



BUILDING CODE BOARD OF APPEALS REGULAR MEETING AGENDA

500 W. Big Beaver
Troy, MI 48084
(248) 524-3344
www.troymi.gov
planning@troymi.gov

Gary Abitheira, Chair, Teresa Brooks
Sande Frisen, Mark F. Miller, Andrew Schuster

September 4, 2019

3:00 PM

COUNCIL BOARD ROOM

1. ROLL CALL
2. APPROVAL OF MINUTES – August 7, 2019
3. HEARING OF CASES
 - A. **VARIANCE REQUEST, VLADIMIR KORCARI, 2904 THAMES** –This property is a corner lot with two front yards. As such, the proposed fence cannot be placed in the 25' required Thames Dr. front setback or the 25' required Dover Dr. setback. The petitioner is requesting a total of 130 linear feet of 6' high Privacy Vinyl obscuring fence variance in the required Dover Drive setback.

CHAPTER 83
 - B. **APPEAL REQUEST, TROY OUTDOOR, LLC AND CROSSROADS OUTDOOR LLC/1654 LIVERNOIS, 1654 LIVERNOIS** - An appeal of the Zoning Administrator's November, 2017 suspension of Sign Permit PSG2017-0009.

CHAPTER 85
 - C. **APPEAL REQUEST, TROY OUTDOOR LLC AND CROSSROADS OUTDOOR LLC/ABRO TWELVE PROPERTY, 2888 E MAPLE** - An appeal of the Zoning Administrator's November, 2017 suspension of Sign Permit PSG2017-0087.

CHAPTER 85
 - D. **APPEAL REQUEST, TROY OUTDOOR LLC AND CROSSROADS OUTDOOR LLC/AMERICAN LEGION POST 140, 1340 W MAPLE** - An appeal of the Zoning Administrator's November, 2017 suspension of Sign Permit PSG2017-0088.

CHAPTER 85
4. COMMUNICATIONS
5. PUBLIC COMMENT
6. MISCELLANEOUS BUSINESS
7. ADJOURNMENT

NOTICE: People with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk by e-mail at clerk@troymi.gov or by calling (248) 524-3317 at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.

Chair Abitheira called the Regular meeting of the Building Code Board of Appeals to order at 3:00 p.m. on August 7, 2019 in the Council Board Room of the Troy City Hall.

1. ROLL CALL

Members Present

Gary Abitheira
Teresa Brooks
Sande Frisen
Mark F. Miller, City Manager
Andrew Schuster

Support Staff Present

Salim Huerta, Building Official
Allan Motzny, Assistant City Attorney
Alicia Warren, Planning Department Intern
Kathy L. Czarnecki, Recording Secretary

Also Present

Attached and made a part hereof is the signature sheet of those present and signed in at this meeting.

2. APPROVAL OF MINUTES

Moved by: Brooks
Support by: Frisen

RESOLVED, To approve the minutes of the July 10, 2019 Regular meeting as submitted.

Yes: All present (5)

MOTION CARRIED

Chair Abitheira requested to move Agenda items 3.D., 3.E. and 3.F. to the beginning of *Hearing of Cases* on the agenda.

Moved by: Miller
Support by: Abitheira

RESOLVED, To move Agenda items 3.D., 3.E. and 3.F. to the beginning of *Hearing of Cases* on the agenda.

Yes: All present (5)

MOTION CARRIED

3. HEARING OF CASES

- D. **APPEAL REQUEST, TROY OUTDOOR, LLC AND CROSSROADS OUTDOOR LLC/1654 LIVERNOIS, 1654 LIVERNOIS** – An appeal of the Zoning Administrator's November, 2017 Suspension of Sign Permit PSG2017-0009
- E. **APPEAL REQUEST, TROY OUTDOOR, LLC AND CROSSROADS OUTDOOR LLC/ABRO TWELVE PROPERTY, 2888 E MAPLE** – An appeal of the Zoning Administrator's November, 2017 Suspension of Sign Permit PSG2017-0087
- F. **APPEAL REQUEST, TROY OUTDOOR, LLC AND CROSSROADS OUTDOOR LLC/AMERICAN LEGION POST 140, 1340 W MAPLE** – An appeal of the Zoning Administrator's November, 2017 Suspension of Sign Permit PSG2017-0088

Mr. Huerta stated the three appeal requests are from the same applicant for three different signs. He said the Planning Department received one public comment.

Mr. Motzny gave a brief explanation of the Federal lawsuit filed by the applicant on the three signs for which Zoning and Compliance Specialist Paul Evans issued notice to suspend the sign permits based on a November 2017 City-imposed moratorium on signs larger than 36 square feet in area. He noted it was a Court decision that the applicant must come before this Board for administrative remedy prior to litigating the matter. Mr. Motzny said Mr. Evans could not attend today's meeting and is asking that the items be postponed to the September meeting. Mr. Motzny said the applicant has been notified and has no objection to the postponement.

Moved by: Schuster
Support by: Abitheira

RESOLVED, That Agenda items 3.D., 3.E., and 3.F. be postponed for consideration at the September 4, 2019 meeting.

Yes: All present (5)

MOTION CARRIED

Chair Abitheira indicated the public comment would remain on file.

Mr. Motzny exited the meeting at 3:10 p.m.

- A. **VARIANCE REQUEST, MATTHEW LOMBARDI, 1452 WACON DRIVE** – This property is a double frontage lot. As such the proposed fence cannot be placed in the 25-foot required Burtman Drive or the 25-foot required Wacon Drive front setback. The petitioner is requesting a total of 103 linear feet of a 6-foot-high privacy cedar obscuring fence variance in the required Burtman Drive setback.

Mr. Huerta gave a review of the variance request.

Matthew Lombardi and Nicole Bracey said a six-foot fence would provide privacy for their back yard that is wide open and security for their pets and future children. They said an existing 10'x10' concrete area poured by the previous homeowner diminishes the grassy area, is not used, and is too costly to dispose of. The couple said the ornamental cedar fence would be appropriately maintained and landscaped. They provided signatures from 12 neighbors stating indicating their agreement with the proposed fence.

Discussion on:

- Compliance of fence codes of corner lots in neighborhood.
- Aggressiveness, closeness of fence to street.
- Lot dimensions (70'x119'); smaller dimensions than current because of time subdivision platted.
- Proposed location of fence in relation to neighbor in rear.
- Existing tree to remain.
- Consideration in placing fence four feet from the sidewalk.

Chair Abitheira opened the public hearing; acknowledging there was no one present, Chair Abitheira closed the public hearing.

Moved by: Schuster
Support by: Miller

RESOLVED, To grant the variance as presented with the modification that the fence abutting Burtman be four (4) feet off the sidewalk instead of the proposed one (1) foot.

Yes: Abitheira, Brooks, Miller, Schuster
No: Frisen

MOTION CARRIED

- B. **VARIANCE REQUEST, KIMBERLY NOWAK, 3901 BRISTOL** – The property is a double frontage lot. As such the proposed fence cannot be placed in the 30-foot required Bristol Drive or the 30-foot required Root Drive front setback. The petitioner is requesting a total of 118 feet of a 6-foot-high privacy cedar obscuring fence variance in the required Root Drive setback.

Mr. Huerta gave a review of the variance request. He said written objections received were included in the Board members' agenda packets.

Kimberly Nowak circulated pictures and said she decided on a vinyl fence with a 6-foot setback so she can plant perennials. Ms. Nowak said the fence would provide privacy, security for her children and keep children's swing set and toys out of sight. She addressed the written objections and indicated her neighbor behind her has no objection.

Chair Abitheira said the public notice stated the variance request was for a 10-foot setback with a 6-foot privacy cedar fence. He advised the applicant if she chooses to revise the application to 6 feet from the property line with a vinyl fence, the item would have to be re-advertised and re-noticed.

There was discussion on:

- Revisions to the application.
- Line of vision for corner clearance; neighbor to the west.
- Concerns voiced by neighbors.

Chair Abitheira opened the public hearing.

Jim Willockx, 3839 Root, said the fence would be an affront to the openness and security of the existing neighborhood, addressed neighboring residences that have corner lots with 4-foot chain link fences, referenced a PowerPoint presentation provided to the Planning Department.

Diane Paul, 3844 Root, addressed concerns with safety, backing out of driveways, and blocking view of pedestrian traffic.

Chair Abitheira closed the public hearing.

Postponement of the item was discussed with Ms. Nowak to give her an opportunity to address neighbor concerns and revisions to the application should she so desire. She was encouraged to provide the Board with letters of support.

Moved by: Miller
Support by: Abitheira

RESOLVED, To postpone the variance request for consideration at the September 4, 2019 meeting.

Yes: All present (5)

MOTION CARRIED

- C. **VARIANCE REQUEST, MURRAY D. DEAGLE, 254 FLORENCE DRIVE** – The property is a single frontage lot. As such, the proposed fence at the rear property line is allowed to be a maximum of 6 feet above the existing grade of the land. The petitioner is requesting a variance to install an 8-foot high privacy fence for an 80-foot long section at that location.

Mr. Huerta gave a review of the variance request. Mr. Huerta said the Planning Department received one written correspondence in support.

Murray Deagle asked to withdraw his application. He said he and his wife realized this morning as the school fence was being erected that the two contiguous fences would not be aesthetically pleasing and they have decided instead to install

landscaping for screening. Mr. Murray stated appreciation for the time given by the Board and administration.

Mr. Deagle asked if he could install a temporary fabric construction screen/barrier until they are ready to do the landscaping.

Mr. Huerta asked Mr. Deagle to give him a call to discuss.

Mr. Miller said there was no motion required to withdraw the application.

4. COMMUNICATIONS – None
5. PUBLIC COMMENT – A person in the audience was advised that agenda items 3.D., 3.E. and 3.F. were postponed to the September 4, 2019 meeting.
6. MISCELLANEOUS BUSINESS – None
7. ADJOURNMENT

The Regular meeting of the Building Code Board of Appeals adjourned at 4:08 p.m.

Respectfully submitted,

Gary Abitheira, Chair

Kathy L. Czarnecki, Recording Secretary

C:\Users\bob\Documents\Kathy\COT Building Code Board of Appeals\Minutes\2019\2019 08 07 Regular Meeting_Draft.doc

- A. **VARIANCE REQUEST, VLADIMIR KORCARI, 2904 THAMES** –This property is a corner lot with two front yards. As such, the proposed fence cannot be placed in the 25' required Thames Dr. front setback or the 25' required Dover Dr. setback. The petitioner is requesting a total of 130 linear feet of 6' high Privacy Vinyl obscuring fence variance in the required Dover Drive setback.

CHAPTER 83



595 0 297 595Feet



Note: The information provided by this application has been compiled from recorded deeds, plats, tax maps, surveys, and other public records and data. It is not a legally recorded map survey. Users of this data are hereby notified that the source information represented should be consulted for verification.



149 0 74 149Feet



Note: The information provided by this application has been compiled from recorded deeds, plats, tax maps, surveys, and other public records and data. It is not a legally recorded map survey. Users of this data are hereby notified that the source information represented should be consulted for verification.



GIS Online

Legend:



T-2-N, R-1-E, SEC 25 YORKSHIRE SUB
LOT 103.
R-1-E 25 F 35 R 5/15 SIDES.

Notes:

R-1-E

Map Scale: 1=47

Created: August 16, 2019



Note: The information provided by this application has been compiled from recorded deeds, plats, tax maps, surveys, and other public records and data. It is not a legally recorded map survey. Users of this data are hereby notified that the source information represented should be consulted for verification.

Sept. 4th mtg.



CITY OF TROY | PLANNING DEPT.
500 WEST BIG BEAVER | TROY, MI 48084 | 248.524.3364

Building Code Board of Appeals Application

NOTICE TO THE APPLICANT | FEE: \$50

REGULAR MEETINGS OF THE BUILDING CODE BOARD OF APPEALS ARE HELD ON THE FIRST WEDNESDAY OF EACH MONTH AT 3:00 P.M. AT CITY HALL.

PLEASE FILE A COMPLETE APPLICATION, TOGETHER WITH THE APPROPRIATE FEE, **NOT LESS THAN TWENTY-SEVEN (27) DAYS** BEFORE THE MEETING DATE.

COMPLETE APPLICATIONS ARE PLACED ON THE NEXT AVAILABLE AGENDA OF THE BUILDING CODE BOARD OF APPEALS.

1. ADDRESS OF THE SUBJECT PROPERTY: 2904 Thames Dr. Troy 48083
ACREAGE PROPERTY: *Attach legal description if this an acreage parcel*
2. PROPERTY TAX IDENTIFICATION NUMBER(S): 88-20-25-228-001
3. CODE NAME (e.g. "BUILDING CODE", "SIGN CODE", "FENCE CODE") AND SECTION(S) RELATED TO THE APPEAL:
Fence code
4. REASONS FOR APPEAL/VARIANCE: *On a separate sheet, please describe the reasons justifying the requested action. See Submittal Checklist.*
5. HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? YES ☐ NO ☒



CITY OF TROY | PLANNING DEPT.
500 WEST BIG BEAVER | TROY, MI 48084 | 248.524.3364

Building Code Board of Appeals Application

6. APPLICANT INFORMATION:

NAME Vladimir Korcari

COMPANY _____

ADDRESS 2904 Thames Dr.

CITY Troy STATE MI ZIP 48083

TELEPHONE 734-968-0355 - Ahmad's ph#

E-MAIL goku008@gmail.com

send correspondence to son-in-law Ahmad Rammal

7. APPLICANT'S AFFILIATION TO THE PROPERTY OWNER: _____

8. OWNER OF SUBJECT PROPERTY:

NAME Vladimir Korcari

COMPANY _____

ADDRESS 2904 Thames Dr.

CITY Troy STATE MI ZIP 48083

TELEPHONE _____

E-MAIL _____

The undersigned hereby declare(s) under penalty of perjury that the contents of this application are true to the best of my (our) knowledge, information and belief.

The applicant accepts all responsibility for all of the measurements and dimensions contained within this application, attachments and/or plans, and the applicant releases the City of Troy and its employees, officers, and consultants from any responsibility or liability with respect thereto.

I, Vladimir Korcari (PROPERTY OWNER), HEREBY DEPOSE AND SAY THAT ALL THE ABOVE STATEMENTS AND STATEMENTS CONTAINED IN THE INFORMATION SUBMITTED ARE TRUE AND CORRECT AND GIVE PERMISSION FOR THE BOARD MEMBERS AND CITY STAFF TO CONDUCT A SITE VISIT TO ASCERTAIN PRESENT CONDITIONS.

SIGNATURE OF APPLICANT Vladimir Korcari DATE 8-6-2019

PRINT NAME: VLADIMIR KORCARI

SIGNATURE OF PROPERTY OWNER Vladimir Korcari DATE 8-6-2019



CITY OF TROY | PLANNING DEPT.
500 WEST BIG BEAVER | TROY, MI 48064 | 248.524.3364

Building Code Board of Appeals Application

PRINT NAME: Vladimir Koreari

Failure of the applicant or his/her authorized representative to appear before the Board, as scheduled, shall be justifiable cause for denial or dismissal of the case with no refund of appeal fee(s). If the person appearing before the Board is not the applicant or property owner, signed permission must be presented to the Board.

The applicant will be notified of the time and date of the hearing by electronic mail.

~~Request~~ Request for 6' privacy fence on corner lot, where fence sits one foot away from the side walk. Elderly couple living at the residence and would like to enjoy privacy in their back yard, and let their grandkids run around without worry. Also being located so close to ~~main~~ main road, privacy fence would reduce some noise and pollution from nearby traffic.

Thank you.







- B. **APPEAL REQUEST, TROY OUTDOOR, LLC AND CROSSROADS OUTDOOR LLC/1654 LIVERNOIS, 1654 LIVERNOIS**- An appeal of the Zoning Administrator's November, 2017 suspension of Sign Permit PSG2017-0009.

CHAPTER 85

**CITY OF TROY PLANNING DEPARTMENT
BUILDING CODE BOARD OF APPEALS APPLICATION**

CITY OF TROY PLANNING DEPARTMENT
500 W. BIG BEAVER ROAD
TROY, MICHIGAN 48084
PHONE: 248-524-3364
E-MAIL: planning@troymi.gov



FEE \$50

NOTICE TO THE APPLICANT

REGULAR MEETINGS OF THE BUILDING CODE BOARD OF APPEALS ARE HELD ON THE FIRST **WEDNESDAY OF EACH MONTH AT 3:00 P.M.** AT CITY HALL.

PLEASE FILE A COMPLETE APPLICATION, TOGETHER WITH THE APPROPRIATE FEE, **NOT LESS THAN TWENTY-SEVEN (27) DAYS** BEFORE THE MEETING DATE.

COMPLETE APPLICATIONS ARE PLACED ON THE NEXT AVAILABLE AGENDA OF THE BUILDING CODE BOARD OF APPEALS.

1. ADDRESS OF THE SUBJECT PROPERTY: 1654 Livernois Rd Troy, MI 48083
ACREAGE PROPERTY: *Attach legal description if this an acreage parcel*
2. PROPERTY TAX IDENTIFICATION NUMBER(S): 20-27-357-002
3. CODE NAME (e.g. "BUILDING CODE", "SIGN CODE", "FENCE CODE") AND SECTION(S) RELATED TO THE APPEAL:
SIGN CODE
4. REASONS FOR APPEAL/VARIANCE: *On a separate sheet, please describe the reasons justifying the requested action. See Submittal Checklist.*
5. HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? YES ☐ NO ☒

6. APPLICANT INFORMATION:

NAME _____
COMPANY Troy Outdoor, LLC and Crossroads Outdoor LLC
ADDRESS 2487 South Michigan Road, Suite
CITY Eaton Rapids STATE MI ZIP 48827
TELEPHONE 231-683-4229
E-MAIL _____

7. APPLICANT'S AFFILIATION TO THE PROPERTY OWNER: _____

8. OWNER OF SUBJECT PROPERTY:

NAME PRITHIPAL SINGH
COMPANY 1654 LIVERNOIS INC
ADDRESS 1654 LIVERNOIS ROAD
CITY TROY STATE MICHIGAN ZIP 48083
TELEPHONE 248.974.1738
E-MAIL P-panaych@yahoo.com

The undersigned hereby declare(s) under penalty of perjury that the contents of this application are true to the best of my (our) knowledge, information and belief.

The applicant accepts all responsibility for all of the measurements and dimensions contained within this application, attachments and/or plans, and the applicant releases the City of Troy and its employees, officers, and consultants from any responsibility or liability with respect thereto.

I, Prithipal Singh (PROPERTY OWNER), HEREBY DEPOSE AND SAY THAT ALL THE ABOVE STATEMENTS AND STATEMENTS CONTAINED IN THE INFORMATION SUBMITTED ARE TRUE AND CORRECT AND GIVE PERMISSION FOR THE BOARD MEMBERS AND CITY STAFF TO CONDUCT A SITE VISIT TO ASCERTAIN PRESENT CONDITIONS.

SIGNATURE OF APPLICANT Terry E. Hertz DATE 6/11/2019

PRINT NAME: TERRY E. HERTZ, Attorney For Applicant

SIGNATURE OF PROPERTY OWNER Prithipal Singh DATE 03/14/2019

PRINT NAME: PRITHIPAL SINGH

Failure of the applicant or his/her authorized representative to appear before the Board, as scheduled, shall be justifiable cause for denial or dismissal of the case with no refund of appeal fee(s). If the person appearing before the Board is not the applicant or property owner, signed permission must be presented to the Board.

The applicant will be notified of the time and date of the hearing by electronic mail.

