

WARREN ZONING BOARD OF APPEALS
REGULAR MEETING
January 14, 2015

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

Members of the Board present:

Steve Watripont, Chairman
Judy Furgal, Vice-Chairwoman
Roman Nestorowicz, Secretary
Jennifer Vigus, Asst. Secretary
Jean Becher
Jules Descamps
Ann Pauta
Sherry Brasza
Nick Hawatmeh

Members of the Board absent:

None

Also present:

Roxanne Canestrelli, City Attorney
Everett Murphy, Zoning Inspector

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

All Board Members were present at the meeting.

4. ADOPTION OF THE AGENDA

Motion:

Board Member Brasza made the motion to accept changes to the agenda; Board Member Descamps supported the motion, with discussion.

Secretary Nestorowicz, stated item number 8; which was on tonight's agenda, the Board was notified that it was going to be removed from the agenda due to the applicant making changes to the plans and they are not ready to be admitted, so it would have to be reposted for a new date.

Chairman Watripont confirmed the statement of Secretary Nestorowicz. He also stated that it also shows on the original agenda, they have to approve the minutes of the December 10, 2014 meeting; which he has not received nor any of the Board Members have received, due to technical difficulties.

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

Chairman Watripont stated to the audience, that if anyone was present for item number 8, the 24895 Mound Road, that the item will not be heard tonight, and it will be reposted. They will have another posting in order when it will be heard; therefore, they do not have to stay for the meeting.

5. **APPROVAL OF THE MINUTES OF the Regular Meeting of November 5, 2014.**

Motion:

Board Member Becher made the motion to approve the minutes and Board Member Descamps supported the motion.

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

6. PUBLIC HEARING

APPLICANT: Ms. Debra L. Santiago
(Rescheduled from 8/27/14)

REPRESENTATIVE: Same as above.
COMMON DESCRIPTION: 13345 St. Andrews Ave.
LEGAL DESCRIPTION: 13-35-277-012, 013 and 014
ZONE: R-1-C

VARIANCES REQUESTED: Permission to

Construct a 20' x 16' = 320 sq. ft. shed to no less than 10 feet of the north property line and to no less than 10' of the west property line with a second floor for storage.

ORDINANCES and REQUIREMENTS:

Section 4.20 Paragraph (a): All accessory structures shall not exceed one story; shall conform to and shall not project beyond the existing building lines of the principal building on the lot and shall be one (1) foot from the edge of any easement.

Section 4.20 Paragraph (a) Item 5: All accessory structures, excluding garages, will not exceed a total of 120 square feet.

Chairman Watripont stated to the applicant to state their name and address for the record.

Debra Santiago appeared before the board and stated, she resides on 13345 St. Andrews Ave., Warren, MI 48089.

Chairman Watripont asked the applicant for the reason of the petition?

Debra Santiago stated the reason for her petition is to be able to put her 20' x 16' shed up. She stated that they have been going around and around with this matter a couple of times, and it was requested that she put in a request to have all three lots

combined into one lot. She stated that she did not received a notification in the mail that that was done. She stated that a young lady by the name of Sherry Carol hand wrote the number for all three lot numbers, and she can pass the note to the young lady present at the board to pass it on to the board members. She stated this was done on August 28, 2014. All three lots are now lot number 13-35-277-015.

Chairman Watriont asked the applicant if she has anything she would like to add.

Debra Santiago stated that she would just like to be able to get the shed completed.

Chairman Watriont stated that this is a public hearing and if there was anyone in the audience wishing to speak concerning this item, to approach the podium and state their name and address for the record. Seeing and hearing none, he turns the matter over to the board.

Board Member Becher, stated that she went out and she looked at Mrs. Santiago's property again, and according to their paperwork, she has her plot plan, and when she went there, she saw some additional things that were not on her plot plan. She stated the applicant had constructed a carport at her front door, and from the street it looked somewhat inefficient and it did not look like it was secure. Then, Board Member Becher asked the applicant if she had obtained a building permit for the carport?

Debra Santiago stated it was a pergola, and if it was noticed, it is on a gravel area.

Board Member Becher asked the applicant again, if she had obtained a building permit for that?

Debra Santiago stated for the pergola, no.

Board Member Becher stated in the applicant's driveway that exits towards St. Andrews Ave., what was that, the big plastic item?

Edwin Santiago, 13345 St. Andrews Ave, appeared before the board and stated he is Mrs. Debra Santiago's husband. He stated the item is a carport for their truck because he is trying to protect it from the weather now, because the cats keep going in there.

Debra Santiago stated that it was a plastic tarp.

Edwin Santiago confirmed his wife's statement and said yes, it was a plastic tarp.

Board Member Becher, stated yes, but it was on a frame.

Edwin Santiago stated it was a movable metal frame that he can take apart really quickly. He placed it there for the season, so that he can park the truck under, instead of cleaning the snow on top of the truck and pull it out. He further stated, instead of backing in and out trying to clean the snow; so instead of having ice build-

up in the street, he figured to just park it in and without having to clean the snow on top of it, that he can just drive it right out.

Board Member Becher stated that every time she passes by their property, she finds a surprise. She stated she was sorry; she could not approve the two-story shed. She stated she does not understand why they would put the money into a two-story shed, when they could build a garage. She said they have more than enough room to do so, and could even have an attached garage, because they have so much room. She stated she cannot condone this.

Board Member Brasza stated she as well would like to comment in regards to her thoughts on the second story. She said that she could understand the 20' X 16' without a garage, but a second story, she feels that it was a self-imposed hardship and she will be voting as such.

Debra Santiago stated that it was already paid for.

Edwin Santiago stated no, he understood what the board member was explaining. He said what they have done...

Board Member Brasza stated that she had only given a comment, and he did not have to reply.

Edwin Santiago said, okay, and that he was only going to state something about it.

Debra Santiago stated they do not have a basement or an attic.

Chairman Watriont stated the item is before the board at this time, so they need to wait for a question, to express their self.

Board Member Vigus asked the petitioner, how many sheds they had on the property?

Edwin Santiago stated they had a big Rubbermaid shed on the side of the property.

Board Member Vigus asked, if that was the only one?

Edwin Santiago stated yes and that it was two pieces into one.

Board Member Becher responded and stated no.

Board Member Vigus asked the petitioner, what was the size of that shed?

Edwin Santiago replied stating, it was 10' x 7'.

Board Member Vigus stated that when the petitioner was present before the board in the 2011 asked for a 20' x 16', had he not put the shed up?

Edwin Santiago stated he had the shed there, but it was all taken apart. He said it had like a little shed in the back and he disassembled the whole thing.

Board Member Vigus asked Board Member Becher, of when she had visited the site, what had she noticed?

Board Member Becher stated she had seen the shed on Tuesday.

Board Member Vigus asked Board Member Becher; of how many sheds had she seen?

Board Member Becher stated she had seen two sheds, a summer item, a round summer item on the side of the property and she had seen the additional carport item in front of the property, and a white plastic item. She stated their yard was a mess.

Board Member Vigus stated to the petitioner, that there was a shed in the back corner of their lot, correct?

Edwin Santiago stated there was no shed in the back at all.

Board Member Becher stated to the petitioner that indeed there was a shed, behind the woodpile.

Edwin Santiago stated that was it was in front of the house, and it was not the back of the house.

Board Member Becher stated to the petitioner, no; it was not.

Edwin Santiago stated if she were to look at the paper, it would show that was the front of the house.

Board Member Becher stated that right on their paper, they had a shed back in the corner.

Edwin Santiago stated that on the corner there was not a shed.

Board Member Becher, pointing out on the site plan, stated to the petitioner, that it shows on their plot plan that there was a shed there; another shed in another area, and they had the summer item in another area; then they had the new carport that he put up this year in another area on the property, and then the plastic item that he is keeping his truck under in another area on the property.

Edwin Santiago confirmed Board Member Becher's statement. He stated that it was correct and because they do not have a basement, an attic or any place for storage, and that was where they kept everything. He stated that he disassembled the original shed and he placed the plastic...

Board Member Becher stated, that they have two sheds on their property at this time, plus all of the additional items, and asked the petitioner if that was correct?

Edwin Santiago confirmed and stated that it was correct.

Board Member Vigus stated to the petitioner, that they are now seeking an approval from the board at this time to add a third shed to the property?

Edwin Santiago replied no to Board Member Vigus' statement, and stated the sheds are going to be disassembled once they place a regular shed out. He said the sheds and items are only temporary; that it was just plastic. He said if they were to notice, there was a great tarp on top of them; that was covering all of the items they have because they did not have anywhere to place them in.

Debra Santiago stated that the new shed was where they wanted to place all of their items in. She stated that they would take everything down...

Edwin Santiago stated that everything will be taken down and all of their items will be placed inside the new shed; which was what they were planning to do; that they are trying to take everything out once they place a regular shed instead, and that everything was going to be taken down. He stated that because the items are all plastic, so there would not be anything additional placed out.

Debra Santiago stated that everything will be all gone.

Board Member Vigus asked the petitioner, what was the reason for not... by the petitioner holding the photo up, would that be large enough to park a vehicle inside there?

Edwin Santiago and Debra Santiago stated no, both at once.

Board Member Vigus stated okay and thanked the petitioner.

Chairman Watriont stated the item is before the board.

Board Member Descamps stated that he believed there was confusion going on, because other board members believed the petitioners were requesting to add a third shed, but what they would like to was to take down the two existing sheds...

Edwin Santiago interrupted Board Member Descamps' statement and said that everything was going to be taken down, once they place a regular shed up instead.

Board Member Descamps asked the petitioner, why she needed the second story?

Debra Santiago stated it was for her arts and crafts.

Board Member Descamps asked the petitioner, if she wanted to do arts and crafts or to store arts and crafts?

Debra Santiago stated was to put her arts and crafts in there.

Board Member Descamps stated, so that it was to store them.

Board Member Vigus, stated, that it could just be her not knowing the process enough yet, but she wanted to know what protection would the board have that the petitioner would remove the other two shed, if the board would approve the two-story shed today?

Chairman Watriont stated that his understanding was, whatever the board would approve, would be on the record and they could be cited for anything else that was remaining at the property. He also stated, with going through this, the City would be out inspecting at that point and time.

Board Member Vigus stated, but the board could approve tonight, with a stipulation that the petitioner would have to remove the other two, and that is what the board would hold; so any approval the petitioner had received before on any sheds, would then be null and void.

Chairman Watriont stated there was not any approval on the record of anything that...

Board Member Becher stated the petitioner was approved for a shed a couple of years ago. She stated she was not sure if she had the paperwork on it, but she remembers this.

Chairman Watriont stated the board had approved a 12' x 16, therefore, as part of it, the board could request the petitioner, if they are using this to replace that, then they would be voluntarily relinquishing that shed, in order to move forward with the proposal.

Board Member Vigus asked the petitioner, if that was what they were doing?

Edwin Santiago stated yes.

Debra Santiago said that on 06/13/2014, she wrote the existing size for the previous variance was too small, and the new size would have a second floor and they would add more storage, because their house does not have areas for storage.

Board Member Vigus stated she that documentation; she had their paperwork to the zoning board. She said the board's concern was that they already had an approval for a shed already. She said if the board grants an approval tonight, then that would give them approval for another shed.

Debra Santiago and Edwin Santiago both stated no.

Board Member Vigus stated that the petitioner is looking to, seek approval for the new shed in place of removing the other sheds on the property and the petitioners are agreeing to do that today, in exchange for this approval.

