

**CITY OF LAPEER
MINUTES OF A REGULAR
ZONING BOARD OF APPEALS MEETING
NOVEMBER 28, 2016**

A regular meeting of the City of Lapeer Zoning Board of Appeals was held in the Commission Chambers of Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan on Monday, November 28, 2016 at 7:00 p.m.

Members Present: Chairman Joe Black, Vice Chairman Bernard Jocuns, Mr. Paul Parsch, Mr. A. Wayne Bennett, Mr. Wes Butterfield and Mr. Jeff Hogan.

Members Absent: None.

Also Present: Mr. Scott Kree, Rowe Professional Services Company Planning Consultant.

Chairman Black called the meeting to order at 7:00 p.m.

MINUTES

It was moved by Mr. Jocuns and supported by Mr. Hogan to approve the minutes of the meeting held on October 24, 2016 as presented. **MOTION CARRIED.**

PUBLIC COMMENTS

There were no public comments

PUBLIC HEARING SCHEDULED

Lapeer Fuel Ventures (Clark) – 252 S. Main Street – Monument Sign

Mr. Kree reviewed the request from Lapeer Fuel Ventures for variances to the height and size restrictions of Section 7.17.05, Table 7.17.3 in order to erect a new monument sign at the Clark gas station located at 252 S. Main Street. Mr. Kree reported the owner has been working with the City to address issues with changes made to the existing non-conforming pole sign which included structural alterations which have resulted in safety issues. Mr. Kree stated it has been determined by City staff the sign is now unsafe and needs to be removed. It was noted a letter was received from Mike Pardington, owner of the property located at 140 S. Main Street, regarding the request in which Mr. Pardington was in opposition of the proposed variances. The letter had been distributed to the board members and was included in their packets prior to the public hearing for their review.

Mr. Kree reviewed the site location which is zoned B-2 General Business, photos of the existing pole sign showing the structural changes and a design rendering of the proposed monument sign which is 9 feet high with an 18 inch sign base and 10 feet wide for a total of 90 square feet of sign area per side. Mr. Kree stated the applicant is requesting a variance of 2 feet 6 inches to the required 8 foot maximum height allowed and a 68 square foot (34 sq. ft. per side) variance to the sign area maximum allowed of 112 square feet (56 sq. ft. per side). Mr. Kree reviewed the conditions and standards required to be met in order to grant the sign variance and stated the request meets the condition listed in Section 7.22.04(f)(3) due to the fact the new monument sign will be more in conformance with the current zoning ordinance than the existing pole sign and that the request also meets all the required standards of Section 7.22.04(g) in order to grant the variance.

Discussion was held regarding the requirement for the sign to be setback a minimum of 50 feet from the center of the M-24 right-of-way which will be verified by the Building Department during the sign permit application/approval process, the fact the applicant cannot apply for a variance for the existing pole sign and the height and size maximum requirements for Business Center signs which the Clark sign does not currently qualify for. Discussion was also held whether or not the new sign will create visibility issues for traffic exiting the site, the fact the City amended the Zoning Ordinance to require monument style signs, benefits of monument signs versus pole signs and wall signage at the Clark site.

Chairman Black opened the public hearing at 7:15 p.m.

Mr. Ivan Matti, of Lapeer Fuel Ventures, was present and stated he put his trust in a sign company which he assumed would contact the City and Building Department for the proper approvals and permits which they did not, that the company only did what they had to do to get the their sign up and get paid and that they left him high and dry. Mr. Matti stated his new digital sign is necessary to advertise his sales and offers, that he is happy with his pole sign and that he is asking for approval to design the new monument sign in the best way to serve his business.

Discussion was held regarding the design of the new monument sign, the applicant desire to incorporate the existing digital sign into the new monument sign, business center sign height and size requirements and the safety hazard created by re-welding the existing pole sign structure.

Mr. Frank Butterfield, 525 Adams Street, was present and stated the proposed location of the new sign will block the sidewalk, will make the visibility issue worse and create a hazard, that the location is a busy spot with a hill to the south and will create less visibility for low sitting vehicles.

