

ZONING BOARD OF APPEALS

CITY OF LIVONIA

MINUTES OF SPECIAL MEETING HELD TUESDAY, FEBRUARY 15, 2022

A Special Meeting of the Zoning Board of Appeals of the City of Livonia was held on Tuesday, February 15, 2022.

MEMBERS PRESENT: James Baringhaus, Vice Chairman
Timothy Klisz, Secretary
Joel Turbiak
Christopher N. Boloven
Michael Testa
Tamara Oliverio

MEMBERS ABSENT: Gregory G. Coppola, Chairman

OTHERS PRESENT: Harry Ramsden, Inspection Department
Mike Fisher, Legal Department
Valerie Bertani, CEO 9489

The meeting was called to order at seven p.m. Vice Chairman Baringhaus explained the Rules of Procedure to those interested parties. Each petitioner must give their name and address and declare hardship for appeal. Appeals of the Zoning Board's decisions are made to the Wayne County Circuit Court. The Vice Chairman advised the audience that appeals can be filed within 21 days of the date tonight's minutes are approved. The decision of the Zoning Board shall become final within five (5) calendar days following the hearing and the applicant shall be mailed a copy of the decision. There are four decisions the Board can make: to deny, to grant, to grant as modified by the Board, or to table for further information. Each petitioner may ask to be heard by a full seven (7) member Board. Six (6) members were present. No one chose to reschedule. Secretary then read the Agenda and Legal Notice to each appeal, and each petitioner indicated their presence. Appeals came up for hearing after due legal notice was given to all interested parties within 300 feet, petitioners, and City Departments. There were three (3) people present in the audience.

(7:00)

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APPEAL CASE NO. 2021-11-46 (Tabled from November 30, 2021): An appeal has been made to the Zoning Board of Appeals by Livonia Centers, LLC., 8351 N. Wayne Road, Westland, MI 48185, seeking to erect two ground signs while maintaining one existing ground sign, spaced 70 ft. and 80 ft. apart, resulting in an excessive number of signs and deficient spacing between signs.

Number of Ground Signs:

Allowed: Two
Proposed: Three
Excess: One

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Allowed: 300 ft.
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Deficient: 127.7 ft. and 215 ft. between signs

The property is located on the north side of Plymouth Rd. (30000), between Middlebelt and Tech Center Dr., Lot. No. 104-99-0002-002, C-2 Zoning District. Rejected by the Inspection Department under Livonia Vision 21 Ordinance, Section 11.08, "Sign Regulations in C-2, C-3, and C-4 Districts; Monument Signs."

Baringhaus: Thank you.

Turbiak: Mr. Chair.

Baringhaus: Yes, Mr. Turbiak.

Turbiak: I'd like to make a motion to remove said case from the table.

Baringhaus: Do I have support?

Testa: Support.

Baringhaus: Motion by Mr. Turbiak, supported by Mr. Testa to remove the case from the table. All in favor, please say aye.

Board: Aye.

Baringhaus: Case is removed from the table. Will the -- does the Board have any questions for the law department at this point? Are there any questions for the building inspection department?

Testa: Mr. Chair.

Baringhaus: Mr. Testa.

Testa: I do have a question for inspection. Harry, looking at the layout or the drawings they proposed, new sign "A" location; it's already built and erected as we talked about at the last meeting. It's location--there's nothing wrong with where it's placed, correct? Setbacks from the sidewalk or the street? Everything's--I'm assuming if there was a problem with this location it would be a part of the variance.

Ramsden: I did not verify a setback from either the entrance to that parking lot or the right of way of the road.

Testa: Is there a requirement that you know of?

Ramsden: 10 feet from each--

Testa: Thank you.

Baringhaus: Any other questions for the inspection department? Okay, thank you. Will the petitioner please come forward? Good evening.

Dabaja: Good evening.

Baringhaus: Could you please state your name and address for the record, please?

Dabaja: My name is Fouad Dabaja. My address is 8351 North Wayne Road, Westland, Michigan. I'm the owner of Livonia Centers, LLC.

Baringhaus: Okay. Thank you very much.

Dabaja: Thank you.

Baringhaus: Question--just if you could, please -- you were here once before on November 30th, can you please state your current plans for the site?

Dabaja: Excuse me.

Baringhaus: No problem.

Dabaja: You're speaking of the signs, correct?

Baringhaus: Correct.

Dabaja: Yeah. We currently have -- as we speak today, we have the original sign which is painted in yellow, and that sign was proposed to be removed completely. It'd just no longer be there. And you have two brand new signs that were erected just recently and they're existing as we speak today. I believe both sign are -- I'm not sure of the distance apart, but one of the centers in the out lot buildings -- somewhere in the center of the building, where it points out to the existing stores, and the -- the larger sign is right at the entry way where the setbacks are -- they're actually on their plan cause you've asked the inspection department that a larger sign (inaudible) as you drive you can see it. It's center. The setbacks are pretty clear, and it doesn't obstruct any vision or anything like that. Yeah. Our -- our proposal is to keep both signs and get rid of that yellow sign -- the real old one. Now, you had asked us to submit a plan where we could relocate the smaller signs, which is in the middle, and I proposed a plan to move it, and

put it where the original sign was, which is farther to the West. That was in my proposal for me to come back and present it to you.

Baringhaus: Okay. Very good. The third sign, which your diagram references is the Red Lobster sign, that's not your sign?

