

**CHARTER TOWNSHIP OF CANTON
ZONING BOARD OF APPEALS
February 11, 2021**

A meeting of the Zoning Board of Appeals of the Charter Township of Canton was held Thursday, February 11, 2021 via electronic remote access.

Vice-Chairperson Vicki Welty called the meeting to order at 7:00pm.

ROLL CALL:

Members Present: Vicki Welty - Canton Township, Mi; Greg Greco - Canton Township, Mi; Craig Engel - Bonita Springs, FL; John Badeen - Canton Township, Mi; Jim Cisek – Canton Township, MI

Staff Present: Patrick Sloan, Community Planner

APPROVAL OF MINUTES FOR THE January 14, 2021 MEETING

Motion by Craig Engel, supported by John Badeen to accept the minutes as presented.

Ayes: All on roll call vote.

ACCEPTANCE OF AGENDA FOR January 14, 2021

Motion by John Badeen, supported by Greg Greco to accept the agenda as presented.

Ayes: All on roll call vote.

AGENDA ITEM

1. Applicant, Matthew Cler, representative of Johnson Development, LLC, for property located on the east side of Lotz Road between Ford Rd. and Warren Rd., Zoning LI-Light Industrial. Property address is 5900 N. Lotz. Appealing Article 6A, Section 6 A.25 (Legibility and Design) of the sign ordinance, subsection 2. Ground Signs, Subsection Lettering, to allow VA Signage Standards in regard to the font type and size. Parcel ID 048-99-0022-701 (Building).

Representative, Derek Weaver, from Johnson Development Ann Arbor, LLC, the entity that is developing, will own and lease the VA Facility once complete, shared a bit of background about the meaning of the signage. He stated that the intended use of the property is an outpatient healthcare facility for Veterans of many generations. He continued to say that in health care, it is important to understand the healing process. This process begins in route to the facility. Many people face anxiety when going to the doctor. One of the first things that can be done to alleviate the fear is what is called wayfinding. That first sign or identifier, is the first sign that the patient is arriving at their destination for healthcare services. Being able to identify the clinic clearly and associate it with the Department of Veteran Affairs, as their medical clinic is all part of the first stage of their experience. Mr. Weaver explained that the sign presented in the variance is somewhat unique in its design. What they are asking for is type face letters that are below the minimum requirement. They would like a sign with all of the information that is relevant and important to the intended customers, our Veterans. Mr. Weaver stated that this sign helps create a sense of home for these like-minded Veterans. He said that allowing the additional language on

the sign helps bring together that great identifier, not just as the Department of Veteran Affairs, but as the Canton Healthcare Clinic. He continued to say, as pointed out in the application, that this sign as they proposed for the variance poses no endangerments or threats to any public wellbeing. It's a great identifier on Lotz Road. With the approval of this sign variance, it will create a real sense of destination for our Veterans.

Canton Township Community Planner, Patrick Sloan, stated that in talking with Johnson Development, LLC in the past he recommended that they try to keep the sign size at the 24 sq. ft maximum, which they have done. But in doing so, and trying to get the text on the sign they've lowered the size of the text. Mr. Sloan is in agreement with the Canton Township Building Official, Robert Creamer's recommendation which states that the location of the ground sign should be noted. It is the only sign in the area as this facility is set behind Walmart where there are no other businesses located. It will not be difficult to locate or read the sign based on the location behind the Walmart. Also, because of the unique nature of the facility and its location, he doesn't believe it will cause a precedent, and therefore the Township's recommendation is for the approval of this variance.

Motion by John Badeen, supported by Greg Greco to open the Public Hearing. Ayes: All on roll call vote.

Dr. Ginny Creasman, CEO of VA Ann Arbor Healthcare System has visited the future site in Canton. She noted that it is important for the Veterans to access their health care. If the Veterans have a hard time getting in to where they need to go it can be an off-putting situation, where many times they will just go home. The signage is very important to Dr. Creasman so the Veterans can get where they need to go. She stated that when she drove to the location in Canton and tried to find her way around, she struggled trying to find the approach into the facility. She feels that the wayfinding approach, the ability of the veterans to see the signage, and to create a clear path to the facility will go a long way in supporting them in their healthcare. She is investing \$10 million in Veterans and for the employees to work in the area and she wants to make sure that we are meeting their needs.

Motion by Craig Engel, supported by Vicki Welty to close the Public Hearing. Ayes: All on roll call vote.

Jim Cisek doesn't see any issues in this sign. He said that it is going to help the people that need help and it won't impact the community at all.

Craig Engel agrees and asked, "What are we raising it to?"

