

WARREN ZONING BOARD OF APPEALS
REGULAR MEETING
April 23, 2014

A Regular Meeting of the Warren Zoning Board of Appeals was called for Wednesday, April 23, 2014 at 7:30 p.m. in the Warren Community Center Auditorium, 5460 Arden Avenue, Warren, Michigan 48092.

Members of the Board present:

Jean Becher, Assistant Secretary
Walter Bieber
Caren M. Burdi, Secretary
Henry Brasza
Jules Descamps, Jr.
Judy Furgal, Chairwoman
Roman Nestorowicz
Ann Pauta
Steve Watripont, Vice Chairman

Members of the Board absent:

None

Also present:

Roxanne Canestrelli, City Attorney
Lynne Martin, Chief Zoning Inspector

1. CALL TO ORDER

Chairwoman Furgal called the meeting to order at 7:38 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Secretary Burdi stated a full board was present.

4. ADOPTION OF THE AGENDA

Board Member Watripont made the motion to approve the agenda and the motion was supported by Board Member Becher. The motion carried (9-0).

5. APPROVAL OF THE MINUTES OF the Regular Meeting of April 9, 2014.

Board Member Bieber asked to be excused from voting on the minutes as he was not in attendance of that meeting.

Chairwoman Furgal stated she had not attended that meeting either and would also need to be excused.

Motion:

Secretary Burdi made the motion to excuse Board Member Bieber and Chairwoman Furgal from approval of the minutes and Board Member Watripont supported that motion. A voice vote was taken and the motion carried (7-0).

Chairwoman Furgal stated that having read the minutes she noticed that Mr. Bieber was credited with seconding the motion to adjourn and that would need to be corrected.

Secretary Burdi requested the motion to adjourn be corrected as being seconded by Board Member Becher.

Motion:

Board Member Becher made the motion to approve the minutes as corrected and the motion was supported by Board Member Pauta. A voice vote was taken on the motion and the motion carried (7-0).

6. PUBLIC HEARING **APPLICANT: Majed Marogy/Marogi Investment**

(Rescheduled from 4/9/14)

REPRESENTATIVE: Majed Marogy/Mazin Maroci/Mauer Marogy
COMMON DESCRIPTION: 20787 and 20809 Mound
LEGAL DESCRIPTION: 13-32-483-017 & 016
ZONE: M-2

VARIANCES REQUESTED: Permission to:

1) Operate a used car lot on a lot less than 25,000 sq. ft. as per plan. 2) Install on the north property line an eight (8) ft. high fence to no less than eight (8) feet of the Mound property line and a wrought iron fence along the front property line of Mound as per the plans. 3) Allow hard surfacing to no less than eight (8) feet of the Mound property line for the display of used cars and employee parking spaces as per the plan. 4) Allow an eight (8) feet and six (6) foot greenbelt along the Mound Road property line as per the plan. 5) Continue an existing building to no less than six (6) feet of the Mound Road property line as per the plan. 6) Operate a used car lot to no less than 235 feet of the Albany property line as per the plan. 7) Operate a used car lot to no less than 180 feet from the property line of an R-1-P Zone on Albany. 8) Construct a pylon sign as follows: twenty (20) feet in over all height, ten (10) foot under clearance; 7ft 6 inches x 10 feet = 75 sq. ft. to no less than six (6) feet of the Mound property line per plan. With a 3 ft. 9 inch x 7 ft. 6 inch LED message center.

ORDINANCES and REQUIREMENTS:

Section 15.01 (e)(1): Minimum lot area of 25,000 sq. ft.

Section 4D.07 Setback required for fences: Walls, fences and landscape screens shall conform to the setback requirements for the Zoning District.

Section 4D.38 Height non-residential Zones: Fences shall not exceed six (6) feet in height.

Section 15.01 (e)(11)(f): The setback areas along street frontages shall not be used for the parking or for the storage/display of used cars.

Section 17.02 (a)(2): M-2 front setback is twenty-five (25) feet except for front yards affronting a Major Thoroughfare as defined by the Master Thoroughfare Plan for the City of Warren shall be fifty (50) feet.

Section 15.01 (e)(2): Location criteria shall be 700 feet from the property line of any other site with an existing used car lot of the site of a proposed used car lot subject to review for approval. The site must be located more than 200 feet from the nearest lot line of property used as or zoned as R-1-P.

Section 15.01 (e)(13)(d): The setback areas along street frontages shall be landscaped.

Section 4A.17 (b): Sign Setbacks. All freestanding or ground signs shall be setback from the right-of-way line a minimum distance equal to the height of the sign.

Section 4A.14, Paragraph (a): Prohibited signs. Signs that utilize flashing, blinking, intermittent or moving lights or exposed incandescent light bulbs.

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

Majed Marogy appeared before the Board and stated he was the business owner of 2787 Mound Road.

John Bingham, Engineer of the project, 20345 Redfern Detroit, MI also appeared.

Mike Sema, Consultant for the project, 6631 Queen Anne Drive, West Bloomfield, Michigan also appeared before the board for this item.

Scott Wixom also appeared to represent Sitto Signs.

John Bingham stated he would like to give a little history on the project. As Mr. Marogy had stated he currently has a business on the corner of 8 Mile and Albany. His business has reached a point where it needs to expand. It was his understanding that the neighbors have been satisfied with the business has been carried here and the way it looks.

Mr. Bingham continued that he has had meetings with Ron Wuerth of the Planning Department and Lynne Martin of the Zoning department prior to doing anything and discussed the fact there was a new code and that he had concerns about some of the areas having used car dealerships and wondered if Mr. Marogy could comply. Mr. Bingham asked Mr. Wuerth to sit and identify what the constraints were and that was how the eight requests were determined. Mr. Wuerth also assisted in the wording and in his assumption they have done everything that could be done to meet the requirements.

Mr. Bingham supplied photo of a building to be demolished and stated it was quite a financial investment for the owner and tremendous advantage to Warren. This also would keep a current business owner within the community. If Mr. Marogy is unable to do this then what choices will he have? He has to do something because his business has expanded and he has to keep up with his business and this was the proposal for consideration tonight.

Mike Sema stated he was here on behalf of Mr. Marogy and he wants to expand his business here in Warren. He has been in business for almost 17 years in the car

business and he wants to expand it and have a new business. He wants to take old buildings that are 60 years old and turn it into brand new buildings and do investment in the City of Warren that would look beautiful.

Scott Wixom for Sitto Signs stated the pylon sign that was being proposed met all the requirements of the City. He would like to place the sign 6 feet from the property line in order to keep with an existing building that was also within 6 feet of the property line. He would oversee all the manufacturing and construction of the signage which Sitto has done before within the City of Warren. In addition the message center was part of the overall signage and would measure 3'9" x 7'6". A variance would be required for the message center.

Chairwoman Furgal stated this was a public hearing and asked for anyone that would like to speak on this item.

Vicky Mallick, 21281 Albany, Warren, MI stated she had no objection to what the petitioner wanted to do and thinks it would be a great enhancement. Her one concern she did have was hours of operation and making sure that Albany was not to be a test run for the cars. She has no complaints about the owner, property is clean he has been very polite and the traffic was really the only concern.

Seeing and hearing none she closed the public hearing and turned the matter over to the board.

Board Member Watripont asked the petitioner if it was operating as a used car lot currently.

Mike Sema stated yes sir.

Board Member Watripont asked the board if the request was for a use variance.

Secretary Burdi stated no, it was not a use but it was a special land use permit.

Lynne Martin Chief Zoning Inspector appeared at the microphone and stated this was not an existing used car lot. The Used car lot was on Albany and 8 Mile. This was going to be a brand new used car lot. It was not an expansion of an existing used car lot. This would be all on its own.

Board Member Watripont stated there would be two used car lots then.

Lynne Martin stated there would be one at 8 Mile and Albany and the ZBA approved a variance for the lot behind it and this property was related to that but it was not a used car lot right now. It was an industrial building that they were going to demolish.

Board Member Watripont stated but the other operation was going to continue.

Lynne Martin stated yes.

Board Member Becher asked if it was going to be classified as one business, the used car lot on Albany and if it was approved for the Mound Road property would both car lots be combined as one business or remain two separate businesses?

Mike Sema stated it would be the same name Julian's Auto sell as one business on more property.

Board Member Becher stated what she was really concerned about was on the original site at 8 mile and Albany there are cars parked in the driveway and the curb and on the city greenbelt in front. It scares her to think they will be jockeying cars from the 8 Mile location and the Mound location. She was open to hear to everything he had planned.

Mike Sema stated it was a small operation over here and they were trying to expand to go to a bigger operation. He does not have enough parking spaces in the current location. Next door to his business was an appliance store and that was why he was taking a second building on Mound Road and to have all the cars moved over there.

Secretary Burdi asked if there would be any cars on Albany Street.

Mike Sema stated no more. After this it would be opened up over 25,000 sq. ft. property with all the cars moved over there.

Secretary Burdi stated that this was not over 25,000 sq. ft.

Mike Sema stated he said 25,000.

Secretary Burdi stated no it was not. He was asking for a variance because it was not 25,000 sq. ft.

Mike Sema stated he was about 200 feet short.

Secretary Burdi stated no, wrong again. It matters that he be precise on this. He was 2,000 sq. ft. short.

Mike Sema said he was sorry.

Secretary Burdi stated it was not a 25,000 sq. ft. lot and that was one of the variances he was asking for, one of the problems that she was having with this was that she was familiar with his site on Albany and it was not run properly. There are cars that are parked improperly in driveways, they are jammed in the lot and not in spaces and she has seen them out on the grass and out on the curb area. She does not trust that he was going to do this property any better. When she hears comments about variances that he was asking for and he says that he has 25,000 sq. ft., no he does not and that was one of the variances. As a matter of fact he was asking for eight variances, not talking about one variance, two variances or a few things but substantial things. He does not have the required square footage, the setbacks that are required and was asking to pave closer to the street than the City wants to allow.

The city was trying to stop exactly what he has been doing on Albany and the eight things he was asking for, tell her that he would be doing exactly what he has been doing on Albany, here on Mound. Paving as close as he can to the street and going to put cars on the grass, cars not in parking spaces and just going to jam a bunch of cars in there and she for one, was not inclined to allow him to spread a very poorly run business to a new piece of property. She was not in favor of this; she does not think that he has even come close to meeting the requirements in presenting a hardship here tonight. She also said it was highly improper that his matter be here before the Zoning Board of Appeals when it has not been decided by planning which was not his fault. As a matter of fact, Planning had asked for items to come to them first and the Zoning Board of Appeals agreed to it and now Planning does not want it. They are sending items to the Zoning Board out of nowhere asking for variances when they should be deciding first whether or not they are going to allow the site plan to go forward. Why would variances be granted on a piece of property on a piece of property when it is not known if the site plan was going to be approved and in essence creating things that run with the land that may not ever be used. This is highly improper and she could not support eight variances from the ordinance. What that tells her is that this is not the right piece of property for what he was trying to do because he needs too many variances. She thinks it is a serious impact on the community and she thinks there is residential that is close by and that it is not compatible with the zoning. Mr. Wuerth has submitted a letter that states it does not come close to meeting any of the requirements, it is a detriment to the area and it hurts the other properties in the area. It was an unfair and unnecessary hardship on the other property owners and some of the variances are self-imposed. He does not need to pave up to eight feet within the street. He does not need to have an eight foot fence when six foot was the requirement. He does not need a chain link fence when the Zoning Board requires a decorative fence like wrought iron. These items tell her that he was just trying to cut corners and save money.

