

**CITY OF BRIGHTON
ZONING BOARD OF APPEALS
MINUTES
April 12, 2012**

1. Call to Order

Chairperson Rahilly called the meeting to order at 7:30 p.m. and the following members were present:

2. Roll Call

Gino Conedera – Present
Russ Gottschalk – Present
Patrick Rahilly – Present
Kirk Hanna – Present
Chad Cooper - Present
Dave Senak – Present
David McLane - Absent
Amy Cyphert
Lauri French
Brad Maynes, City Attorney's Office
An audience of 30 was also present.

Chairperson Rahilly advised that Mr. McLane notified Staff that he would not be able to attend tonight's meeting. Motion by Board Member Cooper, seconded by Conedera, to excuse Board Member McLane from tonight's meeting. The motion passed 6-0-1.

3. Approval of the March 8, 2012 Meeting Minutes

Motion by Board Member Hanna, seconded by Senak, to approve the March 8, 2012 minutes as presented. The motion passed 5-0-2, with Chairperson Rahilly abstaining.

New Business

4. Livingston Center of Allergy, Sinus & Asthma P.C. of 8546 W. Grand River, Brighton, MI 48116 is proposing 16 square feet of ground signage on an existing ground sign located at 8550 W. Grand River. **Section 66-91 (a) (14) (s)** prohibits off-premises signs. A variance to allow an off premise sign is being requested.

Ms. Cyphert reviewed the applicant's request. Anna Dobracki, the owner of Livingston Center of Allergy, Sinus & Asthma P.C. at 8546 W. Grand River, explained that her office is located behind ABC Warehouse and cannot be seen from Grand River. She has had requests from several people to put a sign on Grand River to make her office easier to find. She is not requesting an additional sign; she would be adding her business' name to an existing sign for 8550 W. Grand River.

There was discussion about why this was coming back to the ZBA. Mr. Cooper noted that he thought this issue was addressed back in 2007 when the ZBA reviewed a sign variance request from the builder. Ms. Cyphert stated that this was a different request.

Chairperson Rahilly closed the regular meeting and opened the meeting for the public hearing at 7:35 p.m. Hearing no public comments, he closed the public hearing and opened the meeting back up to the board for discussion at 7:35 p.m. He noted that the 2007 decision by the ZBA was for the builder. Ms. Dobracki is the tenant of the building and has recognized a hardship due to the location of her office in the building behind ABC Warehouse. Ms. Cyphert noted that the address and square foot variance should be mentioned in any motions.

Motion by Board Member Gottschalk, seconded by Senak, to approve granting of the sign variance as requested by Livingston Center of Allergy, Sinus & Asthma P.C. of 8546 W. Grand River for 16 square feet of ground signage on an existing ground sign located at 8550 W. Grand River. A roll call vote was taken as follows:

Mr. McLane – absent; Mr. Cooper – no; Mr. Rahilly – yes; Mr. Conedera – yes; Mr. Senak – yes; Mr. Hanna – no; Mr. Gottschalk – yes. The motion carried 4-2-1.

5. Ricky R. DeBruyne of 5617 Crooked Lake Road, Howell MI 48843 is requesting a use variance for 301 Appian Way to allow a live professional theatre use in an LIP, Light Industrial Park zoning district. **Section 98-687 (a) (4)** states the Board of Appeals may permit variation in the use and location of buildings on any lot abutting a different zoning district, provided that the use or location shall not have an undesirable effect upon the more restricted district and provided further that the yard requirements cannot be less than 50 percent of the requirements for the more restricted district, and provided further that the variation shall not extend more than 50 feet into the more restricted district.

The applicant is proposing to occupy the existing building at 301 Appian Way with a live professional theatre use. The proposed use and the neighboring tenants require 158 on-site parking spaces per Section 98-85 of the Zoning Ordinance and the proposed on-site parking spaces will total 75. **Section 98-85 Parking Space Requirements** states that a theatre use requires one parking space for each three seats plus one for each two employees on the largest work shift, a manufacturing, utility, research, and development facility requires one parking space for each employee on the largest work shift plus one for each 200 square feet of office reception area and general business office uses require one parking space per 200 square feet of GFA. **Section 98-81** states any building, structure or use of land that is constructed, established or enlarged, or which use changes, shall provide on-site, well-designed, landscaped and illuminated vehicle parking and loading areas that meet the following minimum provisions. A variance of 83 parking spaces is being requested.

Chairperson Rahilly reviewed the applicant's request. As discussed in the Blue Sky session, Chairperson Rahilly cited Section 98-687 (a) (4) and noted that the point at issue is whether the parcel in question abuts a different zoning district? He asked Ms. Cyphert what the surrounding parcels are zoned and she indicated that the parcels to the north, south, east and west are zoned L.I.P. (Light Industrial Park). Mr. Cooper stated that the variance request for this parcel does not fall under the ZBA's jurisdiction.

Motion by Mr. Cooper, seconded by Senak, to remove this variance request from the agenda and direct Staff to proceed with the next step with the applicant. A roll call vote was taken as follows:

Mr. Cooper – yes; Mr. Senak – yes; Mr. Gottschalk – yes; Mr. Hanna – yes; Mr. Rahilly – yes; Mr. Conedera – yes; Mr. McLane – absent. Motion carried 6-0-1.

Ms. Cyphert noted that the lack of jurisdiction to grant the use variance results in the applicant seeking another location within one of four other districts that permit the use.

6. Staff Updates

Ms. Cyphert advised that there will be a ZBA meeting on May 10, 2012 with one agenda item. She also informed the board that a public hearing for the DBD sign ordinance will be held on April 19.

6. Call to the Public

Chairperson Rahilly made a Call to the Public at 7:58 p.m.

Leo Babcock, architect for the theater project, stated that the ordinance is subject to interpretation and that he believes the ZBA may grant the use variance. He asked if the ZBA would take another action.

Chairperson Rahilly explained the ordinance and that the LIP district was designed for certain uses.

Steve DeBruyne, co-owner of the theater, noted that the former use for their proposed theater space was Bounce-U and a current tenant is a dance studio. He asked why these are permitted uses and a theater is not. Chairperson Rahilly responded that they are permitted uses in the district or they would not have received a Certificate of Occupancy from the City.

Ricky DeBruyne, co-owner of the theater, stated that they are trying to open a theater in Brighton and that there is a need for a theater. He said they were told to come to the ZBA. Ms. Cyphert noted that she gave them a copy of the requirements and it was up to them to decide whether they met the requirements.

Mary Jo DelVero, Howell, said that the zoning district ordinance doesn't make sense to her. She said the sign variance earlier in the meeting was logical. She stated that the theater is a good thing for the City and she doesn't understand how a theater in that location would interfere with the other businesses.

Kathy Bays, property owner on O'Doherty, said she agrees with Steve DeBruyne's interpretation of the ordinance and stated a theater would be a good addition to the City.

Chairperson Rahilly closed the Call to the Public at 8:07 p.m.

7. Adjournment

Motion by Board Member Hanna, seconded by Mr. Gottschalk, to adjourn the meeting at 8:07 p.m.
Motion carried 6-0-1.

Respectfully submitted,

Lauri French, Administrative Assistant
Community Development Department
April 13, 2012