THE REGULAR MEETING OF THE BERKLEY CITY ZONING BOARD OF APPEALS WAS CALLED TO ORDER AT 7:00 PM, MONDAY, OCTOBER 12, 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: Ryan Gesund, Steve Allen, Paul Evans, Sue McAlpine, Maria Ward

ABSENT: Joe Krug - Excused, Miles Uhlar - Excused

ALSO PRESENT: Zack Glazier, owner 3572 Twelve Mile, Michael Glazier, resident, Robert Jacobs, attorney, Erin Schlutow, Community Development Director, Torri Mathes, Community Engagement Officer, Dan Hill, Public Policy Assistant

Motion Mr. Gesund to excuse the absences of Mr. Krug and Mr. Uhlar due to family commitments. Motion supported by Ms. Ward.

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

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APPROVAL OF AGENDA
It was moved by Ms. McAlpine to approve the agenda as presented. Motion was seconded by Mr. Gesund.

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

MOTION CARRIED

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APPROVAL OF MINUTES
Chair Evans noted minor edits to be incorporated into the final document.

It was moved by Mr. Allen to approve the amended minutes of October 11, 2020 and supported by Mr. Gesund.

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

MOTION CARRIED

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OLD BUSINESS

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

The variance request to reduce numerical parking requirements at 3082 Coolidge Hwy was withdrawn by the applicant.

No motion required by the Board.

NEW BUSINESS

2. APPLICATION PBA-07-20; 3572 Twelve Mile 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.

Community Development Director Schlutow provided a summary of the request from the applicant. The existing pole sign is less than 30 inches from the property line and has been in existence for several decades. The non-conformity was established when the Zoning Ordinance was changed in 2010. The pole sign has served to advertise the businesses at that address since installation.

The applicant is proposing to change the face to advertise the new business. The non-conformity will not be increased or enlarged, as there will be no changes made to the pole itself.

Zack Glazier, owner of Alpha Automotive, explained the request to advertise the business, as well as the design of the site with the building being set back far on the property. Mr. Glazier detailed the improvements that have been made to the building in order to beautify that area of Twelve Mile Rd.

Chair Evans inquired about moving the sign or constructing a different pole sign in a different location.

Mr. Glazier noted that there is existing electrical to the pole sign and moving the pole sign would require to remove and relocate electrical wiring, as well as the sensitive condition of the existing pole. A new structure in compliance with the Ordinance would be a large expense for a new business.

Ms. Ward asked about the design of the structure.
Ms. McAlpine praised the completeness of the application materials and asked to confirm that the only change to be implemented would be a change of sign face. The change would not include increasing area, height, or otherwise.

Mr. Glazier noted his intent to sandblast and paint the pole, but the sign itself would not be increasing in area or height.

Chair Evans opened the Public Hearing at 7:16pm.

Michael Glazier, Cummings resident and brother of the applicant, spoke about the improvements that have been made on the subject property and show support for the request.

Ms. McAlpine summarized the written comments provided to the Board. A petition with 13 signatures was provided in favor of the variance. Ms. McAlpine read an email sent by Johanna Lozenkowski to Community Development in favor of the requested variance.

Chair Evans closed the Public Hearing at 7:19pm.

Mr. Allen asked if the pole had been inspected.

Ms. McAlpine motioned to approve PBA-07-20 to grant a variance to replace the sign face attached to the existing legal non-conforming pole at 3572 Twelve Mile Rd. Motion supported by Ms. Ward.

Ms. McAlpine specified that the request does satisfy the five standards of review.

Chair Evans asked about the self-created hardship and practical difficulty on the property, as it is possible for another sign to be placed on the property that would attract traveling motorists along Twelve Mile Rd.

Mr. Allen referenced a previous case, in which a variance was granted for a sign change when the non-conformity of the location of the pole was not enlarged or increased.

Ms. McAlpine noted the relocation of the pole would be requiring the owner to incur additional costs, changing layout of the property, and physical structure of the site.

Mr. Gesund noted that the large setback of the building from Twelve Mile Rd can make it difficult to see the business until already passed. That demonstrates a practical difficulty.

Ms. Ward noted that asking to move the pole in conformance with the Ordinance would cost a lot of money to the owner.

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

3. **INTERPRETATION OF COMMERCIAL MESSAGE FOR PAINTED MURALS**

Ideation Orange, 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.
Director Schloutow summarized the request and the three proposed murals on the north, east and south facades of the building at 4000 W. Eleven Mile Rd. The three (3) murals are independent of each other and each contain separate and distinct thematic components.

The Zoning Board of Appeals has the authority to determine if a mural or work of art contains a commercial message. If the ZBA determines that the proposed design DOES NOT contain a commercial message, it shall be considered a mural or work of art and can proceed with installation. If the ZBA determines that the proposed design DOES contain a commercial message, the design would be subject to the regulations of the sign ordinance, including height, area, etc.

