

**LOWER PAXTON TOWNSHIP  
ZONING HEARING BOARD**

Meeting of May 26, 2016

Members Present

Greg Sirb  
Alan Hansen  
Watson Fisher

Also in Attendance

Amanda Zerbe  
James Turner, Esq.

**Docket 1385**

Applicant: BRM Associates, Inc.  
Address: 6005 Blue Bird Avenue  
Harrisburg, PA 17112  
Property Owner: BRM Associates, Inc.  
Property: 6005 Blue Bird Avenue  
Harrisburg, Pennsylvania 17112

Article 7, Signs, Part 2. Ground Freestanding sign is permitted in IN, Commercial and Industrial districts. Maximum area of 40 square feet and maximum height of ten feet. The applicant is requesting a variance from maximum sign height and area regulations and signs setback regulations in connection with the proposed new sign.

Fees Paid: April 25, 2015  
Property Posted: May 17, 2016  
Advertisement: Appeared in the Paxton Herald on May 11, 2016 and May 18, 2016.

The hearing began at 7:01 p.m.

Mr. Sirb swore in Jason Hornung, 6041 Blue Bird Avenue. Mr. Sirb questioned what Mr. Hornung's relationship to the applicant is. Mr. Hornung answered that he is the CEO of Hornung's Hardware.

Mr. Sirb swore in Amanda Zerbe the Community Development Manager.

Mr. Sirb questioned if the appropriate fees has been paid for this docket. Ms. Zerbe answered that the applicant paid the fee on April 25, 2016 of \$535.00. Mr. Sirb questioned if the application has been properly advertised and hearing notices posted. Ms. Zerbe answered that it

appeared in the Paxton Herald on May 11, 2016 and May 18, 2016 and was posted on May 17, 2016.

Mr. Sirb requested Ms. Zerbe to explain what ordinances pertain to this request. Ms. Zerbe noted that it has to do with Article 7, Signs, Part 2, for a variance from maximum sign height and area regulations and signs setback regulations in connection with the proposed new sign.

Mr. Sirb noted that the sign is already there, he is moving the sign, so he can't be grandfathered in. Ms. Zerbe answered that is correct in that he cannot be considered a pre-existing non-conforming sign as he is moving the sign. She noted that he loses the pre-existing non-conforming use.

Mr. Hornung distributed copies of the proposed sign to the Board members. Mr. Sirb noted that the three pages will be marked as Exhibit A.

Mr. Hornung explained that he wants to move the sign as it is facing the wrong way. He noted that he would like to turn the sign so it would face Mountain Road noting that it is hard to see it where it is currently located if you are driving down Mountain Road. He noted that there is State land in front of his property that abuts the highway which is 60 feet, so the sign has to be very far from the road due to that. He noted where he want to put it would be in the guidelines of an easement, his own easement. He noted that is why he is asking for a variance. He noted that it will only impact the easement by 3.5 feet.

Mr. Sirb requested Mr. Hornung to describe the sign. Mr. Hornung answered that it is currently 20 feet and he would like to keep it at that height if possible. He noted that he intends to keep the same dimensions but he wants to move it. He noted that a storm damaged the sign and it is leaning to the side, so it needs to be redone, so he might as well fix the position for it at the same time.

Mr. Sirb questioned if the dimensions of the sign remain the same. Mr. Hornung answered yes.

Mr. Sirb noted that the application states that you want to change it to a LED sign. Mr. Hornung noted that he would also like to add an LED sign.

Mr. Sirb questioned Ms. Zerbe if we have the square footage, if the dimensions are the same or should we could go from the previous sign that is there. Ms. Zerbe noted that she was not provided the sign area for it as this is the first time that she has seen it.

Mr. Sirb questioned Mr. Hornung for the new sign, how is it going to differ from the current sign material wise. Mr. Hornung answered that the lighted box will be much smaller as it is only two feet high, but the same width. Mr. Sirb questioned if the lighted box is the area that shows planning an event, would that be the lighted part. Mr. Hornung answered that both will be lighted, but the new sign is smaller as far as square footage of signage if you included both boxes in the current one. He noted that he plans on having the new sign at the same width. He noted

that it will be double sided on both sides with lighted boxes top and bottom. He noted that the top would be lighted and the LED would be underneath that.

Mr. Sirb questioned what the square footage for the sign would be. Mr. Turner noted that he was doing some calculating and it looks like the top portion would be 16 square feet, two feet by eight feet. Mr. Hornung answered that is correct. Mr. Turner noted that the bottom LED portion appears to be 36 square feet, 4.5 feet by 8 feet. Mr. Hornung agreed.

