WARREN ZONING BOARD OF APPEALS
REGULAR MEETING
October 14, 2015

A Regular Meeting of the Warren Zoning Board of Appeals was called on Wednesday, October 14, 2015 at 7:30 p.m. in the Warren Community Center Auditorium, 5460 Arden Avenue, Warren, Michigan 48092.

Members of the Board present:
Steve Watripont, Chairman
Judy Furgal, Vice-Chairwoman
Roman Nestorowicz, Secretary
Sherry Brasza
Ann Pauta
Henry Brasza
Charles Anglin
Richard Tabbi III
Jeremy Fisher

Members of the Board absent:
None

Also present:
Roxanne Canestrelli, City Attorney
Everett Murphy, Zoning Inspector
Frank Badalemente, Zoning Inspector
Deborah Wenson, Zoning Inspector

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. ADOPTION OF THE AGENDA

Secretary Nestorowicz stated the Board did receive two (2) requests for reschedules; one is in regards to item number 14 which is LA Motors at 24055 Ryan Road, they have requested to be tabled and rescheduled so he would like that to be moved to December 9th.

Motion:
Board Member H. Brasza made the motion to **reschedule** public hearing item 14, LA Motors, to **December 9, 2015.** Supported by Board Member S. Brasza.

APPROVED

Chairman Watripont stated he has a motion by Board Member H. Brasza and Support by Board Member S. Brasza

Voice Vote:
A voice vote was taken on the motion. The motion carried (9-0)

Chairman Watripont stated that if anyone was here for item number 14, 24055 Ryan Road, it will be rescheduled on December 9th and you will not be re-noticed. It is being rescheduled because they are going to Planning before they come to us.

Secretary Nestorowicz stated the second item is item number 16, Oke Development LLC, 1950 Eleven Mile also requested to be rescheduled due to a review at the Planning Department, there are some additional variances and set back requirements that needed clarification.

Motion:
Secretary Nestorowicz made the motion to **reschedule** public hearing item 16, Oke Development LLC, to **November 18, 2015.** Supported by Board Member S. Brasza.

Chairman Watripont stated he has a motion by Secretary Nestorowicz and Support by Board Member S. Brasza, to reschedule item number 14 to November 18, 2015.

Voice Vote:
A voice vote was taken on the motion. The motion carried (9-0)

Chairman Watripont stated that if you are here for item number 16, 1950 Eleven Mile Road, it is being rescheduled to November 18th. It will not be re-noticed, this is your notice for the reasons given by the Secretary.

Motion:
Board Member S. Brasza made the motion to Adopt the Agenda as Amended, Supported by Secretary Nestorowicz.

Voice Vote:
A voice vote was taken on the motion. The motion carried (9-0)

5. APPROVAL OF THE MINUTES OF the **Regular Meeting of September 9, 2015 and September 23, 2015.**

Secretary Nestorowicz asked if they could do them separately because not all Board Members were here for the 23rd.

Chairman Watripont agreed.

Motion:

APPROVED

Board Member S. Brasza made the motion to approve the minutes of September 9, 2015 and Secretary Nestorowicz supported the motion.

Chairman Watripont stated he has a motion by Board Member S. Brasza and support by Secretary Nestorowicz for September 9th minutes.

Voice Vote:
A voice vote was taken on the motion. The motion carried (5-0).

Chairman Watripont wondered if he had a motion for September 23, 2015 minutes which would be a different group of people that were here.

Motion:
Board Member Furgal made the motion to approve the minutes of September 23, 2015 and Board Member Tabbi supported the motion.

Chairman Watripont stated that Board Member Furgal made the motion and Board Member Tabbi supported.

Voice Vote:
A voice vote was taken on the motion. The motion carried (6-0).

Chairman Watripont stated the minutes have been approved.

6. PUBLIC HEARING **APPLICANT: Mr. David Draper-USE-**
(Rescheduled from 6/10/15, 7/8/15, 8/12/15 and 9/9/15)

REPRESENTATIVE:	Same as above.
COMMON DESCRIPTION:	8129 Westminster
LEGAL DESCRIPTION:	13-34-304-033
ZONE:	R-1-C

VARIANCES REQUESTED: Permission to:-USE-
Have a three family dwelling, upper, lower units and basement unit, in a single family residential zone.
ORDINANCES and REQUIREMENTS:
Section 5.01 thru 7.01: Uses in residential districts: Multi family dwellings are not allow in single family districts

Chairman Watripont asked if Mr. Draper was there.

David Draper, 8129 Westminster appeared before the Board.

Chairman Watripont stated the reason for his petition.

David Draper said for the three family of this address.

APPROVED

Chairman Watripont asked for his hardships.

David Draper explained that the house was built as a three family, there is one bedroom on each floor. He made up a plan of the three floors at the property. He has a rental license from 2013, the house was inspected and approved. At this time, they have to get the license reinstated, the fee has been paid.

Chairman Watripont stated this is a public hearing and asked if anyone would like to speak on this item.

No response.

Board Member Furgal stated to Mr. Draper that he applied for a single family residence rental permit, he received that, he had an inspection and everything went well. He applied again for a single family residential permit and the inspection didn't go so well because he had more than one family living in the house. She asked if he could explain that.

David Draper said that is correct.

Board Member Furgal stated that he didn't pay for a multiple family house, he paid for a single family house.

David Draper stated he has three mail boxes so now there's three families there; that's what he's setting it up as.

Board Member Furgal said that's not what he applied for.

David Draper said he can change it and pay additional fee's to set it up that way.

Board Member Furgal asked what the reason is that they should allow him to do this. The inspection department has found many things wrong and many reasons to not let you have three apartments in that house.

David Draper explained that he let the rental inspectors in his home, he let the zoning inspector in his home. Everett went into his home and started taking his furnace apart. He doesn't know if that is covered under zoning but at any rate, the house will be brought up to code to specifications of a three family. Each person will have their own furnace, their own hot water heater and their own thermostat to control the heat.

Board Member Furgal asked about egress from the basement.

David Draper stated there are two stair cases going to the basement. There's one staircase in the back of the home, another staircase on the side of the home. The basement has two exits.

APPROVED

Board Member Furgal asked to out of the house.

David Draper replied yes ma'am. There are two exits for the basement.

Board Member S. Brasza asked to Board Member Furgal if she's understanding that the 2013 occupancy permit he received was for a single family.

Board Member Furgal replied yes, if you look in their packet that's exactly what they have.

Board Member S. Brasza wondered if she could ask Mr. Murphy could come up and high light for them what has just been said and what seems to be erroneous.

Everett Murphy said it was brought to his attention by the Rental Division because they had an application for a single. That particular inspector asked them to go check it out and see what it was. Inspector Badalemente and himself went over to the house. They went in and tried to determine if it was legal, if it meant the threshold for a legal nonconforming. They found extensive electrical work that had just been done, and he means a lot of it. No permits, nothing on that, it went through walls. They went into the basement, no, they couldn't get into the basement the first day. What they did see on the first floor the tenant had a thermostat that had a lock and guard on it, the tenant did not have a key and they couldn't control their own heat. Mr. Draper was there the whole time and anything he asked he had to ask in front of the people. Mr. Draper answered for them that since he pays for the heat, he controlled the temperature and he doesn't live in the building. He did go upstairs and looked around, more electrical work that was done without permits. Again, they requested to get in the basement, Mr. Draper said he didn't have the key and had to reschedule. When they came back they saw one furnace in the basement, what looked like there used to be two water heaters at one time, one of them had been removed and replaced with one 40 gallon water heater, no permit for that. He did take the door off the bottom of the furnace, he's a mechanical inspector and a licensed mechanical contractor, he had a flood in the basement and was a little concerned water got into the furnace and maybe he needed a contractor to look at that furnace. He explained to him that he had already put an electronic board on that furnace because of the flood, he's not a licensed mechanical contractor so he's not allowed to do that work. They had many issues with his home. He does have a stairway to the basement and a door that goes out the other side. However, if you have a bedroom in the basement, that bedroom itself has to have its own egress window. He had removed partitions; he had partially put some dry wall on, no permits. It's really hard to say what was original and what wasn't because over the years there has been so much work done. It looked like Kilz was sprayed all over the basement ceiling so you couldn't tell what was original and what wasn't because a lot of it was painted.

Board Member S. Brasza asked if this has gone to Planning.

APPROVED

Everett Murphy said it has to go to Planning if he's approved here. He'll still have to go through site plan approval but he sees a lot of work that needs to be inspected and there still hasn't been any permits pulled for any of the electrical or any work he's aware of.

Board Member S. Brasza asked if it would have to come back to ZBA for the available parking; he only has room for two cars.

Everett Murphy asked Frank Badalemente recalled.

Frank Badalemente explained that particular property has one driveway. There is not enough room in that driveway for any maneuverability for multiple cars.

David Draper stated there's two drive ways side by side.

Frank Badalemente continued that if you do three residents there, ever if there are two, he guess he would probably have to look at it again but he thinks they talked about this before and to have enough maneuverability for three residents, they didn't see it.

Chairman Watripont said to Mr. Badalemente that he has a survey if he would like to look at it.

Frank Badalemente replied sure.

Board Member S. Brasza stated in her observation of the property it only showed one driveway. She happens to have some pictures on her phone. She asked Mr. Draper where the second driveway.

David Draper said there is a double driveway in between the two homes. He explained he is going to make parking in the back of his property for three cars to park since this has become a problem to you people about the parking.

Board Member S. Brasza asked if the second driveway belonged to Mr. Draper or the neighbor.

David Draper stated he owns one driveway and the owner owns another.

Board Member S. Brasza stated that Mr. Draper doesn't own two.

David Draper said the parking will be in the back of the home, he's taken down a tree. There is enough room to park more than three cars, turn the cars around and come back out the same driveway. Parking is not going to be an issue on this address. That is being taken care of.

Board Member S. Brasza stated she would personally like to see this go through Planning before it goes through Zoning. There's a lot to iron out.

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Board Member Pauta stated this gentleman has been here quite often and he's got a lot of homework to do. She would prefer to see three hot water heats, three furnaces, three electrical meters, three water meters. She thinks this is an unsafe situation right here. Until everything gets done, she doesn't think they should go further on this at this time.

