

Board of Zoning Appeals Meeting
October 25, 2007
ZA-07-07, ZA-08-07, ZA-09-07, ZA-10-07, ZA11-07, ZA-12-07, ZA-13-07

Members/Attendance:	X	Hank Grover
	X	Jim Burgham
	X	Al Franceschelli
	X	Jim Pluchinsky
	N/A	Maria Rutana
	X	Bill Custer
Also in attendance:	X	Bob Monus, Zoning Inspector
	X	Michele Richards, Recording Secretary

Hank Grover called the meeting to order at 7:06 p.m.

1st Order of Business:

Hank Grover stated that the first order of business is to approve the minutes from the previous meeting held on September 27, 2007. Jim Burgham made a motion to approve the minutes. Al Franceschelli seconded the motion. Motion carried.

2nd Order of Business:

Grover stated that there are seven variances in regard to sign regulations. They are all on individual parcels and will be heard individually.

Case #ZA-07-07 – A request by Jennie Zelinka of 5340 Center Road, parcel #35-086-0-023.00-0, lot #49, located in an (OF) Office District.

Items included in packet submitted:

1. Application for Variance
2. Zoning Permit Denial Form
3. Letter of Intent
4. Warranty Deed
5. County Map
6. Property Description

Grover asks if anyone would like to speak in favor of the request.

Atty. Teresa Tolson
(representing Genesis Outdoor Inc. and Tom Cregan)

Tolson stated she would address the ordinance and Mr. Cregan would address the individual parcels. Tolson stated that the township is bound to comply with Ohio Revised Code 519.20 which states that you are not permitted to prohibit billboards. By making the setback as it is now, it is “de-facto prohibition” against any billboards. Tolson stated they are seeking the

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variance on the seven specific locations to move the setback to thirty-five feet (35'), which is also contingent upon ODOT approval. She stated that the appeals board has the authority to grant the variance as long as it not contrary to public interest. This is not contrary to public interest. She stated that every resident within 1000 feet of each location has been notified of the proposal and this is an indication that it is not contrary to public interest due to the public's attendance at the meeting.

Tom Cregan
Genesis Outdoor Inc.

Cregan stated that the one hundred thirty foot (130') setback is unique to Mahoning County because Poland is the only township that has such an extreme setback for billboards. He stated that there are several existing billboards in the township now on Route 224. He stated the seven applications are all for Route 224 except for one. Cregan stated there are a couple of the billboards on Route 224 that are approximately thirty feet (30') off the road, which is pretty standard in Mahoning County as well as western Pennsylvania, Cuyahoga and Geauga counties. Cregan stated they are okay with the size of the sign being two hundred (200) square feet but not the setback. He feels the current ordinance was written with the intention of prohibiting billboards. Cregan stated that Poland is the only township with such an extreme setback and he is just asking the board to consider fairness in their decision.

Grover asks if anyone would like to speak against the request.

Gerald Laughner
5328 Center Road

Laughner stated the sign would be next door to him. The address of 5340 Center Road is also a residential property, which the address is wrong. He stated he is approximately the third house from the location. Laughner stated he opposes it, it is an eyesore and they do not need it. He stated this is the only variance that concerns him because it is too close to his property. He has lived there for thirty-two years and has been tolerable to other things and is opposed to this request.

Tom Cregan
Genesis Outdoor Inc.

Cregan stated to Laughner that he understands what he is saying. Cregan stated that the property is Stanley's Automotive and the billboard will not make it look any worse. He stated that is not a residential area and the billboard will not be detracting in any way. There is an existing billboard not far from Laughner's property that has been there for approximately ten to twelve years.

Atty. Teresa Tolson
(representing Genesis Outdoor Inc. and Tom Cregan)

Tolson stated that under Ohio Revised Code 519.14 it is stated specifically that the variance can be granted if it not contrary to public interest where under special conditions literal enforcement

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of the resolution will result in unnecessary hardship. Literal enforcement of this ordinance will result in unnecessary hardship and it will result in an act of prohibition of this business in the township because of the nature of the setback. As far as the public interest, the public is not here tonight to represent their interest. Tolson also stated that if the board chooses to deny this case the remaining six cases are valid claims and they would ask for the variances.

Bill Custer asked what the height of the billboard is. Cregan stated twenty-five feet (25') from the ground to the top of the billboard. Cregan also stated there were several different landowners in the area of Stanley's Automotive that expressed an interest in doing a lease for the billboards. Cregan stated the area that Stanley's Automotive is in is a very commercial area.

The Board discussed the case.