Mr. Turner questioned Ms. Zerbe what the permitted area would be for this and what is the zoning classification for this property. Ms. Zerbe answered that he can have a sign area of 40 square feet and it is Commercial General. Mr. Sirb noted that the maximum is only 40 square feet. Ms. Zerbe answered yes. Mr. Turner questioned for a free standing sign. Ms. Zerbe answered yes.

Mr. Sirb questioned Mr. Turner where this sign is for square footage. Mr. Turner answered that he is at 52 square feet.

Mr. Sirb noted that it is the same height of 20 feet and you are asking for 12 feet in the overall footage. Mr. Hornung answered yes.

Mr. Sirb questioned where you are moving it to. Mr. Hornung answered that currently, it is perpendicular with Blue Bird Avenue, but he wants to move about eight feet catty-corner, a little bit closer to the road. He noted that he would like to change it so it would be perpendicular instead of horizontal with Blue Bird Avenue. He noted that he wants to turn it 90 degrees but he is not moving it very far from its current spot.

Mr. Sirb questioned if there is an issue to the spot where they want to move it with a right-of-way. Ms. Zerbe answered no, as he is out of the right-of-way and the requirement for the sign ordinance is that he has to set the sign back five feet from the right-of-way and the drawing that was provided to the Township shows it at six feet out of the right-of-way from both streets.

Mr. Sirb noted that he is okay with that.

Mr. Sirb noted in the notice, the sewer line is there, you will be accommodating, if something comes up that the sign will have to be moved at your expense. Mr. Hornung noted that he will stipulate that is fine as we have excavators that can pull it out and re-concrete it, that would not be that much trouble to do. Mr. Sirb questioned Mr. Turner if it should be part of the decision. Ms. Zerbe answered that the sewer easement is on the opposite side, there is no sewer easement on this corner. Mr. Sirb noted that there would be no issue with that. Mr. Turner noted that is what the property plan appears to show that on the far right side of the engineer drawing, it indicates that there is a 30 foot sewer easement on the east side of the property, but on the west side of the property there is a detention basin. Mr. Hornung noted there is a sewer easement close to where we want to put it and he was told that they can't go within ten feet of it. He noted that he was told that he is slightly within that 10 foot area. Mr. Turner noted that the sewer

easement does not appear on the drawing. Ms. Zerbe noted that she looked at the recorded plan earlier today and the sewer easement is on the opposite side, not on the side that that the sign is.

Mr. Sirb noted that the letter we got requesting that issue is a non-issue. Ms. Zerbe answered that she does not know where that came from as it is not shown on any of the recorded plans. Mr. Hornung noted that there is something there sticking out of the ground, a concrete drainage thing. Mr. Turner suggested that Mr. Hornung is mistaking the stormwater drainage, it is not sanitary sewer. Mr. Sirb noted that is a non-issue. Ms. Zerbe noted that it is their private stormsewer easement.

Mr. Sirb noted that the maximum allowed for the sign is 40 square feet and he is asking for 52 square feet. He noted that the height is the same. He noted that the variance would be for the granting of 12 feet of square footage. Ms. Zerbe noted that it would also include the ten feet in height as he is moving the sign.

Mr. Turner noted that Mr. Hornung's testimony was that the existing sign exceeds in area the proposed new sign. Mr. Hornung answered yes. He noted that he failed to bring the dimensions of that sign with him.

Mr. Sirb noted that the old sign was bigger than the proposed new sign. Mr. Hornung answered yes, it will be the same width but it is not nearly as high as the two signs together. He noted that they are both the same width.

Mr. Turner noted if they are the same width using the width as eight feet, then the existing sign is probably about 8 by 10 about 80 square feet as opposed to the 52 feet that is being proposed. Mr. Sirb noted that the new sign is approximately 30 square feet smaller. Mr. Hornung noted that is a close estimate.

Mr. Sirb questioned if he had anything else to say. Mr. Hornung answered no.

Mr. Hansen questioned if the current sign is lite when it gets dark. Mr. Hornung answered yes. Mr. Hansen questioned how it is lite. Mr. Hornung answered that it is a fluorescent tube. Mr. Hansen questioned how the proposed sign will be lite. Mr. Hornung answered that it will have a fluorescent tube in the top and a LED in the bottom.

