

December 17,

2019

Held _____

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ADJUDICATORY HEARING- Kessler Sign (VA-19-05)

The hearing was called to order by Chairman Reis at 6:05 p.m. on December 17, 2019 at the Etna Township Administration Building. The meeting was audio taped for the township records. The roll call showed members Sarah Benoit, Eric Nickolas, Greg Reis, and Trent Stepp present, along with Clerk Laura Brown. Mark Schaff was excused.

The nature of the hearing is to consider an Area Variance request from Article 12 Signage regarding the setbacks and location for a freestanding sign for Kessler Sign Company, Rodger Kessler, for parcel #010-017076.00.000, located on Hazelton-Etna Road north of Etna Crest Blvd.

Chairman Reis explained the process of the hearing. The applicant Rodger Kessler and Judy Bowen were sworn in.

Rodger Kessler presented the information regarding his variance request. Mr. Kessler is the property owner and the sign company. The Etna Township Zoning Resolution requires the sign be located twenty feet from the edge of the side yard and twenty feet from the front of the right-of-way line to the edge of the sign. The applicant is requesting reductions in setbacks to five foot from the edge of the right-of-way on SR310 and ten foot from the side yard along the Shell Oil property line. They will have a right-of-way strip on this property to the rear of their property for future development. The property to the rear will need signage for people to know where to turn to enter the property. Rodger Kessler stated they do not want to block the Shell signage. The sign will be a monument sign and will comply with the Etna Township resolution for size. They are in contract to sell the front parcel so the property will be split into two parcels. The company that is interested in purchasing the front parcel is scheduled to meet with the township zoning inspector tomorrow. Rodger Kessler provided drawings of the proposed sign location.

The Board confirmed that he is splitting off the front section of his property and will have an easement for the signage. The Board discussed after the property is sold would this sign location be considered an off-premise sign. Rodger Kessler quoted Ohio Revised Code §5516-02 which allows a pig tail for signage and our code addresses the Ohio Revised Code. The Ohio Revised Code under §5516-02 permits the location for a sign along the highway for a business on another road. This will still be considered an on-premise sign if you have pig tail easement up to fifteen hundred feet. The board discussed that this is along an Interstate Highway. Rodger Kessler believes it covers any Federally Funded Highway, which S.R. 310 is. The Board discussed this section of the Ohio Revised Code.

Exhibit 1 - The Ohio Revised Code §5516-01 Advertising on interstate highway definitions and §5516-02 Limiting advertising devices along interstate highways.

The board also discussed the sign code for Freestanding Signage, Item 2 regarding street frontage in excess of 250 feet permitting one additional along with there being a requirement of 150 feet between the two signs. The person buying the other parcel will have issues having a freestanding sign. The properties will also have frontage along Etna Crest Boulevard. This section would be for one parcel and if they wanted to have two signs.

The board discussed obtaining a legal opinion from the prosecutor's office regarding whether this is an on-premise sign because of the easement or whether this is an off-premise sign. The definition of an easement was discussed and whether it is only an authorization.

Rodger Kessler will get the information from ADC, Advertising Device Control, with ODOT and provide it to the board along with information to Bill with the Prosecutor's Office for advice.

Rodger Kessler owns the entire property and does not believe it has been split and recorded yet. Rodger Kessler discussed carving out of the property the area for the sign and creating a flag lot for the sign to be an on-premise sign. The board does not know if an easement would create an on-premise sign because the Zoning Resolution does not address easements.

Judy Bowan 9702 Hazelton-Etna Road is representing the Etna Shell gas station; she is the manager of the store. The sign will be so close that the public would think the Etna Shell is for sale. Granting a five foot set back the sign would be right next to the Shell Station. It was clarified that the sign would not be for sale sign, it is for a business sign. The business sign would still be really close to the Shell Station signage.

RECORD OF PROCEEDINGS

Minutes of

Meeting

Etna Township Board of Zoning Appeals

DAYTON LEGAL BLANK, INC., FORM NO. 10148

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Rodger Kessler asked what the feeling of the board was whether it is an off-premise or an on-premise sign. Rodger Kessler feels this is the right thing for the safety for the property in the rear.

The board discussed the applicant creating the abnormality that does not exist today. The practical difficulty, hardship, is being created by splitting the lot. The sign could go on the lot today. The clear site triangle of the adjacent property entrance was discussed. The Board discussed how close the request is to the property line to the north and obstructing the Shell sign. The Board would also like to see what type of sign would be going into this small area.

The Board discussed a multi-use sign at the southern corner of the property for all the businesses to advertise on. Rodger Kessler has not seen a site plan for the property; they will be meeting with Etna Township Zoning tomorrow. The traffic coming from the interstate is going to drive past Etna Crest Blvd before they see the sign and will have to turn around to get to the entrance.

Rodger Kessler requested the hearing be tabled for him to obtain more information and the Board will obtain a legal opinion on the easement.

The access to S.R. 310 will be limited and the business will have entrances located on Etna Crest Blvd.

Trent Stepp moved to recess the public testimony at 6:55 p.m. The motion was seconded by Sarah Benoit. Discussion: The variance is on location, position and the sign will have to comply with the Zoning Resolution. The motion passed by unanimous affirmative vote.

The board will plan on meeting at the regular meeting on January 28, 2020.

Trent Stepp moved to adjourn at 6:56 p.m. The motion was seconded by Sarah Benoit and passed by unanimous affirmative vote.


Laura Brown, Clerk


Greg Reis, Chairman