

**CHARTER TOWNSHIP OF VAN BUREN
BOARD OF ZONING APPEALS
Tuesday April 13, 2021
DRAFT MINUTES**

To mitigate the spread of COVID-19, protect the public health, and provide essential protections to Van Buren Township residents; this Van Buren Township's Board of Zoning Appeals meeting will be conducted virtually as permissible under Public Acts of 2020 Act No. 254 and Declaration of Health Emergency in Wayne County.

Prior to the start of the meeting, the public was given instructions on how to take part in the meeting.

The meeting was called to order at 7:03 pm via Zoom by Vice Chairperson Amos Grissett.

PLEDGE OF ALLEGIANCE

ROLL CALL:

Present: John Herman, John Haase, Medina Atchinson (Planning Commission Rep.), Jeff Jahr (Planning Commission Alt.), Kevin Martin (Trustee), Amos Grissett (Vice-chair)

Absent Excused: Charles Larocque, Aaron Sellers (Chair)

Staff: Dan Power (Dir. Of Planning & Economic Development), Tammy Dohring (Recording Secretary)

Vidya Krishnan (Planning Representative) Ryan Nichols (Communication Specialist)

Audience: 5

ACCEPTANCE OF AGENDA: Herman motioned; Haase seconded to accept the Agenda as presented.

ROLL CALL:

Yeas (5): Haase, Herman, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

Motion Carried

APPROVAL OF MINUTES:

Haase motioned; Martin seconded to approve the minutes from the February 9, 2021 meeting.

ROLL CALL:

Yeas (5): Haase, Herman, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

Motion Carried

Haase motioned, Herman seconded to open the public hearing for non-new business items.

CORRESPONDANCE: NONE

Atchinson motioned, Herman seconded to close the public hearing for non-new business items

ROLL CALL:

Yeas (5): Herman, Haase, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

Motion Carried

Herman motioned, Haase seconded to open public hearing for New Business Items.

ROLL CALL:

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Yeas (5): Herman, Haase, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

Motion Carried

1. Case Number: 21-015 – Gardner Sign, Inc. on behalf of owner Genisys Credit Union

Location: 10444 Belleville Road (tax parcel ID 83 064 99 0003 717), zoned C-2 – Extensive Highway Business District:

Request: The applicant is requesting variances from the following section of the Charter Township of Van Buren Zoning Ordinance:

Section 11.108(B) of the Zoning Ordinance (Signs – Zoning District Regulations) of the Zoning Ordinance, which places certain limits on the area and height for monument signs in the C-2 zoning district:

- **Required:** (1) 8' maximum height (including base) on lots or developments that do not 2 or more major tenants, (2) 60-sq. ft. maximum total sign area (excluding base) on lots with greater than 200' but less than 400' of frontage.
- **Proposed:** (1) 10'-1 ¾" height (including base), (2) 92.32-sq. ft. total area (excluding base).

CORRESPONDANCE: NONE

Atchinson motioned, Herman seconded to close public hearing

ROLL CALL:

Yeas (5): Herman, Haase, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

Motion Carried

2. Case Number: 21-010 – Rob Wagner of Midwest Consulting on behalf of owner South Yost, LLC

Location: 44145 Yost Road (tax parcel ID 83 009 99 0004 001), zoned M-1 – Light Industrial:

Request: Applicant Rob Wagner of Midwest Consulting on behalf of owner South Yost, LLC is requesting two (2) variances from the following section of the Charter Township of Van Buren Zoning Ordinance:

Side yard setback and rear yard setback requirements of Section 4.102 (Schedule of Regulations) of the Zoning Ordinance, which requires certain setbacks for buildings or structures in the M-1 Zoning District:

- **Required:** The side yard setback shall be a minimum of 40' and the rear yard setback shall be a minimum of 40'.
- **Proposed:** 7.89' side yard setback and 0' rear yard setback.

Haase motioned, Herman seconded to open public hearing.

ROLL CALL:

Yeas (5): Herman, Haase, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

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Motion Carried

CORRESPONDENCE: None

Atchinson motioned, Haase seconded to close public hearing for New Business Items.

