

CLINTON TOWNSHIP BOARD OF APPEALS

REPORT OF MEETING

WEDNESDAY, JANUARY 17TH, 2018

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

ABSENT: Francis Marella, Chairperson (Excused)

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

The meeting was called to order at 6:34 p.m.

APPROVAL OF AGENDA

Motion by Mr. Hornung, supported by Mr. D'Angelo, to approve the agenda as amended, with Item #3 being moved to #1. Motion carried.

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

Mr. D'Angelo commented that there are five members present this evening, and four-vote majority based on the seven-member board is required for a motion to pass. He indicated if anyone would like to postpone their request, based on this information, they can do so,

Mr. Santia clarified that the request to postpone due to lack of a full board being present does not apply to Item #1 (formerly Item #3) because it is not a Planning and Zoning issue so it does not follow state statute as it relates to zoning law. He explained that particular item is dealing with a massage ordinance, which is part of the Codified Ordinances, and this Board was chosen to provide relief on variances related to that particular ordinance.

**PART OF 1.925 ACRES OF LAND FRONTING THE EAST LINE OF HAYES ROAD,
SOUTH OF AMORE DRIVE, ADDRESSED AS 40120 HAYES (SECTION 18)**

**- APPEAL: HEALTHY SPA, INC. @ COUNTRY SIDE PLAZA
FILE #17-6799: PETITIONED BY MS. LIANYU PIAO, HEALTHY SPA, INC.
REPRESENTED BY MS. STEPHANIE MANN**

Mr. Campbell summarized the variance being requested and read the Planner Review letter dated January 4th, 2018 into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 83 owners and/or occupants of property located within 300 feet of the land in question, with 18 of those returned as undeliverable. He added that there were no written replies received in response to the mailing.

Mr. Tim Tomlinson, attorney representing the Charter Township of Clinton, explained this is a unique appeal before the Zoning Board of Appeals and it is not something they have dealt with previously. He informed there is an appeal process under the Massage Establishment Ordinance, when someone's license is revoked and/or denied. This is why the petitioner is before this Board this evening, due to the revocation that was issued on November 30th, 2017. He stated that, pursuant to the ordinance, he would like to provide the standards the Board of Appeals is looking at when they come to the point of making their decision because it is far different than Zoning Board of Appeals is used to, with no practical difficulty or undue hardship. He stated the appeal was filed by the petitioner. At the appeal hearing, which will be conducted in accordance with provisions of the Code of Ordinances, the appellant, or petitioner and/or appellant's attorney may present a statement and evidence showing the following:

- 1) That there are exceptional or extraordinary circumstances or conditions applying to the proposed massage establishment or massage therapist / myomassologist applicant referred to in the appeal application submitted to the Township Clerk, which circumstances or conditions do not apply generally to any proposed massage establishment or massage therapist / myomassologist; and/or
- 2) That the granting of such massage business license or massage therapist / myomassologist's license will not, under the circumstances of the particular case, have a material adverse effect upon the health, safety, or welfare of the persons residing or working in the neighborhood or attending any massage establishment, and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to the immediate neighborhood or the Township at large.

Mr. Tomlinson stated that before the Board of Appeals is a revocation by Ms. Meltzer, Township Clerk, and since the burden is placed upon the petitioner as to why they believe that revocation should be withdrawn and granted the license, he suggested they present whatever evidence they wish to present. The Board has the ability to question the petitioner, and at that time, he asked that the Township be allowed to set forth the evidence they relied upon in issuing the revocation.

Mr. D'Angelo inquired as to whether the Board asks questions at that point, waiting until both sides have presented their evidence.

Mr. Tomlinson suggested if the Board of Appeals has questions of either party, they can ask that party during the course of their presentation, and that is totally up to the Board.

Mr. D'Angelo inquired as to whether the petitioner understands what was just said.

The petitioner, through her interpreter, replied affirmative.

[Please note that, for the purposes of this transcript, the petitioner only spoke through the translator; therefore, the minutes will reflect Ms. Piao as speaking even though the actual comments were relayed in English by the translator].

The applicant stated her name as LianYu Piao, and her current address is at 41365 Hazelwood Drive, Sterling Heights, Michigan 48313.

Ms. Christina Chen, Michigan Court Interpreter, License #Q1529, identified herself, indicating she will be providing translation between the applicant and the Board of Appeals.

