

WARREN ZONING BOARD OF APPEALS
REGULAR MEETING
November 18, 2015

A Regular Meeting of the Warren Zoning Board of Appeals was called on Wednesday, November 18, 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, Asst. Secretary
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 Badalamente, Zoning Inspector
Deborah Wenson, Zoning Inspector

1. CALL TO ORDER

Chairman Watripont called the meeting to order at 7:33 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 S. Brasza made the motion to adopt the agenda and Secretary Nestorowicz supported the motion.

Chairman Watriont stated he has a motion by Board Member S. Brasza and support 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 Special Meeting of October 28, 2015

Chairman Watriont noticed the regular meeting of October 14, 2015 is not on here.

Motion:

Board Member Furgal made the motion to approve the minutes of October 28, 2015 and Secretary Nestorowicz supported the motion.

Chairman Watriont stated he has a motion by Board Member Furgal and support by Secretary Nestorowicz.

Voice Vote:

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

Chairman Watriont wanted to make sure the October 14, 2015 minutes get on the next agenda to approve those, they have not been approved yet.

6. PUBLIC HEARING

APPLICANT: Richard & Patricia Osantowski
(Rescheduled from 9/23/15)

REPRESENTATIVE: Same as above.
COMMON DESCRIPTION: 31917 Regal
LEGAL DESCRIPTION: 13-01-401-013
ZONE: R-1-C

VARIANCES REQUESTED: Permission to:

Replace an existing wood fence with a new wood fence 5' 15/16" in height along the Masonic property line as per the plan, without the ten (10) foot setback at driveway. Starting at the north east corner of the house going 42.5' toward Masonic then 107.04 feet along the Masonic property line. Total 149.54 linear feet.

ORDINANCES and REQUIREMENTS:

Section 4A.33 (b): Corner lot privacy fences: A privacy fence is permitted on corner lots provided that if the fence abuts any driveway, including driveways on adjacent property, the fence shall be set back a minimum of ten (10) feet from the intersection of the property line and the driveway providing a clear vision zone area. The portion of the fence set back minimum of ten (10) feet, may be angled away from the driveway or installed perpendicular to the driveway. The clear vision zone area is required to provide for the unobstructed vision of a driver exiting the driveway.

Patricia Osantowski, 31917 Regal Drive, explained she would like to replace the existing fence, as is, without the ten (10) foot setback for the driveway. She has a letter

that she wrote and asked for the Secretary to give out to the Board Members. She wasn't sure if the Board had read it or if she can read it to the Board.

Chairman Watrion said she can state her hardships and the reasons she wants the fence. He read through it a little bit but not all the way, so if she summarizes it the Board can go from there.

Patricia Osantowski stated the problem is the new city ordinance, which she was not aware of until the permit was pulled for the company that was hired, Mired Fence, which the fence has to have a ten (10) foot setback. It's not feasible for the property. She parks two (2) vehicles in front of the house and there are four (4) vehicles, the house faces Regal. There are two (2) vehicles in front; one (1) is in the backyard, then the gate; one (1) behind the gate after the sidewalk. If the gate has to come in ten (10) feet she won't be able to put one vehicle in the backyard and close the gates securely. In snow emergencies she's able to open the gates and fit three (3) cars by putting two (2) cars on the grassy part of the yard; one (1) in front of the garage, close the gates; and another car at the bottom of the driveway. She doesn't have a really long driveway. She has a short driveway inside of the yard and a short driveway outside of the yard. She has an in ground pool and was stated to put up a cyclone fence and would like to have their privacy when hosting pool days. She doesn't like the cyclone fence, it would look ridiculous having a six (6) foot cyclone fence and with that, people can still climb that sort of fence to get into the yard. It was also stated she could no enclose the garage. The park is right behind her, the driveway and garage are a half a block from the corner of Regal. She took copies of pictures of the property and then of other properties who live on a corner and have fences just like what she wants to put back up. They have the fence and the gate like she has now, how are they able to fix their fences new?

Richard Osantowski stated since August two corner lots had their fences built and they're up against the driveway, the gates along the sidewalk.

Patricia Osantowski said the gate is just against the sidewalk like hers is.

Chairman Watrion stated they'll discuss that when it's open to the public.

Patricia Osantowski stated it was mentioned for her to not enclose the garage. If that's the case, she still has to have a fence to secure the pool, therefore, from the house she would not be able to see the garage and anybody from the park or Masonic can have a hay day in the garage. She doesn't understand; attached to the letter are all the signatures in the neighborhood. Her husband went around and got about twenty-five (25) signatures from all the neighbors that can't believe this is happening and agree to have the fence put up existing as is. Snow emergencies, security, privacy and functionality of the yard. One of the reasons the home was purchased in 2004 was for the yard, by bringing that in or not enclosing the garage, it cuts her entire yard up. Not to mention, she has a tree and a flower bed that would have to be removed in order for that fence to come in the way the Board wants it done, or it would be very close, the tree would be right on top of the fence. With

these pictures, the existing fence is pretty nasty. Modern Fence is a very reputable company and want to put up White Cedar, it's a beautiful fence. The Board can see the park is in back of the house, how far she is from the corner, where her husband is standing where there is no room for a ten (10) foot setback and the other pictures are of pictures of the neighbors in the neighborhood that have replaced their fences. If they did it without a permit, she doesn't know but she's trying to do this the right way but it's not working. She doesn't understand why a fence that's been there for thirty (30) years can't be replaced as is. As the Board said it is a safety factor, that gate is only moved once a week to move out rubbish or to change cars around. The vehicles are not parked in the garage, that's her husband's stuff. When the cars are getting moved around, there's two people and the Board can tell with the cyclone fence, the people in the park can be seen and the people from the corner of Masonic. She doesn't go opening the gates or pulling out the driveway and hit somebody and have an accident.

Richard Osantowski explained the new fence would swing both ways, in and out, but he would put a stop sign on the fence so that when he swings them out anybody that happens to be walking will know to stop because there is a car backing out. That's safety right there unless you don't know what a stop sign means.

Chairman Watriont asked him to speak closer to the mic for the future.

Richard Osantowski stated he's all about safety and doesn't want anybody to get hurt. He stated the Board sent the letters to the neighbors and they were all more than welcome to sign and 100% came back saying leave the fence as is, let the fence be built. He explained it's safe to go by there, the neighbor kids have been going by the fence for years riding their bikes. There has never been a problem there with anybody and they all see it. He stated they're so far away from the corner that if he can't see someone at that corner coming down the sidewalk, then he's blind and he doesn't wear glasses, only for reading.

Patricia Osantowski stated they're here for the third time asking to the Board to please beautify the property and put up this beautiful fence. She's sure it's too late now for them to put it up now because it's winter. She just prays to God it doesn't blow over in the winter because of the wind coming through the park. She actually has to tie rope around the posts, pull them and stake them into the ground so the fence doesn't blow over. It's just ridiculous and wanted to get this done in July.

Richard Osantowski said they were able to finally save up some money...

Patricia Osantowski explained after putting the kids through college. There just hoping that... She had to take time off work, has to go back to work and this has just been crazy.

Chairman Watriont stated this is a public hearing and asked if anybody wishing to speak on this item to approach the podium.

No residents spoke.

Secretary Nestorowicz wanted to read into the record that the petitioner did provide the Board with the letter that was signed by twenty-three (23) of the neighbors in support of the fence and also the pictures of the fence and other fences were provided and almost finished being passed around.

Chairman Watripont thanked him.

Short moment of silence followed by inaudible discussion.

Chairman Watripont explained they are waiting for those to check the pictures.

Richard Osantowski wondered if anybody had any questions.

Patricia Osantowski explained the last few pictures are of the other properties they were able to...

Chairman Watripont questioned the other properties. As they mentioned these are new fences, he's sure they were done without permits and did not come before the Board because they have never allowed anyone without the ten (10) foot setback.

Patricia Osantowski explained the one on Seneca and Hayes, and she hates to call these people out, however, it is a Modern Fence fence that was just put up in April.

Richard Osantowski mentioned that Chairman Watripont just said a permit was probably not pulled.

Patricia Osantowski stated that Modern Fence made her come to the city to get a permit, that's why all of this is taking place, which is fine.

Chairman Watripont stated he will have the inspectors check on that. He knows that since he's been on the Board they have never allowed it.

Board Member S. Brasza knows that in regards to the ordinance change, it was due to the fact that when children are walking in the morning to school, it's dangerous for a car to pull out of a driveway without being able to see what's happening on the sidewalk, that's the dilemma. The ten (10) foot setback allows for a car to be brought out of the driveway and get a visual.

Patricia Osantowski agrees however...

Board Member S. Brasza stated they're on Masonic which is basically a thoroughfare that's a little bit busier than most.

Patricia Osantowski continued to say however, she works afternoons and parks in front. The only car that's in the backyard is a car that is used occasionally.

Board Member S. Brasza also said that when this gets done it goes with the property. What the Board is not concerned with, and she doesn't mean to belittle what Patricia Osantowski has said, is her circumstances. It goes with the property and that's what the Board looks at.

Patricia Osantowski wondered if she didn't pull a permit and replaced the fence what would happen.

Chairman Watriont stated that's not before the Board. That's something not handled by the Board but handled by the city building authorities.

Inaudible discussion from Richard Osantowski.

Richard Osantowski said they're going to do it right.

Patricia Osantowski said they are law abiding citizens.

Richard Osantowski explained that when the city wanted money for the police force, they voted for it.

Patricia Osantowski also contacted the Mayor.

Chairman Watriont said they have to stay on record.

Richard Osantowski said to let them do their thing.

Chairman Watriont stated in his opinion, it is a safety concern. The petitioner says they want it for security but there isn't a privacy fence along Miller, its wide open.

Patricia Osantowski said they have those great big bushes that are growing in to give privacy from Miller.

Richard Osantowski said a couple bushes died there.

Chairman Watriont stated that's another concern he takes out of this. The first time the petitioner was here he tried to work with them and tried to come up with some other alternatives. It's just a major safety concern and believes one of the other members on Board went to the county and verified the safety issues with fences on corner lots and went from there.

Richard Osantowski stated the Board sent letters out the neighbors and they all had no problem with it for thirty (30) years and have no problem with it now.

Chairman Watriont explained by ordinance it gets sent to everyone within 300 feet of the residence.

Richard Osantowski said he was down about a block and a half that had letters so he knows it was more than 300 feet.

Chairman Watripont believes it's 300.

Richard Osantowski thinks it's about 300 yards or better.

Everett Murphy inaudible.

Chairman Watripont said ok, at least 300.

Richard Osantowski went down from one corner to the other corner.

Patricia Osantowski said everybody...

Chairman Watripont said this matter is in front of the Board.

Richard Osantowski says they sit all alone like they're in a hide out.

Motion:

Board Member S. Brasza made the motion to deny the petitioner's request to replace an existing wood fence with a new wood fence 5' 15/16" in height along the Masonic property line as per the plan due to the following reasons: detriment to the area and self imposed.

Board Member Furgal supported the motion.

Chairman Watripont stated he has a motion to deny for the request reasons being: a detriment to the area and self imposed. Supported 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 (6-3).

Board Member S. Brasza	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Board Member Pauta	Yes, for the reasons stated in the motion.
Board Member H. Brasza	No, the property is unique.
Board Member Anglin	No, the property is unique.
Board Member Tabbi	Yes, for the reasons stated in the motion.
Board Member Fisher	No, the property is unique.
Secretary Nestorowicz	Yes to deny, for the reasons stated in the motion.
Chairman Watripont	Yes to deny, because it is a big safety issue for a major thoroughfare.

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

Richard Osantowski said thank you very much. Maybe he can get a lawyer from Kroger's and put a gas station there.

7. PUBLIC HEARING

**APPLICANT: Shiloh Industries, Inc./
J.P. Tillie LLC**

(Rescheduled from 9/23/15)

REPRESENTATIVE: JP Tillie LLC/Timothy J. Zawodny, R.A.
COMMON DESCRIPTION: 27101 Groesbeck Highway
LEGAL DESCRIPTION: 13-13-478-009 (13-13-478-010)
ZONE: M-2

VARIANCES REQUESTED: Permission to:

Waive an additional 3,377 sq. ft. of required off-street parking in addition to the 60,336 sq. ft. waived by the ZBA on 6/11/2003 for outdoor storage areas.

ORDINANCES and REQUIREMENTS:

Section 4.32 Paragraph (h) Item 23: One (1) square foot of parking area required for each sq. ft. of floor area for buildings in an M-2 District.

Tim Zawodny, Representative for Shiloh Industries and JP Tillie LLC, the address is with Processed Results Inc. at 201 South Ann Arbor Road, Saline, MI, stated the reason for the petition is to comply with the variance requirements for an extension of the variance to allow satisfying contingency of the site plan approval that was granted this past Monday evening. The operator of the property, Shiloh Industries, is a supplier of the automotive market and have been in this facility now, as a business it has changed ownership, but as a business they have been there since 1999 and have been in front of the Board before for a number of variances. In this particular case, there is a requirement to increase and provide outdoor storage on the property in accordance with the zoning ordinance. This would require the reduction of actual paved parking area in accordance with Section 4.3.2 that states one square foot of parking area required for each square foot area of the building. The building is 117,000 square feet plus to satisfy the required parking for primary shift of 90 people, second of 50 and ten visitor spaces, it is only required approximately 54,180 square feet of parking. They're asking for additional 3,377 square feet to go with the previously granted 60,136 square feet that was granted in 2003. This is due to the requirements of the companies that they supply to putting the requirement for storage of empty containers back on the supplier as rather holding it with the Big 3.

Chairman Watriont stated this is a public hearing wondering if anybody wishes to speak on this item.

