

REGULAR MEETING - ZONING BOARD OF APPEALS

CITY OF NOVI

January 12, 2016

Proceedings taken in the matter of the ZONING BOARD OF APPEALS, at City of Novi, 45175 West Ten Mile Road, Novi, Michigan, on Tuesday, January 12, 2016

BOARD MEMBERS

Cindy Gronachan, Chairperson

Brent Ferrell, Secretary

David Byrwa

Jonathan Montville

Mav Sanghvi

Linda Krieger

ALSO PRESENT: Charles Boulard, Building Official

Beth Saarela, City Attorney

Coordinator: Stephanie Ramsay, Recording Secretary

REPORTED BY: Jennifer L. Wall, Certified Shorthand Reporter

Page 2

1	INDEX	
2	Case No.	Page
3	PZ15-0043	7
4	PZ15-0032	15
5	PZ15-0045	36
6	PZ15-0046	83
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 Novi, Michigan.

2 Tuesday, January 12, 2016

3 7:00 p.m.

4 \* \* \* \*

5 CHAIRPERSON GRONACHAN: Good  
6 evening. I would like to call the January  
7 2016 Zoning Board of Appeals to order.

8 Would you please all rise for  
9 the Pledge of Allegiance.

10 (Pledge recited.)

11 CHAIRPERSON GRONACHAN:

12 Ms. Ramsay, would you please  
13 call the roll.

14 MS. RAMSAY: Member Ferrell?

15 MR. FERRELL: Here.

16 MS. RAMSAY: Member Krieger?

17 MS. KRIEGER: Present.

18 MS. RAMSAY: Member Sanghvi?

19 MR. SANGHVI: Here.

20 MS. RAMSAY: Member Byrwa?

21 MR. BYRWA: Here.

22 MS. RAMSAY: Member Reichert, is  
23 absent, excused.

24 Member Montville?

25 MR. MONTVILLE: Here.

1 MS. RAMSAY: Chairperson

2 Gronachan?

3 CHAIRPERSON GRONACHAN: Present.

4 Thank you. For this evening's  
5 meeting, we have four cases.

6 Before we get started, just a  
7 little housekeeping, there is a set of rules  
8 and regulations set on the back counter.

9 I'm asking that everyone  
10 please turn off your cellphones at this time,  
11 and review the rules of conduct.

12 Also, we need to -- the next  
13 piece of business is to approve the agenda.

14 Are there any changes or  
15 omissions or changes to the agenda?

16 (No audible responses.)

17 CHAIRPERSON GRONACHAN: Seeing  
18 none, all those in favor?

19 THE BOARD: Aye.

20 CHAIRPERSON GRONACHAN: None  
21 opposed.

22 The minutes for the  
23 approval -- now we need approval for the  
24 minutes from November 10th.

25 The minutes, has everyone had

Page 5

1 a chance to review the minutes?

2 MS. SAARELA: Page 57, line four,  
3 where it says, "tell that", that should have  
4 been whether.

5 And line five and six where it  
6 says, "residents laws", that should have been  
7 ordinance.

8 Page 58, line two, where it  
9 says, "law was created" should have been lot  
10 was created.

11 And page 59, line 12 where  
12 there is a question mark, there should have  
13 been a period.

14 That's it.

15 CHAIRPERSON GRONACHAN: Thank  
16 you. Any other changes?

17 (No audible responses.)

18 CHAIRPERSON GRONACHAN: It's been  
19 a long while since we have had any changes.

20 Member Sanghvi?

21 MR. SANGHVI: Thank you, Madam  
22 Chair.

23 I just wanted to point out, I  
24 wasn't present at this meeting, it would be  
25 appropriate for me to abstain from voting on

1 it.

2 CHAIRPERSON GRONACHAN: Okay.

3 All those --

4 MS. KRIEGER: Me, too.

5 CHAIRPERSON GRONACHAN: The  
6 November meeting you were here.

7 MS. KRIEGER: Unh-unh.

8 CHAIRPERSON GRONACHAN: Oh, no.

9 So we have four people voting  
10 on the November minutes. Any other changes?

11 (No audible responses.)

12 CHAIRPERSON GRONACHAN: Seeing  
13 none, all those in favor of the changes that  
14 were made to the agenda say aye.

15 THE BOARD: Aye.

16 CHAIRPERSON GRONACHAN: No  
17 opposed.

18 The meeting -- or the minutes  
19 for the November 10th meeting have been  
20 approved with noted changes.

21 Right along. At this time, if  
22 there is anyone in the audience that wishes  
23 to make comment to the ZBA, that is not  
24 relevant in any of the cases that are coming  
25 before us tonight, they can do so now.

1                   Is there anyone in the  
2                   audience that wishes to make any comment to  
3                   the board this evening?

4                   (No audible responses.)

5                   CHAIRPERSON GRONACHAN: Seeing  
6                   none, we will call our first case. Case No.  
7                   PZ15-0043, Croskey Lanni.

8                   Is the petitioner here?

9                   Please come on down.

10                  Intercity City Neon on behalf  
11                  of Symmetry Property Management and Croskey  
12                  Lanni at 44725 Grand River Avenue.

13                  The applicant is requesting a  
14                  variance from the city code of ordinance to  
15                  allow a wall sign of 32.5 five square feet  
16                  located at the front face of Grand River of  
17                  the building.

18                  Good evening, would you both  
19                  please -- or either one of you attorneys?

20                  MS. HOLKE: No.

21                  CHAIRPERSON GRONACHAN: Would you  
22                  both please state your names, spell them for  
23                  our recording secretary and raise your right  
24                  hand and be sworn in by our secretary.

25                  MS. HOLKE: My name is Donna

Page 8

1 Holke, H-o-l-k-e. I'm representing Intercity  
2 Neon, the address is 32920 Amber, Warren,  
3 Michigan 48089.

4 MS. SUTTON: Dawn Sutton,  
5 S-u-t-t-o-n, representing Symmetry Property  
6 Management at 4198 Orchard Lake Road, in  
7 Orchard Lake, Michigan, 48323.

8 MR. FERRELL: Both raise your  
9 right hand. Do you both swear to tell the  
10 truth in the testimony you're about to give?

11 MS. HOLKE: Yes.

12 MS. SUTTON: Yes.

13 MS. HOLKE: We are here to  
14 propose putting an illuminated sign, a halo  
15 illuminated sign for Croskey and Lanni, on  
16 their wall, on the store front on the  
17 building front, 14 and a half inches high by  
18 24-foot seven inches wide.

19 We originally came before the  
20 board in June of 2014, and this was approved  
21 with the contingency that they remove their  
22 name from the existing monument sign.

23 At that time, things were put  
24 on hold and when they finally decided to go  
25 ahead with it, the Zoning Board of Appeals

1                   had expired as well as the permits had  
2                   expired.

3                   So we are here now asking for  
4                   the same thing that we got 18 months ago.

5                   In the meantime, we have  
6                   changed the monument sign to remove their  
7                   name and just has the other tenants on it.

8                   Croskey Lanni is one of the  
9                   major tenants in the building, and that's why  
10                  they want to have their name on the building.

11                  CHAIRPERSON GRONACHAN: Do you  
12                  have the diagram of your --

13                  MS. HOLKE: Yes.

14                  CHAIRPERSON GRONACHAN: Like to  
15                  put it on the overhead.

16                  MS. SUTTON: There is a banner on  
17                  the wall, now, showing that, just the same  
18                  size.

19                  CHAIRPERSON GRONACHAN: Anything  
20                  else?

21                  MS. HOLKE: No. Do you want to  
22                  see the monument sign, too?

23                  CHAIRPERSON GRONACHAN: Please.

24                  Is there anyone in the  
25                  audience that has comment in regard to this

1 case?

2 (No audible responses.)

3 CHAIRPERSON GRONACHAN: Seeing  
4 none, building department?

5 MR. BOULARD: Nothing to add.

6 CHAIRPERSON GRONACHAN:

7 Mr. Secretary, are there any  
8 objections to the request?

9 MR. FERRELL: There was 14  
10 letters mailed, 14 letters returned, zero  
11 approval letters received, zero objection  
12 letters received.

13 CHAIRPERSON GRONACHAN: Okay,  
14 thank you. Board members?

15 MR. BYRWA: In an I1 zoned  
16 district, what is the maximum allowable wall  
17 signage?

18 CHAIRPERSON GRONACHAN: While we  
19 are waiting for the answer, is there anything  
20 else?

21 MR. BYRWA: I was also wondering  
22 if that could be a request, that could be  
23 included in part of the write-up, when the  
24 city looks at that, so we know that it's a  
25 deviation of the maximum allowable, so many

1 square feet. It's going to X amount of  
2 square feet.

3 Right now we just have a blank  
4 statement saying, well, we want 32 and a half  
5 feet and it violates the city ordinance.

6 But for those of us who aren't  
7 familiar with the city ordinance --

8 MR. BOULARD: I apologize. We  
9 are having some technical issues.

10 MR. BYRWA: Is that pretty close,  
11 would you know, or --

12 MR. BOULARD: 65 square feet is  
13 the typical larger sign, but that would be at  
14 the -- an option to have the ground sign.

15 MR. BYRWA: Would be the  
16 subtraction, are we combining like ground  
17 signs with wall signs for a maximum  
18 allowable, or are we just deviating from the  
19 maximum wall sign, or --

20 MR. BOULARD: Well, because they  
21 have the ground sign, the wall sign would not  
22 necessarily be allowed by right at all.

23 So the entire sign is an  
24 additional sign, as it was granted before.  
25 Whatever size, it's all additional.

1                          MR. BYRWA: That clears it up,  
2                          good.

3                          CHAIRPERSON GRONACHAN: Member  
4                          Sanghvi?

5                          MR. SANGHVI: Thank you. I have  
6                          got one question.

7                          How is this different than  
8                          what we already passed in the previous ZBA  
9                          meeting? Is this just a request for renewal  
10                        or is this something different?

11                        MR. BOULARD: There is a time  
12                        limit in the ordinance, once you get a  
13                        variance, you need to pull a permit and carry  
14                        that through, or if it's a use that was  
15                        exempted, there is actually a shorter window,  
16                        that's six months. I believe this is a year.

17                        So basically, it is expired,  
18                        and they're back to renew exactly the same  
19                        thing.

20                        MR. SANGHVI: Just a renewal of  
21                        the previous --

22                        MR. BOULARD: Yes, exactly what  
23                        was there before.

24                        MR. SANGHVI: No other changes?

25                        MR. BOULARD: No.

1 CHAIRPERSON GRONACHAN: Any other  
2 questions?

(No audible responses.)

4 CHAIRPERSON GRONACHAN: Is there  
5 a motion? Member Ferrell.

6 MR. FERRELL: In Case No. 1

7 PZ15-0043 Croskey Lanni, I move that we grant  
8 the variance in Case No. PZ15-0043, sought by  
9 Croskey Lanni on behalf of Intercity Neon for  
10 renewal of the expired approval that was  
11 approved back in June of 2014. And they had  
12 removed the ground sign as required by the  
13 ZBA --

14 MS. HOLKE: Their name off the  
15 ground sign.

16 MR. FERRELL: The petitioner will  
17 be (unintelligible) granted or limited with  
18 respect to the use of the property. The  
19 property is unique. The petitioner has not  
20 created the condition.

1                   And by complying and following  
2                   the direction of the ZBA, and taking the name  
3                   off the ground sign and renewing the expired  
4                   prior approval, I move that we grant the  
5                   request.

6                   MS. KRIEGER: Second.

7                   CHAIRPERSON GRONACHAN: It's been  
8                   moved and seconded. Is there any further  
9                   discussion?

10                  (No audible responses.)

11                  CHAIRPERSON GRONACHAN: Seeing  
12                  none, Ms. Ramsay, would you please call the  
13                  roll.

14                  MS. RAMSAY: Member Ferrell?

15                  MR. FERRELL: Yes.

16                  MS. RAMSAY: Member Krieger?

17                  MS. KRIEGER: Yes.

18                  MS. RAMSAY: Member Sanghvi?

19                  MR. SANGHVI: Yes.

20                  MS. RAMSAY: Member Byrwa?

21                  MR. BYRWA: Yes.

22                  MS. RAMSAY: Member Montville?

23                  MR. MONTVILLE: Yes.

24                  MS. RAMSAY: And Chairperson  
25                  Gronachan?

1                           CHAIRPERSON GRONACHAN: Yes.  
2                           MS. RAMSAY: Motion passes six to  
3                           zero.

4                           CHAIRPERSON GRONACHAN: Better  
5                           luck this time on your sign. Good luck.  
6                           Your motion -- your request has been granted,  
7                           and I am sure you will be in touch with the  
8                           building department.

9                           MS. HOLKE: Thank you.

10                          MS. SUTTON: Thank you.

11                          CHAIRPERSON GRONACHAN: Moving  
12                          right along. We've got our next case as  
13                          PZ15-0032, Citygate Marketplace. Is the  
14                          petitioner here? Would you like to come down  
15                          and get set up.

16                          Doraid Markus on behalf of  
17                          Citygate Marketplace at 27200 Beck Road,  
18                          north of Grand River Avenue, and east of Beck  
19                          Road.

20                          The applicant is requesting  
21                          variances to allow construction of a 5,908  
22                          square foot building with a retail space and  
23                          two fast food restaurants.

24                          It looks you guys have done  
25                          your homework.

1                   I will also remind the board  
2 members this is -- this case, although  
3 different petitioners, was previously before  
4 the board in October of 2013, I believe.

5                   MR. MARKUS: That is correct.

6                   CHAIRPERSON GRONACHAN: So before  
7 you two chat with us, why don't you give us  
8 your names, if you are not attorneys, to our  
9 recording secretary, spell them out and you  
10 will be sworn in by our secretary.

11                  MR. MARKUS: My name is Doraid  
12 Markus, last name Markus, M-a-r-k-u-s. I am  
13 the principal of the development, one of the  
14 owners that owns this piece of property.

15                  I am an attorney, but I am not  
16 wearing my attorney hat today. I'm  
17 representing myself as a developer, not an  
18 attorney, I just want to make that clear.

19                  MR. BUTLER: My name is Jim  
20 Butler, B-u-t-l-e-r, PEA, civil engineer  
21 consultant, address is 2430 Rochester Court,  
22 Suite 100, Troy, Michigan 48083.

23                  MR. FERRELL: If you want --

24                  MR. DRAIN: My name is  
25 Mark Drain. I'm with Rugvoy Architects,

1           that's spelled R-u-g-v, as in Victor, o-y.

2           My address is 32500 Telegraph Road, in  
3           Bingham Farms, Michigan and my last name is  
4           spelled D-r-a-i-n.

5           MR. FERRELL: Would everyone  
6           raise their right hand.

7           Do you all swear to tell the  
8           truth in the testimony you're about to give?

9           MR. MARKUS: Yes.

10          MR. BUTLER: Yes.

11          MR. DRAIN: Yes.

12          MR. FERRELL: You may proceed.

13          MR. MARKUS: Some brief history.  
14          We went to the Planning Commission, we were  
15          there once before where we were denied, and  
16          it was a nice wake-up call.

17          We came with adjustments to  
18          the plan, and with a lot of work with the  
19          staff, we were able to get the Planning  
20          Commission approval on this site.

