

**SHIAWASSEE COUNTY  
ZONING BOARD OF APPEALS BOARD MINUTES  
JUNE 12, 2013**

**1. CALL TO ORDER:** Chair Martin called the June Zoning Board of Appeals public hearing to order at 7:05 P.M. within the Third Floor Conference Room, 201 N. Shiawassee Street, in Corunna, MI.

**ROLL CALL:** Present: Gerald Wardell, Ann Gamboe Hall, Julie Hales-Smith, N. Bradley Hissong, Fred Junger and Henry W. Martin III. Absent: Larry Gramer. Also present: Peter J. Preston/Community Development Director and Linda Gene Cordier/Zoning Administrator.

**1a. EXCUSED ABSENCE:** Cordier informed the chair staff had not heard from Larry Gramer. Chair Martin stated that no action would be taken until the July meeting.

**2. CONFIRMATION OF LEGAL NOTICE:** Cordier informed the chair the legal notice for the evening's hearing was published on May 26, 2013 within the Shiawassee County Independent and Proof of Publication was on file. Chair Martin declared the hearing as legally noticed.

**3. APPROVAL OF AGENDA: Motion:** Junger moved to approve the agenda as printed.  
**Support:** Wardell. Motion carried: 6 ayes, 0 nays.

**4. APPROVAL OF BOARD MINUTES: Motion:** Hall moved to approve the May 8, 2013 board minutes as printed. **Support:** Hissong. Motion carried: 6 ayes, 0 nays.

**5. PUBLIC COMMENTS ON NON-AGENDA ITEMS:** None.

**6. COMMISSIONER COMMENTS:** Chair Martin noted that Commissioner McLaren was attending a Board of Commissioner's meeting that was still in session on the first floor.

**7. OLD BUSINESS:** None.

**8. NEW BUSINESS:**

**8a. Multi-Dimensional Variance Application #PZBA13-006**

**Applicant – Shaftsbury United Methodist Church, c/o R. Michael Shaft**

**Parcel Owners – Shaftsbury United Methodist Church, P.O. Box 161, Shaftsbury, MI**

**Site Location – 12821 South Warner Road, Shaftsbury, MI 48882**

**Tax Id. #78-013-23-300-001-05; Section 23, Woodhull Township**

**Request:** Construct a free-standing sign (6'6" wide by 8' high) within the setback requirement of Lansing Highway (70 ft from center line of Lansing Hwy. to north edge of sign) and with a Lighted "LED" flip-board style face with electronic changeable wording

**Zoning:** Article 9, Signs

Cordier provided a brief staff report of the applicant's request. The church has been in contact over the past several months seeking information on the placement of a free-standing sign. An application was submitted for the zoning permit; however, the location and type did not comply with the zoning ordinance. Cordier stated she contacted Mr. Shaft and discussion continued with regard to ordinance language on types of signs and setback regulations.

Cordier continued that the church property is located within Section 23 of Woodhull Township on the corner of Warner and Lansing Highway noting that it was on the east side of Warner and south side of Lansing. The applicant is proposing to install a new 18 square foot free-standing

sign and setback 70 feet from the center line of Lansing Highway. They are also asking to be permitted to install a lighted "LED" electronic style flip-board sign. The ordinance states the minimum setback off a State or Federal Highway or Lansing Highway is 75 feet from the road right-of-way. The applicant contacted M.D.O.T. and within that area of Lansing Highway a 60 foot setback from the center line of Lansing Highway is required. The proposed sign based on its height would need to be 91 feet from the right-of-way. Per the applicant's site plan and proposed location, it would place the sign within the existing parking lot.

The church was built after a special land use permit/site plan was approved in 1999. Access to the church is from Warner Road. The parking lot is located in front of the church. An existing free-standing sign is located up near the northwest corner of the property. The visibility of the existing sign as you travel east along Lansing Road is semi-blocked until you are almost upon the intersection of Warner Road due to the stand of trees located along the northwest corner of the intersection of Warner Road. If the sign is approved, the board will need to determine if the existing sign can remain and/or if it will be required to be removed once the new sign is erected based on ordinance language. Only one (1) free-standing sign is permitted. The church is seeking a request for a newer style sign with the ability to change upcoming announcements by an electronic system on a flip-board style format.

