

STERLING HEIGHTS ZONING BOARD OF APPEALS
REGULAR MEETING
CITY HALL
October 27, 2016

LOCATION: City Council Chambers, 40555 Utica Road, Sterling Heights, MI
SUBJECT: Minutes of the Regular Meeting of the Zoning Board of Appeals held
October 27, 2016.

Mr. D'Angelo called the meeting to order at 7:02 p.m.

Members present at roll call: Derek D'Angelo, Dale Deming, Junina Jean, Stefano Militello, and Pashko Ujkic

Members absent at roll call: David Graef, Ray Washburn

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

APPROVAL OF AGENDA

Motion by Mr. Militello, supported by Mr. Ujkic, to **APPROVE** the Agenda.

Ayes: Militello, Ujkic, D'Angelo, Deming, Jean

Nays: None

Absent: Graef, Washburn

Motion carried.

CORRESPONDENCE

Michigan Planner

PZBA16-0006 - Reem Properties, LLC

Requesting Board approval for a use variance to allow an "automobile repair garage" as defined within the City's Zoning Ordinance within a C-3 zoning district - North side of Fifteen Mile Road, west side of Mound Road in Section 29.

Property address: 5673 Fifteen Mile Road

Mr. D'Angelo asked Mr. McLeod to give an overview of the case.

Mr. McLeod displayed site plan and gave an overview stating the request is for a heavy repair facility for automobiles, which is collision work, engine work, etc. He went through the differences for the proposed use versus the specific requirements of an automobile repair garage if under a typical zoning district.

Mr. D'Angelo asked petitioner to come forward to the podium.

Jeffrey Hicks, representing Reem Properties, stated there is a six foot masonry wall along the western boundary. It has been there since 1989, and there are pine trees that block the view beyond the height of the wall. He stated they would provide a fencing that would block any views. He talked about the current use of the property and stated tenants may leave and be hard to replace.

Mr. D'Angelo asked if there were any other questions from the Board.

Mr. Ujkic stated they do not have a full Board present. He asked the petitioner if he plans on bringing in new tenants or keep existing tenants that are already there. He also asked where they will keep any vehicles they need to stored.

Mr. Hicks stated the property is fully occupied and hope to keep existing tenants, but two tenants will be leaving if variance isn't granted. Any storage of vehicles would be in a fenced in area according to the ordinance.

Mr. Ujkic asked Mr. McLeod if there has been any feedback from the neighbors of this property.

Mr. McLeod stated nothing has been received for this case.

Mr. D'Angelo asked the petitioner why they do not want to do a masonry wall.

Mr. Hicks explained the space restrictions in relation to the existing fence, curbs and parking configuration.

Mr. Militello stated for a masonry wall could be placed as required. He stated he does not see the hardship for the proposal of this property.

Mr. D'Angelo asked the petitioner for some history of the property.

Mr. Hicks stated in 1989 the property was developed by Sterling Associates and his client bought the property in 2005. The property was developed under the old Zoning Ordinance. The original intent was for an auto mall. He stated it has not been economically feasible, in the last several years, not being able to provide more varied range of services.

Sam Amodi was also present.

There was discussion between the Board and the petitioner as to what is going on currently at the property. Mr. Hicks stated there were issues in the past and they have been dealt with and the property is operating within the ordinance.

Mr. Ujkic stated he would consider supporting the proposal if a masonry wall would be installed on the property.

Mr. Deming stated he is not in favor of a masonry wall; there are other screenings that could be used.

Ms. Jean asked the petitioner how many tenants there are and what kind of revenue is generated. She also asked about the tenants leases.

Mr. Amodi stated there are six tenants. Two of the tenants lease has expired and are paying month to month. They are waiting for the outcome of the proposal for the zoning ordinance.

Mr. Hicks stated the taxes for the property are \$30,000 and there is a substantial mortgage note on the property. To be able to pay the note, the owner would need full tenant occupancy.

