

STERLING HEIGHTS ZONING BOARD OF APPEALS
REGULAR MEETING
CITY HALL
JANUARY 28, 2016

LOCATION: City Council Chambers, 40555 Utica Road, Sterling Heights, MI
SUBJECT: Minutes of the Regular Meeting of the Zoning Board of Appeals held
January 28, 2016.

Mr. D'Angelo called the meeting to order at 7:05 p.m.

Members present at roll call: Derek D'Angelo, Dale Deming, David Graef, Pashko
Ujkic, Ray Washburn,

Members absent at roll call: Stefano Militello - Excused
Nick Najjar - Excused

Also in attendance: Chris McLeod, City Planner
Don DeNault, City Attorney

APPROVAL OF AGENDA

Moved by Washburn, supported by Mr. Graef, to approve the agenda.

Ayes: Washburn, Graef, D'Angelo, Ujkic, Deming

Nays: None

Absent: Mr. Militello, Mr. Najjar

Motion carried.

CORRESPONDENCE

Mr. McLeod stated there is one email correspondence for the first case to be presented tonight from the applicant asking for a postponement.

PZBA15-0027 - CANDI CANE WIRELESS

Requesting Board approval for a Use Variance to permit the open storage of rental trucks

and trailers in a C-1 (Local Convenience) district - South of Utica Road, west of Van Dyke in Section 04.

Property Address: 43167 Van Dyke

Mr. D'Angelo stated that the Petitioner was not present and Mr. McLeod referenced the email correspondence document requesting postponement from the Petitioner. Mr. D'Angelo stated as a matter of note for record, the Board has backup packets which also stated the property owner was not necessarily aware nor possibly in favor of this request for Use Variance that would go along with the property not the petitioners. With that, the Board can either postpone or proceed with the case. Is there a motion for this?

Mr. Washburn asked that before a motion is made, the representative of the property indicates that on behalf of the owners, "we do not consent to the application for the Use Variance or any other zoning change at the property, please withdraw the request from your agenda." Mr. Washburn stated that even if we postponed, if the property owners are indicating that they are not going to let it happen, are we just biding time on postponement.

Mr. D'Angelo stated that since they are on the agenda and we postpone it and they maybe find another address, could they continue with this Case number or would they need to refile if they change the property address.

Mr. McLeod stated they would need to refile. With a new address, new notification would be needed, new public hearing and notify the residents on that particular piece. So this specific case would be for this specific property. They would need to come to some agreement with the property owner to make this application move forward.

Mr. Washburn stated that even with what they (Candi Cane Wireless) requested "as per discussion, I would like to postpone my application for a maximum sixty (60) days until I can find another suitable location." So we would just carry this with us for another sixty (60) days and then deal with it then. Also, is there anyone present in the audience that was or would like to speak on this case.

Mr. D'Angelo asked for any public participation. There was none.

Motion by Ujkic, supported by Graef, in the case of PZBA15-0027, Candi Cane Wireless, to deny a Use Variance for the following reasons:
Strict compliance would not unreasonably prevent the owner from using the property for a permitted purpose, and;
There are no unique circumstances of the property that would render conformity unnecessarily burdensome.

Mr. D'Angelo asked Mr. Ujkic if this motion was to deny the case not withdraw.

Mr. Ujkic stated that is correct.

Mr. D'Angelo asked Mr. DeNault for advice on how the Board should handle this denial.

Mr. DeNault stated that he is not comfortable with a motion to deny because this is a subsistent motion and we do not have any evidence before us. He would prefer the motion to grant the request of the owner to withdraw it or to postpone it on the request of the applicant.

Mr. D'Angelo asked Mr. DeNault if Candi Cane Wireless has any standing to request this case before us if the property owner is opposed.

Mr. DeNault stated they have half of a standing and under the ordinances the other half, the owner, would need to come around, although they do not say so in the email correspondence that was received. It is somewhat implied that there is a possibility at least that there may be an explanation coming from the owner or a negotiation with the owner. Maybe that is why they are asking for more time. Unfortunately, the wording of the email is such that they really don't seem to be looking on coming back to this location. So maybe granting the owners request to withdraw would be the more prudent approach at this time.

Mr. Ujkic asked if he is to amend his motion.

