



# Rochester Hills

## Minutes

### Zoning Board of Appeals

1000 Rochester Hills Dr  
Rochester Hills, MI  
48309  
(248) 656-4600  
Home Page:  
[www.rochesterhills.org](http://www.rochesterhills.org)

*Chairperson Ernest Colling, Jr.; Vice Chairperson Kenneth Koluch*  
*Members: Deborah Brnabic, Bill Chalmers, Dane Fons, Dale A. Hetrick, Michael McGunn*

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Wednesday, November 8, 2017

7:00 PM

1000 Rochester Hills Drive

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## CALL TO ORDER

*Chairperson Colling called the Regular Meeting to order at 7:00 p.m. in the Auditorium.*

## ROLL CALL

**Present** 6 - Deborah Brnabic, Bill Chalmers, Ernest Colling, Dane Fons, Dale Hetrick and Kenneth Koluch

**Absent** 1 - Michael McGunn

*Also Present: John Staran, City Attorney*  
*Sara Roediger, Director, Planning & Economic Development*  
*Mark McLocklin, Ordinance Enforcement*  
*Sandi DiSipio, Recording Secretary*

## APPROVAL OF MINUTES

[2017-0517](#) September 13, 2017 Regular Meeting Minutes

**A motion was made by Brnabic, seconded by Fons, that this matter be Approved as Presented. The motion carried by the following vote:**

**Aye** 6 - Brnabic, Chalmers, Colling, Fons, Hetrick and Koluch

**Absent** 1 - McGunn

## COMMUNICATIONS

*Planning & Zoning News - August & September 2017 issues*

*List of 2018 ZBA Meeting Dates*

*File #17-039 - 1159 South Boulevard*

*A list of six phone calls received in opposition to granting the variances, and a Petition in opposition to granting the variances, signed by 35 individuals, received November 10, 2017.*

*An informational packet provided by the application describing the business,*

and including sections providing information on each individual case on the agenda tonight. This will be reviewed when the items are being discussed.

## **PUBLIC COMMENT for Items not on the Agenda**

*No public comment was heard on non-agenda items.*

## **NEW BUSINESS**

2017-0514

### **SIGN BOARD OF APPEALS**

#### **PUBLIC HEARING - FILE NO. 17-037**

Location: 1601 Star Batt Drive, located on the northwest corner of Star Batt Dr. and the westbound M59 exit ramp to Crooks Rd., Parcel Identification Number 15-28-177-032, and zoned REC-W (Regional Employment Center - Workplace).

Requests: Item #1 - A request for a variance from Section 134-115(a) (Off-premises signs) of the Code of Ordinances, which states it shall be unlawful to maintain any sign that is not an "on premise" sign or is not otherwise specifically allowed in this chapter. The submitted sign permit application is requesting an "off premise" sign not permitted by the Rochester Hills Sign Code.

Item #2 - A request for a variance from Section 134-179(3) (Signs permitted on general commercial, retail, and industrial premises) of the Code of Ordinances, which permits monument signs and wall signs. The submitted sign permit application is requesting a "pole mounted" sign not permitted by the Rochester Hills Sign Code.

Item #3 - A request for a variance of 63 feet in height from Section 134-181 (Standards) of the Code of Ordinances, which permits a maximum monument sign height of seven (7) feet. The submitted sign permit application is requesting a sign height of seventy (70) feet.

Item #4 - A request for a variance of 592.40 square feet from Section 134-181 (Standards) of the Code of Ordinances, which permits a monument sign area of 79.60 square feet for the subject frontage. The submitted sign permit application is requesting a sign area of 672 square feet.

Applicant: International Outdoor, Inc.  
28423 Orchard Lake Rd., Suite #200  
Farmington Hills, MI 48334

*(Reference: Staff Report dated October 31, 2017, prepared by Sara Roediger, Director of Planning, and associated documentation were placed on file in the Planning Department and by reference becomes part of the record hereof.)*

*Chairperson Colling read the request for the record, and asked the applicants to come forward and provide a summary of the request.*

*Mr. Randy Oram, 28423 Orchard Lake Rd., Suite #200, Farmington Hills, MI,*

*the applicant and President, Owner/Operator of International Outdoor, Inc., introduced himself. He then introduced Jeffery Sieving, Corporate Counsel of International Outdoor, and Eric Wilson, 1235 Main Street, Rochester, MI, Outside Counsel and Advisor. Also in attendance is colleague Jim Faycurry. Mr. Oram indicated he passed out the supplement to the answers that they submitted, which he feels is very important and relevant to these requests. He would like to discuss what relates to all three properties - this is tabbed in the front portion of the supplement. Each particular property is also tabbed in the supplemental information in the order listed on the agenda, so each property can be discussed individually. It is Mr. Oram's position as a principal of the company, is for the Board and the community to understand and realize who they are doing business with, and what that company is all about. The first five pages explain who they are as a company. They are a locally owned, Michigan operating company. What makes them different is that they are the third largest in southeast Michigan, but they are the only one that is located and headquartered in Oakland County. They are also certified as a woman's business enterprise company with his wife being the primary partner, and certified as a Detroit based business as well as a Wayne County based business. His theory is to provide and be involved in the community. Since they have been in business for 20 years, the commitment has been dedicated to support Michigan based business and organizations. They are dedicated to helping cultivate the economy and support the community. The supplement shows examples of how the business is investing in the future with good causes and messages on billboard signage and digital displays. In addition to the community and volunteer efforts, e.g. a charity or a shelter, they try to use the marketing and advertising medium for the benefit of the community. He does not have outdoor displays in this particular market, but you see them throughout the region, and where you see an ad, it's not necessarily an ad. Examples include "Welcome to Auburn Hills" or "Warren, a Great Place to Live". The signs are more than what the thinking premise is of the past. The business is involved in a lot of charity events. The digital displays also get messages out. A lot of people don't necessarily travel outside the community, but may travel through the community with respect to the freeways and thoroughfares. The signs serve as a medium to communicate messages. Mr. Oram explained what he will be asking for in the three applications is variances to use digital display monument signs. He stated the one of the requests is a variance from a pole sign. He is not sure this request applies. He explained it's a pole wrapped around by cement columns and stone, so it's not necessarily sitting on the monument, but made to appear like it is a monument. If the Board feels the variance allows that the proposed sign is a monument sign, then it wouldn't apply for the pole variance. If the Board felt that it was a pole wrapped in a monument, then it would apply. In today's environment, people talk about technology. What he is asking for is to put digital display signs - these are the latest technology - at whatever locations the Board approves. The digital display programming allows advertisers to marry content with cutting edge technology, delivering groundbreaking campaigns that generate awareness, and also messaging, whether that be public service messaging or a major event coming up. The signs allow creative flexibility as they are nothing more than digital televisions mounted up in the air. They are bigger in size from the roadway. They are unique as you can limit the messaging. Traditional off-premise advertising was done with a billboard as you see on the roadways.*