Mr. Deming stated he would like to hear public comments about the proposal. He stated if the surrounding residents and neighbors do not have a problem, why should there be a masonry wall.

Mr. Militello stated he would suggest a postponement. At present time, he is not in favor of the proposal.

Mr. D'Angelo stated it is an intense use of the property. The original intention was for a less intense use, partly to protect the abutting residents.

Mr. Hicks stated with the surrounding area, they do not believe they are asking too beyond what already exists.

Mr. D'Angelo asked if there were any other questions from the Board. Being none, he asked for public participation.

Mr. Kerm Billette, professional community planner, mentioned the alternatives to a masonry wall and asked about the location of fence for storing vehicles.

Mr. D'Angelo asked for any other public participation. Being none, he asked the Board if there were any other questions or discussion.

Motion by Mr. Militello, supported by Mr. Ujkic in the case of PZBA16-0006, Jeffrey Hicks (Reem Properties), 5673 15 Mile Road, I move to **POSTPONE** the request to the November 17th meeting so that the petitioner may provide additional information to the Board.

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

Mr. D'Angelo explained to the petitioner the reason for the postponement is to have a full Board present and to decide what would be best as far as the masonry wall or a chain-link fence.

Mr. Ujkic stated maybe a type of fencing would be suitable instead of a masonry wall.

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

Ayes: Militello, Ujkic, D'Angelo, Deming, Jean

Nays: None

Absent: Graef, Washburn

Motion Carried

PZBA16-0024 - Dan Patrus

Requesting Board approval for a thirty (30) foot variance which if granted would allow for parking within the required front yard setback - South side of Fifteen Mile Road between Van Dyke and Mound Road in Section 33.

Property address: 6600 Fifteen Mile Road

Mr. D'Angelo asked Mr. McLeod to give an overview.

Mr. McLeod explained the two areas would provide parking for the general public. When reducing the green space for a front yard setback there is usually additional landscaping required.

Mr. D'Angelo asked petitioner to come forward to the podium.

Dan Patrus came forward to the podium. He explained currently there are only two visitor spots in front, opposite of the chain link fence. He stated they are currently only asking for 10 spots and 2 barrier free spots on the east end.

Mr. D'Angelo asked why they picked one side over the other.

Mr. Patrus stated the east end is closer to the doors to the lobby and the cost for the west end would be higher. He stated they will be revamping the front of the building as well as redoing the landscaping in the front to beautify the property. They would add landscaping to the parking area.

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

There was much discussion between the Board and Mr. Patrus regarding the landscaping for the property.

Mr. D'Angelo asked if there were any other questions for the petitioner.

Mr. Deming asked if the petitioner were granted the variance, would he have to seek approval for a large tree removal from somewhere.

Mr. McLeod stated removing a single tree, generally does not have an impact on the site.

Mr. D'Angelo asked if there were any other questions for the petitioner. Being none, he asked for public participation. Being none, he asked for further discussion or a motion.

Motion by Mr. Militello, supported by Mr. Ujkic, in the case of PZBA16-0024, Maccomb Group, 6600 15 Mile Road, I move to **APPROVE** the requested 30-foot variance to the front yard setback requirements for the following reasons:

- 1) First, a practical difficulty exists in carrying out the strict letter of the Zoning Ordinance, and the practical difficulty is due to the unique circumstances of the property and is not self-created. All of the other requirements in the Zoning Ordinance for approving a non-use variance have been established in the record, and granting the variance will observe the spirit of the Zoning Ordinance.
- 2) Second, the following additional facts have been established as part of the record:
 - a. Portions of the existing parking lot currently have a similar setback.
 - b. The site as currently developed has minimal public parking area available that is not fenced in or otherwise secured.
 - c. The intensification of the greenbelt plantings will offset the reduction of the required greenbelt.
 - d. A dedicated public parking area along the frontage of 15 Mile Road is the most appropriate location on the site, due to the existing parcel development and the fact that the site is secured with existing fencing.

