

WARREN ZONING BOARD OF APPEALS
REGULAR MEETING
MAY 11, 2016

A Regular Meeting of the Warren Zoning Board of Appeals was called on Wednesday, May 11, 2016 at 7:30 p.m. in the Warren Community Center Auditorium, 5460 Arden Avenue, Warren, Michigan 48092.

Members of the Board present:

Roman Nestorowicz, Chairman
Judy Furgal, Vice-Chairwoman
Sherry Brasza, Secretary
Jeremy Fisher, Asst. Secretary
Ann Pauta
Albert Sophiea
Henry Brasza
Charles Anglin
Jeremy Wallace

Members of the Board absent:

None

Also present:

Roxanne Canestrelli, City Attorney
Everett Murphy, Chief Zoning Inspector

1. CALL TO ORDER

Chairman Nestorowicz called the meeting to order at 7:32 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Board Member Fisher at this time was not present.

4. ADOPTION OF THE AGENDA

Motion:

Board Member H. Brasza made the motion to adopt the agenda. Board Member Pauta supported the motion.

Chairman Nestorowicz said they have a motion by Board Member H. Brasza and support by Board Member Pauta.

Voice Vote:

A voice vote was taken on the motion. The motion carried (8 – 0).

5. APPROVAL OF THE MINUTES OF the **Regular Meeting of April 27, 2016.**

Motion:

Board Member Furgal made a motion to approve the minutes. Board Member H. Brasza supported the motion.

Chairman Nestorowicz stated motion Board Member Furgal and support by Board Member H. Brasza for approval.

Voice Vote:

A voice vote was taken on the motion. The motion carried (7 – 0).

Chairman Nestorowicz said the minutes have been approved for the meeting of April 27th.

6. PUBLIC HEARING:

APPLICANT: Tech Plaza LLC / Mr. Tom Petzold
(Rescheduled from 04/13/2016)

REPRESENTATIVE:

Mr. Tom Petzold

COMMON DESCRIPTION:

8303, 8309, 8317, 8323, 8325, 8331, 8335, 8339,
8341, 8345, 8347, 8349, 8351, 8353, 8357, and
8359 E. Twelve Mile Road

LEGAL DESCRIPTION:

13-10-353-010

ZONE:

C-2 & P

VARIANCES REQUESTED: Permission to

Install one (1) informational sign, hung from a walkway canopy of a size not to exceed four (4) square feet, for each business who has an entrance located beneath the plaza canopy.

ORDINANCES and REQUIREMENTS:

Section 2.67 – Shopping Center. A group of commercial establishments, planned, developed, owned and managed as a unit related in location, size, and type of shops to the trade area that the unit serves; it provides onsite parking in definite relationship to the types of sizes of stores.

Section 4A.37 Paragraph (d): Shopping centers. Section 4A.37 – Shopping Centers. Regardless of the zoning district, shopping centers as defined in section 2.67 are permitted the following signage: One (1) informational sign, hung from a walkway canopy of a size not to exceed two (2) square feet, shall be allowed for each business located in the shopping center.

Chairman Nestorowicz asked them to state their name and address for the record, along with the reason for the petition.

Tom Petzold began talking but is in audible due to microphone not turned on.

Chairman Nestorowicz asked to check the microphone.

Tom Petzold, 20630 Harper Avenue in Harper Woods, stated the reason for his request is to provide a way finding signage for the tenants of the shopping center. He asked the Board if he would like him to start.

Chairman Nestorowicz asked him to please start.

Tom Petzold said to give a little back up, he wasn't available at the time the first time this subject came up a month ago, he had some of his office come in his absence. At that hearing she opted to table it so he appreciates the opportunity to come and talk today about it. A little bit of background of where they are in this process, he believes in the month of March, if he has his dates right, Five Below included the under canopy sign in its application for its building sign and it was approved.

Board Member Fisher arrived at 7:35 p.m.

When they had that design, and it's the same design they're talking about today, it's a four foot sign that's four foot wide and one foot tall and it's mounted to the ceiling of the canopy. Five Below had their sign approved in March and at that time there was a discussion after that approval that he should come in front of this Board and see if he can get a blanket permit so when he opens up individual stores in the future they don't have to keep adding the same blade sign to each one of those sign applications. They could have a right to be able to put one blade per store entrance across the canopy and that was the purpose of the application, which had the hearing in April. March they get the approval of Five Below, they put the Five Below sign up. He had a March 17th opening of Marshalls and an April 1st opening of Ulta. So he had these two other stores that were coming to be opened and at the time that the Five Below sign person put the Five Below sign up he gave him his instruction to add the other two signs which were requirements of Marshalls and Ulta in order to open their business inside their lease. He was honoring a lease and assuming that he would be able to come in shortly thereafter and obtain the requisite permit albeit expo facto of putting the signs up. He wanted to lay out the time table of that decision and he wants to start by expressing respect for the sign ordinance and their job because he knows it's important to make sure that the city has signs that are regulated and he doesn't want to disrespect that. He wanted to make sure that he had an opportunity to explain the time table. Right now, he does have the three signs are up, Five Below, Ulta and Marshalls. Five Below is permitted, Marshalls and Ulta are not permitted and they would be part of the blanket for it to be granted. He put some materials in their packets and he wanted to talk a little bit about those. The first one he'll talk about has the plan of the shopping center, hopefully everything they have has been stabled together. There is a packet stabled together with a plan of the center on it. He put notes on it that show the dimensions of the canopy. The canopy that faces Twelve Mile is a three hundred and sixty-five foot span from one end to the other. The canopy that runs facing Van Dyke is three hundred and twenty-five feet in length. If the Board flips the page they'll see his sign company... He asked his sign company why they specified four inch letters for their sign. They said this was based on a standard that they used in the industry and they picked four inches that has a one hundred foot legibility according to the chart and the table they gave him, it says this information is interpreted by the Pennsylvania Transportation Institute, that's a

source they use for determining an appropriate letter height. So, the point being that a four inch tall letter has legibility at one hundred feet; they have three hundred and sixty-five feet and three hundred and twenty-five feet. The point of these signs is be able to have a customer come out of a store and know the names of the stores that are down the canopy without have to go out into the parking lot and have to look for them. This way it will promote them to extend their shopping visit to multiple stores; and he's going to talk about that in a little bit.

Now, the four inch letter, if the Board goes to the next page, the reason the blade itself is twelve inches tall is a four inch letter can fit twelve characters across on one line, and they'll see on the right side of that page, A through L, that's twelve characters. Not every tenant that exists has a name that is limited to twelve characters. For example, if they're putting a United States Postal Service drop off center, which he has this in another shopping center, they use a stack. They put four inches above four inches or Payless Shoe Source is another example of where they stack the letters above each other. The twelve inch overall height is available in the event to stack letters. One of the things that is important is to him and the design of this, this is a way finding. They treat this very much as just an information way finding instrument. It's important that it not become noisy and cluttered. They don't like that when tenants place their individual branded logos with their own color scheme and font on the blade; they don't allow that in their leases, they require them to use this generic font. In fact, they're the ones that build all these signs and don't let the tenants touch them; they want to maintain total control of that. What they want to have is this uniformity between stores so that if the Post Office is next to a store called Dots that has four letters, they don't want to have multiple dimension blades; it was distract from the quality of the esthetic of the whole mall. This is more than just his opinion, this is coming from the advice of his architect and designer and his sign company, people of the profession that have helped guide this project. They flipped the next page, the Board can see the where the point is that the page will point out; these blade signs are largely not visible unless you're in the canopy. The first picture he took on the top he was about ten feet away from the building and the front face of the building that hangs down, hangs down three feet below the ceiling so it blocks the blade. It's not till you actually start to step up on the curb and get into the canopy that you can make eye site with that sign. Again, it's important to them that it be discreet and it not distract from the esthetic. He feels that these dimensions achieve that.

He'd like to talk a little bit about, kind of a bigger picture of what they're trying to do there. The shopping center business is a tough business and it's particularly been tough in Warren. If the Board looks at the exhibit they handed out today, there are some pictures of some shopping centers. He went around today and took photos of the shopping centers; he stayed in Warren north of Eleven Mile. He tried to cover every substantial retail property in that area, if he missed one he apologizes, but he thinks he got them all covered. What the Board will see as they go through these, maybe they're familiar with these shopping centers, there is a consistent problem with occupancy levels and investments levels throughout the inventory of shopping centers that exist in the city. Even in cases where universal shopping centers had investment in it, it's got extensive amounts of vacancy. Shopping centers are really intended to function at one

hundred percent occupancy. If you have a vacant store in a shopping center it should be because you're turning over a lease and bringing in a new store. For the business to work in a business model, they have to keep the center one hundred percent full. One of the things they wanted to create at Tech Plaza to distinguish it, not only in Warren, but throughout southern Macomb County and maybe even further, is to create a walkable shopping center; so few shopping centers achieve that. He felt the design of Tech Plaza and its history, first of all its history of having been a walkable center with multiple stores connected by a canopy, the L shape of it and just the scale of it lends itself very well to parking your car in one spot, going into the shopping center. Even if you started at Wal-Mart you could find yourself walking over to the strip of stores on his property and getting over to Marshall's and back to your car, having a kind of mall like experience where you're visiting multiple stores. It's in part of that objective to distinguish themselves to the retailers and the customers that they want to be able to create that walkable environment. These blade signs are all part of that objective. In terms of where they are in leasing of the center, he has forty-five percent of the building is not leased, he's at fifty-five percent now. At this moment in time, he has the vacancy problems that are pervasive throughout many of the other centers, but he's optimistic they're making progress. DSW Shoe is a signed leased, he started construction on that store this month and will be opened by September 15th; Five Below is finishing up and that opens in July; Ulta is open; Marshall's is open and he's trying to put other. There's a lot to talk about, Ulta should be really credited for what has happened to the center. They provided an upscale national brand image that then attracted DSW and once they got to that level of quality of retail with national brand identity, it's put them on a nice track to stick with that approach. What people are not seeing on this is dollar stores because he feels they can continue to fill out the center with the national branded quality apparel; that's the mission they're on and hopes to have more announcements as this year goes on.

He is bringing all this up because they're going to be seeing a lot of each other because of this sign ordinance, being what it is, and he wanted to see if the Board will help him achieve what it is they're trying to achieve here. These national retailers, and retailers in general, have a lot of standards that they look for; blade signs are just one of them. They've talked a lot in the past about what Five Below needed and what Ulta needed. They've been through Marshall's, the Board has been very helpful to him with all this stuff and he appreciates where we've come and asks for some forgiveness on those two blade signs without permission, but at this point he'll turn it over to questions.

Chairman Nestorowicz said this is a public hearing and asked if there are any members of the audience who would like to state any comments or opinions.

Stewart Napier, 32448 Gainsborough Drive in Warren, is in support of Tom and the development at the corner of Twelve Mile and Van Dyke, he's lived in Warren long enough to see the dilapidated center that has come and gone and the terrific center that has been built now, and the upscale stores that are going in. What you don't see are a lot of the fly by night stores and in order for him to attract these types of businesses. The upscale shopping center clients we want in our city, the canopy type signage and some of the other things Tom Petzold is asking for is kind of really necessary.

You see it a lot if you go to any of the outlet centers, anywhere you have to walk outdoors and shop, that's protected by a canopy, they all have these hanging signs to direct you as you're walking. He has been in the restaurant business for a long time, invested money and opened a restaurant in this plaza. He's very happy with it, the performance of the restaurant is doing very well, the community is great and supportive, people that live in that neighborhood are attracted to the shopping center, he was able to staff his restaurant in a very short period of time and about ninety-five percent of all of his employees live within a couple of miles of the center. It's a great thing that's happening in the City of Warren; he thinks that whatever it is they can do to support this and keep it moving forward is terrific; that's his opinion as a resident. As a business man, he wants to see the center full, doesn't want to see empty stores like at a lot of the other shopping centers, but the signage variance wouldn't affect him whatsoever. He doesn't really get anything out of this; he's just here for the support, both as a resident and a local business man.

Chairman Nestorowicz thanked him and asked if there were any other comments.

No response.

Chairman Nestorowicz turned this matter over to the Board.

Board Member Anglin said when he reads this, it reads as a one sided sign. He wondered if they're approved, should we not state in there two sided because looking at all of the backup material it shows it as being printed on one side.

Tom Petzold said that's a true point. It is a two sided sign and...

Chairman Nestorowicz asked Everett Murphy to comment on that.

Everett Murphy explained that traditionally any time that you see a pole sign or anything, they have two faces but consider that one single sign; it's consistent throughout all the years.

Board Member Anglin asked if it's not going to create some type of question.

Everett Murphy said it doesn't double the square footage, only count the square footage of one side even though it has two sides; it's pretty standard.

Board Member Anglin thanked him.

Secretary S. Brasza has a couple questions. She wondered if the Five Below address was put in the common description.

Tom Petzold said Five Below's address is 8317.

Secretary S. Brasza said they're going to remove that one because it's been... At the motion they'll remove that address. Also, DSW is going to be tough because she's go-

ing to be less than a mile from that place; it's going to be real hard to stay away. The nearest one was Fourteen and John R so she was a little bit safe. She thanked him for what he is doing; it looks awesome.

Tom Petzold appreciates that and thanked Secretary S. Brasza. He wanted to say one more thing about what Stewart said about the successes he had...

Board Member Pauta said Mr. Chair.

Tom Petzold continued to say attracting employees. When he heard Stewart Napier told him he had success getting employees and were eager to work there, his confidence in what they're doing went up a lot. He had found that if you can attract good employees to your retail property, it benefits the customers. It's nice to go that his people are happy to be working there. He's looking forward to seeing more and more people to experience a positive environment where they enjoy working.

