

WARREN ZONING BOARD OF APPEALS
REGULAR MEETING
JANUARY 11, 2023

A Regular Meeting of the Warren Zoning Board of Appeals was called on Wednesday, January 11, 2023 at 7:30 p.m. at the Warren Community Center Auditorium, 5460 Arden Avenue, Warren, Michigan 48092.

Members of the Board present:

Roman Nestorowicz, Chairman
David Sophiea, Vice-Chairman
Paul Jerzy, Secretary
William Clift, Assistant Secretary
Charles Anglin
Judy Furgal
Charles Perry
Anthony Sieracki, Jr.
Michael Sylvester

Members of the Board absent:

None

Also present:

Cecil St. Pierre, City Attorney
Everett Murphy, Chief Zoning Inspector
Nicole Jones, Council Office

1. CALL TO ORDER

Chairman Nestorowicz called the meeting to order at 7:30 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

A roll call was taken and all board members were present.

4. ADOPTION OF THE AGENDA

Motion:

Secretary Jerzy made a motion to approve the agenda; Supported by Board Member Anglin.

Voice Vote:

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

5. APPROVAL OF THE MINUTES of the Regular Meeting December 14, 2022.

Motion:

Secretary Jerzy made a motion to reschedule the minutes of December 14, 2022

minutes; Supported by Board Member Clift.

Voice Vote:

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

6. PUBLIC HEARING:

Anthony Bogedin -USE-

(Rescheduled from 9/14/22, 10/12/22, 11/9/22, 12/14/22)

REPRESENTATIVE:

Caren M. Burdi, Attorney

COMMON DESCRIPTION:

5020 Chicago

LEGAL DESCRIPTION:

13-05-401-015

ZONE:

R-1-C

VARIANCES REQUESTED: Permission to -USE-

Allow a multi-family (4 unit) dwelling in a single-family zone in which one unit is complete and the remaining units have been roughed and constructed without permits.

ORDINANCES and REQUIREMENTS:

Section 7.01 – Uses Permitted: Multi-family dwellings are not permitted in a single-family district.

Caren Burdi, 31851 Mound, appeared before the stating good evening. On behalf of the petitioner, Mr. Bogedin, for 5020 Chicago Road. She asked if she may proceed.

Chairman Nestorowicz said please do.

Caren Burdi said obviously, they have been on a bit of a journey with this item. One of her biggest concerns with regard to this, there seems to be some information or some things that are being said that aren't actually accurate or being backed up by documentation. So, what she had done is actually gotten from the city, through the proper channels, the Freedom of Information, the entire file on this piece of property at the Building Department and Planning Department. They indicate to her that they have given her their complete file. So, one of the things that's incorrect is where the notice says and was just read into the record, thing were constructed without a permit. That is not true. She provided to the board, and she believes each one of them has this where it says 5020 Chicago Road, and it talks about a timeline. She took each one of the documents that was from the city and put them in chronological order, and then presented them to the board. Not only does she give the information, but the documents there. So, what she is saying has substance behind it. So, she's just going to highlight certain things. She's not going to read that entire timeline into the record, because they don't have that kind of time tonight. But, she will tell the board this. The first document the city has is dated October 24, 1960. That's important because this building already existed prior to the Warren Zoning Ordinances. They know that, because in 1960 a permit was taken out for a furnace. So, that means this building existed prior to the ordinances. Next, what's really, really important is the letter from May 8, 1990. In that letter the owner at that time was complaining that he was unable to properly use his property. If the board reads the letter that came back from the city, the office memorandum they kept internally, and the letter that went back to the petitioner. They state in that letter that there are two (2) apartments upstairs and the bottom floor is used for commercial. In the memorandum from the city they talk about a dance studio, YMCA offices, a pop business office, meaning soda pop. They list all sorts of uses that took place in the bottom floor of that property. So, at one point, and the city says, they want to let them have their full potential for this property, so they're going to work with them. Continue to have office or business downstairs and two (2) apartments upstairs. The property then ended up being vacant, and there is a letter

from the city that says now that it's been vacant, it lost the nonconforming use. So, the city says that to them. At that point, then, the property is purchased by the owners before her client, the owners that sold it to her client. They have that piece of property. Mind you, they bought it and now it's supposed to be single-family residence. Ok. However, the history of the property is quite different. The new owners, quite frankly, did some work, there's some permits there that they did, and then they went to the City of Warren's Zoning Board of Appeals on or about May 17, 1999 and they got permission to have two (2) residential units in that piece of property. Then, on December 12, 2021 a building permit was issued for an addition, interior alterations for that piece of property, and for an attached garage and family room, fifty-five (55) feet by thirty-five (35) feet. So, in essence there's the building permit for the size of the building and for the interior alterations. However, here's what is important to note and let the record shows. The building permit was taken out, the work was done according to the building permit. The work that was done was slab, the outside enclosure, and some roughing out. No plumbing, no electrical was done at all. The inspector came and approved what was done, but was unhappy that more work wasn't being done on the permit. The inspector actually filed an action, like a ticket, for not completing the building permit. The City of Warren said hold on, wait a minute. Running out of money is not a violation of a building permit. He did not, the previous owner, did not do any work in contrary to what the building permit allowed and he had all things he did do inspected. So, he runs out of money and what he has now is an apartment on the second floor that has always been in existence, and the rest of the building interior wise roughed out; the exteriors all completed. That gentleman lets it sit and pays the taxes, and lets it sit like that for approximately twenty (20) years. That's why she can tell the board that currently it's in that condition. She gave the board photographs from inside her clients building, except for the apartment that he lives in. That has always been in existence and is approved. By the way, over 1,600 square feet. Bigger than many houses in the City of Warren. The rest of the building is in the state that it was in with the last building permit. It's roughed out, no electrical, no plumbing. To say in the agenda that he did something, the prior owner, against the permits is not true. That is a fallacy and is not true. He roughed it out under a permit in 2001. So, she wants to stop that fallacy that work was done outside of a permit or in excess of a permit or in violation of a permit, because it's not true. Now, they can fast forward to March of approximately 2021. That is when Mr. Bogedin buys the property. He buys the property with the one (1) apartment that has Certificate of Occupancy, it's been in existence forever, and the rest of the building is in roughed out condition. He has done no work at all. His first stop was at city hall and he asked what he can do, how can he do it, etc. As the board knows, she is on the corner of Chicago and Mound. He comes into the office and asks for her. They sat down and had a discussion. She got the history of the property. She told him this property has been used for office and commercial in the first level, it has a history of it. It has the history of the approval of two (2) apartments upstairs. Mind you, that's the history of the property. Right now, he has almost a 9,000 square foot building. By the way, he's taxed almost ten thousand dollars a year. He's taxed as if he's using that 9,000 square feet. She can't believe that a ten thousand dollar tax would be applied if he's allowed to have one (1) apartment in that entire building, or even two (2). With regard to the conversation they've had, the discussion was along Chicago Road there are offices. As a matter of fact, on the same side of the street half way between 5020 Chicago and the corner of Chicago and Mound there's an office building there. It looks like an old fire station. She quite frankly looked it up online, she stopped there, she looked in the windows; it's an office building. That's what they're doing there. Kitty corner across the street from her, meaning the other side of the street of this property down a little bit, is an office building, and it looks like an office building. It is an office building. It's owned by the Gallo companies. That's located there. In their discussions, they talked a little bit about that. One of the things that they talked about was what is the least

intensive use they can come up with. The least intensive use that would pose the least disturbance to anyone, residential. So, then they started talking about if it is residential, instead of commercial or office down below, what does that look like. They have almost 9,000 square feet. Right now the proposal is for four (4) living units. Not one of them is under 1,600 square feet. Not one of them is under 1,600 square feet. She repeats that because the average home in Warren is 1,000 to 1,400 square feet. These units will be larger than most all of the homes in the City of Warren. She Googled the average size of an apartment in the City of Warren, it's 847 square feet. These units will be double, double the size, of the average size apartment in the City of Warren. If her client is limited to having two (2) units, each unit would be over 4,000 square feet. She's sorry, but that's not practical or feasible that they can rent an apartment for 4,000 square feet in Warren on Chicago Road and make a ten-thousand-dollar tax bill even in relation reasonable. It just is not. Each one of these units, she has to explain that none of these units, none of them, are taking short cuts or cutting corners. She's going to tell the board that unit 1 is 1,622 square feet. Unit 2 is 1,622 square feet. Unit 3 is 1,608 square feet and unit 4 is 1,790 square feet. Unit 1, 2 and 3 are three (3) bedrooms. Unit 4 is two (2) bedrooms. Every one of them has two (2) full baths. Every one of them has their own laundry facilities. Every one of them has, she would say in her humble opinion, huge kitchens. When talking about a kitchen, twenty-three (23) feet six (6) inches by ten (10) feet six (6) inches, to her that's a big kitchen. She thinks the smallest kitchen she has here is sixteen (16) feet by twelve (12) feet. They have dining rooms and living rooms. Unit 4 has an office and a TV room and a separate sitting room. These are not skimpy types of housing. These are quite frankly premium housing. In addition to that, there is a garage that houses two (2) to four (4) cars. There is outside parking that she believes is ten (10) cars. There is a backyard green space that is pretty nice size, quite frankly. These are not skimpy trying to put an elephant in a shoe box. These are premium housing that, quite frankly, when done would be rather desirable. How much does this, when they balance her client having the right to the reasonable use of his property, and they balance that with the neighbors right to their use and enjoyment of their property. All they come down to is, a few extra cars coming up and down Chicago Road. She's got to tell the board, Chicago Road is not a residential street. She thinks all of them know Chicago Road is what's called a collector's street. What does that mean? That means it collects the traffic from the surrounding residential areas and it is it's job to take that traffic to faster thoroughfares; Mound Road, Ryan Road, the mile roads, Thirteen Mile, Fourteen Mile, etc. As a matter of fact, some people would argue that it is even more intense than a collector street and would argue that because Chicago Road is actually basically the Thirteen and a half mile. It's not called that, but that's what it serves as. She uses that street to go to Oakland Mall, she uses that street to get on I-75. This is not a residential street and it never was. Those people that live on it, know that it's not when they bought there and they built there. The thing she wants to point out also is, on the same street just across the street from them is a huge church. Church traffic comes, park in the parking lot, leaves on Sunday's. She has to say, most people do most of their living in the backyards of their home. Is this really going to be disturbing people? Their living most of their life in their home and in the backyards. They think they can't think of a less intensive use that is fair to the residents' next to her client, and also fair to him. He is constitutionally entitled to a reasonable use of his property. There is enough case law out there that she believes would indicate that having someone put in two (2) 4,000 plus square foot apartments, or living spaces, in a building that's 9,000 square feet in the City of Warren is not a reasonable use of this property. It is not. She wants to point out that she also walked the neighborhood. She submitted to the board a letter from Eric Kuhnhenh, who lives at 4803 Chicago Road. She submitted the letter to the board at a previous hearing. She can resubmit it again today if the board would like her to. He articulately states that he doesn't believe it's going to be disruptive to the neighborhood, and he

thinks this is the least obstructive use to the neighborhood. He thinks that it's a plus to the neighborhood, given the size of the units and that they will be new. He certainly doesn't want to see mixed use there. That's very interesting, because there's a letter and she attached it to the brief that she did. There is a letter that the city said, clearly this property was designed for and should be used for a mixed use. If they can't have residential, what else can they do with that property but a mixed use? An office downstairs, a business downstairs, and apartments upstairs. They're asking for the least intensive use. In addition to walking the neighborhood, it was really interesting that there was a gentleman who just bought two (2) doors down from her client. He indicated to her that quite frankly, he doesn't like that this piece of property looks dark and vacant. He would like to see it vibrant and lived in. She thought that was very interesting. She asked if he would be willing to put that in writing, and he said to her that he didn't really have time for that. That was his opinion that he expressed to her, but he did not put that in writing. So, it's a quality product that's being proposed, but yes it is a use variance. So, the criteria for a use variance. She believes that when she submitted the application. Many people don't fill this out, she filled this out and was very specific as to how this piece of property meets the use variance request. Each of the items are as follows: the property cannot be used as zoned. Now, when it comes to zoning law, it's sophisticated. It's not can they put two (2) apartments in and be in compliance. The law expects some sophisticated analysis. For example, is that a reasonable use of the property. Is that a fair use of the property? Is that a balanced use of the property? She submits to the board, expecting someone to put in the City of Warren at Chicago Road two (2) apartments that are over 4,000 square feet is not a reasonable use of that property; it is not. She doesn't believe that they would rent for what they would need to rent to even meet the obligations. Number 2, is this self-imposed? They know from the records, and she attached them to the documents she submitted, he bought the property March 2021. He did not expand this property, he did not. There is plenty of case law that thoroughly discusses that it doesn't matter... It does matter if you create the problem that they need the variance for, that's true. But in this case they know that is not the case. Then there is a plethora of case law that says just because a piece of property is in distress or needs a variance, and they purchase this piece of property, that's not a problem. That's not a problem, because the court looks at, the law looks at every piece of property having a vital use to it's reasonable potential. They don't care who owns it, as long as they didn't create the problem. Mr. Bogedin did not create the problem; he's entitled to a reasonable use of the property. With regard to the property being unique. Well, the City of Warren documents itself this property is unique. They identify it as unique by saying clearly this piece of property doesn't fit into just residential use. Clearly it's a mixed use property. These are letters from prior building officials in the City of Warren that say the property is unique and needs to have a look at to make it feasible and the least intensive use. Not a detriment to the area. She would propose to the board, once again, they have requested the least intensive use that they can come up with for this piece of property. They have been reasonable with the size of the units. They far exceed, far exceed. She means they could have come to the board asking for six (6) units and still exceeded the square footage of housing in the City of Warren. Still exceeded the size of the apartments in the City of Warren. They didn't do that. Mr. Bogedin wasn't being greedy. Mr. Bogedin said he's going to make some really nice living units, and 1,600 square feet is pretty nice living unit. The add, if you will, change to the neighborhood would be a few more vehicles; that's what would be happening on Chicago Road. Besides that, she thinks then they have a building that looks vibrant, it's used. It could probably be then after it's updated look nicer, have some landscaping additions. There's a lot of things that could be done with this property. At this point, nobody is going to go out and really go all out on the landscaping when the inside is, quite frankly, totally unfinished except for one apartment. They do not believe it is a detriment to the area. Is this necessary? Is the use variance

necessary for the preservation and enjoyment of the property. She submits to the board that it is. What other way can they use this property to it's reasonable potential, and to it's least detriment on those around. So, she believes they have met every one of the use variance hardships to a 'T'. So, at the last hearing that they were in person, it was expressed that a financial hardship can not be considered. She has to correct them on that. That is a saying they all say when sitting on Zoning Boards. What it means is, a financial hardship. If it's only a financial hardship. In other words, waive putting up a brick wall between two different zonings, because brick walls are too expensive. Correct, that can't be considered. Not wanting to put in a green belt because bushes are too expensive, that can't be considered; that's not a proper hardship. However, there are two (2) cases that she cited in her brief that very clearly state that financial hardships serious enough to prevent the property from yielding a reasonable income or return, must be considered. As otherwise, the building amounts to an unreasonable taking of property and the use there of. That's a direct quote from those two (2) cases. If you can't use your property up to it's reasonable use, it is a taking under the constitution. So, she wanted to point out that her pointing out about the feasibility of 4,000 square foot plus apartments in the city not being feasible is a proper Zoning Board of Appeals argument. Lastly, there was a quote in a case. She has to read this to the board, because when she read it resonated with her. Then she'll move to conclude her comments. This is in the Puritan-Greenfield Improvement Association case. This is a quote, "it has been said that the function of a board of Zoning Appeals is to protect to the community against usable land remaining idle, and it is that purpose which gives definition to unnecessary hardship." In other words, this piece of property sat for twenty-one (21) years, roughed out inside. That to her, is a piece of property that is usable but is remaining dormant. It is, in her humble opinion, this board's responsibility to give this property a feasible and reasonable use. She would ask the board to approve the request for living quarters in this property. She's available for any questions, and she would like to ask the board to please, when statements are made about no permits, didn't do this, didn't do that. Literally, she would ask them to please provide the documentation behind that, because at this point she has gotten every piece of documentation the city claim's that they have and she presented that to the board in an organized fashion. If there is anything else out there, then the city didn't provide it to her. Thank you.

Chairman Nestorowicz thanked Ms. Burdi for the comments. This is a public hearing, are there any members of the audience that would like to speak on this item to please approach. When they do approach, start with name and address for the record and then with the comments. Thank you.

