



BUILDING CODE BOARD OF APPEALS REGULAR MEETING AGENDA

Gary Abitheira, Chair, Teresa Brooks
Matthew Dziurman, Sande Frisen, Mark F. Miller

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

November 1, 2023

3:00 PM

Council Chambers

1. ROLL CALL
2. APPROVAL OF MINUTES –November 2, 2022
3. HEARING OF CASES:

VARIANCE REQUEST, 2625 W MAPLE, DERRICK ZAJAC –

- a. Appeals the Zoning Administrator's denial of a sign permit application.
- b. A variance to allow an off premise sign.

CHAPTER 85

4. COMMUNICATIONS – 2024 Meeting Schedule
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 3:01 p.m. on November 2, 2022 in the Council Chamber of Troy City Hall.

1. ROLL CALL

Members Present

- Gary Abitheira
- Teresa Brooks
- Matthew Dziurman
- Sande Frisen
- Mark F. Miller, City Manager

Support Staff Present

- Salim Huerta, Building Official
- Kathy L. Czarnecki, Recording Secretary

2. APPROVAL OF MINUTES – October 5, 2022

- Moved by: Brooks
- Support by: Dziurman

RESOLVED, To approve the minutes of the October 5, 2022, Regular meeting as submitted.

Yes: All present (5)

MOTION CARRIED

3. HEARING OF CASES

A. **VARIANCE REQUEST, 5008 PRENTIS, ZHANG YI MARTIN** – This property is a double front corner lot. Since it is in the R1-C district, as such, it has a 30 feet required front setback along Prentis Drive and E. Long Lake Thoroughfare. Additionally, per the City of Troy Thoroughfare Plan at that location of E. Long Lake, it restricts to 60 feet from the center to the property line. The petitioner is requesting a variance to install a 6 feet high, 115.5 feet long, vinyl privacy fence ten (10) feet away from the property line where the City Code limits fences to 30 inches high due to the fact that there isn't a back-to-back relationship to the neighboring lot.

CHAPTER 83 FENCE CODE

Mr. Huerta read the variance request narrative. He reported the department received no written responses to the published notice. Mr. Huerta stated the Board denied the applicant's request at their October meeting to install a fence two (2) to four (4) feet away from the property line. He reported today's request is to install a fence with a ten (10) foot setback.

Zhang Yi Martin and Steven Kowalski were present. Mr. Kowalski approached the Board with photographs depicting the location of existing trees. He indicated the desired location to install the fence in line with the big white pine tree, ten (10) feet from the property line.

(Ms. Brooks stepped away from the meeting at 3:03 pm and returned at 3:05 pm.)

There was discussion on:

- Information and pictures submitted with request.
- Placement of the fence as relates to existing trees.
- Fence building material; same as fence across the street.
- Subject to standard departmental review prior to permit issuance.

PUBLIC HEARING OPENED

There was no one present who wished to speak.

PUBLIC HEARING CLOSED

Moved by: Dziurman
Support by: Brooks

RESOLVED, To **grant** the variance request for 5008 Prentis as proposed with a ten (10) foot setback from the property line.

Discussion on the motion on the floor.

Mr. Miller asked if the 10-foot area between the sidewalk and the fence would be a lawn area.

Mr. Kowalski replied in the affirmative.

Vote on the motion on the floor.

Yes: All present (5)

MOTION CARRIED

- B. **VARIANCE REQUEST, 6580 LIVERNOIS, DANIEL AND KELLY XU** – This property is a double front corner lot. Since it is in the R1-B district, as such, it has 40 feet required front setback along Livernois and Lesdale. The petitioner is requesting a variance to install a 4-foot high, 112 feet wire chain link fence, one (1) foot away from the property line where City Code limits to a 30 inch high fence due to the fact that there isn't a back-to-back relationship to the neighboring lot.

CHAPTER 83 FENCE CODE

Mr. Huerta read the variance request narrative. Mr. Huerta stated the Board denied the applicant’s request at their October meeting to install a six (6) foot high fence. He reported today’s request is to install a fence in the same location and setback, but the height of the fence is reduced to four (4) feet.

Mr. Huerta reported the department received two email messages from the same resident in response to the published notice. The most recent email message relates to the variance request before the Board today indicating support of the request.

The applicant Daniel Xu said he would like to maximize as much of his yard as possible and stated a four (4) foot high fence accommodates his needs. He noted the fence is similar to one erected down the street from him.

There was discussion on:

- Information and pictures submitted with request.
- Placement of the fence as relates to existing trees.
- Non-conformance of property; house is beyond the setback.
- Gap along east property line.
- Subject to standard departmental review prior to permit issuance.

PUBLIC HEARING OPENED

There was no one present who wished to speak.

PUBLIC HEARING CLOSED

Moved by: Frisen
Support by: Dziurman

RESOLVED, To **grant** the variance request as presented for 6580 Livernois, including the additional gap shown on the plot plan on the east property line and back to the existing setback line.

Yes: All present (5)

MOTION CARRIED

4. **COMMUNICATIONS**

None.

5. **PUBLIC COMMENT**

There was no one present who wished to speak.

6. MISCELLANEOUS BUSINESS

Mr. Miller announced City Council recently authorized the purchase of new audio equipment for the Chambers.

Mr. Huerta said he would inform the Board of proposed 2023 meeting dates for their review and comment.

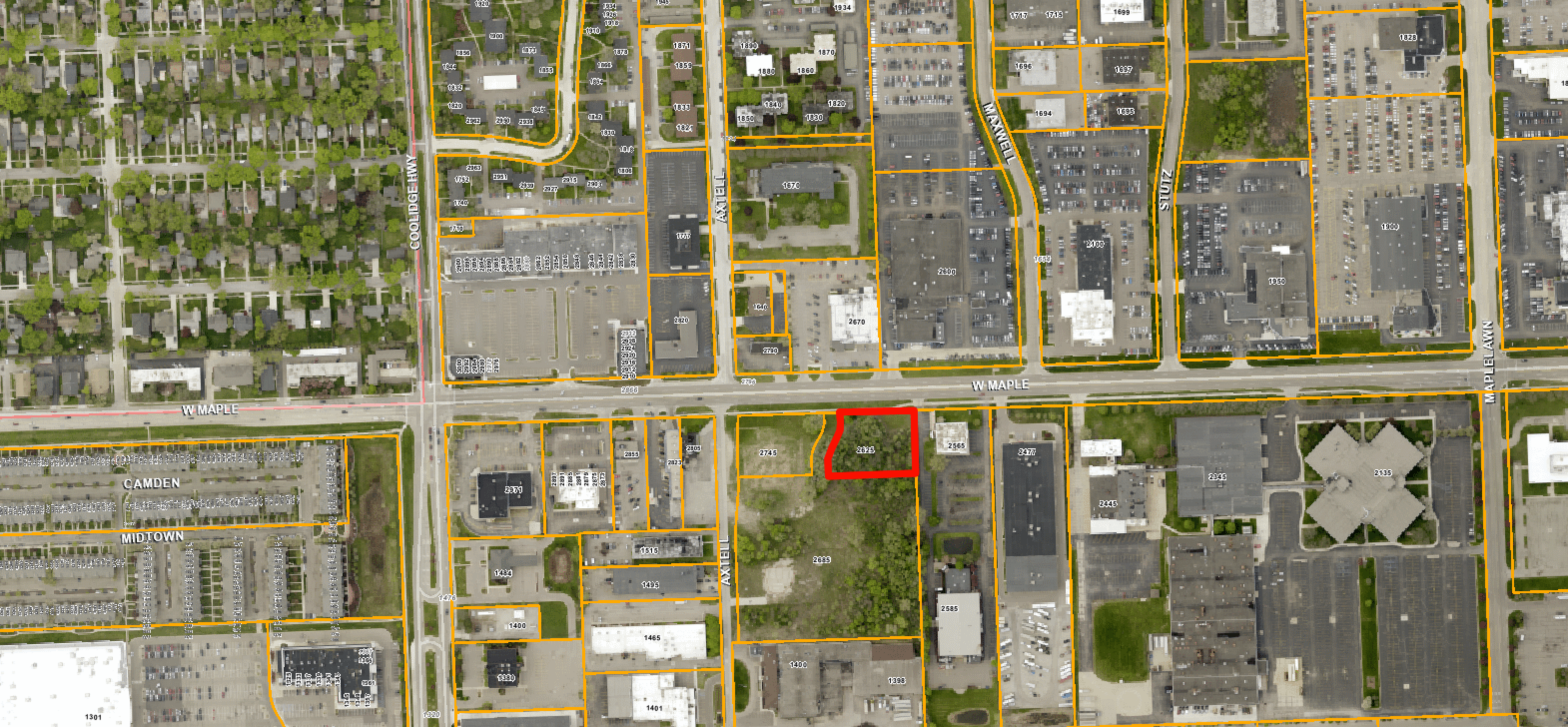
7. ADJOURNMENT

The Regular meeting of the Building Code Board of Appeals adjourned at 3:23 p.m.

