

**MINUTES
ZONING BOARD OF APPEALS
REGULAR MEETING
WEDNESDAY, JANUARY 15, 2014, 3:00 P.M.
COUNCIL CHAMBERS, CITY HALL
109 EAST OLIVE ST., BLOOMINGTON, IL**

Members present: Ms. Barbara Meek, Mr. Robert Kearney, Ms. Amelia Buragas, Mr. Dick Briggs, Mr. Bill Zimmerman, Mr. Mike Ireland, Mr. Jim Simeone

Also present: Mr. Mark Woolard, City Planner
Mr. Mark Huber, Director Planning and Code Enforcement

Mr. Woolard called the meeting to order at 3:04 p.m. and called the roll. A quorum was present.

The Board reviewed the minutes from December 18, 2013. Approved without corrections.

Chairman Ireland explained the meeting procedures. Mr. Woolard stated the cases had been published.

REGULAR AGENDA:

Z-1-14 Public Hearing and Review on the petition submitted by Larry Olson and All-Brite Signs of Illinois to allow construction of a new off-premise advertising sign or billboard and to allow two variances from the Advertising Sign Code as follows: 1) to increase the maximum number of off-premise advertising signs or billboards within one-half mile from three to four. 2) to increase the maximum height for off-premise advertising signs or billboards from 50 to 65 feet for the property located at 1602 Commerce Parkway. Zoned B-1, Highway Business District. (Ward 1).

Chairman Ireland introduced the case and asked for anyone who would like to speak in favor of the petition to come forward. Mr. Larry Olson, All-Brite Signs of Illinois, 908 White Oak Road was sworn in and explained the history of the IDOT sign permit and the City of Bloomington permit process. He obtained the permit in November of 2012. The IDOT process is a line by line correction and takes a very long time. In February, 2013, Mike Alwes, City Inspector, typed a note for IDOT. A permit in late March was obtained by the Leman Automotive Group directly. He stated it took from April through October of 2013 to locate the right equipment; the LED sign design, months of maintenance contract negotiations, power, internet service, etc. Finally, they had an ink bill on October 3. Mr. Olson took the final drawing into Mike. Mr. Olson understood it was good to go. He ordered \$100's of thousands of sign and then noticed a new sign built 460 feet away. Code states only three signs are allowed in a half-mile. He would have been the forth sign. So rather than just put it up, we decided to take a time-out and do it right and apply for a variance. He did verbally communicate with Mike the status through the summer while getting permits. Mr. Olson got the ink contract on 3/10 and brought in the final structural drawings and he said 'OK'. To Mike's defense, he said he had applied for 9 - 10 permits for the Leman Group in the past sixteen months and is not sure if Mike was confused on which project he was saying to go ahead. Mr. Olson stopped and called him. He left a voice message in his office and the permit had expired. That's why we are applying for the variance. All of the equipment is bought and paid for sitting in the yard.

Mr. Olson searched around town for a precedent for leverage for the variance of hardship. On 12/12, he filed FOYAs for about ten places with site plans and permits. There were delays and he picked up the papers about ten minutes before the meeting. Mr. Olson proceeded to pass out photographs of signs in and around the city.

The first sign shown was The Buffalo Wild Wings. Mr. Olson pointed out the site plan called it to be right over the edge of the curb. He had his company pour the concrete out two more feet so cars wouldn't hit the sign and it was actually in the right-of-way. Mike told him to move it back. Mr. Olson said he went to

a lot of expense to move the sign back. No letter was needed to tell him to move the sign back off of the right-of-way and he did it. The question on whether or not he communicated verbally with Mike over this project shouldn't matter as they had been doing this for years.

The second sign shown was on the Eugene Martin property on 4-Seasons Road. There are two digital billboards 366 feet apart and entire property is 419 feet long. IDOT requires 440 feet between the signs. One sign should not be there. The City should enforce it. Maybe someone falsified to IDOT. Mr. Olson stated the sign he had today would be 460 feet apart from the next one. The other people put one up at 460 so they could comply with the 440 separation. There is another incidence. The permits were pulled in 2005 and 1997, so whoever pulled the permits falsified IDOT the 440 foot separation.