No residents spoke.

Secretary Nestorowicz went by the property. It's a very... He sees no issue with actually waiving the additional waiver of parking they're asking for. It's a good size property, when he was out there it didn't seem all of the spots were being used for parking at all.

Chairman Watripont has a question with the expansion if there is going to be more employees or is the maximum 90.

Tim Zawodny stated the maximum that will work at this facility is 90. Basically from the time that the building was occupied in 1999 and in 2003 an expansion was put on that was a request for the first variance on parking. They've gone from that point, which was minimal staff, to now full growth. The building is basically operating at capacity.

Chairman Watripont asked if there was still a lot of space for parking and thanked him.

Motion:

Secretary Nestorowicz made the motion to grant the petitioners request to waive an additional 3,377 sq. ft. of required off-street parking in addition to the 60,336 sq. ft. waived by the ZBA on 6/11/2003 for outdoor storage areas. Reasons being: Size and shape of the lot; not a detriment to the area.

Board Member H. Brasza supported the motion.

Chairman Watripont stated he has a motion by Secretary Nestorowicz and support by Board Member H. Brasza to grant the variance as requested. Reasons being: not a detriment to the area; size and shape of the lot.

Roll Call:

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

Secretary Nestorowicz	Yes, for the reasons stated in the motion.
Board Member H. Brasza	Yes, for the reasons stated in the motion.
Board Member Pauta	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
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 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.**

8. PUBLIC HEARING

**APPLICANT: Oke Development LLC/
Charles Oke and Hasan Bazzi
(Rescheduled from 10/14/15)**

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

VARIANCES REQUESTED: Permission to:

Redevelop a site with the following variance requests:

1. Hard surface to no less than one (1) foot of the front (Dequindre) property line, allow a canopy to no less than twenty-one (21) feet of the front (Dequindre) property line and gas pumps to no less than twenty-five (25) 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) required off street parking spaces.
6. Install two (2) ground signs as follows: one (1) ground sign 20' in height, 10' under clearance and 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
 - 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. eachTotal on six (6) pumps of 17.22 sq. ft.
Total wall signage of 79.02 sq. ft.
8. Allow a new building to be constructed to no less than twenty (20) feet of the 11 Mile property line, canopy to no less than twenty-three (23) feet of the 11 Mile property line; gas pumps to no less than thirty-eight (38) feet of the 11 Mile property line; and pavement to no less than two (2) feet of the 11 Mile property line.

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 buildings in a block, all buildings hereinafter erected or altered shall conform to the building line thus established, provided no building in an M-2 Zone shall be required to set back further than fifty (50) feet.

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

Section 4.32 Item (22): Off-street parking requirements. One parking space 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 no to exceed seventy-five (75) sq. ft. shall be allowed in M-2 districts.

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

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

Peter Zingus, 645 Griswald Street, Detroit, stated he is the representative for Chuck Oke and that he'll be brief. He wanted to make a couple points and considerations.

Chairman Watripont told him just a moment.

Inaudible discussion.

Chairman Watripont asked what his name was again.

Peter Zingus repeated his name.

Chairman Watripont informed him that his name is not shown as a representative here. He wondered if Mr. Oke was here.

Peter Zingus replied Mr. Oke is not here, Mr. Bazzi is here and Mr. Jona.

Chairman Watripont said he can speak after they present him.

Ron Jona, 1066 Commerce Street in Birmingham.

Chairman Watripont said he can turn it over now.

Ron Jona replied that's ok and added Peter Zingus to their team, he's a local attorney. All Peter was going to say is that they're not sure if ZBA is aware but this site, going back to 1969, has been kind of looked at as the ZBA, had established hardship at that point. Several variances have been granted and developed as a gas station at that time. In essence, and he has copies if the Board doesn't have them, the ZBA at that time allowed pumps and canopies to be built in the front yard without a dimension as well as allowing the rear setback to be ten (10) feet and there's been a few sign variances. That was the backdrop to this project prior to his involvement. About 18 months ago he was hired by Mr. Oke, and its pronounced oak just for the record. Mr. Oke owns several gas stations and this one that he has, if you noticed, has been closed for a while. It had been opened and reopened, closed, reopened and closed. Ironically, or not so ironically, he designed a 7-11 on the other corner.

He's done about 75-100 gas stations in South East Michigan and around the Midwest. Mr. Oke looked at this, and they looked at it and asked why is this gas station failing. In honesty, he looked at this strictly from the standpoint of can this be redeveloped; what would make this station work? First and foremost, he has some handouts and boards. The first board he's showing, which if the public wants to see it he can refer them, but it's about aerial view one. In aerial one, they're seeing a certain corner blown up with their parcel...

Chairman Watriont asked him to please speak closer to the mic.

Ron Jona explained they're seeing a subject parcel on the corner and the parcel to the south, Creative Building and Remodeling, Parkview Animal Hospital and their parcel. This parcel as developed had two curb cuts within the dimension on the Dequindre and two curb cuts currently on Eleven Mile. As a small building that is backed up to the south against Creative Building and Remodeling, had originally been approved for two (2) pump islands. The one in blue, that can be seen on the handout that he's pointing at, has been taken down at an effort at some point to make this station work. The pump island in brown is still there now and has not been taken down. As they looked at this, they noticed that Creative Building and Remodeling has a zero lot line on Dequindre. It provides a backdrop and a barrier in a certain spot. When they studied traffic and what would make this center successful, they came to the conclusion that the building and the station facing Dequindre versus facing Eleven Mile, opening up that visibility, closing these two curb cuts at the suggestion of Planning and opening up these two certain curb cuts, creating a building of size was primarily what they needed. In addition to that, the signage to be put in today in what is a standard gas station situation. They went ahead...

There was a moment taken to pass out more handouts.

Ron Jona continued to explain that they're looking at AV2, or aerial view two. This shows is what they're proposing, how it sits on the corner, how traffic would be cleaned up inside, closing the two curb cuts, creating a building exposure for primarily what they want to capture, which is the eastbound Eleven Mile traffic with their building exposed, the ability to circulate the pumps and go out, or at some point southbound Dequindre with adequate signage to be able to pull into the pumps, and either pull back out onto Dequindre, which he found out at Planning Commission is heavily traffic, or pull out the other curb cut and head east. Right now that corner, he's sure the Board has studied and it's not secret, there is a gas station, as he said 7-11 that he was involved with the design across the street to the north, kitty corner there is another gas station and the other corner right now is empty. In working with this configuration, the other thing that became critical was getting six (6) pumps in this configuration. This configuration makes a difference for people to come in and want to use a station like this. As well as the nose in parking to a building of adequate size. They went back, looked at planning, looked at the existing variances and went back over the variances. He understands, he's been doing this for thirty (30) years, he typically doesn't take cases where he needs eight (8) variances, he doesn't think the hardship is there. When the Board looks at the variances carefully,

he would like to go over one by one with the Board, he doesn't think there's anything that is detrimental to the property or have not been caused by the hardship due to the massive right-of-way or the small area they can build on. The other he wanted to say about AV1, if the Board will go back for a minute and he talked to planning about this, if the Board looks back he has shown a pink square. If the Board looks at the pink square, that's what they're allowed to build on. If he applied all the setbacks, he told Mr. Oke and he told planning, nobody is going to be able to build in that pink square. Again, that was the original hardship in 1969, that's what they're dealing with today and that's why he didn't choose to ignore the ordinance but chose to come up with a design that would work. Back to the site plan, the first variance regarding the canopy. Again in 1969, and he can hand the Board the actual transcript, pumps and island are allowed in the front yard, according to that variance. Going over this, Lynn Martin is now retired and he worked closely with her and closer with the planning department, he didn't want to come up here and try to say they have these variances and going for others. The truth is, they have a plan that they think works and are hopeful, planning commission saw that it was valid, and that ZBA will see this valid. The first variance has to do with the pump islands and the canopy being in the front fifty (50) feet, that variance has already been granted. He'll walk through the rest of them with the Board. The closest they got to the property line and one of the most difficult things to deal with was the size of the building and on the east property line. They are within two (2) feet of that property line. The Board is going to hear about the possible damage they could do to Parkview Animal Hospital due to the fact that they're not facing the gas station the way it was. He met with them more than once, the Animal Hospital's desire is don't turn the building, but the truth is if they do rebuild this then they're going to turn the building. Whether or not this is two (2) feet from that property line or four (4) feet or twenty (20) feet, this building at some point, if they develop it, is going to be developed here (he pointed to a certain spot on the site plan). The reason they have the two (2) feet is an order established from 149 foot frontage on Eleven working back to having the drive distances and the double pump canopy, they end up two (2) feet away. Is that ideal? No. But the Board will notice what amounts to the rear of Animal Hospital is that property line. He believes that is a dumpster, he's walked the property, there is no activity in this area, he's made this all brick, they're willing to do what they had to on that side of the building to create something very nice, well lit. There have been some security concerns; they would have the entire building monitored to make sure they're safe. What that variance does, it allows them to have the size building to allow them to invest the kind of money they have to invest, which is upwards to a million dollars, to either do this or not do this. The new building is no less than 14.4 of the south property lot. That's an interesting variance because right now that was the variance that was ten (10) feet. In reality, right now the building is ten (10) feet away from Creative and Remodeling. Although they're moving it fourteen (14) feet away, technically they could say they're within ten (10) but that's not their rear yard. They are 14.4, the city requires twenty (20), the current building sits ten (10) feet away from there. They're actually increasing the amount of distance from the property line to that building for their variance. The hard surface is strictly a function of, if the Board looks at this site he has forty (40) feet of greenbelt around this due to the right-of-way's. As it is now, and what they're asking for as well, is to be able to pave this site pretty much close

to the right-of-ways except for the three (3) greenbelts he was able to maintain on the corners, small ones, but they would allow for planting and signage potentially. The fourteen (14) foot parking spaces, does seem like a lot, but he knows for a fact that the Warren Planning Commission does not take into account the cars parked at the pump islands. Many municipalities, and he works in dozens, allow that to be considered a parking space because more than half the patrons are going to park, get gas and walk into a store like this. They're not getting credit for those, at some point he believes and he thinks it will be on the docket soon for Warren to actually count those as parking as a lot municipalities do. If they count those twelve (12), they're two (2) cars short, not fourteen (14). He's developed multiple gas centers and one roll of nose in with that amount of cars is sufficient. The ground signs are very special problem. They've been granted several variances on signs that haven't worked. The reality of the situation, in all gas stations, if you're allowed one sign you have to pick your poison. Either you get the traffic on Eleven Mile, in this case, or you get the traffic on Dequindre, or unbeknownst to him why, many people put it at a bevel. Nobody sees it except for one direction of traffic, in their case southbound Dequindre. This is a new request for him and he's joined by his sign contractor, they've studied this. He doesn't know if there is precedent in this city but the reality is, with the signs the Board has seen and he has another hand out showing what this looks like from the corner, their goal in order to make this successful is to have a sign facing Eleven Mile and a sign facing Dequindre. The wall signs on variance seven are on the board called WS1. He's not sure if the Board has that sheet, but he has the handout. All that is really is the Marathon decals and the ability to put two (2) wall signs on that building and Marathon, or whatever it's going to be, on the canopy and the typical pumps. While forty goes to eighty and is doubled, it's not a huge amount of signage that they're asking for more but again they believe it could be instrumental in success to allow this corner to succeed. Originally they were tabled because they were under the impression that the setback from Eleven Mile was twenty (20) feet as they have now proposed, technically they have two front yards. It gets back to AV1. They have to go fifty (50) feet from Eleven Mile, fifty (50) from Dequindre for this building. In the eight variances, they would like to be within twenty (20) feet of Eleven Mile, allowing them to drive in and create the square footage they need to succeed. Ironically, if the Board looks to the east of Parkview, the zoning that Parkview Animal Hospital has and the building east of them allows these buildings to be within fifteen (15) feet. If the Board looks at either AV1 or 2, they'll see the office building to their east is only fifteen (15) feet away. He doesn't think that being twenty (20) feet away is creating a hazard nor is it out of character, especially, considering that Creative Building and Remodeling is on the property line, which happens. Buildings get built at different times for different reasons, he's parked in the right-of-way, they're able to come off the right-of-way but they have the adequate turn around and a door in certain spot. That's the nature of their request. As he said, they're hopeful to take what is blighted and closed and be able to build something. This corner has been a problem but they believe if they are able to develop it in this manner, they will be willing to invest the money into.

Chairman Watriont stated this is a public and asked if anyone was wishing to speak on this item.

