

**CITY OF LAPEER
MINUTES OF A REGULAR
ZONING BOARD OF APPEALS MEETING
FEBRUARY 26, 2018**

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, February 26, 2018 at 7:00 p.m.

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

Members Absent: None.

Also Present: Ms. Caitlyn McGoldrick, Rowe Professional Services Company Planning Consultant.

Chairman Black called the meeting to order at 7:02 p.m.

MINUTES

It was moved by Mr. Jocuns and supported by Mr. Hogan to approve the minutes of the meeting held on January 22, 2018 as presented. **MOTION CARRIED.**

PUBLIC COMMENTS

There were no public comments at this time.

PUBLIC HEARING SCHEDULED

Felton Body Shop / Burger Barn – 524 Imlay City Rd. – Wall Signage

Ms. McGoldrick reviewed the postponed request from John Felton and The Burger Barn for a variance to the wall signage requirements of Section 7.17.05, Table 7.17.3 in order to allow an additional wall sign on The Burger Barn tenant space to remain at the property located at 524 Imlay City Road. Ms. McGoldrick stated the required public hearing for the request was held on January 22nd and reviewed the site location which is zoned I-1 Industrial and photos of the signage in question.

Ms. McGoldrick reviewed photos of the previous wall signage for the Dawg Haus which formerly occupied The Burger Barn space and reported the Building Department issued the sign permit in July 2017 for The Burger Barn with the condition that one of the two signs be removed. Ms. McGoldrick reported no record was found of a prior variance being granted for the previous Dawg Haus signage and stated the mounted illustration of the three hot dogs was not considered a wall sign and did not count towards the allowed wall signage amount for that tenant space. Ms. McGoldrick stated the applicant is requesting the maximum wall signage area for The Burger Barn be calculated to include the Russell's Barber Shop tenant space which does not have wall signage and allow the two wall signs for The Burger Barn to remain in place.

Ms. McGoldrick reviewed the conditions and standards to be met in order for the board to grant the variance and stated the Building Official has indicated he will allow a rear entry sign up to maximum of 6 sq. ft. in area to be erected on the east side of the building above the entrance door.

Discussion was held regarding the need for future tenants of the barbershop space to be allowed signage, the size of the subject lot and the required standards and conditions to be considered.

After discussion, it was moved by Mr. Jocuns and supported by Mr. Bennett to **deny** the request from John Felton, Frank Juncaj, Ted Russell and Darlene Tadazak for a 30 sq. ft. variance to the wall signage requirements of Section 7.15.05, Table 7.17.3 in order to allow a second wall sign for The Burger Barn located at 524 Imlay City Road based upon:

The requested variance **does** apply to condition 2 under Section 7.22.04(f), **but does not** meet all of the standards for granting the approval including:

- (1) The inability to conform with the regulations is due to a practical difficulty or unique condition that includes more than mere inconvenience or mere inability to attain a supposed higher financial return; and
- (2) That the alleged practical difficulties or unique condition, or both, are exceptional and peculiar to the property of the person requesting the variance, and result from conditions which do not exist generally throughout the City; and
- (3) That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by the regulations, the individual practical difficulties that will be suffered by a failure to grant a variance, and the rights of others whose property would be affected by the allowance of the variance, and will not be contrary to the public purpose and general intent of these regulations; and
- (4) The variance granted is the minimum necessary to allow the applicant to enjoy the same rights as other establishments in the same zoning district, have a reasonable outlet for free speech and meet the intent of the sign regulations; and
- (5) The variance will not adversely affect the health, safety and welfare of the public.

MOTION CARRIED.

Jim Novak – Vacant Parcel #L20-83-464-050-00 – Southwest Corner - Imlay City Road and Myers Road – Rear Yard Setback Variance

Ms. McGoldrick reviewed the request from Jim Novak for a 9 ft. variance to the rear yard setback requirements of Section 7.08.03 Table 7.08.2 in order to construct a new building to be built one foot from the rear property line on the vacant property, Parcel #20-83-464-050-00, located at the southwest corner of Imlay City Road and Myers

Road. Ms. McGoldrick stated Mr. Novak owns the building located immediately west of the subject site, that he would like to continue the same building setback line and reviewed photos of the site. Ms. McGoldrick stated the Section 7.14.03(d) requires certain features such as eaves and gutters to project no more than 3 feet into a required rear yard which will need to be taken into consideration when designing the building.

Ms. McGoldrick reviewed the standards of Section 7.22.04(3) required to be met in order to grant approval of the variance as well as the applicant's written responses to each of the five standards. Ms. McGoldrick also reviewed the staff findings in support and in opposition of the requested variance as related to each of the required standards, the building envelope area and comments from the Fire Chief and Police Chief concerning the proposed building setback.

Discussion was held regarding the railroad right-of-way located immediately south of the subject site, the width of the Imlay City Road right-of-way, setbacks of other commercial developments along the south side of Imlay City Road, the parking area shown on the conceptual plan, the length and shape of the lot, required area for landscaping and vehicle maneuvering and the two front yard setback requirements for a corner lot.

Chairman Black opened the public hearing at 7:27 p.m.

Mr. Novak was present and stated the required landscaping will take up space on the site, that a 53 ft. by 180 ft. will be too long and narrow and appear out of place, that the proposed tenant considering a five year lease requires a 9,000 sq. ft. building and that approving the variance will allow a better layout of the building and make the building more usable.

Lapeer County Commissioner, Ian Kempf, 144 East 3rd Street, Imlay City, was present and stated he is in favor of the request which will increase economic development in the County and he encourages new industrial development. Mr. Kempf stated the reason for setbacks is primarily safety and to prevent encroachment onto neighboring property, that the location of the railroad right-of-way creates a uniqueness for the property, that the two front yard setbacks creates a better clear vision area at the corner and that the project has merit and will not harm the neighboring properties.

There being no further comments, the public hearing was closed at 7:36 p.m.

Discussion was held regarding the impracticality of requiring such a narrow, long building, that the building will meet the front and side yard setbacks, the uniqueness of the lot due to the location of the railroad, that the Fire Chief and Police Chief will have an additional opportunity to review and comment on the site plan for the project, the configuration of the lot and how the request meets each of the required standards.

After discussion, it was moved by Mr. Hogan and supported by Mr. Jocuns to approve the request from Jim Novak for a 9 foot variance to the rear yard setback requirement of Section 7.08.03 Table 7.08.2 in order to allow the principal building to be built one foot

from the rear property line on the vacant property, Parcel #L20-83-464-050-00, located at the southwest corner of Imlay City Road and Myers Road based upon:

The requested variance meeting all of the standards for granting the approval including:

- (1) The standard for which the variance is being granted would unreasonably prevent the owner from using property for a permitted purpose or would render conformity unnecessarily burdensome; and
- (2) The variance would do substantial justice to the applicant as well as to other property owners in the zoning district and a lesser relaxation of the standard would not provide substantial relief and be more consistent with justice to others; and
- (3) The problem is due to circumstances unique to the property and not to general conditions 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; and
- (5) Issuance of the variance would still ensure that the spirit of the ordinance is observed, public safety secured and substantial justice done.

MOTION CARRIED.

ADJOURNMENT

There being no further business, it was moved by Mr. Bennett and supported by Mr. Butterfield to adjourn the meeting at 7:41 p.m. **MEETING ADJOURNED.**

Mr. Joe Black
Chairman