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
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Novi, Michigan.

Tuesday, January 12, 2016

7:00 p.m.

** ** **

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

Would you please all rise for the Pledge of Allegiance.

(Pledge recited.)

CHAIRPERSON GRONACHAN:

Ms. Ramsay, would you please call the roll.

MS. RAMSAY: Member Ferrell?

MR. FERRELL: Here.

MS. RAMSAY: Member Krieger?

MS. KRIEGER: Present.

MS. RAMSAY: Member Sanghvi?

MR. SANGHVI: Here.

MS. RAMSAY: Member Byrwa?

MR. BYRWA: Here.

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

Member Montville?

MR. MONTVILLE: Here.
MS. RAMSAY: Chairperson Gronachan?

CHAIRPERSON GRONACHAN: Present.

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

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

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

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

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

(No audible responses.)

CHAIRPERSON GRONACHAN: Seeing none, all those in favor?

THE BOARD: Aye.

CHAIRPERSON GRONACHAN: None opposed.

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

The minutes, has everyone had
a chance to review the minutes?

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

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

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

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

That's it.

CHAIRPERSON GRONACHAN: Thank you. Any other changes?

(No audible responses.)

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

Member Sanghvi?

MR. SANGHVI: Thank you, Madam Chair.

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

CHAIRPERSON GRONACHAN: Okay.

All those --

MS. KRIEGER: Me, too.

CHAIRPERSON GRONACHAN: The November meeting you were here.

MS. KRIEGER: Unh-unh.

CHAIRPERSON GRONACHAN: Oh, no.

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

(No audible responses.)

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

THE BOARD: Aye.

CHAIRPERSON GRONACHAN: No opposed.

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

Right along. At this time, if there is anyone in the audience that wishes to make comment to the ZBA, that is not relevant in any of the cases that are coming before us tonight, they can do so now.
Is there anyone in the audience that wishes to make any comment to the board this evening?

(No audible responses.)

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

Is the petitioner here?

Please come on down.

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

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

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

MS. HOLKE: No.

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

MS. HOLKE: My name is Donna
Holke, H-o-l-k-e. I'm representing Intercity Neon, the address is 32920 Amber, Warren, Michigan 48089.

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

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

MS. HOLKE: Yes.

MS. SUTTON: Yes.

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

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

At that time, things were put on hold and when they finally decided to go ahead with it, the Zoning Board of Appeals
had expired as well as the permits had expired.

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

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

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

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

MS. HOLKE: Yes.

CHAIRPERSON GRONACHAN: Like to put it on the overhead.

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

CHAIRPERSON GRONACHAN: Anything else?

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

CHAIRPERSON GRONACHAN: Please.

Is there anyone in the audience that has comment in regard to this
case?

(No audible responses.)

CHAIRPERSON GRONACHAN: Seeing none, building department?

MR. BOULARD: Nothing to add.

CHAIRPERSON GRONACHAN:

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

MR. FERRELL: There was 14 letters mailed, 14 letters returned, zero approval letters received, zero objection letters received.

CHAIRPERSON GRONACHAN: Okay, thank you. Board members?

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

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

MR. BYRWA: I was also wondering if that could be a request, that could be included in part of the write-up, when the city looks at that, so we know that it's a deviation of the maximum allowable, so many
square feet. It's going to X amount of square feet.

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

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

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

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

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

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

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

So the entire sign is an additional sign, as it was granted before.

Whatever size, it's all additional.
MR. BYRWA: That clears it up, good.

CHAIRPERSON GRONACHAN: Member Sanghvi?

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

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

MR. BOULARD: There is a time limit in the ordinance, once you get a variance, you need to pull a permit and carry that through, or if it's a use that was exempted, there is actually a shorter window, that's six months. I believe this is a year. So basically, it is expired, and they're back to renew exactly the same thing.

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

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

MR. SANGHVI: No other changes?

MR. BOULARD: No.
CHAIRPERSON GRONACHAN: Any other questions?

(No audible responses.)

CHAIRPERSON GRONACHAN: Is there a motion? Member Ferrell.

