

BOARD OF ZONING APPEALS MINUTES

A regular meeting of the Farmington Board of Zoning Appeals was held on Wednesday, May 5, 2010, in Council Chambers, 23600 Liberty Street, Farmington, Michigan. Notice of the meeting was posted in compliance with Public Act 1976.

Chairperson Buyers called the meeting to order at 7:02 p.m.

ROLL CALL

PRESENT: Buyers, Buck, Bennett, Christiansen, Majoros.

ABSENT: None.

CITY OFFICIALS PRESENT: Director of Public Works Gushman, Building Inspector Koncsol .

MINUTES OF PREVIOUS MEETINGS

MOTION by Christiansen, supported by Bennett, to approve the minutes of the previous meeting of April 7, 2010, with the following change under commission comments and announcements: eliminate discussion and replace it with the wording "The Board discussed procedural issues related to discussions with Petitioners and addressing questions through the Chair." Motion carried, all ayes.

MOTION by Bennett, supported by Majoros to approve the minutes of the February 8, 2010 Planning Commission Meeting. Motion carried, all ayes.

APPEAL OF: Bill Darwich on behalf of Yum Yum's Deli
 Jim's Awnings 22004 Farmington Road
 7555 Greenfield Road Farmington, MI
 Detroit, MI 48229

Chairperson Buyers stated Mr. Darwich was requesting two variances to Table 25-09 in order to install a 29.25 s.f. illuminated sign on the west wall of the Crossroad's Shopping Center.

- City ordinance limits the number of wall signs to one; Happy's Pizza currently has a 126 s.f. sign on the west wall..
- The area of the two wall signs, if allowed, would total 155.25 s.f.; the maximum area for signage outside downtown Farmington is 150 s.f.

Mr. Darwich, from Jim's Awnings, addressed Board to tell the reasons why he is requesting the variances on behalf of Yum Yum's Deli. He explained that after discussion with owner of the Deli, he/owner, was under the assumption from the landlord that he would be allowed a sign where's the "Happy's" sign is now located on the outside of the parapet. Owner has done work and signed lease working under this impression and is requesting variance so that he can put a sign on the west side of the parapet.

Chairperson Buyers entertained questions or comments from Board.

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Bennett inquired of staff where Happy's Pizza sign is presently located and the layout of building, whether it has any bearing on this variance request.

Koncsol explained it has partial bearing on the fact that it isn't part of Yum Yum's wall area and referred to picture in package where alcove is depicted.

Petitioner agreed with comment and explained the oddity of the parapet and layout of shopping center.

Majoros inquired if what Petitioner is asking is northern most edge of Happy's flush with entrance to Yum Yum's or does Yum Yum's go in a bit and Happy's come out under parapet.

Koncsol clarified by indicating that Yum Yum's goes out further.

Majoros indicated that perhaps Yum Yum's could be considered not a true corner lot but has only a portion of corner but the argument could be held that it is a double corner.

Petitioner further clarified layout and request by saying owner does not want two signs but wants his located where Happy's sign is currently located.

Bennett stated he didn't ask question to get in discussion of building but where frontage is for Yum Yum and states it is definitely facing Nine Mile and not Farmington; and suggested that perhaps this is not a zoning problem but a construction problem.

Christiansen explained his understanding of the ordinance that each business is allowed one wall sign per street frontage and Koncsol agreed with his interpretation. Christiansen further elaborated that Petitioner is requesting a second wall sign to be put on western façade of parapet and thus the variance; plus the second variance due to dimensional issue of two combined signs going over size limit. He further commented he does not understand the basis for variance as he knows what is required to grant one and that he felt that this might be landlord issue and not zoning and enumerated some possibilities.

Bennett concurred with Christiansen and inquired of Petitioner as to current banners that are in place and inquired of Koncsol whether variances were granted for same.

Koncsol responded in the negative and indicated a warning was issued.

Christiansen then inquired of Koncsol what if Happy's took down sign on west wall, would we allow another use in center.

Koncsol responded that under new ordinance it would be allowed.

Christiansen then indicated he felt that would be allowable and that landlord could work it out with tenants as far as usage concerns and reiterates he feels this is still a landlord issue. He then inquired of Koncsol if it would be possible to combine signs together hypothetically, two uses put together as one, as a possible alternative and Koncsol responded that he believed so if it is within the confines of one unit.

Koncsol described conversation he had with John Hawkins, construction manager, who

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admitted that it was their call relative to promising that Yum Yum's could have a sign on building and when addition was brought to Planning Commission that is now Happy's, there was a representation of two outlines to constitute signs on that wall, and his correlation to getting approval through Planning Commission was that the issues of having that was an okay thing to do. Konecso explained to Hawkins that Planning Commission is not concerned with signage at that point; it is left to administration further down the road, and that should not be construed as approval and thus it being brought to Zoning Board.

Majoros further went into language of 25-9 and asks for clarification.

Gushman responded that would be a projecting sign and not wall sign and there are different sets of criteria for that.

Buck commented that he likes Majoros' thinking, that Board is fair body trying to work with applicants, and help our business community.

