PUBLIC NOTICE
City of Berkley, Michigan
Monday, October 12, 2020
7:00 PM – Berkley Public Safety Fire Hall
2395 Twelve Mile Rd
Information: (248) 658-3320

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF AGENDA

APPROVAL OF MINUTES – Meeting of August 11, 2020

ITEMS FOR THE AGENDA

OLD BUSINESS

1. APPLICATION PBA-05-20; 3082 Coolidge Hwy – Vibe Credit Union
Mark Zimmerman Designs, on behalf of Vibe Credit Union is requesting two (2) variances at 3082 Coolidge Hyw, Parcel #25-17-107-029 for reduction in numerical parking requirements and installation of an additional sign facing Coolidge Hwy. Variance request to reduce numerical parking requirements was tabled at August 11, 2020 regular meeting. REQUEST WITHDRAWN BY APPLICANT

NEW BUSINESS

2. APPLICATION PBA-07-20; 3572 Twelve Miel Rd – Alpha Automotive
Alpha Automotive, Inc. is requesting a variance at 3572 Twelve Mile Rd, Parcel # 25-07-384-042, to replace the sign face of an existing legal non-conforming pole sign that encroaches into the required minimum five (5) foot setback.

3. INTERPRETATION OF COMMERCIAL MESSAGE FOR PAINTED MURAL
Ideation Orance, on behalf of Strategic Energy Solutions, is proposing to paint three (3) murals on the façade at 4000 W. Eleven Mile Rd, Parcel # 25-18-352-030.

4. APPLICATION NUMBER PBA-08-20; 4000 W. Eleven Mile – Strategic Energy Solutions
Ideation Orance, on behalf of Strategic Energy Solutions, is requesting a dimensional variance at 4000 W. Eleven Miel Rd, Parcel #25-18-352-030, to paint a wall sign on the north façade of the building that does not front a roadway.

5. RESOLUTION R-01-20
Resolution to ratify decisions made by the Zoning Board of Appeals since April 30, 2020.

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.
THE REGULAR MEETING OF THE BERKLEY CITY ZONING BOARD OF APPEALS WAS CALLED TO ORDER AT 7:00 PM, TUESDAY, AUGUST 11, 2020 VIA ZOOM ELECTRONIC MEETING BY CHAIR EVANS.

The minutes from this meeting are in summary form capturing the actions taken on each agenda item. To view the meeting discussions in their entirety, this meeting is broadcasted on the city’s government access channel, WBRK, every day at 9AM and 9PM. The video can also be seen on-demand on the city’s YouTube channel: https://www.youtube.com/user/cityofberkley.

PRESENT: Joe Krug Ryan Gesund Sue McAlpine Miles Uhlar Steve Allen Maria Ward – Alternate Paul Evans

ABSENT: Greg Butts

ALSO PRESENT: Nikki Maybee, 2665 Coolidge Hwy Chris Maybee, 2665 Coolidge Christos Goldemathis Mark Zimmerman, Zimmerman Designs Erin Schlutow, Community Development Director Dennis Hennen, City Council Liaison Torri Mathes, Community Engagement Officer Dan Hill, Public Policy Assistant Jennifer Finney, Executive Director DDA

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APPROVAL OF AGENDA

It was moved by Ms. McAlpine to approve the agenda as presented. Motion was seconded by Mr. Allen.

AYES: Gesund, Krug, McAlpine, Ward, Allen, Evans
NAYS: None
ABSENT: Butts

MOTION CARRIED

* * * * * * * * *

APPROVAL OF MINUTES

It was moved by Mr. Allen to approve the minutes of July 13, 2020 and supported by Mr. Krug.

AYES: Krug, McAlpine, Ward, Allen, Gesund, Evans
NAYS: None
ABSENT: Butts
REGULAR AGENDA

1. **INTERPRETATION OF COMMERCIAL MESSAGE FOR PAINTED MURAL**

   Timika Maybee, owner of Salon Simply Beautiful, proposed to paint a mural on the south side of 2665 Coolidge Hwy., Parcel #25-18-279-037. *Public Hearing was held and Request was tabled at July 13, 2020 regular meeting.*

   Community Development Director Schlutow provided an update on the discussions with the applicant that took place since the July 13, 2020 meeting, specifically the use of the image on promotional or for-sale merchandise. Director Schlutow also reviewed the Mural Installation and Maintenance Agreement that was drafted and signed by the property owner.

   Board members asked for clarification on the review and approval procedures with the DDA Mural Program, which has commissions and holds the rights to all murals painted in the DDA.

   Ms. McAlpine asked if the DDA would approve the proposed mural if it went through the DDA Mural Program. Director Schlutow summarized conversations held with DDA Executive Director Finney that the DDA thought it was a beautiful mural and would fit within the artistic aesthetic of the community.

   Mr. Allen thanked city staff for putting together the Mural Installation and Maintenance Agreement, which strictly prohibits the property owner from using the image on for-sale merchandise for profit.

   Property owner Timika Maybee stated her appreciation for city staff for working with her to get the mural moving forward.

   Ms. McAlpine motioned that the proposed design does not contain a commercial message and can move forward with installation at the subject property. Motion supported by Mr. Krug.

   Ms. Ward inquired the regulations for wall sign area and the granting of the mural would be granting of a variance for sign area. Chair Evan provided details to the request for an interpretation of the commercial message of the proposed design and a request for a variance would not be applicable if the Board determined that no commercial message exists.

   **AYES:** McAlpine, Allen, Gesund, Krug, Evans  
   **NAYS:** Ward  
   **ABSENT:** Butts

2. **APPLICATION PBA-04-20: 2665 Coolidge Hwy – Salon Simply Beautiful**

   Timika Maybee, owner of Salon Simply Beautiful, is requesting two (2) variances at 2665 Coolidge Hwy, Parcel #25-18-279-037, to paint a wall sign on the south side of the existing building. The proposed painted wall sign will face the south parking lot, does not face a main street and exceeds the sign area requirements and is proposed to expand the entire south wall. *Public hearing was held and request was tabled at July 13, 2020 meeting.*
Applicant withdrew request for variances, given the determination that the submitted design does not contain a commercial message.

3. APPLICATION PBA-05-20; 3082 Coolidge Hwy – Vibe Credit Union

Mark Zimmerman Designs, on behalf of Vibe Credit Union is requesting two (2) variances at 3082 Coolidge Hwy, Parcel # 25-17-107-029 for reduction in numerical parking requirements and installation of an additional sign facing Coolidge Hwy.

Director Schlutow summarized the applicants requests and referenced August 4, 2020 review letter.

Chair Evans asked the opinion of the Board members whether it would be beneficial to consider the requests individually. Board members agreed.

Ms. McAlpine motioned to bifurcate PBA-05-20 to consider both matters individually. Motion supported by Ms. Ward.

AYES: Ward, Allen, Gesund, Krug, McAlpine, Evans
NAYS: None
ABSENT: Butts

1. Variance Request to Reduce Numerical Parking Requirements

Mr. Allen inquired about the parking requirement specific to banks and financial institutions.

Mr. Zimmerman addressed the request for parking variance and explained the proposed overall improvements to the façade and the site.

Ms. Ward asked about the plans for the façade change. Director Schlutow explained the review and approval process for the façade change that was approved by the Planning Commission at the June meeting.

Chair Evans asked about the unique circumstances or physical conditions of the property that may warrant a variance.

Mr. Zimmerman noted the parking area is overparked and not used at maximum capacity, and there is an opportunity to design the site that fits with the Master Plan and within the District.

