

**MINUTES
CITY OF FARMINGTON HILLS
ZONING BOARD OF APPEALS
CITY HALL – COUNCIL CHAMBER
JUNE 9, 2015**

CALL MEETING TO ORDER

Chair Seelye called the meeting to order at 7:30p.m. and made standard introductory remarks explaining the formal procedure, courtesies and right of appeal.

ROLL CALL

The Recording Secretary called the roll.

Members present: Barringer, Lindquist, Paramesh, Rich, Seelye, Stevens and Vergun

Members Absent: Masood

Others Present: Attorney Morita and Zoning Division Representative McGuire

SITE VISIT JUNE 7, 2015

Chair Seelye noted when the Zoning Board of Appeals members visited the site.

The Sunday site visit begins at 9:00a.m. at City Hall. It is an advertised open, public meeting under the Open Meetings Act, is only for informational purposes; the Board members abstain from any action, hearing testimony, or any deliberations.

APPROVAL OF AGENDA

There were no changes to the agenda.

MOTION by Rich, support by Stevens, to approve the agenda as published.

MOTION CARRIED 7-0

NEW BUSINESS

A. ZBA CASE: 6-15-5555
LOCATION: 21414 Whittington
PARCEL I.D.: 23-36-326-004
REQUEST: In order to build a detached garage 2 foot from the side property line in a RA-4 Zoning District; a 3 foot variance from the 5 foot required side yard setback is requested.
CODE SECTION: 34-34-3.1.7E
APPLICANT: Jay Bilt
OWNER: Brian and Jessica Budgery

Zoning Division Representative McGuire discussed the location of the property and presented an aerial map of the site, survey of the property, photos of the existing garage and house and a sketch of the proposed garage. She explained that at one time the ordinance requirement was for the garage to be setback 2 feet, it has since been changed and in this zoning district the setback requirement is now 5 feet, therefore, the existing garage is a non-conforming structure. She stated that the proponent is asking for a 3 foot variance in order to build a new garage in the same location as the existing garage.

Brian Budgery, applicant, 21414 Whittington, explained that he is requesting the variance in order to keep the garage in the same location and noted that the proposed garage would be a little wider so that it can fit two cars. He stated that if he were to shift the garage they would be within 9 feet of the house which would also require a variance, therefore, he would like to keep the north wall in the same location.

Chair Seelye asked if the proposed garage would be built on the same foundation and if it would be the same size of the existing garage. Mr. Budgery responded that they plan to replace the foundation and the new garage will be 2 feet wider and 4 feet longer than the existing garage.

Chair Seelye asked if the proponent has remodeled the existing home. Mr. Budgery responded that he added siding and replaced the windows and roof.

Member Rich asked the proponent how long he owned the home and if he built the existing garage. Mr. Budgery responded that he has owned the home for 18 years and the garage was there when he purchased the property.

Member Rich commented that the survey provided showed a couple of wood sheds in the back, however, those were not seen during the site visit.

Mr. Budgery stated that the sheds were located on the lot behind the house, which he owns as well, and the sheds were rotten when he purchased the property so they came down quickly.

Chair Seelye questioned if the new garage will be the same height as the existing garage. Jim Hall, Jay-Bilt Construction, 34038 Glendale, stated that he did not know the exact height of the existing garage; however, the proposed garage will be 13 feet to the ridge.

Member Paramesh questioned if the proponent considered extending the garage towards house. Mr. Budgery responded that either way he would have to request a variance so he would just like to keep the garage in the same location.

Member Stevens asked if the proponent knew the dimensions of the current overhang on either side of the garage. Mr. Budgery responded that it is about a foot and the proposed garage will not be a reverse gable, it will be a standard garage so that the peak will be in front.

Member Lindquist stated that the existing garage has a dormer style window and questioned if there was a second story or loft area planned in the proposed garage. Mr. Budgery responded no.

Member Lindquist asked if there will be electrical or plumbing in the garage. Mr. Budgery responded that there will be electrical only.

Member Rich questioned the use of the existing and proposed garage. Mr. Budgery responded that the existing garage is too small for cars so it is mainly used for storage and the proposed garage will be used for storage and at least one car, if not both.

