



Rochester Hills

Minutes

Zoning Board of Appeals

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Chairperson Ernest Colling, Jr., Vice Chairperson Gerard Verschueren
Members: Deborah Brnabic, Adam Kochenderfer,
Kenneth Koluch, Michael McGunn, Ryan Schultz

Wednesday, January 8, 2014

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

Chairperson Colling called the Regular Meeting to order at 7:00 p.m. in Conference Room #130 at the City Municipal Offices.

ROLL CALL

Present 6 - Deborah Brnabic, Ernest Colling, Adam Kochenderfer, Kenneth Koluch, Michael McGunn and Ryan Schultz

Absent 1 - Gerard Verschueren

Also Present: James Breuckman, Manager of Planning
Sandi DiSipio, Recording Secretary

APPROVAL OF MINUTES

2013-0488 October 9, 2013 Regular Meeting Minutes

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

Aye 6 - Brnabic, Colling, Kochenderfer, Koluch, McGunn and Schultz

Absent 1 - Verschueren

COMMUNICATIONS

Planning & Zoning News - September, October, November & December issues

PUBLIC COMMENT

No member of the public came forward to speak on any non-agenda items.

NEW BUSINESS

2013-0495 **PUBLIC HEARING - FILE NO. 13-024**

Location: 2258 Crooks Road, located on the northwest corner of Crooks Road

and Avon Industrial Drive, Parcel Identification Number 15-29-228-004, zoned B-3 (Shopping Center Business).

Request: Item #1 - A request for a variance of 1.44 feet from Section 138-5.100 (Schedule of Regulations) of the Code of Ordinances, which requires a minimum front yard setback of 75 feet in the B-3, Shopping Center Business Zoning District. Submitted plans indicate a new structure with a 73.56 front yard setback from Crooks Road.

Item #2 - A request for a variance of 43.22 feet from Section 138-5.100 (Schedule of Regulations) of the Code of Ordinances, which requires a minimum front yard setback of 75 feet in the B-3, Shopping Center Business Zoning District. Submitted plans indicate a new structure with a 31.78 front yard setback from Avon Industrial Drive.

Applicant: Mr. Mark Kellenberger - Tim Hortons
565 East Grand River, Suite #101
Brighton, MI 48116

(Reference: Staff Report dated December 30, 2013, prepared by Jim Breuckman, Manager of Planning, and associated documentation were placed on file in the Planning and Economic Development Department and by reference becomes part of the record thereof.)

Chairperson Colling read the request for the record, invited the applicant to come forward, state his name and address for the record, and provide a brief summary of the request.

Mr. Mark Kellenberger, Tim Hortons, 565 East Grand River, Suite #101, Brighton, Michigan 48116, the applicant, came forward and introduced himself. Also present is Mr. Al Santia, the property owner. Mr. Kellenberger indicated he's excited about the opportunity to develop a second Tim Hortons in Rochester Hills, the first being the one at 940 Rochester Road. He explained he came across the property and looked at it several different ways trying to do several different layouts. An early layout contained a circulation pattern called a reverse layout and problems included crowding the shopping center and having the drive-thru stacking lane out near Crooks. Communities are not usually fans of this layout because it doesn't lend itself to a traditional counter-clockwise drive-thru approach. Other options reviewed but not chosen included having the long side of the building along Crooks, but that would still necessitate the drive-thru window along Crooks. After reviewing alternative options, Mr. Kellenberger met with the Planning staff for input on redeveloping the site. A more traditional layout oriented toward Avon Industrial Drive was drawn out. The problem with this was the location of the parking; customers would have to cross the drive-thru lane to get to the dining room. This layout also created an unusual relationship with the shopping center because the parking was not properly angled. The existing bank building has some challenges and nonconformities and does not piece into the shopping center that well. So, Mr. Kellenberger decided to design the site the correct way and see how it plays out. The building is designed so that it is parallel to Crooks Road giving a nice appearance to the vehicles heading south on Crooks as well as at the intersection. The plans include a greenbelt, parking, drive aisles, a patio and the

building. The setback from Crooks is very minor, and the building could possibly be moved back two feet, but the applicant wanted to keep the greenbelt area as well as the drive-thru bypass lane. The 32 foot setback from Avon Industrial is the most critical to this layout. It is Mr. Kellenberger's belief that from a layout perspective, being able to create a uniform parking setup that is complimentary to the rest of the shopping center, and being able to provide barrier free immediate access parking spaces, is a nice option. It also lends itself well to connect into the pathway and the M59 corridor plan. He also plans to tie into the Clinton River Trail with possible signage on the trail to bring people up into the development. Mr. Kellenberger explained he is present to ask for the two variances. He believes they makes sense based on the layout, the redevelopment of the property, how it lays out with the shopping center, and what is called for in the corridor plan. He believes this is a good development and offered to answer any questions.

There is no one in the audience, so the public hearing was opened and closed at 7:10 p.m.

