

**MINUTES
CITY OF FARMINGTON HILLS
ZONING BOARD OF APPEALS
FARMINGTON HILLS CITY HALL – COUNCIL CHAMBER
31555 W. ELEVEN MILE ROAD
FARMINGTON HILLS, MI
December 13, 2022 – 7:30 PM**

1. CALL MEETING TO ORDER

Chair Lindquist called the meeting to order at 7:30 P.M.

2. ROLL CALL

Members Present: Collins (alternate), Irvin, Lindquist, Masood, O’Connell, Rich, Vergun

Members Absent: King

Others Present: City Attorney Morita, Zoning Supervisor Randt, Recording Secretary McGuire

Chair Lindquist made standard introductory remarks explaining the role of the ZBA and the formal procedures of the meeting.

Board Members held a site visit on December 11, and may also have visited the sites independently. No action was taken at the site visit.

3. APPROVAL OF AGENDA

Case 4.A. was withdrawn by the applicant.

MOTION by Vergun, support by O’Connell, to approve the agenda as amended.

Motion carried by voice vote.

4. OLD BUSINESS:

A. ZBA CASE: 10-22-5717
LOCATION: 30000 Grand River Avenue
PARCEL I.D.: 23-35-201-009
REQUEST: In order to construct a drive-in restaurant in a B-3 zoning district adjacent to an RA-4 zoning district where the drive-in use is not separated from the lot by a major or secondary throughfare, the following use variance is requested: A use variance to permit a zoning lot to be occupied by a drive-in use abutting an RA zoning district where the zoning lot is not separated from the RA zoning district by a major or secondary throughfare.
CODE SECTION: 34-4.35.1.C
APPLICANT: Nicholas Shango
OWNER: Masoud Shango, West River Shopping Center

Case withdrawn.

5. NEW BUSINESS:

A. ZBA CASE: 12-22-5718

LOCATION: 29694 Colony Circle Drive
PARCEL I.D. 23-03-377-004
REQUEST: In an RA-2 zoning district, in order to build a 125-square foot sunroom addition to an existing dwelling, the following variance is requested: A 9-foot variance to provide an 11-foot rear yard setback where a 20-foot rear yard setback is required.
CODE SECTION: 34-3.1.5.E
APPLICANT: Jacob Woods, Great Day Improvements
OWNER: Lamar Pope

As the applicant was not present, this case was moved to follow case 5D to give the applicant time to arrive.

B. ZBA CASE: 12-22-5719
LOCATION: 29192 Wellington Street
PARCEL I.D. 23-12-152-031
REQUEST: In an RA-1A zoning district, in order to locate a generator in a rear yard, the following variance is requested: A 9.5-foot variance to provide a 5.5-foot south side yard setback where a 15-foot side yard setback is required.
CODE SECTION: 34-5.1.2.I.i and 34-3.1.1.E
APPLICANTS: Craig Roshak and Cathy Clark
OWNERS: Craig Roshak and Cathy Clark

Using a PowerPoint presentation, Zoning Supervisor Randt reviewed the facts of the case. The property was located off of Middlebelt between 12 and 13 Mile Roads. A schematic showed the proposed location/setback for the generator.

Craig Roshak and Kathy Clark, 29192 Wellington Street, were present on behalf of this application for a 9.5' variance, in order to provide a 5.5' south side yard setback in order to locate a generator in a rear yard. The applicants provided the following information:

- The 3' wide generator needed a 3' clearance between the generator and the pool house.
- Letters supporting the variance had been provided from their immediate neighbor to the south, the Jacobs family, as well as neighbor Marc Wilkins, and the HOA for Wood Creek Farms. The neighbor to the north had also sent a supporting letter.
- The parcel was 1.5 acres, but had topographical issues with a steep slope. The pool house and the fence were abutting the setback, and in order to place the generator with minimal topographical disturbance, the recommended placement was as shown.
- The generator would not be visible from the street.
- They had multiple air conditioning and furnace units, along with a well and septic system. With the number of power outages experienced, there were significant concerns relative to potential structural damage from frozen pipes and other damage.

In response to questions from the Board, the applicants gave the following further information:

- The door at the back of the garage was used for golf cart access.
- When the garage was constructed, a setback variance was granted for the side yard placement.
- The full-house generator would be powered by natural gas.
- The generator would be located about 30 feet down from the garage and ramp.

Chair Lindquist opened the meeting for public comment. Seeing that no public indicated they wished to speak, Chair Lindquist closed the public hearing and brought the matter back to the Board for further discussion and/or a motion.

