

ZONING BOARD OF APPEALS
CITY OF LIVONIA
MINUTES OF MEETING HELD TUESDAY, FEBRUARY 7, 2023

A Meeting of the Zoning Board of Appeals of the City of Livonia was held on Tuesday, FEBRUARY 7, 2023.

MEMBERS PRESENT: Gregory G. Coppola, Chairman
James Baringhaus, Vice Chairman
Timothy Klisz, Secretary
Christopher Boloven
Tamara Oliverio
Martha Ptashnik
Michael Testa

MEMBERS ABSENT: NONE

OTHERS PRESENT: Mike Fisher, Assistant City Attorney
Lawrence O'Neal, Building Inspector

The meeting was called to order at seven p.m. Chairman Coppola 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 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. Seven (7) members were present. 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 four people present in the audience.

(7:00)

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APPEAL CASE NO. 2022-11-32 (Tabled on December 13, 2022): An appeal has been made to the Zoning Board of Appeals by John Beshi, 38141 Ann Arbor Road, seeking to erect a directional sign and additional wall (awning) sign, resulting in the directional sign being excess in area and the wall sign being excess in amount and area.

Directional Sign Area:

Allowed: 2 sq. ft
Proposed: 4.5 sq. ft
Excess: 2.5 sq. ft

Wall Signs:

Allowed: 1
Proposed: 2
Excess: 1

Wall Sign Area:

Allowed: 21 sq. ft
Proposed: additional 10 sq. ft
(28 sq. ft. existing)
Excess: 17 sq. ft.

KLISZ Calling appeal case number 2022-11-32, tabled on December 13, 2022. An appeal has been made to the Zoning Board of Appeals by John Beshi, 38141 Ann Arbor Road, seeking to erect a directional sign and additional wall awning sign, resulting in the directional sign being excess in area and the wall sign being excess in amount and area. Directional Sign Area: Allowed: 2 sq. ft, Proposed: 4.5 sq. ft, Excess: 2.5 sq. ft. Wall Signs: Allowed: 1, Proposed: 2, Excess: 1, Wall Sign Area: Allowed: 21 sq. ft, Proposed: additional 10 sq. ft (28 sq. ft. existing), Excess: 17 sq. ft.

COPPOLA Anything you'd like to add?

O'NEAL Not at this time.

COPPOLA Any questions for Mr. O'Neal? Seeing none, the petitioner can come up to the podium. Name and address.

BARINGHAUS Mr. Chairman?

COPPOLA Oh, I'm sorry.

KLISZ Motion to remove appeal case number 2022-11-32 from the table. Got a motion by Vice Chair Baringhaus, seconded by Mr. Boloven, remove from table. All in favor?

MEMBERS Aye.

COPPOLA Okay.

WATSON I'm Daniel Watson. My address is 33733 Lacrosse Street, Westland, Michigan. I apologize about December 13. I had a little illness and could not make it. But the company that I'm working with -- the sign company -- kind of filled me in on the last one.

COPPOLA

Ok, why don't you give us a little background on what you're trying to accomplish here? And if there are any changes from last time...what was presented last time. So, what you're trying to accomplish; when you talk about the directional sign, I'd like to understand the purpose and hardship you have to increasing that and then we can talk about the wall sign.

WATSON

Yeah. So, the directional sign is on, I guess it would be the south east side of the building. There's a big tree, a big bushel tree there. We don't have any signage, aside from what Mr. Beshi has allowed us on his LED sign, saying that we have a pickup window. The thought behind this was, when COVID happened obviously all QSRs kind of took a hit with how we were able to respond to that. And we put into motion that we asked Mr. Beshi if we could do a pick-up window. You guys granted that, and we are very appreciative of that. It's allowed us to service our customers more conveniently. It also allows us to keep our employees safe at nighttime, because we're allowed to lock the doors when it starts to get dark. And then we allow people to go through the pickup window. The sign on the road is not illuminated; we're not going to put electrical to it. It's for our daytime traffic; we have a sign on to 275 North coming up on the MDOT sign that says, "Hey, Little Caesars to the right, a mile down the road." When you come around that curb, as I think many of us have, it's very hard to locate. You're almost two entrances in before you see where Little Caesars is. And then you have to kind of back skirt and come to the store. The purpose of the sign is to let people know that "Hey, we do have a pickup window; here's the convenience. Come around the corner and come up to our pickup window. We can service you that way." It's not going to be illuminated. Again, it's bigger. I'm asking for a variance, I went to Little Caesars, I used to work at Headquarters, I asked for the smallest sign that they had that they could manufacture. They shipped this one. So, we put it into the plans. So, I don't have any intention and illuminating the sign; I just want it to be there for us during our daytime traffic to be able to get them off the highway. And the tree kind of restricts it from, coming west.

COPPOLA

How about the wall sign? Why don't you talk about that?

WATSON

So, the wall sign... we're referring to the awning, correct? Okay, so the awning, like many pickup window drive-thru sits above the pickup window or drive-thru window there to kind of protect. Obviously, we serve food. So, food safety, when we hand the product out the window -- the pizza, the crazy bread -- and allow us to transfer it to the car when they pull up. It protects from elements outside -- the wind, the rain and the sleet. It just makes it a more appealing visit to the customer. It also keeps with that

sign, you know, being there, with it illuminated, it allows us -- as we walk up to that window and our employees -- to be able to look and see into the car. So, for safety for our employees as well. So, we can go and see, you know, when that car approaches. But the main concern for me, personally as a franchise owner, and I have my supervisor here as well works operations day to day, it's that safety of handling it with the elements -- the snow, the rain, we have all kinds of elements in Michigan -- to help us protect our food as we pass it out the window to the customers.

COPPOLA Let me start, just real quick, with the awning. So, as I understand, the purpose of the awning and I think John, I fully agree that there needs to be an awning and actually there's no prohibition to having an awning. The issue is that the sign sits on the awning. So why don't you talk a little bit about why you want the signage on the awning?