Ms. McAlpine inquired about the practical difficulty of the site and how the elimination of existing parking spaces would serve to utilize the property. Additional landscaping and removal of asphalt parking area does not prohibit the property from functioning in the way that it currently functions.

Mr. Zimmerman noted the parking requirement tied to the number of teller windows located within the building.

Mr. Gesund asked if the applicant would be willing to change interior configuration to remove teller windows so as to meet the reduced parking requirement. Mr. Zimmerman noted he would be willing to carry the question to the property owner.

Ms. Ward inquired about correspondence from the public.

Chair Evans opened public hearing at 7:39pm.
Michael, Earlmont neighbor, received the letter and inquired about how the site was going to be changed. Director Schlutow directed the resident to the location of the plans, as well as details for the proposed changes to the site.

Chair Evans closed the public hearing at 7:43pm.

Mr. Gesund noted it was difficult to see a practical difficulty for the site. He noted that it may be beneficial to look at parking credit for lessening the impervious surface and installing a greenbelt. It was hard to see a practical difficulty.

Mr. Allen inquired about a parking modification ordinance. Director Schlutow provided an update on the process for the proposed ordinance which is being discussed and reviewed by the Planning Commission.

Ms. McAlpine agreed with Mr. Gesund and noted that the financial institution is currently functioning with the existing parking. She noted that the suggestion to reduce indoor teller stations may be worth discussing and suggested tabling the request.

Chair Evans agreed. He noted that adding landscaping and reducing impervious surface is beneficial to the community. He concurred that the proposed layout would benefit the community, but the challenge is whether it fits the variance criteria.

Mr. Allen motioned to postpone the variance request for reduction of numerical parking requirement, PBA-05-20, until further information from Vibe Credit Union can be obtained related to the number of teller stations to be located within the building. Motion supported by Mr. Gesund.

AYES: Allen, Gesund, Krug, McAlpine, Ward, Evans
NAYS: None
ABSENT: Butts

2. Variance request to install a second sign facing Coolidge Hwy.

Mr. Zimmerman addressed the Board and noted the need for the second sign facing Coolidge Hwy. The existing wall sign on Coolidge Hwy is obscured by existing trees and landscaping and difficult to see when traveling on Coolidge Hwy. Mr. Zimmerman noted the need for a pylon sign that would be installed perpendicular to the flow of traffic and would allow motorists to see the sign while traveling Coolidge Hwy.

Mr. Allen agreed that it is easy to drive by the building with the existing signage, but was inquiring about the need to keep the existing wall sign.

Mr. Zimmerman noted that the plan is to install a wall sign facing Earlmont. The proposed south facing sign was not permitted, as it does not front a street.

Ms. Ward agreed with Mr. Allen, noting the existing sign on the west side of the building could be removed.

Chair Evans opened the public hearing at 7:54pm.

No public comment.

Chair Evans closed the public hearing at 7:56pm.
Mr. Krug noted it would work to remove the existing wall sign in favor of the pylon sign, especially given the proposed façade change that has already been approved.

Ms. McAlpine agreed and noted it was difficult to prove a practical difficulty.

Chair Evans agreed that there is a practical difficulty with the property that would justify the request.

Mr. Allen motioned to deny the sign variance request, PBA-05-20, based on the fact that the five standards have not been met. Motion supported by Mr. Krug.

AYES: Gesund, Krug, McAlpine, Ward, Allen, Evans
NAYS: None
ABSENT: Butts

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OTHER BUSINESS

Chair Evans noted Greg Butts has submitted his resignation to serve on the Zoning Board of Appeals. He has served on the Board since 1999, and has deliberated on hundreds of cases during his tenure. Chair Evans expressed his appreciation and congratulations to Mr. Butts in his role.

Chair Evans thanked Ms. Ward for her accepting the opportunity to serve the remainder of Greg Butts term as a full member of the ZBA.

Ms. Ward expressed her honor to serve on the ZBA.

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LIAISON COMMENTS

Councilmember Hennen thanked Mr. Butts for his service to the City and noted that Ms. Ward was officially appointed to Board. He noted that it would be interesting to discuss parking credits for green infrastructure, similar to bicycle parking. He also noted that parking requirements for banks and financial institutions may be too strict.

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BOARD COMMENTS

None

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PUBLIC COMMENTS

None.

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With no further business, Chair Evans adjourned the meeting at 8:05pm.
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, 90% 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, 3338 Coolidge Highway, Berkley, Michigan 48072.

APPLICANT:
Name: Alpha Automotive Inc. Phone: 248-435-6022
Address: 3572 12 Mile Road, Berkley, Michigan 48072

Relationship to Property (current tenant, representative, future tenant, future owner, owner)
Business Tenant: Zack Glazer

PROPERTY OWNER:
Name: G.L. Investments L.C. Phone: 248-320-0120
Property Owner Address: 94 E. Walton Blvd., Pontiac, Michigan 48340

PROPERTY DESCRIPTION:
Address: 3572 12 Mile Road, Berkley, Michigan 48072
Sidwell (Tax I.D. #): 35-07-384-042 Lot & Subdivision: Lots 201-1-201 recorded in Libel 21, Page 25 O.C.R. (see attached)
Current Zoning Classification: commercial Current Use of Property: auto repair

VARIANCE REQUEST:
Description of Request: Dimensional 2 ½ ft. variance of existing setback of Pole Sign as ordinance does not permit a panel face change on a non conforming sign

From the City of Berkley Code, Chapter 94 Section 94-12

Has the City refused a permit for the request? Yes (see attached)

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 unlawful nonconforming pole sign structure of 45 years is nonconforming due to 5' setback requirement in the City ordinances of 2002 and 2013 that does not allow a change of name in the sign panel.

The need for the variance is not the result of actions of the property owner or previous property owners because:
The pole sign structure has not been altered or changed for over 45 years and has been continuously used with changes of the panel for a like use over the same period by each tenant including the previous tenant whom left in May of 2020 and at which time Appellant became the tenant.

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:
Without the setback variance the Applicant tenant will be without the proposed sign panel which is exactly the same as the prior tenant and will have no ability to have its business known to the public, even though such panel and pole sign are in harmony with adjacent property and surrounding business owners.

The requested variance is the minimum variance necessary to do substantial justice to applicant as well as other property owners because:
Without the variance and right to place a panel on the sign describing tenant’s business there is no means to identify Appellant’s business and the Pylon sign itself will not be able to be used where there is no safety or traffic or aesthetic issue as it is in harmony with the surrounding businesses.

The requested variance will not adversely impact the surrounding properties because:
The Pylon sign as it exists is in conformity and total harmony with the surrounding businesses as can be seen by the attached series of pictures and the attached narrative and signed petition of neighboring properties.

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.

ALPHA AUTOMOTIVE INC.

Signature of Applicant: [Signature]  October 1, 2020  Date

[Signature of President]  Date

Office Use Only
Date Application Received:  Fee:  Receipt Number:  
Hearing Date:  Case Number:  
Zoning Board of Appeals Decision:  

January 2017
To: Zoning Board of Appeals
From: Alpha Automotive Inc./3572 12 Mile Road
Re: Request for Dimensional Variance of two and a half feet to satisfy five foot Setback requirement of the 45 year old Pole Sign for change of name on the only Sign Panel to identify Applicant’s business

The subject property is owned by G.L. Investments LC, who has owned the property for over 45 years. The Pole Sign has been on the property and has been continuously used from that time to the present time. The Pole Sign has not been changed in its structure or location at any time and has been located on the property and continuously used up to the present time by each occupant and tenant. Historically the Pole Sign Panels have changed over the years from a Union gas station, Texaco gas station and by other tenants providing auto services, including the prior tenant Dynamic Auto service, which occupied the property for approximately ten years and who terminated its tenancy and possession in May of 2020. The current tenant Alpha Automotive Inc., the “Appellant” in this matter moved from a Royal Oak location to 3572 12 Mile Road in May of 2020 and brought with it the business of repair and maintenance of Post Office vehicles and other businesses, including the service of individuals seeking automobile repairs.

