

**ALPINE TOWNSHIP ZONING BOARD OF APPEALS
REGULAR MEETING
Monday, March 28, 2011**

CALL TO ORDER / PLEDGE OF ALLEGIANCE

Chair Stachowiak called the meeting to order at 7:35 PM with the Pledge of Allegiance. Members present: Jim May, Doug Pointer, Howard Roobol, Bill Stachowiak, and Matt Van Heulen. Also present were Mike O'Malley (Alternate #1) and Eric Paquette (Alternate #2). Planning Director Sue Thomas and Recording Secretary Patricia Kolkman were also in attendance.

APPROVAL OF MINUTES / APPROVAL OF AGENDA

The Board reviewed the draft minutes from the February 28, 2011 regular meeting, with Roobol Stachowiak noting a minor correction on page 2.

Roobol then moved, with support from May, to approve the Minutes of the February 28, 2011 regular meeting with the correction noted. Motion carried 5- 0.

May then moved, with Roobol's support, to accept the Agenda as presented. Motion carried 5-0.

Chair Stachowiak explained the Zoning Board of Appeals process, summarizing the need for a request to meet all four standards unanimously to obtain approval.

Planner Thomas confirmed that all required noticing had been sent.

NEW BUSINESS

Chair Stachowiak then introduced **Case #11-ZBA-02**, which requests a variance from Section 20.12(c)(1), for a ground sign of 32 square feet in area rather than the 24 square feet allowed at **1100 Henze St., NW**. He asked the applicant to present his request.

Pastor Mark Bowditch, 3723 Brambleberry Dr., NW, Comstock Park, thanked members of the ZBA for their service to the community. He is Pastor to the Family of Christ Lutheran Church congregation, which first began meeting in Comstock Park High School and then moved to space in the newer commercial development behind Plumb's Grocery store on 4 Mile Rd. NW. The church purchased the property on Henze St. in 2006, with plans to build its church there at a later date. The congregation is currently building the church building to meet its needs. A temporary sign of 32 square feet was placed near the Cordes Ave. frontage once the land was purchased, announcing the future church location.

Last year the church requested and obtained a rezoning from A, Agricultural to R-1, Low Density Residential, which was approved. Only after the rezoning took place did the church realize that the Zoning Ordinance limited the maximum allowed sign size in the R-1 District to 24 square feet and 5 feet high rather than the 32 square feet allowed in the Agricultural district, with a 6-foot maximum height. Because the church wants to install a sign the size of its earlier temporary one, a variance is required.

Pastor Bowditch apologized that his application was not as clear as he had hoped, referencing two different sections of the sign regulations. He is requesting to have a sign the height and size of that allowed in the site's original Agricultural district. (32 square feet.) The temporary sign was used to identify the future church site for members when several tent gatherings took place on the site. Thomas then distributed additional written material from Pastor Bowditch to the Board summarizing the church's request.

Pastor Bowditch then referenced a federal law enacted in the 1990's which he felt gave additional land use rights to churches. He added that he felt the general area in which the new church is located is unlikely to become residentially developed, as most of the surrounding land remains agricultural. He then offered to answer any questions from the Board.

- In response to a question from Stachowiak, Pastor Bowditch said the proposed sign will be 32 square feet, and 6 feet tall. He added that the permanent sign should be an improvement over the one placed at the site before construction right after the land was purchased.
- Bowditch told Roobol that the sign will be a double-faced one.
- Stachowiak noted that the public notices sent to those within 300 feet of the church referenced Zoning Ordinance Section 20.12 (c) (1) rather than 20.11.
- Van Heulen asked if the church realized that they are also allowed two 100-square foot wall signs, because they are on a corner lot, in addition to a ground sign. Rev. Bowditch said the church is aware of that but isn't planning on adding text to the building itself.
- May commented that one option for the Board and Pastor Bowditch might be to table the request under 20.11, until re-noticing is done with the appropriate references. He expressed concern that those who received notices about the variance request would not know about the increased height allowances in the Agricultural district. He also noted that the Township Board had just approved new signs for each of its three fire stations, and all will be within 24 square feet.

Stachwiak confirmed with Thomas that the Board could discuss the variance relative to size, but not height of the proposed sign. Thomas also noted that public notices must be exact to meet legal requirements. She also said that the law Pastor Bowditch quoted earlier was referencing the requirement of each community to allow places of worship where other places of gathering are allowed. She provided a brief summary of this church development including her conversations with the Township attorneys, who suggested the church consider a rezoning to R-1 since the zoning ordinance has no provisions for churches in the Agricultural zone. Thomas also noted that while there are no provisions for a church in the commercial district, due to that same Federal law discussed earlier, she had granted permission for the church to meet in its current temporary location.

