

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF TUESDAY, JULY 12, 2016

LOCATION: MACOMB TOWNSHIP MEETING CHAMBERS
54111 BROUGHTON ROAD, MACOMB, MI 48042

PRESENT: CHAIRMAN: EDWARD GALLAGHER
MEMBERS: DINO BUCCI
AARON TUCKFIELD
DAWN SLOSSON
KRISTI POZZI

ABSENT: NONE

ALSO PRESENT: TOM ESORDI, TOWNSHIP ATTORNEY
PATRICK MEAGHER, PLANNING CONSULTANT
(Additional attendance record on file with Clerk)

Call Meeting to Order.

Chairman GALLAGHER called the meeting to order at 5:00 P.M.

1. Roll Call.

Secretary SLOSSON called the roll. All members present.

2. PLEDGE OF ALLEGIANCE.

Chairman GALLAGHER asked all in attendance to join the Pledge of Allegiance.

3. Approval of Agenda Items. *(with any corrections)*
Note: All fees have been received and all property owners were notified by mail.

MOTION by SLOSSON seconded by TUCKFIELD to approve the agenda as presented.

MOTION carried.

4. Approval of the previous meeting minutes.

MOTION by SLOSSON seconded by TUCKFIELD to approve the minutes of June 7, 2016 as presented.

MOTION carried.

PURPOSE OF HEARING:

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To consider the requests for variance(s) of Zoning Ordinance No. 10 for the following:

Agenda Number/Petitioner/ Permanent Parcel No.	Zoning Ordinance Section No.
(5) Metro Signs Permanent Parcel 08-36-477-001	Section 20-6.A.1
(6) Funspace Direct, LLC Permanent Parcel 08-23-428-048	Section 10.0311E.f.4
(7) Russell Arbuckle Permanent Parcel 08-32-400-020	Section 20-6.A.1

5. VARIANCE REQUEST FROM ZONING ORDINANCE

Section 20-6.A.1-Request a variance of 48.16 square feet of sign area on the south elevation and a variance of 20.76 square feet on the north elevation to allow larger signs on each side of the proposed restaurant. Each side of the building is permitted 7.5 square feet of sign area.

Located on the east side of Gratiot, ¼ mile north of hall Road; Section 36; Metro Signs, Petitioner. Permanent Parcel 08-36-477-001.

Patrick S. Meagher, Planning Consultant, presented the findings and recommendations of June 27, 2016. They are as follows:

The property in question is located on the East side of Gratiot Ave, North of Hall Road. The request is to vary Section 20-6.A.1 of the Township Sign Ordinance which allows signs on the side of a business a maximum of twenty (20%) percent of the total sign area that is allowed on the "Principal Building Frontage" (PBF). In this case, the applicants indicate the width of the PBF as 37'8.5". Based on this width, the west and east side of the buildings are allowed signs measuring 7.5 square feet on the east and west (sides) elevations of the building. The applicants are requesting 55.66 square feet of sign area (the sum of two proposed signs) on the south elevation and 28.26 square feet on the north elevation.

VARIANCE 1: ***Request to vary Section 20-6.A.1 of the Macomb Township Sign Ordinance – Request variances of 48.16 square feet of sign area on the south elevation and a variance of 20.76 square feet on the north elevation to allow larger signs on each side of the proposed restaurant. Each side of the building is permitted 7.5 square feet of sign area.***

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Planner's Recommendation: We are recommending denial of this variance request due to the fact that a practical difficulty does not exist. The applicant points out several reasons for the variance in the application package. We find the rationale provided falls short of supporting a practical difficulty and would grant a special privilege not permissible to other properties within the same Zoning District.

The petitioner submitted a letter dated June 3, 2016 in support of the request and was included into the record as follows:

"This Burger King site is going through a remodel. We are applying for four new wall signs, but the ordinance only allows one. Our proposed 6' circle on the west elevation does not require a variance. However, we need a variance for the other three proposed signs. Currently the restaurant has a channel letter wall sign on the west elevation and a circular wall sign on the south elevation.

The proposed new signage is part of the Burger King's remodel process. We are proposing a 6' circle wall sign & a set of "Home of the Whopper" letter to replace the existing signage on the south elevation. The restaurant needs signage above their main entrance. Furthermore, the "Home of the Whopper" letters are part of the Burger King's new image & to have a sign on their drive thru elevation also for increased visibility for southbound traffic on Gratiot.

We feel that the variance we are requesting is not excessive. If Burger King were only allowed on wall sign, then they would have no signage either above their main entrance on the south elevation or along the main road, Gratiot. Both are essential. Fast food restaurants are unique in that they have a drive thru. Consequently, we are requesting a circular logo signs on the drive thru (north) elevation. The requested variances were not created by the current owner. As a Burger King franchise they are required to go through this re-imaging, which includes adding the "Home of the Whopper" wall sign. The proposed signs are all small (less than 30 sq. feet each). Therefore, they will not cause an eyesore or a safety or traffic hazard."

