

Agenda
Zoning Board of Appeals
Council Chambers
Wednesday, 24 April 2013 - 7:00 P.M.

I. Call to Order

II. Roll Call

John Bailey, Chair	P	A
Rod Johnson	P	A
Tom Roach	P	A
Mike Shecket	P	A
Godfrey A. Udoji	P	A
Anthony Bedogne (alternate)	P	A

III. Approval of Minutes

- 27 March 2013

IV. Purpose of Meeting

V. Old Business

VI. New Business

- Non-use Variance Request: 16 Ecorse

VII. Adjournment

**ZONING BOARD OF APPEALS
MEETING MINUTES
March 27, 2013
CITY COUNCIL CHAMBER
7:00 P.M.**

1. CALL TO ORDER

The meeting was called to order at 7:06 p.m.

II. ROLL CALL

Present: J. Bailey, R. Johnson, T. Roach, A. Bedogne

Absent: M. Shecket, (excused) G. Udoji (excused)

Staff: B. Wessler, City Planner I
N. Schuette, Executive Secretary

III. APPROVAL OF MINUTES – August 22, 2012

Commissioner Bedogne moved to approve the minutes of August 22, 2012 as read (Support: R. Johnson) and the motion carried unanimously.

VI. PURPOSE OF MEETING

Commissioner Bailey stated that the purpose of the meeting is to consider a dimensional variance request for 1425 Washtenaw. Commissioner Bailey advised the applicant that since there were only 4 board members in attendance, it was within his right to wait until the next meeting when a full board would be present. The applicant, Mohammed Issa, declined and agreed to accept the decision by the four members.

VII. OLD BUSINESS

None

VIII. NEW BUSINESS

1. Dimensional Variance Request: 1425 Washtenaw

Ms. Wessler presented the staff report stating that the applicant is planning to open a deli at 1425 Washtenaw, and as part of that, they would like to have an outdoor café at the western edge of the building. The proposed location is within 50' of a residential district, which is prohibited by ordinance. With regard to the standards in Sec 122-94(b) of the ordinance, all of the standards to grant

a variance must be met. She detailed the standards that have not been met. Staff is recommending denial of this request and listed the various findings as to how staff arrived at this decision.

Board members had some comments on the parking situation. There had been two site plans submitted to Planning Commission at its recent meeting. The second site plan included closure of a curb on Owendale and parallel parking in the rear. Commissioner Johnson added that the Planning Commission conditionally approved the second site plan with 15 parking spaces.

Commissioner Johnson moved to open the public portion of the hearing (Support: A. Bedogne) and the motion carried unanimously.

Mohammed Issa, owner of the property, stated he is hoping to open within the next few weeks. They would like to have the outside café since that would bring in business from the surrounding neighbors and the fact that there is not currently any outside cafes in that area.

Commissioner Johnson stated that to support this request would set a precedent and we want to be sure that we protect the residents. Planning Commission allowed the applicant a waiver to have less than the 19 required parking spots. If they were to move the outdoor café 20 ft to the north, taking out one spot after they close the curb, they would still be in line with conditions of the Parking Commission.

Mr. Issa agreed that the outdoor café would be inviting for neighbors.

Commissioner Bedogne added that he believes this is a great use for the site but questioned the requirement for 19 spots since by moving the café they would still have enough parking. Mr. Issa responded that they would like to have enough parking for seating since the outdoor café would be more seasonal and would probably entice more residents to walk to the location.

Mr. Al-Saati, architect for the project – stated that with regard to the parking, they tried to comply with the zoning and maximize the number. The area for the proposed café is considered “dead area” hence the reason for the choice of this location. They have to maintain maneuvering and maintain number of parking spaces.

Commissioner Bedogne moved to close the public portion of the hearing (Support: R. Johnson) and the motion carried unanimously.

After some further discussion by the board members, Commissioner Bedogne moved to recommend that the Zoning Board of Appeals deny the variance request to permit an outdoor café within 50' of a residential district, as submitted on 20 February 2013, with the following findings:

1. Such a variance is not necessary for the preservation and enjoyment of a substantial property right enjoyed by other property owners in the same district under the terms of the zoning ordinance.
2. The allowance of the variance will not result in substantial justice being done, given the conditions spelled out in Sec 122-94(b)(5).
3. Denial of this variance does not preclude the applicant's ability to place an outdoor café on the site.

The motion was supported by Commissioner Roach and carried unanimously.