Mr. Kal Mansour, of Sign Emporium, was present and stated the new sign will not project any further towards the road, will meet the 50 foot setback requirement and will maintain visibility for traffic.

There being no further comment, the public hearing was closed at 7:39 p.m.

The current Google Earth street view for the subject site was reviewed and discussion was held regarding the structural alterations made to the existing pole sign, the fact the current zoning ordinance requires monument style signs and the fact the proposed sign is more in conformance with the ordinance. Discussion was also held on the possibility of allowing a higher, more narrow monument sign and the fact the Clark station is the cleanest gas station operation in the City.

After discussion, it was moved by Mr. Bennett and supported by Mr. Parsch to approve the request from Lapeer Fuel Ventures for the following variances to allow the erection of a 10 foot 6 inch high, 180 square foot (90 sq. ft. per side) monument sign at the Clark gas station located at 252 S. Main Street:

A 2 foot, 6 inch variance from the maximum height requirement of Section 7.15.05, Table 7.17.3 as it relates to:

- The condition stated in Section 7.22.04(f)(3) as the variance to the maximum height requirement is taking an existing illegal sign and developing a more conforming sign; and
- The following standards:
 1. The variance is being granted because the issue is with the existing sign and due to the alteration of the sign by a previous sign company that has made the existing sign more noncompliant and unsafe to the community. The owner is proposing a shorter more conforming sign without having any financial return due to the height of the sign.
 2. The issue regarding the illegal existing sign is particular to this subject parcel and the creation of an illegal sign was developed by the previously hired company. The site also is within a valley and the variance would minimize the loss in height from the existing sign.
 3. The variance is bringing an illegal taller sign to be more conforming to the zoning ordinance.
 4. Issuance of the variance will result in the illegal nonconforming sign to meet the requirements to more align with the rest of the commercial corridor and allowing the existing establishment to still advertise products to the public.
 5. Issuance of the variance would still ensure that the spirit of the ordinance is observed, public safety secured and substantial justice done being done through the proposed sign.

and

A 68 square foot variance (34 square foot per side) to the maximum area limitations of Section 7.17.05, Table 7.17.3 it relates to:

- The condition stated in Section 7.22.04(f)(3) as the variance to the sign square footage requirements is taking an existing illegal sign and developing a more conforming sign; and
- The following standards:
 1. Practical difficulty is that the applicant is trying to bring the sign into compliance, but the regulations are more conforming than what is existing.
 2. This property is in a valley, which is unique and the size of the sign better compares with what the applicant will lose in square footage.

3. The variance is bringing an illegal sign to be more conforming to the zoning ordinance. The existing sign is noncompliant and cannot be added on to, to increase the square footage.
4. Issuance of the variance will result in the illegal nonconforming sign to meet the requirements to more align with the rest of the commercial corridor and allowing the existing establishment to still advertise products as potential patrons drive on the street.
5. Issuance of the variance would still ensure that the spirit of the ordinance is observed, public safety secured and substantial justice being done through the proposed sign. Given the proposed sign must remain a minimum of 50' from the Center of the Right of Way (ROW).

Yeas: Mr. Bennett, Mr. Parsch, Mr. Hogan, Mr. Black, Mr. Jocuns and Mr. Butterfield.

Nays: None.

Abstain: None.

Absent: None.

MOTION CARRIED.

OTHER BUSINESS

Prime 1 Properties (ZeerCO) – SW Corner S. Main/Baldwin Rd. – Multiple Variances

Mr. Kree reviewed the two remaining variance requests from Mike Zeer of Prime 1 Properties, LLC in order to construct a new commercial development consisting of two buildings, one with a drive-thru, at the southwest corner of S. Main Street and Baldwin Road which includes combining the three existing parcels known as 858 S. Main, 864 S. Main and 885 Baldwin. Mr. Kree reviewed the revised conceptual design incorporating the variances approved at the October ZBA meeting, the traffic flow pattern on the subject site and stated the applicant is now requesting a variance of 19 spaces to the off-street parking requirements of Section 7.16.02, Table 7.16.1 and a variance of 2 spaces to the drive-thru vehicle stacking space requirements of Section 7.16.07(a).

