

WARREN ZONING BOARD OF APPEALS
REGULAR MEETING
JANUARY 8, 2025

A Regular Meeting of the Warren Zoning Board of Appeals was called on Wednesday, January 8, 2025 at 7:30 p.m. at the Warren Community Center Auditorium, 5460 Arden Avenue, Warren, Michigan 48092.

Members of the Board present:

David Sophiea, Chairman
Roman Nestorowicz, Vice-Chairman
Paul Jerzy, Secretary
Charles Perry, Assistant Secretary
Charles Anglin
William Clift
Shaun Lindsey

Members of the Board absent:

Kevin Higgins
Garry Watts

Also present:

Jennifer Pierce, City Attorney
Steve Watripont, Zoning Inspector
Nicole Jones, Council Office

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

A roll call was taken and Board Member Higgins and Board Member Watts were absent.

Motion:

Secretary Jerzy made a motion to excuse Mr. Watts and Mr. Higgins. They both did contact saying they weren't going to be here; Supported by Board Member Perry.

Voice Vote:

A voice vote was taken. The motion carried (7 – 0).

4. ADOPTION OF THE AGENDA

Secretary Jerzy explained since they don't have a full board, there is a use variance on item 7. He would request to at least... Actually, is the petitioner for item 7 currently here? If they could

approach real quick. He wants to make sure they want to be heard tonight with them being down two (2) members.

The petitioner stated they would still want to be heard tonight. He thinks it's an issue that they could probably resolve this evening.

Secretary Jerzy said sounds good. Since it's his second time coming back, he would make a motion to the board that once, Mr. Clift had a couple items he wanted to discuss on this item, once Mr. Clift shows up they will proceed with his item after whatever petitioner is at the podium. So, he doesn't have to wait till the end of the meeting. Is that ok?

The petitioner thanked him.

Motion:

Secretary Jerzy made a motion to move 7 to be heard after, if Mr. Clift shows up. If he doesn't, they'll proceed accordingly at the end of the agenda with item 7; Supported by Board Member Anglin.

Voice Vote:

A voice vote was taken. The motion carried (7 – 0).

Caren Burdi stated she is representing item 14. They would really like to present their matter in front of a full board, if that's ok.

Secretary Jerzy stated with that being said, asked if there is anybody else in the audience that would like to do the same before making another motion.

Chairman Sophia wants to give everyone in the audience the opportunity tonight to reschedule or postpone their request to when they have a full board. Tonight puts them at slight disadvantage that they need five (5) yes votes and they are currently down three (3) members. They should be down two (2) members.

A resident stated he is here to speak on the same item. There's just a couple of weeks where he's not going to be here in the coming months. He would hate to not be here because he has quite a few concerns about what's trying to be passed.

Chairman Sophia asked which item is that.

A resident believes it's 14, she said. He understands there is no board, he doesn't know if there's a way, because he lives right next to the business that's trying to pass. So, he just wanted to make sure.

Secretary Jerzy said the next available date for the meeting would be February 12th. Is Ms. Burdi ok with that?

Caren Burdi responded out of distance from the microphone.

Secretary Jerzy said ok.

The resident is pulling it up right now.

Chairman Sophiea explained if for some reason he's not here, of course, can always write into the office.

The resident said he will be gone the week of the 12th. What would be his other option?

Secretary Jerzy explained he could email Nicole. She can give him her email and send in whatever statement he wants to send and it will be read into the record up here.

(Inaudible)

The resident definitely wanted to do it in person. If he could at least speak to who is here and maybe take that into consideration and he could write an email. If that is something they wanted to vote on at a later date, because not everyone is here, he totally understands. He would definitely like to hear him personally, if that's possible.

Chairman Sophiea doesn't know if they would be able to move it to open business because they're down two (2) board members. He doesn't think it would be appropriate. He would leave it up to the city attorney.

The resident asked if they could pick the week after the 12th.

Secretary Jerzy said the next meeting would be March 12th. He doesn't know if Ms. Burdi, is that too far down, too far out?

Caren Burdi is ok with March 12th.

Chairman Sophiea said item 14, if that's ok, they can postpone if it's mutually agreed.

Steve Watrion wanted to speak on behalf of the city that they have on going litigation on this. They will postpone that until after the meeting is heard. So, whatever they decide with them, everything will be postponed on the city end.

Chairman Sophiea said ok, great.

Secretary Jerzy thanked him.

The resident thanked the board.

A petitioner came up stating he is not item 7, he is item 10 and apologized.

Board Member Clift called for a point of order. He's present now. He was late. He made the board aware that he was going to be a little bit late. He just wanted to make sure he is good to take his seat this evening.

Chairman Sophiea thanked him and said they'll mark him present.

Board Member Clift thanked him.

Chairman Sophiea asked if the petitioner is present tonight for item 7.
No response.

Chairman Sophiea said as a courtesy move it to that last item, if they're not here they can dismiss it.

Motion:

Secretary Jerzy made a motion to move item 7 to the end of the agenda as 16, move item 14 to March 12, 2025; Supported by Board Member Anglin.

Voice Vote:

A voice vote was taken. The motion carried (7 – 0).

5. APPROVAL OF THE MINUTES of the Regular Meetings of November 13, 2024 and December 11, 2024.

Motion:

Board Member Clift made a motion to table the minutes of November 13, 2024; Supported by Board Member Clift.

Voice Vote:

A voice vote was taken. The motion carried (7 – 0).

Motion:

Board Member Clift made a motion to table the minutes of December 11, 2024; Supported by Board Member Clift.

Voice Vote:

A voice vote was taken. The motion carried (7 – 0).

- 6. PUBLIC HEARING:**
- | | |
|----------------------------|-----------------------------------|
| REPRESENTATIVE: | APPLICANT: Dawanna Randall |
| COMMON DESCRIPTION: | (Rescheduled from 12/11/2024) |
| LEGAL DESCRIPTION: | Same as above. |
| ZONE: | 24701 Cottage |
| | 13-25-128-020 |
| | R-1-C |

VARIANCES REQUESTED: Permission to

Operate a group day care home.

ORDINANCES and REQUIREMENTS:

Section 4C.07 (A) – Group Child Care Homes; Districts Allowed With Approval: Special exception approval required. A state licensed group child care home which meets all the standards listed below and received approval of the Zoning Board of Appeals as a special exception pursuant to Article 20, Division 6, Special Exceptions Upon Approval of Zoning Board of Appeals, shall be permitted in One Family Residential Districts, R-1-A, R-1-B, R-1-C, R-1-P and Two Family Residential Districts, R-2.

Chairman Sophiea said good evening. Please start with name and address for the record.

Dawanna Randall, 24701 Cottage Lane, appeared before the board stating her address. Chairman Sophiea stated she was here at the last meeting and asked if there is anything she would like to reiterate or add.

Dawanna Randall said not necessarily. Just trying to still open up her group daycare home for the community and single parent home.

(Inaudible)

Chairman Sophiea thanked her for those comments. This is a public hearing, is there anyone in the audience who wishes to speak on this item?

No response.

Chairman Sophiea closed the public portion of the meeting and turned it over to the board for discussion. Before they start they would like for someone to make a motion to open this up for reconsideration.

Motion:

Board Member Anglin made a motion to open the item for reconsideration; Supported by Board Member Perry.

Voice Vote:

A voice vote was taken. The motion carried (7 – 0).

Board Member Anglin is kind of going to reiterate what he said last time. They got new information on the way they're supposed to address this issue. He still feels strongly that in home daycare is an asset to a neighborhood. He'll repeat what he said, that his daughter when to one, it was very nourishing for her. She was in a home atmosphere through the whole thing and every place can be a little different, but he had a great experience with it. Now, he did check, he couldn't find any, they have hundreds of these daycare centers in the City of Warren, in home daycare centers. He checked around with people he knows, at the police department, none of them knew of any incidences they ever had at one of these home daycare centers. So, it's an asset, it's not a burden to the neighborhood, and he's one hundred percent for it. He hopes his colleagues will follow his lead. Thank you.

Chairman Sophiea thanked him for those comments. He does notice that there was an email that should be read into the record.

Secretary Jerzy stated it's an email from Mr. Jim Henige, does not provide an address. He says, "I live very near the proposed day care and I do not think it is a good idea or a good location or a day care." That's all.

Chairman Sophiea asked if there are any other comments from the board. Just given the new information provided by the city attorney. He's going to be voting yes on this item, just due to

how the ordinance is written. It's not a typical variance that follows the typical five (5) criteria. He asked if there are no other comments.

Board Member Anglin will make a motion if there are no other comments.

Chairman Sophia said please do.

Motion:

Board Member Anglin made a motion to give permission to operate a group day care home.

Reasons being: Not a detriment to the area; Asset especially to those that have children that need some place to put them because now a days both husband and wife are both working. Thank you.

Board Member Perry supported the motion.

Chairman Sophia said they have a motion by Mr. Anglin, with support by Mr. Perry to approve the request as stated.

Roll Call:

A roll call was taken on the motion. The motion carried (6 – 1).

Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Perry	Yes, for the reasons stated in the motion.
Board Member Nestorowicz	Yes, for the reasons stated in the motion.
Board Member Lindsey	Yes, for the reasons stated in the motion.
Board Member Clift	Still maintains his no vote.
Secretary Jerzy	Yes, for the reasons stated in the motion.
Chairman Sophia	Yes, for the reasons stated in the motion.

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

7. PUBLIC HEARING:

APPLICANT: MMC Management LLC-USE-

(Rescheduled from 12/11/2024)

REPRESENTATIVE:

Michael Campbell

COMMON DESCRIPTION:

3000 Ten Mile

LEGAL DESCRIPTION:

13-30-201-003

ZONE:

M-2

VARIANCES REQUESTED: Permission to-USE-

Allow above ground fuel storage in an M-2 district and within 48' of the east property line, 84' from the west property line and 146' 6" from the north.

ORDINANCES and REQUIREMENTS:

Section 17.02 (p) – Industrial Standards (M-1 and M-2 not an allowed use. M-3 and M-4 allowed use): Fire and safety hazards (the storage and handling of flammable liquids, liquified petroleum gases and explosives shall comply with State rules and regulations as established by Public Act No. 207, P.A. 1941 [MCL 29.1 et seq.], as amended, and in addition the following

regulations shall apply): Bulk storage of flammable liquids, liquid petroleum gases and explosives allowed above ground if conditions meet those established by Chapter 13 of the Warren Codified Ordinances – Fire Prevention and Protection and Michigan flammable Liquids Regulations as amended. All tanks shall be located not less than one hundred (150) feet from property lines.

This item was moved to end of the agenda during the adoption of the agenda.

8. PUBLIC HEARING: **APPLICANT: Jeffrey Adkins**
REPRESENTATIVE: Same as above.
COMMON DESCRIPTION: 24483 Antoinette
LEGAL DESCRIPTION: 13-26-129-018
ZONE: R-1-C

VARIANCES REQUESTED: Permission to

Replace several sections of privacy fence panels with reverse orientation.

ORDINANCES and REQUIREMENTS:

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

Chairman Sophia asked the applicants to start with name and address for the record.

Jeffrey Adkins, 24483 Antoinette, appeared before the board.

