

BEDFORD TOWNSHIP BOARD OF ZONING APPEALS
REGULAR MEETING MINUTES
8100 JACKMAN ROAD, TEMPERANCE, MICHIGAN
JANUARY 9, 2018

PRESENT:

RICK STEINER, TOWNSHIP BOARD LIAISON
JAKE LAKE, CITIZEN AT LARGE
BOB POTTER, CHAIRMAN, CITIZEN AT LARGE
GEORGE WELLING, VICE-CHAIRMAN, CITIZEN AT LARGE
TOM ZDYBEK, PLANNING COMMISSION LIAISON

EXCUSED:

NONE

ALSO PRESENT:

PHIL GOLDSMITH, LEGAL COUNSEL, LENNARD, GRAHAM & GOLDSMITH
DENNIS KOLAR, BUILDING OFFICIAL
KAREN M. KINCAID, PLANNING AND ZONING ADMINISTRATOR
JODIE L. RECTOR, PLANNING AND ZONING ASSISTANT, RECORDING SECRETARY

Potter called the Bedford Township Board of Zoning Appeals meeting to order at 7:03 p.m. The Pledge of Allegiance was said. Kincaid called the roll. Quorum present.

ELECTION OF BOARD OF ZONING APPEALS OFFICERS FOR 2018

Welling, nominated Potter to serve as Chairman.

Hearing no further nominations, the nomination period was closed.

Motion by Welling, supported by Steiner, to elect Mr. Potter to serve as Chairman of 2018 BZA.

Roll call as follows: Voting Aye: Welling, Steiner, Lake, Zdybek and Potter

Voting Nay: None

Excused: None

Motion carried.

Lake, nominated Welling to serve as Vice-Chairman.

Hearing no further nominations, the nomination period was closed.

Motion by Lake, supported by Potter, to elect Mr. Welling to serve as Vice-Chairman of 2018 BZA.

Roll call as follows: Voting Aye: Lake, Potter, Steiner, Zdybek and Welling

Voting Nay: None.

Excused: None.

Motion carried.

APPROVAL OF THE AGENDA

Motion by Steiner, supported by Welling, to amend the agenda and remove item B as requested by the applicant via email to the Planning Department.

Motion carried.

APPROVAL OF THE MINUTES

Motion by Welling, supported by Potter, to approve the minutes of November 6, 2017.

Steiner and Lake abstained
Motion carried.

PUBLIC COMMENT (LIMIT 3 MINUTES)

None

NEW BUSINESS

- A) Open the Public Hearing regarding the Appeal of Verus Development Group, 28454 Woodward Avenue, Royal Oak, MI 48067 requesting, 1) a variance to allow a reduced parking requirement of 22 parking spaces and to allow parking within the front yard setback, per Section 400.1904, “Off-Street Parking Requirements”, 2) a variance to allow trash enclosures to be located within the front yard, per Section 400.1303, “Site Development Standard for C-3, General Business Districts” and 3) a variance to allow loading and unloading to be located within the front yard, per Section 400.1906, “Off-Street Loading and Unloading”, in a C-3, General Commercial Zoning District, on vacant land described as 5802-032-056-00, otherwise known as 7386 Secor Road, located on the corner of Secor and Sterns Road.**

Motion by Lake, supported by Zdybek, to open the public hearing at 7:07 p.m. Motion carried.

Kincaid said the applicant is seeking several variances for a proposed development of an 8,548-square foot multi-unit (4) building with a drive-thru facility on approximately 1.356 acre now vacant parcel, located on the southeast corner of Secor Road and Sterns Road (previous location of Buddy’s). Kincaid noted the submitted site plan indicates the proposed parking is within the front yard setback and the proposed unit uses will be two restaurants with one restaurant having a drive-thru access and two units having some type of a retail store.