Debra Santiago and Edwin Santiago both agreed and stated yes.

Edwin Santiago stated that was what they were trying to do.

Chairman Watripont stated, just for clarification as he reads through the prior variance; it is a 12' x 16' shed, to no less than 9' of the north property line and to no less than 10' of the west property line, and one plastic shed, 7' x 3 ½ ' as per the plan. He stated that within the variance, there is two sheds within that variance.

Board Member Becher stated their property is more than adequate to put up a garage. She said she could not understand putting up a two-story shed. She stated that it starts a precedent that does not make sense. She stated they have all of the additional items on their property that did not show on their plot plan when she had went out to look at the property. She stated that she just could not understand, that for the same amount of money, they are putting up a two-story shed, rather than a standard garage, and that would mean they could even park their vehicles in it and if they put a two and half car garage, then they would have the extra storage sitting there. She said that their property is big enough, that they would attach this garage to their house, and walk from the garage into their house. She stated that she just could not condone this; it is a two-story shed, and she believes it is a detriment to the neighborhood, and a self-imposed hardship and she just could not condone this.

Board Member Hawatmeh stated that if he understood correctly of what Board Member Vigus, the board could approve the variance with the condition that they revoke the prior ...

Chairman Watripont stated to Board Member Hawatmeh, with the petitioner voluntarily withdrawing, relinquish.

Board Member Hawatmeh stated, with the Petitioner voluntarily, relinquish whatever was approved in 2011. He stated that he has no issue with that, as long those sheds are relinquished; that is all he had to say.

Board Member Pauta, stated that she agreed with her colleague, Board Member Becher, that the work the petitioner would be doing, they could put up a garage.

Board Member Descamps asked the petitioner, why would they not put up a garage, and put the shed instead?

Edwin Santiago stated the distance from the front of the house driving all the way to the back, he do not want to place a vehicle back there at all. He said he prefers to keep the truck in the drive; the entrance and exit, and he does not want to drive all the way to the back. He stated that his wife also does not like driving back there, especially when she has to be awake at a certain time to go to work.

Board Member Descamps stated that his question was, would the garage be close to the house or?

Edwin Santiago stated the garage, if they were even to consider, would be towards the back, and that would be all the way close towards the corner, and that is where the shed is, at the same spot. He stated that the way they would have to get in, his wife—to be honest—does not do too good in driving in that area, towards the back. He stated he does not have a problem, but he does not want to put his wife through that.

Board Member Descamps stated that his next question would be, would it be a possibility for them, not to have the second story? He stated that he knows they want it, and he understands that, but it seems to be a sticking point there.

Debra Santiago stated that she just wanted to keep her arts and crafts separate from her husband's stuff, and that was why she wanted a second floor; that would be her heaven, and her husband can have his tools.

Board Member Descamps said already, and he understood.

Secretary Nestorowicz stated, that he personally, the lot is more than large enough and it was not likely for the petitioner to have any issue in terms of the size. He does not believe it would be a detriment to that area and by giving up the other two sheds that were approved in 2011, he believes that would actually clean up the property and make it look better than it does now.

Motion:

Secretary Nestorowicz made a motion to approve the petitioner's request to Construct a 20' x 16'= 320 sq. ft. shed to no less than 10 feet of the north property line and to no less than 10' of the west property line with a second floor for storage, with the condition that the petitioners would voluntarily relinquish their previous variance from 2011, for the two previous sheds.

Reason being: The size and shape of the lot, are not a detriment to the area.

Board Member Hawatmeh supported the motion to approve.

Chairman Watripont stated there was a motion by Board Member Nestorowicz, supported by Board Member Hawatmeh, discussion.

Board Member Vigus, stated she was wondering if the board could put a timeline on the removal of the other two sheds, had this in fact passed, and she does not want them sitting there. She stated that obviously, the board would need to wait until it was a little warmer for the petitioner to do such.

Chairman Watripont stated that he believes by standard, there was a certain time the petition must happen once it begins. Chairman Watripont called on Mr. Everett Murphy, zoning inspector.

Everett Murphy, zoning inspector stated that it would probably be April, before the petitioner would realistically even begin doing this project. Once they obtain the permit, they have six months to complete it, after that, the permit would expire.

Chairman Watrion stated that under normal circumstances, it would be a year anyways; therefore, there would not be a reason to put the time limit on it?

Everett Murphy, zoning inspector stated he does not believe so, as long as the petitioner follows through and obtain the permit, and complete the work. He believes after tonight, he will be putting up some follow-up inspections just to make sure that these would take place. He stated that one day, when he is at work, it would show up on his schedule, and he would check to see if they actually started to do this project, and if they have not, then his office would let them know that their time is expiring and they have a time limit on which to obtain the permit, by being granted the variance and the permit itself is good for six months.

Board Member Becher stated that she would suggest to Mr. Everett that when he is checking things that he should check the carport pergola that was in front of their house also, because she thinks it is dangerous.

Everett Murphy, zoning inspector stated that he has not seen this. He asked if this had been a temporary carport.

Board Member Becher stated that she does not know.

Everett Murphy, zoning inspector asked the petitioner, on what type of carport was that?

Edwin Santiago stated it was not a carport, it was a pergola. He stated that it was where they had the picnic table.

Everett Murphy, zoning inspector stated he had not seen it. He stated that a pergola, they generally do not require permits for those.

Board Member Becher stated that the petitioner is parking her vehicle under it and that was why she assumed it was a carport. She said, there was a car parked under it on Tuesday.

Everett Murphy, zoning inspector stated he believes he should take a look into it, but he had not seen it.

Board Member Becher stated to Mr. Murphy to check the property to see it.

Everett Murphy, zoning inspector, stated that he would go by there and if there was a problem, then they would turn into Code Enforcement and they would notify them and have them take care of it.

Board Member Brasza stated that the board was calling this a 320 sq. ft. shed, but she asked that with the two-story, wouldn't that bring it up a little bit in the square footage?

Board members stated no.

Board Member Brasza said, no; then it would go up by the platform?

Board Members stated yes.

Board Member Becher stated no, then it would be 640 sq. ft. She stated that the petitioner wanted a two-story shed 20' x 16'= 320 sq. ft. She said, so if there was another story on it, then it would become 640 sq. ft.

Chairman Watriont stated to Mr. Everett that he would turn this question over to him at this time; he does not believe so.

Everett Murphy stated no; they would not generally count the shed. He said if it was this building that they were describing, then they would not count that as a second floor.

Chairman Watriont stated so then the square footage would be 320 sq. ft. and it was posted correctly.

Everett Murphy stated that it was attic space, of what it really was. He said the petitioners are making use of it but in someone's own home, they could store stuff in their own attic and they would not count it as square footage.

Chairman Watriont thanked Mr. Murphy, and asked the board if they wanted a request to change the date to the petitioner or was it okay as stated?

Board Member Vigus stated that she believes it would be okay as stated. She stated that she was just under the assumption that when someone pulls the permit, it was to do the work of the new shed and not the demo of the old sheds, but if that was part of the permit, then she would be okay with six month from them pulling the permit to have that down.

Roll Call:

A roll call was taken on the motion to approve the motion carried (7-2).

Secretary Nestorowicz	Yes, for the reasons stated in the motion.
Board Member Hawatmeh	Yes, for the reasons stated in the motion.
Board Member Descamps	Yes, for the reasons stated in the motion.
Board Member Brasza	Yes, for the reasons stated in the motion.
Board Member Pauta	No for the reasons stated in the motion, since she believes there was enough room to put a garage.
Board Member Vigus	Yes for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.

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| Board Member Becher | No, for the reasons stated in the motion, because she believes it is a detriment to the area and a self-imposed hardship. |
| Chairman Watriont | Yes for the reasons stated in the motion, because he believes if it was a detriment to the area, the board would have had neighbors at the meeting at that point and time, but he was hoping that it would clean up the area, and that was his biggest concern at this time. |

The motion was APPROVED seven to two.

Edwin Santiago stated that if they remember how it used to look like before, he cleaned it up and all the way around and he maintains it more than anyone could image.

Chairman Watriont stated that their petition had been granted and to follow through with the permits.

7. PUBLIC HEARING

**APPLICANT: 23328 Sherwood, LLC/
Jeffrey Brodsky-APPEAL-**

REPRESENTATIVE:	Seymour Mandell
COMMON DESCRIPTION:	23328 Sherwood
LEGAL DESCRIPTION:	13-28-452-014
ZONE:	M-1, C-3

VARIANCES REQUESTED: Permission to-APPEAL-

- 1) Appeal the decision of the Building Division as to defining what constitutes warehouse purpose.
- 2) Should the Zoning Board of Appeals determine that the use is automotive related, petitioner seeks a variance to allow auto repair specifically for the tenant occupying the southeast corner of the building (3,000 sq ft) as per the plan.

ORDINANCES and REQUIREMENTS:

Section 20.05 Jurisdiction: The Board of Appeals, in conformity with the provisions of this article and the Michigan Zoning Enabling Act, MCL 125.3601 et seq., is hereby authorized 1) to hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of a zoning ordinance adopted under this article; and 2) to hear and decide questions related to the interpretation of the zoning ordinance; and 3) to hear and decide questions related to interpretation of the zoning maps; and 4) shall have the authority to grant land use and non use variances according to the provisions of this article; and 5) to hear and decide matters which the Zoning Board of Appeals is required to pass under the article.

Section 20.06 Appeals from an 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; or by an officer, department, board or bureau of the state or local unit of government; or by a person aggrieved by an order, requirement, decision or determination made by a person aggrieved by an order, requirement, decision or determination made by an administrative official or body charged with enforcement of a zoning ordinance.

Chairman Watripont stated that before the petitioner goes forward, he wanted to confirm some things with the attorney and everyone understands what this process was, because it was a little different than what they have gone through in the past. He said that he was going to describe it, and then turn it over for verification to confirm the attorney agrees. Chairman Watripont stated this was an appeal process, not normally requesting a variance from the board. The petitioners are appealing the administrations' judgment to the board for a decision, and if the decision is upheld that administration was correct, then they are asking for variance going forward. Chairman Watripont asked the city attorney, if that was how everything was posted? He stated that the board will be hearing from both sides and then go to public hearing.

Roxanne Canestrelli, City Attorney stated, yes, that was correct.

Chairman Watripont stated to the petitioner if that was their understanding as well?

Seymour Mandell, representative for the petitioner stated yes, it was a two prong situation.

Chairman Watripont stated to Everett Murphy, zoning inspector if he was in agreement with that as well.

Everett Murphy, zoning inspector stated yes.

Chairman Watripont stated that this was a public hearing, and asked the person at the podium to state their name and address for the record, and reason for their petition.

Seymour H. Mandell, 17445 Lois, Southfield, MI, appeared before the board and stated that he was there representing the owners of the property, of which, Jeff Brodsky was the principle spokesperson. He stated that he intends to explain to the board precisely what the issues are with regards to the fact that either the building official or the planning department is determined that this was a car dealership or a car service center. He said that the background he has, as an architect, he had designed at least 20-30 car dealerships, bumper shops, paint shops; he had completed work for Ford, General Motors, Chrysler and numerous other types of car dealerships, Honda dealerships and others. He stated that he is an attorney as well as an architect of 55 years practice, and he has helped write legislation, he has been an advisor to the state on the construction code commission establishment, passage of the barrier free design bill, landlord/tenant acts, and other such things and he was present as an expert on interpretations on these type of laws, rules and regulations,

and that he had made a new law in Michigan on appeals to the Court of Appeals. He stated that he has also arbitrated over a 100 cases as an arbitrator, and none of his cases have ever been overturned by a court, and he likes to feel that he has done his homework. He stated that what they had there was a situation where someone had determined that this place is a car service center or car repair shop; he stated in fact...