Caren Burdi, on behalf of Parkview Animal Hospital, stated she is an attorney in the Warren area, her address is 27299 Bradner, Warren. As she stated, she represents Parkview Animal Hospital, they are located just to the east of this property. She has to say she ate a three course meal and took a job while the Board read the variances being requested on this property, but she is always very suspect when she sees a petition that lists eight variances. If we're smart and actually read these variances, there are twelve. Several of these variances that are numbered one and twelve have three variances in them. They're talking about twelve variances, and all of these requested variances are self imposed by trying to over build a piece of property. It is absolutely a detriment to the area and it's not good planning when taking into account the entire area. They're not just looking at the corner lot, but looking at the entire area. All of the variances were not presented tonight, she didn't have the luxury of having a plan she could study at her office, and she went to City Hall several times and reviewed the plan. If the Board takes a look at the plan, it has in front of the building eighteen (18) foot long parking spaces, the zoning ordinance in the City of Warren is mandatory twenty (20) foot parking spaces when they're ninety degree parking. That's mandatory so a car can turn and get into the spot. That is in Section 2.46, the definition of a parking space and Section 4.32. In addition to that, the maneuvering lane on the plan in front of the building, which they did not identify the size of all the maneuvering lanes, they only identified the size of maneuvering lane in front of the building and it's twenty (20) feet. The Warren ordinance clearly in Section 4.32 says when there is perpendicular, ninety degree parking there has to be a twenty (20) foot maneuvering lane. So you know what we have, ladies and gentlemen, in front of this building? Two (2) feet short for the parking, which means the cars are going to stick out two (2) feet; two (2) feet short on the zoning ordinance, talking about, in essence a sixteen (16) foot maneuvering lane, it will not work. If they want variances from that, they have to ask for those variances. The plan as presented to the Board is not accurate. In essence what they have, they figure out their parking spots and say they need twenty-three (23) parks and they say they have nine (9). They don't have nine (9) parking spots that meet the City of Warren's zoning ordinance. They do not. In addition, the building that they're putting up is over 3,500 square feet that is not all for them. It's not at all for the gas station. It is indicated that part of that will be rented out. Therefore, that makes the parking spaces even more important. If there's going to be some sort of, she doesn't know what it is going to be. A UPS Store, a doughnut nut, a drug store, she doesn't know; a pizza place, what have you, there has to be the parking if they're going to be renting out for another use on that property. Again, this is an overuse of a lot. If she's not mistaken, this lot is 128 feet by 208 feet. She's familiar with the gas station with 7-11 that is across the street and it's on a much, much bigger lot. A much bigger lot. In addition to the building, she gave ahead of time a drawing, and this is a smaller version of the site plan her client was able to give her. If the Board looks at the drawing, it has in the pink...

Chairman Watriont asked Ms. Burdi to please speak into the mic.

Caren Burdi apologized and said yes. She continued to explain that it has in the pink the proposed building and the location that the building would be. The yellow is the animal hospital and the blue is the cabinet company. The Board can see where the cabinet company is along the lot line all the way to the front of the lot. Her client, silly him, built according to the Warren zoning ordinances. He honored the setback, he was told where it the setback needed to be and honored the setback. He built a beautiful building, she provided a picture to the Board, that he has grass, plantings, trees, this is a building that he has, in essence, put his heart into. He did it according to the zoning ordinances and he did it when this property, who has two frontages; he's correct it has two frontages, it has Dequindre frontage and Eleven Mile frontage and they chose Eleven Mile frontage. If the Board looks at the paperwork, it's got an Eleven Mile address, that means long ago they chose the frontage. When her client came to build, he built according to the same setback. So, the gas station built a building that ran parallel to the cabinet place, in other words wall to wall, and it does not stick out any farther than her clients building. Her client honored the setback and that clearly is within the zoning ordinance, that he honored the setbacks of the buildings that were already there and he honored the zoning ordinance setback. This diagram shows that, in essence, what would happen to her client is the entire front yard setback would be the back of a building. The back of a brick wall. That in essence would make him in a tunnel, in cave. Who goes out to a parking lot that is incased by a brick wall? This is absolutely poor planning; it's not safe, it's a detriment to her client, he now would be absolutely hidden from traffic, absolutely hidden from traffic and not have the ability to be found easily. If in fact this building was to run along the cabinet business, this would not be a detriment to the cabinet place because it would be wall to wall, this would not be a detriment to her client. She thinks it's important to note that the pink box where the applicant shows the ability of where on this piece of property if he followed all of the zoning ordinances he would be able to build, they're not unreasonable enough to expect that there aren't going to be any variances. They're not unreasonable to expect that there can't be some sort of solution to this issue but she guarantees a brick wall across the front of her clients business is beyond a detriment to him and is not a good solution to the problems that the gas station has vocalized to the Board. It's interesting that they're insisting on having six (6) pumps, they're insisting on having a building that's over 3,500 square feet. They present a plan to the Board that doesn't have all the variances that are needed, they present a plan to the Board that doesn't have proper maneuvering lanes, doesn't have proper parking spaces. It absolutely is a plan that doesn't even come close to working. In addition to this, it was mentioned there was several meetings between the petitioner and her client, that's not accurate. There was one meeting and she attended that meeting. To be honest, she was looking forward to that meeting, she was really hoping they could, if you will have, have some meaningful discussion, have some solutions, put some things together, and try some different ideas. She was told at that meeting, point blank, this was the plan, this was the plan that's going forward, and this was the plan that was going to get approved. She naively asked why they would even want to meet with them; the answer by Mr. Oke was so he could tell the Board that he had met with them. She has to tell the Board, quite frankly, a meeting isn't a meeting unless you come with the right attitude, come trying to work things out, come trying to be sensitive to solutions and what can work

for everyone in the area. When looking at the variances and try to analyze what variances are reasonable, etc. The petitioner went through of the variances and she has to be honest with the Board, she didn't hear one acceptable reason for their variance that was not because this is something that they want and need. She didn't hear it how it wasn't a detriment to others and she did not hear how it was not self imposed. She will be honest with the Board, a lot that is this size is going to need to have a smaller building, is going to need to consider having less pumps, or a trade off. Maybe have more pumps and a smaller building, maybe have a bigger building and less pumps, that's a building decision but there is only so much room on this property and there does have to be the ability to park and maneuver this lot in a safe manner that is not a detriment to the area. When looking at these variances, hard surfacing to one foot of Dequindre, that doesn't seem all that unreasonable; canopy within twenty-one (21) feet of Dequindre, well it's a fifty (50) foot setback so it's over a 50% variance; gas pumps twenty-five (25) feet to Dequindre, that's a 50% variance; building two (2) feet from the lot line, that is supposed to be twenty (20) feet, that is a 90% variance and it extremely effects her client, extremely effects her client. She is vehemently objecting to that. A brick wall two (2) feet from the property line is not appropriate in the front yard setback of her client's business. The building less than 14.4 feet from the south property line, they want to call it their rear lot line, but it's not their rear lot line. They have two (2) front lines, the 14.4 feet from the south property line affects her client because it pushes the building up into his front yard setback. Fourteen (14) required off-street parking spaces, they don't have nine (9) spaces as presented to the Board because as she explained they don't meet the ordinance. The ground signs she thinks are excessive and then the setbacks all from Eleven Mile, the canopy twenty-three (23) feet, the hard surface two (2) feet from Eleven Mile and the gas pumps within thirty-eight (38) feet. Again, they're dealing with a situation that this plan can work if they move the building where the rear lot line would be up against the cabinet company and their gas pumps out in front. Anything other than that is absolutely a detriment to the area, a detriment to her client, they have not presented with proper reasons for the variances that are not self imposed. They're starting with a fresh site plan, they're not keeping any buildings or any of the pumps, and they're starting with a fresh site plan as if it's a vacant piece of property. She would ask the Board to deny the site plan as presented, she would encourage the petitioner to actually meaningful discussions to try to resolve issues instead of taking up time in front of the Boards.

Steven Apreht, owner of Parkview Animal Hospital, stated he grew up in southern Warren. After he became a veterinarian, he could go anywhere to start a veterinarian practice. He came back to Warren because this community is important to him. He worked hard for eighteen (18) years just north of the site, he's spent the last three (3) years of his life within two hundred (200) yards of this corner and he knows this area very well. He came back to Warren because this community is important to him. He purchased the site that he did and he did a lot of research, but he knew the zoning and some people may be aware of this, better than the zoning director. He knew twelve (12) years ago that the zoning was M-2 zoning and he knew the setbacks. That was very important to him because he wanted to have a practice that would grow and develop. With the setbacks he was able to do that, he needs this

visibility. They had worked for eighteen (18) years and had three (3) veterinarians. Within two (2) years of purchasing their new site, the business doubled, and since then they've actually grown to nine (9) veterinarians. Veterinarians are a very local business, people go to them because they see their building and are impressed. Their building is basically their brand, it's on the website and the majority of the new clients see the building or someone who has seen the building referred them. He is very proud to employ over forty (40) people, many of those are Warren residents. In the amount of people that can be employed is directly proportional to the new clients they have. If they lose even 25% percent of the visibility, they'll lose 25% of clients and Warren's going to lose ten (10) jobs. He did know exactly what the setbacks were, he knew there was a twenty (20) foot setback for his neighbor and he knew there was a fifty (50) foot front setback. He also knew what the setbacks were for the adjoining property were and it affected his site plan. If the Board looks at his site, they'll see that he is close to the M-2 zoning. The reason for that is he would measure the angles and knew that's where he would get the best visibility. He thinks it's almost important that the Board consider that he had taken his neighbor into consideration, he could have easily of gone fifteen (15) feet from the property line and put up a building there, but he wanted his neighbor to do well and gave the visibility. They have excellent visibility at this point in time and it's so arguably because of his efforts there. The creative cabinets on the other side have been there for a while, and he understands that, but it was important to him. The other reason why he didn't actually put it back is because at his first building he had been a victim of crime multiple times. He grew up in southern Warren and there were people that inspired him there but there were also people that if you weren't watching your possessions would be gone very quickly. At their building only the front of the building has been protected from crime, they haven't had a single problem in the front of the building. At the back of the building, he's had his car broken into twice, on the side in the back the employees have had their tires stolen, the catalytic converters stolen, had the building broken into, but never from the front, it's always been the back. At night, the staff leaves from the front because that area provides safety. If they place a brick wall that's eighty (80) feet long, blocking that visibility, it will destroy a major portion of his new clients and also destroy the safety it provides the staff. The other thing that is a factor here is what's reasonable and what's not reasonable. There are a lot of things that Oke Development won't tell the Board. They won't say at the same intersection there is a very successful gas station that only has three (3) pumps, and according to Oke Development that is not possible, they just can't do it, but they are very successful and won't tell the reason. The gas station that Oke Development has, when he first moved to that site he tried to purchase products there, he eats cereal, but the milk was always expired, they were dirty, the people would not provide service, they would loiter on the side of the building. He's actually picked up more trash than Mr. Oke has because he's never there but he's there every day. The other thing that happens when you across the street to 7-11 they greet you, smile, have good food, say hello and the same thing that happens at the gas station but that never occurred at Mr. Oke's gas station. He's an absentee landlord that has multiple properties. As he said, he knew what the property setbacks were and if the Board wants, he knows their time is valuable, but he has twelve (12) exhibits if the Board wants to see them and a book of why they shouldn't do this and why it's wrong. He'll

quit right now or if the Board wants him to he'll go on but he needs the Board's help. He thanked the Board.

Lori Hutton, 25871 Curie Avenue Warren, stated she also emailed her concerns regarding this proposal and requesting that the zoning board does not approve the proposal for the variances. It's also based on specifically the rear and the east and south side of the variances of the lack of the twenty (20) feet. They have those twenty (20) barriers and distances for adequacies of buildings to be built proportionally to the lot size and obviously by not only having two (2) feet in the back rather than the twenty (20) feet, there's not even going to be spaces for adequate maintenance equipment. You can't put a latter back there without intruding on the neighbor's yard. Two (2) feet can't even get a lawnmower back there, if there's any equipment that has to have a lift loft to get equipment to the roof for maintenance, two (2) feet is certainly inadequate. Twenty (20) feet is there for a reason and hopes we live to it and that goes for the east yard. She understands if it's a gas station, which it already is, look at others, the one (1) foot that is on the Dequindre and Eleven Mile Road that is industry standard almost for gas stations but the other controllable boundaries should be maintained. The other major concern she has is parking. A reduction of parking based on the square footage of the area, right now only nine (9) parking spaces. She heard the gentleman say that other places; the Board has to go on what's in place today, which says they're reducing the parking by 90% which is inadequate. They're obviously anticipating a thriving business and only nine (9) spaces means it won't be thriving for very long. There's going to be people standing or, looking at the overall site plan, there's going to be parking just in the ingress and egress areas. Now the gentleman said that's a standard gas station situation... First of all, she said why she disagrees and it's definitely based on living to existing rules, the variances are excessive. This is not a standard gas station situation when she looked at the site plan, the six (6) pumps and the cars parked side by side, there's no way another car could through, they're going to be in gridlock with those gas pumps. What that will eventually do when cars try to get in and people can't move, this looks like an interesting situation developing. She certainly hopes to live to the existing standards that we have and laws and requirements. She thanked the Board and requested for them to deny his proposal.

Steve stated this will be quick. He has 1,200 signed petitions from people who have been to the site and believe it's a detriment and ask not to approve this.

Chairman Watripont suggested he give that to Mr. Murphy.

Inaudible discussion.

Jim Hix, 1264 Darlene in Madison Heights, stated he lived over there for almost thirty (30) years. The intersection has always been a nightmare. He doesn't know how many times at Parkview he's sitting there and hear breaks then sometimes an accident. One time he saw a little girl tumbling down the street, knocked her right out of her shoes. He thought that only happened in cartoons but that's what really happens. That's an extremely busy intersection that he avoids at all costs in the evening

when rush hour is going on. He doesn't know anything about zoning, he thinks everybody presented that, but he wanted to bring up the fact that it's an extremely busy intersection.

Nancy Burns, 31671 Seventh Street in Warren, stated she's been a patient of Parkview for probably close to fifteen (15) years. She doesn't know much about zoning or any of that either but Parkview is a wonderful place and would like to feel safe there in the evening when she has to park and she doesn't want to have to park in some creepy parking lot. She just thinks the whole thing sounds really unfair and that's her statement.

Cathy Reuieze, 27550 Strathmoor in Warren, stated she has been a client of Parkview since 1986 and he used to have a much smaller, two exam room office just a little bit north of where he is now. It was always busy, so he being a good Warren contributor to the area, decided to build bigger in Warren and bring that much more clientele, patients and business to that area. When they all come to that area they see all the other businesses around it. If the Board allows this big building to be built with the wall, it's going to hurt his customers and lose parking spots. Even as big as it now, the parking a lot of times now it is packed as it is. To lose that and lose the site with a big wall there, it's going to hurt someone who has dedicated his life in Warren. If the Board has seen his building it's absolutely beautiful and it just accents Warren and the good area that it is. She hopes the Board denies the variances.

