

**MINUTES OF THE REGULAR MEETING OF THE GEORGETOWN CHARTER TOWNSHIP
ZONING BOARD OF APPEALS HELD JULY 28, 2010**

The meeting was called to order at 7:30 p.m. by Chairperson Joyce Weise.

Members Present: Joyce Weise, Carl DeVree, D. Dale Mohr, John Fanthorpe, Greg Honderd
Members Absent: none
Others Present: Mannette Minier, Secretary and Zoning Administrator; and the applicants

#100728-01 - Approval of the minutes

The minutes of the regular meeting held on June 23, 2010 were presented.

Moved by D. Dale Mohr, seconded by Carl DeVree, to approve the minutes as presented.

MOTION CARRIED UNANIMOUSLY.

#100728-02 – (VAR1004) Sparkling Image, 6451 Kenowa Ave., is requesting to have a sign located 46 feet from the centerline of the street, a variance of 4 feet from the 50 feet required for the distance that a sign shall not extend over in Sec. 25.6(B)(2), in a (NS) Neighborhood Service Commercial district, on a parcel of land described as P.P. # 70-14-24-400-039, located at 6451 Kenowa Ave., Georgetown Township, Ottawa County, Michigan.

The Zoning Administrator presented a review as follows.

REQUEST

(**VAR1004**) Sparkling Image, 6451 Kenowa Ave., is requesting to have a sign located 46 feet from the centerline of the street, a variance of 4 feet from the 50 feet required for the distance that a sign shall not extend over in Sec. 25.6(B)(2), in a (NS) Neighborhood Service Commercial district, on a parcel of land described as P.P. # 70-14-24-400-039, located at 6451 Kenowa Ave.

HISTORY

On March 25, 1998, the ZBA granted approval for a 36 foot side yard setback from a residential boundary, a variance of 14 feet from the 50 feet required in Chapter 24 footnote m) and the ZBA granted approval for parking and drives to be six feet from a residential boundary, a variance of 19 ft. from the 25 feet required in Chapter 24 footnote (m). ([excerpt of the March 25, 1998 ZBA minutes](#)) ([part of site plan](#))

On April 15, 1998, the Planning Commission recommended approval of a special use permit for a vehicle wash establishment and approved a revised site plan with a condition. On April 27, 1998, the Township Board approved the special use permit. ([excerpt of the April 1 and April 15, 1998 Planning Commission minutes and April 27, 1998 Township Board minutes](#)) ([part of the site plan](#))

On December 17, 2003, the Planning Commission approved a site plan to add vacuums to a previously approved site plan. The sign is shown on the plan, but no dimensions or details were provided. ([excerpt of the December 3 and 17, 2003 Planning Commission minutes](#)) ([part of the site plan](#))

On June 25, 2007, a sign permit was approved for Advanced Signs Inc. for a 50 SF sign to be constructed 50 ft. from the centerline of Kenowa. The sign was inspected and approved. A picture was taken of it. The application submitted by Advanced Signs Inc. included diagrams showing that the sign did not extend over a distance of 50 feet from the centerline of Kenowa. ([sign permit and diagrams](#))

DISCUSSION

In 1998, the Planning Commission and Township Board reviewed and approved a special use permit with a site plan for a vehicle wash establishment at 6451 Kenowa. As noted in all the partial site plans provided above, the sign was to be located as per Township ordinances. However, no specific sign details or dimensions were provided on the site plans that were approved. The requirement for the extra distance for setbacks on Kenowa was in effect in the Zoning Ordinance prior to the approval of the initial site plan for the construction of the vehicle wash establishment.

Further, all the partial site plans show that the elevation starts to decrease immediately to the west of the sign for the detention pond. To place the sign four feet to the west of its current spot would locate it in a much lower elevation in the area for the detention pond.

Township records indicate that a sign permit was approved in 2007 for a sign to be located on the parcel in a spot where the sign did not extend over a distance of 50 feet from the centerline of Kenowa (which meets ordinance requirements). An inspection was conducted (the location was just eyeballed) and the permit was approved and finalized in 2007.

Currently, the applicants from the new sign company and property owner have requested a sign permit to reface the existing sign which requires the submission of a complete sign permit application (including diagrams). The diagram submitted with the application noted the distance from the edge of the sign to the centerline of Kenowa as 46 feet (which did not correspond to the previously approved sign permit from 2007).

