

**MINUTES
CITY OF FARMINGTON HILLS
ZONING BOARD OF APPEALS
CITY HALL – COUNCIL CHAMBER
MAY 13, 2014**

CALL MEETING TO ORDER:

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

ROLL CALL:

The Recording Secretary called the roll.

Members present: Barringer, Lindquist, Masood, Rich, Seelye, Stevens, White

Members Absent: Vergun

Others Present: Attorney Morita, Zoning Representative Grenanco

SITE VISITS MAY 4, 2014 AND MAY 11, 2014

Chair White noted when the Zoning Board of Appeals members visited the sites.

The Sunday site visit begins at 9:00 a.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

Chair White stated that ZBA Cases 5-14-5521, 5-14-5522 and 5-14-5523 have been withdrawn from the agenda.

MOTION by Lindquist, support by Seelye, to approve the agenda as amended.

MOTION CARRIED UNANIMOUSLY, 7-0

OLD BUSINESS:

- A. ZBA CASE: 4-14-5515
LOCATION: 22610 Clear Lake
PARCEL I.D.: 23-29-379-012 ZONE: RA-1
REQUEST: A 25 foot variance to the required 35 foot rear yard setback in order to build a 3-4 season room at the back of their home.
CODE SECTION: 34-3.1.4.E
APPLICANT/OWNER: Larry G. Ehlers

Attorney Morita explained that the proponent has requested that this case be adjourned to a date certain, specifically July 8, 2014, to allow for more time to obtain the information requested by the Board.

MOTION by Barringer, support by Lindquist, to adjourn the consideration of ZBA Case 4-14-5515 to the Zoning Board of Appeals meeting of July 8, 2014.

MOTION CARRIED UNANIMOUSLY, 7-0

NEW BUSINESS:

- B.** ZBA CASE: 5-14-5517
LOCATION: 27831 Orchard Lake Road
PARCEL I.D.: 23-10-476-044 ZONE: B-3
REQUEST: 1. A variance from the requirement that loading and unloading zones may only be placed in the rear yard or interior side yard in order to place a loading, unloading zone partially in the exterior side yard. 2. A variance from the requirement that parking may be permitted in the required front yard setback provided that the parking setback is not less than 10 feet within the ultimate ROW. 3. A variance from the requirement that a landscaped area not less than 10 feet deep and abutting the street or freeway shall be provided in the setback within the ultimate ROW. (Plan meets requirement for the existing ROW, however a portion of the parking lot and the required landscaped area is within the ultimate ROW.)
CODE SECTION: 34-5.1, 34-3.5.J, 34-3.5.V
APPLICANT: Retail Equity Partners Holdings, L.L.C.
OWNER: Orchard Lake Enterprises, L.L.C.

Zoning Division Representative Grenanco discussed the location of the property and presented an overview of the property and the proposed site plan for the development. She explained that due to the unusual configuration of the building, the loading/unloading area falls partially in the exterior side yard; therefore, a variance is being requested. She added that the applicant is also requesting a variance in regard to the ultimate right-of-way.

Attorney Morita explained that the Board has seen these types of cases before where properties abut busy roads and the proposed ultimate right-of-way is very expansive and not in use. She noted that the issue then becomes whether or not the property has unique circumstances such that it can use the existing right-of-way in order to justify the setback requirement, opposed to the proposed right-of-way. She added that in these particular cases it does not appear that the proposed right-of-way would be applied by the City, County or State.

Gary Perlmutter, representative for proponent, explained that the attempt to develop this lot has been going on for months and they have received approval from the Planning Commission conditional on these variances being granted. He stated that in order to meet all development requirements of the Planning Department they have done the following; changed the facing of the building to 12 Mile Road, reduced the size of the building twice and widened the bypass and drive-thru lanes in accordance with Fire Code; and as a result of these design changes, the loading/unloading zone is now not in compliance. He explained that a portion of the loading zone is located in the side lot; however the dumpster enclosure is located in the rear lot. He noted that there is no other configuration option for this development as they cannot move the building east or west due to lane restrictions for the drive-thru and bypass lanes; and they cannot move the dumpster enclosure due to the utility easement behind the building. Therefore, the current configuration is essentially the only way to develop the site. He added that during the design of the site, they paid close attention to making sure that the dumpster enclosure was behind the building.

