

APPROVED
JULY 11, 2022

**CITY OF WIXOM
ZONING BOARD OF APPEALS MEETING
49045 PONTIAC TRAIL
MONDAY, APRIL 11, 2022**

The meeting was called to order by Chairman Caplan of the Zoning Board of Appeals at 7:30 p.m. at which time allegiance was pledged to the American flag.

BOARD: Jeff Caplan (Chairman), David Berry, Jim Hutchens, Michael Schira, Roy Thorsell, Steven Winters

ABSENT: Fred Alexander; Ray Cousineau

OTHERS: Kelly McIntyre (CIB Planning); and Mona Freiburger (Recording Secretary)

Determination of a Quorum:

A quorum of the Zoning Board of Appeals was present for this meeting.

Agenda:

No additions or changes were made to the agenda.

Approval of the Zoning Board of Appeals Meeting Minutes:

MOTION made and seconded by Board Members Winters and Thorsell to approve the January 10, 2022 Zoning Board of Appeals Meeting Minutes.

VOTE: MOTION CARRIED

MOTION made and seconded by Board Members Winters and Schira to approve the March 14, 2022 Zoning Board of Appeals Meeting Minutes, as amended.

VOTE: MOTION CARRIED

CORRESPONDENCE/INFORMATION

City Manager Update March 22, 2022

CALL TO THE PUBLIC

There were no comments made by the public.

OLD BUSINESS:

None

NEW BUSINESS:

1. **PUBLIC HEARING FOR VARIANCE #PZBA22-02: 29600 WIXOM ROAD, WIXOM, MI 48393:** The applicant is seeking a variance from Section 18.16.090 (A) Signs, General Standards for Permitting, to construct a ground sign five (5) feet from the right of way line. Ordinance standards require that ground signs be set back a minimum of ten (10) feet from any public or private street right of way line. The Wixom Municipal Code requires approval of a dimensional variance from the Zoning Board of Appeals when it can be shown that ordinance standards have not been met. The property is zoned IS, Industrial Service, where the use is permitted in the district. The parcel number is 22-05-352-014.

Discussion:

CIB Planning reviewed the application submitted by the applicant for a sign variance which is located at the northeast corner of S. Wixom and West roads. A medical clinic currently occupies a majority of the building. Other suites in the building are available for lease. The applicant recently purchased the property and upgraded the parking lot with new asphalt, curbs, and landscape islands this past summer. As part of the property update, the applicant applied for a sign permit to remove the existing ground sign and install a new sign, meeting the height, area, and location requirements of the Sign Ordinance.

The applicant was unaware of a waterline in the area that prohibited the installation in the new conforming location. As a result, the applicant is requesting to install the new ground sign in the location of the old ground sign. The old ground sign location does not meet ordinance setback requirements; therefore, a variance is required to install the new sign. The proposed sign location is five feet from the property line, where a minimum of 10 feet is required.

Based on CIB's review letter dated March 4, 2022, CIB recommends that the sign variance request, ZBA22-002, Park Medical Centers, 29600 S. Wixom Road, be approved for the following reasons:

1. The proposed location (5 feet from the property line) will not be in conflict with the water main where the required 10 foot location is located;
2. The new sign is in the same location as the previous sign;
3. The granting of the variance will not negatively impact public safety and welfare; and
4. The practical difficulty is not self-created.

Mr. Steve Bret, 17924 Autumn Lane, Macomb Township, MI, Phillips Sign and Lighting. Mr. Bret stated they were contracted by Park Medical Center to fabricate and install a new lawn sign at 29600 Wixom Road to replace the old, existing sign. Since Park Medical Center has taken over the property, they have upgraded their parking lot with new asphalt, curbs and landscaping. A permit for the sign was approved in November, 2021. In January, 2022, it was found out there is a water line under the area ten feet back from the property line. The sign installation in that area could not continue. A variance for a new sign is needed to be installed in the area where the current sign exists.

The sign would be installed exactly where the old sign is located. The existing sign is 106 inches wide. The new sign would be 65 inches wide; it is narrower.

No public comments.

Board Member Berry commented that the error with the water line and its right of way should be updated and addressed with the building department. Ms. McIntyre indicated yes, the prints would be on the actual survey with the property.