Chairman Watrion stopped Mr. Mandell and stated to everyone present, to please give the petitioner their undivided attention so that everyone hears the same thing and move forward. He apologized to Mr. Mandell.

Seymour Mandell, stated that he would also like to briefly state that he did write a letter, detailing pretty much where he was coming from with regard to the fact why this was not a car dealership or car service center. He stated the letter was sent under the date January 7, 2015, and hopefully all board members had received a copy of it. He stated, that letter spelled out many of the legal positions; it was not in the nature of a legal brief because he was not arguing this case before a court of law, he was arguing it before the board of appeals here. He stated that one of the things that was very significant, was the fact that all car dealership, all car repair shops, and all car bump shops, anything relating thereto, is regulated by the State of Michigan, just like liquor licenses; the state regulates those things. He stated that one of the things that was pertinent there was the fact that the people who rent this space, are not running a business there; they do not sell anything, and they do not perform any services to anyone and there was no signs that they do any business there. He further stated that they do not have sales licenses; they did not have other requirements for running a business. He stated that the interesting thing was, that one cannot have a car repair shop unless the people who work there are also licensed by the state; one would have to be state licensed mechanic, if someone is running a car dealership or a car repair shop, or a car repair center. He stated that these people buy cars, they see a car they like, they already in pretty good condition, they bring them in there, they polish them up, they sometimes drive them around for a while, if someone comes along, and wants to buy their car from them, that was all transacted outside of this particular facility. He stated, secondly, the State of Michigan, because they do require that someone is licensed, would not license this facility as a car repair shop, or a car service center, because they do not do business with anyone; he said it would be ludicrous to think that this could be a car repair shop or a car service center, because the state refuses to do that. He stated, in addition to the points he brought up previously; the Supreme Court of Michigan is held in a case, it was in the Schwartz v. City of Flint, one of the things they say in this case, this is the Supreme Court of Michigan case; where ordinance is found to be unconstitutional and plaintiff have shown by preponderance of evidence, that proposed specific use is reasonable, court may additionally declare, use to be reasonable and enjoin the municipality, from interfering with that use. He stated now, what they are dealing with there, was that they are happy with their use; they are not arguing about the zoning, they are not there to say that they were improperly zoned; but it was the city who wants to impose a classification on them as a zoning requirement arbitrarily, that they do not want and they do not need, because they cannot be doing the things that the city states they should be doing, because the state would not license it; they

would not allow it. He stated that they would have to call themselves something because someone arbitrarily just stated that they would have to be a car service center. He stated that it was ridiculous; and that no one in any court of the state, would ever agree with that position. He stated that they were happy to be there and they wanted to go about having their tenant happy and working there. He stated they only show up once in a while; there has not been any parking intrusion, there has not been any noise, there have not been fumes, and there are no customers, which was the main thing. He stated if there are no customers, then it cannot be a car service center, under any circumstances. He stated that what they are asking of this appeal board, was to agree with the fact that common sense would tell you, that you cannot have a service center, if you cannot get a license, and you cannot get a license, because you are not a car service center. He said that he does not understand why someone would, in his opinion, illogically classify this as a car service center; which that was the whole argument on that point. However, if they were relieve everyone's embarrassment over the fact that something is called a car service center and this board sees fit to do so, and they would not impose any additional restrictions on their use of their property, like for parking or other things, he would not mind what they would call it, as long as this board has the authority to just go about their business. He stated, what's in the name, he thinks he might be quoting from Shakespeare now, "Would a rose smell any sweeter, if it was not a rose", or something like that. He stated that this was the just of their whole case there; there is not any equipment in this place that would even resembles as they see in their letter, and none of that equipment is in this place; they do not buy cars that are junk cars, they do not buy cars that need a lot of bumping or repairing and even if they were doing anything inside the confines of their own space, they do not have any intrusion into the public arena. He further stated, it would be like if someone wanted to throw an office party, and everyone comes to the party, and they are serving booze at the party, does that make them subject to being classified as a public bar or something; he means where is the sense of privacy in all this, and where is the equal protection. He said, all these issues are raised in their letter, and if they wanted him to embellish it further, he will, otherwise, he would like to see them go on with their business for tonight, and he is done.

Jeff Brodsky, 26711 Woodward Ave, Huntington Woods, MI 48070, appeared before the board and stated, that he represents the owners, the entity that owns the building. He stated that the building has been in his family since it was built by his father who has been deceased for almost eleven years. He stated that back in the late 40s or early 50s the building was built back when Warren was a Township and the roads around were dirt. He stated that in fact, 35 years ago, this used to be a two building property; in which his dad manufactured on that property, in which there really was not any parking whatsoever, and 35 years ago, the east building had a fire, and as a result, they obtained a permit and they demolished a portion of the walls and made it into a parking lot; so now the building is in much better situation than it was originally when it was approved by the city for its use. He said, then five years ago, unfortunately there was another small fire in the front building and as a result, they really upgraded the entire building; the roof, the windows, the electrical, the plumbing, the mechanical, everything is basically brand new, except for the brick and block. So the building in the site has really looked for the neighborhood better than what it has

been probably for his entire life. He stated these people are just a small, mom and pop family that work in the building, they really are not bothering anyone, he believes they are pretty good neighbors and they are just asking that they would just be allowed to continue what they are doing.

Chairman Watriont stated that this time, he was going to be turning this over to their attorney to verify and move forward with the process properly.

Roxanne Canestrelli, City Attorney stated, just for clarification purposes for the board, since this is an appeal process, they are in phase 1; basically the petitioner is presenting their case, and basically, to correct her if she was wrong, the petitioner, they are claiming that they are using this building as a warehouse, is that correct? Are they characterizing it? Was that what they wanted it to be characterized as ?

Seymour Mandell stated, if the question that they were using the building as a warehouse?

Roxanne Canestrelli, City Attorney stated that she just wanted them to state their position for the board, so that they would have more clarification. She said she believed that they are opposing what the building inspector, Mr. Everett, has determined that the use was for automobile repair, and they are claiming that the use was for warehouse, was that correct?

Jeff Brodsky stated that it was correct; that the city classified it as auto repair, and they are saying that it is not auto repair.

Roxanne Canestrelli, City Attorney, asked Mr. Brodsky, what are they saying it is?

Jeff Brodsky stated, that they are saying it is a warehouse.

Roxanne Canestrelli, City Attorney stated, okay and thanked him. She said, she just wanted to clarify it to the board.

Seymour Mandell confirmed Mr. Brodsky's statement, and said, yes, it is a warehouse, and that they are in complete compliance as a warehouse.

Roxanne Canestrelli, City Attorney stated, they are in phase 1, so the board was going to hear from the petitioner; which they just heard from them. She stated to the board that the petitioners were basically stating their claim, as to why they believe that it is a warehouse verses an automobile repair center; which, Mr. Murphy is going to then state his position as to why he determined it was an automobile center, then the board is going to make a determination and rule on what they believe it is. She further stated, that there would be a step two, if the board deems that; then they would move on, if there was a step 2 or not.

Chairman Watriont asked Roxanne Canestrelli, City Attorney stated, if there was a public hearing after Mr. Murphy or after the board decides?

Roxanne Canestrelli, City Attorney stated, at this time, the board can ask the petitioner questions, because they stated their opinion.

Chairman Watripont stated, because it was an appeal process.

Roxanne Canestrelli, City Attorney confirmed, and stated yes, because it was an appeal process, right.

Chairman Watripont stated, then the board can open up questions at this time...

Roxanne Canestrelli, City Attorney stated, the board can open up their questions to the petitioner, because they are classifying it as a warehouse, so the board can ask them questions regarding their claim right now.

Seymour Mandell stated, incidentally, whatever the board decide, it will run with this lease and the less he leaves, they are done.

Chairman Watripont stated, that what he was going to do, and if he gets an opposition, he will listen to that, but he believes that since it is an appeal process, the board has heard side 1, he would like to hear side 2, and then he will open it up to the board for discussion to both parties at that time. He stated, in hearing the petitioner's case, he asked them to have a seat and allow Mr. Everett Murphy, zoning inspector, go forward.

Jeff Brodsky stated to the board, before he sits down, that there was a gentleman in the audience who said that he wanted to speak at some point in time.

Chairman Watripont, stated that would be opened up after.

Everett Murphy, zoning inspector, City of Warren, appeared before the board, stated, that in the original packet that he sent over, he wanted to point out a few things of Mr. Brodsky's letter. Mr. Murphy stated that Mr. Brodsky wrote that, "...it is contention that the business operation is nothing more than a warehouse operation..." and that "...they are storing cars that are privately owned by a single family...", and that was what was in the packet of what Mr. Brodsky wrote. Mr. Murphy stated, that Mr. Brodsky also went on to write in paragraph one, "...the only work that is being done there is hand polishing or incidental cleaning of the vehicles..." he said, that he wanted the board to keep that in mind. Mr. Murphy stated that if the board refers to the other packet that was sent by Mr. Mandell, he wanted to point out on page 2, item 4, he said that Mr. Mandell puts "...there is no other purpose in renting this space then to house the vehicles in a secured building facility so that they are not vandalized or damaged from adverse weather conditions..". Mr. Murphy stated, that a little bit of history on this, was that, Debbie Wenson, one of their zoning inspectors, discovered that Jeremy Johnson was occupying the building and she realized he did not have a certificate of compliance, which he is required to have prior to occupying the building, so the landlord allowed him to move in without insuring that he came down and spoke to the city, told the city what he wanted to do, get the approval, then they would let him come in and so on. Mr. Murphy stated, that they had found him in

there, and he was in there illegally and according to when he had spoken to Jeremy, he had been in there for at least a year prior to the inspectors discovering him; so he had been in there for a long time doing this, and had been established. He stated that Jeremy had applied on March 5, of 2013, for storage and maintenance of personal vehicles; which Mr. Murphy states that he provided the board with a copy of the application stating what Jeremy's use was. He stated that he had also given the board a piece of paper, which is the same piece of paper that sits on his desk, that describes, they define auto repair as either minor or major. Mr. Murphy stated to the board, what they see under the minor, that would be it and anything that was not described under the minor auto repair, would be considered major. He further stated that when someone describes maintenance of personal vehicles, one would think like, your oil changes, things of that nature, that is maintenance and that is minor that can be done in a C-1 zone, without restriction on the proximity to residential that would not matter. He stated, anything that is under the major category, has to be at least a C-2; which the petitioner is in a C-3, so he was okay; but it would also have to be 200 ft. from residential, and they do that, because obviously, they do not want incompatible uses; such as an auto repair being right next to residential. He stated there was a big history with the city when people do auto repair, and the board see many of those before them, and they deal with them all the time. He stated that they ticket them all the time for trying to do that kind of work, because it creates problems and that was why they wanted that separation. He further stated, that if the board looks in the document that was provided by Seymour Mandell that discusses, using zoning to regulate business and that was the farthest thing from the truth. He stated, what zoning does, as one of the functions, zoning regulates the use of land; they do not tell petitioner how to operate his business, they just tell him whether his business is appropriate for that location; whether it is a permitted use in that zone. Mr. Murphy stated that Debbie Wenson had them turn in the application, they came in, they paid the fee, and the building department accepted the application, based on what was stated, of storage and maintenance of personal vehicles. He stated that if the board goes further through the packet, they would see that Debbie Wenson, on the very first day that they completed the inspection, she had already made some notes that she was concerned about what he was actually doing in the building, compared to what he put down on his application, and she had actually completed her job quiet well, by noticing things she did not agree with. He stated that Debbie Wenson, returned and spoke to a supervisor and informed him of what she had seen, and then as shown in the packet before the board, she sent the occupant a letter, basically stating that they need to make an appointment to come in and explain their activities to the building division; however, the occupant did not show up, and so she had to send him a follow-up notice, he believes he has a copy of that as well in the packet. Mr. Murphy stated that after the occupant came in, there were notes in there, because they made him provide an affidavit that he was not going to be spray painting vehicles and that all he was going to be doing was maintenance; he does not believe everyone has those notes. He said that as the board could see, the building department were already concerned from the very first day what was actually going on verses, what they had stated they were doing. He said that sometime after that, and there was not any inspection notes until they were well into it; sometime between April, when these letters and that meeting took place at City Hall, when they told him to write the affidavits by April 22; by the end of that year, he stated that Mr. Brodsky

