

CLINTON TOWNSHIP BOARD OF APPEALS

REPORT OF MEETING

WEDNESDAY, NOVEMBER 14TH, 2018

PRESENT: Francis Marella, Chairperson
James D'Angelo, Vice-Chairperson
Robert M. Campbell, Secretary
Michael Deyak
Kenneth Pearl
Denise C. Trombley

ABSENT: Ernest Hornung (Excused)

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

The meeting was called to order at 6:30 p.m.

APPROVAL OF AGENDA

Motion by Mr. Marella, supported by Mr. Pearl, to approve the agenda as submitted.
Motion carried.

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

PARTS OF LOTS 4 AND 5, MEADOWLAWN SUBDIVISION, BEING 0.311 ACRE OF LAND LOCATED AT THE NORTHWEST CORNER OF GRATIOT AND LESTER (SECTION 27)

- **APPEAL: GRATIOT DRIVE-THRU RESTAURANT (FKA OUR PLACE CAFÉ; WAFFLE HOUSE)
FILE #18-6859: PETITIONED BY MR. MARK GJOKAJ, CUFFLINK-5
REPRESENTED BY MR. GEORGE BAILEY, AIA, BAILEY BUILT, PLLC**
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Mr. Campbell summarized the variance being requested and read the Planner Review letter dated October 24th, 2018 into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 61 owners and/or occupants of property located within 300 feet of the land in question, with 10 of those returned as undeliverable. There were no written replies received in response to the mailing.

Mr. Mark Gjokaj, 50710 Van Dyke, Shelby Township, Michigan 48317, and his representative, Mr. George Bailey, of Bailey Built, 1155 Hampton Road, Grosse Pointe Woods, Michigan 48236, were present to answer questions.

Mr. Bailey explained the building is existing, located on Gratiot and Lester, and has been vacant for a number of years. They are proposing a drive-thru restaurant, and the ordinance requires that a front yard be provided on Lester as well as on Gratiot. The building sits on the front yard of Lester, so they are seeking a variance for that setback. In trying to improve the site, they are seeking the specific variances requested in this application, but he assured they will comply with all other requirements of the ordinance.

There were no comments from anyone in the audience.

Mr. Campbell questioned whether they are tearing down the existing building or whether they are refurbishing the existing building.

Mr. Bailey replied they are going to use the existing footprint and foundation, with the goal to enhance it on the interior and exterior. They will add new structure as it is needed, especially on the Gratiot frontage to improve the look of the building. He noted the current building measures about 1,800 square feet so they are trying to keep that same amount.

Mr. Campbell noted that the development is referred to “Gratiot Drive-Thru Restaurant” and he inquired as to whether this is going to be part of a national chain.

Mr. Gjokaj replied it will most likely not be part of a chain, and he anticipated it will be family-owned, although he added it would be great to get a national chain to locate there. He stated he does not know what kind of restaurant at this time, noting it could be a taco place, a donut shop, a burger place, etc.

Mr. Campbell questioned the purpose of the drive-thru if the petitioner does not know whether one will be needed. He pointed out if they sell tacos or burgers, that would lend itself to a drive-thru business, but a restaurant serving sit-down meals does not lend itself to a drive-thru.

Mr. Gjokaj stated it will not be a sit-down restaurant. He anticipated it will be “fast-casual”, and he stressed that an eatery selling that type of food will be more successful with a drive-thru than without.

Mr. Marella inquired as to whether there will be any sit-down meals offered at this location.

Mr. Gjokaj anticipated they will not be serving large meals, but he replied he does not know at this time.

Mr. Marella stated that is something this Board needs to know when considering the variance requests.

Mr. Gjokaj stated the use will be primarily drive-thru, but customers can come inside to pick up a carryout. He indicated they may have two tables for people to eat their carryout items inside.

Mr. D’Angelo stated he has a problem with the Lester Street setback because he could not turn his car and make it along the side of the building. He had to go almost to the back of the property in order to make that turn. He pointed out there is only 14 feet from the edge of the building to the sidewalk, and he did not feel that is a safe distance from a public sidewalk. He added there is an elevation change to the front of the building where the motorists will have to make another turn to exit.

Mr. Bailey clarified that the drawings are conceptual at this point, and those concerns can be addressed into the design development as the site plan process continues. He pointed out they can put in retaining walls to provide a buffer from the drive-thru lane to the sidewalk. He noted they could do the same thing on the Gratiot side.

Mr. Pearl questioned whether the drive-thru necessitates the majority of the variance requests.

Mr. Thompson replied affirmatively, noting all of these variances are based on the design, which proposes a drive-thru.

Mr. Pearl stated he would love to see this property redeveloped, but unless they have a definite need for a drive-thru specific to a restaurant franchise, he could not approve all of these variances.

