

**MINUTES
CITY OF FARMINGTON HILLS
ZONING BOARD OF APPEALS
CITY HALL – COUNCIL CHAMBER
MAY 8, 2018**

CALL MEETING TO ORDER

Chair Seelye called the meeting to order at 7:32p.m. and made standard introductory remarks explaining the formal procedures, courtesies, and rights of appeal.

ROLL CALL

The Recording Secretary called the roll.

Members Present: Irvin, Lindquist, Masood, Rich, and Seelye

Members Absent: Barnette, King, O’Connell, and Vergun

Others Present: Attorney Morita and Zoning Division Representative Grenanco

SITE VISIT MARCH 11, 2018

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

The Sunday site visit begins at 9:00a.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 Rich, support by Irvin, to approve the agenda as published.

MOTION CARRIED 5-0.

NEW BUSINESS

- A. ZBA CASE: 5-18-5635
- LOCATION: 22757 Watt
- PARCEL I.D.: 23-25-377-024
- REQUEST: In a RA-3 Zoning District, a one hundred and eleven (111) foot variance is requested to install a 9 ft. x 7 ft. pigeon loft within 175 ft. of a dwelling, other than the dwelling of the owner.
- CODE SECTON: 6-4
- APPLICANT: Aref Hurmiz
- OWNER: Alvin Hurmiz

Utilizing overhead slides, Zoning Division Representative Grenanco presented an aerial view of the property, photos of the property and neighboring properties along with renderings of the proposed pigeon coop. She noted that the ordinance requires that the coop be 175 feet from a dwelling other than the owner and there are multiple dwellings within the 175 feet but they have written the variance for 111 feet as the closest neighbor is 64 feet away.

Attorney Morita advised the Board to review the letter from Mark Stec, City Planner, prior to hearing from the applicant. She noted that the Board must keep in mind that this case is different than what they

have seen before, in that this variance request did not originate out of the City's zoning ordinance, it originated out of the regular code of ordinances and the authority for the Board to act on this has been delegated by ordinance to the ZBA. She directed the Board to look at the ordinance and noted that subsection 3 has four findings that the Board will need to consider in addition to the regular criteria. She noted that Mr. Stec's letter addresses those four additional findings and the fourth finding is that the Board needs to make its decision in the same manner as a use variance in terms of voting; it must be 2/3 of the majority of the Board and there is not a full Board tonight which means that all 5 present members must vote in favor in order for the proponent to get the relief he is requesting.

Aref Hurmiz, 22757 Watt, applicant, explained that he had a coop in Livonia and they are expensive European pigeons not a wild pigeons and that is why he needs a coop for them to live in.

Chair Seelye asked what the applicant does with the pigeons. Mr. Hurmiz responded that he raises them and eats them and uses their waste as fertilizer.

Chair Seelye asked how many pigeons will be kept in the coop. Mr. Hurmiz responded there will be 30-40 pigeons.

Member Lindquist asked if the applicant uses the pigeon waste for fertilizer. Mr. Hurmiz responded yes and he gives it to friends to use as well.

Member Rich asked if the pigeons will ever be let out of the coop to fly free. Mr. Hurmiz responded that they would fly sometimes, but they always come back.

Chair Seelye opened the public portion of the meeting. There being no public comments, Chair Seelye closed the public portion of the meeting.

Member Lindquist confirmed there was an affidavit of mailing on file with 0 returned mailers.

Member Rich commented that the ordinance states that it shall be unlawful to permit any fowl, not ordinarily owed as a household pet, to run at large in any street, alley or public place or upon the premises of another without expressed permission and the applicant indicated that the pigeons will be allowed to fly free and return to the coop, and asked if that is something separate the Board needs to consider besides the 175 feet issue. Attorney Morita responded that technically the applicant stated he would let the pigeons fly around and this particular part of the ordinance says to run at large in any street, alley or public place and it does not sound like the applicant expects the pigeons to run down the street. She stated she does not feel that the Board needs to deal with that tonight as the applicant is not asking for permission to allow his pigeons to go free, if he wants to do that and if that becomes an issue he will have to come back for another variance.

Member Rich asked if the neighbors were to have a problem with the pigeons flying around would they then file a complaint. Attorney Morita responded yes.

Zoning Division Representative Grenanco mentioned that if the applicant gets approved, he still has to get a county license and there is a complaint division and they would handle those issues. She stated that she has contacted the county regarding their procedures and it is based on if the applicant gets approval from the City first.

Attorney Morita reminded the Board that they have to go through the regular variance criteria and also add on the three additional items listed in the letter from Mark Stec; subparagraphs a, b, and c.

