

**CITY OF WIXOM
ZONING BOARD OF APPEALS MEETING
49045 PONTIAC TRAIL
MONDAY, MARCH 14, 2016**

Approved
4/11/16

The meeting was called to order by Chairman Caplan of the Zoning Board of Appeals at 7:30 p.m. at which time allegiance was pledged to the American flag.

BOARD: Jeff Caplan (Chairman), David Berry, Michael Schira, Steve Winters, Peter Behrmann, Ray Konchel and Tom Marcucci
ABSENT: Joe Barts (Excused)
OTHERS: Carol Maise [on behalf of Carmine Avantini] (CIB Planning) and Nancy Fisher (Recording Secretary)

Determination of a Quorum:

A quorum of the Zoning Board of Appeals was present for this meeting.

Agenda:

No additions or changes were made to the agenda.

Approval of the February 8, 2016 Zoning Board of Appeals Meeting Minutes:

MOTION and seconded by Boardmembers Winters and Konchel to approve the February 8, 2016 Zoning Board of Appeals Meeting Minutes.

VOTE:

MOTION CARRIED

Correspondence:

City Manager's Update – February 9, 2016
City Manager's Update – February 23, 2016
City Manager's Update – March 9, 2016

Call to the Public:

There were no comments made by the public.

Unfinished Business:

There was no unfinished business listed on the agenda for this meeting.

New Business:

- 1. PUBLIC HEARING FOR ZBA CASE #002-016: FIBERCLASS, 50370 DENNIS COURT, WIXOM, MI 48393:** The applicant is requesting variances from Section **18.06.050, Height and placement requirements**, to allow a 7-foot parking lot drive setback when a setback of 10 feet is required. The Wixom Municipal Code requires approval of dimensional variances from the Zoning Board of Appeals when it can be shown that Ordinance standards have been met. The property is zoned M-1, Light Industrial, and the parcel number is 17-31-352-005.

Chairman Caplan mentioned that the public hearing for this matter was published in *The Oakland Press* on February 25, 2016 and in the *Spinal Column* on February 17, 2016. Boardmember Berry noted that the electronic version of the case caption (on his mobile phone) has a typographical error and refers to it

as Case #00Z-016. Ms. Maise noted that the correct Case No. is 002-016, as per the printed caption on tonight's agenda.

William Clark, Quadrants, 49132 Wixom Tech Drive, Wixom. Mr. Clark noted that Joe Nell, the owner of FiberClass, is also present tonight. Mr. Clark distributed a drawing to the Boardmembers depicting the onsite parking. He noted that the applicant's parking needs do not fall squarely under a particular City Ordinance and that the applicant requires more parking than typical light industrial uses. The applicant is attempting to comply with the overnight parking requirements. They have a lot of installers who park there during the day. They are trying to avoid parking on the sidewalk or curb. They can take the 10-foot easement and shorten it to make 16-foot parking spaces although the Planning Commission suggested that they instead request a variance. The applicant's next door neighbor is an industrial user. The Ordinance says that no buffering is required when one industrial property abuts another industrial property.

Boardmember Marcucci asked whether the applicant has sufficient parking without the variance.

Joe Nell, 50370 Dennis Court, Wixom. Mr. Nell is the owner of the FiberClass. He noted it is tough for his customers. He hopes to grow his business over time and he does not want to have to move again. Adding more warehouse space and parking is the solution. Boardmember Konchel noted that he drove by the applicant's property and noticed four to six trucks parked parallel to the fence and the property line. He asked whether that would continue. Mr. Nell said that it will not and that is what he is trying to remedy. He has even been using some of his neighbor's parking spots with their permission. Boardmember Konchel also asked whether the semis will continue to be backed in. Mr. Nell said that the semis are only there long enough to be loaded and unloaded. Mr. Clark noted that those are over-the-road trucks and are not owned by the applicant. The applicant uses stake trucks. There are two truck wells (on the north and south sides). Some of the vehicles will be stored in part of the proposed warehouse so there will be fewer vehicles in the lot.