Gina Cavaliere appeared before the board stating her husband Joe Banick was unable to attend to today. He had to be at a work function. They are the owners and occupants of 4897 Chicago Road. They have lived there since 1998, and in approximately 2003 they purchased the vacant lot next door at 4889 Chicago. She cannot believe how many statements that petitioner has just made that she disagrees with. First and foremost, her home is just under, her single-family home directly across the street, is just under 4,000 square feet. If she were to move, the taxes uncapped, the taxes would be over \$14,000 for a single-family home for the previous owner. So, the \$10,000 of taxes that the petitioner is paying seems to align with the neighborhood. The construction without a permit. Yes, a permit was issued. A permit was issued was to Jeff and Shawn Young. It was issued to take, what at that time, is a square box and they were going to do the addition. They started building more and more and more. It got out of control. The project was never finished. Why was it never finished? Was it because they ran out of money? Was it because of their life circumstances changed and one brother moved out of state? Or was it because their permits, their inspections were denied? Probably a combination of all of those. When they bought the vacant lot next door to

them in 2003 and began planning their substantial addition. They're house started at about 1,000 square feet. They made a big investment and big decisions, and they made very informed decisions. They spent time living for four (4) or five (5) years next door to the church to see what type of activity they would expect. They researched the zoning, the uses around, and they also paid very close attention to 5020 Chicago. When they moved in, that property was zoned R-1-C. It was a single family home already in 1998. Yes, part of it was vacant. One point of clarification, it wasn't... there was an owner between the owner with the 1990 letter and the young brothers. The petitioner is three (3) owners since a commercial use. There is a letter on file, she also submitted a Freedom of Information request. She analyzed the same records that petitioner analyzed, and she provided the board with a written request and brief. That nonconforming use was abandoned a long time ago. Yes, there is a letter on file with a city employee saying pursue a variance. That process was never initiated, that property owner, three (3) owners ago, did not pursue that opportunity. So, at that point in time, the legal conforming status was abandoned, first abandoned. Even if you don't subscribe to that, which is very accurate, it was abandoned. When the young brothers expanded that nonconforming use in the early 2000's, any allowance of commercial that remained is abandoned. So, this has been a single family home zoned R-1-C for a long, long time. At the time, in the early 2000's, when the R-2 use variance was requested, they as neighbors supported that. That was reasonable. They had a square box that was maybe 2,000 square feet. They wanted to turn it into two (2) units, put a pitched roof. That made sense. The expansion as the project grew and grew. Petitioner states that is not a self-imposed hardship. Well, the variance, the use variance requirements clearly states that it's self-imposed by the owner or a previous owner, and the petitioner should have known of the situation. The petitioner clearly knew that structure was larger than what might be considered reasonable for a single family or two-family home. As far as the illegal construction goes, when those permits were issued it was for two (2) units. Petitioner has stated repeatedly that it's been roughed for three (3) units and he wants to build four (4). So, regardless of whatever the permit that was pulled, what was constructed does not comply with the permit. Now, she is no way asserting that the petitioner himself did the construction, the previous owner did. That aligns with the requirement that the board deny this request. She said they began planning their project in 2003. They did that in reliance on the R-1-C and R-2 variance across the street from them. They object to the R-3 use variance for several reasons that demonstrate the basis for denial of the petition and any conditional R-3 use variance. They submitted those objections to the Zoning Board of Appeals and stated in an abbreviated version on the record at previous meetings. Ms. Burdi also stated that she talked to a new neighbor. They have two (2) new neighbors, she has spoken with both of them. One was here in objection at the last meeting that was cancelled, the other submitted in writing objections to this variance. Let's see. There is one area in particular she would like to highlight today. Petitioner's attorney cited Janssen versus Holland Charter Township Board of Appeals in her correspondence and in her dissertation just now. There, the decision of the ZBA to grant a use variance to allow the construction of a subdivision in an agricultural zone was upheld. She asserts, she believes two (2) factors in that case are applicable here today. One, the allowance of consideration of a reasonable economic return on investment by the ZBA, so that's her statement. That economics can be considered under certain circumstances. Two, that the tax bill is not a hardship, that is self-imposed. The facts before the board today are much different than a new subdivision in a historically agricultural neighborhood. In that case, the court pointed out that the character of the neighborhood was transitioning from agricultural to residential. Here, the character of the neighborhood is well established and stable. There is a single family neighborhood and has been since the 1950's or earlier. So, to assert that this is not a residential neighborhood, she has a very hard time understanding that. If looking at the zoning map,

it is the R-1-C in the middle of a whole bunch of single family, and then those offices that were referenced at the transitional zoning to get to Mound Road or Ryan Road, or Fourteen Mile or Thirteen. Everything in between is residential. This neighborhood had almost completely transitioned from agricultural to single family decades ago. This petitioner now representing that their single family neighborhood is transitioning to multi-family so an apartment building should be allowed? On point one, the consideration of reasonable economic return on investment. Farms are a tough investment without subsidies. So, when rising factors were factored in the Janseen case, and agricultural use lost a lot of money. She did the math, a petitioner can make money on this property with an R-2 use. He could have probably made more money before it was over built, but he can still make money on the R-2 use as it stands. In the real estate industry, cap rates, or capitalization rates, are the industry standard to determine if an investment would yield a reasonable rate of return. A cap rate of four (4) percent is a typical minimum threshold for an investment property like the petitioner's. That means that the investment property will generate a net operating income, which equates to four (4) percent of the properties value. So, four (4) percent is the industry minimum standard and anything more than that is a bonus. As you get closer to a cap rate of ten (10) percent, or it's called a ten cap, that is an unusual profitable investment. In the industry they ask, "does the project pencil out?" That means is the return on investment reasonable. You calculate the cap rate by creating a perform on the investment. She ran a couple of different perform models based on some reasonable educated assessments. So for the first, they know it's a matter of public record that petitioner paid \$250,000 for the property. She was estimating that he needs to invest \$50-\$75,000 more. It's roughed out, it's not in bad shape, everything is done on the outside. He's financing about ninety-five (95) percent of the project over a term of thirty (30) years at an interest rate of five (5) percent. She added in those property taxes of \$10,000 a year, the amount the petitioner cites. With other inspection expenses, like insurance, maintenance, capital reserve set aside, the carrying cost on top of mortgage payments, and she added about another twenty (20) grand a year. That even factors in a ten (10) percent vacancy rate. Using these very realistic estimates, two (2) units, renting at \$1,500 per month, which is less than what it would rent for based on the area in other rental units in Warren. That investment would yield a cap rate of 5.7 percent. The petitioner's carrying costs are pretty much a break even point in year one and get better from there. If the applicant sells his investment twenty (20) years from now, his cumulative cash on cash return is almost 400 percent. That is a fantastic investment. The projects with two (2) units pencils out. An R-2 use is very reasonably profitable. That's for two (2) units renting at \$1,500 a month. Finish and refresh the units that are on the second floor, make the first floor an open space, like a traditional bonus room, maybe one (1) for each tenant. People want home offices now, they want home school spaces. Let the third floor be attack for storage that the people who built it represented it would be. That was supposed to be an unfinished attic and that's what was represented. She walked it with them. She also analyzed the date about rental homes in townhouses that were recently listed and available in the north west quadrant of Warren. The average square foot, yes it's smaller, the average square footage is about 1,285 square feet. So, smaller than the units petitioner can offer. The average rent is \$1,788, just under \$1,800. To garner a higher rent, they probably have to make the units a little nicer. She plugged in \$75,000 for renovation costs. That scenario also cash flows from the start and the cap rate increases to six (6) percent. It pencils. If they permit three (3) or more units, the petitioner will own a cash cow at the expense of his neighbors and of the neighborhood. Nobody can tell her than four (4) homes as opposed to two (2) is not a far more intense unit and a burden on the neighborhood. One point two on the Holland Charter Township case, she thinks the petitioner is saying is that costs are higher because of taxes, and taxes are not a self-imposed hardship. The petition states that the extra space that he can't fully use is his

hardship. He says that his property is just too big to be only two (2) units and he's being denied use of his property, and that's what was represented today. She explained the math. The taxes work economically. No hardship exists, self-imposed or otherwise. Before the property was expanded around 2002, each of the two (2) units would have been fairly consistent with the average size a rental units and single family homes in the neighborhood. The previous owners over built and that situation is open and obvious and well documented in city records that are easily accessible by the public. Those are the records that Ms. Burdi, she accessed them as well; they're at cityofwarren.org. The real estate listing even noted, the real estate listing to which the petitioner responded and purchased. The real estate listing noted that governmental approval would be needed for more than two (2) units. The petitioner knew, or should have known, of the situation that he now claims is a hardship and is here today to cash in on it. Intentionally over building is in fact a self-imposed hardship and the zoning ordinance says the hardship self-imposed, it defines self-imposed not as just the petitioner, but as a previous owner. That previous owner imposed this hardship. That is consistent with the facts that the petitioner himself has represented. This petition is for the highest use of the property and the most profitable use of the property, not a reasonable use. They were expanding their home at about the same time that the Young brothers across the street were expanding the petitioner's property. They were friendly neighbors, they were friends. They went through this major life even together. She was building her house, they were building their house. Additions at the same time. They both made the mistake of caving into scope creek. Most of them experience this with small projects, you paint one room and the next thing you know they may as well paint the next two while they're at it. They do it with small projects, but they did it big. While they had everything torn apart, they said they may as well they may as well. In the case of the Young's, they made the third floor completely accessible, walkable space that petitioner now wants to make into apartments. The Young's plan was just to be a pitched roof and then said they may as well make it storage space, now the petitioner wants to make it apartments. In her case, their family room and kitchen grew and grew. One day she came home and was told by her dad and husband that they were digging a basement expansion. Like the Young's, they were way over budget. The difference was she got inspections, passed inspections and built what was allowed. So, they were able to finance their overrun; and she finished the project. They have enjoyed their home for over twenty (20) years. She thinks it's also relevant to state that until last summer 5020 Chicago was occupied by either Jeff and Shawn Young or Shawn Young and his family. He got married, she brought a child to the marriage, they had two (2) together. A single family has lived in that home for twenty (20) years and they used the ground floor as storage. She suspects that they ran out of money, because they were trying to build an apartment building that was not allowed. That's very different than they just ran out of money. If an R-3 use is granted, it will set the precedent that a property owner in the City of Warren can overbuild, never get inspections, then flip the project, never finish it, and flip the project to a speculator for profit. Then the speculator can additionally profit even though public records indisputably indicate that the intended use is not allowed and even when the construction and requested use are to the detriment of the neighbors and neighborhood. Like the Young's, as she said, he over built. They have a 4,000 square foot house, just shy of 4,000 square feet, and in an area of the city where most homes are 1,000 square feet. Some of their neighbors are as well. They are not the largest home in their neighborhood, though. They have two (2) furnaces, they have two (2) laundry rooms, five (5) bathrooms, five (5) entrances, not including the garage. They also have nearly an acre of property, which is far more than the subject property. She walked around her house, been pondering the situation a lot. With the addition of one (1) interior wall and one (1) interior doorway, they could divide their house into two (2) units. If they spent a little more money they could very reasonably and economically get to three (3) or four (4) units. If

the variance is granted it would change the character of the neighborhood. They aren't sure they would want to stay. They might say her husband and her back here requesting a use variance for their house so they can also realize a larger return on their investment. She is also here to answer any questions or clarify any facts since she is somebody who has been there the entire time. Thank you.

Chairman Nestorowicz thanked her for those comments. This is a public hearing, is there anyone else who wants to speak on this item to please approach. Please state name and address for the record, before the comments, please.

Lori Harris, 4047 Hillcrest, appeared before the board stating she has lived here for forty (40) years and have watched that house. Driven past it every single day, because her kids went to school at Green Acres. They've had quite an experience they've had forty (40) minutes of like being in a court room, right? It's kind of hard to peel back to the main issues. Mr. Murphy you're here for the Building Department?

(Inaudible)

Lori Harris stated she kept looking over there where is the guy, but he's not here. A three (3) bedroom unit any place in today's economic times would probably have several roommates. She can't picture someone renting a three (3) bedroom unit by themselves right now. Especially, young people that might go into an apartment building. She doesn't think that parking lot is big enough for ten (1) cars to move in and out. If this would get sold to a management company because he's going to move on with his life, then what happens? They can't do landscaping. This house sits right on the sidewalk. There's no space to make it look any different than it does, a big box sitting there. She thinks they have to remember that these arguments in terms of legal arguments, she doesn't know that it's the boards job to legally decide this, but it's their job to decide based on the zoning ordinances of this city and multi-family dwellings are not permitted in a single family district. That's like the bottom line. That they can't predict how many people will live there, how many cars will be there. There is no access parking. There is no extra curb on Chicago Road and she disagrees with Ms. Burdi. It is a neighborhood street, it's not a thoroughfare; it's a slow street. It's not meant to be a big road like Ryan Road. It's a little bit of country, when everything else around is crazy. They don't have a whole lot of that. She doesn't live right next door, or right in that neighborhood, but she cannot picture that this is appropriate. She does, the other comment she wanted to make about the taxes, Ms. Burdi made it sound like this was a shame that he's being taxed for property he can't use. She's living single in her house right now, doesn't use a lot of her house, should she be taxed differently? The taxes are based on the value that he paid for the house. Typically, in Macomb County half of that amount \$125,000 times the millage rate, which is probably .58 in that area of Warren. So, she has no idea if it's being taxed as a one (1) unit or two (2), but that's what happens. That's what is going to happen to a lot of people who bought in the last year in Warren; they're taxes are going to be high. Those are her comments. The board has to remember it's not permitted, it's not a good place because there is not enough space to have that many people living and operating. Thank you.

Chairman Nestorowicz thanked her for those comments. Is there anyone else from the audience who wants to speak on this item?

Harry Cook, 5201 Chicago, appeared before the board stating they purchased the single family home in January of 2022. He actually remembers seeing the listing of the property that they're talking about and in retrospect he probably should have bought it, because speaking as a former property manager it would have been a really good duplex. A really good two (2) unit property and a money maker. Now that he lives in the neighborhood, he can't see that being an apartment building. It's completely out of character for this area of Chicago Road. Another thing that struck me about that struck him about that listing was what a nightmare, what a self-imposed nightmare by whoever did that building project to not get the proper permits and not follow the proper procedure. He never ended up walking through it, because he knew that's not something he could take on at the time. It reminded him of other projects he's seen when he worked in the real estate business of things that just get out of control. Projects that are never able to meet the threshold of the inspections and the threshold of getting city permits approved. So, he is very thankful for Gina for doing all the research that she has done on this here and very glad he actually had some free time tonight to show up and express to the board that he is very opposed to having a four (4) unit apartment building in this area. He wanted to state again. He thinks it's very out of character for this area of Chicago Road. Thank you.

Chairman Nestorowicz thanked him for those comments. Was there anyone else wishing to speak on this item?

No response.

Chairman Nestorowicz closed the public portion and turned it over to the board for their questions and discussion. He just wanted to start with a couple points he wanted to make. He's driven by that property from the first time it appeared on their agenda, parked in its parking lot, looked through all the various paperwork here. He looks at the city letter from 1994 where the Building Department clearly stated it was two (2) units on the upper floor, and even here it says to the building owner at the time, their continued pursuit to lease, rent or sell the property shows that they were not abandoning their nonconforming uses. But it seems like now with all this time with the city not being able to use, because now they say they lost those nonconforming uses. He has seen that building vacant for long, because with the one unit occupied it seems like they're going to have an abandoned building in that area and it's not going to have any future of getting zoned, or getting occupied with any tenants. When he thinks back to where it used to have business on the first floor, that's much more intensive than any residential. He doesn't know, he tends to take a look. Two (2) units of 4,500 square feet would be very hard to rent in the city as opposed to four (4) units of 1,600. That's just his opinion. Any other discussion or comments or questions from the board.

Board Member Anglin said one of his concerns is the fact that that property, even though it wasn't the direct doings of the applicant here today, is that he felt that it is doings of somebody who previously owned that property. His opinion on the use of it or self-imposed is the way he understands it does not matter if it's the one applying or someone previous to that. So, he just doesn't like the idea himself with what he sees the neighbors talking and that a four (4) unit complex in the mix of all single resident area should be permitted. He has stacks and stacks of other things, but they've been said from both sides tonight and made it very difficult to sypher through which side of it should he go on, but he's going to end up going on the side of not allowing a four (4) unit complex put on that property.

Board Member Sophiea said he had a question to Ms. Burdi. During her presentation, she mentioned that the petitioner purchased the property and then went to the city hall and into her office to seek what the property is zoned for. His question to her, what was the petitioner's understanding when he purchased the property. It seems unusual that someone would purchase a property without knowing ahead of time what the allowed use is.

Caren Burdi called Mr. Bogedin to the podium. She explained when he came to her, he wasn't asking what it was zoned. She wants the board to know that he explained to her that it was vacant and what was the steps and process to use the property to it's potential and do it properly with the city. Mr. Sophiea's question is what did he think about the property and what he could do with it when he bought it. So, she's going to let him answer that.

Anthony Bogedin, 5020 Chicago, appeared before the board stating he thought it had a lot of potential for a residential unit, yeah.

Board Member Sophiea asked multi-family unit.

Anthony Bogedin replied yeah. Because it was currently set for two (2). It's clearly quite large so he wanted to know how much more was reasonable.

Chairman Nestorowicz asked Mr. Bogedin to state his name and address for the record.

Anthony Bogedin stated his name and address.

Chairman Nestorowicz thanked him. Any other questions from the board?

Board Member Furgal said a lot of discussion was talking about that he was going to abandon the building himself and not live in it, but it sounds like to her he lives there. She would like to know his intentions for staying there in the future.

Anthony Bogedin said his intention is to currently stay there, yeah. Although, during construction he'll probably have to move out.

Board Member Furgal asked that his intent is to have one of the apartments for himself.

Anthony Bogedin said keep one of the units, yes.

Board Member Furgal said the potential for investment if he only had two (2) units would be cut in half, correct?

Anthony Bogedin replied yes.

Board Member Furgal thanked him.

Board Member Sophiea said he had one other question here. Number of parking spots. He thought he saw in the packet that there's going to be ten (10) designated parking spots. Does that include the parking in the garage?

Anthony Bogedin replied yes.

Caren Burdi said it does.

Board Member Sophoiea said one of his issues is thinking if they are three (3) bedroom units, he's probably going to have more than just one (1) person living in each unit. It's probably going to be a family or a couple. He's just thinking about his own house. He has a single family house, but they have a couple cars, stuff in the garage. So, just his house alone they have three (3) cars, a motorcycle, bicycles. It seems like there might be a parking issue.

Caren Burdi said she will say this, the attached garage is much bigger than two (2) cars. As a matter of fact, what he's proposing in the garage is for each unit to have a huge storage area. So, with each unit, and maybe she should have mentioned this, shame on her. With each unit comes a quarter of a three (3) car garage, because he can actually park, if she's not mistaken, four (4) cars in that garage easily right now. So, what he had proposed was that each unit have a significant storage area and just put two (2) cars in there. If he had to put a four (4) car garage in there, they could easily do that. She means, put four (4) cars in there. It's big enough. She did want to make one comment, if it's ok. There is a pleather of case law that talks about people buying property and not having created the hardship and that they don't care, as long as it's not the person who created the hardship. They don't care who owns it, the property is supposed to be used to it's potential. She's sorry, a previous owner creating a hardship is not to be held against the new owner of the property. Obviously, Ms. Cavaliere disagrees, but there is case law out there.

Chairman Nestorowicz thanked her.

Board Member Furgal said she can't talk anymore.

Chairman Nestorowicz said if there's any other questions, that wasn't part of the question, so.

Board Member Sylvester said he had a question for the petitioner. He purchased this property after already seeing the building built out and having what he wanted to have as four (4) units and the garage. Ms. Burdi, he appreciates her and has respect for her, but they can only put two (2) cars in that garage. They can put four (4) cars in there if they belong to the same family. So, unless there is going to be a whole big change to that piece of property, that's not going to happen. Now, with that being said, the owner saw this property prior to doing everything that he wanted to do to it right now. He knew where city hall was, he knew where Building was, he knew where zoning was, he knew where Engineering was. If he had an idea, which he's expressing to the board now, to do four (4) units, why did he not find out before purchasing this property?

Caren Burdi said if she can answer that.

Board Member Sylvester said no. He does not want her to answer, Ms. Burdi. He wants the petitioner to answer it.

Caren Burdi said ok, she has a comment to make on that.

Anthony Bogedin said he's not sure he fully appreciates what the question is.

Board Member Sylvester said he bought a piece of property for \$250,000, did he not know what he wanted to do with it? Did he not know the area that he was in? Did he not realize that the property is a Warren Historical Village and wanted to change everything? He's pretty sure the applicant isn't from here. He's pretty sure the applicant doesn't know what the history is of the City of Warren and what these people do on Chicago Road and how they built up their houses and how they love their neighborhood. And he wants to come in there and just wants to change it. Why? Because he's going to make a lot of money.

Caren Burdi said she thinks what they have to understand is, he did look at that property, he did see the potential for the property, and it doesn't matter who owns the property, every piece of property is allowed to be used to it's potential. So, it doesn't matter if it was Mr. Bogedin who bought it, or if she went and bought it, or if her neighbor down the street went and bought it. They have a piece of property...

