

**CHARTER TOWNSHIP OF CANTON
ZONING BOARD OF APPEALS
December 8, 2022**

A meeting of the Zoning Board of Appeals of the Charter Township of Canton was held Thursday, December 8, 2022, at the Township Administration Building located at 1150 S. Canton Center Road, Canton Township, Michigan 48188.

Meeting began at 7:00 p.m.

Motion by Lee, supported by Tassell, to nominate Demopoulos chair for this evening's meeting.

Ayes: All

Nays: None

Greg Demopoulos led the Pledge of Allegiance to the Flag.

ROLL CALL:

Members Present: Greg Demopoulos, Clarence Lee, Mark Quimby, Aaron Tassell

Members Absent: Alan Okon

Staff Present: Patrick Sloan

ACCEPTANCE OF AGENDA FOR December 8, 2022

Motion by Mark Quimby, supported by Aaron Tassell to accept the agenda.

Ayes: All

Nays: None

APPROVAL OF MINUTES FOR THE NOVEMBER 10, 2022 MEETING

Motion by Mark Quimby, supported by Aaron Tassell to approve the minutes.

Ayes: All

Nays: None

GENERAL CALENDAR

1. Application 141-ZBA-7607. Applicant, Joe Minorik for McDonald's USA LLC, for property located at 40241 Michigan Avenue, which is located on the south side of Michigan Ave. between Lotz Rd. and Hannan Rd. (Parcel ID 71-141-99-0028-701), Zoning is C-3, Regional Commercial. Requesting a variance from Section 6A.06(3) of the Zoning Ordinance (Nonconforming Signs), which requires any nonconforming sign to be brought into conformance with the provisions of Article 6A of the Zoning Ordinance when an addition or modification to the existing site requires submittal and approval of a site plan.

Jeff Brinks with Venture Engineering is representing McDonald's. McDonald's applied for site plan approval for some improvements to the drive through back in September 2022. With this site plan approval, the sign must come into conformance with the current Zoning Ordinance regulations. McDonald's is here to seek a variance. The owner/operator has done some studies on sales figures, and they did a study on when they went from a monument sign which is now required here, to a pylon sign. Their study indicated a sale increases from 10 – 15 %. They feel that if they are going to do the opposite in this case, they will probably see decrease to their sales. The other reason they are requesting the variance is that they have direct competition in Wendy's across the street. Wendy's still has their pylon sign, so if McDonald's has to go to a monument sign, they will lose visibility, and give advantage to Wendy's. Mr. Brinks stated that in regards to the other requirements of the variance to be granted, such as

health, safety, welfare, those items wouldn't be affected. The sign has been there as long as the restaurant. He feels that the spirit of the Ordinance is being maintained in that it's allowing them to continue to be competitive in their environment. McDonald's is not like a sit-down restaurant where people sitting at home decide to go out to eat there. It tends to be more of an impulse decision where you drive by and see it and decide to stop. These are the reasons they would like to keep the sign as-is and seek relief from the requirement.

Mark Quimby said that a site plan was submitted and approved in 2018 for the same site in which there was a monument sign proposed. He said that as he understands from the record that McDonald's did everything but change the sign per the plan.

Jeff Brinks said that he was not involved in that original site plan, so he can only answer from what he was told. That was with a previous owner and somehow it fell through the cracks.

Greg Demopoulos asked about what practical difficulties they may have.

Jeff Brinks said that there are no practical difficulties. There are no grade issues or site conditions or anything particularly special about the property.

Mark Quimby stated that what is problematic is that the argument is that no fast food restaurant should have to comply with the Zoning Ordinance because pillar signs are better for business. There is nothing unique to this specific property.

Jeff Brinks said that McDonald's feels that this pylon sign would be better for their business and for their customers.

Aaron Tassell noted that there are two signs on the property. One is very tall highway sign on the south side of the property. He asked if that one was part of this variance.

Jeff Brinks stated that no, it is not.

Clarence Lee stated that many people use a mobile app to find restaurants. With an app and a highway sign, they're going to find McDonald's. He also feels that updating the sign will enhance the overall appearance.

Greg Demopoulos asked if the previous owner disclosed the non-conforming sign at the sale.

Jeff Brinks did not think so, but he did not know the terms of the sale.

Mark Quimby said that he drove by the location this week and the Wendy's also has a similar pillar sign on the Michigan Ave. frontage. He did not notice if they also had a highway sign. Wendy's would be subject to the same Zoning Ordinance when they do any kind of update.

