

Zoning Board of Appeals  
 Wednesday, October 5, 2011  
 6:00 PM Town Hall

Edinburgh Zoning Board of Appeals met in special session on Wednesday, October 5, 2011,  
 6:00 p.m., Edinburgh Town Hall.

Members Present: Keith Sells  
 Ron Hamm  
 Richard Pile  
 Lloyd Flory  
 Becky Wilhelm  
 Rhonda Barrett, Secretary

Others Present: Brad Teter, Building Commissioner  
 Dustin Huddleston, Town Attorney

Keith Sells opened meeting at 6:00 p.m. and welcomed new board member Becky Wilhelm to the Zoning Board. Keith commented on the recent passing of Zoning Board member Arvis Sneed that he had been a friend, and was a valuable resource that he went to often concerning what was on the agenda for the town. Keith then opened the floor for nominations for Vice Chairman. Richard Pile nominated new board member Becky Wilhelm as Vice Chairman. Becky then asked with that position what she would need to be aware of or be prepared for. Dustin Huddleston, Town Attorney, informed her that if Keith could not be at a meeting then she would act as Chairman, directing the meeting and that he and the board could help her with that. Keith then asked Becky if Brad Teter had given her the complete package with the plans for the next five or ten years. Brad stated that he had given her the rules and procedures packet for the Zoning Board. Becky asked Keith if he was referring to the new comprehensive plan. Keith stated that he was. Brad said that he would need to get that for Becky. Lloyd seconded the nomination for Becky Wilhelm as Vice Chairman. Keith then asked for all that were in favor to raise their right hand. All right hands were raised. Motion to elect Becky Wilhelm as Vice Chairman approved.

Keith then did roll call, Keith Sells, here, Becky Wilhelm, here, Ron Hamm, here, Richard Pile, here, Lloyd Flory, here, Rhonda Barrett, here.

Keith Sells presented the May 4, 2011 meeting minutes for approval, he asked for any corrections or additions to the minutes. There being no corrections or additions, he asked for a motion to approve the minutes. Richard Pile made motion to approve minutes. Lloyd Flory seconded. Keith asked for showing of right hand for all in favor. All right hands were raised. Motion approved.

Richard Pile had a question concerning the minutes whether or not to talk about before or after approving them, concerning the variance for Michael Fisher. Dustin informed him that what we have now are the minutes from the previous meeting and if they were fine then they would be approved, which had just been done. If there were things that needed to be changed for example somebody had been misquoted, or something had been said incorrectly, then that is when he would need to ask for a correction to the minutes. Richard then asked if this was for the sign variance for Don Knight. Rhonda Barrett, Secretary, informed him that tonight's agenda was for a sign variance for JR Promotions. After some further discussion, Keith asked Brad to present tonight's agenda items.

Brad Teter stated that there were some issues with the application that had been presented by Mr. Sprague of JR Promotions. Both signs do not lie within the RB zoning, that part of the application was incorrect, the variance that is being sought does not cover both sign locations, due to the fact that they are not in the same zoning, the legal description is not legible by Brad, as he is not familiar with reading legal descriptions as presented. Lloyd Flory asked about the area of square feet per sign. Brad stated the area of square foot of the sign that he is requesting is more than 750 square feet total.

Dustin Huddleston asked Brad if he would like for him to further explain to the board what the issues are with the petition.

Dustin then summarized to the board that Brad is not sure if tonight's petition is correct on certain levels:

1. The petition says it is zoned RB, this is what the petitioner put, but Brad does not know if that is correct, it could be zoned R1;
2. The attached legal description to the petition, Brad does not know if that legal description accurately describes both parcels;
3. On the petition, the variance request is for two pole signs on one piece of property, however the advertisement in the paper and sent to every landowner says two pole signs on every property and they exceed 35 feet. They are requesting higher than 35 feet up to 50 feet.

Brad stated that there are unanswered questions.

Keith then asked if the board could act on tonight's petition as it stands.

Dustin stated that the board can move and act on the petition if they feel it is in proper form, which he thought was the recommendation from Brad, or it can be tabled until next month's meeting to allow Brad more time to get answers and then come back to make a decision.

Keith stated that he thought they should make a motion to reject the petition.

Becky Wilhelm asked if they decide to table the petition, would that give more time for the individual

Brad stated yes.

Dustin informed Keith that before he makes the motion, he would need to ask if there is any one in the audience that would like to speak for the petition.