ROLL CALL:

Yeas (5): Herman, Haase, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

Motion Carried

UNFINISHED BUSINESS

1. Case Number: 21-006 – Neapco Drivelines on behalf of owner Van Buren Ind. Investors, LLC

Location: 6735 Haggerty Road (tax parcel ID 83 002 99 0026 704), zoned M-1, Light Industrial:

Request: The applicant is requesting a variance from the following section of the Charter Township of Van Buren Zoning Ordinance:

Maximum lot coverage limits of Section 4.102 (Schedule of Regulations) of the Zoning Ordinance, which limits the total lot coverage, or part of a lot occupied by buildings or roofed structures including accessory buildings or structures in the M-1 Zoning District:

- **Required:** The maximum lot coverage shall be 35%.
- **Proposed:** 35.92% lot coverage with +/- 711,179-sq. ft. of building area on a +/- 45.44-acre lot including a proposed canopy addition.

Director Power summarized that per the minutes from the BZA's February 9, 2021 meeting, the BZA reviewed this variance request, and requested that the case be postponed in order to give the applicant a chance to present to the Planning Commission, for a possible zoning ordinance revision, as opposed to a variance request. Thru the research of other communities, the staff discovered that different communities regulate lot coverage differently, some include parking lots, not only roofed structures. A canopy or unenclosed roof structure would not cause any additional detriment, including run off to a site, or increasing the intensity of development. Staff developed, with the Planning Commission, an ordinance that would allow a limited additional area of unenclosed roof structures to cover outdoor storage areas in industrial districts. This ordinance was developed over the course of three Planning Commission meetings and adopted by the Township Board after a public hearing. In this case's purpose's this negates the need for a variance as they no longer have an issue with lot coverage. Director Power recommended the BZA make a motion to withdraw the request to the BZA for a variance.

The Board inquired if the Applicant needed to submit a written request for withdrawal. Director Power responded that he could get a written notice at a later date. Vidya Krishnan also responded that typically the applicant would submit a written request for withdrawal, however in this particular case, it can also be closed thru the BZA, since the applicant achieved what was requested thru a text amendment that has already been put in place by the Township Board. Ms. Krishnan suggested to make a motion to close the case.

Haase motioned, Herman seconded to close Case **Number: 21-006 – Neapco Drivelines on behalf of owner Van Buren Ind. Investors, LLC**

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ROLL CALL:

Yeas (5): Herman, Haase, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

Motion Carried

NEW BUSINESS

1. Case Number: 21-015 – Gardner Sign, Inc. on behalf of owner Genisys Credit Union

Location: 10444 Belleville Road (tax parcel ID 83 064 99 0003 717), zoned C-2 – Extensive Highway Business District:

Request: The applicant is requesting variances from the following section of the Charter Township of Van Buren Zoning Ordinance:

Section 11.108(B) of the Zoning Ordinance (Signs – Zoning District Regulations) of the Zoning Ordinance, which places certain limits on the area and **height** for monument signs in the C-2 zoning district:

- **Required:** (1) 8' maximum height (including base) on lots or developments that do not 2 or more major tenants, (2) 60-sq. ft. maximum total sign area (excluding base) on lots with greater than 200' but less than 400' of frontage.
- **Proposed:** (1) 10'-1 ¾" height (including base), (2) 92.32-sq. ft. total area (excluding base).

Ms. Krishnan presented her letter dated April 5, 2021. She reiterated the subject site is a 1.6 acres lot acres parcel located in C-2 Extensive Highway District. Genisys Credit Union is proposing signage which exceeds the maximum height and maximum size for the C-2 district. The current Monument Sign Regulation for the C-2 district is maximum height of 8ft (on lots with two or fewer tenants) and maximum 60 square feet (foot lots with frontage between 200-400 square feet). The proposed sign height is 10.15 feet and proposed area is 92.32 square feet. This is a variance request of 2.15 feet for sign height and 32.32 square feet for area.

Ms. Krishnan's recommendation to deny the variances requested by Genisys Credit Union is based on the following 16 findings of facts:

1. The signage permitted by the ordinance will have as much visibility on Belleville Road as any of the other businesses.
2. The applicant's justification regarding line of sight is inaccurately presented from a pedestrian view.
3. The subject site has multiple routes of access.
4. There is no data to substantiate the statement that the sign as allowed by the ordinance will impede the applicant's ability to attract new clients.
5. The applicant likely picked the site with full knowledge of the existing trees and line of sight. The situation did not just arise.
6. Strict compliance with the sign height and sign area requirements would allow for a substantial sign similar to all other commercial properties on Belleville Road.
7. The requested variances would do substantial justice to the applicant, but is not reasonable to other property owners who have complied with the Ordinance standards.
8. There are no unique circumstances associated with the subject parcel.
9. The problem necessitating the variances is self-created.
10. The proposed variances are related to the valid exercise of police power.
11. The proposed variances will not impair an adequate supply of light and air to adjacent property or increase the congestion in public streets.
12. The proposed variances will not increase the hazard of fire or flood or endanger the public safety.