WATSON So the sign is just... it's just Little Caesars. When I ordered this, this was the sign. They like to put their logo on everything. We put a request in to corporate saying this is what we're going to do; we sent them the approvals from the city, and they sent us back the awning. They fabricated it with 'Little Caesars.' So bam, it's recognizable. You know, it's just, I guess, I don't have an answer to why... there's no benefit to business or anything. It just lets people know that it's Little Caesars's pickup window. I don't have a specific reason why the signage is on there or the logo. Just corporate recommended it.

COPPOLA Ok. You have a current directional sign on the road already?

WATSON I do not.

COPPOLA Ok. Questions for the petitioner?

BARINGHAUS Mr. Chairman.

COPPOLA Mr. Baringhaus.

BARINGHAUS Okay. The directional signage that we have in the packet, that's a corporate sign?

WATSON That is a corporate sign, yeah.

BARINGHAUS Okay, because I've seen other Little Caesars that have drive-thru, and they had smaller directional signage than what you're proposing.

WATSON Okay. I'm not familiar with what stores you're referring to, but I can definitely email or...

BARINGHAUS The one I'm referring to specifically be the one on Warren and Wayne, in Westland.

WATSON Warren and Wayne... ok.

BARINGHAUS It's kind of on the corner. Okay, yeah, by that McDonald's over there?

BARINGHAUS Exactly.

WATSON It's one of those small ones? Okay, yeah, I know that store was built, you know, probably in the 80s. So, it's an old image on that. So, they may have changed their stacks. I just again sent all the plans to corporate.... would they recommend an architect? And they sent us back what they recommend.

BARINGHAUS When you sent a request in to Little Caesars, did you also send them the ordinance for the city on what the direction signage square footage should be?

WATSON The sign company, in my recollection, did. Yes. I didn't personally.

BARINGHAUS Because it came back out of compliance.

WATSON Okay. Okay. Yeah, they should... I mean, I hire them. I don't do the signs. I hire a sign company and an architect to draw these up and to be in communication with corporate.

BARINGHAUS You don't advertise that you have drive-thru facilities at your Little Caesars?

WATSON Not drive-thru, no. It's a pickup window. We don't advertise drive-thru; it's a pickup window. We have a sign on the front, like in our like glass that says, "pick-up window" and it has an arrow inside our building that just points an arrow that we can illuminate when our lobbies are closed.

BARINGHAUS And what does your sign say?

WATSON It says, "pick-up window."

BARINGHAUS I believe it says, "drive-thru."

WATSON Does it say "drive-thru?"

BARINGHAUS Maybe it does. Let me check. One moment. I can get a picture of it.

WATSON If I go back and it says "drive-thru," I can change it.

BARINGHAUS Yeah, it does say "drive-thru."

WATSON Okay. So, we'll have to change that.

BARINGHAUS When you're a franchise for a Little Caesars operation, does Little Caesars have standards for drive-thru operations?

WATSON In regards to what?

BARINGHAUS In regards to directional signage. In regards to the distance the customer has to drive through a window. The setup around the window - does it require an awning? Does it have to be logo-ed?

WATSON Yeah, they do. I'd be happy to put us in touch with corporate, when they do these drawings.

BARINGHAUS Question for Mr. Fisher... if an operation like Little Caesars or a restaurant has a drive-thru window, is it required that they specifically identify parking spots for customers who are waiting for it because it can't be completed through a drive-thru window?

FISHER Well, I know that they're supposed to have spaces for those people who are waiting for their transactions and so forth. I don't know about any signage requirement.

BARINGHAUS So there are no signage requirements, or no ordinance that requires a certain amount of space to set aside for that particular customer who didn't have their order completed at the drive-thru window?

FISHER Well, they do have... there is a requirement for spaces for the customers at the drive-thru window. It's just, I'm not sure that there's any requirement that you identified.

WATSON So it's a pickup window... they order our model with Little Caesars, which I'm sure you're familiar with is just "hot and ready" placed orders on the phone. We don't have people come up -- and Justin, you can speak to this -- we don't typically have people come up and say, "Hey, I need it pre-made." And if they do, we say, "You can pull around in 10 minutes." We don't bring it out to them. So, it's just a pick-up. It's easy convenience. We try to inform the

customers that, "Hey, this is for hot and ready products that we have ready, and your online orders or your phone orders."

BARINGHAUS Okay. Thank you, Mr. Chairman.

TESTA Mr. Chair?

COPPOLA Mr. Testa.

TESTA Question for the petitioner. So, I was there yesterday, driving around, and I noticed there are four other wall signs that say one way -- two are like the white and black traditional one-way signs, mounted on the building. But there's two additional that are orange that say "one-way" and then the arrow is actually like the Little Caesar guy's spear, which makes a nice, convenient arrow pointing. Are you counting those in your signage calculation or not?

WATSON I believe the Little Caesars are... I don't know about the one-way or the black and white ones.

TESTA Okay. Yeah, those probably aren't, but you're saying the orange signs are included in your wall sign... 20 square feet?

WATSON I'm not entirely sure. I can get that information from my general contractor.

TESTA They're not very big, but they're there. And then also, there is paint on the pavement of an arrow that says "drive-thru" going to that window, so it may be that terminology is not jiving with the "pick-up window" because it does say "drive-thru" on the asphalt, right when you turn onto the street.

WATSON From that road, okay.

TESTA Regarding the awning, you're saying the awning is already fabricated with the signage?

WATSON Yeah, I purchased it like a year and a half ago.

TESTA Okay. It's not currently up, right?

WATSON No.

TESTA Okay, so when I say that it's there, I just want to make sure I'm not misunderstanding. I noticed maybe the same plaza also has a drive-thru. I didn't know that until yesterday. It has a very large awning drive-thru on it but no signage on it. But they do have four

directional signs in the parking lot. And then one large wall sign, but it's more directional. So I think once you're in queue, you kind of know you're going to Biggby. And that's maybe why they don't have signage on the awning. But I'm assuming because you have the awning already made or fabricated, that's why you want the signage on there. If you didn't already have it made, would you just be okay with an orange and black awning with directional wall signs to it?

