

CLINTON TOWNSHIP BOARD OF APPEALS

REPORT OF MEETING

WEDNESDAY, MARCH 20TH, 2019

PRESENT: Francis Marella, Chairperson
Michael Deyak, Vice-Chairperson
Robert M. Campbell, Secretary
Ronald DiBartolomeo
Thomas Mill
Kenneth Pearl

ABSENT: James D'Angelo (Excused)

STAFF: Bruce Thompson, AICP, Director
DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

The meeting was called to order at 6:30 p.m. and the Pledge of Allegiance was recited.

APPROVAL OF AGENDA

Motion by Mr. Marella, supported by Mr. Deyak, to approve the agenda as presented.
Motion carried.

Mr. Marella 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.

LOT 152, HARPER BEACH SUBDIVISION, LOCATED FRONTING THE NORTH LINE OF DEMLEY, WEST OF FIERZ PLACE, ADDRESSSED AS 23697 DEMLEY (PARCEL #16-11-26-255-024) (SECTION 26)

- **APPEAL: SFR – DEMLEY, 23697
FILE #19-6873: PETITIONED BY MR. GLEN ROMAIN
REPRESENTED BY MR. JEREMY WAFER**

Mr. Campbell summarized the variance being requested and read the Planner Review letter dated February 15th, 2019 into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 57 owners and/or occupants of property located within 300 feet of the land in question, with none of those returned as undeliverable. There were no written replies received in response to the mailing.

Mr. Jeremy Wafer, 12939 Mercedes, Redford, Michigan 48239, and Mr. Michael Wafer, same address, indicated they are representing the petitioner.

Mr. Jeremy Wafer explained that Mr. Glen Romain, petitioner, cannot be present this evening, and although he wanted to attend, he is confined to a wheel chair and is experiencing some health issues. He stated there is not enough space for the handicap ramp. The American Disabilities Act (ADA) required 48 inches of open ramp space, and the Township requires a minimum distance of 36 inches from the ramp to the fence; however, there is not enough distance to accommodate both of these requirements. They petitioned for some relief on the width of the ADA requirements for the ramp, and it was allowed it to be slightly narrower, but they are still several inches short of the Township's requirement. He replied they want to continue using the structure they have put in place.

Mr. Michael Wafer explained they have new government guidelines and they have a program for veterans where they can receive help to get ramps, but they have to take the entire package. They are required to have a ramp from the family room and also from the bedroom to get out of the house. He explained it was just a little too tight on the one side of the house.

Mr. John Diffin, resident at 23679 Demley, Clinton Township, Michigan 48035, stated he lives west of Mr. Romain's house. He commented that Mr. Romain is a Vietnam veteran who has been disabled since Vietnam. Mr. Diffin indicated he is also a disabled veteran, and his son is currently deployed. He claimed this ramp, which is completely finished, was approved by the Department of Veteran's Affairs, and he claimed the Township wants it removed. He felt this is an attack on his neighbor. He stressed he does everything he can for his neighbor, including mowing his lawn and picking up his trash, and he emphasized this is something Mr. Romain must have to gain access in and out of his home. He felt this is wrong for the Township to issue the violation.

Mr. Marella explained this is an ordinance, and that is why they are here before the Board of Appeals. He thanked Mr. Diffin for his service.

Ms. Diane Stormraven, 23713 Demley, Clinton Township, Michigan 48035, resident on the side where the subject ramp is located, explained when they started installation of the ramp, she asked if they had a permit, and they assured her they did. She claimed this is not the first time where the petitioner and his wife have put in structures, some of them without permits. She claimed they did not officially apply for a permit to remodel the house until she called because the pool was being drained into her yard, resulting in chlorine water in her yard and causing her dog's skin to break out. Ms. Stormraven claimed that there was no permit pulled for the pool. She commented that the cement just poured is slanted toward her property. She complained about several other details of the structure, claiming it was torn down and rebuilt. She understands he is a veteran and has recently been confined to a wheelchair, but she noted he has been ambulatory up to recent months. She understood this is a new development for him having to be confined to a wheelchair, but she stressed from her point, it is a safety issue. She claimed if she turns around too quickly cutting her lawn, she can trip from this hazard. She complained that Ms. Romain "does anything she wants" and it "seems to get approved". She further claimed it is the same gentleman who does all of the work for them and did not pull the permits for the restructuring in the house.

Mr. Jeremy Wafer stated he has pictures of the deck in question. He also clarified that the cement is angled toward the sidewalk and not toward the neighbor's house.

Mr. Michael Wafer stressed that Mr. Romain is a decorated war veteran. He did not know where Ms. Stormraven obtained her information about "no permits", but he assured they have pulled all permits necessary for all the work. He stated they did the best they could in trying to meet the ADA guidelines as well as the Township ordinances, while still providing a way for Mr. Romain to get out of his house in the event of a fire. He clarified the deck was only put up once, and it was not "torn down and rebuilt", as indicated by Ms. Stormraven.

