

LITTLE ROCK BOARD OF ADJUSTMENT

SUMMARY OF MINUTES

JANUARY 25, 2010

2:00 P.M.

I. Roll Call and Finding of a Quorum

A Quorum was present being four (4) in number.

II. Approval of the Minutes of the Previous Meetings

The Minutes of the December 21, 2009 meeting were approved as mailed by unanimous vote.

III. Members Present: Robert Winchester, Vice Chairman
Leslie Greenwood
Scott Smith
James Van Dover

Members Absent: David Wilbourn, Chairman

City Attorney Present: Debra Weldon

LITTLE ROCK BOARD OF ADJUSTMENT

AGENDA

JANUARY 25, 2010

2:00 P.M.

I. OLD BUSINESS:

A. Z-8507 814 West 7th Street

II. NEW BUSINESS:

1. Z-6524-C 509 President Clinton Avenue

2. Z-7463-B 6425 S. University Avenue

3. Z-8507-A 814 W. 7th Street

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ITEM NO.: A

File No.: Z-8507

Owner: Robert Berry

Applicant: Terry Burruss

Address: 814 West 7th Street

Description: North side of West 7th Street, between State and IZard Streets.

Zoned: UU

Variance Requested: A variance is requested from the sign provisions of Section 36-553 to allow a projecting sign which exceeds the maximum area allowed.

Justification: The applicant's justification is presented in an attached letter.

Present Use of Property: Vacant Commercial Building

Proposed Use of Property: Tattoo Shop

Staff Note:

The sign as proposed by the applicant is considered a "roof sign" by ordinance definition based on the fact that it extends above the roofline of the building. According to ordinance, a "roof sign" is a prohibited sign type. As such, the applicant cannot request a variance for the proposed sign.

Staff suggests that the applicant develop an alternate signage plan and present it to the Board of Adjustment at the December 21, 2009 meeting. Therefore, staff recommends this application be deferred to the December 21, 2009 Agenda.

BOARD OF ADJUSTMENT:

(NOVEMBER 30, 2009)

The applicant was not present. Staff recommended the application be deferred to the December 21, 2009 agenda, to allow the applicant time to address the "roof sign" issue.

The Chairman placed the item on the Consent Agenda for deferral to the December 21, 2009 agenda. The Consent Agenda was approved with a vote of 3 ayes, 0 nays and 2 absent. The application was deferred.

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ITEM NO.: A (CON'T.)

Staff Note:

The applicant submitted a letter on December 9, 2009 requesting the application be deferred to the January 25, 2010 Agenda. Staff supports the deferral request.

BOARD OF ADJUSTMENT:

(DECEMBER 21, 2009)

The applicant was not present. There were no objectors present. Staff presented the item and informed the Board that the applicant had requested deferral of the item to the January 25, 2010 meeting. There was no further discussion. The item was placed on the consent agenda and deferred to the January 25, 2010 meeting by a vote of 5 ayes, 0 noes and 0 absent.

Staff Note:

The applicant has filed an appeal, appealing staff's interpretation of the definition of a "roof sign". The appeal is on this agenda (Item 3). Therefore, this application for variance needs to be deferred to the February 22, 2010 Board of Adjustment agenda, so that the Board may first act on the applicant's appeal.

BOARD OF ADJUSTMENT:

(JANUARY 25, 2010)

The applicant was present. There were no objectors present. Staff presented the item and informed the Board that the item needed to be deferred to the February 22, 2010 Agenda. There was no further discussion. The item was placed on the consent agenda and deferred to the February 22, 2010 meeting by a vote of 4 ayes, 0 noes and 1 absent.

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ITEM NO.: 1

File No.: Z-6524-C
Owner: Torrent Fire Co./Don Winton
Applicant: Isaac Alexander and Eric Lancaster
Address: 509 President Clinton Avenue
Description: South side of President Clinton Avenue, between Commerce and Sherman Streets
Zoned: UU

Variance Requested: A variance is requested from the sign provisions of Section 36-353 to allow a second projecting sign on the building.

Justification: The applicant's justification is presented in an attached letter.

