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**ZONING BOARD OF APPEALS
MINUTES
WEDNESDAY, SEPTEMBER 21, 2016
7:00 P.M.**

The regularly scheduled meeting of the 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 Secretary Reese.

MEMBERS PRESENT: Carpenter, Richards, Balzer, Riel, Krol, Reese.

MEMBERS ABSENT: Goodwin.

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

APPROVAL OF MINUTES: **Balzer moved to approve the minutes of the May 18, 2016 meeting as presented. Supported. MOTION CARRIED.**

CORRESPONDENCE: None.

PUBLIC COMMENTS: None.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

I. PUBLIC HEARING – Appeal 16-770004 – From 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, Sec. 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 with 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 #050-016-100-020-00).

- A. Open Public Hearing. **Chairman Carpenter declared the Public Hearing opened at 7:05 p.m.**
- B. Administrative Comments/Applicant/Public Comments.

Community Development Director Tory Niewiadomski briefly reviewed staff's memorandum dated September 15, 2016 explaining the nature of the variances being requested (listed above). The applicant is represented by Sam Eyde and the applicant's engineer Paul Furtaw with Bergmann Associates.

In June of 2015, the Zoning Board of Appeals granted approval to the applicant for the same variances that are being requested tonight (Appeal 15-770002). At that time the variances were granted for a period of 6 months. That approval has expired. Therefore, applicant is required to come back for approval again. In June of 2015 the applicant was also granted site plan approval by the Planning Commission which is valid for a period of 2 years.

At the time of the June 2015 variance approval there were concerns expressed regarding traffic safety, circulation, the future of Herbison Road right-of-way expansion and traffic circulation between the property to the south including the potential need for a speed bump for pedestrian safety.

Niewiadomski noted that it was determined the site would be compliant with the Access Management Plan for circulation which dictated the configuration of the small site and building placement. The proposal would improve traffic safety from a standpoint that it would eliminate an existing driveway cut that is located too close to the intersection of Old 27. The potential for Herbison Road widening was also discussed. It should be noted that the existing ROW at this property is already 110 feet. There are three eastbound lanes and one westbound lane at this intersection. If any widening were to occur, it would likely be west of this site location or on the north side of the road across from this site. As a result of the clear vision ROW, the applicant has reduced the number of parking spaces from 40 to 37 parking spaces. Lastly, any drainage would be channeled on site and would be approved by the Drain Commissions office.

It should be noted that the proposed pharmacy building placement would be more conforming from a setback standpoint than the existing building on site today. Due to the number of variances that have been a result of corner lots, the Township is considering an amendment to define corner lots similar to the way the City of DeWitt views corner lots in that there would only be front yard setbacks and side yard setbacks to provide more flexibility in the building envelope.

In closing, Niewiadomski stated the variances requested under this appeal are consistent with the variances that were granted for the property in 2015. It is staff's opinion that the request meets all four Basic Conditions and Special Condition (a) as set forth in Section 42-0 of the Zoning Ordinance.

Brief discussion followed regarding the access easement on the west side of the site where the applicant will place and maintain the buffer yard.

Chairman Carpenter invited the applicant to speak.

Paul Furtaw, Project Engineer, Bergmann and Associates, 7050 W. Saginaw Highway, #200, Lansing, MI 48917, stated there was a considerable amount of time spent with staff to come up with the best plan in order to move forward with this request. He would be glad to answer any questions the Board may have.

Carpenter noted that the request in 2015 consisted of four variances. He questioned why there are only three being requested.

Niewiadomski stated initially there was going to be a bypass lane at the north end of the multi-tenant building to the south of the site (Crossroads Plaza). The bypass lane is no longer being proposed. The fourth variance was related to that proposed bypass lane. This will allow for additional landscaping on the south side of the site.

Hearing no further questions or comments from Board members, Chairman Carpenter invited public comments.

Audrey Fabus, 13057 Tucker Drive, DeWitt, MI 48820, questioned how many variances are allowed for a project before the question is raised that perhaps this is not the best site for the proposed project. She is in support of Walgreens being in the community but is concerned with the number of variances requested. She questioned if the access road on the west side of the site would be widened.

Niewiadomski stated, historically this site has been proposed for pharmacy type uses going back to the 1990's. There have always been challenges with trying to meet the building setback requirements and access management standards. He reiterated that last June there were four variances granted which have expired. Tonight there are only three being requested which are the same as the expired requests granted previously. The private service drive is not proposed to be widened. However, there will be another curb cut along it.

Brief discussion followed regarding the parking lot layout on the property to the south of the subject site (Crossroads Plaza).

- C. Close Public Hearing. **Hearing no further questions or comments, Chairman Carpenter declared the Public Hearing closed at 7:25 p.m.**
- D. Discussion and possible action by Board of Appeals.

Reese noted there had been concerns with pedestrian safety in the parking lot of Crossroads Plaza to the south. He questioned if there would be speed bumps placed anywhere to address the concern for safety.

Niewiadomski advised this area was created at a time when the Township's Access Management Plan was promoting shared service drives. At that time speed bumps were

specifically prohibited. Perhaps for maintenance reasons. There will be a grade change between the two properties that might help slow down traffic.

Krol moved that Appeal 16-770004 from Herbison US 27 Group be approved, to allow the construction of a pharmacy with a drive-through that would encroach into the setback by 21 feet 6 inches along the west property line as established by Section 42-857 of the Zoning Ordinance, reduce the rear buffer yard along the west property line to 1 foot, 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 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; 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 and is consistent with previous variances granted under Appeal 15-770002. Supported.

ROLL CALL vote on motion:

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

MOTION CARRIED.

E. Possible Certification of Decision.

Balzer moved to approve the Certification of Decision for approval of Appeal 16-770004 from Herbison US 27 Group. Supported.

ROLL CALL vote on motion:

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

MOTION CARRIED.

PUBLIC COMMENTS ON NON-AGENDA ITEMS:


Ernie Dennis, 1235 Northway Drive, Apt. #9, DeWitt, MI 48820, stated he uses the service drive pm Northway often and expressed concern with traffic pulling out in front of him that are leaving the Tim Horton's drive through window. He also stated that there used to be a stop sign near the entrance to the Crossroads Plaza that is now gone. Perhaps replacing the sign should be considered for safety reasons.

TRUSTEES REPORT:

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

DISCUSSION: None.

ADJOURNMENT: **Krol moved to adjourn the meeting at 7:40 p.m. Supported. MOTION CARRIED.**



Linda K. Parkinson-Gray, Recording Secretary



Robert Reese, III Secretary