

CHARTER TOWNSHIP OF PENNFIELD

ZONING BOARD OF APPEALS

MEETING MINUTES OF JUNE 20, 2013

Chairperson Frank Schumacher called the meeting to order at 6:00 pm in the Pennfield Township Fire bay. Members present were Frank Schumacher, Perry Beard, Chuck Adams, Maryann Herbstreith, Curtis Whitaker and alternate member Lindsay Draime. A quorum was met.

Others Present: Rob Behnke, Township Supervisor and Zoning Administrator; Recording Secretary Sandra Cummings, Mr. and Mrs. Carl Angelo, Jon Markos, Roger Eaton, Attorney Kenneth Struble, Pennfield Fire Chief Tim Smith and O'Reilly Auto Parts Representative Tom Holmer.

ADDITIONS/DELETIONS TO THE AGENDA

There were no additions or deletions to the agenda.

APPROVAL OF MAY 28, 2013 MEETING MINUTES:

A motion was made by Maryann Herbstreith, seconded by Curtis Whitaker, to approve the meeting minutes from May 28, 2013. Motion carried.

PRESENTATION OF REVISED VARIANCES BY O'REILLY AUTO PARTS

Representative Tom Holmer from O'Reilly was present at the Zoning Board of Appeals meeting. The revised variance request was presented. The proposed plan is to remove an existing 2,173 square foot building located at 1401 Capital Avenue NE, formerly operated as a restaurant owned by Carl Angelo, and replace it with a 6,900 square foot metal building to house O'Reilly Auto Parts store. The property is situated on the corner of Capital Avenue NE and Hopkins Street. The proposed variances consist of four parts:

- 1) Chapter 13, Section 13.04 (F) Side yard setback on west side of building from required 30 feet to proposed 10 feet. Relief is for 20 feet.
- 2) Chapter 3, Section 3.10 (F) Relief of a required greenbelt buffer to installation of a 6 foot privacy fence only on west side of building, with no landscape plantings.

3) Chapter 16, Section 16.02 B (1) Relief of parking space length of 20 feet on 76 degree to 90 degree angle parking, reduced to 18 feet in length. Relief is for two feet.

4) Chapter 15, Section 15.02 (i) which does not allow for front yard parking within front yard setback. O'Reilly's is proposing parking spaces within the front yard setback for both areas along Capital Avenue NE and Hopkins Street. This is consistent with former businesses at this location.

ZBA MEMBERS QUESTIONS

The Board members asked if any letters or phone calls had been received prior to the meeting. It was indicated that no phone calls were received. A letter had been received from the City of Battle Creek Department of Public Works, commenting on the fact that the proposed site is located within the 1-year time of travel for the Wellhead Protection Area, that Groundwater Protection Ordinances are in place within the township, and that the storage of chemicals, oil and other contaminants should be taken into consideration if and when a site plan review takes place. The letter is on file at the township.

A letter was presented at the meeting by Attorney Kenneth Struble, representative for Eaton-Hopkins, LLC in opposition of the proposed variance request. The letter is on file at the township office.

The Board inquired whether the size of the proposed building could be reduced, thus enabling them to meet the setback requirements. Mr. Holmer indicated that the proposed size is the smallest of all the O'Reilly stores, and could not be reduced. The Board questioned whether O'Reilly had approached adjacent neighbors about purchasing additional parcels. They had not approached either Mr. Eaton or Mr. Markos about purchasing more land. The Board asked whether O'Reilly's had looked at other building sites that would be larger and more suitable. Mr. Holmer indicated that other sites had been investigated but were not as suitable.

The Board asked about delivery trucks, hours of operation, and safety issues regarding fire suppression and hazardous waste storage. Mr. Holmer indicated that deliveries would be made between 9:30 pm and 10:00 pm and would take less than 15 minutes. The delivery truck would have a back-up beeping device. The building would have a sprinkler system. The only hazardous waste would be recycled oil which would be stored inside the building in an approved containment system and regulated by EPA regulations. The safety of the area's water wells will not be affected. Hours of operation would be Monday through Saturday until 10:00 pm, and Sunday until 8:00 pm.

The Board was concerned about access for firefighting vehicles. Pennfield Fire Chief Tim Smith answered questions regarding fire protection. He indicated that a fire truck would not need to get closer than 200 feet,

as the trucks all have hoses that reach that far. He indicated that the metal building will be a low fire risk, and the sprinkler system will provide protection inside the building. He indicated if emergency vehicles need to get closer to adjacent buildings the fence could be taken down for easier access.

The Board was concerned about the location of the dumpster, and the possibility of odors, noise, lights and fire hazards. Mr. Holmer indicated that there will be no food products, so odors should be at a minimum. The bins would be emptied bi-weekly during morning hours, and no hazardous wastes would be put into them. The location could be moved to accommodate neighbor's concerns, as O'Reilly wishes to be a good neighbor.

PUBLIC COMMENT

Attorney Kenneth Struble was present, representing Roger Eaton, property manager of Eaton Hopkins LLC, owner of 267 Hopkins, Battle Creek, Michigan, the property directly to the west of the proposed building site. He is concerned about safety issues because there is not enough room for fire trucks, noise pollution, bright lights, foot traffic and vandalism from pedestrians hanging around the back area of the O'Reilly property, and the location of the trash dumpster. All of the concerns had been addressed by Mr. Holmer and Fire Chief Smith. Vandalism should actually be reduced with the presence of an operating business instead of a vacant building being there.

Jon Markos, 249 Hopkins, Battle Creek, Michigan indicated he is concerned about the safety of children in the area. He is concerned about noise and lights from delivery trucks unloading during nighttime hours when people are sleeping and the safety of his water well. All of the issues were addressed by Mr. Holmer. Noise will be minimal, and there does not need to be big lights in the parking lot. There are many other businesses in the area, and compatibility with local residents and children should not be affected.

Carl Angelo, 326 Cornell Drive, Battle Creek, Michigan, owner of 1401 Capital Avenue NE, said that this has been business property for many years, and that there have always been children in the area.

NEW BUSINESS

O'Reilly Auto Parts Variance Request

Perry Beard made a motion to deny all four of the variance requests from O'Reilly Auto Parts. There was no support for this motion.

Maryann Herbstreith made a motion to approve all four of the variance requests from O'Reilly Auto Parts. The motion was seconded by Curtis Whitaker, with the following conditions added to the variances:

1) Relocate the trash dumpster to the north side of the proposed building, further away from the Eaton property.

2) Increase the 6 foot privacy fence on the west side to 8 feet high.

The motion passed. Roll call vote follows:

Perry Beard no Frank Schumacher yes

Chuck Adams yes Maryann Herbstreith yes

Curtis Whitaker yes

PUBLIC COMMENTS

There were no public comments.

BOARD MEMBERS COMMENTS

Lindsay Draime pointed out the conflict between residents zoned R-2 Medium Density Commercial properties adjacent which have a much larger setback requirement in C-2 zoned areas. The need for variances becomes evident when we try to blend the two entities in one neighborhood.

Perry Beard felt that this business venture would be a better fit for the neighborhood than a bar or restaurant which is open late hours and serves alcohol, and said that it is apparent that O'Reilly's wishes to be a good neighbor.

ANNOUNCEMENTS

None

ADJOURNMENT

Perry Beard made a motion, seconded by Chuck Adams to adjourn at 6:52 pm. Motion carried.

Submitted by,

Sandra Cummings

Recording Secretary