had already come before the board, asking for a variance to do auto repair within 200 ft. of residential, because it had already been determined without arguments, they were not there to state that inspectors were misclassifying what he was doing, flat out, he was there asking for permission to continue doing the auto repair at that location. Mr. Murphy stated that the board granted that request and placed some conditions on it, but Mr. Brodsky did not like the conditions, so within days, he was already after the board had granted it, he was already sending letters, trying to find out how he can get out of that variance; he no longer wanted that variance, because he did not like the condition of putting up the wall, he did not want to do that and that was one of three things that he asked for, was waiving the wall, and the board did not grant him that. The board had allowed him to do the auto repair, but he had to do the wall, and he did not want to do that, so he tried to cancel the variance; for whatever the reason, that had never come up before the board, so the variance actually sat there, until one year, when the variance was rescinded, because he had not apply for a permit and had not applied for site plan approval, so that variance is now gone as of December 11, 2014, that variance is now automatically rescinded. Mr. Murphy stated that in the meantime, Frank Badalamente, was sent back there, because after the board granted him the variance and then he decided he did not want the variance, they sent another inspector there to see if he was still doing auto repair, and this was where Frank's notes started to become interesting, because Frank stated, that it was normal, when they asked people what they were doing, and they are a little bit reluctant to answer, because they do not know what to say; so Frank was going through the answers and Frank basically asked them what they were doing in there, the tenant himself had stated to Frank, that he buys vehicles, he repairs them, and sells them on Craig's list, so they are well beyond auto repair now; now they were into auto sales. Mr. Murphy stated that Frank had went there, they have those statements, it is in the inspection notes, Frank had wrote them at the time, because the tenant admitted he was doing auto repair. Mr. Murphy stated that he had also went to the building after he received the appeal application, he visited the site himself and saw seven cars outside, about six cars inside in the building, one of the notes that they made, was that he wants the building for the sole purpose of housing them on the inside, so that they would not be vandalized or damaged by weather; half the cars were stored outside, so that argument, did not even make sense, because those vehicles were not inside. He said that he had asked Jeremy when he went out there, what exactly he was doing. Was he fixing the vehicles and selling them at this site? Was he fixing them and selling them on Craig's list, and he stated that Jeremy admitted it to him, that he had bought vehicles, repaired them, and sold them on Craig's list. Mr. Murphy stated that in actuality, this really is a business, and up until recently, he did not even argue that point. He said that if the board looks at the packet of all the photos he supplied, there were two vehicles on Craig's list this morning that the board are going to notice, the photos on Craig's list show the building, Mr. Brodsky's building. Mr. Murphy further stated that they are fixing these vehicles, they are putting them up on Craig's list and selling them; so this is not only that it is auto repair, it is auto sales. He stated that one of the photos with the red and white trucks, the white Ford ranger was one of the ones that was on Craig's list this morning. Mr. Murphy stated that on the long list that Mr. Mandell had given the board of equipment needed to do auto repair, he looked at the list with his fellow inspectors, because they had just received this on Friday, he had 33 items

that one must have in order to be a service center, they cannot think of anything other than a new car dealership that has all this equipment; that was an incredible list of equipment. He stated that he noticed that Mr. Mandell had left three things off of that list of equipment that someone needs, and one of those is a vehicle lift, which one of the photos shows that it had lifted the vehicle off the ground 5, 6,7 ft. easily, and if all they do is hand polish vehicles and store them, he was not sure why they needed a vehicle lift, but they had one in there, and he has other photos that shows an engine stand, with an engine mounted to it; that was not listed on his list of equipment either, neither was the engine post; which was in the building. He stated that Jeremy had a red and white pickup in the building at the time he was inspecting, and he asked him, what exactly he was doing to the vehicle, he had told him, he was swapping the engines; that is auto repair. He stated that no one had ever mentioned that they were operating a business to begin with, even though it appears that they are. He said that if he had two people next to each other and one is repair automobiles for free and the other one was repairing automobiles for profit, they have one thing in common, they are both repairing cars. He stated that zoning, is all about regulating the use, the petitioner can say whatever he wants, but they know what he is doing; he is repairing vehicles and that is auto repair use, he is too close to residential, and he cannot do so without the variance that he allowed them to rescind. He stated that the petitioner cannot do the auto sales, without special land use from City Council, which he had not sought and had not asked for, so there is a lot more going on inside the building than they would have you believe. He stated that this was a very simple investigation, he went and visited the site, he asked some questions, if the board looks at the two things he presented, it would be almost impossible to think that they were discussing the same address, because it was incredibly different. Mr. Murphy stated that the burden was on the petitioner to prove that what they were doing is a warehouse use, and he does not believe he has met that, and he believes that the photos he had provided show that there was a lot more going on inside that building than just warehousing vehicles. He said that he could go on, he believes that the city made a good case on how they made their determination.

Chairman Watripont stated at this point, he will open it up to the board to ask both presenters questions.

Seymour Mandell asked Chairman Watripont if he could respond to some of the things they were told.

Chairman Watripont stated there was a question was asked before the board, whether the public could speak right now, and this is not the public hearing yet, unless there is a phase two; which has not been described yet, but at this point, the board is hearing the appeal between the two parties. Chairman Watripont asked the petitioner if he wanted to make a rebuttal or was he ready for questions?

Seymour Mandell stated that he wanted to comment about 3 or 4 issues that Everett Murphy rose, so that the board would be illuminated on what the legal proclivities are.

Chairman Watripont replied to Mr. Mandell stating that the board would hear his comments.

Seymour Mandell stated that he can only tell the board, and he could be placed under oath, but he can state what the tenant told him or to Mr. Brodsky. He said, number 1, just so the board knows, that it is a state law, here in Michigan, that anyone can sell up to four cars a year without getting a dealership license. He stated that this particular tenant had advised that they do not sell more than four cars a year to anyone. He stated that the state does require, having a sales license though, if someone is selling cars. He stated, that if you are selling cars, then you would have to have license to pay the sales tax; secondly, basically, what the tenants are doing inside is a so-called, none advertised and no business, the inspector used an expression, that they are running their own business, and that he had no objection to them running their own business, well they do not have a business establishment there, and that was one of the major issues of his appeal there on the interpretation. He stated that if it not run as a business, there are no advertising; he does not know who these people are that show up there, whether they might be their buddies, their friends, their aunts, and uncles, they can have anyone they want to come there, if it is a warehouse, and people show up there, and they wanted to fool around with the cars, that would be up to them. He stated, you can do anything you wanted in your own warehouse, especially if you are not offering anything for sale, you are not providing goods and services being sold there, then it is not a business. So it would not be a question if they are running their own business, they are not running any business. He further stated, as far as having some cars parked outside, he cannot respond to that, there is nothing illegal about having cars parked outside, as long as they are parked on a proper location. He stated that he believes these were the points that he wanted to quote, and incidentally, they had never objected to the inspector coming and inspecting; no one has ever raised that as an issue.

Chairman Watripont asked Everett Murphy if he wanted to rebut anything or are they ready for questions?

Everett Murphy stated, just to explain once more that this was not about whether or not he is running a business, it is how he is using the property. He stated that he does make a comment in his booklet, that he feels that one can do anything that you want that is not a crime on your own property, and he would hate to say that would just not be true; otherwise, why would they have zoning laws, why would they state that auto repair can only be here and not here, and manufacturing here, because if he owns his own house and it is his own private property, then he can manufacture whatever he wants, would simply not be true.

Chairman Watripont stated that he now turns this to the board for discussion, and any questions to the parties.

Board Member Pauta stated, that the gentleman that was speaking had stated, that there was not any advertising, that they were not selling anything out of this building, yet the board has photos of vehicles with prices in front of the building, advertising

them for sale. She stated that they are selling cars out of that building, and maybe the petitioner's do not know that they are doing so, but the tenants are it.

Everett Murphy stated that the particular vehicles are not plated vehicles either.

Board Member Pauta asked if either of Mr. Brodsky or Mr. Mandell goes to the building often.

Jeff Brodsky stated that he goes to the building all the time.

Board Member Pauta stated to Mr. Brodsky, and he does not know that they are selling cars out of that building?

Jeff Brodsky replied to Board Member Pauta's question and stated, absolutely not. He stated that he has never seen a car for sale at the building, and he is in the area or driving by visiting other tenants in the building three times a week, and has never seen a car for sale. He stated he cannot speak of the picture and has never seen the picture and Mr. Murphy had never even mentioned anything to that effect. He stated that he would have investigated it if he was aware.

Board Member Pauta asked Mr. Murphy, that on December 11, 2013, Mr. Billette was the representative for Jeffery, who requested operating auto repair facility adjacent to residential to the east, so they did request it, the board did grant it, the only thing the board did not grant was, waiving the wall, and she does not believe that would have been a big deal. She stated that she believes, had they complied with what was requested, then they would not be discussing this matter at this time.

Everett Murphy, zoning inspector, affirmed Board Member Pauta's statement and said, that they would not be there at this time. He stated that he cannot discuss the grass out-front, but every single condition that was placed on that variance, removing an illegal barbed wire, removing the fence that was too tall that did not have a permit, having the one-way signs, installing the wall, etc. He stated, not one condition had been met from the variance that was granted, not one condition.

Jeff Brodsky asked if the Board Member Pauta, wanted him to respond to that, if that was a question to both of them.

Board Member Pauta, stated no. She said she was not asking a question, she was speaking to Mr. Everett. She stated that she does not doubt at all that Ms. Wenson, or Mr. Badalamente made an error in any way, shape, or form with their inspection report. She stated that all they had asked for was for compliance, and that was not a big issue and they would not be there.

Jeff Brodsky stated, if they were at the question and answer portion, because that would more or less question that he could respond to it.

Chairman Watriont stated that it was a question directed to Everett Murphy regarding the application prior; however, he does have a question directed towards the petitioner. He asked the Petitioner, if the tenant was present at the meeting?

Jeff Brodsky stated no.

Chairman Watriont stated, the tenant is not there, and in his opinion, it does not look favorably on his part, because he had questions of him, himself, as they move forward to. He stated that he would turn the questioning now to other board members.

Board Member Brasza stated that she was trying to understand the process. She asked if the board was in the process of determining, and if they would need a motion, whether the board approves the appeal or to not approve the appeal?

