

**MINUTES OF THE MEETING OF THE ZONING BOARD OF APPEALS
TUESDAY, MARCH 19, 2019
6:30 P.M., IN COUNCIL CHAMBERS, CITY HALL,
MIDLAND, MICHIGAN**

1. Roll Call

PRESENT: Board Members – O'Brien, Poprave, Danielsen, Pnacek, Green

ABSENT: Board Member – None

OTHERS PRESENT: Grant Murschel, Director of Planning & Community Development;
Nicole Wilson, Community Development Planner, and three (3) others.

2. Approval of the Minutes

It was moved by Green and supported by O'Brien to approve the meeting minutes of the regular meeting dated January 15, 2019 as written. The motion was approved unanimously.

3. Public Hearings

- a. **No. 19-02 – David Rapanos:** for a use variance to allow a drive-through coffee shop in the OS Office Service district located at 3715 North Saginaw Road.

Poprave opened the public hearing.

Wilson presented zoning petition 19-02.

Green inquired if 9,600 square feet included the whole property or is the useable square footage outside of the floodplain. Wilson responded that 9,600 is the whole of the parcel square footage.

Danielsen asked if there was an opportunity to purchase additional land adjacent that was not in the floodplain. Wilson responded that the adjacent property that could be available for purchase is entirely in the floodplain.

O'Brien asked if the existing driveway is within the parcel's boundaries as the aerial image depicts potential encroachment on the adjacent property. Wilson explained that there is likely distortion in the view from the aerial, but that the petitioner may be able to speak more.

O'Brien asked if the issue is about the use on the parcel or the size of the potential building within the small parcel. Wilson responded that the use is the issue at hand as retail in this area is not a permitted use by right and that the developer would still be required to meet the dimensional standards for the parcel.

David Rapanos, Petitioner – 16 Pinehaven Circle, Midland

The petitioner shared the history of the property and his efforts to develop. Mr. Rapanos detailed that the building would be small with a single restroom and potentially a small outdoor seating area.

Green asked if the footprint left from the ATM will be the same size as the footprint of the proposed coffee shop. Mr. Rapanos indicated that the building would be small, but likely larger than the ATM.

Danielsen asked if the property had water and sewer access. The petitioner indicated that it does.

Pnacek asked for detail on the stacking lane requirement. Murschel responded that five spaces are required for stacking.

No comments were made in support or in opposition.

Poprave closed the public hearing.

Findings of Fact:

1. Property is located at 3715 North Saginaw Road,
2. Zoning is OS Office Service,
3. Bounded on two sides by the floodplain, thus limiting the potential for development,
4. Driveway exists today,
5. North Saginaw Road is 45 mph, except during school hours when a 30 mph speed limit is in place,
6. Property is 9,600 square feet,
7. Originally developed as an ATM location,
8. If approved, the development would need to comply with the City of Midland Zoning Ordinance,
9. No comments in support or opposition,
10. DGR Properties LLC is the owner of the property,
11. Intended use is a drive-through coffee shop with a restroom,
12. Parcel is vacant at present.

Discussion surrounded the shallow and small size of the parcel creating a unique situation in the OS Office Service district in that permitted uses would likely require parking and a larger footprint.

Pnacek asked for clarification on the applicable setbacks and the dimensions of the parcel. Murschel identified the setbacks in the OS Office Service district.

Green moved to approve petition 19-02 based upon the findings of fact; O'Brien seconded the motion.

O'Brien: Yes
Poprave: Yes
Mead: Yes
Green: Yes
Siemer: Yes

The motion was approved by a vote of 5-0.

- b. **No. 19-03 – Dr. Claudia Zacharek:** for two (2) area/dimensional variances at 2726 North Saginaw Road to allow 1) a monument sign of twenty (20) square feet and 2) the sign faces to be separated 11 feet apart at an angle of 45°. The subject site is zoned OS Office Service which allows ground signage to a maximum of twelve (12) square feet and a sign face-spacing of a maximum of three (3) feet.