Dabaja: No that's not our sign.

Baringhaus: Okay.

Dabaja: No. But we do own the setback in the lobster corridor, so that gives us frontage of almost 300 plus. If you look at that, we literally own that whole setback which is pretty -- it's different. Why, I have no idea.

Baringhaus: Okay. And then can you just restate the approximate dimensions of the signs that you're proposing?

Dabaja: Honestly, I don't have the numbers in head. I believe the diagram shows it. If I remember correctly -- you're looking at the actual structure or you're looking at the actual --

Baringhaus: I'm sorry. You know, actually, we're more -- talking more about the placement. I'm fine, thank you.

Dabaja: Okay. Sorry.

Baringhaus: Any other questions for the petitioner?

Testa: Mr. Chair.

Baringhaus: Mr. Testa.

Testa: Point of clarification from your question. My understand was the Red Lobster sign does belong to you.

Dabaja: No.

Testa: So the case and the petition's written up as maintain the existing sign. I understood that to be the Red Lobster sign.

Dabaja: No. I believe what you -- when you drive by the property as it is right now --

Testa: Yep.

Dabaja: -- you'll notice there are two brand new market signs --

Testa: Yes.

Dabaja: -- and there's an existing sign.

Testa: Correct.

Dabaja: That existing sign which sits on the farther -- to the West of the property, that's the one we're proposing to remove and just leave two on the property.

Testa: Okay. Yeah, I'm reading the proposal, it says seeking to erect two ground signs while maintain one existing one existing ground sign.

Dabaja: Maybe they're referring to the Red Lobster as one of our signs in this case.

Testa: Yeah, that's what I thought because you own that -- I thought last time we discussed you own that strip, right?

Dabaja: We own that strip there.

Testa: Okay.

Dabaja: Yes.

Testa: So, I believe that sign counts against --

Dabaja: It does count against us, I'm not sure. That I couldn't tell you.

Testa: Can we ask inspection for clarification? Does that sign -- the Red Lobster sign count?

Ramsden: It does.

Testa: Okay. Thank you. That's what I understood from last time (inaudible). Thank you.

Baringhaus: Any other questions for the petitioner?

Turbiak: Mr. Chair.

Baringhaus: Sure, Mr. Turbiak.

Turbiak: Mr. Dabaja, I'm sorry if I misunderstood or misheard. I know last time you were here you presented the signs as were constructed at the time --

Dabaja: That's correct.

Turbiak: -- and I see that we have a new proposal where sign "B" I believe it's called, the one that was in the middle, near the out lots, has been moved further to the West, so -- but when I heard you speaking just a minute ago, again, I apologize, I might have misheard, it sounded like tonight you were asking to keep them as built. Did I mishear?

Dabaja: The proposal that I sent earlier to your -- I'm proposing to move that sign that's in the middle to the West where that older sign is. That was the proposal -- cause that was something that when we talked about it last time, you had asked me to come back with a different proposal to relocate that sign, and that's what I proposed to do.

Turbiak: Okay. So, just to be clear, you're no longer asking to keep the signs as built.

Dabaja: If I could keep the sign, that would be great because that would really -- there's a quite a bit of a cost involved to do it because there has to be electrical done, and it has to be (inaudible) all the way. Like the panels, you have -- with the structures completely done, we're looking 20 to 30 thousand dollars when it's said and done. You got a foundation, you've got a structure that you gotta build, plus the electrical.

Turbiak: Thank you for that clarification. That's all, Mr. Chair. Thank you.

Baringhaus: Thank you.

Testa: Mr. Chair.

Baringhaus: Mr. Testa.

Testa: Question for the petitioner, can you remind us how we got here? How the signs were built -- erected before the case was brought to us.

Dabaja: Well, (inaudible) were here last time when we talked about it and we went through the whole process and I had mentioned to you that the signs were already built, and you said did you get a permit, and I said no. And my date was on -- who was the contractor on board, and so on and so forth, and I said, they went by the fact that it was already on the plans, and it was approved. But when we were notified they were not approved, and you have to go back in front of the Board of Zoning, that's when we -- I came back and said I wanna make it right to be sure that whatever it is that has to be approved -- go through the process, so again, it was not intentionally done. It was just simply a -- overlooked.

Testa: Okay. So, I--I did go out to the site this time -- last time I hadn't, and I apologize for that -- but I was out there. I do understand your proposal to move sign "B" to where the, basically, yellow -- I assume that used to be a Dunhams' sign --

Dabaja: That's correct.

Testa: -- and both signs are still there. I drove in and out a couple times just to see if the view would be obstructed coming -- someone asked last time about pedestrian traffic there. Under your proposal, I think there's actually no way for you to achieve the ordinance in terms of the separation distance between signs. You simply don't have enough land space --

Dabaja: Okay.

Testa: -- to meet that.

Dabaja: Okay.

Testa: Is that what you understand too?

Dabaja: That's what I understood for your discussion earlier.

Testa: So, I'm -- I appreciate what you just said about the cost, although generally we don't factor that in. I -- I could be okay -- I'm willing to entertain thoughts from other members, now that I've been out there, I'm okay with your current set up.

Dabaja: Thank you.

Testa: If you just took down the old sign so to speak.

Dabaja: That's a done deal.

Testa: If -- if that's what you prefer, I guess that could be something you could present to the Board instead of moving it, but maybe that's just my opinion. I'm not speaking for the full Board.