21          As you know, we are here today  
22          on two issues, the building setback as well  
23          as the parking setback.

24          The second very unique -- I  
25          know you guys' history with this sight with a

1 prior owner. There are a few things going  
2 on, the narrowness of the property, the lack  
3 of direct access to any other main road.

4 Obviously that's huge here,  
5 there is an easement with Chase Bank.

6 There is also some wetland  
7 issues throughout the property that we have  
8 had to mitigate and work around. And there  
9 is also no direct access, narrowness.

10 Other things that make this  
11 property very difficult to deal with, we have  
12 come up with what we think is the best use of  
13 this property in this plan. But the best use  
14 of it requires us to be here for these two  
15 variances.

16 The first variance obviously  
17 you require a 50-foot building setback. We  
18 can only meet 21 and a half the way we have  
19 this designed. To require us to do a 50-foot  
20 setback, you would have one of two things,  
21 building way in the back of the property,  
22 that nobody will see, or a skinny building  
23 that doesn't work for anybody.

24 With what we propose, 21 and a  
25 half feet is actually better than what the

1                   last applicant was here for, the prior owner,  
2                   he had requested 15 feet. So we're better  
3                   by -- better than him by six feet, six and a  
4                   half feet.

5                   The other thing is there is a  
6                   20-foot building -- excuse me, parking  
7                   setback. But because of the drive-thru,  
8                   which is, you know, structure that stacks  
9                   onto the building itself, we can only meet a  
10                  two and a half feet -- there was no such  
11                  variance put on the prior applicant,  
12                  obviously that's true, but we are doing a lot  
13                  of things to mitigate that by putting a  
14                  screen wall, none the things that  
15                  (unintelligible) with your staff to mitigate  
16                  that issue as well.

17                  We are asking for a variance  
18                  on these two based on these hardships. I  
19                  think Jim may have a couple of other things  
20                  to add to that, to show what we have going on  
21                  here.

22                  MR. BUTLER: Yes, as Mr. Markus  
23                  had mentioned, we are proposing Citygate to  
24                  install a screen wall, with a fence on top to  
25                  provide screening.

1                   We obviously don't have a  
2                   buffer to meet the requirements pursuant to  
3                   the ordinance. We did work with the city's  
4                   landscaping architect, and came up with this  
5                   solution, we thought it was reasonable and  
6                   could provide screening for those cars in the  
7                   drive-thru. So we are meeting what we think  
8                   is the intent of the ordinance.

9                   MR. MARKUS: In addition to that,  
10                  the gas station across Citygate is in the  
11                  same situation we are in, so we are  
12                  duplicating what they have obviously. They  
13                  were granted a similar easement.

14                  CHAIRPERSON GRONACHAN: Anything  
15                  else, gentlemen?

16                  MR. MARKUS: Nothing further. We  
17                  are here to answer any questions.

18                  CHAIRPERSON GRONACHAN: Thank  
19                  you. Is there anyone in the audience that  
20                  wishes to make comments on this case this  
21                  evening?

22                  Sir, would you please come  
23                  down. Gentleman, can I ask you to move this  
24                  over here, so we don't have anybody walking  
25                  into it, to make it a little easier and

1           people can still --

2                            MR. RICHARDSON: Good evening,  
3                            everyone. Nice to see you on this lovely  
4                            evening.

5                            My name is Ralph Richardson.

6                            I'm from South Lyon. 24574 (inaudible).

7                            I am here as a citizen and  
8                            regular member of the community that drives  
9                            through that intersection a lot.

10                          My son got T-boned a few years  
11                          back right at that same intersection, Grand  
12                          River and Beck.

13                          When I heard about this  
14                          development coming in, it was interesting,  
15                          having a Starbucks in the community is always  
16                          a good thing, but as I looked at it, I  
17                          realized there are few things that trouble  
18                          me.

19                          One is, I helped to develop a  
20                          building here in town about eight years ago,  
21                          and we had to meet every variance. There  
22                          wasn't a variance, we had to meet every  
23                          standard.

24                          So when I look at this, one of  
25                          the other things they are asking for, a zero

1                   setback. We couldn't get a zero setback for  
2                   anything.

3                   So I guess if this is a new  
4                   standard, that should be something the board  
5                   does.

6                   The traffic, as I understand  
7                   it, this plan was approved based on the idea  
8                   that Citygate Street would be developed  
9                   through to Grand River. So the people coming  
10                  in and out would have a second access point.

11                  Subsequent to that approval,  
12                  Blair Bowman lost -- or did not have in  
13                  possession the land to do this development,  
14                  and therefore, it's not being done. So the  
15                  whole premise of building this would be  
16                  drive-thru.

17                  If the concept of too much  
18                  traffic, based on the drive-thru was being  
19                  approved because of the additional access,  
20                  not having the additional access means, that  
21                  there is still too much traffic, and this is  
22                  going to cause hazards on Beck Road and Grand  
23                  River.

24                  Now, they're a big company,  
25                  Starbucks, world's largest coffee shop. As a

1 matter of fact, there are three Starbucks  
2 within 1,000 yards of this building. So, I  
3 don't think it will hurt them to put up a  
4 standard Starbucks. It seems to me in  
5 fairness, they should not be given variances  
6 that other businesses are not given. They  
7 shouldn't be given the added advantage. Let  
8 them build Starbucks, as they would on that  
9 property, as it was designed and zoned.

10                             Thank you for your time.

11                             CHAIRPERSON GRONACHAN: Thank  
12 you. Is there anyone else?

13                             (No audible responses.)

14                             CHAIRPERSON GRONACHAN: Seeing  
15 none, building department.

16                             MR. BOULARD: I just wanted to  
17 mention that at the beginning, this project  
18 went to Planning Commission twice and to try  
19 to make sure that -- the advertisement is  
20 kind of a worst case scenario, so what was  
21 advertised in the public notice is one case,  
22 or both cases, I think more of a variance,  
23 than what is actually being requested. Maybe  
24 Mr. Butler could clarify that.

25                             But I just wanted to make sure

1                   we understood, that's why that was done, to  
2                   make sure whatever happened that you could  
3                   consider a variance tonight.

4                   Other than that, I will stand  
5                   by for questions. Thank you.

6                   CHAIRPERSON GRONACHAN:

7                   Mr. Secretary, is there any  
8                   correspondence?

9                   MR. FERRELL: Madam Chair, 12  
10                  letters mailed, two letters returned, zero  
11                  approvals, zero objection letters received.

12                  CHAIRPERSON GRONACHAN: Thank  
13                  you. Board members. Member Sanghvi?

14                  MR. SANGHVI: Thank you, Madam  
15                  Chair. I have a couple questions for the  
16                  building department.

17                  Did this project go through  
18                  Planning Commission?

19                  MR. BOULARD: Yes. This project  
20                  went through the planning process, it went to  
21                  Planning Commission and the Planning  
22                  Commission basically asked the applicant to  
23                  go back and rethink things, reconsider, take  
24                  another hard look at it. They have done  
25                  that.

1                   They went back to the Planning  
2                   Commission, they approved it. They looked at  
3                   the traffic, they looked at the traffic and  
4                   the other issues.

5                   What's before this body  
6                   tonight is the request for the two variances,  
7                   for the building setback and the parking  
8                   setback, which also includes the access drive  
9                   for the drive-thru.

10                  MR. SANGHVI: (Unintelligible) to  
11                  include the Planning Commission,  
12                  deliberations about any case that came to  
13                  ZBA, so we know what we have done, so we have  
14                  the whole picture.

15                  And while I'm on the subject,  
16                  I might as well suggest that we also receive  
17                  the minutes of the previous meeting, when the  
18                  same case shows up again to the ZBA, so all  
19                  of the members are aware of what went on, not  
20                  only people who have been around for a long  
21                  time.

22                  And anyway, coming back to the  
23                  current case in question, how many parking  
24                  spots are you going to put there?

25                  MR. BUTLER: We have 81 provided,

1 required is 74. So we have 81.

2 MR. SANGHVI: What are the  
3 stipulated number of parking spots required  
4 for these two fast food joints and other  
5 things that are going to come up here?

6 MR. BOULARD: As the petitioner  
7 mentioned, the required parking is 74, they  
8 provided in excess of that. So that was  
9 based on the proposed usage that were  
10 included in the site plan application.

11 MR. MARKUS: If I can mention one  
12 thing, with the traffic. The traffic was  
13 studied extensively, not only by our  
14 consultant, but by the city consultant. It  
15 took about two months to go back and forth so  
16 we can get the real hard numbers. By every  
17 single model what we proposed works in every  
18 single way, so traffic does -- at first  
19 glance and first impression seemed like a  
20 huge problem, when you get down to the  
21 science of it.

22 So there was no issue  
23 whatsoever by your consultant or our  
24 consultant, which both agreed.

25 MR. SANGHVI: The very fact that

1           where your development is located, and the  
2           kind of business you are planning to have, I  
3           think traffic will flow easily to where it's  
4           an important issue, or over time, especially  
5           after businesses are picking up --

6                            MR. BUTLER: That is what  
7                            traffic --

8                            MR. SANGHVI: May I finish.

9                            MR. BUTLER: I apologize.

10                          MR. SANGHVI: And so these are  
11                          all very relevant questions before we  
12                          deliberate on this issue. Thank you ma'am.

13                          CHAIRPERSON GRONACHAN: Thank you  
14                          Member Sanghvi.

15                          Anyone else?

16                          MS. KRIEGER: That egress, it's  
17                          just turn right only, correct?

18                          MR. BOULARD: I believe that's  
19                          the current case.

20                          MS. KRIEGER: To go in, can  
21                          somebody turn left into that coming  
22                          southbound?

23                          MR. MONTVILLE: I believe it's  
24                          limited by hours during the day. I believe  
25                          it's between seven and seven, you cannot turn

1 left.

2 MR. BOULARD: Thank you. I  
3 haven't tried to make that turn lately.  
4 There is some discussion about that  
5 intersection.

6 MS. KRIEGER: I suppose if  
7 somebody is going in for a coffee, Tim  
8 Hortons is there, then they are going to  
9 work, they get on the expressway, that's the  
10 perfect setup, but the other speaker was  
11 saying, about the -- there was supposed to be  
12 a ring road that exited at Grand River, where  
13 are we with that?

14 MR. BOULARD: My understanding  
15 current is the next development that occurs  
16 will require the completion of that ring  
17 road.

18 MS. KRIEGER: Okay.

19 MR. BOULARD: But once again, I  
20 think it's important to -- I think it's  
21 important to keep the perspective that the  
22 planning commission has deliberated and made  
23 those decisions, subject to just the setback  
24 issue -- the setback issue, and those issues  
25 are the -- are the issues before the board

6 MS. KRIEGER: Thanks, too. So  
7 for the -- they're having the screening, the  
8 landscaping, they have packing, which is  
9 allowable, they have gone through planning,  
10 so I have no contention with this now. Thank  
11 you.

12 CHAIRPERSON GRONACHAN: Thank  
13 you. Member Montville.

14 MR. MONTVILLE: You gentlemen can  
15 just spend a quick second, give us some  
16 highlights or bullet points on the process  
17 you went through in designing the structure,  
18 given the type of business that's going in,  
19 the minimum variance that you're requesting,  
20 so that it can be a viable business.

21 MR. MARKUS: When we initially  
22 came to the planning commission, we had a  
23 plan that was a little bit different, which  
24 the main difference was there was not a  
25 kick-out lane for the drive-thru, so if you

1           circulate into the drive-thru, you were stuck  
2           there while this car had to decide to go or  
3           not to go and if you were caught in an  
4           emergency, you had to wait.

5           We came and reduced the site,  
6           to add a pass-thru lane for safety feature,  
7           so that way, if you get stuck in the  
8           drive-thru, you change your mind, you have to  
9           get out of there, you can leave the  
10          drive-thru without being stuck there in an  
11          emergency.

12          Some other modifications that  
13          the Planning Commission wanted, which we  
14          adhered to, you know, further study to the  
15          traffic study that was requested by the  
16          Planning Commission and the city, and we met  
17          all of those requirements, so we provided all  
18          this information through their site plan and  
19          the Planning Commission obviously passed it,  
20          sent it back, I believe, six, zero without  
21          any hesitation.

22          I understand that there are  
23          other issues that are being brought up now  
24          from the Planning Commission. I understand  
25          this obviously is always a concern, but we

1 did everything that the staff wanted us to  
2 do, in terms of the site plan approval, we  
3 met everything they wanted them to do --  
4 wanted us to do rather.

5 MR. MONTVILLE: Thank you. I  
6 have no problems with the variance as  
7 requested at this time. Thank you.

8 CHAIRPERSON GRONACHAN: Anyone  
9 else? Is there a motion?

10 MR. MONTVILLE: I can make a  
11 motion, Madam Chair.

12 CHAIRPERSON GRONACHAN: Go ahead.

13 MR. MONTVILLE: In Case  
14 PZ15-0032, sought by Doraid Markus on behalf  
15 of Citygate Marketplace, I move that we grant  
16 the two variances as requested for the  
17 following reasons. The need for the variance  
18 is not self-created, due to the abnormal  
19 nature of the lot, given the wetlands to the  
20 east side of the lot and also the narrowness  
21 of the lot.

22 Strict compliance with the  
23 dimensional regulations of the ordinance  
24 would have a significant negative economic  
25 and safety impact on the business in that

1 lot.

2 The petitioners have proven  
3 that they have done what's necessary to  
4 extend the lot, not necessarily just for  
5 their business, but also for safety  
6 conditions.

10 And the requested variance  
11 will have not an adverse impact on the  
12 surrounding property, especially given the  
13 screening and the landscaping that the  
14 petitioner has offered to put on the northern  
15 exposure of the lot between the -- their lot  
16 and the tenant -- the Tim Horton's and the  
17 USA To Go, the north facing exposure of the  
18 lot.

19 So with that said, I move that  
20 we grant the two variances as requested.

21 MR. BOULARD: If I may, the  
22 variances that you're currently requesting, I  
23 believe are less than what was noted in the  
24 advertisement.

25 Could you clarify what those

1 dimensions are.

2 MR. MARKUS: I'm going to have my  
3 engineer give you the exact numbers. He's  
4 more of a numbers guy than I am.

5 MR. BUTLER: The request for the  
6 building setback, we are requesting for  
7 28 feet or 50 feet is required, so the  
8 building would be setback 21 and a half feet.

9 For the parking and pavement  
10 setback, the 20 feet, we are asking for a  
11 variance of two and a half feet -- or 17 and  
12 a half feet, so we would have a two and a  
13 half foot strip.

14 MR. BOULARD: So 21 and a half  
15 and 28 don't add up to 50. We need 28 and a  
16 half.

17 MR. BUTLER: 28.5 and 21.5 adds  
18 up to 50.

19 MR. BOULARD: So if I might  
20 suggest that that -- those numbers be  
21 included in the motion.

22 CHAIRPERSON GRONACHAN: Make a  
23 friendly amendment, is that -- ask for a  
24 friendly amendment to your motion that we add  
25 21 and a half feet from variance one and 28.5

1 for variance two.

2 MR. MARKUS: It's required to be  
3 50 for the first variance. We are only  
4 offering 21 and a half feet as the buffer,  
5 you need a 50-foot buffer. We can only  
6 accommodate for 21 and a half feet.

