PUBLIC NOTICE

City of Berkley, Michigan
Regular Meeting of the Zoning Board of Appeals
Monday, February 11, 2019
7:00 PM – City Hall
Council Chambers
Information: (248) 658-3320

CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL
APPROVAL OF AGENDA
APPROVAL OF MINUTES – Meeting of January 14, 2019

ITEMS FOR THE AGENDA

1. APPLICATION NUMBER PBA-11-18 (POSTPONED FROM JANUARY 14)
   Berkley Green Lantern Properties, LLC—4033 Twelve Mile Rd, south side of Twelve Mile Rd., between Ellwood Ave. and Thomas Ave, Parcel ID: 25-18-102-037, is requesting a dimensional variance for off-street parking.

OTHER BUSINESS
LIAISON REPORT
PUBLIC COMMENTS
ADJOURN

Notice: Official Minutes of the Zoning Board of Appeals are stored and available for review at the Office of the City Clerk. The City of Berkley will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting upon four working days notice to the city. Individuals with disabilities requiring auxiliary aids or services should contact the city by writing or calling: City Clerk, ADA Contact, Berkley City Hall, 3338 Coolidge, Berkley, Michigan 48072, (248) 658-3300.
PRESENT:  Steve Allen  Greg Butts  Joe Krug  
            Paul Evans  Ryan Gesund  Sue McAlpine  
            Miles Uhlar  

ALSO PRESENT:  Timothy McLean, Community Development Director  
                Ross Gavin, City Council Liaison  
                Maria Ward, ZBA Alternate  
                Pete Rodriguez, Applicant  
                John Spreitzer, Applicant  
                Bill Smith, Architect for Applicant  
                Several members of the public  

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APPROVAL OF AGENDA  
The agenda was approved with one addition, Communications from City residents on BA-11-18.  
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APPROVAL OF MINUTES  
It was moved by Mr. Allen to approve the minutes of November 13, 2018 and supported by Ms. McAlpine.  

AYES:  Butts, Gesund, Krug, McAlpine, Uhlar, Allen, Evans 
NAYS:  None 

Motion Carried.  

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2. PBA-11-18—4033 Twelve Mile Rd.:  The applicant is requesting a variance for off-street parking.  

Community Development Director McLean gave a brief summary of the variance request. Mr. McLean stated that the existing building is considered legally non-conforming due to parking. Mr. McLean stated that the ordinance allows that as long as the non-conformity is not increased, the new property owner would not be required to increase the number of parking spaces. The applicant is proposing to add an outdoor dining area, essentially increasing the non-conformity. By ordinance, the applicant is required to have a minimum of 58 parking spaces. There are currently 42 parking spaces on-site.  

Mr. Krug asked if the building being vacant for over 180 days factored into the variance request.  

Mr. McLean responded that this applies to non-conforming uses rather than non-confirming structures.  
Mr. Gesund asked about floor space.  

Bill Smith, Architect for the applicant stated that the renovated interior would have a smaller
dining space and smaller occupant load than the former Sila’s.

Ms. McAlpine asked if the applicant was able to verify the occupant load for Sila’s and proposed occupant load for Green Lantern.

Mr. Smith responded that he could not recall the numbers but that he had them calculated.

Ms. McAlpine stated that she has heard concerns that the new restaurant would be more of a bar than restaurant. She asked about percentages of bar space and dining space.

Applicant John Spreitzer responded that Green Lantern is intended to be a family restaurant. He stated there would be around 18-20 seats at the bar area and around 150 in the dining area.

Chair Evans asked Mr. McLean about the occupant load for the previous restaurant.

Mr. McLean responded that he would have to look it up.

Mr. Gesund asked the applicant if there were any plans for valet parking.

Mr. Spreitzer responded that shared parking is being investigated and that valet parking could be a possibility.

Chair Evans pointed out that the outdoor dining area would be seasonal and that the occupant load would be less during non-operational times.

Mr. McLean stated if the applicant installs bicycle racks on the premises, it would reduce the number of required parking spaces by two.

Mr. Uhlar asked how late the restaurant would be open.

