



CITY OF BATTLE CREEK
COMMUNITY SERVICES DEPARTMENT – PLANNING and ZONING

**MEETING NOTICE OF THE
ZONING BOARD OF APPEALS**

DATE: Tuesday, January 8, 2019
TIME: 4:00 p.m.
PLACE: Room 301, City Hall (Commission Chambers)

1. **CALL TO ORDER:**
2. **ATTENDANCE:**
3. **ADDITIONS OR DELETIONS TO AGENDA:**
4. **CORRESPONDENCE:**
5. **OLD BUSINESS:**
6. **NEW BUSINESS:**
 - A. **Z-01-19 (664 SW Capital Ave):** Petition is for Timothy & Kerenda Bruneel 900 Upton Ave Springfield MI 49037. Requesting a Use Variance to operate a Tattoo and Piercing Parlor to operate in a C2 General Business.
 - B. **Z-02-19 (5740 Beckley Road):** Petition is for AMERCO Real Estate 2727 N Central Ave Ste. 500 Phoenix AZ 85004. Request a Dimensional variance to allow Self Storage Units to allow Self Storage Units to be allowed within the 35' setback in a C6 Major Highway Interchange Business.
 - C. **Z-03-19 (32 W. Michigan Ave):** Petition is for Tara Hampton 5610 N. Red Pine Circle Portage MI 49009. Request is made for a Dimensional Variance to allow a sign larger than 18" allowed by the ordinance to be installed. Chapter 1296.07.
7. **APPROVAL OF MINUTES:** July 10, 2018 Zoning Board Meeting Minutes
8. **COMMENTS BY THE PUBLIC:**
9. **COMMENTS BY THE MEMBERS:**
10. **ADJOURNMENT:**

The City of Battle Creek will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered in the meeting upon notice to the City of Battle Creek. Individuals with disabilities requiring auxiliary aids or services should contact the City of Battle Creek by writing or calling the following: Office of the City Clerk, P. O. Box 1717 / 10 North Division - Suite 111, Battle Creek, MI 49016 / Phone: (269) 966-3348 (Voice) / (269) 966-3348 (TDD)



Battle Creek Zoning Board of Appeals

Staff Report

Meeting: January 8, 2019
Appeal #Z-01-19

To: Zoning Board of Appeals
From: Glenn Perian, Senior Planner
Date: February 6, 2018
Subject: Z-01-19 Use Variance Request from Timothy and Kerenda Bruneel, 900 Upton Avenue, for 664 Capital Avenue SW to use the C-2 (General Business District) zoned property as a tattoo parlor and piercing shop, Property ID # 3030-06-534-0.

Summary

A petition for a use variance (Z-01-19) to permit a tattoo and piercing shop to operate on a C-2 (General Business) zoned property at 664 Capital Avenue SW, identified by property ID# 3030-06-534-0. The Applicant has provided an application stating they would like to use this building for a tattoo and piercing shop and that they are unable to rent the property for anyone interested in operating a business permitted in a C-2 zoning district.

Background

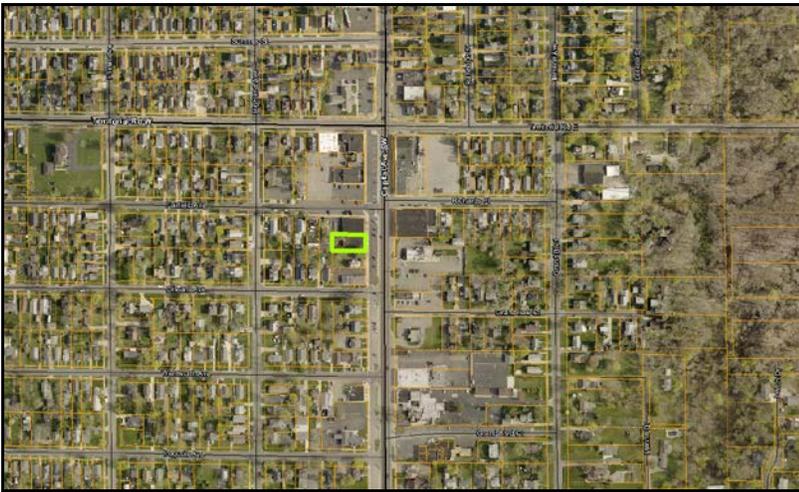
This report addresses a petition from Timothy and Kerenda Bruneel for approval of a Use Variance (Z-01-19) to allow the property to be used as a tattoo and piercing shop in a C-2 "General Business District" on property located at 664 Capital Ave SW. Our records show that the building was constructed in 1963 and the portion of the building for this request is approximately 1,680 square feet in size. The building fronts directly on to Capital Ave. SW and is part of a row of retail building spaces. Tattoo parlors are currently only permitted in the C-3, C-7, I-1 and I-2 zoning districts by way of a Special Use Permit. If the Zoning Board decides to approve this request, the Applicant would still be required to go the process to obtain a Special Use Permit.

For this request it is the Zoning Board's responsibility to determine if the petition meets the Use Variance Standards for an unnecessary hardship as outlined in the Ordinance under Section 1234.04(b)(2) to allow a tattoo/piercing shop in the C-2 district for this particular request on property located at 664 SW Capital Ave. The property is located just south of the Fairfield Ave. on the west side of SW Capital Ave. A mix of commercial and vacant commercial properties surrounds the subject with residential uses to the west.

