



**ADA TOWNSHIP ZONING BOARD OF APPEALS MINUTES
TUESDAY OCTOBER 6, 2009, 4:30 P.M.
ADA TOWNSHIP OFFICES
7330 THORNAPPLE RIVER DR. SE, ADA, MICHIGAN**

MEMBERS PRESENT: Burton, Hartley, Lowry, Boman, and Fields.

STAFF PRESENT: Kushion and Thompson

COMMUNITY PRESENT: 9

ABSENT: None

I. CALL MEETING TO ORDER-4:30 PM

II. APPROVAL OF AGENDA-Moved by Member Burton, supported by Member Lowry. Yes: 5 No: 0
Absent: 0 Motion Carried

III. APPROVAL OF THE SEPTEMBER 8th, 2009 MEETING MINUTES- Moved by Member Lowry,
supported by Member Hartley. Yes: 5 No: 0 Absent: 0 Motion Carried.

IV. OLD BUSINESS-None

V. NEW BUSINESS

- 1. Request for Variance from Sign Standards in the PO Zoning District to allow a second freestanding sign on one property, Valley City Sign (for Stifel Nicolaus and Company), 5181 Cascade Rd. SE, 41-15-31-326-040.** Jean Hughs, represented Stifel Nicolaus & Company. Ms. Hughs gave an overall explanation of the property which is on the corner of Spaulding and Cascade Rd. A non-lit sign is what they are requesting and the total height is 32 inches, the square footage is about 4 square feet and 18 inches by 36, and the design simply states their name. Paul Drueke, the building owner, stated they would like to identify themselves from both sides of the road.

Chairman Boman stated the Zoning Board of Appeals received a letter from J.C. Huizenga who supported approval of request.

No Public Comment

Open to Board Discussion

Member Fields stated as this was a public safety issue and he supported the application.

Chairman Boman stated there is practical difficulty in the location of the lot relative to the roads and their current signage.

Member Lowry stated there was a definite need for a sign by the Spaulding entrance.

Member Lowry moved to approve the additional sign on Spaulding St., supported by Member Burton.

Chairman Boman suggested including the recommendation that height, width and square footage of the sign be no greater than what has been submitted. Lowry added the approval should also state there will be no illuminated sign in the future.

Yes: 5 No: 0 Motion Carried

2. Request for Approval to change a Non-conforming use from a Commercial Interior Design business to a Commercial Personal Training Studio in the AG Zoning District, April Snow Craft, 6365 Knapp St., 41-15-08-277-006.

The applicant was present for the variance request. Ms. Snow stated the building would be used as a Personal Training studio for one-on-one training, by appointment only (30 minutes to an hour), and occasional small classes of 4-6 couples. Ms. Snow stated she does not plan to change the facility or structure of the building.

Member Lowry asked about signage; the applicant stated at some point in the future she may want a sign, but most of her business is by referral. Member Lowry also commented on the heavy traffic in that area.

Member Fields asked if it replaces the other business and Ms. Snow stated it does, the building is empty.

Chairman Boman stated a letter was received, not included in the packet, by e-mail from EDI properties requesting to table the request until they can gather more information about the nature of the proposed business.

No Public Comment

Open to Board Discussion

Zoning Administrator Kushion stated EDI did receive the notice in the mail, but didn't open it until yesterday or today, and so sent the e-mail before the meeting.

Member Fields stated the application was good, that the proposed use doesn't change anything.

Member Burton stated she liked the idea that a vacant building is now going to have a business.

Moved to approve by Member Fields, supported by Member Lowry. Yes: 5 No: 0 Motion Carried

3. Request for Modification of a previously approved Variance to allow for the continuation of an Office Use in the R-3 Zoning District, Thornapple Pines Development LLC, 660 Ada Dr., 41-15-34-152-009.

Aaron Smith was present on behalf of the applicant. Mr. Smith stated the variance was granted in 1969 originally permitted the building to be used for offices and other non-residential uses by Amway. Mr. Smith stated in 1974 the Zoning Board of Appeals granted a continuance of that variance, and in 1979 to make the variance permanent by request of Amway, with the condition that if it was sold, the property would revert back to the permitted R-3 zoning. The principle use since 1969 has been non-residential, including office space and rec-center for Amway. The applicant is under contract to purchase the property for his client, a member of one of the founding families of Amway who intends to use it for personal offices. For that reason the applicant is asking to remove the reversionary condition.

Member Fields asked by what standard does the Zoning Board of Appeals use when asked to revisit a decision from a prior Zoning Board of Appeals. Member Fields stated he did not see hardship or practical difficulty and wanted legal guidance for approaching the request.

Mr. Smith stated the applicant is looking to purchase the property and continue to use the property for offices.

Chairman Boman stated in a letter received that day, the applicant asked to allow the structure to be rebuilt if destroyed or demolished. Mr. Smith stated the letter and request had been withdrawn.

Clerk Burton stated she was not aware it was being given to an heir/family member and that it was not being purchased.

Planning Director Ferro stated it is a change in ownership, but is a change from corporation to family member transaction. Simply” change of ownership” is what the previous provision stated.

Clerk Burton stated the Zoning Board of Appeals is being asked to change the original variance so it can apply to the new ownership, as opposed to before it was to end with any change in ownership.

Member Ferro stated that was true and one of the approvals run with the land and if the hadn’t proposed the ownership condition, there would be no question that it would not be lawful for the township to impose it itself. The standard that applied to the variance request back in 1969 was whether the ability existed the former school could economically be used for R-3 zoning purposes.

Chairman Boman stated the Zoning Board of Appeals received a letter from Robert Hunter, Vice President of Facilities, Access Business Group, in support of the request.

No Public Comment

Open to Board discussion

Member Fields suggested the applicant submit a new variance request and notices be sent. Everybody would know what they are getting into and what the Zoning Board of Appeals is ruling upon. There would be a clean variance that would be transferable, and would be proper.

Member Hartley stated at the time it was approved, it was questionable, so how do we legally correct that now?

Further discussion among the Zoning Board Members took place regarding the changes and time. Member Boman agreed the applicant could have come to the ZBA with a new application for a new variance.

Zoning Administrator Kushion stated a new application could be done for a variance for professional office use in the R-3 Zoning district.

Member Fields stated he would like to have a good grip on what the legal standard is for doing this and do it appropriately, or have a new variance request and evaluate it that way. He stated he would also like a “fixed target” concerning details in a zoning variance request being changed the day of the hearing, in reference to a letter dated October 2nd.

Planning Director Ferro stated in the applicant’s narrative they did request a variance. A variance is in place that in essence makes the office use of that building a permanent conforming use. Discussion amongst the Board continued regarding time limits, legalities of this variance request, and notice wording.

Member Fields moved to table request to next month and bring to the ZBA some citation of authority on how one goes about changing a prior ruling of the Zoning Board of Appeals, or submit an application for a variance request. Supported by Member Lowry. Yes: 5 No: 0 Motion to Table Carried until next regularly scheduled Zoning Board of Appeals meeting.

VI. CORRESPONDENCE-None

VII. PUBLIC COMMENT-None

VIII. ADJOURNMENT-Move to adjourn at 5 :10 pm by Member Fields, supported by Member Hartley.
Yes : 5 No: 0 Motion carried.

Susan Burton
Ada Township Clerk

Date

RS/dt