REGULAR MEETING - ZONING BOARD OF APPEALS
CITY OF NOVI
Tuesday, December 10, 2013

Proceedings taken in the matter of the ZONING BOARD OF APPEALS, at City of Novi, 45175 West Ten Mile Road, Novi, Michigan, on Tuesday, December 10, 2013

BOARD MEMBERS
Linda Krieger, Chairperson
Mav Sanghvi
Jeffrey Gedeon
David Ghannam
Rickie Ibe
Brent Ferrell
James Gerblick

ALSO PRESENT: Thomas Walsh, Building Official
Beth Saarela, City Attorney
Coordinator: Angela Pawlowski, Recording Secretary

REPORTED BY: Jennifer L. Wall, Certified Shorthand Reporter

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PZ-13-0052 6
Novi, Michigan.
Tuesday, December 10, 2013
7:00 p.m.

** ** **

CHAIRPERSON KRIEGER: Welcome to the Novi Zoning Board of Appeals meeting for December 10, 2013 and if Member Gerblick could say the Pledge.
(Pledge of Allegiance recited.)

CHAIRPERSON KRIEGER: And if Ms. Pawlowski could call the roll.

MS. PAWLOWSKI: Member Ferrell?

MR. FERRELL: Here.

MS. PAWLOWSKI: Member Gedeon is absent.

Member Gerblick?

MS. PAWLOWSKI: Member Ghannam?

MR. GHANNAM: Here.

MS. PAWLOWSKI: Member Ibe?

MR. IBE: Present.

MS. PAWLOWSKI: Chairperson Krieger?

CHAIRPERSON KRIEGER: Present.

MS. PAWLOWSKI: Member Sanghvi?

MR. SANGHVI: Here.

CHAIRPERSON KRIEGER: This is a public hearing and rules of conduct are in the back. If you could -- I will call up for public input in a few minutes.

Now, if we could have an approval of the agenda.

Are there any changes?

MS. PAWLOWSKI: Yes, there are.

Case No. PZ13-0060, for 47900 Grand River for Applebee's, have asked to be postponed until the February 11th meeting.

And also Case No. PZ13-0065 at
29770 Hudson Drive, for Hank’s Automotive. They have asked to be tabled to the January 14th meeting.

CHAIRPERSON KRIEGER: So we have an agenda with changes. If we could have a motion.

MR. SANGHVI: We need to notify the agent for this case, we talked about which are not on the agenda anymore.

CHAIRPERSON KRIEGER: Right.

MR. SANGHVI: I’d like to make a comment. Applebee’s, this is the second time we have postponed it.

And I just wondered, if they don’t show up the next time, we should consider it as withdrawn, so that we don’t have to keep postponing over and over again.

MS. SAARELA: Next time I guess what would happen, if they didn’t show up and you wanted to go forward, you would just basically look at the facts presented in their application, and you could make a decision on the merits.

If they didn’t agree with the decision, then they could ask for reconsideration.

MR. SANGHVI: Thank you.

MR. GHANNAM: I will move to table these matters for the two dates as requested.
MR. GERBLICK: Second.

CHAIRPERSON KRIEGER: Should we call roll on that, all in favor?

MS. SAARELA: You could just do a voice vote, yay or nay.

CHAIRPERSON KRIEGER: All in favor say aye.

THE BOARD: Aye.

CHAIRPERSON KRIEGER: Any opposed?

(No audible responses.)

CHAIRPERSON KRIEGER: Seeing none, we have an agenda with two postponements.

And minutes, we don't have minutes for this month.

No public remarks? Is there anyone in the public that has a comment? If it's regarding a case, we will open it up to each case as we go along.

That bring us to Case No. PZ13-0061, for 27070 Taft Road for Garmo Property.

Good evening. If you could come to the podium, and state your name, spell it out for our reporter, and proceed with your case.

MR. GARMO: Mark Garmo, G-a-r-m-o. I'm the land owner.

MR. GERBLICK: Sir, are you an
Mr. Gerbliek: Can you raise your right hand.

In Case No. PZ13-0061, do you swear to tell the truth?

Mr. Garmo: I do.

Chairperson Krieger: Go ahead.

(Whereupon Mr. Gedeon entered the hearing room.)

Mr. Garmo: I have a piece of property on Novi Road, and it is approximately 1,500 feet across I-96. And I have trees there. It's a farmhouse with a barn. And along that area we have to service our trees. We dig them, plant them, remove and replace them.

On our trailers we have our company name and with our phone numbers on them.

And I received a violation from the city stating that I'm advertising off the freeway, or all through the signing ordinance. I said, if I have my own vehicle, on my own property servicing my own trees, how is that, you know, in breach of a sign ordinance.

Yet I still received a violation.
I spoke to the city code enforcement who said that she was not willing to bend on the situation because the signage is visible from the freeway.

And at any one point in the property, it's visible from the freeway. So I got 10.7 acres visible from a public freeway, so am I not allowed to use my own equipment with my normal -- like any other truck going down the road anywhere in Novi, that has a name and a phone number on it, on my own property?

So what I'm asking is, there has got to be some kind of a -- I guess, ability use my own equipment on my own property, which I think is kind of crazy to begin with.

But if that's what the ordinance is, that's what I'm here to do.

CHAIRPERSON KRIEGER: Is there anyone in the public that has a comment regarding this case?

(No audible responses.)

CHAIRPERSON KRIEGER: Seeing none, Mr. Walsh, from the city, questions?

MR. WALSH: Not at this time.

CHAIRPERSON KRIEGER: And Member Gedeon, if you could read in -- or Member Gerblick -- correspondence.

MR. GERBLICK: In Case No.
131210.txt

PZ13-0061, seven were mailed, zero return mailed, zero approvals and zero objections.

CHAIRPERSON KRIEGER: I will open it up to the board.

MR. SANGHVI: I have a question, to the city. Could you please explain to everybody what zone RA means.

MR. WALSH: Sure. RA is residential acreage district. It's intended to provide areas within the community that are basically a large lot, low density, single family dwellings.

MR. SANGHVI: So this is primarily a residential area?

MR. WALSH: That's correct.

MR. SANGHVI: Thank you.

I was at your property a couple of days ago to see what it is all about. There is a home there. You live there?

MR. GARMO: I don't live there, no.

MR. SANGHVI: Anybody lives there?

MR. GARMO: No.

MR. SANGHVI: It's just a vacant --

MR. GARMO: It's a home that we use it sometimes for when we are working at the farm we will use it. But it is a liveable
home. There is a house, a garage, a barn, you know, it's a tree farm. We have trees there. And, you know, we use the house and the barn secondary. Sometimes we have people rented in the past, but for the most part, it's vacant.

MR. SANGHVI: Thank you.

CHAIRPERSON KRIEGER: Where did you have the truck with the signage parked at?

MR. GARMO: In my driveway.

CHAIRPERSON KRIEGER: On your driveway?

MR. GARMO: The driveway, you can see it basically there is a gravel road that goes back there, which comes in from Taft Road. We are the very last road — or house on Taft Road. Taft Road actually dead-ends at my driveway.

So you kind of come in the driveway and it's a gravel road that goes in around, all the way around the barn.

So I had a conversation with Sunderhill about two years ago when I first bought the property three years ago. We had parked our trailers up against the freeway. She said, you can't do that, just keep them off the freeway, so that's what we did. Last year I had no problems. This year I get another violation, said,
well, you're advertising off the freeway. I said, parked right next to my loader, right next to my barn, where do you want me to park?

And I understand where she is coming from, but at the same time, I guess my hands are tied because I have nowhere to, you know, put my own -- to service my own place.

CHAIRPERSON KRIEGER: Can it fit in a garage?

MR. GARMO: Actually the barn is not safe. It's got a wooden floor. It needs to be repaired. It was built in the 1850s, so it's pretty old.

MR. GHANNAM: My take on this, I understand it's your property, I think you should do what you want with it. But it is -- you know, it abuts the freeway, which is a little bit unusual. But I just -- I don't feel comfortable granting some kind of blanket request that says, I want to be able to put my equipment outdoors, put some kind of sign on it. That could be a two-by-four. It could be a 100 by 100.

I will be honest, you haven't come with a specific sign that you want for this property for a specific reason like we typically get.

MR. GARMO: That's kind of what my point exactly is. I'm not there every
day. I'm not leaving it here permanently.

It's on a licensed vehicle. It's only when we service our trees. Like in the wintertime, there is nothing there.

The springtime, in summer when we are digging trees, we are servicing trees, watering trees, fertilizing trees, that's really the only time we are in and out of there. But that's when I received the violation and I contested the violation.

