



Department of Planning and Economic Development
 Staff Report to the Sign Board of Appeals

March 3, 2017

1015 E. Auburn Road	
REQUEST	A variance from <i>Section 134-107(5)(b)</i> to allow a panel change to an existing nonconforming sign
APPLICANT	David Hardy, Hardy & Sons Sign Service 22340 Harper St. Clair Shores, MI 48080
LOCATION	Northeast corner of Auburn and John R Roads
FILE NO.	93-382.4
PARCEL NO.	15-25-351-041
ZONING	B-5, Automotive Service Business with an FB-2 Flex Business Overlay
STAFF	Sara Roediger, AICP, Manager of Planning

In this Report:

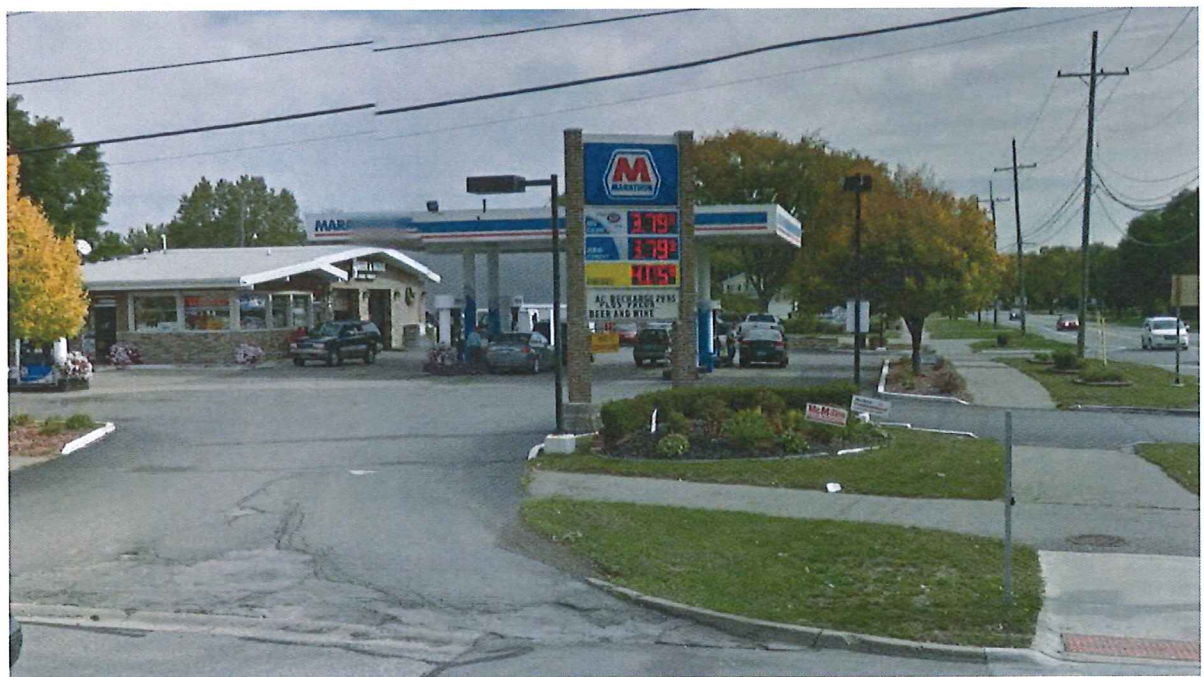
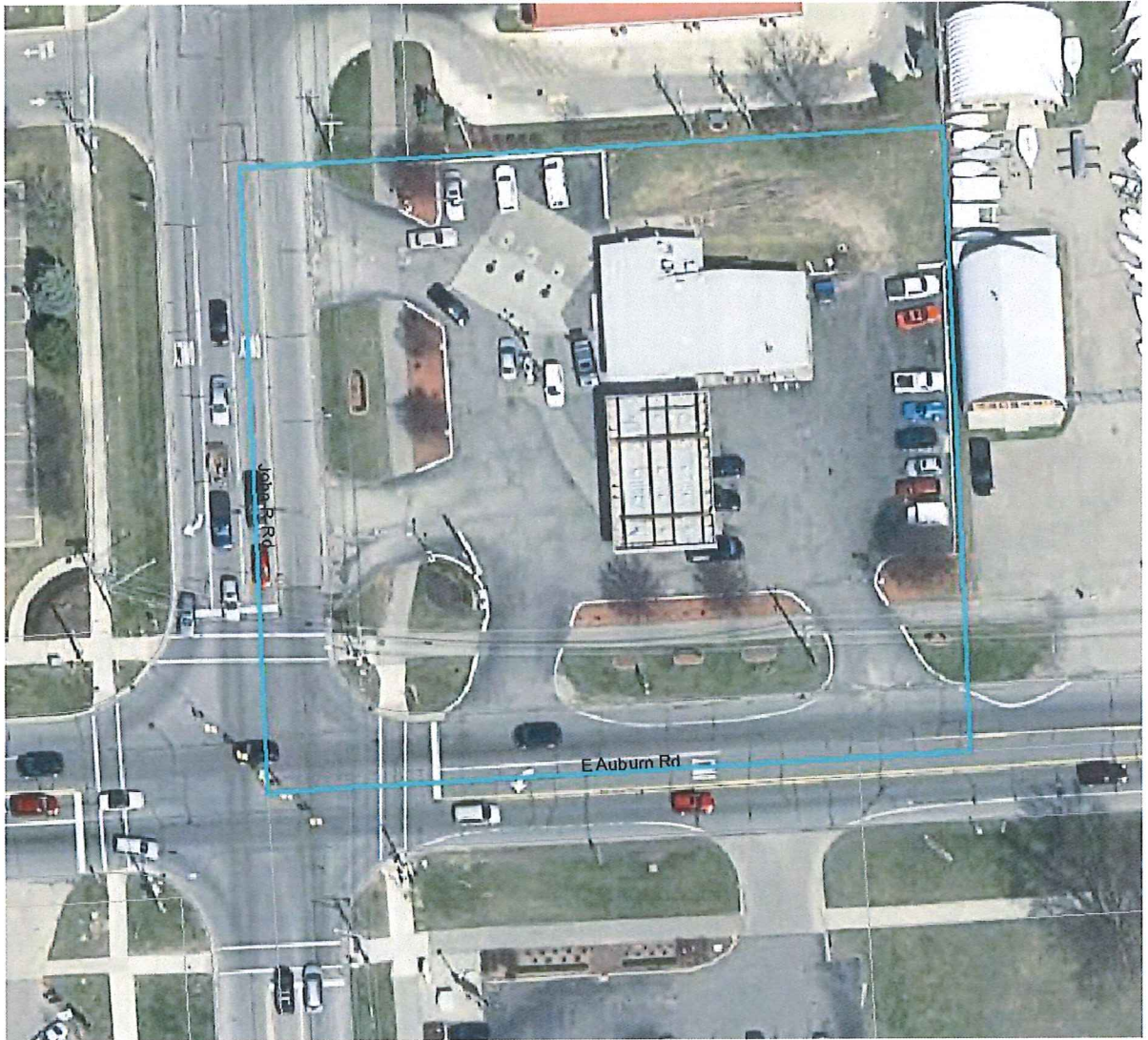
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Requested Variance

