

**VILLAGE OF PAW PAW
ZONING BOARD OF APPEALS**

February 3, 2020

PRESENT: Chairperson Julie Pioch, Barb Carpenter, Terry Davis, Marcos Flores, Mary Lou Hartwell

ABSENT: None

ALSO PRESENT: Sarah Moyer-Cale, Village Manager

CALL TO ORDER

Chairperson Pioch called the meeting to order at 7:00 p.m.

APPROVAL OF AGENDA

The agenda was reviewed and approved as presented.

APPROVAL OF MINUTES

The next matter to come before the Board was consideration of the proposed minutes of the special Zoning Board of Appeals meeting held on September 10, 2019. Ms. Hartwell moved to approve the minutes as presented. Mr. Flores seconded the motion. The motion carried unanimously.

PUBLIC COMMENT REGARDING NON-AGENDA ITEMS

No public comment on non-agenda items was offered.

VARIANCE REQUEST – *Wal Mart Stores Sign*

The next matter to come before the Board was the request of Wal-Mart Stores for Variance Approval from the applicable 200 square foot aggregate sign size limitation established by Section 42-436 (a), as it applies to the proposed additional wall sign. The applicant also requests a variance from the limitation to have only one wall sign. The property involved is located at 1013 South Kalamazoo Street and is within the B-2 General Commercial Business District. A variance was granted in May 2013 to allow 558.7 sqft of wall signage and the applicant was seeking to expand that approval for more square footage and an additional sign.

Chairperson Pioch opened the public hearing.

Ben Dariano, representing Wal-Mart Stores was present on behalf of the application. He stated that the purpose of the additional wall sign was to better direct customers as to where to go in the store to find their pre-ordered purchases. He noted that the large size of the wall warranted additional consideration not given to other B-2 district stores as this is the only large box store in the Village.

No public comment was offered on the matter. The public comment portion of the public hearing was closed.

Chairperson Pioch explained the previous variance granted to Wal-Mart Stores to allow additional signage in May 2013.

The Board proceeded with a review of the variance criteria set forth in Section 42-66. The following findings were noted:

1. In considering the presence of exceptional conditions of the property, it was determined that the subject property had wetlands on the subject site which limited building placement options on the property and caused the building to be constructed further from the main road, approximately 800-900 feet from M-40. Wall signage is not easily visible this distance from M-40.
2. In consideration of substantial justice, it was noted that the size of the existing building and the location of the site impact visibility and the effectiveness of the wall signage allowed by Section 42-436, unlike other commercial properties in the area and within the B-2 District in general.
3. In considering impact on adjacent property, it was determined that there would be no impact on adjacent property as the sign would be 200-400 feet away from those properties and will not create a significant change of signage conditions on the site.
4. In considering the intent/spirit of the Ordinance, it was noted that the subject sign would be in compliance with the maximum size allowed for any single sign and would be located on a wall with an expanse of 300-400 feet so it will not appear excessive in size.
5. In considering the public health, safety and welfare, it was noted that the proposed sign is designed to "direct" site traffic rather than to advertise.
6. The condition of the property is not of a 'general or recurrent nature' and does not justify an amendment to the Ordinance.

It was stated that the above findings were based on the application documents presented and the representations made by the applicant at the meeting.

Hartwell then moved to grant variance approval from size and sign number requirements established by Section 42-436 (a) so as to allow 759 square feet of signage and to allow a sixth wall sign based on the preceding findings of fact.

Ms. Carpenter seconded the motion. The motion carried unanimously.

VARIANCE REQUEST – Burger King Sign

The next matter to come before the Board was the request of Bennett Management for Variance Approval from the applicable 200 square foot aggregate sign size limitation established by Section 42-436 (a), as it applies to the proposed signs at Burger King. The property involved is located at 840 South Kalamazoo Street and is within the B-2 General Commercial Business District.

Chairperson Pioch opened the public hearing.

Mike Dauss of Dauss Architects was present and spoke representing the application. He stated that the purpose of the request was because they needed new signage due to the renovations that would be occurring to the building's exterior and the size of their existing free-standing sign took up a great deal of their allowable aggregate square footage. The variance would allow 221 square feet of signage where only 200 square feet is allowed.

No public comment was offered on the matter. The public comment portion of the public hearing was closed.