Chairman Sophia thanked him. Please tell the board about the request.

Jeffrey Adkins explained his fence was put up seventeen (17) years ago. Never had a complaint from anybody. He maintained it throughout all those years. He's replaced sections that were broke. It's a safety, maintenance and appearance that he's asking for the variance. He's had multiple problems with his neighbors next door since they moved in four (4) or five (5) years ago. They have two (2) pitbull dogs. One is very, very friendly, the other is not. It has fence aggression and it brakes the bottom slats of his privacy fence. So, if the fence were to have to be turned around, he would not be able to replace those because he can't go on the neighbors property to fix it. That's where it's screwed in, on the flat side. So, he has police reports where they have broken the fence. On September 13th when the inspector came out and he allowed him on the property to check all of it, they originally came out and said all the slats were broke because the neighbor has plywood on the bottom. When the inspector came out to his side of the property, there was not one broken slat because he had just replaced five (5) sections. When the inspector left, he left. When he came back home at 1:00 p.m. his neighbors had kicked in three (3) slats of his fence. He had to call the police, had a police report on that. The inspector had pictures prior to it. It's been a nightmare. He would like it to be the way it is. If he has to turn those new sections around, the appearance is going to look horrible. Not only for him, but for all the other neighbors. He doesn't know what else to say. He does have pictures where there is not one broken slat on his fence. He has the police reports to show he's had to call on them.

Chairman Sophia thanked him for those comments. This is a public hearing. Is there anyone in the audience who wishes to speak on this item?

No response.

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

Board Member Anglin has always been advocate an for fencing when it was put up to have the beautification side facing out. That's the way he's always voted on them in the past. But he understands with as much fencing as this gentleman has up right now, to tell him he has to put seven (7) sections facing in and a hundred sections that are facing the opposite way is kind of ludacris. He asked the attorney if the board can stipulate in this motion if it gets made that the fence can be replaced with the nice side in, replacing certain sections, but at some point when permits are brought to replace the whole fence it has to be built to code.

Jennifer Pierce replied yes.

Board Member Anglin asked the petitioner if he was ok with that.

Jeffrey Adkins asked what he meant by the whole fence needs to be replaced.

Board Member Anglin explained if he sells the house ten (10) years from now and they come in, knock down the fence and put a new one up, they'll have to put it up to code.

Jeffrey Adkins said ok.

Board Member Anglin said if ten (10) years from now he decides he wants a whole new fence...

Jeffrey Adkins asked if one (1) section gets bad he can still get a permit and replace it.

Board Member Anglin said that's why he stipulated when the whole fence needs to be replaced it has to be replaced to code.

Jeffrey Adkins said ok.

Board Member Anglin said that's his comment.

Secretary Jerzy said one of his biggest pet peeves in this town is privacy fences are facing the wrong way and they're present everywhere. So, it just kind of runs the question of how many were made without a permit, how many were just thrown up. He does like to create a language that Mr. Anglin is trying to do. But, he means, this one is a tough one. Whose to say if they want to come and tare down just a section and replace it because it's worn down for the new owner, they're just going to place a privacy fence that's just...

Board Member Anglin can't figure out how to word it any different.

Secretary Jerzy knows.

Chairman Sophiea has a concern. He doesn't have a problem with Mr. Anglin's language. It's just the idea of when something is grandfathered in, at some point when it crumbles and the whole thing is replaced, like Mr. Anglin said, then he would lose the variance on this. The problem

is if he just peace meals once section after another for the next ten (10) years.

Board Member Anglin has a cure for that. The grandfather clause has to maintain fifty (50) percent of the property on an ongoing business type situation. He could be a little off, but it's something like that.

Chairman Sophia asked Mr. Watripont if he had clarity on that.

Jeffrey Adkins asked if he can say something in response to what the gentleman said.

Chairman Sophia replied in a moment. They're going to have Mr. Watripont give his comment.

Steve Watripont explained this is nonconforming fence. A permit was pulled on the original fence, so it was legal. It was prior to 2013. The nonconforming replacement is for thirty (30) percent. That is stipulated at repairs, not replacement. If they wanted to use the thirty (30) percent of the total fence as far as being replace at a time, then that would probably be the effect number to match the ordinance.

Chairman Sophia stated that makes sense to him.

Board Member Anglin said they can do the wording for that to fit if they want him to... He would suggest that they come up with no more than thirty (30) percent can be replaced at any time and if anymore than thirty (30) percent is replaced then it must have a permit and installed under code.

Secretary Jerzy can get behind that.

Board Member Anglin said that's a good one.

Chairman Sophia said it works for him. Is the petitioner in agreement with that.

Jeffrey Adkins replied yes.

Board Member Anglin said if nobody else has any...

Motion:

Board Member Anglin made a motion to give permission to replace several sections of privacy fence panels with reversed orientation under the guidelines that if there's ever more than thirty (30) percent replaced at one (1) time, that permits must be pulled and the fence needs to be put up under code.

Board Member Clift supported the motion.

Chairman Sophia said they have a motion by Mr. Anglin, support by Mr. Anglin to approve the request as read.

Roll Call:

A roll call was taken on the motion. The motion carried (7 – 0).

Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Clift	Yes, for the reasons stated in the motion.
Board Member Lindsey	Yes, for the reasons stated in the motion.
Board Member Perry	Yes, for the reasons stated in the motion.
Board Member Nestorowicz	Yes, for the reasons stated in the motion.
Secretary Jerzy	Yes, for the reasons stated in the motion.
Chairman Sophia	Yes, for the reasons stated in the motion.

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

Jeffrey Adkins asked if they would send something so he has that for his records.

Chairman Sophia explained Mr. Watriont can answer that or Nicole.

(Inaudible)

Chairman Sophia said he'll get a letter in the mail.

9. PUBLIC HEARING: **APPLICANT: Kurt Hannula**
REPRESENTATIVE: Same as above.
COMMON DESCRIPTION: 21989 Masch
LEGAL DESCRIPTION: 13-32-180-028
ZONE: R-1-C

VARIANCES REQUESTED: Permission to

- 1) Retain a 10' x 12' gazebo and 8' x 12' shed.
- 2) Retain shed outside of the side building lines of the primary residence.
- 3) Combined square footage of accessory structures 744 square ft.

ORDINANCES and REQUIREMENTS:

Section 4.20 (A) – Detached Accessory Buildings: ...Such buildings shall conform to, and shall not project beyond, the existing side building lines of the principal building on the lot and shall be one (1) foot from the edge of any easement... **3) Detached Accessory Buildings...** Only one (1) detached accessory structure shall be permitted in the yard.

Chairman Sophia asked the applicant to please start with name and address for the record.

Kurt Hannula, 21989 Masch, appeared before the board.

Chairman Sophia thanked them and asked them to please tell the board about his request.

Kurt Hannula explained he needs the extra storage. He put it in the location he thought would be best. It is behind his garage. He does have plenty of easement on the actual easement line for powerlines and so on and so forth. He kept it as close as he could to the garage. It's really not visible from anywhere, except for when you're walking. He lives on a corner lot. When walking towards his garage you can see it, but that's not the front of the house. You can't see it from the front of his house. As far as the gazebo, he just did it to approve the whole appearance of his house. He worked very, very hard on this piece of property for a long time.

Chairman Sophiea thanked him for those comments. This is a public hearing. Is there anyone from the audience who wishes to discuss this matter. Please approach. Start with name and address please.

Shannon Ruel, 21916 Masch, appeared before the board. She feels that if the rest of the city has to follow the rules, why don't they. If they can call the city on their neighbors and expect their neighbors to oblige by whatever they're calling on, they should too. Plane and simple. You know, there are rules. They know those rules, because he's a plumber. He knows things have to be up to code. He knows things have to have a permit to be built. They chose, not once but twice, not to get the permit. Plane and simple. He doesn't care that they're trying to better their yard, because it does look nice. But if they're going to call the city on their neighbors, what makes them so different from their neighbors. That's all she has to say.

Chairman Sophiea thanked her for those comments. This is a public hearing. Is there anyone else in the audience who would like to speak on this item?

No response.

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

Secretary Jerzy drove by the property and the gazebo is already up, the shed is already up. The shed is based off of the way the yard is oriented on the corner. It is pretty much out of sight. There is no way to really see it from the side. It holds pretty good depth off the back, off the west side of the property. It is close to the fence line, he's assuming said neighbors property. The yard looks really good, really well manicured. You can tell he put a lot of love and care into it. This is something he can get behind. It looks good. It's very tasteful, everything looks solid. He doesn't have a problem with any of this. He'll yield the floor.

Board Member Anglin has no problems with this set up. The only thing he has a problem with is... Is he a licensed plumber?

Chairman Sophiea asked him to please come back up to the podium.

Kurt Hannula replied no, he's not a licensed plumber.

Board Member Anglin said he will understand and he doesn't mean this negative. Not knowing what things are, but if he was a licensed plumber like he's a licensed contractor you know what is required of you whenever you do something on a piece of property. So, again, it's not him scolding you, he understands sometimes they don't know what is going on, because he hasn't been educated in that field. So, he doesn't have a problem with this setup here. He just wants him to know that anytime he puts anything up, he needs to pull permits.

Kurt Hannula said his bad.

Board Member Clift said three (3) feet from the side fence line.

Kurt Hannula said his house is four and a half feet.

Board Member Clift said the house is four and a half, so they're talking about a foot and a half off from being behind the house directly.

Kurt Hannula replied yes, sir. It's plenty of room to maintain the property between the shed and the fence.

Board Member Clift asked what it's sitting on.

Kurt Hannula said it's sitting on a slab. There is a rat wall.

Board Member Clift asked what they're storing in it.

Kurt Hannula replied snowblower, lawnmower, yard equipment, stuff he can't keep in his garage, coolers. Gardening items. Just things that keep the yard maintained.

Board Member Clift asked if he keep the vehicles in the garage.

Kurt Hannula replied yes.

Board Member Clift yields the floor.

Chairman Sophiea asked for any other comments or possible motions.

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

Motion:

Secretary Jerzy made a motion to grant the petitioner:

- 1) Retain a 10' x 12' gazebo and 8' x 12' shed.
- 2) Retain shed outside of the side building lines of the primary residence.
- 3) Combined square footage of accessory structures 744 square ft.

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

Board Member Anglin supported the motion.

Chairman Sophiea said they have a motion by Secretary Jerzy, support by Mr. Anglin to approve the request as read.

Roll Call:

A roll call was taken on the motion. The motion carried (7 – 0).

Secretary Jerzy	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Nestorowicz	Yes, for the reasons stated in the motion.
Board Member Perry	Yes, for the reasons stated in the motion.
Board Member Lindsey	Yes, for the reasons stated in the motion.
Board Member Clift	Yes, for the reasons stated in the motion.

Chairman Sophiaea

Yes, for the reasons stated in the motion.

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

10. PUBLIC HEARING:

**APPLICANT: MU and DK Hospitality LLC
Db a Shenanigans**

REPRESENTATIVE: Seth Tompkins
COMMON DESCRIPTION: 24080 Schoenherr
LEGAL DESCRIPTION: 13-25-152-001
ZONE: M-2

VARIANCES REQUESTED: Permission to

Retain a non-conforming ground sign within 9' of the north property line and with the leading edge of sign cabinet extending past the east property line.

