

# Request For Board Action

REFERRED TO BOARD: April 6, 2021

AGENDA ITEM NO: 7

ORIGINATING DEPARTMENT: Community Development

SUBJECT: Consideration of a Special Use for an Electronic Message Board for Anastasia's located at 950 Hillside Avenue.

## SUMMARY AND BACKGROUND OF SUBJECT MATTER:

### **Background**

The applicant is proposing to install an Electronic Message Board at the property commonly known as Anastasia's located at the corner of Hillside and Lake Street. The applicant is seeking a Special Use for a second EMB sign which would replace an existing monument sign at the corner of Lake Street and Hillside. As the Village Board will recall, several years the applicant installed an EMB sign along Route 173.

This case was before the PZB on March 11, 2021 and the PZB recommended denial by a vote of 4-2 with one commissioner abstaining.

The total square foot of the proposed sign would be 35.5 square feet and the EMB portion of the sign will be 13.5 square feet. The height is 6.5 feet and the total square footage of the proposed sign conforms with this section of the Village's Sign Ordinance.

### **Financial Impact**

None

### **Documents Attached**

- 1) Village Board Staff Report
- 2) Sign Concept

In accordance with the above analysis, Staff would make the following recommendation:

### **Recommendation**

*Motion to approve the herewith deny Special Use Ordinance approving the EMB sign for Anastasia's located at Lake Street and Hillside.*

**OR**

### **Based on the PZB recommendation:**

*Motion to deny the herewith attached Special Use Ordinance approving the EMB sign for Anastasia's located at Lake Street and Hillside.*

**VILLAGE OF ANTIOCH**

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**ORDINANCE NO.**

***AN ORDINANCE GRANTING A SPECIAL USE FOR AN ELECTRONIC MESSAGE  
BOARD AT ANASTASIA'S LOCATED AT HILLSIDE and LAKE STREET  
(PZB 21-02)***

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**ADOPTED BY THE PRESIDENT AND BOARD OF TRUSTEES**

**OF THE**

**VILLAGE OF ANTIOCH, ILLINOIS**

**ON**

**April 12, 2021**

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**Published in pamphlet form by authority of the Village Board  
of the Village of Antioch, Lake County, Illinois,  
this \_\_\_\_\_ day of April 2021**

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LAWRENCE M. HANSON	<b>President</b>	JERRY JOHNSON	<b>Trustee</b>
LORI K. ROMINE	<b>Clerk</b>	MARY DOMINIAK	<b>Trustee</b>
ROBERT J.LONG	<b>Attorney</b>	TED POULOS	<b>Trustee</b>
		SCOTT A. PIERCE	<b>Trustee</b>
		ED MACEK	<b>Trustee</b>
		MARY PEDERSEN	<b>Trustee</b>

## ORDINANCE

### ***AN ORDINANCE GRANTING A SPECIAL USE FOR AN ELECTRONIC MESSAGE BOARD FOR ANASTASIA'S (PZB 21-02)***

**WHEREAS**, pursuant to Chapter 15 of Title 10 of the Antioch Village Code, a public hearing was commenced by the Combined Planning Commission and Zoning Board on January 9, 2020 following notification as required by State Law and Village Ordinance to consider a petition for a Special Use allowing for an Electronic Message Board at Anastasia's located at the property commonly known as 950 Hillside, Antioch, Illinois.

**WHEREAS**, the Combined Planning Commission recommended denial of the Electronic Message Board at their meeting on March 11<sup>th</sup>, 2021 by a vote of 4-2 with one commissioner abstaining.

**WHEREAS**, the proposed Electronic Message Board is approximately 13.5 square feet and the design of the proposed sign will incorporate a brick base and landscaping around the sign.

**WHEREAS**, the Corporate Authorities have concluded and found that the Special Use, subject to and in conformance with the terms and conditions of this Ordinance, conform to a majority of the required standards as required by ordinance, including; a) The special use will not be injurious to the use and enjoyment of other property in the immediate area for the purposes already permitted, nor substantially diminish property values with the neighborhood; and; b) The establishment of the special use will not impede the normal and orderly development and improvement of the adjacent properties for uses permitted in the subject zoning district.

