

RECORD OF PROCEEDINGS  
COPLEY TOWNSHIP BOARD OF ZONING APPEALS

Minutes of

Meeting

BEAR GRAPHICS 800-325-8094 FJRM NO. 10148

October 9, 2019

Held \_\_\_\_\_ 20\_\_\_\_

1 Neal Call convened the Board of Zoning Appeals meeting at 6:00 p.m. Present were Neal Call,  
2 Mike Pritchett, Russ Hose, Naureen Dar and Charles Myrick. Kyle Nelson and Dave Neumeyer  
3 were not present. Shawna Gfroerer and Clarissa Hunt were also present from the Department  
4 of Community & Economic Development.

5  
6 Mr. Call asked for a motion to accept the minutes. Mr. Myrick made a motion to  
7 approve the September 11, 2019 minutes as submitted. Mr. Pritchett second. Mr. Call  
8 called for the vote. The motion carried.

Board Member	Present	Motion	Second	Yea	Nay	Abstain
Russ Hose	X					X
Mike Pritchett	X		X	X		
Neal Call	X			X		
Naureen Dar	X			X		
Charles Myrick	X	X		X		
Kyle Nelson (alt.)						
Dave Neumeyer (alt.)						

10  
11 **OLD BUSINESS**

12  
13 Mr. Call swore in Ms. Gfroerer.

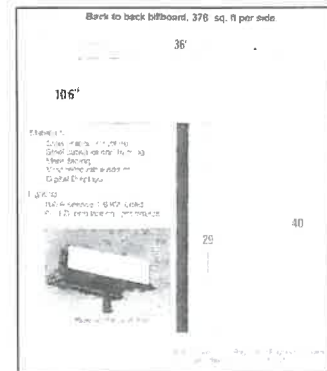
14  
15 **Applicant:** Larry Smith, Van Advertising  
16 **Business Name:** Montrose Real Estate I, LLC  
17 **Landowner:** Montrose Real Estate I, LLC  
18 **Property Address:** 3960 Medina Road  
19 **Property Location:** Parcel: 1507803  
20 **Zoning District:** C-GR (Commercial-General Retail)  
21 **Proposal:** Use Variance: 8.07 H 4

22  
23 A notification was sent to the adjacent landowners and an ad was placed in the West Side  
24 Leader regarding this application.

25  
26 Ms. Gfroerer presented the application for applicant, Larry Smith for Vann Advertising Inc., on behalf of  
27 Montrose Real Estate I LLC, who is requesting a use  
28 variance to change a previously approved 378 square  
29 foot vinyl, static, non-digital, Outdoor Advertising Sign,  
30 Billboard, to a 378 square foot digital Outdoor  
31 Advertising Sign, Billboard, which would include  
32 displays to change as frequently as every 8 seconds.



33  
34  
35 On April 1, 2019, applicant, Larry Vann, on behalf of  
36 Montrose Real Estate I LLC received approval from the  
37 Architectural Review Board to place a 40', 378 square foot  
38 Outdoor Advertising Sign (Billboard) in this location  
39 which met all of the requirements for Outdoor  
40 Advertising Signs per the Zoning Resolution as follows  
41 (EXHIBIT A):



42 Per the Zoning Resolution, 8.07 Signs in Commercial &  
43 Industrial Districts H. Outdoor Advertising Signs, the  
44 applicant is permitted the following:

- 45 1. Outdoor advertising signs are permitted only to  
46 the extent provided for in O.R.C. §519.20.
- 47 2. The maximum size for an outdoor advertising sign  
48 shall be four hundred (400) square feet.

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- 1 3. All outdoor advertising signs shall be of monopole construction.
- 2 4. No outdoor advertising sign may display a message that changes more frequently
- 3 than once in every twenty-four (24) hours.
- 4 5. Outdoor advertising signs must be separated along any street, roadway or highway
- 5 by a minimum distance of one thousand (1,000) feet.

6  
 7 The applicant is now requesting a use variance to change the previously approved 378 square  
 8 foot vinyl, static, non-digital, Outdoor Advertising Sign, Billboard, to a 378 square foot digital  
 9 Outdoor Advertising Sign, Billboard, which would include displays to change as frequently as  
 10 every 8 seconds.