MOTION made and seconded by Board Members Winters and Berry to approve **VARIANCE #PZBA22-02: 29600 WIXOM ROAD, WIXOM, MI 48393**: The applicant is seeking a variance from Section 18.16.090 (A) Signs, General Standards for Permitting, to construct a ground sign five (5) feet from the right of way line. Ordinance standards require that ground signs be set back a minimum of ten (10) feet from any public or private street right of way line. The Wixom Municipal Code requires approval of a dimensional variance from the Zoning Board of Appeals when it can be shown that ordinance standards have not been met. The property is zoned IS, Industrial Service, where the use is permitted in the district. The parcel number is 22-05-352-014; due to the fact that the water main is placed where the sign should be located in accordance to the normal building code.

VOTE: **MOTION CARRIED**

All in favor.
None opposed.

- 2, **PUBLIC HEARING FOR VARIANCE #PZBA22-003: 49178 ALPHA COURT, WIXOM, MI 48393**: The applicant is seeking a variance from Section 18.13.080 Accessory Uses and Structures, Wind Generators, to construct five (5) helical turbines in the front yard. Ordinance standards require that wind generators be located in the rear and side yards only. The Wixom Municipal Code requires approval of a dimensional variance

from the Zoning Board of Appeals when it can be shown that ordinance standards have not been met. The property is zoned IRO, Industrial Research Office, where the use is permitted in the district. The parcel number is 22-08-326-045.

Discussion:

CIB completed their review of the variance application for Yuken America to locate five helix wind turbines in the front yard of a 38,958 square foot industrial building where a rear yard location is required. The subject site is 2.33 acres and located on the north side of Alpha Court which is on the east side of Wixom Road, north of I-96, in the Alpha Tech Corporate Park. The property is zoned IRO, Industrial Research Office.

Based upon CIB's review included in their letter dated March 8, 2022, CIB recommends that the applicant's variance request, ZBA22-003; Yuken America at 49178 Alpha Ct., be approved for the following reasons:

1. The subject lot is located at the end of a cul-de-sac and is long and narrow in shape;
2. The building has approximately 270 feet of frontage along the roadway;
3. The wind turbines are intended to be decorative features in the front yard that break up the mass of the building and will be aesthetically attractive;
4. The intent of the ordinance is to locate wind generators in the rear yard since they sometimes are not attractive features;
5. The addition of the decorative wind turbines in the front yard will not negatively impact the future use of the surrounding properties;
6. The granting of the variance will not impair light or air to the adjacent properties; and
7. Approval of the variance will not endanger the public safety or welfare of the community.

Mr. Justin Novak, 13455 Venice, Southgate, MI 48195, Smith, Sherman Associates; architect representing Yuken America, Inc. A permit was applied for on this site approximately two years ago. Since then, the executives of Yuken, Inc., asked if some weather vanes could be installed for public relations type of thing; the vanes would not generate electricity per se. Looking at the ordinance, the site plan was maximized. They were looking for a site location where the vanes would fit. The vision was to have five vanes in a row and paint each vane the colors similar to the Olympic rings as a sign of international collaboration.

Yuken America manufactures paints for the automotive industry in the United States as well as in other areas. They also have facilities in Mexico. The practical difficulty is they cannot locate all five vanes in the rear yard together.

Board Member Berry commented, in terms of where the vanes would be located and their function, this would be self created by locating them in the front yard, in his opinion. Chairman Caplan commented in part of the practical difficulty, the narrowness of the parcel could be part of the issue, although they are a decorative feature, more than a needed feature.

Mr. Novak indicated one of the places they looked at was in the back, the only large free space, but the trucks are located there awaiting truck loads.

Board Member Hutchens commented the main intent is that it is a public relations pursuit. If the vanes were a monument and installed in the front yard, then the wind turbine aspect would be secondary.

Mr. Novak indicated the installation of the vanes could not be installed on the roof because it is a pre-engineered metal building and the roof load is only designed for snow and wind. The constraints on the building construction would require more reinforcement of the roof due to the size and load.

No public comments.

Board Member Berry commented he understood the constraints of the lot and so forth, but in his opinion, this is a self created issue, based on the fact that the new resident wants to utilize, for all intents and purposes, the windmills as more of a signage as opposed to an intended purpose. Some energy would be created but it would not be at full potential at any point in time.

