
**MINUTES OF A REGULAR MEETING
BOARD OF ZONING APPEALS
December 11, 2014 6:30 P.M.
600 W. Maple (Neighborhood Empowerment Center)**

I. ROLL CALL

The meeting was called to order by Marcie Alling at 6:35 p.m. Ms. Alling read the BZA introduction. Roll call was taken.

Present: M. Alling E. Horne A. Shinn K. Whitfield K. Litwiller M. Rice
B. McGrain J. Hovey

Staff: S. Stachowiak

A quorum of at least four members was present, allowing voting action to be taken at the meeting.

II APPROVAL OF AGENDA

E. Horne moved, seconded by M. Rice to approve the agenda as written. On a voice vote, the motion carried 8-0.

III. HEARINGS/ACTION

A. BZA-4008.14, 3218 Reo Road

This is a variance request by Howard Casey for a variance to permit the construction of a carport on the east side of the house at 3218 Reo Road that would have a setback of 7 inches from the side property line. Section 1248.08 of the Zoning Ordinance requires a 3 foot side yard setback. A variance of 2 feet, 3 inches to the side yard setback requirement is therefore, being requested. Staff recommended denial on a finding that the variance would not be consistent with the practical difficulty criteria of Section 1244.06 (c) or the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application.

Ms. Shinn stated that the neighbor to the east has a carport. She asked if it complies with the required 3 foot setback.

Ms. Alling opened the public hearing.

Howard Casey, 3218 Reo Road, spoke in support of the request. He said that the neighbor's carport is 3 feet from the side property line. Mr. Casey said that the proposed carport will be open and will be attached to the east side of the house at 3218 Reo Road. He said that it will be stick built which will increase the value of the house, as opposed to just putting up a metal carport. Mr. Casey stated that the carport will not result in any drainage run-off onto the neighbor's property as it will have a shed style roof with end gutters to redirect the water. He also said that there will be no maintenance to the side of the carport and therefore, even if the neighbor were to put up a fence, it would not cause any problems.

Mr. Casey said that his aunt has lived in this house since 1960 and has taken very good care of it. He said that the elevation drops off behind the house which is why the carport has to be in the side yard. He also said that there will not be enough structure for it to be a fire hazard.

Mr. Casey said that the reason for the carport is that his aunt has to undergo kidney dialysis 3 times each week and it is difficult enough for her without having to be exposed to the elements.

She also said that it is difficult for her to clean the snow and ice off of her vehicle.

Seeing no one wishing to speak, Ms. Alling closed the public hearing.

Ms. Horne asked about the materials that would be used for the carport.

Mr. Casey said that the carport will match the house in terms of materials, color and design. He said that the entire house will be getting a new roof within the next couple of years. He also said that the carport will have a gable roof and vinyl, yellow siding to match the existing house.

Mr. Rice said that Ms. Stachowiak mentioned reducing the variance. He asked the applicant if the width of the carport could be reduced.

Mr. Casey said that 12 feet wide seems reasonable since it allows the vehicle to be sheltered with additional space for people to navigate around it without having to be exposed to the elements. He said that his aunt uses a walker which is why she needs additional room.

Ms. Horne said that the ordinance requiring the 3 foot setback went into effect in 1983. She said that it was felt that 3 feet was the minimum necessary to allow maintenance if a fence goes up on the property line. She also said that neighbors are not always friendly with each other and there would be nothing preventing either property owner from putting a fence up on the property line at some point in the future.

Mr. Rice said that since there is nothing unique about the property, even a reduced variance would be difficult to justify.

Mr. Casey said that he could reduce the width of the carport to 9 feet, 3 inches so that the variance is reduced to 4 inches.

Ms. Horne stated that she could support that variance as long as there is a condition requiring the carport to be compatible with the house in terms of design, color and materials.

Mr. McGrain said that he is supportive of the reduced variance since the BZA has already, through past decisions, determined that a garage or carport is a recognized right.

