

CLINTON TOWNSHIP BOARD OF APPEALS

REPORT OF MEETING

WEDNESDAY, DECEMBER 14TH, 2016

PRESENT: James D'Angelo, Vice-Chairperson
Robert M. Campbell, Secretary
David Edgar
Ernest Hornung
Kenneth Pearl
Denise C. Trombley

ABSENT: Francis Marella, Chairperson (Excused)

STAFF: Carlo Santia, Director
DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

The meeting was called to order at 6:30 p.m.

Mr. D'Angelo explained the parameters under which this Board can act and how the public hearing will be conducted. He further explained that, as stipulated in the Township Ordinances, all variances granted by the Board of Appeals are subject to several standard conditions as follows: 1) The petitioner must comply with all applicable requirements of Township ordinances; 2) The project work requiring the variance must be completed within two years of the date that the variance was granted; 3) The project work must be completed substantially in accordance with the plans submitted to the Board of Appeals; and 4) The variance is valid only for the useful life of any structure(s) on the property for which variance is granted.

APPROVAL OF AGENDA

Mr. Campbell noted that Item #4 refers to Baker College being the building to the north of the subject property, and he clarified that is not Baker College, so that reference should be eliminated from the agenda.

Motion by Mr. Hornung, supported by Mr. Edgar, to approve the agenda as amended.
Motion carried.

LOT 132, TERRA BELLA SUBDIVISION (SECTION 18), LOCATED FRONTING THE SOUTH LINE OF MONTICELLO DRIVE, EAST OF PALLAZO STREET, ADDRESSED AS 16348 MONTICELLO

**- APPEAL: SFR – MONTICELLO, 16348
FILE #16-6728: PETITIONED BY MR. ZIJAD HAMZIC
REPRESENTED BY RML DECORATIVE CONCRETE LLC**

Pertinent correspondence was read and entered into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 42 owners and/or occupants of property located within 300 feet of the land in question, with none of those returned as undeliverable. He added that there were no written replies received in response to the mailing.

Mr. Zijad Hamzic, petitioner, explained his street has a lot of traffic, and his car was recently hit by another car when it was parked in the street. He has two children and three cars, so he needs more room to park the cars off the street. He complained that many of the drivers are traveling 50 to 60 miles per hour on his street, and nothing is done about it, even after telephone calls to the police. He bought a new car and it has already been hit, adding that his previous car was also hit while parked in the street a few months ago.

Mr. Tom Chirco, 16246 Woodstream, Clinton Township, Michigan 48038, homeowner located behind Mr. Hamzic's property, stated this does not affect him, but he can understand Mr. Hamzic's frustration. He stated he has three children and they have a similar situation with having to park vehicles in the street. He is concerned about a variance being granted for the wider driveway with the intent of parking cars, because it may eventually lead to the parking of a recreational vehicle or other large vehicle. He stated in those instances, it could become an issue because it lowers the surrounding property values. He emphasized he has nothing against the petitioner, but he is trying to protect his property value.

Mr. Campbell clarified that parking recreational vehicles on residential driveways is only permitted for 48-hour loading/unloading purposes. They are allowed to be parked in the rear yard for longer periods if they adhere to ordinance requirements, but the ordinance is very clear about the length of time they are allowed to be parked in the front yard. Mr. Campbell explained that each petition is considered on its own merit.

Mr. Hamzic replied to inquiry that he does not want to revise his variance request for a narrower driveway.

Mr. Campbell suggested considering a variance to permit 10 additional feet of width, which would provide a 29.5-foot width at the property line.

Mr. Pearl could not understand why the petitioner would need more than an additional 10 feet in width. He felt they should look at 10 feet as a compromise, so the driveway would be 30 feet in width, which should easily accommodate three parked cars across the width of the driveway.

Mr. Campbell noted that the petitioner submitted a sketch this evening that is different from the sketch he submitted with this application. It appears to be a survey and shows a current width of 16.3 feet at the street.

Mr. Santia stated the sketch appears as though the driveway is straight and not widening at the street.

Mr. Pearl observed that there is a 12-foot distance from the edge of the driveway to the property line, so he felt the driveway width could be extended an additional 10 feet.