Member Rich asked if there was any history of a variance being granted for the non-conforming garage. Zoning Division Representative McGuire responded that it was not non-conforming at the time because the standard was then 2 feet.

Chair Seelye opened the public portion of the meeting. There being no public comments, Chair Seelye closed the public portion of the meeting.

Member Stevens confirmed there was an affidavit of mailing on file with no returned mailers.

MOTION by Lindquist, support by Vergun, in the matter of ZBA Case 6-15-5555, to GRANT the petitioner's request for a 3 foot variance from the 5 foot required side yard setback because the petitioner did demonstrate practical difficulties exist in this case in that he set forth facts which show that:

1. Compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose or would render conformity with the ordinance unnecessarily burdensome; particularly in this case the petitioner is simply replacing an existing garage that is in an older state with a new garage in same location.
2. That granting the variance requested would do substantial justice to the petitioner as well as to other property owners in the district or that a lesser relaxation than that relief applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners; as there does not seem to be any more reasonable alternative than the direct replacement of a garage in substantially the same footprint and same distance from the side lot line.
3. That the petitioner's plight is due to the unique circumstances of the property, because the garage already exists and was permitted at the time it was originally constructed.
4. That the problem is not self-created, as the garage was there when the proponent took ownership of the property.

SUBJECT to the following conditions:

- The proposed garage conforms to the diagrams, site plan and construction plan as presented
- Proponent must comply with all other restrictions, construction codes and ordinances
- The materials and style be consistent and similar to the existing home on the property

MOTION CARRIED 7-0

B. ZBA CASE: 6-15-5556
LOCATION: 24000 Haggerty
PARCEL I.D.: 23-30-101-020
REQUEST: In order to build a 30 foot tall, 360 square foot billboard sign in a L1-1 Zoning District, the following is requested: 1) Approval and permission from the ZBA pursuant to 34-5.5.7 to install a freestanding non-accessory sign, 2) A 10 foot variance from the 20 ft. height limit 3) A 160 sq. ft. variance to the 200 sq. ft. area limit
CODE SECTION: 34-5.5-7
APPLICANT: Curtis Outdoor Inc.
OWNER: Arie Farmington LLC

Zoning Division Representative McGuire reviewed the zoning ordinance as it relates to non-accessory signs noting that they are permitted only with the approval of the Zoning Board of Appeals and only in LI-1 districts and such approval may be given where the erection or maintenance of the sign will not be detrimental to the use of any adjoining commercial or residential land, only one non-accessory sign is allowed per zoning lot and it has to also comply with all other requirements of Section 34-3.1, which states that signs cannot be flashing or intermittent, they cannot overhang the right-of-way and shall not exceed 20 feet in height or 200 square feet in area.

Zoning Division Representative McGuire explained that this request is for approval and permission to install a freestanding non-accessory sign and also for two variances for the sign and the Board must consider the request as a whole with no variations. She noted that the ordinance states that these particular signs have to be constructed in such a manner to withstand normal wind forces, they must be properly maintained, a cash bond must be filed with the City and the permit may only be granted for two years. She added that proponent needs to show that the proposed sign can withstand wind forces and they also need to address how much of a cash bond would be necessary for proper maintenance, repairs, etc.

Zoning Division Representative McGuire discussed the location of the property and presented an aerial map of the site, photos of the front of the building, the retention pond with a marker indicating the location of the proposed sign, the existing Motel 6 billboard on M-5, a rendering of the proposed landscaping and sign and specifications of the proposed sign. She stated that she was unable to find the permit for the Motel 6 billboard on M-5; therefore, they are unsure if a permit was ever pulled. She added that the proposed sign is a 360 square foot, 2-sided LED sign.

Member Lindquist questioned if in a LI-1 district the property owner would be entitled to have a non-accessory sign 20 feet in height and 200 square feet without permission from the Board. Zoning Division Representative McGuire responded that it is not an entitlement, the ordinance states “freestanding non-accessory signs may be permitted only in LI-1 districts and only with the approval of the Zoning Board of Appeal. Such approval may be given where the erection or maintenance of the sign will not be detrimental to the use of any adjoining commercial or residential land.”

