WARREN ZONING BOARD OF APPEALS
REGULAR MEETING
June 8, 2016

A Regular Meeting of the Warren Zoning Board of Appeals was called on Wednesday, June 08, 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
Ann Pauta
Henry Brasza
Charles Anglin
Albert Sophiea
Jeremy Wallace

Members of the Board absent:
Jeremy Fisher, Asst. Secretary

Also present:
Roxanne Canestrelli, City Attorney
Everett Murphy, Chief Zoning Inspector

1. CALL TO ORDER

Chairman Nestorowicz called the meeting to order at 7:30 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Motion:
Secretary S. Brasza made the motion to excuse Board Member Fisher; Supported by Board Member H. Brasza.

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

4. ADOPTION OF THE AGENDA

Motion:
Board Member Furgal made the motion to adopt the agenda as written; Supported by Board Member Anglin.

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

APPROVED

5. APPROVAL OF THE MINUTES OF the **Regular Meeting of May 25, 2016.**

Secretary S. Brasza stated she would like to make a quick notation that a change is needed to page 3; the description under the public hearing number 6, Chairman Nestorowicz was referred to as 'Secretary' in the three of the first comments—that would be 'Chair' and it is corrected in the rest of the minutes.

Motion:
Secretary S. Brasza made a motion to approve the minutes of May 25, 2016 as amended; Supported by H. Brasza.

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

6. PUBLIC HEARING: **APPLICANT: Wally Hanna, W & B Excel Investments LLC**

REPRESENTATIVE: Wally Hanna
COMMON DESCRIPTION: 2667 Eight Mile Road & 2666 Emmons
LEGAL DESCRIPTION: 13-31-378-050, 13-31-378-008
ZONE: M-2 & R-1-P

VARIANCES REQUESTED: Permission to

1. Allow hard surfacing in the front yard setback on the north side of the property (along Emmons).
2. Allow a fence in the front yard setback on the north, east and west sides of the property (along Emmons).
3. Waive the required fifteen (15) foot wide greenbelt in the front yard setback on the north side of the property.
4. Waive the required eight (8) foot wide greenbelt in the side yard setbacks on the east and west sides of the property.
5. Allow a six (6) foot fence around the parking area.

ORDINANCES and REQUIREMENTS:

Section 8.05 – Front yard. Each lot in R-1-P Districts shall have a front yard not less than twenty-five (25) feet in depth.

Section 4D.08 – Fences, walls and landscape screens in front yard between building line and front property line. No fence, wall or landscape screen shall be constructed between the established building line and the front property line.

Section 4D.32 – Specifications for residential areas. All fences in residential areas shall be of an ornamental type. Fences in residential areas shall not exceed four (4) feet in height and may be constructed of either metal, iron, chain link, wire, ornamental aluminum, vinyl or solid material construction such as wood, brick, or masonry, except privacy fences allowed as provided in Section 4D.33 may not exceed six (6) feet in height.

Section 16.06 – Protective barrier, (a): When such parking area boundary adjoins property zoned for any residential use, an eight (8) foot wide greenbelt shall be provided and further, provided that a bumper rail of either wood, metal, or concrete shall be established on the

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inside of the boundary planting as a barrier which shall not be more than twenty-four (24) inches in height.

Section 16.06 – Protective barrier, (b): All street boundaries of such parking areas shall be provided with a fifteen (15) foot wide greenbelt which shall be used for ornamental purposes only, and nothing shall be placed thereon except trees, shrubs, plants, and grass; and provided such greenbelt material shall not exceed two (2) feet in height.

Chairman Nestorowicz asked the individual at the podium to state his name and address for the record along with the reasons for his petition.

Mr. Wally Hanna, Excel Lighting and Electrical Supply, appeared before the Board and stated he owns the property 2667 East Eight Mile Road—Eight Mile between Dequindre and Ryan.. The property has three (3) parking lots; one of them to the east of the building, the other one to the west of the building, and the third one is across the alley, behind the building. They are present to ask their permission, the Board's approval for the 5 variances, the ones that were just stated. He asked the Board if they wanted him to repeat them.

Chairman Nestorowicz stated no; he could just state what the reasons for his hardships were.