Dabaja: I--I would accept that because that would really just -- I would say in a way that helps me out a lot in terms of -- because when it sits in the center, actually, when I looked at it, it's more advantageous to the tenants because you can literally see it and it points out to the exact -- you know -- it's right dead center of the out lot, and that would be very helpful, and I think that would be something I would look forward to. I would appreciate that.

Testa: Thanks.

Baringhaus: Any other questions?

Oliverio: I have one question.

Baringhaus: Oh, yes. Ms. Oliverio.

Oliverio: Thank you. So, I just wanna make sure I'm understanding correctly. So the one sign that's closest to -- what would that be --

Dabaja: The drive.

Oliverio: Yes. So, would that move cause I know that there was concern about it being a line of sight issue at the driveway.

Dabaja: I'm sorry.

Oliverio: At the last meeting in the notes -- do you remember which one this was? I don't know if it's keyed a certain way.

Fisher: Well, yes. The minutes from the last meeting indicate that Scott Morgan --

Oliverio: Yes.

Fisher: -- was concerned that the sign was too close for visibility purposes.

Oliverio: Right. Yeah, there was -- he was concerned from a line of sight issue or with -- especially with that being a high traffic area that it could be an issue with traffic.

Dabaja: When you literally put the actual tenant signs on that property, they're almost 12 feet off the ground. Just -- they're not -- they can't be low. It has to be up -- all the way up, because the sign itself is about -- I'm -- it's about 20 feet when it's said and done as far as the columns concerned. When you put the crown on the top and stuff like that, you can -- the whole -- the whole tenant signs are really up there. If you give the tenants roughly about 18 inches to 2 feet of sign, that leaves about 12 to 14 feet clearance between landscape and the upper part. That's very visible. I mean, easy. You can drive by it. I -- you know -- I look at that -- that I -- you know -- when you pull in and pull out, it doesn't even -- you know -- doesn't even interfere with any traffic there.

Oliverio: Okay. I remember there being conversations around the distance from the curb as well. Is there -- that Scott had a concern about distance to the curb.

Dabaja: Again, you can look at the plan that you have, which I'm sorry, I don't have in front of me, and there are -- there are good -- there are setback from the actual sidewalk all the way up to the columns and there are even setbacks from the island all the way back, so there's -- as matter of fact, it sits -- when you pull into the lot, it sits all the way to the -- inside the curb, and when you're driving down Plymouth Road, it sits all the way, and it's within sight of all the existing signs that we have there. It doesn't really -- it doesn't go toward Plymouth Road, no, it just sits in further, so it's not in the driver's sight and stuff like that. No. I don't know if I answered your question correctly.

Oliverio: I don't know if you did either.

Dabaja: I'm sorry.

Oliverio: I don't know if you did either, but that's okay.

Dabaja: My apologies.

Baringhaus: Mr. Testa.

Testa: Mr. Chair, sorry. So, yeah, the reason I definitely went out there this time around was, Scott did raise that concern last time and he also had not been out to the sight at that point, so he was going just based on the drawings.

Oliverio: Mmhmm.

Testa: And at the beginning of the meeting, that's why I asked inspection what the setbacks are. So, it meets the setbacks based on the drawing. When I was -- pulled in -- out of there I didn't --there's gonna be a sight issue no matter what. It's a big sign. Whether you move it 20 feet -- you're just gonna move that obstruction -- that line of sight obstruction 20 feet. It's like sitting at old Tiger Stadium. It's -- you're gonna have obstruction somewhere where you're sitting up in the back seat, so, I -- the only way you could address that is getting rid of the sign completely, but it -- it meets the setbacks. I was comfortable with where it's at. So, I think it would be difficult to have them move it based on it's within our ordinance for setback. But yeah, that's why I asked because of Scott's comments last time.

Baringhaus: Additional questions? Okay. Very good. If you can just take a seat, please.

Dabaja: Thank you.

Baringhaus: For a moment. Thank you. Just (inaudible). Are there any comments from the audience? Okay. Secretary, are there any letters to read?

Klisz: There are no letters.

Baringhaus: Okay. I'm sorry. I'm gonna have to have you come back to the podium. That was faster than I thought. Thank you. Just like to ask you to make a closing statement at this point.

Dabaja: I believe by granting me the variance would really --you know -- kind of set the motion forward to get it completed in time and kind of get it ready for my tenants who are coming in. So, with that said, I believe that would -- I'll make it very simple.

Baringhaus: Okay, very good. Thank you very much.

Dabaja: Thank you.

Baringhaus: Okay, that'll close the public portion of the meeting and we'll begin the Board's comments with Ms. Oliverio.

Oliverio: Well, thank you. Overall, I think it's an exciting development. So, I'm excited to see that it's moving forward as it is. I would say it is certainly something we need to-- considering the high traffic area there, I think that is certainly a concern of --you know-- that it's probably going to be picking us as well, so it's something we certainly need to consider. I am curious -- can I ask a question of engineering or--

Baringhaus: Please.

Oliverio: Okay. Don't wanna go out of (inaudible). I was curious though, because I know your original site plan was approved back in what, 2018? And I didn't know if there were any changes to the ordinances when Vision 21 Ordinance passed, that impacted any of this, considering the site plan was approved prior to that being passed. So, I don't know if there's something there that we need to look at?

Baringhaus: And who would you like to direct your question to? That was Mr. Ramsden?