Chairman Watripont said he's been here before them many times. He doesn't understand the reason as to why he went through this as single family residence and now it's coming back for a third unit. He's personally against having a third unit in a residential area. He's given in to a second unit in some instances but he doesn't believe he's showing any hardship to demonstrate the need for a third unit here.

Secretary Nestorowicz added they had this in front of them a couple of times, they've had discussions, the applicant has been back to us again and they've had more discussions. Personally, he doesn't think they need to be going back and forth with this item any further and would actually like to make a motion to deny and see how that goes.

Motion:
Secretary Nestorowicz made the motion to deny the petitioner's request to have a three family dwelling in a single family residential zone using the basement for the third unit for the following reasons: for a use variance there's five reasons the petitioner is supposed to prove to get: 1) the property cannot be used as zoned, it's a single family house and can be used as zoned currently; 2) it's not self imposed, this is a self imposed hardship; 3) the property is unique, this property is not anymore unique than any of the properties in the neighborhood that surround it; 4) it is not a detriment, having a three family house would be a detriment to the neighborhood; and 5) that it's necessary, it's not necessary and only for the economic benefit to have additional rent and not necessary for the house.

Board Member Furgal supported the motion.

Chairman Watripont stated he has a motion by Secretary Nestorowicz and support by Board Member Furgal. A yes vote is a vote to deny; the reasons stated in the motion for the denial. He asked for Roll Call.

Roll Call:
A roll call was taken on the motion to deny and the motion carried (9-0).

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

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

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

David Draper asked what the appeal process is.

Chairman Watripont stated he appealed the variance as it was right here. If he wants to talk to Mr. Murphy on the side, he can talk to him about what the appeal process would be.

David Draper thanked him.

7. PUBLIC HEARING **APPLICANT: 23328 Sherwood LLC**
(Rescheduled from 8/26/15 and 9/23/15)

REPRESENTATIVE:	Mr. Kerm Billette PCP
COMMON DESCRIPTION:	23328 Sherwood
LEGAL DESCRIPTION:	13-28-452-014
ZONE:	M-2 & C-3

VARIANCES REQUESTED: Permission to:

1. Operate an auto repair facility adjacent to residential to the east, as per the plan.
2. Waive the required masonry wall along the north east property line (vacated alley).
3. Waive 21 required off street parking spaces.
4. Allow 17 repair vehicles in lot.

ORDINANCES and REQUIREMENTS:

Section 14.01 Paragraph (j): Uses permitted. Automobile repair shops, including body and fender business, provided that such uses are conducted entirely within an enclosed building, and provided further that such establishments are located **at least two hundred (200) feet from any residential district** or are operated on the premises of and in conjunction with an automobile dealership in a building with appropriate filtering system to prevent emission of paint odors and **with a masonry wall facing any such residential district**, which shall have sound retarding insulation, **shall have no doors other than any door required by law as a fire exit**, and shall have no windows but may have glass block areas to transmit light.

Section 4.32 (h)(20): Parking required for service shops: one (1) parking space for each five hundred (500) square feet of floor area.

Section 4.32 (h)(23): Parking for warehouse: 100% of the floor area required in off street parking.

Kerm Billette, 38628 Warwickshire Drive, Sterling Heights, 48312, appeared before the Board explained he is here tonight with the owner of the property.

Jeff Brodsky, 26711 Woodward, Huntington Woods, stated he is the legal representative of the entity that owns the property 23328 Sherwood LLC.

APPROVED

Chairman Watripont asked for the reason of his petition.

Kerm Billette stated the reasons in the petition are required by ordinance.

Chairman Watripont asked for the hardships.

Kerm Billette explained the property exists next to residential, no fault of their own. The zoning is always there and the ordinance requires this type of use adjacent, closer than 200 feet of residential.

Jeff Brodsky stated this was tabled from a previous meeting because the main item they're asking for is the waiver of a wall and because of the easements involved in the vacated alley, the wall is unable to be built. The Board asked them to come back when Mr. Murphy was here so that there could be a discussion no whether his statement last time that the wall could not be built was accurate.

Chairman Watripont stated this is a public hearing and asked if anyone would like to speak on this item.

Preston Stevens, 22840 Sherwood, Warren, stated that since all this started he began to take a look around and they're wanting the walls waived. He gone through this process himself and he's looking at their paperwork. Everything he's given the Board tonight is all FOIA requested information that is available at the Zoning Board of Appeals. This automotive repair shop in 2013 applied for a C of O(Certificate of Occupancy) and it was denied; they never reapplied for another one. There is paperwork in there that states the repair shop has been there since 2011 and in all these years no one has ever been giving a ticket for anything; operating without a license one time but they dismissed that. He looked around at everything, they are running a repair shop down there and whether it's for pay, for free or doing their own stuff, their statutes don't say much about anything except you can't do the work within 200 feet of an R-1-P zone. The neighbors to the south has property zoned R-1-P also at 23250 Sherwood, that's only about 75 feet approximately from their door; that's R-1-P there. Let alone the R-1-P that's behind them with the people's houses. The cement walls are required to protect the public. The off street parking, to waive that much parking he pulled on the FOIA request, and he's sorry about the count on these sheets and a couple will have to share, there's three to four businesses in this warehouse building and there's not enough parking for any of them and they're using the streets for parking lots. Now, when he had to get his application done he had to have off street parking for not only his clients, but his employees and everybody. They're letting people park on the street, they're choking the streets and then when he looks around, the parking lot behind 23250 Sherwood is actually half registered to 23328 Sherwood. Are those three lots the parking lot for that warehouse? If they are, someone should be using them over there. If they're not in the site plan maybe they should be. As far as he checked, that's it, because 23250 Sherwood also has the other half of the parking lot in their name. Going back through the years and in October of 2010 there was a complaint lodged that a new tenant had moved into that

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building, repairing cars and painting cars till midnight, strong paint smell in the air at night and the police have been notified. As you go through the file on the building, it shows that Building Department, Mr. Murphy, Ms. Debbie and Lynne Martin, have been actively involved in this building telling people to get C of O's, telling people to clean up the garbage, telling them again to get C of O's, but out of that only one ticket was ever issued for doing business without a business license and they dismissed it and they still don't have a business license. Now they're wanting a variance to park distressed cars to use the street as a parking lot for the public domain. There's a lot here when they confess to your own Building Department that they're working on cars, painting, having body parts dropped off, rebuilding trucks and they don't have the occupancy permit to legally even be there in the beginning. Personally, they've been open six or seven years from the public records at the Building Department and Mr. Murphy came and shut him down at the police department until he complied with all zoning rules and ordinances. He doesn't really understand all this. He's brought pictures, the zoning map is right out of their handbook that they all carry, he had to buy his own. He made that picture because he's not only R-1-P out here but on the south side of him there are R-1-P too. If you go through, they've got commercial trucks. He showed new pictures since the last time he was here. There's a truck sitting there with half of a pick-up truck on the back of it being delivered and the bed liner sitting by the door. Normally, that means you're doing heavy automotive repair and rebuilding; that's not a maintenance item. The second thing, the rest of the tenants in the building, there's a window company and now there's a landscaping company. When you get to their back parking lot, just as he had to, there's a picture that looks like this and they state that the dumpster there with no permit for open storage on that dumpster is there in case they want to remodel on the building, they will have a place to put everything. If that's all you have to do then why does anyone need a permit or a zoning variance. That dumpster is used quite regularly and that dumpster is called open storage. Why? Because if you have dumpster come in you get it filled up and you take it out. There's a picture like this, if you're wanting to be in business in Warren and you can't even clean up the outside of the building, their gate all the screening is shredded off it. If you look at the top of their door the little one, everything is falling out. They don't have even have the addresses on the building for the four suites that they have there. They've made it this far and how many man hours has Warren put into this project. They have Mr. Murphy up at the City Attorney's Office trying to get an exemption for a cement wall that should be there. There's a sewer pipe underneath, that can be gone around. Some properties don't comply with what has to be done or what you want to put in them, you have to move on. Just as these recent pictures since the last time he was here also. It's not just the repair shop too, it's all their tenants because they all remember this from five years ago, the fire truck got hit at 9 Mile and Sherwood Avenue by a semi truck. Thank God none of the Fireman were hurt too bad. Yet, they don't have a variance for their yard to store their skids for removal on top of the fire hydrant out there. He doesn't see any variance for that. That's blight and disrespect for our fireman. It's bad enough they get hurt trying to do their job let alone someone trapping them. He doesn't see any tickets for this and as he drove here tonight, there are skids out there on the fire hydrant. This property has a lot of issues and he doesn't see any of them being dealt with out here. The Board has a job to do for a variance

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and the Board is only given the facts that are given to them from their Building Department. This little bit of homework he did here and went through everything is atrocious as to how bad the Building Department is letting this all go and yet they stuck a magnifying glass over him and made him hop through little hoops and do tricks for them until he was completely done. He doesn't know how they justify what they do. He could see going to court if you complied and got a business license and getting one and getting your ticket dropped. But he can't see them not dropping the ticket if you don't even apply for it. He doesn't even know how you can come to the Board of Zoning of Appeals without an occupancy permit after being there for six or seven years. In the long run, personally, he would take a new look on everything and do another evaluation on all this and maybe do something different here because it doesn't look very good. If he has any information wrong, it all came from the City records and everything he's said, given to the Board is all there including Mr. Brodsky saying he had a letter about his wall being illegal from the City Attorney's Office. He FOIA requested that and he could give you all the copies of his email back from the City Attorney's Office saying they can't find any such records. Mr. Brodsky was quiet evident that he had a letter from somebody specifically the City Attorney. There's another parking lot attached to that building they're not wanting to bring into the site plans and he did check the lot numbers and checked with Planning, 23328 Sherwood has a large parking lot attached to it but it's across the street behind the building next door. So, with all that going on he doesn't even know why they're wasting the Board's time. He thanked the Board.

Chairman Watripont asked if anyone else wished to speak on this item.

No response.

Secretary Nestorowicz wanted to mention they did receive a packet from Mr. Preston Stevens that he did provide to the Board. Everybody should have that on their desk and he did provide some photos that he passed down each direction, so hopefully everyone saw the photos also.

Board Member Pauta had questions for the attorney. She pointed to the gentlemen at the podium and asked if he was the owner of the building.

Chairman Watripont informed Board Member Pauta they have Mr. Brodsky there and Mr. Billette.

Board Member Pauta asked Mr. Brodsky how often he is there on this property.

