

CLINTON TOWNSHIP BOARD OF APPEALS

REPORT OF MEETING

WEDNESDAY, NOVEMBER 18TH, 2020

PARTICIPATING: Michael Deyak, Vice-Chairperson
Robert M. Campbell, Secretary
Marc D. Alexander
Ronald DiBartolomeo
David Merrill
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 stated the petitioner for Item #1 has requested a delay of thirty to sixty days. He recommended they make a motion to delay it for up to sixty days, and he can come back next month if he is ready.

Mr. Thompson recommended they approve the agenda as presented, and they can then make a motion separately on that item as to its disposition.

Motion by Mr. Pearl, seconded by Mr. Merrill, to approve the agenda as presented. Motion carried.

Mr. Deyak welcomed Mr. Marc Alexander as a member of the Zoning Board of Appeals.

Mr. Alexander thanked Mr. Deyak, and he added that he is looking forward to working with this Board.

Mr. Deyak announced that this meeting is being held virtually via GoToMeeting. As a result of the coronavirus/COVID-19 pandemic, Public Act 228 of 2020 MCLA 15. 263,

Section 3a provides authority authorizing remote participation in public meetings in order to avoid person-to-person contact. A dedicated email address has been established directing your emails to Zoning Board Members 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 addressed the procedure related to public comment. The Chairperson will acknowledge all persons wishing to address the Board during the public comment period, and they are to provide their name and address. Comments will be limited to three (3) minutes, and comments must be confined to Zoning Board of Appeals business, being topics over which the Zoning Board of Appeals has authority and which involves Zoning Board of Appeals matters. Should the Board decide that a response to a specific question raised by persons in that Public Comment section is needed, they shall refer the questions to the Planning & Community Development Department Director or his designee for review.

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.

PART OF LOTS 10-14, AND LOT 18 (EXCEPT THE EAST 10'), UNION LAKE SUBDIVISION, BEING 1.92 ACRES OF LAND ON THE WEST SIDE OF UNION LAKE ROAD, SOUTH OF METRO PARKWAY (PARCEL #16-11-25-151-226) (Postponed from September 16th, 2020)

**- APPEAL: UNION LAKE VILLAS
FILE #20-6948: PETITIONED BY MR. DENO SKOLAS,
OF SKOLAS CONSTRUCTION**

Mr. Campbell indicated the petitioner has requested a thirty- to sixty-day delay to enable him to do further research on site plan and architectural work, adding they were not quite ready for this meeting.

Motion by Mr. Campbell, seconded by Mr. Pearl, with reference to File #20-6948 and application from Mr. Deno Skolas, of Skolas Construction, 767 Gravel Ridge, Leonard, Michigan 48367, for variance to Clinton Township Planning and Zoning Code, Chapter 1292.1-f and -h, Land Use Regulations, Schedule of Regulations Limiting Height, Bulk, Density and Area, Footnotes to Schedule of Regulations Chart; and Chapter 1296.02-(a)-(10), Off-Street Parking and Loading, Space Layout Standards, Construction and Maintenance, concerning part of Lots 10 through 14, and Lot 18 (except the east 10 feet), Union Lake Subdivision, being vacant land located west of Union Lake Road, south of Metropolitan Parkway (Parcel #16-11-25-151-226), that further consideration of request for variance to permit the construction of a multi-family development in the RML Multiple-Family Residential (Low-Density) District (Union Lake Villas) with: 1) Proposed buildings having a 10-foot south side yard setback, being 25 feet less than the minimum required 35 foot setback; 2) The property being 85 feet in width, which is 15 feet less than the minimum required 100-foot width; 3) A total of 24 units, which is 11 units in excess of the maximum density requirement of 13 units for this property; and 4) A 24-foot-wide service drive, which is 3 feet less than the minimum required 27-foot width, be postponed for up to sixty (60) days at the petitioner's request, and if the petitioner is ready for December's meeting, he can request to be placed on that agenda. Discussion ensued.

Mr. Merrill questioned whether they may want to table this due to the fact they are under restrictions from the Michigan Department of Health and Human Services. He does not want to continuously add this to the agenda without knowing what they have coming forward in the winter months.

Mr. Campbell felt a postponement for up to sixty days is adequate and noted that the January agenda tends to be fairly light.

Mr. Deyak questioned whether this would come back in January.

Mr. Campbell replied affirmatively.

Mr. Deyak felt with the holidays and more locking down of the state as a result of the increased number of COVID cases, he is not sure sixty days is long enough.

Mr. Pearl pointed out there is no restriction on construction, so he felt the motion is sufficient if the petitioner is ready at that point.

Mr. Deyak opened the floor for comments from the participating audience, but there were no comments from the public.

Mr. Thompson confirmed that he has received no emails from the public.

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

**PART OF 53.86 ACRES LOCATED EAST OF HEYDENREICH, NORTH OF CASS,
ADDRESSED AS 42380 HEYDENREICH (PARCEL #16-11-09-276-014)
- APPEAL: SFR – HEYDENREICH, 42380 (SINGLE-FAMILY ACQUISITION OF
FAMILY LIFE BROADCASTING SYSTEMS (FLBS) PARCEL (Postponed from
October 21st, 2020)
FILE #20-6958: PETITIONED BY MR. RICHARD LINNELL
REPRESENTED BY MR. TOM PLATZ**

Mr. Campbell summarized the purpose of the request, noting this was postponed from last month's meeting. He confirmed there was no additional mailing to owners and occupants within 300 feet. He stated they received one reply from the owner of the house that is within this property area. He believed all of the Board members received this letter emailed to them, and he read the letter into the record from Dr. Clarence Jabs, expressing his concerns about the proposed variance.

