

**CITY OF OAK PARK, MICHIGAN
ZONING BOARD OF APPEALS
APRIL 26, 2016
MEETING MINUTES**

The meeting was called to order at 7:30 p.m. by Chairperson Landau in the Council Chambers of City Hall located at 14000 Oak Park Boulevard, Oak Park, MI 48237 and Roll Call was made.

PRESENT: Chairperson Landau, Vice Chairperson Huston, Members Barton, Blumenkopf (arrived 7:31 p.m.), Cohen, and Seligson

ABSENT: Member Peiss

OTHERS PRESENT: City Planner Kevin Rulkowski

APPROVAL OF ZONING BOARD OF APPEALS MINUTES OF FEBRUARY 23, 2016

MOTION BY Blumenkopf, SECONDED BY Seligson, to approve the meeting minutes of February 23, 2016 as submitted.

Vote: Yes: All
No: None

MOTION DECLARED ADOPTED

Chairperson Landau deviated from the agenda.

COMMUNICATIONS: None

OLD BUSINESS: None

NEW BUSINESS:

(a) **APPLICANT:**
Captain Jay's Restaurant
13500 Nine Mile
Oak Park, Michigan

PROPERTY:
13500 Nine Mile
Property Identification Number: 25-29-354-004

ORDINANCE REQUIREMENTS AND REQUEST:

Three variances are requested:

1. Article XVIII, Section 1805, B, permits one wall sign per tenant. The applicant is requesting a waiver to allow for a total of six (6) wall signs to be displayed on the building.
2. Article XVIII, Section 1805, B, permits one (1) wall sign to be displayed on the front of the building. The applicant is requesting a waiver to allow for three (3) wall signs to be displayed on the front of the building.
3. Article XVIII, Section 1805, B, permits one wall sign to be displayed only on the front of the building. The applicant is requesting a waiver to allow for wall signs on both sides of the building and one in the rear of the building.

STAFF FINDINGS OF FACT:

- 1) The property is currently zoned B-2, General Business District.
- 2) Article XVIII, Section 1805, B, permits one wall sign per tenant.
- 3) The applicant is requesting a waiver to allow for a total of six (6) wall signs to be displayed on the building.
- 4) Article XVIII, Section 1805, B, permits one (1) wall sign to be displayed on the front of the building.
- 5) The applicant is requesting a waiver to allow for three (3) wall signs to be displayed on the front of the building.
- 6) Article XVIII, Section 1805, B, permits one wall sign to be displayed only on the front of the building.
- 7) The applicant is requesting a waiver to allow for wall signs on both sides of the building and one in the rear of the building.
- 8) The business currently has 111 square feet of permitted signage displayed:
 - a. One 86 square foot wall sign.
 - b. One 25 square foot monument sign.
- 9) The Zoning Ordinance sign regulations allow retail businesses a total of 150 square feet of signage (30 square feet for a monument sign and 120 square feet for one wall sign).
- 10) The applicant is proposing an additional 96 square feet of signs to be displayed:
 - a. One 9 square foot wall sign (west front face of building).
 - b. One 9 square foot wall sign (east front face of building).
 - c. One 30 square foot wall sign (west side of building).
 - d. One 30 square foot wall sign (east side of building).
 - e. One 18 square foot wall sign (rear of building). Note: A graphic of this sign was not included with the application.
- 11) There are no nearby visual obstructions along Nine Mile that reduce visibility of the existing monument or wall sign.

STAFF RECOMMENDATIONS:

The applicant Captain Jay's Restaurant is requesting variances to allow for five (5) additional signs to be placed on the building for a total of seven (7) signs for the business. The restaurant is near a fairly busy intersection on a stand-alone property with great visibility in almost four directions. In addition to the existing signs the building is painted in a colorful manner that increases its visual presence on Nine Mile and also from Coolidge Highway.

Considering the fact that there are ***no unique circumstances of the property*** that inhibit visibility of the business it is hard to justify granting variances for additional signage. The business currently has the permitted number and size of signage (one monument sign and one wall sign totaling less than 150 square feet) on the property and both signs can be seen from Nine Mile adequately. In this case allowing additional signage does not seem reasonable or fair to other businesses in compliance. With this in mind a determination of a practical difficulty (*compliance would not unreasonably prevent the owner from using the property for a permitted purpose, strict compliance would not render conformity unnecessarily burdensome, there are no unique circumstances of the property*) could not be supported.

Taking the above findings of fact into consideration, it is the recommendation of the Planning Division to deny the variance requests.

Chairperson Landau opened the floor for comments:

Representatives from Captain Jay's presented arguments that the building is situated in such a way that the permitted sign cannot be seen from the west or from the south. They contended lack of visibility constitutes a hardship based on research concluding that hungry motorists have five seconds to make a decision about where to eat. The representatives argued that Tim Horton's, Walgreens and CVS all have multiple signs.

A representative of the property owner spoke in favor of the requested variance being approved, noting that businesses on the site have struggled for success. He testified Captain Jay's has signed a 20-year contract and has spent \$2 million on renovations so far.

Former State Representative David Nathan (District 8, Detroit), spoke in favor of the variance being granted, as did two employees of Captain Jay's.

In response to an inquiry from Mr. Blumenkopf about the possibility of scaling back the request, the representative of Captain Jay's indicated it is important to have signs on the front, and on both the east and west sides of the building.

City Planner Rulkowski stated the Captain Jay's store on 8 Mile Road has only two signs and vehicles on 8 Mile are traveling at greater speed than the location under discussion. He further maintained that the majority of businesses in the subject area have only one sign on the building, and asserted the monument sign should be adequate to attract traffic from both the east and west.