Board Member Pauta said the only problem he has with these signs is before these stores open up, they get these other signs made or lawn signs made and they put them everywhere. Between H&R Block and the little diner that opened up, the diner had fourteen, that's how many she counted; they had them everywhere. Five Below, they had a super large sign and they had put it near one of the entrances blocking the traffic. In the future she would like to see as these stores moving in, not to be putting separate signs in because it's irritating.

Tom Petzold agrees. For him, it is inconsistent with the classiness of the development to have the cheap signs and that wooden Five Below thing that kept blowing over, he can't stand it himself. Now, does he have a right in his Five Below lease to stop it? No, because Five Below is a five billion dollar company and they basically hand him a lease and he has to take it; he doesn't get control over it. His point is, some of these tenants where he doesn't have control he will try to guide it to not happen. In some cases like Red Olive, where he has control over it, he can stop that. He is going to register the complaint, he's going to agree with it and he's going to step up the enforcement to the extent that he can.

Board Member Pauta said that's the only problem she has, too many signs in the past.

Tom Petzold said the one thing, the sympathy part of this is with a new business, for example Red Olive, people don't even know what Red Olive is, trying to get people to know that it's there, that's it open. In the first month there some exuberance to spread the word and it can get out of control.

Board Member Pauta said they were spreading the word, they had fourteen signs because she counted them all.

Tom Petzold said ok, he registers it.

Chairman Nestorowicz asked if there were any questions from the Board.

Chairman Nestorowicz asked for them to state their name, address and reason for their petition.

Larry Holman, 8401 Kennedy Circle in Warren.

Glenn Holman, 8353 Kennedy Circle in Warren.

Kerm Billette is representing Mr. Holman and his brother on the petition to vacate the used car space on the site plan that was submitted for the property. They've indicated that there is a six foot masonry wall around the property, previously used as a used car sales lot with detailing on the inside of the building; they did detailing and light repair. They vacated it because he believes that presently a used car lot needs to have a larger number of cars, this place only had about fifteen or eighteen total cars in the lot and back; the lot in back has one hundred sixty-four feet of six feet concrete wall surrounding the property and totally enclosed with a gate in the front part. The use of the property as a used car lot with such a small number of cars, he's had experience with a couple other ones now that are struggling, they have to have a larger number of cars available for the public and he thinks that's the reason this has gone downhill to such a point that the previous owners, he doesn't remember the name of the company that had it, A & E Automotive, they could not succeed with such a small number of cars and just can't get any more on the lot. The owners now, Mr. Holman and his brother, wish to use the facility for the repair of cars, there is room out back to put cars waiting to be repaired and the Board of Appeals previously granted the conditions for the thing to use as a car lot. They're requesting upon approval of the Board of Appeals for use as a repair shop the owners will relinquish the previous thing granted by the Board of Appeals to use the building as a used car lot. The owners here can answer any questions.

Chairman Nestorowicz asked if there are any members of the audience wishing to speak on this item.

Everett Murphy said as they stated this property was a legal non-conforming auto repair facility, operated there for many years. He looked through the records and couldn't find any enforcement items related to the automotive repair business. What he did find was several enforcement issues that were related to the used car business, they did have problems with them. They didn't maintain the site and their cars were all over the place; many issues with them. One of the things that really is appealing for this variance is they're willing to relinquish that used car lot. We have a lot of used car lots; we know how it's viewed internally, especially by the administration. With all the used car lots we have, this is an opportunity that could be looked at to get rid of that used car lot. One of the nice things is they already have the required wall, so not asking to waive that, they already have that. There is no over head doors that face residential, so shouldn't have the noise issues. Again, never had noise complaints before from an automotive repair lot from that site. Just going by enforcement history alone, they have not had issues with the automotive repair facility but have had issues with the used car lot; that would certainly be a bonus to this request if it was granted.

Chairman Nestorowicz thanked him and turned this matter over to the Board.

Secretary S. Brasza stated to the petitioner that in 2007 he was granted the used car along with detail shop, she wondered if they would still be detailing.

Larry Holman replied no ma'am.

Secretary S. Brasza asked if this is strictly auto repair.

Larry Holman said strictly one hundred percent auto repair, yes.

Secretary S. Brasza said as Mr. Billette stated she wondered if they were willing to relinquish the used car and will also state the detail shop also.

Larry Holman answered correct.

Board Member Pauta asked if they're the owners of this building, correct.

Larry Holman replied yes.

Board Member Pauta asked if they're leasing it out to anybody.

Larry Holman said no, they're leasing the building to the guy that does the auto repair, they're just the landlord.

Board Member Pauta said the problems she had with this property is this: there's cars being parked in Shantie Food and Spirits facing their building. She asked what they're there for. The last time she looked it was a couple days ago, there were eight of them and they face their building.

Larry Holman said as far as he knows that would be cars of employees at the Shantie. Unless he was parking of them over there because he cleaning the lot or something. They're not leasing any other car spaces next door.

Board Member Pauta said the first time she went there in March, she couldn't even turn her car around because there were so many cars. The back fenced in area was packed like they had them on top of each other. She went the following and noticed that some of the cars were across the street at the detail shop and some of them were behind Shantie Bar & Grille. She asked if his tenant is not listening to him.

Larry Holman said that's news to him, they're not leasing any extra space; they don't need any extra space. He doesn't believe those cars belong to the car repair.

Board Member Pauta counted how many auto repair shops there are on Nine Mile Road between Mound and Dequindre; there were ten, that's like unheard of, quite a few. She asked if he ever noticed how many there are.

Larry Holman said no but these guys have a good reputation, they've been doing it for twenty years, they're not concerned about not having business, they've been in business for many years. This is a new site for them but they're very good, they have plenty of business, the site is big enough and don't need any extra space.

Board Member Pauta said but there's ten other auto repair shops in that area on Nine Mile between Mound and Dequindre.

Larry Holman said ten.

Board Member Pauta said yep.

Larry Holman said ok.

Board Member Pauta just wanted to bring it to his attention.

Chairman Nestorowicz asked if there are any other comments.

Motion:

Secretary S. Brasza made the motion to grant a use permission to 1. Operate an automotive repair business (major) in a C-1 zoned district. 2. Allow an automotive repair business (major) adjacent to a residential district; notate they will be relinquishing the used car lot and detail body shop variance that was previously granted in 2007. Reasons are it's not self imposed and it's not a detriment to the area.

Board Member H. Brasza supported the motion.

Chairman Nestorowicz has a motion by Secretary S. Brasza, support Board Member H. Brasza to grant the petitioner's request. Roll call.

Roll Call:

A roll call was taken on the motion to approve and the motion carried (8 – 1).

Secretary S. Brasza	Yes, for the reasons stated in the motion.
Board Member H. Brasza	Yes, for the reasons stated in the motion.
Board Member Wallace	Yes, for the reasons stated in the motion.
Board Member Sophiea	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Fisher	Yes, for the reasons stated in the motion.
Board Member Pauta	No, over abundance of them now and will end up with an over abundance like the used car lots.
Board Member Furgal	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The petition has been **granted.**

8. PUBLIC HEARING

APPLICANT: X Finity Systems, Inc/Jane Neuman
(Rescheduled from 04/27/2016)

REPRESENTATIVE: Mr. Kerm Billette, PCP
COMMON DESCRIPTION: 25585 Sherwood
LEGAL DESCRIPTION: 13-21-326-006
ZONE: M-3

VARIANCES REQUESTED: Permission to

Waive the required greenbelt or masonry wall along the rear (west) property line.

ORDINANCES and REQUIREMENTS:

Section 17.02 (c): Greenbelt – Along all zoning district boundary lines which border on a more restrictive zoning district.

Section 2.26 (a): Greenbelt – An eight (8) foot greenbelt shall be maintained in a healthy growing condition by either the occupant or owner of the property.

A decorative masonry wall may be substituted for the above greenbelt, upon approval of the Planning Director, and shall be maintained in an attractive condition and structurally sound.

Chairman Nestorowicz asked the petitioner to state her name and address for the record as well as the reason for the petition.

Jane Neuman, 27240 Ryan in Warren, the reason why they're here is to try to get a non variance for a cement wall or greenbelt on the back of 25585 Sherwood.

Chairman Nestorowicz asked if they had anything to add.

Irene Schnurr, 15223 Troy Street in Taylor, co-owner of the property.

Kenneth S., 28377 Queens Court, is the business owner at the property.

Kerm Billette stated he represents the owners of the property and the occupants of the property on Sherwood. They've gone a long ways since the initial site plan was approved by the Planning Commission. They've secured a complete survey of the property. The property was surveyed in all the elevations and so forth were put on by a survey company, as requested. They've also put on the revised drawing approved by the Planning Commission, they put the roll over for the truck tires at the entrance, cement roll over, they put the trash can inside the building which has a really high ceiling and can be loaded and unloaded inside the building. They got a letter from the engineering department stating they're not concerned with the concrete around catch basin out in the parking lot. The parking lot was approved by the Planning Commission to be put on gravel for part of it, the area in front of the building, the width and all the way south is paved as parking. They put the parking lot on the property shown with a handicap space was requested. They've put a number of cars on the southwest corner of the property. He thinks there were five cars that had to be moved in order to allow the last truck to be able to be parked in there. They set back the large concrete bumper blocks for the trailers, he believes they're six feet off the property line. They're requesting the

Board of Appeals waive a masonry wall requested by the Planning Department to be installed on the west property line and they already have approval for the Board of Appeals in 1976 that the property can be enclosed with a six foot chain link fence with barbed wire on certain sides, he believes the north, west and south sides. They're bounded by properties that are zoned industrial, up and down Sherwood, and there isn't one property that has a wall in back of it, although they are the same situations for industrial uses for almost a half a mile and there are no masonry walls installed there. The residents' that abut the rear of this property to the west are two hundred and thirty-five feet away, almost two thirds of a length of a football field away. There's one house that faces the north at the northwest property has a garage that is seen from the property, it's about eight or ten feet away, it's on about fifteen foot of the frontage on the northwest corner. The owner has done everything requested to ensure the property will be maintained and will install the concrete wall over and do anything else in the way of the maintenance for the property. He believes they already relinquished the previous Board of Appeals approval of a tank for the diesel fuel on the property on the south property line. There was a request made and granted by the Board the Appeals a couple years ago, that's been abandoned, the tank is gone, everything is gone. If there is need for the relinquishing the Board of Appeals approval, they can make it this evening. If there are any questions, the owners are here.

Chairman Nestorowicz stated this is a public hearing and wondered if any members of the audience would like to speak on this item.

No response.

Chairman Nestorowicz had a question because he knows when this item was up before there was some question regarding the previous variance on the fence. He wondered if that covered the fence in that area or not.

Everett Murphy said they had all that information available at the last meeting, none of us saw it. First, for the benefit of the new members he wanted to explain something to them. When the petitioner's come up here, this is their burden. They need to come in here and demonstrate they have a hardship to get some relief from the ordinances. This isn't for him to come up here and do his job for them; this is something that they're supposed to do. The Board asked for some very specific information to look into whether or not they needed this variance to begin with. They haven't even contacted him, nobody called him. No one talked to him since the last time, he's had no contact with them. They should have made an appointment, come in and talk to them. Regardless of that, if the Board goes into their packets that they have in front of them, which he hasn't given the Board anything additional from what the Board had before, there is a property maintenance report in there. He wondered if the Board had that in front of them. Under the part that talks about the conditions of the fences, walls and greenbelts, he wants to state that Steve Watripont reminded him that when Mr. Billette first turned in this, he asked whether or not he needed this variance, he wanted that looked at. Steve Watripont said that he called several days later stating that he does. Steve Watripont's report says right in there fences have barbed wire, ZBA approved approximately 1,030 linear feet of six foot fence with barbed wire. According to the records,

that includes the fence around the narrow part of the driveway, not the major portion in the rear of the lot. Now let's go two pages on, the site plan that was submitted for that variance for the barbed wire, the back part of the lot isn't even on the plan. The entire back lot wasn't even part of it. Again, that will be up to them to demonstrate that they have the proper documentation to show it because our records indicate that they don't have that. The plan that went in front of the Board back in the 70's didn't even have the back part of the lot on it. It's not called out, it's not called out in the variance, nothing to indicate they have a variance for that fence, or that back wall, certainly nothing to waive it.

Jane Neuman asked if she was allowed to speak.

Chairman Nestorowicz gave her the floor.

Jane Neuman said if the Board looks at the site plan, add up according to what her father had put in, it adds up to all almost exactly 1,030 feet.

Everett Murphy passed around one plan and apologized for having only one copy. He explained Steven Watriont did this on Google maps, essentially, which is what he had a discussion on the phone with Kerm Billette where he looked at this, and he'll have the owners look at it after the Board, although they don't use Google Maps as an exact, it's pretty accurate and if looking at the measurements of what Steve Watriont believes was actually passed back then, that comes out to be about 1,034 feet; it doesn't include the back.

Jane Neuman and Irene Schnurr both state it does include the back.

Irene Schnurr said they don't own the side fence.

Jane Neuman said they don't own the side fence between the back of the building between them...

Chairman Nestorowicz asked one question because he knows this was rescheduled, this item was here in April, they had questions regarding the fence and all that. He asked Mr. Billette and the petitioner if they had a meeting a meeting with Everett Murphy or anyone in the office to discuss or get clarification on this prior to today.

Jane Neuman said they were not advised they had to, they did not know, otherwise they would have and pardon her for that. Nobody tells her anything that they're supposed to do.

Irene Schnurr said she went to the City of Warren and pulled minutes and that office said this is what they needed. They pulled the minutes of 1976.

