

**BOARD OF ZONING APPEALS  
MINUTES  
SEPTEMBER 8, 2011**

The Board of Zoning Appeals met on Thursday, September 8, 2011, at 5:15 p.m. in the Council Chambers, 45 E. Broad Street, Cookeville, Tennessee.

**MEMBERS PRESENT:** Tracy Cody, Kay Detwiler, and Sid Gilbreath.

**MEMBER ABSENT:** Paul Bonner and Jane Flatt.

**STAFF PRESENT:** James Mills, Jayne Barns, Ken Young, and Dan Rader.

**OTHERS PRESENT:** Jon Jones, Mark Tribble, Dave Roland, Liz Clark, Ron Graves, Daniel Rader, and Greg Isaacs.

Court reporter Tina Carter transcribed the meeting for the City of Cookeville.

**CONSIDER FOR APPROVAL THE MINUTES OF AUGUST 11, 2011.** Tracy Cody made the motion to approve the minutes of August 11, 2011. Kay Detwiler seconded the motion and the motion carried unanimously. **APPROVED.**

**CONSIDER APPEAL FROM ROLAND PROPERTIES THAT THE BUILDING OFFICIAL ERRED IN THE ISSUANCE OF A PERMIT TO LAMAR TENNESSEE, LLC FOR THE CONSTRUCTION OF A BILLBOARD AT 51 EAST BORDEN STREET.** James Mills stated that Mr. David Roland, of Roland Properties, has filed an appeal asserting that the Building Official erred in the issuance of a permit for the construction of a billboard on property located at 51 East Borden Street.

On August 16, 2011 an off-premise sign permit, Permit # 2011-5, was issued to Lamar Tennessee, LLC for the relocation of a billboard on property located at 51 East Borden Street and identified as Parcel 3.00 on Map 53O, Group C. The property is owned by Horizons USA (James P. Wright) and is the location of Phoenix USA. The permit was issued for the removal and relocation of a billboard from the eastern section of Mr. Wright's property along East Jackson Street to the western section adjacent to the intersection of East Jackson Street and South Walnut Avenue. The billboard was removed on August 16, 2011 and construction initiated at the relocation area on August 18, 2011. Mr. Roland filed the appeal on August 23, 2011 and a Stop Work Order was issued on the same date.

Mr. Roland asserts in his appeal that the Building Official erred by not requiring conformity with certain provisions of the General Sign Regulations in Section 207 of the Cookeville Zoning Code. Specifically Mr. Roland contends that Sections 207.6P (5)(E) and (5)(Q) are applicable to the relocated billboard and should have been enforced. Section 207.6P (5)(E), among other stipulations, requires the lowest portion of the display surface area measured from the finished grade at street level be no lower than 20 feet. Section 207.6P (5)(Q) requires a separation of 1,500 feet between billboards on the same side of a street.

The removed billboard is identified as billboard number 54 in the City of Cookeville's Billboard Inventory. It was classified as a nonconforming billboard on the basis that it did not comply with the minimum linear (1,500 feet) and radial (500 feet) separation requirements from other billboards. As a nonconforming structure the provisions of Tennessee Code Section 13-7-208 are applicable. This Section provides that nonconforming structures may be removed and rebuilt on the same property. Additionally, the State Legislature in Section 13-7-208 has granted special entitlements for billboards over all other nonconforming structures, exempting them from zoning regulations as to "setbacks, height, bulk, or requirements as to the physical location of a structure upon the site". Inspectors with the Cookeville Codes Department have confirmed that the relocated billboard will not be located within the visual clearance area required for intersections as specified by the Zoning Code.

While the Planning Department does not agree with the special rights granted to billboards under Tennessee Code Section 13-7-208, the City is required to comply with the statute. As noted, the billboard proposed for relocation was classified as nonconforming and was therefore exempt from the Zoning Code's requirements for setback, height, bulk or location on the site. It should also be mentioned that a number of billboard permits have been issued to Mr. Roland for which the exemptions of Section 13-7-208 have been cited and utilized to rebuild and relocate billboards that do not comply with provisions of the Zoning Code. In the opinion of the Planning Department, Mr. Roland's assertions deal directly with exempted requirements and the decision to issue Permit # 2011-5 was correct.

Staff recommended that the Board deny the appeal, confirm the Building Official's issuance of Permit # 2011-5, and to direct the Building Official to lift the Stop Work Order.

There was discussion by Jon Jones – Attorney for Roland Properties, Dave Roland, Dan Rader – Attorney for the City of Cookeville, Greg Isaacs – Attorney for Lamar Tennessee LLC, James Mills, and the Board concerning the issues that were presented.

Kay Detwiler made a motion to deny the appeal, confirm the Building Official's issuance of Permit # 2011-5, and to direct the Building Official to lift the Stop Work Order. Tracy Cody seconded the motion and the motion carried unanimously. **DENIED APPEAL, CONFIRM BUILDING OFFICIAL'S ISSUANCE OF PERMIT #2011-5, AND DIRECT THE BUILDING OFFICIAL TO LIFT THE STOP WORK ORDER**

**ADJOURNMENT: 6:08 P.M.**

**SUBMITTED FOR APPROVAL**

**SUBMITTED FOR RECORDING**

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**JAYNE BARNES CPS  
PLANNING ASSISTANT**

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**SID GILBREATH  
ACTING CHAIRMAN**

**BOARD OF ZONING APPEAL**