

WARREN ZONING BOARD OF APPEALS
REGULAR MEETING
October 12, 2016

A Regular Meeting of the Warren Zoning Board of Appeals was called on Wednesday, October 12, 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
Henry Brasza
Charles Anglin
Albert Sophia
Jeremy Wallace

Members of the Board absent:

None

Also present:

Roxanne Canestrelli, City Attorney
Steven Watripont, 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

Board Member Furgal just walked into the auditorium.

Secretary S. Brasza said at this time Board Member Furgal is just arriving so she is here.

4. ADOPTION OF THE AGENDA

Motion:

Board Member Anglin made the motion to adopt the agenda. Board Member Pauta supported the motion.

Voice Vote:

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

Chairman Nestorowicz wondered if there were any members of the public that would wish to speak on this item.

No response.

Chairman Nestorowicz turned this matter over to the Board. He stated he has a question because he's confused on this one item. At the last meeting, this property owner, where the Sphinx gas station was, came to the Board because he wanted to build a retail building where the gas station was. He went back because at that time the Board said it was too large, so he was telling them he wanted to build a retail location at that site. Now this sign has the pain center on it. He's just trying to figure out if the sign is going to be for the pain center or is it going to be part of the sign that's going to be in that retail building that is going to be there. That's the confusion he has.

Paul Deters stated he can shed some light on that because he was at the meeting last month, or a few weeks ago as well. The petition before for the retail center was actually at the building where the annex is, which is the building just to the south of this; it's a different parcel.

Secretary S. Brasza said Clems.

Paul Deters said pardon me.

Secretary S. Brasza said it was called Clems before. It was another business.

Paul Deters said it was a restaurant or something before, that is correct. The proposed retail center is at what the owner calls the annex right now. However, the final use of this parcel may also wind up including some retail but it's also going to be office space for the pain center and partial for their clientele as well. It will probably be, whether the doctor's might use it for some offices, they're going to use it for a pain center, visiting patients, offices and possibly some sort of initial pharmacy or other retail establishment that will be tied in with the business.

Secretary S. Brasza asked if he's saying this twenty foot high sign is going on a partial office space and possible retail. In essence, she's thinking that the now pain center, which is to the south as he mentioned, is going to want to come back for some more signage.

Paul Deters said the pain center that is to the south of them...

Secretary S. Brasza states that he says is going to be turned into retail.

Paul Deters said that already has a separate ground sign, it's a separate parcel that's across the street; it's south of Hartig Street. It's a completely separate parcel and it has its own free standing sign.

Secretary S. Brasza said correct, which is smaller than what he's asking for in a facility

that's going to be half the size.

Paul Deters said that sign is quite a bit larger, the one that is to the south.

Inaudible.

Secretary S. Brasza doesn't believe it's twenty feet tall though.

Inaudible.

Paul Deters stated it's a more bigger area than what's being proposed here.

Inaudible.

Paul Deters said what they're proposing is only forty-six square feet total.

Secretary S. Brasza said it is five feet, ten point five six inches by five feet, ten point five six inches of LED. She asked if that was correct.

Paul Deters said yes.

Secretary S. Brasza said or seven point five six inches.

Paul Deters said that is thirty-four in a half square feet.

Secretary S. Brasza said it's five by five. He wants it to be twelve feet high in an area that if you're going south bound on Van Dyke in the morning it is so clustered and congested due to the fact that there is gas station and a doughnut shop, people are coming in and out, coming out of McDonalds. She doesn't want travelers going south bound to look up at that point because it is so close to the service drive of 696. This is her thought, and this is to the Board, this is a non use variance which is partially difficulty standards that they have to meet and there is six of them that they have to meet. Number one, it's an unreasonable impact; she does believe it's an unreasonable impact. She thinks this is self imposed, which it's supposed to be not self imposed. The property is not really unique, if it's going to be a strip, retail, whatever office, it's probably going to be three or four divide into a ranch style unit. It's not be personal or economic and she believes this is, and truly she doesn't think a five by five foot LED is necessary. She would rather see the pain center area be the five by five and flip it. Have the little two by eight be the LED; that's her thought.

Chairman Nestorowicz said luckily it was also pointed out that at the last meeting, with the minutes they just approved, the address is the same as the one that was retail building that they wanted to build, because he thought that's where the gas station was. It's the same address and the same description of 27333 Van Dyke and that was tabled indefinitely for them to come back to decide what they wanted to do. He personally thinks it's the sign and the property should come back at the same time once they know they're doing with the property, then come back and do the sign at the time so they don't come back and say now they're doing... that's just his opinion.

Secretary S. Brasza said she agrees.

Motion:

Board Member Pauta made a motion to table the petitioner's indefinitely till they know for sure who's doing what and where.

Secretary S. Brasza supported the motion.

Chairman Nestorowicz asked if it was to be heard at the same as the other item.

Board Member Pauta said yes.

Chairman Nestorowicz said there is a motion by Board Member Pauta, support by Secretary S. Brasza to table this item indefinitely to be heard when applicant comes back for the property and any variances. Roll call.

Roll Call:

A roll call was taken on the motion. The motion carried (8 – 1).

Board Member Pauta	Yes, to table.
Secretary S. Brasza	Yes, to table.
Board Member Furgal	Yes, to table.
Board Member H. Brasza	Yes, to table.
Board Member Fisher	Yes, to table.
Board Member Anglin	No, should be discussed tonight
Board Member Sohpiea	Yes, to table.
Board Member Wallace	Yes, to table.
Chairman Nestorowicz	Yes, to table.

The petitioner's request is **TABLED** until a date where the property owner comes with what's being done on the property and any variances that are needed for the property.

