



MEETING MINUTES
Cadillac Zoning Board of Appeals
5:30 P.M.
May 19, 2016

CONVENE MEETING

Community Development Analyst, Mike Coy called to order a meeting of the Cadillac Zoning Board of Appeals at 5:30 p.m. on May 19, 2016 and did the roll call.

ROLL CALL

MEMBERS PRESENT: Allen, Bontrager, Engels, Genzink, Knight, Paveglio and Walkley
MEMBER ABSENT: Ault, Nichols
STAFF PRESENT: Coy

Coy explained that with Chairperson Nichols and Vice Chairperson Ault not present the board would need to assign a chairperson for this meeting. After brief discussion a motion was made and supported to have Bontrager serve as chairperson for this meeting. The vote was unanimous on a roll call vote.

APPROVAL OF MEETING AGENDA

Motion by Genzink, supported by Walkley, to approve the May 19, 2016 meeting agenda. The motion was unanimously approved on a roll call vote.

APPROVAL OF MEETING MINUTES

Motion by Genzink, supported by Walkley, to approve the September 15, 2015 meeting minutes as presented the board. The motion was unanimously approved on a roll call vote.

PUBLIC COMMENTS FOR NON-HEARING ITEMS

None

PUBLIC HEARINGS

Zoning Variance Application from Temple Hill Baptist Church at 1601 West Division St. to allow them to build a new sign that they are proposing be ten feet in height and seven feet, six inches in width. The new total square footage would be 75 square feet. This would require a variance of two feet in height and a variance to allow for an increase of 33 square feet in size from the current 42 square feet.

APPLICANT

Temple Hill Baptist Church
1601 West Division St.
Cadillac, MI 49601

The property site is described as BEG AT A POINT AT THE NW COR OF THE NE 1/4 OF THE NW 1/4 SECTION 5-21-9; TH DUE E ALG THE N LINE OF SAID PARCEL 40 RODS, ESTABLISHING A STARTING POINT TH DUE S PAR WITH THE W LINE OF SAID PARCEL 40 RODS TH DUE E PAR WITH THE N LINE OF SAID PARCEL 20 RODS TH DUE N PAR WITH THE W LINE OF SAID PARCEL, TO THE N BDRY LINE; TH W ALG SAID N BDRY LINE TO THE BEG SAID N BDRY LINE HEREIN STATED BOUNDING W DIVISION ST AND SAID PARCEL HEREIN DESCRIBED CONTAINING SAI ST; AND THE N 660 FT OF THE W 12 RODS OF THE E 1/2 OF E 1/2 OF THE NE 1/4 OF THE NW 1/4 SECTION 5-21-, CITY OF CADILLAC, (Tax Identification Number 10-102-00-055-00). As noted, the common address is 1601 W. Division St., Cadillac, MI 49601.

Bruce Schroder, Board Member at Temple Hill Baptist Church attended.

Chairman Bontrager opened the case stating a variance application has been filed by the applicant. He referred the matter to staff for comment.

Mike Coy, Community Development Analyst, presented a **summary of the ZBA staff report**. In the report Coy noted the following information had been included in the report: variance application, sign design concept, GIS aerial photo, site photographs, and photos of signs on other church properties within the city.

Coy stated the property is located in an R-2 Single Family Residential zoned district. Surrounding properties to the west, east, south, and north are all also zoned R-2.

The applicant is asking for a 33 square foot variance from the maximum size currently allowed at this site which is 42 square feet in size. They wish to install a 75 square foot sign. The applicant is also asking for a two foot variance in height for the proposed sign. Eight foot tall signs are allowed in Single Family Residential districts for institutions such as a church. The current sign stands six feet tall and is seven feet in width at its base for a size of 42 square feet.

The property contains 347,820 square feet (10.36 acres) with 527 feet of frontage on West Division Street. The parcel is 660 feet deep running from south to north. Pictures were displayed of the property using the room monitors. Coy displayed an aerial GIS photograph of the site depicting the applicant's property. Coy added that Kenwood Elementary School property to the immediate south of the church property contains 15.6 acres of land. The church building itself covers roughly ten percent of the church property which is well below the 35 percent of lot area that can be covered with buildings in an R-2 Zoned District.

