



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

April 3, 2017

<b>1020 E. Auburn Road</b>	
<b>REQUESTS</b>	Variations from <i>Section 134-107(1)</i> to allow structural alterations to an existing nonconforming sign, and <i>Section 134-181</i> to allow an electronic message sign on an existing nonconforming sign
<b>APPLICANT</b>	Haitham Sitto 44731 Woodward Ave. Pontiac, MI 48341
<b>LOCATION</b>	Southeast corner of Auburn and John R Roads, Chateau De Vin
<b>FILE NO.</b>	17-007
<b>PARCEL NO.</b>	15-36-101-001
<b>ZONING</b>	B-1, Local Business with an FB-2 Flex Business Overlay
<b>STAFF</b>	Sara Roediger, AICP, Director of Planning and Economic Development

*In this Report:*

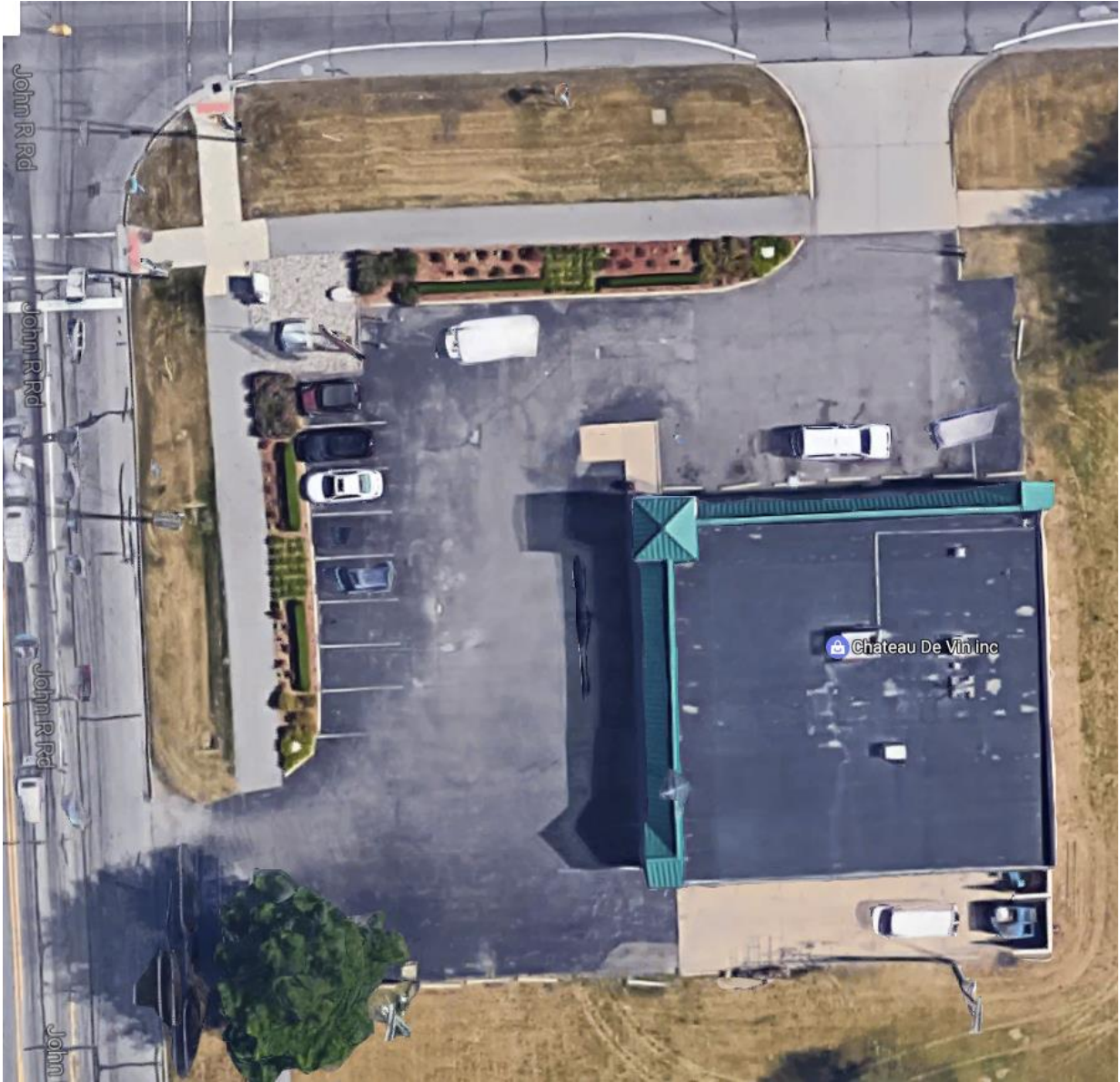
Requested Variance..... 1  
 Analysis..... 3  
 Sample Motions..... 3

**Requested Variance**

The requested variance is from *Section 134-107(1)* which prohibits changes to the shape, size, type or design of an existing nonconforming sign. The existing sign structure is a nonconforming pole sign. The submitted sign permit application is requesting a structural alteration to the existing pylon sign by replacing the cabinet. The second requested variance is from *Section 134-181* which allows an electronic message sign on the same sign structure as a monument sign. The submitted sign permit application is requesting an electronic message sign on an existing pylon sign.

**Site Description**

The site is located on the southeast corner of the Auburn and John R intersection. The existing nonconforming sign is located near the northwest corner of the property as shown in the aerial and photograph on the following page.



## Analysis

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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 that exist that are peculiar to this site. Other sites in the B-1 district 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 monument sign 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.* As an existing sign, it is unlikely that granting the variance and allowing it to remain would affect the rights or properties of others. However, it is the clear intent of the sign ordinance is to eliminate nonconforming signs, and so granting the variance would be contrary to the spirit and intent of the sign ordinance and would not result in substantial justice to any property owner who has had, or will have to remove a similar nonconforming pole sign.

## Sample Motions

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### Motion to Approve

MOTION by \_\_\_\_\_, seconded by \_\_\_\_\_, in the matter of File No. 17-007, that the request for a variance from Section 134-107(1) – Nonconforming Signs, of the Rochester Hills Sign Ordinance to allow structural alterations on an existing nonconforming sign, and a variance from Section 134-181 – Standards, of the Rochester Hills Sign Ordinance to allow an electronic message sign on an existing nonconforming sign, Parcel Identification Number 15-36-101-001 zoned B-1 (Local Business) with an FB-2 Flex Business Overlay, 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-1 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-1 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. 17-007, that the request for a variance from Section 134-107(1) – Nonconforming Signs, of the Rochester Hills Sign Ordinance to allow structural alterations on an existing nonconforming sign, and a variance from Section 134-181 – Standards, of the Rochester Hills Sign Ordinance to allow an electronic message sign on an existing nonconforming sign, Parcel Identification Number 15-36-101-001, zoned B-1 (Local Business) with an FB-2 Flex Business Overlay, 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-1 district. There are examples of similar businesses 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 B-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.