Chairman Watripont stated hearing and seeing no more, he turns this matter over to the Board. Before he does so he would like to...

Ron Jona asked the Board if he could have a chance to comment.

Chairman Watripont stated he had his time.

Ron Jona explained there were comments made that were inaccurate.

Chairman Watripont explained the Board will ask those questions towards him and Mr. Jona will have that time to rebuttal then. The Board will direct the questions towards him now if he approached. He continued to explain that one of the things he didn't receive in his packet was a complete plan with the measurements. The only plan he has is showing the advertisement on there, he doesn't have anything else.

Ron Jona stated he sent ten (10) or twelve (12) copies, fourteen (14) copies of the same thing, the approval package that was given to the planning commission, which was the elevations, the site plans, the floor plans, the signage and the wall signage. It was some eight (8) pages that he made fourteen (14) copies and submitted so the Board saw exactly what the planning commission saw.

Chairman Watripont explained they didn't receive that.

Ron Jona asked the Board they did not receive it. He has a hard time understanding that because he had submitted it, they were tabled last month. He doesn't know if he has a small set of them.

Chairman Watripont asked for Mr. Everett.

Ron Jona thinks it's hard to believe that the Board doesn't have the plans.

Inaudible discussion.

Everett Murphy stated that Debbie Wenson, one of the city inspectors who happens to be here tonight, personally dropped a box off of all of those plans. He asked her what day.

Deborah Wenson said yeah, she doesn't remember what day. But she took the whole box up there, there was a gentleman there from their office, she walked up-stairs with him, he took the box and took it right into the Council Office room, but she gave him that box with all of the plans in it.

Chairman Watripont doesn't know what happened but he knows he doesn't have one to look at everything here is his concerns. He did have many questions and he thinks a lot of them could have been answered by looking at those plans also. He's not saying it's their fault, he's just saying he doesn't have them.

Everett Murphy stated he did provide them and they did.

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Inaudible discussion.

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Everett Murphy stated he did provide them and they did drop them off at the Council Office.

Chairman Watripont stated he did have them and they were provided, he's not questioning that at all. He just knows he doesn't have them to react upon per say.

Everett Murphy stated that's a pretty comprehensive set of plans.

Chairman Watripont agreed.

Ron Jona stated that AV2 does have the current site plan which gives some of that information but obviously not all of it.

Chairman Watripont said correct. He turns this matter over to the Board.

Secretary Nestorowicz wanted to identify the hard copy of the email from Lori Hutton.

Chairman Watripont said the Board has it in their packet.

Board Member S. Brasza had requested earlier today to get a copy of the site plan and hopefully it was going to be here this evening and it's not at the table, they couldn't find it. She has a hard time with the blue print that they're looking at without seeing some good measurements to make a decision on 2, 5 and 6. She's really having a hard time with 5 without having some measurements. Other than that, she has a couple of questions for number 6, they want to install two ground signs as follows, they have dimension for the ground sign but not any height.

Inaudible voice.

Ron Jona stated it was all on the submittal unfortunately and he does have a board on that he could show the Board. WS1 had all of the signage, it was actually required that he put pylon signs, they're not ground signs.

Chairman Watripont said the additional problem is that it wasn't posted with the signage and he believes he has to post it that way.

Board Member S. Brasza said right, she can't even deal with number 6. Number 5 cannot waive fourteen (14) spaces without knowing the dimensions of the parking spaces that are available now. There was a question brought up by one of the audience participants in regards to the location having two... She asked if there will be two separate retail facilities on this site.

Ron Jona replied no. He explained they're anticipating, it's one retail operation, they have not chosen what it is. There was discussion at one point within that operation offering some kind of food product, at this time they haven't decided. They are not for certain, they're not going to have two leases, it's going to be one operation. There will not be, as characterized, a UPS Store or something of that nature. It's going to be retail operation as the Board may see in some gas station operations there might be an expanded food or coffee operation or beverage operation, that's what

they anticipate. They were looking to brand it differently, to put a brand on it so people knew they had a specialized product, but it's all going to be one operation. It will not be two separate spaces.

Board Member S. Brasza explained their façade shows distinct...

Ron Jona realizes that. He explained they submitted that to planning quite some time ago, they've been working and doing their due diligence as well and...

Board Member S. Brasza asked if they having something different from what the Board has received here.

Ron Jona stated it's going to be one operation.

Board Member S. Brasza said her question was if he submitted something different than what she has here.

Ron Jona stated no. They're not going to change the exterior of the building, they want the breakup of the façade.³

Board Member S. Brasza asked if he feels that they'll have a food entity. Something that might be...

Ron Jona replied that within the operation there could be food or beverage operation that they would like to give identity to.

Board Member S. Brasza said that makes her worry about waiving any parking spaces. In the City of Warren, they do not designate a person at the pump as a parking space, just as an FYI. She doesn't know if they ever will, he said the city has it in the works, but she hasn't heard about that one. She's very hesitant, this seems to be putting an elephant in a shoe box and she doesn't find anything appealing of this site.

Chairman Watripont had a question on the wall signs. All the requests that he has is for...

Board Member S. Brasza said 7a and 7b.

Chairman Watripont repeated 7a and 7b and then the marathon signs, canopy signs. He sees it all now. That is not equal the eighty (80) square feet he's asking for also. He wondered if there was a difference there.

Ron Jona said not that he's aware of. Forty (40) square feet allowed and they proposed eighty (80).

Secretary Nestorowicz had a few comments. He's very familiar with this site and it's funny when mentioned the 7-11 gas station across the street because he's very fa-

miliar with that site also. He knows that when you go across the street and buy gas there, when parked at the pumps there's actually room between the two cars that a car could get out. The way their drawing is, there is no room for... If there were four (4) cars parked there side by side, you couldn't pull forward until the car in front is gone. It seems to be very crowded in that aspect. He tends to see a lot of gas stations where there is room in the middle there, where a car could pull out and turn around. He sees too often also where there are these gas stations that have some other branded food or beverage offering; too often he sees exactly that. People are parking where ever and running in because they're going to get that food item, they're spending more time in the store, they're getting that beverage item, it's not just go in, paying for their gas and picking up a bottle of soda and leaving. That's a very large retail establishment whether you have one business, but still it's going to be whatever food or beverage offering they have there. It just seems to be a lot for that property. He knows it's a challenging property due to its size, but he honestly thinks a business could be ran there that is smaller in size to work more with the dimensions that are available.

Ron Jona needed to make one quick comment on the parking. He doesn't want to the Board to be swayed by misrepresentation. He wants to say first of all he appreciates all the comments from the public. As it relates to Ms. Burdi, who believes is an attorney, he's very shocked and disappointed in her comments because in Warren and many other cities, you can have a twenty (20) foot space or an eighteen (18) foot space, it all depends on the side walk. If you have a five (5) foot sidewalk, you have a twenty (20) foot space. If you have a seven (7) foot sidewalk, you have an eighteen (18) foot space. He just wants to clarify for the record, they do not need another variance, they could have gone with a five (5) foot sidewalk and a twenty (20) space. The planning department, as he believes, most cars over hang so 99% of the time now he's doing eighteen (18) foot space with a seven (7) foot sidewalk and in total compliance. If they weren't, the building department would have wrote that up as a variance. The other misrepresentation, which she said to you and wants to clarify for the record, the driveway in front of those parking spaces is twenty-two (22) feet. He knows the Board can't see that because some how the plans were misplaced so he guesses the Board will rely on his word or her word. They have twenty-two (22), eighteen (18) and seven (7). If they didn't comply that would have been another variance, so they don't need twelve (12) variances and he thinks it's important for this commission to know. The unrespectable comments that have nothing to do with that, he thinks it's important for the record. The other thing on the record that he wants to say that was misrepresented is that Ms. Burdi said they had one meeting with her. She wasn't there when he had met just after the planning commission meeting at the urge of the planning commission to meet with the neighbor, which he did. In short of turning this building and facing Eleven Mile, there is no discussion according to him and that's why these meetings have been so abrupt. He just needed to see that for the record. The last thing he wanted to say was in talking with the planning department, they urged Parkview Animal Hospital to put his building up at the road. If he wanted visibility, and he's designed an animal hospital called Michigan Veterinarian Specialists that's 40,000 feet itself that's won a national reward, he could have put the building on road where he would have got a ton of ex-

posure, he could have put a sign in the position where all the trees are not blocking it. He has four (4) exhibits showing if you're going east on Eleven Mile the sign can't be seen because the trees are blocking it. He worried about exposure, if he pulls the wall back the building is still going to block the animal hospital. He just wanted to be able to tell the Board that those arguments are really baffling to him. The other thing he's told the animal hospital is about security. They're going to have twenty-four (24) hour surveillance with cameras around all four sides of this building and lighting. If he thinks an empty gas station, which is what it's going to remain, is going to give him better security than twenty-four (24) service with cameras and lights and a building that can actually service him with a decorative wall, then he doesn't get it. They're going to increase the animal hospitals property value. He sees probably where this is headed. The truth is, he didn't want to go down the road of going into the variances already existing, but they can put pumps in the front yard. They've already been given that variance in 1969. They're talking about very few and their goal, including Mr. Oke and his entire team, was not to damage anybody. Not Parkview, not Creative. They're trying to take a piece of property that is sitting empty and make a very viable business. Absolutely they could nitpick this plan but he doesn't appreciate the mischaracterization and misrepresentations that were made.

Board Member Pauta stated first of all, we're supposed to be taking action, the Board is not this gentleman here having conversation back and forth. We had enough.

Motion:

Board Member Pauta made the motion to deny the petitioner's request. Reasons being: lack of identification, lack of information, site plans were not submitted, if brought them we would have them, doesn't like the idea of the veterinarian hospital to be blocked off, this property is not feasible for this type of building.

Inaudible discussion.

Board Member S. Brasza stated that was a motion and asked for discussion.

Chairman Watripont mentioned Mr. Fisher.

Board Member Fisher stated yes.

Chairman Watripont explained they have a motion on the floor without support.

Chairman took a moment to wait for a support.

Chairman Watripont stated the motion died for lack of support.

Board Member Furgal started to say they have a really compelling...

Chairman Watripont interrupted Board Member Furgal to let her know Board Member Fisher has the floor.

Board Member Furgal and Chairman Watripont both apologized.

Board Member Fisher stated looking at this plan a couple of things seem to bother him. The first is the two foot setback. You're looking at a situation where this building is being built awfully close to the neighbor and he just has a hard time seeing how the property can be maintained without going onto the neighbors property, it's part of the reasons to have the setbacks, allow the ability to maintain the property without going on the neighbors property, so that really bothers him. The other issue that he really sees is there are too many variance requests here for him. You're looking at a situation where variances are for need they're not just simply to allow to build the property the way you want to build it. This seems to be simply, it was designed how they wanted to design it and try to get approval as opposed of demonstrating some kind of need for it. He doesn't see a need, he's looking at the photos that were provided that show where he's allowed to build compared to where he is building. Only about a third of the proposed building is on the portion of the property that is allowed to be built on, that kind of bothers him. He thinks there is too many variances requested here.

Peter Zingus said if he may interrupt.

Board Member S. Brasza stated no.

Peter Zingus would like to make a motion to table this because...

Chairman Watripont stated the matter is before the Board right now.

Board Member S. Brasza stated he's able...

Peter Zingus does not believe it should go forward.

Board Member S. Brasza mentioned he wants to table.

Peter Zingus continued to say the Board heard from their own planning committee that the plans were submitted to them.

Chairman Watripont informed it's before the Board.

Peter Zingus stated the Board is making decisions without the applicant's request.

Board Member S. Brasza stated she would like to make a motion to table this item.

Chairman Watripont stated Board Member Furgal has the floor.

Board Member Furgal stated Board Member Fisher covered most of her comments. She was concerned because, and she agrees with Board Member Fisher, this seems like a plan was created and the Board just has to accommodate it. Also, she wanted to mention that the speaker Mr. Jona mentioned several times financial considerations in his presentation and those can't be considered at all. It was like he was threatening the Board with some things and she didn't appreciate that. She thinks they need to look at the plans and accommodate the neighbors as well. She doesn't think they've done that or care to do that and if they don't care to do that then she will second Board Member's Pauta otherwise, if they can't come up with a better plan.

Peter Zingus mentioned his name again.

Board Member Anglin waived his spot to let Mr. Zingus speak.

Peter Zingus explained that the Board heard not only from the planning department but from Mr. Jona that many hours and professional hours went into submitting a package to the Board on a professional basis. It wasn't the first plan ever submitted to the planning department, it was after several and many meetings.

Chairman Watriont told Mr. Zingus he does not have the floor.

Peter Zingus said the Board did not have before them.

Chairman Watriont told Mr. Zingus again that he does not have the floor and the Board will get there, please.

Peter Zingus inaudible.

Chairman Watriont has a lot of questions and the reason he wants to go forward with the questions is to show the petitioner the Boards concerns in other matters, in other areas, other than looking at the plan. He fully intends to try and get this re-scheduled because the Board does not have those plans, but he would like to hear the questions so the petitioner can have some time and thought to put into some changes or whatever may go because at this point he can't approve it the way it is either. So, he wants to get those questions out to the petitioner as a benefit for them.

Peter Zingus said that's fine and he just wants to make sure they're on that level playing field.

Chairman Watriont understands.

