MINUTES OF THE BOARD OF ZONING APPEALS MEETING

October 26, 2015

The regular meeting of the City of Mission Board of Zoning Appeals was called to order by Acting Chair Stuart Braden at 6:30 PM Monday, October 26, 2015. Members also present: Mike Lee, Robin Dukelow and Carla Mills. Jim Brown was absent. Also in attendance: Interim Community Development Director Danielle Murray.

APPROVAL OF MINUTES OF August 24, 2015

Mrs. Dukelow moved and Mr. Lee seconded a motion to approve the minutes of the August 24, 2015 meeting. The vote was taken (4-0-0). The **motion carried**.

APPLICATION #15-05 VARIANCE – PUBLIC HEARING
5710 Johnson Drive

Ms. Murray: Tonight you're hearing an application for a variance to the sign code. It is the section relating to pole signs. This is for a sign located at 5710 Johnson Drive, Mission, Kansas.

By way of background, the sign is part of the previous use of the property which was a gas station. In searching City records, we can find a mention of the sign going back to 1970. There is no sign permit on file for the sign. The business that operated there operated at least for the last 50 years. So, this is a change-over in business. While the business is also a non-conforming use, that is not an issue that is under debate tonight. The new owner intends to continue the existing use and would do so under the rules for non-conforming uses. The issue tonight is the reuse of the pole sign. Pole signs are a prohibited sign type in the city except for certain circumstances. This sign does not fit those certain circumstances, so it can only be maintained and not refaced for a new business. So, the request that you're hearing tonight is to allow it to be refaced and reused for a new business.

Since there is no sign permit on file, we don't have the details of the current sign, but it appears it's within 5 to 7 feet of the property and is approximately 18 feet in height. It is a single pole with a sign face at the top of it and it does project up through the existing canopy. When the previous business left, the gas pumps and the underground gasoline tanks were removed from the site. In the staff report, there's a picture of what the site looked like when it was operating previously, and there's a picture more recently showing the current state. The face of the sign has been removed, as you can see in that picture.

Included in the staff report is a summary of all the other BZA cases regarding signs that we can find. The current property is zoned MS1, which does not allow either a pole sign or a monument sign. Included in the staff report is a summary of all the relevant sign code ordinances for this property, including definitions of what sign maintenance, sign refacing for a pole sign, and what a monument sign would be. As always, the Board of Zoning Appeals has the authority to grant variances to this section of the code, including signs. Granting of the requested variance would allow staff to approve a sign permit for the refacing of the existing pole sign on the subject property to support the establishment of a new business by the applicant. Staff suggests that

the pole sign be in lieu of one wall sign as normally permitted by the sign code. Of course, when considering variance applications, you have the five findings that you would need to meet to rule to allow that variance. This does require a public hearing, and the applicant is here tonight. That concludes staff's report.

Mr. Braden: Any questions of staff, or discussion? [None.] Would the applicant like to come forward and make his case?

Carl Casey, Applicant, appeared before the Planning Commission and made the following comments:

Mr. Casey: [*Introduces his wife, Cathy.*] We try to run a very clean auto repair business and try to maintain that integrity. We don't use a lot of banners flying around or temporary signs. But this, coming down Johnson Drive, a sign right there really draws attention towards the building because it sits so far back from Johnson Drive. It's not right on the drive. It's actually farther back. So, that being said, when you're driving down Johnson Drive, of course you want to keep your eyes forward, and if you're set back too far, then you're not going to be seen. The sign, like she said, has been there for many, many years. It's not a freestanding sign, as you can see. It looks like a rooftop sign almost. So, even though it is a pole sign, it doesn't look like a freestanding pole sign in the middle of nowhere. It looks like it's part of the awning. The sign that we're proposing would be a different shape than that. I have a drawing here from a sign company that we got an estimate from. The oval will be smaller than that and won't take up as much room. The colors will be our logo colors and it will be smaller than what's in that picture. We're also going to reface the building to give it more appeal, and redo the inside, as well.

So, that's where we would like to go with it. We would like to be able to put a sign back up there.

Mr. Braden: Questions of the applicant?

Mr. Lee: Do you know what the height of the fascia is above your canopy?

Mr. Casey: I'm sorry, I don't.

Mr. Lee: You don't know if it's tall enough [unclear] same effect?

Mr. Casey: You mean illuminate the pole or just put the sign on the canopy?

Mr. Lee: [unclear].

Mr. Casey: Yeah, we could do that. We don't have to have the pole to support it.

Ms. Dukelow: Mike, are you suggesting putting this sign on the canopy?

Mr. Lee: Not on top. On the side.

Mr. Casey: Are you talking about on the side of the canopy?

Mr. Lee: No, where he used to have banners hanging there. Out closer to the main road. Is there actually a wall sign there - ?

Mr. Casey: We could put narrower signs there with our logo. It would be so small because of the width of the canopy.

Mr. Lee: That's why I'm asking if you knew what the height of it is.

Mr. Casey: It's about 2 feet wide.

Ms. Dukelow: Have you explored different configurations for the sign, such as a sign now below the level of the awning, the canopy?