Jane Neuman said they say exactly why her father wanted enclosed in the first place because he had robberies; he had merchandise stolen off of his property, that's why he wanted it. He wanted an eight foot fence originally and they gave him a six foot fence

with three strands of barbed wire. If added up correctly it does add up, it's the back fence between them and the residential, the back fence behind the building belongs to DTE, half of the fence between them and State Trucking is their fence, the other half was put up about two years ago when they came in.

Chairman Nestorowicz has a question because it's with this back and forth discussion he's worried they're just not going to get to a resolution here. Do we need to have the petitioner and the building office meet and discuss what find out exactly what is covered and to be on agreement with this.

Everett Murphy stated the barbed wire. He said is there anything in there that mentions waiving the requirement for a wall or a greenbelt.

Jane Neuman wondered if there was an ordinance for a wall or greenbelt in 1976.

Secretary S. Brasza said there is now.

Everett Murphy said they're upgrading the property now.

Secretary S. Brasza mentioned we're dealing with now, not what happened in 1976, so they're in front of the Board now.

Jane Neuman is saying isn't this a variance then for a fence, isn't that replacing that, that was a variance in 1976 for this wall or for this fence and barbed wire.

Chairman Nestorowicz said that's why they wanted that clarification because it seems like there is a couple different interpretations of that and that's why they wanted the clarification of based on what was granted in the seventy's versus what's being asked, if that was covered back in the seventy's or not because otherwise we want to make sure we have a proper variance here and all on the same understanding; to him it sounds like there isn't.

Jane Neuman says it sounds like to her there is. She said that if you add it up what was put in 1976, there was barbed wire added up around the building and to the back between the residents and them that was put on. There hasn't been any changes to that.

Secretary S. Brasza asked the owner the fencing she has in her facility is how much.

Irene Schnurr replied 1,030 feet.

Secretary S. Brasza asked across the back.

Irene Schnurr and Jane Neuman both answered no.

Jane Neuman said two hundred and forty feet across the back.

Secretary S. Brasza said they're talking three sides. There's three sides of fencing and it totals 1,030 linear feet.

Jane Neuman informed half of it between them and State Crushing, they added the other half that goes out to the road about two years ago.

Irene Schnurr said it sits on their property but they have nothing to do with it.

Everett Murphy said there is no permit for it because they looked for that as well.

Jane Neuman said they didn't put it in.

Secretary S. Brasza said it doesn't matter who put it in, it's on their property. She asked if it is six foot.

Jane Neuman replied yes.

Secretary S. Brasza asked if it has barbed wire on it.

Jane Neuman answered yes and it wasn't her that put it up.

Secretary S. Brasza asked if she had barbed wire on the rest of her fence; 1,030.

Jane Neuman and Irene Schnurr both replied yes.

Secretary S. Brasza said in front of the Board it's to retain a six foot fence along the west property line, which is the back.

Jane Neuman said right.

Secretary S. Brasza said that's all that is in front of the Board.

Irene Schnurr understands that.

Jane Neuman said that variance was for that.

Irene Schnurr said it was put up because they had over five thousand dollars taken off the property, that's why her father came here forty years ago.

Secretary S. Brasza said this is something...

Roxanne Canestrelli said this is just an advisory suggestion, it seems like there is too much confusion so nothing has been agreed upon from the petitioners point and the city point because no meeting was scheduled where you'd be able to present to the Board what the petitioner agrees, what building city agrees and what disagrees. It's not being laid out properly for this Board to be voting, she thinks that is too premature. She would advise so that it's more clear to the Board as to what it is going and what hap-

pened back in 1976 to perhaps have this matter tabled to go in, sit down and have a meeting about this.

Everett Murphy said this would make a lot more sense.

Secretary S. Brasza said the Board does have openings on the 25th of May.

Everett Murphy said exactly, if they're going to leave it up to us this is what we have.

Jane Neuman agrees.

Roxanne Canestrelli said it would be up to the petitioner to request this, but this is just her advisory opinion because the Board wants to be fair and they're going to be confused because this is very confusing. This is just her opinion, so it's going to be up to...

Secretary S. Brasza asked if she heard the petitioner request for a table till the 25th of May.

Chairman Nestorowicz asked if two weeks would be enough time to meet with Everett Murphy and everyone to come back.

Jane Neuman replied yes.

Motion:

Secretary S. Brasza made a motion to table this item to May 25, 2016. Board Member Sophia supported the motion.

Chairman Nestorowicz has a motion by Secretary S. Brasza and support by Board Member Sophia to table this motion to their meeting of May 25, 2016.

Voice Vote:

A voice vote was taken on the motion. The motion carried (9 – 0).

The petition has been **tabled** to the next meeting.

Chairman Nestorowicz explained to the petitioner that gives them two weeks to meet with the Building Department and get it all cleared up.

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| 9. PUBLIC HEARING | APPLICANT: Tech Plaza LLC |
| REPRESENTATIVE: | Mr. Tom Petzold |
| COMMON DESCRIPTION: | 8325 Twelve Mile Road |
| LEGAL DESCRIPTION: | 13-10-353-010 |
| ZONE: | C-2 & P |

VARIANCES REQUESTED: Permission to
Retain three (3) awning signs on the front elevation.

- a) 1 (one) Center awning sign 0' 4" x 37' 8" = 12.56 square feet.
 - b) 2 (two) Outer awning signs 0' 4" x 17' 8" = 5.89 square feet each.
- Total awning signage = 24.34

Total wall signage = 118.89

ORDINANCES and REQUIREMENTS:

Section 4A.35(c): Total wall signage of a size not to exceed forty (40) sq. ft. shall be allowed for each business in C-1, C-2, C-3, M-1 and M-2.

Chairman Nestorowicz said welcome back and asked him to state his name and address once more the record.

Tom Petzold, 20630 Harper in Harper Woods.

Chairman Nestorowicz said to begin the presentation.

Tom Petzold said the design for this awning was prepared by Marygrove Awning and he's assuming the artwork was included with the application. Just a little background on it, Ulta has a, like McDonald has a golden arch, this awning is part of who Ulta is and who they define themselves to be. It was part of a requirement they had to put them in the center. He was surprised after it went in, it compliments their architecture in his opinion in reality much better than what he was concerned about. He didn't design their building to be awnings, didn't design their building for Ulta. Getting Ulta was a little bit of a coup and it was good news for them but it meant getting the awning. Anyways, they got the awning and their awning standard has at the very bottom of it has the Ulta, and he thinks the lettering of Ulta might be four inches tall and there's a white line that runs the entire length of it. The entire store front of Ulta is about seventy feet, so they have about seventy feet plus or minus of width across these awnings in a form of three awnings with the name Ulta appearing three times. The sign above it, the Ulta itself sign, was approved in its own variance prior, there was a variance issues for that and he thinks it indicates that was just shy of one hundred and nineteen square feet was the measurement of the Ulta sign. The way this map has been calculated on the awning is they take the four inch letter height and count the entire thirty-seven foot and eight inches for the center sign and then two of these seventeen foot, eight inch signs, that's how they're computing twenty-four square feet.

Chairman Nestorowicz said this is a public hearing and asked if there are any members of the audience that would like to speak on this item.

No response.

Chairman Nestorowicz said not seeing any, he turned this matter over to the Board. He commented that as he drives around southeastern Michigan, all the Ulta stores the orange awning, it's part of their corporate logo and honestly it actually compliments the center very nicely.

Board Member Sophia agrees.

Chairman Nestorowicz asked if anyone had any comments.

Board Member Anglin said his only concern with that is that when somebody has a brand and their brand is preset, that's what they want on their stores, he feels that should have come to the Board along with their other main sign out front as a package. In other words, these are the things they want to do and not put a piece here, put a piece here, and by the way we're already occupying it, can we get a piece here? That's his only concern, he doesn't have a concern with the awning, and he just wished these things would come as a package when people are moving in, especially when we know they're a national brand.

Board Member Pauta agrees with his colleague and this is exactly what she's talking about. They have a sign up there now, they were just granted another sign under the canopy, now he's asking for three more.

Tom Petzold said before Everett Murphy addresses it, he would like to address it and then he can fill in the blanks that he has. He explained that the way that this came about, Ulta Corporate hires a sign company to build the sign, then a different part of Ulta hires a different company to build the awning and the landlord, him, takes ownership over building, installing, designing and permitting the blade signs. They have three different groups all doing three different jobs and doing three different applications and it was not coordinated. He confessed to being new to do this, although he's been in the shopping center a long time he hasn't done anything like this, so he's learning as he goes. He's also learning this ordinance and he's going to quarterback this to prevent this from happening again, but he just wanted to explain how it came about.

Everett Murphy explained something that he hasn't actually talked to Mr. Petzold about. He had both applications in his hand at the same time for the signed permits, it was two different sign companies and neither one was interested in working with the either. They wouldn't do it so he let the one go through and said you'll have to go back for these awnings, there's nothing he can do about it. Mr. Petzold didn't know about that, he did try getting the sign companies to do it but they were two companies that had no interest in working together. That's just the way that one worked out unfortunately.

Board Member Anglin thanked him.

Board Member Pauta asked if Tom Petzold was the landlord and suggested that in the future that he reviews the sign ordinance with Everett Murphy and his proposed tenants because he's going to sign this complex right out.

Motion:

Board Member H. Brasza made the motion to approve the petitioner's request to retain three (3) awning signs on the front elevation. a) 1 (one) Center awning sign 0' 4" x 37' 8" = 12.56 square feet. b) 2 (two) Outer awning signs 0' 4" x 17' 8" = 5.89 square feet each. Total awning signage = 24.34 and total wall signage = 118.89. Reason being lack of identification and not a detriment to the area.

Debbie Biondo, 14051 Peterboro, explained she is here for permission to conduct their third classic car show on the Regina High School property.

Chairman Nestorowicz said this is a public hearing and asked if there are any members of the audience wishing to speak on this item.

No response.

Chairman Nestorowicz turned this matter over the Board. It looks like the petition is the same as last years that was approved.

Motion:

Board Member Sophiea made a motion to grant the petitioner's request to conduct a classic car show fundraiser on September 25, 2016 from 12:00 noon to 4:00 p.m. for the reasons that it will be a benefit to the area, not a detriment.

Board Member Anglin supported the motion.

Chairman Nestorowicz has a motion by Board Member Sophiea, support by Board Member Anglin to approve the petitioner's request. Reasons being: not a detriment but it also needs approval by the Board. Roll call.

Roll Call:

A roll call was taken on the motion to approve and the motion carried (9 – 0).

Board Member Sophiea	Yes.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Board Member Pauta	Yes, for the reasons stated in the motion.
Board Member Fisher	Yes, for the reasons stated in the motion.
Board Member Wallace	Yes, for the reasons stated in the motion.
Secretary S. Brasza	Yes, for the reasons stated in the motion.
Board Member H. Brasza	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion. Thanked them for coming so many months in advance, that's actually wonderful.

The petition has been **granted.**

Debbie Biondo said you're very welcome and hopes to see everyone there on Sunday.

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| 11. PUBLIC HEARING | APPLICANT: Christine Khanji |
| REPRESENTATIVE: | Adam Simon |
| COMMON DESCRIPTION: | 21376 Van Dyke Avenue |
| LEGAL DESCRIPTION: | 13-34-304-038 |
| ZONE: | C-2 |

VARIANCES REQUESTED: Permission to

Renovate the existing sign (Z.B.A. approved 6/9/1993):

- 1) Install an "L.E.D." message center panel 3' X 8' (24 sq. ft.) at bottom of the existing ground sign.
- 2) Increase the overall signage from 83.5 sq. ft. to 90.9 sq. ft.
- 3) Reducing the under clearance to 9' 4".

ORDINANCES and REQUIREMENTS:

Section 4A.14, Paragraph (a): Prohibited signs. Signs that utilize flashing, blinking, intermittent or moving lights or exposed incandescent light bulbs.

Section 4A.11, Item (7): Changeable Copy sign. A sign whose informational content can be changed or altered by manual, electric, electro-mechanical or electronic means.

Section 4A.35 Paragraph (b): One freestanding on-premise sign or advertising display or a size not to exceed seventy five (75) square feet shall be allowed.

Section 4A.19: All freestanding, projecting, and marquee signs shall have a clearance of ten (10) feet beneath the sign structure, excluding monument signs.

Section 4A.17 Paragraph (b): All freestanding or ground signs shall be set back from the right-of-way line a minimum distance equal to the height or the sign.

Chairman Nestorowicz said to state their name and address for the record.

Christine Khanji, said the address of the business is 21376 Van Dyke Avenue. She explained they renovated the gas station and put in about \$150,000 into the gas station. They started out in 2010 and increased the revenue to the business. They've had a lot of community members make it their gas station. They've attempted to bring in more community members and make sure the place looks nice and clean. One of the things they don't like to do is hang signs around the gas station and make sure it's free of clutter. Their old sign they want to replace is a diesel sign so they want to take the diesel sign out and put in LED and the LED would update the community members of any sales or any pricing that they want to promote to get them to come into their gas station. The only thing she would feel there would be an issue with this sign is the safety. She is a nurse also days she is not at the gas station so she can only think that community members driving and anything flashing would kind of promote them to kind of look and maybe a safety concern. With that being said, there are many other gas stations that have that and will also abide by the rules and regulations of how often the sign can switch so that way it's not something that's flashing and causing too much of a commotion or distraction while driving. That's about it, they just want to stay up to date with technology and up to date with their renovations. They put a lot of money into the gas station and they just want to make sure it's as up to date as they can.

Chairman Nestorowicz stated this is a public hearing and asked if any members would like to speak on this item.