Today you can do this from a computer; every 15 minutes a WiFi signal is sent out to that display and the message can be changed. Think about Amber Alerts - at any time the State police can take over the network for any display sign and put up an Amber Alert. The same is true for Weather Alerts, Emergency Traffic Alerts, or Detour instructions, etc. The sign also creates a local business platform; it promotes local business directly. Billboards cater to an audience within 30 miles - 15 miles before and 15 miles after a person's travel of sign location. The average commute to work in Michigan is about 27 miles, so the sign would promote to the health, welfare and benefit of local businesses, trying to get out a message to the community. You reach more customers than newspapers for an extended time. With a digital display, the company likes to say you can't shut it off. If you create a creative message of 7 words or less, the eye tends to look at it for a second or so, and get back on the road. They reach specific and targeted area in the local vicinity, and it is real time advertising. The signs assist in hyper competitive arenas. There is a huge need in Rochester Hills for this form of medium. He saw in his driving the sign clutter all over the City. A lot of people are not against display advertising, what they are against is the content. Mr. Oram indicated all of his leases and agreements do not allow lewd or lascivious advertising. People say display advertising is not safe. Mr. Oram explained that overwhelmingly, they are safe with no increase in traffic accidents. There is no light impact on surrounding property with the displays. An LED directs light out. When the digital displays are up in the air, the LED's are pointed downward towards the driver and don't interfere with the residents. He has completed a lighting study at all three locations. Within a few hundred feet of the display, it is equivalent to a 10 watt lightbulb or a candle. Digital displays can have multiple messages for different functions or departments to engage the community, pro bono ads for the City and County, promote local events and City celebrations. These types of messages are done pro bono. One of the things Mr. Oram is most proud of with digital advertising is the Amber Alerts used throughout the Country. If needed, the State police can take over any location and program an Amber Alert. The Sheriff's Department can also do this with something pre-set. Mr. Oram has not yet done this with the local community. With the weather catastrophes in Houston, the company came up with five different display ads to advertise and market the different organizations needing funds. He's very proud as this campaign ended up going national.

Mr. Oram explained that the style and design of the particular sign he's looking at for the display is a monument style digital display. It's not something seen in this particular region; but there is one located in Orion Township which is nice looking. You're not looking at a standard pole, but a pole behind it - and the facade on all four sides is tasteful stone. He believes it would add consistency to the design and image of the M59 corridor. In a lot of areas on M59 you are looking at buildings that could use some upgrades and mature landscape. He believes the stone and brick materials will blend more aesthetically with the surrounding buildings. In this particular region, Mr. Oram hasn't seen a sign that is of the proposed height and along a freeway. It resembles a more modern approach to advertising in today's environment, especially with a digital display. He believes the digital displays will draw local consumers more effectively. Page 9 in the supplemental information is an artist's rendering of what the sign will look like. The design shown is called a flag where it is close to the roadway

so you try to put the base of the pipe in an area where it's in the setback or in an area where it won't impede or intrude on the building's future use, or the building setbacks with respect to the code. The pole can also be in the middle of the display depending on soil conditions. Mr. Oram suggested the Board visit the monument sign in Orion Township on Baldwin at I-75, which is located on a surface street. The sign is low to the ground only being about 35 feet high and only about 360 square feet. When you look at the distance from the edge of the sign to the roadway and the visibility distance -- the proposed digital billboard on M59 will be viewed from 500 to 800 feet out. The billboard on Baldwin is being viewed from 50 feet out. When you are looking at scaling to size, 672 square feet is not a lot of size because it's 70 feet up in the air. He will show where the travelled edge of the viewer is 300 feet away and you are viewing at 500 feet back. When you look at the scale of the variables, they are interesting and 672 square feet is not that big. On page 11 of the information, Mr. Oram included a picture he took of an interesting sign in Arizona. The signs today are not the image of a pole sitting in the ground. A lot of these signs exist because the technology was not there. Technology continues to change. Page 12 depicts the location of the proposed three signs on a Google Earth overview map. All three locations are along the M59 freeway. The properties at 2248 Star Court and 1602 Star Batt Drive are used for industrial purposes. The Star Court location has a trucking operation directly to the west and a cement and asphalt plant to the west and north of the property. Sometimes this asphalt mound is 50-60 feet tall. There seems to be a lot of truck traffic in this area as well. There is quite a distance from Rochester Hills' residential zoning to the sites. In all three cases, it's well over 500 feet. The next page is the zoning map showing the locations of the three subject properties as well as the zoning. The site at 1159 South Boulevard is zoned Office Business, Star Batt is zoned Regional Employment Center M59 Corridor, and Star Court is zoned Industrial. All three sites are going to be primarily for the purpose of visibility for M59 and will be engineered so that the viewer on the roadway is the primary viewer, and the lighting will be directed to the viewers on the freeway. The main thing in their studies - are they safe? Included in the information is an article published in January of 2014. The Department of Transportation did a study which was released by the Federal Highway Administration found that drivers are not more likely to be distracted by digital billboards than stationary signs. A copy of this study is included in a DVD on page 27 of the supplemental information. The applicant also commissioned a study completed by Giffels Webster in September 2015. They studied sites around this community, Auburn Hills and Madison Heights before a digital display was installed and after. They studied crash analysis, the reasons for the accidents and concluded there is no evidence that existing digital billboards have any significant adverse safety consequences based upon this historical analysis. Consequently, no rational evidence exists to suggest adverse safety impacts for the proposed digital billboard locations. Mr. Oram brought this up because this was specific to certain other sites, but the sites he has applied for with Rochester Hills are even more extreme than the sites in the study. Pages 19 has a map with respect to the different locations the traffic engineer studied. They studied 500 feet before and 500 feet after where the proposed billboard was installed and where one was to be built. They studied variables of a new billboard that wasn't there and got there, and an existing billboard that turned into a digital display - was there any impact on safety. That is on I-75 as well as 696. Page 26 lists the traffic safety

