

***BYRON TOWNSHIP ZONING BOARD OF APPEALS
REGULAR MEETING – July 23, 2008
MINUTES***

The regular meeting of the Byron Township Board of Appeals was called to order by Chairman Abe VanderWoude on Wednesday, July 23, 2008, at 7:00 p.m. at the Byron Township Offices, 8085 Byron Center Ave. Byron Center, MI.

Members present were: Abe VanderWoude, James Haagsma, Seymour Gould, Jeff Brinks, and Doug Tubergen. Absent: Kathy Burgess. Also present was Township Building Inspector Randy Zomerlei and Recording Secretary LaVonne Kuiper.

7:00 p.m. – Jon Bratt - requesting a variance to construct two billboards for the property located at 6147 Burlingame Ave. SW The following variances are being requested:

East Billboard

- 1. A 200' setback variance from an existing residence. (17.6. (3))**
- 2. A 65' setback from an adjoining public right-of-way. (17.6. (4))**
- 3. A 372 sq ft., billboard area variance**
- 4. A variance to erect a billboard on a property that is occupied by another use. (17.6)**

West Billboard

- 1. A variance to erect a billboard on a property that is occupied by another use. (17.6)**
- 2. A 223' setback variance from a residential zone. (17.6. (3))**
- 3. A 65' setback variance from an adjoining public right-of-way. (17.6. (4))**
- 4. A 372 sq ft., billboard area variance. (17.6 (5)) (4)**

Mr. Jeff Brinks read the public notice and affirmed that the notice was published once in the South Advance and to all property owners within 300' of the subject property were notified. No written responses were received.

Jon Bratt was present to explain the variance request. He is requesting two billboards one on the west part of the parcel and one on the east. These will be 1000' apart as required by the Township. He asked to take into consideration that the retention pond and the Consumers Power parcels are not zoned D-1 Industrial. He also stated that permits have been issued in the past for 10' and 15' setbacks. He would like that same right as what was given to others.

Jon Bratt's attorney Terry Heist was present to also explain what they are requesting

and why they feel this should be granted. He stated that this parcel contains three parcels each containing its own permanent parcel number which was created with the building of M-6. The applicant's purpose if these variances are granted, would be to purchase the property with the intent to merge the parcels into one single lot. The lot itself is zoned D-1 Industrial which would not be a good fit for the majority of Industrial use since it is unusual shape lot. It narrows in the center and has unusual lot line layout. This lot is well situated for a billboard use given the proximity of the M-6 expressway. With the proposed westerly billboard the applicant is requesting relief of 65 feet establishing a 10' set back. Enforcement of the ordinance would deny the applicant rights granted to and enjoyed by other billboard companies in Byron Township. On October 25, 2000 a variance was granted to Infinity Outdoor for a 35ft., height variance and a 65' front and side yard variance for the property located at 6478 Clay Ave. They also were allowed to have a 14' x 48' sign which is the standard size of a billboard. Also on May 11, 2005 a variance was granted to Lamar for a 65' setback for a 673 sq ft., billboard at another location. No billboard shall be located within 200' of a residential zone and or existing residence. If the billboard illuminated the required distance shall instead be 300'. The proposed billboard is abutted on the Westerly edge by a small residentially zoned area within the Metro Health Village that is used for a retention basin. It also is abutted to the north by the Consumers Power property which is also zoned residential. It is intended that the board will be illuminated. If the set back variance is granted, the applicant will need a minimal relief of 50' to the nearest point of the Consumers Power property to the north, and if not granted the applicant will need relief of 115' to the nearest point of the Consumers Power property. Also the applicant is seeking relief of a 225' from the Metro Health property to the west. This type of use on this property would be low density and would not compromise the public safety or compromise the spirit and intent of the ordinance. Neighboring land would not be adversely impacted. The Consumers Power property will not have further development beyond its high tension power lines. Residential use is highly unlikely given the presence of the power lines. The applicant is also requesting a 372 sq ft., relief on the size of the billboards. Granted this specific variance would give the applicant relief consistent with that enjoyed by other billboard companies doing business in Byron Township. Variance's for size have been granted to others in the past seven years and or have been given height variance to maintain the 14' x 48' billboard size. On May 11, 2005 a variance was granted to Lamar for a 373 sq ft., variance. In the minutes from that meeting included in the motion was this statement "because it is something that has been allowed in Byron Township and the applicant has the same right that has been granted to others in the Township". This is a unique piece of property and not a lot of uses could go on this property. It also is the intention of the applicant to remove the house from the property.

