

Chairperson Cockey noted the procedure for conducting Public Hearings was outlined on a flyer located in the rear of the auditorium. He stated that any and all evidence, and any documents or exhibits submitted during tonight's proceedings will be included as part of the public record of the meeting. He reminded the Board and the audience that all questions should be directed to the Chair.

**6. NEW BUSINESS**

**6A. SIGN BOARD OF APPEALS**

**PUBLIC HEARING - FILE NO. 73-175**

Location: 808 S. Rochester Road, located north of Avon Road, west of Rochester Road, Parcel Identification Number 15-15-476-020, zoned B-2 (General Business).

Request: A variance of 7 feet in height from Section 134-180 Standards (General Commercial and Retail Premises) of the Code of Ordinances, which restricts the maximum allowable height of ground signs to a height of 7 feet. The submitted sign permit application requests a monument sign of 92 square feet and a height of 14 feet.

Applicant: William R. Saputo  
McDonald's Corporation  
2766 Antrim Court  
Oakland, Michigan 48306

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. He asked the applicant if he would agree to have the Board consider both Items 6A and 6B at that same time. The applicant indicated he was agreeable to both matters being considered at the same time.

Chairperson Cockey read the requests for the record and asked the applicant to introduce himself and provide a brief summary of the requests.

William Saputo stated he was the owner and operator of the two McDonald's locations, and stated he resided at 2766 Antrim Court, Oakland Township, Michigan.

Mr. Saputo stated he was an operator/franchisee for McDonald's and had nine (9) restaurants in five (5) different cities, two of which were located in Rochester Hills. He indicated he had spent a considerable amount of time over the past few years because the various cities all wanted to see pole signs eliminated. He explained each city had pursued different directions with respect to the signs, and noted he had spent time meeting with each of the cities of Royal Oak, Bloomfield Hills, Auburn Hills, Rochester Hills and Clarkston.

Mr. Saputo stated rather than spending time trying to avoid changing his signs, he had attempted to determine what could be changed that the various cities would agree to while allowing him to conduct the same amount of business. He indicated during this time, the McDonald's Corporation had agreed to participate in the Amber Alert Program and had requested its franchisees to replace the existing gas station-style reader boards with electronic reader boards.

He stated it was anticipated that by the end of 2005 all law agencies could use the electronic reader boards at any time for Amber Alerts or other information such as bank robberies.

Mr. Saputo stated the costs associated with what the City wanted and what McDonald's wanted were high; therefore, he had worked with a sign company to determine what would allow him to cooperate with both requests while keeping the price down. He explained photographs of the signs he used at his Auburn Hills, Royal Oak and Clarkston locations had been included with his application. He stated Bloomfield Hills had originally denied the proposed sign, however, had requested an opportunity to review the matter.

Mr. Saputo stated he agreed monument signs looked better and felt that businesses put a bit too much emphasis on what height provided in terms of visibility. He indicated he had tried to find a solution whereby he could keep as much visibility as possible while using a monument-style sign, that would not be cost prohibitive.

Mr. Saputo stated he proposed to eliminate the pole sign, while keeping the existing sign. He explained if he did not keep the existing sign, it would add Seventy (70%) Percent to the cost. He explained the cost of changing the signs at his Auburn Hills location was Twenty-two Thousand (\$22,000.00) Dollars per location. He explained if the sign was changed, it would be a special sign costing Fifteen Thousand (\$15,000.00) Dollars.

Mr. Saputo clarified his request was to do exactly what he had done in Auburn Hills, Clarkston and Royal Oak. He stated that he, as a small business owner, would be trying to cooperate in eliminating pole signs. He indicated he had to receive permission from the McDonald's Corporation to replace the signs at any of his locations. He explained the McDonald's Corporation did not believe it was right to give up height; however, if he agreed to cooperate with the Amber Alert Program, the Corporation was willing to give up some height on the signs.

Chairperson Cockey asked if Staff had a report or any comments. Mr. Sage summarized both requests, noting the applicant was requesting to take the existing signs to approximately 92 square feet. He stated both signs were approximately 19'11" from grade to the top of the structure. He noted the only distinct difference between the two signs was that the Walton Boulevard sign already had an electronic reader board, while the Rochester Road sign had the manual change board. Mr. Sage stated he had additional photographs that were taken showing the existing signs at Walton and Rochester Road, as well as the store in Auburn Hills, which had two signs, one of which was on Squirrel and one of which was on Auburn Road, and had district differences in height as well.

Chairperson Cockey opened the Public Hearing at 7:41 PM.

