

**MINUTES
ZONING BOARD OF APPEALS
JULY 13, 2021 – 7:30 PM
CITY OF FARMINGTON HILLS
31555 W ELEVEN MILE ROAD
FARMINGTON HILLS, MICHIGAN**

CALL MEETING TO ORDER

Vice Chair Lindquist called the meeting to order at 7:30 P.M. and made standard introductory remarks explaining the formal procedure, courtesies and right of appeal.

ROLL CALL

Members Present: **Lindquist, King, O’Connell, Rich**

Members Absent: **Irvin, Masood, Vergun**

Others Present: **City Attorney Morita, Zoning Supervisor Randt, Recording Secretary McGuire**

City Attorney Morita addressed process, and explained that a quorum – 4 members – of the Board was present this evening, and four affirmative votes would be needed to approve the variance requests.

APPROVAL OF AGENDA

This occurred later in the meeting; see below.

NEW BUSINESS

- A. ZBA CASE: 7-21-5678
 LOCATION: 21839 Ontaga
 PARCEL I.D.: 23-36-229-025
 REQUEST: In an RA-4 Zoning District, the following variance is requested in order to reconstruct a detached garage: 1) a 3-foot variance from the required 5-foot side yard setback, in order to construct a detached garage 2 foot from the side property line.
 CODE SECTION: 34-5.1.2.A & 34-3.1.7.E
 APPLICANT/OWNER: Eric Alvarado

Member Rich read the case, and noted there was an affidavit of mailing, with 5 returns.

Utilizing a PowerPoint presentation, Zoning Supervisor Randt reviewed the facts of the case. An aerial showed the location of the property at 21839 Ontaga, north of Shiawassee Street and west of Inkster Road. The property was zoned RA-4. The original garage had been damaged by fire, and the applicant was seeking to erect a new garage in the same location. Prior to 1991 there had been a required 2-foot setback from the side property line for detached accessory buildings; that requirement was now 5 feet. Schematics of the new garage were in the submission documents.

Eric and Jennifer Alvarado, 21839 Ontaga, were present on behalf of this application for a variance to construct a detached garage to replace one that had burned down.

Mr. Alvarado said they had a garage fire on April 7, 2021, resulting in the garage being an unsafe structure, as determined by the City Inspector who “red-tagged” it as being over 50% destroyed. The

applicants then demolished the garage, leaving the original slab, which was still in good condition. The City has advised that a new garage must meet new codes, requiring the new garage to be 5 feet from the property line, whereas the old garage was 2 feet from the property line, as had been allowed when that garage was constructed.

The applicants gave the following information:

- In order to meet the 5-foot side yard setback requirement, the slab and 24” footings would have to be removed, and a completely new slab constructed, with 48” footings.
- To remove and reconstruct the slab would create a financial hardship. The insurance payment was a set amount, as applicable for separate structures on a property. The applicants were able to stay within the payment amount, in spite of the current high lumber and labor costs. However, being required to demolish the existing slab and construct a new one would add approximately \$15,000 to the project, and the applicants would not be able to replace the garage.
- Every garage on their street is approximately 2 feet from the side property line. Neighbors to the front, sides, and rear have all signed a letter in support of this variance.
- The new garage would be the same footprint (22’x22’), height, etc. as the previous garage, which had been built in the mid-1900’s.
- The driveway was constructed to be curved to a garage at the current location. Putting the garage 5 feet from the property line would leave a sliver of a driveway with no purpose.
- The garage was needed to store outdoor toys, tools, and lawn maintenance equipment, as well as cars.
- The garage was needed to help the neighborhood keep its value.

In response to Board questions, the applicants gave the following information:

- The slab was 4” thick, with 24” footings under that.
- It was not economically feasible to move the garage 3 feet over by adding an additional 3 feet of slab, because the existing concrete would still have to be broken up to anchor the garage in its new location.
- The footings must be directly beneath the exterior walls.

Vice Chair Lindquist opened the public hearing.

Ms. Martinez, 21852 Leyte, spoke in favor of this request for a variance. She said her back yard backed up directly to the Alvarado’s back yard, with a fence in between. There were advantages to having the homes mirror each other and provide consistency throughout the neighborhood. The location of the garage had never caused concern, and she supported this variance request.

Seeing that no other public wanted to speak on this request, Vice Chair Lindquist brought the matter back to the Board for discussion and/or a motion.

Vice Chair Lindquist acknowledged 7 letters in support of the variance request from the applicant’s near neighbors. The letters had been distributed to all Board members, and would be part of the permanent record for this case.

In response to questions from Member King, Mr. Alvarado said there was a chain link fence between his property and Ms. Martinez’ property. The 2’ side yard setback was fairly consistent throughout the neighborhood.