Chairman Ireland asked if there was knowledge of a variance with these signs. Mr. Olson stated there is no record of a variance. Mr. Briggs said Mr. Olson is saying those signs met city code, however, they did not meet the distance from an IDOT perspective. So we have two bodies fighting over which code to enforce. Mr. Olson responded if he could be told to comply with Buffalo Wild Wings, then these folks can be told to comply with the IDOT regulations.

The third sign Mr. Olson presented was Staples. Super Signs has a permit to add onto the bottom of it. Mr. Olson said when he does a job, the sign is engineered for the job. When another company comes in and adds 40% more signage, no one is asking where the stamped engineer seal proving the column and foundation will support it. Also, the distance between the signs doesn't allow for an off premise sign. There is no IDOT tag at all.

Mr. Olson presented a Jack Lewis sign having a sign below it as 'Advertise Here'. There is neither a permit nor an IDOT green tag for the sign. They have another electronic board about 300 feet up the road with an IDOT tag.

The last example presented was The Great Escape sign. All-Brite Sign Company did this sign correctly. In one night, seven variances were granted for height, square footage and five off premise sites. That is how you do a job right. There aren't signs added underneath it nor is it called something different.

Mr. Olson stated he wanted a valid permit recognized and that he verbally kept Mr. Alwes informed. On February 13, Mr. Alwes had to write a letter for this and the permit was expired by then.

Mr. Olson illustrated the billboard locations on a map with red dots.

Another exhibit shown the land ownership history associated with an existing billboard 80% of the sign base crossed into the IDOT property. Mr. Olson confirmed for Mr. Briggs the sign was built before the state purchased the land.

Ms. Buragas asked how this supports the variance request. We are allowed three billboards in a half mile. Mr. Olson stated he is applying for a variance for four billboards when he shouldn't have to do this if the City and State would enforce the Code and make one go away.

Ms. Buragas asked about the request from the height variance. Mr. Olson said the billboard next to him had to take down a parking lot light because it was going to wash out the sign. Their lights are 40' apart. The car dealer here has them on 20' centers and three or four signs so we have this light ban. Our objective was not to interfere with anything but to get above, so the silhouette can be seen by itself. The maximum viewing distance of the sign is only 660' top side which is a short window. He said they don't want to remove parking lot lights and just want to view it silhouetted above.

Mr. Olson referred to the community contributions made by the Leman Group. They invest lots of money in this community and need some tools to work with to get some money back. They'd like to communicate with the public through the advertisement of their local free car wash, Chevrolet, their auto body shop and swap with some of the area companies.

Mr. Briggs asked how all of the sign pieces were purchased, engineered and stored when the Code states no higher than 50'? How was the extra 15' compensated when going ahead to purchase without the permission of variance?

Mr. Olson stated the parcel of land sits five feet below Veterans grade. Code says a 10% variance can be obtained on the spot through Mike Alwes without going through a Board. The 5' variance was due to the wires and lights. So with the elevation difference and the 5' hardship of the wires and lights, a 60' variance was granted. But as you can see the picture shows, he asked for a 15' variance. Mr. Briggs asked how the equipment could be adjusted to 65'. Mr. Olson stated the Leman brothers have to approve the change and the welding company could weld the 5' extension inside the expanded concrete. Mr. Olson pointed out the sign would be silhouetted above to not bother the neighborhood.

Mr. Briggs asked if the 65' wouldn't create an unfair advantage to others. Mr. Olson stated he built the sign across the street at 65' for Grady's Pizza with a granted variance.

Mr. Simeone noted the appearance of sign wars in the presented scenario. The Code explicitly noted to stay away from engagement in sign wars. It appears if granted this 65' would only encourage others to seek higher and higher signs. Mr. Olson stated there are no other spots along Veterans for signs. Mr. Leman owns the land and is unique in this case. This sign was permitted at 60' in November and the only thing changed was an expired permit.

Mr. Kearney noted the Buffalo Wild Wings sat on the ground and looked great. The sign seems to have accomplished the same goals as what the 65' sign has sought. Why is a 65' sign needed here? Mr. Olson pointed out the businesses are very different. Mr. Kearney observed some communities only allow signs lower in height. Mr. Simeone pointed out the competition across the road and how would this board say no to a competitor asking for 65' if this 65' were allowed.