Mr. Spreitzer responded that on the weekend, the restaurant would be open until midnight during the week, and 2AM on weekends.

Chair Evans asked the applicant if alternatives had been considered.

Mr. Spreitzer stated that the outdoor dining area was essential for return on investment.

**CHAIR EVANS OPENED THE PUBLIC HEARING AT 7:18PM**

Kurt Hite, Robina: Stated he was looking forward to the opening of Green Lantern. Mr. Hite stated that he worked at the former Sila’s restaurant many years ago. He voiced concerns about overflow parking.

Timothy Barnes, Royal Oak: Stated he was looking forward to Green Lantern opening and that he was in favor of the variance being granted. Mr. Barnes also stated that he was not a city resident, but that he had recently purchased a building near Green Lantern and would be moving existing business Gate Keepers to his new location.

Laurie Zinser, Thomas: Stated she was excited about Green Lantern opening in Berkley. She voices concerns about the impact of overflow parking onto Thomas. Ms. Zinser stated she was
concerned about emergency vehicles being able to access Thomas due to overflow parking. She suggested that one-way parking on Thomas be considered by the City.

Wendi Zabramski, Gardner: Stated that she lives in the area of Twelve Mile Rd. and Gardner. She stated that she deals with overflow parking onto Gardner often. Ms. Zabramski stated that there are problems with overflow parking from Twelve Mile Rd onto residential side streets and that neighborhood encroachment is an issue.

Mike Wehby, Berkley: Stated he is looking forward to Green Lantern opening. He stated that he believes non-motorized transportation would be utilized during times when the outdoor dining area is open. He spoke in favor of granting the variance.

Matt Fountian, Thomas: Stated he was nervous about overflow traffic from Green Lantern onto Thomas. He stated that a compromise solution for parking on Thomas was needed.

Sue Balan, Thomas: Stated that she has lived in the city for 24 years. She also stated that while she has not personally experienced overflow traffic from Sila’s, she believes other residents would have a more difficult time with overflow parking from Green Lantern. Ms. Balan also stated she would not be in favor of one-way parking on Thomas.

CHAIR EVANS CLOSED THE PUBLIC HEARING AT 7:37PM

Discussion
Chair Evans discussed written correspondence from residents.

Mr. Allen stated that it is established that there are 42 parking spaces and that usable floor space dictates parking requirements.

Mr. Butts stated that there are parking problems in certain parts of the city.

Mr. Gesund asked about shared parking.

Mr. Allen referenced the issue with shared parking relative to the Vinsetta Garage restaurant.

Chair Evans referenced the two parcels on Cummings and Thomas that have houses but are zoned P-1 Parking. He asked the applicant if purchasing either of those lots had been considered.

Mr. Spreitzer responded that it would not be financially feasible to do so.

Mr. Uhlar asked the applicant if this project could be done without a variance.

Mr. Spreitzer responded that the project could be reconfigured without the outdoor seating but that it would set back the opening for an additional 3-5 months.

Mr. Allen referenced practical difficulty.

Chair Evans stated that options other than a variance are possible.

Mr. Uhlar stated that having the previous occupant load and proposed new occupant load would
be helpful.

Mr. Allen responded that the ordinance is specific in that parking requirements are tied to usable square footage rather than occupant load.

Mr. Gesund stated that he feels the Board is limited with criteria to grant a variance. He stated he doesn’t believe the criteria have been met.

Mr. McLean responded that he believes there will be a parking issue regardless of whether or not a variance is granted.

Mr. Uhlar agreed with Mr. McLean.

Mr. Butts stated that the Board could consider postponing action until additional information about occupant loads could be provided.

Mr. Allen stated that shared parking could prove problematic.

Chair Evans stated that there must be a balance. He stated he is in favor of the applicant pursuing shared parking. He stated he agrees with Mr. Allen on parking requirements. More information is needed.

Mr. Rodriguez stated he believes overflow parking onto Thomas is going to happen regardless of the variance request.

Mr. Uhlar pointed out that there are no facts to back up statements about occupancy loads.

Mr. Krug responded that it is important to know the occupancy loads.