The Board proceeded with a review of the variance criteria set forth in Section 42-66. The following findings were noted:

1. It was determined that there are no unique physical circumstances to prevent compliance with the sign requirements of the zoning ordinance.
2. In consideration of substantial justice, it was noted that the sign standards apply similarly to all properties within the B-2 district along the South Kalamazoo Street corridor.
3. In considering impact on adjacent property, it was determined that there would be no impact on adjacent property as the site already has 215 square

feet of signage and increasing to 221 square feet would not result in a significant change of conditions. The wall signage meets the number of wall signs per parcel limitation as well as the 100 sq ft single sign size limitation. The site is surrounded by other properties in the B-2 district of similar land use.

4. In considering the intent/spirit of the Ordinance, it was noted that the proposed wall signs are appropriate in scale and intensity for the site and zoning district and that the existing freestanding sign exceeds the 100 sq ft sign size limitation. Replacement of the freestanding sign in compliance with the Zoning Ordinance would result in compliance with the overall sign standards for the site.
5. In considering the public health, safety and welfare, it was noted that the proposed sign conditions were an insignificant change and would not adversely affect public health, safety, or welfare.
6. The condition of the property is not of a 'general or recurrent nature' and does not justify an amendment to the Ordinance.

It was stated that the above findings were based on the application documents presented and the representations made by the applicant at the meeting.

Hartwell then moved to grant variance approval from the 200 square foot aggregate sign size limitation established by Section 42-436 (a) to allow Burger King to have 221 square feet of aggregate signage.

Ms. Carpenter seconded the motion. Carpenter, Davis, Hartwell and Pioch voting yes, Flores voting no, motion carried.

VARIANCE REQUEST – Burger King Parking

The next matter to come before the Board was the request of Bennett Management for Variance Approval from the parking space requirements established by Section 42-404 (8) of the Zoning Ordinance. The applicant is requesting 37 parking spaces where 42 are required. The property involved is located at 840 South Kalamazoo Street and is within the B-2 General Commercial Business District.

Chairperson Pioch opened the public hearing.

Mike Dauss of Dauss Architects was present and spoke representing the application. He explained that the reduced parking spaces were needed in order to make room for an additional drive-thru lane. As a substantial and growing portion of their business is in drive-thru sales, it is important to the company to have more efficient drive thru service. There is not enough space on the site to add another drive thru lane and have the required level of parking.

No public comment was offered on the matter. The public comment portion of the public hearing was closed.

The Board proceeded with a review of the variance criteria set forth in Section 42-66. The following findings were noted:

1. It was determined that there are no unique physical circumstances of the site preventing compliance that are not present on other properties within the B-2 District.
2. In consideration of substantial justice, it was noted that the parking standards apply similarly to all properties in the B-2 District and that the 1 parking space/80 square foot standard applies to a “restaurant for sale and consumption on the premises of beverages, food or refreshments”. The building renovation would reduce the dining room area and seating in response to disproportionate drive-thru sales vs. dining room sales, but the ordinance does not establish a parking standard specific to drive-thru restaurants.
3. In considering impact on adjacent property, it was determined that there would be no impact on adjacent property.
4. In considering the intent/spirit of the Ordinance, it was noted that there is not a distinct parking standard for drive-thru restaurants.
5. In considering the public health, safety and welfare, it was noted that the on-site circulation routes and parking layout will remain largely unchanged with the exception of reconfiguration of some angled and parallel parking spaces. The proposed parking layout will comply with parking space and maneuvering land dimensional requirements.
6. The condition of the property is not of a ‘general or recurrent nature’ and does not justify an amendment to the Ordinance.

It was stated that the above findings were based on the application documents presented and the representations made by the applicant at the meeting.

Hartwell then moved to grant variance approval from Section 42-404 (8) which requires there be one parking space for every six seats or 80 square feet of gross floor area, whichever is greater, to allow 37 parking spaces where 42 are required.

Ms. Carpenter seconded the motion. All members voting yes, motion carried unanimously.

ONGOING BUSINESS

No Ongoing Business was scheduled for Board consideration.

NEW BUSINESS

No New Business was scheduled for Board consideration.

MEMBER COMMENTS

Chairperson Pioch expressed a need to communicate to the Planning Commission that guidance is needed related to signs at big box style stores. There is no direction about how many total signs make sense for this site or one that is comparable. Member Flores echoed this concern and noted that they already made a similar comment to the Planning Commission in May of 2013 when the previous variance was granted. Moyer-Cale noted she would pass the information and request along to the Planning Commission.

Chairperson Pioch also noted that issues relating to setbacks, signage, and parking on South Kalamazoo Street seem to keep coming to the ZBA. She recommends the Planning Commission address this through creating a different zoning district or overlay district for the highway commercial area.

VILLAGE MANAGER/PLANNING CONSULTANT COMMENTS

No staff comments were offered.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 7:52 p.m.