Mr. Thompson confirmed that no emails have been received from the public. He provided an update on this request, noting the item was postponed last month for the administration in his office to obtain a legal opinion at the request of the Zoning Board of Appeals. The Board had requested clarification as to whether they could place conditions to include an easement through the proposed properties to Dr. Jabs' property if they decided as a Board to grant this variance in order to eliminate the landlocked situation. This Board had also requested clarification as to whether they can place a condition that some agreement be created that the 18-acre parcel, once split and attached to the adjacent properties, would not have structures placed on it. Mr. Thompson relayed the attorney's answer to that question, which was forwarded to each of the Board members, was affirmative, adding that this Board has the right to place reasonable conditions on the approvals. He felt both of those conditions are reasonable. He noted that a third item came up in that discussion with Mr. Dolan, and it was Mr. Dolan's opinion, based on state law, that it is not a simple land division and combination that must occur, but it is actually a vacation and replat of the overall subdivision because they are adding land to a platted subdivision. Mr. Dolan's recommendation is that, should this Board decide to grant the variances, that it be conditioned as well upon the vacation and replat of that subdivision.

Mr. Richard Linnell, of Linnell & Associates, 2804 Orchard Lake Road, Suite #203, Keego Harbor, Michigan 48320, on behalf of the applicant, stated he and his client, led by Mr. Thomas Platt, as well as the current owner of the property, represented by Mr. Matt Piotrowski, are present this evening. He indicated they appreciated the opportunity for the prior appearance and the comments made. He was able to have a lengthy discussion with Mr. Jack Dolan, Township Attorney, regarding the requests they are making and how it could be accomplished if approved by the Zoning Board of Appeals. He indicated Mr. Dolan was very helpful and echoed to him the same sentiments shared by Mr. Thompson. They understood the concern regarding formalizing the easement in favor of Dr. Jabs, and he indicated that document has been provided, which would allow Dr. Jabs the access through this subject property so that he maintains vehicular ingress/egress to his own property. They also provided a draft document of restrictions that would fall in line with the stated goals of owning this property, which is to leave it in its natural state, and to ensure there would be no actual development of these parcels should approval of the requested variances be granted. He offered to address specifics and stressed they have had a lot of communication with Mr. Thompson and Mr. Dolan, for which they are appreciative. He offered to answer questions.

Mr. Deyak opened the floor for comments from the participating audience, but no one spoke.

Mr. Kevin Miekis, 27347 Lilly Court, Brownstown, Michigan 48183, son-in-law of Dr. Jabs, explained they are concerned that the proposal sent to them from Family Life regarding the easement has specifics in it as far as the maintenance of the road, etc., but once this property is sold, then Dr. Jabs is responsible for getting permission from all sixteen residents to even plow his driveway or to do any maintenance. Under the current agreement, Family Life stated they would repair the road and maintain it in its current location, but once sold, Dr. Jabs would be responsible to go to every single homeowner and obtain their permission to make any repairs. Mr. Miekis stated they received a copy of this agreement two days ago, and they are talking with their legal counsel to discuss their options with that easement application. They are currently waiting to hear back from counsel as to whether they will accept that easement or whether there will be modifications.

Mr. Linnell understood that Dr. Jabs and his son-in-law have not had the opportunity to speak to their own legal counsel, but he stated that the goal is to formalize the easement and that it contain terms that are reasonable. He assured there is no effort to make it more onerous on Dr. Jabs. He stated from their side, and in talking with the representative for Family Life, this is actually looked at as an opportunity to formalize something that has been going on for years, and a recorded easement would be to the benefit of both parties as far as obligations and use going forward.

Mr. Thompson commented that the job of the Zoning Board of Appeals is not to hash out the details of any easement agreement. He understood Mr. Miekis' concerns but if the Zoning Board of Appeals chooses to grant this variance, it is contingent upon that easement being created and record, and after that, it is up to the two parties to come up

to some agreement. If they do not receive a copy of a recorded agreement which indicates that all parties are satisfied, then the variance would ultimately cease. He reiterated the details of the agreement are something they will work out after the fact and not at this meeting.

Mr. Deyak concurred with Mr. Thompson.

Mr. Miekis questioned the practical difficulties that would warrant the granting of the variance.

Mr. Deyak replied that the Board of Appeals will have that discussion.

Mr. Pearl noted they have discussed this a lot, and he thanked the Township Attorney for addressing this matter. He stated he is in favor of granting the variance due to the configuration of the property and the fact that this is landlocked and these parcels will not be developed. He felt it will help to establish a legal document that will have to be negotiated.