WATSON

Yeah, absolutely. I mean, if I didn't have it fabricated, I mean, I'm happy to reach out to the fabricator and see if we can... I don't personally know how they're made. You know, and I don't know if there's a way to cover up. Like the signage - I'm not tied to this logo, because I mean... it points to the neighborhood. So, to me the logo, it would be different if it were street facing, right? So, I'm not tied to that; the audience is what I care about. The logo, I don't. But I'd be happy to reach out to the fabricator and see if there's something that they can retrofit. Again, it's just through this process, when we signed up, we kind of did everything at once to pass COVID, to get this pick-up window put in place. And, you know, they put the signage and it's like a whirlwind, with anything with COVID. It's like, "yeah, this works," and maybe an oversight on your guys' requirements as a city from corporate or the architect or whoever did those. And I might be too. So, again, it's mainly the awning. The directional sign is by the street, just for people to see it during the daytime.

TESTA

Okay, thank you.

BOLOVEN

Mr. Chair?

BOLOVEN

Question for Mr. O'Neal. Maybe this was asked at the last meeting, but I just want to ask it again. Had this awning not had the Little Caesars logo on there, it'd be approved today? Is that correct?

O'NEAL

Yeah.

BOLOVEN

So the 10 square feet -- the additional 10 square feet of wall sign area -- that is just coming from Little Caesars signage?

O'NEAL

Correct.

BOLOVEN

Question for the petitioner. In part of your petition, you state your hardship as being able to locate your facility and that you can't be seen in the back. What's your response to the fact that there is a huge Little Caesars figurine in the air that you can see from a mile away?

WATSON I would say... I mean, mainly for our routine customers knowing that we have the pickup window. I mean, yeah, you can see that tilt man, but we drive past things all the time. I don't have a good answer for that. So, I don't have response, really.

BARINGHAUS Mr. Chairman?

COPPOLA Mr. Baringhaus.

BARINGHAUS As I recall from the Quigley's variance that we approved for your building that was back in 2020.... there was a variance given for an electronic messaging center. You still have plans to have that?

WATSON That would be a question for the landlord. I don't... I'm not the landlord. That electronic sign.

BARINGHAUS Also, you mentioned you wanted that sign illuminated as well?

WATSON On the plans, I believe it said "illuminated," but again, I mean, it's more about the safety of the product. So, if it's not illuminated, it doesn't do me any good. I know that we've had issues with past from when Mr. Beshi remodeled the entire center, made it look beautiful for the City of Livonia because it was a rundown center. We had issues from residents saying that his lighting was too bright. So, I'm guessing if we put a sign in there, you will get flooded... with light in there.... you'll get flooded with people complaining. But yeah, it's one of those things that it's more about the awning than the lighting. More about the awning than the logo. It's just for safe from the elements for our food.

BARINGHAUS And then you currently have lighting on that side of the building?

WATSON We do.

BARINGHAUS Two lights, I believe?

WATSON Yeah, two or three. So, they're just, you know, one-by-two lights on the side of the building.

BARINGHAUS Okay, so in other words, in terms of the lighting of the awning - that's not a critical element for you.

WATSON It's not a critical element; I wouldn't say that it's not going to shine out, right? It's going to shine down to where the transaction happens. And I would hope if I took the logo off that I can put a light down there, because my main concern is... we're open till 11 o'clock on Fridays, and Saturdays, my main concern is safety for

my -- when we close the lobby -- safety for my employees, safety for the customers so they can see what's going on.

BARINGHAUS And what are your hours of operation?

WATSON We're open 10:30am to 10pm. Monday through Thursday, and Sunday, and then 10:30am to 11pm on Fridays and Saturdays.

BARINGHAUS Okay, thank you.

OLIVERIO Mr. Chair. I had a question -- actually two questions. Looking at the image, it says that there are two, never mind, I figured about the wall size. Never mind that one. We have in our packet, there's a resolution from City Council dated 12-14-2020. And it refers to a plan that they reviewed. Is the plan that we're looking at that you had submitted, is that the same plan that City Council reviewed on 12-14-2020? Do you know?

WATSON I don't know with certainty. But I'm guessing it is the same plan because I haven't gotten any new plans to submit to you yet; it's from the original pick-up window and signage package. I am not 100% certain... if you guys have two sets of plans.

OLIVERIO Yeah, we don't have the plan that's referred to, based on the resolution that's in there, but they very specifically mentioned these two pieces that we're assessing this evening -- the awning signage and the nonconforming directional signage.

WATSON Yeah, and I believe that back then they said you're going to have to apply for a variance. And so obviously, it's been almost two and a half years, right? So, it's just taking some time. Okay.

PTASHNIK Mr. Chairman?

COPPOLA Ms. Ptashnik.

PTASHNIK I just want to touch back on the lighting you're proposing for the awning. Are we looking at.... what type of lighting, I guess? Is it LED lighting? I know you said it's just going to shine down, but...

WATSON I think it would coincide with what's on the side of the building. You know, that type of lighting that would just be angled downward; it would be bright enough. They sell LED lights more than anything else, so I'm guessing it would be LED.

PTASHNIK We're not looking at like, neon signs?

WATSON No, no. It's not gonna illuminate... it's not illuminating the awning. The plan that I told my contractors is that it just shines down. I would hope that it wouldn't make the awning light up bright orange.

COPPOLA Anything else? I just have one more question. When this was before us back in December, we had another restaurant that had a drive-thru pick-up, and they came in with larger signs. And we agreed to provide them with directional signs -- at 4 square feet as a compromise. And you guys, this one, followed directly after that one. I know that you said that corporate sent you signs... I'm a little confused because I thought that -- and I don't recall the gentleman's name that was here -- but he suggested signs had not been made yet and could be modified. But my question to you is: If we were to ask for a compromise of 4 square feet, is that something that you would consider?

WATSON I would have to get the sign remade, which... is yes, I would compromise. That's completely fine. I had it made two years ago, so it's just been sitting in the shop. So same with the awning, which I'm fine.

COPPOLA And then you do understand that if the logo were removed, you wouldn't need a variance?

WATSON Sure.

COPPOLA You can have a lighted awning without a variance.

WATSON So the variance is just for that logo?

COPPOLA It's just for the logo because it would be signage at that point.

WATSON And the question is that there's too much signage? Is that what I'm understanding?

COPPOLA Correct. Based on the size of your unit you're looking at too much signage. And that would exceed it. You're already over. But I think that's grandfathered.