Public Hearing and Notice Requirements

An advertisement of this public hearing was published in the Battle Creek SHOPPER NEWS on December 20, 2018, not less than the 15 days before the hearing as required by State Law and ordinance.

Fifty-six (56) notices of the public hearing were also sent by regular mail to property owners and occupants located within 300 feet of the subject parcel. We have not received any correspondence in response to the notification of this hearing.



Subject Property



Subject and surrounding zoning

Applicable Zoning Ordinance Provisions

Chapter 1234.04 authorizes the Zoning Board of Appeals the following:

(b) The Board shall have the authority to grant the following variations:

(2) Use. If there is an unnecessary hardship in the way of carrying out the strict letter of the zoning ordinance, then the Board may grant a use variance in accordance with this section, so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done. The Board may impose conditions as otherwise allowed under the Michigan Zoning Enabling Act, MCL 125.3101 et seq.

(c) Variance Standards. In consideration of all appeals and proposed exceptions to or variations from this Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the applicant has met all of the following conditions as set out for the specific type of variance requested:

(2) Use Variances:

A. The building, structure or land cannot be reasonably used in a manner consistent with the uses allowed in the zoning district in which the property is located.

B. The condition or situation of the specific piece of property or the intended use of the property is unique to that property and not commonly present in the general vicinity or zoning district. Unique conditions or situations may include exceptional narrowness, shallowness, or shape of the property that existed when the applicable zoning ordinance provision took effect: exceptional topographic conditions or other extraordinary situation on the land, building, or structure: or the use or development of the property immediately adjoining the property in question; or any other physical situation on the land, building or structure deemed by the Board to be extraordinary.

C. The proposed use, if granted, will not alter the essential character of the neighborhood or the intent of the master plan.

D. The immediate hardship cited as the cause for the variance was not created by any affirmative action by the applicant.



subject

Findings and Recommendation

The Board shall have the authority to grant use variances, in part, if there is an unnecessary hardship in the way of carrying out the strict letter of the zoning ordinance. The Board may grant a use variance so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done so long as the standards set out in the ordinance have been met, most importantly with a determination that the property cannot reasonably be used in accordance with the permitted uses in this zoning district. The Board may impose conditions as otherwise allowed under the Michigan Zoning Enabling Act, MCL 125.3101 et

seq. In consideration of all appeals and proposed exceptions to or variations from the Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the applicant has met all of the following conditions as set out for the specific type of variance requested, in this case a use variance.

Planning staff has reviewed the information submitted by the Appellant and we do not believe that each condition in Chapter 1234.04(c)(2) (A through D) of the Planning and Zoning Code can be met for the Zoning Board to approve the use variance requested. We have provided a rationale for each condition outlined in Chapter 1234.04 for use variances and the Planning staff recommends that the Zoning Board of Appeals deny the use variance (Z-01-19) based on the findings contained in this report.

A. Staff does not believe the building, structure or land cannot reasonably be used in a manner consistent with the uses allowed in the C-2 zoning districts in which the property at 664 SW Capital Ave. is located. While we understand that the owners may be having difficulty renting out the tenant space, we do not believe that the property could not reasonably be used for a use outlined in Ch. 1262 .03 Permitted Uses in a C-2 General Business District.

B. Staff finds the condition or situation of the specific piece of property and the intended use of the property are not unique to that property and are commonly present in the C-2 zoning district. Exceptional topographic conditions do not exist, nor do other extraordinary situation on the land, building, or structure or the use or development of the property immediately adjoining the property in question; or any other physical situation on the land, building or structure for the Board to be deemed extraordinary.

C. Staff finds the proposed tattoo/piercing shop, if granted, will not alter the essential character of the neighborhood or the intent of the Zoning Ordinance by allowing this use in the C-2 zone in this particular neighborhood, even though tattoo shops are not currently permitted by the Planning and Zoning Code in the C-2 district.

D. The immediate hardship cited as the cause for the variance requested may not have been created by any affirmative action exclusively by this applicant. Staff does not find a unique situation attributed to this property or this area of the City. Therefore, we are unable to recommend approval for this particular variance request based our findings or any supporting information supplied by the Applicant.

Attachments

The following information is attached and made part of this Staff Report.

1. ZBA Petition Form (Petition #Z-01-19)

\$200 pd ck# 3074

Appeal No. _____

Date: _____



City of Battle Creek

Community Services – Planning and Zoning Division

City Hall • 10 N. Division Street, Ste. 117 • Battle Creek, Michigan 49014

Ph (269) 966-3320 • Fax (269) 966-3555 • www.battlecreekmi.gov



APPLICATION FOR A VARIANCE ZONING BOARD OF APPEALS

An Appeal to the Zoning Board of Appeals to authorize a variance from the requirements of the Planning and Zoning Code (Part Twelve) of the City of Battle Creek.

Name of Appellant: Timothy Brunee1 & Kerenda Brunee1

Address: 900 Upton Ave

Phone: 269-420-1324

Name of Owner (if different from Appellant): Springfield, MI 49037

TTT1869@yahoo.com

Address: _____

Phone: ++1869@yahoo.com

TO THE ZONING BOARD OF APPEALS: Request is hereby made for permission to:

(Choose One) Extend Erect Appeal Use Convert Enclose

Description: Allow a Tattoo Artist to open a

Tattoo Parlor & piercing shop in a
C-2 Zoned Rental space. It will help the surrounding
business by bring more patrons to the area.