Motion by Mr. Pearl, seconded by Mr. Merrill, with reference to File #20-6958 and application from Mr. Richard Linnell, of Linnell & Associates, PLLC, 2804 Orchard Lake Road, Suite 203, Keego Harbor, Michigan 48320, as represented by Mr. Tom Platz, 42244 Shulock, Clinton Township, Michigan 48038, for variance to Clinton Township Planning and Zoning Code, Chapter 1226.04-(a)-(4), Design Layout Standards, Lots, Sizes and Shapes, concerning part of 53.86 acres located east of Heydenreich, north of Cass, addressed as 42380 Heydenreich (Parcel #16-11-09-276-014), that variance be granted to permit the splitting of an 18.57-acre portion of a 53.86-acre parcel zoned RML Multiple-Family Residential (low-Density) and attach portions to twenty-two (22) existing single-family lots to the north and west in the existing adjacent subdivision, creating lot width-to-depth ratios that do not meet the maximum permitted ratio of 1:3; further, this grant of variance is contingent upon the following conditions being met:

- 1) The original plat must be vacated and re-platted to accommodate this new property;
- 2) An easement must be delineated upon the resulting parcels from the split, showing the easement existing to the previously constructed home whose driveway crossed the newly-split parcels; and
- 3) An agreement be included that the property owners of the newly split parcels are not allowed to build on that portion of the property that was combined with their lots;

Further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Discussion ensued.

Mr. Campbell questioned the practical difficulty for granting the variance.

Mr. Pearl stated the property is landlocked and there is no access to Heydenreich other than from the properties of the residents once this land is split and combined.

Mr. Campbell stated he has a contrary view and felt that this is a self-created practical difficulty. He felt there are a lot of other options to meet the objectives that everyone is expressing, so he is opposed to granting the variance.

Mr. Pearl stated his motion indicates that unless the three stipulations outlined in the motion are met, the variance is null and void. He asked Mr. Thompson if that is correct.

Mr. Thompson replied he believes the motion reflects that intent. He pointed out that the rules of the Zoning Board of Appeals specify that a variance is only valid for two years if the conditions of that variance are not met, so if one or more of those stipulations in the motion is not met within the two-year period, the variance becomes null and void at that point. He felt that Mr. Pearl's language is reasonable in that case.

Mr. Deyak pointed out they would have to start all over at that point.

Mr. Thompson confirmed that there are no emails from the general public.

Roll Call Vote: Ayes – Pearl, Merrill, Alexander, DiBartolomeo, Deyak. Nays – Campbell. Absent – Marella. Motion carried.

Mr. Linnell thanked everyone and appreciated the effort they have put into consideration of this request.

**2.83 ACRES LOCATED SOUTH OF CANAL ROAD, EAST OF HAYES ROAD,
ADDRESSED AS 15222 – 15282 CANAL ROAD (PARCEL #16-11-07-151-028)
- APPEAL: CANAL POINT PLAZA
FILE #20-6962: PETITIONED BY MR. LAWRENCE WORDEN, SIGNARAMA
REPRESENTED BY MR. BRYAN DUQUET, SIGNARAMA**

Mr. Campbell summarized the variance being requested. He advised that notice of this public hearing was issued by regular mail to 208 owners and/or occupants of property located within 300 feet of the land in question, with 14 of those returned as undeliverable. Mr. Campbell confirmed that as of earlier today, there were no emails or written replies received in response to the mailing.

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

Mr. Bryan Duquet, of Signarama, 36886 Harper, Clinton Township, Michigan 48035, was present to answer questions.

Ms. Shannon Vesper-Balsamo, 42100 Garfield, Clinton Township, Michigan 48038, stated she is representing the landlord, and she serves as the current property manager and leasing agent for the plaza. She explained the plaza is on the corner of Hayes and Canal Roads and is situated behind the gas station. She added that it does not have much visibility, and there have never been signs on the property. The ordinance allows

100 square feet but limits them to 8 feet in height. Because of the way the gas station is situated at the corner, they feel a 12-foot sign will be easier and safer for people entering the plaza from such a busy corner, and it is easier for pedestrians to see around the sign. She pointed out the 12-foot height is shorter than a pylon sign, and she felt it will be much more attractive. She stressed they take pride in this property and maintain it well. They have cleaned it up and before the pandemic, they were able to add a couple of new tenants. Since the plaza was built, it has never been 100 percent occupied, and she still has a 2,000-square-foot endcap sitting on a dirt floor. It has been difficult to lease because of the poor visibility, and because of the COVID pandemic, they still have one tenant who has not been able to open, and they lost another tenant. She felt adding the signage will increase the visibility for her current tenants and will make it easier for them to market it for new tenants. She stressed they want to fill the plaza with good, strong businesses to add to the Township, and she felt the signage will help get businesses into the plaza as well as to help people find those businesses once they are located in the plaza. Ms. Vesper-Balsamo pointed out that with the sign being taller rather than wider, it will help them moving forward if they have to make any changes to the sign. It will allow for eight total spots, which will provide them with flexibility if they have to increase or decrease a tenant spot.

Mr. Duquet stated Ms. Vesper-Balsamo would like to stay with a lawn sign. She is allowed 100 square feet and a height of 8 feet, but by the time they put in a ground clearance to allow for snow load or any type of landscaping, they end up with an extremely wide sign and is hard to divide without making skinny panels, and he claimed it is an unattractive sign. He stated the property is an unusual V-shaped parcel on a corner. He emphasized that the property is maintained very well.

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

Mr. Deyak opened the floor for comments from the participating audience, but no one spoke.

