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Vice-Chair
Steve Gobbo
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Robert Reese, III
Board Members
Johanna Balzer, Trustee
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**ZONING BOARD OF APPEALS
MINUTES
WEDNESDAY, MAY 20, 2015
7:00 P.M.**

The regular meeting of the DeWitt Charter Township Zoning Board of Appeals was called to order at 7:00 p.m. by Vice Chairman Gobbo.

The Pledge of Allegiance to the Flag was said by those present.

ROLL CALL by Secretary Reese.

MEMBERS PRESENT: Jeff Carpenter, Trustee Balzer, Donald Riel, Steve Gobbo, Robert Reese, III.

MEMBERS ABSENT: Chris LaGrand, Andrew Richards.

OTHERS PRESENT: Township Planner Tory Niewiadomski.

APPROVAL OF AGENDA: **Balzer moved to approve the Agenda as amended by staff and distributed at the meeting. Supported. MOTION CARRIED.**

APPROVAL OF MINUTES: **Balzer moved to approve the minutes of the November 19, 2014 Meeting as presented. Supported. MOTION CARRIED.**

CORRESPONDENCE: The Committee and Commission Meeting Dates for Year 2015 was received by the Zoning Board of Appeals members.

PUBLIC COMMENTS: None.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

I. PUBLIC HEARING – Appeal 15-770001 – DTN Management – Allen Russell, requesting an interpretation of the Zoning Ordinance as to whether the landscape feature that contains sign information will be calculated towards the total sign area. The stone that will contain sign information will be 61.5 square feet in area. The area that will contain sign information will be etched in a 14.5 square foot area inside of the stone.

A. Open Public Hearing. Carpenter moved to open the Public Hearing opened at 7:10 p.m. Supported. MOTION CARRIED.

B. Administrative Comments/Applicant/Public Comments.

Township Planner Tory Niewiadomski briefly reviewed staff's memorandum dated May 14, 2015. This request is an interpretation question that staff and the applicant have regarding their proposed sign for their median entrance sign to The Quarry apartment complex. The question at hand is whether or not the landscaping features would be incorporated as part of the total sign area. Depending upon the ZBA's determination it will have a potential impact on the second part of the variance request.

Staff has provided graphic representation of the median entrance where the proposed sign would be located. The area where the "The Quarry" is proposed to be is on a boulder that is sitting on some stacked rocks. The question is whether the entire area would be considered as the signage area.

The reason for staff seeking an interpretation by the Board of Appeals is because the definition of "Sign Area" is as follows: The area of sign structures consisting of writing, representations, emblems, colors, or figures of a similar character together with the background surface or material on which they are mounted or integrally a part of shall be included in the calculation of total sign area, provided that the area of a double-face sign, where two sign faces are back to back as a single unit, shall be calculated according to the display area of only one side. The area of open wall signs, consisting of cutout letters and/or graphics on a wall, or letters and graphics on a canopy, shall be measured by the area of the rectangle, triangle, or circle that would enclose the letters and/or graphics.

Niewiadomski advised that the underlined portion of the definition pertains to free standing signage. He went on to show an example of an existing rock wall within the Township and questioned if the Board would consider the area where the letters are placed as the sign area or would they consider the entire wall as a sign.

Ultimately, a decision needs to be made as to whether the boulder that contains sign information is a sign structure. The definition of sign structure means "the supports, uprights, braces and framework of the sign". Since this is a landscaping feature, a determination needs to be made whether or not the stacking of the stones and boulders are a sign structure. Typically, a sign structure would be considered a manmade object that has columns, poles, or brackets to contain or surround a sign.

Niewiadomski offered staff's interpretation for consideration as follows: Landscaping features such as stones, boulders, retaining walls, and similar objects shall not be considered sign structures provided that the primary function of the features are not for signage purposes and that any signage that is incorporated, etched or affixed to are for ancillary purposes to complement the feature. Based on information submitted by the applicant, the proposed landscaping feature with signage information would not be considered as part of the total signage area and would only be calculated based on the lettering.