Jeff Brodsky stated he's only been here on this one issue.

Board Member Pauta asked again how often he spends time on this property, right here.

Jeff Brodsky asked at 23328 Sherwood. Very regularly, about three times a week. That building was built probably in the 40's and 50's. About five years ago he had

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put on a new roof, new windows, all new electrical, new overheard doors and passage doors, new heating and air conditioning, new central air, new drywall. The property has been substantially improved for a building that's close to 70 years old. He also wanted to point out that there is no neighbor here objecting to this. The occupant of the building, Mr. Johnson and Mrs. Johnson, are good neighbors. There is nobody else here objecting; Mr. Stevens is not even a neighbor, he's five blocks away.

Board Member Pauta interrupted stating she doesn't want to hear the history. Her problem with this is that they have two lengthy packets that were placed here before they came. That doesn't give her enough time to review it. Very quickly reviewing it though, on January 15th the petitioner appealed for building division definition of the warehouse purpose was denied. She's not seeing a lot of approvals in here.

Jeff Brodsky corrected that everything has been approved, there are three occupants in the building; two occupants have their certificate of compliance.

Board Member Pauta asked where they are.

Jeff Brodsky said they don't have to be part of the packet because they are approved.

Board Member Pauta said excuse me, but yes they do.

Jeff Brodsky thinks that's correct. The third occupant is why they're there because he had…

Board Member Pauta stated partially complied, violation, tickets.

Jeff Brodsky stated he complied with every one of the building departments except for zoning and the reason why he can't comply with zoning is because he needs this variance.

Board Member Pauta stated locked out.

Jeff Brodsky continued to say that's why they're there. Everything else has been complied with.

Board Member Pauta stated that if it was just up to her, she would be purposing and motion to deny this right now to tell you the truth. She's seeing the building division has spent quite a bit of time out at his property and nothing seems to be straight.

Jeff Brodsky doesn't think that is accurate.

Board Member Pauta stated that it is and asked if he read the packet.

Jeff Brodsky replied saying he doesn't know because he hasn't seen it.

APPROVED

Board Member Pauta asked Mr. Billette where it came from.

Chairman Watripont informed Board Member Pauta they came from Mr. Preston.

Board Member Pauta said that it is in her opinion at this time…

Jeff Brodsky wondered if he could ask the Board at this time to entertain Mr. Murphy to explain why everyone is here for the waiver of the wall, which is the primary reason they're here.

Chairman Watripont stated there are four items on there and the Board will get to that as they go along.

Jeff Brodsky stated ok.

Board Member Pauta stated she was done but her opinion is motion to deny. There are too many if's here, too many issues that need to be addressed.

Chairman Watripont knows that almost two years ago Jeff Brodsky came before the Board and there was a request for three items. One was to operate an auto repair adjacent, same as it is now. The second one was a waiver of the masonry wall, similar to what it is now. The third one was to waive 21 required off street parking spaces, which is the same as it is now. The new one on here now, and he was on the Board at that time, is to allow 17 repair vehicles in the lot. That is in addition to the 21 parking, right?

Kerm Billette replied yes.

Chairman Watripont asked if there is a reason that is on here specifically at 17. Everett?

Everett Murphy assumed they are asking for essentially open storage, 17 repair vehicles to be in the lot. That's not employee or customer parking, that's the vehicles for repair, that would considered storage.

Kerm Billette stated yes.

Chairman Watripont stated the conditions the Board set upon it back two years ago were no junk vehicles or junk shall be stored anywhere on the site, any cars waiting for repair or are in state of disrepair have thirty days to be repaired or removed from the site, no open storage is permitted anywhere on the site, zero outside open storage of parts, garbage, etc., the driveways are to be identified as one way or they must be widened to 26 feet, no parking is permitted in the right of way along Sherwood Avenue, must restore the grass planted properly and cultivated along Sherwood. He asked Jeff Brodsky if they did any of that. He doesn't think they moved forward with any of that last time.

APPROVED

Jeff Brodsky stated when it was approved, it was approved conditionally upon the building of the wall. So subsequently he…

Chairman Watripont stated it wasn't on that condition. The wall was denied, was not part of it.

Jeff Brodsky stated he withdrew his request because he didn't get the waiver on the wall. Subsequent to that time he found out that the wall cannot be built on that site. That's why they're back here today because it's taking the process to get to this point to determine that the wall cannot be built on that site.

Chairman Watripont asked Mr. Murphy for the reason the wall cannot be built.

Everett Murphy stated that Mr. Brodsky did give him some information, which he gave to the City Attorney's to look at it, because it dealt with a lot of state laws he wasn't familiar with. So, he asked the Attorney if she could explain that.

Roxanne Canestrelli stated she did review the packet of that information that he forwarded to Mr. Murphy. The law that Mr. Brodsky cited and the case law that he cited was not on point to his issue, however, she did take it upon herself to further research the issue. Pursuant to the land division act, which is Section 560.190 C, permanent structures may not be erected within the easement. So that is correct, he just had the wrong law that he was citing to support his argument. She said the next issue would be is if there is a current easement.

Everett Murphy stated that is a vacated alley, it's not a closed alley, it's a vacated alley. Mr. Brodsky only owns half of that. So, you would be putting a wall in the middle of the alley, which he doesn't believe is permitted anyway.

Roxanne Canestrelli stated it's not permitted, that's correct.

Everett Murphy said Mr. Brodsky doesn't own the entire alley. The Board should have a site plan that shows the property line right in the center of the alley.

Chairman Watripont asked that the alley has not been closed, it's just been vacated.

Everett Murphy stated correct.

Kerm Billette said that it's only been closed for half.

Roxanne Canestrelli believes that there is an underground piping. She asked if this was the one that Engineering reviewed.

Everett Murphy believes that Engineering has given Mr. Brodsky an email basically saying that there is an 8 inch sanitary sewer, or something like that.

APPROVED

Roxanne Canestrelli stated that is correct. Another reason why it wouldn't be allowed to put up a structure in the middle of the easement is because it's going to hinder the opportunity for the public utility vehicles and repairs to be conducted on that easement.

Everett Murphy said as far as those other items he won't speak to those but the wall he doesn't believe Mr. Brodsky could legally put that wall in that alley.

Roxanne Canestrelli stated that is correct.

Chairman Watripont would like to go on the property between Republic and Lozier. He wondered if there was an alley in there.

Kerm Billette asked where that is.

Chairman Watripont stated on the parking side, was there an alley on that side also?

Everett Murphy believes that alley goes all the way through.

Kerm Billette stated all the way through, yes.

Chairman Watripont stated that alley goes all the way through.

Kerm Billette said north and south, 24 feet wide.

Chairman Watripont stated there was that easement there and the wall… He wondered if there is a wall there.

Everett Murphy believes the wall that is there is part of; Mr. Brodsky can speak better on that than he can. He thinks that was part of a building that was part of a building that was partially removed.

Chairman Watripont asked Mr. Brodsky if that was right up to the parking.

Jeff Brodsky said he can't speak to the legal lines, but on the other side of the alley and he hopes that he's speaking correctly, factually, there used to be another building but there was fire in 1981 or about that time, came in front of the appropriate Boards and was approved to leave the balance and change that into a parking lot. Part of this time there wasn't a parking lot, now they have this large parking lot that goes with the building because the parking lot they have now used to be a building and it was converted after the fire pursuant to permits and variances that were required. He can't specifically recall.

Board Member H. Brasza wanted to clarify that Mr. Brodsky could build on the property line and leave the alley as is. He wondered if there is anything to obstruct him from building the wall on the property line.

APPROVED

Jeff Brodsky doesn't think that is correct.

Kerm Billette stated that Mr. Brodsky's property line is the center of the alley.

Board Member H. Brasza asked if that was his official property line. So, he would have to build it six feet inside his property line along the edge where the alley used to be.

Everett Murphy informed that alley is essentially the easement and he can't build a wall there.

Board Member H. Brasza asked if he went inside where the alley isn't anymore. Where the old property line used to be, Mr. Brodsky could build the wall there, is that correct?

Everett Murphy stated if Mr. Brodsky owned ten feet of the alley, he's not sure where he would put the wall. He can't put the wall in that alley. The building essentially is almost adjacent with the rear property line.

Chairman Watripont stated the building is the wall.

Board Member H. Brasza stated the building is the wall, ok.

Roxanne Canestrelli stated to Mr. Murphy that in 2013 the site plan did not note the alley.

Everett Murphy did look that up and the alley was on there. They didn't make that argument because he doesn't recall it being on one, he actually saw that wall was on there when they were in the Attorney's Office going over how they could resolve this situation. They were coming to building asking different legal questions about it and he noticed the wall at that time at that meeting. Prior to that, it was something they should have brought up and they should have caught but it was never brought up.

Roxanne Canestrelli thanked Mr. Murphy.

Board Member Furgal wanted to understand that two years ago Mr. Brodsky came to the Board asking for essentially the same thing except for the 17 units. The Board allowed Mr. Brodsky to do everything with some specific requirements that Mr. Brasza did a very excellent job outlining. But they denied Mr. Brodsky the ability to waive the wall. In the mean time, Mr. Brodsky found out the wall cannot be built so he decided to withdraw that variance. Mr. Brodsky can't withdraw a variance, Mr. Brodsky already has the variance. In the mean time since Mr. Brodsky decided to withdraw the variance, he chose to allow his tenants to continue to not follow the rules that Mr. Brasza quite specifically outlined. She doesn't understand…

Chairman Watripont told Board Member Furgal he'll have the attorney explain it a little better.

APPROVED

Board Member Furgal stated you can't withdraw a variance, it goes with the land. Mr. Brodsky already has his variance, he can't just decide he doesn't want it anymore.

Everett Murphy stated that in the zoning ordinance it states that from the day the Board grants a variance he has one year to either obtain a permit or apply for site plan approval. If he doesn't it automatically rescinds itself. Mr. Brodsky did not get the permits, he tried to withdraw his request, he never went to the planning commission. That variance actually has taken care of itself, it's gone.

Roxanne Canestrelli believes in 2013, shortly after he was granted the variance, Mr. Brodsky did submit a letter to the ZBA addressed to the Secretary Caren Burdi, that she saw previously months ago, asking to withdraw his granting of the variance. That was within seven days after it was granted in 2013, approximately. She did see that letter, nothing was done with it by the Board though.

