

**Bob Craig**  
*Chair*



**Chad A. Gamble**  
*City Manager*

**Mindy J. Seavey**  
*City Clerk*

**Kristina Kinde**  
*City Treasurer*

**Michael Homier**  
*City Attorney*

**Christopher Khorey, AICP**  
*Planning Consultant*

**Commissioners**

**Scott Dzurka, Mayor**

**Craig Bishop**

**Tom Hutton**

**Curtis Keck**

**Anne Rademacher**

**Wendy Ward**

## ZONING BOARD OF APPEALS

**June 26, 2024**

The St. Johns Zoning Board of Appeals will hold a regular meeting on June 26, 2024 at 5:30 pm in the Clinton County Courthouse Board Room, Suite #2200, 100 E. State Street, St. Johns, MI. (Please use Cass St. Entrance.)

### **AGENDA**

- 1. Call to Order (5:30 pm)**
- 2. Approval of Agenda (5:31 – 5:32 pm)**
- 3. Approval of Minutes (January 17, 2023 Meeting) (5:33-5:34 pm)**
- 4. New Business:**
  - A. Appeal – Cork and Bottle: 801 S. Old US-27 Variance for illuminated billboard (5:35 – 6:15 pm)**
    - 1. Introduction of the Case**
    - 2. Review of Appeal Process by Planning Consultant**
    - 3. Review of Requested Appeal by Planning Consultant**
    - 4. Presentation by Appellant**
    - 5. Presentation by Property Owner (Optional)**
    - 6. Public Comment**
    - 7. ZBA Deliberation**
    - 8. ZBA Decision**
- 5. Old Business: Advisory Discussion on Accessory Buildings.**
- 6. Adjournment**

## Zoning Board of Appeals

Bob Craig - Chairperson  
Scott Dzurka - Mayor  
Curtis Keck  
Tom Hutton  
Craig Bishop  
Anne Rademacher  
Wendy Ward



## **CITY OF ST. JOHNS** **ZONING BOARD OF APPEALS**

**JANUARY 17<sup>th</sup>, 2024**  
**MEETING MINUTES**

### **1. CALL TO ORDER**

The meeting of the St. Johns Zoning Board of Appeals was called to order by Chairperson Craig at 5:31 p.m.

Members Present: Bob Craig, Curtis Keck, Tom Hutton, Craig Bishop, Anne Rademacher, Scott Dzurka

Members Absent: Wendy Ward

Staff Present: Chad Gamble, City Manager; Mindy Seavey, City Clerk; Kristina Kinde, City Treasurer; Chris Khorey, McKenna; Ken Skunda, McKenna; Anne Seurnyck, City Attorney (Zoom)

### **2. APPROVAL OF AGENDA**

Chairperson Craig asked for revisions to the agenda: add #4 public comment on non-agenda items; #5 Old Business, #6 New Business.

A motion was made by Member Dzurka and supported by Member Bishop to approve the agenda as amended.

YEA: Craig, Keck, Hutton, Bishop, Rademacher, Dzurka

NAY: None

Motion carried.

### **3. APPROVAL OF MINUTES (JULY 19, 2023)**

A motion was made by Member Keck and supported by Member Hutton to approve the minutes as presented.

YEA: Craig, Keck, Hutton, Bishop, Rademacher, Dzurka

NAY: None

Motion carried.

### **4. PUBLIC COMMENTS (NON-AGENDA ITEMS)**

There were no public comments on non-agenda items.

### **5. OLD BUSINESS - NONE**

## 6. NEW BUSINESS

### A. Appeal – 501 S. Morton Zoning Permit for Accessory Building

Chairperson Craig said he sent out a Zoning Board of Appeals Guidebook a few days ago and read the purpose. He said the board usually deals with variances for an individual property owner. He said they are going to interpret the zoning code. He said all decisions made by the ZBA are final; no further appeal.

Member Rademacher said on page 14 of the guidebook it discussed a written decision within 30 days. She asked if it would be verbal followed by the written decision?

Chairperson Craig said the hope is to make a decision today.

### Introduction of Case by City Manager

City Manager Gamble introduced Anne Seurnyck, city attorney.

Attorney Seurnyck raised a few issues with the ZBA. She discussed: according to the ordinance, appeals of administrative decision shall be made within 21 days after date of decision of appeal is based and it should be in writing on standards forms. She said the permit was issued on October 5, 2023, and it does not appear the appeal was timely filed. She recommended the ZBA to put on record that the appeal should be denied based on not being timely filed. She said later she recommends the ZBA make a determination on whether it was correctly interpreted. She said it should be in writing into the minutes. She asked if there were any questions?