The Appellant has not removed the Dynamic Auto sign panel and merely turned it around and placed the back of the Dynamic Auto panel on the pole sign until it could receive permission to have its own business panel approved by the City, which it submitted in June of the exact same size and dimension.
In June of this year, being a few weeks after it had obtained possession of the property, Appellant contacted Hunt Sign Company located in the City of Berkley, Michigan which has been doing business for several decades to prepare a Sign Permit Application for a sign panel with Appellant's business name. The Sign Permit Application is attached to the Zoning Board of Appeals Application together with the proposed Sign Panel prepared by Hunt Sign Company, which is identical in all dimensions and size and content to the prior tenant sign panel and which solely identifies the business name of the new tenant, Alpha Automotive Inc. The sign is consistent in all respects with the existing prior sign panels that have been approved or allowed for decades.

You will note from the submitted sign panel and in keeping with the Sign Permit Application to the City of Berkley that there is identified a little over 2 ½ foot setback from the Pole Sign Structure to the property line. Upon the current Sign Ordinance and Regulations Chapter 94 Section 94-12 there is a requirement for a 5’ setback from the property line on a Pole Sign in the district in which the property is located.

Significantly the business of the prior tenant for automotive service repairs is the same business as the Appellant and it was not required to obtain a variance when its Sign Panel was changed to identify its business name as the attached pictures reflect.

Over 45 years there has not been any alteration or change in the location of the Pole Sign Structure nor has it been abandoned nor has there been a change of use and it is a legal non-conforming use. The City of Berkley through the Community Development Director has denied the Application for a Sign Panel Permit and suggested that Appellant seek a dimensional variance i.e. 2 ½ ± feet in order to obtain a
change of name in the existing Sign Panel, which shall have the name of the new
tenant’s business and telephone number.

As one can see from the pictures that are attached there is a small sign over the
door of the building in which Appellant does business which cannot be seen from 12
Mile Road by vehicles passing the property nor even by pedestrians on the sidewalk.

A further review of the pictures that are attached also demonstrate that the use of
the existing Pole Sign Structure is consistent with other businesses in the surrounding
area on 12 Mile Road, who have pole signs, including Berkley Collision, Burger King,
Dons Done Rite Auto Wash, Lanes Hat Trick Pub and the Seven Eleven. The VFW
which is also on 12 mile within the same zoning and surrounding area has currently
received a permission from the ZBA to have a new panel placed on their Pole Sign.

This Appeal is being brought due to the denial of the Sign Permit Application for
a change of name on the existing Sign Panel as the City Ordinance for signs does not
permit a “Panel Change” to a non-conforming Pole Sign Structure which is less than the
five feet from the property line which Ordinances having been enacted in 2002 and
2010.

A review of many of the pole and pylon signs on 12 Mile Road that have had
changes in their Panel Signs also reflect that they also may not meet the five foot
setback requirement as well and yet have been allowed sign panel changes as recently
as this year. See pictures attached.
The current Appellant tenant moved to Berkley from Royal Oak and has entered into a long term lease of the property and has brought his business to the City of Berkley as its chosen destination not only to be able to be maintained but to grow.

Mr. Glazier has made a substantial investment in the community and property improvements for his business within the City of Berkley.

If there is no Sign Panel that advertises the new business of Appellant and makes it known to the general public then the goals and aspirations of Appellant for its business and to be a contributing member of the community cannot be achieved as the public will not know the service or purpose of the business that is available or that it even exists.

Appellant’s business has for many years and in the future shall hopefully continue to service the United States Post Office vehicles. However, it is necessary for its survival that it also serves the private sector for individuals and other businesses.

The property location has served for many decades and provided a source of services for the Berkley community and its citizens and for those seeking automobile repairs and services.

The variance sought by the Applicant and Appellant is what is called a Non-Use Variance referred to as a “Dimensional Variance” under the Zoning Enabling Act, MCL 125.3604 (7).

The Zoning Enabling Act does not define practical difficulties, however such is discussed in National Boatland Inc. vs. Farmington Hills Zoning Board of Appeals, 146 Mich. App. 380 (1985) and adopted three factors to be applied:

III. Variances B. Nonuse Variances. §7.4
1) Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether 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 the other property owners.

3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured."

However, with respect to both non-use and the use variances, the problem cannot be self-created. See Johnson v Robinson, 420 Mich. 115 (1948).

There can be no question that the variance requested has not been self-created in any capacity whatsoever. Every tenant that has occupied the property for over 45 years has been able to use and change the panels on this Pole Sign Structure to make known the name and nature of the conducted business at the property without any variance or obstacle.

The Appellant, the prior tenants and the owners of the property have never changed the use of the Pole Sign Structure and it is only due to the acts of the City by changing the ordinances, both zoning and regulatory which have created this distinction.

The grant of change of a Sign Panel has been given to other businesses in the same circumstances, which are consistent with the harmony of the neighborhood and surrounding area and other property owners consistently to make known the business that is being offered.
In the current instance without the dimensional variance and ability to place the Appellant's business name on the panel on the Pole Sign undue hardship shall be visited upon the Appellant, which has nothing to do with expanding a nonconforming use nor does it change any of the character or aesthetics of the surrounding properties and shall be compatible and continue in harmony with them.

When the Pole Sign was constructed over 45 years ago it complied with all the requirements ordinances and regulations then in effect. Subsequently, the ordinances enacted thereafter in 2002 and 2010 which created a five foot setback for pole signs and the requirement to change a name on an existing panel provided that a Sign Permit would only be granted if the Sign Structure is conforming.

Both Michigan statutory law and case law provide that the pertinent use of a property is the actual use before the amendment or ordinance enactment. *Heath Twp v Sall*, 442 Mich 434, 439; 502 NW2d 627 (1993); MCL 125.3208, MCL 125.3208 (1) provides, in relevant part: “If the use of a dwelling, building or structure or of the land is lawful at the time of enactment of a zoning ordinance or an amendment to a zoning ordinance, then that use may be continued although the use does not conform to the zoning ordinance or amendment.” Thus, if the nonconforming use lawfully existed before the zoning ordinance or amendment was enacted, it is protected as “a vested right in the use of particular property[.]” *Heath Twp*, 442 Mich at 439.

The use must be actual, meaning that it “must be apparent and manifested by a tangible change in the land, as opposed to intended or contemplated by the property owner.” *Id*, at 440 (quotation marks and citation omitted). As explained in *Norton Shores v Carr*, 81 Mich App 715, 719; 265 NW2d 802 (1978).
“A nonconforming use comprehends the physical characteristics, dimensions, or location of a structure as well as the functional use thereof or of the premises on which it is located, and is used as a generic term that includes nonconforming use of conforming structures and plots, nonconforming use of nonconforming structures and plots, and conforming use of nonconforming structures and plots. [Internal quotation marks and citations omitted.]"

There is no traffic safety or aesthetics, which are changed by a change of the name on the existing Sign Panel as it will be in harmony and compatible with those of the surrounding properties.