Kincaid stated per Section 400.1904, “Off-Street Parking Requirements”, Off-street parking shall not be permitted within a minimum front yard setback and is calculated by usable floor space for the uses indicated on the proposed site plan. However, per Section 400.1800 “Schedule of Regulations” in a C-3, General Business District on a Section Line Road (y-road) letter “k” in the Notes to Schedule of Regulations states: *“Unless prohibited by the regulations for any specific zoning district, or as otherwise prohibited by this Ordinance, and as may be modified by the requirements of the Planning Commission to make parking areas less visible and obtrusive to nearby streets and roads, and residentially zoned properties, parking may be permitted within the front yard setback provided that an area within the front yard remains as lawn or landscaped area which is equal to at least 50% of the area of the required front yard.”* Parking may be permitted within 50% of the required front yard setback so long as the remaining 50% remains as lawn or landscaped area. The applicant is seeking a variance to encroachment into the required 50% lawn or landscaped area along the west side of the site (Secor Road), immediately adjacent to the existing sidewalk, thus eliminating any area for lawn or landscaped area, as “plantings” are not permitted within the road right-of-way, although grass can be planted within the road right-of-way. The applicant has indicated there is 9.8 feet separation from the curb along Secor Road and the proposed parking lot, with a 5-foot wide sidewalk included within the 9.8 feet, thus providing approximately 4.8 feet of lawn area between the sidewalk and Secor Road.

Kincaid advised retail parking requires one space for every 100 square feet of usable floor area up to 5000 square feet. A drive-thru restaurant, with seating, requires one space for each 50 square feet of usable floor space, plus ten front-to-back spaces for the drive-thru window. Lastly, an establishment for sale and consumption on the premises of beverages, food or refreshments requires one space for each 75 square feet of usable floor space. In accordance with the zoning ordinance, the required parking spaces calculated on the total usable floor space as provided by the applicant, and identified on the submitted plan, is 68 required parking spaces (30 spaces for the commercial retail (2 units), 21 spaces for the restaurant w/drive-thru, and 17 spaces for the restaurant). It should be noted that the calculations are for the “parking” of vehicles only, and do not include

the required 10 stacking spaces. It should be further noted that the required 10 stacking spaces are provided and are not a subject of the variance request.

Kincaid referred to the proposed site plan and stated the plan indicates there are only 46 total parking spaces, thus requiring the variance request of 22 parking spaces. The applicant has indicated in the submitted letter *the proposed location of the parking within the front yard will ensure adequate parking for the development, regardless of the tenant, and this proposed condition is seen throughout the Secor Road corridor and would be in line with the existing nature of the neighborhood.*

Kincaid stated it should be noted that when calculating the total required parking spaces, the calculation is based on the uses proposed to the Planning Department, and the determined number of required spaces would be needed if all units were filled to capacity at the same time. Therefore, while reducing the number of parking spaces may not become problematic with the proposed uses, or even with future uses; there is always that possibility if a use that requires a greater number of parking spaces is proposed by subsequent tenants. That is not to say parking space requirement will become an issue if a variance is granted to reduce the number of spaces for the proposed uses; however, possible future uses should be taken into consideration, as this intersection is not within a Village Overlay District and does not offer a shared parking option with neighboring businesses and/or on-street parking. Section 400.1904, Off-Street Parking Requirements, for this zoning district was included in the packet for review. It should be kept in mind that this site will not lend itself to a number of the listed permitted uses due to the parcel size.

Kincaid stated per Section 400.1303.C, "Site Development Standard for C-3, General Commercial Zoning District", trash enclosures shall be incorporated into the overall design of the building and landscaping so the visual and acoustic impact of these functions are minimized and shall be constructed to be in addition to the loading and unloading regulation requirements of Section 400.1906, "Off-Street Loading and Unloading", where it states loading/unloading shall be provided for inside a building, structure, or part thereof, or in the rear yard or side yard not facing a street. The applicant has shown the proposed location of the trash enclosure as located to the far west end of the structure facing Secor Road. It should be verified where the loading/unloading areas will be provided and access for loading/unloading for each unit, as it is not noted on the submitted site plan and a variance is being sought to allow loading/unloading within the front yard.

