

CLINTON TOWNSHIP BOARD OF APPEALS

REPORT OF MEETING
WEDNESDAY, JUNE 17TH, 2020

PARTICIPATING: Michael Deyak, Vice-Chairperson
Robert M. Campbell, Secretary
Ronald DiBartolomeo
David Merrill
Thomas Mill
Kenneth Pearl

ABSENT: Francis Marella, Chairperson (Excused)

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

The meeting was called to order at 6:30 p.m. by remote participation via teleconference. and the Pledge of Allegiance was recited.

APPROVAL OF AGENDA

Motion by Mr. Campbell, seconded by Mr. Pearl, to approve the agenda as submitted.
Motion carried.

Mr. Deyak announced that this meeting is being held virtually via GoToMeeting. As a result of the Covid-19 pandemic, the Governor issued Emergency Order 20-15, authorizing remote participation of a meeting in order to avoid person-to-person contact. Prior to the Zoning Board of Appeals meeting, a dedicated email has been established, directing emails to the Zoning Board. This allows the public to contact them via email to provide input and ask questions regarding agenda items. He advised the email is zba@clintontownship-mi.gov. Throughout the meeting, emails relating to the specific agenda item will be read prior to the Zoning Board voting on each agenda item. Following all of the agenda items, persons who have connected remotely will be permitted to speak, adhering to existing rules of participation.

Mr. Deyak explained that the Board of Appeals functions as a quasi-judicial body with specific powers and limitations, as outlined in various sections of the Zoning Ordinance and state statutes. He noted the Zoning Ordinance sets the standards the Board of

Appeals must use in reaching any decision, and once the decision of the Board of Appeals becomes final, only the courts can modify or reverse that decision. He stated this board is not empowered to change the terms or intent of an ordinance. Anyone who wants to amend an ordinance must petition the Township Board of Trustees.

Mr. Deyak explained that before a variance can be granted, certain requirements must be satisfied: 1) Practical difficulty must be demonstrated; 2) Whether strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for permitted purpose or would render conformity unnecessary and burdensome; 3) Whether a variance would do substantial justice to the petitioner as well as to other property owners in the district or whether a lesser relaxation would give substantial relief and more consistent with justice to others; and 4) The plight of the owner is due to unique circumstances of the property.

**1.63 ACRES OF VACANT LAND FRONTING THE NORTH LINE OF CANAL ROAD,
EAST OF HAYES ROAD (PARCELS #16-11-07-126-023 AND -024)**

**- APPEAL: THE REDWOODS CONDOMINIUMS
FILE #20-6933: PETITIONED BY MR. TONY CORSO, AMC HOMES LLC
REPRESENTED BY MR. PETE SNYDER, URBAN LAND CONSULTANTS**

Mr. Campbell summarized the variance being requested. Mr. Campbell advised that notice of this public hearing was issued by regular mail to owners and/or occupants of property located within 300 feet of the land in question and indicated that Mr. Thompson has a couple of email replies received regarding this site.

Mr. Deyak invited the petitioner to speak first.

Mr. Pete Snyder, of Urban Land Consultants, representing Corso Condominiums (also known as The Redwoods), 8800 23 Mile Road, Shelby Township, Michigan 48316, explained this project was in front of the Planning Commission on May 28th, 2020, and it was recommended for approval by them subject to grant of these variances. He explained the two variances being requested, with the first being a front yard setback variance. They are proposing a 17-foot setback rather than the 35 feet required. He acknowledged it seems like a lot, but he stressed the properties are very narrow and long, so in order to develop the sites, they need at least 25 feet from the back of the curb to the face of the garage in order to accommodate a sidewalk and a parked car in front of the garage. If they met the 35-foot setback, they would only have 30 feet to accommodate the total depth of the building, which is extremely narrow. The garages need to be at least 25 feet back, and in order to screen the garages, they have added some living space on the entry side of the units, so as people drive in, they are not looking at garage doors but are looking at the side of a building. Mr. Snyder emphasized that this variance is tied to the uniqueness of the property being narrow and not having sufficient depth for a normal residential building.

Mr. Snyder explained the side yard setback is required to be 35 feet and they are proposing a setback of 25.89 feet. He clarified this is the side yard setback on the south side of the project, where it abuts office. He pointed out there is not a building particularly close to it, and when they were positioning the building in the north/south direction, they felt a 25-foot setback would work, leaving enough room without repositioning the building further north. He explained that would move the building quite close to the drive on the north end. He reiterated the property is unique in that it is long and narrow, and they felt this is a creative solution. He commented that there are other variances that have been granted for parcels abutting this property, with the residential units on the west side being ten feet and eight feet, respectively, off of the property line, and the residential units on the east side are about 15 feet from the property line. He offered to answer questions.