Mr. Sloan stated that the smallest lettering at the bottom of the sign that reads "VA Ann Arbor Healthcare System and text that reads "Canton Community Based Outpatient Clinic" will 4 ¾ inches high. The "VA" text will be 7 ½ inches and the text of "U.S. Department of Veteran Affairs" will be 4 ½ inches high.

Mr. Engel asked, "How much of a variance is this from our sign ordinance?"

Mr. Weaver stated that the maximum sign size is 24 sq. ft. They are not exceeding the maximum sign face area. The variance that they are asking for is to have lettering that is below the 10"

minimum for type face. This sign will come in below the minimum so they can add additional font to have an increased message, all doing so while not to exceed the maximum sign face allowance.

Mr. Sloan made one correction that the minimum text of the sign type has to be 10” for legibility. The Zoning Ordinance allows for 25% of the sign area to be a 5” text. The text size here is smaller than the minimum allowed by the Zoning Ordinance. He stated the reason for that standard is mostly for legibility when there are signs by the road, they want people to see them. In this case, the sign is back behind Walmart where it is not really a prominent entrance.

Mr. Engel asked, “So this sign is not visible from the road?”

Mr. Sloan does not believe it is. It is located just north of the Walmart building at the entrance from their drive.

Mr. Weaver says the sign is visible from Lotz Road, but not from Ford. The sign is not competing with any other signs, as there is no other commercial activity going on in that area of Lotz Road. He doesn’t feel that there is a legibility concern because the VA clinic is a true destination and not an impulse stop. The singular signage on Lotz Road should not cause any issues from a legibility standpoint.

Mr. Engel asked if there was any consideration asking more than 24 sq. ft.

Mr. Weaver does not see that as a concern because the proposed sign follows the VA’s national standard for signs.

Mr. Engel is fine with the proposal.

Motion by Vicki Welty to approve the variance for the new VA Outpatient Clinic to use the design as submitted for their ground sign that will be located at their new facility at 5900 North Lotz Rd. due to the location of the ground sign, the sign is in an area that is set behind Walmart, no other businesses are located there, it will not be difficult to locate, and it will be able to be read.

Motion Supported by Greg Greco. Ayes: All on roll call vote.

Motion has been granted.

AGENDA ITEM

2. Applicant, Scott Barbat, for property located at the northeast corner of Ford. Rd. and Haggerty Rd., Zoning C-4. Property address is 41350 Ford Rd. Appealing Section 6.02(C)(1) (Maximum Building Coverage) and Section 4.01(C) (Minimum Number of Drive-Through Stacking Spaces) of the Zoning Ordinance. The requested variances are to allow 19% building coverage (a variance of 9% from the maximum allowable building coverage of 10%) and 9 stacking spaces for the drive-through restaurant (a variance of 1 stacking space from the minimum requirement for 10 stacking spaces). Parcel ID 71-047-99-0006-001 (Planning)

Representative, Scott Barbat, from the Barbat Organization at 33477 Woodward Ave, Suite 800, Birmingham, Michigan gave a brief description of the reasons for the variance. At the intersection of Ford and Haggerty Roads, he states, you will find a site that is desperate need of updating. He would like to propose the raze and rebuild. In regards to the drive-thru, space is very limited due to property size and building setbacks. It leaves them with only 1,300 to 1,400 sq. ft of space designated for their tenant. The typical quick service restaurant requires 2,000 to 2,500 sq. ft. minimum for a full-service operation. Since the space is 35 – 40 % smaller it is forced to offer a more limited offering in operation which also comes with limited traffic and sales. The space can't provide for the needs of your average user like McDonalds, Starbucks, Burger King or Tim Hortons. Therefore, it is not in need the drive-through stacking that is typically required. He explained that the user will feed off the already existing customer of the gas station and C-Store portion. It is a one stop shop. The gas station traffic is not concentrated at one window of operation like a coffee shop or lunch time user but it will be spread out throughout the day. Mr. Barbat explained that they are one stacking space short on vehicles. He does not see the stack of this tenant to exceed more than five or six cars. Because of COVID, drive-through will continue to play a more pivoted role in their system.

Eric Williams, of Stonefield Engineering and Design also added that there was a stacking variance that was approved at the Panera Bread for a greater reduction than what they are asking for. He then explained that in terms of the building coverage, the site is heavily paved with the classic gas station canopy with the convenience component beneath it. For a site like this the 10% land cover will only allow them to have building and canopy coverage for a maximum 3,900 sq. ft. That wouldn't even allow for a building the size that they are requesting. It would not allow for a canopy to be constructed over those gas pumps. The canopy is an absolute necessity in a business of this nature. Mr. Williams added that the overall landscape coverage will be doubled from where it sits today. As they are looking for a slight increase in the building coverage for doubling the actual landscape coverage onsite. He believes that the 10% requirement is overly burdensome on a property like this. Mr. Williams also added that this exact variance was granted to the property at the southeast corner of Lilley and Ford Roads.