Kincaid said should the variance requests be granted, the variances required are:

- A variance to allow parking within the front yard setback
- A variance of 22 required parking spaces with the proposed uses
- A variance to allow loading/unloading within the front yard
- A variance to allow trash enclosure within the front yard

Joe Paluzzi-2845 Woodward Avenue-Verus Development-Royal Oak, MI 48167 – Mr. Paluzzi expressed appreciation to the board for their time to hear their requests. Mr. Paluzzi advised they previously developed within Bedford Township on the northeast corner of Secor and Sterns Roads, the location of Taco Bell, now Huntington Bank and Walgreens, where they still own the property. Mr. Paluzzi stated approximately three years ago they started working on this project and during their diligence they were made aware of the extensive environmental impact on the site. Mr. Paluzzi stated to the board they are excited to propose another development within this community. Mr. Paluzzi commended the MDEQ on the environmental clean-up that has been done on the site preparing it for development. Mr. Paluzzi stated Mr. Modestow will address the variance requests for tonight.

Jake Modestow-Authorized Representative-Stonefield Engineering & Design-Mr. Modestow said he would address each request and answer any questions the board may have. Mr. Modestow stated there are four requests before the board, trash and loading and unloading within the front yard, decrease in parking requirement and parking within the front yard on Secor Road. Mr. Modestow continued to explain the practical

difficulties of the parcel for each request. Mr. Modestow stated in looking at the site as a whole, the parcel is narrow and is a corner lot requiring two front yard setbacks, which limits the developable area of the site. Mr. Modestow referred to the proposed curb cut locations being provided furthest from the Secor/Sterns intersection, which is a limiting factor when designing the internal site circulation, as that depicts the drive aisles and parking spaces. Mr. Modestow referred to a meeting with the Township and outside entities to gather information on the site design before this application was presented before the board. Mr. Modestow explained the decorative gate proposed for the trash enclosure to be located within the front yard setback. Steiner inquired on the façade for the trash enclosure. Mr. Modestow supplied the Board Members with a gate front rendering and stated the enclosure will match the building façade. Mr. Modestow said the required parking spaces by ordinance far exceed the national standard for a neighborhood type development, which is about one for every 200 square feet. Mr. Modestow went on to explain the proposed uses at this time will have different peak hours, so a development of this nature allows for shared parking. Mr. Modestow stated the request to allow for 46 parking spaces will adequately supply enough parking for the site, uses and proposed tenants. Lastly, Mr. Modestow stated they feel they have met the three requirements of the variance request due to the narrowness, size and shape of the lot, double frontage requiring two front yard setbacks, topographic issues with the site with the environmental cleanup and mitigation, and they feel this type of development is in line with the Master Plan and the variances requested are justifiable.

Lake stated he does not know what the national standard is for parking requirements in relationship to what our ordinance requirements are, with that being said he is concerned with the parking as if the uses change there could be a difference in the calculation and the number of required parking can change. Kincaid stated she is unaware of the national standard. Mr. Goldsmith stated that is not an issue as it is determined by our ordinance. Kincaid stated when the parking is calculated by each individual use, it is done so assuming the need is at full capacity. Potter inquired on how many barrier free spaces are required. Kincaid stated one for each 25 or fraction thereof. Kincaid added with the proposed 46 they would be required two barrier free parking spaces.

Mr. Paluzzi stated what they concentrate on is national tenant representation and build the development around the relationship they have with national tenants. Mr. Paluzzi stated one thing they are sensitive to is the long-term success of the development they create. Mr. Paluzzi continued to explain if the development has insufficient parking they would be creating an issue for long-term success of their tenants. Mr. Paluzzi stated if their tenants are unsuccessful then in return their development is unsuccessful.

Potter voiced concern on the parking as well, addressing employee parking for each unit, plus the barrier free spaces not leaving enough parking for each unit. Mr. Paluzzi stated the intent for the uses are for “fast” casual dining facilities. Mr. Modestow explained the uses and peak hours using the example of the drive through having peak hours in the morning, restaurant would peak during the lunch hours and retail in the evening hours. Mr. Modestow said the breakdown of the peak hours would supply enough parking for each unit during those peak hours of operation. Steiner agreed with the developer not self-creating a hardship in supplying enough parking, but Steiner said he still struggles and has concern for the parking request. Mr. Paluzzi again reiterated with their past experience they feel the proposed number of parking spaces will suffice the uses. Mr. Paluzzi stated they are excited to be back developing in the community and feel the multi-unit proposed development is a better fit for the community instead of a single, stand-alone building.