Contrary to the requirements of Section(s) _____ of the Planning and Zoning Code, upon the premises known as 664 Capital Ave S.W. Battle Creek, MI, in accordance with the plans and/or plat record attached. "Foster Park lot 34"

The proposed building or use requires Board action in the following area(s):

To change the C-2 zoning to a C-3 Variance
to allow the unit to open a Tattoo Parlor

Property/Tax I.D. # No. 3030 - 06 - 534 - 0 Size of the Lot: Width _____ Depth _____

Size of Proposed Building: Width 21' Depth 81' Height 10'

The following reasons are presented in support of this appeal (complete each section):

(a.) This property cannot be used in conformance with the ordinance without the requested variance because:

It has not been rented in over 10 years.
There are several empty buildings in the
Area making the units economically
unfeasible to rent.

(b.) This problem is due to a unique situation not shared in common with nearby property owners
because:

* most buildings are empty.

* the businesses surrounded the unit are either
food, hardware or laundry mat.

(c.) Granting the variance would not alter the essential character of the area because:

This is a mostly commercial area.
Consisting of fast food, self laundry +
Taverns, second hand stores.

(d.) The problem is not self-created because:

We are not able to rent it after 10 years
to any business that would fall under the
C-2 Zoning that wouldn't be different from
what's already in this area.

(e.) **USE VARIANCES ONLY** It is not possible to use this particular property for any other use
currently allowed in the zoning district because:

it has been vacant for over 10 years. We haven't had
anyone interested in renting our unit till now!

There are 5 empty businesses in our area.

I hereby affirm that, to the best of my knowledge, all the above and accompanying statements and
drawings are correct and true. **In addition, I give permission to the City of Battle Creek's Planning
Department staff to access my property, if necessary, to take photographs of the subject of this appeal.**

Timothy Brunel - Kerenda Brunel

(Print Appellant Name)



(Signature of Appellant)

900 Lepten Ave Springfield, MI 49037

(Address of Appellant)

If you require additional information or assistance in filling out this application, please contact the
Planning Department at (269) 966-3320.



Battle Creek Zoning Board of Appeals Staff report for the January 8, 2019 Meeting

To: Zoning Board of Appeals
From: Glenn Perian, Senior Planner
Date: December 27, 2018
Subject: Variance Request
Z-02-19, AMERCO Real Estate-Holly Reading/Jonathan Gilmore, 2727 N. Central Ave. Suite 500, Phoenix, AZ 85004, is requesting a dimensional variance from the front yard setback requirement in a C-6 zoning district to develop a U-Haul business on property located just south of 5740 Beckley Road, Property ID # 0095-00-090-0.

Summary

A petition from AMERCO Real Estate-Holly Reading/Jonathan Gilmore, requesting a variance from Chapter 1278.01 to allow storage buildings to encroach into the 35' front yard setback which is required in the C-6 "Highway Inter-change" zoning district at the future location of a U-Haul storage and rental facility on property located just south of 5740 Beckley Rd. with the property ID # 0095-00-090-0.

Background/Project Information

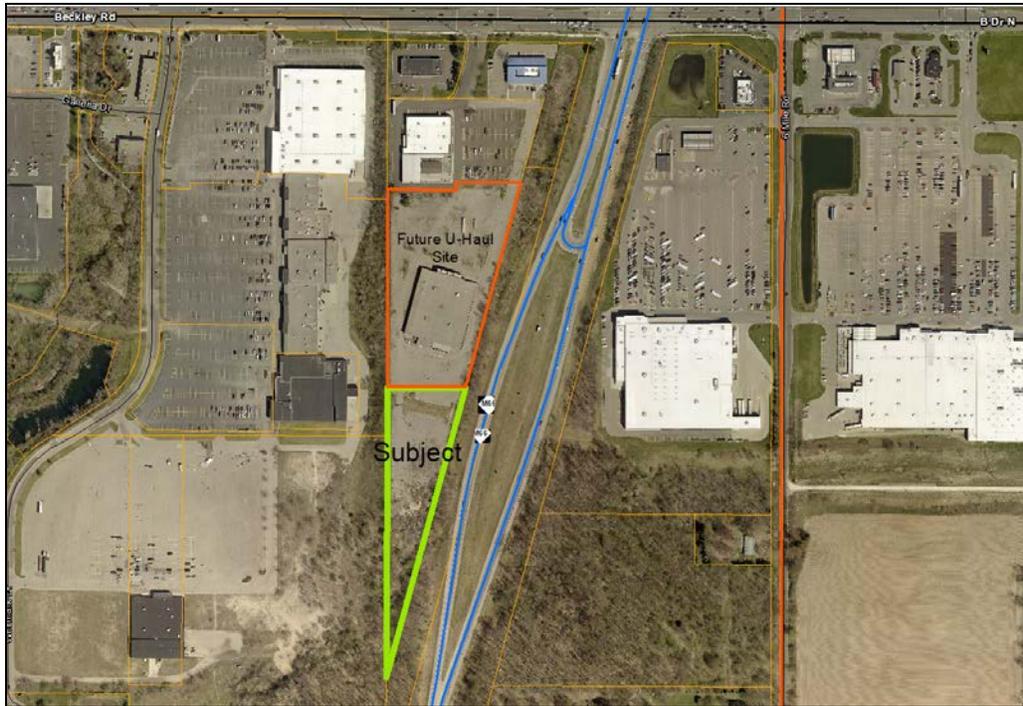
The subject property is located on the south side of Beckley Rd., immediately west of M-66 on land occupying a vacant parking lot, just south of the former Toys-R-Us building. The property is essentially land-locked and is triangular in shape. The property has approximately 995' of frontage along the M-66 right-of-way and approximately 263' of width at its widest point on the northern property line. The property tapers to a point at the most southern portion of the property. The proposed mini-storage buildings and truck and trailer sharing storage will be accessed from Beckley Rd. and the recently purchased U-Haul property to the north. A Conditional Rezone was approved by City Commission for the U-Haul operation to the north of the subject property and an application has been submitted to the Planning Commission for review and recommendation for this portion of the project to be heard at the regularly scheduled January Planning Commission meeting.