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13. The variances are likely to have long term impact on the Belleville Road corridor for sign proliferation.
14. The variances are not likely to impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township.
15. The variances are likely to alter the essential character of the neighborhood.
16. The variances requested are contrary to the intent of the Zoning Ordinance and sound planning principles.

Genysis Credit Union Representatives: Mia Astor with Gardner Signs, Jackie Buchanan and Michelle Mattsen with Genysis Credit Union.

Ms. Buchanan stated that the credit union is excited to be moving into Van Buren Township, and growing their business, they will be closing the Ypsilanti Branch and re-locating those employees to the Van Buren branch. They were aware when they bought the bank building, of the trees, but in the past have been able to move trees around. Mia is attempting to show the board a picture of how the trees have grown over the last 20 years, resulting in the need for a bigger sign. The applicant suggested the picture shown in the report from McKenna, is a picture heading North looking backwards at the sign, not a picture heading south. Ms. Krishnan refuted this statement saying the picture was taken from the middle lane of Belleville Road, heading South. Ms. Krishnan also stated that because of the green belt plantings requires one tree for so many linear feet, trees cannot be moved or clustered together. Ms. Astor showed an aerial view of the property, showing that of the out lots, the credit union site is the only one that doesn't have an access drive next to it, and GPS brings you to the front of the location, and does not show the access drives. The second picture shows the current 5/3 sign with the trees as of present. The next picture shows the location of where the new sign would go on side of the property nearest Applebee's. Ms. Astor clarified there will also be two wall signs and one on the back canopy, but the monument sign is the most important for a business. Ms. Astor stated that if the credit union had over 400 feet of frontage- they would be allowed a 90-foot sign, so they are not asking for a size that's not allowed, she requested that allowing the variance be reconsidered, because of the trees.

Ms. Krishnan explained that the DDA and the Township have worked very hard to establish the amenities for businesses along Belleville Road, including the established trees. Ms. Krishnan also stated that the image depicting the 5/3 sign, shows a non-conforming sign. The monument base needs to be two feet in height and as wide as the sign, the pictured sign is estimated to be 32 square feet. The allowed new sign would be approximately double the size of the existing 5/3 sign. The request for a sign variance is not justified by the evidence presented.

Ms. Buchanan stated they are respectful to the process and invited the commissioners to drive by the site and view the sign.

The Commission inquired if the applicant can install a berm for the sign to sit on. Ms. Krishnan replied, the ordinance does not allow alterations to the grade.

The applicant asked if the trees could be replaced with the same tree, but smaller. Ms. Krishnan replied that is not a solution, the trees will still grow, she did suggest possibly trimming the under canopy. Director Power stated that the trees were strategized planted deliberately, the township would be open to hearing ideas about corrective pruning of the trees on the private property, but it would require follow up with the DDA and the Township. Ms. Astor stated she would like to know how the trees were strategically planned out, since there are none in front of Applebees.

Commissioner Atchinson implored the applicant not place the success of their business on the size of the sign, the community involvement and presence that Genysis provides the community, is something that 5/3rd never did.

Vice Chair Grissett asked if the request should be tabled, in order to research more regarding the trees. Commissioner Martin stated the trees aren't germane to variance request for the sign. Director Power reiterated to the commission as well, the tree pruning is sperate from the variance request, and postponing should only be done if there are missing details, which there have been a lot of details provided.

BOARD DISCUSSION

Commission requested Ms. Krishnan go over the standard of accepting or rejecting a variance.

Ms. Krishnan explained would not approving the variance prevent the applicant from not using the property. Would non-approval impede the applicant's ability to increase business, showing the facts to support this. Is access to the site

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limited, and would require a larger sign, is there anything unique to the site, that justifies the need for a variance, would compliance with the ordinance create unnecessary burden for the applicant, or is it self-created? She stated the details are all summarized in the report.