7 The second variance requires  
8 us to have a 20 foot buffer, we could only  
9 accommodate a two and a half foot buffer,  
10 with all the other things we are adding, such  
11 as a fence and the landscaping.

12 CHAIRPERSON GRONACHAN: We need  
13 to --

14 MR. BOULARD: So the variances  
15 would be 28 and a half feet, so the building  
16 setback is 17.5 feet for the --

17 MR. BUTLER: Correct, yes.

18 MR. MONTVILLE: I am in favor of  
19 the friendly amendment, be specific the first  
20 variance, they're requesting 21 and a half  
21 feet as opposed to the standard 50, and for  
22 the second variance requested, they are  
23 requesting 17 and a half foot variance, two  
24 and a half proposed versus the standard  
25 20 feet.

1                          MR. FERRELL: Second.

2                          CHAIRPERSON GRONACHAN: It's been  
3                          moved and seconded. Is there any further  
4                          discussion?

5                          (No audible response.)

6                          CHAIRPERSON GRONACHAN:

7                          Ms. Ramsay, would you please  
8                          call roll.

9                          MS. RAMSAY: Member Ferrell?

10                        MR. FERRELL: Yes.

11                        MS. RAMSAY: Member Krieger?

12                        MS. KRIEGER: Yes.

13                        MS. RAMSAY: Member Sanghvi?

14                        MR. SANGHVI: Yes.

15                        MS. RAMSAY: Member Byrwa?

16                        MR. BYRWA: Yes.

17                        MS. RAMSAY: Member Montville?

18                        MR. MONTVILLE: Yes.

19                        MS. RAMSAY: Chairperson  
20                        Gronachan?

21                        CHAIRPERSON GRONACHAN: Yes.

22                        MS. RAMSAY: Motion passes six to  
23                        zero.

24                        MR. MARKUS: Thank you.

25                        CHAIRPERSON GRONACHAN:

1                          Congratulations. Welcome to  
2                          Novi and we will be looking forward to a hot  
3                          cup of coffee.

4                          MR. MARKUS: Be open late July,  
5                          early August.

6                          CHAIRPERSON GRONACHAN: Our next  
7                          case is PZ15-0045, Brian Vojkofsky, 25687  
8                          Cody lane, east of Beck Road and south of  
9                          Eleven Mile.

10                        The applicant is requesting  
11                        variances to allow construction of a fence  
12                        within an exterior sideyard, the home is  
13                        located on the corner lot.

14                        And I would take it that you  
15                        are Ryan?

16                        MR. VOJTKOFSKY: Yes, correct.

17                        CHAIRPERSON GRONACHAN: Are you  
18                        both going to testify?

19                        MR. VOJTKOFSKY: Yes.

20                        CHAIRPERSON GRONACHAN: Please  
21                        state your names, spell them, and be sworn.

22                        MR. VOJTKOFSKY: My name is Ryan  
23                        Vojtkofsky, and it's V, as in Victor, o-j-t,  
24                        as in Tom, k, as in Kevin, o-f, as in Frank,  
25                        s, as in Sam, k-y. Address is 25687 Cody

1 Lane, Novi, Michigan 48374.

2 MS. KAUR: Hello, my name is  
3 Gurvir, last name K-a-u-r. I live at 25687  
4 Cody Lane, Novi, Michigan 48374.

5 MR. FERRELL: Do you both swear  
6 to tell the truth in the testimony you're  
7 about to give?

8 MR. VOJTKOFSKY: Yes. First off,  
9 I want to say thank you for hearing this  
10 variance request.

11 So my wife and I bought the  
12 home on Cody Lane just over two months ago in  
13 November of last year.

14 When we were looking for a  
15 home, one of our biggest wants was to be able  
16 to have a full fence in the backyard.

17 When our realtor was speaking  
18 with the previous homeowner, we were told  
19 because the house had an existing pool and a  
20 fence, that we would be able to extend the  
21 fence to encompass the backyard.

22 And at that point, the  
23 homeowner provided us a signed letter from  
24 three of the board members on the HOA,  
25 stating that the premise could -- we could

1 fence the entire backyard.

2                         Shortly after that, the  
3 homeowner actually put us in touch with  
4 Maureen Underhill. I'm not sure if he was  
5 contacted by her first or he contacted her,  
6 but anyway, he put us in touch with her and  
7 we found out that because this was a corner  
8 lot, that half of what was perceived as our  
9 rear yard, we thought was the rear yard is  
10 actually considered the second front yard,  
11 and therefore, fell under the 30-foot minimum  
12 front yard setback.

13                         So at that point, we reached  
14 out to the homeowner and he took a proposed  
15 drawing -- I'm sorry.

16                         So he took a proposed drawing  
17 of what we wanted to do outlined, and had two  
18 of the board members sign this as additional  
19 approval.

20                         So at that point, you know, we  
21 felt we had approval from the HOA, and based  
22 on the bylaws, and multiple other houses in  
23 the subdivision, having fences around their  
24 entire yard, that we should be able to do  
25 this.

1                   So really our goal here is to  
2                   essentially create a safe play area for our  
3                   pets and future children while being able to  
4                   fully utilize all of our property.

5                   You know, using -- based on  
6                   what Maureen had sent me, this drawing is of  
7                   the house and lot, and it shows a -- you  
8                   can't really see it. It shows a red line  
9                   right through the middle of the rear yard  
10                  where we can do this.

11                  What we believe is that leaves  
12                  us with a large amount of effectively unsafe  
13                  or unusable land if we were to erect a fence  
14                  halfway through the rear yard.

15                  You know, as far as safety is  
16                  concerned, you know, being on the corner lot,  
17                  there is always the risk of pets and children  
18                  getting in the street, ball gets kicked,  
19                  whatever.

20                  You know, I know it's a  
21                  residential home, but there is -- really all  
22                  it takes is one time. So we really want it  
23                  able to protect our lot and use it.

24                  And, you know, another thing  
25                  is, we want to protect our pets. We want to

1           be able to let them out without interaction  
2           of wildlife animals and other animals in the  
3           subdivision.

4                         When we walk the pets at  
5           night, there are many people who let their  
6           dogs out in the front yard with electric  
7           fences, some without electric fences, and,  
8           you know, the dogs are roaming around. We'd  
9           like to protect ourselves at night a little  
10          bit more and our animals.

11                       So basically, what we want to  
12          do is extend the fence out to one foot back  
13          from the sidewalk. I have that drawing here.  
14                       So again, I apologize, you can't see very  
15          well, it should be in the pamphlet. But we  
16          want to come one foot back from the sidewalk  
17          along an existing tree line.

18                       And it really matches pretty  
19          much the house that is at the entrance to our  
20          subdivision, as well as three additional  
21          houses within one mile that have this same  
22          variance.

23                       You know, since there are  
24          houses in the immediate area, we don't  
25          believe this provides any negative impact or

1 value to the community.

2                   In addition, we would be using  
3 an approved decorative fence outlined in the  
4 bylaws.

5                   So just want -- again just  
6 provide, it will be a slotted pool fence, so  
7 the same you would find around the pool now.  
8 And that's kind of it.

9                   CHAIRPERSON GRONACHAN: Thank  
10 you. Is there anyone in the audience that  
11 wishes to make comment, please come down.

12                  MS. BICA: Good evening. Short  
13 here. I am their realtor, Peggy Bica, from  
14 Coldwell Banker Preferred in Plymouth,  
15 Michigan.

16                  CHAIRPERSON GRONACHAN: Would you  
17 just spell your last name for our recording  
18 secretary.

19                  MS. BICA: B, as in boy, i-c-a.

20                  I just kind of want to tie  
21 their feelings together, on the realtor end  
22 of it.

23                  As we were going through this  
24 process, the house that we purchased really  
25 was not even up for sale.

1                   I had called them because they  
2                   were the association president at the time.

3                   He called me back and said, listen, you know,  
4                   we are going to sell the house, come and see  
5                   it.

6                   All that went fine.

7                   The main thing, I had worked  
8                   with them on every house we looked at, was  
9                   can we have a fence.

10                  So when we addressed that, he  
11                  said, you know, I believe you can, this was  
12                  the owner of the house at the time, let me  
13                  address it with the association.

14                  We went through and got the  
15                  signatures we needed, also called the city  
16                  and I believe it was Maureen, she had said,  
17                  once we have the approval of the association,  
18                  then it should be fine.

19                  Now, as you will hear later,  
20                  what their other presentation are, although  
21                  there is only the one entrance into the  
22                  subdivision, it's actually two subs. Unless  
23                  you live there, you wouldn't know that. So  
24                  one of the houses that we're referring to  
25                  that is fenced in, yes, it's in the same sub,

1           but it has a different name, has a different  
2           association. No one would know that.

3                         But this young couple that  
4           came through, bought their first home, they  
5           were very excited, and went through all the  
6           bells and whistles we felt appropriate to go  
7           through, and a day after they moved in, was  
8           impacted by one of the neighbors telling  
9           them, I hope you didn't order your fence yet  
10          because we are getting a petition against  
11          you.

12                       They had already signed --  
13          they had just moved in that day, so I  
14          realized I'm bringing an emotional part into  
15          this, but we had felt that we jumped through  
16          all the hoops we needed to jump through and  
17          that we were good to go when we sat at that  
18          closing table.

19                       Now, this young couple is very  
20          strong on what they want on their house.  
21          Besides the fact that Ryan, being a trained  
22          landscaper, this is not going to look  
23          horrible. It will have beautiful  
24          landscaping, as it does now, the fence around  
25          there.

1                   But I feel that we felt we did  
2                   the right thing, and I think that not  
3                   approving this will put a for sale sign up in  
4                   those young kids home, and that -- it might  
5                   not affect anyone else, but I think it should  
6                   be felt about.

7                   And that's all I have to say.

8                   CHAIRPERSON GRONACHAN: Is there  
9                   anyone else in the audience that wishes to  
10                  make comment on this case. Come on down,  
11                  please.

12                  MR. TURNER: Good evening. My  
13                  name is Bob Turner. I have been a resident  
14                  in Novi since 1990.

15                  Most of the subdivisions that  
16                  I have lived in, don't have fences. They're  
17                  open, they're attractive subdivisions.

18                  Across the street from me is  
19                  the house in question. They're talking about  
20                  putting a fence in. The rules are such that  
21                  the fence can be there, they can expand where  
22                  they're at, but there is a certain setback  
23                  required. Most of us don't have an objection  
24                  to that. We do have an objection to the  
25                  fence encompassing the whole property. There

1           is a lot of people in the subdivision  
2           including myself, we have pets. We have  
3           dogs. We don't have fences. They weren't  
4           approved by the board, homeowners  
5           association, you couldn't have a fence for  
6           dogs.

7                         Essentially that is what this  
8           is. It's a fence to house dogs. And we  
9           don't think that's correct to have that in  
10           our subdivision. We like the open feel.  
11           That's it.

12                      CHAIRPERSON GRONACHAN: Thank  
13           you. Is there anyone else?

14                      MR. GIAMPA: Good evening. My  
15           name is John Giampa. I live at 25647 Laramie  
16           in Novi.

17                      CHAIRPERSON GRONACHAN: Please  
18           spell your last name.

19                      MR. GIAMPA: G-i-a-m-p-a.

20                      I am here to ask that the  
21           board deny the variance request for this  
22           fence.

23                      I live across Laramie Drive  
24           from the property we are talking about. I  
25           have lived there for 20 years.

1                   When we were shopping for our  
2                   house back in 1995, an important criteria was  
3                   a neighborhood that had rules that protected  
4                   its natural beauty.

5                   We understand that in order to  
6                   maintain that open look that there would be  
7                   rules and restrictions that all neighbors  
8                   would have to live by.

9                   Over the past 20 years, we  
10                  have been very happy with the fact that the  
11                  city ordinances and bylaws have been  
12                  enforced, which is why we think we have a  
13                  beautiful neighborhood today.

14                  It's very important to me that  
15                  we preserve these restrictions because they  
16                  protect the beauty, safety and value of the  
17                  homes in our neighborhood.

18                  So I'm asking that the board  
19                  deny the variance request and here are my  
20                  reasons.

21                  First of all, rationale. The  
22                  fence variance is being justified because the  
23                  property owners have dogs. I would estimate  
24                  that 40 percent of the houses in the  
25                  neighborhood have dogs, all of them live

1                   within the same rules.

2                   Having a dog in our  
3                   neighborhood is not a unique situation. I do  
4                   not see why it would warrant abandoning our  
5                   fence restrictions.

6                   Second one, slippery slope.

7                   It's been my experience that as soon as you  
8                   waive the rule for one person, you will be  
9                   expected to waive that rule for everybody  
10                  else. That it will no longer be consistently  
11                  enforced.

12                  I think that waiving this  
13                  fence restriction just because someone has a  
14                  dog, will open the door to the next five  
15                  people with pets asking for the same  
16                  exception. Even if the proposed fence is a  
17                  nice fence with beautiful landscaping, who  
18                  knows what the next five people are going to  
19                  want.

20                  Then if you think that the  
21                  concerns of a slippery slope are unlikely and  
22                  pessimistic, know that just it's already  
23                  happened in this meeting, just two minutes  
24                  ago, the homeowner pointed to exceptions that  
25                  the city made for other fences, saying that

1                   the city must now make the same exceptions  
2                   for them. So we have already seen it happen.

3                   I guess finally, the approval  
4                   process. On requesting the variance, it was  
5                   stated that homeowners association has  
6                   already provided a signed approval. I want  
7                   to make it very clear that the residents who  
8                   make up the homeowners association have never  
9                   discussed this fence variation, were never  
10                  presented with an opportunity to vote on it.

11                  I'm not sure what the back  
12                  story is that resulted in an assigned  
13                  approval form, but it did not have the input  
14                  of the residents.

15                  So, for you, if you make the  
16                  decision to approve this variance, you will  
17                  be doing so without the approval of the  
18                  people who make up the homeowners  
19                  association. And you are now being made  
20                  aware of that.

21                  So thank you very much.

22                  CHAIRPERSON GRONACHAN: Is there  
23                  anyone else?

24                  MR. GROVE: My name is Gary  
25                  Grove, G-r-o-v-e. I live at 25679 Laramie,

1 right across the street from the proposed  
2 fence.

3 Little bit of background,  
4 there is 64 homes in the sub. There is only  
5 six pools, that's the only fences in the sub  
6 right now are around pools. All of them are  
7 totally in the backyard except for the fence  
8 in question, is on a corner lot. It  
9 presently sits back about 70 or 80 feet from  
10 the lot line, so a couple of things.

11 One is this was on a City of  
12 Novi website, titled residential fence  
13 requirements. You can see it says right  
14 there, fences must be approved by the  
15 subdivision homeowners association if  
16 applicable.

17 As to the approval that they  
18 submitted, the most of important thing on  
19 there is the first line, it says, "in  
20 compliance the bylaws of Article 6, Section  
21 11 and 14", here is Article 6, Section 11 and  
22 14 out of our bylaws, specific for walls and  
23 fences. "Wrought iron fencing may be used on  
24 permitted -- or on any unit and locations  
25 approved by developers for the purpose of

1 enclosing a permitted swimming pool. The  
2 side yards and rear yard, but not the front  
3 yard of any unit may be enclosed. Provided  
4 that the street side of the corner unit shall  
5 be considered second front yard for the  
6 purposes of foregoing limitations".

