

CITY OF NORTHVILLE
Board of Zoning Appeals
April 6, 2016 – 7:30 PM
City of Northville – Council Chambers
215 W. Main Street

I. CALL TO ORDER:

Secretary Bress called the meeting to order at 7:42 p.m.

II. ROLL CALL:

Commissioners: Present: Michelle Aniol – Alternate
James Bress
John Callahan – Alternate
David Marold
Patti Mullen
Jay Wendt

Absent: Ryan McKindles - excused
Dominic Silvestri - excused
Rolland Stapleton - unexcused

Also present: Sally Elmiger, Planning Consultant
4 citizens

III. APPROVAL OF THE AGENDA:

Motion Aniol, support by Mullen, to amend the agenda to eliminate *Election of Officers*, since Chair Stapleton was not present.

Voice vote: Ayes: All. Nays: None. Motion unanimously carried.

IV. MINUTES OF PREVIOUS MEETING: January 6, 2016

MOTION Aniol, support by Callahan, to approve the January 6, 2016 meeting minutes with the following amendment:

- **Page 5, 4th line from the bottom: . . . to adjourn the meeting at ~~7:31~~ 8:01 p.m.**

Voice vote: Ayes: All. Nays: None. Motion unanimously carried.

V. CASES TO BE HEARD – BY CASE:

- A. Case is called.
- B. Appellant presents case.
- C. Board questions & comments.
- D. Public comments on the case.

- E. A motion (usually to grant the variance) is made and seconded; discussed then voted upon; the results are announced by the Chair.

**VI. CASE #16-02
AVER SIGN-TIM BROWN
710 W. EIGHT MILE**

The applicant is seeking a variance to erect a new electronic price sign on premises zoned LCD, Local Commercial District, parcel number 48-22-34-351-020. The City's Building Official evaluated a previous proposal, and determined that the maximum sign area allowed for this sign is 34.5 square feet. The applicant is proposing to erect a sign of 44.15 square feet. Therefore a variance for 9.65 square feet is needed from Article 21 of the Zoning Ordinance to allow erection of the new sign.

Secretary Bress read the case, noting that the grounds for appeal included a dimensional variance of 9.65 square feet for the area of a sign. The Zoning Ordinance for which a variance was requested was Article 21-13.

Tim Brown and Derek Greggs, Aver Sign Company, 359 Livernois, Ferndale, MI, were present on behalf of this application. Dion Westfall, Michigan Fuels, Inc., 20755 West Road, Woodhaven, MI was also present.

Mr. Brown explained that they were requesting a retrofit LED sign. Mr. Greggs added that while the agenda said this was a "new" sign, they were actually just changing out the components of the existing sign price lettering in order to upgrade to LED lighting. There would be no structural changes to the existing sign, and no change in its location.

Member Mullen asked if the frame would change. Mr. Greggs said there would be no change to the frame.

Mr. Brown explained the current sign was set back from Taft 17 feet and set back from 8 Mile 22 feet. The maximum size area permitted with these setbacks was 34.5 square feet. The current sign was 44.15 square feet and was non-conforming. Because they were changing the interior of the sign, they needed to ask for a variance to keep the sign in its current configuration and current location. While the sign could be set back further the visibility would be greatly diminished by moving it back. The sign had been in this location for a long time. In every other way the sign conformed to the ordinance.

Member Marold asked if the applicants had figured how far back they would have to move the sign in order to conform to the ordinance. Planning Consultant Elmiger explained that an applicant got an additional foot of square footage for every foot they pushed the sign back from the property line more than 10 feet. Therefore they would have to push the sign back an additional 10 feet in order to get the 9.65 square feet. This could be a combination of the 2 setbacks or 10 feet in one direction.

Member Mullen said the sign was not in the intersection. It was already set back a significant distance.

Mr. Brown said that the current sign had a 7-foot under-clearance, ensuring that the sign did not block a driver's view. Upgrading to LED lights would make it easier and safer to see. Also it would be easier for the operator to change the pricing on the sign as needed.

