

~~MOTION by Colling, seconded by Verschueren, that the Minutes of the July 24, 2006 Regular Zoning Board of Appeals Meeting be approved as presented.~~

Roll Call Vote:

Ayes: Verschueren, Brennan, Cockey, Brnabic, Colling
Nays: None
Absent: Duistermars, McGunn

MOTION CARRIED

5. ANNOUNCEMENTS/COMMUNICATIONS

- 5A. Ordinance No. 155 (Rezone 4.2 Acres from B-2 to B-3)
- 5B. Notice of Cancellation of September 11, 2006 Regular Meeting
- 5C. Attorney-Client Privileged Communication from City Attorney Staran

Chairperson Cockey stated the Board had received copies of the above documents, and called for any additional announcements or communications. None were provided.

Chairperson Cockey stated that Agenda Item #6 (Unfinished Business) regarded an application for a use variance that was heard on July 24, 2006. He reminded the Board and the applicant that a use variance required five (5) affirmative votes, and noted that currently only five (5) Board Members were present. He suggested, with the concurrence of the Board and the Applicants, that the Board hear Agenda Item #7 (New Business) first, allowing time for Mr. Duistermars to arrive, and having six (6) Board Members present for Agenda Item #6. The Board and Applicants agreed to switch the order of the Agenda, moving Agenda Item #7 before Agenda Item #6.

7. NEW BUSINESS

SIGN BOARD OF APPEALS

PUBLIC HEARING - FILE NO. 06-013

Location: The northwest corner of a parcel of land located on the west side of Crooks Road, north of Avon Industrial Drive and south of Hamlin Road, identified as Parcel Number 15-29-228-004, zoned B-3 (Shopping Center Business).

Request: A request for one (1) off-premise real estate sign permit to be located on Parcel Number 15-29-228-004, pursuant to Section 134-117 of the Code of Ordinances, to advertise the M-59-Crooks Business Park, which is located on the south side of Avon Industrial Drive, and consists of Parcel Numbers 15-29-276-005 through 010.

Applicant: NorthStar Signs, Inc.
1109 E. Ten Mile Road
Madison Heights, Michigan 48071

Chairperson Cockey noted the Zoning Board of Appeals would now act as the Sign Board of Appeals; read the request for the record, and asked the applicant to come forward to the presenter's table and provide his name and address and a brief summary of his request.

Rovvy Ash, NorthStar Signs, 1109 E. Ten Mile Road, Madison Heights, and Brett Everhardt, Agent for Avon Star, LLC, the building owner, 26100 American Drive, Suite 600, Southfield, were present for the applicant.

Chairperson Cockey asked if the applicant had received a copy of the Staff Report. The applicants indicated they had. Chairperson Cockey then asked the applicants to provide a summary of their request.

Mr. Everhardt stated they were asking for a variance for an off-premises real estate sign/leasing sign that showed where their property was located and that they had space available. He explained the reason for their request was due to their forty (40%) percent vacancy rate, and over the next six (6) months twenty (20%) percent of their leases would expire. He indicated there were other issues such as the location of their buildings, which did not have any visibility from Crooks Road or M-59; and stated their current tenants were having difficulties getting their customers back to their buildings. He remarked this was also a problem for prospective tenants because they were concerned their customers would have a hard time locating them.

Chairperson Cockey asked if Staff had anything to add at this time. Mr. Aprile responded not at this time.

Chairperson Cockey opened the Public Hearing at 7:42 PM. There being no persons wishing to speak, Chairperson Cockey closed the Public Hearing at 7:43 PM. He then called for discussion from the Board.

Mr. Colling asked the applicant if he was the original builder of the complex. Mr. Everhardt replied they were not.

Mr. Colling clarified the applicant knew the location of the complex when they purchased it. Mr. Everhardt responded that was correct.

Mr. Colling stated that the only off-premises real estate signs he was aware of or that the City had allowed had been temporary off-premises real estate sign. He asked the applicant what their intentions were for the sign. Mr. Everhardt stated that at this time and in this economy, they would like to be able to put a temporary sign up for about a year or so. He indicated that was their intention.

