

***BYRON TOWNSHIP ZONING BOARD OF APPEALS  
REGULAR MEETING – October 22, 2008  
MINUTES***

The regular meeting of the Byron Township Board of Appeals was called to order by Chairman Abe VanderWoude on Wednesday, October 22, 2008, at 7:00 p.m., at the Byron Township Offices, 8085 Byron Center Ave., Byron Center, MI.

Members present were: Abe VanderWoude, James Haagsma, Jeff Brinks, Seymour Gould, and Kathy Burgess. Absent: Alternate Doug Tubergen. Also present was Township Building Inspector Randy Zomerlei and Recording Secretary LaVonne Kuiper.

**7:00 p.m. – Auto Zone – (Phillip Pecord) - requesting a 10’ landscape buffer variance along a public right-of-way and a 10’ landscape buffer from a residential property for the property located at 6729 Division Ave. SW.**

Mr. Jeff Brinks read the public notice and affirmed that the notice was published once in the South Advance Newspaper at least 15 days prior to the meeting and notices were sent to all property owners within 300’ of the subject property. No written responses were received.

Phillip Pecord the Project Specialist for Auto Zone was present to explain the variance request. He stated the variances they are requesting are due to the Kent County Road Commission restricted the access to the existing driveway shared by the adjacent strip shopping center. As a result of this they are aligning the parking and drive configuration with the existing parking netting us less than the landscape setback in the ordinance. Also the adjacent property is the Cutlerville Fire Station which is not a residence but is in a residential zone. Currently the land is paved on both sides of the property line which provides a continuous access from the shopping center and the fire department, for deliveries, waste disposal, pick ups, and those residents who use this as a thoroughfare who do not wish to go onto Division Avenue.

Chairman VanderWoude opened the hearing to the public.

**Russ Jansen - Fire Chief** - agreed with Phillip Pecord that with the new alignment of the buildings it should help to prevent this thoroughfare traffic. They have posted signs but it has not done any good.

No further public comments were made.

A motion was made by Haagsma supported by Gould to close the public portion of the meeting. All voted aye. Motion carried.

Jim Haagsma asked Mr. Pecord if this was going to be a new building.

Phillip Pecord responded and stated that they intend to demolish the old building and replace it with a new one. This had to be done due to the ground contamination and the old tanks that are stored under ground. They will remove the tanks and clean up the contaminated soil and get the area cleaned up. This building has sat vacant since 2006.

Chairman VanderWoude asked if the grass in the back of the building belonged to Auto Zone.

Phillip Pecord commented it does belong to Auto Zone and is currently being maintained and they did add some landscaping along the south side of the property.

Phillip Pecord stated they are going to maintain the streetscape that everyone has along Division Ave. He just does not know who he has to contact.

Kathy Burgess stated that project was just done and she would find out who he would have to contact for the streetscape project.

Jeff Brinks asked Phillip what the time frame was for the beginning on construction.

Phillip responded by saying that winter is coming on and they have to demolish the old building and remove the underground tanks. He stated that permit applications have been submitted to the Township and once the site is ready construction will get under way. He thought it would be in early spring of 2009.

Gould shared his concerns with the streetscape and that it has to be continued.

Phillip Pecord again stated that he want to line his building up with the strip mall next to his property.

After some additional discussion a motion was made by Haagsma supported by Gould to grant the 10' landscape buffer from a residential property as it currently exists with no landscape buffer.

Roll call vote: Burgess - yes. Gould - yes. Brinks - yes. Haagsma - yes. VanderWoude - yes. Motion carried. Variance granted.

A motion was made by Haagsma supported by Burgess to grant the 10' landscape buffer variance along a public right-of-way with the condition that the streetscape must be extended along Division Avenue frontage.

Roll call vote: Haagsma - yes. Gould - no. Brinks - yes. Burgess - yes. VanderWoude - no. Motion carried. Variance granted.

**7:15 p.m. – James Crank – requesting a 40 sq ft., sign area variance to erect a reader board on an existing sign for the property located at 454 – 68<sup>th</sup> St.**

Jeff Brinks read the notice and affirmed that the notice was published once in the South Advance Newspaper at least 15 days prior to the meeting and notices were sent to all property owners within 300' of the subject property. No written responses were received.

James Crank from JTC Restaurant / Crankers Coney Island – was present to explain the variance request. He simply stated that he would like to have a reader board like all the other restaurants in the area. He is not sure if some of them received a variance for their signs. He is renovating this building which has been sitting vacant for quit a while.

Chairman VanderWoude opened the hearing to the public.

No public comments were made.

A motion was made by Burgess supported by Gould to close the public portion of the meeting. All voted aye. Motion carried.

Board member Haagsma asked Mr. Crank if he intends to use the existing sign frame.

Mr. Crank responded and stated that it will be the same pole with the reader board to be added lower down.

Chairman VanderWoude asked when does the 90 sq. ft. sign which is there now drop down to 50 sq ft.? Which is the legal size? This building has been vacant for a number of years.

Brinks stated it goes away when the sign falls down or is taken down. It is a legal non-conforming sign. He also asked Mr. Crank what type of reader board he is proposing.