Mr. Diffin claimed he has used these ramps and they are very large. He stressed that the petitioners had a nice back yard and now they have to have these ramps. He explained the "pool-draining" issue referred to by the neighbor, noting there are four lots that meet in the corner, with a drain, and that is where the pool water was drained. Mr. Diffin claimed he is on a first-name basis with personnel at Clinton Township, and whether he plows snow for his neighbors across the street or rides his mini-bike, he claims he is constantly getting called. He urged the Board of Appeals to approve the variance request.

Ms. Stormraven claimed that the ramp is closed and "strapped up with zip ties" by the petitioner's wife, so if there was an emergency, he would not be able to use the ramp.

Mr. Marella inquired as to whether the ramp is closed.

Mr. Michael Wafer replied no, noting that one ramp on the one driveway has a gate, but it comes down the side of the garage and there are gates so the dog does not get out. The other ramp comes out the back door and is not closed.

Ms. Stormraven claimed the petitioner's wife installed the additional fencing on the ramp and that was not put on by the contractors.

Mr. Pearl admitted that ramps are not necessarily attractive to look at and take up a lot of room, but the case before them is a request to approve a 9-inch variance. He stated he is looking at a permit issued last year to build the ramp. He felt the petitioner needs this to be approved, and it is unfortunate he has to have it, but he needs it.

Motion by Mr. Pearl, supported by Mr. Marella, with reference to File #19-6873 and application from Mr. Glen Romain, 23697 Demley Drive, Clinton Township, Michigan 48035, as represented by Mr. Jeremy Wafer, 12939 Mercedes, Redford, Michigan 48239, for variance to Clinton Township Planning and Zoning Code, Chapter 1298.01-(e), Supplementary Regulations, Accessory Buildings (Including Garages), concerning Lot 152, Harper Beach #1 Subdivision, located fronting the north side of Demley Drive, west of Fierz Place, addressed as 23697 Demley Drive (Parcel #16-11-26-255-024), that variance be granted to permit the continued existence of an existing detached accessory structure (handicap ramp) for a single-family residence in the R-3 One-Family Residential District being 27 inches from the side lot line, which is 9 inches less than the minimum required 3-foot side yard setback; further, this grant of variance is based on claimed practical difficulty that the petitioner needs this amenity due to health conditions; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Discussion ensued.

Mr. Campbell stated he would like to discuss the motion on the floor. He questioned whether Mr. Pearl is referring to the permit dated September 28th, 2018.

Mr. Pearl replied affirmatively.

Mr. Campbell stated he is puzzled about the sequence of events and the allegations made by the neighbor. Generally, a permit is applied for, plans are submitted and in the review of plans, the Building Department would typically note that there is only 27 inches rather than the required 36 inches in the side yard setback. It would then typically come before the Board of Appeals before something is built rather than after the fact. He questioned how it got built before a variance was granted.

Mr. Michael Wafer explained they turned in all of their prints to the Building Department and applied for the permit. He claimed the Township approved the prints, and they followed the guidelines; however, on the one side, they discovered they need 36 inches for the chair to come down. The federal guidelines required 48 inches but they allowed them to narrow the ramp to try to accommodate. He indicated they "squeezed it in the best they could" but unfortunately, they were 9 inches short.

Mr. Campbell noted that they changed the plan, but apparently did not come back to the Township to let them know it had to be changed to meet the VA specs.

Mr. Wafer claimed the builders indicated the one side would be “a little bit tight”. He explained when the inspector came out, he told him they were a little tight. Mr. Wafer stressed they wanted to get the petitioner his handicap ramp and apologized that they are now coming forward to request the variance, but he pointed out it is only for 9 inches. He pointed out when they get to the bottom of the ramp, it would not even need the 9-inch variance, adding that when trying to work around the chimney, they were short in distance.

Mr. Campbell explained he is not about to suggest that the ramp should not remain, but he questioned the sequence of events and the builder not paying attention to the agreed-upon plan. He felt they made a change that was appropriate because they requested it of the V.A., but he cautioned if they run across this situation again on any other projects, he urged them to come back to the Township to get the appropriate changes approved before they proceed.

Mr. Wafer assured they will do that in the future. He apologized but emphasized they were excited to get the ramp completed for Mr. Romain and for some reason did not pay attention to that one area.

Mr. Jeremy Wafer stated they were under the impression that they received a verbal approval from the Building Department. When they went to the Building Department, they were told the department could “look past a few inches”, but it turned out being 9 inches, which he was later told was too much and more than “the few inches that could be overlooked”. He apologized and admitted it was their fault for going off a verbal approval.

Mr. Campbell stated he has no problem with the motion and is in support of it, but he noted that often, for items such as signs and other structures, the variance is valid only for the current occupant or firm. He explained he had contemplated as to whether this variance should be conditioned on the current petitioner living there, and possibly requiring the ramp to be removed when the property is sold in the future, and with the neighbor objecting to this, it might be a reasonable condition. He pointed out, on the other hand, that having this ramp makes the property more appealing to a wide range of people, so he felt maybe they should ignore that and let the market dictate whether or not the ramp is of value at that point in the future.

