

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on June 6, 2016.

MINUTES OF THE WYOMING BOARD OF ZONING APPEALS
HELD AT WYOMING CITY HALL

May 2, 2016

The meeting was called to order at 1:30 P.M. by Chairman VanderSluis.

Members present: Burrill Buist Meeter
 Palmer Postema VanderSluis

A motion was made by Postema, and seconded by Burrill to excuse Beduhn.

Motion carried: 6 Yeas 0 Nays

Other official present: Tim Cochran, City Planner

A motion was made by Palmer, and seconded by Postema to approve the minutes of the March 7, 2016 Board of Zoning Appeals meeting.

Motion carried: 6 Yeas 0 Nays

PUBLIC HEARING:

Appeal #V160011 P.P. #41-17-36-151-018
Progressive AE
5500 Clyde Park Ave. S.W.
Zoned B-3

The application requesting four variances from the City of Wyoming Zoning Code was read by Acting Secretary Palmer as follows:

Zoning Code Section 90-893 Nonresidential Districts requires properties in this B-3 Planned Business district to be a minimum of 5 acres in area. The petitioner desired to create a new parcel to be split from the Meijer's parcel to accommodate a Chick-fil-A restaurant. The requested variance is to approve a new parcel of 1.46 acres, which is 3.54 acres below the required acreage.

Zoning Code Section 90-893 Nonresidential Districts also requires properties in this B-3 Planned Business district to be a minimum of 300 feet in width. The requested variance is to approve a new parcel 181.4 feet wide, which is 118.6 feet below the required lot width.

Zoning Code Section 90-893 Nonresidential Districts also requires buildings in this B-3 Planned Business district to have a minimum 65 foot building setback from the street right-of-way. The requested variance is to approve a 55 foot building setback, which is 10 feet below the required building setback.

Zoning Code Section 90-799 Sign Requirements Nonresidential Districts requires pole signs to pertain only to the business occurring on that property. The requested variance is to allow a proposed pole sign that would identify both the proposed Chick-fil-A restaurant and the adjoining, but off-site, Meijer's business.

Chairman VanderSluis opened the public hearing.

Cheryl Scales, Progressive AE, presented the applicant's case. She also had Kurt Adams from Meijer with her. She explained they have been working with Tim Cochran, City Planner and the Planning Commission to carve out an out lot site from the Meijer's property to develop a Chick-fil-A restaurant at this location. The lot required variances for lot size, lot width and building setback. In addition, Meijer and Chick-fil-A have agreed to share one pole sign, which would be no larger than one allowed single pole sign. Meijer would have their name on Chick-fil-A's sign. She referred to a City street project that when constructed would change the driveway to the site and the shared sign would be out of the way.

There being no further remarks, Chairman VanderSluis closed the public hearing.

Cochran reiterated he has been working on this project with Progressive AE, Chick-fil-A and Meijer for approximately six months to develop a site for the construction of a Chick-fil-A restaurant. If the variance is approved, and the restaurant is constructed this will be the first Chick-fil-A restaurant in West Michigan. The area of the proposed site is an underused portion of Meijer's existing parking lot. The Meijer building had been built to excessive standards at the time of development. Meijer has been seeking a better use of their property.

He then displayed an aerial of proposed street improvements, and noted the City's long range plans would move the location of the parking lot entrance to improve traffic in this corridor of 54th St. Traffic would be able to come off the south bound exit of U.S. 131 and cross directly over 54th St. to the new entrance. The existing drive would be closed.

The proposed project was reviewed and approved by the Planning Commission on April 19, 2016. The approved design needed variances from the Zoning Board of Appeals. It seemed appropriate to Cochran to subdivide the variances requests by subject. The variance for the lot size is similar to the out lots for the Belle Tire and Panera Bakery on the Meijer property that had also received variances. The reduction in front yard setback is affected by the layout of the larger property. Although the building will have a reduced front yard setback, physically the building will actually be located further south from 54th St. than the existing Chili's Restaurant building to the west and because of the Michigan Department of Transportation property will visually look like it has a larger front yard setback. The lot will be heavily landscaped.

Regarding the sign pole variance, if the new parcel is created both properties could have a 100 square foot pole sign. Meijer and Chick-fil-A agreed to share a sign along 54th St. Meijer would then relinquish their right to have a separate pole sign located on the original parcel.

Staff supported all the variance requests, and had formulated Finding of Facts.

A motion was made by Burrill and seconded by Postema that the request for a variance to approve a variance for a new parcel of 1.46 acres, that the request for a variance to approve a new parcel which is 181.4 feet wide, to approve a 55 foot building setback, and that the request for a variance to allow a proposed pole sign that would identify both the proposed Chick-fil-A restaurant and the adjoining, but off-site, Meijer's business in application no. V160011 all be granted accepting staff's Finding of Facts.