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

Mr. Breuckman confirmed that Mr. Kellenberger and staff reviewed at least six different plans to figure out something that made sense and to minimize the need for variances. Staff knew there was an issue, particularly from Avon Industrial Drive, because of the way the existing site was laid out with the Bank of America. It was going to be difficult to avoid a variance there without coming up with an odd site layout, and particularly a layout that didn't meet all the Planning Commission's typical expectations. In this case, the Bank of America building is an existing nonconformity, and does make for somewhat of a challenge. The aerial photos show that this building is very disjointed from the rest of the site.

Chair Colling noted the aerial appears to indicate a property demarcation around the bank and asked if this is the building envelope or if the whole parking lot the building envelope?

Mr. Kellenberger explained the defined lease area, which is 105 feet to the rear, 181 feet in the front, 251 feet on the north property and 234 feet on the south. Mr. Kellenberger displayed a rendering showing the existing bank building and its nonconformities, the building footprint of what is allowed based on ordinance, and the proposed Tim Hortons structure.

Based upon the existing building envelope and the lease area, Chairperson Colling feels it does not lend itself towards any kind of viability.

Mr. Breuckman stated he's outlined the staff report analysis, and indicated that staff looks favorably on the variances because they have been through the physical exercise of trying to fit the structure on the site and it's just not working. From a broader community benefit perspective, being a quality redevelopment serves the public purpose. For this reason, staff looks favorably on granting the variances.

In light of the variance granted for the M59 Business Park sign, Chairman Colling asked the property owner and Mr. Kellenberger if there was any accommodation reached on signage. He asked if a monument sign was proposed and if so, where on the site will it be located.

Mr. Breuckman indicated he discussed this with Mr. Kellenberger and the possibility of sharing space on the monument sign in order to remove the temporary sign for the business park. The alternative being that the temporary business park sign will not be allowed after four years.

Mr. Kellenberger confirmed Tim Hortons definitely wants signage. When he met with staff, he was informed about the variance proceedings and thought he would be able to solve the problem by sharing the sign, but he doesn't know if the City wants the temporary sign to be legitimized. He also has concerns if he plays to the one property owner, what are the other property owners going to want to do. Will they demand a monument sign with panels for everyone's name. Mr. Kellenberger does not want to be the face of those individuals coming before the board asking for these types of variances. He noted Tim Hortons is prepared to work with somebody to do maybe a two tenant sign if that is what they need to do. Possibly the company that got the variance can work out something with the lease.

Mr. Santia added he has an existing nine-panel monument sign on site that is sufficient for the shopping center.

Chairperson Colling asked the property owner if he prefers leaving the temporary sign in place for the four year left on the variance and then it's gone forever, or to accommodate something on the premises. Mr. Colling has no objection to leaving this sign in place for four years.

Mr. Santia responded he has no problem accommodating something if they want to sit down and discuss it with him. The business park owners have not called him since the October 9, 2013 ZBA meeting and it seems they don't want to pay to lease a sign.

Mr. Breuckman is not sure the ordinance allows signage on a permanent monument sign for an off-premises business.

Mr. Kellenberger reported he is not prepared to address the sign issue tonight. He did not want to open the sign discussions until he knew the results of his variance request. He noted that Tim Hortons would probably like to have the sign on their own without sharing it, and is OK with the sign being located more on Avon Industrial frontage. They are prepared to work something out.

Staff confirmed that Tim Hortons has enough room to locate a monument sign that complies with the ordinance.

MOTION by Koluch, seconded by McGunn, in the matter of File No. 13-024, that the request for a variance from Section 138-5.100 (Schedule of Regulations) of the Rochester Hills Code of Ordinances to grant a front yard setback variance of 1.44 feet from Crooks Road, and a front yard setback

variance of 43.22 feet from Avon Industrial Drive, Parcel Identification Number 15-29-228-004, zoned B-3 (Shopping Center Business), be **APPROVED** because a practical difficulty does exist on the property as demonstrated in the record of proceedings and based on the following findings:

Findings:

1. Compliance with the strict letter of the restrictions governing the front yard setback for principal buildings will make the existing nonconforming site difficult to redevelop.
2. Granting the variance will do substantial justice to the applicant as well as nearby property owners as the proposed redevelopment is at a corner and will not create off-site impacts.
3. A lesser variance would not allow for the orderly redevelopment of the site within the constraints of the existing layout of the strip mall and Bank of America site layout.
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, legal nonconforming status of the existing Bank of America building.
5. This variance is necessary for the preservation and enjoyment of a substantial property right possessed by any other property owner in the same zone or vicinity.
6. The granting of this variance would not be materially detrimental to the public welfare or existing or future neighboring uses.

Conditions:

1. The location of the structure will be substantially as presented on the plans dated received December 13, 2013.

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

Aye 6 - Brnabic, Colling, Kochenderfer, Koluch, McGunn and Schultz

Absent 1 - Verschueren

ANY OTHER BUSINESS

Mr. Breuckman reported that staff has received a request for an interpretation of a use in the industrial zoning district. This will be heard at the February ZBA meeting.

No other business was brought before the Board.

NEXT MEETING DATE

The next Regular Meeting is scheduled for February 12, 2014.

ADJOURNMENT

Hearing no further business, Chairperson Colling adjourned the meeting at 7:45 p.m.

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

Sandi DiSipio, Recording Secretary