Mr. Marella felt that is up to the owner when the house is put up for sale, and that is not the decision of this Board.

Mr. Campbell pointed out it might be a negotiation point of a future sale.

Roll Call Vote (on current motion on the floor): Ayes – Pearl, Marella, Campbell, Deyak, DiBartolomeo, Mill. Nays – None. Absent – D’Angelo. Motion carried.

1.22 ACRE OF LAND FRONTING THE WEST LINE OF GRATIOT AVENUE, NORTH OF 15 MILE ROAD, ADDRESSED AS 35275 GRATIOT AVENUE (PARCEL #16-11-27-403-010) (SECTION 27)

**- APPEAL: FIFTH THIRD BANK (GRATIOT/15 MILE)
FILE #19-6872: PETITIONED BY MS. JILL BRYAN, BDG ARCHITECTS
REPRESENTED BY MR. JACK MARSHALL, BDG ARCHITECTS**

Mr. Campbell summarized the variance being requested and read the Planner Review letter dated February 15th, 2019 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 14 of those returned as undeliverable. There were no written replies received in response to the mailing.

Mr. Jack Marshall, of BDG Architects, 2100 First Avenue North, Birmingham, Alabama 35203, stated that a variance was granted for this site prior to Fifth Third stopping the project a few years ago. They are now going forward with the project, and in the process, they have been able to eliminate the need for several variances that were previously granted; however, they still need one variance because they cannot get to their parking ratio without a setback variance from Gratiot.

Mr. Pearl stated this is the old Regional Shopping Center that housed the former Montgomery Ward’s, and he is thrilled to see the petitioner coming back. He felt this is a small variance to grant, and that property has been vacant for years.

Mr. Campbell felt the practical difficulty is that, in order to meet the drive-thru requirements and parking requirements for a bank, it creates the need for a setback variance. In looking at the prints, he noted there is not much they can do to expand the property because the area is defined. He felt it is a good use of modifying the previous plans to eliminate a number of the variances.

Mr. Marshall explained they will have a screening wall along Gratiot that will hide some of the headlights from the parking spaces.

Mr. Campbell commented he has had a car broken into because of a parking greenbelt at a school, so he is not personally sure about that arrangement.

Motion by Mr. Campbell, supported by Mr. Deyak, with reference to File #19-6872 and application from Ms. Jill Bryan, BDG Architects, 2100 First Avenue North, Suite 100, Birmingham, Alabama 35203, for variance to Clinton Township Planning and Zoning Code, Chapter 1292.01-m, Land Use Regulations, Schedule of Regulations Limiting Height, Bulk, Density and Area, Footnotes to Schedule of Regulations Chart, concerning 1.22 acre of land fronting the west line of Gratiot Avenue, north of 15 Mile

Road, addressed as 35275 Gratiot Avenue (Section 27) (Parcel #16-11-27-403-010), that variance be granted to permit the development of a business in the B-2 Community Business District (Fifth Third Bank) having a 13-foot greenbelt along the Gratiot Avenue side of the site, being 12 feet less than the minimum required 25-foot greenbelt; further, this grant of variance is based on claimed practical difficulty being the ability to provide sufficient parking as well as drive-thru lanes with stacking spaces; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Campbell, Deyak, DiBartolomeo, Marella, Mill, Pearl. Nays – None. Absent – D’Angelo. Motion carried.

LOT 23, LITTLE ACRES SUBDIVISION, FRONTING THE SOUTH LINE OF LITTLE ACRES DRIVE, EAST OF WURFEL STREET, ADDRESSED AS 20450 LITTLE ACRES (PARCEL #16-11-33-428-041) (SECTION 33)

- **APPEAL: SFR – LITTLE ACRES, 20450**

FILE #19-6878: PETITIONED BY MR BRAD KLAUSS, PEAKS CONSTRUCTION

Mr. Campbell summarized the variance being requested and read the Planner Review letter dated February 15th, 2019 into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 61 owners and/or occupants of property located within 300 feet of the land in question, with none of those returned as undeliverable. There were no written replies received in response to the mailing.

Mr. Brad Klauss, of Peaks Construction, 44850 Vic Wertz Drive, Clinton Township, Michigan 48036, explained they had an issue with the existing pad when the original structure burned. They put block on it to relevel it and it came out a little higher. They were over the 14-foot minimum with the original garage but this one came in predominantly higher. He explained they sent a letter indicating that, but he had started right away and did not see it. He apologized, stating it is his fault.

Mr. Marella commented that is a big structure.

Mr. Klauss stated it was a big structure to begin with, and unfortunately, it came in way over height. He added, however, that they are below the height of the houses because of the grade of the yards, and it cannot be scene from the road. They are hoping to get the variance for the height.

