

CLINTON TOWNSHIP BOARD OF APPEALS

REPORT OF MEETING
WEDNESDAY, AUGUST 19TH, 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

Mr. Campbell questioned whether they want to discuss adding the Board comment item.

Mr. Merrill replied affirmatively.

Motion by Mr. Pearl, seconded by Mr. Merrill, to approve the agenda with the addition of a discussion about Board comment following the last item on the agenda. Motion carried.

Mr. Thompson announced that this meeting is being held virtually via GoToMeeting. As a result of the Covid-19 pandemic, the Governor issued Emergency Order 20-154, authorizing remote participation of public meetings 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. A dedicated email address has been established to direct emails to the Zoning Board, which allows them contact via email to provide input and ask questions regarding agenda items prior to the meeting. He advised the email is zba@clintontownship-mi.gov. Throughout the meeting and on

agenda items, emails relating to the specific agenda item will be read prior to the Zoning Board voting on each agenda item. Following consideration of 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 his 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.

**LOT 26 AND PART OF LOT 27, CLINTON WEST INDUSTRIAL PARK SUBDIVISION,
BEING 7.35 ACRES LOCATED NORTH OF STEVENSON, EAST OF LIPKE,
ADDRESSED AS 22650 STEVENSON (PARCEL #16-11-35-356-031)**

**- APPEAL: UNITED TRUCK SALES LLC
FILE #20-6941: PETITIONED BY MR. ADMIR MESANOVIC, OF
UNITED TRUCK SALES LLC
REPRESENTED BY MR. TOM KELLOGG, OF LEHNER ASSOCIATES**

Mr. Campbell advised that there was no new mailing of the notice because this was postponed from last month's meeting. He read one new comment received via email from the following:

- Mr. Jason Davidson, 36427 Oakshire Street – opposed to the variance being requested; expressed his concern about the elimination of the tree canopy.

Mr. Deyak invited the petitioner to speak first.

Mr. Admir Mesanovic, 100 Cutting Drive, Troy, Michigan 48085, provided an update on the meeting with Mr. Thompson. He stated there is a certain number of trees needed on the site to meet the ordinance requirements, and they found a middle ground where they could plant some trees to satisfy the ordinance but also allow them to keep the visibility they want from the highway. He stated they have submitted an updated site plan showing eight trees that will be planted, which they are hoping will be acceptable for approval.

Mr. Thompson read an email comment received from the following:

- Mr. Sam Buschell, 18536 Whalen Drive – felt zoning laws should be enforced.

Mr. Deyak opened the floor for public comments, but there were none.

Mr. Pearl asked about the compromise that is being proposed along the frontage of the property.

Mr. Thompson replied he met with Mr. Mesanovic and they talked about two-fold landscaping, trying to provide landscaping on the street side so that it is not bare, but with the understanding that the intent of the request is to create display space. They discussed the importance of buffering the remainder of the site, which is the storage area behind the building and behind the existing fence. He noted it is important that some greenery was placed there so they could block out any of the outdoor storage from the road. They provided a plan that included four (4) Black Maple trees on the street side, and four (4) additional trees along the fence, even with the front or sides of the building, with a total of eight (8) trees added to the plan.

Mr. Pearl questioned whether the eight trees will be planted but there will be no berm.

Mr. Thompson replied affirmatively.

Mr. Pearl questioned how wide of an open area will remain along Stevenson.

Mr. Thompson replied the trees are planted on either side of the driveway at the front, leaving a vast majority of the display area open for view.

Mr. Pearl stated he drove over there a number of times and it is difficult to find the business, so the only view will be from the expressway. He added there is nothing in front of it except for the road, shrubbery, and grass. He understood the petitioner's concern to have the ability to display from the expressway view, adding that not very many people drive on Stevenson. He stated he has no problem with the plan as proposed this evening.

Motion by Mr. Pearl, seconded by Mr. Campbell, with reference to File #20-6941 and application from Mr. Admir Mesanovic, of United Truck Sales, LLC, 22650 Stevenson, Clinton Township, Michigan 48035, as represented by Mr. Tom Kellogg, of Lehner Associates, 17001 19 Mile Road, Suite 3, Clinton Township, Michigan 48038, concerning Lot 26 and part of Lot 27, Clinton West Industrial Park Subdivision, being 7.35 acres located north of Stevenson, east of Lipke, addressed as 22650 Stevenson (Parcel #16-11-35-356-031), that variance be granted to permit the revision of a site development plan for a commercial property in the I-1 Light Industrial District (United Truck Sales, LLC) by allowing the elimination of the required 25-foot-wide, 3-foot-high irrigated landscape berm along the Stevenson Street side of the site, which is also required to include at minimum one (1) 2-1/2 inch caliper deciduous tree or one (1) 6-

foot-high evergreen for every twenty (20) feet of frontage, and in its place, to permit the planting of four (4) Black Maple trees at the street side of the site, two (2) Japanese Lilac trees at the front of the building, and two (2) additional Blue Spruce trees at the rear of the proposed display area in front of the rear storage area where there are currently three (3) existing trees, as per the revised Site Development plan submitted by the petitioner and reviewed at this meeting; further, this grant of variance is based on claimed practical difficulty that the variance is needed in order for the petitioner to display new vehicles to some of the public; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Discussion ensued.