Respectfully submitted,

Gary Abitheira, Chair

Kathy L. Czarnecki, Recording Secretary



COOLIDGE HWY

AXTEILL

MAXWELL

STUTZ

MAPLELAWN

W MAPLE

W MAPLE

CAMDEN

MIDTOWN

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Original sign permit application PSG2023-0103



CITY OF TROY | PLANNING DEPT.
500 WEST BIG BEAVER | TROY, MI 48084 | 248-524-3364

Sign Permit Application

APPLY BY E-MAIL

E-mail completed application and supporting documents to planning@troymi.gov

SIGN PERMIT FEE IS 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
SPECIAL EVENT	ALL TYPES	\$30.00	

PROPERTY ADDRESS: 2785 W. Maple

APPLICANT INFORMATION:

NAME Daniel Crannie

COMPANY Signs by Crannie, Inc.

ADDRESS 4145 Market Place

CITY Flint STATE MI ZIP 48507

TELEPHONE 810-487-0000

E-MAIL kayla@signsbycrannie.com

TYPE OF SIGN:

GROUND

WALL

SPECIAL EVENT

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



CITY OF TROY | PLANNING DEPT.
500 WEST BIG BEAVER | TROY, MI 48084 | 248-524-3364

Sign Permit Application

ILLUMINATED SIGN?

YES

 NO

ELECTRICAL CONNECTIONS BY: _____

ARE OTHER SIGNS ON THE PROPERTY?

YES

NO

IF YES, DESCRIBE TYPE AND SIZE BELOW:

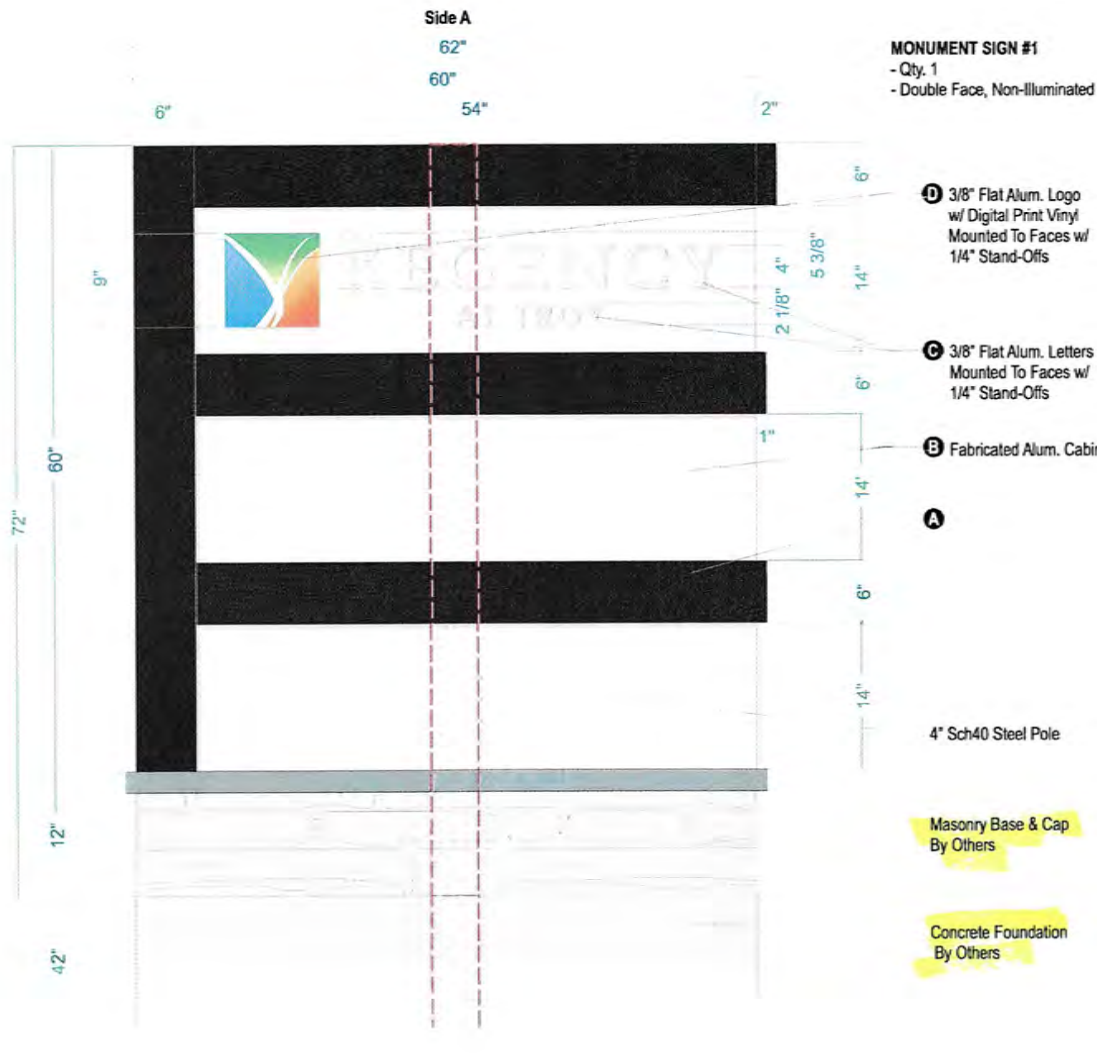
The undersigned hereby declare(s) under penalty of perjury that the contents of this application are true to the best of my knowledge, information and belief.

The applicant accepts all responsibility for all information contained within this application, including 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:

DATE 5/25/23

PRINT NAME: Daniel Crannie



SIGN TYPE
Monument Sign

SCALE
1"-1'-0"

COLORS

- A** Matthews To Match Rainscreen Anodized Bronze
- B** Matthews To Match Siding Hardie Board "Cobblestone"
- C** Matthews 41342 Brushed Alum.
- D** Digital Print Vinyl

NOTES
X
Sign is in compliance with Michigan Building Code 2015 Appendix H Signs.

SALESPERSON
Gary Gebhardt

FILENAME
RegencyATroy-Mon Sign 1

Customer / Address
Regency at Troy
2785 W Maple Rd
Troy, MI

DRAWN BY / DATE
G.Alumbaugh 9-28-22
GA 10-5-22

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SIGNS BY... Crannie
A FULL SERVICE SIGN COMPANY

4145 Market Place
Flint, Michigan 48507
810-487-0000
www.SignsByCrannie.com



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AXTELL

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1401

**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



RECEIVED
FEE \$500.00
SEP - 6 2023
PLANNING

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: 2685 W Maple Rd., Troy, MI
ACREAGE PROPERTY: *Attach legal description if this an acreage parcel*

2. PROPERTY TAX IDENTIFICATION NUMBER(S): 88-20-32-126-038

3. CODE NAME (e.g. "BUILDING CODE", "SIGN CODE", "FENCE CODE") AND SECTION(S) RELATED TO THE APPEAL:
SIGN CODE - Section 85.01.05(H) - Off Premises Signs

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 Derrick Zajac
COMPANY Ciena Healthcare
ADDRESS 4000 Town Center #2000
CITY Southfield STATE MI ZIP 48075
TELEPHONE (614)595-7111
E-MAIL dzajac@laurelhealth.com

7. APPLICANT'S AFFILIATION TO THE PROPERTY OWNER: Project Manager

8. OWNER OF SUBJECT PROPERTY:

NAME Mohammad Qazi
COMPANY Troy Senior Leasing, LLC
ADDRESS 4000 Town Center #2000
CITY Southfield STATE MI ZIP 48075
TELEPHONE (248)262-2357
E-MAIL thunt3@cienahmi.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, Mohammad Qazi (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 *Derrick Zajac* DATE 8-31-23

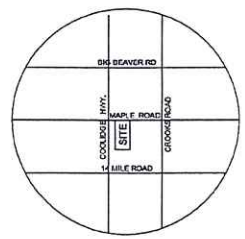
PRINT NAME: Derrick Zajac

SIGNATURE OF PROPERTY OWNER *[Signature]* DATE 8/31/2023

PRINT NAME: Mohammad Qazi

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.