Welling inquired on the loading/unloading of deliveries for each unit. Mr. Paluzzi stated once again with the restriction of the size of the site, the deliveries will be by smaller trucks and no semi-trucks. Mr. Paluzzi stated deliveries will be either early morning or after hours as this is not a conventional site with rear accessibility. Mr. Paluzzi stated they feel very strongly with the drive-thru access and referred to the site of the Taco Bell and working with the township and the neighbors to address all the concerns at that time. Mr. Paluzzi stated the user is proposed to be a coffee shop and there is no other way to design the site with a drive-thru access. Welling agreed with the developer on the design of the Taco Bell and addressing the issues of the township and neighbors. Welling added he understood the developers’ explanation of the decrease in parking requirement, however that does not determine the number of spaces required if one or more of the proposed uses change and

the type of deliveries that would be made. Mr. Paluzzi expressed the proposed national users for this site can work out any foreseen issues with parking and or deliveries.

Steiner stated each proposed variance is based on its own merits and referred to the location on the southeast corner of Sterns and Lewis being of similar nature.

Potter expressed concern on the loading and unloading and delivery times. A lengthy discussion continued on the time of delivery and the type of use in each unit. Mr. Paluzzi advised the board the type of national users they are proposing can dictate the time of deliveries. Mr. Paluzzi said he is aware that parking would have to be calculated on each individual use should the proposed use change. Lake stated he agreed with the user requesting a delivery time and type of vehicle as he deals with that type of requirement at work if that helps the board with loading and unloading issues, as the customer sets the standards not the distributor. Board members appreciated the information.

Zdybek said his main point is the site has been an eyesore for many years and glad to see development moving forward. Zdybek commended the MDEQ for their cleanup efforts on the site.

Potter expressed concern on the ingress/egress locations with only one exit lane and the concern of safety as both are highly traveled roads and a busy intersection. Mr. Modestow explained there is the opportunity to circulate the site to exit the site from either Secor or Sterns. Mr. Modestow stated it is difficult to design a site with such limitation and if there was to be added another exit lane it would decrease the parking area further and that also was a concern. Mr. Modestow advised the proposed ingress/ egress locations have been approved by the County. Potter stated the County is not whom the business will be complaining to. Potter also added there are other means of ingress/egress at the Taco Bell location. Mr. Paluzzi agreed with the concern of a busy intersection.

Kincaid stated any variance granted tonight would still require site plan approval from the Planning Commission with review and approval letters from the MCRC, MCDC, Bedford Fire Department and the MSG. Welling asked if the Planning Commission can restrict delivery times and or type of vehicle used. Mr. Goldsmith advised the Planning Commission does not normally place restrictions on development, reminding the Board Members that when a variance is granted the law allows the Board to attach to any granting of a variance reasonable conditions. Mr. Goldsmith stated delivery times and type of vehicle should be left to the landlord and tenant to work out and for the Board to focus on whether there is sufficient number of parking spaces for the proposed types of tenants. Mr. Goldsmith agreed it is a good point to raise and the Planning Commission should look at it and discuss it, but it should be left to the landlord and tenant to discuss and determine. Mr. Goldsmith stated if there should be a condition put on any one of the variances requested it should be done with the request here tonight and not at the Planning Commission site plan approval process. Steiner felt it would be extremely difficult to put restrictions on deliveries and could be restricting the business owner.

Sean Shikwana-2546 Hasen Drive-Representative Bennet Management Corp-Burger King-Mr. Shikwana had no intentions of speaking, however once discussion continued he expressed the concern of “fast” dining as customers come into the Burger King and stay, reading the paper and socializing. Mr. Shikwana spoke on the delivery time and that Burger King does not have that ability to determine delivery times as they are restricted on whom they can receive deliveries from. Mr. Shikwana also voiced concern on the delivery times for each unit and the number of customers would the location supply enough parking. Lastly, Mr. Shikwana voiced concern of safety with the increase in congestion of traffic to the area.