Mr. Wally Hanna stated with the Board's permission, he has Deborah with him to…oh she does not want to read them… Before he started with that part, he wanted to bring the Board's attention that the parking lot was constructed at least 30 years ago and at that time, there was an addition to the building about 16,000 square feet, and it was constructed at that time; obviously that was about 20 years before he bought the building. He has a strong belief that there was a variance approved at that time, otherwise, they could not build such a parking lot because all kinds of inspectors were there at the time, but the city could not find it, so obviously they have to start again. He does not have any proof but he just assumes there was a variance at the time. (Inaudible) He has all kinds of pictures with him to show the Board that building a concrete fence in the area really would look like a jail. It is not nice, it does not appear good and the fence they have right now, it looks nice and it coincides with the neighborhood. (Inaudible)

Chairman Nestorowicz to the petitioner stated does he want to state in terms of what his hardships are and the reasons why he needs this or…

(Individual identified as *Deborah* by the petitioner) stated they are trying to get approval for an outdoor storage and when they were going through that, they noticed that these variances were not…the building…Ron…there might have been variances but they could not find the variances, so they pointed it out, they wanted them…the recommendation was from…the site plan for outdoor storage from the Planning Department.

Mr. Wally Hanna stated she is speaking about the parking lot.

(Inaudible)

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Ms. Deborah stated these variances they need to get approved so that they could continue on with the site plan for their outdoor storage, which is in a different parking lot; they have it as an outdoor storage and…

Chairman Nestorowicz asked if he could interrupt for a moment, because he knows she is speaking about outdoor storage but this request has nothing to do with outdoor storage, so that is a future request that they are going to be doing at a later time.

Ms. Deborah stated they did ask for the site plan for outdoor storage with the Planning Department and when they were doing that, he told them they needed to get these variances, a recommendation from the Board…the following variance may need to be obtained from the Board of Appeals prior to release of the site plan in the Building Division.

Chairman Nestorowicz stated what the Board is looking to actually have her explain is to explain what their hardships would be of why they need to actually have this, such as what kind of impact or burden would this be on them…in any ways their property is unique, is this a detriment to the area; how is it necessary; to explain what their hardships are…and actually since she did not actually state her name and address; Mr. Hanna did, but she…

Ms. Deborah Tolmay stated her name and that she works for Mr. Hanna; she works at Excel lighting.

(Inaudible)

Ms. Deborah Tolmay stated the hardship would be the appearance to change the existence of the fence would be greater if it were constructed in the area that would be otherwise permissible. The fence gives the privacy to the adjacent neighbors while still having the atmosphere of a neighborhood. They could see through it, there are houses on both sides of the fences and they do park there during the day, there are some of them that do park in that parking lot and the landscaping and the changing of the landscaping because there are trees and stuff like that on the sides, that would have to come down and stuff like that, so if they were to change it to a wall—a green wall—then, it is also where they could see through it, so like if something was happening, people would…like the neighbors could see through each other, they talk to the neighbors and stuff like that being able to, so there is a neighbor on this side and a neighbor on that side, so they could communicate and see through it, but it gives them privacy too.

Mr. Wally Hanna stated they need the space, the parking lot that they use every day, if they cut it back 15 or 25 feet, really they lose a lot of space of parking lot, it is already there, it does not look bad, it looks very, very good and he could not imagine the neighborhood if they were to put those concrete walls, it is not going to serve anybody, if anything it is going to hurt everybody and the process again, they are going to have to take out three (3) big trees and he could not see honestly a good use of doing that.

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Chairman Nestorowicz thanked the petitioner and stated this is a public hearing; are there any members of the public who would like to speak on this item? He called on Mr. Murphy.