It was moved by Mr. Allen and seconded by Mr. Gesund to postpone BA-11-18 until the next meeting pending the exploration of shared parking options, updated site plan, and additional information on occupancy loads.

AYES: Gesund, Krug, Uhlar, Allen, Evans
NAYS: McAlpine, Butts
Motion Carried.

STAFF COMMENTS
Mr. McLean referenced upcoming training for the Planning Commission and Zoning Board of Appeals.

LIAISON COMMENTS
Councilmember Gavin stated that the proposed lane reduction on Coolidge Hwy. had been approved by City Council.

BOARD COMMENTS
N/A
PUBLIC COMMENTS
Wendi Zabramski, Gardner: Referenced parking issues at Amici’s. Ms. Zabramski also pointed out that the ZBA denied a variance request for parking for a new business on Twelve Mile Rd. in 2018.

Kurt Hite, Robina: Referenced ongoing parking issues.

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With no further business, Chair Evans adjourned the meeting at 8:29 PM.
Green Lantern Concerns

3 messages

ZINSER Lori
To: "tmclean@berkleymich.net" <tmclean@berkleymich.net>

Mon, Jan 7, 2019 at 9:23 AM

Hi Tim,

I am a homeowner at 3292 Thomas, south of 12 Mile, located diagonally across the street from the new Green Lantern restaurant. I am the first house on the east side of the street where parking is allowed. I am very concerned about their overflow parking, and frankly, parking by their customers who will just opt to park on Thomas rather than do so in their congested lot.

I see Green Lantern has requested a variance for off-street parking. Can you share with me more specifically what they are requesting. I will write my concerns in more detail once I have a better understanding of what they are requesting. I do plan to attend the Zoning Board of Appeals meeting on January 14th.

I would like the City to seriously consider changing it to one-sided parking on Thomas, south of 12 Mile, so this block will not become an issue. I feel certain that the majority of our 18 homeowners on this first block south of 12 Mile all feel the same way – although the impact to me will be the greatest.

During the final months of Sila’s Restaurant being open, our block was continually lined with cars on both sides, making it nearly impossible for me to pull my car out of my driveway. On two occasions, customers parked at the end of my driveway – police had to come to get the car owners to move their vehicle. I worry also that the clientele of Green Lantern will elicit more bar-goers. Sila’s was a restaurant with a bar – Green Lantern seems likely to to draw more of a bar crowd – thus making my concern even greater. I’d appreciate hearing back from you today so that I can prepare for the upcoming meeting.

Thank you.

Lori Zinser
3292 Thomas

THE ROEPER SCHOOL

Educating and inspiring gifted students to think as individuals and to engage
as a community with compassion for each other and this world.
Green lantern parking

Dbennoure
To: tmclean@berklemich.net

Thu, Jan 3, 2019 at 11:31 PM

Tim McLean,

I live on Thomas, in the first block south of 12 Mile. It has been brought to my attention that there will be a potential parking problem when Green Lantern is open in the previous Sila restaurant. We’ve frequently had problems with patrons parking on both sides of our block, thus causing difficulties and danger for residents and their children.

Unfortunately, I will not be able to attend the upcoming meeting as I will be out of town. However, I’d like my concerns to be known.

My neighbor has suggested allowing parking on only one side of the street. However, I doubt that will be helpful in this situation. Alternatively, I suggest we have permit parking with every house having several permits. I know that Green Lantern patrons will have problems finding parking but parking on our street is not the answer.

Thanks for your consideration in this matter.

Dorothy Bennoure
3228 Thomas
Sent from my iPad
Green Lantern Parking

Nancy Stilac
To: tmclean@berklymich.net

Tim,

I am asking that you decline Green Lantern’s request for a variance in parking tonight at the Zoning Board of Appeals meeting.

The restaurant will do well without the outdoor seating which appears to be in undesirable area anyway.

Residents in the area around Green Lantern’s property are already inconvenienced by people parking on their residential streets. They have also stated that parking laws are not enforced such as people parking across their driveway approaches.

While the street is public parking, when these residents purchased their homes they did so based on current parking regulations. To give this restaurant a variance undermines the trust of them and all other residents even if they are not impacted by this decision.

