

# ***RAVENNA TOWNSHIP BOARD OF ZONING APPEALS***

*JEFF GAYNOR, CHAIRMAN, REMY ARNESS  
GARY LONG, JOANN MCEWEN, AND CLAIRE MOORE*

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The Ravenna Township Board of Zoning Appeals met November 4, 2015 at 7:00p.m. at the Ravenna Township Trustee Meeting Room at 6115 S. Spring St., Ravenna, Ohio 44266.

Chairman, Jeff Gaynor brought the meeting to order at 7:00 p.m.

Roll call was made with board members present: Jeff Gaynor, Remy Arness, JoAnn McEwen, Gary Long, Claire Moore, Jim DiPaola, Zoning Inspector, and Carolyn Chambers, Zoning Secretary. Thank you, the record will show that we have a quorum.

Jeff: Thanked JoAnn McEwen for being our newest Board member. No old business. Under New Business 2015 BZA 01 being reopened for Mac's Convenience Store (Circle K) because of road construction. Is a representative of Mac's Convenience Store here? Reminder if you have something to say that you want to be recorded in the minutes you must be sworn in and must be seated her. Comments from the back of the room get jumbled up and if you're are not sworn in we can't record you in the minutes. Will the representative of Mac's Circle K come forward please? Swears in Allison Raceh 935 E. Tallmadge Ave. Akron, Ohio

Sir you are? Brett Altier I'm here from Ulmer & Bene and my work address is 6060 West Second St. Suite 1100 Cleveland Ohio.

Jeff: Ok, thank you. Tell me basically the nature of your request please.

Allison: Our request is to keep our sign as it remains with the road construction it is now within the right of way line. There is nowhere else for us to move the sign. If we move it in any further it is going to cause problems within our site, it's going to be to close to the canopy so we would need a variance to keep it where it's at.

Jeff: Did you say it's in the right of way now?

Allison: When the road construction is completed it will be.

Gary: It is not right now?

Allison: No

Gary: Mr. Chairman, according to the map that I have, where that sign is sitting is beyond the right of way.

Jeff: It does very much look like that on this map, yes. The sign is here, this line is the right of way. (Looking at the map) That has covered your request for now. I'll ask you to step back for now so I can talk to the man from the State. Swears in Michael Simpkins, Project Engineer for the ODOT 2088 S. Arlington St. Akron, Ohio.

Jeff: How can you help us decide whether or not that sign is currently in the right of way?

Michael: In the existing right of way before we got out there the sign was not within the right of way. Now part of our project was we needed to purchase right of way for right a way around this corner is not necessarily for the road construction it was for utility location. A lot of things that we sometimes end up with a situation where we call putting the cart before the horse here and that is we have to get the right of way and get it cleared sometimes before we know exactly what is going on with the utilities, not only do we deal with the underground, but we have the overhead aerial when we get the cross arms on the utility poles they stick out we have to make sure, even though we have a pole there, the cross arm is not allowed to over hand the right of way as well. So the right of way limits were pushed back to make sure we covered all the utility relocations that we were going to need to do. In doing so, one of the foundations of the existing sign ended up within the existing right of way. We had several discussions within our office.....

Jeff: Excuse me, within the existing right of way?

Michael: I'm sorry within the purposed right of way. The new right of way, when we pulled those right of way limits back the foundation that is closest to the road will become inside the right of way once the new right of way limits are there.

Jeff: How far inside the right of way? Are both bases of the sign going to be there or just one?

Michael: Just one, within a couple of feet. We had several discussions on whether or not we could actually pull those limits back out and kind of scalp around the sign and there was, in the end we elected not to try to do that. We felt because of the sign and what we are doing that we are not really pulling that curb towards the sign any closer, it is behind curb, so there are other obstructions up closer to the road than where the sign was, that we didn't feel that it was a, from our perspective that it was going to be much of an issue to leave it there and get a variance in our own right of way in these kind of situations we often issue what we call a revocable permit which is you're allowed to stay in the right of way, but with the permit done it says that any point down the road if we need it removed you have to remove the sign. So, from our standpoint, the sign wasn't looked at as a huge issue. I did meet personally with the manager of the Circle K, we did talk about possibly relocating it and where the possibility to relocate and we were not able to, as I had mentioned, come up with a location because of the height of the sign and the canopy, once you move it in there you really start to affect their circulating traffic trying to get around through there. We spend a great deal of time to see if there was a location to relocate to, because obviously the ODOT would compensate the Circle K about that. Their issue is not so much the money for the sign itself having to try to relocate it someplace.

Jeff: So if all else goes according to what you would wish, you would issue a revocable permit for the sign to be in the right of way?

Michael: Correct

Jeff: Which means, any day the State could go to these folks and say, sorry you have to move your sign.

Michael: Correct

Jeff: I'd worry

Gary: Once again, is this print correct? (looking at the map)

Michael: Yes, it is

Gary: If this is correct and that's the right of way and that sign is overlapping that right of way right now.

Michael: That's a temporary. The yellow line is a temporary right of way. That's right of way that we buy just during construction just for what we are doing, but once we're done.....