*studies and digital effect reports that are included on the DVD. Mr. Oram believes it's the Board's duty to see if it's safe and if it fits within the scope of protecting the citizens. The evidence is overwhelming. It dates back to 2004, and more recently the study listed as #1 on the list is a 2011 study published in 2014. It is Mr. Oram's understanding from his corporate counsel and colleagues, that the City of Rochester is looking at amending their ordinances on signage right now. He supplied some recent court opinions that are relevant to this matter for the City's consideration, review and discussion. Mr. Oram prepared the map on page 28 and indicated he drove every one of the sites and took most of the pictures. This map does not list all the signs. He indicates there is a lot of off-premise advertising that already exists. He is present tonight to talk about digital displays in certain areas, but what is shown pages 29 through 38 is a clear violation of prohibition of off-premise advertising. He feels there is a clear need for off-premise advertising in the City. When you consider the signs shown on the mentioned pages in proximity to the distance from the roadway, in proximity to the distance from the viewer, and proximity to the time lapse in terms of changing the message, he believes there is a need and that the billboards and digital displays he is proposing are going to be less harmful to the community than the signs cited in pages 29 through 38.*

*Chairperson Colling indicated he appreciates the background information the applicant is presenting, but would like the applicant speak to the 1601 Star Batt case, so staff can present the staff report.*

*With respect to the Oakland University signage, Mr. Oram gave the Board an article which talks about advertising on school property - the Governor vetoed this bill last year.*

*Regarding 1601 Star Batt, Mr. Oram referred to page 40 of the supplemental information, showing an overview of the property and the approximate location of the billboard which is subject to setbacks and soil conditions. The digital display monument was approved by the Michigan Department of Transportation (MDOT) and meets all MDOT's requirements. Also included are the permits for a two-sided 14' x 48' digital display. The uniqueness of this particular property and project is that the person adjacent to the property can't ask for the same signage. State law prohibits any other digital display advertising within 1,750 feet from the sign on either side of the roadway. No one else will be putting a billboard in this area, so there won't be back to back units 500 or 1,000 feet apart. The subject property is on the north side of South Boulevard and adjacent to M59, which is over 300 feet wide at the proposed location. The right-hand read as you are traveling east would be 85 feet away from travel, 70 feet in the air. The digital display is consistent with existing billboards along M59 in the communities in Pontiac, Utica and Shelby for height and setback. The closest home is over 500 feet to the northeast. The uses on this site are similar in form and function to the uses on the north side where the sign is proposed. To the east of the property is a two-story manufacturing building and a storage facility is to the west. Mr. Oram summarized the supplemental answers to the application questions for the special conditions to allow the Board to grant the variances. The sign is approved by MDOT. MDOT not only presents spacing requirements, but does not allow animation on the sign. There is an 8-second per message rule and is an instant flip. No other display sign can be installed in*

close proximity. They will be using digital display technology with directional LED's. An LED light protrudes out and in this case, down. On this particular sign, it will face down towards the drivers. The proposed site is surrounded by mature trees. Per the highway advertising act, you can't remove any trees for the purpose of an outdoor advertising display. What makes this property unique is that there is a lot of mature vegetation, and then there's an opening. That's the reason the applicant chose the site. He feels sometimes it's better to look at a digital ad than it would be to look at some of the buildings, the trucks in the lot, and the asphalt plant. The property is also unique in that the property owners abut M59 and the owners deal with the light, the truck traffic and the noise. These are the special conditions that are peculiar to the property. In terms of deprivation of rights - it deprives the landowner use of 25 square feet, that all that the monument column is. This is unusual property because it is close to the roadway and display doesn't interfere with any future development of the property. As the applicant, Mr. Oram believes he has a right to express commercial and non-commercial speech and political and non-political speech. He has presented numerous examples of off-premise advertisements, and these signs are in C1, C2 and C3 zones, which are less intense uses than the subject property, which is REC-W along M59. The applicant believes window signs create visual clutter that is distracting and makes for a less safe environment for the building. Window signs do not promote any political speech, they are strictly commercial speech promoting alcohol, tobacco and energy drinks. The City choose either not to enforce its own ordinance as to window signage, or allow some property owners to promote off-premise advertisements. On page 39, the applicant included a section of the City's ordinance as it is now and the portion that deals with signs on schools. Mr. Oram commented there are numerous examples of political signage throughout the City, usually on the corners. These signs, while temporary, cannot be considered on-premise and property owners are not deprived of their right to display such signs. The Supreme Court recently decided that a municipality may not create a permitting process whereby the denial of a permit is based on the content or message. The applicant referred to the Oakland University digital sign and the Rochester Hill's High School sign - there are numerous different advertisers on these signs. He understands schools have their own zoning areas, but at the same time, he believes there is a need. The sign at City Hall recently advertised the Brooksie Way. He indicated that is not necessarily an on-premise sign, but look what positive advertising can do. The other criteria is substantial justice. The applicant needs to describe how substantial justice is being done considering the public benefits intended to be secured by Chapter 134 - one is scaling. The public will benefit by granting the requested variances. Mr. Oram believes when you consider the setback from the right of way, the proposed size, the proposed height and the speed of the applicant's intended commuters along M59, it's a safer, cleaner, less cluttered view of an advertisement or message compared to the distracting window sign that is viewed at much closer distances and much slower rates. It benefits the public to raise the advertisements off the ground. There are off-premise advertising signs throughout the City - it's cluttered all over the place as shown by the photos. By enforcing the ordinance and approving the variances tonight, the applicant believes it would clean up the clutter and push the advertisers in a cleaner, more presentable medium. This will be safer for the public health, which in and of itself is a public benefit. There is clearly a public need for

