

**CITY OF LINDEN
ZONING BOARD OF APPEALS
SPECIAL MEETING MINUTES**

Tuesday, November 9, 2021

7:00 p.m.

CALL TO ORDER

The special meeting of the Linden Zoning Board of Appeals was called to order at 7:00 p.m. by Chairperson Scott Ward. The meeting was held within Council Chambers, on the lower level of the Mill Building located at 201 North Main Street, Linden, Michigan.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited by all present.

ROLL CALL

PRESENT: Chris Kinyon, Dan McComb, Scott Ward, Esther McDaniel, Betty Ciesielski,
Brad Dick

ABSENT: None.

OTHERS PRESENT: Ellen Glass, City Manager (participating remotely from Shiawassee County),
Adam Young, City Planner/Zoning Administrator, Kristyn Kanyak, Deputy Clerk

MINUTES APPROVAL

Motion by Ciesielski, second by McDaniel to approve the minutes of the September 14, 2021 Special Zoning Board of Appeals Meeting. Motion carried 6-0.

PUBLIC HEARING

(A) ZBA-03-21 604 West Broad St. – Variance for ATM Structure Signage

Young reviewed the proposed signage and the reasoning for the variance request, as well as the purpose of the public hearing.

Ward opened the public hearing at 7:06 p.m.

The applicant, James Niestroy of Bill Carr Signs, was present and explained the proposed signage, and shared images with Board Members of a finished installation at another location. Brief discussion regarding the former ATM and signage.

Stacey Webb, Senior Vice President in charge of facilities for The State Bank, explained the signage's importance for this particular machine's location, and discussed the need for visibility.

Ward closed the public hearing at 7:13 p.m.

Brief discussion regarding the property ownership and location.

CITIZEN'S COMMENTS

None.

COMMUNICATIONS

None.

Ward verified with City Staff if there was any communication received from the previous meeting.

UNFINISHED BUSINESS

None.

NEW BUSINESS

(A) ZBA-03-21 604 West Broad St. – Variance for ATM Structure Signage

Young reviewed his staff report: We are in receipt of an application submitted by Bill Carr Signs on behalf of property owner Yono Capital Investments, LLC, requesting a variance from the provisions of the City of Linden Zoning Ordinance to allow signage on The State Bank's proposed ATM kiosk structure, which exceeds the maximum number, size and height allowances for ground signage.

The subject site, Property ID No. 61-19-400-017, is approximately 8.2 acres in size and is occupied by the Alpine Plaza multi-tenant commercial shopping center. For many years (installation date unknown), The State Bank has maintained a stand-alone ATM kiosk within the off-street parking lot of the shopping center. The ATM kiosk is located on a designated lease space within the site (Property ID No. 61-19-776-001). The Alpine Plaza site is zoned GC, General Commercial District.

The State Bank is proposing to replace the existing ATM kiosk with a new ATM kiosk. The new ATM kiosk is proposed to include several forms of signage, as follows:

- The primary sign element is the vertical, 13.9-foot-tall ATM column that is proposed to have branding/signage for The State Bank on essentially the entire face of each side of the column. As a stand-alone column, not technically connected to the ATM, it is our opinion that this column with signage meets the definition of a ground sign, being “a three-dimensional, self-supporting, base-mounted freestanding identification sign, consisting of two or more sides extending up from the base, and upon which a message, business, group of businesses, or center name is affixed.” Typical ground signs are two-sided, but this column has signage on all four sides. Each column face is 41.75 square feet in area. For a two-sided sign, the ordinance normally only counts the area of one side; being a four-sided sign, it is our opinion that the zoning ordinance considers the total area of this sign to be the total area of two sides, which is 83.5 square feet (41.75 sq. ft. x 2).
- The secondary sign elements are the proposed white text on the horizontal canopy/beam that is connected to the column. The signage consists of “ATM” text on all four sides of the horizontal canopy (1.06 sq. ft. in area for each), and “CLEARANCE 10 FT” text on one side of the horizontal canopy (2.6 sq. ft. in area). It is our opinion that the Zoning Ordinance considers these signs to be directional signs, defined as “a sign which gives directions, instructions, or facility information for the use on the lot or parcel on which the sign is located, such as parking or exit and entrance signs.”

Please note that portions of the ATM kiosk and signage will be illuminated. The top-most portion of the ATM column (above the horizontal canopy) will be internally illuminated. The bottom portion of the ATM column will be indirectly illuminated from lights mounted on the underside of the horizontal canopy. The white “ATM” and “CLEARANCE 10 FT” lettering on the horizontal canopy will also be internally illuminated.

Within the Zoning Ordinance, there are no specific or special allowances for signage on stand-alone ATM kiosks. We therefore must apply the existing standards related to ground signs for the GC District, which are outlined in Section 154.158 of the Zoning Ordinance. Per Section 154.158, (A), (1), only one ground sign is permitted per lot that has frontage on only one public road. Presently, the Alpine Plaza property already has a ground sign. Therefore, a variance from Section 154.158, (A), (1) is needed to allow a second ground sign. Per Section 154.158, (B), the maximum height for a ground sign in the GC District is 6 feet. The maximum area for a ground sign in the GC District is 50 square feet. This proposed ground sign (ATM column) exceeds both. Therefore, a variance from Section 154.158, (B) is needed to allow a ground sign that is taller and larger than allowed by ordinance.