Please do not allow this variance.

Sincerely,

Nancy Stilac
1259 Princeton

Sent from my iPhone
MEMORANDUM

TO: City of Berkley—Zoning Board of Appeals
FROM: Timothy McLean—Community Development Director
DATE: February 4, 2019
RE: Report for PBA-11-18

APPLICANT: Rosetti Architecture for Berkley Green Lantern, LLC

LOCATION: 4033 Twelve Mile Rd.

PARCEL ID: 25-18-102-037

REQUEST: The applicant is seeking a variance for parking. The building has approximately 3,458 square feet of usable floor area, requiring 58 parking spaces. The applicant is showing 42 parking spaces on the site plan.

REQUIRED: Berkley City Code, Chapter 138, Zoning, Article IV Off—Street Parking and Loading, Division 1. Off-Street Parking Requirements, Section 138-219 (3) Commercial, Restaurants, other. The minimum parking standard is one parking space per 60 square feet of usable floor area.

EXISTING ZONING/LAND USE: Twelve Mile District/Restaurant

SURROUNDING ZONING / LAND USE:
NORTH: Twelve Mile District/Business
SOUTH: R-1D/Single Family Residence
EAST: Twelve Mile District/Business
WEST: Twelve Mile District/Business

DISCUSSION:
At the January meeting, the Zoning Board of Appeals opted to postpone action on BA-11-18. The Board requested that the applicant continue to explore shared parking options with neighboring businesses. Additionally, the Board asked for additional information relative to proposed occupant loads for Green Lantern as well as an updated site plan indicating the correct number of parking spaces. An updated site plan has been provided by the applicant. The occupant load for the dining area has been supplied by the applicant and those figures were verified by the Fire Marshal. The applicant has also supplied an updated drawing with the correct parking counts.

PROPERTY BACKGROUND:
Sila’s Restaurant was first constructed in 1969. In 1970, the owner sought to construct an addition to the building. At that time, the addition would have raised the minimum number of required parking spaces
to 19. The applicant was only able to provide 17 spaces and requested a variance from the Zoning Board of Appeals for a waiver of two parking spaces. The Zoning Board of Appeals did grant the variance request for two parking spaces.

In May of 1979, the property owner of Sila's received site plan approval to construct an addition to the building. The approved addition increased the square footage of the building from 3,540 square feet to 5,420 square feet. At that time, the minimum number of required parking spaces was calculated by taking 80% of the total floor area. The parking standard for restaurants at that time was 1 space per 100 square feet of usable floor area. At that time, the property owner was required to provide a minimum of 44 parking spaces. The number of parking spaces provided for the site was 46. It is not known how or why the number of on-site parking spaces has been reduced to 42 spaces.

**TABLE 1: PARKING CALCULATIONS**

<table>
<thead>
<tr>
<th>SILA'S BUILDING ADDITION 5/8/79</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Floor Area:</td>
<td>5,420 sq. ft.</td>
</tr>
<tr>
<td>Usable Floor Area (80% of total):</td>
<td>4,336 sq. ft.</td>
</tr>
<tr>
<td>Parking Standard (Restaurant):</td>
<td>1 space per 100 sq. ft. of usable floor area</td>
</tr>
<tr>
<td>Minimum Required Parking:</td>
<td>4,336/100 = 44 spaces</td>
</tr>
<tr>
<td>Parking Spaces Provided:</td>
<td>46 spaces</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>GREEN LANTERN</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Floor Area:</td>
<td>4,940 sq. ft.</td>
</tr>
<tr>
<td>Usable Floor Area (70% of total):</td>
<td>3,458 sq. ft.</td>
</tr>
<tr>
<td>Parking Standard (Restaurant):</td>
<td>1 space per 60 sq. ft. of usable floor area</td>
</tr>
<tr>
<td>Minimum Required Parking:</td>
<td>3,458/60 = 58 spaces</td>
</tr>
<tr>
<td>Parking Spaces Provided:</td>
<td>42 spaces</td>
</tr>
<tr>
<td>Proximity to Municipal Parking:</td>
<td>2,387 feet</td>
</tr>
</tbody>
</table>

**PARKING:**
The applicant has 42 parking spaces on the property. With the dimensions of the parcels and size of the building, there is no way to increase the number of on-site parking spaces. To have the outdoor dining area, the applicant would have to reduce the usable interior floor space so that 49% of the total floor space in the building could not be used. This would be a reduction of 938 square feet. For the building to be compliant with available parking, the applicant could only have 2,520 square feet of usable floor area (42 x 60 = 2,520).

