



TO: Mayor and Members of Troy City Council
Members of the Zoning Board of Appeals
FROM: Lori Grigg Bluhm, City Attorney *LGB*
Allan T. Motzny, Assistant City Attorney
DATE: June 22, 2011
SUBJECT: Laja, LLC v City of Troy

On June 22, 2011, Oakland County Circuit Court Judge Daniel Patrick O'Brien denied the appeal of Laja, LLC.. Laja filed its appeal to challenge three variances that were granted by the Troy Board of Zoning Appeals for the property at 405 E. Maple. These variances, granted on February 15, 2011 for petitioner Dr. Camelia Sandulache, allowed the expansion of a 915 square foot single family residence into a dental office. The residence was a nonconforming structure, since it was situated in an O-1 (Office) zoning district. The variances included: 1) a 16 foot variance from the required 20 foot side yard setback for the east yard; 2) an 11 foot variance from the required 30 foot front yard setback for the west yard; and 3) a 10 foot variance from the requirement that the proposed handicapped ramp be set back 20 feet from the west property line. The Appellant, Laja, LLC, is the owner of a medical building located on the adjacent parcel at 415 E. Maple. Laja filed this appeal in Oakland County Circuit Court as a "party aggrieved" by the decision of the BZA pursuant to the Michigan Zoning Enabling Act.

The parties, including intervening petition Dr. Sandulache, filed extensive briefs, and argued their positions before the Court on June 22, 2011. Both Troy and the Petitioner argued that the BZA decision should be affirmed, since it complied with the applicable laws, it was based on proper procedure, it was supported by competent, material, and substantial evidence on the record, and it was not an abuse of the BZA's discretion. The Petitioner also argued the Appellant did not have standing to appeal on the basis the Appellant did not qualify as an "aggrieved" party. The Appellant, on the other hand, claimed the BZA did not apply the appropriate standards in reaching its decision and also argued that the decision was not supported by the evidence presented.

The Court found that the Appellant did have standing to appeal. However, the Court agreed with the substantive arguments made by Troy and Petitioner and affirmed the decision of the BZA. Although the Appellant can file an application for leave to appeal the Circuit Court's decision to the Michigan Court of Appeals, the filing of an application does not prevent Petitioner from initiating the proposed construction in accordance with the approved site plan. An application for leave to appeal must be filed within 21 days of the Circuit Court's decision.

Please let us know if you have any questions regarding this matter.