Mr. Merrill agreed the property is well-maintained, but he noticed it does not get much traffic. He noticed a Dollar General sign in one location, and he understood from the application that the proposed sign will replace that existing sign. He noted there is no sign on the side facing Canal Road, and he was curious on the driveway exiting the plaza to Canal, whether the sign would be on the east or west side of that driveway.

Mr. Duquet replied that the sign will be on the east side of the driveway.

Motion by Mr. Merrill, seconded by Mr. DiBartolomeo, with reference to File #20-6962 and application from Mr. Lawrence Worden, of Signarama, 36886 Harper Avenue, Clinton Township, Michigan 48035, as represented by Mr. Bryan Duquet, same address, for variance to Clinton Township Building and Housing Code, Chapter 1488.02-(e)-(1)-A-2, Signs, Definitions and Restrictions, "Commercial sign", "Lawn sign", Maximum size, concerning 2.83 acres of land located fronting the south line of Canal Road and the east line of Hayes Road, addressed as 15222 through 15282 Canal Road (Parcel #16-11-07-

151-028), that variance be granted to permit the installation of two (2) new lawn signs for a commercial development in the B-2 Community Business District (Canal Point Plaza), with each sign measuring 12 feet 2 inches in height, each being 4 feet 2 inches in excess of the maximum permitted height of 8 feet; further, this grant of variance is based on claimed hardship being the concern for safety at the intersection, especially along Hayes Road, and the sign being taller and narrower allows for more accessibility and more visibility for motorists and pedestrians; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Discussion ensued.

Mr. Campbell felt that in the past when they have granted an increased height on monument signs or lawn signs, they were situations where there has been high traffic volumes or high traffic speeds, or winding roads, but he did not feel this situation meets any of that criteria. He pointed out there is a stop sign at Canal, and there is a traffic light on Hayes Road, just south of the Hayes/Canal intersection, so he felt the shopping center is easy to see. He commented that the petitioner seems to be advocating a change in the ordinance to allow different configurations on signs, but they are not citing a particular undue hardship, which is required for this Board to grant a variance. He did not feel it is appropriate to grant the variance.

Mr. Pearl stated he hears what everyone is saying, but he has driven the area many times and he felt it is a difficult location because of the way people have to enter into it. He has no objection to what is being requested.

Mr. Merrill stated he understands Mr. Campbell's concerns but he indicated he has driven through that intersection many times and was never aware there is a Dollar General at that location until he pulled into the parking lot.

Mr. Deyak commented that he has driven by the subject location many times and he indicated he did not really notice it was there. He pointed out some of the units in the plaza have been vacant for quite a while. He questioned what businesses are located in the plaza at this time.

Ms. Vesper-Balsamo replied that Dollar General is located near their vacant endcap, and Anytime Fitness is on the other endcap facing Hayes, but they have still not opened since the Governor has allowed the reopening of gyms. She explained the franchisee is having a very difficult time financially with back-due rents and franchise fees, so they are working with her so she can try to fill her franchise. She added that Rosa Café is another tenant, and prior to the pandemic, they signed a lease with a new business, Bricks and Mini Figs, where Legos and mini figurines are sold. The tenant took about 3,000 square feet and moved into this plaza from Macomb Township, previously located at 21 Mile and Hayes. She claimed he has had a lot of his previous clients visit this location, but they are having a hard time finding the store, so the signage is very important to help increase his business in order for him to stay there. Another tenant is Salon 360, which is a hair salon that is new to the Township. She added they do not take walk-ins but have established clientele. She informed that unfortunately, due to the pandemic, Lucy & Ethel's has

closed, and they were previously located in the Township for over thirty years, so she has to try to lease another 2,500 square feet of commercial space.

Mr. Thompson confirmed that no emails have been received from the general public.

Mr. Deyak opened the floor for comments from the participating audience, but no one spoke.

Roll Call Vote: Ayes – Merrill, DiBartolomeo, Pearl, Alexander, Deyak. Nays – Campbell. Absent – Marella. Motion carried.

LOT 245 AND THE NORTHWEST 5 FEET OF LOT 246, HABERKORN INVESTMENT COMPANY'S HARVARD BY THE LAKE SUBDIVISION, LOCATED NORTH OF DEANHURST, EAST OF HARPER, ADDRESSED AS 23405 DEANHURST (PARCEL #16-11-35-476-020)

**- APPEAL: SFR – DEANHURST, 23405
FILE #20-6963: PETITIONED BY LAWRENCE & SHARON LEONARDI**

Mr. Campbell summarized the variance being requested. He advised that notice of this public hearing was issued by regular mail to 45 owners and/or occupants of property located within 300 feet of the land in question, with none of those returned as undeliverable.

Mr. Thompson confirmed that no emails have been received from the general public.

Mr. Lawrence Leonardi, 23405 Deanhurst, Clinton Township, Michigan 48035, explained they are adding to the back of the garage and it will not be seen from the road. He added that it is an upgrade to the property, increasing the value and making it more attractive. He stated he needs the additional room because he works on classic cars and he has a recreational vehicle he would like to store. They were granted permission to pour the cement pad at that location with the understanding they could build on it. He felt it is a positive improvement because it increases the value of the property and provides them with security for storage of their vehicles. He commented that there have been problems in the past with kids jumping the fences into their neighbor's yard and into their yard. He added that there is a walk-through from Donaldson to Cottrell and he claimed kids continue to cut through his yard. He considered it rehabilitation of an aging building, and he felt it will have no negative impact on the area.

