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**ZONING BOARD OF APPEALS
MINUTES
WEDNESDAY, JUNE 17, 2015
7:00 P.M.**

The regularly scheduled meeting of the DeWitt Charter Township Zoning Board of Appeals was called to order at 7:00 p.m. by Chairman Carpenter.

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

ROLL CALL by Vice Chairman Gobbo.

MEMBERS PRESENT: Reese, Carpenter, Gobbo, Balzer, LaGrand, Riel.

MEMBERS ABSENT: Richards.

OTHERS PRESENT: Township Planner Brett Wittenberg.

APPROVAL OF AGENDA: **LaGrand moved to approve the Agenda as printed. Supported. MOTION CARRIED.**

APPROVAL OF MINUTES: **Gobbo moved to approve the minutes of the May 20, 2015 Meeting as presented. Supported. MOTION CARRIED.**

CORRESPONDENCE: None.

PUBLIC COMMENTS: None.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

I. PUBLIC HEARING – Appeal 15-770002 – Herbison US 27 Group, requesting the following variances:

1. A 21.5 foot variance to the required 40 foot rear yard setback requirement as set forth in Division 24. – Schedule of Regulations, Section 42-857. – Limiting height, bulk, density and area by zoning district of the Codified Zoning Ordinance to be allowed to construct a proposed 13,000 sq. ft. pharmacy building that would be 18.5 feet from the west property line.

2. A 4 foot variance to the required 5 foot buffer yard width as set forth in Section 42-1321 of the Codified Zoning Ordinance to be allowed to provide a rear landscape buffer yard of 1 foot in width along the west property line.
3. A 4.1 foot variance to the required 5 foot buffer yard width as set forth in Section 42-1321 of the Codified Zoning Ordinance to be allowed to provide a side landscape buffer yard of 0.9 feet in width along the south property line.

The subject site is located at 13020 S. US 27, DeWitt, MI 48820, at the southwest corner of Herbison Road and S. US 27, in the northeast ¼ of Section 16 of DeWitt Charter Township (Parcel #050-016-100-021-00).

In addition, the co-applicants (Herbison US 27 Group and Paul Fata and Sons, LLC) are requesting the following variance:

1. A 2.5 foot variance to the required 5 foot buffer yard width as set forth in Section 42-1321 of the Codified Zoning Ordinance to be allowed to provide a side landscaped buffer yard of 2.5 feet in width along the north property line for the purpose of constructing a bypass lane.

The subject site is located at 13060 and 13070 S. US 27, DeWitt, MI 48820 (Parcel #050-016-100-021-00).

- A. Open Public Hearing. **Balzer moved to open the Public Hearing at 7:05 p.m. Supported. MOTION CARRIED.**
- B. Administrative Comments/Applicant/Public Comments.

Township Planner Brett Wittenberg briefly reviewed staff's report dated June 10, 2015. He advised the applicant received Site Plan Approval (SPR 15-150004) on June 1, 2015 with some minor modifications to the parking space depths. There was significant discussion by the Planning Commission related to the flow of traffic through the site. It should be noted that the applicant was required to meet the Township's Access Management Plan. This involved the closing of the existing access onto Herbison Road, as well as provide a cross connection to the property to the south. These requirements have an impact on the location of the building and space for parking.

In addition, the fact that the Michigan Department of Transportation (MDOT) owns a portion of the property located at the northeast corner of the site causes some constraints. The applicant is currently in discussions with MDOT to acquire some portion of that area. A condition of approval was that the applicant receive approval from MDOT. Any significant changes to the site plan would require an additional site plan review process.

Wittenberg went on to note the Clinton County Road Commissioner feels traffic counts along Herbison Road are not high enough to elevate the incoming traffic to a point that would cause a back up onto Herbison Road.

With respect to the first request, the canopy of the building would be set back approximately 18.5 feet from the west property line. A majority of the building itself would be approximately 21.5 feet from the west property line. The Ordinance calls for a 40 foot setback from the year property line. It is staff's opinion the existing access road provides adequate separation from the properties to the west.

Wittenberg explained the next two variances are to the buffer yard widths. Along the west property line there is a required 5 foot buffer yard width. The applicant has requested a 4 foot variance. Along the south property line the applicant is requesting a 4.1 foot variance to the required 5 foot buffer yard width.

Lastly, the final variance is requested by the applicant and the co applicant (property owner to the south) to allow a variance of 2.5 feet to the required 5 foot buffer yard.

Due to the existing drive through dry cleaning business on the north end of the adjacent multi commercial building south of the site the applicant is proposing a bypass lane for safety reasons. This is more in compliance with the current drive through requirements.

Wittenberg advised the subject site is zoned BL (Business, Local). The surrounding zoning is BC (Business, Community) and PO (Professional and Office Services).

The intent of buffer yards is to assist development proposals in meeting desired landscaping objectives to insure appropriate separation from adjacent structures and uses.