Mr. Marella compared it to “putting the cart before the horse” and added it is difficult for this Board to grant variances in those situations.

Mr. Pearl felt putting a drive-thru on this building will not work well, and he pointed out a lot of the restaurants along Gratiot do not have drive-thru windows. He also pointed out there are some in strip centers in the Township, and they do not have drive-thru windows. He stressed it is very difficult in this tight area to accommodate for a drive-thru window. This Board would like to see a reason why this is necessary rather than granting the variances for a speculative building.

Mr. Gjokaj stated he is not “100% set” that it has to be a drive-thru building, but he wanted to try to make it work. If it is not allowed, he will have to live with that.

Mr. Pearl inquired as to whether any variances that would be needed if the drive-thru window were eliminated.

Mr. Thompson did not believe at this point that variances would be needed if the drive-thru window is eliminated. He explained they could reuse the site the way it is with no drive-thru. The variance requests for setbacks, the buffering and the distance from residential are all related specifically to the drive-thru component.

Mr. Pearl suggested the petitioner could redo the plan, and if it is determined he has a specific user for the drive-thru, he could come back for further consideration at that time.

Mr. Marella advised Mr. Gjokaj could open a restaurant without a drive-thru and does not need variances.

Mr. Gjokaj felt if he could put in the drive-thru, it would be better for him to market, but if he cannot, he can use it as retail or an eatery.

Mr. Marella understood why Mr. Gjokaj would like to have the drive-thru window because they are very profitable, and they make it easy for people to drive through and pick up a donut, coffee or other fast-food product. He noted it is a pre-existing building, but if they want to turn it into a drive-thru, then variances are necessary.

Mr. Campbell questioned that no variances would be necessary if the drive-thru is eliminated. He pointed out this place was constructed many years ago when ordinance requirements were different. He noted the landscaped setback variances would still be needed, as well as the number of parking spaces, which could be an even higher number without a drive-thru window. It has been vacant for a long time, and he claimed there is a provision in the ordinance which requires a site to be brought into compliance with current ordinances if that site had been vacant for a certain length of time. He did not feel they can talk about the elimination of the drive-thru lane and determine at this point that no variances would be required.

Mr. Pearl inquired as to whether it would be appropriate to postpone this and suggest the petitioner meet with the Planning Director to discuss options and to come up with a revised plan. He questioned whether they should postpone this for sixty or ninety days.

Mr. Gjokaj explained if it is to be used as an eatery, he felt they would want a drive thru; however, he assured he is not set on this having to be a restaurant, although he felt it was worth proposing. He stated he would not have a drive-thru for any use other than fast food, so if the building is developed as a cleaners or a pharmacy, he would not have a drive-thru. He indicated if a drive-thru cannot be done, he will renovate the building and market it for another use.

Mr. Marella suggested Mr. Gjokaj come back with another plan within sixty (60) days.

Mr. Bailey questioned, since the building has been vacant for so long, whether they will be required to bring the site up to comply with current ordinance requirements.

Mr. Thompson stated he will have to look at the ordinance, noting he has only been in his position for three weeks, but he felt Mr. Campbell's reference was related to uses that are non-conforming and would have to be brought into conformance if the site is vacant for more than thirty (30) days. He does not feel that is the case with regard to items such as number of parking spaces based on today's ordinance requirements, because that would be grandfathered in. The building is where it is, and that is grandfathered. If all the petitioner wants to do is reuse the existing building by renovating the inside and painting the outside, he would be required to go through the Zoning Verification process because the use would be the same, and there would be no intent to abandon that particular use. He reiterated his belief that a site that has been vacant would have to come into compliance with regard to use, but not necessarily with regard to parking, height, density or setbacks.

Motion by Mr. Pearl, supported by Mr. D'Angelo, with reference to File #18-6859 and application from Mr. Mark Gjokaj, Cufflink-5, 50710 Van Dyke, Shelby Township, Michigan 48317, as represented by Mr. George Bailey, AIA, Bailey Built, PLLC, 1155 Hampton Road, Grosse Pointe Woods, Michigan 48236, for variance to Clinton Township Planning and Zoning Code, Section 1292.01-(p), Land Use Regulations; Section 1298.02-(24)-(b) and Section 1298.02-(24)-(F), Supplementary Regulations, Uses Requiring Special Approval, Procedure; and Section 1296.01, Off-Street Parking and Loading, concerning parts of Lots 4 and 5, Meadowlawn Subdivision, located on the northwest corner of Gratiot and Lester, addressed as 36811 Gratiot Avenue (Section 27), that further consideration of request for variance to permit the redevelopment of a vacant building in the B-3 General Business District into a drive-thru restaurant (Gratiot Drive-Thru Restaurant, fka Our Place Café) having: 1) Parking spaces labeled 1-2 and 15-17 and the drive-thru lane that encroaches into the required setbacks; 2) A reduced landscaped setback along Gratiot Avenue and Lester Street; 3) A distance of 100 feet from the nearest single-family district, being 190 feet less than the minimum required distance of 300 feet; and 4) A total of 17 parking spaces, being 13 spaces less than the total required 30 parking spaces, be postponed for sixty (60)

days so the petitioner and his representative can meet with the Planning Director and can resubmit plans showing the elimination of the drive-thru window. Discussion ensued.

