

BRIMFIELD TOWNSHIP BOARD OF ZONING APPEALS

MEETING MINUTES of October 21, 2015

Brimfield Town Hall Meeting Room – 1333 Tallmadge Road, Kent

Present: Chairman Bruce Knippenberg Lisa Cotton Scot Etling
Vince Murdocco

Alternates: Cheryl Rueschman

Absent: Ed Shutty

Staff: Dick Messner, Zoning Inspector
Wendi O’Neal, Assistant Zoning Inspector

Public Present:

Name	Phone	Company / E-mail
Merle Troyer, Dutch Heritage Homes	330.305.6700	mtroyer@dutchheritagehomes.com
Lou Belknip, A Gile Sign	440.918.1311	Lou.belknip@agilesign.com
Kim & Andy Klush	330.620.6047	Aklush@roadrunner.com
Dale Ertley	330.554.5896	

CALL TO ORDER:

Bruce Knippenberg calls the Brimfield Township Board of Zoning Appeals to order at 7:15 PM at the Wednesday, October 21, 2015 meeting.

Roll Call:

Cotten = Here **Etling** = Here **Knippenberg** = Here
Murdocco = Here **Shutty** = Absent
Rueschman = Here

Cheryl Rueschman does reserve voting rights this meeting, in lieu of an absent board member.

MOTION#2015-0042

A motion is made to accept the Agenda as presented by **Scot Etling**, seconded by **Vince Murdocco**. Motion carries.

MOTION#2015-0043

A motion was made by **Vince Murdocco** to approve the September 16, 2015 Meeting Minutes, seconded by **Lisa Cotten**. Motion carries.

Dick Messner dually notes that the meeting has been advertised per the Ohio Revised Code and neighboring properties notified.

SWEARING IN OF APPLICANTS AND COMMENTERS:

Bruce Knippenberg states that the Board of Zoning Appeals is a quasi-judicial board. Anyone having any statements, comments or questions to make tonight shall be directed towards the Board and we ask that you state your name, address, and that you swear or affirm that all the statements that you are making are true to the best of your knowledge; everyone is considered under oath.

PUBLIC COMMENTS: NONE

APPLICATIONS:

Variance Application:

Applicant: Andrew & Kimberly Klush
Location: 4840 Sherman Rd.
Parcel: 04-013-00-00-016-007
Zoning: R – 1, Low Density Residential
Section: 303.03.E.1
14' Front Setback Variance

Dick Messner gives a brief power point presentation:

- Variance of Section 303.03.E.1, 14' front setback, Applicant is Andrew & Kimberly Klush
- R-1, Low Density Residential Zoning
- Variance is filed under practical difficulties.
- Shows the location on the zoning map, tax map with the triangular lot, Township Lot 13
- All new septic systems have to have a soil scientist come out to do various samples on the lot, which then dictates the type and location of the septic system and the mandated setbacks from the Portage County Health Department.
- Shows the site layout, with the setbacks mandated from the Health Department with the structure and the septic system; which gave the owners two choices:
 1. Push the house to encroach on the side setback, which was not favored because of the closeness of the neighboring driveway.
 2. Push the house forward to encroach on the required front setback of 50' by 14' making the house 36' from the road right-of-way. The owners favored this option and did apply for a variance for the front setback.
- With considerations from the Health Department conversations, and the owners the Zoning Department would recommend the Board's consideration for approval. Also noting that the Zoning Department has not had any negative comments and has not heard from any neighboring property owners.

Bruce Knippenberg asked for the clarification of the last name of the applicant; confirmation that Klush was correct.

Andrew Klush, 2616 Middleton Rd. Hudson, Ohio 44236: Did not realize when buying the property that the Health Department would require land set aside for two systems, while we only really needed one. We were pretty taken back when we learned that we had to have property dedicated for another system that will probably never be used; especially with the system that we are putting in because there is no leech bed or anything.

Lisa Cotten: What was the reason for the two systems?

Andrew Klush: It is the new law.

Lisa Cotten: That had to be pricey!

Andrew Klush: Well you don't have to put two in, you just have to have property dedicated for another one.

