

Village of Bellaire

Zoning Board of Appeals

Board Members:

David Ciganick, Butch Dewey, Robert Massey, Lori Smalley, Colette Stanish

ZONING BOARD OF APPEALS MEETING MINUTES

September 24, 2013

1. **Call to Order:** Chairman Dewey called the meeting to order at 6:00 p.m.
2. **Roll Call Attendance**
 - Present:** Chairman Butch Dewey, Robert Massey, Lori Smalley, Colette Stanish
 - Absent:** Dave Ciganick
 - Staff Present:** Janet Koch, Zoning Administrator
 - Also Present:** Gary Gebhardt, applicant and Harold Miller from Spartan Stores
3. **Approval of Agenda:** The agenda was approved as written.
 - Motion by Massey, seconded by Smalley, to approve the agenda as written.**
 - Motion carried by unanimous voice vote.**
4. **Approval of the April 10, 2013 Regular Meeting Minutes:** The minutes were approved as written.
 - Motion by Massey, seconded by Stanish, to approve the minutes as written.**
 - Motion carried by unanimous voice vote.**
5. **Public Comment on Agenda Items:** None presented.
6. **Old Business:** None presented.
7. **New Business**
 - a) **Request for Variance at 211 S. Division Street**
 1. **Public Hearing**
 - a) **Opening of Public Hearing:**
 - 1) **Announcement of Matter to be Heard:** Chairman Dewey opened the public hearing and announced that the matter to be heard was a request for a dimensional variance for a sign at 211 S. Division Street, tax ID 05-41-030-029-20.
 - 2) **Summary of Standards:** Chairman Dewey said the standards would be examined in detail during the deliberations.
 - b) **Determination of a Time Limit for Addressing the Board:** Due to the small size of the audience, Chairman Dewey said he saw no need to set a time limit for addressing the board unless time became a problem.

- c) **Staff Report:** Koch said the report was included in the board member's packets. She added that the report included a framework for a decision and order and a findings of fact that the board could follow and complete.
 - d) **Compilation of List of Exhibits:** Chairman Dewey submitted the following list of exhibits:
 - 1) Application for a dimensional variance as Exhibit A.
 - 2) Aerial map with property line overlay as Exhibit B.
 - e) **Presentation by the Applicant, Applicant's Attorney, or Other Agents:** The applicant, Gary Gebhardt of Signs by Crannie from Flushing, Michigan, introduced himself and asked the board for a variance to be able to install a reasonably sized sign on a building that was 400 feet from the road. He mentioned the safety factor of having a sign large enough that it could be read easily at the posted speed limit. He added that they'd scaled down the sign's size as far as they thought would be readable. He told the board that the sign would be an LED energy efficient sign.
 - f) **Correspondence and/or Persons Speaking in Favor of the Application**
 Harold Miller of Spartan Stores spoke in favor of the application, saying that he'd like to see an older store renovated and updated.

 Koch said there had been no correspondence in favor of the application.
 - g) **Correspondence and/or Persons Speaking in Opposition to the Application**

 Koch said there had been no correspondence in opposition to the application.
 - h) **Rebuttal by the Applicant, Applicant's Attorney or Other Agents**

 There was no rebuttal by the applicant.
 - i) **Closing of the Public Hearing:** Chairman Dewey closed the public hearing.
2. **Deliberations (Will Include Findings of Fact):** The board went into deliberations, beginning with the general findings of fact.

General Findings of Fact

- 1. The Board finds that the property is currently zoned Commercial under the current Village of Bellaire zoning ordinance.

The ZBA agreed with this finding.

- 2. The Board finds that Section 3.23.F states the following:

Size Regulations: Other than regulations mentioned in other sections, the following regulations would apply in the specific zoning districts:

Zoning District	Maximum Sign Size	Maximum Height
R-1	4 square feet	5 feet high
R-2	4 square feet	5 feet high
R-3	4 square feet	5 feet high
Village Commons	24 square feet	6 feet high
Central Business District	20 square feet	10 feet high for ground mounted
Commercial/PUD/Manufacturing	32 square feet	10 feet high
Manufacturing	32 square feet	10 feet high
Conservation Reserve	24 square feet	10 feet high

The ZBA agreed with this finding.