Gobbo questioned if there were any Ordinances that prevent retaining walls from exceeding a certain height, width or depth. Also, would the Planning Commission approve the landscaping retaining wall during any of the Planning or Building processes?

Niewiadomski stated he does not believe there are limitations on retaining walls. However, the Planning Commission does have the Sign Ordinance on their work program for review. Currently landscaping features are not addressed. Perhaps these features could be considered at the time of review. In 1998, the Creekside subdivision was granted a variance to construct two entryway signs into the development. As part of the discussion, an interpretation provided

by staff was that the retaining walls were considered landscape features with sign information on them and would only count the area where the lettering was located as the actual sign area. Signage review and approval can be submitted at the time of Site Plan Review or review can be deferred until a later date.

Carpenter questioned if he would be allowed to place a large pile of boulders with a waterfall in his front yard and consider it landscaping. It seems as if the way the Ordinance is written is that you have to say the primary function is landscaping but yet it is using that to justify the sign. He noted the proposed structure appears to be a landscaping structure rather than a retaining wall.

Niewiadomski stated there could be an issue under the International Property Maintenance Code. Staff's rationale for providing the recommendation was to determine if what is being proposed is more a landscaping feature as its primary function and if as an ancillary purpose to that they have incorporated sign information. The applicant has indicated because of the development being called The Quarry, they prefer to match the form of signage to the character of the development.

Riel questioned if the proposed sign could create a site distance issue.

Niewiadomski stated he does not foresee any issues with site distance from a vehicular or pedestrian standpoint.

Hearing no further questions, Chairman Gobbo invited the applicant to speak.

Jeff Kyes, KEBS, Inc., 2116 Haslett Road, Haslett, MI 48840, representing the applicant, indicated on a drawing where the proposed sign would be located compared to the road. He stated the reason for using a landscape feature is to have it coordinate with the name of the development. He noted that the Ordinance allows for 40 square feet per side for signage. The actual signage portion of the proposed feature is 14 square feet. Many options were discussed and the proposed sign is the look that is desired by the applicant. In addition, he noted that by using the median the proposed entrance sign will be located 17 feet back farther than other signs located within the Township. Kyes stated his interpretation would be that the actual letters are considered the sign and that the stone is landscaping.

Gobbo stated his concern is the potential for how high this type of structure could be constructed. There is a significant difference between the sign being placed in the middle of the right of way of the road than if it was off to the side. Although the structure could be considered a landscape monument, it might also be considered landscaping. The current Ordinance may not address this situation.

Gobbo stated his interpretation is the whole sign with the background and lettering is considered a sign. He questioned how big the entire structure is and how does it compare with the sign ordinance regulations.

Kyes calculated the area of the entire proposed structure would be approximately 150 square feet. The top stone is approximately 61 ½ square feet.

Niewiadomski advised the Ordinance allows a total signage area of 40 square feet. The height of the lettering cannot exceed 6 feet.

Kyes stated he feels the six foot height restriction is a bit restrictive for signage placed in the median. However he realizes it was the applicant's choice to locate the sign there.

Brief discussion followed regarding similar signage at the entrance to Granger Meadows Park.

Niewiadomski pointed out that municipal signage is exempt from the sign requirements. He noted some signage within the Township was constructed prior to the existing sign requirements.

For clarification, Niewiadomski stated the decision on this interpretation is whether or not the boulder that contains the sign information is a sign structure for calculation of sign area.

Brief discussion followed regarding the fact that the total height of the proposed boulder structure is 10 ft. 2 ½ in. from grade and whether it is too large. It was noted if there were no letters on the structure it would be considered landscaping and would have less restrictions.

Carpenter stated some ambiguity does exist in the Ordinance language regarding this type of sign.

Niewiadomski pointed out at least 4 supports on a motion would be needed due to the fact that only 5 board members are present at the meeting.

- C. Close Public Hearing. **Hearing no comments, Vice Chairman Gobbo declared the Public Hearing closed at 7:55 p.m.**
- D. Discussion and possible action by Board of Appeals.