Present Use of Property: Advertising Agency

Proposed Use of Property: Advertising Agency

STAFF REPORT

A. Public Works Issues:

1. Obtain a franchise agreement from Public Works (Bennie Nicolo, 371-4818) for the private improvements located in the right-of-way.

B. Staff Analysis:

The UU zoned property at 509 President Clinton Avenue is occupied by a two-story brick commercial building. The building is located on the south side of President Clinton Avenue, between Commerce and Sherman Streets. The first floor of the building is occupied by the Flying Fish restaurant. The second floor is occupied by Eric Rob and Isaac, an advertising agency. The Flying Fish has signage on the awnings on the building as well as a projecting sign on the front, northwest corner of the building.

The applicant (Eric Rob and Isaac) is proposing an awning sign over the first floor entry doors and a projecting sign above the first floor awning and below the second floor windows. The proposed projecting sign will be approximately 12 square feet in area and located 12 to 14 feet above the sidewalk. It will project approximately 36 inches from the building. Sketches and photos of the sign and building are attached for the Board's review.

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ITEM NO.: 1 (Con't.)

Section 36-353(e)(1)d. of the City's Zoning Ordinance (River Market Design Overlay District sign regulations) limits the number of projecting signs on the building to one (1) sign per 100 feet of primary street frontage per building. Therefore, the applicant is requesting a variance from this ordinance requirement to allow the second projecting sign on this building which has less than 100 feet of street frontage along President Clinton Avenue.

The River Market Design Review Committee reviewed the signage plan for Eric Rob and Isaac on October 13, 2009. The Design Review Committee voted unanimously to approve the awning and projecting signs as proposed by the applicant.

Staff is supportive of the requested variance to allow the second projecting sign on the building at 509 President Clinton Avenue. Staff views the request as reasonable. The proposed projecting sign will not be out of character with other similar signs within the River Market District. Most importantly, the proposed projecting sign will be located far enough away from the existing projecting sign (Flying Fish) so that neither sign will conflict or obscure the other sign. This, in staff's opinion, meets the intent of Section 36-353(e)(1)d. in limiting or spacing projecting signs within the River Market District. Staff believes the proposed projecting sign will have no adverse impact on other signs or properties in this general area.

C. Staff Recommendation:

Staff recommends approval of the requested sign variance, subject to the following conditions:

1. A franchise permit must be obtained from the Public Works Department for the projecting sign.
2. The projecting sign may extend no more than 36 inches from the building façade.
3. Permits must be obtained for all signage.

BOARD OF ADJUSTMENT:

(JANUARY 25, 2010)

The applicant was present. There were no objectors present. Staff presented the item and a recommendation of approval as noted in the "staff recommendation" above. There was no further discussion. The item was placed on the consent agenda and approved as recommended by staff. The vote was 4 ayes, 0 noes and 1 absent.

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ITEM NO.: 2

File No.: Z-7463-B
Owner: Billy Milam
Applicant: Steven Murrah, White Sign Co.
Address: 6425 S. University Avenue
Description: Northeast corner of S. University Avenue and West 65th Street
Zoned: C-4

Variance Requested: A variance is requested from the sign provisions of Section 36-557 to allow a canopy sign without direct street frontage.

Justification: The applicant's justification is presented in an attached letter.

Present Use of Property: Convenience store with gas pumps

Proposed Use of Property: Convenience store with gas pumps

STAFF REPORT

A. Public Works Issues:

No Comments.

B. Staff Analysis:

The C-4 zoned property at 6425 S. University Avenue is occupied by a recently constructed convenience store with gas pumps. The property is located at the northeast corner of S. University Avenue and W. 65th Street. The convenience store building is located within the east half of the property, with the gas pumps and canopy structure within the west half. Access drives from S. University Avenue and W. 65th Street serve the site. There is a ground-mounted sign at the southwest corner of the property oriented toward the traffic along S. University Avenue. There is also a wall sign on the west side (front) of the convenience store building. There are signs on the west, north and south sides of the gas pump canopy.

On October 26, 2009 the Board of Adjustment approved a variance to allow placement of a sign on the east side of the gas pump canopy (southeast corner), without direct street frontage. The approved sign is an electronic sign for the display of fuel prices. The sign was approved, subject to the following conditions:

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ITEM NO.: 2 (Con't.)