Finding of Facts for variance to approve a new parcel of 1.46 acres with 181.4 feet of width:

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or class of use in the same vicinity and district because:
 - Meijer's proposes to divide a parcel from their retail center site. The parcel is intended to accommodate a Chick-fil-A drive through restaurant, which obtained Special Use and Site Plan Approval from the Planning Commission on April 19. It was identified that variances would be required from the Board of Zoning Appeals to facilitate the proposed design.
 - The desired parcel is proposed at 1.46 acres, with 181.4 feet of width. In this B-3 Planned Business district the minimum parcel size is 5 acres, and the minimum lot width is 300 feet. There are exceptional circumstances applying to the property. The Meijer's property has previously split off three parcels of less than 5 acres to accommodate the Chili's (1.2 acres), Belle Tire (1.2 acres) and Panera (1.1 acres) developments with variances granted by the Board of Zoning Appeals. The Chick-fil-A development site is an underutilized parking area. The Meijer store site is a destination retail business which does not require a considerable amount of street frontage. Conversely, street visibility is important for drive through restaurant businesses.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the authorization of the variance will provide for a more optimum use of the overall property by allowing the reasonable use of excess land area.
3. That the granting of such variance will not diminish the marketable value of adjacent land and improvements, or unduly increase congestion in the public streets because the Chick-fil-a development is being integrated within the Meijer's site and will share access to 54th Street and Clyde Park Avenue with the surrounding developments. The authorizing of the variance will not diminish the marketable value of the surrounding properties or unduly increase congestion.
4. That the condition or situation of a specific piece of property, or the intended use of said property, for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation because out lots within major retail developments are individually considered based on their proposed configuration and integration with the overall development plan.

Finding of Facts for variance to approve 55 foot building setback:

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or class of use in the same vicinity and district because the Chick-fil-A restaurant is proposed to

have a 55 foot front yard setback instead of the 65 foot setback required in the B-3 Planned Business district. The front yard is adjacent to an expanded right-of-way for U.S.131. The result is that with the reduced setback the building will be removed from the 54th Street travel lanes far greater than other nearby developments. Because the property line would not be recognizable, the appearance of the development from 54th Street will be that of a significantly greater setback than the 65 foot ordinance requirement.

2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the authorization of the variance will provide for a reasonable use of the overall property while providing desirable front yard property aesthetics.
3. That the granting of such variance will not diminish the marketable value of adjacent land and improvements, or unduly increase congestion in the public streets because the Chick-fil-a development is being integrated within the Meijer's site and will share access to 54th Street and Clyde Park Avenue with the surrounding developments. The authorizing of the variance will not diminish the marketable value of the surrounding properties or unduly increase congestion.
4. That the condition or situation of a specific piece of property, or the intended use of said property, for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation because the wide right-of-way for U.S. 131 provides a substantial greenbelt between the 54th Street travel lanes and the front property line where the setback would be measured from. This is a unique condition and is not of a general nature.

Finding of Facts for variance for a shared pole sign with offsite advertising:

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or class of use in the same vicinity and district because the Chick-fil-A restaurant proposes to erect a 100 square foot pole sign on their new parcel which would be allowable if the desired parcel is created. The proposed sign would also identify Meijer, which would not be permitted as an off-site business. The City, working with MDOT and the Federal Highway Administration, has reserved federal funding in 2019 to potentially reconstruct 54th Street by creating a four way intersection into the Meijer/Chick-fil-A properties at the current off-ramp location. The western access drive adjacent to Chili's would be closed. The proposed sign would be located near the only access to 54th Street from those properties. Meijer currently does not have a freestanding sign along 54th Street and, if the proposed variance is approved, relinquishes their right to a separate 100 square foot pole sign along this frontage.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the authorization of the variance provides for the identification of two major businesses at a major drive entrance. The variance would reduce the number of allowable pole signs along the 54th street frontage and does not increase the area of the sign otherwise entitled.
3. That the granting of such variance will not diminish the marketable value of adjacent land and improvements, or unduly increase congestion in the public streets because the Chick-fil-a development is being integrated within the Meijer's site and will share access to 54th Street and Clyde Park Avenue with the surrounding developments. The authorizing of the

variance will not diminish the marketable value of the surrounding properties or unduly increase congestion.

4. That the condition or situation of a specific piece of property, or the intended use of said property, for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation because the reconstruction of 54th Street through this corridor will significantly better manage overall traffic congestion. The allowance for a single pole sign, instead of two, at a major access point to the adjoining businesses would improve aesthetics though this area while providing proper identification. This is a unique condition and is not of a general nature.

Motion carried: 6 Yeas 0 Nays (Resolution #5603)

There were no public comments at the meeting.

The new business items were discussed by Cochran and the Board members.

Canda Lomonaco
Secretary

CL:cb