7 So it specifically says in our  
8 bylaws, at Section 14 it would not allow  
9 this. But this thing that was typed by the  
10 previous homeowner, I believe, who used to be  
11 the president, who is no longer in our  
12 subdivision, says, in compliance with the  
13 bylaws of Article 6, Section 11 and 14.

14 So, you know, we are at a  
15 little disadvantage because this just all  
16 came up. This just showed up recently. We  
17 looked on the website, and we are scrambling,  
18 but we haven't been able to have a meeting,  
19 but I can guarantee you that there is no way  
20 that of the 64 homeowners, 32 would approve  
21 this waiver, and it's up to the board to  
22 withhold -- to uphold the laws, not to just  
23 decide when they want to waive them.

24 I mean, this is a law. This  
25 is a law. He's asking you to waive it.

1                   The board should have felt  
2                   that it shouldn't have come to this. We  
3                   shouldn't have been wasting our time. We  
4                   shouldn't be making enemies out of our brand  
5                   new neighbor, the board should uphold it,  
6                   instead they sign something that isn't legit  
7                   and now they're trying to get you to think  
8                   that our subdivision agrees with it. Thank  
9                   you.

10                  CHAIRPERSON GRONACHAN: Just one  
11                  moment. Is it Mr. Hope?

12                  MR. GROVE: Grove.

13                  CHAIRPERSON GRONACHAN: I'm  
14                  sorry. Would you put that letter back up on  
15                  the thing, please.

16                  MR. GROVE: Which one?

17                  CHAIRPERSON GRONACHAN: From the  
18                  homeowners association.

19                  Would you mind reading to  
20                  everyone what that letter says, please.

21                  MR. GROVE: "In compliance with  
22                  the bylaws of our Article 6, Sections 11 and  
23                  14, I hereby approve the modification of the  
24                  existing wrought iron fence, which currently  
25                  encompasses the existing pool and pool area

Page 52

1           to be expanded to encompass the entire rear  
2           yard of the home, not to exceed said property  
3           line. The newly added fence must be the same  
4           material and color as the existing wrought  
5           iron fence."

6                             CHAIRPERSON GRONACHAN: I think  
7                             it's important to point out that the only  
8                             thing that this letter approves is the rear  
9                             yard.

10                  It does not say that this  
11                   petitioner, that they approved the side yard  
12                   request that this petitioner is requesting.  
13                   Nobody is approving the entire rear yard.

14                  MR. FERRELL: It's a corner lot.

15                  CHAIRPERSON GRONACHAN: I just  
16                   wanted to point that out. Thank you for  
17                   reading that. I appreciate that.

18                  Anyone else?

19                  (No audible responses.)

20                  CHAIRPERSON GRONACHAN:

21                  Correspondence?

22                  MR. FERRELL: Yes, Madam Chair,  
23                   there were 19 letters mailed, one letter  
24                   return, two approval letters received, 12  
25                   objection letters received and a homeowner

1 approval was also attached.

2 CHAIRPERSON GRONACHAN: How many  
3 objections again?

4 MR. FERRELL: Twelve.

5 CHAIRPERSON GRONACHAN: Thank  
6 you. Building department?

7 MR. BOULARD: Thank you. If I  
8 could take the opportunity, I just want to  
9 try to describe the -- provide a little bit  
10 of clarity here.

11 The City of Novi does not and  
12 cannot enforce the neighborhood restrictions,  
13 your bylaws and so on. The reason that that  
14 document that the gentleman showed us on our  
15 website, that we do our absolute best to make  
16 sure that we don't issue a permit for  
17 something that the neighbors or one neighbor  
18 is going to find an issue.

19 So we try to beg, we try to  
20 stomp our feet, we try to do everything we  
21 can to get folks, whatever the alteration is,  
22 to go and talk to their homeowner  
23 association.

24 Because if you start a garage  
25 then -- if you start a garage that's allowed

1 by the city, but not allowed in your HOA  
2 rules, then the homeowners association uses  
3 their (inaudible) to gather knowledge to sue  
4 you, then stop it because none of us --  
5 that's money that could have better be spent  
6 by everyone else.

7 So that said, if there are  
8 issues -- my suggestion would be if there are  
9 issues with the HOA and the approval that was  
10 granted, I'm not sure what the mechanism for  
11 granting approvals is in your bylaws, but I  
12 would suggest that you address that in  
13 whatever fashion is appropriate in the  
14 matter.

15 In terms of the City of Novi  
16 zoning ordinance, our zoning ordinance  
17 clearly states that the house on a corner  
18 that you have an exterior side yard and the  
19 fence is not allowed, and that there is an  
20 exception for pools, that's why you're here.

21 And based on the features of  
22 the lot, and the particular situation, but  
23 particularly the lot and the physical  
24 features and shape of it and so on, are going  
25 to be the basis for this decision whether its

1 appropriate to have that there.

2                   The other question that I was  
3 not able to tell, didn't appear that it was a  
4 large issue, was would there be an issue with  
5 visibility around that curve?

6                   MR. VOJTKOFSKY: No, sir, there  
7 should not be. From the corner here --  
8 sorry. Let me pull it up.

9                   From the corner of Cody and  
10 Laramie, the front of our house, there is  
11 81 feet I believe to where our garage ends.

12                  So making a left turn from  
13 Cody onto Laramie would not -- coming the  
14 opposite way on the corner. There is  
15 currently pine trees in the way, or in the  
16 area.

17                  So this is looking from our  
18 garage, going towards the back of the lot.  
19 And we would -- effectively the vision is  
20 obstructed by those trees.

21                  MR. BOULARD: So the fence would  
22 be outside the trees?

23                  MR. VOJTKOFSKY: On the far back  
24 trees, it would be on the inside of our  
25 property and on the sidewalks, I guess we

1                   would go on the outside of the trees.

2                   MR. BOULARD: So it would be  
3                   outside of the trees?

4                   MR. VOJTKOFSKY: Yes.

5                   MR. BOULARD: Thank you.

6                   CHAIRPERSON GRONACHAN: Thank  
7                   you. Board members? Member Sanghvi?

8                   MR. SANGHVI: Thank you. Before  
9                   I comment on this particular case, I think we  
10                  need to some kind of clarification by the  
11                  city attorney.

12                  We have had this situation  
13                  before. And in previous instance, the  
14                  homeowners association had not approved the  
15                  variance request.

16                  In this particular instance, I  
17                  believe it was approved, even though some of  
18                  the residents have an objection to it.

19                  I think the clarification I am  
20                  looking for, and everybody else here, from  
21                  the city attorney, if the city ordinances are  
22                  not bound to abide by the bylaws of the  
23                  subdivision homeowners associations?

24                  MS. SAARELA: No. Your decision  
25                  would not be wholly based on whether or not

1                   it's approved by the homeowners association.

2                   All you're taking into  
3                   consideration is whether that is an impact on  
4                   how it affects the surrounding property  
5                   owners.

6                   So, whether or not it's  
7                   approved is not -- should not be a deciding  
8                   factor. The bylaws of the homeowners  
9                   association would be something that would  
10                  provide a separate means of enforcement for  
11                  the association to, I guess, stop -- stop  
12                  something going in, by filing a lawsuit.

13                  But that -- you know, the  
14                  impact of those bylaws or the legal effect of  
15                  the bylaws is not really the concern of the  
16                  ZBA.

17                  So whether neighbors object  
18                  and whether it impacts the neighbor's  
19                  property negatively, is that a concern of the  
20                  ZBA, yes, but just simply because the bylaws  
21                  are not being followed one way or the other  
22                  should that be a determining factor for your  
23                  decision, no.

24                  MR. SANGHVI: Thank you. Coming  
25                  to you. I did come and visit your place.

1 You have a beautiful home.

2 MR. VOJKOFSKY: Thank you very  
3 much.

4 MR. SANGHVI: But I agree, you  
5 have -- around the back, Laramie goes back, I  
6 drove around three times to find out what was  
7 the potential of the problem. I empathize  
8 with you. I also have a small dog, and we  
9 also have a problem, and I also recognize  
10 people don't realize that there are wildlife  
11 roaming around, in spite of all the residents  
12 around here, in some of the subdivisions in  
13 the City of Novi.

14 And I also want to commend you  
15 for your presentation. I think you did a  
16 remarkably good job presenting your case.  
17 And I recognize your hardship.

18 And in spite of the objection  
19 of some of your neighbors, I feel that I will  
20 support your application. Thank you.

21 CHAIRPERSON GRONACHAN: Thank  
22 you, sir. Anyone else? Member Krieger?

23 MS. KRIEGER: I have a question  
24 about like where the trees are on that site,  
25 and the sidewalk, there is a city easement.

1           Is there any of that belonging to the city  
2           where they are proposing?

3                   MR. BOULARD: The fence would  
4           not -- under no circumstances would the fence  
5           be allowed in the public right-of-way.

6                   So I believe the -- in the  
7           presentation, the gentleman indicated the  
8           desire was to place the fence one foot back  
9           of the property line, that would be out of  
10           the right-of-way. If everything else falls  
11           into place.

12                  MS. KRIEGER: That's a lot of  
13           weed whacking to do in the summer.

14                   Because like they were  
15           speaking before about the right-of-way,  
16           driving around, it would be a lot of easier  
17           to see a wrought iron fence than if you  
18           planted a whole bunch of tuja (ph) plants.

19                   I understand the predicament  
20           of having pets and children and the wild  
21           animals that roam in Novi, like coyotes,  
22           foxes. Because there a pool and the nature  
23           of the request, I can support this.

24                  CHAIRPERSON GRONACHAN: Anyone  
25           else? Member Montville.

1                           MR. MONTVILLE: Just to clarify  
2                           with the building department, so this isn't a  
3                           size of the fence request, this is just a  
4                           fence request, is that correct?

5                           MR. BOULARD: The request is for  
6                           the location of the fence, dimensions from  
7                           the property line.

8                           MR. MONTVILLE: So if they were  
9                           to expand their fence currently, in any way  
10                          that would require a variance?

11                          MR. BOULARD: I'm not sure. I  
12                          don't believe the fence now is all the way to  
13                          the exterior side. I believe they could -- I  
14                          believe they could expand the fence in  
15                          accordance with the city ordinances to be  
16                          somewhat larger without the full request.

17                          MR. MONTVILLE: So ask the  
18                          petitioner, given that you have a preexisting  
19                          fence with a pool, which is necessary, would  
20                          it be an option to, as opposed to extending  
21                          it throughout your entire lot, extending  
22                          maybe so it was flush with the house, or a  
23                          smaller expansion, without going all the way  
24                          to the end of your lot, closer to the  
25                          sidewalk?

1                   MS. KAUR: That's what the city  
2 ordinance allows.

3                   MR. VOJTKOFSKY: To go to the  
4 side of the house. This drawing here, the  
5 ordinance allows us to, so our fence is right  
6 here and the ordinance allows us up to here  
7 and back along the yard, or through the  
8 middle of the yard.

9                   MR. MONTVILLE: So would it be  
10 accurate to say that it could extend your  
11 fence without requesting a variance? The  
12 variance is because of additional space per  
13 your --

14                  MR. VOJTKOFSKY: The one caveat  
15 to that is that -- I'm so sorry.

16                  You can't see these very well.  
17 So this is kind of from the back corner lot.  
18 From the edge of the house going back where  
19 we would be able to place it, there is  
20 existing -- there is existing bushes, patio  
21 and a stone fireplace.

22                  We would have to do some, you  
23 know, removal of bushes to allow access to  
24 the yard from the back -- or put an  
25 additional gate outside just to the patio

1 entrance.

2 MR. MONTVILLE: So it would be  
3 useful to put a gate there and then even to  
4 your point about having room for your pets  
5 similar to your other neighbors using  
6 potentially an invisible fence for the area  
7 you have shaded off.

8 MR. VOJTKOFSKY: Yes.

9 MR. MONTVILLE: Then you not  
10 would have to request a variance in that  
11 instance?

12 MR. VOJTKOFSKY: Correct.

13 MR. MONTVILLE: Open it back to  
14 my board members. I have some hesitations  
15 with the variance as it has been requested.  
16 I would not be able to support it as written.

17 CHAIRPERSON GRONACHAN: Thank  
18 you. Anyone else? I guess it's my turn.

19 So I've got to get my head  
20 wrapped around this because when I first came  
21 in here this evening, I looked at this case,  
22 I didn't understand the request for the  
23 variance, quite honestly.

24 I'm sliding towards the side  
25 of Member Montville, about the invisible

1                   fence for the dogs. If this is truly for the  
2                   animals, okay.

3                   And I understand that there is  
4                   a coyote out on the east side of the city,  
5                   but you're in a new neighborhood, and it's  
6                   unfortunate that based on this -- the  
7                   testimony that was given, it almost sounds to  
8                   me like there was some confusion as to what  
9                   could be done.

10                  So if you reel it all back to  
11                  the beginning, it's the homeowners due  
12                  process, if you will, to do their homework,  
13                  to do their due diligence.

14                  And it is unfortunate that you  
15                  were -- if I'm wrong about this, that you  
16                  were misguided, from based on the testimony  
17                  that I heard.

18                  I have a problem with bringing  
19                  that fence all the way up to the sidewalk. I  
20                  think that you can solve this problem, if it  
21                  is about the dogs, without a variance, you  
22                  don't even need a variance, to bring the  
23                  fence up to alongside of the house, the pool  
24                  is covered, the dogs have more room and then  
25                  you don't need the variance.

1                   I guess what I'm not clear  
2                   about is why all the way to the front of the  
3                   yard. I know that you made some references  
4                   to it.

5                   That there was some lost  
6                   space, but have you given that serious  
7                   thought and consideration without coming for  
8                   the variance?

9                   MR. VOJTKOFSKY: Yes, ma'am, we  
10                  have. You know, we talked a lot about the  
11                  dogs, that's our immediate, is the dogs, but  
12                  we also would like to have the entire area  
13                  for children when, we have children, without  
14                  having to worry about road traffic.

15                  I also have a very, very  
16                  emotional issue with allowing wild animals  
17                  onto our property. My six year-old doing has  
18                  battled, or survived leptospirosis, which is  
19                  transferred through wild animal feces. And  
20                  because of that, I really want to keep my  
21                  entire yard as secluded as possible from the  
22                  wild life and the nearby wetlands.

23                  CHAIRPERSON GRONACHAN: Okay.  
24                  Thank you. Member Ferrell?  
25                  MR. FERRELL: I kind of disagree.

1 I don't think we should be telling the  
2 homeowners they should get an electric fence.  
3 If they want a fence for their dog, they  
4 should be allowed to get the kind of fencing  
5 they want. You know, I understand the issue  
6 with the residents, however, I don't believe  
7 they were misguided, as you will state it. I  
8 believe there were informed by the homeowner,  
9 who was actually the president of the  
10 association, which he did indeed at the time,  
11 I believe, correct me if I'm wrong, he was  
12 the acting president when he signed the  
13 document.