Board Member Sylvester said she is missing his point. He saw the property before he purchased the property. He knew what he wanted to do. There was no problem with him going to the city and asking any of the departments if he could do what he wanted to do. Then he probably would have said he would have to go through this and it's going to be a battle, he's not going to buy the property. That he could see.

Caren Burdi said then you have a piece of property that is left in shambles for over twenty-one (21) years. It doesn't matter who ends up owning the property, this issue has to be addressed at 5020 Chicago. She doesn't care if Mr. Bogedin owns or Joe Schmoe owns it. They have a piece of property that has been vacant, except for one (1) living area, that is 1,622 square feet. The rest of it has been vacant for twenty-one (21) years. That is not acceptable in property law. Property is to be used to it's reasonable potential. Twenty-one (21) years of vacant isn't ok.

Board Member Sylvester said twenty-one (21) years has nothing to do with him or her.

Caren Burdi said alright.

Board Member Sylvester said it has nothing to do with it. It was sitting for twenty-one (21) years without being used.

Caren Burdi said ok.

Chairman Nestorowicz said lets bring everything down here. He asked Mr. Sylvester if he has any other questions.

Board Member Sylvester said he just doesn't believe that, he's just going to say this. The applicant bought, he wanted to do something with it, he did not contact the correct people or the right people in the City of Warren. He agrees with some of what Ms. Burdi is saying, but if she's going to do something with a piece of property then find out all of what can and cannot be done before purchasing it. Thank you.

Board Member Anglin said even if, and that's not his understanding, but if what she's stating is that the previous owners that created this is not, her client is not liable for what they created, but in his opinion then, the applicant is receptive to what the board says is allowed to put in that place at this point. Whether the board puts it off as being self-imposed or detriment to the area, there is a whole plethora of things that they have that the board can actually use to fit a situation they don't feel needs to be rezoned in a use zone. So, he would give her that it could be, he would have to research that one, because he's not one hundred percent sure, but at this point he feels, he'll rephrase it, a detriment to the area due to it being a multi-unit apartment complex when it's all R-1-C in the neighborhood.

Chairman Nestorowicz said he just wants to state that this property is currently allowed to be an R-2, it's allowed to have the two (2), but it's also been vacant for a very long time and the board can see as it's currently zoned as an R-2 it hasn't been able to be occupied. It has been twenty (20) plus years. Do they want this property to be vacant for another twenty (20) plus years?

Board Member Cliff said to his point on that, he would say to the petitioner he thinks that piece of property would make a fantastic dynamite duplex, and he's going to leave it at that.

Board Member Anglin said again, to rebuttal on what he was saying. Yes, the property, but they have to understand it's hard to rent something when trying to rent it and nothing is finished off. He's been in the building business for a long time and for him to sell a house, or rent a piece of property he has, and not having people walk in and see what they're renting, won't rent. So, he feels part of the problem at that point is there wasn't a unit finished off for him to rent while it stays vacant. It could be a year to get one fixed in today's climate for good contractors. Any good contractor is busy for the next year. So, just the rim of that has to be faced with it. So, he thinks that if he had the opportunity, he probably shouldn't say this way, he would have that place rented in six (6) months. Two (2) units, two (2) floor layouts, rent it in six (6) months, and he would get more than \$1,500 for the units. He did research on it. He could get \$2,000 a month on those units. So, that's his opinion. Chairman Nestorowicz thanked him.

Board Member Sylvester said he has a question for Mr. Murphy. A lot has been said about this property. What he wants to know is how far was his department kept out of the loop with regard to all the building that was done on it up to wanting to add four (4) units.

Everette Murphy said they're talking about a building permit that was taken out in 2001, not a single building inspector was employed in 2001 actually works in the Building Division today, so he can't...

Board Member Sylvester said they have paperwork.

Everett Murphy continued to say he can't tell him a lot of that. He can tell him that a permit was pulled by Shawn Young. He also knows that he's not supposed to, Mr. Anglin probably knows this, not supposed to work under someone else's permit. So, in order for any work to continue it would need a different permit regardless. The permits say right on them that they expire in 180 days, however, he believes the state says as long as there is progress, a permit doesn't expire. It seems they had about twenty (20) some years with no progress, so he thinks he can say that the permit is no good. It expired. So, at that point he doesn't know the rest of the history matters.

Secretary Jerzy said he's just coming back to one simple solution when everything gets kind of muddy in the waters and both petitioner's have made a compelling case for both arguments. But to grant a use variance at any property, they have to prove that property can no longer be used for that current zoning restriction. It can't be used as an R-2 and make that kind of assertion. So, if that property can no longer be used under the current zoned use, which he doesn't believe to be the case. They can't grant it as a board, so that is just where he is at. He'll yield the floor.

Board Member Furgal said its still zoned R-1-C. It's zoned R-1-C.

Board Member Anglin said but they have...

Board Member Furgal said that doesn't matter. Mr. Murphy just said, the guy came and has to get his own permits.

Everett Murphy said he has to get his own permits, but if there was a variance granted to allow the R-2 use that's still good today.

(Inaudible)

Board Member Furgal said he said the zoning.

Secretary Jerzy asked Mr. Murphy that it is an R-2 zone.

Everett Murphy explained it's an R-1-C, but it has a variance to allow R-2 use. So, for all intensive purposes, it's an R-2.

Secretary Jerzy thanked him.

Board Member Furgal said she thought they lost it.

Everett Murphy explained variances run with the land. Even the ordinances say, as long as they applied for a permit within a year that variance is good. That variance is not going away.

Chairman Nestorowicz said what they lost was the nonconforming to have the business on the first floor. That's what they lost, because it used to have a business on the first floor.

Board Member Furgal apologized and said she forgot.

Chairman Nestorowicz repeated they lost nonconforming for the business. Any other questions, comments or any motions?

Board Member Anglin said to bear with him one moment. Let him get his reading glasses on.

Motion:

Board Member Anglin made a motion to deny the applicants petition.

Reasons being: The landowner's plight is not due to unique circumstances and general

conditions in the neighborhood that may reflect the unreasonableness of the zoning. Three, a use authorized by the variance will alter the essential character of the locality. Four, the hardship is the result of the applicants non-actions, and he scratched that fourth comment, he did not say it, because they already discussed on that not being reflected on applicant and would have to research that more. So, it would follow up to be under the first three (3) reasons that he mentioned to deny the motion.

Board Member Sylvester supported the motion.

Chairman Nestorowicz said they have a motion by Mr. Anglin, support by Mr. Sylvester to deny the application. Therefore, when the roll call is taken it's a yes to deny. Roll call, Mr. Jerzy.

Roll Call:

A roll call was taken on the motion. The motion carried (7 – 2).

Board Member Anglin	Yes, to deny for the reasons stated in the motion.
Board Member Sylvester	Yes, to deny for the reasons stated in the motion.
Board Member Clift	Yes, to deny for the reasons stated in the motion.
Board Member Perry	Yes, to deny for the reasons stated in the motion.
Board Member Sieracki	Yes, to deny for the reasons stated in the motion.
Board Member Sophiaea	Yes, to deny for the reasons stated in the motion.
Board Member Furgal	No, she believes that Ms. Burdi has made her case.
Secretary Jerzy	Yes, to deny for the reasons stated in the motion.
Chairman Nestorowicz	No, he feels the case was made to approve it.

The petitioner's request was **DENIED** as written.

Caren Burdi thanked the board.

Chairman Nestorowicz said item number seven (7).

7. PUBLIC HEARING:

APPLICANT: Lecom

(Rescheduled from 12/14/2022)

REPRESENTATIVE:

Mark Edward Phillips, Phillips Sign & Lighting

COMMON DESCRIPTION:

27663 Mound

LEGAL DESCRIPTION:

13-17-427-037

ZONE:

M-1

VARIANCES REQUESTED: Permission to

- 1) Allow one freestanding 8 square ft. directional sign: 44 inches high, 20 inches under clearance, sign 24 in. x 48 in., "shipping & receiving" and "visitor parking".
- 2) Allow a second freestanding 8 square ft. on each side, directional sign: 44 inches high, 20 inches under clearance, sign 24 inches x 48 inches. "Lecom parking only" and "Lecom with address" on other side. Total square ft. of directional signs, 24 square ft. (These signs are in addition to the 42.1 square ft. of monument sign on the premises.)

ORDINANCES and REQUIREMENTS:

Section 4A.35 – Signs Permitted in Commercial Business and Industrial Districts (C-1, C-2,

C-3, M-1 and M-2): (B) One freestanding on premise sign or advertising display of a size not to exceed seventy-five (75) square feet shall be allowed in commercial business and industrial districts zoned C-1, C-2, C-3, M-1 and M-2.

Section 4A.19 – Clearance: All freestanding, projecting, and marquee signs shall have a clearance of ten (10) feet beneath the sign structure, excluding monument signs.

Chairman Nestorowicz asked the applicant to start with name and address for the record, and then take the board through the request.

Ed Phillips appeared before the board stating he is with Phillips Sign and Lighting, 40920 Executive Drive. Here this evening with them is Mr. Sam Lentine representing Lecom located at 27663 Mound Road. He could be pretty brief with this. They were the primary sign contractor on this project. They built and installed all the signs on the property with sign and electrical permits pulled. They did, however, overlook the permit on the two (2) small eight (8) foot directionals that was mentioned. Upon opening their new location, they recently realized the need to restore order in the parking lot; it was mass confusion. They had across Hillsdale on the north end of the property there is a building with a business. People were actually parking in Lecom's parking lot walking across the street, leaving Lecom no room for their own employees and vendors. That's the reason for the sign at the end of the street at the end of the parking lot there. The other sign is simply for deliveries and visitors and parking. That was somewhat of a confusion, too. With that big lot off to the side, people weren't sure if they were supposed to pull in front, because the front lot was full due to the others parking in it. It was just mass confusion. So, they installed these signs and instantly saw a nice smooth system out there. No longer had semi's pulling in parallel in front of the building and trying to back out. It was just (inaudible). These two (2) signs totally fix their problems. Finally, their hardship is safety for their vendors, employees, vendors and visitors. Hopefully, the board can see the need and approve them.

Chairman Nestorowicz thanked him very much for those comments. This is a public hearing, is there anyone from the audience wishing to speak on this item?

No response.

Chairman Nestorowicz closed the public portion of the meeting. He asked Mr. Jerzy to read in the letter email the board received.

Secretary Jerzy stated they received a letter regarding the Lecom violations. He read, "I would like to update our progress regarding Lecom violations that addressed 27663 Mound Road. I've attached pictures to show we've removed all vehicles, materials on the back of the property and recently leased another facility to help with this. Below is a list of violations with Lecom's corrective actions. Section 4.01(b) fuel container has been removed from property. IPMC 302.4 grass and weeds have been cleaned. Section 17.02(s) we are working on getting all outdoor material to new facility. Section 4.39 we have hired a monthly street sweeper to keep property clean. Section 4.32(k) all vehicles have been removed from the grass area and rear lot. Pictures attached. Section 4a.12 meeting with Zoning Board of Appeals on January 11th regarding permit for sign structure. Lecom would like to thank the ZBA."

Chairman Nestorowicz thanked Mr. Jerzy. That closes the public portion of the meeting and turned it over to the board for discussions, questions or motions.

Board Member Sophiea stated as he probably recalls, this item was tabled from last meeting due to the open violations. He sees their email sent in and the photographs; he's satisfied with what they provided. The signs look pretty routine. If there are no other comments he would like to make a motion.

Board Member Clift called for Mr. Murphy. He asked him to speak to any of the violations having been corrected to his departments satisfaction as outlined in enforcement E22-02606 put in by a Mr. Watriont on the 27th of June of 2022, sir.

Everett Murphy replied there are no results added to the file, so he can't speak to that.

Board Member Clift thanked him very much, sir. He appreciated that. He yields the floor, sir.

Secretary Jerzy asked the applicant when the signs were installed. The current ones they're requesting the variances for.

Ed Phillips said probably mid-2021. He can get the board an exact date of they need it.

Secretary Jerzy asked if there is any reason why they didn't come to the board at that time for the signs.

Ed Phillips said to be honest with him, they looked at the ordinance. The ordinance said that no permits were required, but they didn't read far enough. The ordinance says anything over two (2) square feet; up to two (2) square feet. So, that's why.

Secretary Jerzy thanked him.

Board Member Clift said to the petitioner. Sir, in the email he cites Section 17.02(s). He asked him to go into a little more detail for him on what kind of progress was made in being compliant with that part of the enforcement action that was filed against him in June.

Sam Lentine appeared before the board stating he's with Lecom, 27663 Mound Road. So, they recently leased a new facility December 17th and they are in process in moving material to that new property and will have that resolved in the next couple weeks.

Board Member Clift said his best estimation percentage wise of how much as gone from site since initially cited.

Sam Lentine replied seventy (70) percent.

Board Member Clift said he's good with that, sir. Thank you very much. He yields the floor.

Board Member Sophiea said he's satisfied with their progress and he would like to make a motion.

Chairman Nestorowicz said to go ahead please.

Motion:

Board Member Sophiea made a motion to granted permission to:

- 1) Allow one freestanding 8 square ft. directional sign: 44 inches high, 20 inches under clearance, sign 24 in. x 48 in., “shipping & receiving” and “visitor parking”.
- 2) Allow a second freestanding 8 square ft. on each side, directional sign: 44 inches high, 20 inches under clearance, sign 24 inches x 48 inches. “Lecom parking only” and “Lecom with address” on other side. Total square ft. of directional signs, 24 square ft. (These signs are in addition to the 42.1 square ft. of monument sign on the premises.)

Reasons being: Not a detriment to the area; Necessary.

Board Member Clift supported the motion.

Chairman Nestorowicz said they have a motion by Mr. Sophiea, support by Mr. Clift to allow the petitioner’s request for the reasons stated in the motion.

Roll Call:

A roll call was taken on the motion. The motion carried (7 – 1).

Board Member Sophiea	Yes, for the reasons stated in the motion.
Board Member Clift	Yes, for the reasons stated in the motion.
Board Member Perry	Yes, for the reasons stated in the motion.
Board Member Sylvester	Abstained.
Board Member Sieracki	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Secretary Jerzy	No, simple fact that it was not brought to the board, the signs were put up without approval. So, he’s drawing his line in the sand here and saying no.

Chairman Nestorowicz said before he votes, he wanted to know what the reasons were in his motion.

Board Member Sophiea said not a detriment to the area and necessary.

Chairman Nestorowicz thanked him and said he just wanted to refresh his memory.

Chairman Nestorowicz	Yes, for the reasons stated in the motion.
The petitioner’s request was <u>APPROVED</u> as written.	

8. PUBLIC HEARING: **APPLICANT: Robert Najjar, Truck Services Holding Group LLC**
(Rescheduled from 12/14/2022)
 REPRESENTATIVE: Tim Storey, Storey Engineering
 COMMON DESCRIPTION: 21250 Mullin
 LEGAL DESCRIPTION: 13-34-426-009
 ZONE: M-2

VARIANCES REQUESTED: Permission to

- 1) Allow 97,780 square ft. of outdoor storage/trailer parking on gravel.
- 2) Allow a total of 153,528 square ft. of open storage when 20,135 square ft. is allowed.
- 3) Allow open storage no less than 25 feet from the front property line.
- 4) Retain a building with a height of 40 ft.
- 5) ~~Retain a building directly abutting the side (north) property line.~~
- 6) ~~Retain a building directly abutting the rear (east) property line.~~
- 7) Allow a 10' tall wall for 745' along the south property line.

ORDINANCES and REQUIREMENTS:

Section 4.32 – Off-street Parking Requirements: (K) All off-street parking areas shall be provided with adequate ingress and egress, shall be hard surfaced with concrete or plant-mixed bituminous material (base may be stabilized gravel or equivalent), shall be maintained in a usable dustproof condition, shall be graded and drained to dispose of all surface water.

Section 17.02 – Industrial Standards: (S) Open storage other than junk. The designated area shall always be hard surfaced and screened from the public street and any residentially zoned areas. The designated areas shall not be located in any area required for parking space and is necessary to meet the minimum requirements of Section 4.32 of this ordinance. Further, the designated area may not exceed fifty (50) percent of the gross floor area of the primary structure on the site. In M-1 and M-2 zones the designated area shall not be located any closer than seventy-five (75) feet to the front property line unless the size of the lot is less than one hundred fifty (150) feet in depth in which case the Planning Commission may allow the designated area to be located no closer than twenty-five (25) feet from the front property line.

(D) Height of buildings. See Article XIX for height exceptions. M-2: 2 stories, 30 ft.

(B) Side yards, and rear yards. M-2: 20 ft. each.

Chairman Nestorowicz asked the applicant to start with name and address for the record, and then explain, take the board through their request.

Tim Storey appeared before the board stating he Storey Engineering, 48264 Manchester. The owner is...

Robert Najjar appeared before the board.

Chairman Nestorowicz said address.

Robert Najjar said 21250 Mullin Avenue.

Chairman Nestorowicz asked them to take the board through the request, please.

Tim Storey explained after the meeting last month, they met out in the hallway with the residents and modified the site plan and resubmitted that. They added a screen wall along the south side, they made it proposing it higher than, up to ten (10) foot. The ordinance allows six (6) feet. He added in a detail cross section showing the wall. It should be on the site plan the board has in their packet. So, then he noted that Rob had tried to do a little bit of (inaudible) there. He's been looking for catch basins out there, but with the weather and holidays and everything he wasn't able to get his contractor to locate those catch basins he believes are out there. The intent is to locate those

to get the water draining in the back.

Robert Najjar explained after the meeting last time he went out there.

Chairman Nestorowicz asked him to speak into the microphone, please, because it's hard to hear him without.

Robert Najjar continued explaining he made a catch basin by the houses for the flooding. Also, he has his contractor come in next week, Larry Helman, the contract that he has. He's going to grade the water over to his side, that way they don't have no water in their backyards until he builds his wall. He's trying to do his best temporarily just to get the water away from his neighbors.

Tim Storey said to reiterate, once this is approved and they get Engineering approved, then they'll regrade and pick up all the drainage. The wall going on the property line with the forty-eight (48) inch foundation below, so no water will go across the property line once they make the improvements that they're requesting to make.

Chairman Nestorowicz thanked him for those comments. This is a public hearing, are there any members of the audience wishing to speak on this item. If so, please approach the podium. When they do, please start with name and address for the record, then comments or questions.

Dwayne Jodway, 11339 Sherman, appeared before the board stating on the meeting after talking with the applicant, he showed where his property is and where the applicants property is. They're talking a forty-eight (48) inch wall. So, that means a forty-eight (48) inch wall starts at his property, right? If it's two (2) feet higher that makes it seventy-two (72) inches. He'll have to go down seventy-two (72) for a rat wall then, correct? That's one part he wants to find out. So far all that he's done so far with the gravel it seems to be working. He's the one that catches it all. So far the last rain they had it seems to be working so far.

Chairman Nestorowicz thanked him for those comments.