Mr. Thompson stated this is coming to this Board by way of a Revised Site Development Plan, so the variances granted by this Board are then forwarded to the Planning Commission. They are revising their current site plan to allow these changes.

Mr. Campbell agreed with the variance, but he felt they are doing it for the wrong reasons. He felt that visibility from an expressway is a definite safety factor, and he felt the petitioner is misinformed to believe that providing that visibility will accomplish a lot. He drove both east and west on I-94 past the subject location, and he noted that, unless someone is in a high vehicle, they will not see the display area from eastbound I-94. There are trees that somewhat block the view while heading westbound, adding that it is visible only for a split second, and he added that he feels this is a safety hazard. He noted that there has been reference made to other auto dealers in town, and in the past, they have granted variances in a number of cases for elimination of trees within the parking lot of a dealership because of the damage to vehicles caused by birds nesting in trees. He agreed with the recommendation of eliminating the trees on the berm but for the reasons of avoiding damage to trucks or other vehicles that may be on display at that location.

Mr. Merrill noted this is a truck sales business and people traveling on eastbound I-94 would have a higher vantage point for the semi-tractors they have for sale. He visited the site and agreed that Stevenson is a lightly-traveled road. He observed that the western driveway of that property is blocked off by cement blocks. He commented that they want to keep the Township beautiful by adding the trees, but he would like to see something substantial done to enhance that driveway, although he noted that may be more of a Planning Commission issue.

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

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

PART OF LOT 34, LOTS 35-37, SUPERVISOR'S PLAT OF WOODED GARDENS SUBDIVISION, BEING 6.66 ACRES LOCATED WEST OF GROESBECK HIGHWAY, SOUTH OF CLINTON PLAZA DRIVE, ADDRESSED AS 34244 GROESBECK (PARCEL #16-11-33-153-013)

**- APPEAL: LAVDA'S SELF-STORAGE (FKA FOUNTAINVIEW LANES)
FILE #20-6837: PETITIONED BY MR. NICHOLAS LAVDAS, OF
LEONARDO COMEDY LANES LLC
REPRESENTED BY MR. JOSEPH GUIDO, OF GUIDO ARCHITECTS**

Mr. Campbell summarized the variance being requested. He advised that no notification was issued because this is only a request for an extension of the valid period for a variance previously granted. Mr. Campbell read an email received with regard to this site:

- Mr. Sam Buschell, 18546 Whalen Drive – questioned how an extension can be granted for variances already expired; cited variances granted in 2018 and expressed opposition to them; complained site is an eyesore.

Mr. Campbell understood that a request to renew these variances came into the Township prior to their actual expiration.

Mr. Thompson replied that is correct.

Mr. Campbell read two additional emails received:

- Mr. Jason Davidson, 36427 Oakshire – requested extension of variances be denied; complained about ramification of these ordinances on other businesses and residents in the area; complained about blighted building.
- Ms. Nancy Goodchild, 20584 Glenallen – complained about condition of development along Groesbeck; opposed to extension of variances.

Mr. Joseph Guido, 23419 Ford Road, Dearborn, Michigan, project architect, explained that with him is the applicant, Mr. Nick Lavdas; Ms. Pam Fox, who works with Mr. Lavdas; and Mr. Dan Ivanovic, contractor for the development. Mr. Guido explained they are behind schedule but are ready to start construction. He explained one of their plans was that they submitted their plans earlier this year to the Building Department, and although they were reviewed and approved architecturally, they struggled to get their county approval for the stormwater management permit. He stated they finally received their stormwater system permit this week from the County, so they are going tomorrow to pay the fee, and the Building Department should be in a position to release the permits to get started. The delays were caused by the fact that he has a small firm and it takes a little longer than it may take a large firm to complete a project of this size. He assured they worked diligently, and he apologized that he was not aware there was a deadline placed as a condition on the granting of the variances. He assured they are ready to go with the project, adding they can break ground very quickly as soon as the general building permits are issued. He replied to inquiry that nothing has changed from the original approval, but it has been a process of getting the permit approvals

they need. He added that Covid-19 did not help, but the project has been bid out, the subcontractors are lined up, the financing is in place, so they are ready to move forward.

Mr. Deyak questioned as to the building timeline.

Mr. Guido replied they anticipate it will take nine months to a year to complete, depending upon the weather, noting there is a lot of exterior painting and foundations involved. He assured they will be going as fast as they can, weather permitting.

Mr. Thompson replied that no additional emails have been received.

Mr. Deyak opened the floor to anyone from the general audience participating in this meeting, but there were no comments.

Mr. Campbell felt there is no reason to deny this variance extension. He noted nothing much has changed from the original approval, and it appears they are close to starting the project. He felt the only argument is concern about the number of self-storage facilities in the Township, but this development was already approved for a self-storage facility prior to the change in the ordinance. He commented that they have done all of the work to prepare it, so he could see no reason not to grant the extension.

Mr. Merrill agreed with Mr. Campbell, and he could not see a reason to deny the variance extension request. He added he would want to make sure the variances meet the same conditions as when they were granted, but he stressed he would like to see this project completed within eighteen months, so he would like to see an 18-month valid period placed on the variance extension rather than 24 months.

Mr. Campbell understood Mr. Merrill's sentiments, but questioned whether the ordinance would have to be changed in order to grant a variance with a lesser valid period.