Mr. D'Angelo stated that the motion to withdraw is obviously different than to deny and asked Mr. DeNault to explain.

Mr. DeNault stated that a motion to deny is the Board making a decision on the merits of the case. Allowing the withdraw would just be, essentially saying, they are not prepared to proceed at this time but the Board is not making any decision on the substance of the petition.

Mr. Graef asked that wouldn't the letter from the owner of the property be sufficient evidence to support a denial.

Mr. DeNault stated that he does not think this is a denial. The property owner is asking us to withdraw it or not act upon it.

Mr. D'Angelo asked Mr. Ujkic if he would like to amend his motion to reflect a motion for withdrawal instead of denial.

Mr. Ujkic stated yes, he is fine with that and Mr. Graef amends his support as well.

Mr. D'Angelo asked for any other discussion on the motion.

Mr. Washburn stated that he feels it's important to indicate that for one the Board, as a finding of fact, has a letter from the representative of the property owner indicating that they are definitely against this and they are not going to approve it. Even the letter from the petitioner who requested it, stating to postpone so that they can find another suitable location due to the landlord's decision without explanation. Mr. Washburn feels the motion to withdraw is somewhat redundant because the letter clearly states he is going to be requesting this but for another location, which at that point, there will need a new Case number. He also feels these items should be noted as findings of fact.

Mr. D'Angelo asked Mr. Ujkic if he was accepting of adding the items to be finding of facts to his motion.

Mr. Ujkic stated yes, and Mr. Graef amends his support as well.

Mr. D'Angelo asked for any other discussion. Being none, called for a vote.

Ayes: Ujkic, Graef, Washburn, Deming, D'Angelo
Nays: None
Absent: Militello, Najjar
Motion Carried.

PZBA15-0028 - HOLY MARTYRS CHALDEAN CATHOLIC CHURCH

Requesting Board approval for a Use Variance to permit an RM-3 (Multiple Family Mid and High Rise) in an M-1 (Light Industrial) zone - East side of Merrill Road between 19 Mile Road and 19 ½ Mile Road in Section 04.

Property Address: 43700 Merrill Road

Mr. D'Angelo asked Mr. McLeod for background on the case.

Mr. McLeod stated a similar application was before the Board in 2015 and that motion was denied due to lack of affirmative votes. This application is for a 96-unit senior citizen apartment building. Proposed are 84 one-bedroom units and 12 two-bedroom units. Unit sizes range from 719 square feet to 747 square feet. The apartments will exceed the ordinance minimums of 580 square feet for a one-bedroom unit and 700 square feet for a two-bedroom unit. Each floor will have common lounge areas for residents to socialize but because it is independent living, there will be no communal dining hall or resident services typical of what you would find in an assisted living facility.

Mr. McLeod stated that one of the issues that came up during discussions at the previous application was the number of parking spaces on site. The applicant has now provided approximately an additional 100 additional parking spots on this new application and stated that the proposal can meet all of the conditions specified in the zoning ordinance for a multiple family development as it relates to senior living. Additionally, the requested use variance is reasonable because the proposed conditions and development plans will ensure that the development will be constructed in accordance with a specific site plan.

Mr. McLeod stated that as a part of this overall application, the church itself is considered a non-conforming use. With the knowledge that some nonconforming uses, buildings or structures will not disappear, it is necessary and desirable in pursuit of the public interest to distinguish between nonconforming uses, buildings or structures which should be eliminated as rapidly as possible and nonconforming uses, buildings or structure which ought to be given separate treatment. In recognition of this fact, the Zoning Board of Appeals has the authority to permit some expansion or changes to lawfully existing nonconforming uses based upon the standards set forth in the ordinance. Approval has been granted in the past, most recently for the church parking lot expansion. It is clear that the church has been, and will remain, a part of the community. The addition of a senior housing component as part of the mission of the church is a reasonable and efficient use of the land.

Mr. McLeod stated that one of the other things that came up in the previous application was the issue of traffic. It was asked of him to contact the police department to determine if there were any traffic issues and accident issues on Merrill in excess of what would be considered the normal. The police department indicated that there was nothing abnormal about the traffic issues at this location. They did not feel there was anything in terms of the way that the uses onsite now or in that area were doing to create traffic issues.