Sally Townsend, 11365 Sherman, appeared before the board stating she didn't quite catch when the ten (10) foot wall that's to extend 745 feet. A quarter mile is 1,320 feet. Will this wall extend all the way along the residential side?

Robert Najjar replied yes, also he's adding to the side as well. All the way across and down. That way in case no water is going to come down and come to her. Making sure there is no water coming to her at all.

Sally Townsend said to Mr. (inaudible) point. She went out and measured this afternoon and it's thirty-five (35) inches from the base of her yard to the beginning of their parking lot surface.

Robert Najjar explained they started from her base out. So the foundation coming (inaudible).

Sally Townsend asked if it's going to be a small retaining wall?

Tim Storey replied yes.

Sally Townsend said she sees in the notes here that usable surface water... So screened from the public street and any residentially zoned areas. So does that mean that they will be looking at the trucks still?

Tim Storey said the wall.

Sally Townsend repeated they will be seeing the wall.

Tim Storey replied yeah.

Sally Townsend said wonderful.

Robert Najjar said ten (10) foot wall, the trucks are higher. The trucks are 13.6.

(Inaudible)

Chairman Nestorowicz said it's ten (10) feet above ground.

Tim Storey said it's ten (10) feet from his side of the property up. So from her side it will actually be a little higher.

Sally Townsend asked if the barbed wire fence will be removed also? At that point in time.

Time Storey replied yes.

Robert Najjar said they have to do that, put the foundation in (inaudible).

Board Member Sylvester said Mr. Chair they're having a conversation.

Chairman Nestorowicz said he knows... It's hard when... So, basically he just wanted to... What the audience member was asking whether the barbed wire was going to be removed, and he heard the petitioner stating that yes the barbed wire fence was being removed. To reiterate for the record to make sure it was well heard into the mic, the audience member was asking about the height of the wall and it's ten (10) feet above ground is the height of the wall. That doesn't take into part...

Sally Townsend said above Dr. Diesel's parking lot versus their yard which is three (3) feet lower than Dr. Diesel's parking lot.

Chairman Nestorowicz said yes. So, they'll be looking at a ten (10) foot wall in that area.

Sally Townsend said thank you.

Billy Joe, 11387 Sherman, appeared before the board stating the applicant has answered most of her questions. The only other question that she has is time frames.

Robert Najjar said time frame all depends on the weather. As soon as they get the ok today they

will pull permits. He's going to try his best, he knows they're not going to be able to finish the whole wall because of the weather.

Board Member Sylvester asked the Chair to have him speak into the microphone.

Chairman Nestorowicz asked him to come closer to the microphone so everybody can hear.

Robert Najjar repeated as soon as they get the ok today, he'll talk to his construction. At least he wants to try to cover up her area, because on the other side, the other half of the wall, he doesn't have any water issues with the neighbors.

Billy Joe said only on the west side.

Robert Najjar said only on the west side. He's going to do his best. This all depends on concrete, it's very hard to get concrete right now. He has a construction company, he's a good friend of his.

Billy Joe said right, but he said the construction with the holidays and the weather he wasn't able to get him. The construction just started recently behind her house, because she can hear it all day long.

Robert Najjar said correct, but still it's winter time coming. Any freezing temperature they cannot lay concrete.

Chairman Nestorowicz said the board can discuss time frame, because with the weather and stuff he was asking...

Billy Joe said she just doesn't want it to go on for a long time.

Chairman Nestorowicz said he will have a time frame he has to finish it with.

Robert Najjar said they have to get permits, too.

Billy Joe thanked them.

Chairman Nestorowicz asked any other audience members.

Billy Joe said thank you.

Chairman Nestorowicz thanked them for their comments.

Lori Harris said she was here at the next meeting and she has several things she wants to bring up. She thinks that negotiating here at the microphone is really not helpful to the residents, because they probably have other questions. She wants to point out that at the last meeting when they were here, their attorney several times said that she was in contact with the Engineering Department of the city and she was talking with the city. She is thinking if she knew that her property was springing water into a neighborhood and the city was aware of that, somebody would have gone and knocked on the doors of those residents, instead of waiting until they spent \$7,000 to put in a drainage

system in their yard or replace their basement, and their garage. All the damage from that water. If the city knew about it, why wasn't the city working with them? Why did it take them coming here. She's looking at this also and allowing the total of 153,000 square feet of open storage when 20,000 square feet is allowed; that's a huge, huge difference.

(Inaudible)

Lori Harris continued that's going to be a junk collection, she thinks, if this is a semi-truck storage business or semi-truck repair business. She wouldn't want to live there smelling all the diesel. She is also concerned that a ten (10) foot fence. Does city engineering have to sign off on whatever plan that they have. How do they know that they're really... Ok, number 1, he said that he tried to make a catch basin. She doesn't know that you can make your own catch basin. She's not sure, though she's not a construction person. How do they know that his is going to be taken care of appropriately and what is the recourse for these citizens that have had a lot of damage to their property because of this business? So, she would encourage the board not to give them the variance and especially not to increase from 20,000 square feet of open storage to 153,000 square feet. Thank you.

Chairman Nestorowicz thanked her for those comments. Any other comments from the audience on this item? Please approach the podium. Careful there.

(Inaudible)

Dwayne Jodway said this is going... The fence is coming out and the wall is...

Board Member Sylvester said to please speak to the microphone.

Dwayne Jodway said he just wanted to find out that the fence is coming out and the wall is coming in.

Chairman Nestorowicz responded the fence is going out and the wall is going in.

Dwayne Jodway said that's what he wanted to find out. The fence is coming up... alright, he answered the question.

Chairman Nestorowicz said thank you. Mr. Murphy can you please approach the podium? Well, actually, any other comments from the audience.

No response.

Chairman Nestorowicz closed the public portion of the meeting and turned it over to the board, but he has one question for Mr. Murphy. Since he knows there was a question in terms of time frames and stuff. If the board approves this based on to be able to build a wall, being winter and all that, how long does the petitioner have to actually complete his work.

Everett Murphy said technically he has two (2) years. Site plan approval is good for two (2) years.

Chairman Nestorowicz said back to the petitioner. They're looking to getting it done...?
Robert Najjar replied as soon as possible. He's going to try and get...

(Inaudible)

Chairman Nestorowicz said sorry, he can't hear his answer unfortunately.

Robert Najjar explained as soon as he gets the permits he's going to try to get his construction company, even if they can start partial of the wall before winter start hard and right after winter is over they're going to finish the rest. He has to finish regardless. He doesn't need two (2) years to finish it. It should be finished as soon as possible; he wants it done.

Chairman Nestorowicz asked they can expect to see it by Spring he'd say. The reason he says that, especially for the residents, with building a wall winter approaching and all this stuff. Weather can actually play into getting the wall built. We have had a very mild so far, but.

Robert Najjar said definitely if it stays the way it is right now, they don't know how it's going to work. He will do his best. He needs it done regardless if he does it in two (2) years or he does it in three (3) months. He has to take care of it. So, he wants to take care of and that way his neighbors are happy and he's happy that way too.

Chairman Nestorowicz thanked him. This is open to the board for questions, discussion and comments.

Board Member Clift said to the engineer, good evening, sir. He's hearing a pretty disparaging differentiation between the current grade at level of the petitioner's property and the adjoining neighborhoods behind that. And then he's looking at the plan and it's showing an average of four (4) to six (6) inches in difference of elevation height according to the plan.

Tim Storey said yeah.

Board Member Clift said somebody mentioned like two and a half to three (3) feet all at the back property line. These guys are going to strop three (3) or four (4) feet of top off of that to meet the dimensions in the outlaw of the elevations on their plan? He's just wanting him to clarify.

Tim Storey explained the elevation varies through there. There's areas where that property to the south is actually higher than his property.

Board Member Clift said ok.

Tim Storey said apparently, at one spot where her house is, it's higher. You know, it's higher than the average. Typically, it's around one (1) to two (2) feet through there

Board Member Clift said ok.

Tim Storey said that it's higher. Apparently, her property is a little more than that.

Board Member Clift said ok.

Tim Storey continued stating but it is what it is. They're not going to change the grade on their property. If it's that much higher at that one spot, then it's going to stay that way.

Board Member Clift asked that he's going to meet the elevations as outlined in their plan that should match up a little more even, have a little more of a flow instead of a steep drop off at some of those points. Just kind of dead looking at the plan that's kind of what he's seeing is going to happen here. He's not seeing any extreme two (2) feet at this point, foot and a half there. When he here's somebody come up and talk about there's a three (3) foot differentiation in the previous meeting their client stated openly that he dumped all kinds of floor material in on the property. He's just curious if they're going to put that swale in the appropriate position to address these water issues.

Tim Storey replied yeah. The swale is about ten (10) foot off the property line.

Board Member Clift said ok.

Tim Storey continued explaining they're going to put catch basins in here.

Board Member Clift said ok.

Tim Storey said the idea is not to have to change the grade of the property line anymore than absolutely necessary.

Board Member Clift said ok, alright, fair enough.

Tim Storey said that's why it's showing these catch basins so close to the property line, because it's lower over there. He has to put them where it's low, but he can't put them right on the property line, so they're about ten (10) feet off.

Board Member Clift said he's hearing what he wants to hear. He just wanted to articulate that for the residents that have come up to the podium speaking about the flood issues and things. He applauds the client for going back there and doing some work in the meantime to try to address some of those issues. It's always better when a neighbor is kind of work together. The group seems a little more pacified and satisfied this evening that they were when the board met them last month. So, he just wanted to make sure his understanding with the plans versus what was on the drawings is going to line out and if there is some of these weird things maybe there's a possibility that in the construction of this and in the relay of the surface of his lot it might address some of the steep elevation issues. That's all he has. He appreciates his time, sir. He yields the floor.

Board Member Sylvester said he has a question for the engineer and also one for Mr. Murphy. His client had stated, and maybe he heard wrong, but he'll make it right for him, that he was going to keep the water on his side of the property line.

Tim Storey answered correct.

Board Member Sylvester asked where the waters going to be diverted to.

Tim Storey explained there is a whole drainage system already on this property. This property has a long history as an industrial property.

Board Member Sylvester asked why that wasn't working before.

Tim Storey replied he's not sure, because he has only been involved with the property for what, six (6) months. But he can tell him that they did survey, they know it's there now. This side of the property, their surveyor did not find any catch basins out there, but they don't dig under the ground looking for catch basins. The owner, Rob, he used his contractor. He thinks he said next week he's going to go out and run a TV camera and whatever equipment he uses from catch basin to catch basin to try to find, what he believes, are catch basins out here. If they're there, then he'll find them. If they're not there, they're not there. If they're not there, they're building new ones. If they're there, they'll try to use them. Either way, he doesn't think. They can use them for some drainage, but because it's so much lower along the south property line he's going to have put in these new catch basin no matter what. Otherwise, it won't be able to collect the water.

Board Member Sylvester said ok, so, where's the water going to go after they've collected it?

Tim Storey explained it goes into the storm system.

Board Member Sylvester asked that it's going to be tied into that.

Tim Storey replied yeah.

Board Member Sylvester asked if there's permits or approvals to do all that. Are they submitting those?

Tim Storey said yeah, the process is first get site plan approval, which they have, but it's contingent with getting these variances. Once they get the variances, then the next step is get detailed engineering plans and go for actual construction permits and get the engineering approval. But he can't do that until they get through this process.

Board Member Sylvester asked that they have a process going on to get everything so everything is done. There will be no standing water on his side of the wall, right?

Tim Storey said they can't say that there won't be any standing water on the neighbors side of the wall, but they can say that it won't be water coming from his property. If there's a heavy rain they might get water that falls into their own yard and causes some ponding. If they don't have...

Board Member Sylvester said what they're doing right now is all the rain that would accumulate on his property, sir. They're routing it to the catch basins into the storm. So, they should not have this problem anymore with these plans.

Tim Storey said correct.

Robert Najjar started to say another thing, too...

Chairman Nestorowicz explained unless Mr. Sylvester doesn't have any other questions where Mr...

Board Member Sylvester said respond, please.

Robert Najjar said sure. His construction company, he worked on this property for a long time; Helman Construction. He's been a long time does work in the City of Warren. When he looked at the drain over on this side of the property and all these drains out here. When the applicant brought the property this whole side was already gravel over it and dirt over it. He doesn't know...

(Inaudible)

Robert Najjar said correct.

(Inaudible)

Robert Najjar said what it is it has to have drain just like the site plan, drains all over it, it has to have drains in here. He's going this Saturday and he's going to scope with a scanner and scope through and try to find all the drains.

Board Member Sylvester said he's going to open everything up.

Robert Najjar said correct.

Board Member Sylvester thanked them.

Chairman Nestorowicz asked for any other comments or questions.

Board Member Sylvester said one for Mr. Murphy. A concern was brought up about the 153 storage from 20,000. Are they just been talking about this, they've been before the board previously. Are they looking at a new problem existing with going over the square footage of open storage by 133,000 square feet.

Everett Murphy explained that is the purpose of going to the Planning Commission and seeking...

Board Member Sylvester said he doesn't know what they did. He's asking him.

Everett Murphy said ok, well. What exactly is the question?

Board Member Sylvester asked if that's going to create another problem. Obviously they have been there for a while and now they want to increase their square footage of store by 133,000. So, yeah they might be getting rid of water, but are they going to be creating another problem for these residents.

Everett Murphy explained if they comply with the site plan, there should be no problem.

Board Member Sylvester said well this is in front of the board to approve or deny.

Everett Murphy said exactly. That's up to him to determine whether or not they want to grant that request.

Board Member Sylvester asked if he sees anything since they're way over what is allowed, that that might be a problem.

Everett Murphy said he's asking for an opinion that he really shouldn't be giving.

Board Member Sylvester said alright. Ok. He'll vote accordingly.

Tim Storey said the property is roughly six (6) acres.

Chairman Nestorowicz said yeah, unfortunately unless Mr. Sylvester has a question towards... do you have...?

Board Member Sylvester said sir, he understands that, but as he said they're going over by 133,000 square feet. So, he's not saying yes or no. He hopes they're successful, ok. But...

Chairman Nestorowicz said and actually, Mr. Sylvester. Planning approved their site plan.

Board Member Sylvester asked why it's in front of them.

Chairman Nestorowicz explained it's contingent on the board giving them the variance.

Board Member Sylvester said ok.

Board Member Anglin said if nobody else has any objections or questions, he would like to make a motion. First, he wants to make a comment. That he knows it's a lot people wanting changes use variances and that, when they communicate with the neighbors, there is a lot less discussion in that involved in it. They have had a couple here to where the petitioner actually went before they even started the project and went to the neighbors and invited them and came to the facility and it just went right through with a breeze. It's nice to see that it finally worked out. They had communication with each other, and he's sure phone numbers were given to the residence that they come up with a problem or something is happening, it's always good for the applicant to know what's going on his property from an outside view point and not from the staff and employees. So, with that he would like to make a motion.

Motion:

Board Member Anglin made a motion to approve:

- 1) Allow 97,780 square ft. of outdoor storage/trailer parking on gravel.
- 2) Allow a total of 153,528 square ft. of open storage when 20,135 square ft. is allowed.
- 3) Allow open storage no less than 25 feet from the front property line.
- 4) Retain a building with a height of 40 ft.
- 5) ~~Retain a building directly abutting the side (north) property line.~~
- 6) ~~Retain a building directly abutting the rear (east) property line.~~
- 7) Allow a 10' tall wall for 745' along the south property line.

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

Board Member Clift supported the motion.

Chairman Nestorowicz said they have a motion by Mr. Anglin, support by Mr. Clift for the reasons stated in the motion.

Roll Call:

A roll call was taken on the motion. The motion carried (6 – 3).

Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Clift	Yes, for the reasons stated in the motion.
Board Member Sieracki	Yes, for the reasons stated in the motion.
Board Member Sylvester	No, because for the variances requested #2, 153,000 open storage when 20,000 was not explained to him (inaudible due to microphone being off)
Board Member Sophiaea	No, open storage is a detriment.
Board Member Perry	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Secretary Jerzy	No, due to the fact that he believes that variance requested for item 2, the 153,528 square feet of open storage will be a detriment to the area.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The petitioner's request was **APPROVED** as written.

9. PUBLIC HEARING:

**APPLICANT: Devon Self Storage Holdings,
Patrick Roussey**

(Reschedule from 12/14/2022)

REPRESENTATIVE:	Patrick Roussey, Devon
COMMON DESCRIPTION:	23745 Mound
LEGAL DESCRIPTION:	13-29-428-013
ZONE:	M-2

VARIANCES REQUESTED: Permission to

- ~~1) Allow parking in the front setback, no less than 30 from the front property line (east side).~~
- 2) Retain a building no less than 6 ft. from the side property line (north property line).
- 3) Erect a building no less than 10 ft. from the side building line (south property line).
- ~~4) Retain hard surfaced area in front setback to property line on the Pinewood side—double front-age. (Not to be used for parking.)~~
- 5) Waive 89 required off-street parking spaces. Changed from 87.
If parking variance is approved the variance granted on 5/25/1977 regarding parking will be relinquished.
- 6) Retain 5 ft. chain link fence that extends past the front building line on the Pinewood side and runs parallel to the sidewalk.

ORDINANCES and REQUIREMENTS:

Section 17.02 – Industrial Standards: All uses not herein expressly prohibited shall comply with the following table of standards. **(A) Front Yards.** M-2 25 ft. 2. In an M-2 zone where a front yard has been established by the majority of the existing buildings in a block, all buildings hereinafter erected or altered shall conform to the building line thus established, provided no building in an M-2 zone shall be required to set back further than 50 feet. Provided, further, however, notwithstanding any provisions to the contrary, in M-2 zones, yards fronting on a major thoroughfare as defined by the master thoroughfare plan for the City of Warren or front yards facing a residential district shall be fifty (50) feet.

(B) Side Yards, and Rear Yards. 20 ft. each.

Section 4.32 – Off-street Parking Requirements: In all zoning districts, off-street parking facilities for the storage of parking of self-propelled motor vehicles for use of occupants, employees, and patrons of the buildings hereafter erected, altered or extended after the effective date of this ordinance, shall be provided and maintained as herein prescribed. (H) The amount of required off-street parking space for new uses or buildings, additions thereto and additions to existing building as specified above shall be determined in accordance with the following table, and the space, so required shall be stated in the application for a building permit and shall be irrevocably reserved for such use. (23) Industrial establishments, including manufacturing, research and testing laboratories, creameries, bottling works, printing and engraving shops, warehouse and storage buildings. One (1) parking space for each one thousand two hundred 1,200 square feet of gross floor area.

Section 4D.39 – Location: All fences and walls constructed or installed between lots shall not exceed a height of six (6) feet above the average grade of the two (2) adjoining lots and shall not extend closer to the front lot line than the established building line or front set back line.

Chairman Nestorowicz asked the applicant to state their name and address for the record and then explain their petition.