My point is, I'm not trying to advertise, but I have vehicles that have the names on my trucks. Like you're supposed to have anyway, you know, per the state law.

And I got a ticket for that, which I thought was unjust, as well. I was told to -- that I need to -- have a variance for my own property to be able to have my trucks there. I don't have like a specific time frame. It's what days and, you know, generally over the winter no one is there, nothing to do.

MR. GHANNAM: I understand. I'm not debating all those issues. All I'm saying is what I'm uncomfortable with in addition, it is zoned residential.

I mean, it's -- you may use it as a tree farm, but it is zoned residential.
and it doesn't seem, at least from my perspective, appropriate granting some kind of blanket request. That's all. Thank you.

MR. GEDEON: One more question for the city regarding the RA nature of the property. So presumably this is a permitted activity on the property, the tree farm? I mean, why is this, you know, a sign variance and not use a variance?

MS. SAARELA: It is a permitted use in that zone, you have one family dwellings, farms and greenhouses. So if you go under RA, you have a list of eight things that are principle uses permitted. And tree farm would be a principle use that's permitted in a residential acreage.

So he's basically asking because generally you don't have signage in residential acreage, it's a signage question. So he's parking a vehicle with signage on it, so he's basically asking for a sign variance to have a sign on his property basically when he parks there intermittently.

MR. GEDEON: Now, if we do not approve this variance, I mean, is it simply

that he can't park this truck ever there, or are there other options? Would screening would be an option?

MS. SAARELA: He couldn't park it there. An option would be like to park it,
you know, put up some kind of pole barn or park it.

I'm not sure what kind of time frames, if this was overnight parking, but it wouldn't be able to park there, as, you know, for storage or long periods of time. He would probably be able to go and pick things up and leave, but not as a regular rule of being there all day or overnight.

MR. GEDEON: Thank you.

MR. IBE: Sir, in light of the comments that were just made, do you -- how often -- do you not -- strike that.

What is the duration of time that this equipment is parked there? Is it overnight? Is it --

MR. GARMO: It is sometimes for several weeks. As I said, a lot us, they're trailers. It's not a permanent fixed sign. It just falls under the sign ordinance because it has got -- but it's a licensed vehicle that comes and goes. It may not be there every day. But over the -- especially the springtime is generally the time that it's the longest.

For the most part it will come and go, maybe for two days, three days, in and out. It may not even be there every day because it's mostly for tools.

Being that it is an unoccupied
farm house, things tend to come up missing. We have had theft there. We have had people, had poachers out back. We have had all kinds of different things that people come and go right off the freeway.

But at the same time, you know, we are just trying to do what we need to do within our rights, and I think it's kind of a catch 22 based on, you know, I'm not trying to put a big sign in the ground, trying to grab unnecessary or, you know, free advertising off my property. Even though personally, I think you should, but I'm not. It just happens to be the vehicles we have are lettered up with our company name on it, showing what we advertise and what we do. It happens to not fall under the ordinance.

MR. IBE: Let's assume hypothetically that the board, you know, feels -- grants your request. And let's assume hypothetically you're going to be there next year. I mean, you said you come in in the spring.

You obviously need this truck, it's an equipment truck?

MR. GARMO: Generally it's a trailer.

MR. IBE: It's a trailer.

Is there any way you can
shield it so it is not visible? Is that practical?

MR. GARMO: You could throw a tarp over it. I mean to me, that's unreasonable. I mean, if that's what necessary, it's necessary. I said for a few days, even a few weeks that we are there out of the 365 days in the year, on the property that we own and we pay taxes on, we are not infringing out beliefs on anybody.

We are not pushing signage.
It just happens to be on vehicles.
You know, someone said, can you hide it more. But if you hide it more, is it a matter of hiding it more is better or yes or no, or is it something just better than it it's supposed to be.

That's why I'm really here is trying to get some kind of clarification of, you know, the spirit of the law, I understand. You know, we don't want to be broadcast with advertising every direction we look, especially off I-96.

And if I said, if I wasn't so visible, I said, when you're coming in across the freeway, you're -- you know, I don't know how many feet above me, you know, 80 feet above the property, you can see over the entire property and the neighbor's property and the other property because the freeway is
very highly elevated there, and it comes down a hill and you're right at eye level.

So it's a unique piece of property, that unfortunately, I'm kind of -- I would never imagine that something like this would have come up.

MR. IBE: Let me ask you this. The fact that if the board denies your request, that would not prevent the use of this property, the way it's being used right now, would you agree?

MR. GARMO: Would it deny the use of the property? It would inhibit my use of the property because I wouldn't be able to use it, you know -- I would have no -- would the board be able to supply me with something to lock my tools and equipment in safely, could they give me something to --

MR. IBE: Well, is it feasible, like you just told me, you can put a tarp over the trailer, is that correct?

MR. GARMO: Yeah.

MR. IBE: So which means you have an alternative other than what you have right now?

MR. GARMO: That's possible, yes.

MR. IBE: In which still allows you to be able to use the property in the manner in which it was intended, isn't that correct?
MR. GARMO: That is correct. I do have another question. That is something that is pertaining, would I be able to have a piece of equipment parked anywhere as long as there is a tarp over it in the City of Novi? I just need some clarification. I don't want to have to make alterations, go through adjustments or have to even come back here, and say, oh, your tarp blew off, here is your ticket again.

MR. IBE: Thank you very much.

MR. GHANNAM: I have a question.

The intent of the trailer with the sign on it is to advertise, is it not?

MR. GARMO: Indirectly, yes.

MR. GHANNAM: I mean, you store your tools somewhere else on your property. You said you have a pole barn.

MR. GARMO: They're open. I mean, they're not lockable. It's 100 and some years old, you know --

MR. GHANNAM: The pole barn is?

MR. GARMO: Yes. We have been broken into, windows have been broken, things have been stolen. That's why we brought in a trailer. First week we were out there, we got broken into and got equipment stolen.

MR. GHANNAM: Your intent is to
advertise to the public via that trailer, is it not?

MR. GARMO: Going down the road, everywhere we are, yes.

MR. GHANNAM: It's during your business when you're selling trees, is that what it is? Are they Christmas trees?

MR. GARMO: No, for landscape. We are landscape contractors. We dig and grow trees. As we're planting trees, just like I said, we have our signage on our vehicles.

MR. GHANNAM: I'm not debating that you may need some type of sign. Typically when we get sign requests, they're very specific in terms of size, location all of that. I'm still more comfortable in my position that granting some kind of blanket request, you can store equipment with advertising, I still think is inappropriate under the circumstances. Because you still can lock your tools somewhere else. The intent of the trailer is to advertise. That's what our ordinance is --

MR. GARMO: The intent of the trailer is to hold our equipment, not to advertise.

MR. GHANNAM: You can have a trailer out there without signage.

MR. GARMO: This is true.
MR. GHANNAM: Thank you.

MR. GEDEON: One more question for the applicant here. Now, from the satellite view, it looks like there is three structures on the property?

MR. GARMH: That's correct.

MR. GEDEON: It seems like another possible solution would be to use one of those structures as a screen. I mean, if you park, you know, the trailer on the opposite side of the structure from the freeway. I mean, like I said, I should seek clarification from the city. Is the issue visibility period or visibility specifically from the freeway?

MS. SAARELA: It's visibility period. It can be seen from multiple different locations is my understanding.

MR. GEDEON: Okay. Thank you.

MR. FERRELL: How big is the barn that you said you have that has a wood floor?

MR. GARMH: It's hard to say. Maybe --

MR. FERRELL: Is it large enough to hold the trailers that you guys have?

MR. GARMH: Yes.

MR. FERRELL: How many trailers do you have, one, two?

MR. GARMH: How many trailers do I own personally or how many do we have?
there? Usually we have one trailer there.

MR. FERRELL: So if you were to
fix the floors, so the trailer would actually
go into the barn, is that something that you
would be able to do?

MR. GARMO: That's possible, yes.

MR. FERRELL: If you were

granted -- I don't know if we can do this,
I'd have to ask, I'm not sure. If you were
granted like a time frame to fix the floors
in the barn, to be able to put the trailer in

the barn, to satisfy this whole --

MR. GARMO: It's a little more --
you're looking at a barn that was built in
the 1850s. There is literally --

MR. FERRELL: I'm trying to give

you a solution. I'm pretty much agreeing
with the board as well. I don't feel it's
appropriate to have a trailer that is
going -- I understand it's your property,
wherever you park the trailer, you can see
it. That's not something you're doing,

hopefully not. It's still not something that
I'm comfortable with doing either because you
could one day say, you know what, I'm going
to park this right by the expressway and use
it as signage when it wasn't granted to you.