Mr. Perlmutter stated that in regard to the future right-of-way, in order for the building to be in compliance, they would have to add an additional 14 foot setback for the greenbelt and parking, which he believes would then render the site undevelopable.

Member Rich inquired about the seating capacity of the restaurant. Mr. Perlmutter responded that it will include roughly 40 seats and the design is what Burger King refers to as a rock square. He noted they have never built one this small.

Member Rich questioned when and how often the loading and unloading occurs. Mr. Perlmutter stated that they are flexible with the loading/unloading activities, but typically trash removal is once a week. He stated they are prepared to have it twice a week if needed and all loading/unloading would take place during non peak business hours.

Member Lindquist questioned if the proposed loading area was sufficient enough for a Burger King restaurant. Mr. Perlmutter explained that the applicant owns and/or operates five other Burger King restaurants in the Metro Detroit area and some of the things they looked at when working with the Engineers to design this site was how they can make the loading area less obtrusive into the side lot, keep the dumpster enclosure behind the building and still have adequate size for trash removal, which is all included in the current plan.

Member Lindquist asked if this store will be a 24 hour operation. Mr. Perlmutter responded that the restaurant will be open 24 hours.

Chair White inquired about the feasibility studies for this development in regard to traffic counts turning right into the site from Orchard Lake Road and possibly then into the drive-thru lane. Mr. Perlmutter stated that he did not have the traffic counts on hand; however, they are aware that this is a very busy intersection and the plans approved by Burger King include state of the art equipment in order to keep traffic moving through the drive-thru. He noted that with the applicant's experience at his other stores, he has the ability to train staff appropriately for this location.

Member Rich stated that his concern is not with the loading/unloading zone being in the wrong area, but whether it would create a safety hazard due to an obstruction of view while vehicles are loading and/or unloading and questioned how traffic will flow through the site. Mr. Perlmutter stated that the general flow of traffic is counter clockwise through the site by use of either the 20 foot wide lane that runs along the perimeter of the property to access the drive-thru or the bypass lane in the event that a car wants to get out of the drive-thru lane. He added that the loading zone area would not impact drive-thru traffic.

Member Rich asked if two-way traffic will be allowed off both Orchard Lake Road and 12 Mile Road. Mr. Perlmutter explained that the plan is to allow cars to enter and exit from Orchard Lake Road and 12 Mile Road; however, the site plan was approved conditioned upon the Engineering Department determining whether traffic should be restricted to turn right only when exiting onto 12 Mile Road. He added that vehicles cannot turn left onto Orchard Lake Road due to the location of the median.

Member Barringer stated that he has concerns with the delivery trucks accessing the property and interfering with the parking lot traffic due to their size and questioned the time of day the deliveries typically would occur. Paul Kessler, owner/operator, responded stating that the delivery company he uses is aware of the size of this development and will work with him to accommodate the deliveries. He noted that this company uses smaller delivery trucks and the deliveries typically occur two times a week during non peak hours.

Chair White inquired as to the non-peak hours. Mr. Kessler responded that non-peak hours would be approximately 5:00 a.m. and 8:30-9:00 p.m.

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

Member Rich stated that he believes one of the reasons for the setback requirement is a matter of safety and asked the proponent if there will be a barrier between the road and parking lot in order to avoid

potential risk. Mr. Perlmutter responded stating that there is a 10 foot greenbelt between the parking area and roadway.

Member Rich asked if staff was aware of any plans to modify Orchard Lake Road at 12 Mile Road. Zoning Representative Grenanco stated that there is nothing planned for this intersection in the foreseeable future.

Alternate Member Masood questioned the length of time it takes for loading and unloading. Mr. Kessler stated it takes about 15-20 minutes.

