

**CITY OF SOUTH LYON
ZONING BOARD OF APPEALS
March 17, 2016**

Chairman Weipert called the meeting to order at 7:02 p.m.

ROLL CALL:

PRESENT: Chairman Phil Weipert and Commissioners Michael Joseph, Brian Dunn, Ron Morelli, Joe Rzyzi, Frank Fogarty and Steve Mosier. Also present Kelly McIntyre (Director of Community Development) and Tim Wilhelm (City Attorney).

ABSENT: Carmine Avanti (Planning Commission) Excused.

ZBA 03-17-16 MEMBER ABSENCE

Motion by Morelli, supported by Dunn

To excuse Carmine Avanti's absence from the meeting.

VOTE:

MOTION CARRIED UNANIMOUSLY

Chairman Weipert led the committee into the Pledge of Allegiance.

APPROVAL OF AGENDA

ZBA 03-17-16 APPROVAL OF AGENDA

Motion by Fogarty, supported by Morelli

To approve the agenda for tonight.

APPROVAL OF MINUTES:

ZBA 03-17-16 APPROVAL OF MINUTES

Motion by Morelli, supported by Dunn

To approve the minutes of February 25, 2016 with two corrections – page 4, 1st paragraph, last sentence should read: The variance required is a 6' side set-back and I am at **5'10"** (5'10" not

5'1"). Also on page 4, 8th paragraph, last sentence should read: The porch is being moved 6" (6 inches not 6 foot).

VOTE:

MOTION CARRIED UNANIMOUSLY

OLD BUSINESS

ZBA Case 2015:006 – 600 N. Lafayette St.

Request: Chapter 70 "Signs" Sec. 70-6 (C) (1) "All temporary signs must comply with the sign and height standards as specified in the Sign Dimensional Standards and Regulations Table." A Sign Variance from Sec. 70-6 (C) (1) Sign Dimensional Standards and Regulation Table requiring that the maximum size per sign not exceed: 24 square feet face area, with a height of six (6) feet.

The applicant is proposing 64 square feet of sign face area, with a height of (8) feet.

Request: A sign variance from Sec. 70-5 (f) 2 General Standards for Permitted Signs: Sign Area requiring when a sign has two (2) or more faces, the area of all faces shall be included in calculating the area of the sign except where two (2) such faces are placed back to back, only larger face shall be considered, provided that both faces are part of the same structure, contain the same message and are separated by no more than two (2) feet.

The applicant is proposing a sign with two faces that are separated by five (5) feet 10 inches, measured from each sign's back outermost edge.

Chairman Weipet called the applicant Charlie Moore up and to state his name and address for the record and what his practical difficulty is.

Mr. Moore introduced himself and that he represents Chuck Moore's Commercial Sign Service and I am requesting a variance for a large retail leasing sign at South Lyon Square – 600 N. Lafayette. We want to give the property more exposure. My customer Brian Najor uses this type of a sign 8' x 4' and he has a couple of properties that he uses these signs at in Troy and Southfield along with a few other cities. He has found that these signs really draw attention to motorists. What we want to do here is while people are driving on Lafayette, the shopping center sits on the east side of Lafayette so half the center is not visible since it sits on a slight hill. There have been quite a few empty spaces in this center for a while. We just want to draw more attention to it and hopefully get drivers to drive back to the empty spaces available and draw some interest.

ZBA Minutes
Page Three
March 17, 2016

Commissioner Morelli questioned when the sign was put up?

Mr. Moore replied sometime in November.

Commissioner Morelli noted the applicant looked young and inquired if this was the first time he had done something like this?

Mr. Moore replied no.

Commissioner Morelli stated that Mr. Moore had mentioned these other cities that he had these signs in and wondered if they required permits.

Mr. Moore replied no.

Commissioner Morelli responded that other cities did not require a permit?

Mr. Moore replied not all of them.

Commissioner Morelli questioned if the applicant has ever worked in a city that had ordinances and required permits?