Mr. Thompson replied the Board of Appeals has the reasonable ability to place a time limit on it. He does not feel they are bound to an additional 24 months, although that is what the petitioner is requesting, considering what has been happening with Covid-19 and contractors. He felt the 24-month period is a reasonable request.

Mr. Merrill stated he will retract his suggestion for a valid period of 18 months and go with the 24-month valid period.

Mr. Deyak recalled they have gone with less than two years on other projects.

Mr. Pearl cannot see why this has taken two years. He felt it is ugliest building he has ever seen. He emphasized the Board of Appeals went to a lot of trouble to grant these variances, and then they got hit with a plethora of storage facilities going up

everywhere. He stated he will not vote for an extension of more than a year. He felt it has to be completed within a year; otherwise, the variances are null and void.

Mr. DiBartolomeo agreed with Mr. Pearl. He pointed out it has been sitting for two years, and they are indicating now they have all the materials, the financing, and are “ready to go”. He commented that the petitioner provided an estimate of nine to twelve months to get the project completed, so he felt they should give him twelve months. He stated he is opposed to giving him twenty-four months.

Mr. Deyak agreed with giving the petitioner twelve months, adding that the site is an eyesore.

Mr. Nick Lavdas stated he has had the money in place, and he is aware there has been a delay, but he assured it was not on his part. He insisted he can show every document that he hired everyone two years ago to get this moving as fast as possible. He claimed he has been screaming to get this done, but when Covid-19 hit, the situation worsened. He assured if anyone is embarrassed, it is him, but he stated he can prove that his money has been sitting in the bank for over two years waiting for this project to be done. He stated he now wants it done fast, but to gamble so much money and if he is a day late, he is out that money. He is very proud of the fifty to sixty projects he has completed all over the State of Michigan; however, he is not an architect and not a builder, so he hires people to do it. He complained the delays have been one after another, and he understands that what Covid-19 has done to his contractors has been a nightmare. He assured this will be done as fast as possible and cautioned his contractors that there better be a schedule set up so that when one contractor finishes, another is there immediately to start their work. He stated he can prove he has everything in place, with more than enough funds for this project. He understands it is embarrassing for the Township, but he assured it is more embarrassing for him, adding this is not how he operates. He understands the Township has been patient, but this has not been fun on his part.

Motion by Mr. Merrill, seconded by Mr. Mill, with reference to File #20-6837 and application from Mr. Nicholas Lavdas, of Leonardo Comedy Lanes LLC, 3671 E. 12 Mile Road, Warren, Michigan 48092, as represented by Mr. Joseph Guido, of Guido Architects, Inc., 23419 Ford Road, Dearborn, Michigan 48128, concerning Part of Lot 34, and Lots 35 through 37, Supervisor’s Plat of Wooded Gardens Subdivision, being 6.66 acres of land fronting the west line of Groesbeck Highway, south of Clinton Plaza Drive, addressed as 34244 Groesbeck, that the request for extension of the valid period on multiple variances granted on July 25th, 2018 for a self-storage facility in the I-1 Light Industrial District (Lavda’s Self Storage, fka Fountainview Lanes), be granted for an 18-month period, keeping all of the other conditions in place. Discussion ensued.

Mr. Thompson confirmed there were no additional emails received from the public, and there were no comments from the participating audience.

Roll Call Vote: Ayes – Merrill, Mill, Campbell. Nays – Pearl, DiBartolomeo, Deyak. Absent – Marella. Motion failed for lack of votes.

Mr. Pearl suggested if the extension were for a twelve-month period, he would be in favor of it. He pointed out that if the petitioner has to come back at that point, at least he will be able to show that he is actually developing the site.

Motion by Mr. Merrill, seconded by Mr. Mill, with reference to File #20-6837 and application from Mr. Nicholas Lavdas, of Leonardo Comedy Lanes LLC, 3671 E. 12 Mile Road, Warren, Michigan 48092, as represented by Mr. Joseph Guido, of Guido Architects, Inc., 23419 Ford Road, Dearborn, Michigan 48128, concerning Part of Lot 34, and Lots 35 through 37, Supervisor's Plat of Wooded Gardens Subdivision, being 6.66 acres of land fronting the west line of Groesbeck Highway, south of Clinton Plaza Drive, addressed as 34244 Groesbeck, that the request for extension of the valid period on multiple variances granted on July 25th, 2018 for a self-storage facility in the I-1 Light Industrial District (Lavda's Self Storage, fka Fountainview Lanes), be granted for an 12-month period, keeping all of the other conditions in place. Roll Call Vote: Ayes – Merrill, Mill, Pearl, Campbell, DiBartolomeo, Deyak. Nays – None. Absent – Marella. Motion carried.

LOT 13, SUPERVISOR'S PLAT OF McKISHINE FARMS SUBDIVISION, LOCATED NORTH OF McKISHNIE, SOUTH OF KENT, ADDRESSED AS 20195 McKISHNIE (PARCEL #16-11-33-254-020)

- **APPEAL: SFR – McKISHNIE, 20195**
FILE #20-6942: PETITIONED BY MR. KEN BLEAU

Mr. Campbell summarized the variance being requested. He advised that notice of this public hearing was issued by regular mail to 50 owners and/or occupants of property located within 300 feet of the land in question, with 1 of those returned as undeliverable. He read two comments that were received from the same individual:

- Ms. Linda Luchtman, 20173 McKishnie – opposed to the variance request, claiming she does not want a business adjacent to her house; difficult to get down her street with all of the businesses on the street; urged Board of Appeals to deny the request.