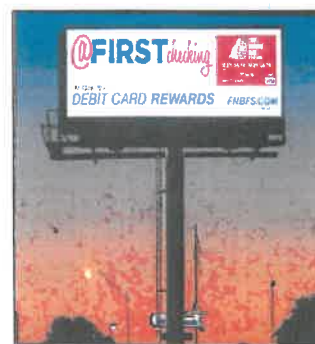
11 Per the Zoning Resolution:

12 8.07 SIGNS IN COMMERCIAL and INDUSTRIAL DISTRICTS

13 H. Outdoor Advertising Signs

- 14 4. No outdoor advertising sign may display a message that
- 15 changes more frequently than once in every twenty-four
- 16 (24) hours.

17 The applicant submitted the application incorrectly using  
 18 the standards for Practical Difficulty. These standards  
 19 apply to the request for an area variance, not a use  
 20 variance. The applicant submitted a memo from the  
 21 Township attorney into the record reviewing the criteria  
 22 for a Use variance in regards to the applicant's request.



23 Per the applicant the practical difficulty that justifies this  
 24 request is that the current ambiguity of the sign regulations, which, in the specific area of  
 25 billboards are an unnecessary burden on the landowners rights to maximize the use of their  
 26 property in todays' off premise sign environment. The applicant believes that granting this  
 27 variance would do substantial justice to the landowners.

28 Per the applicant states that the immediate neighborhood is "Heavy Commercial" and their  
 29 opinion is that a digital sign would have no effect but a positive one for local businesses.

30 The Department of Community & Economic Development recommends disapproval of the  
 31 applicants request for a use variance to change a previously approved 378 square foot vinyl,  
 32 static, non-digital, Outdoor Advertising Sign, Billboard, to a 378 square foot digital Outdoor  
 33 Advertising Sign, Billboard, which would include displays to change as frequently as every 8  
 34 seconds.

35 **Rationale: The applicant does meet the standards for a Use Variance under Ohio Law.**  
 36 **Use Variance Internal Review:**

- 37
- 38 • The applicant will not suffer a substantial or unnecessary injustice as a result of not
- 39 granting this variance. The applicant is permitted to install the Outdoor Advertising
- 40 Sign as previously approved.
- 41 • The property can still be utilized based on the primary use which is Montrose Ford of
- 42 Fairlawn: New and used automobile sales and accessory uses inclusive of: Montrose
- 43 Ford of Fairlawn: Service Parts & Collision and Enterprise Rental Cars
- 44 • The Zoning Resolution provides for Outdoor Advertising as required by the Ohio
- 45 Revised Code. The Zoning Resolution also provides for additional means of
- 46 advertising via ground signs, Business Center Signs, Awning Signs, Wall Signs and on
- 47 premise Electronic Messaging Centers.

48  
 49 The applicant was aware of the requirements for an Outdoor Advertising Sign at the time of  
 50 submission and approval by the Architectural Review Board on 4/1/2019. The applicant  
 51 submitted a Minor Site Plan application to the ARB on 4/1/2019 which included static vinyl  
 52 graphics.

53

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1 The current request before the BZA has not been reviewed by the Architectural Review  
2 Board. The granting of this variance would permit the use of a sign not permitted in the  
3 Zoning Resolution and would circumvent the authority of the Architectural Review Board  
4 vested to it through the Ohio Revised Code Section 519.171 and the Township Zoning  
5 Resolution, Section 8.04 F. 3 to review, approve or make necessary recommendation  
6 regarding signs and/or requests for sign variances.

7  
8 **Mr. Call asked if the Vinyl Billboard sign had already been approved and did not need**  
9 **a variance.** Ms. Gfroerer stated was correct.

10  
11 Ms. Gfroerer reviewed ground signs located on SR 18 in the applicants requested area.



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27 Ms. Gfroerer presented all of the billboard signs that are located in Copley Township and  
28 neighboring communities none of which are digital.



