

# Zoning Board of Appeals

## Regular Meeting Minutes

Monday, March 2, 2015  
7:00 p.m., Basement



City of South Haven

### 1. Call to Order by Lewis at 7:00 p.m.

### 2. Roll Call

Present: Boyd, Paull, Wheeler, Wittkop, Lewis  
Absent: Bugge, Miller

### 3. Approval of Agenda

Motion by Wittkop, second by Wheeler to approve the regular meeting agenda as presented.

All in favor. Motion carried.

### 4. Approval of Minutes – December 15, 2014

Per an email from Bugge, “Add the word *setback* after the word *front* to the motion regarding 310 Eagle Street.”

Motion by Wittkop, second by Boyd to approve the December 15, 2014 regular meeting minutes as amended.

All in favor. Motion carried.

### 5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda

There were none.

### 6. New Business – Arby’s Restaurant Sign Variance

RWL Signs of Kalamazoo, MI is requesting a variance to replace a pole sign at the Arby’s Restaurant located at 73123 CR 388 (aka 1250 Phoenix Street). The variance is required as the applicant desires to have the sign be 29 feet 10 ¼ inches in height where 20 feet is the maximum permitted. The sign is also proposed to be 185 square

**feet where 60 square feet is the maximum allowed. The height maximum and sign size maximum is stated in zoning ordinance section 2408-1.**

VandenBosch noted there are two variance requests and enumerated them as stated above.

Motion by Boyd, second by Wheeler to open the public hearing.

All in favor. Motion carried.

Andy Goldberg, Project Manager, R & L Sign Company, 6185 West KL Avenue, Kalamazoo. Noted the height of the current sign is twenty-nine feet (29') ten and one quarter inches (10.25") and stated that they are asking to keep the height the same and just update to new Arby's colors as they feel that they will not have adequate signage if it were lowered. Pointed out the other existing signs in the area; the strip mall multi-store sign which has been there a long time and the Meijer's sign across the street which is new.

Goldberg stated that he and the applicant, Arby's Restaurant Group, are not asking for more than we currently have. Pointed out that the "Open Late" portion of the sign will be removed, lowering the square footage of the sign area.

Paul Quinn, Arby's Restaurant Group. Noted this was a Hardee's location which Arby's converted and remodeled eighteen (18) to nineteen (19) years ago. Stated Arby's is just getting into the remodeling of all of their stores. The logo has changed; the existing logo on the current sign has a hat that is a little bit taller than wide; more vertical than square. The new Arby's logo is less square footage than what is there now. Twenty-nine feet (29') one and one-quarter inches (1.25") overall height and one hundred ninety-two (192) and three-quarters (.75) square feet. Quinn stated, "If we kept the same height with the new logo, we'd be reducing the square footage because the logo itself is a different proportion. It would actually be less area than what is there now."

Quinn also expressed that the variance request is germane to their site, noting, "Our sign is seventy-five feet (75') from the street and six (6) to eight (8') below the existing road, depending where you are on the road."

Quinn displayed for the board a picture of the existing sign and a sign indication what the code allows, noting that in the board's packet there is a picture of the proposed sign.

Boyd reiterated that the sign is in a hole.

Lewis asked if there were any question from the board. Hearing none, Lewis said his biggest concern is the city just implemented the overlay district two (2) years ago and unlike the property behind the applicant's site, this site falls into the overlay zone pretty heavily. "If there weren't in an overlay district and if it were our current zoning law, there'd be no problem; they deserve what everyone else has. But we have a new law on the books."

Wittkop questioned whether the signs at Meijer's are in the township or the city and noted the Meijer's signs were installed last year. Discussion ensued regarding the timing of

Meijer's approvals and the date the overlay zone went into effect, but no clear answer was available.

Boyd stated that he sees Lewis' point and wonders if this variance seems like a reasonable compromise. Wittkop commented, "Sitting in a hole like they are . . ." Wheeler interjected that the potential will be everyone else getting carte blanche but it needs to be clear that variances will be decided on a case-by-case basis. Lewis agreed, "We do want to include the reasoning for an approval so it is not a carte blanche."

VandenBosch said less than two (2) years ago the Planning Commission looked at this with the thought to improve this area's appearance coming into town. Stated the need for the board to recognize that if the board grants variances for this application, the board is going against the Planning Commission and the City Council.

Wheeler said he does not want someone running into his wife or child because they are trying to find the Arby's sign. VandenBosch stated that he drove Phoenix Street today and the sign and the message board are visible from Phoenix Street; VandenBosch is not sure how visible it is from the highway.

Boyd said he thinks this is a reasonable variance and can be decided on a "one-off" case-by-case basis. Boyd also stated he drove a different route than he usually does and got off the highway to determine how difficult it is to see the sign, and it is difficult.

Paull said as Planning Commission Rep, "The whole point of the overlay district to begin with was to begin the process of cleaning up the visual impact in what is becoming a fairly heavy retail corridor, so (in the future) it isn't tall signs and lots of busyness and concrete." Paull stated that he is strongly in support of the new overlay zone's restrictions on signs. "Over the course of the next five (5) to ten (10) years you are going to see a big difference in how this corridor looks from the highway."

