

WARREN ZONING BOARD OF APPEALS
REGULAR MEETING
August 13, 2014

A Regular Meeting of the Warren Zoning Board of Appeals was called for Wednesday, August 13, 2014 at 7:30 p.m. in the Warren Community Center Auditorium, 5460 Arden Avenue, Warren, Michigan 48092.

Members of the Board present:

Judy Furgal, Chairwoman
Steve Watripont, Vice Chairman
Roman Nestorowicz, Secretary
Jean Becher, Assistant Secretary
Wally Bieber
Henry Brasza
Jennifer Vigus

Members of the Board absent:

Ann Pauta
Jules Descamps, Jr.

Also present:

Roxanne Canestrelli, City Attorney
Everett Murphy, Zoning Inspector

1. CALL TO ORDER

Chairwoman Furgal called the meeting to order at 7:31 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Board Members Jules Descamps and Ann Pauta were absent.

Motion:

Board Member Watripont made the motion to excuse Board Members Descamps and Pauta and it was supported by Board Member Vigus.

A voice vote was taken on the motion. The motion carried (7-0).

4. ADOPTION OF THE AGENDA

Motion:

Board Member Watripont made the motion to approve the agenda and Board Member Bieber supported the motion.

A voice vote was taken on the motion. The motion carried (7-0).

5. APPROVAL OF THE MINUTES OF the Regular Meeting of July 23, 2014.

Lawrence Frohriep, treasurer of the condo association to the north of the building, appeared before the board and stated it was his understanding which he was not able to attend because of medical issues, the President of the Condo Association was here but she had never received the first letter that went out concerning the July meeting as a couple of the residents had not. In looking over the items that were up for variance he did not have a problem with the religious facility coming in there. He does now because of the speaker problem. He was directly behind, the first one on Schoenherr, his door wall looks right on to the building and he does not know how that works. He understands that call to prayer can be five times a day over loud speakers. He does not know if that were true or not but that was what he was being told. He was told when he talked to Mayor Foots earlier this week before the big flood, he informed him that the Mosque near his residents does not have outside speakers, so he did not know how that variance got through then because from what he understands was the board was allowing them to go into the location with speakers even though at the last meeting the board said no outside speakers. Was he correct in his understanding?

Chairwoman Furgal stated the Zoning Board of Appeals could not require them to not have speakers, it was against Federal Law.

Lawrence Frohriep stated but the board did not have to give the variances. If that was the case then he would like to go back to that meeting that the Zoning Board of Appeals had because if they gave that with the stipulation that there would be no outside speakers. He understands it was against Federal Law he was told by somebody that the City cannot have the variance demanded of a Mosque. However, the Zoning Board of Appeals does not have to grant the variances to allow the Mosque in there. That was his understanding and there were a number of items listed that the board has but other restrictions on. If he was not mistaken when he reviewed the item at the Council office from the last meeting the Zoning Board of Appeals restricted lighting that went up that it had to be sheltered from all residents, was that true?

Chairwoman Furgal stated the Zoning Board of Appeals could do that in the case of lighting.

Lawrence Frohriep asked why that was not true of sound. If the board could do it for restricting lighting then why not sound.

Chairwoman Furgal stated because the lighting restrictions were not against Federal Law. The Mosque as voluntarily said that they would not have the speakers.

Lawrence Frohriep asked if that was in writing.

Chairwoman Furgal said it would be in the minutes.

Lawrence Frohriep said he did not know.

Hirsham Turk stated he could only promise him that they were not going to put the loud speaker up there.

Lawrence Frohriep asked why the petitioner was objecting.

Hirsham Turk said he was not objecting if they put the condition the petitioner would go with it if it were lawful to do that. He was promising the neighbors they were not going to do that.

Lawrence Frohriep said some of the other restrictions were that the center was limited to a capacity of 100 people, correct, that was part of the variances. Another variance was the wall on the north side, did anybody from the City or anyone inspect that wall, it was ready to fall down and he had pictures of it for the board to review.