Everett Murphy doesn't know if the Board read it into the record or not. He does know…

Chairman Watripont asked that essentially it's been rescinded because no action has taken place.

Everett Murphy stated exactly.

Roxanne Canestrelli stated that's correct.

Everett Murphy stated Mr. Brodsky did try to do it on his own but because there was no permit or site plan applied for the variance automatically rescinded in one year.

Chairman Watripont asked Board Member Furgal if that makes sense.

Board Member Furgal stated except for the things that Mr. Brodsky was doing that he was asked not to do was don't park here, don't put garbage there, those things continued and those things were just part of the variance but they were; they shouldn't be ignored. They were still things that shouldn't have been done.

Chairman Watripont stated they were still things against the ordinance.

Jeff Brodsky doesn't think they were ignored. He took down the barb wire, there has been no parking on the front lawn as requested, he got rid of the tenant that was parking on the street causing, at the time two years ago, there was a different tenant parking on the street, he got rid of him. He now has two tenants that have his certificate of compliance, the third tenant has every approval but zoning and the only reason he can't get zoning approval is because of the ordinance that says he's within 200 feet of a residence. As the Board may or may not remember, what borders his property on the north side is a residential parking lot, he's sure Mr. Stevens must

APPROVED

have given the Board the packet showing that this residential parking lot, that doesn't belong to him, is filled with a large truck, a crane and a dumpster. That's what borders the homeowner, not his property. So, he thinks his property is kept as clean as he can reasonably expect it to be kept.

Chairman Watripont wanted to talk about those pallets then.

Jeff Brodsky stated he is not aware of the pallets but he ensures the Board he will get rid of the pallets. He doesn't know where they came from, he doesn't know about them, but he will get rid of them.

Chairman Watripont wondered about the lot that is not Mr. Brodsky's if it was fenced in.

Jeff Brodsky stated yes, it has a cyclone fence around it.

Chairman Watripont wondered if it is in the alley.

Everett Murphy asked what the question was.

Chairman Watripont asked if the lot next to Mr. Brodsky's is fenced in.

Everett Murphy replied yes, that actually has a variance for a certain amount of storage. It's not Mr. Brodsky's, it's for the sign company across the street. He believes when he took a look at those pictures, those pallets are actually across the street on a property that Mr. Brodsky is in charge of, it wasn't on Mr. Brodsky's property.

Chairman Watripont asked if the fence was in the alley.

Kerm Billette stated the fence is right down the center of the alley.

Everett Murphy asked what fence.

Board Member S. Brasza stated on the neighbors.

Chairman Watripont stated the neighbor's fence that encloses the vacant lot.

Board Member Furgal said there's a picture of a gate.

Everett Murphy stated it may be, he wasn't really studying that property.

Chairman Watripont stated it abuts this property so…

Everett Murphy said Mr. Brodsky's property is along Sherwood, then than R-1-P lot which is essentially a storage lot now, they have a variance for that so they store there, that is not Mr. Brodsky's equipment and dumpster on that lot. Then there is a house on the other side of that.

APPROVED

Chairman Watripont asked behind that house on the other side of that, is there a wall behind that?

Everett Murphy informed that was part of the building that had burned.

Chairman Watripont wondered if that wall goes all the way through to that vacant lot. He asked if it stops.

Everett Murphy thinks it goes all the way to the alley.

Chairman Watripont stated he didn't go back and look at that per se, so he's trying to…

Everett Murphy looked down that alley many times but he believes that wall stops at the east side of the alley and that Mr. Brodsky's building is on the other side of the alley. It used to be two buildings but now it's a building and essentially a walled in parking lot.

Secretary Nestorowicz said he got confused by this property because, when they did not give the wall back in 2013, he was actually on the Board at that time also, even the drawings that were submitted show that in the middle of that alley where Mr. Brodsky says he cannot build the wall, is the existing chain link fence and the gate. That alley where Mr. Brodsky says he can't build the wall, there is a fence. If there is a fence there, then how can there be a fence but you can't have a wall. If you can't have a wall then how can that fence be there? That's his question.

Everett Murphy can't tell the Board if it's a link fence or not.

Kerm Billette stated you can't build a foundation. A foundation is not required for a fence. Forty-two inch foundation is required for a wall or a building.

Chairman Watripont asked what the statute number was again for the record. Statute 560.190.

(Inaudible)

Chairman Watripont read permanent structures may not be erected within easement limits by the owner of the fee but shall have the right to make any other use of the land not inconsistent with the rights of public utilities or other uses as noted on the plat.

Jeff Brodsky believes he submitted in his package to Mr. Murphy or the City Attorney, both of them actually, he thinks the documents from 1950's vacating the alley, he doesn't know if he's saying this right, but it says right in there, he has a picture of the plats, that you can't build a permanent structure but you can have a cyclone fence.

APPROVED

Chairman Watripont stated to Mr. Brodsky that the last time he was here he had said that he met with the attorney and talked about this and bring a letter. He asked for that letter. Now, Mr. Brodsky is saying he had a letter that he gave to the attorney's that said this from when it was vacated from back in 1950.

Jeff Brodsky said it's part of, it's on the diagram for the plat. He thinks he has a copy that he gave to the City Attorney and to Mr. Murphy.

Roxanne Canestrelli stated Mr. Brodsky didn't give her anything.

Jeff Brodsky said it was addressed to Ms. Gattari-Ross.

Roxanne Canestrelli said alright but she doesn't think she received it. She knows that Everett…

Jeff Brodsky continued to say when he was here last time the Board asked him. He was making verbal representation.

Chairman Watripont said right, to get a letter.

Jeff Brodsky said the Board asked for him to get a letter and he did contact Mr. Murphy and Ms. Gattari-Ross and said that's what the Board wanted.

Chairman Watripont asked if that's from the plat.

Kerm Billette stated that's your work subdivision, it's a plat.

Jeff Brodsky thinks that is it.

Chairman Watripont wondered if Mr. Brodsky could hand that to the Board to look at it and they'll get it back to him.

Jeff Brodsky replied sure.

Chairman Watripont told the rest of the Board to not write anything on there.

Board Members took a moment to look at the plat.

Chairman Watripont asked if there were any other questions while that piece of paper gets passed around.

Board Member S. Brasza asked with the auto tenant and the two other tenants that Mr. Brodsky has in his facility, how many employees are there between the three tenants?

Jeff Brodsky replied with how many employees, he's guessing nine.

APPROVED

Board Member S. Brasza said good, nine or ten, that's what she figured. She asked in regards to waiving the 21 off street parking, does that leave him, where are the employee's going to park?

Jeff Brodsky stated there is room in the parking lot. He believes the reason that is in there is because of an ordinance. Mr. Billette had to calculate that number, he thinks he had to calculate…

Board Member S. Brasza asked how many parking spaces are available right now with the auto vehicle lot.

Kerm Billette explained on the drawing over on the left hand side there is a table that shows the required amount of parking required for that size building.

Board Member S. Brasza stated it required 38 and asked if Mr. Brodsky had 34.

Kerm Billette stated it's a couple hundred square feet over, yes.

Board Member S. Brasza thanked Mr. Billette.

Jeff Brodsky informed he does have the letter dated September 21 that he sent to Mr. Murphy and Ms. Gattari-Ross and enclosed the packet of what he thought was the state law was and case law and the plat plan, the letter from the City Engineer indicating that there is an 8 inch storm sewer underneath the alley or the easement.

Board Member S. Brasza stated that's still going through. But she would like ask a couple more questions in regards to the parking.

Chairman Watripont politely interrupted because he has it in front of him and he wants to state it as it comes by so she can look at it. He believes the easement here is talking about the easement behind lots 164, 165, 166, 167 that goes across that way because it still says public alley over there and then it has easement on the other. He thinks the vacated alley was the one behind the parking area is what is being talked about on this. He gave the floor back to Board Member S. Brasza.

Board Member S. Brasza stated that's ok because she's looking at the plan and she sees 17… If provided Mr. Brodsky has 34 spaces and he wants to take away 21, that brings you down to 13. Then he wants to allow 17…

Chairman Watripont informed that the ordinance is to waive the required 21. He believes he needs 50 or…

Board Member S. Brasza stated he needs 38 and there are 34.

Chairman Watripont doesn't believe he's counting that 17 in there.

APPROVED

Inaudible discussion amongst Board Members.

Chairman Watripont see's where Board Member S. Brasza is going.

Secretary Nestorowicz stated the question and the reason he was getting is confused is because looking at the drawing here, Mr. Brodsky has 17 spaces for the auto repair, which leaves 5, 12 and 9 being 26 spaces, but on the drawing here it says Mr. Brodsky is providing 34. Where is he missing 8 spaces? That's what he is trying to figure out; where are the other 8 parking spaces?

Kerm Billette explained there should be nine spaces along the industrial building on the east side.

Chairman Watripont stated those are included.

Kerm Billette said there are 9 are taken by that one building.

Secretary Nestorowicz said there are 9 here, 12 here and 5 here pointing to the map.

Kerm Billette stated those apply to the building next door.

Board Member S. Brasza asked where Mr. Brodsky's spaces are.

Secretary Nestorowicz wondered where Mr. Brodsky's 34 are then. That's what he's trying to figure out; where are the 34 spaces Mr. Brodsky is provided? On the left side of the drawing, Mr. Billette says he provides 34. He's just trying to make sense of where the parking spaces are the drawing and what it actually adds up to. How many parking spaces are there because he sees 26?

Kerm Billette stated 17, 12 and 5 is 34.

Secretary Nestorowicz stated that the 17 are for the vehicles for repair. The vehicles for the repair is not parking.

Kerm Billette said it was taken from the total, whoever did the requirements from the zoning department.

Secretary Nestorowicz asked where he has to allow 17 repair vehicles in the lot, those are actually parking and parking spaces. So those aren't really parking spaces then if the repair vehicles are there?

Chairman Watripont said he has the math now. What's required is 38 spots. Take 21 away from that leaves 17. So the 17 is the customer and employee parking and then the other 17…

APPROVED

Board Member S. Brasza said exactly and that's why she asked Mr. Brodsky how many employees he had, he said nine or ten and she wondered where they are going to park. That's where the Board is at.

Chairman Watripont stated the 21 comes off of the 38 as well as the other.

Board Member S. Brasza said that they are literally waiving all parking; there is no parking.

