

**CITY OF LAPEER  
MINUTES OF A REGULAR  
ZONING BOARD OF APPEALS MEETING  
NOVEMBER 22, 2021**

A regular meeting of the City of Lapeer Zoning Board of Appeals was held at Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan on Monday, November 22, 2021 at 6:30 p.m.

**Members Present:** Chairman Jeff Hogan, Vice Chairperson Catherine Bostick-Tullis, Eric Cattane, Paul Parsch and Patricia Waugh.

**Members Absent:** Dan Farrington.

**Also Present:** Caitlyn Habben, Rowe Professional Services Company Planning Consultant, and Kimberly Hodge, Recording Secretary.

Chairman Hogan called the meeting to order at 6:30 p.m.

**MINUTES**

**024 2021 11-22 MINUTES**

Moved by Bostick-Tullius. Seconded by Cattane.

To approve the minutes of the regular meeting held on October 25, 2021 as presented.

**Yeas: Hogan, Bostick-Tullius, Cattane, Parsch and Waugh.**

**Nays: None.**

**Absent: Farrington.**

**Abstain: None.**

**MOTION CARRIED.**

**PUBLIC COMMENTS**

There were no public comments at this time.

**PUBLIC HEARING SCHEDULED**

**Blue River Housing / Humphrey-Phillips – 1986 W. Genesee St.**

Habben reviewed the request from Wally Humphrey-Phillips representing Blue River Housing for a 20 ft. variance to the 30 ft. side yard setback requirement of Section 7-04.03 in order to construct a new multiple-family residential building at 1986 W. Genesee Street. Habben reviewed the location of the site, aerial photos of the site and surrounding uses, utilities located on the site, the location of the former home on the site and the conceptual plan showing the location of the new structure and the access drive to be utilized. Ms. Habben also reviewed the corner clearance area, sidewalk, the exterior building design elevation and the applicant's response to the request.

Habben reviewed the 5 standards required to be met in order to approve the variance, and staff findings in support and opposition to each standard. Habben reported the lot is smaller than most RM-1 zoned parcels, reviewed the intent of side yard setback requirements and that there is a concern whether the landscaping requirements can be met with the reduced side yard area.

Chairman Hogan opened the public hearing at 6:37 p.m.

Wally Humphrey-Phillips was present and stated he looked at rotating the building and other layouts, that the ordinance requires the front of the building to face Genesee Street and that the parking will be located off a private drive and have a shared dumpster.

Discussion was held on the tenant parking location, the location of the detention pond, the 3-unit building plan, the building orientation, the 30 ft. setback required if not adjacent to another multiple-family residential use and the 10 ft. setback requirement if the adjacent use was multiple-family.

There being no further comments the public hearing was closed at 6:44 p.m.

Discussion was held on the distance to the National Guard Armory to the west, landscaping concerns with the reduced buffer and the proposed 10 ft. setback which is sufficient for fire protection access.

**025 2021 11-22 Side Yard Setback – 1986 W. Genesee St.**

Moved by Bostick-Tullius. Seconded by Cattane.

To approve a 20 ft. side yard setback variance along the west property line requested by Wally Humphrey-Phillips representing Blue River Housing for the property located at 1986 W. Genesee Street because it meets all 5 standards in Section 7-22.04(e).

**Yeas: Hogan, Bostick-Tullius, Cattane, Parsch and Waugh.**

**Nays: None.**

**Absent: Farrington.**

**Abstain: None.**

**MOTION CARRIED.**

**Riehl – 1515 S. Lapeer Rd. – Additional Monument Signs**

Habben reviewed the request from Robert Riehl Jr. for a variance to erect additional monument signs at the Jim Riehl's Friendly Chrysler Dodge Jeep Ram dealership located at 1515 S. Lapeer Road. Habben reviewed aerial photos of the site location, existing signage and the variances requested which include allowing an additional monument sign and a display monument sign, a 9 sq. ft. per side size variance and a 2 ft. sign height variance. Habben reviewed the proposed locations of the additional monument signs, the applicant's response to the request citing the large 909 ft. of road frontage of the 14 acre parcel and the design of the proposed Jeep display pad.