Paul Deters asked if that has a bearing on the signage that is allowed. He just wants to explain to the owner what the connection is between the two because the sign of the size fits within what's allowed for the zoning. The fact that it's an electronic display is the part that needs to the Board's consideration.

Chairman Nestorowicz explained that it really should be is a complete picture of what is going on at that property. What happens is they have one request that talks about a sign, another request that talks about a building or parking, it's all separate. This is really is all part of one plan for that parcel. If the Board has an idea of the entire plan for that parcel is, then they can make a good determination on whether it's appropriate or not.

Paul Deters said at the last meeting they were told to come back with an alternate plan. What happens if they show up next time...

Chairman Nestorowicz turned this matter over to the Board.
Long pause.

Chairman Nestorowicz asked if that barbed wire still exists on the fence there.

Inaudible.

Chairman Nestorowicz said he has no problem with the waiving of the required parking, he would just like to have the barbed wire removed as a condition.

Inaudible

Robert Tobin stated they did talk to the Planning Department about the barbed wire, they took it off the request because it was put up by the neighbors to the south and therefore, the fence and the barbed wire are owned by the neighbor.

Inaudible.

Robert Tobin introduced Scott Krall, he represents the owner.

Secretary S. Brasza said it's against his property.

Robert Tobin said he wants to the Board what happened to the barbed wire.

Scott Krall stated they don't own that fence, that's their property.

Inaudible.

Chairman Nestorowicz said ok and that's the only comment he had then.

Motion:

Board Member Sophia made the motion to grant the petitioner's request for permission to waive 16,337 square feet of required off street parking. Reasons being: Unique nature of the property; Size and shape of the lot.

Board Member Wallace supported the motion.

Chairman Nestorowicz stated there is a motion by Board Member Sophia and support by Board Member Wallace to approve the petitioner's request for the reasons stated in the motion. Roll call.

Roll Call:

A roll call was taken on the motion. The motion carried (9 – 0).

Board Member Sophia
Board Member Wallace
Board Member Anglin

Yes, for the reasons stated in the motion.
Yes, for the reasons stated in the motion.
Yes, for the reasons stated in the motion.

Board Member Fisher	Yes, for the reasons stated in the motion.
Board Member H. 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.
Secretary S. Brasza	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The petitioner's request has been **APPROVED.**

Robert Tobin thanked the Board.

8. PUBLIC HEARING: **APPLICANT: St. Josaphat Ukrainian Church,
Mr. Giuseppe Lentini -USE-**
REPRESENTATIVE: Giuseppe Lentini / Aleessandro Lentini /
Maurizio Lentini
COMMON DESCRIPTION: **26401 St. Josaphat DR. (a.k.a. 26440 Ryan Road)**
LEGAL DESCRIPTION: 13-20-152-001 & 13-20-152-002
ZONE: R-1-C

VARIANCES REQUESTED: Permission to: -USE-

- 1) Conduct a seasonal outdoor sales operation of Christmas trees, on residential church property from **November 15, 2016 through January 15, 2017, with the hours of operation limited to 8:00 a.m. through 10:00 p.m.**
- 2) Store a temporary trailer on the premises for the duration of the sale.

ORDINANCES and REQUIREMENTS:

Section 4.46: Outdoor Sales are not permitted in R-1-C zoned districts.

Section 4.53 Paragraph (i): Camping trailers, portable sanitary facilities and temporary living quarters are prohibited.

Aleessandro Lentini stated he is the son.

Chairman Nestorowicz asked for name and address for the record, as well as the reason for the petition.

Aleessandro Lentini, 24100 Twenty-Three Mile Road in Macomb Township, said he is here to do this as he does it every year for the last thirty some years to get approved for his tree lot.

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

No response.

Chairman Nestorowicz turned this matter over to the Board.

Motion:

Board Member Anglin made the motion to 1) conduct a seasonal outdoor sales operation of Christmas trees on residential church property from November 15,

2016 through January 15, 2017 with the hours of operation limited to 8:00 a.m. to 10:00 p.m. and 2) Store a temporary trailer on the premises for the duration of the sale. Due to: Not detrimental to the area; Needs approval by the Board.

Board Member Pauta supported the motion.

Chairman Nestorowicz said they have a motion by Board Member Anglin and support by Board Member Pauta to approve the petitioner's request for the reasons stated in the motion. Roll call.

Roll Call:

A roll call was taken on the motion. The motion carried (9 – 0).

Board Member Anglin	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 H. Brasza	First, thank you for coming early and yes, for the reasons stated in the motion.
Board Member Fisher	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.
Secretary S. Brasza	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The petitioner's request has been **APPROVED.**

Aleessandro Lentini thanked the Board.

9. PUBLIC HEARING: **APPLICANT: Pastor Craig McGlassion,
Paradox Church**
- REPRESENTATIVE: Chad Asman
COMMON DESCRIPTION: **28241 Mound Road**
LEGAL DESCRIPTION: 13-17-277-003
ZONE: M-2 & R-1-P

VARIANCES REQUESTED: Permission to:

- 1) Waive thirty-three (33) parking spaces.
- 2) Allow 22 parking spaces at a length of 18 feet.

ORDINANCES and REQUIREMENTS:

Section 4.32, Paragraph (g): Required off street parking. Nothing in this section shall be construed to prevent collective provisions of off-street parking facilities for two or more buildings or uses, provided collectively, such facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the table.

Section 4.32, Paragraph (h), Item 15: Required off street parking Church – One (1) for each three (3) seats in the main unit of worship. Where individual seats are not provided, each (20) inches of bench shall be considered as one (1) seat.