Mr. Colling commented he understood that the current economic situation could contribute to the vacancy rate the applicant was experiencing, and clarified that the buildings were located in an industrial park. Mr. Everhardt responded they were. Mr. Colling assumed that most of the tenants were light industrial, light manufacturing or similar type of businesses, rather than retail sales where customers were in and out at all times, and asked for an example of the businesses currently leasing the buildings. Mr. Everhardt stated the complex was probably fifty (50%) percent manufacturing, but there was also auto repair, a printer, a builder who did home remodeling, a mechanical contractor/supply house, and noted there were some sales.

Mr. Colling clarified those businesses were not what was usually considered high-traffic businesses. Mr. Everhardt replied that was correct.

Chairperson Cockey stated the claim was made that the buildings were obscured by the bowling alley, but commented when he drove by to look it, there was one building that was obscured by the bowling alley, but the others were quite visible driving in on Avon Industrial Drive. He asked if it was correct that there was currently a sign in front of the business that was either identical to or very similar to the sign the applicants were proposing. Mr. Everhardt stated that was correct.

Chairperson Cockey commented that someone looking for a site and wondering if there was space available would be able to find that out. He asked how many other businesses were located on Avon Industrial Drive and on Star Court. Mr. Everhardt believed there was one building on the south side that was similar to their building that had four tenants. He thought their might be a total of eight to ten businesses on the south side of Avon Industrial, and noted on the north side there was a building company and some other buildings located closer to Crooks Road.

Chairperson Cockey stated when he drove down to the end of Avon Industrial and back, he thought that every business along the road could make a similar claim that they needed a sign located on Crooks. He noted there was already a sign located in the same location the applicant proposed to put their sign, that read Star-Batt Industrial Park, that was made of brick and wood.

Mr. Everhardt indicated he was familiar with that sign, and thought it just said Industro-Plex. He explained that in discussions with the City's Building Department, there was some confusion regarding that sign as to whether it was in compliance, and whose property it was on, and who owned the sign. He stated it was their initial thought, knowing they did not own that sign and the sign was dilapidated, that they could make an improvement to that sign and place their sign on there as well, subject to the City's approval and meeting the sign requirements. He advised they could not figure out who owned the sign or how to go about doing that, and had instead applied to the Board.

Chairperson Cockey understood the applicant's basic argument was that if they had a sign located on a major City road, to advertise space available, they might be able to lease more space. Mr. Everhardt responded that was correct, noting that it was their intention to be visible to traffic driving through the City that might be looking for space and were not aware of where they were located. He provided a photograph of a proposed monument sign for the Board's review (a copy of which was placed on file and by reference becomes a part of the record herein).

Mr. Verschueren asked the applicant how long they required the sign to be in place. Mr. Everhardt replied they would like to ask for a year or two years. Mr. Verschueren asked if a year would be sufficient, noting the applicant could come back if additional time was needed.

Mr. Colling asked if Staff could establish the ownership of the sign currently at the corner of Star-Batt and Crooks.

Mr. Aprile stated he was not the Ordinance Enforcement Officer that normally handled that area of the City, and explained he had the other side of Crooks Road, the Star-Batt side. He stated that the owner of the property on the east side formerly owned the property on the west side; however, he did not believe that property owner still owned the west side. He guessed that sign was originally installed about thirty (30) years ago when the entire east and west sides of the Industro-Plex was built. Due to his dealings with Mr. Stolaruk on the east side property, he believed the west side was under different ownership. He noted part of the east side property formerly owned by Mr. Stolaruk had also been sold.

Mr. Aprile stated that the existing sign on the east side would be removed and possibly relocated due to the Crooks Road widening, and he thought that may also happen on the west side.

Mr. Colling referred to the widening of Crooks Road, and stated if ownership of that sign was not established, he thought it would be pointless to leave an outdated, dilapidated sign not knowing who it belonged to. He also recalled that the Avon Industrial side might have been part of the Star-Batt development. He stated that if the property to the north of Avon Industrial was owned by different individuals than those parcels on the south side, he supposed that sign did not serve any useful purpose at this time, other than to identify the industrial park.

Mr. Aprile agreed, noting the sign might be in the new right-of-way, and stated it would be up to the Road Commission for Oakland County what happened to the sign. He indicated Oakland County had a sign company that was working with the affected businesses to relocate certain signs. He advised that the sign on the east side was not on the owner's property any longer and there had been some discussion about what would happen to that sign.

