 85.02.05 (c) (5) of the Sign Code in order to place a 70 foot tall, 1584 square foot ground sign setback 5 feet from the property line adjacent to I-75.

Yes: 3 -- Brooks, Szerlag, Dziurman

ITEM #4 – VARIANCE REQUEST. ROBERT P. ZUVER FOR LAMAR ADVERTISING CO., 1931 AUSTIN, for relief from Chapter 85.02.05 (c) (5) of the Sign Code in order to place a 70 foot tall, 1584 square foot ground sign setback 6 feet from the property line adjacent to I-75.

Petitioner is requesting relief of Chapter 85.02.05 (c) (5) of the Sign Code in order to place a 70 foot tall, 1584 square foot ground sign setback 6 feet from the property line adjacent to I-75. The following variances are requested:

- A 194 foot variance to the required 200 foot setback from the I-75 right of way
- A variance from the requirement the sign be located at least 1000 feet from any sign exceeding 100 square feet in area
- A 1284 square foot variance from the requirement that the sign not exceed 300 square feet in area
- A 45 foot variance from the requirement that the sign not exceed 25 feet in height

Mr. Behrendt will show how the 3 factors are met at this location. Allowable billboards at this location would not be visible to motorists. An allowable sign would be useless to advertisers. He would like to use same evidence as submitted in previous request as basis for hardship at this location.

Mr. Behrendt also stated the general purpose and intent would be satisfied and there is a hardship resulting in the enforcement of the ordinance. By allowing a billboard to be erected the City does isolate itself from future attacks that there is exclusionary zoning going on.

Mr. Dzurman asked what were the changes in the ordinance.

Mr. Behrendt stated it was rewritten completely. The ordinance that the City enacted was very similar to the City of San Diego that gave them the ability to control language on signs. The City revised the ordinance in 1985, removing the word 'billboard' from the ordinance. Court of Appeals ruled that a 1000 foot setback is a prohibition and violation of the Home Rule Cities Act. The City of Troy's setback requirement prohibits billboards and is the basis for the hardship.

Mr. Szerlag asked Mrs. Bluhm, the City Attorney, if she shares the same concern as the petitioner of the Board of Appeals power to grant or deny variances.

Mrs. Bluhm stated the sign ordinance was revised, but to address political signs, not larger signs. It is presumed to be Constitutional and valid, and the provisions have not substantially changed, contrary to what has been presented today. You do need to find whether this substantial variance is warranted. Mr. Grusnick has photos that really depict why you may choose to deny this and that deals with the traffic obstructions. I would like you to see that because there are some issues regarding the aesthetics and that should be part of the record.

The Board reviewed pictures taken from the freeway depicting the sign location.

Mr. Behrendt stated that additional verblage changes have been made to the ordinance, including elimination of the word 'billboard'. A zoning district including M-1 creating a hardship on this property.

Mr. Szerlag asked what the setback would be if this sign were to be code compliant.

Mr. Grusnick stated it would be 200 feet.

Mr. Szerlag asked what the proposed setback is.

Mr. Grusnick stated it would be 6 feet on the Austin request.

Mr. Szerlag asked if the sign were code compliant what the face of the sign could be.

Mr. Grusnick stated it could be 300 square feet if setbacks were met.

Mr. Szerlag asked what the allowable height of a sign would be.

Mr. Grusnick stated it could be 25 feet.

Mr. Szerlag stated the proposed sign would be 39 times the allowable setback, 3 times the allowable size and 3 times higher than allowable.

2 public hearing responses were received, one in support and one objecting.

Mr. Behrendt wanted the record to reflect the traffic and safety studies he brought.

Mr. Dziurman opened this item up to the public.

Mr. Keesling wanted to clarify the 2nd item is the one on Austin Street. It is not close to Rochester Road. The 1st item is close to Rochester Road.

Mr. Behrendt clarified the pictures he showed referring to page 6 were for Austin Street.

Ms. Brooks made a motion to deny the variance. The request far exceeds what the ordinance allows.

Mr. Szerlag supports.

Motion by Ms. Brooks to deny the request
Seconded by Mr. Szerlag

BUILDING CODE BOARD OF APPEALS – FINAL

MARCH 2, 2011

MOVED, to deny the request of Robert P. Zuver for Lamar Advertising Co., 1931 Austin, for relief from Chapter 85.02.05 (c) (5) of the Sign Code in order to place a 70 foot tall, 1584 square foot ground sign setback 8 feet from the property line adjacent to I-75.

Yeas: 3 – Brooks, Szerlag, Dziurman

The Building Code Board of Appeals meeting adjourned at 9:32 A.M.



Ted Dziurman, Chairman



Gerald Rice, Recording Secretary