

Zoning Board of Appeals  
 Wednesday, March 5, 2014  
 6:00 PM Town Hall

Edinburgh Zoning Board of Appeals met on Wednesday, March 5, 2014, 6:00 p.m., Edinburgh Town Hall.

Members Present: Keith Sells  
 Richard Pile  
 Becky Wilhelm  
 Lloyd Flory

Others Present: Wade Watson, Building Commissioner  
 Dustin Huddleston, Town Attorney

Keith Sells opened the meeting at 6:00 p.m. with roll call. Keith Sells here, Becky Wilhelm here, Ron Hamm not here, Richard Pile here, Lloyd Flory here.

Keith Sells presented the sign in sheet for anyone who wanted to receive further information about tonight's meeting and asked for those who wanted to speak to be sworn in. Richard Sprague of JR Promotions LLC signed in and was sworn in by Dustin Huddleston.

Keith then asked Wade Watson to give his presentation for JR Promotions LLC request for a variance to erect a 29 foot tall 2 sided billboard on the west side of U.S. Highway 31. Wade presented his presentation on the request (see attached staff report).

The property is owned by William Schaffer and is within the U.S. 31 and S.R. 252 Town of Edinburgh Corridor Overlay Zone District. The petition was brought before the Planning Commission on January 21, 2014 for approval to erect the sign within the Overlay District and was approved by the Planning Commission. This request is for a variance for the overall height and copy area of the proposed signs which exceed established standards.

Staff recommendation is for approval with the following requirements:

1. Strict adherence to the specifications established by the decision of Edinburgh Plan Commission in Case Number PC 2014 - P-1, and;
2. Compliance to all regulations established in section 156.211 Major Highway Signage for which no variance are granted.

Keith Sells asked the board if they had any questions.

Richard Pile asked about the electrical right of way with the placement of the signage.

Wade Watson stated that they would not be allowed to install anything within the utility right of way; anything built would be outside of the right of way.

Richard Pile stated that in the pictures of the current sign that it looked pretty close to the electric lines.

Keith Sells asked Richard Sprague of JR Promotions LLC if he would like to present any further information to the board.

Richard Sprague distributed pictures of the current sign and a photo of an existing sign that is similar to what he is requesting(see attached photos). Richard stated that William Schaffer had approached him about finding a customer to advertise on the current sign on his property. After some discussion with Mr. Schaffer, he agreed to allow Richard to seek a variance to construct a new standard sized billboard on the property and remove the old sign. Richard stated that the old sign is built kind of underneath the electric line and one of the reasons for the height variance request is that the new sign will need to be built further out in the field, at least 10 feet away from the electric lines in a lower part of the field, and there needs to be height clearance for

farming equipment to go under the sign. There is a possibility that the once the new sign is installed it could be less than the 29 foot height requested.

Keith asked the board if they had any questions for Richard Sprague. There being no questions Keith asked if anyone would like to make a motion.

Richard Pile made a motion to approve the request as presented in the staff report with the requirements of Strict adherence to the specifications established by the decision of Edinburgh Plan Commission in Case Number PC 2014 - P-1, and; Compliance to all regulations established in section 156.211 Major Highway Signage for which no variance are granted.

Becky Wilhelm seconded the motion

Keith asked for all in favor to raise their right hand. Richard, Becky, and Keith raised their right hand. Keith asked for all opposed to raise their right hand. Lloyd Flory raised his right hand. Motion passed 3 -1.

Keith Sells asked if there was any other business that needed to be brought before the board.

Dustin Huddleston stated that the minutes from the previous meeting needed to be approved.

Keith presented the February 5, 2014 minutes and asked if anybody would like to make a motion to approve them. Richard Pile made a motion to accept the minutes as presented. Keith Sells seconded. Keith Sells asked for all in favor to raise their right hand. All hands were raised. Motion passed.

