

**SIGN CODE BOARD OF APPEALS  
MINUTES  
August 4, 2005 – 6:30 p.m.**

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Members present: Emerson, Goans, Hannon, Herndon, Lane and Santee  
Staff present: Walthall and Saker

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**ITEM NO. 1: MINUTES**

Motioned by Herndon, seconded by Santee to approve the July 7, 2005 minutes as presented.

Motion carried unanimously, 6-0.

**ITEM NO. 2: COMMUNICATIONS**

There were no additional communications to come before the Board.

**ITEM NO. 3: BANNER SIGN ALONG BOB BILLINGS PARKWAY FOR BELLA SERA DEVELOPMENT**

**SV-07-11-05:** A request for a variance from the provisions of Chapter 5, Article 7 (Signs), of the Code of the City of Lawrence, Kansas, 2003. The request is to allow a banner sign, displaying renderings and lifestyle images of Bella Sera at the Preserve Development. The banner sign will be hung along the construction fence to be erected along the north side of Bob Billings Parkway near Inverness Drive intersection where the project will be located. The banner will be split into two sections of approximately 5' x 300' lengths. Submitted by Anthony Santaularia with themescreen.com for the developer of Bella Sera Development.

**STAFF PRESENTATION**

Mr. Walthall explained this request was new to Lawrence. The concept had been used in other cities but had not yet been proposed here and did not fit into the existing Sign Code. This meant there were no provisions to either allow or disallow the request.

The applicant proposed to cover the construction fence along the entire length of the property with a mesh fabric cover with scenes representing the final development and giving contact information. The cover was intended to hide construction, making the area look nicer until the development was complete.

The proposed mesh cover would far exceed the size and scope of any permitted sign and Staff cautioned the Board that, if approved, the action should clearly define what was being allowed.

It was discussed that the proposed fence cover was not considered an artwork even though it would be covered primarily with pictures, because of its temporary nature and its intent of promoting the project. However the proposal did not qualify as a temporary sign because it would be in place longer than 30 days, was not made of a rigid material and would be much larger than would typically be allowed.

If approved, Staff asked for specific direction regarding:

- Allowable length of banner – the applicant is asking to cover the entire street face of the property
- Length of time banner may be in place – three phases of development are proposed, may the entire length of the banner be in place for all three phases, or are partial sections allowed to cover construction activity in the active phase.
- Covering for scaffolding – covers of similar material are requested to hide scaffolding; is this also allowed, separate from the banner request.

It was suggested that, because of the nature of the pictures on the proposed banner (depictions of the final product and the name and telephone number of the development), the banner should be considered an advertisement. An advertising sign was allowed by Code up to a maximum of 64 square feet, which was far less than proposed. A temporary sign would be allowed to go as large as 90 square feet but could be in place only 30 days.

Staff agreed that the banner would be an advertisement even if it included no words because it drew attention to the location and use.

Mr. Walthall replied to questioning that the difference between this request and other fabric signs was the size and scope of the proposal.

It was suggested that the scaffolding covers, if “blank”, would not be of issue. However, pictures on the scaffolding cover would put this element in the same questionable category as the proposed banner.

### **APPLICANT PRESENTATION**

Anthony Santaularia spoke on behalf of the applicant, comparing the proposed banner to the construction fences often placed around construction sites for safety. The proposed banner would provide the additional benefit of a visual barrier between the construction and existing area residences.

Mr. Santaularia said the applicant would be amenable to removing the banner as soon as the first building was complete, because there would then be a “permanent marker” for the development.

The applicant clarified that the scaffolding covers were not part of this request. This proposal involved only the fence cover.

Mr. Santaularia showed a sample of the intended fabric and design, which included the development's name and contact information. He said the wording would be repeated every 100-150 feet.

The Board expressed concern that the banner would create an unsafe distraction for drivers, noting this was one reason overly-large signs were not permitted. Mr. Santaularia suggested a typical chain-link fence would present more of a hazard, since drivers would be distracted by construction activity.

## **PUBLIC HEARING**

No member of the public spoke on this item.

## **BOARD DISCUSSION**

Hannon said this was clearly an advertising sign that was too large for approval that also posed a safety hazard concern for passing drivers. He suggested a plain fence, either chain link or solid, with advertising within the prescribed size limits.

There was discussion about considering the banner as a work of art and noted that art works were permitted by the City Commission at the recommendation of the Arts Commission.

