

**GRAND RAPIDS CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS  
June 21, 2017**

A rescheduled regular meeting of the Grand Rapids Charter Township Zoning Board of Appeals was called to order at 7:00 pm. The following members of the Board of Appeals were present: Chair, George Orphan; Secretary, Jim Kubicek; and Members Greg Timmer, Doug Kochneff and Lee VanPopering. Also present were Township Attorney Jim Brown and Planning/Zoning Assistant Kara Hammond. The alternate members of the Board of Appeals, Lindsey Koorndyk-Theil and Martin Andree, were present but did not participate, inasmuch as all regular members were present.

The minutes of the October 11, 2016 meeting of the Board of Appeals were presented.

Lee VanPopering, seconded by Greg Timmer, moved to approve the minutes presented. The motion was adopted unanimously.

The chair stated that the next matter of business was #2017-01, the appeal of Brett Rodgers concerning the pole sign at the front of the commercial property at 888 Forest Hill Avenue SE. Mr. Rodgers is appealing the decision of the Township zoning administrator that the sign has become abandoned under the terms of the zoning ordinance because it no longer identifies any business, service, product or activity on the property, and has not done so for at least two years and probably longer.

Mr. Rodgers then addressed the members of the Board. He asked if an affidavit from the sign company had been submitted, but the chair stated it had not been. Mr. Rodgers then gave a copy of the affidavit to the Board members. Mr. Rodgers stated that he had several questions and that he wanted to mention some hypothetical situations for the members to consider. In reply, the chairperson stated that he would prefer that Mr. Rodgers cover the facts and issues of his appeal, and not pose situations that were only hypothetical.

Mr. Rodgers continued, asking when the sign was considered abandoned. He recounted conversations he had had with Mr. DeVries, the zoning administrator. Mr. Rodgers handed out to the members a timeline and a letter dated October 3, 2016. He also commented on several of the points in the zoning administrator's affidavit.

Ann Frass, representing Sign Works, a sign company, then spoke to the Board members. She stated that when one of the tenants of the building at 888 Forest Hill Avenue, Sip, moved in, communication between herself and that tenant began as to signage for that business. She said that she had numerous correspondences with that business owner and another one in the building. Ms. Frass stated that Sip and perhaps Bliss & Vinegar, another tenant, had intended to use the pole sign, though they had not actually done so. She said that the tenants were not aware of the sign being abandoned.

Mr. Rodgers again addressed the Board. He mentioned a case in the Michigan Court of Appeals and had with him a copy of that decision. He said that he wanted to make a point using an example from that court case. The chairperson suggested that Mr. Rodgers continue with the facts and issues in his particular appeal. Mr. Rodgers then commented further.

The chairperson then called on Township Attorney Jim Brown to comment on the appeal. Mr. Brown pointed out that Section 30.2 of the Township zoning ordinance defines an abandoned sign as a sign that no longer identifies or advertises a business, owner, service, product or activity. He also pointed out Section 30.5.10 of the zoning ordinance which states that a sign that has been determined by the Township to be abandoned, because it no longer identifies any business, service, product, etc. is to be removed by the owner, but if the owner does not remove the sign, the Township may do so.

Mr. Brown pointed out the affidavit submitted by Mr. DeVries, the zoning administrator. He summarized the situation concerning the pole sign, stating that it was originally a sign for the 7-Eleven store, which left the property some time ago. The sign was next used by the Quik-Mart and for an ATM sign. The Quik-Mart business, with the ATM machine, had left the property by at least August of 2014, because the current Sip business applied for a building permit for its tenant space in the same building in August of that year, and Sip was issued a wall sign permit in November of that year. In September of 2014, Bliss & Vinegar applied for a building permit. Mr. Brown pointed out that the Quik-Mart and ATM signs have remained on the pole sign at all times since at least August of 2014, yet those businesses have not been on the property since before that time.

Mr. Brown referred to the affidavit of Mr. Rodgers, which pointed out that Garbko (the 7-Eleven store) terminated its lease with Mr. Rodgers on February 22, 2014, which tends to indicate that the 7-Eleven store has not been on the property since about February of 2014. Mr. Brown pointed out that all of the businesses in the building, Sip, Bliss & Vinegar, Marco's To Go and the barber shop, all have their own wall signs on their tenant spaces; none has ever used the pole sign. The zoning administrator did not determine the sign to be abandoned until September 22, 2016, more than two years after Quik-Mart and the ATM machine had left the property. The zoning administrator met with Mr. Rodgers on the sign property on October 10, 2016, and they discussed the sign. Although Mr. Rodgers sent an e-mail in November of 2016 stating that he wanted to use the sign for the existing businesses, there was no further contact with the Township until March of 2017, when a representative of Sign Works inquired about re-facing the sign. Following that, in March of 2017, the administrator sent an additional letter to the applicant pointing out that the sign had been determined abandoned, and that by that time, the sign had not identified any current tenant for at least three years.

Board Members Jim Kubicek and Doug Kochneff asked Mr. Brown questions concerning any applicable State laws and the matter of the sign being a nonconforming use. Mr. Brown pointed out that the violation involved was the fact that the businesses named on the sign no longer identified any business on the property, and had not done so since 2014.

Mr. Kochneff, seconded by Mr. Kubicek, moved to open the public hearing and the motion was adopted unanimously.

Mark McNamara, the owner of the Bliss & Vinegar business, made comments in opposition to the administrator's determination. Mr. Rodgers again addressed the Board members, stating his opposition to the administrator's action and asking the Board members to reverse the administrator's decision.

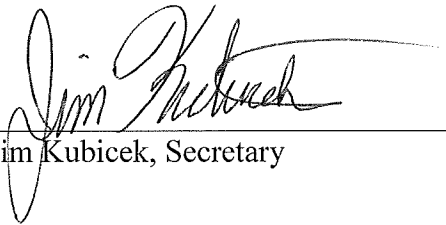
Board Member Greg Timmer stated that even though Mr. Rodgers and Mr. McNamara said that they wanted to use the pole sign, this seemed doubtful and that so much time, since 2014, had gone by without anyone making any apparent effort to actually use the sign, plus the fact that each of the businesses had arranged for their own signs on their respective spaces, on the front wall of the building. Mr. Timmer said that he understands the views expressed by Mr. Rodgers and Mr. McNamara, but he believes that the ordinance provisions are applicable to the facts as indicated in this proceeding.

Board Member Lee VanPopering, seconded by Doug Kochneff, moved to close the public hearing. The motion was approved unanimously.

Board Member Lee VanPopering said he believes that the sign became abandoned when the Quik-Mart/ATM moved out of the building. He pointed out that all of the current businesses that came to the building after the Quik-Mart have their own wall signs on the front of the building and it did not seem that they needed to use the pole sign in addition, or they certainly would have done so by this time.

There was further discussion by the other Board members. Chairperson George Orphan pointed out that the Board members had been furnished two potential draft resolutions, one to affirm the decision of the zoning administrator and one to reverse that decision.

Mr. VanPopering stated that the administrator's decision should be affirmed for the several reasons stated in the draft resolution to affirm the decision. Mr. VanPopering then moved, seconded by Mr. Kochneff, to approve the Board of Appeals resolution affirming the decision of the zoning administrator on abandonment of the sign for the reason that it no longer identifies any business, service or product on the property, and therefore must be removed. All of the members then voted in favor of the motion, and the chairperson declared that the resolution affirming the decision of the zoning administrator was adopted. The meeting was then adjourned at 8:15 pm.

  
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Jim Kubicek, Secretary