Dustin Huddleston stated that there was one more item, that before tonight's meeting the board should have been presented with a copy of an Agreed Judgment. He reminded the board that at the last meeting, the Zoning Board had authorized him to file suit upon the property that is located on the corner of Holland Street and State Road 252 which belongs to Mr. Randy Burton. The property owner had been notified numerous times that they were in violation of the zoning ordinance as they had outside storage which is not allowed in that property's zoning which is Local Business. They were given a time period to correct the violation and they did not correct the violation. During the February 5, 2014 meeting the board agreed to have Dustin file a lawsuit against the property and Randy Burton was served with the lawsuit. Since being served the papers for the lawsuit, Randy's brother Alan Burton has expressed that they would like to try to correct the violation and get the lawsuit rectified. The Agreed Judgment that Dustin has prepared and presented to the board tonight would eliminate the need for a hearing, if the Zoning Board and Mr. Burton sign it. The signed judgment would then be approved by the Judge and there would be a judgment that states that Randy Burton has violated the zoning ordinance and he has so many days to clean it up per court order and that if he does not clean it up per court order, then there is a fine of \$10,050 to pay, that Wade has calculated based on how much it is going to take the Town if necessary to clean up the property. The agreed judgment would also provide that any day past the allotted days that Mr. Burton does not comply, in addition to the original calculation, is an additional \$2,500 per day. Randy Burton's brother Alan Burton expressed that they would sign the agreement but they have not yet. Dustin would like to have the Zoning Board approve the agreed judgment and allow it to be signed by Chairman Keith Sells on behalf of the Zoning Board, so that when and if Randy Burton comes in to sign the judgment then the judgment will already be approved and ready to file with the Court. Dustin asked the Board if they had any questions.

Becky Wilhelm asked what would happen if he does not come in and sign, how will this be monitored.

Dustin Huddleston stated that it is now a Court action and it is regulated by the court, if Mr. Burton does not pay the fine, and does not clean up the property, Dustin will notify the court, they will have a hearing and the court will determine how to remedy the situation and collect the fines.

Becky Wilhelm asked about normal day to day business with inventory being outside and open containers outside, how will that need to be handled? Can the containers not be outside after hours; are they not to be visible?

Wade Watson stated that when talking with Randy Burton's brother Alan Burton, that there would not be a problem with trucks being loaded in the parking lot that are "in transit", but loaded trucks cannot be left parked there overnight or days at a time, as the Zoning for that property does not allow for outside storage.

Keith Sells asked if the only violation on the property is the outside storage, and not any other issues like oil spills or ground contamination.

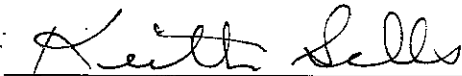
Wade & Dustin stated that the zoning violation is for the outside storage, and that oil spills and or contamination issues are handled by IDEM. The complaint received by the Town is about the outside storage zoning violation. The letters sent to them about the violation always gave them the option to come before the Zoning Board to seek a variance on the property, but they never asked for a variance.

Lloyd Flory asked about an Industrial Noise Ordinance? Dustin stated that there is just a general noise ordinance that is specific to hours.

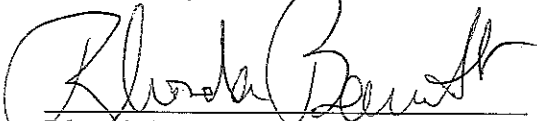
After some further discussion, Keith Sells asked if anyone would like to make a motion to approve the Agreed Judgment and allow for Keith to sign the judgment on behalf of the board.

Lloyd Flory made a motion to approve the Agreed Judgment and allow for Keith Sells to sign the judgment on behalf of the Zoning Board. Richard Pile seconded. Keith asked for all in favor to signify by raising their right hand. All hands were raised, motion passed.

There being no further business, Becky Wilhelm made a motion to adjourn the meeting. Richard Pile seconded. Keith asked for all in favor to raise their right hand. All hands were raised, motion passed, meeting adjourned.



