



301 East Main Street
Lowell, Michigan 49331
Phone (616) 897-8457
Fax (616) 897-4085

CITY OF LOWELL
ZONING BOARD OF APPEALS AGENDA
MONDAY, NOVEMBER 20, 2017
IMMEDIATELY FOLLOWING CITY COUNCIL MEETING

1. CALL TO ORDER; PLEDGE OF ALLEGIANCE; ROLL CALL
2. APPROVAL OF AGENDA
3. CITIZEN COMMENTS FOR ITEMS NOT ON THE AGENDA

IF YOU WISH TO ADDRESS AN AGENDA ITEM, PUBLIC COMMENT FOR EACH ITEM WILL OCCUR AFTER THE INITIAL INFORMATION IS SHARED ON THE MATTER AND INITIAL DELIBERATIONS BY THE PUBLIC BODY. PUBLIC COMMENT WILL OCCUR BEFORE A VOTE ON THE AGENDA ITEM OCCURS.

4. NEW BUSINESS
 - a. Public Hearing – Variance Application – 2111, 2155, 2163, and 2175 W. Main Street.
5. BOARD/COMMISSION REPORTS
6. COUNCIL COMMENTS
7. ADJOURNMENT

NOTE: Any person who wishes to speak on an item included on the printed meeting agenda may do so. Speakers will be recognized by the Chair, at which time they will be allowed five (5) minutes maximum to address the Council. A speaker representing a subdivision association or group will be allowed ten (10) minutes to address the Council.



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CITY OF LOWELL

PUBLIC NOTICE

The Lowell City Council, sitting as the Zoning Board of Appeals, will hold a public hearing at a regularly scheduled meeting on Monday, November 20, 2017 at 7:00 p.m. in the City Council Chambers, Second Floor, 301 East Main Street, Lowell, Michigan 49331 to consider the following variance request:

2111, 2155, 2163, and 2175 W Main Street – Nipun Nath has a requested a variance to allow for a freestanding sign of an area of 120 square feet to 140 square feet in size. The Zoning Ordinance allows a maximum size of 72 square feet for multi-tenant commercial buildings in the C-3 zoning district; thus, a variance was requested.

Information regarding this request and the Zoning Ordinance are available for public viewing at City Hall, 301 E. Main Street, Lowell, Michigan, during regular business hours. Written comments will be received until the time of the hearing.

Susan Ullery
City Clerk



301 East Main Street
Lowell, Michigan 49331
Phone (616) 897-8457
Fax (616) 897-4085

**APPLICATION FOR VARIANCES(S)
AND/OR
APPEAL OF ADMINISTRATIVE DECISION**

Variance Number: _____ Filing Fee: _____

1. Street Address and/or Location of Request: 2111, 2155, 2163 and 2175 W Main Street, Lowell, MI 49331

2. Applicant's Name: Nipun Nath

Address: 2111, 2155, 2163 and 2175 W Main Street, Lowell, MI 49331
Street City of Lowell State Zip

Daytime Phone Number: 509 - 991 - 1439

Are You: Yes Property Owner Owner's Agent
 Contract Purchaser Option Holder

3. Applicant is being represented by: _____

Address: _____

Phone Number: _____

4. Legal Description of the Property: Please refer to attached pdf document.

_____ or just attach if it is too long.

5. Parcel Identification Number (Tax I.D. No.): #41-20-41-20-03-326-032, 41-20-03-326-031, 41-20-03-326-023 & 41-20-03-326-027

6. Current Zoning of Parcel: General Business (C-3)

7. Present Use of the Parcel: A multi-tenant shopping center

8. Check Below For The Item Which A Variance Is Being Requested:

Lot Coverage _____ Lot Size _____ Sign ✓
Lot Width _____ Parking _____ Setbacks _____
Fence _____ Landscaping _____ Other _____
Height Requirements _____
Area Requirements _____
Nonconforming Residential Use _____
Nonconforming Commercial Use _____
Accessory Building Use _____

9. Your Request is: (check only one)
- An Appeal of an Administrative Decision
 - A Temporary Use
 - A Variance from Zoning Ordinance Requirements