Mr. Campbell stated this is not a large garage, measuring only 30 feet by 30 feet, or 900 square feet. He noted there was a variance granted in 1995 for the 900-foot garage instead of the maximum-permitted 650 square feet. He added there was no variance granted in 1995 for the height of the structure. He questioned how it got to be 18 feet 10 inches.

Mr. Klauss replied they put a row of block on the pad because it was so unlevel. They used the existing footing and pad, so that added a foot. The carpenters were there and had ordered the trusses, which came in 2 inches higher than anticipated and it was

already framed by that point to figure out where the height came from. He claimed the truss issue and the pad issue pushed them up beyond what is permitted. He added that they went to a storage truss rather than a standard truss, which also adds a little more height.

Mr. Campbell inquired as to whether there is a second floor on the structure.

Mr. Klauss replied no, indicating it is a light-duty storage truss, offering more empty space.

Mr. Campbell stated he does not know of any 18-foot-high garages that do not have a second story, so this is unusual.

Mr. Marella noted the documentation submitted indicates it was builder error.

Mr. Klauss replied he is the builder and takes full responsibility for the error. He noted the trusses came in too high, but it was his fault for not checking it. He replied to inquiry that this is his first big project that he has done in the Township.

Mr. Marella felt the Building Department needs to make sure they receive the right information from this builder in the future.

Mr. Campbell could see no practical difficulty presented to merit a grant of variance. He pointed out that it will cost money, but the roof can be torn off and lowered to meet the ordinance requirements. He felt when this Board grants such variances, other homeowners come in and expect the same consideration, using the variances already granted as examples. He assured that they look at each case and make determination based on merit, but people have the right to look at what others have been granted. He stated he is opposed to granting this variance.

Motion by Mr. Campbell, supported by Mr. Marella, with reference to File #19-6878 and application from Mr. Brad Klauss, of Peaks Construction, 44850 Vic Wertz Drive, Clinton Township, Michigan 48036, for variance to Clinton Township Planning and Zoning Code, Chapter 1298.01-(j), Supplementary Regulations, Accessory Buildings (Including Garages), concerning Lot 23, Little Acres Subdivision (Section 33), located fronting the south line of Little Acres, east of Wurfel, addressed as 20450 Little Acres (Parcel #16-11-33-428-041), that variance request to permit continued existence of an accessory structure (garage) for a single-family residence in the R-5 One-Family Residential District, measuring 18 feet 10 inches in height, being 4 feet 10 inches in excess of the maximum permitted height of 14 feet, be denied by reason that this is the builder's error and it can be corrected. Roll Call Vote: Ayes – Campbell, Marella, Deyak, Mill, DiBartolomeo, Pearl. Nays – None. Absent – D'Angelo. Motion carried.

10.00 ACRES OF LAND FRONTING THE SOUTH LINE OF HALL ROAD, WEST OF ELIZABETH ROAD, ADDRESSED AS 21560 HALL ROAD (PARCEL #16-11-03-200-032) (SECTION 3)

- **APPEAL: PARKWAY CHRYSLER JEEP
FILE #19-6880: PETITIONED BY MR. JOHN HILL, PARKWAY CHRYSLER
JEEP
REPRESENTED BY MR. STEVE BRETZ, PHILLIPS SIGN & LIGHTING**
-

Mr. Campbell summarized the variance being requested and read the Planner Review letter dated February 15th, 2019 into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 13 owners and/or occupants of property located within 300 feet of the land in question, with none of those returned as undeliverable. There were no written replies received in response to the mailing.

Mr. Steve Bretz, of Phillips Sign & Lighting, Inc., 17924 Autumn Lane, Macomb, Michigan 48044, and Mr. Brian Huck, of Parkway Chrysler Dealership, 11366 Laurel Woods Drive, Washington, Michigan 48094, were present to answer questions.

Mr. Bretz explained they are here to seek the Board's approval to replace the current message center on the Parkway Chrysler Jeep sign with a new one. He explained the new proposed sign is the same size as the current sign, which was not installed by Phillips Sign & Lighting, but they had serviced it over the last several years. He noted it is an aging sign that was installed in 2011 and is programmed remotely out of California. He explained they will be providing software and training for Parkway Chrysler to control their sign at their location, which is what they would like to do. Mr. Bretz explained that records indicate, unbeknownst to them, that the current sign is not permitted. The variance will bring it into compliance, and he stressed that electronic message centers (EMC's) are an important feature to many businesses, providing an effective mechanism for informing the public of goods and services as well as promoting sales and special events. They feel the sign would be more appropriate in scale because of the large size and frontage of the business and property. He thanked the Board for their consideration of this request.

Mr. Huck stated they are one of the larger dealerships in the area. He explained they have measurements and statistics for everything, and he informed that 90% of their business comes from "drive-by" customers. He added they are the largest Chrysler Dodge Jeep Ram store in the country as of 2018, selling just shy of 7,000 vehicles, so that is about 600 sales a year just from people driving by and recognizing the dealership. He stressed their EMC is a very important part of their marketing.