Answering questions from Mr. Cohen, the representative for Captain Jay's stated business hours at the subject store are 10:00 a.m. to midnight, employs 60 people, and indicated the signs would be lit.

MOTION BY Seligson, SECONDED BY Blumenkopf: based on the information presented in the Planning Division Report, and additional findings of fact discussed during the review of case # 16-03, to **deny** the request of the Captain Jay's Restaurant, 13500 Nine Mile,

1. for a waiver from the provisions in Article XVIII, Section 1805, B, to allow for a total of six (6) wall signs to be displayed on the building.
2. for a waiver from the provisions in Article XVIII, Section 1805, B, to allow for three (3) wall signs to be displayed on the front of the building.
3. for a waiver from the provisions in Article XVIII, Section 1805, B, to allow for wall signs on both sides of the building and one in the rear of the building.

VOTE: Yes: Barton, Blumenkopf, Cohen, Huston, Landau, Selgson
No: None

MOTION CARRIED

Responding to questions from the property owner, Mr. Rulkowski explained alternative variance requests will require a new submittal, and indicated he would be willing to work with the owner on a separate sign request.

(b) **APPLICANT:**
Mr. Wayne Wudyka
8775 Capital
Oak Park, Michigan

PROPERTY:
8775 Capital
Property Identification Number: 25-33-152-003

ORDINANCE REQUIREMENTS AND REQUEST:
One variance is requested:

1. Article XVI requires that the rear yard setback to be twenty-five (25) feet. The applicant is requesting a waiver of twenty-four (24) feet, one (1) inch to allow for the rear yard setback to be eleven (11) inches.

STAFF FINDINGS OF FACT:

- 1) The subject parcel is zoned LI, Light Industrial District.
- 2) Article XVI requires that the rear yard setback to be twenty-five (25) feet.
- 3) The applicant is requesting a waiver of twenty-four (24) feet, one (1) inch to allow for the rear yard setback to be eleven (11) inches.
- 4) The subject property is a corner lot, 368 feet wide by 158 feet deep.
- 5) The primary orientation of the building faces Capital.
- 6) At the April 11, 2016 meeting the Planning Commission approved a Site Plan for a 10,480 square foot addition subject to the Zoning Board of Appeals granting the necessary rear yard setback variance.
- 7) As proposed on the Approved Site Plan, a new eight space parking lot and drive is proposed for the Wyoming Avenue side (west side) of the property.
- 8) The Fire Inspector as part of the Site Plan Review process has reviewed the proposed location of the building.
- 9) The proposed addition is to be located on the rear property line, with the new building line to match the existing building footprint along the rear property line.

STAFF RECOMMENDATIONS:

The applicant, Mr. Wayne Wudyka, CRDN (Huntington Cleaners), recently received approval from the Planning Commission, to construct a 10,480 square foot addition to their existing facility at 8775 Capital. The approval was subject to the Zoning Board of Appeals granting the necessary rear yard setback variance. CRDN (Huntington Cleaners) performs fire restoration to a variety of fire damaged items at this facility. The proposed addition is to be located on the rear property line, with the new building line to match the existing building footprint along the rear property line.

In this case, strict compliance with the Zoning Ordinance provisions could possibly result in an unusual building line along the rear property line that while conforming to the setback provisions, would serve no useful purpose. In this case, conformity with the Zoning Ordinances setback provisions could be determined to be unnecessarily burdensome. Because this is a question of unique circumstances of the property being a corner lot and the location of proposed building on the property, an argument for a practical difficulty could be demonstrated.

Taking the above discussion and findings of fact into consideration, it is the recommendation of the Planning Division to approve the variance request.

Chairperson Landau opened the floor for comments:

Daniel Biber, petitioner's architect, explained the existing facility is in conflict with rear yard setback requirements. The petitioner needs to expand the building and needs to align with the current rear wall to have enough functional space. Mr. Biber indicated the parent company is CRDN and that cleaning is done at the subject location.

MOTION BY Barton, SECONDED BY Huston: based on the information presented in the Planning Division Report, and additional findings of fact discussed during the review of case # 16-04, to **approve** the request of Mr. Wayne Wudyka, 8775 Capital,

1. for a waiver of twenty-four (24) feet, one (1) inch from the provisions in Article XVI, to allow for the rear yard setback to be eleven (11) inches.

VOTE: Yes: Barton, Blumenkopf, Cohen, Huston, Landau, Seligson
No: None

MOTION CARRIED

ELECTION OF OFFICERS

Staff memo from City Planner Kevin Rulkowski, dated April 19, 2016:

According to the By-laws of the Zoning Board of Appeals, "the Board shall annually, on the first regular meeting of the year, elect its own Chairman and Vice-Chairman". Because this was not accomplished earlier in the year, it is time to elect officers.

The officers of the Zoning Board of Appeals consist of:

- *Chairperson*
- *Vice Chairperson*

Chairperson and Vice Chairperson

MOTION by Blumenkopf, SECONDED by Seligson, to elect Louis Landau as Chairperson, and to elect James Huston as Vice Chairperson, for the Zoning Board of Appeals.

VOTE: Yes: Barton, Blumenkopf, Cohen, Huston, Landau, Seligson
No: None

MOTION CARRIED

ADJOURNMENT

There being no objections Chairman Landau adjourned the meeting at 8:26 p.m.

Cherilynn Brown, Deputy City Clerk/Director of Elections