Carpenter moved that the Zoning Board of Appeals concur with staff's recommendation that landscaping features such as stones, boulders, retaining walls, and similar objects shall not be considered sign structures provided that the primary function of the features are not for signage purposes and that any signage that is incorporated, etched or affixed to are for ancillary purposes to complement the feature. Based on information submitted by the applicant, the proposed landscaping feature with signage information would not be considered as part of the total signage area and would only be calculated based on the lettering.

Supported.

Gobbo stated the concern he has with the language in the motion is because it is crafted to deal with the specific situation that is before the Board. If the structure is not a sign it could be built as tall at 35 feet (Township height requirement). However, anything etched or affixed to the structure are for ancillary purposes to compliment the feature. This would be taking a non-sign and then making it into a sign that somehow is exempted because of the way the language is written.

Carpenter stated the language is somewhat precedent setting. He questioned if the language could be less particular to this situation such that it is not generalized in the wrong way.

Niewiadomski advised staff has provided a detailed interpretation that would narrow situations that may arise in the future as part of this interpretation.

ROLL CALL vote on motion:

AYES: 4 NAYS: 1 (Gobbo) ABSENT: 2 (LaGrand, Richards)
MOTION CARRIED.

E. Possible Certification of Decision.

Balzer moved to approve the Certification of Decision (Interpretation) for Appeal 15-770001 from DTN Management – Allen Russell as stated in the motion above. Supported. MOTION CARRIED.

II. PUBLIC HEARING – Appeal 15-770001 – DTN Management – Allen Russell, depending on the decision of the interpretation, the applicant will either be in compliance with the square footage requirement for sign area or will need a variance of 21.5 square feet for sign area as set forth in Section 42-1270 (Permitted Signs) of the Zoning Ordinance. In addition to the interpretation, the applicant's proposal includes placement of the stone with sign information (10 feet 2 and ½ inches) above grade which is a (4 foot 2 and ½ inch) height variance to the six foot allowance for housing development signage, as set forth in Section 42-1270 (Permitted Signs) of the Zoning Ordinance.

Since the landscaping feature and signage will be placed within the median entrance, Section 42-1280 (Same-Clear Site Triangle) of the Zoning Ordinance requires that median signage be setback 15 feet from the right of way of the intersecting street. The stone that contains sign information will be (5 feet 7 inches) from the 50 foot right of way line from the centerline of Clark Road. This request would require a variance to the setback by (9 feet 5 inches).

A. Open Public Hearing. **Carpenter moved to open the Public Hearing at 8:05 p.m. Supported. MOTION CARRIED.**

B. Administrative Comments/Applicant/Public Comments.

Niewiadomski briefly reviewed staff's memorandum dated May 15, 2015 advising that the request is for a 4 ft 2 ½ in. height variance as well as a 9 ft. 5 in. setback variance.

The subject site is zoned M-3 (Multiple Residential). The surrounding zoning consists of Agricultural to the north and east, Office Park to the west and the I-69 ROW to the south.

Niewiadomski noted that the location of the entrance into the development is located near a crest on Clark Road and the topography and elevation along Clark Road steadily declines west of the property towards Airport Road and continues to rise slightly east towards Schavey Road. Also, a row of trees and dense scrub vegetation are within the right of way up to the property that decreases visibility to the site and entrance to the development. In addition, the applicant provided a deceleration lane which increased right of way setback from 33 feet to 50 feet from the center line of Clark Road. The proposed boulder structure would be setback approximately 55 feet 7 inches from the centerline of Clark Road.

Niewiadomski stated the intent of the sign ordinance regulations is to protect public health, safety and welfare. Regulation of signage is to provide safe motorist and pedestrian travel along corridors and to impact the aesthetics in the community appearance. Allowing signage encourages economic development.

Niewiadomski advised, based on the previous interpretation, the proposed sign has 14 ½ square feet of lettering and meets the maximum 40 square feet for lettering.

The Ordinance requires signage to be located not more than 15 feet from the right of way line. As discussed earlier, the applicant has provided a deceleration lane. Had that not been provided the proposed signage would meet the ordinance requirement by being 22 feet from

the right of way line. Staff's opinion is that granting this variance would not create a site obstruction or be negative to the aesthetic character of the Ordinance.