Alternate Member Masood asked how many vehicles the drive-thru lane can hold before blocking traffic. Mr. Perlmutter responded that the drive-thru lane is prepared to stack seven vehicles; however, it would take several more vehicles to block traffic.

Acting Secretary Seelye confirmed there was an affidavit of mailing on file with 27 returned envelopes.

Attorney Morita informed the Board that the City's ordinance does not allow deliveries between the hours of 7:00 p.m. and 7:00 a.m.; therefore, if the Board is considering the times discussed as a condition, it would require another variance.

MOTION by Rich, support by Lindquist, in the matter of ZBA Case 5-14-5517, to GRANT the petitioner's request for the following variances: 1) A variance from the requirement that loading and unloading zones may only be placed in the rear yard or interior side yard in order to place a loading, unloading zone partially in the exterior side yard, 2) A variance from the requirement that parking may be permitted in the required front yard setback provided that the parking setback is not less than 10 feet within the ultimate ROW, and 3) A variance from the requirement that a landscaped area not less than 10 feet deep and abutting the street or freeway shall be provided in the setback within the ultimate ROW; as the petitioner did demonstrate practical difficulties exist in this case in that he set forth facts that show that:

1. Compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose; as the owner and operator has made substantial modifications to the building and overall site layout in order to develop the property.
2. That granting the variance requested would do substantial justice to the petitioner as well as to other property owners in the district; given the fact that this property is located at the intersection of 12 Mile and Orchard Lake Roads which are both heavily traveled main roads, the property is not encroaching on any neighboring properties, the proponent meets setback requirements for the existing rights-of-way and there are no neighboring property owners in similar situations such that granting the variance would do an injustice to them.
3. That the petitioner's plight is due to the unique circumstances of the property as the property is small in size; and that the proposal meets all requirements based on the existing right-of-way as opposed to the ultimate right-of-way.
4. That problem is not self-created as the rights-of-way have been established by the City and Oakland County.

SUBJECT to the condition that the site is developed as proposed in the plans approved by the Planning Commission and in accordance with the results of the engineering studies, as discussed.

Member Stevens commented that he is in support of the motion since the applicant has worked diligently in the design, that this Burger King is significantly smaller than standard Burger King restaurants and even with the smaller footprint, they still need variances due to the size and unique nature of the parcel.

Member Rich informed the applicant to verify with the Zoning Department that the proposed setup of the signage is in compliance with the ordinance.

MOTION CARRIED UNANIMOUSLY, 7-0

- C.** ZBA CASE: 5-14-5518
LOCATION: 25820 Orchard Lake Road, vacant adjacent parcel
PARCEL I.D.: 23-23-101-003, -021 ZONE: RA-1, OS-1
REQUEST: A special exception is requested in order to install a 40 inch by 60 inch wide non-accessory sign in an RA-1 and OS-1 zoning district (non-accessory signs are only allowed in LI-1 zoning district).
CODE SECTION: 34-5.5.1.D
APPLICANT: Cheryl Robinson for Kids Play & Stay Montessori
OWNER: INXS V, L.L.C.

Zoning Representative Grenanco discussed the location and overview of the properties involved and presented a sketch of the proposed sign that indicated the dimensions and sign location. She noted that a similar case was presented before the Board in 2013 in which the applicant requested a sign with only one tenant, almost double the size of the sign requested in this case but with the same setbacks and same location.

Attorney Morita explained that since this case was denied by the Board last September, the Board could not consider this case unless they determine whether or not there has been material change. If they determine that there has been, the Board would then be allowed to take jurisdiction over the case. She noted that when looking at material change, it needs to be determined whether there has been a change in the surrounding conditions, or a change in the way the applicant has been working with the City in terms of meeting other requirements.

Zoning Representative Grenanco indicated that some of the issues mentioned last year included the size of the sign being too large and the fact there was only one tenant on it, which raised concern that multiple tenants would then want their own individual signs. She stated that the applicant has addressed those issues by reducing the size of the sign from 32 square feet to 16.68 square feet and by adding a second tenant. The Zoning Department considered that a material change and that is why the application was accepted.