Keith commented that he didn't see anyone in attendance other than the young daughter of a board member.

Dustin stated that even though there was no one in attendance tonight, they need to give anyone in the audience the opportunity to speak for the petition. Before they get to that point the board needs to decide if they want to hear the petition or not.

Richard Pile asked if they are going to hear the petition, then everything is the same as presented, but Brad is saying that the board needs more time.

Dustin stated that he is not sure what Brad is recommending, but that Brad identified to Dustin that he has three issues that Brad does not know the answers to on the petition.

Richard asked if the petition is rejected then the signs would not be approved

Dustin stated that was correct.

Becky asked if the petition is tabled, allowing Brad to investigate more, get answers then bring back to next month's meeting then the board can decide to accept or decline the request.

Dustin stated that was correct.

Keith stated that the reason he wanted to motion to deny is that he is against clutter, that he felt like billboards were clutter. Keith said from what he understood that the signs would be one on the road to Atterbury, and the other one is on 31 north of the intersection at 252.

Brad stated that was correct.

Lloyd Flory asked if both of them were facing traffic approaching the intersection.

Brad stated that he understood them to be double sided signs.

Lloyd stated that the example illustrates signs that are going to be more area than the 750 square feet in the current ordinance

Dustin stated that it had not been advertised nor on the petition, the petitioner has not asked for an increase of the surface.

Lloyd stated since it was not asked for then can't say one way or the other, but that it would be Brad's responsibility to see that it does not happen unless there is a variance that is granted to them.

Dustin stated that the second set of issue that Brad had identified is that if this is RB zoning, which Brad is not sure of right now, that it specifically says in the Town ordinance, that RB zoning on signs is subject to the Planning Commission's approval. Signs in RB are approved by the Planning Commission. If the board did hear the petition tonight and recommend an approval tonight, which Dustin is not recommending that they do, then it would definitely need to go before the Planning Commission before the signs could be put up.

Becky asked for clarification of RB zoning. Brad stated that RB is roadside business.

Brad stated that from what he could see at this point, that one sign is in RB and one sign is in R1 which is suburban residential.

Dustin stated that before they get to the petition they need to decide if they want to hear it tonight or not, if it is in proper form or not.

Richard asked if that was the main thing right now to decide if the petition was in proper form or not.

Dustin said that if the board felt it was in proper form, then they could vote on it and say yes or no that it meets the standards that are outlined.

Keith said from what he understands that the board really does not know if it is proper form. How can the board go forward if they reject it or postpone it or anything else if they don't know if it is proper form? He asked what the options for the board were; can they table it or go forward and reject it?

Dustin stated that the board could go forward and vote on it, not necessarily reject it; they need to decide whether or not to hear the petition or table it.

After some further discussion, Richard Pile made a motion to table the petition until the next meeting on November 2, 2011. Lloyd Flory seconded. Keith asked for all in favor to raise their right hand. All right hands were raised. Motion to table petition was approved.

Keith asked if there was anything else to come before the board tonight.

Richard asked about the variance with Michael Fisher, 500/502 W Center Cross, that he had heard some complaints on the business.

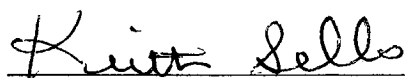
Brad stated that from what he knew that the business had been moved at the request of the property owner.

Dustin informed the board that the six month review of the Fisher variance would need to be done at either the November or December meeting. The variance had been reviewed in May 2011 and was decided to review again in another six months. Dustin stated that this review would be on the November 2, 2011 agenda along with tonight's petition that was just tabled.

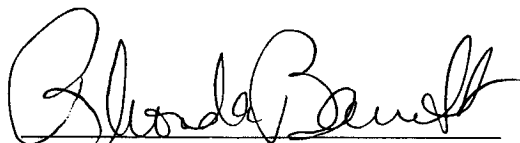
Richard also asked about the variance for the sign on Don Knight's property that had been approved at the January 5, 2011 meeting, that he had received some complaints concerning the H & R Block sign, that it was hard to see around when pulling out.

Brad stated that he had been notified to move the sign back

There being no further business, Keith asked for a motion to adjourn. Lloyd Flory made a motion to adjourn the meeting. Keith Sells seconded. Keith asked for a showing of right hands to approve. All right hands were raised. Meeting adjourned.



Keith Sells, Chairman



Rhonda Barrett, Secretary