

**City of Grove City
BOARD OF ZONING APPEALS
MEETING MINUTES
FOR: December 28, 2010**

Regular Meeting

Board Member John Brant called the Board of Zoning Appeals regular meeting to order at 7:00 p.m. at the Grove City Municipal Building, 4035 Broadway. Present were: Board members John Brant and Jeff Davis; Chief Building and Zoning Official Michael Boso; Planning and Zoning Coordinator Christy Zempter; and Stephen Smith of Schottenstein, Zox & Dunn, representing the City. Also present were: Rick Self, representing Mac's Circle K, 3043 London-Groveport Road; and Richard Sunkle and John Gavin, both representing Tim Hortons, 3065 London-Groveport Road. Board member Harold "Butch" Little was absent.

Motion was made by Mr. Davis to approve the minutes of the Nov. 22, 2010, regular meeting.

Seconded by Mr. Brant. VOTE: Brant, YES; Davis, YES. APPROVED.

All who wished to address the board were sworn in at this time.

- 1) **Hear the appeal of Rick Self, representing Mac's Circle K, 3043 London-Groveport Road**, for the following variances:
 - a) To Section 1145.16(e)(1) of Grove City's Codified Ordinances to exceed the 8-foot permitted height for ground-mounted signs by 2 feet; and
 - b) To Section 1145.16(e)(2) of Grove City's Codified Ordinances to eliminate the 10-foot required setback for ground-mounted signs.

Mr. Self addressed the members of the board, explaining that the right of way adjacent to the subject property would be expanded to accommodate improvements to the I-71/665 interchange, requiring relocation of the existing ground-mounted sign on the site. He showed the board members a photograph of the existing sign to illustrate a drop in elevation between the current site and the area to which the sign would have to be relocated. He estimated a difference of 3 to 3½ feet between the two elevations, adding that the difference exceeded the 2-foot requested variance but he believed the 2 feet to be the minimum variance necessary to resolve the issue. He stated that the only alternative to a variance that would keep the sign near its current elevation would be to backfill the edge of the lot, and he said he didn't think that would look good.

Mr. Brant noted that the primary reason for the applicant's request for a height variance was the fact that the improved highway would be elevated several feet above the site of the sign and the sign would have to be raised to maintain its current visibility. Mr. Self indicated that Mr. Brant's statement was correct.

Mr. Davis asked about the timing of the project. Mr. Smith said that the groundbreaking for the interchange redesign was in October and construction would begin in early 2011. He added that the entire project was expected to take 12 to 24 months for completion, but, within that timeframe, he was not sure when the portion of the project affecting the applicant's property would take place.

At this point, comments provided prior to the meeting by Mr. Little were introduced into the record. His comments regarding the Mac's Circle K application included a question about why the sign could not be elevated by re-contouring the land/landscaping since earthwork and grading would be occurring along 665 anyway. Additionally, he said he had no issues with the elimination of the setback requirement.

Mr. Self added that because of the construction of a new bikepath in the expanded right-of-way, the sign would be set back at least as far from the road as it is now.

Motion was made by Mr. Brant to approve the appeal of Rick Self, representing Mac's Circle K, 3043 London-Groveport Road, for a variance to Section 1145.16(e)(1) of Grove City's Codified Ordinances to exceed the 8-foot permitted height for ground-mounted signs by 2 feet.

Seconded by Mr. Davis. VOTE: Davis, YES; Brant, YES. APPROVED.

The two members of the board unanimously agreed that the variance would not be contrary to the public interest, adversely affect the health or safety of persons or be injurious to private property/public improvements; would not adversely affect delivery of governmental services or confer upon the applicant any special privilege denied to other lands, structures or buildings in the same district; would not substantially alter the essential character of the neighborhood or create a "substantial detriment" to adjoining properties; was not substantial; that the property owner's predicament could not feasibly be resolved through some method other than a variance; that no special conditions or circumstances peculiar to the land or structure exist; that the property could yield a reasonable return or be of beneficial use without the variance; that no special conditions or circumstances exist as a result of actions of the current or a previous owner; and that the variance preserves the "spirit and intent" of the zoning requirement and provides "substantial justice."

Motion was made by Mr. Brant to approve the appeal of Rick Self, representing Mac's Circle K, 3043 London-Groveport Road, for a variance to Section 1145.16(e)(2) of Grove City's Codified Ordinances to eliminate the 10-foot required setback for ground-mounted signs.

Seconded by Mr. Davis. VOTE: Brant, YES; Davis, YES. APPROVED.