Chairman Watriont stated, at this point, the board was in a question and answer, and he believes then, it would come to a decision as a whole, on whether they approve the appeal or disapprove the appeal.

Board Member Brasza asked, then that would mean a motion would have to be made?

Chairman Watriont confirmed, and stated that would be a motion that would have to be made at that time. He stated it would be according to the majority.

Board Member Hawatmeh asked Mr. Murphy, if he understood correctly, the variance granted in 2013, had lapsed?

Everett Murphy, zoning inspector, confirmed and stated that it had rescinded itself, because the petitioner had not obtained a permit and had not applied for site plan approval.

Board Member Hawatmeh directing a question to the petitioner, was this the same tenant as the one he had in 2013; was that the same person occupying the building currently?

Jeff Brodsky stated yes, and if he could explain the reason he came before the board in December of 2013, was because the city told him that in order to allow the tenant to be there, he would have to come before the board. He stated that was what he had to do, because he had an auto repair and he must be present before the board for a variance. He stated that he engaged Mr. Billette to prepare the plan and to prepare the variance request, however, even though that particular tenant was only occupying a very small corner of the building, it was thought that strategically, the rest of the building was either going to be vacant, or it had a poor tenant at the time that he was in the process of trying to move out; and, since they had to appear for a variance anyways, they would appear for a variance for the entire building, and because of that particular reason that the variance was for the entire building, then, as a surprise to him, it became a condition that there would have to be a 100 ft.

wall on a part of the building that was not even doing auto repair, and had nothing to do with auto repair; it was just a strategic thought, that as long as they were going in for a variance, he never had an idea that this would be a condition. He stated that in addition, they never thought it would be a condition because the condition just seemed totally illogical because there was a parking lot to the east of where the wall was requested to be put up and the parking lot, adjoins a resident. He stated that in between his building, there is a parking lot that is owned by someone else, and when he was at the meeting prior, it was not clear, and the board had believed that he owned that parking lot. He stated that the parking lot is not owned by him and it is owned by someone else, and just the month before, the board, gave the owner of that parking lot a variance to park and do other things that immediately adjacent to the resident without putting up the same wall that they were asking of him to put up. Someone goes from west to east on Lozier Avenue, there are residence, then a parking lot that is owned by someone else, then there is his screening fence, and then, there is a vacated alley and then there would be his building. He stated even though they were not at that point of the argument, and even if the city believed that little corner was auto repair, he already has the wall in place as a barrier from the 200 ft. from the resident; it was only because his other application was for the entire building, that the wall became part of the ordinance requirement. He did not seek the conditions that were required of him; when he was at the meeting, he did not agree to those conditions. He said, as soon as the meeting was over, he called Mr. Murphy and stated that he could not agree to those conditions, and asked him what would be the process if he did not want to do it. He said, Mr. Murphy checked and returned to him and advised him to write a letter to the board and through his direction, he wrote a letter to the board about a week after, stating that he wanted to rescind or remove his request; it was on the file with the city, and for whatever reason, it was not processed, and it was not any fault of his own, so when it was characterized that he waited a year, and did not pull a permit and did not proceed with a site plan, it was not because he was being negligent, he had completed of what the city had asked of him, and he placed a letter with the city as directed and properly done, but for some reason through some oversight, it was not processed.

Roxanne Canestrelli, City Attorney stated, she thanked him for that, because he was going into an issue that was not before the board and the board was not deciding that issue presently.

Jeff Brodsky, stated the reason he brought it up was because it seemed to be a particular interest to the board that he was doing something and being negligent.

Roxanne Canestrelli, City Attorney stated, stated she appreciated that.

Board Member Hawatmeh stated, the board had pictures of a lift, as Mr. Murphy was discussing, and since he stated that he goes to the building quite often, as what they see, the minor auto repair was the list there, what would be a purpose of the lift if there was not major auto repair and if he was going there all the time, how had he not known of it?

Jeff Brodsky stated, he had seen what they are calling a lift, he had seen that, and he had seen oil changes could be done, he does not really investigate, and he had not looked, and he had not really seen him doing major auto repair, while he was there, but he had seen the lift.

Board Member Becher stated, back in March of 2013, he had two tenants, the man completing the auto repairs and he also had a tenant by the name of, King of Beverages, and she believes that tenant was in the back of the building in the parking lot, and she was wondering if he had any other tenants besides the man that was now doing the warehousing in his building?

Jeff Brodsky stated yes and once more, that was a source of controversy with the board, that other tenant, King of Beverages was not a good neighbor, he had debris scattered around, he parked apparently inappropriately, he blocked the street with a lot of cars and trucks, and he no longer has that tenant, and currently has two other tenants that he finds to be very good tenants, very good neighbors, and keep the place clean, and they do not have debris around, they have not blocked the street, and have not done anything he believes would be objectionable. He stated that they are quiet and are barely there, so yes there were other tenants in the building.

Board Member Becher asked, were all his tenants in the part of the building that faces Sherwood or were there tenants in the building facing the back of the parking lot?

Jeff Brodsky asked, the back of what parking lot?

Board Member Becher stated, the parking lot that he owns that was next to his building that runs to the back of his parking lot. She stated she knows he did not show it on his plans at this time, but that parking lot, where the pictures were taken, that have the divided fence in it, and it showed the building, where they were parked in his parking lot, against the fence that divides the big parking lot, and then there is a building on the other side of the fence, and she was wondering if he had a tenant in the building back there?

Jeff Brodsky stated yes, there was storage in there.

Board Member Becher stated, she had noticed outside storage, the day she was there. She stated that he had two other tenants besides the man that was storing cars.

Jeff Brodsky stated yes.

Board Member Becher asked the petitioner, what were the other tenants' business?

Jeff Brodsky stated, one company builds boxes and one company installs doors.
Board Member Becher asked Mr. Murphy, zoning inspector, was aware of those businesses?

Everett Murphy, zoning inspector, stated those businesses they were aware of, and they had applied both for certificate of compliance.

Board Member Becher asked Mr. Murphy, zoning inspector, if they were getting the certificates.

Everett Murphy, zoning inspector, stated yes.

Board Member Becher stated, the two businesses within that building do have certificates, and it was the one business that did not have a certificate, correct?

Everett Murphy, zoning inspector, stated yes, the other two, he believes, have met their obligations, and they have a couple clean up items, that he really was not concerned about the other two tenants at this time.

Board Member Becher stated, she noticed on their application for a permit, it was mentioned that they did not have a fire suppression system or fire alarms. She said, she was wondering if the other two businesses were in the same predicament.

Chairman Watriont stated, he believes, before Mr. Murphy answers the question, the board was present specifically on the warehouse building, the others are in compliance already and it was whether or not it was a warehouse or being used as a warehouse. He stated that as the board goes into a second process if there was a second process, some of these questions would be more applicable, but currently, the question before the board was the applicant, was disagreeing with the city that is an automobile use or sales business there. He stated that they are disagreeing with it and stated it was a warehouse, and that was where they were, as they proceed forward. He stated to restrict their questions as to those manners.

Board Member Descamps stated, he believes the property was not being used a warehouse, even though it was not a licensed business understanding, it was being operated as a business, did not mean it was licensed and operating in an incorrect manner, it still seems to the board, that it was a business being operated of repairing of vehicles and not just detailing for personal use, and once more; asking the question, they would just at that point, make a motion to deny the appeal?

Roxanne Canestrelli, City Attorney stated, the board can make their motion, and she would like to clarify that at this point, it was irrelevant whether or not they had licenses or what not, the board is only focusing on what in reality was this building being used for; auto repair, resell, verses warehouse.

Board Member Descamps stated, the board understands the building use was not a warehouse, at least in his opinion.

Motion:

Board Member Descamps made a motion to deny the appeal of the decision of the building division as to defining what constitutes warehouse purpose.

Reason being: The building was not being used as a warehouse.

Board Member Pauta supported the motion to deny.

Chairman Watripont stated, there was a motion to deny, with support, with discussion.

Board Member Vigus, stated she was looking at the document that was submitted by the petitioner and it stated, the following of the facts in the matter based on best information in belief; 2) the tenant is a collector of cars, 5) there were not business transactions that took place there. She stated to the petitioner that he presented the information to the board to the best of his knowledge, and he has heard otherwise from the inspector who went out and actually spoke to the person that was conducting this, that was doing the auto repair, that is selling these cars and they have proof of that; therefore, at that point, she is a little apprehensive to really believe anything that was stated in the document. She said, she understood that he was presenting this from the best of his knowledge, but it seems today, that information has been negated by what the actual business owner has directly said to the inspector. She stated, the fact alone that those vehicles are not plated, leads her to believe that the fact that he had said in his documents that the tenant sells nothing at the site and that there are no individuals that come to this site was false as well, and she believes that based on those things alone, the building was not being used in the matter that he was indicating.

Roll Call:

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

Board Member Descamps	Yes to deny for reasons stated in the motion.
Board Member Pauta	Yes to deny for reasons stated in the motion.
Board Member Hawatmeh	Yes to deny for reasons stated in the motion.
Board Member Becher	Yes to deny for reasons stated in the motion.
Secretary Nestorowicz	Yes to deny for reasons stated in the motion.
Board Member Brasza	Yes to deny for reasons stated in the motion.
Board Member Vigus	Yes to deny for reasons stated in the motion.
Board Member Furgal	Yes to deny for reasons stated in the motion.
Chairman Watripont	Yes to deny for reasons stated in the motion.

The petitioner's appeal of Building Division definition of warehouse purpose was DENIED.

Chairman Watripont stated, the board was moving forward with the second process, which the attorney will explain, which he believes is the normal process. He stated the board will open it up to the public very shortly as they move forward. He asked Mr. Mandell to give his reasons for the motion for the variance at this time, as the second process.

Everett Murphy, zoning inspector, stated the second request was not a proper request. He stated that the petitioner did not have the proper documentation, it was not written correctly. He stated that it should not even be heard because it was not submitted properly.

Chairman Watripont, stated that it was on the agenda as an appeal with the variance request to appeal. He stated that in his opinion, he does not know that it was properly published, but they did publish it as a public hearing, and he would like to move forward and have the public hearing at this point, unless the petitioner wishes to withdraw.

Roxanne Canestrelli, City Attorney stated, that she would advise for this item to be rescheduled and posted, and the petitioner also has an option to withdraw and to re-file if they believe their content or their petition needs to be redrafted. She stated that would be her opinion.

Jeff Brodsky stated that they would like to move forward and complete it because they do not want to wait.

Chairman Watripont was advised that appeal was posted with the conditions, and it was mailed out and noticed. Chairman Watripont stated, that in his opinion against the city attorney, it was posted, and he would like to move forward if he had a withdraw or a reschedule, then they would have that later on. He further stated, that this was a public hearing.

Seymour Mandell stated that the board knows everything that they would have to say tonight, and if they were to come back, they would state the same once more.

Chairman Watripont stated in response that he understood, but he wanted to confirm that the board had the correct paperwork, and to move forward.

Jeff Brodsky stated the only thing he had to reiterate, was about the 100 ft. wall that they had from a year ago that he found so objectionable; he does not believe that they have a barrier wall and if the board is determining the corner is an auto repair, then he already has a barrier wall from that corner of the building and that was the only thing they were seeking tonight, was the little corner and specifically for the tenant who has been already.

Seymour Mandell stated, if would not run with the land, in other words and they are not asking for it to run with the land.

Chairman Watripont stated a variance does run with the land.

Seymour Mandell stated a variance can run for the use of a specific tenant too.