10. If an appeal is being requested, state the administrative decision being appealed: _____

10(a). If a variance is being requested, state the reason(s) for the request and your intended uses:

The current signage is located far back from Main Street & not in line with any of the existing signs on the street. This does not allow traffic flowing in both directions to view the sign from an appropriate distance. Furthermore with an expected increase in the no of tenants the sign is barely large enough to allow each tenant to appropriately display its name. I request that I may be allowed to place a new sign between a 120 sq. ft. to 140 sq. ft. If I am forced to only place a 72. sq. ft. sign then in order to provide each tenant space on the board the size of the text will need to be reduced to between 2 to 3 inches. This small sized text will not be legible for any drivers passing by and will be rendered useless.

The following provisions of the City of Lowell Zoning Ordinance (Section 21.04 B) must be met in total before a variance can be granted. Respond to each of the six criteria as it pertains to the request.

A. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district:

Exceptional or extraordinary circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in questions, the literal enforcement of the requirements of this Ordinance would involve practical difficulties;

Please refer to attached pdf document.

B. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.

Please refer to attached pdf document.

C. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

Please refer to attached pdf document.

D. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.

Please refer to attached pdf document.

E. The variance will not impair the intent and purpose of this Ordinance.

Please refer to attached pdf document.

F. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.

Please refer to attached pdf document.

The facts presented above are true and correct to the best of my knowledge.

Signature: _____



Date: _____

10/04/2017

Type or Print Your Name Here: _____

Nipun Nath

Legal Description of the Property

PART SW 1/4 COM 590.0 FT N ALONG N&S 1/4 LINE & 315.0 FT W PERP TO N&S 1/4 LINE FROM INT OF N&S 1/4 LINE & N LINE OF STL M21 /100 FT WIDE/ TH W PERP TO N&S 1/4 LINE 220.0 FT TH S PAR WITH N&S 1/4 LINE 452.97 FT TH E PERP TO N&S 1/4 LINE TO A LINE BEARING S PAR WITH N&S 1/4 LINE FROM BEG TH N PAR WITH N&S 1/4 LINE TO BEG EX E 50.0 FT * SEC 3 T6N R9W 1.77 A., PART SW 1/4 COM 590.0 FT N ALONG N&S 1/4 LINE & 535.0 FT W PERP TO N&S 1/4 LINE FROM INT OF N&S 1/4 LINE & N LINE OF STL M21 /100 FT WIDE/ TH S PAR WITH N&S 1/4 LINE 452.97 FT TH W PERP TO N&S 1/4 LINE 19.85 FT TH S PAR WITH N&S 1/4 LINE TO N LINE OF SD HWY TH W ALONG SD N LINE TO W LINE OF E 727.29 FT OF SW 1/4 TH N ALONG SD W LINE TO A LINE BEARING W PERP TO N&S 1/4 LINE FROM BEG TH E PERP TO N&S 1/4 LINE TO BEG * SEC 3 T6N R9W 2.64 A., PART OF SW 1/4 COM 795 FT N N 0D 07M 00S W & 255.12 FT S 88D 05M 37S W & 145 FT N 0D 07M 00S W & 60 FT S 89D 53M 00S W FROM S 1/4 COR TH S 89D 53M 00S W 50 FT TH S 0D 07M 00S E 452.97 FT TO BEG * SEC 3 T6N R9W 0.52 A., PART OF SW 1/4 COM 795 FT N N 0D 07M 00S W ALONG N&S 1/4 LINE FROM S 1/4 COR TH S 88D 05M 37S W ALONG NLY LINE STL M21 100 FT WIDE 255.12 FT TH N 0D 07M 00S W 145 FT TH S 89D 53M 00S W 60 FT TH N 0D 07M 00S W 452.97 FT TH N 89D 53M 00S E 315 FT TO N/S 1/4 LINE TH S 0D 07M 00S E ALONG SD N/S 1/4 LINE 590 FT TO BEG * SEC 3 T6N R9W 4.1 A..

