

READINGTON TOWNSHIP ZONING BOARD OF ADJUSTMENT MINUTES
VIRTUAL REGULAR MEETING
July 15, 2021

The Meeting was called to order by Vice Chair Kirk at 7:30 p.m. stating that the requirements of the Open Public Meetings Act have been met and that this meeting had been duly advertised.

VICE CHAIR KIRK ANNOUNCED THAT IN ORDER TO COMPLY WITH THE EXECUTIVE ORDERS SIGNED BY THE GOVERNOR AND IN AN EFFORT TO FOLLOW BEST PRACTICES RECOMMENDED BY THE CDC, THIS MEETING WILL BE CONDUCTED VIRTUALLY FOR ALL BOARD MEMBERS, BOARD PROFESSIONALS, APPLICANT AND APPLICANT'S TEAM, ANY INTERESTED PARTIES AND MEMBERS OF THE PUBLIC. MEMBERS OF THE PUBLIC ARE INVITED TO VIEW MEETINGS LIVE USING WEBEX WHICH ALLOWS THEM TO "RAISE A HAND" AND CONTRIBUTE WITH VOICE AND VIDEO DURING THE PUBLIC PORTIONS OF THE MEETING. MEMBERS OF THE PUBLIC WHO ARE CALLING IN BY PHONE WILL ALSO HAVE THE OPPORTUNITY TO CONTRIBUTE WHEN CALLED UPON TO SPEAK.

ROLL CALL

Albrecht, C.
Bola, E.
Hendry, D.
Kirk, T.
Mittleman, K.
Maurer, C.
Nees, S.

Board Members Absent:

Goodwin, M.
Tropello, S.

Others Present:

Board Attorney, Steven Warner, Esq., Board Planner, Michael Sullivan, Board Engineer, Rob O'Brien, Zoning Officer, Christina Schwartz, Construction Official, Angela DeVoe, and Board Secretary, Ann Marie Lehberger.

APPROVAL OF MINUTES

There were some minor typographical edits noted.
Ms. Mittleman moved, and Mr. Nees seconded, a motion to approve the June 17, 2021, minutes as amended. The motion carried unanimously.

RESOLUTIONS

LabCorp (Walgreens)

Block 8 Lot 13 – 420 Route 22
Appl# ZB21-004

Ms. Mittleman moved, and Ms. Albrecht seconded, a motion to approve the resolution for LabCorp(Walgreens). The roll call vote follows:

Member	Motion	2 nd	Yes	No	Abstain	Absent	Not Eligible	Recused
Albrecht		X	X					
Hendry			X					
Kirk			X					
Mittleman	X		X					
Nees			X					
Tropello						X		
Goodwin						X		
Maurer (Alt #1)							X	
Bola (Alt #2)							X	

PUBLIC HEARING

Vincent Randazzo

Block 95 Lot 2 – 730 Route 202

Appl# ZB20-006- Appeal and “D” Variance – Billboard

The following were present and sworn in for the applicant:

Richard Roseberry, applicant’s engineer

Jim Kyle, applicant’s planner

Vincent Randazzo Jr., applicant

Board Planner, Michael Sullivan, Board Engineer, Rob O’Brien, and Christina Schwartz, Zoning Officer were also sworn.

Board Attorney, Steve Warner provided some background and addressed the Board, applicant, and members of the public on predicate issues regarding the application. Mr. Warner explained that the application has potentially two phases for the Board to consider: (1) an appeal of the decision of the Zoning Officer and (2) if that decision is upheld, a D(1) use variance application to have a non-permitted, not preexisting non-conforming billboard sign.

Attorney Alan Lowcher was present on behalf of the applicant. Mr. Lowcher provided background history and the timeline of events leading up to the application regarding the existing billboard located on the subject property. Mr. Lowcher further explained that the billboard has existed on the property for decades and that permits were issued to demolish the billboard without the knowledge or consent of the applicant.

Board Attorney Warner noted for the record that the Hunterdon County Construction Board of Appeals decision referenced by the applicant’s attorney was subsequently addressed by Judge O’Neill in 2020 at Superior Court. He further noted that the Board should be made aware of the extent that the decision impacts the subject matter of the appeal being discussed this evening.