Chairman Watripont said no, there are 17 spots for parking for employee.

Board Member S. Brasza stated Mr. Brodsky is asking for allow 17 repair vehicles in lot, repair…

Chairman Watripont said 17 is along the back. There would be 34 spots of which he is asking for 17 to be repair and 4 to be permanently waived. So, taken the 17 and waiving them from parking and putting them as auto repair. He thinks he's got that right now.

Board Member S. Brasza commented if the Board is going to waive the wall and not have him put up a fence, let's get on with this.

Jeff Brodsky said there is a fence, there is an existing fence.

Board Member S. Brasza stated not all the way through.

Chairman Watripont said it abuts with the vacant alley so…

Jeff Brodsky doesn't want to misspeak but he believes that either property has the old wall that is now a blocked wall or else it has a cyclone fence, it has one or the either.

Chairman Watripont asked the City Attorney since there is a variance request here to waive a required masonry wall but it is not allowed by State Statute, does the Board even address that?

Roxanne Canestrelli replied that the Board can address that. She wondered if the Board wants to be voting on that item number 2.

Chairman Watripont wondered if they approved 1, 3 and 4 and did not include number 2 in the waiver…

Roxanne Canestrelli said they could address number 2 and still vote on number 2 based on what is being presented, which is the statute.

Everett Murphy stated that Mr. Brodsky is saying that the law is his hardship.

APPROVED

Roxanne Canestrelli recommended the Board still address number 2 and not just leave it out there for housekeeping matters because five or ten years from now if someone is looking at records then it helps clarify what happened to number 2.

Chairman Watripont thinks that if Mr. Brodsky went forward with what he had before and he has the records for number 2 about the masonry wall, Mr. Brodsky could ask for a special hearing or bring it to court on that item. Mr. Brodsky could have taken that to court 2 years ago and presented that.

Roxanne Canestrelli stated no Mr. Brodsky didn't bring that, a record was not made, that was not argued then. Mr. Brodsky didn't bring that as a hardship before.

Chairman Watripont said that even though it wasn't a hardship before, once he knew the law he could have taken it to court, stated that and the court could have.

Roxanne Canestrelli said no because it had to have been brought up during denial. Mr. Brodsky could have came back before the Board had he discovered that for a reconsideration based on the law. In order to go to the court, the Board would have had to of ruled on that aspect based on the law.

Chairman Watripont stated item number 7 still.

Board Member Pauta thinks the Board spent more than enough time on this issue and based on what the questions Board Member Furgal had that didn't get answered, based on the information and requests that Board Member H. Brasza gave in the past, which was not done, this gentleman has too many I don't knows. She thinks the Board either table this or deny it at this time. Mr. Brodsky can go to planning and get proper documentation, proper layout, but the Board spent too much time on this right now. This gentleman does not have answers for the Board.

Motion:
Board Member S. Brasza made the motion to grant permission to: 1. Operate an auto repair facility adjacent to residential to the east, as per the plan. 2. Waive the required masonry wall along the north east property line based on the documents presented this evening stating that no permanent structure can be placed within the easement of the alley. 3. To waive 21 required off street parking spaces. 4. To allow 17 repair vehicles in lot with the conditions that there are no junk vehicles or junk shall be stored anywhere on the site, any cars waiting for repair or are in a state of disrepair have thirty days to be repaired or removed from the site, no open storage is permitted anywhere on the site, zero outside open storage or parts, garbage, etc., the driveways are to be identified as one way or they must be widened to 26 feet, no parking is permitted in the right of way along Sherwood Avenue.

Reasons being: uniqueness of the property and not a detriment to the area.

Board Member Anglin supported the motion.

APPROVED

Chairman Watripont stated he has a motion by Board Member S. Brasza and support by Board Member Anglin. He asked for Roll Call.

Roll Call:
A roll call was taken on the motion to deny and the motion carried (6-3).

Board Member S. Brasza	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Pauta	Absolutely not.
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 Tabbi	Yes, for the reasons stated in the motion.
Board Member Fisher	Yes, for the reasons stated in the motion.
Secretary Nestorowicz	No, he doesn't feel confident with this yet.
Chairman Watripont	No.

The petitioner's request has been **GRANTED** by majority vote.

Jeff Brodsky thanked the Board.

Board Member Pauta approached Chairman Watripont.

Inaudible discussion.

Chairman Watripont stated to Board Member Pauta that he doesn't know what she's asking right and to speak on the record if it's about something on that matter. Items 14 and 16 have been rescheduled already.

Board Member Pauta stated 14 and 16 have been rescheduled already but the Board also have letters on items 11 and 13 that should be rescheduled that were not done yet.

Chairman Watripont did not see that. Number 11 says he's not going to be here. He stated they'll address them when the Board gets to them then. The agenda has already been accepted.

8. PUBLIC HEARING **APPLICANT: Rebecca Gomez**

REPRESENTATIVE:	Same as above.
COMMON DESCRIPTION:	32125 St. Anne Drive
LEGAL DESCRIPTION:	13-04-153-010
ZONE:	R-1-C

VARIANCES REQUESTED: Permission to:
Retain a six (6) foot wood privacy fence installed with the good side facing inward as per the plan. It was installed in 2010 without a permit. The ordinance was amended in 2013 to have the good side facing outward.

APPROVED

ORDINANCES and REQUIREMENTS:
Section 4D.11: All supporting posts, cross-members and hardware of all fences shall face toward the interior of the lot of the person erecting the fence, except in the case of an opaque fence, which shall be uniform in appearance as viewed from both sides.

Rebecca Gomez, 32125 St. Anne Drive, appeared before the Board.

Chairman Watripont asked the reason for her petition.

Rebecca Gomez stated they had someone install a 6 foot dog-eared fence and she did not know how this had fallen through if…she remembers they discussed the need for a permit and she has permitted everything else in her house; this was one of the first items she thinks when they first took over actual ownership of the house, it belonged to her parents; then they actually took over ownership of the house just before the end of 2009 and she is not sure what happened. She knows she remembers discussing this permit and calculating with them what was to be done and getting it and she was really surprised when she received a notice and actually she thought that maybe the inspector was new because she knew that she went through the ordinances as far as how the fence was to be constructed and knew all of the particulars. But, when she spoke to him (inspector) she asked if he was sure she did not have a permit; she guesses that she must have dropped the ball and not followed up with this because as she stated she has permits for just about everything else she has done in the house and hardship wise; for them to turn the fence to the way, obviously it was constructed in 2010 before the ordinance changed to the other side being flipped out. For them to flip it around it would require them to take down at least two (2) sides—there are three (3) sides and the gate that goes across the driveway, it would require them as it looks on most of it, would have to pull out all of the posts and redo it---because there is an existing cyclone fence that borders St. Anne's and then borders one of her neighbors. She has spoken to at least the neighbors on the side of her, she has not spoken to anyone on St. Anne's and both of her neighbors were willing to provide a letter that they were fine with the way the fence is. For them to just flip it around it would cost a lot of money and she is not working right, she has had four (4) surgeries in the last year because of an auto accident, so financially it would really be tough. She will diffidently pay for a permit, but turning this around would really be difficult.

Chairman Watripont stated this is a public hearing, anyone wishing to speak on this matter to please approach the podium. Hearing and seeing none, he turned the matter over to the Board.

Secretary Nestorowicz stated this fence was done in 2010 without a permit and the petitioner did apologize for that error; the ordinance was changed in 2013, he believes to switch to the good side to face out; when the fence was installed, that was not part of the ordinance. Looking at the fence, he thinks the fence looks fine and if there are no further discussions, he would like to make a motion.

APPROVED

Board Member Anglin stated he is new on the Board, so he would like get an understanding. If the Board says, yes she is allowed to have that fence facing in, does that not go along with that property for the existing time of that property that anybody in the future could also place that fence facing in?

Chairman Watripont stated yes, that does.

Board Member Furgal stated actually she thinks that if anyone else wants another fence, they would have to get a permit and then they would have to do it properly.

Chairman Watripont stated but the variance would still be on file with that property and they would just pull the…

Board Member Furgal stated no.

Chairman Watripont asked if the Board could place a condition on that for a fence because like a sign, has a useful life.

Everett Murphy, Zoning Inspector, stated whether or not they could put a condition on, he would leave to the City Attorney on that one, but it is true that if the Board gives permission for that fence to be installed the way it is, that goes with the land; if that entire fence is destroyed, she could get a permit to put it exactly up the way it is right now. So, now whether the Board could put a condition or not, he is going to allow the City Attorney to answer that one.

Chairman Watripont asked could the Zoning Board of Appeals put a condition on granting the variance.

Roxanne Canestrelli, City Attorney stated for this specific item; what are they…?

Chairman Watripont stated his thoughts are, it would be for the useful life of this fence that any new fence would have to abide to the current zoning ordinances at the time.

Roxanne Canestrelli, City Attorney stated that would be appropriate, yes.

Secretary Nestorowicz stated he would like to make his motion.

Motion:
Secretary Nestorowicz made the motion to approve the petitioner's request to:
Retain a six (6) foot wood privacy fence installed with the good side facing inward as per the plan with the condition that it is for the useful life of the fence and any new fence that would be put there, would have to comply with the existing zoning ordinance there.

Reason being: Not a detriment to the area and Due to Size and Shape of the Lot.

APPROVED

Board Member Anglin supported the motion.

Chairman Watripont stated there is a motion by Secretary Nestorowicz; Supported by Board Member Anglin, to approve the variance as written with the condition that it would be for the useful life of the fence, when it has to be replaced that it would have to be done properly with the ordinance; Due to Not a Detriment to the Area and Size and Shape of the Lot. He asked for Roll Call.

(The amendment to the reason was added to Secretary Nestorowicz initial motion).

Roll Call:
A roll call was taken on the motion to approve and the motion carried (9-0).

Secretary Nestorowicz	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Tabbi	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 H. Brasza	Yes, for the reasons stated in the motion.
Board Member Pauta	Yes, for the reasons stated in the motion.
Board Member S. Brasza	Yes, for the reasons stated in the motion.
Chairman Watripont	Yes, for the reasons stated in the motion.

The Petitioner's request has been **GRANTED** as written, with the Condition: That it is for the useful life of the fence and any new fence that would be put there, would have to comply with the existing zoning ordinance there.