Ms. Piao stated she understands what happened this time caused some kind of negative impact. When she first started to open this business, she did not want or did not expect to do something that is illegal. She intended to open a business that is legal. In the very beginning, when she first started her business, her business was very slow, and "this particular lady" (herein referred to as "the lady") came because she had a license. Ms. Piao stated she had to leave the business for a time, so she had no idea what "the lady" did when she was absent. Even before she left, she reminded "the lady" that this is a legal business and everything needs to be done under the law, and "the lady" agreed. Ms. Piao realized the Township required that she register the name of the employees, so she told "the lady" she needed to register her name, but "the lady" told her she was not planning to stay long here, so she did not want to go ahead and do the registration procedure. Ms. Piao accepted that. She added that she did not know what was going on later. One day, Ms. Piao stated she got a call from "the lady" and Ms. Piao asked "the lady" how her business was doing. Ms. Piao claimed "the lady" did not say much but that she had to go, and she ("the lady") did not provide Ms. Piao with much information, even though Ms. Piao had asked her about her business. That is why Ms. Piao had to come back to her business two or three days later because she did not hear any information about her business. Ms. Piao indicated she later tried to

contact “the lady” but had no communication with her, and “the lady” refused to tell Ms. Piao anything and did not want to give Ms. Piao any information. Ms. Piao stated she is fully aware that this is her business and she has to be fully responsible for her business, so she wants to use this opportunity to make a plea and wondered if the Board of Appeals will grant her a new opportunity to allow her to take care of this business on her own. Ms. Piao indicated that is all she can say at this point. Ms. Piao added that because she has always wanted to do a normal legal business, that is what she had in her mind to do. She stated that, in her mind, she wanted to settle down and stay in a place where she could be on a permanent basis so she did not want to do something that will cause a conflict. Ms. Piao concluded that she wanted to stress that she wanted to follow and obey the law.

Mr. Tomlinson suggested if the Board of Appeals members have questions of the petitioner, it would be relevant for them to ask those questions now, or if they choose, the Township can go forward with their presentations at this point.

Mr. Pearl stated he would like to hear the whole story and hear both sides before asking questions, and the Board members agreed.

Mr. Tomlinson stated there is a Massage Establishment Ordinance in this community, and what bears in mind of why there are strict requirements under this ordinance is reflected in Section 8502, which sets forth the intent. He indicated he will not read it because it is in great detail and very lengthy, but obviously the main reason is the protection of the public health, safety and welfare, not only of the clients of the entity, but also the therapists themselves. This really arises also in why they have extensive background investigations conducted, including interviews of these applicants and all employees due to the severe human trafficking problem that the United States faces, which is obviously significant. It has shown that almost 80% of trafficking involves some type of sexual exploitations, and the reason why the Township requires employees of any entity to go through an extensive background to make sure they are not victims of human trafficking. In this case, two things are being used as a basis for revocation:

- 1) Failing to provide the appropriate employee information in both the applicant and to conduct the background investigations pursuant to the ordinance; and
- 2) As a result of the act of prostitution occurring at the site pursuant to an undercover investigation by the Township’s Police Department.

Mr. Tomlinson stated that, to that end, he would like to begin by hearing Ms. Meltzer, and then proceed with the officer who conducted the prosecution investigation. Mr. Tomlinson inquired as to whether the Board of Appeals members each received a packet forwarded to them by Ms. Meltzer, detailing the letters and correspondence to the petitioner, from the Police Department, as well as the Incident Report from the Police Department, and he asked that the Board of Appeals accept that as part of their record of these proceedings.

Mr. Campbell replied that the packet of information has been received, much of it by email, and it is part of the record.