**OCCUPANT LOAD:**
The applicant has indicated that the occupant load for the proposed dining area will be considerably less than what was calculated for the former Sila's Restaurant. For the former Sila's restaurant, the Fire Marshal calculated an occupant load of 206 for the dining area. With the proposed interior renovations, the site plan for Green Lantern shows a projected occupant load of 159. The occupant load for the proposed outdoor dining area is 28. The Fire Marshal has confirmed the projections identified on the site plan. The dining areas for Green Lantern will have 47 less occupants than Sila's.
TABLE 2: OCCUPANT LOAD

<table>
<thead>
<tr>
<th>SILA’S DINING/BAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main Dining/Bar Occupant Load:</td>
</tr>
<tr>
<td>118</td>
</tr>
<tr>
<td>Back Dining/Carry-out Occupant Load:</td>
</tr>
<tr>
<td>88</td>
</tr>
<tr>
<td>Total Dining/Bar/Carry-Out Occupant Load:</td>
</tr>
<tr>
<td>206</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>GREEN LANTERN</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dining Area Occupant Load:</td>
</tr>
<tr>
<td>1,961 sq. ft./15 sq. ft. = 131</td>
</tr>
<tr>
<td>Patio Occupant Load:</td>
</tr>
<tr>
<td>425 sq. ft./15 sq. ft. = 28</td>
</tr>
<tr>
<td>Total Dining/Patio Occupant Load:</td>
</tr>
<tr>
<td>$1,961 + 425 = 2,386/15 = 159</td>
</tr>
</tbody>
</table>

REQUESTED VARIANCE:
The applicant is requesting a variance to cover the gap between existing parking spaces and the minimum number of spaces that are required by ordinance. Presently the applicant is 16 spaces short of meeting the minimum requirement. If the applicant is willing to install bicycle racks on the property, this would reduce the number of required spaces by two. The applicant would then only need a variance for 14 spaces. The public hearing for BA-11-18 was held on January 14, 2019, fulfilling the statutory requirement.

PRACTICAL DIFFICULTY TEST:
To be granted a variance, the ordinance requires that a practical difficulty be proven in five areas. Reviewing all of the information provided to me for the requested variance, I have completed the practical difficulty test. Based upon my findings, the applicant has proven a practical difficulty in four of the five areas.

1. THE NEED FOR THE VARIANCE IS DUE TO UNIQUE CIRCUMSTANCES OR PHYSICAL CONDITIONS OF THE PROPERTY.
The standard has been met. The physical dimensions are not different from other properties. However, there are unique circumstances associated with this property. The size of the property has not changed. The square footage of the building would be increasing with the proposed outdoor patio. However, due to interior renovations, the dining area will be reconfigured. With the reconfiguration, the occupant load for the interior dining area would be 131. The proposed outdoor patio is showing an occupant load of 28. Taking into account that the outdoor patio could only be utilized seasonally, an occupant load of 131 would be a decrease of 75. During times when the outdoor patio is being utilized, the total occupant load would be 159, still a decrease of 47 from the calculated occupant load for the dining area in Sila’s.
It is worth noting that specific portions of the zoning ordinance relative to usable floor area and minimum parking standards have changed significantly from the date of the last addition to the building Using current zoning standards, the existing building could not be built today on the current parcel without a variance.