Mr. D'Angelo called for the Petitioner to present the case.

Mr. Ruggeri, 43231 Schoenherr in Sterling Heights, on behalf of the petitioner Holy Martyrs Chaldean Catholic Church. He stated that back in August, there were some concerns on the parking and also on the distance of the building as it was facing Merrill Road. Per the previous site plan, the frontage of the building was significantly close to the main street of Merrill Road. The architect, who is present along with Father Mathews, moved the building an additional 120 from the road and added an additional 101 parking spaces. The church is active and growing by the day and with over 35,000 Chaldean residents in the area of Sterling Heights feels the senior living will certainly add a huge benefit to the church and community. He stated that the main problem with the site is that it is surrounded by industrial uses and feels it is unlikely, if ever, this property would be developed as an M-1 (Light Industrial) zoning even though that is what it is currently zoned. Mr. Ruggeri stated that he did meet with the neighbors who had the issues with the frontage and the parking and did go over the new plan.

Mr. D'Angelo asked for any questions from the Board.

Mr. Deming asked Mr. DeNault that since an independent senior living facility is proposed for a vacant portion of the church, is that taxable or nontaxable.

Mr. DeNault stated that it would church property so it would be nontaxable to his understanding.

Mr. McLeod agrees with Mr. DeNault as to his understanding as well.

Mr. Deming asked then what does the term independent mean then.

Mr. DeNault stated it means that the seniors living there have an independent living and do not need assisted living. It does not mean the facility itself is an independent entity.

Mr. Graef stated that basically this would mean that not only would they be independent, they may have vehicles of their own. There are 96 new units and 101 new parking spaces. That leaves five (5) extra spaces. This again addresses all the parking issues we had last time this was presented - parking for the seniors as well as parking for the church.

Mr. D'Angelo stated that if they were building this complex on a residential piece where they did not need a Use Variance for a 96 unit complex, how many parking spaces would they need.

Mr. McLeod stated that the 101 spaces is in addition to the number of parking spots already existing. They technically met the ordinance the last time they were here. They are over 100 spaces more than what the ordinance requires.

Mr. Ujkic stated that he would just like to point out that since this is a use variance and we do not have a full board, was the opportunity given to the petitioner to postpone.

Mr. D'Angelo stated he would like to proceed with any questions from the Board and from the public prior to seeing if Mr. Ruggeri would like to postpone. Mr. D'Angelo stated that he feels that Mr. Ruggeri is aware of the rules but will give him the opportunity to postpone.

Mr. D'Angelo asked Mr. Ruggeri if he was okay with this.

Mr. Ruggeri stated yes.

Mr. Washburn asked Mr. Ruggeri that the property that is currently proposed appears to project further forward into Merrill Road than a piece of property where the existing church building is. Mr. Washburn is wondering if that is a right of way and why the inconsistency as to the front lot line.

Mr. Ruggeri stated that he does think that is a right of way and that would all be landscaped.

Mr. McLeod stated that the reason why it may be like that is right of way lines usually do meander between properties depending on how and when they've developed.

Mr. Washburn asked if this was a separate piece of property at one time and did the church purchase this property.

Mr. McLeod stated he believes they were separate properties at one time.

Mr. Ruggeri stated he does not know the history of the property.

Mr. Washburn asked what the setback is from the front property line to the line at the edge of the parking.

Mr. Abdelnour, GAV Associates and Architect, present and representing the Parish, stated from the property line to the parking would be approximately 30 feet.

Mr. McLeod stated that the setback is one of the comments in the review, if approved, is that some of that parking that is right adjacent to Merrill will have to be removed to meet ordinance requirements. This can be addressed as this goes through site plan review. So that first row of parking would basically have to be removed.

Mr. Washburn asked if there would be any objections to setting that parking back 35 feet from the lot line of the church rather than the lot line where the building is going.

Mr. Ruggeri stated there is no objection to that.

Mr. Washburn also asked if there is any objection, in reference to how the building is to be structured, to a potential lot split to make this a separate piece of property to develop this building on, and which would possibly also eliminate Mr. Deming's question on if taxable property or not.

Mr. DeNault stated it would have no impact. It is still church property.