Thomas then shared that the Township had received some complaints on the temporary sign installed on Cordes Ave. The vacant site had been used for several church events using a large tent after the land was purchased, and the large sign was installed without Township permits to identify the site for the congregation. She had allowed the sign to remain on the site but moved outside of the road right of way as the church expressed it

would be building shortly. She also recalled conversations she had had with multiple members of the construction committee each of whom had questioned various requirements in multiple zoning districts but she could not confirm that information had been shared with each member. Thomas added that she had received a call supporting the church's sign request from Fred Schweitzer who is currently in Florida. She also confirmed that the land in question is considered a corner lot, with frontage on both Cordes Ave. and Henze St., which would allow the wall signs on those two facades of the structure.

May moved, with support from Pointer, to close the public hearing. Motion carried 5-0.

Stachowiak then asked board members for discussion and comments. May confirmed that the public notices sent identified only the church's request for a 32-foot square ground sign. He confirmed with Bowditch that the church wishes to proceed with just that request. Pointer was concerned that approving this request might generate additional requests for variances. He did not think it met Standard # 4 and he feels it would set a precedent.

Commissioners discussed whether they thought road design and speed limit on Henze Street posed any problems in locating the church, but members agreed neither were issues pertinent to the request. It was also noted that since the church is on a level lot, its entrance will be easy to see. There were no identifiable unique conditions about the property, therefore Board members felt the request did not meet Standard # 1.

May cited past requests to the Township for signs exceeding ordinance limits after other signs had been installed. Thomas said that several churches have approached the Township with sign requests in just the past few years, although none at this point have been pursued, nor dealt with sign sizes larger than allowed. Board members felt the variance request did not meet Standard # 2, since the applicant has the same rights as other property owners within that zoning district to erect a 24 square foot sign.

Board members also noted that the original temporary sign had generated complaints from neighbors, and that if a permanent sign of the same size were to be installed, it would likely bring additional complaints. Some Board members felt the request did not meet Standard # 3, that the variance would not create a situation harmful or damaging to the neighbors' properties or the public interest.

May then moved, with support from Roobol, that the ZBA DENY the requested variance from Section 20.12(c)(1) to vary the maximum allowed 24-square foot ground sign to 32-square feet in the R-1, Low Density Residential zoning district for the property located at 1100 Henze Street NW, PP # 41-09-35-401-009, with the following FINDINGS OF FACT:

- 1. The requested variance *does not* meet Standard # 1, that "There must be unique circumstances or conditions about this property, not the use of the property". The property has no unique characteristics requiring a variance.**
- 2. The requested variance *does not* meet Standard # 2, that "In giving the variance, the Zoning Board of Appeals will be assuring that the applicant has the same rights that other property owners in the same zoning district or vicinity have." The applicant already enjoys the same property rights as others to erect a 24 square foot sign.**

3. The requested variance *does not* meet Standard # 3, that “The variance will not create a situation that may be harmful or damaging to the neighbors’ properties or the public interest.” Since the temporary sign at the site generated complaints for its size in the past, a permanent sign of the same size could also generate complaints once installed.
4. The requested variance *does not* meet Standard # 4, that “The variance cannot set a precedent.” The Zoning Board of Appeals determined that a precedent would be set, and further variance requests would be generated.

Ayes: 5 Nays: 0 Motion carried. Variance request DENIED.

Pastor Bowditch thanked the ZBA for its professional review and consideration of his church’s request. He added that the smaller sign may be less costly. May commented that the Township has recently selected a nearby contractor to construct its three new fire station signs and was pleased with the bid received.

PUBLIC COMMENT/ STAFF UPDATE/ ADJOURNMENT

Stachowiak asked if there were any public comments and there were none.

Planner Thomas said she received a variance application today for a setback variance which would be heard at the April meeting.

She also commented that Mr. Rasch had a detailed survey done for his agricultural land on Hayes St. and has provided it to her for reviewing his variance request. She reminded the Board that this case had been tabled at the ZBA’s February meeting until its June 2011 ZBA meeting.

May moved, with support from Van Heulen, to adjourn at 8:40 pm.

Ayes: 5 Nays: 0 Motion carried.

Susan Thomas, Planning Director

Bill Stachowiak, ZBA Chair

Patricia Kolkman, Recording Secretary