Everett Murphy, Chief Zoning Inspector, City of Warren, stated one of the first things that he is sure that the Board caught is that although they put the storage on their site plan, on their application, they never requested the outdoor storage. It is also his understanding that this has been tabled at Planning and Planning he does not think has actually ruled on this yet, but it was tabled at Planning but they did not table it here to allow Planning to go first; but tonight was their night and they wanted to go forward, so that is okay. He is going to pull out their plan to talk about their plan a little bit; from the Zoning perspective how they look at the site plan, in Zoning one of the things they do is they want to look at the request and see how it impacts everybody around them and he knows it is really good for them if they could park all the way up at the front, but what he is looking at, he really does not know if that is in the best interest of the neighbors of the neighbors to have these cars parked all the way up towards the sidewalk like that. Fence or no fence, he personally does not think the fence should be there; he knows that other neighbors have fences in the area, but they are legal non-conforming fences, so if they become in a state of disrepair or they make any changes on the property, those fence would actually have to go away; they would not be allowed to keep those, so at some times in the future, they should all expect there would not be any fences in those front yards going down there, with the possible exception of that wall, which he thinks if the Board went out there and saw it, it actually does not look very good. He thinks the 15 foot greenbelt is actually appropriate, something much better to look at, especially if you are one of the neighbors across the street, having to look at these fences and cars, instead of looking at a nice green area with plantings, arborvitaes, or whatever else the Planning Commission would decide should go there, he thinks that is actually a good idea. He personally does not think that the greenbelts should have to be installed on the 2 sides, on the east and west of the property; if they make them put in an 8 foot greenbelt on either side, in effect—he means right now they only have a 26 foot maneuvering lane—they take 16 feet away from that, they would have a 10 foot maneuvering lane, which they could not allow, which means they would have one row of parking and a very large maneuvering lane, which serves no purpose, so he agrees with that; the alternative is the concrete wall. He does not know, if he is a neighbor, he would not be sure he would want this 6 foot concrete wall on the side; he thinks that asking for relief from that requirement is probably a reasonable request, because he thinks that a fence with slats or some kind of site obscuring material would be a good idea, but again he really does not think that fence should start until they get to the front building lines of those houses. That way—again—the neighbors on both sides really—in his view—should not have to stare at this fence; a nice greenbelt he gets, the fence, cars…he just does not think that is appropriate. They have noticed that they are parking cars or trucks and trailers in there; that is storage that is not passenger parking. This is an R-1-P lot, which does not allow storage that would be a Use Variance, which again they did not request. They cannot really even talk about storage today, but the couple of times they had been by, they looked at the property, they have seen trucks and trailers in there and he thinks it is in the Board's property maintenance report as well. Also, by putting in the 15 foot greenbelt, there are previous variances to waive the required parking, those actually, if they put in the 15 foot greenbelt, they still have enough parking, so they do not even have to ask for anymore

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waiver of parking by putting that in. He thinks he pretty much covered everything. Now again, the other thing is, which he was sensing in the remarks is that he has not even heard a hardship; what they are asking for is not a hardship per se. They are asking for something that they would like to have, but he believes that is more personal in nature than as a result of strict zoning ordinances. Anyway, that is the zoning view is.

Chairman Nestorowicz to Mr. Murphy stated that he had mentioned that this was tabled at Planning; did Planning say when it was tabled until.

Ms. Deborah Tolmay stated they are going to be going July 22nd, she believes it is because they postponed it because they wanted them to get their variances approved by the Board…sorry, that is not right…it was and they were going out on the 22nd of July to go back to them.

Everett Murphy, Chief Zoning Inspector stated it was his understanding—he does not know why it was tabled the first time—it was his understanding from talking to Ron Wuerth that it was their (petitioners) request to table it the second time, that Planning did not ask them. That was the impression he got from Ron Wuerth and he had that conversation with him this morning.

Chairman Nestorowicz stated he personally always has a problem about approving something before it actually went to Planning, he does not know what other Board Members feel…if they are through with the public comments he would like to turn it over to the Board.

Everett Murphy, Chief Zoning Inspector asked if he could make one comment towards that.

Chairman Nestorowicz stated yes.

Everett Murphy, Chief Zoning Inspector stated it is up to the Board; it would not be a bad choice to say that it should go to Planning first; however, just because Planning may or may approve or not, it still does not mean that the Board would approve it. If the Board did have an idea of how they were going to go on this...if the Board did not agree with everything they asked for they would be going back to Planning again for an amendment anyway. The Board could kind of weigh whether or not they should rule on it tonight or could go the other way.

Chairman Nestorowicz stated okay, he turns the matter over to the Board for discussion.

Ms. Deborah Tolmay asked if the Board wanted to see the site plans for outdoors where it says like the following variances may need to be obtained from the…

Chairman Nestorowicz stated no.

Ms. Deborah Tolmay stated …prior to a release of the site plan to the Building Division?

Chairman Nestorowicz stated no, that is…

Ms. Deborah Tolmay stated and then they come up with all of these variances.

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Secretary S. Brasza stated no, and thanked the petitioner.

Chairman Nestorowicz stated he turns the matter over to the Board.

Board Member Furgal stated she had a couple of questions. She is a little confused; this site plan that they have, shows nothing about outdoor storage on this parking lot that they are discussing regarding the fence.