Mr. Bob Hogan, 36755 Barr Street, Clinton Township, Michigan 48035, stated he is not referring specifically to this electronic message center, but he questioned whether there any restrictions per Township ordinances to words or narratives that can be on this type of marquis. He questioned whether there can be any political promotions on it.

Mr. Marella replied no. He indicated the ordinance can control the size, lighting, brightness and locations, and they can request the luminosity be turned down after certain hours.

Mr. Hogan questioned whether there are agreements prohibiting any political verbiage. He further inquired as to whether there are limited hours when these signs can be turned on. He noted it will be bright and they want to get their message out.

Mr. Marella replied there is no political verbiage. As far as hours of operation, this Board generally discusses it with the petitioner if it is an issue.

Mr. Hogan stated it is an issue to him because he lives off of Gratiot.

Mr. Marella assured they will be asking the petitioner.

Mr. Hogan inquired as to whether there can be limitations to the colors on the sign, and whether it can be all red or all orange, for example.

Mr. Marella assured they try to keep it toned down as much as possible, but there is no limitation on the colors.

Mr. Pearl stated the EMC signs are in place for the business, and he would not expect to see politician's faces on them. He drove by the site today and could not understand what they are asking for because it is already in place. He inquired as to whether Mr. Thompson determined whether it was installed without a variance.

Mr. Thompson replied that is his understanding.

Mr. Campbell commented this petitioner has a track record of doing this as well.

Mr. Pearl noted that the property and the business on it have a big footprint, and he did not feel that this sign dwarfs that in any manner. He noted there are a lot of car dealerships on both sides of the street, so he understands why the petitioner wants it. He also pointed out it is not in a residential area but is on a main highway with three-lanes of traffic in each direction traveling 50 to 60 miles an hour. He is not happy it went in without a variance. Based on the size of the sign and the size of the lot, he felt the variance is appropriate.

Mr. Marella stated when considering a variance, they take public safety into consideration.

Mr. Mill stated he is concerned with distraction of driving on Hall Road, which is extremely busy. He also expressed concern about the luminosity of the sign and whether the messages will be flashing. He questioned whether there are hours when it

will be turned down, and he wanted to make sure they look into these issues so they do not have public safety issues in the future as a result.

Mr. Thompson assured the ordinance addresses that situation, regulating both the frequency of the changing messages as well as the brightness of the sign. It calls on the Building Department to investigate if the sign is being determined as a nuisance to traffic or adjacent property owners. The content of the message is not controlled by the Township, and they do not have the right to tell someone what they can put on their sign, noting that infringes on First Amendment rights. He was confident that case law relative to that would indicate the same thing. He advised that there are no restrictions as to hours of operation, just like there are no time restrictions on other types of signs. He noted the color scheme of the sign also falls in the category with the message content, and the Township cannot dictate the colors of the messages on those signs. He added that the current sign ordinance also does not regulate the colors.

Mr. Marella recalled this Board has reached agreements with applicants in the past as to their hours of operation and brightness, and those applicants have been agreeable to conditions placed on those variances.

Mr. Thompson explained that, as a Zoning Board of Appeals, they have the right by law to request reasonable conditions for variances, and that is a good thing for the Zoning Board of Appeals to do when they feel it is warranted.

Mr. Campbell noted the ordinance requires the intensity of the sign to be reduced at dusk. He recalled that, other than McLaren Macomb, which has a 50-square-foot EMC, and another business on Hall Road, which has a 36-square-foot EMC, this would be the largest changeable copy sign ever allowed in the Township; however, given the size of Hall Road, the size of the median separating the eastbound from westbound traffic, and the size of the subject property, it is appropriate. He noted that this is the second time Parkway Chrysler has come before this Board to request a variance for something that was already done, noting the first time was when they wanted to add all of the Chrysler brands to their dealership. He recalled they put it up before obtaining permission, although he added the president of Chrysler was coming to town, and that was understandable pressure. He strongly encouraged Parkway Chrysler to seek approval before going forward.

Mr. Huck assured he will do that in the future.

Motion by Mr. Pearl, supported by Mr. Mill, with reference to File #19-6880 and application from Mr. John Hill, of Parkway Chrysler Dealership, 21560 Hall Road, Clinton Township, Michigan 48038, as represented by Mr. Steve Bretz, of Phillips Sign & Lighting, Inc., 40920 Executive Drive, Harrison Township, Michigan 48045, for variance to Clinton Township Building and Housing Code, Chapter 1488.02-(d), Signs, Definitions and Restrictions, "Changeable Copy", concerning 10.00 acres of land fronting the south line of Hall Road, west of Elizabeth Road, addressed as 21560 Hall Road (Section 3) (Parcel #16-11-03-200-032), that variance be granted to permit the

installation of an electronic message board (“changeable copy”) sign for a business in the B-3 General Business District (Parkway Chrysler Jeep Dealership), measuring 44.7 square feet, which is 24.7 square feet in excess of the maximum permitted 20 square feet; further, this grant of variance is based on claimed hardship being the size of the business and property, as well as the width of Hall Road; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Pearl, Mill, DiBartolomeo, Deyak, Campbell, Marella. Nays – None. Absent – D’Angelo. Motion carried.

