

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 1966. 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.

Yeas: 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. Dziurman 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 verbiage 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

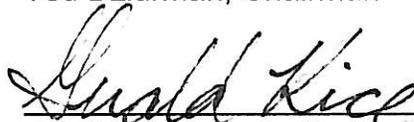
MOVED, to deny the request of Robert P. Zuver for Lamar Advertising Co., 1931 Austin, for relief from Chapter 85.02.05 (c) (5) of the Sign Code in order to place a 70 foot tall, 1584 square foot ground sign setback 6 feet from the property line adjacent to I-75.

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