

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of September 6, 2012

SUBJECT: Amendments to Chapter 61 (Signs and Outdoor Advertising), Section 5:517 to Shift the Responsibilities of the Sign Board of Appeals to the Zoning Board of Appeals

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve amendments to Chapter 61 (Signs and Outdoor Advertising), Section 5:517 to shift the responsibilities of the Sign Board of Appeals to the Zoning Board of Appeals.

STAFF RECOMMENDATION

Staff recommends that the proposed amendments to City Code be **approved**. The changes will streamline the appeal process in anticipation of the Signs and Outdoor Advertising Ordinance being incorporated into the Uniform Development Code. In addition, the elimination of the Sign Board of Appeals will free up administrative staff time for other assignments.

PROJECT BACKGROUND

The Sign Board of Appeals (SBA) is a seven-member citizen board, appointed by the Mayor and City Council, which hears appeals of administrative decisions and variances from the provisions of Chapter 61, Signs and Outdoor Advertising. The Board is scheduled to meet monthly, although usually meets only several times per year. Last fiscal year, the SBA heard six appeals. The previous fiscal year, no appeals were filed.

Administration of the sign code was moved from Building to Planning staff in 2008. The idea of shifting the SBA's responsibilities to the Zoning Board of Appeals (ZBA), a nine-member board that meets monthly, was raised that same year as part of budget discussions. The thought was that by having the ZBA hear sign appeals and variances, Planning & Development Services administrative staff time spent to create separate notice and board packets would be eliminated.

Since the original proposal, the Zoning Ordinance Re-organization project (ZORO) has proposed that the sign code be incorporated into the Uniform Development Code. As such, sign requirements will become "zoning" requirements, and therefore appropriate topics for ZBA review.

Currently, the ZBA has the authority to hear appeals and grant variances for Chapter 47 (Streets), Chapter 59 (Off-Street Parking), Chapter 60 (Wetlands), Chapter 62 (Landscape and Screening), Chapter 63 (Storm Water Management and Soil Erosion and Sedimentation Control), Chapter 94 (Junkyards) and Chapter 104 (Fences). The requirements for all of these appeals and variances will be consolidated as part of the ZORO process.

STAFF COMMENTS

The proposed amendment to Chapter 61 is attached. No amendments to Chapter 55 (Zoning) are proposed, since Article IX, Zoning Board of Appeals, is written to cover the Board's powers and procedures in a general way.

The proposed amendments retain a provision related to signs in historic districts. It is important to retain this provision in order to allow the restoration or reinstallation of historic signs that may not conform to the current sign code. An example of this was the installation of a replica of the historic marquee on the Michigan Theater in 2002. The SBA granted variances allowing 300+ extra square feet of signage and blinking lights that were prohibited by sign code in order to accommodate the historic design of the marquee, and the Historic District Commission issued a Certificate of Appropriateness for the project.

The four current members of the SBA are aware of this proposed amendment; two of the members currently serve on the ZBA in anticipation of this change. At the time this amendment is considered by City Council, the Council will also consider a resolution to dissolve the Sign Board of Appeals.

Prepared by Wendy Rampson
Reviewed by Jill Thacher

Attachment: August 29, 2012 Draft Amendments to Chapter 61 (Signs and Outdoor Advertising), Section 5:517

c: City Attorney
Sign Board of Appeals
Zoning Board of Appeals

**AMENDMENTS TO CHAPTER 61 (SIGNS AND OUTDOOR ADVERTISING), SECTION 5:517,
TO SHIFT THE RESPONSIBILITIES OF THE SIGN BOARD OF APPEALS
TO THE ZONING BOARD OF APPEALS**

The City of Ann Arbor ordains:

Section 1. That Section 5:517 of Chapter 61 of Title V of the Code of the City of Ann Arbor be amended as follows:

5:517. - Appeals.