Secretary Bress clarified that the relevant letter from Chief Building Official Strong was dated March 22, 2016. This letter superseded the one dated March 5, 2015 and addressed to the Aver Sign Company. Planning Consultant Elmiger agreed.

Secretary Bress confirmed that the existing sign was 44.15 square feet, and that size would not change if the LED change were approved.

Mr. Greggs addressed the brightness of the sign, explaining that they would meet the City's lighting regulations. He explained the lighting specifications, including a maximum 14.3 luminosity, and further explained that during the day the sign would operate at 95% brightness, but at night would be approximately 5 to 20% brightness. The sign changed dynamically and also could be changed manually.

Secretary Bress opened the public hearing.

Secretary Bress noted that the Board had received a letter dated March 29, 2016 from Cathy Carroll, 675 Randolph St., #208, Northville MI 48167. Ms. Carroll was in opposition to the sign being approved, based on the heavy traffic volume in the area. He quoted from the letter:

I do not believe that the Applicant can provide to you a viable reason for requesting this sign variance nor can they prove evidence of an unnecessary hardship in their business that would convince the Board of Zoning Appeals to approve this variance.

Member Mullen pointed out that Ms. Carroll was under the impression that the request was for an additional 9.65 square feet. Maybe she would have a different feeling if she knew the sign would be the exact same size as existing.

From the audience, Cathy Carroll said she had written the letter referenced. She was glad to hear that the sign would be the same size. That was her biggest concern – that the sign was going to be increased and would encourage neighboring businesses to request larger signs. Now she understood that the sign would not be increased.

Seeing that no one else came forward to speak, Secretary Bress closed the public hearing.

Member Aniol asked the dimensions of the number digits and the text that went with them on the existing and proposed signs.

Mr. Greggs said he did not have that information as it had not previously been requested, although it could be obtained. He said that Michigan State Law regulated these signs, and the proposed sign did meet those regulations. The State required that the text be 1/2 the height of the LED digits.

Member Aniol asked if the applicants knew the height of the proposed LED digits. Mr. Greggs thought these would be 12-14 inches, but he did not have the exact measurement.

Member Aniol asked if the size of the numbers, etc., would be exactly the same size as those on the current sign. Mr. Brown said he thought the digit size was the same, but the size of the accessory text might be different.

Mr. Westfall said that they installed approximately 100 of these signs per year. Because of the way the signs were constructed, the cabinet area could not be made larger when the LED lights were installed. He thought the numbers were 14 inches, and were exactly the same height as what was there now.

Member Aniol asked the applicants to explain why they couldn't reduce the size of the sign to conform to the ordinance. What was the practical difficulty that was preventing them from conforming?

Mr. Greggs said they could move the sign back to allow the current square footage, but visibility would be diminished. They needed to keep the sign in its current location; doing this required that they keep it the same size so that it would be visible.

Mr. Brown said that the City of Northville was going toward monument-style signs. They could place a monument sign with the lesser square footage, but this would be visually imposing to traffic.

Member Aniol said she understood the applicants wanted to keep the sign at its present location. What was preventing them from making it smaller?

Mr. Brown said they wanted to keep the existing structure. Mr. Greggs said that making the sign smaller would require them to replace the entire sign; this would present a hardship.

Member Aniol confirmed that the applicants were not replacing the existing cabinet, just the face of it. She said the applicants were really not citing practical difficulty, just a desire not to have to spend the money to reduce the size of the cabinet.

Mr. Brown said the sign was an existing nonconforming sign – it was there before a change in the ordinance. They were in compliance with everything except for the square footage. They were just changing the price letters to LED technology. The code enforcement officer had actually suggested they apply for a variance to keep it in the same location and grandfather in the square footage. It was an unusual corner with an old-style pole sign. If they were to upgrade more than just the price part of the sign, it would end up being more obstructing.