Section 4.32, Paragraph (h), Item 20: Required off street parking Furniture – One (1) parking space required for each 500 square ft. of floor space.

Section 4.32, Paragraph (h), Item 11: Required off street parking College – One (1) parking space for each two (2) employees (including teachers and administrators) and one (1) for each ten (10) students.

Section 4.32, Paragraph (i): Parking dimensions All spaces that do not abut a continuous curb required in accordance with Section 16.07 or a common property line shall be laid out with a minimum length of 20 feet.

Chairman Nestorowicz asked for name and address for the record, as well as the reason for the petition.

Chad Asman, P.O. Box 657 in Washington, said tonight they're looking for two variances. They have an existing site; they're the third tenant coming into this site and they're looking at twenty-two parking spaces that are eighteen feet, the ordinance requires twenty feet. So, they're looking for a two foot variance on those as well as thirty-three parking spaces. Currently, the tenant load on the site, they feel like it set up for peak use. They have two tenants that are not on site or open on Sunday's. Sunday's is when the church would be at its peak use, so they're looking for the variance of the thirty-three parking spaces for that peak use time.

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 turned this matter over to the Board.

Board Member Anglin said his understanding when looking at this, the front part of this building is going to be used for the church.

Chad Asman said yes, there is a second floor and the center section of the front building.

Board Member Anglin said his only concern or question would be that as the church expands with memberships and that, they start taking over more and more of the space or go into an existing area as part of the church, then that puts a bigger demand on parking. If the Board does a variance for it, they've just eliminated some of that parking space.

Chairman Nestorowicz wondered if Steve Watripont could ask those because this is based on the church having the portion of the building that they're occupying, correct? So if they expanded in the building, they would have a new parking need, would they not? It would have to come back to the Board or...?

Steve Watripont, City Zoning Inspector, said if they expanded into other portions of the current building, they would have to get a certificate of compliance for that part and they would have to meet the parking restrictions on that. The thirty-three would

probably be waived for the whole site as a whole but it gets brought back into play if they expanded the building use.

Board Member Anglin said that answered his question and thanked him.

Board Member Furgal said she wanted to point out that there is a great deal of vacant property on that land. The whole back, about half of it is still trees so the parking could be expanded.

Motion:

Board Member Anglin made a motion to 1) waive thirty-three parking spaces and 2) allow twenty-two parking spaces at a length of eighteen feet. Due to: Not detrimental to the area; Necessary due to the size and shape of the building and property.

Board Member Wallace supported the motion.

Chairman Nestorowicz stated there is a motion by Board Member Anglin and support by Board Member Wallace to approve the petitioner's request for the reasons stated in the motion. Roll call.

Roll Call:

A roll call was taken on the motion. The motion carried (9 – 0).

Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Wallace	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 H. Brasza	Yes, for the reasons stated in the motion.
Board Member Fisher	Yes, for the reasons stated in the motion.
Board Member Sohpiea	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 petitioner's request has been **APPROVED.**

Chad Asman thanked the Board.

- 10. PUBLIC HEARING:** **APPLICANT: Chris Lee**
REPRESENTATIVE: Phillips & Lighting, Inc.
COMMON DESCRIPTION: **27750 Van Dyke**
LEGAL DESCRIPTION: 13-11-280-001
ZONE: C-2

VARIANCES REQUESTED: Permission to:

- 1) Allow a wall sign 4' x 31' 7.5" = 126.5 square feet.
- 2) Allow an LED sign panel 7' 3" x 29" = 17.53 square feet.

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 (8): Definitions 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 (c): Total wall signage of a size not to exceed forty (40) square feet shall be allowed for each business in commercial business and industrial districts zoned C-1, C-2, C-3, M-1 and M-2.

Chairman Nestorowicz asked for name and address for the record, as well as the reason for the petition.

Greg Morgan, 40920 Executive Drive in Harrison Township, stated he is from Phillips Sign and Lighting. He said they're asking for two variances. Number one, would be for the wall sign and the length of the store frontage for Kelly Beauty is one hundred and fifty-three feet. It's also set back approximately three hundred and thirty feet off of Van Dyke. With the frontage of the building and the setback from the road of Van Dyke, they ask they would be allowed more than the forty square feet allowed. They're asking for one hundred and twenty-six square feet. The Board can see that the Kelly Beauty fits nicely in the middle of the store frontage and it doesn't take up an obnoxious amount of space. The second portion of their variance would be to add an electronic message board to the existing pylon sign that is there. The Board can see they want to take up two spaces, the one that says "For Lease" and the other that is blanked out. In those two spaces they want to incorporate a seventeen and a half square foot message and then the Kelly Beauty; that would leave two additional tenant spaces for tenants that may be coming into the mall.

Inaudible.

Chairman Nestorowicz said this is a public hearing. He opened it to any members of the audience who would like to speak on this item.

No response.

Chairman Nestorowicz closed the public hearing and turned it over to the Board. He wondered if this LED sign is only going to be for Kelly Beauty or will other tenants in the plaza have access to it.

Jeovani Gojcaj, 3969 Miller, said this will probably be for all the tenants to use in the plaza because in that area of Warren, it was vacant for four years now. Dunham's left and it was owned by the City of Warren, they just acquired the property five months ago from the DDA. They're trying to bring life back to that area of Warren because everybody in that area knows that spot of being a vacant spot for quite some time, so it's basically to help all the businesses in that plaza.

Chairman Nestorowicz said for him to understand why he asked that question, he explained because he has now problem with the Kelly sign on the building because it set back far enough and all that, he just always worries that if this was an LED just for

Kelly, he doesn't want to have a couple months from now have somebody come back a few months from now with the Dollar General wants LED sign and to have multiple LED signs on a sign.

