

**BOARD OF ZONING APPEALS  
MINUTES  
DECEMBER 8, 2005**

The Board of Zoning Appeals met on Thursday, December 8, 2005, at 5:15 p.m. in the Council Chambers, 45 E. Broad Street, Cookeville, Tennessee.

**MEMBERS PRESENT:** Tracy Cody, Kay Detwiler, Jane Flatt, Sid Gilbreath, and Garry McNabb.

**STAFF PRESENT:** James Mills and Jayne Barns.

**OTHERS PRESENT:** Dave Roland, Jeff Apple, Thomas Hale, Tom Flynn and Danny Frye.

**CONSIDER FOR APPROVAL THE MINUTES OF OCTOBER 13, 2005.** Kay Detwiler made the motion to approve the minutes of October 13, 2005. Tracy Cody seconded the motion and the motion carried unanimously. **APPROVED.**

**CONSIDER A REQUEST FOR AN ADMINISTRATIVE REVIEW, TO REVIEW DENIAL OF OFF-PREMISE SIGN APPLICATION DATED SEPTEMBER 30, 2005, ON THE PROPERTY LOCATED AT 1151 SOUTH WILLOW AVENUE. REQUEST SUBMITTED BY FLYNN OUTDOOR ON BEHALF OF DANIEL EICH.** James Mills stated that Mr. Danny Frye of Flynn Outdoor has submitted a request appealing the decision of the Planning Department denying a permit for an off-premise sign at 1151 South Willow Avenue.

The General Sign Regulations of the Cookeville Zoning Code in Section 207.6P (1) specify that the maximum number of off-premise signs allowed within the city shall be limited to those existing or having received a valid sign permit as of September 2, 2004. Additionally, Section 207.6P (1) specifies that all off-premise sign locations existing as of September 2, 2004 shall be counted toward the maximum number of billboards allowed until such time as the location no longer qualifies as a nonconforming location (the property must be without a sign for 30 months) or the property owner gives up his/her rights to have a billboard at the location. Section 207.6P(2) specifies that any application for a permit, the issuance of which would result in the number of billboards exceeding the maximum number allowed, shall be rejected.

On September 30, 2005 Mr. Danny Frye requested that he be allowed to apply for a permit for a billboard at 1151 South Willow Avenue. He indicated that an existing billboard at 188 South Willow Avenue would be removed. Mr. Frye was informed by the Planning Department that the billboard at 188 South Willow Avenue counted as a location under the maximum number of billboards allowed within the city. He was further informed that a permit for a new location could not be issued until the property at 188 South Willow Avenue had been without a billboard for a minimum of 30 consecutive

months or until the owner of the property at 188 South Willow Avenue had properly terminated his/her rights for a billboard at that location.

Mr. Frye was unable to provide documentation that the property at 188 South Willow Avenue had been without a billboard for 30 consecutive months and he did not provide a landowner agreement to the termination of rights for an off-premise sign at 188 South Willow Avenue. Subsequently, the Planning Department denied Mr. Frye's application for an off-premise sign at 1151 South Willow Avenue on the basis that the issuance of such a permit would result in the maximum number of billboards allowed in the city being exceeded.

Mr. Mills noted that a previous request from Flynn Outdoor LLC for application for a permit for a billboard at 1151 South Willow Avenue was also denied on August 19, 2005. In the August 2005 request Flynn Outdoor indicated that an existing billboard at 215 West Jackson Street would be removed. The August 2005 request was denied for the same reasons as the September 2005 request. An appeal of the August 2005 decision to deny was filed by Flynn Outdoor and subsequently withdrawn by Flynn Outdoor prior to the October 2005 meeting of the Board of Zoning Appeals.

Staff recommended denial of the appeal.

Thomas Hale, Attorney for Flynn Signs, stated that Flynn Signs lost their lease due to a foreclosure on the property where their sign was located. The new property owner signed a lease with another sign company. Mr. Hale challenged the constitutionality of the City of Cookeville's Sign Ordinance stating that Flynn Signs should have been able to relocate their existing sign. He interpreted an opinion by the Attorney General's Office to mean that the Sign Companies have the rights to determine where their signs are located and not the property owners of the land that they are leasing from, and he also interpreted that non-conformity does not go with the land.