Hage, 21351 Van Dyke, is here to oppose this variance request. The kind of signage being requested is nothing short of blight for the eyes. He believes the ordinance is designed to protect the neighborhood from this kind of intrusion. They already have a sign towering in the air. Ladies and gentlemen, this is a gas station, they already have a

sign that depicts their prices in a digital manner. As far as he concerned, it's already over reach and he asks that the Board reject this request. He thanked the Board.

Chairman Nestorowicz thanked him.

Christine Khanji asked if she's allowed to speak back.

Chairman Nestorowicz said it's the public hearing portion.

No other audience requested to speak.

Chairman Nestorowicz turned the matter over to the Board. He asked if there were any comments from the Board or questions.

Secretary S. Brasza gave the floor to Christine Khanji.

Christine Khanji just wanted to comment in regards to what he is saying. She explained the digital sign that is up there right now just says the gas prices of the gas, but the LED sign would promote of what's inside the gas station. For example, if there is a coffee sale with a doughnut, things of that nature. She does understand his concern about safety and the distraction and this just being kind of eye popping, especially for drivers. They do have the sign but it just says Marathon, then it says the special and regular price and the LED light would be in the place of where the diesel sign was.

Secretary S. Brasza said they have a picture. She asked if they wouldn't mind if they state that there is no scrolling, no flashing and it doesn't change more than once every five minutes.

Christine Khanji said right. Anything that involves safety, they're for it.

Secretary S. Brasza said super and thanked her.

Board Member Furgal asked if this would be so they don't put up all those other signs that the beer companies have, the coke companies have and all of those people. She asked if they would just use this sign for that information.

Christine Khanji said correct.

Adam Simon explained they don't even have one sign hanging on the windows or outside. That's the only sign they have is just the Marathon sign right now. They like to keep the place as clean as they can.

Board Member Furgal said that is a distraction.

Adam Simon says that bothers him too. He always looks at gas stations and see them hanging papers and stickers all over the window.

Board Member Furgal thanked him.

Motion:

Board Member Furgal made motion to renovate the existing sign (Z.B.A. approved 6/9/1993): 1) Install an “L.E.D.” message center panel 3’ X 8’ (24 sq. ft.) at bottom of the existing ground sign. 2) Increase the overall signage from 83.5 sq. ft. to 90.9 sq. ft. 3) Reducing the under clearance to 9’ 4” with the caveat that there’s no blinking or scrolling of the sign, and it changes no more often than every five minutes. Reasons being lack of identification and not a detriment to the area.

Board Member Sohpiea supported the motion.

Chairman Nestorowicz has a motion by Board Member Furgal, support by Board Member Sophiea to approve the petitioner’s request for the reasons stated in the motion.

Roll Call:

A roll call was taken on the motion to approve and the motion carried (8 – 1).

Board Member Furgal	Yes, for the reasons stated in the motion.
Board Member Sophiea	Yes, for the reasons stated in the motion.
Board Member Pauta	No, every time they approve one they end up seeing flashing a hundred miles an hour.
Board Member H. Brasza	Yes, for the reasons stated in the motion.
Board Member Fisher	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Wallace	Yes, for the reasons stated in the motion.
Secretary S. Brasza	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The petition has been granted.

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| 12. PUBLIC HEARING | APPLICANT: Kevin Garchow, I can Trucking |
| REPRESENTATIVE: | Kerm Billette, PCP |
| COMMON DESCRIPTION: | 23715 Pinewood Street |
| LEGAL DESCRIPTION: | 13-29-427-035 |
| ZONE: | M-2 |

VARIANCES REQUESTED: Permission to

1. Allow outdoor storage on gravel surface as per the plan.
2. Allow outdoor storage of 18 trucks and trailers as per the plan.
3. Allow outdoor storage with no building on the premise.

ORDINANCES and REQUIREMENTS:

Section 4.32 Paragraph (k): All of-street parking areas shall be provided with adequate ingress and egress shall be hard surface with concrete or plant-mixed

bituminous material (base may be stabilized gravel or equivalent), shall be maintained in a usable dustproof condition, shall be graded and drained to dispose of all surface water, provide protective bumper curbs as per Section **4.32** (i) and 16.07, and shall otherwise comply with **Section 2.46** and 16.05 of this Ordinance.

Section 17.02, Item (s) Paragraph (2): Industrial Standards, Open storage other than junk...The designated area shall be hard surfaced and screened from the public street and any residentially zoned areas...Further, the designated area may not exceed fifty (50) percent of the gross floor area of the primary structure.

Section 22.10, Item (c): *Certificate required prior to use, or change in use.* No land, shall be used until Certificate of Compliance shall have been issued by the Building Department stating that the land, or proposed use of the land complies with all applicable provisions of the State Construction Code, the International Property Maintenance Code, the Zoning Ordinance of the City of Warren and the provisions of the Warren Code of Ordinances administered and enforced by the Building Department.

Chairman Nestorowicz asked the petitioner to state his name and address for the record and the reason.

Kevin Garchow, 3695 Stephens in Warren.

Kerm Billette, represents the owner of the property Mr. Kevin Garchow. He explained Mr. Garchow has a piece of property on Pinewood used as storage for vehicles on gravel. It's been up to the Board of Appeals and Planning Commission several times. In the past they requested for a building on the property then it was changed to a smaller building. The third request he can recall is made with no building on the property. What makes it go to the Board of Appeals is if there is no building on the property and he's storing on gravel. The petitioner has about five or six things to do for the property. One is put up obscuring strips on the front fence on Sherwood, plant two or three trees out front, put blocks for the trucks to back up on, redesign the parking lot to accommodate one hundred foot strip at the west end, which there is no parking just turn around. He has to put a twelve foot wide, four foot high landscape berm which has some shrubbery on it that needs more shrubbery. The petition has cut down several trees on the property that were obnoxious and has kept up the property from any mess the truckers leave stuff, takes the skids and so forth and leave them on the property; picks up after them. Any questions, the petitioner is here.

Chairman Nestorowicz asked if he stated any hardships, he didn't hear any hardships. He asked Mr. Billette if he wanted to add anything stating a hardship.

Kevin Garchow asked Mr. Billette what he meant by hardship. He said he just wanted to park his trucks in the property. He keeps it very clean and takes good care of it and everything. His mother passed away and he's been kind of slow, dragging his feet in doing things, but it's very well taken care of and maintained. The gate is locked all the time, it's a really nice piece of property. Everything else next to isn't though, but he needs to get on it; plant the trees and take care of everything in the very back that shows on the blueprint and everything.

Chairman Nestorowicz said this is a public hearing and asked if there are any members of the audience wishing to speak on this item.

No response.

Chairman Nestorowicz asked if Mr. Murphy had a comment.

Everett Murphy doesn't have anything in mind but he has a bunch of notes from the planning meeting. He asked the Board if that was included in their packet, it shows the fifteen years of submitting the same exact site plan over and over again and never complying with it. The Board has granted variances here in the past, very similar for what he's asking for tonight except he had a twenty-one hundred square foot building to go with it, which would have been a reasonable request at that point, but he never did that either. He's not maintained the property, he's been issued several tickets over the years, especially in the recent past. Even after getting the approval from the Planning Commission for his plan, he had to call him because he still had trucks and things in positions when they weren't supposed to be there. He spent a considerable amount of time when Mr. Garchow at the building counter, went well past five o'clock, everyone closed up behind him, and he stated to him that his hardships are not there. He hasn't give a hardship, he's basically just saying this is how he wants to use the property. He told him that if he comes in front of the Board with this, this is not going to be very good for him. He gave him the sheet back and said do it again, he brought it back to him pretty much the same as what he gave it to him. He doesn't see where he's giving a hardship, he hasn't seen anything in the records to indicate for the past fifteen years that he's been willing to do any of the things he's been given approval to do; he just hasn't done them, but the whole time he still used the property to put his trucks and store all these items on that shouldn't be there. He thinks the Board just needs to be aware of that.

Chairman Nestorowicz turned this matter over to the Board.

Board Member Pauta said all the other businesses in that area are pretty trucking companies and everything was very orderly, everything was on hard surface area. This gentlemen doesn't even have identification to let anybody know the address, the name of the company, nothing. The Board doesn't really make a practice of parking trucks on gravel. Normally, they require a hard surface area. So, if he can't even put up the address and name of the company she doesn't think he's going to do anything else. He has to step up to the plate.

Secretary S. Brasza said to the petitioner, she was going from north to south, Stephens to Nine Mile on Pinewood and there was no indication of an address, there were two businesses that were lots of just vacant land, she asked which one was his, the one to the north or the one to the south.

Kevin Garchow said his is the clean one, there's rocks out front, nice gates locked.

Secretary S. Brasza asked the one to the north.

Kevin Garchow said there's a trucking company to the south of him, yes.

Secretary S. Brasza said and then a building, south of that, correct?

Kevin Garchow said if you go all the way to Stephens...

Secretary S. Brasza said there was a lot that was a trucking lot that had a mobile unit with an air conditioner in the front.

Kevin Garchow said that's his. At one time they asked him to put that up there.

Secretary S. Brasza asked if that was his property.

Kevin Garchow said they wanted him to have a building there. Council meeting told him and he doesn't get it.

Secretary S. Brasza said she's going to give her opinion on this because she drove by it today. The mobile unit is an office, instead of building there is mobile unit there. He's asking to allow outdoor truck and trailer storage on gravel with no building; she considers that a building, it's an office and it's probably got a bathroom too. He has cars all over the place. Now had he been the north property, the one next to him to his north, that's a beautiful lot and it's all clean.

Kevin Garchow said no it's not. The one next to him...

Secretary S. Brasza said he has not given the Board a hardship and so to her this is totally self-imposed.

Board Member Furgal asked if he owned all eighteen of those trucks.

Kevin Garchow said no.

Board Member Furgal asked if he rents out the spots.

Kevin Garchow said yes, he'd like to, but right now yes.

Board Member Furgal said if you own eighteen trucks, if he had seventeen of them he could have put up a twelve hundred square foot service garage, just saying.

Kevin Garchow said most of the time he service, he takes it to get it service.

Board Member Furgal said he knows she knows him and she knows he knows her husband.

Kevin Garchow said yes.

Board Member Furgal continued to say she cannot support this.

Kevin Garchow said ok and that he understands. All of his service is taken up to Sherwood and have them service the trucks.

Board Member Furgal said he was given in 2008 a variance to open a storage lot.

Kevin Garchow said that's when his mother...

Board Member Furgal said it wasn't his mother, it was him. She continued to say for a lot for trucking equipment for a total twelve thousand one hundred and seventy-five square feet in excess of the fifty percent allowed and to hard surface to the south property line for a total of twenty-two parking spaces for storage and of nine hundred twenty-four square feet of customer vehicles in conjunction with a construction of a twelve hundred square foot service garage. Eight years ago.

Kevin Garchow said things have changed a lot.

Board Member Furgal says she knows that, she knows that, but he still. He was given permission to do this, he did none of it, he made no effort to do any of it.

Kevin Garchow said he started to build a berm across the back. He started...

Board Member Furgal said oh there you go.

Kevin Garchow said he planted trees, put rocks out front, put a fence up to start things that he thought he had to have permits to do a lot of things.

Board Member Furgal said he needs to get permits.

Kevin Garchow said he's being misinformed on how some of the things he has to do, what he can do, and what he can't do.

Board Member Furgal said he needs to talk to Mr. Murphy, that's his job.

Kevin Garchow said he did talk to Mr. Murphy and he doesn't understand what he can do and what he can't do to allow things to happen.

Motion:

Board Member Pauta made a motion to deny the petitioner's request to allow him to have outdoor truck and trailer storage on gravel with no building. There is no hardship, there have been several variances in the past, there was supposed to be a building here, there was supposed to be hard surface here, nothing has been done. Reasons being self imposed hardship.

Board Member Fisher supported the motion.

Chairman Nestorowicz has a motion by Board Member Pauta, support by Board Member Fisher to deny the petitioner's request for the reasons stated in the motion. Roll call.

Roll Call:

A roll call was taken on the motion to deny and the motion carried (9 – 0).

Board Member Pauta	Yes, to deny.
Board Member Fisher	Yes, to deny for the reasons stated in the motion.
Board Member Furgal	Yes, to deny.
Board Member H. Brasza	Yes, to deny for the reasons stated in the motion.
Board Member Anglin	Yes, to deny for the reasons stated in the motion.
Board Member Sophiea	Yes, to deny for the reasons stated in the motion.
Board Member Wallace	Yes, to deny for the reasons stated in the motion.
Secretary S. Brasza	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, to deny for the reasons stated in the motion.

The petition has been **denied**.

Kevin Garchow asked what he does with his trucks and stuff.

Secretary S. Brasza said he can speak with Mr. Murphy.

Kevin Garchow said he let him know, he got into him pretty good.

Secretary S. Brasza thanked him and told him the Board needs to move on.

13. PUBLIC HEARING

**APPLICANT: Infinity Trucking Inc,
Hussam Sham Aya**

REPRESENTATIVE:

Mr. Kerm Billette PCP

COMMON DESCRIPTION:

3200 10 Mile Road

LEGAL DESCRIPTION:

13-30-201-012

ZONE:

M-2

VARIANCES REQUESTED: Permission to

1. Retain building addition of 9' x 36' in east side yard setback, as per the plan.
2. Allow a 40' x 20' = 800 sq. ft. screened trash and outdoor storage of parts enclosure.
3. Allow the above trash and storage enclosure, within the side yard setback as per the plan.

ORDINANCES and REQUIREMENTS:

Section 17. 02 Paragraph (s): Open storage other than junk. All open storage shall be located in a designated area approved by the Planning Commission...shall not be located in any area required for parking...Further, the designated area may not exceed fifty (50) percent of the gross floor area of the primary structure...

