



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

October 31, 2017

1601 Star Batt Drive	
REQUEST	<p><u>Item #1</u> - A variance from <i>Section 134-115(a)</i> to allow an off-premises sign</p> <p><u>Item #2</u> – A variance from <i>Section 134-179(3)</i> to allow a pole-mounted sign</p> <p><u>Item #3</u> – A variance of 63 feet in height from <i>Section 134-181</i> to allow a sign height of 70 feet</p> <p><u>Item #4</u> – A variance of 592.4 square feet from <i>Section 134-181</i> to allow a sign area of 672 square feet</p>
APPLICANT	<p>International Outdoor, Inc. 28423 Orchard Lake Rd., Suite #200 Farmington Hills, MI 48334</p>
LOCATION	<p>Terminus of Star Batt Dr., northeast of the westbound M-59 exit ramp to Crooks Rd.</p>
FILE NO.	<p>17-037</p>
PARCEL NO.	<p>15-28-177-032</p>
ZONING	<p>REC-W, Regional Employment Center - Workplace</p>
STAFF	<p>Sara Roediger, AICP, Director of Planning and Economic Development</p>

In this Report:

Requested Variances 1

Site Description 2

Analysis 3

Sample Motions 3

Requested Variances

The City received an application for a sign permit to erect an off-premise 14 ft. by 48 ft., two sided digital display. The application was denied as the sign did not meet the following four sign requirements:

Item #1 - *Section 134-115(a)* which states it is unlawful to maintain any sign that is not an “on premise” sign or not otherwise specifically allowed by ordinance. The sign permit application is requesting an “off premise” sign which is not permitted.

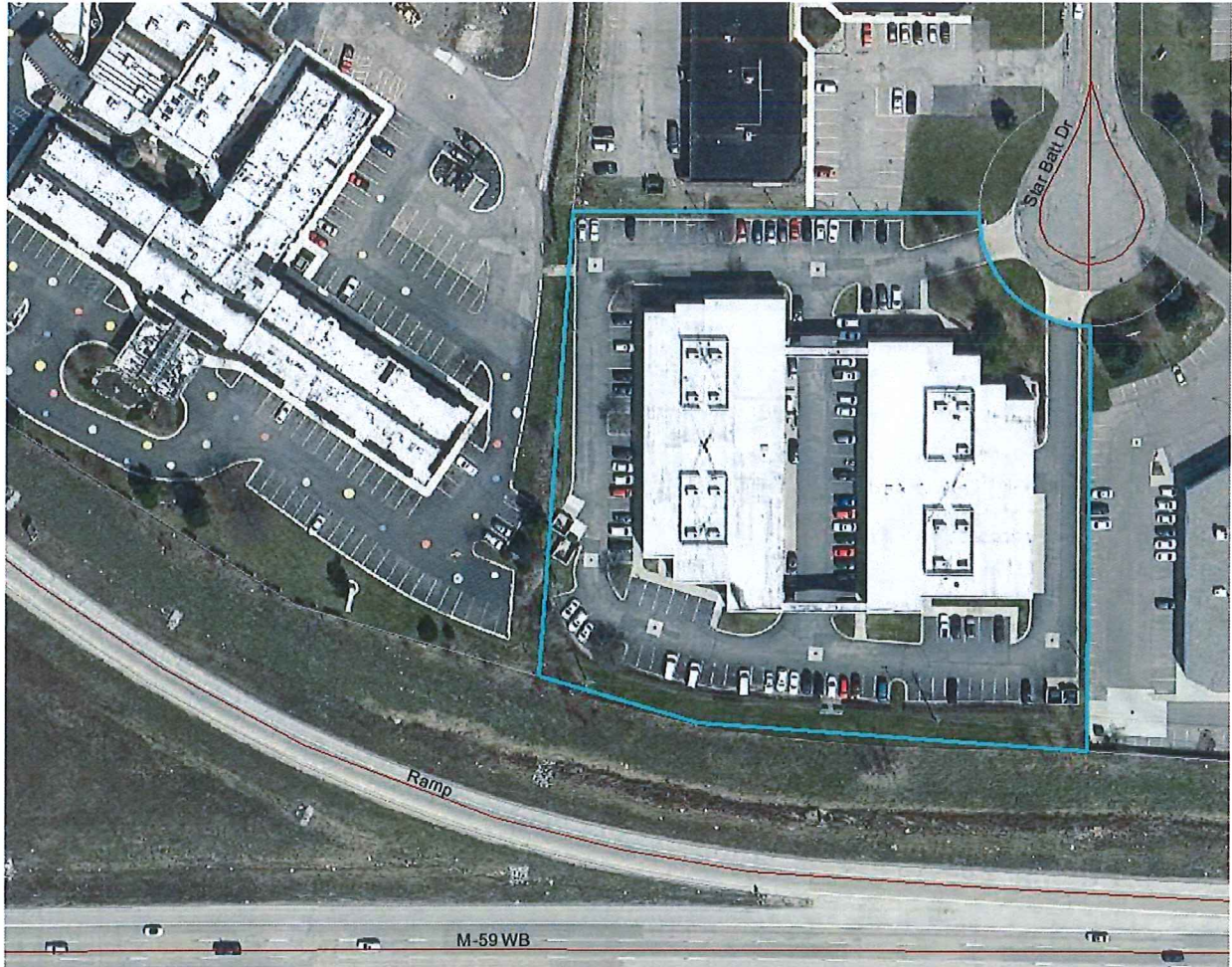
Item #2 - *Section 134-179(3)* which permits monument and wall signs on industrial premises. The sign permit application is requesting a “pole mounted” sign which is not permitted.

