



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

May 4, 2018

M59-Crooks Business Park Real Estate Sign	
REQUESTS	Variances from <i>Section 134-4 (2)</i> to allow a sign in the public right-of-way
APPLICANT	Avon Star LLC / 59Avon LLC PO Box 4013 Southfield MI 48037
LOCATION	Northwest corner Crooks and Avon Industrial Dr.
FILE NO.	06-013
PARCEL NO.	15-29-228-004
ZONING	B-3, Shopping Center Business
STAFF	Kristen Kapelanski, AICP, Planning Manager

In this Report:

Requested Variance..... 1
 Analysis..... 2
 Sample Motions..... 3

Requested Variance

The requested variance is from *Section 134-4(2)* which prohibits signs in the public right-of-way. The submitted sign permit application is requesting a variance for a temporary real estate sign advertising “M-59 Business Park” currently located in the Avon Industrial Drive right-of-way.

Background

As you may recall, the SBA approved a 5-year extension of approval for the M59 Business Park to locate this sign in the Avon Industrial right-of-way at the April 10, 2013 meeting and reconsidered and affirmed that approval at the October 9, 2013 meeting (both meeting minutes attached). Those approvals were essentially a 5-year extension to the previously-approved 5-year variance granted in 2008 (minutes attached). The sign was initially approved in 2006 (minutes attached) and was located on what is now the retail center’s property, but when Mr. Al Santia purchased the retail center in 2008 he no longer allowed the sign to be located on his property. At that time the SBA granted the variance to allow the sign to be located in the right-of-way.

A condition of the October 2013 variance request was that the Zoning Board of Appeals felt that two five year extensions for the sign were adequate and they noted that the variance would not be renewed. While this variance request is from a different ordinance provision because of the reorganization and re-write of the sign ordinance, it is for the same sign previously considered.

Site Description

The site is located on the northwest corner of Crooks Road and Avon Industrial Drive. The existing sign is located near the corner of the right-of-way as shown in the photograph below.



Analysis

In accordance with Section 134-12 of the Code of Ordinances, the Sign Board of Appeals (SBA) may grant a variance to the requirements of the City's Sign Ordinance only in cases when competent, material and substantial evidence that the following findings are met.

1. **Special Conditions.** That special conditions or circumstances exist which are peculiar to the land, structure, or building and which are not applicable to other lands, structures or buildings in the same district. There are no apparent special conditions that exist that are peculiar to this site. Other sites have similar physical conditions and comply or have been brought into compliance with ordinance requirements.
2. **Deprivation of Rights.** That literal interpretation or application of the provisions of Chapter 134 would deprive the applicant of property rights commonly enjoyed by other properties in the same district under the terms of Chapter 134. Denial of the requested variance will not deprive the property owner of the right to have a sign out of the right-of-way in accordance with ordinance regulations.
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 sign currently sits very near the existing Tim Horton's restaurant and granting the variance and allowing it to remain could affect the rights or properties of others, as the

sign is blocking a portion of the restaurant facade.

Sample Motions

Motion to Approve

MOTION by _____, seconded by _____, in the matter of File No. 06-013, that the request for a variance from *Section 134-4 (2) – Prohibited Signs*, of the Rochester Hills Sign Ordinance to allow a sign within the right-of-way, Parcel Identification Number 15-29-228-004 zoned B-3 (Shopping Center Business), be **APPROVED** because a competent, material, and substantial evidence **does** exist in the official record of the appeal that supports all of the following affirmative findings:

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

Motion to Deny

MOTION by _____, seconded by _____, in the matter of File No. 06-013, that the request for a variance from *Section 134-4 (2) – Prohibited Signs*, of the Rochester Hills Sign Ordinance to allow a sign within the right-of-way, Parcel Identification Number 15-29-228-004 zoned B-3 (Shopping Center 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 B-3 district.
2. A literal interpretation or application of the provisions of *Chapter 134* would not deprive the applicant of property rights commonly enjoyed by other properties in the B-3 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.