Mr. Bailey questioned whether they can come back to the Board of Appeals sooner if they come up with a new plan in less than sixty days.

Mr. Marella noted there are time requirements needed for notification, so they may not make that deadline for next month.

Mr. Pearl advised Mr. Bailey to set up an appointment to meet with the Planning Director before they do anything else.

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

7.12 ACRES OF VACANT LAND FRONTING THE WEST SIDE OF GARFIELD AND THE NORTH SIDE OF 18 MILE ROAD (SECTION 7)

- APPEAL: VERUS DEVELOPMENT / 18 & GARFIELD – PHASE II (RESIDENTIAL)

FILE #18-6860: PETITIONED BY MR. FRANK ARCORI, VDG GARFIELD LLC REPRESENTED BY MESSRS. MIKE PANNELL & TIM PONTON, STONEFIELD ENGINEERING

Mr. Campbell summarized the variance being requested and read the Planner Review letter dated October 29th, 2018 into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 220 owners and/or occupants of property located within 300 feet of the land in question, with 21 of those returned as undeliverable. There were no written replies received in response to the mailing.

Mr. Tim Ponton, owner of Stonefield Engineering and Design, 28454 Woodward, Royal Oak, Michigan 48067, explained they have been retained to design this project located at the northwest corner of 18 Mile and Garfield. The site is a flag-shaped lot unique lot measuring 7.25 acres that has been vacant for a long time. He stated they have been working on this project for over a year, and there has been a significant history of proposals for this property. They had originally proposed a gas station on the corner and a three-story apartment complex on the subject property. The residents in the neighboring condominium complex were opposed, and in trying to be as good of a neighbor as possible, they came up with a plan they feel makes everyone happy; however, they need four variances. He claimed they changed their three-story apartment complex that was a “by-right” use to single-family condominiums as requested by the community. He indicated they will each measure approximately 1,400 square feet and will be 1-1/2 stories. Mr. Ponton reviewed the four variances, with the first being a front yard setback from Garfield. The property is zoned RML and they are at the corner of 18 Mile and Garfield, so almost the entire Garfield corridor is zoned for

commercial use. They have the difficult task of trying to fit a nice high-end single-family condominium development in this predominantly-retail area. Along Garfield, they have a front-yard setback requirement, but he pointed out that setback actually serves as a rear yard for their units. They avoided putting driveways out onto Garfield, so it is unique because they are not using it as a front yard. He added that it will be nicely landscaped with a buffer of evergreen trees and a berm. He pointed out that, even with the variance, it is very consistent with the developments in the area, pointing out that across the street, there are buildings and parking lots located with less setback than they are requesting. He explained the second request is for a side-yard setback along Anthony Drive. The third request is a density request to allow 56 units rather than the 50 units allowed. He explained that, based on a number of conversations with the Macomb County Department of Roads, they dictated where the main access drive is to be located, and that serves as the basis for design. He added that people in the neighboring area are having some problems with people loitering and walking through their neighborhood. As a base for their request, they are proposing a full block of units along the side of the property abutting the existing condominiums so that people cannot cut through. He wanted to make sure all of the garages face each other and not face the rear. They feel all of the units have a significant value and it is important to create a residential feeling along this commercial corridor; therefore, all of the units are shielded in to face other units and block sight lines to the commercial corridor. He stated the last variance is for a 3-foot variance on the width of the interior road. They are proposing 24 feet rather than the 27 feet required. Mr. Ponton explained that a minimum 27-foot drive width is required in a single-family development, but those developments also allow for parking in the street. They do not have the opportunity for any street parking because there is not sufficient room between driveways to park a vehicle in the street. He claimed they are also providing an additional 40 parking spaces more than what is required. He did not feel these variances will create a detriment, and he offered to answer questions.

Mr. Marella opened the floor for public comments.

Mr. Dean Enrici, 16620 Chris Drive, Clinton Township, Michigan 48038, complained that the audience is not able to see the plans which are facing the Board, and he inquired as to whether the plans can be turned around for the residents to see. He questioned as to the location of the entrances and exits.