14 MR. VOJTKOFSKY: He did not sign  
15 the document.

16 MR. FERRELL: One guy said he  
17 did.

18 MR. VOJTKOFSKY: He presented it  
19 to the board, and to the new president,  
20 Laurie, who is actually here, so she can help  
21 provide some data on this.

22 It was Laurie and two other  
23 board members, Gloria and Cynthia.

24 MR. FERRELL: Who was the acting  
25 president that is no longer the president?

1                           MR. VOJTKOFSKY: The homeowner,  
2                           the gentleman, Rodney, who -- his wife, I'm  
3                           sorry, his wife, Sally Fasetti, was the  
4                           acting president at the time and she did not  
5                           sign that because they were selling the house  
6                           and transferring presidency over to Laurie.

7                           CHAIRPERSON GRONACHAN: So the  
8                           current president is the one that signed it?

9                           MR. VOJTKOFSKY: Correct.

10                          MR. FERRELL: It has been  
11                          approved by the association, for sure, there  
12                          is no issue with that?

13                          MR. VOJTKOFSKY: Correct.

14                          MR. FERRELL: Okay. So I don't  
15                          think you were misguided in your information  
16                          you got from your realtor, from the  
17                          homeowners, or from the association.

18                          You kind of went through the  
19                          process there you were supposed to. Granted  
20                          this is going to upset some people. It's  
21                          unfortunate that it has to happen that way.

22                          I am definitely in support of  
23                          supporting the fence. I don't feel that  
24                          there is much difference, if you were to cut  
25                          the fence down by your side of your house or

1 if you were to extend it to the sidewalk.

2 I don't see -- you're still  
3 going to see the fence, it's still going to  
4 be there. You benefit from that, and you'll  
5 have more room in your yard. It might make  
6 somebody happy if it's pushed back. I don't  
7 really buy that personally, so I am  
8 definitely in support of your request.

9 MS. KAUR: Thank you.

10 CHAIRPERSON GRONACHAN: Is there  
11 a motion? Member Byrwa, go ahead.

12 MR. BYRWA: Looking at that, you  
13 know, I have lived in Novi for about 22 years  
14 in a fence-less subdivision, and you know,  
15 it's pretty much almost customary to the  
16 neighborhood that people don't have fences.

17 And when I see out, kind of  
18 right at the sidewalk, it's kind of like in  
19 your face and it's a little more than I'm  
20 comfortable with. You have the right to  
21 modify your appeal any time prior to us  
22 voting and stuff, but I would be voting  
23 against it, you know, just for the sake of,  
24 you know, fence-less subdivision, to throw it  
25 out right up against the sidewalk like that,

1                   you know, it's just a blatant, you know, kind  
2                   of violation of what everybody else in the  
3                   subdivision is living by.

4                   So to maintain the integrity,  
5                   kind of like, or the standard established  
6                   harmony of the subdivision, I would be voting  
7                   against it in its present location.

8                   MS. KAUR: There are --

9                   CHAIRPERSON GRONACHAN: You have  
10                  to hold on.

11                  MR. FERRELL: Madam Chair --

12                  CHAIRPERSON GRONACHAN: I'm going  
13                  to put some comments on the board -- if you  
14                  don't mind -- on the record.

15                  So first of all, when I  
16                  said -- I didn't tell them that they should  
17                  get an electric fence. I suggested that they  
18                  could.

19                  Our job as board members is to  
20                  see if there is an opportunity to do less of  
21                  a variance. That's what I was stating  
22                  earlier. That's why I was asking those  
23                  questions. I was not very clearly telling  
24                  you what you should or shouldn't do. I was  
25                  trying to gather facts so I can make my

1 decision, number one.

2 Number two, I'm still not  
3 clear about all of this, what happened. I  
4 feel bad for you guys, okay. And I am not  
5 happy with this either. I have bought a  
6 house, but that's on a personal note, okay.  
7 So that's why I'm struggling with this.

8 I concur with Member Byrwa.  
9 And I am going to suggest that you postpone  
10 this. That you go back to the homeowners  
11 association, that you sit down, have coffee,  
12 talk it over, and find out if there is not  
13 another solution.

14 And the reason why I'm  
15 suggesting that is because this is your  
16 palace that you bought. And I don't agree  
17 that people should be at odds in your brand  
18 new home.

19 I have been here for 30 years.  
20 And the people that I live on -- in my  
21 neighborhood, this may be irrelevant to some  
22 people at this table -- but that is the pride  
23 of Novi. I can go back to my old  
24 neighborhood and I still have friends after  
25 all these years. That's what I want for you,

1           too. If you are going to have kids, you are  
2           going to have people playing in your  
3           neighborhood with your kids, I think that  
4           there is another solution. I think that  
5           before we cause a riff, regardless of if this  
6           is the jurisdiction of the ZBA or not, my  
7           suggestion, as a long time resident, is to go  
8           back, postpone this case, and go back, sit  
9           down with the association and get it clear,  
10          and have peace in your neighborhood. And  
11          then come back and have a talk with us and  
12          see if we can't help you, if we need to. I  
13          don't see a need for a variance, that's why  
14          I'm going to side with Member Byrwa and  
15          Member Montville, which means that even if we  
16          do let this go tonight, it's going to be a  
17          three-three split. You're going to lose.  
18          Because there is not going to be -- we don't  
19          have a full board tonight. So that's going  
20          to be my recommendation.

21           I don't know if anybody -- if  
22          the city attorney has anything else to offer,  
23          to keep me out of trouble.

24           MS. SAARELA: You're free to make  
25          the suggestion. They can still have a vote,

1 if they would like it.

2 CHAIRPERSON GRONACHAN: That  
3 would be my suggestion.

4 MS. KRIEGER: I have a question.  
5 The homeowners association did an approval,  
6 there was a comment that there is two  
7 associations, so I don't understand how this  
8 is all going to come about by sending them  
9 back out.

10 CHAIRPERSON GRONACHAN: To their  
11 association.

12 MS. KRIEGER: Their association  
13 already approved it.

14 CHAIRPERSON GRONACHAN: Well,  
15 there seemed to be a question, given the  
16 dissention and the number of rejection  
17 letters that we got from the members.

18 I know that we are not  
19 supposed to use that as our only criteria,  
20 but given the fact that the petitioner can  
21 actually go do this without a variance is the  
22 other thing that I'm -- it's not just the  
23 homeowners association. We do know that they  
24 can put up a fence and extend their yard  
25 without a variance.

1 Member Sanghvi?

2 MR. SANGHVI: Just a point of  
3 clarification. When you are deliberating any  
4 issue in ZBA, just like this, how obligated  
5 it is to consider the approval or disapproval  
6 by the homeowners association. That is the  
7 question.

8 CHAIRPERSON GRONACHAN: Only as  
9 it pertains to whether it impacts the  
10 surrounding neighborhood. So you're looking  
11 at how does it impact the neighbors. So that  
12 testimony is relevant to the -- to the point  
13 that the variance request, your criteria as  
14 to how it impacts the surrounding  
15 neighborhood. It is the determining factor  
16 simply because the association may approve it  
17 or may not approve it, no, but you have a  
18 standard to look at, adverse impact on the  
19 surrounding area. Does it go towards proving  
20 that factor or not, yes. Yes, it does. But  
21 is it determining, simply because a board  
22 approves or does not approve, no.

23 MS. KRIEGER: What happened to  
24 the fence on Eleven Mile next to the  
25 Crawfords on Eleven Mile? I go up and down

1           all the time, there is a huge old tree and  
2           there is a fence that's right on Eleven Mile,  
3           and the first house in the subdivision, that  
4           would be a side yard, front yard -- I don't  
5           understand that fence.

6                         Did we have to approve that  
7                         one?

8                         MR. BOULARD: I'm not sure -- I  
9                         can't picture the fence you're speaking of.  
10                  If it's the right at the entrance, it might  
11                  have been part of the subdivision  
12                  entranceway.

13                  There also are some exceptions  
14                  for limited fences in -- in a decorative area  
15                  or on the front, I can't -- without looking  
16                  into it, I can't answer that question. But  
17                  it's right at the entrance to the  
18                  subdivision?

19                  MS. KRIEGER: Yes.

20                  MR. BOULARD: It's entirely  
21                  possible it's part of the original site plan  
22                  as the entryway as opposed to a fence for the  
23                  particular home, per se. I can't provide  
24                  that answer at this point, I'm sorry.

25                  MR. SANGHVI: I think under the

1           circumstances, I suggest that we accept your  
2           recommendation and table this case for a  
3           future date, see if they can come up with an  
4           amicable solution by themselves. Otherwise,  
5           we definitely will make the decision if they  
6           can't.

7                            MR. BYRWA: I believe that  
8                            decision would be the petitioner's decision,  
9                            ask for a postponement --

10                  CHAIRPERSON GRONACHAN: I'm just  
11                       about to get to that.

12                  MS. KRIEGER: If it's three,  
13                       three then it automatically fails, correct?

14                  MS. SAARELA: Correct.

15                  CHAIRPERSON GRONACHAN: Okay.  
16                       Based on my recommendation, do you understand  
17                       what my suggestion was about the  
18                       postponement?

19                  MR. VOJTKOFSKY: Yes, ma'am.

20                  CHAIRPERSON GRONACHAN: How do  
21                       you feel about that suggestion?

22                  MR. VOJTKOFSKY: So from some of  
23                       the conversations I've had, I feel we are  
24                       going to be opposed on any fence we choose to  
25                       do. Most people have said they don't want to

1 see a fence. It is a fence-less subdivision.

2 As Mr. Grove pointed out, there are six  
3 houses in the subdivision with pools and  
4 fences, I can see at least three of those  
5 that have their entire rear yard fenced in.

6 You can see it from the road in between the  
7 houses. So it is not an entirely fence-less  
8 subdivision.

9 Also, as I pointed out --

10 CHAIRPERSON GRONACHAN: My  
11 question to you is, what do you think about  
12 my suggestion?

13 MR. VOJTKOFSKY: I do not think  
14 postponing would benefit in any way.

15 CHAIRPERSON GRONACHAN: Okay,  
16 thank you.

17 MS. RAMSAY: Go ahead and finish  
18 your comment that you were stating.

19 MR. VOJTKOFSKY: The six houses  
20 in the sub, one of the houses here is Arcadia  
21 and Eleven Mile, I believe the one that was  
22 brought up, which is one of the -- the  
23 entrance to Walden Woods phase one, which has  
24 their own homeowners association, but still  
25 carries the Walden Woods subdivision

1 entryway. So they have the same fence-in  
2 area we are proposing.

3 There are also a couple of  
4 other houses within the sub next to us,  
5 Lochaven that also have, you know, one in  
6 particular has the identical kind of setup we  
7 are looking to do.

8 MR. FERRELL: So six other  
9 residences that you know of that have fencing  
10 as well?

11 MR. VOJTKOFSKY: I believe it  
12 would be about eight total.

13 MR. FERRELL: I'm still in  
14 support of it. Unfortunately, it seems like  
15 it is going to be three, three, which isn't  
16 really a benefit to you.

17 In my opinion, I feel like  
18 that the other board members are probably  
19 looking more at the comments made from the  
20 neighbors and not wanting it. I disagree  
21 with them, thinking that way. Unfortunately,  
22 but it is kind of a rant.

23 But again, I am in support of  
24 it. I definitely would agree with you guys.

25 CHAIRPERSON GRONACHAN: Would you

1 like to make a motion?

2                   Would anyone like to make a  
3 motion?

4                   MS. SAARELA: I just wanted to  
5 point out that it sounds like the petitioner  
6 doesn't want to postpone it, but in the event  
7 he does postpone it, it is possible that  
8 there may be seven members or an uneven  
9 number of members at the next meeting that  
10 may impact the tie situation.

11                  There is no guarantee, but it  
12 may be possible there may be a different  
13 number of members.

14                  At this point, it sounds like  
15 any kind of vote is going to result in a  
16 failure of your proposal.

17                  MS. KAUR: Okay.

18                  CHAIRPERSON GRONACHAN: Member  
19 Krieger?

20                  MS. KRIEGER: I move to table  
21 Case No. PZ15-0045 to the February -- what  
22 date is that?

23                  MS. RAMSAY: The 9th.

24                  MS. KRIEGER: February 9, 2016  
25 ZBA meeting.

1 MR. FERRELL: Second.

2 CHAIRPERSON GRONACHAN: It's been  
3 moved and seconded. Is there any further  
4 discussion?

5 MR. BYRWA: How does that work  
6 when the petitioner requested a decision?  
7 Does the board have the right to table it?

8 MS. SAARELA: If the petitioner  
9 wants to call for a vote today, you have to  
10 do a vote today.

11 MR. BYRWA: It's pointless to  
12 make a motion --

13 MS. SAARELA: I was just  
14 suggesting that it's possible if they wanted  
15 to reconsider their position, there may be an  
16 uneven number of members at the next meeting,  
17 it may impact the tie situation.

20 MR. BYRWA: This is not the  
21 board's decision, it's the petitioner's  
22 decision.

23 MS. SAARELA: If they want to  
24 vote on it today, knowing full well what may  
25 happen, that's up to them.

1                   MR. FERRELL: Given the new  
2 information, it's your choice to decide.

3                   MS. KAUR: If we ask for a vote  
4 today, and it fails, then we can't come back?

5                   MS. SAARELA: Not unless you have  
6 some kind of change, circumstances or new  
7 information that wasn't provided today, no,  
8 you couldn't come back with the exact same  
9 request.

10                  MR. BYRWA: They would be able to  
11 come with a revised plan?

12                  MS. SAARELA: A revised plan,  
13 correct.

14                  MR. BYRWA: A significant change,  
15 a departure from the existing plan.

16                  MS. KAUR: Can you explain like  
17 what tabling it, like what we need to bring  
18 back in the next meeting? Is it just for a  
19 new voting or do we need to bring more  
20 information?

21                  CHAIRPERSON GRONACHAN: If we  
22 table it for tonight, you would be coming --  
23 returning to the board next month, and  
24 hopefully, I mean, there is no guarantee what  
25 the vote could be, but we would have seven

1 members instead of six. And that would mean  
2 there would be an odd number of votes, which  
3 would change your chances of having it pass.  
4 So right now, it's three, three, we know,  
5 which means you would lose tonight. So we  
6 are giving you the opportunity to table it,  
7 in the meantime, my suggestion earlier was to  
8 go back and talk to the homeowners  
9 association. I understand that there is some  
10 challenges.

11 But, you know, based on  
12 everything that's gone on here tonight,  
13 that's certainly your option. You can go  
14 back and talk to them if you want to. If you  
15 don't, you would just wait until next month,  
16 and then we would have a different number of  
17 board members here, and they will call the --

18 MS. SAARELA: You may not.

19 CHAIRPERSON GRONACHAN: As long  
20 as nobody calls in sick.

21 MR. FERRELL: Madam Chair?

22 CHAIRPERSON GRONACHAN: Yes.

23 MR. FERRELL: Like she said,  
24 there might be, there might not be. It all  
25 depends. Can we give them a few minutes? I

1           don't know if we are allowed to give them a  
2           few minutes to talk.

3                         MS. SAARELA: If you want to take  
4                         a break for five minutes, that's fine.

