



**APPROVED MINUTES OF THE WORKING SESSION OF
THE SIGN BOARD OF APPEALS OF THE CITY OF ANN ARBOR
CITY COUNCIL CHAMBERS – DECEMBER 9, 2008**

The meeting was called to order at 3:00 p.m. by Chair Steve Schweer.

ROLL CALL

Members Present: (5) S. Schweer, C. Brummer, G. Barnett, Jr., D. Eyl
and E. Adenekan
Members Absent: (2) S. Olsen & 1 Vacancy
Staff Present: (3) M. Lloyd & B. Acquaviva

WORK SESSION

Mark Lloyd, Planning and Development Services Director gave the power point presentation. He outlined what city staff does from an Administrative perspective, and what kind of support that the Board has. He stated that he wanted to talk about these things to make certain that the Board knows what types of resources are available to them.

Staff's Roles and Responsibilities:

- **Staff involved:** Administrative Support, Historic District Coordinator, Development Services Inspectors, Development Services Inspection Supervisor, City Planner and others.
 - **Administrative Support** - Processes the variance applications as well as Building and Electrical permits and associated elements for sign permits. Those applications are reviewed for completeness and staff determines the fees associated with those and enter this information into the city permit tracking system.
 - **Historic District Coordinator** – The person generally makes recommendations to the Historic District Commission on a variety of issues associated with those properties in any of the cities twelve historic districts as it relates to signs. This individual also reviews certain permits and applications that can qualify for staff approval only.
 - **Development Services Inspector** (a.k.a. – ‘Building Inspector’) and **City Planner** are two individuals who can review signs for compliance with Chapter 61. We’re looking at gravitating away from having all the reviews done by either a building inspector or development inspector and involving a city planner in doing that. We currently have a contract employee who works 8 hours per week (who was a former city planner) has been evaluating the sign permit applications, and it has been very helpful. Investigating things like actual frontage, existing variances, total number of signs actually on the sites, etc. has been important. Chandra Gochanour is that staff person and had also put together the power point presentation for this meeting.
 - **City Attorney’s Office** – They are available for support to ensure that decisions are legal. If for instance there was an appeal to a decision made by the Sign Board, they would be involved in supporting this Board to get through that. There was some skepticism on the part of the HDC as to whether that support was available, and it took a problem in order to fully convince the Commission that they are, in fact, here to represent them and not to represent the city as a whole – but the ordinances and laws. We could bring someone in from the Attorney’s office to discuss ideas how to conduct and deal with meetings so that there is confidence and knowledge in that responsibility.
- **Primary Responsibility of the Board:** The Sign Board of Appeals is a body made up of officials nominated by the Mayor and the City Council, your meetings are scheduled on a monthly basis

53 and we have a list of the powers that the Board has. This is a seven member Board serving
54 three year terms and adopted by-laws and procedures. The meetings entail a record keeping
55 process that show the action of the Board, and associated documentation in the minutes.
56 Voting requires four (4) affirmative votes to pass a variance and a quorum of the seven
57 member board is also four. If there is an error made in connection with the enforcement of
58 Chapter 61, the Board has the power to authorize a variance from the strict application of the
59 Chapter, if that results in a practical difficulty or unnecessary hardship to the person owning or
60 having the beneficial use of the property or sign for which the variance is sought (Chapter 61,
61 Section 5:517 (3).)
62

63 M. Lloyd – It is a rather narrow scope of power. There are other Boards and Commissions that have
64 a much broader scope of power and authority, and in order to truly fine tune this and have more
65 definitive discussion about this, it behooves us to have the Attorney’s office come in and reiterate and
66 convey exactly what this means, how this needs to be applied and what the limitations might be with
67 regard to the actions that the Board has or would take.
68

69 S. Schweer – Are the electrical and building permits cross referenced? Is it possible to go in and get
70 a building permit for something that violates the sign ordinance without running through the complete
71 process – or are they always interconnected? *(M. Lloyd – Ideally, the answer is absolutely not – no
72 one could ever get a sign permit without a building permit first – but the system isn’t flawless and it
73 could happen, but if someone came in for a building permit and they were going through the list of
74 requirements on a building or trade permit checklist – as they’re filling that out it has to be referenced
75 as to what they’re building and at that time, it would be identified that it needed a sign permit as well).*
76