**Fred Andre', 26 Kirks Court**, stated he was present representing the Board of Directors and the Community of Meadowbrook Hills of Avon. He stated the community was located directly behind the McDonald's, off Meadowbrook Drive between Walton and Adams. He asked the Board to consider their objection to the variance request because they felt the proposed sign would have a negative impact on their community. He stated they had many concerns about the sign and the parking lot lights. He noted the sign currently had a light board that read out daily

specials and new food items, and stated the sign ran continuously and at all hours. He noted it was proposed that the sign would be used as an Amber Alert notification, and indicated their Association recommended that Oakland University flash the Amber Alert because of the visibility and location of the University's sign on the corner of Adams and Walton. He indicated as a Community they would like to see the same sign in front of the McDonald's at Squirrel and Walton in Auburn Hills without the light board. He referenced compliance with the height limits of the City's Ordinance, and stated due to the fact residential zoning was within walking distance of the applicant's business, they felt there should be carefully limited regulations on lighting and signs. He felt the "golden arches" were well recognized as a McDonald's, and any additional outdoor marketing was not necessary for new or continued business. He felt it would downgrade the surrounding businesses. He stated they felt if one business started with a flashing sign, the rest would try to follow because of competition, noting there was another fast food restaurant next door. He believed the emphasis should be placed on service and quality and not on flashy signs. He stated as a previous business owner in the fast food arena, he understood the importance of signs and he felt the "golden arches" said it all. He pointed out the Village of Rochester Hills to the north that did not have signs and was a class act. He hoped the applicant would reflect the same class and not further pursue an unsightly sign, but rather come back with something that would complement the area without the light board. He stated the residents and the business should work together to make the Community what it is.

**Roger Dingman, 2835 Trailwood Drive**, stated he was a member of the Meadowbrook Avon Condominium Association. He thought the Ordinances were created to make the Community a better place to live, and once the Ordinances were established, that was the way the Community should go. He felt if variances were granted, it became an unending situation. He encouraged the Board to deny the 7 foot variance. He stated he understood if nothing was done, the applicant's sign could remain at its current height unless it was changed to add the light board, which would require compliance with the Ordinance. He recommended the Board maintain the height requirement or everyone would want a variance from the Ordinance.

**Kevin Barnes**, stated he represented the Burger King located east of the McDonald's on Walton Boulevard. He stated the Burger King Corporation had changed its signage, and he was mandated to bring his sign down to the current restriction. He stated they had also changed their lights because of the ownership in the back of the property, and had changed the sign at their Winchester Mall location as well. He said customers that come to his restaurants on a weekly basis did not know where the signs were located. He stated he had complied with the Sign Ordinance at both his locations, and felt the applicant should also comply.

Chairperson Cockey closed the Public Hearing at 7:49 PM. He then called for any comments or questions from the Board.

Mr. Rosen stated he had noticed the applicant's Auburn Hills location had two signs, one on Five Points Road, and asked how high that sign was. Mr. Sage stated he estimated that sign to be about 16 to 17 feet.

Mr. Rosen asked if the sign on Auburn Road was higher. He was informed that sign was 10 feet. Mr. Rosen clarified the taller sign was on Five Points, and the shorter sign was on Auburn Road.

The applicant indicated that was correct. Mr. Rosen clarified both signs had the light board. The applicant indicated that was correct.

Mr. Rosen stated a large portion of the argument for maintaining a light board in addition to the trademark arches and name was because of the Amber Alert. He asked if the applicant would object, if a variance were granted, to tying the use of the electronic reader board to both the McDonald Corporation's participation in the Amber Alert Program as well as the applicant's participation in the Program. He explained if either the McDonald's Corporation or the applicant dropped out of the Program, they would no longer have a valid variance and the sign would have to be removed. He asked if the Program were dropped, whether the applicant would be willing to be required to comply with the height Ordinance. Mr. Saputo responded no.

Mr. Saputo stated he felt the two requests should be separated because the location at 2985 Walton already had an electronic reader board. He pointed out the residents behind that location had suggested the Board should not allow the reader board, although the electronic reader board had been there for three (3) years. He stated he currently had a 20 foot sign that he was willing to take down to 14 feet. He stated for the consideration of 808 Rochester Road to receive an electronic reader board, he was willing to lower both signs as far as possible using a two foot monument, the reader board and the existing sign. He indicated if the requests were separated, the 2985 Walton Boulevard request did not need to be discussed because he had everything there currently. He stated he was trying to cooperate with the City and get rid of a pole sign. He indicated he wanted both locations to look the same, and give the City what it wanted in both locations, i.e. a monument sign.

Chairperson Cockey stated the applicant has raised a good point and suggested the Board discuss the request under Item 6A for 808 South Rochester Road. He indicated the request under Item 6B would be discussed at the conclusion of the discussion of Agenda Item 6A.