Ms. Stachowiak stated that she is supportive of the modified variance. She said that it solves her concerns about maintenance to the grounds and side of the carport on the east side of the lot. She also said that the practical difficulty is the placement of the house on the lot and the elevation changes behind the house that prevents the applicant from constructing a garage/carport without a variance or without having to make substantial changes to the site to the extent that it would be a substantial hardship on the applicant.

Ms. Horne made a motion, seconded by Ms. Shinn to approve BZA 4008.14 for a variance of 4 inches to the required 3 foot side yard setback to permit a carport on the east side of the house at 3218 Reo Road, on a finding that the variance would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this request, with the condition that the carport is consistent in design, color and materials with the existing house at 3218 Reo Road.

Vote	Yes	No
Horne	X	
McGrain		
Alling	X	

Hovey		
Whitfield	X	
Rice	X	
Shinn	X	
Litwiller	X	

On a roll call vote (8-0), the variance was approved.

VI. OLD BUSINESS

A. BZA-4007.14, 1815, 1923 E. Michigan Avenue & 115 N. Clemens Avenue

This is a variance request by Speedway, LLC. The applicant intends to consolidate the properties at 1915, 1923 E. Michigan and 115 N. Clemens Avenue and construct a new, single story, 23.5 foot high, gasoline station building that would be located 125 feet from the front property line with parking in the front yard. In addition, the applicant is proposing 5 wall signs and 1 ground sign that would be 30 feet high, 166 square feet in area with a 9 foot setback from the front property lines. Section 1279.07(A) of the Zoning Ordinance requires the building to be located at the front property line and prohibits parking in a front yard. Section 1279.07(D) requires the building to be at least 2 stories and 25 feet in height. Section 1442.13 of the Sign Ordinance allows a maximum of 2 wall signs and Section 1442.12(5)(B) requires a 30 foot setback for a ground sign that is 166 square feet in area and 30 feet in height.

Ms. Stachowiak stated that staff is recommending that BZA 4007.14 be approved for a variance of 1 story and 1.5 feet to the required building height and 3 to the allowable number of wall signs at 1923 E. Michigan Avenue on a finding that the variances are consistent with the practical difficulty criteria of Section 1244.06(c) and the impact criteria of Section 1244.06(e), as detailed in the staff report for this application. In addition, staff is recommending that BZA 4007.14 be denied for variances of 21 feet to the setback requirement for a ground sign and for the placement of the building located 125 feet north of the front property line along E. Michigan Avenue and to permit parking in front of the building at 1923 E. Michigan Avenue on a finding that the variances would not be consistent with the practical difficulty criteria of Section 1244.06(c) or the impact criteria of Section 1244.06(e), as detailed in the staff report for this application.

Mr. McGrain stated that he and most of the people he has spoken with are comfortable with the staff recommendation.

Mr. Horne said that she cannot support the proposal by Speedway as it is contrary to the various plans that are in place for the E. Michigan corridor. She said that she had hoped that there would be more give and take on the layout of the site so that the gas station could be redeveloped but in a manner that was consistent with the development plans for the area.

Ms. Shinn said that she had hoped that there would have been further negotiations and compromises since the meeting last month so that there could be a proposal that everyone could support.

Mr. Rice said that most of the buildings along E. Michigan Avenue are already located at the front property lines. He said that requiring the gas station building to be located at the front property lines could impact the profitability of the business. However, he said that economics is not the primary factor when considering variances. Mr. Rice said that the Board has very

specific criteria that it must consider when determining whether to authorize variances and first and foremost is whether there is something physically unique about the property that prevents compliance with the ordinance or makes compliance with the ordinance unreasonably difficult on the property owner from a development, rather than an economic standpoint. He said that there is nothing physically unique about the subject property.

Ms. Shinn asked why both the applicant and the neighborhood organizations could not support placing the building at the southwest corner of the property as recommended by the City Transportation Engineer.

