

6. NEW BUSINESS

Chairperson Cockey noted the applicant for Agenda Item 6A was not present at this time. The Board agreed to hear Agenda Item 6B, and to hear Agenda 6A at the conclusion of that matter.

**6B. SIGN BOARD OF APPEALS
PUBLIC HEARING - FILE NO. 04-010**

Location: 546 S. Rochester Road, located on the west side of Rochester Road, immediately north of Cloverport Avenue, Parcel Identification Number 15-15-426-020, and zoned B-2 (General Business).

Request: A request for a variance to allow a panel change to an existing nonconforming sign pursuant to Section 134-107(5)(b), which indicates nonconforming signs or sign structures shall be removed when the name of the premises or business the nonconforming sign pertains to changes. The business is changing from "Anderson Vacuums" to "Hertz Rent-A-Car".

Applicant: Bashar Bashir
2177 Wentworth
Rochester Hills, Michigan 48307

Chairperson Cockey noted the Board would now act as the Sign Board of Appeals. He requested that the applicant come forward to the presenter's table. Chairperson Cockey read the request for the record and asked the applicant to introduce himself.

Greg Hoyt, Hertz Corporation, 40490 Van Dyke Avenue, Sterling Heights, Michigan, stated he was the City Manager for the corporation. He explained the Rochester Hills location was one of the locations he oversaw and would ultimately move his office to.

Chairperson Cockey verified that Mr. Hoyt was authorized to represent Mr. Bashir in this matter. Mr. Hoyt indicated that was correct.

Lynley Peterson, was also present for the applicant and stated she was the Branch Manger for the Rochester Hills Hertz Corporation located at 546 S. Rochester Road.

Chairperson Cockey asked the applicants to provide a brief summary of their request.

Mr. Hoyt stated they were requesting a variance for a panel switch at the 546 S. Rochester Road property for several reasons. He indicated the first reason was that the sign, as it presently existed, was one of the major reasons the corporation was attracted to the property. He explained the property was across the street from "dealership row" and stated the car dealerships were a major source of business for the company. Mr. Hoyt stated he understood the City's Ordinance and the fact that when a business changed, it put the sign into non-conformance. He stated they were conscious of the fact that it was important to the residents and it was important to their referral sources that their customers knew where the business was located.

Mr. Hoyt stated that due to the limited space that existed between the Hertz Corporation building and the sidewalk and Rochester Road, City Staff had indicated a monument sign would have to

be placed to the north of the building, around the corner between the Hertz Company building and the adjacent Clark Gas Station. He explained that sign placement would not allow for any visibility whatsoever of the Hertz sign for traffic heading north into the City, and very limited exposure to traffic heading south.

Mr. Hoyt stated that the company had already experienced situations whereby customers trying to return their rental cars after work and get back to their respective body shops or dealerships prior to 6:00 PM, were driving past their building not knowing where the business was located, creating some very unhappy customers. He indicated they hoped the Board would approve their variance request allowing them to use the existing sign. He indicated they would redo the sign, but would not do anything to the structure, but would simply switch the panels to the Hertz logo which would be black with yellow lettering.

Chairperson Cockey asked if Staff had anything to add at this time. Mr. McLocklin stated he did not have anything at this time. Chairperson Cockey asked the applicants if they had received a copy of the Staff Report. Ms. Peterson responded they had received a copy of the Staff Report.

Chairperson Cockey opened the Public Hearing at 7:36 PM. There being no persons wishing to speak on this matter, Chairperson Cockey closed the Public Hearing at 7:37 PM. Chairperson Cockey then called for discussion by the Board.

Mr. Weisberger asked if the non-conforming aspect to the sign was its proximity to the right-of-way and the fact it was not a monument sign. Mr. McLocklin stated the entire sign, including the structure itself and the height, was non-conforming.

Mr. Weisberger noted if the sign were a monument sign outside the right-of-way, a panel change would be permitted. He asked if the applicant's request was to make the sign a monument sign. Mr. McLocklin explained the request was for a panel change to the existing sign.

Mr. Weisberger asked what prevented the applicant from changing the current sign to a monument sign, which would be in conformance with the City's Ordinance. Mr. Hoyt stated that possibility had been explored, but due to the very limited space, if the sign were lowered, it could not be placed in its current location and would have to be moved to the north corner and set back behind the building approximately six (6') feet. He pointed out such a sign would significantly reduce the visibility to traffic on Rochester Road.