Cordier noted that on February 8, 2012, the ZBA board granted a variance similar in nature to the Durand Church of the Nazarene within Vernon Township. The variance allowed the church to replace their existing sign. The sign could not to exceed 40 square foot. They were also granted a variance allowing for a lighted LED sign with amber lighting with a flip-board style message (not to be activated between the hours of 10:00 P.M. and 6:00 A.M.). A request came back to seek an amendment to the variance. On May 9, 2012, the ZBA amended the motion to include "amber and white lettering only". On January 8, 2003, the ZBA board granted a variance to Venice Township allowing the placement of a 32 square foot sign; however the township sign is lighted sign with black magnetic type lettering.

Chair Martin asked Mr. Shaft if he wished to speak at this time.

Mr. Shaft stated he has researched LED type signs throughout various states. It is evident that the concerns are consistent throughout the states. The main area of concerns are with the ability to have scrolling wording, flashing , and quickly changing screens. The church is looking to upgrade their sign by placing it in a new location and have it legible and easy to read. Mr. Shaft held up an example of a sign that had green background with black lettering. Typical colors are red, green and yellow. The message would not scroll. They would like the ability to have a two-part message such as Sunday services are (times) and than maybe the second message stating an upcoming event such as the Kid's Cupboard Monday or Sunrise Service with the time of service. The church intends to keep the message simple but would like the ability to change it from inside, especially within the winter months or inclement weather.

Chair Martin called for public input in support of the request. Hearing none, Martin called for public input in opposition of the request. Hearing none, Martin asked if staff had received township input. Cordier stated she had not received any comments or recommendations from the township. Chair Martin closed the public hearing and called for board discussion.

Hissong asked if the church was given the ability to have two separate messages, how often or at what interval would the message flip?

Shaft replied that the two messages would be mainly discussing one event. When the sign flipped it would contain a second message.

Hall said her concern is the speed limit for traffic in that area. Although the speed limit is 55 mph, most people are probably driving 60 mph. If the sign changed every 4-5 seconds, it would be very distracting to a driver.

Shaft stated the message would probably get changed each morning if needed, but the church was working on establishing wording that wouldn't be changed that often. The church would like the ability to announce an upcoming event maybe with larger letters.

Hissong asked staff what the ordinance stated regarding how often the message could change.

Preston answered the ordinance allows for standard signs with permanent or magnetic type lettering. The sign can have a lighted background.

Cordier agreed and added that the only changeable wording on a sign that is allowed would be a sign that announced the time, date, and temperature.

Junger informed the board that when he visited the site and area he found an existing electronic sign further down the road. Junger stated he found it very hard to read and distracting.

Shaft informed the board they were considering one message only. Their only concern was with the fact they have special events from time-to-time. They would like people traveling along Lansing Road the ability to see when the church service is and/or when a special event has been scheduled. It is not their intent to have the sign legible for I-69 traffic.

Hall replied that her concern was with safety for the people traveling along Lansing Highway. If the driver takes his or her eyes off the road for a second to try and read a message, it could cause an accident. The sign might be changing causing the driver to turn their head to read the message and end up swerving on the road.

Wardell asked if they had power available to the proposed site?

Shaft stated no. They will need to apply for an Electrical permit and have the power installed.

Chair Martin commented on the variance granted to the Durand Church of the Nazarene. They were limited to when the sign could have the lights on. One reason for the time limit was because of the close proximity of homes within the immediate area of the church. Another reason it was considered was the speed limit was a lot lower because it was just outside the City Limits, near a public school zone, and was within close proximity from an intersecting road.

Wardell asked if the sign would be positioned so it was a two-sided sign?

Shaft stated yes, they would like the ability to have the same wording on each side, which would make it easier to read and visible for traffic in both directions. Shaft said he would agree with Mr. Junger on the other sign located further down the road. Not only is it annoying, but was distracting and hard to read because of it being located so close to the road.

Wardell asked what the actual sign size would be.

Shaft said the sign will be 6'6" wide by 8' high. The cabinet is approximately 15'5". The ordinance limits the size of the sign to 18 square feet. The only changing part on the sign would be at the bottom of the sign.