Mr. Moore replied that yes, he has.

Commissioner Morelli asked if he had checked with our City to see whether one would be required here?

Mr. Moore responded that unfortunately I did not, no. I thought the size would be small enough to do it. I checked with the sign ordinance people to see what the acceptable size was and we just need it larger.

Commissioner Morelli noted that the requirement is 2'.

For me I am going to make this real easy. I make a motion to deny this request and to tear the sign down and my reasoning is lack of respect for our City.

Attorney Wilhelm inquired of the Chairman that I would suggest that should the board deny, they should list items for denial.

Commissioner Morelli replied that he is going to let his motion stand.

Chairman Weipert asked if there are any seconds for that motion.

Commissioner Morelli noted if it is seconded then it will be discussed.

Attorney Wilhelm inquired of the Chairman I think the area for questions are during public comment and I would suggest the Chair open a public hearing for public comments.

Chairman Weipert inquired if there are any public comments.

Director McIntyre offered that she a received a call from Brandon Sawdon of 181 University and he has no problem with the variance for the record.

Commissioner Morelli noted for the record that there was someone here at the last meeting which Mr. Moore did not show up to and she does has a problem with the sign that is up there.

Commissioner Rzyzi replied that Ron, I am going to second that motion.

Chairman Weipert announced it has been seconded and is up for discussion.

Commissioner Rzyzi stated that I think we should be working with our business owners and I do want to put that on the record at the same time we have ordinances in place for a reason. It is no secret that the City has rules in place. I agree with Ron and agree the sign should be taken down and to come back for a proper permit.

Commissioner Morelli suggested that if this board could impose fines..... but we cannot.

Attorney Wilhelm addressed the Chairman and he encouraged the board to go through the physical conditions, personal or economic difficulties, that the variance is not self-created. That the ordinance would be unnecessary and burdensome, if it would unreasonably affect the property owner from utilizing the property, whether a lesser variance would be sufficient to serve the purposes and whether there is an adverse impact on the surrounding property. The commission could address that which would establish a finding in violation or provide a certain amount of time to allow them to remove the sign.

Chairman Weipert questioned if someone wanted to amend the motion.

Commissioner Morelli responded that his motion is as it stands. I will tell you why. I agree that City needs to rent those spaces, I agree that the sign, if you were here before, may have passed or may not have. There are too many times people just put them up. I believe, in my opinion, that you decided that you were just going to put it up and if we are caught, we get caught and

we will deal with it then. Why our City officials did not site it and make you take it down, I don't know that. But for now, it is what it is, you did not follow the rules and for that reason alone, is why I made the motion I did. In my opinion none of the other stuff matters. You did not follow the rules to start with. My motion still stands.

Chairman Weipert asked if there was any more discussion.

Commissioner Mosier commented that the sign has been up for over four months and I have been over in that area and they have nothing going on. They have done no work on the parking lot, the buildings are vacant and dirty. I agree with Ron that they have not followed the rules.

Commissioner Dunn added that the business I am in I deal with commercial tenants all the time and I think a sign of this magnitude is more for a high traffic area in a major metropolitan area. South Lyon is a small area. You are targeting an audience that I don't think is appropriate. You are looking to larger organizations to move that property. You won't get someone who happens to be driving by. Given our ordinances, I don't see a practical difficulty.

Attorney Wilhelm addressed the Chairman stating after speaking with McIntyre, the application for a variance was filed on November 17, 2015. I have no information on the facts or circumstances.

Mr. Moore added he thought it was at the beginning of December 2015.

Commissioner Morelli noted that he filed for his variance on November 17, 2016.

Mr. Moore explained he was not sure when the code violation came into him. Code violations goes right into my customer and then he forwarded it to me and I do not have a copy of that code violation with me.

Commissioner Dunn replied he would like to make an amendment to Mr. Morelli's motion to apply language saying the applicant has not exhibited a practical difficulty in the case of the sign.