Peter Zingus continued to say and have the plans in front of the Board. He thanked the Board.

Board Member Anglin said his biggest concern is the size of the building, the foot print of the building for the size of this lot. He would like to see this building down-

sized somewhat and it would allow a little more space across the front on the Eleven Mile Road side, that is his major concern on this.

Board Member H. Brasza said the size of the building is a concern for him as well; the two (2) foot clearance is definitely a concern. Specifically, it was mentioned that signage potentially will be increased. One thing he wants to make sure the petitioner understands is the Board wants to be able to have all of the variances in front of the Board at one time and not come back later asking for additional signage. The discrepancy about the eighty (80) feet, he doesn't see in any place they have that says eighty (80) feet in signage.

Chairman Watripont explained it includes the pump signs as he looked at it.

Board Member H. Brasza wondered it talked about wall signs then.

Chairman Watripont stated that's by our statute. It's the pump signs are considered wall signs. He asked Mr. Murphy if that was true.

Everett Murphy nodded his head yes.

Board Member Furgal said that's true.

Chairman Watripont stated that was his oversight at that time.

Board Member H. Brasza wondered if there is going to be a sign with the pricing on it or if there is already a variance for that.

Chairman Watripont is assuming, and they don't have the dimensions on those, but that's two of the pylon or monument signs.

Board Member H. Brasza said right, but they don't have dimensions on those.

Chairman Watripont repeated the Board does not have dimensions on those.

Board Member H. Brasza said or pictures to see what it is.

Chairman Watripont said correct.

Board Member H. Brasza just wanted to say some of the documentation may have been in this package but he's definitely concerned...

Board Member S. Brasza stated they never received it.

Board Member H. Brasza continued to say the size of the building and about the two (2) feet.

Chairman Watripont also said if the sign is supposed to be LED, that's another variance that needs requirement as well.

Board Member H. Brasza said correct and that has to be posted.

Inaudible discussion.

Board Member H. Brasza said that's all he has right now.

Inaudible discussion.

Motion:

Board Member S. Brasza made a motion to table this item.

Board Member S. Brasza is not sure if the petitioner will be able to get things together by the next meeting.

Chairman Watripont believes they're going to have to repost it as well for some of the items he had mentioned.

Board Members S. Brasza agreed.

Chairman Watripont doesn't think there is enough room on the next meeting either.

Ron Jona stated they definitely, the reason he would like to reconsider based on what he has heard, he'll look at redesign, and the information wasn't submitted so there has been a couple clarifications. He doesn't think they can get to the next meeting, have the drawing redone, submitted and advertised by the next meeting.

Chairman Watripont is thinking January.

Board Member S. Brasza said 13th.

Secretary Nestorowicz wondered if it was January 12th.

Board Member S. Brasza and Chairman Watripont both said January 12th.

Secretary Nestorowicz stated January 13th.

Chairman Watripont stated January 13th, whatever that Wednesday is. He wondered if the petitioner will have to go in front of planning again or is it just...

Board Member S. Brasza stated he shouldn't have to.

Chairman Watripont said he shouldn't have to because he's...

Board Member S. Brasza said unless he changes his foot print but if he goes smaller then he doesn't have to.

Chairman Watripont said right.

Ron Jona thinks it would be hard for him to answer that. He thinks that he would do as he look at a redesign and consult with the owner, if there is a redesign he would submit it to planning because he thinks he would have to. Whether or not they have to go through planning commission again he would wait for the determination with the planning department.

Chairman Watripont said ok.

Ron Jona stated that could delay it further.

Board Member S. Brasza doesn't think he'll need to.

Ron Jona appreciates the comments and the tabling. The time frame is going to be tough because if he has to go to planning it could be another month.

Chairman Watripont doesn't know if he'll have to go to planning.

Board Member S. Brasza stated if the petitioner goes small he doesn't.

Chairman Watripont said if he goes smaller and basically what the Board need is dimensions that they do not have before them. He does think it is big and he thinks he heard most of the members say that. He suggested the petitioner take that into consideration as going forward.

Ron Jona said absolutely.

Chairman Watripont asked Mr. Jona if he'll be able to get the Board new plans then.

Ron Jona replied yes and to let him go back and consult. They'll look at what changes they will make and of course based on doing a new plan...

Chairman Watripont understands that.

Ron Jona explained it was six (6) pages, 24 x 36, fourteen (14) sets. They'll do it again and hopefully the Board will get it this time.

Secretary Nestorowicz asked if they wanted to...

Chairman Watripont asked the petitioner if they wanted to leave the date open until they're ready since they're reposting.

Ron Jona thinks the date should remain open. He thinks it could take some time to get the design done either way, even if it doesn't go to planning commission, he will go to the planning department because he wants them to see it. Ultimately, they have to re-advertise for thirty (30) days if...

Chairman Watriont informed him fifteen (15).

Ron Jona continued to say fifteen (15) days but still through the holiday. He would appreciate tabling it and leaving it open.

Chairman Watriont tabling it, leaving it open and scheduling it when it gets into the office then.

Ron Jona said that would be great.

Chairman Watriont stated there is a motion to reschedule by Board Member S. Brasza

Board Member H. Brasza supported the motion.

Chairman Watriont stated support by Board Member H. Brasza. He then gave the floor to Secretary Nestorowicz for discussion.

Secretary Nestorowicz wanted to make sure that when the petitioner does go back, the item number 6 on the ground signs or pylon signs.

Board Member S. Brasza stated pylon signs.

Secretary Nestorowicz continued to say because that would be a variance if it is changeable copy in terms of LED or any of that kind of stuff. He doesn't want to have the Board approve something and then have the petitioner come back two months later saying they have to change something on the signs.

Ron Jona is hoping in this case, he thinks that Mr. Murphy to make sure all the variances they need are listed and he'll give him complete sign information. He appreciates that.

Board Member Anglin wanted to make it clear that when he was mentioning about it being smaller, that smaller meant not just a foot around, not just one foot smaller around the building. He does mean approximately eighteen (18) feet smaller from the Eleven Mile Road south section and a couple of feet narrower from front to back to give them some space in the back section in the two foot easement. Just so they don't have to go back and forth, back and forth, that's his feelings on it.

Ron Jona thanked him.

Chairman Watriont is more willing to go to a shorter back setback, turn the other way because you have the building there and not impeding on anything because that store front is up close to Dequindre than he is the other way.

Ron Jona said the problem with that is that it's not a square and they're shorter in that dimension. They started that way and did two site plans that and get less pumps because he's deeper in the other dimensions. So that's why they're not trying to be unresponsive to Parkview Animal Hospital, but this is the dimension and the orientation that works due to dimensions.

Chairman Watriont stated he has a motion to reschedule, time indefinite by Board Member S. Brasza and supported by Board Member H. Brasza.

Voice Vote:

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

The petitioner's request has been **RESCHEDULED** indefinitely.

- | | |
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| 9. PUBLIC HEARING
REPRESENTATIVE:
COMMON DESCRIPTION:
LEGAL DESCRIPTION:
ZONE: | APPLICANT: Produce Palace International
Mr. Kerm Billette PCP
29300 Dequindre
13-07-351-002
C-1 |
|--|--|

VARIANCES REQUESTED: Permission to:

Retain two (2) 60 sq. ft. changeable copy signs (B & C) below the 168 sq. ft. ID sign approved by the ZBA 12/28/1973 and 12/13/2000, with a 9 foot under clearance, 39' 6" in overall height with a 3' setback from Dequindre property line as per the plan. Total 288 sq. ft. ground sign.

ORDINANCES and REQUIREMENTS:

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

Section 4A.19: All freestanding signs shall have a clearance of ten (10) feet beneath the sign structure.

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

Kerm Billette, Community Planner, introduced the owner of the property, Mrs. Katz.

Chairman Watriont asked Mr. Billette to please speak closer to the mic.

Kerm Billette explained they're here tonight for the Appeals approval of a site plan that shows six (6) car parking spaces under cover, parking canopies and six (6) proposed for 2015 and 2016. Six (6) for 2015 and six (6) for 2016, each year. The planning commission has said about twelve (12) or fourteen (14) items on the plan itself with only minor changes additional zoning designations. They also want to count

about seventeen (17) for the handicapped spaces. They're requesting approval for the site plan that shows, as the Board can see, the indication there is a new sign on the building.

Board Member S. Brasza stated all the Board cares about is the sign.

Inaudible discussion between Kerm Billette and Mrs. Katz.

Kerm Billette stated this is for Produce Palace.

Chairman Watripont was getting lost there.

Kerm Billette said this is interesting because Produce Palace has a sign variance with being nine (9) foot high on the sign out on Dequindre that underneath the additional sixty (60) square feet of a changeable sign. The building sign is less than previous that indicates Produce Palace. The picture is showing there that the second line changes underneath.

Inaudible discussion.

Chairman Watripont stated this is a public hearing and anyone wishing to speak on this item to approach the podium.

No residents spoke.

Secretary Nestorowicz said those are two existing signs. He wondered if they're just asking to keep the existing signs as is and not changing them to changeable copy or anything.

Chairman Watripont stated they're changeable copy just not LED type.

Secretary Nestorowicz said not LED type and just retaining them as is, correct?

Motion:

Secretary Nestorowicz made the motion to approve the petitioner's request to: Retain two (2) 60 sq. ft. changeable copy signs (B & C) below the 168 sq. ft. ID sign approve by the ZBA 12/28/1973 and 12/13/2000, with a 9 foot under clearance, 39' 6" in overall height with a 3' setback from Dequindre property line as per the plan. Total 288 sq. ft. ground sign.

Reasons being: Lack of identification; Not a detriment to the neighborhood

Board Member S. Brasza supported the motion.

Chairman Watripont stated there is a motion by Secretary Nestorowicz in support of the item due to lack of identification, not a detriment to the area and supported by Board Member S. Brasza.

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 S. Brasza	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, for the reasons stated in the motion.

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

Mrs. Katz told the Board to all have a nice, beautiful Happy Thanksgiving with their families.

Secretary Nestorowicz thanked her.

Chairman Watripont said her as well.

Secretary Nestorowicz asked for a recess.

Board Member S. Brasza said please.

Motion:

Secretary Nestorowicz made the motion for a five minute recess. Board Member S. Brasza supported the motion.

Chairman Watripont stated there is a motion by Secretary Nestorowicz for a five minute recess. Support by Board Member S. Brasza

Voice Vote:

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

Chairman Watripont informed they will re-adjourn at 9:16 p.m.

FIVE MINUTE RECESS

Chairman Watripont called the meeting back to order at 9:17 p.m.

ORDINANCES and REQUIREMENTS:

Section 14.01 Paragraph (r): Pawnshops and second hand dealer shall be permitted in C-2 if the following locational criterion is complied with. ITEM 1: The site for the pawnshop or second hand dealer shall be located more than five hundred (500) feet from all residential districts.

Bryon Gibbs, 3005 Mirage Court.

Chairman Watriont asked for the reason for the petition.

Bryon Gibbs said he would like permission to open up a retail shop selling household goods, no lawnmowers, no gas powered stuff, just household goods.

Chairman Watriont asked about the hardship.

Bryon Gibbs asked for him to say that again.

Chairman Watriont asked for the reason he is before the Board.

Bryon Gibbs said to get permission to open up a retail shop.

Chairman Watriont stated this is a public hearing and anyone wishing to speak on this item to approach the podium.

No residents spoke.

Board Member S. Brasza wondered about household goods and asked for him to expand. She wondered if he meant washer machines.

Bryon Gibbs said no, no, no.

Board Member S. Brasza said refrigerators.

Bryon Gibbs said none of that. This place is not that big anyway, it's only 600 square feet so he would be doing small coffee tables, stools and just the small stuff. No appliances unless they're small like a mixer or something.

Board Member S. Brasza thanked him.

Board Member Furgal can't figure out where he wants to put it.

Inaudible discussion.

Board Member Furgal said in the shopping center, but where? She wondered if it was the one with the x in the corner.

Board Member S. Brasza said she's asking about the site plan.

Bryon Gibbs said yes, if the address is 5823.

Board Member Tabbi asked building C.

Board Member Furgal wondered if the building is by the Dunkin Doughnuts.

Bryon Gibbs explained it's the Dunkin Doughnuts, then it's the pizza place and then it's two empty buildings and then the shop next to that one. If the Board went by Thirteen Mile they might have saw signs that say flowers, roses and delivery, that's the building.

Board Member Furgal said the Board's site plans are really confusing because it's from something else. She just wanted to make sure. She asked another Member if they're ok with it.

Motion:

Board Member Furgal made the motion to approve the petitioner's request to: Operate a secondhand goods/antique business less than 500' from residential zone.

Reason being: Not self imposed; Unique property; Not a detriment; Not personal; Necessary

Secretary Nestorowicz supported the motion.

Chairman Watripont stated there is a motion by Board Member Furgal in favor of the variance request as stated. Support by Board Member Fisher. Reasons being: Not a detriment and all the others named off.

Board Member Furgal said she just read the list.

Roll Call:

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

Board Member Furgal	Yes, for the reasons stated in the motion.
Board Member Fisher	Yes, for the reasons stated in the motion.
Board Member Tabbi	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.
Secretary Nestorowicz	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.**

Bryon Gibbs thanked the Board.

12. PUBLIC HEARING

**APPLICANT: Harlo Apartments/
Ms. Darryelle Heard, Manager**

REPRESENTATIVE: Mr. Kerm Billette PCP
COMMON DESCRIPTION: 31499 Mound
LEGAL DESCRIPTION: 13-05-476-001
ZONE: R-3

VARIANCES REQUESTED: Permission to:

Construct carports over existing parking spaces that are in the side and rear yard setbacks, as per the plans.