Mr. Hansen answered that you want to turn the sign so if he was driving north on Mountain Road he won't see it as well as you sees the current sign. Mr. Hornung noted that his sign is 60 feet from the roadway so as you are driving down Mountain Road from the highway it is not going to be in your view at all as it is so far to the right. He noted that he is trying to attract the attention of, if you are in that intersection, looking in that direction, you will see the sign as it will now be facing you instead of being turn where you can only see the side of it.

Mr. Sirb questioned what hours it would be lite; are they strictly business hours. Mr. Hornung noted that we turn the light off at night.

Mr. Hansen noted that we are in daylight savings times, when will it be lite. Mr. Hornung questioned if there are guidelines for when it should be lite. Mr. Hansen answered that he was just questioning him. Mr. Hornung noted if he had a special displaying on the Board he would probably run it to midnight, depending on the traffic but he would not run it all night to save electricity. He noted ten or eleven would be reasonable. Mr. Hansen questioned what the start time is. Mr. Hornung answered 7 a.m.

Mr. Sirb questioned if we can regulate the time for the signage to be lite. Mr. Turner answered that the Board can attach reasonable conditions to the granting of the variance.

Mr. Sirb questioned if the Board has any further questions. No response was heard.

Mr. Sirb questioned if anyone in the audience wished to be heard on this variance.

Mr. Sirb swore in Timothy Murphy, 1524 Pine Hollow Road.

Mr. Sirb questioned where his address was in connection to the variance. Mr. Murphy answered that it is a mile and a half east of where we sit off of Locust Lane, about 3.5 miles from Hornung's Hardware.

Mr. Murphy noted that he is puzzled by the treatment of this existing sign in saying that it doesn't qualify as a non-conforming use. Mr. Turner explained that it is a non-conforming use as long as it stays where it is. He noted that once you move it then you have to conform to the ordinance. Mr. Murphy noted that he is clear on that now.

Mr. Murphy questioned how long has that sign been at that location. Mr. Hornung suggested that it may be close to 20 years. Mr. Murphy noted that it was there before the ordinance was updated in 2006 or 2007. He noted that the sign is 20 feet high. He noted that the current ordinance says that the sign can't be more than ten feet high so it doesn't qualify as a non-conforming use for the location, why would it qualify under the height requirements. He noted that it should be limited to the ten feet. Mr. Turner noted that it doesn't so that is why he is here asking for a variance.

Mr. Murphy noted that the public advertisement said that the variance was being sought to erect a sign over the maximum height of 20 feet as stated in the ordinance. He noted that the ordinance doesn't say that, it says ten feet. He questioned how we arrive at 20 feet as being okay. Mr. Turner answered that it is not okay.

Ms. Zerbe noted that the wording in the Paxton Herald said what she read earlier. She noted that the advertisement that was posted on Mr. Hornung's property, the wording is different. She noted that the wording on the advertisement that was posted at Mr. Hornung's property did read over the maximum height of 20 feet. She noted that the advertisement in the Paxton Herald said over the required maximum height which is ten feet. She noted that the current sign is 20 feet.

Mr. Murphy noted that he read the sign in front of the store last night and it said 20 feet and he went home and read the ordinance and it says the allowable height is ten feet. Ms. Zerbe noted that the advertisement in the Paxton Herald said over the maximum permitted height which is ten feet. Mr. Murphy questioned if there was a problem with the advertising for this hearing. He noted that it seems to him that the information is not clear in the advertisement and you might want to start over and get it right. Mr. Turner answered that the advertisement was correct, but the posted sign appears to be incorrect. Mr. Murphy noted that is what he read last night and that was his official notification in terms of knowing about this hearing. He noted that he saw the yellow sign stuck in the ground next to the driveway last night and went up and read it. He noted from his standpoint, that is his public notification, it doesn't matter to him what was in the Paxton Herald.

Mr. Hansen requested Mr. Murphy to state his point. Mr. Murphy noted that his point is that he has a sign that is 20 feet high and it has already been established that he doesn't qualify as a non-conforming use so he has to meet the requirements of the current zoning ordinance. He noted that the current zoning ordinance has a maximum height allowed of ten feet. Mr. Sirb noted that is correct. Mr. Turner noted that is why he is here. Mr. Turner noted what was advertised at the store was that the maximum allowable height is 20 feet. He noted that there is an error in the advertisement.