MR. FERRELL: In Case No. PZ15-0043 Croskey Lanni, I move that we grant the variance in Case No. PZ15-0043, sought by Croskey Lanni on behalf of Intercity Neon for renewal of the expired approval that was approved back in June of 2014. And they had removed the ground sign as required by the ZBA --

MS. HOLKE: Their name off the ground sign.

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

The relief ground -- the relief granted will not unreasonably interfere with adjacent or surrounding properties. The relief is consistent with the spirit and intent of the ordinance.
And by complying and following the direction of the ZBA, and taking the name off the ground sign and renewing the expired prior approval, I move that we grant the request.

MS. KRIEGER: Second.

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

(No audible responses.)

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

MS. RAMSAY: Member Ferrell?

MR. FERRELL: Yes.

MS. RAMSAY: Member Krieger?

MS. KRIEGER: Yes.

MS. RAMSAY: Member Sanghvi?

MR. SANGHVI: Yes.

MS. RAMSAY: Member Byrwa?

MR. BYRWA: Yes.

MS. RAMSAY: Member Montville?

MR. MONTVILLE: Yes.

MS. RAMSAY: And Chairperson Gronachan?
CHAIRPERSON GRONACHAN: Yes.

MS. RAMSAY: Motion passes six to zero.

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

MS. HOLKE: Thank you.

MS. SUTTON: Thank you.

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

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

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

It looks you guys have done your homework.
I will also remind the board members this is -- this case, although different petitioners, was previously before the board in October of 2013, I believe.

   MR. MARKUS: That is correct.

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

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

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

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

   MR. FERRELL: If you want --

   MR. DRAIN: My name is Mark Drain. I'm with Rugvoy Architects,
that's spelled R-u-g-v, as in Victor, o-y.
My address is 32500 Telegraph Road, in
Bingham Farms, Michigan and my last name is
spelled D-r-a-i-n.

MR. FERRELL: Would everyone
raise their right hand.

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

MR. MARKUS: Yes.
MR. BUTLER: Yes.
MR. DRAIN: Yes.
MR. FERRELL: You may proceed.
MR. MARKUS: Some brief history.

We went to the Planning Commission, we were
there once before where we were denied, and
it was a nice wake-up call.

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

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

The second very unique -- I
know you guys' history with this sight with a
prior owner. There are a few things going on, the narrowness of the property, the lack of direct access to any other main road. Obviously that's huge here, there is an easement with Chase Bank. There is also some wetland issues throughout the property that we have had to mitigate and work around. And there is also no direct access, narrowness.

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

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

With what we propose, 21 and a half feet is actually better than what the
last applicant was here for, the prior owner, he had requested 15 feet. So we're better by -- better than him by six feet, six and a half feet.

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

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

MR. BUTLER: Yes, as Mr. Markus had mentioned, we are proposing Citygate to install a screen wall, with a fence on top to provide screening.
We obviously don't have a buffer to meet the requirements pursuant to the ordinance. We did work with the city's landscaping architect, and came up with this solution, we thought it was reasonable and could provide screening for those cars in the drive-thru. So we are meeting what we think is the intent of the ordinance.

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

CHAIRPERSON GRONACHAN: Anything else, gentlemen?

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

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

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

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

My name is Ralph Richardson. I'm from South Lyon. 24574 (inaudible).

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

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

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

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

So when I look at this, one of the other things they are asking for, a zero
setback. We couldn't get a zero setback for anything.

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

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

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

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

Now, they're a big company, Starbucks, world's largest coffee shop. As a
matter of fact, there are three Starbucks within 1,000 yards of this building. So, I don't think it will hurt them to put up a standard Starbucks. It seems to me in fairness, they should not be given variances that other businesses are not given. They shouldn't be given the added advantage. Let them build Starbucks, as they would on that property, as it was designed and zoned.

Thank you for your time.

CHAIRPERSON GRONACHAN: Thank you. Is there anyone else?

(No audible responses.)

CHAIRPERSON GRONACHAN: Seeing none, building department.

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

But I just wanted to make sure
we understood, that's why that was done, to make sure whatever happened that you could consider a variance tonight. Other than that, I will stand by for questions. Thank you.

CHAIRPERSON GRONACHAN:

Mr. Secretary, is there any correspondence?

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

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

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

Did this project go through Planning Commission?

