

ZONING BOARD OF APPEALS
Regular Meeting
May 23, 2023

The meeting was called to order by Chairman Russ Boersma at 5:30 p.m.

Present: Chairman Russ Boersma, Vice-Chairman Ross De Vries, Members Jack Vander Meulen and Steve Haberkorn. Also present were Community Development Director, Corey Broersma, Assistant Planner and Zoning Administrator, Kate White, and Recording Secretary, Laurie Slater.

Absent: Robert De Vries and Elliot Church

** It was moved by Vander Meulen and supported by Ross De Vries to approve of the minutes from the March 28, 2023, meeting as printed. Motion carried.

Chairman Boersma explained the Public Hearing process to the audience.

Hearing declared open to consider a petition to Extend a Nonconforming Use submitted by Kenneth A. Puzycki on behalf of 380 Garden, LLC for property located at 270 James Street, known more specifically as Parcel number 70-16-19-228-010. Petitioner is requesting permission to extend the life of a nonconforming sign. The subject property is zoned C-2 Community Commercial.

Present to speak to this request was Ken Puzycki of the Law Offices at 270 James Street.

Mr. Puzycki explained that the existing sign was installed by the American Red Cross in 2011. Mr. Puzycki did extensive remodeling on the building in 2017. The inspectors were out to the site several times during the renovation, and no one ever mentioned the location of the sign being an issue.

The sign is nonconforming in that it encroaches 2 feet into the road right-of-way and does not meet the minimum 10-foot setback from right-of-way. He further explained that the road right-of-way is different from business to business in this area. Speedway's road right-of-way is 33 feet, in front of Mr. Puzycki's Law Offices the road right-of-way is 43 feet and around the corner on Butternut the road right-of-way is 50 feet. The Ottawa County Road Commission is aware of the encroachment and does feel it is a significant safety concern.

He further stated that his sign does not look out of place in this location. The surrounding businesses signs are also closer to the road. Mr. Puzycki referred to the Staff Report comments which noted that he has room to move the sign into compliance based on the site plan submitted. He explained that he does not have room to move the sign into compliance. The sign is 9 feet from the asphalt; however, it would need to be moved 12 feet, which would put it in the parking lot. This would interfere with the access to the parking lot of the neighboring business.

The only thing they are proposing to change on the sign is the message area. The removeable letter board on the ground sign would be upgraded to a full electronic changeable message board. The message board would have the date and a clock on it with short messages about happenings

at the Law Offices. The foundation/structure of the sign would not be changed in any way. It would be one panel out and one panel in. They are not touching the outer part of the sign.

There was discussion of the brightness of the proposed sign and how that would impact drivers. Mr. Puzycki stated that the sign would meet all Township Ordinances for brightness. He does not want to blind anyone. He further stated that moving the sign into compliance would be more dangerous because the trees would block the view of the sign and drivers would have to crank their neck to see the sign as they drove past. The sign would be controlled with Bluetooth. The area of message on the sign would be going from 18.1-square foot removeable letter board to 15.2-square foot electronic changeable message board.

There was further discussion of the current location of the sign versus where it was approved to be placed according to 2011 sign permit site plans. In conclusion, Mr. Broersma stated the contractor did not put the sign in the approved area.

There was no one in the audience to speak to this request.

** It was moved by Haberkorn and supported by Vander Meulen to close the hearing. Motion carried.

The Board went over the standards to review when considering an extension of a nonconforming use:

1. ***Whether the extension, enlargement, alteration, remodeling or modernization will substantially extend the probable duration of the nonconforming structure, building or use.***

The alteration of the sign is on the message board only. It is one panel out and one panel in. The foundation/structure of the sign is not being altered in any way.

2. ***Whether the extension, enlargement, alteration, remodeling or modernization of the nonconforming structure, building or use will interfere with the use of adjoining lands or other properties in the surrounding neighborhood for the uses for which they have been zoned pursuant to the provisions of this ordinance.***

The alteration of the sign will not interfere with the use of adjoining lands or other properties in the surrounding neighborhood for the uses for which they have been zoned pursuant to the provisions of this ordinance. The Speedway sign is a shorter distance from the centerline.

