



ROBINSON TOWNSHIP ZONING BOARD OF APPEALS

Ottawa County, Michigan

January 31, 2017

Meeting called to order by 7:30 p.m. by Vice-Chairperson Rich Saddler.

Present: Rich Saddler, Vice Chair
John Wood, Alternate Member
Bill Maschewske, Member
Briana Fowler, Secretary

Absent: Rich Maike, Chair
Shannon Felgner, Member

Three (3) applicants from Bay Park Sapphire LLC:
Mike Boes
Lindsay Boes
Dalane Vandenberg

Ron Bultje, Township Attorney
Kathy Kuck, Township Supervisor
Brian Werschem, Zoning Administrator
Christine Saddler, Township Clerk

Reading and Approval of Last Meeting Minutes

The March 17, 2015 and the March 16, 2016 drafts of the meeting minutes were discussed. There was question as to why the ZBA was sent minutes from March 17, 2015. A motion was made by John Wood to move the discussion of the meeting minutes to the end of the meeting and seconded by Bill Maschewske. Motion carried unanimously.

Bay Park Sapphire Authorization and Variance for a Sign

Requesting: The applicant is seeking an authorization under Section 4.44(F) for a sign exceeding 100 square feet, and a variance from Section 4.44(G) for an additional identifying sign in conjunction with the permitted message board displaying the price of gasoline.

Vice Chair, Rich Saddler, reviewed the 10 points pertaining to the rules of a ZBA meeting.

Public Comment

The public hearing notice was ready by the Secretary, Briana Fowler and Vice Chair, Rich Saddler, opened the public hearing.

Business Sign(s)/Electronic Message Board(s):

- Dalane Vandenberg stated Bay Park Sapphire LLC has been working with Robinson Township for a while now. The applicant is asking for a variance for the monument sign located on 120th Avenue due to the way the building needed to

be positioned and because of the location of the sign located on M45, which cannot be seen while traveling down 120th Avenue. Dalane Vandenberg stated it is common for communities to allow for additional signage, especially for a corner lot.

- Bill Maschewske asked the applicant if there was a reason the larger sign on M45 was not positioned diagonally on the corner of M45 and 120th in order to allow traffic from all directions to see the larger sign. Dalane Vandenberg stated the building and signage is positioned the way it is based on the feedback from the Robinson Township Planning Commission. Bill Maschewske provided the ZBA members with additional information pertaining to the position the building and signage stating Bay Park Sapphire, LLC needed to be compliant with overlay zoning ordinances, and the corner of 120th Avenue and M-45 falls into the overlay district.
- Bill Maschewske also stated that the purpose of the layout is to have the least amount of ingress and egress points on 120th Avenue and M45. The idea is there will be a service road making it unnecessary for each business owner to have their own means of ingress and egress.
- The applicant is asking for an authorization for their business sign on M45 to exceed 100 square feet. The signage will be used to display multiple businesses represented within the service location, and will also list multiple gas prices on the sign and a variance for an additional electronic message board for fuel pricing.
- Bill Maschewske stated consideration of this authorization is important because if the authorization is approved and the variance for an additional business sign with the permitted electronic message board is denied the applicant would only be allowed to have one message board.
- According to applicant Mike Boes, the larger sign located on M45 is 101.5 square feet, excluding the electronic fuel prices, as part of the business sign.
- Brian Werschem, Robinson Township Zoning Administrator, calculated the approximate total area of business signage being asked for consideration of the ZBA for authorization. He stated the approximate total area of both business signs would be about 187.25 square feet; this is 87.25 square feet in excess of the allowable 100 square feet per the ordinance. Brian Werschem calculated the total signage area, which includes the business and electronic message board portions, to be 237.25 square feet (187.25 square feet of business sign and 50 square feet of electronic message board).
- Township Attorney, Ron Bultje advised the ZBA that the electronic message board includes the prices of gasoline which is separate from the definition of a business sign. The ZBA members need to remember not to include the section for the electronic fuel prices on the sign while considering the authorization. Township Attorney, Ron Bultje also stated the electronic message board on the

bottom of the larger business sign located on M45 may be considered part of the business sign.

- Applicant Mike Boes stated, “All Merle Boes is asking for is a little more than 100 square feet for the business signs.”
- The electronic message board which would be used to display fuel prices on the monument sign located on 120th Avenue is approximately 9 square feet.
- Zoning Administrator Brian Werschem calculated the total area of the electronic message boards on the two signs to be approximately 49 square feet, not including the paneling needed to encase the digital display.
- Bill Maschewske questioned the wording of the explanation from Brian Werschem of the authorization and variance. I believe the correct interpretation is the Zoning Ordinance allows one or two business signs not to exceed 100 square feet in total combined area. The "authorization" is necessary to allow the applicants to exceed the 100 square foot limit. Beyond that, the applicants additionally requested two electronic message boards displaying the fuel price. The Zoning Ordinance, in Section 4.44(G) only allows one such message board in addition to the business sign(s). The second electronic message board for pricing requires a "variance".
- To clarify all this, Vice Chair Saddler drew both signs on the white board and outlined in black those portions designated as business sign. This area totaled 187.25 square feet. The area consisting of electronic message board was outlined in red by Vice Chair Saddler, scaled by Zoning Administrator Werschem, and estimated to be approximately 49 square feet excluding the frames.
- Bill Maschewske questioned what the limit was on the size of the electronic message board for fuel pricing.
- Township Attorney Ron Bultje stated the limit would be 25 square feet as with other permitted message boards.
- Bill Maschewske stated that the clarification of the business sign(s) versus the electronic message board versus the electronic message boards for fuel pricing and what was covered under an "authorization" versus what was dealt with as a "variance" was very important since the authorization would be much easier to achieve for the applicants than the variance because of the evaluation criteria. Therefore, it would be important to know what, if not all signage requested by the applicants, was approved.