Robert Ruiz-7300 Secor Road-Deer Creek Commons-Mr. Ruiz said he is happy the corner has been cleaned up by the MDEQ and everything done to remediate the property. Mr. Ruiz asked if a study (WB67) has been done on the traffic flow and deliveries. Mr. Paluzzi stated not at this point. Mr. Ruiz complimented the township on the uniformity of the development within this community. Mr. Ruiz voiced concern on the trash enclosure where it is adjacent to an entrance and drive-thru area. Mr. Ruiz felt parking is a vital component to this

development and added usually national tenants have parking requirements of their own for a site. Mr. Ruiz stated commented on maintaining the business district walkability, viable greenspace and the required setbacks, asking how with these requests does that play into maintaining and improving the downtown district. Mr. Ruiz stated while he is glad to see development on this site, in his opinion he felt there should be a review and change in the proposed layout such as less units.

Motion by Lake, supported by Welling, to close the public hearing at 7:56 p.m. Motion carried.

Lake spoke on if the site's square footage creates a reason for the variances or is the proposed facility itself too large for the site. Lake asked if decreasing the size of the building could increase the parking area. Lake stated maybe the proposed building is too ambitious for this size site. Potter asked on the determination of the number of parking spaces. Kincaid stated is it calculated on the usable floor space for each specific use. Kincaid reiterated each use and the number of required parking spaces. Lake stated uses could either increase or decrease the number of required parking spaces, as this is just what is being proposed. Welling agreed as these uses are being proposed, however that does not mean the uses will not change in the future. Potter agreed. Zdybek agreed with Lake on the size of the building and being too large for the site. Potter inquired on snow removal.

Mr. Modestow reiterated due to the required front yard setback on a corner lot, the proposed building location is pushed farthest to the southeast corner. Mr. Modestow stated if the use was to change it would be represented to the BZA for review. Kincaid stated technically if a new tenant was to occupy the unit it would be reviewed by the Planning Department to calculate the required parking. Mr. Modestow said any tenant that would occupy a unit would have to submit before the BZA if unable to meet the parking requirement, saying there would be a review if there was a new use. Mr. Paluzzi stated any new use would have to go to Planning Department for review and the new use would have to meet the approved parking. Mr. Paluzzi stated they would not be able to exceed the existing granted approved parking spaces. Mr. Paluzzi stated they are confident in what they are proposing as at the end of the day they have to make sure there is long term longevity to benefit everyone, the community, tenants and them as the developer/owners.

Lake stated once the variance is granted, the Planning Commission can review the uses, however the variances will have already been granted. Lake stated if a use required more parking, how could the Planning Department require more parking once a variance is granted. Mr. Modestow stated if the use was unable to meet the parking requirements before the use could occupy the unit a request would have to be made to the BZA requesting a variance of the parking spaces for that use. Mr. Goldsmith stated if the Board's desire is to do so then there should be a condition that if the use changes it must be presented to the BZA for calculation of the required number of parking spaces. Mr. Goldsmith felt that is the only way it would be required to be presented to this Board. Potter said in 10 years, conceivably, how would a use change be followed up. Mr. Goldsmith stated once the variance is granted that becomes the required number of parking spaces that runs with the property. Mr. Goldsmith said there must be condition to require the BZA to review and recalculate should a use or the number of tenants change. Mr. Goldsmith continued, saying the granting of a variance must show a practical difficulty and the Board should question if the practical difficulty is being created by the number of units within the proposed building at this particular intersection with high traffic volume.

Motion by Lake, supported by Steiner, to grant the request of Verus Development Group, 28454 Woodward Avenue, Royal Oak, MI 48067 requesting a variance to allow parking within the front yard setback, per Section 400.1904, "Off-Street Parking Requirements", in a C-3, General Commercial Zoning District, on vacant land described as 5802-032-056-00, otherwise known as 7386 Secor Road, located on the corner of Secor and Sterns Road as it is consistent with the surrounding neighboring properties, and conditioned upon maintaining the area to include sidewalks for walkability, to maintain the greenspace area and to not encroach on the DDA planned area.