Coy stated that the variance application would need to be reviewed by two sets of standards. One being from Section 46-69(4) of the City Code of Ordinances and the second being from Section 46-664(j) from the sign ordinance.

Section 46-69(4) reads as follows; the Cadillac City Code states that in consideration of a variance, the Zoning Board of Appeals shall first determine that the proposed variance will not result in conditions which:

- 1) Impair an adequate supply of light and air to adjacent property
- 2) Unreasonably increase congestion in public streets
- 3) Increase the danger of fire or endanger the public safety
- 4) Unreasonably diminish or impair established property values within the surrounding area
- 5) In any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the city.

Standard – *The variance will not impair an adequate supply of light and air to adjacent property.*

Finding – The variance is not anticipated to impair an adequate supply of light and air to adjacent properties. The impacts on light and air to adjacent properties are not considered significant.

Standard - *The requested variance will not unreasonably increase congestion in public streets.*

Finding – The variance is not anticipated to impact traffic volumes. The sign is set back approximately 28 feet from the traveled portion of the road.

Standard – *The requested variance will not increase the danger of fire or endanger the public safety.*

Finding – The requested variance is not anticipated to increase the danger of fire or endanger the public safety. Applicable building and electrical permits will be required.

Standard – *The requested variance will not unreasonably diminish or impair established property values within the surrounding area.*

Finding – The requested variance is not anticipated to unreasonably diminish or impair established property values within the surrounding area.

Standard – The requested variance will not impair the public health, safety, comfort, morals, or welfare of the inhabitants of the city.

Finding – The requested variance is not anticipated to impair the public health, safety, comfort, morals, or welfare of the inhabitants of the city.

Coy said that notification of the public hearing on this application was given via first-class mail to all property owners and residents within 300 feet of the subject site and a notice of the hearing was placed in the Cadillac News. These notices were provided not less than 15 days prior to the hearing date. Coy added that he received a letter today from the Moriarty's who live at 417 Leeson Avenue in favor of the ZBA granting the variance. A copy was given to each board member prior to the meeting.

Coy began discussion of Section 46-664(J)(3) which are the *Standards* within the sign ordinance used for granting variances. Copies of Section 46-664(J) were given to each board member and to Mr. Schroeder. Coy suggested open discussion as they go through the ten standards in this section. The standards within the ordinance read as follows:

- (3) **Standards.** The standards for granting variances shall be that all of the following conditions must be met:
- a. Variances may be granted only when it can be clearly demonstrated that hardship or practical difficulty will in fact exist if the variance is not granted.
 - b. The mere fact that other larger signs constructed under prior sign ordinances do exist in the area shall not be sufficient reason to declare hardship nor practical difficulty.
 - c. In no case shall a variance be granted if it is determined by the board of appeals that the appellant has created the hardship or practical difficulty.
 - d. Before a variance is granted, it must be shown that the alleged hardships or particular peculiar difficulties of the person requesting the variance result from conditions which do not exist generally throughout the city.
 - e. The applicant for a variance shall be prepared to furnish a site drawing, photographs, and/or any other means of proof to the board of appeals to so indicate that hardship or practical difficulty does in fact exist.
 - f. The term "hardship" shall not be deemed financial hardship relating to the cost of the sign or the size of the sign or to the fact that the sign has already been constructed, or the fact that the sign is only available in standardized sizes and/or materials.
Example: franchised business signs.
 - g. The alleged hardships and practical difficulties, or both, which will result from a failure to grant the variance must include substantially more than mere inconvenience, or mere inability to attain a higher financial return.
 - h. It must be shown that allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this section, the individual hardships that will be suffered by a failure of the board to grant a variance, and especially the rights of others whose property would be affected by the allowance of the variance.
 - i. The above findings of fact shall be made by the board of appeals, which is not empowered to grant a variance without finding of fact in each of the categories above. Every finding of fact shall be supported in the record of the proceedings of the board.
 - j. Nothing contained herein shall be construed to empower the board of appeals to change the terms of this section or to add to the types of signs permitted on any premises.

Coy started by pointing out from the pictures of the current sign that the base was cracking. Temple Hill Baptist Church wishes to replace the older sign with a new one that has modern features. The current sign is set back safely from the building and Division Street. He added that a new sign should in no way diminish property values in the neighborhood. Bontrager asked about the new sign location. Coy answered it will be located in a spot nearly identical to the current sign. In going through the standards a through j, he pointed out that Temple Hill is not claiming a hardship nor have they created a hardship. They just wish to have a new larger sign with more modern features to replace their aged one.