Ms. Kim Meltzer, 18300 Tara Drive, Clinton Township, Michigan 48036, Township Clerk, stated her responsibility as Clerk is to accept the applications for massage business licensing. In 2012, the state legislature changed the regulations and rules of processing massage therapists. The Township no longer reviews or has to interview the therapists, but instead, the State of Michigan approves the therapists through various certifications and programs. The only thing the Township is responsible for is licensing the business. They come to the Clerk's Office annually by December 31st with a filled-out application, listing their name and, in addition to that, a "Schedule 1", which is very critical to the Township. As Mr. Tomlinson mentioned, human trafficking is a big problem, not only in the nation but right here in Clinton Township. It has recently been heard, in Warren, Harrison Township and Macomb Township, all these instances of human trafficking. The Township is not excused from that type of activity. She stated she is not suggesting that happened in this case, but the reason for the Schedule 1 is to list all of the applicants' employees. On the back page, in bold letters, it says that by signing the document, they understand that they know anytime they receive a new employee, that employee, before they start working in the massage establishment, is required to come to the Township Clerk's Office and bring their driver's license or some type of photo ID. If they are a therapist, they also have to show their state-approved massage license. If they are not a therapist and just a receptionist, they only have to bring their photo ID and fill out the application, and then she interviews them. She stated this is where they try to help with local law enforcement as well as at the federal level with homeland security investigations. She stated she asks questions such as "How long have you been in the massage therapy industry?" and "Have you ever been asked to perform any sex acts in the process of working in a massage licensed facility?". Ms. Meltzer stated she writes down their responses. Many say no at first, but when she asks them if they are sure they have never been asked, then they change their story and respond that they were asked. When she asks them their response, they say "no". She asks them if they have a policy in place in their establishment that handles these types of inquiries, and they generally go into detail about how they "give them one or two times" or if they don't feel any danger, they may proceed, or if they do not have any concern, they may take them as a client, or they would reject them. She stated those are some of the responses she gets. She does not do anything with this other than record it. That is not the criteria, and she does not make a determination as to whether they get a license or they don't, but that information is sent to the Police Department and then they come back through ITF with a determination as to if there was any illegal activity that had taken place, and they come back with a recommendation as to whether they should be able to open or not. At that point, the Fire Department and Building Department go out and make sure they are in compliance with the Township's ordinances in their inspection. Once she gets all of that information back, then she notifies the applicant that they have been approved and sends their permit to them, by email and also by mail. The interview process is a fairly new process which she implemented last year because of the human trafficking issue and because they are seeing more of those people coming in, many of whom do not speak a lot of English. When Ms. Piao came back for her renewal the second time, Ms. Meltzer asked if she understood her, and she replied "yes". Ms. Meltzer then asked her the

question, “Have you hired any new employees?”, and she responded “no”. At the time, which was on November 8th, 2017, unbeknownst to Ms. Meltzer, the Clinton Township Police Department had conducted a sting operation the day before, and found there was prostitution that had taken place. As she submitted the application, Lt. Gerling called her and said something to the effect they had an incident of prostitution there. She told him that the applicant had just come in that day to apply. She stated that is how she gets to know if there is any illegal activity, adding that she is not out there looking, and she just follows the rules according to what the ordinance states. She drafted the revocation letter and, in addition to that, concluded that the owner had never given her a Schedule 1 for this employee she had working for her. She sent the letter, and the applicant called her back and wanted to speak with her. She brought an interpreter with her this time (not the interpreter here tonight but a different interpreter), and that interpreter explained to the applicant that she should have filled out the Schedule 1. She did not talk about the prostitution as much, and the applicant had said she had to go to New York quickly because she was sick and that she had just asked “this woman” and she was only going to do it for a short time, which is why she did not bother to let Ms. Meltzer know. Tonight she gave a little different version of that to the Board of Appeals, but that is how she explained it to Ms. Meltzer. Ms. Meltzer explained to her that if she wanted to appeal the revocation, she could, and there was also a provision in the ordinance that would allow her to stay open, but she then received a letter from the Police Chief that said they felt, for the safety and welfare of the community, it was best that they stay closed during the process.

Mr. Pearl noted the applicant stated she was not there when the reported prostitution happened, and he questioned whether Ms. Meltzer stated she was there.

Ms. Meltzer clarified she did not state that. She stated the applicant had to go to New York.

Mr. Pearl inquired as to when she went to New York.

Ms. Meltzer replied she does not know.

Mr. Pearl inquired as to whether they know whether it was after the sting operation, or whether she was present.

Ms. Meltzer replied the act of prostitution happened on November 7th, 2017, and she said she was not there for that, so she does not know how long she was gone.

Mr. Pearl inquired as to when Ms. Meltzer spoke to her.

Ms. Meltzer replied the applicant came in the next day. She said she was in New York but came in to fill out her application on November 8th, 2017. The sting was on the 7th.

Mr. Pearl stated the other person would not have been in charged, and it would have been the applicant.

Ms. Meltzer clarified that the applicant is the owner so it is her responsibility.

Mr. Pearl again inquired as to whether the owner was present on November 7th.

