



**CITY OF WALLED LAKE
ZONING BOARD OF APPEALS
MONDAY, JANUARY 31, 2022**

The Meeting was called to order at 7:30 p.m.

ROLL CALL: Arnold, Easter, Gunther, O'Rourke, Rundell

ABSENT: None

OTHERS PRESENT: Consultant City Planner Ortega, Building Official Wright, City Attorney Vanerian, Planning Commission Liaison Wolfson, Recording Secretary Stuart

REQUESTS FOR AGENDA CHANGES: None

APPROVAL OF MINUTES:

ZBA 1-1-22 APPROVAL OF THE OCTOBER 25, 2021 ZONING BOARD OF APPEALS MEETING MINUTES

Motion by O'Rourke, seconded Easter: CARRIED: To approve the October 25, 2021 Zoning Board of Appeals meeting minutes.

COMMUNICATION: None

UNFINISHED BUSINESS: None

NEW BUSINESS:

1. Case: 2022-01
Applicant: Zachary Martin
Location: 2200. S. Commerce Rd.
Request: Non-use Variance

This matter relates to the above referenced property. The site is a single-family residential lot located south and east of S Commerce Road and is zoned R-1A, Single Family Residential. The applicant is proposing to reconstruct a home destroyed by a fire which would require the following four (4) variances from the Zoning Ordinance:

- Section 51-18.03(4): A variance from the requirement that any homestead shall be reconstructed only in conformance with existing regulations when a structure is destroyed to an extent greater than 100 percent of its state equalized value.

- Section 51-17.01: A 20.7 foot variance from the 30 foot minimum front yard setback. The home would be 9.3 feet from the front lot line.
- Section 51-17.01: A 28.4 foot variance from the 35 foot minimum rear yard setback. The home would be 6.6 feet from the rear lot line.
- Section 51-17.02(m): A variance to exceed the 35 percent maximum allowed impervious surface lot coverage requirement. The applicant is proposing 48 percent of the lot area to be covered by impervious surface.

Building Official Wright explained there was a fire at the residence and substantial damage occurred. Building Official Wright explained the prior owner sold the home as is. Building Official Wright explained the new property owner took possession of home and came to city to reconstruct the home. There was discussion with new owner of cleaning up the site from the fire however, in the cleanup, over 90% of the existing home was demolished. Building Official Wright explained there are several variances due to most of the home being demolished.

Applicant Mr. Martin introduced himself and his engineer, Ms. Michelle Spencer. Ms. Spencer explained when tearing down the damaged garage other problems were found which led to more removal than what was initially proposed. Most of the walls surrounding the home are still standing. Ms. Spencer said they are requesting replacement of removed walls with reconfigurations. They want to retain existing rear yard setback and existing walls currently in place. The requested impervious coverage is being reduced by 12% to what was previously there. The prior owner had a pool with an existing boundary fence around the outside, applicant wishes to leave the fence in place and remove the pool. Applicant would like to replace much of the façade as presented in plans. Ms. Spencer explained with the information provided to the board, they are seeking insight from the board and their thoughts on this project. Ms. Spencer said S. Commerce Road currently encroaches within the property lines and travelers take that corner rather quickly, if they are required to push the home towards S Commerce, traffic will cause a problem. Ms. Spencer explained therefore they are seeking the proposed setbacks.

Chairman Easter explained there is a proposed addition to the front extending past the existing front porch. Chairman Easter explained the proposed addition will add 232 square feet.

Ms. Spencer said yes, they will be continuing the porch all along where the existing porch is, and the garage was. Ms. Spencer explained the garage will be living space instead of garage space and the existing pool will be replaced with hardscape.

Chairman Easter said the fence comes out beyond the garage or former garage by 2 lengths, it does not square itself up to the home, it goes past the home. Chairman Easter said typically fences would terminate with structure.

Ms. Spencer said yes, there is a large power pole there with vegetation. Ms. Spencer explained the owner would not be opposed to removing that fence length to make square to home.