Board Member Thorsell commented the rules are written as such to try to hide these types of features but this is clearly more of a dynamic sculpture and fits within the tree heights, building heights and Olympic colors. If the applicant were to build these structures as dynamic art, Board Member Thorsell indicated he did not know if the applicant would have to appear before the Board. For overall aesthetic purposes, Board Member Thorsell commented he did not have a problem with the location as such, if they ended up unplugging them and having the windmills spin freely as art work. Board Members Winters and Hutchens agreed with Board Member Thorsell's comment. Chairman Caplan commented he also agreed, he thought it was more decorative art work than for turbulence.

Ms. McIntyre commented if it is a piece of artwork, it is a structure. The ordinance does not allow accessory structures in the front yard and a variance would be needed for its location. This is a very unique case where it does not fit the wind turbine in generating

energy, not necessarily a full structure, and not necessarily a flag pole. As an accessory structure, the Board is looking at a front yard variance.

MOTION made and seconded by Board Members Thorsell and Schira to approve **VARIANCE #PZBA22-003: 49178 ALPHA COURT, WIXOM, MI 48393:** The applicant is seeking a variance from Section 18.13.080 Accessory Uses and Structures, Wind Generators, to construct five (5) helical turbines in the front yard. Ordinance standards require that wind generators be located in the rear and side yards only. The Wixom Municipal Code requires approval of a dimensional variance from the Zoning Board of Appeals when it can be shown that ordinance standards have not been met. The property is zoned IRO, Industrial Research Office, where the use is permitted in the district. The parcel number is 22-08-326-045; it fits the character of the site the applicant is trying to build; it is not necessarily an eyesore that the ordinance rules are trying to protect; and it would be acceptable for this type of variance.

VOTE: MOTION CARRIED

Motion Passes: 5 to 1

3. **PUBLIC HEARING FOR VARIANCE REQUEST #PZBA22-001: 28061 GRAND OAKS, WIXOM, MI 48393:**
 - a. The applicant is seeking two (2) use variances: A use variance from Section 18.16.110(B), Off-Premise Advertising Signs, to permit the installation of an outdoor advertising sign (billboard sign). Ordinance Section 18.16.110(B), Off-Premise Advertising Signs, states that no further outdoor advertising signs shall be permitted to be erected in the City of Wixom; and a use variance from Section 18.12.010, Uses per Lot, to permit a second use on a lot where ordinance permits one (1) use. Section 18.22.030(F), Zoning Board of Appeals (ZBA) Powers and Duties, Use Variances, gives the ZBA the authority to a grant use variance when reasonable evidence of unnecessary hardship can be demonstrated. The property is zoned IRO, Industrial Research Office. The parcel number is 22-070-401-020.
 - b. The applicant is also seeking a total of six (6) non-use variances: Section 18.16.100, Specific Sign Standards, to permit a sign with a height of 70 feet; Section 18.16.100, Specific Sign Standards, to permit a sign surface area of 672 square feet per face; Section 18.16.100(E)(2), Specific Sign Standards, to allow electronic sign message area of 100%; Section 18.16.100(E) (5), Specific Sign standards to permit changes of an electronic message every 8 seconds; Specific Sign Standards, Section 18.16.100(E)(8), to permit the use of multiple colors on their electronic message; Specific Sign Standards; Section 18.08.050(G), Freeway

Setbacks, to permit a zero foot setback from the I-96 right of way. Section 18.16.180, Appeals and Variances, and Section 18.22.030(F) Powers and Duties, gives the Zoning Board of Appeals authority to grant variances when it can be shown that ordinance standards cannot be met and a practical difficulty exists. The property is zoned IRO, Industrial Research Office. The parcel number is 22-070-401-020.

Discussion:

CIB Planning reviewed the above referenced application for use and dimensional variances for an off-premise advertising sign (referred to as "billboard" on the property at 28061 Grand Oaks Court, which is on the south side of I-96, west of Wixom Road in the Grand Oak Commerce Center.

In December, 2022, a variance application was submitted to the City to permit a billboard sign on a parcel of land with an existing use. The City's ordinance does not permit any new billboards in the City nor does it permit more than one use per lot. The application is a variance for the use of a billboard sign as well as dimensional variances from the standards of a ground sign. The use request to permit the installation of a billboard sign as a second use on a parcel has been reviewed in a separate Use Variance Review letter dated April 7, 2022, from CIB Planning.