Attached you shall find a Petition in Support of the Application for Request of a Variance of the 5’ setback by Alpha Automotive Inc. so it may identify its business on the existing Sign Panel.

Many of the owners and tenants of the properties that surround this property or are adjacent or across from it support the variance request. There are few approved sites for automotive services in the community. There are no alternative locations within the City that are as compatible with the existing use as this property.

There is no traffic or safety or aesthetic issues or reason why the existing Sign Panel should not be changed to identify Appellant’s business nor does the existing variance requested interfere with the safety, traffic and aesthetics in the surrounding area.

The variance requested does not change the footprint of the building or sign structure nor the existing panel sign size or its dimension which has been in existence for over 45 years but only the name. The grant of the variance will eliminate the undue
hardship to the Applicant and further will make the existing legal nonconforming Pole Sign Structure conforming for the use of the property with a lawful conforming sign structure which is consistent with the objectives of the City.
EXHIBIT A
CITY OF BERKLEY, MICHIGAN
SIGN PERMIT APPLICATION

Application for a permit to (Describe what you are proposing to do):
Pole sign face change

Work being done at:
Address: 3572 12 mile rd
Name of Business: Alpha Automotive Inc.
Business Owner: Zack Glazier

Sign Contractor:
Company Name: Hunt Sign Company  kerry@huntsign.com
License Holder: Lakeview Sign Service
Address: 57980 Jewell
City: Washington Twp
Telephone: 313-300-7147
Zip: 48095

Requirements:
A copy of your insurance must be on file for all contractors doing work in our city. No registrations or permits are issued without this information.

Two (2) sets of plans showing the following:

| What will the sign look like? | existing pole |
| What material is the sign? | lexan |
| Where will the sign be located? | angle bracket frame |
| If the sign is a wall sign, how large is the wall? | existing pole and box |
| How will the sign be installed or supported? | |
| Will the sign be illuminated? | |

*Dimensions must be shown on all plans.

I agree to repair any damage done to public or private property.

"This permit is granted on the express condition that the said construction shall, in all respects, conform to the ordinances of this jurisdiction including the zoning ordinance, regulating the construction and use of buildings, and may be revoked at any time upon violation of any provisions of said ordinances."

Kerry Leavy
Print Name Signed

Date Received
Received by (Department Representative)

Department use only:

Approved
Stipulations
Date

Permit Number: January 2017
EXHIBIT B
Hello,
I hope you are having a wonderful summer!

I have reviewed the sign permit application at 3572 Twelve Mile Rd. Unfortunately, the existing pole is nonconforming in that it is located less than the required 5 ft from the property line. Our City ordinance does not permit a face change to a nonconforming sign.

Therefore, I cannot approve the requested sign permit at 3572 Twelve Mile Rd.

If you would like to discuss options for the property in regards to signage, please feel free to give me a call: 248-535-5560

Thank you,
Erin

Erin Schlutow
Community Development Director
City of Berkley
3338 Coolidge Hwy.
Berkley, MI 48072
248.658.3320
eschlutow@berkleymich.net
EXHIBIT C
EXHIBIT D
EXHIBIT E
EXHIBIT F
PETITION IN SUPPORT OF
THE REQUEST FOR A VARIANCE TO ENABLE THE CHANGE OF A SIGN PANEL TO IDENTIFY THE
BUSINESS OF ALPHA AUTOMOTIVE INC.
3572 12 MILE ROAD, BERKLEY, MICHIGAN

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To: Berkley Zoning Board of Appeals
From: Erin Schlutow; Community Development Director
Subject: PBA-07-20; 3572 W. Twelve Mile – Variance request to replace the face of an existing non-conforming sign
Date: October 6, 2020

APPLICANT: Alpha Automotive
LOCATION: Southeast corner of Twelve Mile Rd and Oakshire
PARCEL ID: # 25-07-384-042
REQUEST: The applicant is seeking a dimensional variance to replace a non-conforming sign, located within the required minimum five (5) setback from front property line.
REQUIRED: Section 94-7(d) of the Zoning Ordinance requires pole signs to maintain a five (5) ft. setback from the property line.

ZONING AND LAND USE

The subject property is zoned Twelve Mile District.

<table>
<thead>
<tr>
<th>Property</th>
<th>Zoning District</th>
<th>Land Use</th>
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</thead>
<tbody>
<tr>
<td>Subject Site</td>
<td>Twelve Mile District</td>
<td>Auto Repair</td>
</tr>
<tr>
<td>West</td>
<td>Planned Unit Development</td>
<td>Commercial development</td>
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<tr>
<td>East</td>
<td>Twelve Mile District</td>
<td>Hartfield Lanes</td>
</tr>
<tr>
<td>North</td>
<td>R-1D, Single Family Residential</td>
<td>Single family residential</td>
</tr>
<tr>
<td>South</td>
<td>Twelve Mile District</td>
<td>7-11</td>
</tr>
</tbody>
</table>

Section 94-7(d) states:

Pole signs are required to maintain a five (5) ft. setback.
The setback is measured from the property line to the nearest point of the sign. The pole of the sign is measured 30 inches from the sidewalk/property line. The applicant has noted that the pole of the sign is to remain as is.

BACKGROUND

The existing sign is legally non-conforming. The pole has been in place. It was constructed prior to the adoption of the current sign regulations, which were adopted in 2010. The legal nonconforming sign was permitted to continue so long as no changes to the sign were to be made.

Section 94-12 restricts the continuation of nonconforming signs.

Sec. 94-12. – Nonconforming signs.

No nonconforming sign or its support structure:

(1) Shall be replaced by another nonconforming sign;
(2) Shall have any changes made in the words or symbols used or the message displayed on the sign;
(3) Shall be structurally altered so as to prolong the life of the sign or so as to change the shape, size, type, or design of the sign;
(4) Shall be reestablished after the activity, business, or usage to which it relates has been discontinued for 90 days or longer;
(5) Shall be reestablished after damage or destruction if the estimated expense of reconstruction exceeds 35 percent of the appraised replacement cost.

The proposed change to the size, design, type, and internal illumination of the sign cannot be completed as proposed, as the sign is located within the existing front yard setback.

STANDARDS FOR REVIEW

Per Section 138-606 of the Zoning Ordinance, the applicant must demonstrate a practical difficulty in order to be granted a dimensional variance. The Zoning Board of Appeals shall not vary the regulations of Section 138-606, unless it shall make findings based upon the evidence presented to it in each specific case that:

A. The need for the variance is due to unique circumstances or physical conditions of the property.

The existing pole sign was installed prior to the adoption of the current sign ordinance regulations on the condition that a wall sign was removed. The pole sign was installed in order to bring attention to the building from east and westbound Twelve Mile Rd traffic.
The proximity of the building, located far back from the front property line, means that a motorist may not see the repair shop until already passed. The existing pole sign alerts motorists that are traveling down Twelve Mile of the location before they see the building. It is in line with other pole signs that are located on the north and south sides of Twelve Mile Rd.

B. The need for the variance is not the result of actions of the property owner or previous property owners.

The need for the variance is due to the change in local sign regulations that requires the five (5) foot setback from the property line while simultaneously not permitting nonconforming signs to change face or type. The need for the variance is not the result of actions of the property owner or previous property owners. The sign had been in existence prior to the local ordinance change that rendered it nonconforming.

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.

Strict compliance with the ordinance will prohibit the property owner from updating the signage on the property which draws attention to the general public. Conformity to the sign setback regulations would require the property owner to relocate the sign on the subject property where it would pose a traffic and potential safety hazard to those who frequent the auto repair shop. The pole would need to be moved further onto the property, in line with vehicular traffic ingress and egress onto the property.