Christina Schwartz, Zoning Officer reviewed her July 13, 2018, denial letter of the applicant’s application for the reconstruction of the billboard. Ms. Schwartz explained that her role at the Township is to interpret and uphold the Zoning Ordinance which states as follows:

Section 148-114

Billboards are a prohibited sign type within the Township and shall not be erected. Any lawfully existing permanent billboard sign is deemed a nonconforming sign and is subject to the provisions of Section 148-115 regarding damage and destruction.

Section 148-115 Nonconforming Signs

A nonconforming sign that was lawfully erected may continue to be maintained until the nonconforming sign is substantially damaged or destroyed. At such time that the nonconforming sign is substantially damaged or destroyed, the nonconforming sign must either be removed or be brought into conformity with this article and with any other applicable law or regulation.

Ms. Schwartz stated that she interpreted the billboard sign as demolished and more than merely partially damaged or destroyed. She further stated that she made a decision that was consistent with that interpretation.

The following exhibit was marked into evidence as follows:

Z-1 Copy of denial of application notice from Zoning Officer, Christina Schwartz, dated July 13, 2018

The Board asked for clarification on how the Ordinance is interpreted relevant to how the damage and destruction occurs. Ms. Schwartz stated that if the billboard was damaged by a storm or other natural force, it would be interpreted the same way, and the Board Attorney confirmed the correctness of her interpretation in this regard from a legal perspective.

Vincent Randazzo Jr., applicant explained that he owns the property with his family. He stated that on June 30, 2018, the billboard was partially knocked down by the advertising company that they had a lease with (Interstate). Mr. Randazzo explained that in his opinion the billboard was not substantially damaged because they were able to repair it within approximately 5 hours. Mr. Randazzo confirmed that the billboard was being used in 2010 when his father acquired the property. He stated that the sole purpose for purchasing the property was for the income they would receive from the billboard to help maintain expenses. He noted that since 2018 it has been a financial hardship for their family.

Mr. Lowcher reviewed the timeline of events with Mr. Randazzo. The following exhibits were marked into evidence as follows:

A-1 Copy of zoning permit issued on July 26, 2010, by John Barczyk, Zoning Officer for repair of existing billboard

A-2 Copy of letter dated August 21, 2010, from John Barczyk, Zoning Officer regarding the continued use of the billboard and revoking the permit that was previously issued

Mr. Randazzo confirmed that there was a time when there was a dispute between Interstate and the applicant regarding ownership of the sign.

The applicant's exhibits continued as follows:

- A-3 Copy of email dated December 16, 2010, to Michael Kovonuk, Construction Official from Vincent Randazzo regarding the issuing of permits for the billboard
- A-4 Copy of letter dated January 10, 2011, from Township Attorney Sharon Dragan to Construction Official, Michael Kovonuk regarding the issuance of permits for the billboard and the dispute of ownership

Board Attorney Warner questioned if there was a consent order establishing who the owner of the billboard was in 2011. The applicant's attorney indicated that he was unaware of the existence of such a consent order, however Mr. Randazzo confirmed that there was such a consent order, contending that there was a time limit on action to be taken there under. Mr. Warner submitted a Board exhibit that was marked into evidence as follows:

- B-1 Copy of consent order dated March 31, 2011

The applicant's exhibits continued as follows:

- A-5 Copy of denial of permit for demolition of billboard issued by the Construction Office dated January 11, 2011
- A-6 Copy of denial of permit for demolition of billboard issued by the Construction Office dated April 25, 2013

Board Attorney Warner questioned if the applicant's attorney was aware of the decision of Judge O'Neill on January 30, 2020, reflected in the transcript attached to his order reversing the decision of the Hunterdon County Board of Appeals. The applicant's attorney indicated that he was not aware of such decision.

The Applicant's attorney requested a brief recess to discuss the matter with his client at 8:40 p.m. and returned at 8:50 p.m. with all Board members present.

The applicant's exhibits continued as follows:

- A-7 A copy of construction permit for removal of billboard structure issued by the Construction Office dated June 1, 2017
- A-8 A copy of construction permit for removal of electrical connection to billboard issued by the Construction Office dated June 8, 2017
- A-9 A copy of letter dated May 30, 2018, from Steven Gura, Director of Operations for Interstate requesting a one-year extension of the billboard demolition permit

Mr. Randazzo stated that he was not aware that these permits had been issued and he did not give permission for the work to be done. He further stated that he became aware early in the morning on the day the work had commenced, and immediately notified the police.