Oliverio: I believe so, yes.

Ramsden: So if I understand the timeline is -- the plan -- the site plan was approved by planning commission, but signs and any other outbuilding accessory structures like dumpster inclosures are a separate permit that has to be approved by our department. So, because it was approved by planning doesn't mean the permits were issued for those signages and they were built without that, and I--if I understand it right, what was proposed is in writing that was submitted for tonight's meeting was that the original sign at Tech Drive was to be removed, and a new sign built there. What was verbally proposed and maybe discussed by the Board this evening may be that the original sign at Tech Drive be removed and the two as built signs closer together be allowed. So, just clarity on that as to what is proposed and what is approved or disapproved by the Board. But as far as difference between what was approved by planning and Vision 21, I don't know that there was any difference at all. If that answers your question.

Oliverio: Thank you. Would legal happen to have the answer to the question? I'm sorry, Mr. Fisher.

Fisher: I do not think there are any changes that Livonia 21 made that are germane to tonight's proceedings.

Oliverio: Okay. Thank you.

Baringhaus: Mr. Turbiak.

Turbiak: Thank you, Mr. Chair. Yeah, so, what happened last time -- like I think a couple of my other colleagues-- we were not aware that the signs had already been built, and I for one did not visit the site before the previous meeting and I had since had a chance to visit the site and I don't have any concerns with the sign "A," the large one, it does meet the setback from the road, there is visibility between the pillars as was mentioned by the petitioner that the signs for the businesses will be--you know--12 feet off the ground roughly. And also, if you think about it, if you're making a right hand turn out of there, you will be pulling up to the sidewalk--you know-- before--and you're gonna be looking left, so the sign would be on your right, there's no obstruction if you're making a right-hand turn. And if you're making a left-hand turn, again, the sign's not to your left, and so--you know--you'll be able see traffic from the right and the left--you know--when you're at the apron ready to make the turn. So, I don't have any concerns with that sign. As was mentioned throughout the meeting and then again by Mr. Ramsden, there's kind of two possibilities for sign "B," either to keep it where it is or to move it where the--we'll call it the Tech Center sign or the Dunhams, Big Lots sign that was previously there is located. You know--I think I mentioned in the last meeting that I was almost potentially ready to approve as was originally submitted, however, I was hesitant because I hadn't seen the site. Having now seen the site, I could approve either of the proposed options that were discussed tonight, including as is already built. And the thought around that is that it--it is closer to the building. In some sense, if you moved it to the West, you might be helping customers that are coming from the West, heading East, because they'll be able to see it. They might be able to make that first driveway, but if not they'll have more time to make it to the second driveway, than if it were to be--you know--in the middle of the property and in line with the out building, so, however you flip that coin, and you talk about customers coming from the East--you know--now that it's further East, they're more likely to make it into the first driveway and have a much better chance to definitely make it to the second driveway, especially since they're on that side of the road. They're not making a maneuver across traffic. So, it's kind of like you could slice it this way, you could slice it that way, and as far as having an extra sign, as it was kind of discussed, the Red Lobster sign is technically on the property, it--in my view--should be disregarded because it's not really germane to this development and--you know--as it was also pointed out, the spacing cannot be achieved without putting it maybe East of the Red Lobster sign which would just be ludicrous so, I have no problems approving tonight and depending on which way the rest of the Board members are thinking, I could potentially vote for either of the two proposals. Thank you, Mr. Chair.

Baringhaus: Thank you, Mr. Turbiak. Secretary Klisz.

Klisz: Yeah, I understand--and from the first meeting, it was definitely like, well we could approve it this way, but the petitioner was willing to move it, and it was obviously erected without our approval, and the cost shouldn't really make a difference, and I'm not too concerned about that. I think what I'm looking at is it's closer to the ordinance which we have the spirit of the zoning ordinance and therefore, we should get it further apart. There's a reason why it should be further apart, and I think Mr. Turbiak's rendition of whether you're coming from the East or the West, it makes more sense to have them further apart, so, I think it should be approved, and it should be approved under the new

version, the one we're looking at tonight. I'm not opposed to the--keeping it where it is, but it's not as good in my opinion. It should be moved to the new location.

Baringhaus: Thank you, Mr. Klisz. Mr. Boloven will be recusing him from voting on this case this evening, so we'll go to Mr. Testa.

Testa: Thank you, Mr. Chair. So yeah, I can support this case's petitioner either way as presented or as built. I think I made my comments clear upon questioning. I like the signs, so, thank you for redeveloping that area. So, I'm interested to hear from the other Board members which way the motion will go, but I'll support either way.

Baringhaus: Thank you. I too will support the request for the variance. I think--appreciate the fact that the petitioner took our recommendations into consideration with coming back with a revised plan this evening. I agree with Mr. Klisz's observation that I think under--you need to have the signs spread apart for--from an appearance point of view. The one old sign, I think it's seen it's time--you know--it looks pretty worn and a little bit of larger signage, I think would be beneficial given the fact that a lot of the businesses within this complex sit quite aways back from Plymouth Road. I think the distances, seeing how the set--they do meet city setbacks, they're fine. Other than that, I think in general, the project will definitely reinvigorate and refresh the area as well. So, thank you. So, with that, the floor's open for a motion.

Upon motion by: Klisz. Supported: Testa.