Mr. Deyak opened the floor for comments from the participating audience.

Ms. Nora Trabilisy, 23363 Deanhurst, Clinton Township, Michigan 48035, stated she has no objection unless it is going to be used for a dwelling. She added she has no objection if it is strictly for storage.

Mr. Deyak understood that Ms. Trabilsy has no objection as long as no one will be living in the addition to the garage.

Ms. Trabilsy replied that is correct. She has no problem with storage and felt that is great, but she does not want it to be an apartment for anyone to live in.

Mr. Leonardi assured he has classic cars and he wants to store them inside rather than exposing them to the elements. He commented that he does not need any more people living with him, because his kids moved out when they grew up.

Ms. Trabilsy stated she has lived at this location for 47 years, and she emphasized she does not have a problem as long as it is only being used for storage.

Mr. Pearl understood the request for the additional square footage, but he questioned why it has to be on the side yard lot line.

Mr. Leonardi replied that the side lot is owned by the Macomb County Department of Roads, and they have been talking with them. They are in the process of trying to split it with the neighbor. New York Street runs into it, and he claimed he has been maintaining that lot for twenty-five years, since 1995 when he moved in. He assured they keep it well-groomed, although he does not understand the reason for the three-foot variance. He recalled reading something about it being adjacent to a sidewalk; however, he indicated there is no sidewalk in that location. He reiterated they are trying to acquire half of the adjacent lot and are currently working with the Department of Roads to do so, adding that if they eventually own it, they may put up a fence.

Mr. Thompson clarified that the determination of the need for a 3-foot variance comes from the drawing on the plot plan that was submitted by the petitioner. The drawing shows the addition being extended to the west lot line. There is a drawing on there that shows a minimum required 3-foot side yard setback, and the dark line that represents the addition to the garage extends through that 3-foot setback to the property line.

Mr. Merrill stated when he drove by the property, he was trying to figure that out as well, and he was also trying to determine whether there was another house that used to be there. He believed Mr. Leonardi explained why his lot looks so large. He requested clarification as to whether they are talking about the west property line.

Mr. Thompson questioned whether this addition is 30-feet in width.

Mr. Leonardi replied the slab measures 34 feet by 14 feet, and the 3-foot was the approach where they planned on putting the garage door. He claimed it would be like an approach to a driveway or a garage.

Mr. Thompson stated the architectural drawings of the walls show a 30-foot wall. That indicates to him that the addition at the rear of the existing garage, which is 22 feet in

width, is actually a 30-foot addition. He needs clarification from the petitioner as to the exact dimensions of this proposed addition.

Mr. Leonardi replied it is exactly the size of the slab. He questioned whether Mr. Thompson has a picture of the slab.

Mr. Thompson replied he does not have a picture of the slab. He questioned whether the addition at the back of the existing structure extends past the side of the existing garage.

Mr. Leonardi replied affirmatively. He estimated that the garage is actually about 23 feet wide and the addition extends about 11 feet beyond, which equates to 34 feet. He recalled that is shown on the drawing from the front. When looking from the street towards the garage, it would look like an entrance door, with the garage door on the west side. He clarified the open door would be on the south side.

Mr. Thompson clarified this addition is proposed to extend to the west property line, and that shows the need for the second variance. He explained he receives reviews from the Building Department as part of a variance request, and while their review may only reflect the need for one variance, he does a further review and occasionally discovers additional variances that are needed.

Mr. Campbell commented that the current garage in the east/west direction is 23 feet. If there is 30 feet along the north wall, it is extending 7 feet past the existing garage, but the diagram only shows it extending 3 feet past the garage.

Mr. Pearl felt they are showing the 3-foot variance, but it is more than that.

Mr. Campbell felt they need a good set of prints to show exactly where this addition is going to be located. He stated he has no problem with the variance but he felt they need accurate drawings to show the exact location. He felt Mr. Leonardi has a practical difficulty in trying to provide security for storage of his vehicles and RV. He suspected that the height of the addition will be considerably higher than the height of the existing garage because of the height of the RV.

Mr. Leonardi replied that the garage is a barn-type configuration. He understands he has to hire an architect and submit actual drawings. He noted there have been some challenges with the price of wood versus a block building. They would put the plans together first, and if they are going to put in the RV, they would like to bring the roof down to the top of the garage level. He mentioned the possibility of using the garage only for his classic cars and not for his RV.

Mr. Campbell recalled that Mr. Leonardi had indicated he would be using the structure to store his RV.

Mr. Leonardi stated this is all new to him, and it is something he is going to have to work out.

Mr. Campbell felt they need to see an accurate print and description as to exactly what he is going to build. He noted that it appears on the mortgage survey that the asphalt driveway that goes from Deanhurst to the back is actually outside of the subject property line.

Mr. Leonardi replied it is, adding the previous owner apparently got permission from the Department of Roads to put the driveway in at that location. He purchased the home in 1995, and it was not a new driveway at that time. He reiterated they are trying to obtain one-half of that lot from the Department of Roads and split it with the neighbor on the other side. They would retain the easement for the poles and electrical lines.

Mr. Campbell pointed out if Mr. Leonardi is successful in obtaining that portion of property from the Department of Roads, he may not need a setback variance, so he would only need a variance on the total square footage of the accessory structure.