9. PUBLIC HEARING **APPLICANT: Mr. Robert Maes**
REPRESENTATIVE: Same as above.
COMMON DESCRIPTION: 13078 Thirteen Mile Road
LEGAL DESCRIPTION: 13-11-226-002
ZONE: R-1-C

VARIANCES REQUESTED: Permission to:
Construct a detached garage 24' x 20' = 480 sq. ft. in addition to an existing carport 12' x 22' = 286 sq. ft. and a shed 10' x 8' = 80 sq. ft.
Total of 846 sq. ft. of accessory structures.
ORDINANCES and REQUIREMENTS:
Section 5.20 Paragraph (i): Uses permitted. Only one private garage for each residential lot… All garages and/or accessory buildings shall not exceed a total of seven-hundred (700) square feet floor area.

Robert Maes, 13078 Thirteen Mile Road, appeared before the Board.

APPROVED

Chairman Watripont asked the reason for the petition.

Robert Maes stated looking at the hardship of his wife heath and his, they only have a carport right now and the square footage for the structure is about 700 square foot, and they are about 146 over and they would like to put a garage up in the back, which they have the room; they are looking to put in a 20' x 24' garage.

Chairman Watripont stated this is a public hearing, anyone wishing to speak on this item. Hearing and seeing none, he turned the matter over to the Board.

Board Member S. Brasza stated she had seen this property today and he takes really nice care of his property and that carport is really nice looking; she asked if that came with the home when they purchased it, or did he just put that in?

Robert Maes stated yes.

Board Member S. Brasza asked if they were going to keep the shed.

Robert Maes stated yes.

Board Member S. Brasza stated and it has been permitted and there is a rat wall and all of that good stuff?

Robert Maes stated yes, that is correct.

Board Member S. Brasza stated she would approve this because the…if there no other comments…

Chairman Watripont stated his only concern is that he does not like allowing three (3) separate out properties on a parcel; that is his concern.

Board Member S. Brasza stated the carport is kind of just like a…

Robert Maes stated the carport is tied in to the roof, he really cannot take it down, it would rip the whole roof apart.

Board Member S. Brasza stated it looks like a patio dormer; it is not any kind of a structure per se.

Chairman Watripont stated he was just voicing his opinion.

Motion:
Board Member S. Brasza made the motion to approve the petitioner's request to:
Construct a detached garage 24' x 20' = 480 sq. ft. in addition to an existing carport 12' x 22' = 286 sq. ft. and a shed 10' x 8' = 80 sq. ft.
Total of 846 sq. ft. of accessory structures.

APPROVED

Reasons being: Due to Size and Shape of the Lot and Not a Detriment to the Area.

Secretary Nestorowicz supported the motion.

Chairman Watripont stated there is a motion by Board Member S. Brasza, Support by Secretary Nestorowicz, to approve the variance as written; Due to Size and Shape of the Lot and Not a Detriment to the Area.

(The amendment to the reasons was added to Board Member S. Brasza's motion).

Roll Call:
A roll call was taken on the motion to approve and the motion carried (9-0).

Board Member S. Brasza	Yes, for the reasons stated in the motion.
Secretary Nestorowicz	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 Furgal	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Tabbi	Yes, for the reasons stated in the motion.
Board Member Fisher	Yes, for the reasons stated in the motion.
Chairman Watripont	Yes, because everyone should have a garage.

The Petitioner's request has been **GRANTED** as written.

10. PUBLIC HEARING **APPLICANT: Mr. Senan Dawood**
REPRESENTATIVE: Same as above.
COMMON DESCRIPTION: 2157 East Thirteen Mile Road
LEGAL DESCRIPTION: 13-06-352-015
ZONE: R-1-B

VARIANCES REQUESTED: Permission to:
Construct a detached garage (20' x 30' = 600 sq. ft.) in addition to an existing attached garage (20' x 19.7' = 394 sq. ft.) for a total of 994 sq. ft. of accessory buildings.
ORDINANCES and REQUIREMENTS:
Section 5.01 Paragraph (i): … All garages and/or accessory building shall not contain more than seven hundred (700) square feet of floor area. Only one (1) private garage for each residential lot is allowed.

Senan Dawood, 2157 East Thirteen Mile Road, in Warren, Michigan; appeared before the Board and stated he would like to construct a detached garage because they are having a hardship with the existing garage they have right now, it is really small, but they have a big lot, it is a one acre lot and they have multiple lawn mow-

APPROVED

ers, they have two (2), one riding, one regular—small one and a bigger one—for tight areas, and also they have two (2) snow blowers, because they have a big lot as he stated and they maintain their yards and everything year round and they put their equipment in their existing garage right now and they have no room for their vehicles to be placed inside the garage and it is especially hard for his parents in the winter—it is a tight area and they keep their vehicles outside. When they first purchased the house, when the paperwork was going through, they had a detached garage in the back, but it was torn down by the time everything was finalized, so that is why they would like to also get that back and it would really help them out a lot and it would also help them with the up keeping of the property and everything like that.

Chairman Watripont stated this is a public hearing, anyone wishing to speak on this item. Hearing and seeing none, he turned the matter over to the Board, but he would like to clear something right now. On the Board's sheets it says 22' x 30', but it is actually—all the drawings and everything—says 20' x 30' and he believes it was posted as 20' x 30' so that should not be an issue. He turned the matter over to the Board.

Board Member S. Brasza stated he has a nice piece of property there.

Senan Dawood thanked Board Member S. Brasza.

Board Member S. Brasza stated in regards to his couple of riding lawn mowers and a couple of snow blowers, he is asking for 600 sq. ft.; what else is he going to put in there?

Senan Dawood stated his dad used to be a carpenter and that is his hobby, so he would like to put a few of his tools as bench saw and stuff like that and it is really tight with the other garage and also, they do not have a shed at the property; there is nothing on there.

Board Member S. Brasza stated so that is going to have three (3) doors, two (2) doors? How are they going to…?

Senan Dawood stated it is just going to be two (2) doors.

Board Member S. Brasza stated so there is a double door and a single door?

Senan Dawood stated yes, single small door.

Board Member S. Brasza thanked Mr. Dawood.

Chairman Watripont asked no business or anything on the hobby will be ran out of there, correct?

Senan Dawood stated no sir.

APPROVED

Board Member S. Brasza asked if there are no further questions, she would like to make a motion.

Motion:
Board Member S. Brasza made the motion to approve the petitioner's request to: Construct a detached garage (20' x 30' = 600 sq. ft.) in addition to an existing attached garage (20' x 19.7' = 394 sq. ft.) for a total of 994 sq. ft. of accessory buildings.

Reason being: Due to Size and Shape of the Lot and Not a Detriment to the Area.

Secretary Nestorowicz supported the motion.

Chairman Watripont stated there is a motion by Board Member S. Brasza, Support by Secretary Nestorowicz, Due to Size and Shape of the Lot and Not a Detriment to the Area. He asked for Roll Call.

Roll Call:
A roll call was taken on the motion to approve and the motion carried (9-0).

Board Member S. Brasza	Yes, for the reasons stated in the motion.
Secretary Nestorowicz	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Tabbi	Yes, for the reasons stated in the motion.
Board Member Fisher	Yes, for the reasons stated in the motion.
Board Member Pauta	Yes, but she would like to clarify that it says on the request 20' x 30' but on the backup it is 20' x 20', so what is the Board approving, 20' x 20' or 20' x 30' because…

Chairman Watripont asked what backup shows 20' x 20'.

Board Member Pauta stated Board Member S. Brasza's motion was 20' x 30'; it says here to construct a garage 20' x 20'.

Chairman Watripont read permission to construct a detached garage.

Board Member Pauta stated 20' x 20'.

Chairman Watripont stated then it says 20' x 30' right below it.

Board Member Pauta stated that is why she wanted clarification.

APPROVED

Chairman Watripont stated it was posted as 20' x 30' and that is what is being approved.

Board Member Pauta stated alright; okay.

Board Member H. Brasza	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Chairman Watripont	Yes, for the reasons stated in the motion.

The Petitioner's request has been **GRANTED** as written.

Motion:
Board Member S. Brasza made the motion for a five minute recess at 9:04 p.m.

Chairman Watripont stated there is a motion for recess.

Board Member H. Brasza supported the motion.

Chairman Watripont stated motion by Board Member S. Brasza, Supported by Board Member H. Brasza, for recess.

Voice Vote:
A voice vote was taken on the motion. The motion carried (9-0)

Chairman Watripont stated the Board will be having a five (5) minute recess and will resume at 9:09p.m.

11. PUBLIC HEARING **APPLICANT: Laird Plastics**

REPRESENTATIVE:	Larry LaVanway or Don Stoices
COMMON DESCRIPTION:	26403 Groesbeck Highway
LEGAL DESCRIPTION:	13-24-226-008
ZONE:	M-2

VARIANCES REQUESTED: Permission to:
Install one wall sign 54" x 180" = 67.5 sq. ft.
ORDINANCES and REQUIREMENTS:
Section 4A.35 (c): Total wall signage of a size not to exceed forty (40) sq. ft. shall be allowed for each business in C-1, C-2, C-3, M-1 and M-2.

Larry LaVanway, 22124 Telegraph Road, Southfield, Michigan; appeared before the Board.

Chairman Watripont asked Mr. LaVanway, the reason for his petition.

APPROVED

Larry LaVanway stated the subject property is zoned M-2, it is a very large parcel, if it was zoned M-3 or M-4, the wall sign to be up to 100 sq .ft.; 40 sq. ft. the maximum allowed for M-1 and M-2; it is considerable smaller than 100 sq. ft. The front wall of the building, which is several acres, is setback 146 feet, he believes from the near side curb of Groesbeck. Groesbeck has heavy traffic, it has three (3) lanes going both ways and so if someone is going north east coming out from Eight Mile Road on Groesbeck, they are probably 170 or 180 feet away; a sign that would be—by the way it is a non-lit sign, there is no lighting on it at all for the sake of public safety—there are a lot of tractor trailers go there day to day to drop of coils and plastics and things and they want it clear, they are sitting up high, and when traffic is heavy, they need something on the building that is like, yeah I'm here, I better turn into the in-bound lane and that lane goes all the way around the building and they are just supposed to exit on that other exit lane; that is the purpose for the roadway all the way around. They are appealing just the square footage; a little bit more would make those letters visible from Groesbeck.