MOTION by King, support by O’Connell, that in the matter of ZBA Case 7-32-5678, the Board of Zoning Appeals GRANT the petitioner’s request for a 3-foot variance from the required 5-foot side yard setback, in order to construct a detached garage 2 feet from the side property line, 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 render conformity with the ordinance unnecessarily burdensome, in that the existing foundation and slab is already in place where the prior garage stood.
2. That granting the variance requested would do substantial justice to the petitioner as well as to other property owners in the district, in that the previously constructed garage already sat 2 feet from the property line and that all adjoining neighbors have indicated their acceptance of the existing 2-foot setback.
3. That the petitioner’s plight is due to the unique circumstances of the prior garage having been destroyed by fire.
4. Therefore, the problem is not self-created.

with the following condition:

- That the garage be constructed in compliance with the plans and specifications submitted with the application.

Roll call vote:

King	Aye
Lindquist	Aye
O’Connell	Aye
Rich	Aye

MOTION carried 4-0.

B. ZBA CASE: 7-21-5679
LOCATION: 35555 Twelve Mile
PARCEL I.D.: 23-17-201-004
REQUEST: In an OS-4 Zoning District, the following special exceptions are requested to build a new freestanding sign: 1. A 375-foot exception to the required 773-foot freestanding sign zone. 2. A 6-foot height special exception to the maximum 12-foot height limit. 3. A 46.5 square foot special exception to the maximum 32 square feet permitted sign area.
CODE SECTION: 34-5.5.3.A.ii, 34-5.5.3.A.iv.g
APPLICANT: Mercedes-Benz Financial Services, USA, L.L.C.
OWNER: 35555 West Twelve Mile Road, L.L.C. – Attn: John M. Valentine,
VP General Counsel
32000 W. Twelve Mile, L.L.C.

Member Rich read the case, and noted there was an affidavit of mailing, with 5 returns.

Utilizing a PowerPoint presentation, Zoning Supervisor Randt reviewed the facts of the case. Aerial views and schematics showed the location of the property on 12 Mile Road between Orchard Lake Road and Drake, and the location of the proposed sign on an internal turn-around, as well as the sign design.

Stephen Estey, Dykema Gossett PLLC, 39577 Woodward Avenue, Bloomfield Hills MI, was present on behalf of this application for special exceptions in order to erect a new freestanding sign. He distributed to the Board 5 exhibits consisting of Google Earth images, renderings of the proposed sign and schematic showing the proposed location of the sign.

Mr. Estey gave the following information:

- Mercedes-Benz Financial Services, USA, L.L.C., is constructing a new state of the art North American headquarters at this location.
- The proposed 3-D metal sculpture/art feature – a 12-foot tall 3-pointed star landscape element – will be located internal to the campus. The 3-pointed star is recognized around the world and represents the Mercedes Benz engines in each of the 3 environments: land, sea, and air. The symbol is over 100 years old.
- Exhibit 1 showed a Google Earth image of the site when it was approved for development.
- Exhibit 2 provided a schematic/rendering of the developed site, including the location for the proposed sign over 400 feet from 12 Mile Road, in the center of a circular drive.
- While the sculptured design element had been described as a sign by the City, Mr. Estey asked the Board to give an interpretation as to whether the sculpture was a sign under the ordinance. The ordinance did not actually address a landscape sculpture/symbol such as this one.
- Exhibit 5 showed a rendering of the sculpture as it would appear to someone driving into the site.
- The sculpture element had been designed and constructed at a cost of approximately \$65,000.
- The applicants were asking 3 things:
 - a. For the Board to give an interpretation as to whether or not the landscape element was a sign.
 - b. To grant the special exceptions needed for the sculpture to be erected.
 - c. If neither a. nor b. were possible, to grant variances to allow the sculpture/art feature to be erected.
- The submission documents included *Exhibit A to Application by Mercedes-Benz Financial Services USA for Interpretation and/or Exception/Variance from Sign Ordinance. Explanation in Support of Application.*
 - This document reviewed the justification for this request, including the importance of the 100-year old 3-pointed star logo, which represented the 3 elements in which Mercedes-Benz engines operated: land, air and sea. The sculpture presentation of the star was part of the landscape features of the project, and was not considered to be a sign by the applicants.
 - The request is based on circumstances and features that are unique to the property, including the location of the building which is set back from 12 Mile Road, the importance of brand identification that the 3-pointed star offers, and which will not have any adverse effect on any nearby property, or have any negative effect on general health, safety, or welfare.
 - The sign was not inconsistent with the City's Master Plan for future land use.
 - The logo is necessary for the preservation and enjoyment of substantial property rights.
 - A sculpture that was a statute of one of the founders, for instance, would not be considered a sign.
 - In terms of number of signs, there were only two lettered wall signs for the 200,000 square foot building on over 24 acres. No monument sign was proposed.

Mr. Estey asked the Board to grant the request this evening.

Vice Chair Lindquist asked City Attorney Morita to address the issue of what was being requested. For instance, was the Board being asked to give an interpretation of Zoning Ordinance language, or being asked to consider a variance?