Motion:

Secretary Burdi made the motion to deny the petitioners request as a hardship has not been properly demonstrated and she believes it is a detriment to the area and many of the requests are self-imposed. Board Member Pauta supported the motion.

John Bingham asked to address the Board before the vote was taken.

Chairwoman Furgal allowed Mr. Bingham to speak to the Board.

John Bingham asked if the item could be put on hold and a revision be submitted on some of the items. The eight foot fence could be six feet; the setback could be further than eight feet. There were some items on there that could be eliminated. With regard to the square footage there was actually an adjacent parcel to this that could be added that would take the property over 25,000 square feet.

Secretary Burdi stated he had an adjacent parcel that could have been added to this and meet the standards of the ordinance.

Section 4.52 Paragraph (d): No sales activity or display of merchandise shall be permitted in the area designated for required off-street parking for the existing or temporary use.

Section 4A.14 Prohibited Signs (c): Festoon signs (strings of flags).

Sharon Hope Katz appeared before the Board and stated she was the owner of Produce Palace International at 29300 Dequindre, Warren.

Kerm Billette appeared before the Board and stated 38628 Warwickshire, Sterling Heights, MI. He was present to assist Mrs. Katz in bringing her petition to the Board of Appeals. The petition was brought to the Board of Appeals for approval of outdoor sales on a piece of property on Dequindre and it was noted on the site plan that the site plan itself was submitted on May 6, 1996 and the plan was very old and it has a lot of inconsistencies in it. Mr. Wuerth recommended that the plan be revised and corrected, updated and fit with the property which was googled to show all the parking spaces and all the signs. There were questions raised about the entrance that has a canopy over it from the existing canopy that was about twelve feet wide and runs the full length. The additional canopy was put over that goes out to the parking lot and has the baskets in it and was not shown in the original plan. He has revised the drawing and he has met with Mr. Wuerth and he advised him that he would need the adjacent properties around it, the Warren Apartments and a pharmacy on the corner to be noted on there and he wants all the parking lot on there. The parking lot has on site 292 spaces, return baskets take up four and lights take up two and signs in the front yard take up two spaces. Trucks parked to the side take up eight spaces and trucks parked for the sale of goods on the south side takes up eight spaces and the actual area that was there for sand and gravel and fertilizer at the south end takes up five spaces, totaling 32 spaces. There are 260 spaces available and 11 of them are handicapped. The outdoor sales on the map previously were not noted and did not have square footage applied to them. The square footage now was 12,260 square feet in front of the building and along the south side of the building and the trucks would be parked there to unload the product. The 12,260 along with the store of 46,200 square feet has a requirement of 411 spaces.

Secretary Burdi asked Mr. Billette if this was everything he was putting on the plan and that it was going to go to Planning.

Kerm Billette stated yes.

Secretary Burdi stated all the Board needed to know was that he was on the job.

Kerm Billette stated he was on the job.

Chairwoman Furgal stated the Board had asked Mrs. Katz to get a revised site plan.

Chairwoman Furgal stated this was a public hearing and asked for anyone that would like to speak on this item. Seeing and hearing none she closed the public hearing and turned the matter over to the board.

Section 4.20 Paragraph (a): All detached accessory buildings shall conform to and shall not project beyond the existing building lines of the principal building on the lot.

Ariel Bingle 27653 Yvette Drive, Warren, appeared before the Board and stated she had purchased the home in October 2010 and the shed was on the site at the time and they would like to retain it for the storage of yard equipment. She was not aware of any issues with the neighbors.

Chairwoman Furgal stated this was a public hearing and asked for anyone that would like to speak on this item. Seeing and hearing none she closed the public hearing and turned the matter over to the board.

Secretary Burdi stated there was a letter from Anita Tanner at 27665 Yvette Drive and she has no objection to the shed being retained. There are similar sheds on properties adjoining hers and none of them a nuisance.

Secretary Burdi continued with a letter from Troy and Andrea Wells at 27590 Dover that stated they lived directly behind the home with the shed in question and they do not have any issues with the shed on the neighbor's property. Please accept the letter as their approval for the shed to remain.

Secretary Burdi read another letter for Peter and Sandra Lenhaus at 27634 Yvette, Warren, MI that was written on the bottom of the public notice that they had no problem with the Dingle family having their present shed in their yard as it.

Board Member Nestorowicz stated when he drove past the house he could not see where the shed was located. It was not visible from the street.

Motion:

Board Member Nestorowicz made the motion to approve the petitioners request and the motion was supported by Board Member Watripont with discussion.

Board Member Watripont asked if there was a rat wall and cement pad in place.

Ariel Bingle stated yes.

Reasons being size and shape of the lot and not a detriment to the area.

A Roll Call was taken on the motion and the motion carried (9-0).

Roll Call:

Board Member Nestorowicz	Yes for reasons stated in the motion.
Board Member Watripont	Yes for reasons stated in the motion.
Board Member Brasza	Yes for reasons stated in the motion.
Board Member Becher	Yes for reasons stated in the motion and reminded the petitioner that she must get a permit.
Board Member Pauta	Yes for reasons stated in the motion.
Board Member Bieber	Yes for reasons stated in the motion.

Board Member Descamps	Yes for reasons stated in the motion.
Secretary Burdi	Yes for reasons stated in the motion.
Chairwoman Furgal	Yes for reasons stated in the motion.

9. PUBLIC HEARING **APPLICANT: Roy Mills -USE-**
REPRESENTATIVE: Same as above.
COMMON DESCRIPTION: 7552 Republic
LEGAL DESCRIPTION: 13-28-483-005
ZONE: R-1-C

VARIANCES REQUESTED: Permission to: -USE-

Have a two family dwelling, upper and lower units, in a single family residential zone.

ORDINANCES and REQUIREMENTS:

Section 5.01 thru 7.014 Uses in residential districts: Multi-family dwellings are not allowed in single family districts.

Roy Mills, 14229 34 Mile Road in Romeo, MI appeared before the board and stated he was the owner of the property. He was requesting for the approval from the board to change a single home residential into a duplex. He has always tried to comply with ordinances and rental registrations as they come up. This was a new situation for him as he was somewhat misled when he asked Building how to make use of the upstairs. The Building Department indicated that as long as he did not have more than five adults then it should be fine and to go ahead and finish it off. He did that and rented it out last June after having finished it in May of last year. He had a rental inspection and the inspector saw that it was a two unit rental and that was how it came to the attention of zoning.

Roy Mills continued and stated the home underneath has always been designated for separate living space upstairs and the only way to access the upstairs was through a back foyer or porch. The upstairs was partially finished and was used as a summer storage and sewing room by the previous owner. As far as the property not being used as zoning, it was his intent to use the home as a duplex in order to maximize the useable space. This was not self imposed as he did not modify the layout design and did not add any structure to this, he simply finished off the upstairs and he had added some electrical and some plumbing to put the bathroom in but it was not anything that was structurally changed. As far as a detriment to the surrounding area, everyone around the property has multiple families living in their homes, both across the street and next door on both sides. He does not believe those are zoned anything other than R-1-C. This use will not be out of the ordinary for his neighbors. His last comment was that his tenants in there were two young ladies living down stairs with two small children and upstairs he has provided this unit at a reasonable cost to a homeless lady that just came out of the shelter to go there. That was part of the reason for requesting the variance to be able to continue to provide that for her. He thanked the board for their consideration.

Chairwoman Furgal stated this was a public hearing and asked for anyone that would like to speak on this item. Seeing and hearing none she closed the public hearing and turned the matter over to the board.

Secretary Burdi stated there were a couple of problems with the petitioner presentation and what he has put forth. The property right now was R-1-C and he was acting as though he was asking for a rezoning to an R-2. A use variance does not give him all the benefits of rezoning and he would still have to comply with R-1-C for everything but the use. Everything else he would have to come to the Zoning Board for a variance. All the paperwork seems to imply that he thinks the ZBA can grant him a new zone and the ZBA could not, only able to grant a use outside of the zone but that does not grant him all the R-2 criteria he was still a R-1-C.

Secretary Burdi continued with the second thing that he kept saying that was misleading and wrong was that it was not a duplex. A duplex is side by side and this was not a duplex. The third thing was that he was indicating that other families have more than one family living there, that does not mean that they converted their home into two separate units or have separate entrances. He was confusing two very different things.

Roy Mills clarified that part by saying that was just to indicate that there are multiple families not necessarily that the buildings were zoned or used in a particular way, just that they were used in a similar situation with the surrounding property.

Secretary Burdi stated it was not a similar situation and she was not necessarily against his petition but it was not a similar situation but if someone has an R-1-C home that is laid out as an R-1-C home and is not laid out as separate units with more than one family living there, it may be a problem because it is a single family zone but on the other hand they did not convert it by putting other bathrooms, etc. It was not the same and those two could not be compared. Her question was how many furnaces were in the home?

Roy Mills stated there were two separate furnaces, one up stairs and one down stairs.

Secretary Burdi asked if the one up stairs was a wall furnace.

Roy Mills stated no, the furnace duct work goes up through the attic and comes down through the rooms from the attic.

Secretary Burdi asked if there were two furnaces in the basement.

Roy Mills stated no it was on a crawl space so there was one furnace for the lower level that was in the crawl space and another furnace is a separate furnace room on the second floor.

Secretary Burdi asked if he pulled any permits when he made the separate unit.

Roy Mills stated no, he really didn't do anything except the bathroom and he probably should have pulled that and the kitchen. Those were the only things that really changed.

Secretary Burdi stated and the furnace and the hot water heater.

Roy Mills stated no, the furnace was there already and the hot water heater feeds both.

Secretary Burdi asked if there were two separate electrical meters.

Roy Mills stated there was one electric.

Secretary Burdi asked how he knew what each tenant should be charged.

Roy Mills stated the way he had it set up was that each tenant pays rent with utilities included and he just pays it out of that.

Secretary Burdi stated the part that had her a little worried was the fact that he would do this without permits, the fact that he owns other properties in the city. He needs to understand where he went wrong here. He could not just go and do this, did he realize that?

Roy Mills stated most of the stuff that was done was dry wall, flooring and paint, stuff he would not need to pull permits for. Yes, the Board could slap him on the wrist for the plumbing.