5                         MR. FERRELL: You guys want a few  
6                         minutes to think about it? It's hard to talk  
7                         here on the spot, so maybe you could talk in  
8                         private for a few minutes.

9                         MS. KAUR: Yes, please. Thank  
10                         you.

11                         CHAIRPERSON GRONACHAN: At this  
12                         point we are going to take a five minute  
13                         break. All those in favor?

14                         THE BOARD: Aye.

15                         CHAIRPERSON GRONACHAN: We will  
16                         be back at 8:28.

17                         (Short recess taken.)

18                         CHAIRPERSON GRONACHAN: Calling  
19                         the meeting back to order.

20                         What did you lovely folks  
21                         decide to do?

22                         MS. KAUR: Just make a comment  
23                         first. You asked us to go back to the  
24                         association to talk it out. And do you want  
25                         to point out that the HOA, the board members

1                   themselves do support this already. And  
2                   everyone who is here objecting is not on the  
3                   board.

4                   So we will go back to the  
5                   board again, and they will support it  
6                   hopefully again.

7                   So we would like to table it  
8                   for the next meeting.

9                   CHAIRPERSON GRONACHAN: We will  
10                  go ahead and table it.

11                  Just want, for clarification  
12                  purposes, we are not asking for another  
13                  letter from the homeowners association, okay.  
14                  That's not what I was asking you. I don't  
15                  want to give you the impression. The letter  
16                  is the letter, okay.

17                  But that's fine. We will go  
18                  ahead and table it. We have already -- we  
19                  started the vote, we had it second, all those  
20                  in favor of tabling the meeting for February,  
21                  say aye.

22                  THE BOARD: Aye.

23                  CHAIRPERSON GRONACHAN: We will  
24                  see you next month. Good luck. Thank you.

25                  MR. BOULARD: Excuse me. If you

1 could, if you have any additional  
2 information, if you could get it to us prior  
3 to the first of February, so we can make sure  
4 that's included to the packets to all the  
5 members.

6 MR. VOJKOFSKY: Okay.

7 CHAIRPERSON GRONACHAN: Case No.  
8 PZ15-0046, New Generation signs for Airtime  
9 at 44255 Twelve Mile Road, Unit, a west of  
10 Donaldson Drive. The applicant is requesting  
11 variances from the City of Novi to allow  
12 installation of three additional wall signs.

13 Good evening. You are the  
14 petitioner. If both of you are going to give  
15 testimony, if you would state your names for  
16 our recording secretary and spell them and be  
17 sworn in by our secretary.

18 MR. NAFSO: Sure. My name is  
19 James Nafso, N, as in Nancy, a, as in apple,  
20 f, as in Frank, s, as in Sam, o, as in  
21 ostrich.

22 I am the owner of the  
23 building, I am also the owner and the tenant.

24 MR. RAYES: Steve Rayes,  
25 R-a-y-e-s, New General Signs, 11177 East

1                   Eight Mile Road in Warren.

2                   MR. FERRELL: Do you both swear  
3                   to tell the truth in the testimony you are  
4                   about to give in this case?

5                   MR. NAFSO: Yes.

6                   MR. RAYES: Yes.

7                   MR. FERRELL: Go ahead and  
8                   proceed.

9                   MR. RAYES: As we see here, we  
10                  have the petition of having extra signage to  
11                  put for that building, and we notice the  
12                  brand new, very big building sitting in the  
13                  back of that, you know, all whole parking  
14                  lot.

15                  And the only signs that he can  
16                  have, one of them is facing the -- like the  
17                  parking lot where the -- I think some houses  
18                  are there. And the other one it's going to  
19                  be like on the -- again, on the parking lot  
20                  where it's between the other businesses. So  
21                  just for the -- to have a bigger signage for  
22                  people so they can see that place.

23                  When I went there, I looked, I  
24                  was driving the parking lot, it's like for  
25                  me, it's like where is this, you know, I

1                   couldn't find where I have to go.

2                   So that's why we are asking  
3                   for the biggest sign, actually asking for the  
4                   sign.

5                   That's all we are asking for.

6                   CHAIRPERSON GRONACHAN: Thank  
7                   you. Do you have anything to add?

8                   MR. NAFSO: The building is  
9                   30,000 square feet. We are occupying the  
10                  whole building, and as a result of the  
11                  parking in Fountain Walk, some of the  
12                  challenges that occur, we are doing the  
13                  corner entrance of the building, so as a  
14                  result we want to put the signage on the  
15                  corner of the building, so that if someone is  
16                  coming -- you know, in through Fountain Walk,  
17                  we can see it, in the drive off Twelve Mile  
18                  coming down, into Fountain Walk past Dick's  
19                  and the putt-putt, so you can see it on that  
20                  side as well.

21                  CHAIRPERSON GRONACHAN: Do you  
22                  have some renderings of your signs that you  
23                  can put up on the --

24                  MR. NAFSO: We don't have  
25                  renderings. We have temporary signage. I'm

1 not sure if anybody had a chance to see it.

2 MR. RAYES: We didn't have  
3 renderings because the building was not  
4 built.

5 MR. NAFSO: I have it on my  
6 phone.

7 CHAIRPERSON GRONACHAN: We can't  
8 see that at all.

9 MR. RAYES: That picture shows  
10 when he went and installed the banner that is  
11 required by the city, so we can like imagine  
12 how that sign is going to sit.

13 MR. NAFSO: That's actually  
14 coming from Mlife.com, they did a story on  
15 us. That's their picture, pulled it up from  
16 the website.

17 CHAIRPERSON GRONACHAN: Thank  
18 you. Is there anyone in the audience that  
19 wishes to make comments on this case?

20 (No audible responses.)

21 CHAIRPERSON GRONACHAN: Seeing  
22 none, building department?

23 MR. BOULARD: Nothing to add. I  
24 will stand by for questions.

25 CHAIRPERSON GRONACHAN: Thank

1 you.

2 Mr. Secretary, is there any  
3 correspondence?

4 MR. FERRELL: Yes, Madam Chair.

5 There was 27 letters mailed, one letter  
6 returned, zero approval letter, zero  
7 objection letters received.

8 CHAIRPERSON GRONACHAN: Thank  
9 you. Board members. Member Byrwa?

10 MR. BYRWA: I got a question. Do  
11 you happen to know the setback from the  
12 building off to the road, how far the  
13 distance are we talking about?

14 MR. NAFSO: You talking about  
15 from Twelve Mile?

16 MR. BYRWA: Yes.

17 MR. NAFSO: Probably you got --  
18 we are behind Dick's. So you got Dick's, you  
19 got --

20 MR. BYRWA: What is the nearest  
21 major road, I guess?

22 MR. NAFSO: Twelve Mile.

23 MR. FERRELL: Cabaret.

24 MR. NAFSO: That's what it is.  
25 There is a side street, Cabaret. I mean,

1                   that's as far as I can tell you.

2                   MR. BYRWA: I'm trying to  
3                   understand like the site distance and why you  
4                   would need something so big, if the major  
5                   road is fairly close. This is pretty  
6                   excessive in my eyes. It's not, you know, a  
7                   few square feet, it's quite a bit over.

8                   MR. NAFSO: Basically, based on  
9                   the size of the facility, it's a 30,000  
10                  square feet building, so we don't have any  
11                  pylon signage as well. You're not going to  
12                  see it really from the road.

13                  We want it more that when  
14                  somebody is in Fountain Walk, they know where  
15                  we are. They have to find us.

16                  MR. BYRWA: But if they are  
17                  already in Fountain Walk, unless they are  
18                  blind as a bat, you know, they don't need  
19                  something that takes up the whole top half of  
20                  the building.

21                  MR. NAFSO: We are trying to  
22                  maximize as much as we can for how the  
23                  building looks.

24                  MR. BYRWA: I can see if you were  
25                  looking at -- you know, like say you were at

1           Dick's and you were on Twelve Mile, there is  
2           quite a big parking lot, and, you know, there  
3           is a large distance or whatever, but it  
4           doesn't seem like we have that here, maybe  
5           you can clear that up and explain what your  
6           target, you know, draw area is. And what  
7           you're -- other than wanting a big giant  
8           sign, you know, what are you trying to do,  
9           something so far over the ordinance.

10           MR. NAFSO: I think it's again --  
11           there is a large parking lot, where we sit,  
12           and we are the only building because it's new  
13           construction in the middle of Fountain Walk,  
14           so I don't -- comparing it to the other  
15           signage, I could be wrong, I don't know about  
16           Powerhouse in relationship to the size of  
17           their facility, I think they're larger than  
18           we are, because they have their guy or  
19           whatever on there, so that's bigger than us,  
20           and then, again, it's trying -- somebody  
21           comes in, you know, they see it's new, it's  
22           going to be well-lit, look nice. And it's  
23           more so how the building sits is our concern  
24           because we have a middle entrance, having the  
25           signage in the middle of the building, it

Page 90

1           would probably be okay to have a smaller one,  
2           because of the fact it's in the middle, kind  
3           of drive in, you see it.

4                         But when you're coming in, you  
5                         won't know kind of know where the entrance  
6                         is, we have to use the corner entrance. We  
7                         wanted it to be big so people will see,  
8                         that's where you come in from. That's part  
9                         of the reason why I wanted more, larger  
10                        signage.

11                        MR. BYRWA: Okay, thank you.

12                        CHAIRPERSON GRONACHAN: Member  
13                         Sanghvi?

14                        MR. SANGHVI: I came and visited  
15                         your place. I had a hard time finding it in  
16                         the first place. It's part of the Fountain  
17                         Walk. I know that area very well ever since  
18                         it was built. And also, the weather had done  
19                         a number on your mock-up sign, on the south  
20                         side, flapping in the breeze.

21                         But your main entrance is on  
22                         the west side, right?

23                         MR. NAFSO: Yes.

24                         MR. SANGHVI: It's facing the  
25                         west side?

1                   MR. NAFSO: It is a corner  
2                   entrance --

3                   MR. SANGHVI: It's a corner, but  
4                   the entrance is on the west side?

5                   MR. NAFSO: Well, there is two  
6                   entrances.

7                   MR. SANGHVI: I remember seeing  
8                   that. In your description here, the map  
9                   everything here, also shows that?

10                  MR. NAFSO: Yes, correct.

11                  MR. SANGHVI: There is no  
12                  entrance on the south side of the parking?

13                  MR. NAFSO: No.

14                  MR. SANGHVI: I understand that  
15                  you would like to have two signs, one on each  
16                  side facing the west and one on the south.  
17                  It's far away from any main road. And until  
18                  you come inside the complex, the Fountain  
19                  Walk complex, you can't find this place until  
20                  you come there. I found out, even though I  
21                  am familiar with the area.

22                  So I understand you need a big  
23                  sign. (Unintelligible) how big it is. And  
24                  in my mind, it should be visible from Cabaret  
25                  Drive or you can't see it from Twelve Mile

1 Road, or the other side, I-96 or anything  
2 because you are inside, you are kind of  
3 land-locked at that particular point, where  
4 you have your facility, and so you need a big  
5 sign.

6 So I understand your hardship,  
7 and I can approve any reasonable size of  
8 sign.

9 And I don't know whether you  
10 would be willing to downgrade the size you  
11 have, especially on the south elevation.  
12 West elevation, I understand because you go  
13 to the road, (unintelligible) it should be  
14 just visible for people coming in via Cabaret  
15 Drive. So just like think about it. Thank  
16 you.

17 CHAIRPERSON GRONACHAN: Member  
18 Ferrell?

19 MR. FERRELL: Thanks, Madam  
20 Chair. I agree with the other board member.  
21 I don't feel maybe you need such a large  
22 sign, maybe we can make it smaller. I do  
23 feel you need one, maybe you can make it  
24 smaller, one on each side, obviously, you  
25 can't see it coming in by the Powerhouse

1 direction.

2                   But I would agree with him as  
3 well. Would you be willing to reduce the  
4 size of the sign at all, is this something  
5 that you would be prepared to look at  
6 tonight, if you want to try to come back, if  
7 you want to leave it the way it is.

8                   MR. NAFSO: I would have to look  
9 at it. I think we are trying to maximize --  
10 I mean, the way it was sent -- I just trying  
11 to visualize it.

12                  You know, he sent me  
13 renderings, I was like, all right -- he sent  
14 me really big ones, that looks too big, but  
15 he was trying to make it look it nice on the  
16 building so it fits. We have three other  
17 locations, so we tried to match what we had.  
18 We are in Troy, Sterling Heights and  
19 Westland. So we tried to match what we had  
20 on those buildings, and just trying, you  
21 know, give it the same kind of feel that we  
22 have.

23                  So I'm not great with like the  
24 size. I just kind of looked at it. This  
25 fits, this is what people will see. I get

1                   it.

2                   MR. FERRELL: I mean, I know,  
3                   having a huge sign obviously everybody will  
4                   look at it. But that's not something --

5                   MR. RAYES: Actually the three  
6                   other locations we did the sign for, it's  
7                   bigger than we are doing now. It's kind of,  
8                   you know, the whole building. It's very huge  
9                   building. You have two signs there. You  
10                  have nothing else. It's not like other  
11                  buildings.

12                  MR. FERRELL: I wouldn't want you  
13                  to put a sign up that's not proportional to  
14                  the size of the building.

15                  Even that said, it's still  
16                  like -- I wouldn't want it to be excessive.

17                  So I feel like this is a  
18                  little bit outside that range, for me  
19                  anyways.

20                  MR. RAYES: It's not going to  
21                  affect nothing, especially it's all in line  
22                  with -- the sign is going to be lit white.  
23                  You know, it's not going to affect nothing,  
24                  more light in whole parking lot, so I don't  
25                  think so. It's going to be -- they have a

1                   lot of signage in the same plaza, which is  
2                   especially the Powerhouse, I noticed it's a  
3                   lot of sign for --

4                   MR. FERRELL: Their building is  
5                   very large, too, the Powerhouse building, so  
6                   I know how big their signs are. Is it the  
7                   same as what you're proposing or is it --

8                   MR. NAFSO: The size of the  
9                   signage is -- again, I don't know, I didn't  
10                  measure, but it looks bigger than what we're  
11                  proposing. Their logo is obviously much  
12                  different and it's -- so it's a big logo.  
13                  But, you know, I didn't see that it was  
14                  inconsistent with what is in the plaza.

15                  My concern is that if you  
16                  saw -- if you see the building, we are not  
17                  deep or long.

18                  So the problem is like, you  
19                  kind of pull up and if you're coming in, I  
20                  guess, from the southeast side, you're not  
21                  going to see anything, until you kind of pull  
22                  in.

23                  So we considered what we put  
24                  on the signage, further out we are worried  
25                  about somebody coming in, thinking that's the

1                   entrance. If I put the signage right in the  
2                   middle in building, people they drive up, be  
3                   like, oh, this is this where we come in,  
4                   that's what we were concerned about.

5                   I mean, we also want to take  
6                   advantage of the parking that they currently  
7                   use for valet, which we will be our parking.  
8                   So they -- that parking would be available  
9                   for us, so we want to use that as our  
10                  entrance. That's really the reason why I  
11                  wanted to get as much signage as we could so  
12                  people realize that's the entrance and that's  
13                  where they come in from.

