

GRAND JUNCTION BOARD OF APPEALS
Public Hearing January 24, 1994
8:04 a.m. - 9:47 a.m.

I. CALL TO ORDER

The public hearing was called to order by Chairman John Elmer at 8:04 a.m. in the City Auditorium.

In attendance, representing the Board of Appeals, were Chairman John Elmer, Jeff Driscoll, William Putnam, and Lewis Hoffman. Cindy Enos-Martinez was absent.

In attendance, representing the City Community Development Department, was Kristen Ashbeck, Associate Planner. Kathy Portner, Planning Supervisor and John Shaver, Assistant City Attorney, were also present. Bobbie Paulson, Senior Administrative Secretary, was present to record the minutes.

There were no citizens other than the petitioners present during the course of the meeting.

II. APPROVAL OF MINUTES FROM THE DECEMBER 8, 1993 MEETING

MOTION: (William Putnam) "I move that the minutes of the December 8, 1993 meeting be approved as submitted."

Jeff Driscoll seconded the motion. A vote was called, and the motion passed by a vote of 4-0.

III. PUBLIC HEARING ITEMS FOR CONSIDERATION BY THE BOARD

- 1. #93-9 Consideration of a request of a variance to allow more than one free-standing sign on a single parcel of land to allow placement of two additional free-standing signs along Highway 6 & 50.**

PETITIONER: Jim Fuoco Motor Company

LOCATION: 741 N 1st Street

STAFF: Kristen Ashbeck

William Putnam stated that he has patronized Mr. Fuoco's business establishment and has been a member of the same social club as Mr. Fuoco. He added that he and Mr. Fuoco discussed this variance application prior to this meeting; however, Mr. Putnam stated that he has not formed an opinion or made a decision one way or the other. It was determined that there would be no conflict of interest.

STAFF PRESENTATION

Kristen Ashbeck stated that the petitioner, Mr. Jim Fuoco, requests the approval of a variance to allow two additional free-standing signs on a single parcel which currently has one free-standing sign. The Fuoco Motor Company fronts Highway 6 & 50 just south of North Avenue and is comprised of two parcels. The larger parcel to the north (identified as Parcel A) currently has one free-standing sign and several flush wall signs that clearly identify the product that is sold on the site. The second parcel (identified as Parcel B) is also part of the complex and currently does not have any signage on it. Staff analysis indicates that the existing signs have permits. Parcel A has a remaining allowance of 445 square feet and Parcel B has 180 square feet of sign allowance that has not been used. The request is to vary section 5-7-7B.7.a which states that "no more than one free-standing sign shall be permitted for any parcel of land for each street frontage." Staff findings are that there appears to be no exceptional conditions or undue hardship. In this case, the petitioner has other options for providing signage on the site without increasing the number of free-standing signs. Staff recommends denial of the variance request.

QUESTIONS

Jeff Driscoll asked staff if the Code had any allowance for a large parcel?

Ms. Ashbeck replied no. She stated that examples of large parcels with only one free-standing sign are Teller Arms and Eastgate Shopping Centers.

PETITIONER'S PRESENTATION

Mr. Fuoco stated that although the Board's opinions are guided by regulation, he felt that the Board has latitude to make a decision based on "good judgement" even though it may be in conflict with the regulation. Mr. Fuoco referred to the scoreboards in Lincoln Park, stating that this is an obvious situation since the signs flash and change character which clearly constitutes a message board and is in violation of the Sign Code. Mr. Fuoco stated that the City's Sign Code needs to be revised and added that City staff and some City Council members have agreed with this. Mr. Fuoco felt that it was inequitable to allow "atrocious" outdoor signage such as that located on 1st and Ouray and in contrast not allow a product identification sign done in "good taste." He added that when the Code was revised he would be an advocate against any outdoor signage. He felt that clustering all the product identification signs on one pole did not clearly identify each product. Mr. Fuoco felt that this request to install additional free-standing signs identifying the products sold on his lot was "not abusive," rather it was a "basic right".

Mr. Fuoco gave an overview of his company's financial status. He stated that the Jim Fuoco Motor Company has been in existence in this community for sixty years. In 1993, it grossed \$20 million in sales; grossed \$1.2 million in payroll; employed 63 persons who were paid an average salary of

\$34,000; the company paid \$68,000 in property taxes; \$651,000 in sales tax was collected of which \$96,000 was for the City; and the banks of Grand Junction booked loans on vehicles sold by the company in excess of \$3 million. He concluded that he felt he was partners with the banks, the City, and the State.

DISCUSSION\QUESTIONS

Jeff Driscoll asked Mr. Fuoco if two additional free-standing signs were installed, are there other manufacturers that will still not be represented with their own free-standing sign?