2. Zoning Board of Appeals Meeting Schedule

Commissioner Johnson moved to approve the Zoning Board of Appeals schedule of meetings for 2013 (Support: A. Bedogne) and the motion carried unanimously.

IX. ADJOURNMENT

Since there was no further business, Commissioner Bedogne moved to adjourn the meeting (Support: T. Roach) and the motion carried unanimously. The meeting adjourned at 7:45 p.m.



City of Ypsilanti
Planning and Development Department

24 April 2013

**Staff Review of Variance Application
McDonald's (Drive-through sign)
16 Ecorse**

Applicant:	Allied Signs, Inc 33650 Giftos Clinton Twp, MI 48035
Project:	McDonald's (Drive-through sign) 16 Ecorse Ypsilanti, MI 48198
Application Date:	08 Mar 2013
Location:	South-west corner of Ecorse and Michigan, east of Center Street
Zoning:	B4, General Business; EO, Entryway Overlay
Action Requested:	Approval of a non-use variance to permit a drive-through menu sign larger than 32 sq ft and taller than 6'
Staff Recommendation:	Denial

The parcel is approximately one acre in size, fronting on Ecorse Rd. There is an existing ~5000 square foot building, one stand-alone ordering station, and a 37-space parking lot; the applicant has obtained site plan approval (12 Dec 2012) to significantly reconfigure the parking/circulation and construct a second drive through ordering station.

The property is zoned **B4 – General Business**, which allows fast-food restaurants with drive-throughs as a permitted use, with the drive-through portion being subject to the specific requirements of §122-783. Drive-through signs are regulated under 122-866(a)(7).

