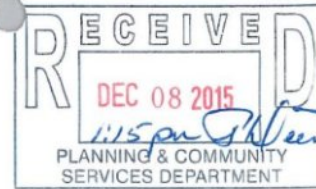


Variance 280 – Administrative Appeal – Lamar
Applicant Appeal Letter and Relevant Permit Documents



Lamar of Billings, MT



December 7, 2015

Billings City-County Planning Division
ATTN: Ms. Nicole Cromwell, AICP Zoning Coordinator
2825 3rd Avenue North
4th Floor
Billings, MT 59102

via Hand Delivery

RE: NOTICE OF APPEAL – Lamar Advertising Permit Application at 2531 Old Hardin Road, Billings, MT

Dear Nicole:

Lamar submits this appeal pursuant to Sec. 27-1510 of the Unified Zoning Regulations on the following grounds. Lamar as Lessee owns the permit for the referenced location. The Lessor has no interest in the permit. Furthermore, Lamar has met the requirements set forth in your November 9, 2015 email as follows.

You provide that the billboard is still in place as a permitted location, but the landowners have chosen not to renew with Lamar. The County has no standing to consider private contractual negotiations in its issuance of a permit. The County is charged with issuing permits per the Zoning Ordinance. Lamar meets the requirements under the Zoning Ordinance for maintaining its current permit. In an effort to meet the fictional requirements you attempt to impose, Lamar removed its sign. Immediately upon removal, Lamar applied for a new permit that meets Zoning Ordinance requirements. As an officer of the County, you are mandated to issue the permit to Lamar.

You provide in your letter that the Lessor applied for a sign permit at 2511 Old Hardin Rd. during the time Lamar's billboard was on its property. Applying the same standard as you applied to Lamar, the Lessor would have violated spacing requirements as Lamar's sign was within 500 feet of the Lessor's proposed sign.

While we are confident that the County will issue Lamar the permit for 2531 Old Hardin Road in compliance with the Zoning Ordinance, we submit this notice of appeal to dispel any arguments the County may assert for denying the permit and asserting an untimely appeal.

Sincerely,

Kelly Strobel
Lamar Real Estate Manager

cc: Paul Dennehy, Lamar General Manager
Wendi B. Loup, Lamar Asst. Gen. Counsel

7505 Entryway Drive • Billings, Montana 59101 | 406.252.7181 • Fax 406.252.7690

CITY-COUNTY PLANNING DIVISION
Planning and Community Services Department



2825, 3rd Avenue North
4th Floor
Billings, MT 59102
406-247-8676
www.ci.billings.mt.us/planning



November 9, 2015

Kelly Strobel
Lamar Outdoor
7505 Entryway Drive
Billings, MT 59106

RE: Request for permit – 2531 Old Hardin Road

Dear Mr. Strobel,

On October 28, 2015, Lamar submitted a request to construct a new billboard at 2531 Old Hardin Road. I have denied this request due to the fact the location is not at least 500 feet from an existing location of a billboard sign at 2511 Old Hardin Road. The County Sign Code requires a minimum spacing of 500 feet between billboard signs (Article X, Section 4.06) as does the Montana ARM for permitting new billboard signs on the federal highway system.

The existing billboard sign at 2511 Old Hardin Road is still in place as a permitted location. Lamar owns this sign. The owners of the property at 2511 Old Hardin Road have chosen not to renew a lease with Lamar Outdoor. The owners of the property at 2511 Old Hardin Road intend to engage another billboard (outdoor advertising) company to erect a new sign on the property once the Lamar lease on their property has expired and the sign is removed.

The permit you submitted is for a location that is within 500 feet of the location at 2511 Old Hardin Road. I cannot approve the permit as submitted. You will need to find a location further east. 2539 or 2575 Old Hardin Road are further east and may have locations available that are at least 500 feet from the existing location.

On October 14, 2015, I received a similar application from the owners/agent for a new billboard sign at the existing location at 2511 Old Hardin Road. I did not approve this application as the existing sign is still in place. I instructed the owner/applicant (outdoor advertiser) to re-apply when the existing sign is removed.

If Lamar wants to secure a new location for the sign they will have to remove it from 2511 Old Hardin Road and it will need to be sited in a location at least 500 feet distant from the current location. You may consider this letter the final administrative decision in this matter. Section 27-1510 of the Unified Zoning Regulations allows Lamar to appeal this final administrative decision to the County Board of Adjustment. Any such appeal must be made within 30 days of the date of the decision. The appeal period for this decision runs until December 9, 2015.

Sincerely yours,

Nicole Cromwell, AICP
Zoning Coordinator

CC: Wyeth Friday, Planning Division Manager
Patrick Hurley, MDT OAC

CITY-COUNTY PLANNING DIVISION



Planning and Community Services Department
2825, 3rd Avenue North
4th Floor
Billings, MT 59102
406-247-8676
www.ci.billings.mt.us/planning



December 9, 2015

Kelly Strobel
Lamar Outdoor
7505 Entryway Drive
Billings, MT 59106

RE: Request for permit – 2531 Old Hardin Road - Permit #PLN-15-07831

Dear Mr. Strobel,

On December 2, 2015, Lamar submitted a request to construct a new billboard at 2531 Old Hardin Road. I have denied this request. Lamar had a billboard sign at 2511 Old Hardin Road. On October 14, 2015, the property owner at 2511 Old Hardin Road submitted an application to construct a new billboard sign provided and owned by another billboard sign company, Bella Outdoor. The property owner indicated in writing their prior intent to 1) not renew the lease with Lamar and 2) to construct another billboard sign on their property through another company. The property owner at 2511 Old Hardin Road has submitted a sign permit to construct this new sign received on the same day as Lamar's permit application for 2531 Old Hardin Road. Given the property owners stated prior intent, a new sign cannot be constructed at 2531 Old Hardin Road. The proposed location at 2531 Old Hardin Road is less than the required 500-foot minimum separation distance to 2511 Old Hardin Road. The County Sign Code requires a minimum spacing of 500 feet between billboard signs (Article X, Section 4.06) as does the Montana ARM for permitting new billboard signs on the federal highway system.