A motion was made by John Wood to close the public hearing portion of the meeting and seconded by Bill Maschewske. Motion carried unanimously.

Robinson Township Zoning Board of Appeals – Authorization Request Outcome

The ZBA reviewed and considered the following five factors/standards contained in Section 4.44(F) of the ordinance pertaining to the applicant’s request for an authorization for business

signage exceeding 100 square feet. The five factors/standards and the discussion relating to the factors/standards are as follows:

1. The area and/or height of the signage in relation to the size of the lot on which it is to be placed.

Discussion:

- a. Bill Maschewske stated the sign conforms to the aforementioned standard.
 - b. Township Attorney Ron Bultje reminded the ZBA members to consider the following facts:
 - i. The property is on a corner.
 - ii. According the applicant, the signs are standard signage for a highway fueling station location.
 - iii. The applicant is being proposed the size and design of the business sign by the gasoline supplier/provider.
 - c. Bill Maschewske, member, stated the height of the business signs are compliant and the area of the lot is small.
2. The character and nature of the proposed signage.

Discussion:

- a. Rich Saddler, vice-chair, stated the bottom electronic message board, which is being considered as part of the business sign, will only be used to advertise specials at their location.
 - b. All members of the ZBA agree the character and nature of the business signs are reflective and similar to other businesses providing the same service.
3. The effect of the proposed signage on the height and air circulation for lots which are either adjoining or in the surrounding neighborhood of the proposed signage.

Discussion:

- a. All members of the ZBA agree air circulation will not be impacted.
 - b. All members of the ZBA agree the height of the business signs are in alignment with similar businesses.
 - c. Township Attorney Bultje stated that according to the ordinance the max structure height of a business sign is 35 feet. All members of the ZBA agree the proposed signage, per the ordinance, is in compliance for height.
 - d. Rich Saddler, vice chair, stated the height of the signs do not hinder lots which are either adjoining or in the surrounding neighborhood of the proposed signage.
4. Whether or not the proposed signage will constitute a traffic hazard.

Discussion:

- a. Rich Saddler, vice chair, asked the applicants what the height of the monument sign, located on 120th Avenue, is proposed to be. Dalane Vandenberg stated the proposed sign located on 120th Avenue will be approximately six (6) feet tall, not including the cement base which will add another three – four feet, making the monument business sign approximately nine to ten feet in height.

- b. All ZBA members agree the business sign located on M45 will have “clear vision” under the sign.
 - c. According to the drawn plans, the monument business sign will be placed approximately 10 feet from 120th Avenue, but approximately 24 feet from the pavement, more than the length of a typical vehicle. There is nothing in the record to suggest this would create a traffic hazards.
5. The effect of the proposed signage on the surrounding property.
- a. Rich Saddler, vice chair, asked the applicants if the structure of the business signs will match or be similar as the building. Mike Boes stated they will be similar.
 - b. Bill Maschewske stated, the surrounding properties are all planned commercial, but may not necessarily be zoned commercial at the current time.

Motion: John Wood made the motion to grant the authorization to exceed the 100 square feet allotment under Section 4.44(F) for both business signs on this parcel (PP# 70-08-21-400-018). The two business signs total approximately 187.25 square feet. It is based on the consideration of the factors in Section 4.44 (F) and the ZBA’s conclusions described above that the factors are substantially satisfied. The motion is subject to compliance with the application and supporting materials, compliance with the verbal representations of the applicants as recorded in these minutes, compliance with federal, state, county and township ordinances and compliance with the Special Land Use approval granted by the Township Board for this development. The motion was seconded by Briana Fowler.

Roll Call Vote:

John Wood – Yes
Bill Maschewske - Yes
Rich Saddler – Yes
Briana Fowler – Yes

Motion was carried unanimously.

Robinson Township Zoning Board of Appeals – Variance Request Outcome

The ZBA reviewed and considered the following five factors/standards contained in Section 40.6(A) of the Zoning Ordinance pertaining to the applicant’s request for a variance for an additional electronic message board displaying fuel prices.

The five factors/conditions and the discussion relating to the factors/conditions are as follows:

1. There are exceptional or extraordinary circumstances or conditions applying to the property in question, as to the intended use thereof, that do not apply generally to other properties or classes of uses in the same zone.
 - a. Bill Maschewske stated the practical difficulty is the overlay zone resulting in the way the structure is laid out.