Brandon Chaney appeared before the board stating he is with Nederveld Engineering, 3037 Miller Road. He's here to represent both Pat Roussey and Devon Self Storage for the property 23745 Mound Road. He'll keep this short because he knows there are many applicants after him here. He's here today before the board as requested by the Planning Commission. They had received conditional approval from them back in October. With them requiring him to come before the board for these four (4) variance requests. So, to retain the building no less than six (6) feet. They are repurposing the existing structure for climate control and self-storage units, that building would remain in place. Three, to erect a building no less than ten (10) feet, in addition to the climate control in door storage spaces also providing exterior access self-storage spaces. The result with this is... Originally when they had put together the layout they were able to comply with both the International Fire Code as well as the city's drive aisles minimum width of twenty-two (22) feet. After discussions with the Fire Marshall, they had suggested them to widen those aisles to twenty-seven (27) feet in width to allow for adequate access in case of emergency. Due to that widening of those drive aisles they've had to push the southern most building into the side setback of ten (10) feet. Third, with the waiver of eighty-nine (89) parking spaces, with it being M-2 the required parking spaces are one (1) per 1,200 square feet. In his mind that does not really shouldn't apply to this specific use of what they're proposing today. As they do have a significant amount of square footage of building, there would actually one be one (1) to two (2) full time employees on site as well as customers would pull up to their actual storage unit. So, they feel comfortable that six (6) parking spaces in total would be sufficient for the use proposed. Six, that would be retaining the

existing chain link fence along Pinewood. That five (5) foot fence would then be used to secure the facility. So with that he'll turn it over to the board if they have any questions.

Chairman Nestorowicz thanked him for that presentation. This is a public hearing, are there any members of the audience wishing to speak on this item?

No response.

Chairman Nestorowicz turned it over to the board for questions and discussion. They do have one letter that needs to be read in. Mr. Jerzy do you want to read that one into the record, please?

Secretary Jerzy replied yes. It says, "To whom it may concern, we are unable to attend the public hearing on January 11, 2023, but we would like to voice our opposition to the proposed variance request. Specifically, we are opposing point 2, requesting permission to erect a building no less than ten (10) feet from the side building lines, south property line. Our building located at 23664 Pinewood is the property on this south property line. A building encroaching that close to the property line would cause wind and weather issues for us and box in our property resulting in a decline of property values. Thank you for your consideration. Please feel free to reach out to Bob Obrecht with any questions. Thank you, Cathy Seely and Bob Obrecht, Mechanical Turnkey Solutions, Inc. 23664 Pinewood Street."

Chairman Nestorowicz said this is with the board for any questions or discussions that the board might have.

Board Member Anglin said he's looking at the over view and just to bring up the issue about the response they've had about being ten (10) foot from the property line. Looking at this over view, their building is about ten (10) feet from the property line. He has a problem with somebody complaining about their property line building being put up when theirs is approximately the same distance from. He understands not wanting to make a tunnel out of it, it looks like he would be fifty (50) percent of the problem with the tunnel. So, he's not going to have an objection to that. That's all, Mr. Chairman.

Chairman Nestorowicz said he would actually attend to agree with the comments. That property owner next commented saying he has his building and driveway and then the fence.

Board Member Anglin said nine (9) foot. If nobody else has any questions, he would like to make a motion.

Chairman Nestorowicz said please do.

Motion:

Board Member Anglin made a motion to approve:

- ~~1) Allow parking in the front setback, no less than 30 from the front property line (east side).~~
- 2) Retain a building no less than 6 ft. from the side property line (north property line).
- 3) Erect a building no less than 10 ft. from the side building line (south property line).
- ~~4) Retain hard surfaced area in front setback to property line on the Pinewood side—double frontage. (Not to be used for parking.)~~

- 5) Waive 89 required off-street parking spaces. Changed from 87.
If parking variance is approved the variance granted on 5/25/1977 regarding parking will be relinquished.
- 6) Retain 5 ft. chain link fence that extends past the front building line on the Pinewood side and runs parallel to the sidewalk.

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

Board Member Clift supported the motion.

Chairman Nestorowicz said they have a motion by Mr. Anglin, support by Board Member Clift to approve the request for the reasons stated in the motion.

Roll Call:

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

Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Clift	Yes, for the reasons stated in the motion.
Board Member Sophiea	Yes, for the reasons stated in the motion.
Board Member Sylvester	No, echo's the residents concerns.
Board Member Sieracki	Yes, for the reasons stated in the motion.
Board Member Perry	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Secretary Jerzy	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The petitioner's request was **APPROVED** as written.

- 10. PUBLIC HEARING: **APPLICANT: Devon Self Storage Holdings**
REPRESENTATIVE: Paul Deters at Metro Detroit Signs
COMMON DESCRIPTION: 23745 Mound
LEGAL DESCRIPTION: 13-29-428-013
ZONE: M-2

VARIANCES REQUESTED: Permission to

Allow 622 square ft. of wall signage as follows:

- 1) East elevation sign, 512" x 63.25" = 225 square ft.
- 2) West elevation sign, 680.5" x 84" = 397 square ft.

ORDINANCES and REQUIREMENTS:

Section 4A.35 – Signs Permitted in Commercial Business and Industrial Districts (C-1, C-2, C-3, M-1, and M-2): C) Total wall signage of a size not to exceed forty (40) square feet shall be allowed for each business in commercial business and industrial districts zoned C-1, C-2, C-3, M-1 and M-2.

Paul Deters appeared before the board stating he is with Metro Signs and Lighting, 11444 Kaltz Avenue. He thanked the board for their consideration this evening. Devon Self Storage had put together in a packet and asked him to present that this evening. He just wanted to say they have

had some further dialogue with the client and to educate them a little bit more about the ordinances in Warren and the expectations for this site. They had the discussions come up that really the sign on the east elevation is the one that really takes precedence for them and the more important and understand that the one on the west elevation is probably (inaudible due to microphones malfunction). He asked if the board could hear him.

Chairman Nestorowicz replied yeah.

Paul Deters continued explaining they're hoping with the boards consideration is the main elevation, which is the east side facing Mound Road. In particular, that the sign that is proposed for that elevation is appropriate, given the fact that it's a 200 foot long building. He thinks it's appropriate to scale there and he would just appreciate anything that the board may feel more appropriate or under consideration for signage that be on the Pinewood elevation. Help to identify traffic that might come in from that side.

Chairman Nestorowicz thanked him for those comments. This is a public hearing, is there anyone in the audience wishing to speak on this?

No response.

Chairman Nestorowicz closed the public portion of the meeting and turned it over to the board. Mr. Deters that's actually nice to hear. He does agree that the Mound Road is the more visible that would be primarily seen. By reducing a west elevation, he would love to see that. He would have no problem approving this request. Is there a size that is between himself as the sign company and with the applicant? What is a reduced signage? He doesn't want to state an amount that (inaudible). What is his guidance that would be a fair amount on the west?

Paul Deters replied somewhere around the forty (40) to fifty (50) square foot range would be appropriate for that elevation, because it doesn't meet the distance. That's the street that's not heavily trafficked. It would be more of an identification to help deliveries that are coming in from the backside on Pinewood and that sort of thing. He thinks that's more in line with other businesses along Pinewood have.

(Inaudible – multiple board members speaking.)

Chairman Nestorowicz said ok, good. He knows up to himself, if it was the east was the 225 and the west was kept at sixty (60) square feet or under, he would be fine.

(Inaudible)

Chairman Nestorowicz said that's just his personal opinion.

(Inaudible)

Chairman Nestorowicz asked if the board has any other questions or comments.

Board Member Furgal said looking at the drawing, they don't see an entrance on the Pinewood side.

Paul Deters explained there is a drive entrance that comes in on the backside on Pinewood. He believes there is going to be some deliveries; there is a delivery there.

Board Member Furgal said oh, ok.

Board Member Anglin said he's assuming that's it.

Board Member Furgal said they're just looking at the drawing and couldn't see it.

Paul Deters explained there are some over head doors as well for an ingress/egress there.

Board Member Furgal said ok, thank you.

(Inaudible)

Board Member Sylvester said he's going to start with the back side. Is that the rear of the building?

Paul Deters replied yes it is.

Board Member Sylvester asked if there is anybody coming to the building to do work, or find out information, or ask them would be coming in off Mound, right?

(Inaudible – other board members speaking.)

Paul Deters explained other than deliveries and things that would go there for, he thinks that is the intent that rear door is. Certainly, the vast majority of the traffic is going to come in from the Mound Road side, yes.

Board Member Sylvester said the west elevation is 397 square feet. Why does that sign have to be so big?

Board Member Furgal said that's what he said.

Chairman Nestorowicz said well that's the one they were talking, Mr. Sylvester, about making sixty (60) square feet.

(Inaudible)

Board Member Sylvester said beg your pardon?

Chairman Nestorowicz said they discussed making sixty (60) square feet.

(Inaudible)

Chairman Nestorowicz explained his first comments when he was speaking with Mr. Deters, that's where he proposed sixty (60) square feet and Mr. Deters approved.

(Inaudible due to multiple board member speaking.)

Board Member Sylvester asked that was approved.

Chairman Nestorowicz repeated they're fine with sixty (60).

Board Member Sylvester said he didn't hear that.

Board Member Anglin said east elevation, sixty (60) square feet.

(Inaudible)

Secretary Jerzy said your mic.

Board Member Furgal said no, west. West.

(Inaudible)

Board Member Furgal stated he said the west.

Board Member Sylvester said the lights they're going to have on the sign on the west side, are those going to be dimmed or, because he knows they are all LED now. Is that going to interfere with neighborhood to the west?

Paul Deters replied no. It will be a dim that's the red letters are not very bright, so it's not something that's going to circulate. There is a vacant lot that is across the street.

Board Member Sylvester said right, that's the whole thing. It's a vacant lot and then there's a neighborhood.

Paul Deters said correct, they will make sure that it is defused and not something that... It won't get a lot of delivery traffic in the evening anyway. It would be more so for this time of year when it's dark at five (5) or six (6) o'clock that they would be conducting business.

Board Member Sylvester asked after a certain time that light will be turned off.

Paul Deters replied yes, and they're happy to do something whatever the board says. Nine (9) or ten (10) o'clock at night if they would like to put that on the timer. They can make sure that is off at (inaudible due to board member talking) shut down. Pardon me?

Board Member Sylvester asked what time does the business shut down.

Paul Deters explained there is access to the building quite a bit, but the vast majority of the traffic would be done by nine (9) o'clock in the evening.

Board Member Sylvester said to have that off by nine (9) o'clock.

Paul Deters said they would be happy to do that.

Board Member Sylvester thanked him.

Secretary Jerzy said if no other board members have anything to say. Actually, he's going to ask Mr. Deters real quick before he makes his motion. Would the applicant be against having the west elevation sign at forty (40) square feet to ordinance?

Paul Deters replied if the board deems that more appropriate. Really the focus for them is on the east elevation. So, if the board feels that's more appropriate for the west, the client would certainly be open to that.

Motion:

Secretary Jerzy made a motion to allow:

- 1) East elevation sign, 512" x 63.25" = 225 square ft.
- 2) West elevation sign, ~~680.5" x 84" = 397 square ft.~~ not to exceed the ordinance of forty (40) square feet.

Allowing total wall signage of 265 square feet.

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

Board Member Anglin supported the motion.

Chairman Nestorowicz said they have a motion by Mr. Jerzy, support by Mr. Anglin to approve the request as stated in the motion; for the reasons stated in the motion. Roll call.

Roll Call:

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

Secretary Jerzy	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Board Member Clift	Yes, for the reasons stated in the motion.
Board Member Sophiea	Yes, for the reasons stated in the motion.
Board Member Sieracki	Yes, for the reasons stated in the motion.
Board Member Sylvester	Yes, for the reasons stated in the motion.
Board Member Perry	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The petitioner's request was **APPROVED** with the previously mentioned changes.

- | | |
|---------------------|---|
| 11. PUBLIC HEARING: | APPLICANT: I Signs & Designs |
| REPRESENTATIVE: | Fadi Gulla |
| COMMON DESCRIPTION: | 31200 Mound |
| LEGAL DESCRIPTION: | 13-13-04-351-015 |
| ZONE: | M-2 |

VARIANCES REQUESTED: Permission to

Erect a 72.98 square ft. wall sign.

ORDINANCES and REQUIREMENTS:

Section 4A.35 – Signs Permitted in Commercial Business and Industrial Districts (C-1, C-2, C-3, M-1, and M-2): C) Total wall signage of a size not to exceed forty (40) square feet shall be allowed for each business in commercial business and industrial districts zoned C-1, C-2, C-3, M-1 and M-2.

Mark appeared before the board stating he is from I Signs and Designs, they are the company that made the variance request for the larger side of this property.

Chairman Nestorowicz asked for his address please.

Mark said 3606 Cumberland.

Fadi Gulla appeared before the board stating he is with Fast Signs in Auburn Hills. The address is 3957 Baldwin.

Chairman Nestorowicz thanked them. And asked them to take the board through the request.

Mark explained they're asking for a larger wall sign at this property on Mound Road. He knows they're allowed a forty (40) square foot maximum wall sign. They're finding that size would be too small considering how far the building sits back from Mound. The building also sits on an angle. It would be very hard to really identify that business with that forty (40) square foot wall sign. It's sort of a business that people would need to find them in the vicinity of the area quickly and fast for the most part. They just find that the forty (40) square foot wall sign would be a postage stamp up on that wall, but they would need really much, much larger identification to properly identify that business just per the way that building is set back off of Mound.

(Inaudible – multiple board members speaking.)

Chairman Nestorowicz thanked him for those comments. This is a public hearing, are there any members wishing to speak on this item?

No response.

Chairman Nestorowicz closed the public portion of the meeting and turned it over to the board for discussion.

Board Member Anglin said he knows the building, he knows the area well. Coming around that curve there actually facing in the wrong direction of the building. So, if they don't do something other than put a car wash out front for free car washed, he doesn't see what else they can do with it other than put a larger sign up. So, he has no objections to that size, because he doesn't think that is extreme. He thinks they came in with a very decent size for that location.

Board Member Sylvester said he's also familiar. That was the old bank, right?

(Inaudible)

Board Member Anglin said PNC bank.

Board Member Sylvester asked that was an old bank wasn't it.

Fadi Gulla stated there is a TCF Bank and that faces Mound Road. The urgent care is actually more on the inside, it's on the side; it's a glass building. There should be a sign.

Board Member Furgal said it's still there.

Board Member Sylvester asked if that bank is still there.

Fadi Gulla said he believes so, yeah.

Mark explained the building itself.

Fadi Gulla said no, no. It's two separate entrance. One is for the bank and one is on the side.

(Inaudible due to multiple people speaking.)

Board Member Sylvester asked if they're separate buildings.

Fadi Gulla said sorry?

Board Member Sylvester asked if they're separate buildings.

Fadi Gulla replied yes. He didn't either until he actually visited inside.

Board Member Sylvester said he believes what they're trying to do for the purpose that building is going to serve, he has no objections.

Board Member Sophiea said if he could just clarify. That's his home branch. It's a PNC Bank and very familiar with the building. You actually walk in and there is a little vestibule and there are two (2) separate doors to go to the bank or this vacant property. It looks like a fair size sign, he has no problems with it.

Secretary Jerzy said if no other board members have anything or comments, he would like to make a motion.

Motion:

Secretary Jerzy made a motion to allow the petitioner to erect a 72.98 square ft. wall sign.

Reasons being: Unique nature of the property; Not a detriment to the area.

Board Member Anglin supported the motion.

Chairman Nestorowicz said they have a motion by Mr. Jerzy, support by Mr. Anglin to approve the request for the reasons stated in the motion.

Roll Call:

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

Secretary Jerzy	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Sylvester	Yes, for the reasons stated in the motion.
Board Member Clift	Yes, for the reasons stated in the motion.
Board Member Perry	Yes, for the reasons stated in the motion.
Board Member Sieracki	Yes, for the reasons stated in the motion.
Board Member Sophiea	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The petitioner's request was **APPROVED** as written.

12. PUBLIC HEARING: **APPLICANT: Kristin Peake -USE-**
REPRESENTATIVE: Same as above.
COMMON DESCRIPTION: 23605 Grabar
LEGAL DESCRIPTION: 13-25-328-030
ZONE: R-1-C

VARIANCES REQUESTED: Permission to -USE-

Continue operating a substance abuse recovery home as a business in an R-1-C zone.

ORDINANCES and REQUIREMENTS:

Section 7.01 – Uses Permitted: Operating a substance abuse recovery home in a residential zone (R-1-C) is prohibited.

Section 4.01 – Compliance With All Laws: Uses not expressly permitted are prohibited; illegal operation of a business is a misdemeanor. (b) Uses not expressly permitted within a specified zoning district are prohibited in that district.

Kristin Peake, 715 South Renaud, appeared before the board.

Anthony Peake appeared before the board stating same address. They're requesting, like he said, allowance to continue operating a substance use recovery home as a business in an R-1-C zone. The reasons why they're requesting this permission is... They currently already have a contract through to provide recovery residency through the Macomb Office of Substance Abuse; MOSA. Two, they are currently NARR certified, which is National Association of Recovery Residences. Three, they're MARR certified, which is Michigan Association of Recovery Residences. The fourth note he has here is that they currently have a working relationship with the Warren drug court to provide recovery residence to the people in the Warren drug court program. Those are the four (4) notes he has here and they're also requesting based on the fair housing act and based on the common practice of recovery residence in this time of need, basically, of the fentanyl drug epidemic that we're going through right now. If he can, let him read what some of the Fair Housing Act states as he thinks he applies to them. The Fair Housing Act prohibits discrimination by direct providers

of housing, such as landlords and real estate companies, as well as other entities such as municipalities, banks or any other lending institutions and homeowners insurance companies who practices making housing unavailable to persons because of race or color, religion, sex, national origin, familial status, or disability. If he can expound to that a little bit here. The Fair Housing Act prohibits discrimination on the basis of disability and all types of housing transactions. The act defines persons with a disability to mean those individuals with mental or physical impairments that substantially limit one more major life activities. The term mental or physical impairment may include conditions such as blindness, hearing impairment, mobility impairment, HIV infection, mental retardation, alcoholism, drug addiction, chronic fatigue, learning disability, head injury, mental and any sort of mental illness. Jumping down here it says the divisions enforcement of the Fair Housing Act protections with persons with disabilities has concentrated on two major areas. One is ensuring that zoning and other regulations considering land use are not employed to hinder the residential choices of these individuals, including, unnecessarily restricting communal or congregate residential arrangements, such as group homes. The second is ensuring that newly constructed multi-family housing is built according with the Fair Housing Acts accessibility requirements. So those are the brief reasons why they are asking for this allowance.

Kristin Peake explained they're also a recovery house network in Macomb County. They have ten (10) recovery homes that span across ninety percent are in Roseville. When they came to Warren, there are several; probably more than a dozen recovery homes in the City of Warren. There are multiple homes in Warren that provide housing for independent living, which is for people in recovery that they're not quite ready to go out into society. They need somewhere to live, but they're not quite ready to pay their own bills and their own apartment. So, they have a little independent living. That's why they chose Warren, a different city, something new. It worked. They have been using Alberta and Grabar for probably three (3) years or so now and it's been successful. They're not just a house renting it to just people. They're saving lives and reconstructing people's families. They get employment, they become citizens of the community, and they give back. That's what they provide. So, that's why they're here. It's not just a rental home, they're here to fight for the people that can't really talk for themselves.