3. ***The effect of the nonconforming structure, building or use and such extension, enlargement, alteration, remodeling, or modernization thereof on adjoining lands in the surrounding neighborhood.***

There would be no effect of the nonconforming sign on the adjoining lands in the surrounding neighborhood. The sign is already there. Moving it into compliance would

place the sign in the parking lot. They are changing the sign board only, no structural changes. There are variable widths of road rights-of-way within this area.

** It was moved by Ross De Vries and supported by Haberkorn to approve the request as presented with only the message board being changed. There are to be no structural modifications to the sign. Motion carried with a unanimous roll call vote.

Hearing declared open to consider a petition for a Nonuse Variance submitted by Valley City Sign on behalf of North River Holdings, LLC (Quality Car Wash) for property located at 187 N. River Avenue, known more specifically as Parcel Number 70-16-20-326-014. Petitioner is requesting a variance consisting of 1 ground sign in addition to the maximum 1 ground sign permitted resulting in two ground signs. The subject property is zoned C-2 Community Commercial.

Present to speak to this request was Mandi Brower of Quality Car Wash.

Ms. Brower explained that there are two entrances leading to the Car Wash. One on River Avenue and one on Lakewood Boulevard. The entrance on Lakewood Boulevard is the location they are requesting the second ground sign for. The previous owner, Burger King, had a second pylon sign at this location. That sign was taken down and only a stub was left.

The new sign would be 10 feet from the right-of-way. The proposed sign would be 27 square feet. The base would be brick with only the logo on the sign. The River Avenue sign is a bigger sign with an LED reader board which complies with the Ordinance.

The Board asked Mr. Broersma if there were other businesses in the Township that were allowed two signs. Mr. Broersma stated that they are not usually allowed unless it is a through lot with access from a service road only, such as lots between West Shore Drive and US-31.

Quality would be allowed to use directional signs up to 4 square feet in size to direct traffic from Lakewood Boulevard to the Car Wash.

Ms. Brower stated that McDonald's has a second, very large sign on Lakewood Boulevard next to the Quality Car Wash Entrance. With the two entrances so close together, there could be confusion about which driveway to use.

There was further discussion about the placement of the sign. It was brought to the attention of the Zoning Board of Appeals that the entrance on Lakewood Boulevard has been reconstructed and shifted approximately a foot and a half to the west per Ottawa County Road Commission requirements. It was questionable as to whether the sign would meet the 10-foot setback from the side property line.

The Board concluded that they would need to see an updated site plan showing the current location of the driveway and the proposed location of the sign. What has been presented is not a true representation of the driveway and property lines.

There was no one in the audience to speak to this request.

** It was moved by Vander Meulen and supported by Ross De Vries to close the hearing. Motion carried.

** It was moved by Vander Meulen and supported by Haberkorn to table this item pending an updated site plan of the actual location of the driveway and the property lines. Motion carried with a unanimous roll call vote.

Hearing declared open to consider a petition for a Nonuse Variance submitted by Donald and Maria Twiss for property located at 13932 Harrington Landing, known more specifically as Parcel Number 70-16-06-285-005. Petitioner is requesting a variance consisting of 898.4 square feet from the maximum 640 square feet permitted for an accessory dwelling unit; resulting in a 1,538.4 square-foot accessory dwelling unit. Variance is being requested to establish a lower-level accessory dwelling unit for a family member. The subject property is within the Macatawa Legends Planned Unit Development and subject to the R-1 Low Density Residential zoning requirements.

Present to speak to this request was Donald Twiss, property owner.

Mr. Twiss explained to the Board that he retired from the US Army five years ago and moved to Michigan. His mother, sister and niece lived in Georgia. After his mother passed away and his sister's health declined, he moved them here in hopes of finding them their own place to live. The housing market is too high for someone on disability. His sister contracted COVID in 2021 and was left with health issues. She now finds it difficult to do things. His niece moved here to support her. They are currently living in the basement of his house, which was his mancave. He would like to make some renovations to the basement to make life more comfortable for his sister. He has no intention of charging his sister rent to live there. He has no intention of ever renting it out.