Mr. Colling stated a similar situation had come before the Board on January 24, 2005. He explained there was also a change of ownership with that business, and that business was located just a short distance to the south from the applicant's location. He pointed out the applicant's business was an older property built very close to the right-of-way. He felt the applicant was correct in stating that the current location of the sign was about the only way the sign would be visible from both the north and southbound traffic on Rochester Road.

Mr. Colling stated the Board had two (2) options – either to allow a variance for a panel change and allow the applicant to keep the current sign, or grant a variance to allow the applicant to build a monument sign in the right-of-way. He noted either situation was a bad one. He

explained the applicant was only entitled to one (1) monument sign, and if the monument sign were placed in the location suggested by City Staff, there would be visibility issues. He stated in the interest of fairness and the fact the Board was supposed to take prior cases into consideration, and the fact the applicant's business location was in the same general area as the request approved by the Board on January 24, 2005, he indicated it would be his recommendation the Board allow the variance for the panel change.

Mr. Verschueren asked about the height of the current sign. Mr. Hoyt stated the bottom of the sign was seven (7') feet off the ground, and the total sign was twelve (12') feet in height.

Mr. Verschueren suggested the applicant lower the sign to seven (7') feet and leave the sign in its current location by building in the pole to a monument sign. He thought the sign would look better if it were lowered five (5') feet and the pole was built in to create a monument sign.

Mr. Hoyt stated if the City would allow that, they would not have a problem doing so. He explained it had been brought to his attention that if the sign were lowered, it would also have to be moved.

Mr. Verschueren stated if Rochester Road were widened at that point, the sign would have to be moved. He indicated if the Board gave approval, a condition could be included stating if the situation changed, the sign would have to be removed. He stated he had been past the applicant's location several times, and noted the sign was most visible for traffic heading north on Rochester Road. He stated for traffic heading south on Rochester Road, there was a wall at the gas station and the sign was not visible. He thought a lighted sign at its current location would be more visible. He indicated he would like to see the sign lowered because the City was eliminating pole signs.

Mr. Rosen stated he thought Mr. Colling had described the applicant's situation accurately. He asked if the sign had been damaged in any way. Mr. McLocklin stated the panels had been removed because the building had been vacant and the Sign Ordinance required the sign to be removed from vacant buildings.

Mr. Rosen stated if the Board went through the process of granting a variance to allow the sign in the right-of-way, that variance would run with the land. He noted if the Board granted a panel change, it would be one panel change, i.e., as long as the business is Hertz, they could keep the sign. He explained if the site were redeveloped at some time in the future, the sign would have to be redone as well. He noted if the business changed again, any new business would have to request a variance for a panel change. He felt the granting of the panel change was a workable solution.

Mr. Colling also noted that was a fair solution considering the Board had granted a similar variance in January, 2005.

Chairperson Cockey stated he had a different view of the matter. He stated he had looked at the applicant's sign earlier in the day, and he thought although the applicant's request was similar to the request granted at the January 24, 2005 meeting, there was a significant difference in the

applicant's situation. He indicated the significant difference was that the request in January included a different layout of the parking lot, which was in the front of the building, and that applicant had a retaining wall and fence adjacent to their location, and their sign was not located in the right-of-way.

Chairperson Cockey noted in the other case, the only place where the sign could be located was the parking lot, if the sign were not located in the right-of-way. He pointed out the existing sign for that applicant was high enough for it to be seen over the cars parked in the front of the building for traffic traveling from the south, and noted the situation of the chain link fence and retaining wall.

Chairperson Cockey agreed it was not reasonable as long as the existing building was retained not to allow a sign in the front of the business. He asked if the right-of-way was the existing right-of-way or the proposed right-of-way. Mr. McLocklin stated it was the proposed right-of-way.

Chairperson Cockey stated he had looked at the sign from the standpoint of whether a lower sign would impinge the visibility for traffic on Cloverport attempting to make a right or left turn. He stated he had concluded there was plenty of visibility when looking to the north.

Chairperson Cockey thought it was reasonable for the Board to grant permission for a sign in the current location, but he did not see why the sign had to be a pole sign. He asked if the applicant had been advised that a new sign that conformed to the Ordinance could be located in its existing location. Mr. McLocklin stated the sign would not conform to the Ordinance.

