

BOARD OF ADJUSTMENT

MINUTES

July 6, 2023 @ 5:00 p.m.

The Board of Adjustment held a meeting on Thursday July 6, 2023 at 5:00 p.m.

Members Present

Wendell Miller, Chairman
Don Jacimore, Vice Chairman
Wayne Cummings
Josh Stroud
Justin Cothren

Members Absent

NONE

Visitors Present: City Planner Sara Jondahl, Planner I Victoria Marchant, Cody Smith, Jim Wooten

Welcome Visitors

The First Order of Business is a request to review and approve the minutes of the Board of Adjustment June 1, 2023.

Member Stroud made a motion to approve the minutes as written. The motion was seconded by Member Cummings and passed unanimously.

The Second Order of Business is Variance from Article 7.8.2 (C)(i) to reduce the distance between Billboards to 675 instead of the 1,000 feet, located at 46 Bradley Cove Road. Submitted by Vision Outdoor Media, LLC on behalf of Winslow Holdings LLC. (VARI-0623-000374)

City Planner Jondahl stated that this is a request to reduce the distance between billboards for Winslow Holdings. She stated that this is the Exxon sign. City Planner Jondahl stated that the existing conditions are that it is an existing double post off-premise sign for the Exxon station that was located at 3103 E Main Street, the current location for First State Bank. She stated that it is immediately adjacent to the Welcome to Russellville sign located on I-40. She stated that north of this property is the Flying J Truck stop, truck washes and repairs, and east of this property is the Waste Management property. She stated that there is an existing active Billboard on the Waste Management property approximately 675 to 700 feet from this location. She stated that properties in this area are zoned C-2 Highway Commercial.

City Planner Jondahl stated that the Planning Commission agreed that it would be nice to see this sign improved. She stated that they also asked that staff reach out to ARDOT to confirm that there is a valid path forward if the variance were granted and the special use permit approved.

She stated that ARDOT would not comment as they had not yet received an application. City Planner Jondahl stated that when looking at a variance for a billboard there are several items in the Zoning Code that need to be addressed.

- Article 9.2.1 ...is not increased by more than 20% of the square footage of the existing structure.
- Article 9.2.2 ...may be remodeled to maintain the premises in safe and usable conditions.
- Article 9.2.3 Should a structure be destroyed by any means to an extent of more than 50% of its replacement cost at the time of destruction, it shall not be reconst
- Article 9.2.4 ...structure may be added to if said addition meets the area requirements of the land use zoning district in which the structure is located, provided said use of structure is in conformance with this Zoning Code.

In Article 7 relating to signs, Non-Conformity and modification:

- 7.13.1 A non-conforming sign cannot be replaced by another non-conformig sign.
- 7.13.2 Minor repairs and maintenance is permitted, however, no structural repairs or changes to the structure is permitted.
- 7.13.3 Non-conforming sing may stay in place until the business ceases to exist, deterioration makes it a hazard, or damage exceeding 50%.
- 7.13.4 Any non-conforming sign which is altered, relocated, or replaced shall be brought into compliance with all provisions of this code.

City Planner Jondahl stated that the property was purchased to construct an off-premise sign and has limited space available. She stated that according to the survey, the sign's width measures 13 to 14 feet, or approximately 100 square feet well within the regulations of off-premise signs. She stated that currently the sign is positioned roughly 15 feet away from the front property line, which aligns with the allowances for taller signs along the interstate. City Planner Jondahl stated that billboards do not have the same setback requirement however, the length of the sign is 48 feet, leaving only about 6 to 8 inches of space on each side within the property boundaries. She stated that the billboard's square footage will reach 672 square feet, representing a significant increase of nearly 675% compared to the size of the existing sign. City Planner Jondahl stated that the applicant raised an important note regarding the strict interpretation of the code, which would restrict their ability to install a new sign on their property. She stated that the dimensions of the property are 25 feet wide by 50 feet long, making it challenging to accommodate the proposed billboard. City Planner Jondahl stated that the applicant emphasizes that their request is not seeking special privileges, but rather advocating for fair and reasonable use of the property, in alignment with the overall purpose and intention of the Code. She stated that staff agrees that individuals should have the opportunity to enhance their property while maintaining harmony with the surrounding community, with a focus on minimizing any adverse effects. City Planner Jondahl stated that according to Article 7.13 outlined in the zoning code, the intent is for signs to comply with the code's regulations when undergoing improvements. City Planner Jondahl stated that although there are no specific minimum lot size requirements within this zone, the area requirements table specifies that developments must adhere to coverage, parking/loading, and yard requirements. She stated that consequently, it suggests that the billboard should have a