2. THE NEED FOR THE VARIANCE IS NOT THE RESULT OF ACTIONS OF THE PROPERTY OWNER OR PREVIOUS PROPERTY OWNERS.
The standard has been met because the status of the building as a non-conforming structure was not created by the current property owner or previous property owner. Changes in the zoning ordinance relative to calculations of usable square footage and minimum parking standards have rendered the
existing building non-conforming. The applicant does propose a minor increase to the non-conformity with the proposed outdoor patio area. The existing ordinance does address procedures for non-conforming structures. And it does specify that the non-conformity may continue as long as it is not increased. However, the new business owner has inherited a condition that he did not create. Despite a proposed addition of an outdoor patio, the usable square footage of the building will be decreasing by 336 square feet.

3. **STRICT COMPLIANCE WITH THE ORDINANCE WILL UNREASONABLY PREVENT THE PROPERTY OWNER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE OR WILL RENDER CONFORMITY WITH THOSE REGULATIONS UNNECESSARILY BURDENSOME.**

   I do not believe the standard has been met. As long as the size of the legal non-conforming structure is maintained, the ordinance allows that existing on-site parking does not have to be increased. However, the argument could be made that strict compliance with the ordinance would not permit the property owner to construct the outdoor patio. Due to the size of the parcel, there is no way to increase the number of on-site parking spaces.

   One noteworthy item relative to minimum parking standards for restaurants should be mentioned. National parking standards established by the Institute of Transportation Engineers (ITE) in *Parking Generation Manual, 4th Edition* for restaurants is 1 space per 75 square feet of gross floor area. Based upon this standard, a minimum of 46 parking spaces would be required.

   I do feel there is an argument to be made that strict compliance with the ordinance would render conformity with those regulations unnecessarily burdensome. A successful restaurant will be taking the place of a successful restaurant. Current ordinance standards do not allow for expansion of this business without a variance. Additionally, outdoor seating is something that is encouraged in the new Design Guidelines. Current conditions (lack of access to municipal parking) and arguably outdated parking requirements are contributing to the stagnation of business in this section of Twelve Mile Rd.

4. **THE REQUESTED VARIANCE IS THE MINIMUM VARIANCE NECESSARY TO DO SUBSTANTIAL JUSTICE TO APPLICANT AS WELL AS OTHER PROPERTY OWNERS.**

   The standard has been met because the applicant is seeking relief for a requirement that is created by a slight expansion of the existing building that can only be utilized in certain times of the year. The applicant is within 16 parking spaces of the minimum requirement. If bicycle parking is added to the property, the applicant is only 14 spaces short of the minimum. The proposed outdoor seating area is 425 square feet. Yet, the permitted number of occupants in the dining area is decreasing by 47. The applicant is not proposing to eliminate parking spaces through expansion. And the permitted number of patrons dining-in will have decreased by 47. If you apply the standards that were in place when the previous addition to the building was constructed, the applicant would not need a variance.

5. **THE REQUESTED VARIANCE WILL NOT ADVERSELY IMPACT THE SURROUNDING PROPERTIES.**

   The standard has been met. It has been stated by several residents that there will be issues with patrons of the restaurant parking along Thomas Ave. It is an arguable point that these issues would still exist even if the applicant was able to provide the minimum number of parking spaces. This is an adverse impact on the residents of Thomas Ave. However, it is highly probable that this adverse impact would exist even if a variance was denied. By ordinance, if the applicant opts not to add the
outdoor patio area, they would not need a variance. The adverse impact is a symptom of a larger issue, which is a general lack of municipal parking on that section of Twelve Mile Rd. The closest municipal parking lot is almost half a mile from the location of the proposed Green Lantern Restaurant. I am not necessarily advocating for this as the solution, but the issue of restaurant patrons parking in front of residences on Thomas Ave. could be addressed by implementing residential parking by permit.