Dale Ertley: 4870 Sherman Rd., I have a comment. I am their next door neighbor to the north. I wanted to say I am in all favor of moving the house forward as opposed to moving to closer to the side property line. The grade on the land somewhat drops in that area. I think that it would help them out a lot for them to be able to move the house forward that number of feet as opposed to moving it over into that area.

Bruce Knippenberg: And there was no adverse site line?

Dick Messner: We haven't heard any adversity and we didn't find anything adverse in that whole area.

Bruce Knippenberg: So it would be 36' instead of 50'?

Dale Ertley: The movement of the house forward in that line of homes is going to fit perfectly well. We've got 300 ft. frontage, they have 150 foot frontage.

Andrew Klush: Our frontage I believe is 345 feet.

Dale Ertley: 345 feet excuse me, we had considered purchasing it to increase our frontage, but somebody beat us to it. But it would be fantastic for them to move forward.

MOTION#2015-0044

A motion was made by **Vince Murdocco** based on the recommendations of the Zoning Department and the neighbors to approve the 14' variance of the front setback, allowing the house to be 36' from the road right-of-way of Sherman Road, and was seconded by **Scot Etling**. **Lisa Cotten** amends the motion to include: as placement with the house will be the same as presented in the renderings presented in the application. Motion carries.

Variance Application:

Applicant: Robert & Andrea Korkan
Location: 3836 Willow Brook Dr.
Parcel: 04-045-00-00-001-011
Zoning: R-1, Low Density Residential
Section: 303.03.G.
4' Side Setback Variance

Dick Messner gave a brief power point presentation:

- Variance of Section 303.03.G, 4' side setback for an accessory building.
- 3836 Willow Brook Dr., R-1 Low Density Residential
- Shows zoning map, aerial and tax map of the property.
- Idea is a 26'x48' with a 6' lean-to for extra storage and garage space and/or motor home storage location.
- Encroachment is made on the side setback requirement of 15' and the applicant is asking for a four foot variance on the side line property; therefore the accessory building to be 11 feet from the side property line.
- Did do a drive-by, the lots are fairly big because of the septic systems that were required.
- We have not heard from any of the neighbors. I could not see anything that would adversely affect the properties economic values of the surrounding properties. Unless there was some objections from the neighbors or anything else that would come up, in a

soil test or the establishment of the building, this department does not have any objections for the variance.

The Board dually noted that the applicant or representation of the application was not in attendance at the meeting.

The Zoning Department does mention to all applicants that being present at the meeting does help the case of the variance for the Board. The applicant was also sent the legal notice.

MOTION#2015-0045

A motion is made by **Lisa Cotten** to table the application filed by Robert & Karen Korkan, at 3836 Willow Brook Dr., for a 4' side setback variance to such time that representation could be present; the motion was seconded by **Cheryl Rueschman**. Motion Carries.

Variance Application:

Two Variance Applications:

Applicant: MC Sign Co. Michael Phelps, Omni Property Companies, Copper Creek
Location: Road Right-Of-Way (ROW) Sanctuary View Drive
Township Lot: 23
Zoning: Highway Commercial (H-C)
Section: 700.13.C.3
55.5' Sq. Ft. Variance, 3'' Height Variance

Dick Messner gave a brief power point presentation:

- Variance for 3'' height and square footage of 55.5' for a monument sign.
- Zoning Section 700.13.C.3, over-sized monument sign.
- Pictures of the sign were distributed last month.
- The applicant is the sign company, MC Sign Co. representing Omni Property Companies for the Copper Creek apartments which is part of Pleasant Lakes Subdivision
- Location is on Brimfield Township Property, on Sanctuary View Drive entrance island
- FYI the 1200' of road is finished, therefore Sanctuary View Drive does run through to Ridgeview Drive, into the Pleasant Lakes Subdivision.
- Shows the aerial shot of the Sanctuary View Drive and where the sign would be placed.
- They did withdraw the request for the flag advertising pole signs (as stated in the requested on the application).
- The sign and location were presented to the Township Trustees because of the request on township property the Board of Trustees do have to consent permission. At the Wednesday, September 15, 2015 Board of Trustees meeting the Trustees approved for the Board of Zoning Appeals to proceed with the sign with setting all the restrictions, variances, and the specifications of the sign.
- The sign is 6'3'' which the three inches is located at the highest point on the angled sign; the square footage is also majority the angled section of the sign.
- The total square footage of the sign is 81.7 square feet and the total height is 6'3''.
- The zoning department stated that there was orange paint on the island median; some of the Board members did see the marks to clarify the line of sight of the subject sign.
- The illumination will only come from ground lighting; no internal lighting.