In response to a question from Member Rich, City Attorney Morita said the 9.5' variance request was correctly published; there had been an inconsistency with the application, which had originally asked for a different request.

Member O'Connell said there was an affidavit of mailing, with no returns.

MOTION by Rich, support by Irvin, that in the matter of ZBA Case 12-22-5719, the petitioner's request for a non-use variance in an RA-1A zoning district, for a 9.5-foot variance to provide a 5.5-foot south side yard setback where a 15-foot side yard setback is required, in order to locate a generator in a rear yard, be **granted** because the petitioner did demonstrate practical difficulties exist in this case in that they set forth facts which show that:

1. Compliance with the strict letter of the ordinance would render conformity with the ordinance unnecessarily burdensome.
2. That granting the variance requested would do substantial justice to the petitioner as well as to other property owners in the district.
3. That the petitioner's plight is due to the unique circumstances of the property, specifically the topography, the nature of the adjoining properties, and the other construction already located on the property.
4. The problem is not self-created because DTE outages are not a self-created problem.

And with the following condition:

1. The generator will be installed in the location as indicated on the submittal documents.

Motion discussion:

Member Masood noted the supporting letters received from the HMO and the immediate neighbors.

Motion carried unanimously by voice vote.

- C. ZBA CASE: 12-22-5720
LOCATION: 21329 Goldsmith Street
PARCEL I.D.: 23-32-301-101
REQUEST: In a RA-1 zoning district, in order to build two (2) attached garages at 1,500 square feet each, totaling 3,000 square feet of accessory floor area, the following variance is requested: A 1,750 square foot variance to permit 3,000 square feet of accessory structure floor area on a lot where 1,250 square feet is the maximum floor area permitted.
CODE SECTION: 34-5.1.2.D
APPLICANT: Toma Stanaj
OWNER: Toma Stanaj

Using a PowerPoint presentation, Zoning Supervisor Randt reviewed the facts of the case. The property was located on Goldsmith north of Eight Mile Road. The parcel was over 3 acres in size. The grading utility plan gave an indication of the proposed location of the home. Elevations and a rendering of the proposed home had been provided.

Jawad Defouni, J.A.D. Services, Waterford MI was present on behalf of this application for a 1750' variance in order to permit 3000sf of accessory structure floor area on a lot where 1250sf is the maximum floor area permitted, in order to build 2 attached garages on this site. Joseph Stanaj was also present, representing Toma Stanaj.

Mr. Defouni explained that Mr. Stanaj's family had grown and the children were not leaving the nest, and there was a need for additional garage space to park trucks and cars on the site.

Chair Lindquist asked the applicants to address the ordinance criteria for granting a variance.

Mr. Defouni explained that this property was originally planned to be a subdivision, but this was not allowed, and the applicants had decided to build a home for themselves and their children. Again, they needed the extra garage space to park their numerous vehicles.

Board discussion and questions:

- Member Irvin pointed out that in Section D of the application, the applicant had written that the "Variance is not necessarily needed, . . ." Given that the applicant himself said the variance was not needed, why was this application before the Board?

Mr. Defouni reiterated that Mr. Stanaj would like the extra garage space in order to park additional vehicles. Also, one side of the house would have a private entrance for the children to use to go in and out of the home.

- In response to a question from Member O'Connell, Mr. Defouni said the plans had been submitted; the home was not yet built.
- In response to further questions and comments from the Board, the applicants said that the approximate 3000sf of garage space would also hold some lawn equipment. There would be electricity to the garages, but no water. The garages would be single story. There might be heat, but no air conditioning. The home itself would be approximately 3400sf.
- Member Vergun suggested the applicants were looking for a long-term solution to a short-term problem. Eventually the children may move out of the home.

Chair Lindquist opened the meeting for public comment.

Daryl Fergin, 37007 Kenmore, lived to the north of this property. Fergin was concerned about the size of the proposed garages, which appeared to provide parking spaces for 12-13 cars, and which seemed to indicate a commercial purpose. The neighborhood was residential, and most people had a 2 or 3 car garage. The garages proposed this evening all had 8' doors, which also indicated a potential commercial use. The owner was a contractor. Even if the purpose was solely residential, what would someone use the garages for if the property was ever sold? Mr. Fergin opposed the variance request.

Theresa Kowalski, 36879 Kenmore, also opposed the variance request. 3000sf of garage space to support a 3400sf home seemed excessive. It was important to maintain the integrity of the residential neighborhood, and not have something other than residential use on the site.

Member O'Connell said there was an affidavit of mailing, with no returns. Correspondence had been received from Daryl and Linda Fergin, who opposed the request; Mr. Fergin had also spoken this evening.