Community Planner, Patrick Sloan, read from his report, describing the two variances and the standards that must be met in order for this variance to be granted.

1. Variance from Section 6.02(C)(1) (Maximum Building Coverage) of the Zoning Ordinance to allow 19% building coverage for an automobile filling station, which is a variance of 9% from the maximum allowable building coverage of 10%. It is unknown why the Zoning Ordinance has a maximum building coverage requirement for filling stations, as there are few coverage requirements for other land uses. There is recent precedent for variances being granted from the 10% maximum building coverage for automobile filling stations. On November 12, 2015, the ZBA granted lot coverage variances for Speedway at the southeast corner of Ford Rd. & Lilley Rd. (an increase to 22.9%) and for Speedway at the northeast corner of Ford Rd. & Canton Center Rd. (an increase to 11.47%) because the redevelopment of both gas stations was an improvement over the previous stations and the minimum open space requirement of 25% in the CBD Overlay was met. In the case of the subject gas station at 41350 Ford Rd., the site circulation will improve with the removal of one of the driveways from Haggerty Road

and the site will connect to the cross-access drive north of the site. Additionally, the percentage of open space on the site will increase from 15.7% to 29.6%.

2. Variance from Section 4.01(C) (Minimum Number of Drive-Through Stacking Spaces) of the Zoning Ordinance to allow 9 stacking spaces for a drive-through restaurant, which is a variance of 1 space from the minimum requirement for 10 stacking spaces. There is recent precedent for a variance being granted from the minimum of 10 stacking spaces for a drive-through restaurant. On April 8, 2010 the ZBA granted a variance to Panera Bread at 41950 Ford Rd. to have 6 stacking spaces because it was expected that 20-25% of the orders would be via the drive-through lane according to Panera's data, and the Zoning Ordinance requirement for 10 stacking spaces is based on the needs of a fast food restaurant that conducts more than 50% of its business via the drive-through, such as McDonald's. As such, Staff recommended approval of Panera's variance from Section 4.01(C) to allow 6 stacking spaces for the drive-through lane based on the unique circumstances that Panera's drive-through operation is ancillary to the main standard restaurant operation and that the proposed operation doesn't function as a true drive-through fast food restaurant. In the case of the subject gas station at 41350 Ford Rd., the proposed drive-through restaurant is expected to be secondary to the main gas station use. Therefore, many patrons will already be parked at the site. Also, the drive-through is expected to sell products not based on a peak time (e.g. smoothies) and have lower traffic volumes than a typical freestanding fast food restaurant. Therefore, reducing one of the required stacking spaces is not expected to have a negative impact.

Mr. Sloan continued to say that for variances to be granted, the requests must meet all of the standards of review of Section 27.05(D) of the Zoning Ordinance pursuant to the Michigan Zoning Enabling Act (P.A. 110 of 2006). Based on the review of the application, the requests meet the standards of Section 27.05(D), which include the following:

1. Strict compliance with the required 10% maximum building coverage and 10 drive-through stacking spaces creates a practical difficulty and unreasonably prevents the use of the property for a permitted purpose because the recently approved gas stations in the CBD Overlay have been approved for higher building coverage and a similar low-volume drive-through restaurant in the CBD Overlay has been approved for a variance in the number of stacking spaces. Based on the site configuration and use proposal (i.e., gas station with an attached fast food restaurant), compliance with the building coverage requirement and stacking space requirement is unnecessarily burdensome.
2. Granting the requested variances would do substantial justice to the applicant and other property owners in the district because 2 gas stations and 1 fast food restaurant noted above have been granted similar variances under similar circumstances.
3. Because the site is designed to comply with all other requirements of the Zoning Ordinance (with the exception of existing nonconformities), the requested variance can be granted in a manner that the spirit of the Ordinance will be observed and public safety and welfare secured. Additionally, the site circulation will improve with the removal of one of the driveways from Haggerty Road and the proposed connection to the cross-access drive north of the site.
4. The site size (related to the proposed gas station redevelopment) and proposed use

(related to a drive-through restaurant attached to the main building) create exceptional or extraordinary circumstances or conditions applicable to the property involved and to the intended use of the property that do not apply generally to other properties or other similar uses in the same zoning district. The building coverage requirement is only unique to gas stations, and the drive-through stacking space requirement is intended more for freestanding fast food restaurants that have high volumes and peak periods.