The two members of the board unanimously agreed that the variance would not be contrary to the public interest, adversely affect the health or safety of persons or be injurious to private property/public improvements; would not adversely affect delivery of governmental services or confer upon the applicant any special privilege denied to other lands, structures or buildings in the same district; would not substantially alter the essential character of the neighborhood or create a "substantial detriment" to adjoining properties; was not substantial; that the property owner's predicament could not feasibly be resolved through some method other than a variance; that no special conditions or circumstances peculiar to the land or structure exist; that the property could yield a reasonable return or be of beneficial use without the variance; that no special conditions or circumstances exist as a result of actions of the current or a previous owner; and that the variance preserves the "spirit and intent" of the zoning requirement and provides "substantial justice."

Mr. Brant advised the applicant that there is a 21-day period during which the board's approval of the variance may be appealed to City Council, and that any work done during that time would be at the applicant's risk.

Mr. Self indicated that the applicant didn't plan to seek the sign permit until the roadway work near the site was completed and the precise location of the sign could be determined.

2) **Hear the appeal of Jeff Baldwin, representing Tim Hortons, 3065 London-Groveport Road,** for the following variances:

- a) To Section 1145.16(e)(1) of Grove City's Codified Ordinances to exceed the 8-foot permitted height for ground-mounted signs by 22 feet; and
- b) To Section 1145.16(e)(2) of Grove City's Codified Ordinances to eliminate the 10-foot required setback for ground-mounted signs.

Mr. Sunkle addressed the board members on behalf of Tim Hortons, indicating that the applicant was not present at the meeting. Mr. Gavin of Custom Sign Center also spoke on behalf of the applicant. Mr. Sunkle explained that with the changes to the interchange, which would include a retaining wall and fence between the subject property and 665, the existing monument sign would have to be moved, and the applicant was seeking the variances to maintain some kind of visibility of the sign.

The board members were shown a photo illustration of what the applicant was proposing. Mr. Gavin referenced an existing 28-foot-tall lighting fixture on the illustration, stating that he had visited the site earlier in the day and the top of the lighting fixture was not visible from the existing southbound ramp and bridge at the interchange, but that it was visible from the northbound ramp. He added that the increased elevation of the road, the retaining wall and fence prompted the applicant to request the 30-foot height. He added that the site is already almost 13 feet below the existing ramp.

Mr. Brant noted that his understanding was that the code reflected a decision by City Council a number of years ago to try to eliminate highway pole signs such as the one shown in the application. Given that, Mr. Brant asked what the lowest height of the sign acceptable to the applicant would be. He added that the staff report indicated a recommendation of an 8-foot variance for a 16-foot overall height.

Mr. Sunkle stated that his aim was just to have some kind of visibility for the sign, so he hoped to come to an agreement with the board for a height that would allow that visibility. He said that he wasn't even sure what the roadway would look like when the project was completed, but that he and his colleagues were thinking that at 30 feet, the sign would be visible to traffic coming from the west from a distance of about 300 feet.

Mr. Brant noted that Mr. Sunkle had indicated that the existing monument sign is not currently very visible, so he felt the board's responsibility was to create a situation for the applicant that would be at least as good as the existing situation. He added that he thought approving a 30-foot sign would far exceed the applicant's existing situation, so he would like to see a proposal from the applicant that would allow the board to preserve City Council's intent in regard to ground-mounted signs.

Mr. Smith stated that the applicant had multiple options, including asking the board to vote on the request as submitted. He noted that with just two board members present, both would have to vote to approve the variance for it to pass. Mr. Smith went on to say that the applicant could request that the items be tabled to take the opportunity to consider different options before bringing it back before the board.

Mr. Gavin told the board that he had an illustration showing the sign at 25 feet in overall height and asked if the board members would be more amenable to that height.

Mr. Boso explained to the board that an effort had been made to gather as much information about the project as possible for both the applicant and the staff to have a clear picture of what effect the roadway work would have on the subject property. In researching the project, he said he was surprised to see the 6-foot fence proposed atop the retaining wall and had been working to refine plans for the fence. He said that he'd received word earlier in the day from the engineering firm responsible for the project that the height of the fence would be lowered to 42 inches. He said staff's recommendation had been based on the expectation of a 6-foot-tall fence. He added that although the retaining wall would be 10 feet tall at its highest point, it would gradually decline to meet the ground at the east end of the property. He said that staff didn't question the need for a variance, but the issue was how much of a variance was really necessary. He added that he wasn't sure yet how the landscaping for the project would affect visibility of the sign but that the City hoped to keep the effect to a minimum.