77 G. Barnett – Interpretation of the Ordinance itself has been something that we have dealt with on an
78 ongoing basis. Would it help to include a statement on the application that the petitioner is
79 responsible for obtaining ALL appropriate permits and related approvals and inspections?
80 *(B. Acquaviva – Stated that the decision and orders that are sent out have those statements on them
81 as well as the applications and our new software has certain stopgap measures to try to prevent any
82 lack of compliance.)*
83

84 G. Barnett – As to the Ordinance, we apply the standards as we understand that they apply to the
85 ordinance. Is the interpretation of the Ordinance something that the Attorney’s office is prepared to
86 assist with or is that strictly left up to us? *(M. Lloyd – They would be willing to assist with that. The
87 most appropriate approach to dealing with that would be to raise those issues and be sure that staff is
88 made aware of them and providing an opportunity for staff to provide you with an analysis of whatever
89 that section is from a technical standpoint).*
90

91 C. Brummer – The problem arises in that they are reading the same thing that we are, and portions of
92 that part of the city code were drafted at different times. When we ask them about the ‘Right of Way’
93 language where they were talking about it can be 3 feet at the right-of-way, Kristin Larcom and others
94 were in the same boat we were in; right-of-ways are defined in several places in the Ordinance, and
95 specific in our section, but not in a way that helps us interpret that particular paragraph. They’ll try,
96 but then it’s up to us.
97

98 G. Barnett – We have also found from time to time that the City Attorney’s office has issued permits
99 that we have not. It is our understanding under the Ordinance that the question of whether a variance
100 should be granted is ours and exclusively ours and should not fall to the City Attorney.
101

102 S. Schweer – We wrote a memo to that effect and have not have a response. *(M. Lloyd – I would say
103 that generally, you’re right, and efforts on your part call for help or assistance at times. We were
104 doing the process of opening this dialogue that is necessary to make certain that you’re not working
105 within some ‘gray’ areas or where you have them that we can provide some clarity and where we
106 need to. We recognize that at the staff level and we rely on the Attorney’s Office. We’ve also*

107 *recognized a handful of contradictions in the code. There are real conflicts in sections of this code.*
108 *As we're starting to expose that under this administration, we're bringing those issues up and taking a*
109 *look at what we need to do to deal with the Ordinance. That will most likely come about through a*
110 *process of shifting the responsibility of the sign/plan reviews into the Planning Department where you*
111 *have experts who have experience in writing resolutions and Ordinances and zoning and regulatory*
112 *language for city ordinances. We don't currently have that advantage with building inspectors who*
113 *were doing the review on these.)*

114
115 S. Schweer – *If I understand this correctly, we made to do some rewriting of our city charter. Article*
116 *61 states what we do. I interpreted it to me that we are a sort of 'jury;' we don't deal with the issues of*
117 *law, we're supposed to deal more with issues of fact, specifically – is the appellant property unique*
118 *enough to merit a variance. Are we supposed to get involved with the law? (M. Lloyd – Not*
119 *collectively as a body going out and trying to make Ordinance amendments, but I'm suggesting to you*
120 *that we would very much (as staff involved in that effort), to involve you in that dialogue. We would*
121 *bring you in because you have experience with this – you've seen the things that work, that don't*
122 *work, etc., and we would definitely be engaging this group to work together.)*

123
124 S. Schweer – *Do you have any 'mechanisms' in mind for that input? When questions arise during a*
125 *meeting? (M. Lloyd – I would hope that as time goes on we can do it on an ongoing basis, but*
126 *between now and when that becomes our routine on how we deal with things, I would suggest that*
127 *we have some working sessions where we sit down and roll our sleeves up and talk about the issues*
128 *that we've discovered with the Ordinance, the issues that you've experienced and decide what needs*
129 *to take place to have those adjusted. It wouldn't be a requirement of yours, but I want to be clear that*
130 *you would be invited to sit down with us and help us get through that – with the hope that this will in*
131 *turn help you.)*

132
133 The Board stated that they have queried that Attorney's office (for example) on Non-Conforming
134 signs, and when these things arise at the meetings, it doesn't make for a smooth meeting as we have
135 dialogue among ourselves (in front of an applicant) about how these rules are interpreted.
136 *(M. Lloyd – I would like some feedback from this group on how we can do this so that we can move*
137 *forward on these issues).*