**WHEREAS**, the Corporate Authorities have concluded and found that the Special Use will further enhance economic development within the Village and promote the general welfare of the Village and the health, safety and welfare of the residents of the Village.

***NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND THE BOARD OF TRUSTEES OF THE VILLAGE OF ANTIOCH, LAKE COUNTY, ILLINOIS, AS FOLLOWS:***

**SECTION I:** The representations, recitations and findings set forth in the foregoing recitals are material to this Ordinance and such recitals are hereby incorporated into and made a part of this Ordinance as though they were fully set forth herein. This Ordinance shall be liberally construed so that the purpose and intent represented by the recitals shall be accomplished to the greatest extent permitted by law.

**SECTION II:** That the real estate which is the subject of this ordinance (Subject Property) is legally described as follows:

(See attached legal description)

**SECTION III:** That, subject to the conditions stated below, the Special Use shall be and is hereby approved and shall be binding upon the Village, Petitioner and Owner, and their respective owners, successors, and assigns when a true execution copy of this Ordinance is tendered to the Village fully executed by the Petitioner and Owner, and when the Mayor has affixed his signature upon the Ordinance.

**SECTION IV** That the proposed EMB sign located at the intersection of Lake Street and Hillside shall conform to the Village's EMB sign regulations outlined in the Village's Sign Ordinance and the aforesaid provisions are hereby incorporated in this ordinance as follows:

- a) The EMB unit must be equipped with both a programmed dimming sequence as well as an additional overriding mechanical photocell that adjusts the brightness of the display to the ambient light at all times of the day. Such programming and mechanical equipment shall be set so that the EMB, at night or in overcast conditions, will project no more than 40% of the daytime brightness level.
- b) The EMB unit must be extinguished at the close of business to which the EMB relates, or for any business to which the business hours extend beyond, provided further that in all events and situations, the EMB unit must be extinguished by 11:00 p.m. This restriction shall apply regardless of the location of the EMB on the property.
- c) The EMB unit must have the "flash" feature disabled and messages shall have a 10 second "hold" time except for time and temperature messaging which may have a shorter duration, but no less than four (4) seconds. No single message may be repeated more than once every 40 seconds.
- d) The images and/or messages displayed on the EMB may only transition from one message and/ or image to another by either fading or dissolving to black with another message or image appearing or dissolving in black with another message or image appearing immediately thereafter, without movement or other transitions effects between images and/ or messages:
- e) Except as otherwise provided herein, all images and or messages displayed on the EMB must be static and may not reflect movement, flashing, scrolling or changes in shape or size of images or portions of images. Streaming and/or live-action video may not be displayed and this function of the EMB must be disabled.
- f) The EMB unit must be equipped to override commercial messages for emergency situations such as an "Amber Alert" or other such acute public emergencies, but such override authority for public emergencies shall not exceed 48 total hours within any two-week period. The owner of the EMB unit shall cooperate with the Village of Antioch in order to allow the Village of Antioch to exercise its override authority.

- g) The EMB and its accompanying sign housing must be constructed in substantial compliance with the drawings and conceptual renderings attached hereto and incorporated herein as Exhibit B. The overall sign and the EMB embedded into it shall not be altered in any material way without the owner first securing the written approval of the Village of Antioch.
- h) The EMB unit shall otherwise comply with all other provisions of Chapter 14 of the Antioch Zoning Ordinance, including, but not limited to the prohibition against off-premise advertising signs.

**SECTION V:** That this EMB sign shall be limited to white or red message on a black background.

**SECTION VI:** The following exhibits shall be attached to and made a part of this Special Use Ordinance and, except as expressly modified by this Ordinance, compliance with all standards, requirements, designs or specifications in such exhibits shall be a condition of the grant of this Special Use Ordinance:

- A. Village Board Staff Report attached as Exhibit A;
- B. Drawings and conceptual renderings of proposed EMG sign.