14                  MR. FERRELL: Okay. Thank you.  
15                  That's all.

16                  CHAIRPERSON GRONACHAN: Member  
17                  Montville?

18                  MR. MONTVILLE: Given the  
19                  western, south exposure of the building, I  
20                  think it's fair that they do all four signs  
21                  requested, the three additional. I think  
22                  that makes sense.

23                  As far as a size standpoint,  
24                  they provided professional renderings --  
25                  excuse me, they have done a lot of due

1                   diligence. It's in their best interest to  
2                   have signs that look professional, look  
3                   appealing to their potential customers. I  
4                   think they have provided that information,  
5                   they've approved that they have done the due  
6                   diligence from that aspect.

7                   So with that said, I'm in full  
8                   support of the variance as requested at this  
9                   point.

10                  CHAIRPERSON GRONACHAN: Okay. Is  
11                  there further discussion? Member Byrwa?

12                  MR. BYRWA: Does the Novi sign  
13                  ordinance for this zoned district, give you  
14                  an increase based on the frontage that you  
15                  have fronting on a public right-of-way or a  
16                  public way? I am familiar with the sign  
17                  ordinance. Where I used to work, they would  
18                  give you two square feet for every one lineal  
19                  foot for the frontage. I was wondering if  
20                  Novi's ordinance is similar to that?

21                  Maybe we could answer, how did  
22                  we determine the 281 square feet?

23                  MR. BOULARD: Not to exceed 65  
24                  square feet.

25                  MR. BYRWA: So it's a standard

1                   amount regardless of your lineal frontage

2                   or --

3                   MR. BOULARD: It's based on the  
4                   setback in the road, but then there is a cap.

5                   In this case, the cap of  
6                   65 feet is what limits the sign, that's  
7                   allowed on the building.

8                   MR. BYRWA: So he was allowed  
9                   just one 65-foot sign, he's gone over by 281  
10                  square feet?

11                  MR. BOULARD: Yes.

12                  MR. BYRWA: Okay.

13                  CHAIRPERSON GRONACHAN: Anything  
14                  else? Is there a motion?

15                  MR. MONTVILLE: Madam Chair, I am  
16                  prepared to make a motion at this time.

17                  MR. ZEBARI: Can I make a quick  
18                  comment?

19                  CHAIRPERSON GRONACHAN: You will  
20                  have to come down, please, state your name.

21                  MR. ZEBARI: My name is John  
22                  Zebari.

23                  CHAIRPERSON GRONACHAN: Why don't  
24                  you wait until you get to the microphone  
25                  please, so other people at home can hear you.

1                   MR. ZEBARI: My name is John  
2                   Zebari, Z-e-b-a-r-i.

3                   I just wanted to address, the  
4                   closest point of entrance is visible from the  
5                   busiest road, Twelve Mile, is Cabaret. From  
6                   eastbound Twelve Mile you turn into Cabaret  
7                   into that southwest corner of Fountain Walk,  
8                   you're easily 1,000 feet from where this sign  
9                   will be. Coming -- if you're already in  
10                  Fountain Walk coming north on Cabaret, you're  
11                  easily six or 700 feet from that sign. So  
12                  that's a long ways.

13                  And this signage does not  
14                  incorporate a logo of any kind, it's really  
15                  just text, so we don't have like Planet  
16                  Fitness is very visible, identifiable, weight  
17                  lifter guy, we don't have Aqua Tot's swimming  
18                  pool, that immediately it would identify, you  
19                  know, where you're going, that's Planet  
20                  Fitness, Aqua Tots.

21                  So 1,000 feet to 700 feet from  
22                  the two main places where we would want it to  
23                  be visible to these west and south facing  
24                  signs, if that helps had. I have been out  
25                  there.

1 CHAIRPERSON GRONACHAN: That is  
2 very helpful.

I will just put on a couple of  
comments.

I concur with Member Sanghvi  
in that, this is such an unusual place to  
come into, and there are multiple entrances  
into the complex itself.

11 I am concerned about the sign  
12 on the south, I'd like to see it a little  
13 smaller. I am not going to deny your  
14 request. I will be in support, but if the  
15 south side isn't an entrance, is that what  
16 you so stated, it's just one entrance,  
17 correct, it's on the west side?

18 MR. NAFSO: Correct.

19 CHAIRPERSON GRONACHAN: That's  
20 the only problem that I have. I'd like to  
21 see the south sign a little smaller. But the  
22 rest of it, given the uniqueness of the  
23 entire complex, the different height  
24 variations, we have had other businesses come  
25 to us in the past, there is different

1           elevations when you're driving, when you're  
2           coming in from Twelve Mile, the building is  
3           below you, when you're coming in from  
4           Cabaret, the building is above you, when  
5           you're coming behind, the building could be  
6           anywhere.

7           You're not right on that main  
8           drag on top of it, so now you got to drive  
9           through and hope to find you. So that is a  
10          challenge. And for that reason, I will be  
11          supporting your request.

12          Given the fact that it's  
13          30,000 feet of a building, and that you're in  
14          a challenged area to begin with, I think that  
15          I can also concur with Member Montville that  
16          you have proven that there is a need for all  
17          of this, but we don't this for every  
18          business, so this case is unique and that's  
19          why I'm supporting it, for this particular  
20          case.

21          MR. BYRWA: Quick question. You  
22          know, on the elevation, where it says  
23          trampoline and game park, is that going to be  
24          on the building?

25          MR. NAFSO: Yes, it's on the

1 building.

2 MR. BYRWA: Isn't that second --  
3 wouldn't that be an additional sign then?

4 MR. NAFSO: That's why we are  
5 calling it three additional signs. So it's  
6 basically, this -- you have this on one side,  
7 then you have it on the other side. That's  
8 why we are calling it three additional signs,  
9 that's the request.

10 MR. BYRWA: But it's not going to  
11 say trampoline and game room on the other  
12 elevations?

13 MR. NAFSO: Yes, it would. So  
14 you have one sign that would just be  
15 Airtime --

16 MR. BYRWA: I count six signs we  
17 are dealing with, three elevations?

18 MR. NAFSO: No, just four. Four  
19 signs. We are doing two sides.

20 MR. RAYES: It's two elevations,  
21 the west and south.

22 MR. NAFSO: Yes, two elevations.  
23 So you have Airtime trampoline park and  
24 Airtime trampoline game park.

25 MR. BYRWA: Then on the west

1                   elevation you only have Airtime?

2                   MR. ZEBARI: East. You're asking  
3                   east. East end of the building, that would  
4                   be the two additional, making it six, like  
5                   you said. We are not doing that.

6                   MR. RAYES: The marked area are  
7                   where the sign goes, the two yellow, one is  
8                   the west and the other one is the south.  
9                   That's both sides.

10                  MR. BYRWA: So is it each  
11                  separate framed area is a sign?

12                  MR. RAYES: It's two signs, but  
13                  somehow some cities they call them four  
14                  signs, some city they call them -- the sign  
15                  that says Airtime --

16                  MR. BYRWA: One sign alone?

17                  MR. RAYES: Exactly.

18                  MR. NAFSO: I'm sorry. The name  
19                  of our business is Airtime Trampoline Game  
20                  Park. What the city is saying, some cities  
21                  consider that one sign, your whole name it's  
22                  considered one sign.

23                  MR. BYRWA: But it's not even  
24                  close to the Airtime. It's a completely  
25                  different area. To me it's a second sign.

1                   MR. NAFSO: There is an Airtime  
2                   cellphone store, so we have to clarify.

3                   CHAIRPERSON GRONACHAN: Can I  
4                   interrupt and let the building department  
5                   help us out.

6                   MR. BOULARD: So each -- the  
7                   Airtime and the trampoline game park are  
8                   considered separate signs, because the way  
9                   our ordinance is written, we would have to  
10                  draw a box around both of them together,  
11                  which would be really huge.

12                  So they have two elevations,  
13                  each elevation has Airtime, and then it has  
14                  the trampoline park on it, so each elevation  
15                  has two signs. One is allowed by right, one  
16                  of the smaller ones. Then the other three  
17                  are the two Airtime signs and the trampoline  
18                  signs.

19                  MR. BYRWA: Got it.

20                  CHAIRPERSON GRONACHAN: Any other  
21                  questions?

22                  (NO audible responses.)

23                  CHAIRPERSON GRONACHAN: Is there  
24                  a motion? Member Montville?

25                  MR. BYRWA: In Case PZ15-0046,

1                   sought by Generation Signs on behalf of  
2                   Airtime, I move that we grant the variance as  
3                   requested for the following reasons.

4                   The petitioners have proven  
5                   that the property is unique, given its  
6                   location within Fountain Walk and its two  
7                   exposures on the western side and also the  
8                   southern side.

9                   Also with it's given location  
10                  within Fountain Walk and unique layout of  
11                  Fountain Walk complex, it creates challenges  
12                  with visibility, which warrants additional  
13                  signage.

14                  The relief granted will not  
15                  reasonably interfere with any adjacent  
16                  businesses or surrounding properties, and the  
17                  relief is within the spirit and intent of the  
18                  ordinance as written.

19                  With that said, I move that we  
20                  grant the variance requested.

21                  MR. FERRELL: Second.

22                  CHAIRPERSON GRONACHAN: It's been  
23                  moved and seconded. Is there any further  
24                  discussion?

25                  (No audible responses.)

1 CHAIRPERSON GRONACHAN:

2 Ms. Ramsay, would you please  
3 call the roll.

4 MS. RAMSAY: Member Ferrell?

5 MR. FERRELL: Yes.

6 MS. RAMSAY: Member Krieger?

7 MS. KRIEGER: Yes.

8 MS. RAMSAY: Member Sanghvi?

9 MR. SANGHVI: Yes.

10 MS. RAMSAY: Member Byrwa?

11 MR. BYRWA: No.

12 MS. RAMSAY: Member Montville?

13 MR. MONTVILLE: Yes.

14 MS. RAMSAY: Chairperson  
15 Gronachan?

16 CHAIRPERSON GRONACHAN: Yes.

17 MS. RAMSAY: Motion passes five  
18 to one.

19 CHAIRPERSON GRONACHAN: Your  
20 variances have been granted. Please see the  
21 building department. Good luck and welcome  
22 to Novi.

23 So our next topic under other  
24 matters is the rules and procedures that  
25 Stephanie had sent us.

1                   Give you a little background,  
2                   when someone becomes a board member, we are  
3                   given a packet of different information. And  
4                   there seemed to be some question as to  
5                   where -- what the current rules and  
6                   procedures were.

7                   So the one copy that I had it  
8                   said that the meeting started at 7:30. And  
9                   so that started a hunt, if you will, for the  
10                  current copy. And there was the most recent  
11                  copy that was done back in October of 2008,  
12                  approved by former colleague and good friend  
13                  Mr. Fisher.

14                  So these rules are not --

15                  MS. KRIEGER: Current.

16                  CHAIRPERSON GRONACHAN: Well,  
17                  they're current, but they're just guidelines.  
18                  They say rules and procedure -- rules of  
19                  procedure.

20                  But I don't want people to  
21                  think that we are making the rules up because  
22                  we are the ZBA. These are more of a  
23                  guideline of procedures for how we are to  
24                  conduct ourselves as Zoning Board of Appeals,  
25                  how is that?

1                   MS. SAARELA: They are actually  
2 more than the guideline. You have to follow  
3 them. They're rules for how you conduct your  
4 business, they're like bylaws.

5                   CHAIRPERSON GRONACHAN: Okay. So  
6 Member Sanghvi said that -- or was of the  
7 opinion, if you don't mind me paraphrasing  
8 what you said earlier, is that okay?

9                   MR. SANGHVI: Go ahead.

10                  CHAIRPERSON GRONACHAN: So Member  
11 Sanghvi felt ZBA didn't have the authority to  
12 make a set of rules or bylaws because we are  
13 the ZBA. That our rules or bylaws would have  
14 to be sent to us by city council.

15                  So is that clear? I mean, do  
16 we have -- can -- let me just ask this  
17 question.

18                  Can we have our own rules and  
19 guide --

20                  MS. SAARELA: Yes, you can have  
21 your own bylaws.

22                  CHAIRPERSON GRONACHAN: We can.  
23 Or rules of procedure?

24                  MS. SAARELA: Yes.

25                  CHAIRPERSON GRONACHAN: They do

1 not have to be approved by the City of  
2 Novi -- by the city council?

3 MS. SAARELA: No, they don't have  
4 to be approved by city council.

5 Typically, this would be  
6 something that you have in place, you go  
7 through them periodically, and from time to  
8 time you would amend your own rules of  
9 procedure.

10 CHAIRPERSON GRONACHAN: This is  
11 more or less like our handbook.

12 MS. SAARELA: Yes, of how -- now,  
13 you can't -- it has to be consistent with  
14 what the ordinance is. So you can't conflict  
15 with city ordinance. There are things in  
16 there like, what the variance standards are,  
17 and you can't amend things like that so that  
18 it conflicts with other legislative  
19 authorities, such as ordinances or state  
20 statutes, but things that are not governed  
21 already by ordinance, you can amend.

22 CHAIRPERSON GRONACHAN: Okay.  
23 Again, this really wasn't so much about that  
24 I thought that these needed to be changed  
25 outside that the time was wrong, in the

1 meeting and this one does reflect the 7:00.

2 I had asked everyone to read  
3 them to see if there was any changes that  
4 anyone -- or had any ideas of what they would  
5 like to see added or removed from the  
6 procedures. Since none of us got them, when  
7 we came back onto the board, I didn't get  
8 them in 2013. So it's kind of a -- it was  
9 kind of good to read them and to refresh.

10 So does anyone have any input  
11 onto this, after you reviewed them?

12 MR. BYRWA: A couple of things  
13 here. I heard a while back a fancy term to  
14 describe Zoning Board members, it's called  
15 quasi judicial. And it means that you are  
16 independent of the council, you can make your  
17 own decisions and things, however, our  
18 decisions can overturned by a circuit court  
19 judge.

20 CHAIRPERSON GRONACHAN: Correct.

21 MR. BYRWA: I was reading through  
22 the bylaws and everything and I felt that  
23 with the one case tonight we could have  
24 benefited from this here, and I don't know if  
25 we have -- tried to solicit a Zoning Board

1 member to also attend the planning board  
2 meetings. I think we are relying on Charles  
3 pretty much now or whatever, to fill us in.

4                   But it said in the bylaws that  
5 we can appoint somebody from the Zoning Board  
6 to attend all the planning board meetings,  
7 just to kind of give us a little more depth  
8 of some of the cases that has already gone  
9 through the planning board.

10                  CHAIRPERSON GRONACHAN: That's a  
11 good point. It really is. I should bring  
12 something up to your point.

13                  In the past, we used to get  
14 the minutes from the Planning Commission,  
15 like Member Sanghvi said earlier. But I  
16 don't know who has got time to go sit at the  
17 Planning Commission meeting on top of it.

18                  But in the past we used to get the copies of  
19 the --

20                  MS. SAARELA: The problem with  
21 that is, depending on when the Planning  
22 Commission meeting falls, relative to your  
23 ZBA meeting. There might not be approved  
24 minutes ready yet. You can't just hand out  
25 draft minutes and make them part of your

1 record, if they're not approved by the  
2 Planning Commission.