Mr. Ken Bleau, petitioner, stated he would like to construct a garage for storage. He has a one-car attached garage but it does not even accommodate one vehicle. He has talked with several other residents on their street who have no objection to this request. He pointed out that his neighbor across the street and two other neighbors on the street have constructed very similar structures, and they each have one-acre parcels. He assured he is not trying to do anything excessive and wants everyone to be happy with it.

Mr. Thompson stated he no additional emails have been received.

Mr. Campbell stated that, in looking at the diagram and material, he is confused about the size of the garage. He felt it is extremely tall, and he could not recall ever approving anything that high, but that is what is calculated by the Building Department. He questioned the size of the walls, the pitch of the roof, and why they have such conflicting information.

Mr. Bleau replied he does not know where the 17-foot height came from. He assured it does not need to be that height, but he does not have the diagram with him.

Mr. Campbell stated that is a calculated number from the height of the walls and figuring the pitch of the roof. In the documentation, one place indicates the pitch is 4/12 and another place indicates 6/12. There is a 32-foot width, so at a 4/12 pitch, that adds 6 feet to the height. If he had a 9-foot wall and a 4/12 pitch on the roof, he calculated it would be a 15-foot high garage, which he felt is more reasonable. He pointed out it is conflicting information, and he does not want to go against the Building Department.

Mr. Bleau assured he will do whatever is in reason.

Mr. Campbell inquired as to what Mr. Bleau intends to keep in the garage.

Mr. Bleau replied he intends to keep a couple of vehicles, a boat, snowmobiles, and other storage. He replied to further inquiry the current garage has “odds-and-ends” and his tools in it, but it is very small. He noted it is attached.

Mr. Campbell noted that, with the combination of the two structures, this becomes an enormous total.

Mr. Bleau stated he was leaving the discretion of the other garage to the Board, noting it is existing, but he does not have a problem getting rid of that garage.

Mr. Campbell suggested this request be postponed to give the petitioner an opportunity to review the material, get it corrected as to the height of the walls, the height of the building, the pitch of the roof, and the Building Department can then come up with a final calculation. He suggested that the petitioner discuss this with the Building Department about the possibility of removing the existing attached garage. Mr. Campbell felt that this request as submitted should be denied, adding that there are a lot of detached garages on that street, but he felt the person who wrote in with the concern about this becoming another business is quite valid.

Motion by Mr. Campbell, seconded by Mr. Mill, with reference to File #20-6942 and application from Mr. Ken Bleau, 20195 McKishnie, Clinton Township, Michigan 48035, for variance to Clinton Township Planning and Zoning Code, Chapter 1292.01-(b), Supplementary Regulations, Accessory Buildings (Including Garages), concerning Lot 13, Supervisor's Plat of McKishnie Farms Subdivision, located north of McKishnie, south of Kent, addressed as 20195 McKishnie (Parcel #16-11-33-254-020), that further consideration of request for variance to permit construction of a 1,256-square-foot, 17-

foot 11-inch high attached accessory structure (garage) for a single-family home in the R-5 One-Family Residential District, being: 1) 532 square feet in excess of the maximum permitted 724 square feet; and 2) 3 feet 11 inches in excess of the maximum permitted 14-foot height, be postponed to the next regular meeting so the petitioner has the opportunity to review the material and get it corrected as to the height of the walls, the height of the building, the pitch of the roof, and also the petitioner can discuss with the Building Department the possibility of removing the existing attached garage. Roll Call Vote: Ayes – Campbell, Mill, Pearl, Merrill, DiBartolomeo, Deyak. Nays – None. Absent – Marella. Motion carried.

Mr. Deyak advised Mr. Bleau to meet with the Building Department to obtain the revised dimensions.

Mr. Campbell commented that, in his opinion, it will help Mr. Bleau's case if he is willing to take down the existing garage. He felt it eliminates the huge amount of storage, and he added the proposed structure is large enough to include everything that a single-family homeowner needs to have.

Mr. Bleau stated he wanted to see what the Zoning Board of Appeals would allow, but he agreed to "fine-tune" it a little more.

Mr. Campbell stressed they want to see the specific proposal being requested, and he indicated it is not a matter of playing a game to see what would be allowed.

Mr. Bleau stated he did not know what would be approved and he wanted to know that before he committed to hard drawings. He assured he will get the information together.

**LOTS 21 THROUGH 23, VACATED MEASLE SUBDIVISION, BEING 0.61 ACRE
LOCATED WEST OF LITTLE ROAD, NORTH OF CASS AVENUE, ADDRESSED AS
41373 LITTLE ROAD (PARCEL #16-11-10-327-002)
- APPEAL: SFR – LITTLE ROAD, 41373
FILE #20-6943: PETITIONED BY R. DAVID R. KOTWICKI
REPRESENTED BY MR. MARK BURCH, OF BURCH CONSTRUCTION**

Mr. Campbell summarized the variance being requested. He advised that notice of this public hearing was issued by regular mail to 6 owners and/or occupants of property located within 300 feet of the land in question, with none of those returned as undeliverable. He read two replies that were received by email:

- Ms. Ann Mondo, 41411 Little Road – she and her husband live next to the subject location; commented the petitioners are good neighbors and friends, continuing to improve their property; expressed favor of the variance request.
- Mr. Tim Farmer, 41525 Little Road, 41525 Little Road – property owner north of the subject location; commented they keep up their property meticulously; expressed support of the variance request.