D. The requested variance is the minimum variance necessary to do substantial justice to the applicant as well as other property owners.

The requested variance is the minimum variance necessary for the applicant to maintain the existing location of the pole sign while updating the face and type with a modern design. The applicant is not exceeding the size or area of the sign, but requests the ability to change the face, keeping the size the same.

E. The requested variance will not adversely impact the surrounding properties.

The requested variance will not impact the surrounding properties, as the pole sign has been in existence since at least 2002, according to Oakland County aerial images, without causing an adverse impact upon the surrounding properties, or Berkley as a whole.

Summary

For a variance to be approved by the Zoning Board of Appeals, it shall meet the standards of Section 138-606 of the Zoning Ordinance, based on findings of fact. We request the Zoning Board of Appeals to
determine if there are unique characteristics of the property and whether a lesser variance would be acceptable.

If you have any questions regarding this case, please do not hesitate to contact us.

Sincerely,

Erin Schlutow
Community Development Director

Cc: Matthew Baumgarten, City Manager
    Victoria Mitchell, City Clerk
    John Staran, City Attorney
    Zack Glazier, alphaautomotive.cars@gmail.com
    Robert Jacobs, rjacobs@rjacobsplc.com
Dear Erin Schiutown,

I am in support of Alpha Automotive as I live on Oakshire five houses down. They have done an amazing job of improving the corner of 12 and Oakshire. I also am in a family of small businesses and I feel cities need to do more to support our small businesses and a request like this should be granted. So again I am in favor in allowing a variance for the sign on 12 mile for Alpha Automotive.

Johanna Jenkins

Sent from my iPhone
MEMORANDUM

To: Berkley Zoning Board of Appeals

From: Erin Schlutow, Community Development Director

Subject: Interpretation of Commercial Message for Painted Murals – 4000 W. Eleven Mile

Date: October 6, 2020

APPLICANT: Ideation Orange, on behalf of Strategic Energy Solutions

LOCATION: Eleven Mile Rd, west of Thomas Ave.

PARCEL ID: # 25-18-352-030

REQUEST: The applicant is proposing to paint three (3) murals at 4000 W. Eleven Mile and request the ZBA to determine if the designs contain a commercial message.

REQUIRED: Section 94-2 of the Zoning Ordinance defines a mural/work of art as one that does not contain a commercial message, as determined by the Zoning Board of Appeals.

Ideation Orange, on behalf of Strategic Energy Solutions, is proposing to paint three (3) murals on three facades of the building located at 4000 W. Eleven Mile Rd, Parcel # 25-18-352-030. SES is a mechanical and electrical consulting engineering firm focused on sustainable design and energy conservation.

As the property is not located in the DDA, it would not be eligible to apply for the DDA Mural Program. Therefore, the method of approving a proposed mural is contingent upon the Zoning Board of Appeals determining if the designs contain a commercial message. If the proposed designs are determined NOT to contain a commercial message, the designs are considered to be murals or works of art. If the proposed designs are determined to contain a commercial message, they would be subject to the regulations specific to wall signs within the Zoning Ordinance.

ZONING

For your reference, the following definitions are provided so as to focus the discussion on whether the proposed designs contain a commercial message. The Zoning Board of Appeals does not have the
authority to comment or make suggestions to the design, elements, theme, color scheme, or other components of the proposed design.

Per Section 94-2:

Mural/work of art: any mural or work of art that does not contain a commercial message to be determined by the Zoning Board of Appeals.

Commercial message: any wording, symbol, image, shape, picture, or combination thereof, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, goods, service, institution, person, activity, location, or idea.

Sign: any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

South Façade, facing 11 Mile Rd.

The first design is proposed on the south façade of the building, facing Eleven Mile Rd. The applicant has provided a description of the rendering, and states “the intent of this mural is to celebrate the unique character of the Great Lakes waterways environment, and to touch on elements of this resource that has contributed to both the local region and across Michigan.”

While the design includes images and symbols representing fish, a lighthouse, compass, anchor, bridges and more, the representations contained do not directly or indirectly advertise the existing business that operates within the building. The included images are not part of the SES brand, and it does not call attention to the business but is intended to provide aesthetic and artistic appeal for the community.

East Façade, facing Thomas Ave

The second design is proposed on the east façade of the building, facing Thomas Ave, and will wrap around to the north side of the building facing the parking lot. The applicant has provided a description of the proposed “pattern/texture-driven mural (not content heavy)” and noted that the design of this façade is due to the “wall orientation and vehicular traffic.”

The proposed design does not include images or other representations like the south façade, but is a colorful pattern or texture that is meant to provide aesthetic appeal to the building. It is proposed to cover the cinderblock wall, north of the brick façade, and will turn the corner to the north façade of the building.

The proposed pattern and/or texture design is not part of the SES brand and does not call attention to the business but is intended to provide aesthetic and artistic appeal for the community.

North Façade, facing the parking lot, above the doorways
The third design under consideration are the text-graphics proposed to be located on the north façade of the building, facing the parking lot, above the existing doorways.

The first text graphic includes a quote from Albert Einstein, “EVERYTHING IN LIFE IS VIBRATION”. The graphic text is approximately 10 sq. ft.

The second text graphic is Einstein’s equation “E=mc²”, which means energy equals mass times the speed of light squared. The graphic text is approximately 1.5 sq. ft.

The proposed graphic text above both doorways includes lettering but the graphic does not specify or advertise the existing business that is operating within the building.

AGREEMENTS

The property owner and artists have agreed and signed the Mural Installation and Maintenance Agreement, which specifies the process for mural installation, maintenance, and expressly prohibits the business from using the images as part of their business branding or marketing strategy.

SUMMARY

We ask the Zoning Board of Appeals to make a determination whether or not the installation of the proposed designs on the south, east, and north facades at 4000 W. Eleven Mile Rd would constitute a commercial message. We ask that the Zoning Board of Appeals discuss the following:

1. If the Zoning Board of Appeals determines that the proposed rendering does not contain a commercial message, it would be considered a mural and could move forward with installation.

2. If the Zoning Board of Appeals determines the proposed rendering does contain a commercial message, it would then be subject to the wall sign requirements in the Zoning Ordinance.

Please do not hesitate to contact me if you have any questions related to this case.

Cc: Matthew Baumgarten, City Manager
    Victoria Mitchell, City Clerk
    John Staran, City Attorney
    Steve DiBeradine, steved@sesnet.com
    Brian Tolly, brian@ideationorange.com
September 9, 2020

City of Berkley
Zoning Board of Appeals

Re: South Mural proposal for Strategic Energy Solutions, 4000 W Eleven Mile Rd, Berkley, MI 48072

Dear Board Members:

Thank you for allowing Ideation Signs and Communications, Inc. (Ideation) to propose a set of murals at Strategic Energy Solutions. The statement below is regarding the proposed South Mural, facing Eleven Mile Rd.

The intent of this mural is to celebrate the unique character of the Great Lakes waterways environment, and to touch on elements of this resource that has contributed to both the local region and across Michigan. The mural combines references of identifiable wildlife of the region (Great Blue Heron, Lake Sturgeon), some elements of waterways-based Industry (freighter, shipping pier, light house, cartographic elements, bridges), and visual indicators of the expansive, almost sea-like, nature of our Great Lakes (expansive horizon views across water, sizeable breaking waves, and the rich turquoise/blue of deep, clean lakes).