Wittenberg stated, even though the applicant is requesting a variance to the width of the buffer yards, the overall amount of plantings are being provided on the site. In addition, off site landscaping will be provided along the west side of the site.

It should be noted this same site was previously approved for a pharmacy several years ago (SPR 97-150007). There were similar variances requested and approved at that time (ZBA 97-770019).

There were 42 notification letters sent out. The Planning Department did receive a communication from Jill Sweeney, owner of Great Clips, located a 13707 S. US 27, DeWitt, MI 48820, expressing concerns with traffic flow and congestion in the vicinity of the proposed site. Staff noted the proposed use did not meet the threshold that would require a traffic impact study which is 15,500 square feet of retail use. After staff was able to explain the layout of the proposed site plan to Ms. Sweeney she seemed less concerned about traffic issues.

Wittenberg went on to review the request for compliance with Variance Standards set forth in Section 42-70 (see attached pages 5 and 6 of staff's report). It is staff's determination that the variance requests meet all four of the Basic Conditions and Special Condition (a).

Chairman Carpenter invited questions from the Board.

Balzer expressed concern with landscaping overgrowing, delivery trucks not being able to maneuver and increased traffic in front of the Crossroads Plaza to the south of the site. She suggested perhaps speed bumps could be provided to insure pedestrian safety.

Wittenberg advised the applicant is required to enter into an easement agreement with the adjoining property owner that outlines access and who is responsible for the maintenance and repair of the improvements. Perhaps the application could address the installation of speed bumps.

Balzer noted she visited the Walgreens in Okemos at approximately 4:45 p.m. At that time there were a total of 10 vehicles in the parking lot. She wondered if the applicant could reduce the number of parking spaces and perhaps the building would be in compliance.

Wittenberg stated there was similar discussion at the Planning Commission meeting. The applicant advised that Walgreens prototype it typically a 15,000 square foot building. The proposed building is 13,000 square feet. Staff is currently working on revised parking standards. The requirements for the proposed use would be quite a bit less (approximately 50 percent) than the current required number of spaces.

Brief discussion followed regarding the possibility of widening Herbison Road in the future as more development comes into the area.

LaGrand questioned what makes the proposed site so unique that it would meet Special Condition a).

Wittenberg stated there are a couple items that are exceptional or extraordinary to the subject site. First, the applicant must meet the criteria of the Access Management Plan in providing connectivity to the adjacent properties by closing off the existing access drive onto Herbison Road. Second, the applicant is providing a bypass lane on the property to the south for safety purposes. Third, on the north and east side of the property there are a number of overhead utilities which limits landscaping.

Brief discussion followed regarding possible runoff onto the adjacent property to the south. It was noted that the Clinton County Drain Commissioner's office was working with the applicant to assure that this does not happen.

Chairman Carptenter invited the applicant to speak.

Richard Blasy, Bergman & Associates, 1427 W. Saginaw, East Lansing, MI 48823, reiterated staff's comment that there will be a maintenance agreement with the current access easement owner. The applicant will be responsible to maintain all landscaping. Also, there will be quite a grade change from the subject site to the adjacent property to the south. This will somewhat act as a speed deterrent. Reduction of the parking spaces is not really an option because current standards require 40 parking spaces. Also, it is important to provide parking in front of the building because many of the customers are elderly or sick. With respect to drainage, there will be two catch basins on the site to take in the majority of runoff.

Carpenter questioned if the variances would be necessary if the applicant was able to obtain a portion of the right of way from MDOT.

Blasy advised the variances would still be needed. He explained that initially, the project was in need of many variances. After making changes such as reducing the size of the building they were able to decrease the number of variances requested to what is before the Board of Appeals tonight.

Chairman Carpenter invited public comments.

Ken Kain, 12651 S. US 27, DeWitt, MI 48820, expressed concern with the number of variances being requested for such a small site. He noted many other locations in the Township that would be less restrictive than the proposed site.

Dave Fedewa, 1025 W. Herbison Road, DeWitt, MI 48820, stated he owns the property west of the site. He questioned if the existing access road would be reduced in width. He further asked for clarification on the location of the proposed off site landscaping. In addition, he expressed concerns with the number of variances being requested and traffic safety.

Wittenberg advised the access drive will maintain its current width. He then provided clarification on the location of the offsite landscaping. He noted the proposed building will be setback further on the west side of the property than the existing building.

Steve Thimmig, Zeeb Pet Health Center, 13020 S. US 27, DeWitt, MI 48820, current owner of the proposed site, stated his building goes up to the very edge of the property line and is larger than staff had mentioned.

Audrey Fabus, 13057 Tucker Drive, DeWitt, MI 48820, questioned if the existing service drive on the west side of the site was going to be the main entrance. If so, were there going to be semi trucks entering at that point. She expressed concerns with increased traffic, especially with the daycare center that also uses the access drive, including school buses. She suggested speed bumps be provided in front of the strip mall to the south of the site for safety reasons.

Wittenberg advised there would be two access points off from the access drive.

There were no further public comments.