Ms. Meltzer replied she does not know, but she thought that may be a question the Board of Appeals would ask her, regarding how many days she was gone from her business. Ms. Meltzer stressed she is not the police but she does what the ordinance tells her to do, and she lets the police do their work. She stated she follows up, and she felt it is imperative they have this process in place because of the type of activity they are hearing of more and more. She stated she shut down three massage establishments last year per the information she received from the Police Department, and one of those was 500 feet from a kid's playground. The reason she was able to do that was because they have a provision in their ordinance that allows the Township to tie the employment to the ordinance, so if they are not registered with the Township, she is able to shut them down right away and does not have to wait for the Board to determine whether it was prostitution. In many cases, and she stated she does not know if there is a case, where the judge has said they are convicted of prostitution, but they usually get a conviction of "disturbance of the peace".

Mr. Hornung inquired as to whether Ms. Meltzer had received any complaints of this establishment prior to their first coming in on November 8th.

Ms. Meltzer replied no.

Detective Michael Marker, with the Clinton Township Police Department for approximately ten years, replied to inquiry that he works in their Special Investigations Unit, mainly dealing in narcotics trafficking, but also all offenses, including human trafficking, prostitution investigations, etc.

Mr. Tomlinson inquired as to whether he conducted an investigation on November 7th, 2017.

Det.. Marker replied affirmatively.

Mr. Tomlinson requested he explain describe what occurred. He inquired as to the location of the investigation.

Det. Marker replied it was named Healthy Spa, 40120 Hayes Road.

Mr. Tomlinson inquired as to the type of investigation he was conducting.

Det. Marker replied they were conducting a potential prostitution investigation where they go in and pay for a legitimate massage and conduct their investigation there to determine whether or not actual acts of prostitution are occurring in the business.

Mr. Tomlinson asked him if he arrived at the Healthy Spa.

Det. Marker replied that is correct.

Mr. Tomlinson asked him what he did.

Det. Marker replied once he arrived, he had a coverage team that was set up in the parking lot outside, he went in and was greeted by an employee, later to be identified as Fu Song. She was the only one present at the time. He paid for massage with pre-recorded funds given to him by his boss, and was instructed to go to Massage Room 1, where he was instructed to remove all of his clothing and lay face down on the massage table.

Mr. Tomlinson asked if there was any discussion of the type of massage that he would be receiving.

Det. Marker replied no.

Mr. Tomlinson asked if there was any discussion at that time of any sexual contact requested or agreed to.

Det. Marker replied no.

Mr. Tomlinson asked what happened next.

Det. Marker explained she came into the room after giving him ample time to undress and lay face down. She performed what he estimated was about thirty minutes of a back massage. At the conclusion of the back massage, she requested he turn over onto his back.

Mr. Tomlinson inquired as to what occurred at that point.

Det. Marker explained once he was over on his back, her hands went down and began performing an act of prostitution for about three to five seconds. He waited no more than five seconds just to allow that it wasn't an incidental contact or a mistake on her part. He then stopped the massage and requested to use the restroom, took his cell phone and contacted his coverage team outside.

Mr. Tomlinson asked him if the contact she made with Det. Marker would have been with his privates.

Det. Marker replied yes.

Mr. Tomlinson asked that this was not something he had requested or consented to.

Det. Marker replied it was not.

Mr. Tomlinson asked, based on his experience over the past ten years and the type of investigations, he inquired as to whether it was clear in his mind that this was a means of trying to sexually gratify him.

Det. Marker replied yes.

Mr. Tomlinson inquired as to whether Ms. Song was ever charged with prostitution.

Det. Marker replied she was charged by the Clinton Township Police Department for solicitation of prostitution.

Mr. Tomlinson stated he has nothing further and opened it to the Board of Appeals for questions.

Mr. Hornung inquired, prior to Det. Marker going there on November 7th, whether he had received any complaints about this establishment.

Det. Marker replied personally he did not, but he explained the hierarchy of his unit, with a sergeant who has a lieutenant, and outside of their unit, a captain oversees them. The Captain brought the complaint to them, directing them to investigate several such parlors throughout the area.

Mr. Hornung stated the Captain brought the information to them.

Det. Marker replied yes.

Mr. Hornung inquired as to whether Det. Marker knew what that information was.

Det. Marker replied he did not, but the directive was to go in and investigate this place for prostitution, which was the task they were given.