Mr. Marella replied the access appears to be on 18 Mile Road.

Mr. Ponton turned the plans around for the audience to see.

Ms. Gayle Savocchio, 16545 Dawn Drive, Clinton Township, Michigan 48038, questioned whether these will be rentals or whether they will be purchased. She noted in some communities, there are condominiums that are leased.

Mr. Ponton replied that the developer is building these as “for sale” units.

Mr. Anthony Maltese, 16575 Tyler, Clinton Township, Michigan 48038, stated that the fact the developer will be marketing these units for sale does not mean owners of the individual units will not lease them. He questioned whether the deed restrictions will allow owners to sublease the units to others.

Mr. Ponton replied that, like any single-family development within the Township, it is up to the Township to approve or deny rental licenses. He added they do not plan on deed-restricting their developers to market these as “for sale” units. If a new owner of a unit decides he/she wants to lease it, that is out of the developer’s control at that point.

Mr. Maltese stated that, as a member of the board of the Macomb Village Condominiums, he informed that Macomb Village has a deed restriction that they are owner-occupied condominiums and cannot be subleased. He commented that their homeowner’s association would be very much against the proposed development not having a deed restriction that only allows for owner-occupied condominiums. He felt there is a huge difference between owner-occupied and for lease.

Mr. Marella clarified that is beyond the control of this Board. The Township Board of Trustees would have to require that type of restriction. The homeowner’s association will have their own restrictions and they will have to follow the rules and regulations of the Township as well.

Mr. Maltese questioned whether they have to go through the Township Board to make that request.

Mr. Marella replied affirmatively

Mr. Maltese explained that they have a long street named Anthony that leads to their complex from Garfield. He indicated he contacted the Planning Department, a former member of the Fire Department in the City of Sterling Heights and one in White Lake Township, and he felt that one ingress/egress from a complex of this size is not an ideal situation. He explained that the Macomb Village Condominium Association have a tremendous maintenance issue with Anthony Street, and they are seeking some relief and help on the maintenance and landscaping. He contacted the developer and asked if there would be any advantage to them having a second ingress/egress off of Anthony, and the developer indicated that may be a possibility. Mr. Maltese stated they are as concerned as everyone else in the area about the density and the busy traffic, but he pointed out that Macomb Village Condominiums is comprised of 50 units, and this would be another 56 units as proposed. He pointed out that with only 50 units, it is very difficult to keep their association fees at a reasonable rate with the upkeep of that long drive, so it would help if the proposed development could connect to Anthony, and the residents of those condominiums could share in the maintenance cost.

Mr. Frank Gualdoni, 16490 Dawn, Clinton Township, Michigan 48038, a board member on the Macomb Village Condominium Association, stated they have met with the developer a few times. They have seen the proposed plan and their board agrees with the plan, noting that the variances requested do not affect their residents because they involve the interior of the proposed complex.

Mr. Campbell stated this is a large empty property and he could see no practical difficulty presented as to why they need variances for setbacks and increased density. He reminded that practical difficulty is required in order for a variance to be granted. He referred to the analysis provided to them, and the consulting traffic engineer from Giffels Webster addressed the question about the single exit onto 18 Mile Road, noting it is very close to where the left-turn lane to northbound Garfield starts. He summarized it that it could be a disaster in terms of traffic flow and making it difficult for people to get out of this complex. He cited similar traffic congestion issues on Canal near Garfield, where there are a couple of entrances in close proximity to the intersection. He felt this would be creating another nightmare, and he commented that some joint effort to provide access from this development to Anthony Drive may provide some relief. If traffic problems are anticipated, he questioned why they should be entertaining the idea of more units than allowed for this property.

Mr. Pearl pointed out that this has not yet gone to the Planning Commission, so they can address the entrance. He agreed with Mr. Campbell and could see no reason to increase the density of the development. It is a prime parcel of land, and he questioned why the petitioner needs 56 units when only 50 are allowed. He also commented that the roads are too narrow, and there is no parking other than the driveways.

Mr. Ponton stated that is not correct, because there is parking provided in the driveways as well as in the garages.

Mr. Pearl questioned where visitors can park.

Mr. Ponton replied each unit has one space available in the garage, as well as two spaces in the driveway.

Mr. Pearl felt that they can build this development with 50 units, and he could not see reason to approve the 24-foot width for the interior roads.

Mr. Marella agreed with his colleagues.