Chairperson Cockey clarified the Board would have to grant a variance in order to permit construction to modify the existing sign to a lower height. He noted it appeared that the boundary of the proposed right-of-way went right through the existing building. Mr. McLocklin indicated that was correct and noted the sign was non-conforming and the building was non-conforming because the proposed right-of-way was midpoint through the building.

Chairperson Cockey asked if the Board could include a condition that would tie the sign to the new business such that if the business changed the sign would have to be changed, and also to include a limitation on the variance that the sign would only be permitted as long as Rochester Road was not widened or the building demolished. He pointed out if the building were demolished and a new conforming structure constructed, the Board would want to make sure the sign had to be moved.

Mr. Rosen noted if Rochester Road were widened it would start to taper in the area of the applicant's business. He guessed if the applicant were granted a variance for the sign, the City or State would have to compensate the applicant for the sign during the condemnation procedure for the right-of-way. He noted at that time, the applicant's current situation would be corrected because the building would have to go and the site would be completely redone. He felt the easiest solution was to allow the panel change, because at some time either the business would change or Rochester Road would be widened, causing the panel change variance to be self-limiting.

Mr. Colling agreed there were some differences between the applicant's request and the request considered by the Board in January, 2005. He thought in order for traffic to see beyond a ground level sign in the current location vehicles would have to pull across the sidewalk. He felt the best visibility for traffic coming off the side street, noting the access for the applicant's business was from the side street, would be to allow the panel change. He pointed out the reason behind his recommendation was that it was not a permanent variance that went with the land. He stated if the right-of-way was widened the applicant's entire building would have to be demolished and it would be come a self-correcting situation as they could not keep the sign. He indicated he did not want to give the applicant a variance that went with the land, but would prefer the variance be temporary for the business.

Mr. Verschueren stated if the Board granted the panel change variance, they would also be granting a pole sign. He felt if the Board granted a pole sign, it could create a precedent for other businesses in the City. He noted if the applicant built in the pole, it would not be a pole sign any longer. He thought it would be simple to build the sign in and leave the sign alone if the Board agreed to the twelve (12') foot height.

Mr. Weisberger asked if Rochester Road was a County right-of-way. He was informed it was a State right-of-way. Mr. Weisberger asked if the current location of the sign was under the State's jurisdiction. Mr. McLocklin explained under the current Ordinance, the State could issue a permit or the City could issue a permit. He noted the City had already issued a permit since the sign had been in existence since 1983.

Mr. Weisberger clarified the right-of-way was the proposed right-of-way, not the current right-of-way. He asked if proposed right-of-way was included under the City's Ordinance Section 134-109(b) regarding public rights-of-way. Mr. McLocklin indicated that was correct. Mr. Weisberger stated that the City could approve the location. Mr. McLocklin stated that was correct because the permit was issued in 1983 under the current City Ordinance for that time.

Mr. Weisberger stated he thought this was an opportunity to bring the sign into conformance with the City's Ordinance. He noted variances for panel changes could continue to be granted until such time as the sign had to come down. He indicated he would prefer a monument sign; however, was concerned about having to pay for a sign under condemnation proceedings that the City had required the applicant to install. He inquired about the time frame for the widening of Rochester Road.

Mr. Rosen stated the original plan for Rochester Road started in Troy at Big Beaver, to go to a six-lane boulevard, which was begun about eight or nine years ago. He noted funding had caused the project to stop; however, the entire corridor of Troy and Rochester Hills up to where the road necked down by dealership row, was part of the City's Master Transportation Plan. He thought it would be unrealistic to think the project would go forward in the next ten years, however, the need was there and the State agreed a six-lane boulevard could be constructed in those limited circumstances. He noted Troy had proved it was expensive to do because of the relocations of businesses. He did not believe the project had been abandoned.

Mr. Colling stated he understood from being on the Advisory Traffic and Safety Board that the project was projected to continue in 2010 or 2012. He understood a monument sign would be nice, but if the sign were brought into compliance, it would be put in an obstructed view, and would cause the applicant to have a restricted view for either traffic traveling north or south on Rochester Road. He noted because the proposed right-of-way ran through the middle of the building, to grant a variance for a monument sign to be constructed in a location other than where the sign currently existed, would restrict visibility. He did not feel the sign could be brought into full compliance.

