

**CHARTER TOWNSHIP OF MERIDIAN
ZONING BOARD OF APPEALS REGULAR MEETING MINUTES *APPROVED*
5151 MARSH ROAD, OKEMOS, MI 48864-1198
(517) 853-4000
WEDNESDAY, SEPTEMBER 23, 2020 6:30 PM
TOWN HALL ROOM**

PRESENT: Chair Mansour, Members Field-Foster, Hendrickson, Kulhanek, Wisinski,
ABSENT: None
STAFF: Director of Community Planning and Development Mark Kieselbach, Assistant
Planner Keith Chapman

1. CALL MEETING TO ORDER

Chair Mansour called the meeting to order at 6:31 p.m.

2. APPROVAL OF AGENDA

MEMBER FIELD-FOSTER MOVED TO APPROVE THE AGENDA AS SUBMITTED.

SECONDED BY MEMBER WISINSKI.

VOICE VOTE: Motion carried unanimously.

3. CORRECTIONS, APPROVAL & RATIFICATION OF MINUTES

A. August 26, 2020 Meeting Minutes

MEMBER WISINSKI MOVED TO APPROVE THE MINUTES FROM WEDNESDAY, AUGUST 26, 2020 AS SUBMITTED.

SECONDED BY MEMBER HENDERICKSON

Chair Mansour asked the minutes be corrected to show Member Hendrickson was absent for the meeting.

VOICE VOTE: Motion carried unanimously.

4. COMMUNICATIONS

None

5. UNFINISHED BUSINESS

None

6. NEW BUSINESS

A. ZBA CASE NO. 19-111-13-1 (East Lansing Lodge, Inc.) 2736 Grand River Avenue, East Lansing, MI 48823

LOCATION: 2736 Grand River Avenue
PARCEL ID: 17-460-017
ZONING DISTRICT: C-2 (Commercial)

The applicant is requesting the Zoning Board of Appeals (ZBA) to rehear a previously denied variance in accordance with the following section of the Code of Ordinances:

- Section 86-225 – No application for a variance, which has been denied wholly or in part by the Zoning Board of Appeals, shall be resubmitted until the expiration of one year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed circumstances found by the Zoning Board of Appeals to be sufficient to justify consideration.

If the ZBA decides to rehear the case the request is for a variance from the following section of the Code of Ordinances:

- Section 86-618(2), Nonconforming structures, other than single-family structures, may be altered, expanded, or modernized without prior approval of the Zoning Board of Appeals; provided, that structural alterations or extensions shall not increase the area, height, bulk, use, or extent of the structure and shall satisfy all other applicable site development regulations.

The variance request is to expand a nonconforming nonresidential structure with a decorative canopy addition at 2736 Grand River Avenue. The request is to rehear a previously denied variance.

Assistant Planner Chapman outlined the previously denied variance and outlined the procedure to rehear the variance request.

Chair Mansour asked the applicant or the applicant's representative if they would like to address the Zoning Board of Appeals (ZBA).

Ryan Nofar, 2736 E. Grand River, East Lansing, applicant, stated the franchise company had changed the variance request to allow for a canopy. The canopy would provide: coverage at the entrance of the building, an architectural feature and curb appeal to the building. The building and site received upgrades over this past year related to the rebranding of the hotel.

Chair Mansour opened the floor for public remarks and seeing none closed public remarks.

Member Hendrickson asked if the Zoning Ordinance required a one year period between requests when the variance had been denied and the process to rehear a case.

Director Kieselbach replied the Zoning Ordinance allows an exception from the one year when there is change of circumstances or proof of new evidence. The ZBA would need a vote to reconsider the variance request.

Member Hendrickson asked the applicant what had changed since the last variance request.

Mr. Nofar replied the original request had been for a larger structure with columns that extended into the parking lot. The proposed canopy over the entrance has been reduced in size.

Member Hendrickson asked staff if there was a definition for the term “change in circumstances” in the Zoning Ordinance.

Director Kieselbach replied the Zoning Ordinance did not define the term but the ZBA had considered changes such as redesign or in the extent or amount of the variance. The ZBA will need to decide if there is enough of a change in the variance request to rehear the case.

Member Field-Foster stated the current request is completely different from the previous request. She would support hearing the revised request.

Member Wisinski stated with the reduction in size of the structure, she would support rehearing the request.

Member Kulhanek stated it appeared to be a substantially different application.

Chair Mansour stated she agreed the request appeared to be significantly changed.

MEMBER KULHANEK MOVED TO REHEAR ZBA CASE NO. 19-11-13-1 (East Lansing Lodge, Inc.) FOR 2736 GRAND RIVER AVENUE, EAST LANSING, MI 48823.

SUPPORTED BY MEMBER WISINSKI.

ROLL CALL TO VOTE:

AYES: Members Field-Foster, Wisinski, Hendrickson, Kulhanek, Chair Mansour

NAYS: None

Motion carried: 5-0

Assistant Planner Chapman outlined the case for discussion

Chair Mansour asked the applicant or the applicant’s representative if they would like to address the Zoning Board of Appeals (ZBA).

Ryan Nofar, 2736 E Grand River, East Lansing, applicant, stated he was available for questions.

Member Field Foster asked if the canopy will be lighted.

Mr. Nofar replied lights will be installed underneath the canopy for the safety of the guest.

Member Hendrickson asked if the hotel could be operated without the canopy.

Mr. Nofar replied the hotel could operate without the canopy. The proposed canopy is a franchise requirement and creates a covered entrance for guests.