The mural artist, Jesse Kassel, is well-suited to combining a variety of elements into an overall interesting and exciting layout from a distance while also rewarding closer visual exploration with smaller & more subtle elements woven within the layout.

We believe that this mural will contribute to the community by instilling a sense of pride about one of our greatest regional resources, the largest freshwater system on the planet. We also hope that it brings a greater appreciation to how much the Great Lakes have benefitted the lives of everyone in the region, influenced what it means to live in Michigan, and leads to greater conservation awareness of this resource. The mural has some intentionally lively accent-colors & layout arrangements to impart an impression on the streetscape location that is more aspirational and celebratory versus being too dry/infographic.

Thank you for consideration of adding this artwork to your community.

Sincerely,

Michael Garavaglia
Lead Designer
Ideation Signs & Communications, Inc.
September 9, 2020

City of Berkley
Zoning Board of Appeals

Re: East Mural proposal for Strategic Energy Solutions, 4000 W Eleven Mile Rd, Berkley, MI 48072

Dear Board Members:

Thank you for allowing Ideation Signs and Communications, Inc. (Ideation) to propose a set of murals at Strategic Energy Solutions. The statement below is regarding the proposed East Mural, facing Thomas Ave and wrapping around to the North facade facing the parking lot.

The intent of this mural is to provide some vibrant interest to an otherwise drab, rectilinear streetscape wall at the business side-facades where Thomas Ave intersects with Eleven Mile Rd. We think it is best to have a more pattern/texture-driven mural here (not content-heavy), because of the wall orientation & vehicular interaction. This facade is close enough to eleven mile that westbound traffic will also have a good peek of the wall as they approach & pass (It is not possible to see the recessed "South Mural" from the viewing-angles that reveal this East Mural at the same time). This mural-pattern wraps the pattern slightly around to the North facade to provide an additional level of interest where the mural texture intentionally travels beyond the extents of the expected facade width. If allowed, we would like to add a couple of painted quotes from Albert Einstein on the North facade alleyway as a continuation of this mural - the quotes are a bit of an easter-egg to discover that is meant to unpack the energetic nature of this East Mural a bit more and how that relates to the viewer & their world.

The mural artist, Rick Malt, is experienced with creating large versions of his unique texture-patterns to activate environments in ways that feel spirited but well-integrated.

We believe that this mural will contribute to the community by adding a needed layer of dynamic interest to an intersection that is otherwise defined by being the side of businesses facing Eleven mile & parking lot entrances. This textural pattern and the color variations utilized will provide an activated spirit to this area, especially needed during the grey, colder months as there is not much other opportunity for landscaping/4-season interest here.

Thank you for consideration of adding this artwork to your community.

Sincerely,

Michael Garavaglia
Lead Designer
Ideation Signs & Communications, Inc.
SITE PLAN:

- **South Facade Mural:** Painted by Jesse Kassel.
- **East Facade Mural:** Painted by Rick Malt. Mural wraps slightly around corner of North facade.
- **Logo Icon Signage:** Painted direct to block to continue the feeling established by the proposed murals. Will acquire signage-permit as needed.
- **Small painted accent quotations:** Near the 2 separate rear entry doors. To be approved as part of mural-graphics package.

Please review this proof carefully. Signature represents approval for final production. PDF’s and proofs are not 100% color accurate.

Strategic Energy Solutions
4000 West Eleven Mile Road
Berkley, Michigan 48072

0620 Exterior Design - Details Packet v.3
Strategic Energy Solutions | 4000 West Eleven Mile Road, Berkley, Michigan 48072

©2019 Ideation Signs & Communications
EXISTING SITE VIEWS & FACADE MEASUREMENTS:

South Facade - mural
738"

West Facade
391"

South Facade, facing 11 Mile Rd

East Facade
1023"

North Facade, rear parking lot
1813"
Existing South Facade:
Plan on applying full-color mural-rendering to this straight-on photo.
Ok to apply mural over the metal door on this wall.
Window glass & aluminum mullions to remain un-painted.
EXTERIOR MURAL DESIGN

South Facade, facing 11 Mile Rd
Painted mural by Jesse Kassel on South wall.
Dark Grey paint on West facade side-wall.

BUILDING PAINT COLORS
South Facade Primed 1-Color:
Exterior primer/coating for stable mural surface.
Color = standard white primer.
Clean/power-wash as needed.

West Facade Painted 1-Color:
Sherwin Williams:
Super-Paint or Loxon (painter’s discretion).
Color = SW 6202 - Cast Iron
Low/Lustre/Eggshell finish.
Note: Color is most similar to Pantone 417 C.

MURAL COLOR-TARGETS INSPIRATION
For initial inspiration only, feel free to adjust mural colors as desired or utilize tones/tints of these colors.

Example of artist’s style to be utilized: Unique mural layout created by artist for this location as shown above.
East Facade.
Painted mural-texture by Malt.
Dark Grey background paint to be similar to West facade side-wall.

Example of artist’s texture-style to be utilized:

BUILDING PAINT COLORS
East Facade & North Roof Reveal Painted 1-Color:
Sherwin Williams.
Super-Paint or Loxon (painter’s discretion).
Color = SW 6202 - Cast Iron.
Low-Lustre/Eggshell finish.
Note: Color is most similar to Pantone 417 C.

MURAL COLOR-TARGETS INSPIRATION
Feel free to utilize tints/hints of these colors or tweak based on paint manufacturer offerings.

- Pantone 417 C Deep Worn Gray background similar to “SW 6202 - Cast Iron” on other building walls.
- Pantone 447 C Dark Charcoal Gray used for outlines, (not pure black outlines).
- Pantone 5415 C Slate Blue used for accent fills, variable shading tones from this target.
- Pantone 7491 C Earthy Green used for accent fills, variable shading tones from this target.
EVERYTHING IN LIFE IS VIBRATION

Albert Einstein

E = mc²

East Roof Reveal also painted Dark Slate-Blue.

Painted Logo Signage: 134" x 100" Logo Icon.

Painted Logo Icon Signage Calculations:
North Facade: 1814"(w) x 185"(h) = 2330 ft².
Logo Icon Sign: 134"(w) x 100"(h) = 93 ft².
Height above grade: 128".

*Note: The small accent graphics text-quotes painted around these rear entry-doors will need to be approved as part of the mural approval process.

North Facade. Painted mural-texture by Malt continues around corner.
Dark Slate-Blue North back wall & East roof-reveal.
Painted tone-on-tone accent graphics.

Example of artist’s texture-style to be utilized:

Painting Logo Icon Signage Calculations:
North Facade: 1814"(w) x 185"(h) = 2330 ft².
Logo Icon Sign: 134"(w) x 100"(h) = 93 ft².
Height above grade: 128".

*Note: The small accent graphics text-quotes painted around these rear entry-doors will need to be approved as part of the mural approval process.

Painted Logo Icon Signage Calculations:
North Facade: 1814"(w) x 185"(h) = 2330 ft².
Logo Icon Sign: 134"(w) x 100"(h) = 93 ft².
Height above grade: 128".

*Note: The small accent graphics text-quotes painted around these rear entry-doors will need to be approved as part of the mural approval process.

Please review this proof carefully. Signature represents approval for final production.
PDF’s and proofs are not 100% color accurate.
Detail of Accent Text-Graphics painted near rear doors:

EVERYTHING IN LIFE IS VIBRATION

Albert Einstein

$E=mc^2$
Detail of Accent Text-Graphics painted near rear doors:

- Inset Block Area: painted dark grey.
- Door & Sidelight Area: remains as-is.
- Metal Door Area: painted dark grey.

\[ E = mc^2 \]

Albert Einstein

Please review this proof carefully. Signature represents approval for final production. PDF's and proofs are not 100% color accurate.