Mr. Dave Kotwicki and his wife, Cindy, reside at 41373 Little Road. He stated they are seeking approval to expand their garage to store a third vehicle and provide additional storage. He stated he and his wife purchased the property behind them, so when combined, they have about two acres. He added that they have not yet combined the properties, but that is their intent.

Ms. Cindy Kotwicki stated that, with the addition of this property, they would also like to get a golf cart, noting they are older in age and the cart would help her get back to the property by the river. She pointed out their home is on the smaller side so they do not have a lot of storage, and any additional storage they can get is helpful.

Mr. Thompson replied to inquiry that no emails have been received from the public.

Mr. Deyak opened the floor to audience members who are participating in the meeting, but there were no comments.

Motion by Mr. Pearl, seconded by Mr. DiBartolomeo, with reference to File #20-6943 and application from Mr. David R. Kotwicki, 41373 Little Road, Clinton Township, Michigan 48036, as represented by Mr. Mark Burch, of Burch Construction, 37220 Moravian, Clinton Township, Michigan 48036, for variance to Clinton Township Planning and Zoning Code, Chapter 1298.01-(b), Supplementary Regulations, Accessory Buildings (Including Garages), concerning Lots 21 through 23, vacated Measle Subdivision, being 0.61 acre fronting the west line of Little Road, north of Cass Avenue, addressed as 41373 Little Road, that variance be granted to permit construction of a 20-foot by 24-foot addition to an existing detached accessory structure (garage) for a single-family home in the R-5 One-Family Residential District, resulting in 980 square feet, which is 330 square feet in excess of the maximum permitted 650 square feet; further, this grant of variance is based on claimed practical difficulty being the size of the lot and the size is reasonable for what he wants to store..

Mr. Thompson confirmed that no additional emails have been received.

Mr. Campbell questioned the size of the property that Mr. and Mrs. Kotwicki purchased.

Mr. Kotwicki replied that the abutting property they own is a 1.62-acre parcel that borders their property on two sides. The combined properties are slightly over 2.0 acres, and he replied to inquiry he does not know what that equates to in square feet.

Mr. Thompson calculated that is approximately 90,000 square feet.

Mr. Kotwicki stated he was told by the Building Department that if the properties had been combined, the proposed structure as proposed would have been approved.

Mr. Campbell agreed that the garage would be less than 2 percent of the total land area. He questioned why Mr. Kotwicki submitted a Board of Appeals application and the required fee if he is planning to combine the properties.

Mr. Kotwicki replied that they are objecting to the property taxes on the new lot, so that is why they have not filed for the property combine at this point. He stated the taxes from last year to this year went up 300+ percent. They are appealing to the State of Michigan, but regardless of the outcome, he assured the properties will be combined, adding they did not buy the property to sell it but they bought it to own it.

Mr. Campbell stated if they plan on merging the properties, the variance is a moot point.

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

LOT 14 AND PART OF LOT 15, MABON GARDENS SUBDIVISION, LOCATED WEST OF MABON, SOUTH OF GRANDY, ADDRESSED AS 35127 MABON (PARCEL #16-11-27-480-006)

- **APPEAL: SFR – MABON, 35127**

FILE #20-6944: PETITIONED BY MR. ANDERSON M. HUGHES

Mr. Campbell summarized the variance being requested. He advised that notice of this public hearing was issued by regular mail to 62 owners and/or occupants of property located within 300 feet of the land in question, with 4 of those returned as undeliverable.

Mr. Thompson confirmed that no emails were received from the public.

Mr. Anderson Hughes, 35127 Mabon, Clinton Township, Michigan 48035, stated his house is very small, measuring a little over 700 square feet, and he is requesting this variance for extra storage space. He explained that his house is set very far back on the lot, and every other house on the street has a normal setback, with his set much farther back. He estimated he has about a 30-foot rear yard setback between the rear of his house and the rear lot line, so there is no option for him to be able to fit a garage in the rear yard.

Mr. Deyak opened the floor to anyone in the listening audience, but there were no comments.

Mr. Campbell recalled a request similar to this a number of years ago for a garage on Moravian, and the Board of Appeals convinced the petitioner that they would not need a variance if they attached the garage to the house. They opted to attach it, and it turned out to be an attractive house and garage. He informed that when heading south on Moravian, the house is on the right directly after crossing the bridge. He suggested the connection could be made with a breezeway and it would give him a lot more flexibility in terms of expansion on the property. He questioned whether anyone advised him of that option.

Mr. Hughes replied he is aware he would be able to build this without a variance if he connected to the house with a breezeway. He indicated, however, that it would require a 42-inch foundation for the entire garage since it is attached. He plans on doing most of the work himself but he stressed that putting in a 42-inch foundation is much different than putting in a rat wall. He admitted he does not like the way breezeways look, and felt they have a “junky” look to them.

Mr. Thompson explained that an attached structure requires a different type of construction, including a firewall. He added it is a much more expensive type of construction.