Township staff reviewed the application and researched the previous sign permits. The finding was that the previously installed sign in 2007 was indicated on the previous permit to be located 50 feet from the centerline of the road to the edge of the sign. Due to this confusion (because the sign had not been moved since the time the previous permit was approved and the question was raised as to why the dimensions were 4 feet different), the applicant contacted Exxel Engineering (who drew the initial site plan in 1998 and the revised plan in 2003). Exxel Engineering verified that the **pole** was installed 50 feet from the centerline of the road. This results in the dimension of 46 feet from the edge of the sign to the centerline of the road.

It appears that the sign company that installed the sign in 2007 mistakenly placed the **pole** of the sign at the 50 foot distance rather than placing the pole at 54 feet from the centerline which would have resulted in the dimension of 50 feet from the edge of the sign to the centerline of the road. The permit was issued for the sign to not extend over the 50 foot distance, but the sign company may have been confused when they mistakenly placed the pole at the 50 foot distance. The placing of the sign at this location *appears* to be merely a mistake with no intention by the sign company or the property owners to locate the sign incorrectly.

If a sign had been previously located on the site, there is no record of a sign permit being issued. If a sign was installed on the site prior to 2007 and in 2007 the sign was just refaced, then the previous sign company may be responsible for the incorrect location and the sign company in 2007 may have just assumed that the sign had been located 50 feet from the edge of the sign to the centerline (and placed the dimension on the diagram).

A site inspection was conducted on July 7, 2010 by the Zoning Administrator and Code Enforcement Officer. The finding was that the current location was not detrimental in any way to the surrounding area or to vehicles traveling on Kenowa or to vehicles accessing the site. In addition, the bottom edge of the sign is 17.25 feet from the ground. Further, if the sign was to be located four feet to the south, it would be in a much lower elevation since that is the location of the detention pond.

SUMMARY of the review

It appears that standards 2, 3, 4 and 7 are met and that standard 5 is not applicable. The ZBA will have to determine if they concur with the review and if standards 1 and 6 are met.

Variance standards in Sec. 28.11(C) are required to be met in order for a variance to be granted. The ZBA should determine if they agree with the determination that the following standards are met or not met.

| | | | |
|-------------|--|----|--|
| Variance ID | VAR1004 | | |
| Applicant | Sparkling Image | | |
| Address | 6451 Kenowa Ave. | | |
| Request | Sign located 46 ft. from the centerline of Kenowa Ave. | | |
| Date | For July 28, 2010 meeting | | |
| # | YES | NO | CONDITIONS (Chapter 28.11-C) |
| 1 | | | Granting the variance(s) will be in the public interest and will ensure that the spirit of the Ordinance shall be observed. |
| 2 | X | | Granting the variance shall not permit the establishment within a district of any use which is prohibited, nor shall any use variances be granted. |
| 3 | X | | That there are practical difficulties in complying with the standards of the Zoning Ordinance resulting from exceptional, extraordinary, or unique circumstances or conditions applying to the property in question, that do not generally apply to other property or uses in the vicinity in the same zoning district; and have not resulted from the adoption of this Ordinance. |
| 4 | X | | That the granting of such variance will not be of substantial detriment to adjacent properties or improvements in the vicinity; or, that the application of conditions of an approved variance will eliminate or sufficiently mitigate potential detrimental impacts. |
| 5 | NA | NA | That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district. |
| 6 | | | That granting such variance will not cause any existing non-conforming use, structure, or condition to be increased or perpetuated, contrary to the provisions of Chapter 27 of this Ordinance, except in accordance with Section 27.12. |

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| 7 | X | That the variance is not necessitated as a result of any action or inaction of the applicant. |
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Standard #1 - Granting the variance will be in the public interest and will ensure that the spirit of the Ordinance shall be observed.

The ZBA will have to determine if this standard is met. The spirit of the ordinance is “to regulate and limit the construction or reconstruction of signs and billboards to protect the public peace, morals health, safety, aesthetics and general welfare. Such signs as will not, by reason of their size, location, construction, or manner of display, endanger life and limb, confuse or mislead traffic, obstruct vision necessary for vehicular and pedestrian traffic safety, or otherwise endanger public welfare, shall be permitted except as may otherwise provided for herein,” as stated in the Zoning Ordinance. This includes the size, height, and location of signs. The ZBA will have to determine if the sign in its current location serves the public interest.

Standard #2 - Granting the variance shall not permit the establishment within a district of any use, which is prohibited, nor shall any use variances be granted.

MET.

Standard #3 - That there are practical difficulties in complying with the standards of the Zoning Ordinance resulting from exceptional, extraordinary, or unique circumstances or conditions applying to the property in question, that do not generally apply to other property or uses in the vicinity in the same zoning district; and have not resulted from the adoption of this Ordinance.