Mr. Fuoco stated that he wants to remove the manufacturer's signs from the existing free-standing sign and install two additional free-standing signs identifying each manufacturer separately. He stated that he considered asking the Board to approve three but he is negotiating with the Mitsubishi franchise at this time. He thinks he will move the Mitsubishi franchise out and replace it with the Nissan franchise.

Mr. Fuoco continued; at one time, the property was divided into nine separate parcels that he consolidated in order to simplify property tax billings. He stated that he has 700 feet of frontage along Highway 6 & 50. He suggested that free-standing signs could be placed 150 feet apart and still not look cluttered.

PUBLIC COMMENT:

Mark Gamble, non-voting advisory member of the Board of Appeals who represents the sign industry, stated that similar situations have been wrestled with several times in the past. Teller Arms and Eastgate Shopping Centers are prime examples of two large properties with several tenants on each. He added that these tenants are not exactly happy with their sign situation; however, they have done what they can within the confines of the Code. Mr. Fuoco's property has 600 plus feet of frontage according to the plat.

Mr. Gamble continued; although no formal survey has been done, he believed that Mr. Fuoco's property ranked in the top 10% of large developed business properties in Grand Junction and probably in Mesa County too. He stated that this is why this property is unique. Mr. Gamble observed that Honda and Mitsubishi are direct competitors; although the automobiles are sold from the same location, the manufacturers will not allow their product to be set side by side with a direct competitor's product. If the signs are put on the same pole then there is a question of which is placed on the top, or if placed side by side which is closest to the Highway. In conclusion there is no equal way to display both products on one sign. Mr. Gamble stated that the auto industry itself is unique and it is fairly standard for a vehicle sales lot to have multiple pole signs on a single property. Mr. Fuoco has nine acres of ground at this particular site. The Fuoco Motor Company is a multi-million dollar development and is governed by the exact same set of limitations and

parameters as a \$100,000 development. A parcel of 50 acres is allowed one sign and a parcel of 1/10 of an acre is allowed the same. In effect the petitioner is penalized by owning a large parcel of land. Mr. Gamble stated that if Mr. Fuoco had the foresight back in the early days when he acquired this ground, he would have left it in nine separate parcels thereby allowing him nine pole signs. Mr. Gamble suggested that it was possible, although more expensive than a variance request, to subdivide in order to comply with the Code. He recommended that Section 5-7-7B.7.a be changed from allowing only one free-standing sign per parcel of land to allowing a sign for every 150 to 200 feet or whatever is determined to be the appropriate distance. Mr. Gamble stated that he is in favor of allowing this variance if guidelines can be set for future requests.

DISCUSSION\QUESTIONS

Jeff Driscoll asked staff to respond to Mr. Gamble's suggestion.

Ms. Ashbeck stated that staff agrees that this section is a shortcoming of the Code and should be addressed when the Code is revised. In the past there have been very few requests such as this. The purpose of this regulation is to try to minimize the visual clutter along streetscapes. If the regulation is simply replaced to read a sign is allowed every 150 feet, there may be instances such as along North Avenue that 150 feet could skip two or three parcels. Another consideration would be to allow one-free standing sign per parcel and/or one free-standing sign for every 150-200 feet.

John Elmer asked staff for clarification; can Mr. Fuoco also put a free-standing sign on Parcel B?

Ms. Ashbeck replied affirmatively; he is allowed to have one free-standing sign on Parcel A and one on Parcel B.

John Elmer stated that the Board denied BlockBuster Video, located at the Eastgate Shopping Center, the request to install a separate pole sign to advertise their company name. Westphal automobile sales made the same type of request which the Board denied. Westphal has two signs but they are on two parcels. Mr. Elmer felt that clutter is an issue and putting all the signs on one pole minimizes clutter. Mr. Elmer continued; if the Board decides to approve this request, it should be done not on the basis of identifying each product but on the size and frontage of the parcel.

John Elmer asked Mr. Fuoco if he had plans to request identification signs for all his car franchises?

Mr. Fuoco replied affirmatively; stating that he may come back to the Board in a couple of years to request three, four or maybe even five signs. He added that it would be the Board's prerogative to deny that request at that time. He asked that he not be denied this time.

John Shaver suggested that the Board phrase their motion to address the items listed in Section 10-1-B.3, Criteria to Appeal for Variance of the Sign Regulation.

The Board discussed amongst themselves whether or not this request met the criteria.