Seeing that no other public indicated they wished to speak, Chair Lindquist closed the public hearing and invited the applicant to respond to the public comments.

Mr. Defouni said Mr. Stanaj did own a business off of 8 Mile Road, and would not be operating his business from his new home.

Board discussion and questions:

- In response to a question, City Attorney Morita said an attached garage can be 50% of the floor area of the home, or 1250sf, whichever is larger.
- The applicant could build a larger home on this property, based on percentage of lot coverage.

Chair Lindquist said he could not support this variance request, due to the dramatic disproportionate size of the accessory space to the residential space, and due to the lack of supporting information relative to the criteria for granting a variance. The ordinance was not unnecessarily burdensome in that a beautiful home could be built on the property without a variance.

MOTION by Masood, support by O'Connell, in the matter of ZBA Case 12-22-5720, a request for a 1,750 square foot variance to permit 3,000 square feet of accessory structure floor area on a lot where 1,250 square feet is the maximum floor area permitted, in order to build two (2) attached garages at 1,500 square feet each, be **denied**, because the petitioner did not demonstrate practical difficulties exist in this case in that he did not set forth facts which showed that:

1. Compliance with the strict letter of the ordinance would unreasonably present the petitioner from using the property for a residence.
2. That granting the variance requested would do substantial justice to the petitioner as well as to other property owners in the district.
3. That the petitioner's plight is due to the unique circumstances of the property.
4. That the problem is not self-created; the problem is entirely self-created.

Motion to deny carried unanimously by voice vote.

- D. ZBA CASE: 12-22-5721
LOCATION: 30825 Orchard Lake Road
PARCEL I.D.: 23-03-226-028
REQUEST: In a B-2 zoning district, in order to allow an additional nonconforming freestanding sign where the signage on the property is currently nonconforming, the following special

exceptions are requested: (1) A special exception of 21-feet to permit a freestanding sign 29 feet in height where 8 feet is the maximum height permitted; (2) A special exception of 720 square feet to permit a 190-square foot freestanding sign where 64 square feet is the maximum area permitted for all freestanding signs; and, (3) A special exception to permit three freestanding signs on a zoning lot with greater than 300 feet of frontage on a throughfare where two signs are the maximum number permitted.

CODE SECTIONS: 34-5.5.3.A.iv.k and 34-5.5.3.A.iii.e

APPLICANT: Board of County Road Commissioners of Oakland County

OWNER: RPT Realty, Scottsdale, AZ

Using a PowerPoint presentation, Zoning Supervisor Randt reviewed the facts of the case. The property was located south of 14 Mile Road, and west of Orchard Lake Road. An overhead showed a view of the roundabout. Photographs and renderings showed the existing and proposed signage, stakes where the proposed sign would be located, with detail of the space from the curb to the sign, and photographs of the shopping center which occupied this property.

Attorney Alma Sobo, Dickenson Wright, represented the County Road Commission this evening, as did Planning Consultant Doug Lewan, Carlisle Wortman Associates. Charles Hart, Hubbell Roth and Clark, Inc., was also present. The attorney and the representative for the property owner were both in the audience this evening.

The Road Commission was requesting the special exceptions as advertised to replace an existing nonconforming freestanding shopping center sign with a new nonconforming freestanding shopping center sign. The overall project included the construction of a one by two lane roundabout that provided for the entry into retail strip shopping centers located east and west of Orchard Lake Road between 13 Mile Road and 14 Mile Road. The request resulted from the Road Commission's Orchard Lake Road reconstruction project.

The stakes as shown in the photographs by Zoning Supervisor Randt had since been replaced by cones; pictures of those had also been provided.

The proposed sign had the same square footage of sign face area as the sign that was removed as a result of the road project. The proposed sign also has the same aerial elevation as the old sign in terms of size, style and font. The proposed sign was consistent with other business signs in the area, and the proposed sign location which was identified by cones was even with the location of the existing sign, which was identified in the site plan that was provided.

Mr. Lewan reviewed the requirements for the requested special exceptions. This was a Road Commission project that was intended to improve the safety along Orchard Lake Road. The project required the removal of a long standing non-conforming sign that without the Road Commission improvement along Orchard Lake Road would still be there. This action and subsequent request was not something the property owner requested; the previously existing sign could have remained in that location for many years.

The Road Commission was now trying to allow for a similar sign in a similar location to be constructed. The request was for a single sign; no other signs on the property will be affected.

