



**MEETING MINUTES
Cadillac Zoning Board of Appeals
5:30 P.M.**

January 21, 2021 Virtual Meeting on GoToMeeting.com

CONVENE MEETING

Chairperson Nichols called to order a meeting of the Cadillac Zoning Board of Appeals at 5:30 p.m. on January 21, 2021

ROLL CALL

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

APPROVAL OF MEETING AGENDA

Motion by Knight to approve the January 21, 2021 agenda. Support by Ault. The motion was unanimously approved on a roll call vote.

APPROVE THE NOVEMBER 19, 2020 MEETING MINUTES

Motion by Paveglio to approve the November 19, 2020 meeting minutes as presented. Support by Knight. The motion was unanimously approved on a roll call vote.

PUBLIC HEARINGS-

1. Application from Phil Seybert with P.S. Equities, Inc. for an extension as required in Section 46-72(b) in the ordinance for him to obtain the needed building, demolition, and soil erosion permits for the development of the Cadillac Castle Senior Apartments on South Mitchell Street. Coy spoke and explained that Mr. Seybert is planning to again apply for federal housing credits administered through the Michigan State Housing Development Authority (MSHDA). Our ordinance reads that if construction on a development is not started within one year the developer will need to come back before the ZBA for an extension. Coy added that there are no changes to the most recent plan Mr. Seybert submitted to the city in 2019 and no additional variances are being requested.

Mr. Seybert spoke and said he's heard from the MSHDA that with this one round of applications for the program in 2021 the MSHDA will allow for more consideration on projects in rural communities. In the past, the housing credits have been given almost exclusively to developments in larger cities such as Detroit and Lansing.

A motion was made by Knight to extend for one year the time for Mr. Seybert and P.S. Equities to apply for needed construction permits. Support from Ault. On a roll call vote the motion passed with a unanimous vote.

2. Application from Fresh Coast Provisioning, LLC (Dunegrass Co.) for a variance to construct a projecting sign that will extend 60 inches from the west wall at 115 N. Mitchell Street off Elk Avenue and to be of a total size of 13.875 square feet. Both the projection and size require a variance from the standards allowed in the B-2 Central Business District. The Sign Ordinance in Section 46-664, Schedule B for the B-2 Central Business District reads that for projecting signs over a public right-of-way the projection cannot exceed 42 inches and the size cannot exceed six square feet. Members of the Zoning Board of Appeals were given in their meeting packets a copy of the narrative from Fresh Coast Provisioning explaining their reasons for why approving the variance application would be appropriate. In attendance was Nick Piedmonte CEO of Fresh Coast Provisioning/Dunegrass and Tom Amor with Amor Sign located in Manistee.

Coy said that signage for retail recreational businesses if located downtown can only be placed on the rear of the building and are not allowed on the Mitchell Street side of the building. Knight asked who made this a condition and Coy answered City Council. Coy added that this is in the B-2 Core Downtown Business District only and does not apply in the B-3 General Business District.

Coy went over the standards for approving a variance in the City Ordinance and the standards in the Michigan Zoning Enabling Act 110 of 2006.

The standard in Section 46-69(2) from the City Code of Ordinances reads, "To authorize, upon an appeal, a variance from the strict application of the provisions of this chapter where by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property at the time of enactment of this chapter or by reason of exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon the owner of such property, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter."

Next Coy went over the standards in Section 46-69(4) of the Cadillac City Code. The standards state that in consideration of a variance, the Zoning Board of Appeals shall first determine that the proposed variance will not result in conditions which:

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

Finding – The requested variance is not anticipated to impair an adequate supply of light and air to adjacent properties.

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

Finding – It is expected that traffic will increase on Elk Avenue but not because of the sign or variance application. The marihuana retail businesses in the city downtown area cannot have an entrance on Mitchell Street leaving Elk Avenue as the only alternative. A concern Coy has is that the proposed sign will project over Elk Avenue which is a public street where delivery vehicles and city vehicles such as snowplows travel.