138
139 S. Schweer – *The person reviewing these should have enough experience to say – "what they want*
140 *to do is this.... But we have a conflict under the law..... so what we have to do is this....."*
141 *(M. Lloyd – We've done that – and we have a list of issues.)*

142
143 G. Barnett – *Asked Mr. Lloyd again whether or not the Attorney's office has or is going to have the*
144 *authority to issue variances. That question needs to be addressed – we need to know specifically*
145 *"yes" or "no." (M. Lloyd – I did hear the statement and wasn't aware it was a question and my answer*
146 *would be "I don't know." I can't imagine that would be the case, but that would be something we*
147 *would have to look at.)*

148
149 G. Barnett – *The reason we need to look at it is that the law says that they don't, but in fact, they*
150 *have, so it affects our work. In addition, the idea of our having some kind of 'interface' with the City*
151 *Attorney's office is a good one, but if it's put in terms of "The City Attorney's Office," it's going to be*
152 *one of those things were, it being everyone's job – it's nobody's job. I think you should seriously*
153 *consider some individual by name or office identified so that it's not something that lies on a desk until*
154 *someone gets around to it, and we need to know who we need to go to. (M. Lloyd – It sounds like*
155 *you've worked with Kristin Larcom in the past and Kristin works on certain issues with our*
156 *department, Kevin McDonald works on some – some I wouldn't know who that would be now – but*
157 *you're exactly right, but I'm not in a position today to tell you who that would be.)*
158

159 C. Brummer – In addition, follow up inspections on those issues where enforcement simply hasn't
160 happened is an issue. The clock tower, the Marathon station on Maple, the Windemere Park
161 apartments, etc. (M. Lloyd – Today is to try to open those doors and recognize that these are the
162 kinds of things that we're looking at providing you with support – and to identify them.)
163

164 G. Barnett – The effect of requiring four (4) affirmative votes needs to be addressed.
165

166 C. Brummer – That measure is by statute, it's not in our by-laws or under our control.
167

168 G. Barnett – If it is under statute that defines that it's under the State Legislature, which cannot be
169 altered by City Council. An ordinance passed by City Council must conform to the statute. The
170 question is if they can change it. Because we, as a Board are often short staffed, the requirement of
171 four affirmative votes sometimes puts us in the position (recently, in fact) of requiring a unanimous
172 vote rather than a majority of a quorum. The effect of that is that it takes the absent members, even
173 those positions which are not filled effectively defaults those to a negative vote. That is unfair to the
174 petitioners. If this is something that City Council can address, it should be.
175

176 M. Lloyd – It's in the Ordinance, Section 5:517 (2). Whether that is supported by State Law, I don't
177 know, but it is in the Ordinance. My suggestion is that that could be changed by City Council,
178 possibly by a recommendation by this Board. I recall an issue like that when someone wanted a re-
179 hearing on an item and the vote was denied because there weren't enough 'bodies' to change the
180 vote. When they came back and there were more than four, it was approved. (*Mr. Lloyd discussed*
181 *'technical denials' as an example where the Planning Commission is concerned*). These actions
182 happen under the same types of restriction with the Zoning Board and others as well. We have
183 allowed petitioners in the past to defer an item until the attendance on the Board was improved
184 possibly by the next meeting. We do try to work with the applicants and give them the fairest
185 treatment possible.
186

187 Variance Applications – There were six applications in 2007; one was denied, one was approved and
188 four were tabled or withdrawn with no further action. In 2008 there were four applications; one was
189 approved and the other three were tabled or withdrawn. Some of the things we've changed in the
190 review process are that the applications have been modified to provide complete information
191 submitted as well as the actual review of those applications. There is improved coordination between
192 staff who take in the applications as well as those who review it and the actual issuance of the permit.
193 It's not perfect or completely 'fixed,' but we have an interim effort that has made a tremendous
194 difference in our relations with customers.
195