Chairman Watripont stated, no it cannot.

Chairman Watriont stated this was a public hearing and anyone wishing to speak on this item, can approach the podium at this time.

Kurt Gibson, 6862 Republic Ave, Warren, 48091, appeared before the board and stated, he resides about six houses away from the building in question. He stated that he has known Mr. Johnson that ran the place, he passed away about a month and half ago, his sons are still there, and the place has always been clean, no noise, and he walks his dog by there every day, unless it was raining cats and dogs. He stated that he was a fine gentleman and he has never seen a for sale sign on any vehicle and his door is facing Republic, with the same address but with a "B". He stated who would not like to have a hoist? He stated he would like to have a hoist in his garage; and he wants to change his oil and fix his muffler, and he would not like laying on the ground, and have a car fall on his or something. He stated that they had other people around the building several years ago that were a complete nightmare, and his concern was if these people had to vacate, they are going to wind-up with some people that may not have respect for the neighborhood. He stated that he has spoken to several of his neighbors, all of whom signed the petition and they had no problems with it and they like it because as he stated they might wind-up with someone else, who like the prior tenants that had a towing company, the open yard behind the building to the east, was an impound yard, and they would come down their street with a flatbed with an SUV on the back and a car pulled behind and driving at least 40 MPH down a residential street; which clearly posted, no commercial vehicles allowed; that also had children everywhere. He stated the current tenants are nice and quiet, and he would go down there, speak to them and it would be a travesty of justice to deny them.

Chairman Watriont thanked the resident and asked if anyone else wished to speak on the matter?

Everett Murphy, zoning inspector, said to the board, if they were to read the petitioner's request, he did not ask to waive the wall, he did not ask to waive the parking...

Chairman Watriont said he understood and he was going to address this before the board voted.

Kerm Billette, appeared before the board and stated that he did the drawing for the property, and he wanted to state that at the first meeting of the board of appeals, it had appeared that there was little concern about the wall. He stated, that the concern came only from the board members who had other items on the agenda that were just as argumentative as theirs and they overlooked all of the other requests that they made, and he believes that they winded up with two things to widen the entrance to the property from 18 ft. to place the wall in and he offered the alternative to place the wall in before it came to an item that the people next door to the whole project, to store their vehicles on there, and in his opinion it was to store junk; but he was told to take the word 'junk' off the drawing because they did not like the word junk. He stated there were boats and trailers, and steel from signs; there was brush, there was a large disposal vehicle there, and he believes the alternative he offered

for there, was to put slats in the fence to separate the two properties rather than a masonry wall and slats in the gate up on the street to the north, because of the sliding gate there that he believes is not used very much; and he proposed to put slats in there that the kind that someone cannot see through, and they would very close together like the ones put around mobile home parks that they are very close that they cannot see through.

Chairman Watriont stated he understood what was being stated, but the item that was before them was if it was determined to use of automobile related to allow that, and he believes there are other zoning items that had to come before the board, so he believes it should be rescheduled, get the application correctly for all of the variances that are needed because if they approve the one, they still would be non-compliance with the items that no longer are approved through the variance, and they would have to be listed on an application.

Jeff Brodsky stated he understood what the board was stating and it seems that procedurally that would be the proper thing to do, and he appreciated the fact that they are giving them another opportunity to adjourn.

Chairman Watriont stated that he would turn it over to the city attorney at this time.

Roxanne Canestrelli, City Attorney stated, that she would suggest that he would withdraw and file a new application. She said that was what she would suggest, if would be his call, and if he wished to withdraw, then he would have to do this now and file a new application, but that would just be a suggestion.

Jeff Brodsky stated, okay, if procedurally that would be the best way to go. He stated that he was really trying to be cooperative and last year there was a petition that was presented that had ten neighbors that all said, the tenant was good.

Chairman Watriont stated, personally he does remember the petition, and he remembers the process last year, but with that being abandoned at this time, then they would have to go through that whole process again, and his suggestion was to consult with his attorney and to make sure that he does want to withdraw at this time and reapply and represent.

Jeff Brodsky stated, that they will withdraw and reapply and his concern was he has given his commitment that he was going to reapply, that his tenant does not start getting tickets or he would get ticketed in the process while they are reapplying there.

Chairman Watriont stated his suggestion was to reapply as soon as possible, in order to start that process. He asked Mr. Murphy for confirmation.

Everett Murphy stated yes, and he should reapply as soon as possible.

Petitioner's request for variance was WITHDRAWN and will be resubmitted.

Chairman Watripont stated this was a public hearing and anyone wishing to discuss this matter, to address the board. Hearing and seeing none, he turned this matter over to the board.

Board Member Becher stated she looked at the property and his carport seemed it was professionally built; it had gutters and downspouts and all and it seemed very nice, but she wanted to know if the petitioner had obtained a permit to have that carport built on his home.

Gulam Chowdhury stated that he did not obtain a permit.

Board Member Becher asked the petitioner if he had hired a contractor or built the carport himself.

Gulam Chowdhury stated that he had used a sub-contractor.

Board Member Becher stated she did not find anything objectionable in the appearance of his carport and she believes if he would obtain a permit, she then would not find any problems with him keeping it.

Motion:

Board Member Becher made the motion to approve the petitioner's request to Retain a carport 20' x 20' = 400 sq. ft. constructed on the north-west side of the dwelling. Detached garage dimensions 24' x 24' = 576 sq. ft.
TOTAL OF ALL ACCESSORY STRUCTURES = 976 sq. ft.

Reasons being: It is not a detriment to the area and size and shape of the lot needs approval of the board.

Board Member Pauta supported the motion.

Roll Call:

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

Board Member Becher	Yes for the reasons stated in the motion.
Board Member Pauta	Yes for the reasons stated in the motion.
Board Member Hawatmeh	Yes for the reasons stated in the motion.
Board Member Descamps	Yes for the reasons stated in the motion.
Secretary Nestorowicz	Yes for the reasons stated in the motion.
Board Member Brasza	Yes for the reasons stated in the motion.
Board Member Furgal	Yes for the reasons stated in the motion.
Board Member Vigus	Yes for the reasons stated in the motion.
Chairman Watripont	Yes for the reasons stated in the motion.

The petition was GRANTED.

the Village of Warren at the time, made them a 114' wide x 350' deep, one (1) acre parcels; and the reason why the four fathers did that, was so exactly what the petitioner was trying to do, would not happen. He stated, to build within the limits of the city and that is 60'. He stated the petitioner knew that and he had already went ahead and subdivided it back in July, without anyone's permission. He stated that he realizes it belongs to the petitioner, but why would he pay in advance of splitting a lot, when he did not have permission to do so; 60' and he needs to live with the rules.

Caroline George, appeared before the board and stated that she is present on behalf of her mother, Nancy George, who resides next door to the property in question, and it would have been a hardship for her to appear tonight before the board; she is 87 years old and she wrote a letter that Caroline would read before the board. She stated, to the Warren zoning board of appeals with regard to the variance request by Mr. Zaya; in 1986, her late husband Robert George and her, due to his employment as director of public service Warren, were required to relocate to Warren. Unable to find a house that matched their needs, they found a property to build on, and bought 2600 Chard Avenue, a corner lot, adjacent to a vacant wooded lot. They chose this piece of land to build their dream home on because of its size and the location. Her husband and her understood that if the property next to them was ever developed, it would be a single family home. Throughout the next three decades, they enjoyed the woods and the wild animals immensely; development of this property would destroy the environment they have come to love. She lost her husband in 1999, and she decided to remain in their home, mainly due to the woods and the animals that she loves so much. With that being said, the property was sold and she resigns herself to live in the rest of her years without the privacy and beauty of the woods, and knowing that the deer, and the fox and the bunnies and all of the birds would disappear. She understands that Mr. Zaya is asking to split the property into two (2) parcels, each parcel would be 57' in width; the city's zoning laws would prohibit this as it would not meet the minimum of 60' required to build in a district zoned R-1C; therefore, it would be a violation of the city's zoning law and Mr. Zaya must have been aware of this when he purchased the property just a little over six months ago, and that leaves her to the conclusion that he had planned all along to ask for a variance. As a long term Warren resident, a concerned neighbor and a believer that they have these regulations in place for a reason, she asks this board to deny Mr. Zaya's request. Written by Ms. Nancy George.

Julie Steinway, 27304 James, appeared before the board and stated, she resides at the property just south of that, and she believes the board received her letter as well.

Chairman Watriont stated yes, they usually read it in, but they were not going to, so she need to make sure to state everything she wanted that was on the letter.

Julie Steinway stated that she was there to explain that she resides on the street with minimum of 60' lots and it a very charming neighborhood and they like it to be just that and there was a reason why they all owned their property, and the reason Warren is like what it is in their little neighborhood is because they have made certain they maintain their yards, they maintain their homes and this was something that

sort of made their neighborhood what it was. She stated the petitioner knew when he bought the property that was what he was getting and that is why there is one water and sewer hookup, that is what it was zoned for; and the neighbor stood before the board earlier and said the zoning board is here to enforce the zoning law, and that was her understand of is her understanding the law is and it is 114' and they cannot be splitting it to less than 60', so she is here to oppose and they hope they take into consideration that this is their neighborhood and he bought the property knowing this and they would like to leave their neighborhood intact and the way it is and keep their yards at the minimum of at least 60'.

Jim Dunca, 300 E Eleven Mile Road, appeared before the board and stated that he has some properties adjoining the petitioner's property. He stated if the board speaks to Mr. Murphy that majority of the houses on James are on 57' lots not 60', and also if the board had the survey in front of them; the survey shows that it goes from James to the center street of Warner; it does not. He stated he was wondering what was it not in there that the 25' of right of way for the future street of Warner is not in at processor. He said being split all the way through from west to east, that any gentleman or board had walked that property at all, the petitioner is going to cost him a small fortune to clean it up because it is just stalled dead wood and everything and they have four houses on Chard that are backed into this property and it seems like it is a good place for them to through their stuff over the fence, just their lawn debris and branches and stuff like that He stated that he has no problem whatsoever with progress going on; a 57' foot lot, would mean 18 inches on each side of the lot is not anything to be concerned about for him.

Bernie Gaser, 27339 Dowland, appeared before the board and stated the lot should stay in state 60'; where he lives now across the street, and the board have denied the people across the street for a 60' lot, who came in front of the board 3 or 4 times and were denied. He stated that he hopes they can build a house on that lot at a 114' like his house was built on and he would like it to be straightened out and cleaned up.

Mike Bells, 27377 James, appeared before the board and stated he has a 114' parcel across the street from Mr. Zaya's. He stated that everyone thinks it is a 3' variance to the zoning, it is but in reality, it is a 57' variance to the adjacent properties. He stated that if the board approves this, their 114', he would have a 57', and it would not make sense and it would not fit. He stated that they would lose their continuity and it effects their property values and the good thing is, if the board votes no, no one gets hurt, because there would not be any losers, because the petitioner would still be able to build a house on that lot the way it is, live in it, sell it, and walk away with a pocket full of money and they would still have their neighborhood protected. He asked the board to vote no on this.

Chairman Watripont stated that hearing and seeing no one else, he closes the public hearing and turns the matter over to the board.