Chairman Nestorowicz thanked them for those comments. This is a public hearing, is there anyone in the audience wishing to speak on this item.

No response.

Chairman Nestorowicz closed the public portion of the meeting and turned it over to the board for questions and discussion. There are a couple letters here. He asked Mr. Jerzy, there are three (3) letters here that came via email, if he wants to read them or summarize them into the record.

Secretary Jerzy said yes, Mr. Chair. First one is from an April Krebs and it says, "Hello, my name is April. I just wanted to voice on this as I am not able to attend the meeting on January 11, 2023 but in regards to 23605 Grabar I currently do not have any rejections. They are nice people and willing to go the extra mile for those around them in need. They are always willing to lend an extra hand. I reside at 23582 Garbar. If you have any questions feel free to email me." Another one is from an Anita Schatko. It says, "Good morning, I received notice about the public hearing. I live at 23400 Lawson Avenue, which is in the back of the house at 23605 Grabar. I have had a disappointing experience with the residence starting with arguments, foul language, and loud music at

all hours of the night and day. I also found in my yard dead birds and squirrels over the summer. Along with two (2) cats that were shot with a BB gun. I oppose the ordinance in hopes that this will help clean up the neighborhood." Another one is from Jeanmarie Lunsford. This one is a little bit lengthy and believes it needs to be read into the record. It says, "I'm contacting you regarding the house at 23605 Grabar. I received a letter on Thursday, December 29, 2022, asking that Kristin Peake be allowed to continue using the home as a drug rehabilitation facility. I had no idea that the house was being used as a drug rehabilitation facility. I can hear the profanity and loud music at my home, which is coming from that house. The language is so offensive and graphic that I often have to stop working on my yard, and go back inside my home. NO, I and my husband, Henry Lunsford, absolutely DO NOT want the house at 23605 Grabar to continue being operated as a substance abuse recovery facility, as a business, in an R-1-C Zone. I own and live in the house directly behind it, at 23506 Lawson Ave. Warren, 48089. Our family purchased our home in September 1998. We moved there. There was a library, the Arthur Miller Branch and an elementary school within walking distance. At the time we did not have the internet, the library is a wonderful resource for our five children and we were able to access the internet. My husband, Henry, is a retired Detroit Public School teacher. Naturally, we voted to support the millages for the Warren Libraries. The city thanked us by closing our library. The school was also shut down. It is building a sanitary sewer overflow facility on Stephens. The Stephens Road detention facility." She talked about the grants regarding this. "What does all this have to do with granting a permit for the home at 23605 Grabar to be run as a "substance abuse recovery home"? Doesn't the city of Warren wish to attract young families? The homes in our neighborhood are definitely affordable. Most, especially those on Melody, Chesterfield and Cottage are well-built. This offers families just starting out the chance to own a "starter home," and hopefully they'll stay in Warren. However, with a drug recovery home(s) and a sewer facility in the neighborhood, who would want to live here? The residents in on Lawson are increasingly feeling that our neighborhood has been disposed of by the city. My favorite niece could not kick her drug habit and died as a result, so I am very sympathetic towards people with substance abuse issues. I'd like to point out that there are many vacant buildings along Nine Mile, Ten Mile, etc... in Warren, that Ms. Peake could rent out (or purchase) and operate a "substance abuse recovery" facility. My husband, Henry Lunsford, and I, Jeanmarie Lunsford, ask that you please DO NOT grant this permit. There's sign on Stephens that says, "Welcome to Warren, a Clean and Safe City." Please, let us keep it that way. We are very concerned. Please do not grant this license/ permit. I'm sight impaired and cannot drive at night. This is the only way I can voice my opinion. Jeanmarie Lunsford"

Chairman Nestorowicz thanked Mr. Jerzy for reading those into the record. He turns it over to the board for questions and discussion. He has one question for the petitioner. They have been operating this facility for three (3) years?

Kristin Peake replied this particular house, but their network they have been doing for nine (9) years.

Chairman Nestorowicz asked when they started operating, did they contact the city to find out what approvals they might need. It seems like until they got the violation from the Building Department for renting that facility there. They didn't get previous approval from the city?

Kristin Peake explained no they didn't, because they noticed that several other recovery house networks have homes in the city and since they have had the house upon the initial rental

inspection, they saw the multiple beds in the home and didn't say anything. Then they recently had another rental inspection and they saw the multiple beds in the house and didn't say anything. So, at this time they're the only recovery house network that is being violated, as they feel.

Chairman Nestorowicz asked Mr. Murphy to approach for a second. When they said they had inspections. Was the inspections just as a rental house or that as opposed to a boarding house or?

Everett Murphy explained even a boarding house would be something that would be registered with rental. So, Building Division didn't do inspections on this. This was inspected through the Rental Division.

Chairman Nestorowicz said ok. Thank you.

Board Member Anglin said the meaning of that is... The way it should have been handled it should have been disclosed at the time of getting the permit for occupancy that it's going to be used as a substance abuse, or is that not necessary to do?

Everett Murphy said if they would have asked rental, rental would have come to zoning and asked if this is ok. They would have reviewed it and talked about it then. They could have known about that in advance if they let rental know what they were doing. Just stating that they're going to use it as a rental and it has multiple beds in a room, that doesn't automatically tell rental their going to be using it for some other purpose.

Board Member Anglin thanked him. One more question for the attorney. The applicant stated something about being can't be discriminatory for this for rental properties and that, but we have something in zoning saying they have to get zoning approval in order to do this. Which one of these are legal? Do they have to go in front of zoning to get this permission, or are they not allowed to say they have to have this to go into the housing in that rental property? Or is he opening something up for...?

Cecil St. Pierre said he'll let Everett speak and then he'll chime in.

Everett Murphy said it probably would be good to speak with the city attorney. They looked at the Michigan Zoning Enabling Act and the only references to substance abuse that was a use by right was for a township or a county. So, it did not state for a city and that leads him to believe the zoning ordinances can say where they can and cannot do that. But that would be a zoning opinion. That means they would have to weigh in.

Board Member Anglin said that helps, thank you.

Cecil St. Pierre said he was going to just chime in. Fair Housing is federal. He doesn't know about it supersedes our power in regards to an ordinance. Sometimes the state can do it by ordinance and it sounds like they indicated, according to Mr. Murphy, just talks about county and township. The city makes its own ordinances. It's under our ordinance, is that right Mr. Murphy? They have to have approval before they start the process for housing people for substance abuse use.

Everett Murphy explained they have a zone called special service district. That would be the zone

it would actually be allowed in.

Cecil St. Pierre said this isn't special service district that's why it's a use variance and they're going to need six (6) votes.

Everett Murphy said correct.

Cecil St. Pierre said that's why they are here for a variance. It's in the boards discretion. If the board doesn't want to give it to them, they don't.

Board Member Anglin said he understands. Do they have one of those zones in this city.

Cecil St. Pierre replied yes.

Everett Murphy explained they have a couple.

Board Member Anglin said ok, thank you.

Cecil St. Pierre said one more thing, Mr. Murphy. In regards to these, do they get a special service district rezoning or would that be the use variance.

Everett Murphy explained he doesn't think they would do a spot rezoning in a residential neighborhood to add into the special service district. It's a unique zone set up for...

Cecil St. Pierre said sure. His question is has anyone on this board heard of a variance in regards to this type of use? He knows it's kind of first impressions, he's only been here for too many years, right?

Board Member Furgal said she has been here the longest and no, she has not.

Cecil St. Pierre said he doesn't recall it either. He used to review every Zoning Board of Appeals agenda and he's never seen this before. So, this is a case of first impression. It's his opinion that it's going to be in a discretion of this board to grant the use variance to allow, what they call a special service.

Chairman Nestorowicz said he has one more question for the petitioner. The house is how many bedrooms and how many people live there would be inside there? She said multiple beds. Multiple people per bedroom or?

Kristin Peake explained it's two (2) to a bedroom. So there are six (6). The house caps out at six (6). So there is a bathroom, refrigerator, washer and dryer, fully furnished; they furnish it. Dishes, everything. They have meetings in the home. They have a curfew, they get drug tested regularly. Her husband and her are very involved in the homes.

Board Member Furgal said her biggest concern is that they have people in the neighborhood complaining about behavior that was unacceptable to them. Have people been able to... She doesn't know if it's true or not, so...

Kristin Peake said right. They can say anything about all of our neighbors. Just because people know that they're in recovery, of course, the stigma is they're going to say something about that because of the stigma about recovery in general. They meet the neighbors, they give them cards if they have any issues to let them know. They'll come out if they need to talk to them. They're very neighbor friendly.

Anthony Peake said in all honesty of course, because of the stigma, not all neighbors are welcoming. So, they go into this the best they can to let them know who they are, what they're doing, but as the letter read, some neighbors are all for this. They see the good it's doing. Going back to the point of the behavior stuff. He doesn't remember hearing about any of this stuff at all. Not to say that it didn't happen, but...

Board Member Furgal said both of the neighbors live behind the property that complained.

Anthony Peake said that's what it sounded like. He has no idea.

Board Member Sylvester said first of all he has a couple questions. They already mentioned both addresses. In the packet here, the houses are identical. Know why?

Kristin Peake asked him to say that again.

Board Member Sylvester said they have a packet for Grabar and for Alberta. When getting to the page where it shows the house that references that address, they're identical.

Kristin Peake explained when she applied the lady at the counter, she was very helpful, but not know what all this is about, she didn't make the packet. She was supposed to be helping her, she brought it up on her computer, because she wasn't really sure exactly what was needed in the packet.

Board Member Sylvester said well, you gave her two (2) separate addresses, right?

Kristin Peake said right. So, but all the list of requirements, she brought up on the computer. Maybe they missed that one.

Board Member Sylvester asked they have been here for both these houses for three (3) years.

Kristin Peake said about.

Board Member Sylvester said this is going to be a foolish question, and don't be mad at him. Why are they here now after three (3) years to get approval for these?
(Inaudible)

Board Member Sylvester asked what happened. What is he missing?

Anthony Peake explained based on the fact that they've done this in Roseville with six (6) houses and they were up front with them, they were welcoming. They didn't really expect his problem here. Plus, they're not the only recovery network going around; they're not even the biggest one. They

know people that have them in the city and surrounding cities. It's not something new to this, to drug culture recovery residence drug culture. So, they weren't expecting that. In hindsight of course, should have done what they have all mentioned here and gone to zoning first. He guesses they thought, in their ignorance, getting their first inspection with rental with six (6) beds in the bedrooms would have been seen. So, that's kind of why... it's the best way he can explain it. He knows it sounds rather ignorant, so to speak, but that's really all he's got.

Board Member Sylvester said the kind of operation they're trying to do and help people and what have you. Why wouldn't they think that they want to make contact with the city hall and some department somebody would guide them on letting them know what they can and cannot do.

Anthony Peake said he can't argue with that. He hopes the board can see, like they mentioned, their certifications through MARR and NARR. The Macomb County Office of Substance Abuse has given them a contract to provide this service.

Board Member Sylvester said Macomb County is a county and Warren is a city in Macomb County, so why wouldn't someone there had said if they want to go to Warren, check with Warren. Check with city hall and departments over there to see if they can do what they want to do.

Kristin Peake said you would think.

Anthony Peake said yeah, you would think they would give them a heads up on that for sure. But he can't argue with that point at all. Understandable.

Board Member Sylvester asked any problems there, whatsoever, that have included the police department over the last three (3) years.

Anthony Peake said he would say for sure. It's, unfortunately, in the world of drug addiction they have issues.

Board Member Sylvester said ok, so, why would the neighbors just be like yeah come on! Live here, they would love to have them if the police are going to be coming up and down the street doing something.

Kristin Peake said it happens, but it doesn't happen that often.

Anthony Peake said no, he can't say that it happens often. He would say two (2) or three (3) times in three (3) years, that's probably what his estimate would be. He can understand the neighbors from a family perspective, and he can understand the perspective of getting to go back into society with a fresh start because substance use disorders that's quite prevalent now. Like he said earlier, with the fentanyl epidemic, the odds are someone has been affected by this.

Board Member Sylvester asked how long they stay there. He doesn't know how else to express it. A graduation rate to where these people do get jobs, they do straighten out their lives. Do they have any statistics with regard to that?

Anthony Peake explained they shoot for their goal is one year. If they're there a year, they want to

meet with them again and see where they're at. If they're there a year and doing good and where they should be, or not. Statistically speaking, sadly, it's...

Kristin Peake said it's usually about six (6) months to a year.

Anthony Peake says he says that sadly, because of the notion of relapse.

Board Member Sylvester said lets say they have ten (10). How many don't make it. He's just using a number, ten. How many out of ten (10) don't make it.

Anthony Peake asked relapse based at ten (10). Oh geeze, eight (8).

Kristin Peake said no.

Board Member Sylvester said really?

Anthony Peake said that don't make it. In regards to...

Board Member Sylvester said they're there for a reason. Do you want to get them out and adapted to society, have a job, do everything on their own. So how many people do they rehabilitate?

Anthony Peake said ok, well that's hard for him to answer that. He guesses she should answer that first and he'll come off her heels. Because, sadly, recovery is hard right now. He can't say he's rehabilitating people. He can't take more power than what they're doing themselves. He can't. Are they a good recovery network, he guesses that's where he's going with this, he believes 100% they are. They care, they give a crap. He's fourteen (14) years sober himself, so he's not doing this for the heck of it. He's just trying to give back. So, that's the best way... maybe she can answer that differently, because...

Board Member Sylvester asked if some department in Macomb County send them to Warren or did they make that decision.

Kristen Peake and Anthony Peake both stated they made that decision.

Anthony Peake said they made that decision because, like he said, they started in Roseville.

Kristin Peake said it's a big city.

Anthony Peake said they're just trying to go where they are lead to next, so to speak. In the course of doing this at the county level and state, they even have people in Warren drug court and they deal with people all the time placing people in houses. It's part of the Warren drug court program.

Board Member Sylvester said last question. Were they ever given any permission, whatsoever, to be at these two (2) addresses by anybody in the City of Warren.

Kristin Peake and Anthony Peake replied now.

Board Member Sylvester thanked them.

Board Member Clift asked if they own both of these homes.

Kristin Peake replied no.

Board Member Clift asked if they are renting both of these homes from separate entities.

Kristin Peake replied there should be affidavits.

Board Member Clift said he was just verifying the information that was put forth to the board. Look, he'll give kudos where kudos are due. What they are doing is phenomenal and fantastic. His trepidation is under the part of the violation where Section 4.01 comes in where it says they just can't run a business out of a residential home in the City of Warren. His outlook on this is, if this is granted, then they're going to have everybody and their brother coming up wanting to do businesses out of their home for whatever reasons. He's not knocking what these guys are doing and helping these people out, he applaud that. He just thinks the ordinances are written in a certain way to allow and disallow certain things to be done and not be done in the neighborhoods. He will say this gives him a little bit of conflict coming before the board, but at the end of the day, his big picture view on this is that he can't support a business being run out of a residential home in one of the neighborhoods. That's all he had to say; he's going to yield the floor.

Board Member Sylvester said he has one further question. Who is there watching these people for six (6) months or a year or whatever. Whose guiding them? If they have a question, helping them to come up with an answer to something that is on their mind or whatever. Is somebody guiding or watching what is going on there.

Kristin Peake explained there is a monitor in the home.

Board Member Sylvester asked if they are there 24/7.

Kristin Peake said sometimes they are. Sometimes they work, too. They, too, are in recovery. They are heavily involved in the houses on a daily basis with all of the clients.

Board Member Sylvester thanked them.

Board Member Anglin said he has one statement and then he would like to make a motion if no other board members have any questions. His statement is, he's glad to see that they have zones created in the City of Warren for this reason. So, his opinion would be to keep their type of housing in the zone that's been approved for it. He doesn't believe that there should be residential areas that commercials run out of, for any reason. So, with that being said, he would like to make a motion to deny.

Motion:

Board Member Clift made a motion to deny continually operating a substance abuse recovery home as a business in a R-1-C zone.

Reasons being: Detriment to the area; Needs boards approval.

Board Member Perry supported the motion.

Chairman Nestorowicz said they have a motion by Mr. Anglin, support by Mr. Perry to deny the petitions request for the reasons stated in the motion. It will be a yes vote to deny when the roll call is taken.

Roll Call:

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

Board Member Anglin	Yes, to deny for the reasons stated in the motion.
Board Member Perry	Yes, to deny for the reasons stated in the motion.
Board Member Sieracki	Yes, to deny for the reasons stated in the motion.
Board Member Sophiaea	Yes, to deny for the reasons stated in the motion.
Board Member Sylvester	Yes, to deny for the reasons stated in the motion.
Board Member Clift	Yes, to deny for the reasons stated in the motion.
Board Member Furgal	Yes, to deny because despite the fact that she thinks it's wrong, she thinks they didn't really meet the spirit of the ordinance which requires them to meet all of the criteria for a use variance.
Secretary Jerzy	Yes, to deny, reluctantly.
Chairman Nestorowicz	Yes, to deny for the reasons stated in the motion.

The petitioner's request was **DENIED** as written.

13. PUBLIC HEARING: **APPLICANT: Kristin Peake -USE-**
REPRESENTATIVE: Same as above.
COMMON DESCRIPTION: 14824 Alberta
LEGAL DESCRIPTION: 13-25-276-010
ZONE: R-1-C

VARIANCES REQUESTED: Permission to -USE-

Continue operating a substance abuse recovery home as a business in an R-1-C zone.

ORDINANCES and REQUIREMENTS:

Section 7.01 – Uses Permitted: Operating a substance abuse recovery home in a residential zone (R-1-C) is prohibited.

Section 4.01 – Compliance With All Laws: Uses not expressly permitted are prohibited; illegal operation of a business is a misdemeanor. (b) Uses not expressly permitted within a specified zoning district are prohibited in that district.

Chairman Nestorowicz said to the petitioner, he's assuming they do not want to remain for this one. Ok.

Board Member Anglin said due to the fact that the petitioner just walked out and didn't want to finish filing the complaint, he would like to make a motion to deny.

Motion:

Board Member Anglin made a motion to deny.
Board Member Perry supported the motion.

Chairman Nestorowicz said they have a motion by Mr. Anglin to deny, support by Mr. Perry.
Do you want to state the reasons?

Motion:

Board Member Anglin made a motion to deny continually operating of a substance abuse recovery home as business in an R-1-C zone.

Reasons being: Detriment to the neighborhood; Needs boards approval.

Board Member Clift supported the motion.

Chairman Nestorowicz said they have previous support from Mr. Perry.