Mr. Hornung asked that “they didn’t just happen to be driving down Hayes and turned in and decided to investigate”.

Det. Marker replied no, and explained there are some typical “red flags”, including tinted-out windows, oriental feel to the name, which are often indicators to people in the area that something may be going on outside of massage.

Mr. Hornung questioned whether the only person there when he arrived was the woman who was charged with the solicitation of prostitution.

Det. Marker replied yes.

Mr. Hornung questioned whether Det. Marker had indicated two-way mirrors or glass.

Det. Marker clarified tinted glass.

Mr. Hornung understood Det. Marker was instructed to go into the room. He inquired as to whether Det. Marker was given a towel to cover himself.

Det. Marker replied not on this occasion. He confirmed he was given nothing to cover himself. He stated there was a similar incident on January 23rd, 2017 at this same location, and at that time it was called Lakeside Spa. He stated it is interesting to note that the address of this applicant gave is the same address of the ladies that were involved in the situation last January. He added he cannot be sure whether or not that is the same lady.

Mr. Hornung asked whether the incident last January was at the same location.

Det. Marker replied yes, it was January 23rd.

Mr. Hornung stated they had a different name at that time.

Det. Marker replied yes, it was Lakeside Spa at that time.

Mr. Hornung inquired as to whether that was another prostitution or a complaint of prostitution.

Det. Marker stated the business cards they have from both incidents are identical. The business card from the current incident just has whited out over the name “Lakeside Spa” and the words “Healthy Spa” are written over the top.

There was no further questioning of Det. Marker, and Ms. Piao and her interpreter were asked to step to the podium.

Mr. Hornung inquired as to when Ms. Piao hired “the lady”.

Ms. Piao replied she came the end of October 2017.

Mr. Hornung noted Ms. Piao had indicated she became ill and went to New York, and he questioned whether that is correct.

Ms. Piao replied she used to work on herself and got so stressed out, which is why she was not feeling well and went back to New York.

Mr. Hornung inquired as to whether Ms. Piao is originally from New York.

Ms. Piao confirmed she used to live in New York.

Mr. Hornung inquired as to when Ms. Piao went back to New York.

Ms. Piao replied she tried to recall when “the lady” arrived, which was around October 20th. She stayed with her for three days in the store, then she left.

Mr. Hornung questioned whether she left around October 23rd, 2017.

Ms. Piao confirmed she went back to New York around that time.

Mr. Hornung inquired as to when Ms. Piao came back from New York.

Ms. Piao replied the day she “got into problems”, she believed that was the night “the lady” called her.

Mr. Hornung questioned when Ms. Piao came back to Michigan.

Ms. Piao replied she waited for one day, then she took a bus and came back.

Mr. Hornung questioned what day Ms. Piao got back to Michigan.

Ms. Piao replied she got back to Michigan on the same day she came to the Township Clerk’s office to reapply. She arrived back and came directly to the Township to apply for the renewal.

Mr. Hornung questioned the date.

Ms. Meltzer confirmed Ms. Piao came in for her renewal on November 8th.

Mr. Hornung questioned whether Ms. Piao knew that she was supposed to register “the lady” whom she hired.

Ms. Piao replied “the lady” was going to try it for a few days first.

Mr. Hornung reiterated his question as to whether Ms. Piao knew she had to be registered.

Ms. Piao replied yes.

Mr. Hornung questioned that she didn’t bother to go register her.

Ms. Piao replied it was not that she “did not bother” but “the lady” had told her she wanted to try it first.

Mr. Hornung stated the fact is that she did not register “the lady”.

Ms. Piao stated this is the area she made a big mistake because she did not register “the lady” but to wait until she decided if she would stay.

Mr. D'Angelo questioned when their facility registered with the State of Michigan, and who did the registering.

Ms. Piao replied she started the licensing application process in May 2017. She stated she can verify the time and date from the application form.

Mr. D'Angelo inquired as to who submitted the form.

Ms. Piao replied when she started, her accountant was the one who helped her to apply.

Mr. D'Angelo inquired as to whether the accountant has an address on Northern Boulevard in Flushing, New York.

Ms. Piao replied yes, there is an accounting firm there.

Mr. D'Angelo inquired as to Ms. Piao's address in Flushing.

Ms. Piao replied she first lived on 158th Street and then moved to Union Street.