Mr. Leonardi commented that the Macomb County Department of Roads does not accelerate this type of request. He indicated the Building Department was very helpful.

Mr. Pearl questioned whether the Board could approve this with the square footage requested and allow him to extend the building to the west property line, considering the circumstances that the petitioner is trying to acquire the adjacent property from the Macomb County Department of Roads. He noted he would not have to come back to this Board but could proceed with the Building Department to submit architectural drawings.

Mr. Merrill inquired as to whether Mr. Leonardi is adding on to the existing structure, or whether he is redoing the entire thing.

Mr. Leonardi replied that they refurbished the structure about two years ago, so they are proposing only to add on to it at this time.

Mr. Campbell disagreed with Mr. Pearl. He pointed out the petitioner has indicated they are considering using different materials or opting for different layouts. He did not feel a variance should be granted until they have something submitted to show exactly what will be done.

Mr. Leonardi assured that the square footage will not change.

Mr. Pearl did not feel they have any jurisdiction over the materials he is using because he has to meet the building codes. If the Board does not have a problem with the size of the addition to the structure and he is showing it extending to the lot line, he felt they can approve it that way.

Motion by Mr. Pearl, seconded by Mr. DiBartolomeo, with reference to File #20-6963 and application from Lawrence and Sharon Leonardi, 23405 Deanhurst, Clinton Township, Michigan 48035, for variance to Clinton Township Planning and Zoning Code, Chapter

1298.01-(b) and -(e), Supplementary Regulations, Accessory Buildings (Including Garages), concerning Lot 245 and the northwest 5 feet of Lot 246, Haberkorn Investment Company's Harvard by the Lake Subdivision, located north of Deanhurst, east of Harper, addressed as 23405 Deanhurst (Parcel #16-11-35-476-020), that variance be granted to permit the construction of a 14-foot by 34-foot addition to the rear of an existing detached accessory structure (garage) for a single-family home in the R-3 One-Family Residential District:

- 1) Measuring 1,180 square feet, being 488.5 square feet in excess of the maximum permitted 691.5 square feet; and
- 2) Being located at the side lot line, which is 3 feet less than the minimum required 3-foot side yard setback;

Further, this grant of variance is based on claimed practical difficulty of the configuration of the lot and the Department of Roads owning the adjacent property; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Discussion ensued.

Ms. Trabilisy stated she is curious about the materials Mr. Leonardi will be using on the outside of the structure. She hoped it will be more residential in appearance than being a block building that has the look of a warehouse. She is concerned about how it will look from the road.

Mr. Leonardi assured the addition will match his current garage. He assured he will not be constructing something that will be an eyesore.

Mr. Pearl **amended his motion**, and Mr. DiBartolomeo **amended his second**, that the construction materials of the addition must match the current garage.

Mr. Thompson confirmed that no emails have been received from the general public.

Roll Call Vote: Ayes – Pearl, DiBartolomeo, Alexander, Merrill, Deyak. Nays – Campbell. Absent – Marella. Motion carried.

LOT 89, STACEY MANOR SUBDIVISION, LOCATED AT THE SOUTHWEST CORNER OF RHOADES AND FESTIAN, ADDRESSED AS 35331 RHOADES (PARCEL #16-11-30-453-009)

- **APPEAL: SFR – RHOADES, 35331**
FILE #20-6964: PETITIONED BY MR. VERNON STEMPIK

Mr. Campbell summarized the variance being requested. He advised that notice of this public hearing was issued by regular mail to 35 owners and/or occupants of property located within 300 feet of the land in question, with none of those returned as undeliverable. He stated that no written correspondence was received.

Mr. Thompson replied to inquiry that he has received no emails from the general public.

Mr. Vernon Stempnik, 35331 Rhoades, Clinton Township, Michigan 48035, stated he lives on the southwest corner of Festian and Rhoades, and he would like to expand his garage. He felt the 25-foot setback requirement is unfairly applied to him is because his house is the first house that no longer faces Festian. He added that the house next to his does not face Festian, nor does the third house. There are no remaining houses on the street that face Festian, so he felt it is an unfair burden for him to be required to have the same front yard setback. He is seeking relief so he can utilize the property on the side and meet the normal side yard setback, which is 10 feet. Mr. Stempnik cited a similar instance at 35591 Morris, located at the corner of Morris and Howard, where there is a much-reduced side-yard setback. He explained he is requesting something similar. He indicated his lot is one of five corner lots that are “bunched up”. He assured he is not going to spoil the look of the neighborhood in any way because each house is set up differently, and he cited numerous examples. He summarized that he is requesting to be allowed to have a “normal” side yard setback of about ten feet.

Mr. Deyak opened the floor for comments from the participating audience, but no one spoke.

Mr. Campbell stated his street has the same situation, noting that south of his house, there is one more house before the intersection. There are three cross streets that come in, and every house is on a corner lot, although those homes do not even come close to having a 25-foot setback, so if they park in their driveway in front of their garage, they overhang the sidewalk. He felt the petitioner should be able to use that property, and there is no sense reserving it for a side yard for another house that does not exist. He would be willing to approve the variance on the condition that there is no vehicular access on the side of Festian.

Mr. Stempnik confirmed his plan is to still have his driveway on Rhoades.

Mr. Merrill stated his only concern is that people coming in off of Shangri-la Court could slide through in the winter and if this Board permits the addition to be closer to the lot line, he does not want the Board to be held responsible.