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

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

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

Finding – Staff feels this will not negatively impact neighboring property values. Coy added that the building owner has made significant improvement to both the interior and exterior of the property.

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 concluded by saying that he could not identify a practical difficulty and the applicant can explain further the information in the narrative provided.

PUBLIC NOTICES

Coy said that notification of the public hearing on this application was published in the local newspaper and sent via first-class mail to all property owners and residents within 300 feet of the subject site not less than 15 prior to the meeting. Two property owners contacted his office. One submitted a letter to City Hall this morning objecting to the variance request and Coy emailed it to the ZBA members. The second property owner had a general question and did not express an opinion either for or against the project.

Coy finished his presentation with “based on a finding of compliance or non-compliance with the standards of the ordinance, the Board shall approve, approve with conditions, or deny the variance application.” Reasonable conditions may be attached to an approval in-order to achieve compliance with the standards of the ordinance.

Nichols opened the floor up for questions from the ZBA and discussion from the applicant.

Knight asked for Coy to briefly explain the letter from the property owner opposing the variance request as it was sent to Coy today and not included in the board packets with information. Coy said Mr. Tianen feels there are two reasons the application should be denied. One, there is the absence of a practical difficulty or hardship that meets the standards in the Michigan Zoning Enabling Act. Secondly, the applicant admits they are creating their own practical difficulty. Coy added that the applicant in his narrative feels there is a unique condition that is not applicable to other businesses downtown.

Knight spoke and said the ZBA has already given variances for this type of signage to Clam Lake Beer and we cannot pick and choose who we give variances to. Nichols spoke and said he feels

each case they review has it's own plus and minuses to consider. Coy added that the square footage size is similar to the Clam Lake sign but the extension from the wall is more. Clam Lake applied for a three-inch variance from the allowed 42 inches. Dunegrass is requesting an 18-inch variance from the standard. He also added that because the sign will extend over the traveled portion of Elk Avenue that City Council may need to approve the encroachment.

Mr. Piedmonte, CEO of Dunegrass spoke. He said Dunegrass has opened retail stores in Manistee and Big Rapids. They were chosen and granted one of two recreational marihuana permits within the City of Cadillac through an exhausting process and their Special Land Use for this retail store was approved by the Cadillac Planning Commission at their October 2020 meeting. He said in his perspective the hardship is created by permit restrictions for retail marihuana businesses. He mentioned the two layers of permitting process the city has which is restrictive because other downtown businesses do not have the same restrictions. As an example, he said other businesses on Mitchell Street have access to their stores off Mitchell Street. They are only allowed access for customers off the rear which is Elk Avenue. Also, they are not allowed signage on the Mitchell Street side of the building. He added that the size of sign they wish to have is needed to be effective. The oval design is a function of their corporate logo and the projection needed. Additionally, there is a utility pole not far from the canopy which partially blocks the view of the entrance area.

Knight said he does not see how the utility pole will interfere with the sign.

Mr. Amor, who's business Amor Sign is located at 432 Fourth Street in Manistee spoke about the design and size of the lettering on the concept. Knight asked about the sign interfering with delivery vehicles. Coy said the sign would as is would definitely project over the traveled portion of Elk Avenue and added that wall signs could be used including the south wall. Nichols added that neighboring businesses have wall signs and they seem adequate. He does not feel a projecting sign should project over Elk Avenue. Piedmonte spoke and said that the neighboring businesses have their wall signs on Mitchell Street which he would prefer. Adding that maybe they could work with a small projecting sign.

Knight asked if this projection could interfere with traffic in the alley. Coy explained that the existing canopy sticks out 48 inches from the wall and the proposed projecting sign would stick out an additional 12 inches. Knight added that he feels this is a destination business and that the signage is not going to be a make it-or break it factor for the business success. Nichols added that the projection over the traveled portion of the avenue is a concern.