LOCATION MAP
NOT TO SCALE

REGENCY AT TROY
2685 W MAPLE RD, TROY, MI 48064

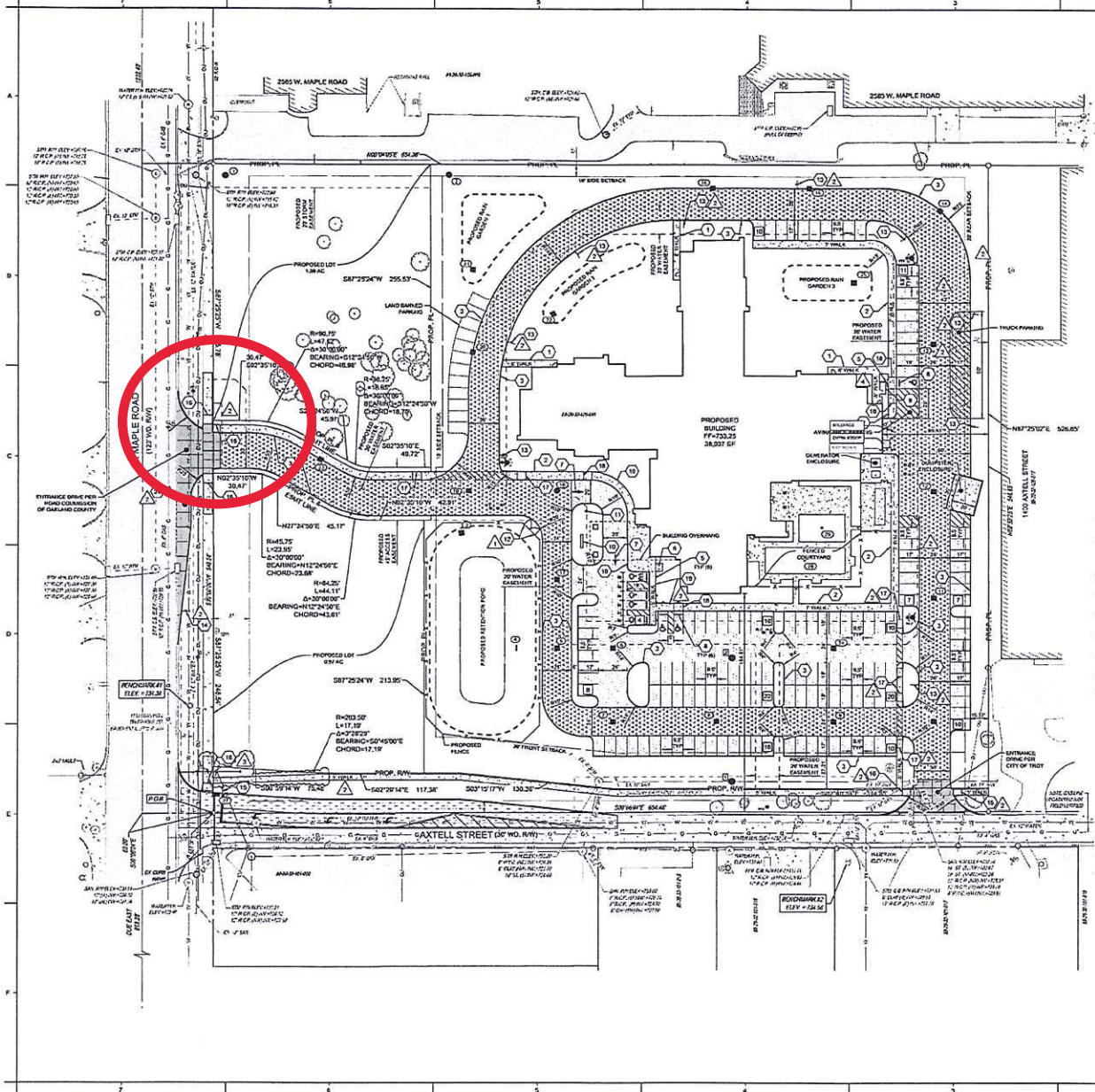
CIENA HEALTHCARE
4000 TOWN CENTER, SUITE 2000
SOUTHFIELD, MI 48075

NO.	DATE	REVISION
1	01/08/21	BID ADDENDUM 1
2	05/07/21	BULLETIN #1
3	05/07/21	BULLETIN #3
4	06/04/21	BULLETIN #6
5	12/15/21	BULLETIN #14

JOB NO.: 2019-47
PHASE: 100% CD
ISSUED FOR: PERMITTING
DATE: DEC. 15th, 2021

SITE PLAN

C7



CODED NOTES

- ① SATURATED CONCRETE SLAB WALK PER DETAIL 3 ON SHEET C3
- ② EXTERIOR CONCRETE SLAB WALK WITH FLUSH EXTERIOR CURB PER DETAIL 4 ON SHEET C3
- ③ CURB PER DETAIL 4 ON SHEET C3
- ④ HOT USED
- ⑤ ACCESSIBLE PARKING SIGN PER DETAIL 9 ON SHEET C3
- ⑥ PERMANENT FIRE RACK PER DETAIL 15 ON SHEET C3
- ⑦ HORIZONTAL CURB WITH EXTERIOR ANCHORS
- ⑧ PRECAST CONCRETE THRESHOLD PER DETAIL 8 ON SHEET C3
- ⑨ STAIRS/SHOWER SLAB, REFER TO ARCHITECTURAL PLANS FOR DETAILS
- ⑩ PROPOSED UNDERLAMENT SIGN REFER TO ARCHITECTURAL PLANS FOR DETAILS
- ⑪ PROPOSED FLAG POLE, REFER TO ARCHITECTURAL PLANS FOR DETAILS
- ⑫ PROPOSED W/ FROG GALL, REFER TO ARCHITECTURAL SCHEDULES FOR DETAILS
- ⑬ PROPOSED PAVE LANE SIGN, SIGN TO BE INSTALLED IN COMPLIANCE WITH THE CURRENT AS SET FORTH IN THE HIGHWAY MANUAL OF THE STATE OF OHIO, DIVISION OF HIGHWAY, SEE DETAIL 14 ON SHEET C3
- ⑭ RELOCATED CENTER LANE ONLY SIGN
- ⑮ RELOCATED STOP SIGN
- ⑯ SIGN TYPE "W" CURB RAMP PER DETAIL 1A THRU 1D ON SHEET C4
- ⑰ SINGLE EDGE PARALLEL CURB RAMP PER DETAIL 11 ON SHEET C3
- ⑱ PARALLEL CURB RAMP PER DETAIL 11 ON SHEET C3
- ⑳ EXTERIOR CONCRETE SLAB WALK WITH FLUSH CURB PER DETAIL 4 ON SHEET C3
- ㉑ DUE TO LIMITED LANE PER CITY OF TROY LOCAL WOOD SHAPING ORDINANCE

BENCHMARKS

- BENCHMARK #1 ELEV. = 724.34 (NAVD83)
BOLT UNDER "C" ON THE HYDRANT LOCATED 4' +/- SOUTH OF THE CENTERLINE OF MAPLE ROAD AND 10' +/- EAST OF THE CENTERLINE OF SAXTELL STREET
- BENCHMARK #2 ELEV. = 724.34 (NAVD83)
ARMOR ON THE HYDRANT LOCATED 43 +/- WEST AND 18' +/- NORTH OF THE SOUTHWEST PROPERTY CORNER OF PARCEL 190333-04-001

PROPOSED LEGEND

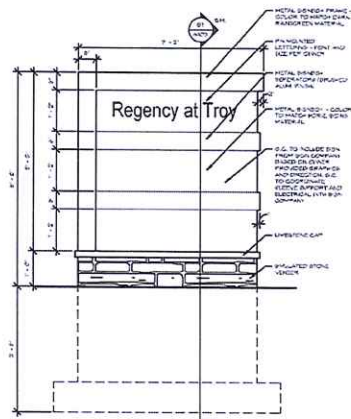
- ④ CATCH BASIN
- ④ CURB FILET
- ④ HEADWALL
- ④ MANHOLE
- ④ YARD SIGN
- ④ CLEARCUT
- ④ SANITARY MANHOLE
- ④ FIRE HYDRANT
- ④ WATER VALVE
- ④ FIRE DEPARTMENT CONNECTION
- ④ STAIRS/SHOWER ASPHALT PAVEMENT PER DETAIL 1 ON SHEET C3
- ④ HEAVY DUTY ASPHALT PAVEMENT PER DETAIL 3 ON SHEET C3
- ④ PAVED/PAVEMENT SIGN PER CITY OF TROY LOCAL ROAD SIGNING MANUAL, SEE SCHEDULES OF SHEET C19
- ④ CONCRETE DRIVEWAY, SEE DETAIL 3, 3 & 5 ON SHEET C3
- ④ CONCRETE PAVEMENT
- ④ PARKING COURT

