

The City of Fairhope Board of Adjustments and Appeals met on Monday, May 18, 2015 at 5:00 PM in the City Council Chambers at the City Administration Building, located at 161 N. Section Street.

**Members Present: Chairperson Cathy Slagle; Anil Vira, Vice-Chair; Troy Strunk; Ray Clark; John Avent; Nancy Milford, Planner; Emily Boyett, Secretary.
Absent: Dick Schneider and Jonathan Smith, Director of Planning and Zoning**

The meeting was called to order at 5:00 PM by Chairperson Slagle.

The minutes of the February 19, 2015 meeting were considered. Troy Strunk moved to accept the minutes as written and was 2nd by Ray Clark. Motion carried with one abstention by John Avent.

BOA 15.03 Request of Brian Lumbatis of Complete Signs, LLC for an Administrative Appeal regarding provisions of Article IV, Section G. Signs in the City of Fairhope Zoning Ordinance.

Nancy Milford, Planner came forward and gave the staff report.

STAFF INTERPRETATION:

Complete Signs, LLC is seeking an administrative Appeal to staff's interpretation of the provisions of Article IV, Section G. Signs in the Fairhope Zoning Ordinance. The applicant would like to install an Electronic LED (Light-emitting Diode) sign in a commercial zoning district.

Currently the City's Zoning Ordinance has the following provisions:

“Signs, which flash or illuminate intermittently, revolve, and animated signs except time and temperature or public service signs” are “expressly prohibited.”

The sign the applicant wishes to install appears to have the capability of flashing, illuminating intermittently and projecting animation. The applicant contends that the sign will be programmed by the manufacturer to remain static until the display on the sign changes, which, per the applicant will happen automatically and instantly.

Staff feels that this type sign is not allowed by the Fairhope Zoning Ordinance, due to the signs capabilities of flashing upon modification, even if the sign is delivered and is initially modified not to flash, scroll, etc. as the applicant has mentioned. The sign proposed appears to be capable of a continuous copy change which could be considered as “flashing” or “illuminating intermittently.”

Facts to be considered in this case:

1. The applicant is requesting an Electronic LED sign.

2. Staff has denied the applicant's sign permit application for an LED sign on a commercially zoned property based on the provisions of Article IV, Section G., 5 Limitations which states that the following signs are "expressly prohibited": signs, which flash or illuminate intermittently, revolve, and animated signs except time and temperature or public service signs."
3. The applicant disagrees with staff's interpretation of the Zoning Ordinance regarding LED signs and is requesting the Board of Adjustment review the facts and render a decision.

STAFF RECOMMENDATION:

Staff recommends the Board of Adjustment review the application and render a decision regarding whether or not the provisions in the Fairhope Zoning Ordinance will allow for an Electronic LED sign, as proposed by the applicant.

Mr. Lumbatis of Complete Signs, LLC addressed the Board saying Fairhope is a beautiful city and he understands we don't want it to look like Las Vegas. He stated he feels the proposed sign meets the City's code. He explained it is an instant change and not a flashing sign. He stated static LEDs are permitted and this is a hardship because the sign has been bought and now he is told he can't use it.

Ronald Long addressed the Board saying this sign is for the Wound Care Center and the tenants need to be found. He said we are talking about a sign for doctors not hamburgers.

Mrs. Slagle opened the public hearing. Having no one present to speak, she closed the public hearing. Mr. Avent asked how it is static if it shows different logos and changes. Static means no movement and this has movement. Mr. Lumbatis responded the display will be a static picture with no movement. He explained it will be one static picture then another and Mr. Avent said that would be flashing. Mr. Vira said it is not just one constant message but different doctors and it would have to flash to change. Mr. Lumbatis stated some cities require time limits for each display but don't restrict signs just because it has the capability to do something more. Mrs. Slagle stated static means continuous and that it doesn't change and that is not what is being proposed. Mr. Clark stated that taking one display and changing it to another is illuminating intermittently which is specifically not allowed. Mr. Lumbatis said they could stipulate it can only be changed every 12 hours or any time frame and Mr. Clark responded any change is still movement regardless of the time limit and that is not allowed by the ordinance. John Avent made a motion to deny the sign request and accept the staff interpretation. Anil Vira 2nd the motion and the motion carried unanimously.

Mr. Lumbatis asked if there is any appeal and Mr. Avent responded yes it would go to the Circuit Court. Mr. Long asked if there can be one sign for each tenant and Mrs. Boyett responded a complex sign would be allowed and the applicant needs to see Kim Burmeister, Code Enforcement Officer, for an application.

Having no further business, Troy Strunk made a motion to adjourn. John Avent 2nd the motion and the motion carried unanimously. The meeting was adjourned at 5:21 PM.