*off-premise advertising. As shown in the examples, some of these off-premise signs advertise national campaigns. There is no difference between a billboard sign or a wall sign in downtown Detroit than it is on the side of the Twisted Oak store. That sign is approximately 144 square feet and 17 feet from the traveled edge of the roadway. That is a huge difference from being up in the air 70 feet. The technology wasn't in existence when the ordinance was enacted in 2005. It would benefit the public and other municipalities to embrace this technology. Also under substantial justice - these units pay personal property taxes and ultimately the City and the public will benefit by granting this variance that has increased taxes paid by the applicant. Page 45 is the letter of approval from MDOT; this site is approved for a two-sided digital. Page 49 shows that from the right of way from the interchange lane, the edge of the subject property is 85 feet, and the width of the freeway from one end of the right of way to the other is 360 feet.*

*Mr. Koluch asked the applicant to stay on task with explaining substantial justice, as he is now talking about viewing feet from the sign.*

*Pages 50 and 51 shows visual appearance of the sign. Page 52 is a lighting study.*

*The Chair reminded the applicant the Board is looking for three criteria - special conditions that exist on the property, deprivation of rights, and substantial justice. These three issues are required to be met for the granting of a variance. The applicant did address special conditions and deprivation of rights in the informational packet. Mr. Colling asked the applicant to speak briefly on substantial justice.*

*Mr. Oram indicated the last couple items he brought up addressed substantial justice - scaling, off-premise advertising throughout the City, a public need, the ordinance and personal property taxes (listed on page 44 of the information packet). This concludes the information for 1601 Star Batt Drive.*

*Mr. Colling called for a summary of the staff report.*

*Ms. Roediger reiterated that the Board needs to find three criteria - special conditions, deprivation of rights, and substantial justice - in order to grant a variance. In terms of special conditions, it is staff's opinion that there are no apparent special conditions or circumstances related to this particular property that necessitates the variance. Quite contrary, that there are three separate applications that are virtually identical along M59 would indicate any property along M59 would fall into the same argument that is being made for special conditions. In terms of deprivation of rights, the applicant has indicated tonight and in the application that there are other off-premise signs throughout the City. The ones listed in the application refer to the signage at Oakland University campus, which as indicated, schools, in particular State universities, are exempt from local zoning and sign regulations - the City has no jurisdiction over the signage at Oakland University or Rochester High School or any other school properties. In addition, there was reference to two existing signs located on Auburn Road, which would be the traditional billboard signs that many people think of. Those signs have been along Auburn Road since 1954, back when*

*Auburn Road was the State trunk line before M59 was constructed. Auburn Road, at that time, did serve as the main thoroughfare. There were other billboards along Auburn Road back in that time, and many have been removed over time because of the ordinances. The two that currently exist on Auburn Road are legal, non-conforming signs that would not be permitted today. Lastly - on substantial justice - the applicant has indicated they believe the sign could provide public benefit to have the ability to communicate emergencies, and described this evening how substantial justice would be because of the number of off-premise signs in the City. In looking at the material distributed tonight, Ms. Roediger is not sure staff agrees that the window signage and some of the political signage that was shown in the material are off-premise signs. The staff is working to update the sign ordinances, and is familiar with the court cases that were mentioned tonight. She believes even with the updated ordinances, in the future a number of variances would have to be requested for the signage that is being proposed this evening.*

*The Chair opened the public hearing at 7:50 p.m.*

***Mr. Art Polker, 1601 Star Batt Dr., Rochester Hills MI,** indicate he is the property owner of the subject property. He moved his design company of 29 years here 17 years ago, and bought the property 13 years ago. He has been in the community for many years. International approached him to do the same project when bought the property, but he did not feel it was the right time to do it. However, they re-approached him, and if progress is going to happen, it could be now. He put a lot of money into his building for aesthetics on M59, but it brings him no revenue. He did his due diligence. Progress is going to change, and the applicant is who he wants to do business with. He feels everyone should think about that - you want the right people looking out for your best interests. In looking at billboards, he sees the difference between a quality and class act, and just a sign. If this is the time that progress moves forward, he would like a sign on his property, and wants to do business with the applicant.*

*There being no one else wishing to speak, the Chairperson closed the public hearing at 7:55 p.m. and opened the floor to Board discussion.*

*Mr. Colling commented the applicant has approval from MDOT, but believes the proposed sign location is not in MDOT's right of way, but on private property. He stated that MDOT has jurisdiction in terms of signs, but is not sure MDOT's authority supersedes the City's local signage codes.*

*Mr. Staran replied that MDOT is enforcing State law, and that Mr. Colling's analysis is correct. If the proposed sign was to be located entirely in the State right of way, we would not be having this meeting tonight. There are things the applicant has to comply with in regard to State law which does necessitate MDOT looking at it, but it does not take the coverage out of the City's local sign ordinance. The sign ordinance still applies. The letter from MDOT was presented to the Board to show that the applicant has already gone through that process and has satisfied MDOT as far as their requirements. That does not negate the need to comply with the City's ordinance or to obtain any necessary variances from the Sign Board.*

*Chair Colling does not see any special conditions at this particular site, and doesn't see a deprivation of rights because the sign at Oakland University is not off-premise, it's on university owned land. The other two signs on Auburn Road that have been in place since 1954 predate any ordinances for the City of Rochester Hills and Avon Township. He does not see where they reference well to the particular issue at hand. He doesn't disagree with the applicant's comments about substantial justice and the right to make any statement that they wish, however, they can do that within the bounds of the ordinances.*

*Mr. Hetrick referred to the signs shown on page 37, and asked staff if all the signs are compliant.*

*Ms. Roediger indicated that is correct. The City does allow digital signage, it just has to be within the size and height requirements.*

*Mr. Hetrick asked the applicants if they can provide the same type of messaging on a sign that conforms to the ordinance - 7 feet off the ground and 79.60 square feet.*

