

CASE DESCRIPTION

34660 Woodward Ave (22-37)

Hearing date: August 9th, 2022

Appeal No. 22-37: The owner of the property known 34660 Woodward Ave, Village Players, requests the following variance to have a mural painted on the side of their building.

- A. Article 9, Section 9.02 *Definitions* of the Zoning Ordinance defines Wall Art as an artistic design applied to the exterior surface of a structure in a permanent or temporary manner. The location of wall art is limited to elevations of structures facing the side or rear lot line within the defined Rail District boundary, side elevations with a 0 foot setback in the Triangle District and Downtown Overlay District, and elevations facing a public or private alley, passage, or via in the Downtown Overlay and the Triangle District as specified in the Via Activation Overlay District. Wall art is only permitted in compliance with Chapter 126, the City of Birmingham Zoning Ordinance Article 7, Section 7.41 – 7.44. Wall art is not permitted on a building facing an alley, passage or via that any of which abuts a single-family residential zoned property.

The applicant is proposing a mural on the side elevation of their building facing Woodward Avenue which is setback 92 feet from the side lot line, therefore a dimensional variance of 92 feet is being requested.

Staff Notes: The Wall Art definition was adopted in December of 2021. The purpose of the definition is to delineate proposed wall art from signage. The proposed language originally began with alley locations only. Permissible locations were expanded to the Rail District and blank walls on side elevations in the Downtown Overlay and Triangle District after review by the Design Review Board and the Planning Board. The Zoning Ordinance has glazing requirements for most building elevations unless they are on a side setback where another building may be built beside it. The 0 foot side set back provision was included in the Wall Art definition as a way to activate the side of buildings that by the building code are required to be without windows.

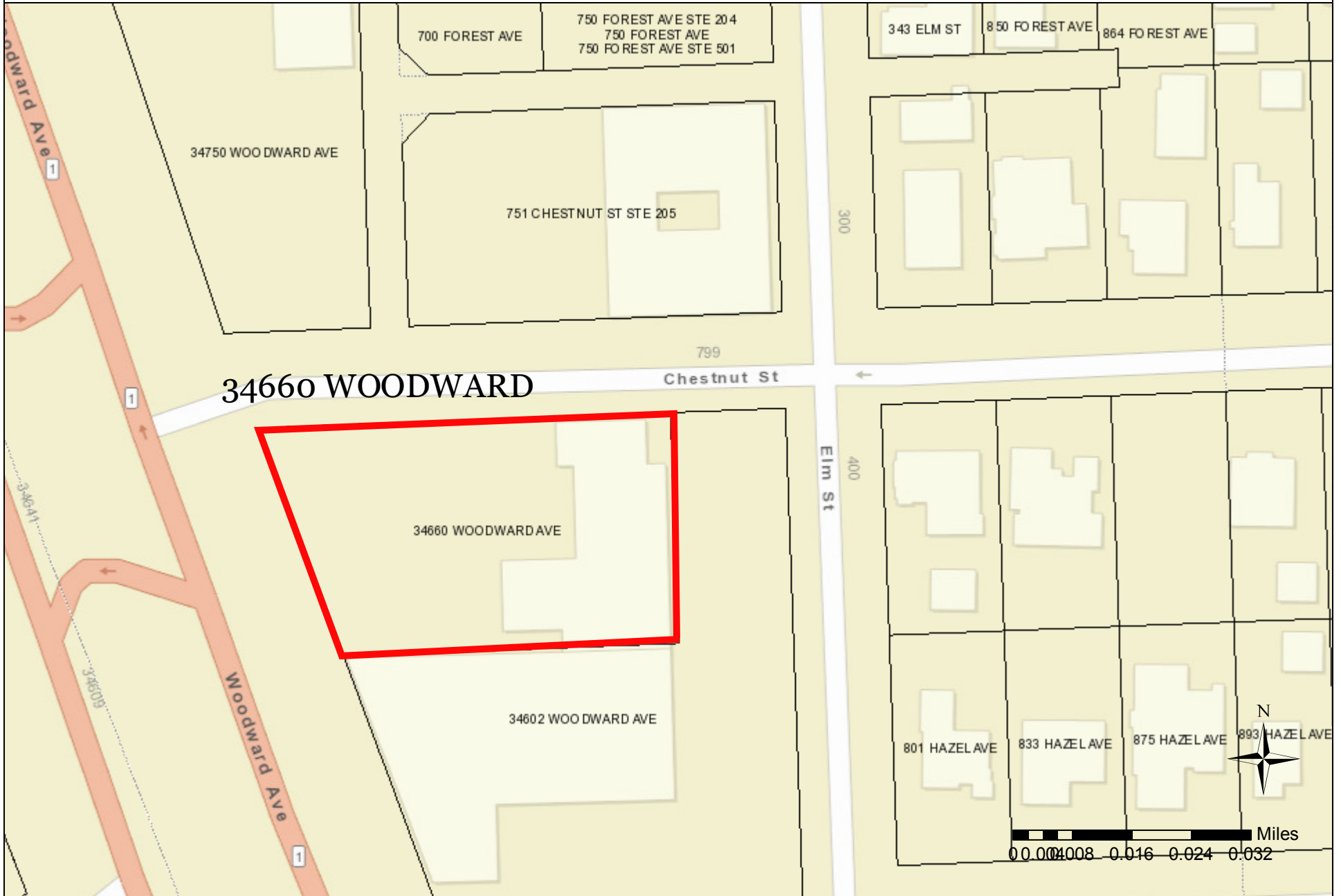
On May 18th, 2022, the applicant appeared before the Public Arts Board for preliminary design review. The Public Arts Board (PAB) recommended denial to the Design Review Board of the proposed mural. The PAB was not opposed to the art, The Board cited wanting to stay within the limitations of the new ordinance as the reason for the recommendation of denial. They did not want to push the envelope of permissible mural locations after having recently gained approval for a proposed ordinance amendment.