NOTES:

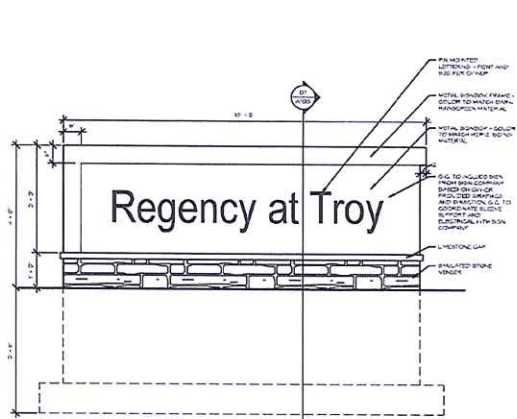
- 1. ALL BENCHMARK "E" VALUES OTHERWISE NOTED
- 2. ALL DIMENSIONS ARE TO EDGE OF PAVEMENT OR FACE OF CURB UNLESS OTHERWISE NOTED
- 3. ALL REGULAR PARKING SPACES ARE 5'X11' AND ALL ADA SPACES ARE 8'X11'
- 4. SOIL CONDITIONS CONTROLLED SHALL BE MAINTAINED WEEKLY AND AFTER EVERY STORM EVENT.



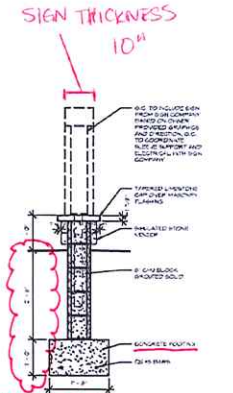
3 FULL WORKING DAYS BEFORE YOU DIG CALL
811
Know what's below
Call before you dig
888.882.7171 www.mississippisystem.com



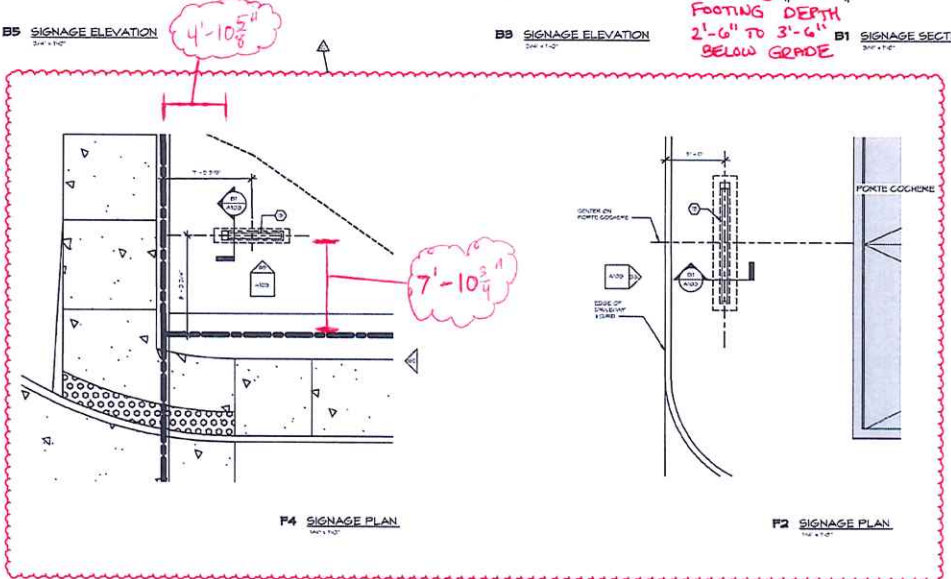
B5 SIGNAGE ELEVATION
3/4" x 1/2"



B6 SIGNAGE ELEVATION
3/4" x 1/2"



B1 SIGNAGE SECTION
3/4" x 1/2"



F4 SIGNAGE PLAN
1/4" x 1/2"

F2 SIGNAGE PLAN
1/4" x 1/2"