Mr. Washburn asked to cancel his question.

Mr. Ruggeri stated that he would like to address Mr. Deming's question regarding senior living and Mr. Graef's concern with parking. He stated there are three (3) types of senior living, independent, assisted, and memory care. These residents would be independent which means they are not dependent on third party care. The parking spaces consist of 476 and the statistics are pretty solid that with independent living, only 30% of residents own cars.

Mr. D'Angelo asked Mr. Ruggeri if there is any screening between the apartment and the southern industrial area.

Mr. Ruggeri stated he they will be adding landscaping and there are currently existing trees in that area.

Mr. D'Angelo asked Mr. McLeod if there was a residential zone buffering an industrial zone, would there be a screening requirement of 6 foot wall between those districts. His

concern is with the residents in years to come not necessarily liking the industrial part of it being so close and that these issues are minimized.

Mr. McLeod stated that typically in that scenario the industrial use would be offering the protection from the residential. There is no requirement in this specific case, but as a use variance, the Zoning Board has the right to impose conditions if felt necessary.

Mr. D'Angelo asked if any of the other Board members shared this concern and if something could be done at the site plan review process.

Mr. Washburn stated that maybe not so much as the buffering but for privacy purposes.

Mr. D'Angelo asked for any other questions from the Board. None

Mr. D'Angelo opened for any questions / comments from the public.

Connie O'Malley, 6171 Goff, asked how many parking spaces they are losing when they have to fix the right of way from 30 to 35 feet.

Mike Davidson, 43515 Merrill, has parking concerns.

Mr. D'Angelo asked for any more public participation. Being none. Public participation closed.

Mr. D'Angelo asked for comments from Mr. McLeod.

Mr. McLeod stated that the first solution would be to remove the first nine (9) spots and there is a fairly easy solution at the back corner of the parking lot where they could easily pick up those lost spaces.

Mr. Washburn stated that if the first two (2) rows of parking were taken out of the front and relocated to the back, it would be the exact same walking distance both ways.

Mr. D'Angelo stated that Mr. McLeod had good direction in that during the site plan review process this could all be handled at that point.

Mr. McLeod stated that this could be handled at site plan review.

Mr. Deming stated he has an issue with this nontaxable property. If voting yes, it gives the Church a business without having to pay taxes. To the best of his knowledge, every other senior living facility pays tax. Mr. Deming stated that he would like a postponement to research the Sterling Heights area for other cases like this because right now, his vote is no.

Mr. D'Angelo stated that churches with daycares do not have pay taxes compared to other daycare facilities that do.

Mr. D'Angelo asked Mr. Ruggeri, since they are short two commissioners, and five affirmative votes for an approval, would he like a postponement.

Mr. Washburn asked Mr. DeNault, prior to Mr. Ruggeri answer for postponement, if this topic is in their scope and if they should be considering issues such as this.

Mr. DeNault stated if you start getting into specifics as to is it taxable / nontaxable, each of the commissioners brings their own judgment and opinion.

Mr. Ruggeri stated that he feels the tax issue has nothing to do with the Use Variance.

Mr. DeNault stated that he feels the same way but he has to look at the standards and each Board member has to decide for themselves if this is a factor.

Mr. Ruggeri stated that he feels this is a non-factor and feels it should not be considered. If no is going to be the vote, then he requests for a postponement and will take it up again at the next meeting.

Mr. D'Angelo stated that as a matter of the past minutes, Mr. Don Mende stated this would be the first facility of its kind owned by a church and the City of Sterling Heights and Mr. DeNault talked about St. Athanasius.

Mr. DeNault stated there is something there but not sure if the church owns it or not.

Mr. Ruggeri stated that before in August when they had the presentation and it was a deadlock, that's why it didn't pass and the only issue was, from what he understood, was the parking and the setback. Taxable property was never brought up or an issue and not a concern for this request.

Mr. D'Angelo asked Mr. Deming that if there were no other findings such as this, his vote would be no.

Mr. Deming stated his vote would be no that is why he is suggesting to the Petitioner to request for a postponement when a full Board is present. He could be out voted.

Mr. D'Angelo called for a motion.