Mr. Casey: You're talking about putting one on the face of Johnson Drive?

Ms. Dukelow: Perpendicular to Johnson Drive. Or even a monument sign on the ground.

Mr. Casey: Well, the monument sign on the ground, I think that might cause a problem for people when they pull out because it's hard to see cars coming anyway with cars parked there. If we had a monument sign there it might hurt somebody that can't see traffic coming down Johnson Drive. And there's a little pathway right there that you can drive cars through. So, the monument sign would almost have to be right at the edge of Johnson Drive.

Ms. Dukelow: I believe there's only one small landscaped area across the whole front of that property and it's on the southeast corner. The rest is all concrete and asphalt.

Mr. Casey: There's another one at the other side of that. [*Pointed out landscaped areas on the site.*] If we put the signs on the side of the canopies, we'd have to put one on each side, but it would be so narrow. I don't know if it would look like. It would have to be really small to be there.

Ms. Dukelow: Is it your intention to maintain the canopy?

Mr. Casey: Yes. Our plans are to reface that and put new lights underneath it, and then paint. The yard lights in the parking lot, we want to re-do those with LEDs. It will give it kind of a nostalgic look.

Mr. Braden: When you were referring to a problem with the monument sign, where were you talking about?

Mr. Casey: I don't know where you could put it. Right off Johnson Drive is a curb, like a sidewalk, and on the other side of that, in between that sidewalk and where the canopy pole is, that's a pathway for cars to drive through. I suppose you could put a monument sign there, but that would eliminate a pass-through. Our future plans are, in between [*points out*] where the base of the sign is, there's another island here where they had gas pumps here and here. Down the road, we'd like to put some nice walls and have an atrium there for people to sit. It would be in the middle of the parking lot, about 20 feet from Johnson Drive.

Ms. Dukelow: It wouldn't be attached to the existing building?

Mr. Casey: No, it would be more like a patio. It would be under the canopy. That's down the road. Our intentions would be to have something there for people to sit outside.

Ms. Dukelow: Maybe incorporate a monument sign with that.

Mr. Casey: Maybe so, yeah. We try our best to keep it clean. We don't keep tires and stuff like that around. I've never liked a lot of flying flags and things like that. That's just my taste. With the City guidelines, we'd probably have to do another variance to get a monument sign there, I would imagine

Ms. Dukelow: If I interpret it correctly, monument signs are for MS2 and they're MS1.

Mr. Casey: I just thought since the sign has been there for long time, people are used to seeing it. It would be refreshed, a better-looking sign, but still a sign.

Ms. Mills: Is the pole sign the only sign option that you've explored? If you can't get the pole sign, what's your next-best option on visibility?

Mr. Casey: If we can't get the pole sign, obviously we'd have to take down the signs there, and we'd have to do something on the canopy sides so that you can see it from both directions. We were going to do a lighted sign on the front of the building anyway, but it sits back so far that I don't think driving down the road, you could see it. But, I don't know if we would be allowed to do that on both sides of that canopy, and I don't know if that would look better or worse than a pole sign. I certainly don't want to make it any worse. Our goal is to keep things pretty and looking good. I don't think a pole sign would make it not look good, but I'm not in your position. You guys know better than me. But, I can assure that we would maintain it and keep it looking nice.

Mr. Braden: Anything else?

The Chairman called for public comment, and hearing none, closed the public hearing.

Mr. Lee: I have a question for staff. I heard refacing, which is not what we're doing, correct? In this case, are we actually taking down an existing sign and replacing it with a totally new canopy?

Ms. Murray: I think, technically, our sign code would consider this to be a sign refacing, which is changing or replacing the words, numerals, face of the sign to serve a different establishment or business without altering, removing or replacing the structure, frame, pole or bracket. So, the pole is still going to be there.

Mr. Lee: It's a new cabinet. It's not a reface. It would be no different than putting a monument sign there. I'm talking strictly from the standpoint of our position here, the fact that we're going to allow pole signs. If we take the position of refacing it, that's not what we're doing. You're coming back in here with a design to fit in that existing cabinet. That would be a reface. You're talking about a totally new cabinet.

Ms. Murray: Okay. That's probably a finer level of detail than a variance needs to be. They couldn't reface it anyway. It would be a non-conforming sign. It's just not allowed as a sign type anymore, anyway. So, however you want to consider it, whether it's a refacing or a new pole sign. The variance would allow a pole sign.

Mr. Lee: But if they were to switch it and ask for a monument, could we do that.

Ms. Murray: It's still a prohibited sign type. It's just a different type of sign. The zoning district does not allow for a freestanding sign of any kind.

Mr. Lee: So it wouldn't be any different with a monument sign.

Ms. Murray: Well, there are different qualities to both. We don't allow pole signs anywhere in the city, but for that very specific limitation. Monument signs are allowed more freely in other zoning districts, so you might say it's a little bit less of a variance for a monument sign because it's closer to our current standards, but it's still not exactly fitting the zoning district in which it is.