The requested variance is from *Section 134-107(5)(b)* which requires nonconforming signs to be removed when the name of the premises or business changes. The existing sign structure is a nonconforming pole sign. The proposed sign will not modify the existing sign structure but would change the name of the business, which is considered a panel change. Panel changes are permitted for nonconforming signs except when one of the five conditions listed in *Section 134-107(5)* exist, one of which being the change of business name. If the request is denied, the nonconforming sign would have to be removed and replaced with a conforming sign, a monument sign with a maximum height of 7 feet.

Site Description

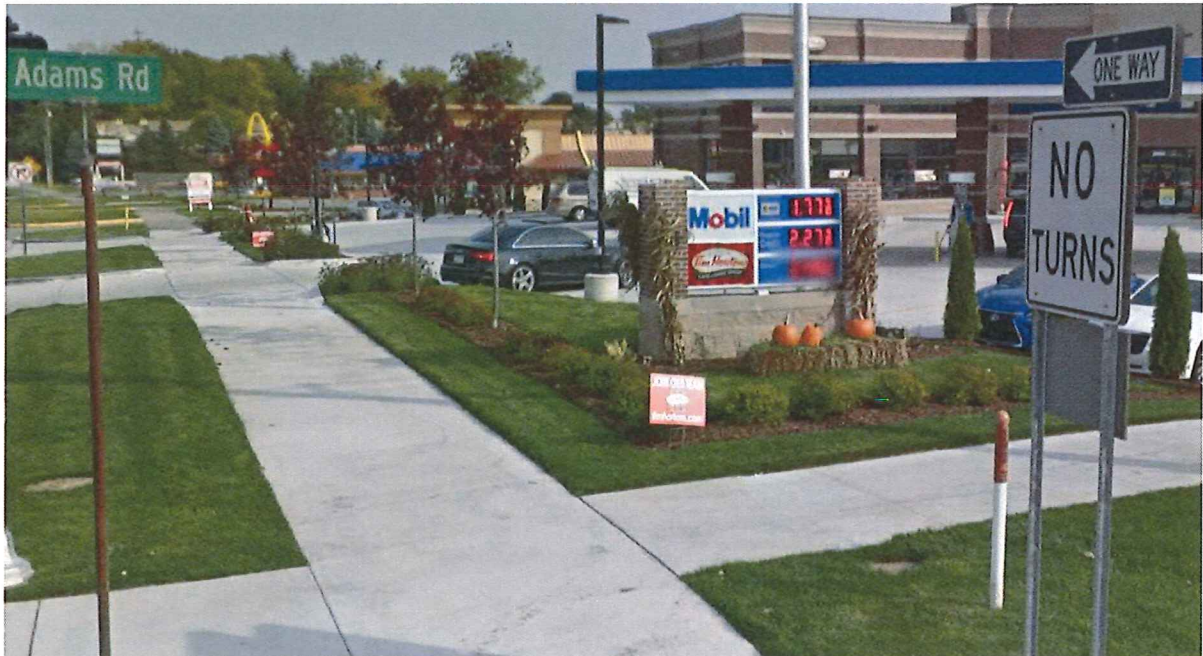
The site is located on the northeast corner of the Auburn and John R intersection. The existing nonconforming sign is located near the southwest corner of the property as shown in the aerial and photograph on the following page.



