

**GRAND JUNCTION BOARD OF APPEALS
DECEMBER 8, 2004 MINUTES
12:05 p.m. to 12:40 p.m.**

The regularly scheduled Board of Appeals meeting was called to order at 12:05 p.m. by Chairman Paul Dibble. The public hearing was held in the City Hall Auditorium.

In attendance, representing the Board of Appeals, were Paul Dibble (Chairman), Travis Cox, Reginald Wall, Mark Williams and Patrick Carlow.

In attendance, representing the Community Development Department, were Bob Blanchard (Community Development Director), Kathy Portner (Planning Manager), Scott Peterson (Assoc. Planner) and Ronnie Edwards (Assoc. Planner).

Jamie Kreiling, Asst. City Attorney, was also present.

The minutes were transcribed by Terri Troutner.

There were 9 citizens present during the course of the meeting.

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I. APPROVAL OF MINUTES

Available for consideration were the minutes of the November 10, 2004 public meeting. Ms. Kreiling noted the following changes to the minutes: 1) to delete the last sentence in paragraph two on page 1 referencing Lynn Pavelka-Zarkesh's absence; 2) on page 2, Questions section following the Petitioner's Presentation, first paragraph, to add at the end of the last sentence the following: "When Mr. Cox asked how it was not self-imposed, Mr. Raff replied 'I cannot say that it is not.'"; 3) on page 3, still under the Questions section, the last paragraph, following the first sentence, add the following sentence, "Ms. Genova stated how this is not self-inflicted, the only thing I can tell you is part of the overall design (sic). The design was very appealing; we were working with the City; we felt we were on firm ground all the way. If it was self-inflicted, it would be something that the Board of Commissioners had no idea we needed at the time. Although I understand from the presentation Ronnie was nice enough to give, there was a note or place marker put in our file that said we needed to apply at some time for a variance. Ms. Genova emphasized that the monument signage was part of the design-built project critical for directing traffic." The rest of the information contained in that paragraph was then deleted; 4) on page 4 under Discussion, second paragraph, after the first sentence, add the following sentence, "The monument signs were an integral part of the design for safety and ingress/egress and a public benefit. He indicated it would be a stretch, but he compared it to an earlier project that was approved approximately 3 years ago for the drug enforcement agency. At that time a fence variance was granted for a taller fence as the fence was determined to be an integral part of the design of the project and for the public benefit. He could identify a similar public benefit with approving these monument signs. He was uncomfortable treating public entities differently from private entities but he could support the petitioner's request." The remainder of that paragraph would then be deleted; 5) on that same page 4 under Discussion, third paragraph, delete the word "both," the "s" at the end of the word "Members," and delete "and Williams."

MOTION: (Mr. Williams) "So moved [to accept the minutes of the November 10, 2004 public hearing, as amended]."

Mr. Cox seconded the motion.

A vote was called and the motion passed by a vote of 4-0, with Mr. Carlow abstaining.

II. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

Mr. Patrick Carlow was introduced and welcomed as the newest member to the Board of Appeals.

III. FULL HEARING

VAR-2004-218 REHEARING REQUEST--MESA COUNTY FREESTANDING SIGN

A request by Mesa County for a rehearing of the Board of Appeals decision to deny a sign variance.

Petitioner: Mesa County
Location: 510 29 1/2 Road

Chairman Dibble read the rehearing criteria into the record and explained that if the following request were denied, the second request to consider the variance for a freestanding would not be heard.

PETITIONER'S PRESENTATION

Valerie Robinson, Assistant County Attorney representing the petitioner, focused on the last variance rehearing approval criterion, which read, "Find that in making its decision, the decision-maker may have failed to consider or misunderstood pertinent facts in the record or that information crucial to the decision was not made available at or prior to the decision being made." She maintained that there had been a miscommunication between the City and the County when the project initially came up. The project had been a design-build contract, meaning that the County had told Shaw Construction, "You design it, you build it, and please don't charge us a whole lot of overruns or come to us with change orders, and that way we can save the citizens of Mesa County money in the long run." There were review comments made on the signage issue in May of 2002. Those comments stated that, "Monument signs are shown at the entrance on the landscape plan. Provide a signage package, including size, height and elevation. Provide clarification on the site plan as to the exact location proposed for conformance to section 4.2.A. and traffic sight triangle issues. All proposed signage will need permits, and all work is to be performed by a licensed sign contractor." Section 4.2.A is the sign code, and Section 4.2.C. talks about exemptions, of which there are a number. At no time was there a statement made to say that "your monument signs are not appropriate, that you can't have them."

In April of 2002, the sign portion of the contract with Shaw Construction was awarded. A week later the sign construction began. On May 9, 2002 the first comment was received from the City that stated that they may or may not have a problem, but realize that there are sign regulations. On May 5, 2002, a letter was written from City Planner Ronnie Edwards to the Board of County Commissioners, which included a second round of review comments. The signage, Ms. Robinson said, was completed around the end of May. On June 5, 2002 there was again a second round of review comments, to read, "Three signs have been proposed on the landscape plan. Provide exact dimensions of area containing identification letters on the sign detail sheet L-3. One sign permit will be provided for the main building entrance, and the two shown at the street entrance will be exempt under section 4.2.C.b. if the total signage is less than 24 square feet."

