

Minutes of Regular Zoning Board of Appeals Meeting
Monday, October 14, 1996

a precedent that could be cited to support similarly unwarranted variances in the future.

Discussion on the Motion:

Mr. Jaymes offered that he does support the motion and wants to make sure Mr. Miller understands that if we were to grant the variance, in effect we would be changing the Ordinance. We appreciate the applicant's forthrightness and honesty in this matter.

Roll call vote:

Ayes: Campbell, deCausin, Jaymes, McConachie, Samples, Simon
Nays: None
Absent: Rosen

MOTION CARRIED.

5. PUBLIC HEARING - FILE NO. 96-041

Location: 1536 East Auburn Road, located on the south side of Auburn Road between Culbertson and Emmons, identified as Parcel No. 15-36-201-047, Zoned C-1, Commercial Improvement, and known as Northcentral Floral & Crafts.

Requests: Item 1

A variance of 4 square feet from Section 21.10 Table 21.10 (B-2) of Ordinance 200 which limits the size of signs in the B-2, General Business zoning district to 60 square feet. The submitted sign permit application proposes a wall sign of 64 square feet on the north side of the building.

Item 2

a variance of 66 square feet from Section 21.10 Table 21.10 (B-2) of Ordinance 200 which limits the size of signs in the B-2, General Business zoning district to 60 square feet. The submitted sign permit application proposes a wall sign of 126 square feet on the east side of the building.

Item 3

A variance of 130 square feet from Section 21.10 Table 21.10 (B-2) of Ordinance 200 which limits total sign area to 60 square feet in the B-2, General Business zoning district. The submitted sign permit applications propose a total sign area of 190 square feet.

Applicant: Northcentral Floral & Crafts
1536 East Auburn Road
Rochester Hills, MI 48307

Mr. Jim McCracken, property owner, 1536 East Auburn Road, Rochester Hills, Michigan 48309 came forward and identified himself. He was accompanied by Mr. Robert DeRosia, the operator/manager of the shop, 6609 Auburn Road, Utica, Michigan. He acknowledged receipt of the staff report.

Mr. DeRosia summarized the request. We are trying to operate a retail flower shop at this location. The applicant started the shop at the beginning of this year, he made some application for sign permits. He was under the impression he had paid the necessary permits to erect these signs. Mr. DeRosia came in July/August with 20 years floral experience to save this shop. We went ahead and erected these signs. A communication from the Building Department back on February 20th, indicated they were in receipt of the application for the sign permit; however due to the lack of required information, they were unable to process the application. We thought we were in compliance with the necessary permits. Part of why we are here tonight is to explain we did not intentionally erect signs without the necessary permits being posted. The other part is, we realize it's very hard to show hardship on a commercial piece of property to warrant any signs, but in this

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case, with the proximity of the building, the way it sets so close to the road, we are asking that the signs that are there be allowed to stay.

Mr. McCracken indicated the first time he came to City Hall, he applied for 3 sign permits. The second time he came to the City, he was in a pretty bad automobile accident, and the shop was going under. There was no way he could open or keep the shop open. He is still under doctor's care, that's why Mr. DeRosia took over. He added if it weren't for Mr. DeRosia and the signs, we might as well close the doors and say forget it, we don't have the business, and can't afford to put any more money into the job. He's already \$12,000-\$15,000 in the hole on the job, we don't have the money to advertise, we can't bring in the people to buy the flowers unless we do have the sign in front to keep the business open.

Mr. Benson presented the staff report dated October 3, 1996. (Said report has been placed on file and becomes part of the record hereof.) Northcentral Florist, Auburn Road, erected two signs without submitting sign permit applications. They are allowed 60 square feet of sign space for the location per the Ordinance. One sign is 64 square feet, the second sign is a wall painting of 126 square feet. They are located in C-1, Commercial Improvement, but regulated as a B-2, General Business. There are several other businesses on Auburn Road in the same area, that are successfully utilizing less sign space than allowed. Staff feels this is a self-created situation, as the applicant did not submit sign applications.

Mr. Benson circulated photographs of the site to the board members. (Said photographs have been placed on file and become part of the record hereof.)

Mr. Samples questioned the applicant on the "attached addendum", mentioned both on the application and the staff report. Was there an addendum, or is it missing.

Mr. McCracken responded there was no addendum. Part of the mistake on his application to come before the board, was asking in regard to the additional Ordinances. The sign is very important to this business, but he had also asked for other questions, that did not get correctly done on this agenda. He also wanted to talk about another Ordinance for outside display, exterior sales, Christmas trees, etc.

Mr. Samples indicated this hearing is strictly for the sign request.

Mr. DeRosia detailed the statement on the permits. He indicated the applicant had paid for permits going back until March of this year. The applicant paid the money, had bonded for the grand opening sign, he had a contact who was going to install the sign in front, City correspondence of February 20th, refers to lack of information, the City cannot process it, but the money remained.

Mr. DeRosia continued, we don't want to come before you, and you think we did this in a criminal act.

The Chairperson **declared the public hearing open**, calling for proponents and/or opponents who wished to speak. Mr. Samples read into the record a letter dated October 8, 1996 from Olde Towne Florist stating they are opposed to the variance. (Said letter has been placed on file and becomes a part of the record hereof.) There being no persons wishing to speak, the Chairperson **declared the public hearing closed**.