This motion includes the following conditions:

- 1) First, the information provided to the Board must remain accurate, and the approval of the variance and a Hold Harmless Agreement in favor of the City must be recorded with the Register of Deeds. These requirements will be provided to the petitioner in writing. Failure to follow these requirements will be grounds to revoke the variance.
- 2) Second, the petitioner must comply with the following condition requested by the Office of Planning:
 - a. Appropriate site plan and engineering approvals must be sought and obtained prior to any construction and any additional site plan requirements that may arise as part of such a review must be implemented.
 - b. The dimensional changes as outlined in the Planning Department's staff report be implemented to reduce the impact to the overall front greenbelt and increase the parking islands.
 - c. A landscaping plan will be provided to the Planning Department that meets the City's new nonresidential landscaping standards to the greatest extent possible, as determined by the City Planner, and provides increased landscaping along the 15 Mile Road frontage.
 - d. The use of bumper blocks is prohibited.

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

Mr. McLeod suggested condition "d" should be reworded since the petitioner is not requesting a variance for the western parking area.

Motion by Mr. Militello, supported by Mr. Ujkic to **AMEND** condition "d".

Mr. D'Angelo asked for any further discussion on the motion. Being none, called for a roll call vote.

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

PZBA16-0023 Michael Boguth

Requesting Board approval for 1) a twenty-six (26) foot variance to allow for parking and vehicle display within the required front yard setback; and 2) a variance to not provide the required street trees along the road frontage; and 3) a variance to not provide the required parking lot trees within the proposed parking/display area - West side of Mound Road, north of 15 Mile Road in Section 29.

Property addresses: 35235, 35269, 35311, 35401, and 35445 Mound Road

Mr. D'Angelo asked Mr. McLeod to give an overview.

Mr. McLeod explained this is a continuation from the ZBA meeting last month. Two directives were given by the ZBA; the application would be re-noticed and the ZBA wanted to see more landscaping than what was being proposed by the applicant. On October 13th, 2016 the site plan was reviewed by the Planning Commission and the Planning Commission approved the site plan subject to conditions.

Mr. McLeod gave an overview of the landscape plans. He stated he spoke with a resident who abuts the northern end of the property and the resident is requesting a privacy fence along his property line rather than a chain link fence.

Mr. D'Angelo asked petitioner to come forward to the podium.

Michael Boguth came forward to the podium. He stated he was unaware of the privacy fence request and would like to know a little more detail.

Mr. Militello asked Mr. McLeod what kind of privacy fence does the resident want.

Mr. McLeod stated the resident just specified a privacy fence. He stated maybe a PVC type would be appropriate for longevity rather than a wood fence.

Mr. D'Angelo asked the petitioner when the construction would begin if the ZBA gave its approval.

Mr. Boguth stated construction would begin in the spring.

Mr. D'Angelo asked Mr. Boguth what is the hardship why the trees cannot be planted in the display area.

Mr. Boguth stated they would prefer not to have them for display reasons.

There was much discussion regarding what type of fencing should be along the northern property line.

Mr. D'Angelo asked for any further question from the Board. Being none, he asked for public participation. Being none, he asked for a motion.

Motion by Mr. Militello, supported by Mr. Ujkic in the case of PZBA16-0023, Michael Boguth - Price Right, 35235, 35269, 35311, 35401, and 35445 Mound Road, I move to **APPROVE** the requested variances (1) to the requirement of screening trees along the road frontage and (2) to permit parking within the required front yard setback for the following reasons:

- 1) First, a practical difficulty exists in carrying out the strict letter of the Zoning Ordinance, and the practical difficulty is due to the unique circumstances of the property and is not self-created. All of the other requirements in the Zoning Ordinance for approving a non-use variance have been established in the record, and granting the variance will observe the spirit of the Zoning Ordinance.
- 2) Second, the following additional facts have been established as part of the record:
 - a) The variance will be consistent with the development of the adjoining parcels to the south, which are part of the same overall site.
 - b) The applicant has provided an acceptable low level landscaping plan for the frontage of the site.
- 3) Third, the petitioner must comply with the following additional conditions:
 - a) The petitioner will plant additional trees.
 - b) The petitioner will add decorative fencing.
- 4) Fourth, the following additional fact has been established as part of the record:
 - a) The applicant has been granted a similar variance for front yard setback on the property to the south previously and the requested variance would provide continuity between development phases.