The Appellant has provided a site plan and supplemental letter related to the requests. We expect a representative to be at the meeting to answer any questions you may have related to the request.

Public Hearing and Notice Requirements

An advertisement of this public hearing was published in the Battle Creek SHOPPER NEWS on December 20, 2018, not less than the 15 days before the hearing as required by State Law and ordinance.

Thirteen (13) notices of the public hearing were also sent by regular mail to property owners and occupants located within 300' of the subject parcel. As of the writing of this report, we have not received any comments relating to this request.



Subject

Variance Requested

The Appellant is seeking a variance in anticipation of constructing new mini-storage buildings and associated parking on vacant property behind the former Toys-R-Us building located on Beckley Rd. The City Commission at the recommendation of the Planning Commission has recently approved a Conditional Rezone request for the U-Haul property located to the north of the subject parcel and the applicant has submitted to further expand the project by submitting a second application for Conditional Rezoning for this property to allow the U-Haul mini-storage and truck and trailer rental to occur on the subject property. The Conditional Rezone request for the subject property will be heard later this January at the Planning Commission meeting. This request is to allow U-Haul to construct mini-storage buildings closer to the front property line (5' feet proposed) fronting M-66 than permitted by ordinance (35' required)

Applicable Zoning Ordinance Provisions

Chapter 1234.04 states:

b) The Board shall have the authority to grant the following variations:

(1) Nonuse. If there are practical difficulties for nonuse variances relating to the construction, structural changes, or alterations of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance in the way of carrying out the strict letter of the zoning ordinance, then the Board may grant a variance so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice is done. The Board may impose conditions as otherwise allowed under the Michigan Zoning Enabling Act, MCL 125-3101 et seq.; and

(c) Variance Standards. In consideration of all appeals and proposed exceptions to or variations from this Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the applicant has met all of the following conditions as set out for the specific type of variance requested:

(1) Nonuse (dimensional) Variances:

A. When it can be shown that a practical difficulty would, in fact, exist if the strict non-use requirements of this zoning ordinance (e.g., lot area, width, setbacks, building height, etc.) were applied to a specific building project, the Board may grant a variance from these requirements. The practical difficulty from a failure to grant the variance must include substantially more than a mere inconvenience or a mere inability to attain a higher financial return.

B. The practical difficulty must be exceptional and peculiar to the subject parcel of land which do not generally exist throughout the City and may not be self-imposed or the result of an earlier action by the applicant. If the parcel of land could be reasonably built upon in conformance with the requirements of this zoning ordinance by simply relocating or redesigning the structure(s), then a variance shall not be granted.

C. A variance shall not be granted when it will alter or conflict with the intent of this Ordinance considering the public benefits intended to be secured by this Zoning Code and the rights of others whose property would be affected by the allowance of the variance.

D. Any variance granted shall be the minimum necessary to provide relief for the practical difficulty of the applicant.



North portion of U-Haul lot



Subject site looking from M-66

Analysis

Staff has reviewed the application and finds that it meets the requirements for submittal and is considered complete. The Appellant is requesting to encroach into the required 35' front yard setback along M-66 by constructing mini storage buildings 5' from the front property line in accordance with the plans submitted. The Appellant has supplied reasons supporting the request for appeal and they are included with the application and part of this report.

Findings and Recommendation

The Zoning Board of Appeals can approve, approve with conditions, or deny this request. The Zoning Board of Appeals can also table or postpone the request pending additional information. In consideration of all variations from the Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the conditions listed below are satisfied. Planning staff has reviewed these conditions and we believe that each condition can be justified in an affirmative manner. We have provided a rationale for each condition set forth below and the Planning staff recommends that the Zoning Board of Appeals approve the Dimensional Variances (Z-02-19) based on the following findings contained in this staff report.

- A) Staff finds that practical difficulty does in fact exist if the strict requirement of the ordinance is applied to this specific building project and that the Board is authorized to approve the variance in this case. The subject parcel is triangular in shape, is essentially landlocked and must be accessed off of Beckley Rd., through the future U-Haul development to the north. There is a 25' Consumers Power and City of Battle Creek water line easement running on the west property line and a 30' foot water line also running on the east property line, limiting the buildable area on the lot. We do not believe the proposed front yard encroachment will have any impact on the M-66 frontage.

- B) Staff believes that the practical difficulty is exceptional and peculiar to the subject parcel and the conditions associated with the property generally do not exist throughout the

City. For the reasons stated in the previous paragraph, staff believes the Zoning Board is justified in approving the requested variance.

C) Staff believes that if the variance is granted that the intent of the Ordinance will not be altered. The subject property has been vacant for several years and staff believes that part of the reasoning for this is the physical difficulties this particular piece of property poses to potential developers. The parcel is unique in its shape, is limited by existing easements and is landlocked. We believe that the Applicant has made a reasonable case as to why the requested variance for the front yard setback should be granted in this particular case and will have limited or no impact to surrounding property.