ORDINANCES and REQUIREMENTS:

Section 10.05: Side yards-residential use. Each lot on which a multi-family dwelling is erected... shall have two (2) side yards... a minimum width of fifteen (15) feet, which shall be increased by one-half (1/2) foot for each ten (10) feet or part thereof by which the length of the multiple dwelling exceeds fifty (50) feet in overall dimensions along the adjoining lot line.

Section 10.08: Rear yards. Each lot in R-3 Districts shall have a rear yard depth of not less than thirty-five (35) feet for one story buildings and not less than fifty (50) feet for two (2) or more story buildings.

Chairman Watriont jokingly thinks he heard some of this earlier, but...

Kerm Billette, 38628 Warwickshire Drive in Sterling Heights, introduced the Regional Manager for the property that is with him here tonight. He has a petition to the planning commission already for the approval in outdoor storage and parking covering of the parking spaces for the apartment buildings. There are a total of 33 buildings and 261 units, the total parking spaces on the property are 572 spaces, that's two spaces per unit. Right now there appears to be a market for renting out covered parking spaces. They propose five buildings to be built in 2015, each one has six spaces in it and another five units with six in it for 2016. The planning commission has thus far has indicated ten or twelve additional items on the site plan, minor things, dimensions and so forth; these will all be corrected. It requires a bond for the property to be posted and this will be done. Also, he checked the site today. There was a piece of fence that was knocked down in the south property line by the adjacent owner. It looks like a semi backed into the white vinyl fence. One section has been damaged that needs to be repaired and that was mentioned in Mr. Wuerth's recommendations.

Chairman Watriont stated this is a public hearing and anyone wishing to speak on this item to approach the podium.

No residents spoke.

Secretary Nestorowicz mentioned that the office did receive one letter from D. Aker at 31376 Lyons Circle East in Warren who was not in favor of this request.

Chairman Watripont informed the Board that Board Member Pauta was feeling ill and left the meeting at 9:27 p.m.

Board Member S. Brasza wondered if she heard that for 2015, five car ports are already done and the Board is looking at the 2016 right now.

Kerm Billette answered yes, half of them done now and half of them in 2016.

Board Member S. Brasza wondered if the Board needs to approve the 2015 too.

Kerm Billette answered 2015 and 2016, yes.

Board Member S. Brasza thanked him.

Kerm Billette explained in the future they do plan to put more of them but that would require a submission of another site plan if they do anything beyond these sixty spaces.

Inaudible discussion.

Chairman Watripont stated that in the variance request he's reading, it doesn't state a number or anything at all.

Board Member S. Brasza wondered why would they have to come back.

Chairman Watripont is thinking as a condition if the Board does determine to grant it to state a number.

Secretary Nestorowicz said sixty (60).

Board Member S. Brasza called for Everett Murphy.

Kerm Billette stated yes. Thirty (30) of them in 2015 and thirty (30) of them in 2016.

Board Member S. Brasza stated five car ports.

Chairman Watripont called for Everett Murphy.

Everett Murphy explained the reason he has to go is because a lot of people were confused; they're carports. The problem is if it has a roof then it's a structure. What they're requesting is to construct these carports or these structures in the required setbacks. It's not necessarily a number of cars, they're not removing any parking spaces and the spaces are going to stay. The request is to build in the required setbacks is what he's asking.

Kerm Billette said the proximity to residential.

Chairman Watripont explained if the Board grants it as the variance is requested, the petitioner could do it all over the place and that's what he wants to put a limit on.

Everett Murphy stated it should say as per the plan. They're identified on the plan.

Chairman Watripont states it does say as per the plan but he wants to be more specific when making the motion.

Secretary Nestorowicz wondered if there was any other discussion.

Motion:

Secretary Nestorowicz made the motion to approve the petitioner's request to: Construct carports over existing parking space that in the side and rear yard setbacks, as per the plan for a total of sixty (60) spaces in the years 2015 and 2016.

Reason being: Size and shape of the lot; Not a detriment to the neighborhood; Having a roof in the winter is a good thing.

Board Member S. Brasza agreed saying absolutely.

Board Member H. Brasza supported the motion.

Chairman Watripont stated there is a motion by Secretary Nestorowicz. Support by Board Member H. Brasza. Reasons being: Size and shape of the lot; Not a detriment to the area.

Roll Call:

A roll call was taken on the motion to approve and the motion carried (8-0).

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

The Petitioner's request has been **GRANTED** with the condition that only sixty (60) carports are constructed for the years 2015 and 2016.

Kerm Billette thanked the Board.

13. PUBLIC HEARING

**APPLICANT: NC Designers & Contracting
Inc./Naser Choucair-USE-**

REPRESENTATIVE:
COMMON DESCRIPTION:
LEGAL DESCRIPTION:
ZONE:

Mr. William Baldner, Architect
6855 Miller Drive
13-04-401-004
M-2

VARIANCES REQUESTED: Permission to:-USE-

1. Allow a truck repair adjacent to residential zones on the north, east and south, as per the plans.
2. Allow truck parking on the R-1-P zone on the property as per the plans.
3. Waive the required wall along the north and south property lines.

ORDINANCES and REQUIREMENTS:

Section 14.01 Paragraph (j): Uses permitted. Auto 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... 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 8.01 Uses in R-1-P (a): uses permitted in R-1-C; (b) parking of private passenger motor vehicles.

Section 2.26 (a): wall or greenbelt requirements adjacent to residential uses.

Naser Choucair, NC Designers 3241 South Telegraph in Dearborn, explained that they are here tonight because their mission is to operate a transportation trucking company and self repair truck facility. In addition to residential and allow trucking parking in the R-1-P. He gave the floor to Yousef Beydoun. Otherwise he'll be there for technical.

Yousef Beydoun, 23676 Park Street in Dearborn, stated ReMax Team 2000 is the company he works for and represents the clients here, the purchasers willing to take on this property. They're actually located in the City of Warren now running the same type of operation. They're looking to stay in the City of Warren. They currently employ forty (40) people and planning on enhancing the property from the exterior and the interior; new image, new façade, new windows, new landscaping, repaving the parking lot. It's a 32,000 square foot building situated on four acres. There's a lot that has to be done there and that's the challenge they have been facing with selling this property. These guys came along and willing to take on the work. They have every intention to stay in the City of Warren, keep their employee's in the City of Warren and that's about it. Just for the record, the property has been listed for a little over two years now and showed it to about forty perspective purchasers. The biggest downfall was the amount of work; just the clean out itself is going to cost a significant amount of money. (Background whispering) They're planning also on enhancing the property, securing it, 24 hour surveillance; definitely beneficial for the city.

Chairman Watriont stated this is a public hearing and anyone wishing to speak on this item to approach the podium.

No residents spoke.

Chairman Watriont asked if this is the old bowling alley.

Yousef Beydoun replied correct.

Secretary Nestorowicz identified one letter that was received to the office from Jeanette Alcini at 2000 Michael in Warren. She stated she absolutely opposes the plan to allow a truck repair company as per the plan because of the noise and fumes and everything. She is the third house from the building.

He continued to say that he knows the bowling alley has been vacant, he doesn't remember for how long, but it's been vacant for quite a while. Having something else use that facility and put it into use is a good thing. However, when changing the use from a bowling alley to a repair facility where there is going to be more high intensive. He does actually have a problem about waiving the required walls. There is residential by that property to the north and he thinks having a wall is a good thing to separate a truck repair facility from the residential. It was one thing when it was a bowling alley, that wasn't much of a concern, but repairs is a little bit more intensive than people bowling.

Naser Choucair explained its self repair for trucks that are owned. They don't repair for the outside trucks. They own approximately 25-30 trucks and sometimes these trucks need repairs, parts and that's what they're going to be doing for their own truck for transportation. In terms of noise and fumes, this is going to be all from at 6 o'clock till 5 o'clock or 8 o'clock till 5 o'clock or 6 o'clock at night. It's not going to be a 24 hour operation or any of that.

Chairman Watriont asked if all of the repairs are going to be done inside.

Naser Choucair replied inside the building, yes sir. Most of the residential, he thinks R-3 is about 275 linear feet away from the building. The doors are going to be insulated doors and are going to have logistics in them, plus the twelve inch walls. Whatever repairs are being done inside the building is going to be contained more than it was in the bowling alley. These machines were kicking from 8 o'clock in the morning to 2 o'clock or midnight back in the days. He thinks this is way better than it was before.

Chairman Watriont thinks the big concern is whether or not to waive the wall along the north property line. He doesn't believe there is much residents along the south if he recalls everything. It's the north that some people have concerns with at this point in time.

Inaudible discussion.

Board Member H. Brasza wondered if there was a reason for the variance to not have the wall, if there is a specific reason he likes the site.

Naser Choucair stated the reason for the variance is the parking because it's an R-1-P parking, its public. They needed to get the variance so they can make it within their truck.

Board Member H. Brasza stated he was specifically talking about the wall itself. What's the reason for not wanting the wall.

Naser Choucair replied it's a long stretch and costly. There is a budget on this building and they're exceeding the budget already as they put the numbers together. There is a lot of work on this building inside and outside. As he said, this is a four acre property. Outside they're putting a lot of money for the fencing and security plus the building itself needs a lot of repair from the inside.

Board Member H. Brasza understands but there still are residents to be concerned about their well being as well. Not having a wall is a significant variance to be asking for because of the residents. The other side he agrees, it's not as significant.

Naser Choucair asked if he was talking about the wall on the north side.

Board Member H. Brasza stated on the north side.

Naser Choucair stated they're going to stretch it approximately 275 linear feet.

Yousef Beydoun and Naser Chocair were inaudible for a moment.

Board Member H. Brasza stated that's just his opinion and trying to help work things out.

Naser Choucair said yeah.

Board Member Furgal agrees with Board Member H. Brasza and Secretary Nestorowicz regarding the wall on the north side.

Board Member S. Brasza stated ditto.

Board Member Anglin agreed.

Inaudible discussion.

Naser Choucair stated that's fine for the back wall. They can put this in the resolution.

Chairman Watripont stated the north side, where the residential is.

Naser Choucair stated the north side and pointed on a map of where everyone is looking at.

Board Member S. Brasza and Board Member Furgal both said right.

Naser Choucair explained from the building and stretch it all the way to the back.

Board Member Furgal stated the building goes to the...

Chairman Watripont said from the edge of the building back.

Naser Choucair said the north side 275 linear feet.

Secretary Nestorowicz had one more question. He knows the existing bowling alley has the driveway exit in the back of the property that goes into the residential neighborhood.

Naser Choucair stated not really. He explained that used to be for the previous owner, Mr. Jim. He just got the story about him and how he used to lease the garage from the lady for thirty (30) years to park his car but not anymore.

Secretary Nestorowicz asked if there are going to be trucks going out the back.

Naser Choucair stated no.

Chairman Watripont suggested making that part of the motion as well.

Motion:

Secretary Nestorowicz made the motion to approve the petitioner's request to: 1. Allow a truck repair adjacent to residential zones on the north, east and south as per the plans and 2. Allow truck parking on the R-1-P zone on the property as per the plans. On 3. Only waiving the wall along the south properties because the petitioner agreed to put in the wall on the north.

Reasons being: Property is unique due to large size; Not a detriment to the neighborhood; Necessary for the use of this property; The petitioner stated there will not be any trucks going out the back exit into the neighborhood.

Board Member H. Brasza supported the motion.

Chairman Watripont stated there's a motion by Secretary Nestorowicz and support by Board Member H. Brasza to allow the variance as 1, 2 and 3 only the south property lines due to its unique property and not a detriment to the area.

Roll Call:

A roll call was taken on the motion to approve and the motion carried (8-0).

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

The Petitioner's request numbered 1 and 2 have been **GRANTED**. The Petitioner's request for number 3 was **GRANTED** with the condition that only the wall on the south property line is waived; Petitioner agreed to the wall on the north property line.

14. PUBLIC HEARING

**APPLICANT: Mr. Daniel Blake/
Dedicated Machine**

REPRESENTATIVE:	Mr. William Baldner, Architect
COMMON DESCRIPTION:	6855 Miller Drive
LEGAL DESCRIPTION:	13-04-401-004
ZONE:	M-2

VARIANCES REQUESTED: Permission to:

Construct a building addition 60' x 6' = 360 sq. ft. addition to no less than 16' of the west property line as per the plan.

ORDINANCES and REQUIREMENTS:

Section 17.02 Paragraph (b): Side yards and rear yards. M-2, 20 feet each.

Dan Blake introduced himself and mentioned he's with William Baldner and will let him speak.

William Baldner stated the proposal the Board has before them is a small addition to the existing manufacturing building. The proposal is for a sixty (60) foot wide by six (6) feet deep addition to the building. The addition is necessary because the owners business demands a new machine, customers are requiring different techniques and new technology. The machine will solve this issue. In order to place the machine there has to be sufficient clearance for safety of the employees around the machine and servicing the machine. Therefore, asking for the small addition. It will encroach into the required setback by four feet so they're asking for a four foot variance not to come any closer than sixteen (16) feet from the south property line.

Chairman Watripont stated this is a public hearing and anyone wishing to speak on this item to approach the podium.

No residents spoke.

Board Member H. Brasza asked if they said something about encroachment because he doesn't see it.

Chairman Watripont read to no less than sixteen (16) feet of the west property line.

Roxanne Canestrelli doesn't think Board Member H. Brasza's mic was on.

Chairman Watripont asked for Board Member H. Brasza to restate his question.

Board Member H. Brasza was just looking for clarification on the rear setback. If nobody has anything...

Chairman Watripont wondered how the cars get out of the back. He saw that the one way.