Mr. Campbell felt that would provide the petitioner with a driveway measuring 26 feet in width, which should accommodate three vehicles across.

Motion by Mr. Campbell, supported by Mr. Pearl, with reference to File #16-6728 and application from Mr. Zijad Hamzic, 16348 Monticello Drive, Clinton Township, Michigan 48038, as represented by RML Decorative Concrete LLC, 6111 Auburn Road, Suite D, Shelby Township, Michigan 48315, for variance to Clinton Township Planning and Zoning Code, Chapter 1226.02-(h), Design Layout Standards, Streets, Driveways, concerning Lot 132, Terra Bella Subdivision (Section 18), located fronting the south line of Monticello Drive, east of Pallazo Street, addressed as 16348 Monticello Drive, that variance be granted to permit the widening of an existing driveway for a single-family residence in the R-3 One-Family Residential District by ten (10) additional feet at both the property line and the street, to measure 26.3 feet in width at the sidewalk, which is 6.3 feet in excess of the maximum permitted 20-foot width at the sidewalk; further, this grant of variance is based on claimed practical difficulty of providing sufficient parking so the petitioner can get all of his vehicles safely off of the street; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Campbell, Pearl, Trombley, Edgar, Hornung, D'Angelo. Nays – None. Absent – Marella. Motion carried.

LOT 238, PARTRIDGE CREEK VILLAGE SUBDIVISION (SECTION 5), LOCATED FRONTING THE SOUTH LINE OF MERGANSER DRIVE, EAST OF FALCON LANE, ADDRESSED AS 17444 MERGANSER DRIVE

- APPEAL: SFR – MERGANSER, 17444

FILE #16-6729: PETITIONED BY MR. RAYMOND SCHOOF

Pertinent correspondence was read and entered into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 46 owners and/or occupants of property located within 300 feet of the land in question, with 1 of those

returned as undeliverable. He added that there were no written replies received in response to the mailing.

Mr. Raymond Schoof explained that an 8-foot-wide deck is not of an adequate width for his clients, so they are proposing a 16-foot width for the deck.

Mr. Dan Gregorich, 17471 Eider Drive, Clinton Township, Michigan 48038, stated he lives directly behind the subject property, but he has not seen a plan for the proposed deck. He expressed concern that it is going to be larger than proposed, and may cause an obstruction to his view. He explained that the colonial-style homes do not take up as much of the lots, but the ranch-style homes take up more area and result in the house extending further back toward the rear lot line. He pointed out that both he and the petitioner have ranch-style homes, so there is not as much room between the homes.

Mr. Schoof commented that Mr. Gregorich has a patio on the back of his house, and he inquired as to how far the patio extends into the rear yard.

Mr. Gregorich replied his patio is made up of pavers and is not an elevated deck. He replied to further inquiry that he does not know the distance from the edge of his patio to his lot line.

Mr. Santia clarified that the petitioner's house, as well as Mr. Gregorich's house, are each set back 35 feet from the rear lot line. He clarified that, per Township ordinances, a deck is permitted to encroach eight feet into the rear yard.

Mr. John Sanders, 17564 Merganser, Clinton Township, Michigan 48038, inquired as to the height of the proposed deck. He recalled a similar request made by a neighbor across the street from him.

Mr. Santia estimated the height to be 30 inches.

Mr. Sanders felt that is too high and obstructs the view of the neighbors in the area. He replied to inquiry that he lives five houses from the subject property, but he maintained that this patio will obstruct his view as well if it is permitted.

Mr. Gregorich compared the proposed deck to a "stage".

Mr. Sanders inquired as to the type of materials proposed for the proposed deck.

Mr. Schoof replied it will be constructed out of wood.

Mr. Campbell informed that one of the documents included in their agenda package is a letter from the Partridge Creek Homeowner's Association, signed by a board member, indicating they have no objection to the plans as submitted, provided they obtain the proper approvals. He felt this is consistent with the way the subdivision has been

developed, and he added there are a lot of homes with the garage-forward design, which makes it difficult to meet setbacks when installing a deck. He noted that this Board has approved variances for several decks in this subdivision to date, and it is difficult to meet setback requirements with the design of the homes and their placement on the lots. He encouraged those opposed to this type of request to talk to their homeowner's association and express their views. Mr. Campbell felt it is reasonable for someone to want to build a 16-foot-wide deck, and although they could argue that it could be 12 feet or 14 feet in width, it would still be an elevated deck, and the additional couple of feet will not make that much of a difference.