Paul Detters and Tom Davis, representatives, were in attendance and stated that Burger King is about to embark on a reimagining at this site and every so many years that go through an upgrade and a rebranding. What we have provided is what Burger King hopes to see which, is a standard package and they understand that each municipality is different and wants to be sensitive to the community as well. What we are trying to accomplish is to provide some identification for north and south bound traffic, reconfiguring the building and entrances they have. It very important for them to receive the button signs (the Burger King logos) over the entranceways and are also hoping for some signage along the north elevation particularly because the oil change facility which is to the north is close to the road and blocks a lot of the traffic as you travel southbound. There is not a lot of visibility for the drive-thru side of Burger King and where hoping for some identification of the logo there as well. In addition the signage

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that we are trying to get on the north and south elevations is more important than what is on the front, which is the west elevation that faces Gratiot. They have two signs there now and would really like to see a reallocation of where those would be if all of the proposed signs are not in accordance with what the Board wants to approve.

Member BUCCI asked Patrick Meagher if the reason that he was recommending denial was for the concern of setting a precedent.

Patrick Meagher, Planning Consultant, stated the ordinance is pretty clear for what is aloud for on either side. The ZBA should find some type of practical difficulty and that he believes that what the applicant is indicating because of the angle of the road he feels he has a practical difficulty with visibility. Lastly, he stated that he is not sure that the ordinance accounts for that type of particular issue.

Member BUCCI asked Patrick Meagher if he felt there was not a practical difficulty because the building is not symmetrical with the road.

Patrick Meagher, Planning Consultant, stated he did not feel there was a practical difficulty based on that.

A discussion ensued over the proposed signage application and the desired location of the signs.

Member BUCCI stated all signs will be on the wall and not on the ground.

Paul Detters stated that was correct.

Member POZZI asked if the size of the sign that was being requesting was the same size as other franchises.

Paul Detters indicated that it is.

Member TUCKFIED asked if the pole sign that is currently there will be staying in its current location and its current height.

Paul Detters stated it is staying the same.

Public Portion: None.

MOTON by SLOSSON seconded by POZZI to close the public portion.

MOTION carried.

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Member TUCKFIELD stated that he finds a practical difficulty but that it's not with the angle of the property. However, that while driving south on Gratiot to the site today, which I'm familiar with the area I did not see it until almost 200 feet from the entrance. He noted that he finds a practical difficulty with health and welfare and the possible cause of accidents at the location. Lastly, he felt the north side was justified but not the south.

Member BUCCI stated that he agreed with Member TUCKFIELD on the way the building is located and designed. He also agreed with Member TUCKFIELD that is the petitioner agreed to remove the sign on the south side he would be more likely consider to approve the two signs on the north.

Paul Detters stated that if there is an existing sign on the west elevation and south elevation right now may we keep them at the two signs but move them from the to the south and north. Therefore there would not be an increase in signage area, but it would fit better for the traffic to see. In addition if the south elevation sign were eliminated, there would be signs over the door and not indication for the guests to come in.

Chairman GALLAGHER stated that he lives within the area and stated the biggest problem is that the trees need to be trimmed along the north side of the property. If the trees were trimmed from two feet from the ground there would be no problem. Our sign ordinance is very unique and it is up to the owners to maintain the property. The practical difficulty created is by the lack of maintenance of the site.

The following resolution was offered by SLOSSON and seconded by POZZI:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause an practical difficulty if the request would be denied, and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;

Now, therefore, be it resolved, that the action of the Board is to grant the requested variance of Section 20-6.A.1-Request a variance of 48.16 square feet of sign area on the south elevation and a variance of 20.76 square feet on the north elevation to allow larger signs on each side of the proposed restaurant. Each side of the building is permitted 7.5 square feet of sign area; Located on the east side of Gratiot, ¼ mile north of hall Road; Section 36; Metro Signs, Petitioner. Permanent Parcel 08-36-477-001. The variance is granted with the consideration of the health and welfare and that there will be a sign on the north and on the south elevations.

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**Opposed: TUCKFIELD and GALLAGHER
MOTION carried.**

Member TUCKFIELD stated the reason he voted no on the motion was because of the north versus south. The north makes sense but wanted to make clarification.

6. VARIANCE REQUEST FROM ZONING ORDINANCE

Section 10.0311.E.f.4-Request to reduce the required rear yard setback for the house from 25 feet to 18 feet (a 7 foot variance)

Located on the southwest corner of Cranberry and Elm Creek Drives; Section 23; Funspace Direct, LLC, Petitioner. Permanent Parcel 08-23-428-048.