Junger responded that it appeared the changeable part would be 12.5"x75" wide.

Hall wondered why the sign couldn't be moved further back from the road.

Shaft said they are proposing it to be 70 feet back from the center line of Lansing Road. If it is moved further back it would place it within the parking lot.

Hall informed the applicant that the board is required to consider the least amount needed when considering a variance or deviation from the ordinance.

Shaft stated the church felt that if they had to move it farther back, it would make the sign even harder to read. The sign would then be within the parking lot creating an obstacle to get around for members parking in that area. The existing sign isn't visible until you are almost in front of it.

Junger agreed with Mr. Shaft on the existing sign. All of sudden you are coming up on the intersection heading east and there is the church sign. Junger said he also wanted to clarify that the other sign that has been discussed earlier is not located in Shiawassee County.

Discussion followed on the feasibility of locating the sign in another area such as more to the east, which would allow the sign to be moved back. Another suggestion was an island type sign in the parking lot, which would be higher than the cars. Shaft stated the church really didn't want a sign in the parking lot for the members to drive around. The church tried to be logical in terms of where the sign should be placed and have the best impact. M.D.O.T. would not budge on the 60 foot setback and apparently there was no appeal process with them. Shaft added that because the church property is located on a major highway, the ordinance requires a greater setback than what would be required on a secondary road.

Hissong discussed the size of the sign with Shaft. Shaft informed the board there would be only room for two lines for a message.

Junger stated the information provided in the packet stated the lettering would be 6" or less. That portion is only 12.5" high. Junger mentioned the Baker College electronic sign located on South M-52 within the city limits of Owosso and that it was distracting and somewhat annoying.

Chair Martin stated unless there was additional questions, they would proceed with the findings of fact.

Preston stated that at the time the report was written, it wasn't a clear-cut picture. The board may want to consider additional discussion.

#### FINDINGS OF FACT

1) How the application of the Zoning Ordinance creates unnecessary hardship or practical difficulty in the use of the petitioner's property.

**Staff: Lansing Highway has a greater setback requirement from the road right-of-way than a typical secondary road. Placement of the sign 91 feet from center line of Lansing Highway may not be legible to drivers passing by at the normal speed limit of 55 mph and; meeting the requirements would place the sign within the existing church parking lot.**

**ZBA Findings:** Martin stated there wasn't a hardship because the property is already in use even without this type of sign. There is an existing sign on the property. Hall stated the issue is the setback. The board concurred with all findings.

2) Identify the unique physical circumstances or conditions or exceptional topography that create practical difficulties.

**Staff:** Again, Lansing Highway has a greater setback requirement from the road right-of-way than a typical secondary road. A lighted LED board is also being sought to announce weekly services and still be legible from the road to passing motorists.

**ZBA Findings:** The board noted some of the conditions that exist are the fact that the speed limit is 55 mph, the stand of trees located on the west side of Warner Road and the incline along Lansing Highway. Martin felt the main issue was the speed limit. Shaft informed the board that he had tried to get M.D.O.T. to reduce the setback, but they wouldn't budge. The board concurred with all findings.

3) Specific findings (characteristics of the land) showing that because of the physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance. That the authorization of a variance is, therefore, necessary to enable the reasonable use of the property and that the condition is specific to this property and not general to other properties in the area.

**Staff:** On parcels fronting lots other than on a State or Federal Highway or Lansing Highway, the sign could have been located 16 feet from the road right-of-way (49 feet from center line of road). M.D.O.T. has informed the applicant that they must stay 60 feet from the center of Lansing Highway; however, the Ordinance requires a 75 foot setback from right-of-way. The multi-variance is needed to allow the sign closer to Lansing Highway and still be legible along with a LED flip-board to announce church functions.

**ZBA Findings:** Junger noted that the sign is being proposed to enhance the church with a newer sign. The board concurred with all findings.

4) Finding that the practical difficulty was not created by the applicant and is related only to property that is owned or occupied by the applicant.

**Staff:** The 75 foot setback requirement has been in effect since June 4, 1982. Other businesses that may front Lansing Highway and/or a State or Federal Highway would be required to comply with the same setback regulations for a sign.

