

**CITY OF BRIGHTON
ZONING BOARD OF APPEALS
AGENDA
APRIL 8, 2010**

Blue Sky Session – 7:15 p.m.

Regular Session – 7:30 p.m.

1. Call to Order
2. Roll Call
3. Approval of the March 11, 2010 Meeting Minutes

Old Business

New Business

4. **Performance Creative Resources, Inc on behalf of North Street Partners, 135 W. North Street**, is appealing the Community Development Administrative Official's decision that the proposed sign does not meet the definition of a public information sign as defined in Section 66-2. Per the applicant the sign "does not scroll, blink, flash, travel, is not intense light, is not animated; sign will not display individual investment positions – only the (3) major overall indexes (Dow Jones, S&P, Nasdaq) and can be set to change by minute, not continuous changes." The Community Development Administrative Official reviewed the proposed "scroll sequence" sign and determined that the sign is not permitted based on the following sections of the City of Brighton Ordinance: **Section 66-91 (8), Section 66-91 (14) (a), and Section 66-2 definition of Public Service Sign. Sec. 66-62.** Powers and duties. The sign board of appeals (zoning board of appeals) shall have the power and duty to: (1) Hear and decide appeals by the sign permit applicant from a decision of the administrator denying, or failing to grant a sign permit within 30 days of application. (2) Grant variances from the requirements of this chapter as part of the disposition of an appeal from action of the administrator denying or failing to grant a sign permit. The applicant is requesting a ruling from the Zoning Board of Appeals to determine that the proposed sign is not prohibited by the above noted Ordinance sections and that the sign is a public information sign.
5. Staff Updates
6. Call to the Public
7. Adjournment

**CITY OF BRIGHTON
ZONING BOARD OF APPEALS
MINUTES
April 8, 2010**

1. Call to Order

The meeting was called to order at 7:30 pm.

Patrick Rahilly
Chad Cooper
Russ Gottschalk
Kelly McIntyre
Dave Senak
Alex Tortora
Gino Conedera
Amy Cyphert
Patty Thomas

3. Approval of the March 11, 2010 Meeting Minutes

Moved by Cooper, seconded by McIntyre, to approve the March 11, 2010 minutes as presented.
The motion carried unanimously with Board Member Senak abstaining.

New Business

4. Performance Creative Resources, Inc on behalf of North Street Partners, 135 W. North Street, is appealing the Community Development Administrative Official's decision that the proposed sign does not meet the definition of a public information sign as defined in Section 66-2. Per the applicant the sign "does not scroll, blink, flash, travel, is not intense light, is not animated; sign will not display individual investment positions – only the (3) major overall indexes (Dow Jones, S&P, NASDAQ) and can be set to change by minute, not continuous changes." The Community Development Administrative Official reviewed the proposed "scroll sequence" sign and determined that the sign is not permitted based on the following sections of the City of Brighton Ordinance: **Section 66-91 (8), Section 66-91 (14) (a), and Section 66-2 definition of Public Service Sign. Sec. 66-62.** Powers and duties. The sign board of appeals (zoning board of appeals) shall have the power and duty to: (1) Hear and decide appeals by the sign permit applicant from a decision of the administrator denying, or failing to grant a sign permit within 30 days of application. (2) Grant variances from the requirements of this chapter as part of the disposition of an appeal from action of the administrator denying or failing to grant a sign permit. The applicant is requesting a ruling from the Zoning Board of Appeals to determine that the proposed sign is not prohibited by the above noted Ordinance sections and that the sign is a public information sign.

Mr. Peter Eichinger of Performance Creative Resources and Mr. Craig Roemler, who is representing North Street Partners, were present.

Mr. Eichinger feels the issue is what is the definition of "Public Service Information". He gave a review of what he believes is public information - weather, traffic, time, date, and stock market indexes. This information is in newspapers, on websites, etc. They are not tangible items. They cannot be purchased. He stated they will only be displaying the NASDAQ, S&P, and Dow Jones information. They will not be displaying specific stock positions. He added that the market is only open Monday through Friday from 9:30 am to 4:00 pm and these are the times this

information will be displayed. They will be willing to also post other information, such as tornado warnings, Amber Alerts, etc. if requested by the City.