Section 17.02 Paragraph (b): Side yard set back in an M-2 zone shall be 20 feet.

Chairman Nestorowicz told them to please state their name and address for the record along with the reason for the petition.

Hussam Sham Aya, 3200 East Ten Mile Road.

Kerm Billette said he is representing the petitioner and they have an application in for site plan approval which has been approved by the Planning Commission. There are a number of items on there that have been taken care of, most recently the entire parking lot up to the hundred and thirty foot mark on the south end has been repaved; paved the whole thing just about a week ago. The second thing is that the shrubbery has been doubled along the parking lot at the north side of the parking lot there is a row of shrubbery that they put twelve plants were there and put twelve more, doubled it. The petitioner's contractor for the building on the south side of the building, built the building right in the twenty foot side yard and he doesn't believe any permits were taken for it. They're having a request on the site plan to approve the building for at least a year until they can tear it down or reconstruct. He needs space for his compressor, the big compressor that takes up a big area and it can't be placed inside. He just replaced the fencing around the property, he believes it was two hundred and ninety-four feet of fencing, this is on the south side. He cleaned up all the brush along the fence, replaced the fence on east side as far as the farm sales, the vegetable garden sales that's on his northeast corner of his property. The adjacent properties are all the same, there's truck storage and cars stored on the property to the south and to the east and to the west is a driveway going into the business. The petitioner has done quite a bit to the site the last couple weeks, he thinks it was due to the fact that he did get tickets for having a mess in the yard and housekeeping; he guesses he paid for them. The main thing is here to allow him to keep the building for the compressor and a storage area, twenty by forty, which could be screened to put the trash bins in. That area has all been paved, it's all asphalted. He believes that the contractor that did the asphalt did a very good job, a lot better than the last person who did the asphalt near the building. They have a site plan that indicates that there's going to be trucks, trailers, truck with trailers on the south side of the property, the full length of the boundary. Additional parking has been added to the west boundary, he believes room for eight or nine trucks to be repaired and the rest of it is parking. There is an over abundance of parking and the petitioner has indicated here that in the future he would like to buy the building, take off the price of the improvements he's made for the fence and the pavement off the price of the property and if they reach an agreement he would buy the property and put the addition onto it to the south probably for three stalls, which would take care of more than his needs for repairing his trucks and other trucks too, total truck repair facility. He's going through some changes in the interior for his stock and storage of parts but the petitioner is here to answer any questions.

Chairman Nestorowicz stated this is a public hearing if there are any members wishing to speak on this item.

No response.

Chairman Nestorowicz has a question before Mr. Murphy makes his comments. He asked if this item has everything it needs from Planning or does it need to go back to Planning for approval.

Everett Murphy thinks at the very least it would have to go back to Planning after the discussion tonight.

Chairman Nestorowicz wondered if they should have further discussion or go back to Planning first.

Everett Murphy said it's up to the Board. The Board always has the option. He's here, he should be able to present his case to the Board.

Chairman Nestorowicz said it's still public hearing so...

Board Member Pauta stated Mr. Chair.

Secretary S. Brasza said it's still public hearing.

Chairman Nestorowicz asked Mr. Murphy if he had any comments to say.

Everett Murphy said the last time the petitioner was here requesting variances the Board granted him everything he asked for, he only had one condition, no junk on the property. That's kind of ridiculous to put that kind of condition on there but the senior members from the Board certainly know from experience you have to put things like that, conditions like that. As they have admitted he was actually ticketed for it, which means he ignored the warnings to clean it up, didn't clean it up, was issued tickets for it then the day before court the property was still a mess and he didn't show up the court the next morning after the inspector reminded him he was supposed to go to court. He doesn't really think he takes the property maintenance issues as seriously as he should. He understands since then he's cleaned up, but of course he knows he's coming in front of the Board. He has some pictures which would actually be pretty disgusting that he did not bring tonight, but he's sure he wouldn't want the Board to see them and he's sure he has a good idea of what's in those pictures.

Hussam Sham Aya was inaudible.

Everett Murphy said to him that he has some pictures but as he said he's cleaned that up since but the property shouldn't be that way. The property should be maintained when the Board is granting special exceptions to the rules, you'd think to maintain the sites, that should be something that is just expected, it is expected. How it came about this entire thing tonight is they received complaints from the neighbors about the property maintenance and that's when they discovered the illegal addition, the tenants that he was subleasing to without a certificate of compliance, he had a lot of issues out there. He did put this addition in the required setback that he's asking to keep there right now. He included the minutes from the Planning Commission meeting in the Board's packets because if you read through the minutes they talk about maybe getting

a variance but in the end he tells the Planning Commission if they approve his site plan he will comply with everything they ask. He's over here now trying to get relief from the conditions that he agreed to at the Planning Commission, he said he would do what they asked but now he's asking the Board to get out of that; he does have some issues with that. He had a question for Hussam Sham Aya, they're asking for this forty by twenty screened trash and outdoor storage or parts enclosure, he wondered if this is meant as a variance to waive the masonry dumpster enclosure.

Hussam Sham Aya was inaudible.

Everett Murphy said he said yes. A couple problems with that, one is that when they submitted the plans to the Building Division he saw some things on the plans right away. He asked if this is the copy of the site plan that he submitted to the Planning Commission they approved. He was told yes. He asked the question a second time to make sure there was no mistake, he was told yes. He has the copy of the one that went in front of Planning if the Board would like to see it, it shows a twenty by twenty trash enclosure, not a twenty by forty screened in trash enclosure. This is plan has been altered since then. The planning also said the wording on the dumpster that is required, that masonry enclosure, was changed to a future trash enclosure. This led him to believe that they were trying to get a variance to get out of the requirement of the masonry trash enclosure. There is no requirement in the zoning ordinance to have a masonry trash enclosure that is a requirement of the Planning Commission. You can't waive something that is not in the zoning ordinance. They can't waive the masonry trash enclosure, he must put in the masonry trash enclosure. So, if he's granted a twenty by forty screened in trash area, that's in addition to the masonry one that he's required to put in, he doesn't have a choice. But they also show that trashed enclosure is in the side yard setback and they didn't ask for that to be in the side yard setback. They would also, if the Board did approve that, which he's not sure it really need approval from the Board, but it would have to be moved out of the side yard setback anyway. He's given no hardship whatsoever for keeping the addition in the twenty foot setback that they constructed. He hasn't seen a hardship, he's asking for things he shouldn't be asking for, he didn't ask for other things that would be required and he would suggest that if they want to go forward with this plan that the Board table this and allow him to go back to the Planning Commission and see if they'll approve his new plan that he submitted here because it's not the same one that he submitted to the Planning Commission.

Chairman Nestorowicz thanked Mr. Murphy and turned this matter over to the Board.

Motion:

Board Member Pauta made a motion to table this item until further notice.

Board Member Pauta continued to say the other thing, Mr. Murphy's questions should have been addressed prior to coming to this Board because she did review the packet and she did go to Planning last week and brought this to their attention. He's got outstanding tickets that need to be paid, they need to be done, if he needs permits obtained from previous work that he's done on his site, and then those permits should be

obtained. She thinks that this gentleman is putting this hardship on himself, he's got a lot of homework to do.

Secretary S. Brasza asked if that was to a date certain.

Chairman Nestorowicz said no it's for site plan approval by the Planning Commission first.

Secretary S. Brasza wondered if they wanted to table it do a date certain, that's all she asked.

Chairman Nestorowicz said no.

Secretary S. Brasza asked just planning first.

Chairman Nestorowicz wondered if there was support.

Board Member Sophiea supported the motion.

Chairman Nestorowicz has a motion to table this agenda item for site plan approval by Planning first, support by Board Member Sophiea.

Voice Vote:

A voice vote was taken on the motion. The motion carried (9 – 0).

The petition has been **tabled.**

Chairman Nestorowicz informed Hussam Sham Aya that this motion is actually being tabled for him to go back to planning and to get his site plan approval.

Kerm Billette thanked the Board.

14. PUBLIC HEARING

**APPLICANT: Oke Development LLC /
Charles Oke and Hasan Bazzi**

REPRESENTATIVE: The Ron Jona Collaborative / Mr. Ron Jona.
COMMON DESCRIPTION: 1950 E Eleven Mile Road
LEGAL DESCRIPTION: 13-19-101-001
ZONE: M-2

VARIANCES REQUESTED: Permission to

Petitioner seeks to redevelop a site with the following variance requests:

1. Hard surface to no less than one (1) foot of the front (Dequindre) property line and to no less than one (1) foot of the front (Eleven Mile) property line as per the plan.
2. To allow a canopy to no less than twenty-one (21) feet of the front (Dequindre) property line and allow a canopy to no less than twenty-three(23) feet of the front (Eleven Mile) property line as per the plan.

3. To allow gas pumps to no less than twenty-five (25) feet of the front (Dequindre) property line and allow gas pumps to no less than thirty-eight (38) feet of the front (Eleven Mile) property line as per the plan.
4. Construction a new building to no less than five (5) feet of the rear (east) property line and to no less than 14.4' of the side (south) property line as per the plan.
5. Waive eleven (11) required off street parking spaces.
6. To allow a maneuvering lane of twenty (20) feet to the west of the canopy and to allow a maneuvering lane of twenty (20) feet to the east of the canopy as per the plan.
7. To install two (2) monument signs as follows: one (1) sign 8' width x 7.5' height with a sign area of 8' x 5' = 40 sq. ft. and a two (2) foot setback from the Dequindre property line as per the plan and one (1) sign 8' width x 7.5' height with a sign area of 8' x 5' = 40 sq. ft. and a two (2) foot setback from the Eleven Mile property line as per the plan.
8. Install wall signs as follows:
 - a) Two (2) wall signs on the building, 14' x 1.25' = 17.5 sq. ft. as per the plan.
 - b) Two (2) canopy signs; 9' x 1.25' = 11.25 each, total 22.5 sq. ft. as per the plan.
 - c) Six (6) pump toppers; 1.5 sq. ft. each.
 - d) Total on six (6) pumps of 17.22 sq. ft.TOTAL WALL SIGNAGE OF 66.5 SQ. FT.

ORDINANCES and REQUIREMENTS:

Section 4.23: Double-Frontage lots. On double frontage lots a front yard, as prescribed for the district as herein established shall be provided on both streets.

Section 2.58: Front Yard: A front yard is an open space extending the full length of all sides boarding upon a street or streets of a corner lot.

Section 17.02 Paragraph (a): Industrial Standards. Front yards. In an M-2 zone where a front yard has been established by the majority of the existing buildings in a block, all buildings hereinafter erected or altered shall conform to the building line thus established, provided no building in an M-2 Zone shall be required to set back further than fifty (50) feet.

Section 17.02 Paragraph (b): Industrial Standards. Side and rear yards M-2: Shall be twenty (20) feet each.

Section 4.32 Paragraph (i): Maneuvering Lane. Maneuvering Lane for 90 degree parking shall be 22 feet.

Section 4.32 Item (22): Off-street parking requirements. One parking space for each one-hundred fifty (150) sq. ft. of building.

Section 4A.17 Paragraph (b): All freestanding signs or ground signs shall be set back from the "right-of-way" line a minimum distance equal to the height.

Section 4A.17 Paragraph (c): Within any required front or corner side yard on any corner lot, no sign or other obstruction to visibility shall be permitted between the heights of two and one-half (2 ½) feet and ten (10) feet above the existing street grade within the triangular area formed by the street property lines and line connecting there at points twenty-five (25) feet from the intersection of the street lines or their extension.

Section 4A.11 Item (22): Monument sign: A sign mounted directly to the ground with a maximum height not to exceed five (5) feet.

Section 4A.35 (b): One freestanding on premise sign of a size not to exceed seventy-five (75) sq. ft. shall be allowed in M-2 districts.

Section 4A.35 (c): Total wall signage of a size not to exceed forty (40) sq. ft. shall be allowed for each business in C-1, C-2, C-3, M-1 and M-2.

Chairman Nestorowicz said to state their name, address and reason for the petition.