1. The sign on the north end of the gas pump canopy must be removed within 30 days.
2. The sign on the south end of the gas pump canopy will be allowed to remain.
3. There will be no other ground-mounted signs allowed on the property.
4. All signs must be permitted.

Since the approval date, the applicant has obtained permits for the signs on the east, west and south sides of the canopy. However, the sign on the north side of the canopy has not been removed. The applicant is now back before the Board of Adjustment to readdress the issue of the sign on the north end of the canopy, asking that it be allowed to stay.

Section 36-557(a) of the City's Zoning Ordinance requires that signs face a public street frontage. Therefore, the applicant is requesting a variance to allow the sign on the north end of the gas pump canopy with no direct street frontage.

Staff is not supportive of the requested variance. Staff believes the sign on the north end of the gas pump canopy serves no real purpose in identifying this business. The sign on the west side of the canopy and the ground sign at the southwest corner of the property provide ample visibility and identity of the property to traffic southbound on S. University Avenue. Although a gas pump canopy sign without direct street frontage is a common occurrence found on gas pump canopies in this general area along S. University Avenue (Valero, Dodge Store and Zimmerman's Exxon), different circumstances exist with those properties which make the canopy signs without street frontage good options. The sign on the south side of the Valero gas pump canopy was allowed when there were no other buildings between it and West 65th Street. Staff believes the requested sign on the north end of the gas pump canopy at 6425 S. University Avenue is excessive, serves no purpose in identifying this business and represents nothing more than sign clutter. There are five (5) other signs on this property which staff feels adequately identify this convenience store with gas pumps business.

C. Staff Recommendation:

Staff recommends denial of the requested variance to allow a canopy sign without street frontage.

BOARD OF ADJUSTMENT:

(JANUARY 25, 2010)

Brad White and Steven Murrah were present, representing the application. There were no objectors present. Staff presented the application with a recommendation of denial.

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Brad White addressed the Board in support of the application. He explained that the sign on the north end of the canopy aided in the identification of the business. He noted that the sign had good visibility from S. University Avenue.

Scott Smith discussed the sequence of events leading to the variance request. Mr. White explained that the company that constructed the gas pump canopy also placed the signs on the canopy, and did not obtain permits for the signs.

Scott Smith asked if the canopy sign was vinyl and how hard it would be to remove it. Mr. White explained that it could be a clean removal, or that there could be leftover adhesive that would have to be removed.

Access to the property was briefly discussed. The other signage on the site was also discussed.

In response to a question from the Board, Mr. White noted that the canopy signs were installed when the canopy was constructed.

James Van Dover explained that the applicant accepted the terms which included removal of the sign on the north canopy side when the variance was approved for the sign on the east canopy side. This issue was discussed.

There was a motion to approve the requested sign variance, as filed. The motion failed by a vote of 0 ayes, 4 nays and 1 absent. The application was denied.

After a brief discussion, there was a second motion requiring the applicant to remove the sign from the north end of the canopy within 30 days. The motion passed by a vote of 3 ayes, 1 nay and 1 absent.

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ITEM NO.: 3

File No.: Z-8507-A
Owner: Robert Berry
Applicant: Terry Burruss
Address: 814 West 7th Street
Description: North side of West 7th Street, between State and Iazard Streets
Zoned: UU

Variance Requested: An administrative appeal is requested, appealing the Planning staff's interpretation of the definition of a "roof sign".

Justification: The applicant's justification is presented in an attached letter.

Present Use of Property: Vacant Commercial Building

Proposed Use of Property: Tattoo Shop

STAFF REPORT

A. Staff Analysis:

The UU zoned property at 814 West 7th Street contains a one-story brick commercial building which is currently vacant. The property is located on the north side of West 7th Street, between State and Iazard Streets. The building was previously occupied by Eaton Beauty Stylist College. There is on-street parking in this general area which serves the commercial building. There are two (2) existing wall signs on the building which previously identified the Eaton College use. The wall sign on the front (south) of the building is approximately 15 square feet in area and the wall sign on the east building façade is approximately 48 square feet in area.