The Zoning Board of Appeals (ZBA) should review the use requests prior to addressing the dimensional request outlined in CIB's letter dated April 7, 2022 to the Zoning Board of Appeals. Should the ZBA find that each of the five factors demonstrating evidence of unnecessary hardship to grant a use variance is met and that the two uses variances are granted, the Board should then review the six (6) dimensional variances. The review letter dated April 7, 2022 addresses the dimensional variance requests only.

A variance falls under the jurisdiction of the Zoning Board of Appeals (ZBA). The ZBA may grant a variance only under exceptional circumstances. Wixom Zoning Ordinance *Chapter 18.22 Zoning Board of Appeals*, sets forth standards and procedures authorizing the ZBA to hear requests for variances. It should also be remembered that each request for a variance is to be decided on its own merits, and the fact that similar signs exist or that variances were granted to others does not provide a justification for granting a variance in and of itself.

She said that the applicant was seeking two use variances: One, a use variance from *Section 18.16.110(B), Off-Premise Advertising Signs*, to permit the installation of a billboard. Ordinance *Section 18.16.110(B), Off-Premise Advertising Signs*, states that no further billboards shall be permitted to be erected in the City of Wixom; and two, a use variance from *Section 18.12.010, Uses Per Lot*, to permit a second use on a lot where ordinance permits one (1) use. McIntyre said there is an existing building and business on the property. The use variance is to permit the construction of a billboard as second use on the property.

McIntyre explained that a use variance is subject to Section 18.22.030.F of the Zoning Ordinance and in order to qualify for a use variance, in addition to the information required for a non-use variance request, the applicant must prove the following:

Hardship. The applicant must demonstrate that the site cannot reasonably be used for any of the uses allowed within the current zoning district designation.

McIntyre said the applicant wants permission to install a billboard sign as a second use on the parcel and that the intended use of the sign is to communicate with passers-by, including motorists on the I-96 expressway.

She gave a history of the site. It was developed in 1998 and includes an approximately 15,000 sq. ft. light industrial building, parking, utilities including detention, landscaping, and other associated site improvements.

The property is at the end of a cul-de-sac on Grand Oaks Court and that this area was developed as an industrial research center with similar developed lots on Oakland Oaks and Center Oaks.

She described the property is rectangular in shape with no constraints that limit use of the property. She said there is nothing unusual or extraordinary about the property that warrants the installation of a large-scale freeway-oriented billboard sign as a secondary use on the property.

She also noted that the city has determined that there is no demonstrated need for any more large-scale freeway-oriented signs along I-96 as the City already has 5 existing billboards on the south side of the freeway.

She explained that only 24 parcels in the City abut the I-96 freeway through Wixom and that the applicant offers no reason why the city's goal of limiting this use should be varied or that the City's goal's lack a legitimate governmental interest in preserving the health, welfare, safety, and aesthetics of the city.

Lastly she explained that the existing billboards in the City were installed pursuant to Consent Judgments and they are permitted to exist in perpetuity.

She said that the applicant has nor presented any evidence of a hardship.

1. Unique Circumstances. That the condition or situation of this specific property or the intended use of this property is unique to that property and not commonly present in the general vicinity or in the zone district.
She stated the applicant must prove that there are features or conditions of the property that are not generally applicable throughout the zoning district and that

these features make it impossible to earn a reasonable return without some adjustment. Examples of such unique conditions or situations could include:

- a. Exceptional narrowness, shallowness or shape of the property
- b. Exceptional topographic conditions or other extraordinary situations of the land, building or structure.
- c. Any other physical situation on the land, building or structure deemed by the ZBA to be extraordinary.

McIntyre said the property is 1.4 acres in size, rectangular, with flat topography. She stated that there is nothing extraordinary about the site that would warrant a sign almost 12 times the allowed height and 8 times the permitted sign area.

She reiterated there is no exceptional narrowness, shallowness or topographic conditions on the land that prevent from the property from use and that the property has a reasonable and viable use under the existing ordinance without the variances requested

She comments that the applicant introduces the existing utility easement on the property as a unique circumstance. McIntyre explains that utility easements occur on almost every lot in the City and are not unique to this property. The utility easement running through this property has not prevented it from being developed and used in a legal and conforming manner as verified by the existing use.