MOTION: (Jeff Driscoll) "Mr. Chairman, I move to approve the request for this variance. I believe the code did not take in allowance the size of the parcel; therefore, the fact that he has a unusually large parcel would make this an unusual condition pertaining only to his property since he is the only business along that stretch of the highway. This request does not appear detrimental to other property owners in that vicinity. No property owners have shown up to disapprove and staff has indicated that property owners in the vicinity have indicated they have no objections. I doubt that there are too many parcels that size in the City so I think it would be an unusual condition generally not applying to other properties in the City. In considering particularly the number of signs along North Avenue, the clutter, the size, etc. that having three signs on a nine acre parcel does not contradict the intent and spirit of the Code."

Lewis Hoffman seconded the motion. A vote was called, and the motion passed by a vote of 3-1, with John Elmer opposing.

2. **#93-10 An appeal of an administrative decision on the definition of what constitutes a "roof sign".**

PETITIONER: Western Neon Sign Company

REPRESENTATIVE: Mark Gamble

STAFF: Kristen Ashbeck

Jeff Driscoll stated that he and Mr. Gamble have conducted business together in the past and he felt that it would be inappropriate to participate in this discussion. He excused himself from considering this item.

STAFF PRESENTATION

Kristen Ashbeck stated that the Western Neon Sign Company is appealing an administrative decision regarding staff's definition of a roof sign. Staff relies on the Code which defines an "architectural blade" as a functional architectural appendage such as a parapet, roof eave, dormer or mechanical equipment screening. A roof sign must be placed on such an appendage. The sign itself cannot be the appendage. For example if the sign extends above the roof line, it cannot be considered a parapet in and of itself. Thus, a sign alone placed upon the ridge line of a peaked roof or a flat roof does not constitute a functional architectural appendage; thereby, it does not meet the definition of a roof sign as written in the Zoning and Development Code. Ms. Ashbeck submitted photographs of roof signs that are and are not allowed according to staff's interpretation of the Code for the Board's review. Staff feels that there are other options for providing signage above the eave line of a structure without placing it directly upon the ridge line of a peaked roof. Staff

recommends denial of the appeal.

William Putnam asked for clarification of what an "architectural blade" is?

Ms. Ashbeck replied that she spoke to an architect and looked in a number of architectural dictionaries but could not find a definition for "architectural blade." Ms. Ashbeck stated that she looked at other codes along with information supplied by the Planning Advisory Service as to what the definition of a roof sign is and applied that information to staff's present interpretation of the Code.

PETITIONER'S PRESENTATION

Mark Gamble, representing Western Neon Sign Company, asked to review the photographs submitted by staff. He felt that all of the photographs of signs, including those that staff determined were not allowed, met the Code's definition of a roof sign. He stated that these signs have been manufactured for years and have been permitted by the City. The question is what is the definition of a "penthouse" and an "architectural blade." Webster's Dictionary defines a penthouse as "a shed or roof attached to and sloping from a wall or building, a structure or dwelling built on a roof of a building." Mr. Gamble stated that he was also unable to find a definition for an "architectural blade," but added that there is a diagram in the Code which depicts a double-faced "blade" sign which is nothing more than a common back-to-back sign. Mr. Gamble stated that the signs recommended by City staff "look nice," but they are not always practical. In most instances, the building is built with a roof sign in mind as exhibited in the photographs that were submitted to the Board by Ms. Ashbeck. Mr. Gamble agreed with staff that braces or guy wires were not attractive and felt that all roof signs could be designed without either. Mr. Gamble submitted photographs of a roof sign with braces, a roof sign with guy wires, and another with a pole for the Board's review. Some businesses do not have other options other than a roof sign if their building is built to lot line, the building takes up the entire property or does not have flush wall mounting possibilities. (See File 93-10 for complete photographic exhibits).

Mr. Gamble asked staff how many sign permits were issued in 1993, and of that total how many were for roof signs?

Ms. Ashbeck was unsure of the total but estimated around 100 permits were issued of which three were for roof signs.

John Elmer agreed that the situation Mr. Gamble described was unique and may constitute a hardship in itself; however, it doesn't give the Board the right to change the definition. Mr. Elmer agreed that there are probably old buildings that take up the entire parcel and a roof sign may be the only option.

PUBLIC COMMENT: There were no public comments.

QUESTIONS/DISCUSSION

John Elmer stated that the Code is clear that a roof sign must appear as part of the building itself; one cannot simply put a sign on a roof and call it a roof sign.

MOTION: (William Putnam) "Mr. Chairman, I move that item #93-10 appeal of an administrative decision of the roof sign definition be denied."

Lewis Hoffman seconded the motion. A vote was called, and the motion passed by a vote of 3-0.

Jeff Driscoll returned to the meeting.