**SECTION VII:** Any person violating the terms and conditions of this Ordinance shall be subject to a penalty not exceeding Five Hundred Dollars (\$500.00) with each and every day that the violation of the Ordinance is allowed to remain in effect being deemed a complete and separate offense. In addition, the appropriate authorities of the Village may take such other action as they deem proper to enforce the terms and conditions of this Ordinance, including, without limitation, an action in equity to compel compliance with its terms. Any person violating the terms of this Ordinance shall be subject, in addition to the foregoing penalties, to the payment of court costs and reasonable attorneys' fees. This section shall not apply to the Village of Antioch, its officials, agents or employees.

**SECTION VIII:** If any provision, clause, sentence, paragraph, section, or part of this ordinance or application thereof to any person, firm, corporation, public agency or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ordinance and the application of such provision to other persons, firms, corporation, or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation, or circumstances involved. It is hereby declared to be the legislative intent of the corporate authorities that this ordinance would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not be included.

**SECTION IX:** That the Village Clerk is hereby directed and ordered to publish this Ordinance in pamphlet form as provided by law.

**SECTION X:** That this Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed this \_\_\_\_\_ day of April 2021.

Ayes: \_\_\_\_\_ Nays: \_\_\_\_\_ Absent/Abstain: \_\_\_\_\_

Scott A. Pierce  
Mary Pedersen  
Ted Poulos  
Ed Macek  
Mary Dominiak  
Jerry Johnson

**APPROVED:**

By: \_\_\_\_\_

Lawerence M. Hanson, Mayor

Date: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Lori K. Romine, Village Clerk

Presented and read, or reading having been waived, at a duly convened meeting of the Corporate Authorities on April \_\_\_\_\_ 2021.

STATE OF ILLINOIS)  
                    )  
COUNTY OF LAKE )                       SS

**CERTIFICATE**

I, Lori K. Romine, certify that I am the duly appointed Municipal Clerk of the Village of Antioch, Lake County, Illinois.

I certify that on April \_\_\_\_\_, 2021 the Corporate Authorities of such municipality passed and approved Ordinance \_\_\_\_\_, entitled the applicant to operate an Electronic Message Board for Anastasia's which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. \_\_\_\_\_ including the Ordinance and cover sheet thereof, was prepared and a copy of such Ordinance was posted in the municipal building, commencing on April \_\_\_\_\_, 2021 and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Municipal Clerk.

DATED at Antioch, Illinois, this \_\_\_\_\_ day of April 2021.

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Lori K. Romine, Village Clerk



**REPORT TO:** VILLAGE PRESIDENT and BOARD OF TRUSTEES  
**FROM:** MICHAEL S. GARRIGAN, Esq, AICP, CNU-A, Community Development Director  
**DATE:** April 6, 2021  
**SUBJECT:** REPORT TO VILLAGE BOARD

**CASE:** Anastasias Restaurant  
21-02

**REQUEST:** Special Use

**LOCATION:** 950 Hillside Avenue

**APPLICANT:** Bill Giannakakis

**ZONING:** Main Street Transitional and B-2

#### **Background**

The applicant is seeking a Special Use in order to install an Electronic Message Board (EMB) sign on Lake Street which would replace the existing sign face adjacent to their parking lot. As the Village Board will recall, an EMB sign was approved for the applicant in 2016 and the sign was installed adjacent to Route 173. The applicant is seeking zoning for a second EMB sign. The applicant has revised his application since this matter went to the PZB and is proposing a monument sign on Lake Street which would replace the existing pylon sign. The revised sign is 6.5 feet in height and incorporates a 13.5 square foot EMB sign and a 22 square foot sign for Anastasia's. The total sign face square footage would be 35.5 square feet which is under the 40 square feet sign face permitted by the Village's Sign Ordinance.

As highlighted above, an EMB sign that was approved in 2016 and incorporated a sign face of 42 square feet and an electronic message board of 21 square feet. The applicant requested relief as part of the Special Use from the Village's previous adopted "Sign Ordinance".