Chairman Ireland clarified Grady's sign is a block off of Veterans and is the reason why the height was allowed. Mr. Olson stated he was granted a variance for the 85' Harley Davison sign just down the road and cited other cities where he won sign variances. The hardship here is the expired permit.

Mr. Simeone asked about the process for obtaining permits with the city and IDOT. According to the sign code the City wants the IDOT permit first. Mr. Olson stated IDOT wants to know the sign will meet code first. Ms. Buragas called this a catch 22 as one seems to need the other permit first.

Mr. Briggs revisited the 65' variance request for clarity. There was a 10' waiver as a given because of the 5' below grade and the telephone wires was another 5'. Mr. Olson stated he could receive a 10% variance per Mr. Alwes. The other 5' requested is because of the power lines as he sought the silhouette.

Chairman Ireland invited anyone else who was in favor of the petition. Mr. Ben Leman of 1602 Commerce Parkway was sworn in. He reiterated Mr. Olson's testimony. He advised the sight tests revealed the 65' height was more visible. The 60 foot or 65 foot sign would be fine at this point as he just wanted to get the sign up. The research took a long time and he had the IDOT permit in hand which was good for nine years. He didn't think of the expiration of the city permit.

Chairman Ireland asked for anyone who was in opposition of the petition. No one responded.

The Staff Report was presented by Mr. Huber. He stated that 75% of what was just presented was irrelevant to this case. Other signs that may or may not be legal or done in error have no bearing on this sign case. The IDOT or Federal right-of-way sign locations do not have a bearing on this case. The Code states there cannot be more than three signs in any one half mile. The purpose of the code is to try and keep the number of off premise signs or billboards on a specific length of highway, so we don't end up with billboard after billboards which fight for visibility or space along any one particular length of highway. As Mr. Olson testified, Veterans Parkway is basically full on the billboard portions.

The Sign Code standards are somewhat different than the standard you would normally look at for a variance in the Zoning Code. The Zoning Code has the findings of fact which pretty much need to be met. The Sign Code standards are different with some leeway in the standards. In this case, there are financial

and timing hardships. Mr. Olson did take out a city permit, went to IDOT which denied the request on a couple of instances. Staff did provide a letter which confirmed proper zoning. In all of this exchange the city permit expired, another sign contractor pulled a valid permit and erected a sign. Mr. Huber acknowledged the large investment in sign equipment just sitting and unless there is some huge issue with visibility or sign pollution, staff doesn't have a problem with the sign differentiation in this particular half mile. There is no way to move the sign further back into the Leman property to get more distance before consideration of the signage within the half mile.

Mr. Huber stated this was the first time the 65' height variation was explained. The 10% Mr. Olson explained is at the direction of the sign administrator. A variance to go higher than 50' was never granted. Mr. Huber explained if he would have considered an option, then the height would have been allowed at only 55' as 5' is 10% of 50'. Anything beyond the 55' would require a variance from the board. Mr. Olson talked about the sign need to be above the light-well. Mr. Olson testified the lights are 20' high and down shining lights. Even at 50' the bottom of the sign would be well above the 20' light-well. While traveling down the road, at any given point the wires are going to partially obstruct the sign just like every other sign up and down the highway. He explained staff was not real sure of any sign height justification, for the same reason Mr. Simeone brought up earlier. The Grady's Pizza sign is not fronted on Veterans Parkway, it's a block back behind Grady's. There was a sign height variation granted for a few feet because it was so far off Veterans Parkway and to be sure it was above the buildings between it and Veterans. If one looks at the Harley Davison site, it, too, was off Veterans Parkway and extremely downhill from the elevation, so it was granted a variance to go higher to bring it up to the level permitted by the other signs. In this area, there have been some cases where variances have been granted for specific height circumstances.

