



## City of Powell, Ohio

### MINUTES BOARD OF ZONING APPEALS January 25, 2006

A regular meeting of the Board of Zoning Appeals was held on January 26, 2006 and called to order by Chairman Ed Cooper. Bob Hiles and James Hrivnak were present. Also present were David Betz, Director of Development; Eric Fischer, Development Planner; and Susie Ross, City Clerk.

Complete transcripts of this hearing may be purchased by contacting Runfola Reporters.

### APPROVAL OF MINUTES

The minutes of June 22, 2005 were approved.

### APPLICATION FOR APPEAL

**Applicant:** Ron Morr, Ron's Express Car Wash & Oil Change  
**Location:** 8888 Moreland Street, Golf Village Retail  
**Zoning:** PC, Planned Commercial District  
**Request:** Appeal of Zoning Administrator Determination dated October 18, 2005.

Chairman Ed Cooper swore in the applicants and Staff to speak during this meeting.

Ron Morr, owner and applicant, reviewed his appeal before the Board. He said he received a letter from Mr. Betz dated October 18 and after that filed the appeal and mailed a written response dated November 6. He said there are three separate issues in Mr. Betz's letter. He said the first is listed as a violation of 22.04.E. under Advertising Signs, indicating the two advertising signs located on the dumpster screen were in excess of the total of 12 sq. ft. He said he and his wife met with Development Staff on July 25<sup>th</sup> to discuss acceptable signs at the site. He said they received a copy of the sign regulations and discussed their intention of using non-compliant wind signs in frames on the dumpster. He said the signs look professional, do not face either Seldom Seen or Sawmill Parkway and are only visible to their customers during normal traffic flow.

Mr. Morr said the signs total 15.162 sq. ft. and he indicated their location on copies distributed to the Board. (Exhibit) He said when they first opened their business they had several wind signs on site and had to remove them as they were against zoning code. He said it was at this time they met with Staff to discuss ancillary signs. He said he felt it was understood by Staff that the wind signs would be moved at their present size to the dumpster area.

Jeanne Morr, co-owner, said they use these sign inserts in frames at all of their locations and found it is a professional way to display them. Mr. Morr respectfully requested that they be allowed to keep the signs as shown.

Mr. Morr said the second issue in the violation is noted under Section 22.04.E., Advertising Signs, but he feels it should be listed under Section 22.04.F., Temporary Signs. He said the signs are in compliance with the provisions of that section as they promote specific seasonal celebrations. He said they also discussed this type of sign with Mr. Betz. He said they went to great lengths to meet those requirements. He said they placed pole sleeve inserts in concrete in order to make the signs look more professional, but there was no intention to make them permanent signs. He said he feels Mr. Betz's interpretation of the code is contrary to the written guidelines. Mr. Morr said the signs were for seasonal events, as allowed in the code and he felt Mr. Betz concluded that they would have continuous seasonal events and keep the banners out at all times. He said this is not the case. He said his wife spoke with Mr. Betz and they installed the sign exactly as they were told.

Commissioner Hiles asked if the applicant had spoken with Mr. Betz prior to installing the sign.

Mr. Morr said they had. He said they then received a call saying that Mr. Fischer stated the sign must come down as it is not in compliance. He read the wording within Section 22.04.F. of the Zoning Code regarding temporary signs for special, public or institutional events. He said the disagreement lies in that they put up a second banner

which was a fall celebration and the interpretation was that this was another advertising sign. Mr. Morr said there is nothing in 22.04.F. which indicates you cannot have any type of advertising or promotion on the sign and he thinks this is the difference in their interpretations.

Commissioner Hrivnak asked if the yellow sign shown was the original sign with the blue one added on top of that. He also asked what was covered at the bottom by the blue section.

Mr. Morr said that this correct and the area covered at the bottom gave a specific date. He said the sign was removed after its original use and then put back up with the new lettering at the bottom.

Chairman Cooper asked how many grand openings they had at their site. Mr. Morr said there was only one grand opening and the grand opening special as shown on the sign.

Mr. Morr said the last item in the letter of violation was regarding Section 22.04.E., for banners hung inside the bays which were visible through the glass bay doors. He said he agreed these signs were not within the guidelines and they were removed immediately. He said he indicated in his letter that he requested that the guidelines be enforced consistently with other businesses in Liberty Township. He said the photos which he referenced in his letter were indicated to be outside of the City's jurisdiction. He said in his letter he said they want to comply with the guidelines as written but want to be treated fairly with the guidelines enforced consistently and correctly.

David Betz, Director of Development, gave his Staff Report on this item (Exhibit).

Commissioner Hrivnak asked if the Christmas Celebration sign as shown would be acceptable if it was only the lower portion without the advertising on the top.

Mr. Betz said that would be acceptable as a special event sign under their interpretation if the green part was there alone. Chairman Cooper asked if it is correct that the bottom green portion falls under Section 22.04.F. but when added to the top portion which directs one to a use, commodity or service, it becomes an advertising sign regulated under Section 22.04.E. Mr. Betz said that is correct.