Ms. Deborah Tolmay stated because it had nothing to do with that.

Mr. Wally Hanna stated he thinks there was a misunderstanding.

Board Member Furgal stated and they have permission to do outdoor storage from what she could see on the property that is west of the building.

Mr. Wally Hanna stated correct; this is the whole idea…

Board Member Furgal asked then why are they going to the Planning Commission.

Mr. Wally Hanna stated to remember he said there are three (3) parking lots around the building, on the east side, west side and behind the building; the only place they want to have the permission to rezone it from the parking into the storage is the west side, not the one across the alley, not the one they are asking for the variance today at all. They do not want to store anything in this parking lot.

Board Member Furgal stated in 2011, they were allowed 5,115 square feet of outdoor storage along the west side of the front property line as per plan.

Mr. Wally Hanna stated he was allowed at the time but he thinks there were some kind of paperwork that he was supposed to go back to the city and submit them, he never knew he had to do that and he thought it was approved that it was all set; he was told by the inspectors, they gave him a few tickets, they told him no, he would have to go back again to have to reapply again, he does not know why.

Board Member Furgal called upon Mr. Murphy.

Everett Murphy, Chief Zoning Inspector stated she is correct; they do have that variance for storage on the west side of the building that is still valid today; they do not need to go back for that.

Board Member Furgal stated she knew that and that was why she was asking him.

Everett Murphy, Chief Zoning Inspector stated they have that and that is valid, it has nothing to do with this particular lot…

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Board Member Furgal stated she agreed.

Everett Murphy, Chief Zoning Inspector stated that was why they did not even put that on there, they did not request it because they already had that.

Board Member Furgal stated right.

Everett Murphy, Chief Zoning Inspector stated they may have received some citations but he thinks it was more for the property maintenance and in the amounts of storage and things like that, it was not about storing.

Board Member Furgal stated yes, it was very specific what they were allowed to store on the property.

Everett Murphy, Chief Zoning Inspector stated right.

Board Member Furgal stated okay, so they got a citation for that and then when they went to address the citation, it was discovered that this lot in the back on Emmons was improperly installed, is that correct?

Everett Murphy, Chief Zoning Inspector stated had never had the proper approvals, variances and whatnot.

Board Member Furgal stated right.

Everett Murphy, Chief Zoning Inspector stated and they listed all the variances that they could find; they do not believe there were any other variances; they have a pretty good record of all that.

Board Member Furgal stated no, she could see the two, they put them on here, but they did not address that property at all.

Everett Murphy, Chief Zoning Inspector stated that was correct.

Board Member Furgal stated okay and to Mr. Hanna she stated, his problem is that it has nothing to do with the outdoor storage, it has to do with the lot that he has that had a fence put up improperly and so what he is asking the Board to do is to forgive him for doing something that he had done. When did he install this parking lot?

Mr. Wally Hanna stated he bought the property 10 years ago and it was in there at least 20 years before he bought the property.

Board Member Furgal stated so he did not install the parking?

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Mr. Wally Hanna stated not at all ma'am. He has pictures as a matter of fact, from 1986.

Board Member Furgal asked so the parking lot was paved?

Mr. Wally Hanna stated it was.

Board Member Furgal asked the parking lot was fenced?

Mr. Wally Hanna stated 100 percent, yes.

Board Member Furgal stated just like it is right now?

Mr. Wally Hanna stated yes ma'am, 100 percent. He has some trees growing on the fence, they have been around over 20 years; he has the pictures with him too if the Board wanted to see them.

Board Member Furgal stated that was okay; her question had to do with how long he has had the property.

Mr. Wally Hanna stated yes ma'am, at least 30 years it has been there.

Board Member Furgal stated that was all the questions she had.

Secretary S. Brasza stated to the Board, she wanted to get their feedback on item number 4, as Mr. Murphy stated, if there is dilemma on the west side of the property because of the outdoor storage, why would they want to waive the 8 feet that would make it look a little nicer with the greenbelt.

Board Member Furgal stated because it is not there.

Secretary S. Brasza stated right, it is saying to waive the required; it is required.

Board Member Furgal stated it is not on that parking lot.

Secretary S. Brasza stated oh, they are talking about the back parking lot.

Board Member Furgal stated the back parking lot is what he is asking for variance; it is not the one on the west at all.