D) Staff would like to remind the Board that any variance granted shall be the minimum necessary to provide relief for the practical difficulty of the applicant.

Attachments

The following information is attached and made part of this Staff Report.

1. ZBA Petition Form (Petition #Z-02-19) and supplemental narratives
2. Site plans of the future U-Haul development

z-2-19

Appeal No. _____
Date: _____



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APPLICATION FOR A VARIANCE
ZONING BOARD OF APPEALS

An Appeal to the Zoning Board of Appeals to authorize a variance from the requirements of the Planning and Zoning Code (Part Twelve) of the City of Battle Creek.

Name of Appellant: AMERCO Real Estate- Holly Reading/ Jonathan Gilmore

Address: 2727 N Central Ave. Suite 500 Phoenix, AZ 85004 Phone: (602) 263-5824

Name of Owner (if different from Appellant): AMERCO Real Estate Company

Address: _____ Phone: _____

TO THE ZONING BOARD OF APPEALS: Request is hereby made for permission to:
(Choose One) **Extend** **Erect** **Appeal** **Use** **Convert** **Enclose**

Dimensional

Description: Please see attached narrative.

Contrary to the requirements of Section(s) 1270.04 of the Planning and Zoning Code, upon the premises known as Site Development Battle Creek, MI, in accordance with the plans and/or plat record attached.

The proposed building or use requires Board action in the following area(s):

Required setbacks in the C6 zone. We are requesting relief from the required front setback in the C6 zone which is 35'.

5740 Beckley Rd

Property/Tax I.D. # No. 095 - 00 - 080 - 0 **Size of the Lot:** 129,103 SF triangle shape

Size of Proposed Building: Width varies Depth 10'- 15' Height 8.6'

The following reasons are presented in support of this appeal (complete each section):

- (a.) This property cannot be used in conformance with the ordinance without the requested variance because:

U-Haul is activating an underutilized, dilapidated vacant lot, with no access from M-66. This existing paved lot is a triangular shape which limits how U-Haul can rehabilitate and develop the land. Because of the shape and the existing conditions, the 35' setback requirement, renders one third of the site unusable.

(b.) This problem is due to a unique situation not shared in common with nearby property owners because:

This is an existing site, that is uniquely shaped. This parcel is also land-locked and doesn't front any major road which makes visibility, next to impossible to the average traveler. There is no way to gain access to this site without traveling through the parcel to the north of it.

(c.) Granting the variance would not alter the essential character of the area because:

The property is so far setback and hidden, that it can't be view from any major right of way or parcel. The east side of the property line has 72± of land with tall vegetation separating it and M-66. Having the storage units placed on site, as shown on the plan will not alter it's character in any way for the everyday passenger on M-66.

(d.) The problem is not self-created because:

Given the location and shape, this property is not conducive to the approved uses within the C6 zoning ordinance. The City of Battle Creek expressed it's support in U-Haul purchasing this land due to it's existing hardship and location. Knowing that retail developers would be reluctant to purchase and revitalize a piece of land that was in such disrepair.

(e.) **USE VARIANCES ONLY** It is not possible to use this particular property for any other use currently allowed in the zoning district because:

In chapter 1270 of the city of Battle Creek's zoning ordinance, the permitted uses are retail and business service activities. Retail typically requires a great volume of traffic, and relies mostly by the average person traveling down a major road. This site can't be viewed from any consumer traveling on any road or highway, which makes retail sales and merchandising next to impossible.

*I hereby affirm that, to the best of my knowledge, all the above and accompanying statements and drawings are correct and true. **In addition, I give permission to the City of Battle Creek's Planning Department staff to access my property, if necessary, to take photographs of the subject of this appeal.***

Holly Reading/ Johnathon Gilmore

(Print Appellant Name)

(Signature of Appellant)

2727 N Central Ave. Suite 500 Phoenix, AZ 85004

(Address of Appellant)

If you require additional information or assistance in filling out this application, please contact the Planning Department at (269) 966-3320.



Battle Creek Zoning Board of Appeals Staff report for the January 8, 2018 Meeting

To: Zoning Board of Appeals
From: Glenn Perian, Senior Planner
Date: December 31, 2018
Subject: Variance Request
Z-03-19, Tara Hampton, is requesting a variance to install a sign that projects more than 18” from a wall face on commercially zoned property at 32 W. Michigan Avenue Property ID # 0020-15-043-6.

Summary

A petition from Tara Hampton requesting variances from Chapters 1296.07(b)(3) to allow a 7 sq. ft.+/- projection sign on the face of the building at 32 W. Michigan Ave.