Gary: Well, where is the right of way right now as we sit here?

Michael: (pointing to the map and showing them the existing right of way) Where it says EXLA, that's the existing. We have LA on 14, not right of way... (Explaining and looking at the map)

Gary: My first question is where is the right of way today?

Michael: I apologize for the confusion. Let me attempt to correct myself, our temporary, I thought you had the temporary highlighted here. That is the permanent right of way, that is already purchased, that is the existing right of way as it is now, it is already recorded.

Gary: Ok, now stop just for moment. Is this sign diagram correct?

Michael: Correct

Gary: Does that not say 1/3 of that sign is in the right of way already?

Michael: It is more than 1/3 of the sign

Gary: It's in the right of way right now?

Michael: Correct, sir

Jeff: That's the new right of way

Michael: The new right of way, the existing right of way is out here where the green was. It wasn't in the right of way before we purchased it. That green line goes in front of the sign. So, between the green and yellow line is what we purchased.

Gary: This green line is the curb line.

Michael: No, the curb line is up here.

Claire: The solid black one is the curb line, right?

Michael: Yes, the solid black one is the curb line.

JoAnn: You are saying the yellow right of way is what you are using during construction?

Michael: Well, no (pointing to the map again) see the Temp? That's our temporary so that's what we are doing just during construction the WR is the actual final right of way line and this EX line that goes up in front here is what the existing was before we purchased it.

Gary: What is this RW once again?

Michael: Right of way. That's the new purchased right of way.

Jeff: So, are you moving the curb?

Michael: On 14 we are, but not on 59. So as you come around and see this dash line right here. This is the existing, see this catch basin right here. This is your existing, so we widen this lane out, but then we wrapped it back around and tied it back in. So right at this basin here at the corner, we go right back into the existing curb line and we are not doing any work on 59 it is just resurfacing work back that way.

Claire: Where is the sign sitting?

Michael: The blue line is the sign. So the sidewalk is still in front

Jeff: So, the curb which is important measuring point is not going to be any closer to the sign it has been?

Michael: Well, a little bit, right in through here. But, we hold on our job, especially urban areas, trying to get obstruction outside, you have curb, we like to keep obstructions four feet behind the curb, but we go as little as two feet, because often times we just can't get utility poles outside that four feet, it would be cost prohibited to try to move all those pole down an urban corridor.

Gary: Where is the edge of the road?

Michael: Right in here is the edge of the road. (pointing to the map)

Jeff: The solid line with the dash line next to it.

Gary: That's the way it is today or that's the way it's going to be?

Michael: That's the one where it's going to be. Today your current curb line is the line right here. Its' what we call our soccer line. It is where we are cutting the road just two feet inside the curb. (pointing to the map to show curb line)

Jeff: Do we have a letter from the State this doesn't pose any significant safety hazard any more than.....

Michael: Yes, you do. Our right of way administrator, Christopher Huff, sent a letter, did it come directly to you Jim? Saying that we the State do not feel the sign possess any kind of a safety issue.

Jeff: Probably no closer than a lot of other things.

Michael: We've got a lot of things that are closer.

(Everyone talking)

Gary: When we are finished, how much of that sign is going to be in the right of way?

Michael: I would say, 2/3 to 3/4 of the sign will be in that right of way based on the map I'm looking at.

Gary: Will be in it?

Michael: Will be inside the right of way yes. Basically probably the foundation, the back foundation, the sign, I believe I want to say, the sign is about 8 to 10 feet in between the two foundations. So one foundation is outside the right of way and the other one is within the right of way.

Jeff: Basally it is not going to be any closer to the curb to the road than it's been, maybe a little bit closer maybe two feet closer or so.

Michael: Yes, it's a little bit closer

Jeff: This distance here. (points to the map) Well, if the State thinks its ok, the State says five or six feet. That's quite a bit. Any comments from the rest of the Board at this point? Question?

Gary: The letter states, after the completion of the project, the sign will be partially five to six feet into the right of way.

Jeff: That's what it looks like on the map, I would say. The next time somebody needs to use up a little bit of your right of way, you're going to come to us and say oh, no you can't do that.

Michael: Our first rule is always to get the right of way, get everything out, unless we've got a good reason for leaving something there. One of our key reasons is, we don't want to, the project itself, let's go back to purpose of the project. The purpose of the project is a safety project, trying to increase safety and one of the things we want to do is make it safer, but we don't want to kill business either or have drastic impacts to those

businesses. We want to try and minimize those impacts, so in our eyes if it's not hurting anything to leave it there. We don't perceive that there's an issue with keeping it in place then just to move it for the sake of moving it and causing the business a hardship and it's not monetary value on their aspect, whatever that value is, we would pay it and that would work out. It's really the fact of having to put that into their property and really damage the circulating path around their canopy and what they've got to deal with is the big issue is the hardship it presents having to move the sign.

Jeff: Ok

Gary: Well, we have an issue that we have discussed. If you are going to put five or six feet of that sign in the right of way and somebody hits that sign, Heaven forbid that there be a fatality we'll looking at a liability thing. That's the main issue of this Board, this is the main issue why it was denied in the first place. Our resolution specifically says and I can read it to you if you want to. No sign shall be placed in any public right of way except publically at stop sign, such as traffic controlled signs or directional signs.

