

GRAND JUNCTION BOARD OF APPEALS

July 8, 1992

8:02 a.m. - 8:57 a.m.

The Grand Junction Board of Appeals Public Hearing was called to order by Chairperson John Elmer at 8:02 a.m. in the City/County Auditorium, 520 Rood Avenue.

In attendance, representing the Board of Appeals, were John Elmer, Bill Collins, Aden Hogan, William Putnam and City Enos-Martinez.

In attendance representing the Community Development Department was Jan Koehn. Also present were John Shaver, Assistant City Attorney, and Ivy Williams from the Community Development Department.

Marcia Petering was present to record the minutes.

I. APPROVAL OF MINUTES

MOTION: (ADEN HOGAN) "Mr. Chairman I move that the minutes of May 13, 1992 be approved as distributed."

Bill Collins seconded the motion. The motion was approved by a vote of 5-0.

II. PUBLIC HEARING

- 1. Item #92-3 Consideration of a request to vary the sign code regulations to allow more than the 25% of the allowed signage for a business to be transferred from the front to the side of the building.**

PETITIONER: Kay Jones & F. Edward Wolf/Tanfastic
LOCATION: 1001 Patterson Road

PETITIONERS PRESENTATION

Mr. Ed Wolf of Tanfastic said his building sits on an angle and he would like to put signs on both angled sides of his building so it would be visible on Patterson Road coming from both the east and the west. Mr. Wolf said he thinks it would be more aesthetically pleasing to do this than to hang a sign on a pole out over the street as the insurance agency currently does. Mr. Wolf said he thinks signs on the building look better and he doesn't want Patterson Road to look like North Avenue.

William Putnam asked what the sign would say and how big it would be. Mr. Wolf said the sign would say "Tanfastic" and it will be approximately 30" x 8'.

William Putnam asked if each would be this size, if they would be attached to the wall and if the existing sign in the front of the building would stay. Mr. Wolf said both signs would be the same size and they would be attached to the building. Mr. Wolf said he wasn't sure what would happen with the

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current sign. The current sign is for a business which used to be located in the building and is no longer there.

Aden Hogan asked Mr. Wolf if he owned the property or rented. Mr. Wolf said he rented and that Kay Jones is the owner.

STAFF PRESENTATION

Jan Koehn said the petitioner is requesting two 20 s.f. signs; he is allowed 66 s.f. of signage and essentially what he would like to do is to divide the signage up evenly so he would have two equal signs. The actual variance requested amounts to 3.5 s.f. over the 25% he is allowed by code to transfer. Staff has no objection to this request.

Aden Hogan asked if Staff had any recommendation as regards to the existing sign. Ms. Koehn said the existing ground sign is a legal sign which meets the code; it can remain and if so desired Tanfastic could add their name to this reader board sign also.

Aden Hogan said, then in addition to the signs Mr. Wolf is requesting, this ground sign would also be allowable according to code. Ms. Koehn said yes.

PUBLIC COMMENT

There was no public comment either for or against this proposal.

BOARD DISCUSSION

John Elmer said the request is only for a 3.5 s.f. variance of the 66 s.f. then. Ms. Koehn said yes and would still be 26 s.f. under the total signage he is allowed. If Mr. Wolf wanted to, he could place a 66 s.f. sign along Patterson Road; this request is more aesthetically appropriate.

Aden Hogan said he likes building mounted rather than free standing signs as it is cleaner looking.

John Elmer said the hardship is the condominium approaching the building and the angle of the building on the lot.

William Putnam said there are already 2 building mounted signs on the building, as well as the insurance sign hanging over the sidewalk, does that not matter code wise? Ms. Koehn said not on a multi-tenant building as all signage is calculated on the frontage of the space they actually occupy.

Bill Collins asked if we have the authority to request the ground sign be removed even though it is allowed by code in order to allow this variance.

Cindy Enos-Martinez said the ground sign belongs to the owner and the entire building not just this

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individual.

John Elmer said without the owner representative here that would be hard to do.

Aden Hogan asked if there was any comment from any other agency. Ms. Koehn said no, there were no comments from any review agency.

MOTION: (Aden Hogan) "Mr. Chairman on item #92-3, a request to vary the sign code regulations to allow more than 25% of the allowed to signage for a business to be transferred from the front to the side, I move that a variance be granted to add an additional 3.5 s.f. above the 25% allowed signage transfer for 2 building mounted signs.

Cindy Enos-Martinez seconded the motion. The motion was approved by a vote of 5-0.