Mr. Paluzzi advised that easements have already been granted to the DDA.

Roll call as follows: Voting Aye: Lake, Steiner, Zdybek, Welling and Potter

Voting Nay: None

Excused: None

Motion carried.

Motion by Lake, supported by Steiner, to grant the request of Verus Development Group, 28454 Woodward Avenue, Royal Oak, MI 48067 requesting a variance to allow trash enclosures to be located within the front yard, per Section 400.1303, "Site Development Standard for C-3, General Business Districts" in a C-3, General Commercial Zoning District, on vacant land described as 5802-032-056-00, otherwise known as 7386 Secor Road, located on the corner of Secor and Sterns Road due to the property layout, size of the parcel, and to ensure the façade shall match the developed building and shall include the provided gate rendering supplied by the applicant.

Roll call as follows: Voting Aye: Lake, Steiner, Zdybek, Welling and Potter

Voting Nay: None

Excused: None

Motion carried.

Motion by Steiner, supported by Zdybek, to grant the request of Verus Development Group, 28454 Woodward Avenue, Royal Oak, MI 48067 requesting a variance to allow loading and unloading to be located within the front yard, per Section 400.1906, "Off-Street Loading and Unloading", in a C-3, General Commercial Zoning District, on vacant land described as 5802-032-056-00, otherwise known as 7386 Secor Road, located on the corner of Secor and Sterns Road as the proposed location, located to the most southwest corner of the building on Secor Road, is the most accessible ingress/egress.

Roll call as follows: Voting Aye: Steiner, Zdybek, Lake, Welling and Potter

Voting Nay: None

Excused: None

Motion carried.

Motion by Lake, supported by Welling, to deny the request of Verus Development Group, 28454 Woodward Avenue, Royal Oak, MI 48067 requesting a variance to allow a reduced parking requirement of 22 parking spaces, per Section 400.1904, "Off-Street Parking Requirements", in a C-3, General Commercial Zoning District, on vacant land described as 5802-032-056-00, otherwise known as 7386 Secor Road, located on the corner of Secor and Sterns Road, as due to the size and ambition of the proposed building, the request is self-created and to decrease the number of parking spaces is a high safety concern.

Mr. Paluzzi said hearing the Boards' concern on parking, Mr. Paluzzi asked if the parking variance request can be tabled to give them time to reevaluate the site and proposed building size. Mr. Goldsmith stated the request can be tabled to the February meeting if the Board so desires, otherwise the request would have to be withdrawn by the applicant. Mr. Goldsmith stated if the Board tables the request to the next meeting, February 5, 2018, there will not have to be another publication. Mr. Paluzzi stated they would appreciate it if the Board would table the request to the next meeting.

Lake withdrew the previous motion, supported by Welling.

Motion by Lake, supported by Welling, to table the request of Verus Development Group, 28454 Woodward Avenue, Royal Oak, MI 48067 requesting a variance to allow a reduced parking requirement of 22 parking spaces, per Section 400.1904, "Off-Street Parking Requirements", in a C-3, General Commercial Zoning District, on vacant land described as 5802-032-056-00, otherwise known as 7386

Secor Road, located on the corner of Secor and Sterns Road to allow the applicant time to review and recalculate the number of parking spaces shown on the submitted site plan which will be heard again on February 5, 2018, the next regular scheduled Board of Zoning Appeals Meeting.

**Roll call as follows: Voting Aye: Lake, Welling, Zdybek, Steiner and Potter.
Voting Nay: None
Excused: None
Motion carried.**

PUBLIC COMMENT –None

COMMISSION / STAFF COMMENT –
Kincaid advised there is a meeting on February 5, 2018.

Welling advised the meetings are shown on Bedford Cable channel and now can be seen on YouTube at the same time. Welling added you can locate the link on the Township Website.

Steiner thanked the camera team and commended them on a great job.

Lake stated it is a pleasure to be on the Board.

ADJOURNMENT – The meeting was duly adjourned at 8:25 p.m.

*Respectfully submitted,
Jodie L. Rector
Recording Secretary*