

**GRAND JUNCTION BOARD OF APPEALS
SEPTEMBER 12, 2001 MINUTES
12:05 P.M. to 12:55 P.M.**

Chairman John Elmer called the Board of Appeals meeting to order at 12:05 P.M. The meeting was held in the Municipal Hearing Room, Grand Junction City Hall.

In attendance, comprising the Board of Appeals, were John Elmer (Chairman), Clay Tufly, Mark Williams, Richard Blosser and John Evans.

In attendance, representing the Community Development Department, were Bob Blanchard (Community Development Director), Pat Cecil (Development Services Supervisor), Kathy Portner (Planning Manager), Ronnie Edwards (Associate Planner). Also present was John Shaver (Assistant City Attorney).

No citizens, other than the petitioner, were present.

Bobbie Paulson recorded the meeting. The minutes were transcribed by Wendy Spurr.

I. APPROVAL OF MINUTES

Available for consideration were the minutes of the June 6, 2001 meeting.

MOTION: (CLAY TUFLY) "I move we approve the June 6, 2001 minutes as written."

Mr. Williams seconded the motion. A vote was called and the motion passed by a vote of 3-0-2, with Mr. Blosser and Mr. Evans abstaining.

II. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

There were no announcements, presentations or visitors.

III. FULL HEARING

VAR-2001-168 VARIANCE - CEC SIGN VARIANCE

Request for a variance to the Sign Code to allow a 40 square foot sign in addition to the existing non-conforming 60 square foot sign.

PETITIONER: CEC - Counseling Education Center dba

LOCATION: 2708 Patterson Rd

REPRESENTATIVE: Chris Cieply

CITY STAFF: Ronnie Edwards

PETITIONER'S PRESENTATION

Chris Cieply gave an overview of the variance request. Mr. Cieply stated that CEC is a non-profit organization, which provides mental-health counseling to the community. He said that when CEC applied for a sign permit at 2708 Patterson Road, we found out that the existing sign was not in conformance with the Zoning and Development Code. Mr. Cieply said that the proposal before the Board is to maintain the size of the existing sign, remove the time and temperature and drop it down to within three feet of ground level. He also said that the existing sign has been at this location for two years and the City did not know it wasn't conforming until CEC applied for a new sign permit.

QUESTIONS

Mr. Blosser asked whether the sign would be large enough for people to see if it were restricted to 25 square feet. Mr. Cieply did not answer the question.

Mr. Elmer asked if the sign would have the identical message on both sides. Mr. Cieply replied affirmatively.

STAFF PRESENTATION

Ronnie Edwards gave an overview of the variance request. She said that the variance request had changed due to the applicant's response to comments. The variance now is to allow the 40 square foot sign. Ms. Edwards said that an RO zone allows a 25 square foot sign and moderates the size and height of signage.

Mr. Williams asked Ms. Edwards to mark the spot of the business in question on his plat, which she did, indicating that this is not the only property having these restrictions.

Mr. Williams asked if the real issue is the offsite advertising. Ms. Edwards indicated that more than the advertising it is the location of the business and its relation to the area around. Mr. Evans inquired if the present sign would have to come down if the variance is rejected, stating that he understood that the present sign is out of compliance with Code. Ms. Edwards stated that only the height of the present sign would have to change.

Mr. Williams asked if the nonconformity began when the present owners bought the parcel. He wondered whether the sign could remain a nonconformity because it was that way when the zoning was changed. He also asked if the sign was there when the parcel was purchased. Ms. Edwards said that the sign was there, but had been changed by putting a covering over it.

Mr. Blosser asked what the sign package would be if it were rezoned to B-1. Ms. Edwards said it would 312 sq. ft. for freestanding, but would be restricted to 25 feet in height.

Mr. Blosser asked what the differences were for each side of the street. He asked if the neighborhood concerns of potential retail use in a B-1 zone was taken in consideration. Mr. Elmer indicated that the purpose of the RO zone us to allow for a transition zone between residential neighborhood going into business or retail areas.