Jeovani Gojcay said they plan on giving all their tenants options, whether they want to put something up or not. Basically, they want to keep everyone in the plaza happy.

Board Member H. Brasza said when he looks at the display that they have for the example it shows an American flag, it's a graphic of what's going in the pole sign. Truthfully, he's not comfortable with that. If it was just characters he would be fine with that, but again it's like putting something up that people have to look at as their going down Van Dyke, it's a very busy street and anything but letters to him is a distraction for the drivers; he's not ok with that part. The sign on the building he's ok with, he's not in favor of a graphic that does anything but letters in the pole sign. That's just his opinion and he wanted to voice that.

Jeovani Gojcay said to address that, the Board can give them guidelines to go by just to keep everybody happy. It can be they just put promotion numbers, letters; it's there to support sales they have going on and not actually going to put pictures of stuff all the time, that was just to show an example.

Board Member H. Brasza asked if he would be ok if they limited it to characters only.

Jeovani Gojcay said that would be fine, it's not a problem.

Board Member H. Brasza said that was be acceptable for him and asked the attorney if that's an acceptable limitation on the sign.

Roxanne Canestrelli replied yes.

Greg Morgan said he thinks the city already has guidelines as to how to operate the electronic message board where there is no flashing, there's no video...

Secretary S. Brasza mentioned no scrolling.

Greg Morgan said you can only change it once...

Chairman Nestorowicz stated there is no scrolling once every five minutes.

Board Member H. Brasza said that part he knows about but you can show a graphic if the Board is not careful.

Secretary S. Brasza said that is not in the ordinance.

Board Member H. Brasza said that's why he wants to limit it. The graphic part is not part of the sign ordinance to his knowledge.

Secretary S. Brasza said correct.

Board Member H. Brasza said if he's ok with limiting it to characters then he's ok with it, that's just his opinion.

Chairman Nestorowicz thanked Board Member H. Brasza and wondered if there were any other comments.

Board Member Fisher said he understands the hardship in regards to the size of the wall sign, but what is the hardship in regards to the LED sign?

Greg Morgan said the hardship is that the mall has been a dead mall and that they want to attract customers and people into the mall itself. The mall has obstructions as far as tree's and everything along Van Dyke, the pylon sign is on Van Dyke, it's a major thoroughfare and that's what people are going to see first when they are driving by the mall, then they would look into the mall between the tree's and then they would be able to see some of the signage that's on the buildings there. He thinks the first thing they're going to see is they look at the pylon sign as driving down Van Dyke.

Board Member Fisher understands that but that same logic could be used for any vacant property, any vacant commercial property throughout the city. They could say they want to revitalize this building so they need a variance. That's not a hardship, a hardship needs to be something specific to this property that would say why the Board should give a variance from an ordinance that is supposed to apply to everybody. The Board needs a hardship for this.

Greg Morgan said the point of having an electronic message board on a sign is to attract more business for the businesses that are in the mall. An electronic message center has been proven to do that where they increase the traffic in their stores by about ten percent; that's why they're trying to do with the message board.

Board Member Fisher said he understands that but what the Boards job is to look at these individual requests and say if this property is different from other properties. City Council's job is to determine policy, so City Council is the one to determine if they're going to or not to allow certain types of signs. They're the ones that are going to determine what the code says. The Board simply says if they should waive that in this particular instance. He thinks that they're in danger of here, not only with this sign but the other LED signs that are increasingly coming before the Board, is putting themselves in that place saying that they're only going to grant variances to these because they want to revitalize this business. He thinks if they want these signs, unless there is a specific hardship for this specific property, then they need to be looking at City Council to be altering this.

Greg Morgan said there is other signs in that area that are electronic message boards on Van Dyke and even on Mound that are in Warren and have electronic message boards. They need the same opportunity for their mall as the other signs that are existing already.

Jeovani Gojcaj said the traffic on Van Dyke moves quite fast, so it's going to be there

to bring attention to the plaza being open just because of the pace of the traffic, as fast as it does move on Van Dyke.

Board Member Fisher said you can see how that kind of feeds into exactly what some of the concerns were with the Board. Traffic moves relatively fast and they're looking to catch their attention while they're moving fast; that's part of the reason why these signs can be dangerous because they're moving fast and now they're distracted. That doesn't necessarily help the case. For him, without a specific hardship for this property, he can't support it.

Secretary S. Brasza said she's going to state in regards to that, she thanked them for coming into that area. It is a depressed plaza and of course they have had Department of Human Services in there quite a long time, the restaurant and the Dollar General does very well. With that big Kelly Beauty, she thinks that's going to do very well too. Fortunately, they have a light there so traffic stops for quite a long time actually because of the intersection. She agrees with her fellow board member. She thinks with the signage on the building itself, they're right in the middle of the plaza with Kelly Beauty. She doesn't know how many people pay attention to those monument signs when driving down the street, they just know what's there so she will be voting no on this.

Board Member Pauta said she agrees with Secretary S. Brasza, Board Member Fisher and Chairman Nestorowicz because who's to say that these other people might want later to put out these signs. Van Dyke Avenue in Warren, Michigan is not Las Vegas, Nevada and she thinks that is what's going to end up happening. There's going to be flashing lights all over the place so she will be voting no on this also.

Board Member Anglin said he doesn't have a problem with it because they're not expanding the footage of signage that's going up, it will just give them the opportunity to change the message that's on the board. His only question at this point is they're talking about Kelly Beauty, but whose the one petitioning for this sign then; is it the plaza owner because is everybody going to have the right to use it?

Jeovani Gojcaj said the plaza owner.

Board Member Anglin said shouldn't this be on two separate petition's. Should Kelly Beauty be applying for their sign or is the plaza applying for their sign?