Motion by Mr. Campbell, supported by Ms. Trombley, with reference to File #16-6729 and application from Mr. Raymond Schoof, Perfection Building, 9589 Meskill Road, Columbus, Michigan 48063, for variance to Clinton Township Planning and Zoning Code, Chapter 1299.01-(h), General Exceptions, Area, Height and Use Exceptions, Porches and Decks, concerning Lot 238, Partridge Creek Village Subdivision (Section 5), generally located fronting the south line of Merganser, east of Falcon Lane, addressed as 17444 Merganser Drive, that variance be granted to permit construction of a deck for a single-family residence in the R-4 One-Family Residential District, projecting 16 feet into the required 35-foot rear yard setback, which is 8 feet greater than the allowed 8-foot encroachment; further, this grant of variance is based on claimed practical difficulty that the house has a garage-forward design and the lots are shallow for the value and sizes of the homes in the area; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Campbell, Trombley, Edgar, Hornung, Pearl, D'Angelo. Nays – None. Absent – Marella. Motion carried.

LOT 199, RIVERGATE SUBDIVISION, GENERALLY FRONTING THE WEST LINE OF RIVERGATE, SOUTH OF HALL ROAD (M-59), ADDRESSED AS 44613 RIVERGATE DRIVE (SECTION 4)

- **APPEAL: SFR – RIVERGATE, 44613**
FILE #16-6730: PETITIONED BY MS. MARJANA ZAJAKU

Pertinent correspondence was read and entered into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 30 owners and/or occupants of property located within 300 feet of the land in question, with 1 of those returned as undeliverable. He added that there were no written replies received in response to the mailing.

Ms. Marjana Zajaku, 44613 Rivergate Drive, Clinton Township, Michigan 48038, explained they made their driveway wider because her husband has a large truck and needed the extra width. She indicated that they do not want to park in the street, and they have four vehicles.

Mr. Hornung inquired as to whether the driveway extension has already been installed.

Ms. Zajaku replied affirmatively. She replied to further inquiry that they pulled a permit for the driveway, but not for the additional width.

Ms. Dianne Hauser, 44641 Rivergate Drive, Clinton Township, Michigan 48038, owner of the abutting property, stated she does not have any objections to the variance request. She agreed with the resident who complained about his car getting hit in the street, commenting that the cars need to be parked off of the street to be safe.

Mr. Hornung inquired as to whom advised Ms. Zajaku's husband to make the driveway wider.

Ms. Zajaku replied her husband made the decision to widen the driveway.

Mr. Campbell pointed out the violation issued by the Building Inspector indicates the petitioners will have to apply for a permit. If this variance is granted, he advised the petitioner will need to apply for a revised permit and provide a notarized affidavit that verifies the driveway was built to Township specifications. He felt that is a reasonable condition to place on an approval.

Mr. Santia was confident that if this is approved, the Building Department will make sure they obtain the affidavit, and they will not release the permit until they conduct the inspections, which will not be waived. He replied to inquiry that they received a violation on doing the work without the permit, and they subsequently applied for the variance.

Motion by Mr. Campbell, supported by Mr. Edgar, with reference to File #16-6730 and application from Ms. Marjana Zajaku, 44613 Rivergate Drive, Clinton Township, Michigan 48038, for variance to Clinton Township Planning and Zoning Code, Chapter 1226.02-(h), Design Layout Standards, Streets, Driveways, concerning Lot 199, Rivergate Subdivision (Section 5), generally located fronting the west line of Rivergate Drive, south of Hall Road (M-59), addressed as 44613 Rivergate Drive, that variance be granted to permit continued existence of a driveway for a single-family residence in the R-4 One-Family Residential District, having a width of 30 feet at the sidewalk, which is 10 feet in excess of the maximum permitted 20-foot width; further, this grant of variance is based on claimed practical difficulty that the house is on a main drive and for the safety of the vehicles, the wider driveway is needed for the safety of parking the vehicles; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Campbell, Edgar, Hornung, Pearl, Trombley, D'Angelo. Nays – None. Absent – Marella. Motion carried.