Secretary S. Brasza stated he has variance for that; he just has to make sure that he does not store things that he is not supposed to store, because there are specific things. PBC pipe, light poles, steel pipes, one garbage receptacle and less than 30 wood pallets, the height of the outdoor storage material should not exceed 6 feet in height; so these are requirements of that storage.

Secretary S. Brasza stated all these are just because of that parking lot.

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Board Member Furgal stated correct and he got that because it was in 2011, so he owned the place then.

Secretary S. Brasza stated so they are really talking about the back parking area.

Board Member Furgal stated yes, and apparently this was missed; this back parking lot was missed when this would have been okay. So the Board had to decide if they want to allow him to keep what he has or they are going to make him move his fences back or whatever they to give him.

Chairman Nestorowicz stated he will call upon Mr. Anglin and then Ms. Pauta, but he just wanted to give one comment of his own. Because this is an existing parking lot that has been there for many years, he personally does not have a problem with items 4 and 5 in terms of the side setbacks and all sorts, but he really thinks items 1, 2 and 3 have to do with the paving up to the sidewalk and the fencing all the way there; he honestly thinks that having a setback along the sidewalk would be good just because…he thinks when there is paving up to a sidewalk like that, that is a detriment to the neighborhood in terms of esthetics, the view from the neighbors and the homes in the area, but the sides, so items 4 and 5 he personally does not have a problem with, he is just not in favor of 1, 2, and 3. He addressed Board Member Anglin that he had a comment.

Board Member Anglin stated that Chairman Nestorowicz already stated what he was doing to say; asked to waive his comment.

Board Member Pauta stated she was there today and Mr. Everett Murphy was correct with the property maintenance issue, because the west parking lot was kind of bad, there were a quiet of few pallets out there. She really does believe that they should have the greenbelt there in the front yard setback, on the north side of the property; she agrees with the Chair on 4 and 5, but she thinks this needs some fine tuning because she is not seeing a hardship at all. It is just something that they want to change that requires the city to approve it.

Board Member H. Brasza stated he too is in favor of 4 and 5 and for clarification reasons for the Planning, they could allow the fence to go all the way around the parking area, but do they really….he guesses they would have to eliminate 1, 2, and 3 and say they could approve just 4 and 5 tonight, then send it back to Planning and then once they decide what the real setback should be in the front yard, then they could come back again. Is that a reasonable….he sees a lot of nodding going on. Does the petitioner understand what he is suggesting?

(No response heard)

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Board Member H. Brasza stated that the Board approve the fact that they could keep the greenbelts or waive the greenbelts on the two sides of that parking lot and then allow a 6 foot fence all the way around the parking area but then they would have to go to Planning to discuss with them at least some setback; he would be okay…he does not see any neighbors there. He means if he had neighbors complaining, he would be a lot more concerned about the setback.

(Inaudible)

Board Member H. Brasza stated he thinks they are used to that in that neighborhood; the one with the brick wall, he thinks is much worse…

Ms. Deborah Tolmay stated she thinks because with the brick wall, if they were the neighbors and there was the brick wall in the front, the other brick wall that is down the street, there is no one there next to it; it is an empty field and then they have another house over but here there is a house on both sides; they only park during the day there. They did have some trucks, they had trucks but they did not know they were not allowed to keep them there.

Board Member H. Brasza stated then he will say this…

Ms. Deborah Tolmay stated a truck and a van; it was not like a big huge semi or something; they were vans that they used during the day.

Board Member H. Brasza stated he will say this; the outside of the storage area on the west side, the rest of the facility looks very clean; where the customers going is very well organized, he means it looks very nice that way and even the parking lot that they are discussing there, is very clean looking. But, back to the neighbors, he means he would really like to see a setback away from the sidewalk, even if it was just 8 foot; something to get it away from the sidewalk so that neighbors are not…so if people are walking down the sidewalk, they are not walking right next to fence in a neighborhood. But that is just him and everybody else has their opinion.

Ms. Deborah Tolmay stated but then the whole street is that way.

Mr. Wally Hanna stated the whole street is that way.

Ms. Deborah Tolmay stated all the fences are all lined up, even the wall; the person that has a greenbelt wall down further, they are all lined together. As the Board could see, it was attached to their thing…

Mr. Wally Hanna stated he could show them the picture and they will see the whole street, the whole fence is one line, from the beginning of the street to the end of the street.

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Board Member H. Brasza stated he understands and he was down that street and he observed that but there is still houses intermingled with these fences that they are talking about. There is a house on each side that does not have a fence all the way to the sidewalk.

