



Rochester Hills

Minutes

Zoning Board of Appeals

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

Wednesday, April 12, 2017

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

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

ROLL CALL

Present 7 - Deborah Brnabic, Bill Chalmers, Ernest Colling, Dane Fons, Dale Hetrick, Kenneth Koluch and Michael McGunn

*Also Present: Mark McLocklin, Ordinance Enforcement
Sara Roediger, Director of Planning
Sandi DiSipio, Recording Secretary*

APPROVAL OF MINUTES

[2017-0180](#) March 8, 2017 Regular Meeting Minutes

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

Aye 7 - Brnabic, Chalmers, Colling, Fons, Hetrick, Koluch and McGunn

COMMUNICATIONS

Planning & Zoning News - February 2017 edition

PUBLIC COMMENT for Items not on the Agenda

No public comment was heard.

NEW BUSINESS

[2017-0181](#) **SIGN BOARD OF APPEALS**
PUBLIC HEARING - FILE NO. 17-007

Location: 1020 E. Auburn Rd., located on the southeast corner of Auburn and John R Roads, Parcel Identification Number 15-36-101-001, zoned B-1 (Local Business) with an FB-2 Flex Business Overlay, and known as Chateau De Vin.

Requests: Item #1 - A request to allow structural alterations to an existing

nonconforming sign pursuant to Rochester Hills Sign Ordinance Section 134-107(1) - Nonconforming Signs, which prohibits changes to the shape, size, type or design of the sign. The submitted sign permit application is requesting a structural alteration to the existing pylon sign by replacing the cabinet.

Item #2 - A request to allow an electronic message sign on an existing nonconforming sign pursuant to Rochester Hills Sign Ordinance Section 134-181 - Standards, 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.

Applicant: Haitham Sitto
44731 Woodward Ave.
Pontiac, MI 48341

(Reference: Staff Report dated April 3, 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 applicant to come forward and provide a summary of the request.

Mr. Jerry Roumayah, the property and business owner, Chateau De Vin, 1020 E. Auburn Rd., Rochester Hills, MI, came forward, introduced himself and gave a summary of his request. He explained the applicant. Mr. Haitham Sitto, had an emergency and could not be present. Mr. Roumayah referred to the photos included in the application and pointed out the utility stations in the landscape area. His intention is to face the sign east and west. If the sign is brought down to the monument level, he is afraid that there will be a viewing obstruction, especially travelling east on Auburn. His concern is that signs are not cheap, and he wants to maintain the maximum amount of viewing area for his investment. He believes the utility stations are a hindrance to what he wants to do.

Mr. Colling asked Mr. Roumayah if he was saying the utility stations in front of the subject property prevent him from installing a monument sign.

Mr. Roumayah said it does not prevent him from putting in a monument sign in, what he's saying is if you're travelling east on Auburn Rd. and you're stopped at the light, there is a definite obstruction there with the utility stations. He believes one of them is a little over five foot high. He feels for the investment he's going to make, he has the right to ask for this variance. Mr. Roumayah explained throughout the years the owners have made numerous improvements to dress up the location, e.g., significant investment in the landscaping and improvements to the exterior of the building. They want the corner to look nice, and for his investment he believes this is a legitimate case for a variance.

Chairperson Colling then called for a summary of the staff report.

Ms. Roediger commented as part of the Sign Board of Appeals review process, there's three criteria that the Board is held to - that special conditions exist on this site that aren't applicable to other properties in the City, that depriving the

applicant of the requested variance would deprive them of a right commonly enjoyed by other properties, and that substantial justice would be served by the variance. As discussed last month, the City developed an aggressive ordinance over 20 years ago to eliminate pole signs and to require all future signs to be monument signs. As part of that policy, it listed some conditions that existing nonconforming signs could continue, but there was also some criteria as to when they should come into compliance, e.g., structural change, change of ownership. In addition, the ordinance is very specific in that it does not allow changeable message signs on pole signs.

Mr. Colling indicated the ordinance has been in effect for 20 years. He is very familiar with the corner as he lives in the neighborhood, and the utility station the applicant spoke of has not posed any kind of safety hazard for that intersection in terms of visibility. Mr. Colling indicated he also serves on the Traffic Advisory and Safety Board, which conducts traffic and accident studies throughout the City. He feels there should be a way, even if the requirements of a monument sign need to be modified, to get enough visibility even with the utility station there.

Ms. Roediger noted the existing utility box that is closest to the intersection is within the corner clearance, so a sign could not be put that close to the utility box. There is ample room for a sign that would meet all safety setbacks, corner clearance and visibility.

Chair Colling asked if there was a place on the property that the monument sign could be located where the utility enclosure wouldn't block the majority of the view if the sign was limited to the standards held for monument signs.

Ms. Roediger responded yes. It wouldn't maximize visibility as the property owner indicated, but the majority of the sign would be visible from all angles.

The floor was opened for Board discussion.

Mr. Hetrick asked if the existing sign was erected at a seven foot total height and 50 square feet, would there be any ordinance issues with the sign as a monument.

Mr. McLocklin replied no because it would meet the height requirement from grade to top of sign, which is seven feet and meet the 50 square foot maximum.

Mr. Hetrick then asked if there would be any issues with setback or actually building the monument sign if it was placed in approximately the same location that the pole sign is now.

Mr. McLocklin indicated no, and staff could work to modify the area around the sign. There would be no right-of-way issues with the sign.

Mr. Hetrick added he recognizes there are some utility boxes in the way that are four or five feet high. With the sign being seven feet tall, he believes that would get the sign out of any visibility issues.