The applicant recently submitted a variance application for a new projecting sign to be placed on the front of the building (Item A on this agenda, Z-8507). The new projecting sign would identify a new tattoo shop which is planning to occupy the building. The new projecting sign is approximately 60 square feet in area and would replace the two (2) existing wall signs on the building.

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After reviewing the application, staff informed the applicant that the variance could not go forward based on the fact the proposed projecting sign was also classified as a "roof sign", a prohibited sign type. This was based on the fact that the proposed projecting sign extends above the roofline of the building (flat roof construction). The applicant cannot seek a variance for a sign which is prohibited by ordinance. Therefore, the applicant is requesting an administrative appeal, appealing the Planning Staff's interpretation of the definition of a "roof sign". The applicant does not agree with staff's classification of the proposed sign as a roof sign. Please see the attached letter from the applicant and sketches for additional information.

Section 36-530 of the City's Zoning Ordinance defines "roof sign" as follows:

"Roof sign means any sign erected over or on the roof of a building."

The word "over" is defined by Webster's dictionary as follows:

"over...In or at a position above or higher than"...up to or higher than the level or height of".

The word "above" is defined by Webster's dictionary as follows:

"above...Over or higher than"

It is staff's opinion that the proposed projecting sign should be classified as a "roof sign" based on the fact that it extends "higher than" the roof of the building at 814 West 7th Street. The proposed projecting sign is approximately 7.75 feet higher than the flat roof of the building. This is how staff has been interpreting the issue of roof signs since the inception of the ordinance. Section 36-543 of the code is the section which prohibits "roof signs", and reads as follows:

"Section 36-543. Prohibited signs and sales promotion devices.

The following type signs are prohibited in all districts unless otherwise noted:

- (1) Abandoned signs.
- (2) Banners, pennants, festoons, searchlights, except as allowed in section 36-557, subsection (d).
- (3) Signs imitating or resembling official traffic or government signs or signals.

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- (4) Snipe signs or signs attached to trees, telephone poles, fences, public benches, or placed on public property or public right-of-way.
- (5) Vehicular signs.
- (6) Trailer or temporary signs that do not meet the standards for freestanding permanent signs.
- (7) Roof signs, or any sign that is not mounted on a vertical surface.
- (8) Rotating signs.
- (9) Off-premises signs except as specifically permitted elsewhere in this article.”

The applicant is appealing staff’s interpretation of the ordinance and labeling of the proposed projecting sign as a “roof sign”. The applicant is requesting that the Board of Adjustment review and overturn staff’s interpretation of the ordinance, and not classify the proposed projecting sign as a “roof sign”.

BOARD OF ADJUSTMENT:

(JANUARY 25, 2010)

Terry Burruss and Robert Berry were present, representing the application. There were no objectors present. Staff presented the application for administrative appeal.

Terry Burruss addressed the Board in support of the application. He discussed the definition of the word “over” as used in the definition of a roof sign. He noted that the proposed sign is a projecting sign and not a roof sign.

James Van Dover explained that he thought the issue was with the projecting sign being located over the canopy on the front of the building. This issue was briefly discussed.

The definition of roof sign and projecting sign were discussed. The issue of marquee signs was discussed. The issue of canopy and other building attachments was discussed. The issue of parapet walls was also discussed.

Scott Smith asked why the ordinance prohibited roof signs. Dana Carney, city staff, explained that the City Board of Directors passed the ordinance many years ago. He explained that issues of aesthetics, limiting visual

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clutter and the amount of signs deemed acceptable were probable reasons for prohibiting roof signs and other sign types. This issue was discussed. James Van Dover noted that there were no means of preserving what the City Directors considered at the time the ordinance was passed.

The issue of roof sign was discussed further. Robert Berry addressed the Board. He discussed the design and preservation of the building at 814 West 7th Street. He explained the need for the sign and sign design.

There was a motion to approve the applicant's requested appeal. The motion passed by a vote of 3 ayes, 1 nay and 1 absent. The appeal was approved.

January 25, 2010

There being no further business before the Board, the meeting was adjourned at 3:10 p.m.

Date: _____

Vice-Chairman

Secretary