I also received on December 8, 2015, from Lamar, an administrative appeal of my decision to deny this location based on a previous permit submittal in October 2015. A hearing will be held on your appeal on January 14th, 2016 before the County Board of Adjustment. The hearing will be held in the 1st Floor Conference Room here at the Miller Building, 2825 3rd Avenue North beginning at 4 pm. Your appeal is the second item on the agenda for this hearing date. I will notify you in writing about 1 week in advance of the hearing and include the staff report sent to the Board of Adjustment.

Sincerely yours,

Nicole Cromwell, AICP
Zoning Coordinator

CC: Dan Schwarz, Deputy County Attorney
Wyeth Friday, Planning Division Manager
Patrick Hurley, MDT OAC

October 14, 2015

Tom and Katherine Moore, Acknowledge that have consulted with the Montana dept. of Transportation regarding the permit status of the billboard located on 2511 Old Hardin Road

Thomas Moore 10-14-15

Also

Tom and Katherine Moore wish to let the MDOT know that they are canceling their lease with LAMAR and are now in a lease with BELLA OUTDOOR. TM 10-14-15

State permit # 00149



December 17, 2015

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Lamar Outdoor Advertising
7505 Entryway Drive
Billings, MT. 59102

Subject: Outdoor Advertising Permit No. 00149

During a recent sign survey, department personnel observed that the sign located on Highway I-90, at or near mileposts 454.8, in Yellowstone County is in a state of disrepair. Department records indicate that you are the sign owner.

Enclosed for your information is a copy of Section 75-15-132 MCA, which states in part: that when the department determines a sign structure is not in a reasonable state of repair or is unsafe, the department shall notify the sign owner of the violation and require remedial action within (60) days and a print out of the sign in question.

Please bring the signs into compliance by February 15, 2016. When repairs have been completed, send a photo of the repaired sign to the OAC office (return envelope enclosed).

Thank you very much for your attention to this matter, we look forward to a positive response.

If you have any questions, I can be reached in Helena at (406) 444-6238 or you can e-mail me at jschatzka@mt.gov.

Jim Schatzka
Outdoor Advertising Control
Compliance Technician

copies: File
City County Planning Division (Nicole Cromwell)
Thomas M. & Katherine E. Moore (Landowner)
MDT/OAC sign committee

75-15-132. False application or disrepair of structure -- remedial action. When the department determines that a willful false or misleading statement has been made in the application for a permit or that the structure for which a permit was issued is not in a reasonable state of repair or is unsafe, the department shall notify the holder of the permit in writing, either by certified mail or by personal service, of the violation and specify that remedial action shall be taken within 60 days or the permit will be revoked and action for removal of the sign commenced as provided in 75-15-131. No notice is required prior to filing a complaint after the notice period has lapsed.

History: En. Sec. 7, Ch. 2, 2nd Ex. L. 1971; amd. Sec. 164, Ch. 316, L. 1974; R.C.M. 1947, 32-4721.

◇



December 17, 2015

CERTIFIED- RETURN RECEIPT REQUESTED

Bella Outdoor Advertising
55 Jonquil Circle
Billings, MT. 59105

Subject: Denial of Outdoor Advertising Permit Application

On December 14, 2015, the Department received an application for an outdoor advertising permit on I-90, near Milepost 454.8 in Yellowstone County, Montana.

After careful review the Department regrets to inform you that we are unable to issue a permit for your sign.

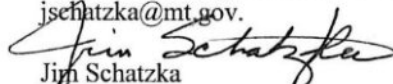
Advertising signs at this location are prohibited because they do not meet the requirements of section 75-15-113 (7) MCA. Currently there is a permitted sign at this location.

If you disagree with this determination, you may request a hearing by notifying the Department in writing within thirty (30) days.

A request for a hearing shall be mailed to:

Patrick J. Hurley
Outdoor Advertising Control
Montana Department of Transportation
P.O. Box 201001
Helena, MT 59620-1001

If you have any questions, I can be reached in Helena at (406) 444-6238 or via email at: jschatzka@mt.gov.


Jim Schatzka
Compliance Technician
Outdoor Advertising Control

Note: The fees submitted with your application will be refunded once MDT receives a W-9 from you.

cc: file
City –County Planning Division (Nicole Cromwell)
MDT/OAC sign committee

BELLA

OUTDOOR ADVERTISING, LLC

December 30, 2015

Pat Hurley

Montana Dept. of Transportation

P.O. box 201001

Helena, Mt 59620-1001

Subject: Denial of Advertising Permit for Location formerly # 00149.

Mr. Hurley:

This Letter is to notify the department of my Disagreement with their Determination on the location formerly known as permit #00149. Bella Outdoor Advertising is requesting a hearing regarding that matter.

In the interest of expediting this process, could you please request Jim Schatzka to forward any and all information that is public record regarding this dispute? "I would particularly like to know the dates that the information from Lamar was received by the department."

This would greatly expedite the hearing process.

Pat, once Again thank you for your prompt response.

Yours Truly



Joe Mancuso

