



**CITY OF WALLED LAKE
ZONING BOARD OF APPEALS
MONDAY, OCTOBER 30, 2017**

The Meeting was called to order at 7:34 p.m.

ROLL CALL: Easter, Rundell, O'Rourke, Hecht, Ackley

ABSENT: Gunther

OTHERS PRESENT: City Attorney Vanerian, Recording Secretary Joyce

REQUESTS FOR AGENDA CHANGES: None

APPROVAL OF MINUTES:

ZBA 10-01-17 APPROVAL OF THE AUGUST 28, 2017, ZONING BOARD OF APPEALS MEETING MINUTES

Motion by Rundell, seconded O'Rourke, **CARRIED UNANIMOUSLY:** To approve the August 28, 2017, Zoning Board of Appeals meeting minutes.

COMMUNICATION: None

UNFINISHED BUSINESS:

1. Public Hearing

Open Public Hearing 7:38 p.m.

1. Case # 2017-1
Applicant: Michael Stephens (St. Matthew Lutheran Church)
Location: 1970 S. Commerce
Walled Lake, MI 48390
Request: Non-Use Variance

This matter relates to property located at 1970 S. Commerce. The applicant is requesting a variance from Article 20 of the Walled Lake Zoning Ordinance to allow for LED monument sign that exceeds the allowable height and total square footage.

Michael Stephens from Signarama stated that he has met with his client, St. Matthews Lutheran Church, to come up with a couple of options for their monument sign. The drawings that have been presented are the latest concept that they agree to. They have come down quite a bit on the overall size of the sign as well as height from grade. They are now at 25 feet overall body of the sign with an LED display within that. The overall height from grade is now at 4 feet.

Board member Rundell mentioned the amount of light that the sign would project. Mr. Stephens stated that the light can be set automatically to dim during certain times. There can also be different slides with different background colors as well as text colors. There are different options within the design capabilities.

Member Hecht asked about a measurement of light. How does this lighting of this sign compare to other signs? The max output that this can produce it would be close to the maximum capacity during the day but at night it could be toned down. In terms of lumens it came out to 900 lumens.

Chairman Easter stated that the sign that is currently there is apparently not of any concern to residents as far as brightness. Mr. Stephens stated that the background can be changed to a black or colored background which would tone down the brightness significantly. Less light would be radiated with a dark colored background.

Member O'Rourke asked who would be monitoring the amount of light that is coming out of the sign. If this sign is agreed how are the light restrictions to be in place? Who would be enforcing it? Member Ackley stated that we do not have figures or measurements to go by with the brightness of the lighting of the sign that is currently there. The new sign would have to be set to this being the maximum brightness.

Chairman Easter stated that the size of the sign is now conforming but the lighting is a concern the zoning area. Chairman Rundell asked if there is a way to measure the existing light and the proposed so that they can be compared? Mr. Stephens said it could be compared to the light in front of City Hall. Member Ackley stated that we need to have something stating the intensity that we need it to be at. This need to be put in the programming.

Attorney Vanerian stated that conditions can be put in a motion pertaining to conditions. The question here is how do you quantify the amount of light and at various times of the day. Once the quantify the amount of light that is wanted at various times of the day it shouldn't be a problem to implement and put it into the computers. There needs to be a way to quantify the amount of light if wanted and it should be documented.

Mr. Stephens stated that it doesn't appear that anyone know what output number needs to be. If it can go up to 10,000 we can say that we can take it down 50%. There's not really a way to gauge it without physically seeing it in the field.

Member Rundell stated that if it can be controlled by a computer once the correct amount of brightness is determined it can be set controlled. It can be regulated to satisfy the residents and the City. There should probably be a trial period to determine the correct amount of light.

Attorney Vanerian stated that LED lights are not allowed in this zoning district. The parameters of light would be for what is zoned a commercial district. Is it appropriate for this location? He stated that a motion could be made approving the sign under the condition that the intensity of the lighting of the sign be adjusted according of the determination made by someone after the sign has been built and running. This would be other than getting an actual quantification of the lumens or case may be. The question is, "Who is going to make the determination about the intensity after the sign is built?"

Member O'Rourke asked if Signorama had a portable unit that could mimic the intensity of the sign? Mr. Stephens stated that they did not.