Mr. Ponton claimed the hardship is that they came before the Board with “an approved by-right permitted use”, which was a certain number of apartment complexes that were three stories in height. They received significant push-back from the Planning Commission and the neighboring residents. He further claimed they are not able to construct and build a “by-right” use as permitted by ordinance. He explained they are trying to do the right thing in terms of creating something that is a benefit for this community. He stated his client is more than happy to construct an apartment complex

at this location because that was their original plan. He addressed the traffic concerns and felt the proposed use of 56 units is one of the lowest traffic generators they would get on this site. He reminded this is a retail corridor and there are a number of high-generating retail uses that could go along this frontage on Garfield. He considered this a traffic solution because it is a lower-intensity use. He explained the driveways are under the jurisdiction of the County, and they have met with representatives from the County a number of times. They are finalizing their agreements with the County, and received a telephone call today from the representative of Macomb Village Condominiums, and he assured they are willing to enter into further discussions with him; however, he commented that their condominium association's overall burden and some of the issues brought up may or may not be fair to bring on to the residents of the new development. He stated they are happy to have the conversation.

Mr. D'Angelo agreed with Mr. Pearl and Mr. Campbell, and he questioned as to the practical difficulty.

Mr. Ponton reiterated that their practical difficulty is that they are unable to construct a "by-right" use.

Ms. Trombley, also a member of the Planning Commission, recalled that at their meeting, the residents expressed their objection to three-story apartments being developed on the subject property, and felt the residents of the apartments would be looking down onto their properties. She added she was also not in favor of the apartments. She felt if it could be worked out, condominiums are a much better use than apartments, so there may need to be some give-and-take. She felt they need to listen to the residents in the abutting condominiums.

Mr. Marella agreed with Ms. Trombley, stating he prefers condominiums over apartments.

Ms. Trombley stated that, at more than one meeting, there were several residents who came forward and spoke against the apartments. She pointed out they were notified of tonight's meeting, and there are not many residents here from the abutting condominiums and they do not have much opposition. She clarified she does not feel they have to get everything they are requesting, but she felt it is important to work with them.

Mr. Pearl agreed that the abutting residents would be happier with condominiums, but he reminded they have to consider the people who will be purchasing units in the new development. He felt they may question why the Township would allow the streets to be so narrow and why there is no guest parking. He could not recall going to a condominium in Clinton Township where there was no parking other than the driveways. Mr. Pearl inquired as to the current zoning of this parcel.

Mr. Thompson replied the property is zoned RML Multiple-Family Residential (Low-Density). It is zoned for multi-family and he can build either apartments or

condominiums. He replied to further inquiry that he would have to check the ordinance to determine whether the buildings can be 2-1/2 stories or 3 stories.

Mr. Joseph Paluzzi, of Verus Development Group, 423 Main Street, Royal Oak, Michigan, thanked the Board for hearing their request. He stated he has been in front of many of the members before and has been involved in development in this community for a long time. He stated he has been fortunate to develop other condominium developments in the Township, with Canterbury Woods being one of those developments located a short distance from this proposed project. He stated that complex has the identical road configuration with regard to the width of the roads. He claimed this variance on the width of the interior roads has been requested many times in this community and has been granted. He assured it is not an abnormal request. He addressed the issue of density, and he explained they are requesting this based on two-bedroom units. If they proposed 56 units and limited the number of two-bedroom units to 48, and 8 units being one-bedroom, he claimed they would meet the ordinance. He stressed a two-bedroom unit is much more desirable to the majority of people, and that is why they are seeking the variance. He pointed out this site is unique and has been vacant for many years, with its previous use being a farm. He provided a brief history of the property and explained the location of the site and its close proximity to the commercial developments along Garfield make this a challenging site for a “for-sale” condominium project. He commented that they took the abutting residents’ input, and this is the product that was agreed to amongst the community and the abutting residents to the west. He stated the abutting residents expressed their opposition to a wood construction three-story apartment development. He requested the Board of Appeals listen to the residents. As far as the interior road width, he felt the prospective customers will know what they are buying and there will be product that is already built. He concluded by expressing his appreciation to the Board for hearing their request.

Mr. Ponton claimed the streets in the abutting condominium complex are comparable with other condominium developments, noting they measured them today based on aerial mapping, and they calculated an interior street width of 25 feet. Mr. Ponton clarified they can park on the street, but there should not be a need for a significant amount of on-street parking because they exceed the ordinance requirement for the site by 47 parking spaces. He noted if they park on the street, they will be parking in front of a driveway.

Mr. Enrici confirmed that Mr. Ponton was correct in his statement that the residents in Macomb Village Condominiums prefer to see single-level condominiums. He does not think his statements on zoning were correct, because he recalled they were originally trying to rezone to allow high-density. He questioned whether there are specifications on street width.

Mr. Pearl replied the specifications require a 27-foot width, but the petitioner is proposing a 24-foot width.

Mr. Enrici questioned the legality of having narrower streets than permitted, especially with regard to fire truck and ambulance access. He was also concerned about the ingress/egress point on 18 Mile Road and the engineer's concern that could create problems. He reiterated his question on the regulations.