Unknown Board Member said no.

Board Member Anglin asked if Kelly Beauty's sign is the plaza?

Jeovani Gojcaj said it's owner occupied. So the owner's of Kelly Beauty own the whole plaza.

Board Member Anglin said oh, his reason for it is that they're not expanding any signage they're just giving themselves an opportunity to replace the facing anytime they have something coming up.

Board Member Furgal said she agrees with Board Member Anglin.

Chairman Nestorowicz thanked her and just wanted to make a statement. He has no problem because the signage is not changing for the podium. That's why when he asked the question if everybody would have access to it because he's not in favor of two signs that are LED, but as long as that's the only LED on there then he's fine with it. The dimensions, there have been others that the Board has approved at that size. AS long as it's limited to the rules and there is no graphics, he has no issues with it.

Board Member Pauta said that's exactly what she's saying. If each business decides they want to participate in the LED, they'll have four five signs flashing at different times, that's distracting and Van Dyke is too busy to have something like that on there.

Chairman Nestorowicz said there's only going to be one sign, that's what they're sign and it is the building owner. It would have to come back to the Board for anything else.

Secretary S. Brasza said just to expound on her point, it's not an individual business they're dealing with. They're looking at a monument sign that has five different businesses on it and what they have done in the past in regards to LED has been strictly for individual businesses; Menard's, the tavern across from there and she was trying to think of what else is across from there on Van Dyke. What she finds distracting is that they have located this LED in the middle of the monument sign. The brightness of it will just drown out Dollar General and the restaurant sign, that concerns her too. If it was a stand alone by itself somewhere, but it's directly in the middle of this Majestic Plaza sign, that's what bothers her with it.

Greg Morgan asked if they would have an objection if they lowered it to the bottom of the sign.

Secretary S. Brasza said personally she thinks that would be a better position because it's easily read by the on the coming traffic and not being distracted in the middle of this large sign. She could go for that.

Board Member Fisher said he would like to come back to this policy point because he thinks it's important as to what the Board's role is and what City Council's role is. This isn't about what he likes or what he doesn't like, he personally looks at this and he thinks it looks fine. He does think putting it at the bottom would look a little better; he doesn't have a problem with it. His issue is with what their role is and what their responsibility is. He's looking at specifically the burden of proof here, which is on the applicant. They have to prove a hardship, they have to prove every one of these things, they have to prove it's an unreasonable impact; they haven't given a reason why this variance would be unreasonable on this property. Not self-imposed; they didn't pass the ordinance so he'll give them that one. The property is unique; once again the Board hasn't been given a reason why this property is different from every other property. Not a detriment to the area; he wouldn't think this was necessary a detriment, it could be. Necessary is another one of them; is this necessary?

Board Member Pauta said no.

Board Member Fisher said no and so the issue isn't whether or he likes this or dislikes or whether or not if he thinks they should be able to do it; it's a matter of who makes the determination of what is allowed and isn't allowed when there is not a hardship; that's not the Board. If they pass this and future ones then the issue becomes that the Board is making the policy that they're not supposed to be making.

Board Member Pauta said right.

Board Member Fisher said they're supposed to say no unless they meet these...

Board Member Pauta said criteria.

Board Member Fisher said criteria and they haven't. They haven't given the Board a hardship that meets this standard. That's the only thing they're supposed to look at, not if they like it, do they not like it, are they ok with this or that, do they want it to be Las Vegas or Warren, not of that matters. What matters is have they met this criteria? The answer is no. He's ok and does think they have met this criteria when it comes to the wall sign, but when it comes to the LED sign he simply doesn't think that they should be standing in and making policy when they haven't met the criteria.

Jeovani Gojcaj asked if he could say something. He said this plaza expands from Martin Road...

Chairman Nestorowicz said there hasn't been a question directed to him so only if there's one. It's actually amongst the Board with their discussion.

Jeovani Gojcaj apologized.

Board Member Anglin wondered if there was any more questions.

Secretary S. Brasza said she just wanted to be the devil's advocate here. Because of the fact that they have issued so many at churches, Menard's and Malone's she would say why do they get it and she doesn't. She will fight for the big five by five's and the big outrageous.

Board Member Fisher understands what she is saying and he gets what the applicant was saying as well. He thinks the issue is that they specifically asked what the hardship is and he can say he wasn't on the Board for all the ones that were passed. If they came with a specific hardship and the Board granted it ok, but in this case they asked what the hardship was and they weren't given one that meets this criteria. That's all the Board should be looking at and he thinks they really need to look at going forward, limiting the number of variances that they're granting because they can have a real impact down the line on setting policy if they get overbroad in what they're doing. They need to look at that and say what their role is. Just looking at the number of LED signs, it's increasing the number of people that are asking. The more people that are asking, the more it seems that it's not a matter of a unique situation but a matter of everyone just wants it and that's not the Board's role. Their role isn't should everybody

get it.

Chairman Nestorowicz said the Council has had discussions about it, it's up to them to take any action on that. They have not taken action on it yet.

Board Member Fisher said so they're left with the...

Chairman Nestorowicz said they have to look at what they have currently and that's what they can make their decisions based on. Based on what their feelings are in terms of these variances on their own.

Board Member Pauta said that Board Member Fisher is right. They are not fitting the criteria to allow the variance, got it right there.

Chairman Nestorowicz thanked her and gave the floor to Board Member Anglin.

Board Member Anglin said two issues. One is the fact that the City needs to readdress the sign ordinances and it would probably eliminate ninety-nine percent of these signs that come in front of the Board by putting an ordinance in place that makes sense. Saying that, he would like to make a motion if the Board has no further comments.