Board Member Gunther said the fence is in the easement area.

Chairman Easter said if pulling the fence length back to be even with garage, that would be better.

Board Member Gunther explained the proposed front yard setback would be 9.3 feet versus 11.8 feet from the lot line.

Ms. Spencer explained this is the road right of way with an existing driveway that goes to S. Commerce.

Mr. Neal Wolfson, Planning Commission liaison, asked about parking for the home.

Ms. Spencer said the front drive is large enough to parallel park vehicles and still have room for a car to pass.

Board Member Gunther said the impervious lot coverage is not currently 48% because the pool concrete area is going away.

Ms. Spencer explained the current impervious surface is currently at 60% and we are requesting to decrease down to 48%.

Chairman Easter explained this is basically 1/3 less impervious surface.

Board Member O'Rourke asked if the current driveway will be modified.

Ms. Spencer said the driveway will not be touched and they will be maintaining existing driveway.

Board Member O'Rourke explained the driveway will be neutral for now unless in the future applicant wishes to change however, it is not part of current remodeling plans.

Ms. Spencer explained the pavement will change in front of the home and be reduced by about 5 feet for landscaping.

Board Member Arnold explained this proposal is taking the step in right direction to make improvements.

Chairman Easter said the existing foundation and the ability to reuse is a good step for this project.

Board Member Gunther said he thinks this is a good project, the variances will make the project better and the fixing of the fence to remove the extension beyond garage that is taking over the utility easement, is beneficial.

Chairman Easter said one condition to be made is to take the fence back to the garage corner not to exceed the garage corner.

Mr. Wolfson, Planning Commission Liaison explained this corner of S. Commerce is a tough area and this is a very good plan for what is there.

City Planner Ortega explained the board must identify unique circumstances that make it physically hard to build within the ordinances. He said this was discussed in prior statements of the board with the sites existing nonconformities. The impervious surface is decreased and that is a finding fact. City Planner Ortega explained the board will have to determine if compliance will unreasonably prevent the use of the site or be unnecessarily burdensome; is there substantial justice to the applicant if variance granted; is a lesser variance applicable; are there unique circumstances; and the board has to ensure the variance is not self-created by the applicant.

Chairman Easter said making the applicant do anything with the foundation will cause undue burden to the applicant.

AUDIENCE PARTICIPATION: None

ZBA 1-2-22 MOTION TO APPROVE ZBA CASE 2022-01, 2200 S. COMMERCE ROAD FOR THE FOLLOWING VARIANCES:

- **Section 51-18.03(4): A variance from the requirement that any homestead shall be reconstructed only in conformance with existing regulations when a structure is destroyed to an extent greater than 100 percent of its state equalized value. Variance granted, the applicant is proposing reconstruction due to irregularity of the lot and its relationship to the road the applicant will exceed 100% of the state equalized value.**
- **Section 51-17.01: A 20.7-foot variance from the 30-foot minimum front yard setback. The home would be 9.3 feet from the front lot line. Variance is granted based on the irregularity of the property's positioning from the road and its original footprint with minor modification of the foundation also due to the irregularity of the lot. Repositioning of the home would cause undue hardship.**
- **Section 51-17.01: A 28.4-foot variance from the 35-foot minimum rear yard setback. The home would be 6.6 feet from the rear lot line. Variance granted based on irregularity of the lot and elimination of pool; paving is an improvement to property any change other than this would make it less desirable and cause financial strain to owner.**
- **Section 51-17.02(m): A variance to exceed the 35 percent maximum allowed impervious surface lot coverage requirement. The applicant is proposing 48 percent of the lot area to be covered by impervious surface. Variance granted as this is an improvement to original impervious surface due to irregular lot as the area is close to road and would cause undue burden on the owner to require anything less than adhering to reduction.**
- **Removal of existing fence out of easement area and bringing ending corners of fencing relating to home and garage into alignment.**

Motion by Gunther, seconded by O'Rourke, CARRIED: To approve variances for ZBA Case 2022-01, 2200 S. Commerce.

