



**APPROVED MINUTES OF THE REGULAR SESSION OF
THE SIGN BOARD OF APPEALS OF THE CITY OF ANN ARBOR
AUGUST 14, 2007**

The regular session of the Sign Board of Appeals was held on Tuesday, August 14, 2007 at 3:00 p.m. in the second floor of City Hall, 100 N. Fifth Avenue, Ann Arbor, Michigan.

The meeting was called to order at 3:01 p.m. by Chair Steve Schweer.

ROLL CALL

Members Present: (5) S. Schweer, S. Olsen, & C. Brummer, H. Corey,
G. Barnett, Jr.

Members Absent: (2) Vacancies

Staff Present: (2) K. Lussenden and B. Acquaviva

A. APPROVAL OF AGENDA – Approved as presented without objection.

B. APPROVAL OF MINUTES

Minutes of the June 12, 2007 Regular Session were unavailable at the time of the meeting.

Moved by C. Brummer, Seconded by S. Olsen, “**to postpone the minutes of the June 12, 2007 Regular Session until the next Regular Session of the Board.**”

On a Voice Vote – MOTION TO POSTPONE PASSED – UNANIMOUS

C. APPEALS & ACTION

C-1 2007-S-005 – 3391-3469 Plymouth Road

David Kwan, Co-Manager and Tom Lasky of Metro Holdings and Plymouth Green Crossings as well as Virginia Krueger of Huron Sign Company were present to speak on behalf of the appeal.

Description and Discussion

The Petitioner, Virginia Krueger of Huron Sign Company is requesting a variance from Chapter 61, Section 5:502 (3c), Business Center Signs or Chapter 61, Residence Signs, Subdivisions, Section 5:504(3). If granted, variance would:

- 1. Allow installation of two Residential Signs that fit the definition of a Business Center Sign. (The sign permit application was for a total of three (3) Business Center Signs) – and;**

47 **2. This project has residential units located above the retail space, therefore it has**
48 **been determined that in addition to the one (1) Business Center Sign located at the**
49 **corner of Plymouth & Green Roads per Sign Code Chapter 61, Section 5:502 (3)**
50 **(c), the project would be allowed to have not more than two (2) Residence Signs**
51 **not to exceed 50 square feet nor more than one per entrance per Sign Code**
52 **Chapter 61, Section 5:504 (3).**

53
54 **Standards for Approval**

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56 **The Sign Board of Appeals has the power granted by State law and by Section**
57 **5:517(4), Application of the Variance Power from the City of Ann Arbor Sign Ordinance.**
58 **The following criteria shall apply:**

59
60 (a) That the alleged hardships or practical difficulties, or both are peculiar to the
61 property of the person requesting the variance and result from conditions which
62 do not exist generally throughout the City.

63
64 **Staff Comments:** The petitioner has stated that their practical difficulty or undue hardship is
65 that *the sign ordinance does not specifically state that the signs can include business tenants*
66 *as well as identify the property.*

67
68 The Sign Code Chapter 61, 5:504 (3), Residential Signs does allow business identification on
69 a residential subdivision sign which is the identification of the subdivisions or housing
70 complex.

71
72 **Therefore, there is no precedent for relief from this standard nor has the petitioner**
73 **presented evidence of a practical difficulty or undue hardship.**

74
75 (b) That allowing the variance will result in substantial justice being done,
76 considering the public benefits intended to be secured by this Chapter, the
77 individual hardships that will be suffered by the failure of the Board to grant a
78 variance and the rights of others whose property would be affected by the
79 allowance of the variance.

80
81 The petitioner has not included any mention of the business center sign located on the corner
82 of Plymouth and Green Roads.

83
84 The Sign Code does allow for the business center to identify itself with a business center
85 sign; or, for each business to identify itself with wall signs; or to allow a residential complex to
86 identify itself at each entrance.

87
88 **Staff Comments:** Staff recognizes the challenge presented to the petitioner to promote his
89 business; however, code compliant signage can be located and properly sized to be
90 sufficiently legible to facilitate business identification.

91
92 **Recommendation:** Staff does not support this variance request.

93
94 **Questions from the Board to Staff**

95
96 S. Schweer – So we're talking about a variance to have more signage?

97 K. Lussenden – More signage. It's a grey area, as this is a Mixed Use Development and the
98 code says you can have one business center side. This would be a variance to allow three
99 business center signs – or – you can have two residential signs that identify just the
100 residential complex – without any business names on it. It's going to be one or the other. If

101 you allow it, it will be three business center signs or two residential signs that identify the
102 residential complex as well as the various businesses there, as a business center sign would.