SUBMITTAL CHECKLIST FOR SIGNS

WALL SIGNS

REQUIRED PROVIDED

- | | | |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | COMPLETED APPLICATION. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | SIGN CONSTRUCTION DETAIL SHOWING, MATERIALS, DIMENSIONS, PROJECTION FROM THE WALL AND METHOD OF ATTACHMENT TO THE WALL. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | WRITTEN EXPLANATION OF THE REASONS JUSTIFYING THE REQUEST. EXPLANATION MUST ADDRESS SIGN ORDINANCE APPEALS CRITERIA, SEE PAGE 5. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | FRONT ELEVATION DRAWING OR PHOTO SHOWING DIMENSIONS OF BUILDING OR TENANT AREA (WHICHEVER IS APPLICABLE), AND DIMENSIONS OF ALL EXISTING AND PROPOSED WALL SIGNS. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | A DIGITAL VERSION OF ALL APPLICATION DOUCUMENTS IS REQUIRED. PAPER COPIES ARE NOT REQUIRED. E MAILING THEM TO THE DEPARTMENT IS PREFERRED. |

GROUND SIGNS

REQUIRED PROVIDED

- | | | |
|-------------------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | COMPLETED APPLICATION. |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | SITE PLAN OR AERIAL MAP SHOWING RIGHT OF WAY LINE(S), PUBLIC EASEMENTS AND SIGN LOCATION. LABEL THE DISTANCE FROM RIGHT OF WAY LINE TO CLOSEST EDGE OF SIGN. See Attachment #1 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | SITE PLAN OR AERIAL MAP SHOWING LOCATION AND DIMENSIONS OF EXISTING GROUND SIGNS. See Attachment #2 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | SIGN CONSTRUCTION DETAIL SHOWING DIMENSIONS AND THICKNESS OF SIGN, MATERIALS AND FOOTING DEPTH. See Attachment #3 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | WRITTEN EXPLANATION OF THE REASONS JUSTIFYING THE REQUEST. EXPLANATION MUST ADDRESS SIGN CODE APPEALS CRITERIA, SEE PAGE 5.
See Attachment #4 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | A DIGITAL VERSION OF ALL APPLICATION DOUCUMENTS IS REQUIRED. PAPER COPIES ARE NOT REQUIRED. E MAILING THEM TO THE DEPARTMENT IS PREFERRED.
See USB Drive |

SIGN CODE APPEALS CRITERIA

Subject to the provisions below, the Board of Appeals shall grant specific variances from the requirements of this Chapter, upon a showing of each of the following:

- a. Exceptional characteristics of the property for which the variance is sought make compliance with the requirements of this Chapter substantially more difficult than would be the case for the great majority of properties in the same zoning district. Characteristics of property which shall be considered include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation, and other similar characteristics
- b. The characteristics which make compliance with the requirements of this Chapter difficult must be related to the premises for which the variance is sought, not some other location;
- c. The characteristics which make compliance with the requirements of this Chapter difficult shall not be of a personal nature; and
- d. The characteristics which make compliance with the requirements of this Chapter difficult must not have been created by the owner of the premises, a previous owner, or the applicant; and
- e. The proposed variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase congestion in public streets, or increase the danger of fire or endanger public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.

ATTACHMENT #1

Sign Site Plan- Site 11448 Address: 1654 Livernois Troy, MI
Landowner: Fast Track Ventures LLC - APN: 88-20-27-357-002
Property Zoning: M-R Build Setbacks: 30' from Troy Master Plan Street RoW
Sign Dimensions: 10' x 20' face x 25' total height,



0 25 50 100 150 200 Feet

1 inch = 33 feet Map Coordinate System: NAD 1983 HARN StatePlane Michigan South FIPS 2113 Feet Intl
Scale reference is approximate for print on 8.5" x 11" paper

Print Date: 11/5/2016

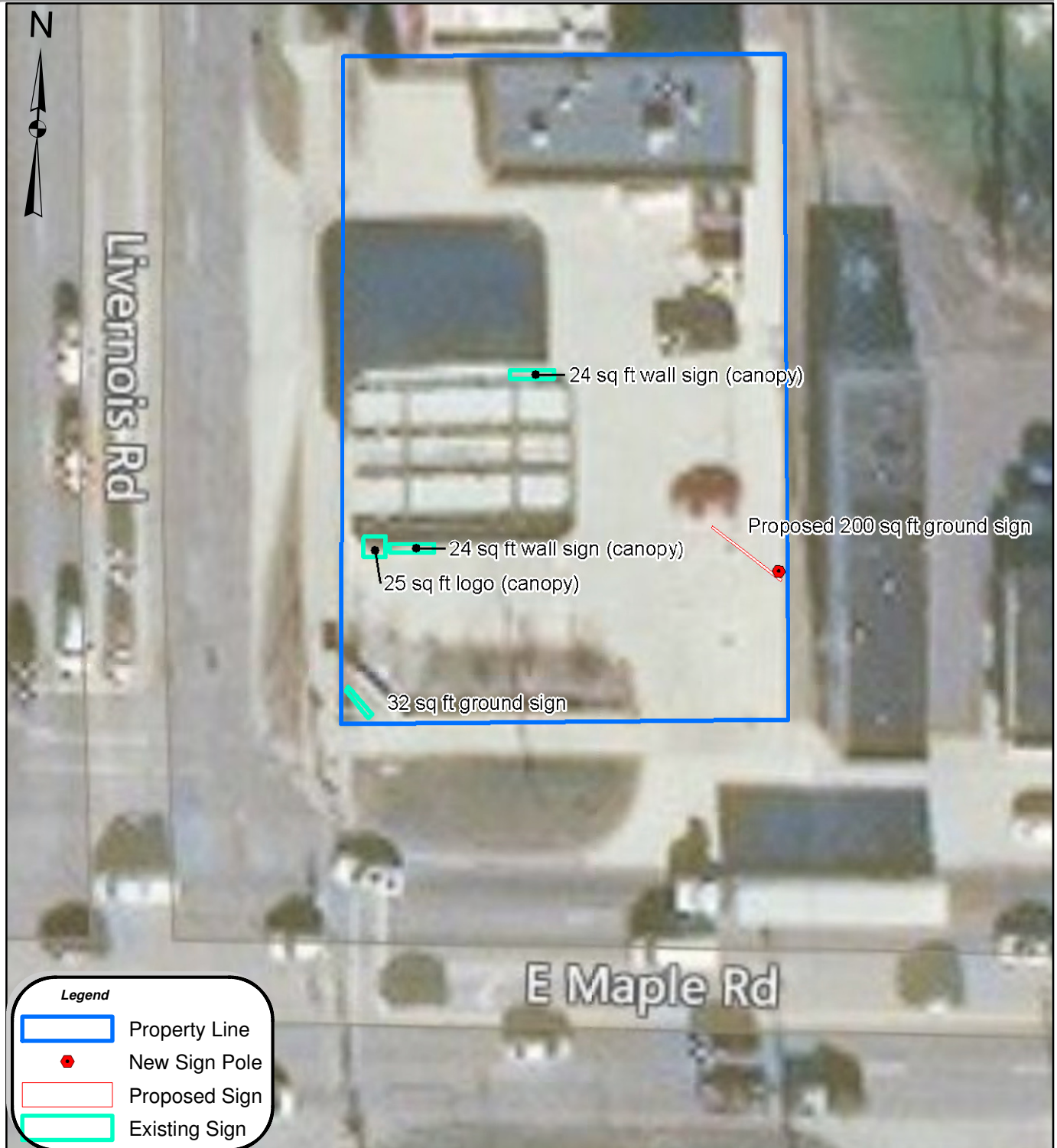
Lockridge Outdoor Advertising, LLC
Tony Lockridge - 727-415-4332
tony@lockridgeoutdoor.com

2110 Ranch Road 620 S.
PO Box 341432
Austin, TX 78734



ATTACHMENT #2

Existing Sign Location Map
Site 11448 Address: 1654 Livernois Troy, MI
Landowner: 1654 Livernois Inc
APN: 88-20-27-357-002



0 25 50 100 150 200 Feet
1 inch = 33 feet Map Coordinate System: NAD 1983 HARN StatePlane Michigan South FIPS 2113 Feet Intl
Scale reference is approximate for print on 8.5" x 11" paper

Print Date: 3/14/2019

Troy Outdoor, LLC
Brad Holstad - (O) 231.683.4224 ext. 102
bradholstad@crossroadsoutdoor.com

2487 S. Michigan Road
Suite E
Eaton Rapids, MI 48827



Technical drawing of a digital board assembly, showing a side elevation view. The drawing includes the following components and dimensions:

- Dimensions:**
 - Overall height: 10'-0" Digital Board
 - Overall width: 2'-0"
 - Bottom section height: 6"
 - Bottom section width: 2'-0" (total) and 1'-0" (individual sections)
- Components:**
 - L3 x 3 x 1/4 x 3" lg. conn. clip w/(1) 1/2" Ø A-325 bolt:** Located at the top of the assembly.
 - L3 x 3 x 1/4 Lateral Brace:** Located on the right side of the assembly.
 - Digital Board & Attachments (by others):** Indicated on both the left and right sides of the central upright.
 - 3/4" Ø Rod Cross Bracing:** A vertical rod running through the center of the assembly.
 - W6 x 1.5 Upright:** The central vertical member.
 - L4 x 3 x 1/4 (LLV) Catwalk Framing, typ.:** Located at the bottom of the assembly.
 - W6 x 9 Ledger:** Two horizontal members at the bottom, one on each side of the central upright.
 - Ledger Shelf per WatchFire dwg. no. 190004:** A shelf located between the two W6 x 9 ledgers.
 - 1/4" ledger to pl. (typ):** A small vertical member connecting the ledger shelf to the plating.
 - Catwalk:** The top horizontal surface of the bottom section.
 - TS12 x 12 x 1/2":** A base plate or support at the bottom center.

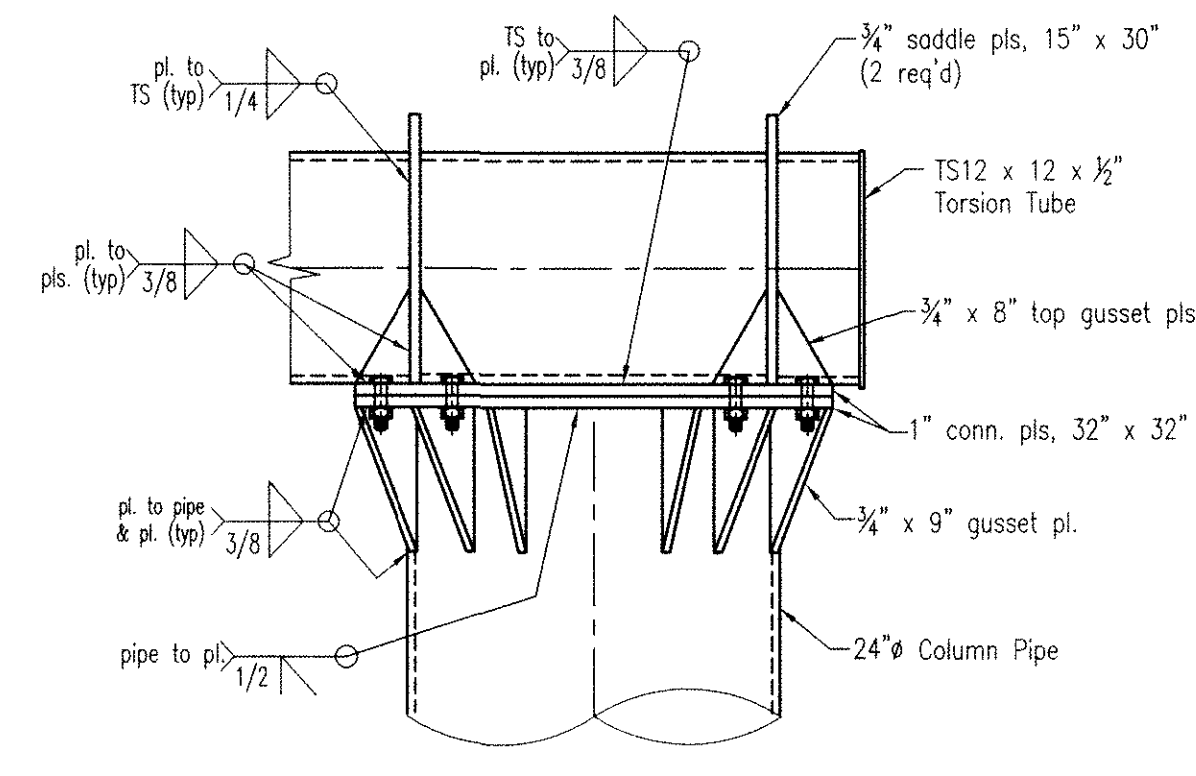
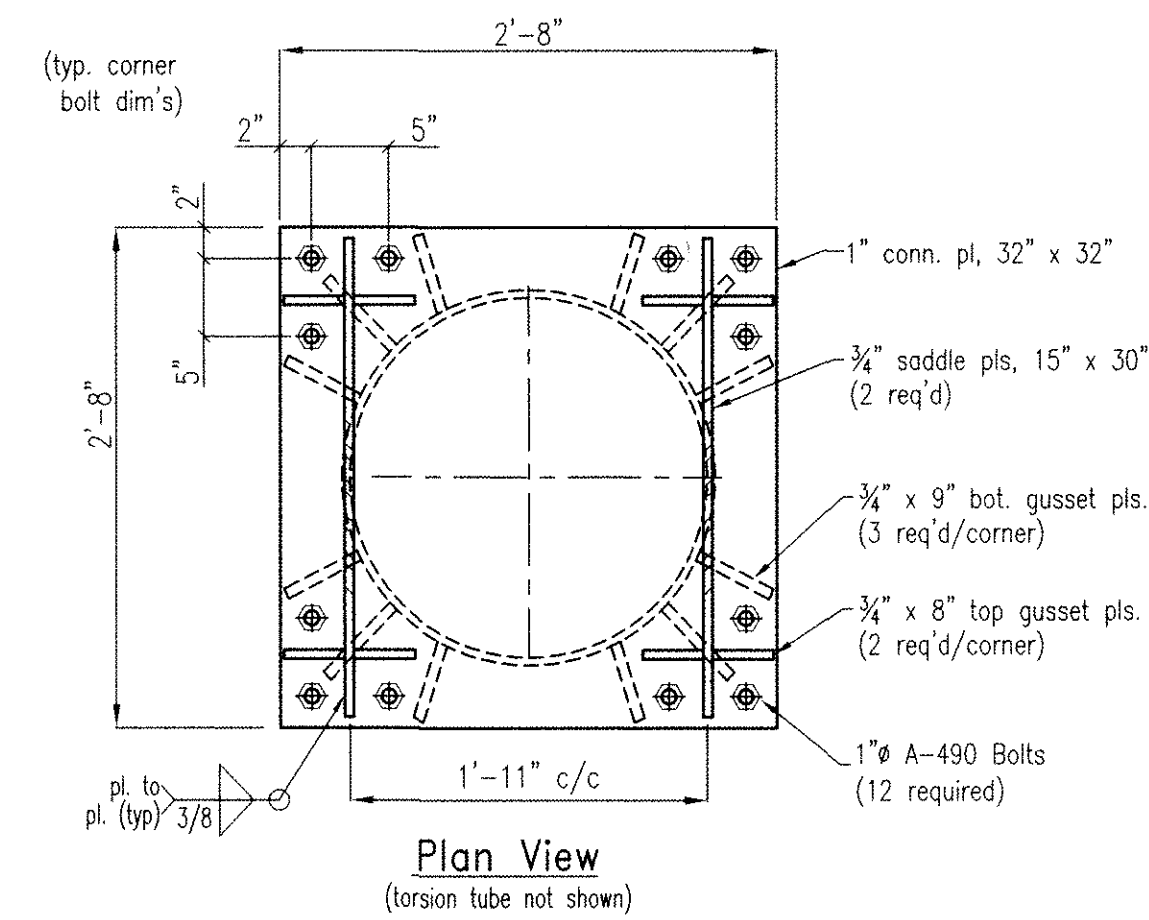


Diagram illustrating the connection of a cross bracing member to a W6 x 15 Upright. The connection uses a $\frac{3}{4}"$ Rod Cross Bracing, threaded at each end, secured with (2) Heavy Hex Nuts. The rod passes through a Slotted Hole in the upright. An L3 x 3 x $\frac{3}{8}"$ g. conn. clip is used to secure the rod to the upright.

1'-6"

1'-3"

1 1/2"

1/4"

3/4"

7"

1 1/4"

3/4" ϕ A-325 Bolts
(4 req'd / conn.)

1/2" x 4" gusset pls.
(2 req'd / conn.)

3/4" conn. pl, 7" x 20"

W6 x 15 Upright
(center on pl.)

TS12 x 12 Torsion Tube

Section B-B

1/4" pl. to TS (typ)

4 sides

20'-0" Digital Board Length

10'-0" Digital Board Height

25'-0" Overall Height

12'-0" Footing Depth

3'-0" 4'-8" 4'-8" 4'-8" 3'-0"

Frame A Frame B Frame C Frame D

W6 x 15 Upright

W6 x 15 Upright

W6 x 15 Upright

W6 x 15 Upright

L3 x 3 x 1/4" Lateral Brace

3/4"Ø Rod Cross Bracing (typ)

Ledger Shelf (1 req'd/upright)

1'-10"

Front Catwalk

W6 x 9 Ledger

TS12 x 12 x 1/2" (42 ksi) Torsion Tube

24"Ø x .375" (50 ksi) Column Pipe

1/16" per ft. Column Backset

Grade

3'-0"Ø Drilled Shaft Concrete Footing

L3 x 3 x 1/4" x 6' lg. (4 req'd @ 90° spacing)

1/4" L3 to pipe 1/4-12 18" con't @ ends

Alternate Centermount Design
Use same member sizes & connections as shown for Full Flag design, except:
- no column pipe backset.
- no L3 angles req'd in footing.
- column/torsion tube conn. to be located @ center of sign.

- concrete to be poured against undisturbed soil, all around.

- concrete to be poured against undisturbed soil, all around.

1/16" per ft
Column Backse

slope concrete away from column

3'-0" ϕ Drilled Shaft

1/4" 4-12" L3 to pipe
18" can't @ ends


6/26/17	Modified front catwalk ledger connection.	R1
<u>DATE</u>	<u>REVISION</u>	<u>NO.</u>

USE THIS CRITERIA FOR ALL GUSSETS

The diagram shows a cross-section of a gusset. It is a trapezoidal shape with a 45-degree chamfer on the top right corner. The top horizontal edge is labeled 'LENGTH'. The right vertical edge is labeled 'HEIGHT'. The bottom horizontal edge is labeled 'C'. The 45-degree chamfer is labeled '45° CHAMFER'.

- for gussets up to $\frac{3}{4}$ " thick, 'C' = $\frac{1}{2}$ "
- for gussets $\frac{3}{4}$ " thick & greater, 'C' = 1"
- not specified, length & height of gussets to be determined by fabricator, use maximum length & height possible & still allow for welding all around.
- depth of 45° chamfer to be minimum required to clear weld or fillet.

- ALL NUTS AND BOLTS ARE TO BE ZINC PLATED. (Except A-490 bolts, which are not to be plated, but primed and painted after installation)
- THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS IN FIELD BEFORE FABRICATION OR CONSTRUCTION, AND NOTIFY ENGINEER OF ANY DISCREPANCIES
- ANY DEVIATIONS FROM DRAWINGS SHALL BE APPROVED BY THE ENGINEER.
- STRUCTURAL STEEL SHAPES & LATES SHALL CONFORM TO THE REQUIREMENTS OF A.S.T.M. A-36, AND WIDE FLANGES TO A.S.T.M. A992.
- STRUCTURAL pipe tubing, which shall conform to A-500, grade B
- ALL STEEL PIPE SHALL CONFORM TO THE REQUIREMENTS OF A.S.T.M. A-53, GRADE B OR A-532, GRADE 2. (See drawing for details)
- ALL STRUCTURAL STEEL SHALL BE PRODUCED, FABRICATED, AN ERECTED IN ACCORDANCE TO THE LATEST A.I.S.C. SPECIFICATIONS AND STANDARD PRACTICES.
- ALL WELDING SHALL BE IN ACCORDANCE WITH A.S.S. STANDARDS. WELDING TO BE PERFORMED BY CERTIFIED WELDERS USING E-70 ELECTRODES.
- CONCRETE SHALL ATTAIN A MINIMUM COMPRESSIVE STRENGTH OF $F_c = 3000$ p.s.i. IN 28 DAYS, UNLESS OTHERWISE NOTED.
- THE CONTRACTOR TO ENSURE THAT ALL WORK IS PERFORMED IN ACCORDANCE WITH FEDERAL, STATE, & LOCAL CODES & ORDINANCES; AND O.S.H.A. SAFETY REGULATIONS.
- OWNER TO PROVIDE AN O.S.H.A. APPROVED FLEXIBLE LIFELINE SYSTEM FOR ALL WORKERS.
- VERIFY WITH OWNER ALL SIGN HEAD ACCESS REQUIREMENTS. (I.e. COLUMN & ACCESS LADDER(S), CROSOVER/WALK-AROUND CATWALKS, etc.)
- VERIFY CORRECT STRINGER SPACING FROM OWNER H.O.G.L. TO PROVIDE FABRICATION.
- H.A.G.L. = Height Above Ground Level



Effective Engineering Solutions, LTD.
61 White Water Court
New Lenox, IL 60451
(815) 485-1470

CLIENT: Lockridge Outdoor

THE UNDERSIGNED ENGINEER WILL NOT SUPERVISE THE FABRICATION
AND ERECTION OF THIS STRUCTURE.

ATTACHMENT #4

Request for Relief from the Building Code Board of Zoning Appeals

The Applicant is seeking a review from the Building Code Board of Zoning Appeals of the decision of the Zoning and Compliance Specialist Paul Evans to suspend the validly issued permit referenced in this application on November 17, 2017. The background of this application includes the United States District Court for the Eastern District of Michigan's opinion and order of January 22, 2019 informing the Plaintiffs that a review of the two issues submitted is necessary before the matter can be reviewed by the Court. This application seeks relief in two alternative requests.

