



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

October 7, 2020

1711 E. Auburn Sign Variances	
<b>REQUEST</b>	A variance from <i>Section 134-4.(5) Illumination b.</i> to allow four signs with exposed lighting
<b>APPLICANT</b>	Deni Bozinovski 49481 Galway Macomb Township, MI 48044
<b>LOCATION</b>	1711 E. Auburn Rd., located at the northeast corner of E. Auburn and Harrison Ave.
<b>FILE NO.</b>	20-026
<b>PARCEL NO.</b>	15-25-458-031
<b>ZONING</b>	BD Brooklands District
<b>STAFF</b>	Kristen Kapelanski, Manager of Planning

**Requested Variance**

The applicant is requesting a variance from Chapter 134, Signs, of the Code of Ordinances to permit four signs with exposed lighting. Section 134-4, (5) Illumination b. (Prohibited Signs) states that the source of illumination may be internal or external, and that the source of light shall not be exposed. The applicant is going through a façade renovation at the existing Johnny Black’s restaurant in the new Brooklands District on Auburn Rd. and would like to add signs similar to those at his other locations. Please see the attached photographs of his locations in Sterling Heights and Waterford (also has a location in Lake Orion, not shown). The proposed signs would have the same design. The main reason for the request, according to the applicant, is that he wants to keep his brand consistent, and the look has worked well in urban chic spaces which the corridor is proposed to become. In conversation with him, the applicant feels that his signs are displayed in a creative way with a versatile design element that make them look stylish even when the lights are off, and he would like to duplicate this look and brand in Rochester Hills. Exposed bulbs have become a popular and energy efficient lighting option, but they are not allowed by the City. Specifications for the proposed signs are included. The applicant mentions that he was required to remove his original pole sign for the Auburn Rd. corridor improvements, and he had to purchase a new sign.

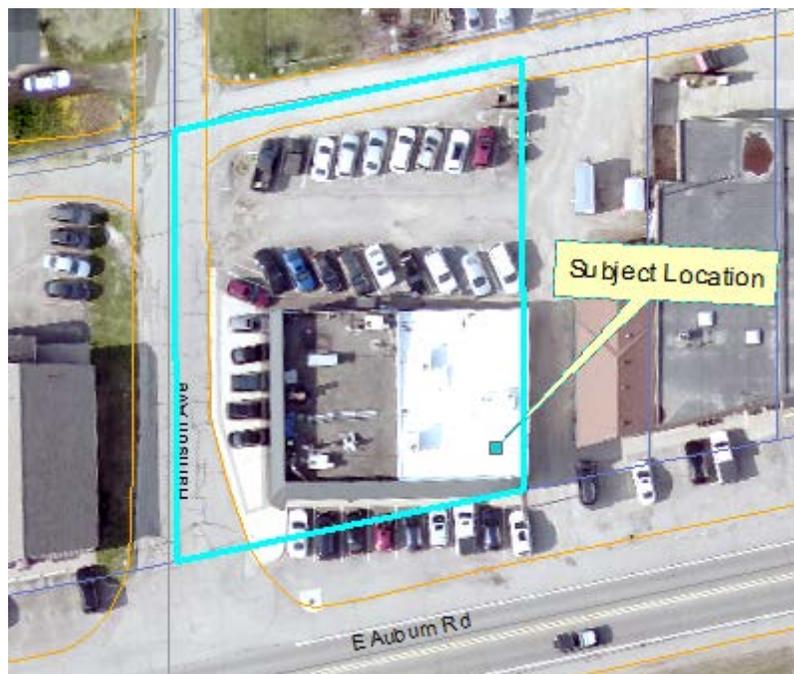
According to the City’s consultant, Giffels Webster, a reason for prohibiting exposed bulbs was that they generated complaints related to surface heat and too much glare. The lights will be out of reach, and using a yellow globe proposes to cast a softer, welcoming look and cut down on unwanted brightness.

The applicant needs to demonstrate that extraordinary or exceptional circumstances necessitate a variance so as to allow for the enjoyment of a substantial property right that would be denied if not granted the variance. It is his belief that the intent of the Ordinance was for lighting such as that seen on the examples attached and not for his arrangement.

The subject site is located at the northeast corner of E. Auburn and Harrison Ave. Below is a table for the zoning and existing and future land use designations for the site and surrounding parcels.

	Zoning	Existing Land Use	Future Land Use
Subject Site	BD Brooklands District	Johnny Black's Public House	Commercial Residential Flex-2
North	R-4 One Family Residential	Single family homes	Residential 4
South	BD Brooklands District	Commercial/Retail	Commercial Residential Flex-2
East	BD Brooklands District	Commercial/Retail	Commercial Residential Flex-2
West	BD Brooklands District	Office Plaza	Commercial Residential Flex-2

### Site Photographs



### 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 which are peculiar to the structure. The City prohibits exposed lighting. Other cities do allow this, which does not seem to be aesthetically displeasing, but it can cause glare with certain bulbs.
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. The applicant is requesting to be able to continue the brand of his other stores in other cities, where this type of lighting is not prohibited.

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 feels that the section of the Ordinance prohibiting the proposed signage was not meant for the type of lighting he is proposing, but rather, for extremely bright, blinking, neon type signage. He states that he has received no objections from neighbors, some who have encouraged him to install the signs. The SBA must balance the public health and safety consideration of providing signage that will not contribute to unsafe traffic and pedestrian conditions.

## Sample Motions

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### Motion to Approve

**MOTION** by \_\_\_\_\_, seconded by \_\_\_\_\_, in the matter of File No. 20-026 (Johnny Black's Sign Variance), that the request for a variance from Section 134-4 (B). *Illumination b.* of the Rochester Hills Code of Ordinances to allow four signs with exposed lighting, Parcel Identification Number 15-25-458-031, zoned BD Brooklands District, 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 BD 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 BD 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. 20-026 (Johnny Black's Sign Variance), that the request for a variance from Section 134-4 (B). *Illumination b.* of the Rochester Hills Code of Ordinances to allow four signs with exposed lighting, Parcel Identification Number 15-25-458-031, zoned BD Brooklands District, 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 BD district. There are examples of BD 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 BD 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.