

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES

February 14, 2012

Vice-Chairman E. Fordham called the meeting to order at 4:01 p.m. and roll was taken.

MEMBERS PRESENT: E. Fordham, R. Hilt, S. Wisneski, S. Brock, B. Larson, T. Halterman

MEMBERS ABSENT: J. Clingman-Scott, excused; W. German Jr.

STAFF PRESENT: M. Franzak, H. Mitchell

OTHERS PRESENT: K. Newton, Executive Director of the Muskegon Rescue Mission.

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of December 13, 2011 be approved was made by B. Larson, supported by S. Brock and unanimously approved.

ELECTION OF OFFICERS

A motion to retain R. Hilt as Chairman and E. Fordham as Vice-Chairman was made by B. Larson, supported by S. Brock and unanimously approved.

PUBLIC HEARINGS

Hearing Case 2012-001: Request for a variance from Section 2334: Signs, to allow a sign to be erected, exceeding the allowed number of signs, at 400 W Laketon Ave, by the Muskegon Rescue Mission. M. Franzak presented the staff report. The zoning ordinance only allows for one freestanding sign per property, in any zoning district. A variance must be granted to allow the additional sign. There is already a legally non-conforming sign on the property. The pole sign currently on the property is considered legally non-conforming because the property is now zoned RM-2 and pole signs are not allowed in residential districts. The zoning of the parcels to the west is B-4, General Business District. Parcels to the east are zoned B-4, and I-2, General Industrial District. Parcels to the north and south are zoned I-2, General Industrial District. The property has 348 feet of frontage on Laketon Ave, 284 feet of frontage on Park St, and 61 feet of frontage on Seventh St. A notice letter was sent to all properties within 300 feet of this property. There were no inquiries or comments regarding the proposed sign. The commission members were supplied with a site plan for pictures, measurements and placement of the proposed sign.

E. Fordham had asked if the sign that was on the site plan was for this case. M. Franzak stated that it was for the next case. K. Newton gave an overview of the process the Rescue Mission had gone through with the construction of the new facility and the demolition of the older structure. This sign had been brought over from the Rescue Mission's location when it was located downtown on Pine Street. He stated that they do plan on fixing this sign if the new sign is approved. E. Fordham asked if the sign would be lighted once it is fixed. K. Newton stated that they didn't plan on lighting it but they do plan on fixing the sign and painting the pole. R. Hilt asked if the Rescue Mission had a sign on their former building before it was demolished. K. Newton stated that they had a message sign before. S. Brock asked if there was a need for a

variance when the Rescue Mission had the message sign on the building. M. Franzak stated that they didn't need one for it because one was on the building and the other was a freestanding and both were allowed based on the zoning ordinance. They could still have a wall sign even if the variance is granted. E. Fordham asked if the applicant had plans for a different sign should the variance not be granted. K. Newton stated that they weren't sure. M. Franzak had brought up a recent sign application for a bank that wanted to have another freestanding sign. The bank already had one freestanding sign for the ATM and not the bank's name. The ordinance says their existing freestanding sign was still a sign when it was erected even if it didn't have the bank's name on it. R. Hilt asked why they wouldn't want to have the existing sign lighted due to the fact it is a neon sign and does need maintenance. He stated that if the sign wasn't going to be lighted that the glass be removed. K. Newton stated that they would fix the sign and pole but and to not have it lighted unless it is required. E. Fordham thought it would be a shame to have the applicant remove the sign. K. Newton stated that they didn't want to remove it. The sign has sentimental value to the Rescue Mission and their donors. S. Brock stated that he had never noticed the sign in the past until this application was submitted. He noticed the sign was in disrepair when he did look for it.

A motion to close the public hearing was made by B. Larson, supported by S. Brock and approved with R. Hilt abstaining.

A motion that the findings of fact determined by the Zoning Board of Appeals be adopted and that the variance request to allow for an additional free standing sign at 400 W Laketon Avenue be approved, based on the following review standards (found in Section 2502 of the Zoning Ordinance) and subject to conditions: That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district. That such dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity. That the authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest. That the alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner. That the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner. That the requested variance is the minimum action required to eliminate the difficulty, with the following conditions: 1) That the additions to the property must be complete within one year (Sec. 2504) or the variance is void. 2) The additional signage is built and located as indicated in the site plan provided for Case 2012-001. 3) The variance is recorded with the deed to keep record of it in the future. 4) The owners make every conceivable effort to relight the existing sign, was made by B. Larson supported by S. Brock and approved with R. Hilt abstaining.

Hearing Case 2012-002: Request for a variance from Section 2334: Signs, to allow a pole sign to be erected in a residential district, at 400 W Laketon Ave, by the Muskegon Rescue Mission.

M. Franzak presented the staff report. The only type of freestanding sign that the zoning ordinance allows for in a residential district is a monument sign up to 32 sq. ft. and 8 feet in height. The proposed sign is considered a pole sign. Monument sign: A sign affixed to the ground with a full footing where the display surface is less than two (2) feet above the grade to the bottom of the display area. Pole Sign: An advertising structure which is supported by one or more uprights in permanent footings with all parts of the display surface of the sign eight (8) feet or more above the grade at the base of the sign. There is already a legally non-conforming sign on the property. The pole sign currently on the property is considered legally non-conforming because the

property is now zoned RM-2 and pole signs are not allowed in residential districts. The zoning of the parcels to the west is B-4, General Business District. The parcels to the east are zoned B-4, and I-2, General Industrial District. The parcels to the north and south are zoned I-2, General Industrial. The property has 348 feet of frontage on Laketon Avenue, 284 feet of frontage on Park St, and 61 feet of frontage on Seventh St. A notice letter was sent to all properties within 300 feet of this property. There were no inquiries or comments regarding the proposed sign. Please see the attached site plan for pictures, measurements and placement of the proposed sign.

E. Fordham asked about the zoning. M. Franzak explained that in order for the applicant to construct the building that is there now, the property needed to be rezoned to RM-2. E. Fordham asked if the sign would be allowed if the property were zoned commercial. M. Franzak stated that it would due to the amount of street frontage that is there. The board members discussed the damage that would be done if this were to be a monument sign that was on the ground due to the distance from the building to the road. The plows would end up plowing the snow into it causing damage.

A motion to close the public hearing was made by B. Larson, supported by R. Hilt and unanimously approved.

A motion that the findings of fact determined by the Zoning Board of Appeals be adopted and that the variance request to allow for a pole sign at 400 W Laketon Avenue be approved, based on the following review standards (found in Section 2502 of the Zoning Ordinance) and subject to conditions: That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district. That such dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity. That the authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest. That the alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner. That the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner. That the requested variance is the minimum action required to eliminate the difficulty, with the following conditions: 1) That the additions to the property must be complete within one year (Sec. 2504) or the variance is void. 2) The signage is built and located as indicated in the site plan provided for Case 2012-002. 3) The variance is recorded with the deed to keep record of it in the future, was made by B. Larson, supported by S. Brock and approved with R. Hilt abstaining.

OLD BUSINESS

None

OTHER

The commission members discussed the findings of fact and how everything doesn't fit equally within each of them. E. Fordham gave an example of how some homes do not have a back yard due to the home having a street running in front and behind the home so they wouldn't fit in the findings of fact either. M. Franzak stated that the findings of fact are what the Michigan Zoning and Enabling Act had created.

There being no further business, the meeting was adjourned at 4:41 p.m.