On June 15th, 2022, the applicant appeared before the Design Review Board for final design review. The Design Review Board motioned to recommend approval of the proposed mural with the condition that the applicant obtain a variance from the Board of Zoning Appeals. The Design Review Board discussed how the age and placement of the building prevented it from satisfying the Ordinance requirements, and how allowing an applicant to cover a large blank wall facing Woodward Ave with enhanced art appeared to meet the intent of the Wall Art Ordinance.

The property is zoned B-2 Business and MU-5 in the Triangle District Overlay Zone.

Brooks Cowan
Senior Planner

34660 WOODWARD MAP



CITY OF BIRMINGHAM
Community Development - Building Department
151 Martin Street, Birmingham, MI 48009
 Community Development: 248-530-1850
 Fax: 248-530-1290 / www.bhamgov.org

APPLICATION FOR THE BOARD OF ZONING APPEALS

Application Date: 7.8.22

Hearing Date: 8-9-22

Received By: fom

Appeal #: 22-87

| | | | | | |
|-------------------|---|---|-----------------------------------|-------------------------------|---------------------------------------|
| Type of Variance: | <input type="checkbox"/> Interpretation | <input checked="" type="checkbox"/> Dimensional | <input type="checkbox"/> Land Use | <input type="checkbox"/> Sign | <input type="checkbox"/> Admin Review |
|-------------------|---|---|-----------------------------------|-------------------------------|---------------------------------------|

I. PROPERTY INFORMATION:

| | | |
|------------------------------|--------------------------|-------------------------------|
| Address: 34660 Woodward Ave. | Lot Number: See Attached | Sidwell Number: 19-36-230-004 |
|------------------------------|--------------------------|-------------------------------|

II. OWNER INFORMATION:

| | | | |
|--|------------------|-----------------------|-----------------|
| Name: Birmingham Village Players - Eileen White, President | | | |
| Address: 34660 Woodward Ave. | City: Birmingham | State: MI | Zip code: 48009 |
| Email:* EILEENWHITE@WOWWAY.COM | | Phone: (586) 872-6558 | |

III. PETITIONER INFORMATION:

| | | | |
|------------------------------|------------------|---|-----------------|
| Name: Greg Ruvolo | | Firm/Company Name: Birmingham Village Players | |
| Address: 34660 Woodward Ave. | City: Birmingham | State: MI | Zip code: 48009 |
| Email: GRUVOLO@GMAIL.COM | | Phone: (248) 224-6700 | |

IV. GENERAL INFORMATION:

The Board of Zoning Appeals typically meets the second Tuesday of each month. Applications along with supporting documents must be submitted on or before the 12th day of the month preceding the next regular meeting. Please note that incomplete applications will not be accepted.

To insure complete applications are provided, appellants must schedule a pre-application meeting with the Building Official, Assistant Building Official and/or City Planner for a preliminary discussion of their request and the documents that will be required to be submitted. Staff will explain how all requested variances must be highlighted on the survey, site plan and construction plans. Each variance request must be clearly shown on the survey and plans including a table as shown in the example below. All dimensions to be shown in feet measured to the second decimal point.

