

AGENDA REPORT

TO: Mayor & City Commission
FROM: Ken Hibl, City Manager
DATE: January 13, 2010
RE: Adoption of Ordinance 2009-005 – Revision of Chapter 52 (Zoning) of the Ordinance Codes of the City of Clare

For the Agenda of January 18, 2010

Background. The Zoning Board of Appeals recently granted a requested variance related to a sign setback requirement. But in approving the variance request, the ZBA concurrently recommended (*see copy of att'd ZBA Resolution*) that the City consider amending its zoning ordinance to change the currently required 10-foot sign setback requirement to three feet. Consequently, we asked our City Attorney to draft a proposed revision to change Section 52-441 of the Zoning Codes of the City of Clare, thereby requiring that the sign setbacks be established to be a minimum of three feet from any public or private street right-of-way or access drive vice the ten feet presently mandated in said Section of the Ordinance Codes of the City.

In accordance with the City's established ordinance codes, the City Planning Commission is required to review any proposed changes to Chapter 52 (Zoning) of the City of Clare; hold a public hearing related to any proposed changes; and make a formal recommendation(s) to the City Commission pertaining to the revision or change. The Planning Commission was scheduled to hold its public hearing and consider the matter at its scheduled December 2009 meeting, but the meeting was cancelled due to road and weather conditions, so the public hearing was not held and the Planning Commission did not have an opportunity to consider the recommended revision. But as we already had the requisite public hearing noticed for the scheduled December 21st City Commission meeting, we asked the City Commission to hold its required hearing and consider approving a first reading of the proposed ordinance revision and then await formal review by the Planning Commission before proceeding to a second reading. The City Commission conducted its public hearing and a first reading of the proposed ordinance amendment at the scheduled meeting of December 21, 2009. No public comment was received.

The Planning Commission is scheduled to hold its public hearing and consider the proposed ordinance change at its scheduled evening (6:30pm) meeting of January 13th; consequently, the Planning Commission had not held its hearing or considered the matter at the drafting of this Agenda Report. But I anticipate the hearing will occur tonight and we will have a formal recommendation of the Planning Commission prior to the City Commission's meeting on January 18th, thus we have placed this item of business on the City Commission's agenda.

In order to complete the process to adopt the proposed ordinance (Ordinance 2009-005), the City Commission is required to direct a second reading (all first and second readings of ordinance amendments are Consent Agenda items of the Clare City Commission

unless properly removed from the Consent Agenda). Thereafter, the City Commission may adopt the proposed ordinance.

Issues & Questions Specified. Should the City Commission direct a second reading of the proposed ordinance and thereafter take formal action to adopt the ordinance?

Alternatives.

1. Direct a second reading and adopt the new ordinance.
2. Direct the second reading but do not adopt the ordinance.
3. Do not direct the second reading, thereby disapproving the ordinance in its current form.
4. Set aside decision regarding this matter to a later date.

Financial Impact. There is no direct fiscal impact to the City other than the administrative costs of publishing the public notice.

Recommendation. I recommend that the City Commission approve the proposed ordinance by adoption of Resolution 2010-003 (*copy att'd*). ***Note: this recommendation is based on an assumption that the Planning Commission conducts its public hearing and subsequently recommends approval of the ordinance revision. If the anticipated action does not occur, I will ask that this agenda item be set aside until the aforementioned actions can be accomplished.***

Attachments.

1. ZBA Resolution.
2. Ordinance 2009-005.
3. Resolution 2010-003.

ZBA RESOLUTION 2009-003

A RESOLUTION OF THE CITY OF CLARE ZONING BOARD OF APPEALS APPROVING A VARIANCE REQUEST OF CLARK PODIATRY CLINIC.

WHEREAS, the City has received a dimensional variance request from Mr. Tom Clark, who is representing Clare Podiatry Clinic, to erect a new sign three feet from the property line adjacent to City right-of-way at 125 Dwyer Street in the City of Clare; and

WHEREAS, said property lies within a Commercial-1 zoning district; and

WHEREAS, the zoning codes of the City of Clare require 10-foot sign setback; and

WHEREAS, the Zoning Board of Appeals, subsequent to holding an appropriately noticed public hearing, considered said request; and

WHEREAS, based on review of said request and after consideration of the established standards of the City of Clare in determining variance requests, a copy of said standards attached to this resolution, the Zoning Board of Appeals has determined that the existing ordinance codes mandating a 10-foot sign setback is unreasonable and not in the best interests of the City of Clare and its business community; and

WHEREAS, the Zoning Board of Appeals has further determined that the City should consider changing its current ordinance codes mandating said sign setback requirement.

NOW THEREFORE BE IT RESOLVED THAT the Zoning Board of Appeals hereby approves the requested dimensional variance request of Clark Podiatry Clinic to allow said entity to erect a sign not closer than three feet from the Dwyer Street right-of-way of the City of Clare.

BE IT FURTHER RESOLVED THAT the Zoning Board of Appeals recommends that the City of Clare amend Section 52-441 of the Zoning Codes of the City of Clare to require that the sign setbacks be established to be a minimum of three feet from any public or private street right-of-way or access drive vice the ten feet presently mandated in said Section of the Ordinance Codes of the City

ALL RESOLUTIONS AND PARTS OF RESOLUTIONS INsofar AS THEY CONFLICT WITH THE PROVISIONS OF THIS RESOLUTION BE AND THE SAME ARE HEREBY RESCINDED.


The Resolution was introduced by Board Member Bret Cook and supported by Board Member Cheryl Yesney. The Resolution declared adopted by the following roll call vote:

YEAS: Bret Cook, Amy Kunse, and Cheryl Yesney

NAYS: None

ABSENT: None

Resolution approved for adoption on this 30th day of October 2009.