Motion by Graef, supported by Ujkic, in the Case of PZBA15-0028, Holy Martyrs Chaldean Catholic Church, 43482-43700 Merrill Road, to postpone the request to the next regular meeting so that the petitioner may provide additional information to the Board.

Mr. D'Angelo asked for any discussion on the motion. None

Ayes: Graef, Ujkic, Washburn, D'Angelo, Deming
Nays: None
Absent: Militello, Najjar
Motion Carried.

PZBA15-0030 - DON FRANKLIN

Requesting Board approval for a 2' height variance for the construction accessory building. North side of Moravian, east of Schoenherr. Moravian and 15 Mile Road in Section 36.

Property Address: 34467 Moravian

Mr. D'Angelo asked Mr. McLeod for background on the case.

Mr. McLeod stated this property is just over an acre in size with 121 feet of frontage. The property does back into Consumers Energy property along the Red Run drain. Several other properties along Moravian do have smaller accessory buildings located in the rear yard of each property. The petitioner is intending to construct an accessory building of approximately 35 x 50 feet which totals approximately 1,750 square feet. The building will have windows along the sides of the building and will be located at the rear of the residents itself will be 20 feet off that eastern property line. And as noted, the requested variance for the height is to go to 17 feet rather than the required 15 feet keeping in mind we measure to the midspan of the roof itself. A driveway is proposed along the eastern side of the residence along the eastern property line. Based on the location of the accessory building and configuration of the existing residences, the accessory building will be largely obscured from view from Moravian.

Mr. D'Angelo opened for the petitioner.

Mr. Don Franklin, petitioner, stated that his motorhome is 13 foot high and he needs a 14 foot door and that is the only reason he needs to have it higher.

Mr. D'Angelo asked Mr. Franklin if there has been any change to the elevation plan.

Mr. Franklin stated there has not.

Mr. D'Angelo asked for any questions from the Board.

Mr. Washburn asked if there was a house on this site before.

Mr. Franklin stated no.

Mr. Washburn stated there is an accessory building that currently exists on this site.

Mr. Franklin stated yes, there was a small garage that needs to be torn down.

Mr. Washburn asked if he knew what purpose the garage served.

Mr. Franklin stated he did not.

Mr. Washburn asked and the existing concrete is presumably where the existing garage is and when will the garage be taken down.

Mr. Franklin stated yes and stated whenever the builder is ready to go.

Mr. Washburn suggested stating something that would indicate the existing structure would need to be removed prior to occupancy being granted to the pole barn be in the motion.

Mr. McLeod stated that this is actually one of the suggestions / conditions that exist in the staff report.

Mr. Graef asked if they would even issue a permit prior to that one being torn down.

Mr. McLeod stated that he thinks this is already a condition of the house permit.

Mr. D'Angelo asked for any other questions from the Board. None.

Mr. D'Angelo opened for any questions / comments from the public. None.

Mr. D'Angelo asked for any other discussion from the Board or a call for motion.

Motion by Graef, supported by Washburn, in the Case of PZBA15-0030, Don Franklin, 34467 Moravian, to approve the requested variance, with the following conditions:

1. That the decision of the Board will remain valid and in force as long as the facts and information presented to the Board in Public Hearing are found to be correct, and that the conditions upon which the motion is based are forever maintained as present to the Board. The petitioner agrees to abide by and comply with all the ordinances of the City of Sterling Heights and the regulations of every lawful agency or governing authority now or hereafter in force;
2. Notice of the approval of the variance shall be delivered to the City Clerk's office within 60 days after the approval date of the applicable meeting minutes for recording with the Macomb County Register of Deeds. Failure to file this notice shall serve as grounds to revoke the variance;
3. A Hold Harmless Agreement, in favor of the City of Sterling Heights, shall be delivered to the City Clerk's office within 60 days after the approval date of the applicable meeting minutes for the recording with the Macomb County Register of Deeds. Failure to follow this agreement shall serve as grounds to revoke the variance;
4. That all appropriate permits and approvals be obtained by the City's Building Department for the construction of the accessory building;
5. That the existing accessory building located in the front of the residence being constructed is removed and obtains the appropriate permits for such removal.

Mr. D'Angelo stated that he feels that as a matter of record and findings of facts, that this piece of property is unique because it is an abnormally large piece of property. The lot depth is over 400 feet and 121 feet of frontage on Moravian and this will be located in the rear of the property and will not be higher in height as the home.