ORDINANCES and REQUIREMENTS:

Section 4A.17 – Setbacks: The following setback regulations shall apply to signs located in all zoning districts.

- (a) No sign shall project or overhang a public right-of-way or public easement.
- (b) All freestanding or ground signs shall be set back from the right-of-way line a minimum distance equal to the height of the sign.

Chairman Sophiaea asked the applicant to start with name and address for the record.

Seth Tompkins, 26100 American Drive, appeared before the board introducing Mike Urban who was also listed on the application as an authorized representative. He's one of the owners of the real estate.

Mike Urban, 38406 Santa Barbara, appeared before the board.

Chairman Sophiaea asked them to please tell the board about their request.

Seth Tompkins explained this is a sign that has been standing there for at least fifty-nine (59) years. His clients are probably, they only have ownership records going back about twenty-five (25) years, but they're the fourth owner of the property in the past twenty-five (25) years that they saw from the change of the license with liquor control. That's what he provided with the board as part of the exhibit. He knows the that the real estates probably changed hands many times more than that over the past sixty (60) some years. His clients bought this, it used to be the Midway Bar, it's been there a long, long time. If you've lived in Warren, you've drive past it. They bought this, they went through to get their certificate of compliance in order to get properly licensed as a liquor license business in the city. They were told that there was never a permit that was ever pulled for this sign. It's one of the lollipop signs pole, with the sign on top. His clients actually replaced the Midway Bar sign with a smaller sign that has less square footage and has less of an encroachment than what the Midway Bar sign had. So, they were taking aback that this was an issue, because speaking to the property owners next door it's a transmission shop that's been owned and operated there for fifty-eight (58) years. He spoke to the owner and he told him when his parents bought that property they used to go across the street and throw rocks at the sign. There was no way for them to know that this sign was not in conformity. He wasn't able to attach them as exhibits because he did a freedom of information act request. There were multiple certificates of compliance that have been

issued for this property previously in the past with no issues of the signage. There's no historical record that there's ever been a ticket issued with respect to this signage until his client got ownership of the property. So, because it's not an expansion of the use that's been in existence for about sixty (60) years, and maybe more. He only knows about the guys from next door. He doesn't know when the actual Midway Bar was established, he has no clue, but it's at least fifty-nine (59) years ago. So, they just want to keep using the sign the way its been used and they would like to get the permission officially so his client and potential future owners don't run into the same problem that his client is running into now.

Chairman Sophiea thanked him for those comments. This is a public hearing. Is there anyone in the audience who wishes to speak on this item?

No response.

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

Secretary Jerzy said with as much as restaurants and all that. He knows they don't have privy bars and all that to signage and all that, but there's... Long story short they have a ton of inspectors running in and out of there from restaurant to zoning and stuff like that. He just wonders how does a sign get missed like that for so long?

Steve Watripont explained the prior sign was nonconforming because it didn't change from Midway Bar. So, as long as it was nonconforming. They changed the case and everything else, so that's when it lost it's nonconformity. They did it without pulling the permits. Otherwise they would've been told it's nonconforming before they changed it. Once they changed it, they started the enforcement and everything else because it lost it's nonconformity at that point in time.

Secretary Jerzy said initially when the sign was put up fifty-eight (58) or sixty (60) years ago.

Steve Watripont said it might have been put up before the city was a city. They couldn't find anything on it. So, they consider it nonconforming because anything they could see going back was long enough and everything else.

Secretary Jerzy said that makes a little bit of sense. Thanks.

Seth Tompkins asked if he could response to that. Typically, under property law, you lose the nonconformity use if they're trying to change the use or if trying to expand the use. So, simply changing the signage without expanding the sign as far as making the larger square footage is simply the same thing as if painting a house red to blue. Just changing the color at that point. Changing the sign doesn't change the use of the sign. There was actually less square footage and less of an encroachment that was there. So, he disagrees with the legal analysis that was provided and he does believe if this was a prior legal nonconforming use then that would continue regardless had the signage changed or not as long as it wasn't expanded or changed. So, he thinks changing the signage out itself doesn't necessarily make the landowner use that use that was his matter of right because it was a legal nonconforming use. That's all. He just has a disagreement with how this law is being interpreted.

Board Member Anglin stated a permit was not pulled on this sign. Did they have a sign company

install this sign?

Seth Tompkins said they did. A permit was applied for, but it was not granted. So, a ticket was issued and that's why they're here now.

Board Member Anglin said go back to business. If it's a company that did this, they should know a permit had to be pulled. They also should know that they don't touch that property without that permit once applied for it either until they get their approvals. So, he's not going to be swayed by that.

Chairman Sophiea asked what the process was. They replaced the casing of the sign and then they were violated and applied for a permit?

Seth Tompkins thinks that the permits were applied for and it was just assumed they were going to be granted because these are things that are done as a matter of course. He ran into the same situation in the city of Farmington Hills with Mulligans. It's a similar situation, it's on Eight Mile Road, been there for sixty (60) years. What happened there they had to replace the entire casing because in that situation a car hit and it fell down. So, originally the Building Department wanted them to go before the Zoning Board of Appeals there as well, and then the Planning Department looked at it and said the new sign is not any bigger than the old sign was. They made minor changes to the name, it was different color, but they said because there is no addition, no expansion of the existing use. That was the standard that was given, which is the correct standard that's given. No special permitting was needed in order for them to do that. They granted the permit and then they just gave it to them. Quite honestly, he thought that when this became an issue and spoke with the legal department they were going to come to the same conclusion. He thought once everyone here heard that this has been a sign that's been up for sixty (60) years with no issue. His client bought this place, redid all the plumbing, got all the permits pulled, got all the inspections, redid all the electrical. They made the place, he means he thinks the prior owners didn't make any changes to it and so they have nonconforming sixty (60) year old plumbing in there that was all replaced. The place is clean. They made it a beautiful place. It's probably one of the best bar burgers he's ever had and he encourages all of them to go. So, you know, he just thinks that this is a small business. This is something that you look in the past and look at the certificate of occupancy that were issued and it specifically says that this building is in compliance with everything in the city. He didn't think, and he didn't think that anyone would've thought there would be a compliance issue with respect to the replacing of the signage or the placement of the pole based upon the last use of the building and the past compliance history with the building. While he does understand that permits are pulled regularly. He means he's a building contractor, he said it himself, permits are pulled regularly with the anticipation that they're going to be granted and the work starts. Yes, in a perfect world, he agrees. Apply for a permit, get the permit, do the work, but especially a sign that has been there sixty (60) years, he doesn't think anyone ever anticipated that this was ever going to be an issue. So, you know, this is not a problem that was caused by his client. They didn't put the pole there. The pole was still there and that's part of the variance. You know, the overhang that was there is more than the overhang that is there now. So, they're not furthering an encroachment. They're not expanding the existing use. It's a smaller sign that was there before. He provided pictures. He provided pictures of the Midway Bar, it's attached as an exhibit. They can see the old sign, they can see the new sign. You know. You can see that the overhang is less. You can see that it's smaller in square footage. Anticipate there was going to be a problem with permitting, he thinks, yes, he understands what he's saying, sir, but he just thinks in this circumstance it's not anything

that could have ever of been anticipated. It's a sixty (60) year old sign.

Chairman Sophia asked if the pole has been replaced.

Seth Tompkins replied it's the same pole. His interpretation is a little bit different because if it was a sign where the panel was changed out for the exact same, using the existing casing, then it's a nonconforming sign, but it should continue to exist because the casing and the pole is the same. But he's saying his client replaced the casing of the sign.

Seth Tompkins said it's smaller than the original.

Chairman Sophia said it's a smaller casing, but it was replaced. Which he defines as the most substantial part of the sign is the casing. In his mind it's an overhaul and a new sign that's not following. He knows its smaller than the previous sign. He thinks something has to be done. He doesn't want to take away the sign, he just wants the petitioner to understand that when there is a sign that was grandfathered in and it was nonconforming. At some point the idea is that the city cleans up their items that are not conforming and to bring things up to the new ordinance. This is a tough one. He'll probably reluctantly support this one tonight, but if it does get past, he wants to warn the petitioner to putting some boulders or something around that pole. In his mind if that sign ever falls over or that pole comes down, that's going to be real cut and dry in his mind that replacing the pole is going to lose the designation.

Board Member Anglin has a comment towards the starting a job without having the permit in his hand. He's been building in Warren fifty (50) years and he's never started a project without having his permits.

Seth Tompkins commends him on that.

Board Member Anglin said it comes and bites you in the ass.

Mike Urban said being the owner of the place. When he first got the sign company to do this he assumed that they put the paperwork in and assumed it was approved. That's why they never really said anything to them about when it was done. They were moving so fast doing everything else with compliance with the building.

Board Member Anglin totally understands that.

Mike Urban said it made it look beautiful. He figured that they... He thinks as an owner he made a mistake, but he assumed when he said he put the paperwork in it was approved and that's why he was putting the sign up.

Board Member Anglin said that's the reason why he asks if there was a sign company that did it. Shame on him.

Mike Urban and Seth Tompkins agreed.

Board Member Anglin said he should know better than to go up there and hang a sign. He feels bad or whatever that someone else has got to go through all this trouble because you have a

contractor that's not doing their job the way it should be done. On the other hand...

Mike Urban explained everyone they've hired has handled it properly with the City of Warren and they have passed everything with flying colors. It has been a great place. Like he said, he took a place that was an absolute dumpster and turned it into a diamond. They figured that this guy did his job and that's his fault for assuming that's. He apologies for that.

Seth Tompkins explained they had to hire a different contractor to put the drawings together to present to the board tonight because the people they originally hired were just not capable of providing it to them.

Chairman Sophiea asked if there was a citation issued for the sign.

Seth Tompkins said there was. It was a fine issue and it was paid.

Chairman Sophiea stated ok, that was his next question because there is an extensive... he doesn't know why it was such an extensive...

Seth Tompkins explained it took a long time to get the drawings together. It was months and months and months. Finally they fired the guy and got someone else to do it. So, it just took a long time.

Board Member Anglin mentioned there are recourses that can be taken against any contractor that does not fulfill their obligations. With him being an attorney he would know that.

Seth Tompkins does.

Board Member Anglin would advise him, which he's not supposed to, but in his opinion he should pay for debt they required because that's his job as a contractor. He's supposed to make sure all his I's are dotted and T's are crossed. He doesn't want to see them for having to pay for moving a sign over. So, with motions tied into it, he's going to vote yes for this project strictly because he doesn't want to see them have to go through the burden of somebody else's mistake, but he would encourage them to follow through with making him... Contractors need to pay for when they make mistakes. That's all.

Board Member Lindsey echoes the thoughts and comments of his colleagues up here. He will probably vote yes on this request. He would've really liked an opportunity for the city to get a chance to correct this. He doesn't see an issue to stand since it's already there, but he thinks they missed an opportunity to fix what's not in conforming.

