

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

May 6, 2013

PRESENT: Chairperson Pioch, Barb Carpenter, Marcos Flores, John Hunt, George Kolosar

ABSENT: None

ALSO PRESENT: Rebecca Harvey, Village Planning Consultant and two (2) members of the public.

CALL TO ORDER

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

APPROVAL OF AGENDA

The agenda was reviewed. Mr. Flores requested that a discussion of an 'alternate ZBA member' be added to the agenda under 'New Business'. The Board agreed with the addition and the agenda was approved as amended.

APPROVAL OF MINUTES

The next matter to come before the Board was consideration of the proposed minutes of the July 2, 2012 Zoning Board of Appeals meeting. Mr. Kolosar moved to approve the minutes as presented. Ms. Carpenter seconded the motion. The motion carried unanimously.

PUBLIC COMMENTS REGARDING NON-AGENDA ITEMS

No public comment on non-agenda items was offered.

VARIANCE REQUEST – *Wal-Mart Stores*

The next matter to come before the Board was the request of Thomas King, representing Wal-Mart Stores, for Variance Approval from the sign

standards applicable within the B-2 District set forth in Sections 42-437 and 42-443, Zoning Ordinance. Specifically, the following variances were requested:

- a. Variance approval from the 100 sq ft single sign size limitation established by Section 42-443 (3), as it applies to the proposed main wall sign.
- b. Variance approval from the 200 sq ft aggregate sign size limitation established by Section 42-442 (3), as it applies to the overall wall and freestanding signage proposal.
- c. Variance approval from the internal illumination limitation for signs within 150 ft of a residential district established by Section 42-367 (b), as it applies to the proposed freestanding sign.

The subject 41-acre site is located on the south side of I-94, with frontage on M-40, and is within the B-2 General Business District.

Thomas King, legal counsel and Dan Backstrom, architect, were present on behalf of the application. Mr. King stated that Wal-Mart is pleased to inform the Village that a closing on the subject property has been tentatively scheduled for the end of May. He also noted that all approvals of the project are nearing completion and that no further delays are anticipated.

With respect to the requested variance approvals, Mr. King provided the Board with a handout (Exhibits A-F) detailing the requests and related sign proposals. It was noted that similar application material had also been provided to the Board in their meeting packet prior to the meeting.

Mr. King summarized the sign proposals and related variance requests as follows:

: a 95 sq ft internally illuminated freestanding sign is proposed to be located at the M-40 entrance, approximately **117 ft** from the adjacent residential district

: a **298 sq ft main wall sign** is proposed to be located on the west side of the building

: wall signage totaling 598.6 sq ft . . . and **aggregate site signage (wall and freestanding) of 693.6 sq ft** is proposed

Mr. King stated that Exhibit C details the requested sign variances. He noted that the proposed 'Market and Pharmacy' sign is **103 sq ft** in area and will also require variance approval from the 100 sq ft single sign size limitation (Section 42-443 (3)).

In support of the sign proposal, he emphasized that:

- : the approved building is situated 1100 ft – 1300 ft back from M-40
- : the building location/orientation was largely dictated by the extensive wetlands on the site; the shape of the parcel; and the size of the project and related improvements
- : the frontage limitations on the site and the size/location of the building render the project unlike other commercial properties in the area
- : the size of the building and the nature of the project dictate a need for 'wayfinding' signage on the building to provide direction to customers
- : the proposed wall signage is proportionate to the building size
- : the footcandle measurements at the eastern property line from the proposed internally-lit freestanding sign would meet the intent of the lighting provision (11.7 fc at 5 ft from the sign base/1.7 fc at 25 ft from the sign base)

In response to Board questions, Mr. King stated that the 'Wal-Mart' wall sign facing I-94 is being proposed as the 200 sq ft highway sign permitted by the Zoning Ordinance and has not been included in the total wall sign proposal.

Mr. King proceeded with a review of sign arrangements that currently exist on similarly situated commercial sites within the Village. The following observations /field measurements were noted:

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|-------------|--|
| Family Fare | : 420 sq ft of total signage plus a highway sign
: the building is closer to the road than the subject site
: no on-site wetlands issues exist |
| Taco Bell | : 157 sq ft total signage (1 freestanding sign; 4 wall signs)
: building is small in proportion to the signage established |
| McDonalds | : 430 sq ft of total signage
: 2 freestanding signs; 3 wall signs |
| St Julian's | : wall signage exceeds Ordinance standards |

Mr. King stated that the following findings support the requested variances:

1. The size of the building and the length of the walls are proportionate to the signage proposed;
2. The wetlands on the site dictate the location of the building and access drive . . . thereby impacting the signage options available;
3. The shape of the parcel is odd and dictates the relationship of the building location to the roadway frontage;

4. The distance of the building from the abutting street limits visibility and sign options.

No public comment was offered on the matter.

Mr. Flores questioned the application of the 'highway sign' provision to the subject site and the specific sign proposal. Ms. Harvey provided direction to the Board on the 'highway sign' standard, noting how it applies to the existing billboards on the site; the future use of those billboards by Wal-Mart; and how it can be used in the wall sign calculations.