Member Lindquist noted that this case does not have a different proponent but an additional proponent, still has the same property owner, has approximately the same total signage area, and it is still being placed on the adjacent property as a non-accessory use of that property; therefore, he does not see a material change in the circumstances. He explained that last year he made the motion to deny the relief requested and a major factor in that was that he feels it is self-created by the property owner who owns both parcels and could easily apply to merge the properties. He added that there have been three hearings on this case and the property owner has not appeared before or provided the Board reason for them to believe that he has considered any alternatives.

Member Lindquist explained that the primary reason for the denial was that this is a non-accessory sign on an adjacent property, not so much the size of the sign, content or location on the proposed lot. He noted that they do not allow billboard type of advertising and essentially that is what this would be; this is a non-accessory use as this is a vacant property.

Member Lindquist indicated that he feels the same reasoning for denying the case in September remains and he does not believe there has been a material change with the current application.

Attorney Morita clarified that the Board must determine whether or not there has been a material change, make a motion in that regard and then vote on that motion. If it is determined that there has been a material change, the Board would then consider the special exception.

Chair White asked the applicant, Cheryl Robinson, to come forward so the Board may ask her questions.

Member Lindquist asked if Ms. Robinson was aware of the denial of the application submitted by the adult day care and the reasons for the denial in September 2013. Ms. Robinson stated that prior to signing her lease in July 2013, she was not aware of any zoning issues.

Member Lindquist asked Ms. Robinson to describe how she feels this case is different from the application submitted by the adult day care last year.

Ms. Robinson explained that the sign aesthetically conforms to other signs on Orchard Lake Road and all the other businesses on Orchard Lake Road have signs. She stated that she was unaware when she signed the lease that the area where the sign was proposed to be located is a different piece of property than where her building is located; and she has talked to the owner about combining the parcels but she could not convince him to come back from Florida and spend the money to do so.

Member Lindquist stated that there are no other non-accessory signs anywhere in this type of business district. In that sense he feels this request is the same as the other application and; therefore, no material change.

Zoning Representative Grenanco pointed out that the sign itself is about half the size of the previous request.

Member Lindquist commented that the sign is still proposed to be located on an adjacent property, which was the primary reason to deny this request in the past. He then asked Ms. Robinson to identify if there are any other differences in her request from the previous application.

Ms. Robinson stated that there are two daycares on the property, one for seniors and one for children; therefore, they need a sign. She noted that there have been incidents where parents were unable to locate her business because it sits so far back off Orchard Lake Road and there is no signage, therefore, this is causing her business to suffer. She asked that the Board consider her request for a special exception since the adjoining property is owned by the same owner and he has granted permission to the tenants to have a sign located on that property.

Chair White asked the applicant when she last had a conversation with the owner in regard to the sign. Ms. Robinson responded that it had been about a month or two, it was around the time she filed the application and at that time he was supportive of the sign; however, he does not want to come here to address the issue of merging the properties.

Member Lindquist commented that he does not find any significant material change in this request. He noted that the Board did not deny the previous petition based on the size of the sign; that the primary reason was based on the location being on an adjacent property and, in addition, there was input from neighboring residents that factored into the motion. He stated that he is sympathetic with the business owners, however, this type of special exception on a commonly owned property will be to the benefit of the property owner and if the tenants leave, the property owner still gets the benefit. He added that the property owner has not appeared before or provided significant support to the Board as to why he could not resolve the issue.

MOTION by Lindquist, support by Barringer, in the matter of ZBA Case 5-14-5518, that it has been determined that this petition can not be considered by the Board because it does not contain changes that are different in a material way from the prior petition that was considered in September 2013, which was denied.

MOTION CARRIED, 6-1 (Masood opposed)

Member Rich asked if there was an opportunity for the property owner or applicant to reapply yet again to see if there can be a material change. Attorney Morita suggested that the applicant have the property owner contact staff in order to work with them on this issue.