James Mills stated that under the city sign regulations nonconforming use protection is recognized for the property itself, not the business owner. The City Council adopted changes to the Sign Ordinance by placing a cap on the number of off-premise signs that could be located inside the City Limits of Cookeville and limiting the number to those existing or permitted at the time the cap was established. A sign has to be permanently taken down at one location before another sign can be installed at another location. In this case, the existing billboard at 188 South Willow Avenue had not been removed for a minimum of 30 months, nor had the property owner terminated his/her rights for a billboard at that location, so Flynn Signs cannot relocate their sign or it will exceed the number of billboards allowed inside the City Limits of Cookeville.

Section 207.6P(2) specifies that any application for a permit, the issuance of which would result in the number of billboards exceeding the maximum number allowed, shall be rejected.

Sid Gilbreath made the motion to deny the request. Garry McNabb seconded the motion. Votes: Tracy Cody--passed, Kay Detwiler--passed, Jane Flatt--aye, Sid Gilbreath--aye, and Garry McNabb-aye. Motion carried. **DENIED**.

**CONSIDER A REQUEST FOR A SPECIAL EXCEPTION, TO ALLOW MODIFIED VEHICLE SALES, ON THE PROPERTY LOCATED AT 306 NORTH WILLOW AVENUE. REQUEST SUBMITTED BY JEFF APPLE ON BEHALF OF RICHARD GROGAN.** James Mills stated that Mr. Jeff Apple has submitted a request for the approval of a special exception to allow the sale of vehicles in the CL, Local Commercial District at 306 North Willow Avenue.

Under the provisions of CL zoning, auto sales establishments may be allowed as special exceptions subject to compliance with the provisions of Section 221.3E of the Zoning Code. Additionally, all parking areas, including those for auto sales, must be surfaced as required in Section 205.7C of the Zoning Code. Since this is a corner lot, the provisions of Section 204.1A prohibiting obstruction of visibility at intersections will also apply for the parking or display of all vehicles.

Mr. Apple indicates in his petition that the sale of vehicles would be an accessory use to the primary use, which is the sale of medical equipment. Parking required for the principal use cannot be reduced for the proposed accessory use. Mr. Apple indicates that 19 parking spaces are currently provided for a 3,400 square foot existing commercial structure. The Zoning Code requires 17 parking spaces for a commercial structure of this size (1 space per 200 square feet).

Staff recommended approval of the request subject to compliance with applicable provisions of the Zoning Code.

Garry McNabb made the motion to approve the Special Exception to allow modified vehicle sales on the property located at 306 North Willow Avenue, subject to compliance with applicable provisions of the Zoning Code. Tracy Cody seconded the motion and the motion carried unanimously. **APPROVED**.

**CONSIDER A REQUEST FOR A SPECIAL EXCEPTION, TO ALLOW USED AUTO SALES, ON THE PROPERTY LOCATED AT 298 WEST BROAD STREET. REQUEST SUBMITTED BY BILL SHRECKENGOST ON BEHALF OF TIM TAYLOR.** James Mills stated that Mr. Bill Shreckengost, on behalf of Mr. Timothy Taylor, has submitted a request for a special exception to allow the location of an auto sales establishment at Mr. Taylor's property located in the CL, Local Commercial District at 298 West Broad Street.

Under the provisions of CL zoning, auto sales establishments may be allowed as special exceptions subject to compliance with the provisions of Section 221.3E of the Zoning Code. Additionally, all parking areas, including those for auto sales, must be surfaced as required in Section 205.7C of the Zoning Code. Since this is a corner lot, the provisions

of Section 204.1A prohibiting obstruction of visibility at intersections will also apply for the parking or display of all vehicles.

Please note that should the request be approved, Section 233.9D (2g) provides that failure complete the action for which a special exception has been approved within one (1) year after the date of approval shall void the special exception. The Board previously approved a special exception for used auto sales on this property in December of 2002. A new request is required because auto sales have been discontinued on this property for more than one (1) year.

Staff recommended approval of the request subject to compliance with applicable provisions of the Zoning Code.

Kay Detwiler made the motion to approve the Special Exception to allow used auto sales on the property located at 298 West Broad Street, subject to compliance with applicable provisions of the Zoning Code. Sid Gilbreath seconded the motion and the motion carried unanimously. **APPROVED.**

**ADJOURNMENT: 5:50 P.M.**

**SUBMITTED FOR APPROVAL**

**SUBMITTED FOR RECORDING**

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**JAYNE BARNS CPS  
PLANNING ASSISTANT**

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**JANE FLATT, CHAIRMAN  
BOARD OF ZONING APPEALS**