MR. BOULARD: Yes. This project went through the planning process, it went to Planning Commission and the Planning Commission basically asked the applicant to go back and rethink things, reconsider, take another hard look at it. They have done that.
They went back to the Planning Commission, they approved it. They looked at the traffic, they looked at the traffic and the other issues.

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

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

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

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

MR. BUTLER: We have 81 provided,
required is 74. So we have 81.

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

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

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

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

MR. SANGHVI: The very fact that
where your development is located, and the kind of business you are planning to have, I think traffic will flow easily to where it's an important issue, or over time, especially after businesses are picking up --

        MR. BUTLER: That is what traffic --

        MR. SANGHVI: May I finish.

        MR. BUTLER: I apologize.

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

        CHAIRPERSON GRONACHAN: Thank you Member Sanghvi.

        Anyone else?

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

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

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

        MR. MONTVILLE: I believe it's limited by hours during the day. I believe it's between seven and seven, you cannot turn
MR. BOULARD: Thank you. I haven't tried to make that turn lately. There is some discussion about that intersection.

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

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

MS. KRIEGER: Okay.

MR. BOULARD: But once again, I think it's important to -- I think it's important to keep the perspective that the planning commission has deliberated and made those decisions, subject to just the setback issue -- the setback issue, and those issues are the -- are the issues before the board
tonight. So planning commission has already approved the site plan, contingent upon the setback issues, but if I may be so bold, the traffic, the parking and things like that are not really part of this case. Thank you.

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

CHAIRPERSON GRONACHAN: Thank you. Member Montville.

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

MR. MARKUS: When we initially came to the planning commission, we had a plan that was a little bit different, which the main difference was there was not a kick-out lane for the drive-thru, so if you
circulate into the drive-thru, you were stuck there while this car had to decide to go or not to go and if you were caught in an emergency, you had to wait.

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

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

I understand that there are other issues that are being brought up now from the Planning Commission. I understand this obviously is always a concern, but we
did everything that the staff wanted us to
do, in terms of the site plan approval, we
met everything they wanted them to do --
 wanted us to do rather.

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

CHAIRPERSON GRONACHAN: Anyone
else? Is there a motion?

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

CHAIRPERSON GRONACHAN: Go ahead.

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

Strict compliance with the
dimensional regulations of the ordinance
would have a significant negative economic
and safety impact on the business in that
The petitioners have proven that they have done what's necessary to extend the lot, not necessarily just for their business, but also for safety conditions.

They have also established it's the minimum variance for those same reasons.

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

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

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

Could you clarify what those
dimensions are.

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

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

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

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

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

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

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

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

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

CHAIRPERSON GRONACHAN: We need to --

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

MR. BUTLER: Correct, yes.

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

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

(No audible response.)

CHAIRPERSON GRONACHAN:

Ms. Ramsay, would you please call roll.

MS. RAMSAY: Member Ferrell?

MR. FERRELL: Yes.

MS. RAMSAY: Member Krieger?

MS. KRIEGER: Yes.

MS. RAMSAY: Member Sanghvi?

MR. SANGHVI: Yes.

MS. RAMSAY: Member Byrwa?

MR. BYRWA: Yes.

MS. RAMSAY: Member Montville?

MR. MONTVILLE: Yes.

MS. RAMSAY: Chairperson Gronachan?

CHAIRPERSON GRONACHAN: Yes.

MS. RAMSAY: Motion passes six to zero.

MR. MARKUS: Thank you.

CHAIRPERSON GRONACHAN:
Congratulations. Welcome to Novi and we will be looking forward to a hot cup of coffee.

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

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

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

And I would take it that you are Ryan?

MR. VOJTKOFSKY: Yes, correct.

CHAIRPERSON GRONACHAN: Are you both going to testify?

MR. VOJTKOFSKY: Yes.

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

MR. VOJTKOFSKY: My name is Ryan Vojtkofsky, and it's V, as in Victor, o-j-t, as in Tom, k, as in Kevin, o-f, as in Frank, s, as in Sam, k-y. Address is 25687 Cody
Lane, Novi, Michigan 48374.