City Manager Gamble said the timeline does exist within the ordinance. He said it was missed by myself and Chris. He said it was his fault for not seeing the timeline and regressing from the original decision date and apply it to the submittal date.

There was a discussion of:

- Guidance that was given to the appellant.
- The timeline.
- Proceed with hearing the case after the decision of the timeliness.

John Fifarek, attorney for the appellant, discussed: the issue of timing; construction started on the project without the appropriate permit; Dr. Andersen brought it to the attention of the city; building that was 21' tall was going up; was told a stop work order would be issued and would go to the planning commission to address and there would be a hearing; the work started again and there was no hearing; he went to the city and was told a decision had been made and there had been a reconfiguration of the construction plans; interpretation the height of building was in conformance of code; on November 14<sup>th</sup> he found out; he was given a written decision dated November 13<sup>th</sup> from the zoning administrator; he came back to the city and asked what he needed to do and there was no form; he paid \$500 on November 30<sup>th</sup>, which was well within 21 days of him finding out there was an approval; well within the written decision he was given; he was the one that started the process for the stop work order; he did comply with what he was told and the spirit of the ordinance.

There was a discussion of:

- Permits are not publicly noticed.
- Residential accessory structures do not require notice to neighbors.
- Planning Commission has no authority over this.

Lindsey Scott was present. She discussed: they bought the home 8 years ago; been saving up cash to slowly remodel one room at a time; taken great pride in home, it is kept clean and taken care of; contemplated moving to the country, but wanted to utilize the property they own; put their life savings into building a pole barn; never meant to cause an issue with the Andersen's; photos were taken of their property; he came onto their property,

posted notes, and parked outside their home; they both work in public service professions and live a cautious life; there were aerial photos of their home put on Facebook; they had a loss of privacy; intense anxiety; financial future is in their hands; the project is complete; and they want to put this behind them.

There was a discussion of:

- The Clinton County building permit.

Mr. Khorey discussed: a formal stop work order issued on October 2<sup>nd</sup> from the county; there was communication between the contractor and Mr. Skunda discussing the options; alternate design that was determined to meet the zoning ordinance; construction continued until the appeal was filed; another stop work order was issued by the county; the zoning permit process automatically created a draft permit upon application and the contractor came into city offices and asked for the permit and city staff printed the draft permit, the contractor walked across the hall to the county and the county saw it as valid permit; it was a miscommunication and we have since set up controls to prevent that from happening again.

City Manager Gamble said the “unauthorized construction” is not the fault of the homeowners because of internal processes of the city portion of permit and it was transmitted to the county. He said the issue was not caught by the controls we had in place.

Matthew Scott was present. He asked if it was said they didn’t have a permit; they have a permit number.

Chairperson Craig asked for a recommendation.

Attorney Seuryck said she does not believe the appeal is timely filed. She said the ZBA should deny on the basis of the timeliness of the appeal. She said the ZBA could then go on and decide the case on the merit of the appeal.

There was a discussion of:

- The stop work order.
- Date the appeal rights began.
- Timeliness.
- Issuance of the zoning permit.
- Ken Skunda’s timeline.
- The Planning Commission.

Motion by Member Dzurka seconded by Member Hutton that the Zoning Board of Appeals deny the appeal based on the fact that it was not timely, the permit was issued on October 5<sup>th</sup> and the filing of appeal was on November 30<sup>th</sup>.

There was a discussion on the motion.

Vote on the motion:

YEA: Craig, Keck, Hutton, Bishop, Rademacher, Dzurka

NAY: None

Motion carried.

#### Review of Appeal Process by Planning Consultant

Chris Khorey said the appeal is the zoning permit issued on October 5<sup>th</sup>, 501 S. Morton. He discussed the choices: uphold permit, no further construction is to be done, or overturn the zoning permit. If done, guidance to the city and applicant of what needs to be done to bring into compliance. He discussed the analysis done on October 5, 2023: determined zoning district (R-2); determined what site improvement (building); same lot as a single family home – accessory building; reviewed 155.189 and 1 of the zoning ordinance which pertains to

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accessory buildings in residential districts; location on the lot (rear yard); evaluated setbacks; built of fire resistant materials (does not apply); height of the building; building has peaked roof (155.004 building height); definition of building height (asymmetrical peaked roof); determined to be in compliance; maximum lot coverage (17.6% of lot). He said residential accessory buildings do not require planning commission approval or notice to the neighbors.