The property is not located in the DDA, therefore does not qualify to be included in the DDA Mural Program.

Mr. Gesund inquired about the sign logo on the north façade. This will be considered as a separate variance request.

Mr. Allen inquired about other murals that have wording or numbers. He noted, for consistency, this should be considered as a future standard.

Representative from Ideation Orange provided additional details of the designs and how they fit into the community.

Ms. Ward asked the applicant about the main ingress and egress for the facility. The main door is located on Twelve Mile Rd.

Mr. Gesund asked if the Albert Einstein quote and formula were part of the business advertising, brand or motto. The applicant assured that it was not and was a creative addition to the overall project.

Ms. McAlpine noted that as a member of the Master Plan Steering Committee, she participated in a corridor walk down Eleven Mile Rd and they discussed how site improvements to some buildings would make them more inviting to the public. They talked about murals and how that would be a way for the property owners to beautify the corridor.

Chair Evans opened the Public Hearing at 7:41pm.
No comment received.
Chair Evans closed the Public Hearing at 7:41pm.

Mr. Allen stated that they are artistic murals and will be fantastic. He stressed that the written text should not be used in any branding, logo, advertising materials for the business. He noted that he did not perceive a commercial message in any of the proposed designs.

Ms. McAlpine motioned to approve the request. Motion supported by Mr. Allen.

Ms. Ward asked about the logo on the north façade of the building.

Ms. McAlpine amended her motion.
Ms. McAlpine motioned that, after review of the request, the Board determines that the three (3) proposed designs do not contain commercial messages. Motion supported by Mr. Allen.

AYES: Gesund, McAlpine, Ward, Allen, Evans
NAYS: None
ABSENT: Krug, Uhlar
4. **APPLICATION PBA-08-20: 4000 W. Eleven Mile – Strategic Energy Solutions**

Ideation Orange, on behalf of Strategic Energy Solutions, is requesting a dimensional variance at 4000 W. Eleven Mile Rd, Parcel # 25-18-352-030, to paint a wall sign on the north façade of the building that does not front a roadway.

Community Development Director Schlutow provided a summary of the request. The applicant is requesting a variance to paint a wall sign on the north side of the building, facing the parking lot. Per the Zoning Ordinance, all signs must face a public road.

Representative from Ideation Orange provided additional details about the sign request.

Ms. Ward asked why the owner needs signage on the north side of the building. The applicant noted that it was for the employees and guidance for visitors. It also breaks up the expansive dark wall with the logo.

Steve DiBerardine, owner of Strategic Energy Solutions, provided response to inquiry about neighbors being made aware of the proposed sign.

Chair Evans opened the Public Hearing at 7:56pm.

No comment.

Chair Evans closed the Public Hearing at 7:56pm.

Mr. Gesund does not see justification that by not having the north facing wall sign would prohibit the business from operating.

Chair Evans agrees and states that the sign looks nice, but the Ordinance was specifically written to allow signs on street frontages and does not see practical difficulty.

Mr. Ward inquired about an alternative sign location.

Ms. McAlpine motioned to approve the variance request, PBA-08-20, at 4000 W. Eleven Mile Rd.

Motion supported by Mr. Allen.

Ms. McAlpine amended motion to approve the variance request, PBA-08-20, at 4000 W. Eleven Mile Rd. as the applicant has demonstrated a practical difficulty in order to be granted a dimensional variance as presented. Motion supported by Mr. Allen.

**AYES:** McAlpine, Allen, Ward

**NAYS:** Gesund, Evans

**ABSENT:** Krug, Uhlar

A majority of the Board is required for a variance to be granted. The applicant received three aye votes, which is not a majority of the Board and the variance cannot be granted.

5. **RESOLUTION R-01-20**

Resolution to ratify decisions made by the Zoning Board of Appeals since April 30, 2020.
Community Development Director Schlutow provided a summary of the need for the resolution, based on the suggestion from the City Attorney. Due to the MI Supreme Court determining that all Executive Orders issued by Governor Whitmer since April 30, 2020 were unconstitutional, it put all decisions made by the Zoning Board of Appeals into question. The resolution is submitted to the Board, complete with a summary of cases reviewed since April 30, 2020, to ratify all decisions that had been made, in case they are questioned or challenged in the future.

Ms. Ward motion to approve Resolution R-01-20. Motion supported by Ms. McAlpine.

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

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**OTHER BUSINESS**

Chair Evans expressed his support and appreciation for setting up the in-person meeting in a short period of time.

Mr. Allen stated that he attended sessions at the Michigan Association of Planning Conference that was held virtually earlier in the month. He found a number of the sessions to be interesting. He wished all the best to Joe Krug.

Mr. Gesund reminded the public that there is an election taking place on November 3, 2020 and the Clerk’s are doing a wonderful job preparing.

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**LIAISON COMMENTS**

None

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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 8:10pm.