Analysis

In accordance with Section 134-41 of the Code of Ordinances, the Sign Board of Appeals (SBA) may grant a variance to the requirements of the City's Sign Ordinance only in cases when competent, material and substantial evidence that the following findings are met.

1. **Special Conditions.** *That special conditions or circumstances exist which are peculiar to the land, structure, or building and which are not applicable to other lands, structures or buildings in the same district.* There are no apparent special conditions that exist that are peculiar to this site. Other sites in the B-5 district have similar physical conditions and comply or have been brought into compliance with ordinance requirements. See the image below of a Mobil (and Tim Hortons) sign, meeting ordinance requirements, that was recently constructed at the corner of Adams and Walton.



2. **Deprivation of Rights.** *That literal interpretation or application of the provisions of Chapter 134 would deprive the applicant of property rights commonly enjoyed by other properties in the same district under the terms of Chapter 134.* Denial of the requested variance will not deprive the property owner of the right to have a monument sign. It would require the tenant or property owner to incur the expense of bringing the existing pole sign into conformance with the sign ordinance.
3. **Substantial Justice.** *Allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by Chapter 134, the individual difficulties that will be suffered by a failure of the SBA to grant a variance, and the rights of others whose property would be affected by the allowance of the variance, and will not be contrary to the public purpose and general intent and purpose of Chapter 134.* As an existing sign, it is unlikely that granting the variance and allowing it to remain would affect the rights or properties of others. However, it is the clear intent of the sign ordinance to eliminate nonconforming signs, and so granting the variance would be contrary to the spirit and intent of the sign ordinance and would not result in substantial justice to any property owner who has had, or will have to remove a similar nonconforming pole sign.

Sample Motions

Motion to Approve

MOTION by _____, seconded by _____, in the matter of File No. 93-382.4, that the request for a variance from Section 134-107(5)(b) of the Rochester Hills Code of Ordinances to allow a panel change on an existing nonconforming sign, Parcel Identification Number 15-25-351-041 zoned B-5 (Automotive Service Business) with an FB-2 Flex Business Overlay, be **APPROVED** because a competent, material, and substantial evidence **does** exist in the official record of the appeal that supports all of the following affirmative findings:

1. That special conditions or circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the B-5 district. Specifically _____
2. That literal interpretation or application of the provisions of *Chapter 134* would deprive the applicant of property rights commonly enjoyed by other properties in the B-5 district under the terms of *Chapter 134*.
3. Allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by *Chapter 134*, the individual difficulties that will be suffered by a failure of the sign board of appeals to grant a variance, and the rights of others whose property would be affected by the allowance of the variance, and will not be contrary to the public purpose and general intent and purpose of this chapter.

Motion to Deny

MOTION by _____, seconded by _____, in the matter of File No. 93-382.4, that the request for a variance from Section 134-107(5)(b) of the Rochester Hills Code of Ordinances to allow a panel change on an existing nonconforming sign, Parcel Identification Number 15-25-351-041, zoned B-5 (Automotive Service Business) with an FB-2 Flex Business Overlay, be **DENIED** because a competent, material, and substantial evidence **does not** exist in the official record of the appeal that supports all of the following affirmative findings:

1. Special conditions or circumstances do not exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the B-5 district. There are examples of this businesses signs within Rochester Hills that meet ordinance requirements.
2. A literal interpretation or application of the provisions of *Chapter 134* would not deprive the applicant of property rights commonly enjoyed by other properties in the B-5 district under the terms of *Chapter 134*.
3. Allowing the variance will not result in substantial justice being done, considering the public benefits intended to be secured by *Chapter 134*, the individual difficulties that will be suffered by a failure of the SBA to grant a variance, and the rights of others whose property would be affected by the allowance of the variance, and will be contrary to the public purpose and general intent and purpose of this chapter.