Secretary Burdi stated she was not trying to do that she was concerned that he understand that he could not just go do these things.

Roy Mills stated that he had called the building department and asked them what would be required in order to finish the upstairs unit.

Secretary Burdi stated the building department thought he was finishing the upstairs for one family. That was how she understood it when he said that just now. He was not telling them that he wanted to have two rental units.

Roy Mills stated that was exactly what he had told them, it was Mr. Johnson he spoke to and he told him as long as he did not have more than five adults living there that it was completely legal to make that a finished unit.

Secretary Burdi stated that she was more concerned because she did not believe that about Mr. Johnson. She could not image Mr. Johnson telling anyone that information.

Roy Mills stated his goal here was to comply with the city ordinances and that was why he was here.

Secretary Burdi asked if Lynne Martin had any information on this item.

Lynne Martin, Chief Zoning Inspector stated she did not have any other information on this but it did sound like an answer that might have happened from someone that was not a zoning inspector.

General discussion took place amongst the board.

Board Member Pauta stated he had a city certification inspection done in 2009 and he provided the Board with a sheet from zoning.

Roy Mills asked if Board Member Pauta was speaking of the survey.

Board Member Pauta said no, it was a City Cert Inspection for 2009.

Lynne Martin stated she had the City Cert Inspection.

Roy Mills said he was sorry he did not have that.

Board Member Pauta asked what happened to the rest of the inspection work sheets. He should have one for plumbing, electrical, mechanical, and zoning.

Roy Mills stated they should all be there, she was referring to 2009.

Board Member Pauta said yes.

Roy Mills stated City Certs were done and he has the certificate that says he passed.

Board Member Pauta stated that was what she would like to see because she was sure those inspectors would have required permits at the time.

Lynne Martin stated the reason she only gave the zoning inspection was because it was marked single family residential at that time in 2009 by Everett Murphy.

Board Member Pauta asked Lynne Martin if she thought the inspections should be redone now. It was five years later.

Lynne Martin stated this was just to let the Board know that back in 2009 when it was inspected it was a single family, it was not a two family, so anything that happened after 2009 to make it a two family, was done without approvals. If the Board approves the two family unit tonight it would be inspected as a two family unit. If the Board denies it tonight it would be inspected as a single family.

Roy Mills stated he was willing to pull the permits and do what he needed to do to meet the Board's approval to get this rezoned.

Secretary Burdi said this was not being rezoned and she could not stress that to him enough.

Roy Mills stated thank you, it was a use variance.

Secretary Burdi asked the square footage upstairs.

Roy Mills stated approximately 600 square feet.

Secretary Burdi asked the square footage downstairs.

Roy Mills stated approximately 800 square feet.

Board Member Becher stated she was not in favor of this herself and the two drawings that were submitted did not have any dimensions on them and it does not show where the hot water comes from or where the heat comes from. In the upstairs the only way to access the bathroom was through the bedroom and she knows that is not right. The bathroom needs to be accessible from other rooms and she went past the property and there was one skinny driveway with three adults living there. How many cars park there?

Roy Mills stated there was just one right now.

Board Member Becher asked what happens when it becomes more than one.

Roy Mills stated there is a pad where a garage was taken down in the back and it could be used for parking.

Board Member Becher stated when she was there the one car was parked in the middle of the driveway and no one else would have had access at that point. As she sees it she could not approve it at this time.

Secretary Burdi stated she had an idea. If the Board were to reschedule the item and he put together a better plan with dimensions, in the mean time she asked if Lynne Martin could have it inspected as if it had been granted and how long would it take to get that done?

Lynne Martin said yes. She thinks the inspections are probably two weeks out.

Secretary Burdi said another thing the petitioner might want to deal with as Board Member Becher was bringing up was to plan for parking. She thinks there are requirements based on the number of bedrooms. If there was a two bedroom on the first unit he may need two parking spots and if there is a one bedroom unit upstairs he may need room for three cars. She was not sure exactly what it was and he needed to complete the process, where everyone would park, was it paved, did he need to put more cement down and make a plan so one car does not block another car in? Really follow through with having this comply before bringing it back. She could put the item on the May 28, 2014 agenda.

Motion:

Secretary Burdi made the motion to reschedule the petitioner's request to May 28, 2014 to give the petitioner an opportunity to improve the drawings with dimensions, plan for parking and have the units inspected. The motion was supported by Board Member Descamps.

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

10. PUBLIC HEARING	APPLICANT: Rev. Alberto Bondy
REPRESENTATIVE:	Same as above.
COMMON DESCRIPTION:	32000 Mound
LEGAL DESCRIPTION:	13-04-151-001, -003, -004, & -005
ZONE:	R-1-C

VARIANCES REQUESTED: Conduct annual Parish Festival on the Church property during the following:

- 1) **September 19, 2014 (Friday) From 5:00 p.m. to 11:00 p.m.**
- 2) **September 20, 2014 (Saturday) From 12:00 noon to 11:00 p.m.**
- 3) **September 21, 2014 (Sunday) From 12:00 noon to 10:00 p.m.**

ORDINANCES and REQUIREMENTS:

Section 4.35: Festivals require the approval of the Zoning Board of Appeals.

Reverend Alberto Bondy, 32000 Mound Road, Pastor of St. Anne Church appeared before the Board and stated this was the annual parish festival and they were petitioning for the days that were read.

Chairwoman Furgal stated this was a public hearing and asked for anyone that would like to speak on this item. Seeing and hearing none she closed the public hearing and turned the matter over to the board.

Board Member Becher stated it looked to her that things were running smooth at the parish festival there was no one present to complain.

Board Member Watripont asked if any of the lay out or anything was changing from what has been done the past couple of years.

Reverend Bondy stated no.

Board Member Becher asked that he understood that the music needed to be cut back as it got later into the evening on the rides.

Reverend Bondy stated he was very personally very happy to do that.

Board Member Becher stated it would be turn off at 10:00p.m.

Motion:

Board Member Becher made a motion to approve the petitioner's request with the understanding that the music would be cut off on the rides at 10:00 p.m.

glad to have neighbors like them and as far as he was concerned the shed could stay for another twenty years.

Secretary Burdi stated there was another letter from Matt and Amy Stone at 13342 DeMott Court. This was a letter of support for the residents at 13410 DeMott Court. The shed owned by Ann and Gene in no way shape or form bothers them. It was their hope that the shed would stay in place.

Secretary Burdi stated there was also a license to encroach from the City allowing them to encroach on the sewer easement but he must realize that his parents have an agreement with the City that if something needed to be dug up then his parents would have to have the shed removed. It may never happen but if it does, it was their responsibility.

Eugene Casio Jr. stated that was correct and he was aware.

Board Member Watripont stated he had no problem with this request but wanted to know if it had the cement foundation and rat wall that was required.

Eugene Casio Jr. stated it was on a slab with a rat wall.

Board Member Watripont also asked if he was aware that he needed to go to the building department to obtain a permit and make sure it was all legalized after this process.

Eugene Casio Jr. stated yes.

Motion:

Board Member Watripont made a motion to approve the petitioner's request as stated.

Reason being size and shape of the lot and not a detriment to the area.

Board Member Nestorowicz supported the motion. The motion carried (9-0).

Roll Call:

Board Member Watripont	Yes for reasons stated in the motion.
Board Member Nestorowicz	Yes for reasons stated in the motion.
Board Member Becher	Yes for reasons stated in the motion.
Board Member Brasza	Yes for reasons stated in the motion
Board Member Pauta	Yes for reasons stated in the motion.
Board Member Bieber	Yes for reasons stated in the motion.
Board Member Descamps	Yes for reasons stated in the motion.
Secretary Burdi	Yes for reasons stated in the motion.
Chairwoman Furgal	Yes for reasons stated in the motion.

12. PUBLIC HEARING
REPRESENTATIVE:

APPLICANT: Art Van Furniture -USE-
Wayne Hollars

COMMON DESCRIPTION: 13855 Eight Mile Road
LEGAL DESCRIPTION: 13-36-351-010
ZONE: C-2 & P

VARIANCES REQUESTED: Permission to: -USE-

- 1) Conduct one (1) OUTDOOR “TENT” SALE OPERATIONS in an area 40'x 60' (2,400 sq. ft.) in front parking area of the store, as per plan, from May 9 through May 19, 2014, 9a.m. to 9 p.m. Monday through Sunday and August 1 through August 19, 2014.
- 2) Waive thirty-two (32) parking spaces (16 for the sale and 16 for the spaces that the tent occupies) in the front parking lot of the store in order to operate outdoor “tent” sales operation.

ORDINANCES and REQUIREMENTS:

Section 16.02 Uses permitted in P Parking Districts, Paragraph (a): Parking areas shall be used for parking of private passenger vehicles only.

Section 4.32 Paragraph (h) Item 22: One (1) parking space required for each 150 square foot of floor space and outdoor sales areas combined.

Section 4.52 Paragraph (d): No sales activity or display of merchandise shall be permitted in the area designated for required off-street parking for the existing or temporary use.

Wayne Hollars, 14775 Bainbridge Street, Livonia, Michigan 48154 appeared before the board to approve a variance so that Art Van may have the annual tent sale in May from the 9th through the 19th and again in August from the 1st through the 19th as well.

Chairwoman Furgal stated this was a public hearing and asked for anyone that would like to speak on this item. Seeing and hearing none she closed the public hearing and turned the matter over to the board.

Secretary Burdi stated the reason this request was a use so everyone knew was because it was partially in a P zone that was the only reason that this was considered a use.

Board Member Watripont stated that the petitioner mentioned annual sales but when he looked back into the records he did not see that he had come to the board the last couple of years.

Wayne Hollars stated yes sir.

Board Member Watripont stated he remembered one year that it was here for both time periods.

Wayne Hollars stated last year he was present for both time periods but the year before that he was not at this store so he was not sure what had happened there.

Board Member Watripont stated he would request in the future that he come to the board earlier because this was close to May and the petition came in, in April. The

earlier they come in then issues can be resolved and they can get set up. If there was feedback from the neighbors it would give him time to correct things and that was the reason for coming in as early as possible for these.

Wayne Hollars stated absolutely, he apologized.

Motion:

Board Member Watripont made a motion to approve the petitioner's request as stated with the hours for both sales being from 9:00 a.m. to 9:00 p.m. on both sets of dates.

Reason being size and shape of the lot and needs approval of the board.

Board Member Brasza supported the motion. The motion carried (9-0).

Roll Call:

Board Member Watripont	Yes for reasons stated in the motion.
Board Member Brasza	Yes for reasons stated in the motion.
Board Member Descamps	Yes for reasons stated in the motion.
Board Member Nestorowicz	Yes for reasons stated in the motion.
Board Member Bieber	Yes for reasons stated in the motion.
Board Member Becher	Yes for reasons stated in the motion.
Board Member Pauta	Yes for reasons stated in the motion.
Secretary Burdi	Yes for reasons stated in the motion.
Chairwoman Furgal	Yes for reasons stated in the motion.