Chairwoman Furgal stated the board has seen the wall.

Hirsham Turk said the four foot wall was going to be redone and it now had to be 6 foot. He has to do that.

Lawrence Frohriep asked if this was in writing anywhere.

Secretary Nestorowicz stated the wall request was not granted and the petitioner had to replace the wall and make it 6 feet. The wall was not granted at the last meeting.

Chairwoman Furgal said the board only approved dimensional variances.

Lawrence Frohriep said so the wall would be 6 foot all the way around.

Hirsham Turk said yes, that was right.

Lawrence Frohriep said he had no problem with the wall but he would like to see in writing the speakers.

Board Member Becher said the board cannot legally request that.

Lawrence Frohriep said the petitioner could volunteer it even though the board could not require it.

Hirsham Turk said he could only promise him, if he did not trust them then he did not know.

Lawrence Frohriep said that a survey was done and if someone had the site plan here, if you look at the site plan you would see that the wall was five feet off the property line on the petitioner's side, not on the resident's side. It was five feet off, that means that the large trees in the back of his property belong to the petitioner. They were responsible then, like right now there was damage from Monday night from the trees and he had pictures of that also. So the petitioner was saying he was responsible for that damage.

Mr. Sajed said he was the President of the organization that was trying to purchase the building. The building was not theirs yet. It has been under contract on the condition that it passes the approvals, so it was not the organizations responsibility yet, it

was still owned by the Doctor. The organizations ownership was pending approval from the Zoning Board of Appeals which it has already passed and then the site plan approval that was coming up.

Lawrence Frohriep said so he was saying that it was Dr. Hendra's problem.

Mr. Sajed said if Mr. Frohriep was saying this was damage that happened Monday with the flood, yes. The building was not owned by the organization at this time, the Doctor still owns it.

Lawrence Frohriep said but in the future if the purchase goes through the organization would be responsible for the trees.

Mr. Sajed said yes.

Lawrence Frohriep said it was a concern because there was a lot of dead wood up there and twice he has paid \$400.00 to \$800.00 to have that trimmed.

Mr. Sajed said whatever was to be the organizations responsibility it would be taken care of.

Chairwoman Furgal said the gentlemen were now having a private conversation and it was not the concern of the board. She asked if anyone else would like to speak on this item. Hearing and seeing now she closed the public hearing and turned the matter over to the board.

Board Member Becher said that she understood this whole matter to be was to rescind the conditions of approval. The board had to take out the part about the approval being a restriction prohibiting speakers and outdoor activities.

Motion:

Board Member Becher made the motion to rescind the portion that infringes on the legal rights of their religion by removing the restriction on outdoor speakers and outdoor activities. The board by Federal Law and the U.S. Constitution cannot deny them their rights to their religious practices.

Secretary Nestorowicz supported the motion to rescind the conditions of July 23, 2014.

Chairwoman Furgal stated she had a question to the petitioner before the vote. Would he put on the record that he would not have a call to prayer?

Roxanne Canestrelli said the board could not ask that of the petitioner.

Lawrence Frohriep said without it, it was fairly meaningless.

Chairwoman Furgal stated the variances that were granted were dimensional variances only, meaning where the building sits on the lot and nothing more. It allows them to use the property was a religious facility and that was all this board did.

was a sign on the building that was extremely large today, about 1200 sq. ft. so there has been a lot of controversy and it was her understanding that her husband even came to the board at one point and time and did not get approval. She has done the best that she could to keep it functional and viewable from Nine Mile. It was very important the public be able to see the sign as it was in an industrial building and it was not in a strip mall for retail store. The store sells clothing, Carhart and Made In Detroit and Dickie's Clothing there so it was very important to be able to see it from Nine Mile. She has done the best that she can by looking at all positions of Nine Mile as she went along the building and she feels this sign was the smallest she could go and still have people visually see it as they drove by to see that it was a retail business. This was the 13' x 8'9" = 115 sq. ft. The business has been in operation since 2006 and it was an established business. She knows there have been some issues with the signage and she was not aware of everything as she was not part of the businesses prior to this last year. She was seeking the board's assistance to continue moving forward.