Member Ackley asked who would be qualified to make the measurement of these lumens? It was felt that there would not be anyone on City staff qualified. It was felt that this would have to be done at the applicant's expense. The current light could be measured and then after the new light is installed the new light could be measured.

Member Rundell stated that nobody seems to object to the signage they currently have so maybe this is a guideline to go by. But if this equipment if to be monitored or regulated by a computer it can be turned down if so determined. It can be adjusted in increments.

Mr. Stephens stated that it could be adjusted in increments is it was determined to be too bright.

Mr. Stephens was asked if he felt the Church would go for a dark background instead of the white background. This may be the key to keeping the light intensity in the comfort zone and match the current signages level of brightness. Mr. Stephens stated that at night it is easier to read with a darker background and lighter colored text.

Member Ackley, felt that the currently lighting should be measured, and the new lighting be set up for the exact same number of the lumens. If it needs to be lowered it can be lowered. This needs to be done at the Church's expense. It needs to be checked at night time and they will need to pay the cost of the City's employee overseeing the project. Any measurements or professionals that need to come out for testing need to be done at the expense of the church. This also includes the cost of City employee being on site for the testing.

Attorney Vanerian stated that in the ordinance it states that in a C1, C2, and C3 sign the maximum illumination shall not exceed 50-foot candles power output. Chairman Easter said the definition of a candle is one candle is equal to 1 lumen per square foot or approximately 10.64 lux.

Member Rundell still felt that this is a matter of visual acceptance. If a resident did not like the brightness of the sign and filed a complaint the church would have to pay to have the light measured as well as the cost of the City employee being on hand. There would have to be a trial period for them to get to the correct setting range. There should probably be a 30-day test period.

Attorney Vanerian said that three variances are needed. The first being for a setback. They need a 10-foot setback instead of a 25-foot setback. The second is for a variance from the one sign allowed per parcel, and the third variance is from the zoning district restriction.

The current sign is 3' x 8'. Their first request was for a 36-square footage of sign. They have brought this down to 25 square feet.

*Change
Amended*
ZBA 10-02-17 MOTION TO GRANT THE VARIANCE IN REGARDS MULTIPLE SIGNS PER PARCEL. WE ALLOW MUTLIPLE SIGNS AT THE CHURCH DURING EVENT TIMES NOT TO EXCEED SIX SIGNS TOTAL.

Motion by O'Rourke, seconded by Rundell , MOTION CARRIED: To allow multiple signs at the Church during event times not to exceed six signs total.

Roll Call Vote:

Yes: (5) Ackley, Easter, Rundell, O'Rourke, Hecht
No: (0)
Absent: (1) Gunther
Abstain: (0)

(5-0) MOTION CARRIED

ZBA 10-03-17 MOTION TO GRANT THE VARIANCE REQUEST FOR A SETBACK VARIANCE TO REPLACE THE EXISTING FREE-STANDING MONUMENT SIGN WITH AN LED CHANGEABLE COPY SIGN IN THE SAME LOCATION

Motion by Rundell, seconded by Easter, MOTION CARRIED: To grant setback variance to replace the existing free-standing monument sign with an LED changeable copy sign in the same location.

Roll Call Vote:

Yes: (5) Ackley, Easter, Rundell, O'Rourke, Hecht
No: (0)
Absent: (1) Gunther
Abstain: (0)

(5-0) MOTION CARRIED

ZBA 10-04-17

MOTION TO GRANT THE VARIANCE REQUEST FOR THE VARIANCE TO ALLOW AN LED CHANGEABLE COPY SIGN IN THE RESIDENTIAL DISTRICT THAT THE PROPERTY IS LOCATED. THIS IS SUBJECT TO THE CONDITION THAT THE ILLUMINATION OF THE SIGN NOT TO EXCEED THE CURRENT MEASURED NIGHT TIME ILLUMINATION OF THE CURRENT SIGN

THE BACKGROUND HAS BE OF A DARK BACKGROUND COLOR DURING EVENING HOURS. SUBJECT TO THE FURTHER CONDITON THAT THEY PREPARE AND PROVIDE AN EXPERT CONSULTANT REPORT AND MEASUREMENT OF THE CURRENT SIGN AT THEIR OWN EXPENSE; AS WELL AS ANY EXPENSE INCURRED BY THE CITY AND ITS STAFF.