MOTION by Masood, support by Rich, in the matter of ZBA Case 5-18-5635, to **DENY** the petitioner's request for a one hundred and eleven (111) foot variance to install a 9 ft. x 7 ft. pigeon loft within 175 ft. of a dwelling, other than the dwelling of the owner; because the petitioner did not demonstrate practical difficulties exist.

1. The letter of the ordinance would not unreasonably prevent the petitioner from using the property as a single family home; having a pigeon loft has nothing to do with residing in a single family home.
2. Granting the variance would not do substantial justice to the petitioner or other property owners in the district.
3. That the petitioner's plight is not due to the unique circumstances of the property; there is nothing unique to the property.
4. The problem is entirely self-created.

Further, there are concerns of keeping wild animals and the transmission of diseases and with the 30-40 pigeons, as stated by the applicant, odor and noise, as well as this does not go with the character of the neighborhood.

MOTION CARRIED 5-0.

B. ZBA CASE: 5-18-5636
LOCATION: 31209 W. Fourteen Mile
PARCEL I.D.: 23-02-101-062
REQUEST: In a B-3 Zoning District, a special exception to have wall signs on four (4) facades where wall signs are permitted on two facades.
CODE SECTION: 34-5.5.3.B.ii.
APPLICANT: Metro Detroit Signs
OWNER: Roger Sherr, Sherr Development/14 Orchard Plaza, L.L.C.

Utilizing overhead slides, Zoning Division Representative Grenanco presented an aerial view of the property, photos of the property, and a location map with an outline of the building. She noted that the property is located where Northwestern Hwy, 14 Mile Rd and Orchard Lake Rd all come together, it is a future Starbucks site and they are requesting additional signage for the south and east sides of the building.

Maryann Deters, Metro Detroit Signs, 11444 Kaltz Ave, explained that they are requesting two additional signs on two elevations as they feel their hardship is due to this being a busy intersection and having signs on the two additional elevations will allow cars coming from northbound Orchard Lake Rd and Northwestern Hwy. to see the Starbucks signage. She added that they are small signs which serve more as directional signs for Starbucks customers to see the location to avoid a lot of last minute turns and stops. She stated that they feel it is more of a safety concern so that people can see and have time to turn.

Chair Seelye commented that when he was driving north on Orchard Lake Rd, he could see the west side of the building before he saw the south side, as it is blocked by the building just south of this site, so he does not understand why they need a sign on the south wall.

Ms. Deters noted that the south side sign will be more towards Orchard Lake Rd and not in the middle of the building.

Chair Seelye stated that there is a sign on the west wall of the building that customers will see and he still does not follow why one is needed on the south side.

Ms. Deters stated that Starbucks feels that having that sign will define the location for northbound traffic.

Member Masood questioned if customers have had issues with missing the Starbucks. Ms. Deters responded that this is a new location for Starbucks and the fact that it is a very congested area they are requesting signage on the south elevation so the people driving north can see the drive-thru area and make the turn off Orchard Lake Rd.

Member Masood asked if this was consistent with all Starbucks locations, having signs on each side of the store.

Melissa Crew, Hilton Displays, 125 Hillside Rd, explained that Starbucks feels that with this being a busy intersection with a roundabout, adding the additional signs will help in wayfinding and traffic flow and the chevron sign points indicate to customers where the drive-thru is located. She stated that having signs on all sides of the store is somewhat consistent; it is all dependent on the structure of the building and the location.

Chair Seelye opened the public portion of the meeting. There being no public comments, Chair Seelye closed the public portion of the meeting.

Member Lindquist confirmed there was an affidavit of mailing on file with 25 returned mailers.

Member Rich stated he is torn because the two sides of the building without any signage are basically big blank brick walls that do not look particularly attractive with nothing to break them up, but that is not the criteria for granting the special exception. He stated that he drove north on Orchard Lake Rd and did not see any of the south side of the building until he was in the drive-thru area and it was similar for the east side, as he was driving northbound on Northwestern Hwy and westbound on 14 Mile Rd because of the angles of the road he saw the sign on the north face clearly before he saw the eastern face of the building. He noted that the only location where you would not see the north face is if you were already inside the Office Depot parking lot looking perpendicular to the eastern wall. He stated that while he thinks it might be more attractive to have something on the blank brick walls, it is not the criteria used to grant exceptions so he is inclined to deny the request.

Chair Seelye noted that he had the same issues with the proposed signs.

Member Irvin questioned the anticipated sales through the drive-thru. Ms. Crew responded that she was the sign person so she does not have that information but she does know that it is a very large portion of sales.

Ms. Crew commented that the south elevation is the first priority so if the Board would just allow the chevron directional sign, they would greatly appreciate it.

Member Irvin mentioned that with his experience opening up shops like this through his retail development and other developments, this request is not terribly out of line with what he has dealt with

before and hearing the applicants comments about their drive-thru business, if they feel that the south elevation sign would help that and make traffic flow easier, he is leaning towards granting just the south sign.