WATSON Yep. All right, so I can put the awning out with the light if I take the logo off.

COPPOLA You wouldn't need a variance.

WATSON I wouldn't need a variance. But I would still need to come back with the approval with the picture of the awning that's gonna go up and stuff?

COPPOLA If you have an awning, I'm not sure if there are restrictions on awnings in regards to the ordinance. But if you put an awning on, as long as it doesn't have a logo on it, it's not considered a sign. You can just go ahead and put it up.

WATSON Are there signs I can remove to be in compliance with the signage? So, like, the ones on the wall?

COPPOLA I don't think those are counted, to be honest with you. I'm not certain what the requirements are, or what the restrictions are related to. I don't think those are included in the calculation of signage. All I included was the one wall sign you had in the front of your building, did not include the large Little Caesar guy. I don't know what that's counted as. So I think it was just the one you have in front of your building, in front of your unit and this one.

COPPOLA Mr. Chair?

COPPOLA Mr. Testa.

TESTA You said these are made a couple of years ago. Why are you just now coming for a variance? Or why haven't you tried to put them off earlier?

WATSON Recently I went through a divorce and a separation of partners, so I had to get on my feet. And you know, recently I've gotten on my feet in trying to get back and get things organized.

COPPOLA Okay, any other questions? Seeing none, I will ask if anybody in the audience would like to speak for or against this petition? All right. Seeing none, is there any correspondence.

BARINGHAUS No new letters.

COPPOLA Okay. You have an opportunity for a final statement before we close and take our vote.

WATSON I don't have anything that comes to mind. I just hope that what I'm trying to do, it benefits our customers; it doesn't benefit me per se. It protects our employees with the awning. And I realize that now with or without signage, the awning can go up. But as for the directional signage, it just helps our customers, but I'm willing to comply. I'm willing to do whatever you guys think is best.

COPPOLA Okay, thanks for your help. I'm going to close the public portion of the case and start the Board's comments with Ms. Oliverio.

OLIVERIO

Thank you. Well, considering it sounds as if you're looking to remove the logo and do a different type of awning, I'm assuming that that case is off the table. In terms of the directional, non-conforming signage, I'm actually in support of that. I think a person who drives that stretch of road coming from the Plymouth side of Livonia oftentimes, I can completely understand missing that and the importance of being able to see where you're at because you can't see that side of the strip mall from that direction. So I can understand that; I think that will be a safety issue if someone's trying to turn in there. And from the looks of some of our notes, it sounds like there was actually a couple of accidents in the past in that particular area, which was discussed in a past case. So, I would be in support.

COPPOLA

Thank you. Mr. Testa.

TESTA

Thank you. So I've been there twice now. And I definitely see the need for the directional signage. I tried coming in both entrances. They're not far apart from each other. But I can see if you're coming westbound and you miss that first entrance, there's no signage. You see the pizza guy, which is closer to the next one, and then you come in, you have to turn right to get behind the building. If you don't try to go the other way and you're doing a U-turn, it's a big cluster. So, I get why you want the sign. You're here because it's bigger than what would be conforming. I like what Biggby did. They have four signs in the parking lot, almost like breadcrumbs to lead you closer. Maybe that would be more helpful for you -- to have two to four smaller signs that truly are directional. And once someone gets in, because as Mr. Boloven pointed out, he's gonna see that pizza guy, the Little Caesar's guy, turning in, and then once you're in, maybe directional signage directing people which way to get to the backside of the building. With the awning, it seems like you're very open to just getting rid of that sign if it's possible to get the sign off and just put it up without a variance. So, if this isn't going to pass with the amount of votes, I'd be open up to table this to allow you to make sure you can get a new awning and take the sign off your awnings, put it up without the variance. If you want to rethink your directional signage to be... what I would perceive to be more convenient for your customers. If it's truly directional, like the Biggby route, then much smaller signs -- maybe 1 square foot, maybe 2 square foot each. They truly are directional arrows -- this way, this way, this way -- it really maps you out right to their awning or drive-thru window. But if there's enough votes here tonight, I'll support it. Otherwise, I could see it tabled and you figure out what you can do with the awning and see if you want to reconfigure your package for directional signs.

KLISZ I think as to the directional sign, I'm fine with it. He asked if we could compromise. But it's already allowed at 2 square foot and four and a half is really not anything too crazy. When it comes to the awning, I think there are two options here. And I guess, what does the petitioner want, because I would be okay... he already owns the awning, and it has a logo. And the only thing I think there's an issue with is the lighting of it, because that's the only thing that neighbors have complained about from the prior meeting. So, the awning without the lights, it's already there. It has no restrictions, just the fact that the Little Caesars logo is on it... it kind of doesn't mean much to me, where the petitioner would not have to rebuild the awning with lights and take off the logos. I just think in the in the spirit of what the neighbors were talking about, having it not lit up and having the logo on it, I think would be okay. If on the other hand, the petitioner wants to, I guess, have it denied, so that he could just go in and put up a plain awning with lights then he certainly can do that. But as to the directional sign, I'm on board with it as proposed. And the wall sign -- I guess I would allow it without lights.

WATSON I'd be okay without lights.

COPPOLA Thank you. Mr. Boloven?

BOLOVEN I'm not in support across the board. The wall signage, I think we've discussed that the petitioners acknowledge they really doesn't care about the logo. It's more so the awning, which you can get had he not put the logo on there. The directional signage -- and one question I asked at the December 13 meeting I asked again tonight. Where's the hardship? And the response was, there is no response. There is no hardship to that... that we need that directional sign over two times the amount of what our city ordinance allows. And we have the big figurine, I get it's a staple, but like what was said, everybody can see it. You can see it from a mile away. So, you can't give me the argument that I need this for identification, I need this for location purposes. So, I gotta have something that's over, you know, 100% bigger than what we allow for directional signs. I'd be in denial across the board. Thank you.

COPPOLA Thank you.