Mr. Brant asked the applicant if tabling the items would create a hardship. Mr. Sunkle said he wasn't sure what the timeframe for the relocation of the sign would be but that he thought it might be sometime next year. Mr. Boso said he didn't know exactly where that would fall in the overall project schedule.

Mr. Brant noted that the board had a responsibility to keep the applicant as whole as possible but also had to consider City Council's intent to eliminate highway signs to whatever extent possible.

Mr. Davis noted the staff report and the comments from Mr. Little, and Mr. Sunkle confirmed that he had read both the report and Mr. Little's comments. Mr. Davis went on to say that he was not necessarily a supporter of the pole sign, but he did agree with the staff report that the applicant was being affected by the redesign and should have some recourse to a variance. He also mentioned the previous applicant, who hadn't necessarily improved his lot by the variance he requested, but basically maintained current visibility. He added that he wouldn't mind seeing an illustration of the sign at 16 feet, but didn't think the applicant could get the votes for a 30-foot sign that night.

Mr. Gavin asked if there would be any advantage to including some type of pole cover that would make the sign look more like a monument sign. Mr. Boso said that, at 16 feet, he would rather just have the sign float at the top of the pole because the pole cover could create visibility issues for the neighboring property owner.

Mr. Davis noted that he wanted to be sensitive to the time issue for the applicant, and Mr. Boso said that the City was negotiating the right-of-way acquisition with the applicant, and the variance could be a factor in the negotiations.

Mr. Sunkle said that unless the board members needed to see a new drawing, he would be willing to entertain the idea of a 16-foot-tall sign.

Mr. Brant said he was willing to make a motion to approve a variance of 8 feet, as recommended by staff. Mr. Sunkle said that he was agreeable to that.

Motion was made by Mr. Brant to approve the appeal of Jeff Baldwin, representing Tim Hortons, 3065 London-Groveport Road, for a variance to Section 1145.16(e)(1) of Grove City's Codified Ordinances to exceed the 8-foot permitted height for ground-mounted signs by 8 feet.

Seconded by Mr. Davis. VOTE: Davis, YES; Brant, YES. APPROVED.

The two members of the board unanimously agreed that the variance would not be contrary to the public interest, adversely affect the health or safety of persons or be injurious to private property/public improvements; would not adversely affect delivery of governmental services or confer upon the applicant any special privilege denied to other lands, structures or buildings in the same district; would not substantially alter the essential character of the neighborhood or create a “substantial detriment” to adjoining properties; was substantial; that the property owner’s predicament could not feasibly be resolved through some method other than a variance; that no special conditions or circumstances peculiar to the land or structure exist; that the property could yield a reasonable return or be of beneficial use without the variance; that no special conditions or circumstances exist as a result of actions of the current or a previous owner; and that the variance preserves the “spirit and intent” of the zoning requirement and provides “substantial justice.”

Motion was made by Mr. Brant to approve the appeal of Jeff Baldwin, representing Tim Hortons, 3065 London-Groveport Road, for a variance to Section 1145.16(e)(2) of Grove City’s Codified Ordinances to eliminate the 10-foot required setback for ground-mounted signs.

Seconded by Mr. Davis. VOTE: Brant, YES; Davis, YES. APPROVED.

The two members of the board unanimously agreed that the variance would not be contrary to the public interest, adversely affect the health or safety of persons or be injurious to private property/public improvements; would not adversely affect delivery of governmental services or confer upon the applicant any special privilege denied to other lands, structures or buildings in the same district; would not substantially alter the essential character of the neighborhood or create a “substantial detriment” to adjoining properties; was not substantial; that the property owner’s predicament could not feasibly be resolved through some method other than a variance; that no special conditions or circumstances peculiar to the land or structure exist; that the property could yield a reasonable return or be of beneficial use without the variance; that no special conditions or circumstances exist as a result of actions of the current or a previous owner; and that the variance preserves the “spirit and intent” of the zoning requirement and provides “substantial justice.”

3) 2011 meeting schedule.

Motion was made by Mr. Davis to approve the 2011 meeting schedule as submitted.

Seconded by Mr. Brant. VOTE: Davis, YES; Brant, YES. APPROVED.

Mr. Brant asked if there was any new business to discuss, and none was indicated.

Adjournment.

Motion was made by Mr. Davis and seconded by Mr. Brant to adjourn the meeting at 7:52 p.m. VOTE: Brant, YES; Davis, YES. **APPROVED.**

John Brant, Board Member

Christy Zempfer, Secretary