Mr. Thompson read two emails received, one on June 16th from Ms. Jeanette Rumball, resident of Francesca Court Condominiums, questioning how construction trucks will access the property, and also requesting some type of buffer between Francesca Court Condominiums and the subject property, to be maintained by the Redwoods. Mr. Thompson read the second email he received on June 17th from M. James R. Duprey, Chief Financial Officer of Catholic Charities of Southeast Michigan, expressing opposition to the variance requests and urging the Board of Appeals to deny them.

Mr. Thompson questioned whether the petitioner could address the questions raised in the first email he read regarding access of construction vehicles and any type of screening or separation that is proposed.

Mr. Pearl questioned the address of the person who wrote the second email.

Mr. Thompson replied the writer of the second email is representing property immediately south, addressed as 15945 Canal Road.

Mr. Snyder addressed the email from the resident who lives on Francesca Court. He pointed out that is the condominium that is located 9 feet off the common property line, so that association was granted a fairly substantial variance to put the building where it is located. He explained part of why they are requesting a 17-foot variance on the front is so they can maintain the entire required 35-foot setback between their building and the Francesca Court buildings. He emphasized they are not seeking a variance on that side and have moved the buildings closer to the street in order to buffer and honor as much of that perimeter on the Francesca Court side of the property. He stated they are providing a 37-foot setback on that side, which will be a greenbelt developed with a bioswale and other landscape plantings, so he confirmed there will be some screening. He addressed the question regarding the construction truck access, noting that there is no access from Francesca Court but there is a recorded ingress/egress easement that goes across the second emailer's property. Mr. Snyder recalled that Mr. Duprey, the individual who wrote that email, was also participating at the Planning Commission meeting and expressed opposition to the project. He stated the ingress/egress easement is recorded in Macomb County Records, Liber 13532 Page 10. He noted

that the recorded easement is where the trucks, construction equipment, and eventually the residents would come in and out of the development.

Mr. Thompson stated he cannot speak for the neighbor as to whether the concerns were addressed, but he wanted to make sure for the record that the petitioner attempted to answer her questions.

There were no participants from the general public who indicated they would like to speak on this matter.

Mr. Campbell stated that in looking at the layout and the bioswales, he understood the petitioner wanting to maintain the 35-foot rear yard setback. He felt that possibly a compromise may be more appropriate. He pointed out the fronts of the buildings will be 59 feet from door to door in front as opposed to the required standard of 95 feet, which is a large reduction. He commented that what is surrounding the subject property on all sides is the rear or side yards of all adjacent properties. He felt that to get some relief on the 35-foot rear yard setback and provide a little more space in front would be more appropriate.

Mr. Snyder felt they would not object to sliding the building back. They actually had a plan that showed a 25-foot or 30-foot rear yard setback, increasing the setback from the street accordingly. He pointed out, however, that would be three variances instead of two, and someone buying the condominium moving in will see what it looks like ahead of time and understand the variance visually because of what they see, versus people who are already residents next door being “inflicted” with the variance in their direction after they have already purchased their homes. He felt if there is going to be a burden, it should be placed on the residents who are not yet there instead of on the residents who already live there. He clarified that if the Planning Commission were to decide that splitting the variance by moving the buildings slightly further back from the road and granting a variance for the rear yard setback is more appropriate, they are not opposed to it,

Mr. Thompson acknowledged that was part of their discussion with Mr. Snyder and Mr. Corso. There are two requests, one of them being a rezoning, and although the Zoning Board of Appeals is not looking at the rezoning, one of the considerations for that request is the impact the development will have on adjacent properties. When they met and took this into consideration, they felt the best option is to provide as little impact to adjacent properties as possible to limit the variances. He felt this design takes into account the needs of the developer in trying to work out this plan, as well as the needs of the neighborhood as well.

Mr. Campbell questioned whether Mr. Thompson would be opposed to the granting of an 8-foot variance on each rear yard setback and move the buildings back 8 feet.

Mr. Thompson assured he would not be opposed, adding this Board has the right to place reasonable conditions on their grants of variances. He was providing his

background on the discussions he had with the petitioner during the review of this site plan. He stated it is up to the Board to make those decisions.