Paveglio asked if this is a new ordinance adopted by the city? Coy said yes, the marihuana retail business is new to the ordinance in 2020. Piedmonte gave a timeline of when the ordinance was adopted in early 2020 and when his firm was granted one of the two retail licenses. Coy also answered that when this business use was added to the ordinance the sign ordinance was not changed.

Paveglio mentioned that the marihuana ordinance does address signage and that City Council considered it in the wording of the ordinance in Section 46-752. He read from Sec. 46-752(6) "Signage for marihuana establishments may be approved pursuant to the generally applicable

procedures and standards provided in Section 46-664” regulating signage. Not allowing signage on Mitchell Street was considered by council.

Paveglio also mentioned the second standard for granting a variance which basically says, “because we’ve approved something in the past does not mean we should grant it in the future”. Things may change. When he read the applicant’s narrative he got the impression that the hardship is they can only have signage on one side, the rear of the building. He agrees that this will be a destination business.

Mr. Piedmonte spoke and said the practical difficulty is a reasonable debate. He added that our ordinance includes language that says effective signage is necessary for the commerce, health, and safety of our community. He feels a projecting gives them the best visibility.

Nichols spoke and said he is not objecting to a projecting sign, but he personally thinks this is too big. Piedmonte added that the size of this sign is comparable to Clam Lake in square footage and said this was not by accident. They used the Clam Lake sign as an example. Knight added that as a business owner for over 30 years he understands the importance of good signage. The difference is that the Clam Lake sign is over a sidewalk and this sign is over a street. He agrees they are being penalized by not being able to have signage on Mitchell Street. He asked the applicant could they fit a sign within the criteria they (ZBA) are looking for. Mr. Amor spoke about the downtown sign ordinance in Manistee allows for projecting signs to be up to sixteen square feet and that in determining the size safety is considered.

Knight asked Coy if the city has a recommendation for the size? Coy said the ordinance allows for a projecting sign of 42 inches and that the canopy over the door sticks out 48 inches and talked about the other projecting signs downtown. There was a discussion over the height and Coy clarified that the downtown sign ordinance regarding height is specific to the Mitchell Street side of buildings. There was also discussion about a ADA assessable ramp for the rear of the building that needs City Council approval.

Paveglio said “I don’t feel this meets the standard of a practical difficulty”. Genzink asked the applicant if they could make a 48 inch projecting sign work? Genzink feels a 48 inch projection would work. Piedmonte answered they would need to re-think their design, but it is a possibility. Bontrager questioned if the bracket could be moved closer to the building which would lessen the projection.

After no further comment.

A motion was made by Knight to approve the variance application as presented from Dunegrass, Co. for a projecting sign with the dimensions shown on the concept the applicant provided. Support from Genzink. (This will allow for an 18 inch extension beyond the 42 inches allowed in the ordinance and an allowance of an additional 7.875 square feet above the 6 square feet allowed in the ordinance for a projecting sign in the B-2 Central Business District.)

On a roll call vote the motion was denied with a split vote of three for and three against.

- Votes for were Knight, Bontrager, and Genzink
- Votes against were Paveglio, Ault, and Nichols

PUBLIC COMMENTS

Nichols opened the meeting to public comments and there were none.

ELECTION OF OFFICERS FOR 2021

A motion was made by Paveglia for Nichols to continue as Chairperson and Ault to continue as Vice-Chairperson in 2021. Support from Genzink. On a roll call vote the motion passed with unanimous support.

BOARD MEMBER COMMENTS –

Nichols asked a question on the Krist Oil site. He asked if the city sewer line running through the site will need to be moved as was originally discussed. Coy said he will get back to the ZBA after talking with the City Utilities Director.

Coy emailed the ZBA the next day after discussing with Utilities Director Jeff Dietlin and yes the sewer line will be moved and the developer, Krist Oil will be paying for it. The Utilities Director added that the final site plan was reviewed by the City Engineer.

ADJOURN

Chairperson Nichols adjourned the meeting at 6:48pm.