Ron Jona, 1066 Commerce, in Birmingham, Michigan; appeared before the Board and stated he sees some familiar but unfamiliar faces, so he will give a brief history without going too far back. He was handed this site to look at planning, approximately two years ago; the existing site is Zoned M-2 on a corner. The existing gas station has been closed—it has been reopened a number of times and closed—it had been configured in a very odd shape; (*Pointing to his presentation stated*) this red area shows of the buildable areas; the site in the past received variances on August 7th of 1969; January 14th of 1976; and March 28th of 2007. As the owner was about to give up, they noticed something about the site; it had faced Eleven Mile previously, it had independent pump canopies that had been granted variances both on Eleven Mile and Dequindre, but the 149 foot of depth along Eleven Mile versus the 127 foot of depth on the frontage on Dequindre, made them realize that in MPSI study; something that shows this particular owner Tri Lakes Petroleum was very familiar with gas operations that they get six (6) pump islands and roughly three or four thousand square feet, they could make this site work. As he studied it, they had variances to this side and they very importantly determined that if they faced the station the other way, it would begin to change the dysfunction of the site. Other problems on the site were that, they could see Creative Building and Remodeling is close to the property line—they are actually parked in the right-of-way—very large right-of-way was taken a long time ago, which is still there today; eating up about half the site and there were four (4) curb cuts, which these two (2) curb cuts right now are very close to the corner. As he approached Planning, Mr. Wuerth, they looked at could this site work—he came up with a plan—that was approved by Planning, which is slightly different than this plan (speaking of his presentation before the Board), he does not have the date in front of him, but he believes it was in 2015 and they brought it to the ZBA, which as he said, ZBA has seen a different rendition of this plan, but as they could see, the building out...the operation out phases Dequindre; they eliminated these two (2) curb cuts by the corner, they cleaned up two bad configurations to one nice configuration. They worked with the very desirable pump flow through design, the parking to building and they would get much increased visibility and understanding of how to circulate this site with this plan. While the variances are numerous, as he said, this site has a number of variances existing, which are very generic and he worked with both the Building Department and Planning to understand the language such as: pump islands would be allowed in the front yard, light poles in the front yard; so again, without trying to ignore the ordinance or ignored what has happened; they created a plan and sort of backed into what variances are needed and they are reading them. The only thing he would like to point out is that in the variances that were read—and they just had a chance today to review this with Mr. Murphy of your department—is that on items 2, 3, and 4, where it says: a Canopy to no less than 23 feet from Eleven Mile; on number 2, 38 feet from Eleven Mile; on number 3, and 14.4—those are items that had been covered by previous variances—just for clarification. But, it does not change the fact that they tried to be sensitive and create a plan that they thought fit this corner and did not obstruct their neigh-

bors or do anything that they think is detrimental. Quite the contrary, their goals are to invest over a million dollars on this corner, but they would like to do so in a manner that they know at least, could provide a chance for this to have financial success, commercial success. When the Board looks at the blow-up presented in front of them; loading works good in this corner, again they talked about the flow through design, the signage on the corner; he will say something about the signage variances. He has designed no less than sixty (60) gas stations in southeast Michigan over his career; the corner signage is always a problem, it is either on an angle or they have to pick a direction. They have very progressively—he will admit—shown two (2) signs, one that would be seen by both Eleven Mile traffic and Dequindre traffic; however, they are very low ground signs, they would be propped up on brick—he will show the Board a design of them—and the idea is again to be presenting them a solution they think would work for this corner, and it will allow patrons going in both roads and both directions to understand the product, the sale, the price and the gas they are selling. A final rendering which was on the cover of their packets, looks like this, but for the fact that the...he originally had the ground sign on the ground, which would not have required the height variance; in going over this with his client and going over it with Mr. Murphy, and knowing what he thinks makes most sense, they have chosen to go ahead and raise 2 foot 8 of brick masonry to match the building to raise these signs off the ground—this is what would be seen from the corner, if they are able to get permission to construct the design as they see. The closing, they had been present before, so in an effort to clarify what happened from the last visit is very simply the letter he put to the department and he will read it to the Board just so he thinks hopefully the ZBA could be clear on what happened from...he was listening to what he thought the changes...or at least the desire to change and what he did to change it. The east property line setback, which was 2 feet, was increased to 5 feet; the north property line setback, which is off of Eleven Mile, was increased from 20 feet to 25 feet. The building was reduced from 3,520 square feet, to 3,034 square feet. The wall signage was reduced from 80 square feet, to 60.5 square feet and they added and modified plantings on the east property line against the building, which had faced the Veterinary hospital. They also have been asked and he has checked with Mr. Wuerth—if they are familiar with the site and a lot of sites—and he does not know how this happened, but there is a very large honey locust blocking signage for a number of patrons there; their goal would be to take down those old honey locusts and either replace something in the right-of-way or just replace plantings, but he knows that Creative Imagery behind them and then their station glittered with honey locusts, which seemed to be a desirable planting years ago in the right-of-way; they would be willing to remove those if the Planning Department had replacement or would work with them on a plan. Lastly, they know they have had conversations with their neighbors and specifically the veterinary hospital—they are going to discuss many things—not the least of which, they would like them to reorient the building to face Eleven Mile; he wants to make it clear from their end is that they did not deliberately reorient this the way they see it, but they have reoriented it in the only manner, which allows them to have a design that had the flow through six (6) pumps to the buildings and which he thinks solves the problem that has plagued this corner for the last 20 years. They clearly have hardship through the fact that their setbacks reduced as he showed them again—he will show it one last time—their setbacks reduced are building area, what is inside this red line and all these variances existed he thinks were

an effort by Planners and Boards to get this right; they just do not think they ever did. It would be the first time unfortunately with opposition that they have taken Blight, invested a million dollars, increased property values and are perceived as the villains, but so be it; he just would put this plan and the planning department's hopes on the Board to see that they believe they have created a plan that works.

Chairman Nestorowicz thanked Mr. Jona and stated this is a public hearing, are there any members of the public would like to speak on this item?... He asked the individual at the podium to state her name and address for the record.

Caren Burdi, 31851 Mound Road, Warren, Michigan, appeared before the Board and stated she represents the business owner that is to the east, which is the Parkview Animal Hospital. A couple of things that she would like to address and a lot of them are basic housekeeping. The agenda is what was published to the public and what was published to the public is not what is on the plan; for example and she should start there first. The petitioner has admitted that he has changed the size of the building where the building footprint is and the number of parking spaces—this item should go back to planning commission, this item should not be before the Board tonight; as they all know, that this is how they get two different plans, one in the Planning Department, one in the Zoning Department and they do not match and then people come up here and go, 'but I got this here and I got that there...' and what happens is they get ill-conceived and improper developments in their city. The procedure is, he should be back at Planning; he changed the footprint of the building, the size of the building—minutely—and the number of parking spaces. Having said that, she will move on to how the publication that went out to the public, does not match what is on his plan. If they look, he asked for the canopy to no less than 21 feet from Dequindre; the plan ladies and gentlemen show 20 feet, so they have it right here the dimension 20 feet. So if it is not less than 21' and they are asking for 20 feet, that is less than 21feet, it is not a proper publication, this matter should not be heard tonight. His argument to the Board that this was a previously granted variance is improper. On January 14 of 1976, there was a request that was granted to install a pump island within 20 feet of the property along Eleven Mile, so his rendition that items 2, 4, 6, 8...whatever items they were that he mentioned were previously granted, she has read every one of these variances and that is the only one that even comes close to that and that is not a canopy, that is a pump island. Number 2, they have requested in what was published, the canopy to no less than 23 feet from Eleven Mile Road; here is Eleven Mile Road and their own drawing says 21 feet; 21 feet is less than 23 feet, it is not proper notice to the public to grant variances that are greater than what was published; they have to provide clarity to the public on what is being granted at any particular meeting that effects sites within Warren. They requested gas pumps to no less than 25 feet from Dequindre; the reason they are asking for that is because the previous grant of the pumps was from Eleven Mile, so no less than 25 feet from Dequindre; if the Board looks at the Plan, here is Dequindre, there is not one dimension there that shows 25 feet and here is her concern. If they were to take the 20 feet here (*pointing to the presentation*) that goes to the canopy, when she uses scale, it is not 25 feet, so their plan does not even show the dimension for which they are asking for the variance. Number 4, request gas pumps to no less than 38 feet from Eleven Mile Road; the Plan shows 36 feet. If they

were to take the 21 feet, plus the 15, add it together, and that is where they get the improper dimension. The dimensions...she already mentioned that the dimension of the building has changed by very little. This Board asked them (petition) to consider changing the configuration, reducing the size and reducing the number of pumps and the reason that that was asked is because there is no hardship that they could give the Board, except monetary. For them, what hardship could someone have to say I need an extra big building because I have to rent out space; that is not a hardship for this piece of property; how could they say to someone 'I need 12 places for cars to get gas because 8 spaces just won't do, I have to have 12 spaces.' Their hardship has not been demonstrated to the Board. In addition to that, this is what amazes her. The building is 82 feet long, the sidewalk is 5 feet, that is 87 feet; they have eight, 9 foot parking spaces, that is 72 feet, plus 2 handicapped, which are 8' each, that is 16 feet; that does not match. Yet, it is pictured as it matches perfect; this plan is a sham, they are telling the Board things on the plan with dimensions that are not true. More importantly and last time they were at this meeting, she did not stand up to say anything, but anybody who knows her, her reputation means something and she was basically told that she was misrepresenting to the Board the size of the parking spaces, so what she did is, she provided to the Board the ordinance that provides for parking spaces and she did not provide part of the ordinance, she provided the ordinance from word one all the way to the bottom and if they look at the ordinance, it could not be more clearer. If they have 90 degree parking, that means, you have to turn the car 90 degrees—not the slanted parking, you have to have a parking space that is 9 foot by 22 foot. Members of the Board, these are 18 feet, they are 4 feet short; how is that going to possibly work, in addition to that, it says very clearly they need a maneuvering lane 22 feet and that is included in what was published, but if they look at the Plan, they have 20 feet over here and they are asking for a variance, they say that this is also 20 feet; if they scale it, it does not match; if they give her a dimension on an architectural drawing and tell her it is 20 feet, it better be the same 20 feet everywhere on that drawing and it is not. So here is what they have, they have parking spaces 4 feet too short, maneuvering lane 2 feet too short and a maneuvering lane 2 feet too short; that is 8 feet...that is 8 feet too short; how does this work? It does not, it does not work and what happens is if they look at the loading and unloading, they have a trailer size truck in this location; do you know what they do not have? They do not have a dimension right there from the edge of the canopy to the landscaped area. God bless the person who can back the truck in to that spot off of that driveway with this configuration, because it is impossible; it is impossible. If they then look at where the gaskets put in to the ground that is over here by Eleven Mile, she could configure that off of Eleven Mile here they could get the truck in, how do they get it out? She is not kidding and they do not have the dimension from the corner of this canopy to that landscaping, and you know how they are going to get it out, because they see it all over the city, they are going to drive over that landscaping because trust her, this is not going to be planted the way that they want to plant it; this is not going to be planned as they want it planned because the truck is going to run it over on regular basis. In addition to that, these maneuvering lanes, which a variance has not been requested for—so a variance has not been requested for the parking spaces, a variance has not been requested for the width of this parking lane, which is 21 feet, no has a variance been requested for this parking lane, which is 21 feet—so that is an additional three (3) more variances. If the

Board adds up the variances that are presented to them tonight and she is not talking by the numbers, because there are more than one variance per number; they are asking for 17 variances; if they add the three (3) that she pointed out, the parking spaces and the additional maneuvering lanes, they are at 20 variances. Everyone should be alarmed any time they get a plan that asks for 20 variances; because what it says is ding, ding, ding, ding, I'm overbuilding the property, I'm asking to put too much on this piece of property than this property can handle. In addition, she has discussed the three (3) variances that had not been requested, she also pointed out to the Board that the full section of 17.02 was only partially quoted to them and anytime that they have an ordinance quoted to them, even if it is just the one section it is being quoted, the entire section should be quoted to them because obviously it is all part of the same thought, paragraph, goal. The animal hospital next door is obviously opposed to this because it is overbuilding and what is it when it is overbuilding, it is a self imposed hardship. There is no hardship that he could present to this Board that is valid to say, 'I have to have rental lease areas, rental areas...'; he could say it is too small or the size and the shape, no this piece of property was not meant to have tenants, it was meant to be a gas station. The size of the building can be appropriate for the gas station and she encourages him to have—if they will like many of the other gas stations—a coffee station and bring in donuts and things like that, he does not need a building this size; the reason he needs a building this size and she has presented to the Board in the past—he sent an email to her client—he is looking to put in like a Tim Horton's, a Duncan Donuts, something along those lines and ladies and gentlemen, where are they going to park, where? And, she also does not understand this, the last plan, he asked to waive 14 parking spaces; the last plan had one less parking space, so he has added one parking space, but now he is only asking to waive 11 parking spaces; where did the other 3 parking spaces go and she will tell them, they are not from the changing the size of the building because the changing of the size of the building is so minute...when them as a Board asked him to reduce the size of the building, she does not think they meant by 18 square feet, she thinks they actually meant something a little more along the lines that would make a difference. The other issue that is very much a problem with this plan is, when they come in off of Dequindre, or coming off of Eleven Mile and they are at a pump and usually if the pump is clear, we all move up right, we take the pump farthest up ahead, but they are going to have people coming in from two different directions and they are going to have people face to face, pulling in face to face; they are going to have people that if he is renting out space here, and this gentleman or gal is in here buying donuts, bagels, cream cheese, drinks, etcetera, and they are going to use these as parking spots because he does not have enough parking, there are people who will be trapped and cannot get out; these 8 cars, most gas stations, they have the ability between the two lanes, to pull out and she thinks in a lot of ways, that is a safety feature; when they trap people in there, it does not help your site in its maneuvering ability; people would have to wait for each other to move and there is no emergency way for them to get out. Also important here is, this is over here (*pointing to the presentation*), is the existing cabinet building and their building now currently runs this way, so what you have is you have a wall to wall, which is not bad planning because as you drive down Dequindre or up Dequindre and you look, you are not getting a back of a building if you will come frontal. Over here—and they wrote within the space—this is her client's building; this is his parking, silly him, he followed

the Warren Zoning Ordinances when he built, he did not ask for variances, he did what he was supposed to do...she also included a picture of his property in there; it is beautifully maintained, it has the lawn nicely done, it has some trees and it is clean and tidy and what in fact happens is when you put the building here, here is his building and then here is his parking and here is Eleven Mile, so when you come down Eleven Mile, you are faced with the back of a building, the back of the building...this property is defined by an Eleven Mile address because when they have a business on two main thorough fairs, it is two frontages and they pick one and what she is proposing to the Board is, they picked the Eleven Mile frontage, that is what was chosen and then other people in that store, built according to that frontage, so when the gentleman had their site built like this, the doctor built his in accordance to make it look good, now we turn a building, we put the back of the building to a street and now what they have done is they have rendered his parking—if they will—closed in; he has trees, he has the back of the building and then the front of the building, which makes it dangerous for his patrons. His patrons should not have to look at the back of the building when they are coming and going. This is not a proper planning and that is not what they want their city to look like. She has to stress that there has been absolutely no proper hardship demonstrated; any hardship has been self imposed by trying to overbuild the property and it will certainly be a detriment to the area without question. She has to say that she has given her name and cell phone number to the petitioner on several occasions and yet they bring this project back without going to planning, without the T's crossed, the l's dotted, etcetera and they do so without ever even giving her a call to try to work with her in any fashion whatsoever. She would ask that this matter be denied this evening and that they put a rest to this; she attached the minutes of the last when it was before the Board and clearly, especially Mr. Anglin made an extreme point to reduce the size of the building, and she does not think he meant by just 2 feet and to actually turn the building that was also made by several other Board Members and in fact he has not taken heed to any of it. A wall in the front of your property whether it is 2 feet away or 5 feet away, it is the same thing

Steve Apreht, Veterinarian at Parkview Animal Hospital...