#### Presentation by Appellant

Mr. Fifarek said your consultant has gone through what he perceives to be the requirements imposed. He said there is a difference between an accessory building and plain building. He said he missed one very important requirement, 155.189(j) architectural design of all accessory structures ... "shall be in accordance of district where it is located". He discussed the photographs from Dr. Andersen. He said it is not consistent with residential character or neighborhood or district. He discussed: 21' x 40' structure; the means test, definition; chart used for dimensional requirement; means test does not apply to accessory building; should have not been permitted; not consistent with district; commenced without your initial approval; without Andersen's; not in compliance with your code; means test does not apply to the accessory building.

Mr. Andersen said he put a hold on the building the 2<sup>nd</sup> day it was being built; brought to their attention; should have addressed the issue at that point in time before it cost them another \$14,000 to add onto the building; should have lowered the roof; the building is still 21'; talked to three different builders, can't add onto building to decrease height of building; frustrating when a person gives a valid complaint and the city skirts the issue and makes it compliant; should have had a meeting of the planning commission according to Chad; told had to wait until the middle of November for meeting; never said anything at all about 21 days.

#### Presentation by Property Owner

Mr. Scott said the building matches their house. He discussed the definition of height; not knowing the appeals portion of it, was unaware it broke the ordinance; having money involved.

Ms. Scott said it matches the color of the siding of the house, has windows, made it look nice, and matches their property. She said it is their property and she doesn't care what it looks like outside their window.

#### Presentation by Planning Consultant and Zoning Administrator

Mr. Khorey said he wanted to take a little more time on why we made the determination. He discussed the building and measuring its height; asymmetrical building; various options; could have used the higher side, but determined to use the lower side; wanted to come up with a determination that could be used repeatedly if issue came up again; using the lowest eave was the most repeatable option; using the definition of height of building in the zoning ordinance; reviewed 18 other zoning ordinances from around Michigan and 16 of them used the mean height, very similar to St. Johns; none of them had language about an asymmetrical building.

#### Public Comment

Todd Deitrich, resident, was present. He said a motion was made and voted on to approve to deny the appeal. He said he doesn't think they need to be here anymore. He discussed: the comment that "final is final"; there has been a vote and approved that the appeal has been denied; going forward, there is a lot of misinformation out there on what the city is to do and what the city is not to do; 21 days means 21 days; not second judging an attorney; the problem is now between the Andersen's and the city and nothing to do with the Scott's; not issued a stop work issue from the county; and he understands you have to talk this through and make decisions going forward.

Kevin Gartside was present. He said he just moved out of St. Johns. He said he doesn't know what happens if you were to rule against them. He said he would like people to think about they have done everything right and

sunk more of their money into this and what happens if they now have to lower the roof and they would be in more of a financial hole from this for something that is not their fault. He said he doesn't understand how you can put them through more of this. He said when they were in town there was a barn to the north of their property and this looks a lot nicer. He said he doesn't know with aesthetics how you can say it doesn't fit.

Craig Smith was present. He said he has been a part of this process and he knows the way he raised them, to do no harm. He said the Andersen's are great people. He said he heard from the city there was a communication problem. He said he is proud you have owned up to that and it is something that needs to be fixed. He said nobody had the intent this was going to happen, no malice. We can't go backwards on this, but we can go forward. He is hoping through this process, in the future, those things can be fixed. He said he knows his grandsons are looking forward to using the building.

Carolyn Smith was present. She said you are talking 2½ feet and that really wouldn't change their landscape. She said they had pine trees out there; it is their property and they have every right to put a pole barn there. She said the Andersen's are free to plant pine trees on their property.

Jim Rademacher was present. He said he is concerned with what the building department is talking about. He said you always take the elevation to the top of the roof and don't use the means test. He said to make it straight from the ground to the peak. He said that is something you should consider. You should have square foot also.