The BZA application fee is **\$360.00** for single family residential; **\$560.00** for all others. This amount includes a fee for a public notice sign which must be posted at the property at least 15-days prior to the scheduled hearing date.

| Variance Chart Example | | | | |
|---------------------------|------------|------------|------------|-----------------|
| Requested Variances | Required | Existing | Proposed | Variance Amount |
| Variance A, Front Setback | 25.00 Feet | 23.50 Feet | 23.50 Feet | 1.50 Feet |
| Variance B, Height | 30.00 Feet | 30.25 Feet | 30.25 Feet | 0.25 Feet |

V. REQUIRED INFORMATION CHECKLIST:

- One original and nine copies of the signed application
- One original and nine copies of the signed letter of practical difficulty and/or hardship
- One original and nine copies of the certified survey
- 10 folded copies of site plan and building plans including existing and proposed floor plans and elevations
- If appealing a board decision, 10 copies of the minutes from any previous Planning, HDC, or DRB board meeting

VI. APPLICANT SIGNATURE

Owner hereby authorizes the petitioner designated below to act on behalf of the owner.
 By signing this application, I agree to conform to all applicable laws of the City of Birmingham. All information submitted on this application is accurate to the best of my knowledge. Changes to the plans are not allowed without approval from the Building Official or City Planner.
 *By providing your email to the City, you agree to receive news and notifications from the City. If you do not wish to receive these messages, you may unsubscribe at any time.

| | |
|---|------------------------|
| Signature of Owner: <u>Eileen White</u> | Date: <u>6/24/2022</u> |
| Signature of Petitioner: <u>Greg Ruvolo</u> | Date: <u>6/24/2022</u> |

Needs sign. fom



July 6, 2022

City of Birmingham
Board of Zoning Appeals
151 Martin Street
Birmingham, MI 48009

Dear Board of Zoning Appeals:

Please let us introduce ourselves. We are Village Players, which started productions in 1923 at the Birmingham Community House. We are one of the nation's oldest continuously operating community theaters in the U.S., and Birmingham's only live theater experience. As we prepare to celebrate our 100th season, we have many milestone activities planned for the year.

The Village Player's Theater was built in the late 1920's after the land was purchased in 1926. The building was designed by famed architect Wallace Frost. The front of the building is located at 752 Chestnut Street, which still remains but we now have a Woodward Ave. mailing address. Additionally, although it can't be verified, officials advised at the time of the construction, that the parking lot should border Woodward Avenue (as it sits today).

Village Players would like to install the attached mural on the west-facing wall (parking lot side) of the building. We feel this mural is tasteful and demonstrates the type of activities and use housed within the building to the public. We believe the mural is in the spirit and intent of the ordinance.

Village Players is requesting a 92-foot setback variance based on the following hardship:

The issue is not self-created. The concern is due to the unique circumstance of the historical positioning of the building on the property. The layout and configuration of the building would more than likely be considerably different if it were built today rather than almost 100 years ago. Additionally, when the Audi dealership expansion was approved and completed, it blocked visibility to the Village Players theatre. The proposed mural would identify Village Players as a "community" theater and bring awareness to our existence.

Birmingham Village Players
34660 Woodward Ave., Birmingham, MI 48009
(248) 644-2075 • birminghamvillageplayers.com



Strict compliance with the ordinance would unreasonably prevent Village Players from using the property for an otherwise permitted purpose (the installation of a mural).

The surrounding properties, as well as the community as a whole, would benefit by approving the variance request. The mural would identify, to the patrons and the community at large, the purpose and type of activity that operates within the building and the wall art would help people locate our theatre with ease. It would also beautify a plain white wall and brings character to a stark concrete surface.

Type of Variance: Dimensional

Lot #: T2N, R10E, SEC 36 CAMPBELL'S SUB LOT 1 EXC THAT PART TAKEN FOR HWY, ALSO 1/2 OF VAC ALLEY ADJ TO SAME, ALSO ALL OF VAC PALM ST ADJ TO SAME BLK 6, ALSO ALL OF LOTS 2 & 3, ALSO 1/2 OF VAC ALLEY ADJ TO SAME BLK 7 4-12-93 FR 001 & 002

Sidwell #: 19-36-230-004

Based on this information, we respectfully ask the Board of Zoning Appeals to grant our request of a 92-foot setback variance to install a wall art mural that would bring beauty and visibility to our building and enhance our shared community. Our hope is that your affirmative action will be the start of another positive and entertaining 100 years.