Mrs. McConachie asked where Olde Towne Florist is located. It was determined it is in the strip mall next to the applicant's shop. She remembers granting the strip mall sign allocation a couple of years ago. Olde Towne Florist is abiding by the amount of signage which was allocated to that mall.

Mrs. McConachie added she is curious with the amount of signage the applicant is using for this florist. There is an allocation of 60 feet for this building; and the applicant is asking for 190 total

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square feet.

Mr. Samples explained the applicant is asking for 60 square feet on the north side, and on the east side, 126 square feet.

Mr. Jaymes noted the applicant mentioned if he were denied the variance request, that this may harm your business a great deal. He questioned why the applicant chose to build a flower shop very close to another flower shop.

Mr. McCracken explained when he opened the business, he didn't know that much about it. The applicant was going in it as a florist and craft, and then get into the porcelain dolls and ceramic dolls. But after accident, he can't do that. His wife cannot work with flowers, the applicant cannot work there, that's why Bob is running the place. Continuing, the applicant explained how the building is sitting, you almost have to get right up on it to even see the sign. The sign is not visible from down the road. The only sign you can see is when you are heading east, you can see the side of the building.

Mr. Jaymes asked the date when the applicant first applied for a sign permit. Mr. McCracken responded January 29th.

Mr. Jaymes also asked if the applicant was aware of the limits on signs in the City. The applicant responded no. Mr. Jaymes questioned why the applicant was not aware; that is one of the first questions asked.

The applicant replied he had brought in a copy of the sign he wanted to go up; left the copy with the City; he thought that would be the sign he would get. Mr. McCracken said he was told it was fine if it didn't exceed 60 square feet.

Mr. Jaymes asked again if the applicant was told about the size when he first came to the City. The applicant responded yes; and that is when he hired the contact to put the flowers on the sign. Mr. McCracken did not realize there was an Ordinance against the flowers on the sign, because it makes the building look good. The sign also includes Northcentral at the top, the phone number and the word Florist. He is willing to white-wash Northcentral and the flowers on the sign, as long as the word "florist" remains.

Mr. Jaymes indicated he was only trying to establish whether the applicant was aware of the rules were. Mr. McCracken indicated he knew about the rules on the sign for the front, but was unaware of the rules for the side of the building. Staff affirmed a total of 60 square feet is allowed by the Ordinance. Mr. Jaymes asked the applicant if he understood that a total of 60 square feet is all that is allowed, all sides of the building inclusive. The applicant did not understand that.

Mr. Samples asked who owns the building. Mr. McCracken replied he is only leasing the building. Lease started in December 1995. The applicant moved in the January/February period, and the signs went up in August.

Mr. Samples read from the Ordinance regarding the limitations on signs. He also explained the applicant has his choice as to the 60 square feet; split between two 30 foot signs, one in the front and one on the side; or possibly 60 feet on the side.

Ms. deCaussin advised the applicant that the flowers drawn on the side sign were considered in the square footage of the sign. The applicant was not aware of this.

Mr. DeRosia inquired if he could postpone or withdraw the request, and come back before the Board with an alternate plan, and also to speak to the other ordinance. He also asked if they wanted an outside sale sign for Christmas trees, would they have to come before the Board again.

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Mr. Rizzardi indicated the staff would not support any postponements. We would recommend if the applicant wants to stop, they can withdraw their request and come back with a new application. In terms of the other matter, that's a temporary use permit; a Christmas tree sales permit.

MOTION by Campbell, seconded by deCaussin, that the requests for variances (Items #1, #2, and #3) from section 21.10 Table 21.10 (B-2) of Zoning Ordinance 200, for File No. 96-041, **BE DENIED**.

FINDINGS:

- 1.No practical difficulty or unnecessary hardship exists, or has been demonstrated, for this property or parcel. Specifically, the applicant has not demonstrated a need for increasing the size of the signs beyond the ordinance requirement of 60 square feet. There has been no testimony presented this evening to indicate that the signs meeting the ordinance requirements cannot be placed on the building.
- 2.There are no exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use of the property that do not also apply generally to other properties or uses in the same district or zone. Specifically, there other properties on Auburn Road and in other areas of the city that are in similar circumstances and did not require a variance.
- 3.The circumstances are self-created by this applicant in the form of a desire to have a sign that is sized beyond the 60 square foot requirement of the city ordinance. There has been no testimony presented this evening to indicate that the signs meeting the ordinance requirements cannot be placed on the building.
- 4.The denial of this variance will not deprive the owner of a substantial property right possessed by other property owners in the same zone or vicinity. The ordinance does make provision for signage on the site; it is possible to install signs on the site that will give identification and visibility; those signs can be installed within the provisions of the ordinance and, as such, the site is not being denied the ability to place signage on its property.
- 5.The granting of the variance is not necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zone or vicinity. The ordinance does allow signs to be placed on the property - although not the sign or signs the applicant wants. All properties in the City, including this zone and district, are required to conform as to the sign ordinance requirements. The property is not being singled out, and as such, is not being held to a higher standard than the rest of the properties in the City.
- 6.The granting of this 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 and by not following the legislative intent expressed in Section 21.10 of the City of Rochester Hills Zoning Ordinance.

Roll call vote:

Ayes:	Campbell, deCaussin, Jaymes, McConachie, Samples, Simon
Nays:	None
Absent:	Rosen

MOTION CARRIED.

[RECESS 8:55 p.m. to 9:07 p.m.]