Ms. Buragas inquired about the half mile increment per section 5.7c and where the measure of the increment would begin. It seemed the City's interpretation is to take the location of the proposed sign and look at the one half mile on either side. Mr. Huber confirmed within any one half mile cannot have three. Ms. Buragas stated one could center the sign in the half mile increment and review for three signs in the area. The City's current interpretation would limit the total number of signs to only five in a mile area. What is reasonable? The measure seems to be different. Why has the City chosen the interpretation and does it get at what the ordinance is attempting to accomplish? Mr. Huber acknowledged the City has taken the most restrictive view. A variance can be requested as in this case rather than a liberal view and end up with many more signs. Mr. Huber explained some history of the Sign Code development through the Beautification Committee and the Planning Commission. It does need a major overhaul as the last review may have been in the early 1980's. The development of the sign code reduced the size of signs as well as the amount allowed. However the over indulgence of signage can be overwhelming or it can cause blight for some folks. The City has a more restrictive view which does help spread them out.

Mr. Kearney stated the variance of most concern is the height due to the possible effect of future cases. Why stop at 65' for the next case? Mr. Huber acknowledged the Codes reason for this caveat is to try to prevent a next sign attempting to be slightly higher and the next sign out do the next and so on. Mr. Huber stated the sign is measured at the maximum allowed of 300 square feet which is a 30' by 10' sign.

Mr. Zimmerman stated in the past, the board has taken a look at the code and then a look at the arguments as to why a change would be needed on the Code. When it comes to the height, even though it states 50', part of our job when reviewing variances is to try to determine if there is some reason why there's a need to go higher or lower. So to strictly interpret the code at 50' is not why we are here. We are here to look at the circumstances. There is a 5' dip, so it seems it's up to 55' sounds reasonable.

Mr. Huber stated his two main arguments were the wires obstructing the view and getting the sign above the light-well. Both presented pictures had wires obstructing the view. Where ever you come from down the road with the elevation change, the obstructions appear. Unless raised extremely above, there will be wires present. If the light poles are 20' and according to the submitted plan, it will still keep the bottom of the sign well above the lights. The street lights located on along the highway are probably higher; however, those lights are intended to shine down and not up into the sign.

Much discussion ensued about height of the sign. Mr. Huber stated the plan submitted shows the height from the base of the sign which didn't give relevance to the highway. First to establish is the elevation of the highway in relation to the sign and then the Code would say 50' above it. If there is a 10' elevation difference, then the height of the sign is considered 50' by definition.

Chairman Ireland asked the owner, Mr. Leman, if the 60' amendment would be acceptable. Mr. Leman agreed.

Mr. Kearney moved to amend the variance request only to the maximum sign height requirement to remain at 50' with the variance of 10' for a total of 60 feet. The other requested variance would remain. Ms. Meek seconded the motion. The motion carried with seven (7) voting in favor and zero (0) against.

The vote on the variance to increase the maximum number of off-premise advertising signs or billboards within one-half mile from three to four in case Z-1-14 was approved with a vote of seven (7) voting in favor and zero (0) against with the following votes being cast on roll call: Ms. Meek—Yes; Mr. Kearney—Yes; Ms. Buragas—Yes; Mr. Briggs—Yes; Mr. Zimmerman—Yes; Mr. Simeone—Yes; Mr. Ireland—Yes.

The vote on the variance for the amended height reduction from 65 feet to 60 feet, as interpreted by the City Code, in the sign case Z-1-14 was approved with a vote of seven (7) voting in favor and zero (0) against with the following votes being cast on roll call: Ms. Meek—Yes; Mr. Kearney—Yes; Ms. Buragas—Yes; Mr. Briggs—Yes; Mr. Zimmerman—Yes; Mr. Simeone—Yes; Mr. Ireland—Yes.

PUBLIC COMMENT: None

OTHER BUSINESS: Mr. Simeone inquired about the process to elect a Chair. Chairman Ireland explained the process and invited the Election of Chairperson to be listed on the next agenda. Mr. Woolard stated that the City just adopted a new ordinance that may impact this. Mr. Huber stated other commissions/boards do have by-laws. If this board would like to formally adopt by-laws, then staff can research and put something together for review. Chairman Ireland pointed out uniqueness in this Board as a semi-legal proceeding, and don't want too many rules to get in the way of hearing evidence. The rules should be somewhat loose with regard to evidence, etc.

NEW BUSINESS: None

ADJOURNMENT: 4.53 p.m.

Respectfully;

Mark Woolard