Mr. Colling stated that anytime the Board gave a location for a variance, the variance would run with the land, not the business. He noted if the applicant's business flourished, the company would either have to find another location or rebuild on the current site. He pointed out if the site were rebuilt, if there was not a variance that ran with the land, the sign would have to be brought in full conformance. He did not feel the Board would gain anything by forcing a monument sign if the Board had to grant a variance that ran with the land in order to do so.

Chairperson Cockey questioned the statement about the sign being an obstruction for traffic on the side street. He asked if the Board could grant a variance that made it clear the sign could not be located in the right-of-way at the time it became the actual right-of-way as opposed to the proposed right-of-way. He noted he thought the Board needed to consider future potential fiscal liability for the City, County or State versus the intent of the Ordinance to eliminate pole signs. He commented that the applicant's sign was clearly a pole sign, and he did not see a reason why the applicant's sign had to be higher than seven (7') feet, such as obstructions to visibility or the topography of the site.

Mr. Colling noted the Chair's comments regarding visibility and topography hinged on the fact that the sign would remain in the same location as it currently exists, which would require a variance that ran with the land. He pointed out the applicant had not asked for a variance regarding sign position. He stated if the sign were brought into full compliance, based on what was before the Board at this time, the sign would have to be located on either the north or south side of the building, which would create a visibility problem for the sign.

Chairperson Cockey asked if the applicant requested a variance and the Board agreed that a variance of some type was appropriate, whether the Board could only grant the requested variance or if the Board could grant a lesser or alternative variance. He also questioned whether it would be appropriate for the Board to turn down the requested variance and suggest the applicant file for a different variance. He noted it would be most unfortunate if the Board concluded it could only deal with the request as put forward by the applicant.

Mr. Rosen stated that ordinarily the Board could act on the variance requested or on a lesser degree of that variance. In other words, the applicant requested twenty (20') feet, and the Board granted twelve (12') feet. He understood the Board could not grant a variance of a different thing. He explained the Board could not grant a variance of area if height was requested, unless it had been advertised. He indicated the Board could deny the requested variance, and advise the applicant to pursue a different variance request, which would require a separate notice and a separate hearing.

Mr. Rosen asked if there was an opportunity for the sign to be located on the building in the applicant's situation. Mr. McLocklin stated building signs would not be visible.

Mr. Weisberger asked about the corner clearance. Mr. McLocklin stated the corner clearance was twenty-five (25') feet.

Mr. Weisberger stated he did not propose to move the sign or to create a sign that was One Hundred (100%) Percent in conformity with the Sign Ordinance. He was suggesting the sign remain in its current location, but be lowered and made into a monument sign, bringing it closer to the intent of the Ordinance. He asked if bringing a pole sign that exceeded the height limitation into the correct height and the correct type would require the board to grant a lesser variance. He noted that would be as opposed to allowing the non-conformance to be kept and switching the panel sign.

Mr. Verschueren stated the Zoning Board of Appeals was the Board that took over where the City stopped. He explained that if the City's Code did not allow something, a request for a variance is made to the Zoning Board of Appeals. He stated at that time, the Zoning Board of Appeals became the City. He stated the Board could make a contract with the applicant and put conditions on that contract. He noted that was the reason for the Board and the reason the Board was given its powers. He indicated he did not believe a variance had to go with the land, but that the Board could include a condition that the variance for the sign would run with the building.

Chairperson Cockey stated he would be happy to entertain a motion at this time in order to move the discussion along.

Mr. Colling stated that the proposals made by Mr. Verschueren and Mr. Weisberger were not what had been advertised for the applicant for this meeting. He felt the Board should either continue with a motion on the variance as requested, or make a recommendation to the applicant to come back with a modified request. He noted if the request was denied, the Board would not be permitted under the Ordinance to rehear the same variance request for a period of one year.

Mr. Colling stated it was his opinion that the Board could not enter into a contract with anyone. He stated the Board was a quasi-judicial board that interpreted and reviewed the law set forth by the City. He stated the Board would not enter into a contract nor bargain with anyone, unless the Board was trying to create a lesser variance which had to do with the variance that had been requested. He explained if an applicant requested a fifty (50') square foot variance in signage, and the Board could reduce the request to twenty-five (25') feet, that could be negotiated by give and take between the Board and the applicant because it would be within the limits of the requested variance. He stated the Board could not take a variance request for a sign panel and convert it into a monument sign when it had not been advertised.