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

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

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

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

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

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

And at that point, the homeowner provided us a signed letter from three of the board members on the HOA, stating that the premise could -- we could
fence the entire backyard.

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

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

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

So at that point, you know, we felt we had approval from the HOA, and based on the bylaws, and multiple other houses in the subdivision, having fences around their entire yard, that we should be able to do this.
So really our goal here is to essentially create a safe play area for our pets and future children while being able to fully utilize all of our property.

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

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

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

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

And, you know, another thing is, we want to protect our pets. We want to
be able to let them out without interaction
of wildlife animals and other animals in the
subdivision.

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

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

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

You know, since there are
houses in the immediate area, we don't
believe this provides any negative impact or
value to the community.

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

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

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


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

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

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

As we were going through this process, the house that we purchased really was not even up for sale.
I had called them because they were the association president at the time. He called me back and said, listen, you know, we are going to sell the house, come and see it.

All that went fine.

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

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

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

Now, as you will hear later, what their other presentation are, although there is only the one entrance into the subdivision, it's actually two subs. Unless you live there, you wouldn't know that. So one of the houses that we're referring to that is fenced in, yes, it's in the same sub,
but it has a different name, has a different association. No one would know that.

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

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

Now, this young couple is very strong on what they want on their house. Besides the fact that Ryan, being a trained landscaper, this is not going to look horrible. It will have beautiful landscaping, as it does now, the fence around there.
But I feel that we felt we did the right thing, and I think that not approving this will put a for sale sign up in those young kids home, and that -- it might not affect anyone else, but I think it should be felt about.

And that's all I have to say.

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

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

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

Across the street from me is the house in question. They're talking about putting a fence in. The rules are such that the fence can be there, they can expand where they're at, but there is a certain setback required. Most of us don't have an objection to that. We do have an objection to the fence encompassing the whole property. There
is a lot of people in the subdivision
including myself, we have pets. We have
dogs. We don't have fences. They weren't
approved by the board, homeowners
association, you couldn't have a fence for
dogs.

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

CHAIRPERSON GRONACHAN: Thank
you. Is there anyone else?

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

CHAIRPERSON GRONACHAN: Please
spell your last name.

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

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

I live across Laramie Drive
from the property we are talking about. I
have lived there for 20 years.
When we were shopping for our house back in 1995, an important criteria was a neighborhood that had rules that protected its natural beauty.

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

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

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

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

First of all, rationale. The fence variance is being justified because the property owners have dogs. I would estimate that 40 percent of the houses in the neighborhood have dogs, all of them live
within the same rules.

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

Second one, slippery slope. It's been my experience that as soon as you waive the rule for one person, you will be expected to waive that rule for everybody else. That it will no longer be consistently enforced.

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

Then if you think that the concerns of a slippery slope are unlikely and pessimistic, know that just it's already happened in this meeting, just two minutes ago, the homeowner pointed to exceptions that the city made for other fences, saying that
the city must now make the same exceptions
for them. So we have already seen it happen.

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

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

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

So thank you very much.

CHAIRPERSON GRONACHAN: Is there
anyone else?

MR. GROVE: My name is Gary
Grove, G-r-o-v-e. I live at 25679 Laramie,
right across the street from the proposed fence.

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

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

As to the approval that they submitted, the most of important thing on there is the first line, it says, "in compliance the bylaws of Article 6, Section 11 and 14", here is Article 6, Section 11 and 14 out of our bylaws, specific for walls and fences. "Wrought iron fencing may be used on permitted -- or on any unit and locations approved by developers for the purpose of
enclosing a permitted swimming pool. The side yards and rear yard, but not the front yard of any unit may be enclosed. Provided that the street side of the corner unit shall be considered second front yard for the purposes of foregoing limitations”.

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

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

I mean, this is a law. This is a law. He's asking you to waive it.
The board should have felt that it shouldn't have come to this. We shouldn't have been wasting our time. We shouldn't be making enemies out of our brand new neighbor, the board should uphold it, instead they sign something that isn't legit and now they're trying to get you to think that our subdivision agrees with it. Thank you.

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

MR. GROVE: Grove.

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

MR. GROVE: Which one?

CHAIRPERSON GRONACHAN: From the homeowners association.