Member Aniol asked Planning Consultant Elmiger if the applicants were entitled to a sign on each street frontage. Planning Consultant Elmiger said the property was in the Local Commercial District. Page 21-13 of the Ordinance, Item 3, said that *Only one (1) freestanding sign shall be erected on any business site.*

Mr. Brown said that from a distance the sign was not visible until you were right at the location.

Member Aniol said the ordinance was clear in that they were not allowed to change the sign to another nonconforming sign. The ordinance did not give any leeway for a change of face, etc. Unless the applicant could demonstrate practical difficulty, it was very hard for her to find a way to approve this request.

Member Aniol asked if all 5 criteria for determining eligibility for a variance had to be met. Planning Consultant Elmiger said that Section 25.04 required that *The board shall not grant a nonuse variance unless it shall have made a finding of fact based upon the evidence, as presented to it in each specific case. Nonuse variances shall be granted if the facts meet all the criteria specified below.* Therefore all 5 criteria had to be met.

Mr. Westfall explained that the current sign was a structural steel beam and would not work in its current state if the sign had to be converted to a smaller size. The sign would have to be removed, and a monument sign would be constructed. The monument sign would be sitting on the ground and would result in a visibility issue. More importantly, there was a safety issue in that an individual went out to the

sign every day to change the numbers, and was in danger of being struck by a car. They were trying to eliminate this hazard. They had no control when the gas prices changed. Also, he believed a monument sign would obstruct traffic in that area, especially as it would be sitting on the ground and obstructing visibility at ground level. There was a lot of traffic at this corner.

Secretary Bress asked how tall a monument sign could be.

Planning Consultant Elmiger said that free standing signs could be up to 12 feet tall when located between 5 and 10 feet inside the property line. Secretary Bress thought this might constitute a traffic hazard.

Member Aniol asked if there were a clear vision requirement in the ordinance. Planning Consultant Elmiger said the ordinance required 25 feet clear vision in either direction of the intersection. A monument sign would mostly likely have to be moved further back than its current location. This would have to be measured and drawn.

Mr. Westfall didn't think they had 25 feet clear vision at that location.

Member Aniol asked Mr. Westfall to explain further what he meant about the structural integrity of the sign should the cabinet size be reduced.

Mr. Westfall said that if the size of the sign were reduced they would most likely be adding welding in order to mount it. He was not sure this would work structurally, nor was he sure the appearance would be attractive. He understood Northville had its unique ordinances, and they wanted to follow these. However, he felt they did have a practical difficulty, in that if the sign were moved back – and he didn't think there was 25 feet to move the sign back – it would render the sign unusable.

Member Mullen asked if this wouldn't be a practical difficulty.

Secretary Bress asked if the applicants had reviewed the 5 criteria for seeking a variance; these were also stated in the application.

Mr. Westfall reviewed the process that had brought them to the BZA. Mr. Brown had spoken with the Building Inspector and the Chief Building Official; both had recommended that the applicants seek a variance.

Mr. Brown said that the difficulty was not self-created, because the sign had existed for a long time, and had been approved under a different ordinance.

Secretary Bress said he agreed this was not a self-created situation. The key words were "practical difficulty." The ordinance stated that a nonconforming sign shall not be changed to another nonconforming sign.

Mr. Brown said they were not changing the sign. They were just changing the lettering inside the sign.

Mr. Westfall said that making the sign smaller would be a total change of the sign. Just changing out an interior panel did not seem to him to be changing the sign. All they would do was open up the cabinet, take out 6-foot long bulbs, put in 4 LED bulbs that read the price sign, shut the cabinet back up, and walk away.

Member Mullen asked if this request really required a variance. Did changing the lettering really constitute a sign change? She did not really feel the sign was changing.

Planning Consultant Elmiger said that since it did not appear that the applicant could move the sign to make it conforming, this might be a practical difficulty, because of the configuration of the property, though this determination would be up to the Board.