Roll Call Vote

Ayes (5) Gunther, Rundell, O'Rourke, Arnold, Easter
Nays (0)
Absent (0)
Abstain (0)

2. Case: 2022-2
Applicant: Anthony Virga
Location: 1760 E. West Maple Road
Request: Non-use Variance

This matter relates to the above referenced property. The site is an existing marijuana retailer located on the south side of E West Maple Road, east of Decker Road and is zoned C-2, General Commercial. The applicant is proposing to install a new freestanding sign that includes an electronic changeable copy sign area which would require one (1) variance from the following section of the Zoning Ordinance:

- Section 51-20.08(18)(a)(3): A variance to exceed the 15% maximum allowed area to be occupied by an electronic changeable copy sign requirement. The applicant is proposing to occupy 33.3% of the total sign area by an electronic changeable copy sign.

Applicant Mr. Anthony Virga explained sign companies do not make the sign screen area for LED signs this small. Mr. Virga explained the smaller sign is pointless and you would not be able to see it from the road. Mr. Virga explained people constantly pass the driveway to the business because of the setback of the building, it is further back on the road. Mr. Virga said the sign would provide information of what type of business they are.

Chairman Easter said motion LED style signs are acceptable at 9 inches but applicant asking for 17 inches. Chairman Easter said the position of sign is in the ground it is not on a post.

Sign Representative from 4 Tech Signs, Mike explained the sign meets the city ordinance, but they are asking for additional 8 inches on the LED screen portion of the sign.

Chairman Easter asked why not have a monument sign like Arby's with the business name. Chairman Easter asked what the light output is on the applicant's proposed LED monument sign. Chairman Easter explained the board has not an applicant for this type of sign for a business on the main thoroughfare.

Applicant Mr. Virga explained there are two other LED signs along Maple, one is at city hall.

City Planner Ortega explained these signs are limited to 50-foot candles and any other ordinance regulations which include no motion, no blinking or animated messages; they are strictly a letter message. City Planner Ortega explained the variance is for the LED screen size. The smaller screen size, the 9-inch screen size, text could scroll across however, the technically could not do that either. Planner Ortega explained the variance would provide substantial justice as mentioned

there are LED signs at the city hall, multi-tenant building and one even of the churches have one. The LED screen height is such that they are allowed two lines of non-motion text.

Board Member Gunther asked if companies do not make a module this size, what is the applicant trying to accomplish.

Representative of 4 Tech Signs explained they are asking for additional 8 inches, so the two lines of texts are legible for readers; they want to make customers know where to go.

Board Member Gunther explained he drove past the business on the way here and no trouble seeing driveway.

Applicant Mr. Virga said people are constantly turning around in the Arby's parking lot because they miss his driveway.

Representative of 4 Tech Signs explained they want text only; they will abide by rules. He opined the language, "provisioning center" may not be known and people may think of it as grocery store.

Applicant Mr. Virga said they want to be able to communicate with the public. He said he is not allowed to place on pole sign due to their location and the distance from the existing Arby's pole sign.

Building Official Wright said the building is well lit up at night with string lights on the building frontage; it is a bright building at night and opined it is noticeable.

Applicant Mr. Virga said those are holiday lights they will be taken down.

Representative from 4 Tech Signs asked how many messages can be placed.

City Planner Ortega explained the current ordinance for a changeable message allows no more than 4 changes per minute which is generous.

Neal Wolfson, Planning Commission Liaison said if driving you cannot see some signs and opined driving by the applicant's site, Bazonzoes you do pass the entrance. He said different stores like the strip mall have a monument sign with multitenant listings and you can see clearly where the entrance is. Mr. Wolfson said the proposed placement of the sign enhances the location of the applicant's driveway.

Chairman Easter said he is not opposed to sign but asked why LED with scroll verses standard monument sign with lit name and location highlighting the drive entrance.