Paull concluded, "Now hearing what you are saying, the fact that "the site" is down in a hole, but let's be careful how we do this so we don't begin to send a message that the overlay zone isn't important. It's about what our community is going to look like."

Quinn: Stated that the board brought up some good points. "One thing we can't change is the grade of the property. I'm not really sure with the off and on ramp and street that are there that we can get (a sign) any closer to the street." Quinn noted that he understands the overlay district, that he works with many Midwest towns, and understands, but there are a lot of signs in this area that are ten feet (10') from the road. "Arby's is a one-off case and you don't want to set precedent. But to bring this before a board of appeals there needs to be a reason why the applicant should not be held to strict compliance with the ordinance." Quinn pointed out that the proposed signage will reduce the existing size of the sign and will replace the current logo with what Arby's thinks is a more attractive logo.

Lewis said in the answers to the questions in the application you spoke about the height and said little or nothing about the size of the sign. Quinn responded that this application was prepared by our sign vendor. Goldberg agreed that he did not see answers to anything about the square footage and he will be taking that up with the sign vendor. Goldberg reiterated that the applicant does want to reduce the square footage.

Goldberg commented he has been in the sign business for twelve (12) years and remarked about a sign in Paw Paw, where he is from; "Tappers Budget Car Lot is brand new in Paw Paw and they put what I call 'a postage stamp on a fishing pole'; it looks goofy. It doesn't look very well-thought out. Arby's wants their image to look aesthetically good and I'm sure the city wants the signs in the city to look aesthetically good."

Motion by Boyd, second by Wheeler to close the public hearing.

All in favor. Motion carried.

Lewis suggested splitting this request into two variances: 1.) height and 2.) size (square footage).

Motion by Boyd to approve the height variance for an existing sign which makes this an exceptional condition.

Wittkop asked if it is appropriate to note that this is unprecedented situation. We did get an email from the store going in behind Arby's, and they too are in a hole.

Boyd asked if Wittkop was okay with adding, "and due to the following special circumstances: grade elevation being sunken and distance from the road." Wittkop was agreeable.

Second by Wheeler, noting that the approved height would then be twenty-nine feet (29') ten and one-quarter inches (10.25") tall.

A roll call vote was taken on the following motion:

Motion by Boyd to approve the height variance for an existing sign, which makes this an exceptional condition, and due to the following special circumstances: grade elevation being sunken and distance from the road, resulting in an approved height of twenty-nine feet (29') ten and one-quarter inches (10.25") tall."

Yeas: Paull, Wheeler, Wittkop, Boyd

Nays: Lewis

Motion passed.

Lewis pointed out that the board can consider the actual square footage requested and not grant all of it.

Boyd said he believes the applicants are being good citizens; they are redoing their sign, remodeling the store and actually reducing the square footage of the sign.

Lewis said the problem is the overlay district but how in the world did Meijer's get those signs in there? VandenBosch said he would have to check but maybe Meijer's had their signs approved before the overlay zone was approved.

Motion by Wittkop to grant the requested sign square footage of one hundred eighty-nine (189) square feet.

Lewis asked what makes it special. Wheeler said it is a reduction from the size of the existing sign.

Second by Boyd.

Paull said the overlay zone requires sixty (60) square feet. Discussion ensued regarding a sign sixty (60) square feet on that height of a sign post. Lewis said without the overlay zone the sign is an appropriate size.

Boyd noted maybe the overlay is a very difficult thing to put into place and keep in place and we are the appeals board. Boyd said he does not want to be the town with the weird sign.

Lewis noted it been eighteen (18) years since Arby's touched their sign.

A Roll call vote was taken.

Yeas: Wheeler, Wittkop, Boyd, Paull

Nays: Lewis

Motion passed.

Quinn commented that when we (Arby's) go to do something like this we look at proper ingress and egress and signage. "If we cannot get our ingress, egress and sign we do the variance in advance. Regarding the other business owner, you can't put a business there and then say the signage ordinance is a hardship. Ours is an existing sign and it is seventy-five feet (75') back from the road and (I) appreciate you recognizing that."

VandenBosch asked if this board has any message to take back to the Planning Commission.

Boyd said no particular message except, "We do these by one-offs".

Lewis said the strip mall sign met everything except the height.

Wheeler says he thanks God for the United States of America and the whole notion of an appeals process in general.

Paull said any new commercial establishments are going to be more likely to conform to the overlay zone to the point that in the future everything else around will be lower and smaller.

Wittkop asked if the ordinance requires the sign to be a certain footage from the street to which VandenBosch responded that there is a minimum but he is not sure what that is. Wittkop just wanted to note that some of the restaurants like Cracker Barrel have 150' tall signs that can be seen from the highway.

## 8. Adjourn

Motion by Paull, second by Wittkop to adjourn at 7:36 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom  
Recording Secretary