Michael: and we have.....

Gary: Does the State rules and statues and doctrines and protocols over ride what our rules and regulations are?

Michael: Our rules are governed by the Ohio Revised Code and what we have to do, but our revised code is written to give our administrators flexibility in certain circumstance to make judgment calls. I will say that right on the corner and I think its right out in front of this sign there is going to be a pole for the signal, it's a good size

Jeff: There is one there now.

Michael: Yes and the existing one is..... (pointing to map) in between the poles here you have a better chance of hitting some of the other obstructions we've got there before you ever get to that sign. Judging, and also when we look at things from a clear zone state point, a safety stand point the curb is viewed as a barrier. If you go down, you look at St. Rt. 43 over top of 76 we usually put guard rail to protect the concrete bridge as you come up there. If you look there, there is no guard rail on the side there, that's because there is a curb there and the curb is viewed a redirected rather than you are going to go over and hit the parfait. I think the fact that you've got curb all around this corner, we do have other obstructions, we have the signal pole, and we have all kinds of things that are out a lot closer to the road than this sign. From a safety standpoint I don't see that it possess a bigger safety issue than the other issues that we've got out there.

Gary: Going back to my question

Michael: As far a liability goes? I would have to go back and check with our legal lawyers to see if that letter we issued you that says that we don't see that it's a safety concern, whether that puts the ownership on us on anything that would come in the future or not. That is something I would have to check with the lawyers and see how that works. To see if there's ..... If you grant the variance based on our recommendation, who takes ownership of that liability? I cannot answer this question at this time on that, but I could get answer on that within the next couple of days.

Jeff: Does the original applicant or your lawyer have anything else you want to say this evening? Anything else from any of the Board?

Claire: I have a question. Maybe more of a comment, I'm not sure.

Jeff: Directed to?

Claire: The gentleman from the State. You said that if they had to move the sign the State would pay for that correct?

Michael: Right now in the current condition if it needs relocated, yes, it is part of the damaged that the State has to pay.

Claire: I don't want this to be taken the wrong way, but I'm going to put this out there. So by you saying it's ok to leave it in the right of way, that's not just a measure so it's not costing you money to move the sign, correct?

Michael: Correct, this has nothing to do with not wanting to pay. We pay for this kind of stuff all the time. It has to really deal with the fact that there is not a spot. If they had twenty feet behind it, we would pay the money to have it relocated. We do that all the time. The fact that moving the sign back has to move it basically into their parking area and complex with the canopy that causes the problem.

Claire: I just wanted that on the record.

Allison: Just so everyone knows that there is no other place within the site to move the sign either and one thing to keep in mind with our business we are a convenient store and if people can't see the sign they don't know it's there, yes, if you live in the area, you know Circle K is there, but you may not live in the area, you are not going to come into our store and that's critical to us, signage is extremely important and that's why we are fighting so hard to keep it where it's at, because it is so important to us.

Jeff: Anything else? Do you two wish to speak on this matter? Jim do you have anything?

Jim: When you are talking about the sign and the location one leg actually does sit in the parking lot.

Jeff: This is Jim DiPaola, our Zoning Inspector. So you think one leg is in the right of way now? That's what it looks like on this map.

Jim: It is on one side of the curb and actually does sit in the parking lot.

Jeff: So moving it back..... it would be awfully close to the canopy at that point.

Anything else? Chair is ready to entertain a motion pertaining to the variance request that we have before us today BZA 2015 01. I move that based on the facts that the sign is only going to be just a very small amount closer to the road, closer to the curb than it is now there are other poles installations in the nearby area also and the State is not concerned about this being a safety hazard these ideas in mind I move that we accept the application to allow the sign to remain in its current position.

JoAnn: I second R/C: Claire Moore – No, Gary Long – No, JoAnn McEwen – yes, Remy Arness – yes, and Jeff Gaynor – yes. Motion passed.

Jeff: Motion for the acceptance for the application has been passed, we have a few other things that the Board needs to do paper work wise and other than that the application part of this meeting is concluded. You can stay if you want or go. I need a motion to journalize tonight's decision.

Remy: I so move

Claire: I second that R/C: Remy Arness – yes, Jeff Gaynor – yes, Joann McEwen – yes, Claire Moore – yes, and Gary Long – No.

Jeff: Do I hear a motion pertaining to the minutes that was presented to us from the last meeting?

Gary: I move we accept the minutes from the BZA meeting held on October 14, 2015

Claire: I second R/C: Gary Long – yes, Claire Moore – yes, Joann McEwen – abstain, Remy Arness – yes, Jeff Gaynor – yes.

Jeff: Anything else that the Board wishes to address this evening? Then do I have a motion to adjourn?

Gary: I so move

Jeff: Any objections? We stand adjourned

Meeting adjourned at 7:30 p.m.

Respectfully submitted by

Carolyn Chambers  
Zoning Secretary

CC: Trustees (3)  
BZA (5)  
Zoning Inspector  
File