Mr. Merrill questioned whether Mr. Hughes intends to have the front of the garage even with the front of his house, or whether it will extend into the front yard.

Mr. Hughes replied he would like to make it even with the front of the residence.

Mr. Pearl noted that is what is shown on the plan.

Mr. Deyak opened the floor for comments, but there were none.

Motion by Mr. Campbell, seconded by Mr. DiBartolomeo, with reference to File #20-6944 and application from Mr. Anderson M. Hughes, 35127 Mabon, Clinton Township, Michigan 48035, for variance to Clinton Township Planning and Zoning Code, Chapter 1298.01-(c), Supplementary Regulations, Accessory Buildings (Including Garages), concerning Lot 14 and part of Lot 15, Mabon Gardens Subdivision, located west of Mabon, south of Grandy, addressed as 35127 Mabon (Parcel #16-11-27-480-006), that variance be granted to permit the construction of a 12-foot by 30-foot detached accessory structure (garage) in the side yard of a single-family home in the R-5 One-Family Residential District, which is only permitted in a rear yard; further, this grant of variance is based on claimed practical difficulty that the house is placed quite far back on the lot and it would not be possible to build a reasonable-size garage in the rear yard; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Campbell, DiBartolomeo, Merrill, Mill, Pearl, Deyak. Nays – None. Absent – Marella. Motion carried.

LOT 18, FAULMAN SUBDIVISION, LOCATED SOUTH OF FAULMAN, WEST OF FARBROOK, ADDRESSED AS 19540 FAULMAN (PARCEL #16-11-28-326-007)

- **APPEAL: SFR – FAULMAN, 19540**

FILE #20-6945: PETITIONED BY MR. ROBERT C. HODGE III

Mr. Campbell summarized the variance being requested. He advised that notice of this public hearing was issued by regular mail to 22 owners and/or occupants of property located within 300 feet of the land in question, with 2 of those returned as undeliverable.

He read two emails received in response to this request:

- Ms. Ann Morris, 19520 Faulman – property owner immediately abutting the subject property; expressed concern that the finished grade of the proposed structure will be nearly 2 feet higher than her property; concerned about standing water in her backyard each year, and the possibility that this will worsen.

Mr. Campbell suggested if Ms. Morris is tuning in to tonight's meeting, he recommended she contact the Public Services Division about their water and drainage issues, noting that is not something this Board addresses. He read a second letter:

- Mr. James J. Brown and Mr. Jason W. Reese, 19580 Faulman – opposed to variance request; concerned about oversized "industrial" garage lowering property values; complained the structure is built at a higher grade and was built without Township approval; felt they need to comply with ordinances.

Mr. Thompson read one additional email he received:

- Unidentified resident – questioned why this is on agenda; recalled it was on a previous agenda and was granted.

Mr. Thompson clarified that when the application came in, he was not aware the previous variances were granted due to the fact he was off work for a surgery and the Assistant Director was acting on his behalf. He commented that if he had been involved in writing that report, he would have known that this other variance was granted. He emailed the residents to let them know that they are only requesting a 1-foot height variance and the variance for the size of the structure was previously granted.

Mr. Robert Hodge, 19540 Faulman, Clinton Township, Michigan 48035, explained that the variance for the square footage of the structure was approved and the building was constructed. He explained his yard is very graded, so the back corner is set on the ground, and the opposite corner diagonal from that is about 1-1/2 feet above the 14-foot mean allowance. He stated it is currently sitting without a floor but he does not want to put more money into it until he had this hearing for the variance request. He is hoping to move forward. He stated he is not looking to build up his yard, nor is he looking to put rainwater in someone else's yard. He will have to build a ramp into the structure and put a lot of fill inside of it due to the grade of his yard. He added that his contractor is from Midland, Michigan, and they have not been responsive to any of his attempts to contact him. The inspector had indicated to him that it should be no problem to get the height approved and directed him to pursue it.

Mr. Deyak opened the floor for comment from the virtual audience, but no one spoke.

Mr. Pearl questioned why the building is not following the grade of the yard.

Mr. Hodge replied the grade of the yard slopes down. One corner is sitting on the ground, but the opposite corner, diagonal from that corner, is off the ground by about 1-1/2 feet. He felt the contractors should have graded the yard and made the area where they were going to build the barn flat prior to starting construction. He admitted this is

all new to him, but he reiterated he will have to build a ramp up into the barn rather than build up his yard and flood out his neighbors. He stated he understands his neighbors' concerns.

Mr. Pearl questioned whether the contractor who pulled the permit knew the maximum height permitted for this structure.

Mr. Hodge claimed the contractor was aware. He indicated he paid the contractor, who subsequently farmed the work out to builders. He admitted that he was not aware of it at the time.

Mr. Merrill inquired as to whether this is a prefab building and whether that is what is causing the issue.

Mr. Hodges replied affirmatively. He noted the grade of the ground is causing the height issue.