**PART OF 2.231 ACRES OF LAND LOCATED EAST OF HAYES, SOUTH OF CANAL,
ADDRESSED AS 42012 HAYES ROAD (PARCEL #16-11-07-301-006) (SECTION 7)
- APPEAL: HENNESSEY’S PUB & KITCHEN @ WINDMILL PLAZA (FKA
CLANCY’S PUB @ WINDMILL PLAZA)
FILE #19-6879: PETITIONED BY MR. SAM KIZY, ACME SIGN COMPANY
REPRESENTED BY MR. CHRISTOPHER PALJUSEVIC**

Mr. Campbell summarized the variance being requested and read the Planner Review letter dated February 15th, 2019 into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 63 owners and/or occupants of property located within 300 feet of the land in question, with 18 of those sent to owners/occupants in the City of Sterling Heights. There were 3 of those notices returned as undeliverable. There were no written replies received in response to the mailing.

Mr. Sam Kizy, of Acme Sign Company, 42732 Merrill, Sterling Heights, Michigan 48314, explained the previous tenant at this location was Clancy’s Irish Pub. They had two signs because of the way the building is situated. He noted the only visible side of the building for both northbound and southbound traffic on Hayes is the west side of the building. He notes the building sits further back off of the road. He indicated they applied for permits for both signs but the second sign application was denied because they are only permitted one sign, which is currently on the south side of the building facing the parking lot. He stressed they are in desperate need of the second sign because the building is not identified to southbound motorists on Hayes. He assured it will not be distracting and will have white letters indicating “Hennessey’s Pub & Kitchen” with a black background.

Mr. Chris Paljusevic, 1784 Christian Hills Drive, Rochester Hills, Michigan, stated he, along with his father and his brother, own this business. He explained when they wanted to change the name, it hurt their business because the location where there was previously a “Clancy’s Pub” sign is now just a brick wall. They are seeking approval of the second sign so they have access to more business.

Mr. Campbell stated the pylon sign for this commercial center has a nice panel for Hennessey’s, and he felt that is what people see when they drive southbound on Hayes. He personally felt it is a waste of money for a sign on the west wall because it

cannot be seen unless the motorist is directly in front of the building. He stated, however, he has no problem treating this business the way other businesses in the Township have been treated, noting, in the past when this Board has approved numerous variances to allow multiple signs for a business, one of the conditions placed upon each approval has been to specify that the total combined square footage of the signs cannot exceed what would be permitted for the one allowed sign. He added that, based upon what is being proposed, that would not be a problem for the petitioner to meet that requirement. He encouraged Mr. Paljusevic to look closely at his signage on the pylon sign. It is currently winter so the trees on both sides of the pylon sign are not blocking the view; however, when it is in full bloom, it may block the view of the sign. He encouraged the petitioner to work with the landlord to possibly take the trees down and work with Mr. Thompson's office to arrange to put vegetation on another location. He felt the businesses in the commercial strip are paying good money to have their business on the pylon sign, and he felt they are not getting their money's worth because the view is blocked a good portion of the year.

Mr. Robert Hogan, 36755 Barr Street, Clinton Township, Michigan 48035, questioned whether Clancy's Pub had a second sign.

Mr. Campbell stated the petitioner claimed they did, but it was never approved.

Discussion took place regarding the previous sign.

Mr. Campbell recalled that a second sign was never approved for Clancy's, noting they would have needed a variance from this Board, and they never heard a request for a second sign.

Mr. Kizy was not aware they did not have a variance. He recalled Mr. Barry Miller of the Building Department indicate there was a variance for the previous occupant. He stressed the proposed sign will provide a little more publicity to help them, but it is a tasteful sign.

Mr. Pearl agreed with Mr. Campbell's comments. He stated he had a hard time seeing the pylon with the branches in front of it, but he does not know if the Township will let him remove the trees.

Mr. Thompson stated he had a brief discussion with Mr. Campbell about that situation, and as a planner, he has witnessed that same situation in many different cases. He felt the ordinance requires a certain number of trees, and sometimes those trees are planted in the wrong place. He assured he has never had a problem with a property owner coming to the Planning Department and indicating there is a good reason why those trees should not be in that location. He stated as long as trees are put back, not necessarily in that same spot but in the same buffered area, he is willing to work with property owners. He did not feel it has the intent of changing the screening or landscaping, and he indicated he is always willing to work with property owners. If that

occurs, he obtains a landscape plan from the petitioner and puts it in the file so it becomes part of the site plan record for the property.