1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district; Exceptional or extraordinary circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this ordinance would involve practical difficulties;

Exceptional & Extraordinary circumstances:

The subject property is spread across 4 parcels and is located at the address 2111, 2155, 2163 and 2175 W Main Street, Lowell, MI 49331.

- A.) **Number of potential tenants:** The subject property currently has over 72,000 square feet of built up area with 5 tenants. Due to a lack of demand for large commercial spaces in Lowell it is hoped that the property will be occupied with up to 9 different tenants. The current signage existing on the property is approximately 120 square feet. It is extremely difficult with an anchor tenant such as Tractor Supply that requires a large sign and an increase in the number of tenants on the property to be able to sufficiently accommodate 9 tenants signage on a smaller freestanding sign. In fact it is extremely hard to even do so with the current signage size. Reducing the size of the freestanding sign will make the signs for each of the smaller tenants not properly legible for drivers passing the property. In order to fit all tenants on a 72 square foot sign each tenants text will have to be reduced to between 2 to 3 inches. This will make the sign illegible for passing motorists.
- B.) **Attracting potential tenants:** It is difficult for potential tenants to even consider occupying a space at the center without the ability to display its signage in a manner that is legible to drivers passing by. The reduction of the signage size will have an extremely detrimental effect on the economic prospects of the property and its long-term viability. Thus maintaining or increasing the size of the signage is imperative for the centers economic success.
- C.) **Poor current visibility:** A large fast food restaurant (Arby's) is situated in the front middle section of the property. Due to the placement of the Arby's a large portion of the main building remains hidden. Tenants only have an opportunity to appeal to

drivers passing by the property through attractive easily readable signage on a freestanding sign.

D.) **No property name:** Due to size restrictions, the lack of space on the current freestanding sign and remaining cognizant of the potential of future tenants. A proper name has never been given to the center out of fear of consuming valuable space on the current signage. The center has suffered due to this lack of recognition and people find it difficult to identify the location with ease. If a larger sign (120 to 140 square feet in size) would be allowed one could appropriately name the center allowing for guests to easily navigate their way to its location.

2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.

A.) **Location / setback:** The current sign is considerably setback from the sidewalk and road. The developments around the property including the Arby's and the gas stations all have signs close to the curb. This allows their freestanding signs to be viewed by drivers from both sides of the street. Unfortunately, due to the location of the current sign, it is not visible until drivers are very close to the entrance of the property. This creates confusion for new visitors to the property who often pass it, by mistake. In addition this allows for very poor advertising for tenants who wish to attract new customers. In order for efficient advertising and to generate visitors to the property it is critical for the property to have a freestanding sign of an appropriate size close to the curb. This could also serve to enhance traffic safety by reducing driver confusion.

3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

A.) **Critical Infrastructure:** The property has been unable to attract a new tenant to its premises for several years. The lack of appropriate signage deters any potential tenant from choosing a space to lease in the center. We are trying to attract small business tenants to the center to create a diverse and attractive

tenant base. Unfortunately most tenants looking to open an outpost in Lowell have a very limited advertising budget. Potential tenants rely on a clear and large sign to instantly attract clients to their businesses. Without an appropriate large sign that is close to the curb tenants are unwilling to even consider opening an enterprise in Lowell, as the advertising challenges are too daunting.

B.) **Upliftment of Lowell's Commercial District:** A center of this large size in the main commercial district of Lowell must be attractive. Any vacancy causes blight to the overall financial growth and attractiveness of the city. A center with low vacancy attracts vagrants and other unwanted activity. Our main goal is to help in the creation of a vibrant financial district and participate in the uplifting financial prospects of the city. The more tenants we are able to attract and the faster we are able to fill the center the greater demand will be generated for additional spaces on Main Street. The filling of our center will act as a domino effect allowing for other business to want to setup posts in Lowell. This allows for the overall growth of the Lowell economy and its bright future potential.

4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.

A.) **No detrimental effect:** Most properties on Main Street have freestanding signs that are close to the curb. Our property is unique because the setback of the sign is considerable. Our proposal is to come in line with signs that currently exist on the street. The vibrancy of our center will in fact have a positive economic impact on all business in the area and will lead to further business growth and prosperity for Lowell.