RESOLVED: APPEAL CASE NO. 2021-11-46 (Tabled from November 30, 2021): An appeal has been made to the Zoning Board of Appeals by Livonia Centers, LLC., 8351 N. Wayne Road, Westland, MI 48185, seeking to erect two ground signs while maintaining one existing ground sign, spaced 70 ft. and 80 ft. apart, resulting in an excessive number of signs and deficient spacing between signs.

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The property is located on the north side of Plymouth Rd. (30000), between Middlebelt and Tech Center Dr., Lot. No. 104-99-0002-002, C-2 Zoning District. Rejected by the Inspection Department under Livonia Vision 21 Ordinance, Section 11.08, "Sign Regulations in C-2, C-3, and C-4 Districts; Monument Signs," **be granted as originally proposed for the following reasons and findings of fact:**

1. The uniqueness requirement is met because of the size of this particular project, age of original Red Lobster sign, and the petitioner's willingness to move the sign to the farthest reaches of the property.
2. Denial of the variance would have severe consequences for the petitioner because one of the signs would have to be removed completely.

3. The variance is fair in light of its effect on neighboring properties and is in the spirit of the zoning ordinance because the petitioner has moved the sign to the far outreaches which is again, closer in line to the ordinance than originally presented and there is no neighbor opposition.
4. The granting of this variance will not adversely affect the purpose or objective of the Master Plan because this property is classified as "Mixed Development Center" under the Master Plan and the proposed variance is not inconsistent with that classification.

FURTHER, the variance be granted with the following condition:

1. That it is built as presented this evening.
2. That the original sign in its place, where this sign will go, is going to be removed.

ROLL CALL VOTE:

Testa: Aye.

Turbiak: Nay

Fisher: Mr. Chair, can I just say--

Baringhaus: Yes.

Fisher: We--we wanna make sure we get the--you wanna make sure you approve this or table rather--because you may accidentally cut off the petitioner's ability to get this variance this evening, so, just so you--so nobody--so everybody knows the consequences of your vote, I guess is what I'm trying to say.

Boloven: Doesn't just a nay reject this motion and then opens the floor up for another motion?

Fisher: Generally speaking, that would be true, but when the nay has the function of denying a variance, that's a different kind of--horse of a different color.

Boloven: So, if they vote nay on this, it's gonna reject it rather than bring the floor for another motion?

Fisher: Yes.

Turbiak: I feel like we've been in this case before and--

Unknown: Yeah.

Turbiak: --it was kind of like Mr. Boloven described. We onetime thought we had done that, and Mr. Neville here was--from my recollection and we put forth a second motion and voted on that.

Boloven: If that's the case, you might wanna bring it back up for discussion before your vote finalizes there.

Fisher: Yeah, well that's the point I'm saying.

Unknown: Yeah.

Fisher: We--we don't wanna create an ambiguous record or a record that goes the wrong way.

Boloven: Right.

Fisher: So.

Baringhaus: Well, Mr. Klisz, would you restate your motion please for everybody.

Klisz: I'll withdraw my motion.

Fisher: Okay.

Klisz: Okay.

Baringhaus: Okay.

Klisz: Does that work?

Turbiak: Mr. Chair. Can I make a comment about my vote if it's not out of order? Just a clarifying comment.

Baringhaus: Go ahead.

Turbiak: Thank you. So, when Mr. Klisz was giving his closing comments after I had given mine, he mentioned the spirit of the ordinance and it jogged my memory of something that I had considered when I was researching this and--you know--in my interpretation, the spirit of the ordinance is trying to avoid two similar or signs with the same basic content to be too close, which makes sense. I--I think that's the spirit of the ordinance. In this case, we have different out lots, so we have--there's no cross signage where the same tenant is on both signs, and I'm--I honestly didn't check, but I'm almost certain that you can find signs in the city that are this distance apart, so it's not that they're too close, it's that we wanted to--I believe it was the city's intention that we wanted to avoid the same sign being like, hitting you and then hitting you again as you're driving down the street. So, that's something that I--I apologize, I failed to recollect or make a strong enough note to bring it up, but that was the reason for my seemingly change in opinion, so I just wanted to make that clear. Thanks.

Fisher: Okay.

Baringhaus: Well, with Mr. Klisz withdrawing his motion at this point, just so we're clear, you know, as the variance indicates that there's three signs involved. Two as a result of--you know--the petitioner, one is an existing--an existing sign, so there's three signs total. Mr. Klisz's motion was for an approving motion for his three signs as presented this evening. So, I guess I'm not following what you're saying, Mr. Fisher, maybe you can give me some more clarification on what you're advising.

Fisher: I was concerned that we were gonna accidentally deep six this petitioner by vote--by having a disagreement over the precise details of the motion rather than having a disagreement over whether or not there's gonna be a variance.

Boloven: I don't understand--and maybe it's a deeper discussion, I don't understand how a--if a motion doesn't pass, why it wouldn't go back to the floor for another motion, but I think Mr. Turbiak's gonna make a different motion here which might resolve it or not, but I always thought it had to be a denial motion that get proved a torpedo, not just losing on an approval motion.

Fisher: Well, the problem is you could be stuck in purgatory where you can never get any kind of decision if that's the rule, and that's part of the reason we've done this way for years. I recognize it you had it different one time when Leo was here, I--I can't control events that--

Testa: Mr. Fisher, are you saying that if we voted down Mr. Klisz's motion, no one else could make a new motion?

Fisher: You would have denied him the variance.