Christiansen then proposed that if sign on north side isn't what Petitioner really wants and due to the limitations in the ordinance, if they put a flush wall sign on west side, it would comply with ordinance and then parapet could be interpreted as part of Yum Yum's unit as it serves as covering for their entrance, for purposes of discussion, or consider it as two corner units as alternative interpretations.

Buyers inquired of Gushman if that jives with his interpretation of the perpendicular sign discussed previously.

Gushman responded that perhaps he misunderstood Majoros' proposition, but indicated that what Christiansen suggested is taking an architectural feature and attempting to bring that into the footprint of the building, which is not the case; whether there are offsets or features, wall area is interpreted by front space and would defer back to Planning Commission but could almost guarantee that that would be a stretch.

Buyers queried Gushman as to his comment in response to Majoros, if that would be a perpendicular sign and Gushman answered that it would be a wall sign and not a projecting sign in his current understanding.

Christiansen reiterated Gushman's statement by indicating that parapet area doesn't serve as footprint to building, not enclosed space, and doesn't meet criteria under which to be considered area of wall to be considered in calculations for determining sign area. He then deferred back to whether putting a sign on the west side of building and not north was still a possibility as an option.

Chairperson Buyers inquired of Petitioner his thoughts on that issue.

Darwich responded that to move existing sign would never be approved because of its size. He then asked if on the second variance request if Happy's allowed Yum Yum to use their square footage available to put Yum Yum's sign, would that pass as they would be asking for one sign and one variance then and clarified new sign could read "Yum Yum's Deli" and leave out "not your average deli." Further discussion was held on the signage. Chairperson Buyers clarified Petitioner's request by restating it.

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Bennett stated that Board needs interpretation by staff.

Koncsol responded that if Petitioner was to reduce it to 150 sq ft or just under that, that issue would go away and it would be an issue of two signs on that wall only. He indicated he had discussions with both owner of Yum Yum's and John Hawkins about corner sign that is now nonconforming with current ordinance about changing that but may be cost prohibitive.

Darwich stated he had suggested that to tenants and was out of their price range.

Gushman stated the wall sign would be in conformance with ordinance if it was two signs and placed in close proximity and made to look as one sign, it would not be an issue.

Christiansen stated that if he understood Petitioner correctly that the fact that the parapet is blocking the frontage there is a practical difficulty and the variance request should be stated as such.

Buck asked hypothetically if parapet was not present if Yum Yum's would be permitted to have sign over door; Gushman responded and asked for clarification. Buck inquired if architectural feature were not there, would business be allowed to have sign over that door and Gushman refers that to planner.

MOTION by Christiansen, supported by Buck that Board grant one variance to Table 25-09 in order to install a maximum 24 sq ft illuminated side on the west wall of the Crossroads Shopping Center for Yum Yum's Deli at 22004 Farmington Road as shown on attached plan; and that the variance be granted in accordance with Section 26-17 because the following conditions have been established by the Petitioner:

1. The applicant has demonstrated a variance is needed due to a practical difficulty on the site; that the presence of an existing structure and architectural feature referred to as "parapet" limits the visibility of the sign on the premises, the existing wall sign compared to other users within shopping center; and that the variance meets Standards 1 - 5 of Subsection (b) of 25-17, including that this is not a self created situation and again that a practical difficulty does exist, a unique condition does exist which warrants granting this second wall sign for Yum Yum's on the west side of the building.

Koncsol inquired if Christiansen said Section 26-17 and Christiansen clarified he meant 25-17 and corrected statement.

Christiansen further clarifies that under Subsection (a) the finding is that he's demonstrated a practical difficulty and has met the requirements of that section; that practical difficulty being based upon the architectural feature and blockage of existing sign warranting a second sign.

Bennett inquired if putting aside all the legal language is what is being granted is to maintain the northern sign of Yum Yum's and allow for second sign to west not to exceed 24 sq. ft.

Christiansen stated the total of existing sign of Happy's and new sign will be no more than 150 sq. ft.

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Bennett inquired as to this generating any legal hassle with Happy's and does Board need statement from Happy's regarding same.

Chairperson Buyers stated that they were given notice of tonight's meeting and didn't appear to state any objections and that Board does not necessarily need the acquiescence of Happy's.

Buck inquired as to confirmation of the owners of Happy's being on the list of recipients of the proposed variance request.

Bennett inquired if Board needs agreement from Happy's in order to do something.

Christiansen responded that no, the motion on the floor and second is dealing with Yum Yum's request for a variance and Gushman is in agreement with that and Buck is comfortable with that response.

Majoros commented on the size of proposed sign and further discussion was held on the subject.

Christiansen supported Majoros' comment and stated that the administrative staff will work with Petitioner to assure compliance.

Chairperson Buyers inquired if there was further discussion of motion; none being heard, motion carried, all ayes.

PUBLIC COMMENT

No public comments were heard.

COMMISSION COMMENTS AND ANNOUNCEMENTS

Mayor Buck reminded the Board the second budget workshop will be held at the Maxfield Training Center on 5/12 at 6:00 p.m.

ADJOURNMENT

MOTION by Buck, seconded by Majoros, to adjourn the meeting. Motion carried, all ayes.

The meeting adjourned at 8:02 p.m.

John D. Koncsol , Building Inspector