Mr. D'Angelo inquired as to how long Ms. Piao has known Ms. Song.

Ms. Piao replied she was introduced to a friend of hers.

Mr. D'Angelo inquired as to how long ago they were introduced.

Ms. Piao replied "for some time already".

Mr. D'Angelo questioned where Ms. Piao was prior to coming to Michigan.

Ms. Piao replied she worked in Connecticut but lived in New York.

Mr. D'Angelo inquired as to who worked with her in Connecticut.

Ms. Piao replied she worked with Fu Song in the State of Connecticut, but not for long.

Mr. D'Angelo inquired as to whether that was in Bradford, Connecticut.

Ms. Piao replied yes.

Mr. D'Angelo inquired as to the reason why Ms. Piao left Bradford, Connecticut.

Ms. Piao replied her physical condition was not that great and she was thinking of starting a business by herself, and she would build up a business little by little, hiring people to build it up.

Mr. D'Angelo questioned whether there would be any police reports filed with the City of Bradford, Connecticut about Ms. Piao's facility. Mr. D'Angelo presented a photograph of a building in Bradford, Connecticut, and inquired as to whether that was Ms. Piao's facility.

Ms. Piao confirmed the building in the photograph was her location. When she applied for a license here at the Township, she had to write down the address of that location in Connecticut.

Mr. D'Angelo stated it indicates Ms. Song was a principal partner in that facility, and she was a partner of Ms. Piao's.

Ms. Piao replied when she was in that store, she "got in some kind of problems" and she is in court proceedings now, but she does not know the result. She did not think it is for prostitution.

Mr. D'Angelo questioned who the proceedings involves in Bradford, Connecticut.

Ms. Piao replied it is with Ms. Song.

Mr. D'Angelo questioned whether Ms. Song is in court in Bradford, Connecticut.

Ms. Piao replied she believed that case is over, but she is not sure.

Mr. D'Angelo stated his research has found that Ms. Piao's accountant is on Northern Boulevard, she has confirmed the address of the apartment where she lived in Flushing New York. He stated he got married in Flushing, New York, and his wife is from Flushing, New York. He noted Ms. Piao has confirmed that she was in Bradford, Connecticut. He stated he is trying to establish a pattern.

Mr. Pearl stated they do not have to act on that part, and he appreciates the research Mr. D'Angelo has conducted. Mr. Pearl felt there is enough evidence on this location to act.

Mr. D'Angelo is showing there is an inconsistency in her statements.

Mr. Pearl agreed.

Ms. Trombley stated the Board of Appeals needs to look in their ordinance, and she referred to Chapter 850.14-(e), citing "In no event shall the Zoning Board of Appeals grant a variance or relax or overturn an administrative decision where the suspension, revocation, or denial is based upon the occurrence of criminal acts, fraud, dishonesty, or other acts of moral turpitude, if established at the hearing by a simple preponderance of the evidence." Ms. Trombley felt that has taken place, and this Board needs to follow the ordinance. Ms. Piao was the owner, and was responsible for whoever did the act.

She did not feel they have to go further with it, and she felt this Board should deny the reconsideration.

Motion by Ms. Trombley, supported by Mr. Campbell, with reference to File #17-6799 and application from Ms. LianYu Piao, of Healthy Spa, Inc., 41365 Hazelwood Drive, Sterling Heights, Michigan 48313, as represented by Ms. Stephanie Mann, 31732 Mayfair Lane, Beverly Hills, Michigan 48025, for variance to the Codified Ordinance of Clinton Township, Part Eight – Business Regulation and Taxation Code, Chapter 850.13-(d), Massage Establishment, Revocation of Licenses, concerning 1.925 acres of land fronting the east line of Hayes Road, south of Amore Drive, addressed as 40120 Hayes Road, that the variance request to appeal the revocation of a Massologist Establishment License for a massage therapy facility in the B-2 Community Business District (Healthy Spa Inc. @ Country Side Plaza), be denied based on the business owner's failure to register the employee; further, the criminal act that took place will be addressed in court. Discussion ensued.

Mr. Pearl stated the petitioner has indicated that she did not register the employee, and she admitted to that on the record, which is a violation of the ordinance.

Roll Call Vote: Ayes – Trombley, Campbell, D'Angelo, Hornung, Pearl. Nays – None. Absent – Marella. Motion carried.

Mr. Santia stated the petitioner has been denied her request.