MOTION by Rich, support by Lindquist, in the matter of ZBA Case 5-18-5636, to **DENY** the petitioner's request for a special exception to have wall signs on four (4) facades where wall signs are permitted on two facades; because the petitioner did not demonstrate the requirements for a special exception in that:

1. The request in this case is not based on the circumstances or features exceptional to this property; because of the way the property is oriented the whole south side is blocked before you would see the signage to direct you into the drive-thru from the south elevation, you can see it from the west elevation and that would cause you to turn in at the appropriate spot. He understands that it is a busy intersection and somewhat confusing, but he does not see that this circumstance is what is exceptional that would require this signage.
2. He does not find that failure to grant relief would result in substantially more than mere inconvenience or financial expenditures or that these particular signs would in any way ultimately affect the traffic flow from the streets, as it is more a matter of aesthetics that the signs would assist with.
3. He does not find that not allowing the signs would unreasonably prevent or limit the use of the property or would unreasonably preclude the visibility or identification of the property as from just about any angle that a car would be approaching, except potentially a direct perpendicular view from the Office Depot parking lot; you can see the Starbucks signage.

MOTION CARRIED 4-1 (Irvin opposed).

C. ZBA CASE: 5-18-5637
LOCATION: 30150 Grand River Avenue
PARCEL I.D.: 23-35-201-009
REQUEST: In a B-3 Zoning District, a three hundred (300) foot variance from the requirement that an indoor recreational facility shall not be located within three hundred (300) feet of any residential district.
CODE SECTION: 34-4.19.4
APPLICANT: Nicholas Shango
OWNER: Nicholas Shango/West River Shopping Center, L.L.C.

Utilizing overhead slides, Zoning Division Representative Grenanco presented an aerial view of the property, photos of the property, and plans for the proposed facility. She noted that the site is within 300 feet of a residential district and is the former Kohl's site.

Nick Shango, 30150 Grand River Ave, explained that they need this variance to get Edge Fitness into the former Kohl's space, this will be their first location in Michigan as they are based out of Connecticut, and in order for him to move forward with the lease he needs the variance.

Chair Seelye asked if everything will take place inside the building. Mr. Shango responded yes, nothing will be outside.

Chair Seelye asked how many square feet the gym will be. Mr. Shango responded that the gym will be 37,000 square feet.

Chair Seelye questioned the hours of the gym. Mr. Shango responded that he has not gotten that far as he needs the variance to sign the lease and begin construction, so he is not sure.

Mr. Shango commented that the gym will be two stories, they plan to cut glass into the façade and along the side adjacent to the movie theater and add a back door. He stated that he plans to match the windows on the other 35,000 square feet of the space to make the façade look better as the current building looks exhausted and they want to fix that.

Member Lindquist asked if the back door on the north facing side of the building will be an entrance for the public or just access doors. Mr. Shango responded that they are just egress doors, the entrance will be in the front of the building.

Member Lindquist asked if there was any loading or unloading. Mr. Shango responded that there will not be any loading or unloading and they do not even need an overhead door.

Mr. Shango added that they have a tremendous amount of parking spaces and he does not see them parking past the second light pole so there is plenty of space until you reach the wall along the residences.

Member Irvin questioned what Edge Fitness would compare to locally. Mr. Shango responded that it is comparable to Lifetime Fitness, with an area for strictly women, cardio and aerobic classes and a juice bar.

Member Irvin asked what the price point would be for membership. Mr. Shango responded that he believes is it \$60.

Member Irvin asked if it is 37,000 square feet for both. Mr. Shango responded that the entire building is 76,000 and they are cutting it in half and also applying for indoor recreation on the other side, but Edge Fitness is ready to move forward, so they are here for the variance for Edge Fitness and will work on the other side later.

Member Masood commented that this case is advertised as fitness as well as an air trampoline park and asked the applicant to describe the trampoline park. Mr. Shango responded that they have some interest in a trampoline park but there is one down the street and nothing is for sure yet, but their main goal was to get the whole space approved as indoor recreation. He stated that they do want something that is family oriented that matches the area.

Member Irvin stated that he can appreciate the urgency to lease out the center and he knows that experiential based shopping is the shift for consumers and he thinks that this is a good start and asked if the applicant has spoken to other retailers and gained any other interest by the prospect of bringing this tenant in. Mr. Shango responded that some do not know who Edge Fitness is but they have 14 gyms in Boston and it is a new concept. He stated that what interested them was how big it was and they wanted something there that would attract people to the space.

Member Irvin commented that his biggest concern is the hours of the gym, being that it is in a residential area.

Attorney Morita noted that the Board can condition the variance on the hours.

