

BOARD OF ZONING APPEALS MEETING

TIPP CITY, MIAMI COUNTY, OHIO

February 15, 2017

Meeting	Chairman McFarland called this meeting of the Tipp City Board of Zoning Appeals to order at 7:30 p.m. which was held at the Tipp City Government Center, 260 S. Garber Drive, Tipp City, Ohio.
Roll Call	Roll call showed the following Board Members present: Michael McFarland, Isaac Buehler, and Mark Hartman. Others in attendance: City Planner/Zoning Administrator Matthew Spring, and Board Secretary Dawn Gross.
Absence	Mr. McFarland moved to excuse Mr. Stefanidis from the meeting , seconded by Mr. Buehler and unanimously approved. Motion carried.
Oath to Office	Mrs. Gross administered the Oath of Office to the newest Board Member, David Cook.
Citizens Signing the Registrar	Citizens attending the meeting: Abby Bowling, Dave Arbogast, David Wilson, Tim Logan.
Board Minutes 01-10-2017	Chairman McFarland asked for discussion. There being none, Chairman McFarland moved to approve the January 10, 2017 meeting minutes as written , seconded by Mr. Buehler. Motion carried. Ayes: McFarland, Buehler, Hartman. Abstained: Cook. Nays: None.
Citizens Comments	There were none.
Chairman's Introduction	Chairman McFarland explained the guidelines and procedures for the meeting and public hearings. He advised the applicant(s) that any person or entity claiming to be injured or aggrieved by any final action of the BZA shall have the right to appeal the decision to the Court of Common Pleas as provided in ORC Chapters 2505 and 2506.
Administration of Oath	Mrs. Gross swore in citizens and Mr. Spring.
New Business Case No. 06-17 Dave Wilson – Wilson Sign for Dave Arbogast –	Case No. 06-17: Dave Wilson – Wilson Sign for Dave Arbogast – Arbogast Bulck GMC – 3540 S. CR 25A, Troy, Ohio – Lot: IL 3745 – The applicant is appealing a decision of the Zoning Administrator regarding the

**Arbogast Buick
GMC -
Appeal for sign
refacing**

"refacing" of an existing pole-mounted electronic message center sign at the commercial property located at 3540 S. CR 25A, Troy, Ohio 45373.

Zoning District: HB – Highway Business Zoning District

Zoning Code Section(s): 154.03(M)4-9.

Mr. Spring provided the following report:

The applicant is appealing a decision of the Zoning Administrator regarding the "refacing" of an existing pole-mounted electronic message center sign at the commercial property located at 3540 S. CR 25A, Troy, OH 45373 (Dave Arbogast Buick GMC).

The existing sign was previously approved in 2003 under a previous Zoning/Sign Code. The Zoning/Sign Code has since been updated twice (12/15/03 & 3/17/14) and the sign is now nonconforming, which is defined in Code §154.14(B) as:

Any sign which was erected legally prior to the adoption of this code, but which does not comply with subsequently enacted sign restrictions and regulations or a sign which does not conform to the sign code requirements.

The applicant has indicated that the existing electronic message center sign (old-style LED) has been in a state of disrepair for several years, with many of the existing diodes nonfunctioning. Accordingly, the applicant began a dialog with the Zoning Administrator in mid-2016 regarding the possible replacement of the existing electronic message center sign with a newly updated electronic message center sign.

Upon initial review, the Zoning Administrator provided the applicant with an 9/1/16 email (attachment "B") that indicated that the existing electronic message center sign could in fact be updated by refacing the sign per Code §154.11(L)(1)(b)(ii) which states:

The repainting or refacing of existing nonconforming signs, including a face change, where there are no structural changes shall not be considered an alteration within the meaning of this section. Such work shall not require a zoning compliance permit.

The 9/1/16 email from the Zoning Administrator to the applicant attempted to address the above noted Code requirement regarding "no structural changes" by stating:

"Refacing could allow the installation of a new color electronic message center (EMC), but the EMC **must be placed within the existing LED sign cabinets.**"

On 1/24/17, the Zoning Administrator received a phone call from the applicant, Mr. Wilson – Wilson Sign Company, indicating his interest in

proceeding with the application process in order to reface the electronic message center sign and his desire to verify the conditions needed to comply with the Sign Code in order to reface the sign. At that time, the Zoning Administrator reiterated the requirement that any "refacing" of the electronic message center sign would require that the existing sign cabinet remain unchanged.

Immediately after the phone call, the Zoning Administrator reviewed the specific Code requirements for the refacing of signage, noting that the term "refacing" is not defined in Code, however the term "face change" is defined in Code and includes an additional requirement found within the definition of *Face Change* as follows:

The removal or replacement of an existing surface display panel where the remaining structural frame is not altered. The changing of copy or poster on bulletin boards is not considered a face change.

Based on the above definition of *Face Change*, an updated email (attachment "C") was sent to the applicant on 1/24/17 indicating the Zoning Administrator's interpretation is that the removal and replacement of the electronic message center sign would exceed the definition of a "Face Change" because that action would require removing or replacing more than the existing surface panel (i.e. all internal electronic message center electronics, etc.).

