

The Morehead City Board of Adjustment conducted a regular monthly meeting on Thursday, January 22, 2009, in the Municipal Building Auditorium, 202 South Eighth Street, which started at 5:30 p.m. The following were present:

MEMBERS: Chairman James Walker
Laura Drewyor, Dick Gambill, Joe Green, Dave Robertson, Beth Taylor, and Bill Ward

ABSENT: Holly Briggs and Tripp Mudge

OTHERS PRESENT: Planning Director Linda Staab, Zoning Enforcement Officer Joyce Veltman, Secretary Jeannie Vaughan, City Attorney Derek Taylor, and Carl Edwards.

Chairman James Walker called the meeting to order and gave the invocation.

The roll was called and Laura Drewyor made **MOTION**, seconded by Bill Ward, to excuse the called-in absences (Holly Briggs and Tripp Mudge). The motion carried unanimously.

MINUTES: November 20, 2008

Chairman Walker called for changes or amendments to the minutes. Bill Ward made **MOTION**, seconded by Beth Taylor, to adopt the minutes as submitted and dispense with the reading. The motion carried unanimously.

BUSINESS:

A. Request submitted by Carl Edwards, Eastern Outdoor Marketing Inc., for an administrative review under Article 5-2 of the Unified Development Ordinance appealing the Zoning Enforcement Officer's denial of a sign permit for a tri-view sign for the Highway 24 side of the property at 5079 Highway 70.

Dave Robertson made **MOTION**, seconded by Bill Ward, to open the public hearing. The motion carried unanimously. Dick Gambill and Joe Green were excused from voting on this case as only five members were needed.

Those wishing to give testimony were sworn in (Joyce Veltman and Carl Edwards).

Zoning Enforcement Officer Joyce Veltman introduced the case. Mr. Edwards of Eastern Outdoor Marketing Inc. applied for a sign permit to erect a tri-view sign on the Highway 24 side of the property at 5079 Highway 70. Upon reviewing Articles 19-5 and 19-6, of the Unified Development Ordinance (UDO), the permit was denied. Article 19-5.6, says "no occulting, oscillating, flashing, rotating, flickering, or blinking of signs shall be permitted except electronic message board/digital marquee signs as described in Section 19-6, or unless otherwise permitted." The word "rotating" in the ordinance caused the permit to be denied. Historically, when developers have questioned whether or not they could install tri-view signs, they have been told no based on the word "rotating;" however, no one has ever filed an appeal. The proposed sign is a stationary sign with changeable copy inside. There are triangular-shaped vertical panels that make up the three possible advertisements.

Beth Taylor questioned whether or not the sign itself rotates and Ms. Veltman answered no, only the inside panels rotate. Bill Ward asked for the date the sign ordinance was written and Ms. Veltman said that the ordinance was rewritten in 2001. The original ordinance had similar wording. Chairman Walker asked if the hearing had been advertised and notices mailed to property owners within one hundred feet (100') and Ms. Veltman answered by saying that the hearing was advertised but no notices were mailed because this appeal is not address specific. The Board's decision will affect all tri-view signs in Morehead City's jurisdiction until or unless the City Council changes the UDO.

City Attorney Derek Taylor explained the Board's duties by reviewing a hand-out on Administrative Reviews. Attorney Taylor read definitions out of Webster's Dictionary. The word "occulting" is hiding from view and the word "oscillating" is swinging to and fro.

Carl Edwards, the applicant, testified and asked the Board to approve his request to erect an off-premise tri-view sign. Article 19-5 of the UDO is titled "Sign Illumination" and says "no occulting, oscillating, flashing, rotating, flickering, or blinking of signs shall be permitted except electronic message board/digital marquee signs as described in Section 19-6, or unless otherwise permitted." Mr. Edwards stated that this has nothing to do with his request which is for a fixed-face sign with changeable copy by the use of tri-panels. A fixed-face with tri-panels that turn enables a change in the message being displayed. Article 19-6 of the UDO simply and directly states that changeable copy of signs is permitted. Mr. Edwards said that the ordinance states the maximum area per face for off-premise signs is ninety-six (96) square feet and then passed out pictures showing examples of signs of that size along Highways 24 and 70. He also testified that he has found only eight (8) possible sites around Morehead City for these off-premise signs. The signs will be lit either from the top or the bottom with the light shining directly onto the sign.

No one spoke in opposition to the appeal.

Laura Drewyor made **MOTION**, seconded by Bill Ward, to close the public hearing. The motion carried unanimously.

CONSIDERATION AND DETERMINATION OF CASE HEARD:

Chairman Walker explained the three options to the Board; 1) to uphold the zoning officer's determination, 2) to overturn in part or whole the zoning officer's determination, or 3) to modify the zoning officer's determination. Attorney Taylor also responded by saying that unless the ordinances were changed, the interpretations made in this case by the Board of Adjustment would apply to all future circumstances of the same.

Dave Robertson commented that Articles 19.5 and 19.6 do not address tri-view signs, only the illumination of signs; therefore, tri-view signs are allowed. All Board Members agreed. Beth Taylor also said that this is new technology and therefore the Council could not have intended to disallow these tri-view signs when the ordinance was written. Again, all Board Members agreed.

Attorney Taylor reviewed the Board's duties once again. He said that to overturn the decision of the Zoning Officer, four out of five Members must vote to overturn; therefore, he suggested that whatever motion is made be made in the form of "to overturn" even if Members intend to vote against their own motion.

Dave Robertson made **MOTION**, seconded by Bill Ward, to overturn the Zoning Officer's determination. The motion carried unanimously.

NEW BUSINESS:

No new business was discussed.

Bill Ward made **MOTION**, seconded by Laura Drewyor, to adjourn the meeting. The motion carried unanimously and the meeting was adjourned at 6:21 p.m.

Jeannie Vaughan
Secretary