PTASHNIK Well, I guess first of all, it was kind of a shame that you ordered this stuff before you realized that you're gonna be out of compliance. That's kind of the disappointing part. But as far as the awning, I'm actually kind of concerned about the lighting too. I remember that that was the big problem that the neighbors had brought up and that's why I was asking about the type of lamp lighting that you're gonna be putting on there. Obviously, you can

take the logo off and proceed, but I don't really have a problem with the actual logo on there. My bigger concern is consistency. And I know we already discussed that we had another one that same day when he first presented at 4 square feet. And this is asking to be little bit larger than that. So, I think we need to look at consistency. I would be not in support of the directional signage as is right now. I could get on board with the awning.

COPPOLA Thank you. Mr. Baringhaus.

BARINGHAUS Probably a little bit of a miss for me. In terms of the awning... where that awning is located and where the logo's located, it's really not visible to anyone. So, I kind of question what was put on there anyways. Be that as it may, I do agree with Ms. Ptashnik and Mr. Klisz that I think the issue isn't so much the presence of the awning, but it's the lighting that the neighbors have complained about. Based on that, I'd be okay with the awning and the logo, provided that there's not a lot of lighting on the awning. Generally directional signage is small, and I've seen other examples of it, especially by Little Caesars that is much smaller than what you're proposing. We have compromised a bit. I'd be willing to go down to the smaller size, perhaps maybe two feet is too small. And considering the backdrop curve, there are some rather large trees around that, and it's not the main entrance for that shopping complex. Your driveway through the drive-thru area is more at the end of the, at the perimeter of the property. So based on that, we've compromised it for people for with other businesses that were in that scenario; we're only looking at four and a half, I'd probably be fine with that. So just to summarize, I'm probably fine with the current directional sign, not really loving it. In terms of the audio, just drop the illumination and I'd support the variance.

COPPOLA So from my perspective, I think I've been kind of clear in my previous comments. From my perspective, you can put it on at anytime, you want. That's well within the ordinance to have an awning and it lighted. And I think actually at nighttime, especially this time of year, being lighted is helpful for people to identify where to go for the window. But I'm not excited about the logo and the neighbors having to look at the logo. And realistically, no one can see the logo. So, it doesn't really add a lot of value anyway. But then again, like Mr. Boloven said, you've got the Little Caesars, maybe you can get a new arm and have him like point to the direction of the drive-thru or something. But you've got lots of signage already. I think putting an awning up... be lucky to get through campus that way, it's unfortunate, but it's not our issue that you ordered the sign earlier. That's an unfortunate outcome, but it's not something we can consider. And with regards to a directional sign, I think a directional sign will be helpful to direct

people, especially those that have ordered online, and they'll be coming through or called in and are trying to come through the back end. They can say just look for the directional sign. But I do agree with Ms. Ptashnik about consistency. Again, that same night, we had someone who agreed to go 4 feet. So, to be consistent and fair, I'm willing to do 4 feet but not up to four and a half feet. I don't want us to continually set precedents larger and larger and larger. So, I'll go ahead and open up the floor for a motion if we can find one.

TESTA

Mr. Chair, I move to table this case to allow the petitioner to reflect on the Board's feedback here tonight, rework his proposal and to look at other options on the table based on our feedback -- and obviously looking at whether or not he can modify his existing awning and take the signage off and just put it up without a variance... but just to relook at his package and re-propose.

COPPOLA

Motion by Mr. Testa, supported by Ms. Oliverio to table. Let's take the vote.

RESOLVED: APPEAL CASE NO. 2022-11-32 (Tabled on December 13, 2022):

An appeal has been made to the Zoning Board of Appeals by John Beshi, 38141 Ann Arbor Road, seeking to erect a directional sign and additional wall (awning) sign, resulting in the directional sign being excess in area and the wall sign being excess in amount and area.

Directional Sign Area:

Allowed: 2 sq. ft
Proposed: 4.5 sq. ft
Excess: 2.5 sq. ft

Wall Signs:

Allowed: 1
Proposed: 2
Excess: 1

Wall Sign Area:

Allowed: 21 sq. ft
Proposed: additional 10 sq. ft
(28 sq. ft. existing)
Excess: 17 sq. ft.

The property is located on the south side of Ann Arbor Road (38141), between Hix Road and Ann Arbor Trail, Lot No.121-99-0010-001, C-1 "Local Business District," Rejected by the Inspection Department under City of Livonia Vision 21, Section 11.06 (8) "Exempt Signs," "Directional Signs" and 11.08 (2) "Sign Regulations for C-1 Districts" be **tabled**.

ROLL CALL VOTE

AYES: Testa, Ptashnik, Baringhaus, Oliverio, Klisz

NAYS: Boloven, Coppola

ABSENT: None

PASSES: 5-2

KLISZ

Passes five to two.

COPPOLA If you could step up for a moment, I just want to explain. So, it's been tabled. You've kind of heard from everybody, you have an opportunity to revise your application or petition. I'm giving examples; I'm not giving recommendations or telling you. You could say, "Ok, I'm just going to get a new cover for the awning. Let's take that off. And all that was is a directional sign." Or "I'm gonna come in with just the directional sign at four feet," or "I don't care, I want everything. I'm gonna come back exactly the way I came in." Those are all options you can do, but you have the ability to come back; it's somewhat open. I don't think we put a timeframe on that, which is fine. You can you can decide to just put the awning up with everything on it, go to the directional sign and call it a day and never come back. It's all up to you.

WATSON Okay, where do I submit the response?

COPPOLA So what you would do is you would give the Inspection Department, the Building Department, ask for Zoning. And then, let them know what you want to do. If you want to do a revised petition you have to submit a revised petition at no additional cost. But you'd have to call them and get a revised petition submitted, and then we'd get it back on the agenda.

WATSON Ok. I appreciate it.

COPPOLA Thank you. Call the next case, please.

APPEAL CASE NO. 2023-01-03: An appeal has been made to the Zoning Board of Appeals by Charter Communications, 14525 Farmington Road, seeking to erect a six-foot-tall privacy fence upon commercial property, which is not allowed.

KLISZ Calling appeal case number 2023-01-03. An appeal has been made to the Zoning Board of Appeals by Charter Communications, 14525 Farmington Road, seeking to erect a six-foot tall privacy fence on commercial property, which is not allowed.

COPPOLA All right, Mr. O'Neal, anything you'd like to enlighten us with?

O'NEAL No, not at this time.