Mr. Washburn also asked for adding into the finding of fact be that the site will be brought into compliance with requirement in ordinance with removal of an existing accessory structure which is now located in front of home that is being constructed.

Mr. D'Angelo asked for any discussion on the motion.

Ayes: Graef, Washburn, D'Angelo, Deming, Ujkic

Nays: None

Absent: Militello, Najjar

Motion Carried.

PZBA15-0031 - AGS STERLING NORTH

Requesting Board approval for a 15' side yard setback variance adjoining properties to allow a temporary structure to be built across South side of Sterling Drive North, between Mound and Van Dyke.

Property Address: 6690 Sterling Drive North and 6710 Sterling

Mr. D'Angelo asked Mr. McLeod for background on the case.

Mr. McLeod stated that the request is for side variances on both 6690 and 6710 Sterling Drive North. Abutting properties utilized by the same company however under separate owners. It was discussed to combine the properties but that was to no prevail so they are going this route in terms of the setback. Basically the applicants are requesting permission to connect the two buildings via what is technically a temporary structure but is designed to stay there in a permanent fashion. This would be a tunnel like structure that will provide access between the two buildings. The properties are zoned M-2 (Heavy Industrial) district. This would be a 15 foot variance on each property. The structure itself and overall footprint size is about 93 feet and 22 feet in width with **approximate height of 16 ½ feet. This concept has been discussed with the Fire Department, the Engineering Department, the Building Department, and the Planning Department and those departments, even though they will go through their individual reviews, said within reason this is not an issue.**

Mr. D'Angelo opened up for petitioner.

Ed Cutler with AGS, stated they shuttle products between the two buildings and they have leases on the both of the buildings and the owners have been supportive on construction of the structure. During the winter months, it is hard to get the products from one building to the other safely with hi-lows and also for the safety of our employees.

Mr. D'Angelo stated that his concern with this request is that it is stated as a temporary structure and the definition of temporary is less than a year in the zoning ordinance. He asked what the time frame is that they are looking for and from what it sounds like, this is an indefinite temporary request.

Mr. Cutler stated the structure does not need to be standing 12 months out of the year and November through March would most likely be the months that it would be needed.

Mr. D'Angelo asked for questions from the Board.

Mr. Graef stated that the only problem with them having to take it down, is where do they store something like that.

Mr. D'Angelo asked Mr. Cutler if they want to take it down once up.

Mr. Cutler stated not necessarily. Their main focus is for the winter but if taking it down is what the City would like, then they would just need to accommodate.

Mr. Washburn asked if there is some way the Board could have the petitioner verbally ask to amend this request from temporary to permanent and then table it until sometime in the fall and revisit later when the petitioner may be in a position to make permanent.

Mr. Cutler stated that he appreciates that but unless they purchase this property, they are not looking to spend to enhance it an actual permanent structure.

Mr. D'Angelo stated that they could motion to give them two (2) years from now to bring this back before the Board which would give them the rest of this winter and next winter.

Mr. Deming stated that if they took the temporary out of the request it would be permanent.

Mr. Washburn stated that once the structure was removed, then the variance would be gone, so in order to put it back up again, they would need to come back.

Mr. Deming stated then make it permanent. That way he doesn't have to come back and not have to take it down. They do not own the building so they may never come back if it is removed.

Mr. DeNault stated that he doesn't think that taking it down eliminates the variance. I do agree that "temporary" does have a definition but what is presented is to decide whether or not the 15 foot side yard setback is appropriate for what they are proposing to do and what they are proposing to do is erect this tunnel like structure to use. It's removable. The Board has the discretion at this point to say okay we understand this and will grant it or the Board can condition it somehow.

Mr. Washburn asked Mr. Cutler if they were just put salt outside to eliminate the ice problem, is this going to do something to what it is that you are moving back and forth.

Mr. Cutler stated that one building is a stamping plant and the other is an assembly plant. What is being moved is raw steel.

Mr. D'Angelo asked for any other questions from the Board. None

Mr. D'Angelo asked for any public participation. Being none closed public participation and call for a motion.

