

Council Chamber
Henry L. Brown Municipal Bldg.
One Grand Street
Coldwater, Michigan



July 21, 2021
4:30 p.m.
(517) 279-9501
www.coldwater.org

Zoning Board of Appeals Minutes

Regular Meeting

MEMBERS PRESENT: The meeting was called to order by Vice Chairman Swan at 4:30 p.m. with the following members present: David Cole, Mike Eddy, Joseph Hayes and Alternate member Jim Bilsborrow.

MEMBERS ABSENT: Mike Renshaw and Alternate member Jeff Holbrook.

OTHERS PRESENT: Administrator Dean Walrack, Shauna Chávez and Clerk Susan Heath; Courtney Sekula, Amanda Wills, plus one other.

MINUTES

1. Regular Meeting of May 19, 2021.

Board Action: Motion by Member Hayes, and seconded by Member Cole, to approve the Regular Meeting minutes of May 19, 2021, as presented.

Ayes: 5

Nays: 0

Motion carried

PUBLIC COMMENTS

- None

PUBLIC HEARING

2. ZBA21-03 A request from Birds of a Feather, LLC located at 894 E. Chicago St. to consider an 85 ft. sign height variance from Section 5.1.D.3 of the Coldwater Zoning Code to install freestanding signage at a height of 100 ft.

Vice Chairman Swan opened the public hearing at 4:53 p.m.

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Administrator Walrack presented ZBA 21-03 A request by Birds of a Feather, LLC, the owners of the Tree House Provisioning Center for an 85 ft. height variance to install a business sign at 100 ft. in height at the northwest corner of the commercial building. The Coldwater Zoning Code limits freestanding sign height to 15 ft. throughout the City. The property located at 894 E. Chicago St. is a commercial property which is being used as an Adult Use Recreational Marihuana Retail Establishment. The property has no street frontage on any road and is accessed by an ingress/egress easement across 892 E. Chicago St., the Phoenix Building.

The Zoning Board of Appeals may grant a “non-use” variance only upon a finding that practical difficulties exist. A finding of practical difficulty is when the applicant has demonstrated all of the following:

A. That special conditions and circumstances exist which are peculiar to the land, land use, structure or building in the same zoning district so as to present such a unique situation that a precedent will not be established for other properties in the district to also ask the same or similar change through the zoning appeal procedure.

This site is landlocked and without frontage on any road. The ingress/egress easement provides permission for staff, customers, and agents of the property to gain access to the site, however this permission does not seem to include allowance for signage. This land locked circumstance seems to be extremely unique throughout the City.

B. Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

This property does not possess frontage upon any roadway upon which to advertise its operators’ presence. Unlike the other land locked properties in this vicinity, there is significant tree cover between nearby roadways and this property which the applicant has no control over management of.

C. The authorization of such variance will not be of substantial detriment to adjacent property and will not naturally impair the intent and purpose of this Zoning Code or the public interest. The proposed signage should pose little danger to structures or occupants on adjacent property. The intent of the Zoning Code is clearly to affect a uniform City-wide signage framework where signs are easily legible and identifiable from the street itself. The Planning Commission has repeatedly declined to act to raise the maximum sign height, including a consideration for a taller height nearby the highway interchange in December of 2020.

D. That granting of the variance requested will not confer on the applicant any special privilege that is denied by the provision of this Zoning Code to other lands, structures or building in the same zoning district.

This site does not have direct access to a public roadway: two similar instances exist on the north side of E. Chicago St. at the current Maytag Laundromat building (365 N. Willowbrook)

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and the Oasis Car Wash building (771 E. Chicago St.). Each of these locations have signs which are 25 ft. in height, however are not affected by dense tree coverage which is outside of their control. Applicants for sign permits regularly ask about additional height and the majority of these have been dissuaded from formal requests due to the precedence of previous Zoning Board of Appeals and Planning Commission. Additionally, several legally nonconforming signs which have been repaired or replaced have been required to conform to the 15 ft. height restriction.

E. That the reasons set forth in the application for the variance justify the granting of the variance and the variance is the minimum variance that will make possible the reasonable use of the land, building or structure in the zoning district in which it is located.

The property in question is unique in its absence of roadway frontage upon which to make its presence known, as well as its lack of control of vegetation between itself and the nearest roadway. Staff is not able to accurately state the height of the trees between the site and the roadway, but the most common native trees are able to reach heights between 60 and 100 ft.

Variances to be considered: 1. 85 ft. variance from Section 5.1.D.3 to increase total freestanding sign height to 100 ft. from 15 ft. at the northwest corner of commercial building.

Administrator Walrack also noted the Planning Commission, which granted the Special Use Permit for the property, would like to perform a discretionary review if the signage variance is granted. When the Planning Commission granted the SUP, signage wasn't a concern as the business information was included on a sign located at US-12. Without a written agreement, however, the property has no legal right to the US-12 signage, and that access has since been revoked.