Mr. Williams asked Mr. Cieply if he had any other questions or rebuttal. Mr. Cieply indicated that he still didn't understand the zoning concept. He indicated that across from their building is mostly open for the whole block since it is City Market property. He said that there is a bit of residential in two areas, but the traffic flow is east and west and while there is a buffer zone on their side of the street, there is not on the other side of the street. He believes the variance could be allowed because the line is arbitrary. Further, he questions the zoning being north/south orientated when the traffic flow is east/west.

Mr. Tufly asked what the property to the east consisted of. Mr. Cieply stated that it is a day care center; residential, he said, is actually more than a block away.

Chairman Elmer indicated that since the zoning can not be continuously B-1, a break must appear someplace and 12th and Patterson is that place. It starts to move from business into some office and then into residential. The zoning, he suggested, does make sense. He said that there must be something between the business and residential uses. Mr. Cieply stated that the zoning continues to divide the two sides of the street for quite a ways down the street.

Chairman Elmer asked if Mr. Cieply's intention was to mark his business with the sign or if his intent was to advertise his business. Mr. Cieply indicated that originally the intent was only to mark the business, but that after a fund raising concept they had adding some contributors names to the signage was deemed necessary. CEC, he said, is a non-profit business. Mr. Williams asked if this is a private corporation, if they have a 501C3 license from the IRS. Mr. Cieply stated that they are a 501C3, but presently have a 509 with a religious affiliation designation. He was then asked for the name of the corporation. Mr. Cieply indicated that it is Counseling and Education Center, but they began as the Center for Enriched Communication and did business under that name.

Chairman Elmer closed the public hearing.

Mr. Blosser asked what the implications of approving this variance would be. Mr. Shaver stated that there is no binding precedent by this decision but if approved it could open the door to future requests for variances. Chairman Elmer said he felt the consideration has to be with this piece of property, not what a decision would mean in the future. The importance here is the issues involved with this particular request. Does it meet the criteria necessary to approve the variance.

Chairman Elmer stated that if this issue is approved, it should be done with very strict wording in order to prevent others from using it as a precedent.

Each Board Member stated his reaction to the presentation.

Mr. Shaver advised the Board that in order to approve this request certain specific criteria must be met; there is not anything unique AS THE Code requires and he would not advise the Board to approve the request.

Chairman Elmer said that point counterpoint would indicate that there is not truly any conflict with the request. The zoning is not unique there is not necessarily reason to deny.

Mr. Tufly indicated that he does not see a need for the larger signage and does not feel it currently represents a hardship. Mr. Evans agreed and indicated he does not feel it presents a hardship.

Mr. Williams stated he is against signs, but feels this is a case that is unique and that it does meet the criteria and that it is a hardship. He approves of the variance.

Chairman Elmer stated that if it is approved it is unique and he thinks it could be approved. He feels that there should actually be two separate variances, one for the size and one for utilization. He asked Mr. Shaver whether there should there be two different motions? Mr. Shaver replied "yes."

MOTION: (Mark Williams) "I move to approve the 40 square foot sign in an RO district."

Clay Tufly seconded the motion.

John Elmer, Richard Blosser and Mark Williams voted in favor of the motion. John Evans and Clay Tufly voted against the motion (3-2).

MOTION: (Richard Blosser) "I move to allow advertising on the off-premise sign that was just approved."

Clay Tufly seconded the motion.

AMENDED MOTION: (Richard Blosser) amended his motion on the recommendation of Mr. Shaver to "Approve sponsor advertising as submitted in the exhibit by the petitioner so that the size of the lettering, the format and the fact that only the name of the company, no logo, location or address or other information of the sponsor."

Clay Tufly seconded the amended motion.

A vote was called and John Elmer, Richard Blosser and Mark Williams voted in favor of the motion. John Evans and Clay Tufly voted against the motion (3-2)

With no other business the meeting was adjourned at 12:55 P.M.