Hank Grover stated that what the township is trying to create as far as the business corridor of Route 224 is a corridor with access roads, green space, parking and buildings. This has been the idea of how the township has been trying to eventually develop the 224 business corridor for a number of years. Grover stated he feels that this is what the Board should adhere to. He stated he understands the prohibition issue and maybe it is not for this Board to get into the legality aspect.

Jim Burgham stated he agrees with Grover. He also stated he does not think it is a hardship to adhere to the zoning regulations on this issue.

Motion

Al Franceschelli made a motion in Case ZA-07-07 to deny the variance request. Jim Burgham seconded the motion.

Voting:

Yes Jim Burgham
Yes Al Franceschelli
Yes Bill Custer
Yes Jim Pluchinsky
Yes Hank Grover

Motion carried.

3rd Order of Business:

Case #ZA-08-07 – A request by John Kotchmar of 6868 Center Road, parcel #35-100-0-027.00-0, great lot #62, located in a (TC) Town Center District.

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Grover asks if anyone would like to speak in favor of this request.

Tom Cregan
Genesis Outdoor Inc.

Cregan stated he sees where the Board is going on these cases and asks if the cases can be bundled and he can be turned down on all seven cases. He stated he sees that the Board is okay with the ordinance as it is and he does disagree.

Grover stated that the solicitor could not be at tonight's meeting and he realizes that Cregan has a history of going to court and this is the point that this is going to be tried. He stated that he will go through the cases individually.

Cregan asked Monus how many applications there have been for billboards over the past eight or nine years. Monus stated none.

Atty. Teresa Tolson

Tolson stated there is no opposition present for the remaining six cases. She stated that visions change and communities grow. She said that Mr. Cregan is not asking for variances on the size or height. They are looking at small, conservative, low to the ground signs.

Grover asks if anyone would like to speak against this request.

John Cooper
4653 Center Road

Cooper stated that he is not opposed to the second case but they are being grouped together. He referred to the letter that he received and stated that most of the people that received the letter probably didn't understand what it was about. He is familiar with Genesis and knew it was about billboards but most of the public probably didn't know what it was about. He stated that Route 224 is mostly residential and they are not looking to be like Boardman's Route 224. He stated that these regulations are what make Poland unique and he feels we need to stick to these regulations.

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Gerald Laughner
5328 Center Road

Laughner stated this is not a beautification project. They are not beautifying the area, they are actually destroying it.

Grover referred to Laughner's statement and stated that Laughner's referring to the aesthetics and the Board cannot base their decisions on money and aesthetics.

Burgham stated that Genesis does have the right to install the billboards at the proper setback regardless of how anyone feels.

Motion

Jim Burgham made a motion in Case ZA-08-07 to deny the variance request. Jim Pluchinsky seconded the motion.

Voting:

Yes Jim Pluchinsky
Yes Jim Burgham
Yes Al Franceschelli
Yes Bill Custer
Yes Hank Grover

Motion carried.

4th Order of Business:

Case #ZA-09-07 – A request by John Kotchmar of 6625 Center Road, parcel #35-100-0-022.00-0, great lot #62, located in a (TC) Town Center District.

Items included in packet submitted:

1. Application for Variance
2. Zoning Permit Denial Form
3. Letter of Intent
4. Warranty Deed
5. County Map
6. Property Description

Grover stated that this case is a different situation. This particular piece of property is one hundred forty-six feet (146') from the center of the road. There is thirty-three feet (33') to the right-of-way (front property line) and then one hundred thirty feet (130') to the setback line. The zoning is (TC) Town Center. Grover stated that this property is a non-buildable piece of property. He stated that this will become an issue at sometime, whether it becomes an issue of

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what happens here tonight or the landowner makes it an issue. Grover stated under the current zoning there is no place to put anything on this property.

Cregan stated that Kotchmar has a landowner's rights issue because the township is prohibiting him from the ability to use his property.

Motion

Jim Burgham made a motion in Case ZA-09-07 that without any regard to the availability of the property to be used for commercial purposes, the variance is denied. Al Franceschelli seconded the motion.

Voting:

Yes Al Franceschelli
Yes Jim Burgham
Yes Jim Pluchinsky
Yes Bill Custer
Yes Hank Grover

Motion carried.

5th Order of Business:

Case #ZA-10-07 – A request by Robert Halstead of 8828 Youngstown-Pittsburgh Road, parcel #35-071-0-005.00-0, lot #1, located in an (OF) Office District.

