

Chair Abitheira called the Regular meeting of the Building Code Board of Appeals to order at 3:00 p.m. on August 13, 2025 in the Council Chamber of Troy City Hall.

1. ROLL CALL

Present

Gary Abitheira

Teresa Brooks

Matthew Dziurman

Absent:

Sande Frisen

Frank Nastasi, City Manager

Also Present

Salim Huerta, Building Official

Dominic Abate, Residential Plans Examiner/Building Inspector

Allan Motzny, Assistant City Attorney

Kathy L. Czarnecki, Recording Secretary

2. APPROVAL OF MINUTES – July 9, 2025

Moved by: Dziurman

Support by: Brooks

**RESOLVED**, To approve the minutes of July 9, 2025 Regular meeting as submitted.

Yes: All present (3)

Absent: Frisen, Nastasi

**MOTION CARRIED**

3. HEARING OF CASES

- A. VARIANCE REQUEST, 2143 ALFRED, TYLER HIJAZI – This property is located within the R-1D zoning district which requires a front yard setback of 25 feet along Alfred. The zoning ordinance limits fence height to 30 inches (2.5 feet) within a front yard setback. The petitioner is seeking a fence height variance for the installation of a proposed new wood and mesh “Deer” fence which would be 6 feet in height and placed 1 foot away from the Alfred property line. The fence is proposed to run 30 feet along Alfred and return 24 feet back toward the house for a total variance length of 6 feet high wood and mesh “Deer” fence of 54 feet in the Alfred required front yard. Of the total 91 feet of fence requested, 37 feet of the fence complies with zoning regulations and does not require a variance. *CHAPTER 83 FENCE CODE*

Mr. Abate read the variance request narrative. He stated the property was cited with an enforcement, EN2025-0058 Working Without a Permit.

Chair Abitheira advised the petitioner that three votes are required for approval and that a postponement of the item could be requested until a full Board is present.

The petitioner Tyler Hijazi requested a postponement.

Moved by: Dziurman  
Support by: Brooks

**RESOLVED**, To **postpone** a variance request for 2143 Alfred to the September 3, 2025 regularly scheduled Board meeting.

Yes: All present (3)  
Absent: Frisen, Nastasi

**MOTION CARRIED**

- B. VARIANCE REQUEST, 4819 ROCHESTER, KIM ALLARD for ALLIED SIGNS – The petitioner requests a sign area variance to install a replacement 56.25 square foot ground sign set back 12 feet from the planned or future right of way line, whichever is greater, where the Sign Ordinance requires the sign be no larger than 50 square feet. In order to grant a variance, the Board must find that all five appeals criteria of Chapter 85 Signs, Section 85.01.08, B, 1, are met. CHAPTER 85 SIGN CODE

Mr. Abate read the variance request narrative. He reminded the Board members that all five appeals criteria of Chapter 85 Signs must be met to grant a variance. Mr. Abate stated the former 135 square foot sign had to be removed because of the widening of Rochester Road. Mr. Abate said placing a sign on the lot line is not an option because of a 12 foot easement. He said the department received no communications in response to the public notice.

Present were Bob Bongiorno of McDonald's and Attorney Jerry Pesick.

Chair Abitheira advised the petitioner that three votes are required for approval and that a postponement of the item could be requested until a full Board is present.

Mr. Bongiorno asked to go forward with the request. He said McDonald's at their expense removed the former sign due to eminent domain. Mr. Bongiorno addressed the size and setback of the proposed new sign. He said the former sign was a larger digital sign.

Mr. Pesick said the City requested removal of the former sign by July 31, 2025. He said McDonald's is at no fault and acted in good faith. Mr. Pesick stated the proposed sign is a precast mold monument sign of the McDonald brand. He said this McDonald's location has less exposure compared to other McDonald's locations and there was a loss of 40% in sales since the removal of the sign.



Some comments during discussion related to the following:

- Information and pictures submitted with the request.
- Size and type of proposed sign compared to former sign.
- Sign type; ground monument precast mold McDonald brand, no digital, not aerial, height complies.
- Hardship placed on the petitioner.
- Existing utility easements appear not to obstruct the sign placement.
- Effect of the Rochester Road widening and potential hardship on businesses.
- Sign Ordinance size limitation to 50 square feet.
- Landscaping; no additional landscaping is proposed nor is it required.
- Illumination of sign if any require compliance with the Zoning Ordinance.

Mr. Dziurman said he finds, from the perspective of the Zoning Ordinance, the only hardship is the petitioner's request to install a McDonald's brand sign, and the petitioner could install a sign that meets the size requirements of the Zoning Ordinance.

Mr. Huerta stated the purpose of this Board is making decisions beyond the Zoning Ordinance requirements.

Ms. Brooks said the Board could very well be setting a precedent with its decision today because other businesses might come before this Board requesting variances related to the eminent domain. She said the request for an additional seven (7) square feet is not excessive and it could provide more visibility for McDonald's at this location and boost its sales.

Chair Abitheira finds the petitioner has a solid hardship because the City is taking its property. He said a sign with less square footage and no digital components could be considered more appealing. Chair Abitheira said McDonald's action to remove its sign and comply with the City request reveals its intent to be a good neighbor.

Chair Abitheira opened the Public Hearing. Acknowledging there was no one present who wished to speak, Chair Abitheira closed the Public Hearing.

After a brief discussion with Mr. Pesick, Mr. Bongiorno asked to go forward with a vote. Mr. Bongiorno said he believes it is in the best interest of the City to work with McDonald's and other businesses that might be affected by the eminent domain.

Moved by: Brooks  
Support by: Dziurman

**RESOLVED**, That a sign ordinance variance request for 4819 Rochester be **granted**, for the following reasons:

1. Exceptional characteristics of the property for which the variance is sought make compliance with the requirements difficult because the road expansion project has put this property into a unique situation.

2. The characteristics which make compliance with the requirements of this Chapter difficult are related to the eminent domain and the situation it created.
3. The characteristics which make compliance with the requirements of this Chapter difficult are not of a personal nature. The property owner did not create the situation.
4. The characteristics which make compliance with the requirements of this Chapter difficult was not created by the owner, a previous owner, or the applicant, as previously stated. The road expansion project is not the doing of the applicant.
5. The proposed variance will not be harmful or alter the essential character of the area in which the property is located, and the proposed variance will not affect any of the area by replacing a pole sign. The applicant is creating a good environment.

Yes: All present (3)  
Absent: Frisen, Nastasi

#### **MOTION CARRIED**

4. COMMUNICATIONS

None.

5. PUBLIC COMMENT

None.

6. MISCELLANEOUS BUSINESS

None.

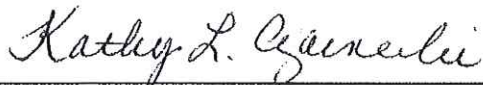
7. ADJOURNMENT

The Regular meeting of the Building Code Board of Appeals adjourned at 3:51 p.m.

Respectfully submitted,



Gary Abitheira, Chair



Kathy L. Czarnecki, Recording Secretary