

MINUTES

BOARD OF ZONING APPEALS

PUBLIC HEARING

Tuesday, December 21, 1993

10:00 a.m.

Members Present: Belvin Harris, Paul McCormack, Bill Pate, Mike Allison and John Thomas

Members Absent: Clarence Tucker.

Staff Present: Pat Payne and Mike Land

Visitors: List

The first item of business was calling the meeting to order at 10:02 a.m. by Chairman Bill Harris.

The second item of business was consideration of and action on the minutes of the regular meeting of November 16, 1993. A motion was made by John Thomas and seconded by Paul McCormack to approve the minutes as presented. Motion carried by the following votes: Ayes: Pate, Allison, Harris, Thomas and McCormack. Nays: none. Absent: Tucker. Abstentions: None.

The third item of business was consideration and action on a request by Southbend Outdoor Advertising Company and Wayne Harper, property owner, for a 15' variance to the 35' maximum height limit for off-premises signs in the I-35 Corridor, ref: Ordinance No. 400-1-89, Category V, subsection 3.2.1.2. Said location is situated within a 2.425 acre tract out of the Sarah Smith Survey A-913.

Steve Hannigan, representing South Bend Outdoor Advertising, spoke and presented his company's position regarding the request for a billboard to be 50' in height, rather than the required 35'. He presented photographs of the area around the site where the proposed billboard will be erected. With those pictures, he emphasized that the billboard will be obstructed by power lines and a pole; and there is nowhere else on the property where a sign can be placed. He said that the extra height for the sign will give travelers more time to view the billboard, read and understand the contents. With the 15' extra height, the traveler will have more time to comprehend the sign.

Mr. McCormack asked Mr. Hannigan why he didn't address the issue when he applied for a variance in November to allow this same proposed billboard to be closer than the required 300' to a residential structure. Mr. Hannigan said he didn't realize that

the height would be a problem until time of the meeting, and that was too late to present the request. He continued by saying that any extra height he could get would be a benefit to his company.

Mike Allison said he could see that power lines both for northbound and southbound traffic would obstruct view of the proposed sign. Mr. Allison asked Mr. Hannigan to reaffirm the size of the sign. Mr. Hannigan answered that the sign will be the same 300 square feet that had originally been stated.

Mr. Land pointed out that the Factory Shops/Prime Group requested a variance for a 50' tall sign that was approved. Also, the fast food restaurants along the California Street intersection have requested variances for their sign heights.

Mike Allison asked why the State has a 42.5' maximum sign height requirement. Mr. Land said he did not know and could not find anyone in the State who knew why.

Mr. McCormack asked Mike Land if he had any recommendations regarding the variance request. Mr. Land said that staff had the same questions regarding obstruction of view, and if the Board finds that the power lines do obstruct reasonable view of the sign, then they have the right to issue a variance. Mr. McCormack said it seemed to him that nearly every sign on I-35 has some kind of obstruction. Mr. Land said the shape of the parcel of land and its location to the highway makes it a unique situation also.

John Thomas said he felt that there was "much ado about nothing" and he wanted to make a motion to approve the request, as stated, for the variance. He also commented that it is a sign of progress.

Mike Allison said he would like to make another comment first. He reiterated that the State requirement for maximum sign height is 42.5' and would that height would also be an advantage over 35', if it were granted. Mr. Hannigan said it would-anything would help. He said the State tells him that they "allow him to have his sign visible from the main traveled ways". 42.5' is a guideline, depending upon the topography and other matters.

Mike Land said the property owner also has the option to have an on-premises sign, other than the proposed billboard if a business locates on that site.

Mr. McCormack said he did not feel that the ordinances are effective if variances are always approved.

Mr. Land explained to the Board that the findings, if they should grant the variance, would establish that the power lines and the obstruction of view, would be the hardship. Each case hereafter will have to stand on own merit and hardship need. This case does not set precedent.

Mr. Harris stated that there was a motion on the floor and asked for a second to that motion. There was no second. Mr. Harris declared the motion dead for lack of a second.

Mike Allison made a motion to allow a 7.5' variance. Again, Mr. Hannigan said the 42.5' (State allowable sign height) is only a guideline. Mr. McCormack said he feels the sign would be unsightly at anything over 35' and is not the problem that Mr. Hannigan is presenting the case to be. Mr. Harris asked for further comments; there were none. He asked for a second to Mr. Allison's motion. Again, the motion died for lack of a second.

Mr. Thomas suggested that the case be presented at the next meeting along with a video. After further discussion, Mr. Thomas said the issue needs to get off high center and be resolved.

There was no one present to speak in opposition to the variance request.

After no further discussion from the Board, a motion was made by John Thomas and seconded by Mike Allison to **grant a 15' variance for a 50' sign by Southbend Outdoor Advertising Company.** Motion carried by the following votes: Ayes: Thomas, Pate, Allison and Harris. Nays: McCormack. Absent: Tucker. Abstentions: None.

Mr. Land presented an item of discussion before the board concerning another choice for the Board's regular meeting date that would be beneficial to all appointed members. The Board agreed that the 3rd Tuesday at 2:00 p.m. would be a better time.

After no further business, the public hearing adjourned at 10:36 a.m.