Motion:

Board Member Anglin made a motion to 1) allow a wall sign 4' x 31' 7.5" = 126.5 square feet; 2) allow an LED sign panel 7' 3" x 29" = 17.53 square feet; 3) characters only; 4) one LED sign on that post/structure; 5) lower the sign to the bottom panel.

Greg Morgan said the sign is double faced. He wondered if he meant one message board on each side of the sign.

Secretary S. Brasza said yes.

Board Member Anglin mentioned that it says allow an LED sign panel.

Secretary S. Brasza said a panel is both sides.

Greg Morgan said there is one panel on one side of the sign and another panel on the other side.

Board Member Anglin said he is going to reread item two because it's not said on here. To allow an LED sign panel, two sided.

Board Member Furgal said you can't increase it, just read what it says.

Board Member Anglin said ok and repeated 1) Allow an LED sign panel 7' 3 x 29" = 17.53 square feet with his additional comments were characters only, one LED sign on post and lower sign to bottom of panel. He said he was going to redo this.

Secretary S. Brasza and Chairman Nestorowicz both said just to state the reasons.

Board Member Anglin said the reasons are it's not detrimental to the area and lack of identification.

Board Member Furgal supported the motion.

Chairman Nestorowicz added a comment. Following the guidelines they have of no flashing, no scrolling, no blinking and the sign copy cannot change more than once every five minutes.

Inaudible.

Chairman Nestorowicz understands that he said characters, but it's characters and numbers. He just wanted to make it clear.

Board Member Anglin said that amendment is fine.

Secretary S. Brasza said you'll have to repeat the motion.

Chairman Nestorowicz said ok.

Board Member Anglin asked if they wanted him to repeat it.

Secretary S. Brasza said no.

Chairman Nestorowicz said they have a motion by Board Member Anglin, support by Board Member Furgal to approve the petitioners request for the reasons stated in the motion with the additional items that he mentioned at the end. Roll call.

Roll Call:

A roll call was taken on the motion. The motion carried (5 – 4).

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	No.
Board Member H. Brasza	Yes, for the reasons stated in the motion.
Board Member Fisher	No.
Board Member Sophiea	Reluctantly, no. Doesn't think the hardship and necessity has been demonstrated.
Board Member Wallace	No.
Secretary S. Brasza	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The petitioner's request has been **APPROVED.**

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| 11. PUBLIC HEARING: | APPLICANT: Adrian L. Leica |
| REPRESENTATIVE: | Robert J. Tobin |
| COMMON DESCRIPTION: | 21601 Hoover |

LEGAL DESCRIPTION: 13-34-426-002

ZONE: M-3

VARIANCES REQUESTED: Permission to:

- 1) Waive 1,204 lineal feet of obscuring fabric on six (6) foot high chain link fence.
- 2) Allow building to 38 feet from front (east) property line.
- 3) Allow parking to 50 feet from front (east) property line.

ORDINANCES and REQUIREMENTS:

Section 17.02 Item (a): Industrial Standards, front yard setback In M-3 zone that front yard setback is 150 feet.

Section 17.02 Item (a) Paragraph (3): Industrial Standards, front yard setback

Front yards may be utilized for parking or vehicles provided that the front fifty (50) feet of a lot or tract in an M-3 district shall be landscaped and the balance shall be depressed at least two (2) feet so as to have all parked vehicles therein, completely out of sight or view of the roadway.

Section 17.02, Item (s) Paragraph (2): Industrial Standards, Open storage other than junk

All open storage shall be located in a designated area approved by the Planning Commission as a part of site plan approval. The area shall be enclosed on three (3) sides by chain link fencing with metal/plastic slats used for screening as deemed necessary by the Planning Commission. In M-3 and M-4 zones the Planning Commission shall determine whether screening of the outside storage is necessary based on the relationship of the storage to properties zoned residential as identified in Section 3.01 (1—7) of the Zoning Ordinance. The designated area shall always be hard surfaced and screened from the public street and any residentially zoned areas.

Chairman Nestorowicz asked for name and address for the record, as well as the reason for the petition.

Robert Tobin said good evening again ladies and gentleman of the Board. He stated his address, 2201 Twelve Mile Road in Warren. He explained he had this board here because what the Board has is very difficult to understand the project. They have to understand the project, this used to be a huge office and manufacturing business here. It was torn down and the only thing that is left on this site, seventy percent of this site, is twelve inches of reinforced concrete, which is what they're using as part of their program. This was a vacant site, five acres, seventy-five percent of the five acres is covered with a twelve inch concrete slab. It's a vacant parcel of five acres on Hoover and Toepfer in a heavy industrial district zoned M-3. For this reason, the property was purchased by Logistics 1, a large trucking company on Frazho Road in Warren that needed additional property to store empty trailers; that's why they're here tonight, because they're storing empty trailers. On March 7th, however, they received site plan approval for this site, just the way it is shown in this drawing. However, they did not provide a building on this site which is something that he did learn, no site can be developed unless it has a building on it. They had to go back for a minor amendment on this site to provide a necessary office building. The only location that has access to a sanitary sewer and a water lane was in the required M-3 one hundred and fifty foot setback from Hoover Road. If the Board can look, they'll see the only place they could provide this building (Mr. Tobin pointed to a specific spot on the site plan) is here because there is an adjacent sanitary sewer here and water line in front. Nowhere on this site has a sanitary sewer or a water line except in the forward part of the property.