**ZBA Findings:** The board felt if this were approved, it would be setting a precedent. Junger added this board may wish to recommend to the Planning Commission that the Rewrite Committee review the existing language on signs for possible amendment. Preston noted the Rewrite Committee is currently working on a time lime with ordinance language. The section relating to signs is not within the time frame of language that is being covered this summer. The board concurred with all findings.

5) A statement of the impacts of the variance if authorized, the property values, use and enjoyment of the property in the neighborhood or district, and on the public, health, safety and welfare.

**Staff:** If approved, the sign would be positioned far enough from the road right-of-way so it would not be a detriment to the public, health and safety of the area and passing motorists and still be beyond M.D.O.T.'s setback requirements.

**ZBA Findings:** Hall noted that her concern was not with the location of the sign but rather with the electronic changing of the message. Junger asked why the ordinance required 75 feet from the right-of-way and M.D.O.T. only 60. Cordier stated that the right-of-way can change. Sometimes M.D.O.T. may require less; for example when the board was looking at a recent variance request on M-13. One area along M-13 had only a 33 foot setback and then just a few feet away it became much larger. The board concurred with all findings.

6) The proposed variance does not permit the establishment of any use which is not permitted by right within the district or any use or dimensional variance for which a special use permit is necessary.

**Staff: Signs are a permitted use by right by issuance of a Zoning and Building Permit. The variance is needed as the applicant cannot meet the minimum required setback to be legible from the road. Although the Ordinance does allow for a lighted sign, it does not allow for scrolling or changing lettering as reflected with the modern LED signs.**

**ZBA Findings:** Safety was discussed. The main concern was if the sign were allowed to have a changing message and how it would impact passing motorists traveling the speed limit. The board concurred with all findings.

7) Findings on whether the proposed development complies with the requirements, standards, or procedures given in the Zoning Ordinance or an interpretation of the disputed ordinance provisions, if applicable.

**Staff: The property has been developed and has an existing sign located closer to the Warner Road intersection; however, the applicant is seeking to relocate the sign to make it more visible to passing motorists.**

**ZBA Findings:** Junger noted the new sign would be more preferable than the existing sign; however, the fact that they are asking to have the ability to change messages by flipping back and forth was an issue. The sign with just a stationary message would be less distracting. The board concurred with all findings.

8) Findings on any error in judgment or procedure in the administration of the relevant zoning provisions.

**Staff: No apparent error in judgment or administration was evident.**

**ZBA Findings:** The board concurred with staff's findings.

9) The possible precedents or affects which might result from the approval or denial or the appeal.

**Staff: Similar requests may arise with businesses that may front Lansing Highway and/or along a State or Federal Highway within the County.**

**ZBA Findings:** The board questioned what the unique or physical circumstances were associated with the request and felt it would be setting a precedent if they approved it. The board concurred with all findings.

10) Findings on the impact if the appeal is approved, on the ability of the County or other governmental agency to provide adequate public services and facilities and/or programs that might reasonably require in the future if the appeal is approved.

**Staff: No impact is perceived should the multi-variance be granted.**

**ZBA Findings:** The board discussed the safety issue of passing motorists that might be distracted by a flip-board screen. The board concurred with the findings.

**Additional Standards for Review-**

1. **Reasonable Use-** Can the property be used in a manner consistent with existing zoning without the need of a variance?  
ZBA Board – The property is already in use and has an existing sign.
2. **Uniqueness-** Is the need for the variance due to a unique circumstance and not general to conditions of the neighborhood.  
ZBA Board – If approved, it may open up a Pandora’s box.
3. **Essential Character Affected-** Will the variance effect the essential character of surrounding area?  
ZBA Board – It may.
4. **Self-Created Hardship-** Is the hardship or practical difficulty the result of the applicant’s own actions with respect to the request.  
ZBA Board – The board questioned the size of the proposed sign. Preston noted the ordinance has a maximum size sign for a religious institution. Preston stated that although the ordinance outlines the ten findings of fact, the additional four questions were derived from a past court case by the judge.

Chair Martin called for additional discussion and/or a motion at this time.