Habben reviewed the standards required to be met in order to approve the sign variances and staff findings in support and opposition to each standard. Discussion was held on the total number of signs proposed for the site and the height of the additional proposed monument sign.

Chairman Hogan opened the public hearing at 6:59 p.m.

Ken Moreland of Dorchen-Martin Associates stated the proposed Jeep logo is a corporate icon.

Robert Riehl Jr. reviewed the proposed sign height and the design of the display pad monument sign, the new manufacturer identity requirements for dealers, the new requirement to separate interior showrooms and the Jeep wall signage to be removed.

Discussion was held on the two additional monument signs being requested, the design of the display pad monument sign, the possibility of removing the existing red monument sign on the site, the new proposed sign height and existing wall signage to be removed.

Robert Riehl Jr. stated removing the existing red monument sign would not be an issue.

There being no further comments, the public hearing was closed at 7:14 p.m.

Further discussion was held on requiring the new additional monument sign to match the height of the existing newer monument sign planned to remain on the site, the required standards to be met in order to approve a sign variance, the large amount of frontage on the site and eliminating the existing northern sign.

**026 2021 11-22 Riehl's – Additional Monument Sign – 1515 S. Lapeer Rd.**

Moved by Parsch. Seconded by Cattane.

To approve one additional monument sign variance and to require the small northern monument sign be eliminated as shown in the provided site plan requested by Robert Riehl Jr. for the property located at 1515 S. Lapeer Road because it meets Standard 2 in Section 7-22.04(f) and all the standards in Section 7-22.04(g).

**Yeas: Hogan, Bostick-Tullius, Cattane, Parsch and Waugh.**

**Nays: None.**

**Absent: Farrington.**

**Abstain: None.**

**MOTION CARRIED.**

**027 2021 11-22 Riehl's – Monument Sign Height & Area – 1515 S. Lapeer Rd.**

Moved by Parsch. Seconded by Cattane.

To approve variances to the sign height and area requirements of Section 7-17.05 to allow the additional non-display pad monument sign to not exceed and be equal to the height and square footage of the existing monument sign directly north of the existing driveway requested by Robert Riehl Jr. for the property located at 1515 S. Lapeer Road because it meets Standard 2 in Section 7-22.04(f) and meets all 5 standards in Section 7-22.04(g).

**Yeas: Hogan, Bostick-Tullius, Cattane, Parsch and Waugh.**

**Nays: None.**

**Absent: Farrington.**

**Abstain: None.**

**MOTION CARRIED.**

The meeting was recessed at 7:24 p.m. and reconvened at 7:29 p.m.

**Lapeer Associates – 795-813 East St. – Parking Administration Decision Appeal**

Habben reviewed the request from Lapeer Associates, LLC to appeal the administrative determination for conditional approval of a Zoning Permit for a nail salon to locate at 799 East Street which limits the number of chairs due to available parking spaces stating the applicant is requesting to use the neighboring Lapeer Pointe Plaza parking spaces as included in the number of total parking spaces allowed when considering zoning ordinance compliance. Habben reported the two components to the appeal include:

- Appeal of the total properties considered was done improperly not taking into account a recorded Reciprocal Easement Agreement between the property owners of the Lapeer Associates, Aldi and Lapeer Pointe Plaza properties; and
- Appeal of the misinterpretation of verification of parking for a change in use or change in tenant.

Habben reviewed aerial photos of the three parcels and surrounding uses which show the Lapeer Pointe Plaza parcel wraps around behind the Lapeer Associates and Aldi's parcel along the east property line. Habben also reviewed the Zoning Permit issued for the nail salon, the parking calculation table utilized by the Planning Department and summarized the shared parking agreement between Lapeer Associates and Aldi.

Habben reviewed the general best practice questions when considering the appeal which include:

1. Was the Zoning Administrator's action arbitrary or capricious?
2. Was the Zoning Administrator's action an erroneous finding of a material fact?
3. Was the Zoning Administrator's action an abuse of discretion?
4. Was the Zoning Administrator's action based on an erroneous interpretation of the Zoning Ordinance?

