

ZONING BOARD OF APPEALS
Regular Meeting
September 27, 2022

The meeting was called to order by Chairman Ross De Vries at 5:30 p.m.

Present: Vice-Chairman Ross De Vries, Member, Elliott Church and alternate, Steve Haberkorn. Also present were Community Development Director, Corey Broersma, Assistant Planner and Zoning Administrator, Kate White, and Recording Secretary, Laurie Slater.

Absent: Chairman Russ Boersma and Members Jack Vander Meulen and Robert De Vries.

Public Comment: None

** It was moved by Church and supported by Haberkorn to approve the minutes of August 23, 2022, as written. Motion carried.

Vice-Chairman Ross DeVries explained the Public Hearing process to the audience.

Hearing declared open to consider a petition for to Appeal a Decision of the Zoning Administrator submitted by Rick Loftus on behalf of Schostak Brothers & Co. Inc. for property located at 3134 Beeline Road, known more specifically as 70-16-16-100-090. Petitioner is appealing a decision that “pick up” window is not a “drive through” and, therefore not subject to the required 10 vehicle stacking spaces per service line. The subject property is zoned C-2 Community Commercial.

Present for this request was Tom Gergich, Vice President of Real Estate for Applebee’s of 170800 Loyal Park Dr, Lavonia, Michigan.

Mr. Gergich explained that this would be a pick-up window only, no onsite ordering of food like a drive thru. He further explained that because of the pandemic, their carryout / delivery business has gone from 5% to 25%. When a delivery / pickup order is placed, the customer is given a designated time to be there to pick it up. The managers do this so as not to get cars stacked. Also, for staff to have time to prepare the orders. So, the possibility of the cars stacking to 10 is highly unlikely. If customers’ or delivery driver’s orders are not ready, they would be directed to a parking space. If they had to have enough room for a 10-car stack, it would require the handicap parking spaces to be moved. This would cost an additional \$10,000.

Applebee’s thought that after the pandemic, the numbers for pick-up would go back down, but they are not seeing that. They now believe that delivery / pick-up is here to stay.

Currently, they use an app to let Applebee’s know that they are there, and staff takes it out to their vehicle. With winter coming, the ice and snow and getting dark earlier, it would be safer for staff to have a pick-up window. Also, since the pandemic, they are short staffed.

Mr. Gergich cited some sections of the ordinance about drive thru windows. He stated the ordinance does not speak to post pandemic situations like drive thru versus pick-up window.

Applebee’s headquarters has set up pick-up window service to customers as a test for high volume carry out situations. If the construction is completed by the end of the year, Applebee’s will pay for part of it. A text amendment would stall the process until next year.

Applebee's has been at this location for 20 years. They could stack 5 cars with no major changes to parking.

The Board asked about customers showing up early to pick up their orders. Mr. Gergich responded that they would figure it out very fast that it will not be ready early, Applebee's tries to be precise with the designated time given to the customer for order pick-up.

When asked about how other Applebee's pick-up windows work, Mr. Gergich replied that there are only two in the US with pick-up.

Applebee's currently has 10 parking spaces designated as pick-up parking spaces. Mr. Gergich was not sure if they are ever fully occupied.

Mr. Church indicated staff's decision was appropriate. He further stated there appears to be an avenue to petition the Planning Commission for a Zoning Text Amendment.

There was no one in the audience to speak to this request.

** It was moved by Ross De Vries and supported by Church to close the hearing and table this request at the request of the presenter since there are only three Board Members present tonight. Motion carried with a unanimous roll call vote.

Hearing declared open to consider a petition for a Nonuse Variance submitted by Lisa Spaugh on behalf of World Class Prototypes for property located at 400 Center Street, known more specifically as 70-16-28-329-002. Petitioner is requesting a variance consisting of 12 feet 4 inches from the required 30-foot side yard building setback; resulting in a side yard setback of 17 feet 8 inches. Variance is being requested for a building addition. The subject property is zoned I-2 General Industrial.

Present for this request were the owners of JSL Properties LLC. They have been small business owners for 30 years. They went from 12 to 25 employees and will add another 20 employees within the next 5-10 years.

When they purchased the building, it was a cold storage facility they upgraded it to a manufacturing facility. Many things have changed around the building over the years, taking it further out of compliance with the ordinances.

The area they would like to enclose is an area of less than 1,000 square feet. It is already enclosed on three sides. The space was once a train track stub. The area has railroad ties and tracks and packed gravel base. There is not a lot of drainage in this area. The space is not accessible or visible. Revitalizing this area is critical to the growth of their company.

The business is close to the softball fields of Hope College. They suspect the area is used by vagrants, which is not a good thing. They have found used syringes in this open area. A good solution to the vagrant problem would be to enclose this area. That would give the owners space for the business to grow.

They provided pictures of the area and proposed future changes to the outside of the building to the Board. The building was constructed prior to the street setbacks. The ground is hard packed gravel. They do not want any negative impact for themselves or others. The owners are willing to participate in any testing for concerns to do with drainage.

The enclosure would not encroach on the setback any further than the existing building already does.

The upgrade to the inside of the building would not take place for about a year after they have done the renovations to the train stub.

There was discussion of the percentage of lot coverage and that the lawn area was the location of an existing drain field. They are not hooked up to municipal sewer yet.