Keith Sells, Chairman



Rhonda Barrett, Secretary

**BOARD OF ZONING APPEALS**  
TOWN OF EDINBURGH  
107 S. Holland St.  
Edinburgh, IN 46124

**STAFF REPORT**  
ZB 2014 - V 01  
March 5, 2014  
Page 1 of 7

## **STAFF REPORT**

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**CASE NUMBER:** ZB 2014 ~ V-01  
**CASE NAME:** JR Promotions LLC  
Application to Erect a Two-Sided Bill Board

### **GENERAL INFORMATION**

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**Applicant:** JR Promotions  
430 Second Street  
Columbus, IN 47201

**Property Owner:** William P Schaffer  
454 Towerwood Blvd  
Lake Wales, FL 33589

**Agent:** Richard Sprague  
430 Second Street  
Columbus, IN 47201

**Acreage:** 19.11  
**Zoning:** R1  
**Land Use:** Agriculture - Vacant Land

### **PROPERTY DESCRIPTION**

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The property is located in Southwest Quarter of Section 28, Township 11 North, Range 5 East (W SW S28 T11 R5) in Blue River Township approximately 2000 feet north of the intersection of U.S. 31 and Hospital Road (800 S), on the west side of U.S. 31. This property is within the U.S. 31 and S.R. 252 Town of Edinburgh Corridor Overlay Zone District and zoned as R1 (Suburban Residential) and is currently being used for agriculture.

### **CASE DESCRIPTION**

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1. The Board of Zoning Appeals is to consider the application of JR Promotions to erect a billboard sign on parcel # 41-12-28-032-010.000-001, property owned by William P. Schaffer. This parcel is outside the Municipal Boundaries of the Town of Edinburgh but is within the Town of Edinburgh Buffer Zone and within the Camp Atterbury Buffer Zone.
2. Petitioner is requesting a variance to erect a two-sided billboard, 29' tall having a total copy area of 576 square feet ( 2 - 24' x 12'), 288 square feet of copy area facing north bound traffic and 288 square feet of copy area facing south bound traffic. This proposed billboard will replace an existing single-sided billboard currently erected at this location having a total copy area of 96 square feet, approximately 12' x 8'. (photos attached)
3. Petitioner has satisfied all documentation requirements, legal and public notifications specified in the Town of Edinburgh Board of Zoning Appeals Application Packet.

## **PURPOSE OF STANDARDS:**

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The purpose of Division 6. Sign Regulations is to regulate all signs in the incorporated area of Edinburgh, Indiana, so as to protect the general public and promote traffic safety and public health. The ordinance establishes on-premise sign standards for all zoning districts in the town and off-premise sign standards. These standards were developed to protect the community from excessive signage that could diminish the aesthetic appeal of the entrances and highways surrounding the community.

The purpose of the proposed off-premise billboard is intended to meet the needs and reach the population which would not otherwise be aware of such businesses or its location.

## **CASE HISTORY**

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Case Number PC 2014 - P-1 came before the Town of Edinburgh Plan Commission on January 21, 2014 for Development Standards Variance to erect a two-sided billboard to replace an existing single-sided billboard currently erected at this location. Town of Edinburgh Plan Commission approved the variances subject to the following conditions:

- A. That in the event that the signs are installed on the subject property; the following content is prohibited to be displayed in any way on said signs:
  - a) Any advertising or other signage of any type or kind that is distasteful, offensive, or of a questionable nature;
  - b) Any advertising for massage parlors or similar adult themed business;
  - c) Any advertising regarding adult book stores and related establishments selling or exhibiting pornographic or other obscene materials or entertainment;
  - d) Any advertising regarding political candidates or parties.
- B. And adherence to the requirements of § 156.211(3) Prohibited Signs: The following types of outdoor advertising signs are prohibited:
  - a) Signs which are illuminated or animated by means of flashing, fluctuating, scintillating, blinking, or traveling lights or any other means not providing constant illumination as provided herein;
  - b) Signs which advertise illegal activities, or are obscene, or which contain untruthful copy, or which are improperly mounted or erected, or which represent a traffic hazard.