William Baldner asked if Chairman Watripont saw the driveways.

Chairman Watripont stated he does and thanked him.

Motion:

Board Member H. Brasza made the motion to approve the petitioner's request to: Construct a building addition 60' x 6' = 360 square feet addition to no less than 16 feet of the west property line as per the plan.

Reasons being: Not a detriment to the area; Size and shape of the lot.

Board Member Fisher supported the motion.

Chairman Watripont stated there is a motion by Board Member H. Brasza and support by Board Member Fisher granting the petition as requested due to not a detriment of the area and size and shape of the lot.

Roll Call:

A roll call was taken on the motion to approve and the motion carried (8-0).

Board Member H. Brasza	Yes, for the reasons stated in the motion.
Board Member Fisher	Yes, for the reasons stated in the motion.
Board Member Tabbi	Yes, for the reasons stated in the motion.
Board Member Anglin	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 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.**

Secretary Nestorowicz asked Chairman Watripont if they're doing the next ones separately.

Chairman Watripont explained they are posted as three different items, so it's 15a, 15b and 15c.

15a. ADMINISTRATIVE HEARING: **APPLICANT: JJN LLC**
REPRESENTATIVE: Mr. Jeffrey Najor
COMMON DESCRIPTION: 21944 Schoenherr
LEGAL DESCRIPTION: 13-36-151-003
ZONE: M-1

APPEAL REQUESTED:

Appeal of the administrative determination of Everett Murphy, City of Warren Zoning Inspector that medical marijuana cultivation is not a permitted use in the City of Warren.

ORDINANCES and REQUIREMENTS:

Section 20.06 Appeals from administrative order, requirement, decision or determination: An appeal may be taken to the Zoning Board of Appeals from an administrative order, requirement, decision or determination made by an administrative official or body charged with enforcement of a zoning ordinance. The appeal may be filed by a person with a legal interest in the property that is the subject of the order, requirement, decision or determination made by an administrative official or body charged with enforcement of a zoning ordinance.

Section 20.07 Time to file appeal: An appeal shall be filed within thirty (30) days of the date the administrative order, requirement, decision or determination is made by an administrative official or body charge with enforcement of a zoning ordinance.

Denise Pollicella, 4330 East Grand River Avenue in Howell.

Chairman Watripont asked if Mr. Najor is here.

Denise Pollicella stated he is, although she has been corresponding with the city since the beginning.

Chairman Watripont understands but he is listed on the petition first.

Jeffrey Najor, 3378 Castlewood Court in Wixom.

Chairman Watripont thanked him.

Denise Pollicella said not just because it's so late but because she represents both the applicants in a, b, and c and applicant in 16 and it's the same exact issue and not a substance of issue in regards to the property and not a variance request, she requested to consolidate the arguments.

Chairman Watripont needed a motion to consolidate from a Board Member.

Motion:

Secretary Nestorowicz made the motion to consolidate items 15a, 15b, 15c and 16. Board Member Furgal supported the motion.

Chairman Watripont stated there was a motion by Secretary Nestorowicz and support by Board Member Furgal.

Roll Call:

A roll call on the motion was taken to approve and the motion carried (8-0).

Secretary Nestorowicz	Yes, to consolidate.
Board Member Furgal	Yes, to consolidate.
Board Member S. Brasza	Yes, to consolidate.
Board Member H. Brasza	Yes, to consolidate.
Board Member Anglin	Yes, to consolidate.
Board Member Tabbi	Yes, to consolidate.
Board Member Fisher	Yes, to consolidate.
Chairman Watripont	Yes, to consolidate.

Chairman Watripont thanked her.

Denise Pollicella thanked the Board and said you're welcome, it will be much shorter. She continued to explain that to be very clear, this is not a variance request. The applications for all four of them were summarily denied any processing whatsoever by the virtue of the fact that medical marijuana cultivation, and she's quoting the denial letter, is not an allowed use in the zoning ordinance or apparently a permitted use in the City of Warren. There are numerous arguments for these, she's hoping the City Attorney has briefed the Board on this because they're all legal arguments. She is not sure if all this is all going to be up to the Zoning Board, but she's going to go through them though.

Chairman Watripont said just a moment. He's going to turn it over to the City Attorney and let her explain things here.

Roxanne Canestrelli explained that because this is an administrative appeal, the Board is only to consider the facts that were present to the zoning inspector director that made the determination.

Denise Pollicella stated ok. Her immediate request before she gives her arguments is to direct the Building Department to process the applications. She doesn't think it won't necessarily be fair for the Zoning Board of Appeals to approve applications that have never even seen the processing in the city as they would be normally processed. Her relief request is simply to direct the Building Department and Zoning to process these applications as they would any other application. To be clear, they have not been processed. The applications were basically sent back with a denial

saying they're not going to be processed because the word marijuana is attached to them. The city cannot refuse to process them. First of all, the City of Warren is not even following its own zoning ordinance and instruction. The city cannot summarily refuse to process an application when the applicant has satisfied all the regulatory requirements in the zoning code. Section 22.10 of the City Code states that a certificate of compliance shall be issued after determination of the Building Department that the use of the land, building or structure complies with all of the following and under no circumstances shall the Building Department refuse to issue permit when the applicant has demonstrate that they are in compliance with all applicable regulations. This is not up to the Building Department to uniformly and uniquely decide the policy in the City of Warren. She's not sure where the Building Department got their instructions from to deny applications based on a use. On no point has the City of Warren made a determination that she's aware of, at the City Council level, that marijuana is somehow not allowed in the city. If they did, they would certainly would run into the Ter Beek versus Wyoming Supreme Court decision. This was discussed somewhat at length at the last City Council meeting when an ordinance was introduced that was incredibly unconstitutional in its form and substance. That would have restricted....

Chairman Watriont believes that was not presented at the time when Everett Murphy made his rulings.

Denise Pollicella said right, it was significantly before, which brings her to her second argument. These applications were denied prior to the introduction or even postulation of any potential ordinance.

Roxanne Canestrelli interrupted to explain that the Chairman was saying he believes that the law that was stated was not presented in application to Mr. Murphy.

Denise Pollicella stated he's not an attorney so she doesn't know why...

Roxanne Canestrelli said they will wait for Mr. Murphy to make his comment then.

Denise Pollicella stated the City of Warren is welcome to do its own research on Supreme Court Decisions and how it effects them.

Roxanne Canestrelli stated that what is in front of the Board right now is an administrative appeal based on a determination of administrative officer.

Denise Pollicella said ok.

Roxanne Canestrelli explained the Board is going to hear from the petitioner obviously, why they're appealing and then the Board is going to hear from Mr. Murphy of his findings. We're not here to litigate anything.

Denise Pollicella stated if we're not here to litigate anything then she would be interested in hearing how Mr. Murphy's findings are in contravention of State Law. To the

extent that we can't litigate any of this, we'll just go to Circuit Court, but she doesn't find that appropriate at this point. Mr. Murphy made a legal determination. He determined that the City of Warren was going to act in contravention of the Michigan Supreme Court medical Marijuana Act due process under the US Constitution and the City of Warren's own zoning code. So, we'll get to him when we get to him. If the Board would like him to go first, she can defer, or she can finish.

Roxanne Canestrelli told her to go ahead and conclude.

Denise Pollicella is saying that Mr. Murphy or the Building Department, or the city itself does not have the right to decide without any kind of policy decision from the people of the City of Warren or the Warren City Council that he's going to summarily deny processing of an application based on use. He can argue that and that's fine. She is going to say though, that just because this particular use has the word marijuana attached to it, these applications are getting denied. She does want to make it very clear that there is no ordinance in the City of Warren prohibiting the cultivation of medical marijuana, it's a permitted use. It's not a permitted use because the City of Warren has decided that, it's a permitted use because the Michigan Supreme Court has decided that. These are not applications asking for commercial grow operations, they are simply applications requesting the use of industrial buildings for the cultivation of medical marijuana by caregivers, who are registered caregivers and their patients in Michigan. To the extent that that decision is not the City of Warren's, she would also say that decision is not Mr. Murphy's. That unilateral decision in and of itself should be a problem for the City of Warren. Substantively speaking, in addition to violate the Ter Beek versus Wyoming decision and the medical marijuana act by denying a right, license or privilege in the city and the use of a building, it is not only that penalty but it is a de facto ban of the use of medical marijuana purposes in the City of Warren. The City of Warren is trying to get these out of residential areas. Her clients are trying to put them in industrial buildings that are their buildings. She would also like to point out that these applications were made prior to the introduction of any ordinances. So the statements made to her clients were, "We're going to deny these because at some point the City of Warren may decide to put an ordinance through that may restrict where you are", which is a prior restraint and also unconstitutional. She thinks it should be considered by this body and the attorney is more than welcome to constrain the Board in any way she wants and its decision, but she thinks it's fair for the Board to consider the public policy implications of starting to deny people access to medical marijuana and access to their own buildings for their own use. This city has definitely had issues with medical marijuana whether they are blown up proportion or not and that's not upon. She gets that a few bad apples have made the news. These are simply caregivers trying to get medical marijuana out of residential zones and into industrial zones where they belong. The public policy implications of continuing to deny patients and caregivers that right is going to get the City of Warren in a sticky spot at some point. Like she said, they're not asking for the cultivation of marijuana on a large scale in commercial facilities, they're not even anticipating State Law. She's talking about current law. Current law allows patients and caregivers to cultivate marijuana on their own property, privately and for

their own use. She'll stick around for questions but perhaps Mr. Murphy would like to speak.

Chairman Watripont called Mr. Murphy to the podium.

Everett Murphy stated a couple of things he wanted to touch on here is that... First of all, he absolutely realizes that medical marijuana is legal in Michigan, there is no problem with that and know that. What the ordinances do, with very exceptions, tell what can be done and not what cannot be done. As he goes on to read the ordinance in a minute, the particular one he referenced to make his decision, he thinks the Board will understand. She brought up a lot of arguments that was not part of what he was given. He was given a statement by the petitioner, or by the applicant, that he wanted to cultivate medical marijuana and he was given an application. To say that he did not process that application is really not true. He actually did take that application in, reviewed it, looked at it, compared the use with the zoning ordinance and what it said could be done in that zone; that use was not listed. It's under 17.02. When there is a use not listed he has to defer to Section 4.01A and he's going to go ahead and read it:

"No building or land or part of building or land located in any zoning district as here and established shall be used, altered, constructed or reconstructed, excepting conformity with all applicable provisions of this ordinance, all provisions which imply to the district in which it is located and all implacable State and Federal Laws. Uses not expressly permitted within a specified zoning district are not permitted uses within that zoning district."

Hence that last sentence, which is really important: "Uses not expressly permitted within a specified zoning district are not permitted uses within that district." He has a little issue with the way it was posted, he didn't write that posting on purpose obviously because he was the one that made the decision. It really should not say it's not an allowed use in the City of Warren. It should have said it's not an allowed use in the City of Warren Zoning Ordinance. There are remedies they can take. They can petition the city for a text amendment to the zoning ordinance, to regulate that use, there's a lot of things that they can do and that has not been done based on his knowledge. He checked with the attorney's office and they're not aware of one written submission for any kind of amendment to the ordinance to allow it. Everybody knows it's being worked on, it's been in front of the Planning Commission and Council, and so they're working on it. There has never been an actual formal request for that to be added. To say that he did not process it is not true, he did. The problem is that use is not an allowed use in that district. If it's not an allowed use, he cannot permit it on those grounds and that's why he denied the application, it's not a permitted use. He won't go into any of the legal arguments. She made a statement, he's trying to remember what she said, some kind of statement that because we're going to have an ordinance in the future. He has no idea what statement she's talking about because he certainly never made that statement to them, he has no idea. He was merely told he wanted to cultivate medical marijuana and was given the applica-

tion. That's all he had to base his information on and nothing else to go on. He believes that's it.

Chairman Watripont thanked Mr. Murphy and directed his attention towards the city attorney.

Roxanne Canestrelli said just to make a information notation, that what typically happens when other issues or items come before the zoning and that use is not permitted in that zone, doesn't the applicant typically file a use variance request.

Everett Murphy isn't sure and would have to look at that whether or not they could. If it's stated use somewhere else in the ordinance that they want to do, something that is not allowed in that zone that is somehow allowed in another zone is normal. This is a little bit different because this is something that there is no formal ruling on or any kind of rule, there is nothing in the zoning ordinance but they're working on that. He has no authority whatsoever to go outside of the zoning ordinance, he can only go by what's in it. For him to take an application for a use that is not address and just say its ok would not be appropriate on his part.

Chairman Watripont believes it gets opened up to the Board for questions to the petitioner and Mr. Murphy. He wants to make sure he gets the procedures right here. He wondered if anyone had any questions. He has a question that he would like to ask Mr. Murphy. He wondered if he had denied anything besides the medical marijuana.

Everett Murphy asked him to be a little more specific. He's denied other applications.

Chairman Watripont stated the application for certificate of compliant at has been denied. He wondered if Mr. Murphy has sent out a denial letter like that before.

Everett Murphy replied yes and wondered if he meant for uses that were not allowed in that district.

Chairman Watripont stated yes.

Everett Murphy answered yes.

Chairman Watripont asked if there were any other members.

Board Member Anglin stated with a denial of a use in that area for that reason, is it because the city doesn't have anything in writing. For instance, the Board just did the approval on this truck repair facility transportation facility, that wasn't the use for that piece of property, but they did a variance for that. (Background whispering.) He wondered if that is different than what's sitting in front of the Board now.

Board Member S. Brasza stated this isn't a use variance.

Chairman Watriont stated this is basically a...

Board Member Anglin wondered if this should fall under and come through as a use variance.