1. APPEAL OF THE DECISION OF THE ZONING ADMINISTRATOR

The Applicants seek to appeal the action of the building department to suspend the permit at issue by letter dated November 21, 2017. The letter suspending is attached as **Attachment #4-A**. The Applicants disputed the action by letter dated December 6, 2017 to Mr. Evans. See **Attachment #4-B**. Counsel for the City disagreed with the opinion of Applicant's legal counsel and denied relief. See **Attachment #4-C**. A lawsuit was commenced in the United States District Court for the Eastern District of Michigan on June 29, 2018, which included a challenge to the action of November 17, 2017. On January 22, 2019, Judge Steeh opined as follows: *But Plaintiffs have not availed themselves of an appeal to the Board of Appeals which bears the power to hear their appeal and to grant variances from the sign ordinance. It remains possible that the Board of Appeals will determine that the sign moratorium does not apply to the Plaintiff's three permits or grant a variance based on the unfairness of suspending the permits for which Plaintiffs have reasonably relied.* The permit granted is attached as **Attachment #4-D**.

The essence of the argument that the moratorium was not applicable to the permit at issue is set forth in **Attachment #4-E**.

2. REQUEST FOR VARIANCE

If relief is not granted in favor of the Applicants on the appeal, then the Applicants request a variance. The required information is set forth in **Attachment #4-F**.



500 West Big Beaver
Troy, MI 48084
troymi.gov

Planning Department
248.524.3364
planning@troymi.gov

November 21, 2017

Mr. Tony Lockridge
Troy Outdoor, LLC
724 Abbot
East Lansing, MI 48823

Dear Mr. Lockridge:

I am writing regarding Sign Permits PSG2017-0087, PSG2017-0088 and PSG2017-0009. On November 20, 2017, Troy City Council imposed a 180 day moratorium on any new signs. The City has inspected the requested locations for these new signs, and there is no evidence of any construction or any apparent work completed on any new signs. Thus the City is suspending these permits and work may not occur.

Additionally, the City is currently reviewing the City's ordinances to determine if these requested signs, and other signs that were requested at or about the same time, are compliant with the City's Sign Ordinance. City Council has directed City Administration to vigorously enforce all existing Sign Ordinance provisions. Your continued cooperation in this matter is appreciated.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in dark ink that reads 'Paul Evans'. The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Paul Evans
Zoning & Compliance Specialist

cc: Lori Bluhm, City Attorney
Mitch Grusnick, Building Official & Code Inspector
Gary Bowers, Housing & Zoning Inspector

HONIGMAN

Honigman Miller Schwartz and Cohn LLP
Attorneys and Counselors

J. Patrick Lennon

(269) 337-7712

Fax: (269) 337-7713

Lennon@honigman.com

December 6, 2017

Via US Mail and E-Mail

Mr. Paul Evans
City of Troy - Zoning & Compliance Specialist
500 West Big Beaver
Troy, MI 48084

Re: Troy Outdoor, LLC ("Troy") – City of Troy ("City")

Dear Mr. Evans:

Our Firm represents Troy. As the City is aware, Troy currently holds three digital sign permits (collectively the "Sign Permits")¹ and has two pending digital sign permit applications (collectively the "Pending Applications")².

To Troy's surprise, on November 20, 2017, the City imposed a moratorium "prohibiting the Troy City Administration from processing of permit applications". On the very next day, November 21, 2017, the City notified Troy that both the Sign Permits and the Pending Applications were "suspended" based on the moratorium. Later, on December 4, 2017, the City amended its moratorium to relieve/exempt applications for other types of sign permits from the moratorium.

We are writing to inform the City that the moratorium should not be effective against the signs covered by the Sign Permits or the Pending Applications. For the reasons discussed herein, Troy has the legal right to continue to establish the digital billboards contemplated by the Sign Permits and to continue the application process with regard to the Pending Applications.

Troy made Large Investments in Reliance on the Legal Right to Obtain the Sign Permits

As the City has known for months, Troy has been actively pursuing establishment of digital billboards in several locations throughout the City. Throughout this lengthy process, Troy has complied with the letter and the spirit of the City's ordinance, policies and procedures, has been transparent and has openly communicated with the City. There is not, and has never been, any

¹ Troy had been issued the following sign permits (i) Fast Track Ventures, E/S 1658 Livernois at East Maple, PSG2017-0009; (ii) American Legion Post 140, N/S of Maple, 1000 feet from Crooks, PSG2017-0088; and (iii) Abro Twelve property, 2888 East Maple, PSG2017-0087 (collectively the "Sign Permits").

² Troy previously submitted applications for sign permits for (i) M&M Troy, 1634 John R; and (ii) MJP Estate, LLC, 2221 Livernois (collectively the "Pending Applications").

December 6, 2017

Page 2

doubt that the signs contemplated by the Sign Permits and the Pending Applications complied with the City's ordinance and had the legal right to approval.

In reliance on the City's ordinance and its representations, Troy made tremendous investments in expensive digital billboards and related improvements, procured billboard sites and commenced installation work at several locations. Now, at the eleventh hour and after in excess of a million dollars has been invested, the City has abruptly changed course, imposed a moratorium and informed Troy that the Sign Permits are "suspended" and that it cannot proceed with the Pending Applications. To make matters worse, the City has now further amended its moratorium to exclude numerous other sign types, but continues to target Troy's proposed signs with the moratorium. The damages to Troy of these improper "suspensions" mount each day that work is delayed and contribute to potential temporary (and possibly permanent) takings claims.

Troy Relied on the City and the Ordinance and Believed the Moratorium and Suspension Letter were Mistakes

Troy's first reaction to the letter from the City, and the moratorium, was that there must be a mistake. Troy had been actively working with the City on the digital billboard project for months. Troy had identified and procured properties that comply with the ordinance, had actually received the Sign Permits and had invested in billboards, sites/locations, materials and services. Unfortunately, after multiple communications with the City, it was made clear to Troy that the "suspensions" of the Sign Permits and the Pending Applications were intentional.

To add insult to injury, when the City amended the moratorium, it actually exempted and relieved other sign applications from the burdens of its moratorium. As discussed further herein, the confluence of the City's knowledge, representations and actions, together with the timing of the moratorium and its targeted effect, render the moratorium improper and unfair and exacerbate Troy's damages.

The Moratorium Only Applies to Processing of Sign Applications - It Does Not Apply to Existing Sign Permits

The City is advised that the "suspensions" of the Sign Permits do not comply with the clear and express terms of the moratorium. The moratorium expressly states that it only prohibits the "processing . . . of permit applications . . ." (emphasis added). In this case, Troy has actually obtained the Sign Permits. The "processing" of the "permit applications" (that resulted in the Sign Permits) is long complete. As a result, the moratorium does not apply to, and cannot be used to prevent, development and/or construction of the billboards that have received Sign Permits.

This language is included in both the original moratorium resolution and in the amendment to the moratorium. If the City Council expected otherwise, it certainly would have clarified the scope in the amendment. It appears obvious that the City administration has misread the scope of

December 6, 2017

Page 3

the moratorium or greatly exceeded its authority. Whatever the case, the signs that have received the Sign Permits cannot be "suspended" and installation work should be permitted to continue without further delay.

Use of a Moratorium to Prevent Processing of the Pending Applications is Improper and Unfair

The City's position that the moratorium can be used to prevent processing of the Pending Applications is also improper and unfair. The Pending Applications comply with the ordinance and were submitted long before the moratorium was imposed. As the City well knows, using a moratorium to target one property owner or applicant over others and attempting to retroactively change their rights is improper. This motivation can be discerned from the reaction of the City to the Pending Applications (and the issuance of the Sign Permits for that matter), the City's institution of a moratorium as part of an effort to prevent (and likely change) Troy's rights after Troy made significant investments and the delivery of the "suspension" letter the day after the moratorium was imposed.

In addition, the reactive amendment to the moratorium, that exempted certain more favored types of signs, sign applications and applicants, casts further light on the City's motivation and bias and casts doubt on the viability of its moratorium as to the Pending Applications. Troy understands, and would agree, that application of the moratorium can (and should) apply to new digital billboard applications that have not been completed and/or formally submitted as of the date of the moratorium - - but the City cannot "stop the game and change the rules" with regard to the Pending Applications - - particularly after large investments have been made.

As the City considers whether the Pending Applications should be subject to the moratorium, it should be mindful that Michigan and other courts have held that a city council acts in bad faith when it rezones property or institutes moratoria to change rules midstream on a particular project which it would be otherwise be compelled to approve. In addition, Michigan courts have held that a developer can obtain vested rights even before it begins physical work when a city changes the rules midstream in a bad faith attempt to throttle a project that meets the standards for approval.

Request for Relief

As stated the above, by its very clear and express language, the moratorium only applies to "processing . . . permit applications" and does not apply to the billboards that actually have Sign Permits. As such, those billboards are entitled to be installed without further delay.

In addition, under the current circumstances, it would be improper and unfair to "suspend" processing of the Pending Applications. The Pending Applications were developed in accordance

December 6, 2017

Page 4

with the existing ordinance, were submitted long before the moratorium was imposed and, under the current facts circumstances, it would be improper to use a moratorium to prevent consideration of the Pending Applications.

In light of all of the foregoing, we respectfully request that the City rescind its letter and allow construction to continue on the locations covered by the Sign Permits and re-commence processing of the Pending Applications. If the City disagrees or fails to respond within seven (7) days of the date of this letter, Troy may have no choice but to take legal action to protect its rights. As always, please feel free to contact me with any questions.

Sincerely,

HONIGMAN MILLER SCHWARTZ AND COHN LLP



J. Patrick Lennon

cc: R. Charles McLavy

ATTACHMENT #4-C



500 West Big Beaver
Troy, MI 48084
troyml.gov

City Attorney's Office
248-524-3320

December 15, 2017

J. Patrick Lennon
Honigman, Miller, Schwartz, and Cohn, LLP
350 East Michigan Avenue; Suite 300
Kalamazoo, MI 49007-3800
Lennon@honigman.com

Re: Troy Outdoor, LLC

Dear Mr. Lennon:

The letter you sent to Paul Evans, City of Troy Zoning & Compliance Specialist, was forwarded to me for review. In this letter, you ask the City to reconsider its November 21, 2017 suspension of three sign permits on behalf of your client, Troy Outdoor, LLC. These signs were proposed to be located at 1654 Livernois Road; 1340 W. Maple; and 2888 E. Maple in the City of Troy. For reasons set forth below, the City is unable to grant your requested relief.

After your client's rapid and instantaneous installation of five separate 200 foot digital signs in the City, the Troy City Council imposed a 180 day moratorium on November 20, 2017 for all signs, which was slightly amended on December 4, 2017 to limit the 180 day moratorium to electronic message center digital signs, ground signs exceeding 36 square feet in size, wall signs exceeding 100 square feet in size, and ground signs exceeding 10 feet in height. The moratorium was imposed due the recent influx of large digital ground signs that have proliferated the City's business corridors. It is readily apparent that such signs will have a direct negative impact on the health, safety, and welfare of the citizens of Troy because the signs will be unduly distracting to motorists and pedestrians and thus likely to create traffic hazards and reduce the effectiveness of public safety signs needed to direct and warn the public. The purpose of the moratorium is to allow the City to consider and evaluate its sign ordinance provisions and adopt appropriate amendments. In all likelihood, the amendment will prohibit digital signs of the size and height proposed by your client in its sign permit applications, resulting in a denial of the two pending applications and a revocation of the three permits.

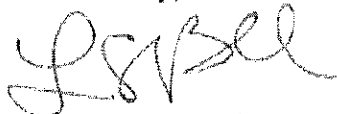
J. Patrick Lennon
December 15, 2017
Page -2-

In your letter, you claim the current moratorium only prohibits the "processing ... of permit applications..." and contend the moratorium is not applicable to the permits that have already been issued. However, the term processing is a broad term that encompasses all actions taken as a result of the issuance of the permit including construction, inspections, and final approval. Moreover, the Zoning & Compliance Specialist as the designee of the Zoning Administrator has authority under the sign ordinance to prohibit any sign that is unsafe and deemed a hazard to health and safety. Mr. Evans' letters of November 21, 2017 suspending your client's permits were issued pursuant to that authority.

You also claim in your letter that "courts have held that a developer can obtain vested rights even before it begins physical work when a city changes the rules midstream in a bad faith attempt to throttle a project that meets standards for approval." However, the law is clear that issuance of a permit itself does not confer vested rights unless actual construction has commenced. As noted in the letters of Mr. Evans, there is no evidence of any construction or any work completed on any of the three signs for which a permit was approved. Additionally, the City's decision to impose a moratorium is for the sole purpose of protecting the health, safety, and welfare of its citizens. The City has not acted in bad faith.

If you should have any questions regarding this matter, please call me at (248) 524-3320.

Sincerely,



Lori Grigg Bluhm
City Attorney
bluhmlg@troymt.gov

cc: Paul Evans



PSG2017-0009%PSG%150.00

**Sign Permit No: PSG2017-0009**

Building Department
Inspection: (248) 689-5744
 Phone: (248) 524-3344

500 W. Big Beaver Road
 Troy, Michigan 48084
 Hours: Mon-Fri 8am - 4:30pm

Fax: (248) 689-3120
 www.troymi.gov

1654 LIVERNOIS 88-20-27-357-002 Subdivision: ADDISON HEIGHTS Zoning: H-S, R-1A Construction Type:	Location Lot: 82+- Use Group: M	Owner FAST TRACK VENTURES LLC 1654 LIVERNOIS TROY MI 48083-1727
---	---------------------------------------	---

Issued: 02/24/2017

FOR INSPECTIONS - CALL (248) 689-5744

*Inspections called in by 4:40 P.M. will be scheduled the next business day. **NOTE NEW INSPECTION CUT-OFF TIME***

Applicant
 CROSSROADS OUTDOOR LLC
 CROSSROADS OUTDOOR LLC
 2487 S. MICHIGNAN ROAD STE E
 East Lansing MI 48823
 (727) 415 4332

Work Description: GROUND SIGN 10' 20' = 200 SF DIGITAL EMC. CITY MEASUREMENT INSPECTION REQUIRED BEFORE EMC IS PLACED ON POLE

Special Stipulations: SEE USE RESTRICTIONS ON PERMIT DOCUMENTS

Work will meet all codes and inspections.

Permit Item	Work Type	Quantity	Item Total
Signs Ground Signs	Signs	200.00	150.00

Sign

Total Due: \$150.00

PAID on: 02/24/2017

Check#: 2865

Payment Validation

This permit is issued subject to the Building Code, Zoning Ordinance and all other Ordinances of the City of Troy, and shall become void once work is not started or is abandoned for a period of one hundred eighty (180) days.

Separate permits must also be obtained for signs and any plumbing, heating, refrigeration, electric, or sewer work.

This permit conveys no right to occupy any street or public right-of-way, either temporarily or permanently.

[] TREASURER COPY

[] DEPARTMENT COPY

[] CONTRACTOR COPY

SIGN PERMIT APPLICATION

PLANNING DEPARTMENT
500 W BIG BEAVER
TROY MI 48084
248 524 3359
evanspm@troymi.gov
SIGN ORDINANCE ONLINE [Ctrl+click here](#)



APPLY VIA E-MAIL

E-MAIL COMPLETED APPLICATION AND SUPPORTING DOCUMENTS TO
evanspm@troymi.gov

SIGN PERMIT FEE SCHEDULE

SIZE	WALL SIGN PAINTED ON WALL	WALL SIGN STRUCTURALLY ATTACHED	GROUND SIGN
UNDER 100 SQ. FT.	\$ 75.00	\$ 100.00	\$ 125.00
100 TO 199 SQ. FT.	\$100.00	\$ 125.00	\$ 150.00
200 TO 300 SQ. FT	\$ 100.00	\$150.00	\$ 175.00
SPECIAL EVENT	\$30.00		

PROPERTY ADDRESS: 1654 Livernois

APPLICANT INFORMATION:

NAME Tony Lockridge 727-415-4332 Contact for Permit info

COMPANY Crossroads Outdoor

ADDRESS 2487 South Michigan Road, Suite E

CITY Eaton Rapids STATE MI ZIP 48827

TELEPHONE 231-683-4229

E-MAIL tlockridge@hotmail.com

TYPE OF SIGN:

GROUND

☒

WALL

☐

SPECIAL EVENT

☐

SPECIAL EVENT SIGNS: What 7 day period will signs be up? _____

SIGN PERMIT APPLICATION

ILLUMINATED SIGN?

YES ☒

NO ☐

ELECTRICAL CONNECTIONS BY: Electrician will pull electrical permit

DOWNLOAD AN ELECTRICAL PERMIT APPLICATION [HERE](#).

ARE OTHER SIGNS ON THE PROPERTY? YES ☒ NO ☐ IF YES, DESCRIBE TYPE AND SIZE BELOW:

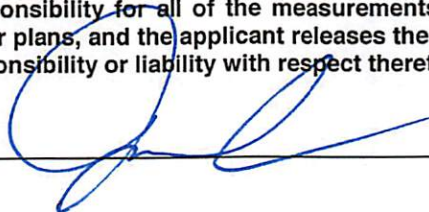
Small pylon sign with gas prices at southwest corner approx 11' overall height and face dimensions
less than 36 sq ft

Canopy Wall signs (3) approx 33 sq. ft. each

The undersigned hereby declare(s) under penalty of perjury that the contents of this application are true to the best of my knowledge, information and belief.

The applicant accepts all responsibility for all of the measurements and dimensions contained within this application, attachments and/or plans, and the applicant releases the City of Troy and its employees, officers, and consultants from any responsibility or liability with respect thereto

SIGNATURE OF APPLICANT



DATE

8 January 2016

PRINT NAME: Jon Lockridge

Sign Site Plan- Site 11448 Address: 1654 Livernois Troy, MI
Landowner: Fast Track Ventures LLC - APN: 88-20-27-357-002
Property Zoning: M-R Build Setbacks: 30' from Troy Master Plan Street RoW
Sign Dimensions: 10' x 20' face x 25' total height,



1 inch = 33 feet

Map Coordinate System: NAD 1983 HARN StatePlane Michigan South FIPS 2113 Feet Intl

Scale reference is approximate for print on 8.5" x 11" paper

Print Date: 11/5/2016

Lockridge Outdoor Advertising, LLC
Tony Lockridge - 727-415-4332
tony@lockridgeoutdoor.com

2110 Ranch Road 620 S.
PO Box 341432
Austin, TX 78734



January 9, 2017

Subject: LED Billboard Sign Brightness & Capabilities

Brightness Levels: The brightness level of all Watchfire digital billboards is pre-set at the factory not to exceed 7,500 NITS during daytime operation and 300 NITS during nighttime operation. These settings are compliant with standards as established by the Outdoor Advertising Association of America (OAAA). Both day-and-night maximum brightness is capped via software and cannot be brightened in the field.

A NIT is a measure of luminance and normally used to express the brightness of LEDs. LED sign brightness commonly converted from NITs to foot-candles. Foot-candle measurements are generally taken at night from a distance of 100 feet or more. Watchfire billboard displays will not illuminate more than 0.3 foot-candles above ambient light when measured at night at a specified distance.

Automatic Dimming Capability: All Watchfire digital billboards automatically adjust their brightness as ambient light levels change. A 100-step photocell automatically and immediately adjusts the sign's light levels during storms and at dusk. At night, the LED operates at approximately 4% of its' daytime maximum brightness. The night time percentage varies based on ambient light conditions. A billboard operator can adjust the billboard to run dimmer than the standard established by the factory, but not brighter.

~~**Hold Time:** The hold time for an advertisement is controlled by the billboard operator and can be adjusted to standards established by local regulation. Most require an ad to hold for a minimum of 6-8 seconds. Tests run by the OAAA indicate a dwell time of 3 seconds is optimum for conveying the information in an advertisement in a safe manner. Watchfire billboards have no animation, flashing, or scintillating capabilities and can only display static messages at the preset dwell times.~~

Transition settings: All Watchfire billboards are designed to change from one ad to the next instantaneously. This cannot be changed by the billboard operator. The boards have no transition capabilities between slides such as slide-ins or slide outs similar to PowerPoint type presentations.

I hope this information has been of assistance. If you have questions or need more information please do not hesitate to contact me.

Thank you,

Ray Digby

ray.digby@watchfiresigns.com

Phone: (800) 637-2645

Fax: (217) 442-1020 | watchfiresigns.com

ATTACHMENT #4-E

On November 20, 2017, the Troy City Council enacted a resolution declaring a moratorium on the issuance of sign permits under the sign ordinance. The language of the sign permit moratorium resolution contains in part the following:

*NOW, THEREFORE BE IT RESOLVED, That as of the 21st day of November 2017, the Troy City Council hereby **IMPOSES** a 180 day moratorium, prohibiting the Troy City Administration from processing any permit applications for all signs. This moratorium will allow consideration and evaluation of Troy's sign provisions. If the complete process is completed in less than 180 days, then the Troy City Council has the option to pass a subsequent resolution terminating the moratorium prior to the expiration of 180 days, in its sole discretion.*

*BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** City Administration to initiate a process for the review of Troy's sign code provisions, and especially the provisions allowing for ground signs with displays in excess of 100 square feet.*

The language adopted prohibited staff for the City from *processing any permit applications for all signs*.