So that's an issue that I

have. I'm not saying you would, I'm saying
you could.
That's a thing you could do is actually fix the barn floor, actually put it in there, that will solve the whole issue. That or trying to get screenage for it or get some trailers that don't have any signage on it.

MR. GARMO: Maybe I need to ask this question. What exactly is the sign ordinance for trailers. So if I'm in a parking lot at a mall having lunch, am I in violation of the sign ordinance?

MR. FERRELL: I don't believe.

MS. SAARELA: If you look at the first page of the -- do you have the packet?

Mr. Garmo: I didn't receive a packet.

MS. SAARELA: It's section 2810, subsection 11, unlawful motor vehicle signs, "it shall be unlawful to park, place or store a vehicle or trailer on which there is a motor vehicle sign on private or public property for the purpose of advertising business or products or for the purpose of directing people to a business or business activity".

So parking at the mall to get lunch would not be -- you know, a temporary going into the mall to get lunch. It's not an overnight parking for a business purpose.

Mr. Garmo: I didn't hear that in
the statement, but that's okay, your

depiction, I guess. That's fine.

MR. FERRELL: How long do you think it would take to actually fix the floor in the barn?

MR. ARMED: It would probably be a lot. It would have to be all torn out, it would have to get filled in. There is literally an area probably, I don't know, 15 by 30, that's two and a half feet deep. It's been all cured out, there is a big hole, this is big planks. All the planks would have to get removed. It's a major undertaking repairing the barn. That's more than just the barn. There is the doors in the barn, the roof of the barn.

MR. FERRELL: I'm just trying to come up with a solution.

MR. ARMED: I maybe need to refine my request, is to be able to use my company vehicle trailers and any outside advertising, companies that I own, to service my trees, when you know, within my growing season.

MR. FERRELL: You just want to be able to park your trailers at a certain time of year?

MR. ARMED: Certain time of year
when I need to service -- only when I'm out servicing my trees. If I leave my trailer there, there is no activity there, it would be reasonable for me to be able to at least service what I'm -- you know, my farm.

I guess it's no different than having a machine that says Caterpillar on it, am I advertising for Caterpillar or John Deere if it's parked somewhere as well.

I mean, it's not for the sole purpose of that, you know, particular thing. Just like -- I shouldn't have change to to my company's entire fleet image to be able to dig my trees and service my trees on a temporary basis.

If I was there for, you know, an entire season non-stop, I would understand where the ordinance is coming from. And I see, you know, my -- if I was two doors down, no one would say something to me. But because I'm off the freeway, and that's why I'm here at the zoning board, I do have a hardship.

I mean --

CHAIRPERSON KRIEGER: It sounds like --

MR. GARMO: I'm sorry. I could probably show you 20 places that people got trailers parked with names on it, they're just not visible. So if they're not visible,
no one says nothing. Sorry to interrupt.

CHAIRPERSON KRIEGER: Go ahead.

MR. GEDEON: One more question

for the city. If we deny this request and
the applicant re-applies, but for an
interpretation, requesting the board to, you
know, issue an interpretation of the
ordinance, would we be within our authority
to say that parking of his vehicle, you know,
on the property is not -- you know, for the
purpose of advertising?

MS. SAARELA: I would have to
look into that more. I don't think we've
done that with respect to the sign ordinance.
I would have to see historically if we
need -- that's not what's applied for. I
suppose if he applied for that --

MR. GEDEON: I think he has a

valid point that all businesses, you know,
have vehicles with the business name on it,
you know, parked at their --

MS. SAARELA: They don't always
leave them outside. They store them
elsewhere, I guess that's the distinction.
If there was somewhere that
didn't allow outdoor storage of vehicles, we
would ticket them, too. People's vehicles
are only parked in places where they're
permitted to have outdoor storage of vehicles
overnight. So that's not allowed in RA, not
So you have to look at the particular zoning and what's permitted to be parked outside, you know, in certain zoning districts overnight.

So it wouldn't necessarily be the case that even if it was commercial or industrial, that he would just be allowed to park it outside, it would depend on the circumstances, if he had, you know, the proper screening, you know, in whatever circumstances.

So it's going to vary in different districts, so it's not a blanket. There is not a blanket yes or no that he would be able to park in at his business.

You know, in some cases people know they're not allowed to park outside, if they can't fit into their building, they have to find another place to park their vehicles, pay for storage, whatnot.

So it's not -- you know, even if we did an interpretation, I'm not sure that it would get you where you wanted to be in a residential acreage district. It's something we have to look into.

MR. GEDEON: Thank you.

MR. GARMO: I do have a question, with perspective of having vehicles --
CHAIRPERSON KRIEGER: I'm sorry, sir. It's for the board right now.

MR. GARMO: I'm sorry. I didn't know. Apologies.

CHAIRPERSON KRIEGER: Go ahead, Member Ibe.

MR. GHANNAM: I would like to make a motion if there is no other discussion or questions. Very well.

Madam Chair, in Case No. PZ13-0061, Garmo Property, I move that the board deny the application as presented by the applicant for the following reasons.

One, that the grant of relief will not unreasonably prevent or limit the use of the property. Will not result in substantial or mere inconvenience or inability to attain a higher economic or financial return to the applicant.

Two, that the request is not based on circumstances or features that are exceptional or unique to the property, and that the situation, in fact, is self-created.

The situation here is that you have an acreage of property that is located in a residential zoning area, and obviously, I doubt that anyone in the City of Novi wants people parking trailers with signs in their neighborhoods. And I know I wouldn't allow that in my subdivision.
The applicant himself has attested that there is other ways in which he can safely use his property without needing these big trailers with signage on them. For example, he said he can put a tarp over the trailer. Other suggestions, maybe he can screen a place to have his trailers back there, or he can fix the barn that he said he owns in order to store this trailer.

So there are options that are viable and available and that can be used and that is the admission that the applicant gives. Therefore, the issue before us is self-created.

The grant of relief obviously will be consistent -- the denial of the applicant's request is very inline and consistent with the words in spirit of the zoning ordinance, in the sense that it will also do justice to the surrounding properties.

Therefore, I move that the applicant's petition be denied.

MR. SANGHVI: Second.

CHAIRPERSON KRIEGER: We have a motion and a second.

Any other discussion?

(No audible responses.)

CHAIRPERSON KRIEGER: Seeing
none, if Ms. Pawlowski could call the roll.

MS. PAWLOWSKI: Member Ferrell?

MR. FERRELL: Yes.

MS. PAWLOWSKI: Member Gedeon?

MR. GEDEON: Yes.

MS. PAWLOWSKI: Member Gerblick?

MR. GERBLICK: Yes.

MS. PAWLOWSKI: Member Ghannam?

MR. GHANNAM: Yes.

MS. PAWLOWSKI: Member Ibe?

MR. IBE: Yes.

MS. PAWLOWSKI: Chairperson Krieger?

CHAIRPERSON KRIEGER: Yes.

MS. PAWLOWSKI: Member Sanghvi?

MR. SANGHVI: Yes.

MS. PAWLOWSKI: Motion passes seven to zero.

MR. GARMO: Is there anything I can say or am I done?

CHAIRPERSON KRIEGER: Thank you very much.

MR. GARMO: Do I have any option to say anything?

CHAIRPERSON KRIEGER: That's it right now. If you want to afterwards, you can go to the planning department and Mr. Boulard or Mr. Walsh can help you.

MR. GARMO: I just want to make sure I’m clear, it’s okay to keep a trailer
there with a tarp over it, as long as there is no signage, based on his comments, is that correct?

I'd like that to be on the record, if that's true.

CHAIRPERSON KRIEGER: They will take care of that.

MR. WALSH: Come in and see me, we will talk your options over.

MR. GARMO: Thank you.

CHAIRPERSON KRIEGER: Call the next case, PZ13-0063 Raven Investments, LLC.

State your name and spell it for our reporter.

If you are not an attorney, swear in with our secretary.

MR. FEIKENS: My name is John Feikens. I'm with the firm of Feikens, Stevens, Kennedy and Galbraith, a law firm downtown Detroit at 660 Woodward Avenue.

I represent Raven Investments, LLC. With me this evening is Mr. Frank Stevens, who is the principle of Raven Investments, LLC, and Barb Calhum, his daughter, who has been helping Mr. Stevens with some of his business affairs recently because he is in relatively poor health.

I might say and I don't mean to be jocular about this, but I am sure that if he was in fine
fettle, he would rather be here talking to you than having me do it because I think he would like to present the case. But he and his daughter are both here and are able to answer some questions, if there are any that I don't know the answers to.

May I proceed?

CHAIRPERSON KRIEGER: Yes, go ahead.