Mr. Campbell suggested they grant an 8-foot variance on each rear yard, thereby reducing the front yard setback variance by 8 feet in front of each building. He pointed out these buildings are not isolated but are opposite each other. He felt they are being crammed in, face-to-face.

Mr. Thompson replied to inquiry that no further emails have been received since they have been having this discussion.

Motion by Mr. Campbell, seconded by Mr. Pearl, with reference to File #20-6933 and application from Mr. Tony Corso, of AMC Homes, LLC, 16183 Clarkston, Unit 206, Fraser, Michigan 48026, as represented by Mr. Pete Snyder, of Urban Land Consultants, 8800 23 Mile Road, Shelby Township, Michigan 48316, for variance to Clinton Township Planning and Zoning Code, Chapter 1292.01-(g), Land Use Regulations, Schedule of Regulations Limiting Height, Bulk, Density and Area, Footnotes to Schedule of Regulations Chart, concerning 1.63 acres of vacant land located north of Canal Road, east of Hayes Road (Parcels #16-11-07-126-023 and -024), that variance be granted to permit the development of a condominium complex in the RML Multiple-Family Residential (Low-Density) District (The Redwoods Condominiums) having: 1) A 25-foot front yard setback, being 10 feet less than the minimum required 35 feet; 2) A 25.89-foot south side yard setback, being 9.02 feet less than the minimum required 35 feet; and 3) A rear yard setback ranging from 27.08 feet to 28.68 feet, being up to 8 feet less than the minimum required 35 feet; further, this grant of variance is based on claimed practical difficulty being that it is a landlocked parcel that is bordered on all sides by existing developments, and this is a compromise to be able to fit reasonable-sized condominium units into this space; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Campbell, Pearl, Merrill, Deyak, Mill. Nays – DiBartolomeo. Absent – Marella. Motion carried.

34.13 ACRES OF LAND LOCATED AT THE NORTHEAST CORNER OF 19 MILE ROAD AND DALCOMA DRIVE, ADDRESSED AS 15855 19 MILE ROAD (PARCEL #16-11-06-400-051)

- **APPEAL: HENRY FORD MACOMB HOSPITAL ADDITION
FILE #20-6935: PETITIONED BY MR. GORDON GRAHAM,
HENRY FORD HEALTH SYSTEMS
REPRESENTED BY MR. TOM PUSTULKA, AECOM**

Mr. Campbell summarized the variance being requested. Mr. Campbell advised that notice of this public hearing was issued by regular mail to owners and/or occupants of property located within 300 feet of the land in question. There were no written replies received in response to the mailing.

Mr. Tom Pustulka, of AECOM, architect for the project, appreciated the opportunity to allow them to make this request. He explained the proposed tower will be located on the northeast side of the existing emergency drop-off / cancer center area, and that is the way it would best fit on the site so as not to impact other vital portions of the hospital, as well as minimizing the impact on the amount of parking on the campus. There are four buildings along Commons Road, with the hospital owning three of the four properties. They are leasing space in the fourth building for office purposes, and that is the parcel that is closest to the side yard of the hospital. When they calculated the height of the hospital with regard to the ordinance, that created a required setback of 125 feet. They are unable to push the building any further west because that would cut off the ambulance drop-off, and they had no other space on the hospital site to locate the tower addition. He explained the height of the building was determined by the existing floor heights. They are using high-rise code ordinances, and everything will be pressurized with Fire Command Control panels, and they will be working through all of that with the State Fire Marshall, as well as the Clinton Township Fire Marshall.

Mr. Thompson stated there were no emails received regarding this item.

No one from the participating audience spoke on this matter.

Mr. Campbell stated he looked at this site on Google Earth Pro, and he noted it appears it will overlap the cancer center entrance.

Mr. Pustulka replied affirmatively.

Mr. Campbell questioned how many floors will be attached to the existing hospital.

Mr. Pustulka replied the current hospital has four floors, and they are proposing a total of five floors. He replied to further inquiry that they are providing two bridges along the northeast side on floors 2 and 3.

Mr. Campbell questioned whether they will be removing any part of the existing building during construction.

Mr. Pustulka replied no, pointing out that is why they offset the building footprint about twenty feet away from the existing hospital. They need that room for construction purposes with cranes and rerouting of utilities, as well as not undermining anything that would push them further away from the hospital, so they are requesting the side yard variance.

