



**Borough of Wind Gap
Wind Gap, Pennsylvania 18091
610.863.7288**

Zoning Hearing Board Legal Notice

The Wind Gap Zoning Hearing Board will hold a public hearing Tuesday, March 29th, 2011, at 7:30 p.m. at the Wind Gap Borough Hall, Council Chambers, Mechanic Street, Wind Gap, PA to hear the following:

1. Case No. 02-2011

The Application of Adams Outdoor Advertising, limited partnership, by and through its Managing General Partner, Adams Outdoor Advertising Inc. with authorization from Troy and Tina Leidy, Owners, of said property located at 11 Constitution Avenue for a Validity Challenge of Section 601C, Section 802A and Section 802B of the Wind Gap Zoning Ordinance. Additionally, the Applicant is requesting an Appeal from Municipal Action and from Interpretation of the Municipal Action of Section 601C, Section 802A and Section 802B, however, this Appeal was outside of the time frame of the Enforcement Notice. Applicant's Present Use and Proposed Use is Billboard Advertising/Signage within a Residential District upon a residential dwelling.

**This property is in the Low Density Single Family Residential District (R-12).
Parcel ID E8410638**

**Proof of publication requested:
Publish: March 14th, 2011
Publish: March 21st, 2011**

Before
THE WIND GAP ZONING HEARING BOARD

In Re: Application of Adams Outdoor Advertising,
Limited Partnership, by and through its
managing general partner, Adams Outdoor
Advertising, Inc. for a validity challenge of
Section 601C, Section 802A, and Section 802B.
Additionally, applicant is requesting an
appeal from municipal action and from
interpretation of Section 601C, Section 802A,
and Section 802B.

Wind Gap Borough Hall
29 Mechanic Street
Wind Gap, Pennsylvania 18091
Tuesday, March 29, 2011, beginning at 7:35 p.m.

PRESENT: DEBORAH ROSEBERRY, Chairperson
ROBERT MATLOCK, Board Member
SAM NITTLE, Board Member

JOHN MOLNAR, ESQUIRE, Solicitor

BRIAN PYSCHER, Alternate Zoning Officer
and Township Engineer

APPEARANCES: GROSS MCGINLEY, LLP
BY VICTOR F. CAVACINI, ESQUIRE
33 South Seventh Street
Allentown, Pennsylvania 18105
For the Applicant

MARTINO, KARASEK, MARTINO &
LOPIANO-REILLY, LLP
BY RONOLD J. KARASEK, ESQUIRE
641 Market Street
Bangor, Pennsylvania 18013
For the Borough Council of Wind Gap

ALSO PRESENT: Anthony N. Curcio, Borough Council Liaison

PANKO REPORTING
537 Sarah Street, 2nd Floor
Stroudsburg, Pennsylvania 18360
(570) 421-3620

ORIGINAL

1 MS. ROSEBERRY: The zoning hearing
2 board meeting for Wind Gap Borough is now
3 officially in session. If anybody has a cell
4 phone, we request that you either turn them off or
5 put them in the silent mode.

6 MR. MOLNAR: I guess at this point
7 we have the appeal -- I believe there have been
8 some discussions between --

9 MR. KARASEK: There have.

10 MR. MOLNAR: -- Mr. Karasek and
11 Mr. Cavacini.

12 MR. KARASEK: I have. Chairman and
13 board members, Attorney Cavacini and I, along with
14 the help of our township -- or borough engineer,
15 excuse me, who is also our alternate zoning
16 officer, and a representative from Adams, Lois --

17 Last name, Lois?

18 MS. LOIS ARCISZEWSKI: Arciszewski.

19 MR. KARASEK: -- Lois Arciszewski,
20 discussed the matter and we believe we have a
21 resolution that we are willing to put before the
22 board for approval and that will resolve the
23 hearing for this evening.

24 MR. MOLNAR: Okay.

25 MR. KARASEK: So if that meets with

1 your approval, I will attempt to do that, but I
2 will have Attorney Cavacini make any corrections,
3 modifications, revisions, et cetera.

4 MR. CAVACINI: I'd never presume to
5 correct Mr. Karasek.

6 MR. KARASEK: Don't believe that at
7 all. We have a resolution whereby the enforcement
8 notice or the appeal of the enforcement notice and
9 the validity challenge will be dismissed in
10 consideration for the following: The borough will
11 adopt an amendment to their fees and costs
12 resolution in which there will be an annual
13 inspection fee per each sign structure for existing
14 signs and, in this case, that fee would be \$200 for
15 2011.

