



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

May 2, 2017

92 E. Auburn Rd. – Culver’s Signage	
REQUEST	A variance from <i>Section 138-8.603.A.3 (Flex Business Overlay, Signs, Designs and Materials)</i> of the Code of Ordinances to allow 4 wall signs and 1 monument sign to be internally lit
APPLICANT	Andrew Zielke, Just Burgers & Fries, LLC 4564 Oakhurst Ridge Rd. Clarkston, MI 48348
LOCATION	Meijers outlot, southeast corner of S. Rochester and E. Auburn Roads
FILE NO.	16-015
PARCEL NO.	15-35-100-055
ZONING	B-3, Shopping Center Business with an FB-3 Flex Business Overlay
STAFF	Sara Roediger, AICP, Director of Planning

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Requested Variance

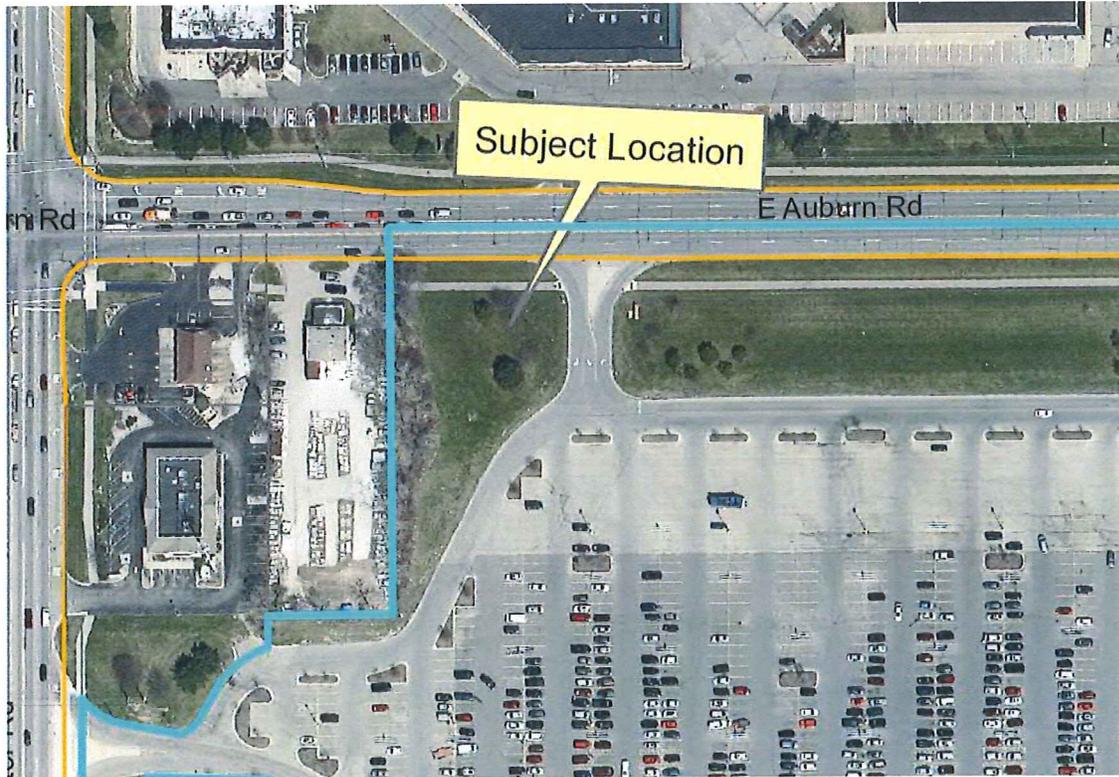
The applicant is requesting a variance from *Section 138-8.603.A.3* of the Code of Ordinances to permit four wall signs and one monument sign to be internally lit.

Site Description

The subject parcel is located on a Meijers outlot, near the southeast corner of S. Rochester and E. Auburn Roads. The applicant is constructing the new Culver’s drive-through restaurant.

Site Photographs

Please see the following page for an aerial and photographs of the property.



Analysis

In the case of a variance, the Zoning Ordinance requires the ZBA to make a finding that a practical difficulty exists that precludes the property owner from meeting the requirements of the Ordinance. *Section 138-2.407.B.* provides criteria for determining if a practical difficulty exists.

