

MINUTES OF THE ZONING BOARD OF APPEALS MEETING OF THE CITY OF GROSSE POINTE WOODS HELD ON MONDAY, NOVEMBER 25, 2019, IN THE COUNCIL-COURT ROOM OF THE MUNICIPAL BUILDING, 20025 MACK PLAZA, GROSSE POINTE WOODS, MICHIGAN.

The meeting was called to order at 7:04 p.m. by Mayor Novitke.

Roll Call: Mayor Novitke  
Council members: Bryant, Gafa, Granger, Koester, McConaghy, McMullen  
Absent: None

Also Present: City Administrator Smith  
City Attorney Chip Berschback  
Deputy City Clerk Antolin  
Building Inspector Tutag

Motion by Granger, seconded by Koester, that all items on tonight's agenda be received, placed on file, and taken in order of appearance.

Motion carried by the following vote:

Yes: Bryant, Gafa, Granger, Koester, McConaghy, McMullen, Novitke  
No: None  
Absent: None

THE MEETING WAS THEREUPON OPENED AT 7:04 P.M. FOR A ZONING BOARD OF APPEALS HEARING UNDER THE PROVISIONS OF CHAPTER 50, SECTION 50-181 OF THE 2017 CITY CODE TO HEAR THE APPEAL OF KROGER CO. OF MICHIGAN, 20422 MACK AVE., GROSSE POINTE WOODS, WHO IS APPEALING THE DENIAL OF THE PLANNING COMMISSION FOR SPECIAL LAND USE REGARDING THE TRANSFER OF AN SDD LICENSE INTO THE CITY. SECTION 50-371(5) INDICATES THAT NO SDD USE SHALL BE APPROVED IF SUCH PROPOSED USE IS WITHIN A 500' DISTANCE FROM AN EXISTING SDD/SDM, OR CHURCH OR SCHOOL; AN EXISTING SDD (CVS), SCHOOL (PARCELS), AND TWO CHURCHES (ST. MICHAEL'S AND CHRIST THE KING) ARE LOCATED WITHIN 500' OF KROGER. A VARIANCE IS THEREFORE REQUIRED.

The City Attorney provided an overview of the variance request in accordance with his letter dated November 21, 2019.

Motion by Bryant, seconded by Gafa, that for purposes of the Zoning Board of Appeal hearing, the following items be received and placed on file:

1. Letter 11/21/19 – City Attorney
  - a. City Code Secs. 50-149 and 50-181
2. Planning Commission Excerpt 09/24/19
3. Planning Commission Certified Resolution
4. Letter 02/13/19 – City Attorney
5. Special Land Use Application 06/12/19
6. Letter 06/11/19 – Clark Hill
  - a. Existing Floor Plan
  - b. Proposed Floor Plan
  - c. Beverage/Liquor Alcohol Layout Plan
7. Letter 09/16/19 – City Attorney
8. Planning Commission Excerpt 08/27/19
9. Memo 09/10/19 – Building Official
10. Letter 08/10/19 – Clark Hill
11. Retailer License & Permit Application 07/03/18, w/attachments
12. Affidavit of Legal Publication
13. Affidavit of Property Owners & Utilities Companies Notified
14. Aerial Views (2)
15. Memo 11/22/19 – Building Official

Motion carried by the following vote:

Yes: Bryant, Gafa, Granger, Koester, McConaghy, McMullen, Novitke  
No: None  
Absent: None

The Chair asked if anyone from the audience wished to speak in favor of the proposed request. The following individual was heard:

Jason canvassers, Clark Hill

The Chair asked if anyone from the audience wished to speak in opposition to the proposed request. The following individuals were heard:

Diane Widerock  
1102 Anita

Mark Gade  
5021 Shorepointe Ln.

Jim Profeta  
534 Saddle Ln.

Laura Bommarito  
15 Shorecrest Circle

Kirk H.  
500 Woodward Ave.

Motion by Granger, seconded by Koester, that the public hearing be closed at 7:36 p.m.  
PASSED UNANIMOUSLY.

Motion by Bryant, seconded by Gafa, regarding **Zoning Board of Appeals: Special Land Use to transfer an SDD license into the City, regarding Kroger Co., 20422 Mack Ave.**, that the Zoning Board of Appeals adopt the Resolution to deny the variance because the Petitioner has failed to show an unnecessary hardship and has failed to meet the conditions set out in Section 50-149(b); Specifically, (1) Petitioner has failed to show that the property cannot be reasonably used in a manner consistent with the existing zoning, (2) Petitioner has failed to show that Petitioner's plight is due to unique circumstances peculiar to the property, and (3) Petitioner has failed to show that the spirit of this chapter will be observed, the public safety and welfare secured, and substantial justice would be done by granting the variance. This motion is based on the records received and placed on file and the comments made at the public hearing. More specifically, (1) the Planning Commission and Building Inspector have recommended denial of the Special Land Use, (2) approval of the Special Land Use would require approval of the variance request by this body, (3) several neighbors have complained about ongoing problems with the Petitioner's ongoing use of its property, (4) the intent of Section 50-149(b) is to provide the City reasonable control over the number of liquor licenses in the City, especially located close to existing uses, churches, and schools.

Motion carried by the following ROLL CALL vote:

Gafa:	Yes
Granger:	Yes
Koester:	Yes
McConaghy:	No
McMullen:	Yes
Novitke:	Yes
Bryant:	Yes

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Motion by Bryant, seconded by Granger, to immediately certify tonight's meeting minutes.

Motion carried by the following vote:

Yes: Bryant, Gafa, Granger, Koester, McConaghy, McMullen, Novitke

No: None

Absent: None

Motion by Granger, seconded by Koester, to adjourn tonight's meeting at 7:48 p.m.  
PASSED UNANIMOUSLY.

Respectfully submitted,

Paul P. Antolin  
Deputy City Clerk