



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

October 2, 2013

546 S. Rochester Road	
REQUEST	Variations to Section 134-107(5)(b) and 134-107(5)(c) to allow a panel change to an existing nonconforming sign
APPLICANT	Julia Marks 546 S. Rochester Road Rochester Hills, MI 48307
LOCATION	West side of Rochester Road, between Avon and the Rochester City Limits
FILE NO.	13-015
PARCEL NO.	15-15-426-020
ZONING	B-2, General Business
STAFF	Jim Breuckman, AICP, Manager of Planning

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Requested Variances

The requested variances are from Section 134-107(5)(b) which requires nonconforming signs to be removed when the name of the premises or business changes, and to Section 134-107(5)(c) which requires nonconforming signs to be removed when a use change requiring a certificate of occupancy occurs. Both of those are applicable in this instance.

The variances are necessary to allow the petitioner to use the existing nonconforming sign structure on the site. The proposed sign will not modify the existing sign structure, and amounts to a panel change. Panel changes are permitted for nonconforming signs except when one or more of the five conditions listed in Section 134-107(5) exist.

Site Description

The site is located on the north-west corner of the Rochester/Childress intersection. The existing nonconforming sign is located very close to the property line, but is not in the right-of-way as shown in the below aerial photograph:



Sign Location

Summary

The existing sign structure is a nonconforming pole sign. Only monument signs with a maximum height of 7 feet are permitted by the sign ordinance. The sign does not meet the 10 foot setback for a monument sign, but it is not nonconforming in this regard because the sign ordinance allows for reduced or zero setbacks for signs when accessory to a nonconforming building, which is the case at this site.

The applicant is requesting a variance to permit a panel change to the existing sign. If denied, the sign would have to be altered to come into conformity with the ordinance. This would require lowering the sign from its current 13-foot one-inch height down to a maximum height of 7 feet.

In most similar instances property owners have come into compliance with the sign ordinance by lowering old pole signs. An example of this is the McDonald's site to the south of the subject site where the old pole sign was replaced with a conforming monument sign (a variance was granted to allow McDonald's to exceed the maximum wall area requirement on the re-built building).

On the other hand, a variance was granted for a panel change at this site in February of 2005 (City file number 04-010, minutes attached).

Analysis

The Sign Board of Appeals may vary or modify the requirements of the City's Sign Ordinance only in cases when the following considerations are met:

1. **Special Conditions.** *That special conditions or circumstances exist which are peculiar to the land, structure, or building and which are not applicable to other lands, structures or buildings in the same district.*

There are no apparent special conditions that exist that are peculiar to this site. Other sites in the B-2 district have similar physical conditions and comply or have been brought into compliance with ordinance requirements.

2. **Deprivation of Rights.** *That literal interpretation or application of the provisions of Chapter 134 (Signs) would deprive the applicant of property rights commonly enjoyed by other properties in the same district under the terms of Chapter 134.*

Denial of the requested variance will not deprive the property owner of the right to have a monument sign or signs on their building. It would require the tenant or property owner to incur the expense of bringing the existing pole sign into conformance with the sign ordinance.

3. **Substantial Justice.** *Allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by Chapter 134 (Signs), the individual difficulties that will be suffered by a failure of the Sign Board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance, and will not be contrary to the public purpose and general intent and purpose of Chapter 134 (Signs).*

As an existing sign, it is unlikely that granting the variance and allowing it to remain would affect the rights or properties of others. However, it is the clear intent of the sign ordinance to eliminate nonconforming signs, and so granting the variance would be contrary to the spirit and intent of the sign ordinance and would not result in substantial justice to any property owner who has had, or will have to remove a similar nonconforming pole sign.

Sample Motions

Motion to Approve

MOTION by _____, seconded by _____, in the matter of File No. 13-015, that the request for a variance from Section 134-107(5)(b) and (c) of the Rochester Hills Code of Ordinances to allow a panel change on an existing nonconforming sign, Parcel Identification Number 15-15-426-020, zoned B-2 (General Business), be **APPROVED** because a competent, material, and substantial evidence **does** exist in the official record of the appeal that supports all of the following affirmative findings:

1. *Special Conditions*. That special conditions or circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same district. Specifically ...
2. *Deprivation of Rights*. That literal interpretation or application of the provisions of Chapter 134 would deprive the applicant of property rights commonly enjoyed by other properties in the same district under the terms of Chapter 134. Specifically ...
3. *Substantial Justice*. Allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by Chapter 134, the individual difficulties that will be suffered by a failure of the sign board of appeals to grant a variance, and the rights of others whose property would be affected by the allowance of the variance, and will not be contrary to the public purpose and general intent and purpose of this chapter.

Motion to Deny

MOTION by _____, seconded by _____, in the matter of File No. 13-015, that the request for a variance from Section 134-107(5)(b) and (c) of the Rochester Hills Code of Ordinances to allow a panel change on an existing nonconforming sign, Parcel Identification Number 15-15-426-020, zoned B-2 (General Business), be **DENIED** because a competent, material, and substantial evidence **does not** exist in the official record of the appeal that supports all of the following affirmative findings:

1. *Special Conditions*. That special conditions or circumstances do not exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same district.
2. *Deprivation of Rights*. That literal interpretation or application of the provisions of Chapter 134 would not deprive the applicant of property rights commonly enjoyed by other properties in the same district under the terms of Chapter 134.
3. *Substantial Justice*. Allowing the variance will not result in substantial justice being done, considering the public benefits intended to be secured by Chapter 134, the individual difficulties that will be suffered by a failure of the sign board of appeals to grant a variance, and 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.