Board Member Anglin asked if there's somewhere again that they can add in that if that sign is ever changed, channel, anything is ever done to that sign again it has to be brought up to code. He doesn't want to see anybody else come in, he sells the bar ten (10) years from now, and they just come in and put a panel in it.

Secretary Jerzy includes a car runs over the pole or something.

Board Member Anglin said whatever the reasoning is, it has to be brought up to code.

Steve Watripont suggested it to limit it to the size and dimensions that are there, if that's what they want. That wouldn't prevent anyone else from changing it, but it would prevent it to make it that standard going forward.

Secretary Jerzy said that makes sense.

Steve Watripont said if that helps you, madam attorney.

Jennifer Pierce said yes, she was just reading the nonconforming ordinance. She believes if the pole ever needed to be changed or replaced that would take it out.

Board Member Anglin said ok, so they don't need to draw the long out speech for it.

Jennifer Pierce said no.

Steve Watripont believes there might be an issue with the sign hanging over the right-of-way. This board and the city doesn't have control over giving permission over the right-of-way. It would need permission from probably MDOT at that point. That's Groesbeck there or Schoenherr?

(Inaudible)

Board Member Anglin thought the city was responsible for the sidewalk. He would still like to see this phrased as if that sign is touched in any way, replacing the glass, doing something else with it. It has to be brought up to the current code. He doesn't like the idea of signs hanging over sidewalks. Especially, a sign that's been on a pole for sixty (60) years. So, that would be his suggestion.

Board Member Clift said if this process had been done correctly in the first place with a permit being pulled and waited on the permit approval then they wouldn't even be here talking about this.

Board Member Anglin said he is correct.

Board Member Clift said it would have been denied. So, he doesn't really see how putting any kind of limitations in the motions is going to change anything because it purely exist because somebody didn't do things in a proper matter and format. With that being said, he doesn't really have a problem with it.

Board Member Anglin said that's the reason he was kind of working his way around the edges.

Board Member Clift said smaller than what was there already. Hopefully the process works next time. He yields the floor.

Chairman Sophia asked what the approximate overhang is on the sidewalk.

Seth Tompkins replied about an inch.

Chairman Sophia said from the picture it doesn't really look like its over the sidewalk at all.

Secretary Jerzy mentioned they're talking a length of sidewalk that's between Stephens and

Schoenherr there. Maybe...

Steve Watripont explained the right-of-way starts a foot from the sidewalk. So it would be a foot and three (3) inches or so. Total into the right-of-way.

Board Member Clift said the DOT guidance sign about eight (8) feet away from it is closer into that easement than that sign overhang.

Chairman Sophiea is fine with leaving the status quo, but again if something happens to the sign it's going to be off the right-of-way there, or the easement.

Secretary Jerzy said to make sure the directions are read into the motion.

Board Member Clift would like to put a motion forward if nobody else has anything.

Board Member Anglin said please do.

Dave Muzzarelli, Public Service Director, appeared before the board stating they couldn't find anything on paper with these guys. He checked with some old retirees from city hall, DPW is right down the street from here. The whole reason the sign was nonconforming to begin with, the sign was there before they widened Schoenherr. When they widened Schoenherr they just left the sign where it was. That's why it was there to begin with.

Secretary Jerzy asked Schoenherr or Stephens.

Dave Muzzarelli replied Schoenherr.

Chairman Sophiea said that makes good sense.

Dave Muzzarelli stated in the grand scheme of things, it was kind of the city's fault why it was nonconforming in the first place, you know.

Chairman Sophiea thanked him.

Motion:

Board Member Clift made a motion to give permission to retain a non-conforming ground sign within 9' of the north property line and with the leading edge of sign cabinet extending past the east property line.

Reasons being: Not a detriment to the area.

Secretary Jerzy would like to make an amendment to that motion to allow that sign to only be what it currently is and no more. Twenty-eight (28) square feet.

Board Member Clift said he'll do it again.

Secretary Jerzy asked if that's accurate, Steve.

Steve Watripont asked the board to put a stipulation that if the pole is damaged in anyway that a replacement has to be outside of the right-of-way.

Chairman Sophiea thanked him.

Board Member Clift said they're making him work tonight.

Chairman Sophiea would get some boulders around that sign pole if he was the owner.

Board Member Clift asked if those goes back to what he spoke about earlier. If the pole is damaged and they have to replace the whole thing, aren't they going to have to pull a permit for that anyway?

Steve Watripont answered a permit is going to be required, but the variance goes with the land. So, what they're granting today would stay with the land.

Board Member Clift asked how they're going to phrase madam lawyer.

Board Member Anglin said it has to be brought up to current code.

Board Member Clift included for any replacement.

Secretary Jerzy included outside the right-of-way.

Board Member Anglin said it has to be brought up to current code. That brings in all the other things they're addressing today. If something happens to that sign they need to bring it up to code.

(Inaudible)

Board Member Clift asked someone to give him a thumbs up when he reads this thing off. Take three.

Motion:

Board Member Clift made a motion to give permission to retain a non-conforming ground sign, **28 square ft.** within 9' of the north property line and with the leading edge of sign cabinet extending past the east property line. **In the case of any need for replacement of the pole it must meet current code ordinance standards.**

Secretary Jerzy supported the motion.

Chairman Sophiea said they have a motion by Mr. Clift, support by Secretary Jerzy to approve the request as read.

Roll Call:

A roll call was taken on the motion. The motion carried (7 – 0).

Board Member Clift

Yes, for the reasons stated in the motion.

Secretary Jerzy	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Nestorowicz	Yes, for the reasons stated in the motion.
Board Member Perry	Yes, for the reasons stated in the motion.
Board Member Lindsey	Yes, for the reasons stated in the motion.
Chairman Sophia	Yes, for the reasons stated in the motion.

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

11. PUBLIC HEARING: **APPLICANT: DTLR Inc**
REPRESENTATIVE: Donna Holke
COMMON DESCRIPTION: 26069 Hoover
LEGAL DESCRIPTION: 13-22-278-040
ZONE: MZ, C-1, R-1-P

VARIANCES REQUESTED: Permission to

Install two (2) 2' 6" x 3' 9-5/8" (9.50 square ft.) wall signs in addition to the existing 3' x 12' 1/8" (36 square ft.) wall sign in a shopping center for a total of 55 square ft. of wall signage.

ORDINANCES and REQUIREMENTS:

Section 4A.37 – Shopping Centers: Regardless of the zoning district, shopping centers as defined in Section 2.67 are permitted the following signage: (c) One (1) wall sign of a size not to exceed forty (40) square feet shall be allowed for each business located in the shopping center.

Chairman Sophia said good evening and asked the applicant to start with name and address.

Donna Holke, 23290 Amber, appeared before the board stating she is with Inner City Neon.

Chairman Sophia thanked her and asked her to please tell the board about the request.

Donna Holke is requesting two (2) additional small signs at the DTLR store at Hoover Eleven. The ordinance only allows one (1) sign per tenant. It's her understanding that space has a variance that allows more than forty (40) square feet. They would not be asking for anymore square footage, just for two (2) smaller signs to help show that they are a sports clothing store.

Chairman Sophia thanked her for those comments. This is a public hearing, is there anyone in the audience who wishes to speak on this item.

No response.

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

Secretary Jerzy informed they have an impact statement from Planning Director. Summarizing it says they reviewed the request and issues were found to impact the abutting and local general public. Planning Department sees it as impactful. That's all. Real quick question to the petitioner. Would she be willing to relinquish the variances on the property from 8/26/98, 8/11/93 and 10/25/89 if they grant the fifty-five (55) square feet to clean up the other square footage that's variance to the property? Basically they would remove the variances for the 155, the old

variances on the property. The only thing that would be existing on that property would be the fifty-five (55).

Donna Holke asked if it would go down to the fifty-five (55) that they're requesting now.

Secretary Jerzy said forever more.

Donna Holke replied yes.

Secretary Jerzy explained it's just to clean up a little bit so they don't have 268 square feet of signage on that building.

Donna Holke said that makes sense.

Secretary Jerzy said on top of her fifty-five (55). Looking at over...

Donna Holke said if they go out and somebody else wants more they can come back and ask again.

Secretary Jerzy doesn't have a problem with this project. It's very minimal. They're very setback off of Hoover over there. He was going back over the variances, he was hoping she would be open to relinquishing those existing variances on the property in order to garner the fifty-five (55) square feet. He thinks that is something this whole board could get behind, hopefully, but he would be in support of granting her fifty-five (55) square feet in return relinquishing those variances. He yields the floor.

Chairman Sophia clarified for the record, he thought he heard the petitioner mention that there was more than forty (40) square feet allowed or more than one (1) sign. It does appear as the ordinance is written that that parcel is allowed one (1) sign but just forty (40) square feet maximum.

Donna Holke said they had the variance for more square footage. But only one (1) sign. That's why she's here to get a total of three (3).

Chairman Sophia asked it was just because she wants to have more than one (1) sign.

Donna Holke answered yes.

Chairman Sophia said ok, just so the record is clear.

Secretary Jerzy said if no other board members having anything else to say he would like to make a motion.

Motion:

Secretary Jerzy made a motion to grant the petitioner permission to install two (2) 2' 6" x 3' 9-5/8" (9.50 square ft.) wall signs in addition to the existing 3' x 12' 1/8" (36 square ft.) wall sign in a shopping center for a total of 55 square ft. of wall signage. **Relinquish the variances granted on the property on 8/26/98, 8/11/93, and 10/25/89.**

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

Board Member Perry supported the motion.

Chairman Sophia said they have a motion by Secretary Jerzy, support by Mr. Perry to approve the request as read.

Roll Call:

A roll call was taken on the motion. The motion carried (7 – 0).

Secretary Jerzy	Yes, for the reasons stated in the motion.
Board Member Perry	Yes, for the reasons stated in the motion.
Board Member Nestorowicz	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Lindsey	Yes, for the reasons stated in the motion.
Board Member Clift	Yes, for the reasons stated in the motion.
Chairman Sophia	Yes, for the reasons stated in the motion.

The petitioner’s request was **APPROVED** as written with the previously mentioned condition.

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|----------------------------|-------------------------------------|
| 12. PUBLIC HEARING: | APPLICANT: Mohammad AbuAIRub |
| REPRESENTATIVE: | Tamras Tamou |
| COMMON DESCRIPTION: | 15150 14 Mile |
| LEGAL DESCRIPTION: | 13-01-228-024 |
| ZONE: | C-1 |

VARIANCES REQUESTED: Permission to

Erect a new ground sign with the following conditions:

- 1) 22’ in height from the grade of the berm.
- 2) Setback 8’ 4” from the north property line.
- 3) With an 8’ under clearance.
- 4) 133 square ft. of ground signage.

ORDINANCES and REQUIREMENTS:

Section 4A.18 (b) – Height: The height of all signs, unless provided otherwise in this ordinance, shall comply with the following: Freestanding signs. The height of all freestanding signs shall not exceed twenty (20) feet.

Section 4A.17 (b) – Setbacks: The following setback regulations shall apply to signs located in all zoning districts: All freestanding or ground signs shall be setback from the right-of-way line a minimum distance equal to the height of the sign.