Client Approval & Date:

0620 Exterior Design - Details Packet v4
Strategic Energy Solutions  |  4000 West Eleven Mile Road, Berkley, Michigan 48072
To: Berkley Zoning Board of Appeals
From: Erin Schlutow; Community Development Director
Subject: PBA-08-20; 4000 W. Eleven Mile – Variance requests for wall sign on north side of building that does not face public street
Date: October 6, 2020

APPLICANT: Ideation Orange, on behalf of Strategic Energy Solutions
LOCATION: Eleven Mile Rd, west of Thomas Ave.
PARCEL ID: # 25-18-352-030
REQUEST: The applicant is seeking a dimensional variance to paint a wall sign on a façade that does not face a public or private street
REQUIRED: Section 94-7(a) of the Zoning Ordinance permits one sign for each of street frontage.

ZONING AND LAND USE

The subject property is zoned Eleven Mile District.

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<thead>
<tr>
<th>Property</th>
<th>Zoning District</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject Site</td>
<td>Eleven Mile District</td>
<td>Salon Simply Beautiful</td>
</tr>
<tr>
<td>West</td>
<td>Eleven Mile District</td>
<td>PM Environmental</td>
</tr>
<tr>
<td>East</td>
<td>Eleven Mile District</td>
<td>Damico Contracting</td>
</tr>
<tr>
<td>North</td>
<td>Parking District</td>
<td>Parking Lot</td>
</tr>
<tr>
<td>South</td>
<td>Light Industrial (Oak Park)</td>
<td>Vacant</td>
</tr>
</tbody>
</table>

Section 94-7(a) states:

Number permitted. For each side of street frontage, one sign requiring a permit shall be permitted.

The proposed wall sign is to be located on the north side of the building, facing the north parking area. The wall sign would not face a public or private street.
STANDARDS FOR REVIEW

Per Section 138-606 of the Zoning Ordinance, the applicant must demonstrate a practical difficulty in order to be granted a dimensional variance. The Zoning Board of Appeals shall not vary the regulations of Section 138-606, unless it shall make findings based upon the evidence presented to it in each specific case that:

A. The need for the variance is due to unique circumstances or physical conditions of the property.

The property owner is requesting a variance along the north wall for the proposed painted wall sign. The painted wall sign would face the existing parking area to identify the building.

The building has an existing wall and awning sign on the south side of the building, fronting Eleven Mile Rd. The signs serve to advertise the location of the business. The proposed wall sign to be located on the north side would not serve to draw attention to the business, as the adjacent neighborhood is single family residential.

B. The need for the variance is not the result of actions of the property owner or previous property owners.

The need for the variance is the result of the property owner’s desire to have additional signage on the building.

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.

Strict compliance with the ordinance will prohibit the property owner from using the north façade of the building for a wall sign. As noted above, the south façade of the building facing Eleven Mile Rd has an existing wall sign to advertise the business.

D. The requested variance is the minimum variance necessary to do substantial justice to the applicant as well as other property owners.

The requested variance for the north wall sign is the minimum to be requested. The property has the option to use the east façade for additional signage, but are requesting to use the north façade in lieu of the east façade, which they propose to enhance with a pattern/texture design.

The sign area of the proposed wall sign does meet the standards of the Zoning Ordinance, based on the dimensions of the adjoining wall.

E. The requested variance will not adversely impact the surrounding properties.

The requested variance will not impact the surrounding properties, as it will not emit any internal or external light and is intended to be painted on the façade of the building.
Summary

For the variance to be approved by the Zoning Board of Appeals, it shall meet the standards of Section 138-606 of the Zoning Ordinance, based on findings of fact. We request the Zoning Board of Appeals to determine if there are unique characteristics of the property and whether a lesser variance would be acceptable.

If you have any questions regarding this case, please do not hesitate to contact us.

Sincerely,

Erin Schlutow
Community Development Director

Cc: Matthew Baumgarten, City Manager
    Victoria Mitchell, City Clerk
    John Staran, City Attorney
    Steve DiBeradine, steved@sesnet.com
    Brian Tolly, brian@ideationorange.com
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, 90% 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, 3338 Coolidge Highway, Berkley, Michigan 48072.

APPLICANT:
Name: Ideation Orange Phone: 248-955-4332
Address: 420 W. 9 Mile Rd., Hazel Park, MI 48030

Relationship to Property (current tenant, representative, future tenant, future owner, owner)
Representative

PROPERTY OWNER:
Name: Strategic Energy Solutions Phone: 248-399-1900
Property Owner Address: 4000 W. Eleven Mile Rd., Berkley, MI 48072

PROPERTY DESCRIPTION:
Address: 4000 W. Eleven Mile Rd., Berkley, MI 48072
Sidew (T.D. #): Lot & Subdivision:
Current Zoning Classification: Current Use of Property:

VARIANCE REQUEST:
Description of Request: Mural art paintings (See letters of description)

From the City of Berkley Code, Chapter Section

Has the City refused a permit for the request?

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

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

The requested variance is the minimum variance necessary to do substantial justice to applicant as well as other property owners because

The requested variance will not adversely impact the surrounding properties because:

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 of Applicant

Date

Office Use Only
Date Application Received: ________________ Fee: ___________ Receipt Number: ________________
Hearing Date: __________________________ Case Number: __________________________
Zoning Board of Appeals Decision: ___________________________________________________________________
DETAIL

STRATEGIC ENERGY SOLUTIONS
EXTERIOR MURAL CONCEPTS

ideation orange
SITE PLAN:

**South Facade Mural:**
Painted by Jesse Kassel.

**East Facade Mural:**
Painted by Rick Malt. Mural wraps slightly around corner of North facade.

**Logo Icon Signage:**
Painted direct to block to continue the feeling established by the proposed murals. Will acquire signage-permit as needed.

**Small painted accent quotations:**
Near the 2 separate rear entry doors. To be approved as part of mural-graphics package.

**East Facade Mural:**
Painted by Rick Malt. Mural wraps slightly around corner of North facade.

**South Facade Mural:**
Painted by Jesse Kassel.

---

**Please review this proof carefully. Signature represents approval for final production. PDF’s and proofs are not 100% color accurate.**

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**Client Approval & Date:**

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**Strategic Energy Solutions | 4000 West Eleven Mile Road, Berkley, Michigan 48072**

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**0620 Exterior Design - Details Packet v.3**

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**ideation orange**

---

2019 ideation Signs & Communicators
EXISTING SITE VIEWS & FACADE MEASUREMENTS:

South Facade, facing 11 Mile Rd

East Facade

North Facade, rear parking lot

South Facade - mural
738”

West Facade
391”

288”

288”

185”

1023”

1813”

185”

391”
Existing South Facade:
Plan on applying full-color mural-rendering to this straight-on photo.
Ok to apply mural over the metal door on this wall.
Window glass & aluminum mullions to remain un-painted.
South Facade, facing 11 Mile Rd
Painted mural by Jesse Kassel on South wall.
Dark Grey paint on West facade side-wall.

Example of artist’s style to be utilized: Unique mural layout created by artist for this location as shown above.

BUILDING PAINT COLORS

South Facade Primed 1-Color:
- Exterior primer/coating for stable mural surface.
- Exact brand per building painter.
- Color = standard white primer.
- Clean/power-wash as needed.