On December 4, 2017, the Troy City Council enacted a new resolution declaring a moratorium for the issuance of sign permits under the sign ordinance. By its terms, the December 4, 2017 moratorium stuck the entire moratorium as enacted on November 20, 2018 and replacing it with newly adopted language. The resolution of December 4, 2017 also contains in part the following:

*NOW, THEREFORE BE IT RESOLVED, That as of the 4th day of December 2017, the Troy City Council hereby **IMPOSES** a new 180 day moratorium, prohibiting the Troy City Administration from processing any of the following permit applications for property in the City of Troy:*

- *An electronic message center (digital sign)*
- *A ground sign that exceeds 36 square feet*
- *Any ground sign that exceeds 10 feet in height*

This moratorium will allow consideration and evaluation of Troy's sign provisions. If the complete process is completed in less than 180 days, then the Troy City Council has the option to pass a subsequent resolution terminating the moratorium prior to the expiration of 180 days, in its sole discretion.

*BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** City Administration to initiate a process for the review of Troy's sign code provisions.*

The essence of the above language is to prohibit staff from *processing any of the following permit applications for property in the City of Troy*:

- *An electronic message center (digital sign)*
- *A ground sign that exceeds 36 square feet*
- *Any ground sign that exceeds 10 feet in height*

This revision served to narrow the subset of signs target for more intrusive regulation, which includes signs similar in nature to that approved in Applicants' approved permit.

Based upon the language of the moratoriums at issue, Ms. Lori Grigg Blum, city attorney for the City, opined in response to a letter from an attorney on behalf of the Applicants, that the moratorium at issue would be interpreted by the city in such a manner as requiring the suspension of the permit at issue in this case.

Applicants initially submit that the ordinances at issue are clear and unambiguous in their terms. One must accord words used in an enactment with their common and ordinary meaning and must 'give effect to every word, phrase, and clause in a statute and avoid an interpretation that would render any part of the statute surplusage or nugatory.'" *Wayne Co v Wayne Co Retirement Comm*, 267 Mich App 230, 244; 704 NW2d 117 (2005) (quoting *State Farm Fire & Cas Co v Old Republic Ins Co*, 466 Mich 142, 146; 644 NW2d 715 (2002)). When applying this standard, the language of the moratorium is not in need of interpretation and supports the Applicants request.

In this case, a review of the moratorium ordinances at issue reveals a clear fact that the ordinances did not serve to repeal any previously issued permit. No repeal language is included in the ordinance enactments. Rather the ordinances specifically prohibit processing any of the following permit applications:

- *An electronic message center (digital sign)*
- *A ground sign that exceeds 36 square feet*
- *Any ground sign that exceeds 10 feet in height.*

Nothing in the language of the ordinances suggests that this prohibition is to be applied retroactively to already approved permits applications, such as the one granted to Applicants.

The language used in the ordinance is clear and unequivocal. Yet, in the face of the plain and specific language of the ordinance, City staff, including its attorney, have taken the position that the ordinance language of *processing any of the following permit applications* should somehow be retroactively applied to previously approved applications where the permits were in fact already issued. Such an interpretation violates the expressed language of the ordinance and extends the application to a much broader group of persons than specified, i.e. to persons holding validly issued permits instead of just applicants for sign permits.

Essentially, the City via its staff, has chosen to interpret the words *processing* and *applications* beyond their normal customary meaning. Such action violates the rules of statutory construction. Absent a specific definition within the legislative enactment words used in an enactment must be given their ordinary meaning. *Luttrell v Dep't of Corrections*, 421, Mich 93; 365 NW2d 74 (1984).

One must accord words used in an enactment with their common and ordinary meaning and must 'give effect to every word, phrase, and clause in a statute and avoid an interpretation that would render any part of the statute surplusage or nugatory.'" *Wayne Co v Wayne Co Retirement*

Comm, 267 Mich App 230, 244; 704 NW2d 117 (2005) (quoting *State Farm Fire & Cas Co v Old Republic Ins Co*, 466 Mich 142, 146; 644 NW2d 715 (2002)).

Meriam-Webster online dictionary (www.merriam-webster.com/dictionary/process) defines the term “processing”, to the extent applicable to this case, as:

- 1 **a:** [PROGRESS](#), [ADVANCE](#) - in the *process* of time, **b:** something going on: [PROCEEDING](#)
- 3 **a:** the whole course of [proceedings](#) in a legal action, **b:** the summons, mandate, or writ used by a court to compel the appearance of the defendant in a legal action or compliance with its orders

Free Dictionary online dictionary (www.thefreedictionary.com/processing) defines the term *processing* in a relevant part as *the act or process of treating or preparing something by a special method*. This same publication defines the term *process* as: *A series of actions, changes, or functions bringing about a result*. Given these definitions, the term *processing* clearly refers to the application process that leads either to a grant or denial of a permit. Once issued, the permit grants rights to proceed based upon the authority granted. The applicant’s status changes from that of applicant to that of permit holder. Once the permit is issued, there is no longer an application process in play. The moratorium language did not revoke the right to proceed on the terms of the permit, rather it specifically prohibited staff from processing applications.

Meriam-Webster online dictionary (www.merriam-webster.com/dictionary/process) defines the term *application*, as relevant to this proceeding, as:

- 1 an act of [applying](#): **a** (1): an act of putting something to use - *application* of new techniques (2): a use to which something is put - new *applications* for old remedies, **b:** an act of administering or laying one thing on another - *application* of paint to a house **c:** [assiduous](#) attention - succeeds by *application* to her studies
- 2 **a:** [REQUEST](#), [PETITION](#) - an *application* for financial aid, **b:** a form used in making a request - filling out an *application*

Free Dictionary online dictionary (www.thefreedictionary.com/application) defines the term *application* in a relevant part as:

1. the act of applying to a particular purpose or use.
3. the act of asking for something: *an application for leave*.
4. a verbal or written request, as for a job, etc: *he filed his application*.

Looking at the above language, the application is merely the formal act of requesting relief, in this case a permit to do that which was authorized under the law at the time of the submission.

It also helps in this analysis to contrast the term *application* with the term *permit*. Merriam-Webster online dictionary (www.merriamwebster.com/dictionary/permit) defines the term *permit*, to the extent applicable herein as: *a written warrant or license*

granted by one having authority. The permit is not an application, it is a license to act. To the extent the City fails to draw the distinction between the term *application* and the term *permit* it violates the rules of statutory construction by giving a meaning to an enactment not supported by the clear language of that enactment. An application IS clearly distinctive from the concept of a permit.

It is clear that the language of the Moratorium ordinance did not make it applicable to the Permit granted to the Applicant, which is set forth as **Attachment #4-D**.

ATTACHMENT #4-F

Justification for BCBA Appeal Request under the Sign Code

The appeal should be granted because the application was originally submitted and granted when the City's sign code allowed the sign as it was applied for. This is a very unique circumstance. The City has subsequently made changes to its sign code but the applicant could not have known that it could not apply for, permit, and install signs under the sign code as it stood at that time. In reliance on the code, the applicant spent substantial time and money on the following: property research, travel, mileage, leasing, site plans, sign structure engineering, LED schematics, permit fees, lease payments, structure fabrication, site preparation work, structure delivery and storage, and numerous other items. Through no fault of its own, the applicant has been greatly harmed. Other properties were issued sign permits at the same time and have been able to benefit from signs materially identical to this one.

The appellant meets all criteria for the following reasons:

a. Exceptional characteristics of the property for which the variance is sought make compliance with the requirements of this Chapter substantially more difficult than would be the case for the great majority of properties in the same zoning district. Characteristics of property which shall be considered include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation, and other similar characteristics.

This is the only property in the vicinity, and one of the very few in the City, that had a sign application duly granted and permitted, but not yet built, before the City chose to reconsider its sign code. Several other parcels were issued permits at the same time and the signs have been installed and are operating. This is a unique status not shared by any other parcels in the area.

b. The characteristics which make compliance with the requirements of this Chapter difficult must be related to the premises for which the variance is sought, not some other location.

This application was submitted at a time when it was in total conformance to the City sign code. Thus, conformance to unknown future requirements was truly impossible. This is a totally unique situation.

c. The characteristics which make compliance with the requirements of this Chapter difficult shall not be of a personal nature.

The problem is not personal in any way. These circumstances came about because the City chose to change its sign code after the permit had been issued.

d. The characteristics which make compliance with the requirements of this Chapter difficult must not have been created by the owner of the premises, a previous owner, or the applicant.

This unfortunate situation did not arise through any fault of the applicant.

e. The proposed variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase congestion in public streets, or increase the danger of fire or endanger public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.

The sign is appropriate and was allowed under the code at the time of application. It will not harm any of the cited interests in this commercial area.





- C. APPEAL REQUEST, TROY OUTDOOR LLC AND CROSSROADS OUTDOOR LLC/ABRO TWELVE PROPERTY, 2888 E MAPLE - An appeal of the Zoning Administrator's November, 2017 suspension of Sign Permit PSG2017-0087.

CHAPTER 85

**CITY OF TROY PLANNING DEPARTMENT
BUILDING CODE BOARD OF APPEALS APPLICATION**

CITY OF TROY PLANNING DEPARTMENT
500 W. BIG BEAVER ROAD
TROY, MICHIGAN 48084
PHONE: 248-524-3364
E-MAIL: planning@troymi.gov



FEE \$50

NOTICE TO THE APPLICANT

REGULAR MEETINGS OF THE BUILDING CODE BOARD OF APPEALS ARE HELD ON THE FIRST **WEDNESDAY OF EACH MONTH AT 3:00 P.M.** AT CITY HALL.

PLEASE FILE A COMPLETE APPLICATION, TOGETHER WITH THE APPROPRIATE FEE, **NOT LESS THAN TWENTY-SEVEN (27) DAYS** BEFORE THE MEETING DATE.

COMPLETE APPLICATIONS ARE PLACED ON THE NEXT AVAILABLE AGENDA OF THE BUILDING CODE BOARD OF APPEALS.

1. ADDRESS OF THE SUBJECT PROPERTY: 2888 E Maple Rd Troy, MI 48083
ACREAGE PROPERTY: *Attach legal description if this an acreage parcel*
2. PROPERTY TAX IDENTIFICATION NUMBER(S): 20-36-226-073
3. CODE NAME (e.g. "BUILDING CODE", "SIGN CODE", "FENCE CODE") AND SECTION(S) RELATED TO THE APPEAL:
SIGN CODE
4. REASONS FOR APPEAL/VARIANCE: *On a separate sheet, please describe the reasons justifying the requested action. See Submittal Checklist.*
5. HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? YES ☐ NO ☒

RECEIVED
JUN 14 2019
PLANNING

6. APPLICANT INFORMATION:

NAME _____
COMPANY Troy Outdoor, LLC and Crossroads Outdoor LLC
ADDRESS 2487 South Michigan Road, Suite E
CITY Eaton Rapids STATE MI ZIP 48827
TELEPHONE 231-683-4229
E-MAIL _____

7. APPLICANT'S AFFILIATION TO THE PROPERTY OWNER: _____

8. OWNER OF SUBJECT PROPERTY:

NAME Sadier Abro
COMPANY ABRO TWELVE PROPERTY-15 & DEQUINDRE
ADDRESS 3807 Beechcrest
CITY Rochester STATE MI ZIP 48309
TELEPHONE 248-798-6162
E-MAIL jonvar_abro@yahoo.com


The undersigned hereby declare(s) under penalty of perjury that the contents of this application are true to the best of my (our) knowledge, information and belief.

The applicant accepts all responsibility for all of the measurements and dimensions contained within this application, attachments and/or plans, and the applicant releases the City of Troy and its employees, officers, and consultants from any responsibility or liability with respect thereto.

I, Sadier Abro (PROPERTY OWNER), HEREBY DEPOSE AND SAY THAT ALL THE ABOVE STATEMENTS AND STATEMENTS CONTAINED IN THE INFORMATION SUBMITTED ARE TRUE AND CORRECT AND GIVE PERMISSION FOR THE BOARD MEMBERS AND CITY STAFF TO CONDUCT A SITE VISIT TO ASCERTAIN PRESENT CONDITIONS.

SIGNATURE OF APPLICANT  DATE 6/1/2019

PRINT NAME: Terry E. Heiss, Attorney for Applicants

SIGNATURE OF PROPERTY OWNER  DATE 2-19-19

PRINT NAME: Sadier Abro

Failure of the applicant or his/her authorized representative to appear before the Board, as scheduled, shall be justifiable cause for denial or dismissal of the case with no refund of appeal fee(s). If the person appearing before the Board is not the applicant or property owner, signed permission must be presented to the Board.

The applicant will be notified of the time and date of the hearing by electronic mail.

SUBMITTAL CHECKLIST FOR SIGNS

WALL SIGNS

REQUIRED PROVIDED

- | | | |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | COMPLETED APPLICATION. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | SIGN CONSTRUCTION DETAIL SHOWING, MATERIALS, DIMENSIONS, PROJECTION FROM THE WALL AND METHOD OF ATTACHMENT TO THE WALL. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | WRITTEN EXPLANATION OF THE REASONS JUSTIFYING THE REQUEST. EXPLANATION MUST ADDRESS SIGN ORDINANCE APPEALS CRITERIA, SEE PAGE 5. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | FRONT ELEVATION DRAWING OR PHOTO SHOWING DIMENSIONS OF BUILDING OR TENANT AREA (WHICHEVER IS APPLICABLE), AND DIMENSIONS OF ALL EXISTING AND PROPOSED WALL SIGNS. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | A DIGITAL VERSION OF ALL APPLICATION DOUCUMENTS IS REQUIRED. PAPER COPIES ARE NOT REQUIRED. E MAILING THEM TO THE DEPARTMENT IS PREFERRED. |

GROUND SIGNS

REQUIRED PROVIDED

- | | | |
|-------------------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | COMPLETED APPLICATION. |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | SITE PLAN OR AERIAL MAP SHOWING RIGHT OF WAY LINE(S), PUBLIC EASEMENTS AND SIGN LOCATION. LABEL THE DISTANCE FROM RIGHT OF WAY LINE TO CLOSEST EDGE OF SIGN. See Attachment #1 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | SITE PLAN OR AERIAL MAP SHOWING LOCATION AND DIMENSIONS OF EXISTING GROUND SIGNS. See Attachment #2 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | SIGN CONSTRUCTION DETAIL SHOWING DIMENSIONS AND THICKNESS OF SIGN, MATERIALS AND FOOTING DEPTH. See Attachment #3 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | WRITTEN EXPLANATION OF THE REASONS JUSTIFYING THE REQUEST. EXPLANATION MUST ADDRESS SIGN CODE APPEALS CRITERIA, SEE PAGE 5. See Attachment #4 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | A DIGITAL VERSION OF ALL APPLICATION DOUCUMENTS IS REQUIRED. PAPER COPIES ARE NOT REQUIRED. E MAILING THEM TO THE DEPARTMENT IS PREFERRED. .
See USB Drive |

SIGN CODE APPEALS CRITERIA

Subject to the provisions below, the Board of Appeals shall grant specific variances from the requirements of this Chapter, upon a showing of each of the following:

- a. Exceptional characteristics of the property for which the variance is sought make compliance with the requirements of this Chapter substantially more difficult than would be the case for the great majority of properties in the same zoning district. Characteristics of property which shall be considered include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation, and other similar characteristics
- b. The characteristics which make compliance with the requirements of this Chapter difficult must be related to the premises for which the variance is sought, not some other location;
- c. The characteristics which make compliance with the requirements of this Chapter difficult shall not be of a personal nature; and
- d. The characteristics which make compliance with the requirements of this Chapter difficult must not have been created by the owner of the premises, a previous owner, or the applicant; and
- e. The proposed variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase congestion in public streets, or increase the danger of fire or endanger public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.

ATTACHMENT #1

Sign Site Plan- Site 11510 Site Address: 2888 E Maple Rd Troy, MI
Landowner: ABRO Twelve Property-15 & Dequindre - APN:88-20-36-226-073
Zoning: N-N (B) Build Setbacks: 30' from Troy Master Plan Street RoW (front property line)
Sign Dimensions: 10' x 20' face x 25' total height



0 40 80 160 240 320 Feet

1 inch = 49 feet Map Coordinate System: NAD 1983 HARN StatePlane Michigan South FIPS 2113 Feet Intl
Scale reference is approximate for print on 8.5" x 11" paper

Print Date: 4/14/2017

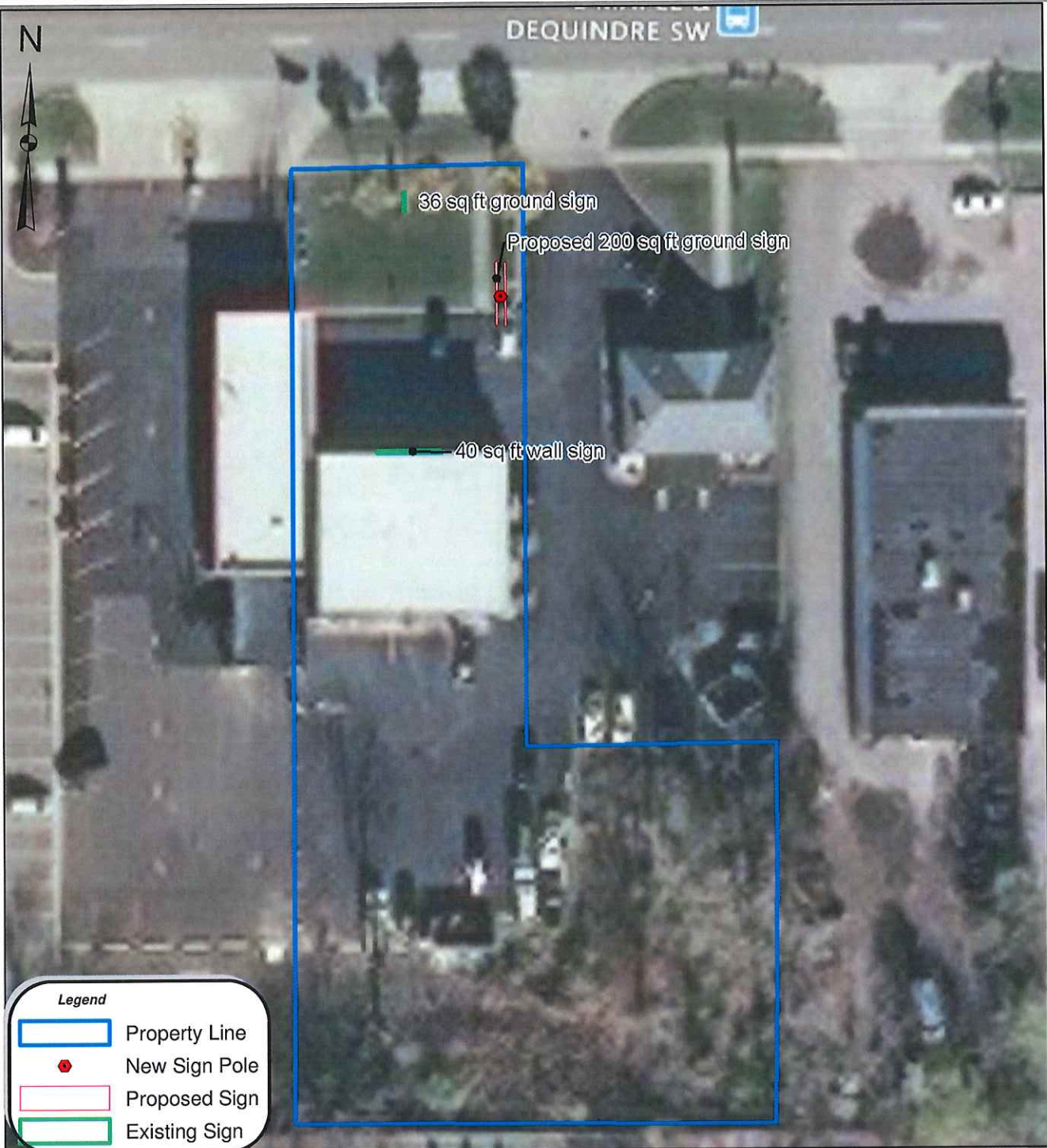
Troy Outdoor, LLC
Brad Holstad - (O) 231.683.4224 ext. 102
bradholstad@crossroadsoutdoor.com

2487 S. Michigan Road
Suite E
Eaton Rapids, MI 48827

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ATTACHMENT #2

Existing Sign Location Map- Site 11510 Site Address: 2888 E Maple Rd Troy, MI
Landowner: ABRO Twelve Property-15 & Dequindre - APN:88-20-36-226-073



0 37.5 75 150 225 300 Feet

1 inch = 45 feet Map Coordinate System: NAD 1983 HARN StatePlane Michigan South FIPS 2113 Feet Intl
Scale reference is approximate for print on 8.5" x 11" paper