Mr. McGrain said that he hopes that there will still be opportunities to work with the applicant on coming up with a design that all parties can support. He said that the neighborhood was not supportive of placing the building at the southwest corner of the property because the whole idea is to minimize the view of the parking area and pump islands. Mr. McGrain said that if the building were to be located at the southwest corner of the site, the parking area/pump islands would still be the dominant feature of the site.

Mandy Gauss, CESO, Inc., said that all options were considered. She said that placing the building at the southwest corner of the site causes safety concerns with regard to a conflict between traffic entering the driveway on E. Michigan and vehicles backing out of the parking spaces in front of the building. Ms. Gauss said that the proposed building placement protects the property owners to the north from lights, noise and other nuisances that can be generated by gas stations. She said that the existing ground sign is 80 square feet in area and 25 feet tall.

Mr. McGrain stated that the fence height could be increased and trees could be utilized to protect the neighbors to the north from potential nuisances. He said that E. Michigan is an overlay district, just like Reo Town and Old Town, because it is designed to be more walkable and pedestrian rather than vehicle oriented.

Ms. Litwiller said that the existing gas station does need a serious facelift, however, more negotiation should have occurred so that there could be a design that everyone could get excited about.

Mr. Alling said that she has given this matter a lot of thought. She is concerned about the impacts on the neighborhood to the north if the building were to be located at the E. Michigan Avenue property line because that is a quality of life issue for those residents. Ms. Alling said that she is aware that alternative designs have been considered. She also said that the City needs to honor where we want to go with the development on E. Michigan Avenue. Ms. Alling said that since there have not been compromises, someone is going to be unhappy with the outcome of the variance requests.

Michael Bergman, Speedway, said that they have considered many different options and have made changes to the original design to address some of the neighbor's concerns. He stated that Speedway will not invest 2.5 million dollars into this site if they are required to design it in a manner that does work for them. He said that the gas station simply does not work if the building has to be located at the front property and therefore, if the variances are denied, Speedway will abandon the project. Mr. Bergman stated that this is the second time that Speedway has attempted to redevelop this site and there will not be a third attempt.

Jake Odell, Speedway, said that Speedway wants to be in Lansing and wants to be a good neighbor but they have a responsibility to their stakeholders and cannot justify investing 2.5 million dollars into a site that must be designed in a manner that is not appropriate for a gas station.

Ms. Alling said that this may be an opportunity for Speedway to develop a design that fits in with an urban corridor.

Mr. McGrain agreed with Ms. Alling. He said that this is a real opportunity for Speedway to change its design to fit in with urban settings. He said that it would also work in other instances such as gas stations that are located in shopping centers.

Mr. Bergman said that the canopy has to be visible to pass-by traffic or the gas station will not function properly.

Ms. Horne stated that the recommended motion is in two parts. There is a recommendation to approve 3 of the variance requests and a recommendation to deny 3 of the variance requests. She said that the motion needs to be in 2 parts so that the Board members have the option of voting yes or no on all of the variances.

Mr. Rice made a motion, seconded by Mr. McGrain to approve BZA 4007.14 for a variance of 1 story and 1.5 feet to the required building height and 3 to the allowable number of wall signs at 1923 E. Michigan Avenue on a finding that the variances are consistent with the practical difficulty criteria of Section 1244.06(c) and the impact criteria of Section 1244.06(e), as detailed in the staff report for this application.

Vote	Yes	No
Horne		X
McGrain	X	
Alling	X	
Hovey	X	
Whitfield	X	
Rice		X
Shinn	X	
Litwiller	X	

On a roll call vote (6-2), the variance was approved.

Mr. Rice made a motion, seconded by Mr. McGrain to deny BZA 4007.14 for variances of 21 feet to the setback requirement for a ground sign and for the placement of the building located 125 feet north of the front property line along E. Michigan Avenue and to permit parking in front of the building at 1923 E. Michigan Avenue on a finding that the variances would not be consistent with the practical difficulty criteria of Section 1244.06(c) or the impact criteria of Section 1244.06(e), as detailed in the staff report for

Vote	Yes	No
Horne	X	
McGrain	X	
Alling	X	
Hovey	X	

Whitfield	X	
Rice	X	
Shinn		X
Litwiller	X	

On a roll call vote (7-1), the variance was denied.