16 The second part of this is, that
17 what the borough will do is they will actually
18 invoice Adams Outdoor and any other applicable
19 businesses as of July 1 of each year for the
20 inspection fee and the supplies for existing signs.
21 Obviously if a new sign would need to be
22 constructed or built, the fees would then be a
23 different fee schedule which are based upon per
24 square footage as opposed to inspection.

25 So that the effect of what we are

1 attempting to do is to have the fee be based upon
2 an inspection that the borough does on an annual
3 basis to make sure that the signs are in order and
4 sound as opposed to being a revenue producing fee.
5 Because, as we all know, the borough cannot be in
6 the position of making money on fees and costs; it
7 only can make money in order to pay administrative
8 costs, inspection fees, et cetera.

9 So I would like to put that
10 settlement on the record, but, again, Attorney
11 Cavacini or even Lois is welcome to add things
12 because they're a little familiar with some of the
13 nuances where I may not be.

14 MR. CAVACINI: No, I think it's been
15 totally and accurately stated by Mr. Karasek. I
16 think what happens here is the enforcement
17 proceedings by the borough are withdrawn and the
18 validity challenge and the zoning appeal by Adams
19 is withdrawn so effectively you don't have anything
20 that you need to deal with this evening and the
21 borough can proceed with that revised fee schedule
22 and -- but, you know, the matter is presumably
23 ended.

24 MR. MOLNAR: So there would be no
25 action on behalf of the borough because you've

1 entered into this stipulation?

2 MR. KARASEK: There would be no need
3 for the zoning board to --

4 MR. MOLNAR: The enforcement's
5 withdrawn, the appeal and the validity challenge
6 are withdrawn. The only thing I may want to
7 suggest is, so there's a record of it, perhaps the
8 borough should have this brief discussion
9 transcribed.

10 MR. KARASEK: Yes. I would like --
11 I was going to say at the end that I do want the
12 discussion transcribed so I can review what I've
13 just said here because I have some notes, but I'm
14 not going to remember it exactly. I can also share
15 it with Attorney Cavacini and also you, if you
16 would like that, so I could use that to prepare the
17 fee resolution. So I will ask that that be
18 transcribed for purposes of our resolution here.

19 MR. MOLNAR: Since there's no
20 action, there's nothing before the board, the only
21 action would be to adjourn tonight.

22 MR. KARASEK: Unless you have any
23 other business before the board --

24 MR. MOLNAR: No, we don't.

25 MR. KARASEK: -- this appeal

1 No. 2011-02, I think is the number, would be now
2 resolved by way of, again, withdrawal of the
3 enforcement notice and/or withdrawal -- and/or
4 dismissal, however you want to do it, of the
5 validity challenge and the zoning appeal.

6 MR. CAVACINI: And maybe just a
7 suggestion, you can enter a brief order, you know,
8 reciting that.

9 MR. KARASEK: And you can make that
10 part of the transcript. You can do that if you
11 want to.

12 MR. MOLNAR: I don't know if an
13 order would be necessary since the -- you know,
14 we'll have this -- you know, if the board wants to
15 discuss it. If the enforcement is withdrawn and
16 the appeal and the --

17 MR. KARASEK: The validity
18 challenge.

19 MR. MOLNAR: -- the validity
20 challenge are withdrawn, there's really nothing
21 before the board. That's the way I view it.

22 MR. CAVACINI: All right, that's
23 good too.

24 MS. ROSEBERRY: Sure.

25 MR. NITTLE: Yeah.

1 MR. KARASEK: And, again, we have a
2 transcript here and we all know one another here,
3 we're not dealing with strangers where we need to
4 be concerned about someone doing something
5 improper.

6 MR. CAVACINI: Okay.

7 MR. KARASEK: That's it. So a copy
8 for me or original for me, however you want to do
9 that, please.

10 MS. ROSEBERRY: Meeting's adjourned.
11 Do I have a second?

12 MR. MATLOCK: Second.

13 (Hearing concluded at 7:41 p.m.)

14 ---
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me in the above matter; and that the foregoing is a true and correct transcript of the same.

Evilys E. Brathwaite
EVILYS E. BRATHWAITE

ORIGINAL