196 We have been able to improve the timeliness of the reviews – we were two month behind (if not more
197 in some instances) in reviewing sign permits, and that in itself was creating customer service issues.
198 Right now we're at a point that having Chandra dedicate eight hours per week to the review of these
199 permits, do PowerPoint presentations and prepare staff reports for the Variance Applications as well
200 as Ordinance review, it's taking about one week for those to turn around now, so we've made
201 tremendous strides in our ability to service that. The long term goal is to identify that our sign plan
202 review should be similar to our building plan review time frame is, and that is about two weeks.
203

204 C. Brummer – Most of those applications didn't need to come to us had they been measured – or a
205 little staff guidance would have allowed compliance.
206

207 Mr. Lloyd suggested that the Board be informed on what becomes of the tabled issues as well
208 (*B. Acquaviva informs applicants and the Board each time an issue is closed or taken off the table.*)
209

210 G. Barnett – If we deny an application does that preclude coming back with an altered application
211 after our discussion with the applicant. (B. Acquaviva stated that the Zoning Board has specific
212 language that states that a denied application can come back before the Board if it is *significantly*

213 *different. There isn't anything in the Sign Board by laws that addresses that.)* Instead of tabling we
214 could ask that they withdraw it. This would provide closure.

215
216 M. Lloyd – The long term goals is to build a better/transparent relationship between staff and the
217 Board. Those are some of the things we can improve in the future. We've identified a few things we
218 know that this Board is very interested in – you've made comments to that effect through the
219 presentation and that is 'what about the Code interpretation?' There are problems with it. What
220 about enforcement? We know we have violations out there.

221
222 We're simply going to need to put together a strategy on how to work this out, and this is intended to
223 be the first step to beginning that process of having that dialogue and making sure the Board has a
224 better understanding of the support that it has with staff and resources. *(He invited any additional*
225 *questions from the Board.)*

226
227 S. Schweer – Is enforcement going to be addressed? *(M. Lloyd - Not as far as a 'program' per se,*
228 *but it will be addressed.)* If we don't get some enforcement soon, there will be no need for the Board
229 to be coming to meetings. It's a floodgate of non-conformance, because business owners are
230 convinced that it's impossible to get a variance, and we feel that we don't have the flexibility within the
231 Chapter to deviate from those decisions. Sandwich boards? Those are illegal. Off premises
232 sandwich boards? Those are advertising something on the other side of town! We're going to be up
233 to our ears in sandwich boards if we don't put a lid on this. If you have to organize how you're going
234 to attack the problems in administering signage, you should start with enforcement. *(M. Lloyd –*
235 *stated that enforcement is a problem). Mr. Schweer suggested that one parking enforcement officer*
236 *be dedicated to one day per month on sign enforcement. (The Board had lengthy discussion on filing*
237 *a code issue – that they feel that even then, the issue is not enforced or followed up on and wonders*
238 *if their time being a part of this Board is just a waste of time.)*

239
240 D. Eyl – Supported what S. Schweer stated that he knows that along University there are parking
241 meters enforced that are right next to sandwich boards. It wouldn't take that much more effort to
242 enforce those at the same time. *(The Board also suggested those individuals could take pictures of*
243 *these signs and give them to someone who could make a decision as to whether they need to be an*
244 *enforcement issue or not). Mr. Eyl stated that he would be more than willing to discuss these issues*
245 *at home via email if the city were to provide the name of the contact person.*

246
247 G. Barnett – Asked which department would be the receiver of suggestions from the Board regarding
248 language changes within Chapter 61. *(M. Lloyd stated that this is Planning and Development.)*
249 Mr. Barnett reiterated that they need a name and email so that they can begin to contact this person.

250
251 *Mr. Lloyd told the Board that he would follow up with them, more than likely they can begin this*
252 *process through email exchange of some sort, but that staff would put something together that makes*
253 *sense to the Board and provide contact names and email information, not just general office contacts.*

254
255 E. Adenekan – Told Mr. Lloyd that the discussion had been very informative that that she appreciated
256 him being present to talk about these issues.

257 ADJOURNMENT

258
259
260 Moved by C. Brummer, Seconded by S. Olsen **“that the meeting be adjourned.”**
261 Chair Steve Schweer adjourned the meeting at 4:10 p.m. without objection.”

262
263 **On a Voice Vote – MOTION TO ADJOURN – PASSED – UNANIMOUS**
264 **Submitted by: Brenda Acquaviva, Administrative Support Specialist V**