## **CONSIDERATIONS**

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1. Variances from the following Development Standards of Division 3, Highway Corridor Overlay Districts should be reviewed by the Board of Zoning Appeals when considering this request:
  - A. Section 156.134 (5) of the Zoning Ordinance for the Town of Edinburgh states: "Off premise signage shall be prohibited in the U.S. 31 and S.R. 252 Corridor Overlay Zone Districts. The Edinburgh Plan Commission approved a variance from this standard on January 21, 2014.

- B. Section 156.134 (6) of the Zoning Ordinance for the Town of Edinburgh establishes standards for "on premise" signage in the U.S. 31 and S.R. 252 Corridor Overlay Zone Districts to the following requirements:
- a) No pole sign shall exceed twenty-five (25) feet in height.
  - b) There shall be a minimum spacing of one hundred (100) feet between any pole or ground signs.
  - c) In no instance shall pole signs exceed two hundred (200) square feet of copy area.
2. Variances from the following Development Standards of Division 6 Sign Regulations should be reviewed by the Planning Commission when considering this request:
- A. Section 156.203 Prohibited Sign (8) Off-premise shall be prohibited except as is expressly permitted in this Division.
3. The Town of Edinburgh has historically allowed the erection of off-premise signs and billboards along U.S. Highway 31. There currently exists a minimum of twelve (12) off-premise signs within a half mile of this site, including two double-decker billboards along U.S. Highway 31.

#### **STAFF ANALYSIS**

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- This proposed two-sided billboard would replace the current poorly maintained single-sided wooden billboard. (photos attached)
- Off-premise signs are prohibited in the Highway Corridor Overlay Districts, and in all Zoning Districts. The overall height and copy area of the proposed signs exceed standards established of both the on and off-premise signage for the Highway Corridor Overlay and all Zoning Districts, except as permitted in Section 156.211.
- Section 156.211, Major Highway Signage recognizes and permits off premise signage within 600' of the nearest edge of interstate highway right-of-way.
- Section 156.211 (4) establishes the size and height restrictions for billboards to a minimum set back of 20', minimum height of 12', maximum height of 50' and a maximum face area of 750 sq. ft. The proposed billboard complies with these requirements.
- Staff has received no dissenting concerns or comments related to the erection of the proposed sign.

#### **EACH VARIANCE MUST MEET ALL OF THESE FINDINGS OF FACT**

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In taking action on all variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code. The Board may grant a variance from development standards and limitations of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.5) that:

1. **GENERAL WELFARE:** The approval will be injurious to the public health, safety, morals, and general welfare of the community.

*STAFF FINDINGS:*

Approval of this variance **will not** create a condition that would be injurious to the public health, safety or general welfare of the community.

- 2. **ADJACENT PROPERTY:** The use and value of the area adjacent to the property included in the variance will be affected in a substantially adverse manner.

*STAFF FINDINGS:*  
Adjacent properties to the subject property **will not** be affected in a substantially adverse manner.

- 3. **PRACTICAL DIFFICULTY:** The strict application of the terms of the ordinance will not result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.

*STAFF FINDINGS:*  
The strict application of the ordinance **will not** result in a practical difficulty in the use of this property.

**STAFF RECOMMENDATIONS**

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Based on these findings, staff recommends approval of the petition with the requirement that:

- 1. Strict adherence to the specifications established by the decision of Edinburgh Plan Commission in Case Number PC 2014 - P-1, and;
- 2. Compliance to all regulations established in section 156.211 Major Highway Signage for which no variance are granted.

