

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on February 3, 2014.

MINUTES OF THE WYOMING BOARD OF ZONING APPEALS
HELD AT WYOMING CITY HALL

January 6, 2014

The meeting was called to order at 1:30 P.M. by Chairman VanderSluis.

Members present: Beduhn Burrill Dykhouse Lomonaco
 Palmer Postema VanderSluis

Other official present: Tim Cochran, City Planner

A motion was made by Dykhouse, and seconded by Palmer to approve the minutes of the December 16, 2013 Board of Zoning Appeals meeting.

Motion carried: 7 Yeas 0 Nays

REQUEST FOR INTERPRETATION:

CBS Outdoor

The application requesting an interpretation of the City of Wyoming Zoning Code Section 90-800 (Off-premise advertising signs) and Section 90-801 (Nonconforming signs) was read by Secretary Lomonaco. The petitioner requested an interpretation that would allow the replacement of static surface panels on nonconforming billboards with new moving image displays.

A motion was made by Lomonaco and seconded by Postema to discuss the interpretation request.

Motion carried: 7 Yeas 0 Nays

Andy Jansen, CBS Outdoor, 1355 Century Ave. S.W., Grand Rapids, explained CBS Outdoor had applied to the City to convert four existing billboards from static face signs to digital face signs. These were not rebuilds. The existing billboard structure would be reused. The City denied the permit requests. Mr. Jansen distributed to the Board members copies of correspondence from his company, his attorney and Tim Cochran, City Planner. Mr. Jansen stated that under Section 90-801 Nonconforming signs section 1 Alternation or reconstruction (a) Repairs and maintenance, the code says normal maintenance is allowed for replacement of new panels as long as the new panels did not exceed the old panels in size. CBS Outdoor proposes to replace the existing sign panels with smaller panels with moving images. He also cited Section 90-801 Nonconforming signs section 1 Alternation or reconstruction (b) Nonconforming manual copy change, moving image signs and time and temperature signs which would allow a change of a moving image as long as the change does not create a larger nonconformity. Based on those observations, he believed the City's Sign ordinance would allow CBS Outdoor to change out the signs.

Cochran distributed aerial views of the existing billboards in question. He felt the question to discuss was whether the changing of a flat static panel to a L.E.D. display constituted normal maintenance. He reminded the Board members that when the Sign Ordinance was amended in 2010, there was considerable discussion on billboards. One significant change limited all billboards to only property adjacent to highways and industrially zoned. At that time all other existing billboards were given nonconforming status. In addition, there are specific standards for billboards. Existing billboards could not be replaced with digital display billboards unless they met certain criteria. This replacement request was determined not to meet the ordinance. A significant upgrade as proposed was not simple maintenance. In addition this proposal would allow an alteration in areas where L.E.D. display billboards are not permitted. If allowed, this decision would have a large impact and possibly allow many existing billboards L.E.D. display replacements, which is not the intent of the ordinance.

Chairman VanderSluis agreed with Cochran that the interpretation request could be considered as a simple question whether a static flat display sign can be changed to a digital moving display sign. He asked the Board members for discussion.

A motion was made by Lomonaco to support Staff's interpretation that Zoning Code Section 90-801 Section 1(a) and (c) prohibited the changing of static surface panels with L.E.D. moving image panels because the change was not normal maintenance, and the replacement of a static surface sign with a digital moving image sign would replace a nonconforming use with another nonconforming use, which is also prohibited.

Lomonaco cited the last few words under 90-801 (1)(b) Nonconforming manual copy change, moving image signs which were "provided the change does not create any greater nonconformity."

Burrill stated as verbally read, it could be thought the change would be allowed since the panels are not larger.

However Lomonaco further cited 90-801 (1)(c) Substitution which states "no nonconforming sign shall be replaced with another nonconforming sign."

Chairman VanderSluis said that the code allows panels to be replaced.

Lomonaco argued it was not a case of replacing panels, but replacing the sign.

Dykhoush agreed. He used the example of replacing a panel because of storm damage. The sign company would not replace the whole sign if only one panel was damaged.

Chairman VanderSluis asked if the definition of a "panel" was needed.

Mr. Jansen noted that in the sign business the pole that holds up a sign is referred to as a column, and the display area of the sign is referred to as the face.

Dykhouse asked for clarification that the “face” was not one large sheet of metal but was made of panels

Mr. Jansen stated that Dykhouse was correct.

Lomonaco suggested CBS Outdoor was not replacing panels but the whole face, making it a new sign.

Mr. Jansen agreed that CBS Outdoor would be removing the existing panels to put up a new face.

Postema said when the sign code was amended both static and digital moving display signs were defined individually. While “panels” could be used in either, static and digital signs are two distinct types of signs, and were characterized differently in the code for that reason. He felt the proposal was a replacement of the sign from one type to another.

Mr. Jansen argued there would be no increase in nonconformity. The Code did not clearly state that a L.E.D. display sign could not replace a nonconforming sign and that a L.E.D. display sign would have to be on an existing billboard. He still thought that since the ordinance allowed the new panels as long as they were not larger, the new face should be allowed. Nowhere in the code does it say the panels cannot be a different style.