Mr. Colling clarified that the sign located at 808 South Rochester Road was grandfathered "as is" under the recent amendment to the Sign Ordinance. Mr. Sage indicated that was correct, unless there were any structural changes to the sign that would require either a variance or to be brought into compliance. He stated if the applicant were to make any improvements to the site that required Site Plan Approval, or required a new Certificate of Occupancy, then the sign would have to be brought into compliance.

Mr. Colling asked if the sign were damaged, such as by a windstorm, beyond 75% of replacement value whether the sign would have to be brought into compliance. Mr. Sage indicated that was correct.

Mr. Colling clarified the applicant was not willing to comply with the Ordinance and asked if that was due to the possible cost involved. Mr. Saputo stated there was a Twenty-two Thousand (\$22,000.00) Dollar cost involved with the current request.

Mr. Colling asked if it was an issue of cost in remaking the sign once again. Mr. Saputo responded that was correct.

Mr. Colling asked what the applicant's opinion would be if he was told that as long as he participated in the Amber Alert Program he could operate the light board; however, should he or the McDonald's Corporation drop out of the Program, the light board had to be disconnected. In other words, the sign would not be changed, but the moving light board portion would become inoperative. Mr. Saputo asked if the sign would go back to a hand changed reader board. Mr. Colling stated the sign would not be changed or modified in any manner, rather the reader board would simply be turned off.

Mr. Colling explained the intent was to find out if the moving light board, at this point, was more for advertising or more for the Amber Alert Program. Mr. Saputo stated it would be used Ninety-five (95%) Percent for advertising, and very little for the Amber Alert Program. He explained the Amber Alert was once every three (3) weeks.

Mr. Brennan stated he was not impressed with the reader board/Amber Alert matter, as he did not believe it had anything to do with the requirements for a variance, noting he did not find any exceptional circumstances in this situation.

Mr. Colling referred to a dealership located on Rochester Road that had a similar situation where the applicant offered to lower the dealership signs in exchange for some concessions. He explained the difference in that situation was that there were some hardship issues with the lot limiting the placement of the sign. He stated that situation did not exist with the applicant's property, and there were no issues in terms of visibility. He felt this was a situation of an issue of compliance with a corporate headquarters request.

Mr. Saputo stated he was not making the request for the McDonald's Corporation, but was willing to give up two (2) pole signs for one electronic reader board at the Rochester Road location. He pointed out if his request was denied, he would still have 20 foot signs and no additional expense.

Mr. Colling pointed out that another business near one of the applicant's locations had complied with the Sign Ordinance, which meant the issue of fairness and competition among the businesses had to be considered.

Mr. Rosen stated Mr. Colling had made a strong point in that the Board could grant a sign variance when the applicant made a significant change to the degree of nonconformance. He explained if the sign was at 22 feet and it would be brought down to 10 feet, that was a strong reason to acknowledge that was a fair trade and was a legitimate justification to grant a variance because it reduced the degree of noncompliance. He stated the applicant's request was to "chop off" six or eight feet from the post and put a nice base on. He suggested if the applicant came back with a sign that reduced the base a bit with the physical trademark sign ending up at nine or ten feet, it could be a method of preserving equity on both sides. He stated simply cutting off the pole while retaining the same large sign was not enough to justify granting a variance.

Chairperson Cockey clarified the issue was the height that the applicant desired for the sign. He asked if the proposed resultant sign would be similar to that depicted in the photograph for 3420 E. Walton Boulevard and 4435 Lapeer Road, which reflected a base with an electronic reader

board and the McDonald's name and the golden arches on the top. He asked the height to the top of the proposed sign if the golden arches were not included. Mr. Sage stated it would be nine feet. Chairperson Cockey noted that would still require a variance of two feet. Mr. Sage stated the nine feet was fairly consistent, although the sign at the applicant's Auburn Hills location had an overall height of ten feet.

Chairperson Cockey called for any additional discussion. There being none, he called for a motion. Mr. Brennan proposed the following motion for both File No. 73-174 and File No. 78-658:

**MOTION** by Brennan, in the matter of File No. 73-175 and File No. 78-658, that the request for a variance of seven (7) feet in height from Section 134-180 (Standards) of Chapter 134 of the Code of Ordinances to allow a monument sign at a height of fourteen (14) feet, **BE DENIED** for Mr. William Saputo, McDonald's Corporation, 808 S. Rochester Road, Rochester Hills, with the following Findings:

Findings:

1. No practical difficulty, unnecessary hardship, or no exceptional or extraordinary circumstances or conditions applicable to the property have been demonstrated. Specifically, testimony has relied upon considerations of cost and the request to participate in the nation's Amber Alert System, but has not indicated how this demonstrates extraordinary circumstances or unnecessary hardship.
2. The alternative of constructing a sign that meets Ordinance requirements is available to the applicant.
3. Granting the variance would be contrary to the public purpose and general intent of the Ordinance by granting sign variances that do not meet the required findings.
4. The alleged hardships and practical difficulties do qualify only as a mere inconvenience or a mere inability to obtain a higher financial return on the present investment since denial of this variance will require the construction of a new sign.
5. Allowing the variance will not result in substantial justice being done considering the public benefits intended to be secured by this Chapter; the absence of individual hardships that will be suffered by a failure of the Sign Board of Appeals to grant a variance; 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.

