

## Village of Central Square ZBA Meeting

January 11, 2011

**Attendance:** Chairman Mike Sperling, Board Member Bob Loran, Board Member Jacques Monica, Board Member Deborah Worlock, Village Attorney Kevin Caraccioli, Mayor Murphy, Trus. Heather Stevens, Donald Penoyer, Chad Penoyer, Attorney John Langey, Court reporter Mary Agnes Drury of Action Reporting, 211 West Jefferson Street, Syracuse, NY 13202, Secretary Brandy Warren-Hickman, and Citizen Brian Gristwood of Central Square Farm & Lawn.

Mike Sperling leads the Pledge of Allegiance.

Mike Sperling makes a motion to start the meeting at 7:07 p.m.

Mike Sperling asks if there are any comments from the public.

John Langey wants to update the Board on where he and his client are at in regards to this matter. In 2007 the Central Square Zoning Board of Appeals gave Donald Penoyer permission to have the sign through the process of applying for an area variance. Mr. Langey and his client Donald Penoyer deny knowing about the last meeting which was rescheduled for December 16, 2010. He wants to address a few things from the unapproved minutes from the 12/16/10 meeting. Mr. Langey tells the Board that he has previously submitted a letter from a local real estate agent as an expert witness, and that based on her knowledge of the area she feels that the sign is no detriment to the community. John would also point out to the Board that they did address the 5 point criteria that are required when applying for an Area Variance or a Usage Variance. He would like to know if the sign being attached to the building is being discussed tonight because doesn't think it is appropriate.

Deborah Worlock asks if ads were on old sign too or just new sign. Donald Penoyer says yes there were ads on the previous sign. He recalls running an ad for a vender fair at the local school and confirms that he was paid for said ad.

Kevin Caraccioli asks John Langey if he would agree that this matter would fall under a Type 2 Action of SEQR. Mr. Langey says yes. Does this include advertising? John Langey again answers yes. Kevin Caraccioli asks Mr. Laney & his client whether or not they're seeking to expand the sign or operation of the sign? John says that they are only here to answer Code Enforcement Officer Mark Bombardo's letter citing the Billboard Code. Since it's already an approved sign they just want to get permission to run electronic messages. Mr. Langey confirms that they are not here to get a variance to make the sign bigger. They want to use the sign that is currently up on the building (Dignity Plus) with the addition of permission to message whatever they want it to say.

Kevin Caraccioli says if the Board has any more questions regarding this matter, then they need to address them now. Kevin adds that because of the location of sign and Municipal Law [Section 239 L&M] the matter falls under the Oswego County Planning Boards jurisdiction. He informs the ZBA that all of the minutes, exhibits, and correspondences regarding this matter have been submitted to the Planning Board, but he has yet to receive their decision. Kevin anticipates having it within the next week or so. The Oswego Co. Planning Board has all the information that the Zoning board of Appeals has at this time.

Jacques Monica asks if there's no detriment to the community (and he agrees that there is no detriment) then what are we deciding? Are we only here to address Mark Bombardo's letter citing the sign as a billboard? Kevin says yes that's part of the matter, but not all. This is a 2 part request from the applicant: Deciding whether the sign is in fact a billboard (which the applicant admits it is) and a variance to use illuminated, flashing text & graphics for messages and advertising. Kevin then states that a Resolution with stipulations would resolve this issue. He also indicated that the interpretation of the village code is correct and affirmed. The Board agreed.

John Langey says that Mark Bombardo's letter told them to go to the ZBA to get variance for either use of a billboard or a usage variance regarding the message content and the illumination thereof. Jacques Monica says if we (the ZBA) approve just a billboard then Mr. Penoyer can use it as he is now. Kevin Caraccioli says the Board can grant a variance with limitations. Jacques says first we approve the board and then the messages thereon. Jacques also states that the applicant has the right to say what he wants under the 1<sup>st</sup> Amendment.

John Langey asks what's the nuisance of this board as it is right now? The health & safety of the community are protected. The time and temperature has always been up. What is the harm of the additional messaging that's been up for 3 years. He's not aware of any more accidents in the intersection.

Some Board members say they don't light the strobe light effect/flashing lights. The applicant indicates he is willing to fade it in and out and slow it down. The Board when asked the community says the content is ok, but the brightness and flashing of the sign is distracting and gaudy.

Kevin Caraccioli says that in his research he found that a Federal District Court made a ruling in reviewing the intention of a town to limit the use of a sign. That town had identified many aesthetics, distractions, but prohibiting all signs is not protecting property values, safety, and the health of those walking or driving past. Court says town was too broad with their law prohibiting the use of a billboard. The Court ruled that the town could not cast such a broad net of codes and stipulations that it renders the sign usage illegal. In Central Square there is a prohibition of all

billboards. The ZEO determined that the sign constituted a billboard and the Board agreed but understands that applicant is still wanting off site advertising. Kevin Caraccioli says the Board can stipulate certain things like the time the sign turns off at night or how bright it is.

Jacques Monica says that the white background on the sign is blinding when it is raining. Deborah Worlock asks if it can be toned down. Jacques states that maybe limiting the white back grounds would help keep the distraction to a minimum. Applicant, Donald Penoyer says the technology allows them to mute the colors. Jacques Monica asks Mr. Penoyer if his advertising customers would be upset if he changed their logos and would it cause him to lose business if they were made to alter logo colors? Applicant indicated that he doesn't know at this point if his business will be affected by clients unhappy about color/logo regulations.

Mike Sperling asks Jacques & Debi if they heard any complaints from community when the previous sign was up and in use. Deborah Worlock says she that never even noticed the 1<sup>st</sup> sign. Donald Penoyer says that the 1<sup>st</sup> sign is still there, he just added a new message board. Deborah says she never even saw the old message board. Now she sees the new message board every time she drives by because it's so bright and flashy. Jacques says that he understood from Donald Penoyer the new and old message boards were of the same technology but that the old one had repair problems. Mr. Penoyer confirms this with a nod.

Chad Penoyer states that he could program the sign's software to change to a blue background at 10:00 p.m. and at dawn it will go back to white.

Donald says he doesn't believe the sign is a detriment because he does plenty of messages benefitting the community, and that he does it for free. The Board says they've heard people say like the information; they just don't like the Las Vegas flashiness changing the look of the village.

Kevin Caraccioli says that the Board can't make a final determination tonight because we are still awaiting the Oswego County Planning Board recommendation. The ZBA must accept or reject their recommendation by vote (majority plus one). He also adds that the Board needs to think of the conditions they would like applied to the sign. Hours of operation and illumination as it pertains to distracting to the motorists or neighbors.

John Langey asks the Board when is the next meeting scheduled? They say it is not set yet and go to the task of deciding (keeping in mind to allow about 2 weeks for the County Planning Board's recommendation. John asks Kevin if he just wants to advise in a letter? Kevin says we'd better set it now while we're all here.

Mike Sperling makes a motion to set the next meeting for February 8, 2011 at 7 p.m. Jacques Monica seconds the motion. Board polled, all in favor.

Mike Sperling makes a motion to close the public hearing and open the regular board meeting at 7:53 p.m. Deborah Worlock seconds the motion.

Mike Sperling asks if there are any comments or concerns regarding the 12/16/10 minutes. Board members say no. Bon Loran makes a motion to approve the minutes from the December 16, 2010 meeting. Mike Sperling seconds the motion.

Mike Sperling makes a motion to adjourn the meeting at 7:55 p.m. Bob Loran seconds the motion.

Submitted by Brandy Hickman, Secretary