Respectfully,

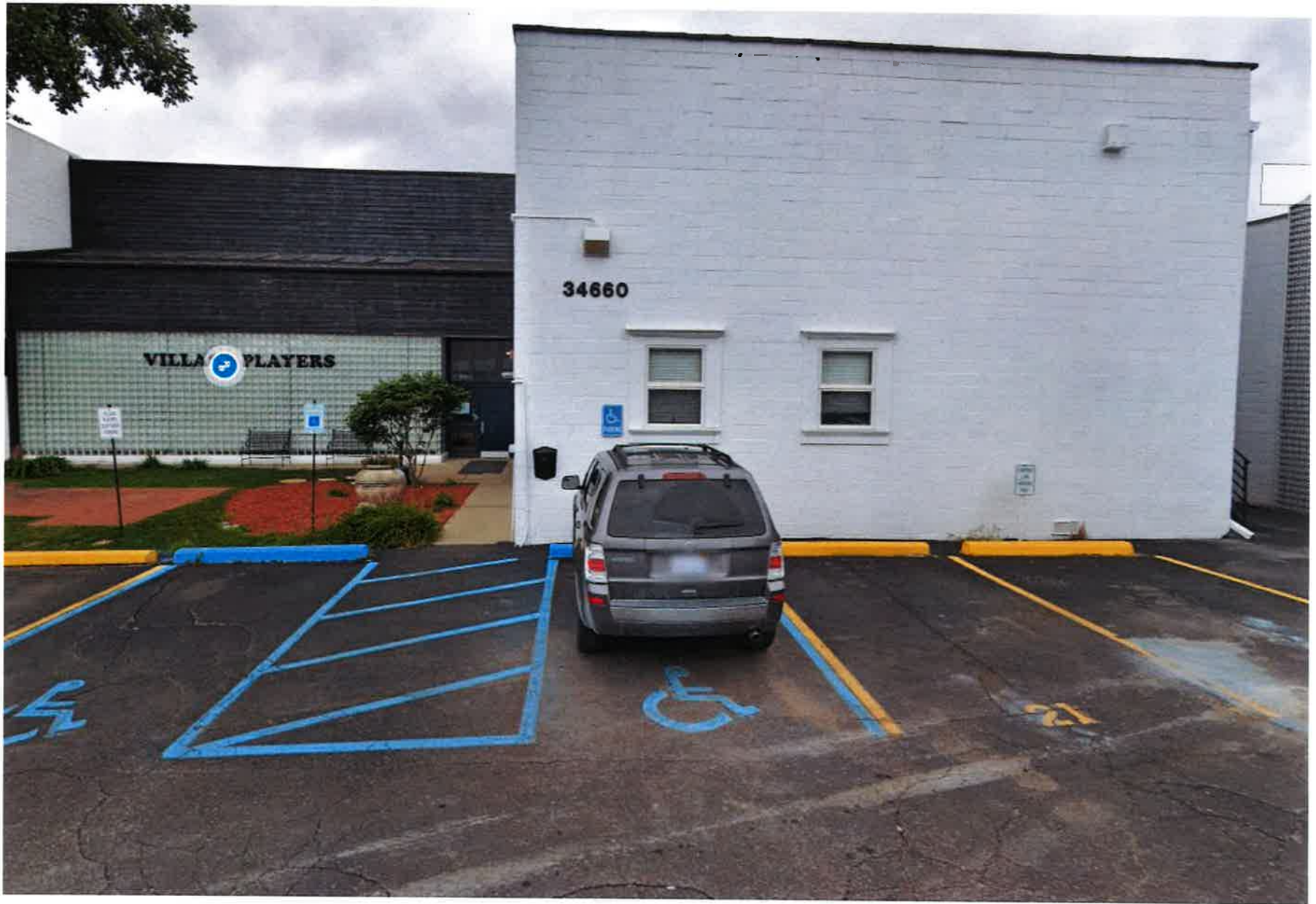
Greg Ruvolo
Birmingham Village Players
Board of Directors, President-Elect

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Proposed state of mural wall

Birmingham Village Players – 34660 Woodward Ave., Birmingham, MI 48009
(Address numbers would be painted in white on the upper-left corner of wall)



Current state of mural wall

Birmingham Village Players – 34660 Woodward Ave., Birmingham, MI 48009

Public Arts Board Minutes

Public Meeting – May 18th, 2022

A. Roll Call:

Members Present: Monica Neville, Annie VanGelderens, Jason Eddleston, Natalie Bishae,

Members Absent: Barbara Heller, Anne Ritchie, Jane Schulak

Administration: Brooks Cowan, Senior Planner

B. Approval of Minutes – March 16th, 2022

A motion to approve minutes was made by Annie VanGelderens, seconded by Natalie Bishae.