Background/Project Information

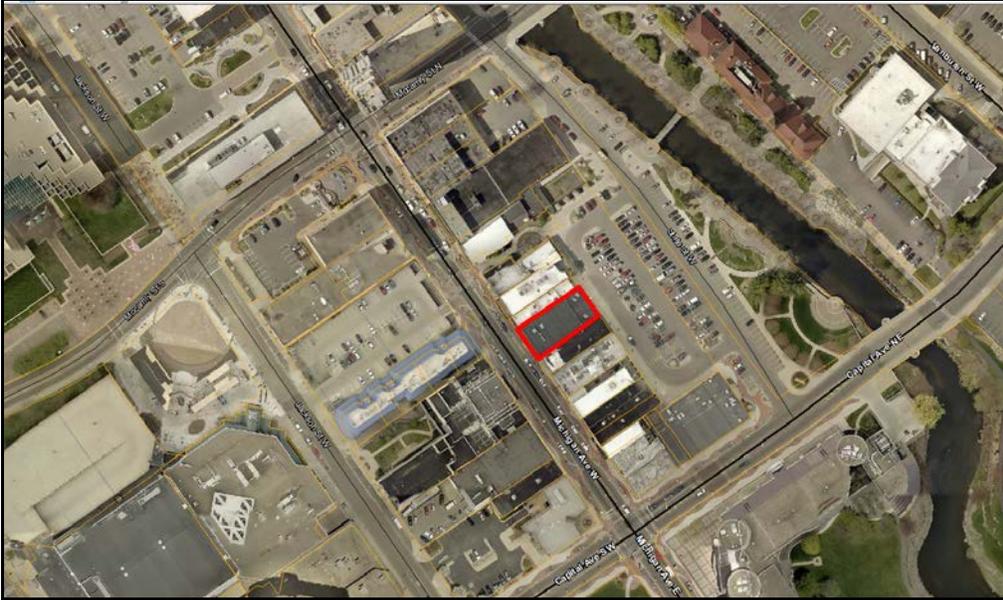
The subject property is located on the north side of W. Michigan Ave, between McCamly and Capital Ave NE in central downtown. The property has approximately 60’ of frontage along Michigan Ave and is a multi-tenant building. Approval of a variance will allow the applicant to proceed to the HDC for sign permit approvals.

The Appellant has provided a plan of the proposed sign and a photo of where on the building the proposed sign will be located. We expect a representative to be at the meeting to answer any questions you may have related to the request.

Public Hearing and Notice Requirements

An advertisement of this public hearing was published in the Battle Creek SHOPPER NEWS on December 20, 2018, not less than the 15 days before the hearing as required by State Law and ordinance.

Notices of the public hearing were also sent by regular mail to property owners and occupants located within 300’ of the subject parcel. As of the writing of this report, we have not received any comments relating to this request.



Subject property

Variance Requested

The Appellant is seeking a sign variance to advertise the Salon K located at 32 W. Michigan in downtown Battle Creek. As most of you know, the City Commission at the recommendation of the Planning Commission have recently adopted new sections of the Planning and Zoning Code related to signs (Chapter 1296). The new standard for signs were officially adopted by the City Commission on December 19, 2017.

Chapter 1296.07 COMMERCIAL AND INDUSTRIAL DISTRICTS, in part, states

(b) Each parcel used in accordance with permitted uses in the commercial zoning districts...are permitted:

*(3) ...Wall signage shall not exceed the 1.2 time building frontage. **They shall not project more than 18 inches, and cannot exceed 10% of the walls total area...***

The Applicant is requesting a variance to install a sign 3’ in diameter, perpendicular to the wall face at 32 W. Michigan Ave.

Applicable Zoning Ordinance Provisions

Chapter 1234.04 states:

b) The Board shall have the authority to grant the following variations:

(1) Nonuse. If there are practical difficulties for nonuse variances relating to the construction, structural changes, or alterations of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance in the way of carrying out the strict letter of the zoning ordinance, then the Board may grant a variance so that the spirit of the zoning ordinance is observed, public safety secured, and

substantial justice is done. The Board may impose conditions as otherwise allowed under the Michigan Zoning Enabling Act, MCL 125-3101 et seq.; and

(c) Variance Standards. In consideration of all appeals and proposed exceptions to or variations from this Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the applicant has met all of the following conditions as set out for the specific type of variance requested:

(1) Nonuse (dimensional) Variances:

A. When it can be shown that a practical difficulty would, in fact, exist if the strict non-use requirements of this zoning ordinance (e.g., lot area, width, setbacks, building height, etc.) were applied to a specific building project, the Board may grant a variance from these requirements. The practical difficulty from a failure to grant the variance must include substantially more than a mere inconvenience or a mere inability to attain a higher financial return.

B. The practical difficulty must be exceptional and peculiar to the subject parcel of land which do not generally exist throughout the City and may not be self-imposed or the result of an earlier action by the applicant. If the parcel of land could be reasonably built upon in conformance with the requirements of this zoning ordinance by simply relocating or redesigning the structure(s), then a variance shall not be granted.

C. A variance shall not be granted when it will alter or conflict with the intent of this Ordinance considering the public benefits intended to be secured by this Zoning Code and the rights of others whose property would be affected by the allowance of the variance.

D. Any variance granted shall be the minimum necessary to provide relief for the practical difficulty of the applicant.

Analysis

Staff has reviewed the application and finds that it meets the requirements for submittal and is considered complete. The Appellant is requesting a variance to install a 3' diameter sign perpendicular to the wall face along the downtown corridor of Michigan Ave. The Appellant has supplied reasons supporting the request for appeal and they are included with the application and part of this report.

Findings and Recommendation

The Zoning Board of Appeals can approve, approve with conditions, or deny this request. The Zoning Board of Appeals can also table or postpone the request pending additional information. In consideration of all variations from the Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the conditions listed below are satisfied. Planning staff has reviewed these conditions and we believe that each condition can be justified in an affirmative manner. We have provided a rationale for each condition set forth below and the Planning staff recommends that the Zoning Board of Appeals approve the Dimensional Variances (Z-03-19) based on the following findings contained in this staff report.