Mr. Kree reported Tropical Smoothie Café provided a letter indicating the maximum number of vehicles stacked in the drive-thru at peak times is 3-5 cars and that their business is mostly carry-out with limited dine-in customers. Mr. Kree stated the project will require Planning Commission approval of the site plan and a Special Land Use for the drive-thru operation. Discussion was held regarding the location of handicap parking for the Tropical Smoothie building and the fact the site will be required to meet ADA standards.

Mr. Zeer, of Prime 1 Properties, was present and clarified the traffic flow pattern on the site, identified areas available for snow storage and stated the number of employees is unknown, that the property is difficult to work with due to the three front yards, that MDOT has approved the access drive locations and that he plans to develop a first class, nice development.

Discussion was held regarding whether or not the applicant was able to contact the Baldwin Road property owner to the south of the site, the fact the prospective tenants of Tropical Smoothie Café and Qdoba would not invest in a site they feel does not meet the design needs for their businesses, whether or not large trucks will be able to maneuver on the site, the Fire Chief's initial review of the site for fire truck access and the parking spot width which meet construction standards. Discussion was also held on the possibility of allowing parking in the delivery/garbage truck access area, the narrow appearance of traffic lanes near the drive-thru, the possibility of reducing the size of the buildings to create more parking and traffic maneuvering area, the fact the buildings are currently designed at the minimum sizes required for both tenants and the Commercial Master Plan designation of the subject site.

After discussion, it was moved by Mr. Jocuns and supported by Mr. Bennett to approve the request from Prime 1 Properties, LLC for the following variances in order to construct a commercial development consisting of two buildings, one with a drive-thru, at the southwest corner of S. Main Street and Baldwin Road:

A variance of 19 spaces to the off-street parking requirements of Section 7.16.02, Table 7.16.1 to allow 42 parking spaces in lieu of the required 61 spaces as it relates to the following standards:

- (1) The variance for parking and stacking is being granted because the sites would unreasonably prevent the owner from using property for a proposed permitted use as it pertains to parking; and
- (2) The variance would do substantial justice to the applicant as well as to other property owners in the Commercial zoning district and is similar to other restaurants in the City; and
- (3) The problem is due to circumstances unique to the development of the property, even after the combining of 3 lots there remains an issue with space on site. Due to the location this is not a general condition in the area; and
- (4) The problem that resulted in the need for the variance was not created by the applicant or previous owners of the property but it would seem any business trying to occupy this property under the current ordinance would need a variance for parking; and
- (5) Issuance of the variance would still ensure that the spirit of the ordinance is observed, public safety secured and substantial justice done being that the proposed use and the need for such variances are following the master plan.

A variance of 2 spaces to the drive-thru stacking requirements of Section 7.16.07(a) to allow 6 stacking spaces in lieu of the required 8 spaces as it relates to the following standards:

- (1) The variance for stacking is being granted because the sites would unreasonably prevent the owner from using property for an accessory to the permitted use of a drive-thru, which will be applied for through the SLU process would render conformity unnecessarily burdensome as it pertains to stacking; and
- (2) The variance would do substantial justice to the applicant as well as to other property owners in the Commercial zoning district and is similar to other drive-thru establishments in the City; and
- (3) The problem is due to circumstances unique to the development of the property, even after the combining of 3 lots there remains an issue with space on site. Due to the location this is not a general condition in the area; and
- (4) The problem that resulted in the need for the variance was not created by the applicant or previous owners of the property but it would seem any drive-thru business trying to occupy this property under the current ordinance would need a variance for stacking; and
- (5) Issuance of the variance would still ensure that the spirit of the ordinance is observed, public safety secured and substantial justice done being that the proposed use and the need for such variances are following the Master Plan.

Yeas: Mr. Jocuns, Mr. Bennett, Mr. Hogan, Mr. Black and Mr. Butterfield.

Nays: Mr. Parsch.

Abstain: None.

Absent: None.

MOTION CARRIED.

ADJOURNMENT

There being no further business, it was the consensus of the board to adjourn the meeting at 8:22 p.m. **MEETING ADJOURNED.**

Mr. Joe Black
Chairman