### ZBA Deliberation

There was a discussion of:

- The peak height.
- Neighborhoods when a new subdivision has gone in next to it.
- No association rules in that neighborhood.
- Interpretation.
- Elevation of properties.
- This should have come to the ZBA before they were able to continue to build.
- City and county coordination.
- Architectural design: ordinance is clear on size and utilization of lots; visual appearance and aesthetically pleasing regarding the appearance.
  - Subjective analysis cannot override an objective compliance.
- Issue of mean height.
- Issue of building vs. accessory building.
- Any other examples of using mean height?
  - It has not come up since McKenna's role in the city starting last spring; it has come up in Osceola Township.
- ZBA has to use how the ordinance is written today to see if this complies.
- Planning Commission and City Commission can review and come up with future language revisions.
- The ZBA has two powers: can overturn an administrative staff decision if we were incorrect; second power is interpretation.
  - ZBA doesn't have the ability to tell us we can't use mean height; they have the ability to tell us we were wrong in measuring lowest peak. After the appeal, the ZBA can make a motion that the Planning Commission should take this up legislatively.
- The permit from the county and the permit from the city that's dated October 5, 2023.
  - The Scott's were permitted.
  - Zoning ordinance 155.189, subsection (n)(2): 16' in height.
    - Understand where appellants are coming from.
    - In same ordinance, also definitions (155.004 definitions); shall apply; read definition.
    - Also feel for city and what they did. Valid argument both sides are making and property owners did what they thought appropriate.

- Definitions apply to all of the ordinance; if a term is defined, you have to use defined term; zoning administrator used definition of height to come up with that determination.

### ZBA Decision

Attorney Seuryneck discussed her recommendation to frame a motion in the event this goes to litigation. If the appeal is then decided to be timely, this is the substantive decision that would have been made.

A motion was made by Member Dzurka to deny the appeal based on the fact that the mean roof height is in compliance with the ordinance.

There was a discussion of the motion.

Motion by Member Dzurka seconded by Member Hutton that the Zoning Board of Appeals deny the appeal as we are upholding interpretation of staff on utilization of the lowest eave and peak as the mean which is in compliance with our ordinance for this property and this motion is secondary to our initial motion of denying the request for timeliness.

Chairperson Craig asked for a vote on the motion:

YEA: Craig, Keck, Hutton, Bishop, Rademacher, Dzurka

NAY: None

Motion carried

Mr. Khorey said our interpretation was included in your motion. He said he is hearing the ZBA would like the legislative bodies of city to take that up.

Motion by Member Keck seconded by Member Hutton that the Zoning Board of Appeals recommend that the planning commission and legislative part of our city update these ordinances so they are compliant in this world.

YEA: Craig, Keck, Hutton, Bishop, Rademacher, Dzurka

NAY: None

Motion carried

### 6. ADJOURNMENT

Motion by Member Bishop seconded by Member Rademacher to adjourn the meeting.

YEA: Craig, Dzurka, Keck, Hutton, Bishop, Rademacher, Dzurka

NAY: None

Motion passes

The meeting was adjourned at 7:44 p.m.



**MCKENNA**

June 17, 2024

Zoning Board of Appeals  
City of St. Johns  
100 E. State Street, #1100  
St. Johns, MI 48879

**Subject: Review of Illuminated/Electronic Billboard Variance for 801 Old US-27**

Dear Board Members:

We have reviewed the application for a variance to allow the property owners at 801 Old US-27 to install an illuminated, electronic billboard along the Old US-27 street frontage.

**BACKGROUND**

801 Old US-27 is zoned GC – General Commercial. Importantly, billboards are permitted in the GC District, provided they are at least 2,000 feet from another billboard. This location meets this requirement. The applicant is proposing to construct a billboard that is 30 feet tall, with the primary sign at the top measuring at 10 feet tall and 20 feet wide. **No variance is required to erect a billboard.**

There are also two smaller signs proposed to be added under the primary sign. These signs are also not the subject of the variance request, though their Zoning Permit was denied because only one freestanding sign (not including the billboard) is permitted. Our understanding is that the applicant proposes to resubmit.

The subject of the variance is **illumination and electronic messaging**. The applicant is proposing for both sides of the billboard (north and south) to be illuminated and to contain changeable electronic messaging.

Section 155.191.H.3 of the St. Johns Zoning Ordinance states that *“The illumination of billboards shall be limited to commercial and industrial zoning districts and the illumination of billboards within 400 feet of a residential district or use shall not be permitted.”*

There are residential uses within 400 feet to the north and the east of the billboard site. Therefore, no illumination is permitted, and, without illumination, no electronic messaging is possible.

**VARIANCE**

The applicant seeks the following variance, pursuant to the Sign Ordinance:

**A variance from Section 155.191.H.3 to illuminate a billboard sign within 400 feet of residential property.**

**CRITERIA FOR APPROVAL**

The Zoning Ordinance includes the following criteria for approving variances.