Cindy Enos-Martinez left the meeting at 8:15 a.m.

2. **Item #92-4 Consideration of a request to vary the sign code regulations to allow more than the 25% of the allowed signage for a business to be transferred from the front to the sides of the building, allowing signage on three sides.**

PETITIONER: Payless ShoeSource
LOCATION: North Avenue & Melody Lane

PETITIONERS PRESENTATION

Chris Rusch with Sachs-Lawlor signs in Denver, CO was present to represent the petitioner and Federal Sign Company. Mr. Rusch referred to the site plan and stated they are requesting three building mounted signs; one each on the north, east, and west and also one pylon sign. The pylon sign will be 28 s.f. and would be placed 10' from the property line and 20' from the curblin. The building mounted signs would be 20" x 20'-4" individual letters, which would be approximately 35 s.f. per sign. Mr. Rusch said this is conservative size signage for the building facade it goes on. Mr. Rusch said these signs were designed to be within the 135 s.f. of signage they are allowed by the code.

Mr. Rusch said Payless is a long name but it is a national trademark and they are required to have this signage up there.

Aden Hogan asked what sides of the building we are looking at for the signs. Mr. Rusch said the north, east, west, and also two entrance signs of 3 s.f. each.

John Elmer said the hardship could be construed as the length of the name and the trademark. Mr. Rusch said yes and they also sit back 135' from the curblin, so it is a great distance from the road.

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John Elmer asked if they are at the smallest possible size for the letters. Mr. Rusch said yes and some of the lower case letters are only 13" in height.

John Elmer said he questions the overall need considering there would be a sign in the front.

Aden Hogan agreed and said it would appear there would be very good exposure with the pylon sign on North Avenue and questioned whether the signage on the east side of the building would be very effective, especially once the adjacent lot is constructed upon; also the length of the name doesn't represent a physical hardship of the lot.

Bill Collins asked if the request is predicated by the location of the store or the type of signage. Mr. Rusch said every store Payless has with this type of configuration of lot has at least three sets of letters on the building and everything is already down-scaled.

STAFF PRESENTATION

Jan Koehn said her understanding of the variance request is not for size but rather that they would like a third sign. Ms. Koehn said according to her calculations the request is for 33.88 s.f. per side. Payless is allowed 135 s.f. of signage and if 25% of that was moved to one side it would be 33.75 s.f. which is very close to the 33.88, therefore, the request is for a third wall sign. Ms. Koehn said the code only allows two wall signs per property and would exceed the 25% he is allowed to transfer.

Ms. Koehn said staff does not support this request.

Aden Hogan said this request is for an additional sign then. Ms. Koehn said it is a request for an additional 33.88 s.f. of signage to be transferred to a third wall sign.

John Elmer said then, in effect, this nullifies the hardship as it is not the size of the name that is the problem but rather a request for an additional sign on the side. Ms. Koehn said yes, they are requesting 3 signs rather than 2 and said she didn't think it was appropriate to grant a variance for 1/10 of a foot.

PUBLIC COMMENT

There was no public comment either for or against this request.

PETITIONER REBUTTAL/BOARD DISCUSSION

Mr. Rusch stated that they are not requesting more square footage than the sign code allows.

John Elmer said the Board must base their decision on is a demonstrable hardship and we must be clear the hardship is not self inflicted. It must be clear that the hardship does exist.

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Mr. Rusch said normally Payless would have a 24" letter, so it is already smaller than nationally; the building sits back 135' from the road, which is a long distance; the pylon sign is usually larger; and on a national level Payless has letter signs on three sides of their buildings, so everything we are doing is already scaled down.

Aden Hogan asked how much of a variance is actually being requested over the 25% of signage allowed to be transferred. Ms. Koehn said, for three signs, it would be 34 s.f. Aden Hogan said then we are talking a 34 s.f. variance out of a total signage allowance of 135 s.f. which is fairly significant.

Aden Hogan said his main concern was if this variance is granted without a demonstrable hardship we will be setting a precedent and 75 other businesses along North Avenue without a hardship can come in and request the same thing. Aden Hogan said the building is set pretty deep into the lot but pointed out a good size pylon sign can be erected right out on North Avenue.

Mr. Rusch said their other dilemma is whatever size the pylon sign is, it must be deducted from the total signage allowed.

Aden Hogan stated, by ordinance, in order for us to grant a variance there must be a demonstrable hardship unique to the property which precludes you from doing something which your neighbor could do within the zoning or sign regulations, and in this case I can't grasp a hardship.