Baringhaus: Correct. Yes. Now I understand.

Fisher: That's what we're trying--

Baringhaus: That was the direction I was going in.

Fisher: We're trying to avoid the--like I said that purgatory of whether--where because of details over the content, you can't get the four votes you need.

Baringhaus: And the other thing to consider too is with this particular vote, Mr. Boloven has recused himself, so you have--

Fisher: Yes.

Baringhaus: --five voting members at this point.

Fisher: So, it'd be easy for a disaster to occur. So.

Baringhaus: So, at this point, then I'll ask for another motion on this request for a variance.

Upon motion by: Turbiak. Supported: Testa.

RESOLVED: APPEAL CASE NO. 2021-11-46 (Tabled from November 30, 2021): An appeal has been made to the Zoning Board of Appeals by Livonia Centers, LLC., 8351 N. Wayne Road, Westland, MI 48185, seeking to erect two ground signs while maintaining one existing ground sign, spaced 70 ft. and 80 ft. apart, resulting in an excessive number of signs and deficient spacing between signs.

Number of Ground Signs:

Allowed: Two
Proposed: Three
Excess: One

Sign Spacing:

Allowed: 300 ft.
Proposed: 172.3 ft. and 85 ft. between signs
Deficient: 127.7 ft. and 215 ft. between signs

The property is located on the north side of Plymouth Rd. (30000), between Middlebelt and Tech Center Dr., Lot. No. 104-99-0002-002, C-2 Zoning District. Rejected by the Inspection Department under Livonia Vision 21 Ordinance, Section 11.08, "Sign Regulations in C-2, C-3, and C-4 Districts; Monument Signs," **be granted as originally proposed for the following reasons and findings of fact:**

1. The uniqueness requirement is met due to the extra sign belonging to Red Lobster and not the petitioner's building as well as not being able to meet the ordinance on the property.
2. Denial of the variance would have severe consequences for the petitioner because the petitioner would not be able to have an additional sign.
3. The variance is fair in light of its effect on neighboring properties and is in the spirit of the zoning ordinance because there were no objections from neighboring properties and the two signs do not have the same businesses listed on them.
4. The granting of this variance will not adversely affect the purpose or objective of the Master Plan because this property is classified as "Mixed Development Center" under the Master Plan and the proposed variance is not inconsistent with that classification.

FURTHER, the variance be granted with the following condition:

1. That it is built as it is currently, as presented at the November 30, 2021 meeting.
2. That the landscaping is the same as presented at the November 30, 2021 meeting.
3. That the original Dunham/Big Lot sign be removed.

ROLL CALL VOTE:

AYES: Turbiak, Testa, Oliverio, Klisz, Baringhaus.

NAYS: None.

ABSENT: Coppola.

RECUSED: Boloven.

Klisz: Passes 5-0.

Baringhaus: Come back to the podium. Okay, your variance has passed this evening, so you're free to--you know--proceed as we've directed--you know--on this variance and as they've stated--you know--that you do have some conditions with this variance that it's built as presented this evening, also, removing the old Dunhams' sign that you discussed earlier and then also maintaining the landscaping plan that you had communicated with us at the last meeting.

Dabaja: Bless you.

Fisher: Thank you.

Dabaja: Thank you very much.

Baringhaus: Thank you very much.

APPEAL CASE NO. 2022-02-03: An appeal has been made to the Zoning Board of Appeals by Stark Road Holdings, LLC, 14255 Stark Road, Livonia, MI 48154, seeking to erect wall signs upon a Physical Therapy/Fitness Facility building resulting in excess number of wall sign and wall sign area.

Number of Wall Signs:

Allowed: Zero
Proposed: Five
Excess: Five

Sign Spacing:

Allowed: 0 ft.
Proposed: 313 ft.
Excess: 313 ft.

The property is located on the west side of Stark Rd. (14255), between Schoolcraft and Lyndon, Lot. No. 084-99-0003-000, N-2 Zoning District. Rejected by the Inspection Department under Livonia Vision 21 Ordinance, Section 11.08, "Sign Regulations for Residential Districts."

Baringhaus: Thank you. Does the Board have any questions for the inspection department? Are there any--

Klisz: Actually, I guess--

Baringhaus: Okay, Mr. Klisz.

Klisz: For the inspection department, is the no wall signs because it's in a residential area?

Ramsden: That's correct.

Klisz: Did the Y have wall signs? They had a monument sign, was that an exemption do you know?

Ramsden: I do not recall. I don't know.

Klisz: Okay.

Ramsden: It's existing there. It's been modified and I don't know if there was exemptions made previously.

Klisz: Could have been back in the 60's I guess when they did it, but that's the reason for no wall signs, is the residential zoning?

Ramsden: That's correct.

Klisz: Okay. Thank you.

Baringhaus: Okay, good.

Turbiak: Mr. Chair.

Baringhaus: Yes, Mr. Turbiak.

Turbiak: Yeah, through the chair to the inspection department, can you clarify, the variance says size spacing and I have to admit, it just hit me when Secretary Klisz was reading, it actually does say 313 feet, in my mind it was 313 square feet. I thought we were talking about area of signs since there's five, I thought 300, okay that could be in the ballpark of 300, but it's talking about sign spacing. What--what two signs have the spacing--I guess, I mean, maybe I need a clarification of the sign package, and maybe this question's better for the petitioner to answer, but do you have any insight on that? Okay. I see a headshake. I do have one question--

Ramsden: I guess I don't understand. There's no signs that are permitted in the--and to--that is zoned for.