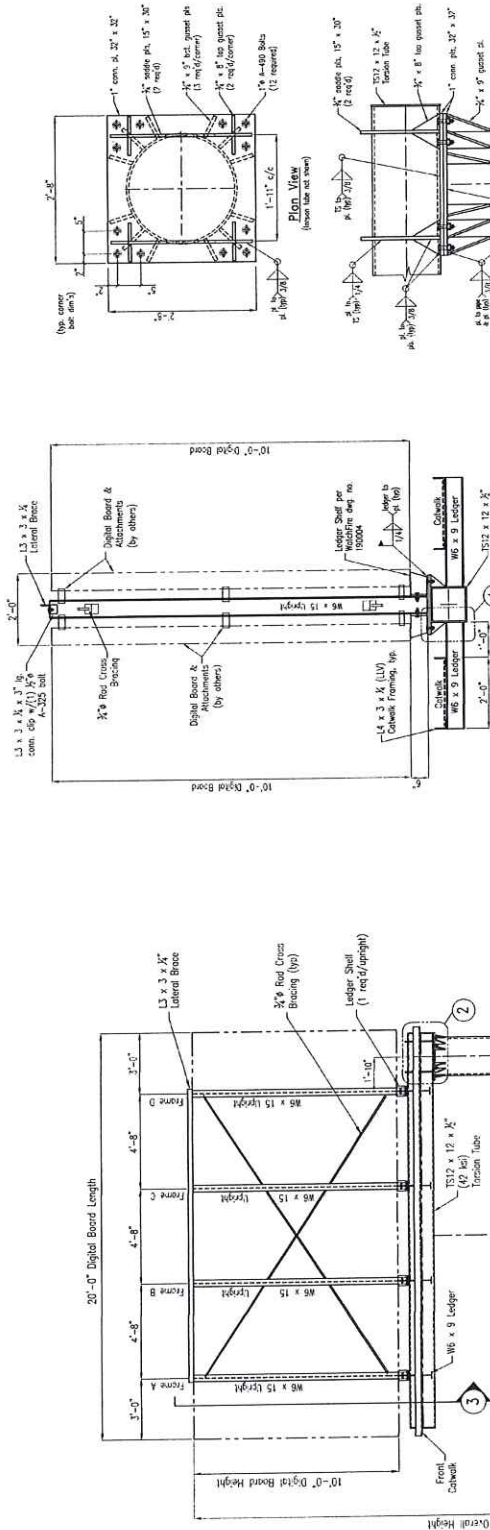
Print Date: 3/14/2019

Troy Outdoor, LLC
Brad Holstad - (O) 231.683.4224 ext. 102
bradholstad@crossroadsoutdoor.com

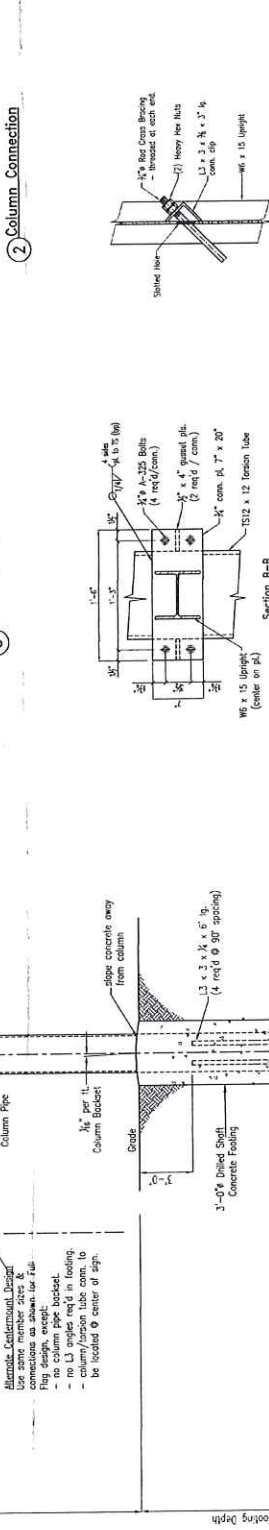
2487 S. Michigan Road
Suite E
Eaton Rapids, MI 48827

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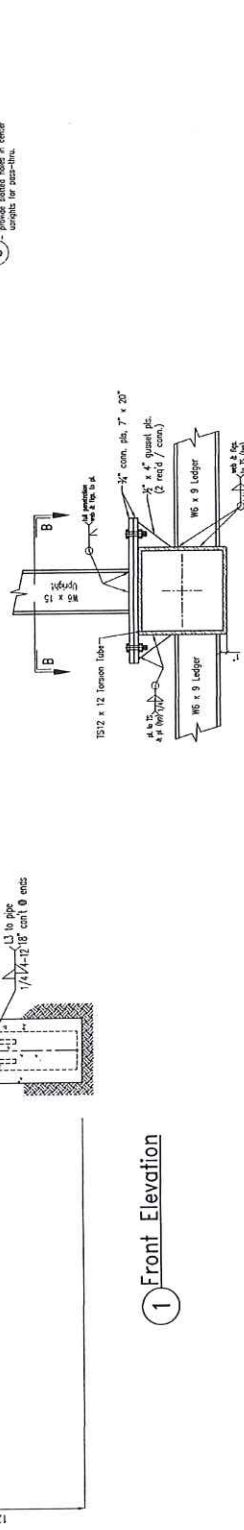
ATTACHMENT #3



3 Frame Detail



5 Cross Brace Detail



4 Frame Connections

1 Front Elevation

NOTES

1) Forming design based on the conditions of medium and dry, compact fine sand, or better, medium fine sand pressing in the sand. The sand should be dry. Nasty clumps if there are heavy conditions near.

2) Provide X cop plates for use of tension bars. Cop plates to be welded at constant, to tank.

3) All obtained cranks using 1/2 x 1/4 in. (1/2 x 1/4 in.)

4) Provide grating to be 3/16 x 1/4 in. expanded metal grating, (weld to mainline engine with 1/2" flat weld, 1" ϕ , 3/16" ϕ)

5) This structure has been designed to support (2) 2,400 lb. digital boards.

6) Design is construction of digital board and attachment of board to structure, to others.

6/26/17	Modified front network ledger connection.	NO
DATE	REVISION	NO.


USE THIS DETAIL FOR ALL GUSSETS

TYPICAL GUSSET DETAIL

- for gussets up to 3" thick, $\frac{h}{t} = 1$
 - for gussets 3" thick and greater, $\frac{h}{t} = 1$
 - if not specified, length of height of gusset
 - to be determined by fabricator, use
 - for determining gusset plate size
 - depth of 45° chord to be minimum
 - required to meet weld or fillet

[illegible]

* H.A.S.L. = Height Above Ground Level



 **Effective Engineering Solutions, LTD.**
61 White Water Court
New Lenox, IL 60451
(815) 466-1470

PRODUCT: 10' x 20' Full Flag or Centermount
Back to Back Structure @ 2 1/2" Overall Height

QUDN:

Lockridge Outdoors

APRIL 30	LOCATION:	Troy,
	EST. JOB NO:	7200
	CHECKED BY:	D
	DRAWN BY:	D
	DATE DRAWN:	1/30/2017
	DRAWING NO:	71538
		1 of 1

APR 30 2017
 APR 30 2017

ATTACHMENT #4

Request for Relief from the Building Code Board of Zoning Appeals

The Applicant is seeking a review from the Building Code Board of Zoning Appeals of the decision of the Zoning and Compliance Specialist Paul Evans to suspend the validly issued permit referenced in this application on November 17, 2017. The background of this application includes the United States District Court for the Eastern District of Michigan's opinion and order of January 22, 2019 informing the Plaintiffs that a review of the two issues submitted is necessary before the matter can be reviewed by the Court. This application seeks relief in two alternative requests.

1. APPEAL OF THE DECISION OF THE ZONING ADMINISTRATOR

The Applicants seek to appeal the action of the building department to suspend the permit at issue by letter dated November 21, 2017. The letter suspending is attached as **Attachment #4-A**. The Applicants disputed the action by letter dated December 6, 2017 to Mr. Evans. See **Attachment #4-B**. Counsel for the City disagreed with the opinion of Applicant's legal counsel and denied relief. See **Attachment #4-C**. A lawsuit was commenced in the United States District Court for the Eastern District of Michigan on June 29, 2018, which included a challenge to the action of November 17, 2017. On January 22, 2019, Judge Steeh opined as follows: *But Plaintiffs have not availed themselves of an appeal to the Board of Appeals which bears the power to hear their appeal and to grant variances from the sign ordinance. It remains possible that the Board of Appeals will determine that the sign moratorium does not apply to the Plaintiff's three permits or grant a variance based on the unfairness of suspending the permits for which Plaintiffs have reasonably relied.* The permit granted is attached as **Attachment #4-D**.

The essence of the argument that the moratorium was not applicable to the permit at issue is set forth in **Attachment #4-E**.

2. REQUEST FOR VARIANCE

If relief is not granted in favor of the Applicants on the appeal, then the Applicants request a variance. The required information is set forth in **Attachment #4-F**.

ATTACHMENT #4-A



500 West Big Beaver
Troy, MI 48084
troymt.gov

Planning Department
248.524.3364
planning@troymt.gov

November 21, 2017

Mr. Tony Lockridge
Troy Outdoor, LLC
724 Abbot
East Lansing, MI 48823

Dear Mr. Lockridge:

I am writing regarding Sign Permits PSG2017-0087, PSG2017-0088 and PSG2017-0009. On November 20, 2017, Troy City Council imposed a 180 day moratorium on any new signs. The City has inspected the requested locations for these new signs, and there is no evidence of any construction or any apparent work completed on any new signs. Thus the City is suspending these permits and work may not occur.

Additionally, the City is currently reviewing the City's ordinances to determine if these requested signs, and other signs that were requested at or about the same time, are compliant with the City's Sign Ordinance. City Council has directed City Administration to vigorously enforce all existing Sign Ordinance provisions. Your continued cooperation in this matter is appreciated.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in dark ink that reads "Paul Evans". The signature is written in a cursive, flowing style.

Paul Evans
Zoning & Compliance Specialist

cc: Lori Bluhm, City Attorney
Mitch Grushnick, Building Official & Code Inspector
Gary Bowers, Housing & Zoning Inspector

G:\Signs\Troy Outdoor LLC Revocation Letter.docx

HONIGMAN

Honigman Miller Schwartz and Cohn LLP
Attorneys and Counselors

J. Patrick Lennon

(269) 337-7712
Fax: (269) 337-7713
Lennon@honigman.com

December 6, 2017

Via US Mail and E-Mail

Mr. Paul Evans
City of Troy - Zoning & Compliance Specialist
500 West Big Beaver
Troy, MI 48084

Re: Troy Outdoor, LLC ("Troy") – City of Troy ("City")

Dear Mr. Evans:

Our Firm represents Troy. As the City is aware, Troy currently holds three digital sign permits (collectively the "Sign Permits")¹ and has two pending digital sign permit applications (collectively the "Pending Applications")².

To Troy's surprise, on November 20, 2017, the City imposed a moratorium "prohibiting the Troy City Administration from processing of permit applications". On the very next day, November 21, 2017, the City notified Troy that both the Sign Permits and the Pending Applications were "suspended" based on the moratorium. Later, on December 4, 2017, the City amended its moratorium to relieve/exempt applications for other types of sign permits from the moratorium.

We are writing to inform the City that the moratorium should not be effective against the signs covered by the Sign Permits or the Pending Applications. For the reasons discussed herein, Troy has the legal right to continue to establish the digital billboards contemplated by the Sign Permits and to continue the application process with regard to the Pending Applications.

**Troy made Large Investments in Reliance on the
Legal Right to Obtain the Sign Permits**

As the City has known for months, Troy has been actively pursuing establishment of digital billboards in several locations throughout the City. Throughout this lengthy process, Troy has complied with the letter and the spirit of the City's ordinance, policies and procedures, has been transparent and has openly communicated with the City. There is not, and has never been, any

¹ Troy had been issued the following sign permits (i) Fast Track Ventures, E/S 1658 Livernois at East Maple, PSG2017-0009; (ii) American Legion Post 140, N/S of Maple, 1000 feet from Crooks, PSG2017-0088; and (iii) Abro Twelve property, 2888 East Maple, PSG2017-0087 (collectively the "Sign Permits").

² Troy previously submitted applications for sign permits for (i) M&M Troy, 1634 John R; and (ii) MJP Estate, LLC, 2221 Livernois (collectively the "Pending Applications").

December 6, 2017

Page 2

doubt that the signs contemplated by the Sign Permits and the Pending Applications complied with the City's ordinance and had the legal right to approval.

In reliance on the City's ordinance and its representations, Troy made tremendous investments in expensive digital billboards and related improvements, procured billboard sites and commenced installation work at several locations. Now, at the eleventh hour and after in excess of a million dollars has been invested, the City has abruptly changed course, imposed a moratorium and informed Troy that the Sign Permits are "suspended" and that it cannot proceed with the Pending Applications. To make matters worse, the City has now further amended its moratorium to exclude numerous other sign types, but continues to target Troy's proposed signs with the moratorium. The damages to Troy of these improper "suspensions" mount each day that work is delayed and contribute to potential temporary (and possibly permanent) takings claims.

Troy Relied on the City and the Ordinance and Believed the Moratorium and Suspension Letter were Mistakes

Troy's first reaction to the letter from the City, and the moratorium, was that there must be a mistake. Troy had been actively working with the City on the digital billboard project for months. Troy had identified and procured properties that comply with the ordinance, had actually received the Sign Permits and had invested in billboards, sites/locations, materials and services. Unfortunately, after multiple communications with the City, it was made clear to Troy that the "suspensions" of the Sign Permits and the Pending Applications were intentional.

To add insult to injury, when the City amended the moratorium, it actually exempted and relieved other sign applications from the burdens of its moratorium. As discussed further herein, the confluence of the City's knowledge, representations and actions, together with the timing of the moratorium and its targeted effect, render the moratorium improper and unfair and exacerbate Troy's damages.

The Moratorium Only Applies to Processing of Sign Applications - It Does Not Apply to Existing Sign Permits

The City is advised that the "suspensions" of the Sign Permits do not comply with the clear and express terms of the moratorium. The moratorium expressly states that it only prohibits the "processing . . . of permit applications . . ." (emphasis added). In this case, Troy has actually obtained the Sign Permits. The "processing" of the "permit applications" (that resulted in the Sign Permits) is long complete. As a result, the moratorium does not apply to, and cannot be used to prevent, development and/or construction of the billboards that have received Sign Permits.

This language is included in both the original moratorium resolution and in the amendment to the moratorium. If the City Council expected otherwise, it certainly would have clarified the scope in the amendment. It appears obvious that the City administration has misread the scope of

December 6, 2017

Page 3

the moratorium or greatly exceeded its authority. Whatever the case, the signs that have received the Sign Permits cannot be "suspended" and installation work should be permitted to continue without further delay.

Use of a Moratorium to Prevent Processing of the Pending Applications is Improper and Unfair

The City's position that the moratorium can be used to prevent processing of the Pending Applications is also improper and unfair. The Pending Applications comply with the ordinance and were submitted long before the moratorium was imposed. As the City well knows, using a moratorium to target one property owner or applicant over others and attempting to retroactively change their rights is improper. This motivation can be discerned from the reaction of the City to the Pending Applications (and the issuance of the Sign Permits for that matter), the City's institution of a moratorium as part of an effort to prevent (and likely change) Troy's rights after Troy made significant investments and the delivery of the "suspension" letter the day after the moratorium was imposed.

In addition, the reactive amendment to the moratorium, that exempted certain more favored types of signs, sign applications and applicants, casts further light on the City's motivation and bias and casts doubt on the viability of its moratorium as to the Pending Applications. Troy understands, and would agree, that application of the moratorium can (and should) apply to new digital billboard applications that have not been completed and/or formally submitted as of the date of the moratorium - - but the City cannot "stop the game and change the rules" with regard to the Pending Applications - - particularly after large investments have been made.

As the City considers whether the Pending Applications should be subject to the moratorium, it should be mindful that Michigan and other courts have held that a city council acts in bad faith when it rezones property or institutes moratoria to change rules midstream on a particular project which it would be otherwise be compelled to approve. In addition, Michigan courts have held that a developer can obtain vested rights even before it begins physical work when a city changes the rules midstream in a bad faith attempt to throttle a project that meets the standards for approval.

Request for Relief

As stated the above, by its very clear and express language, the moratorium only applies to "processing . . . permit applications" and does not apply to the billboards that actually have Sign Permits. As such, those billboards are entitled to be installed without further delay.

In addition, under the current circumstances, it would be improper and unfair to "suspend" processing of the Pending Applications. The Pending Applications were developed in accordance

HONIGMAN

December 6, 2017

Page 4

with the existing ordinance, were submitted long before the moratorium was imposed and, under the current facts circumstances, it would be improper to use a moratorium to prevent consideration of the Pending Applications.

In light of all of the foregoing, we respectfully request that the City rescind its letter and allow construction to continue on the locations covered by the Sign Permits and re-commence processing of the Pending Applications. If the City disagrees or fails to respond within seven (7) days of the date of this letter, Troy may have no choice but to take legal action to protect its rights. As always, please feel free to contact me with any questions.

Sincerely,

HONIGMAN MILLER SCHWARTZ AND COHN LLP



J. Patrick Lennon

cc: R. Charles McLavy



500 West Big Beaver
Troy, MI 48084
troyml.gov

City Attorney's Office
248-624-3320

December 15, 2017

J. Patrick Lennon
Honigman, Miller, Schwartz, and Cohn, LLP
350 East Michigan Avenue; Suite 300
Kalamazoo, MI 49007-3800
Lennon@honigman.com

Re: Troy Outdoor, LLC

Dear Mr. Lennon:

The letter you sent to Paul Evans, City of Troy Zoning & Compliance Specialist, was forwarded to me for review. In this letter, you ask the City to reconsider its November 21, 2017 suspension of three sign permits on behalf of your client, Troy Outdoor, LLC. These signs were proposed to be located at 1654 Livernois Road; 1340 W. Maple; and 2888 E. Maple in the City of Troy. For reasons set forth below, the City is unable to grant your requested relief.

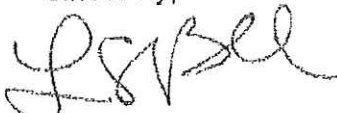
After your client's rapid and instantaneous installation of five separate 200 foot digital signs in the City, the Troy City Council imposed a 180 day moratorium on November 20, 2017 for all signs, which was slightly amended on December 4, 2017 to limit the 180 day moratorium to electronic message center digital signs, ground signs exceeding 36 square feet in size, wall signs exceeding 100 square feet in size, and ground signs exceeding 10 feet in height. The moratorium was imposed due the recent influx of large digital ground signs that have proliferated the City's business corridors. It is readily apparent that such signs will have a direct negative impact on the health, safety, and welfare of the citizens of Troy because the signs will be unduly distracting to motorist and pedestrians and thus likely to create traffic hazards and reduce the effectiveness of public safety signs needed to direct and warn the public. The purpose of the moratorium is to allow the City to consider and evaluate its sign ordinance provisions and adopt appropriate amendments. In all likelihood, the amendment will prohibit digital signs of the size and height proposed by your client in its sign permit applications, resulting in a denial of the two pending applications and a revocation of the three permits.

In your letter, you claim the current moratorium only prohibits the "processing ... of permit applications..." and contend the moratorium is not applicable to the permits that have already been issued. However, the term processing is a broad term that encompasses all actions taken as a result of the issuance of the permit including construction, inspections, and final approval. Moreover, the Zoning & Compliance Specialist as the designee of the Zoning Administrator has authority under the sign ordinance to prohibit any sign that is unsafe and deemed a hazard to health and safety. Mr. Evans' letters of November 21, 2017 suspending your client's permits were issued pursuant to that authority.

You also claim in your letter that "courts have held that a developer can obtain vested rights even before it begins physical work when a city changes the rules midstream in a bad faith attempt to throttle a project that meets standards for approval." However, the law is clear that issuance of a permit itself does not confer vested rights unless actual construction has commenced. As noted in the letters of Mr. Evans, there is no evidence of any construction or any work completed on any of the three signs for which a permit was approved. Additionally, the City's decision to impose a moratorium is for the sole purpose of protecting the health, safety, and welfare of its citizens. The City has not acted in bad faith.

If you should have any questions regarding this matter, please call me at (248) 524-3320.

Sincerely,



Lori Grigg Bluhm
City Attorney
bluhmlg@troy.mi.gov

cc: Paul Evans

ATTACHMENT #4-D



PSG2017-0087%PSG%150.00

Sign Permit No: PSG2017-0087

Building Department
 Inspection: (248) 689-5744
 Phone: (248) 524-3344

500 W. Big Beaver Road
 Troy, Michigan 48064
 Hours: Mon-Fri 8am - 4:30pm

Fax: (248) 689-3120
 www.troymi.gov

2888 E MAPLE
 88-20-36-226-073 Lot: 24+25-
 Subdivision: SP PLAINVIEW FARMS
 Zoning: B-3 Use Group: B
 Construction Type:

Location

ABRO TWELVE PROPERTY-15 & DEQUI
 3807 BEECHCREST
 ROCHESTER

Owner

MI 48309

Issued: 10/05/2017

FOR INSPECTIONS - CALL (248) 689-5744
 Inspections called in by 4:30 P.M. will be scheduled the next
 business day. "NOTE NEW INSPECTION CUT-OFF TIME"

TROY OUTDOOR LLC
 TROY OUTDOOR LLC
 724 ABBOT
 East Lansing
 (727) 415 4332

Applicant

MI 48823

Work Description: NEW GROUND SIGN 10' X 20' = 200 SF

Special Stipulations: FINAL ELECTRICAL INSPECTION REQUIRED BEFORE FINAL SIGN INSPECTION. SEE
 CONDITIONS ON PERMIT DOCUMENTS.