Mr. Marella explained the Township has ordinances, and the petitioners are here tonight to obtain a variance from those ordinance requirements.

Mr. Enrici questioned whether the ordinances are based on safety.

Mr. Marella replied that is all taken into consideration when establishing ordinances.

Mr. Enrici mentioned the suggestion about this development connecting to Anthony Drive. He felt if the engineer indicated one ingress/egress would be a nightmare, that should be denied.

Mr. Ponton claimed the width requirement for a public single-family street is 27 feet; however, this is a private dead-end street with no pass-through traffic other than the residents and possibly a few visitors. He explained the typical vehicle measures 7- to 8-feet in width, so there is plenty of room to navigate on a 24-foot wide road. He claimed almost all commercial applications across the country are standard 22- to 24-feet in width for two-way traffic. He assured they have room for fire trucks to maneuver throughout the site, noting they would never design a site that could not be serviced by the fire department.

Mr. Campbell clarified that the traffic engineer did not use the word "nightmare" based on the singular ingress/egress, but that was his term in paraphrasing the paragraph in the review from the engineer, which he read into the record.

Mr. Ponton stated they are here tonight seeking relief on four variances, none of them related to the locations of the driveways.

Mr. Marella stressed they have to take public safety into consideration, and although these decisions are not easy, they have to make sure they are taking care of the community and assuring it is a safe place.

Mr. Ponton reminded that they still have to go before the Planning Commission and engineering, and he was confident they will address some of these other issues.

Mr. D'Angelo inquired as to whether the reason for the six additional units are based on financial reasons.

Mr. Ponton replied no, explaining they are based on overall layout and creating proper sight lines for all the residents within this complex.

Mr. D'Angelo noted this is referred to as "Phase II". He inquired as to "Phase I".

Mr. Ponton replied that "Phase I" is the retail development approved for the corner of 18 Mile and Garfield.

Mr. Pearl requested clarification that RML does not change the number of units because they still need a certain amount of square feet for two-bedroom.

Mr. Thompson replied that is correct. He noted there are different standards if there are one-bedroom units, but the calculation was based on two-bedroom units. He noted there are different standards based on the number of bedrooms.

Mr. Pearl noted if there were one-bedroom units, they would be narrower, possibly allowing for increased width of the streets. He felt parking on the street would make it very narrow for other vehicles to get through, especially emergency vehicles. He stated he does not have a problem with the requested front yard or side yard setbacks, but he has a problem going to 56 units. If the configuration is changed to include some of those as one-bedroom units, he may be able to fit in 56 units, but they would be small. Mr. Pearl inquired as to whether Mr. Thompson has a problem with the setbacks.

Mr. Thompson replied he personally does not have an objection to the setbacks, but he reminded he was not involved in the review or design, so he is coming into this "in the eleventh hour". He felt all of these variances come together as a result of the design.

Mr. Pearl felt the elimination of six units may result in wider streets.

Mr. Campbell stated he is opposed to this proposal, and the traffic issue is a "deal-breaker" to him. He pointed out the additional density adds more traffic. He indicated he could support it, however, if they come back with a modified plan that shows an access to Anthony Drive, so they would have two entrance/exit points for this complex. He felt it would make the product more saleable because they could enter from either Garfield, via Anthony Drive, or from 18 Mile Road. He stated he would either vote no on this tonight or the petitioner can seek a postponement.

Mr. Ponton stated they are seeking an additional six units. He knows there are certain levels of service along this corridor, not from anything they have created. He claimed there is a "by-right" use, and he felt the six additional vehicles should not have an effect on traffic, because the multi-family use is a low traffic generator in comparison with the commercial developments up and down Garfield. He anticipated the proposed development will be comprised of an older, retired community so he did not see anything associated with this having a negative factor in the traffic scenario.

Mr. Campbell stated that in his commute to tonight's meeting, he came through the 18 Mile/Garfield intersection and there was a backup on 18 Mile to make a left-turn to northbound Garfield, and that backup will extend further if that is the only access to and from the proposed development.

Mr. Ponton agreed with Mr. Campbell that there is a traffic scenario that currently exists at that location, but he reminded that this is a vacant parcel at the corner, and something will be developed on this property. He indicated the question is “what is that something” and what is the best possible scenario of what they can build to minimize the overall traffic impact. He stated his professional opinion that, based on the demographics of this community and the number of trips generated from this type of use, as well as the times they come and go, this is most likely a very low generating use, especially considering frontage on Garfield.