177 ARCHITECTS
448 N. Lakeside Blvd
Lafayette, CA 94501
Columbus, Ohio 43215
614.485.2993 FAX
www.pjt77architects.com

REGENCY AT TROY
2185 N MAPLE RD, TROY, MI 48064
CIENA HEALTHCARE
4000 TOWN CENTER, SUITE 2000
SOUTHFIELD, MI 48075

NO.	DATE	REVISION
01	10/27/22	ADD 04

JOB NO.: 2019-01
PHASE: 100% CD
DRAWN FOR: CONSTRUCTION
DATE: JUNE 19TH, 2021

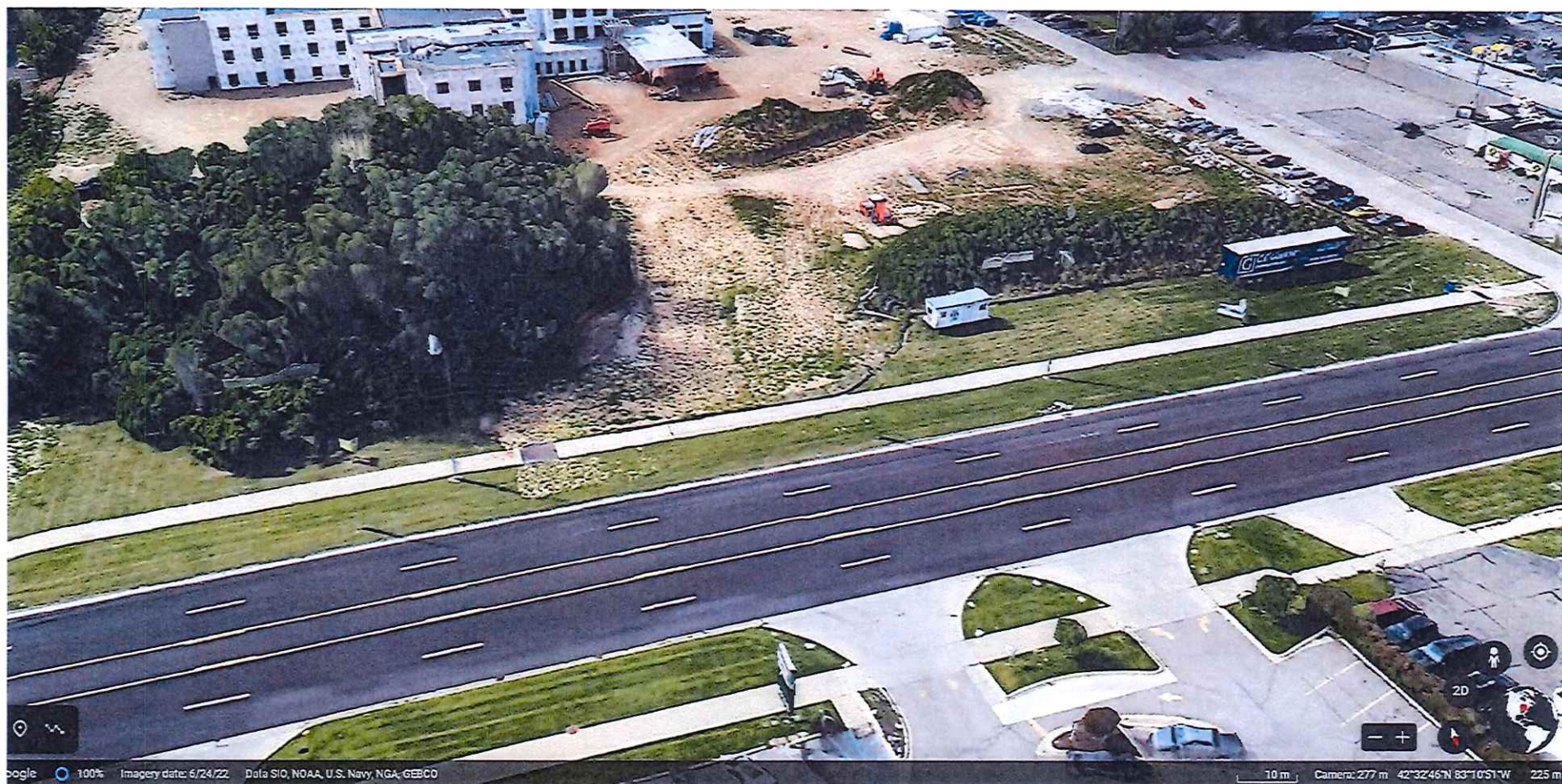
SIGNAGE & SITE
DETAILS

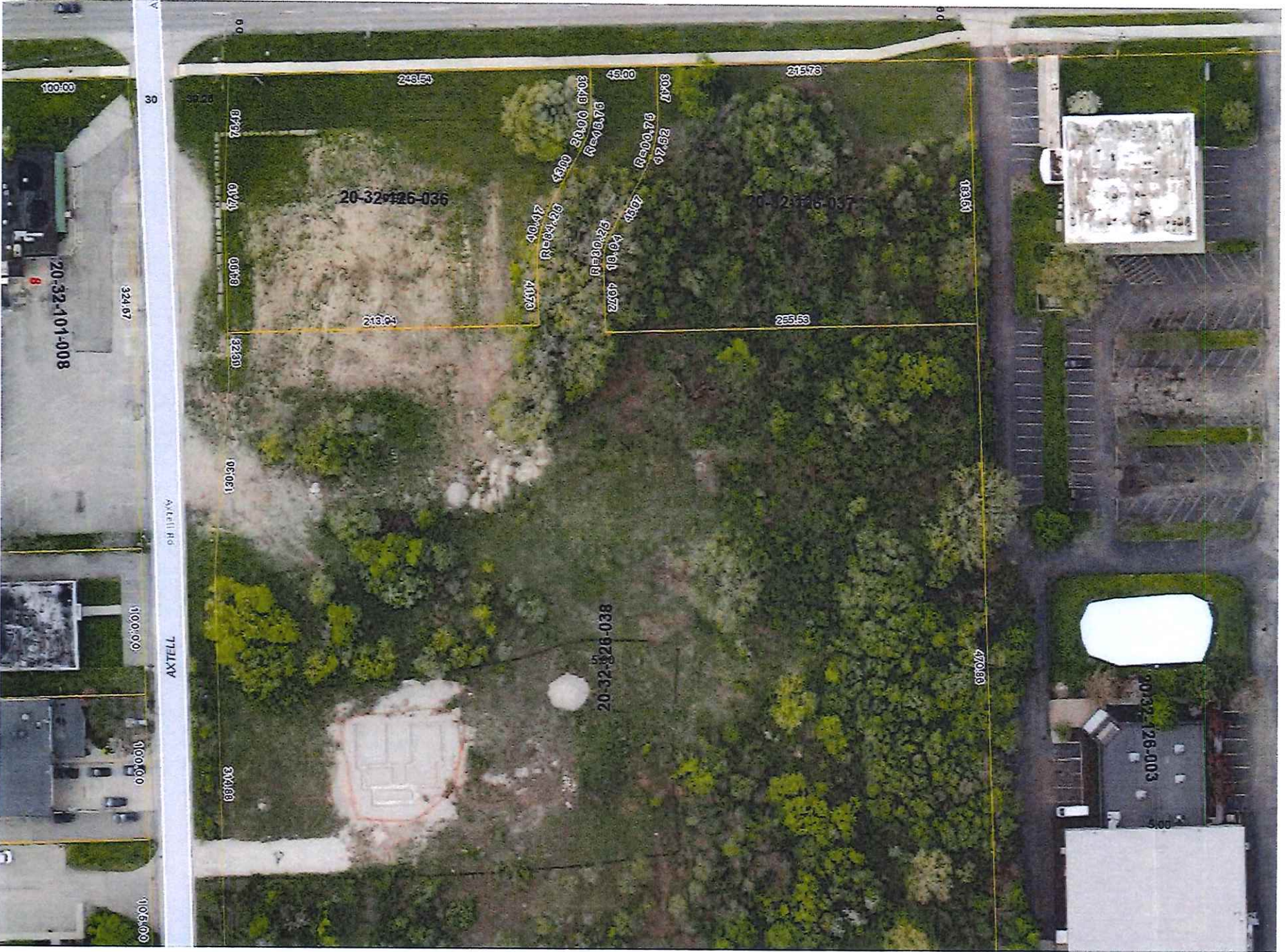
A103

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As shown above and below, there are no current/existing ground signs along W Maple Road or Axtell Road.

Only items observed at this time are temporary construction signage and for sale signs.





100.00

20-32-101-008

324.67

30

AXTELL RD

AXTELL AVE

100.00

100.00

105.00

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60.93

32.30

106.61

304.99

20-32-126-036

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R=34.23
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R=34.23

20-32-126-038

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R=30.23
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R=40.76
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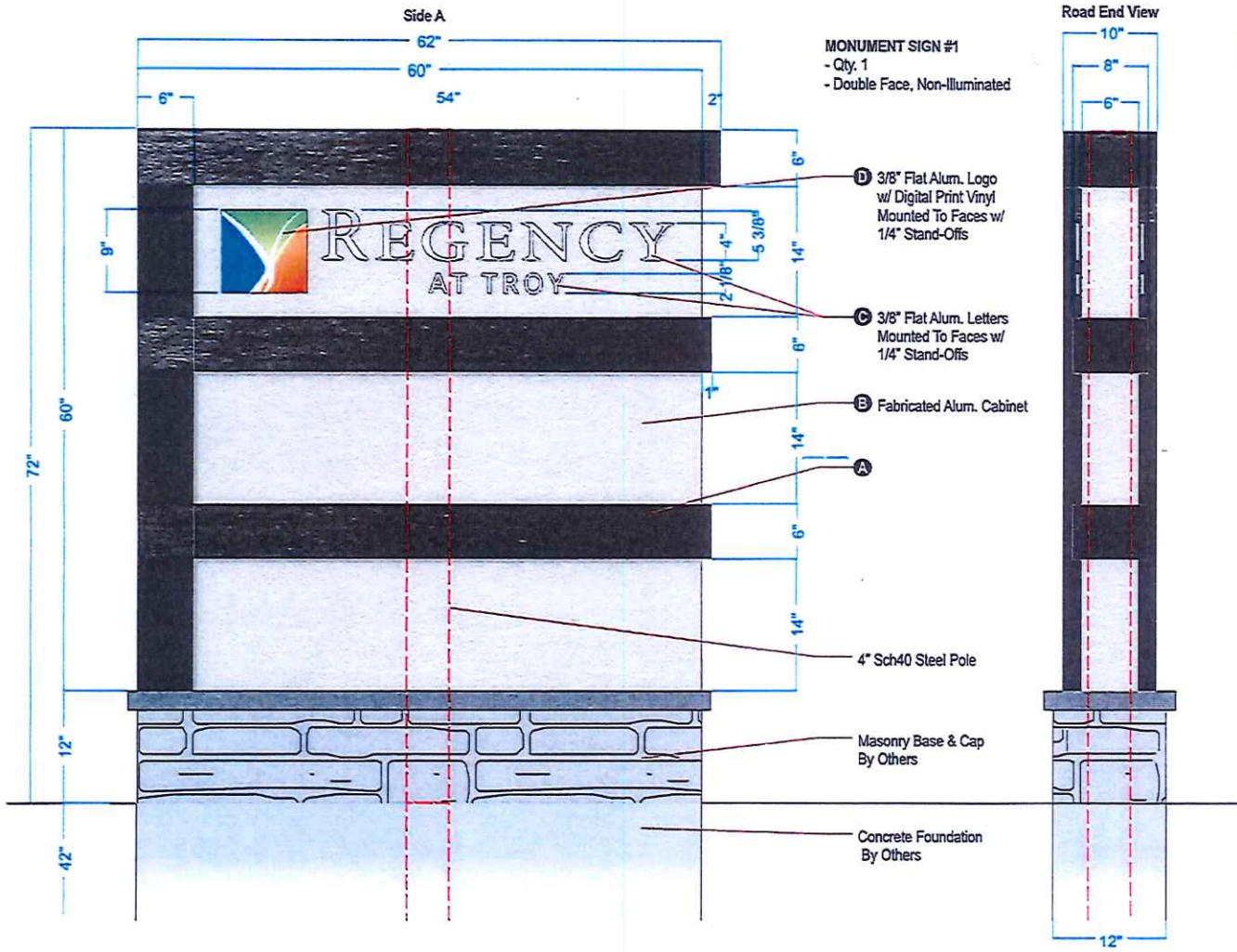
219.76