3 So let's say, like the case  
4 that was up today, I don't know when it was  
5 scheduled, let's say for example, it was up  
6 at Planning Commission last week and got  
7 approval, they had it scheduled this week for  
8 a variance, there wouldn't be approved  
9 minutes yet because you haven't had another  
10 Planning Commission meeting yet, so, no, we  
11 wouldn't be able to get those minutes yet.

12 If it was something that was  
13 approved two months ago maybe, yes, you could  
14 maybe get the Planning Commission --

15 MR. BYRWA: I don't think we are  
16 looking for exactly, the official minutes,  
17 it's just the input --

18 MS. SAARELA: Someone is free to  
19 do that. It's in your rules of procedure.

20 MR. BYRWA: To be refreshed a  
21 little of the meeting, whatever.

22 Because I was at the planning  
23 board meeting, and this and this happened  
24 there, and not necessarily you needed the  
25 minutes of the planning board.

1                   MS. SAARELA: That's just what  
2                   Member Gronachan asked, do we have the  
3                   minutes. You can in some cases, in some  
4                   cases you can't. Can someone attend a  
5                   Planning Commission meeting, yes, you can  
6                   attend. You know, anyone who wants to, it's  
7                   a public meeting.

8                   MS. KRIEGER: Wasn't  
9                   (unintelligible) and Brian Burke planning on  
10                  attending our meetings as well?

11                  MS. SAARELA: We don't have a  
12                  planning commissioner on the board anymore.  
13                  That used to be the case, but now the  
14                  ordinance and the state statute are just --  
15                  that's not a mandatory requirement of the  
16                  state law or the ordinance anymore.

17                  CHAIRPERSON GRONACHAN: I do  
18                  think though in the future, if we do come  
19                  across a case that has been to the Planning  
20                  Commission --

21                  MS. SAARELA: Would it help to  
22                  have like the planning packet, the agenda  
23                  packet?

24                  CHAIRPERSON GRONACHAN: That's  
25                  what I mean, the packet. Thank you for the

1                   clarification, but it's late.

2                   MR. BOULARD: In the interest  
3                   of -- in the interest of the size of the  
4                   packet, would it be helpful to provide a link  
5                   back to the city website with those -- where  
6                   those planning packets are always available?

7                   CHAIRPERSON GRONACHAN: Yes.

8                   MR. BOULARD: If there are  
9                   minutes, those would be on there.

10                  MR. BYRWA: Save some trees.

11                  MS. SAARELA: Because those are  
12                  oftentimes 80 and 90 page long packets, but  
13                  they all are -- by the time this Planning  
14                  Commission meeting occurs, they're all there  
15                  on the website. So maybe if we just say,  
16                  there is the link or here is the date.

17                  CHAIRPERSON GRONACHAN: Date,  
18                  link or just date actually it would be under  
19                  the agenda.

20                  Is everybody good with that?

21                  MS. KRIEGER: Yep.

22                  CHAIRPERSON GRONACHAN:

23                  Dr. Sanghvi?

24                  MR. SANGHVI: I heard it.

25                  CHAIRPERSON GRONACHAN: Are you

1 good with it?

2 MR. FERRELL: We can talk after.

3 CHAIRPERSON GRONACHAN: Go ahead.

4 MR. FERRELL: It's 9.3, tabling,  
5 postponing a case.

6 The way I read it, it does  
7 sound like -- maybe they don't want to  
8 postpone it or table it, we can still --

9 MS. SAARELA: In some instances,  
10 we could do that, but in this case, it  
11 wouldn't have been of any benefit because  
12 they wanted to --

13 MR. FERRELL: I was just curious  
14 on that.

15 MS. SAARELA: You can table it.  
16 That's mostly to get -- if you feel you're  
17 missing facts. Here, I don't think that that  
18 was the case, it wasn't that they were  
19 looking for more information. It's that they  
20 wanted to have their approval or didn't want  
21 to have approval. I mean, it was one way or  
22 the other. It was not clear that tabling it  
23 would have -- it wouldn't have gathered  
24 anymore information for you.

25 CHAIRPERSON GRONACHAN: So we do

1 have the authority to table a case without  
2 the petitioner's approval?

3 MS. SAARELA: If you feel that  
4 there is missing information, you can render  
5 a decision.

6 CHAIRPERSON GRONACHAN: Thank you  
7 for that. Anything else?

8 MR. FERRELL: 10.1, that's the  
9 appeal for the board.

10 So the petitioner can appeal  
11 our decision within 30 days?

12 MS. SAARELA: Yes. That's why we  
13 emphasize the importance of making your  
14 motion and getting all the facts in the  
15 motion because when they appeal to circuit  
16 court, the circuit court is looking at your  
17 motion, really only to see if your reasoning  
18 and your facts as set forth in the motion,  
19 that they are compliant with the variance  
20 standards, so that's what the appeal issue  
21 is.

22 MR. FERRELL: That's not an  
23 appeal back to us, that is an appeal --

24 MS. SAARELA: Right, but if the  
25 circuit court sees that you have a reason --

1           a well-reasoned basis for your decision and  
2           it's set forth in the motion, the circuit  
3           court isn't -- they're just going to say --  
4           send it back and say that was within your  
5           discretion. You made the decision based on  
6           the applicable standards.

7                 If you're missing facts in  
8           your motion, you don't have facts to support  
9           the variance, the circuit court may then  
10          make -- you know, look at the substance of  
11          your decision. Most cases they're not going  
12          to, if you have a well-reasoned argument and  
13          have it set forth in your motion.

14                 MR. BYRWA: The caveat to that  
15          though, it's a 30 day window from the  
16          approved minutes.

17                 MS. SAARELA: Approved minutes,  
18          yes.

19                 MR. BYRWA: It could be two  
20          months.

21                 MS. SAARELA: It depends. So  
22          sometimes when we don't have the minutes  
23          ready, it could be two months. Like it was  
24          for the November minutes, that we approved  
25          today.

1                   CHAIRPERSON GRONACHAN: Is there  
2 anything else anyone else would like to add?

3                   I do have a suggestion under  
4 the duties of the chairperson, that the chair  
5 welcome the newer members.

6                   So as being a new member, and  
7 being the chair, and then being back, I have  
8 had two different experiences. When I first  
9 joined ZBA back in 2000, we had a chairperson  
10 by the name of Ranke, who made it a point  
11 that he was available if there were any  
12 questions or if there were something that I  
13 needed help with. He was very encouraging at  
14 the table about everybody making motions.

15                  And so I would like that in  
16 the rules, or the duties, so all future  
17 chairs welcome all future members, new  
18 members, and try to mentor them. I mean, we  
19 all are not going to be here forever. So  
20 when new members come in, it's important that  
21 we welcome them and encourage them so there  
22 is not a challenge, then we only have one  
23 person making a motion.

24                  As you know, like the city  
25 attorney just said, you know, if the court

1 looks at something and we leave something  
2 out. And I find that making motions is a  
3 challenge for all of us, me included.

4 So I would like to see if we  
5 could add in the chair, for lack of a better  
6 term, mentor any new board members, to the  
7 board making available to answer any  
8 questions.

9 How do you feel?

10 MR. SANGHVI: First of all, thank  
11 you for your sentiments. A lot of desirable  
12 things, which individuals may deem are  
13 important.

14 But I am a great believer that  
15 you have to be very careful when you put  
16 something down in writing as part of the  
17 procedures or rules. And even though it's a  
18 great idea we encourage everybody to make a  
19 motion, all of those things, I always  
20 believed that the lesser the verbiage on  
21 rules and procedures and bylaws and  
22 constitutions, better it is for democracy.

23 If you look at our own  
24 constitution of the United States, you know  
25 how many times it took them to amend it.

1 (Inaudible). Once you write down, and  
2 especially the language you put in, sometimes  
3 it's a habit staying forever without people  
4 realizing what it really means. And I think  
5 it should be part of the orientation process  
6 for the new ZBA members, explaining to them  
7 their duties and their responsibilities, and  
8 creating them to be part of board and making  
9 motions and all of that, rather than writing  
10 down in the rules of procedure.

11 CHAIRPERSON GRONACHAN: Well,  
12 Member Sanghvi, the only thing I wanted to  
13 put in the rules and procedures is that the  
14 chair play as mentor to new members. Not the  
15 other stuff.

16 MR. SANGHVI: I know, but the  
17 whole point is, the less you write, less is  
18 (unintelligible). And leave it open to  
19 interpretation. Once you write it down, you  
20 are just tying down people's hands.

21 CHAIRPERSON GRONACHAN: Okay.

22 MR. SANGHVI: I don't like to tie  
23 down people's hands. We don't want to do  
24 that. Thank you.

25 CHAIRPERSON GRONACHAN: Thank

1                   you. All right. We will strike that  
2                   suggestion. Anything else?

3                   MR. FERRELL: Just noticed on  
4                   Section 5, Article 5, motions, less than  
5                   seven members, the petitioner has the right  
6                   to table it to the following meeting. So we  
7                   should probably -- at the start of the  
8                   meeting we should probably inform --

9                   MS. SAARELA: That is on the  
10                  handout that is outside the door when they  
11                  come in.

12                  MR. FERRELL: I know at other  
13                  meetings, I think it was last time, if there  
14                  was less than six or five --

15                  MS. SAARELA: We would, but at  
16                  times it's forgotten. I guess the fear is if  
17                  it's not uniformly said, if someone forgets  
18                  at one meeting that, you know, someone is  
19                  going to argue that they are not be treated  
20                  the same, that's why we added it to the  
21                  rules. I think that's up to the chair  
22                  whether or not --

23                  MR. FERRELL: I'm just saying in  
24                  case they don't actually pick that up.

25                  MS. SAARELA: Well, they should.

1                   CHAIRPERSON GRONACHAN: Based on  
2                   the conversation, that particular information  
3                   was discussed, if you recall, the training  
4                   meeting, and then we had an episode here and  
5                   then since then it was added to the rules and  
6                   it's on the -- whatever that sheet is called  
7                   at the backdoor --

8                   MS. SAARELA: Rules of conduct.

9                   CHAIRPERSON GRONACHAN: Rules of  
10                  conduct. That gives consistency. That was  
11                  the recommendation of the city attorney's  
12                  office that we do it that way. And I agree  
13                  because it's one less that whoever is sitting  
14                  in this chair has to read at the beginning of  
15                  the meeting, that it should not -- it would  
16                  never get forgotten. It's in print, then we  
17                  can't be held responsible for leaving that  
18                  off.

19                  MR. FERRELL: Yes, but you do the  
20                  Pledge of Allegiance.

21                  CHAIRPERSON GRONACHAN: Sometimes  
22                  I --

23                  MR. BYRWA: I think one of the  
24                  things that's important --

25                  MS. SAARELA: We can list it

1 somewhere else on the application or  
2 something that. If that would help. I think  
3 to having like mandate, repeating things.  
4 Because you can sit here and say, well, this  
5 is important from these rules of procedure,  
6 why don't we say this up front at every  
7 meeting, why don't we repeat what the  
8 variance requirements are, because oftentimes  
9 the petitioners aren't meeting the variance  
10 requirements when they are coming up here and  
11 talking --

12 MR. FERRELL: Like this case  
13 tonight, I think that was something that they  
14 probably didn't know that they could do. You  
15 did mention it to them and --

16 MS. SAARELA: You know, they  
17 weren't necessarily saying a lot of other  
18 things they should have been saying or  
19 understanding about the process either, but I  
20 think that there comes a limit at what you  
21 can tell them and make them understand. So I  
22 think the best way is to probably have it in  
23 writing. So everybody has the option to pick  
24 it up and read it uniformly throughout.

25 MR. BYRWA: One of the important

1           things that I think we missed is that one  
2           case, that we postponed on the couple with  
3           the fence.

4                         Thinking back we should have  
5           let the public know that the city is not  
6           going to do another mailing and that  
7           tentatively it's scheduled for the second  
8           Tuesday in February, and they can call city  
9           hall or go online or whatever, but I don't  
10           think -- Charles, you're not doing another  
11           mailing on that, are you?

12                        MR. BOULARD: No, that was the  
13           intent in postponing to a date certain, in  
14           this case, February 9, so that everyone would  
15           know.

16                        MR. BYRWA: We should have let  
17           the audience know because there were some  
18           people there that were following it pretty  
19           close, some of the neighbors and they might  
20           be looking for another mailing or something  
21           like that. The city will notify, but it's  
22           not going to be the case.

23                        CHAIRPERSON GRONACHAN: Anything  
24           else?

25                        So as it stands, the current

Page 125

1                   rules and procedures, I don't think there is  
2                   any changes. So do we vote on this tonight?

3                   MS. SAARELA: There is no  
4                   changes, so --

5                   CHAIRPERSON GRONACHAN: There is  
6                   no changes, we just accept it as-is and make  
7                   it this since there isn't an official copy  
8                   out there?

9                   MS. SAARELA: That's fine.

10                  CHAIRPERSON GRONACHAN: Does  
11                  anyone wish to make any other changes to the  
12                  rule of procedures?

13                  (No audible responses.)

14                  CHAIRPERSON GRONACHAN: Seeing  
15                  none, this is the copy dated, do I have to  
16                  say that?

17                  MS. SAARELA: I mean, you can  
18                  reaffirm and date it as it's dated today.

19                  CHAIRPERSON GRONACHAN: Dated as  
20                  today as the rules of procedure, then next  
21                  month everybody will get a new copy.

22                  Okay. Anything else? Any  
23                  other matters for discussion?

24                  MR. SANGHVI: You want to change  
25                  the time?

1                   CHAIRPERSON GRONACHAN: That's  
2 already been done. 7:00 p.m.

3                   Although if the traffic gets  
4 any worse on Ten Mile, we may have to move it  
5 to 7:30.

6                   Nothing else.

7                   Do I have a motion to adjourn  
8 the meeting?

9                   MR. SANGHVI: So moved.

10                  CHAIRPERSON GRONACHAN: All those  
11 in favor?

12                  THE BOARD: Aye.

13                  CHAIRPERSON GRONACHAN: The  
14 meeting is hereby adjourned.

15                  (The meeting was adjourned at 9:12 p.m.)

16                  \*\*\* \* \* \*

17  
18  
19  
20  
21  
22  
23  
24  
25

1 STATE OF MICHIGAN )

2 ) ss.

3 COUNTY OF OAKLAND )

4 I, Jennifer L. Wall, Notary Public within and for the  
5 County of Oakland, State of Michigan, do hereby certify that the  
6 witness whose attached deposition was taken before me in the  
7 above entitled matter was by me duly sworn at the aforementioned  
8 time and place; that the testimony given by said witness was  
9 stenographically recorded in the presence of said witness and  
10 afterward transcribed by computer under my personal supervision,  
11 and that the said deposition is a full, true and correct  
12 transcript of the testimony given by the witness.

13 I further certify that I am not connected by blood or  
14 marriage with any of the parties or their attorneys, and that I  
15 am not an employee of either of them, nor financially interested  
16 in the action.

17 IN WITNESS THEREOF, I have hereunto set my hand at the  
18 City of Walled Lake, County of Oakland, State of Michigan, this  
19 20th day of January 2016.

20  
21  
22 



23 Jennifer L. Wall CSR-4183  
24 Oakland County, Michigan  
My Commission Expires 11/12/15