Turbiak: I--I see, yeah, no, I understand. So, there's no spacing that's permitted that follows, I understand. But I guess I'll have to ask the petitioner which signs this distance is between because again, I--it wasn't clear for me from the sign package.

Boloven: Mr. Chair.

Baringhaus: Mr. Boloven.

Boloven: To answer Mr. Turbiak's questions, Mr. Turbiak, I think it's a typo on the notice. Looking at Randy's write up, it--my intention--or my thought was it was square feet. Randy's write up does have square feet. Wall sign area allowed, zero, proposed 313 square feet, excess 313 square feet.

Turbiak: Thank you. That's why I thought that.

Boloven: I don't know if that's an issue by the way that the notice is wrong, but it is a typo on the notice.

Turbiak: Yeah, that's something that maybe Mr. Fisher could determine or comment on. I'll give him a second to ponder it while I ask another question to the inspection department, buy him some time here. Mr. Ramsden, do you know--when I was reading the petitioner's--you know--the eight questions or nine questions that they have to answer, they indicated that this was--trying to find the exact verbiage, but basically that it was just a little bit more than what was allowed by the ordinance. Now obviously, the neighborhood does not allow anything and that's clear, but do you know which zoning they were anticipating that this was gonna be measured against, the context of their answer seems to assume it different zoning?

Ramsden: I do not.

Turbiak: Okay.

Ramsden: I'm not aware.

Turbiak: Fair enough. Thank you. That's all, Mr. Chair.

Baringhaus: Okay, thank you. Any questions for the law department?

Turbiak: Besides the one I left hanging--

Fisher: Well, you know, I hate to say this, but this seems to me to totally ruin this notice. I mean, I don't know if I--I don't know whether I saw this before it went out, and if I did, I apologize, but I don't know--I think this completely defeats the purpose of a public notice to have this error there. Because while people are smart, having been on ZBA, can figure out that's probably square feet, that's not every--you know--citizen unfortunately.

Turbiak: Right.

Fisher: Not that those citizens aren't also smart, they're just smart in different ways.

Turbiak: Totally understood what you meant.

Testa: Mr. Fisher, does that prevent us from hearing the case and just not approving it?

Fisher: Unfortunately, we haven't had this situation in a long time, but yes, I think that says you do it again and get the notice right next time.

Boloven: Mr. Fisher, what's the procedure. Do we go for a table on it or is it just simply redone down the line as an error in the notice?

Fisher: You can--I think in the past we've just let it be an error if you wanna do a tabling motion that's fine too.

Baringhaus: That's fine. It makes the most sense to me as well, so.

Upon motion by: Boloven. Supported by: Klisz.

RESOLVED: APPEAL CASE NO. 2022-02-03: An appeal has been made to the Zoning Board of Appeals by Stark Road Holdings, LLC, 14255 Stark Road, Livonia, MI 48154, seeking to erect wall signs upon a Physical Therapy/Fitness Facility building resulting in excess number of wall sign and wall sign area.

Number of Wall Signs:

Allowed: Zero
Proposed: Five
Excess: Five

Sign Spacing:

Allowed: 0 ft.
Proposed: 313 ft.
Excess: 313 ft.

The property is located on the west side of Stark Rd. (14255), between Schoolcraft and Lyndon, Lot. No. 084-99-0003-000, N-2 Zoning District. Rejected by the Inspection Department under Livonia Vision 21 Ordinance, Section 11.08, "Sign Regulations for Residential Districts," **be tabled for the notice to be corrected and resent out for next hearing.**

Testa: Mr. Chair.

Baringhaus: Any discussion--Mr. Testa.

Testa: Yeah, thank you. Is there anyway we can discuss the case? I have questions about it that I think would be helpful to clarify today.

Baringhaus: Question for Mr. Fisher.

Fisher: Well, we--I--I recognize that it's tempting. I think it's a--I think this is--at least by analogy to the--and maybe actually governed by the Open Meetings Act, you're in a situation where we've given a completely misleading notice and got no citizens to show up. Maybe they wouldn't anyway, I don't know, but you're--and the consequence of that error, we don't have anybody except the petitioner here in the building. So, I--I thought you should write down your question and save it for next time.

Testa: Okay.

Baringhaus: How--Mr. Fisher--I'm sorry. Go ahead.

Testa: Yeah, I guess I understand your point if we approve the motion, that would be completely valid. But I guess if we ultimately table the motion, why couldn't we discuss it?

Fisher: Well, if you wanna go ahead and discuss it, then go ahead and discuss it. My thought was, you sort of make a worse mess than we've already got.

Boloven: The--the issue--

Baringhaus: My thought is to table it as you suggested, Mr. Fisher, then ask your questions separately, and then when the case is rescheduled, then go forward with the discussion, is what you're recommending at this point?

Fisher: Yes.

Baringhaus: Mr. Fisher, if you don't mind, maybe you could summarize for the petitioner what just happened.

Fisher: Yeah, I'm really sorry. We--as you heard, the strange thing about 313 feet spacing, that turned out to be an error in the notice. It should have been 313 square feet of signage, because apparently that's what you guys have in mind for that site.

Pet: I don't see that on my--on my notice.

Fisher: What does your notice say?