Mr. Deborah Tolmay stated yes they do.

Mr. Wally Hanna stated they do; every single one.

Ms. Deborah Tolmay asked Board Member H. Brasza if he had their package. (Inaudible) There is a picture with the package and they will see that...

(Inaudible)

Board Member Furgal stated it is a whole line and there is not a fence all the to the front.

Chairman Nestorowicz stated he does know that there are homes in that area that does have fences all the way up, but that is actually not what the zoning in the city actually allows. He means, fences even at residential properties, should not extend past the house towards the street and he would think that in time, that neighborhood should actually—hopefully---get into conformity of not having fences.

Ms. Deborah Tolmay stated but even…there was the brick wall… probably three houses down that their neighbor has their next to them, has that and he has that wall and it goes to the same way.

Secretary S. Brasza stated but that is not a hardship that they could look at; because their neighbors have a certain thing, they are not before the Board; they are just looking at hers.

Ms. Deborah Tolmay stated what she was just saying is that there might have been variance like Ron said; there could have been a variance to put it up to the certain area years ago.

(Inaudible)

Board Member Pauta stated under the circumstances, she believes they should table this until after Planning because of the fact there is no hardship at this current time; they are voicing their opinion, they are bringing things to their attention, and perhaps Planning would have a better outlook—she does not know—but she is not seeing it right now. She would rather see that Planning look at this first.

Mr. Wally Hanna asked if he could add something.

Chairman Nestorowicz stated not unless there was a question directed towards him; he asked if there were any other comments.

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Secretary S. Brasza stated to Board Member Pauta that there was no support for the motion. She...

Board Member Wallace stated the fence on each side of that is butting up to the east part of their neighbor, correct?

Mr. Wally Hanna stated yes.

Board Member Wallace stated where their fence is going to their neighbor's fence, is almost right at their walkway, correct?

Ms. Deborah Tolmay stated the whole fences on the whole street, they are all lined up.

Board Member Wallace stated no, he is speaking about along it, not the size…

Secretary S. Brasza stated east and west.

Board Member Wallace stated yes, the side.

Ms. Deborah Tolmay stated that is their fence.

Board Member Wallace stated yes, but they also have a fence, correct?

Ms. Deborah Tolmay stated that is the same.

Mr. Wally Hanna stated the neighbors are actually using his fence.

Board Member Wallace stated they are using his fence?

Mr. Wally Hanna stated yes.

Ms. Deborah Tolmay stated it is just one fence.

Board Member Wallace stated so that is how close they are to their house, is they are using his fence?

Mr. Wally Hanna stated he does not know who owns it that was just the way it was.

Board Member Wallace stated no, no; to see what he is stating is that if he had a car that was parked back then, that is how close that is going to be to that neighbor's house, is that they are using his fence, correct?

Ms. Deborah Tolmay stated there are only one fence, yes, and one fence all the way through there yes. They do not usually park up there in the front; they had parked their vans up there at night time; they leave them there overnight.

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Board Member Wallace thanked the petitioner.

Ms. Deborah Tolmay stated they did not know that they were not allowed to park there.

Mr. Wally Hanna stated losing one of the parking lot—the one on the west side—that would put him in the need for more parking lots. The hardship should be that he lost a big parking lot and he only has two and they use it fully now, so if the Board makes it smaller, it is going to affect the business.

Ms. Deborah Tolmay stated basically, the employees park there.

Secretary S. Brasza stated she would like to correct her statement. It is not a hardship standard that they are looking for; it is actually a practical difficulty standard that they are looking for.

Roxanne Canestrelli, Assistant City Attorney stated and that is correct, because this is a non-use variance.

Secretary S. Brasza stated right and thanked the Board.

Board Member Pauta stated the other thing that she did not bring to their attention was, the wood fence on the east side of the property, where the two parking lots abut each other that was in really poor condition.

Chairman Nestorowicz stated okay and thanked Board Member Pauta.

Secretary S. Brasza stated she would like to put out a motion if she may, and they will see where it goes.

Motion:
Secretary S. Brasza made the motion to approve the variance requested in items 4, and 5 only:

4. Waive the required eight (8) foot wide greenbelt in the side yard setbacks on the east and west sides of the property.
5. Allow a six (6) foot fence around the parking area.

Reasons being: Property is Unique and it is Not a Detriment to the Area.