Item #3 - *Section 134-181* which permits a maximum monument sign height of seven feet. The sign permit application is requesting a sign height of 70 feet, resulting in a variance of 63 feet.

Item #4 - *Section 134-181* which permits a monument sign area of 79.60 square feet for the subject frontage. The sign permit application is requesting a sign area of 672 square feet, resulting in a variance of 592.4 square feet.

Site Description

The site is located at the terminus of Star Batt Dr., northeast of the westbound M-59 exit ramp to Crooks Road. The proposed sign will be located on approximately 25 square feet at the southeast corner of the site, oriented towards M-59 motorists.



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 or circumstances that exist that are peculiar to this site that would warrant granting of the requested variances.
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 signage as permitted in the ordinance, just like the other properties in the district and City. Off-premises and pole signs are not permitted in any district in the City. The applicant states that because of the existence of three other similar signs in the City, it is a deprivation of rights to not permit the requested sign. One of the other signs mentioned by the applicant is located on the Oakland University campus, which is exempt from local ordinances and therefore not within the City's jurisdiction. The other two signs are located on Auburn Rd. and have been in place since March 15, 1954, which predates the City's sign ordinance, and are therefore legal, non-conforming signs.
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.* The applicant has indicated that the proposed sign will provide public benefit via the ability to communicate emergencies if needed. The SBA must balance the public health and safety consideration of providing adequate sign area to create a legible signage that will not contribute to unsafe traffic conditions along roadways.

Sample Motions

Motion to Approve Item #1

MOTION by _____, seconded by _____, in the matter of File No. 17-037, that the request for a variance from Section 134-115(a) (Off-premises signs) of the Rochester Hills Code of Ordinances to allow an off-premise sign not permitted by the Sign Code, Parcel Identification Number 15-28-177-032, zoned REC-W (Regional Employment Center - Workplace), 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 REC-W 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 REC-W 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 Item #1

MOTION by _____, seconded by _____, in the matter of File No. 17-037, that the request for a variance from *Section 134-115(a) (Off-premises signs)* of the Rochester Hills Code of Ordinances to allow an off-premise sign not permitted by the Sign Code, Parcel Identification Number 15-28-177-032, zoned REC-W (Regional Employment Center – Workplace), 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 REC-W district. There are examples of REC-W zoned 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 REC-W 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.

Motion to Approve Item #2

MOTION by _____, seconded by _____, in the matter of File No. 17-037, that the request for a variance from *Section 134-179(3) (Signs permitted on general commercial, retail, and industrial premises)* of the Rochester Hills Code of Ordinances to allow a “pole mounted” sign not permitted by the Sign Code, Parcel Identification Number 15-28-177-032, zoned REC-W (Regional Employment Center - Workplace), 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 REC-W 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 REC-W 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 Item #2

MOTION by _____, seconded by _____, in the matter of File No. 17-037, that the request for a variance from *Section 134-179(3) (Signs permitted on general commercial, retail, and industrial premises)* of the Rochester Hills Code of Ordinances to allow a “pole mounted” sign not permitted by the Sign Code, Parcel Identification Number 15-28-177-032, zoned REC-W (Regional Employment Center – Workplace), 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 REC-W district. There are examples of REC-W zoned 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 REC-W 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.

Motion to Approve Item #3

MOTION by _____, seconded by _____, in the matter of File No. 17-037, that the request for a variance of 63 feet in height from *Section 134-181 (Standards)* of the Rochester Hills Code of Ordinances to allow a sign height of seventy (70) feet, Parcel Identification Number 15-28-177-032, zoned REC-W (Regional Employment Center - Workplace), 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 REC-W 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 REC-W 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 Item #3

MOTION by _____, seconded by _____, in the matter of File No. 17-037, that the request for a variance of 63 feet in height from *Section 134-181 (Standards)* of the Rochester Hills Code of Ordinances to allow a sign height of seventy (70) feet, Parcel Identification Number 15-28-177-032, zoned REC-W (Regional Employment Center - Workplace), 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 REC-W district. There are examples of REC-W zoned 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 REC-W 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.

Motion to Approve Item #4

MOTION by _____, seconded by _____, in the matter of File No. 17-037, that the request for a variance of 592.40 square feet from *Section 134-181 (Standards)* of the Rochester Hills Code of Ordinances to allow a sign area of 672 square feet, Parcel Identification Number 15-28-177-032, zoned REC-W (Regional Employment Center - Workplace), 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 REC-W 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 REC-W 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 Item #4

MOTION by _____, seconded by _____, in the matter of File No. 17-037, that the request for a variance of 592.40 square feet from *Section 134-181 (Standards)* of the Rochester Hills Code of Ordinances to allow a sign area of 672 square feet, Parcel Identification Number 15-28-177-032, zoned REC-W (Regional Employment Center - Workplace), 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 REC-W district. There are examples of REC-W zoned 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 REC-W 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.