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44 **Mr. Call asked if there were any questions for Ms. Gfroerer.**  
45  
46 **Mr. Call asked if there was anyone who wish to speak for or against this application.**  
47  
48 **Mr. Call swore in all who wished to speak.**

49  
50 **Larry Smith, Smith Outdoor Advertising, 8036 Fox Run Ave. NW, North Canton, 44720**

51  
52 Mr. Smith asked Ms. Gfroerer to clarify if the billboard in Montrose was vinyl because he was  
53 certain it was a digital billboard. Ms. Gfroerer stated the sign is vinyl.

54  
55 Mr. Smith stated that Ms. Gfroerer made a good point that the ARB should probably should  
56 have seen that (the request for a digital sign) and maybe they have missed a step. Mr. Smith  
57 stated that he feels very strongly that a static or digital billboard meets all requirements or  
58 they are all permitted by the Ohio Revised Code. Mr. Smith stated that he supposed he could  
59 have just applied for a billboard without mentioning the digital and when we got the permit  
60 just put it up but he wanted to be up front and honest with the Board or with the Zoning  
61 Department. Mr. Smith stated that his goal is to sell this billboard. Mr. Smith presented for

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1 the Board an article from San Jose California. San Jose was not happy with the state of the  
 2 billboards around the City. Many were in poor condition, detracting from the overall  
 3 appearance so they decided to change them to digital. Local businesses love them. There is  
 4 usually a waiting list once you put up a digital because it helps them promote their businesses  
 5 locally. We built one outside The Strip in Canton eight years ago and there is still a list of  
 6 people who would like to be on that board and can't get on it because the contracts that are  
 7 on it are so long. Mr. Smith stated that due to other billboards and the States regulations and  
 8 your regulations nobody else is going to apply for a billboard. Nobody else can based on the  
 9 State's regulations primarily on Route 21 or on Route 18 this will be it and nobody is going to  
 10 want to put one up unless it's on one of those two roads. Mr. Smith invited Mr. Lavin to the  
 11 podium to speak.

12 **Mr. Call swore in Mr. Lavin.**

13  
 14 **Sean T. Lavin, Lavin Boehm, LLC, 3091 Mayfield Rd. Ste. 212, Cleveland 44118**

15  
 16 Mr. Lavin stated he was here on behalf of Vann Advertising. Mr. Lavin stated that on an initial  
 17 matter he would like to raise that he was not provided a copy of the legal memorandum that  
 18 was drafted by Mr. Sugerman. As a result of that Mr. Lavin requested a continuance of this  
 19 hearing in order to properly review the memo and to respond in kind. Mr. Lavin stated that  
 20 there certainly is an issue on whether this is a Use variance or an Area variance. It's the  
 21 position on Vann Advertising that here we have an existing billboard. Billboards are  
 22 authorized under the Township's resolutions they are authorized under Ohio Revised Code  
 23 and Administrative Code. There are no prohibitions at all to a digital board so we are looking  
 24 at the ability to use a digital board on the billboard that has been authorized. Therefore we  
 25 are not asking for an unlawful use of the billboard we are asking for a modification of its  
 26 characteristics which is what an Area variance is as opposed to a Use variance where we are  
 27 asking for something that is not permitted by the zoning regulations. Zoning regulations  
 28 allow for a billboard and it does not prohibit digital. So therefore Mr. Lavin stated that he  
 29 would like time just a thirty (30) day extension to review Mr. Sugerman's analysis and be able  
 30 to provide you with the counter analysis so you can fully understand what is the proper  
 31 standard to be applied because they are dramatically different one being practical difficulty  
 32 and the other being unnecessary hardship.

33  
 34 **Mr. Call stated that there was already a continuance once is that correct. Mr. Call also**  
 35 **asked what the reason was for the first ~~continuance~~.** Mr. Lavin stated he was not present  
 36 for that. Mr. Smith stated they had additional information that they wanted to provide to this  
 37 Board and he did provide that information about the displays and offer for the Township to  
 38 use the billboard for announcements.

39 Mr. Lavin stated to Mr. Call that Mr. Vann had information on the willingness to compromise  
 40 with the Township with the length of any advertisements that would be on the billboard  
 41 when the billboard would even be operational and the fact that it could be turned off at  
 42 midnight. Here it really goes to not having a legal copy of Mr. Sugerman's legal analysis prior  
 43 to the hearing that puts at a distinct disadvantage and also the Board is not provided with  
 44 both sides of what is the proper legal standard that you as the Board need to apply to  
 45 determine if this is a Use variance or an Area variance.