In accordance with the Village's Sign Ordinance, all EMB signs require a Special Use. In addition, the following requirements are outlined in the Village's Sign Ordinance:

- One (1) EMG sign for zoning lots are permitted within identified overlay districts;
- The property in which any EMB sign permitted must have one hundred lineal feet of property fronting Route 173 Route 83, or Route 59. (*Applicant is seeking relief from this section*).
- The property to which an EMB sign is permitted must incorporate a minimum of one (1) acre.
- The maximum gross surface of an EMB sign shall not exceed 25% of any sign face. (*Applicant is seeking relief from this section*)
- All EMB signs shall comply with the Village's monument sign requirements and shall be constructed in a monument style design and incorporate a brick or stone base, side columns of brick or stone on both sides of the sign along with a cap on top of the sign. (*Applicant is seeking relief from this requirement*)

As highlighted above the applicant is proposing to construct a 13.5 square foot EMG sign that would be incorporated into the new proposed monument sign. The sign would be adjacent to the parking lot located to the east of the applicant's main entrance area into the restaurant and would face Lake Street. Lake Street is not an arterial street and is considered a collector in the Downtown.

### Special Use

One of the central factors of any proposed Special Use is to make sure that the proposed use has no negative impact on any of the adjacent use. Based on this important factor, one should look at the uses of the adjacent parcel when considering a Special Use;

Below is a summary of the surrounding uses:

North:	Commercial
East:	Commercial
South:	Commercial
West:	Commercial

In accordance with Section 10-15-5, any proposed Special Use must comply with three findings of facts that are outlined in this section of the Zoning Ordinance. The required findings of facts are as follows:

### ANALYSIS

As highlighted above, the proposed location of the EMG sign is not consistent with the Village's Sign Ordinance as it relates to the location of this proposed sign. The general character of Lake Street is different as it relates to the intensity of commercial development when compared to Route 173. As Staff has previously highlighted, there is a difference between Route 173 and Lake Street as it relates to development patterns and character.

- a) The special use will not be injurious to the use and enjoyment of other property in the immediate area for the purposes already permitted, nor substantially diminish property values within the neighborhood; and

The proposed EMB sign would be facing Lake Street which has not been identified as a Street that is appropriate for EMB signs. The ordinance outlines that EMB signs are appropriate on major arterials and specifically identifies Route 173 and Route 83. Unlike other signage in the Village's Sign Ordinance, which is approved administratively, the Village Board decided that EMB signs should be a Special Use based on their potential negative externalities on adjacent properties and the character of the Village.

There is a compatibility and character issue related to this proposed EMB sign. While the subject property is not located in the Village's Downtown Sign District, it is in the Village's Form based Code and is the site is generally considered to be part of Downtown. Lake Street continues to be an important Downtown Street and there remains a serious question of whether one wants to introduce EMB signs to this street and the Village's Downtown.

- b) The establishment of the special use will not impede the normal and orderly development and improvement of the adjacent properties for uses permitted in the subject zoning district.

Generally, the existing EMB signs that have been approved have been located on arterials or at major intersections. This section of the sign ordinance is based on character and aesthetic concerns about the potential impact that EMB signs can have on a character of non-arterial street. Lake Street incorporates mixture of uses and incorporates a Downtown character as highlighted above.

Clearly, the Village Board was sensitive to the potential negative impact that EMB could have on an area and this is one of the reasons why they were permitted only as part of a Special Use. In addition, there remains a question whether it is appropriate for a business to have two EMB signs on the subject site.

The applicant has attempted to address the highlighted concerns by substantially reducing the size of the proposed EMB sign. Specifically, they have reduced the EMB from 32 square feet to 13.5 square feet. While the applicant's existing sign may be appropriate on Route 173, there remains a real question of whether EMB signs should be permitted to encroach other parts of the Downtown. Permitting this proposed sign could open the door for other applications and the proliferation of EMB signs.

### **Recommendation**

Staff continues to have concerns about the potential impact and trend of EMB signs in the Downtown. Approving a proliferation of EMB signs will encourage more EMB sign applications and the character of Downtown will be damaged. Most communities with vibrant Downtowns do not permit EMB signs in their Downtowns.

*The PZB recommended that the proposed EMB sign be denied by a vote of 4-2 with one commissioner abstaining.*