5. The variance will not impair the intent and purpose of this ordinance.

A.) **No impairment or intent:** We will not be impairing the intent and purpose of the current ordinance.

6. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.

A.) **No creation of difficulties by current applicant:** The applicant has not done anything in order to create this current signage difficulty. The signage and its visibility has been a problem for the

center for over 10 years now. The current applicant is investing around \$150,000 in renovations and making every commitment to try and increase Lowell's commercial districts financial outlook.

williams&works

engineers | surveyors | planners

MEMORANDUM

To: City of Lowell Board of Zoning Appeals
Date: November 13, 2017
From: Max Dillivan, AICP; Andy Moore, AICP
RE: Variance Application – 2111, 2155, 2163, and 2175 W Main Street

Mr. Nipun Nath has submitted a variance application in connection with a proposed 120- to 140-square foot sign for the adjacent multi-tenant shopping center located at 2111 West Main Street. Variances can only be approved where the Board of Zoning Appeals finds that the standards of Section 21.04, B. of the Zoning Ordinance are met. This report presents the circumstances surrounding the variance request and presents the standards of Section 21.04, B. for the Board's consideration.



Background. The applicant is seeking to replace the existing 120-square foot freestanding sign currently on the site with a new 120- to 140-square foot freestanding sign in conjunction with the adjacent multi-tenant shopping center located at the northwest corner of Main Street and Ridgeview Avenue. The proposed sign would replace the existing sign, which is located

about 22 feet from the Main Street right-of-way. The subject property and most surrounding properties are within the C-3, General Business zoning district.

The reason for the variance, according to the applicant, is as follows:

"The current signage is located far back from Main Street & not in line with any of the existing signs on the street. This does not allow traffic flowing in both directions to view the sign from an appropriate distance. Furthermore with an expected increase in the no of tenants the sign is barely large enough to allow each tenant to appropriately display its name. I request that I may be allowed to place a new sign between a 120 sq. ft. to 140 sq. ft. If I am forced to only place a 72. sq. ft. sign then in order to provide each tenant space on the board the size of the text will need to be reduced to between 2 to 3 inches. This small sized text will not be legible for any drivers passing by and will be rendered useless."

Therefore, the applicant has applied for relief from the application of the Zoning Ordinance with respect to Section 20.08, D, 1, which states that "*each individual establishment in a multi-tenant commercial building or development is not permitted a separate ground or freestanding sign; one (1) collective ground or freestanding sign may be used subject to the standards above, provided that a collective ground or freestanding sign shall be permitted a maximum sign area of 72 square feet.*"

Section 21.04, B. To approve a variance, the Board of Zoning Appeals must find that all of the standards presented in Section 21.04, B. are met. Following presents each of those standards and our remarks on each as they pertain to the request.

1. *That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district:*

Exceptional or extraordinary circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of this requirements of this ordinance would involve practical difficulties.

Remarks: The four parcels involved (2175, 2163, 2155, and 2111 W Main) have an area of about 9 acres. 2155 and 2183 are landlocked as neither has frontage on West Main Street. The four parcels are utilized as follows:

- 2175 W Main contains the Lowell-Ada 5 movie theater
- 2163 W Main contains Cher's Tanning and Snap Fitness
- 2155 W Main contains the Hong Kong Buffet
- 2111 W Main contains a Tractor Supply store

The existing sign is located near the entrance of 2111 W Main, just east of Arby's, and a secondary access to 2111 W Main is located on Ridgeview. Other entrances to the site are located on 2175 W Main (in front of the theater), which only has a small directional sign. There are also four or five vacancies in 2163 and 2155.

In general, the properties are not particularly unique outside of the fact that 2163 and 2155 do not have frontage on Main Street. Buildings on the site are set back from Main Street quite a bit further than other buildings in this area. Otherwise, the site is easily visible from public roads, relatively flat, and does not contain any limitations caused by property dimensions or natural features.

