

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



August 18, 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 Chairman Renshaw at 4:30 p.m. with the following members present: Gordon Swan and Alternate Member Jim Bilsborrow.

MEMBERS ABSENT: Mike Eddy, Joseph Hayes, David Cole and Alternate Member Jeff Holbrook.

OTHERS PRESENT: Dean Walrack, Megan Angel, Shauna Chávez and Susan Heath.

MINUTES

1. Regular Meeting of July 21, 2021.

Board Action: Motion by Member Swan, and seconded by Member Bilsborrow, to approve the Regular Meeting minutes of July 21, 2021, as presented.

Ayes: 3

Nays: 0

Motion carried.

PUBLIC COMMENTS

- None.

PUBLIC HEARING

- None.

OLD BUSINESS

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.

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. Note – this is a second look at a variance request from a July ZBA Public Hearing, at which the item was tabled so it could go back to the Planning Commission for review. At the August 16, 2021 Planning Commission meeting, the board voted as follows: “Motion by Commissioner Cole, seconded by Commissioner Rumsey, to Recommend to Zoning Board of Appeals that the Planning Commission would not have approved the Special Use Permit for this property with the proposed 100-foot-tall signage, as presented”.

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 Marijuana 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) 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.

Attorney Angell noted for the board that if the petitioner were here perhaps they would say they had access to street front signage before they changed use of the property back in March and did not think it would be an issue. They no longer have access to street front signage or rights to the trees that block the view to their property from the road.

Board Discussion: Variance request fails to meet criteria B, C, D and E.

Board Action: Motion by Member Swan, and seconded by Member Bilsborrow, to deny the variance due to its failure to meet criteria B, C, D, E of the code, as presented.

Ayes: 3

Nays: 0

Motion Carried.

NEW BUSINESS

- None.

ADJOURNMENT – Next Meeting 4:30 p.m. September 15, 2020.

Meeting adjourned at 4:50 p.m.

A handwritten signature in blue ink that reads "Shauna Chávez". The signature is written in a cursive style.

Shauna Chávez
Deputy City Clerk