103

104 **Petitioner Presentation**

105

106 David Kwan, Co-Manager of Plymouth Green Crossings stated that it is a 'grey' area that
107 they are talking about today. "When the project was going through its entitlement process,
108 they wanted to start with a shopping center, but added the Housing as this was a request
109 from Housing and Planning (the city) to encourage more 'walkable' communities and
110 discourage unnecessary vehicular traffic where possible. We're probably the first outside of
111 the downtown area that is facing these challenges."

112

113 Mr. Kwan stated that he had asked staff why the sign process wasn't part of the PUD process
114 and it was stated that "this was up to Mr. Lussenden to get us through this process, and this
115 is what brings us here today."

116

117 H. Corey – Asked if the Petitioners could indicate on the site plan where these proposed
118 signs would be – on Plymouth, on Green – it's not clear. (V. Krueger – The signs in question
119 are: one sign on the driveway at Green Road and one sign at the drive on Plymouth Road.
120 Those are the signs in question at this hearing. Also proposed, but it is our understanding is
121 the Business Center Sign allowed at the corner of Plymouth and Green through regular
122 permitting).

123

124 G. Barnett – It's my impression that you're essentially requesting to have both a Business
125 Center sign plus the residential signs – not stacked on top of one another, but side by side?

126

127 V. Krueger – Yes. This process started back in February 2006, and the indication from the
128 Building Department staff at that time was that because it's a Mixed Use Development, they
129 would be allowed to have a Business Center Sign and two Residential Signs. Historically, the
130 interpretation of the ordinance has been 'content neutral,' as long as we maintain the square
131 footage requirements, the setback and the height requirements. It was up to the business
132 owners as to what they put on the sign. There is nothing in the 'prohibited section' of the
133 ordinance nor does it prohibit in Section 5:504 (3). We understood we were compliant. We
134 came to the Board as we are a new situation and the ordinance does not address it.

135

136 Tom Lasky – Stated that the two driveway signs do comply in the size that is required. It's
137 the proper height and setback for the permit. What we found relatively significant is that
138 we're falling under Section 5:504 (3), which under "Subdivisions" as we've discussed, does
139 not have any prohibitions against the verbiage on the signs. This is why we are putting ten
140 names on the signs. Further review of Section 5:504 (2) does specifically limit the content
141 that can be put on those signs. From a fundamental analysis, if it were intended for sub
142 paragraph (3), to prohibition of content, it would have been specifically been put there.

143

144 There are a number of tenants which will be set back so far from the road that their signs
145 won't be able to be seen on the front of the building until someone actually pulls into the
146 parking lot, so we think it's that much more important.

147 It is also a life-safety issue in which we want the fire and rescue to be able to find the tenants.
148 We think it would reduce confusion and congestion knowing which drive approach is better for
149 which store.

150

151 **Discussion by the Board**

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153 H. Corey – I can read site plans, but I can't read this – you have one long building here with
154 tenants in front and in back? (Petitioner states "no" and explains the plan).

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S. Schweer – Confirmed that everyone is familiar with the site plan (Yes).

C. Brummer – Do you have an example of what you want the “Mixed Use” sign to look like at the entrance with the addresses for the residential as well as some of the tenants?

(V. Krueger stated that it would be the example in the packet with the address numbers added to the base).

(Discussion by the Board and the Petitioners on size, scale and content of the Mixed Use signs as well as number of possible tenants).

S. Schweer – A general comment – Does the “Mixed Use” nature of this project merit different signage for it? This is the basic issue. If this had only been a condominium development, you probably wouldn’t have contested that you get two entrance signs identifying the residents (Correct). If it were only a Business Center, you wouldn’t contest the fact that you get one Business Center sign as it states in the ordinance, so I guess I don’t understand why – just because there happens to be a condominium on top of the businesses – why the signage should be different. You get signage for each as if they were separate. This brings up a lot of possible precedent, as there are at least four other Business Centers on Plymouth Road that have put up with only ‘one’ Business Center sign but this is what you get from the ordinance.

T. Lasky – Stated that this is a ten acre site with two entrances with problems with ingress/egress on one of those, so we’re reacting to concerns from our prospective tenants.

S. Schweer – What this Board decides is whether this project is so different, and the nature of its land use is *so unusual* that it cannot be advertised under the precepts of the Sign Ordinance. I don’t think that’s been shown.

D. Kwan – Stated that the sign is fairly small and that this is the gateway to Ann Arbor, and Steve’s comment about the large site does make a practical difficulty – sure we knew the site had a large wetland when we purchased it. The Mayor mentioned that it may be one of the largest privately owned wetlands within the city limits. Most of the land there is used to store water from various buildings in the area. As part of our PUD, we promised not to build on the corner, but to keep that ‘green’ we had to build back from the street.