Mr. Rusch said with the lot configuration, there is small frontage, so it constricts the signage allowance.

William Putnam asked if the building was turned the other way if his signage allowance would increase. John Elmer said, he believed, it is the lot frontage which is the determining factor not the building. Ms. Koehn said that is correct.

Bill Collins said he had a potential conflict of interest as his parents own a shoe store in Montrose, which is not a direct competitor, but he has no financial interest in the store. John Elmer said the city attorney normally will say as long as you stated that there is no economic benefit to you it is your decision as to whether or not you wish to excuse yourself. John Shaver agreed.

John Elmer said this lot doesn't present any unique difficulties; that everyone wants more signs and he could see no hardship for the request for a third sign.

MOTION: (Aden Hogan) "Mr. Chairman on item #92-4, consideration of a request to vary the sign code regulations to allow more than 25% of the allowed signage for a business to be transferred from the front to the sides of the building allowing signage on three sides at the Payless ShoeSource located at North Avenue & Melody Lane, I move to deny the request on the basis of no hardship being demonstrated.

Bill Collins seconded the motion. The motion was approved by a vote of 4-0.

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3. **Item #92-5 Consideration of a request to vary the sign code regulations to allow the placement of an additional free-standing sign on the property.**

PETITIONER: Steve Westphal Chevrolet, Buick, Pontiac & Geo, Inc.
LOCATION: 2595 Highway 6 & 50

PETITIONER PRESENTATION

Tom LaCroix, attorney for Steve Westphal Chevrolet, Buick, Pontiac & Geo, Inc. was present to represent the petitioner. Mr. LaCroix said when Meade Classic Motors met its demise, General Motors allowed Steve Westphal to have the Pontiac/Buick franchise and under the terms and conditions of the Pontiac/Buick franchise there must be additional General Motors signage. Mr. LaCroix said this also requires a name change to comply with General Motors and the Colorado Corporation Code, so the Westphal organization, in order to comply with both of these requirements, needs to have this sign. Mr. LaCroix said the sign would be 300' off of Highway 6 & 50 and in the center of the lot.

John Elmer asked if the sign would state the entire name? Mr. LaCroix said yes. John Elmer asked if the State or General Motors requires the sign be free-standing versus a sign on the building. Mr. LaCroix said General Motors requires a free-standing sign.

John Elmer said there are already two free-standing signs and asked why they can not be combined. Mr. LaCroix said the Geo sign will be removed.

Jan Koehn said her understanding is that the Geo sign would be moved to a different location. They are allowed one free-standing sign on the parcel and Westphal has two, so one appears to be non-conforming already. Ms. Koehn said she spoke with Steve Westphal and he said he wanted to move the Geo sign to the middle of the lot and keep it free-standing and to add a third free-standing sign.

John Elmer said as soon as that second free-standing sign is moved it is no longer grand-fathered so we are probably looking at a variance for 2 additional free-standing signs. Ms. Koehn said the sign code is specific that all non-conforming signs are supposed to be down by 1984.

Mr. LaCroix said this is not like the illuminated sign you granted Fuoco a variance for, it is a standard, fixed GM sign. John Elmer said the cases are not similar as Fuoco's sign is one which lists all of his cars on one sign, and inquired why Westphal's can't do a similar type sign. Mr. LaCroix said the requirements are from the manufacturers. John Elmer asked if they all require separate signs. Mr. LaCroix said yes.

Bill Collins stated he had a potential conflict of interest as Mr. LaCroix's law firm represented him in a lawsuit which involves a third party. John Shaver said he saw no conflict as long as it has been stated.

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STAFF PRESENTATION

Jan Koehn said this is not a request to vary the allowed signage but is a request for an additional, third, free-standing sign. Ms. Koehn said there is already a second, non-conforming, free-standing sign which could not be altered at all without bring the sign into compliance with the Code.

Ms. Koehn said there are a couple of other options available outside of a variance request. Ms. Koehn said Westphal has two parcels, and pointed out, on the map, parcels 100 and 102 which is behind it but has no frontage; an option that was suggested a long time ago to a sign contractor requesting a variance was to do a lot line adjustment which would legalize the non-conforming sign and allow him to add on to it. Ms. Koehn said another option would be to go with a wall or roof mounted sign.

Ms. Koehn said when other options are available staff doesn't see the hardship and does not support this request.

BOARD DISCUSSION

Bill Collins said he agreed because we are trying to establish a trend based on code and we don't want to set a precedent we will not be able to clean it up in the years down the road. He said the property is already in violation with the non-conforming sign and said he could not recognize the hardship.