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

MR. GROVE: "In compliance with the bylaws of our Article 6, Sections 11 and 14, I hereby approve the modification of the existing wrought iron fence, which currently encompasses the existing pool and pool area..."
to be expanded to encompass the entire rear yard of the home, not to exceed said property line. The newly added fence must be the same material and color as the existing wrought iron fence."

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

It does not say that this petitioner, that they approved the side yard request that this petitioner is requesting.

Nobody is approving the entire rear yard.

MR. FERRELL: It's a corner lot.

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

Anyone else?

(No audible responses.)

CHAIRPERSON GRONACHAN:

Correspondence?

MR. FERRELL: Yes, Madam Chair, there were 19 letters mailed, one letter return, two approval letters received, 12 objection letters received and a homeowner
approval was also attached.

CHAIRPERSON GRONACHAN: How many objections again?

MR. FERRELL: Twelve.

CHAIRPERSON GRONACHAN: Thank you. Building department?

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

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

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

Because if you start a garage then -- if you start a garage that's allowed
by the city, but not allowed in your HOA
rules, then the homeowners association uses
their (inaudible) to gather knowledge to sue
you, then stop it because none of us --
that's money that could have better be spent
by everyone else.

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

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

And based on the features of
the lot, and the particular situation, but
particularly the lot and the physical
features and shape of it and so on, are going
to be the basis for this decision whether its
appropriate to have that there.

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

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

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

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

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

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

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

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

    MR. VOJTKOFSKY: Yes.

    MR. BOULARD: Thank you.

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

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

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

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

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

    MS. SAARELA: No. Your decision would not be wholly based on whether or not
it's approved by the homeowners association.

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

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

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

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

MR. SANGHVI: Thank you. Coming
to you. I did come and visit your place.
You have a beautiful home.

MR. VOJTKOFSKY: Thank you very much.

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

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

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

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

MS. KRIEGER: I have a question about like where the trees are on that site, and the sidewalk, there is a city easement.
Is there any of that belonging to the city where they are proposing?

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

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

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

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

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

CHAIRPERSON GRONACHAN: Anyone else? Member Montville.
MR. MONTVILLE: Just to clarify with the building department, so this isn't a size of the fence request, this is just a fence request, is that correct?

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

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

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

MR. MONTVILLE: So ask the petitioner, given that you have a preexisting fence with a pool, which is necessary, would it be an option to, as opposed to extending it throughout your entire lot, extending maybe so it was flush with the house, or a smaller expansion, without going all the way to the end of your lot, closer to the sidewalk?
MS. KAUR: That's what the city ordinance allows.

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

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

MR. VOJTKOFSKY: The one caveat to that is that -- I'm so sorry. You can't see these very well. So this is kind of from the back corner lot. From the edge of the house going back where we would be able to place it, there is existing -- there is existing bushes, patio and a stone fireplace.

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

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

MR. VOJTKOFSKY: Yes.

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

MR. VOJTKOFSKY: Correct.

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

CHAIRPERSON GRONACHAN: Thank you. Anyone else? I guess it's my turn. So I've got to get my head wrapped around this because when I first came in here this evening, I looked at this case, I didn't understand the request for the variance, quite honestly.

I'm sliding towards the side of Member Montville, about the invisible
fence for the dogs. If this is truly for the animals, okay.

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

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

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

   I have a problem with bringing that fence all the way up to the sidewalk. I think that you can solve this problem, if it is about the dogs, without a variance, you don't even need a variance, to bring the fence up to alongside of the house, the pool is covered, the dogs have more room and then you don't need the variance.
I guess what I'm not clear about is why all the way to the front of the yard. I know that you made some references to it.

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

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

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

CHAIRPERSON GRONACHAN: Okay.

Thank you. Member Ferrell?

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

MR. VOJTKOFSKY: He did not sign the document.

MR. FERRELL: One guy said he did.

MR. VOJTKOFSKY: He presented it to the board, and to the new president, Laurie, who is actually here, so she can help provide some data on this. It was Laurie and two other board members, Gloria and Cynthia.