Board Member H. Brasza Supported the motion.

(Inaudible discussion)

APPROVED

Secretary S. Brasza stated the Board is getting legal advice to take this and separate the items.

Motion:
Secretary S. Brasza made the motion to a ***Separate*** the variance request in this public hearing, to items 1, 2 and 3 in one variance request; and items 4 and 5 in a second variance request; with that in mind…

Board Member Anglin Supported the motion.

Roxanne Canestrelli, Assistant City Attorney stated there would be some identifying language in the Secretary's motion to that 1, 2 and 3 would be tabled to be sent back to Planning; is that her intention?

Secretary S. Brasza stated no, she was going to separate them first, and then vote on each one separately.

Roxanne Canestrelli, Assistant City Attorney stated she got it; that was perfectly fine.

Secretary S. Brasza stated super; that is her motion; to separate and a support.

Chairman Nestorowicz stated there is a motion by Secretary S. Brasza to Separate items 1, 2 and 3 from items 4 and 5 with Support by Board Member Anglin. He asked for voice vote.

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

Chairman Nestorowicz stated that motion has passed and called on Secretary S. Brasza that she wanted to make a motion.

Motion:
Secretary S. Brasza made the motion to **table** variance request for items 1, 2 and 3 until after Planning, June 20s….

Ms. Deborah Tolmay stated what that was? July 22nd.

Secretary S. Brasza stated July 22nd, so they would have to visit that in August; which would be to the August 10th meeting.

Board Member Pauta Supported the motion.

APPROVED

Chairman Nestorowicz asked if the Board could actually just leave it as tabled until after it goes to Planning, in case Planning does not take action.

Secretary S. Brasza stated yes.

Ms. Deborah Tolmay apologized and asked what they needed to get from Planning; that was what she does not understand.

Chairman Nestorowicz stated because the comment that he is hearing is here is because…it appears to the Board that she has support for items 4 and 5, with the fence in the sides. The comment he is hearing is that the Board is not in favor of not waiving the greenbelt along the sidewalk to the north…

Ms. Deborah Tolmay stated but if they moved it and put a greenbelt there then that fence…

Secretary S. Brasza stated the Board is in the process of making a vote; when they are done, all of the miscellaneous, Mr. Murphy would be happy to walk her through with what they are doing, so…

Ms. Deborah Tolmay stated okay, but she just wanted to say there is a hardship to their neighbors because if they move the fence….

Chairman Nestorowicz stated okay, but she needs to let the Board finish their motion and their vote and then Mr. Everett will be able to help explain….

Secretary S. Brasza stated with what the Board is doing. At this time, the motion was made by Secretary S. Brasza; is there a support.

Board Member Pauta Supported the motion.

Motion:
Secretary S. Brasza made the motion to **Table** variance request for items 1, 2 and 3 until after Planning, June 20s….

Chairman Nestorowicz stated they have a motion by Secretary S. Brasza to **table** items 1, 2, and 3 to go back to Planning, and the Support by Board Member Pauta.

Roll Call:
A roll call was taken on the motion to **Table** and the motion carried (8 – 0).

Secretary S. Brasza	Yes, for the reasons stated in the motion.
Board Member Pauta	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.

APPROVED

Board Member H. Brasza	Yes, for the reasons stated in the motion.
Board Member Sophiea	Yes, for the reasons stated in the motion.
Board Member Wallace	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The petition is **Tabled** to go back to Planning.

Chairman Nestorowicz stated the motion had passed for items 1, 2 and 3 had been **Tabled** to go back to Planning. He called on Mr. Everett if he had a comment to make before the Board continued on.

Mr. Everett Murphy, Chief Zoning Inspector stated he would like to request just a clarification on the first item.

Chairman Nestorowicz stated yes.

Mr. Everett Murphy, Chief Zoning Inspector stated so the Board granted it to allow the fence around the parking area…

Chairman Nestorowicz stated they have not done that vote yet; that is their next vote.

Mr. Everett Murphy, Chief Zoning Inspector asked they had not voted on that one yet?

Chairman Nestorowicz stated no.

Secretary S. Brasza stated she would state it in the motion.

Mr. Everett Murphy, Chief Zoning Inspector stated okay, because in the motion though, they did not say how far that greenbelt on the sides was waived.

Board Member Anglin stated that is in the second motion.

Chairman Nestorowicz stated they have not voted on that yet.