255.63

103.60

470.83

20-32-126-003



SIGN TYPE	Monument Sign
SCALE	1'-1'-0"
COLORS	<p>A Mathews To Match Rainscreen Anodized Bronze</p> <p>B Mathews To Match Siding Hardie Board "Cobblestone"</p> <p>C Mathews 41342 Brushed Alum.</p> <p>D Digital Print Vinyl</p>
NOTES	X
SALESPERSON	Gary Gebhardt
FILENAME	RegencyAtTroy-Mon Sign 1
Customer / Address	Regency at Troy 2785 W Maple Rd Troy, MI
DRAWN BY / DATE	G. Alumbaugh 9-28-22 GA 10-5-22
<small>ORIGINAL ARTWORK, DESIGNS & LAYOUTS ARE THE SOLE PROPERTY OF SIGNS BY CRANNIE AND MAY NOT BE REPRODUCED, DISPLAYED, TRANSMITTED TO ANYONE, IN FULL OR IN PART, WITHOUT THE WRITTEN CONSENT OF SIGNS BY CRANNIE. ©2022 Signs by Crannie</small>	
<p>SIGNS BY... Crannie A FULL SERVICE SIGN COMPANY</p> <p>4145 Market Place Flint, Michigan 48507 810-487-0000 www.SignsByCrannie.com</p>	

**CIENA HEALTHCARE STATEMENT IN SUPPORT
OF
CITY OF TROY PLANNING DEPARTMENT
BUILDING CODE BOARD OF APPEALS APPLICATION**

**2685 W. Maple Road
Ciena Healthcare**

Ciena Healthcare submits this Statement in Support of its Application setting forth the reasons justifying its appeal of an administrative decision and variance request for ground signage at 2685 W. Maple Road. After communicating with Paul Evans, Zoning & Compliance Specialist, the Applicant believes that its sign permit should be granted for separate reasons:

1. The administrative decision of the City Zoning & Compliance Specialist of Section 85.01.05(H) of the Sign Ordinance is in error.
2. A variance should be granted to Section 85.01.05(H) of the Sign Ordinance.

Please understand that the Applicant is not trying to circumvent the Sign Ordinance in any way, but is attempting to combine 3 potential signs (2 outlots and nursing facility) into a single ground sign, which minimizes sign pollution and furthers the goals and objectives of the Sign Ordinance.

I. The Requested Ground Sign, While An Off Premise Sign, Is Not A Prohibited Off Premise Sign Under Section 85.01.05(H), as the City Administration Has Determined.

An Off Premise is defined in Section 85.01.03 as follows:

Off Premise Sign: A sign that may include a commercial message, and directs attention to any business, profession, product, activity, commodity, or service offered, sold, manufactured or furnished on property or premises other than that upon which the sign is located.

According to this definition, an Off Premise Sign can have two (2) components. First, to be on Off Premise Sign, the sign must “direct attention to a business, profession, product, activity, commodity or service offered, sold, manufactured or furnished on property other than where the sign is located.” Second, an Off Premise Sign may or may not include a commercial message. Therefore, a sign can be an Off Premise Sign with or without a commercial message.

The proposed identification sign of “Regency of Troy” satisfies the first component above, which makes it an Off Premise Sign. However, it does not satisfy the second component: it does not contain a commercial message. It is merely a sign to identify the building set back from Maple Road.

Section 85.01.05.H of the Sign Ordinance does not prohibit ALL Off Premise Signs. It only prohibits Off Premise Signs with commercial messages. The Section reads:

H. Off Premise Signs: Off Premise Signs are prohibited in all zoning districts. This prohibition is applicable only to signs displaying commercial messages.

The proposed sign merely contains the name of the building it is meant to identify. It is similar to directional signage, which notifies a driver trying to find the building to turn down the entrance drive where the sign is located. The mere identification of an adjacent business does not constitute a “commercial message”, so the prohibition against an Off Premise Sign would not apply in this situation.

Further, the Sign Ordinance recognizes Off Premise “identification” signs, which supports the Applicant’s interpretation. For example, Section 85.01.05.A.3 of the Sign Ordinance specifically makes an allowance for "residential development identification signs" which can be located in road medians or rights of way. A sign in such a location would be “off premise”, because it is not located on the property which it identifies. Such signs merely communicate to the viewer the name of the residential development located adjacent to the property where the sign is located. It is not communicating a message, but merely identifying the adjacent residential development.

The sign proposed by the Applicant serves the same purpose as the “residential development identification sign. It communicates to the viewer the location of the Regency of Troy facility. It allows a driver to find the adjacent nursing facility, just as the residential development identification sign allows a driver to find the adjacent residential development. It is a sign that merely identifies a location, as opposed to communicating a message.

For these reasons, the prohibition in Section 85.01.05.H should not apply to the proposed sign. It identifies the location of Regency of Troy, and does not communicate a commercial message. A commercial message is something more than just the identification of the business on an adjacent property, as it is a separate component of an Off Premise Sign that the Sign Ordinance prohibits. An Off Premise Sign does not have to display a commercial message by the Sign Ordinance definition, and if it does not do so then the prohibition of this Section does not apply.

II. A Variance Should Be Granted For The Proposed Off Premise Sign Pursuant To Section 85.01.08.B Of The Sign Ordinance.

The Sign Ordinance authorizes the Board of Appeals to grant a variance if the Applicants meets the requirements for a variance specified in the Sign Ordinance. The Applicant submits that the proposed sign meets those requirements, as set forth in the responses below to each requirement.

- 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.

Response – The configuration of the subject property makes compliance with the requirements of the Sign Ordinance difficult, because the subject property is set back off of Maple Road, with only an entrance driveway connecting it to Maple Road. There are two outlots fronting Maple Road in front of the subject property, with the driveway located between them. If the variance is not granted, then the identification sign for Regency of Troy could only be located on the subject property behind the outlots (2625 & 2745 Maple Road), approximately 120 feet from the Maple Road right of way. Such location would make the sign impossible to see by drivers traveling Maple Road trying to locate the entrance to Regency of Troy.

- 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.

Response – The configuration of the subject property is directly related to the subject property, for which the variance is sought.

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

Response – The configuration of the subject property is not personal, but a characteristic of the subject property, regardless of the owner or user.

- 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.

Response – The configuration of the subject property is due to the depth of the subject property, which is much greater than can be used for the nursing facility. The nursing facility, as originally submitted, had approximately 90 more beds, making it a much larger facility requiring use of the entire property. However, the reduced size of the facility did not require the use of the entire property. The Applicant had to locate the facility in the rear of the property, so as to make the facility a more quiet, private setting for its residents, away

from Maple Road. Therefore, the size and depth of the property, together with its location on the busy Maple Road were the reasons the nursing facility was moved to the rear of the property, allowing for the two outlots to be used for productive developments along this corridor.

- 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.

Response – The proposed variance will not be harmful to the area, but will be beneficial. The Applicant seeks to minimize the proliferation of signs along Maple Road by combining two (2) or three (3) permitted signs into a single sign. If the property owned by the Applicant was expanded to include the proposed sign area, then the Applicant could install an identification sign that is not an Off Premise Sign. The owner of each outlot could also install its own identification sign, meaning there could be three (3) signs along this stretch of Maple Road. By reducing the potential for three (3) signs to a single sign, the Applicant is furthering the purposes set forth in Section 85.01.01.B of the Sign Ordinance, improving the aesthetics of the corridor by eliminating visual clutter, and making it safer for drivers to view a single sign instead of multiple signs. The reasons for the single sign therefore enhance the public health, safety and welfare.

Section 85.01.90.B.2 of the Sign Ordinance sets forth an additional condition that must be met by the proposed variance:

2. Limitation on Variances: In no case shall any variance be granted that would result in a sign that exceeds the height, size, or setback provisions of this Chapter by 25% or that would increase the number of signs permitted by this Chapter by more than 25%.

Response – The proposed sign complies with the height, size and setback provisions of the Sign Ordinance, it does not violate these requirements. Further, as discussed above, granting the variance would not increase nonconforming signs by more than 25%, but could actually decrease the number of signs permitted by the Sign Ordinance from the a maximum of three (3) signs (one sign for each outlot at 2625 Maple Road and 2745 Maple Road, and one for Regency of Troy if it was to acquire the sign location adjacent to the driveway) to a maximum of one sign.