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

Section 4A.35 (c) – Signs Permitted in Commercial Business and Industrial Districts (C-1, C-2, C-3, M-1 and M-2): One freestanding on-premise sign or advertising display of a size not to exceed seventy-five (75) square feet shall be allowed...

Chairman Sophia asked the applicant to begin with name and address.

Moudi Naser, 15150 Fourteen Mile, appeared before the board stating he is with the sign company and requesting the variance because they need to comply with the tenant that they have certain requirements for the signage and the size of it. Also, this sign from his understanding is replacing other three (3) signs that used to be scattered, so they're condensing that into one (1) sign. Also, the sign they're presenting is three (3) businesses in the same building, which is like a liquor store, convenient store/gas station, and a restaurant. All of this in one (1) sign make it look presentable. That's why they're requesting this variance.

Chairman Sophiea thanked him for those comments. This is a public hearing. Is there anyone in the audience who wishes to speak on this item?

No response.

Chairman Sophiea closed the public portion of the meeting and turned it over to Mr. Jerzy to read in the one comment.

Secretary Jerzy has a comment from Lori Harris who resides at 4047 Hillcrest. She emailed saying, "I have no idea what kind of business this will be. Despite not being sure what is happening there, it is quite distressing that every guideline for business signs is being challenged and requires a variance. I have attended ZBA meetings where way too many variances are approved. The requested height of 22 feet, is 2 feet higher than allowed. According to set back, the sign needs to be set back the distance equal to the height of the sign, and the clearance under the sign needs to be 10 feet. I recall previous meetings where the sign company says "this is what the company is doing other places". I contend that Warren needs to stop giving in with variances, but instead can ask the companies to adapt to the requirements given. Other towns/cities manage to not have 2nd story signs on every corner. Lori Harris"

Chairman Sophiea thanked him. He now turns it over to the board for discussion. He asked Mr. Watripont if he had a comment.

Steve Watripont said not to pick on Mr. Jerzy, but it's twenty-two (22) feet from the grade of the berm, not the beam.

Secretary Jerzy apologized.

Steve Watripont explained there is a berm there if they've drive by. He doesn't know how tall the berm is on there.

Board Member Anglin asked if the berm was put in by the construction company that's developing that lot, correct.

Moudi Naser replied yes.

Board Member Anglin asked how high the berm is.

Tamras Tamou appeared before the board saying three (3) feet.

Chairman Sophiea asked him to state his name because he spoke.

Tamras Tamou stated his name and address, 15150 Fourteen Mile. He is the property owner.

Board Member Anglin said the berm is three (3) feet high. They put the berm in there so they get the elevation on the sign higher. So now that sign is actually twenty-five (25) feet from grade.

Chairman Sophiea said right.

Board Member Anglin said take the berm out. Let them have a twenty (20) foot sign and that's what he's willing to go with.

Steve Watriont believes the berm was at the request of the Planning Commission.

Board Member Anglin asked they wanted a berm at the front corner there. Then he can't pick on that guy for that can he.

(Laughter)

Board Member Anglin said just being straight forward.

Tamras Tamou explained along Hayes Road all the way down, there is a three (3) foot berm along the whole Hayes Road. All the business have three (3) foot berm in front of it. That was on the plans. That was submitted and approved.

Board Member Anglin said that's Plannings request. Ok. Now, he understands that. But saying that they have three (3) foot elevation and they want to get two (2) more feet above that than what the zoning is approved. So, it's still in his mind, no matter who set it up, is allowing a twenty-five (25) foot elevation on a sign. So, the only way he would approve this is if they brought that sign, the new structural sign, down to twenty (20) feet. If they needed to take out one of the boxes underneath there, because as far as he can see, everything that is in that building is basically one business. If you have a gas station and have a party store, that's still one (1) business. Not three (3) separate businesses. It might be three (3) separate items that they do there, but it's in his mind it's not three (3) separate businesses. That's just his opinion on it. He doesn't think it should be twenty-two (22) feet. He thinks it should be twenty (20) feet. If they need to get the eight (8) foot grade underneath it they need to remove one of those panels. That are blacked out on there they don't have something written in. That's his opinion.

Board Member Nestorowicz reiterated and agreed with Mr. Anglin's comments. His concern is the height of the sign. He would like to see the sign be lower. How they decide to make it lower, by removing one of those items or not, because he does agree with what was read into the record. Very often sign companies and individuals say what the national retailers want, but you'll find they might want it but many other cities all over they don't get what they always want. They can decide how they lower, move a panel or however, he doesn't want to tell them how to do it, but he thinks the sign needs to be lower.

Chairman Sophiea has a comment here, he'll ask the petitioner. Personally, he's a fan of monument signs. He thinks they're more attractive looking sign, they're a little more sophisticated. He kind of has the perfect placement for one. They have a three (3) foot berm.

Did they give thought to having a sign that goes all the way down to the ground and reducing the overall height? It's a much more attractive looking sign.

Tamras Tamou explained this is not something that the national tenant needs and they require. Because there is more business, more than one (1) business, they all have to advertise and he has to find room.

Chairman Sophiea said sure. Drive up Woodward or Rochester Road, Birmingham, Bloomfield Hills. They don't have a pole sign like this. These national brands have a five (5) or six (6) foot tall monument sign that's beautiful and then it says the name of the coffee shop, the bagel place, so the national brands can work with them a little bit.

Tamras Tamou asked if what he's saying is to make it one way instead of another.

Chairman Sophiea explained he's saying have no space underneath the sign. Have a maybe two (2) or three (3) foot block on the bottom.

Tamras Tamou thought that was a requirement. They wanted the ten (10) feet clearance. That was one of the requirements that they needed.

Board Member Nestorowicz stated it's a requirement for a pole sign not a monument sign.

Chairman Sophiea asked what kind of limitations are they working with just based on what the ordinance allows for a monument.

Steve Watripont explained a monument sign is allowed to be five (5) feet tall from grade and it must be setback equal to the distance. The height is based on the requirements would be. They also would have the issue with the line of sight. They would have to do that radius calc and everything else. If they go for a monument sign it would have to be reposted and everything else, because it's different parts of the ordinance that they would be going for.

Chairman Sophiea said when the monument sign is five (5) feet tall, is that to assume five (5) feet plus a base on it that's a foot or two (2)?

Steve Watripont answered no, the five (5) feet is from grade.

Chairman Sophiea said ok, usually there is a foot or something on the bottom.

Steve Watripont said the board has been consistent in allowing a six (6) foot or six and a half. But again, it would have to come before them again.

Chairman Sophiea thanked him. He's putting it back into the petitioners court here. They heard that there probably isn't enough support here to get the sign approved as presented. He heard talk about reducing the height to twenty (20) feet to see if that would give enough votes, or they have the option to come back with a different design at another time to have a different type of sign, a monument sign. So, he'll put it back in his court. Would they like to make a compromise for the type of sign presented or come back with something totally different?

Tamras Tamou is not sure what the national tenant is going to require. So, he's just the property owner, the developer. He doesn't know what they're going to accept or allow. He doesn't want to jeopardize the deal that they have. They've been working on this deal for almost a year. As far as everyone knows, they've been in front of the board, they've been working on this for a while and finally they have a beautiful building out there.

Chairman Sophiea said it looks very nice. He just wants to caution him if the board does move forward, so far that this item probably won't pass as it's presented.

Tamras Tamou is asking that they're saying the maximum height will be twenty (20) feet. Isn't that why he came for a variance?

Chairman Sophiea said they came for a few reasons. They came for the height, the setback. The setback should be the twenty (20) feet from the road if the sign is twenty (20) feet height. They're requesting eight (8) feet. The under clearance is eight (8), which should be ten (10) feet. The overall square footage of the sign, they're asked for seventy-five (75) square feet is allowed and they're asking for 133. So, they're here for four (4) items tonight, not just the height. They're open to giving him the three (3), they just want to see the overall height come down two (2) feet.

Tamras Tamou asked if they take out the berm underneath the three (3) feet, underneath where the sign is. Take that berm out and start from the grade, like the sidewalk, going up twenty (20) feet. Would that be acceptable and leaving...

(Inaudible)

Board Member Nestorowicz wants to give his comment. They have approved monument signs that are taller. He means he takes a look at, even when people say about national retailers. There's a monument sign they approved that was taller at 696 and Ryan. He thinks it was six (6) feet or six and a half. They had the name of the gas station, they had the two (2) prices, they actually fit signs for three (3) of the businesses, the doughnut place and they other stuff they had there, all on that monument sign. He thinks that looks a lot better than pole sign. Whether it's twenty (20) or twenty-two (22) or any of that. That's just his comments.

Chairman Sophiea agreed. He wants to make sure, first of all, if they want to do something with the berm, he doesn't know if they can if Planning wanted it. Secondly, the concern is for safety. They can't drop the overall height of the sign down too low where someone is walking under it or on a bicycle and they hit their head. So, he wanted to hear Mr. Watripont's thoughts about...

Steve Watripont is unsure on where the Planning Commission is on the berm. If the berm was removed, the variance is still from grade and it's grade from where the sign is. If the berm is removed, it would still need if they wanted the twenty-two (22), they would still need the variance from there. Again, he doesn't know what the Planning Commission had and entailed on that, but he does know it went through there and was approved. He knows that's been a common thing now, is the berms in front of the corner lots.

Board Member Anglin doesn't think he wants to mess with the Planning Department and the way they got their berms set up, so he would like to have them, and he knows they're not going to like this but it's going to work. Go look at the one on 696 and Ryan.

Tamras Tamou knows which one.

Board Member Anglin asked him if he knows what they're talking about then.

Tamras Tamou replied yes. He knows every shopping center.

Board Member Anglin figured he did but wanted to verify.

Chairman Sophiaea asked what national brand they're talking about.

Tamras Tamou replied S&G.

Board Member Anglin said it fits everything that's needed, it's a sign that most of the members of the board would rather see monument signs than pole signs. They're trying to get away from that antiquated old style gas station pole signs whenever they can. If he wants to bring it back copying the height and everything of that 696 and Ryan store, he has a good strong feeling that will fly through fairly easily.

Tamras Tamou understands. He was there when that place was put together. They have actually two (2) signs. One on Ryan and one on service drive. They're talking about the gas station, correct? With the Dunkin Doughnut and UPS, Coney Island. He understands. The thing here they have is that they need to get something done over here. If the clearance underneath, if they can take that down from eight (8) feet to six (6) feet clearance. There is no sidewalk or anything near it. It's eight (8) feet four (4) inches away. The other side walk is twenty-nine (29) feet. From Hayes they're talking twenty-nine (29) feet off the corner. 27.9 feet from Hayes Road sidewalk and eight (8) feet four (4) inches from Fourteen Mile setback.

Steve Watripont said through the Chair to the city attorney. He believes with the revised request that they're making, he believes it would have to be reposted because it's more restrictive than the request that was made on record.

Chairman Sophiaea said they're just reducing the height.

Steve Watripont said they're reducing the under clearance, which is a minimum and now it's going lower.

Jennifer Pierce said with the six (6) feet absolutely that would have to be reposted.

Steve Watripont wanted to make sure everyone was aware as he heard that.

Jennifer Pierce said the request is for eight (8) feet when the ordinance is ten (10). Yes, he's correct.