- C. Close Public Hearing. **Hearing no further public comments, Chairman Carpenter declared the public hearing closed at 8:05 p.m.**
- D. Discussion and possible action by Board of Appeals.

Reese concurred with comments related to providing speed bumps in the area. He also has concerns with how busy the area is in front of the strip mall. He questioned if there was a percentage that the size of a building can be based on the size of the property.

Gobbo noted it was brought up at the Planning Commission meeting that Walgreens specifically chose this site, for whatever reason. There were concerns brought up related to traffic safety. However, it is a Clinton County Road Commission issue. At some point in time the whole area may need to be redesigned. He stated that this proposed use is commercial in nature and will not impact any residential areas.

Carpenter questioned how often landscaping is placed on adjoining property to be able to shift the location of a building.

Wittenberg advised that this is a rare situation. When the Planning Commission reviews site plans, they have the ability to increase or decrease the required amount of landscaping but not the width of the buffer yard area. There have been prior instances when the Planning Commission has not required additional landscaping.

Gobbo stated that at the Planning Commission meeting there was discussion regarding the possibility of modifying or removing the landscaping along the east side of the site and placing a fence there instead. However, there was a way to reconfigure the site without having to use that option.

LaGrand stated he agrees with earlier comments and concerns that it feels as if too much is trying to be placed on a small site. It appears as if there is a lot of activity on such a small property. He questions whether what is proposed is actually doable and if it would meet the intent of the Zoning Ordinance. He specifically questions whether the request meets Special Condition a) or Basic Condition a). There will most likely be other sites with similar conditions or hardships along the S. US 27 corridor.

Carpenter noted the fact that staff is currently working on an Ordinance Amendment that would reduce the required number of parking spaces by approximately 50 percent. That could significantly change configuration of the site plan for this proposed development.

Gobbo stated it was discussed at the Planning Commission meeting that the number of parking spaces provided is part of the applicant's prototype for their facilities. The fact that parking standards may change in the future would not affect the site plan being presented right now.

Wittenberg advised there was discussion regarding reducing the number of parking spaces. However, with the Access Management Plan requirements and the existing conditions on the site the variances would still be needed.

LaGrand stated it is his professional experience that many jurisdictions have issues with parking regulations.

Gobbo stated most of the variance requests relate to some form of setback. He has encouraged the Planning Commission through the ordinance amendment process to review current setback requirements so that they are more reconfigured in line with what actually is needed for health, safety and welfare of the public. He stated the reason he voted to approve the site plan was the fact that the Road Commission and all other reviewing agencies signed off and it was a matter of deciding whether this development would be an appropriate fit within the site. The ZBA has a different roll in terms of deciding if the request meets the conditions set forth in Section 42-70 of the Zoning Ordinance. He could see how some would come to the determination that Special Conditions a) is not met and others may determine that it is met, but perhaps at a minimum level. He sees this as an opportunity to bring a new business into the community to serve the public and bring added tax dollars into the community versus having a building that may sit vacant for an extended period of time, such as the former L & L building.

Gobbo moved to approve Appeal 15-770002 from Herbison US 27 Group to allow the construction of a pharmacy with a drive-through that would encroach into the setback by 21 feet 6 inches as established by Section 42-857 of the Zoning Ordinance, reduce the rear buffer yard along the west property line to 1 foot, reduce the side buffer yard along the south property line to 0.9 feet as established by Section 42-1321 of the Zoning Ordinance for the property located at 13020 S. US 27, DeWitt, MI 48820 identified as parcel #050-016-100-020-00; and reduce the side buffer yard along the south property line to 0.9 feet as established by Section 42-1321 of the Zoning Ordinance for the property located at 13060 and 13070 S. US 27, DeWitt, MI 48820 identified as parcel #050-019-100-021-00. 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: 4 NAYS: 2 (Balzer, LaGrand) ABSENT: 1 (Richards)

MOTION CARRIED.

E. Possible Certification of Decision.

LaGrand moved to approve the Certification of Decision for Appeal 15-770002 from Herbison US 27 Group as stated in the motion above.

Supported.

ROLL CALL vote on motion:

AYES: 6 NAYS: 0 ABSENT: 1 (Richards)

MOTION CARRIED.

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.

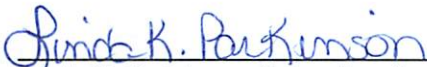
DISCUSSION:

There was lengthy discussion regarding the high volume of vehicle and pedestrian traffic at the Crossroads Plaza. Several Board Members highly recommended that speed bumps be provided in the parking lot for safety purposes.

Riel noted he visited the site at approximately 6:30 p.m. and there were 27 cars in the parking lot at the time.

Brief discussion followed regarding the fact that reducing the size of parking spaces does not always work from a customer standpoint.

ADJOURNMENT: Gobbo moved to adjourn the meeting at 8:40 p.m. Supported. MOTION CARRIED.



Linda K. Parkinson, Recording Secretary



Robert Reese, III, Secretary