D. ZBA CASE: 5-14-5519
LOCATION: 31173 Applewood
PARCEL I.D.: 23-05-127-020 ZONE: RP-1
REQUEST: A 2 foot variance to the required 35 foot front yard setback is proposed in order to construct a covered porch addition in the front yard.
CODE SECTION: 34-3.1.8
APPLICANT: Dennis S. Gulian/D.S. Gulian Custom Builder
OWNER: Chris Hess

Zoning Representative Grenanco discussed the location of the property and presented an overview of the property, photo of the porch and a sketch of the proposed porch covering.

Member Rich noted that he was unable to access this site due to it being located in a gated community and questioned if any other homes in the surrounding area have covered front porches of similar size to that of the applicants. Zoning Representative Grenanco responded that she did not notice other porch coverings; however, she did notice that there are other porches in the area and this porch fits in with those observed.

Member Barringer stated that he drove around the immediate area and did not observe any other coverings.

Zoning Representative Grenanco noted that this gated community is very large spanning from 13 Mile Road to 14 Mile Road with multiple different subdivisions and condominium associations and this house is located right at the entrance off of 14 Mile Road so there are many other homes and subdivisions south of this site.

Maria Gleeson, representative for the builder, explained that they are asking for this variance in order to provide adequate coverage and protection over the front porch from the elements in order to make it easier on the homeowners coming in and out of the front door.

Chair White stated that he visited the site on a rainy day and because of the sloped roof and given the amount of rain, he noticed that it was quite a mess at the front door. He asked if the home was occupied.

Ms Gleeson responded that the home is occupied and noted that she is a laborer and has worked in the home on many remodeling projects.

Member Lindquist questioned if Ms. Gleeson was representing the company that built the porch and would be building the porch covering. Ms. Gleeson stated she is representing Dennis Gulian, owner of the company; however, she is not sure if the deck was built by the company or if it was subcontracted and she is not aware of who will be building the porch covering.

Member Lindquist inquired if Dennis Gulian was the general contractor for the home and/or part of the ownership of the home. Ms. Gleeson responded that the homeowner hired Dennis Gulian and the company determines what is to be subcontracted.

Member Lindquist inquired if they have considered a lesser relief than what is requested by possibly making the porch covering 5 feet opposed to 7 feet. Ms. Gleeson responded that she was not sure if that was an option or not.

Chair White asked if there were any color depictions of the porch cover selected by the homeowner. Ms. Gleeson stated that all she had with her was a sketch and she was not aware of what has been selected.

Member Masood questioned when the home was built and when the deck was installed. Ms. Gleeson stated that it is an older home and she did not know exactly when the home was built; and she believes the deck was built in late summer of 2013.

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

Chair White stated that the porch covering should be consistent with the neighborhood and suggested that a motion include that the porch covering goes with the color and schematic of the house and consistent with the neighborhood.

Attorney Morita indicated that the Board has previously made motions where they have required materials to be consistent with the existing materials on the home and she agrees that there is difficulty in this case since there are no specific depictions of the materials proposed and the Board should determine whether or not they want to consider this case tonight or ask for more information.

Acting Secretary Seelye confirmed there was an affidavit of mailing on file with 2 returned envelopes.

MOTION by Rich, support by Barringer, in the matter of ZBA Case 5-14-5519, to DENY the petitioner's request for a 2 foot variance to the required 35 foot front yard setback in order to construct a covered porch addition in the front yard because the petitioner did not demonstrate practical difficulties exist in this case in that she set forth facts which do not show that:

1. The granting of the variance requested would do substantial justice to the other property owners in the district; and it is not known if a lesser relaxation than that relief applied for would give substantial relief to the owner of the property involved.

2. The petitioner's plight is due to the unique circumstances of the property; as all properties in the area have the same general layout and the petitioner did not demonstrate that this property is particularly unique, such that it would need a covered porch.