Ms. Dukelow: If, for example, the applicant wanted to hang a sign beneath the awning – What's the height restriction? It has to be 7 feet to the bottom, would be the maximum, if I remember correctly. Would that be allowed in the zoning district.

Ms. Murray: The zoning district allows for a wall sign or projecting sign or a pedestrian-oriented sign that is under a non-retractable awning or canopy. So, I think that would be the sign type. That's limited to 3 square feet, and the lowest point is a 7 foot clearance. To be perfectly conforming without needing a variance, those would be the standards that would have to be met.

Mr. Lee: You would consider a projecting sign if it was flush - ?

Ms. Murray: Not if it's flush. If it's flush on the side on the canopy, I would consider it a wall sign. If it's going to hang down below that edge of the canopy, then it's not a wall sign anymore. It probably would be classified as a pedestrian-oriented sign, which has smaller dimensions than a wall sign.

Mr. Lee: And because it is attached to the building, [unclear] square foot is allowed [unclear] that same elevation on the [unclear] as well, correct?

Ms. Murray: That's a little bit of a gray area. It depends on what other signs they're proposing. But, if you wanted to count, for example, the east face of the canopy and the east face of the main structure, they are touching. If you wanted to consider all that square footage together, that might work.

Mr. Braden: I have a question of the applicant. You're saying that you're refacing the building. Were you doing something with the canopy itself?

Cathy Casey, Applicant, appeared before the Planning Commission and made the following comments:

Mrs. Casey: Yes, we were planning to redo the canopy.

Mr. Braden: My question is, you talk about that 2 foot height being too small to do a sign or something like that, but since you're refacing it anyway, could you increase the height of the façade, of the canopy, to have a larger sign?

Mr. Casey: There would be a cost to do that, and I don't know that it would be structurally sound at that point because of the way that it's supported with the columns. I think if you get too wide, the wind may cause a problem. They may say we've got to re-do the base and make it stronger. As it is, it's been there for many years and it's been fine. I'm not a structural engineer, so I don't know if making those canopy sides bigger would pose a problem during high winds, etc. I guess that would be something that could be explored. Cost is a factor there because if I get too much money invested in the outside of the building, then I'm not conforming again for auto repair. So, I'd have to go through a whole other set of hoops to be able to do auto repair there. Because if you put too much money into a building, the way that I understand, it comes to a certain point of value for the building, then you have to reapply.

Ms. Dukelow: I have a question for staff. It's my understanding that this process required a fee and 30-day notification, so we're also considering time and money. So, if the Applicant hasn't considered other alternatives and would like to do so, would it be prudent for us to consider - ? My thought is that perhaps the Applicant would like the opportunity to consider other alternatives. Is this a case where we might consider tabling the motion - ? I guess I'm not really sure what to do here. I feel like if we close it, then we have [unclear] processing fee. Or, if the Applicant decides to pursue a monument sign.

Ms. Murray: You've already closed the public hearing, so continuing the public hearing under those original notices couldn't occur at this point. Nobody has made a motion yet or signaled any kind of position. The vote that would need to happen to pass any motion tonight would be 3 of 5. Your fifth is gone, so it's still 3 of 4. At this point, the public hearing is going to have to be re-advertised because it's been opened and closed. So, you could make a motion tonight and be done with this case and we could simply bring it back for another variance of a different type. We can waive the application fee. That's not an issue, just the publication notice that we need to do. I think there would still be time to do it next month, but I can't guarantee the next meeting date..

Mr. Lee: My position is that I don't have a problem with refacing. I do have a problem with moving the cabinet. I don't think that's the same thing.

Ms. Mills: I don't think the code distinguishes that. It doesn't matter whether it's refacing or if it's a new cabinet. It's not permitted. So, you're making a distinction that isn't in the code.

Mr. Lee: But it's not new. We're not adding.

Ms. Mills: But it doesn't say that. It just says they're not permitted. So, with a change of ownership, it's supposed to come down. So, I think my issue is, when we look at the five criteria and we're supposed to meet all of them, I don't see that it meets all those conditions.

Ms. Dukelow: I concur. There's a building nearby that's set back as far, and I'm concerned about the precedent that's been set for allowing pole signs to continue. Even in less-stringent districts. But I do know that we have allowed monument signs in extenuating circumstances in this zoning district.

Ms. Murray: I would say, as Chairman Brown normally advises, make your motion in the affirmative according to the by-laws, even though you may or may not support that motion, and then, take a vote.

Mr. Lee moved and Mrs. Dukelow seconded the following motion:

To make the following findings and approve the proposed variance for property located at 5710 Johnson Drive, allowing for the refacing of the existing pole sign by the applicant in lieu of one (1) wall sign as normally permitted by the sign code.

The vote was taken (0-4-0). The **motion failed and the request for a variance was denied.**

ADJOURNMENT

With no other agenda items, Mrs. Mills moved and the Commission seconded a motion to adjourn. The vote was unanimous. The motion carried. The meeting adjourned at 7:00 p.m.

_____
Jim Brown, Chair

ATTEST:

_____
Danielle Murray
Interim Community Development Director