

Chair
Christopher LaGrand
Vice-Chair
Steve Gobbo
Secretary
Robert Reese, III
Board Members
Johanna Balzer, Trustee
Donald Riel
Andrew Richards
Jeff Carpenter



1401 W. Herbison Road
DeWitt, Michigan 48820
Phone 517.669.6576
Fax 517.669.6496
www.dewitttownship.org

Planner
Tory Niewiadomski

Planner
Brett Wittenberg

Recording Secretary
Linda K. Parkinson

**ZONING BOARD OF APPEALS
MINUTES
WEDNESDAY, FEBRUARY 19, 2014
7:00 P.M.**

The regularly scheduled meeting of the DeWitt Charter Township Zoning Board of Appeals meeting was called to order at 7:00 p.m. by Chairman LaGrand.

The Pledge of Allegiance to the Flag was said by those present.

ROLL CALL by Secretary Reese.

MEMBERS PRESENT: Jeff Carpenter, Steve Gobbo, Donald Riel, Christopher LaGrand, Robert Reese, and Trustee Balzer.

MEMBERS ABSENT: Andrew Richards.

APPROVAL OF AGENDA: Gobbo moved to approve the agenda as presented. Supported. **MOTION CARRIED.**

APPROVAL OF MINUTES: Balzer moved to approve the minutes of the October 16, 2014 Meeting as printed. Supported. **MOTION CARRIED.**

CORRESPONDENCE: The Committee and Commission Meeting Dates for Year 2014 were received and noted.

PUBLIC COMMENTS: None.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

- I. PUBLIC HEARING - Appeal 14-770001 – From Jessie Stipcak**, requesting a variance of 44 parking spaces by providing 86 parking spaces for a proposed restaurant expansion that requires by Ordinance (Section 42-1239) a minimum of 130 parking spaces. The subject property is located at 16460 S. US 27, Lansing, MI 48906 (Parcel #050-033-100-010-00), on the west side of S. US 27, south of Hickory Street, north of Mak-Tech Drive, in the northeast ¼ of Section 33 of DeWitt Charter Township.

- A. Open Public Hearing. **Chairman LaGrand declared the Public Hearing opened at 7:05 p.m.**
- B. Administrative Comments/Applicant/Public Comments.

Assistant Planner Tory Niewiadomski briefly reviewed staff's report dated February 12, 2014 pointing out the location of the site. He further advised that the applicant, Jessie Stipcak, is currently the owner of Reno's East and Reno's West Sports Bars. She is considering purchasing the subject site (Rookies) and making it Reno's North. She is proposing the construction of a semi enclosed outdoor patio area. The applicant is requesting a variance of 44 parking spaces by providing 86 spaces for a proposed restaurant expansion that requires by Ordinance a minimum of 130 parking spaces.

Niewiadomski stated the subject property currently has a legal non conforming midget race track located directly behind the existing building. It has been in existence prior to the Zoning Ordinance being in effect (1977). At the February 3, 2014 Planning Commission meeting the applicant was granted conditional approval for a site plan for this property. The approval was to allow the applicant to make some enhancements to the existing site by adding 2 outdoor volleyball courts and an expansion of a semi enclosed patio space on the east side of the building. The applicant is also proposing to reconfigure the existing paved parking area.

Niewiadomski went on to explain the intent of Off Street Parking Requirements is to promote public safety by providing adequately maintained parking and loading areas on property by providing minimum standards. Parking requirements are in place to assure that there is a sufficient number of parking spaces to meet the peak demand for a given use.

Based on information gathered by staff it was concluded that at the Reno's West location every 2.7 persons requires 1 parking space. The Township's current Ordinance requirements for the subject site would be close to 1.9 persons per parking space. If granted a variance, it would be approximately 2.8 persons per parking space.

The subject site is zoned BC (Business, Community) and A (Agricultural). The surrounding zoning consists of BC (Business, Community), A (Agricultural) and R3 (Residential Single Family). The surrounding land uses consist of Commercial, Residential and Vacant.

Niewiadomski went on to review the request for compliance with the four Basic Conditions and two Special Conditions set forth in Section 42-70 of the Zoning Ordinance. Staff's findings are as follows:

Basic Condition a) – Granting the variance will not be contrary to the public interest or to the intent and purpose of this Ordinance.

Based on the existing site configuration and proposed improvements, the only reasonable expansion of parking is behind the building which is west. Continuing west behind the building, the area transitions from a commercial area towards a more residential area. Expanding parking into this area may enhance the potential to create an annoyance to the residential properties by generation of excessive glare with vehicles entering/exiting the establishment during the night. Additionally, the applicant indicates that the use of the outdoor patio would not reflect an increase in the number of patrons. Based on information provided from the applicant, the parking ratio would be comparable to their Reno's West location if granted a variance. The use of the patio would be dictated based on the season and weather. It appears that what the applicant is proposing would not be contrary to the public interest.