Mr. Pearl agreed with Mr. Campbell on the cross-easement for Anthony. He would like to see a traffic study done and anticipated it would be required by the Planning Commission or Township Board. He questioned whether the petitioner would mind if this matter is postponed to the next meeting and submitting a traffic study for the impact of the proposed development on the roads. He also recommended the petitioner talk with the Macomb Village Condominium Association board as to possibly connecting to Anthony Drive. Mr. Pearl pointed out that the developers provided an ingress/egress to their retail development from Garfield, so they eliminated an access to the residential development from Garfield.

Mr. Ponton clarified that they place driveways where the Macomb County Department of Roads directs them to be placed.

Mr. Pearl felt if there had not been a retail development on the corner but was part of the proposed residential development, he suspected there would have been an entrance/exit on Garfield. He requested a traffic study be done by the petitioner, and that the petitioner talk with the abutting condominium association about the shared use of Anthony Drive.

Mr. Ponton assured he will do that. He indicated they have been working on this project for over a year, and if possible, in good faith, they would like to see how they can move forward from this body. He questioned whether they can make that a condition of the Planning and Engineering reviews to have them seek and review the traffic analysis and patterns. He assured they are happy to do the study, and want everyone to be safe, but he would like it as a condition for Planning and Engineering review.

Mr. D’Angelo stated he cannot support this request. He pointed out the subject property is currently a large field, and yet they are proposing narrow streets, smaller setbacks which he does not approve of, condominiums backing up to Garfield, and a lot of other issues.

Mr. Marella stated he is uncomfortable with having one ingress and egress, and he felt that could be a safety factor. He pointed out if there is an accident at the 18 Mile/Garfield intersection and traffic is backed up, an emergency vehicle may not be able to gain access to the proposed condominium development.

Mr. Pearl stated that is why he is asking for a traffic study, noting that there are condominium complexes in Clinton Township with one entrance. He would like to look at the need for the additional six units, backed up with a traffic study and some negotiations for a shared access to Anthony.

Mr. Marella stated that can be part of the postponement.

Mr. Campbell stated there was discussion about the 24-foot-wide roads, and Mr. Paluzzi had commented that this is a common scenario in other condominium complexes. Mr. Campbell indicated that requirement of the ordinance has not changed in at least 25 years, and although he does not have a perfect recollection, in the 24 years he has been on this Board, they have granted very few variances for 24-foot-wide roads within condominium complexes. He stated he intends to look into the validity of the statement and check into how many variances have been granted for 24-foot-wide roads.

Motion by Mr. Pearl, supported by Mr. Marella, with reference to File #18-6860 and application from Mr. Frank Arcori, VDG Garfield, LLC, 423 North Main Street, Suite 100, Royal Oak, Michigan 48067, as represented by Messrs. Mike Pannell and Tim Ponton, Stonefield Engineering, 28454 Woodward Avenue, Royal Oak, Michigan 48067, for variance to Clinton Township Planning and Zoning Code, Chapter 1292.01, Land Use Regulations, Schedule of Regulations Limiting Height, Bulk, Density and Area; Footnotes to Schedule of Regulations Chart; Chapter 1296.02, Off-Street Parking and Loading, Space Layout Standards, Construction and Maintenance, concerning 7.12 acres of vacant land fronting the west line of Garfield and the north line of 18 Mile Road (Section 7), that further consideration of variance request to permit the development of vacant land in the RML Multiple-Family Residential District with multiple-family residential units (Verus Development / 18 & Garfield – Phase II) having: 1) Front yard setback from Garfield Road of 25.1 feet, being 24.9 feet less than the minimum required 50 feet; 2) Side yard setback from 18 Mile Road of 19.1 feet, being 15.9 feet less than the minimum required 35 feet; 3) 56 two-bedroom units, being 6 units in excess of the maximum permitted 50 units; and 4) An interior drive width of 24 feet, being 3 feet less than the minimum 27-foot width required, be postponed to next month's meeting scheduled for Wednesday, December 12th, 2018 so the petitioner can provide a traffic study and also negotiate with the Macomb Village Condominium Association as to a possible shared access to Anthony Drive. Roll Call Vote: Ayes – Pearl, Marella, Trombley, Campbell, D'Angelo, Deyak. Nays – None. Absent – Hornung. Motion carried.

REPORT OF MEETING

-- APPROVAL OF OCTOBER 17TH, 2018 REPORT

Mr. Campbell requested the following corrections to the October 17th, 2018 report:

Page 7, Line 4 of the title bar:

Change from: "APPEAL: CROMWELL INVESTMENTS..."

Change to: "APPEAL: FALCON INDUSTRIES"

Page 12, Paragraph 2, Line 2:

Change from: "...they are having difficulty existing their..."

Change to: "...they are having difficulty exiting their..."