MOTION CARRIED, 6-1 (Stevens opposed)

- E.** ZBA CASE: 5-14-5520
LOCATION: 32255 Northwestern Hwy.
PARCEL I.D.: 23-02-251-001 ZONE: OS-1
REQUEST: In order to permit a 96.4 square foot sign on the northern façade the following special exceptions are requested: 1. A special exception of one wall sign to the number of wall signs allowed per façade (ordinance allows two wall signs): 2. A special exception of 46.4 sf. to the square foot limit (ordinance allows 50 square feet):
CODE SECTION: 34-5.5.2.A.C.
APPLICANT: Araneae, Inc.
OWNER: Pearlmark Real Estate Partners, L.L.C.

Zoning Representative Grenanco discussed the location of the property and presented an overview of the property, photos of the building, existing signs and a sketch of the proposed sign. She noted that the second part of the special exception is for 46.4 square feet to the 50 square foot limit that would bring all of the building signs into compliance since the current signage is over by 5 square feet, however, the sign the proponent plans to install is only 41.4 square feet.

Brian Amann, representative for applicant, stated that they would like to thank Farmington Hills administration for help getting Millennium Medical into the City and that they have consolidated 19 medical offices into this one 92,000 square foot location in which they provide assistance to over 20,000 patients a month. He noted that their special exception request for a sign is not for advertisement purposes but for directional assistance to the patients and it is consistent with this building and other buildings in the area. He added that the current signage is nonconforming so their request has been combined with an additional 5 square feet in order to clean up that nonconformity.

Mr. Amann explained that they believe the special exceptions should be granted for the following reasons:

- The circumstances are unique in that the size of the building is exceptionally large for the community and it is setback over 400 feet from Northwestern Highway.
- The design of the building is unique, it is not a classic square building, the walls are configured on different angles and different directions and it is actually two buildings connected by an enclosed atrium.
- Due to the nature of what Millennium Medical does and the volume of patients they assist, many of whom are aging or have serious medical conditions, the landlord found it best to provide them with their own dedicated entrance at the end of the building. This is where the sign is proposed to be located, to help assist the patients navigate their way to the appropriate office area.
- Due to the unique design of the building and the alignment of the walls from Northwestern Highway, the proposed sign can not be seen the same time as the other building signs.
- If the request is not granted it will unnecessarily cause confusion for their patients to find the new location along a busy highway and to know where to park and get into the medical building.

- The sign requested is compatible with most building signs along Northwestern Highway, in which they are located on each end of the building.
- The request would not interfere with other property users.
- The request would not negatively impact the character or aesthetics of building.
- The sign is not obtrusive or blinking, it is subtle in character.

Member Rich commented that the sketch indicates that the signage will have LED's attached to the channel lettering and asked if the Merrill Lynch or Tri Atria signs are backlit. Sam Ziedman, representative of the sign company, responded stating that the Millennium Medical sign will be internally illuminated with LED's, low voltage and have typical channel lettering; the Merrill Lynch sign is an old foam type of sign and the Tri Atria sign is formed plastic and neither one is backlit.

Member Rich questioned how the sizes of letters for the Millennium Medical sign compare to the Merrill Lynch and Tri Atria signs. Mr. Ziedman responded stating that the Medical and Tri Atria signs are about the same size lettering and the Millennium and Merrill Lynch signs are about the same size lettering.

Chair White inquired if a portion of the medical office is open and seeing patients. Mr. Amann responded stating that there is a portion of the office that is currently open.

Chair White commented that during his site visit he noticed that there were gentlemen in white shirts wheel-chairing patients into the office. Mr. Amann stated that Millennium Medical provides that service for those patients that can not ambulate.

Member Lindquist questioned if the Tri Atria sign was branding only for the building and not a company within the building; and if there has been any consideration to remove that sign. Mr. Amann stated that they have no control over the removal of the sign and he believes that the sign is original to the building and might still be used as a directional sign to navigate to the building.

Member Lindquist commented that this is an unusual set of circumstances due to the size and shape of the building and the 45 degree angle to Northwestern Highway and he feels another sign would be reasonable.