Mr. Pearl stated he is in favor of Mr. Thompson's suggestion. He has witnessed people sitting under those trees during "Cruise Night" and he would hate to see them removed, but he wants to make sure this business survives in Clinton Township. He felt that, since the total combined square footage does not exceed what is allowed for one sign, this Board has granted similar variances in the past and he is fine with it.

Motion by Mr. Campbell, supported by Mr. Deyak, with reference to File #19-6879 and application from Mr. Sam Kizy, of Acme Sign Company, 42732 Merrill, Sterling Heights, Michigan 48314, as represented by Mr. Christopher Paljusevic, of Hennessey's Pub & Kitchen @ Windmill Plaza (fka Clancy's Pub), 42012 Hayes Road, Clinton Township, Michigan 48038, for variance to Clinton Township Building and Housing Code, Chapter 1488-02-(e)-(3)-C, Signs, Definitions and Restrictions, "Business sign", concerning part of 2.231 acres of land (Section 7), located fronting the east side of Hayes, south of Canal, addressed as 42012 Hayes Road (Parcel #16-11-07-301-006), that variance be granted to permit the installation of a second wall sign for an existing business in a retail strip center (Hennessey's Pub & Kitchen @ Windmill Plaza, fka Clancy's Irish Pub), being one (1) wall sign in excess of the maximum permitted one (1) wall sign; further, this variance is granted on the condition that the total combined square footage of the two (2) signs is not to exceed what would be permitted for the one (1) wall sign under ordinance requirements; further, this grant of variance is based on claimed hardship being the shape of the building and the need to provide public safety and proper identification of the establishment; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Campbell, Deyak, DiBartolomeo, Mill, Pearl, Marella. Nays – None. Absent – D'Angelo. Motion carried.

LOT 54, KELLY-NUNNELEY SUBDIVISION #1, LOCATED SOUTH OF DIXIE, EAST OF ACTON, ADDRESSED AS 18936 DIXIE (PARCEL #16-11-28-152-002) (SECTION 28)

- **APPEAL: SFR – DIXIE, 18936**
FILE #19-6881: PETITIONED BY MR. TODD PARKINSON
REPRESENTED BY MR. ERIK HEIDERER, POLYARCH

Mr. Campbell summarized the variance being requested and read the Planner Review letter dated February 15th, 2019 into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 26 owners and/or occupants of property located within 300 feet of the land in question, with none of those returned as undeliverable. There was one written reply received in response to the mailing, and he read that letter from Mr. Ronald Lanivich, 36266 Acton, Clinton Township, Michigan 48035, indicating he has no objections to the variance request.

Mr. Erik Heiderer, 44045 N. Gratiot, Clinton Township, Michigan 48036, representing the petitioner, Mr. Todd Parkinson, who is out of town. He explained there is an existing house on the property, but they are proposing to demolish that one and build a new one. He explained they are proposing a 30-foot by 40-foot garage because the petitioner has a 12-foot hoist, and he would like to store some classic cars. He noted that an average parking space ranges from 18 to 20 feet in depth, so he would like to have the equivalent of four parking spaces. He would like to put his cars onto the 12-foot hoist, and the hoist requires the height of the structure to be higher because it requires a “scissor” truss. He noted the elevations are similar to the house, with lap siding with trim on all four sides. It will be in the same location as the existing garage, and he submitted six letters from neighbors indicating they do not have any objections to the residents.

Mr. Campbell summarized the letters submitted, and they all seem to be from the surrounding circle of where the petitioner’s property is located. He indicated there appears to be no objections documents from these six property owners.

Mr. Campbell stated it is indicated as a four-car garage, but there was mention of a hoist. He inquired as to whether there are going to be cars stored above the other four cars.

Mr. Heiderer explained the hoist will lift one of the cars to the point where he can work on it. He indicated with having room for four cars, he can maneuver them and use the hoist when he wants to work on one of his cars.

Mr. Campbell inquired as to whether he will have the ability to store eight cars in the structure.

Mr. Heiderer replied no, explaining that it is a hoist for only one car so that he has the ability to work on it.

Mr. Campbell noted these are large lots and it is a wooded neighborhood. The neighbors do not seem to have objection to it, and for the safety and security of his vehicles, along with providing him the opportunity to work on them indoors on his own property, he does not have objection to this.

Mr. Marella felt there is a big difference between 1-1/2 feet and 4-1/2 feet higher than permitted.