The sign does not scroll; it changes. The information will fade in and out and it can be set to change every one minute. He showed a life-size sample of the sign. It will be black with one line of yellow LED lettering / numbers.

He noted that the Cyclone Car Wash has a changing LED sign; however, it is currently inoperable. The BP gas station sign uses the same technology as they are proposing and it does not provide any public service. It displays the price of gasoline at that specific station. Also, Brighton High School just installed a LED message sign. The City of Brighton PSD & DDA invested \$6,000 in this sign so they could use it to display and promote their downtown events.

Board Member Cooper stated that the PSD & DDA advertise in other locations outside of the City of Brighton also. It is not relevant to this request or what is allowed by ordinance by the City of Brighton. He added that the Brighton High School sign is not located in the City of Brighton so is not subject to the same ordinance as the applicant.

Ms. Cyphert stated that the Cyclone car wash sign was approved in 1999 by the building official at that time. However, he is no longer employed at the City so she is unsure how this was approved. Also, the BP gas station sign does not change as this one is being proposed.

Board Member Rahilly questioned the applicant as to what is the purpose of having this sign. Mr. Eichinger stated it is to show public information and it will bring visibility to all of the businesses in this building.

Board Member Rahilly agrees with staff's interpretation. He does not feel there is any public service being provided.

Board Member Gottschalk feels that this could contribute to drivers taking their eyes off the road to read the sign.

Board Member Cooper does not feel the BP gas station sign is a good comparison to this sign. With that one, they are sure that only gas prices will be displayed; however, with this sign, it is possible that any wording can be displayed and the City does not have any means to control that.

Board Member Conedera suggested to the applicant to only display the date and time as public service information. Mr. Eichinger stated they feel these statistics are public service information.

The call to the public was made at 8:03 pm. Ms. Susan Walters-Steinacker noted that Mr. Eichinger stated in his presentation "If you can buy it, then it is not a public service". Other businesses can put up one of these signs and advertise offers they have, not just products they sell (free gift cards for bringing in a new prescription at Walgreens, Meijer's senior citizen day, etc.).

The call to the public was closed at 8:04 pm.

Board Member McIntyre stated that the Board is charge with determining if staff made a mistake when making their determination on this sign. She questioned how staff decided this sign did not meet the ordinance. Ms. Cyphert stated that the sign permit application noted that the sign would have a scroll sequence and included time, temperature and NASDAQ, S&P, and Down Jones. Staff reviewed the proposed sign with the ordinance and Staff found that the stock information was not listed in the public information sign definition and that the scrolling would change on a continual basis and that the proposed changing sign would be considered an animated sign which is prohibited.

Board Member Rahilly stated that with regard to the sign at the Cyclone Car Wash, the City of Brighton never approved this sign and somehow it just “fell through the cracks”.

Board Member McIntyre is having an issue with the ordinance definition of public information. It is very wide open. Board Member Rahilly agrees; however, the direction that has been given to staff in the past has been that changeable LED signs are not favorable in the City of Brighton. Board Member McIntyre agrees.

Moved by Rahilly, seconded by Cooper, to affirm the decision by staff that the proposed “scroll sequence” sign is not permitted based on sections of the City of Brighton Ordinance. **The motion carried (Tortora - no; Cooper - yes; Rahilly - yes; Conedera - yes; Senak - no; McIntyre - yes; Gottschalk - yes).**

5. Staff Updates

Ms. Cyphert stated she has no submittals for next month’s meeting, but she will advise the Board if the meeting is cancelled.

Board Member McIntyre questioned if updates to the zoning ordinance are being prepared. Ms. Cyphert stated that staff makes updates and proposes them as time permits. Currently an update is being brought to the Planning Commission regarding downtown parking requirements.

6. Call to the Public

The Call to the Public was made at 8:16 pm with no response.

7. Adjournment

Moved by McIntyre, seconded by Conedera, to adjourn the meeting at 8:16 pm. **The motion carried unanimously.**