City Attorney Morita explained that tonight's request was only advertised as a request for the 3 special exceptions as listed on the agenda. Staff had already determined that the logo sculpture met the definition of sign under the ordinance.

The Board discussed process in terms of granting special exceptions, which had different (lesser) standards for approval than variance standards.

Member King asked if the sculpture would be illuminated. Mr. Estey explained that the sculpture would be constructed of polished perforated stainless steel, and be internally lit with low voltage illumination of 120 volts, with 70 watts of light. The effect would be a slight glow.

Vice Chair Lindquist asked if the 3-pointed star was a registered trademark of Mercedes Benz. Mr. Estey said it was a registered trademark.

Vice Chair Lindquist opened the public hearing. Seeing that no public wished to speak on this request, Vice Chair Lindquist closed the public hearing and brought the matter back to the Board for discussion and/or a motion.

Member Rich noted that even though the Board was not being asked to interpret the ordinance this evening, he would like the record to show that he agreed with staff's interpretation, that the sculpture was a sign under the ordinance, as it was a registered trademark affixed to a structure in the center of a traffic island on a driveway. The ordinance stated:

Sign means any words, numerals, figures, devices, designs, pictures or trademarks, painted upon or otherwise affixed to a building, wall, board, plate or any other structure for the purpose of making anything known. (Article 34-2.0 Definitions)

Member Rich pointed out that the request was for 3 special exceptions. This case was unusual in that usually a monument sign, for instance, would have as its purpose directing people from the street to a business they were seeking to find, and the sign would normally be required to be within 25 feet of the right-of-way. In this case the sign was not intended for that normal purpose, and would not be a distraction to pedestrians or vehicular traffic traveling along 12 Mile Road.

Member King summarized that there was no issue regarding the number of signs on the property. City Attorney Morita said that correct.

Vice Chair Lindquist agreed for the purposes of the record that the proposed sculpture was a sign under the ordinance, being a registered trademark design that would be prohibited from use by others.

MOTION by Rich, support by King, that in the matter of ZBA Case 7-21-5679, the Board of Zoning Appeals GRANT the petitioner's request for the following special exceptions, in order to build a new freestanding sign: 1. A 375-foot exception to the required 773-foot freestanding sign zone. 2. A 6-foot height special exception to the maximum 12-foot height limit. 3. A 46.5 square foot special exception to the maximum 32 square feet permitted sign area. The petitioner did demonstrate that the requirements for special exceptions exist in this case in that they set forth facts which show:

- i. That the request is based on circumstances or features that are exceptional or unique to the property and that are not self-created, specifically the sheer size of the property, where the driveways are located, and that the intent of the sign is not to create any sort of distraction from the road.
- ii. That failure to grant relief would result in substantially more than mere inconvenience or financial expenditures, in that the sign is creating an environment for Mercedes-Benz Financial Services world headquarters, and the request if not based on a financial issue, as the expenditure is more than \$60,000.
- iii. That the application of the regulations in this section without a special exception will unreasonably preclude the visibility or identification of a non-residential building on the property. There is no issue regarding visibility from the street, as that is not the goal, but the sign does provide identification of this building as the Mercedes-Benz Financial Services headquarters.
- iv. That the special exception will not result in a sign or condition that is incompatible with or unreasonably interferes with adjacent or surrounding properties, which will result in substantial justice being done to both the applicant and adjacent properties, and is not inconsistent with the spirit and intent of this chapter; and
- v. When taken on its own, or in combination with other existing conditions on the property or in the area, the special exception will not result in a sign or condition that has an adverse effect on the essential character or aesthetics of the surrounding area. The sign is not detrimental to or negatively affects the character of surrounding residential development, especially as residential development is relatively far away, and in this case there is no compromise to public health, safety, or welfare.

with the following condition:

- The sign sculpture be installed and meet all of the specifications provided in the application, including being in the location as shown.

Roll call vote:

King	Aye
Lindquist	Aye
O'Connell	Aye
Rich	Aye

MOTION carried 4-0.

APPROVAL OF AGENDA

Noting that this had not been done earlier in the meeting, the following motion was offered:

MOTION by Rich, support by O'Connell, to amend and approve the agenda as follows:

- Add Officer Nominations for the Board.

Motion approved unanimously by voice vote.

OFFICER NOMINATIONS

After discussion, and due to the short board being present this evening (only 4 members present), the consensus of the Board was to postpone this item to the next meeting.

PUBLIC QUESTIONS AND COMMENTS: None.

APPROVAL OF MINUTES: June 8, 2021

MOTION by King, support by O’Connell, to approve the June 8, 2021 Zoning Board of Appeals meeting minutes as presented.

Motion approved unanimously by voice vote.

ADJOURNMENT

MOTION by King, support by Rich, to adjourn the meeting at 8:49 p.m.

Motion approved unanimously by voice vote.

Respectfully submitted,
Azam Masood, Secretary

/cem