- Basically it is an over-sized monument sign that would help lead people into the Copper Creek apartments that are part of the Pleasant Lakes Subdivision currently being developed by Omni Property Companies, Pat and Tom Finley.
- The Zoning Department would recommend that the signage be placed thirty-seven (37) feet from the road right-of-way of State Route 43.

Lisa Cotten: I do have a question, on the application it says the monument sign and three flags on flag poles, is the flag pole part gone?

Dick Messner: That is correct the flags/poles part of the application was withdrawn.

Bruce Knippenberg: What about the assisted living when they come in? Are they going to want an additional sign there as well?

Dick Messner: If they do, it will not be within the boulevard. That is it within the boulevard.

Bruce Knippenberg: That is what I am saying, because if we are looking at this sign, it does not look like the sign can accommodate something else. Like down by Walmart, there are different sections to identify the retail stores.

Dick Messner: There would be no more room. There also is a joint venture between Omni Property Companies and Lemmon & Lemmon Development for the senior living, and assisted living. There are three bronzes slates that they could put something on. Anything else free standing would have to get permission from the Holiday Inn, which is unlikely.

Lisa Cotten: How do we, since the land is owned by the township, how do we allow one to put a sign and not make it available to the others?

Dick Messner: Each variance, as you know, stands on its own and the recommendations or conditions stand on its own.

Bruce Knippenberg: Now do we also take into consideration off-premise signs; we do have some regulations on off-premise signs?

Dick Messner: Yes, this was approved by the Trustees and is somewhat a unique deal. And an off-premise sign would be deferred to Broad; similar to the Cascades sign.

Lisa Cotten: Would the Township, though be liable in some way if we are saying that, yes they can put their sign in but what if there is another company that would what to put up a sign?

Scot Etling: It is a matter of space though. There just is no room for a second one.

Dick Messner: Right, when the developer first decided on the median strip being in place, the Zoning Department disagreed. The Zoning Department wanted it expanded wider or longer or do away with the island and make the entrance/exit wider. There are problems with trucks entering Sanctuary View Drive, plows, trash trucks, etc. hitting the curb of the island. Liability is a good question. As township property, could the Township be liable? Yes, because it is on our property. But then again looking at it, what happens when there is are accidents on any Township road? We have just under 46 miles of road and those roads have stop signs, caution signs, not necessarily in the boulevard but there would be a question of liability; if the Board does grant this variance the Zoning Department would get a prosecutor's opinion and then we would have Omni place a road bond.

Lisa Cotten: Well I'm not as worried about someone getting hurt, I mean I am thinking that it would look really nice but I'm thinking through about what if someone else comes?

Bruce Knippenberg: When Omni or assisted living wants to put something else on this sign?

Dick Messner: There is actually only room or space for the stated subdivision. The Highland Apartments are already in. The Holiday Inn is in. The 13 acres which the Board approved the conditional use for the combination of the nursing home and assisted care is not in, but there is a joint venture between Omni and Lemmon & Lemmon.

Lisa Cotten: But what is the point where we say there is no more room? For insistent the assisted living, they get stuck with the little marker on this existing sign, and they say why do they get a sign and we don't?

Bruce Knippenberg: They're going to be stuck with that little slate, and they are going to want to put up a sign so that they could be seen.

Dick Messner: If there was something else applied for in the future for in that space, I would suggest the Board turning it down. There was an established partnership on the venture and they would have to take it up with the other partner. It would be very similar to Casamento's or the Cascades signs; space is gone when it is gone. The companies and/or partners would be limited to the space on the presented sign.

Bruce Knippenberg: Until they come in ask to put up a pole.

Dick Messner: If they come in with a pole, we would object and recommend to the Board to not allow the pole sign; in which they would have to file with the Board, and appeal the zoning department's decision.

