

Department of Community Planning and Economic Development – Planning Division Report

Variance Request
BZZ-3269

Date: December 21, 2006

Applicant: John Bodger, on behalf of CBS Outdoor

Address of Property: 2711 Broadway Street Northeast

Contact Person and Phone: Richard Pratt, 952-936-9567

Planning Staff and Phone: Molly McCartney, 612-673-5811

Date Application Deemed Complete: October 11, 2006

Public Hearing Date: December 21, 2006

Appeal Period Expiration: January 2, 2007

End of 60 Day Decision Period: December 10, 2006, extension letter sent November 17, 2006

End of 120 Day Decision Period: February 8, 2007

Ward: 1 **Neighborhood Organization:** Mid-City Industrial Area

Existing Zoning: I2 Medium Industrial District

Appeal of the decision of the Zoning Administrator: John Bodger, on behalf of CBS Outdoor, is appealing of the decision of the Zoning Administrator that CBS Outdoor can obtain a permit for the off-premise advertising sign at 2711 Broadway Street Northeast.

525.170. Appeals of decisions of the zoning administrator. All findings and decisions of the zoning administrator, planning director or other official involved in the administration or the enforcement of this zoning ordinance shall be final subject to appeal to the board of adjustment, except as otherwise provided by this zoning ordinance. Appeals may be initiated by any affected person by filing the appeal with the zoning administrator on a form approved by the zoning administrator. All appeals shall be filed within ten (10) calendar days of the date of the decision. Timely filing of an appeal shall stay all proceedings in the action appealed, unless the zoning administrator certifies to the board of adjustment, with service of a copy to the applicant, that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed. The board of adjustment shall hold a public hearing on each complete application for an appeal as provided in section 525.150. All findings and decisions of the board of adjustment concerning appeals shall be final, subject to appeal to the city council as specified in section 525.180.

Background and Analysis:

This item has been continued from the November 16, 2006, Board of Adjustment meeting.

The Zoning Administrator has determined that the nonconforming rights to the off-premise advertising billboard reside with the billboard owner, in this case Clear Channel, and not the property owner of where the billboard is located. CBS Outdoor, with permission from the property owner, Aaron Pinkus, applied for a new sign permits for a nonconforming off-premise advertising sign. The Zoning Administrator determined that the current billboard owner, Clear Channel, is the entity that can replace the billboard.

The existing billboard at 2711 Broadway Street Northeast is a nonconforming off-premise advertising sign because it does not adhere to the current distance requirements from other billboards and the sign design. Billboards are required to be 1,000 ft. from all other billboards and in this case, the sign is 925 ft. from the nearest billboard. In addition, the sign 'vee' is 110 degrees which exceeds the 35 degree permitted.

A permit to replace the billboard structure was granted on July 13, 2006 to CBS Outdoor. In the application materials, CBS Outdoor included a letter from the property owner in regards to termination of the current lease with Clear Channel Outdoor Advertising Company on December 31, 2006. The applicant, CBS Outdoor, was to assume the billboard lease beginning on January 1, 2007. Upon inspection after the permit issuance, staff determined that the replacement sign exceeded the height of the original sign. The new sign was installed at 50 ft. in height and not the original 42 ft 9 in. height. The Zoning Administrator cancelled the permit on August 25, 2006. The original sign applicant, CBS Outdoor, applied for a new permit within the allowed height on September 5, 2006. Upon further evaluation, the Zoning Administrator determined that because the billboard was currently being leased by Clear Channel, CBS Outdoor could not apply for a sign permit until CBS Outdoors was the current billboard tenant. CBS Outdoor is appealing that determination.

The Zoning Administrator has determined that the nonconforming rights to the off-premise advertising billboard reside with the billboard owner, in this case Clear Channel, and not the property owner of where the billboard is located.

Recommendation of the CPED Department Planning Division:

The Department of Community Planning and Economic Development Planning Division recommends **denial** of the appeal of the Decision of the Zoning Administrator that CBS Outdoor can obtain a permit for the off-premise advertising sign at 2711 Broadway Street Northeast