APPEARS TO BE MET. It appears that the applicants and property owners initially thought that the sign location met Zoning Ordinance requirements and they have continuously complied with ordinances regulations for sign permits and site plan submittals for changes on the site. If the sign was to be relocated to a spot where the edge of the sign was 50 feet from the centerline of the road, the sign would then present the practical difficulty of being located in an area with a much lower elevation for the detention pond.

Standard #4 - That the granting of such variances will not be of substantial detriment to adjacent properties or improvements in the vicinity; or, that the application of conditions of an approved variance will eliminate or sufficiently mitigate potential detrimental impacts.

APPEARS TO BE MET. The sign has been located in this spot since at least 2007 with no apparent detrimental effects to the adjacent properties. The distance of 17.25 feet from the bottom of the sign to the ground would prevent any negative impacts for anyone under it. The sign location does not appear to detrimentally affect traffic on Kenowa or vehicles accessing the site.

Standard #5 - That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.

This standard does not appear to be applicable since there are no businesses to the north, across the street is the City of Grandville which does not come under the jurisdiction of Georgetown Township, and the Burger King site to the east has a sign located on the corner of 44th St. and Kenowa. Therefore, there is not a comparable business in the immediate area

within the jurisdiction of Georgetown Township that would possess a similar or dissimilar property right.

Standard #6 - That granting such variance will not cause any existing non-conforming use, structure, or condition to be increased or perpetuated, contrary to the provisions of Chapter 27 of this Ordinance, except in accordance in Section 27.12.

The ZBA will have to determine if this standard is met. The sign is currently not located in a spot that conforms with Zoning Ordinance provisions; however, this situation was unknown since the sign company misinterpreted the location that was approved on the sign permit when they installed the pole of the sign 50 feet from the centerline rather than the edge of the sign.

Standard #7 - That the variance is not necessitated as a result of any action or inaction of the applicant.

APPEARS TO BE MET. It appears to be the result of the sign company that installed the sign in 2007 and that the property owner has made every attempt to comply with Township ordinances (and he likely thought that the sign was in compliance). The sign company that installed the sign in 2007 may have mistakenly placed the pole of the sign at the 50 foot distance rather than placing the pole at 54 feet from the centerline (as per the approved sign permit) which would have resulted in no part of the sign extending over the 50 foot distance. The sign company may have been confused when they mistakenly placed the pole at the 50 foot distance. The placing of the sign at this location *appears* to be a mistake by the sign company or the property owners to locate the sign incorrectly.

Steve Timmer, 8451 Kenowa, new owner, represented the applicant and presented the request.

D. Dale Mohr asked if there was going to be any size change or movement of the sign. He was told no.

Greg Honderd said that water retention is very important in this area because there was a lot of flooding and that it is important that water retention is preserved in this area and not disturbed. He said that the sign should not be put within the water retention area.

The chairperson opened the public hearing. No one was present to make public comments at this time. The chairperson closed the public hearing.

The zoning administrator stated that the two important points were that the sign would be in the water detention area if it was moved back four feet and that there have been no detrimental effects from the current placement of the sign.

Joyce said that if the sign was moved back four feet, it would lose 2 feet in height and that to locate the sign within the detention area would be detrimental.

The zoning administrator said that financial issues should not be a consideration of the ZBA when determining if the standards of the ordinance were met.

D. Dale Mohr said that the standards were not as high for the applicant as they were for the engineer, sign company, Planning Commission and Board.

Moved by D. Dale Mohr, seconded by Carl DeVree, to approve variance (VAR1004) Sparkling Image, 6451 Kenowa Ave., to have a sign located 46 feet from the centerline of the street, a variance of 4 feet from the 50 feet required for the distance that a sign shall not extend over in Sec. 25.6(B)(2), in a (NS) Neighborhood Service Commercial district, on a parcel of land described as P.P. # 70-14-24-400-039, located at 6451 Kenowa Ave., Georgetown Township, Ottawa County, Michigan; based on the finding that the request meets the seven standards of the ordinance, specifically the standards were determined to be met as per the review and standard one is determined to be met because it is in the public interest to leave the sign in its location since it would be worse to have it lower and draw attention and it is exempt because of Sec. 27.12.

MOTION CARRIED UNANIMOUSLY.

#100728-03 - Adjournment

Moved by Carl DeVree, seconded by D. Dale Mohr, to adjourn the meeting at 7:45 p.m.

MOTION CARRIED UNANIMOUSLY.