**Criteria 1: That compliance of the strict letter of the chapter would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.**





Generally, it is important for billboards to be lit during hours of darkness. There is considerable traffic past the billboard site well into the evening, and in the winter, darkness begins at 5:00 pm and doesn't end until past 8 AM. However, the rights of the billboard owner must be weighed against the rights of the nearby residents.

**Criteria 2: That a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, and that a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners**

Facing north, the billboard would be highly visible to residential properties on Sturgis Street, particularly 709 E. Sturgis. If illuminated at night, the billboard could create a hazardous and disturbing glare at the residences, disrupting their quality of life.

Facing south, there are fewer residents that would be disturbed. The apartment building at 904 E. Sturgis might be in view of the billboard, but their view would be mitigated by the Speedway canopy, the Genter Dentist office, and several trees. Additionally, that building is not one of the residences within 400 feet that trigger Section 155.191.H.3.

**Criteria 3: That the plight of the landowner is due to the unique circumstances of the property.**

The angle of Old US-127 creates a unique circumstance with regard to the 400 foot prohibition on illumination near residences, in that the north-facing side of the sign is much closer to (and more visible from) residences than the south facing side.

**Criteria 4: That the problem is not self-created.**

The applicant did not create the issue of there being residences within 400 feet of an acceptable billboard site.

**Criteria 5: In granting a non-use variance, the Zoning Board of Appeals shall ensure that the spirit of the chapter is observed, public safety secured, and substantial justice done.**

The ZBA must balance the needs of the permitted billboard advertising with the needs of the nearby residents. To the north, that analysis is clear in our mind – an illuminated/electronic billboard presents a hazard to the homes on Sturgis.

To the south, it is less clear, as the impact of illumination and electronic messaging on residents is mitigated by buildings, trees, and distance.

**FINDINGS**

Based on the above analysis, the following findings are pertinent:

1. The granting of the variance would cause light glare issues for surrounding residential properties to the north.
2. The impact of an illuminated/electronic billboard for on residences to the south is less clear, and mitigated by



buildings and trees.

**RECOMMENDATION**

We recommend that the ZBA grant the variance for an illuminated billboard on the south face ONLY. If the applicant wishes to install electronic messaging, they can do apply for a Zoning Permit to be reviewed against the standards of Section 153.07, which regulates digital messaging.

We recommend that the ZBA deny the variance with respect to the north face, and require that the billboard on that side be static and not illuminated at night.