COPPOLA Ok, any questions for Mr. O'Neil?

TESTA I have a question for Mr. O'Neal, but Mr. Fisher has stepped out for a minute.

COPPOLA Want to wait a second until he comes back?

O'NEAL We can.

TESTA Mr. O'Neal, there's a current six-foot high fence there. Is that there with a variance, or whose fence is that?

O'NEAL I believe that fence is... I looked it up... it was approved for a replacement back in 2010. It's 285 linear feet. I believe it's for that property.

TESTA Okay. And there's also a shorter picket fence that goes more along the perimeter of the parking lot.

O'NEAL Correct.

TESTA Is there a variance for that as well?

O'NEAL To be honest with you, I did not look up the picket fencing.

BOLOVEN Mr. Chair?

COPPOLA Mr. Boloven.

BOLOVEN Question for Mr. O'Neal. The proposed fence is a six-high chain link fence. Why does that fall within the definition of a privacy fence for our ordinance?

O'NEAL Well, it's six feet tall, first of all. They're using it, well, I guess it was there in one of their letters, to basically keep people from... I guess some people cross their properties for a festival, I believe, and I think they're wanting to use that to just protect their equipment.

BOLOVEN So, my understanding has always been that a privacy fence is something you can't see through. Not a chain link. Always differentiated. This notice is saying it's a six-foot privacy. Because it's a six-foot tall chain link fence do they still need, no matter what, a variance here? Or why? If it's going to be six-foot tall privacy that a commercial building is not allowed to have.

O'NEAL I would have to get back to that. I believe it would be because it's six foot tall.

COPPOLA So the red herring is that it says it's privacy, but really the issue is that there's a 6-foot fence being proposed?

FISHER I was prepared to accept those guys' judgment that this was a privacy fence, but that as you say, it's pretty much a red herring.

COPPOLA Okay. Thank you. Good question. Thank you, Mr. Boloven. All right, you can step up, please give a name and address.

COULTER I'm Kevin Coulter with Spectrum Communications.

COPPOLA Ok, will you be speaking too?

HACKER Yep. I'm Mark Hacker with Lake Shore Construction, 3645 Scenic Woods, out of Muskegon.

BARINGHAUS Can you spell your last name please?

HACKER H-A-C-K-E-R.

COPPOLA All right. Mr. Coulter, why don't you tell us a little bit about the fence -- the purpose and the need for it?

COULTER Yeah, so basically, it's the area that we're looking to fence off is in the southwest corner of the lot. And that border is a data facility, which provides 911 services to the local residents and residents of Southeast Michigan. We've had a couple of instances, both at the Livonia Spree, where people start walking back to go to cut through the parking lot. And when they get back there, they realize that there's a vinyl fence. Well, they don't turn them out. They kicked the vinyl fence down. That's happened two to three different times where we've had to repair the fence. That was the biggest concern. Additionally, with that, we're trying to secure that facility

within the standards that the company has for all of its data centers across the company.

COPPOLA Okay. So, the fence will have a gate coming in from the north to the south?

COULTER Yes, correct. Through the drive, yes.

COPPOLA I'm a little confused on what it said. You're not electrifying the fence; it's just an electric gate. Because it did say "electric fence" at one point.

HACKER No. It's a rolling gate that is triggered by a card swipe or on the inside. It's a pressure sensitive, as the car drives up to it, it opens back out. And there is also a mandate for emergency access.

COPPOLA So, is the fence going to be completely within the property line or is it on the property line?

HACKER It is very close to the property line, but it is within the property lines. Yes.

COPPOLA So then who owns the existing vinyl privacy fences? Whose are those?

COULTER I guess we don't know.

COPPOLA Are those on property line, to your knowledge?

HACKER Those are on the property line. Yes.

COPPOLA So, there'll be a space between the six-foot, I'll call it a security fence. It's not a privacy fence, and then the vinyl privacy fence, it looks like anywhere from 10 feet to maybe around 10 feet to the south and maybe only about six feet or so to the west. How and who is going to maintain that space between the fences?

COULTER They'll have access to it. They'll have access to the gate and access in the yard also and then they'll have access to go in between for mowing, weeding and mulch and everything else. We'll keep that returned.

COPPOLA On the west side, it appears to me that that's actually a... like a plant. You're gonna have a fence. The vinyl fence is on one side of the planning, and your security fence is going to be on the other side, where the pine trees are.

HACKER There are existing trees there, with chip bark, and that would need to be maintained in that manner. Really, the reason the fence is going on the east side of the trees is simply because the trees are there.

COPPOLA Okay. Questions for the petitioner?

TESTA Mr. Chair?

COPPOLA Mr. Testa.

TESTA Thank you. So, I'm suddenly confused about the vinyl fence and people going to the Spree and kicking it down -- sorry, I'm not confused about that. It sucks. I'm sorry. It wasn't my kids. How does your proposal address that from happening again? It doesn't?

COULTER No, it does.

TESTA Okay.

COULTER Oh, no, it does. So that area that they're cutting back through would be secured. So, they wouldn't be able to access that particular portion to where they were kicking down the fence.

TESTA Okay. Then, they're probably going to traverse over by the picket fence -- the vinyl picket fence?

COULTER Yeah, so that fence is low; that's never been damaged. It's just because they get cornered. And for whatever reason, they don't feel like walking all the way back. I really don't know.

TESTA Okay, so you're preventing them from getting into that kind of back parking lot area? Completely.

COULTER That back corner. Now, mind you, if you have an image of the overview of the building, but that whole back corner where that wing is sticking out is our data center. So that's literally, we're looking to secure that door, the entire area, the whole area back there.

TESTA Okay. And if it turns out you own that six-foot vinyl fence, would you just take it down?

HACKER The problem we might have with that is the reason that fence was put up, from my understanding, back when it was Time Warner was because the people of the residence wanted that fence for people pulling into that parking lot and their traffic, their lights

shining on their residency windows. And so, we'd like to leave it there so that they're not disappointed.

TESTA Understood. That makes sense. I drove back there. Ok, thank you.

COPPOLA Any other questions?

BARINGHAUS Question for Mr. O'Neal, just to confirm there is no double fence situation for the proposed fence that will be installed?