Mr. Morr stated he disagrees with that interpretation. He said Section 22.04.F. addresses temporary signs of this nature specifically. He said they must determine which section this applies to. He said 22.04.F. does not say that you cannot have any type of advertising on that type of temporary sign.

Chairman Cooper stated that under Section F, it says signs shall designate the name and address of the person charged with the duty of removing the sign. He asked if that was present on the sign. Mr. Morr stated it is present, but is small enough that it is not visible clearly on the photo.

Commissioner Hiles asked about the posts and the base of this sign. He said he is unsure if it is a temporary or one where every month with hold a sign for a new celebration. Ms. Morr said they tried to do the most professional job they could to keep the sign from being blown over. Commissioner Hiles said it makes it easy to hang a new sign each month. He asked if the signs shown were not up at this time. Mr. Morr said the base is still there but the sign and posts have been removed. He said they have no intention of having a different event every month.

Commissioner Hiles asked if there is a way to get the dumpster signs into compliance. Mr. Morr said the signs are pre-made to fit in the frames and they are a universal size for all of their car washes. Chairman Cooper said he gets the impression there are a lot of signs on their site. He said he has seen pennant signs on the site like one would see at a used car lot. He said it is hard to remember, but it seems as though the Grand Opening lasted a long time. He said he agrees with Mr. Betz in his interpretation of Section 22.04.E. versus 22.04.F.. He said 22.04.E. is very specific that advertising signs direct attention to a use, commodity or service, as opposed to special public or institutional events.

Commissioner Hiles said he agrees with the Chairman and Mr. Betz regarding the temporary signs as advertising signs. He said in reference to the dumpster signs he wants to see businesses flourish in Powell and wants to bring more business here. Commissioner Hrivnak stated he would like to see the signs within code as well. Chairman Cooper said their decision will set precedence and what would he say to the next applicant who comes before the Board with photos of the applicant's business and wants the same sized signs. He said the Board is looking

for some sort of hardship or compelling reason to allow them to overturn the decision of the Zoning Administrator. Commissioner Hiles asked Mr. Betz for some assistance.

Mr. Betz said there may have been miscommunication regarding the dumpster signs. He said they relied on the knowledge of the applicant to meet the size requirements. He said that misunderstanding may be a compelling reason for the Board to allow that size sign. He said they look good, are interchangeable and work well with their type of business. He said they generally cannot be seen from the public or private streets, and the intent is that when one is on the site, they can see what the special is. He said that may also be a compelling reason.

Mr. Morr stated he appreciated the comments of Mr. Betz. He said they would be very happy if they were allowed to keep the dumpster signs.

Ms. Moor asked if they ever do another celebration sign, would they be able to add their logo. Commissioner Hiles said that would not be necessary as the sign would be in the front yard of the business. Mr. Betz confirmed that to be correct. Chairman Cooper said the addition of the logo would be against the code as it advertises a use, commodity or service.

Chairman Cooper stated it is the consensus of the Commission that the dumpster signs may not pose a problem because of their location and the minimal difference between their size and that regulated by the code.

Chairman Cooper opened this item to public comment. Hearing none, he closed the public comment session.

**MOTION: Chairman Cooper moved to approve the appeal of the Zoning Administrator Determination dated October 18, 2005 as related to the two advertising dumpster signs at Ron's Car Wash and Oil Change. Commissioner Hiles seconded the motion.**

**VOTE: Y 3 N 0**

**MOTION: Chairman Cooper moved to deny the appeal of Ron's Car Wash and Oil Change, upholding the Zoning Administrator Determination of October 18, 2005 determining the temporary signs are advertising signs and that seasonal sales signs may be allowed so long as they do not contain advertising such as reference to a use, commodity or service. Commissioner Hrivnak seconded the motion.**

**VOTE: Y 3 N 0**

#### **NEW BUSINESS**

Commissioner Hrivnak asked if there is a mechanism which will allow the meetings to be held on a more timely basis. Mr. Betz said the Fee Schedule will be amended to add additional fees for the applicant cancelling meetings after the first cancellation. Mr. Betz said this may not resolve the issue. Commissioner Hrivnak asked if it is required to have the applicant present at the meeting. Mr. Betz said that has been the practice as they want to give the applicant their chance to speak. He said the City Law Director has stated it is not good practice to proceed without the applicant as it may be a due process issue if the decision is appealed to court. Mr. Betz said they normally do not have this type of situation but they will propose the fee change to Council. Ms. Ross said in the future the applicant will also be notified of the meeting date by certified mail.

#### **ADJOURNMENT**

The Commission adjourned at 7:55 p.m.

**DATE MINUTES APPROVED: June 28, 2006**

 7/25/2007

Ed Cooper  
Chairman

Date

#### **Board of Zoning Appeals**

Ed Cooper, Chairman  
Robert Hiles Jim Hrivnak