They received Planning Commission approval for this building on August 22, 2016. The office building will be a prefabricated building, twelve feet by forty-four feet with a brick façade and an asphalt shingled sloped roof. It will provide an office on this site that will oversee the operation of the business. They have also provided a required four parking spaces that are adjacent to the building, but also in the M-3 setback. Therefore, they are requesting the Board's permission to grant the following variances: 1) waive 1,204 linear feet of obscuring fabric on six (6) foot high chain link fence required by outside storage requirement. Outside storage, as the Board remembers, has to have a six foot fence and it has to be an obscuring fence. But they would like to have that 1,204 linear foot of obscuring fabric waived. Their hardship is the following: street compliance of the ordinance is an unreasonable burden since they need police security to provide observation of the site trailers from the road. The security of this site cannot be obtained with plastic fabric or plastic inserts in the fence. They therefore request a waiver of the required obscuring fence as a safety feature for the site and for the neighborhood. By the way, by waiving this obscuring fence, they don't have any neighbors in the area. They only have to the west a recycling yard which is certainly unsightly at this point. Item 2, allow a building to be thirty-eight foot from the front, that's the east property line. Their hardship, the only location to the necessary sanitary sewer and waters lines is in the front of the property and in the greenbelt providing fifty foot green space, provided seven more trees, grass in the front, a fifty foot strip of grass and in this grass they will have this twenty by forty-four foot trailer connecting to the sanitary sewer and water in the front. Item 3, allow parking to be fifty feet from the front east property line. Again, the parking is right next to the building so obviously they have to waive that parking and have to waive the building itself. Again, they have provision of the required parking spaces in the front yard setback adjacent to the office building is a necessary convenience to the occupants of the building. Again, the hardship they have to locate the parking next to the building and they have to locate the building because it's the only place on the site they can provide sanitary and water. He thanked the Board.

Chairman Nestorowicz said this is a public hearing and turned this matter over to the audience.

Not response.

Chairman Nestorowicz closed the public hearing and turned it over to the Board. He wanted to start out with a couple questions because there is a couple things about this property that were mentioned that he is confused about. Robert Tobin stated that this building has to be up front because that's the only place for it to have a sanitation hook-up. This property used to have a very large building that was on it, anybody looking in their packets with the drawings here that has the maps shows a very large building. That tells him that very large building must have had sanitary hook-ups. He is wondering why is it that this very large building could have sanitary hook-ups but then after the building was torn down, the only place for a sanitary hook-up is up in the front where they would need a variance. That is a question that he has. Second, he knows outdoor storage is supposed to be screened. Based on the zoning you're allowed to have outdoor storage there. He worries that if he allows him not to have the screening, that some future owner will have other things that are stored there that will all be visi-

ble. He personally has questions and not really in favor. He asked if he could explain. There was a very large building there at that site. How did it have sanitary, if...?

Robert Tobin explained that all the sanitary, existing sanitary, storm lines and water lines were destroyed when the building was torn down. They had guys looking for something other than locating in the front and the only place they found the availability, believe him, he spent a lot of time and effort trying to find a sanitary sewer and water line close to the site, that's the only place they could find it was in the front. As far as the screening of the site, if they screen the site then nobody can look into the site to see what is happening and they'll have fifty or sixty trailers in there with no security at all if they enclose the site. So they do have to remove the screening.

Chairman Nestorowicz said that is not a true hardship. Anybody that has outside storage could say they want to be able to see inside their property for security and the Board doesn't allow them to be all unscreened.

Inaudible.

Chairman Nestorowicz said if they're worried about security, then maybe they need to actually hire a security guard or have someone in that building, or cameras or something to monitor their parking lot. That's just his opinion; he turned this over to the Board and asked if there are any other comments from the Board.

Board Member Furgal said the setback is one hundred and fifty feet, which she thinks is unreasonable there, you're right. Why would you set the parking back fifty feet and the building thirty-eight? You would still have access to the water and sewer.

Robert Tobin said the building is setback thirty-eight feet and the parking is another twelve feet behind that, they have to have the parking next to the building, they're required by the Planning Commission to put the parking there.

Board Member Furgal said it would be next to the building if they set the building back fifty feet, that's why she is confused. She doesn't get that part, that's all she doesn't get.

Robert Tobin asked if they were discussing the fact that the building should be setback one hundred and fifty feet from the property line.

Board Member Furgal said not one hundred and fifty, fifty.

Robert Tobin asked fifty feet.

Board Member Furgal said yes, just like the parking; next to the parking.

Robert Tobin said they'll be happy to go along with that. The only reason...

Board Member Furgal said that way the greenbelt is even, all the way across.

Robert Tobin said the only reason he put it there is because they have twelve inches of reinforced concrete, they would have to chop of the concrete to put new foundation down for the building. But if that's what the Board wants, they'll be happy to comply. Board Member Furgal said she thinks it just makes sense. That way they're only allowing a hundred foot variance instead of... But that's her only question. She agrees about the screening with Chairman Nestorowicz; she can't see the reasoning being reasonable.

Robert Tobin asked about the removing of the fabric.

Board Member Furgal said it's their responsibility for security, not the City of Warren's.

Robert Tobin said he doesn't think it makes a very nice appearance coming down Hoover Road to see a completely enclosed site and wonder what's behind it.

Chairman Nestorowicz said also coming down Hoover Road and seeing a bunch of outside storage is not an appealing site.

Secretary S. Brasza said it's an obscuring, it's not a wall.

Robert Tobin said it's not a wall, that's true.

Secretary S. Brasza said she tends to think the hardship on this is strictly financial in both items one, two and three; that's her thought.

Board Member Furgal said not necessarily, they can still park on whatever's there; she doesn't think that is a problem.

Chairman Nestorowicz said Mrs. Furgal.

Board Member Furgal said one hundred and fifty feet is pretty far a lot this big. Believe her, she went by that place and it took five years to tear it down, it was a mess. It's a good thing they're cleaning it up and everything.