5. Based on the application and the plans submitted, the granting of the variances will not be materially detrimental to the public welfare or materially injurious to other nearby properties or improvements, will not increase the hazard of fire or flood or endanger public safety or health, will not alter the essential character of the neighborhood, will not impair the adequate supply of light and air to adjacent property or increase congestion on public streets, and is not expected to diminish or impair the value of surrounding properties.
6. The proposed development will eliminate existing nonconformities for minimum open space (25% required), minimum canopy front yard setback from Ford Road (40 feet required), minimum pump island front yard setback from Ford Road (50 feet required), minimum canopy side yard setback from the north property line (30 feet required); minimum pump island side yard setback from the north property line (40 feet required); and minimum landscape setback from Haggerty Road (25 feet required).

Mr. Sloan continued to say that because the standards of Section 27.05(D) of the Zoning Ordinance have been met, as previously stated, our recommendation is to approve the request for a variance from maximum building coverage for the proposed structures and a variance from the minimum number of drive-through stacking spaces, subject to Special Land Use review and Site Plan review by the Planning Commission and Township Board.

Vicki Welty asked if the station previously mentioned at Lilley and Canton Center have a drive-through.

Mr. Sloan responded that they do not.

Ms. Welty then asked if we have taken into consideration, that during this last year with the pandemic that more people are using drive-through restaurants. She gave examples of restaurants that drive-through lines have impeded traffic on busy roads. She stated that the drive-throughs are busier than ever, and the proposed drive-through is on a very small lot at the very populated area of Ford and Haggerty Roads.

Mr. Sloan said that what they look at is: if the stacking spaces does go beyond the 10 spaces, where do those cars end up? In this case those cars would be either onto the northern access drive far off of Haggerty Road or maybe interior to the site in the parking lot to the east of the building, but away from the pumps and the main circulation.

John Badeen asked if they know what the proposed drive-through is and what's going to be in the retail shop. He stated it's one thing if it's just like a Speedway with chips and pop, but another thing if it's dine-in, fast food with a liquor store or something else.

Scott Barbat answered by adding that drive-throughs are busier now because most have closed their dining rooms, and new protocols inside the kitchen can delay the orders in the drive-through. He noted the Speedways have the large convenience store as well as a food component inside. Mr. Barbat stated that they are talking to a few users, Halal Guys from New York, and a smoothie franchise. There is no room for the larger companies like Popeyes or McDonalds. Those require 2,500 – 3,000 sq. ft. buildings. There is no large scale QSR that will fit into this location. Mr. Barbat confirmed what Mr. Sloan stated that if the drive-through would reach the 10 or 11 stacking spaces, the cars would stay on their property and not reach Ford Rd. With a building of this size, 1,300 -1,400 sq. ft., he stated that you not going to see cars stacked more than 4 or 5 cars at a time.

Motion by John Badeen, supported by Craig Engel to open the Public Hearing. Ayes: All on roll call vote.

No one present in audience wished to speak.

Motion by Vicki Welty, supported by Craig Engel to close the Public Hearing. Ayes: All on roll call vote.

Jim Cisek questioned if the variance causes practical difficulties. The only difficulty he sees is that they are trying to put too much of a building in this area. In regards to exception or unique circumstances, Mr. Cisek doesn't see either of those in this case. He agrees with Ms. Welty about the drive-throughs like Popeyes, that can impede traffic. Ford Road is a very difficult road to maneuver at times. He does not see any practical difficulties in this situation.

Mr. Engel said that you can't compare this location to a Popeyes, because Popeyes isn't going in here.

Mr. Cisek said he's not comparing it to Popeyes, he is just saying that there are stacking issues from other places. When you are at I-275 and Ford Road, it is one the busiest roads in Wayne County.

Mr. Engel stated that by was presented is that all of the traffic will remain on the site and not spill into the road because the restaurant size isn't big enough to put a major fast food chain. He doesn't feel it's fair to the applicant to bring in the names of larger chains because they are not asking to do that.

Mr. Badeen asked if it's true that if they were 100 yards to the east they wouldn't be allowed to have a drive-through.

Mr. Sloan stated that east of I-275 is the Corporate Park Overlay District. Drive-through restaurants are not permitted there.

Mr. Barbat noted that there is a Starbucks east of I-275.

Mr. Engel stated that that is not really relevant because we are discussing the site on the west of I-275.

Mr. Badeen feels it is relevant due to the proximity to I-275.