Mr. Verschueren stated the Board could discuss the matter with the applicant, and if the applicant agreed to make the change, the change was made at that time.

Mr. Colling stated in this particular situation, the variance that would be required for the applicant's location had not been advertised, and the Board could not act upon a variance that had not been advertised.

Chairperson Cockey stated if the Board wanted a variance to essentially create a monument sign in the same location as the existing sign, the variance would require re-advertising.

Mr. Weisberger stated he would propose a motion to postpone a decision on this matter, noting he did not want to deny the applicant's request, but would like to provide an opportunity for the applicant to submit a variance for a monument sign located in the same location as the existing a sign and allow staff time to determine if that would create a traffic safety issue.

MOTION by Weisberger, in the matter of File No. 04-010, to **POSTPONE** the request for a variance to allow a panel change to an existing nonconforming sign pursuant to Section 134-107(5)(b) in order to provide the applicant an opportunity to present a formal variance request for a monument sign.

Chairperson Cockey called for a second to the motion to postpone. Mr. Verschueren stated he would second the proposed motion. Chairperson Cockey asked if the motion maker wanted to include anything in the proposed motion regarding the potential for creating a fiscal situation for the City by granting a sign that would be located in a proposed right-of-way which could be construed as value.

Mr. Weisberger stated that could be a reality, but he was not sure that was a proper means of determining to grant a variance. He suggested that might be a question for the City Attorney to review. He felt if the Board approved a more valuable sign, and then at some point down the road the City took it away, there could be an issue.

Mr. Rosen requested some additional discussion due to the fact the proposed motion was to postpone. He stated he felt Mr. Colling had properly characterized the situation. He agreed the Board set the precedent at the January meeting because the hardship that was requested was not the height of the sign or the placement of the sign, but was to allow one more panel change to allow a particular business to keep operating with proper signage, recognizing it was one business and that someday the whole area could be redeveloped. He stated the applicant had requested the simplest variance, and was the one that carried with it the least risk to the City and the cheapest and easiest benefit. He noted that was the request that had been advertised, and there could be problems with going in a different direction.

Mr. Duistermars stated in looking at the applicant's plan, layout and aerial view of the site, it appeared that the problem was where the structure was located. He asked if the location of the applicant's property was in the area where the proposed right-of-way had been expanded to ninety (90') feet from the centerline on each side. Mr. McLocklin stated the proposed right-of-way was seventy-five (75') feet on each side.

Mr. Duistermars stated the City's Ordinance prohibited signs from being in the proposed right-of-way. He noted the applicant's hardship was that no matter which side of his building he

located the sign, the sign would not be visible for one direction of traffic. Mr. McLocklin agreed that northbound traffic would not see the sign if it were within the current Ordinance.

Mr. Duistermars stated it appeared if the sign met the normal monument sign requirements, but kept its current location, the Board would be granting a variance for location. He indicated if the applicant was willing to come back to the Board with a different proposal, he would support a postponement. He suggested the proposed motion contain wording that this matter would be brought back as soon as the applicant is ready and has submitted plans.

Chairperson Cockey asked if the motion maker and seconder would agree to Mr. Duistermars proposed amendment to the motion on the floor. Both Mr. Weisberger and Mr. Cockey stated they agreed to the proposed amendment.

Complete Motion (as amended and voted):

MOTION by Weisberger, seconded by Verschueren, in the matter of File No. 04-010, to **POSTPONE** the request for a variance to allow a panel change to an existing nonconforming sign pursuant to Section 134-107(5)(b) until such time as the applicant has had an opportunity to present a formal variance request for a monument sign.

Roll Call Vote:

Ayes: Duistermars, Verschueren, Weisberger
Nays: Rosen, Colling, Cockey,
Absent: Brennan

MOTION FAILED

Chairperson Cockey noted for the record that the motion had failed due to a tie vote.

Mr. Colling stated the issue the Board did not have a determination on was if a variance was granted in a proposed State right-of-way, whether the Board had created a problem. He believed the answer was yes. He indicated that keeping that in mind, the only solution was to have the applicant conform to the entire Ordinance, which would then create a situation of reduced visibility. He stated the Board was charged with considering past decisions in its deliberations regarding variances. He noted the Board had set a precedent in January for a business located within three hundred (300') feet of the applicant's location. He agreed there were some differences, but there were also some similarities. He felt the answer was to keep it simple and do what made sense. He stated a panel change variance would only go with the business, and if Hertz moved out or changed the building, a request to keep the sign would have to come back before the Board. He stated the Board would not be impinging on the State's proposed right-of-way and did not impinge on any other business owners, and the variance did not go with the property. He pointed out the Board needed to consider what it was trying to do and why.