With respect to height regulations, the common theme is to reduce visual clutter and assure that the sign is not so high that someone would have to look up so high that it takes their eyes off the road. For housing developments a 6 foot height is allowed for signage. The proposed lettering on the applicant's sign would be 10 feet 2 ½ inches above grade. Staff's opinion is that this will not create visual clutter or impact motorist's safety, based on the context of the area and the existing topography.

Niewiadomski went on to review the request for compliance with the four Basic Conditions and two Special Condition set forth in Section 42-70 of the Zoning Ordinance. It is staff's opinion that the request meets all four Basic Conditions and Special Conditions a).

Brief discussion followed regarding the differences for setbacks on commercial property versus residential property.

Vice Chairman Gobbo invited Public Comments.

- C. Close Public Hearing. **Hearing no questions or comments, Balzer moved to close the Public Hearing at 8:15 p.m. Supported. MOTION CARRIED.**
- D. Discussion and possible action by Board of Appeals.

Reese moved that Appeal 15-770001 from DTN Management – Allen Russell, to allow the construction of a landscaping feature containing sign information for housing development signage that is located within a median entrance that would encroach into the setback by 9 feet 5 inches as established by Section 42-1280 of the Zoning Ordinance and exceeds the height limitation by 4 foot 2 and ½ inches under Section 42-1270 of the Zoning Ordinance as the entrance to property located at 3505 W. Clark Road, DeWitt, MI 48820 identified as parcel 050-019-200-010-00 be approved. Approval is based on a finding that the request meets all four of the Basic Conditions and Special Condition (a) listed in Section 42-70 of the Zoning Ordinance. Supported.

ROLL CALL vote on motion:

AYES: 5 NAYS: 0 ABSENT: 2 (LaGrand, Richards)
MOTION CARRIED.

- E. Possible Certification of Decision.

Balzer moved to approve the Certification of Decision for Appeal 15-770001 from DTN Management – Allen Russell as stated in the motion above. Supported. MOTION CARRIED.

III. Election of Officers for the Year 2015.

Vice Chairman Gobbo opened the floor for the nomination for the office of Chairman.

Balzer nominated Jeff Carpenter for the office of Chairman.

Hearing no further nomination, Riel moved to close the nomination for the office of Chairman and cast a unanimous ballot for Jeff Carpenter for Chairman. Supported.

ROLL CALL vote on motion:

AYES: 5 NAYS: 0 ABSENT: 2 (LaGrand, Richards)

MOTION CARRIED.

Vice Chairman Gobbo opened the floor for nominations for the office of Vice Chairman.

Riel nominated Steve Gobbo for the office of Vice Chairman.

Hearing no further nominations, Balzer moved to close the nominations for the office of Vice Chairman and cast a unanimous ballot for Steve Gobbo for Vice Chairman. Supported.

ROLL CALL vote on motion:

AYES: 5 NAYS: 0 ABSENT: 2 (LaGrand, Richards)

MOTION CARRIED.

Vice Chairman Gobbo opened the floor for nominations for the office of Secretary.

Balzer nominated Robert Reese, III for the office of Secretary.

Hearing no further nominations, Carpenter moved to close the nominations for the office of Secretary and cast a unanimous ballot for Robert Reese, III for Secretary. Supported.

ROLL CALL vote on motion:

AYES: 5 NAYS: 0 ABSENT: 2 (LaGrand, Richards)

MOTION CARRIED.

The Zoning Board of Appeals Officers for the year 2015 are:

**Jeff Carpenter, Chairman
Steve Gobbo, Vice Chairman
Robert Reese, III, Secretary**

PUBLIC COMMENTS ON NON-AGENDA ITEMS: None.

TRUSTEES REPORT:



Trustee Balzer gave a brief report on business conducted and action taken at recent Board of Trustees meetings.

DISCUSSION: None.

ADJOURNMENT:

Carpenter moved to adjourn the meeting at 8:36 p.m. Supported. MOTION CARRIED.

Linda K. Parkinson, Recording Secretary



Robert Reese, III, Secretary