Work will meet all codes and inspections.

Permit Item	Work Type	Quantity	Item Total
Signs Ground Signs	Signs	200.00	150.00

Sign

Total Due: \$150.00

PAID on: 10/05/2017

Check#: 3042

Payment Validation

This permit is issued subject to the Building Code, Zoning Ordinance and all other Ordinances of the City of Troy, and shall become void
 once work is not started or is abandoned for a period of one hundred eighty (180) days.

Separate permits must also be obtained for signs and any plumbing, heating, refrigeration, electric, or sewer work.

This permit conveys no right to occupy any street or public right-of-way, either temporarily or permanently.

[] TREASURER COPY

[] DEPARTMENT COPY

[] CONTRACTOR COPY

SIGN PERMIT APPLICATION

PLANNING DEPARTMENT
500 W BIG BEAVER
TROY MI 48084
248 524 3359
evanspm@troymi.gov
SIGN ORDINANCE ONLINE [Ctrl+click here](#)



APPLY ONLINE OR BY E-MAIL

Online applications see page 4 for instructions. E-mail send completed application and supporting documents to evanspm@troymi.gov

SIGN PERMIT FEE DUE WHEN PERMIT IS READY TO ISSUE

SIZE	WALL SIGN PAINTED ON WALL	WALL SIGN STRUCTURALLY ATTACHED	GROUND SIGN
UNDER 100 SQ. FT.	\$ 75.00	\$ 100.00	\$ 125.00
100 TO 199 SQ. FT.	\$100.00	\$ 125.00	\$ 150.00
200 TO 300 SQ. FT.	\$ 100.00	\$150.00	\$ 175.00
SPECIAL EVENT	WALL OR GROUND	\$30.00	

PROPERTY ADDRESS: 2888 E. Maple Road Troy, MI APN 88-20-36-226-073

APPLICANT INFORMATION:

NAME Tony Lockridge 727-415-4332 Contact for Permit Info

COMPANY Troy Outdoor, LLC

ADDRESS 2487 South Michigan Road, Suite E

CITY Eaton Rapids STATE MI ZIP 48827

TELEPHONE 231-683-4229

E-MAIL tlockridge@hotmail.com

TYPE OF SIGN: ☒ GROUND ☐ WALL ☐ SPECIAL EVENT

SPECIAL EVENT SIGNS: What 7 day period will signs be up? _____

SIGN PERMIT APPLICATION

ILLUMINATED SIGN?

☒ YES ☐ NO

ELECTRICAL CONNECTIONS BY: Electrician will pull the permit

DOWNLOAD AN ELECTRICAL PERMIT APPLICATION [HERE](#).

ARE OTHER SIGNS ON THE PROPERTY? ☒ YES ☐ NO IF YES, DESCRIBE TYPE AND SIZE BELOW:

There is an on-premise sign that exceeds 36 sq ft, but will be replaced with one
that will be 36 sq ft before construction.

The undersigned hereby declare(s) under penalty of perjury that the contents of this application are true to the best of my knowledge, information and belief.

The applicant accepts all responsibility for all of the measurements and dimensions contained within this application, attachments and/or plans, and the applicant releases the City of Troy and its employees, officers, and consultants from any responsibility or liability with respect thereto.

APPLICANT SIGNATURE:

Marcella Kretzmer

DATE

5/8/17

PRINT NAME:

Marcella Kretzmer

ATTACHMENT #4-E

On November 20, 2017, the Troy City Council enacted a resolution declaring a moratorium on the issuance of sign permits under the sign ordinance. The language of the sign permit moratorium resolution contains in part the following:

*NOW, THEREFORE BE IT RESOLVED, That as of the 21st day of November 2017, the Troy City Council hereby **IMPOSES** a 180 day moratorium, prohibiting the Troy City Administration from processing any permit applications for all signs. This moratorium will allow consideration and evaluation of Troy's sign provisions. If the complete process is completed in less than 180 days, then the Troy City Council has the option to pass a subsequent resolution terminating the moratorium prior to the expiration of 180 days, in its sole discretion.*

*BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** City Administration to initiate a process for the review of Troy's sign code provisions, and especially the provisions allowing for ground signs with displays in excess of 100 square feet.*

The language adopted prohibited staff for the City from *processing any permit applications for all signs.*

On December 4, 2017, the Troy City Council enacted a new resolution declaring a moratorium for the issuance of sign permits under the sign ordinance. By its terms, the December 4, 2017 moratorium stuck the entire moratorium as enacted on November 20, 2018 and replacing it with newly adopted language. The resolution of December 4, 2017 also contains in part the following:

*NOW, THEREFORE BE IT RESOLVED, That as of the 4th day of December 2017, the Troy City Council hereby **IMPOSES** a new 180 day moratorium, prohibiting the Troy City Administration from processing any of the following permit applications for property in the City of Troy:*

- *An electronic message center (digital sign)*
- *A ground sign that exceeds 36 square feet*
- *Any ground sign that exceeds 10 feet in height*

This moratorium will allow consideration and evaluation of Troy's sign provisions. If the complete process is completed in less than 180 days, then the Troy City Council has the option to pass a subsequent resolution terminating the moratorium prior to the expiration of 180 days, in its sole discretion.

*BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** City Administration to initiate a process for the review of Troy's sign code provisions.*

The essence of the above language is to prohibit staff *from processing any of the following permit applications for property in the City of Troy:*

- *An electronic message center (digital sign)*
- *A ground sign that exceeds 36 square feet*
- *Any ground sign that exceeds 10 feet in height*

This revision served to narrow the subset of signs target for more intrusive regulation, which includes signs similar in nature to that approved in Applicants' approved permit.

Based upon the language of the moratoriums at issue, Ms. Lori Grigg Blum, city attorney for the City, opined in response to a letter from an attorney on behalf of the Applicants, that the moratorium at issue would be interpreted by the city in such a manner as requiring the suspension of the permit at issue in this case.

Applicants initially submit that the ordinances at issue are clear and unambiguous in their terms. One must accord words used in an enactment with their common and ordinary meaning and must 'give effect to every word, phrase, and clause in a statute and avoid an interpretation that would render any part of the statute surplusage or nugatory.'" *Wayne Co v Wayne Co Retirement Comm*, 267 Mich App 230, 244; 704 NW2d 117 (2005) (quoting *State Farm Fire & Cas Co v Old Republic Ins Co*, 466 Mich 142, 146; 644 NW2d 715 (2002)). When applying this standard, the language of the moratorium is not in need of interpretation and supports the Applicants request.

In this case, a review of the moratorium ordinances at issue reveals a clear fact that the ordinances did not serve to repeal any previously issued permit. No repeal language is included in the ordinance enactments. Rather the ordinances specifically prohibit processing any of the following permit applications:

- *An electronic message center (digital sign)*
- *A ground sign that exceeds 36 square feet*
- *Any ground sign that exceeds 10 feet in height.*

Nothing in the language of the ordinances suggests that this prohibition is to be applied retroactively to already approved permits applications, such as the one granted to Applicants.

The language used in the ordinance is clear and unequivocal. Yet, in the face of the plain and specific language of the ordinance, City staff, including its attorney, have taken the position that the ordinance language of *processing any of the following permit applications* should somehow be retroactively applied to previously approved applications where the permits were in fact already issued. Such an interpretation violates the expressed language of the ordinance and extends the application to a much broader group of persons than specified, i.e. to persons holding validly issued permits instead of just applicants for sign permits.

Essentially, the City via its staff, has chosen to interpret the words *processing* and *applications* beyond their normal customary meaning. Such action violates the rules of statutory construction. Absent a specific definition within the legislative enactment words used in an enactment must be given their ordinary meaning. *Luttrell v Dep't of Corrections*, 421, Mich 93; 365 NW2d 74 (1984).

One must accord words used in an enactment with their common and ordinary meaning and must 'give effect to every word, phrase, and clause in a statute and avoid an interpretation that would render any part of the statute surplusage or nugatory.'" *Wayne Co v Wayne Co Retirement*

Comm, 267 Mich App 230, 244; 704 NW2d 117 (2005) (quoting *State Farm Fire & Cas Co v Old Republic Ins Co*, 466 Mich 142, 146; 644 NW2d 715 (2002)).

Meriam-Webster online dictionary (www.merriam-webster.com/dictionary/process) defines the term “processing”, to the extent applicable to this case, as:

- 1 a: [PROGRESS](#), [ADVANCE](#) - in the *process* of time, b: something going on: [PROCEEDING](#)
- 3 a: the whole course of [proceedings](#) in a legal action, b: the summons, mandate, or writ used by a court to compel the appearance of the defendant in a legal action or compliance with its orders

Free Dictionary online dictionary (www.thefreedictionary.com/processing) defines the term *processing* in a relevant part as *the act or process of treating or preparing something by a special method*. This same publication defines the term *process* as: *A series of actions, changes, or functions bringing about a result*. Given these definitions, the term *processing* clearly refers to the application process that leads either to a grant or denial of a permit. Once issued, the permit grants rights to proceed based upon the authority granted. The applicant’s status changes from that of applicant to that of permit holder. Once the permit is issued, there is no longer an application process in play. The moratorium language did not revoke the right to proceed on the terms of the permit, rather it specifically prohibited staff from processing applications.

Meriam-Webster online dictionary (www.merriam-webster.com/dictionary/process) defines the term *application*, as relevant to this proceeding, as:

- 1 an act of [applying](#): a (1): an act of putting something to use - *application* of new techniques (2): a use to which something is put - new *applications* for old remedies, b: an act of administering or laying one thing on another - *application* of paint to a house c: [assiduous](#) attention - succeeds by *application* to her studies
- 2 a: [REQUEST](#), [PETITION](#) - an *application* for financial aid, b: a form used in making a request - filling out an *application*

Free Dictionary online dictionary (www.thefreedictionary.com/application) defines the term *application* in a relevant part as:

1. the act of applying to a particular purpose or use.
3. the act of asking for something: *an application for leave*.
4. a verbal or written request, as for a job, etc: *he filed his application*.

Looking at the above language, the application is merely the formal act of requesting relief, in this case a permit to do that which was authorized under the law at the time of the submission.

It also helps in this analysis to contrast the term *application* with the term *permit*. Merriam-Webster online dictionary (www.merriamwebster.com/dictionary/permit) defines the term *permit*, to the extent applicable herein as: *a written warrant or license*

ATTACHMENT #4-F

Justification for BCBA Appeal Request under the Sign Code

The appeal should be granted because the application was originally submitted and granted when the City's sign code allowed the sign as it was applied for. This is a very unique circumstance. The City has subsequently made changes to its sign code but the applicant could not have known that it could not apply for, permit, and install signs under the sign code as it stood at that time. In reliance on the code, the applicant spent substantial time and money on the following: property research, travel, mileage, leasing, site plans, sign structure engineering, LED schematics, permit fees, lease payments, structure fabrication, site preparation work, structure delivery and storage, and numerous other items. Through no fault of its own, the applicant has been greatly harmed. Other properties were issued sign permits at the same time and have been able to benefit from signs materially identical to this one.

The appellant meets all criteria for the following reasons:

a. Exceptional characteristics of the property for which the variance is sought make compliance with the requirements of this Chapter substantially more difficult than would be the case for the great majority of properties in the same zoning district. Characteristics of property which shall be considered include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation, and other similar characteristics.

This is the only property in the vicinity, and one of the very few in the City, that had a sign application duly granted and permitted, but not yet built, before the City chose to reconsider its sign code. Several other parcels were issued permits at the same time and the signs have been installed and are operating. This is a unique status not shared by any other parcels in the area.

b. The characteristics which make compliance with the requirements of this Chapter difficult must be related to the premises for which the variance is sought, not some other location.

This application was submitted at a time when it was in total conformance to the City sign code. Thus, conformance to unknown future requirements was truly impossible. This is a totally unique situation.

c. The characteristics which make compliance with the requirements of this Chapter difficult shall not be of a personal nature.

The problem is not personal in any way. These circumstances came about because the City chose to change its sign code after the permit had been issued.

d. The characteristics which make compliance with the requirements of this Chapter difficult must not have been created by the owner of the premises, a previous owner, or the applicant.

This unfortunate situation did not arise through any fault of the applicant.

e. The proposed variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase congestion in public streets, or increase the danger of fire or endanger public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.

The sign is appropriate and was allowed under the code at the time of application. It will not harm any of the cited interests in this commercial area.

granted by one having authority. The permit is not an application, it is a license to act. To the extent the City fails to draw the distinction between the term *application* and the term *permit* it violates the rules of statutory construction by giving a meaning to an enactment not supported by the clear language of that enactment. An application IS clearly distinctive from the concept of a permit.

It is clear that the language of the Moratorium ordinance did not make it applicable to the Permit granted to the Applicant, which is set forth as **Attachment #4-D**.

D. APPEAL REQUEST, TROY OUTDOOR LLC AND CROSSROADS OUTDOOR LLC/AMERICAN LEGION POST 140, 1340 W MAPLE - An appeal of the Zoning Administrator's November, 2017 suspension of Sign Permit PSG2017-0088.

CHAPTER 85

**CITY OF TROY PLANNING DEPARTMENT
BUILDING CODE BOARD OF APPEALS APPLICATION**

CITY OF TROY PLANNING DEPARTMENT
500 W. BIG BEAVER ROAD
TROY, MICHIGAN 48084
PHONE: 248-524-3364
E-MAIL: planning@troymi.gov



FEE \$50

NOTICE TO THE APPLICANT

REGULAR MEETINGS OF THE BUILDING CODE BOARD OF APPEALS ARE HELD ON THE FIRST **WEDNESDAY OF EACH MONTH AT 3:00 P.M.** AT CITY HALL.

PLEASE FILE A COMPLETE APPLICATION, TOGETHER WITH THE APPROPRIATE FEE, **NOT LESS THAN TWENTY-SEVEN (27) DAYS** BEFORE THE MEETING DATE.

COMPLETE APPLICATIONS ARE PLACED ON THE NEXT AVAILABLE AGENDA OF THE BUILDING CODE BOARD OF APPEALS.

1. ADDRESS OF THE SUBJECT PROPERTY: 1340 W Maple Rd Troy, MI 48084
ACREAGE PROPERTY: *Attach legal description if this an acreage parcel*
2. PROPERTY TAX IDENTIFICATION NUMBER(S): 20-28-302-024
3. CODE NAME (e.g. "BUILDING CODE", "SIGN CODE", "FENCE CODE") AND SECTION(S) RELATED TO THE APPEAL:
SIGN CODE
4. REASONS FOR APPEAL/VARIANCE: *On a separate sheet, please describe the reasons justifying the requested action. See Submittal Checklist.*
5. HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? YES ☐ NO ☒

6. APPLICANT INFORMATION:

NAME _____
COMPANY Troy Outdoor, LLC and Crossroads Outdoors LLC
ADDRESS 2487 South Michigan Road, Suite E
CITY Eaton Rapids STATE MI ZIP 48827
TELEPHONE 231-683-4229
E-MAIL _____

7. APPLICANT'S AFFILIATION TO THE PROPERTY OWNER: _____

8. OWNER OF SUBJECT PROPERTY:

NAME Larry Chase
COMPANY AMERICAN LEGION POST 140
ADDRESS 1340 W MAPLE
CITY TROY STATE MI ZIP 48084
TELEPHONE 248-362-2077
E-MAIL _____

The undersigned hereby declare(s) under penalty of perjury that the contents of this application are true to the best of my (our) knowledge, information and belief.

The applicant accepts all responsibility for all of the measurements and dimensions contained within this application, attachments and/or plans, and the applicant releases the City of Troy and its employees, officers, and consultants from any responsibility or liability with respect thereto.

I, LARRY S CHASE (PROPERTY OWNER), HEREBY DEPOSE AND SAY THAT ALL THE ABOVE STATEMENTS AND STATEMENTS CONTAINED IN THE INFORMATION SUBMITTED ARE TRUE AND CORRECT AND GIVE PERMISSION FOR THE BOARD MEMBERS AND CITY STAFF TO CONDUCT A SITE VISIT TO ASCERTAIN PRESENT CONDITIONS.

SIGNATURE OF APPLICANT Terry E. Heiss DATE 6/11/2019

PRINT NAME: Terry E. Heiss, Attorney for Applicants

SIGNATURE OF PROPERTY OWNER Larry S Chase DATE 19 FEB 2019

PRINT NAME: LARRY S CHASE

Failure of the applicant or his/her authorized representative to appear before the Board, as scheduled, shall be justifiable cause for denial or dismissal of the case with no refund of appeal fee(s). If the person appearing before the Board is not the applicant or property owner, signed permission must be presented to the Board.

The applicant will be notified of the time and date of the hearing by electronic mail.

SUBMITTAL CHECKLIST FOR SIGNS

WALL SIGNS

REQUIRED PROVIDED

- | | | |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | COMPLETED APPLICATION. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | SIGN CONSTRUCTION DETAIL SHOWING, MATERIALS, DIMENSIONS, PROJECTION FROM THE WALL AND METHOD OF ATTACHMENT TO THE WALL. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | WRITTEN EXPLANATION OF THE REASONS JUSTIFYING THE REQUEST. EXPLANATION MUST ADDRESS SIGN ORDINANCE APPEALS CRITERIA, SEE PAGE 5. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | FRONT ELEVATION DRAWING OR PHOTO SHOWING DIMENSIONS OF BUILDING OR TENANT AREA (WHICHEVER IS APPLICABLE), AND DIMENSIONS OF ALL EXISTING AND PROPOSED WALL SIGNS. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | A DIGITAL VERSION OF ALL APPLICATION DOUCUMENTS IS REQUIRED. PAPER COPIES ARE NOT REQUIRED. E MAILING THEM TO THE DEPARTMENT IS PREFERRED. |

GROUND SIGNS

REQUIRED PROVIDED

- | | | |
|-------------------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | COMPLETED APPLICATION. |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | SITE PLAN OR AERIAL MAP SHOWING RIGHT OF WAY LINE(S), PUBLIC EASEMENTS AND SIGN LOCATION. LABEL THE DISTANCE FROM RIGHT OF WAY LINE TO CLOSEST EDGE OF SIGN. See Attachment #1 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | SITE PLAN OR AERIAL MAP SHOWING LOCATION AND DIMENSIONS OF EXISTING GROUND SIGNS. See Attachment #2 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | SIGN CONSTRUCTION DETAIL SHOWING DIMENSIONS AND THICKNESS OF SIGN, MATERIALS AND FOOTING DEPTH. See Attachment #3 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | WRITTEN EXPLANATION OF THE REASONS JUSTIFYING THE REQUEST. EXPLANATION MUST ADDRESS SIGN CODE APPEALS CRITERIA, SEE PAGE 5.
See Attachment #4 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | A DIGITAL VERSION OF ALL APPLICATION DOUCUMENTS IS REQUIRED. PAPER COPIES ARE NOT REQUIRED. E MAILING THEM TO THE DEPARTMENT IS PREFERRED. .
See USB Drive |

SIGN CODE APPEALS CRITERIA

Subject to the provisions below, the Board of Appeals shall grant specific variances from the requirements of this Chapter, upon a showing of each of the following:

- a. Exceptional characteristics of the property for which the variance is sought make compliance with the requirements of this Chapter substantially more difficult than would be the case for the great majority of properties in the same zoning district. Characteristics of property which shall be considered include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation, and other similar characteristics
- b. The characteristics which make compliance with the requirements of this Chapter difficult must be related to the premises for which the variance is sought, not some other location;
- c. The characteristics which make compliance with the requirements of this Chapter difficult shall not be of a personal nature; and
- d. The characteristics which make compliance with the requirements of this Chapter difficult must not have been created by the owner of the premises, a previous owner, or the applicant; and
- e. The proposed variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase congestion in public streets, or increase the danger of fire or endanger public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.