Mr. Sirb noted with the error in the advertisement what would that cause. Mr. Murphy noted that it is erroneous information. Mr. Sirb noted that it was not an error in the advertisement, it was an error in that specific posting at his store, but the advertisement was correct. He noted that we need to be careful how we do our wording. He noted that the advertisement was correct, but the wording on the posting that you say, the one posting at the store, was not correct. Mr. Murphy questioned if that would carry any kind official status in terms of the public notification requirements. Ms. Zerbe noted that the sign is still 20 feet, the posting on the property says that the maximum height of 20 feet, but he is not asking for more than 20 feet, it is currently 20 feet.

Mr. Murphy noted that we need to get beyond the advertising issue but he still thinks there are inconsistencies there but the significance is yet to be determined.

Mr. Murphy noted if the existing sign is 20 feet he is then asking for a variance from the ten foot maximum sign height. Mr. Turner answered that he has said that three times.

Mr. Murphy noted that he does not have the benefit of the plans that you have in front of you so he has to ask where the sign is going to be located. He questioned if it will be on the west side of the property. Mr. Turner invited Mr. Murphy to come up and look the plan.

Mr. Sirb questioned Mr. Hornung how far the new sign will be from the current sign. Mr. Hornung answered that they are moving it about 15 feet. Mr. Sirb questioned in what direction. Mr. Hornung answered that it is cattycorner towards the corner of the lot. He noted that it is already sort of in the corner of the parking lot now but they want to push it on the other side of the drainage ditch onto a patch of grass on the other side of the corner of the lot. Mr. Sirb noted that it would be a movement of 15 feet towards the corner of the property.

Mr. Murphy questioned if the yellow mark on the plan is where the sign will be. Mr. Hornung answered yes.

Mr. Murphy questioned if there would be any issues with the sight triangle at the intersection based on the proposed location. Ms. Zerbe answered that staff members have scaled the plan and found that it is not in the site triangle.

Mr. Murphy noted that Mr. Hornung stated that there would be LED lights; he questioned if they will be interior or exterior. Mr. Hornung answered that he did not follow what he was asking. He questioned if they would be inside the sign backlighting the sign; no, they will be on the outside.

Mr. Murphy questioned if there is a prohibition of having exterior LED lights on a sign. Mr. Hornung noted that they are the same LED lights that are found on other signs up and down Mountain Road. Mr. Murphy answered that he did not know what signs you mean. Mr. Hornung answered that there is one at the Colonial Lounge, and the back place down the street. He noted within blocks of his business, there are some on Mountain Road. Mr. Turner noted that it is a changeable message sign that is being proposed. He noted that he did not know what you mean by interior versus exterior. Mr. Murphy noted that he only read the ordinance for the first time this morning and his recollection was that there was some distinction between LED lights that are inside the sign as opposed to those that are exterior, and he believes that the ordinance states that exterior LED lights are prohibited.

Mr. Sirb questioned Mr. Hornung if there would be any lights outside the sign shining on the sign. Mr. Hornung answered no. He noted that it is the same as the Harley dealership and Ollies has one. He noted that it is the same sign that everyone is switching to.

Mr. Murphy questioned how long have those signs existed. Mr. Hornung answered that they are relatively new. Mr. Murphy questioned since 2006 or 2007.

Mr. Sirb questioned if we have anything about that in the Ordinance. Ms. Zerbe noted under sign illumination; “except as otherwise provided any permitted sign, building or structure in any district may be illuminated provided there should be no illumination or flashing intermittent or moving type illumination shall be shielded and directed so that the source of light shall not be visible from any point off the lot on which the sign, building or structure being illuminated is erected and so that only the sign building or structure is directly illuminated thereby.”

Mr. Murphy noted that there is another section that is specific to LED lights. Ms. Zerbe noted that: “signs shall be illuminated only by lights stationary, external light or back lighted by an interior stationary lighting without causing glare for motorists, pedestrians or neighboring property. The use of exposed neon or LED lighting within signs or the exterior of a structure shall be prohibited. Neon or LED lighting shall be permitted when use to backlight the translucent panel.”

Mr. Murphy noted that the LED lights are not back lighting the exterior of the sign, they are not permitted.

Mr. Sirb noted that what Mr. Hornung is showing is sort of the same sign as the Gilligan's Restaurant that they just put up. Mr. Hornung answered identical. Mr. Sirb noted that sign was put up six months ago. He noted that there is no outdoor lighting that will be shining on this light and Mr. Murphy made a good point, but that is not going to happen.