2. Character of Neighborhood. The applicant must demonstrate that the use variance will not alter the essential character of the neighborhood or the intent of the master development plan or be detrimental to adjacent properties.

McIntyre said that within the one-mile stretch of properties in the City of Wixom that abut I-96, the city currently has five existing billboards. Four of the signs were erected by a consent judgments. She explained that in 2013, the city revised the sign ordinance to *prohibit* any new billboards or highway pole signs. The city determined that billboards negatively reflect on the aesthetics of the community. Therefore, another billboard along this stretch of the expressway would add additional clutter and be a detriment to the community. She said there is no demonstrated public need for an additional billboard.

3. Capacity of Roads, Infrastructure and Public Services. The applicant must demonstrate that the capacity and operations of public roads, utilities, other facilities and services will not be significantly compromised.

McIntyre said that billboards are located in high traffic areas to be seen by the highest number of drivers and pedestrians and that they have a captive audience. Billboard advertising is designed with vibrant colors and change quickly grabbing the attention of drivers passing by and that driver distraction may have traffic safety implications.

4. Not Self-Created. Finally that the immediate practical difficulty causing the need for the variance request is not self-created by the applicant.

McIntyre said that the property was developed in 1998 with an industrial building as the principal use and the proposed billboard is a second use. The purpose of the second use – the billboard – is to economically benefit both the applicant and the owner of the property and that the desire to lease the property for income is self-created.

McIntyre said based on these comments, the applicant has not demonstrated the criteria for a use variance.

McIntyre also noted that in order to grant a use variance, a vote of 2/3 of the members of the ZBA is required.

She said the ZBA should decide upon the use variance first and then if a use variance is warranted, the ZBA could review Section 18.16.180, Appeals and Variances, that allows the ZBA to consider the following criteria for sign variance requests:

1. McIntyre said that in determining whether a variance is appropriate, the Zoning Board of Appeals should study the sign proposal, giving consideration to any extraordinary circumstances, such as those just discussed in the use variance criteria, that would cause practical difficulty in complying with the sign standards.
2. She stated that in granting or denying a variance, the Zoning Board of Appeals shall state the grounds and findings upon which it justifies granting or denying the variance based on the following criteria:
 - a. Whether the proposed signage can easily be seen by passing motorists due to the configuration of existing buildings, trees, or other obstructions.
 - b. Whether the proposed signage can be seen by passing motorists in sufficient time to permit safe deceleration and exit. She said that the Zoning Board of Appeals can take into consideration the width of the road, the number of moving lanes, the volume of traffic, and speed limits.
 - c. Whether existing signs on nearby parcels would substantially reduce the visibility of a conforming sign on the subject parcel.
 - d. Whether construction of a conforming sign would require removal or severe alteration to natural features on the parcel or would obstruct the vision of motorists and otherwise endanger the health or safety of passers-by.

McIntyre explained that a proposed variance from certain sign regulations could be offset by an increased building setback or increased landscaping, so there is an improvement in appearance of the parcel, compared to the result if the variance was not granted.

- e. Finally. She explained that for a variance, the applicant should demonstrate that a sign which exceeds the permitted height or area standards is more appropriate in scale because of the large size or frontage of the parcel or building.

McIntyre did emphasize that this sign criteria to a large extent applies to the installation of an otherwise permitted sign for the principal use of the property. The proposed sign is not a permitted sign.

Based upon CIB's review letter and report dated April 7, 2022 addressed to the ZBA, CIB recommends that the sign variance requests, ZBA22-001, for International Billboard be DENIED for the following reasons:

1. There is no demonstrated need presented for any additional billboards.
2. Billboards negatively reflect on the aesthetics of the community by increasing visual pollution and physical obstructions caused by a proliferation of signs or a magnitude of illumination which diminishes the City's image, property values and quality of life.
3. There are five existing billboards along I-96 in the general area of the proposed outdoor advertising sign. Those billboards will continue in perpetuity pursuant to the terms of Consent Judgments. The proliferation of signs is contrary to the City's aesthetic goals. This stretch of I-96 through the City is significant in terms of the public's impression of the nature of the community. Additional billboards run contrary to the appearance the City desires to portray. In addition, more billboards will be unduly distracting to motorists and non-motorized travelers, causes confusion, reduces desired uniform traffic flow, and creates potential for accidents.
4. There are no exceptional or extraordinary circumstances or conditions that apply to the subject site that would warrant the installation of a prohibited sign for all the reasons stated. The purported burdens stated by applicant are the same for owners of properties throughout the City.
5. The proposed billboard could conflict with the primary use on the property which is industrial.
6. The practical difficulty is self-created since the property can and is developed for uses permitted in the IRO District.

Mr. Randy Oram, President of International Outdoor, Inc., Farmington Hills, MI, gave a full and extensive presentation with supplemental letters of support from the business community as well as traffic studies with respect to billboards and digital signs which is included in the packet and given to each Board Member.

Mr. Oram addressed and went through the package submitted to the Board Members. Mr. Oram indicated International Outdoor makes a positive impact and is proud to be a

Michigan company, located owned and operated; certified as a women's business enterprise; certified as a Detroit based business; and certified as a Wayne County based business.

International Outdoor has a history of giving back to local communities where they live, work, and play. Their values remain unchanged since their founding in 1997 and has supported Michigan based businesses and organization. International Outdoor is dedicated to help cultivate the economy and support the community. During the 2020 pandemic, International Outdoor turned their entire digital billboard network into a COVID resource center and the largest "thank you" card to essential workers. The ads were displayed free of charge in order to best help the communities and provide them with the most up to date resources.

The digital billboards are computer controlled electronic displays with capabilities that take Out-of-Home advertising to whole new levels. Eight advertisers share a digital billboard. Advertisers may purchase 1 to 8 slots, or multiple slots, if desired. The ads rotate in a looping slide show fashion with each ad appearing for 8 seconds before the next ad is displayed.

Mr. Oram reviewed the City of Wixom ZBA application and variance request submitted by International Outdoor, Inc. signed January 14, 2022.

Chairman Caplan thanked Mr. Oram for his very detailed and interesting report.

Board Member Berry indicated on page 31, showed the general location in the cul de sac of the billboard. Board Member Berry questioned with the front of the sign would be above the tree line for visibility. Mr. Oram indicated the MDOT trees could not be removed and would not impinge of visibility to either the front or the back of the sign.

Chairman Caplan commented these signs are the future. Mr. Oram indicated the messaging are mainly local advertisers. 83% of their advertisers are local community.

Chairman Caplan indicated it is unique that the applicant is before the ZBA Board as a non-property owner to show hardship on a piece of property that is already being used under the current ordinance.

Mr. Adam Behrendt, Bodman Law Firm, 1901 St. Antoine, Detroit, MI, attorney, representing the applicant. Mr. Behrendt indicated the property is not being fully utilized because of the easement. Mr. Oram suggested before, which seems to be an antiquated view, the courts have had problems because if they were coming here to install a message board on one of the property owners, the Board may have a different view. The focus of their non-dimensional use variance is, in part, because of the ordinance prohibition of billboards which is illegal. Chairman Caplan indicated this was true, the billboards weren't granted by the ZBA, he believed they came about with consent judgments or by some other means. Mr. Oram indicated this billboard is in the

off premise category where it is for a good or service that is not sold on the property. There are separate rules and conditions that off premise apply to versus on premise. Chairman Caplan commented in the legal aspect that Mr. Behrendt speaks of, the ZBA can't address because they are here to follow the ordinance and to find the applicant's hardship.

Mr. Oram indicated he is asking the ZBA Board to approve the variance, they have the authority and the unique characteristics that come along with the property that they presented. Mr. Oram commented he was hopeful that the ZBA looks at the property, and the unique characteristics.

Mr. Oram stated International Outdoor would like to be a community partner. They have thoroughly detailed their request in their presentation with respect to why International Outdoor's request is justified and the variance should be granted.

Board Member Berry inquired as to who owns the property. Mr. Oram indicated International Outdoor has a lease hold interest on the property; it is a different entity, different corporation. A lease agreement is already in place; the monetary exchange between International Outdoor and the corporation is not public information. Chairman Caplan commented this would be similar to a cellular tower on someone's property.