ATTACHMENT #1

Sign Site Plan- Site 11414 Site Address: 1340 W Maple Rd Troy, MI
Landowner: American Legion Post 140 - APN: 88-20-28-302-024
Zoning: MR Build Setbacks: 30' from Troy Master Plan Street RoW (front property line)
Sign Dimensions: 10' x 20' face x 25' total height



0 35 70 140 210 280 Feet

1 inch = 42 feet Map Coordinate System: NAD 1983 HARN StatePlane Michigan South FIPS 2113 Feet Intl
Scale reference is approximate for print on 8.5" x 11" paper

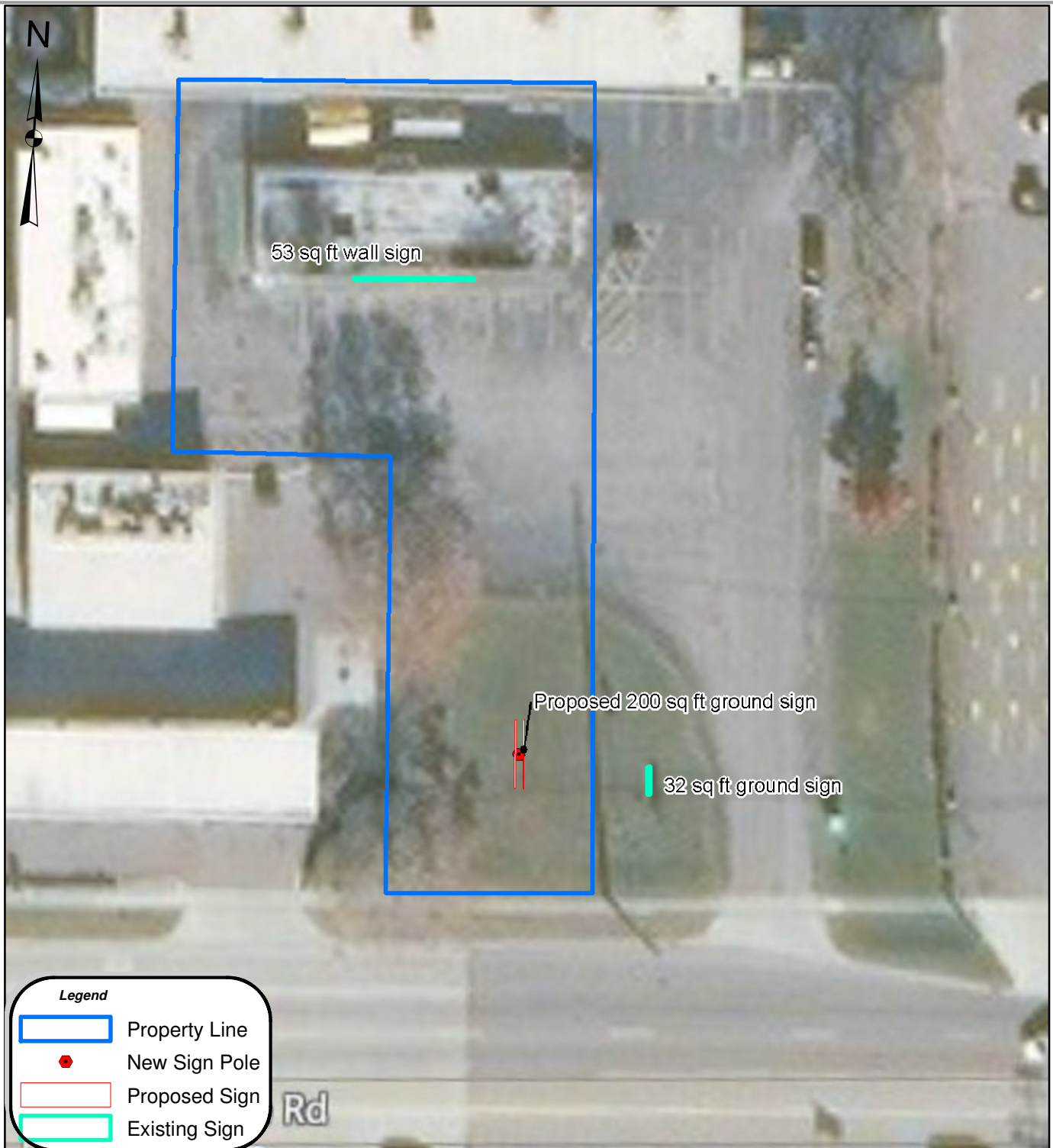
Print Date: 6/20/2017

Troy Outdoor, LLC
Brad Holstad - (O) 231.683.4224 ext. 102
bradholstad@crossroadsoutdoor.com

2487 S. Michigan Road
Suite E
Eaton Rapids, MI 48827

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Existing Sign Location Map- Site 11414 Site Address: 1340 W Maple Rd Troy, MI
 Landowner: American Legion Post 140 - APN: 88-20-28-302-024



0 37.5 75 150 225 300 Feet

1 inch = 43 feet Map Coordinate System: NAD 1983 HARN StatePlane Michigan South FIPS 2113 Feet Intl
 Scale reference is approximate for print on 8.5" x 11" paper

Print Date: 3/14/2019

Troy Outdoor, LLC
 Brad Holstad - (O) 231.683.4224 ext. 102
 bradholstad@crossroadsoutdoor.com

2487 S. Michigan Road
 Suite E
 Eaton Rapids, MI 48827

Technical drawing of a digital board assembly, showing a side elevation view. The drawing includes the following components and dimensions:

- Dimensions:**
 - Overall height: 10'-0" Digital Board
 - Overall width: 2'-0"
 - Bottom section height: 6"
 - Bottom section width: 2'-0" (total) and 1'-0" (individual sections)
- Components:**
 - L3 x 3 x 1/4 x 3" lg. conn. clip w/(1) 1/2" Ø A-325 bolt:** Located at the top of the assembly.
 - L3 x 3 x 1/4 Lateral Brace:** Located on the right side of the assembly.
 - Digital Board & Attachments (by others):** Indicated on both the left and right sides of the central structure.
 - 3/4" Ø Rod Cross Bracing:** A vertical rod running through the center of the assembly.
 - W6 x 1.5 Upright:** A vertical structural member in the center.
 - L4 x 3 x 1/4 (LLV) Catwalk Framing, typ.:** Located at the bottom of the assembly.
 - W6 x 9 Ledger:** Two horizontal structural members at the base.
 - Catwalk:** The base platform.
 - Ledger Shelf per WatchFire dwg. no. 190004:** A shelf located above the ledger.
 - 1/4" ledger to pl. (typ):** A small vertical component.
 - TS12 x 12 x 1/2" I-beam:** A horizontal structural member at the bottom.

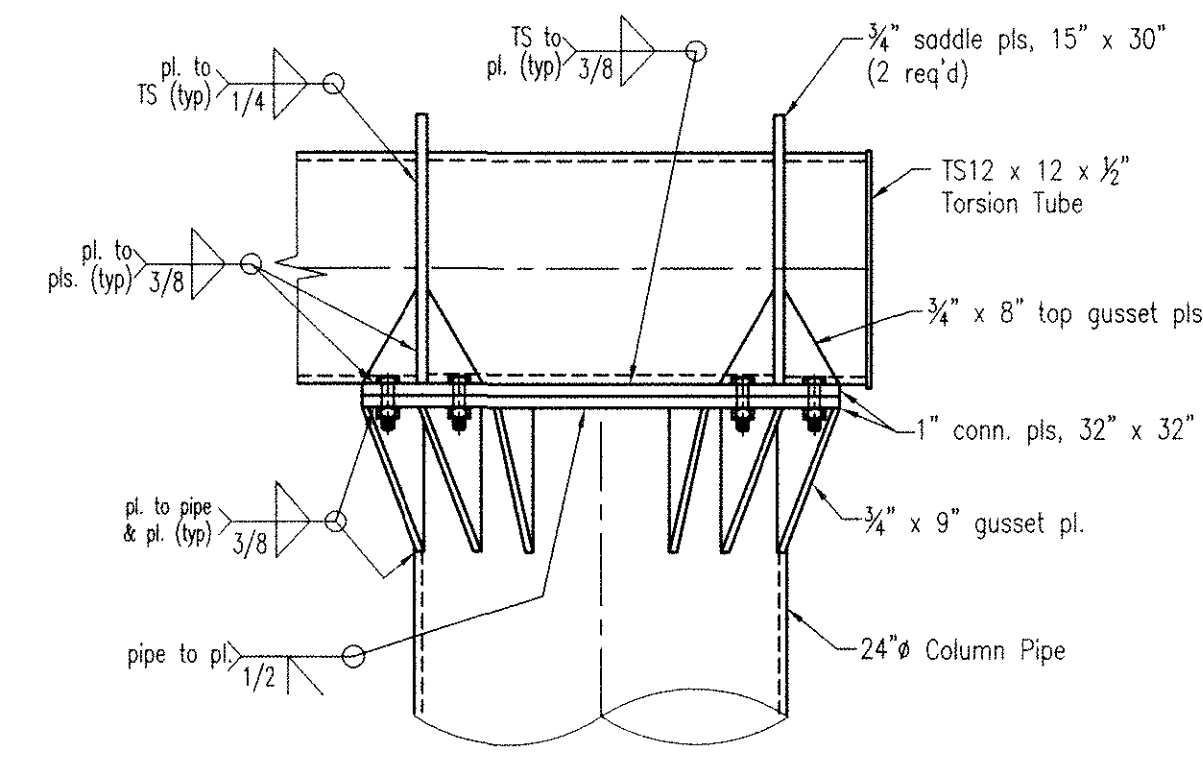
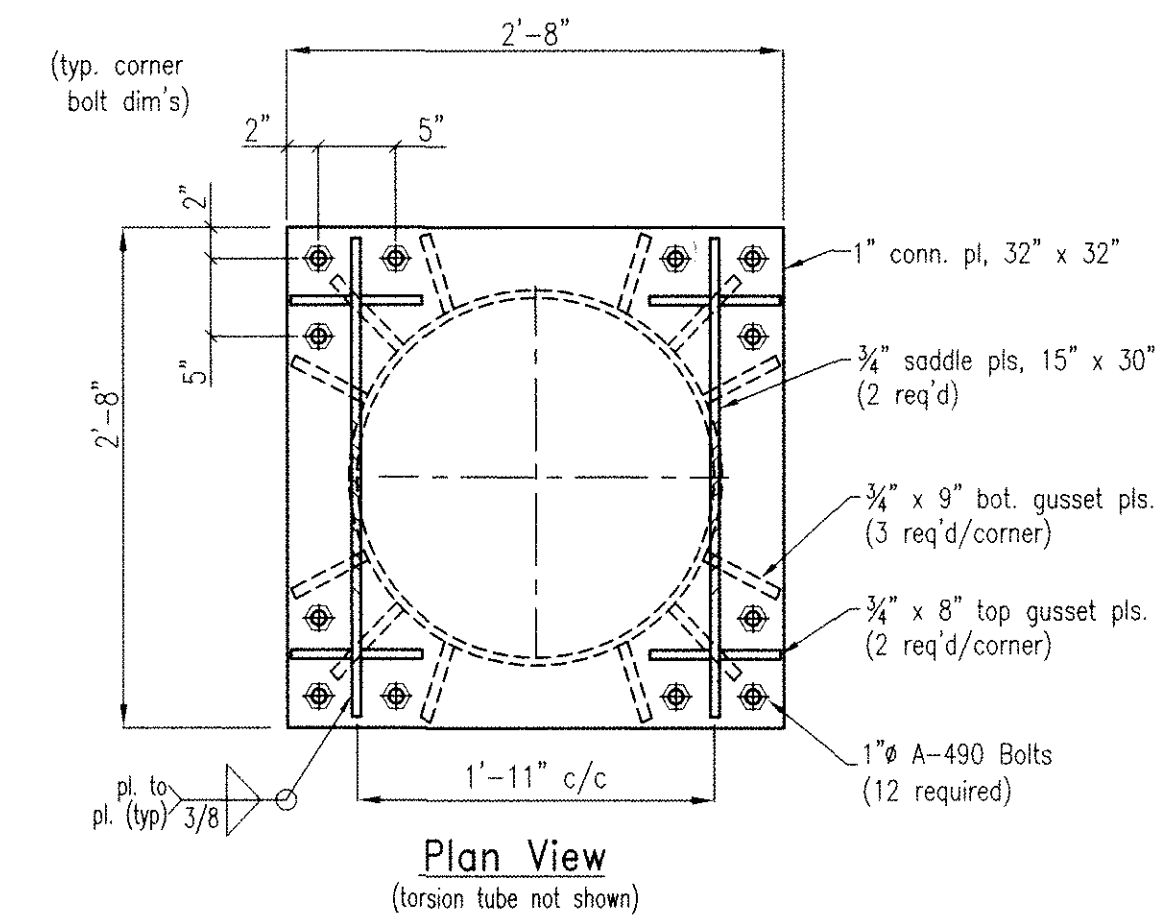


Diagram illustrating the cross bracing assembly for a window frame. The assembly includes:

- $\frac{3}{4}$ " Rod Cross Bracing - threaded at each end.
- (2) Heavy Hex Nuts.
- L3 x 3 x $\frac{3}{8}$ x 3" lg. conn. clip.
- W6 x 15 Upright.
- Slotted Hole.

W6 x 15 Upright
(center on pl.)

Section B-B

1'-6"

1'-3"

1 1/2"

7"

3 1/2"

1 1/4"

3/4" ϕ A-325 Bolts
(4 req'd / conn.)

1/2" x 4" gusset pls.
(2 req'd / conn.)

3/4" conn. pl, 7" x 20"

TS12 x 12 Torsion Tube

4 sides
pl. to TS (typ)

1/4"

20'-0" Digital Board Length

10'-0" Digital Board Height

25'-0" Overall Height

12'-0" Footing Depth

3'-0" 4'-8" 4'-8" 4'-8" 3'-0"

Frame A Frame B Frame C Frame D

W6 x 15 Upright

W6 x 15 Upright

W6 x 15 Upright

W6 x 15 Upright

L3 x 3 x 1/4" Lateral Brace

3/4"Ø Rod Cross Bracing (typ)

Ledger Shelf (1 req'd/upright)

1'-10"

Front Catwalk

W6 x 9 Ledger

TS12 x 12 x 1/2" (42 ksi) Torsion Tube

24"Ø x .375" (50 ksi) Column Pipe

1/16" per ft. Column Backset

Grade

3'-0"Ø Drilled Shaft Concrete Footing

L3 x 3 x 1/4" x 6' lg. (4 req'd @ 90° spacing)

1/4" L3 to pipe 1/4" 4-12 18" can't @ ends


Alternate Centermount Design
Use same member sizes & connections as shown for Full Flag design, except:
- no column pipe backset.
- no L3 angles req'd in footing.
- column/torsion tube conn. to be located @ center of sign.


- concrete to be poured against undisturbed soil, all around.

- concrete to be poured against undisturbed soil, all around.

Diagram showing a cross-section of a column with a backset dimension of $\frac{1}{16}$ " per ft. indicated by a horizontal arrow pointing from the centerline to the edge of the column.

1/4" 4-12" L3 to pipe
18" can't @ ends

AFFIX SEAL  CLIFFORD W. LEVERENZ ENGINEER No 33257 MICHIGAN PROFESSIONAL ENGINEER	LOCATION:
	Troy, MI
	EESL JOB NO:
	72099
	ENGINEERED BY:
	CWL
	DRAWN BY:
DBM	
DATE DRAWN:	
1/30/2017	
DRAWING NO:	
1 of 1	
71538-R1	

AFFIX SEAL  CLIFFORD W. LEVERENZ ENGINEER No 33257 STATE OF MICHIGAN PROFESSIONAL ENGINEER	LOCATION:	Troy, MI
	EESL JOB NO:	72099
	ENGINEERED BY:	CWL
	DRAWN BY:	DBM
	DATE DRAWN:	1/30/2017
	DRAWING NO:	1 of 1
		71538-R1

ATTACHMENT #4

Request for Relief from the Building Code Board of Zoning Appeals

The Applicant is seeking a review from the Building Code Board of Zoning Appeals of the decision of the Zoning and Compliance Specialist Paul Evans to suspend the validly issued permit referenced in this application on November 17, 2017. The background of this application includes the United States District Court for the Eastern District of Michigan's opinion and order of January 22, 2019 informing the Plaintiffs that a review of the two issues submitted is necessary before the matter can be reviewed by the Court. This application seeks relief in two alternative requests.

1. APPEAL OF THE DECISION OF THE ZONING ADMINISTRATOR

The Applicants seek to appeal the action of the building department to suspend the permit at issue by letter dated November 21, 2017. The letter suspending is attached as **Attachment #4-A**. The Applicants disputed the action by letter dated December 6, 2017 to Mr. Evans. See **Attachment #4-B**. Counsel for the City disagreed with the opinion of Applicant's legal counsel and denied relief. See **Attachment #4-C**. A lawsuit was commenced in the United States District Court for the Eastern District of Michigan on June 29, 2018, which included a challenge to the action of November 17, 2017. On January 22, 2019, Judge Steeh opined as follows: *But Plaintiffs have not availed themselves of an appeal to the Board of Appeals which bears the power to hear their appeal and to grant variances from the sign ordinance. It remains possible that the Board of Appeals will determine that the sign moratorium does not apply to the Plaintiff's three permits or grant a variance based on the unfairness of suspending the permits for which Plaintiffs have reasonably relied.* The permit granted is attached as **Attachment #4-D**.

The essence of the argument that the moratorium was not applicable to the permit at issue is set forth in **Attachment #4-E**.

2. REQUEST FOR VARIANCE

If relief is not granted in favor of the Applicants on the appeal, then the Applicants request a variance. The required information is set forth in **Attachment #4-F**.



500 West Big Beaver
Troy, MI 48084
troymi.gov

Planning Department
248.524.3364
planning@troymi.gov

November 21, 2017

Mr. Tony Lockridge
Troy Outdoor, LLC
724 Abbot
East Lansing, MI 48823

Dear Mr. Lockridge:

I am writing regarding Sign Permits PSG2017-0087, PSG2017-0088 and PSG2017-0009. On November 20, 2017, Troy City Council imposed a 180 day moratorium on any new signs. The City has inspected the requested locations for these new signs, and there is no evidence of any construction or any apparent work completed on any new signs. Thus the City is suspending these permits and work may not occur.

Additionally, the City is currently reviewing the City's ordinances to determine if these requested signs, and other signs that were requested at or about the same time, are compliant with the City's Sign Ordinance. City Council has directed City Administration to vigorously enforce all existing Sign Ordinance provisions. Your continued cooperation in this matter is appreciated.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads 'Paul Evans'.

Paul Evans
Zoning & Compliance Specialist

cc: Lori Bluhm, City Attorney
Mitch Grusnick, Building Official & Code Inspector
Gary Bowers, Housing & Zoning Inspector

HONIGMAN

Honigman Miller Schwartz and Cohn LLP
Attorneys and Counselors

J. Patrick Lennon

(269) 337-7712

Fax: (269) 337-7713

Lennon@honigman.com

December 6, 2017

Via US Mail and E-Mail

Mr. Paul Evans
City of Troy - Zoning & Compliance Specialist
500 West Big Beaver
Troy, MI 48084

Re: Troy Outdoor, LLC ("Troy") – City of Troy ("City")

Dear Mr. Evans:

Our Firm represents Troy. As the City is aware, Troy currently holds three digital sign permits (collectively the "Sign Permits")¹ and has two pending digital sign permit applications (collectively the "Pending Applications")².

To Troy's surprise, on November 20, 2017, the City imposed a moratorium "prohibiting the Troy City Administration from processing of permit applications". On the very next day, November 21, 2017, the City notified Troy that both the Sign Permits and the Pending Applications were "suspended" based on the moratorium. Later, on December 4, 2017, the City amended its moratorium to relieve/exempt applications for other types of sign permits from the moratorium.

We are writing to inform the City that the moratorium should not be effective against the signs covered by the Sign Permits or the Pending Applications. For the reasons discussed herein, Troy has the legal right to continue to establish the digital billboards contemplated by the Sign Permits and to continue the application process with regard to the Pending Applications.

Troy made Large Investments in Reliance on the Legal Right to Obtain the Sign Permits

As the City has known for months, Troy has been actively pursuing establishment of digital billboards in several locations throughout the City. Throughout this lengthy process, Troy has complied with the letter and the spirit of the City's ordinance, policies and procedures, has been transparent and has openly communicated with the City. There is not, and has never been, any

¹ Troy had been issued the following sign permits (i) Fast Track Ventures, E/S 1658 Livernois at East Maple, PSG2017-0009; (ii) American Legion Post 140, N/S of Maple, 1000 feet from Crooks, PSG2017-0088; and (iii) Abro Twelve property, 2888 East Maple, PSG2017-0087 (collectively the "Sign Permits").

² Troy previously submitted applications for sign permits for (i) M&M Troy, 1634 John R; and (ii) MJP Estate, LLC, 2221 Livernois (collectively the "Pending Applications").

December 6, 2017

Page 2

doubt that the signs contemplated by the Sign Permits and the Pending Applications complied with the City's ordinance and had the legal right to approval.

In reliance on the City's ordinance and its representations, Troy made tremendous investments in expensive digital billboards and related improvements, procured billboard sites and commenced installation work at several locations. Now, at the eleventh hour and after in excess of a million dollars has been invested, the City has abruptly changed course, imposed a moratorium and informed Troy that the Sign Permits are "suspended" and that it cannot proceed with the Pending Applications. To make matters worse, the City has now further amended its moratorium to exclude numerous other sign types, but continues to target Troy's proposed signs with the moratorium. The damages to Troy of these improper "suspensions" mount each day that work is delayed and contribute to potential temporary (and possibly permanent) takings claims.

Troy Relied on the City and the Ordinance and Believed the Moratorium and Suspension Letter were Mistakes

Troy's first reaction to the letter from the City, and the moratorium, was that there must be a mistake. Troy had been actively working with the City on the digital billboard project for months. Troy had identified and procured properties that comply with the ordinance, had actually received the Sign Permits and had invested in billboards, sites/locations, materials and services. Unfortunately, after multiple communications with the City, it was made clear to Troy that the "suspensions" of the Sign Permits and the Pending Applications were intentional.