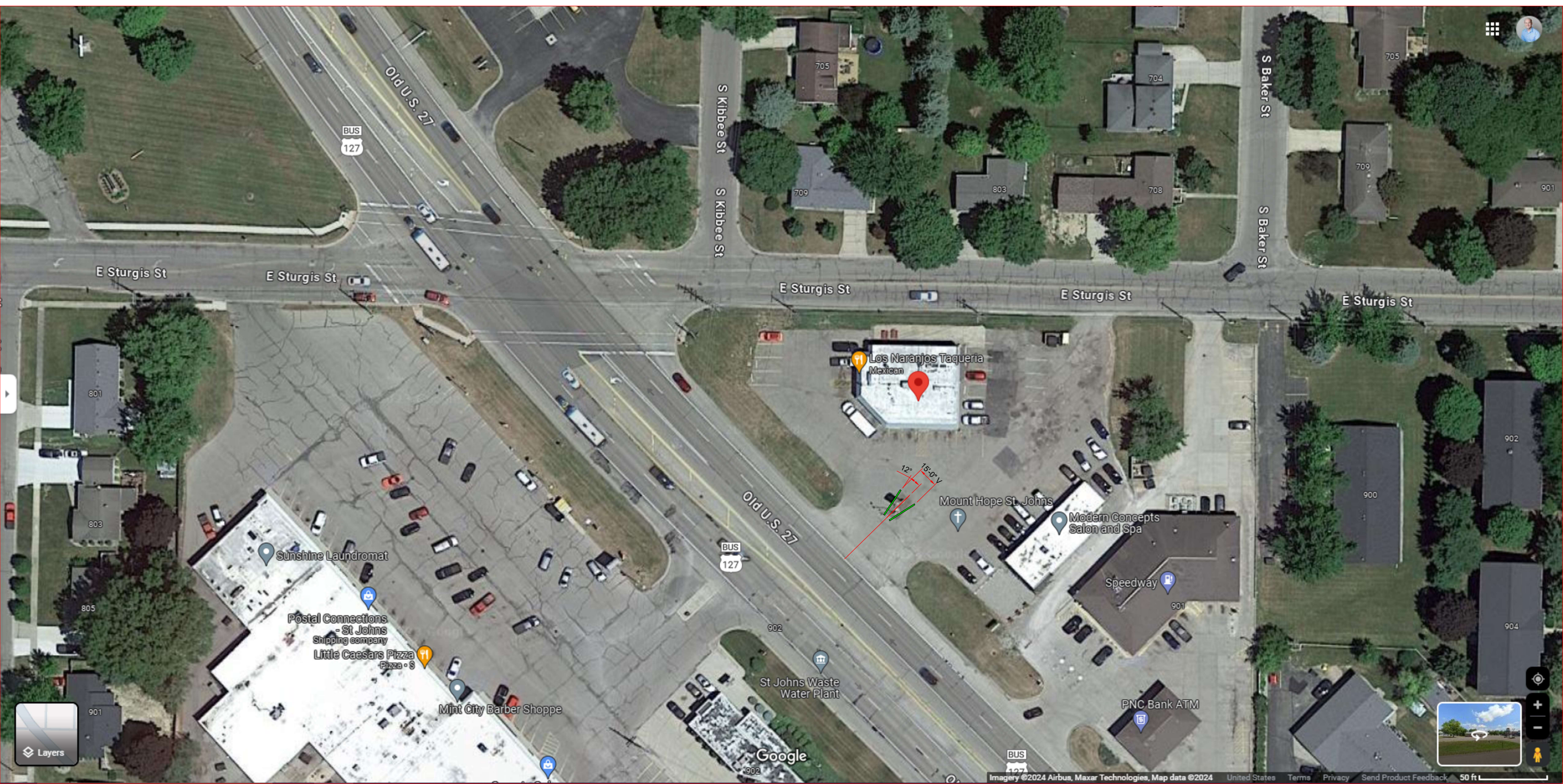
Respectfully submitted,

**McKENNA ASSOCIATES**

Christopher Khorey, AICP  
Vice President

Jeff Keesler  
Associate Planner

Ethan Walthorn,  
Assistant Planner



Layers



MCKENNA

March 1, 2024

Brian English  
Capitol Legal and Consulting  
200 N. Washington Square  
Lansing, MI 48933

**Subject: Cork & Bottle Liquor Billboard Sign Review**

Dear Mr. English,

As requested, we have reviewed the site plan received for a billboard located at the Cork & Bottle Liquor Store at 801 Old US-127. The applicant is proposing a billboard in the existing parking lot island on the Southwest side of the parcel. The site is zoned GC – General Commercial. Billboards are permitted in the GC district.

The proposed billboard is shown to be approximately 10 feet by 20 feet, with a 30-foot height. The proposed design shows two concepts for the billboard. We request that the applicant choose one of these concepts for review rather than proposing both concepts.

Our comments regarding the criteria for approving the billboard follow.

- 1) **Illumination.** Section 155.191.H.3 of the St. Johns Zoning Ordinance states that *“The illumination of billboards shall be limited to commercial and industrial zoning districts and the illumination of billboards within 400 feet of a residential district or use shall not be permitted.”* Under this provision, an illuminated or digital billboard would not be allowed on the property due to it being less than 400 feet from residential lots to the North.
- 2) **Billboards.** Section 153.06 of the St. Johns Code of Ordinances states that billboards are allowed only along state highways and shall be spaced a minimum of 2,000 feet from each sign. There appear to be no other billboards within 2,000 feet of the proposed location along Old US-127, meeting the requirement of this provision.
- 3) **Freestanding Signs.** Section 153.05 of the St. Johns Code of Ordinances states that exactly one freestanding sign is allowed in the GC district, so long as the sign does not exceed 30 feet in height, does not exceed 50 square feet in area, and has at least 8 feet of space between the grade and the bottom of the sign. The currently proposed signs include two freestanding signs of an unknown area and an estimated height of 8 feet at the minimum. The applicant must provide a revised signage plan condensing both freestanding signs into a single sign of no more than 50 square feet in area.
- 4) **General Requirements.** Section 153.09 of the St. Johns Code of Ordinances states the following requirements for all signs:
  - a. No signs may be placed in or overhang into a public right-of-way other than signs established and maintained by the city, county, state, or federal government.