2. *That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.*

Remarks: This standard tests if the City would be better off amending the Ordinance to address a common request that frequently appears at the City, instead of granting a variance. In the last few years, there has been one variance request related to signage, which was denied by the Board. Other applicants have managed to work within the parameters of the Zoning Ordinance. The applicant claims that a 72 square foot sign will not be sufficiently readable from Main Street if all tenants are to be included on the sign, so a larger one, between 120 and 140 square feet, is needed.

3. *That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.*

Remarks: There are two other multi-tenant signs across the street, but the size of these signs could not be verified. In the C-3 district, there are a handful of multi-tenant signs, all of which have been in place for quite some time.

The applicant stated in the application form that the shopping center has been unable to attract new tenants for several years and "appropriate" signage deters new potential tenants from locating in the space. While these reasons certainly serve the applicant's business interests, this standard for reviewing variance requests clearly states "the possibility of increased financial return shall not of itself be a deemed sufficient to warrant a variance."

4. *The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.*

Remarks: A newly-constructed sign of equal or very similar size to the existing sign on the site situated in the same general location would likely not cause a significant detriment to adjacent properties or the surrounding neighborhood.

5. *The variance will not impair the intent and purpose of this ordinance.*

Remarks: The applicant states in the application that granting the variance would not impair the intent of the Ordinance. We offer the following observations for the Board's consideration:

- Section 20.01 of the Zoning Ordinance states the purpose and intent of the chapter. It reads that the purpose of the chapter "is to regulate the size, number, location, and manner of construction and display of signs in the City of Lowell." If the variance were to be granted, it could set a precedent that would compromise the City's ability to regulate signage in the C-3 district and likely elsewhere in the City.
- The purpose and intent of the Section further states "This Article is further intended to protect all zoning districts from visual chaos and clutter, eliminate distractions hazardous to motorists, protect uses from excessive signage...and enhance the aesthetics of the community." Allowing for a placement of a sign larger than what is allowed by the Ordinance, absent a compelling reason outside of financial and business interests, could set a perilous precedent that would undermine the existing Ordinance. Special considerations were made to multi-tenant shopping centers in the Ordinance by allowing for a larger-sized sign, and additional considerations were given to nonconformities. Granting a variance as requested could severely compromise the integrity of the Ordinance and make future enforcement more difficult.

However, strict compliance with the Ordinance could result in the applicant placing one 72 square foot signs at 2175 West Main, and replacing the sign at 2111 Main with an 80 square foot sign, which could arguably contribute just as much, if not more, to the "visual chaos and clutter" that Chapter 20 is attempting to control.

If the applicant is denied the variance and opts to construct two signs, there would be a total of three signs (including Arby's) along approximately 700 feet of Main Street frontage. This is still less sign "density" compared to what exists on the south side of Main Street, where there is roughly one sign each 150 feet.

6. *That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.*

Remarks: One of the primary reasons stated by the applicant for requiring a variance is due to the fact the location of the sign is set back farther from the roadway compared to nearby businesses' signs. However, a freestanding sign may be located up to two (2) feet from any property line or public right-of-way. The current property owner was not responsible for erecting the sign, nor was he responsible for placing the buildings 300-400 feet from the Main Street right of way, so we generally agree that this is not a self-created hardship.

It should be noted that the applicant does have the following sign options available to him without a variance:

- One freestanding multi-tenant sign, up to 80 square feet in area and up to 20' tall, to replace the existing sign at 2111 W Main.
- One freestanding multi-tenant sign, up to 72 square feet in area and up to 20' tall, located at the entrance to the Ada-Lowell 5 theater.
- One freestanding multi-tenant sign, up to 72 square feet in area and up to 20' tall, located at the entrance near Tractor Supply on Ridgeview.

Conclusion. The Board of Zoning Appeals should contemplate the circumstances behind the application and determine whether the request meets each of the standards in Section 21.04(B) as it applies to all variance requests. If it determines that the conditions are met, the Board may approve the variance request with or without conditions. If the Board opts to grant the variance, we suggest that the Board (1) limit the total size of the new sign at 2111 Main, and (2) prohibit any additional freestanding signs along Main Street for 2175, 2163, 2155, and 2111 Main. The discussion in this memorandum and in the meeting minutes may be cited as a basis for the decision.