Member Rich asked staff if there was an ordinance regarding the brightness of LED's. Zoning Representative Grenanco stated she did not know if there was such an ordinance and that issue would be directed to the Planning Department.

Member Rich questioned if the sign would be illuminated 24 hours a day. Mr. Ziedman indicated that the sign would be on a photo cell to adjust accordingly to the surrounding light.

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

Acting Secretary Seelye confirmed there was an affidavit of mailing on file with 30 returned envelopes.

MOTION by Stevens, support by Rich, in the matter of ZBA Case 5-14-5520, to GRANT the petitioner's request for the following special exceptions: 1) One wall sign to the number of wall signs allowed per façade (ordinance allows two wall signs) for a total of three wall signs; and 2) 46.4 square feet to the square foot limit (ordinance allows 50 square feet); based upon:

- the unique character of the building, such that the façade is not at one angle, that there are multiple angles and the north façade is at almost three angles;
- the fact that the building is set back a significant distance from Northwestern Highway;
- the fact that Northwestern Highway runs at a severe skew to the property, causing unique visibility issues with signage; and
- the sign, as proposed, is in character with the building and area

MOTION CARRIED UNANIMOUSLY, 7-0

I. ZBA CASE: 5-14-5524
LOCATION: 32769 Northwestern Highway
PARCEL I.D.: 23-02-178-001 ZONE: B-3
REQUEST: A 5 foot 4 inch height variance to the required 40 foot height limit in order to build a hotel in a B-3 Zoning district.
CODE SECTION: 34-3.1.25.E
APPLICANT: Hospitality Investment Group, Inc., c/o John Gaber, Williams, Williams, Ratner & Plunkett, P.C.
OWNER: Hospitality Investment Group, Inc.

Zoning Representative Grenanco discussed the location of the property and presented an overview of the property and a proposed site plan of the Holiday Inn.

John Gaber, Attorney for the applicant, explained that this was an underutilized site with two restaurants; the New Hella's Restaurant, which is operating currently, and a closed restaurant to the north. He stated that the New Hella's Restaurant will be retained by the applicant and the closed restaurant, which has now been demolished, will be the location of the proposed 4-story Holiday Inn Express and Suites Hotel. He noted that this is a B-3 District that allows hotels.

Freeman Greer, architect for the development, presented a rendering of the hotel's façade.

Mr. Gaber indicated that the Planning Commission has approved the site plan submitted subject to the granting of the height variance. He pointed out that the highest point of the hotel is the architectural feature above the main entrance which has a height of 45.4 feet; the feature is identical on the east and west side and not present on the north and south side of the building. He explained that the original plans for the hotel had a roof height of 47 feet, which was redesigned to 41.4 feet. He noted that due to the need for 8 foot ceilings in the guest rooms and the required utility systems that must be installed; the roof height could not be reduced any further.

Mr. Gaber explained that they have looked at other options such as reducing the grade and lowering the building into the ground, moving the building location or reducing it to a 3-story building; but due to the close proximity of the New Hella's Restaurant, the grade has been set. He added that moving the hotel further south on the site would infringe upon the residential area and hotel chains and investors require 4-story buildings due to the competitive market environment for hotels in this area.

Mr. Gaber stated that they have looked at the surrounding areas for the purpose of comparison and noted that there is a proposed 4-story Hampton Inn at 14 Mile Road and Northwestern Highway in West Bloomfield, which has been approved not to exceed 55 feet, and there is a Comfort Inn at 12 Mile and Orchard Lake Road that has a 4-story wing that appears to exceed 40 feet.