Sign Representative from 4 Tech Signs said it is all about messages to provide recall information, provide people what is going on with the business and communication with the consumers.

Chairman Easter said there is an evolution with signs and LED he asked City Planner Ortega is this type of sign one the city has considered, the LED lit sign, throughout town.

City Planner Ortega explained these signs in general serve a function for the business. The electronic changeable face of an electronic sign makes it more functional for the property owner. They do not have to change letters by hand on the sign. He said he sees this as something for the future, the city the standards could be updated to include the message scroll option and the size of the LED screen may be necessary to increase. If the applicant had more room on the property, they could have a bigger sign dimension, however the applicant's property does not allow a larger sign. The most obtrusive of the LED sign is the brightness, most communities require a dimmer. The 50-foot candle standard is hard to say if really the right unit to even be measured. The measurement is technically the lit level the sign is projecting. We do have other ordinances that control this however, the city's Public Safety Department does have a say regarding E. West Maple traffic and its interruptions from signage. The brightness of lighted signs does impact drivers. Signage in a street is lit by headlights, to restrict the brightness applicant will need to have a dimmer.

Board Member O'Rourke asked what measurers that.

City Planner Ortega said there are methods to make sure the signs do not impact the drivers.

Chairman Easter said the ordinances are in place to restrict signs and their brightness.

City Planner Ortega explained if the Police Chief issued a Traffic Control Order, the sign would be required to be modified.

Board Member O'Rourke asked regarding a sign dimmer, who maintains this, who makes sure it is abided by.

Building Official Wright explained typically on a sign the applicant is required to provide the lumens. If complaints the sign is too bright, the building department requires an electrical engineer to do a meter test of the brightness.

Representative from 4 Tech Signs asked what the lumen ordinance allows. He said they can place a dimmer on the sign.

City Planner Ortega said the ordinance references the use of a foot candle as measurement, a 50-foot candle. City Planner Ortega said this is the wrong quantitative method. City Planner Ortega said a nit could be used.

Representative from 4 Tech Signs said they can start there and if complaints come in, the signs could be adjusted accordingly.

Building Official Wright explained the state has restrictions on reflectivity of a sign and if considered, he would suggest utilizing the measuring methods of the state.

Board Member Rundell said St. Matthews Church came before the board for their LED sign and the board dealt with the lumens. There were locals that were concerned about the brightness, and we required the light be tested by electrical engineer.

Chairman Easter explained the hardship is created by the owner only because they want a larger sign. They have a right to place a monument sign. The applicant is willing to install a dimmer. As the city planner said a 50-foot candle may be too much. The applicant can work with us and come to agreement.

City Planner Ortega said that is substantial justice to the property owners, case history provides practical difficulty of the sight.

AUDIENCE PARTICIPATION: None

ZBA 1-3-22 MOTION TO APPROVE ZBA CASE 2022-02, 1760 E. WEST MAPLE SECTION 51-20.08(18)(A)(3) A VARIANCE TO EXCEED THE 15% MAXIMUM ALLOWED AREA TO BE OCCUPIED BY AN ELECTRONIC CHANGEABLE COPY SIGN REQUIREMENT AND ALLOW 33.3% OF THE TOTAL SIGN AREA BY AN ELECTRONIC CHANGEABLE COPY SIGN AND ILLUMINATION WILL HAVE REQUIRED DIMMER

Motion by Rundell, seconded by Gunther, CARRIED: To approve ZBA case 2022-02, 1760 E. West Maple Road.

Roll Call Vote

Ayes (5) Rundell, Arnold, Gunther, O'Rourke, Easter
Nays (0)
Absent (0)
Abstain (0)

ADJOURNMENT

ZBA 1-4-22 MOTION TO ADJOURN

Motion by Gunther seconded by Rundell, CARRIED, to adjourn the meeting at 8:49 p.m.

Jennifer Stuart
Recording Secretary

Jason Easter
Chairman