Chair Mansour stated the standards for the hotel brand could not be considered by the ZBA. Issues such as public safety could be considered.

Chair Mansour read review criteria one from Section 86-221 of the Code of Ordinances which states unique circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district. She stated the unique circumstance was the building is nonconforming and any changes to the building would require a variance.

Chair Mansour read review criteria two which states these special circumstances are not self-created. She stated the circumstances were not self-created by the owner.

Chair Mansour read review criteria three which states strict interpretation and enforcement of the literal terms and provisions of this chapter would result in practical difficulties. Chair Mansour questioned whether the business could operate successfully without a canopy.

Member Hendrickson stated the business had operated in the past without a canopy. The ZBA's decision is not based on the owner or the brand standard. The variance request cannot meet review criteria three and four.

Member Field-Foster stated she also had concerns with review criteria three and four but considering the safety component such as the lighting and weather, the canopy would provide an extra type of security.

Chair Mansour read review criteria four which states that the alleged practical difficulties which will result from a failure to grant the variance would unreasonably prevent the owner from using the property for a permitted purpose. Chair Mansour stated she agreed with the safety component.

Chair Mansour reviewed criteria five which states granting the variance is the minimum action that will make possible the use of the land or structure in a manner which is not contrary to the public interest and which would carry out the spirit of this zoning ordinance, secure public safety, and provide substantial justice. Chair Mansour stated public safety with the issue and the reduction in the size of the canopy, the variance request could be considered the minimum action.

Chair Mansour read review criteria six which states granting the variance will not adversely affect adjacent land or the essential character in the vicinity of the property. Chair Mansour stated the upgrades to the building and the site will be an improvement to the adjacent area.

Chair Mansour read review criteria seven which states the conditions pertaining to the land or structure are not as general or recurrent in nature as to make the formulation of a general regulation for such conditions practicable. Chair Mansour stated the site location and nonconforming building make it unique. The criteria had been met

Chair Mansour read review criteria eight which states granting the variance will be generally consistent with public interest and the purposes and intent of this Chapter. Chair Mansour stated the Township wants businesses to grow and be successful. The variance is consistent with public interest.

Member Wisinski stated consideration should be given to public safety and being ADA compliant. Review criteria three and four could be met based on providing protection from the weather, especially for the disabled guests.

Member Kulhanek stated based on the public safety aspect, providing an area to load and unload, and reducing the size of the canopy, the variance request would meet review criteria three and four.

Member Hendrickson stated the parking spaces that are ADA compliant are a distance from the building and exposed to the elements. If the canopy was over the parking area, then he would agree with the safety aspect. He questioned if the request solves the problem. He agrees public safety was met for review criteria eight but not for review criteria three and four. A canopy is not required to operate the business and the business has existed without a canopy for years. The applicant did not provide enough evidence to address review criteria three and four and the practical difficulties.

Mr. Nofar stated he was not aware the franchise request would not be consider and would have approached the variance request in a different manner. The covered protection for guests is needed during bad weather. Providing customers with a drop off area will address the safety aspect and offer convenience and security for the guests.

Chair Mansour asked the applicant if the canopy offers coverage for the office.

Mr. Nofar stated the canopy would cover the vestibule.

Chair Mansour stated although the ADA spaces are not located next to building, someone could be dropped off under the canopy and then enter the building.

Chair Mansour stated she could justify review criteria three for the public safety aspect because it does offer a covered area when entering into the hotel. The practical difficulty of not having a canopy is an issue because it would not prevent the owner from operating the business.

Member Field-Foster stated the building was built in 50s and expectations of hotels have changes such as having a covered entrance. The canopy would have been installed if it was not for being a nonconforming building.

Chair Mansour stated to be a modern hotel, some of these amenities are needed to be a success.

Member Hendrickson stated some of the modern amenities are expected from guests at a hotel but the owner knew the state of the building when it was purchased. This is an aesthetic change requested by corporate. Since the canopy is not required by code or in conflict with the Township ordinances, he is not sure it meets review criteria four.

Member Wisinski stated the ZBA need to look at how the canopy would protect guests and keep them safe. Not having a canopy is not an impediment as it pertains to the practical difficulty of the use.

MEMBER WISINSKI MOVED TO APPROVE THE VARIANCE BASED ON THE EIGHT REVIEW CRITERIA AS PRESENTED BY THE APPLICANT AND DISCUSSED BY THE BOARD.

SECONDED BY MEMBER KULHANEK.

Discussion:

Member Hendrickson stated he would not support the variance request. Nothing would prevent the use of the building as a hotel.

Chair Mansour stated she believes the variance request was needed in order to use the property successfully for the permitted use and it would modernize the building so it could be better used by guests.

ROLE CALL TO VOTE:

YEAS: Members Field-Foster, Kulhanek, Wisinski, Chair Mansour

NAYS: Member Hendrickson

Motion carried: 4-1

7. OTHER BUSINESS

None

8. PUBLIC REMARKS

Chair Mansour opened the floor for public remarks and seeing none closed public remarks.

Mr. Nofar thanked the ZBA for their consideration of the variance request.

9. BOARD MEMBER COMMENTS

Member Hendrickson stated staff works hard to prepare for meetings but suggested it would be helpful if applicants are advised by staff prior to appearing before ZBA on what can and cannot be considered.

Member Field-Foster stated she appreciated listening and participating in the discussions

Chair Mansour expressed appreciation for everyone's opinion. This is the process and we do not always agree.

10. ADJOURNMENT

Meeting adjourned at 7:33 pm.

Respectfully Submitted.

Robin Faust, Administrative Assistant II