Roll Call:

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

Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Perry	Yes, for the reasons stated in the motion.
Board Member Clift	Yes, for the reasons stated in the motion.
Board Member Sylvester	Yes, to deny for the reasons stated in the motion.
Board Member Sophiea	Yes, to deny for the reasons stated in the motion.
Board Member Sieracki	Yes, to deny for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Secretary Jerzy	Yes, to deny for the reasons stated in the motion.
Chairman Nestorowicz	Yes, to deny for the reasons stated in the motion.

The petitioner's request was **DENIED** as written.

14. PUBLIC HEARING: **APPLICANT: James Malkiewicz**
REPRESENTATIVE: Same as above.
COMMON DESCRIPTION: 23831 Blackstone
LEGAL DESCRIPTION: 13-26-329-017
ZONE: M-2

VARIANCES REQUESTED: Permission to

- 1) Allow a 10.5' maneuvering lane.
- 2) Allow parking in the front setback no less than 12' from the front property line.

ORDINANCES and REQUIREMENTS:

Section 4.32 – Off-Street Parking Requirements: (l) All spaces that do not abut a continuous curb required in accordance with Section 16.07 or a common property line shall be laid out in the following dimensions: parallel length of maneuvering lane 20" two way.

Section 17.02 – Industrial Standards: (A) Front yards: M-2 25 ft.

James Malkiewicz, 11251 Hanover Drive, appeared before the board stating he just wants to say

that it's not a business, he doesn't rent it out, it's only used for personal use and storage. That's all he's got.

Chairman Nestorowicz thanked him for those comments. This is a public hearing, is there anyone else in the audience wishing to speak on this item?

No response.

Chairman Nestorowicz turned it over to the board for questions and discussion. So, he said it's not a business, just using this here for storage, is that what it is?

James Malkiewicz said correct, yes. Just for his toys, his own use.

Board Member Sylvester asked this whole building is just to use by him.

James Malkiewicz said correct. Him and his dad...

Board Member Sylvester asked that he bought the building for his own personal storage.

James Malkiewicz continued to explain, no him and his dad bought it back in '92 from Smelser Roofing land contract and his dad never transferred it in from 2005 when they purchased it 100%. He passed away then he had to take care of all the paperwork and then get it transferred into his name. Ever since then he's just been working on getting it taken care of. He doesn't run anything out of it anymore.

Board Member Sylvester said it's his way over sized garage.

James Malkiewicz said yes, correct. He likes toys. He can't keep them outside, so he keeps them indoors.

Board Member Sylvester thanked him.

Secretary Jerzy said unless any other board members have anything to say, he would like to make a motion.

Motion:

Secretary Jerzy made a motion to approve the petitioner's request to:

- 1) Allow a 10.5' maneuvering lane.
- 2) Allow parking in the front setback no less than 12' from the front property line.

Reasons being: Not a detriment to the area.

Board Member Clift supported the motion.

Chairman Nestorowicz said they have a motion by Mr. Jerzy, support by Mr. Clift to allow the request for the reasons stated in the motion.

Roll Call:

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

Secretary Jerzy	Yes, for the reasons stated in the motion.
Board Member Clift	Yes, for the reasons stated in the motion.
Board Member Sophiea	Yes, for the reasons stated in the motion.
Board Member Sylvester	Yes, for the reasons stated in the motion.
Board Member Sieracki	Yes, for the reasons stated in the motion.
Board Member Perry	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, it's bigger than his toy space, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The petitioner's request was **APPROVED** as written.

15. PUBLIC HEARING: **APPLICANT: Walter E. Ruston Sr.**
REPRESENTATIVE: Tony Corso
COMMON DESCRIPTION: 13087 Eleven Mile
LEGAL DESCRIPTION: 13-14-454-028
ZONE: PB

VARIANCES REQUESTED: Permission to

- 1) Allow a religious facility to have a lot depth of 137.43 feet.
- 2) Allow a 3 ft. wall along the west, north and east property lines.
- 3) Retain a building no less than 19.3 ft. from the front setback.
- 4) Retain existing bumper curbs and waive the requirement of a continuous concrete curb abutting the existing walls where parking spaces exist.
- 5) Allow 19.3 ft. long parking spaces that abut the property line(s).
- 6) Allow 16.6 ft. long interior perpendicular parking spaces.
- 7) Allow 20.5 ft. maneuvering lane.

ORDINANCES and REQUIREMENTS:

Section 5.11 – Churches, Schools, Libraries and Civic Clubs: Churches, synagogues, mosques, public schools, public libraries, private educational institutions, funeral homes, community buildings, country clubs, fraternal lodges or similar civic or social clubs shall be permitted with permission of the Planning Commission pursuant to the standards set forth in Section 22.14 (B)(1) and upon compliance with the following minimum requirements:

- (2) That the size of the site shall be a minimum of one-half (1/2) acre, shall have a lot width of not less than one hundred (100) feet and a lot depth of not less than two hundred (200) feet.
- (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.
- (8) Every building shall have a front yard of not less than thirty (30) feet. If a circular drive is proposed in the front yard, a distance equal to the width of the drive shall be added to the front yard setback. Section 16.07 – curb. Necessary curbs, or other protection against damage to adjoining properties, streets, sidewalks and greenbelts shall be provided and maintained. Further, if a wall is required in accordance with Section 2.26(c) of this ordinance, all parking spaces

adjoining said wall shall be provided with continuous curbs constructed of concrete measuring six (6) inches in height and eight (8) inches in depth. The area from the property line to the vertical edge of the exposed curb shall be a minimum of five (5) feet and shall be filled and hard surfaced to permit drainage toward the owner's property.

Section 4.32 – Off-Street Parking Requirements: (l) All spaces that abut a continuous curb required in accordance with Section 16.07 of this ordinance or a common property line shall be laid out in the following dimensions, including off-street maneuvering lanes: type: 90 degree, length 22 ft., maneuvering lane, 22 ft. all spaces that do not abut a continuous curb required in accordance with Section 16.07 or a common property line shall be laid out in the following dimensions: type 90 degree, length, 20 ft., length of maneuvering lane 22 ft.

Chairman Nestorowicz asked the applicant to start with name and address for the record, then take the board through the request.

Walter E. Rushton, Sr., appeared before the board stating pastor, 13087 Eleven Mile Road. Variance permission.

Chairman Nestorowicz asked if he wants to explain what they're requesting.

Walter Rushton, Jr., appeared before the board stating this is his dad, he's assistant pastor. Is it ok if he reads it?

Chairman Nestorowicz replied yes.

Walter Rushton, Jr. read variances requested, permission to: 1) Allow a religious facility to have a lot depth of 137.43 feet. 2) Allow a 3 ft. wall along the west, north and east property lines. 3) Retain a business no less than 19.3 ft. from the front setback. 4) Retain existing bumper curbs and waive the requirement of a continuous concrete curb abutting the existing walls where parking spaces exist. 5) Allow 19.3 ft. long parking spaces that abut the property line(s). 6) Allow 16.6 ft. long interior perpendicular parking spaces. 7) Allow 20.5 ft. maneuvering lane.

Chairman Nestorowicz asked if there is anything he wants to add to explain any other comments or no.

Walter Rushton Jr. said at this point they don't other than the measurements are already in place as they moved into the building, and the variances they're hearing there are certain guidelines, or what have you, that required. At this point they are at a stand still until the variances have been addressed. At this point they are just here to, for a lack of a better term, whether this is grandfathered or not.

Chairman Nestorowicz thanked them. This is a public hearing, are there any members of the audience wishing to speak on this item?

No response.

Chairman Nestorowicz closed the public portion and turned it over to the board for questions and discussion.

Board Member Clift said he was a little distracted looking at the plan when they were going through a little bit of the verbiage. He just wants to clarify what he thinks he heard. This is an existing building, the building is there, the layout of the lot, the layout of the property is already there and they just want to retain or keep what is basically already present on the property.

Walter Rushton Sr. replied correct.

Board Member Clift thanked them.

Board Member Furgal said the previous use of the property was?

Walter Rushton Jr. replied it was a medical facility.

Board Member Furgal thanked them.

Board Member Sylvester said maybe someone up there can explain this one. Allow a three (3) foot wall along the west, north, east property line. Does that mean it's already there.

Chairman Nestorowicz said it's an existing wall that really is only about three (3) feet tall.

Board Member Sylvester said by ordinance, is that supposed to be six (6) foot though?

Chairman Nestorowicz explained it is, that's why they're requesting to retain the three (3) foot one.

Board Member Anglin said if he may, they can add three (3) foot to the top of that.

Board Member Sylvester said yeah, add three (3) foot, make it a six (6) foot wall.

Board Member Anglin said they wouldn't have to replace the wall, they can add. If the board decides it has to be a six (6) foot, they can add it to the top which would subsidize a pretty large expense. Help them with a large expense that is not necessary.

Board Member Sylvester said ok, so that will be a six (6) foot wall?

Board Member Anglin said well, the board has to vote on it. He, himself, thinks it should be a six (6) foot wall. That's why he was suggesting a way getting around ripping up what's there and being able to form a taller wall. He's a contractor builder, he did it. It can be done and that will save a ton of money. He believes it should be a six (6) foot wall.

Board Member Sylvester said the other thing he had was retain existing bumper curbs and waive the requirement of a continuous concrete curb abutting the existing walls. He thinks they need to have the continuous concrete curb. With the wall and that curb, he's got no problem with the rest of it, but he thinks those two (2) things need to come into play.

Board Member Anglin explained if they rebar those curbs down, have a whole drilled through them and run a three (3) foot rebar stake in, they're just as secure as a poured cement.

Board Member Sylvester said he doesn't know what's there.

Board Member Anglin said he doesn't either, but they could require them to say those bumper blocks. He agrees with him, if they're not anchored, they're going through the wall. But if they anchor them, again it could save a ton of money for them not repouring just a cement column through there if they take a sludge hammer and some rebar and hammer those bumper blocks down.

(Inaudible due to microphone being off.)

Board Member Anglin said agree. Whoever makes the motion can suggest that.

(Inaudible due to microphone being off.)

Secretary Jerzy said to turn his speaker.

Walter Rushton Sr. said yeah they have some rebar.

(Inaudible due to microphone being off.)

Walter Rushton Sr. said all the ones he has seen so far.

(Inaudible due to microphone being off.)

Secretary Jerzy said turn your mic on Mike.

Chairman Nestorowicz asked if his microphone is on.

Board Member Sylvester said so right now some of them have rebar through them or all of them or have they tried to move any of them.

Walter Rushton Sr. replied some of them do.

Board Member Sylvester said they have all the curbs along those three (3) walls and they just need to add the rebar through them so they're secure.

Walter Rushton Jr. replied correct.

Board Member Sylvester thanked them.

Chairman Nestorowicz said he had a question for Mr. Murphy. Looking at the site, he sees the three (3) foot. How did that medical facility have... they never got approval for a three (3) foot wall they have out there?

Everett Murphy replied at some point, yes. That could have been when it was originally built. They would have needed permission at the time they did that it would have had to get a variance or it wasn't required at the time.

Chairman Nestorowicz said that's an old building.

Everett Murphy said that's an older building. That wall has existed.

Chairman Nestorowicz said he took a photo of it, it's an existing three (3) foot wall on all three (3) sides of that building.

Everett Murphy said right. It says to allow one, but really it's to retain what's already there is what they're asking for.

Chairman Nestorowicz thanked him.

Board Member Anglin said just to make a comment. He wouldn't be hesitant so much with a three (3) foot wall, but that is residence all the way around that. Is he correct reading this site plan?

Chairman Nestorowicz said that's correct.

Board Member Anglin said they're bumping up to residence, for their privacy or well being he would like to see it made a six (6) foot wall and if nobody else on the board has any questions he would like to make a motion.

(Inaudible)

Board Member Clift stated the plans show an existing six (6) foot wood fence on the back side of the property.

Walter Rushton Sr. explained they do something up by the wall along the property there. That was there previously and everybody seems to be satisfied with that at that time.

Board Member Clift said this is one that he didn't go to look at. He yields the floor.

Board Member Anglin said again, the only approved wall is a concrete wall. That's for zoning for that type of basis. They went across on several occasions for people wanting to put up a vinyl fence or wood fence for this purpose, but being the way it is they always kind of held firm to say the code is concrete, they have to make it concrete. So, he's going to read this out as them having a six (6) feet concrete wall all the way around the perimeter. Now, his understanding is when they approve this under use, they have two (2) years to complete this project?

Chairman Nestorowicz said yes, he believes so.

Board Member Anglin said he just wanted to see him get up and get his exercise.

Everett Murphy said he could use it. He explained site plan approval, they have two (2) years to complete all the work. Now the Planning, he doesn't know if it's Planning Commission or the Planning Director that can approve different materials. So they can do that, it's actually in the ordinance.

Board Member Anglin said God bless him.

(Inaudible)

Board Member Furgal said she'll point out the medical facility had people everyday and the ministry has people once or twice a week, mostly on Sunday. So, she doesn't even know that it's necessary, personally.

Board Member Clift said he would agree with that sentiment.

Board Member Anglin said he's going to read it a different way. If he doesn't have enough support for it, don't get it approved.

Board Member Furgal said to let her read it. Then he can vote no. It's better that way.

Board Member Anglin said yes it is.

Motion:

Board Member Furgal made a motion to grant permission to:

- 1) Allow a religious facility to have a lot depth of 137.43 feet.
- 2) Allow a 3 ft. wall along the west, north and east property lines.
- 3) Retain a building no less than 19.3 ft. from the front setback.
- 4) Retain existing bumper curbs and waive the requirement of a continuous concrete curb abutting the existing walls where parking spaces exist **with the caveat that rebar needs to be in all the bumper curbs.**
- 5) Allow 19.3 ft. long parking spaces that abut the property line(s).
- 6) Allow 16.6 ft. long interior perpendicular parking spaces.
- 7) Allow 20.5 ft. maneuvering lane.

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

Board Member Clift supported the motion.

Chairman Nestorowicz said they have a motion by Mrs. Furgal, support by Mr. Clift to allow the petitioner's request per the reasons stated in the motion.

Roll Call:

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

Board Member Furgal	Yes, for the reasons stated in the motion.
Board Member Clift	Yes, for the reasons stated in the motion.
Board Member Perry	Yes, for the reasons stated in the motion.
Board Member Sylvester	No, the other two variances should be part of this motion.
Board Member Sophiea	No, the three foot wall is unreasonable.
Board Member Anglin	No, a six (6) foot wall should be installed.
Board Member Sieracki	Yes, for the reasons stated in the motion.
Secretary Jerzy	No, a six (6) foot wall should be installed as well.

Chairman Nestorowicz

Yes, for the reasons stated in the motion.

The petitioner's request was **APPROVED** with the previously mentioned change to item 4.

16. PUBLIC HEARING: **APPLICANT: Home Depot -USE-**
REPRESENTATIVE: Katie Fitzjarrald
COMMON DESCRIPTION: 25879 Hoover
LEGAL DESCRIPTION: 13-22-432-016
ZONE: MZ, C-2, C-1, P

VARIANCES REQUESTED: Permission to -USE-

- 1) Allow 1,478 square ft. of permanent open storage in a "C-2" zone.
- 2) Allow 500 square ft. of temporary open storage in a "C-2" zone from April 1-August 31.
- 3) Allow 720 square ft. of permanent outdoor storage in a "P" zone.

ORDINANCES and REQUIREMENTS:

Section 14.01 – Uses Permitted: Outdoor storage is not a permitted use.

Section 16.01 – Uses Permitted: Outdoor storage is not a permitted use.

Matthew H. appeared before the board stating he is with Kimley Horn representing Home Depot as the client. As stated in the variance request, Home Depot is looking to store some larger items, as well as items that might be unsafe inside the building for storage in their outside parking lot, as well as the area behind the building. Some of the main purposes for this are that they want to separate some of the traffic between more conventional customers and their contracting customers. That is why they are showing the trailer rentals separated from the plants and all the other additional items that they're trying to store on this site. They can see on the northwest corner, there is going to be some propane tanks as well as fence materials and another temporary outdoor storage, which is going to include some grills as well as the area they use to assemble them, because they obtain them in packages and have to put them together prior to sale. That's a brief overview of the request. Is there any questions. Any specifics on location on any of the items.

Chairman Nestorowicz thanked him for those comments. This is a public hearing, are there any members in the audience wishing to speak on this item. Please approach. Just start with name and address.

Dianne Walkuski appeared before the board stating she also represents Home Depot, the store manager. She lives at 7656 Charlesworth. So, if the board has any questions, she is the store manager. She has been there for four (4) months and have a little bit more descriptive knowledge of the representative here, which she didn't know he was coming.

Chairman Nestorowicz said not seeing any other members of the public, he closed the public portion and turned it over to the board for any questions or discussion they might have.

Board Member Furgal said she wanted to point out that they never allowed permanent open storage anywhere in the city. That's why they had to keep coming back every year. The reason is because sometimes, you know, they want to put the sheds over here. Then the next time they want to put the sheds over there. Then the other time they wanted to put flowers here, then the next time they wanted to put them over there. Just allowing them willy nilly and then sometimes they've put stuff in the back of the building that annoys the neighbors. They have had issues with them the

whole time. So, permanent open storage is not something that the board really allowed in the past.

Dianne Walkuski explained the permanent storage that she believes she is speaking to is their tool rental. They have in the parking lot, which is obviously rented to their pros. The temporary position that they're asking for is obviously spring season is like their Christmas. This is...

Board Member Furgal said she didn't ask her a question.

Dianne Walkuski apologized and said she was just trying to clarify.

Board Member Furgal said if they looked at the history on this, they have to come with a site plan and every year they approve that particular site plan. They don't approve it permanently. It's almost eleven o'clock at night and she is tired. 1993. They have been doing it since 1993. Now, maybe she can make a really good presentation and tell the board why they should, but...

Chairman Nestorowicz said he's going to rephrase this as a question for the petitioner. The question is that every year Home Depot has come to the board. They have always given temporary storage and every year they have come back. The fact that on two (2) of the items they're asking for permanent, that means it's not temporary. If the board gives it to them, they wouldn't have to come back for it, it just stays there. They have never given Home Depot permanent storage, they have always done temporary and then every year they would come back, because there has been changes when they want to move it. That has happened before with whether it's the sheds that moved in the front of the building. He knows she has been there four (4) months and he remembers it was a couple years where they had some issues with the neighbors based on where some things were placed. So, that's where Mrs. Furgal was bringing up that they were never given permanent location, they've always a temporary. Meaning every year it would have to be requested again.

Dianne Walkuski apologized and said she understands, she's new to the process and brand new to this stuff.

Chairman Nestorowicz asked if there is a reason or case why the board should consider giving permanent storage as opposed to making all this temporary where next year the would have to come back.