46 **Mr. Call stated, so you will look into court cases and research into definitions** – Mr. Lavin  
 47 stated he would review Mr. Sugerman's analysis and provide his counter analysis. We had  
 48 this issue once before. When we originally applied for a billboard we were told that  
 49 billboards weren't allowed in the commercial district and it was denied. We had to eventually  
 50 file an appeal on March 1<sup>st</sup>. **Mr. Call, I noticed the dates March and April.** Mr. Lavin, yes,  
 51 initially we were even prevented from having a billboard. So we had to go through the  
 52 process of showing the Township that billboards were permitted. Eventually we had to file  
 53 an appeal and a letter dated March 15, the Township acknowledged that the request was  
 54 proper and at the time I had discussions with Mr. Sugerman about the proper standards to be  
 55 applied. So once again I believe we are being prejudiced by not seeing in advance what has  
 56 been provided to you. I think like all things there are two sides to a story-**Mr. Call, I don't**  
 57 **want you to think it was done intentionally.** Mr. Lavin, No, no not at all the result is I don't

*Continuance*

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1 think the Board has been giving the proper full side and I would like to give the Board that  
 2 side. **Mr. Call, I understand you request.** Mr. Lavin, very good then.

3 **Mr. Called asked if the Board should continue hearing people since there is a request**  
 4 **to continue the hearing.**

5 Ms. Gfroerer asked to speak.

6 Ms. Gfroerer stated in response to Mr. Lavin's analysis of the memorandum. The  
 7 memorandum was sent to Ms. Gfroerer as the Zoning Inspector. Ms. Gfroerer stated she  
 8 reached out to Mr. Sugerman the Township's attorney to see if he would review this  
 9 application for his determination on whether the application was a Use or an Area variance.  
 10 Ms. Gfroerer also shared with Mr. Sugerman how she was reviewing the application. At that  
 11 time and based on our legal purview our counsel can make recommendations to the Zoning  
 12 Inspector. So Mr. Sugerman was not reviewing the application. Based on Ms. Gfroerers  
 13 request Mr. Sugerman was reviewing the application solely for a determination so the Zoning  
 14 Inspector would know how to apply the proper standards. This is typically not something  
 15 that would be sent to the applicant because it is opinion and determination to the Zoning  
 16 Inspector.

17 **Mr. Call, this would be in general anytime a billboard digital billboard comes into**  
 18 **question?**

19 Ms. Gfroerer, correct so if I reached out to my Director Matt Springer and said "what do you  
 20 believe this to be?" he could give me his interpretation or his recommendation what this  
 21 could be. So this is the opinion of our attorney as the Zoning Inspector I have the authority  
 22 to apply the standard that I believe best fits the application. I think Mr. Lavin would agree  
 23 with that and so this opinion was just me reaching out for an additional recommendation on  
 24 my determination on the type of variance.

25 Mr. Lavin stated that much like my client would seek legal advice on how the standard would  
 26 apply that advice was given here. What makes this different is that it was entered here as an  
 27 exhibit as part of your determination to what the legal standard would be. Not having a  
 28 chance to review it there may be fundamental flaws in Mr. Sugerman's analysis that was given  
 29 to Mr. Gfroerer to make her decision. Ultimately it's your decision to apply the proper  
 30 standard. As it stands you've only been given one side of a legal analysis and I would like to  
 31 provide our legal analysis to counter it so you have the full information to decide if Mr.  
 32 Sugerman more accurate or am I more accurate or is it somewhere in the middle and you will  
 33 then use that standard to determine whether or not this is a Use or an Area variance because  
 34 that is fundamental to deciding the standard to be applied for this billboard. Without that  
 35 analysis you are really flying blind.

36 **Mr. Call, I do understand what you are saying. I'm envisioning that you would like a**  
 37 **similar memorandum that you would put in as an exhibit.**

38 Mr. Lavin stated, certainly, I would at least like to review it to see what there is to agree on  
 39 and what I think is a difference of opinion on so ultimately you can decide what the proper  
 40 standard is.