Patrick S. Meagher, Planning Consultant, presented the findings and recommendations of June 27, 2016. They are as follows:

The property in question is located on the northwest corner of Cranberry Creek and Elm Creek Road in the Village of Riverside Site Condominium. The petitioner is requesting a variance to reduce the required rear yard setback for the house from 25 feet to 18 feet (a 7 foot variance).

The following variance will be required to facilitate the request:

VARIANCE 1: *Request to vary Section 10.0311.E.f.4. – Approve a variance of 7' to the required 25' rear yard setback for a covered patio.*

The unit in question, as stipulated by the applicant is smaller than most of the surrounding units. Therefore, the size of the covered patio would be consistent with what other units can provide in the development.

Planner's Recommendation: If the ZBA finds the stated practical difficulty to be valid, we have no objection to the variance, with a condition that the condominium association approve the request and that such approval be submitted to the Township.

The petitioner submitted a letter dated June 13, 2016 in support of the request and was included into the record as follows:

“Homeowner would like to construct a 14' x 20' patio cover to protect from the southern sun exposure. When complex was built a large multiple family dwell was constructed behind their home. The result was to take 11' from east side lot line making it 117.37' compared to west side which is 128.57'. The loss of this caused the S/E corner of house to 32.7' from lot line. The setback for rearyards in this complex is 25' This only allows 7' of usable rearyard. The house two doors to west has a patio the same as homeowner is requesting and is able to enjoy the shade but due to the hardship caused by this non-conforming lot Mr. & Mrs. Aquino cannot receive the same enjoyment. If the

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multiple family unit was constructed so as to not project into the Aquino's rear yard this hardship would not exist."

Member BUCCI asked if the letter had been received or contact made to the association.

Patrick Meagher, Planning Consultant, stated that if the Zoning Board of Appeals approved the request the applicant could go to the association and ask for a letter stating they have no objections.

James Hall, representative, was in attendance and gave a brief description of the area under consideration. He stated that approval has been received from the association but did not include it with the package presented before this board.

Member BUCCI asked if the neighbors on either side have given permission and had no objections to the request.

James Hall stated that he could not attest to that other than the notices that were sent out by the Township. He stated the property is a corner and only has one neighbor.

Paul Young, 49667 Cranberry Creek, president of the homeowners association, stated that they did approve the request for the covering of the patio. He also indicated that he can make sure the management company will send off an approval letter.

Public Portion: None.

MOTION by SLOSSON seconded by POZZI to close the public portion.

MOTION carried.

The following resolution was offered by SLOSSON and seconded by BUCCI:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause an practical difficulty if the request would be denied, and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;

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Now, therefore, be it resolved, that the action of the Board is to grant the requested variance of Section 10.0311.E.f.4-Request to reduce the required rear yard setback for the house from 25 feet to 18 feet (a 7 foot variance); Located on the southwest corner of Cranberry and Elm Creek Drives; Section 23; Funspace Direct, LLC, Petitioner. Permanent Parcel 08-23-428-048. The variance was granted with a condition that the condominium association approve the request and that such approval be submitted to the Township.

**Opposed: TUCKFIELD.
MOTION carried.**

7. VARIANCE REQUEST FROM ZONING ORDINANCE

Section 20-6.A.1-Request a variance of 30.48 square feet of signage to allow larger signs on each side of the proposed restaurant. Each of the two signs are proposed at 50 square feet, where 19.52 square feet are permitted.

Located on the north side of Hall Road, ½ mile west of Romeo Plank Road; Section 32. Russell Arbuckle, Petitioner. Permanent Parcel 08-32-400-020.

Patrick S. Meagher, Planning Consultant, presented the findings and recommendations of June 27, 2016. They are as follows:

The property in question is located on the North side of Hall Road, West of Romeo Plank Road. The request is to vary Section 20-6.A.1 of the Township Sign Ordinance which allows signs on the side of a business a maximum of twenty (20%) percent of the total sign area that is allowed on the "Principal Building Frontage" (PBF). In this case, the applicants indicate the width of the PBF as 97'7". Based on this width, the west and east side of the buildings are allowed signs measuring 19.52 square feet on the east and west (sides) elevations of the building. The applicants are requesting 50 square feet.

VARIANCE 1: *Request to vary Section 20-6.A.1 of the Macomb Township Sign Ordinance – Request a variance of 30.48 square feet of signage to allow larger signs on each side of the proposed restaurant. Each of the two signs is proposed at 50 square feet, where 19.52 square feet are permitted.*

Planner's Recommendation: We are recommending denial of this variance request due to the fact that a practical difficulty does not exist. The applicant points out several reasons for the variance in the application package. We find the rationale provided falls short of supporting a practical difficulty and would grant a special privilege not permissible to other properties within the same Zoning District.