Mr. Gaber explained that they believe they have met the requirements in order to determine that the variance should be granted, which are as follows:

- The unique circumstance exists due to the close proximity of the New Hella's Restaurant, which sets the grade of the entire property and provides a site constraint that limits the design and engineering flexibility. Other properties are not constrained by having an existing building within such a close proximity of a new development.
- Granting the height variance would not be detrimental to the public or adjacent property owners as hotels are a permitted use in B-3 district and there are many other commercial uses nearby.
- Home Depot and Sam's Club both have entrance features that are also fairly high.
- The hotel will be an economic generator and it will support existing businesses in the area; therefore, substantial justice would be done to the applicant and surrounding community.
- The hotel is consistent with the Future Land Use for the Northwestern Highway corridor area.
- The hotel will improve the look and visibility of the current area.

Member Lindquist asked if this is the same owner that has come before the Board in the past for issues with the construction and signage for the two restaurants. Jimmy Asmar, owner, stated that he acquired both the New Hella's Restaurant property and the other property within the past two years, therefore, he is not the same owner.

Member Lindquist questioned how far the nearest hotel was located, besides the proposed Hampton Inn. Mr. Asmar responded that the closest hotels would be Orchard Lake Road and 12 Mile Road, at 14 Mile Road and Lasher Road and at 14 Mile Road and M-5.

Member Stevens inquired about the proposed finished grade and if it will be the same along the entire perimeter of the building. Mr. Gaber responded that he did not have the exact numbers but he believes if it is not the same, it is very close since the property is quite flat.

Discussion was held regarding height allowances, the proposed height of the hotel and the height of the surrounding commercial buildings and other buildings throughout the City.

Member Lindquist pointed out that the applicant has received approval from the Planning Commission for a 4-story hotel.

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

Acting Secretary Seelye confirmed there was an affidavit of mailing on file with 8 returned envelopes.

MOTION by Lindquist, support by Seelye, in the matter of ZBA Case 5-14-5524, to GRANT the petitioner's request for a 5 foot 4 inch height variance to the required 40 foot height limit in order to build a hotel in a B-3 zoning district because the petitioner did demonstrate practical difficulties exist in this case in that he set forth facts which show that:

1. Compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose, and would render conformity with the

ordinance unnecessarily burdensome; as hotels are permitted and tend to be the preferred use in B-3 districts and the extent of the additional height is mainly decorative and adds appealing architectural detail to the building.

2. That granting the variance requested would do substantial justice to the petitioner as well as to other property owners in the district; that a lesser relief than that applied for would not be available because the building would not have the same architectural appearance and it would provide relief to the adjacent property owners as it makes the building more attractive.
3. That the petitioner's plight is due to the unique circumstances of the property, in this case the site is on a completely flat grade and the request is mainly appearance based.
4. That problem is not self-created as the current general design standards of hotels are of this size and the design is consistent with other hotels.

SUBJECT to the condition that the hotel is built in accordance with the plans and materials submitted and presented to the Board; and is consistent with the plans previously approved by the Planning Commission.

MOTION CARRIED UNANIMOUSLY, 7-0

PUBLIC QUESTIONS AND COMMENTS:

There were no public comments

APPROVAL OF APRIL 8, MINUTES:

MOTION by Rich, support by Seelye, to approve the April 8, 2014, Zoning Board of Appeals minutes as submitted.

MOTION CARRIED UNANIMOUSLY, 7-0

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 Rich, support by Stevens, to nominate Member Seelye for Chair of the Zoning Board of Appeals.

MOTION CARRIED UNANIMOUSLY, 7-0

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

MOTION by Rich, support by Stevens, to nominate Member Barringer for Secretary to the Zoning Board of Appeals

Member Barringer declined the nomination for Secretary to the Zoning Board of Appeals.

MOTION by Barringer, support by Rich, to nominate Member Stevens for Secretary to the Zoning Board of Appeals.

MOTION CARRIED UNANIMOUSLY, 7-0

Member Stevens accepted the nomination for Secretary to the Zoning Board of Appeals.

ADJOURNMENT

MOTION by Seelye, support by Rich, to adjourn the meeting at 10:47 p.m.

MOTION CARRIED UNANIMOUSLY, 7-0

Respectfully submitted,

Daniel Vergun, Secretary
Zoning Board of Appeals

/ceh