Bruce Knippenberg: I understand. Are you the representative for the sign company?

Lou Belknap: Representative for the sign company, 35280 Lakelynn Blvd. East Lake, Ohio. The picture is somewhat cropped together, so you have an elongated view. We felt that it was a good design. It gives you a little bit of an artist value to that center area as well as the flow. They call it flow because of the way it would bring people to it, or it is acceptable to the eye. It does have three different changeable panels on it. As Dick had mentioned, which I'm not sure whom they have the intent for whether it is the tenants; we knew there was two of them and I was not sure of whom the third was or if it will be the nursing home or assisted living. That is a predesigned tenant space, so I'm not sure if they will be happy with that space or if that is something that we are able to negotiate. If push came to shove they might be able to reconfigure some of the layout of the sign, if between the contractors, owners and builders and use the same square footage. But this is what we are representing for the Copper Creek area. And we would think it will be a phenomenal piece of art that would actually be up there because of the combination of the brick and the actual stone and the copper color is a metallic color. It is not actual copper. So it will be a real compliment to the open space that is there now. I believe that it is ten feet back into the island, which is what Dick was saying there should not be any problems with line of sight or anything of that nature. And it will just be flood lighting; that is the nature of this sign. It could not be illuminated inside because it is all metal. So there is no chance of illuminating inside without redesigning.

Dick Messner: That is an interesting question about it. There is a partnership between the two companies, but how far that partnership goes on the land, the 13 acres, the business and building, there wouldn't be any conflict because they would be sharing it. The other thing looking at the panels here, it is pretty much the same thing we were looking at previously, that we are looking at the losing game with Portage County. Such as that sign at the Cascades Boulevard is on township property.

Lisa Cotten: Oh, okay. I didn't know if we had done that before.

Dick Messner: Remember we did not want that as a public road, but the subdivisions would not release it so we ended up with Nicholas, Alexander Way, and Cascades Boulevard as public roads. So in the realities, we are pretty much looking at the same thing.

Lisa Cotten: Right, the same thing, I wasn't sure how that one had played out.

Wendi O'Neal: Now do they have a maintenance plan as to who takes care of the sign? Or anything?

Dick Messner: Cascades? Yes. 3D Realtors and Investors take care of the sign. They maintain the property they own, before all the out lots are sold.

Lisa Cotten: So in proposing a variance then, would we want something like that in the variance?

Dick Messner: It would be up to the Board.

Lou Belknip: In honesty, in protecting you, I would make the owners of the apartments maintain and insure. Because you are going to have electric here also, so someone is going to have to pay for the meter.

Lisa Cotten: Yea. We don't want any of that. I am thinking the same thing.

Lou Belknip: We have done this in different areas and whenever there is an island, there is the question of whose is it.

Vince Murdocco: Right who is responsible?

Bruce Knippenberg: Correct is the Township going to have to be since it is their property? What is the reasoning for the excess of height of three inches and size?

Lou Belknip: Because it tapers down and if we minimize the tallest point it would crop the letters down to that of a smaller size and it is a twelve inch letter now, and if you are 30 or more feet off the road it appears smaller and less readable.

Lisa Cotten: So visibility.

Lou Belknip: We are looking at an art design that just tapers down so the height is necessary. We tried to keep the sign within the six foot requirement but everything that we did made everything else smaller, especially from farther away.

Vince Murdocco: It is a nice looking sign as long as they maintain it.

Bruce Knippenberg: So the 55 square foot variance, is that per side or is that both sides?

Dick Messner: Well it would be the per side equation, as the regulation is 32 square per side.

Bruce Knippenberg: Any other questions?

Dick Messner: Yea, I think Lisa brought up a great question. Areas to put into the variance such as maintenance, indirect lighting not to cause a disturbance or anything that would pose a problem not only for traffic but the neighboring properties, especially because that front property will be a restaurant one day.

Lisa Cotten: So those are spot lights? And how many on each side?

Lou Belknip: It is showing four on each side. No excuse me, five on each side. They might have spelled it out on this side of the proposed sign plan.

Lisa Cotten: It says, "Exact quantity and brand to follow".