Mr. Stempnik clarified there is a property line above that, so the distance from the curb to the side of the building is 42 feet, but 15 feet of that is from the property line, so with the new side setback and the distance to the property line from the street, it is still 25 feet.

Motion by Mr. Campbell, seconded by Mr. Merrill, with reference to File #20-6964 and application from Mr. Vernon Stempnik, 35331 Rhoades, Clinton Township, Michigan 48035, 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 Lot 89, Stacey Manor Subdivision, located at the southwest corner of Rhoades and Festian, addressed as 35331 Rhoades (Parcel #16-11-30-453-009), that variance be granted to permit the construction of an 18-foot by 45-foot addition to the north side of a single-family residence on a corner lot in the R-3 One-Family Residential District, being 10 feet from the street

side lot line, which is 15 feet less than the minimum required 25-foot street side-yard setback; further, this variance is granted on the condition that the garage is not to have any vehicle access from Festian; further, this grant of variance is based on claimed practical difficulty that there are five corner lot lines in a row; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances.

Mr. Thompson confirmed that no emails have been received from the general public.

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

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

**- APPEAL: BP GAS STATION/ CONVENIENCE STORE/ ADDITION OF DUNKIN' DONUTS
FILE #20-6967: PETITIONED BY MR. TIMOTHY MULLER,
CURB APPEAL CONCEPTS, INC.**

Mr. Campbell summarized the variance being requested. He advised that notice of this public hearing was issued by regular mail to 81 owners and/or occupants of property located within 300 feet of the land in question, with 7 of those returned as undeliverable. He stated there were no replies received.

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

Mr. Timothy Muller, owner of Curb Appeal Concepts, Inc., 4040 Montgomery Drive, Shelby Township, Michigan 48316, offered to answer questions and stated that Mr. Andy Sitto, representing BP Gas Station, is also present to answer questions.

Mr. Andy Sitto, 58417 Deerfield Drive, Washington Township, Michigan 48094, stated he is here to answer questions.

Mr. Muller stated the BP building is being divided and Dunkin' Donuts is being added to the interior as a separate business. There are currently three BP gas logos on the façade, and Dunkin' Donuts wants to add signage to show that they are at this location as well. They are proposing to install three signs, one on the north elevation, one on the west elevation, and one on the east elevation.

Mr. Deyak opened the floor for comments from the participating audience, but no one spoke.

Mr. Campbell could not recall in twenty-five years that this Board has ever approved six wall signs for a single facility. He questioned whether some of these signs can be consolidated. He felt there is merit in having something to represent the businesses on

the three sides, adding it is a busy intersection and wide streets, but he felt this is “overkill”.

Mr. Merrill agreed with Mr. Campbell that six signs seems excessive for a property this size, although it is a busy intersection. He understands the desire to have something on the north and east elevations, but he questioned the purpose of a sign on the west elevation.

Mr. Muller explained there is a canopy that covers the gas pumps. He pointed out that Mr. Sitto was not the original owner but purchased this station, and the previous owner had moguls built into the canopy part of the gas station. The three additional logos would be going on the building to identify Dunkin’ Donuts. He addressed Mr. Merrill’s question regarding the sign on the west elevation, explaining that when driving from the west, heading eastbound on Hall Road, there would be no way for those motorists to know there is a Dunkin’ Donuts at that location without that west elevation sign. He clarified the letters on this sign will be “DD”, and the signs will measure 17 square feet each. He explained when calculating the total square footage allowed, all of the signage being proposed is well below what would be allowed on the wall. He looked at the possibility of combining the signs, but the BP signs are part of the structure on the canopies, which is what Mr. Sitto inherited from the previous owner. The additional signage would include “Dunkin’” on the east side of the building facing Gratiot, and the two “DD” signs on the east and west side to signify the signage for the building portion. He indicated they cannot combine them because the BP signs are on the canopy, and the “DD” signs would be on the building.

Mr. Campbell understood Mr. Merrill’s point about the west elevation. He noted the building is quite far back off of Hall Road, so he did not feel motorists will see the “DD” sign on the west elevation until they pull onto the property. He claimed it was difficult to envision how these signs will look because of the construction occurring. The monument signs are already approved, and they will have identification for both Dunkin’ Donuts and BP Gas, so he felt it is somewhat of a duplication for what they are proposing to put on the building. He would like some type of cutting back because six signs are excessive.

Mr. Pearl questioned whether the last variance was approved a year ago.

Mr. Thompson replied it was about a year ago that this Board approved a variance for a driveway width to allow the drive-thru for the Dunkin’ Donuts. He explained the site plan section of the ordinance does not require that signage be a formal part of a site plan, so that information was not provided through the site plan approval process, and he was not aware of it, nor was the Planning Commission, the Zoning Board of Appeals and the Township Board. In speaking with the Building Department, it was confirmed that the BP signs were already on the canopy, although there was no permit issued for those. They are asking for “catch-up” on those three signs, so in this group of signs, they are requesting approval of both the existing as well as the proposed signs.

Mr. Pearl questioned whether this signage is typical of other BP Gas Station locations.