0.6993 ACRE OF LAND FRONTING THE EAST LINE OF GARFIELD ROAD, SOUTH OF 18 MILE ROAD, ADDRESSED AS 40900 GARFIELD ROAD (SECTION 17)
- APPEAL: FLAGSTAR BANK
FILE #17-6797: PETITIONED BY MR. DAVID DEARLING, FLAGSTAR BANK REPRESENTED BY MR. ROGER BRIDDICK, FAIRMONT SIGN COMPANY

Mr. Campbell summarized the variance being requested and read the Planner Review letter dated January 3rd, 2018 into the record. Mr. Campbell 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 20 of those returned as undeliverable. There were no written replies received in response to the mailing.

Mr. Roger Briddick, of Fairmont Sign Company, 3750 East Outer Drive, Detroit, Michigan 48234, explained they are seeking a variance to allow two building "decorations" on the north and south sides of the building. He stated they have a permit application for the front which faces Garfield, as well as their pylon sign. The variance request is for building embellishments that are not carrying names but they add decoration to the building. He compared it to light bands that go around a building.

Mr. Campbell explained that typically, when this Board grants a variance to permit multiple signs, one of the conditions placed on the approval is that the total combined

square footage of all of the signs cannot exceed what would be permitted for one sign. He stated he had a difficult time discerning, because of the reduction in size of the photo, as to the width of the building.

Mr. Santia estimated the building to be between 40 and 45 feet in width.

Mr. Campbell felt the total square footage permitted would be a little under 96 square feet. He stated he does not have a problem granting the variance if the petitioner is willing to commit to keeping the total combined square footage of the signs under 96 square feet.

Mr. Briddick assured he is willing to agree to that condition.

Motion by Mr. Campbell, supported by Mr. Pearl, with reference to File #17-6797 and application from Mr. David Dearing, Flagstar Bank, 5151 Corporate Drive, Troy, Michigan 48098, as represented by Mr. Roger Briddick, Fairmont Sign Company, 3750 East Outer Drive, Detroit, Michigan 48234, for variance to Clinton Township Building and Housing Code, Chapter 1488.02-(e)-(2), Signs, Definitions and Restrictions, "Business Sign", concerning 0.6993 acre of land fronting the east line of Garfield Road, south of 18 Mile Road, addressed as 40900 Garfield Road (Section 17), that variance be granted to permit the installation of three (3) wall signs for a business located in the B-3 General Business District (Flagstar Bank), being two (2) wall signs in excess of the maximum permitted one (1) wall sign; further, variance is granted with the condition that the total combined square footage of the three (3) wall signs is not to exceed 96 square feet; further, this grant of variance is based on claimed hardship that all sides of the building need to be identified for safe access of traffic; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Campbell, Pearl, Trombley, Hornung, D'Angelo. Nays – None. Absent – Marella. Motion carried.

**1.839 ACRE OF LAND FRONTING THE WEST LINE OF GROESBECK HIGHWAY,
NORTH OF 15 MILE ROAD, ADDRESSED AS 35243 GROESBECK HIGHWAY
(SECTION 28)**

**- APPEAL: McDONALD'S FAST FOOD RESTAURANT
FILE #17-6798: PETITIONED BY MR. PATRICK STIEBER, ALLIED SIGNS INC**

Mr. Campbell summarized the variance being requested and read the Planner Review letter dated January 4th, 2018 into the record. Mr. Campbell 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 20 of those returned as undeliverable. There were no written replies received in response to the mailing.

Mr. Patrick Stieber, of Allied Signs, Inc., 33650 Giftos Drive, Clinton Township, Michigan 48035, explained that this particular McDonald's location is remodeling, and

they are seeking a variance for the number of wall signs, although he assured they are not over the total square footage permitted. He stated they calculate that they are permitted nearly 100 square feet of signage, and they will be well under that amount with the signage they are proposing. He noted the signs fit well with the design of the building, and they have a hardship in trying to identify their location to motorists traveling at high speeds on Groesbeck, and to get those customers safely in and out of their facility.

Mr. Campbell admitted he had a tough time counting the number of signs being proposed. He stated it appears as though the petitioner counted the “Welcome” signs above the doors, which he considered to be more directional in nature. He calculated they are seeking a variance for the “M” logo on the front of the building, as well as the “McDonald’s” lettering.