Lengthy Board discussion ensued wherein Mr. Flores inquired as to how the sign proposal will affect future sign options for Outlots A and B (on the Wal-Mart site). It was noted that if Outlots A and B are developed as part of the Wal-Mart property . . . no additional freestanding or wall signage will be permitted on either site. However, if Outlots A and B are developed as building sites separate from the Wal-Mart site . . . then the sign provisions of the B-2 District will apply to each Outlot.

Mr. Flores stated that the applicant should be considered 'on notice' that any variance granted related to the immediate sign proposal for Wal-Mart does not obligate the Village to grant additional variances for the Outlots.

The Board then proceeded with a review of the variance criteria set forth in Section 42.66, Zoning Ordinance in application to the variance requests from the sign size standards, noting the following findings:

1. Regarding the presence of 'unique physical circumstances of the property', building placement on the site has been limited by the presence of a 'wetlands conservation easement'. As a result, the building is required to be located to the rear of the site, approximately 800-900 ft back from M-40. Due to the building location limitations on the site, wall signage will not be easily visible from M-40.
2. The size of the property, the size of the building, and the building location on the site limit the visibility and effectiveness of the wall signage permitted by Ordinance . . . unlike other commercial properties in the area and within the B-2 District.
3. The 598 sq ft of wall signage proposed, although exceeding the 100 sq ft permitted by Ordinance, will not be a substantial detriment to adjacent property given that the signage will be located on a building with wall expanses of 300-400 ft so will not appear excessive given the size of the building; will not be easily visible from M-40; and, will be located 200-400 ft from adjacent properties.

4. The sign proposal will not impair the intent of the Ordinance or the public health, safety and welfare in that the signage proposed to be located on M-40 is in compliance with the 100 sq ft sign area limitation . . . consistent with existing signage and signage permitted properties in the area. Further, at least half of the wall signage proposed (300 sq ft) consists of signage designed to 'direct' on site traffic rather than advertise.

Mr. Kolosar then moved to grant variance approval from the sign size standards established by Section 42-443 (3) as they apply to the proposed main wall sign, the 'Market and Pharmacy' sign, and the overall wall and freestanding sign proposal set forth in Exhibit C of the application (Items #1 and #2, as amended at the meeting by the applicant) based upon the findings of the Board on the variance criteria set forth in Section 42-66, Zoning Ordinance. Ms. Carpenter seconded the motion. The motion carried unanimously.

The Board next proceeded with a review of the variance criteria set forth in Section 42.66, Zoning Ordinance in application to the variance request from the internal illumination limitation for signs within 150 ft of a residential district, noting the following findings:

1. Regarding the presence of 'unique physical circumstances of the property' the amount and location of available frontage along M-40 is limited by a 'wetlands conservation easement' controlled by the DNR and does not allow for the placement of an internally-illuminated sign in compliance with the 150 ft setback standard.
2. The proposed freestanding sign will not be a substantial detriment to adjacent property in that it is located as far from the eastern property line (ie. the adjacent residential zoning) as the site permits; the residentially-zoned property adjacent to the east of the subject site consists of a 35 ft wide utility right-of-way (American Electric Power); and, the proposed freestanding sign will actually be located 151 ft from residential zoning that is available for residential use.
3. The sign proposal will not impair the intent of the Ordinance or the public health, safety and welfare in that the proposed location of the freestanding sign will actually be 151 ft from that portion of the adjacent residential zoning available for residential use; the presence of a lighted free-standing sign at the M-40 access to the site will promote on-site and roadway safety; and, the proposed internally-illuminated sign will generate less than a footcandle of illumination at the (eastern) property line and therefore will meet the intent of the lighting provision.

Chairperson Pioch then moved to grant variance approval from the internal illumination limitation for signs within 150 of a residential district

established by Section 42-437 (b), as it applies to the freestanding sign proposal set forth in Exhibit C of the application (Item #3), based upon the findings of the Board on the variance criteria set forth in Section 42-66, Zoning Ordinance. Mr. Flores seconded the motion. The motion carried unanimously.

NEW BUSINESS

ZBA ByLaws:

It was noted that consideration of Draft #1 of the Zoning Board of Appeals ByLaws would be postponed to the next meeting of the Board

Alternate ZBA Member:

Mr. Flores requested Board consideration of the appointment of an 'alternate' member to the Zoning Board of Appeals. He noted the benefits of having an 'alternate' member to the Board and indicated that it is recommended in training workshops.

Ms. Harvey stated that the decision to appoint an alternate ZBA member (and the appointment itself) is the responsibility of the Village Council. She noted further that such an appointment would require supporting language in the Zoning Ordinance, which could be drafted by the Planning Commission and adopted by the Village Council.

Mr. Flores then moved that the Village Council consider the appointment of an alternate member to the Zoning Board of Appeals and proceed with the Zoning Ordinance amendments necessary to facilitate their action in the matter. Mr. Hunt seconded the motion. The motion carried unanimously.

OLD BUSINESS

No Old Business was scheduled for consideration.

MEMBER COMMENTS

Chairperson Pioch commented on the digital signs that currently exist along M-40 within the Village . . . and the impact that the 'change in message' timing has on the character of the corridor. She suggested that the Village consider addressing this in the sign standards.

No further comments were offered at this time.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 8:12 p.m.