The petitioner submitted a letter dated June 21, 2016 in support of the request and was included into the record as follows:

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“On behalf of our client, Texas Roadhouse, please consider this memorandum as a formal request for a wall signage variance. We respectfully request an exception to Macomb Township’s Zoning Ordinance (Chapter 20, Section 6, line 1) in which the current sign regulation limits the sign area for any wall sign, without a building frontage that abuts a nonresidential parcel or building, to a maximum of 20% of the total sign area permitted for the Principal Building Frontage.

We ask that you consider the variance based on the following:

The current sign regulations limit the wall signage for the buildings side elevations to a maximum of 20% of the total sign area permitted for the Principal Building Frontage. This regulation would decrease the prototypical Bubba’s 33 wall sign significantly from 50 square feet to roughly 20 square feet. An increase in signage area would allow Bubba’s 33 wall sign to be consistent with the Registered Trademark I.D. used throughout the country.

Additionally, the increase in signage area will not alter the essential character of the neighborhood/district in which this property resides. Nor does it substantially or permanently impair the appropriate use of development of the adjacent properties. The existing buffer around the perimeter of the property limits the adjacent property owner’s/patrons visibility of this site. Therefore, an increase in area will not have an adverse effect on the adjacent property owners.

The modification to the area does not affect nor jeopardize the public’s health, safety and welfare. Rather the proposed size of the sign increases visibility to the passing motorists and alleviate potential traffic safety issues.

Therefore, we respectfully request that the Board consider granting a variance that permits both building walls without a street frontage and building walls that abut a nonresidential parcel or building a wall signage area that is greater than the 20% maximum of the total sign area permitted for the Principal Building Frontage.”

Emily Berrnahl, representative, was in attendance.

Member BUCCI stated that he did not have enough information before him to make a decision and offered to table the meeting for two weeks. He further asked that the petitioner provide additional information such as existing Bubba’s to Mr. Meagher, so the commission can visit the site and examine the potential issues.

MOTION by BUCCI seconded by SLOSSON to table the variance request of Section 20-6.A.1-Request a variance of 30.48 square feet of signage to allow larger signs on each side of the proposed restaurant. Each of the two signs are proposed at 50 square feet, where 19.52 square feet are permitted; Located on the north side of Hall Road, ½ mile west of Romeo Plank Road; Section 32. Russell

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Arbuckle, Petitioner. Permanent Parcel 08-32-400-020. The item is tabled to July 26, 2016 with additional information being provided to Mr. Meagher.

This meeting will be an unpaid meeting as well.

Public Portion:

Michael Fayhee, 45263 Heatherwood, stated that he lives directly behind Brann's Steakhouse and he noted that the buildings that have been being built they like to use bright neon lights to wrap around buildings. This proposed building is very close to the residential area and noted his concern is with the 50 square foot sign on either side of the building that are very flamboyant Vegas style lights and very close to our property and would be a hardship to have to look at these lights from our property . Lastly, he indicated that he is totally against the request.

Randall Johnson, 45311 Heatherwood, and stated that he is in the same situation as the gentlemen who spoke before him. The last thing we want to see is a glare through our windows so we can't sleep at night and feel this would hurt the value of our homes should they ever decide to sell in the future and doesn't want to see the signs in the residential area.

Member POZZI asked about the signage on Brann's and if it bothered them.

Randall Johnson stated that they did not have signage on the back of the building.

Emily Berrnahl stated that they would not have any signage on the back of their building either. We are proposing for the sides of the building which is per code.

Michael Fayhee, 45263 Heatherwood, stated that his home faces the side of the building where the signage is being proposed.

Member BUCCI stated that two weeks from today would be July 26, 2016 at 5:00 p.m.

Chairman GALLAGHER asked if there would be a rendering of what this would look like.

Emily Berrnahl stated she could provide a 3D rendering along with photos.

MOTION by BUCCI seconded by SLOSSON to adjourn the variance request of Section 20-6.A.1-Request a variance of 30.48 square feet of signage to allow larger signs on each side of the proposed restaurant. Each of the two signs are proposed at 50 square feet, where 19.52 square feet are permitted; Located on the north side of Hall Road, ½ mile west of Romeo Plank Road; Section 32. Russell Arbuckle, Petitioner. Permanent Parcel 08-32-400-020.

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MOTION carried.

Member TUCKFIELD stated he agreed with Member BUCCI to have the meeting with no pay for the members.

8. OLD BUSINESS

None.

9. NEW BUSINESS

None.

10. PLANNING CONSULTANTS COMMENTS

None.

ADJOURNMENT

MOTION by BUCCI seconded by POZZI to adjourn the meeting at 5:48 p.m.

MOTION carried.

Respectfully submitted,

Edward Gallagher, Chairman

Dawn Slosson, Secretary

Beckie Kavanagh, Recording Secretary

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