

**MINUTES
CITY OF FARMINGTON HILLS
ZONING BOARD OF APPEALS
CITY HALL – COUNCIL CHAMBER
MARCH 12, 2019**

CALL MEETING TO ORDER

Chair Seelye called the meeting to order at 7:30 P.M. and made standard introductory remarks explaining the formal procedure, courtesies and right of appeal.

ROLL CALL

The Recording Secretary called the roll.

Members Present: **Barnette, King, Lindquist, O’Connell, Rich, Seelye, Vergun**

Members Absent: **Masood**

Others Present: **Attorney Morita and Zoning Supervisor Randt**

SITE VISIT MARCH 10, 2018

Chair Seelye noted when the Zoning Board of Appeals members visited the site.

The Sunday site visit begins at 9:00 a.m. at City Hall. It is an advertised open, public meeting under the Open Meetings Act, is only for informational purposes; the Board members abstain from any action, hearing testimony, or any deliberations.

APPROVAL OF AGENDA

MOTION by King, support by Vergun, to approve the agenda as published.

MOTION carried unanimously.

NEW BUSINESS

1. NEW BUSINESS:

- A. ZBA CASE: 3-19-5650
- LOCATION: 32906 Middlebelt
- PARCEL I.D.: 23-01-101-075
- REQUEST: Permission for temporary outdoor sales of plants/materials in a B-2, P-1 Zoning District that cannot exceed the allowed 14 consecutive days and a total of 28 days during any twelve month period during May and June 2019. This will entail the use of a 60 foot by 40 foot tent (approximately). Set-up starts April 20 with take down/clean-up to finish July 20.
- CODE SECTION: 34-3.26.14.D.; 34-7.14.6
- APPLICANT: Johnny Pomodoro’s Fresh Market, L.L.C.
- OWNER: Broadway Plaza Acquisitions, L.L.C.

Utilizing overhead slides, Zoning Supervisor Randt gave the background for this application for a permission for temporary outdoor sales of plants and related materials at 32906 Middlebelt, with setup starting April 20, 2019 and take down/clean-up to finish by July 20, 2019. The temporary outdoor sales would entail the use of a 60 foot by 40 foot tent (approximately).

The property was located south of 14 Mile and east of Middlebelt Road. This application was similar to that made in past years, and no complaints had been received regarding the similar past temporary uses.

Chair Seelye invited the applicant to make his presentation.

Dan Sonenberg, owner of Johnny Pomodoro's Fresh Market at 32906 Middlebelt, said that each summer they came before the Board to ask for a permission for outdoor sales of plants and related materials. The application was the same as last year's except that no sign was being requested, and he asked for approval this evening.

Chair Seelye opened the public hearing. Seeing that no one came forward to speak, Chair Seelye closed the public hearing and brought the matter back to the Board for discussion and motion.

Member Lindquist said there was an affidavit of mailing, with 23 returns.

MOTION by King, support by Barnette, in the matter of ZBA Case 3-19-5650, to GRANT the petitioner's request for a permission for temporary outdoor sales of plants/materials in a B-2, P-1 Zoning District that cannot exceed the allowed 14 consecutive days and a total of 28 days during any twelve month period during May and June 2019 only, including the use of a 60-foot by 40-foot tent (approximately), with set-up starting April 20 and with take down/clean-up to finish by July 20, based on the finding that the applicant has established a reasonable case for the need to have this additional display area and time.

Motion carried unanimously.

B. ZBA CASE:	3-19-5651
LOCATION:	29555 Orchard Lake Road
PARCEL I.D.:	23-03-477-058
REQUEST:	In a B-2, B-3 Zoning District, in order to replace an existing monument sign with an 11 foot 4 inch tall, 85.83 square foot sign, two special exceptions are requested: 1) 21.83 square feet to the 64 square foot sign area; 2) 3 feet 4 inches to the 8 foot sign height.
CODE SECTION:	34-5.5.3.A.iv.
APPLICANT:	Signs by Crannie/Daniel C. Crannie, Jr.
OWNER:	Himaloy, L.L.C.

