

**CITY BOARD OF ADJUSTMENT**

MINUTES: September 5, 2012

*Corrected and approved by a motion on October 3, 2012*

Name	Title	01/04/1	02/01/1	03/07/1	04/11/1 2	05/02/1 2	06/06/1 2	07/11/1 2	08/01/1 2	09/05/1	10/03/1	11/08/1	12/05/1
Jeff Bollman	Chairman	1	-	1	1	1	C	1	E	1			
Paul Cox	Boardmember	1	-	1	E	1	A	1	1	E			
Daniel Eggen	Vice Chairman	1	-	1	1	1	N	1	1	1			
Neil Kiner	Boardmember	1	-	1	E	E	C	1	1	1			
Barbara Walborn	Boardmember	1	-	1	1	1	E	E	1	1			
Marlene Walter	Boardmember	1	-	1	1	1	L	1	E	1	-	-	-
James Olson	Boardmember	-	-	-	1	1	-	1	1	1	-	-	-

TOTAL NUMBER OF APPLICATIONS 2011	01/04/12	02/01/12	03/07/12	04/11/12	05/02/12	06/06/12	07/05/12	08/01/12	09/05/12	10/03/12	11/08/12	12/05/12	TOTAL
Variance	1	0	1	4	2	-	7	2	1				18

Chairman Jeff Bollman called the meeting to order at 6:00 p.m. The City Board of Adjustment met in the City Council Chambers.

Chairman Bollman asked Zoning Coordinator Nicole Cromwell to introduce the City Board of Adjustment members and Planning Department staff. Attending Staff members are Nicole Cromwell, Zoning Coordinator; and Tammy Deines, Planning Clerk

**Others in Attendance:** Agent Tyler Thelen, Epon Sign Group

**Public Comment:**

Chairman Bollman opened the public comment period and asked if there was anyone wishing to speak during the public comment portion of the meeting. There was none. Chairman Bollman closed the public comment period at 6:01 p.m.

**Disclosure of Conflict of Interest**

Chairman Bollman asked for disclosures of conflict of interest. There was none.

**Disclosure of Outside Communication**

Nicole Cromwell explained there are times applicants communicate directly with Board members and this should be communicated to the Board members in a public forum. There were no disclosures of outside communication.

## **MINUTES**

The Board decided with a unanimous voice vote to move amend the agenda move approval of the minutes to follow the public hearings.

## **PUBLIC HEARINGS:**

Chairman Bollman asked Ms. Cromwell to read the determinations for granting a variance as well as review the rules for the procedure by which the public hearings will be conducted. Ms. Cromwell reviewed the procedures by which the meeting is conducted and the determinations for granting a variance.

## **Public Hearings:**

At 6:04 p.m., Chairman Bollman stated the public hearing will be opened and this Board will allow public comment this evening. Ms. Cromwell read the legal description and gave the Staff presentation which reviewed the request and recommendation below.

**Variance #1129 – 2105 Central Avenue – Casagrande Dental** – A variance from 27-705(b) requiring a freestanding sign be no greater than 32 square feet and no taller than 8 feet above grade to allow a sign area of 63 square feet and a sign height of 12 feet 10 inches in a Residential Professional (RP) zone on Lot 3A, Sweet Acres Subdivision, a 30,692 square foot parcel of land. Tax ID: A16892A, David Casagrande, owner and Epcon Sign Group, agent.

## **REQUEST**

The applicant is requesting a variance from 27-705(b) requiring a maximum sign area of 32 square feet for a freestanding sign to allow a maximum sign area of 63 square feet; a maximum sign height of 8 feet to allow a maximum sign height of 12 feet 10 inches to replace an existing sign at Casagrande Dental at 2105 Central Avenue. The property is zoned Residential Professional (RP) and reduced sign area and height apply to this district. The property is legally described as Lot 3A of Sweet Acres Tracts Subdivision and is 30,692 square feet in area. David Casagrande is the owner and Tyler Thelen of Epcon Sign Group is the agent. Planning staff is recommending conditional approval of the proposed variances.

Staff is recommending the following conditions for the variance request:

1. The variance is from 27-705(b) requiring a maximum sign area of 32 square feet for a freestanding sign to allow a maximum sign area of 63 square feet and a maximum free-standing sign height of 8 feet to allow a maximum free-standing sign height of 12 feet, 10 inches. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 3A, Sweet Acres Tracts Subdivision generally located at 2105 Central Avenue. The sign must be constructed in substantial compliance as shown on the submitted site plan and meet all other zoning and building code requirements where applicable.
3. The proposed signs may be illuminated however, no electronic message display (EMD), traveling, blinking, flashing or variable illumination of the sign is allowed.
4. The sign permit, and any additional permits required, shall be obtained within 2 months of Board of Adjustment approval.
5. The sign must be installed within 6 months of Board of Adjustment approval. Failure to obtain a sign permit or complete the installation within the time limits prescribed herein shall void the variance.

6. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

### **Discussion**

Chairman Bollman called for questions and discussion by the members of the Board.

Daniel Eggen asked about the spacing requirements for placing a sign under a power line. Nicole Cromwell deferred this question to Tyler Thelen, who explained the power company requires booting the line within 10-feet of the sign for safety reasons.

Dan Eggen asked Nicole Cromwell give a recap on the federal law that pertained to City Variance #1097. Nicole Cromwell explained the Religious Land Use and Institutionalized Persons Act, (RLUIPA), is a federal protection enactment that states if the existing zoning regulates land uses that are religious based, the same regulations must be applied to those uses as secular assembly uses. She said the City Code regulated two different types of assembly uses, which is not allowed by the law and subsequently staff was advised by the City Attorney's office to approve the sign even through it was previous recommended for denial.

In response to a request by Chairman Bollman, Nicole Cromwell referred to a photo of the existing sign. Jeff Bollman noted the grade change from the street to the building and discussed the eight-foot measurement. Nicole Cromwell explained the compliance is based on the sign company's submittal. She noted Section 27-201 which states the sign height is defined as the vertical distance measured from the finished grade and not the artificially raised grade.

### **Public Hearing**

At 6:24 p.m., Chairman Bollman opened the public hearing and called for proponents of City Variance #1129-2105 Central Avenue.

### **Tyler Thelen, Epcon Sign Group, 930 Avenue C, Billings, Montana**

Mr. Thelen is the agent for the owner, David Casagrande. He said the building owner is going to do an extensive upgrade to his building and wishes to upgrade the signage to match.

Neil Kiner asked if the sign will be visible for vehicles coming from the west. Mr. Thelen said based on the clear vision triangle the sign has to be pushed to the west. He noted the placement of the trees and the transformer box and commented there is a view shed conundrum for east bound traffic. He clarified the clear vision triangle with a reference to the site plan.

Nicole Cromwell referred to City Code Sections 27-615a and 27-618 for the clear vision illustrations. There was further discussion by the members of the Board. Nicole Cromwell pointed out the pedestrian and vehicular clear vision triangles on the site plan and stated everything in these areas have to be 30" in height or less. She said the existing sign may be within the pedestrian clear vision triangle but it is grandfathered until the structure is changed at which time it would have to be made compliant.

Chairman Bollman asked if there was anyone else wishing to speak in favor or against City Variance #1129. There was none. Chairman Bollman closed the public hearing and called for a motion from the Board.

**Motion**

**A motion was made by Barbara Walborn and it was seconded by Jim Olson to approve City Variance # 1129 with the conditions recommended by staff.**

**Discussion**

Chairman Bollman called for discussion on the motion. He said the building to the east was denied a variance. He does not feel there was any particular hardship and the existing sign is visible.

Barbara Walborn commented the new sign looks as if it will be more maintenance free.

Boardmember	Yes	No	Abstain	Not Present
Jeff Bollman		<b>1</b>		
Paul Cox				<b>1</b>
Daniel Eggen	<b>1</b>			
Barbara Walborn	<b>1</b>			
Marlene Walter	<b>1</b>			
Jim Olson	<b>1</b>			
Neil Kiner		<b>1</b>		

**The motion carried, 4-2.City Variance #1129 is conditionally approved.**

**Approval of the July 11, 2012 Meeting Minutes**

Chairman Bollman called for the approval of the July 11, 2012 meeting minutes. These minutes were resubmitted. Jeff Bollman asked for an insertion under the disclosure section. Corrections were submitted by the members of the Board at the previous meeting.

**The July 11, 2012 Meeting minutes were approved as corrected with a unanimous voice vote.**

**Approval of the August 1, 2012 Meeting Minutes**

Chairman Bollman called for the approval of the August 1, 2012 meeting minutes. Corrections were submitted by the members of the Board.

**The August 1, 2012 Meeting minutes were approved with a unanimous voice vote.**

**Other Business/Announcements:**

1. Announcement: Nicole Cromwell said Supplement 13 has been distributed to the Board and Supplement 14 to update the Code for the chicken ordinance will be forwarded in the near future.
2. In response to a request by the Board, Nicole Cromwell gave an update on the decision on the LAMAR case.
3. The next City Board of Adjustment meeting will be held on Wednesday, October 3, 2012 to consider two applications.

**Adjournment: 6:24 p.m.**

**ATTEST:** Corrected and approved by a motion on October 3, 2012.

**Chairman Jeff Bollman**

**Tamara L. Deines, Planning Clerk**