Chairman Nestorowicz asked if he could state his address along with his name.

Steve Apreht, 1972 East Eleven Mile Road, stated he grew up in Warren and he started to practice in Warren because the Community is important to him. For over 20 years, he leased space and worked hard until he could afford to purchase his property and build the facility they have today. He knew that he needed to get visibility for his practice to grow and reach its full potential; the property he purchased was not for sale, but he contacted the owner and paid a fair price for the property because he knew the required setbacks of the neighboring property at 1950 Eleven Mile would give him the visibility from both Eleven Mile and Dequindre for his practice to grow and reach its full potential. That was important to him because he knew that visibility was important and that he would do better if people could see him; even though they had been in business for 20 years, they gained new clients after they moved because people could see them. He is proud that they actually employ over 40 people and see over 30,000 clients a year. Many of their employees and clients are Warren residents. If Oke's De-

velopment's requests are granted, it would be a great detriment to him and they would also hurt his practice, his employees and his clients. One of the things when reading the ordinance, it does address a gusto of fairness and he knew the visibility associated with his property; the shopping center owner knew the visibility associated with his property and it definitely influence the price that he paid and he also knew exactly what the M-2 setbacks were and that was important to him because he felt he had protection and that he could afford to pay and because of that, they talked about possibility investing a million dollars; he invested well over a million dollars at a time that was a very hard struggle for him to do so and part of that—a large part of that—was because he had faith that the visibility would always be there and things like this would never happen. He did receive an email from Mr. Oke stating that he would like to put a Tim Horton's or a similar business to be his tenant; he does not believe that a property with only 8 non-handicap parking spaces is appropriate for an over 3,000 square foot building. He did Google Tim Horton's on 10 Mile and Ryan, that particular Tim Horton's only has 1,953 square feet and the Google image he had, showed 16 cars in the parking lot. He thinks in the Google image, is not an image where you go and you pick the time where the most cars are there, it is a random image. The Applicant may or may not be successful getting a Tim Horton's in there, but if he does get... (Inaudible)...leaving 1000 feet for another tenant that would require even more parking spaces. The other (Inaudible)...

Chairman Nestorowicz stated to the Petitioner that his microphone had cut out.

Steve Apreht apologized and stated the 7 Eleven across the street had 11 cars in his parking lot and maybe they would not get Tim Horton's in there, but the 7 Eleven across the street had a building that is actually 846 feet smaller than the building they are asking for on their site and if you were to just do it proportionally—and 7 Eleven has 11 cars in the parking spaces—they also had additional cars by the pumps and you have to ask where are these people going to park and there is no on-street parking in our area and unfortunately for himself, the easiest way for them to go is make a right hand turn onto Eleven Mile and then make another right hand turn to his lot and then make another right hand turn and that is the closest they could possibly get to this building and unfortunately, his own parking lot is really full; they tried to do a good job and people like them, but if they could not get parking spaces, he is in serious trouble. People come to him with dogs that could not walk, they have elderly people with children, and sometimes they had elderly people with children that could not walk and also pets that could not walk. The parking is a serious issue and it is just not reasonable to have 8 parking spaces for 3,000 square foot building; it just could not justify the space in having 8 parking spaces. The other thing that goes on, they say that they are repairable and they are going to do a good job but variances are forever and if the Board grants them a variance, whoever has this building, will have 3,000 square foot building with only 8 parking spaces. The other issue he has is that he questioned how they could meet the standards; they currently have a 1,700 square foot building on this lot with 8 gas pumps; when someone goes across the corner, there is a Shell station and the Shell station is actually very successful, they did remodel the Shell station a couple of years ago, but the Shell station did remodel and they actually keep it up and they only have 6 pumps and they are successful and they did it without 8 pumps and the other

amazing thing is that they do face Eleven Mile and the applicant did do his building study and he found out he could make more money facing Dequindre and sure that he did, but the visibility is not visibility paid for. If he wanted to have a larger building, he had the opportunity to actually purchase a larger lot and pay for a lot that would actually be suitable for his needs. What he (applicant) is doing is that he (applicant) got the lot at a lower price and now he (applicant) is trying to artificially make it bigger at his (Mr. Apreht's) expense and taking away the visibility he (Mr. Apreht) paid for. He does not believe the applicant could meet any of the standards; when there is a building across the street that has 6 pumps and is doing well facing Eleven Mile, how could the applicant say that he would harm someone at/or to put 12 pumps and 3,000 square foot building there; he just does not believe the applicant meets the unreasonable impact any standards and then he could not believe the applicant actually meets the non-self imposed standard. Mr. Oke is a very a very smart guy, he (Mr. Oke) has many gas stations in many states; but he (Mr. Apreht) only has one but he does know the area and he knows that if you were to buy a property, you know what the variances are, you know what the size of the property is, you know what the setbacks are, that you could not say, 'oh I did not know', also, the applicant could not say that he closed this building because of contamination. Mr. Apreht spoke to DEQ and found out that they did not close it because of contamination, they chose not to have inspections done on this site and if anyone has any quick questions, they could contact Gary Penuer, who is actually the inspector for this station, his phone number is (586) 289-0816 and he would be happy to speak to them. The other thing is they cannot claim this property as unique; they did discuss the right-of-way, but this is the same right-of-way that himself has and the same right-of-way that every property on this block has and they cannot say curb cuts are a unique feature, he himself has a curb cut, every gas station on this corner has two curb cuts and they also definitely cannot say that it is not a detriment. If your neighbor puts up a large building that is 5 feet from your property line, with 20 feet as required and puts that... (Inaudible)...25 feet from the road when 50 feet is required, it will decrease your property value; there is no way about it; whether it is your home or a business, your property is going to be worth less as somebody encroaches on the setbacks. It is even worse when you have a business and you are calling for a visibility and you are losing it because they are covering up the setbacks with something that people...people would not be able to see his sign. Currently, when you look through there, their sign is very visible and a lot of people do stop on Dequindre; they do not have a choice because the traffic light comes on and they look and they see their sign. It is very visible, very easy to see between the building and they could see under the pumps and they do see the signs; he does have a picture if people do want to see that, but it is actually very visible. The other thing is that when your neighbor does not have adequate property or a parking, it will definitely impact your business. Every business needs parking for the customers and there is no place off the street where they could park; they are the closest lot and they are going to come to their lot, whether he wants them to or not. He could not go and have a policeman out there. The only part of his building that has not been subject to crime is the front of the building and that is because the excellent visibility that he has; on here there is a picture showing the front and it is not very clear because it is Google, but they are over here and when people look, everyone could see; they have had break-ins on the side of their lot, they have had break-ins of cars on the back; their building has been broken into, but the front has

never been a problem and that is because they have excellent visibility in the front and it is once again he points out, is the visibility that he knew about and visibility that he paid for....that is not a detriment to the public. When you are to look at his property, there is really not enough space for maneuvering; they have perfectly parked 15 foot cars in there, but in gas stations....(inaudible)...okay...and then they could not say that it is necessary because basically there are other gas stations that are successful with much less. There is a gas station on Martin Road that has an 875 foot building and they are successful and the guy did write him a letter when he talked to him and said that he did not believe that this was appropriate. He thinks people would want to him to leave right now, so, he is going to leave, but he would really appreciate it if the Board took into consideration that he does not think—from his point of view—that this is fair; he worked hard, has been in Warren, did his part and he has spent everything he had to invest it and the Board has never had a problem with him, so he would appreciate their time and consideration and apologized and thanked the Board.

Chairman Nestorowicz asked the individual at the podium to state her name and address for the record.

Cathy Reuieze, 27550 Strathmoor Drive, Warren; appeared before the Board and stated she is present on behalf of her vets office and she does not want to see any parking spaces lost, she does not want to see any of his visibility lost; she would like the Board to deny their request. There has been many times now, even when the spaces are so full, she has arthritis, she has had 3 hip replacements, and her sister is on a cane and to make them go further or to not have parking spots because if they do not have enough in the gas station, they know they are going to park over there. Doctor Apreht has been a really good Warren citizen, a good business citizen, if someone goes passed his place, it always looks immaculate and clean and it would not be fair that he did all this planning ahead of time according to how the buildings work and invested all that money—she was a client of his when he was in the little building just a block away—he only had 2 little exam rooms; he chose to improve and employee more people and get more clientele into Warren and he chose Warren and he chose a nice area and kept it up nice and she thinks it is wrong to penalize him because someone else wants to come in and make changes to something that really is not big enough for. With his practice enlarging, he employs more people and brings in more clientele, which also brings in more business in the area; he could have moved his practice anywhere, but he chose to keep in Warren and designed it like she said the way it looks right now according to the way the buildings are and so this way it could be seen very clearly and she thinks it is good that they want to improve the gas station because it really looks bad and it has looked bad always, even when there was someone in there, it did not look good; so she thinks that it is good that they want to improve on it, but she does not think that they need to make it bigger and encroach and takeaway parking spots. To her, they have not been a good citizen of Warren because it does not look good if you were to go past there and it is not appealing and she thinks they should make it look better and she would just like to request that they deny their request and to not let them take away any of the parking spots at her vets office because they were there all along, he has been in Warren for many many years and he has always been a good citizen of Warren and the Board should reward the good citizens of Warren be-

cause he has always been true to it and it always looks good and she thinks that it would be wrong to penalize him because someone wants to come in and make things bigger and better when she means, it is a gas station; it should not have to be like a huge, huge thing and if they want to bring in other businesses on top of that, that site is just not big enough for that like the other lady was saying, if you do not have room to go in and out, that is not a safe thing either if there was an emergency and someone is over parked in your gas line because they are inside the building, so that is all and she appreciates their consideration.

Chairman Nestorowicz thanked Ms. Reuieze.

Jim Hicks, 1264 Darlene Avenue, Madison Heights; appeared before the Board and stated that a couple of years ago they had 3 older dogs who were spending a lot of time at the vets office and several times when he was sitting there, he could hear brakes and sometimes you would hear a crash and last time he was there, he spoke to a little girl who got knocked right out of her shoes, but he was thinking about this and actually he almost had a bad accident there at Eleven and Dequindre, were some younger women—maybe high school girls, he does not know—they crossed from the south side and somebody stopped to let them out and instead of turning, they tried to cut across Eleven Mile to the gas station on the other side of the street and he t-boned him and of course that totaled his car and people were hurt and everything—it is just a very dangerous intersection to have a facility that is going to have parking problems and he just thought the Board should consider that.

Chairman Nestorowicz thanked Mr. Hicks and asked if there were any other members of the audience who would like to speak on this item. (No responses heard) Not seeing any, he turned the matter over to the Board and actually he would like to begin with a few items. He is very familiar with this corner; he lives in that part of Warren. It would be wonderful to see that gas station redevelop because it is an eyesore as it is currently, but want to get something redeveloped is not a reason to overbuild a site. He takes a look at this 3,000 square foot building, which is a huge building and looking at the parking spaces, he sees too often in many places—especially when some of these convenient gas stations, have these other businesses and such—they do not have enough parking. A lot of times when they come, they say they do not need the parking because that kind of business whether—he means he heard everybody mention like a Tim Horton—well to make those successful, they always say, ‘well we don’t need the parking because our business is all drive-thru’, because if you were to go to Dunkin Donuts, Tim Horton’s it is all drive-thru business, well, the way his building is built, they will never have a drive thru, which means anybody going there, has to park. It is very visible and with a building this size, they do not have enough parking and waiving all these parking spaces is a problem. He looks at the number of pumps, yes they make more money with 6 pumps, but again, as they have heard a few times, monetary is not a hardship, that is really self-imposed, he means there is no reason they could not succeed with 4 pumps. He always worries about when they cut down maneuvering lane, because he knows he personally gets his gas at a different gas station and maneuvering in their parking lot could be difficult when there is cars parked and when they start cutting down on that maneuvering—especially in 90 degree park-

ing—that is an issue because all those cars that you see drawn in this plan, people park farther up, they park farther back, they are all not so nice and neat underneath that canopy and the plan always shows. When he saw this plan, he actually found it very interesting when he saw where the gas pumps are going to be...where the gas is put into the ground, it is funny, because he thinks about where he does buy gas currently, they have a situation when they are actually filling up the gas thing, they are blocking the parking spaces because...where is that truck going to actually park when he is pumping in the gas there is not a lot of room here. He just thinks it would be nice to see this corner develop, he just thinks this plan is overbuilding it.

Secretary S. Brasza stated she wonders if...and maybe this needs to be addressed to Mr. Murphy, there was in audience participation, some issues brought up in regards to the actual site plan and the footprint and such, could he address some of those issues.

Everett Murphy stated if there was anything in particular she was looking for.