This motion includes the following conditions:

- 1) First, the information provided to the Board must remain accurate, and the approval of the variance and a Hold Harmless Agreement in favor of the City must be recorded with the Register of Deeds. These requirements will be provided to the petitioner in writing. Failure to follow these requirements will be grounds to revoke the variance.
- 2) Second, the petitioner must comply with the following conditions requested by the Office of Planning:
 - a) Appropriate engineering and building approvals must be sought and obtained prior to any construction or development of the site, and additional site plan requirements that arise as part of such a review must be implemented.
 - b) The landscaping beds must be provided on the applicant's property and not within the road right of way.
 - c) The proposed one-way exit drive must meet planning and engineering standards and be reduced to a width of no more than thirty (30) feet in width consistent with the conditions imposed by the Planning Commission.
 - d) The applicant must comply with all conditions of the Planning Commission approval of October 13th, 2016.

There was discussion among the Board and the petitioner regarding the number of trees that should be planted in the display area.

Mr. D'Angelo expressed he would like see a couple trees on the northern islands, a few trees (arborvitae type) periodically along the northern property line, and a column type tree on each of the front islands.

Mr. D'Angelo asked for any further discussion on the motion. Being none, he called for a roll call vote.

Ayes: Militello, Ujkic, D'Angelo, Deming, Jean

Nays: None
Absent: Graef, Washburn
Motion Carried

Mr. D'Angelo requested the third motion be separated from the other two.

Motion by Mr. Militello, supported by Mr. Ujkic, in the case of PZBA16-0023, Michael Boguth - Price Right, 35235, 35269, 35311, 35401, and 35445 Mound Road, I move to **APPROVE** the requested variance to not provide the required amount of trees in the parking display area for the following reason:

A practical difficulty exists in carrying out the strict letter of the Zoning Ordinance, and the practical difficulty is due to the unique circumstances of the property and is not self-created. All of the other requirements in the Zoning Ordinance for approving a non-use variance have been established in the record, and granting the variance will observe the spirit of the Zoning Ordinance.

This motion includes the following conditions:

- 1) First, the information provided to the Board must remain accurate, and the approval of the variance and a Hold Harmless Agreement in favor of the City must be recorded with the Register of Deeds. These requirements will be provided to the petitioner in writing. Failure to follow these requirements will be grounds to revoke the variance.
- 2) Second, the petitioner must comply with the following conditions requested by the Office of Planning:
 - a) A variance that the petitioner is not required to provide parking lot trees within the proposed parking display area except those required by the planning commission.

Ayes: Militello, Ujkic, Deming, Jean
Nays: D'Angelo
Absent: Graef, Washburn
Motion Carried

APPROVAL OF MINUTES

Motion by Mr. Deming, supported by Mr. Militello to **APPROVE** minutes for September 22, 2016 meeting.

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

NEW BUSINESS

Mr. Ujkic welcomed Ms. Jean to the ZBA.

OLD BUSINESS

None

PUBLIC PARTICIPATION

None

MOTION TO ADJOURN

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Motion by Mr. Militello, supported by Mr. Deming, to **ADJOURN**.
Ayes: Militello, Deming, Ujkic, D'Angelo, Jean
Nays: None
Absent: Graef, Washburn
Motion Passed

Meeting adjourned at 9:13 P.M.

Respectfully submitted,

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