MR. FEIKENS: The petitioner before you, the application before you is for a variance from, as the agenda indicates, Section 2001, which is a section that imposes the screening requirement for the parking of trucks and other vehicles.

Raven Investment owns a piece of property, which is bounded by a small part of Novi Road, Trans X Drive, the railroad, and is in, in effect, an industrial park. It is zoned I2. It's zoned industrial.

For years there was a building on that property and it was recently taken down and that has occasioned the problem we have right now.

The agenda indicates that we're seeking a variance from the requirements of Section 2001. I just want to point out to the board that an argument could be made that Section 2002 might be relevant,
indeed, you see that Section 2002 was cited in the application originally because Section 2002 relates to the requirements and an industrial park of fewer than 40 acres where the park, as I understand it, is screened.

I will have more to say about that in a minute.

But in effect, we are asking for a variance that would allow parking of trucks on the property.

The reasons for the requested variance are simple and they're two-fold.

One is, that parking trucks on this property is a source of revenue for Raven, which no longer has any source of revenue from that land other than the rental of space on the property. This is -- the money that is gotten from renting out the surface of this property is what allows Raven to pay its taxes.

And so one of the reasons that we are asking for this is because Raven, as an LLC, needs the money.

Secondly, I don't know how relevant it is to your considerations, but this is a significant convenience for our lessees.

The trucks that are parked in this area would otherwise have to be taken by their owners and drivers a great distance to
be parked overnight.

And so allowing these trucks to be parked in this immediate area saves the time of the operators, it saves gasoline and it saves the need for them to bring the trucks back to their principle garages every night.

The reason that we are asking for a variance from the screening requirement is, in effect, that it would be a financial hardship, and in our estimation, somewhat unjust, to require screening of the very small amount of the perimeter of this property that could even be screened.

The reason it's a financial hardship, or the reason it would be unreasonable is number one, as I said, Raven doesn't have a lot of money.

Number two, you may be able to visualize where this property is, if you remember now Novi Road was altered in that immediate area, south of Grand River. And this property sits right in the crook in the land where Trans X Drive is, where there is a ramp that goes off of Novi Road to the left or towards the east and then rejoins what used to be Trans X Drive and goes all the way to the south.

The county -- originally there
was a fence, there was, in effect, screening there, when the building was there. The county took it out, when they did their work.

Mr. Stevens has been trying to find out whether or not the county would foot the bill for putting up some screening.

The last information that he got was that because this was a state and federally funded project, they can't reopen the project, and therefore, they can't put screening in it at their cost.

Now, I don't know that that's the final word on the subject, but that's the latest information that we have.

So those are the three reasons that we're here asking for a variance.

We submit to you that it would be appropriate to grant the variance for a couple of reasons.

Number one, as I said before, we are in an industrial park. The spirit of Section 2002, indeed, suggests to you that the ordinance doesn't really care about what people who are inside industrial parks see, as long as the industrial park is screened off along its perimeter, there isn't any requirement of individual pieces of property to be screened.

Now, I'm not suggesting to you
as a matter of law that that necessarily 
obtains because I don't know, and I don't 
want to represent to you that that industrial 
park has adequate screening all around. 

I can tell you that it is 
screened almost for the most part. If you go 
along Novi Road, you can't see these trucks. 
Because the K rail, or whatever it is, the 
railing that sits up there, as Novi Road 
passes over the railroad, is high enough that 
you can't see the property. 

Trans X Drive, once you're on 
Trans X Drive, for the northern part of Trans 
X Drive is effectively screened by a lot of 
vegetation against the view of the 
condominium owners, or the big townhouses 
that are immediately to the east of Trans X 
Drive. I don't know if they front on Trans X 
Drive, but they're right to the east. 
The only people that can 
actually see these trucks are people who are 
on the very front of Trans X Drive as they're 
coming around that bend in their cars. And 
the only land owner that can see the trucks 
from where he sits is Mr. Stevens because he 
owns the property across the street on Trans 
X Drive. So he, of course, doesn't have any 
objection to seeing semis on this property 
that he looks at. 

So I'm suggesting that the
spirit of the ordinance is already fulfilled
with the screening, and the only side that
could be screened is, in effect, not a
problem for anyone, you know, in the area.

And as I said, if we could get
the county to do it, because they’re the ones
that tore the thing up initially, we would be
pleased to have them foot the bill for
putting any kind of screening in that might
be required.

But we don’t know that they
will do it, and we don’t have the money.

So on that basis, we ask that
the Zoning Board of Appeals grant the
variance and allow the parking of trucks on
this property. Thank you.
to the board for questions. Yes, go ahead.

MR. GEDEON: Help me understand, is the water tower, the Novi special water tower actually on this parcel or is it on a neighboring parcel?

MR. FEIKENS: It's on this parcel.

MR. GEDEON: You stated earlier that there were -- let me back up.

Are you aware, are there cell network receivers added to that tower?

MR. FEIKENS: Yes, that's the other source of income that Raven has.

MR. GEDEON: What you said earlier when there was no other source of income was not exactly accurate?

MR. FEIKENS: It was accurate. I said that what -- our only source of income at this point is from the surface of what's on the property.

We used to have a significant source of income when the building was being occupied.

Back when Raven Investments, LLC bought the property, the property was rented out and there was a significant rental charge that was being brought in.

But that tenant left a number years of ago, and given all of the circumstances, especially the economic
downturn, there was no basis for getting any
other tenant in there. So the only income
that Raven has had off of that property has
been a lease of the cell -- of the water
tower as a cellular phone tower and whatever
leases -- you know, whatever surface space
can be leased out for the parking of
vehicles.

MR. GEDEON: Do you have any
understanding of the breakdown between -- you
know the income breakdown? How much -- are
they getting significantly more income from
the cell tower lease versus the surface
parking lot or vice versa?

MR. FEIKENS: I don't know the
answer to that. I'm going to say that the
number of trucks that are parked there at a
maximum is somewhere between eight and ten at
any point in time.

The revenue from the cell
tower is regular. If I were to guess I would
say the revenue from the cell tower is
greater, but I don't know.

Ms. Calhum says that the
revenue from the cell tower is greater than
the trucks.

MR. GEDEON: Thank you.

MR. GHANNAM: How is it that this
property cannot be used for any of the
permitted purposes, if you weren't able to
MR. FEIKENS: I'm not sure I understand.

MR. GHANNAM: Well, one of the things you have to establish is that -- to get a use variance is that you can't reasonably use this property for one of the permitted purposes.

I mean, you have an industrial zoning. I don't know all the things offhand that you can do there, but I'm sure it's a lot.

So my question is, how -- what is your basis for stating that you cannot use this particular property for one of the permitted purposes?

MR. FEIKENS: I don't know that we couldn't. I mean, from a realistic point of view, the cost of putting up a building, especially in these economic times, speculation, would be virtually nil.

But I think that's what the -- that's what the best use would be, is some kind of development of that property. Indeed Raven is interested in trying to sell the property to a developer for an appropriate use.

Raven is not in the position to do any development of the property at this
point to use it for any other purpose. It's a piece of land, that is, in effect, lying fallow and the use of the surface is the only thing reasonably available to it at this point.

MR. GHANNAM: Maybe with the ebbs and flow of the economy that may be true, and maybe with the current financial status, you know, the entity -- or the property owner, that may be true, that's not what we look at. When we give a use variance, that runs with the land. That means trucks can be parked there indefinitely. That becomes some of the issue.

If you can't do something with this property, maybe it's the topography, maybe it's the angle that it hits the street or something to that effect. I mean, that's something we can consider, but if you can use that property for any -- for a number of permitted purposes, then it becomes a problem for me.

Do you understand?

MR. FEIKENS: Well, I think I understand what you are saying. I think as a practical matter, if there were some uses that this -- a relatively impoverished company could put it to, we certainly would. That's the difficulty, it's a matter of practicality, it isn't a matter of
whether we are theoretically able to do it. I guess, theoretically we could.

As I say, if we could find a purchaser that would be interested in developing it and using it for a much higher purpose, we would love to develop it.

MR. GHANNAM: I just think my general position is with the current zoning you have, which is pretty liberal and with the particular location of this property, right off Novi Road.

I know you said in your statements that you don't think any of the trucks would be able to be seen from Novi, I don't know that to be true. It may or may not be. But I think this area has been nicely developed, I assume the city wants to keep it nicely developed and parking a bunch of trucks there would alter the character of that, you know, particular corridor.

So I would not be in favor of it. Nothing else. Thank you.

CHAIRPERSON KRIEGER: Which is the primary frontage, is it Trans X or Novi Road?