13. PUBLIC HEARING

REPRESENTATIVE:

COMMON DESCRIPTION:

LEGAL DESCRIPTION:

ZONE:

APPLICANT: Jeremy O'Neil

Charles O'Neil

21816 Dequindre & 1925 Garrick

13-31-152-021 & 13-31-152-010

M-2 & P

VARIANCES REQUESTED: Permission to:

Operate a truck repair facility to no less than 50' from the residential district to at the rear, adjacent to residential to the north and less than 200 feet to the south across Garrick.

ORDINANCES and REQUIREMENTS:

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

Charles O'Neil, 45438 Plumgrove, Macomb, Michigan 48044 appeared before the board.

Romeo Bassinet, 22621 Dequindre, Hazel Park, MI appeared before the board.

Charles O'Neil stated prior to purchasing the property at 21816 Dequindre he was requesting permission to operate a trucking company as well as a truck repair facility. He also requested being allowed to use the south doors that face Garrick, he believed there were two there and he would need them to pull in semi-trucks to work on.

Chairwoman Furgal stated this was a public hearing and asked for anyone that would like to speak on this item. Seeing and hearing none she closed the public hearing and turned the matter over to the board.

Secretary Burdi stated there was a letter from John and Juanita Carrier, 1938 Garrick which is the first house east off Dequindre directly south of the above property. They understand that the property was being requested to be rezoned to operate a truck repair facility. There is no objection to allowing Mr. O'Neil's business at this location. They have met Mr. O'Neil and feel that he will be a good neighbor at this location.

Board Member Pauta stated it appeared that previously there was a spring company that worked on trucks and cars.

Charles O'Neil stated yes, D & W Spring.

Board Member Pauta stated her understanding was that the new people that were going to move in here have a trucking company and that they needed the building to repair the trucks.

Charles O'Neil stated that was correct and that he was seeking permission to work on the public's vehicles as well.

General conversation from the Board took place.

Charles O'Neil stated these are semi-trucks not auto as in pick-ups and automobiles.

Board Member Pauta asked what the hours of business would be.

Charles O'Neil stated roughly from 8:00 a.m. to 10:00 p.m. or 11:00 p.m. depending on emergency work that comes in and that was his normal business hours he keeps right now.

Board Member Pauta asked how many days a week.

Charles O'Neil stated six days a week.

Board Member Becher asked if he used pneumatic tools.

Charles O'Neil stated yes.

Board Member Becher stated she realized there was a nice brick wall around the business which would probably curtail some of that noise but did he think it was possible after 8:00p.m. he could put the doors down so that the noise wouldn't go through the neighborhood?

Charles O'Neil stated yes he could but obviously it was not air conditioned and if it gets to be 100 degrees in the shop in the summer time.

Board Member Becher stated she was thinking about the other people on the street that might be putting a young child down to sleep at night and there was a pneumatic tool going off, he would have to think about the excessive noise. Also, on the piece of property there was storage of furniture in the area that was granted. Would he consider giving that variance up? She assumes he would want to put trailers and trucks out there.

Charles O'Neil asked if she was talking about the overhang.

Board Member Becher stated she was talking about the property on Garrick.

Charles O'Neil stated Romeo Bassinet was the owner of the property and he would be vacating the property and his items would be removed.

Board Member Becher stated so he would give up the storage area out there.

Charles O'Neil stated correct.

Romeo Bassinet stated he was selling the building and that he was rescinding the second hand goods license.

Board Member Becher stated she was just asking about getting rid of the variance about the outside storage of furniture. The board would have to rescind the variance so there would be no outside storage only the outside of vehicles.

Board Member Nestorowicz wanted to make the point that it was not just the outdoor sales but he wanted to make sure the 2005 variance was rescinded for the second hand goods.

Board Member Descamps stated he really had a problem with the operations running until 11:00 p.m. He was sure the neighbor and he was sure he would agree if he had a small child living right there, that he would not want that noise at that time of the night either. Was there anyway that he would be agreeable to not work past 8:00 p.m.

Charles O'Neil stated he could say yes that he could do that but his business was also road service so when there is an emergency and he was called out at 10:00 p.m. and he needed to tow a truck in.

Board Member Descamps stated towing a vehicle and working on the vehicle are two different things. Towing the vehicle into the shop and then working on it was two different things.

Charles O'Neil stated once the vehicle was towed in the driver needs to get his load delivered so someone would come in at 11:00 p.m. to finish the truck if he worked through the night. That was the way operations were now. He wanted to be honest about exactly what was going to be done there.

Board Member Descamps asked where that operation was right now.

Charles O'Neil stated 795 Oakwood Blvd., Detroit.

Board Member Descamps asked if there were any homes around.

Charles O'Neil stated no, Marathon has purchased all of them.

Secretary Burdi stated she has been on the board for over 20 years and this was a recipe for disaster. The reason these places have to be more than 250 feet away from residential was because of this. She does not think this is a good fit. There was residential across Garrick, behind him and on the side. Talking about running a 24 hour operation if need be because of the road service. She could not support this. She thinks he has a great business but going in the wrong place. She knows that the homeowners are going to pay the price for his business and she could not support it.

Chairwoman Furgal stated she appreciated his honesty.

Charles O'Neil stated he was expanding rapidly and he has outgrown where he was at and Marathon wants to buy them and for him to come here and tell the board something that they want to hear and then break the rules, he could not afford to go out of business. He has a reputable business that has been in business since 1994. He needs to be perfectly legal.

Secretary Burdi asked if he knew that the City had an economic development director. She would really love to have him in the City just in a spot that was not so close to residential. If he called the Mayor's office and told them that he would like to locate to Warren and what the business was she would love to have him here. She just did not want to put him in a place where it was going to be contentious and cause problems.

Charles O'Neil stated the reason he chose this was because he was very familiar with the building he used to have work done there for 15 years when D & W Spring was there. It worked out very well with them but he did not know what their relationship was with the neighbors.

Chairwoman Furgal stated she thought that D & W Springs had shorter hours.

Charles O'Neil stated that they did work at night because his trucks sat at night because he would drop them off and then pick them up at midnight. Whether they made noise or how much noise he was not sure.

Chairwoman Furgal stated that Mr. O'Neil was planning more of a variety of work and sometimes the work was noisy. Her husband has trucks and she knows and that was why she was familiar with D & W, her husband also took trucks there as well.

Secretary Burdi asked if it would be helpful if the petitioner just withdrew his petition for now so they did not put a denial on the property right now. Then work with the economic development director to see if he could find a place in the city that suited him better.

Charles O'Neil stated that was something he would have to discuss with his son to see what he wants to do now because his heart was kind of set on this building because it fits all the needs, he does understand though.

Secretary Burdi stated that tabling or rescheduling this was not going to help him any. Did he see what she was saying about him withdrawing rather than the board voting on this?

Charles O'Neil stated he was not quite she meant.

Secretary Burdi stated that if they were to vote on this they were not allowed to vote on it again meaning that he could not bring this petition to the board again should he work something out. If it was changed he could, if it was denied. She did not know. The option was that he withdraws it and then makes some decision and planning for the business, etc. and that way options were still open.

Charles O'Neil stated he could withdraw it. He did not know what he could possibly change in order to change the boards mind and he understood the boards concerns and he knows if he was a neighbor he would have a problem with it. He could stand here and tell the board that he would try and be quiet but kids say they will be quiet and they are not.

Secretary Burdi stated he could just withdraw it and keep option open. She thinks he would have approval if he could close at 8:00 p.m. but this was an emergency type of service.

Charles O'Neil stated yes and with the tire business going, he simply was so busy he could not get done at 8:00 p.m. now. He had enough business to run 24 hours a day.

Secretary Burdi stated she did hope that he would follow through with the economic director and find a place here in the city that would suit his needs.

Charles O'Neil stated he has traveled around Warren quite a bit. He grew up in Warren and once they saw this former D & W they thought that was it.

The board responded yes.

George Ostrowski stated the 1953 address was recently purchased by the Galloup Company. They moved into this after, He would back up. They were here in 2010 and received a parking space waiver to allow them to have outdoor storage on the facility. At that time through the administrative process, the planning department or zoning department discovered going back to the 1987 parcel there was some parking lot encroachments that were dated to the original building. This was unknown to everyone at the time of the building purchase. Also the sidewalk that connects both buildings, he believes at one time was Johnson Controls and had a covered walk way to both buildings. This again was a carryover from that point. After 2010, and the outdoor storage his client the glue company moved into the 1953 building and it was discovered at that point that it was the same situation with the front yard parking space, one in this case was encroaching into the front yard setback. He was here tonight to request a continuation of use of the spaces and on the 1953 parcel a waiver of 16,668 sq. ft. of the required off street parking area so that they can incorporate outdoor storage in the rear lot of that facility to match what was currently on the neighboring parcel.

Chairwoman Furgal stated this was a public hearing and asked for anyone that would like to speak on this item. Seeing and hearing none she closed the public hearing and turned the matter over to the board.

Secretary Burdi asked how many parking spaces were on the 1953 property.

George Ostrowski stated both buildings were essentially the tenant has approximately, if everyone were there, it would be 50 required parking spaces but on a day to day basis there are about 30 employees. Most of the sales staff was located outside the building.

Secretary Burdi asked what the total number of parking spaces was on both properties.

George Ostrowski stated he would have to total that up he did not have that handy.

Board Member Watripont stated 72 including handicapped.

Secretary Burdi asked how many were handicapped.

Board Member Watripont stated 3.

Secretary Burdi stated so he had enough parking for his needs.

George Ostrowski stated yes.

Motion:

Secretary Burdi made a motion to approve the petitioner's request.

Reason being size and shape of the lot and not a detriment to the area.

Board Member Brasza supported the motion. The motion carried (9-0).

Roll Call:

Secretary Burdi	Yes for reasons stated in the motion.
Board Member Brasza	Yes for reasons stated in the motion.
Board Member Descamps	Yes for reasons stated in the motion.
Board Member Becher	Yes for reasons stated in the motion.
Board Member Bieber	Yes for reasons stated in the motion.
Board Member Pauta	Yes for reasons stated in the motion.
Board Member Nestorowicz	Yes for reasons stated in the motion.
Board Member Watriont	Yes for reasons stated in the motion.
Chairwoman Furgal	Yes for reasons stated in the motion.

14b. PUBLIC HEARING	APPLICANT: Dean Maxwell/J.O. Galloup Co.
REPRESENTATIVE:	George A. Ostrowski, Jr.
COMMON DESCRIPTION:	1987 Concept Dr.
LEGAL DESCRIPTION:	13-19-302-006
ZONE:	M-2

VARIANCES REQUESTED: Permission to:

- 1) Continue hard surfacing and parking in the front yard setback on Concept Dr. as per the plan.
- 2) Allow a temporary canopy to the west property line that will connect with 1953 Concept Dr. as per the plan.