Basic Condition b) – *Granting the variance shall not permit the establishment within a district of any use which is not permitted by right, under special conditions, or by special use permit within that district.*

The proposed expansion is a use by right and off street parking is a requirement of this type of use.

Staff finds that the request complies with this condition.

Basic Condition c) – *Granting the variance will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.*

There is no reason to believe that granting the variance would have a significant adverse impact on surrounding property values.

Staff finds that the request complies with this condition.

Basic Condition d) – *The variance is not one where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.*

Variations to parking requirements have been infrequent. Conditions that are present on this property do not generally apply to other restaurant and bar properties. Given the existing layout of the property, the only area to expand parking would be closer towards a residential neighborhood.

Staff finds that the request complies with this condition.

Special Condition a) – *Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district and when such circumstances or conditions shall not have resulted from any act of the applicant subsequent to the adoption of this Ordinance and when such circumstances or conditions shall not have resulted from any act of the applicant in violation of a prior zoning ordinance applicable to said property.*

It appears that there is uniqueness of this parcel with the non-conforming racetrack and intended use of the property; it seems that exceptional circumstances apply to this property that does not generally apply to others. The applicant is requesting to utilize the existing parcel within reason and to provide safe parking around the existing constraints of the site. The applicant indicates that this variance may be temporary in nature, based on if a need is warranted, that additional parking could be provided within two years. If the variance is granted, staff would recommend that the site be monitored over the two year period to make a determination if additional parking should be needed.

Staff finds that the request complies with this condition.

Special Condition b) – *Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.*

The property is currently being utilized as a restaurant use, so the variance is not necessary to preserve a substantial property right held by others in the district.

Niewiadomski invited any questions the Board may have.

Brief discussion followed regarding the fact that the Fire Chief and Fire Marshal have both reviewed the site plan. Any issues and/or concerns have been addressed and they are satisfied that all issues with accessing the site have been addressed.

Balzer questioned how this sight may be affected by the Commercial Corridor Overlay District which encourages parking to be placed to the rear of the buildings.

Niewiadomski noted that the Overlay District has not yet been finalized. The intent of the document would be to try to encourage new development, or existing developments that increase over a certain percentage, to utilize parking in the rear of buildings. Some additional factors exist such as whether the site backs up to residential areas. At this point it is too early to indicate exactly how this site would relate to the Overlay District.

Brief discussion followed regarding the following: additional buffering may be required if additional parking is needed; it is up to the applicant as to whether the race track will remain; the Drain Commissioners Office has reviewed the site and has expressed very minor concerns.

Chairman LaGrand invited the applicant to speak.

Jessie Stipcak, applicant, 4770 W. Clark Road, Lansing, MI 48906, stated she was drawn to the property because it is of considerable size that would allow for additional parking. However, to begin the project she feels the proposed 86 parking spaces would be adequate at this time. This is based on her comparisons to her other two Reno's locations. The race track on the site has already been leased for the upcoming season. She will reevaluate the situation when the season is over to see if that area might be used for additional parking. She noted that the addition of outdoor seating is seasonal and additional parking would not be needed during the winter months. Delta Township actually acknowledged this and amended their parking requirements to address seasonal seating. It is very rare that both the inside and outside seating is completely filled. When it is cold the customers sit inside and when it is warm the customers sit outside. In closing, Stipcak stated that adequate parking is very important to the success of her business. She would just like time to evaluate parking once the business is fully operational.

Niewiadomski advised that some communities do observe patio seating parking spaces differently. The Township Ordinance does not differentiate. Reevaluating the Township's parking standards for possible amendments is on staff's priority list of projects. The request is because of the addition of an outdoor patio area rather than inside seating. There is currently sufficient parking even with the addition of the proposed volleyball courts.

Brief discussion followed regarding parking issues at the applicant's east location and the fact that the race track on the subject site would be better utilized for parking.

Stipcak advised her architect has estimated that the subject site could provide up to 500 parking spaces.

Gobbo stated perhaps approval could be given if there were a condition that there be some type of time frame for a decision to be made as to whether additional parking is needed or not.

Niewiadomski stated it is staff's suggestion to monitor the site over a two year period to determine if additional parking would be warranted and where the additional parking should be located.

Carpenter asked what level of enforcement would exist if the Township determines additional parking is needed on the site.

Niewiadomski advised the Board of Appeals can impose conditions on a variance request approval.

Stipcak advised she has had discussion with Township Manager Rod Taylor regarding plans to make the Township a more walk able community. She totally supports the concept and noted that many of her customers at her other two locations often walk or ride their bikes to her restaurants. With the Township's implementation of a Non Motorized Transportation Plan there would be less need for increased parking at the site.

