

**MINUTES OF THE ZONING BOARD OF APPEALS**  
**September 21, 2009**

The regular meeting of the Zoning Board of Appeals was called to order by Chairman William Cotey at 7:01 p.m. at the Village Hall.

Members present: Chairman William Cotey, Scott Adams, Terry Howard, Mark Moore, Walter Oakley, and Andy Robinson.

Members absent: Robert Guarnaccio.

A quorum was established.

Village Staff present: John Spoden, Director of Community Development; David Smith, Senior Planner; and Pat Sheeran, Project Engineer.

**OLD BUSINESS:** None.

**NEW BUSINESS:**

**ZBA 09-16 1742 Milwaukee LV, LLC, Applicant**  
**1742-1768 N. Milwaukee Avenue**

**Request is to Amend Ordinance No. 08-O-52, an ordinance granting sign variations in order to allow temporary signs for property located in a C-3, General Commercial District.**

Mr. David Smith, Senior Planner, stated that the petitioner, Joan Boden, is requesting approval to Amend Ordinance No. 08-O-52 which is an ordinance that granted the following sign variations: A variation to increase the maximum permitted gross sign area from 38.6 square feet to approximately 98 square feet for a multi-tenant sign; increase the maximum permitted sign area identifying commercial tenants on a multi-tenant sign from 50% to approximately 67.5%; increase the maximum permitted number of tenant panels on a multi-tenant sign from 6 to 12; and install a message board sign onto a multi-tenant sign in a C-3, General Commercial District for the Adler Square shopping center located at 1742-1768 North Milwaukee Avenue. Mr. Smith stated that this ordinance was adopted on July 28, 2008.

Mr. Smith stated that as a condition of approval, the Village Board required that all temporary signs shall not be permitted on the subject property, except for "For Lease"; "Rental"; and "For Sale" signs. Mr. Smith stated that during the course of the Zoning Board of Appeals public hearing held in June 23, 2008, the petitioner agreed to this condition as recommended by the Zoning Board of Appeals. Mr. Smith stated that the intent of the message board sign was to provide special event and promotion advertising without the need to proliferate the property with temporary banners and signs.

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Mr. Smith stated that the applicant is requesting to amend Ordinance No. 08-O-52 and have the temporary sign restriction removed as a condition.

Mr. James Babowice, agent for petitioner, stated that there are other properties that are allowed temporary banners and that Adler Square shopping center should not be treated any differently. He stated that the Appearance Review Commission requested fewer text lines for the message board than what was originally proposed as a compromise.

Ms. Joan Boden, 1401 North West Irving Park Road, Chicago, petitioner, stated that the tenant spaces are difficult to see from Milwaukee Avenue. She stated that customers cannot see any promotional advertisement in the tenant windows from Milwaukee Avenue. She stated that customers can only see the multi-tenant sign. She stated that the Walgreens store and the Mobile gas station on the corner block the view of the Adler Square shopping center.

Ms. Erin Heard, 1847 South Matthew, Libertyville, Renew Consignment shop representative, stated that the corner of Milwaukee Avenue and Route 137 has excellent traffic. She stated that it is difficult to run a new business. She stated that temporary business signs would be a needed benefit for their business.

Mr. Mark Messersmith, 1752 North Milwaukee Avenue, stated that he is the dry cleaner owner in Adler Square shopping center. He stated that the use of temporary banners are very effective for attracting customers. He stated that the lack of visibility affects business in a negative way.

Mr. Babowice stated that the petitioner is seeking to modify the ordinance that approved the sign variations granted to them last year. He stated that the petitioner is not asking for anything more than what the Zoning Code already allows. He stated that the shape of the lot and the configuration of the development causes difficulty to see the plaza.

Ms. Boden stated that she has spoken to Verizon who was a candidate to be a commercial tenant. She stated that Verizon chose to not take occupancy because of the temporary sign restriction for the subject site.

Mr. Messersmith stated that other dry cleaners are permitted to use temporary banners, but that he could not.

Board Member Oakley asked for clarification as to how the message board is being used and if it has helped the existing tenants to any extent. Ms. Boden stated that the message board still does not draw enough customers. She stated that the banners would be placed on the property along the Milwaukee Avenue parkway.

Board Member Oakley asked how many potential banners could be placed on the property at any one time. Ms. Boden stated that there are up to 12 commercial tenant spaces. She stated that the message board alone is not working.

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Board Member Moore stated that previous sign variations were granted with the temporary sign restriction included as a condition of the sign variation approval. He stated he is sympathetic to the petitioner, but the petitioner agreed to the temporary sign restriction.

Mr. Babowice stated that conditions have changed for the subject property since the approval of the variations were granted.

Board Member Moore asked if the petitioner is willing to bring the existing multi-tenant sign into Code compliance. Mr. Babowice stated that that the restriction on temporary banners is an unreasonable condition for the variation already approved. He stated that the petitioner has already met the standards for the variation and should not be penalized with the banner restriction. He stated that the cleaners have had a decrease in sales without the benefit of using temporary banners.