Page 13, Paragraph 3, Line 1:

Change from: "...one of their neighbors has a tort air..."

Change to: "...one of their neighbors has a Torit air..."

Motion by Mr. Pearl, supported by Mr. Marella, to approve the minutes of the October 17th, 2018 Report of Meeting, with the corrections noted. Motion carried.

BOARD OF APPEALS MEETING SCHEDULE

-- **CONFIRMATION OF NEXT MEETING'S AGENDA AND ATTENDANCE:
WEDNESDAY, NOVEMBER 14TH, 2018 AT 6:30 P.M. (2ND WEDNESDAY)**

-- **CONFIRMATION OF THE 2019 BOARD OF APPEALS MEETING SCHEDULE**

Mr. Thompson confirmed the next Board of Appeals meeting will be on Wednesday, December 12th, 2018 at 6:30 p.m., which is the second Wednesday of the month, and there are three items anticipated to be on that agenda, in addition to the item postponed from this evening:

- A single-family home on Biland – variance request for a rear yard setback with the addition of a covered patio
- Fedex at Verus Development (18 Mile/Garfield) – a sign variance to permit a second wall sign
- McLaren Health Care Building (Metro Parkway/Gratiot) – a sign variance to permit installation of two (2) "Urgent Care" wall signs

Discussion took place on the proposed 2019 Board of Appeals Meeting Schedule, and Mr. Campbell pointed out that the asterisk should be removed after the "8/21" date, because that is the third Wednesday of the month, which is their normal schedule.

Motion by Mr. D'Angelo, supported by Mr. Pearl, to receive, file and concur with the 2019 Board of Appeals Meeting Schedule, as presented. Motion carried.

ADDITIONAL DISCUSSION

Mr. Thompson stated he is new and is experiencing different ways that projects are being handled. He had a question that came before him and he is seeking guidance from the Board in regard to a development that was granted a variance from this Board in 2008. He noted it was for a proposed Fifth Third Bank on the west side of Gratiot Avenue, north of 15 Mile Road. It was not built; however, the petitioner is back and would now like to proceed with the exact same development. The ordinance states that the variance is valid for a period of two years unless construction is started, but the

ordinance also allows for the Zoning Board of Appeals to grant an extension. He questioned as to the Board's practice and whether they would consider an extension retro to the expiration date, or whether they would prefer to have the developer go through the entire process again, knowing their request is basically the same.

Mr. Pearl inquired as to whether the petitioner can come before the Board of Appeals once again and request the extension.

Mr. Thompson replied that is an option, but he was not sure of this Board's practice. He indicated they will be coming back one way or another, because they either have to request an extension or they have to start over and put in the same request.

Mr. Pearl recalled a similar situation on Union Lake, where the developer came back and asked for the variance again.

Mr. Campbell recalled that in every case in the past, they have reapplied for the variance. He recalled the petitioner for Wok Inn, on Hayes, north of 19 Mile Road, and she has tried at least three times, and each time it has been a new request. He indicated it is rare for anyone to request an extension.

The consensus of the Board of Appeals was that there would not be anything wrong with the petitioner coming in front of this Board to request an extension.

Mr. Thompson stated when he interviewed for his position and was appointed as Director, one of his goals is to streamline the process and make the Township more development-friendly. He would like to see some of the empty buildings filled, and it is an incentive to a developer to make something a 10-week process that would have been a 30-week process. He is looking for ways to streamline that and has made some changes to the site plan process to get things done quicker in-house, with less paperwork. He explained he is seeking to narrow the approval process. If it is a variance that was approved before and everyone feels this is a good development for the area, he would like to see everyone together, as Planning Commission and Zoning Board of Appeals, to make it happen as quick as possible.

Mr. Marella agreed, and noted they have not had an Ordinance Update Committee meeting in a long time. He felt it is time for that group to meet again so they can bring the ordinances up to date.

Mr. Campbell noted the proposed Fifth-Third Bank is in front of Lowe's at 15 Mile and Gratiot, and he has heard that Lowe's is dropping signals that they may be closing some of their stores where there is another Lowe's within ten miles of one of their other stores. He suspected the Lowe's at Hall and Hayes is doing a greater amount of business, and he noted there is another Lowe's on Gratiot in Roseville.

Mr. Thompson stated he will advise the petitioner to come before this Board to resubmit to this Board, so they can get approved.

ADJOURNMENT

Motion by Mr. D'Angelo, supported by Mr. Pearl, to adjourn the meeting. Motion carried. The meeting adjourned at 8:23 p.m.

Respectfully submitted,

Robert M. Campbell

Robert M. Campbell, Secretary
CLINTON TOWNSHIP BOARD OF APPEALS

ces:10/22/18

ces:10/29/18

Approved 12/12/18