In response to Chairman Caplan's question, the applicant said that he occupies the entire building. Chairman Caplan noted that any proposed motion should include a proviso that overnight parking be limited to the side and rear yards and that the applicant should provide a hedge row. Boardmember Behrmann confirmed that the trucks will be parked there but not parallel parked. Currently, those trucks cannot be there when the employees' vehicles are parked there. Mr. Clark said that when the trucks come in, they are reloaded throughout the night. It is a continuous rolling inventory of vehicles. Boardmember Marcucci confirmed with the applicant that he is seeking a 3-foot variance into the greenbelt. Ms. Maise said that the setback is the actual physical distance between the property line and the pavement while the buffer refers to the plantings and the landscaping. Per the Ordinance, there is no buffer required and there are no plantings required but there is still a required setback.

Chairman Caplan and Boardmember Marcucci said that they are okay with the applicant's request.

MOTION and second by Boardmembers Behrmann and Winters to approve ZBA Case #002-016, FiberClass' request for a 3-foot parking lot drive variance in the back of the lot, contingent upon no overnight parking of trucks and parking is to be limited to the side and rear yards. The applicant will also plant a hedge row around the rear yard fence. The property is located at 50370 Dennis Court, Wixom, Michigan 48393, is zoned M-1, Light Industrial, and the parcel number is 17-31-352-005.

VOTE:

MOTION CARRIED

- 2. PUBLIC HEARING FOR ZBA CASE #003-16: SHAKERS, 49617 GRAND RIVER AVE., WIXOM, MI 48393:** The applicant is seeking a variance from Section **18.16.100, Specific Sign Standards**, to allow a second wall sign for Shakers Bar & Grill when only one is permitted. The Wixom Municipal Code requires approval of a dimensional variance from the Zoning Board of Appeals when it can be shown that ordinance standards have been met. The property is zoned B-3, General Business and the parcel number is 22-07-476-006.

Terry Burns, Acme Architectural Signs, 47115 Seven Mile Road, Northville. There were previously two restaurants at this site including LaRoca and Red Olive. The LaRoca sign was on the same wall facing Grand River Ave. as Red Olive but the business went under. The key partner is no longer part of that enterprise and did not want a new sign for a new restaurant to be put on his property. The applicant wants western exposure. This is a difficult parcel because of poor visibility. It sits back quite a bit. The sign is the same size as the one previously approved.

Chairman Caplan confirmed with the applicant that the sign is on the rear. There is no exposure from the west and the applicant is not on the corner. Boardmember Marcucci confirmed with the applicant that it is on the east wall in the back. The applicant said that is Red Olive's tenant space. There is no signage on the road. Boardmember Behrmann asked whether this would be the only sign. The applicant said if you go eastbound and look in the shopping center, there is no signage for westbound traffic. The prior restaurant had two signs. He cannot put another one where the signs were stacked because that is Red Olive's. It is on the back wall and angles a bit toward Grand River. Boardmember Konchel confirmed that the sign will be illuminated.

Boardmember Behrmann confirmed that is the applicant's service door into the restaurant. The applicant believes there is an entrance into the back of the building on the south elevation as well. He thinks the owner of the shopping center was going to do something where those two buildings are (the former location of Al's Produce), perhaps offering outside seating. Chairman Caplan confirmed that the applicant meets the Ordinance for signage size and illumination and that it does not require a variance for that. Boardmember Berry recognizes that the applicant needs to have a viable operation and that it does not have adequate visibility. Boardmember Behrmann has no issues with the applicant's request.

MOTION and second by Boardmembers Berry and Marcucci to approve Case #003-16: Shakers' request for a second wall sign for Shakers Bar & Grill when only one is permitted; hardship being the location, the exterior shape of the building and the fact that the applicant does not own the building or control the situation. The property is located at 49617 Grand River Avenue, Wixom, Michigan 48393, is zoned B-3, General Business and the parcel number is 22-07-476-006.

VOTE:

MOTION CARRIED

- 3. ZONING BOARD OF APPEALS BY-LAWS.** A study session will be held to discuss a draft set of ZBA By-Laws prepared by the City planning consultants, CIB Planning, for review and consideration. The draft By-Laws are consistent with the requirement of the Michigan Planning Enabling Act of 2008, Public Act 267 of 1976, as amended.

Ms. Maise referenced the amended By-Laws contained in the Boardmembers' meeting packet and noted that the proposed changes are redlined. In response to Boardmember Konchel's question, Ms. Maise said

that the respective changes are color coded only to identify which party made the changes. They utilized the same format as the previous By-Laws and added critical information from the Michigan Enabling Act.

Chairman Caplan noted that he will start announcing where the cases were published for public hearing at each Zoning Board of Appeals (ZBA) meeting.