Motion by Ujkic, supported by Washburn, in Case PZBA15-0031 - AGS Sterling North, 6690 Sterling Drive North and 6710 Sterling, to approve the requested 15' side yard setback variance on both properties 6690 Sterling Drive North and 6710 Sterling Drive North to allow temporary structure to be built across from both properties subject to the following conditions:

1. That the decision of the Board will remain valid and in force as long as the facts and information presented to the Board in Public Hearing are found to be correct, and that the conditions upon which the motion is based are forever maintained as present to the Board. The petitioner agrees to abide by and comply with all the ordinances of the City of Sterling Heights and the regulations of every lawful agency or governing authority now or hereafter in force;
2. Notice of the approval of the variance shall be delivered to the City Clerk's office within 60 days after the approval date of the applicable meeting minutes for recording with the Macomb County Register of Deeds. Failure to file this notice shall serve as grounds to revoke the variance;
3. A Hold Harmless Agreement, in favor of the City of Sterling Heights, shall be delivered to the City Clerk's office within 60 days after the approval date of the applicable meeting minutes for the recording with the Macomb County Register of

Deeds. Failure to follow this agreement shall serve as grounds to revoke the variance;

4. That all necessary permits and approvals are obtained from the City of Sterling Heights by the applicant for the construction of a temporary structure including any necessary engineering and fire department reviews as well as building code of appeals.
5. That should the users within the two buildings no longer be the same, the temporary structure must be removed.
6. That should the temporary structure be cited as being in a state of disrepair or in an otherwise blighted condition, that the structure either be repaired appropriately or removed from the property.
7. That should emergency access through the maneuvering lane being traversed by the structure ever be deemed necessary by the City of Sterling Heights Fire Department, that the structure be removed.

Mr. D'Angelo asked for any discussion on the motion.

Mr. Washburn asked Mr. DeNault if they should be removing the term temporary and inserting a different term.

Mr. DeNault stated if you want to substitute "removable" he has no objection and that may even be more appropriate.

Mr. Ujkic amends his motion, and Mr. Washburn supports the amendment as well.

Mr. Washburn would like to add as a Finding of Fact that material in raw state is being transferred from one building to the other to keep out of the weather.

Mr. Ujkic accepts and amends his motion; Mr. Washburn supports the amendment as well.

Mr. D'Angelo asked for any other discussion on the motion. None

Ayes: Ujkic, Washburn, D'Angelo, Deming, Graef
Nays: None
Absent: Militello, Najjar
Motion Carried.

APPROVAL OF MINUTES:

Motion by Washburn, supported by Ujkic, to approve the minutes of the December 17, 2015.

Ayes: Washburn, Ujkic, D'Angelo,
Nays: None
Abstained: D'Angelo, Deming, Graef
Absent: Militello, Najjar
Motion Fails.

Mr. DeNault stated it can be moved to next month's agenda under Approval of Minutes or Old Business.

NEW BUSINESS

Approval of the Meeting Dates for 2016.

Motion by Graef, supported by Ujkic to approve the meeting dates of 2016.

Ayes: Graef, Ujkic, Washburn, D'Angelo, Deming,
Nays: None
Absent: Militello, Najjar
Motion Carried.

OLD BUSINESS

Mr. Deming stated that several years ago, a petitioner came in have an “off location” signage advertising Sunny Brook Golf Course, Hotel, etc. That sign is on the southeast corner of Van Dyke and 17 Mile Road. In his opinion, it’s kind of an eye sore and none of the conditions exist when the variance was granted. He would like to see this sign taken down.

Mr. D’Angelo asked Mr. Deming if this was a variance that was approved.

Mr. Deming stated yes.

Mr. D’Angelo stated that they would ask the City Administration review that and if applicable, place it on our agenda for a further meeting.

Mr. McLeod stated he will look into this and proceed as directed.

PUBLIC PARTICIPATION

None

MOTION TO ADJOURN

Motion by Graef, supported by Ujkic, to adjourn.
Ayes: Graef, Ujkic, Washburn, D’Angelo, Deming
Nays: None
Absent: Militello, Najjar
Motion Carried.

The meeting adjourned at 8:50 P.M.

Respectfully submitted,

Derek B. D’Angelo, Chairman
Zoning Board of Appeals