The standards for a special exception were somewhat different than for a variance:

- The circumstances or features relative to the requested sign are exceptional and unique to the property in that they are not self-created by the property owner. This was an extremely unique case, where the Road Commission is improving a piece of Orchard Lake Road for vehicular and pedestrian safety. This improvement required the removal of the existing sign; that sign is gone.
- Failure to grant relief will result in more than a mere inconvenience or financial expenditure. In fact, failure to grant relief would result in a substantial inconvenience. The applicant is losing an existing pylon sign that was in good condition and was not going to be removed any time soon. The Road Commission was requesting a similar sign placed in a very nearby location.
- The application of the regulations in the sign ordinance without a special exception will unreasonably prevent or limit the use of the property or unreasonably preclude the visibility or identification of a nonresidential building on the property. An existing non-conforming sign has existed in this location for many years, providing long standing visibility and identification of the shopping center. The requested special exception will allow the continuance of adequate visibility and identification in a similar manner.
- This section of Orchard Lake Road is between busy shopping centers, and erecting a similar sign to one that has existed for many years will not be incompatible or unreasonably interfere with the adjacent or surrounding properties.
- The special exception will not result in a sign or condition that has an adverse effect on the essential character or aesthetics established in the surrounding areas, and will not be detrimental or negatively affect the character of the surrounding area.
- This request is due to the improvements on Orchard Lake Road, not the actions of the owner, and no issues with the public health, safety or welfare of the surrounding community will result.
- Last, per the Uniform Condemnation Procedures Act (UCPA) (PA 87 of 1980), the Zoning Board shall consider “the potential benefits of the public use for which the property would be acquired, in addition to those criteria applicable under the relevant zoning statute, ordinance, or regulation.” In this case, the potential benefits as noted within the application support the request to allow a non-conforming sign similar as to that which was removed.

Board questions and discussion

Chair Lindquist asked how one drew a nexus between the placement of a commercial sign and the need for the road improvement. The sign was not part of the road project, but was a circumstance of the road project.

The applicants said that but for the road improvement, the sign would still exist in its original state and location. The Road Commission was making this request under the Uniform Condemnation Procedures Act. The need for this special exception was clearly due to the Road Commission’s project and required right-of-way.

City Attorney Morita said the applicable statute was MCL 2.13.54 (Uniform Condemnation Procedures Act). Subsection 2 permits the applicant to apply for a variance or as in this case, a special exception, before or after the property’s acquisition. The Michigan Zoning Enabling Act refers to MCL 2.13.54 and requires that the ZBA look at the condemnation when considering the request before them tonight. It did not matter if the work was still to be done, or was complete. The requirement was the same.

Chair Lindquist said he was having a hard time connecting the size of the sign with the road safety project. He did not see a public benefit in oversized signs.

City Attorney Morita explained that the public benefit was not the sign, but was the road improvement project. If not for that project/benefit, the sign would not have been removed.

In response to a question, City Attorney Morita explained that the special exception request of 720sf was relative to the proposed sign, and also added in other non-conforming signs on the site. The other non-conforming signs will remain the same. The special exception request was just for the replacement sign as described.

In response to a question, Ms. Sobo said the original sign had been constructed ~1970, and was removed in 2022.

Member Vergun pointed out that 2 of the 3 special exception requests represented large overruns of what the Ordinance would normally allow. He was more comfortable granting requests that were closer to the ordinance requirements. The Zoning Board did not write the ordinances, and those who did write the ordinances wanted as much as possible to keep signs in this area significantly smaller than what was being proposed.

Ms. Sobo said the Road Commission had been aware from the beginning that this non-conforming sign would need to be removed. Their hope was that the special exception will be granted so advertisement can be maintained for the various businesses in the shopping center.

City Attorney Morita said the property was very large, with certain unique segments. There were certain signs at certain entrances directing people so they knew which entrance to use to get to their destination. The height of the sign was also unique, and related to the previous height of the sign, in terms of directing people to the right entrance. The sign was 75' from the roadway; a smaller sign may not be sufficient. The City generally supported the Road Commission project because it enhanced safety in the area. Because this request came through a condemnation proceeding, the ZBA should take the public benefit of the project under consideration.

City Attorney Morita said the request was for the sign face only, and not for any words on the pedestal under the sign, although address numbers on the pedestal might be permitted.

Member Rich raised questions about the safety impact of drivers trying to read the sign while navigating the roundabout. Did the City have any recourse if accidents were caused by the sign placement? Could an approval be conditioned on sign replacement should there be multiple accidents at this location?

City Attorney Morita said an approval could be conditioned on the sign as proposed, which included 5 lines of large text.

Member Irvin thought the sign would be beautiful and show Farmington Hills to be a business-friendly community.