The applicant's exhibits continued as follows:

- A-10 A copy of structural design plans prepared by Ramesh Ramchandani (1 page) dated August 9, 2010
- A-11 A copy of architectural plans (3 pages) prepared by Robert E. Coleman dated October 19, 2018, last revised May 27, 2019

Mr. Randazzo stated that he has received several requests for advertising on the billboard from local businesses.

The Board questioned the extent of the damage to sign. Mr. Randazzo stated that they chain sawed the top where the billboard sign was, including the supports that held the sign in place.

The Board questioned if there was a police report. Mr. Randazzo stated that there was one done but did not have a copy of it available.

The Board asked for clarification on the timing of the damage. Mr. Randazzo stated that they repaired it immediately and soon after received a notice from the Township to remove the billboard which they appealed with the County Construction Board of Appeals.

Ms. Schwartz noted that permits were applied for after the reconstruction occurred.

The Board questioned why the Township would approve the construction permits.

Construction Official, Angela DeVoe was sworn in for testimony. Ms. DeVoe explained that the permits were issued and later revoked once it was determined that zoning approval was required.

The Board asked for clarification as to the ordinance definition of substantial damage Board Attorney Warner read into the record the Ordinance definition as follows:

- A. Fifty percent or more of the upright supports of a sign structure are physically damaged such that normal repair practices of the sign industry would call for, in the case of wooden structures, replacement of the broken supports and, in the case of a metal sign structure, replacement of at least 25% of the length aboveground of each broken, bent or twisted support; or
- B. That more than 50% of a wall or attached sign is physically damaged such that normal repair practices of the sign industry would call for the same to be replaced or repaired.

Board Attorney Warner also reviewed case law from the Cox and Koenig treatise addressing substantially damaged or destruction relating to a preexisting non-conforming use/structure.

The Board asked for further clarification of the damage done on the supports to the billboard. Mr. Randazzo contended that a good portion of the posts remained in the

ground.

The Board questioned how many of the footings were replaced. Mr. Randazzo stated that they replaced one back support post with a concrete foundation. He confirmed that it was done after the damage to the sign occurred.

The Board asked if the top of the sign portion of the billboard was on the ground and no longer readable to the public driving by. Mr. Randazzo confirmed that it was.

The Board questioned if the applicant took any recourse against Interstate. Mr. Randazzo stated that they did make attempts but due to financial reasons were not able to continue to pursue.

Board Attorney Warner questioned if there was ever an application on behalf of the applicant to the Zoning Board requesting a certificate of nonconformity. Mr. Randazzo stated that he did not recall one.

Board Attorney Warner questioned how the payment for the billboard advertising was done. Mr. Randazzo stated that he was not familiar with that part of the business.

Board Attorney Warner questioned if the applicant was familiar with Judge O'Neill's decision in 2020 regarding the Township appeal of the Hunterdon County's Construction Board of Appeals decision. Mr. Randazzo confirmed that he was aware of that decision.

Board Attorney Warner explained that if a decision has already been rendered regarding the subject matter being discussed this evening, the Board should not be addressing an issue that was already ruled on by the court.

Board Attorney Warner stated that he received the documentation just prior to the commencement of the meeting. The Board stated that they would like the opportunity to review these additional documents.

Construction Official Angela DeVoe gave a brief overview of the permit request process.

The applicant's attorney requested that the application be carried to the meeting on August 19, 2021, at 7:30 p.m. with no further notice. The Board secretary stated that it would be posted on the Township website whether the meeting would be in person or virtual. Members of the public can also contact the Planning office at any time for meeting updates.

OTHER BUSINESS

The Board discussed and agreed to return to in person meetings starting in August. It was noted that the Township is looking into the possibility of a hybrid solution for the future.

Ms. Hendry recused herself from the discussion.

The Board discussed and agreed to have a virtual special meeting to hear the application for Hunterdon Hills Animal Hospital on Thursday August 5, 2021.

ADJOURNMENT

Ms. Albrecht moved, and Ms. Mittleman seconded, a motion to adjourn. The motion carried unanimously, and the meeting was adjourned at approximately 10:30 p.m.

Respectfully submitted,
Ann Marie Lehberger
Zoning Board Secretary