Yeas: 4 Nays: 0

The motion carried.

C. New Business

1. Wall Art Application – 34660 Woodward – Village Players

The Public Arts Board reviewed an application for wall art on the frontage of a building facing west towards Woodward Avenue. Staff discussed how the wall art ordinance does not permit murals on the front of buildings. Murals in the Triangle District are only allowed to face an alley or be on the side of a building along a 0 foot setback where windows are not allowed due to fire code.

Staff discussed how the Public Arts Board could recommend approval to the Design Review Board with the condition that the applicant obtain a variance from the Board of Zoning Appeals. The Public Arts Board asked for clarification on the frontage of the building and whether it was Woodward Ave or Chestnut. Staff indicated that they went by the address of the building for the frontage, and indicated that even if the proposed wall facing Woodward Ave was the side, it would not satisfy the Ordinance requirement given that it was setback over 30 feet from the lot line.

The Public Arts Board discussed how they recently had the wall art ordinance approved, and did not want to push the limits of what should be allowed. The Public Arts Board wants to support art where they can, however in regards to the mural proposal before them, the Board wanted to stick to the confines of the Ordinance and not push the limits of what is allowed.

A motion to recommend denial of the proposed mural to the Design Review Board was made by Anne VanGelderens, seconded by Monica Neville.

Yeas: 4

Nays: 0

The motion carried.

APPROVED

**Design Review Board
Minutes Of June 15, 2022**

151 Martin Street, City Commission Room 205, Birmingham, MI

Minutes of the regular meeting of the Design Review Board ("DRB") held Wednesday, June 15, 2022. Chair John Henke called the meeting to order at 8:19 p.m.

1) Rollcall

Present: Chair John Henke; Board Members Natalia Dukas, Dustin Kolo, Patricia Lang, Michael Willoughby; Alternate Board Member Samantha Cappello

Absent: Board Members Keith Deyer, Julie Rasawehr; Alternate Board Member Kathleen Kriel

Administration: Nicholas Dupuis, Planning Director
Laura Eichenhorn, City Transcriptionist

2) Approval of the DRB Minutes of May 18, 2022

To be approved at the next meeting.

3) Public Hearing

4) Design Review

A. 34660 Woodward – Village Players – Request for Wall Art

PD Dupuis presented the item.

~~Eileen White, President of the Birmingham Village Players Board of Trustees (BVPBOT); Sallie Savoie of the Birmingham Village Players Board of Directors~~ said the main entrance is on Chestnut and the side door is on Woodward. She explained that this wall art would be a part of celebrating the Birmingham Village Players' hundredth year anniversary.

Mr. Kolo and Ms. Lang concurred that the Chestnut entrance is the front entrance.

PD Dupuis noted that in the Triangle District wall art has to be at the side setback at the zero foot line. He said that while the Woodward side may be the side setback, it would not be at the zero foot line. He said the applicant might have a hardship based on the placement of the building, that they may face the side setback, and that their proposal may meet the spirit and intent of the ordinance. He said he was bringing the proposal before the DRB for those reasons.

In reply to Mr. Kolo, PD Dupuis stated that nothing in the ordinance prevents wall art from facing Woodward or a main right-of-way.

PD Dupuis explained that, if the motion were made as suggested, the approval from the DRB would only go into effect if a variance were granted by the Board of Zoning Appeals (BZA).

06-19-22

Motion by Ms. Lang

Seconded by Ms. Cappello to approve the Wall Art application for 34660 Woodward – Village Players – with the following condition:

- 1. The applicant must obtain a variance from the Board of Zoning Appeals for the placement of the Wall Art.**

One of the representatives of the BVPBOT said it was his understanding after talking with City Attorney Kucharek that the DRB could approve the project outright, with no need to go to the BZA. He asked if the DRB might be willing to amend their motion based on that understanding, and said they would be willing to proceed to the BZA if it turned out to be necessary.

Chair Henke said he would just as soon leave the motion as-is, and said the DRB could re-address the issue if CA Kucharek confirmed that to be the case.

Motion carried, 6-0.

VOICE VOTE

Yeas: Cappello, Lang, Dukas, Kolo, Henke, Willoughby

Nays: None



Nicholas Dupuis
Planning Director



Laura Eichenhorn
City Transcriptionist