Dianne Wulkuski said she can assure the board that Home Depot is not in a practice of moving things. They go through a lot of process in moving things. It's her understanding that the storage sheds, from talking with the previous storage manager, those have been in that space for three (3) or four (4) years and don't see them moving. Obviously, their grills that they put on the front apron, that is a seasonal business. Spring season is their busiest time of year and the tool rental business, their pro-business, is sixty (60) percent of their business. They're going to always have tool rental equipment in front of tool rental and if that could be a permanent position, then it is something that Home Depot is always going to do is rent out to store pro's. Especially their trucks, their flat beds, for moving and whatnot. So, she honestly, apologizing. She doesn't know why this is all of sudden being asked to be a permanent position being new to the store. So, she is sorry she can't answer that question 100%, but she can tell the board that they will always do a rental pro-business.

Board Member Anglin says he thinks the easiest way to handle this to get what they need for this

year is to change these to be temporary. Get this year to do what they want on these spaces and then next year be aware that if they permanently want that space in front of tools rental, then they make sure they have adequate space blocked out and a reasoning why explanation why they want that as a permanent. But if the board changes it to temporary, he thinks they can vote on that here, he would give a yes vote to that. And they'll be able to proceed with business, but that would be something she would have to direct him to do. If she is directing him to be able to say that, he will say that on her behalf.

Dianne Walkuski said she would like for him, please mister, to change that to temporary. So they can continue to do their business.

Board Member Anglin said if there are no other questions from the board, he would like to make a motion.

(Inaudible)

Secretary Jerzy and Chairman Nestorowicz said microphone.

Board Member Sylvester said sorry. He thinks his voice is loud enough. Anyway, he lived around here most of his life on this planet and he doesn't remember, maybe somebody on this panel can let him know, when has Lowe's ever come in front of the board.

Board Member Furgal said they come.

Board Member Sylvester asked they have.

Chairman Nestorowicz said he can't remember the last time.

Board Member Sylvester said he doesn't remember. These people right here, come to the board every year. Two (2) or three (3) times a year and they ask for sheds, they ask for...

Board Member Anglin said we get it.

Board Member Sylvester continued saying and everything else. He goes past Lowe's and he sees stuff all over that lot...

(Inaudible)

Board Member Sylvester said yeah, ok, so...

(Inaudible)

Board Member Furgal said but it's still...

Board Member Sylvester said he sees stuff all over that lot and they don't come in front of the board for any variances.

(Inaudible)

Chairman Nestorowicz said different properties.

Board Member Sylvester said it's different properties, but all he's saying is...

Chairman Nestorowicz said it also has to do with the zonings. Remember, they're coming because of where they're putting based on their zone "P". Have to look at the specifics of their site plan.

Board Member Sylvester said well, ok. All he's saying is these people right from Home Depot come in front of the board for everything. They ask for everything, they get variances for everything. He has to commend them. The other party, he has never seen them.

Board Member Anglin said file a complaint. They'll find out.

Matthew H. asked if the board has a site plan on where all this equipment and items are going. He has several copies here.

Chairman Nestorowicz said yes they do.

Board Member Anglin asked if they have somebody else over here, because he's getting tired.

Board Member Clift said first off, he applauds them for coming back year after year. Second, he thinks it's kind of ridiculous if they're doing the same thing in the same place year after year. He applauds them for coming forward and actually asking for a variance on permanent storage. He just thinks it needs to be explained a little more clearly and written out in the variance request. He see's the 1,478 of permanent outside storage in a C-2 zone, he'd be more apt to look at it and take it a little more seriously under consideration if he knew exactly what that was going to be used for. If and when it's ever granted, they hold them to it. They can't decide to move the sheds or trailers are blah, blah, blah. With that being said, he's in line with his colleagues, Mr. Anglin, on changing these all to a temporary and let them take care of business then approach it again the next time around with a little bit more consideration on the permanent side of some of that storage. Thank you, he yields the floor.

(Inaudible due to multiple people talking.)

Secretary Jerzy said if nobody else has anything else to say he would like to make a motion.

Board Member Anglin said he was going to, but Mr. Jerzy you take care of it.

Motion:

Secretary Jerzy made a motion to grant the petitioner permission to:

- 1) Allow 1,478 square ft. of **temporary** open storage in a "C-2" zone.
- 2) Allow 500 square ft. of temporary open storage in a "C-2" zone from April 1-August 31, 2023.
- 3) Allow 720 square ft. of **temporary** outdoor storage in a "P" zone.

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

Board Member Anglin supported the motion.

Chairman Nestorowicz said they have a motion by Mr. Jerzy, support by Mr. Anglin to approve the request as stated in the motion, making everything temporary outdoor storage for the year. Roll call.

Roll Call:

A roll call was taken on the motion. The motion carried (8 – 0).

Secretary Jerzy	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Clift	Yes, for the reasons stated in the motion.
Board Member Perry	Yes, for the reasons stated in the motion.
Board Member Sylvester	Yes, for the reasons stated in the motion.
Board Member Sieracki	Yes, for the reasons stated in the motion.
Board Member Sophiea	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The petitioner's request was **APPROVED** with the previously mentioned changes.

17. PUBLIC HEARING: **APPLICANT: Andrew Falzarano**
REPRESENTATIVE: Same as above.
COMMON DESCRIPTION: 6419 Ten Mile
LEGAL DESCRIPTION: 13-21-376-003
ZONE: M-3

VARIANCES REQUESTED: Permission to

- 1) Allow an above ground fuel tank to be 129.7' from the east property line.
- 2) Retain 6' tall chain link fence in the front setback, near the south property line.
- 3) Allow storage and parking of 192,876 square ft. on a non-hard surface (gravel).
- 4) Retain a building no less than 44.9' from rear property line.
- 5) Allow an obscuring wall of non-masonry material and does not have a continuous concrete footing.

ORDINANCES and REQUIREMENTS:

Section 17.02 – Industrial Standards: (a) Front yards: M-3 150 ft. 3. In M-3 and M-4 zones, front yards may be utilized for parking or vehicles provided that the front fifty (50) feet of a lot or tract in an M-3 district and the front seventy-five (75) feet of a lot or tract in an M-4 district shall be landscaped and the balance shall be depressed at least two (2) feet so as to have all parked vehicles therein, completely out of sign or view of the roadway. (b) Side yards, and rear yards, 60 ft. each. (p) Fire and safety hazards – bulk storage of flammable liquids, liquid petroleum gases and explosives allowed above ground 150 feet from the property line.

Section 4.32 – Off-Street Parking Requirements: (k) All off-street parking areas shall be provided with adequate ingress and egress, shall be hard surfaced with concrete or plant-mixed bituminous material (base may be stabilized gravel or equivalent), shall be maintained in a usable dustproof condition, shall be graded and drained to dispose of all surface water, provide protective bumper

curbs as per Section 4.32 (i) and 16.07, and shall otherwise comply with Section 2.46 and 16.05 of this ordinance.

Section 4D.36 – Obscuring Walls: Where a non-residential land use abuts a residential district and a wall is used to obscure the non-residential property from the abutting property, the wall shall be constructed of masonry material. Standard concrete blocks are prohibited. Poured or precise concrete walls are permitted provided that they are installed on a continuous concrete footing and are eight (8) inches thick. Required walls shall be similarly finished on all sides and structurally sound.

Section 4D.07 – Setback Required: Walls, fences and landscape screens shall conform to the setback requirements for the zoning district, unless otherwise provided in this article.

Chairman Nestorowicz said before they start with their name and address for the record. He just wanted to thank everybody for the patience, because it has been such a long meeting for all of them. Start with name and address for the record, then take the board through the request.

Edward Girodat, 1090 South Oxford Road, appeared before the board.

Andrew Falzarano, 12225 Stephens Road, appeared before the board.

Edward Girodat thanked the board for their time tonight. They have all been here a long time. Real briefly before he turns it over to Andrew. To start off, their group of companies has been in the City of Warren for over thirty-five (35) years and probably call it their home. They employ over a thousand people here in the city and are here in front of the board asking for variances to help them continue to do the business they all need to do in the city.

Andrew Falzarano said the first variance that they're requesting is a setback on proposed location of the fuel. The required setback is 150 feet. It's being currently measured from the Warren/Center Line jurisdictional line. Their property extends to the east into Center Line, and if it was measured from that line, it would be over 300 feet. The second variance is to retain an existing chain link fence along Ten Mile. This was supported by the Planning staff with the condition that they remove the barbed wire on the top; they're happy to comply with that and remove the barbed wire. It is noted on the site plan. The third is to maintain gravel, non-hard surface, and open storage. This is strictly on the west side of the existing building. East of the existing building, that is where they're proposing to pave. The activity associated with the concrete plant would be limited to the existing proposed pavement areas; that's east of the building. Currently, they have no development plans for the area west of the building. With no development plans they are requesting to maintain the status quo of gravel surface. The fourth variance is to retain the existing commercial building rear yard setback. Currently it measures 44.9 feet, that was, the building was as is when they bought back in the '70s. The final variance is the obscuring wall. This is a construction that's been approved on previous projects by the city in the past. Planning staff supports the proposed construction obscuring wall. Happy to answer any questions associated.

Chairman Nestorowicz said this is a public hearing, are any members of the audience wishing to speak on this. Please approach the podium and start with name and address then comments.

Richard Debolt, 6173 Braun Avenue, appeared before the board. This has been ongoing issue for a couple years now when Titan Concrete moved in next door into Center Line. They did not know

that this was going to become part of their world in their neighborhood. He knows all the neighbors are upset about it. When they think about the open storage of gravel, where are these trucks coming through, they're coming around that building on gravel. It's not paved, it's a nuisance all day long. From four o'clock in the morning to nine o'clock at night, a constant traffic flow of vehicles, semi-trucks, two-car trailers. There's so much (inaudible) going on. Earlier he watched the board talk about how the business was working with the neighbors. He never met any of these humans. They have never come to his door, they never asked their opinion, they never seemed what the neighborhood wants. They employ 1,000 people (inaudible) tax payers. That's all they are. Are they being nice to them, are they being nice to the neighbors? No they're just tax dollars and when they put Titan in Center Line, was that approved by them? No. Was that their money, tax dollars? No. But now they want to operate through the properties on Warren. So, whatever the board chooses to do about open storage of gravel is a lot of material. That's dust, fuel tank, that's trucks going through there, fuel tanks going through their properties, go through their area. Looking on Ten Mile, it is a dust pit. It is a wind storm of dust all day long. Those neighbors on Ten Mile, he feels bad for them, the dirt coming from this property onto theirs and the dust is non stop as well. But, you can visibly see just drive down Ten Mile. He doesn't have any research, he wish he could do more research. He wished he had more time for them, he would give the board more. The last meetings he's been to he's only allowed three (3) minutes. He thanked the board for their time. He hopes they deny this. Thank you.

Chairman Nestorowicz thanked him for his comments and patients today. Any other comments from the audience on this item?

No response.

Chairman Nestorowicz said before he closes the audience portion, there is one email. Mr. Jerzy, do you want to read that one in?

Secretary Jerzy said there is one email. It says, "Please acknowledge this as my (Carlos Jackson) objection to any additional developments on this property. This development is already a toxic hazard to all the residents within one mile of the cement manufacturing entity. This is due to the more than 21 toxic chemicals contained in the creation of this product, which goes airborne and can be inhale by all residents and animals. In addition to the toxicity of the product, all the trucks entering and exiting this business have caused severe damage to the E. Ten Mile Rd, from Sherwood West to Mound Rd. The increase 15,000lbs GVW vehicles have caused so much damage, my neighbors and myself experience foundation vibration so severe is causing major damage to our homes. Sincerely, Carlos Jackson."

Chairman Nestorowicz thanked him for reading that into the record. With that, he closed the public portion of the meeting and turned it over to the board for questions and discussion.

Board Member Sylvester said they have been there for quite some time now, ok. Have they taken consideration of the area that they're at. The residences that are around them. Because as that gentleman just said, and he doesn't live far from there. He comes onto Ten Mile Road sometimes and he doesn't even know where Sherwood is. That's how dusty it is. If this gentleman is correct, which he has been through that area before, the operation runs, especially like now, five (5) hours after it's dark outside. So, that's not what these people should have to deal with. Maybe there is a

way to resolve it. He really doesn't know, but they have concerns. Also, along the west side. He understands there has been some flooding over the last couple years. A drainage system was removed from that area. Have they done any work whatsoever to make sure the water stays on the property?

Andrew Falzarano explained there is a manhole over in the...

Board Member Sylvester said there is a manhole there. Is everything all connected and is it draining?

Andrew Falzarano said he can't confirm that it is or is not connected.

Board Member Sylvester said as of right now it's not. Those people over there deserve to live in the City of Warren in a residential area and not have to worry when it rains or the noise or the chemicals or whatever, that they are outside and breathing this in and losing more water due to water damage.

Andrew Falzarano explained in the site plan he'll see there's grading away the proposed retaining wall west of the property. It includes details on the catch basins in that area and if it's an existing issue, it will be fixed.

Board Member Sylvester asked if they have worked with engineering to resolve the problems that he just stated.

Andrew Falzarano replied yes.

Board Member Sylvester thanked him.

Board Member Anglin said he's not necessarily in favor of having an above ground fuel tank. What size is that fuel tank? He doesn't see it written on here.

Andrew Falzarano replied he doesn't have that information off the top of his head.

Board Member Anglin asked if it's a five (5) gallon can or is it a 500 gallon drum.

Dan Onifer appeared before the board stating he is with Crown Enterprises, 12225 Stephens. The fuel tank is a 20,000 gallon above ground diesel storage tank.

Board Member Sylvester asked that it does have a berm around right? It's enclosed? In case there was a rupture or spill of any sort.

Dan Onifer said it has a containment.

Board Member Sylvester said that tank has been there for at least two (2) years, right?

Dan Onifer replied yes, sir.

Board Member Sylvester asked if that's the only one on site.

Dan Onifer replied yes, sir.

Board Member Anglin said his other issue would be that they allow an obscuring wall of non-masonry material and does not have a cement footing. He doesn't believe that should be any wall put without a complete footing on it.

Board Member Furgal said she agrees with him on that.

Board Member Anglin said if it's a wall, it should have footings, and it should be continuous footings, not just peers. He has seen where they put a post in and then they run the wall. That does not create a rat wall in that situation in there. That one, he objects to. A chain link fence on the front setback of the south property line. He's trying to find it.

Edward Girodat said that would be the Ten Mile frontage.

Board Member Anglin said yes, that's the Ten Mile line, but he doesn't see exactly on here where that. Oh, now he has it. Again, they got the retention pond so it would be hard to put anything there. Ok, that pretty much answers the question. He understands want a fence on there, but he was hoping he could get it pushed back, but they have the retention pond there. The only thing he might suggest, or he would want to see, is he doesn't know how wide that berms he has put up. It looks like a ten (10) foot berm. Instead of the fence being in front of the berm by the road, put the fence hind the berm by the road.

Board Member Clift said he thinks it is.

Board Member Anglin said he needs somebody to point that out to him then. He's seeing it before. That would be his other suggestion. Other than that, he's sure the state has all the requirements and that necessary to put in a fuel tanks. That's a large tank. But as long as it has states certifications and all the permits are kept up with, he's not going to have too big of an objection because of the fact that... He owns the property in Center Line.

Dan Onifer said for all intent purposes, it's one continuous property. If he could add, he heard some complaints related to the concrete plant. What they're really initiating with Planning, and now with this board, is to for the lack of better term, clean up the issues related to the concrete plant. That is to expand the hard surface that the concrete would operate, all of the equipment associated with concrete plant would be on the existing and proposed concrete pavement. The outdoor storage is only status quo on areas west of the building that really have no designated use.

Board Member Clift said he has just a couple of questions. When he said there was some complaints stemming from the concrete plant. He can't make a left hand turn off Ten Mile down any of the roads or streets adjacent to his plant on his motorcycle without sliding on a quarter of an inch sometime of silt and dirt that accumulates on the roadway. When that plant was first put into operation he was seeing a street sweeper out pretty regularly that he believes came from them that they operated to keep that area clean out there. He hasn't seen it lately or he's mistaken. Maybe it was Center Line doing, he never saw the marking on the vehicle. But, he's really amazed that in part of the planning that a wash pad wasn't required for exiting vehicles coming out of there for tacking some of the dust

and dirt issues out onto the roadway. Is there any plans in place to maybe incorporate something like that in their clean up aspect of the plan? He's just curious from a personal standpoint. Thank you.

Dan Onifer replied yes, sir there is exactly that. What they proposed in their site plan to the City of Warren and not to City of Center Line because of jurisdictional change, is a wash basin that allows for the trucks wash out both the drums into this wash basin that's a series of settling ponds and it recirculates the water and also there's fresh water to this location to wash the outside of the trucks. That's the wash basins have been constructed. As the pavement goes in, they asked for approvals that would then also include the truck was arch.

Board Member Clift said he's glad to hear that. Will anything entering or exiting the property be required to move through that. Gravel trains coming in dumping product or material, is that going to be incorporated into the entire scope of the operation of the property or is it just going to be relegated to the concrete mixing trucks.

Dan Onifer explained they represent the properties owner, the land owners, and the developers, that's an operational question. He knows that the concrete trucks, they are rinsed after they're loaded because there's some powder in mix that do get on the outsides of the trucks. Gravel trains, they come into the yard stay on the concrete pavement, they dump their load, and they leave the gate.

Board Member Clift thanked them for the clarification and answer, sir. He appreciates it and yields the floor.

Chairman Nestorowicz said he actually just found something out from Planning.

Secretary Jerzy said this was just given to him by Mr. Murphy. Planning is requesting that the board table this issue. After the request of the petitioners for a site plan approval was tabled. Following attachments include a letter to the petitioner explaining a tabling. Planning is saying they should table this.

Motion:

Board Member Clift made a motion to table; Supported by Board Member Anglin.

Motion:

Secretary Jerzy made a motion to move this to the March...

Chairman Nestorowicz said they're not sure Planning will have it approved by then.

Cecil St. Pierre said just table it again. He thinks the board should have let them know in advance not 11:30 at night.

Dan Onifer asked if he can respond to that at all.

Multiple people stated there is a motion so there is no discussion.

Chairman Nestorowicz asked if they need to take a roll call.

Motion:

Secretary Jerzy made a motion to move this item to the March 8, 2023 due to the fact that Planning requests them to postpone that till then.

Board Member Clift supported the motion.

Voice Vote:

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

The petitioner's request was **RESCHEDULED** to March 8, 2023.

Dan Onifer said just for clarification, they are on the Planning Commission agenda for January 23rd.

Cecil St. Pierre asked if they can make this February. Do you want it in February.

Dan Onifer said if you could, please.

Motion:

Board Member Anglin made a motion to move this item to the February 8, 2023; Supported by Board Member Clift.

Voice Vote:

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

Chairman Nestorowicz said it will be on the February meeting. Retain the documents and if there is anything changes to the documents he's sure they'll get any.

18. NEW BUSINESS

None.

19. ADJOURNMENT

Motion:

Secretary Jerzy made the motion to adjourn the meeting, Supported by Chairman Nestorowicz.

Voice Vote:

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

The meeting adjourned at 11:10 p.m.

Paul Jerzy
Secretary of the Board

APPROVED