Ms. Dianne Hauser inquired as to where the petitioner can obtain the required Affidavit.

Mr. Santia advised she can obtain it from the contractor, or she can talk to the Building Department to see if they have a specific form.

0.79 ACRE OF LAND FRONTING THE WEST LINE OF GRATIOT AVENUE, NORTH OF KEMP STREET, ADDRESSED AS 34335 S. GRATIOT (SECTION 34)

- **APPEAL: VINSON MOTORS**

**FILE #16-6731: PETITIONED BY MR. WADE VINSON, VINSON MOTORS
REPRESENTED BY MR. EARL VINSON, VINSON MOTORS**

Pertinent correspondence was read and entered into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 28 owners and/or occupants of property located within 300 feet of the land in question, with 9 of those returned as undeliverable. He added that there were no written replies received in response to the mailing.

Mr. Earl Vinson, of Vinson Motors, 7077 Marsh Road, Cotterville, Michigan, explained that the berm and trees create problems for a car lot. When power-washing the cars and having to move them around, the trees create problems because of the sap and the birds that are attracted to the trees. He explained they have been looking at several lots in the area. He stressed their sales are not what they need to be, and he emphasized that they keep their property immaculate. He informed that his two sons, ages 25 and 22, run the lot, and they have not had any problems with anyone in the neighborhood. He would be extremely surprised to hear any negative comments about their facility, as they have been making improvements to their site since they acquired it. He stated both of his sons work 75 hours a week, and they love their work and are passionate about it. Mr. Vinson stated they hope to be successful if they are going to put this kind of time and money into the site for pavement and drainage.

Ms. Debbie Walter, 20981 Kemp, Clinton Township, Michigan 48035, stated she does not understand what is being changed. She understood that he is proposing more of an open area for the cars, but her concern is when the cars are parked between the sidewalk and the curb, the residents pulling from Kemp onto Gratiot have a difficult time with the obstructed view. When she calls the owner to complain, they are very good about moving the cars.

Mr. Santia explained that Mr. Vinson is proposing to add additional parking to the rear of the building (west side). He showed Ms. Walter the proposed site development plan, and clarified that the petitioner is modifying the one variance that was previously granted by this Board. Instead of a 10-foot front yard setback, he is now requesting a 0-foot front yard setback.

Mr. Campbell felt the 0-foot front yard setback is the only difference from what was previously petitioned to this Board.

Mr. Pearl inquired as to whether the view of motorists pulling out from Kemp to Gratiot is blocked.

Ms. Walter replied that as long as the cars are parked in such a way as to stay behind the sidewalk, she felt motorists can see enough to safely pull out onto Gratiot.

Mr. Santia noted that Kemp is 100 feet south of the site, so it should not be an issue.

Mr. Campbell felt the angle of the intersection makes a difference.

Mr. Joe Aggeler, 34151 S. Gratiot, Clinton Township, Michigan 48035, owner of John's Lumber, located just south of the property in question, stated having no objection to the variances being requested. He stated they own a used car lot at the corner of Kemp and Gratiot.

Mr. Campbell requested that Mr. Santia comment on the 0-foot front yard setback being requested. He recalled that numerous used car lots have adhered to the 10-foot setback, and although there are some with slightly less than 10 feet, he felt the subject lot is 400 feet in depth, so he could not justify a variance to permit 0 front yard setback. He would be more inclined to consider the setback variance if the lot was extremely shallow.

Mr. Santia replied to inquiry that Hertz has recently been redeveloped and they were required to provide a 10-foot setback. He noted that, historically, these used car lots have been on Gratiot for 30 to 40 years, and as they have been redeveloped, they are now required to go through Special Land Use approval. Many of these lots are not deep, so the Township has tried to require a minimum 10-foot front yard setback, and has requested that some additional greenspace and landscape be provided. He added that this space keeps the vehicles away from the sidewalk.

Mr. Campbell stated he would like to approve the variance that was granted two years ago. He did not feel the 10-foot setback will create a hardship for them with regard to the motorists driving on Gratiot and their visibility of the subject development.