Habben summarized previous discussions held between the City, Lapeer Associates parcel owner Mike McGlothin and Charles Laurencelle owner of the Lapeer Point Plaza parcel on interpretation of the Reciprocal Easement Agreement (REA) which resulted in the City acknowledging the two parties do not agree on the interpretation of the REA. Habben reported following postponement of the November 2020 variance request it was the City's understanding that the parties would proceed to obtain a consent judgment from the court which the City would abide by to interpret the agreement's terms and that the City to date has not been notified of any court actions filed on the issue.

Habben described the Zoning Permit process required for all businesses opening or relocating in the City which is also being appealed by the applicant. Discussion was held on the Aldi property purchase, the parking areas uses by Lapeer Associates and Aldi customers and the fact there is a separate shared parking agreement between Lapeer Associates and Aldi.

Chairman Hogan opened the public hearing at 7:43 p.m.

Charles Laurencelle of Laurencelle Properties, owner of the Lapeer Pointe Plaza parcel, stated he personally did not receive the public hearing notice that was mailed to his office and was not aware of the appeal until Thursday November 18<sup>th</sup> and requested to postpone the meeting until next month in order to prepare his position and a response.

Mike McGlothin of Lapeer Associates stated he has representatives present which have traveled from Seattle for the meeting and that he is prepared to proceed. McGlothin further stated he never agreed or intended to proceed to litigation after the meeting in early 2021 with the City and Mr. Laurencelle and he intends to make a case as to why he should not be required to go to court. McGlothin stated the process is restricting his ability to lease his spaces and that the Lapeer Associates building is the same as when originally approved in 1992.

Laurencelle stated he was never contacted again after the meeting in early 2021 and that it is not the job of the Zoning Board of Appeals to interpret the REA between Lapeer Associates and Laurencelle Properties.

Dennis McGlothin of Lapeer Associates distributed a binder to the ZBA members of various documents received to date via a FOIA request to the City and stated additional information is still expected as requested in the FOIA submittal, that the REA includes the exact same language in use since 1992 and that they are losing potential tenants.

Discussion was held on the role of the ZBA, the best practice standards to consider, the parking calculations used for the nail salon Zoning Permit and that three REA agreements exist dated in 1985, 1992 and 1993 that the ZBA needs time to review. Discussion was also held on Apple Tree restaurant employees parking in the Lapeer Associates lot.

Mike McGlothin stated he has a tenant ready to move in and he would like to deal with the Zoning Permit appeal then deal with the parking issue at a later date.

Laurencelle stated the REA does not give Mike McGlothin the right to exclusive use of his parking spaces.

There being no further comments at this time, the public hearing was closed at 8:32 p.m.

Discussion was held on the need for more information and time to review the information provided by the applicant.

**028 2021 11-22 Lapeer Assoc.–Postpone Administrative Determination Appeal**

Moved by Parsch. Seconded by Bostick-Tullius.

To postpone action on the Lapeer Associates, LLC administrative determination appeal until the January 2022 meeting.

**Yeas: Hogan, Bostick-Tullius, Cattane, Parsch and Waugh.**

**Nays: None.**

**Absent: Farrington.**

**Abstain: None.**

**MOTION CARRIED.**

**OTHER BUSINESS**

**2022 Training Plan**

Habben reviewed the updated 2022 Training Plan as required in order to maintain the City's State of Michigan Redevelopment Ready Community certification which will now be tracked by training opportunities provided rather than hours attended.

**029 2021 11-22 2022 Training Plan**

Moved by Bostick-Tullius. Seconded by Parsch.

To approve the 2022 Training Plan for the Zoning Board of Appeals as presented.

**Yeas: Hogan, Bostick-Tullius, Cattane, Parsch and Waugh.**

**Nays: None.**

**Absent: Farrington.**

**Abstain: None.**

**MOTION CARRIED.**

**TRAINING REPORT**

There was no training reported.

**ADJOURNMENT**

There being no further business, it was moved by Bostick-Tullius and supported by Parsch to adjourn the meeting at 8:37 p.m. **MEETING ADJOURNED.**

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Eric Cattane, Secretary

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Kimberly Hodge, Recording Secretary