- A) Staff finds that practical difficulty does in fact exist if the strict requirement of the ordinance is applied to this specific building project and that the Board is authorized to approve the variance in this case. The appellant states the practical difficulty includes the fact that multiple tenants occupy the building and advertising for the salon is required. The building is located in the downtown corridor and staff would expect that many of the clients of the salon would be parking elsewhere and using the sidewalk along Michigan Ave to access the business.
- B) Staff believes that the practical difficulty is exceptional and peculiar to the subject parcel and the conditions associated with the property do not generally exist throughout the City. Staff believes the downtown area is unique in attracting pedestrian traffic and this type of sign would be beneficial for people walking and trying to locate the business.
- C) Staff believes that if the variance is granted that the intent of the Ordinance will not be altered. In fact we believe the sign will add to the character of downtown making it a more vibrant area for other businesses and their patrons.
- D) Staff would like to remind the Board that any variance granted shall be the minimum necessary to provide relief for the practical difficulty of the applicant. We believe the Applicant has met this test outlined in the ordinance.

Attachments

The following information is attached and made part of this Staff Report.

1. ZBA Petition Form (Petition #Z-03-19)



City of Battle Creek
Community Services – Planning and Zoning Division
City Hall • 10 N. Division Street, Ste. 117 • Battle Creek, Michigan 49014
Ph (269) 966-3320 • Fax (269) 966-3555 • www.battlecreekmi.gov

APPLICATION FOR A VARIANCE
ZONING BOARD OF APPEALS

An Appeal to the Zoning Board of Appeals to authorize a variance from the requirements of the Planning and Zoning Code (Part Twelve) of the City of Battle Creek.

Name of Appellant: Tara Hampton

Address: 32 West Michigan Ave Phone: 269-830-4675

Name of Owner (if different from Appellant): _____

Address: 5601 N. Red Pine Circle Phone: 269-830-4675
49009

TO THE ZONING BOARD OF APPEALS: Request is hereby made for permission to: Dimensional
(Choose One) Extend Erect Appeal Use Convert Enclose

Description: 32 is the only fully occupied building, it would serve it's businesses to have a presence outside the building. A size that flows + is visual to customers

Contrary to the requirements of Section(s) _____ of the Planning and Zoning Code, upon the premises known as 32 West Michigan Ave Battle Creek, MI, in accordance with the plans and/or plat record attached.

The proposed building or use requires Board action in the following area(s):

Approval of Salon K signage being larger than what is allowed (18") to 3'

Property/Tax I.D. # No _____ Size of the Lot: Width 67' Depth 135'

Size of Proposed Building: Width 61' Depth 125' Height _____

The following reasons are presented in support of this appeal (complete each section):

(a.) This property cannot be used in conformance with the ordinance without the requested variance because:

The sign will look disproportionately too small
& not visible for business customers.

- (b.) This problem is due to a unique situation not shared in common with nearby property owners because:

We are full w/ multiple tenants.
Actually it is questionable that neighbors
are within variance.

- (c.) Granting the variance would not alter the essential character of the area because:

Signage is being done w/ stellar quality,
professional design team of pros with
the look

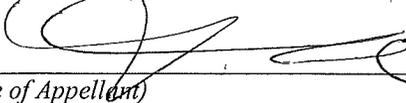
- (d.) The problem is not self-created because:

Again we have 5 tenants in one building
where presence is important

- (e.) **USE VARIANCES ONLY** It is not possible to use this particular property for any other use currently allowed in the zoning district because:

I hereby affirm that, to the best of my knowledge, all the above and accompanying statements and drawings are correct and true. In addition, I give permission to the City of Battle Creek's Planning Department staff to access my property, if necessary, to take photographs of the subject of this appeal.

TARA HAMPTON
(Print Appellant Name)


(Signature of Appellant)

5601 N. Red Pine Circle 49009
(Address of Appellant)

If you require additional information or assistance in filling out this application, please contact the Planning Department at (269) 966-3320.



EXTERIOR SIGNAGE

Understood Signage Requirements:

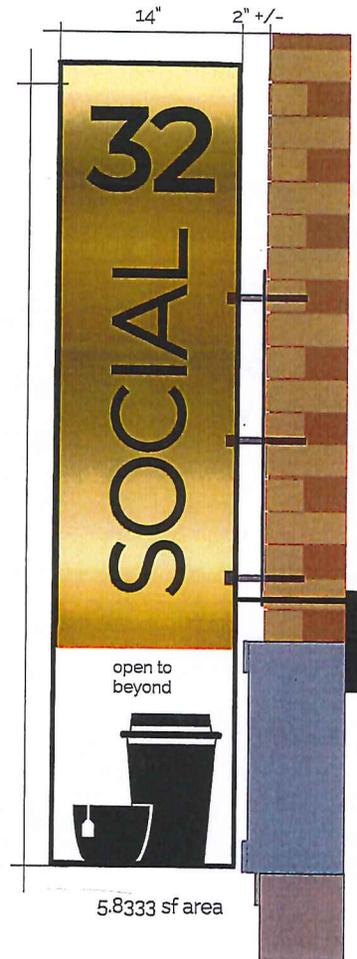
12.5 ~~10.5~~ sf total area (includes both signs)
 Maximum of 18" protrusion from existing building face

SALON K

double-sided illuminated sign with route-cut face and gold graphic and powder-coated frame



3'-0" diameter - 7.05 sf area
3' ROUND OPTION



5.8333 sf area

VERTICAL OPTION

32 SOCIAL

double sided illuminated sign, route-cut black face, push through poly with dimensional polished brass letters / logo, powder-coated frame and 14 x 60 overall

not to scale

ZONING BOARD OF APPEALS
MEETING MINUTES
July 10, 2018
4:00 P.M.