Chair Seelye opened the public portion of the meeting. There being no public comments, Chair Seelye closed the public portion of the meeting.

Member Rich commented that the request is for a 300 foot variance to the requirement that there be 300 feet from a residential district and asked how far this particular storefront is from any of the residences. Attorney Morita responded that they do not know and because of the way the ordinance is written it has to be a variance from the lot line.

Attorney Morita explained that when staff was looking this case they found it is within 300 feet of a residential district but when looking at the property on the east side there is a very large parking lot and there is already an existing movie theater in the same lot. She stated that the Board has the ability to place hours of operation restrictions if they feel that is appropriate, keeping in mind the hours of the Target store and movie theater. She added that this is a substantial request when looking at the numbers but when you look at the way the property is situated and what else is occurring on the property the Board may be able to find a reason to grant a variance if they feel it is the right thing to do.

Mr. Shango noted that the hours for the gym will be 24 hours. He explained that they are putting 2 million into this deal and there are very few things they can do with such a large space that will benefit the area around it and he believes this gym fits in. He stated that there will not be many members at the gym late at night.

Member Lindquist questioned the distance from the front of the store where the entrances will occur to the lot line with the residential property to the west. Mr. Shango responded that it is over 300 feet.

Member Lindquist commented that the no one will be in the back of the building or along the lot line, they will all be on the farthest edge of the building from the residential property.

Zoning Division Representative Grenanco noted that from the front of the building to the lot line is approximately 450 feet.

Member Masood asked the applicant his thoughts if the Board were inclined to not grant the 24 hour operation. Mr. Shango responded that this gym has to be 24 hours.

Member Masood stated that, as far as noise, the gym would not be as much as the trampoline park and asked if the Board were to set hours on the trampoline park, would that be more suitable. Mr. Shango responded that he would come back for the other side later, they are sure about the gym but not sure about what will go next door.

Mr. Shango explained that nothing would be going on behind the building and there will be no parking spaces in the back.

Member Lindquist confirmed there was an affidavit of mailing on file with 21 returned mailers.

MOTION by Irvin, support by Masood, in the matter of ZBA Case 5-18-5637, to **GRANT** the petitioner's request for a three hundred (300) foot variance from the requirement that an indoor recreational facility shall not be located within three hundred (300) feet of any residential district; because the petitioner did demonstrate practical difficulties exist in the case and he set forth facts which show that the redevelopment is necessary for the center to continue growth and that although the 300 foot variance

comes off the property line it seems that there is ample space in between the front of the building and the adjacent neighborhood. For these reasons he finds that:

1. Compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose or 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 or that a lesser relaxation than that relief applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
3. That the petitioner's plight is due to the unique circumstances of the property.
4. The problem is not self-created.

Member Masood commented that he is seconding this motion because this is a B3 Zoning District and it is consistent with some of the other stores in the center; there is a movie theater with showings at least until midnight, the Target store closes weekdays at 10pm and weekends at 11pm. He stated that there was concern about noise pollution but he finds that sufficient parking is there and there are other stores so the noise pollution concern is moot.

MOTION CARRIED 5-0.

PUBLIC QUESTIONS AND COMMENTS

There were no public questions or comments.

APPROVAL OF APRIL 10, 2018 MINUTES

MOTION by Rich, support by Lindquist, to approve the Zoning Board of Appeals meeting minutes of April 10, 2018.

MOTION CARRIED 5-0.

ELECTION OF OFFICERS

Discussion took place regarding the procedure for the election of officers and the term of office for the Zoning Board of Appeals members.

MOTION by Masood, support by Lindquist, to nominate Chair Seelye for Chair of the Zoning Board of Appeals.

Chair Seelye accepted the nomination for Chair of the Zoning Board of Appeals.

Roll Call Vote:

Yeas: LINDQUIST, MASOOD, RICH AND SEELYE
Nays: NONE
Absent: NONE
Abstentions: NONE

MOTION CARRIED 4-0.

MOTION by Seelye, support by Masood, to nominate Member Lindquist for Secretary of the Zoning Board of Appeals.

Member Lindquist accepted the nomination for Secretary of the Zoning Board of Appeals.

Roll Call Vote:

Yeas: LINDQUIST, MASOOD, RICH AND SEELYE

Nays: NONE

Absent: NONE

Abstentions: NONE

MOTION CARRIED 4-0.

MOTION by Masood, support by Lindquist, to postpone the nomination of Vice Chair of the Zoning Board of Appeals to the June 12, 2018 meeting.

MOTION CARRIED 4-0.

ADJOURNMENT

MOTION by Rich, support by Lindquist, to adjourn the meeting at 8:41pm.

MOTION CARRIED 5-0.

Respectfully submitted,

Erik Lindquist, Secretary
Zoning Board of Appeals

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