*Mr. Sieving thinks that would present a safety issue along M59, because that would be more in a traveler's direct eyesight versus something that's meant to be seen at such a distance. He doesn't think that bringing the sign into compliance would be a good place to locate the sign.*

*Mr. Hetrick clarified he's not asking the applicant to move the sign, it would be in the same location.*

*Mr. Oram indicated he doesn't think the sign would be seen when looking at the scale, size and distance from the roadway. The purpose of the examples on page 37 was primarily to show the need for digital signage; it is in the community, the size, scale and the distance from the roadway - that was the intent.*

*Mr. Hetrick doesn't disagree with the applicant on this, however all signs on page 37 comply with the sign ordinances. None of the things that have been stated would suggest to him that the conditions of this site or the deprivation of rights to message, and/or substantial justice drive him in any way to support the applicant's direction.*

*Mr. Oram said one of the points with respect to the purpose of showing the map regarding distance, when looking at this particular sign, you would not see it with respect to the ordinance and where it's at today. If the Board wants the applicant to comply with a ground sign seven feet high, when you're looking at 320 feet away from the roadway - he doesn't think it would be safe. The complying signs on page 37 are within 10 feet of the roadway, and not 300 feet away and not along M59. How would you put a seven foot sign 300 feet from the road and have it be seen.*

*Mr. Hetrick commented the City has ordinances that are meant for the well-being and for the type of community the City intends to be.*

*Mr. Oram indicated if he was to put a sign that complies in, it would be a safety hazard.*

*Mr. Colling disagrees with it being a safety hazard, the only thing is it wouldn't be visible because of the topology of the roadway and the brush that can't be cut down. He doubts the sign would be seen at all. In the location proposed, a seven foot monument sign would not be practicable from the applicant's perspective because it would bring no advertising revenue in because no one would see it. As far as a safety hazard, unless someone drove off the roadway to try to look at the sign, he can't imagine a safety hazard.*

*Mr. Hetrick said the idea of the signs clearly are outside of the City's ordinance, and the applicant has not been able to convince him that the things cited for substantial justice, deprivation of rights or special conditions would warrant the granting of the variance.*

*Chairperson Colling stated he understands the new technology, and understands that digital signage will eventually be coming before the Board. He asked if the City has considered or should consider these types of signs with special caveats for along the only freeway in the City. Could a specific ordinance be crafted only for the M59 corridor?*

*Ms. Roediger responded staff does currently have a draft sign ordinance that will be taken to the Planning Commission for their input, and will be brought to City Council within the next few months. As currently drafted, there is not special language to allow for larger signage along M59.*

*Mr. Colling commented that prior to this request, he can think of one sign (Rochester Golf) that pre-existed along the M59 corridor, but was taken down when the golf club was sold and converted to a subdivision. He is not suggesting the Board grant a variance, but thinks the M59 corridor is unique in the City and staff should probably consider something different along this corridor.*

*Ms. Roediger pointed when the sign ordinance is brought forward to Planning Commission and City Council, staff can get their input and see if this is something they are willing to entertain or not.*

*In response to Mr. Colling's comments, Mr. Staran indicated considering something different along this corridor is do-able. From a policy setting standpoint, staff will have to wait and see what the Planning Commission and City Council will want to do.*

*Mr. Wilson added this is a great idea because you are recognizing the future in regards to digital signs. When the sign ordinance was first adopted, no one had any idea about digital signage. The ordinance was amended again in 2005, and not much was happening yet. But now, you are seeing digital signage and what it can do for safety. The City needs to have the ability to get this type of information to the public. He recommends this issue be brought to the Planning Commission and City Council for input.*

*Mr. Hetrick said given the commentary tonight, he suggests the Board deny the variance today recognizing that there are things coming up to the Planning Commission that could provide the applicant an opportunity for the sign. As it stands right now, the ability to put the sign up would not be approved. He believes it's in everyone's best interest to move the process along with the Planning Commission and City Council, and give the applicant the opportunity to come back.*

*Mr. Wilson asked if the Board could consider tabling the requests until we see what the new sign ordinance reflects?*

*The Chair indicated he can't table an item when he has no idea with what speed and what the pleasure of the Planning Commission and City Council will be and what the recommendations will be.*

*Mr. Oram indicated they could adjourn for one month to see what they will do.*

*Mr. Colling indicated that is not enough time.*

*Mr. Hetrick added that it would likely be longer than a month. He clarified that a denial does not preclude the applicant from coming back.*

*Mr. Koluch thanked the applicants for their presentation. He did not mean to cut them off, it's just a lot of information to take in and was only given to the members tonight. He would have liked more time to review the supplemental material. Mr. Koluch does not see that any of the three requirements for granting a variance are met. He doesn't see any special conditions peculiar to any of the three properties or any other property that sits on M59 that sets it apart from one another for the purpose of granting a variance; e.g. uniqueness. Same for deprivation of rights. The ordinance says it would deprive the applicant property rights commonly enjoyed by other properties in the same district. He does not find any other property owners in the same district already doing the same thing where it would be unfair to the applicant to not grant the variance. He does not see how the public is going to benefit that much by allowing someone to sell advertising space. It will certainly benefit the advertisers and the owner of the sign. He does not see how allowing the sign is doing substantial justice.*

*Ms. Brnabic asked staff if the City currently has the ability to post Amber Alerts through the Fire Stations or City Hall. This was requested over a year ago, and staff was looking into it.*

*Ms. Roediger does not know the answer, but the City has a number of changeable message boards in the community, including City Hall and the Fire Stations and can control messages on these boards.*

*Mr. Hetrick added that the Sheriff's office can send an Amber Alert to an MDOT sign that is already erected on M59. They can send alerts, road closings and warnings already through existing protocol that the Sheriff's office has with the owner of that sign.*

*Ms. Brnabic said when she asked about this, the response was that there was a specific software necessary, but the City was checking into it.*

*Ms. Roediger said she will check with Chief Canto and the Mayor's office as they handle a lot of the communications with the public.*