Figure 1: Subject Site Location

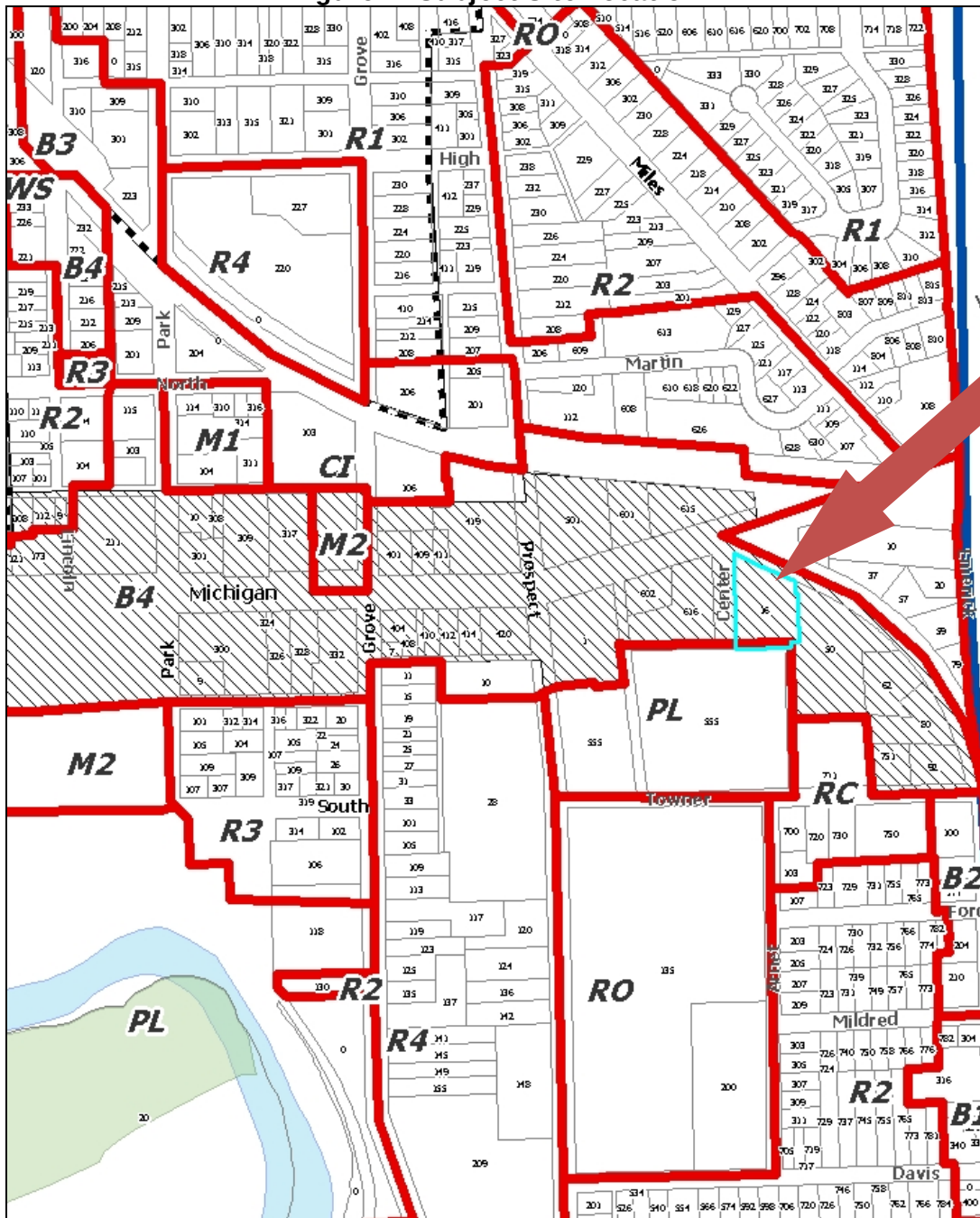


Figure 2: Site Close-up

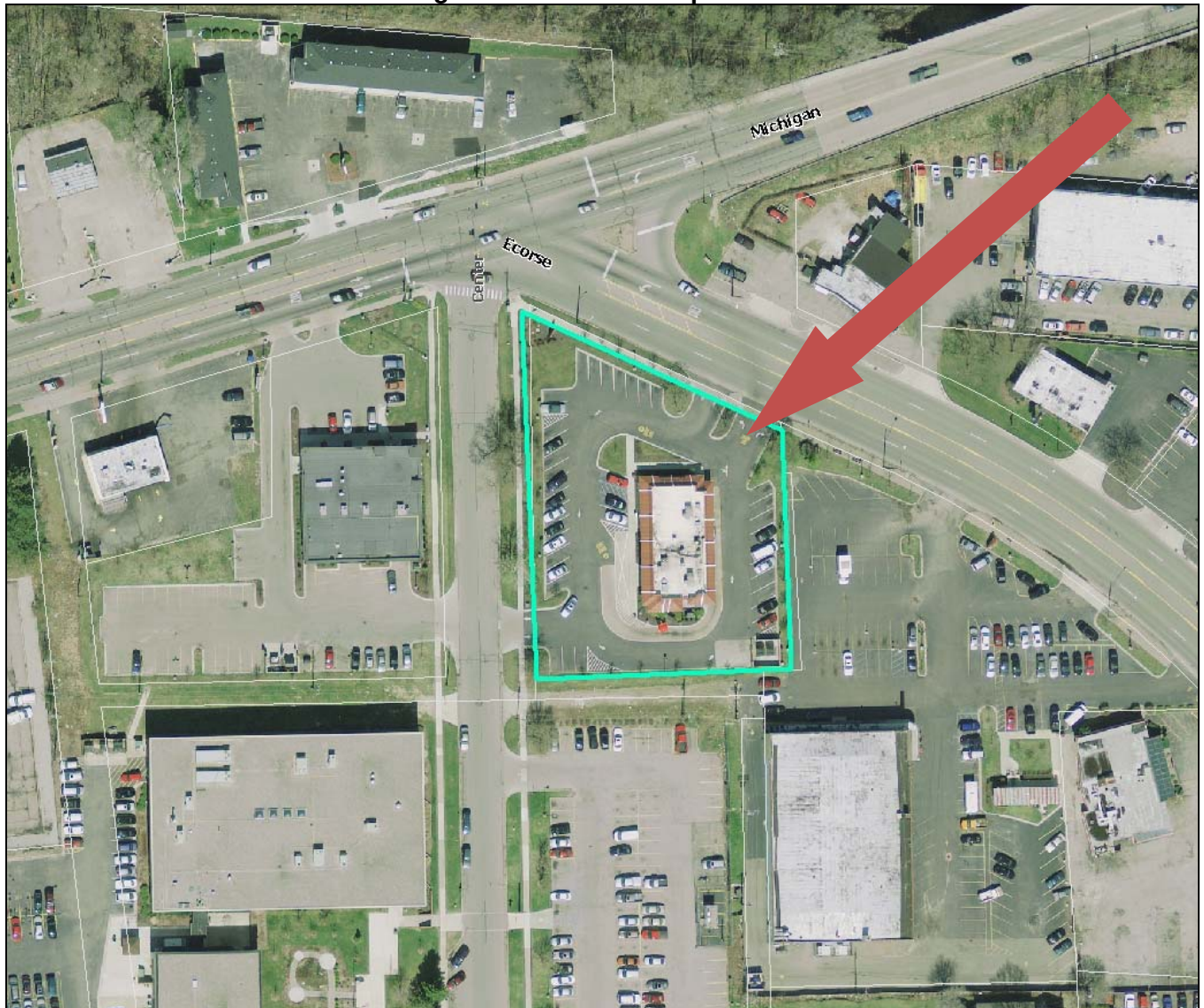


Figure 3: Land Use and Zoning of Surrounding Area

	LAND USE	ZONING
NORTH	hotel	B4/EO
EAST	industrial - north-east parking area for retail	CI B4/EO
SOUTH	Parking area for services	PL
WEST	retail	B4/EO

ORDINANCE

§122-866(a)(7)

Sec. 122-866. Sign Design Standards.

(a) Ground Signs

(7) *Drive-Through Signs.* Any use that includes a drive-through is permitted to have signs that relate to the drive-through facility, such as menu order board signs or information signs. The drive-through signs may have a maximum height of six feet and a maximum area of 32 sq. ft. per drive-through use, and shall not be included in the computation of total sign area for the parcel unless such signs are legible from a point of observation off the premises.