Lou Belknip: To follow, okay. They are showing five, I don't think they will need five. I don't know the design or type that they are using. Most of the flood lights are LED, so it is very low voltage. Which is a very medium glow instead of a 400 watt mellow-hale light, they might go with a 24 watt LED, and just put small floods, which is the way that they try and do that now. And they may use less.

Lisa Cotten: So how could we limit the amount of light leaking from the boulevard? So could we say that we set a certain voltage?

Dick Messner: That would be pretty hard, you would need voltage and watts, and someone with that expertise.

Bruce Knippenberg: Right, we don't have that expertise, but we do have the ability to indicate that the lighting could not leave the street or the sign. In other words, I have a building across the street that has put lights on the building, but when they turn them on it lights up all of my neighbors backyards.

Lou Belknip: And I know what you are saying, and that is what we probably have to put in here to not have a great overflow passed the sign.

Bruce Knippenberg: Yea, we don't want light pollution beyond the street.

Lou Belknip: It really depends on what light they chose.

Lisa Cotten: No over flow of lighting off of the sign, so it would not exceed five on each side.

Lou Belknip: And that would be extreme amount, I mean they are showing five but it could be reduced.

Lisa Cotten: Okay, so we could say four.

Lou Belknip: I would also put it in your movement, including Dick, that maybe at some point have them go out at evening or at night or something in that nature with apartments or whomever with Dick to evaluate. Maybe they will have to cut it back a little bit more.

Dick Messner: Subject to evaluation by the Zoning Inspector.

Lou Belknip: Because you might find it that they don't need one on both ends to illuminate the sign.

Dick Messner: It gives the Township the ability to review and direct.

Bruce Knippenberg: To review and direct illumination.

Dick Messner: Or kill the lights completely.

Lou Belknip: And I think that is a reasonable and fair analysis.

Lisa Cotten: We just want to make sure that the other residents in the Township are not bothered.

Lou Belknip: You also have lights on that intersection. And if you are turning into it you don't want a bright light as you are turning onto it either. I have done this a long time, I am understanding what you are saying but that is why it would be great for him to maybe review it and have the ability to say, "You know what that needs to be tapered down more."

Lisa Cotten: Okay.

Cheryl Rueschman: But it is subject to us in the final analysis.

Lou Belknip: I think that would be fair; I mean because you do have to live in the area. And what you don't want is people saying that they can't see when they are turning into the driveway.

Bruce Knippenberg: I don't know what the reflective qualities of this copper sign is going to be?

Lou Belknip: They are usually a matte finish.

Bruce Knippenberg: Okay.

Cheryl Rueschman: So it is subdued, is that what you are saying?

Lou Belknip: It's like a flat surface; like a table top.

Bruce Knippenberg: So it is not going to reflect a lot of light?

Lou Belknip: It should not. You will get lighting bouncing back but it is not like a high gloss; it is actually going to be like a matte finish, similar to your chairs or tables. So lighting doesn't bounce right back off of it, I mean that is typically what they would do with it. I don't know whether they will use ox-o-paint or Matthew's paint, but it is all polyurethane paint. They can put a matte finish on it so that glare is not present.

Lisa Cotten: I thought it was going to be like copper.

Cheryl Rueschman: We could ask them to do that.

Scot Etling: It's not real.

Lou Belknip: Well it is actually going to be like a copper paint, but holiday is the surface that you end up with.

Lisa Cotten: I pictured it with aged to this lovely patina.

Lou Belknip: We could do that now. LOL

Scot Etling: That sign would not be there after a week!

Bruce Knippenberg: That is right someone would remove it for scrap!

Lou Belknip: Well if you are going to make the motion for them to maintain it, then you can't do that!