Board Member Anglin said at this point the only thing he is willing to agree with today is a twenty (20) foot high sign, still keep the eight (8) under hang, that means they have to eliminate so many square feet of the signage on the platform. He still think that, like he said, with all the other things added to it that sign normally is set up to be, signage fourteen (14) by almost ten (10) feet. That's 140 square feet, two (2) sided. That in its own is 280 square feet of signage. So, the

most he would vote for today is making the overall sign height twenty (20) feet, maintaining the eight (8) foot under hang. They'll have to work out whatever square footage they put on the signage inside that area.

Tamras Tamou has a picture of what it should look like at the end of the day. So, the clearance here if they get the eight (8) feet above the berm and the total is twenty (20) feet, then this will be a little bit smaller. Maybe they can make these a little bit smaller.

Board Member Anglin said they can do whatever they want in that area as far as he is concerned.

Chairman Sophiea understands what he's saying. That's probably the only solution tonight if they need to get something passed quickly. Any other modifications probably require them to come back and have a notice go out to all the neighbors again. So, is that something they can work with?

Tamras Tamous doesn't know what they're going to accept. So, it's not really up to him. He's ok with it. He has to make sure they're clear before.

Board Member Anglin doesn't mean to interrupt the gentleman. At this point he has the boards feedback on this. If they postpone this to the next meeting so he can go to those people and get their feedback. As long as he goes if they want a sign up this is what it's going to be or they don't get one. I guarantee they're going to change their mind.

Tamras Tamou agrees.

Board Member Anglin said since he has to follow through with what he has to follow to, lets postpone it to next meeting. That way he doesn't have to pay for any refiling and all the other things, then bring it back up at that time.

Tamras Tamou asked if the next meeting is February 8.

Secretary Jerzy corrected the 12th.

Tamras Tamou said ok. He thinks that's good.

Moudi Naser said that's fine. They're the sign company and can do anything. They contacted S&G and that's being here was the requirement. So, they have to satisfy them as a client. The sign is going to be very safe and sound. Aesthetically, it's going to look beautiful once it's done. They do their best to do that for them when it's done.

Chairman Sophiea said great, thank you.

Moudi Naser can work with any sizes as long as it's ok.

Board Member Anglin asked Steve if he wanted to give a little direction here.

Steve Watripont suggested if they need someone from the company to make sure they're in attendance with them at the meeting as well so if there is some other issues that they're here as well.

Board Member Anglin said that's a suggestion they can make, but they come before the board this is what he's going to vote on. He's getting the feeling that's going to pass so they're going to give an opportunity to ask. If nobody gets upset too bad. He would like to make a motion with the petitioner's granting it.

Motion:

Board Member Anglin made a motion to postpone this item to February 12, 2025 to allow the petitioner to have time to speak with his potential tenant; Supported by Board Member Nestorowicz.

Voice Vote:

A voice vote was taken. The motion carried (7 – 0).

- | | |
|----------------------------|----------------------------------|
| 13. PUBLIC HEARING: | APPLICANT: MD Abdul Hakim |
| REPRESENTATIVE: | Same as above. |
| COMMON DESCRIPTION: | 5377 Twelve Mile |
| LEGAL DESCRIPTION: | 13-08-453-011 |
| ZONE: | C-2 |

VARIANCES REQUESTED: Permission to

Install additional signage as follows:

- 1) 6' x 6' (36 square ft.) wall sign on the east elevation.
- 2) 3' x 9' (27 square ft.) awning with signage on the east elevation.
- 3) 7' 8" x 18' 8-1/2" (143.43 square ft.) color backer panel behind previously approved 36 square ft. sign on the south elevation.

For a total of 206.43 square ft. of wall signage.

- 4) 30" x 48" (10 square ft.) pre-sale board with an overall height of 5'.
- 5) 7' 6" x 5' 6" (41.25 square ft.) menu board with an overall height of 7'.

For a total of 73.25 square ft. of ground signage (including previously approved 22 square ft. panel on pylon 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): (b) One freestanding on premise sign or advertising display of a size not to exceed seventy-five (75) square feet shall be allowed...

(c) Total wall signage of a size not to exceed forty (40) square feet shall be allowed for each business...

Chairman Sophia asked the applicant to begin with name and address.

MD Abdul Hakim, 5377 Twelve Mile, appeared before the board.

Jane Fasmore, 4648 Lutz, appeared before the board stating she would like to speak for Hakim or with him. It's a new restaurant. They've been working on it since August. They have a drive-thru window with a pylon sign and then they have a sign on the front. They're requesting the sign on the front, she thinks they're going to go with the original size of thirty-six (36) square feet for the sign. There was a backer on there. They want to remove the backer and just keep the original thirty-six (36) square feet, but they need a drive-thru sign because no one can order any food.

So, they would like to request that. They have a whole side of a wall, the east side of the wall, that's bare. Any oncoming traffic can't really see what their restaurant is if they're driving down the street. They have a pylon sign that's at the opposite end of the building. So, they're requesting the sign be on the east wall. The awning, they just want that to say the clearance of the awning so no one runs it over when they come into the drive-thru. It could say drive-thru, it doesn't have to. They just want the clearance. They can't hear here? Oh no! The drive-thru clearance of the awning is existing. They want to just have the height put on there. That has to be an additional signage, too, but people need to know what the size of that is. That's basically it. The number one is the sign on the east wall, number 2 is just the awning to specify the clearance of the drive-thru, number 3 they don't want the backer on there anymore because it's too big and they'll just keep the thirty-six (36) inch already approved sign on there, number 4 is a pre-sale board that goes along with the drive-thru, number five is the drive-thru itself window with a speaker. It was already setup to have the drive-thru but the previous business, the previous restaurant, did not want to pay the money, like over \$25,000 to get a drive-thru sign, which they want to put there in order for the business to succeed. The last business had the drive-thru but did not succeed. They want to so they want to have more signage on the side with the drive-thru with just the extra signage.

Chairman Sophia thanked her for those comments. This is a public hearing. Is there anyone in the audience who wishes to speak on this item?

No response.

Chairman Sophia closed the public portion of the meeting and turned it over to Secretary Jerzy to read the impact statement and a letter into the record they received.

Secretary Jerzy thanked him. From the Planning Department and Mr. Ron Wuerth. It said after reviewing the request, issues were found to impact the abutting, local or general public in nut shell. Then they have another comment on this item from Lori Harris at 4047 Hillcrest. She says, "If the limit for wall signs is 40 square feet, and 36 square feet was already approved, why are you considering allowing this company to have over 200 square feet of wall signs included on two sides of the building? If this is approved, what would prevent the other businesses from requesting to add additional signs on the other sides of the building? It's got to stop someplace. Lori Harris" That's all he has.

Chairman Sophia thanked him. At this point, he turned it over to the board for discussion. He would just like to say, he wanted to clarify that the picture of the front elevation with the red backer. Did she say they're going to not have the red backer.

Jane Fasmore replied they're removing that. It's just going to be the original color of the building. It will just be the sign only.

Chairman Sophia thinks that's a fantastic idea. It's obnoxious like that.

Jane Fasmore said right. So, it's just going to be their beautiful little sign with the regular wall.

Chairman Sophia doesn't have a problem with it without that.

Board Member Anglin says his understanding, and Steve help him through with this. Awnings are not considered signage.

Steve Watripont explained awnings with anything on it is considered signage.

Board Member Anglin asked the whole awning or what is written on it is considered signage.

Steve Watripont explained according to the definition, it would be the whole awning unless the board specify an area within that awning.

Board Member Anglin said ok, because they had this come up once before.

Steve Watripont said the whole awning, by definition, a sign includes everything incased. He doesn't remember how it is, but it includes the entire thing by definition. If they wanted to limit it to wording on the awning, because they can have an awning without signage as well. So, if they wanted...

Board Member Anglin said that doesn't have to come in front of the board if they want to just put up an awning.

Steve Watripont said just an awning would not need to.

Board Member Anglin said right. They're actually coming in front of the board to be able to get those words be on that awning.

Steve Watripont said correct. That's where they would measure the whole thing unless the board specifies an area within that awning.

Board Member Anglin said it's kind of a double jeopardy thing. They can have a six (6) foot awning if they don't put anything on it, but if they put one word on it that's this big, they count the whole six (6) foot.

Chairman Sophia said right.

Board Member Anglin would like to change that to be... How many square feet do they think that word on there where it says drive-thru, how big would they say that is? He can't read it.

MD Abdul Hakim replied two (2) by two (2) maybe.

Chairman Sophia said four (4) square feet.

Board Member Anglin said it's two (2) feet this way. How tall are the letters?

Chairman Sophia thinks if they give them four (4) square feet, that would be plenty.

Board Member Anglin said that would be huge.

MD Abdul Hakim said two (2) by four (4), sorry.

Board Member Anglin repeated two (2) by four (4). So, it's two (2) by four (4) those words. He agrees with him. You can't see the word drive-thru there. He would like to see them get something a little bigger than that. He doesn't care how big the awning is they put up, him personally. He always wants to downsize signs, and he's saying this should be a little more signage there. So, he's willing to rephrase this to where they put the awning but wants to see it say three (3) by four (4), twelve (12) square feet.

(Inaudible)

Board Member Anglin said make it a little bigger to give him twelve (12) square feet so it says drive-thru. He knows that's usually what's against he comes up with.

Board Member Nestorowicz would rather keep it at the eight (8) square feet.

Board Member Anglin said he can't see that though.

Steve Watripont said the height of the awning is three (3) feet already. So, three (3) by four (4) is limiting it to the center that way.

Chairman Sophiaea doesn't want to see a logo. It has to be smaller.

Board Member Anglin said it's hard to tell when it's black on black. Those lettering look like they're less than a foot high.

(Inaudible)

Board Member Anglin knows that. So, this here it looks like it's only twelve (12) inches. Not two (2) foot, he said two (2) foot.

MD Abdul Hakim says it doesn't show there.

Board Member Nestorowicz said two (2) gives him plenty.
Board Member Anglin said again, this is only a foot.

Steve Watripont doesn't think it's two (2) by two (2). He thinks it's smaller than that.

Chairman Sophiaea said it's got to be.

Board Member Anglin thinks that sign is one (1) by three (3) right. One (1) foot by three (3) foot. The letters on that.

Board Member Nestorowicz said four (4) square feet.

Chairman Sophiaea said the text is the same width as the drive-thru window approximately. How wide is that?

Board Member Anglin would like to see... The drive-thru is twenty-four (24) inches.

Chairman Sophiea said three (3) feet.

(Inaudible)

Chairman Sophiea said give them six (6) square feet would be generous.

Board Member Nestorowicz said he can figure out the dimensions.

Board Member Anglin repeated they can figure out the dimensions. That way they get a little bigger open sign on there than what's there.

Chairman Sophiea said just for his own curiosity, Mr. Watripont. When they approve a pre-menu board and a menu board as signage. Just in theory twenty (20) years from now and that signage is allowed on that property. Could the petitioner or a new owner put that additional signage on the wall or put a monument sign on the road.

