

**CITY OF WIXOM  
ZONING BOARD OF APPEALS MEETING  
49045 PONTIAC TRAIL  
MONDAY, JULY 11, 2016**

Approved  
09/13/16

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, Joe Barts, Steve Winters, Peter Behrmann, Ray Konchel and Tom Marcucci

**ABSENT:** Michael Schira

**OTHERS:** 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 April 11, 2016 Zoning Board of Appeals Meeting Minutes:**

MOTION and seconded by Boardmembers Konchel and Barts to approve the April 11, 2016 Zoning Board of Appeals Meeting Minutes.

**VOTE:**

**MOTION CARRIED**

**Correspondence:**

City Manager's Update – June 14, 2016

City Manager's Update – June 28, 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 #005-016: MEIJER PHARMACY DRIVE THROUGH, 49900 & 49860 GRAND RIVER AVENUE, WIXOM, MI 48393:** The applicant is requesting a variance from **Section 18.06.040, Standards applicable to specific uses**, to allow four (4) vehicle stacking spaces when five (5) spaces are 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 B-3, General Business District, and the parcel number is 22-07-401-045.

Chairman Caplan informed the applicant that it would need to secure 5 of 7 positive votes from Boardmembers in order to receive a variance.

Dan Lee, Meijer, 9900 Grand River, Wixom. Meijer wants to make it more convenient for its customers to pick up their medicines without having to venture inside the store. Chairman Caplan asked the

applicant why it cannot get to 5 stacking spaces. The applicant said that it is trying to divide the north and east drives which intersect. There is a drive on the west of the Garden Center which intersects with the drive on the north side. If it is moved to the front and cars are stacked to the east, it moves the window from what is laid out inside the store. Mr. Avantini said they have been working on this for 2 years with two different traffic consultants. Originally, the applicant wanted to come in from the other direction. Then they devised the tube mechanism. It is a confined space. When they looked at how many people use pharmacy drive-throughs simultaneously, they have only witnessed two users at the same time. Safety is the main reason they cannot get to 5 stacking spaces. If they back the lane up further, it will impact a crosswalk. It is reasonable. Chairman Caplan agrees.

Boardmember Barts noticed that the architect said that 5 spaces are required with 4 of them being for stacking. He confirmed it is 5/4 and not 6/5. Mr. Avantini noted that the Ordinance does not allow them to count the vehicle at the window. Chairman Caplan said that he does not see many people at pharmacy drive-throughs. He thinks there is a hardship based on safety and pedestrian access.

**MOTION** and second by Boardmembers Behrmann and Winters to approve #ZBA Case #005-016, Meijer's request for a variance to allow four (4) vehicle stacking spaces when five (5) spaces are required; hardship being that there are safety concerns with the stacking requirement being too close to the crosswalks. The property is located at 49900 & 49860 Grand River Avenue, Wixom, Michigan 48393, is zoned B-3, General Business District and the parcel number is 22-07-401-045.

**VOTE:**

**MOTION CARRIED**

**Call to the Public:**

None.

**Staff Comments:**

Mr. Avantini noted he is in the final stages of revising the City's Master Plan. He just received another draft which looks good but still requires some fine tuning. He should have that wrapped up within the next week or two and will send it to the Planning Commission and the Zoning Board of Appeals. After it has gone through the review process, he will go back to the zoning amendments with the Planning Commission, then have a joint meeting with the Zoning Board of Appeals in the second half of this year. The goal is to continue streamlining the Ordinance to protect the interests of City residents and bring things up to date.

**Board Comments:**

Chairman Caplan noted that the Zoning Board of Appeals has seen fewer variance requests since Mr. Avantini has tweaked the Ordinances. Mr. Avantini noted that the majority of variance requests the ZBA will see are Sign Ordinance issues since the Courts have kept Sign Ordinances restrictive.

Boardmember Berry noted that he started an email dialogue about limiting the number of members on the Planning Commission and the Zoning Board of Appeals including the proposal to reduce the ZBA to 7 members with 2 alternates. How does that benefit the ZBA? That was not answered in the email exchange. The whole idea behind having a 9-member board is that there are 9 different opinions. There is a judicial process. The more boardmembers you have formulating an opinion, the more valuable that is should the applicant decide to appeal to the courts. If the number of boardmembers is decreased, it increases the weight of each boardmember's opinion even though it means a lower quorum percentage. There are still 9 people if there are 2 alternates. It does not make sense to spend the City's money to change the guidelines about the ZBA and how it functions. All the ZBA has to do is fill its two vacancies. By adding 2 alternates, it is a waste of public time since they will have to make last minute

phone calls. Also, there is no guarantee that the alternate boardmembers will have reviewed that night's cases in advance. He does not understand or agree with following the State's guidelines when the City has the right to do what makes sense for it.

