

**MINUTES
ZONING BOARD OF ADJUSTMENT
MARCH 20, 2018**

1. **CALL TO ORDER** – Olson called the meeting to order at 4:00 p.m.

2. **ROLL CALL**

Members Present: Behrens, Juon, Olson, and Vargas

Members Absent: Mescher

Staff: Brown, Meeks, and Wade

3. **PLEDGE OF ALLEGIANCE**

4. **ADOPTION OF AGENDA**

Brown announces that the applicant for Case #BA-18-001 has elected to postpone the public hearing of that case until the April 17, 2018 Zoning Board of Adjustment meeting.

Motion by Behrens, second by Vargas, to adopt the amended agenda. Motion carried by unanimous voice vote.

5. **APPROVAL – MINUTES OF DECEMBER 19, 2017 MEETING**

Motion by Vargas, second by Behrens, to approve the minutes as written. Motion carried by unanimous voice vote.

6. **PROOF OF PUBLICATION** – Brown

7. **REVIEW OF MEETING PROCEDURES** – Olson

8. **PUBLIC HEARINGS**

B. CASE #BA-18-002: Public hearing on the request of Roger Sandau for a variance from Section 15.33.190(10), Off-Premises Signs (Billboard), Animation and Motion of the Municipal Code (Zoning Ordinance) to allow an off-premise sign (billboard) to be refaced with an electronic changeable copy without removing three existing non-conforming signs each encompassing equal or greater sign area on property legally described as being Lots 11 through 14, Block 15, Ferry Addition and the South 1/2 of the vacated alley adjacent along with Lot 15, Block 15, Ferry Addition, except the City right-of-way. Location: 3418 West Broadway,

The following members of the public spoke in favor of the request. No one spoke in opposition of the request.

Roger Sandau, 650 Simms Avenue, Council Bluffs, IA, stated he interprets the Section 15.33.190(10) differently than staff, and that the sentence “For each new off-premise electronic changeable copy sign of a given sign area to be erected in conformance with this chapter, three existing nonconforming signs each encompassing equal or greater sign area shall be removed.” does not apply to this request, as it is for the improvement of an existing sign, not the erection of a new sign. Sandau stated he has applied for a refacing permit, as is required. Sandau also cited an electronic changeable copy sign that was improved on South 21st Street by the Lamar Advertising Company may not have been required to remove three nonconforming billboards.

Brown replied that the permit records were not found by the Community Development Department, or the Building Department of the City of Council Bluffs, though the owner of that sign, Lamar, did have a permit that was issued on September 1, 2008.

Juon asked when the current ordinance was adopted, to which Wade responded that the current code was adopted in 2007.

Brown stated that the ordinance featured a number of changes when it was adopted, and the standard for removing three nonconforming billboards was the result of a recommendation from the Planning Commission, not from staff.

Olson asked for legal advice of Staff's interpretation versus Sandau's interpretation. Wade responded that it is the decision of the Board to determine the interpretation of the code, and the Board has the option to reverse the interpretation of staff through an Administrative Appeal. The Board continued to ask questions of staff to determine the best course of action on this case.

Behrens stated that the wording of the existing ordinance needs to be addressed. Wade suggested that if the Board finds that the ordinance is misleading, it is best to consider than an Administrative Appeal instead of ruling on a variance through finding hardship from the ordinance.

Olson stated that he can see where both interpretations come from in regards to the code. Vargas and Behrens agree that the findings of this case would be setting a precedent.

Roger Sandau, 200 Lincoln Avenue, Council Bluffs, stated that he does not believe it is this case which is setting precedent, rather it was the Lamar Billboard that was previously constructed that shows the intent of the ordinance.

Juon stated that he would be comfortable with instructing staff to approve the refacing permit, based on the confusion of the code, and that staff would be welcome the rewrite the code for future cases. Brown agrees that rewriting the code would be an option moving forward.

Motion by Juon, Seconded by Olson for an Administrative Appeal to overturn Staff's interpretation of Section 15.33.190(10), Off-Premises Signs (Billboard), Animation and Motion of the Municipal Code (Zoning Ordinance) to allow an off-premise sign (billboard), and for staff to approve the refacing permit that was submitted by the applicant.

Behrens stated she agrees with Staff's interpretation, but agrees the wording needs to be updated.

VOTE: AYE– Juon, Olson, and Vargas. NAY– Behrens. ABSTAIN– None. ABSENT– Mescher. Motion carried.

Olson instructed staff to explore a text amendment to clarify this section of code.

9. OTHER BUSINESS

A. Items of Interest:

1. Brown stated that the Board has been provided with a handout regarding Iowa State Extension Planning and Zoning Workshops, and invites the Board to attend any they are interested in, and while voluntary does provide a refresher on the responsibilities and rules for the board.

2. Brown stated that during the April Zoning Board of Adjustment Meeting there will be election of officers and other annual approvals. Juon stated that he will not be seeking reappointment to the board, and has submitted a letter with his intent to be replaced to Mayor Walsh and the Community Development Department.
3. Behrens requests that open meeting rules and protocol be followed more closely in the future. Olson agreed. Brown suggested that the board always err on the side of caution, even if it feels redundant at the time.

10. ADJOURNMENT – Olson adjourned the meeting at 4:50 p.m.

The recording of this proceeding, though not transcribed, is part of the record of each respective action of the Zoning Board of Adjustment. The recording of this proceeding is incorporated into these official minutes of this Board meeting as if they were transcribed herein.