Steve Watripont said no. It would be considered a ground sign and with them stating menu board it has to stay within that definition of it. Is it possible that it could be moved. If it's moved slightly the location is based on the plans and everything else, it would say that. If they moved it up to the front of the street they would definitely deny that and make them come back.

Chairman Sophiea said there's a distinction made. That's all he wanted to know. He has no problem with what they've discussed so far.

Board Member Anglin said the reason he's bringing that up is he doesn't like the wording saying three (3) foot by nine (9) foot awning with signage, because if they can put signage on the whole awning they're telling them they can put three (3) foot by nine (9) foot. They're not saying what's allowed in the signage area. So, by them changing that to be six (6) square feet, gives them a bigger than they're showing him drive-thru wording. Spelling it out so there is no misunderstanding.

Chairman Sophiea said whoever makes the motion is going to strike the third request for the color backer.

Board Member Anglin asked how that would be worded. Just take that off and approve the thirty-six (36) square foot sign.

Steve Watripont explained to change the total square footage from his calculation to seventy-eight (78) square feet. Thirty-six (36) sign already approved, thirty-six (36) square foot wall sign on the east elevation and the six (6) foot of signage on an awning.

Board Member Anglin asked to just word it as these signs are going to be total of. What did he say?

Steve Watripont said to substitute where the 206 is seventy-eight (78).

Board Member Anglin repeated seventy-eight (78). Seventy-eight (78) square feet.

Board Member Nestorowicz said that seventy-eight (78) is keeping this sign. Is he saying he can

keep this sign.

Board Member Anglin said no, he's taking all this color out, that color out.

Board Member Nestorowicz said no, no they're not. The backer on the front.

(Inaudible)

Board Member Anglin said all they're doing is taking out the backer panel. Why is it to prove what the thirty-six (36) on the sign on the south elevation.

Chairman Sophia said that was previously.

(Inaudible.)

Board Member Anglin asked what elevation.

Chairman Sophia said east elevation.

Board Member Anglin said yes, this is the east. Three (3) foot by nine (9) foot awning on the east. There's the six (6) foot by six (6) foot wall sign. So, yes if he read this this way that would come to seventy-eight (78) square feet according to Steve.

Board Member Nestorowicz said yes.

Board Member Anglin said ok. He asked Mr. Nestorowicz if he had any comments he wants to make on this.

Board Member Nestorowicz said no, he's just going to make a comment because he's still going to vote against that. He doesn't think that extra sign on the east elevation is needed. The six (6) by six (6) foot sign.

Board Member Cliff agrees with him. Can't even see that coming up the road.

Board Member Nestorowicz continued none of the other businesses have a sign on the east elevation. They have the same signage on the south that all the other tenants have. He doesn't think that six (6) foot by six (6) foot sign, he thinks that's too much signage.

Chairman Sophia said great point. He thinks the Tropical Smoothie just has a drive-thru thing on the side. Similar to what...

(Inaudible)

Board Member Anglin would agree to that.

Board Member Nestorowicz said otherwise he could see the Tropical... Why wouldn't Tropical Smoothie then come and say they're on the west elevation, they want to have a sign on their west elevation. Then that just... that's just his opinion.

Board Member Clift is a little confused on the third part of this. It speaks about a previously approved thirty-six (36) square foot wall sign. If they're eliminating that backer panel, do they even have to address that?

Chairman Sophia doesn't believe they have to address anything on the south elevation since they're removing...

Board Member Clift asked if that would be totally stricken.

Chairman Sophia said correct.

Steve Watrion explained item 3 would be totally stricken. The thirty-six (36) square foot would be included in the total though.

Board Member Clift understands now. He got lost trying to... But again, he kind of sides with his colleague Mr. Nestorowicz down there about this six (6) by six (6) on the east elevation. That building sits way, way back from the highway. They would have to be right at the driveway apron headed west before they would even have a chance to even see that sign on that side of the wall. Plus the tree line there at the bottom of the apron. If it was a definitive need, closer to the roadway where it would actually in his opinion be visible. He could kind of entertain it, but the way that building is laid out and how far back it sits, he just doesn't feel comfortable approving that first item on there. He yields.

(Inaudible)

Chairman Sophia wants to ask the petitioner. They've heard the discussions so far. It sounds like the majority of the board want that sign on the east elevation removed. Are they in agreement with that? To strike that request or move forward with the initial?

Jane Fasmore really wants that sign on the side, because it's a really big parking lot. It is away from the road, which isn't an obstruction of an outside sign. She thinks Tropical Smoothie has a sign on the west side that they probably didn't even get approved. Maybe it's just written on the wall over there. Because the pylon is the opposite side of their building any chance for more exposure with that little sign, the six (6) by six (6), would really be helpful to them. The last business didn't even succeed at all. They just think it would really help them.

(Inaudible)

Chairman Sophia personally feels that keeping the sign along the south elevation like they've discussed conforms to the allowable wall signage and other businesses in the area. So, that's his position but it's going to be up to the petitioner whether they want to strike that sign or move forward with the initial request.

Jane Fasmore doesn't know.

(Inaudible)

Chairman Sophiea asked if anybody on this board is in favor of the east elevation.

Board Member Anglin asked if the east elevation is the sign with the red.

Board Member Nestorowicz said no.

Board Member Anglin said it's not written. It should be written on east. The east one...

Chairman Sophiea thinks it's bad precedent to start putting signs on the sides of the building.

(Inaudible)

Board Member Anglin said they're going to vote on all the drive-thru signage, going to allow larger drive-thru signage on the...

Chairman Sophiea said they don't have any drive-thru signage. Menu boards.

Board Member Nestorowicz said there are menu boards.

Chairman Sophiea explained menu boards don't bother him. Like Mr. Watripont said, they're menu boards and not going to be on the sidewalk one day.

Board Member Anglin asked if they wanted him to sound out what they're thinking about.

Chairman Sophiea said please do.

Board Member Anglin explained what they're thinking about and seem to have consensus on, but it's their call. Deleting number one. That is the sign on the east elevation.

Jane Fasmore said that's the sign they really want though. Why can't they have it?

Board Member Anglin explained they're way over signage by hundreds of feet. So, they have to get something back in to some realm of reasonable.

Jane Fasmore said they're at like seventy-eight (78) square feet if they keep that sign. What if they make it a little bit smaller then?

Board Member Anglin said no, they're not at 78, they're at 42 square feet proposing there but then they're going to add on total for all this signages for the drive-thru, too. That's considered signage.

Chairman Sophiea doesn't really consider the drive-thru signage as signage. All he sees is forty (40) square feet allowed of wall signage and almost doubling it without the east elevation sign.

Board Member Anglin is willing to make a little change if the board is. The sign they're going to do at the front of the building where they're just going to put... Since that's a black background, if they just put up there NYC Halal Eats, that's going to cut that down considerably.

Chairman Sophiea asked on the east elevation.

Jane Fasmore asked without the black circle around it.

Board Member Anglin said yes. He can't tell the black circle.

Chairman Sophia asked if there is a black circle around the east elevation sign or is that just some... Is the sign backing just read or is there going to be black around it, too?

Board Member Anglin said the building is not black.

Jane Fasmore said the building is a light brown.

Chairman Sophia doesn't want to see any sign there.

Board Member Anglin said it's this color.

Jane Fasmore said it's like a sand color.

Chairman Sophia said look, if anything, he's feeling a little generous. So, he would be ok with making the sign elevation on the front slightly larger if they would give up the sign on the east elevation. Personally, he's not going to vote for any wall sign on the east elevation. He'll vote for the drive-thru awning, because he thinks that's important.

Jane Fasmore explained they already made the front sign. So that's just going to be thirty-six (36) square feet. What if they made it smaller five (5) by five (5) or something on the east.

Board Member Nestorowicz said no matter what size of the sign he's not going to vote in favor of a sign on the east.

Chairman Sophia is not either.

Board Member Anglin said it's looking like if they want a sign up there, this is not going to pass.

Jane Fasmore said minus the awning, four (4) square foot and put it towards the wall. Just something that they can show.

Board Member Nestorowicz said they have various members of the board, any sign on the east he's not going to vote in favor it. No matter what size, even if they said one (1) by one (1). So...

Chairman Sophia said the awning doesn't bother him with the word on it, but he's not going to trade that for the elevation on the east wall. He'll leave it up to them. They've heard the board's comments so far. Do they want to strike that sign or proceed with the full request.

Jane Fasmore said if they're not going to approve it, then strike it.

Chairman Sophia said they're striking the color background and strike item 1. Any other comments or discussion?

Board Member Anglin would like to make a motion if there isn't any. Help him through this because he has more scribble on here.

Motion:

Board Member Anglin made a motion to allow:

Install additional signage as follows:

- 1) ~~6' x 6' (36 square ft.) wall sign on the east elevation.~~
- 2) 3' x 9' (27 square ft.) awning with **6 square feet of signage** on the east elevation.
- 3) ~~7' 8" x 18' 8 1/2" (143.43 square ft.) color backer panel behind previously approved 36 square ft. sign on the south elevation.~~

For a total of ~~206.43~~ **42** square ft. of wall signage.

4) 30" x 48" (10 square ft.) pre-sale board with an overall height of 5'.

5) 7' 6" x 5' 6" (41.25 square ft.) menu board with an overall height of 7'.

For a total of 73.25 square ft. of ground signage (including previously approved 22 square ft. panel on pylon sign.)

Reasons being: Not a detriment to the area.

Board Member Nestorowicz supported the motion.

Chairman Sophiaea said they have a motion by Mr. Anglin, support by Mr. Nestorowicz to approve the request as read.

Roll Call:

A roll call was taken on the motion. The motion carried (7 – 0).

Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Nestorowicz	Yes, for the reasons stated in the motion.
Board Member Perry	Yes, for the reasons stated in the motion.
Board Member Lindsey	Yes, for the reasons stated in the motion.
Board Member Clift	Yes, for the reasons stated in the motion.
Secretary Jerzy	Yes, for the reasons stated in the motion.
Chairman Sophiaea	Yes, for the reasons stated in the motion.

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

14. PUBLIC HEARING:	APPLICANT: MMC Real Estate Investments LLC
REPRESENTATIVE:	Caren Burdi
COMMON DESCRIPTION:	28661 Van Dyke
LEGAL DESCRIPTION:	13-16-229-043
ZONE:	MZ, M-1, R-1-P

VARIANCES REQUESTED: Permission to

- 1) Construct an 8' precast concrete wall along the west property line.
- 2) Operate 2 shifts.

ORDINANCES and REQUIREMENTS:

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.38 – Height: Obscuring walls and fences in non-residential zones shall not exceed six (6) feet in height.

Section 17.02 (r) – Industrial Standards: Number of production work hours including Sunday and holidays 7:00 a.m. to 7:00 p.m. if nearest residence is less than two hundred (200) feet from industrial plant.

This item was rescheduled to March 12, 2025 during the adoption of the agenda.

15. PUBLIC HEARING: **APPLICANT: TenWarren Property LLC**
REPRESENTATIVE: Nathan A White
COMMON DESCRIPTION: 3855 Ten Mile
LEGAL DESCRIPTION: 13-19-479-011
ZONE: M-2

VARIANCES REQUESTED: Permission to

Allow a marihuana business to operate within 612 feet from the near lot line of a school.