MR. WALSH: The address is Novi Road.

MR. FEIKENS: If I may, I don't want to interrupt.

CHAIRPERSON KRIEGER: Go ahead.
MR. FEIKENS: There used to be an entrance off of Novi Road. There used to be an entrance off of Novi Road. I think it may have had an address on Novi Road at some point.

When Novi Road was reconfigured, when that ramp was put in, that entrance was wiped out. There is no longer an entrance onto this property from Novi Road.

In terms of the actual footage, I think that the little plan of the land was appended through the petition. In terms of the actual footage, this is what's along Novi Road here. Whereas Trans X Drive goes -- curls entirely around the north and east of the property.

CHAIRPERSON KRIEGER: Then that also doesn't have the screening, I guess, is where they're looking for screening. I can see how it makes an ease for trucks to turn around. But because of the -- down the street is a subdivision, I don't know that teenagers bike around in there at times, it becomes a safety issue as well in the future, or currently.

So yes, I agree with the previous speakers on the character of that.

MR. FEIKENS: What I have to say about that is only anecdotal. I have never
The only teenagers that I know that may have been on there are those that vandalized the building, when it was still on sight. And part of the reason that the building was taken down was because the city was very interested in having the building taken down.

MR. IBE: Counsel, I think the reason that your client -- about a financial posture for your client is -- would you say that's the main reason for, you know, efforts to -- for use variance? Would it be due to the financial reasons? Is that really the crux of your argument here?

MR. FEIKENS: Well, I don't know. I guess that's -- I can't really speak from what goes on in Mr. Stevens' mind. I know that he wants this property, which he has a substantial investment in, to yield some return.

And so what the principle reason in his mind and so forth, I'm really just guessing at that.

But no, it's simply a matter of getting some return off the property. Without some return off of his property, you know, Raven is simply not in the position to be able to on its own finance its obligation, such as paying the taxes. It would have to
come from some other source, like Mr. Stevens himself.

MR. IBE: So the truth of the matter is that the owner of the property, your client, that you speak for, can use this property as permitted right now?

MR. FEIKENS: Yes, with a strain.

MR. IBE: So it is not really a matter of the fact, that, you know, I can use this property as it is zoned right now, as it's permitted, but because of my financial posture at this time, let me use it for something, some other reason, other means, is that correct?

MR. FEIKENS: Sure, that's what I said. Both with respect to the fact that we don't have any other income plus it would be a hardship to put up the screening fence and it wasn't us that took it down. It was the county that took it down when Novi Road was improved and when the ramp was put in. Otherwise that would still be up there today and we wouldn't be here.

MR. IBE: Counsel, I'm sure you're aware of the standards that we have to abide by in order to either grant or deny a use variance.

And one of these standards
specifically states that it -- we cannot do it, if it's due to the applicant's personal or economic hardship. That is something that obviously we have to abide by and I'm sure as an officer of the court and a counselor of law, you will agree with me that that is something you will obviously want us to enforce.

MR. FEIKENS: Of course. But although I can't imagine that it says, that you can't take into account the hardship. I don't think that just because I say it would be a hardship prevents from granting the relief. I don't very much think that's what the law is just because it's a hardship prevention from granting relief. I point that out simply because that's why we are here.

And the other reason is it's a convenience for the people that are using it. It's environmentally sound, it saves gasoline, it saves the wear and tear on the trucks and that's the reason we want to do it.

CHAIRPERSON KRIEGER: Counsel, last question, you also agree, sir, that if we follow your logical argument, which you articulated quite well, you will open up the doors for people to walk into this place, asking that, you know what, due to the
financial reason I'm having right now, can you please permit me to use this property for X purposes. You know, after all, look, it's the only income that I gain from this place.

MR. FEIKENS: I may have not made my position clear. I'm not suggesting to you that that's the reason for you to act. I wanted to let you know that the reason we are here is because it's a financial hardship to leave that land unused. And the -- it's not a corporation, it's an LLC, it doesn't have the money at this point to do the screening. That's the only relevance to the financial hardship.

No, I don't mean to suggest to you that anybody should be able to come here and say, hey, we need to make some money and so please let us use the land for this purpose. That's not what I'm suggesting.

I'm simply suggesting that's why we are here. Because I think it's a relevant thing for you to say, well, why are you here. Why do you want to park trucks there.

We want to park trucks there because we are going to make money off of parking trucks there. It's a permitted use. There is nothing in the ordinance that forbids it. We are allowed to do it.

The only problem is that we
have to screen it from somebody's view. I think that it is effectively screened as it is. The only people that are going to see this are Mr. Stevens, when he sits in his office across the street and looks at the trucks. Nobody else is going to see those trucks.

Now, could somebody be walking along Novi Road and look over into here and see the trucks, yeah, of course they could. Could somebody else in the industrial park driving down the road see these trucks, sure. Absolutely they could. But I'm just suggesting the spirit is that this is an industrial park. It is about as screened as it can get except for this little strip along Trans X Drive, which is what Mr. Stevens looks through when he sits in his office and looks across the street.

I submit that the requirement to shield Mr. Stevens' eyes from these trucks, which is all the screen would do, shouldn't -- you know, shouldn't be enough for you to deny this request.

MR. IBE: Thank you very much, counsel.

MR. FEIKENS: May I just have one moment with my client to see if my client wants to say anything further.
CHAIRPERSON KRIEGER: Yes.

Mr. Walsh, if he wanted to comment, can the microphone be taken to him if he can't get up.

MR. WALSH: No, I don't think so.

MR. STEVENS: Can I talk from here? Can you hear me?

CHAIRPERSON KRIEGER: Yes, but for the input at home.

MR. STEVENS: It's very hard for me to move around.

CHAIRPERSON KRIEGER: Thank you. If you could be sworn in with our secretary.

MR. GEDEON: In Case No. PZ13-0063, do you swear to tell the truth?

MR. STEVENS: I do. The other problem with putting the fence back up is we have Homeland Security clearance. The building across the street is a bonded warehouse. Those trucks are certified to carry classified materials, and Homeland Security has cameras on my building on the other side of Trans X Drive, a fence would impair their vision of part of that parcel.

We don't have control over Homeland Security, it's their security system on my building. Because one of my major tenants that doesn't use that parcel hauls materials from Mexico to Canada and Homeland Security gets involved in that.
They use my building as a transfer for loads and that can happen any time in a 24 hour period. But the vision of security, the more you put up, the less security we have and they want to put a couple of infrared lamps or cameras on the south side of -- or would be the east side, I'm sorry, where my other building is, to better -- that area where the trucks park at night. But the trucking companies are very interested. There are major companies (unintelligible) and other commodities like that, to use that area because it's a -- Homeland Security likes that because they have a collection of trucks, trailers rather than having to go to five or six different locations to monitor classified material.

Any questions?

MS. CULHAM: May I say something?

CHAIRPERSON KRIEGER: Yes, if
could just be sworn in as well.

Can you state your name, too.

MS. CULHAM: Barb Culham,
C-u-l-h-a-m.

MR. GEDEON: In Case PZ13-0063,
do you swear to tell the truth?

MS. CULHAM: Yes. I just wanted
to say, this is -- parking in that lot is a
permitted use. This variance is for putting
up the fence. So the parking is permitted,
per your ordinance in 12. There seems to be
some miscommunication on that.

MR. FEIKENS: Thank you.

CHAIRPERSON KRIEGER: Is Homeland
Security, since they're interested in parking
the trucks there, wouldn't they --

MR. SANGHVI: It's okay, I will
wait when you're finished.

CHAIRPERSON KRIEGER: How are
they participating in this if they're for the
use --

MR. FEIKENS: Well, I don't know
the answer to that except what Mr. Stevens
has indicated.

I guess -- certainly think
that if indeed Homeland Security is
interested in this property and interested in
seeing -- that's probably something that we
need to investigate further. I don't know.

Does it make sense to table
this for a month and come back after we have
looked into that?

MS. SAARELA: What was the

question? To look into what question?

CHAIRPERSON KRIEGER: How
Homeland Security is participating in this?

MS. SAARELA: I'm not sure that
that would effect the criteria of the use
variance in any way.

MR. IBE: I don't think -- with all due respect, counsel, I don't think that has to do with the price of beans in Guatamala.

Really whatever Homeland Security is interested in or not, Homeland Security has a business with the private property owner. It's not with a city government or municipality. And that is the contract between the parties with Homeland Security.

I think it's beyond the scope of what we are here to do at this time.

So I think that that is something that the owner of the property and the contract can deal with Homeland Security as to how the municipality operates.

And unfortunately, our hands are pretty much tied and we have to follow the rule of the law as given to us and that is how we are going to base our decision.