Items included in packet submitted:

1. Application for Variance
2. Zoning Permit Denial Form
3. Letter of Intent
4. Warranty Deed
5. County Map
6. Property Description

Grover stated that a correction to the Halstead deed should be noted. The deed recites the proper lot number and recording data, however, it reads to the center line of the road. That is not correct. The plat indicates the property lines are from the right of way line, which would be thirty feet (30') from the center line of Youngstown-Pittsburgh Road and thirty feet (30') from the center line of Western Reserve Road. Grover distributed a correct tax map drawing to the Board members.

Grover asked if anyone would like to speak in favor of the request. No one responds. Grover asked if anyone would like to speak against the request. No one responds.

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Jim Burgham stated that even though it is a different road, different intersection, different state route, he still feels the same way as the previous cases and does not see the hardship that it creates. Al Franceschelli stated that he agrees.

Motion

Al Franceschelli made a motion in Case #ZA-10-07 to deny the variance request. Jim Pluchinsky seconded the motion.

Voting:

Yes Jim Pluchinsky
Yes Al Franceschelli
Yes Bill Custer
Yes Jim Burgham
Yes Hank Grover

Motion carried.

6th Order of Business:

Case #ZA-11-07 – A request by D & D Partnership of 3236 Center Road, parcel #35-014-0-008.08-0, lot #11, located in a (TC) Town Center District.

Items included in packet submitted:

1. Application for Variance
2. Zoning Permit Denial Form
3. Letter of Intent
4. Warranty Deed
5. County Map
6. Property Description

Cregan asked the Board if they would be offended if he left the meeting. He stated it is clear that the Board has a mindset not to approve any of the cases. He stated he thought the Board would consider the Kotchmar case. Grover stated no offense taken if Cregan left the meeting.

Grover asked if anyone would like to speak in favor of the request. No one responds. Grover asked if anyone would like to speak against the request. No one responds.

Burgham stated that this case is a perfect example of what can happen five years down the road when the sign is placed in a landscaped buffered area. If the current sign had been placed at a fifty-foot (50') setback ten years ago and then the property owner decided to put some of the commercial businesses on the land, the sign would have obstructed the required access drives. He stated we have to be concerned of what landowners are permitted to do in the future also.

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Grover stated that with this specific parcel the owner has used all of the land that he has on this piece of property to build a building. There were not any variances granted on this piece of property. The owner is using the piece of property to its full potential.

Motion

Jim Pluchinsky made a motion in Case #ZA-11-07 to deny the variance request. Bill Custer seconded the motion.

Voting:

Yes Bill Custer
Yes Jim Pluchinsky
Yes Jim Burgham
Yes Al Franceschelli
Yes Hank Grover

Motion carried.

7th Order of Business:

Case #ZA-12-07 – A request by Lawrence Rich & Eugene Butch of Center Road, parcel #35-014-0-016.00-0, lot #25, located in a (TC) Town Center District.

Items included in packet submitted:

1. Application for Variance
2. Zoning Permit Denial Form
3. Letter of Intent
4. Warranty Deed
5. County Map
6. Property Description

Grover asked if anyone would like to speak in favor of the request. No one responds. Grover asked if anyone would like to speak against the request. No one responds. Grover asked if the Board had any discussion. There being none, the following motion was made.

Motion

Al Franceschelli made a motion in Case #ZA-12-07 to deny the variance request. Jim Burgham seconded the motion.

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Voting:

Yes Jim Burgham
Yes Al Franceschelli
Yes Bill Custer
Yes Jim Pluchinsky
Yes Hank Grover

Motion carried.

8th Order of Business:

Case #ZA-13-07 – A request by John Finizio of 4453 Center Road, parcel #35-086-0-023.00-0, lot #35, located in a (TC) Town Center District.

Items included in packet submitted:

1. Application for Variance
2. Zoning Permit Denial Form
3. Letter of Intent
4. Warranty Deed
5. County Map
6. Property Description

Grover asked if anyone would like to speak in favor of the request. No one responds. Grover asked if anyone would like to speak against the request. No one responds. Grover asked if the Board had any discussion. There being none, the following motion was made.

Motion

Jim Burgham made a motion in Case #ZA-13-07 to deny the variance request. Jim Pluchinsky seconded the motion.

Voting:

Yes Jim Pluchinsky
Yes Jim Burgham
Yes Bill Custer
Yes Al Franceschelli
Yes Hank Grover

Motion carried.

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The next meeting will be held November 1, 2007. Meeting adjourned at 8:13 p.m.

Submitted by:
Michele Richards/Recording Secretary

cc: Trustees (3)
Board of Zoning Appeals (6)
Zoning Commission (5)
J. Granitto (1)
File (1)