1. *Compliance with the strict letter of the restrictions governing area, setback, frontage, bulk, height, lot coverage, density or other dimensional or construction standards will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with such restrictions unnecessarily burdensome.* Compliance with the ordinance would not allow internally lit signs in the Flex Business Overlay district. The site is surrounded by B-3 Shopping Center Business, and existing signs are internally lit.
2. *A grant of the variance will do substantial justice to the applicant as well as to other property owners in the district, and a lesser variance will not give substantial relief to the applicant as well as be more consistent with justice to other property owners in the zoning district.* The Sign Ordinance allows for internally lit signage in the B-3 Shopping Center District, however the Zoning Ordinance does not allow internally lit signage for developments constructed under the Flex Business Overlay District, of which this project is the first retail development to be constructed using this option. This project has brought to light the constraints this language places on businesses along commercial corridors such as Rochester and Auburn as nearly every business along our commercial corridors have internally illuminate signage. City staff is currently working with its planning consultants to incorporate the Flex Business Sign regulations into the Sign Ordinance and to remove the prohibition of internally lit signs. By granting the requested variance, it would allow the signs on the subject building to be visually consistent with the other internally illuminated signs in the area.
3. *The plight of the applicant is due to the unique circumstances of the property.* The restaurant was developed using the Flex Business Overlay standards, the first of it's kind in the City, which does not allow internally lit signage. The parcel is an outlet surrounded by B-3 Shopping Center Business zoning, which does allow internally lit signs. This site is unique in that is the first to be held to these standards, and the City is in the process of removing this requirement.
4. *The problem is not self-created.* See 3. above.
5. *The spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done.* Granting the requested variance will allow internally lit signage on a property that will be consistent with internally lit signage on all adjacent properties and most properties along business corridors in the City.

Sample Motions

Motion to Approve

MOTION by _____, seconded by _____, in the matter of File No. 16-015, that the request for a variance from *Section 138-8.603.A.3 (Flex Business Overlay, Signs, Designs and Materials)* of the Rochester Hills Code of Ordinances to permit four wall signs and one monument sign to be internally lit, Parcel Identification Number 15-35-100-055, zoned B-3 (Shopping Center Business) with an FB-3 Flex Business Overlay, be **APPROVED** because a practical difficulty does exist on the property as demonstrated in the record of proceedings and based on the following findings:

1. Compliance with the strict letter of the restrictions governing signs in the Flex Business Overlay District will be unnecessarily burdensome as other properties in the area are developed with internally lit signage.
2. Granting the variance will do substantial justice to the applicant as well as nearby property owners by permitting signs that are consistent with prevailing patterns in the nearby area.
3. A lesser variance will not provide substantial relief, and would not be more consistent with justice to other property owners in the area.

4. There are unique circumstances of the property that necessitate granting the variance, and that distinguish the subject property from other properties with respect to compliance with the ordinance regulations. Specifically that this is the first retail property to be developed under these regulations and the regulations are currently in the process of being amended.
5. Alternatives do not exist that would allow the intended and/or reasonable use of the property that would allow the requirements of the Ordinance to be met.
6. This variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property owners in the neighborhood.
7. The granting of this variance would not be materially detrimental to the public welfare or existing or future neighboring uses.
8. Approval of the requested variance will not impair the supply of light and air to adjacent properties, increase congestion, increase the danger of fire, or impair established property values in the surrounding area.

Conditions of Approval. Approval of the variance is subject to the following conditions (insert any appropriate conditions).

Motion to Deny

MOTION by _____, seconded by _____, in the matter of File No. 16-015, that the request for a variance from *Section 138-8.603.A.3 (Flex Business Overlay, Signs, Designs and Materials)* of the Rochester Hills Code of Ordinances to permit four wall signs and one monument sign to be internally lit, Parcel Identification Number 15-35-100-055, zoned B-3 (Shopping Center Business) with an FB-3 Flex Business Overlay, be **DENIED** because a practical difficulty does not exist on the property as demonstrated in the record of proceedings and based on the following findings:

1. Compliance with the strict letter of the restrictions governing signs in the Flex Business Overlay District will not prevent the owner from using the property for a permitted purpose in a reasonable manner, and will not be unnecessarily burdensome.
2. Granting the variance will not do substantial justice to nearby property owners as it will allow internally lit signage in the Flex Business Overlay District. Thus, the variance would confer a special benefit on the applicant that is not enjoyed by neighboring property owners.
3. There are no unique circumstances of the property that necessitate granting the variance.
4. The circumstances are self-created by the applicant in the form of their desire to construct internally lit signage on the property.
5. The granting of the variance would be materially detrimental to the public welfare by establishing a precedent that could be cited to support similarly unwarranted variances in the future.
6. The granting of this variance could encourage further incursions upon the Zoning Ordinance which would result in further variances being considered by the Zoning Board of Appeals and could be construed as removing the responsibility of meeting the Zoning Ordinance from applicants and those wishing to have similar signage within the City.
7. The granting of this variance would be materially detrimental to the public welfare or existing or future neighboring uses.
8. Approval of the requested variance may impair the supply of light and air to adjacent properties, increase congestion, increase the danger of fire, and/or impair established property values in the surrounding area.