In the exemption section 4.2.C., she referenced 1.a. pertaining to *public signs* (Code section read into the record). Ms. Robinson maintained that the wrong section was applied to the County's situation. The City

should have considered their request under the public sign section of the Code. Section 4.2.C.1.b. pertained to *institutional signs* (Code section read into the record), but it was the section the City applied to the County's signage. Thus, she maintained that there was additional information available that may have had a direct bearing on how the Board considered and decided upon the County's variance request.

The other variable applicable to the County's rehearing request was that not all Board members were present at the time of the original variance deliberations. A request had been made by the County to have five members hear the item. The City's Planning Director, Bob Blanchard, had contended that all members *were* present because at the time one of the alternates had been placed on the Planning Commission. City Code section 1.13.A. states that the Board of Appeals shall consist of five members, so if only four members heard the County's request, it technically had not been heard by the entire board.

Chairman Dibble said that the Board of Appeals could not shut down the public process just because it didn't have a fifth member. Ms. Robinson acknowledged that a decision could be rendered if the Board had a quorum.

QUESTIONS

Mr. Williams asked for a copy of the Code section 4.2.C.1.a. referenced by Ms. Robinson, which was provided.

Mr. Williams asked Ms. Robinson to provide the order in which events occurred. Ms. Robinson said that the Board of County Commissioners ordered the building to be constructed, and that there be informational signage directing people into the facility.

Doralyn Genova came forward and said that the reason they had been very clear about proper signage at the entrance was because Mesa County was combining, for the first time, two facilities. The need for traffic to move safely into and out of that location for the clients being served was imperative. The entrance was taken off of North Avenue, and at the City's request, only one entrance had been constructed off 29 1/2 Road. The Mesa County Health Department and Mesa County Human Services were both non-commercial in nature.

Mr. Williams asked if the signage was informational, to which Ms. Genova replied affirmatively. She added that the words "Entrance" and "Exit" should probably be included under the identification lettering, so that people would have a better understanding of how to get into and out of the facility.

Ms. Kreiling said that the public sign section was meant to include information such as safety signage, danger signage, trespass signage, etc. The specific section that followed the institutional section, which talked about permanent signs and names of a public charitable, educational, or religious institutions contained the more specific conditions for an institution as far as identifying the building, not for information. The specific controls the general when it came to public signage.

DISCUSSION

Mr. Cox concurred with Ms. Kreiling in that the institutional sign provisions applied to the current situation. Section 4.2.G.7.a mentioned one freestanding sign per frontage and specifically stated that it could not be transferred to any other frontage. Thus, the argument that because the facility had two frontages they should be allowed two signs didn't apply. He believed that Board members understood the timeline outlined during original testimony and that it had been fairly clear. Although there was a breakdown in communications, it wasn't between the City and County; rather, it was between the County and their design-build team.

Mr. Wall wasn't clear whether those involved with the signage had considered all alternatives. He spent time looking at the facility's signs and at other signage around town. It wasn't the monuments themselves,

just the lettering, that was non-compliant. He felt that there was alternative lettering that could be used that would be just as nice and informative, just not as big.

Mr. Williams said that while section 4.2.C.1.b. was the focus, he didn't think that 4.2.C.1.a. should be excluded or that either section should be thought of as either/or. Those sections, he felt, could be read in conjunction with one another, with both sections applicable. The sign could arguably fall within both sections. As such, he felt that Mesa County should be given the opportunity to be reheard.

Chairman Dibble agreed that the breakdown in communications did not occur between Mesa County and the City. The reasonable expectation of Mesa County would be to know what the Code criteria of the City were and conform accordingly. He felt there had been reasonable communication given to the County. Signage size had been clearly indicated in the June correspondence to Mesa County, although he was a little confused as to when the signage pedestals had actually been erected. The monument signage is admittedly aesthetically pleasing, and he agreed that it was important for the public to know how to enter and exit the site. The County chose not to put flush wall signage on the face of its building as identification, but that had been its own choice. As far as prohibiting another entrance off of North Avenue, that had been in conformance with the City's policy to minimize curb cuts along North Avenue. The entrance as-is served the building well. He felt that the Board was obliged to grant some exceptional or unusual requests in the best interests of the City. In his opinion, given the City's goal to reduce visual clutter along North Avenue and other areas within the City limits, Mesa County's signage, as proposed and constructed, provided a better visual presentation than something freestanding that could end up being twice the size and not nearly aesthetic. He believed during the first variance hearing and continued to believe that Mesa County's variance was reasonable and represented something he could support.

Ms. Kreiling said that Mr. Blanchard's staff report referred to the original draft minutes. For the record, the staff report should include the minutes as amended previously.

Given that only Messrs. Wall or Cox could make a motion to rehear the request, they were asked if either wanted to make such motion. Since no motion was offered, the request to rehear the variance request was denied for lack of a motion. Chairman Dibble reminded Mesa County representatives of their rights under the appeal process.

With no further business to discuss, the meeting was adjourned at 12:40 p.m.