To add insult to injury, when the City amended the moratorium, it actually exempted and relieved other sign applications from the burdens of its moratorium. As discussed further herein, the confluence of the City's knowledge, representations and actions, together with the timing of the moratorium and its targeted effect, render the moratorium improper and unfair and exacerbate Troy's damages.

The Moratorium Only Applies to Processing of Sign Applications - It Does Not Apply to Existing Sign Permits

The City is advised that the "suspensions" of the Sign Permits do not comply with the clear and express terms of the moratorium. The moratorium expressly states that it only prohibits the "processing . . . of permit applications . . ." (emphasis added). In this case, Troy has actually obtained the Sign Permits. The "processing" of the "permit applications" (that resulted in the Sign Permits) is long complete. As a result, the moratorium does not apply to, and cannot be used to prevent, development and/or construction of the billboards that have received Sign Permits.

This language is included in both the original moratorium resolution and in the amendment to the moratorium. If the City Council expected otherwise, it certainly would have clarified the scope in the amendment. It appears obvious that the City administration has misread the scope of

December 6, 2017

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the moratorium or greatly exceeded its authority. Whatever the case, the signs that have received the Sign Permits cannot be "suspended" and installation work should be permitted to continue without further delay.

Use of a Moratorium to Prevent Processing of the Pending Applications is Improper and Unfair

The City's position that the moratorium can be used to prevent processing of the Pending Applications is also improper and unfair. The Pending Applications comply with the ordinance and were submitted long before the moratorium was imposed. As the City well knows, using a moratorium to target one property owner or applicant over others and attempting to retroactively change their rights is improper. This motivation can be discerned from the reaction of the City to the Pending Applications (and the issuance of the Sign Permits for that matter), the City's institution of a moratorium as part of an effort to prevent (and likely change) Troy's rights after Troy made significant investments and the delivery of the "suspension" letter the day after the moratorium was imposed.

In addition, the reactive amendment to the moratorium, that exempted certain more favored types of signs, sign applications and applicants, casts further light on the City's motivation and bias and casts doubt on the viability of its moratorium as to the Pending Applications. Troy understands, and would agree, that application of the moratorium can (and should) apply to new digital billboard applications that have not been completed and/or formally submitted as of the date of the moratorium - - but the City cannot "stop the game and change the rules" with regard to the Pending Applications - - particularly after large investments have been made.

As the City considers whether the Pending Applications should be subject to the moratorium, it should be mindful that Michigan and other courts have held that a city council acts in bad faith when it rezones property or institutes moratoria to change rules midstream on a particular project which it would be otherwise be compelled to approve. In addition, Michigan courts have held that a developer can obtain vested rights even before it begins physical work when a city changes the rules midstream in a bad faith attempt to throttle a project that meets the standards for approval.

Request for Relief

As stated the above, by its very clear and express language, the moratorium only applies to "processing . . . permit applications" and does not apply to the billboards that actually have Sign Permits. As such, those billboards are entitled to be installed without further delay.

In addition, under the current circumstances, it would be improper and unfair to "suspend" processing of the Pending Applications. The Pending Applications were developed in accordance

December 6, 2017

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with the existing ordinance, were submitted long before the moratorium was imposed and, under the current facts circumstances, it would be improper to use a moratorium to prevent consideration of the Pending Applications.

In light of all of the foregoing, we respectfully request that the City rescind its letter and allow construction to continue on the locations covered by the Sign Permits and re-commence processing of the Pending Applications. If the City disagrees or fails to respond within seven (7) days of the date of this letter, Troy may have no choice but to take legal action to protect its rights. As always, please feel free to contact me with any questions.

Sincerely,

HONIGMAN MILLER SCHWARTZ AND COHN LLP



J. Patrick Lennon

cc: R. Charles McLavy

ATTACHMENT #4-C



500 West Big Beaver
Troy, MI 48084
troymi.gov

City Attorney's Office
248-524-3320

December 15, 2017

J. Patrick Lennon
Honigman, Miller, Schwartz, and Cohn, LLP
350 East Michigan Avenue; Suite 300
Kalamazoo, MI 49007-3800
Lennon@honigman.com

Re: Troy Outdoor, LLC

Dear Mr. Lennon:

The letter you sent to Paul Evans, City of Troy Zoning & Compliance Specialist, was forwarded to me for review. In this letter, you ask the City to reconsider its November 21, 2017 suspension of three sign permits on behalf of your client, Troy Outdoor, LLC. These signs were proposed to be located at 1654 Livernois Road; 1340 W. Maple; and 2888 E. Maple in the City of Troy. For reasons set forth below, the City is unable to grant your requested relief.

After your client's rapid and instantaneous installation of five separate 200 foot digital signs in the City, the Troy City Council imposed a 180 day moratorium on November 20, 2017 for all signs, which was slightly amended on December 4, 2017 to limit the 180 day moratorium to electronic message center digital signs, ground signs exceeding 36 square feet in size, wall signs exceeding 100 square feet in size, and ground signs exceeding 10 feet in height. The moratorium was imposed due the recent influx of large digital ground signs that have proliferated the City's business corridors. It is readily apparent that such signs will have a direct negative impact on the health, safety, and welfare of the citizens of Troy because the signs will be unduly distracting to motorists and pedestrians and thus likely to create traffic hazards and reduce the effectiveness of public safety signs needed to direct and warn the public. The purpose of the moratorium is to allow the City to consider and evaluate its sign ordinance provisions and adopt appropriate amendments. In all likelihood, the amendment will prohibit digital signs of the size and height proposed by your client in its sign permit applications, resulting in a denial of the two pending applications and a revocation of the three permits.



PSG2017-0088%PSG%150.00

Sign Permit No: PSG2017-0088

Building Department
Inspection: (248) 689-5744
 Phone: (248) 524-3344

500 W. Big Beaver Road
 Troy, Michigan 48084
 Hours: Mon-Fri 8am - 4:30pm

Fax: (248) 689-3120
 www.troymi.gov

1340 W MAPLE 88-20-28-302-024 Lot: 9- Subdivision: MAPLE GARDEN ESTATES Zoning: B-3, R-1A Use Group: Construction Type:	Location	Owner AMERICAN LEGION POST #140 1340 W MAPLE TROY MI 48084-5354
Issued: 06/21/2017		Applicant TROY OUTDOOR LLC TROY OUTDOOR LLC 724 ABBOT East Lansing (727) 415 4332 MI 48823
FOR INSPECTIONS - CALL (248) 689-5744 <i>Inspections called in by 4:30 P.M. will be scheduled the next business day. **NOTE NEW INSPECTION CUT-OFF TIME**</i>		

Work Description: GROUND SIGN 10' X 20' = 200 SF DIGITAL EMC: CITY MEASUREMENT INSPECTION REQUIRED BEFORE EMC IS PLACED ON POLE

Special Stipulations: SEE USE RESTRICTIONS ON PERMIT DOCUMENTS

Work will meet all codes and inspections.

Permit Item	Work Type	Quantity	Item Total
Signs Ground Signs	Signs	200.00	150.00

Sign

Total Due: \$150.00

PAID on: 06/21/2017

Check#: 2890

Payment Validation

This permit is Issued subject to the Building Code, Zoning Ordinance and all other Ordinances of the City of Troy, and shall become void once work is not started or is abandoned for a period of one hundred eighty (180) days.

Separate permits must also be obtained for signs and any plumbing, heating, refrigeration, electric, or sewer work.

This permit conveys no right to occupy any street or public right-of-way, either temporarily or permanently.

[] TREASURER COPY

[] DEPARTMENT COPY

[] CONTRACTOR COPY

SIGN PERMIT APPLICATION

PLANNING DEPARTMENT
500 W BIG BEAVER
TROY MI 48084
248 524 3359
evanspm@troymi.gov
SIGN ORDINANCE ONLINE [Ctrl+click here](#)



APPLY ONLINE OR BY E-MAIL

Online applications see page 4 for instructions. E-mail send completed application and supporting documents to evanspm@troymi.gov

SIGN PERMIT FEE DUE WHEN PERMIT IS READY TO ISSUE

SIZE	WALL SIGN PAINTED ON WALL	WALL SIGN STRUCTURALLY ATTACHED	GROUND SIGN
UNDER 100 SQ. FT.	\$ 75.00	\$ 100.00	\$ 125.00
100 TO 199 SQ. FT.	\$100.00	\$ 125.00	\$ 150.00
200 TO 300 SQ. FT.	\$ 100.00	\$150.00	\$ 175.00
SPECIAL EVENT	WALL OR GROUND	\$30.00	

PROPERTY ADDRESS: 1340 W. Maple Road Troy, MI APN 88-20-28-302-025

APPLICANT INFORMATION:

NAME Tony Lockridge 727-415-4332 Contact for Permit Info

COMPANY Troy Outdoor, LLC

ADDRESS 2487 South Michigan Road, Suite E

CITY Eaton Rapids STATE MI ZIP 48827

TELEPHONE 231-683-4229

E-MAIL tlockridge@hotmail.com

TYPE OF SIGN:



GROUND



WALL



SPECIAL EVENT

SPECIAL EVENT SIGNS: What 7 day period will signs be up? _____

SIGN PERMIT APPLICATION

ILLUMINATED SIGN?

☒ YES ☐ NO

ELECTRICAL CONNECTIONS BY: Electrician will pull the permit

DOWNLOAD AN ELECTRICAL PERMIT APPLICATION [HERE](#).

ARE OTHER SIGNS ON THE PROPERTY? ☒ YES ☐ NO IF YES, DESCRIBE TYPE AND SIZE BELOW:

There is an on-premise sign that exceeds 36 sq ft, but will be replaced with one
that will be 36 sq ft before construction.

The undersigned hereby declare(s) under penalty of perjury that the contents of this application are true to the best of my knowledge, information and belief.

The applicant accepts all responsibility for all of the measurements and dimensions contained within this application, attachments and/or plans, and the applicant releases the City of Troy and its employees, officers, and consultants from any responsibility or liability with respect thereto.

APPLICANT SIGNATURE:

Marcel Kietzner

DATE

5/8/17

PRINT NAME:

Marcel Kietzner

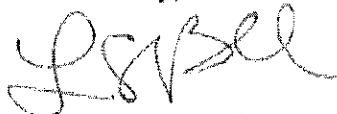
J. Patrick Lennon
December 15, 2017
Page -2-

In your letter, you claim the current moratorium only prohibits the "processing ... of permit applications..." and contend the moratorium is not applicable to the permits that have already been issued. However, the term processing is a broad term that encompasses all actions taken as a result of the issuance of the permit including construction, inspections, and final approval. Moreover, the Zoning & Compliance Specialist as the designee of the Zoning Administrator has authority under the sign ordinance to prohibit any sign that is unsafe and deemed a hazard to health and safety. Mr. Evans' letters of November 21, 2017 suspending your client's permits were issued pursuant to that authority.

You also claim in your letter that "courts have held that a developer can obtain vested rights even before it begins physical work when a city changes the rules midstream in a bad faith attempt to throttle a project that meets standards for approval." However, the law is clear that issuance of a permit itself does not confer vested rights unless actual construction has commenced. As noted in the letters of Mr. Evans, there is no evidence of any construction or any work completed on any of the three signs for which a permit was approved. Additionally, the City's decision to impose a moratorium is for the sole purpose of protecting the health, safety, and welfare of its citizens. The City has not acted in bad faith.

If you should have any questions regarding this matter, please call me at (248) 524-3320.

Sincerely,



Lori Grigg Bluhm
City Attorney
bluhmlg@troymt.gov

cc: Paul Evans

ATTACHMENT #4-E

On November 20, 2017, the Troy City Council enacted a resolution declaring a moratorium on the issuance of sign permits under the sign ordinance. The language of the sign permit moratorium resolution contains in part the following:

*NOW, THEREFORE BE IT RESOLVED, That as of the 21st day of November 2017, the Troy City Council hereby **IMPOSES** a 180 day moratorium, prohibiting the Troy City Administration from processing any permit applications for all signs. This moratorium will allow consideration and evaluation of Troy's sign provisions. If the complete process is completed in less than 180 days, then the Troy City Council has the option to pass a subsequent resolution terminating the moratorium prior to the expiration of 180 days, in its sole discretion.*

*BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** City Administration to initiate a process for the review of Troy's sign code provisions, and especially the provisions allowing for ground signs with displays in excess of 100 square feet.*

The language adopted prohibited staff for the City from *processing any permit applications for all signs*.

On December 4, 2017, the Troy City Council enacted a new resolution declaring a moratorium for the issuance of sign permits under the sign ordinance. By its terms, the December 4, 2017 moratorium stuck the entire moratorium as enacted on November 20, 2018 and replacing it with newly adopted language. The resolution of December 4, 2017 also contains in part the following:

*NOW, THEREFORE BE IT RESOLVED, That as of the 4th day of December 2017, the Troy City Council hereby **IMPOSES** a new 180 day moratorium, prohibiting the Troy City Administration from processing any of the following permit applications for property in the City of Troy:*

- *An electronic message center (digital sign)*
- *A ground sign that exceeds 36 square feet*
- *Any ground sign that exceeds 10 feet in height*

This moratorium will allow consideration and evaluation of Troy's sign provisions. If the complete process is completed in less than 180 days, then the Troy City Council has the option to pass a subsequent resolution terminating the moratorium prior to the expiration of 180 days, in its sole discretion.

*BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** City Administration to initiate a process for the review of Troy's sign code provisions.*

The essence of the above language is to prohibit staff from *processing any of the following permit applications for property in the City of Troy*:

- *An electronic message center (digital sign)*
- *A ground sign that exceeds 36 square feet*
- *Any ground sign that exceeds 10 feet in height*

This revision served to narrow the subset of signs target for more intrusive regulation, which includes signs similar in nature to that approved in Applicants' approved permit.

Based upon the language of the moratoriums at issue, Ms. Lori Grigg Blum, city attorney for the City, opined in response to a letter from an attorney on behalf of the Applicants, that the moratorium at issue would be interpreted by the city in such a manner as requiring the suspension of the permit at issue in this case.

Applicants initially submit that the ordinances at issue are clear and unambiguous in their terms. One must accord words used in an enactment with their common and ordinary meaning and must 'give effect to every word, phrase, and clause in a statute and avoid an interpretation that would render any part of the statute surplusage or nugatory.'" *Wayne Co v Wayne Co Retirement Comm*, 267 Mich App 230, 244; 704 NW2d 117 (2005) (quoting *State Farm Fire & Cas Co v Old Republic Ins Co*, 466 Mich 142, 146; 644 NW2d 715 (2002)). When applying this standard, the language of the moratorium is not in need of interpretation and supports the Applicants request.

In this case, a review of the moratorium ordinances at issue reveals a clear fact that the ordinances did not serve to repeal any previously issued permit. No repeal language is included in the ordinance enactments. Rather the ordinances specifically prohibit processing any of the following permit applications:

- *An electronic message center (digital sign)*
- *A ground sign that exceeds 36 square feet*
- *Any ground sign that exceeds 10 feet in height.*

Nothing in the language of the ordinances suggests that this prohibition is to be applied retroactively to already approved permits applications, such as the one granted to Applicants.

The language used in the ordinance is clear and unequivocal. Yet, in the face of the plain and specific language of the ordinance, City staff, including its attorney, have taken the position that the ordinance language of *processing any of the following permit applications* should somehow be retroactively applied to previously approved applications where the permits were in fact already issued. Such an interpretation violates the expressed language of the ordinance and extends the application to a much broader group of persons than specified, i.e. to persons holding validly issued permits instead of just applicants for sign permits.

Essentially, the City via its staff, has chosen to interpret the words *processing* and *applications* beyond their normal customary meaning. Such action violates the rules of statutory construction. Absent a specific definition within the legislative enactment words used in an enactment must be given their ordinary meaning. *Luttrell v Dep't of Corrections*, 421, Mich 93; 365 NW2d 74 (1984).

One must accord words used in an enactment with their common and ordinary meaning and must 'give effect to every word, phrase, and clause in a statute and avoid an interpretation that would render any part of the statute surplusage or nugatory.'" *Wayne Co v Wayne Co Retirement*

Comm, 267 Mich App 230, 244; 704 NW2d 117 (2005) (quoting *State Farm Fire & Cas Co v Old Republic Ins Co*, 466 Mich 142, 146; 644 NW2d 715 (2002)).

Meriam-Webster online dictionary (www.merriam-webster.com/dictionary/process) defines the term “processing”, to the extent applicable to this case, as:

- 1 a: [PROGRESS](#), [ADVANCE](#) - in the *process* of time, b: something going on: [PROCEEDING](#)
- 3 a: the whole course of [proceedings](#) in a legal action, b: the summons, mandate, or writ used by a court to compel the appearance of the defendant in a legal action or compliance with its orders

Free Dictionary online dictionary (www.thefreedictionary.com/processing) defines the term *processing* in a relevant part as *the act or process of treating or preparing something by a special method*. This same publication defines the term *process* as: *A series of actions, changes, or functions bringing about a result*. Given these definitions, the term *processing* clearly refers to the application process that leads either to a grant or denial of a permit. Once issued, the permit grants rights to proceed based upon the authority granted. The applicant’s status changes from that of applicant to that of permit holder. Once the permit is issued, there is no longer an application process in play. The moratorium language did not revoke the right to proceed on the terms of the permit, rather it specifically prohibited staff from processing applications.

Meriam-Webster online dictionary (www.merriam-webster.com/dictionary/process) defines the term *application*, as relevant to this proceeding, as:

- 1 an act of [applying](#): a (1): an act of putting something to use - *application* of new techniques (2): a use to which something is put - new *applications* for old remedies, b: an act of administering or laying one thing on another - *application* of paint to a house c: [assiduous](#) attention - succeeds by *application* to her studies
- 2 a: [REQUEST](#), [PETITION](#) - an *application* for financial aid, b: a form used in making a request - filling out an *application*

Free Dictionary online dictionary (www.thefreedictionary.com/application) defines the term *application* in a relevant part as:

1. the act of applying to a particular purpose or use.
3. the act of asking for something: *an application for leave*.
4. a verbal or written request, as for a job, etc: *he filed his application*.

Looking at the above language, the application is merely the formal act of requesting relief, in this case a permit to do that which was authorized under the law at the time of the submission.

It also helps in this analysis to contrast the term *application* with the term *permit*. Merriam-Webster online dictionary (www.merriamwebster.com/dictionary/permit) defines the term *permit*, to the extent applicable herein as: *a written warrant or license*

granted by one having authority. The permit is not an application, it is a license to act. To the extent the City fails to draw the distinction between the term *application* and the term *permit* it violates the rules of statutory construction by giving a meaning to an enactment not supported by the clear language of that enactment. An application IS clearly distinctive from the concept of a permit.

It is clear that the language of the Moratorium ordinance did not make it applicable to the Permit granted to the Applicant, which is set forth as **Attachment #4-D**.

ATTACHMENT #4-F

Justification for BCBA Appeal Request under the Sign Code

The appeal should be granted because the application was originally submitted and granted when the City's sign code allowed the sign as it was applied for. This is a very unique circumstance. The City has subsequently made changes to its sign code but the applicant could not have known that it could not apply for, permit, and install signs under the sign code as it stood at that time. In reliance on the code, the applicant spent substantial time and money on the following: property research, travel, mileage, leasing, site plans, sign structure engineering, LED schematics, permit fees, lease payments, structure fabrication, site preparation work, structure delivery and storage, and numerous other items. Through no fault of its own, the applicant has been greatly harmed. Other properties were issued sign permits at the same time and have been able to benefit from signs materially identical to this one.

The appellant meets all criteria for the following reasons:

a. Exceptional characteristics of the property for which the variance is sought make compliance with the requirements of this Chapter substantially more difficult than would be the case for the great majority of properties in the same zoning district. Characteristics of property which shall be considered include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation, and other similar characteristics.

This is the only property in the vicinity, and one of the very few in the City, that had a sign application duly granted and permitted, but not yet built, before the City chose to reconsider its sign code. Several other parcels were issued permits at the same time and the signs have been installed and are operating. This is a unique status not shared by any other parcels in the area.

b. The characteristics which make compliance with the requirements of this Chapter difficult must be related to the premises for which the variance is sought, not some other location.

This application was submitted at a time when it was in total conformance to the City sign code. Thus, conformance to unknown future requirements was truly impossible. This is a totally unique situation.

c. The characteristics which make compliance with the requirements of this Chapter difficult shall not be of a personal nature.

The problem is not personal in any way. These circumstances came about because the City chose to change its sign code after the permit had been issued.

d. The characteristics which make compliance with the requirements of this Chapter difficult must not have been created by the owner of the premises, a previous owner, or the applicant.

This unfortunate situation did not arise through any fault of the applicant.

e. The proposed variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase congestion in public streets, or increase the danger of fire or endanger public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.

The sign is appropriate and was allowed under the code at the time of application. It will not harm any of the cited interests in this commercial area.

