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MINUTES CITY OF FRASER 33000 GARFIELD, FRASER, MI 48026 ZONING BOARD OF APPEALS MEETING APRIL 6, 2023 @ 7:00 P.M.

A regular meeting of the City of Fraser Zoning Board of Appeals was held on Thursday, April 6, 2023 at 7:00 p.m. The meeting was held in City Council Chambers, 33000 Garfield, Fraser, MI 48026.

1. CALL MEETING TO ORDER

Vice-Chairman Frank Farina called the meeting to order at 7:00 p.m... Vice-Chairman Farina the led the Pledge of Allegiance.

2. ROLL CALL

Present: Burley, Chimenti, Farina, Lesich, Menendez
Absent: Stimac

Motion by Lesich supported by Farina to excused Chairman Stimac from the April 6, 2023 meeting.

AYES: Burley, Chimenti, Farina, Lesich, Menendez
NAYS: None

Motion Carried

3. APPROVAL OF AGENDA

Motion by Menendez supported by Lesich to approve the agenda as amended to remove "Fraser City Council" verbiage at the top of the agenda, and to remove it'

AYES: Burley, Chimenti, Farina, Lesich, Menendez
NAYS: None

Motion Carried

4. FORMAL STATEMENT BY THE CHAIR

Vice-Chairman Farina read the formal statement into the record.

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5. OLD BUSINESS

a. Variance Request – Appeal #22-05 Smokey Joe's Signs
BY REASON OF: SECTION 32-85-2-C PROVISIONS PERTAINING TO PERMITTED
NUMBER AND ALLOWABLE AREA OF SIGNS FOR COMMUNITY BUSINESS
DISTRICT.

PURPOSE OF REQUEST: TO OBTAIN A VARIANCE FROM ZONING ORDINANCE
STANDARDS TO EXCEED THE NUMBER OF ALLOWABLE SIGNS ON A COMMUNITY
BUSINESS ZONED PROPERTY (1 SIGN ALLOWED, 3 REQUESTED) , AND TO
OBTAIN A VARIANCE FROM ZONING ORDINANCE STANDARDS TO EXCEED THE
ALLOWABLE WALL SIGN AREA ON COMMUNITY BUSINESS ZONED PROPERTY
(ONE 32 SQUARE FEET PERMITTED, 107.5 TOTAL SQUARE FEET REQUESTED).

Planner Andrew Littman reviewed this history of this request. The original hearing came
before the Zoning Board of Appeals in February of this year. The petitioner explained
what he was looking for and the Chairman stated that they were over the allowable square
feet on a wall sign by quite a bit. The Chairman then suggested that the petitioner try to
redesign his sign and come back at the next meeting. Further review was had on what
the ZBA had asked the petitioner to do in the meantime – like take down his window signs
– which he did. In terms of the permanent 59.5 square foot sign it was approved as
submitted back in 2018.

The applicant is back with a revised request. They are no longer requesting additional
signs but would like to add on to the existing sign with a new portion with the word “Liquor”
that would increase the existing sign to 69.8 square feet. Therefore, the requested
variance is 37.8 square feet.

Mr. Littman reviewed that he felt the petitioner could still do business with the current
signage. He was still recommending denial of this request. Discussion was had on the
current sign and what they were approved to have in that location.

Mark Zultowski from iSigns and Design, Danny Batti and Joe Matteo, owner of Smokey
Joe's were present on behalf of the petitioner. Mr. Batti began addressing the Zoning
Board of Appeals regarding this issue. In reference to the current sign he had contacted
someone to see what exactly the current sign was approved for and it was his
understanding that it was approved at the size it is at.

Mr. Batti, petitioner's attorney, then stated he had investigated businesses in the City of
Fraser prior to the meeting tonight. He felt the building was uniquely situated. They had
also purchased the building next to them and he felt they should get credit for the additional
32 square feet of signage allowed. He added that the liquor license was a large
investment.

He added, for the record, the following information:

CVS was located .07 miles from the petitioner
Schotz Market is located .15 miles from the petitioner

They are both in the Commercial Business District

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Sal's Liquor is .2 miles down the road – understanding it's a commercial neighborhood. He stated that this building is covered in signage.

He reviewed how the variance requirements in the city were applied in relation to this request.

Zoning Board of Appeals members reviewed their thoughts on the current visibility of "Liquor" signs for Smokey Joe's and how his property would fit in to the requirements for granting of a variance – was there a hardship or practical difficulty that could be cited? They could not find any. Discussion was had on the temporary sign.

Mr. Batti stated that in regard to similar businesses and their signs he would like to see why they got variances for larger signs. Clerk Greenia stated he would be best served to submit a FOIA for this information. Mr. Batti stated that he would like the opportunity to view this information and come back again to the Board to further discuss this.

Motion by Menendez supported by Burley to postpone action on City of Fraser Variance #22-05 Smokey Joe's Signs until the May 4, 2023 meeting of the Zoning Board of Appeals allowing for time for the applicant to review requested information regarding signs in the near vicinity to Smokey Joe's.

AYES: Burley, Chimenti, Farina, Lesich, Menendez

NAYS: None

Motion Carried

Mr. Matteo indicated he felt he did everything he had been asked to do and really was hoping to get the variance granted.