Secretary S. Brasza stated they have not gotten to that yet.

Mr. Everett Murphy, Chief Zoning Inspector stated they did not make that motion yet?

Chairman Nestorowicz stated no.

Mr. Everett Murphy, Chief Zoning Inspector stated okay, he thought they made that motion.

Motion:
Secretary S. Brasza made the motion to **Approve** variance request for:

APPROVED

1. Waive the required eight (8) foot wide greenbelt in the side yard setbacks on the east and west sides of the property, eight (8) foot...

Board Member Furgal stated no, fifteen (15); fifteen (15) feet from the property line…the north property line…

(Inaudible)

Secretary S. Brasza stated the Board is not doing that; that is not what they were doing.

Board Member Furgal stated that was what he wanted her to do.

Secretary S. Brasza stated that was not what they were dong; that is going to happen after. That was in items 1, 2, and 3 that they tabled; the north property line.

Board Member Furgal stated she gets it but Secretary S. Brasza does not.

Secretary S. Brasza stated well…is he…

Mr. Everett Murphy, Chief Zoning Inspector stated that is the part he was trying to clarify; in the motion; if the Board just says along the two (2) sides, that goes all the up to the sidewalk.

Secretary S. Brasza stated she understood, but okay…

Board Member Anglin stated they could not action on it.

(Inaudible)

Secretary S. Brasza stated but they do not want it up to the sidewalk; they wanted fifteen (15) feet the side of the sidewalk.

Chairman Nestorowicz stated they have to have a setback.

Board Member Anglin stated in his opinion, the whole thing should be tabled until after it comes back and they get their greenbelt up front because he is not going to vote for this unless they have a greenbelt up front and they get it back from Planning.

Motion:
Secretary S. Brasza made the motion to **Table** items 4 and 5 to the next meeting ***after*** the Planning Commission hears the matter.

Board Member H. Brasza Supported the motion.

APPROVED

Chairman Nestorowicz stated there is a motion to **Table** the remaining items 4 and 5, by Secretary S. Brasza and Support by Board Member H. Brasza until after Planning reviews everything.

Roll Call:
A roll call was taken on the motion to **Table** and the motion carried (8 – 0).

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 Furgal	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Pauta	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.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The matter is **Tabled** to go back to Planning.

Chairman Nestorowicz stated with their item, this actually does have to go to Planning in terms of them approving what that site plan would be; they could speak to Mr. Murphy and he could explain what it is that the Board is looking for and then that plan from Planning hopefully would then identify what is the setback from the sidewalk that they wanted in the request. But, they could hear from the Board that the Board here is looking for a greenbelt along the north.

Ms. Deborah Tolmay stated okay but if they brought in the neighbors and they said it would be a hardship to them because if they take that fence down, they would have to put up a fence.

Chairman Nestorowicz stated unfortunately it has been voted upon and that does have to go to Planning…

Ms. Deborah Tolmay stated she knows but she was just asking….does the Board know what she is saying, and that costs money to them to put up a fence because they are using their fence to fence theirs…

Roxanne Canestrelli, Assistant City Attorney stated this item has already been voted upon, she no longer has the floor she is sorry.

Ms. Deborah Tolmay stated okay.

Roxanne Canestrelli, Assistant City Attorney stated she could discuss it with Mr. Murphy and…

APPROVED

Secretary S. Brasza stated and the Board will hear from them after they go to Planning and thanked the petitioners.

Roxanne Canestrelli, Assistant City Attorney stated yes.

Board Member H. Brasza stated that Mr. Murphy would be happy to clarify the next steps that they are going to need to…

Ms. Deborah Tolmay stated okay.

Board Member H. Brasza stated because they really want a recommendation from the Planning Commission so that is why they are doing this.

7. NEW BUSINESS

Chairman Nestorowicz asked if there was any new business to be discussed today.

Board Member Pauta stated she would like to thank the Board very sincerely for the beautiful flowers that they sent. Her husband passed away on May 25th; and the Board sent flowers and they were very, very moist condition. She thanked the Board.

Chairman Nestorowicz stated to Board Member Pauta that she is welcomed and asked the Board if there was any other new business?

(No response)

8. ADJOURNMENT

Motion:
Secretary S. Brasza made the motion to adjourn the meeting and supported by Board Member Anglin.

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

The meeting was adjourned at 8:13 p.m.

APPROVED

Sherry Brasza
Secretary of the Board

APPROVED