ORDINANCES and REQUIREMENTS:

Section 17.02 Paragraph (a): Front setback for M-2 is 25 feet.

Section 17.02 Paragraph (b): Side setback for M-2 is 20 feet.

George Ostrowski, 46777 Woodward Ave., Pontiac, MI, appeared before the board and stated as he had stated before that these were two variance requests that were continuations of existing situations on the site. When the building was constructed in 1987 at that time there was building setback variance that was granted by the Zoning Board of Appeals and the parking lot at that time must have been constructed as well located within the front yard setback. The petition was simply a request or continuation if they will for use of those two parking spaces. Additionally the covered sidewalk or canopy that connect the two buildings.

Chairwoman Furgal stated this was a public hearing and asked for anyone that would like to speak on this item. Seeing and hearing none she closed the public hearing and turned the matter over to the board.

Motion:

Secretary Burdi made a motion to approve the petitioner's request.

Reason being size and shape of the lot and not a detriment to the area.

Board Member Bieber supported the motion. The motion carried (9-0).

Roll Call:

Secretary Burdi	Yes for reasons stated in the motion.
Board Member Bieber	Yes for reasons stated in the motion.
Board Member Descamps	Yes for reasons stated in the motion.
Board Member Pauta	Yes for reasons stated in the motion.
Board Member Becher	Yes for reasons stated in the motion.
Board Member Nestorowicz	Yes for reasons stated in the motion.
Board Member Brasza	Yes for reasons stated in the motion.
Board Member Watripont	Yes for reasons stated in the motion.
Chairwoman Furgal	Yes for reasons stated in the motion.

15a. PUBLIC HEARING

**APPLICANT: Holman Construction
Mgmt. Services, Inc**

REPRESENTATIVE: Preston Steven
COMMON DESCRIPTION: 6746 Dodge and 6751, 6755 Maxwell
LEGAL DESCRIPTION: 13-33-202-021, 13-33-202-014 and 015
ZONE: M-1

VARIANCES REQUESTED: Permission to:

- 1) Operate an auto repair facility to no less than 50 feet from an R-1-P across Dodge and to less than 200 feet from R-1-P zone on the south side of Maxwell
- 2) Retain hard surfacing to the front property line on Dodge for parking and outdoor storage on lots 60 & 59 of repair vehicles, trailers and equipment as per the plan; retain hard surfacing to the front property line on Maxwell for parking as per the plan.
- 3) Retain a six (6) foot chain link fence to the front property line and along the front property line on Dodge and in the front setback on Maxwell.
- 4) Allow open storage to the front property line on Dodge as per the plan, lots 60 & 59 and ½ lot 83, all 84 & 85 on Maxwell as per the plan.
- 5) Allow outdoor storage area of 15,132 sq. ft. as per the plan.

ORDINANCES and REQUIREMENTS:

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

Section 17.02 Paragraph (a) Items (1): Front yards. (Front yard in M-1 is 8 feet.)

Section 4D.39: Non Residential Fence Location: All fences shall no extend closer to the front lot line than the established front building line or front setback line.

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 zones areas... Further, the designated area shall not exceed 50 % of the building size and in M-1 zones the designated area shall not

be located any closer than seventy-five (75) to the front property line...

Preston Steven, 22840 Sherwood, Warren, MI appeared before the board and stated the whole block of property was heavy industrial. Right now he was coming in for the ordinance and he held up the book of zoning map for the City of Warren and passed around some pictures earlier. The first one shows the Chrysler Building and all that on the M-4 and the second block of the M-1 up on the top was going to be his block and the yellow R-1-P was going to cut him from the 200 foot mark of parking lots. There are no houses within any measurable distance from any of his properties and he wanted to expand the operation out. He did bring one of his neighbors with him that owns one of the parking lots (R-1-P) and that was all it was, a blank parking lot. The rest of the pictures that he brought were a second parking lot that he wanted to have appealed on. He supplied a City picture from the tax records for the lot to the north of him which was the picture on the tax records and the picture showed across the street nothing but tanker trucks with 160,000 lbs. license plates on them grease dumpsters and barbed wire with a dirt parking lot that has a garbage dumpster in it. That was the residential district to the north of his property and he was asking to be exempted for that because the owner he could not have come here and verify it. The other owner to the south of his property Mr. Gertz has come to verify that. He could then use the property for his auto repair shop. He blew his license up larger to show that he has license in all 19 categories from the State for working on vehicles and he would like to make it a one stop facility. He was licensed with the State and has good repour with the neighborhood and he would like to be able to do body work and he would like to be able to fix anything that comes through the door if the customer asks. The rest of the licenses that he was asking for, Ms. Martin had worked with him extensively on this so that everything would be conformed at one time. He has done a major lot split with a very large piece of property with a lot of buildings and he has done all the lot splitting, planning and alley vacating. This would be the last step to finalize everything and he was asking permission to move forward with the residential districts involved that did not have any housing anywhere close.

Secretary Burdi asked if he was presenting these items separately because there were two items on the agenda.

Preston Steven stated correct, they are two pieces of property that are right next to each other.

Secretary Burdi asked if he was presenting them separately.

Preston Steven stated yes, but he would have the same thing for the next one also.

Secretary Burdi stated but they were different variances and wanted to know if he was presenting 15a and 15b at the same time. She wanted to 15a only at this time.

Preston Steven stated 15a on the block picture he was trying to explain to the board overlaps two R-1-P districts that would affected it. The Dodge street address.

Ronald Gertz, 22740 Sherwood Ave., Warren, MI appeared before the board and

stated he owned the adjacent properties on Sherwood and Maxwell that he was proposing the variance for. He had no residential on the lot that was zoned R-1-P for his parking. It was not residential it was just a parking lot for his employees. He has no issue with Preston and his businesses there.

Chairwoman Furgal stated this was a public hearing and asked for anyone that would like to speak on this item. Seeing and hearing none she closed the public hearing and turned the matter over to the board.

Secretary Burdi stated he was telling her that he was like a car and truck repair facility, was that accurate?

Preston Steven stated yes, that was correct.

Secretary Burdi said the R-1-P was the residential that was being referred to.

Preston Steven stated yes the parking lots, yes.

Secretary Burdi stated what she did not understand was the photographs he presented have barbed wire on them.

Preston Steven stated those were not his properties.

Secretary Burdi stated there in lied her confusion.

Preston Steven apologized and stated he brought the property owner in from the south that has the R-1-P district on his property and he could only bring pictures of the one to the north of him.

Secretary Burdi asked if there was any barbed wire on his property.

Preston Steven said there wasn't any barbed wire on his property.

Secretary Burdi asked if he knew that barbed wire was not allowed.

Preston Steven said correct.

Secretary Burdi asked why he was asking for outdoor storage of 15,132 sq. ft.

Preston Steven said because some of the equipment he worked on might be an excavator that comes in or he may have several vehicles left over.

Secretary Burdi asked what he meant by left over.

Preston Steven said someone may not pick them up for a month. He may have to wait for six weeks to get a part depending on what it was. There are times when storage like that was needed. He complied with all the parking and there was plenty of room on the property for everything.

Secretary Burdi stated she was just trying to get an idea of why he was asking for the outdoor storage. The board does not want to see parts laying about, tires, junk, things that are not fixed or are not going to be fixed, so she was not sure that he actually needed outdoor storage if there was actually vehicles and equipment that are waiting for repair or just been repaired. She was going to make sure this does not become a messy junk yard that was what she was concerned about.

Preston Steven stated he has been on the property for 10 years and he has no blight tickets as of now.

Secretary Burdi said she was saying if the board could say that he was allowed to store vehicles and equipment that was for repair or has just been repaired but that he could not have dilapidated vehicles or equipment that sit for over four months.

Preston Steven stated that by the State of Michigan Regulations it would take a time longer than that to get a title to a vehicle. When he has to go for garage keeper liens or he has litigation on a repair if someone takes him to court he could be in limbo a year to 18 months. Not that happens very often.

Secretary Burdi stated she was not talking about something that was repaired that works that he was going for a garage keepers lien because usually someone has fixed it and they have not paid for the service and he could apply for the title.

Preston Steven has taking it down for an estimate but before you could dispose of it to get paid he could still get a garage keeper lien and it could still be partially a part because they did not want to pay for the estimate.

Secretary Burdi stated it sounded to her that there was going to end up with a lot of junky stuff stored there.

Preston Steven said no, he keeps the place very clean. He has always maintained the property and there was so much room in the parking lot and everything was paved he figured he would use it up and he was not one to run a junk yard.

Secretary Burdi stated she was not against what it was he was doing but she was not going to give outdoor storage that was not defined. He would vote no on that if some perimeters were not in place on what can be there and for how long. Otherwise she has seen it many times where it becomes parts, tires, junk and it becomes a mess. She was trying to make sure that he could operate his business but on the same token this does not become an eyesore. 15,132 sq. ft. of outdoor storage was a lot.

Preston Steven asked Lynne Martin if that was only back lot.

Lynne Martin stated no.

Preston Steven said that was the one side of the paved parking lot on the 67 on the east end and he tied the parking to the other side.

Secretary Burdi stated she understood where it was and was asking him to work with her please. She does not want junk, etc.

Preston Steven said he did not want any tires around, not at all.

Secretary Burdi said no parts, no pieces of things and what he was saying to her was that he may have half pieces of cars sitting there for 18 months.

Preston Steven stated it would be neat and clean. He would not have a car disassembled like a junk yard or look like parts galore. He would keep everything clean and there would not be any weeds or anything around. Clean paths around the property and all vehicles would be contained within themselves. If he has an engine taken apart from a car, the parts remain with the vehicle and the hood is closed. If it is a body shop and he has a wrecked car waiting for repair from an insurance company he would have that stored within the fence and behind a wall.

Secretary Burdi said if the outdoor storage was made for vehicles and equipment that were waiting for repair have been repaired but no vehicle would be there for longer than 18 months, he would live with that right? No junk, no parts, no tires.

Preston Steven said no tires, the off road equipment sometimes as long as someone with some reason looks at it because off-road equipment sometimes does come with an implements that might not look normal to them.

Secretary Burdi asked what off-road equipment was.

Preston Steven said bob cats, excavators.

Secretary Burdi asked wasn't that equipment.

Preston Steven sated he was just saying that some of pieces that come with it to be repaired are items people don't normally see. Bucket, tilling attachment or sometimes they are not always together and might be sitting next to each other.

Secretary Burdi stated that was part of the equipment.

Preston Steven said he was not trying to make things difficult he just wanted someone reasonable to look at it and he did not want junk and parts lying around either.