designated front yard area, rather than leaving a mere 6 to 8 inches of space between the edge of the billboard and the front yard property line. She stated that the absence of adequate yard area on the property to provide necessary protection would have an adverse impact on neighboring properties if the billboard were to fail. City Planner Jondahl stated that in reviewing this application, the applicant is proposing to reconstruct the sign, which means removal of the existing sign and at least 1 pole plus proposing to remove at least 30 feet in height, this would cause the applicant to fall under Article 9.2.3 meaning that it would only be permitted in conformity with the provisions of the Zoning Code because the existing structure is destroyed by more than 50%. City Planner Jondahl stated that in its current state the applicant may maintain the sign as is, can redo the Exxon sign without any issue and even the State concurs that for B-Tag permits they may do customary maintenance or repair, until it is either destroyed or removed.

Staff recommends that the Board of Adjustment deny this application as a result of the findings that:

1. Special Conditions or circumstances were not demonstrated; and
2. The current sign is Non-Conforming and would be required to come into compliance with the current regulations per Articles 7.13.4 and 9.2.3; and
3. If approved this would be creating two non-conforming billboards which would expand the non-conforming status of the sign; and
4. Insufficient evidence was provided to justify the granting of this variance.

Member Cummings asked City Planner Jondahl if this was the building of an entirely new billboard that would not be an Exxon billboard. City Planner Jondahl stated that that is correct, they will remove the Exxon sign and put up a digital billboard like the one on the North Arkansas Exit.

Cody Smith, Vision Outdoor Media LLC, stated that at the request of the Planning Commission they are applying for a variance for this billboard as they have agreed that this will be an improvement for the city. He stated that the Planning Commission indicated that this was a simple process, and once this was issued they could get a Special Use Permit from the Planning Commission. Mr Smith stated that their letter of intent pointed out that Mr Wooten's billboard was approved by the State and erected before the other billboard was erected less than one thousand feet away. He stated that the building of another billboard should not affect Mr Wooten's billboard reconstruction. Mr Smith stated that although other non-conforming structures are not taken into consideration when seeking a variance, they should have the same fair treatment. He stated that this is a billboard and not a sign. He stated if the Board of Adjustment agrees that this is a billboard and not a sign, then the setback requirements should not apply. Mr Smith stated that this is a unique situation rendering special condition because this property's sole purpose is to house a sign. He stated that denying Mr Wooten the right to erect the billboard would give him undue hardship. Mr Smith stated that it should be taken into account that a billboard is in line with the permitted uses in the Highway Commercial District.

He stated that they are not looking for special privileges but for reasonable use of the property. Mr Smith stated that they are not looking to change the use of the land but to enhance the existing use. He stated that their proposal does not conflict with the general intent of the Zoning Code but seeks to optimize it. He stated that they seek to upgrade the current billboard to improve its appearance and the overall aesthetic of the city. Mr Smith stated that they deal with ARDOT on a daily basis and they have been ensured that if they acquire a Special Use Permit they will grant the State permit for the billboard.

Jim Wooten stated that he will not ask for anything that might endanger the public or create a problem. He stated that they are seeking the best use of the property. Mr Wooten stated that the main issue here is that his sign was put up in 1976. He stated that the sign that puts him out of compliance was built 22 years after his sign was built. He stated that on exit 81 there are lots of billboards.

Member Cummings asked City Planner Jondahl if beside the issue regarding the 1000' distance between billboards the proposed billboard was within code. City Planner Jondahl stated that they would otherwise be within code as they are less than the maximum 672 square feet. She stated that their proposed billboard will meet the height requirement.

Member Jacimore asked City Planner Jondahl what the consequence would be if they did not get an A-Tag from the State. City Planner Jondahl stated that they have a State issued B-Tag permit which allows a sign along an interstate highway. She stated that a B-Tag is for a non-conforming sign meaning that they can only provide maintenance to the existing sign. She stated that they were trying to get an A-Tag conforming permit.

Member Stroud asked Mr Smith if he was confident that they would get a permit from ARDOT if a Special Use Permit was issued. Mr Smith confirmed that he was.

Member Cothren made a motion to approve the variance as presented. The motion was seconded by Member Stroud and passed unanimously.

Meeting Adjourned

Chairperson