VII. PUBLIC COMMENT

Robert Sepeter, 7290 Island Hwy., stated that he owns the property to the west at 1915 E. Michigan Avenue that is part of this proposal to redevelop the property. He said that the BZA's decision just cost the City of Lansing a 2.5 million dollar private investment. Mr. Sepeter said that this is the 2nd time that Speedway has attempted to rebuild the gas station at this location and they have spent a lot of money in doing so. He said that this may have been the catalyst for even more investment in this area and instead, the City will now have to live with the gas station the way it is. Mr. Sepeter said that it has been difficult enough to rent space in his building. He said that the building will continue to decay and the contamination will not be cleaned up. Part of the proposal was to install new and more secure underground storage tanks. Mr. Sepeter stated that the BZA just through away 2.5 million dollars in private sector money in a blighted area.

Nancy Mahlow, 430 N. Fairview, stated that she is the President of the Eastside Neighborhood Organization. She said that she is still hoping that there will be an opportunity to work with Speedway to come up with a design that fits in with the goals of the Master Plan and Overlay District. She said that everyone uses the gas station and will continue to do so but a new station should be designed in a manner that is more bikable and walkable. She stated that this is an opportunity for Speedway to develop a gas station that fits in with these types of areas.

Joan Nelson, 217 Rosamond, Executive Director of Allen Neighborhood Center, said that a lot of neighborhood organizations have been involved in the discussions on this matter. She said that the intent at this point is to reengage Speedway to continue discussions on the redevelopment of the site. Ms. Nelson said that she knows this was a difficult decision for the BZA and she appreciates the thoughtful consideration and deliberations by the Board.

Jonathan Lum, 227 Custer Avenue, thanked the Board for its thoughtful deliberations. He said that the Board's decision will protect the integrity of the planning efforts that have gone into the E. Michigan Avenue corridor. He also said that it is better to live with the station the way it is for another 1, 2 or even 10 years than to allow a new station that is completely contrary to the planning goals for this area that would be there for at least the next 30 years.

Julie Powers, 600 W. Maple Street, Director, Greater Lansing Housing Coalition, thanked the Board for its decisions. She said that a 3 year regional planning study was recently completed and by denying the requested variances, the Board has honored the planning process and the visions that were developed for the area. Ms. Powers said that the neighbors are not happy with the new Speedway station in Old Town.

Brian Baer, 225 N. Hayford Street, stated that the Board made the right decision.

John Lindenmayor, 212 Leslie Street, said that this want not a vote against Speedway but rather a vote in favor of supporting an appropriate development plan for the E. Michigan Avenue corridor. He said that the corridor is changing for the better and hopefully Speedway will want to be part of it at some point in the future.

Sarah Schillio, 218 Leslie Street, said that Speedway needs to think outside the box and come up with a design that fits in with urban corridors. She said that there are ways to protect the neighbors to the north while still developing the station in a manner that is appropriate for the area. Ms. Schillio said that the neighborhood has put a lot of time into this and the Board made the right decision.

Jennie Grau, 201 Lathrop Street, said that she was very impressed with the thoughtfulness and clarity with which the Board made its decision. Ms. Grau said that this could be the first urban infill gas station that could become the new normal in these types of areas. She said that she is grateful that the Board stood its ground.

Martha Wheeler, 115 Kipling Blvd., stated that she is impressed with the Board's deliberations on this manner. She thanked the Board for affirming the vision for the east side.

VIII. APPROVAL OF MINUTES

Minutes of Regular Meeting held November 13, 2014

Mr. McGrain made a motion, seconded by Mr. Rice to approve the minutes from the November 13, 2014 meeting as printed. On a voice vote, the motion carried unanimously (8-0).

IX. NEW BUSINESS – None

X. ADJOURNMENT AT 7:55 P.M.

XI.

Respectfully Submitted,

Susan Stachowiak, Zoning Administrator