CHAIRPERSON KRIEGER: Thank you.

MR. FERRELL: I got a question for the city.

So this isn't anything to do with the parking of the trucks, it's just the screening --

MS. SAARELA: What we have is -- the principle permitted use for parking
outdoor storage in I2 requires screening. So it is not a principle permitted use to park without screening. In order to be a permitted use, it's screened parking. It's sort of similar to if you had a drive-thru or a fast food restaurant with a drive-thru or a fast food restaurant without a drive-thru, they're both permitted in different areas.

You don't necessarily allow a fast food restaurant with a drive-thru in certain districts that a fast food restaurant without a drive-thru is allowed in.

So an analogy is, in I2, the permitted use is screened, fully screened parking outdoor storage. So what they're talking about is just for the screening, you're talking about deficient screening. In this case they're not asking for to put in a fence that is too short, or to put in trees that aren't quite opaque enough. They're not asking for a deficient screening, which would be a non-use dimensional variance that Section 2002 deals with. They're asking to have unscreened outdoor storage as a principle permitted use, which is not a principle permitted use in I2. Screened outdoor storage is.

So that's why the difference between the use variance versus non-use variance 2001 and 2002.
MR. FERRELL: So if this isn't screened, they can't use it for outdoor storage at all?

MS. SAARELA: Correct. That's why it's a use variance. They're asking to use it for something that's not permitted, which is parking without any screening. Not deficient screening, no screening.

MR. FERRELL: Thank you.

CHAIRPERSON KRIEGER: Member Sanghvi?

MR. SANGHVI: Counselor, I empathize with your client, but unfortunately, the requirements of the law doesn't take that into consideration. Thank you.

MR. FEIKENS: Thank you.

CHAIRPERSON KRIEGER: Yes?

MR. GHANNAM: May I make a motion?

CHAIRPERSON KRIEGER: Yes.

MR. GHANNAM: In Case PZ13-0063, for Raven Investments, LLC, I move to deny the use variance requested in this matter because the applicant has not shown that he can -- he cannot reasonably make any other use of the property an outdoor storage without screening. The applicant has not provided any facts showing the property cannot be developed in accordance with any of
the principle uses permitted in the I2 zoning district.

No information has been provided as to whether the property has been proposed or marketed for development for other purposes. No information has been specifically given as to the cost of the screening, such as including the site plan. Although they claim various income from other sources, that's -- those specifics have not been given. And although they claim lack of funds, certainly that has not been established, other than claimed. Furthermore, the applicant has not shown that the physical characteristics of the property are preventing him from installing screening, or alternatively from using the site for another permitted purpose. Although the applicant has indicated that there are railroad tracks adjacent to the subject property, he has not indicated how that inhibits him from installing the necessary screening. The applicant has not shown that the inability or unwillingness to install the required screening has been self-created. Finally, the applicant has not provided information showing that the
essential character of the area will not be changed. The nearby multi-family residential development has a view of the semi trucks stored on the site, and I believe so with Novi Road.

MR. IBE: Yes.

CHAIRPERSON KRIEGER: There is a motion and a second. Any other discussion?

(No audible responses.)

CHAIRPERSON KRIEGER: Seeing none, if Ms. Pawlowski could call the roll.

MS. PAWLOWSKI: Member Ferrell?

MR. FERRELL: Yes.

MS. PAWLOWSKI: Member Gedeon?

MR. GEDEON: Yes.

MS. PAWLOWSKI: Member Gerblick?

MR. GERBLICK: Yes.

MS. PAWLOWSKI: Member Ghannam?

MR. GHANNAM: Yes.

MS. PAWLOWSKI: Member Ibe?

MR. IBE: Yes.

MS. PAWLOWSKI: Chairperson Krieger?

CHAIRPERSON KRIEGER: Yes.

MS. PAWLOWSKI: Member Sanghvi?

MR. SANGHVI: Yes.

MS. PAWLOWSKI: Motion passes seven to zero.

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MR. FEIKENS: Thank you.

CHAIRPERSON KRIEGER: That brings us to Case No. PZ13-0064, for 27793 Novi Road, Eyeglass World.

If you could state your name and spell it for our reporter.

MR. HUYGE: My name is Patrick Huyge, H-u-y-g-e. I work for Site Enhancement Services located at 6001 Nimtz Parkway, South Bend, Indiana.

MR. GEDEON: In Case PZ13-0064, do you swear to tell the truth?

MR. HUYGE: I do. Good evening, Ms. Chairperson and gentlemen of the board.

Like I stated, my name is Patrick Huyge with Site Enhancement Services, for Eyeglass World.

What we are here proposing tonight is to move a code allowed wall sign from a south elevation in our proposed building to the north elevation.

We have been granted permission to instruct a wall sign on the south elevation, however, our entrance to the building is on the north elevation. We are not allowed a wall sign on that elevation, so we are proposing to move that code allowed 21 square foot wall sign from that elevation to the north elevation, which is where our entrance to the building is.
Do you all have artwork at this time that I might be able to go through with you. I have the exact same artwork, we can walk through it at the same time. I can show you exactly the reasons why we're requesting this.

CHAIRPERSON KRIEGER: If you want to put it on the overhead for viewers at home, that would be great.

MR. HUYGE: So what we have here on page two, this shows just exactly where Eyeglass World is. It's located within the shopping plaza there on Novi Road.

The out parcel within the shopping center is one of two basically with the Starbucks and Jared being right there. Jared and Starbucks each have two wall signs. Jared has one facing Novi Road and one facing the road -- the service road that goes into the shopping center.

Like I stated we would be allowed a wall sign on the rear elevation here, however, our entrance is up here on the north elevation, which is where we're proposing the sign.

On the next page, you will see kind of just some more detailed site plan. Once again, we are right here within the shopping center, others within the same shopping center have a wall sign at their front entrance, which is the norm for, you
know, stores everywhere along the nation. I mean, if you don't have the store over your entrance, how are you supposed to direct customers to the entrance to the property. That is impossible to let patrons know exactly where this building is, if there isn't a wall sign over the top of the entrance.

On page three, this shows the parking situation surrounding. As you see, there is parking on the north, south and west of the proposed location.

We are proposing to put that wall sign on the north elevation once -- like I said, which is where our entrance to the building is, and that is the only entrance to the building.

On page four, this just shows exactly what the wall sign will look like. It fits really well within the area there, very uniform compared to others in the area. And it's really esthetically pleasing, in comparison to, you know, the raceway matches, the color of the building is very proportionate to that area right there.

The last page is just kind of a schematic showing measurements of the sign and things of that nature.

I will be happy to answer any questions on that, if you have any.
In conclusion, Eyeglass World is requesting to put this sign, move it from the rear of the building to the front of the building so that patrons may know exactly where the entrance to this building is.

Without this variance, we would not be allowed a wall sign on the front of the building and would not be allowed to notify motorists exactly where this entrance is.

I'm happy to answer any questions you may have at this time.

Once again, other within this area, including actually Art Van, ABC Warehouse have multiple wall signs, including one that faces -- which is over their entrance and one faces the surface road.

MS. SAARELA: So are you just proposing one sign moving it from where it currently is, that's it?

MR. HUYGE: The variance is for a rear wall sign being moved to the front of --

MS. SAARELA: Will you have two signs total or will you just have one sign --

MR. HUYGE: There will be two total. The second wall sign will be on the east elevation as already allowed.

CHAIRPERSON KRIEGER: Okay. Is there anybody in the public that has any comments regarding this case?
none, from the city, Mr. Walsh.

MR. WALSH: No comments at this time. It's clarified -- we weren't quite sure if it was one sign or two signs.

CHAIRPERSON KRIEGER: Me too, thank you. Open it up to the board. Oh, correspondence, please.

Thank you.

MR. GEDEON: In Case PZ13-0064, there were 34 notices mailed, three returned mails, zero approvals, zero objections.

CHAIRPERSON KRIEGER: Very good. Member Ghannam?

MR. GHANNAM: I understand the need, sir. I know you're in a sea of buildings and parking so forth. And clearly I think one sign would be insufficient. You want to move your existing sign to a different location, and another sign as a variance.

MR. HUYGE: Pardon me. It is not an existing sign.

MR. GHANNAM: Your sign of right. You want your sign of right in one area and you want the second sign on the rear entrance, I understand.

All I'm saying, given where
you're located in this particular shopping center, it does make sense. I know we have granted others before.

The problem is when you come in for three or four signs because you face every single angle, that becomes a problem, but for this one, I have no problem.

MR. HUYGE: Thank you, sir.

CHAIRPERSON KRIEGER: Go ahead.