Mr. Roumayah commented if he is going to relocate the sign in the landscape area, it will require more of an investment. What he is trying to do is keep the sign on the existing pole. He believes that the bottom of the sign should at least clear the tallest utility box. He does not feel this is unreasonable. If there is any type of obstruction caused by these utility boxes, it's not his problem. Unless the utility company wants to relocate them, then he feels he has a good case for this variance.

Chair Colling commented this is not an unusual condition in the City. There are other monument signs that have similar obstructions throughout the City. His issue is that this ordinance has been in place for 20 years, and the desire to keep the sign on the pole is a self-created situation, in that's what the applicant wants to do. It is not the only solution. The Board doesn't know possible visibility because the applicant has not looked at any other locations on the property that fall within the ordinance to get the visibility. The only time the Board approved a pole sign was on a hill on Rochester Road where the structure next door had a high driveway with sidewalls and the sign would not been seen at seven feet tall until you were right on top of it. Because of the speeds on Rochester Road, the Board agreed to raise the sign so it was visible. In this case, the applicant has a flat geometry, the speed limit throughout the area is 40 mph, and is located at a stoplight. People will have plenty of opportunity to see the sign. Mr. Colling feels the majority of the applicant's patronage comes from the neighborhood and people who know where the store is.

Mr. Roumayah disagreed. He asked why the Jax Car Wash sign on Rochester Road is allowed at more than seven feet high.

Mr. Hetrick noted the grandfathering in of pole signs in the ordinance - Jax has not requested a structural change in their sign, nor have they done anything to change their sign. So, their sign will stand until such time as there is a change.

Mr. Colling indicated the applicant is proposing to use the existing pole, but by statutes of the ordinance, he is proposing a brand new sign. What is being proposed is not a minor change, but a whole new sign. If this was a minor change to the sign based upon the ordinances, Mr. Colling might be inclined to grant the variance. But because this is new signage, he finds it hard to support the request.

Mr. Hetrick agreed with the Chair that the first strike is making the structural change. The second strike is that message board signs are not allowed on a pole sign. If the applicant wants a changing message board, it has to be on a monument sign. He added he drove by the subject site, and noted the utility boxes did not block his view of anything. From the standpoint of being able to build a monument and put it at seven feet, the applicant will be able to do all the things he wants to do and not run into a situation where people can't see the sign. Staff will be able to assist in positioning the sign that maximizes the exposure. Mr. Hetrick can't support the variance.

Mr. Roumayah respectfully disagrees. He knows what's in the ordinance and

could bring the sign down and put it on a monument, but believes he has a hardship with the utility boxes. He will have to look at whether to put further investment into the area.

Chairperson Colling commented the applicant keeps mentioning that the utility stations are a hardship, and pointed out that this is not the only location on the property for a monument sign. The visibility is only impacted if it's located in such a place that is, by design, impacted by the utilities. He feels there are many more options than what the applicant is alluding to that would avoid the visibility issue.

Mr. Roumayah indicated this would add extra cost, and that is what he's trying to avoid.

Mr. Chalmers asked if two monument signs would be allowed.

Ms. Roediger explained that as a corner property, the applicant is eligible for two signs. They could locate a sign at each of the driveways, one on Auburn and one on John R.

Mr. McLocklin pointed out the total footage allowed is still 50 square feet, so this would have to be split between the two signs, and only one electronic message board would be allowed.

Chairperson Colling said he would be willing to negotiate on the size of the signage, possibly a little more than what is allowed, but only one message board, as this is a better solution than granting a variance to keep the pole sign.

Mr. Roumayah asked if the sign is reduced to seven feet and he cut the pole, can the sign be mounted right on the pole?

Mr. McLocklin indicated this would be sufficient and meets the requirements of the ordinance, but skirting would be required at the bottom.

Mr. McGunn commented the suggestion about dropping the sign effectively makes the pole sign a monument. He appreciates all the applicant has done to improve the appearance of the property as it looks very nice. His opinion is that a monument sign is much more attractive than a pole sign.

Ms. Brnabic agrees with the rest of the Board that the applicant has a few options.

Mr. Roumayah still thinks the utilities are a hindrance and asked if there was any type of concession he can make to allow the sign to be higher than allowed, possibly nine or 10 feet. He also indicated he will have to price out all the available options, the two signs versus the one sign, a new monument sign versus dropping the pole sign down, etc.

MOTION by Koluch, seconded by Hetrick, 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**. 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.
2. **Deprivation of Rights**. 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. **Substantial Justice**. 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.

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

Aye 7 - Brnabic, Chalmers, Colling, Fons, Hetrick, Koluch and McGunn

Chairperson Colling asked the applicant to work with staff to try and come up with whatever plan makes the most sense, given the options discussed tonight.

ANY OTHER BUSINESS

Election of Officers

Chairperson Colling opened the floor for nominations.

MOTION by McGunn, seconded by Chalmers, to nominate the current slate of officers. The slate accepted the nomination.

Chairperson Colling closed the nominations and moved to elect Mr. Colling as Chairperson, Mr. Koluch as Vice-Chairperson and the Planning Staff as Secretary.

Ayes: All Nays: None

MOTION CARRIED.

Staff then briefly summarized the hearings scheduled for next month's meeting.

NEXT MEETING DATE

The next Regular Meeting is scheduled for May 10, 2017.

ADJOURNMENT

Chairperson Colling adjourned the meeting at 7:43 p.m.

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

Sandi DiSipio, Recording Secretary