Mr. Thompson replied that canopy signage is fairly common. He agreed with Mr. Campbell's earlier comment that they occasionally receive petitions that really should be considered more of a petition to update the ordinance, and he suggested this is something they could possibly look at in the future. He felt it is standard, although older BP stations will have wall signs on the building itself, such as "Food Store", but in this particular case, they are combining with a Dunkin' Donuts. He indicated that this is more common to combine businesses, such as an Amoco and a Subway, which seems to be the progression of gas stations to have the secondary uses. These secondary uses create the need for further identification.

Mr. Pearl agreed six wall signs is a lot, but there are two businesses in the building, and it is on two main streets. He added they are not large signs. He questioned whether the total combined square footage of all six signs exceeds what would be allowed under the ordinance.

Mr. Muller replied that the "DD" sign is 17 square feet.

Mr. Thompson stated that is correct, and the total combined square footage is well under the maximum square footage allowed for wall signage.

Mr. Pearl noted the speed on Hall Road is fast, so motorists may get a glimpse of the sign, but it will be tough to see the Dunkin' Donuts unless they have additional signage. He does not have a problem with the request, although he agreed that the number of signs seems excessive. He pointed out there is some rationale given to what created this situation.

Mr. Campbell felt a motion to approve is made, it should include the condition that the total combined square footage of the six wall signs does not exceed the total square footage allowed for wall signage per the ordinance.

Mr. Pearl stated he does not have a problem placing that stipulation on an approval.

Mr. Thompson stated he knows he saw the calculation for the total combined square footage, but he cannot locate it.

Mr. Muller believed the drawings show the total square footage.

Mr. Thompson clarified Mr. Campbell is requesting the total square footage of wall signage that would be allowed for that site.

Mr. Pearl suggested they can place a stipulation on the motion that the total combined square footage of the wall signs cannot exceed the maximum permitted by ordinance.

Mr. Campbell calculated that it appears the total combined square footage of the two “DD” signs and the “Dunkin” sign is 57 square feet, and based on the ordinance requirements, they may be allowed close to 200 square feet.

Mr. Thompson replied Mr. Campbell is correct, because they have a total of 105.42 feet of building frontage, and there is a maximum of 200 square feet, so at 84 square feet of signage, they are substantially under that amount.

Motion by Mr. Campbell, seconded by Mr. Pearl, with reference to File #20-6967 and application from Mr. Timothy Muller, of Curb Appeal Concepts, Inc., 4040 Montgomery Drive, Shelby Township, Michigan 48316, for Clinton Township Building and Housing Code, Chapter 1488.02-(e)-(1)-C-1, Signs, Definitions and Restrictions, Commercial sign, Lawn sign, concerning 0.865 acre of land located at the southwest corner of Hall Road (M-59) and Gratiot Avenue, addressed as 44975 Gratiot Avenue (Parcel #16-11-01-201-020), that variance be granted to permit the continued existence of three (3) wall signs and the installation of three (3) additional wall signs for a commercial business on a corner parcel in the B-3 General Business District (BP Gas Station/ Convenience Store/ Dunkin Donuts), being a total of six (6) wall signs, which is four (4) wall signs in excess of the maximum permitted two (2) wall signs; further, this variance is granted on the condition that the total combined square footage of the wall signage does not exceed the maximum square footage allowed by ordinance for this site; further, this grant of variance is based on claimed undue hardship of the width of the two intersecting roads bordering this property and the high speed of traffic on those roads; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances.

Mr. Thompson confirmed that no emails have been received from the general public.

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

PUBLIC COMMENTS

Mr. Deyak opened the floor for public comments, but no one spoke.

Mr. Thompson confirmed no emails have been received.

REPORTS OF MEETINGS

-- APPROVAL OF OCTOBER 21ST, 2020 REPORT

Motion by Mr. Campbell, seconded by Mr. Merrill, to approve the report of the October 21st, 2020 report as presented. Motion carried.

MEETING SCHEDULE

- **CONFIRMATION OF NEXT MEETING – DECEMBER 16TH, 2020 AT 6:30 P.M.**
 - **DISCUSSION ON 2021 MEETING SCHEDULE**
-

Mr. Thompson confirmed that the next meeting of the Zoning Board of Appeals is scheduled for Wednesday, December 16th, 2020 at 6:30 p.m. via GoToMeeting. He indicated the following items will be on the agenda:

- Accessory structure for a single-family home on Iroquois
- Addition to an existing accessory structure for a single-family home on S. Miles
- A small addition to Sunoco Gas Station at Metro Parkway and Groesbeck, resulting in the need for a setback variance
- Snipes Store @ Clinton Pointe Shopping Center is requesting a variance to permit a second wall sign

Mr. Thompson explained that the meeting schedule is prepared each year, and the Board can review and approve the schedule.

Motion by Mr. Campbell, seconded by Mr. Merrill, to approve the 2021 Zoning Board of Appeals Meeting Schedule as presented. Motion carried.

Mr. Thompson welcomed Mr. Alexander to the Board of Appeals and let him know he is welcome to contact him if he has any questions.

ADJOURNMENT

Motion by Mr. Campbell, seconded by Mr. Merrill, to adjourn the meeting. Motion carried. The meeting adjourned at 8:04 p.m.

Respectfully submitted,

Robert M. Campbell

Robert M. Campbell, Secretary
CLINTON TOWNSHIP BOARD OF APPEALS

ces:12/01/2020

ces:12/01/2020

Approved 12/16/2020