

ZONING BOARD OF APPEALS
Regular Meeting
September 22, 2020

Present: Chairman Steve Haberkorn, Vice-Chair Russ Boersma, Elliott Church, Ross DeVries, and Robert (Bob) DeVries (alternate). Also present were Community Development Director John D. Said, and Assistant Community Development Director Corey Broersma.

Absent: Jack Vander Muelen and Recording Secretary Laurie Slater.

The meeting was called to order by Chairman Haberkorn at 5:30 p.m.

** It was moved by Mr. Church and supported by Mr. Boersma that the Minutes of August 25, 2020 be approved as presented. Motion carried.

Chairman Haberkorn explained the Public Hearing process to the audience.

Hearing declared open to consider a petition for an administrative appeal submitted by Brian Lamar on behalf of Ditto Upscale Resale for property located at 571 E. 8th Street. Petitioner is requesting administrative appeal for reconstruction of a nonconforming freestanding pylon sign. The subject property is zoned C-2 Community Commercial.

Present for this request was Brian Lamar.

Mr. Lamar explained his request to the Zoning Board. He provided background concerning Ditto's and the 15 other businesses served by the sign, as well as the history of the sign. He then presented an engineer's report and weather information for the day the nonconforming sign fell down, including discussing the sign's maintenance and design flaws such as a lower number of anchor bolts than suggested in the report. He then talked about the sign size believing it to be 340 square feet in area if the open areas between the signs are deducted, the overall site's value, and the non-use variance standards.

The Zoning Board of Appeals then began asking questions concerning this request. In response to Zoning Board member questions, Mr. Lamar said that the sign's structure was okay, but that it needed new base plates and footing repairs.

Mr. Boersma clarified that the current request was regarding an appeal to the Administrator's determination. Discussion then ensued regarding the timing and process of the sign status as it relates to Ordinance requirements. Mr. Broersma read from a July 27 Staff email to Mr. Lamar indicating Staff's determination that the sign may not be re-constructed under the provisions of Section 20.3.B based on the structural deficiencies, the absence of weather data from the date in question, and no other known reports of damage from that date (June 10, 2020).

The Zoning Board, Staff, and the applicant further discussed the sign's structure and design. Rick Geenen (part of Clinton Corporation's ownership group) indicated that they never knew the sign was bad. Applicant also indicated that they thought the sign was okay because it had been in place for a long time (possibly 60 years). Mr. Church indicated that even though the sign was up for a long time, this does not mean that it was okay, and that it is the owner's responsibility to maintain it safely, as the falling sign could have resulted in death and damage.

Structural concerns with the rusted base of the sign and the damaged piers were also reviewed; Mr. Lamar indicated that the existing footings would require an overpour for the new installation.

Mr. Church then asked Mr. Lamar if any alternatives to the existing sign's reconstruction have been considered, including pricing for a new conforming sign. Mr. Lamar indicated that a rough estimate of about \$35-40,000 had been received verbally, from a different company than the repair one. Mr. Broersma indicated that the existing sign's reconstruction would be more extensive than the approx. \$4000 estimate provided by the applicant, as there would be additional repairs, such as new sign panels, that would be needed. Mr. Broersma also clarified that costs issues are not relevant, but rather the "Act of God" language in Sec. 20.3.B. of the Zoning Ordinance is the focus of this review.

Mr. Church next inquired about other large-scale signs in the Township; Staff replied that no reports of damage were received for any other signs nor property from the weather on June 10. Ms. Vicki Carini, representing the property owner, said that the June 10 weather damaged a tree and Quality Car Wash's sign face fell out of their sign cabinet near the subject property, however, the sign structure did not fall.

Mr. Church confirmed that the applicant has not further pursued installation of a sign conforming to Township requirements. There was further discussion of sign size and current requirements, as well as pylon sign allowances for properties with frontage on US-31. It was pointed out that Ditto could combine the former Family Fitness site with their property in order to achieve frontage on US-31.

Mr. Haberkorn inquired whether the sign can be scaled down to meet, or be closer to, Township requirements; Mr. Lamar indicated that this will be reviewed if the sign cannot be re-constructed.