MOTION TO BE UNDER THE CONDITION OF ALLOWING A 30-DAY TRIAL PERIOD FOR PURPOSES OF EVALUATING AND TESTING THE INTENSITY OF THE LIGHTING ILLUMINATIONS

Motion by Rundell, seconded by Ackley, MOTION CARRIED: To grant the variance request for to allow an LED changeable copy sign in the residential district that the property is located. Subject to the condition that the illumination of the sign not exceed what the current measured night time illumination of the current sign.

The background is to be of a dark background color during evening hours. This is subject to the further condition that they prepare and provide an expert consultant report and measurement of the current sign at their own expense; as well as any expense incurred by the city and its staff.

This motion is to be under the condition of allowing a 30-day trial period for purposes of evaluating and testing the intensity of the lighting illuminations.

Roll Call Vote:

Yes: (5) Ackley, Easter, Rundell, O'Rourke, Hecht
No: (0)
Absent: (1) Gunther
Abstain: (0)

(5-0) MOTION CARRIED

NEW BUSINESS:

1. Case: 2017-03
Applicant: Daniel Cleminte
Location: 1370 Leon
Walled Lake, MI 48390
Request: Non-Use Variance

This matter relates to property located at 1370 Leon. The applicant is requesting a variance of Article 21 Section 21.10 A (3) from the Walled Lake Zoning Ordinance for mechanical units to be located on the side of the principal dwelling versus the rear of the principal dwelling

Mr. Cleminte presented photos of homes on Leon Street that has mechanical units on the side of their homes as well as a petition from both of his neighbors stated that are agreeing with his request. The home to his right is 90 feet away from his home.

Member Ackley asked if he was not aware of the ordinance when the permit was pulled. Mr. Cleminte stated that he was not.

Attorney Vanerian stated that the permit forms state that when pulling a permit, it states that the permit contains language stating that they are subject to the regulations of the City Zoning Ordinance.

The Building Official does not have the authority to grant variances so if it would have been on the plans we would have denied them.

Mr. Cleminte stated that all the mechanical units are in place. He understands that he was supposed to submit a mechanical permit and new was informed of this. The inspector noted this when he did his inspection and brought it to his attention that the units were supposed to be on rear of the home.

Member Ackley asked if a contractor installed the units. Mr. Cleminte said he had a contractor do the work. He was told the contractor should have followed the code and regulations. Mr. Cleminte said that when they pulled the permit they were not informed as to where to put the units. Member Ackley said they should check the codes of the City and they should have checked the rules of the City. Each home is treated as an individual and each home has different criteria.

Mr. Cleminte stated that he checked to see if variances were granted for the other homes with mechanical units on the side of their home and none of them have variances.

Chairman Easter stated most of the homes have their utilities on the side of their house, but each home is a separate case. Most of the homes have them on the West side of the house.

Member Ackley stated that the purpose of putting the air conditioning unit to the rear of homes is to alleviate the noise level for the neighbors.

Mr. Cleminte said his closest neighbor, who is 90 feet away, in agreeing with the variance request.

Rebecca Williamson, Leon Road property owner, said she came to the meeting for clarification. She thought it was for the storage of equipment. Ms. Williamson stated that she really doesn't have any issues with the mechanical units being where they are located but she knows Mr. Cleminte has built and remodeled several homes on Leon Street and should be aware of the Building Code. She feels it is a nice house and she is sure he will do some nice landscaping.

John Henehan of 1545 Leon stated that he doesn't have any issue with the request.

Chairman Easter asked Mr. Cleminte if he know what the expense would be to move the units from the side to back. Mr. Cleminte did not have a dollar figure.

Member Rundell feels that new air conditioners don't make much noise unless they fail.

Member Ackley stated that the problem is that the ordinance was ignored. There isn't a hardship as it could have been put to the back of the home.

Member Rundell asked if the mechanical were on the initial building plans when they were reviewed. Mr. Cleminte said the plans were flagged after the fact that they were on the wrong side. Mr. Cleminte said that if he would have been told that the mechanicals needed to be on rear per ordinance he wouldn't have put them on the side. He stated his initial plans did not have any outside mechanicals indicated.