MR. FERRELL: Are you guys occupying the whole -- entire building or just --

MR. HUYGE: Yes, we will be occupying that entire out parcel.

MR. FERRELL: Thank you.

CHAIRPERSON KRIEGER: Very good.

MR. IBE: I was going to say I concur with Member Ghannam's comments. Obviously you need -- it won't make any sense to not have a sign over your entrance.

We have had people come in here and they want signs facing their own direction and not their entrance. This makes more sense this way.

I think that I don't have a problem with it. I doubt if the members will either.

MR. HUYGE: Thank you, sir.

CHAIRPERSON KRIEGER: Would you like to make a motion then.
MR. IBE: I'll make a motion.

MR. GERBLICK: I'll make a motion. In Case No. PZ13-0064, I move that we grant the variance as requested. This variance is based on facts and circumstances that are exceptional and unique to the property do not result in conditions that are -- exist generally in the city or that are self-created. Specifically, the location of the building being in the center of the shopping. There is no sign currently over the one entrance to the building.

Failure to grant relief will unreasonably prevent or limit the use of the property and will result in substantially more than a mere inconvenience or inability to attain higher economic return.

Again, due to the lack that there is a sign -- a directional sign pointing to the entrance of the building.

The grant of the relief will not result in a use of the structure that is incompatible with or unreasonably interferes with adjacent or surrounding properties as there are several properties with multiple signs in the area. And will result in substantial justice being done to both the applicant and adjacent and surrounding properties. It is not inconsistent with the spirit of the ordinance.
MR. GHANNAM: Second.

CHAIRPERSON KRIEGER: We have a motion and a second. Any other discussion?

MR. FERRELL: Should this be limited to just this business, this variance?

MR. GERBLICK: I don't think so.

MR. GHANNAM: I wouldn't think so. It's just the nature of the building itself.

CHAIRPERSON KRIEGER: Ms. Pawlowski, call the roll.

MS. PAWLOWSKI: Member Ferrell?

MR. FERRELL: Yes.

MS. PAWLOWSKI: Member Gedeon?

MR. GEDEON: Yes.

MS. PAWLOWSKI: Member Gerblick?

MR. GERBLICK: Yes.

MS. PAWLOWSKI: Member Ghannam?

MR. GHANNAM: Yes.

MS. PAWLOWSKI: Member Ibe?

MR. IBE: Yes.

MS. PAWLOWSKI: Chairperson Krieger?

CHAIRPERSON KRIEGER: Yes.

MS. PAWLOWSKI: Member Sanghvi?

MR. SANGHVI: Yes.

MS. PAWLOWSKI: Motion passes seven to zero.

MR. HUYGE: Thank you very much.

CHAIRPERSON KRIEGER: That brings Page 62
us to our last, Case PZ13-0066 for 2214 Austin Drive.

If you could state your name and spell it for our reporter.

If you are not an attorney, if you could be sworn in by our secretary.

MR. VAICIUNAS: I'm not an attorney. My name is Joe Vaiciunas, spelled V, as in Victor, a-i-c-u-i-u-n-a-s.

MR. GEDEON: In Case PZ13-0066, do you swear to tell the truth?

MR. VAICIUNAS: Yes. My wife and I own the property at 2214 Austin Drive, which is Lake Shawood, right next to Walled Lake.

We have owned it for about three years. The property itself is 40 by 100 feet.

On the property right now there is a small cottage that's probably the size of a two car garage. We are hoping to demolish that garage and build a substantial home on that property.

I understand the variances on the property lines and all of that, but for us to build a 30-foot wide home, we would need to be within five feet of the borders, and then with the overhang, within four feet of either side of the borders.

That's essentially what we are...
asking for is a variance on the sides that we can build a home this spring.

CHAIRPERSON KRIEGER: Very good.

That's it?

MR. VAICIUNAS: Well, that's pretty much it. I mean, unless I can embellish it somehow.

CHAIRPERSON KRIEGER: Very good.

Anybody in the public that would like to comment regarding this case.

If you could come up and spell your name and be sworn in, if you're not an attorney, at the podium.

MS. CAMERON: My name is Erin Cameron. I live at 2280 Austin Drive, right next-door. C-a-m-e-r-o-n.

MR. GEDEON: In Case PZ13-0066,
do you swear to tell the truth?

MS. CAMERON: Yes. Being right next-door to Joe, I also have lived there for a few years now, and the lots are so small in that area. Only a handful of houses actually have a decent size lot there, and with what he's looking to do and the size of home he's looking to build, that would obstruct my view significantly, with the lake.

And the home that actually sets on the opposite side of Joe, on the
other side, they had built out, the way that the homes are positioned around the lake, they have built out far and actually put on a huge deck, which I'm not exactly sure what the ordinances are, and what you're allowed to do, but from my understanding, it will be a house that will be half way in between my house, the edge of my house and the edge of their home.

And the way that it would be, even if you were to come over towards my home, I would be looking at all house, out my kitchen window, which is, you know, the whole room is basically windows from the ceiling to the floor. And it actually has windows on the corner.

I have pictures just to kind of show what I'm talking about.

But the closer the house would be, and already going out towards the lake, I would look out that window and basically look at his house, which would effect, you know, resale value. You know, I purchased this home as an investment as well, so I live there year-round. I think Joe purchased that home as an investment, and has never lived in the home, so --

CHAIRPERSON KRIEGER: Do you have pictures you said? You could put them on the overhead.
MS. CAMERON: This is Joe's house here. This is my garage actually. So there is not much space in between, just right here.

This is the kitchen that I'm talking about, so with the house, I'm not exactly sure how far exactly Joe's planning to build out past my home. But with the house that's on the other side of him, that home is -- I mean, I don't know how many feet, maybe 15 -- actually, Joe's house ends and that house actually begins. It's a significantly large number, maybe a 2,000 square foot house. So that house goes all the way, you know, towards the lake. And with that, I understand that Joe will be able to build halfway between.

But this is the kitchen, so you can see right here on the edge, this is the red deck that I'm talking about. That's the deck of the house that's actually on the other side of Joe. Here is a better shot.

So that would be all house from what I understand with what Joe is looking to build. And the house itself, to even have 30 feet when the lot is only 40 feet wide, it just -- for that area, it just doesn't make sense to have that large of a home. Our lot -- I think my lot is maybe .13, so it's -- we are already on top of each
other to begin with.
I don’t know if that shows better. That’s actually my deck. This is the house that’s on the other side of Joe. Then their deck goes out further.
That’s all I have to say.

CHAIRPERSON KRIEGER: Very good. Anybody else in the public have a comment regarding this case?
(No audible responses.)

CHAIRPERSON KRIEGER: Seeing none, Mr. Walsh?

MR. WALSH: Yes, just if there was a motion for any approvals, I would ask the board to make a condition that the roof overhangs don’t exceed 16 inches. And that the applicant provides gutters and downspouts. Thank you.

CHAIRPERSON KRIEGER: Member Gedeon, if you could read correspondence.

MR. GEDEON: In Case PZ13-0066, there were 27 notices mailed, seven returned mails, zero written approvals, zero written objections.

CHAIRPERSON KRIEGER: All right. Open it up to the board. Yes, go ahead.

MR. FERRELL: Could you put your picture back up, with the -- the one with the deck, the last picture. That one there.

MS. CAMERON: I’ve got it.
MR. FERRELL: Actually the one you had up. So his property is between yours and that building, the next house, you just can't see in this picture?

MS. CAMERON: Correct.

MR. FERRELL: So you're saying his house because you don't know if it's going to be built past your deck?

MS. CAMERON: From what I understand, it's going to be 10 feet past, but I could be wrong. Supposedly it's supposed to be half way between the edge of my home and the home that's on the other side of him.

MR. FERRELL: So what's on the other side that we can't see.

MS. CAMERON: On the other side of my house?

MR. FERRELL: Yes.

MS. CAMERON: Just another house that's like flush with my house almost.

MR. FERRELL: You would only be obstructed to your right.

MS. CAMERON: On the right-hand side, correct.

MR. FERRELL: Not the left?

MS. CAMERON: Correct.

MR. FERRELL: I was under the impression that your house was tucked away in the middle and these two houses were going to
come and block your side view.

MS. CAMERON: Nope. But the way -- I don't know if I have a picture of that. Well, kind of.

The way that the lot is, this edge right here, of this island. That's pretty much -- that's the end of it right there, at the end of my property basically is where that ends. And the -- you know, come springtime and summer, it's all trees. It's all real flush right there.

So the only part of the lake that you can really see is basically where this edge right here is, then out to the here.

MR. GHANNAM: If his house was flush with your house, you wouldn't have a problem with the view?