Figure 4: Proposed Menu Board

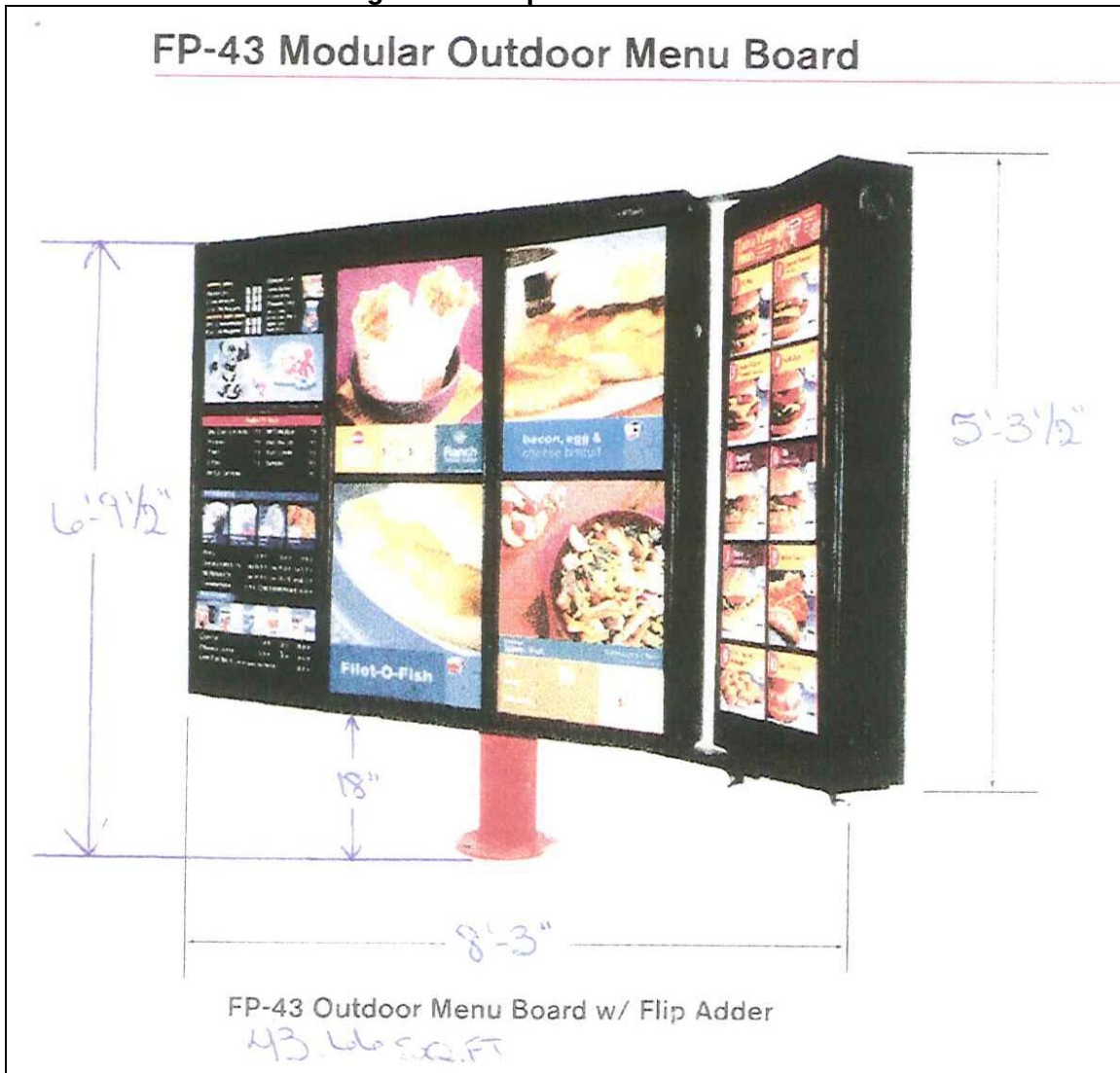


Figure 5: Existing Menu Board (06 Nov 2012; approx 30' from menu board)



STANDARDS

§122-94(b)

Standards for Variances. A variance from the literal enforcement of this Ordinance may be granted by the Zoning Board of Appeals only if all of the following standards are met.

- (1) Literal enforcement of this Ordinance will pose practical difficulties to the applicant because of special conditions or circumstances which are very unique to the specific property such as: exceptional shallowness or shape of the property, exceptional topographic conditions, extraordinary situation of a building or structure, use or development of an adjacent property, or practical difficulties relating to the construction or structural changes on the site. Mere inconvenience or a desire to attain higher financial return shall not itself be deemed sufficient to warrant a variance.*

The applicant notes that practical difficulty is found in attempting to place all the menu items and specials into 32 square feet, and that their standard menu boards do not permit such configuration. Applicant also argues that granting of this variance, by potentially increasing throughput, would increase the economic return for the franchisee. However, as noted above, neither mere inconvenience nor a desire to attain a higher financial return are not sufficient to grant a variance.

(2) Such a variance is necessary for the preservation and enjoyment of a substantial property right enjoyed by other property owners in the same district under the terms of this chapter. Granting of the variance shall not confer upon the applicant any special privilege that is denied by this chapter to other land, structures, or buildings in the same district.

There are currently four other businesses, not including the defunct Taco Bell, that have drive-throughs with menu boards.

- Luca's (B4): constructed prior to enactment of the current ordinance (late 1960s). Menu board on east side of building is nonconforming, menu board at ordering point conforms.
- KFC (B4): constructed circa 2001, prior to enactment of current ordinance. Existing nonconforming (7' tall, 45 sq ft).
- Dom's (B1): constructed circa 1983, existing nonconforming (taller than 6', but <32 sq ft).
- McDonald's (Huron River Drive, B2): constructed circa 2006. Two drive-through signs exist, a standalone specials board and a menu board identical to those at 16 Ecorse.

Signs that were constructed in compliance with the ordinance in effect at the time, but are not in compliance with the current ordinance, are considered to be *nonconforming* signs. The existing drive-through sign at McDonald's was constructed in compliance with the ordinance at the time, but no longer complies, so it is subject to the same conditions as other nonconforming signs.

Per the ordinance, nonconforming signs are allowed to continue under §122-206. Should the signs be damaged and not fully repaired within 18 months, they must be removed. They cannot be enlarged; they may only be altered so as to increase conformity (i.e., they can be made smaller, shorter, or both; once so altered it cannot be increased again). It cannot be moved, even within the same parcel. If the sign becomes deteriorated to the point of being unsafe, it must be removed and cannot be restored except in compliance with the ordinance in effect at the time. To confer a variance for these signs would set a precedent for other nonconforming drive-through menu signs.

(3) The alleged hardships or practical difficulties on which the variance request is based have not been created by any person presently having an interest in the property.

The menu and signs proposed for the site are created by McDonald's, the franchisor for the business on site.

(4) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

Conformance with the ordinance would serve the principles and purpose of Article XIV, Signs. Lack of conformance in this instance appears as though it would not be detrimental to the public welfare or injurious to the neighborhood in which the property is located.

Applicant has made the argument that granting this variance would increase the safety of those using the drive-through and those on adjacent streets, preventing traffic backups through more efficient and informed ordering. Staff notes that the applicant makes

extensive use of other marketing materials to ensure an informed customer base, and notes that there is parking available on-site for those customers who require additional assistance.

(5) The allowance of the variance will result in substantial justice being done, considering the public benefits intended to be secured by this Ordinance, the individual hardships that will be suffered by a failure of the Board to grant the variance, and the rights of others whose property would be affected by the allowance of the variance.

No individual hardships appear as though they will be suffered as a result of denial of this variance.