Chairwoman Furgal said this was a public hearing and asked if there was anyone that wished to speak on this item. Hearing and seeing none she closed the public hearing and turned the matter over to the board.

Secretary Nestorowicz said he remembered back in 2012 when the board denied the original large sign request because at that time he thought the whole board agreed that the sign was way too large. He thinks what the petitioner came back with today with the current dimensions was a much more reasonable request for this building to keep the visibility and keep the business operating. He personally had no issue with the request.

Board Member Brasza asked how the sign would be placed on the building, mounted on the wall.

Deborah Zellen said the sign was already mounted on the wall. The sign company that made it was going to come in and take it down to the size, there was a little bit of orange paint that was going to cover up the COM and she was going to keep just the main center and just move it on the wall so that it was more centered in front of the building. As you can see from where she placed it on the display. It would be the current sign but she was taking the sides off of it, it was an orange sign so the COM would be covered with sign paint so that it would look transparent to the sign.

Board Member Becher said she was a little confused because when she looked at the building this weekend it still had the big treated canvas sign that wrapped the building that the board turned down and on the drawing it showed the sign against a brick wall.

Deborah Zellen said the wood sign was on the door for the other business that was not the vinyl sign. There were two requests, two signs because there were two businesses.

Board Member Becher asked if she would be painting the vinyl that was wrapping the building.

Deborah Zellen said no that would be cut. The sign would be cut to the dimensions listed on the request.

Board Member Becher said so the windows to the building would be visible.

Deborah Zellen said yes.

Board Member Bieber stated she was taking down the big sign that the ZBA had disapproved, she was going to finally do that correct?

Deborah Zellen said yes.

Board Member Bieber continued and held up a photo and asked if it showed what she was planning to put up.

Deborah Zellen said no, that was already there.

Board Member Bieber said so you put it up before getting approval.

Deborah Zellen said no, there were two different businesses and that sign conforms to the sign ordinance so she did not need approval for that one. She submitted both because the total of signage needed to be considered.

Chairwoman Furgal asked Everett Murphy if the board could do this and that it was legal that the Zoning Board could do this, she was just making sure.

Everett Murphy, Zoning Inspector stated it was explained to him that the entire Vinyl sign would be taken down, it would be cut, re-seam the edges and relocated on the building.

Chairwoman Furgal said she was meaning the material.

Everett Murphy said yes the material was legal.

Motion:

Board Member Nestorowicz made the motion to approve the petitioner's request to install two wall signs as follows: One sign being 13 feet x 8 feet 9 inches for a total of 115.7 sq. ft. located per the drawing and one sign 3 foot by 5 foot for 15 sq. ft. for a total of 130.7 sq. ft. of wall signage.

Reasons being: Lack of identification and not a detriment to the area.

Board Member Brasza supported the motion.

Roll Call:

A roll call was taken on the motion and the motion carried (7-0).

Secretary Nestorowicz
Board Member Brasza

Yes for the reasons stated in the motion.
Yes for the reasons stated in the motion.

1. Retain twelve (12) wall sign as follows:
Eleven (11) wall signs 66" x 40" = 18.33 sq. ft. per sign, total 201.63 sq. ft.
One (1) wall sign 48" x 40" = 13.33 sq. ft.
2. Add one (1) wall sign "HOME GALLERY" 48" x 96" = 32 sq. ft.
Total: 249.96 sq. ft. of wall signage

ORDINANCES and REQUIREMENTS:

Section 4A.35 (c): Total wall signage of a size not to exceed forty (40) sq. ft. shall be allowed for each business in C-1, C-2, C-3, M-1 and M-2.

Mazin Jajou's son appeared and stated the Yousif Odialto had promised to be present but was not. The problem with the business was that it used to be a big boy and after his father purchased the building he wanted get away from the previous identity.

Chairwoman Furgal asked the gentleman to state his name and address.