Board Member Howard asked how long the petitioner has had a vacancy in their building. Mr. Hans Boden, petitioner, stated that they have had one vacancy for about 1 year.

Board Member Howard stated that the current state of the economy may have more to do with Adler Square center's lack of business than its location does. He stated that he would like to see more detailed data regarding precipitous loss of business before he can support the petitioner's request.

Mr. Boden stated that their building is located downhill from the Milwaukee Avenue right of way and difficult to see from the road. He stated that they have invested a lot of money into the Adler Square center.

Board Member Howard asked if the Adler Square multi-tenant sign can be changed further. Mr. John Spoden, Director of Community Development, stated that any changes to the existing sign that would not meet Code will require a variation.

Board Member Howard stated that the standards proposed to approve the variations are questionable.

Board Member Robinson stated that only the economy has changed. He stated that he is not in favor of the request for the amendment to the approved variation.

Mr. Babowice stated that when the sign variations were approved, the petitioner had met all of the standards. He stated that only the condition for the approved sign variations is requested to be amended.

Board Member Oakley stated that he is concerned about the proliferation of banners on the property.

Mr. Babowice stated that the property would be subject to Village authorized permits for any banners that would be requested.

Mr. Spoden stated that the Zoning Code does not limit the number of banners for the whole site, but only per business.

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Ms. Boden stated that she is also worried about the potential proliferation of banners for the property. She stated that she is willing to amend the condition for the variation so that no more than three temporary signs are permitted on the property at any one time.

Board Member Robinson stated that Ms. Boden's proposal could potentially allow for the property to have three banners all year round as there are more than three commercial tenants at the center.

Ms. Heard stated that she had spoken with Heather Rowe, Village of Libertyville Economic Development Coordinator. She stated that their discussion included concerns about the difficulty that new business start-ups have. She stated that the Adler Square center is the right fit for her business.

Board Member Adams asked for the opinion of Mr. Messersmith. Mr. Messersmith stated that it is important for his business to be able to display temporary signs.

Ms. Heard stated that the ability to display temporary signs is important for her business, but is willing to rotate or take turns with the other Adler Square commercial tenants.

Board Member Howard asked how the existing freestanding multi-tenant sign is being used now. Ms. Boden stated that the message board currently attached to the multi-tenant sign is not effective now.

Chairman Cotey stated that the petitioner knew what they were agreeing to when the sign variations were approved with the temporary sign restriction condition. He stated that consideration should be given to finding ways to better utilizing the existing multi-tenant monument sign. He stated that the petitioner should show more evidence that there has been an impact on the tenants' businesses due to the restriction on temporary signs.

Mr. Babowice asked to poll the Board Members as to how they might vote for the request.

Board Member Robinson stated that he is not in favor of banner signs for the property.

Board Member Oakley stated that he does not object to banners on the front of the building, but does not want to see a permanent stand of banners on the site.

Board Member Adams stated that there should be some kind of restriction on banners. He stated that consideration should be given to modifying the existing multi-tenant monument sign.

Board Member Moore stated that the approved sign variations allowed for a gross sign area equal to 2.5 times as to what the Zoning Code permits, they allowed for twice the number of tenant panels than what the Zoning Code permits, they allowed for the tenant panel area to cover up to 67% of the sign area on the tenant panel sign where the Zoning Code allows a maximum area of 50% of the multi-tenant panel sign, and they allowed for a message board sign to be included on the multi-tenant

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panel sign. He stated that the petitioner should honor the agreement that included the temporary sign restriction.

Board Member Howard stated that consideration should be given to altering the existing multi-tenant sign. He stated that the site does warrant some flexibility. He stated that the burden of proof has not been satisfied. He stated that consideration should be given to talking to owners and landlords of other commercial centers in order to get some kind of indication or percentage as to how temporary banners help businesses or not.

Mr. David Pardys, Village Attorney, stated that he is concerned about hearsay if the petitioner talks to other commercial center owners and reports back to the Plan Commission what other business owners claim how temporary signs impact their businesses. He stated that there may be an equity or logistical concern if the Adler Square owner allows only certain tenants to have temporary banner signs and not others.

Mr. Babowice stated that his client, the petitioner, is asking for a continuance to the October 26, 2009 Plan Commission meeting.

*In the matters of ZBA 09-16, Board Member Robinson moved, seconded by Board Member Moore, to continue this item to the October 26, 2009, Zoning Board of Appeals meeting.*

*Motion carried 6 - 0.*

**COMMUNICATIONS AND DISCUSSION:**

Board Member Robinson moved, seconded by Board Member Howard, to adjourn the Zoning Board of Appeals meeting.

Motion carried 6 - 0.

Meeting adjourned at 8:22 p.m.