Mr. Pearl stated he would agree with requiring a 10-foot front yard setback as long as the petitioner is not required to plant trees within that setback.

Mr. Vinson complained that they have had catalytic converters stolen from their cars, and when the police responded to the call, they questioned why there are berms. The police commented that the berms create an area where theft can occur because it is more obscure.

Mr. Pearl clarified that a berm is not required.

Mr. Santia explained a berm is only required when there are customer vehicles parking perpendicular to the main road, adding that the berm helps to keep the headlights from spilling out onto the road. He noted this is a display area, so they do not have to

provide a berm, but they would like to see grass planted within the required 10-foot setback.

Mr. Vinson stated he does not have a problem with a 10-foot setback, but he does not want to put in a berm.

Mr. Campbell agreed that berms in an area such as this promote theft.

Mr. Vinson was acceptable to maintaining a 10-foot setback; however, he claimed Baker College is the only business in the area that maintains their landscaping. He stated he would like to see pavement in that 10-foot setback, but he assured he will still keep the cars back behind the 10-foot setback line. He claimed that Hertz planted trees and grass, but it all died.

Motion by Mr. Campbell, supported by Mr. Hornung, with reference to File #16-6731 and application from Mr. Wade Vinson, Vinson Motors, P. O. Box 246, Marine City, Michigan 48039, as represented by Mr. Earl Vinson, same address, for variance to Clinton Township Planning and Zoning Code, Chapter 1292.01-m and -n, Land Use Regulations, Schedule of Regulations Limiting Height, Bulk, Density and Area, Footnotes to Schedule of Regulations Chart; and Chapter 1298.02-(a)-(29)-C, Supplementary Regulations, Uses Requiring Special Approval; Procedure, Open-Air Business Uses, concerning 0.79 acre of land fronting the west line of Gratiot, north of Kemp, addressed as 34335 S. Gratiot, that variance be granted to permit the redevelopment of a used car lot (Vinson Motors, fka DeFalco Car Lot) in the B-3 General Business District, with:

- 1) Front yard landscaped setback of 10 feet, being 15 feet less than the minimum required 25 feet;
- 2) 0 frontage trees, being 6 trees less than the minimum required 6 frontage trees; and
- 3) A distance between the existing building and the building to the north of 7 feet, being 13 feet less than the minimum required 20 feet;

further, this grant of variance is based on claimed practical difficulties that the building is already in existence on the site, the frontage trees can cause damage to cars, and the 10-foot setback on Gratiot will allow visibility for cars exiting the site; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Campbell, Hornung, Edgar, Pearl, Trombley, D’Angelo. Nays – None. Absent – Marella. Motion carried.

REPORT OF MEETING

-- APPROVAL OF NOVEMBER 9TH, 2016 REPORT

Mr. D’Angelo requested the following correction:

Page 9, Paragraph 4, Line 2:

Change from: “...complaining about the existing sign...”

Change to: “...complaining about the existing site conditions...”

Motion by Mr. Campbell, supported by Mr. Edgar, to approve the minutes of the November 9th, 2016 Meeting with the change as noted. Motion carried.

BOARD OF APPEALS MEETING SCHEDULE

- **CONFIRMATION OF NEXT MEETING'S AGENDA AND ATTENDANCE:
WEDNESDAY, JANUARY 18TH, 2017 AT 6:30 P.M.**
 - **APPROVE 2017 BOARD OF APPEALS MEETING SCHEDULE**
-

The meeting of January 18th, 2017 was confirmed, and there will be at least three items on that agenda.

Mr. Campbell requested that the December meeting be changed from December 20th to December 13th, which is the second Wednesday of the month.

Motion by Mr. Hornung, supported by Mr. Campbell, to approve the 2017 Board of Appeals Meeting Schedule as presented, with the December meeting being changed to December 13th, 2017. Motion carried.

ADJOURNMENT

Motion by Ms. Trombley, supported by Mr. Hornung, to adjourn the meeting. Motion carried. The meeting adjourned at 7:28 p.m.

Respectfully submitted,

Robert M. Campbell

Robert M. Campbell, Secretary
CLINTON TOWNSHIP BOARD OF APPEALS

ces:12/18/16

ces:01/05/17

Approved 01/18/17