After discussion and amendment relative to the wording of an approving motion, Chair Lindquist opened the meeting to public comment regarding this request. Seeing that no public indicated

they wished to speak, Chair Lindquist closed public comment and brought the matter back to the Board for further discussion and/or a motion.

Member O'Connell said there was an affidavit of mailing with no returns.

MOTION by Masood, support by O'Connell, that in the matter of ZBA Case 12-22-5721, in a B-2 zoning district, in order to allow an additional nonconforming freestanding sign where the signage on the property is currently nonconforming, the following requested special exceptions be **granted**: (1) A special exception of 21 feet to permit a freestanding sign 29 feet in height where 8 feet is the maximum height permitted; (2) A special exception of 720 square feet to permit a 190-square foot freestanding sign where 64 square feet is the maximum area permitted for all freestanding signs; and, (3) A special exception to permit three freestanding signs on a zoning lot with greater than 300 feet of frontage on a throughfare where two signs are the maximum number permitted, because the petitioner did demonstrate practical difficulties exist in this case in that they set forth facts which show that:

1. There are circumstances or features that are exceptional or unique to the subject property that are not self-created, in that the sign was removed by the Oakland County Road Commission in conjunction with road and pedestrian improvements.
2. That failure to grant relief would result in substantially more than mere inconvenience or financial expenditures and that application of the regulations in Section 34-5.5.3.A.iv.k, 34-5.5.3.A.iii.e without a special exception would unreasonably prevent or limit the use of the property or would unreasonably preclude the visibility or identification of a non-residential building on the property.
3. That the special exception will not result in a sign or condition that is incompatible or unreasonably interferes with adjacent or surrounding properties, will result in substantial justice being done to both the applicant and adjacent or surrounding properties, and is not inconsistent with the spirit and intent of this chapter.
4. When taken on its own, or in combination with other existing conditions on the property or in the area, the special exception will not result in a sign or condition that has an adverse effect on the essential character or aesthetics of the establishment or surrounding area, is not detrimental to or negatively affects the character of surrounding residential development, and does not compromise the public, health, safety or welfare.

The motion also acknowledges the additional criteria allowed for ZBA consideration by the Uniform Condemnation Procedures Act (UCPA) (PA 87 of 1980), in that the prior nonconforming sign in this approximate location was removed due to a condemnation request, and the Board has considered the potential benefits of the proposed Orchard Lake Road improvements that have created the need for the request. In this case the potential benefits as discussed in the Carlisle Wortman report dated November 14, 2022 support the requests to allow a similar nonconforming sign as to what was removed.

This request is granted with the following conditions:

1. The appearance will be as proposed and illustrated in the November 14, 2022 Carlisle Wortman memorandum, except that the special exceptions are for a 190 square foot freestanding sign,

including the 5 sections listed as “TENANT SIGNAGE”, but not including any verbiage below the 5 sections, currently shown as “HUNTER’S SQUARE.”

2. All other existing freestanding signs in the shopping center will remain unchanged.
3. The sign will not include a video screen.

Motion discussion:

Member Masood noted that the Commission had a copy of a December 6, 2022 memorandum from City Senior Traffic Engineer Saksewski to Zoning Supervisor Randt stating that: . . . *the proposed sign did not appear to present any sight distance issues for vehicles or pedestrians and is located in the same approximate location as the previous sign. As such, this office supports HRC’s position as stated in the letter of 11/3/2022 and has no objection to allowing this installation.*

Motion carried unanimously by voice vote.

The Chair re-opened case 12-22-5718.

- A. ZBA CASE: 12-22-5718
LOCATION: 29694 Colony Circle Drive
PARCEL I.D. 23-03-377-00

As the applicant was still not present, the following motion was offered:

MOTION by Masood, support by O’Connell, to postpone this case to a date certain, January 10, 2023.

Motion carried by voice vote.

6. PUBLIC QUESTIONS AND COMMENTS:

None.

7. APPROVAL OF MINUTES November 15, 2022

MOTION by Rich, support by King, to approve the November 15, 2022 meeting minutes as submitted.

Motion carried by voice vote.

MOTION by Collins, support by Irvin, to amend the previously approved motion to correct the date on the minutes from November 11 to November 15, 2022.

Motion carried by voice vote.

City Attorney Morita said that ZBA training was scheduled for Tuesday May 2, 2023 at her office; dinner will be provided.

8. ADJOURNMENT

MOTION by Irvin, support by Vergun, to adjourn the meeting at 9:36 p.m.

Motion approved unanimously.

Respectfully submitted,
Michael O'Connell, Secretary

/cem