*Ms. Brnabic stated she can't support a variance because the applicant doesn't meet any of the criteria and there is no special circumstance here. The ordinance states off-premise signs or pole signs are not permitted, and the proposed height and size is excessive. She does not know that the sign is a benefit to the community; it may be a benefit for business. Seeing this type of sign in other communities, Ms. Brnabic doesn't think it has an attractive look. Because the sign does not meet the City's criteria and she can't find anything that would warrant a variance, she can't support the request.*

*Mr. Chalmers thanked Mr. Oram for the comprehensive package of information. He touched on precedence - the best the applicant could do is to go back to 1954 on Auburn Road? The Board just denied two signs on Auburn Road a few months ago, and these were a lot smaller than what is being requested tonight. He thinks the off-premise advertising is a stretch - if these signs are in violation of the current ordinance, then enforcement would go after them. But to cite the signs in the supplemental information without knowing if they're permitted by right or not, is a bit of a stretch. To include the Rochester High School sign as example of off-premise signage - he takes exception to that. Coincidentally, two of the off-premise signs cited in the applicant's information are the two most recently denied by the Board for a height much lower than tonight's request. The applicant's request does not meet any of the criteria for granting a variance, so he can't support granting a variance.*

*Mr. Fons agreed with the Chairman that staff needs to have an ordinance change along M59. He has seen billboards closer to Shelby Township and Utica and thinks they are good for the community to advertise what's there locally. From the limitations of this Board, even if we wanted to grant a variance, we couldn't because of the substantial change; i.e., the height restriction and the size is excessive. He feels it has to be denied at this time.*

*The Chairperson explained for the members to approve this variance it would be legislating from the Board. The ZBA is not legislative body, but a quasi-judicial body. Their job is to take and analyze the data presented by the applicant and staff and compare it to the ordinances and see where it lines up. Unfortunately, in this case, the requirements for a variance aren't met. The only special condition that even exists in this case is that the applicant is choosing three locations along M59, and the reason these sites were chosen is because M59 is a major freeway corridor through Rochester Hills. Mr. Colling travels M59 all the way to Clinton Township quite a bit and has seen the billboards; some are done tastefully and some aren't. He doesn't think Rochester Hills as a City, needs to jump into this without some consideration and determining if this is what the City wants to do or not. He is not the person that decides that. Mr. Colling stated he can't support the variance.*

Mr. Oram said all the Board's comments are very well respected and understood. What they want to do is present the facts to the Board and create a record before you, and hopefully this will start dialog for change. He thanked Messrs. Koluch and Chalmers for their words with respect to the presentation. A lot of time, money, energy and resources have gone into it to try and put their best foot forward. He apologized for not getting the information to the Board before the night of the meeting, but said there was a three week window from the time he got the date of the hearing. This information took 300 hours of staff time, and it was just finished the previous night. As far as uniqueness, these are properties along M59, there's an opening for these properties, and the sites have visibility openings from vegetation. The public benefit - ads for Amber Alerts. The digital displays are more than just advertisements for people paying ads. He estimates that 10% of the ad space on the displays is for the public benefit. The technology has changed and feels this is the time for change. He hopes that the presentation tonight sparks that dialogue with respect to the applicant trying to become a partner with the City. That's what the goal is and most of the community's the applicant is in -- they work with the community to advertise different events. Mr. Oram indicated this is going to be the first sign in this region that would be a monument sign, so it's not the pole you see along M59 in Utica or Shelby. The applicants thanked the Board for their time.

Mr. Chalmers commented the applicant keeps referring to the proposed sign as a monument sign. He agrees the sign doesn't have a pole, but this is not a monument sign. He asked if there is a technical definition of a monument sign.

Chairperson Colling indicated that 90% of all billboards are pole signs - you can see the steel pole. This a monument in the sense that the pole is hidden; it is a stone monument and approximately what could be considered an obelisk if nothing else. He's not going to quibble over the definition, but the real instance for the Chair is that the sign ordinances are not compatible with this request. Since the ordinances will be revisited, if we take the M59 corridor in and of itself, it is a unique situation in the City, and is not likely to be replicated anywhere else in the City. The staff could conceivably strike a specific set of rules for this corridor that would be different and acceptable. He just doesn't know if it's acceptable to the City or not.

Mr. Koluch commented that monument signs are defined in the ordinance, but not pole signs.

Item #1 -- MOTION by Koluch, seconded by Hetrick, 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.*

*Item #2 -- **MOTION** by Koluch, seconded by Hetrick, 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.*

*Item #3 --**MOTION** by Koluch, seconded by Hetrick, 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.*

**Item #4 -- MOTION** by Koluch, seconded by Hetrick, 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.*

Roll Call Vote on Item #1

Ayes: Brnabic, Chalmers, Colling, Fons, Hetrick, Koluch

Nays: None

Absent: McGunn

MOTION CARRIED.

Roll Call Vote on Item #2

Ayes: Brnabic, Chalmers, Colling, Fons, Hetrick, Koluch

Nays: None

Absent: McGunn

MOTION CARRIED.

Roll Call Vote on Item #3

Ayes: Brnabic, Chalmers, Colling, Fons, Hetrick, Koluch

Nays: None  
Absent: McGunn

MOTION CARRIED.

Roll Call Vote on Item #4

Ayes: Brnabic, Chalmers, Colling, Fons, Hetrick, Koluch

Nays: None

Absent: McGunn

MOTION CARRIED.

**All items were denied.**

*Chairperson Colling clarified the motions for the variances have all been denied. He stated the Board can go through the motions for the other two requests, but essentially they are the same variances, and will probably meet the same fate. He'd like to suggest the applicant withdraw the other two items tonight.*

*Mr. Oram commented if it's the opinion of the Board that the other locations are going to get denied, he would rather go through the process of the denial. He asked that the information about the other two sites included in their supplemental material be included.*

*Mr. Colling suggested the City keep the documents on file as it will be reviewed by the Planning Commission and City Council for any future sign ordinance changes they make.*

*Mr. Wilson offered to appear at the Planning Commission meeting.*

*Mr. Colling would like to see a recommendation from the Board to Planning Commission and City Council to invite the applicant back when they review the sign ordinances and give them a chance to present their information.*

**MOTION** by Fons, seconded by Koluch, that the SBA makes a recommendation to the Planning Commission and City Council inviting the applicant back when they review the sign ordinances to present their information.