Motion by Mr. Campbell, supported by Mr. DiBartolomeo, with reference to File #19-6881 and application from Mr. Todd Parkinson, 18936 Dixie, Clinton Township, Michigan 48035, as represented by Mr. Erik Heiderer, of Polyarch, 44045 N. Gratiot, Clinton Township, Michigan 48036, for variance to the Clinton Township Planning and Zoning Code, Chapter 1298-01-(b) and (j), Supplementary Regulations, Accessory Buildings (Including Garages), concerning Lot 54, Kelly-Nunneley #1 Subdivision (Section 28), located fronting the south line of Dixie, east of Acton, addressed as 18936

Dixie (Parcel #16-11-28-152-002), that variance be granted to permit the construction of an accessory structure for a single-family residence in the R3 One-Family Residential District measuring: 1) 1,238 square feet, being 65 square feet in excess of the maximum permitted 1,173 square feet (based on one-half the floor area of the principal building, which is 2,347 square feet); and 2) 15 feet 6 inches in height, which is 1 foot 6 inches higher than the maximum permitted 14-foot height; further, this grant of variance is based on claimed practical difficulty being the ability to store the petitioner's four vehicles and providing a hoist for the petitioner to work on his own property while providing safety and security for the vehicles; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Campbell, DiBartolomeo, Mill, Pearl, Deyak, Marella. Nays – None. Absent – D'Angelo. Motion carried.

2.221 ACRES OF LAND FRONTING THE SOUTH SIDE OF HALL ROAD (M-59), EAST OF HAYES ROAD, ADDRESSED AS 15600 HALL ROAD (SECTION 6) (PART OF PARCEL #16-11-06-126-009)

- **APPEAL: TROPICAL SMOOTHIE CAFÉ @ CLINTON HALL PROPERTIES
FILE #19-6866: PETITIONED BY MR. PAUL DUDGEON,
TROPICAL SMOOTHIE CAFÉ (postponed from 2/20/19)**

The petitioner was not present.

Mr. Thompson indicated the petitioner was notified of tonight's meeting.

Motion by Mr. Pearl, supported by Mr. DiBartolomeo, with reference to File #19-6866 and application from Mr. Paul Dudgeon, Tropical Smoothie Café, 15600 Hall Road, Clinton Township, Michigan 48038, for variance to Clinton Township Building and Housing Code, Chapter 1488.02-(e)-(2), Signs, Definitions and Restrictions, "Business sign", concerning part of 2.221 acres of land fronting the south line of Hall Road, east of Hayes Road, addressed as 15600 Hall Road (Part of Parcel #16-11-06-126-009), that the Planning Department be directed to write a letter to the petitioner to advise him that he was removed from the agenda and if he wishes to pursue further consideration of request for variance to permit installation of a second wall sign for a business in the B-3 General Business District (Tropical Smoothie Café @ Clinton Hall Properties), which is one (1) wall sign in excess of the maximum permitted one (1) wall sign, he will be required to submit a new application and filing fee. Roll Call Vote: Ayes – Pearl, Marella, Mill, Campbell, Deyak, DiBartolomeo. Nay – None. Absent – D'Angelo. Motion carried.

REPORT OF MEETING

-- APPROVAL OF FEBRUARY 20TH, 2019 REPORT

Mr. Campbell requested the following change to the February 20th, 2019 report:
Page 10, Paragraph 4, Line 1:

Change from: “Mr. Mills...”
Change to: “Mr. Mill...”

Motion by Mr. Deyak, supported by Mr. Marella, to approve the minutes of the February 20th, 2019 Report of Meeting, as amended. Motion carried.

BOARD OF APPEALS MEETING SCHEDULE

-- CONFIRMATION OF NEXT MEETING’S AGENDA AND ATTENDANCE: WEDNESDAY, APRIL 17TH, 2019 AT 6:30 P.M.

Mr. Thompson confirmed the next Board of Appeals meeting will be on Wednesday, April 17th, 2019 at 6:30 p.m.

Mr. Thompson stated the following items are anticipated to be on that agenda:

- Greater Lakes Medical Plaza located south of 19 Mile, west of Garfield – Petitioner is seeking a variance for an LED sign measuring 35.5 square feet
- McDonald’s, located east of Hayes, north of 19 Mile Road – Petitioner is seeking two (2) additional wall signs but the total square footage will not exceed what is permitted for one sign. He added McDonald’s is doing a “refresh” so they are also going to Planning Commission for Revised Site Development approval.
- 15 Mile/Miami Retail, located north of 15 Mile Road, east of Miami – Petitioner went to Planning Commission for Conditional Rezoning, but unbeknownst to the Planning Department, they needed a parking variance. They have shared access with the neighboring condominium complex, and the Fire Department is satisfied with the fire lane on the west side of the property.
- Hayes Plaza, located east of Hayes, north of Amore – Petitioner is seeking a variance to lower the current pylon sign from 234” to 214”, although it is still above the permitted height, so they are seeking a variance.

ADJOURNMENT

Motion by Mr. Deyak, supported by Mr. Campbell, to adjourn the meeting. Motion carried. The meeting adjourned at 7:41 p.m.

Respectfully submitted,

Robert M. Campbell

Robert M. Campbell, Secretary
CLINTON TOWNSHIP BOARD OF APPEALS

ces:03/25/19

ces:04/02/19

Approved 04/17/19