Utilizing overhead slides, Zoning Supervisor Randt gave the background for this application for two special exceptions as advertised, for the property located at 29555 Orchard Lake Road.

The property was located west of Orchard Lake Road and north of 13 Mile Road. The applicant wished to replace an existing sign with a larger sign. The applicant had provided a schematic of the sign they wished to install, in the same location as the existing sign.

Chair Seelye invited the applicant to make his presentation.

Nick Trifon, Signs by Crannie, 4145 Market Place, Flint MI, was present on behalf of this application to replace an existing monument sign with a larger sign.

Mr. Trifon explained that the property owner was planning on building another facility on the property, and was negotiating with a potential tenant, and additional signage would be needed. They didn't want to clutter up the area with another monument sign for the new address. They felt a tasteful way forward was to add to the existing sign; they wanted the tenant to have the opportunity to be on the sign.

Mr. Trifon said that retail was going through a difficult time, as internet sales made it harder for actual brick and mortar businesses to succeed. In order to succeed, businesses needed appropriate signage.

Mr. Trifon said they had looked at other signs in the area, some of which were grandfathered. The applicants wanted to give each of the tenants the ability to advertise on the sign.

Mr. Trifon said he would try to answer any questions from the Board.

Chair Seelye was concerned that the proposed sign would hide the Mobil sign for drivers heading south on Orchard Lake Road. All the stores in the strip mall already had signs on their façades.

Mr. Trifon said that when the new building was constructed in the parking area behind the gas station, it would not be as visible, and would need additional signage.

Chair Seelye said it seemed to him the request was to grant a sign on the "if-come," i.e., on the potential that a building would be constructed. Member O'Connell said the application seemed to be putting the cart before the horse. Nothing was known about the proposed building – size, parking restrictions, etc.

Mr. Trifon suggested approving the request, conditioned on the construction of a new facility as stated. The goal was to give any business ample opportunity to succeed at that location. When the new building was constructed, it would need a sign, which could be another monument sign. Adding to the current sign made more sense than to add another separate sign.

Member O'Connell asked if a new building were approved, wouldn't the tenant have a sign on the building? Mr. Trifon said there would be a sign on the building as well, but from a visibility standpoint the tenant would want a sign by the road.

City Attorney Morita said that recently the portion of the property that was being considered for a new building was rezoned. If that property was split off, the new parcel would be entitled to its own monument sign on 13 Mile Road. Additionally, there was a nonconforming pole sign on the west property line. If the Board was inclined to grant the request for special exception this evening, any approval should be conditioned on the property not being split.

Member King wondered why the applicant was requesting the special exception on behalf of a future tenant before there was an approved site plan or new building construction.

Mr. Trifon said that as the property owner negotiated with a new tenant, the tenant would want to know they could advertise on Orchard Lake Road.

Member O'Connell thought that if the applicant removed the LED portion of the sign, there might not be a need for a variance.

Mr. Trifon spoke to the necessity of having digital signs, especially as retailers depended more and more on signage rather than print advertising, and as they had to compete with internet sales.

Member O'Connell asked if a new 13 Mile Road monument sign for any potential new building could be a digital sign, thereby eliminating the need for a new digital sign on Orchard Lake Road.

Mr. Trifon said that he thought his client just wanted to expand the Orchard Lake Road sign, and not put a sign on 13 Mile Road.

Noting that there were two different zoning districts on this parcel, Member Vergun acknowledged that it was easier to get a new tenant if the relevant sign had pre-existing approval. However, with the potential for a lot split on the property, the application before the Board tonight might not apply to the prospective business, but would help the existing businesses, although they were not the ones being represented tonight. There were unanswered questions regarding tonight's case.

Mr. Trifon said that the Board was asking good questions. He suggested tabling tonight's request so he could take the Board's concerns back to his client.