CALL TO ORDER:

Mr. James Moreno, Chairperson called meeting to order at 4:01 P.M.

ATTENDANCE:

Members Present:

Deland Davis	Bill Hanner
Carlyle Sims	Barbara Hibiske
James Moreno	Michael Delaware
John Stetler	

Staff Present:

Marcel Stoetzel, Deputy City Attorney
Glenn Perian, Senior Planner, Planning Dept.
Eric Feldt, Planner, Planning Dept.
Laura Rounds, Customer Service Rep., Planning Dept.

ADDITIONS OR DELETIONS TO THE AGENDA: N/A

CORRESPONDANCE: N/A

OPENING COMMENTS: Mr. Jim Moreno, Chairperson stated the meeting procedure where everyone present may speak either for or against an appeal and that he will ask for a staff report to be read and then open the public hearing. At the public hearing, persons may come forward and state their name and address for the record as it is being recorded and then speak either for or against an appeal. The public hearing will then be closed and the zoning board will discuss and make a decision. If a petition has been denied the petitioner has the right to appeal to Circuit Court.

OLD BUSINESS: None

NEW BUSINESS:

A. Z-08-18 (RE: 3200 SW Capital Ave):

Petition from JETCO Signs, 3200 SW Capital Ave Battle Creek MI 49015. Requesting a Dimensional Variance to permit a sign to be closer than the 10' to the street Right-of-Way and side property line, legally described as PART OF SE ¼ OF NE ¼ OF SEC 35, T2S R8W: COMM E ¼ OF SD SEC – N 01° 03' 30" E ALG E LI OF SD SEC DIST OF 896.36 FT TO TRUE POB – N 88° 45' 22" W 330 FT – N 01° 03' 30" E 119 FT – S 87° 58' 23" E ALG S LI OF LOIS DR ROW (66 FT WIDE) 330.05 FT TO E LI OF SD SEC – S 01° 03' 30" W ALG S D E LI DIST OF 114.49 FT TO POB, 0.88 AC, SUBJ TO HWY EASE OVER ELY 33 FT THEREOF. Permit application is requested pursuant to Planning and Zoning Code, Chapters 1296.06.

Chair Mr. Moreno asked the applicant to come forward and speak regarding the request for a variance.

Timothy Conoluge of JETCO Signs gave a presentation of the property and proposed location of the sign.

Chair Mr. Moreno asked if there are any members of the public present to either speak for or against the variance.

No public opposition

Chair Mr. James Moreno asked if there was any further discussion; seeing none, he would close the Public Hearing and entertain a motion.

Mr. Michael Delaware is an alternate and will be voting today due to full board being present.

MOTION WAS MADE BY MR. CARLYLE SIMS TO APPROVE APPEAL #Z-08-18 FOR A DIMENSIONAL VARIANCE; TO PERMIT A SIGN TO BE CLOSER THAN THE 10' SETBACK TO THE STREET RIGHT-OF-WAY AND SIDE PROPERTY LINE. PROPERTY ZONED O1 "OFFICE DISTRICT", LEGALLY DESCRIBED AS PART OF SE ¼ OF NE ¼ OF SEC 35, T2S R8W: COMM E ¼ OF SD SEC – N 01° 03' 30" E ALG E LI OF SD SEC DIST OF 896.36 FT TO TRUE POB – N 88° 45' 22" W 330 FT – N 01° 03' 30" E 119 FT – S 87° 58' 23" E ALG S LI OF LOIS DR ROW (66 FT WIDE) 330.05 FT TO E LI OF SD SEC – S 01° 03' 30" W ALG SD E LI DIST OF 114.49 FT TO POB, 0.88 AC, SUBJ TO HWY EASE OVER ELY 33 FT THEREOF. PERMIT APPLICATION IS REQUESTED PURSUANT TO PLANNING AND ZONING CODE, CHAPTERS 1296.06. SECOND BY MR. DELAND DAVIS.

MR. JAMES MORENO ASKED FOR ANY ADDITIONAL COMMENTS, SEEING NONE A VOTE WAS TAKEN; SEVEN APPROVED (DELAND DAVIS, MICHAEL DELAWARE, BILL HANNER, BARBARA HIBISKE, JAMES MORENO, CARLYLE SIMS, JOHN STETLER); MOTION APPROVED.

Chair Mr. James Moreno asked if there was any further discussion; seeing none, he would close the Public Hearing and entertain a motion.

Chair James Moreno asked for motion on April meeting minutes.

MOTION MADE BY MR. BILL HANNER ON THE JUNE 26, 2018 ZONING BOARD OF APPEALS MINUTES, SECONDED BY CARLYLE SIMS. ALL IN FAVOR; NONE OPPOSED; MINUTES APPROVED.

COMMENTS BY THE PUBLIC: None

COMMENTS BY THE MEMBERS / STAFF:

Glenn Perian discussed Zoning Board Training in August, please look for email with more information coming from staff.

ADJOURNMENT: Chair James Moreno made a motion for the meeting to be adjourned; all stated in favor, meeting was adjourned at 4:13 P.M.

Submitted by: Laura Rounds Customer Service Representative, Planning Department