John Carlston – a resident of the Township was present and commented that he assumed every one heard that the state is trying to reduce the distant between billboards from 1000' down to 500'. Imagine all the billboards if this bill is passed. M-6 is a new highway with no billboards at all if this would be approved it would open the

flood gates. Just like US131. Byron Township will be known as billboard city just like Wyoming. He also finds it very unusual for the property owner to own the permits for a billboard. Usually they are always held by a billboard company. You as the Board should probably ask the applicant what billboard company are they working with. He stated he feels this request should be tabled until all the property documents and permits are reviewed. Board member Brinks commented on the current code regarding billboards not being allowed on an already occupied piece of property. Sounds pretty simple to him.

Jon Bratt commented that he does have the needed permits from the state.

No further public comments were made.

A motion was made by Gould supported by Haagsma to close the public portion of the meeting. Motion carried.

Gould asked if we should deal with each variance separately.

Brinks thought we should begin with the variance regarding the occupied property. If this variance is denied than all the other ones are null and void.

Everyone on the Board agreed with Brinks.

Gould commented that at last month's meeting it was stated that the residential house was going to be used for an office. Now you plan on eliminating it. You can do away with the house but Consumers.

Gould asked the applicant if Consumers leased or purchased the property where they are located.

Mike Syswerda stated they are leasing the property.

Brinks commented that according to the ordinance this is not allowed. It is very clear that billboards can not be located on another property that already has another use. The property can maybe be used for something else but not a billboard. Mr. Heist commented that three parcels exist now but survey that was submitted looks like it is one parcel.

Gould commented that maybe this should be adjourned for another month.

Chairman VanderWoude agreed with Gould and stated that he would rather know what he is acting on. VanderWoude asked Jon Bratt what billboard company he is with.

Jon Bratt stated he is with Market Value Outdoor Advertising. He also commented that there are three separate tax bills for these parcels.

VanderWoude asked who owned the property.

Jon stated that Mike Syswerda owns the property but he does have an option to buy this property if the variances are approved.

Haagsma asked if there is a good reason why this ordinance exists. He is inclined to support a dual use. He doesn't care for billboards either but they are real and we have to live with them.

Gould stated it was for advertising purposes. You can't advertise your own business if the billboard is located on your property. A competitor can advertise on your billboard. and who would want that.

VanderWoude asked if we should adjourn this request for one month giving us time to find out the needed information regarding the permits.

VanderWoude asked the applicant when he planned on converting the house into an office.

Jon Bratt said it would be after the owner moves out.

He was asked if he would advertise his own business on these billboards.

Jon Bratt stated no.

VanderWoude asked the attorney why he commented that this property is not suitable for Industrial Use.

Mr. Heist stated that you could not put a decent size building on that lot. It maybe could be used for light industrial with smaller buildings.

VanderWoude asked what is the narrowest part of the property?

Jon Bratt responded by saying it goes down to 236' in the middle of the property.

After some additional discussion a motion was made by Gould supported by Haagsma to adjourn this for one month to be held on August 27, 2008 @ 7:00 p.m.

Yes - 5. No - 0. Absent - 1. Motion carried. Adjourned until August 27, 2008 @ 7:00 p.m. Motion carried. Adjourned until August 27, 2008 @ 7:00 p.m.

Approval of Minutes – June 25, 2008

A motion was made by Brinks supported by Gould to approve the minutes as corrected. Yes - 4. No - 0. Abstained - 1. (Haagsma absent from June meeting)
Motion carried.

Approval of Minutes – July 7, 2008 – special meeting

A motion was made by Haagsma supported by Brinks to approve the minutes as corrected. Yes - 5. No - 0. Absent - 1. Motion carried.

Miscellaneous -

Jeff Brinks stated that about a year ago the Byron Center First Christian Reformed church was granted a variance for a parking area landscape buffer variance and a parking area aisle width variance for the Church. To date they have not started this project due to a change that had to be made to the detention area and the rising cost of the project. He is asking on behalf of the church for an extension of this variance.

After some discussion a motion was made by Gould supported by Haagsma to extend the variance approval for one year.

Yes - 4. No - 0. Absent - 1. Abstained - 1. (Brinks) Motion carried.

Adjournment

7:56 p.m. It was moved by Gould supported by Haagsma to adjourn the meeting. All voted aye. Motion carried.

Jeff Brinks
Secretary of Board of Appeals