Chairman Caplan does not think it is the State dictating the reduction in the ZBA membership size. There have been boardmember absences without advance notification. If boardmembers send advance notification of their intended absence, there would be time to secure an alternate. If there are 9 ZBA members and 1 or 2 boardmembers do not show, the applicant may need the entire Board to vote in its favor in order to secure a variance. There are usually a couple of boardmembers absent at each meeting. He does not think that the State told them to reduce the size of the ZBA. Boardmember Berry said it does not change anything. Chairman Caplan said it changes the quorum. Boardmember Berry said whether the ZBA goes to 7 members with 2 alternates or stays at 9 members, everyone on the ZBA gets a meeting packet. However, that is not necessarily true for alternate boardmembers. Also, the alternates may not feel obligated to go out and conduct a site visit. Chairman Caplan said that they would if it is made clear that advance notification of absences is required. If everyone provides one week's advance notice of an intended absence, the alternate can step in.

Boardmember Behrmann said that if the ZBA reduces to 7 members, the alternates will be just like the other boardmembers. They will receive meeting packets. He noted that there has always been at least one ZBA boardmember absent. Boardmember Winters suggested that the alternate boardmember should show up at all ZBA meetings. Mr. Avantini noted that there have not been a lot of residents applying to serve on the Boards and Commissions. The Mayor has a lot of things on his plate and has actually had to go recruit boardmembers and commissioners. The ZBA is missing a member. All boardmembers should be there which requires adding 3 members. With 7 ZBA members, it is still a good size board. He came from a large city which had 5 ZBA members. The 2 alternate members make a big difference. They have a bigger impact percentage wise on 7 members than they have on 9 members. They help to fill out the Board. The City needs to be fair to the applicant and have a full complement. He thinks it is smart to have 7 ZBA members with 2 alternates.

Boardmember Berry asked why the ZBA does not have full membership. Mr. Avantini said that there has to be another appointment and that usually takes 2-3 months. The Planning Commission has had discussions about this. Boardmember Barts noted that the smart thing about reducing the ZBA's size is that it reduces the quorum from 5 to 4 which gives the applicants security by not having to reschedule meetings. It is much better to have 6 boardmembers rather than 7. Boardmember Berry said that when the ZBA did not meet quorum, there were only 8 sitting boardmembers. That was the first time that occurred. There is a common member who serves on both the ZBA and the Planning Commission which was not allowed 5 years ago since that was previously viewed as a conflict. Boardmember Winters noted that 10-15 years ago he served on both. Boardmember Marcucci does not have a problem with reducing the size of the ZBA. Boardmember Behrmann noted that if Boardmember Barts has a conflict in hearing a case, the alternate ZBA member can step in.

Mr. Avantini said that there are two different opinions which can be held on this matter. He thinks reducing the Board will help the applicants. It would not have been as big a deal if the Planning Commission had stayed at 9 members. They meet twice a month and require a super majority. The City Attorney has recommended the reduction in board and commission size. Boardmember Berry noted that the City is fixing something that is not broken. Mr. Avantini said it is difficult getting residents to serve on the board and commissions. Boardmember Berry asked how much it costs the City to reduce the boardmember and commission sizes. If there is a controversial case, then one of the alternates can be called in so there will always be 7 members.

Boardmember Konchel noted that Ms. Gallo asked that one of the ZBA members agree to step down and be willing to serve as an alternate. He is willing to do that but will not kill himself getting down here at the last minute. He wants to receive meeting packets as an alternate ZBA member.

Boardmember Berry noted that the resident at 1615 Brentwood has constructed a fence around the pool in their backyard. There are no posted permits and the fence appears to be in the front yard setback. Boardmember Marcucci noted that that is a corner lot.

Boardmember Winters announced that he will be absent for the August meeting.

**Adjournment:**

This meeting of the Zoning Board of Appeals was motioned and adjourned at 8:06 p.m.

Nancy Fisher  
Recording Secretary