Mr. Mike Winkler, also representing the applicant, said that there were various contributing factors causing the sign to fall, including the rusted structure, metal fatigue, structural factors, and wind. Mr. Winkler also noted he would be surprised if regular structural maintenance of the sign had been taking place; only painting and sign panel replacements.

Mr. Boersma and Mr. Ross DeVries asked about wind speed and the other factors concerning the sign; Staff noted that further review would be needed as the information was just submitted a few hours before the meeting.

Zoning Board members reviewed the timing of this matter, beginning with the sign's fall, and what the next steps might be. Mr. Lamar indicated wishing to get the sign reconstructed soon, but Mr. Church noted that the timing of the applicant's submittals and responses are responsible for the review delays.

The Zoning Board then talked about wind loads for signs, and asked about other wind events in recent history. Mr. Church repeated his thought that the sign's demise was more due to a lack of maintenance rather than weather, due to a lack of evidence; Mr. Boersma agreed with that conclusion, while Mr. Bob DeVries is hesitant to disregard the wind. Mr. Ross DeVries believes it came down due to wind. Mr. Winkler noted that wind load requirements from 20 years ago were sustained winds of up to 80 MPH, with a gust of 110 MPH, while requirements now specify withstanding 90 MPH winds with gusts of 115 MPH up to 3 seconds.

Staff entered letters into the record, indicating support for reconstruction of the sign, from the Sec. of State (tenant in center) branch manager, the Clinton Corporation and Carini Group (center owners), Esstee Management and DeNoyer Chevrolet (neighboring properties), and Zeeland Christian School.

Mr. Bob DeVries asked, with the properties represented by the sign having US-31 frontage, why should reinstallation of a nonconforming sign be allowed when a pylon sign could be installed along 31. Staff noted that there's an existing nonconforming sign along 31 on this property that should have been removed previously, and that only one pylon sign per properties (along 31) would be allowed.

Public comments were then taken from; Daris DeGroot, who believes wind was a factor and that a "win-win" solution should come up; Curt Carini, who said this sign was unique because it was perpendicular to the street; and Rick Anderson of 158 Walnut who said he has no objection to the sign.

** It was moved by Mr. Bob DeVries and supported by Mr. Boersma to close the public hearing. Motion carried.

The Zoning Board next reviewed the 4 Standards for Administrative Appeals. They agreed that the request did not meet any of the applicable Standards, as the Staff decision was based on the evidence provided, and was not erroneous, arbitrary, nor capricious, nor did it represent an abuse of discretion. Zoning Board members then agreed to table the request to allow further review of the information submitted late.

** It was moved by Mr. Bob DeVries and supported by Mr. Church to table this matter until review of information is completed. Motion carried.

Hearing declared open to consider a petition for nonuse variances submitted by Brian Lamar on behalf of Ditto Upscale Resale for property located at 571 E. 8th Street. Petitioner is requesting area, height, and setback variances for a freestanding pylon sign. The subject property is zoned C-2 Community Commercial.

Zoning Board members noted that information about sign area and height were discussed in detail during the earlier public hearing, and that further discussion was not needed, and noted that because the sign matter was incomplete, a decision on variances would likely not be made at this meeting. Mr. Winkler and Mr. Carini suggested that the hearing remain open for further discussion at the next meeting.

** It was moved by Mr. Bob DeVries and supported by Mr. Church to table the public hearing until further notice. Motion carried.

There were no public comments.

Staff identified an issue to be discussed as Other Business. Mr. Broersma discussed a current accessory building's roof design, and asked the Zoning Board whether they thought that it corresponded closely enough to the principal structure (home), and if they wish to continue reviewing these on a case-by-case basis. The Zoning Board emphasized that this particular request would need to be submitted for review of an Administrative Appeal in front of the ZBA, and to have Staff continue to review these individually as they came up.

Mr. Boersma then noted he'd been asked by Township Supervisor Terry Nienhuis to become the ZBA Chair after Mr. Haberkorn departs the ZBA (at the end of 2020), and invited anyone else to speak up if they are interested. There was no reply, but he remains open if anyone is interested.

The meeting adjourned at 7:43 pm.

Respectfully submitted,
John D. Said, AICP
Director, Dept. of Community Development