Diane Schmidt, City Clerk

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF CLARE.

Chapter 52, Article IX, Section 52-441 of the Code of Ordinances, City of Clare, Michigan, is hereby added as follows:

Sec. 52-441. General standards for permitted signs.

Signs which are permitted as accessory uses serving a commercial or informational purpose may be permitted subject to the requirements of this article; provided, that no such sign shall be erected or altered until approved by the building official/city manager and until a sign permit has been issued pursuant to this chapter.

(a) *Sign setbacks.*

1. All signs, unless otherwise provided for, shall be set back a minimum of three feet from any public or private street right-of-way line or access drive in all districts. This distance shall be measured from the nearest edge of the sign, measured at a vertical line perpendicular to the ground to the right-of-way.
2. Side yard setbacks for signs shall be the same as that required for the main structure or building, provided that all nonresidential signs shall be set back at least 100 feet from any residential district.

(b) *Location.* Sign location to assure adequate sight distance. In order to ensure adequate sight distance for motorists, bicyclists and pedestrians, a minimum clear vision area shall be maintained between a height of 24 inches and six feet within a triangular area measured 25 feet back from intersection of public right-of-way lines. Furthermore, signs shall not be permitted where they obstruct motorist vision of regulatory signs, traffic-control devices or street signs. Within the discretion of the traffic control board or committee of the City of Clare, greater restrictions than are contained within this section may be imposed in order to protect minimum clear vision area or adequate line of sight. Such sight and condition respective requirements shall be within the sole discretion of the committee or board having authority over traffic control.

(c) *Design and construction.* Signs, as permitted in the various zoning districts, shall be designed to be compatible with the character of building materials and landscaping to promote an overall unified and aesthetic effect in accordance with the standards set forth herein. Signs shall not be constructed from materials that are remnants or manufactured for a different purpose.

(d) *Illumination.*

1. Signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign or internal to it.

2. Use of glaring undiffused lights or bulbs shall be prohibited.
3. Lights shall be shielded so as not to project onto adjoining properties or thoroughfares.
4. Underground wiring shall be required for all illuminated signs not attached to a building.

(e) *Maintenance and construction.*

1. Every sign shall be constructed and maintained in a manner consistent with the building code provisions and maintained in good structural condition at all times. All signs shall be kept neatly painted, stained, sealed or preserved including all metal, wood or other materials used for parts and supports.
2. All signs erected, constructed, reconstructed, altered or moved shall be constructed in such a manner and of such materials so that they shall be able to withstand wind pressure of at least 20 pounds per square foot or 75 mph.
3. All signs, including any cables, guy wires, or supports shall have a minimum clearance of four feet from any electric fixture, street light, or other public utility pole or standard.

(f) *Measurement.* Measurement of allowable sign area:

1. The allowable area for signs shall be measured by calculating the square footage of the sign face and any frame of other material or color forming an integral part of the display or used to differentiate it from the background against which it is placed as measured by enclosing the most protruding points or edges of a sign within a parallelogram or rectangle.
2. When a sign has two or more faces, the area of all faces shall be included in calculating the area of the sign except that where two such faces are placed back to back, only the larger face shall be considered, provided that both faces are part of the same structure, contain the same message and are separated by no more than two feet.
3. For purposes of calculating sign area allowed as a wall sign, the wall sign square footage shall be determined by measuring a parallelogram (box) which includes the portion of the canopy which contains a message, symbol and/or logo.
4. When a sign consists solely of lettering or other sign elements printed, painted or mounted on a wall of a building without any distinguishing border, panel or background, the calculation for sign area shall be measured by enclosing the most protruding edges of the sign elements within a parallelogram or rectangle.

Effective Date

This Ordinance shall take effect thirty (30) days following date of publication as required by law. All Ordinances or part Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Adopted by the City Commission of the City of Clare this _____ day of
_____, 2009.

Diane Schmidt, Clerk

2010-003

A RESOLUTION OF THE CLARE CITY COMMISSION APPROVING A REVISION TO CHAPTER 52 (ZONING) OF THE ORDINANCE CODES OF THE CITY OF CLARE.

WHEREAS, the City Commission held a public hearing to consider comment related to said Ordinance revision and receiving none, approved the first reading of said proposed Ordinance, and

WHEREAS, the Clare Planning Commission held a public hearing to consider comment related to said Ordinance revision and receiving none, recommended that the Clare City Commission adopt said revision; and

WHEREAS, the City Commission approved a second reading of said proposed Ordinance at a scheduled meeting and subsequently considered said Ordinance and determined that adoption served the best interests of the City of Clare and its citizens.

THEREFORE IT IS HEREBY RESOLVED by the Clare City Commission that Ordinance 2009-005, an Ordinance amendment to change to Section 52-441 of the Zoning Codes of the City of Clare, thereby requiring that the sign setbacks be established to be a minimum of three feet from any public or private street right-of-way or access drive vice the ten feet presently mandated in said Section of the Ordinance Codes of the City.

ALL RESOLUTIONS AND PARTS OF RESOLUTIONS INSOFAR AS THEY CONFLICT WITH THE PROVISIONS OF THIS RESOLUTION BE AND THE SAME ARE HEREBY RESCINDED.

The Resolution was introduced by Commissioner _____ and supported by Commissioner _____. The Resolution declared adopted by the following roll call vote:

YEAS:

NAYS:

ABSENT:

Resolution approved for adoption on this 18th day of January 2010.

Diane Schmidt
City Clerk