Motion by Mr. Campbell, seconded by Mr. Merrill, with reference to File #20-6945 and application from Mr. Robert C. Hodge III, 19540 Faulman, Clinton Township, Michigan 48035, for variance to Clinton Township Planning and Zoning Code, Chapter 1298.01-(b) and (j), Supplementary Regulations, Accessory Buildings (Including Garages), concerning Lot 18, Faulman Subdivision, located south of Faulman, west of Farmbrook, addressed as 19540 Faulman (Parcel #16-11-28-326-007), that, in addition to the previously-granted variance to allow 302 square feet in excess of the maximum permitted 1,234 square feet, variance be granted to permit the continued construction of a 1,536-square-foot (32-foot by 48-foot), 15-foot height detached accessory structure (garage), being 1 foot in excess of the maximum permitted height of 14 feet; further, this grant of variance is based on practical difficulty being the grading of the yard that causes the overall structure to be 1 foot higher than permitted by ordinance; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Campbell, Merrill, DiBartolomeo, Mill, Pearl, Deyak. Nays – None. Absent – Marella. Motion carried.

LOTS 25 THROUGH 32, LASALLE GARDENS SUBDIVISION, LOCATED NORTH OF 15 MILE ROAD, WEST OF HENGESBACH, ADDRESSED AS 22529 15 MILE ROAD (PARCEL #16-11-26-352-006)

**- APPEAL: G & J WAREHOUSE (AKA SARGENT APPLIANCE WAREHOUSE)
FILE #20-6946: PETITIONED BY MR. JOHN SKOLAS, SARGENT APPLIANCE**

Mr. Campbell summarized the variance being requested. He advised that notice of this public hearing was issued by regular mail to 54 owners and/or occupants of property located within 300 feet of the land in question, with 2 of those returned as undeliverable. He added that no emails or letters were received in response to the mailing.

Mr. Thompson confirmed that no additional emails have been received.

Mr. John Skolas, 50588 Cedarwood Court, Macomb, Michigan 48044, stated they are seeking approval to eliminate the 100-foot-long wall that was a condition of a variance they received. He explained their neighbor to the east, adjacent to the location of the wall, has given them a letter that he is requesting the wall not be put up due to a hardship of maintaining his existing building and property. He claimed he is not aware of any residential neighbors that have a problem with the wall not being built. He explained they do not feel the benefit of that wall. He stated Napa Auto Parts is located to the south of their lot, and that is a commercial building. The wall would not provide any benefit for them. He assured they have done the landscaping, and the installation of the wall would create another issue, resulting in the alteration of the landscape plan.

Mr. Thompson confirmed that there are no emails.

Mr. Campbell felt this is a classic definition of a “slam-dunk”. He recalled the requirement for the wall was originally included as a condition at the request of a neighbor. The neighbor’s property was also zoned I-1 Light Industrial, so no wall was required, but the property was an existing legal non-conforming residential home, so the request for the wall was honored. He felt since those residents decided they do not want the wall, he could see no reason to deny this request. He commended Sargent Appliance on the new building that is quite attractive and is a very good-looking addition to the community.

Mr. Merrill questioned whether the petitioner is related to Mr. Gerald Clark, the individual who wrote the letter stating they do not want the wall.

Mr. Thompson replied he is not aware and felt the petitioner could answer that question.

Mr. Skolas replied there is no relationship whatsoever outside of being neighbors.

Motion by Mr. Campbell, seconded by Mr. Pearl, with reference to File 20-6946 and application from Mr. John Skolas, of Sargent Appliance, 35950 Gratiot Avenue, Clinton Township, Michigan 48035, for variance to the Clinton Township Planning and Zoning Code, concerning Lots 25 through 32, LaSalle Gardens Subdivision, located north of 15 Mile Road, west of Hengesbach, addressed as 22529 15 Mile Road (Parcel #16-11-26-352-006), that variance be granted to permit the removal of a condition on a variance granted for a development in the I-1 Light Industrial District (G & J Warehouse, to be used by Sargent Appliance) on June 21st, 2018, which required the installation of a 6-foot-high, 100-foot-long poured concrete screening wall along the east side of the site, parallel to the building, to screen the adjacent residentially-used property; further, this requirement for the wall is being reversed based on the fact that the wall was originally required as a condition of a previous variance at the request of the only affected owner of residentially-used property, and that owner has now requested that the wall not be

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

PUBLIC COMMENTS

Mr. Deyak opened the floor for public comments.

Mr. Campbell read one email that was received:

- Mr. Sam Buschell, 18546 Whalen – commented on previous item from July 22nd, 2020 Board of Appeals meeting and August 13th, 2020 Planning Commission meeting regarding Taqueria Mi Pueblo Express; concerned about variance granted in right-of-way.

Mr. Thompson read a public comment that was just received via an email:

- Mr. Samuel Buschell – questioned agenda item added regarding Board comments; felt they should get an attorney opinion before any action is taken on it.

Mr. Deyak stated it has been part of their public comment policy that they have the option of a response from Mr. Thompson to anyone making public comments. He questioned whether the Board members want Mr. Thompson to respond to these two comments.

Mr. DiBartolomeo felt that public comments are just that, and citizens have the right to make comments, but he felt that to go back and forth is not necessary.

REPORTS OF MEETINGS

-- APPROVAL OF JULY 22ND, 2020 REPORT

Mr. Campbell stated he overlooked reading the minutes and forgot to get to it today. He indicated if he notices any typos, he may send an email to the stenographer so they can be corrected.

Motion by Mr. Pearl, seconded by Mr. Merrill, to approve the minutes of the July 22nd, 2020 meeting, as submitted. Motion carried.