~~(1) *Appointment of Board of Sign Appeals.* The Board of Sign Appeals (hereinafter "Board") shall consist of 7 members appointed by the City Council. At the time the Board is first appointed there shall be 3 appointments for a period of one year, 2 appointments for a period of 2 years and 2 appointments for a period of 3 years. Thereafter, all appointments shall be for a term of 3 years and shall continue until a successor is appointed and has qualified.~~

~~(2) *Meetings.* Meetings of the Board shall be held at least once every month and at such other times as the Board may determine. There shall be a fixed place of meeting and all meetings shall be open to the public. The Board shall adopt its rules of procedure and keep a record of its proceedings showing the action of the Board, the finding of facts made by the Board and the vote of each member upon each question considered. The presence of 4 members shall be necessary to constitute a quorum and 4 affirmative votes shall be required to grant a variance.~~

~~(3) *Powers.* The Zoning Board of Appeals shall have power to hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or determination made by the Administrator, or any other administrative official, in connection with the enforcement of this Chapter. The Zoning Board of Appeals shall have power to authorize a variance from the strict application of this Chapter where such application will result in practical difficulties or unnecessary hardships to the person owning or having the beneficial use of the property or sign for which a variance is sought. The provisions of this Chapter shall not be mandatory for buildings designated as historic structures by State, Federal or local governments, subject to a variance being granted by the Sign-Zoning Board of Appeals and a Certificate of Appropriateness being granted by upon a recommendation of the Historic District Commission, that the proposed sign is necessary and integral to the historic character of the building. The procedural requirements for appeals under Chapter 55 shall be applicable to appeals under this chapter. Prior to the granting of an appeal or of a variance by the Board, the City Attorney and the planning and development services manager or designee shall be given a reasonable opportunity to study the appeal or request for variances and to make recommendations thereon to the Board. The concurring vote of 4 members shall be necessary to reverse or modify any order, requirement, decision or determination of the Administrator, or any other administrative official, or to grant any variance from the strict application of this Chapter.~~

~~(4) *Application of the variance power.* A variance may be allowed by the Board in cases involving practical difficulties or unnecessary hardships only when the evidence in the official record of the appeal supports all the following affirmative findings:~~

~~(a) That the alleged hardships or practical difficulties, or both, are peculiar to the property of the person requesting the variance and result from conditions which do not exist generally throughout the City.~~

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

~~(5) Application of the variance power – Historic building. A variance may be allowed by the Board in cases where the Board has received a recommendation from the Historic District Commission that the proposed sign is necessary and integral to the historic character of the building. In such cases, the findings in Subsections (4)(a) and (b) are not required.~~

~~(6) Duration of variance. A variance which is granted shall remain in effect only so long as the site plan that is in effect at the time the variance is granted remains in effect without change or modification for the property on which the sign is located.~~

~~(7) Appeal procedure.~~

~~(a) Appeals shall be commenced by a person filing a notice of appeal with the planning and development services manager on a form to be supplied by the planning and development services manager. The fees for appeals shall be established by resolution of City Council upon the recommendation of the City Administrator. In the case of an appeal from a decision or order of an administrative official, this fee shall be returned if the appellant prevails. The notice of appeal shall specify the particular grounds upon which the appeal is based and shall be signed. It shall also specify the requirements from which a variance is sought and the nature and extent of such variance.~~

~~(b) The Board shall fix a reasonable time for the hearing of appeals and, in the case of variance requests, shall give due notice thereof to all owners of record of real property within 300 feet of the premises in question, such notice to be delivered personally or by mail addressed to the respective owners at the address given in the last assessment roll.~~

~~(c) Any person shall be accorded the right to appear in person or be represented by a duly authorized agent.~~

~~(d) The Board shall prepare an official record for each appeal and shall base its decision on this record. The official record shall include:~~

~~(i) The relevant administrative records and the administrative orders issued thereon relating to the appeal.~~

~~(ii) The notice of appeal.~~

~~(iii) Such documents, exhibits, photographs or written reports as may be submitted to the Board for its consideration.~~

Section 2. That this ordinance shall take effect on the tenth day following legal publication.