

CHARTER TOWNSHIP OF PENNFIELD

ZONING BOARD OF APPEALS

MEETING MINUTES

FEBRUARY 11, 2008

Chairman Ken Davis called the meeting to order at 6:30 PM.

Members Present: Ken Davis, Julia Newman, Frank Schumacher, and Jerry Robinson.

Alternate member Perry Beard served until the arrival of Lindsay Draime at 6:45 pm. A quorum was met.

Others Present: Sandra Cummings, Recording Secretary; Russ Wicklund, Zoning Administrator, Mr. Greg Eberhard, Mr. Roger Stuart, Reverend Jackson, and several residents.

The meeting opened with the Pledge of Allegiance.

Election of 2008 Officers:

Motion was made by Julia Newman, seconded by Frank Schumacher to elect Ken Davis to the position of Chairman for the year 2008. Motion carried. Motion was made by Julia Newman, seconded by Frank Schumacher, to elect Jerry Robinson to the position of Vice-Chairman for the year 2008. Motion carried. Motion was made by Julia Newman, seconded by Jerry Robinson, to elect Lindsay Draime to the position of Secretary. Motion carried.

Public Comment: There was no public comment at this time.

Approval of October 3, 2007 Meeting Minutes:

Motion was made by Julia Newman, seconded by Frank Schumacher, to approve the minutes from the previous Zoning Board of Appeals meeting on October 3, 2007. Motion carried.

Unfinished Business:

No unfinished business at this time.

New Business:

A. Terry Carlson/Greg Eberhard – Coney Island Café Dimensional Variance

A Public Hearing was held for a variance request from applicant Greg Eberhard, owner of Coney Island Cafe. The address of the property is 962 Capital Avenue N.E.

The parcel I.D. number is 3-18-032-109-20, and the zoning is C-2 Commercial. The owner is Terry Carlson, who is leasing the building to the applicant. The zoning issue is being administered under Appendix B. Zoning, Chapter 18, Zoning Board of Appeals, Section 18.06: Variance Procedures, (b) Granting of Non-Use Variances of the Zoning Ordinance.

Mr. Eberhard presented his request for a variance from the parking standards for a restaurant use under Section 16.02.C.3. It is for an increase of parking to be based on a standard of (1) required space per every (4) persons rather than either the (1) space per 100 square feet or (1) space per every (2) persons (whichever is greater). Granting this variance would allow the applicant to increase his occupancy from 48 persons to 96 persons. The Planning Commission conducted a site plan review on January 7, 2008, to review the request from owner Terry Carlson for a change of use from retail to restaurant use. The change of use was approved with a limit on occupancy based on the available number of parking spaces, which was determined to be 24. With a standard of (1) space per every (2) persons, the occupancy was set at 48 persons.

Public comment was opened. Russ Wicklund, Zoning Administrator, pointed out that under the current Michigan Zoning and Enabling Act, this would be considered a dimensional non-use variance, and the standards for granting a non-use variance would be to show “practical difficulty” for the property owner or applicant. The “practical difficulty” here was due to the fact that the property was previously split in 1995, creating an adjacent business for the Quick Lube Oil Change Center. This split created a non-conforming building/lot situation with insufficient parking and drive aisle widths to meet the requirement for both retail and restaurant usage. Further practical difficulty was added when the street was widened, causing an encroachment situation into the road right of way by the parking spaces located in front of the building.

Mr. Ron Fogg spoke on behalf of the applicant. Mr. Fogg owns Fogg Motors Car Sales, located directly to the south of the Coney Island Café building. He has promised Mr. Eberhard additional parking for the employees of Coney Island Café which will leave more parking spaces available for patrons.

Numerous concerns were presented involving the safety of patrons entering and exiting the parking areas, the amount of traffic traveling past the entrances and the obstructed vision while turning posed by the slope of the street; the width of drive aisles for access to emergency vehicles to the rear of the building; the fact that there is no on-street parking available; and the possibility that Mr. Fogg may not always be willing or able to offer the additional parking for Mr. Eberhard's employees. Also mentioned was the fact that the retail Car Stereo business located in part of the building is still operating. It was previously stated at the January 7, 2008 Planning Commission meeting that this retail business was to vacate the premises by the end of January, 2008.

Mr. Eberhard addressed the above mentioned concerns. He indicated that there are (3) entrance/exit points to the parcel. One of these entrances actually belongs to the

Performance Plus Quick Lube next to him. He will address the entrance/exit issues as they come up, and may need to install "enter only" and "exit only" signs for safe traffic control. He plans to re-stripe the parking lot, and will maintain the required width and length measurements of all parking spaces and drive aisles. He indicated there are two existing handicapped spaces and a ramp available. He plans to pave the parking area in the lower lot when weather permits. He stated that he has arranged with Mr. Fogg to be the first in line to purchase the adjacent property should Mr. Fogg decide to sell it. Mr. Eberhard has stated that the Car Stereo business will be gone by February 29, 2008. He will be the sole tenant of the building, and may use part of the building for an ice cream parlor, which would be take-out only. No additional seating would be added specifically for the ice cream parlor.

It was pointed out by Zoning Board of Appeals member Lindsay Draime that other jurisdictions such as Emmett Township already has a standard of (1) parking space for every (4) persons, and Zoning Administrator Russ Wicklund stated that a ratio of (1) space to (4) persons is within the acceptable range. Also stated was the fact that numerous other businesses in the neighborhood face some of the same parking difficulties as the proposed Coney Island Café.