Mark Jajou, 200 E. Terrance Road, Temperance, MI was the gentleman before the board and the son of Mazin Jajou. He continued and stated since the big boy had been there for years he wanted to make a change and had put the signs up on the windows. The signs were easy to see from the outside but you could not see them on the inside due to the tinted windows. There was no use putting signs on the inside because the tinted windows were so dark you could not see them. The other thing was the banner on top of the pole sign location because they currently only had a one year lease from the church and could not invest in a really good sign.

Chairwoman Furgal stated this was a public hearing and asked if there was anyone in the audience that would like to speak on this item. Hearing and seeing none she closed the public hearing and turned the matter over to the board.

Chairwoman Furgal said she personally had a problem with 12 signs.

Board Member Becher said she went up and looked at these signs and they are on the outside.

Mark Jajou said yes they are on the outside and there are people still walking in and asking where the Big Boy was.

Board Member Becher stated when inside the store you see right through the signs, you do not even see them. It was an expensive sign deal but it was on the outside of the building.

General discussion took place with the board.

Board Member Brasza asked how many of the signs had advertisement on them. A lot of them looked architectural as opposed to signage where it says the business name or describing it so he was wondering what the distinction was, was there a distinction between an architectural graphic vs. a sign that has the name of the business.

Chairwoman Furgal said she did not want any wall she was just asking why there was not a variance for a wall if there was no wall.

Yousif Zalou, owner for the business at the building, his address was 37630 Maple Hill Street in Harrison Township, MI 48045 said the building was closed and the business was on the inside. The outside was going to parking, he had a wall and the City knocked it down. Some people would bring their garbage there and the City would come and pick it up the truck for the City knocked the wall down and he asked them there why and they said they picked up the garbage and the that he would have to pay \$600.00 and he asked who would be paying for the wall and the City said may be the board not ask for the wall, it was ok that he did not need it.

Chairwoman Furgal asked what kind of business was there before.

Yousif Zalou said mechanic and tire and detail and restoration. The last building got burned and he had no insurance so he paid the price, his mistake. He was an honest good person and he wants to help the people and he would do the work cheap. The tenant paid the price on this too because they had a lot of equipment and material, they are young kids. It cost him about \$80,000.00 to rebuild that location.

Chairwoman Furgal said this was a public hearing and asked if there was anyone in the audience that would like to comment on this item. Hearing and seeing none she closed the public hearing and turned the matter over to the board.

Board Member Becher said she noticed that he wanted have an auto repair in this building and she has a couple of questions like he has provided the plans of the building but there are no bays shown, there was no discussion about outside storage, would there be cars waiting outside that have to be repaired and if so, how long would they be parked on that lot? He only has 5 parking spaces and she was very concerned about the fact that there was just a chain link fence at the back of the lot and not a brick wall because there was a residents right behind the building and she really thinks there should be a brick wall. The other businesses down 9 Mile have the brick wall and she does not think a City truck knocked down his brick wall, and if they did they must have knocked it down a long time ago because that chain link fence was old.

Yousif Zalou said he had proof.

Board Member Becher continued and stated she did not care if he had proof, he still had to have the brick wall.

Yousif Zalou said he needs a wall then ok, he did not say no.

Board Member Becher said she would also like answers to the questions if he was going to have cars outside waiting for repair.

Yousif Zalou said he had to have cars outside waiting and he had 10 more parking spots for them.

Board Member Becher said she was concerned with how long the cars would be out and if any of them were going to be junk cars and he said nothing about outside storage, and that would fall under outside storage.

Yousif Zalou responded and said no junk was going to be, just the cars that come in from the customers to be worked on and they were going to be put inside, and he has a big, big place inside.

Board Member Becher said he just stated he was not going to have cars that need to be repaired outside.

Yousif Zalou said cars would not be left outside. There were a lot of thief's there, they stole the entire furnace, hot water everything after he brought it in to replace. He was working on it and the second day he did not see it and it was brand new.

Board Member Becher asked if he had a major fire in the building.