Mr. Campbell could see no problem with the side yard setback variances being requested, noting this is just a setback from their own property. He felt they are isolated from everything else other than the Macomb Intermediate School District and Macomb Community College. He felt this is a great addition to have and enhances the value to the Township and to the hospital.

Mr. Pearl agreed with Mr. Campbell that this is a great addition to the Township. He stressed they need these medical facilities, and he hoped they are not hurt by Covid-19 and that they can go forward with the plans. He agreed the variances are within their own area and no one else is affected.

Motion by Mr. Pearl, seconded by Mr. Campbell, with reference to File #20-6935 and application from Mr. Gordon Graham, of Henry Ford Health Systems, One Ford Place, Suite 4A, Detroit, Michigan 48202, as represented by Mr. Tom Pustulka, of AECOM, 7211 Carlyle Crossing, West Bloomfield, Michigan 48322, for variance to Clinton Township Planning and Zoning Code, Chapter 1292.01 and 1292.01-(t), Land Use Regulations, Schedule of Regulations Limiting Height, Bulk, Density and Area, Footnotes to Schedule of Regulation Chart, concerning 34.13 acres of land located at the northeast corner of 19 Mile and Dalcoma, addressed as 15855 19 Mile Road (Parcel #16-11-06-400-051), that variance be granted to permit a five-story, 160-bed tower addition to an existing hospital facility in the SP-2 Special Purpose (Hospitals) District (Henry Ford Macomb Hospital) with: 1) A side yard setback for the east side of the proposed tower addition being 32.8 feet, which is 91.7 feet less than the minimum required setback of 124.5 feet; 2) A side yard setback for the east side of the power house addition being 44.1 feet, which is 5.9 feet less than the minimum required 50 feet; and 3) A height of 79 feet 8 inches, being 19 feet 8 inches in excess of the maximum permitted height of 60 feet; further, this grant of variance is based on claimed practical difficulty that the layout of this addition in relationship to the other existing buildings necessitates the granting of these variances; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Discussion ensued.

Mr. Merrill felt this is a good partnership the Township has with Henry Ford Hospital and he is thankful they are looking to expand that relationship.

Mr. Deyak agreed it is a great partnership and he is glad that they are expanding in Clinton Township. He stressed it is a “first-class operation”.

Roll Call Vote: Ayes – Pearl, Campbell, DiBartolomeo, Merrill, Mill, Deyak. Nays – None. Absent – Marella. Motion carried.

0.865 ACRE OF LAND AT THE SOUTHWEST CORNER OF HALL ROAD AND GRATIOT AVENUE, ADDRESSED AS 44975 GRATIOT AVENUE (PARCEL #16-11-01-201-020)

- **APPEAL: DUNKIN DONUTS DRIVE-THRU @ BP GAS STATION
FILE #20-6936: PETITIONED BY MR. HIBA AL QADDO,
HALL & GRATIOT, LLC**

Mr. Campbell summarized the variance being requested. He advised that notice of this public hearing was issued by regular mail to owners and/or occupants of property

located within 300 feet of the land in question. There were no written replies received in response to the mailing.

Mr. Andy Sitto, 58417 Deerfield Drive, Washington Township, Michigan 48094, clarified that the required driveway is supposed to be 18 feet in width, not 24 feet, since it is a one-way drive. He questioned whether that is correct.

Mr. Thompson replied that is correct, noting a one-way driveway only needs to be 18 feet, not 24 feet, so the variance requested is for 8 feet.

Nicoletta [no last name given], architect for the Dunkin' portion of the buildout, which is what the drive-thru window is for, explained that this is an existing building so they cannot relocate the position of the building. She explained they created a drive-thru lane to accommodate the Dunkin' addition to this project to the best of their ability. She clarified the "Dunkin' addition" is actually just a build-out of the existing structure, so they are not adding anything to the existing building. She noted given the constraints of the south end of the property, they were able to maintain a 10-foot escape lane around their 10-foot drive-thru lane, so together they have 20 feet of clearance at the south end of the property.

Mr. Thompson replied to inquiry that no emails were received on this.

There were no comments from any members of the general public participating in this meeting.

Mr. Campbell requested clarification, noting Mr. Thompson had indicated earlier that this is a one-way drive. He questioned whether there is a 12-foot-wide driveway adjacent to the drive-thru lane, which is 6 feet less than the minimum required 18 feet.

Mr. Thompson clarified that the drive-thru lane is 10 feet in width, and the bypass lane is also 10 feet. The variance request is for 8 feet.