Chairman Welpert noted that is not an amendment to his motion. An amendment to the motion would be to change the motion.

Commissioner Dunn replied that he agrees with Mr. Morelli's content and I believe the applicant did not exhibit a practical difficulty in the application.

I would like to make an Amended Motion In so much as the percentage signage being easily seen by passing motorist is not applicable for a practical difficulty. That the existing sign by nearby parcels being substantially reduced visibility is not a practical difficulty. The construction or conformed sign would require removal or severe alteration is not a practical difficulty, the sign would obstruct the sign of motorists , not a practical difficulty and the variance and certain sign regulations would be offset by increased building setbacks is not a practical difficulty and a sign that exceeds its permitted height has not been exhibited a practical difficulty.

Chairman Weipert asked if there were any second to the amended motion.

Commissioner Fogarty seconded the amended motion.

Chairman Weipert asked if there were any more discussion.

He summed up that the vote now is on the amendment to the motion.

ZBA CASE 2015:006 – 600 N. LAFAYETTE ST.

Motion by Dunn, supported by Fogarty

VOTE:

MOTION CARRIED UNANIMOUSLY

ZBA Case 2015:006 – 600 N. Lafayette St.

Chairman Weipert replied that we are back to the **main motion**.

(I make a motion to deny this request and to tear the sign down and my reasoning is lack of respect for our City).

Chairman Weipert asked if there was any more discussion on that motion?

Commissioner Morelli noticed the applicant had signed for the variance on November 17, 2015 and that he had to know of the violation prior to that date. So the sign most likely went up in October 2015.

Mr. Moore said he did not know he needed a permit, I was told to look through the sign

ZBA Minutes
Page Seven
March 17, 2016

ordinance and I filled out the application after I got the violation.

Chairman Weipert asked if there were any more discussion.

Commissioner Fogarty questioned if any time limit should be placed on it for the removal of the sign currently up.

ZBA CASE 2015:006 – 600 N. LAFAYETTE ST.

Motion by Morelli, supported by Fogarty

VOTE:

5 YEAS, 1 NAY

Commissioner Morelli suggested the applicant remove the sign ASAP and come back in to reapply and to do it right this time.

STAFF REPORTS

Chairman Weipert inquired if anything was coming up?
McIntyre noted there was no Old Business nor any New Business for the upcoming month.

Rzyzi questioned why the building inspector did not have it taken down prior to this.
Chairman Weipert questioned if a sign goes up, can't the building inspector take it down immediately? A person applies for the sign but here they violated the order.

Attorney Wilhelm added that he would never advocate that the building official take action.
Some type of enforcement through the court proceedings.

Commissioner Morelli noted that means for \$200 everyone should just forget about the ordinance and put the sign up and come here and see what happens. I know in the past, our old inspector, Joe Veltri would have made them take it down. Why it was still up after all that time, I don't know.

The sign went up without a permit and it was too big and not in compliance. They are not stupid they know there are sign ordinances. The probably went to the property owner and said

ZBA Minutes
Page Eight
March 17, 2016

you should probably get a permit for this and the guy said just put it up and don't worry about it. So they put it up without a permit and they got caught. If your way is right, then every company should do that.

Attorney Wilhelm agreed that he would check into it. You can appeal the issue of notice of Violation of the sign ordinance.

Commissioner Morelli summed up that the applicant came in, he came here and realized he needed a variance but he came in got the permit put the sign up and the inspector went out and said the size of sign you put up is not up to our standards and if it is a safety issue it would have to come down. They did not even apply for a permit. It goes back to asking for forgiveness vs. permission. A sign company should know this.

ZBA 03/17/16 – ADJOURNMENT

Motion by Fogarty, supported by Morelli

Motion to adjourn the meeting at 7:30 p.m.

VOTE

MOTION CARRIED UNANIMOUSLY

Respectfully Submitted,

Phil Weipert, Chairman

Marianne Jamison, Recording Secretary