Mr. Colling asked if there any opportunity for the Avon Industrial property owners to cooperate and develop signage on that sign to identify the properties in the area, even if it had to be relocated.

(Arrive Member Duistermars: 7:53 PM)

Mr. Aprile stated they could not if there were multiple pieces of property because that would create other off-premises signs for other buildings not on that parcel of land. He indicated if it was one owner for all the parcels, they might consider a monument sign containing tenants, such as was permitted for a multiple shopping center area, or an office/medical complex.

Mr. Colling asked if the situation would change if the various property owners agreed to identify the area as the Avon Industrial Complex, and whether the various businesses could be identified on such a sign. He stated the sign had been there for years, and there appeared to be a need to identify the industrial park; but he was not sure he wanted to set a precedent of granting an off-premises sign to one property owner, because that would mean any other landlord in a similar situation had the same basic right to do so. He would not want create a situation where that corner would be cluttered with ten different signs for ten different property owners.

Mr. Aprile stated he would have to look into that possibility, because typically one sign was for one piece of property with multi-tenants, not one sign for what appeared to be eight pieces of property.

Chairperson Cockey stated although this was an interesting and useful discussion, it was not the case before the Board. He pointed out that along the north side of Hamlin Road, west of Livernois Road, there were a number of industrial park areas with multiple tenants. He suggested that might be a matter City Council would have to review regarding an amendment to the Sign Ordinance. Mr. Colling stated he understood; however, he wanted to determine if there were any other viable alternatives.

Chairperson Cockey reminded the Board the subject case was a request for an off-premises real estate sign for property the applicants were attempting to lease.

Mr. Aprile stated that Rochester Industrial Drive did have separate pieces of property and did have an entrance sign at both corners of Rochester Industrial Drive, but those signs did not contain tenant names. He explained those signs were located in easements, and when the signs became dilapidated, the property owners were responsible for painting them.

Mr. Everhardt referred to the discussion regarding the number of buildings located on Avon Industrial Drive, and stated he believed there about twelve to thirteen buildings located on Avon Industrial, but noted they owned eight of those buildings.

Mr. Ash stated there were not multiple buildings owners as the majority of the other buildings were owned by the occupants, as opposed to their buildings which were leased.

Chairperson Cockey called for additional discussion from the Board. Mr. Verschueren stated he was prepared to offer the following motion for the Board's consideration.

MOTION in the matter of File No. 06-013, that a request for one off-premises real estate development sign, pursuant to Section 134-117(c) of the Code of Ordinances, for the applicant, NorthStar Signs, Inc., on behalf of GVA Strategis, to be located on the parcel of land at the northwest corner of Crooks Road and Avon Industrial Drive identified as Sidwell Number 15-29-228-004, **BE GRANTED** with the following Findings and Conditions:

Findings:

1. The warehouse development does not front upon a major thoroughfare. The entrance is through a right-of-way, and it is not possible to put a sign without permission along the major thoroughfare the entrance is located on.
2. Substantial justice will be done by allowing this approval. This approval will not be contrary to the public purpose and the general intent of Chapter 134-117(c) of the Sign Ordinance. Specifically, the sign will not endanger the public in terms of location and will assist the public in finding the area, and minimize traffic problems in that particular location.

Conditions:

1. The approval is granted for the period of one (1) year from August 28, 2006.
2. The sign must meet all Ordinances and requirements specific for a temporary real estate development sign.
3. The sign will be specifically for GVA Strategis.
4. The sign is for the purpose of encouraging warehouse conversion sales only. No references to rental or leasing shall be permitted.
5. The sign will be no greater than 35 square feet.
6. The sign is to be located on the parcel identified as 15-28-228-004, which is the location as shown on the survey submitted by the applicant.
7. The location must conform to all applicable Ordinances and laws.
8. All temporary signs not allowed by the City will be removed.

Chairperson Cockey called for a second to the proposed motion on the floor. Mr. Brennan stated he would second the proposed motion on the floor. Chairperson Cockey then called for discussion on the proposed motion on the floor.