Santee said he liked the idea but it was unfortunate the applicant did not have more specifications about the exact layout of the banner display. He expressed his opinion that the concept could be achieved with good taste and he would like to give the applicant time to come back with more details. Emerson responded that, even if the banner were attractive it was still a large sign that went significantly beyond the Sign Code size regulations.

Herndon agreed with Santee that he would need more information to make an appropriate decision. Specifically he said he would like to see the advertisement (text) portion of the sign limited to 64 square feet and examples of the imagery proposed in addition to the text.

Herndon said the proposal might have a chance at being approved by the City Commission if the pictorial portions of the banner were considered as an artwork and the text was restricted to 64 square feet per code. He obviously could not guarantee approval by the City Commission, but said the concept was outside the Board's purview and it would be a bold move for the Board to approve something with so significant a precedent.

Staff pointed out that the Sign Code defines a "sign" according to pictures as well as text intended to draw attention to a location, product or use.

Santee expressed frustration at the concern over precedent, saying the Board's role was to consider each case individually and "precedent" could be cited for any and all situations. He suggested that the applicant's proposal might be "perfect for Lawrence", but there was not enough information yet to judge.

The project was compared to artwork banners and awnings approved at The Merc, when there was no Code provision for commercial use banners. This approval was given in that case following a presentation of the full proposal and a belief that the proposal improved the visual appearance of the building.

There was discussion about the perceived “artistic and intelligent” character of Lawrence and suggested this proposal fit that character better than a plain chain link or plywood fence. It was countered that the proposal may have merit, but that does not give the Board the ability to approve something so far beyond the code limitations.

### **ACTION TAKEN**

Motioned by Emerson, seconded by Hannon to deny the sign request as proposed.

Motion fails to carry, 3-3, with Emerson, Hannon and Goans voting in favor. Herndon, Santee and Lane voted in opposition.

*There was extended discussion about the result of a tied vote on a negative motion. Goans said it was his understanding that this equated to an approval of the request, but others were not prepared to support this interpretation without investigation.*

Motioned by Emerson, seconded by Hannon to reconsider the previous action.

Motion carried 5-1, with Santee voting in opposition.

Motion returned to the floor was to deny the request as presented.

### **BOARD DISCUSSION**

It was suggested that the proposal was not within the Board's purview because it was not addressed in any manner in the Sign Code. This was therefore not a sign variance issue and the matter should be taken before the City Commission for consideration. It was further discussed whether sending the matter forward without a Board decision was preferable to sending it to the City Commission with the attached stigma of a sign variance denial.

Mr. Walthall said the appropriate way to send the item to the City Commission would be as a proposed change to the Sign Code. This was how the Board had dealt with the Arts Center banner. However, this meant the Board had to decide if this sign concept was suitable and desirable for Lawrence.

Herndon asked if the same concerns would apply if the proposed banner would carry formless shapes and colors instead of words and pictures of the development. It was noted that the Arts Center banner and all other large mosaic or otherwise artistic (not commercial) displays were approved through the Arts Commission. Several Commissioners felt this proposal was clearly for commercial use so was not an appropriate issue to send to the Arts Commission.

### **ACTION TAKEN**

Motioned by Hannon to allow a substitute motion to refer the request to the City Commission for consideration and possible approval, with the understanding that this will set what the Board considers an important precedent.

Motion died for lack of a second.

Active motion remaining on the floor was to deny the request as presented

### **BOARD DISCUSSION**

It was noted that several members wanted to provide the applicant an opportunity to talk with Staff to pursue other options. Others preferred to take action this evening. Since the Board has the final say in sign matters, the applicant would not be able to appeal a denial to any other body. The applicant indicated a willingness to withdraw the request to allow them an opportunity to bring a revised request before the Board or some other body (City Commission, Arts Commission, etc.).

### **ACTION TAKEN**

Motion on the floor to deny the request as presented was withdrawn.

The applicant withdrew his request, stating his understanding that a revised request involving a smaller advertising message (64 square feet as allowed by code) might have a better chance at approval. It was verified that the applicant understood there was no guarantee for approval of any future request.

### **ITEM NO. 4:**

### **MISCELLANEOUS**

There were no additional matters to come before the Board.

### **ADJOURN – 7:30 p.m.**

*Official minutes are on file in the Planning Department Office.*