Charles Semchena, representing Curtis Outdoor Inc., explained that the use would not be detrimental to the adjoining commercial or residential properties as this is an industrial zone and the adjoining properties are all industrial and they do not want to be a detrimental use, they want to be a positive use for the City and for the neighboring properties. He stated that they are offering an extensive set of conditions if the approval and variances are granted, including:

- Landscaping enhancements to the site which exceed any enhancements the ordinance would require. The proposed landscaping, fencing and screening is extensive, most of the trees on the west side will remain as a buffer between the industrial building, the retention pond and the sign. They proposed to enhance and maintain the bike path area that runs along the expressway side of the property.
- Removal of the outdated, unattractive billboard sign on M-5. By granting the variance it will ultimately reduce the amount of sign square footage in the City as there will only be one structure instead of two and the one that remains would be the one with all the enhancements.

Mr. Semchena stated that this is a non-accessory sign, it is a permitted use and there are practical difficulties that were not self-created which justify the two variances, one for height and another for the size of the sign. He explained, in regards to the height variance, that the purpose of the sign is for drivers on the expressway to be able to see it, however, the topography of I-275 from the viewing points of a

driver is actually 10 feet higher than the land that the sign would be built on making it almost impossible to see so having the sign higher allows more visibility. He stated that the 20 foot limit is probably an appropriate limit for a site that does not have this unique, not self-created issue.

Mr. Semchena explained another unique, not self-created problem with this property is the distance from the location of the sign to the viewing point on the road. In relation to the right-of-way width and distance from traffic, this property has the greatest distance of anywhere in the City for an industrial property and is too far to allow good visibility of a 200 square foot sign, however, a 360 square foot sign which is about the smallest industry standard sign, would be visible and would not cause a distraction to drivers. He stated that there are other areas in the City that are industrial and would allow visibility of a 200 square foot sign but the distance from those locations to the road is much shorter. He provided the Board with a document indicating the locations of various roadways, the width of their right-of-ways and the distance in which a sign would be visible to traffic. He stated that in this unique location on I-275 where there are extra lanes and a larger right-of-way, being 387 feet away from the viewing point makes a 200 square foot sign a distraction, a bigger sign allows drivers to look at and go back driving without creating any problems.

Mr. Semchena commented that this location seems to be the best fit in the City for a sign like this, other locations may present some type of detrimental effect on other property owners but this one does not. He stated that this type of sign would provide substantial justice to the property owners and the entire district because of the enhancements they are proposing and the elimination of the other 200 square foot sign. He added that there would not be any precedent set by granting these variances and approval as he does not believe anyone else would be able to offer the elimination of another 200 square foot freestanding sign as a condition and since other locations are much closer to the road and at grade, they would not need variances for a larger or higher sign.

Chair Seelye asked if the proposed sign will be a 2-sided LED sign. Mr. Semchena responded that was correct.

Chair Seelye asked if there will be a day and night setting on the LED sign. Mr. Semchena responded that the proposed sign has automatic dimmers that measure the brightness at any particular point in time and adjusts levels up and down automatically, not just by day and night.

Chair Seelye asked how often the sign will change. Mr. Semchena responded that it will change every 8 seconds.

Chair Seelye questioned the ordinance requirements for intermittent signs. Attorney Morita responded that the ordinance states no intermittent signs at all; however, the way the City has interpreted the ordinance is that no moving graphics are allowed on the sign and the words cannot change more than every 30 seconds.

Chair Seelye asked if the proponent has done a wind study. Jay Carll, 44 Grandville Ave, responded that the proposed sign is built to withstand 90 MPH winds.

Chair Seelye questioned if there were documents noting the wind force information and if they were included in the Boards packet. Mr. Carll responded that the sealed plans will provide that information and it was not included in the packet as they typically only provide sealed plans once they have approval.

Mr. Carll questioned the intermittent sign standard of 30 seconds noting that he did not see that in the ordinance. Attorney Morita responded that the ordinance specifically states no intermittent signs and the way that the City has interpreted that is to allow signs to change no more than every 30 seconds.