Chairman Watriont stated the petitioner has to request a use variance.

Roxanne Canestrelli explained it was not filed as a use variance, it was an administrative appeal based on the determination.

Board Member Anglin doesn't understand why that's in front of the Board, he knows he is new, but that part he doesn't understand and he sees that it should come from another direction.

Denise Pollicella stated that the city attorney is welcome comment as well but maybe she can comment on that. They filed an administrative appeal, first of all, because the use variance they didn't feel was appropriate because they were denied based on the fact marijuana doesn't appear in the zoning code. Secondly, the reason it was an administrative appeal is basically they didn't have a hearing before the Planning Commission and didn't have an opportunity to. She knows that it was said that it was processed but they didn't get any kind of hearing in front of planning first. They had to come straight here. That's what she meant by it wasn't processed, it didn't go through a normal planning commission meeting or hearing. There were no meetings with staff it was just "you're denied" and this was the next route.

Chairman Watriont informed there are items that do not go to planning and do come before the Board directly.

Board Member S. Brasza agreed.

Denise Pollicella said sure and if the Board wants this to be filed as a use variance, that's fine they can do that. She felt that because they didn't have a hearing at planning and nothing went through planning or staff that the administrative appeal was the most appropriate. One brief thing, and she sympathizes with Mr. Murphy, this is a new topic for everybody, but if this was a candy store or shoes lace factory, she's sure those things are not specifically enumerated in the zoning code as permitted uses. There is no possible way that a zoning code is going to be able to enumerate and itemize every possible industrial use under the son, the zoning code would be 5,000 pages long. There are a lot of permitted uses that are not in the zoning code. Medical marijuana doesn't need to be there to be a permitted use, she thinks that a little bit disingenuous frankly. The other thing is they have been working with zoning quite vigorously. The zoning ordinance is making its way through planning and believes its up before Council fairly shortly. They have submitted, in fact, submitted several things in writing to both Planning and City Council. City Council actually solicited her assistance at the last meeting. They have submitted several comments on the zoning code. She doesn't have a problem actually with the current proposal on the ordinance, she likes it.

Board Member S. Brasza is getting out of this is basically it doesn't state in zoning, or it's not stated specifically, that it is a use but it is stated that it's not allowed use in Section 17.02. To her the determination...

Chairman Watriont asked if that was true.

Everett Murphy said to remember that the ordinance does not say what cannot be done it says what can be done.

Chairman Watriont stated that's what he thought.

Everett Murphy explained if it doesn't say it can be done, then it can't. That's putting it into simple terms.

Board Member S. Brasza agreed.

Everett Murphy continued to say that it's not in the zoning ordinance where it says under Section 17.02 medical marijuana cultivation is not allowed, it doesn't say that at all, but it doesn't expressly say it is a permitted use.

Board Member S. Brasza asked if he made his determination on the fact that...

Chairman Watriont stated the zoning ordinance as written.

Everett Murphy doesn't see where he can consider it like a candy store. It may be some people's candy but it's not the same thing.

Board Member S. Brasza agreed and stated he did the appropriate...

Chairman Watriont stated what he deems appropriate.

Board Member S. Brasza agreed.

Everett Murphy explained it's not that he handed them the application back saying he's not going to process it. He took that in and gave him, as the process the calls for, that if he does deny an application that he shall state the reason in writing. They did get the letter in writing saying it was not a permitted use in the zoning ordinance, he did not say in the City of Warren. As he said, he didn't post it on purpose he didn't write that up because he didn't want there to be any hint of a conflict. Lynn Martin did write that up but those two words were sort of left off because it's clearly in the letter, and the Board has the letter, he believes that it says in the zoning ordinance. He didn't say it wasn't allowed in Warren, he would never say that. To say that it wasn't processed, he did take it in, it's not an allowed use and he let them know why. They then can come back for their options of use variance, in this particular case, he suggested they submit it writing but at the time Mr. Najor wasn't really happy at the counter. He inquired right away on how he could challenge the decision

and that's why he gave him that information because it was clearly the direction he wanted to go. His suggestion would be to submit it in writing, a formal requesting saying this is needed in the ordinance and to ask to begin work on this. Regardless that they have, they just never had a formal request that he's aware of.

Board Member S. Brasza thanked him.

Chairman Watripont asked Denise that he believes this is before Council and that she was at the Council meeting, he watched some of it. He wondered if that would take care of it once the ordinance is passed by Council.

Denise Pollicella answered that it will.

Roxanne Canestrelli believes it will be up again next Tuesday.

Chairman Watripont said ok because his personal thoughts are...

Roxanne Canestrelli said she could ask Nicole if it's on the agenda.

Chairman Watripont continued to say to have them file for the use variance, but if they do that they might be wasting their time because there might already be a variance out there. He's not sure if they have to wait a certain number of days.

Roxanne Canestrelli wants to clarify first by going backwards a little bit. She was trying to use an example of an item such as when another applicant is applying for a certificate of occupancy saying they're using the building, say for a used car lot when that use isn't enumerated in the ordinance for that type of zone and they are turned down administratively. What their options would be, and correct her if she's wrong Mr. Murphy, to file an administrative appeal, which they did. Another option from experience is typically to file a use variance.

Everett Murphy stated that's correct.

Roxanne Canestrelli said those were the two options. She wasn't telling her to file a use variance; she was letting her know that her client has options. She doesn't have the agenda and she doesn't know if Nicole would be able to uphold the agenda for Tuesday to see if that would be on the City Council's agenda.

Chairman Watripont doesn't think its out yet.

Nicole Jones, Recording Secretary, stated the ordinance is not on the next agenda.

Roxanne Canestrelli said it's not.

Chairman Watripont asked that it's not on the next.

Nicole Jones informed the Board that Council has to have a Committee of the Whole first.

Chairman Watriont stated his personal opinion and he doesn't know if he gives this now or go to a vote, but what he thinks that what Mr. Murphy had in hands at the time, he thinks he did the right thing. He understands what Denise Pollicella is saying and thinks there are other ways to deal with this. One may be coming before the Board for a use variance. By the time they get before the Board, he's assuming City Council will already have set some stuff in the plans so he's not sure that's not necessarily the right thing either. Being it is an administrative appeal hearing, he asked what the next step is and if they take a vote.

Roxanne Canestrelli explained to either uphold the administrative determination or reverse it.

Chairman Watriont stated and go that way.

Board Member Fisher jumped in before the Board voted. He wanted to express a couple of things. First, in regards to the standard of review, he wanted to make sure to bring this up because it was said that the City Attorney was limiting the Board but he doesn't believe that is what she was trying to do. The Board has a very specific standard of review that is based on the code that has to be followed. That's what the Board is looking at here and what the City Attorney was speaking of. The Board cannot go outside of the code and just decide anything they want to do so they have to limit their standard of review based on what the zoning code says. He is troubled that the Board doesn't have a way forward because it's clearly constitutional this has to be allowed in some way or form. He's not sure if this body is the best way through an administrative appeal to do that. He does think that a variance for these particular issues would get it done for the client and he does think that the City Council moving forward, doing what they're doing will get it done. He doesn't think that the Board can simply say to Mr. Murphy go back and do this over when in fact he decided based on what the code said. The code didn't list it and it needs to be changed, and that's what the Council is working on doing. Until they do that, he thinks the best way forward is for a variance as opposed to an administrative appeal.

Chairman Watriont thanked Board Member Fisher. One other thing he would like to say is that one of the comments was not restricting a building owner to do what they want on their own property. To a certain degree he agrees with Ms. Pollicella but most of the variances the Board sees, they're doing that and restricting it for some reason. He disagrees with the general statement but it is based on ordinances and stuff like that is the reason for the Board being here actually. If that makes sense to her.

Denise Pollicella said sure. If she wasn't articulate, she thinks she was trying to say that under State Law you can't prevent someone from cultivating medical marijuana on their own property. They may disagree on that but that was her statement. Obviously, if you couldn't prevent a building owner but...

Chairman Watriont explained that was one of the items that he wrote down while she was speaking. The next item is determination on whether they uphold or reverse Mr. Murphy's determination. He asked if he needs a motion on that.

Roxanne Canestrelli explained he needs to make a statement or he needs a motion and people need to vote on it.

Chairman Watriont wondered if he could make the statement.

Roxanne Canestrelli replied he can make up the statement, yes.

Denise Pollicella had one point of clarification to ask the City Attorney before the vote. She wondered if one of the options to, it wouldn't be a denial or an approval, it would be sending it back for review through planning or is it considered done. That's been done in a couple of other settings and it's a question more than anything else.

Roxanne Canestrelli said if the request is coming from her then she would want to reschedule this to go before them. That would be an option for her to decide. If she wants planning to reconsider she can have them reschedule before.

Chairman Watriont asked if she has been before planning.

Denise Pollicella answered no, not here. That's why she was giving it as an option because what she really doesn't want to do is go to Circuit Court. She really doesn't but that's one of her only options if it's denied. Sending it back to planning would allow them to either go through planning or potentially file a use variance.

Chairman Watriont believes what is before the Board is the petitioner's appealing Mr. Murphy's determination. Based on everything he had at his time, in his opinion that is the only determination he could have made based on the laws that present there. If planning, and Mr. Murphy may be able to help out here, he wondered if he would be able to take this to planning the Board can postpone the administrative hearing.

Everett Murphy doesn't know if that's appropriate. He wondered exactly what is being taken to planning.

Inaudible discussion.

Everett Murphy stated that text amendments to the ordinance would normally go before the planning commission first but that language has to be drafted which is what they're doing.

Chairman Watriont stated which is being worked on.

Denise Pollicella inaudible.

Everett Murphy stated since this is all in the works, he thinks it's premature to go anywhere else except with this process, they're working on it very hard and everybody knows this it's public knowledge. (Background whispering.) It's been at the planning commission, it's going to City Council, it's not the city is not addressing it. They're working very diligently on this but he's not sure what they would be sending to planning at this point.

Chairman Watriont doesn't think anything is going to be accomplished here today. He thinks it is in City Council's hands and they're going to get to it a lot quicker than if the Board was to agree with Everett and then they went to Circuit Court, it would probably be passed City Council by that time.

Denise Pollicella agrees.

Chairman Watriont thinks an alternative is file a use variance and go that way but he thinks she may be wasting her time and money in that regards as well because the ordinance will be out soon too. It's allowing a use not allowed in that zone.

Board Member Furgal stated that the only issue they're supposed to be talking about and deciding is whether Mr. Murphy followed the rules, whether we agree with his decision or not. The Board doesn't need to be talking about all of these other things, it's not their business. Whether she wants to go to Circuit Court is not our problem, it's hers.

Board Member Fisher was looking at the code and it says:

"The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed upon reversing the decision appealed may direct the issuance of a permit."

He continued to state that this is all the Board has to determine here, whether or not they're going to reverse or affirm the decision, wholly or partly. He tends to feel that Mr. Murphy made the decision based on what the code says and what the Board should do here is affirm it and doesn't think it should be talking about the process in regards to the proposed ordinance. He does think that the proper way to go here, rather than go to Circuit Court, would be to file a use variance. He thinks that that would probably be more appropriate.

(Background whispering.)

Motion:

Board Member H. Brasza made a motion to affirm the decision of Everett Murphy. Supported by Board Member Anglin.

Chairman Watripont stated there is a motion by Board Member H. Brasza to affirm Mr. Murphy's decision and support by Board Member Anglin.

Roll Call:

A roll call was taken on the motion to affirm and the motion carried (8-0).

Board Member H. Brasza	Yes, to affirm.
Board Member Anglin	Yes, to affirm.
Board Member S. Brasza	Yes, to affirm 15a, 15b, 15c and 16.

Chairman Watripont and Secretary Nestorowicz stated they were already combined.

Board Member Furgal	Yes, to affirm.
Secretary Nestorowicz	Yes, to affirm.
Board Member Tabbi	Yes, to affirm.
Board Member Fisher	Yes, to affirm.
Chairman Watripont	Yes, to affirm.

The administrative determination was **AFFIRMED.**

Chairman Watripont thanked Denise Pollicella and said good luck.

15b. PUBLIC HEARING	APPLICANT: JJN LLC
REPRESENTATIVE:	Mr. Jeffrey Najor
COMMON DESCRIPTION:	21966 Schoenherr
LEGAL DESCRIPTION:	13-36-151-003
ZONE:	M-1

APPEAL REQUESTED:

Appeal of the administrative determination of Everett Murphy, City of Warren Zoning Inspector that medical marijuana cultivation is not a permitted use in the City of Warren.

ORDINANCES and REQUIREMENTS:

Section 20.06 Appeals from administrative order, requirement, decision or determination: An appeal may be taken to the Zoning Board of Appeals from an administrative order, requirement, decision or determination made by an administrative official or body charged with enforcement of a zoning ordinance. The appeal may be filed by a person with a legal interest in the property that is the subject of the order, requirement, decision or determination made by an administrative official or body charged with enforcement of a zoning ordinance.

Section 20.07 Time to file appeal: An appeal shall be filed within thirty (30) days of the date the administrative order, requirement, decision or determination is made by an administrative official or body charge with enforcement of a zoning ordinance.

(Consolidated with 15a, 15b, and 15c.)

17. NEW BUSINESS

Chairman Watripont stated there was an application for an application from Preston Steven that is to be received and filed. He asked if there was any other new business.

18. ADJOURNMENT

Motion:

Board Member S. Brasza made the motion to adjourn the meeting; Secretary Nestorowicz Supported the motion.

Chairman Watripont stated there was a motion to adjourn with support.

Voice Vote:

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

The meeting was adjourned at 10:25 p.m.

Roman Nestorowicz
Secretary of the Board