**SEC. 138-606. - STANDARDS FOR VARIANCES:**
The zoning board of appeals shall not vary the regulations of this chapter, as authorized in this section unless it shall make findings based upon the evidence presented to it in each specific case that:

1. **Dimensional (non-use variances).**
   A. The need for the variance is due to unique circumstances or physical conditions of the property.
   B. The need for the variance is not the result of actions of the property owner or previous property owners.
   C. Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.
   D. The requested variance is the minimum variance necessary to do substantial justice to applicant as well as other property owners.
   E. The requested variance will not adversely impact the surrounding properties.
SEC. 138-606 - STDARDS FOR VARIANCES:
The zoning board of appeals shall not vary the regulations of this chapter, as authorized in this section unless it shall make findings based upon the evidence presented to it in each specific case that:

(1) Dimensional (non-use variances).
    F. The need for the variance is due to unique circumstances or physical conditions of the property.
    G. The need for the variance is not the result of actions of the property owner or previous property owners.
    H. Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.
    I. The requested variance is the minimum variance necessary to do substantial justice to applicant as well as other property owners.
    J. The requested variance will not adversely impact the surrounding properties.
CITY OF BERKLEY, MICHIGAN
ZONING BOARD OF APPEALS
APPLICATION FORM

A complete application, a check payable to the 'City of Berkley', and 15 copies of a survey, folded plans, and other applicable data must be submitted to the City of Berkley one month prior to the date of the ZBA hearing. Fee: $300.00 If an application is withdrawn more than 3 weeks prior to the meeting date, 60% of the fee will be refunded. If the application is withdrawn less than 3 weeks prior to the meeting, no refund will be given.
Account Number: 1019.

The Zoning Board of Appeals meets the second Monday of every month. The meetings are held at 7:30 p.m. in the Council Chambers at the City Hall 3336 Coolidge Highway, Berkley, Michigan 48072.

APPLICANT:
Name: Rossetti
Address: 180 West Fort, Suite 400, Detroit, MI 48226

PROPERTY OWNER:
Name: John Spritzer of Green Lantern Pizza
Property Owner Address: 15005 15 Mile Road, Clinton Township, MI 48038

PROPERTY DESCRIPTION:
Address: 4033 Twelve Mile Road

SIDWELL (Tax I.D. #: 25-16-102-037) Lot & Subdivision: 22-26, 69-90 Berkley School-Park

Current Zoning Classification: Twelve Mile District Current Use of Property: Restaurant

VARIANCE REQUEST:
Description of Request: Approve moving parking space for an existing nonconforming structure.
There is no reduction in parking spaces proposed. There is no increase in parking load proposed.

From the City of Berkley Code, Chapter 138 Section 138-154

Has the City refused a permit for the request? No, but directed by Community Development Director

GROUND FOR APPEAL:

There are two types of variances: non-use variances and use variances. A use variance permits the use of land that is otherwise not allowed in a zoning district. A non-use variance is a variance regarding setbacks; height; parking; sign size or placement; fences and walls.

In either case, the applicant must prove to the Zoning Board of Appeals that not receiving this variance will cause undue hardship or practical difficulty. Please complete either the use variance or non-use variance sections (whichever is applicable to your request)—DO NOT COMPLETE BOTH SECTIONS.
NON-USE VARIANCE

A non-use variance is a variance regarding setbacks; height; parking; sign size or placement; fences and walls. The need for the variance is due to unique circumstances or physical conditions of the property because the existing property does not conform to the current parking space requirements.

The need for the variance is not the result of actions of the property owner or previous property owners because there is no change of use of this property.

Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome because it is technically infeasible to add the required number of parking spaces.

The requested variance is the minimum variance necessary to do substantial justice to applicant as well as other property owners because there is not an increase in parking load.

The requested variance will not adversely impact the surrounding properties because the existing number of parking spaces is not changing.

USE VARIANCE

A use variance permits the use of land that is otherwise not allowed in a zoning district.

The building or land cannot be reasonably used for any of the uses permitted by right or by special use permit in the current zoning district because:

The need for the variance is due to unique circumstances or physical conditions of the property because:

Proposed use will not alter the essential character of the neighborhood because:

The need for the variance is not the result of actions of the property owner or previous property owners because:

I understand that ZBA members may need to access my property to better understand my case. I understand that financial hardship cannot be considered. I have received the brochure outlining ZBA procedures and requirements.

\[Signature\] 12/14/2018
Signature of Applicant  Date

Office Use Only
Date Application Received: 12/14/18  Fax: 300x  Receipt Number: ABA-U-18
Hearing Date:  Case Number:
Zoning Board of Appeals Decision:

January 2017