Mr. Duistermars stated he did not agree the Board had set a precedent with the case before it in January. He noted the cases dealing with the proposed right-of-way along Rochester Road were very difficult and problematic for the parcels along that road, particularly those parcels located between the South Hill bridge up to Avon Road. He stated the Board had to deal with each business separately on a case-by-case basis in order to provide the fairest option for the

landowner. He did not feel the Board would be setting a precedent with the subject case, but rather the Board was considering the different possibilities of whether the sign was in compliance and if it was fair, or whether there was another solution.

Chairperson Cockey stated many good points had been made; however, this appeared to be a case where the Board needed to distinguish between what was the reasonable thing to do and what was the theoretical, ideal situation. He referred to the matter decided by the Board in January, 2005, and stated in that particular case he felt that the presence of the fence and the location of the parking were major reasons for keeping the pole sign. However, he stated he could also see where it would not be reasonable to require the applicant to construct a new sign that might have to be knocked down in a few years time because the road was going to be widened.

Chairperson Cockey stated he would consider supporting a motion that made it very clear that this was a unique situation because of the location of the building. He noted it appeared the Board was in agreement that as long as the structure existed in its present location, it was reasonable to have a sign in the front of the building. He pointed out, whether it was a pole or monument sign, the current location of the existing sign was about the best from a location standpoint. He noted the applicant's sign was a fairly modest pole sign, and there was a visibility issue as well.

Mr. Rosen stated the Ordinance had been amended to allow panel changes to come before the Board. He pointed out that no panel changes were allowed before the amendment to the Ordinance; however, a panel change was allowed for repair if it was the same business. However, in the subject matter, the panel change request was for a different business.

Chairperson Cockey called for a short recess.

(Recess: 8:22 PM to 8:26 PM)

Chairperson Cockey called the meeting back to order at 8:26 PM.

Mr. Rosen stated he was prepared to make a motion, as follows:

MOTION by Rosen, in the matter of File No. 04-010, that the request for a variance to alter a non-conforming sign pursuant to Section 134-107 (Nonconforming signs) be APPROVED for Hertz Rent-a-Car, 546 S. Rochester Road, to allow a panel change based on the following Findings:

Findings:

1. The applicant has shown practical difficulty by demonstrating that strict compliance with setback and height requirements of the Ordinance would unreasonably prevent the applicant from having the same permitted signage visibility as previous businesses and other businesses within the zoning district. The building location is roughly half within the proposed right-of-way and thus limits the opportunity for a sign that meets the height requirements in the

proposed right-of-way. A permanent variance that runs with the land to allow sign location within the right-of-way would not be in the City's interest.

2. Granting the variance would do substantial justice to the applicant, as well as to other property owners in the same zoning district, and this is the minimum relaxation that would achieve a level of substantial justice. Granting the variance would allow the business to operate and the property owner to enjoy the same rights as similar uses in the surrounding area.
3. The property available to locate the sign, or position to place a sign, is limited by the lot geometry and adjacent buildings limiting the visibility for the traveling public.
4. The property is very close to Rochester Road and the opportunity to place a compliant sign does not reasonably exist. Alternative sign locations, in particular in the north property on Rochester Road and in the south property in Rochester Road, would be of limited visibility.
5. The granting of this variance would not be materially detrimental to the public welfare or materially injurious to this property or other properties or premises in the zone or district in which the property is located. There are no indications given that this would impair the traffic on the road, the safety of those traveling on the road, or those living on the property.
6. The granting of this variance is not expected to impair an adequate supply of light and air to adjacent properties; unreasonably increase the congestion in public streets; increase the danger of fire or endanger the public safety; make the site inaccessible to fire department or other emergency vehicles or create any particular concern with the traveling public, unreasonably diminish or impair established property values within the surrounding area; or in any other respect impair public health, safety, comfort, morals, or welfare of the inhabitants of the City for all of the reasons stated above.