Board Member Watripont stated he thought Mr. Steven was being completely honest here to make sure he was within reason but he thinks with equipment he was covered under that aspect of it.

Preston Steven stated he would keep the place clean and there would not be oil out in the parking lot or anything like that.

Motion:

Secretary Burdi made a motion to approve the petitioner's request with the following condition as to item number 5: Outdoor storage area of 15,132 sq. ft. that was delineated on the plan would only be for vehicles and equipment that are waiting to be repaired or have been repaired but none of the vehicles or equipment would be stagnant on the property for over 18 months. There is to be no junk storage, not outdoor junk storage unless it was a piece of equipment required to repair other equipment and absolutely no tires stored outside and no barbed wire on any of the fencing.

Reason being size and shape of the lot and not a detriment to the area.

Board Member Watripont supported the motion. The motion carried (8-1).

Roll Call:

Secretary Burdi	Yes for reasons stated in the motion.
Board Member Watripont	Yes for reasons stated in the motion.
Board Member Brasza	Yes for reasons stated in the motion.
Board Member Pauta	No because she thinks it will end up looking like a junk yard.
Board Member Becher	Yes for reasons stated in the motion.
Board Member Bieber	Yes for reasons stated in the motion.
Board Member Descamps	Yes for reasons stated in the motion.
Board Member Nestorowicz	Yes for reasons stated in the motion.
Chairwoman Furgal	Yes for reasons stated in the motion.

15b. PUBLIC HEARING

**APPLICANT: Holman Construction
Mgmt. Services, Inc**

REPRESENTATIVE:	Preston Steven
COMMON DESCRIPTION:	22840 Sherwood Ave and 6739, 6745 and ½ of 6751 Maxwell
LEGAL DESCRIPTION:	13-33-202-002, 13-33-202-012, 13-33-202-013, 13-33-202-014 (New parcel ID numbers to be assigned for lot split and combinations) Parcel 2 and 3 are related.
ZONE:	M-2 and M-1

VARIANCES REQUESTED: Permission to:

- 1) Allow auto repair to no less than 53.4 feet from a parcel zoned R-1-P.
- 2) Retain hard surfacing to the front property line on Maxwell.
- 3) Retain a six (6) foot chain link fence in the front setback on Maxwell.
- 4) Allow outdoor storage 3715 sq. ft. on Parcel 3 for Parcel 2 for vehicles waiting for repair, waiting pick up, trailers and for off road equipment, as per the plan.
- 5) Retain a building to the front property lines on Sherwood and Dodge.

ORDINANCES and REQUIREMENTS:

Section 14.01 Paragraph (i): Uses Permitted. Automobile repair shops, including body and fender business, provided that such uses are conducted entirely within an enclosed building, and provided further that such establishments are located **at least**

two hundred (200) feet from any residential district or are operated on the premises of and in conjunction with an automobile dealership in a building with appropriate filtering system to prevent emission of paint odors and **with a masonry wall facing any such residential district**, which shall have sound retarding insulation, shall have no doors other than any door required by law as a fire exit, and shall have no windows but may have glass block areas to transmit light.

Section 17.02 Paragraph (a) Items (1): *Front yards.* (Front yard in M-1 is 8 feet and 25 feet in M-2)

Section 4D.39: Non Residential Fence Location: All fences shall no extend closer to the front lot line than the established front building line or front setback line.

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 zones areas... Further, the designated area shall not exceed 50 % of the building size and in M-1 zones the designated area shall not be located any closer than seventy-five (75) to the front property line...

Preston Steven 22840 Sherwood appeared before the board and stated as the previous building, this building sits right next door. #1 the R-1-P district to the north, the pictures he presented earlier and he provided a color picture of the City tax records picture of the lot to the north. As he stated in the prior presentation the large trucks with the barbed-wire around them and the garbage dumpster in the dirt lot which was R-1-P to the north of this was blocking him from the car repair. The rest of it was a smaller parking lot. The building has to have it owns separate parking being that it is a separate address. He has that fenced off in the back, the parking has been approved and mapped out and there was small space for storage with that building separately but tied to the building next door. The rest of it Ms. Martin worked with him extensively on this and helped to map the rest of this out in order to bring it to the board.

Chairwoman Furgal stated this was a public hearing and asked for anyone that would like to speak on this item. Seeing and hearing none she closed the public hearing and turned the matter over to the board.

Motion:

Secretary Burdi made a motion to approve the petitioner's request with the following conditions: Any of the outdoor storage on the plans 3,715 sq. ft. only be for vehicles and equipment that are waiting to be repaired or have been repaired but none of the vehicles or equipment would be stagnant on the property for over 18 months. There is to be no junk storage, not outdoor junk storage unless it was a piece of equipment required to repair other equipment and absolutely no tires stored outside and no barbed wire on any of the fencing.

Reason being size and shape of the lot and not a detriment to the area.

Board Member Watriont supported the motion. The motion carried (8-1).

Roll Call:

Secretary Burdi

Yes for reasons stated in the motion.

people at and that has been in existence for ten years. She loves what she does and enjoys educating children and wants to spread the opportunity to the city of Warren. The location she was talking about had ample space for outdoor development for children which was very important as all the areas of development that foster child growth.

Chairwoman Furgal asked if she had sufficient parking.

Elizabeth Ojo stated yes.

Chairwoman Furgal stated this was a public hearing and asked for anyone that would like to speak on this item. Seeing and hearing none she closed the public hearing and turned the matter over to the board.

Board Member Becher stated she had been to the property the day before and the fact that she was going to put the grass in the back and she was going to put a play area in and that she had a nice secure area, along with all kinds of parking for dropping off and picking up she thought the building would work nicely.

Elizabeth Ojo stated the building would work as she mentioned earlier the center that was existing right now was a 3,800 sq. ft. building that sits on an acre of land. One of the pluses that make the place ideal was the parking lot and the building was a little bigger so it was an opportunity for advancement in teaching and the outdoor areas as well.

Board Member Becher asked if she was a state licensed daycare.

Elizabeth Ojo answered yes.

Motion:

Board Member Becher made the motion to approve the facility as requested and Board Member Descamps supported the motion.

Reason being size and shape of the lot and not a detriment to the area and needs approval of the board.

The motion carried (9-0).

Roll Call:

Board Member Becher	Yes for reasons stated in the motion.
Board Member Descamps	Yes for reasons stated in the motion.
Board Member Nestorowicz	Yes for reasons stated in the motion.
Board Member Bieber	Yes for reasons stated in the motion.
Board Member Pauta	Yes for reasons stated in the motion.
Board Member Brasza	Yes for reasons stated in the motion.
Board Member Watripont	Yes for reasons stated in the motion.
Secretary Burdi	Yes for reasons stated in the motion.
Chairwoman Furgal	Yes for reasons stated in the motion.

18. PUBLIC HEARING

APPLICANT: Rhema International Church, Eric Lloyd (Owner)

REPRESENTATIVE: Eric Lloyd
COMMON DESCRIPTION: 6782 9 Mile
LEGAL DESCRIPTION: 13-33-201-020
ZONE: M-1

VARIANCES REQUESTED: Permission to:

- 1) Waive the required wall or greenbelt adjacent to the R-1-P zones in the rear.
- 2) Retain the building to no less than 7.3 feet of the front property line.
- 3) Retain the building to no less than 21.7 feet of the rear property line.

ORDINANCES and REQUIREMENTS:

Section 5.11 Paragraph (5): That a six (6) foot wall or eight (8) foot greenbelt pursuant to section 2.26 of this Ordinance, be provided where the site abuts a residential district or residential use or is adjacent to an alley which abuts a residential district or residential use.

Section 5.11 Paragraph (8): Every building shall have a front yard of not less than thirty (30) feet.

Section 5.11 Paragraph (11): Each lot shall have a rear yard of not less than forty-five (45) feet where the building does not exceed two (2) stories or thirty-five (35) feet in height.

Eric Lloyd, 13320 Charlotte, Warren, MI appeared before the board and stated that he was the pastor of Rhema International Church which was a non-profit 501c(3) organization that was in good standing with the State of Michigan and he would like to waive the wall or greenbelt adjacent to the R-1-P zone in the rear of the building and because he was not changing the original structure of the property he would like to retain the building in its present state. He has been before the planning board and he has worked with Ms. Martin, Everett and Ron Wuerth to make sure all I's were dotted and crossed every t prior to this hearing.

Chairwoman Furgal stated this was a public hearing and asked for anyone that would like to speak on this item.

Preston Steven 22840 Sherwood appeared before the board and stated he was on the property to the south of this new church that was moving in and he was glad to see it moved to the community and he hopes they are granted their requests. This was a nice improvement to the neighborhood.

Ronald Gertz 22740 Sherwood, Warren MI appeared before the board and stated he was grateful that there were new prospects moving in to the neighborhood and it would help revitalize and bring new things to the community. He was excited to have them here.

Seeing and hearing no one else she closed the public hearing and turned the matter over to the board.

Secretary Burdi asked Lynne Martin what was behind the location. The drawing showed R-1-P one family residential.

Lynne Martin stated they were vacant lots.

Chairwoman Furgal asked if they were lots owned by the petitioner.

Lynne Martin said no they are lots that belong to the City.

Secretary Burdi asked if they were part of his plan any more.

Lynne Martin said no.

Secretary Burdi said the R-1-P lots are owned by the City and they are for single family residences.

Lynne Martin said R-1-P can handle parking for passenger vehicles or single family residential homes.

Secretary Burdi said but nothing was built there right now.

Lynne Martin said no.

Board Member Becher said the building has been where it is at for a number of years. It has been 7.5' feet from the property line and no less than 21.7' feet from the rear property line and he could not do anything about the location of the building. She thinks the required wall or greenbelt that was to be located at the back because that is the way it has always been. They are there now and they plan to keep the property up and keeping it clean.

Motion:

Board Member Becher made the motion to waive the required wall or greenbelt adjacent to the R-1-P zone in the rear. To retain the building to no less than 7.3 feet of the front property line and the retain the building to no less than 21.7 feet of the rear property line.

Reason being size and shape of the lot and not a detriment to the area.

Board Member Brasza supported the motion.

The motion carried (9-0).

Roll Call:

Board Member Becher	Yes for reasons stated in the motion and welcome to the community.
Board Member Brasza	Yes for reasons stated in the motion.
Board Member Descamps	Yes for reasons stated in the motion.
Board Member Watripont	Yes for reasons stated in the motion.

Board Member Nestorowicz	Yes for reasons stated in the motion.
Board Member Pauta	Yes for reasons stated in the motion.
Board Member Bieber	Yes for reasons stated in the motion.
Secretary Burdi	Yes for reasons stated in the motion.
Chairwoman Furgal	Yes for reasons stated in the motion.