Ms. Maise noted that the City Council may appoint an alternate ZBA member and that is a policy decision. It is at the Council's discretion.

Boardmember Konchel asked how he would attend the recommended public workshop for new ZBA members. Ms. Maise suggested he speak to Mr. Avantini about this. She noted that the Michigan Association for Planners (MAP) holds a couple large conferences per year, usually in the spring and fall and the Boardmembers will likely be given advance notice of these. They can also coordinate this with Ms. Gallo. Chairman Caplan believes there may have been such a session recently and that the Boardmembers may have received an email about it.

Boardmember Behrmann thinks the 6th paragraph under Article 1 "Establishment and Membership" requires some edits. He questioned why should it list several different organizations when it could simply say "4 hours of training"? He noted that 4 hours per term seems reasonable. The Boardmembers agreed that the list of organizations could be removed.

Boardmember Konchel asked whether this is the first read through of the By-Laws by the ZBA members. Ms. Maise noted that the By-Laws are different from City Ordinances and they do not need to be published.

Boardmember Berry asked what the driving force is for the revised By-Laws. Ms. Maise noted that there are State requirements that were discussed at a joint session meeting. Boardmember Berry noted that the ZBA complies with Robert's Rules of Conduct, interprets Zoning Ordinances and formulates decisions based upon consensus of the Boardmembers. Ms. Maise said that Mr. Avantini was asked to look at things and noticed that the By-Laws had not been reviewed since 1995 and there have been significant changes during that time. There were a lot of things in the State Act that were not in the By-Laws.

Boardmember Berry noted that in the first paragraph it refers to 9 members of the ZBA and one member who will also be a member of the Planning Commission and that member would be unable to vote. He asked who would break that tie? Ms. Maise noted that there is differing legal opinions regarding that and Mr. Avantini will be taking that up with Ms. Rosati, the City Attorney. However, the ZBA can pull an alternate member in to fill that spot for that particular case if they had alternates. Ms. Maise noted that there is a possibility of 11 total members with 9 regular members and 2 alternates if the City Council approved the use of alternate ZBA members.

Boardmember Berry asked what division of State law requires this and why the City is going this route which has worked successfully for 25 years. Ms. Maise said that the By-Laws state that City Council may appoint up to 2 alternate ZBA boardmembers. Boardmember Berry asked what would drive the City Council to do that. Ms. Maise noted that a lot of communities do this to avoid quorum issues. Boardmember Berry noted that when there are fewer Boardmembers in attendance at a meeting, the ZBA Chairman makes an announcement at the start of the meeting that there is not a sufficient quorum. Ms. Maise said that it is a policy decision on behalf of City Council and the ZBA does not have any say in the matter.

Boardmember Schira noted that Ms. Maise is merely proposing to add language to the By-Laws in order to comply with the Enabling Act and that is not changing the process. Boardmember Berry noted that the

ZBA Boardmembers interpret things from a judicial standpoint and this would add two more boardmembers. Chairman Caplan said that they may add two more boardmembers but they do not have to and it could help the ZBA. Boardmember Behrmann noted that if the Board had two extra members, they would be able to hold meetings that they otherwise would not be able to do. Ms. Maise said that the action required by the Boardmembers tonight is that they would make a motion recommending its adoption to City Council.

MOTION and second by Boardmembers Schira and Winters to recommend the revised ZBA By-Laws be adopted by City Council with the proviso that new members of the ZBA should attend a ZBA workshop: “Each member shall attend at least 4 hours training per year in planning and zoning during the current member’s term of office” but then strike everything else following that in the draft ZBA By-Laws.

VOTE:

MOTION CARRIED

Call to the Public:

Ronnie James, 2900 Loon Drive, Wixom. Mr. James is a student at Detroit Catholic Central in Novi. His class is doing a project on civic engagement. Chairman Caplan noted that it is nice that schools are having the students do this.

Staff Comments:

There were no comments made by staff.

Board Comments:

Boardmember Berry inquired about the outcome of Wednesday night’s hearing for the property at the northwest corner of Charms and Wixom Road. Ms. Maise said she did not know but would have Mr. Avantini follow up with Boardmember Berry.

Adjournment:

This meeting of the Zoning Board of Appeals was motioned and adjourned at 8:23 p.m.

Nancy Fisher
Recording Secretary