

The Pendleton Board of Zoning Appeals met on March 19, 2019 at 7:00pm at the Pendleton Town Hall, 100 W State Street, Pendleton, Indiana. The meeting was called to order at 7pm. Board Members present were Tammy Bowman, Jerry Kelly, Mike Romack and Tim Pritchard. A quorum was established with four of five members present. Representing the Town were Planning and Zoning Administrator Kayla Hassett, Town Attorney Alex Intermill and Planning Clerk Kate Edwards.

Others in attendance included petitioner Richard Sprague of 430 Second Street Columbus.

MINUTES

MIKE ROMACK MOTIONED, SECONDED BY JERRY KELLY, TO APPROVE THE MINUTES OF THE JANUARY 15 2019 MINUTES. MOTION CARRIED.

OLD BUSINESS - none

NEW BUSINESS

V03192019-01 – Addition of electric service to two nonconforming billboard signs – 7684 S 800 W – JR Promotions LLC

Hassett presented on Google Drive. The presentation included the Application for Variance from Development Standards, Outdoor Advertising Sign Permit Application/Approval from INDOT, Google Earth map of the locations, a Vicinity overlay areal map, a photos of the existing billboards.

Staff Findings

- Variance from Development Standards requested for adding electric service to two nonconforming signs for the purpose of illuminating them.

Unified Development Code

- 154.08 Variances
 - The Board of Zoning Appeals may authorize... such variances from the terms of this Code as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Code would result in serious practical difficulty.
 - No non-conforming use of neighboring lands, structures, or building in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance.
 - Variances shall not be granted solely on the grounds of convenience or profit; however, where strict application of the provisions of this Code would result in serious practical difficulty, convenience or profit may be considered as a relevant factor in the Board decision.

- **158.10.10 Nonconforming Uses and Signs**
 - All permanent signs existing at the time of the enactment of this chapter which do not comply with the provisions of this chapter shall be classified as nonconforming signs.
 - Nothing in this chapter shall prevent the restoration of a sign damaged less than 70% of its market value at the time of damage. Any sign damaged 70% or more shall be restored only in conformance with the provisions of this chapter.
- **154.14 Nonconformities**
 - It is the intent of this Code to permit these nonconforming uses to continue until they are removed, but not to encourage their survival. It is further the intent of this Code that nonconforming uses shall not be enlarged upon, expanded or extended...

What makes these signs nonconforming?

- They are pole signs. (Pole signs are prohibited by Code.)
- They are too big. (Advertising signs are limited to 60 square feet. These signs measure 480 and 492 square feet).

Staff Recommendation

Deny, for the following reasons:

- Issuing this variance would be contrary to the public interest. This is evident from the Code's prohibition of pole signs.
- Allowing these nonconforming signs to be illuminated would encourage their survival; would enlarge the nonconformity.

Richard Sprague introduced himself to the Board. He and his wife are owners of JR Promotions. They own a hotel in Fishers and have been renting one of these billboard since 2005 which had been illuminated. Billboard owner lived in Mississippi. Since then, he and his wife built another hotel at Exit 210 Hamilton Towne Center. Turned out the billboard owner was in trouble with INDOT due to lack of maintenance of the billboards. He had nine of them. JR Promotions agreed to buy all nine of them to get control of them, subject to making an appropriate transaction with INDOT. The INDOT deal was they had to remove six of the nine so they keep three and they could re-illuminate them subject to the local authority approval.

Sprague asked the Board for variance approval so they are able to re-illuminate the two billboards. They are much easier to read at night when illuminated. He added illuminating will not extend the life of the billboards. The billboards are on steel poles from the 60s, just not the modern steel. He reported the landowner was happy that they might be re-illuminated which adds safety to their property.

Romack asked if power was already available. Sprague advised it would come off of an existing transformer. Romack stated the Town is currently in the process of updating our Sign Ordinance. Hassett advised that the Town's entire Code is being updated.

Bowman noted that there are existing lights on these billboards and asked if they would remain or would this decision allow for different lighting. Sprague reported his deal with INDOT was to use existing lighting. He noted he will be maintaining them and making them look nice but he is not allowed to change them.

Pritchard voiced concern about approving the re-illumination of these because others will then want the same. Sprague reported that for a sign to be illuminated it has to be C-tagged and there are no other C-tagged billboards. These are the only two that he is aware of between Anderson and Indianapolis.

Kelly asked if these signs every came down, could new signs be erected. Sprague advised they could not, adding the only place new signs are allowed within 600 feet of the Interstate is where zoned commercial or industrial. He added that if a sign doesn't already have lights on it, and its not zone commercial or industrial, then lights cannot be added.

Bowman asked if there was a chance this agricultural zone area might change in the future. Intermill advised that the Town does not allow pole signs anywhere, so there would be no future change to the status of these billboards.

Sprague shared that INDOT and Federal rules are, if you have a nonconforming billboard, if that billboard is 50% destroyed or more, it cannot be rebuilt. This is determined by the number of poles the billboard has. If two poles and one pole goes down, it cannot be rebuilt. If three poles and two go down, it cannot be rebuilt.

Romack voiced that he feels these are kind of grandfathered signs and the owner has done quite a bit to work within the rules of the State, and there is no real remonstrance against the re-illumination.

Intermill responded that it is correct that these nonconforming signs are grandfathered, but only as long as there is no change. The illumination went away and, according to the ordinance, they cannot get that back.

TIM PRITCHARD MOTIONED TO DENY V03192019-01. MOTION WAS NOT SECONDED. MOTION FAILED.

MIKE ROMACK MOTIONED, SECONDED BY JERRY KELLY, TO APPROVE V03192019-01. MOTIONED CARRIED WITH A VOTE OF 3 TO 1.

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Next meeting is scheduled for April 6, 2019 at 7:00pm.

Meeting adjourned at 7:25pm.

Kate Edwards
Planning Clerk
Town of Pendleton