Secretary S. Brasza stated that Ms. Burdi had mentioned the 20 feet, that it really does not come to 20 feet and the parking space is being only 9 feet and just the dimensions of the whole...basically...now the site plan that they (Building) has and the site plan that Planning had, are they the same?

Everett Murphy asked Secretary S. Brasza to repeat.\

Secretary S. Brasza stated the site plan that he has versus what went in front of Planning, are they the same?

Everett Murphy stated no, but he has spoken to Mr. Wuerth about that and he asked him if he wanted them to go back to him first, he said because they were actually making things smaller, the footprint of the building is smaller, and they reconfigured things in a way that was actually less than before, he (Mr. Wuerth) was not concerned about that in this case and they are where they would have to come back, Ron Wuerth has talked to Mr. Jona about that, he, himself has talked to Mr. Jona about that, and Ron and him have talked about that. They are aware that they would have to go back and because this was not an expansion or something like that, because actually the building was going to be smaller...the Planning Commission passed the plan the first time around, so he does not anticipate that—he does not want to speak for Ron—but he got the impression that he was not expecting really that there would be a problem with it going back with a new plan. He is not sure if Ron has actually seen the plan yet, but he is aware of it and he knows it would have to come back. As far as some of the maneuvering lanes, the way...he actually spoke to Mr. Jona about this and he understands that...he himself actually called him just to make sure that he was correct. The way he (Mr. Jona) drew the parking spaces up against the building, it was a little bit confusing, they had to actually...if the Board would see their copy, it has a lot of colors and lines on it so that they could understand it; this is a very intricate plan, so if you are not used to reading plans, he even called them and told them that this was a little bit confusing when he talked about the parking spaces against the building, where it appears that there...the 18 foot now...if they want to get into the ordinance and read the

ordinance, that 22 foot requirement is when you are up against continuous curb, but if it is not, that part of the requirement is 20 feet. That sidewalk is 7 feet wide and again going over it—because he spent a good deal of time with Ron Wuerth going over this plan—and he had told him that that was very standard, they have done this as a regular part of business. If you have a 7 foot sidewalk ... (Inaudible)

Everett Murphy stated to the individual that their part was done and thanked them.

(Inaudible)

Everett Murphy stated Zoning is fine with this; the seven foot sidewalk, you're supposed to have a five foot sidewalk but if you make it seven feet, that can count as two feet of parking space and that's acceptable. He talked to Rob Wuerth about that, it was calculated in the first plan, it's on this plan, it doesn't look like it scales out because of the way he drew his dimension strand; it just makes it confusing to look at. A couple of the other things where they called out, he's going to his notes, because they got a copy of the letter too. Steve Watrion and himself took a look at that today to see how they fair and they had their notes on this as well. They're showing to no less than twenty feet from Dequindre and the plan showed twenty feet, but that dimension was to the curb and didn't account for one point seven feet of green area before the property line. That dimension, even though it wasn't put on there, he has twenty one point seven feet, although it wasn't stated necessarily correctly on the plan or at least in a way, again it's confusing and a very detailed plan. The canopy to no less than twenty-three feet from Eleven Mile, the plan showed twenty-one feet but again they had another two feet from the cement so they came up with the correct number on that. The gas pumps to no less than twenty-five feet from Dequindre, the dimension on the plan didn't scale out. They came up with twenty-five point seven but they did have a little discrepancy because it depended on where exactly on that scaled ruler, what side of the line you put that ruler on, there is a little bit of discrepancy there. He's used to seeing a little bit of deviation on plans like this, it's not unusual because when they actually go to build it the numbers have to be right, that's what the building inspectors are for. It says he's twenty-one feet, he has to be twenty-one feet. Whether the plan is exactly scaled out or not, we'd like them to but this Board has seen many plans that were drawn with a ruler and a pencil that certainly didn't scale out exactly. They did check the parking requirement with the reduced building size and they say that number is correct, they agree with the number that is stated tonight. As far as not posting the entire on the parking, he can tell the Board they put all the relevant parts in there and he can probably go back hundreds of variance that the Board has seen that have been posted over the years where instead of posting an entire paragraph when only want a certain part, that's been a very common practice that goes back to Lynne Martin, Bob Hughes, and even Colleen McCrery, he's seen it himself. He does feel they called out double fronted lots, they've done it in more than one place and they are calling out parking they believe to be correct in this case.

Secretary S. Brasza asked about the size of the parking, the nine feet by eighteen.

Everett Murphy stated it's nine by twenty because they took at the two feet for the seven foot sidewalk.

Secretary S. Brasza said ok.

Everett Murphy said if it was a five foot sidewalk they would have a...

Secretary S. Brasza asked about the issue with traffic.

Everett Murphy said that's more of a function of planning, the traffic and on the site maneuvering.

Secretary S. Brasza said because people are going to face each other.

Everett Murphy said yes. As he said, zoning doesn't do the traffic portions and the traffic flows, they look at it as an overall and try to make some comments, but that's really not their function, planning has approved that.

Secretary S. Brasza mentioned there is no, as Ms. Burdi was stating, when you have cars stacked between the two pumps there's four cars there's no room to do anything but wait for that car or you have to back up.

Everett Murphy said that may be the case but that's not really something zoning takes into consideration so they just really don't comment a whole lot on that. But he can tell the Board that as far as the parking requirements for the gas stations, this is something that he has talked to Ron Wuerth about, and they're probably not going to wait for a new master plan or zoning ordinance they're going to have to start requesting zoning ordinances that they want because they realize other things aren't happening at a time frame they would like. Other communities do count the spaces at the pump as parking spaces, we don't here because it's not spelled out in the ordinance where as other city's do. It is correct, it's not spelled out, but that is a change they're looking to make because they do feel they should count as parking spaces. When you add that in there, he's really not waiving many after that. He checked to see if there is anything else on the letters. As far as the maneuvering lanes, they gave him credit again, planning did the same thing. He's asking for a maneuvering on the east, he's asking for a maneuvering lane on west. The north and south where it appears as though he's twenty-one feet on both sides, but if you look at how far the canopy actually extends, on the plan, that's way out; they're giving him credit for the one foot for the maneuvering lane under the canopy. That canopy is not affecting traffic, they do feel as though he does have the twenty-two feet there. He was looking for anything else on the letter. He's not sure if the property to the east, he doesn't have his zoning atlas on him, he's not sure if the property to the east is actually an M-2. He wondered if it is an M-2.

Caren Burdi answered no.

Everett Murphy said it's a C-2, so it has a different set back requirement. This is something they haven't mentioned to the Board but he knows firsthand from talking to plan-

ning. His building sits far back because he went against the recommendation of the Planning Commission...

Steve Apreht shouted that is a lie.

Everett Murphy continued to explain they recommended, the Planning Department recommended he put that building up on the setback, up closer to the street, have all the parking in the back and the green space in front. They're not mentioning that to you but he did go against that recommendation. His setback, he's further back than what he needs to be, he could have been up there. That's just another note that he knows of from a direct conversation with Planning.

Secretary S. Brasza directed a question to the representative Mr. Jona. She asked him to step up. She doesn't know if he could answer this or the owners, which she assumes are with him, but she assumes that this is two different suites in the area of retail.

Ron Jona replied no and he's glad she brought that up because they definitely were considering a drive-thru, he has a site plan showing drive-thru's and if looking at the floor plan, he was going to encourage look at the sheet. He said he talked to ZBA and Planning about this, in their packet looking at sheet A-1, they'll notice it was changed from what sheet A-1 was before, which showed two suites. After the last ZBA meeting and reduction of the building, it's not by a few square feet its by a four hundred and eight-four square feet, over fifteen percent, this will be one enterprise, one building and one C store operation. There won't be any co-branding, there won't be a doughnut store, there won't be a Tim Horton's, there is obviously no drive-thru, it's one C store operation.

Secretary S. Brasza said from that she assumes they will probably have a person at the register, an employee in the stocking or back due to that square footage he'll probably have more than one employee. She wondered where he anticipated they park.

Ron Jona said the spot, they won't be parking at the veterinary hospital so that can be ruled out, they would take the end two spots over by the loading most likely.

Secretary s. Brasza said that brings the parking for customers down to six.

Ron Jona said six.

Secretary S. Brasza said that's really hard to swallow for her. She's going to state that up front, she can't go with that. She'll turn it over to the Board for discussion.

Board Member Fisher thinks it's very important for a city like Warren than has a lot of M-2 lots like this to encourage business development and he loves the idea of having a million dollars come into the city, but when we've got a business who does such a good job keeping their place clean, running a good business, servicing our citizens and we have another business that's now looking to come that clearly, in his opinion, going to

be a detriment. They're asking for a building that is way too big with way too few parking spots, haven't shown a hardship. They're basically coming to the Board once again saying this is what they want to build without saying why it's needed and simply saying they want all these variances because it's what they want because they're spending a million dollars. To him that's not a hardship, it's not a necessity and they can't as a city allow new businesses to come in and harm our existing businesses. That makes us an unfriendly business community and nobody is going to want to come in to a city that's just going to allow the next guy to harm them. The only way they can build a community that is positive for business is if they treat the existing businesses fairly and this plan doesn't do this.

Ron Jona said if he could, he would just like to state a couple facts to the commission.

Board Member Fisher thinks he has the floor now. He continued to say he thinks when they're looking at this, they're looking at a situation where you have a building, you're saying this is the way they're going to face it because this is the way they want to face it even though it would clearly fit better going the other way. It wouldn't hinge on the existing building as much if it went the other way, if it was smaller it wouldn't harm the other business but they're saying they're just going to do it because they want to do it because they'll make more money that way and that's not a reason to get a variance. This is definitely a no for him and the only way they're going to get a yes vote out of him is to either turn the building or make it significantly smaller. Come to the Board with a plan that doesn't harm the neighbors and isn't a detriment to the community, because that's clearly required by the zoning ordinances for the Board to grant a variance it can't be a detriment to the community and this is.

Board Member Anglin is looking at this strictly as that parcel of property, not necessarily what is next door, behind it or any sides. His concern is the shortage of parking involved in it and maneuver ability with the unloading of fuel. Other than that, where do they get that space and looking at the print, he spent hours looking at, the only space to do to and add the adequate parking is to shorten the building. He said that last time, yes they did shorten it by four hundred and eighty-four feet but he doesn't feel like that's going to be enough to get his vote. The Board needs to address the parking and he's not trying to say that it's anything to do with the neighbors or whatever, he's looking strictly at that site plan and it's the parking that's bothering him.

Board Member Pauta agrees with both colleagues. This plan is like putting an elephant in a shoe box. There is just not enough room and he should be facing Eleven Mile because that's what the address is, Eleven Mile. He won't be getting her vote either.

Board Member Sophia must join in with his colleagues concerns regarding this property. He applauds their efforts to improve that corner, he lives very close to that site and he doesn't like the way that corner looks right now. He can't in good conscience support this motion tonight, he feels it is wholly self imposed, that it will have an unfair and unreasonable impact on the neighbors, especially the veterinary hospital directly adjacent. At this time he feels this is just a massive over reach in terms of the size of that property and what they're proposing today.

Chairman Nestorowicz thanked him and asked if there are any other comments.

Board Member H. Brasza said he would like to add his voice. The traffic flow is ok, he listened to what Everett had to say. If the Planning Commission, who are much more expert at this than he is say that the flow will work for them then he's ok with that. But the building itself, pushing it within five feet of the neighbor is really pushing against the neighbors and the eighty-two foot length. If they could shorten that up, fifteen percent is not much considering how big it really was before, he doesn't know if they consider coming back to the Board one more time or whether they're going to go against the current motion of the Board. His thought is they're really pushing the building size, that's his input.

Chairman Nestorowicz said not hearing any comments, he said he would like to make a motion.

Ron Jona asked if he had a chance to make any comments.

Chairman Nestorowicz said the audience part of it has been closed unless there is a question directed to him.

Ron Jona said there is a lot of comments made that he would like to point out a couple clarifications.

Roxanne Canestrelli informed him it has been closed. The Board has the floor now. Only if the Board has a question directed to him, then he could address it, but he doesn't have the floor and apologized to him.

Motion:

Chairman Nestorowicz made a motion to deny the petitioner's request. Reasons being: this is a self imposed hardship, the property is not unique, it would be a detriment to the neighborhood and the reasons are for economic purposes only and not necessary for the use of the property.

Board Member Fisher supported the motion.

Chairman Nestorowicz has a motion by Chairman Nestorowicz, support by Board Member Fisher to deny the petitioner's request for the reasons stated in the motion.

Secretary S. Brasza said a yes vote is to deny.

Roll Call:

A roll call was taken on the motion to deny and the motion carried (9 – 0).

Chairman Nestorowicz	Yes, to deny for the reasons stated in the motion.
Board Member Fisher	Yes, to deny for the reasons stated in the motion.

Board Member H. Brasza	Yes, to deny for the reasons stated in the motion.
Board Member Pauta	Yes, to deny for the reasons stated in the motion.
Board Member Anglin	Yes.
Board Member Sophiea	Yes, to deny for the reasons stated in the motion.
Board Member Wallace	Yes, to deny for the reasons stated in the motion.
Board Member Furgal	Yes, to deny for the reasons stated in the motion.
Secretary S. Brasza	Yes, to deny for the reasons stated in the motion.

The petition has been **denied.**

15. NEW BUSINESS

Chairman Nestorowicz asked if anybody has any new business to bring up for tonight.

No response.

16. ADJOURNMENT

Motion:

Secretary S. Brasza made the motion to adjourn the meeting and Board Member H. Brasza supported the motion.

Voice Vote:

A voice vote was taken on the motion. The motion **carried** (9 – 0).

The meeting was adjourned at **10:16 p.m.**

Sherry Brasza
Secretary of the Board