Mr. Colling suggested the following condition be added to the proposed motion:

1. This variance only applies to the Hertz business. Any other business change would require another variance.

Mr. Colling stated he would also like to include either another finding or condition that stated:

Due to the extreme nature of the property, this is a very unique situation with the property along Rochester Road and the location of the building in close proximity to the existing right-of-way as well as the proposed right-of-way.

Mr. Rosen agreed to the addition of that language as Finding #2, with the appropriate renumbering of the findings previously mentioned.

Chairperson Cockey stated he agreed with the proposed finding due to the fact that if the existing structure had been located about seventy (70') feet back on the parcel, the matter would not be before the Board. He then called for a second to the proposed motion. Mr. Duistermars stated he would support the motion.

Chairperson Cockey called for any additional discussion on the proposed motion on the floor. Upon hearing none, he called for a roll call vote.

Complete Motion (as amended and voted):

MOTION by Rosen, seconded by Duistermars, in the matter of File No. 04-010, that the request for a variance to alter a non-conforming sign pursuant to Section 134-107 (Nonconforming signs) be **APPROVED** for Hertz Rent-a-Car, 546 S. Rochester Road, to allow a panel change based on the following Findings and Condition:

Findings:

1. The applicant has shown practical difficulty by demonstrating that strict compliance with setback and height requirements of the Ordinance would unreasonably prevent the applicant from having the same permitted signage visibility as previous businesses and other businesses within the zoning district. The building location is roughly half within the proposed right-of-way and thus limits the opportunity for a sign that meets the height requirements in the proposed right-of-way. A permanent variance that runs with the land to allow sign location within the right-of-way would not be in the City's interest.
2. Due to the extreme nature of the property, this is a very unique situation with the property along Rochester Road and the location of the building in close proximity to the existing right-of-way as well as the proposed right-of-way.
3. Granting the variance would do substantial justice to the applicant, as well as to other property owners in the same zoning district, and this is the minimum relaxation that would achieve a level of substantial justice. Granting the variance would allow the business to operate and the property owner to enjoy the same rights as similar uses in the surrounding area.
4. The property available to locate the sign, or position to place a sign, is limited by the lot geometry and adjacent buildings limiting the visibility for the traveling public.
5. The property is very close to Rochester Road and the opportunity to place a compliant sign does not reasonably exist. Alternative sign locations, in particular in the north property on Rochester Road and in the south property in Rochester Road, would be of limited visibility.

6. The granting of this variance would not be materially detrimental to the public welfare or materially injurious to this property or other properties or premises in the zone or district in which the property is located. There are no indications given that this would impair the traffic on the road, the safety of those traveling on the road, or those living on the property.
7. The granting of this variance is not expected to impair an adequate supply of light and air to adjacent properties; unreasonably increase the congestion in public streets; increase the danger of fire or endanger the public safety; make the site inaccessible to fire department or other emergency vehicles or create any particular concern with the traveling public, unreasonably diminish or impair established property values within the surrounding area; or in any other respect impair public health, safety, comfort, morals, or welfare of the inhabitants of the City for all of the reasons stated above.

Condition:

1. This variance only applies to the Hertz business. Any other business change would require another variance.

Roll Call Vote:

Ayes: Verschueren, Cockey, Weisberger, Colling, Duistermars, Rosen

Nays: None

Absent: Brennan

MOTION CARRIED

Chairperson Cockey noted for the record that the motion had carried.

***AGENDA ITEM 6A WAS PREVIOUSLY SCHEDULED FOR THE JANUARY 10, 2005 ZONING BOARD OF APPEALS MEETING, BUT WAS POSTPONED AT THE REQUEST OF THE APPLICANT. ***

6A. SIGN BOARD OF APPEALS
PUBLIC HEARING - FILE NO. 86-742.3

Location: 45441 Dequindre, located on the west side of Dequindre, north of South Boulevard, Parcel Number 15-36-426-006, zoned B-3 (Shopping Center Business) and known as Audi of Rochester Hills.

Request: A Request for an extension of one (1) off-premise temporary real estate development sign permit for a real estate development sign located on Parcel Number 15-36-426-006, pursuant to Section 134-117(c) of the Code of Ordinances, to advertise the sale of the Whispering Winds of Rochester Hills Condominiums.

Applicant: Whispering Winds Realty Venture, LLC
6060 Maybee Road
Clarkston, Michigan 48346