Chairman Watripont stated this is a public hearing, anyone wishing to speak on this matter. The Board does have a letter to be read into the file or summarized.

Secretary Nestorowicz stated he will just summarize it. The Board received a letter from Thomas Kemp, the President of Laird Plastics basically saying that he is in favor of the sign.

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

Board Member S. Brasza stated she thinks it is tastefully done, it is a big piece of property, and Groesbeck is a fast-paced-highway-type road, she sees nothing wrong with this, and if there is no other discussion, she would like to make a motion.

Motion:
Board Member S. Brasza made the motion to approve the petitioner's request to:
Install one wall sign 54" x 180" = 67.5 sq. ft.

Reason being: Due to Size and Shape of the Lot, Not a Detriment to the Area and Lack of Identification.

Secretary Nestorowicz supported the motion.

Chairman Watripont stated there is a motion by Board Member S. Brasza, Support by Secretary Nestorowicz, to approve the variance as written; Due to Size and Shape of the Lot, Lack of Identification and Not a Detriment to the Area. He asked for Roll Call.

(The amendment to the reasons was added to Board Member S. Brasza's motion).

Roll Call:

APPROVED

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

Board Member S. Brasza	Yes, for the reasons stated in the motion.
Secretary Nestorowicz	Yes, for the reasons stated in the motion.
Board Member Furgal	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 Anglin	Yes, for the reasons stated in the motion.
Board Member Tabbi	Yes, for the reasons stated in the motion.
Board Member Fisher	Yes, for the reasons stated in the motion.
Chairman Watripont	Yes, for the reasons stated in the motion.

The Petitioner's request has been **GRANTED** as written.

12. PUBLIC HEARING **APPLICANT: Wendy's/Blackthorn Mgmt**
REPRESENTATIVE: Mr. John E. Bulek/Mr. Alan Verstrarte
COMMON DESCRIPTION: 31301 Van Dyke
LEGAL DESCRIPTION: 13-04-476-024
ZONE: C-2

VARIANCES REQUESTED: Permission to:
Install signs as follows:
1. One (1) wall sign on the east elevation, 12' x 3' = 36 sq. ft. as per the plan.
2. One (1) wall sign on the south elevation, 12' x 3' = 36 sq. ft. as per the plan.
3. One (1) wall sign on the north elevation, 12' x 3' = 36 sq. ft. as per the plan.
4. One (1) wall sign on the north elevation, 9" x 13' 9-1/2" = 10.34 sq. ft.

Total wall signage 118.34 sq. ft.
ORDINANCES and REQUIREMENTS:
Section 4A.35 (c): Total wall signage of a size not to exceed forty (40) sq. ft. shall be allowed for each business in C-1, C-2, C-3, M-1 and M-2.

Paul Deters *with* Metro Detroit Signs, 23544 Hoover Road, Warren, appeared before the Board and stated with him this evening, are John Bulek and Alan Verstrarte, who are with Blackthorn Management, which is the Wendy's franchisee that operates that site.

Chairman Watripont asked the reason for the petition.

Paul Deters stated they are asking this evening from the Board some consideration to allow them to have additional wall signage. As probably many of them Board Members know that Wendy's site has been there since 1978 and they are currently undergoing a reimaging program that has is part of what an upgrade that a number of Wendy's sites throughout the area are undergoing and the package they have before the Board is part of the package that Wendy's has asked for their franchisees to

APPROVED

comply with and so they would like the Board's consideration adding some wall signs on the north and the south elevation, in existing to the one that they have currently on the east elevation.

Chairman Watripont stated this is a public hearing, anyone wishing to speak on this matter. Hearing and seeing none, he is going to ask a question. There is a variance for a total of 76.64 sq. ft. of wall sign; they are relinquishing that in favor of this? Not in addition to?

Paul Deters stated he would say is, if they have 76, what they are asking for is a total of 118 square feet; never would allow them to have a 118 total.

Chairman Watripont stated it works better if they get rid of the old and put the new all the way in.

Paul Deters stated alright, procedurally, yes.

Chairman Watripont stated he just wanted to make sure he did not want that in addition to that before they move forward. Okay, he turns the matter over to the Board. He called upon Secretary Nestorowicz.

Secretary Nestorowicz asked Chairman Watripont how he knew he would speak. *(Laughter)*

Chairman Watripont stated because Board Member S. Brasza was not ready. *(Laughter among Board Members)*

Secretary Nestorowicz stated yes, except he was not ready to make any motion that is the problem. One of the problems that he believes he always has and he sees this more and more is because many petitioners come, they want more and more wall signage and he sees petitioners coming before the Board, saying, oh no they have to have this wall sign because this is what their corporation says, but they see some of these other stores in other cities and other counties with a lot less signage. A Wendy's does not need to have sign on all three (3) sides; he still thinks a 118 sq. ft. is a lot of signage for that building, so that is all he wanted to say.

Board Member Anglin stated he has a question; the request is for the three (3) signs on the three (3) signs and they are willing to waive the previous 70+ square feet that they had, but is there not a sign that is out by the road also?

Chairman Watripont stated that is not a wall sign; the ordinance is 40sq. ft. of wall sign.

Board Member Anglin stated so it has no reflection on also the square footage that they have on their freestanding.

APPROVED

Chairman Watripont stated right, on their freestanding. And the fourth one is where it says quality is out recipe is what that one is; correct?

Paul Deters stated that is correct; that one is not illuminated.

Chairman Watripont asked and the others are.

Paul Deters stated yes sir.

Board Member S. Brasza stated so corporate says they have to have it on how many sides?

Alan Verstrarte stated what it basically is, is a new look that they are trying to brand and quality is our recipe that is something they branded with the 1969, and it is part of what they call 'Refresh imaging' and it is part of a sign moniker that they have asked all of the franchisees to adhere and they have done this in other cities and municipalities; they have 42 restaurants in the state and this is the first one in Warren. He opened that restaurant in 1978 as the general manager and they think it is a great site and they love being there and they are just trying to comply with the better and cleaner look and to better serve their customers in the community.

Board Member S. Brasza stated so the north side is their drive-thru side, is that what…

Alan Verstrarte stated no, it faces Pizza Hut, is the north side.

Board Members S. Brasza asked so what would they want to put it there, verses on the south side.

Alan Verstrarte stated well it is a matter of where it will best fit on the sign; they looked at it and he thinks that is something that he guesses they would be willing to look at. That is probably the least, he guesses that he would say, they would be willing to relinquish on the north side.

Board Member S. Brasza stated her thought is the north side is like he said is right next to Pizza Hut and it is back past their window section so… She wonders if there is anything they could do in regards to the north side to satisfy the fact that…

Alan Verstrarte stated if the Board is okay with the other two sides; would like to keep…

Board Member S. Brasza stated also to put the 'quality' on the south side instead of the north.

Alan Verstrarte stated yes.

Board Member S. Brasza stated yes, good; just remove the north.

APPROVED

Alan Verstrarte stated okay, they would be willing to do that.

Motion:
Board Member S. Brasza made the motion to approve the petitioner's request to:
Install signs as follows:
1. One (1) wall sign on the east elevation, 12' x 3' = 36 sq. ft. as per the plan.
2. One (1) wall sign on the south elevation, 12' x 3' = 36 sq. ft. as per the plan.
3. ***(REMOVED)*** One (1) wall sign on the north elevation, 12' x 3' = 36 sq. ft. as per the plan.
4. One (1) wall sign on the **south** elevation, 9" x 13' 9-1/2"= 10.34 sq. ft. ***(AMENDED)***

Total wall signage is 82.34 sq. ft.

Reason being: Due to Size and Shape of the Lot, Not a Detriment to the Area and Lack of Identification.

Board Member Anglin supported the motion.

Chairman Watripont stated there is a motion by Board Member S. Brasza, to allow three (3) wall signs as she stated, for a total of 82.34 sq. ft. Due to Size and Shape of the Lot, Lack of Identification, and Not a Detriment to the Area; and this replaces the previous variance of 76.64 sq. ft. and the petitioner are aware of this and agree with everything?

Alan Verstrarte stated yes.

Chairman Watripont stated okay and asked for Roll Call.

Roll Call:
A roll call was taken on the motion to approve and the motion carried (9-0).

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

The Petitioner's request has been **GRANTED** with the conditions/amendments as follows: To remove item number 3 from the initial variance request; that item number 4 is to be placed on the south elevation; the total wall signage reduced to 82.34 sq. ft. and to relinquish prior sign variance of 76.64 sq. ft.

APPROVED

13. PUBLIC HEARING **APPLICANT: Thomas T. Petzold/Tech Plaza**
REPRESENTATIVE: Tiseo Architects, Inc/Benedetto Tiseo
COMMON DESCRIPTION: 8383 Twelve Mile Road
LEGAL DESCRIPTION: 13-10-353-010
ZONE: C-2 & P

VARIANCES REQUESTED: Permission to:
Install:
1. Two (2) signs on the ATM canopy for the east and west elevation 131 sq. ft. each as per the plans. 262 sq. ft. total.
2. Two (2) signs on the ATM canopy for the north and south elevation 94 sq. ft. each as per the plans. 188 sq. ft.

Total 450 sq. ft. on the ATM canopy.

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

Ben Tiseo, 19815 Farmington Road, Livonia, Michigan, appeared before the Board and stated that he would like to apologize to the Board, he had found some mathematical errors on the drawing and they are actually under the 40 sq. ft. allowed; his apologies to take up their time on this matter. The dimensions were based on the outside of the metal, not the actual sign plus the decimal place was missed placed, so it actually, if they use the outside, it is 45, the actual sign area, he just computed it, is about 38 sq. ft.

Chairman Watripont asked Mr. Murphy if he was aware of all this.

Ben Tiseo (pointing to Mr. Murphy) stated they just discussed this 2 minutes ago when he was going through his petition; his apologies that he did not catch it in his office.

Chairman Watripont asked Mr. Murphy if he agreed with it.

Everett Murphy, Zoning Inspector stated yes, based on what he just showed him.

Chairman Watripont stated okay, he just wanted to make sure he knows because they go not necessary…so he wanted to make sure that it fell in compliance with how Mr. Murphy calculated too and if that is the case, he believes this item is being withdrawn?

Ben Tiseo stated yes please.

Board Member S. Brasza asked Mr. Tiseo if he would like his plans back.