He also showed on the screens pictures of signs located elsewhere in Cadillac giving brief descriptions. The United Methodist Church (UMC) sign is eight feet tall and twelve feet in width. Total square footage is 96 square feet including the base. Walkley added that the Zoning

Board of Appeals may have approved the UMC sign. The Seventh Day Adventist sign is seven feet high and a total square footage including the base of 68 square feet. The Life House Assembly of God sign is eight and a half feet tall and twelve feet wide where there is the sign copy. It has a large base which is a flower planter. The base is wider than the twelve foot sign.

Coy added that board member Nichols who could not attend today told Coy the Temple Hill sign is difficult to see traveling from east to west because trees block the view.

Genzink asked Mr. Schroeder about the ability of their proposed sign to change copy. Schroeder explained that it would be changeable from inside the church office from a computer. Schroeder added that the current sign is coming apart with the mortar cracking.

Knight said he felt it is important to not look at past signs for guidance. He gave an example of the high school having a very appropriate sized sign that changes copy via remote feed. He added that the church can spruce up their current sign and no variance is needed. He feels we need to follow the current rules within the ordinance.

Genzink asked what the exact rules are for signs in residential districts. Coy answered that in Schedule A of Section 46-664 in Group 1 it allows for a maximum square footage of six square feet at a maximum height of eight feet. In a different section (46-664(d)(2)(f) describing exempted signs it states that institutional announcements for religious purposes can place up to two signs on premises with a maximum of eighteen square feet per sign, not to exceed six feet in height.

Knight added that he feels it's important not to look at what's been done in the past. They have an existing footprint and said we have an ordinance for a reason. If we continue to allow for larger signs, where will it end? Genzink added he's having a hard time separating past practices.

Paveglio spoke and said that point B in the standards makes it clear that other larger sign's is not a reason for hardship on the part of an applicant.

Schroder spoke and said that DK Design worked with the sign company to come up with a design that is trendy and more common with new signs.

Paveglio added that if the ordinance needs changing then that is up to the Planning Commission and City Council not this board. Coy said that the sign ordinance is different in other zoned districts. For example the monument signs at the Chamber of Commerce and Library are in a B-1 District and needed Planning Commission approval not this board approval.

Engels brought up the size as the issue. Knight added the applicant is not being denied being able to replace their sign with a new one of a more modern design. It's just the size that is the problem. Walkley added she is troubled with the hardship here. They can still do a new sign just smaller than their concept.

Schroeder was given an opportunity to speak and asked the board to approve the application as requested.

There being no additional public comments, Chairman Bontrager closed the public speaking portion of the hearing and asked board members for a motion.

After discussion Knight made a motion to deny the applicants request for a variance of two feet to exceed the maximum height allowed of eight feet and for a variance of 33 square feet to increase the current sign size in square footage to 75 square feet from its current 42 square feet. The reason is that there is not a clearly demonstrated hardship or practical difficulty for the applicant if the variance is not granted. (Section 46-664(j)(3)(a)) The applicant can still replace their current sign with a new one. Motion supported by Pavelio. On a roll call vote, the motion passed unanimously.

ZBA MEMBER COMMENTS

Paveglio asked if maybe a Planned Unit Development application to the Planning Commission to change the status of the Temple Hill Baptist property might be an option for the church with their sign request. Coy said he will check further. Engels asked if this board can make a recommendation to the Planning Commission to make a change in the ordinance. Coy said he believes the Zoning Board of Appeals can. Coy recommended a meeting that would serve as a workshop to discuss the specifics first. Knight mentioned to be careful what you ask for. He has two churches in his neighborhood and he would hate to see them have large flashing signage. Coy added that scale has an effect. Some churches in the city have properties without a lot of street frontage separating neighboring properties. Walkley added that had the Temple Hill sign been scaled down in size she would have been more inclined to approve it.

New Business

Election of officers to the Zoning Board of Appeals for 2016.

Engels made a motion to table the election of officers until they next meet. Supported by Genzink. The motion passed unanimously.

Public Comments, other business, board member comments - None

ADJOURN

Chairperson Bontrager adjourned the meeting at 6:50p.m.