Chair Seelye asked if there were any enforcement issues on this property. Zoning Division Representative McGuire responded that this property has been quite heavily enforced over the last ten years; there have been 19 enforcements in terms of site plan issues, signage issues and issues with automobile businesses on the property.

Zoning Division Representative McGuire commented that since this property has required a lot of zoning enforcement, she would like to discuss maintenance issues with the proposed sign. She stated that the sign has to be maintained and a cash bond has to be filed with the City to guarantee proper maintenance, therefore, the proponent must provide the Board and staff with how much proper maintenance would cost. She added that if the City has to enforce on maintenance they would go to the property owner as well as to the sign company.

Mr. Carll explained that the maintenance costs would be minimal and he would be willing to get estimates as to what the installation costs are for this type of sign and bond that amount or whatever bond amount the City requires.

Chair Seelye asked if staff would be happy with what the proponent has offered, in terms of the cash bond. Zoning Division Representative McGuire responded that she feels that the City needs to have more specific information.

Mr. Carll stated that he could provide the City with cost estimates to erect, construct from scratch, repair and reinstall this type of sign and provide written quotes from different manufacturing companies and bond the average or highest amount, whatever the City would prefer.

Attorney Morita stated that this was a unique situation for the City and staff would prefer to have that information prior to consideration of approval, so that the amount of the bond can be made a condition of the approval by the Board.

Mr. Carll explained that a structure of this type to build from scratch is approximately \$25,000 and he is willing to give the City a \$50,000 cash bond to ensure they would have more than enough to replace the sign structure if needed.

Member Lindquist asked the proponent if the Board were to grant permission for the sign to be constructed but did not grant the variances for the larger size, would they still plan to construct the sign. Mr. Carll responded that they would probably then only construct the southbound face as the elevation does not affect the southbound side as much as the northbound side and that side is closer to traffic.

Member Lindquist questioned if the sign on M-5 was owned by Curtis Outdoor Inc. Mr. Carll responded that Clifton and Keating Company, Jim Keating, is the owner of that property and sign, however, he has control of it and if they receive approval they can remove it.

Member Lindquist asked for clarification on how the proponent has authority over the sign and if they were going to buy the sign just to eliminate it. Mr. Carll responded that he has an option to purchase the sign, subject to the approval of this request because he felt it was important to reduce the amount of existing sign square footage if they were going to ask the Board for a larger sign. He stated they do plan to remove the sign if they are granted approval.

Member Lindquist asked if the City has any record of permission for the sign on M-5. Zoning Division Representative McGuire responded that so far they have not found any record, but there are other places they can look. She stated that if it was approved it should have been permitted every two years and the City can enforce on that.

Mr. Carll commented that they he did not know of the local issue in regards to the permit for that sign but he knows that the sign does have a MDOT permit.

Zoning Division Representative McGuire asked the proponent about the Michigan Department of Transportation (MDOT) permitting process.

Mr. Carll explained that MDOT put a cap in place a few years back and when they did, they allowed companies that had permits for signs that had not been built yet, to turn those permits in for interim permits, a permit bank. He stated that there are currently several hundred permits in the bank and if you do not own an interim permit, then you have to take a sign down to put another sign up, however, in this case they are in possession of interim permits.

Member Rich questioned, in terms of the size, with a 2-sided sign are both surfaces counted or just the physical structure. Zoning Division Representative McGuire responded that it does not matter if it is 2-sided.

Member Rich asked if there are other areas along I-275 or I-696 where the setback requirement or the right-of-way is a different amount than at this particular property. Zoning Division Representative McGuire responded that in terms of the highway itself and how it is constructed it does vary, however, the City standard in a LI-1 district is a 20 foot setback to the right-of-way.

Member Rich commented that the applicant has stated that this particular property is unique because of how far away the sign will be from traffic and questioned if the building next door wanted to put a sign up would it be able to be located closer to the roadway. Zoning Division Representative McGuire responded that there would not be much of a difference, as seen on the map provided, the property lines in that area are pretty consistent.