Regarding whether this change required a variance, Planning Consultant Elmiger read from Section 21-5(a) of the Ordinance:

It shall be unlawful to display, erect, relocate, or alter any sign without obtaining a sign permit. A change of copy or sign face does not require a permit if located outside of the Historic District provided that it meets illumination standards and other requirements of this Ordinance.

Because this was a non-conforming sign, it did not meet other requirements of the Ordinance, and did need a permit. A permit could not be granted without a variance.

Mr. Brown said that placing a totally new sign in that location, even it were moved back, would be more obstructive than the current pole style sign that was there. Making sure the digits were visible to oncoming traffic and safer for the one cashier that was working there was the practical difficulty.

Secretary Bress again questioned whether this needed a variance. Member Aniol said that this did require a variance because it was a non-conforming sign, as explained by Planning Consultant Elmiger. Member Callahan agreed.

Secretary Bress recognized citizen Russ Dore, who indicated he wished to comment. Mr. Dore said he was a 37-year resident and drove by this intersection frequently. He hoped the Board would not do anything that would reduce the ability of people to see the sign, causing them to slow unnecessarily in order to read prices.

Secretary Bress also recognized Ms. Carroll. Ms. Carroll asked for clarification of what was being requested.

Member Aniol said the supposition was the current sign was permitted at one time. The ordinance changed, and now it would require the sign to be smaller in area. The difference between what the applicant currently had and what the ordinance would allow was the 9.35 square feet.

Ms. Carroll said this was a heavily trafficked intersection. The station was in a residential area and the residents knew that gas station was there. She understood the safety of the one employee not wanting to go out and change the sign and that the applicant wanted to use current technology. She had no problem with the way the sign was right now. She just did not want it to increase.

Member Marold was concerned that the BZA might be creating something that could injure citizens. Traffic at that location was 45 mph. Safety might be impacted if cars had to slow down in order to see the sign.

Member Mullen agreed that the BZA might be creating a safety issue.

Secretary Bress referred to the 5th criterion: *The Board of Zoning Appeals may evaluate whether or not the request would have an impact on public safety or create a public nuisance.*

Member Mullen said that she felt there was a practical difficulty to move the sign.

Mr. Westfall said that moving the sign back would create a major safety hazard at that corner.

Member Aniol said that the applicant had to prove the practical difficulty. In this case, they were saying that moving the sign would force it to be in the asphalt or that it would be too far back and people wouldn't be able to see it. However, she didn't think this had actually been demonstrated.

Mr. Westfall said that moving the sign back 10 feet in one or the other direction would make the sign very difficult to see.

Using the site plan, Mr. Westfall reviewed the dimensions of the site with the Board.

Secretary Bress said he was ready for a motion.

Member Marold said that granting the variance this evening did not give permission for a major change. Member Mullen agreed, noting that tonight's decision only affected the lettering.

Secretary Bress reviewed the following findings of fact:

- The practical difficulty was to render conformity with such restrictions unnecessarily burdensome. It would be burdensome to have to move the sign.
- Substantial justice would be rendered.
- The problem was not self-created.
- The minimum variance was being requested.
- The variance would have a positive impact on public safety.

MOTION Mullen, support by Marold to grant the variance to keep the same size with the width of the cabinet with no change in the size of the cabinet, maintaining the 44.15 square feet as per the existing sign.

Secretary Bress asked for a roll call vote.

Aniol	no
Bress	yes
Callahan	no
Marold	yes
Mullen	yes
Wendt	yes

Motion carried 4-2. The application was granted.

VII. PUBLIC COMMENTS:

None.

VIII. DISCUSSION:

None.

IX. ELECTION OF OFFICERS:

As noted above, the agenda was amended to postpone the election of officers until the next meeting.

X. ADJOURNMENT:

Motion Mullen, support by Aniol, to adjourn the meeting at 8:44 p.m.

Voice vote: Ayes: All. Nays: None. Motion Unanimously Carried.

Respectfully submitted,

Cheryl McGuire, Recording Secretary

Approved as published 06/01/2016