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- b. No light pole, utility pole, tree or other supporting member shall be used for the placement of any sign unless specifically designed and approved for such use.
- c. Signs may not be placed so as to obstruct the clear vision of motorists or pedestrians or be confused with any authorized traffic sign, signal, or device or constitute a nuisance per se.
- d. No commercial vehicle, which in the opinion of the Zoning Administrator has the intended function of acting as a sign, shall be parked in an area abutting the street, unless no other parking area is available.

These requirements appear to be met by the proposed conditions on the signage plan given.

At this time, the application is **NOT APPROVED**. The applicant should submit a revised signage plan with the following revisions:

1. The billboard cannot be illuminated due to the proximity of residential lots and therefore cannot be a digital display. The proposed billboard must not be a digital sign as proposed in the plan received and must not feature any form of illumination so as to not incur glare on the adjacent residential properties to the North.
2. The applicant should choose one of the two concepts to be reviewed instead of proposing two different designs.
3. The two freestanding signs underneath the billboard must be combined into a single freestanding sign that does not exceed 30 feet in height, is less than 50 square feet in area, and has at least 8 feet of ground clearance.

We request the applicant resubmit their application with the above revisions to be reviewed for approval. Please do not hesitate to contact us with any questions you may have.

Respectfully submitted,  
**McKENNA**

Christopher Khorey, AICP  
West Michigan Manager

Ethan Walthorn  
Assistant Planner

## § 155.184 ACCESSORY BUILDINGS.

No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.

(Ord. 616, passed 9-23-2013)

## § 155.189 ACCESSORY BUILDINGS AND STRUCTURES - REGULATIONS.

(A) *In a front yard.* No accessory building shall project into any front yard.

(B) *In a side or rear yard.* The exterior wall line of a fire-resistant construction of an accessory structure shall not be constructed closer than three feet to any lot line and the roof water runoff of the accessory building shall not be directed to any adjacent property.

(C) *On a corner lot.* No accessory building shall be closer to the side street lot line than the side yard setback of the principal building on the lot.

(D) *Entrance.* In no case shall the entrance of a garage be less than 20 feet from a street line.

(E) *Distance to principal building.* No accessory building shall be nearer than ten feet to a principal building. For the purpose of determining lot coverage and setback, an accessory structure located within ten feet of a main building shall be considered "attached."

(F) For purposes of this chapter the regulations applicable to accessory buildings shall also apply to any off-street parking space on a residential lot.

(G) All accessory buildings shall be on a permanent foundation.

(H) *Accessory building setbacks in non-residential districts.*

(1) Any part of a detached accessory building shall be at least 60 feet from any front lot line when the adjoining lot is located in a residential district.

(2) Accessory buildings may be erected as a part of or connected to the principal building, but in either case accessory buildings are considered a part of the principal building, and all yard requirements for a principal building will be complied with.

(I) *Principal building required.* Accessory structures or buildings may only be constructed on a lot that contains a principal building. No accessory structure or building may be constructed on a lot that does not have a principal building.

(J) *Appearance.* The exterior facade materials and architectural design of all accessory structures shall have a residential character. The overall appearance of the structure shall be in accordance with the purpose of the district where it is located.

(K) *Detached and temporary accessory structures.* Detached and temporary accessory structures that do not require permanent attachment to the ground but have similar characteristics as an accessory structure such as movable carports and playsets shall comply with the requirements for detached accessory buildings.

(L) *Lot coverage and setback.* Where the accessory structure is attached to a main building, it shall be considered a part of the main building and shall be subject to the area, lot coverage, and setback regulations of this chapter applicable to main buildings. See § 155.170.

(M) *Height.* Unless specifically noted herein otherwise, the maximum height for attached accessory structures shall be the maximum height permitted in the zoning district or the height of the principal structure, whichever is less.

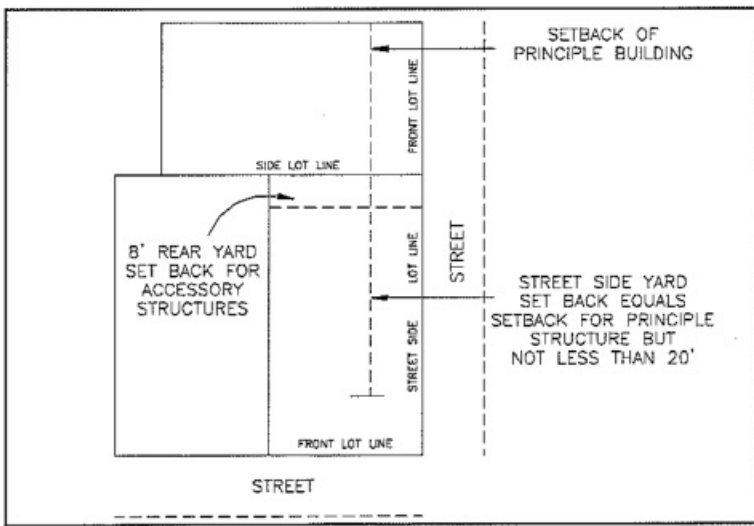
(N) *Accessory buildings and structures in residential districts.*

(1) Accessory buildings shall be erected only in the rear yard area.