MOTION#2015-0046

A motion is made by **Lisa Cotten** to approve the two variances for the sign at Copper Creek a 55.5 square foot variance and a three inch height variance as per submitted rendering at the Wednesday, October 21, 2015 Board of Zoning Appeals meeting, subject to:

1. Maintenance, improvement and completion of island and monument sign is the responsibility of Omni Property Companies, Pat Finley and Tom Finley and/or successor(s)
2. Electricity for illumination of the sign is to be billed to Omni Property Companies, Pat Finley and Tom Finley and/or successor(s)
3. There shall be no overflow lighting on either side of the monument sign and there shall be a maximum of four (4) illumination lights or flood lights as presented per side; subject to the approval and/or inspection of the Brimfield Township Zoning Department.
4. Placement of the lights is subject to an illumination evaluation by the Brimfield Township Zoning Department once installed; approval must be met.
5. Installation and/or placement of the sign shall be no closer than thirty-seven (37) feet from the State Route 43 road right-of-way; there are orange marks on the curb of the median island for guidance. Location of the sign is subject to the inspection and approval of the Brimfield Township Zoning Department.
6. Pending the approval of the Portage County Prosecutor's recommendations for the maintenance and liability insurance by the owner(s) and/or successor(s) of the sign on Township property. Also requiring Omni Company Properties, Pat Finley and Tom Finley and/or successor(s) to file a maintenance and improvement road right-of-way bond with the Township.

The motion is seconded by **Vince Murdocco**.

Bruce Knippenberg: Is this agreeable to the applicant?

Lou Belknip: Sure. I think this is a fair evaluation simply due to the fact that this property is not theirs; I don't have a problem with it.

Cheryl Rueschman: If they move forward, Omni Property Companies, are they going to be okay with that?

Lou Belknip: Well I don't know that, because I don't know what fixture that they are using. I would almost like to say, well can they maintain five illumination lights, and maybe what they could do is evaluate the lighting system and maybe talk to Dick about it and then come up with a happy medium before they actually do anything.

Lisa Cotten: I am okay with that, because it will be checked.

Dick Messner: The big thing is that we want to contain the light on the monument.

Bruce Knippenberg: Yes, on the monument sign.

Lou Belknip: The light has to be focused on the sign.

Dick Messner: It has to be focused on and obviously it has to be in such a manner that if there is leakage of light that it is not going to go into, particularly the egress, people into their eyes coming through or on the other side going out. So it is going have to be low wattage, low illumines to concentrate right on it or it could be as simple as targeting a simple spot and let the reflection roll out from that spot.

Lisa Cotten: Right, which might take five (5) lights on each side.

Dick Messner: It may only take two (2) lights, who knows?

Lou Belknip: And that is what I said though, once they figure out what they are going to use, I think maybe Michael can give you the heads up and say this is what we are going to do. I would prefer not to tie their hands, because I don't know what they had in mind.

Lisa Cotten: Right.

Lou Belknip: They're showing five (5) and with the architect or designer or someone from Copper Creek decides to use this type of fixture, it could be a horn type light which is very directive and very spotted. I really don't know.

MOTION#2015-0046, was amended to include the maximum of five (5) illumination lights or flood lights as presented per side with approval by the Zoning Department, which was accepted by **Lisa Cotten** and **Vince Murdocco**.

Motion carries; 4 Ayes, 1 Abstention (**Scot Etling**).

AUDIENCE QUESTIONS:

OLD BUSINESS:

NEW BUSINESS:

GOOD OF THE ORDER:

The Board is briefed on the possibility of an application for a conditional use permit from Fioritto, with a possibility to purchase land on Mogadore Road, parcel number 04-053-00-00-011-002 and parcel number 04-053-00-00-011-003 in the Heavy-Industrial zoning district. The Board stated that they would like a formal business plan with the application and also clarification on the intent of use of the property and the required fencing to be in place prior to moving any vehicles to the lot. The Zoning Inspector stated he would relay the information.

The Board is briefed on the possibility of a 'gray area' of a glass business being located at 496 Tallmadge Rd and if the Board would be open to the possibility of allowing the business to open in the existing vacant building. The Board stated that they would allow the Zoning Inspector to move forward with the allowance of the possible glass company at the stated location.

SET NEXT MEETING:

Next meeting is scheduled for Wednesday, November 18, 2015, at 7:15 PM.

ADJOURN:

MOTION#2015-0047

A motion was made by **Scott Etling** to adjourn the October 21, 2015 Board of Zoning Appeals meeting, and was seconded by **Vince Murdocco** at 8:50 PM. Motion carries.

Chairman Bruce Knippenberg

Vice Lisa Cotten

Scot Etling

Vince Murdocco

Ed Shutty

Secretary Wendi O'Neal

Alternate: Cheryl Rueschman