**Discussion:** Junger suggested the message be stationary and not be permitted to change electronically. Board members discussed the Durand Church of the Nazarene sign variance. Smith asked Mr. Shaft about the type of electronic sign being proposed. Shaft responded that it would be like a message announcing a service or event and then it would change after that particular service.

Preston asked if he meant the message would change daily, hourly or every 15 minutes. Smith stated it appeared the whole intent for not allowing an electronic LED type sign was because they are distracting to passing motorists. Junger again suggested asking the Planning Commission to have the rewrite committee review ordinance language on signs. Junger asked Mr. Shaft if the church was willing to say the electronic message would only change at two-hour intervals. Mr. Shaft stated the message would announce such things as the hours of service and then have an announce for a special event coming up. Martin stated he had to agree with what Hall stated earlier. The first issue is the safety of the public; motorist traveling by. The second issue is the setback or location of the sign. The board discussed the proposed colors and background. Board members felt a single-colored message with a standard background color should be considered.

**Motion:** **Fred Junger** moved that the Multi-Dimensional Variance application request (PZBA13-006) seeking relief from the setback requirements of a State or Federal Highway or Lansing Highway and from (electronic) running type lighted sign language as outlined within the 1999 Shiawassee County Zoning Ordinance requirements (Section 9.2.1.G. and Figure 9-1) submitted by the Shaftsbury United Methodist Church (applicant and property owners), regarding Tax Id. 78-013-23-300-001-05, Section 23, Woodhull Township, and located at 12821 S. Warner Road, Shaftsbury, MI, by allowing for an 18-sf (6’6” wide by 8’ high) sign to be located 70 feet from center line of Lansing Highway, a variance of 21 feet be **approved** pursuant to Section

18.4.5. of the 1999 Shiawassee County Zoning Ordinance, as amended, and based on the Findings of Fact within Section 18.4.6., with the following conditions:

- 1) Electronic message allowed on sign with changing of the message at two-hour intervals.
- 2) Electronic message limited to one color lettering on a single-color background.
- 3) Existing free-standing sign to be removed.
- 4) In the event the zoning ordinance language is amended and the applicant can meet the amended sign language, then the variance would become null and void and the applicant apply for a new zoning permit for review and consideration of approval.

**Support: Gerald Wardell.**

**Roll Call: Ayes to Approve:** Julie Hales-Smith, Gerald Wardell, and Fred Junger. **Nays:** Ann Gamboe Hall, N. Brad Hissong, and Henry W. Martin III. **Motion failed.**

**Discussion:** Preston informed the board that action was needed on the request. The board has the option to postpone until a full-board is present, a motion to deny, or a motion to approve with other restrictions. Hall asked if the variance could be separated into two (2) separate requests. Preston stated if the board would like to consider it as two (2) separate issues, they could request staff to come back with a revised staff report separating the two (2) issues and vote on each one independently from the other.

**Motion: Hall** moved to **postpone** Dimensional Variance Application Request (PZBA13-006) until the July 2013 public hearing and that staff provide a new staff report separating the two (2) variance requests to be reviewed independently from each other. **Support: Junger.**

**Roll Call: Ayes to Postpone:** Julie Hales-Smith, N. Bradley Hissong, Gerald Wardell, Fred Junger, Ann Gamboe Hall, and Henry W. Martin III. **Nays: None. Motion carried: 6 ayes, 0 nays.**

**9. INTERPRETATION OF THE ORDINANCE:** None.

**10. ZONING ADMINISTRATOR'S REPORT:** Cordier said the next ZBA hearing would be held on July 10<sup>th</sup>. Martin informed the board he would not be available for the July meeting and asked Vice Chair Hall if she would be attending the meeting. Hall noted she had another commitment, but would try to work around it.

**11. BOARD MEMBER COMMENTS:** None.

**12. PUBLIC COMMENTS:** Mr. Shaft stated he appreciated the board working with them.

**13. ADJOURNMENT:** **Motion:** Julie Hales-Smith moved to adjourn. **Support:** Fred Junger. **Motion carried:** 6 ayes, 0 nays. Meeting adjourned at 8:30 p.m.

Recording Secretary – Linda Gene Cordier

N. Bradley Hissong  
Acting Chairman/Zoning Board of Appeals

July 10, 2013  
Approval Date of Minutes