BOARD OF APPEALS MEETING SCHEDULE

-- CONFIRMATION OF NEXT MEETING'S AGENDA AND ATTENDANCE: WEDNESDAY, SEPTEMBER 16TH, 2020 AT 6:30 P.M.

Mr. Thompson confirmed the next Board of Appeals meeting for Wednesday, September 16th, 2020 at 6:30 p.m. He stated that, in addition to the one item postponed from tonight, they have seven additional cases.

Mr. Deyak stated he would like to open the discussion about having two meetings.

Mr. Thompson stated they have two requests involving signage, one for Clean View Auto Wash on Hayes and the other for Firestone on Garfield. There are a number of variances being requested for an apartment complex on Union Lake, which were variances granted some time ago and the development never occurred, so they are requesting the same variances. There is a pole barn being requested on Glenwood, and a request for a home occupation variance. There is a request for a fence variance request. He noted the final request comes to this Board by way of the Planning Commission, and that involves a Special Land Use/Site Development Plan for the Windermere Equestrian Center on Dunham and Heydenreich.

Mr. Deyak noted they have the one item carried over from tonight.

Mr. Pearl agreed that they should have two meetings, and the other Board members concurred.

Mr. Campbell requested that Mr. Thompson organize the requests so that items that will generate a lot of discussion should be divided between the two nights, although he admitted it is difficult at times to anticipate that ahead of time. He noted in the past when the Board of Appeals had to schedule an extra meeting, they typically scheduled them back-to-back, with one being on their regular Wednesday evening, and the second meeting being scheduled for the next evening, which would be a Thursday evening.

Mr. Thompson replied there is not a Planning Commission meeting scheduled for the Thursday following the next Zoning Board of Appeals meeting, so they can schedule the meetings for Wednesday, September 16th, 2020 and Thursday, September 17th, 2020.

The Board members indicated that schedule is acceptable to them.

DISCUSSION ON BOARD COMMENTS

Mr. Merrill brought up the suggestion of whether the Board of Appeals members would like to add an area on each agenda, following public comments, where they would be able to make comments. He clarified it would not be for the purpose of going back and forth, but the Board of Appeals members would be able to have their opinions stated as well. He recalled it came up at a recent meeting, and it seemed as though they should have had that opportunity.

Mr. Pearl commented that he did not feel it is a good idea, noting the comments are for the public.

Mr. Deyak agreed with Mr. Pearl. He noted if they want to respond, there is a paragraph in their public comment section that follows what the Township Board does.

Mr. Thompson stated they took the language about the Public Comment section directly from the Township Board's language with regard to how it is to be done.

Mr. Deyak felt it is good not to deviate from that, although he added that is his personal opinion.

Mr. Merrill stated he is good with it but wanted to mention it.

Mr. Campbell felt in the course of the discussion of individual items, they can say things that may straighten out inaccuracies or advise people bringing up unrelated matters. He cited the example of the letter he read from the individual on Faulman who expressed concerned about the flooding in their rear yard, and he mentioned that is something for which she should contact Public Services. He felt providing feedback for something that is non-controversial and may help people get a decision out of their community government is a good thing to do.

Mr. DiBartolomeo agreed with Mr. Campbell, but he noted there have been some comments where they are "getting on their soapbox" and are straying far from the actual item. He cited the first case as one where that occurred. He understood they have to read the public comments into the record, but he questioned whether there is a way to curtail what does not pertain to the issue. He understood it is a political year and people are doing what they feel they need to do, but they are expressing opinions on more than the items at issue. He felt they need to be able to advise people that if they are going to write an email to express their concerns on a certain variance request, they need to stick to the issue at hand.

Mr. Campbell suggested that one of the things he could do is summarize portions if the writer is quoting the ordinance, or as in the first case tonight, the entire variance that was granted in the past.

Mr. DiBartolomeo noted the letter for the first item complained about what was being proposed but continued on about how Groesbeck is looking terrible and is in bad condition. He felt the comments need to be directly related to the specific request.

Mr. Deyak felt if they were in a live meeting where they could have interaction and explain to those speaking that they are going beyond the specific variance request, it would be easier, but it is difficult to do that in an "email environment". He felt if an email comes in, they have to read it as is. He expressed concern that to do anything different is going down a slippery slope.

Mr. Thompson confirmed that Mr. Deyak's feeling is the opinion of the Township attorney as well. He stated that, to ensure they are complying with the Open Meetings

Act in the best way possible, they should be reading in their entirety any emails and letters that are received.

Mr. Deyak commented it is much easier to run a meeting in person. He assured he respects everyone's opinion.

Mr. Campbell questioned as to whether there are any expectations as to when they will be able to resume "in-person" meetings at the Township.

Mr. Thompson replied no, but it depends on the Governor's action at this point. They will continue to conduct their meetings in the GoToMeeting format indefinitely. He replied to further inquiry that a maximum of ten people is still the limit for a meeting held indoors.

ADJOURNMENT

Motion by Mr. DiBartolomeo, supported by Mr. Merrill, to adjourn the meeting. Motion carried. The meeting adjourned at 8:23 p.m.

Respectfully submitted,

Robert M. Campbell

Robert M. Campbell, Secretary
CLINTON TOWNSHIP BOARD OF APPEALS

ces:08/31/20
ces:09/02/20
Approved 09/17/20