Ayes: Brnabic, Colling, Fons, Hetrick, Koluch

Nays: Chalmers

Absent: McGunn

MOTION CARRIED.

*Ms. Roediger indicated ordinance amendments are going to the Planning Commission on November 21, 2017, so the applicant is invited to that meeting.*

*Mr. Oram would be more than happy to be part of the discussion, and appreciates the opportunity for dialog.*

2017-0515

**SIGN BOARD OF APPEALS**

**PUBLIC HEARING - FILE NO. 17-038**

Location: 2230-2248 Star Court, located on the northwest corner of Star Ct. and the westbound M59 entrance ramp from Crooks Rd., Parcel Identification Number 15-29-252-009, and zoned I (Industrial).

Requests: Item #1 - A request for a variance from Section 134-115(a) (Off-premises signs) of the Code of Ordinances, which states it shall be

unlawful to maintain any sign that is not an "on premise" sign or is not otherwise specifically allowed in this chapter. The submitted sign permit application is requesting an "off premise" sign not permitted by the Rochester Hills Sign Code.

Item #2 - A request for a variance from Section 134-179(3) (Signs permitted on general commercial, retail, and industrial premises) of the Code of Ordinances, which permits monument signs and wall signs. The submitted sign permit application is requesting a "pole mounted" sign not permitted by the Rochester Hills Sign Code.

Item #3 - A request for a variance of 63 feet in height from Section 134-181 (Standards) of the Code of Ordinances, which permits a maximum monument sign height of seven (7) feet. The submitted sign permit application is requesting a sign height of seventy (70) feet.

Item #4 - A request for a variance of 614.06 square feet from Section 134-181 (Standards) of the Code of Ordinances, which permits a monument sign area of 57.94 square feet for the subject frontage. The submitted sign permit application is requesting a sign area of 672 square feet.

Applicant: International Outdoors, Inc.  
28423 Orchard Lake Rd., Suite #200  
Farmington Hills, MI 48334

*(Reference: Staff Report dated October 31, 2017, prepared by Sara Roediger, Director of Planning, and associated documentation were placed on file in the Planning Department and by reference becomes part of the record hereof.)*

*Chairperson Colling summarized the request for the record, and noted the applicants previously introduced themselves and are seated at the presenter's table. He called for staff's presentation.*

*Mr. Oram asked the Board to go ahead with the denials if it's their pleasure without going through all the details of each particular site. He feels they will get denied anyway and has already presented the information in general.*

*Ms. Roediger indicated the staff presentation is the same staff report that was previously given. The location is different, but all of the criteria is essentially the same as previously noted.*

*The Board had no questions for the applicants.*

*There being no one in the audience wishing to speak on this item, the public hearing was opened and closed at 8:35 p.m.*

Item #1 -- **MOTION** by Koluch, seconded by Hetrick, in the matter of File No. 17-038, 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 15-29-252-009, zoned I (Industrial), 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 Industrial district. There are examples of Industrial 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 Industrial 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.*

*Item #2 -- **MOTION** by Koluch, seconded by Hetrick, in the matter of File No. 17-038, 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 15-29-252-009, zoned I (Industrial), 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 Industrial district. There are examples of Industrial 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 Industrial 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.*

*Item #3 -- **MOTION** by Koluch, seconded by Hetrick, in the matter of File No. 17-038, 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 15-29-252-009, zoned I (Industrial), 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 Industrial district. There are examples of Industrial 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 Industrial 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.*

Item #4 -- **MOTION** by Koluch, seconded by Hetrick, in the matter of File No. 17-038, that the request for a variance of 614.06 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 15-29-252-009, zoned I (Industrial), 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 Industrial district. There are examples of Industrial 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 Industrial 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.*

*The Board voted on all four Items with one vote.*

**A motion was made by Koluch, seconded by Hetrick, that this matter be Denied. The motion carried by the following vote:**

**Aye** 6 - Brnabic, Chalmers, Colling, Fons, Hetrick and Koluch

**Absent** 1 - McGunn

2017-0516**SIGN BOARD OF APPEALS****PUBLIC HEARING - FILE NO. 17-039**

Location: 1159 South Boulevard E., located on the north side of South Blvd., south of eastbound M59, and east of John R Rd., Parcel Identification Number 15-36-352-008, and zoned O-1 (Office Business).

Requests: Item #1 - A request for a variance from Section 134-115(a) (Off-premises signs) of the Code of Ordinances, which states it shall be unlawful to maintain any sign that is not an "on premise" sign or is not otherwise specifically allowed in this chapter. The submitted sign permit application is requesting an "off premise" sign not permitted by the Rochester Hills Sign Code.

Item #2 - A request for a variance from Section 134-178(1) (Signs permitted on office, professional and research premises) of the Code of Ordinances, which permits one monument sign per vehicle entrance. The submitted sign permit application is requesting a "pole mounted" sign not permitted by the Rochester Hills Side Code.

Item #3 - A request for a variance of 63 feet in height from Section 134-178(1) (Signs permitted on office, professional and research premises) of the Code of Ordinances, which permits a maximum monument sign height of seven (7) feet. The submitted sign permit application is requesting a sign height of seventy (70) feet.

Item #4 - A request for a variance of 652 square feet from Section 134-178(1) (Signs permitted on office, professional and research premises) of the Code of Ordinances, which permits one monument sign area not exceeding 20 square feet. The submitted sign permit application is requesting a sign area of 672 square feet.