19. PUBLIC HEARING **APPLICANT: Lamar Advertising Company-USE-**
(Rescheduled from 4/9/14)
REPRESENTATIVE: Robert P. Zuver
COMMON DESCRIPTION: 2020 Walter P. Reuther
LEGAL DESCRIPTION: 13-19-153-018
ZONE: M-2

VARIANCES REQUESTED: Permission to: -USE-

- 1) Retain a 48' x 14' = 672 square foot per face billboard.
- 2) Increase to a maximum 70 ft. in height.
- 3) Retain the billboard in the M-2 Zone.

Note: This is a legal non-conforming sign, installed in 1985 under a permit for 22020 Walter Reuther Hwy. **Section 4A.58 Loss of legal nonconforming sign status:** A legal nonconforming sign shall lose its designation and is require to be brought into conformity with this ordinance upon any of the following events occurring: (a) The sign is relocated or replaced. (b) The structure or size of the sign is altered in any way except toward compliance with this ordinance. This does not include change of copy or normal maintenance. (c) The use of the parcel is changed. (d) The activity, business or usage to which the sign relates has been discontinued for a period of ninety (90) days or longer. (e) Repealed.

ORDINANCES and REQUIREMENTS:

Section 4A.48 Billboards paragraph (a): (a) Except as regulated by the Highway Advertising Act, **billboards of size not exceeding four hundred (400) square feet** are allowed in **M-3 and M-4** industrial zones.....

Section 4A.50 Billboard height: Billboards **shall not exceed fifty (50) feet in height** as measure from the crown of the frontage road to the highest point of the sign.

Secretary Burdi stated she had a letter regarding this matter.

Board Member Bieber asked to be recused from this item. As the board knows he is an attorney and he represents a client that has a conflict with this particular petitioner, on that basis he would like to recuse himself to avoid any appearance of impropriety.

Motion:

Secretary Burdi made the motion to excuse Board Member Bieber on this item. Board Member Descamps supported the motion. A voice vote was taken and the motion carried (8-0).

Trevor Sulasky representing Lamar Advertising of Michigan. Gentleman by the name of Joe Shopshear was also present to answer any specific questions the board may

have about the sign and its structure, he was an employee of Lamar located at 6405 North Hicks Road in Westland, MI 48185.

Trevor Sulasky continued and stated he belonged to the law firm of Bodin PLC 1901 St. Antoine, Detroit, Michigan 48226.

Chairwoman Furgal asked if the person he was representing could come to the microphone and state his name and address for the record.

Joseph Shopshear 6405 North Hicks Road, Westland, MI 48185.

Secretary Burdi stated none of the gentleman here were listed on the application.

Trevor Sulasky stated Mr. Zuver submitted the application and he was the attorney representing Lamar Advertising and unfortunately Mr. Zuver could not be here this evening so Mr. Shopshear was here to answer any specific questions.

Chairwoman Furgal asked if Mr. Shopshear had any identification that he was associated with Lamar Advertising.

Joe Shopshear provided the board with a business card.

Chairwoman Furgal asked that he state the reason for the petition.

Trevor Sulasky stated he was sure the board knew that Lamar had first requested the variance in February of 2013 and hearings for the variance were held on April 10, 2013 and May 22, 2013. On May 22, 2013 the board denied the variances and Lamar proceeded to appeal the boards decisions in the Macomb County Circuit Court. Judge Maceroni granted that appeal and reversed the board's decisions denying that application finding that the board had applied the wrong standard. The board had applied a standard utilized for reviewing a use variance and this was a dimensional variance and as a result he reversed the board's decision and remanded it to the board for application of the proper decision, or of the proper standard of the dimensional variance. Quite simply based on the court's ruling in the appeal it was his position today that the record was closed and that there was no further evidence that should be presented today with respect to this variance. The variance application was submitted the board reviewed that application at two separate hearings and the record on this particular variance was closed. The court reversed the decision and remanded it strictly to apply the correct standard to the existing record as was made in 2013. He was happy to answer any specific questions the board may have about the sign or about the location but again it was his position that the record was closed and the only thing for the board was to apply the correct standard to the existing record.

Secretary Burdi asked if he was sure he did not want to go through the items and make a presentation. The board was open to hearing what he had to say and was open to hearing if the claim was that the board applied the wrong standard, why wouldn't he want an opportunity to present to the board with the correct standards?

Trevor Sulasky stated it was presented at the first two hearings.

Secretary Burdi stated months ago.

The evidence was presented that they had to support based on the proper standard. Lamar made it clear to the board at both hearings that the standards here was one for a dimensional hearing that requires a practical difficulty and presented the evidence of what that practical difficulty was and the record related to the variance request was closed in that regard.

Secretary Burdi stated that was months ago. She was trying to give him without question an absolutely fair hearing. She was asking him to please present his case with the practical difficulty standard so that she could properly analyze this and be fair to him. To have to rely on something that she heard months ago that he was saying they applied the wrong standard to, she was here tonight with an open mind and would like for him to please address the correct standard so that a fair hearing could be held.

Trevor Sulasky stated he believed that a fair hearing was held previously and the evidence presented related to the dimensional variance was adequate and accurate. Again he believes there was no further hearing for the board to hold to actually find new facts. The court rules are clear and if the court wanted to remanded to the board to have further factual findings then the court would have done so and that was not done, the court strictly reversed the decision and remanded it back to the board for the board to apply the proper standard to the record that existed for the April and May 2013 hearings.

Chairwoman Furgal stated this was a public hearing and asked for anyone that would like to speak on this item.

John Johnson, Macomb First Business Alliance, 59 Wallen Street, Mount Clemens, MI appeared before the board and stated he represents a business organization and this was a little departure, a little different for him this evening from what he normally does as he is usually on the side of business however, he had occasion to work with people in the neighborhood on street adjacent to the project. In the process of circulating petitions in the neighborhood near Coleman Street that has 17 homes that are impacted by this project he collected signatures. Fourteen of the residents on Coleman signed the petition in opposition to the project. The four that were outstanding were only because he was unable to locate the people or the one gentleman that said there was no use in signing the petition because it was all about money and it did not matter.

John Johnson continued and stated he had brought the petitioner signatures that he had secured and had copies for all the board members. One of the things he wanted to address was give a rendering of how this fits in the neighborhood. These pictures show that the sign is right in the resident's back yard and historically the neighborhood has been there for 50+ years with nicely kept homes. The expressway came

after the homes and then came the signage and then came the hotel. The sign was supposed to go after the hotel came but that didn't happen and now they want to raise the sign from 35 feet to 70 feet. Now the people on Coleman Street really cannot see the sign at its current height because of the hotel but if raised to 70 feet then all will see it. At the end of the day this was more profits for Lamar at the expense of neighbors. He would ask the board if they would want this in their back or front yard. How much more can be perpetrated on this neighborhood and where does it end at? Finally, in terms of Lamar the signage that is there today was horrible looking. It faces two directions on the freeway and the back side that is exposed to the neighborhood and it is all rusted out and nasty looking. No one ever thought about putting a third sign on there to kind of dress it up a bit and make it look a bit nicer. Content of message is also a concern.

Secretary Burdi stated she need the original to make it part of the official file. She would ask that the petition be dropped off to the Council Office tomorrow.

Michael Coyote stated that he was one of the residents behind the hotel and his family stays there. His family is on Coleman Drive and the sign would have too much light for them. Already he finds it difficult to sleep at night because of the light that comes from there. 26053 Coleman Drive.

Bob Smith 36154 Coleman Drive appeared before the board and stated he has been there over 20 years now. Years ago when the hotel was proposed there he was part of the many that objected to that. There was never really was a good reason put up as to why it should have been built. At the end of it the hotel was built and two things were promised to the neighborhood. One, the hotel would have trees behind it, and the other was that when the lease was up for that billboard it would come down. He understands that there was an obscure law that allowed that billboard to stay. He was here tonight to say that he absolutely objected to that billboard at all and he would be more than disappointed if they allowed to be raised even higher than it already was. He thinks Mr. Johnson was gracious in saying that the residents were ok with it being there because from his front yard he can see the top of the billboard and that was enough of it and he would really appreciate not having to see it any higher than it already was.

Chairwoman Furgal stated seeing and hearing no one further she closed the public hearing and turned the matter over to the board.

Secretary Burdi stated there was a letter from the hotel itself basically saying that they could not be there this evening on April 23, 2014 and that the hotel which was 696 Lodge LLC, doing business as Victory Suites was in support of the petition.

Secretary Burdi stated she was trying to remember on the last occasion if she was recalling correctly that the billboard was retained in the M-2 zone, do other board members remember that?

Board Member Becher stated it was retained and the board did not allow it to be raised or the become an LED.

Secretary Burdi stated if she read the ordinance section 4A.58 Loss of legal non-conforming use for sign status she was asking the City Attorney, by the petitioner wanting to make any changes to the sign they would lose the non-conforming use and then would be required to work toward bringing the sign into conformity, would that be accurate?

Roxanne Canstranelli Assistant City Attorney said yes Ms. Burdi that would be accurate.

Secretary Burdi stated so in fact billboard signs in the City of Warren are only allowed to have 400 square feet as opposed to 672 square feet. If she was not mistaken the board allowed them at the last hearing to retain the billboard in an M-2 zone and to retain their 672 square foot of per face of the billboard (two faces of the billboard). That 270 square feet being allowed more than any other billboard.

Roxanne Canstranelli Assistant City Attorney said yes Ms. Burdi that would be correct and she would like to make the notation that she was not present and she did not hear any of the factual basis from the previous hearings regarding this item.

Secretary Burdi stated so the use that this was marked at was to retain the non-conforming in the M-2 zone and to retain the non-conforming size of the billboard. That was the use and that the use standard applied to that. If she was understanding tonight item number 1 and 3 have already been granted and the proper standard was used. She asked the petitioner if he agreed that the board approved item 1 and 3 in the past, that he could retain the billboard in the M-2 zone and that he could retain the excessive size over the ordinance which was 672 square feet per face billboard that those were granted at the last hearing and that he has that.

Trevor Sulasky stated he agreed that the board did not say that it could not be retained however, as it was a non-conforming sign those were requests were not use variance requests. Those requests were effectively not necessary because it was already a non-conforming sign. The only actual variance that was required and requested was the dimensional variance to increase the height by 20 feet.

Secretary Burdi stated that was not all that was requested of the board and she had the paper work to show otherwise. In addition to that she just read the section that when asking to change a non-conforming use the non-conformity is lost. What the board did for the petitioner at the last hearing was give back the non-conforming use. The petitioner could keep the sign in M-2 zone even though it normally is not allowed and the petitioner could keep the excessive size because the board only allows 400 square feet and he was given 270 square feet more per side of the sign. Did he not want that variance anymore?