Virginia Twiss, sister of Donald Twiss, stated there would be no changes to the downstairs of the house other than adding a kitchen and laundry for her as she cannot make it up the stairs. They would also need to widen the doors of the bathroom to accommodate her wheelchair.

The HOA would allow changes to the interior of the house, but changes to the exterior of the home would require HOA review and approval. The footprint of the finished basement would not be increasing or decreasing.

Kurt Lang, CEO/President of Loyl Construction, was present to answer any questions specific to the renovation. He explained that when they went to pull a permit for the renovations, they found out that they needed to request a variance for the Accessory Dwelling Unit, as it is larger than what is allowed by ordinance. ADU's are capped at 640 square feet.

The Zoning Board of Appeals had questions about how to prevent the unit from becoming a duplex in the future. The property is intended as a single-family dwelling. There are mechanical codes that would need to be met in order for it to become a code-compliant duplex. There would need to be a separate furnace and fire rated walls and/or ceilings installed. They would need to

pull a permit to do these things, at which time the Township would catch it. Also, the Home Owners Association has rules against it.

The basement is already a livable area, they are just adding appliances.

There was communication from Tom and Sherry Miller of 14067 Cottage Grove Ct. They asked that the ADU be limited to relatives of the owners in residence. If the family members move out, they do not want it rented out to anyone.

There was another email from Randy Ferris of 13968 Harrington Landing. He had several questions for Mr. Broersma prior to the meeting. He had concerns of multiple occupants, that it was being done for financial benefit and the marketability of the residence once it is an ADU.

Present in the audience was Tom Leonard of 4537 Pont Superior Ct. He was in favor of the request, stating that there are ample protections in place. There is no risk of the ADU being able to be rented out at a later date. It is the right thing to do to take care of a loved one.

Mr. Lang of Loyl Construction stated that the design is not intended to be a multi-family dwelling and would not meet code requirements for a multi-family dwelling. This is the right thing to do.

** It was moved by Ross De Vries and supported by Vander Meulen to close the hearing. Motion carried.

The Board went over the standards to review when considering a nonuse variance request.

1. That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:

- a. ***Exceptional narrowness of the width or depth of a lot of record, or irregular shape.***
- b. ***Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.***
- c. ***Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.***
- d. ***Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.***

There are no exceptional conditions of the land/lot of record exist.

2. That the unusual circumstances do not apply to most other lots of record in the same manner to the same extent to other lots of record in the same zoning district.

There are no unusual circumstances relating to the lot of record exist.

3. That the variance is necessary for the preservation and enjoyment of a substantial

property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

If you take away the square footage of the mechanical room and storage, you have a little bit larger ADU than is allowed. It is not contrary to the Ordinance.

4. That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.

The Association has safeguards in place to keep it from becoming a rental, duplex or multi-family property.

5. That the applicant shall not have created the problem for which the variance is being sought.

The problem is not self-created. He is not adding on to the existing dwelling to create the space for the ADU, nor is he adding on to make up for space the ADU is taking up.

6. That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.

Granting this variance will not be contrary to the public interest; it is within the spirit of this ordinance, and public safety is secured. Substantial justice would be done for both the applicant and other property owners in the district.

** It was moved by Ross De Vries and supported by Boersma to approve the request as presented granting a variance of 898.4 square feet from the maximum 640 square feet permitted for an accessory dwelling unit: resulting in a 1,538.4 square-foot accessory dwelling unit. Motion carried with a unanimous roll call vote.

Other Business:

Mr. Vander Meulen stated that the 2024 Building Code proposes to have changes to increase the square footage of ADUs which may encourage more of them to be built.

The meeting adjourned at 6:59 pm.

Respectfully submitted,

Laurie Slater
Recording Secretary