Ed Zwylghuizen of Gen1 Architecture Group of Zeeland, Michigan was present to address the septic issue.

The septic was tested, and it passed. They predict it will be another 15-20 years before it fails. At that time, they will hook up to municipal sewer. Phase 1 is to do the Infill and bring the bathrooms up to code. The use of the septic is equal to a house, they only have the bathrooms, no washing machine, or showers.

There was further discussion about drainage. A letter of approval from the Water Resource Commission stating that there would be minimal impact from enclosing the train stub would be required by the Board.

There was further discussion about lot coverage. The percentage of lot coverage was taken from the Title Sheet prepared by Gen 1 Architectural Group. That number did not come from the Holland Charter Township Staff.

It was the consensus of the Board that this proposal makes sense. It is the perfect opportunity to update dead space that has no value in keeping it as is.

There was no one in the audience to speak to this request.

** It was moved by Haberkorn and supported by Church to close the hearing. Motion Carried.

The Board went over the standards to review when considering a nonuse variance requests.

1. ***That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:***
 - a. ***Exceptional narrowness of the width or depth of a lot of record, or irregular shape.***
 - b. ***Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.***
 - c. ***Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.***
 - d. ***Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.***

The shape of the lot is very irregular. This area serves no purpose. Granting this variance will help the company put this area to use.

2. ***That the unusual circumstances do not apply to most other lots of record in the same manner or to the same extent to other lots of record in the same zoning district.***

Most parcels are not of this configuration. This lot was developed preordinance. This is a dead-end alley. There are no longer trains backing into this space.

- 3. That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.*

They would be using the space for air compressors and vacuum pumps that are currently in the manufacturing area making noise and giving off heat. Closing this area in and moving the equipment to this area would not result in any increased financial returns.

- 4. That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.*

No, granting this variance would not be of substantial detriment to adjacent and nearby land uses and properties.

- 5. That the applicant shall not have created the problem for which the variance is being sought.*

They did not create the problem. It is a very old building- preordinance. This whole area is changing.

- 6. That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.*

Most people don't even notice there is a space there. It would be in the public's interest to enclose it because of the vagrants using this space. Granting this variance would not encroach any further on the setback than what the existing building already does.

** It was moved by Church and supported by Haberkorn to approve the request as presented subject to the approval of the Water Resource Commission. Motion carried with a unanimous roll call vote.

Hearing declared open to consider a petition to Extend a Nonconforming Use submitted by Merle Boes, Inc. for property located at 11372 E Lakewood Boulevard, known more specifically as 70-16-22-400-056. Petitioner is requesting permission to extend the life of a nonconforming sign. The subject property is zoned C-2 Community Commercial.

Present for this request Mark Zegel of Mobil Inc. Since there are only three Board Members present tonight, Mr. Zegel asked that the request be tabled. The Board asked to hear from the applicant as it had been advertised and there may be people present in the audience to speak to this request.

Mr. Zegel explained that the only change made to the sign was that the cabinet was replaced with a digital cabinet. That change would not prolong the life of the sign. The change is on the inside of the sign only. The steel tubing on the interior of the sign was in good shape, it had not deteriorated at all. If Merle Boes was to put in a monument sign setback according to ordinance, the sign would be in the pump area. The sign is where it has always been. The widening of the road created the setback issue.

Mr. Zegel further explained it is an attractive sign. The use is not extended by replacing the cabinet, it is on the inside of the sign. Mr. Zegel cited sections of the ordinance pertaining to Message Boards on Signs and Graphics stating they meet these requirements. It was maintenance that was being done to the signage, there were no structural improvements. Mr. Zegel stated an electrical permit was not required to switch out the cabinet. It is like changing a lamp. All they had to do was disconnect a wire and reconnect the wire.

He continued that LED lighting is more effective than fluorescent lighting. All around more beneficial. Uses less electricity.

The sign has been there for several years with no safety issues related to the sign. Customers leaving the lot can see traffic from both directions.

Public Comments:

Mike Boes stated he had concerns about changing the brand of the store. They are contracted with the oil companies and if they cannot change the sign, that is a problem for them. The steel super structure behind the pylons would not be changed. The facility needs to look good to oil companies. They are graded by the company they represent.

Jim Ondersma of 11283 Chicago Drive was also in the audience to speak to this request. He sent an email to Staff and reiterated that he has no issues with the sign that has been in its current location for 40 plus years. He supports the request to extend the non-confirming use.

Tom Amor of Amor Sign Studio of Manistee Michigan was present to speak to the permit topic. He stated that as a rule one does need a permit to replace the face of a sign. They have done other sign replacements for BP and did not need a permit unless it was a whole new sign. He further explained that most jurisdictions are not enforcing getting an Electrical Permit to do LED upgrades to signs because of the little amount of voltage involved. He said that it was his mistake that a permit for the work was not secured.

** It was moved by Church and supported by Haberkorn to close the hearing. Motion carried.

Staff recommended no further discussion occur if there was an intent to table the request.

** It was moved by Church and supported by Haberkorn to table this request at the request of the presenter. Motion carried with a unanimous roll call vote.

The meeting adjourned at 7:00 pm.

Respectfully submitted,

Laurie Slater
Recording Secretary