Jeff Brinks wanted to add one last question for consideration. If the variance is not approved, would the Board consider to allow them to keep their sign until such time as Wendy's makes improvements at which time McDonalds would then take their sign down?

Patrick Sloan, Canton Township Community Planner, first wanted to mention that Zoning Board of Appeals member Alan Okon is not at this meeting because he is also a Planning Commission member.

The Michigan Zoning Enabling Act prohibits a dual member of the Planning Commission and ZBA from voting on the same matter twice. Since Alan Okon voted on this issue at the September 2022 Planning Commission meeting, including for the condition for the removal of the pole sign, Mr. Okon would be prohibited from also deliberating on and voting on the variance application for keeping the sign itself. Mr. Sloan read the staff report, stating that the applicants discussed the 2018 plan it did show that the removal of the sign was required. The applicants reiterated this in the 2022 plan upgrades, and it is something that is unresolved and uncompleted from the 2018 plan. There was a variance granted for the freeway sign on the south side of the property in the mid 2000's. That was noted at the September 12, 2022 Planning Commission meeting. Since there is a variance approved on that sign, it is not subject to the removal standards of the Zoning Ordinance for non-conforming signs. One other item noted in the report is that there are two other McDonald's in Canton that both have monument signs. Those are both modern restaurants that have the double drive through and they can get very busy. He feels that the monument signs are functioning very well. There are other pole signs in the Township that are being phased out as the Township implements the Zoning Ordinance when they apply for site plans. For example, there is a more accelerated phase-out of pole signs along Ford Road with Ford Rd. having more redevelopment projects. Michigan Ave. has been a slower process. The Planning Division has made several findings in the staff report in accordance with Section 27.05(D)(1) of the Zoning Ordinance. To summarize the standards of review in the Zoning Ordinance for this variance application, staff did not find any practical difficulty. Staff finds that the variance would not do substantial justice to other property owners in the Township, especially those property owners who previously removed their non-conforming signs in accordance with the Ordinance. Staff finds that the variance is contrary to the developed character of Canton's major corridors which contain many conforming signs. They do not find any unusual circumstances or conditions that justify the variance. Many other commercially zoned properties have removed their non-conforming pole signs in accordance with the Ordinance. The variance is self-created based on the site plan approved in 2018 and most recently in 2022. Staff finds that the variance is not necessary for the preservation and enjoyment of substantial property rights possessed by other property owners in the same zoning district and it would alter the character of the neighborhood. Two other McDonald's and many other fast food chains in the township have ground signs that are conforming including along the Michigan Avenue corridor. Mr. Sloan stated that another finding is that the approval would provide the applicant with a benefit that is not available to similar owners and it would negatively impact the visual character of Michigan Avenue. Staff finds that granting the variance would promote disorderly development in the zoning district and throughout the township. He also notes that the adjacent uses to the east and west do not have pole signs. Granting a variance would encourage other property owners throughout the Township to seek the same variances from the ZBA for pole signs. He lastly wanted to note that in 2018 Canton Township approved the site plan that stated that all new and existing signs would be brought into compliance with article 6A of the Zoning Ordinance including the pole sign that's subject to the variance application.

Motion by Mark Quimby supported by Aaron Tassell, to open the Public Hearing at 7:20pm

Ayes: All

Nays: None

No one was in the audience other than Mr. Brinks.

Motion by Mark Quimby, supported by Aaron Tassell, to close the public hearing at 7:21pm

Ayes: All

Nays: None

Mark Quimby stated that the presentation didn't really address any of the reasons that are required to ask for a variance. There are no special circumstances, and basically it seems that they just don't want to comply. This one is a hard "no" for him. In regards to the Wendy's, McDonald's is getting the investment of updating and modernizing your restaurant; and Wendy's will also have to make updates, including their sign to compete. Driving up and down Michigan Ave, there are mostly monument signs, and the current sign looks out of place.

Motion by Mark Quimby to deny the variance request and adopt the model motion in the Planning Division's December 8, 2022 staff report, including adoption of the 12 findings of fact as stated in the model motion of the report.

Supported by Clarence Lee.

Ayes: All

Nays: None

Variance is denied.

Motion by Mark Quimby to adjourn meeting. Supported by Clarence Lee.

Ayes: All, 4-0

Nays: None

Meeting adjourned at 7:22 pm.

Alison Eisenbeis, Recording Secretary