Chairman VanderSluis asked Lomonaco if her position was that replacement of panels had to consist of the exact same panel.

Lomonaco said she was not concerned so much with the panel, as with the fact the proposed change is not “normal maintenance.”

Chairman VanderSluis noticed the code allowed for replacement of panels.

Lomonaco agreed but only under maintenance. The proposal is not maintenance. It is an attempt to get “around the code.”

Dykhouse thought of maintenance as fixing, repairing and painting. Lomonaco added that removing one type of sign with another is a replacement not maintenance.

Chairman VanderSluis asked if Lomonaco if all panels were rotted, in her opinion would they all be allowed to be repaired or replaced?

Lomonaco noted a billboard probably would be repaired as certain sections required, not usually in entirety. Dykhouse added that should the entire sign be damaged, being nonconforming it probably would not be allowed to be replaced under the code.

Postema thought the Board needed to keep in mind that there were two distinctly different signs being discussed regardless that the existing structure can be used to support both. Replacing panels of a static paneled sign would be maintenance. Replacing the panels with a

digital moving image sign is replacing one non-conforming use to a different non-conforming use, which is prohibited.

Palmer thought the change to a digital moving image sign could be thought of as an upgrade.

Postema did not think it mattered if the sign replacement made the sign better or not, they still are two different signs.

A motion was made by Postema, and seconded by Lomonaco to support staff's interpretation that the proposed billboard face replacements were prohibited by City code 90-801 section 1 (a) and (c) because the proposed replacement was not normal maintenance and the replacement would replace one nonconforming sign with another nonconforming sign, which is prohibited.

Motion carried: 7 Yeas 0 Nays

(Editor's Note: Burrill suggested Appeal #V130060 and #V130061 be heard together because of the similarities.)

PUBLIC HEARING:

Appeal #V130060 P.P. #41-18-19-204-012
Grand Rapids Plastics, Inc.
3910 Roger B. Chaffee Memorial SE
Zoned I-1

The application requesting a variance from the City of Wyoming Zoning Code Section 90-44 (Distance requirements for mechanical appurtenances) requires such devices to be located only in the rear yard of properties was read by Secretary Lomonaco. The petitioner requests a variance to allow a generator in the side yard of the facility.

PUBLIC HEARING:

Appeal #V130061 P.P. #41-18-19-406-010
Grand Rapids Plastics, Inc.
4220 Roger B. Chaffee
Zoned I-1

The application requesting a variance from the City of Wyoming Zoning Code Section 90-44 (Distance requirements for mechanical appurtenances) requires such devices to be located only in the rear yard of properties was read by Secretary Lomonaco. The petitioner requested a variance to allow a generator in the side yard of the facility.

Chairman VanderSluis opened the public hearing.

Chris Wagner, Energy Czar, 3860 Roger B. Chaffee, would furnish and provide back-up generation systems to support manufacturing facilities located for Grand Rapids Plastics, Inc. at both 3910 and 4220 Roger B. Chaffee. The primary electrical system is located in the side yard. From an engineering configuration, it is more logical and practical to place the

generation systems in the side yard also. The generation system is similar to utility company equipment.

There being no further remarks, Chairman VanderSluis closed the public hearing.

Cochran had asked the applicant to explore options for locating the generation systems in the rear yards. However these generation systems are important to the operation of the business. The area is mostly industrial, and the businesses have experienced power shortages in the past. The location of the systems is hardly noticeable, and will not negatively impact the adjoining properties. Staff supported the requests with Finding of Facts as follows:

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or class of use in the same vicinity and district because the existing building is designed with the electrical and natural gas infrastructure in close proximity to the proposed generator location, which is in the side yard of the property. Locating the generator adjacent to this infrastructure is optimal for performance. Locating the generator in the required rear yard would result in diminishing the function of the system to the point of compromising the project.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the facility has had numerous incidences of power failures. The backup generator is necessary for maintaining manufacturing operations during power outages.
3. That the granting of such variance will not diminish the marketable value of adjacent land and improvements, or unduly increase congestion in the public streets because the adjoining properties are developed with industrial uses. The addition of a generator to this property will not impact adjoining properties or increase congestion on the public street.
4. That the condition or situation of a specific piece of property, or the intended use of said property, for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation because the condition of the building with its electronic-mechanical infrastructure located on the side of the building is not of so general a nature as to make practicable the formulation of a general regulation for such a situation.

Postema asked if the generation systems would be used for standby use only.

Mr. Wagner said they would.

A motion was made by Burrill and seconded by Lomonaco that the request for a variance in application no. V130060 and V130061 be granted accepting staff's Finding of Facts.

Motion carried: 7 Yeas 0 Nays

There were no public comments at the meeting.

There also was no new business. There would be no Zoning Board of Appeals meeting on January 20, 2013.

Canda Lomonaco
Secretary

CL:cb