Aden Hogan said there are a number of properties in that area which have more square footage of signage allowed then they will ever be able to use. Aden Hogan said the problem he can foresee in granting a variance allowing an additional sign is he can see a dozen businesses coming in and asking for the same thing because they would have exactly the same problem that this particular lot does.

Aden Hogan said there is already one non-conforming sign on the parcel. Aden Hogan said he knows there is a staffing problem for enforcement but that is a problem for City Council, if they want to see these regulations enforced and see some change made then they are going to have to take some responsibility and fund some positions which can do that.

Aden Hogan said he does see some other viable options; the lot split would probably give Westphal some considerable latitude that they don't have now so I am disinclined to grant a variance when other options are available.

John Elmer asked if two signs could be placed on one pole. Ms. Koehn said she believed so and knew that Fuoco was able to do so, but didn't know what different corporations require for signage and whether they require separate poles, but under our Code it would be allowed.

Aden Hogan said he would like to see some of these other options exhausted before we grant a variance. John Elmer said they would also need to better demonstrate the need for three free-standing signs as there is no hardship to be seen at this point.

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John Elmer said we would need to see the corporate policy in writing stating the signs must be separate. Mr. LaCroix said he had the papers with him and provided a letter to the Board. John Elmer asked Mr. LaCroix to point out where it states it must be a separate sign. Mr. LaCroix said it talks about GM signage requirements. Aden Hogan said it states that GM will not pay for the footings if other dealers are on the sign.

Mr. LaCroix said if you are talking aesthetics, putting a sign on top of that particular building would be ugly and stand 35' in the air. Mr. LaCroix said if the Westphal organization is required to pursue a lot line adjustment all you are doing is adding a step when the end result will be the same.

Aden Hogan said that is one way to look at it but the lot line adjustment would bring it into compliance with the code. Granting this variance would be a legal precedent setting statement. Mr. LaCroix made mention of all the other car dealerships in the City who are not in compliance with the code. John Elmer asked Mr. LaCroix if he was saying that all of these signs are out of conformance? Mr. LaCroix said he didn't know.

Aden Hogan said anything constructed within the last several years has been constructed to this particular sign code but there could still be some signs out there that are non-conforming and those get dealt with as changes to those signs come along.

Mr. LaCroix said all you are doing is adding an expense to the Westphal organization by requiring the lot line adjustment when you will get to the same point in the end.

Aden Hogan said yes, but they will then be legal and in compliance with the code and we won't be setting a precedent. We don't want to proliferate signs through variances; if we grant this variance we are, in essence, changing the law; it is not our intent to grant a variance without there being that demonstrable hardship.

Mr. LaCroix said without this the Westphal organization can not comply with the Colorado Corporation Code to do business with his proper name. John Elmer asked where the name is right now. Mr. LaCroix said it says Steve Westphal Chevrolet. John Elmer asked why the Westphal organization can't just replace and change the existing sign; isn't it a simple replacement process? Mr. LaCroix said you would still be doing the same thing, varying a sign.

Aden Hogan said as long as you would stay within the square footage allowance for the sign you can change an existing sign however you wish to change it.

Mr. LaCroix, on behalf of Steve Westphal Chevrolet, Buick, Pontiac & Geo, Inc., withdrew the variance request and said they will just pursue a lot line adjustment.

John Elmer accepted the withdrawal of the variance request and declared the hearing closed on the request.

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GENERAL DISCUSSION

Aden Hogan submitted his resignation to Chairperson Elmer, effective August 1, 1992 due to accepting a position with the City of Oklahoma City. Aden Hogan said it has been his pleasure to serve on the Board; we have a good Board and have made good and fair decisions and have made some progress in this area. Chairperson Elmer accepted the resignation with regret and stated if there was a choice he wouldn't accept it.

William Putnam said he noticed in staff comments on Payless it states City Council has requested a sign committee be formed to look at making revisions to the sign code; is this a request to this group? Ms. Koehn said no, she just wanted to bring up the fact that there are some kinks in our sign code and Council recognizes that and would like us to reform the sign committee that once was in existence and look at it; it could be a lengthy process.

John Shaver said that City Council wants the committee, when it is formed, to look at more monument signs rather than the proliferation of wall, pole or moving signs. The sign code will also need to address changes in technology such as changeable signs and computer controlled and illuminated signs, Mr. Shaver said some rather weighty issues will need to be looked at when this is done and encouraged the Board members to offer suggestions to the committee.

The meeting was adjourned at 8:57 a.m.