- b. Township Attorney Ron Bultje reminded the ZBA the applicant is requesting a variance for an additional electronic message board to display fuel prices. The applicant is requesting the variance for the service station on a corner lot, whose pricing is an integral factor in this particular business. The service station being able to display fuel prices is influential on how the consumer determines whether or not to purchase the product the applicant is offering.
 - c. Vice Chair Rich Saddler asked the applicant why a second monument with an electronic message board is necessary. The applicant, Mike Boes, stated the main reason was safety. The applicant prefers not to force consumers to drive on M45, a busy highway road, in order to see the price of fuel. By adding a monument sign with the fuel pricing consumer could check the price of the fuel from 120th Avenue. Mike Boes asked, "Is it safe to drive on M45 just to see pricing? We are trying to prevent accidents." Applicant Dalane Vandenberg stated they recently opened a fueling/service station in Lowell, Michigan. This location has two fuel pricing signs on the parcel.
 - d. Township Attorney Ron Bultje stated the Planning Commission decided not to allow the provision of the second sign having an electronic message board with fuel prices when it drafted the sign language in the Zoning Ordinance. He also stressed that because of the overlay zone the structure had to be situated close to M45 and the position of the driveway off 120th Avenue is located farther north to be in compliance with spacing requirements. Legitimate factors for standard 1 could be it is a corner lot, it's a fuel station, and visible pricing is important.
 - e. Bill Maschewske added the Planning Commission made the decision to intentionally err on the low side of signage when it drafted the sign language in the Zoning Ordinance.
 - f. The applicant is requesting a smaller monument sign on 120th Avenue.
2. Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties or classes of uses in the same zone. The possibility of increased financial return shall not of itself be deemed sufficient to warrant granting a variance.
 - a. Township Attorney Ron Bultje stated the ZBA could recognize the customary right for fueling stations to make their prices visibly and safely known to the traveling public.
 3. Such variance, if granted, will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this Ordinance or the public interest.
 - a. Township Attorney Ron Bultje stated the second electronic message board for the display of fuel pricing is significantly smaller than the 25 square feet allotment.
 - b. The sign is promoting public safety and welfare.
 4. The condition or situation of the property or the intended use thereof is not of so general or recurrent a nature as to make reasonably practicable a general regulation for such condition or situation.

- a. Bill Maschewske stated the variance is only for the purpose of displaying fuel prices electronically and should not be necessary.
 - b. Display of fuel prices is specific to the applicant's industry.
5. Any exceptional or extraordinary circumstances applying to the property in question are not self-created.
 - a. Township Attorney Ron Bultje stated the applicants have reacted in accordance with the requirements of the ordinance.
 - b. Bill Maschewske stated that many commercial properties are on corner lots and approval of the variance would set precedence and possibly allow all future corner fuel stations to have two pricing signs. Additionally, if the township finds the variance is justified, then the ordinance should be amended instead.

Motion: Briana Fowler made the motion to grant a variance for a second electronic message board for the purpose of displaying fuel prices located on 120th Avenue. The electronic message board is approximately 10 square feet in area. It is based on the consideration of the factors in Section 40.6(A) of the Zoning Ordinance and meeting those factors for the reasons reflected in the above discussion. The motion is subject to compliance with the application and supporting materials, compliance with the verbal representation of the applicant as recorded in these minutes, compliance with federal, state, county and township ordinances and compliance with the Special Land Use approval granted by the Township Board for this development. The motion was seconded by John Wood.

Roll Call Vote:

John Wood – Yes
Bill Maschewske - No
Rich Saddler – No
Briana Fowler – Yes

Motion did not pass. The decision is pending until the ZBA can pass a motion.

Vice Chair Rich Saddler entertained an alternative motion from a ZBA member to table the decision until a future date when a full member board can be arranged or a ZBA member may change the motion.

Bill Maschewske made the motion to table the topic for consideration by a full member ZBA at a future date to reconsider the variance. The motion was seconded by Rich Saddler. The motion carried unanimously.

Township Attorney Ron Bultje explained the next steps to the applicants. He suggested that the applicants will be given a brief time to summarize their case to the full ZBA at the next scheduled meeting.

Rich Saddler suggested the applicant bring photographs of the proposed signage on existing properties to the next meeting in order to assist the ZBA picture what the property may look like.

Reading and Approval of the Last Meeting Minutes

The March 16, 2016 meeting minutes were reviewed and discussed. Motion made by Bill Maschewske to approve the March 16, 2016 minutes and seconded by Rich Saddler. Motion carried unanimously.

Any and All Other Business That May Come Before the Board

Bill Maschewske questioned the March 17, 2015 draft meeting minutes in member's packets. It was suggested the March 17, 2015 meeting minutes were approved at a previous meeting and included accidentally in the ZBA packet.

Adjournment

John Wood made a motion to adjourn the meeting and seconded by Bill Maschewske. Motion carried unanimously. Meeting adjourned at 10:24 p.m.

Respectfully Submitted,

Briana Fowler

Secretary of the Robinson Township Zoning Board of Appeals

Approved _____