ORDINANCES and REQUIREMENTS:

Section 4G.06: Caregiver operations are permitted in M-1, M-2, M-3 and M-4 zones, if at the time of municipal license application submittal, the operation is located: (2) at least 1,000 feet from the nearest lot line of a school.

Section 4G.07: Marihuana growing, processing, and secure transporter facilities are permitted in M-1, M-2, M-3 and M-4 zones, if, at the time of municipal license application submittal, the establishment/facility is located: (2) at least 1,000 feet from the nearest lot line of a school.

Section 4G.08: Provisioning center facilities, retail establishments, and consumption establishments are permitted in C-3, M-1, M-2, M-3 and M-4 zones, subject to the limitations in Section 19.5-16 of the Marihuana Regulatory Ordinance if, at the time of municipal license application submittal, the establishment/facility is located: (2) at least 1,000 feet from the nearest lot line of a school.

Nathan White appeared before the board. They submitted a request for a variance to allow a marihuana business to operate within 612 feet from the property line of this school. He wanted to bring to the boards attention this evening that TenWarren Property when they originally acquired the property in July of 2021 purchased the property when it was zoned for an allowable use for that business under a previous ordinance that was later amended. It was the understanding of the owner that the process of getting the approvals for that caregiver business at the time had been completed or some form of slight misinterpretation that was made to the owners. They purchased the property and then began investing approximately \$700,000 in improvements to the building. One of the unique structuring or reconditioning a building, improving the building for use of that business, city ordinances with respect to exterior condition but also unique uses within the building when it comes to electrical work, when it comes to the layout of the building, the functionality of the building. As a result of that and having learned of the ordinance that had changed the distance from the building to the property of the school,

increasing that distance, having invested a significant amount of money into that building. Now they're stuck with a building that's essentially not really suitable for sale. If it were sold on the market it would be sold significantly less because it was customized for that particular business. Therefore, they are before the board this evening to allow, or to ask permission to allow the business to operate within 612 feet from the property line of the school. He believes the front entrance of the school is around a distance 2,194 feet. Where the nearest property line from the building is 612 feet from the far corner of the building.

Chairman Sophiea thanked him for those comments. This is a public hearing. Is there anyone in the audience who would like to speak on this item? Please approach.

Michael Bilyk, 26355 Merideth, appeared before the board stating for this particular property. This has gone on for a couple years already.. About four (4) years they've been trying to get a marihuana variance put in there. They've been against it, as well as other people within the area. As far as what the property variances requesting, he's requesting the property to be going to 600 feet. The original ordinance said it was 1,500 feet. It was just changed recently to 1,000 feet. Now, they're requesting it to be the 600. Back then, it was denied. The last few years it has been denied. The fact that they invested money into that building doesn't matter. That's their fault. They were acting ahead of even having the meeting with the city on this thing. They were going ahead of schedule. They assumed they were going to get the thing passed right off the bat and they didn't. Right now where they're at with this is that from Westview School they're approximately 550 feet from there. They're still not within the variance. From the Wexford subdivision they're approximately 475 feet. There is a variance on being near subdivision as well. Then the problem too is the issue of parking and what they're exactly. If it's going to be a marihuana manufacturing facility then they're going to have trucks coming in and that. A building between 3863 and 3855 is a private driveway. The majority of driveway is 21 feet for 3863. Where their driveway isn't even a driveway, they only have like eight (8) feet in the rear and only nine (9) feet in the front. Their driveway is on the west side of the building towards the two (2) buildings. The next building there is the driveway for their entrance party. This property is supposedly combined with a lot in the back and a residential home on Keafer Street. The address is on Keafer as well as the home. Three (3) properties is combined, they're showing it as combined. Those properties don't go under one address, they're going under three separate addresses. Two on Keafer and the building on Ten Mile. Right now the way they understand, are they going to combine all three lots, how are they going to get parking into that place, are they going to get deliveries to that place. It isn't going to work. The main thing they have right now is Wexford Subdivison which is behind the building and that they're not meeting the requirement right there. They're just saying right now there's that whole area. If you go online and look at it the whole area is a residential area. Fast food places around there. Ten Mile and Ryan is a high traffic area. It's just not feasible for that area. Not only that, but the area is more or less gear towards family. There is an Islamic masque not far away, too. It's closer to the school on Ryan Road itself just south of Ten Mile and Ryan. Numerous churches in the area. They're against this. Have been in the past and are right now. They're asking the city again to stand up for at least the people in the area. He can give the distances to the board. They're too close to Wexford street, a subdivision. He hopes they consider what he's telling the board.

Chairman Sophiea thanked him for those comments. This is a public hearing. Is there anyone in the audience who would like to speak on this item? They do have an email that was sent to the office that they'll read into the record .

Secretary Jerzy said this is from Lori Harris. She says, "This item is completely unacceptable in my opinion. Our city has done a terrible job with the marijuana policies/procedures/ordinance, and we are left with people who think they can get what they want, or threaten a lawsuit. If this location is only 600+ feet away from a school, they clearly don't meet the 1000 foot requirement. This must not be approved. We have had marijuana businesses that have been regularly out of compliance and have endangered the workers and the surrounding areas. Who sends these requests to ZBA? The planning department approves it if they get a variance? This is backwards and wrong. If a business wants to be established in our city, they need to follow our rules. Please do not grant this variance. Lori Harris"

Chairman Sophiae thanked him for reading that. At this time he closed the public portion of the meeting and turned it over to the board for discussion.

Board Member Nestorowicz wanted to start. They have their ordinances and requirements. Basically, the city requires at least a 1,000 square feet. This school is around 600. He thinks that alone doesn't see a reason to approve this. He'll be against this personally.

Chairman Sophiae would like to go through the criteria quickly, in his mind. The first one the property cannot be used as zone. The property can be used for other purposes with it's zoning as already designated. The second one is not self-imposed. Arguably, the petitioner is seeking a purpose that's not allowed in that zoning designation. To him, it's a self-imposed issue. The others are pretty self-explanatory. The uniqueness of the property. He doesn't find the property particularly unusual or unique about the property. What else?

Board Member Anglin said financial.

Chairman Sophiae asked for any other comments from the board. He always takes resident input pretty heavy when they discuss things. Some of these things. He's surrounded by this stuff. He lives near that neighborhood as well. He doesn't think they need to start doing, he said it before and he'll say it again. He's not going to sit here and piecemeal property lines versus ordinance versus what is where. He can't get behind something like this, 612 foot from school property. There's also two (2) Islamic centers relatively close to this property. The one there on Ten Mile Road just slightly east of Ryan, but there's also one on Ryan Road just south of that 612 foot limit on the west side of the road. He doesn't believe in piecemealing things out. He thinks the ordinance was developed and he stands with his colleagues tonight that they can't get behind something like this.

Board Member Anglin said it's too close to the religious facilities in the area according to code. It's too close to residential facilities in the area. Its too close to schools. They have a trifecta for saying no. So that's his opinion on it.

Chairman Sophiae is a bit confused. What are they referring to a change in the zoning designation subsequent to the purchase. When was the purchase?

Nathan White said July 2021 the previous owner had applied for caregiver license. Within that zoning with respect to... It was his understanding within the previous ordinance that caregiving

was allowed with respect to that facility but the application had not been completed despite TenWarren's having a representative had been completed. Then when the new ordinance passed that added the 1,000 foot distance from the school then it rendered what the business plan was.

Chairman Sophiea said it was misrepresented to the seller. Unfortunately, you can't get blood out of a turnup, but hopefully they can go after the seller. Mr. Watripont is there anything he would like to add?

Steve Watripont explained the ordinance for the 1,000 went into effect on April 27, 2021 which was prior to the sale date. The ordinance that was allowing it at 500 from schools was only the caregiver. It wasn't any of the medical or the adult use either at that time. That wasn't even allowed at that time. It was only the caregiver allowed at that time and it was 500 prior to April 27, 2021.

Chairman Sophiea thanked him for clarifying. Any other comments from the board?

Motion:

Board Member Anglin made a motion to deny allowing a marihuana business to operate within 612 feet from the near lot line of a school.

Reasons being: Property can be used as zoned, self-imposed, property is not unique, detriment to the area, doesn't follow guidelines set forth by city fathers on what is allowed with the marihuana growing facility, not necessary.

Board Member Clift supported the motion.

Chairman Sophiea said they have a motion to deny by Mr. Anglin, support by Mr. Clift. Yes vote is to deny.

Roll Call:

A roll call was taken on the motion. The motion carried (7 – 0).

Board Member Anglin	Yes, to deny.
Board Member Clift	Yes, to deny.
Board Member Perry	Yes, to deny.
Board Member Lindsey	Yes, to deny.
Board Member Nestorowicz	Yes, to deny.
Secretary Jerzy	Yes, to deny.
Chairman Sophiea	Yes, to deny.

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

15a. PUBLIC HEARING:

APPLICANT: MMC Management LLC-USE-
(Rescheduled from 12/11/2024)

REPRESENTATIVE:

Michael Campbell

COMMON DESCRIPTION:

3000 Ten Mile

LEGAL DESCRIPTION:

13-30-201-003

ZONE:

M-2

VARIANCES REQUESTED: Permission to-USE-

Allow above ground fuel storage in an M-2 district and within 48' of the east property line, 84' from the west property line and 146' 6" from the north.

ORDINANCES and REQUIREMENTS:

Section 17.02 (p) – Industrial Standards (M-1 and M-2 not an allowed use. M-3 and M-4 allowed use): Fire and safety hazards (the storage and handling of flammable liquids, liquified petroleum gases and explosives shall comply with State rules and regulations as established by Public Act No. 207, P.A. 1941 [MCL 29.1 et seq.], as amended, and in addition the following regulations shall apply): Bulk storage of flammable liquids, liquid petroleum gases and explosives allowed above ground if conditions meet those established by Chapter 13 of the Warren Codified Ordinances – Fire Prevention and Protection and Michigan flammable Liquids Regulations as amended. All tanks shall be located not less than one hundred (150) feet from property lines.

Is the petitioner present for item 7? Has there been any contact?

Steve Watripont has not heard anything. The item being presented was because wanting the Fire Marshalls approval. He knows planning reached out. He doesn't know if they got notice officially.

Secretary Jerzy said they did get a notice from the Fire Marshall saying he went to the property, inspected it and everything was ok by their standards.

Steve Watripont doesn't know if he spoke to the gentleman and assumed he didn't have to come because of that.

Chairman Sophia said his philosophy is no call, no show, no variance.

Steve Watripont suggested to postpone and make sure he knows he should be here.

Motion:

Board Member Clift made the motion to postpone to February 12, 2025, Supported by Board Member Secretary Jerzy.

Voice Vote:

A voice vote was taken. The motion carried (7 – 0).

16. NEW BUSINESS

None.

17. ADJOURNMENT

Motion:

Board Member Clift made the motion to adjourn the meeting, Supported by Secretary Jerzy.

Voice Vote:

A voice vote was taken. The motion carried (7 – 0).

The meeting adjourned at 9:39 p.m.

Paul Jerzy
Secretary of the Board

APPROVED