Mr. Murphy noted that he is not concerned about another light shining on to the sign, he is concerned that the ordinance says that exterior LED lights are not permitted and that is what is being proposed.

Ms. Zerbe noted that typically the changeable copy signs, everyone one that has come in has been complied with the sign ordinance. She suggested that there is a misunderstanding of whether the light is backlighted with the illumination.

Mr. Sirb noted that what he is proposing in no way can it be against the ordinance. He questioned if Mr. Hornung misunderstood when he said that you would have outside LED lights, but what they are proposing in no way is a violation.

Mr. Murphy noted that you know his proposed plan better than he does. Mr. Sirb noted from what he is showing us on the plan, this LED sign cannot be what you are describing for what is in his packet. Mr. Murphy noted that he is not describing anything, he doesn't have that information. He is only telling you what he read in the ordinance.

Mr. Forest Healy noted that the LED lights are coming from the back and they are internal.

Mr. Turner noted that he needs to swear him in. Mr. Sirb swore in Forest Healy of 5917 Shope Place. Mr. Sirb requested Mr. Healy to explain this. Mr. Healy noted that he wanted to help the process that the message centers, noting that he is an electronic technician and electrician, that they are backlit internally into a lens. He noted that you can still see the colors but he would be concerned if you would see this from the freeway as there may be an issue with the flashing with the amount of time that it lapses when the messages are on your screen. Mr. Turner noted that there is a Township regulation. Mr. Healy noted on 11/15 in Camp Hill it is ten seconds. Mr. Turner noted that it is much longer here. Ms. Zerbe answered that it is one minute.

Mr. Murphy noted that it seems that the ordinance is a little fuzzy on this and it should be tuned up in the next revision.

Mr. Murphy noted that the reading of the purpose of the ordinance Section 703.B.4; "that it is contended in part to enhance the economic value and visual character of the properties and contribute to rather than detract from the character of the Township". He asked if this will add to the character of the Township to have this sign and that is a judgement call, that is yours to make but I wanted to remind you of what the purpose of the ordinance is.

Mr. Murphy noted that those are the only issues that he has to raise.

Mr. Forest Healy, 5917 Shope Place noted to add on to Mr. Murphy's point, if this hearing was posted like it should be legally according to the Township ordinances, at both the location and the Paxton Herald in a newspaper that is in the Township, if it was misleading and not correct on that statement, it would make this hearing null or legal.

Mr. Turner noted if someone had standing and chose to appeal it might be an issue although he did not know what was advertised significantly mislead anyone. He noted that the correction to that would be to hold this hearing again next month and have the applicant stand up and say nothing has changed, and the Township incurs costs that the taxpayer ultimately pay to conduct another hearing.

Mr. Healy noted that he sees Mr. Murphy's point in that it is a little misleading that if someone is going to get a variance for something and they say the law is only this but it turns out it is this. Mr. Sirb noted that you need to remember that the advertisements were correct, the sign posted at the site was not. He noted that the advertisement that was in the Paxton Herald which we legally have to do was correct.

Mr. Healy noted earlier you said it was in the Paxton Herald that way, he said whether it is there or posted on the site. Mr. Sirb noted that it was posted on the site.

Mr. Hornung noted that he does not mind doing this again if it makes you feel better noting that it was just a misprint. He noted that he would make it correct.

Mr. Healy noted that things should be done.

Ms. Zerbe noted when the posting part was done, a sign in general commercial on certain roads can be 20 feet in height; where this store is located it can only be ten feet in height and that is where the 20 feet came from. She noted that there was no deliberate action to mislead anyone. She noted that it was a mistake in that it can be 20 feet in other areas.

Mr. Sirb noted that it was brought up obviously there was a mistake on the sign posted at the site and he would agree with that. He noted that we will do this all over again, having to come before the Board again, and if nothing has changed we will take the vote at that time.

Mr. Sirb made a motion that we push Docket 1385 to the next schedule hearing. Mr. Turner note that it will be the fourth Thursday in June. Mr. Hansen second the motion. Mr. Sirb called for a voice vote and a unanimous vote followed.

Mr. Turner noted that it will be June 23 at 7 p.m. He noted that the intent at that time would be to incorporate all of tonight's testimony by reference and we will take no additional testimony unless someone has something new to offer based on the change in the posting of the property.

Mr. Turner noted that he will advertised it again in the Paxton Herald.

The hearing ended at 7:38 p.m.

Respectfully submitted,

Maureen Heberle  
Recording Secretary