Chairman Nestorowicz said with the comment that Board Member Furgal made about he moving of the building, so it's all even; he can go along with that. He cannot go along with the waiving of the obscuring fabric.

Board Member Anglin concurs with the comment on that. He doesn't know if there are other members of the Board that have any questions, but he would like to make a motion.

Chairman Nestorowicz said before he makes the motion of that, ask the petitioner if they agree to do that.

Board Member Anglin said to the petitioner, item number one is a no; the fabric has to go up. Item number two, move the building back fifty feet from the east property line

and item number three stays the same. He'll be happy to make that motion if the applicant concurs.

Robert Tobin said yes, sir. Whatever the Board wants, they'll be happy to comply. Chairman Nestorowicz said ok, make the motion.

Motion:

Board Member Anglin made a motion to remove request number one; 2) allow building to fifty feet from the front east property line; and 3) allow parking to fifty feet from the front east property line. Due to the fact that the size of the property; Not a detriment to the area.

Board Member Sophia supported the motion.

Chairman Nestorowicz said there is a motion by Board Member Anglin, support by Board Member Sophia to approve the petitioner's request, that was removing item number one, item number two is being is being changed to fifty feet from the east property line and keeping item number three the same; for the reasons stated in the motion.

Roll Call:

A roll call was taken on the motion. The motion carried (9 – 0).

Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Sohpiea	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Board Member Wallace	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 H. Brasza	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 petitioner's request has been **APPROVED.**

Robert Tobin said the problem he has if he's going to enclose the site with a fabric, the Board didn't specify what kind of fabric. He asked if that's something they do here. Because if you put in sixteen hundred lineal feet, six feet high of plastic strips, it'll be a matter of time before they're gone. That's a lot of area of fencing that is going to be covered.

Secretary S. Brasza said that would be in his site plan through the Planning Department for any obscuring fabric.

Robert Tobin asked push that back to Planning?

Secretary S. Brasza replied yes.

Robert Tobin thanked the Board.

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| 12. PUBLIC HEARING: | APPLICANT: Flex-N-Gate Michigan, LLC |
| REPRESENTATIVE: | Trevor DiPierdomenico |
| COMMON DESCRIPTION: | 5663 E Nine Mile |
| LEGAL DESCRIPTION: | 13-29-478-011 |
| ZONE: | M-2 |

VARIANCES REQUESTED: Permission to:

Petitioner seeks to build an addition on the site with the following variance requests:

- 1) Allow a building addition to within 30.5 feet from the front (Nine Mile) south property line for parking.
- 2) Hard surface to the front (Nine Mile) south property line for parking.

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. Front yard setback in an M-2 is 25 feet. Provided, further, however, notwithstanding any provisions to the contrary, in M-2 zones, yards fronting on a major thoroughfare as defined by the Master Thoroughfare Plan for the City of Warren or front yards facing a residential district shall be fifty (50) feet.

Chairman Nestorowicz asked for name and address for the record, as well as the reason for the petition.

Trevor DiPierdomenico, 5663 East Nine Mile Road, said he is here on behalf of Flex-N-Gate to see approval for their two variances, which would be to allow a building addition within thirty point five feet from the front of Nine Mile Road property line, and to hard surface the front of Nine Mile south property line for parking. This expansion is a forty-three hundred square foot expansion that they're proposing to fill along Nine Mile. This would bring in about twenty to twenty-five new employees to their facility.

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

No response.

Chairman Nestorowicz closed the public portion of the meeting and turned it over to the Board. He had a question for Steve Watrion. He said with the addition they're building, he wondered if they needed a parking variance, they have enough parking for everything the way the plan is laid out?

Secretary S. Brasza said while he is looking that up, she wanted to put into the record that they received a letter from James Garmo, Triple J Hospitality LLC, in support of the applicant's variance request.

Steve Watrion said the parking on the site data plan, page C4, which shows the required parking and the total building area, and the proposed area for parking is now at 112,191 square feet and the total building with the addition is at 107,279 square feet, so no variance for parking is required.

Chairman Nestorowicz thanked him. He said while the Board looks over their items and before any other comments. He personally thinks that seeing the money invested into this property is good to see and he thinks that building addition will look fine with these variances that they're asking for.

Board Member Furgal said she see's on the plan there is a new curb cut that goes into this parking into the front.

Trevor DiPierdomenico asked into the Nine Mile Road.

Board Member Furgal said yes, off the Nine Mile Road. There wasn't one before.

Trevor DiPierdomenico said yes, that would be a new curb cut.

Board Member Furgal said there is a curb cut off of Pinewood; her mother used to work there across the street.

Secretary S. Brasza wondered if there was any other comments.

No response.

Motion:

Secretary S. Brasza made a motion to allow the petitioner to build an addition to within thirty point five feet from the front (Nine Mile) south property line for parking and hard surface to the front (Nine Mile) south property line for parking. Due to the property is unique; size and shape of the lot.

Board Member Fisher supported the motion.

Chairman Nestorowicz said there is a motion by Secretary S. Brasza, Board Member Fisher with support for the petitioner's request for the reasons stated in the motion.

Roll Call:

A roll call was taken on the motion. The motion carried (9 – 0).

Secretary S. Brasza	Yes, for the reasons stated in the motion.
Board Member Fisher	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Board Member Wallace	Yes, for the reasons stated in the motion.

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

The petitioner's request has been **APPROVED.**

13. NEW BUSINESS

No new business.

14. ADJOURNMENT

Motion:

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

Voice Vote:

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

The meeting was adjourned at 8:40 p.m.

Sherry Brasza
Secretary of the Board