Member Vergun questioned the design of the proposed sign and if it will be similar to what was depicted in the packet. Mr. Carll responded that the sign will be similar to the one shown as far as structure, landscaping, stone enhancements and retaining wall.

Member Stevens asked if there are any other billboard signs along I-275 in Farmington Hills. Zoning Division Representative McGuire responded that she does not think so and according to their records, there are no permissions out for these types of signs.

Member Stevens questioned if staff has reviewed the drawings that were provided to the Board.

Attorney Morita responded that they have and staff has indicated that they do not have enough information, based on what was provided, to make a recommendation to the Board, including whether or not the sign would meet the wind study requirement.

Mr. Carll commented that the typical standardized billboard is 14 feet high, 48 feet long and 672 square feet, and 90% of the billboards on the interstates in urban areas are that size. He stated that the proposed sign is almost half that size not nearly as large in comparison to other interstate billboards. He added that as far as the structure, they will comply with all building code requirements.

Member Stevens stated that he is concerned that the sign is overhang the sanitary sewer easements, the foundation is 10 feet deep and if the sewers are 40 feet deep then the foundation would be within the influence of the sewer and that there are easements in the area, therefore, so someone will have to verify that the easements allow for a structure to be placed in the area. He stated that he would expect staff to review and hash out the details of these issues prior to the Boards consideration.

Mr. Carll commented that the sign is located in the overall easement of the area but not located inside the actual sewer easement, it would overhang the easement about 8 feet but there would be about 17-18 feet of clearance, however, if staff felt that excavators could not work underneath the sign to access the sewer line, they would condition themselves to take the top off and move it out of the way while work is being performed. He noted that the column itself is not in an easement and they either vibrate or case it in so that they do not have a foundation that will bleed over into the easement area.

Member Stevens stated that he still feels that staff should look at these issues and make a recommendation before he would feel comfortable considering this case.

Chair Seelye asked if the City knew where the easements were for the sewers in this area. Zoning Division Representative McGuire responded that she could not address that.

Mr. Carll stated that the easements are shown on the survey provided. He explained that they plan to do soil samples to determine what the compaction of the soil is, etc. and intend to submit the soils report along with sealed plans and the reason this information was not part of the packet was because he anticipated providing it at the Building Department level.

Member Stevens explained that there are issues relative to the general location of the sign and he would like to see a recommendation from staff stating that there is no issue with rights in the storm water detention easement, that the sign is out of the sewer easement and the foundation is not within the influence of the sewer.

Chair Seelye opened the public portion of the meeting. There being no public comments, Chair Seelye closed the public portion of the meeting.

Attorney Morita explained that according to the ordinance they need a wind study and specifics on cost of maintenance and repairs in order to determine the cash bond and she would also like an opportunity for her office to examine the easement issues, and work with staff to make sure the overhang would not constitute a problem at least from their perspective. She stated that these are things they would like to see before an approval is considered; however, it is up to the Board to determine if they have enough information to make a decision tonight.

She added that her office recommends that if the Board were to consider this case tonight, to not consider a lesser variance because of the plans that have been submitted, the only approval to be given would be the approval as requested with the variances as requested, otherwise, the proponent would have to come back under a different application with a different set of plans showing the exact setup of the smaller sign.

Member Rich stated that he has many concerns. He explained that with respect to the height variance, he feels there should be a condition that the top of the sign can never be more than 20 feet above the grade of the road since the reason for needing the height variance is due to the difference of grade from the road to the grade of proposed location of the sign, that way if they were to fill in or re-grade the area they could not put up a 30 foot sign. He stated that he is concerned with the removal of the billboard on M-5 being a tradeoff to allow for the proposed larger sign because if there were two 200 square foot signs that could

be taken down in the City, then theoretically, this proposed sign could become 600 square feet instead of 360 square feet. He stated that the proposed sign is attractive in terms of appearance but it is still very large and he understands that signs elsewhere along freeways are much larger but those communities are not Farmington Hills and Farmington Hills has their own standards. He stated his biggest concern is with the intermittent lighting as the ordinance says no intermittent signs but because there was there was always the possibility of signs being intermittent, the City has interpreted the ordinance to mean the sign cannot change more frequently than every 30 seconds and in this case, they are proposing every 8 seconds which is less than 1/3 of the allowed time. He noted that he wanted to raise these issues before the Board decides to adjourn or to vote on this case so that the applicant has additional things to think about depending on the decision of the Board.