Pet: Appeal case number 2022-02-03, an appeal has been made to the Zoning Board of Appeals by Stark Road Holdings, seeking to erect wall signs upon a Physical Therapy/Fitness Facility building resulting in excess number of wall sign and wall sign area.

Fisher: Oh.

Boloven: But keep--keep reading.

Fisher: Oh, is it--

Pet: It says, the allowed per number of wall signs, right?

Boloven: Yep.

Pet: I do see here where it says sign spacing.

Boloven: Yep.

Fisher: Okay.

Pet: Right, so number of wall signs and then number of--I'm not sure why sign spacing is even--

Klisz: That's the error.

Fisher: Well, that's the error.

Klisz: We can't proceed.

Pet: So, I understand. So, it should be number of signs and sign sizing?

Fisher: Yeah, it should be--it would say sign area. And it should say 313 square feet and instead of 313 feet.

Pet: I understand.

Fisher: I don't--and that's--I've never seen this particular mistake before.

Pet: The other question that I would have is that the law requires the owners of the property located within 300 feet of this particular property--

Fisher: Uh-huh.

Pet: --to--you know--be notified by request within--you know--written request--

Fisher: Right.

Pet: --I don't necessarily know that there is anybody within 300 feet of the building.

Fisher: It's not--it's 300 feet from the property line. So, there--there will be people.

Klisz: There are people.

Pet: Yep. There there would be--yeah, there are houses kind of kiddy corner, adjacent at that particular point, so it's not the building--certainly.

Turbiak: Plus, I believe this notice is published in other areas like the observer?

Klisz: Yep.

Fisher: Yeah.

Turbiak: Anyone's free to come, not just those people within the 300 feet.

Pet: Yes.

Turbiak: Unfortunately.

Pet: Understandable.

Turbiak: Well, I don't mean, again, don't take that the wrong way.

Baringhaus: Okay, so that's the explanation for what just occurred here. We apologize for that, and--you know--the--(inaudible) so, what we're gonna do now is vote on tabling this particular case, and then it will be rescheduled and--and the correct public notice will go out as well. So, we have a motion on--to table by Mr. Boloven, second by Mr. Testa--I'm sorry, Mr. Klisz, apologize for that. We've already--is there any further discussion on this motion? Okay, seeing none, Mr. Klisz, will you please take a vote.

ROLL CALL VOTE:

AYES: Turbiak, Testa, Oliverio, Boloven, Klisz, Baringhaus

NAYS: None.

ABSENT: Coppola.

Klisz: Passes 6-0.

Baringhaus: Okay. So, again, we apologize. Contact the inspection department like I indicated at the beginning of the meeting, you'll have to be scheduled for the next ZBA meeting which would be April 5th, so--and you'll have to get that one filed by the 28th, so, you'll wanna do that right away, and again, I apologize for your inconvenience tonight.

Oliverio: Mr. Chair. Is there anyway we can expedite that and have them an earlier meeting?

Baringhaus: No, that's the next one. Every meeting has a deadline, we passed the deadline yesterday for the other meetings, so he'll have to go to the state--

Testa: Mr. Chair.

Baringhaus: Mr. Testa.

Testa: I'd like to ask permission--in the past--past few meetings when we tabled, we've been able to offer feedback to the petitioner, may I offer--

Baringhaus: I believe we discussed that we would save that feedback for when the case is rescheduled. Is that correct, Mr. Fisher?

Fisher: I think that was--

Baringhaus: That was the recommended course?

Fisher: I think that was the idea.

Testa: I don't wanna ask a question, I just wanna make a comment.

Fisher: Oh, well--

Boloven: The problem--

Baringhaus: I think we would be better to state with a clean slate in this case.

Testa: Okay.

Baringhaus: Save your comment.

Testa: Okay.

Baringhaus: And share it when the meeting is rescheduled. Thank you. Mr. Klisz, I believe we have some minutes to approve tonight?

Klisz: We do. We have two minute meetings to vote on. We have the minutes of January 18, 2022.

Boloven: Mr. Chair.

Baringhaus: Mr. Boloven.

Boloven: Motion to approve the minutes of January 18th, 2022.

Baringhaus: Okay, is there support?

Turbiak: Support.

Baringhaus: Support by Mr. Turbiak. Motion to approve the minutes by Mr. Boloven, support by Mr. Turbiak, all those in favor, please say aye.

Board: Aye.

Klisz: And the next one of February 1st, 2022 minutes.

Boloven: Mr. Chair.

Baringhaus: Mr. Boloven.

Boloven: Motion to approve February 1st, 2022 minutes.

Testa: Support.

Baringhaus: Supported by Mr. Testa. Okay, motion by Mr. Boloven and supported by Mr. Testa to approve the minutes, all those in favor say aye.

Board: Aye.

Baringhaus: Any other final comments this evening?

Boloven: Mr. Chair.

Baringhaus: Mr. Boloven.

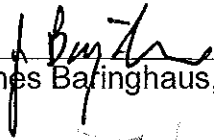
Boloven: Motion to adjourn.

Baringhaus: Thank you.

Testa: Support.

Baringhaus: I didn't hear where it came from. Very good. Motion to adjourn by Mr. Boloven, support by Mr. Testa, all those in favor say aye.

There being no further business to come before the Board, the meeting was adjourned at 7:53 p.m.


James Baringhaus, Vice Chairman


Timothy J. Klisz, Secretary

/vcb CEO 9489