6. PUBLIC HEARINGS

a. DEVON STORAGE HOLDINGS AND DESIGNHAUS

BY REASON OF: Sections 32-144 (3) , PROVISIONS PERTAINING TO BUILDING SETBACK IN THE IC, INDUSTRIAL CONTROLLED DISTRICT; SECTION 32-144 (4) (D), PROVISIONS PERTAINING TO DISTANCE BETWEEN TWO BUILDINGS

LOCATION: 31475 UTICA ROAD

REQUEST: TO OBTAIN VARIANCES FROM ZONING ORDINANCE STANDARDS THAT APPLY IN THE INDUSTRIAL CONTROLLED DISTRICT, INCLUDING:

THE MINIMUM SIDE YARD SETBACK REQUIREMENT FROM AN ADJACENT RESIDENTIAL DISTRICT, WHICH IS 100 FEET. BUILDING C HAS A PROPOSED 59'11" SIDE YARD SETBACK (40'1" VARIANCE REQUESTED) AND BUILDING D HAS A PROPOSED SIDE YARD SETBACK OF 79'2" (20'10" VARIANCE REQUESTED).

THE MINIMUM REQUIRED DISTANCE BETWEEN TWO (2) BUILDINGS, WHICH IS 400 FEET. THE PROPOSED DISTANCE BETWEEN BUILDINGS C AND D IS EIGHT (8) FEET (32 FOOT VARIANCE REQUESTED) THE PROPOSED DISTANCE BETWEEN BUILDINGS D AND F IS 39 FEET (1 FOOT VARIANCE REQUESTED), AND THE

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PROPOSED DISTANCE BETWEEN BUILDINGS F AND G IS FIVE (5) FEET (35 FOOT VARIANCES REQUESTED).

Planner Littman reviewed the applicant was looking to convert an existing building with 61,690 square feet of climate controlled storage space as well as to construct nine (9) smaller drive up storage buildings totaling 24,198 square feet. He noted all the issues with the current site plan regarding side yard setbacks and setbacks between buildings. Part of this site is Zoned IC – Industrial Controlled and part of the site is Zoned IR Industrial Restricted. He reviewed how the site plan did not comply and gave the reasons given by the petitioner stating why he thought a variance should be granted.

In regards to why the applicant feels they should be granted a variance as requested the following matters were cited:

There were six (6) foot perimeter walls in place
And there is a low demand for customer traffic

Mr. Littman did not agree that these conditions seemed exceptional or extraordinary. He reviewed his opinion on all the rest of conditions that would allow the petitioners to be granted a variance.

Based on these facts, it is their opinion that the request be denied. If the variances were granted it could set precedent.

Vice-Chair Farina asked about the site being open to the ZBA Members after a variance is applied for. He questioned whether or not public safety had weighed in on this site plan. Mr. Farina would like to get their opinion on this matter.

Joe Matoses with Desighaus Architecture was present on behalf of the petitioner. He reviewed with the Board that this site was split zoned and that had a great bearing on these requests. They were asking to treat the whole site at IR in regards to setback. This, he said, created an extraordinary circumstance. Both zonings make it difficult to plan. He went over all the buildings and where they sat on the site.

Board Member Burley asked why they separated buildings D and C and buildings F and G. Mr. Matoses stated there was egress from those points. He then asked why they could not make that/those one building with the egress going straight through. The petitioner stated they could do that.

Board Member Lesich asked the petitioner to describe what a portable building was. They were portable equipment boxes. They are moveable. They are not shipping containers. Mr. Lesich then commented that the different zonings as well as the setbacks were known before the recent purchase of this site was completed. He was most concerned with the residents next to this site.

Vice-Chairman Farina wanted to know on behalf of the Zoning Board of Appeals when the site would be open for them Board to visit. The petitioner stated he would work on getting this set up.

Discussion was had on what the Board discussed with the petitioner. Combining buildings D and C and then Buildings F and G. This would help eliminate two (2) of the variance

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requests and adjustments made in the size of one of the buildings. Board Member Menendez stated they would need to see the revised drawings before they could make a good decision on this request. Suggestions were made for other options on the site which could help eliminate the need for many of the variance requests.

Motion by Menendez supported by Lesich to postpone a decision at this time until the May 4, 2023 Zoning Board of Appeals meeting.

ROLL CALL VOTE

AYES: Burley, Chimenti, Farina, Lesich, Menendez

NAYS: None

Motion Carried

7. NEW BUSINESS OF THE BOARD

None at this time.

8. UNFINISHED BUSINESS OF THE BOARD

Nothing at this time.

9. PLANNING COMMISSION LIAISON MEMBER REPORT

Vice-Chairman Farina referred this item on the agenda to the Planning Commission Chair, Kathy Czarnecki, who was in attendance this evening.

Chair Czarnecki shared that they reviewed the property at 33180 Groesbeck. The site does look good but still needs to changes to the site plan.

Vice-Chair Farina stated that an updated sign ordinance would be proposed soon to the Planning Commission. He had asked that the Zoning Board of Appeals also gets to weigh in on it.

10. PUBLIC PARTICIPATION

Nothing at this time.

11. APPROVAL OF MINUTES MARCH 2, 2022

Motion by Lesich supported by Burley to approve the minutes of the February 2, 2023 meeting of the Zoning Board of Appeals as presented.

AYES: Burley, Chimenti, Farina, Lesich, Menendez

NAYS: None

Motion Carried

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12. MEMBERS' COMMENTS AND ITEMS OF INTEREST

Vice-Chair Farina shared about the Fish Fry that is coming up at St. Malachy's on Good Friday. Also, April 22, 2023 was a reverse raffle there as well.

13. ADJOURNMENT

Motion by Menendez supported by Lesich to adjourn at 8:37 p.m.

All Ayes

Motion Carried

Respectfully Submitted:

Cindi Greenia, Clerk
City of Fraser