Mr. Campbell felt there are other drive-thru facilities in other donut/coffee shops similar to this, and he could see no problem. He felt it will be self-policed in that people will not continue to go there if they have problems.

Mr. Merrill questioned whether the intent is to have customers enter from M-59 and exit back out the same way, or whether they will exit onto Gratiot.

Nicoletta replied that motorists can enter the property from either Hall Road or Gratiot. The drive-thru lane is entered from the north end heading south, going around the building, and heading out again. She noted the drive-thru portion of the building is one-way, but the rest of the site accommodates two-way traffic.

Mr. Sitto confirmed Nicoletta's statements. He clarified the drive-thru traffic enters the drive-thru lane at the west side of the existing building, goes around the south end of

the building and exits at the east side of the building. Traffic at that point can either go out the access driveway to Gratiot, or it could go through the site and exit by turning right only onto Hall Road. It is designed for complete traffic flow.

Mr. Thompson replied to inquiry that there were no emails received regarding this application.

Motion by Mr. Campbell, seconded by Mr. Mill, with reference to File #20-6936 and application from Mr. Hiba Al Qaddo, of Hall & Gratiot, LLC, 7065 Sugar Creek Court, Shelby Township, Michigan 48316, as represented by Mr. Andy Sitto, 58417 Deerfield Drive, Washington Township, Michigan 48094, for variance to Clinton Township Planning and Zoning Code, Chapter 1296.02-(a)-(1), Off-Street Parking and Loading, Space Layout Standards, Construction and Maintenance, concerning 0.865 acre of land located at the southwest corner of Hall Road and Gratiot Avenue, addressed as 44975 Gratiot Avenue (Parcel #16-11-01-201-020), that variance be granted to permit the addition of a drive-thru window for a business in the B-3 General Business District (Dunkin' Donuts @ BP Gas Station) having a 10-foot-wide driveway adjacent to the drive-thru lane, which is 8 feet less than the minimum required 18-foot width required for a one-way drive; further, this grant of variance is based on claimed practical difficulty that the building already exists and the fence abuts the property to the south, with no room to expand the driveway; further, this grant of variance is contingent upon compliance with requirements of Township ordinances. Roll Call: Ayes – Campbell, Mill, Pearl, DiBartolomeo, Merrill, Deyak. Nays – None. Absent – Marella. Motion carried.

PUBLIC COMMENTS

Mr. Deyak opened the floor for public comments, but there were no participants from the GoToMeeting audience who indicated they would like to speak.

Mr. Thompson confirmed there were no additional emails received from the public.

REPORTS OF MEETINGS

-- APPROVAL OF MAY 20TH, 2020 REPORT

Mr. Campbell requested the following revisions/corrections:

Page 2, Paragraph 3, Lines 7 & 8:

Change from: "He noted that he made a couple of attempts to find out his address, but his requests were unanswered."

Change to: "He noted that the Planning Department made a couple of attempts to find out his address, but the requests were unanswered."

Page 7, Paragraph 4, Lines 3 & 4:

Change from: "He stated does not know what has been done..."

Change to: “He stated he does not know what has been done...”

Motion by Mr. Campbell, seconded by Mr. Deyak, to approve the minutes of the May 20th, 2020 meeting, with the changes noted. Motion carried.

BOARD OF APPEALS MEETING SCHEDULE

-- CONFIRMATION OF NEXT MEETING’S AGENDA AND ATTENDANCE: WEDNESDAY, JULY 22ND, 2020 AT 6:30 P.M. (fourth Wednesday)

Mr. Thompson confirmed the next Board of Appeals meeting for Wednesday, July 22nd, 2020 at 6:30 p.m. He is aware of one case that has been formally requested, and it involves signage at the Dollar General, formerly Walgreens, located at the northeast corner of 17 Mile and Garfield. He stated they are looking for permission to have a second sign. He explained there may be two or three others that will be submitted based on either Planning Commission or revised site plan approvals, but they have not been formally submitted at this point, so he is not sure whether they will be on the next agenda. If they do not submit in time for the next agenda, they will likely be on August’s agenda.

ADJOURNMENT

Motion by Mr. Campbell, supported by DiBartolomeo, to adjourn the meeting. Motion carried. The meeting adjourned at 7:15 p.m.

Respectfully submitted,

Robert M. Campbell

Robert M. Campbell, Secretary
CLINTON TOWNSHIP BOARD OF APPEALS

ces:06/26/20

ces:06/29/20

Approved 07/22/20