

BOARD OF ZONING APPEALS
November 16, 2006

THE REGULAR MEETING OF THE GREENE COUNTY BOARD OF ZONING APPEALS WAS HELD ON THURSDAY, NOVEMBER 16, 2006 AT 7:30 P.M.

Those present were: Raymond Daughtry, Chairman
 Bob Runkle, Member
 Richard Herring, Member
 Bart Svoboda, Zoning Administrator
 Marsha Alley, Secretary

The Chairman called the meeting to order stating that there would be one public hearing for an appeal request.

PUBLIC HEARING: The Lamar Company, LLC—BZA App#06-001

Mr. Daughtry read the request: The Lamar Company, LLC requests an appeal of the Zoning Administrator's determination regarding the sign ordinance as described in Article 14-3-4 (prohibited signs) of the Greene County Zoning Ordinance. (BZA App#06-001)

Mr. Svoboda gave a staff report and a digital presentation explaining that the proposed sign moves as defined in Section 33.1 of the State Code and is therefore prohibited. He added that the Greene County Zoning Ordinance language in 14-3-4 is clear stating that a sign "***which flashes, rotates, visually moves, or is physically agitated,...***" is prohibited, therefore, the proposed sign does not comply with Article 14-3-4 of the Greene County Zoning Ordinance.

Mr. Daughtry asked if there would be anyone speaking regarding this request that would need to be sworn in. There were no speakers aside from Chip Dicks, attorney for the Lamar Company. The chairman opened the public hearing.

Mr. Dicks addressed the Board on behalf of the applicant. He stated that the Board of Supervisors declined to clarify the ordinance at this time resulting in this request being made to the Board of Zoning Appeals. He reviewed the information submitted by the applicant which included a VDOT permit, a letter stating conformity dated April 26, 2006, a photo of the current sign, noting that the existing face would be replaced by a digital sign face, explaining that the Code of Virginia Section 33.1-369.2 requires that the sign change every four (4) seconds or longer in order to comply, and a copy of the harmony of regulations. He agreed that the sign must comply with state and local regulations as outlined in the Greene County Zoning Ordinance Article 14. He reminded the Board that the state requires that the sign cannot change more than once every four (4) or more seconds. He provided definitions from the dictionary of "move" and "visual" noting that the term "move" would not apply according to the definition and that "visual" (to see) could be understood. He suggested that the zoning ordinance leaves doubt in regulating billboards and that the state and federal laws regarding the timing of the sign face changing indicates compliance. He respectfully asked that the BZA overturn the determination of the Zoning Administrator.

Mr. Daughtry stated that technology has certainly changed adding that he had not seen these types of signs used but that he may not have been in the right areas.

Mr. Dicks explained that the sign face is similar to a computer screen. He added that he and Mr. Svoboda agree that the zoning ordinance needs clarification but pointed out that the federal and state regulations do not interpret the face changing every four (4) seconds as movement.

Mr. Herring asked why the Board of Supervisors did not want to clarify the ordinance at this time.

Mr. Dicks explained that he spoke with Mr. Svoboda and understands the concern about the impact on the on-premise signs. He added that the BOS decided not to proceed with clarifying the language at this time.

There was discussion on which signs would be allowed to have a changing face.

Mr. Svoboda reminded the Board that signs must meet all zoning ordinance provisions not just one or the other.

Mr. Runkle stated that the Board is to interpret Greene County's ordinance noting that it seems more stringent than the state requirements. He added that he believes that the sign moves and is therefore prohibited by the ordinance.

Mr. Daughtry agreed that this Board is instructed to interpret the zoning ordinance. He added that the BOS may need to review the language in the ordinance at some point.

Mr. Herring agreed adding that he was sorry that the BOS had not handled this earlier as it does not affect just one person or company. He noted that he had seen this type of sign and liked it but stated that he agrees that it is a moving sign according to the zoning ordinance.

Mr. Runkle made a motion to uphold the Zoning Administrator's decision regarding Article 14-3-4 of the Greene County Zoning Ordinance as the interpretation of the BZA is that the sign does move.

Mr. Herring seconded the motion.

Mr. Daughtry explained that according to Article 17-3-7 of the Greene County Zoning Ordinance, there must be unanimous vote for the motion to carry as there are only three members present.

Mr. Daughtry asked Mr. Svoboda to call for the vote.

Mr. Svoboda called for the vote.

AYE

NAY

Mr. Herring
Mr. Runkle
Mr. Daughtry

The motion to uphold carried by a 3-0 vote.

There was discussion regarding the clarification and interpretation of the ordinance and the possibility of appeal.

Mr. Herring made a motion to ask the BOS to review the sign ordinance regarding these types of signs.

Mr. Runkle seconded the motion.

The motion was approved by a unanimous vote.

OLD/NEW BUSINESS

There was discussion on changing the meeting date for December due to the holidays. It was determined that the meeting date for December would be Thursday, December 14, 2006 at 7:30 pm.

Mr. Svoboda informed the BZA that several ordinance revisions in progress and that he will try to add the sign ordinance to them as well.

MINUTES

Mr. Runkle made a motion to approve the minutes of February 22, 2006 with changes as follows:

Page 2....paragraph 7 and change "obtained" to "abstained".

Mr. Herring seconded the motion.

The minutes of February 22, 2006 were unanimously approved with those changes being made.

OTHER MATTERS

Mr. Daughtry asked if there were any questions from the public.

Several neighbors voiced concern about the public hearing scheduled for next month.

There was discussion as to what the requested appeal is for and how the appeals process works.

ADJOURNMENT

There being no further business, the meeting was adjourned.

Respectfully submitted,

Marsha Alley

Marsha Alley, Secretary