41 **Mr. Call asked the people on the floor if they would like to speak.** All stated not at this  
 42 point.

43 **Mr. Call asked for a motion. Mr. Pritchett made a motion to continue the applicants**  
 44 **request until the November 13, 2019. Ms. Dar second. Mr. Call called for the vote. The**  
 45 **motion carried.**

Board Member	Present	Motion	Second	Yea	Nay	Abstain
Russ Hose	X			X		
Mike Pritchett	X	X		X		
Neal Call	X			X		

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Naureen Dar	X		X	X		
Charles Myrick	X			X		
Kyle Nelson (alt.)						
Dave Neumeier (alt.)						

1  
2 **Applicant: Steven P Burnham**  
3 **Landowner: Steven P Burnham & Barbara A Schilling**  
4 **Property Address: 1472 S Plainview Drive**  
5 **Property Location: Parcel 1501963**  
6 **Zoning District: R-MD (Residential Medium Density)**  
7 **Proposal: Variance: 6.01 Y-Request for an oversized detached garage**  
8

9 Ms. Gfroerer asked the Board to continue the application for applicant/landowner, Steven  
10 Burnham, who is requesting an area variance to increase the size of an existing detached  
11 garage for the purpose of accommodating a 22' camper. Mr. Burnham suffered an injury and  
12 has requested additional time.  
13

14 **The Board stated that Mr. Burnham had been making progress to come into**  
15 **compliance.**

16  
17 **Mr. Call asked for a motion. Mr. Myrick made a motion to continue the requested public**  
18 **hearing. Mr. Pritchett second. Mr. Call called for a vote. The motion carried.**

Board Member	Present	Motion	Second	Yea	Nay	Abstain
Russ Hose	X					X
Mike Pritchett	X		X	X		
Neal Call	X			X		
Naureen Dar	X			X		
Charles Myrick	X	X		X		
Kyle Nelson (alt.)						
Dave Neumeier (alt.)						

19  
20 **BUSINESS FROM THE DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT**

21 Ms. Gfroerer provided an update on large commercial activities and stated that Omni Senior  
22 Living and Heritage Center Retail Project are under construction. Caliber Collision, Arby's  
23 and Stewart's Caring Place are all under review. For the small-mid commercial activities,  
24 Dan's Wholesale Carpet, Thomarios Construction and Urban Air Adventure Park are  
25 projects all in progress. For small scale commercial projects, Gaia Nails & Spa & Himalayan  
26 Salt Cave, Vio Med Spa and Twisted Grill & Grind are in progress. Ms. Gfroerer stated that  
27 the majority of residential activity consists of decks and accessory buildings. The  
28 department processed 25 applications for a total investment of \$963,480.00 in the month of  
29 September.

30 **Mr. Call asked if there was any other Business from the Floor.** There was no Business  
31 from the Floor.

32  
33 **Mr. Call stated that the next meeting would be held on November 13, 2019.**

34  
35 With no further business to come before the Board, the meeting was adjourned at 6:50pm.

36 **Mr. Myrick made a motion to adjourn the meeting. Mr. Call second. Mr. Call called for**  
37 **the vote. Motion carried.**

Board Member	Present	Motion	Second	Yea	Nay	Abstain

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BEAR GRAPHICS 800-325-8094 FORM NO. 1G148

**October 9, 2019**

Held \_\_\_\_\_ 20\_\_\_\_

<b>Russ Hose</b>	X			X		
<b>Mike Pritchett</b>	X			X		
<b>Neal Call</b>	X		X	X		
<b>Naureen Dar</b>	X			X		
<b>Charles Myrick</b>	X	X		X		
<b>Kyle Nelson (alt.)</b>						
<b>Dave Neumeyer (alt.)</b>						

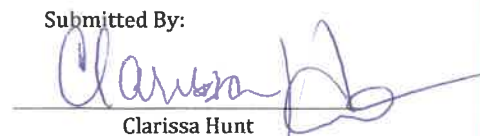
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Approved By:



Neal Call, Chair  
Board of Zoning Appeals

Submitted By:



Clarissa Hunt  
Community & Economic Development