Trevor Sulasky stated he disagreed with her characterization of what happened at the last hearing. Again, those two that seem to be requests related to the non-conforming sign issues and the retention of those were not actual requests and the variances were not required. The only variance that was required was for the height of the sign. In her suggestion of the zoning ordinance section that she sighted when

the hearing was brought to order it somehow by requesting the size of the sign to be increased necessary gets rid of the non-conforming status. One he did not necessarily agree with her reading of that; if the sign, it says nothing about requesting a change as he understood it and requesting a change does not necessarily make it no longer non-conforming. More importantly that issue was not addressed at all at the previous two hearings. That section of the ordinance was not cited by the board and that section of the ordinance was not relied upon by the board throughout the appeals process. The first time that section of the ordinance had been stated on the record was today. To state again what he began his presentation with was the record was closed as of May 22, 2013 and the final decision of the board last year.

Secretary Burdi stated she was actually trying to help him and get him farther down the path because the fact that he had asked to raise the height makes him automatically lose his non-conforming use. Remember the goal of non-conforming use was to bring them into conformity at some point. There is a ordinance that says if he asks to change the height then he would be losing his non-conforming use. She was trying to help him by stating the board gave him his non-conforming use at the last hearing. He was standing here telling the board they do not want it. He was saying that he did not need it but she was telling him if he asked to have the height raised tonight he was going to lose the non-conforming use. Would he like to keep the non-conforming use and keep the sign in an M-2 zone and actually able to keep the higher square footage of the signs.

Trevor Sulasky stated he would agree that the non-conforming use continues.

Secretary Burdi gave the petitioner the ordinance so he would have it.

Board Member Watriont stated the court order stated that it was remanded for further proceedings not that it was closed but consistent with the decision under the appropriate standard.

Secretary Burdi stated that was correct and the petitioner was refusing to play ball or participate so her guess was to analysis if without the petitioner's input.

Trevor Sulasky asked to address two points. In terms of the ordinance and he read the section that she cited; Section 4A.58 that says a legal non-conforming status shall lose its designation and be required to be brought into conformity with this ordinance upon any of the following events occurring. He thinks subsection B was the one that would be at issue here and it says the structure or the size of the sign was altered in anyway except toward compliance with the ordinance. This did not include a change of copy or normal maintenance. What he would suggest that actually requires is that the sign actually be altered. Without conceding that this applies today and without conceding that it would actually alter the non-conforming status of the sign he would say that in asking for the variance does not in and of itself alter the sign and if the board were to grant that variance to heighten the sign by 20 feet it would not automatically by granting the variance make that sign non-conforming by the plain language of this ordinance.

Secretary Burdi asked if he was kidding. Was he saying that if the board granted the higher height that in its self does not change the sign so that he would not go out there and raise the height of the sign?

Trevor Sulasky stated he was not conceding anything further other than what he understood the ordinance to say and again he thinks the record and to address Mr. Watripont.

Secretary Burdi said wait a second one thing at a time. That makes no sense what he just said. From a common sense stand point, if he had permission to change the height of the sign then he does it, bingo non-conformity. He would have lost it because he changed the height of the sign. She was asking him why he was not taking care of business tonight, why wasn't he addressing the elements of practical difficulty standard, why not address what occurred at the last hearing and where he was at and where he could go with this? It was really hard to work with him because he just seems to be stone walling the board when they are trying to hold an open full hearing.

Trevor Sulasky stated he understands that but the fact was that the variance request was heard on two separate occasions that record is closed. This particular ordinance section was not addressed, anything beyond what was addressed at those two previous hearings are not for the board to consider today.

Secretary Burdi stated so the fact that Mr. Watripont just said to him that it was remanded for quote unquote "further proceedings" that does not indicate to him that maybe there should be some open and frank discussion between the petitioner and the board.

Trevor Sulasky stated to the court's opinion it was remanded for further proceedings consistent with this decision under the appropriate standard and if she read the court's decision it was that the practical difficulty text should apply that the use standard variance, use standard was applied and that was incorrect. Remanded for further proceedings consistent with the opinion as not to create a further factual finding.

Secretary Burdi stated she would do things his way, if that was what he wanted.

Board Member Becher stated that he was saying that raising the height of the sign would not change the sign and she disagrees with him simply by the standards that when a sign was listed in businesses the height and coverage were listed. Changing the height of where that sign appears in its space would change it. It would literally change if it changed from a foot here to ten feet here.

Secretary Burdi stated that it was her understanding that this board granted items 1 and 3 in the past which was for the petitioner to retain the billboard in the M-2 zone and to retain the larger square footage up of the 672 per face of the billboard. Since she could not seem to get an answer out of the petitioner she thinks the board has already done that and she does not think they should do that again and she does not think the standard changes on that item. She thinks it is item number 2 and increase

to a maximum of 70 feet in height that the board now needs to apply the non use variance practical difficulty standard to because that was only part that was denied in the past.

Roxanne Canestrelli stated if that was the only part that was denied in the past then that was correct the board only needed to vote and apply the practical difficulty standard.

Secretary Burdi stated otherwise the board would be hearing an item that was granted to them and she could not see a logical reason why they would not want it.

Trevor Sulasky said that he apologized, he did not fully understand what she was asking. Based on the information just discussed with the city attorney he agreed with her representation of what happened at the last hearing and what would happen at this hearing and that the only issue was for the board to apply the practical difficulties standard to the dimensional variance for the height, that he agrees with.

Secretary Burdi stated at least with that they were on the same page. Did he want an opportunity to address the practical difficulty standard items 1 through 6. Did he want to give them information on those?

Trevor Sulasky stated he did not. His position was that the record was closed and that information was adequately and accurately provided in that record.

Motion:

Secretary Burdi made the motion to deny the petitioners request for the following reason: The petitioner has not shown that the strict compliance with the ordinance as to the height of the sign would unreasonably prevent the applicant from using the property for their permitted use or would unnecessarily burdensome. The petitioner has provided absolutely no evidence tonight and if she thinks back to what has been provided in the past, it was they wanted it to be higher because they wanted it to be seen better and that was an economic advantage to them. However, it was an unreasonable impact and burden on the neighbors in that area as it increases the light damage and pollution that the neighbors talked about as well as sight pollution. Many of these people; some have indicated they can see the sign from their properties and that it was rusted and the back that faces the neighborhood was open and rusted and unsightly. In fact it was an unreasonable impact and burden on the neighbors and it has been demonstrated that the property owner of the sign was still able to use the sign, get a benefit from the sign etc. Item number two: The request cannot be self imposed. The condition should not be created by the applicant or previous owner of the property or reasonably discoverable by the owner. In fact there was a situation that this sign does not need to be raised, there has been no information at all other than they believe the higher the better, more people can see it and that would increase their revenue. The fact that it can be used as it currently was and successful with that use as it currently was it appears to be self imposed. This appears to be a billboard that is located so close to residential that it in fact was an intricate built in problem. The property was not unique, not any more unique than any of the

other properties along the service drive. It does not have any physical features or characteristics that make the board think that raising the height would be a logical result of the uniqueness of the property. The item was not to be a detriment to the nearby properties. Many times when analyzing variances the needs and rights of different property owners, in this case the board has done that by allowing the sign to stay in an M-2 zone and allowing the sign to have more square footage than the ordinance allows that seems to be fair compromise that impacts the neighborhoods. It still allows the business owner of the sign to of course perpetuate his business and use his sign. Raising of the sign will cause unsightly views for the neighborhood but more importantly the light issue. Once gentleman was very clear that the family has trouble at night sleeping due to the light issue. Many of the signs today are not the typical paper if you will, they are LED bright with changing copy and it gets to be quite a detriment to the neighborhood and it would not be fair to the neighbors. It was not to be a personal or economical basis for the variance and she has heard relying on memory from the past presentation that it was all economic and seemed to be no other basis for raising the height of the sign except for economics. The last item was if the variance was necessary for the preservation and enjoyment of a substantial property right similar to that enjoyed by other properties in the same zoning district and in the vicinity and she would say that this was absolutely unique it was so close to the residents, right on top really and in Warren they are not wanted in M-2 zones but rather M-4 zones. The City does not want them 70 feet in height they want them much lower because of the light pollution and certainly did not want them to be 672 square feet on each side when normally only allowed to be 400 square feet. It was not necessary for the enjoyment and preservation of a substantial property right because she thinks the board did make sure that the substantial property right was retained for the petitioner by allowing the sign to stay in the M-2 zone and by allowing the much larger square footage than normally granted for billboard signs. For those reason she makes the motion to deny the petitioners request.

Board Member Watripont supported the motion.

The motion carried (9-0).

Roll Call:

Secretary Burdi	Yes to deny for the reasons stated in the motion.
Board Member Watripont	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 Nestorowicz	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 Pauta	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 Bieber	Yes to deny for the reasons stated in the motion.
Chairwoman Furgal	Yes to deny for the reasons stated in the motion.

19a PUBLIC HEARING
REPRESENTATIVE:

APPLICANT: Nicholas Lavdas -USE-
Michael Gordon, RA

COMMON DESCRIPTION: 4860 Thirteen Mile
LEGAL DESCRIPTION: 13-08-126-028
ZONE: R-1-C

VARIANCES REQUESTED: Permission to: -USE-

Expand the Wedding Chapel to include catered receptions that includes liquor license in an R-1-C with a variance for Office.

ORDINANCES and REQUIREMENTS:

Section 5.01 to 7.01: Uses Permitted in Residential Zones: liquor establishments not permitted or banquet facilities.

Section 13A.01: Uses in "O" Zones: Liquor establishments not permitted or banquet facilities.

Nick Lavdas 4860 13 Mile Road appeared before the board along with Mike Gordon, 4351 Delemere Court, Royal Oak, Michigan-Architect.

Nick Lavdas requested a tabling of the item as discussions were taking place with the neighbors.

Motion:

Secretary Burdi made the motion to reschedule the item to May 28, 2014. Board Member Descamps supported the motion. A voice vote was taken and the motion carried (9-0).

20. NEW BUSINESS

Chairwoman Furgal stated that she was on the board with Fitzgerald Schools and last summer they held a fair type event to start school and it was based on the one from Warren Woods Tower that has been done for a number of years. Fitzgerald was being required to have ZBA approval in order to have the fair and it has never been approved for Warren Woods.

Secretary Burdi stated they approved it every year.

Chairwoman Furgal stated no that was the carnival and this was something different. She does not object to having ZBA approval but if Fitzgerald has to do it then so should Warren Woods. It was like an open house. The building and licensing department was making the requirement.

Lynne Martin asked if it was the Clerk.

Chairwoman Furgal said maybe.

Lynne Martin stated she did not understand why and she would look into the matter. She did not think they needed permission.

21. ADJOURNMENT

Motion:

Board Member Watripont made the motion to adjourn and the motion was supported by Board Member Bieber. A voice vote was taken on the motion and all "Ayes" were recorded. The motion carried (9-0).

The meeting adjourned at 10:17 p. m.

Caren M. Burdi
Secretary of the Board

APPROVED