Mr. Sloan stated that the east side of I-275 is the Corporate Overlay District, that covers a lot of the Ford Road Frontage between I-275 and Lotz Road.

Mr. Badeen wanted to know what the reason is for the Corporate Overlay District and why is it on the east side but not the west side of I-275.

Mr. Sloan explained that the policy that goes back probably a few decades when the Lotz Road Corridor was studied. The Corporate Park Overlay District doesn't allow for drive-through restaurants because it wasn't envisioned as the typical commercial interchange. He continued to say as if it was, we would have a lot of gas stations and fast food restaurants there, but as it is, they were going for more retail or corporate parks. This is a different zoning district.

Mr. Badeen said that then it is more of a plan issue and not traffic so it is not really relevant to this discussion.

Ms. Welty asked if the practical difficulty here is that the lot is too small to build on.

Mr. Engel added that the 10% building coverage is only for filling stations but other businesses do not have that restriction.

Mr. Sloan said that most businesses don't. He can't think of one that does. Most of the time it is self-regulating where they have the building and have to have enough room for their parking, landscaping, dumpster pad, etc. For some reason, gas stations do have that restriction.

Mr. Engel asked if both Speedways received variances, since they exceed 10%.

Ms. Welty added that the Speedway project on Ford and Canton Center Roads, when the variance was granted, it was stated that they were going to close one of the driveways on Ford Road to make traffic patterns much easier. She thinks that this site is similar in that they are going to close a driveway.

Mr. Williams stated that yes, they will be closing a driveway along Haggerty. Wayne County Road Commission is satisfied with the access. Also, the MDOT plan to make Ford Road a Boulevard will make significant traffic improvements in the area. The other big improvement that they are looking to make is the cross-access in the northeast corner, which will allow traffic to get further from the Haggerty intersection. Mr. Williams also wanted to add that maximum lot coverage that was approved at Ford and Lilley was at 22.9% and in this case, they are only asking for a variance of 19%. In regards to the drive-through stacking, if they did get up to the 10th car, it would be contained on the property. The end of the drive-through lane is 200 ft. from any access point. They would be able to contain another 10 cars with out any impact on adjacent roadways.

Motion by Craig Engel to approve the request for a variance of 9% from the maximum building coverage of Section 6.02(C)(1) of the Zoning Ordinance and a variance of 1 space from the minimum stacking space requirement of Section 4.01(C) of the Zoning Ordinance on tax parcel no. 71-047-99-0006-001 as stated in the application because the variance request meets the standards of Section 27.05(D) of the Zoning Ordinance, which are stated in the analysis and summarized as follows:

1. Compliance with the required 10% maximum building coverage and 10 drive-through stacking spaces creates a practical difficulty and unreasonably prevents the use of the property for a permitted purpose;
2. Granting the requested building coverage variance and stacking space variance would do substantial justice to the property owner and other property owners in the district because similar uses in the CBD Overlay have been granted similar variances under similar circumstances;
3. Because the site is designed to comply with all other requirements of the Zoning Ordinance (with the exception of existing nonconformities), the requested variance can be granted in a manner that the spirit of the Ordinance will be observed and public safety and welfare secured;
4. The site size and proposed uses create exceptional or extraordinary circumstances or conditions applicable to the property involved and to the intended use of the property that do not apply generally to other properties or other similar uses in the same zoning district;
5. Based on the application and the plans submitted, the granting of the variance will not be materially detrimental to the public welfare or materially injurious to other nearby properties or improvements, will not increase the hazard of fire or flood or endanger public safety or health, will not alter the essential character of the neighborhood, will not impair the adequate supply of light and air to adjacent property or expected to increase congestion on public streets, and is not expected to diminish or impair the value of surrounding properties.
6. The site circulation will improve with the removal of one of the driveways from Haggerty Road and the proposed connection to the cross-access drive north of the site.
7. The proposed development will eliminate existing nonconformities for minimum open space (25% required), minimum canopy front yard setback from Ford Road (40 feet required), minimum pump island front yard setback from Ford Road (50 feet required), minimum canopy side yard setback from the north property line (30 feet required); minimum pump island side yard setback from the north property line (40 feet required); and minimum landscape setback from Haggerty Road (25 feet required).

Motion Supported by Vicki Welty.

Ayes: Craig Engel, Greg Greco, Vicki Welty on roll call vote.

Nays: Jon Badeen, Jim Cisek on roll call vote.

Motion was passed 3 to 2, Variance has been granted.

Motion by John Badeen to adjourn meeting. Supported by Greg Greco. Ayes: All on roll call vote.

Meeting adjourned at 8:04 pm

Alison Eisenbeis, Recording Secretary