For the proposed secondary signage (directional signs), Section 154.156, (F) of the Zoning Ordinance allows directional signs, “provided they shall not exceed two square feet in size, shall contain no

advertising, and shall not be illuminated.” The proposed directional signs will be illuminated, and the “CLEARANCE 10 FT” sign is larger than 2 square feet. Therefore, a variance from Section 154.156, (F) is needed to allow illuminated directional signage and directional signage greater than 2 square feet in area.

Related to this variance request, we note the following findings of fact:

- The City’s sign regulations were not developed with stand-alone ATM kiosks in mind. There are no specific or special allowances for signage on stand-alone ATM kiosks.
- As a stand-alone ATM kiosk that is part of a larger shopping center, but which is operated by a financial institution that is not located within the shopping center, it is reasonable to conclude that some signage is necessary to advertise the presence of the ATM kiosk.
- For multi-tenant shopping centers, the Zoning Ordinance provisions allow wall signage for each business store front (see Section 154.159, (A), (4)). As the ATM kiosk is not a building and has no walls, it can be said that the ATM kiosk does not have the same avenue to advertise its presence that is enjoyed by the other businesses within the shopping center.

In evaluating the request and the existence of a practical difficulty, the Zoning Board of Appeals shall consider the standards of Section 154.218, (E), (2) of the Zoning Ordinance. These standards are as follows:

- a. That the ordinance restrictions unreasonably prevent the owner from using the property for a permitted purpose;
- b. That the variance would do substantial justice to the applicant as well as to other property owners in the district, and a lesser relaxation than that requested would not give substantial relief to the owner of the property or be more consistent with justice to other property owners;
- c. That the plight of the landowner is due to the unique circumstances of the property; and
- d. That the alleged hardship has not been created by any person presently having an interest in the property.

Ward and Niestroy discussed the size of the signage, as well as the purpose of the signage’s cantilever and clearance concerns. Kinyon commented on the illumination and discussed use of reflective lettering. Ciesielski discussed the necessity for the canopy illumination for vehicles maneuvering within the parking lot. Young reviewed the portions which are proposed to be illuminated.

Niestroy and Webb explained the positioning of the concrete pad with ZBA Members, and verified where the canopy would extend to. ZBA Members and Niestroy discussed the possibility of the canopy getting hit. Young briefly explained the need for a Zoning Permit from the applicant. ZBA Members further discussed reducing the canopy’s size. Young discussed the improved approach for vehicles pulling in to the parking lot, should the size be reduced. Discussion regarding the other existing business signage in the parking lot.

Kinyon and Niestroy discussed the height of the tower, relative to the illumination, design and aesthetics. ZBA Members discussed reducing the cantilever’s size and its effect. Niestroy and ZBA Members reviewed images of a completed project at a different location and discussed in detail.

Discussion amongst Board Members and Young regarding the potential motions.

Motion by Ward, second by Ciesielski to approve a variance from Section 154.158,(A),(1) to allow a second ground sign, after finding all standards for evaluation apply, standards a-d. Roll call. Motion carried 6-0.

AYES: Kinyon, McComb, Ward, McDaniel, Ciesielski, Dick

NAYS: None.

ABSENT: None.

Motion by Ciesielski, second by McDaniel to approve a variance from Section 154.158,(B) to allow a ground sign that is taller and larger than allowed by the ordinance as proposed, after finding all standards for evaluation apply, standards a-d. Roll call. Motion 5-1.

AYES: Kinyon, McComb, Ward, McDaniel, Ciesielski

NAYS: Dick

ABSENT: None.

Motion by Ward, second by Dick to approve a variance from Section 154.156,(F) to allow illuminated directional signage and directional signage greater than 2.6 square feet as proposed, after finding all standards for evaluation apply, standards a-d, conditioned upon the reduction of the canopy length from 172 inches to 148 inches; maintaining 140 inches in width. Roll call. Motion carried 6-0.

AYES: Kinyon, McComb, Ward, McDaniel, Ciesielski, Dick

NAYS: None.

ABSENT: None.

ZBA Members briefly discussed the possible signage installation timeline with the applicant.

Members briefly discussed the possibility of updating of the sign ordinance.

(B) 2022 Meeting Schedule

Kanyak reviewed the 2022 Meeting Schedule for the Board enclosed within the agenda packet.

Ward and City Staff discussed receiving the agenda packets sooner.

COMMISSIONER/COMMITTEE REPORTS

None.

ADJOURNMENT

Motion by McDaniel, second by Kinyon to adjourn the meeting. Motion carried 6-0. The meeting was adjourned by Chairperson Ward at 8:21 p.m.

Respectfully Submitted,

Kristyn Kanyak, Deputy City Clerk

Approved: _____