S. Schweer – I don’t see the ambiguity in this at all.

G. Barnett – What you are asking for is the sum that is the total that you would be entitled to for both the Business *and* the Residential signs? (Yes). It is my impression that the amount of signage available depends on the amount of square footage?

C. Brummer – Linear measurements on the Business Center Signs. The wall signs on each business are constrained by linear footage. The Residential signs are a ‘given’ measurement in total (but only at entrances and NOT on the building).

G. Barnett - To the extent that there may be an ambiguity in the ordinance, this question really is for resolution by City Council. Although we have received a communication from an individual member of City Council (which disturbed me), addressing us as a City Council member, explicitly on behalf of his neighbors and constituents (of which I happen to be both), it does seem to me that no individual City Council member has the authority to make this change – affecting the ordinance takes change from the City Council – collectively, and that its failure to do so, indicates an intention *not* to do so.

209 I don't think we have any authority to reach beyond the ordinance. We're not well placed to
210 consider all of your arguments. We don't want to create some 'exception' to this project
211 (which would be inconsistent) for standards that *would* apply to others. All that said, I don't
212 mind adding that I find myself troubled to create an exception based on usual conditions of
213 the property itself. Council Member Rapundalo is the one who brought this to our attention
214 today, and I suggest that he take the ordinance language to City Council. I will reluctantly
215 have to cast a nay vote.

216
217 S. Olson – I agree with Mr. Barnett – While partially sympathetic to a petitioner, I am leery of
218 establishing a precedent that City Council (if they decide not to amend the ordinance in your
219 favor) must address – then we've already established a precedent, so I'm reluctant to do so.

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221 S. Schweer – Is there a Motion to Call the Question?

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223 **MOTION #1**

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225 Moved by G. Barnett, Jr., Seconded by C. Brummer, “**to grant the request of the**
226 **petitioner for Appeal Number 2007-Z-005, 3391-3469 Plymouth Road, a.k.a.**
227 **Plymouth/Green Crossings, as detailed in their application.”**

228
229 **On a Voice Vote – MOTION TO APPROVE – FAILED – UNANIMOUS. (Appeal Denied)**

230
231 Petitioners asked about further discussion – then possibly ‘tabling’ the motion while they
232 speak to City Council.

233
234 S. Schweer – Stated that he would discourage going to City Council about changing the
235 ordinance, as the drafters of this ordinance have anticipated “Business Centers” and the
236 signage is provided for in the sign ordinance and as such this is really quite clear. I don't see
237 this as a grey area or warrants changing the whole thing. There are several business centers
238 that would take issue with this just because you have apartments there.

239
240 *(More discussion by the Board on whether or not the Ordinance should be changed by City*
241 *Council and that the Board would allow the petitioner to table this ordinance until they speak*
242 *to City Council regarding this).*

243
244 **NOTE:** *The Board withdrew its former Motion by putting the following motion into place:*

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246
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248 **MOTION #2**

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250 Moved by C. Brummer, Seconded by H. Corey, “**to reconsider the previous motion and**
251 **withdraw it from the table.”**

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253 **On a Voice Vote – MOTION TO RECONSIDER – PASSED – UNANIMOUS**
254 **(Previous Denial Revoked).**

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257 **MOTION #3**

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259 Moved by G. Barnett, Seconded by S. Olsen, “**to table Appeal Number 2007-S-005,**
260 **3391-3469 Plymouth Road, a.k.a. Plymouth/Green Crossings.”**

261
262 **On a Voice Vote – MOTION TO TABLE – PASSED - UNANIMOUS**

263

264 (The Board gave other helpful suggestions on how or what the Petitioners need to emphasize
265 with City Council regarding their project).

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267

D - OLD BUSINESS

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269 C. Brummer – Asked Administrative Staff if the former petitioner had followed up with a
270 previous member of the Board (S. Knight) – (Petitioner was 2007-S-001 – 2820 Windwood
271 Drive). Administrative Support stated that she was aware that several informative
272 communications regarding options for the Petitioner had been suggested (at length) via email
273 by both C. Brummer and S. Knight. Staff is unaware of any action since that time by the
274 former petitioner.

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276

E - NEW BUSINESS – None.

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F - REPORTS & COMMUNICATIONS – None.

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G - AUDIENCE PARTICIPATION – GENERAL – None.

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ADJOURNMENT

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Moved by G. Barnett “**that the meeting be adjourned.** Chair Steve Schweer
285 adjourned the meeting at 3:32 p.m. without objection.”

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On a Voice Vote – MOTION TO ADJOURN – PASSED - UNANIMOUS

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Submitted by: Brenda Acquaviva, Administrative Support Specialist V