Respectfully Submitted,



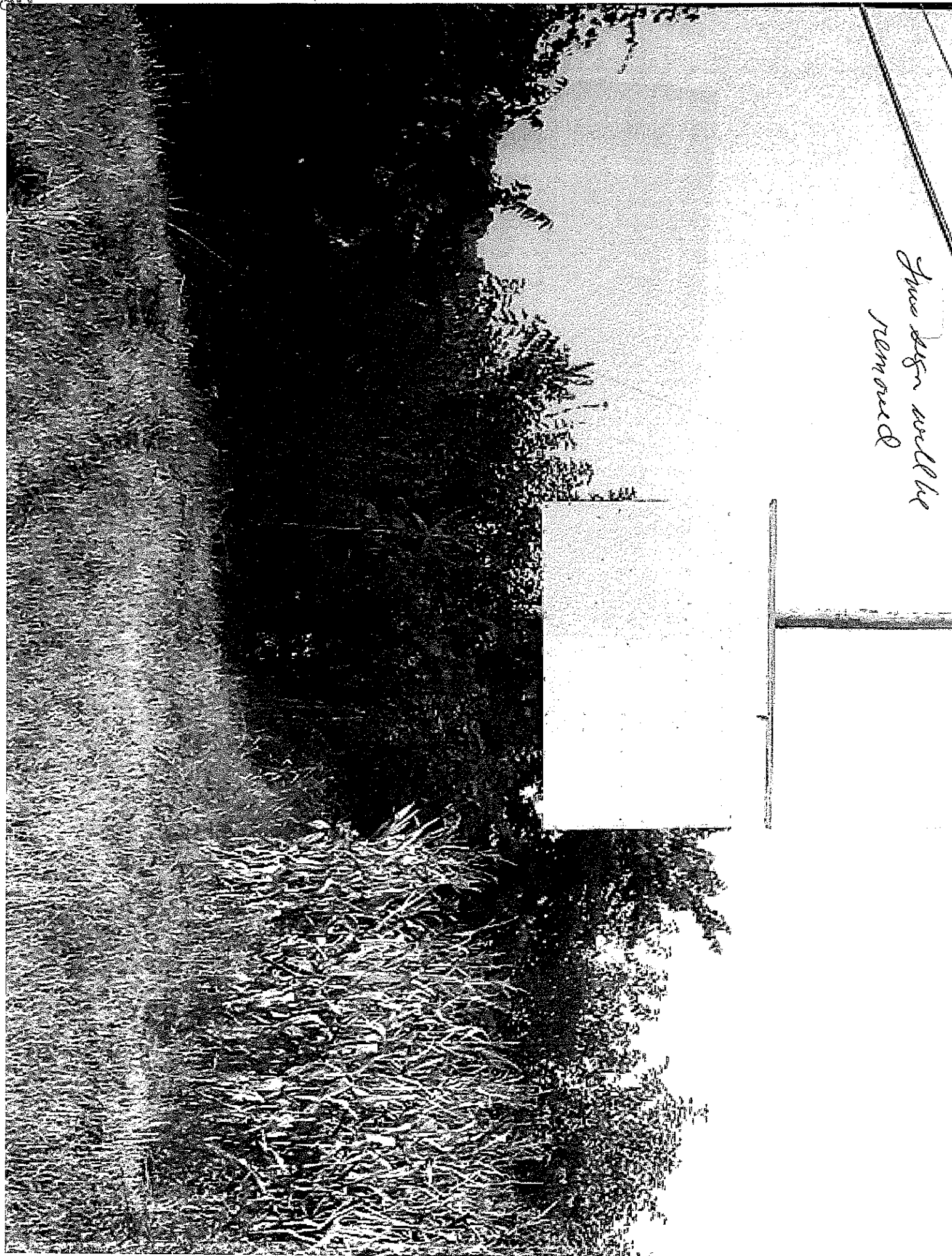
Wade Watson  
Building Commissioner  
Town of Edinburgh



Small new double sided sign  
instead of one removed  
12' tall 24' long + 29' tall  
28888888







*Spice bag will be  
removed*