Yousif Zalou said yes.

Board Member Becher said that would be between him and his insurance company and the contractor.

Yousif Zalou said he already said he did not have insurance that he paid the price.

Board Member Becher said that would be between him and his construction company.

Yousif Zalou said he built it.

Board Member Becher said well then he should have secured it better.

Yousif Zalou said he did not understand what she meant.

Board Member Becher said secure the building.

Chairwoman Furgal interrupted and asked to get back to the subject.

Yousif Zalou said they came in and took everything even a hoist.

Board Member Becher said that was not what they were talking about now, they were discussing the business that was going into the building and she had asked about him having cars for repair parked outside. There have been two stories. First that customer's bring them in and he takes them into the building and then he said sometimes parked outside waiting for repair. The board has to know how many cars he was planning on having cars outside that need repair.

Yousif Zalou said he did not know 1 or 2 or 3 but he was not going to take a lot of cars. How many cars does he want outside, he does not know what was being asked but he would not put more than the board says he can.

Board Member Becher said she was just telling him that on auto repair these things get parked out there and sometimes they stay there for months.

Yousif Zalou asked how many cars he was allowed.

Board Member Becher said she did not know that Everett Murphy would have to say being that he knows the size of the lot and what would be allowed and she was also concerned about the masonry wall.

Chairwoman Furgal stated that the only thing that was under or requested was the questions of operating an auto repair shop to no less than 18 feet. Dimensional that was all that was the only thing on the agenda.

Board Member Becher asked what about the other issues.

Board Member Brasza said he was not asking for a variance.

Board Member Watripont said he must be taking care of them.

Board Member Vigus said he would still need to go before planning so they could address the wall and all the items he would need there.

Board Member Becher said someone should have stopped her earlier.

Everett Murphy stated he wanted to clarify that the wall that the petitioner was talking about was a 3 foot tall brick wall that was four to five feet inside the property line. It was really in line with the building, it was not along where the fence should be. That probably should have been included on there and he was also looking at the plan for the first time as he had not prepared this and this was a floor plan it does not show the details. There are probably site plans and the City was given the wrong ones by mistake he assumes. The wall was never a screen wall to begin with.

Chairwoman Furgal said the only thing the board has to decide was if the building was fitting for this business and whether it should be allowed there. He said he did auto repair there before, was collision there before?

Yousif said just minor, small things but know he would like to put a frame Machine and a spray booth.

Board Member Becher said the State of Michigan takes over the paint booths.

Chairwoman Furgal said the board just has to decide if they want to allow this business. No resident's were here to complain and the board has to decided if he can proceed or not.

Motion:

Board Member Bieber said the only issue before the board was this specific variance and he would make the motion to grant the permission to upgrade an auto repair/collision shop to no less than 18 feet from the residential district at the rear.

Reasons being: size and shape of the lot and not a detriment to the area.

Board Member Vigus supported the motion.

Roll Call:

A roll call was taken on the motion and the motion carried (7-0).

Board Member Bieber	Yes for the reasons stated in the motion.
Board Member Vigus	Yes for the reasons stated in the motion.
Board Member Becher	Yes for the reasons stated in the motion and
he did have to go to planning.	
Board Member Brasza	Yes for the reasons stated in the motion.
Board Member Watripont	No, he believed it was a detriment to the area.
To close to a residential area.	
Secretary Nestorowicz	Yes for the reasons stated in the motion.
Chairwoman Furgal	Yes for the reasons stated in the motion.

11. NEW BUSINESS

Secretary Nestorowicz said that everyone on the ZBA should have received a letter dated August 11, 2014 regarding T. G. Warren Incorporated V City of Warren.

Board Member Vigus said she would be unable to attend the next meeting on account of the fact that she has to go out of town for work.

12. ADJOURNMENT

Motion:

Board Member Becher made the motion to adjourn and Board Member Watripont supported the motion. A voice vote was taken on the motion and the motion carried (7-0).

The meeting adjourned at 8:35 p.m.