Zoning Supervisor Randt said the client should clearly understand the rationale for requesting special exceptions. Simply wanting a large sign on a busy street did not meet that rationale. For instance, the applicant needed to demonstrate circumstances or features that were unique to the property. Also, if the client wished to put a new sign on 13 Mile Road, the nonconforming sign would have to be removed. Last, due to recent ordinance changes, monument signs were permitted to be closer to the street than previously. It was possible that the applicant could comply with the ordinance without seeking a variance.

After brief further discussion regarding process, Mr. Trifon asked to have the application adjourned until the May 14, 2019 meeting. City Attorney Morita said it would be helpful to have the property owner/manager at the next meeting in order to answer questions directly.

In response to comments from Member Rich, Mr. Trifon said the nonconforming sign was actually a good sign, except that it was blocked by tree foliage much of the year.

In response to further comments from Mr. Trifon, City Attorney Morita said that if the applicant wanted to amend their request, a new application would need to be submitted. If the application went forward as submitted this evening, a denial would mean that a substantially similar application could not be heard for quite some time.

Member Rich asked if the Board had authority to condition an approval on the prohibition of any additional sign(s) on another parcel, in the event that a parcel was split from the original property.

City Attorney Morita said that should the Board approve the request this evening, the Board could condition that approval on the requirement that the new sign be removed should the parcel be split. Any new parcel had all the rights pertaining to any separate parcel. The Board should also consider conditioning an approval on the removal of any nonconforming sign.

Member O'Connell noted that the Board had received a letter received March 12, 2019 regarding this case from Nancy Mezy, who did not oppose the new sign, but did oppose its proposed location.

Member King commented that the Zoning Board's purview and responsibility was to deal with facts. Discussion tonight had focused on something that might happen – maybe the parcel would be split, maybe it wouldn't; maybe a building would be constructed, maybe not, etc. The Board was not in a

position to deal with if-comes, negotiations, and so on. The Board's responsibility was to enforce the ordinance, and also to listen to an applicant to see if there was an extenuating circumstance that might allow the Board to grant relief because of a particular problem or issue. Without fact-based information, it was difficult to render an affirmative decision.

Member Barnette said he had driven Orchard Lake Road, looking at the signage there. There was quite a large sign at 12 Mile and Orchard Lake Road (Orchard 12 Plaza). That monument sign was approximately 14'x14' with 16 smaller signs in the body of the monument, with a total of 17 signs. The concern about the requested sign overwhelming the gas station sign was valid. If the applicants decided to move the sign further north it would probably be in their best interest.

Mr. Trifon repeated his request that the application be adjourned to the May 14 meeting, at which time he hoped the owner would also be present.

City Attorney Morita said there many things not known about this application, including whether or not a new building would need a sign on 13 Mile Road, whether a lot split would be required, or whether parking requirements would dictate that the lot remain as it was currently configured. There was no site plan. She wondered whether that information would be available in May. Also, if the project changed at all, a new submittal would be required.

Mr. Trifon said that if his client changed direction, they would call and withdraw their application. City Attorney Morita explained that if the applicant withdrew without a determination, they would have the ability to reinstate the application or a similar application.

Member Rich indicated he was ready to make a motion.

MOTION by Rich, support by Lindquist, that at the request of the applicant and because of the reasons set forth in the minutes of tonight's meeting, ZBA Case 3-19-5651 is adjourned to a date certain, namely the May 14, 2019 ZBA meeting,

Motion carried unanimously.

PUBLIC QUESTIONS AND COMMENTS

There were no public questions or comments.

APPROVAL OF NOVEMBER 13, 2018 MINUTES

MOTION by Rich, support by King, to approve the Zoning Board of Appeals meeting minutes of January 8, 2019.

Motion carried unanimously.

ADJOURNMENT

MOTION by Rich, support by Barnette, to adjourn the meeting at 8:10 p.m.

Motion carried unanimously.

Respectfully submitted,
Erik Lindquist, Secretary

/cem