On 1/25/17, Mr. Arbogast contacted the Zoning Administrator by phone to discuss the apparent discrepancy between the emails of 9/1/16 and 1/24/17, with the September 2016 email indicating that the electronic message center sign could be refaced, and the January 2017 email indicating that the replacement of the existing electronic message center sign would exceed the definition of refacing. The Zoning Administrator apologized to Mr. Arbogast for the contradictory information and suggested an appeal of the Zoning Administrator's decision to the Board of Zoning Appeals in accordance with Code § 154.03(M)(2)(a) which states:

An appeal may be made regarding any administrative decision made in the administration and enforcement of this zoning code including administrative decisions by the Zoning Administrator, Planning Board, and Restoration Board.

Regarding the Interpretation of Code, § 154.03(N) states:

It is the intent of this code that all questions of interpretation related to the administration and enforcement of this code shall be first presented to the Zoning Administrator, and that such questions shall be presented to the BZA only on appeal from the decision of the Zoning Administrator. Such appeals shall be in accordance with § 154.03(M).

Conclusions of the Zoning Administrator

- The refacing/face change of an existing nonconforming sign is allowed by current Code.
- A refacing/face change refers to the removal & replacement of surface display panel where the remaining structural frame is not altered.
- The refacing/face change involved in the replacement of the electronic message center sign would exceed the definition of a "Face Change" because that action would require removing or replacing more than the existing surface panel (i.e. all internal electronic message center electronics, etc.).
- The current Tipp City Sign Code does not adequately address the refacing/face change of electronic message center signs.
- The Zoning Administrator provided contradictory information to the applicant regarding the refacing/face change of their existing electronic message center sign.

Review Criteria §154.03(M)(5)

(5) Review Criteria Appeals

A decision or determination shall not be reversed or modified unless there is competent, material, and substantial evidence in the record that the decision or determination fails to comply with either the procedural or substantive requirements of this code.

Mr. McFarland asked if there were any questions of staff, there were none.

Mr. McFarland asked the applicant to come forward and state his name and address for the record.

Dave Wilson of Wilson Sign Company; 300 Hamilton Ave, Dayton, Ohio.

Mr. Wilson said he is requesting an interpretation of what a "face change" means. There will be no structural change to the sign at all. The internal components that are proposed are basically an upgrade to technology.

Mr. Cook asked if the face area will be changed in any way. Mr. Wilson replied, "No, if anything it will be slightly smaller, what is being proposed will fit inside the existing cabinet."

Mr. Buehler stated, basically nothing is changing, except we may be able to read the sign better. Mr. Wilson replied, "Definitely, it will be much nicer, more visible, more readable sign."

Dave Arbogast; 3540 S. CR 25A, Troy, Ohio.

Mr. Arbogast began, "What we are trying to do is upgrade our old sign." This sign upgrade is a major investment and Mr. Wilson wanted to make sure they could move forward with this technology upgrade after receiving an email from Mr. Spring.

Mr. Arbogast's understanding is a face change on an existing conventional sign, such as lights, light fixtures or anything that powered the sign would not be able to be changed.

Tim Logan; 2360 Seneca Drive, Troy, Ohio.

Mr. Logan started, "My partner and I own the land across the street from Mr. Arbogast's dealership."

Mr. Logan stated, he served for 2 years on a committee that helped with the latest version of the Zoning Code. It is approximately a 200 page document that was worked on diligently with several corrections that were incorporated into the new code. Understanding the code as he does, he feels what is being proposed by Mr. Arbogast is favorable.

Mr. McFarland asked if there was anyone else that wished to speak in favor of or opposed to the request, there was no one.

Mr. McFarland asked for Board Member discussion, there was none.

Mr. McFarland asked if there was any neighbor comments, there was none.

Mr. Buehler **moved to grant the requested appeal of the Zoning Administrator's decision regarding the refacing of the existing pole-mounted sign at the commercial property located at 3540 S. CR 25A, Troy, OH 45373**, seconded by Mr. Hartman. **Motion carried.** Ayes: Buehler, Hartman, Cook, McFarland. Nays: None.

Old Business

There was none.

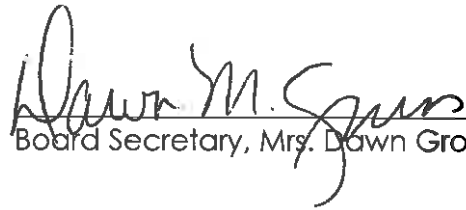
Miscellaneous

There was none.

Adjournment

There being no further business, Mr. McFarland **moved to adjourn the meeting**, seconded by Mr. Buehler and unanimously approved. **Motion carried.** Chairman McFarland declared the meeting adjourned at 7:48 p.m.


Michael McFarland, Board Chairman

Attest: 
Board Secretary, Mrs. Dawn Gross