Courtney Sekula and Amanda Wills, representatives of the property were on hand to answer Commissioner's questions. Located behind a barrier of tall trees and without access to the US-12 signage, Ms. Sekula and Ms. Wills asked for the variance in order to erect a sign that will be visible and help direct potential customers to their business.

Administrator Walrack reported that he received one email regarding ZBA21-03 (attached in Addendum A).

Public Comment: None.

Vice Chairman Swan closed the public hearing at 5:49 p.m.

Board Action: Motion by Member Hayes, and seconded by Member Cole, to table to ZBA21-03 to allow the Planning Commission to review, as presented.

Ayes: 5

Nays: 0

Motion Carried.

OLD BUSINESS

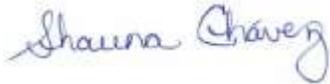
- None.

NEW BUSINESS

- None.

ADJOURNMENT – Next Meeting 4:30 p.m. August 18, 2020.

Meeting adjourned at 5:53 p.m.

A handwritten signature in blue ink that reads "Shauna Chávez". The signature is written in a cursive style with a large, looping 'S' and 'C'.

Shauna Chávez
Deputy City Clerk

Public Comment Re: SUP21-15

Walrack, Dean <dwalrack@coldwater.org>

Mon 7/19/2021 3:27 PM

Cc: Omar Fakhouri <omar.fakhouri1@gmail.com>; Heath, Sue <sheath@coldwater.org>; Chavez, Shauna <schavez@coldwater.org>; Sikorski, Debra <dsikorski@coldwater.org>

Good afternoon Planning Commissioners,

Below is a Public Comment for tonight's Public Hearing item SUP21-15. I will also read this comment aloud during the Public Hearing at tonight's meeting.

Planning Commissioners,

Please accept this email as our concern for the special use approval consideration for another retailer/dispensary at 365 N Willowbrook Rd. As background, I am a member of Green Bronco, LLC / dba Mint Cannabis, a company that received its special use approval earlier this year at the same exact location (one suite away) from the subject property.

My concern is not related to allowing approval of more cannabis dispensaries within Coldwater, although at some point there will be excessive concentration of facilities that will lead to businesses failing and subsequently vacant buildings. **My primary concern is the location of this application and the impact of having multiple retail dispensaries in the same plaza sharing 1 parking lot.**

I've provided my feedback on 2 standards that I'd like the Commission to consider when deciding on the special land use approval

Discretionary General Standards (listed those not in compliance)

- The special land use shall not change the essential character of the surrounding area,
 - We believe that cannabis dispensaries have a role to play in the community and are a necessity, however, we do believe that having a concentration of facilities **will change** the character of the surrounding area. We do not want to suggest that the change will be exclusively negative, however, we do believe that the character would change to more adult use type of operations and draw that type of business and those types of tenants. Consequently, alternative business types may elect to relocate to other areas due to a heavy concentration of adult use businesses (e.g., businesses geared towards youths like daycares)
- The special land use shall not be hazardous to adjacent property or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes or glare.
 - The amount of traffic one retail dispensary will draw is extremely high (over 400 customers a day). This coupled with having 20+ employees at our facility, offering curbside pick up and offering delivery services, accepting deliveries from vendors daily, will result in a high level of traffic in and out of the vicinity. While I believe our current facility can be supported, we believe that having another same sized facility at the same building sharing 1 parking lot, sharing the same ingress/egress will become hazardous and result in excessive traffic. A dispensary operation is complex and generates traffic from not just customers, but the operation itself.
 - We have serious concerns on the availability of parking when you have 2 high traffic dispensaries operating in the same small (3 unit plaza) and sharing a parking lot. 42 spaces may seem

sufficient for a typical retail business, however, we anticipate this will be inefficient to support the 3 suites/tenants in this plaza.

- As anecdotal evidence, our Kalamazoo dispensary exceeded its parking expectations and we had to purchase the adjacent building to utilize their parking. In fact, parking is one of the key criteria we use as a company to assess if the business can handle the anticipated volume of customers. We project our dispensary will be busier than our Kalamazoo dispensary.

In short, I am not against more marijuana retailers opening up in Coldwater and actually support the growth of the industry (we did not have issue with the former Goodwill building being approved as a dispensary as there would be sufficient parking to support it on its own). We just have concerns for the adjacent businesses when 2 high traffic dispensaries open next door to each other with insufficient infrastructure to support. We believe there is strong evidence of non-compliance to the discretionary general standards.

Thank you for your consideration.

Omar Fakhouri
email | omar.fakhouri1@gmail.com

Dean Walrack
Planning & Zoning Administrator
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