Murschel presented zoning petition 19-03.

Green asked about the 6" letter requirement identified by the petitioner as the minimum height of text for readability across the intersection. Murschel indicated that he'd defer to the applicant.

Pnacek asked for clarification on the letter in support. Murschel explained that the letter of support was from an adjacent property owner.

O'Brien asked for further clarification on the second variance requested and the width of the split at the rear of the sign. Murschel explained that the width is limited at 3 feet per the zoning ordinance.

Danielsen asked for clarification related to the zoning of the property and how this property came to be the first in the line of OS – Office Service district. Murschel explained that the zoning designations at times change based on the owner's intended use for the buildings.

Danielsen asked if the setback of the building was done for a purpose with the parking lot in the front of the building. Murschel explained that no concrete answer for why the developer of the building set the building back, but could be to account for the noise from the street.

O'Brien asked for clarification on the finished height of the sign taking into account the elevation change along North Saginaw Road behind the curb. Murschel deferred to the applicant.

Danielsen asked for clarification of the signage for the hospital facility. Poprave commented that the hospital property may have received a variance due to the unique nature of the use of the facility.

Poprave asked for clarification of the condition identified. Murschel identified this as an error and that no conditions are recommended by staff.

Patrick Sellenraad – Designscapes – 210 Golfview Drive, Saginaw Michigan

The petitioner identified that the distance from the sign to the intersection requires that letters be a minimum of 6" to be visible from the 200' width of North Saginaw Road. As such, the petitioner identified the requested variance as the smallest that would permit safe viewing of the sign. The petitioner shared a drawing via document camera. The necessity of setting the sign further back into the property due to the placement of the traffic signal junction boxes creates a unique situation. The petitioner identified a four foot elevation change from the sidewalk. The sign is intended to be placed at the top of the elevation change at the back of the curb along North Saginaw Road.

Danielsen asked about the future intention of replacement of vegetation that may obscure the sign in the future. The petitioner commented that the trees that will be installed as replacement for the overgrown evergreens that were recently removed have been selected to remove visual obstruction.

Green asked if the signage were moved to the east would alleviate the need for a variance. The petitioner responded that the intended outcome is to reach those at the intersection and moving the signage to the east would further exacerbate that challenge.

O'Brien asked if the sign must feature both the doctor's name as well as the name of the business on the sign. The petitioner responded that due to a general lack of knowledge of the area of practice, that both pieces of information are required.

No comments were made in support or in opposition.

Poprave closed the public hearing.

Pnacek moved to approve petition 19-03 based on the findings of fact; Green seconded the motion.

Findings of Fact:

1. Property is located at 2726 North Saginaw Road,
2. Zoning is OS Office Service,
3. Bounded on the east by RC Regional Commercial zoning district,
4. Property is at the northeast corner,
5. entrance to the property is from Drake Street,
6. Property is set back 95' from Saginaw Road,
7. Building will house two businesses,
8. Located at the corner,
9. Two utility boxes exist,
10. Street cross section is five lanes,
11. Elevation change is 4' in height from the back of the curb,
12. One (1) letter of support has been received,
13. Lot size is 200'x135',
14. North Saginaw Road is 45 mph.

Discussion surrounded the review of the five criteria with which the project is evaluated.

O'Brien: No
Poprave: No
Pnacek: No
Green: No
Danielsen: Yes

The motion to approve petition 19-03 was defeated by a vote of 1-4.

4. **Old Business** – None.

5. **Public Comments (not related to items on the agenda)** – None.

6. **New Business** – None.

7. **Decision Sheet Signatures**

8. **Adjournment**

Green made a motion to adjourn the meeting, motion seconded by O'Brien. The meeting was adjourned at 7:45 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Grant Murschel".

Grant Murschel - Director of Planning & Community Development

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