No phone calls or written comments were received prior to the meeting in regard to the variance request. Public comment was closed, and Board comment was opened. It was pointed out that the only option available for Mr. Eberhard to increase approved capacity from 48 persons to 96 persons would be to increase the standard of parking to (1) space per every (4) persons. Some members of the Board feel that the ratio of (1) space per every (2) persons is very stringent. The difficulty presented at the time of the property split was not as apparent because the retail business did not require as much parking as a restaurant would. Further difficulty was presented when the street was widened, which was an action not caused in any way by the property owner.

Board comment was closed and Chairman Davis called for a motion. Lindsay Draime made a motion, seconded by Jerry Robinson, to grant the request of an increase in parking space-to-person ratio to (1) space per every (4) persons based on the evidence of practical difficulty in the six listed sections of Chapter 18, Zoning Board of Appeals, Section 18.06.B: Granting of Non-Use Variances. Motion passed by a vote of 3 to 2. Roll-call vote follows:

Julia Newman No Jerry Robinson Yes

Lindsay Draime Yes Frank Schumacher No

Ken Davis Yes

B. Calvary Baptist Church Dimensional Sign Variance

A public hearing was held to hear comments concerning a variance request from Calvary Baptist Church. The request is for three variance requests from sign regulations under Section 16.03.H, Zoning Ordinances regulating signs in residential districts. The property address is 1625 Capital Avenue NE, parcel I.D. number is 13-18-032-100-20, and is zoned R-2, medium density residential. Relief is for an increase in maximum sign size from 16 square feet to 57 square feet; height increase from 4 feet to 10 feet 8 inches; and a variance to allow for a “message center”, which is not provided for under current sign standards. This type of function is currently being utilized by numerous schools, pharmacies, and businesses throughout the area. Being a rather new innovation, the “message center” feature was not being utilized when current ordinance standards were set. It should also be noted that the sign ordinances for commercial

zoned areas would allow for a free-standing sign of 60 square feet, and that this established church abuts commercial property to the south and east that is zoned "C-2".

Calvary Baptist Church was represented by Mr. Roger Stuart, II, Pastoral Assistant, Reverend Jackson, Senior Pastor, and Mr. Jay Johnson of Johnson Sign Company. Mr. Stuart believes that an improved, larger sign in front of the Church will enhance community involvement. It will be used to notify residents of important gatherings and events. Calvary Baptist Church is one of three Pennfield voting locations. The sign would be used to provide motorists of time and temperature information. It was pointed out that many retail businesses have similar or larger signs used for advertising purposes. While this sign would not be used for retail advertising, the Church logo is to be an important integral part of the sign, and would be located on top. The logo is the portion which will dictate the height of the sign. Setbacks are not an issue, as the front yard of the Church is large enough to accommodate a larger sign than the one currently in place.

Public comment was opened. There were some concerns about the message center, and whether it would be a distraction to passing motorists. It was pointed out that flashing lights and rapidly moving images may be dangerous, and some stipulations limiting the movement may be imposed on this variance. Mr. Stuart was questioned who would have authority over the contents of the messages. He indicated that pastoral staff would have that authority, and that the message board would be password protected. There were no phone calls or written comments received prior to this meeting regarding the request.

Public comment was closed. Board comment was opened. Chairman Davis called for a motion in regard to the three individual variance requests.

- 1) Lindsay Draime made a motion, seconded by Julia Newman, to approve the size increase from 16 square feet to 57 square feet based on the fact that the Church is adjacent to C-2 zoned property, where size limit on signs would be 60 square feet, and that the request meets requirements listed in the six sections of Chapter 18, Zoning Board of Appeals, Section 18.06 B: Granting of Non-Use

Variations. Motion passed. Roll-call Vote follows.

Julia Newman Yes Lindsay Draime Yes

Ken Davis Yes Frank Schumacher Yes

Jerry Robinson Yes

2) Lindsay Draime made a motion, seconded by Julia Newman, to approve the height variance from 4 feet to 10 feet 8 inches. Variance was approved based on evidence of requirements listed in the six sections of Chapter 18, Zoning Board of Appeals, Section 18.06 B: Granting of Non-Use Variations. Motion passed.

Roll-call vote follows:

Julia Newman Yes Lindsay Draime Yes

Ken Davis Yes Frank Schumacher Yes

Jerry Robinson Yes

3) Lindsay Draime made a motion, seconded by Julia Newman, to approve the "message center" portion of the request, with stipulations that the intervals of all

messages are at least 5 seconds in duration, and with no animated graphics. Motion passed based on evidence of requirements listed in the six sections of Chapter 18, Zoning Board of Appeals, Section 18.06 B: Granting of Non-Use Variations. Roll-call vote follows:

Julia Newman Yes Lindsay Draime Yes

Ken Davis Yes Frank Schumacher Yes

Jerry Robinson Yes

Public Comment

There was no public comment at this time.

Board Members Personal Privilege

Frank Schumacher appreciated the joint training session held in January. Julia Newman felt it was a good meeting. Lindsay Draime commented that Zoning Administrator Russ

Wicklund's information is invaluable.

Frank Schumacher made a motion, seconded by Julia Newman, to adjourn the meeting at 7:50 pm. Motion passed.