(6) A variance granted shall be the minimum variance that will make possible a reasonable use of the land, buildings or structure.

Two drive-through signs can be placed on the site; albeit somewhat shorter (by 9.5") and smaller (by 11.66 sqft) than the proposed signage.

STAFF RECOMMENDATION

Staff recommends the Zoning Board of Appeals **deny** the variance request to permit drive through signage of a size larger than permitted by 122-866(a)(7), as submitted on 08 March 2013, with the following findings:

1. The applicant has shown insufficient practical difficulty under §122-94(b)(1).
2. Such a variance is not necessary for the preservation and enjoyment of a substantial property right enjoyed by other property owners in the same district under the terms of the zoning ordinance, per the standards of 122-94(2).
3. The practical difficulty being proposed is self-created, per 122-94(3)
4. The allowance of the variance will not result in substantial justice being done, given the conditions spelled out in 122-94(b)(5).
5. Denial of this variance does not preclude the applicant's ability to place drive-through signs on the site.

Bonnie Wessler
Planner I, Community Development Division

c.c. File
 Applicant
 Site designer



City of Ypsilanti
Planning & Development Department

One South Huron • Ypsilanti, MI 48197
 Phone: (734) 483-9646 • Fax: (734) 483-7260
 www.cityofypsilanti.com

Non-refundable
Planning Fee:
 \$450

Date: 3/8/13

VARIANCE APPLICATION
 DIMENSIONAL OR OTHER NON-USE
(single-family residential use: use separate application)

Applicant*

Name

Allied Signs, Inc.

Address

33650 Giftos

City

Clinton Twp.

State

MI

Zip

48035

Phone / Fax

586-791-7900 / 586-791-7788 (fax)

E-Mail

kallard@alliedsignsinc.com

*If applicant is not owner of property, a written, notarized statement from the owner authorizing this application must be included.

Property

Name of project

McDonald's

Address

16 Ecorse

List all parcel identification numbers included in development:

11-11-10-267-001

Legal description of property (may be attached):

See attached

Current Zoning:

B-4

Current Use:

Restaurant

Attach an accurate, scaled drawing, of the property showing:

- all property lines and dimensions correlated with the legal description
- the location and dimensions of all existing and proposed structures and uses on property
- any roads, alleys, easements, drains, or waterways which traverse or abut the property and the lot area and setback
- dimensions necessary to show compliance with the regulations of this Ordinance

Request for Variance

Description of proposed project

To be allowed to have (2) of the standard menu boards in the drive thru. One is existing and one will be new. They are 43.66 sq.ft. each and 6'-9 1/2" tall.

Section of Ordinance (chapter, article, section, subsection format, please)

Section 122-866(a)(7)

How the proposed project is contrary to ordinance:

Ordinance states drive through signs may be a maximum of six feet in height and a maximum area of 32 sq.ft.

Practical difficulties which prevent compliance:

Without their standard menu boards, McDonald's cannot properly display all of the food items and specials they have to offer to their drive thru patrons. More than 1/2 of McDonald's traffic is through the drive thru and smaller menu boards will only slow down the traffic flow through the drive thru, thus defeating the purpose of the double drive thru. 32 sq.ft. menu boards do not support the entire menu McDonald's has to offer, thus patrons will not know if food items that had to be left off of the menu are still available and cause delays in the drive thru when they have to ask instead

Unique circumstances regarding the property (i.e. shape, topography, etc) which prevent compliance:

of having it readily available.

The unique circumstances to the property is the safety of the customers using the drive thru.

The proposed menu boards are needed to alleviate confusion. McDonald's is only asking to be allowed the same size menu board that is already existing and to add a second one of the same for the second drive thru lane.

Signature

I hereby
staff to
Signature

to the City of Ypsilanti
is application.

Print Name

Patrick Stieber

FP-43 Modular Outdoor Menu Board



Illumination:

4 - F60T12 CW/HO
2 - F36T12 CW/HO
2 - F24T12 CW/HO
2 - F60T12 CW/HO

Electrical:

4.9 Amps / 1.6 Amps (Flipboard)
120V 60Hz

Ballast:

Advance #RC-4560-TP
Power Lighting #V234L8-16
Power Lighting #V12L4-12

Ship Weight:

197 lbs.

Other:

- Modular design for increased flexibility
- Adjustable channels for easy menu modification
- Optional kit to accept Customer Order Display and/or speaker
- Flipboard panel can rotate 180 degrees to display two dayparts
- Please call Florida Plastics for strips and grids