Member Barringer commented that Farmington Hills has different standards than other communities and that is one of the things that have led to the quality of life in this community. He stated that he is concerned with not having a wind study or impact study and also with the possibility that the sign will be a source of light pollution as he has been disappointed with other electronic signs and how they do not get very dim at night, leaving a big bright sign along the freeway. He noted he does not want to see a sign like that on I-275 where there are no other signs of that nature.

Mr. Carll commented that it would certainly be acceptable to table this case so that they can provide the Board and staff with the information that has been requested to allow them to make a decision. He stated that they will address the concerns regarding the light and brightness issue, provide code information in regards to the sign itself, provide staff with a set of sealed drawings indicating what wind it will support, however, he does not know about a wind study as they are built to withstand a 90 MPH wind gust, they will pass along all the easement information for staff to review and provide all other information as discussed. He added that he has been in the business since 1979 and has built 500 of these signs and he has never had one blown over.

Member Lindquist stated that in addition to what the proponent has offered to provide, if the Board were to table the issue, he would also ask that the proponent submit a complete listing of the replacement costs of the component parts, costs of maintenance on an annualized basis and what the prospective change would be in maintenance costs as they could go down or up with LED technology and costs for maintaining the proposed landscaping. He stated that he also feels it would be beneficial for the Board to hear from the property owner, since the City has had issues with enforcement on this particular property, so that he or she can explain their role in assuring that both Curtis Outdoor Inc. meets their obligations and that they meet their own obligations as a responsible property owner. He noted that he would be inclined to adjourn this case to the next meeting.

Member Rich asked the proponent if adjourning this case to the next meeting offers enough time to provide all the information requested by the Board. Mr. Carll responded yes.

Member Stevens commented that he would like to see perspective views of what the sign would look like from different locations around the area, specifically if the sign could be seen from Haggerty Road or if the visibility is confined to the expressway.

Mr. Carll stated that he would be happy to provide various photographs and noted that the sign is 660 feet and perpendicular to Haggerty Road so he does not feel it will have any impact on Haggerty Road.

MOTION by Lindquist, support by Rich, in the matter of ZBA Case 6-15-5556, to ADJOURN the consideration of ZBA Case 6-15-5556 to a date certain, that being the Zoning Board of Appeals meeting of July 14, 2015, to allow for the following:

- Staff to examine the easements to make sure that the overhang would not constitute an issue
- Staff to review the depth of the sanitary sewer line
- Staff to review and approve the depth of the proposed foundation
- Board and staff to hear from the property owner so that he/she can explain their role in assuring that both Curtis Outdoor Inc. meet their obligations and that they meet their own obligations as a responsible property owner
- Proponent to address the intermittent lighting issue
- Proponent to provide staff with the following:
 - Wind Study
 - Specifics on maintenance costs and repairs in order to determine the cash bond; including a complete listing of replacement costs of the component parts, cost of maintenance on an annual basis and prospective change in the maintenance cost over time and cost of maintaining the proposed landscaping
 - Information on the location of the easements and the agencies in which hold the easements
 - Prospective views of what the sign would look like from different locations around the area and confirmation that the visibility of the billboard is confined to the freeway

MOTION CARRIED 7-0

APPROVAL OF APRIL 14, 2015 MINUTES

MOTION by Rich, support by Vergun, to approve the Zoning Board of Appeals meeting minutes of April 14, 2015, as submitted.

MOTION CARRIED 7-0

PUBLIC QUESTIONS AND COMMENTS

There were no public comments.

ADJOURNMENT

MOTION by Rich, support by Lindquist, to adjourn the meeting at 8:50p.m.

MOTION CARRIED 7-0

Respectfully submitted,

James Stevens, Secretary
Zoning Board of Appeals

/ceh