Open for public comments.

Mr. Tom Berman, 2640 Garland, Sylvan Lake, MI, introduced himself and indicated he was there in support of Randy Oram, and all behalf of his brother, Ryan Berman, State Representative, who represents this jurisdiction. Mr. Berman commented he was a former planning commissioner, former city council member in Keego Harbor, and former Oakland County commissioner. Mr. Berman indicated he was impressed with Mr. Oram's presentation today and he would be remiss if he did not echo some of the sentiments he heard, particularly from counsel that the ZBA does, in fact, have the authority and discretion to interpret the zoning and elements to determine whether or not to grant the applicant's request.

Mr. Berman, also, read a letter from Ryan Berman, State Representative, in support of this variance; a copy of the letter is in the file.

Mr. Berman commented he heard a number of points from the applicant. The billboard would be an incredible resource to the community to help spur economic development and to support our local businesses.

Public comments closed.

Chairman Caplan stated there were other recommendations and numerous letters for support of this variance in the file.

Board Member Thorsell commented there was a lot of discussion regarding the electronic aspect of the billboard and he did not think anybody had a problem with this aspect; he agreed that's the future. The basic question is, a sign this large is about to be built. The city ordinance has been written so there are no other large signs. In this case, it seems like the sign is a gross over estimate of the variance allowed. If the ZBA should allow this sign, what is to stop any future signs from building built and installed throughout the City? Board Member Thorsell thought the intention of the ordinance is to see Wixom with no tall signs.

Chairman Caplan commented there needs to be a consensus and agreement for a use variance before the ZBA discusses the six other variances.

Board Member Schira commented he would like to go on the record saying that he likes advertising, the outdoor advertising (digital advertising), but he was still struggling with the fact that there is another pre-existing use that is permitted and to grant another one seems to be contrary to the standard that we have measures.

Mr. Oram indicated all of the signs for off premise have an existing use. All of the signs along the freeway near Wixom, have secondary uses. It is very rare that you would find a vacant piece of property that meets the spacing requirements. There are state regulations that prohibit anybody else from installing any other signs. This would be, literally, the last with respect to a digital sign on this stretch of thoroughfare.

There was a discussion among the Board members whether to table, approve, or deny the applicant's request, and the hardship.

Ms. McIntyre commented the zoning ordinance, specifically, gives five factors the ZBA should review to do the use variance. It is the applicant's burden to prove all of the criteria to the ZBA.

MOTION made and seconded by Board members Berry and Schira to deny the **VARIANCE REQUEST #PZBA22-001: 28061 GRAND OAKS, WIXOM, MI 48393:**

- a. The applicant is seeking two (2) use variances: A use variance from Section 18.16.110(B), Off-Premise Advertising Signs, to permit the installation of an outdoor advertising sign (billboard sign). Ordinance Section 18.16.110(B), Off-Premise Advertising Signs, states that no further outdoor advertising signs shall be permitted to be erected in the City of Wixom; and a use variance from Section 18.12.010, Uses per Lot, to permit a second use on a lot where ordinance permits one (1) use. Section 18.22.030(F), Zoning Board of Appeals (ZBA) Powers and Duties, Use Variances, gives the ZBA the authority to a grant use variance when reasonable evidence of unnecessary hardship can be demonstrated. The property is zoned IRO, Industrial Research Office. The parcel number is 22-070-401-020; for lack of demonstration of a hardship; there is no

obtained hardship in this case. It is a piece of property that, based on the development surrounding it, falls into a category where the rest of the property can be used for its original and intended purpose.

VOTE:

MOTION CARRIED

Motion Passes: 5 to 1

CALL TO THE PUBLIC:

No public comments.

STAFF COMMENTS:

Ms. McIntyre commented there were no other upcoming cases and there would not be a meeting in May.

COMMISSION COMMENTS:

Chairman Caplan indicated the applicant, International Outdoor, gave a good presentation. The ordinance is written to keep open space. Board Member Berry asked if this request was discussed with the Planning Commission. Ms. McIntyre answered no, this is a ZBA case.

ADJOURNMENT:

The meeting of the Zoning Board of Appeals was motioned and adjourned at 9:35 p.m.

Mona Freiburger
Recording Secretary