3. The Board finds that the introductory portion of Section 3.23 of the zoning ordinance states the following:

The purpose of this section is to preserve the desirable character and personality of the Village of Bellaire, as well as to recognize the need for and privilege of advertising, so that people unfamiliar with the area, such as tourists and transients, may avail themselves of the goods and services afforded by the local business places. At the same time, the Village recognizes the right of residents to be free of advertising that could affect property values and create an unpleasant or less than desirable atmosphere. The use and erection of all outdoor signs and media shall be subject to all state and local codes and statutes, in addition to the provisions of this ordinance.

The ZBA agreed with this finding.

4. The Board finds that Section 3.23.A.2 of the zoning ordinance states the following:

Signs should enhance the aesthetic appeal of the Village. Thus, these regulations are intended to: 1) regulate oversized signs that are out-of-scale with the surrounding buildings and structures, and 2) prevent an excessive accumulation of signs, which cause visual clutter and distraction.

The ZBA agreed with this finding.

5. The Board finds that Section 2.1 of the zoning ordinance defines the term “sign” as a structure, including its base, foundation and erection supports upon which is displayed any words, letters, figures, emblems, symbols, designs, or trademarks by which any message or image is afforded public visibility from out of doors on behalf of and for the benefit of any product, place, activity, individual, firm, corporation, institution, profession, association, business or organization.

The ZBA agreed with this finding.

6. The Board finds that Section 2.1 of the zoning ordinance defines the term “area of sign” as the entire area within a circle, triangle, parallelogram or any other shape which encloses the extreme limits of writing, representation, emblem, logo, or any other figure or similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.

The ZBA agreed with this finding.

7. The Board finds that the Applicant is representing the current owner of record.

The ZBA agreed with this finding.

8. The Board finds that the current owner of record is a regional grocery/ drugstore retailer and wholesale distributor based in Grand Rapids that owns and operates 101 supermarkets throughout Michigan.

The ZBA agreed with this finding.

9. The Board finds that the Applicant desires the dimensional variances from the above requirement to allow for sign readability and clarification of the building’s identity from South Division.

The ZBA agreed with this finding.

10. The Board finds that under Section 11.3 of the current zoning ordinance that the Zoning Board of Appeals shall have the power to authorize specific dimensional variances from the requirements of the zoning ordinance if it finds based upon competent, material, and substantial evidence, following a public hearing, that the applicable standards provided in that section have been met.

The ZBA agreed with this finding.

Findings of Fact Under Section 11.3 of the Zoning Ordinance

The Board makes the following findings of fact as required by Section 11.3.C.1 of the zoning ordinance for each of the following standards listed in that section.

- A. The need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and not due to applicant’s personal or economic hardship.
 1. The Board finds that the applicant desires a variance because the existing building is sited approximately 400’ from the centerline of S. Division Street; signage installed on the building’s front wall to the zoning ordinance’s maximum size would not be readable from the roadway.

The ZBA agreed with this finding.

2. The Board finds that a smaller sign could be a safety issue if the sign is not readable.

The ZBA agreed with this finding.

- B. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

1. The Board finds that the placement of the existing building was required for the construction of an appropriately-sized parking lot.

The ZBA agreed with this finding.

- C. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.

1. The Board finds that strict compliance to the maximum sign size will force installation of a building wall sign that is unreadable from the nearest adjacent roadway.

The ZBA agreed with this finding.

- D. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give substantial relief to the property owner and be more consistent with justice to other property owners.

That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

1. The Board finds that granting a lesser variance would not allow the Applicant to install wall signage that is readable from the nearest roadway.

The ZBA agreed with this finding.

2. The Board finds that granting the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

The ZBA agreed with this finding.

3. Motion for a Decision

Decision

Upon motion by Massey, seconded, by Stanish, and passed by a unanimous roll call vote, the Board voted to approve the Applicant's requested variance.

Conditions (if any)

The above granted variance is subject to the following express condition: that the sign not have any flashing lights.

Time Period for Judicial Review

MCLA 125.585(11); MSA 5.2935(11) provides that a person having an interest affected by the zoning ordinance may appeal a decision of the Zoning Board of Appeals to the Circuit Court. Pursuant to MCR 7.101 any appeal must be filed within twenty-one (21) days after this Decision and the Zoning Board of Appeals adopts Order.

Date Decision and Order Adopted

September 24, 2013

Butch Dewey, Chairman

Janet Koch, Zoning Administrator &
Recording Secretary

- 8. **Correspondence/Reports:** None presented.
- 9. **Adjournment: Meeting adjourned at 6:28 p.m.**

Minutes compiled by:
Janet Koch, Zoning Administrator & Recording Secretary

Approved: _____
Butch Dewey, Chair

Date: _____