Chairperson Cockey asked Mr. Verschueren to clarify the description of the sign. Mr. Verschueren responded the sign would be thirty-five (35) square feet. He noted the condition could be clarified to include wording that the sign would be as depicted on the plans dated received by the Planning Department August 7, 2006. Chairperson Cockey asked if the motion seconder agreed with that change. Mr. Brennan stated he agreed to the change to the motion.

Chairperson Cockey referred to Finding #1, and asked if it was the motion maker's intent that there was a general right for businesses in the City to have a sign along a major thoroughfare. Mr. Verschueren, stated in this instance, he went by the site description from the Staff Report.

Chairperson Cockey asked if it was the motion maker's intent with Finding #1 that if a business is located on a side street, they essentially have a right to put an off-premises sign along a major thoroughfare. Mr. Verschueren stated that was not his intent, and asked if the Chair had another interpretation.

Chairperson Cockey stated he disagreed with granting the variance for that reason as he did not think there was an inherent right to a sign along a major thoroughfare. Mr. Verschueren asked if the Chair would like to eliminate Finding #1. Chairperson Cockey responded no.

Chairperson Cockey called for any additional discussion regarding the proposed motion on the floor. Upon hearing none, he called for a roll call vote.

Complete Motion (as Voted):

MOTION by Verschueren, seconded by Brennan, in the matter of File No. 06-013, that a request for one off-premises real estate development sign, pursuant to Section 134-117(c) of the Code of Ordinances, for the applicant, NorthStar Signs, Inc., on behalf of GVA Strategis, to be located on the parcel of land at the northwest corner of Crooks Road and Avon Industrial Drive identified as Sidwell Number 15-29-228-004, **BE GRANTED** with the following Findings and Conditions:

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4. The sign is for the purpose of encouraging warehouse conversion sales only. No references to rental or leasing shall be permitted.
5. The sign will be no greater than 35 square feet, as depicted on the plans dated received August 7, 2006.
6. The sign is to be located on the parcel identified as 15-28-228-004, which is the location as shown on the survey submitted by the applicant.
7. The location must conform to all applicable Ordinances and laws.
8. All temporary signs not allowed by the City will be removed.

Roll Call Vote:

Ayes: Duistermars, Brnabic, Brennan, Verschueren
Nays: Colling, Cockey
Absent: McGunn

MOTION CARRIED

Chairperson Cockey stated for the record that the motion had carried, and informed the applicant they were permitted a sign for one year. Mr. Everhardt thanked the Board for their consideration.

Chairperson Cockey stated the Board would return to Agenda Item #6, and would resume action as the Zoning Board of Appeals.

~~6. UNFINISHED BUSINESS~~

~~FILE NO. 06-010~~

~~Location: 2175 Willow Leaf Court South, located south of Hamlin Road, west of Livernois Road, and identified as Parcel No. 15-28-204-020, Zoned R-3 (One Family Residential).
Request: A use variance from Section 138-1143(b)(1) which states that no person shall park or store any step vans, cube vans, buses, dump trucks, stake trucks, flatbed trucks, wreckers, semi trucks and trailers, tank trucks, commercial and construction equipment and trailers and any similar trucks and equipment in a residential district. The applicant currently parks a commercial step van in a residential zone.
Applicant: Michael McIntosh
2175 Willow Leaf Court S.
Rochester Hills, Michigan 48309~~

Chairperson Cockey read the request for the record, and asked the applicant to come forward to the presenter's table and provide his name and address.

Michael McIntosh, 2175 Willow Leaf Court S. was present, along with his wife, Paula McIntosh.

Chairperson Cockey stated for the record that this matter had been postponed at the July 24, 2006 Regular Zoning Board of Appeals Meeting, and asked the applicant if he had anything he wished to add at this time.

Mrs. McIntosh stated it was their understanding after the July 24, 2006 meeting that they were supposed to get a letter from their Doctor, and she thought someone from the Board was going to go the ADA for disability; Mr. Duistermars would go back to council to see if he could get them some help, and someone else from the Board was going to go to the Mayor's office. She stated that the Minutes from the meeting indicated that they were supposed to do all that.

Chairperson Cockey asked if the applicant's had a copy of the letter they received. Mrs. McIntosh provided the Board with copies of the first page of the letter they had received from the Planning and Development Department, dated July 25, 2006.