O'NEAL Well, because of the fencing out of the property line, it's within six feet. Yeah, there wouldn't be, I guess. It would have to be within 10 feet.

BARINGHAUS So it's not in compliance?

O'NEAL I can get back to you on that. Mr. Fisher would probably be able to answer that better than myself. Maybe.

FISHER I don't know the answer to this question.

O'NEAL I'm sorry.

FISHER I'm sorry.

O'NEAL This is my first one here.

COPPOLA No worries. Ok, thank you very much.

FISHER I wouldn't think of that as a double fence, especially as it applies elsewhere in the ordinance.

COPPOLA So it is a double fence?

FISHER No, it is not.

BOLOVEN Question for the petitioner. Since the ordinance doesn't allow for fences in commercial property, and yet you have a very specific need, is there any reason why the fence could not just be surrounding the generator and whatever equipment that you're trying to protect? Is there any reason why it can't just surround that area?

COULTER Well, that's actually what we're trying to accomplish. The area that we're fencing is pretty much just the generator, the lot, the back door of the building, and then a lot on the side where the tower is, so we're just trying to secure that general area. That's it. Not the whole property.

BOLOVEN But it runs the whole length of the back of the property?

COULTER Well, because the lot is there. Yeah, because the problem is where you've got the generator, and then there's that back door of the building. So, we're trying to secure both locations.

FISHER So, I guess my answer's no; you can't do it.

COULTER Yeah, it wouldn't... see, what we're trying to complete to bring it up to our corporate security data center's standards.

COPPOLA So, there's an existing... looks like a fence in that area, that cordons off the... I don't know what's there.

COULTER The antenna, right?

COPPOLA The antenna. Right. So, the portion that faces to the to the west. So now that you're gonna bring kind of a fence line out, are you gonna get rid of that little...

COULTER Yeah, we're going to remove that fence.
COPPOLA That fence piece?

HACKER Yeah, there will be fencing on the side of fencing, so we intend on removing that.

COPPOLA Are there any other questions? All right, seeing none. Just a minute. We'll go quick. Anybody in the audience want to speak for or against this? Seeing there's none, any correspondence?

KLISZ No letters.

COPPOLA See it was really quick. Any final statements?

COULTER Just thank you for your time. I appreciate you guys.

COPPOLA Thank you. All right. We're going to close the public portion of the case. And start the Board's comments with Mr. Baringhaus.

BARINGHAUS Thank you. Based on the presentation by petitioners, I think the plan makes sense. Obviously, those are high security items -- the generator and the diesel drum and the tower -- and those sites need to be hardened. So, thank you for the clarification on the fact that it's a security fence and not a privacy fence. But that makes sense. And I'll support the variance. Thank you.

BOLOVEN I'm also in support of it, what Vice Chair Baringhaus said. The hardship is clear. The Spree is not hopefully going away. And you

do have a lot of traffic there, especially on the firework night. So, I can see that people continue to knock it down unless you do something about it. You haven't had an objection from neighbors, which is great. I don't think it's going to be really even that visible from the street, looking at the way it's gonna be set up. So, I'd be in support as presented.

COPPOLA Okay, thank you. Mr. Testa.

TESTA I support. I completely agree with Mr. Boloven and Mr. Baringhaus' comments. For me, as Mr. Boloven pointed out, you won't be able to see it from the street. And there have been no objections from the neighbors. And I understand the hardship. So, thank you.

COPPOLA Secretary Klisz.

KLISZ I really had nothing else to add. Obviously, we don't want to start precedent for fencing commercial properties. But this one is a very different exception to any kind of pool. So, I think the hardship is absolutely there. And I'll be in support as well.

COPPOLA Thank you. Ms. Oliverio.

OLIVERIO I'm also in support, probably more so because of the data security concerns. With that particular property, I'm actually quite surprised there's not a security fence there already, considering that they have the data and the importance of keeping that protected.

PTASHNIK Like my colleagues, I will also be in support... you definitely have demonstrated hardship here. We want to keep our 911 running and the safety issues are abundantly clear to me. I'll be in support.

COPPOLA Thank you. I think I got everybody. I'm too in support. I think this is needed for security purposes and privacy.... we probably didn't have this up much more before that. The only thing that I would suggest as a condition is to make sure it's very clear that the six-foot tall fence will be a non-sight-obscuring fence. I will open up the floor for motion.

BOLOVEN Support.

COPPOLA Motion by Vice Chair Baringhaus. Support by Mr. Boloven. Any discussion? Seeing none, we'll take a vote.

RESOLVED: APPEAL CASE NO. 2023-01-03: An appeal has been made to the Zoning Board of Appeals by Charter Communications, 14525 Farmington Road, seeking to erect a six-foot-tall privacy fence upon commercial property which is not allowed.

The property is located on the west side of Farmington (14525), between and Lyndon and Five Mile, Lot No. 081-99-0019-001, "C-1, Local Business District," Rejected by the Inspection Department under City of Livonia Vision 21, Section 7.24, "Fences and Walls" and Code of Ordinances Chapter 44, Title 55, "Fences" be **granted for the following reasons and findings of fact:**

1. The uniqueness requirement is met due to the sensitive nature of the equipment and the security necessary for the 911 system and basically southeast Michigan.
2. Denial of the variance would have severe consequences for the petitioner due to increased risk to this sensitive equipment.
3. The variance is fair in its effect on neighboring properties and in the spirit of the Zoning Ordinance due to no neighbor complaints being registered regarding this project.
4. The project is classified as C-1, Local Business District under the Master Plan and the proposed variance is not inconsistent with that classification.

Further, that the variance be granted with the following conditions:

1. That the six-foot tall fence be designated as a non-sight-obscuring fence
2. That the project presented this evening be built as presented.

ROLL CALL VOTE

AYES: Testa, Ptashnik, Boloven, Baringhaus, Coppola, Oliverio, Klisz.

NAYS: None.

ABSENT: None.

PASSES: 7-0.

COPPOLA So your petition has been approved on two conditions -- you build it as presented or to provide a footprint in your submission, so that's where the fence should be placed and number two, that it be a non-sight-obscuring fence, just for clarity purposes.