West Facade Painted 1-Color:
- Sherwin Williams.
- Super-Paint or Loxon (painter’s discretion).
- Color = SW 6202 - Cast Iron
- Low/Lustre/Eggshell finish.
- Note: Color is most similar to Pantone 417 C.

MURAL COLOR-TARGETS INSPIRATION

For initial inspiration only, feel free to adjust mural colors as desired or utilize tones/tints of these colors.
East Facade.
Painted mural-texture by Malt.
Dark Grey background paint to be similar to West facade side-wall.

Example of artist’s texture-style to be utilized:

BUILDING PAINT COLORS
East Facade & North Roof Reveal Painted 1-Color:
Sherwin Williams.
Super-Paint or Loxon (painter’s discretion).
Color = SW 6202 - Cast Iron.
Low-Lustre/Eggshell finish.
Note: Color is most similar to Pantone 417 C.

MURAL COLOR-TARGETS INSPIRATION
Feel free to utilize tones/tints of these colors or tweak based on paint manufacturer offerings.

- Pantone 417 C
  Deep Warm Gray background similar to “SW 6202 - Cast Iron” on other building walls.

- Pantone 447 C
  Dark Charcoal Gray used for outlines, not pure black outlines.

- Pantone 5415 C
  Slate Blue used for accent fills, variable shading/tones from this target.

- Pantone 7491 C
  Earthy-Green used for accent fills, variable shading/tones from this target.
Everything in life is vibration. — Albert Einstein

**East Roof Reveal also painted Dark Slate-Blue.**

Painted Logo Signage: 134” x 100” Logo Icon.

**Painted Logo Icon Signage Calculations:**

North Facade: 1814”(w) x 185”(h) = 2330 ft².
Logo Icon Sign: 134”(w) x 100”(h) = 93 ft².
Height above grade: 128”.

*Note: The small accent graphics text-quotes painted around these rear entry-doors will need to be approved as part of the mural approval process.

**Example of artist’s texture-style to be utilized:**

![Texture Example](image)

**North Facade.**
Painted mural-texture by Malt continues around corner.
Dark Slate-Blue North back wall & East roof-reveal.
Painted tone-on-tone accent graphics.

**BUILDING PAINT COLORS**

North Facade & East Roof-Reveal Painted 1-Color dark-slate-blue:
Sherwin Williams.
Super-Paint or Loxon (painter’s discretion).
Color = SW 6223 - Still Water
Low-Lustre/Eggshell finish.

Painted 1-Color inset-block surrounding glass door & face/frame of other metal entry door:
Sherwin Williams.
Super-Paint or Loxon (painter’s discretion).
Color = SW 6202 - Cast Iron
Low-Lustre/Eggshell finish.
Note: Color is most similar to Pantone 417 C.

**LOGO & ACCENT-TEXT PAINT COLOR**

Painted 1-Color light-slate-blue:
Sherwin Williams.
Super-Paint
Color = SW 6221 - Moody Blue
Low-Lustre/Eggshell finish.

**MURAL COLOR-TARGETS INSPIRATION**
Feel free to utilize tones/tints of these colors or tweak based on paint manufacturer offerings.

- Pantone 417 C Deep Warm-Grey background similar to “SW 6202 - Cast Iron” on other building walls.
- Pantone 447 C
- Pantone 5435 C
- Pantone 7491 C
- Pantone 7491 C

Please review this proof carefully. Signature represents approval for final production. PDF’s and proofs are not 100% color accurate.
Detail of Accent Text-Graphics painted near rear doors:

EVERYTHING IN LIFE IS VIBRATION

Albert Einstein

E=mc²
MEMORANDUM

To: Berkley Zoning Board of Appeals

From: Erin Schlutow, Community Development Director

Subject: R-01-20; Resolution to Ratify ZBA Decisions Made Since April 30, 2020

Date: October 8, 2020

The decision by the Michigan Supreme Court on October 2, 2020 determined that all Executive Orders issued by Governor Whitmer after April 30, 2020 to be invalid and unenforceable.

Resolution R-01-20 is submitted for your consideration in order to affirm and ratify all decisions made by the Zoning Board of Appeals since April 30, 2020. A motion and approval of the majority of the sitting body is needed.

Below is a summary of the cases and decisions made by the ZBA since April 30, 2020:

<table>
<thead>
<tr>
<th>Meeting Date</th>
<th>Case Number</th>
<th>Property Address</th>
<th>Summary of Request</th>
<th>ZBA Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>05.11.20</td>
<td>PBA02-20</td>
<td>3849 Kipling</td>
<td>Expansion of driveway beyond the width of existing garage</td>
<td>Approved</td>
</tr>
<tr>
<td>05.11.20</td>
<td>PBA-03-20</td>
<td>2079 W. Twelve Mile American Legion Post 374</td>
<td>Face Change of Non-Conforming Pole Sign</td>
<td>Approved</td>
</tr>
<tr>
<td>07.13.20</td>
<td>PBA-04-20</td>
<td>2665 Coolidge Hwy Salon Simply Beautiful</td>
<td>Determination of commercial message for proposed mural Variance requests for size and location of wall sign</td>
<td>Postponed</td>
</tr>
<tr>
<td>08.11.20</td>
<td>PBA-04-20</td>
<td>2665 Coolidge Hwy Salon Simply Beautiful</td>
<td>Determination of commercial message for proposed mural</td>
<td>No Commercial Message</td>
</tr>
<tr>
<td>DATE</td>
<td>Project #</td>
<td>Address</td>
<td>Request Details</td>
<td>Status</td>
</tr>
<tr>
<td>-----------</td>
<td>-----------</td>
<td>-----------------------</td>
<td>---------------------------------------------------------------------------------</td>
<td>---------</td>
</tr>
<tr>
<td>08.11.20</td>
<td>PBA-05-20</td>
<td>3082 Coolidge Hwy</td>
<td>Variance request to reduce numerical parking requirement</td>
<td>Postponed</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Vibe Credit Union</td>
<td>Variance request to install second sign facing Coolidge Hwy</td>
<td>Denied</td>
</tr>
</tbody>
</table>

If you have any questions, please do not hesitate to contact me.
City of Berkley

RESOLUTION

WHEREAS, pursuant to and in accordance with Executive Orders issued by Michigan Governor Gretchen Whitmer during the COVID-19 pandemic, including, but not limited to Executive Orders 2020-15, 2020-48, 2020-75, 2020-129, and 2020-154, the Berkley Zoning Board of Appeals held and conducted multiple electronic, remote-participation meetings after April 30, 2020, and has undertaken actions and made decisions during those remote-participation meetings; and

WHEREAS, the Michigan Supreme Court, on October 2, 2020, issued its Opinion in *In re Certified Questions - Midwest Inst of Health v Governor* (Case no. 161492) determining, among other things, that the Executive Orders issued by Governor Whitmer after April 30, 2020 relating to the COVID-19 pandemic are invalid; and

WHEREAS, the Michigan Open Meetings Act, at MCL 15.270(5), authorizes the Zoning Board of Appeals to reenact and ratify the decisions made at the remote participation meetings held after April 30, 2020.

THEREFORE, IT IS RESOLVED that the Berkley Zoning Board of Appeals:

1. Hereby ratifies and reaffirms all decisions made by the Zoning Board of Appeals at the remote participation meetings held between April 30, 2020 and the present.

2. A complete listing of the decisions being reenacted and reaffirmed is attached hereto as an Exhibit.


Victoria Mitchell, Clerk
City of Berkley Clerk