MS. CAMERON: Correct.

MR. FERRELL: You're just concerned about it going -- extending past --

MS. CAMERON: Going past 10 feet and coming towards me. Because the closer he would gets obviously it would obstruct my view. Which I did a little bit of homework just with the houses on the market and that sold recently. And to not be on the lake is like around 85 for a foot square, for a really nice house, somewhere between 85 to 100.
And on the lake, homes that are in relatively comparable condition to my home sell right around 150 to 165 a square foot.

So I mean, it would definitely impact, you know, the value of the home to be looking at a lot of houses, versus the lake. Because the house that I have I don't even want to show you a picture of it. It's nothing special, you know, it's very similar to Joe's house, but the lot is everything, you know, right there.

MR. FERRELL: Okay. Thank you.

MR. GEDEON: I have a couple questions for you, too.

You were just saying -- is your house one of the original houses or is yours a rebuild?

MS. CAMERON: I want to say 1940s, maybe, 1950s the home was built.

MR. GEDEON: Do you have -- do you know the dimensions -- or the distance of the back corner of your property to the property line?

MS. CAMERON: No. I mean, I can show -- these trees are on my property, and this little patio set, this is Joe's property. So it looks like he's trying to come over to here, from what I understand.
But I don't know as far as actual dimensions. I think my lot width is only 39 feet.

MR. GEDEON: Just, you know, trying to balance everybody's interests here. Would you consider it to be fair if, you know, his new house was as close to the property line as your house is to the property line?

MS. CAMERON: Wouldn't be possible because my property line, like I said, is to here. So he's looking to come -- the biggest thing is -- my concern is just coming towards me and out to block my view, that's really the main concern that I have.

So coming anywhere closer then to be able to look out this window and not just see house all the way to here. I guess I'm trying to make sure that doesn't happen.

MR. GEDEON: Thank you.

MR. FERRELL: I have a question for the city. The setbacks that they're requesting a variance for, the front yard setback, is that the front of the property or the lakeside of the property?

MR. WALSH: Lakeside.

MR. VAICIUNAS: Does everyone have the plans that we have provided?

CHAIRPERSON KRIEGER: Yes.

MR. IBE: Just one quick
question.

Sir, based on the photograph that your neighbor provided, I notice she's been asking the question, seems to be a question that only you can answer.

Will the property that you -- the new property that you're going to put up, will it extend to the point about the deck where she is concerned about? Would that obstruct her view to the right?

MR. VAICIUNAS: It probably will somewhat, but I'm building a house that is inline with all the other homes that are up the lake and up the street, all inline with that. It's with -- considering the line of site.

She happens to be back a little bit further compared to the other homes in the neighborhood.

So the house that Erin is showing in the pictures that is next to us, we will be inline with that house. As the house is next to that house is inline, so on and so on.

MR. IBE: When you say you will be inline, are you talking about the physical building --

MR. VAICIUNAS: The face of it.

MR. IBE: The face of it.

MR. VAICIUNAS: Yes, the face.
that faces the lake will be inline with everything else, with every other house.

MR. IBE: Okay. Thank you, sir.

MR. GHANNAM: I just have a few questions.

On the blueprints that you gave us, your lot is obviously lot 88, correct, the one in the middle? You have that, the document you gave us?

MR. VAICIUNAS: 88, yes.

MR. GHANNAM: Your neighbor's lot here would be lot 89, correct?

MS. CAMERON: Yes.

MR. GHANNAM: The way I read this, there is an existing layout of all the structures, and then there is the proposed layout that your house is to be built.

It looks like that -- forgetting about the deck for a second, but the end of your house would be basically inline with the house -- would be lot 87, actually even slightly further back from the lake, would that --

MR. VAICIUNAS: Yes, I would agree with that, yes. If anything, a foot back from the house that is 87, yes.

MR. GHANNAM: Obviously --

MR. VAICIUNAS: From the lake that is.

MR. GHANNAM: Again, your deck
would extend beyond that. I understand that.
That wouldn't really be an obstruction.

MR. VAICIUNAS: I understand

decks don't count when it comes to --

MR. GHANNAM: In terms of

obstruction, that wouldn't obstruct any views

the way you propose your deck?

MR. VAICIUNAS: I don't believe

so.

MR. GHANNAM: My general position

is I'm familiar with this area and lakefront

house, especially in Novi, they are smaller

lots, they are narrower lots.

Clearly, you know, the

proposed new house would be an improvement in

the neighborhood. I don't think there is any

question you need -- the question really

becomes what's appropriate under the

circumstances.

Clearly the way with these old

lots, the way they were designed or laid out,

I mean, it doesn't fit existing building

codes. You have to have -- again, the

question is how much.

Given the way from my

perspective your proposed structure is going

to be laid out, I think it's appropriate

under the circumstances. I know sometimes

they're close calls. I know there is -- like

your neighbor was objecting because of a
Again, my position is under the circumstances I think what you have proposed is reasonable.

So I would be in support of it. I'm very cognizant of your neighbor's views, but, you know, I mean, I think this would be an improvement.

Although from the angle I have seen in these photographs, I don't think the obstruction -- any house is going to be an obstruction, so they can't object to that, but in terms of how far it extends towards the lake, I don't think the proposed house would be as big of an obstruction or really significant of an obstruction to prevent what you are requesting.

So again I would be in favor of it. Thank you.

CHAIRPERSON KRIEGER: Make a motion?

MR. GHANNAM: If no one else is prepared to, or if there is no other discussion. Okay.

In Case PZ13-0066, I move to approve the variances as requested by the petitioner.

I think that the -- there are
unique circumstances or physical conditions
of the property, such as the narrowness,
shallowness, shape, water, topography, and
other similar conditions.

The need for the variance is
not due to the applicant's personal or
economic difficulty.

The need is not self-created.

These lots existed prior to the purchase of
the home and have been in existence for quite
a while and clearly an improvement to the
property would necessitate some variances.

Strict compliance with the
regulations governing the area, setback,
frontage, height, et cetera, will
unreasonably prevent the property owner from
using the property for a permitted purpose,
and will render the conformity with those
regulations unnecessarily burdensome, again,
because of the narrowness of the lot, the
closeness to the water, as well as the
neighbors.

The requested variance is the
minimum variance necessary to do substantial
justice to the applicant as well as other
property owners in the district, and the
requested variance would not cause an adverse
impact on surrounding property, property
values or the use and enjoyment of the
property in the neighborhood or zoning

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In fact, I think it would improve the property values.

MR. SANGHVI: Second.

MR. GERBLICK: I would like to add to the motion, the additional requirements of the roof overhangs not to exceed 16 inches as well as the owner providing some sort of gutters on the facade of the building.

MR. GHANNAM: Sixteen inch maximum roof overhang, gutters and downspouts, I would agree to that amendment.

CHAIRPERSON KRIEGER: The seconder?

MR. SANGHVI: Second.

CHAIRPERSON KRIEGER: So we have a motion and a second.

Ms. Pawlowski, if you could call the roll.

MS. PAWLOWSKI: Member Ferrell?

MR. FERRELL: Yes.

MS. PAWLOWSKI: Member Gedeon?

MR. GEDEON: Yes.

MS. PAWLOWSKI: Member Gerblick?

MR. GERBLICK: Yes.

MS. PAWLOWSKI: Member Ghannam?

MR. GHANNAM: Yes.

MS. PAWLOWSKI: Member Ibe?

MR. IBE: Yes.
MS. PAWLOWSKI: Chairperson Krieger?

CHAIRPERSON KRIEGER: Yes.

MS. PAWLOWSKI: Member Sanghvi?

MR. SANGHVI: Yes.

MS. PAWLOWSKI: Motion passes seven to zero.

MR. VAICIUNAS: Thank you.

CHAIRPERSON KRIEGER: Thank you very much. That leads us to other matters. Any other matters?

(No audible responses.)

CHAIRPERSON KRIEGER: No other matters, a motion to adjourn then.

MR. IBE: I move to adjourn.

MR. SANGHVI: Before the motion I'd like to wish everybody happy holidays, the board and people at home.

CHAIRPERSON KRIEGER: Me, too. I second that.

Motion to adjourn?

MR. GHANNAM: Second.

CHAIRPERSON KRIEGER: All in favor say aye.

THE BOARD: Aye.

CHAIRPERSON KRIEGER: None opposed.

(The meeting was adjourned at 8:35 p.m.)

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STATE OF MICHIGAN )
COUNTY OF OAKLAND )

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

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

IN WITNESS WHEREOF, I have hereunto set my hand at the City of Walled Lake, County of Oakland, State of Michigan.

--DATE-------

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