COULTER Right. Thank you.

COPPOLA Okay, we were supposed to be voting on minutes, but I did not see any minutes in the package.

BARINGHAUS I did a SharePoint site and they did some one of the three sites.

TESTA mi.cityclerk.com, documents for approval, minutes.

BOLOVEN I'm on the SharePoint. It wasn't on SharePoint.

COPPOLA So I assume you only need a majority to approve the minutes based on our rules, which we'll talk about shortly.

TESTA Move to approve the minutes for January 10, 2023.

PTASHNIK Second.

COPPOLA Just a second. I'm going to stay tight and read them. I think we still have enough everybody else read them. So, the ones that have read it -- all in favor?

MEMBERS Aye.

COPPOLA Okay. So then, the only other piece of administrative to take care of tonight is the rules of procedure. Personally, I'm not sure exactly what version everyone had an opportunity to review. I know I spent... It was Saturday.... I spent a bunch of time cleaning it up. I circulated it, but I don't know if I circulated to everybody. Did everybody get a chance to see it? So past that point, I got some comments -- some minor comments from Vice Chair Baringhaus. And then from Leo Neville. For Leo, I think basically there were some semantics and some formatting. I think you had some minor ones I added. The templates, I forget if I circulated once I added the completes or not. The other one I circulated to the reference materials. So, I added the supervisor resolution, daycare motion and opening statement templates to the reference materials that are provided to all new members. I don't think there's anything else of substance that we added. I think everything else was as provided, except for again, the formatting and some word changes for Mr. Neville. So, the way this is then set up is on a go-forward basis is review is set based on basically a vote of five members or more. And that can happen at any time; you will be asked to review it, but there's no set renewal or review. And when Mr. Fisher first sent this out, this was actually the first time I think I saw the rules of procedure and it might be because I just missed it or it's good that everybody has had a chance to read it and understand it now. So, I guess I'll ask first, are there any further comments in regards to the rules?

TESTA Yeah, Mr. Chairman. Question from Mr. Fisher. Within these rules of procedure, why is there such an emphasis put on swimming pool approvals?

FISHER Well, these rules have a certain sort of caveman feel to them. All of these rules were here before I got here. At some point, the Board must have done a lot of swimming pools. Because I think in 26 or 27 years, I've been doing this there were like three swimming pools.

COPPOLA I remember one... they were moving it or it was in the wrong place.

FISHER Yeah. So, I don't know why that emphasis is there.

BARINGHAUS But it does require a different process...

FISHER Well, there's also a different ordinance. I mean, there's a swimming pool ordinance, just like there's a fence ordinance, which are not the same. So, there are some things that are going to have to be different.

COPPOLA But the rules here state that the fencing variances follow the same procedures as the other periods, even though the ordinance is different. But the swimming pool procedure is slightly different. And its direction is slightly different.

FISHER Right, and if you're asking me: Did we originally follow those rules when we did those three swimming pools before? I have no idea.

BARINGHAUS That was part of the question. The other part was, given the fact that I can only recall one instance where we rolled out a swimming pool -- and it just took up a lot of space in the rules of procedure - - whereas we tend to deal more with prices on swimming pools, so... part curiosity.

FISHER Okay.

COPPOLA Other comments?

TESTA Mr. Chair, I think you might have touched on this at the beginning. And Mike, you touched upon it in the part you marked out that we wouldn't want to put anything in here about renewing these on an annual basis... that it could get us into trouble...

FISHER Well, I think you have to be very careful about that for two reasons. One, is, like I said, that sort of fatigue reason that you slog through the year, you finally get your annual review done and it's time to do it all over again. I think probably one year is too short a time

period. But the other thing is, you don't want to create a situation where you've raised a question about the validity of your rules and your decisions and so forth. And so, if you're going to have some kind of review process in here, you probably want to say something. Certainly, the fact that failure to do this in such and such timetable does not invalidate the rules or the decisions of the board.

TESTA On the flip side, couldn't it become problematic if we don't update these for 10 years? Someone could complain that we've been doing things out of our procedure.

FISHER Violating the procedures. I suppose, but then again, nobody's done it.

COPPOLA And we didn't really change anything in regards to the rules. We just cleaned it up and added some clarity. The one area that we added to a little bit was the membership, the Board stuff and ex parte. There were some things that were added, but they had nothing to do with the procedure. They had to do with more clarity as to responsibilities and then some of the issues that we want to be careful about, like ex parte contact.

TESTA What if we review or revote on the procedures every year with the election? Do we vote for officers and vote on the procedure?

FISHER Well, I guess here again... you wouldn't want to have the drift that tends to happen with elections affect the status of your ordinance.

TESTA You could drag it out to make changes. So, your solution, Mr. Chair, was just if five members brought it forward?

COPPOLA No, any member can bring it forward. I didn't want to, in turn, have a paragraph that's 15 pages in the process. So, if five of the members vote to review the rules... then... but anybody can bring it up at anytime, they want, and we'd have a vote. We could say, "we're going to review or we're going to not review."

TESTA Thank you.

BARINGHAUS I'd just like to thank Chairman Coppola for his time and attention. And if it's appropriate at this point, I'll make a motion that we approve the rules of procedure.

COPPOLA I have a motion by Vice Chair Baringhaus, seconded by Secretary Klisz. All in favor?

MEMBERS Aye.

COPPOLA Opposed? Seeing none. I do want to point one thing specific out, which I think we need to start doing on a go-forward basis is we're gonna do roll call from now on: I think it's important that we have roll call for the record. You know, the Council does that and others do it. And I think it does make sense, just so in the record, if someone's absent, it's marked absent. Even if we do it on each of the votes, it's not really in the record per se. It's part of the minutes, but we don't talk about it. So that's a change we're going to be doing starting with the next meeting.

KLISZ So, Mr. Chairman, we'll just do roll call, then Pledge of Allegiance?

COPPOLA Yes. As you know, I always forget, so. All right. Anything else that we need to cover? Any other business?

KLISZ Move to adjourn?

COPPOLA We are adjourned.

There being no further business to come before the Board, the meeting was adjourned at 8:10 p.m.

Gregory G. Coppola, Chairman

Timothy Klisz, Secretary