Secretary Nestorowicz stated he would like to make a few comments regarding this zoning request because he is very familiar with this property and he lives on that

neighborhood himself. He stated, many of the homes both on Dowland and on James, have wider lots, and as they have heard from the people who spoke, across the street, it is a 114' next door it is a 114', it is very common for the homes on that area to have larger than the 60' minimum, and he does not see any reason, because the petitioner bought the lot, no one was stopping him from building a house on a 114' wide property, so going down to a 57', he would not be fitting in with the houses in the immediate vicinity are. He stated that her personally believes it is a self-imposed hardship because he does not have a hardship, because he can build a house, no one was saying he cannot, but just that 57' is smaller than what all of the other houses are.

Dave Allen stated, correct him if he is wrong, but he believes there are other homes in that subdivision that are 57' with lots; he did some research before they even applied for this variance to see if it was going to coordinate with what was going on in the neighborhood, because they are not looking to change the whole scheme, and he wrote some things down based on some of the people that come up and had concern with, and he understands what that concern is. He stated that he used to live on a wooded lot himself and he did not want people building homes behind him. He stated 57' is asking for 3' on each side, again, he believes...

Chairman Watriont stated that he also had his moment to speak and at this time, it is open to the board, and the board has the floor.

Secretary Nestorowicz stated basically that the zoning said it is 60', the lot as it stands right now, fits in with the neighborhood, it would be wonderful to build a house on that property, but they can built a very nice house on the property that is a 114' wide and he believes that should be the route to approach, and he was not in favor of subdividing it.

Board Member Descamps stated, he understands the petitioner's reasoning and it is always nice to get a good deal on a piece of property and put up two speck homes and see what they come up with, but, he too was against it and they are not coming up with a hardship, and financially is not a hardship for the board, and the petitioner has the right to build a home and make money, so he too is against this.

Motion:

Secretary Nestorowicz made the motion to deny the petitioner's request, to split a parcel with a width of 114' linear feet into two parcels, (Parcel A = 57' width and Parcel B = 57' width) in a District zoned R-1-C.

Reasons being: It is a self imposed hardship and it will be a detrimental to the area.

Board Member Pauta supported the motion.

Roll Call:

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

Secretary Nestorowicz	Yes to deny for the reasons stated in the motion.
Board Member Pauta	Yes to deny for the reasons stated in the motion.
Board Member Furgal	Yes to deny for the reasons stated in the motion, because they really did not demonstrate any hardship.
Board Member Vigus	Yes to deny for the reasons stated in the motion.
Board Member Becher	Yes to deny for the reasons stated in the motion.
Board Member Descamps	Yes to deny for the reasons stated in the motion.
Board Member Brasza	Yes to deny for the reasons stated in the motion.
Board Member Hawatmeh	Yes to deny for the reasons stated in the motion.
Chairman Watripont	Yes to deny for the reasons stated in the motion, believing it is a self-imposed hardship and nothing was demonstrated, and they are not looking for any uniqueness in this property and it is similar to those that are around and he believes the only hardship he has is an economic one at this point and time, which is not a legitimate hardship., so his petition has been denied.

The petition was DENIED.

11. PUBLIC HEARING

**APPLICANT: Sejad Melkic,
Masjid Al-Furgaan**

REPRESENTATIVE: Mr. Hisham Turk
COMMON DESCRIPTION: 27643 Schoenherr
LEGAL DESCRIPTION: 13-14-430-032
ZONE: PB

VARIANCES REQUESTED: Permission to

1. Waive the required wall or greenbelt and allow the construction of a 6' high vinyl fence along the south 40 feet of the west offset property line and along the south 117.72 feet of the offset property line to a point 30 feet from the east property line (Schoenherr Road) as per the plan.

ORDINANCES and REQUIREMENTS:

Section 5.11 Item 5: Churches... six (6) foot wall or eight (8) foot greenbelt to be provided where the site abuts a residential district or residential use.

Chairman Watripont asked the individuals at the podium to state their name and address for the record.

Hisham Turk, 6340 Peacock Dr, Troy, MI, appeared before the board stated he is the architect who was working with the owner on this project, and they already had the site plan approved for the use and also they had other variances which were approved previously, and in the site plan approval, they were given an option or recommendation to leave this south side without a fence, but they believe they still need to do a privacy between the next door residence and the building being used, so that was why they are asking for a waiver of the required wall or greenbelt and allow the construction of a 6' high vinyl fence along the south 40 feet of the west

offset property line and along the south 117.72' of the offset property line to a point 30' from the east property line.

Chairman Watripont asked the petitioner, what the reason of the hardship was?

Hisham Turk stated the hardship is there was not a lot of space between the their building and the neighbor's building and there was not enough space to build a block wall also, so they thought a vinyl wall that would be a thin wall would be a nice wall from both sides and to keep the privacy.

Chairman Watripont stated that this was a public hearing and anyone in the audience wishing to speak on this matter, to approach the podium.

Patrick Mahon, 13489 Carol, appeared before the board stating, that he was also present back in July for the meeting regarding this matter. He stated that he does not understand all of the dimensions, but he was worried if the petitioner was planning on building a fence along Schoenherr in front of the building?

Chairman Watripont stated, no, and that was not what was before the board.

Patrick Mahon stated that was his concern, and that they already know about the loud speakers so.

Chairman Watripont stated, hearing and seeing no one else, he turned the matter over to the board. He stated that his understanding was that, when the petitioner appeared before the board prior, the board had concerns that they had a 4' fence and the board did not approve that portion of it at that time, but they are now asking to put a 6' fence with vinyl on the south side to have the coverage they need in place of a greenbelt or the wall that was by code, correct?

Hisham Turk stated correct.

Board Member Descamps stated, it seemed that vinyl is being used much more often because it actually looks quite nice and durable, it does not fall apart after a few weeks, and in lieu of the fencing.

Motion:

Board Member Descamps made the motion to approve the petitioner's request, to waive the required wall or greenbelt and allow the construction of a 6' high vinyl fence along the south 40 feet of the west offset property line and along the south 117.72 feet of the offset property line to a point 30 feet from the east property line (Schoenherr Road) as per the plan.

Reasons being: It is not a detriment to the area, and it needs the approval of the board.

Board Member Hawatmah supported the motion.

Roll Call:

Chairman Watripont stated this was a public hearing and anyone in the audience wishing to speak on this matter, to approach the podium. Hearing and seeing none, he turned the matter over to the board.

Chairman Watripont stated to the petitioner, that his plan was to remove the sign that was already there, and in its place put up a monument sign?

Joseph LaQuiere confirmed, and stated yes. He stated the existing sign had been there since the building was constructed, he believes in 1985 and what he would like to do, the tenants have been desiring for a long time, to have some signage on Dequindre. He stated the original sign had at that time, a changeable display board in it; which was before the days of modern computers; it never really worked well for the tenants and their tenants have requested numerous times to obtain this time of signage that would be seen in a lot of centers. He stated, what he would like to do was essentially, the width of the signs stays the same; meaning the width of the sign that is already there, was to basically extend that down to turn it into a monument sign. He stated, they were planning as seen on the drawings, to keep it nice with a brick podium at the bottom and they also remodeled the mansard a couple of years ago on the building to keep a more modern look, and they wanted to make the sign to fit that same look and to provide their tenants with space that they did not have before at all on Dequindre for their name.

(Individual next to the petitioner) stated, that sign had an existing steel post and Mr. Joseph LaQuiere was going to redo the same post. He stated this family had owned the plaza since it was built and they are very peculiar about who they allow in there and they run a very clean plaza.

Chairman Watripont stated, his concern with monument sign is the size of the sign and not hearing what other board members believe, but that was one of his biggest concern was a monument sign that would be 20' tall.

Joseph LaQuiere stated, he would like to address that concern. He stated the sign existing, it would be the same height, so the actual height of the sign, would not change from what is existing, and on Dequindre there, if anyone had driven by it, there is a very large greenbelt between Dequindre Road and the sidewalk, he believes it is around 31'. He stated, the sign was already set back quite far from the road; there was a lot of greenery there; he believes in his own opinion, the sign would be very attractive and the height would be the same as what is already there, and he believes it will fit with the character of the plaza and there are other signs that are similar to this and other centers in Warren. He stated that he understands the board's concern, but he believes it will fit.

Board Member Descamps stated, having heard the discussion, and not an objection from any other board members, he would like to make a motion.

Motion:

Paul Beaters stated, as the board could see by the rendering they had before them, that Save-A-Lot is undergoing a renovation and a logo change and they were investing in their store. He stated, they had received approvals already to change out the other signage at the sight; this was an existing sign that had been there, and it is about 240 sq. ft. and they were proposing a revised one down to about 128 sq. ft. and so it is significantly smaller, and the reason for that sign was, as someone might notice, driving down Groesbeck Road, the road sort of veers off away from the center and for traffic heading south bound, they would not see any other identification for the building and when getting to Eight Mile, it is then difficult to turn around and get back to their lot. He stated, by providing identification on the north side of the building, would make it easier for people to get over on the left lane and enter into the entrance, prior to getting to Eight Mile Road and having to turn around.

Chairman Watriont stated that this was a public hearing, anyone wishing to speak on this matter, to approach the podium. Hearing and seeing none, the matter was turned over to the board.

Board Member Vigus, stated if there were no further discussion, she would like to make a motion.

Motion:

Board Member Vigus made the motion to approve the petitioner's request.

Reasons being: Due to lack of identification, and needs the approval of the board.

Board Member Descamps supported the motion.

Chairman Watriont stated there was a motion with support. He stated that he had a question that he did not see on the documents. He asked the petitioner, was the prior variance for the wall sign on the north side, granted or was it preexisting? Because he did not see it in the previous variances unless he missed it?

Everett Murphy, zoning inspector, stated no; he believes it was not an approved sign.

Chairman Watriont stated, that it was not an approved sign at that point, so it was not a removal of something that was approved, it was just a variance. He stated that he wanted to make sure for the record, that they took care of their part as well.

Roll Call:

A roll call was taken on the motion to approve and the motion carried (7-2).

Board Member Vigus	Yes, for the reasons stated in the motion.
Board Member Descamps	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.

Secretary Nestorowicz

No, for the reasons stated in the motion, because he believes 256 sq. ft. of wall signage is a lot for a business there.

Board Member Brasza

Yes, for the reasons stated in the motion.

Board Member Becher

Yes, for the reasons stated in the motion.

Board Member Pauta

No, for the reasons stated in the motion, because she also believes it is too large.

Board Member Hawatmeh

Yes, for the reasons stated in the motion.

Chairman Watripont

Yes, for the reasons stated in the motion; because he believes, the distance from the street was enough to warrant that size; but not necessarily the size that was there before.

The petition was GRANTED.

14. PUBLIC HEARING

APPLICANT: Mr. Asim Cehajic / Alan Trucking Inc.

REPRESENTATIVE:

Asim Cehajic/Kerm Billette

COMMON DESCRIPTION:

21329 Edom

LEGAL DESCRIPTION:

13-35-330-016

ZONE:

M-2

VARIANCES REQUESTED: Permission to

1. Allow outdoor storage for truck parking without a primary structure.
2. Allow outdoor storage greater than 50% of a primary structure.
3. Parking on gravel surface as per the plan.

ORDINANCES and REQUIREMENTS:

Section 4.32, Paragraph (k): All off-street parking areas shall be provided with adequate ingress and egress, shall be hard surfaced with concrete or plant-mixed bituminous material (base may be stabilized gravel or equivalent), shall be maintained in a usable dustproof condition, shall be graded and drained to dispose of all surface water, provide protective bumper curbs as per Sections 4.32 (i) and 16.07, and shall otherwise comply with Section 2.46 and 16.05 of this Ordinance.