Applicant: International Outdoor, Inc.  
28423 Orchard lake Rd., Suite #200  
Farmington Hills, MI 48334

*(Reference: Staff Report dated October 31, 2017, prepared by Sara Roediger, Director of Planning, and associated documentation were placed on file in the Planning Department and by reference becomes part of the record hereof.)*

*Chairperson Colling summarized the request for the record, and noted the applicants previously introduced themselves and are seated at the presenter's table. He assumes the staff report is the same as the other two cases, so we will forego summarizing the staff report. The applicant has already made his case and provided additional photographs of the subject site for the record and is available to answer any questions. The Board had no questions for the applicants.*

*The Chairperson opened the public hearing at 8:44 p.m.*

**Mr. Kenneth Bousquet, 2149 Harned Dr., Troy, MI 48085, came forward and**

introduced himself. He explained he lives one street south of South Boulevard, where the third billboard is proposed. As far as what's in the area, there's a couple of houses across South Boulevard, and one of the houses is leasing out a piece of its property for the proposed sign. On the south side of South Boulevard, there is a row of houses with a small lake behind them, and then Harned runs directly south of the lake. He lives on the north side of Harned, so the lake is in his back yard. All the houses on South Boulevard, face to the street. There are a couple of commercial enterprises but this sign would represent a 70 foot obstruction to their view. Since there is a lake there, the view of most of the houses is at the lake. His view is unobstructed to the lake and sees the back of the houses on South Boulevard. He would be able to see quite clearly a 70 foot monument sign and a 672 square foot double billboard. There is a 100 foot cell tower in the same vicinity. When that tower went up, it wasn't well received by anyone on the Troy side as it's not particularly attractive. After receiving the notice about the meeting, he spoke with a few neighbors and decided to go around the neighborhood with a petition to get comments about how the people felt about the proposed sign. Over the weekend he canvassed only homes on South Boulevard and Harned, as these are the homes that would have a visual of the sign. Every single resident they spoke to signed the petition - 100% - 35 signatures requesting that the SBA reject the applicant's request for a variance. He did not go over to Michelson, which is on the north side of M59. Understanding what's going to happen here tonight and what the Board is going to do with regard to this request, and what the Board will be considering in the future with regard to the M59 corridor, he happened to drive M59 both west and east. It is noticeable what Rochester Hills does. He complimented the Board on what Rochester Hills does. It is quite pleasing not to have these signs. When considering signage on M59, he strongly asks that the City consider the residences along M59. The signage you will see in the sky is something that is going to impact all of the resident's views. This is not something that the residences in that area would like to see. Please be mindful of the difference between a commercial/industrial location along M59 and along a residential section along M59.

**Ms. Barbara Resovsky, 2137 Harned, Troy, MI 48085** came forward and introduced herself. She mentioned the trees and nature outside the auditorium and said that's what she has at home. She lives in a residential area that is a nature community, and the other areas for the proposed signs are not. Her grandkids love the nature. When the sign is placed there, what are the grandkids going to look at - a big screen TV outside their window? She asked that the Board not allow this to happen in a residential area.

There being no else wishing to speak, the Chairperson closed the public hearing at 8:52 p.m. and opened the floor to Board discussion.

The Chair asked the applicants if there is anything significant they feel they would like to add to this case.

Mr. Oram indicated he presented the photos with respect to the resident's concerns, as he respects those concerns. He pointed out the property is zoned office, the cell tower is 100 feet tall, the freeway grade is approximately 20 feet higher than the grade of the property, and the property along the north side of

South Boulevard is all zoned office. This creates more traffic and congestion than a digital display would. As the photos show, what you will see driving down some of these roads are mature trees. When you are driving at grade looking up at 50 foot trees 100 feet in front of the sign, the vegetation will probably block out a lot of the sign visibility unless there is an opening on South Boulevard. The documentation he has presented tonight creates a record, and if the Board has looked at this information and made their determination, he respect that moving forward. He thanked the Board for their time.

Mr. Wilson added that with all three issues, they believe they are entitled to equal protection in regards to their property rights.

Mr. Colling indicated the Board is aware of this, and have tried to find a way, based upon the current law to justify this, and haven't. That's why they made the recommendation to staff for further consideration.

Item #1 -- **MOTION** by Koluch, seconded by Brnabic, in the matter of File No. 17-039, 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 15-36-352-008, zoned O-1 (Office Business), 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 O-1 district. There are examples of O-1 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 O-1 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.

Item #2 -- **MOTION** by Koluch, seconded by Brnabic, in the matter of File No. 17-039, that the request for a variance from Section 134-178(1) (Signs permitted on office, professional and research premises) of the Rochester Hills Code of Ordinances to allow a "pole mounted" sign not permitted by the Sign Code, Parcel Identification Number 15-36-352-008, zoned O-1 (Office Business), 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 O-1 district. There are examples of O-1 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 O-1 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.*

***Item #3 -- MOTION** by Koluch, seconded by Brnabic, in the matter of File No. 17-039, that the request for a variance of 63 feet in height from Section 134-178(1) (Signs permitted on office, professional and research premises) of the Rochester Hills Code of Ordinances to allow a sign height of seventy (70) feet, Parcel Identification Number 15-36-352-008, zoned O-1 (Office Business), 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 O-1 district. There are examples of O-1 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 O-1 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.*

***Item #4 -- MOTION** by Koluch, seconded by Brnabic, in the matter of File No. 17-039, that the request for a variance of 652 square feet from Section 134-178(1) (Signs permitted on office, professional and research premises) of the Rochester Hills Code of Ordinances to allow a sign area of 672 square feet, Parcel Identification Number 15-36-352-008, zoned O-1 (Office Business), 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 O-1 district. There are examples of O-1 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 O-1 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.*

*The Board voted on all four Items with one vote.*

**A motion was made by Koluch, seconded by Brnabic, that this matter be Denied. The motion carried by the following vote:**

**Aye** 6 - Brnabic, Chalmers, Colling, Fons, Hetrick and Koluch

**Absent** 1 - McGunn

## **ANY OTHER BUSINESS**

***MOTION** by Koluch, seconded by Brnabic, **Moved**, that the Board approves the 2018 Meeting Schedule as presented, with meetings being the second Wednesday of each month at 7:00 p.m.*

*All: All Nays: None Absent: McGunn MOTION CARRIED.*

## **NEXT MEETING DATE**

*The next Regular Meeting is scheduled for December 13, 2017.*

## **ADJOURNMENT**

*Happy Thanksgiving to everyone. Chairperson Colling adjourned the meeting at 9:00 p.m.*

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*Ernest W. Colling, Jr. Chairperson  
Zoning Board of Appeals  
City of Rochester Hills*

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*Sandi DiSipio, Recording Secretary*