Mr. Crank stated he would love to have an electronic reader board but they are expensive. They want people to see what they have to offer.

Chairman Vander Woude asked the applicant why he decided to go with the 4 x 10

size?

Mr. Crank stated that their other restaurants use that size.

Chairman Vander Woude stated if he went with 4' x 8' that would be the allowed size or the 32 sq ft. At least we would meet that part of the ordinance.

Jeff Brinks asked the board members to look at Section 21.6 (2) of the Zoning Ordinance. Look at that area, from the top of the hill all the way down to the tracks all the business have 100 sq ft., signs. By approving this variance it would put them on a level playing ground with the others. Must they be penalized because the ordinance changed. On the surface do we like more signs, no we don't. But we want to give them an equal opportunity to succeed.

A motion was made by Brinks supported by Haagsma to grant a 32 sq ft., sign area variance for a reader board on an existing sign because it meets Byron Township Zoning Ordinance 21.6 (2) & (3).

Roll call vote: Haagsma - yes. Burgess - yes. Brinks - yes. Gould - yes. VanderWoude - yes. Motion carried. Variance granted for a 32 sq. ft. readerboard on existing sign.

**7:30 p.m. – JEDD Investments, LLC – requesting a 30' rear yard setback variance for an existing building to create a new parcel for the property located at 8253 & 8255 Division Ave.**

Mr. Jeff Brinks read the public notice and affirmed that the notice was published once in the South Advance Newspaper at least 15 days prior to the meeting and notices were sent to all property owners within 300' of the subject property. No written responses were received.

Don DeGroot from Exxel Engineering was present on behalf of JEDD Investments, LLC. He stated this overall parcel exists with different uses. The land division separates the distinct difference in use but the existing distance between the buildings is only 70 feet. This variance is necessary in order to preserve the existing uses of the site and separate distinct uses into two separate parcels. Because the buildings and uses have been in place for many years with the building located as shown on the site, he feels this variance request is unique to this parcel.

Chairman VanderWoude opened the hearing to the public.

No public comments were made.

A motion was made by Haagsma supported by Brinks to close the public portion of the meeting. All voted aye. Motion carried.

Gould stated that he thought everyone thought it was 2 parcels all along.

A motion was made by Haagsma supported by Gould to grant the 30' rear yard setback variance, as this situation already exists and nothing will change except on paper.

A motion was made by Brinks supported by Haagsma to make an amendment to the motion stating that if the building's are destroyed, removed or eliminated that any future developer will have to meet the current zoning standards with the condition that a deed restriction be registered with the County stating the above condition, and a copy of that deed restriction be submitted to the Township.

Roll call vote: Burgess - yes. Haagsma - yes. Gould - yes. Brinks - yes. VanderWoude - yes. Motion carried. Variance granted.

**7:45 p.m. – Jon Bratt – requesting a variance to construct two billboards for the property located at 6147 Burlingame Ave. SW. The following variances are being requested:** (adjourned at the July 23, 2008 meeting)

**East Billboard**

- 1. A 200' setback variance from an existing residence. (17.6. (3))**
- 2. A 65' setback from an adjoining public right-of-way. (17.6 (4))**
- 3. A 372 sq ft., billboard area variance.**
- 4. A variance to erect a billboard on a property that is occupied by another use. (17.6).**

**West Billboard**

- 1. A variance to erect a billboard on a property that is occupied by another use. (17.6)**
- 2. A 223' setback variance from a residential zone. (17.6. (3))**
- 3. A 65' setback variance from an adjoining public right-of-way. (17.6. (4))**
- 4. A 372 sq ft., billboard area variance. (17.6 (5) & (4)**

Abe VanderWoude commented that this request has been tabled since July. We did receive a letter from the applicant requesting to table this again until further notice.

According to the Byron Township Ordinance, Section 21.10 (2) the Board must recess or adjourn a request to another day and time.

A motion was made by Brinks supported by Haagsma to recess this request until the November 26, 2008 meeting to be held at 5:00 p.m.

All voted aye. Motion carried.

## **Approval of Minutes – September 24, 2008**

A motion was made by Haagsma supported by Burgess to approve the minutes as written.

Yes - 4. No - 0. Abstained - 1 (Gould) Motion carried. Minutes approved.

### **Miscellaneous -**

► Chairman VanderWoude commented that each member has been given a copy of the Proposed Zoning Ordinance Amendments (Act 12 of 2008 Amendments in Zoning Enabling Act).

It has a lot of information regarding the Zoning Board of Appeals and he asked that each one read and study the information and write down your questions and concerns and take it along to the next meeting. We will discuss it at that time and pass it back to the Planning Commission.

► Kathy Burgess explained the situation regarding a particular property with the extra accessory building that was to be taken down but was not removed. It was decided due to the time lapse the Township could not enforce the ordinance.

► Chairman VanderWoude thanked Kathy Burgess for her time and the years of service she has spent on the Zoning Board of Appeals. We all enjoyed working with her and will miss her.

### **Adjournment**

8:20 p.m. It was moved by Haagsma supported by Gould to adjourn the meeting. All voted aye. Motion carried.

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Jeff Brinks  
Secretary of Board of Appeals