Commission stated that they have a set of rules, and try not to set new precedences for anybody. There's been several new businesses and all want larger signs. They all want their signs to be seen. The new sign will be equal to or larger than any other sign on Belleville Road, when it comes to businesses of that size.

Herman motioned, Martin seconded to deny the request for a variance of a larger sign, based on the 16 points mentioned in the McKenna letter dated April 5, 2021.

ROLL CALL:

Yeas (5): Herman, Haase, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

Motion Carried

2. Case Number: 21-010 – Rob Wagner of Midwestern Consulting on behalf of owner South Yost, LLC

Location: 44145 Yost Road (tax parcel ID 83 009 99 0004 001), zoned M-1 – Light Industrial:

Request: Applicant Rob Wagner of Midwest Consulting on behalf of owner South Yost, LLC is requesting two (2) variances from the following section of the Charter Township of Van Buren Zoning Ordinance:

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- **Required:** The side yard setback shall be a minimum of 40' and the rear yard setback shall be a minimum of 40'.
- **Proposed:** 7.89' side yard setback and 0' rear yard setback

Ms. Krishnan presented her letter dated April 05, 2021. She reiterated the subject site is a 1.5-acre parcel located in an M-1 Light Industrial District. South Yost, LLC is proposing additions to the existing facility which necessitates a variance from the side yard and rear yard setbacks.

The current Zoning Ordinance has a side yard setback of 40.00 feet. The existing and proposed set back is 7.89 feet, requesting a variance of 32.11 feet. The rear set back requirement is 40.00 feet. The existing setback is 59.32 feet, with a proposed set back of 0.00 feet, requesting a variance of 40.00 feet.

Ms. Krishnan's recommendation to approve the variance, based on the following 11 findings of fact.

1. Strict compliance with setbacks would prevent the owner from using the property for a permitted purpose and would render the conformity unnecessarily burdensome.
2. The requested variance would provide substantial justice to the applicant and is not averse to the interests of the other property owners.
3. The subject site is occupied by an existing legal nonconforming use.
4. The need for the State mandated outdoor storage area is not self-created.
5. The proposed variance is related to the valid exercise of police power.
6. Approving the variance is not likely to impair adequate supply of light and air to the adjacent properties
7. Approval of the variances is not likely to increase the hazard of fire.
8. Approval of the variances is not likely to diminish or impair established property values within the surrounding areas.

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9. Approval of the variances is not likely to impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township.
10. Approval of the variances is not likely to alter the essential character of the neighborhood.
11. Approval of the variance does not alter the use of the land

Director Power stated that because the scope of what is being proposed, is an addition on an industrially zoned site, it is required to go thru site plan review with the Planning Commission, if the variance is granted, as a practice the Planning Commissioners take an informal look at the request first. The comments from the March 24, 2021 PC Meeting, are on page 55 of the packet.

South Yost LLC Representatives: Rob Wagner, Civil Engineer, with Midwestern Consulting and Kevin Ramirez with South Yost LLC

Mr. Wagner reiterated what was mentioned in the McKenna report that this addition is being required by EGLE because of the change in ownership. The building is currently non-compliant, the proposal is to tie the structure into the existing structures foundation, and there really is no other place for the structure to go. It has been functioning since the 1970's. The site to the west is also located in the setback. The Planning Commission questioned if the railroad was subject to notification and Mr. Wagner stated they would be notified, and the easement in question is the right of way for the railroad.

BOARD DISCUSSION:

Commissioners stated the request seems very straightforward, there is no other place to go, and there isn't anything around the site besides industrial complexes and railroads. The applicant did not create the problem, it was mandated by the state.

Director Power clarified, that even though it was mandated by EGLE, they did give deference to the Township, and the State has allowed the Township to work with applicant to take it thru the local process, but to the extent that the requirement to build an addition is required to get their license.

Atchinson motioned, Herman seconded, to grant approval for the variance request to Midwest Consulting and South Yost, LLC, based on the McKenna Letter dated April 5, 2021, and subject to the permits and requirements of the Township.

ROLL CALL:

Yeas (5): Herman, Haase, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

Motion Carried

Director Power reported that there are no applications on the agenda for the May BZA Meeting.

Herman motioned, Haase seconded to adjourn meeting 8:52pm

ROLL CALL:

Yeas (5): Herman, Haase, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

Motion Carried

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Respectfully submitted,

Tammy Dohring, Recording Secretary