- 3. #5-94 A request for a variance from the sign code sections 5-7-4F and 5-7-7B.8 Lincoln Park, Suplizio Field, North Avenue, east of 12th Street.
PETITIONER: Mesa State College Baseball
REPRESENTATIVE: Byron Wiehe
LOCATION: Suplizio Field; North Avenue, east of 12th Street
STAFF: Kristen Ashbeck**

William Putnam stated that he is currently a professor at Mesa State College but felt that this would not influence his decision in this case. It was determined that there would be no conflict of interest.

STAFF'S PRESENTATION

Ms. Ashbeck stated that Mesa State College is requesting variances to two sections of the Sign Code. The first section, 5-7-4F.3, states that "banners may be displayed for a consecutive 30 day period in any calendar quarter." The second section, 5-7-7B.8, states "off-premise outdoor advertising shall only be permitted in the Heavy Commercial (C-2), Light Industrial (I-1) and Heavy Industrial (I-2) zones; a maximum of one off-premise sign shall be allowed per parcel of land." This particular property is zoned PZ (Public Zone); therefore, it does not meet the off-premise outdoor advertising section. The Code allows the applicant to display a temporary banner provided the banner is not displayed for more than 30 days during any calendar quarter. More than one banner could be displayed during the baseball season if they were facing the interior of the stadium. Staff does not disagree that the business sponsors are donating the money to the baseball program; however, these businesses would do so knowing that they are getting a banner displayed outside the stadium in a very prominent location in the City. Staff feels that this is an unfair advertising advantage in regards to the Code regulations for off-premise signs. Aside from these concerns, there are also aesthetic reasons for sign regulations for off-premise signs and banners. The banners as proposed to be displayed on the stadium would add unnecessary visual clutter to this already busy intersection.

Ms. Ashbeck continued; staff also has concerns with allowing such a use because it undermines the intent of the Code's requirements for the display of banners. Such "temporary" signs displayed in such a prominent location would make it seem, to other businesses, allowable. This could cause a proliferation of the use of banners for advertising for longer periods of time than is currently allowed and would add more visual clutter throughout the City precipitating the need for more

Code enforcement.

Staff has no objections in allowing the banners if they are always facing the inside of the stadium. If the sponsors are truly, as the petitioners implied, "simply donating money to the baseball program--they are not interested in the advertising," then there should be no reason why the petitioner cannot display them only inside the stadium. Staff is recommending denial of this variance request.

PETITIONER'S PRESENTATION

Byron Weihe, the Mesa State Baseball Coach, submitted a photograph of an example of what the banners would look like. The advertisement would be placed on 4 ft. x 8 ft. sheet of rubberized canvas that is typically used throughout the sporting industry for advertising purposes. He stated that the banners would be attractive and done in good taste. The banners would be placed on the upper part of the stadium along the third base side and they would, according to Mr. Weihe, "not really" be visible from the 12th and North intersection. The signs will be used to raise income for baseball scholarships. Mesa State will have more opportunity to entice various boosters and businesses to purchase a sign by facing the signs outside of the stadium.

Jim Paronto, Mesa State Athletic Director, stated that the signage is specifically for scholarship purposes. The signage would be displayed over two separate quarters throughout the entire baseball season which is approximately from February 24 through April 29 plus an additional week or so for playoffs. A maximum of 10 to 20 signs will be displayed. The sign will be attached to the safety screening on top of the stadium on the third base side. They will be professionally constructed and attractive.

PUBLIC COMMENT:

Mark Gamble stated that he felt that baseball scholarships are worthwhile but the allowance of this variance may have negative ramifications later; it would open the door for other business who want to raise money for "worthy" causes. He asked how it would be determined what is worthy and what is not? He added that there are several instances throughout the Code that prohibit this type of signage.

REBUTTAL

Mr. Paronto agreed that baseball scholarships are a worthwhile cause. He reiterated that the signage would only be displayed during baseball season which is approximately 10 weeks each year.

John Elmer stated that he did not disagree that it was worthwhile, but the Board must base its decision on whether or not it meets the criteria of the Code.

Byron Weihe asked if any surrounding property owners were opposed?

Ms. Ashbeck replied no.

Mr. Paronto asked John Shaver if he could suggest other avenues in order to accomplish this while staying within the confines of the Code?

John Shaver replied that he had not reviewed this particular application but suggested that Mr. Paronto and Mr. Wiehe contact staff regarding other alternatives. John Shaver continued; the Board must address this request based upon the appeal criteria and the evidence and testimony submitted today.

The option of using street banners was discussed, but only a very small percentage of the sign could be used to display a corporate name/logo.

MOTION: (William Putnam) "Mr. Chairman, in the matter of item #5-94 request for a variance from the Sign Code sections as indicated, I move that the request be denied."

Lewis Hoffman seconded the motion. A vote was called, and the motion passed by a vote of 4-0.

IV. ADJOURNMENT

The meeting was adjourned at 9:47 a.m.