Section 17.02, Item (s) Paragraph (2): Industrial Standards, Open storage other than junk... The designated area shall be hard surfaced and screened from the public street and any residentially zoned areas... Further, the designated area shall not exceed 50% of the building size and in M-2 zones the designated area shall not be located any closer than seventy-five (75) to the front property line...

Chairman Watripont asked the individual at the podium to state his name and address for the record.

Kerm Billette, appeared before the board and stated, he resides at 38628 Warwickshire Drive, Sterling Heights, MI 48312. He stated he was present with the petitioner, representing the Alan Trucking Company that desires to park ten (10) large semis on a vacant piece of property. He stated, the property is all gravel and it needs work to be done on the leveling and there was a concern on the property, at the North West corner that is low and it should be filled. He stated he believes there

was enough flooding problem there to require that this area had some attention to it. He said, the only problem was, in order to construct a building, there has to be utilities, and there are no utilities within 125' of the property and there is not much way to get the utilities into the property to build a building and service it. He stated, that the petitioner had been trying to gain access to the South end; according to the site plan, at the South end of the property, there was a 25 foot wide access to Edom, that would probably serve better than the North access and also it would have the address for the property on Groesbeck. He further stated, that the petitioner now has a business that repairs trucks and stores a few of them on the property and once they are repaired and waiting for surrender to the owners, he would need some area to store trucks temporarily; the status of the property, would be to temporarily store trucks for no more than 30 days. He stated, they had a conference with the building department, that the ordinance requires a building on the property in order to figure the amount of outdoor storage that is to be allowed as a relationship to the building to the site size, and by there not being a building, they had a request in for a 100% of outdoor storage on that piece of property. He stated, the property is serviced by one access point to the north on Edom; that would be about 20' wide access into the property. He stated there is a gate in there, and the entire site is surrounded by 6' chain length fence; some of it is in disrepair and it should be combined with the neighbors efforts to repair it on East side, and the South side has been replaced by the furniture company; it was their fence. He stated, they would like to have the board's approval to store trucks in an outdoor storage area on gravel. He stated, he talked it over with the petitioner, Mr. Cehajic, that they would only be able to really store trucks there for two years before things would start going forward in getting access to utilities from Groesbeck, either the bottom, South end through Edom, or across a property, at a right angle to Groesbeck into the property, and it would require some land or easement, and the second thing would be that if it were to be two years approval, that he would withdraw it after two years if they did not have any progress made to acquiring easement for utilities or put a building and relinquish the north two parking spaces on the site that would require filling. He stated there were about 2 ½ to 3 foot of fill, required at the north end of the swamp area and the two parking spaces at the North East corner, would not be used for the period of time that it takes to have it filled and settled, so then it would be worth to park trucks on. He stated, the location of the building, would be subject to utilities being brought in and access from the South end, and the building would probably be built at the south-west corner, because it would be easier to gain access into it and easier to back up trucks, if they had to be backed up into parking spaces, and it would be better to service it with the utilities. He stated that Mr. Cehajic was present if the board had any questions about his use of the property.

Chairman Watriont stated this was a public hearing, anyone wishing to speak about this matter to approach the podium. Hearing and seeing none, he turned the matter over to the board.

Board Member Descamps asked the petitioner, since obviously he was going to be running a trucking company, how would he be running it for two years without any type of office, or what is the plan for that?

Asim Cehajic stated, right now he has an office in Chesterfield, MI, and that is where he runs his business from, and he would just be parking trucks there.

Board Member Descamps asked the petitioner, if he would be picking them up and taking them to the office, or to the office area?

Asim Cehajic confirmed and stated, yes.

Board member Descamps asked, if there would not be any loading or unloading?

Asim Cehajic stated, no, nothing like that.

Board Member Descamps stated then, it would only be for storage, and no repair work?

Asim Cehajic stated, it would be just for storage, no repairs.

Board Member Brasza asked the Petitioner, as she sees the plan, would he be able to go out and head South Bound on Edom from his lot onto Groesbeck or only North.

Asim Cehajic stated, just north for now, but he was planning to apply for a fence on the south side as well.

Board Member Brasza stated, she was not having a good indication as to how he exits out of his lot onto Edom? Does he have a driveway? There is a 30' paved area or is it just out of the 25' area?

Asim Cehajic stated, yes, just out of the 25' area.

Board Member Brasza asked, if the petitioner was going through six lots down to Edom to get onto Prospect? Was that how he was taking these trucks out to Edom and then onto Prospect?

Kerm Billette stated, yes.

Board Member Brasza stated, would she assume it is M district on the north side of Prospect? She stated, yes it was; she saw it on the map.

Kerm Billette stated, there was one thing he would like to note, that it may not be seen right away, that the Sheridan Auto Parts was also part of the vacated Edom Street; they had constructed a building in the vacated right-of-way; which is not legal to do. He stated, they have the entire length of Edom, goes north and south except for that interruption there; the building that was built on there, is semi-covered, it is an open building and it has no access onto this property. They have their own gate up at the end, the same as theirs, about a 15' to 20' gate, and their north end would have to be revised on Edom in order to make the curb wider and make the entrance wider; that was once request from the Planning Department, that Edom street curb, shown on the drawing, that would be widened and flared out to make the gate wider

entrance. He stated, it would not be necessary to do this, if they had access to the south end, because the end had a full 25' wide gate already there; so they tried to get access legally to the south of the property and then put a gate there.

Secretary Nestorowicz stated, he wanted to get confirmation; that any trucks that would be parked there, would be working trucks, and there would not be anything there that would none working, or waiting for repair?

Asim Cehajic stated in response, they would all be running trucks.

Chairman Watripont stated, and any board member wanted to make a motion regarding that, they can stipulate that they would be in working order.

Roxanne Canestrelli, City Attorney stated, yes.

Chairman Watripont stated, the city attorney's response was a confirmation, yes.

Board Member Brasza asked, if the petitioner was planning on going south on Edom, was that in process of doing that?

Kerm Billette stated, no, they have not started that yet, because they would like to speak to the furniture company and first of all get their opinion as to any other improvements that they would want or how to make their gate set off from the property a little bit, so it would not interfere. He stated, he believes it is a sliding gate that they had now, so it would not swing out into the road; that would be one concern, and theirs would be the concern of, having the gates swing into their property or slide east west.

Board Member Brasza asked, if they in two years, look for a building on that south west corner, that would be the best?

Kerm Billette stated, yes, that would be the best.

Chairman Watripont asked, and it is the north-west that is low?

Kerm Billette stated, north-west was the low corner, and there was some of that swampy grass there.

Chairman Watripont stated, as Mr. Billette was speaking, he had wrote north east, but he wanted to confirm and clarify it.

Motion:

Secretary Nestorowicz made the motion to approve the petitioner's request to, allow outdoor storage for truck parking without a primary structure; allow outdoor storage greater than 50% of a primary structure, and parking on gravel surface as per the plan, with the condition that all the trucks would be in working order and drivable and no junk trucks would be part of that, for two years.

would see on the drawing; variance number 1 clearly identifies the east side as the rear of the property, not the south; when they located this addition, they presumed it was in a side yard and there was no requirement for a side yard, but when they submitted it to the board of appeals, they had decided that the rear of the site is on the south; so then, they had to add this item to waive the 20 foot setback. He stated, if the board could read item number 1, they would see, that was why they thought that was the south side, and when they placed an addition on, there was no setback required on a side yard, but now there is, and that was one thing he was here today to speak about. Therefore, the C-2 zoning required no side yard setback, and based on the former variance, this was where they located the addition. However, they will comply with the zoning department requirement, that the south side is the rear of the lot, and therefore, they request a variance to waive the required 20' setback for the rear yard, and they are also required to provide 15 parking spaces; which include, 5 parking spaces for the storage room addition. However, they questioned this requirement since, no customers would be permitted in this 620 sq. ft. addition; which they wondered why they had to have 150 sq. ft. that would enable them to actually reduce it by at least 3 parking spaces, but they will follow the recommendations of the planning commission in this case as well. He stated, 20% of the customers, will be filling up with gas and then leave the station; 30% will leave their cars at the pump island and shop in the convenient store; this potentially adds 2 to 3 additional spaces for customer parking requirements. He stated, that what they were trying to state was that the requirement of 15 parking spaces for this service station, as they believe, is very excessive, and they were trying to prove there by a couple of items that, they actually provided 8 spaces and they thought that would be adequate to solve this, because most of the people that come up to a pump, pump their gas, go out and go into the convenient store, leaving their car parked there; so in essence, they really do not need these excessive lots. He stated, to sum it up, they have provided 8 spaces, and they need permission to waive 7 spaces and permission to waive the 20' regard setback. He stated, their hardship was the size and shape of that very small lot.

Chairman Watriont stated that this was a public hearing and anyone wishing to speak on this item, to approach the podium. Hearing and seeing none, he turned the matter over to the board.

Board Member Brasza asked the petitioner, if this was going to take them to the property line? Would they have anything left on the south end?

Robin Tobin stated, yes it will. It would take it to the property line on the south; which is right next to a used car lot.

Board Member Brasza stated, okay, and they are not present before the board.

Robin Tobin, pointing to the drawing before the board, stated, where Van Dyke is, and the area back there, they cannot park them back in there, because they would not be able to get by the dumpsters, so obviously the spot was to place them there, and it is a very tight sight, but they did need the additional space and that was the used car lot to the south, so it leads right to the property line, that was correct.

Motion:

Board Member Descamps made the motion to approve the petitioner's request to, waive 7 additional parking spaces, and allow a building addition and dumpster enclosure to be constructed to the rear (south) property line.

Reasons being: Due to the size and shape of the lot, not a detriment to the area and it needs approval of the board.

Board Member Becher supported the motion.

Roll Call:

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

Board Member Descamps	Yes, for the reasons stated in the motion.
Board Member Becher	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Board Member Vigus	Yes, for the reasons stated in the motion.
Board Member Hawatmeh	Yes, for the reasons stated in the motion.
Board Member Pauta	Yes, for the reasons stated in the motion.
Board Member Brasza	Yes, for the reasons stated in the motion.
Secretary Nestorowicz	Yes, for the reasons stated in the motion.
Chairman Watripont	Yes, for the reasons stated in the motion.

The petition had been GRANTED.

16. NEW BUSINESS

Chairman Watripont stated he believes they do have some new business.

Board Member Hawatmeh stated, he wanted to announce effective tonight, he will be resigning from the board. He just accepted an offer for a new employment in Washington, D.C., so he will be moving, and it has been a pleasure serving with the board in these short few months, and appreciates their friendship and support. He stated that he submitted a formal letter of resignation, and had sent it to Mary Kamp's wrong email address, so they should have that shortly, and hope that other board members accept his resignation.

Chairman Watripont stated, he thanked Board Member Hawatmeh for his time, and previous time in working with him.

Board Member Vigus stated, that she will be absent for the February 11, 2015 meeting, as she will be out of town for work.

Chairman Watripont stated, the board does have a vacant seat, Council, would take that action and everything, in this point and time.

Board Member Becher stated, she also will be missing the February 11, 2015 meeting, because she has an obligation she has to attend.

Chairman Watriont stated to Secretary Nestorowicz, to make those notes for memory.

17 ADJOURNMENT

Motion:

Secretary Nestorowicz made the motion to adjourn and Board Member Becher supported the motion. A voice vote was taken on the motion and the motion carried (9-0).

The meeting adjourned at 10:07 p.m.

Secretary of the Board
Roman T. Nestorowicz

APPROVED