City Of Troy Planning Department

Ciena HealthCare Management Inc

Invoice Number	Description	PO No	Date	Amount	Discount	Net Amount
08312023	Troy-2685 W Maple Road Appeals Ap		08/31/23	\$500.00		\$500.00

Check Date:	08/31/23	Check Number:	67901	Amount:	\$500.00
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THIS CHECK IS VOID WITHOUT A COLORED BORDER AND VOID PANTOGRAPH. SEE BACK FOR COMPLETE LIST OF SECURITY FEATURES INCLUDED ON THIS CHECK.

Ciena Health Care Management, Inc.
4000 Town Center, Suite #2000
Southfield, MI 48075

CIBC Bank USA
120 South LaSalle St.
Chicago, IL 60603

67901

Five-Hundred and 00/100 dollars

DATE AMOUNT

08/31/23 \$500.00

VOID AFTER 180 DAYS

PAY
TO THE
ORDER
OF

City Of Troy Planning Department
500 W. Big Beaver Road
Troy MI 48084-



⑈ 67901 ⑈ ⑆ 072413971⑆ 7721356 ⑈



500 West Big Beaver
Troy, MI 48084
troymi.gov

Date: October 4, 2023
To: Members of the Building Code Board of Appeals
From: Allan T. Motzny, Assistant City Attorney *ATM*
Subject: Appeal Regarding Proposed Regency of Troy Sign

Derrick Zajac of Ciena Healthcare (Applicant) is appealing a decision of City Administration that a proposed sign is not allowed because it is a prohibited off premise sign. Alternatively, the Applicant is requesting a variance to allow the sign. Although the application indicates the subject property is 2685 W. Maple, which is the location of the Regency of Troy building, the proposed "Regency of Troy" sign would be located on one of two adjacent outlots that are separate parcels with separate addresses and separate parcel identification numbers.

Section 85.01.03 of Chapter 85 of the City Code (Sign Ordinance) defines an off premise sign as follows:

"Off Premise Sign: A sign that may include a commercial message, and directs attention to any business, profession, product, activity, community, or service offered, sold, manufactured or furnished on property or premises other than that upon which the sign is located."

Section 85.01.05 H of the Sign Ordinance states:

"H. Off Premise Signs: Off Premise Signs are prohibited in all zoning districts. This prohibition is applicable only to signs displaying commercial messages."

Since this appeal is not typical of the types of cases normally heard by the Building Code Board of Appeals (Board), this memo is provided to offer some guidance to the Board and to set forth the City's position with regard to the Applicant's claim.

AUTHORITY

The Board was created under Chapter 79 of the City Code pursuant to MCL 125.1515 which authorizes governmental subdivisions to create a construction board of appeals to hear appeals related to construction code issues. The authority to grant sign ordinance variances and appeals was given to the Board in Chapter 85 in accordance with MCL 125.1514(2), which allows governmental subdivisions the authority to grant its board of appeals additional duties. Pursuant to Section 85.01.08 A 1 and B 1, the Board has the



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authority to hear an appeal from any decision of any City official in connection with an application for a sign permit (Administrative Appeal) and to grant variances from the requirements of the sign ordinance.

PROCEDURE FOR ADMINISTRATIVE APPEAL

The sign ordinance does not set forth a specific procedure for an appeal from the decision of a City official. However, when the appeal procedure in the sign ordinance was last amended, it was the intent to make appeals under the sign ordinance more consistent with the procedure followed by the Zoning Board of Appeals (ZBA) under the zoning ordinance. Accordingly, the procedure followed by the ZBA in zoning ordinance appeals would be applicable. In accordance with that procedure, this Board may only modify or reverse the decision of City Administration if one or more of the following requirements are met:

1. The decision was arbitrary or capricious.
2. The decision was based on an erroneous finding of material fact.
3. The decision constituted an abuse of discretion; or
4. The decision was based on an erroneous interpretation of the ordinance.

In deciding whether there was an erroneous interpretation of the ordinance, this Board may find it helpful to follow the guidelines used by courts in interpreting the language of an ordinance. Generally, when construing the meaning of an ordinance, each provision should be given effect and should be read to harmonize with all others. The primary goal of the interpretation of an ordinance is to give effect to the intent of the legislative body, which in this case is the Troy City Council. The first criterion in determining intent is the specific language of the ordinance. The language should be construed reasonably, keeping in mind the purpose of the ordinance.

SUMMARY OF ARGUMENTS REGARDING THIS APPEAL

The Applicant agrees the proposed sign is an off premise sign but contends it is not prohibited because it does not contain a commercial message. The Applicant states the sign merely contains the name of the building similar to directional signage. The Applicant also argues the proposed sign is similar to a residential development identification sign allowed under Section 85.01.05 A 3 of the Sign Ordinance.

The City contends the message on the proposed sign is a commercial message because it advertises a business located on a separate parcel. The City also believes this interpretation is consistent with the purpose and intent of the Sign Ordinance. Although the ordinance does not define the term "*commercial message*," there are court decisions involving sign ordinances that define the term "*commercial speech*." "Commercial speech" has been defined by the United States Supreme Court as "expression related solely to the economic interests of the speaker and its audience."



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Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n of N.Y. 447 U.S. 557, 561, 100 S.Ct. 2343, 65 L.Ed.2d 341 (1980). The City Administration contends a sign that identifies the name of a business or other entity is by its very nature a sign designed to attract customers or clients. As such, the Applicant's proposed sign contains a commercial message since it is solely related to the economic interests of the Applicant. If the proposed sign were placed on the same parcel as the building, it would be permitted. However, since the sign as proposed would be placed on a separate parcel, it is the City's position it is prohibited.

A review of Sections 85.01.01 B 1-12 of the Sign Ordinance, (copy attached) indicates it was City Council's intent to prohibit any off premise sign referring to a business or service unless the business or service is located on the same parcel as the sign. In particular, subsection 8 states:

"It is also determined that the signs of least value to people within the City are those which carry commercial messages other than the advertisement of any product, service, event, person, institution or business located on the premises where the sign is located (off premise sign) or indicates the sale or rental of such premises."

As noted, the Applicant believes the proposed sign should be allowed because it is similar to a residential identification sign which City Council may allow in its discretion. However, the fact the ordinance specifically allows City Council to approve residential identification signs in some circumstances supports the City Administration position. If it were the intent of City Council to allow a sign on one parcel identifying a business located on a separate adjacent parcel, the ordinance would have specifically included language to that effect. The absence of such language reveals City Council's intent to prohibit signs identifying a business or other entity except when the sign is located on the same parcel as the business or entity.

The Applicant also contends allowing the proposed sign is consistent with the intent of the ordinance because it would decrease the proliferation of signs. According to the Applicant, allowing the sign would result in only one new sign as opposed to three new signs. The City of Troy Administration disagrees. If the City followed the Applicant's interpretation, it would potentially increase the number of signs in the City because businesses would be allowed to place signs identifying its business anywhere in the City and not just the one parcel where the business is actually located.

DECISION ON ADMINISTRATIVE APPEAL

If a majority of the Board agrees with the Applicant's interpretation, it should approve a resolution granting its appeal to reverse the decision of the City Administration. In such case, a permit may be issued to allow the sign - assuming the owner of the parcel



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where the sign is to be located also approves. If the Board grants the administrative appeal, there is no need to consider the Applicant's alternate request for a variance.

VARIANCE REQUEST

The Applicant indicates that if this Board does not grant any relief with respect to the administrative appeal, the Applicant should be granted a variance to allow the sign. A variance may only be granted if the Applicant satisfies **all** five criteria set forth in Section 85.01.08 B 1 a – e, a copy of which is attached to this memo. Additionally, under Section 85.01.08 B 2, a variance shall not be granted that would result in a sign that exceeds the height, size, or setback provisions of the Sign Ordinance by 25 %, or that would increase the number of signs permitted by this ordinance by more than 25%. Accordingly, even if the Board determines the five criteria are satisfied, the Board may only grant the variance if it finds the variance would not result in an increase that exceeds what is allowed under the ordinance by more than 25%

It is the City's position the variance request cannot be granted. Since the ordinance prohibits off premise signs, allowing the proposed sign would increase the number of signs allowed by more than 25% contrary to the provisions of Section 85.01.08 B 2 of the Sign Ordinance.