Discussion on the proposed motion:

Chairperson Cockey reminded the Board the applicant had requested that the Board only consider his variance request for 808 S. Rochester Road, and asked Mr. Brennan if he would consider amending his motion to consider just that matter. Mr. Brennan agreed to delete the

reference to File No. 78-658 (2985 Walton Boulevard) from this motion. Mr. Rosen stated he would second the motion as revised.

Mr. Rosen referred to Finding #4, which stated "without granting the variance, the sign would have to conform". He noted that the sign did not have change at all and requested the Finding be clarified. Mr. Brennan noted the Finding read "denial of this variance will require the construction of a new sign". Mr. Rosen pointed out that denial of the variance would not require a new sign. Mr. Brennan suggested that phrase be omitted from the Finding. Mr. Rosen agreed that the phrase should be omitted.

Chairperson Cockey called for any additional discussion on the motion. There being none, he called for a roll call vote.

Complete Motion:

**MOTION** by Brennan, seconded by Rosen, in the matter of File No. 73-175, that the request for a variance of seven (7) feet in height from Section 134-180 (Standards) of Chapter 134 of the Code of Ordinances to allow a monument sign at a height of fourteen (14) feet, **BE DENIED** for Mr. William Saputo, McDonald's Corporation, 808 S. Rochester Road, Rochester Hills, with the following Findings:

Findings:

1. No practical difficulty, unnecessary hardship, or no exceptional or extraordinary circumstances or conditions applicable to the property have been demonstrated. Specifically, testimony has relied upon considerations of cost and the request to participate in the nation's Amber Alert System, but has not indicated how this demonstrates extraordinary circumstances or unnecessary hardship.
2. The alternative of constructing a sign that meets Ordinance requirements is available to the applicant.
3. Granting the variance would be contrary to the public purpose and general intent of the Ordinance by granting sign variances that do not meet the required findings.
4. The alleged hardships and practical difficulties do qualify only as a mere inconvenience or a mere inability to obtain a higher financial return on the present investment.
5. Allowing the variance will not result in substantial justice being done considering the public benefits intended to be secured by this Chapter; the absence of individual hardships that will be suffered by a failure of the Sign Board of Appeals to grant a variance; 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.

Roll Call Vote:

Ayes: Colling, Weisberger, Verschueren, Rosen, Brennan, Cockey  
Nays: None  
Absent: Duistermars

**MOTION CARRIED**

Chairperson Cockey noted the applicant's request had been denied. He asked if the applicant wanted the Board to proceed with his variance request for 2985 Walton Boulevard. Mr. Saputo stated he would withdraw that request.

**6B. SIGN BOARD OF APPEALS  
PUBLIC HEARING - FILE NO. 78-658**

Location: 2985 Walton Boulevard, located south of Walton Boulevard, east of Adams Road, Parcel Identification Number 15-17-102-094, zoned B-2 (General Business).  
Request: A variance of 7 feet in height from Section 134-180 Standards (General Commercial and Retail Premises) of the Code of Ordinances, which restricts the maximum allowable height of ground signs to a height of 7 feet. The submitted sign permit application requests a ground sign of 92 square feet and a height of 14 feet.  
Applicant: William R. Saputo  
McDonald's Corporation  
2766 Antrim Court  
Oakland, Michigan 48306

Chairperson Cockey noted for the record that the request for Agenda Item 6B had been withdrawn by the applicant.

Chairperson Cockey noted for the record that the Board would resume as the Zoning Board of Appeals.

**6C. PUBLIC HEARING - FILE NO. 04-028**

Location: 746 Cambridge, located north of Avon Road, east of Adams Road, Parcel Identification Number 15-17-603-041, zoned R-1 (One Family Residential).  
Request: A request for a variance of 1 foot from Chapter 138-1111 (Schedule of Regulations) of the Code of Ordinances, which requires a minimum rear yard setback of 35 feet in the R-1 One Family Residential Zoning District. The submitted application to construct an addition (sunroom) at the above referenced address indicates a rear yard setback of 34 feet.  
Applicant: Tony V's Sunrooms & Spas, Inc.  
20400 Hall Road  
Clinton Township, Michigan 48038

Chairperson Cockey read the request for the record and requested the applicants to come forward and introduce themselves and provide a brief summary of their request.