Mr. Stieber explained the “M” logo and the lettering are generally next to each other, so it would normally be considered one sign, but they have opted to spread them out to look more balanced on the building. He stated they view the “Welcome” letters on the doors as directional; however, per the ordinance, it is considered signage, so that amounts to two additional signs being requested.

Mr. Campbell inquired as to whether the “Welcome” signs over the door are considered signage or whether they are considered directional in nature.

Mr. Santia noted that, in the application, they are treated as signage; however, he agreed they serve as directional signs.

Mr. Campbell stated if the two “Welcome” signs are considered directional, then the petitioner is only seeking signage for two “M” logos as well as the “McDonald’s” lettering on the front elevation, which equates to three (3) wall signs, being two (2) wall signs in excess of the maximum permitted one (1) wall sign. Mr. Campbell recalled that when McDonald’s submitted plans for remodeling this location, he recalled a sign on the structure toward the back of the property advertising a “Sweet BBQ Bacon Burger”. He estimated it measures about 20 square feet and he considered it an advertising sign, possibly something that they paid someone to design for that small building. He admitted he did not walk up to see what it is made of, but he emphasized that is not approved signage.

Mr. Stieber replied to inquiry that he is not familiar with the sign to which Mr. Campbell is referring, but he assured his company did not design that sign nor put it up.

Mr. Campbell felt any grant of this variance should be contingent upon that sign being removed. He commented that it is not a “big deal” but felt if other businesses notice that sign, they may want permission to have something similar.

Mr. Stieber agreed with the stipulation that the sign on the accessory structure must be removed.

Motion by Mr. Campbell, supported by Mr. Pearl, with reference to File #17-6798 and application from Mr. Patrick Stieber, Allied Signs, Inc., 33650 Giftos Drive, Clinton Township, Michigan 48035, for variance to Clinton Township Building and Housing Code, Chapter 1488.02-(e)-(2), Signs, Definitions and Restrictions, “Business sign”, concerning 1.839 acres of land fronting the west line of Groesbeck Highway, north of 15 Mile Road, addressed as 35243 Groesbeck Highway (Section 28), that variance be granted to permit the a total of three (3) wall signs for a business located in the B-3 General Business District (McDonald’s Fast Food Restaurant), being two (2) wall signs in excess of the maximum permitted one (1) wall sign; further, this variance is granted on the conditions that: 1) The total combined square footage of the three (3) signs is not to exceed 100 square feet; and 2) All signs will be removed from the accessory structure building behind the restaurant; further, this grant of variance is based on claimed hardship for the need to provide adequate identification so motorists can safely identify the building while traveling at high speeds on Groesbeck, and to get those customers safely in and out of their facility; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Campbell, Pearl, Trombley, Hornung, D’Angelo. Nays – None. Absent – Marella. Motion carried.

REPORT OF MEETING

-- APPROVAL OF DECEMBER 13TH, 2017 REPORT

Motion by Mr. Campbell, supported by Mr. Hornung, to approve the minutes of the December 13th, 2017 Meeting as submitted. Motion carried.

BOARD OF APPEALS MEETING SCHEDULE

-- CONFIRMATION OF NEXT MEETING’S AGENDA AND ATTENDANCE: WEDNESDAY, FEBRUARY 21ST, 2018 AT 6:30 P.M.

Mr. Santia confirmed the next Board of Appeals meeting to be held on Wednesday, February 21st, 2018.

He noted the following items are anticipated to be on that agenda:

- An accessory structure for a single-family residence
- A request for five (5) vacant lots near 15 Mile & Utica Roads for rear yard setback and minimum floor area to develop single-family homes

He noted that there are a couple of days left until the deadline for applications to be submitted for the February meeting.

Mr. Campbell indicated the Annual Report can be placed on the February agenda, and he will forward the report to the Planning Department in time for distribution for that meeting.

Mr. D'Angelo inquired as to when the election of officers will be held.

Mr. Santia replied the Board has not yet made their appointments but it is on the upcoming Board agenda. He stated the officer elections will be on the next agenda.

ADJOURNMENT

Motion by Mr. Campbell, supported by Mr. Hornung, to adjourn the meeting. Motion carried. The meeting adjourned at 7:37 p.m.

Respectfully submitted,

Robert M. Campbell

Robert M. Campbell, Secretary
CLINTON TOWNSHIP BOARD OF APPEALS

ces:01/19/18

ces:01/22/18

Approved 02/21/18