Additionally, in order to be entitled to a variance, the Applicant has to demonstrate exceptional characteristics of the property for which the variance is sought make compliance with the requirements of the Sign Ordinance substantially more difficult than would be the case for the great majority of properties in the same zoning district and that those characteristics are related to the premises for which the variance is sought. In its application, the Applicant relies on the characteristics of the property located at 2685 W. Maple in its argument as to why a variance should be granted. However, since the variance being sought is for a parcel other than the parcel located at 2685 W. Maple, it is the City Administration's position the characteristics of 2685 W. Maple are not relevant, and that is another reason the variance should be denied.

Chapter 85 - Signs

85.01.00 Administration

85.01.01 Title, Purpose and Severability

A. Short Title: This Ordinance shall be known as and may be cited as the City of Troy Sign Ordinance.

B. Findings and Purpose:

1. It is hereby determined that proliferation of signs in the City is unduly distracting to motorists and pedestrians, creates a traffic hazard, and reduces the effectiveness of signs needed to direct and warn the public. Too many signs can overwhelm the senses, impair sightlines and vistas, create feelings of anxiety and dismay, affect the tranquility of residential areas, impair aesthetics and degrade the quality of a community.
2. It is also determined that the appearance of the City is marred by proliferation of signs.
3. It is also determined that proliferation of signs restricts light and air.
4. It is also determined that proliferation of signs negatively affects property values. This Ordinance promotes safe, well-maintained, vibrant and attractive residential and business neighborhoods while accommodating the need for signs to function for the purposes for which they are intended.
5. It is also determined that the individual user's rights to convey a message must be balanced against the public's right to be free of signs which unreasonably compete with one another, distract drivers and pedestrians, and create safety concerns and confusion. This Ordinance is intended to balance the individual user's desire to attract attention with the citizens' right to be free of unreasonable distractions.
6. It is also determined that proliferation of signs results in an inappropriate use of land. The purpose of this Ordinance is to control the occurrence and size of signs in order to reduce the aforementioned negative effects.
7. It is also determined that there is a unique value to signs which provide a means of exercising constitutional freedom of expression.
8. It is also determined that the signs of least value to people within the City are those which carry commercial messages other than the advertisement of any product, service, event, person, institution or business located on the premises where the sign is located (off premise sign) or indicates the sale or rental of such premises.
9. It is further determined that off premise signs are unduly distracting to motorists and residents because of the periodic changing of the message on such signs and because such signs are generally larger and are predominantly located along busy highways where several businesses are located in close proximity to each other, thereby posing a greater risk to the City's interest in traffic safety and aesthetics. Additionally, off-premises signs can also deter the redevelopment of a parcel or limit the redevelopment potential of a site due to extended lease periods for off-premises signs.
10. It is further determined a proliferation of off premise signs creates confusion and the perception of visual clutter in conflict with one of the goals and themes of the

Chapter 85 - Signs

City of Troy Master Plan. This Ordinance supports the purposes and recommendations of various area specific plans adopted in support of orderly development and ensures that signs are located, designed, constructed, installed and maintained in a way that protects life, health, property, and the public welfare.

11. It is also determined that the regulations contained in this Ordinance are the minimum amount of regulation necessary to achieve its purposes.
12. It is also determined that restrictions in this Ordinance on the size of signs, their height and placement on real estate, are the minimum amount necessary to achieve its purposes.

(Rev. 09-24-2018; Effective 10-04-2018)

- C. Severability: If any court of competent jurisdiction shall declare any part of this Ordinance to be invalid, such ruling shall not affect any other provisions of this Ordinance.

(Rev. 09-24-2018; Effective 10-04-2018)

85.01.02 Enforcement:

- A. This Chapter shall be administered and enforced by the Zoning Administrator as provided for in Chapter 3 of the Troy City Code.

(Rev. 06-07-2010)

- B. Responsibility of Compliance: The owner of any property on which a sign is placed, and the person maintaining said sign are equally responsible for the condition of the sign and the area in the vicinity thereof.

- C. Removal of Signs: Should any sign be found unsafe, insecure, improperly constructed or not in accordance with the requirements of this Chapter, the Sign Erector and/or Owner shall be required to make the sign safe, secure and otherwise in compliance with the requirements of this Chapter.

(Rev. 09-24-2018; Effective 10-04-2018)

- 85.01.03 Definitions: For the purpose of this chapter, certain terms, words and tenses used herein, shall be interpreted or defined as follows:

Amortization: Amortization refers to the grace period in which a sign that becomes nonconforming as a result of an amendment to this Chapter must be removed, which allows the owner of such sign to recoup their investment in the sign prior to its removal.

(Rev. 09-24-2018; Effective 10-04-2018)

Board of Appeals: Board of Appeals means the Building Code Board of Appeals.

Business Development: One or more uses within a building or buildings that share common parking facilities.

Chapter 85 - Signs

85.01.08 Appeals:

A. Procedure

1. Any person aggrieved by any decision, ruling or order from the Building Inspector, Zoning Administrator, or any other City official in connection with an application for a sign permit may appeal that decision to the Board of Appeals and request a variance from the requirements of this Chapter. The appeal shall be made by filing an application for a hearing with the Department. The application shall specify the grounds for the appeal. The Zoning Administrator shall transmit the application and all other documents relating to the appeal to the Board of Appeals. Upon receipt of the Appeal Application, the Building Inspector shall administratively establish a date of the Public Hearing. The public hearing shall be scheduled within 30 days of the receipt of a complete application or placed on the agenda of the next occurring agenda of the Board of Appeals, whichever is later, in order to meet the notice requirements set forth below.

(Rev. 09-24-2018; Effective 10-04-2018)

2. The Zoning Administrator shall notify all owners of real property within 300 feet of the real property that is proposed as the site of the sign subject to the appeal. The notice shall be sent by U.S. Mail to the owners at the address listed with the Troy Assessing Department, and shall be postmarked no less than 14 days before the date of the Public Hearing.

(Rev. 06-07-2010)

3. A final decision on an appeal shall be made by the Board of Appeals within 30 days of the public hearing, unless a final decision is tabled or postponed for the purpose of receiving additional information needed to make a final decision or if it is tabled or postponed at the request of the applicant.

(Rev. 09-24-2018; Effective 10-04-2018)

B. Powers of the Board of Appeals

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

(Rev. 09-24-2018; Effective 10-04-2018)

- 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; and

Chapter 85 - Signs

(Rev. 09-24-2018; Effective 10-04-2018)

- 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; and

(Rev. 09-24-2018; Effective 10-04-2018)

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

(Rev. 09-24-2018; Effective 10-04-2018)

- 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

(Rev. 09-24-2018; Effective 10-04-2018)

- 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.

(Rev. 09-24-2018; Effective 10-04-2018)

2. Limitation on Variances: In no case shall any variance be granted that would result in a sign that exceeds the height, size, or setback provisions of this Chapter by 25% or that would increase the number of signs permitted by this Chapter by more than 25%.

(Rev. 09-24-2018; Effective 10-04-2018)

85.01.09 Violations

- A. It shall be unlawful for any person to erect, construct, maintain, enlarge, alter, move, or convert any sign in the City of Troy, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this Chapter. Any person violating any of the provisions of this Chapter shall be responsible for committing a Municipal Civil Infraction subject to the provisions of Chapter 100 of the Code of the City of Troy. Each day that a violation continues is deemed a separate Municipal Civil Infraction. Sanctions for each violation of Chapter 85 shall include a fine of not more than \$500, costs, damages and injunctive orders as authorized by Chapter 100. Any sign constituting an immediate hazard to health and safety is deemed a nuisance and may be removed by the Zoning Administrator at the expense of the owner of the sign or other responsible party, in the discretion of the Zoning Administrator.

**CITY OF TROY
MICHIGAN
PUBLIC NOTICE
BUILDING CODE BOARD OF APPEALS**

Notice is hereby given that the Building Code Board of Appeals of the City of Troy will hold Public Meetings in accordance with the Michigan Open Meetings Act on the dates listed below. The meeting location will be City Hall, 500 West Big Beaver Road, Troy, Michigan, (248) 524-3364.

2024 BUILDING BOARD OF APPEALS

January 3	August 7
February 7	September 4
March 6	October 2
April 3	November 6
May 1	December 4
June 5	
July 10	

All meetings are held at 3:00 p.m. in Council Chambers of the City Hall Building and are open to the public.

This notice is hereby posted as required by Section 4 of the Open Meetings Act (MCLA 15.261 et seq.)

Salim Huerta
Building Official

Posted:

NOTICE: People with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk by email at clerk@ci.troy.mi.us 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.