APPROVED

Ben Tiseo stated no, that was okay, he has his set. His apologies, they will be back before the Board when the bank comes for its sign on the building.

Chairman Watripont stated he would see them then.

Ben Tiseo thanked the Board.

Chairman Watripont asked the City Attorney that since it is withdrawn, the Board does not have to take any action, correct?

Roxanne Canestrelli, City Attorney stated yes.

14. PUBLIC HEARING **APPLICANT: Mr. Arkan Alton, L.A. Motors Inc.**

REPRESENTATIVE: Mr. Kerm Billette & Mr. Arthur Rose III
COMMON DESCRIPTION: 24055 Ryan
LEGAL DESCRIPTION: 13-30-278-031
ZONE: M-1

VARIANCES REQUESTED: Permission to:

1. Add sixteen used car spaces creating stacking of vehicles without a maneuvering lane and one of the spaces elevated on the north side of the building to no less than eight (8) feet of the front property line as per the plan.
2. Waive five (5) required parking spaces in addition to the two (2) spaces waived by the ZBA on 8/31/11.

ORDINANCES and REQUIREMENTS:

Section 15.01 (e)(11)(a & b)(f) Used car display area: (a): There shall be provided a minimum of eight (8) feet by seventeen (17) feet of storage/display space for each used car to be displayed. (b) Access to each individual used car shall be provided. Used cars shall not be position in a stacked or packed formation.
(f) The setback areas along the street frontages shall not be used for the parking or for the storage/display of used cars.
Section 15.01 Item (e) Paragraph (8). *Off-street parking required.* Separate off-street parking shall be provided in compliance with the regulations contained in section 4.32 and the following provisions:

a. The minimum number of parking spaces to be provided shall be calculated based on the formula of five (5) spaces plus one (1) space per each fifteen (15) used car storage/display spaces

Section 15.01 (e)(13)(b): Site design requirements: Maneuvering lanes for the storage/display area shall be a minimum of twenty (20) feet in width.

This matter was **RESCHEDULED** to December 9th, 2015 meeting.

15. PUBLIC HEARING **APPLICANT: General Motors**

APPROVED

REPRESENTATIVE:	Mr. Todd Davis/Mr. Jason A. Harris
COMMON DESCRIPTION:	7000 Chicago Road
LEGAL DESCRIPTION:	13-09-200-001
ZONE:	M-2

VARIANCES REQUESTED: Permission to:
Retain parking maneuvering lane at 20 feet as per the plan.
ORDINANCES and REQUIREMENTS:
Section 4.32 (i): Maneuvering lanes shall be 22 feet wide.

Jason Harris with General Motors, 30200 Mound Road, appeared before the Board and stated that present with him tonight is Pat Dower, with SmithGroup, JJR; he is speaking on behalf of General Motors as their Engineer of Record.

Pat Dower with *SmithGroup, JJR*, 201 Depot, Ann Arbor, Michigan, appeared before the Board.

Chairman Watripont asked the reason for their petition.

Pat Dower stated they are before the Board today to request a variance in allowing the drive isles for their parking areas on one of the development sites on the Tech Center Campus, from 22 feet, which is required by the ordinance to 20 feet.

Chairman Watripont stated this is a public hearing, anyone wishing to speak on this matter. Hearing and seeing none, he turned the matter over to the Board.

Board Member S. Brasza thanked the petitioners and stated they have drawings, they did not have drawings for the parking structure the last time.

Pat Dower stated and they brought more.

Board Member S. Brasza stated well and the question she had last time just as an afterthought was, were they going to be able to put any of the colored tiles up on the…

(Laughter)

Board Member S. Brasza asked if they had decided that.

Jason Harris stated yes, in fact the two stair towers that are not on the plans, will have the traditional glazed brick.

Board Member S. Brasza asked which color.

Jason Harris stated they are considering an autumn orange at this time, so working with Belden Brick on some samples.

APPROVED

Board Member S. Brasza thanked Mr. Harris.

Chairman Watripont asked if they could discuss the item on the….

Board Member S. Brasza stated yes (laughter).

Board Member Furgal stated she would like them to put on the record his hardship.

Chairman Watripont stated the hardship for being 20 feet, instead of 22 feet.

Pat Dower stated absolutely; there are several reasons, one of which is that there is a significant need for parking, General Motors currently has about 20,000 people that work and visit on this campus. The parking is at a premium, which is one of the reasons why they are constructing a parking deck and they are also in the midst of or in the early stages of a transformation of GM's Campus for an innovation of the future and because of this, there will be an additional 5,000 employees that will be coming over the next five (5) years, so parking is at a premium. If they had to stick to the ordinance, they would have to reestablish their parking and it would significantly reduce the amount of parking that they have on this site. The other reason is because part of the innovation and the transformation of the campus is that they are looking for a new look for General Motors from a sustainability perspective and as they all know, Storm Water is a significant initiative as part of the sustainability movement in this Country and in the world and if they were to maintain the same number of parking spaces and use the ordinance, they would be adding an additional, almost five (5) acres of impervious surface on the campus, which is currently over 70 percent impervious at this time.

Chairman Watripont thanked Mr. Dower.

Secretary Nestorowicz stated if any of the new Board Members would like to say anything first, otherwise, he would like to make a motion. (Laughter)

Motion:
Secretary Nestorowicz made the motion to approve the petitioner's request to:
Retain parking maneuvering lane at 20 feet as per the plan.

Reason being: Due to Size and Shape of the Lot and Not a Detriment to the Area.

Board Member Anglin supported the motion.

Chairman Watripont stated there is a motion by Secretary Nestorowicz, Support by Board Member Anglin. He asked for Roll Call.

Roll Call:
A roll call was taken on the motion to approve and the motion carried (9-0).

APPROVED

Secretary Nestorowicz	Yes, for the reasons stated in the motion; actually he does like Autumn Orange, just so they know.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member S. Brasza	Yes, for the reasons stated in the motion.
Board Member Pauta	Yes, for the reasons stated in the motion.
Board Member Tabbi	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 Furgal	Yes, for the reasons stated in the motion.
Chairman Watripont	Yes, for the reasons stated in the motion.

The Petitioner's request has been **GRANTED**, as written.

16. PUBLIC HEARING **APPLICANT: Oke Development LLC/ Charles Oke and Hasan Bazzi**

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

VARIANCES REQUESTED: Permission to:
Redevelop a site with the following variances requests:

1. Hard surface to no less than one (1) foot of the front (Dequindre) property line, allow canopy to no less than twenty-one (21) feet of the front (Dequindre) property line as per the plan.
2. Construct a new building to no less than two (2) feet of the rear (east) property line as per the plan.
3. Construct a new building to no less than 14.4' of the side (south) property line as per the plan.
4. Allow hard surfacing to no less than one (1) foot for the 11 Mile (north) property line as per the plan.
5. Waive fourteen (14) require off street parking spaces.
6. Install two (2) ground signs are follows: one (1) ground sign 20' in height, 10' under clearance with a two (2) foot setback from the Dequindre property line as per the plan and one (1) ground sign 20' in height, 10' under clearance with a two (2) foot setback from the 11 Mile property line as per the plan.
7. Install wall signs as follows:
   a. One (1) wall sign on the building, 14' x 1.5' = 21 sq. ft. as per the plan.
   b. One (1) wall sign on the building, 14' x 1.25' = 17.5 sq. ft. as per the plan.
   c. Two (2) canopy sign; 9.33' x 1.25' = 11.66 each, total 23.3 sq. ft. as per the plan.
   d. Six (6) pump toppers; 1.5 sq. ft. each
   e. Six (6) M Decal; .56 sq. ft. each

APPROVED

f. Six (6) Fueling for American Spirit; .41 sq. ft. each
g. Six (6) STP label; .33 sq. ft. each
h. Six (6) Gasoline with Additives; .068 sq. ft. each
Total on six (6) pumps of 17.22 sq. ft.

Total wall signage of 79.02 sq. ft.

ORDINANCES and REQUIREMENTS:

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

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

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

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

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

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

This matter was **RESCHEDULED** to the November 18th, 2015 meeting.

Chairman Watripont stated he noticed they have some members in the audience, he asked if there was something specific they were present for?

Board Member Anglin stated the young lady was present for his ride. (Laughter)

Chairman Watripont stated he recognized his wife (Laughter).

(Inaudible discussion)

Chairman Watripont stated okay, he just wanted to make sure the Board did not miss anything; the Board did reschedule a couple and wanted to make sure they were notified.

17. **NEW BUSINESS**

Chairman Watripont stated they have a full Board now and he would like to have an election of Officers. He would also like to welcome Jeremy Fisher to the Board, who was appointed last night here with all of his stuff; he slept on everything there (Laughter); just like their other two (2) new members did last time they were here. They have four (4) positions on the Board, the Chair, Vice-Chair, Secretary, and Assistant Secretary; does he have any nominations for Chair.

APPROVED

Board Member Furgal stated she nominees Mr. Watripont.

Board Member S. Brasza stated she seconds.

Chairman Watripont stated he accepts and are there any other nominations? He closes the nominations for Chair. Vice Chair, are there any nominations? Board Member Furgal is Vice-Chair right now.

Board Member H. Brasza stated he nominates Board Member Furgal.

Board Member S. Brasza stated she Supports.

Chairman Watripont asked Board Member Furgal if she accepts.

Board Member Furgal stated yes.

Chairman Watripont asked if there were any other nominations. He closes that nomination; nominations for Secretary.

Board Member Furgal stated she nominates Secretary Nestorowicz.

Board Member S. Brasza stated she Supports.

Chairman Watripont asked if there was anyone else; he closed that nomination; for Assistant Secretary.

Board Member Furgal stated she nominates Board Member S. Brasza.

Board Member H. Brasza supported the nomination.

Chairman Watripont asked Board Member S. Brasza if she accepts.

Board Member S. Brasza stated yes.

Chairman Watripont asked if there was any other nomination; he closed that nomination. All of the officers stay the same with the exception of Board Member S. Brasza now becomes the Assistant Secretary with the vacancy of Board Member Vigus. He asked if there was anything else for New Business.

18. **ADJOURNMENT**

Motion:
Board Member Anglin made the motion to adjourn the meeting; Board Member S. Brasza Supported the motion.

Voice Vote:

APPROVED

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

The meeting was adjourned at 9:33 p.m.

Roman Nestorowicz
Secretary of the Board

APPROVED