(2) Accessory buildings shall not exceed 16 feet in height and shall be located at least six feet from any other separate structure on the same lot and shall not be closer than three feet to any lot line, or five feet from an alley right-of-way line. Structures closer than ten feet to another structure on the same or adjacent lots must be constructed of fire rated materials as required by the Building Code.

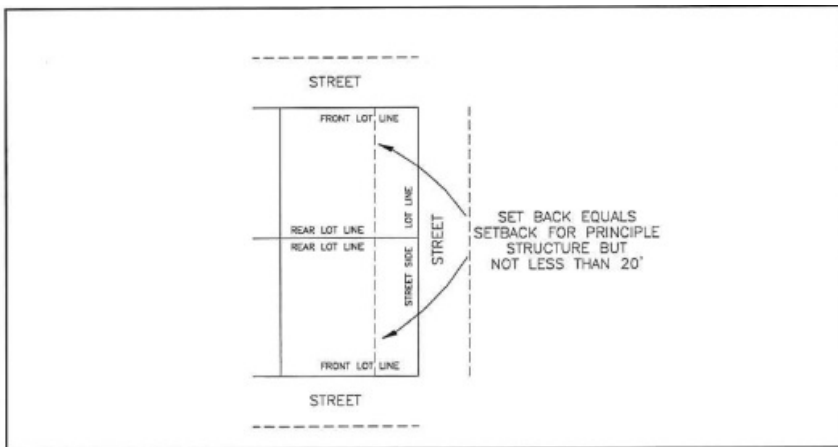
(3) When the rear line of a corner lot abuts the side line of an adjoining lot in a residential district, no accessory building shall be within eight feet of such abutting lot line nor closer to the side street lot line than the front yard setback of the principal building on the adjoining lot, but in no case shall the setback be less than 20 feet. (See Figure 5-1).

**Figure 5 - 1**



(4) When the rear line of a corner lot abuts the rear line of any other lot or is directly across an alley therefrom, no accessory building shall be closer to the side street lot line of a corner lot than the side street yard setback of the principal building on the corner lot, but in no case shall the setback be less than 20 feet. (See Figure 5-2.)

**Figure 5 - 2**



(5) *Porches, decks, and patios.*

(a) Patios or decks constructed "at-grade" may be built within front, side and rear yard setbacks. An at-grade patio shall mean any patio, deck or concrete slab which is constructed at the approved grade level or which is elevated to a height of not more than 18 inches above the approved grade level.

(b) The surface of any attached deck that extends more than eight feet from the face of the building to which it is attached may not be higher than the first floor elevation of the principal structure.

(c) Unenclosed and/or uncovered front porches and stoops may encroach into a required front yard setback area, but in no case may be located closer than 15 feet from the front property line in the R-1 district or closer than ten feet in the R-2/R-3 district. For the purposes of this provision, unenclosed shall mean having no windows or screens.

(d) Porches, decks, patios covered or partially covered by permanent construction shall not project into any perimeter setbacks.

(e) Handicapped access ramps may encroach into the required perimeter setbacks.

(f) Decks and raised patios may be allowed to project not more than 15 feet into the required rear yard setbacks or five feet into the side yard setback, provided that the following conditions are met:

1. The deck or raised patio does not encroach into any easement.
2. The deck or raised patio is not located facing any street, except when located in the rear yard of a double frontage lot.
3. The deck or raised patio is located not less than five feet from any detached accessory building.
4. Any additional structure attached to the deck or raised patio, such as a gazebo, shall be located at least ten feet from the principal residential structure.
5. The deck or raised patio and all other appurtenant facilities shall conform to any applicable codes and

ordinances.

(g) All deck hand railings and/or screening shall not be higher than 42 inches above the surface of the deck (excluding support structures for a roofed porch) without approval from the Planning Commission.

(Ord. 616, passed 9-23-2013; Am. Ord. 642, passed 4-23-2018)