Brief discussion followed regarding the fact that approval of this variance would run with the property regardless of who the owner of record is. However, it is tied specifically to the parking regulations for a restaurant/bar use.

Balzer suggested if there is additional parking in the rear of the building that it be clearly marked to avoid customers from parking off site on the east side of S. US 27.

Chairman LaGrand called for public comments.

C. Close Public Hearing. **Hearing no public comment, Chairman LaGrand declared the Public Hearing closed at 8:00 p.m.**

D. Discussion and possible action by Board of Appeals.

Discussion followed regarding the fact that the Reno's East location has much higher traffic volumes than S. US 27. Staff is comfortable with allowing the two year time period in order to evaluate whether further parking spaces are warranted. As the applicant has noted, she is willing to add more parking if needed because lack of parking is detrimental to the success of her business. The two year time period would also allow time for staff to determine if an amendment to the Township parking standards is necessary to address outdoor patio seating.

Brief discussion followed making some minor changes to staff's recommended action and whether it could be enforced.

LaGrand stated he is more comfortable with approval of the request knowing that there is sufficient area on site to provide additional parking if deemed necessary.

Gobbo suggested perhaps the variance could expire after the two year time period unless it was extended or the conditions were to be changed in terms of rendering the variance moot should the applicant voluntarily provide the additional parking.

LaGrand expressed concern that any time limit as a condition of approval could raise a potential development risk for the applicant when the whole point is to try to allow the applicant to move forward with the least amount of conditions.

Brief discussion followed regarding adding the condition that a sign be required to direct parking to the rear of the building.

Niewiadomski noted any overflow parking would be subject to the Township parking requirements, including the type of surface that would be required.

Gobbo moved that Appeal 14-770001 from Jessie Stipcak, granting a variance of 44 parking spaces to the 130 off street parking requirement for a restaurant use to provide 86 parking spaces be approved based on a determination that the request meets all four of the Basic Conditions and Special Condition (a) listed in Section 42-70 of the Zoning Ordinance conditional upon staff monitoring the site over a period of two (2) years after occupancy to determine if additional parking must be provided and enforced per the requirements listed under Section 42-1239 of the Zoning Ordinance. An additional condition is also to require a sign be placed on the site to identify additional parking on the property in the rear of the building.

Supported.

ROLL CALL vote on motion:

AYES: 6 NAYS: 0 ABSENT: 1 (Richards)

MOTION CARRIED.

E. Possible Certification of Decision.

Carpenter moved to approve the Certification of Decision for Appeal 14-770001 from Jessie Stipcak as stated in the motion by Gobbo to approve the requested variance.

Supported. MOTION CARRIED.

II. Election of Officers for the Year 2014.

Chairman LaGrand opened the floor for nominations for the office of Chairman.

Gobbo nominated Christopher LaGrand for the office of Chairman. Supported.

Hearing no further nominations, Gobbo moved to close the nominations for the office of Chairman and cast a unanimous ballot for Christopher LaGrand for the office of Chairman. Supported.

ROLL CALL vote on motion:

AYES: 6 NAYS: 0 ABSENT: 1 (Richards)

MOTION CARRIED.

Chairman LaGrand opened the floor for nominations for the office of Vice Chairman.

Balzer nominated Steve Gobbo for the office of Vice Chairman. Supported.

Hearing no further nominations, Balzer moved to close the nominations for the office of Vice Chairman and cast a unanimous ballot for Steve Gobbo for the office of Vice Chairman. Supported.

ROLL CALL vote on motion:

AYES: 6 NAYS: 0 ABSENT: 1 (Richards)

MOTION CARRIED.

Chairman LaGrand opened the floor for nominations for the office of Secretary.

Gobbo nominated Robert Reese, III for the office of Secretary. Supported.

Hearing no further nominations, Gobbo moved to close the nominations for the office of Secretary and cast a unanimous ballot for Robert Reese, III for Secretary. Supported.

ROLL CALL vote on motion:

AYES: 6 NAYS: 0 ABSENT: 1 (Richards)

MOTION CARRIED.

The Zoning Board of Appeals Officers for the Year 2014 are:

Christopher LaGrand, Chairman

Steve Gobbo, Vice Chairman

Robert Reese, III, Secretary

PUBLIC COMMENTS ON NON-AGENDA ITEMS: None.

TRUSTEES REPORT:

Trustee Balzer gave a brief report on business conducted and action taken by the Board of Trustees at their recently held meetings.

DISCUSSION: None.

ADJOURNMENT: Gobbo moved to adjourn the meeting at 8:24 p.m. Supported. MOTION CARRIED.

Linda K. Parkinson
Linda K. Parkinson, Recording Secretary

Robert Reese III 3-19-14
Robert Reese, III, Secretary