Member Ackley felt the Board needed to see what was submitted to the City. If the plans were submitted with mechanicals to be on the back side and they were put on the side, it would not be the City's fault. Did the contractor do what he submitted or were plans accepted with no mechanicals shown? Mr. Cleminte said there was nothing on the west side of the home of the initial plans that were submitted. These were added later as a mechanical plan which the City required. And again, the City missed it. The City allowed construction to begin without mechanical plans.

It was felt by the Board that the case should be tabled and Mr. Cleminte asked if they could reconsider as he is for a final certificate of occupancy. The other houses on Leon with mechanicals on the side do not have variances.

Attorney Vanerian said that he had conversations with Colleen Coogan regarding a property that had issues regarding work being done either with work being done without a permit or there may have been some other non-compliant issues. He didn't recall the exact details of the conversation.

Mr. Cleminte said he wants to get his final certificate of occupancy but this will postpone it.

Mr. Cleminte stated that he is not willing to wait until the next meeting and will take legal action as the City didn't issue variances for the other properties with mechanicals on the side of the homes.

Kenneth Kolke, 179 Spring Park, Walled Lake, asked if they could have him disconnect the air conditioning unit and let him have his Certificate of Occupancy and table the case until the plans are reviewed and what happened in the office.

Member Rundell stated that there are other mechanical units on the side of the home such as the generator. He cannot be allowed to occupy if there is something outstanding.

Mr. Cleminte asked what is stopping the Board from approving the variance request. He feels that since there is no nuisance to the neighbors they should approve it. Chairman Easter explained that the issue here is that the ordinance requires it to be at the rear of the home. What happened to create this problem?

Attorney Vanerian told Mr. Cleminte that one of the legal requirements that he is to show is that it is not self-created. It appears that this may have been self-created and in this case, you would not satisfy that requirement and this case would be denied. The Board is giving you the opportunity to further invest the case to determine if it was or was not self-created.

Mr. Cleminte stated that there was nothing submitted on his part. He feels the City should have checks and balances and if they would have been provided he would have shown where the mechanical was going to be placed.

ZBA 10-05-17 MOTION TO TABLE THE VARIANCE REQUEST TO THE NEXT MEETING TO RESEARCH DOCUMENTATION PERTAINING TO BUILDING PERMITS PULLED AND PLANS SUBMITTED.

A SPECIAL MEETING WILL BE CALLED, WITHIN THE TIME ALLOWABLE BY LAW, FOR ADVERTISING AND REVIEW OF CITY DOCUMENTS.

Motion by Rundell, seconded by Ackley, MOTION CARRIED: To table the variance request to the next meeting to research documentation pertaining to building permits pulled and plans submitted.

A Special meeting will be called, within the time allowable by law, for advertising and review of City documents.

Roll Call Vote:

Yes: (5) Ackley, Easter, Rundell, O'Rourke, Hecht
No: (0)
Absent: (1) Gunther
Abstain: (0)

(5-0) MOTION CARRIED

AUDIENCE PARTICIPATION:

Close Public Hearing 8:58 p.m.

DISCUSSION

Chairman Easter proposed the possibility of having the Zoning Board of Appeals meeting start at 7:00 p.m. It was felt by the Board that this was too early. It was mentioned that the meeting had previously started at 8:00 p.m. and has been moved to 7:30. Zoning Board of Appeals meetings will continue to be at 7:30 p.m.

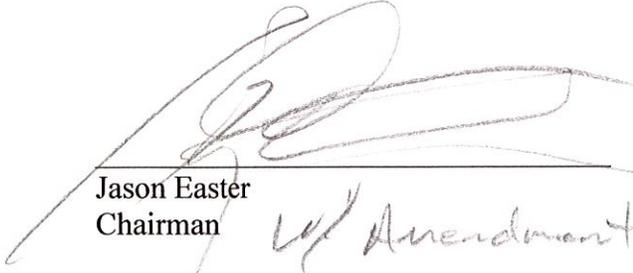
ADJOURNMENT

ZBA 10-06-17

Motion by Ackley, seconded by Rundell, CARRIED UNANIMOUSLY: To adjourn the meeting at 9:06 p.m.



Janell Joyce
Recording Secretary



Jason Easter
Chairman

*W/ Amendment to
First Variance*