MR. FERRELL: Who was the acting president that is no longer the president?
MR. VOJTKOFSKY: The homeowner, the gentleman, Rodney, who -- his wife, I'm sorry, his wife, Sally Fasetti, was the acting president at the time and she did not sign that because they were selling the house and transferring presidency over to Laurie.

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

MR. VOJTKOFSKY: Correct.

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

MR. VOJTKOFSKY: Correct.

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

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

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

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

MS. KAUR: Thank you.

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

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

And when I see out, kind of right at the sidewalk, it's kind of like in your face and it's a little more than I'm comfortable with. You have the right to modify your appeal any time prior to us voting and stuff, but I would be voting against it, you know, just for the sake of, you know, fence-less subdivision, to throw it out right up against the sidewalk like that,
you know, it's just a blatant, you know, kind of violation of what everybody else in the subdivision is living by.

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

MS. KAUR: There are --

CHAIRPERSON GRONACHAN: You have to hold on.

MR. FERRELL: Madam Chair --

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

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

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

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

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

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

I have been here for 30 years. And the people that I live on -- in my neighborhood, this may be irrelevant to some people at this table -- but that is the pride of Novi. I can go back to my old neighborhood and I still have friends after all these years. That's what I want for you,
too. If you are going to have kids, you are
going to have people playing in your
neighborhood with your kids, I think that
there is another solution. I think that
before we cause a riff, regardless of if this
is the jurisdiction of the ZBA or not, my
suggestion, as a long time resident, is to go
back, postpone this case, and go back, sit
down with the association and get it clear,
and have peace in your neighborhood. And
then come back and have a talk with us and
see if we can't help you, if we need to. I
don't see a need for a variance, that's why
I'm going to side with Member Byrwa and
Member Montville, which means that even if we
do let this go tonight, it's going to be a
three-three split. You're going to lose.
Because there is not going to be -- we don't
have a full board tonight. So that's going
to be my recommendation.

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

MS. SAARELA: You're free to make
the suggestion. They can still have a vote,
if they would like it.

CHAIRPERSON GRONACHAN: That

would be my suggestion.

MS. KRIEGER: I have a question.

The homeowners association did an approval,
there was a comment that there is two
associations, so I don't understand how this
is all going to come about by sending them
back out.

CHAIRPERSON GRONACHAN: To their

association.

MS. KRIEGER: Their association

already approved it.

CHAIRPERSON GRONACHAN: Well,

there seemed to be a question, given the
dissention and the number of rejection
letters that we got from the members.

I know that we are not

supposed to use that as our only criteria,
but given the fact that the petitioner can
actually go do this without a variance is the
other thing that I'm -- it's not just the
homeowners association. We do know that they
can put up a fence and extend their yard
without a variance.
Member Sanghvi?

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

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

MS. KRIEGER: What happened to the fence on Eleven Mile next to the Crawfords on Eleven Mile? I go up and down
all the time, there is a huge old tree and there is a fence that's right on Eleven Mile, and the first house in the subdivision, that would be a side yard, front yard -- I don't understand that fence.

Did we have to approve that one?

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

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

MS. KRIEGER: Yes.

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

MR. SANGHVI: I think under the
circumstances, I suggest that we accept your recommendation and table this case for a future date, see if they can come up with an amicable solution by themselves. Otherwise, we definitely will make the decision if they can't.

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

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

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

MS. SAARELA: Correct.

CHAIRPERSON GRONACHAN: Okay.

Based on my recommendation, do you understand what my suggestion was about the postponement?

MR. VOJTKOFSKY: Yes, ma'am.

CHAIRPERSON GRONACHAN: How do you feel about that suggestion?

MR. VOJTKOFSKY: So from some of the conversations I've had, I feel we are going to be opposed on any fence we choose to do. Most people have said they don't want to
see a fence. It is a fence-less subdivision.

As Mr. Grove pointed out, there are six
houses in the subdivision with pools and
fences, I can see at least three of those
that have their entire rear yard fenced in.
You can see it from the road in between the
houses. So it is not an entirely fence-less
subdivision.

Also, as I pointed out --

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

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

CHAIRPERSON GRONACHAN: Okay,

thank you.

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

MR. VOJTKOFSKY: The six houses
in the sub, one of the houses here is Arcadia
and Eleven Mile, I believe the one that was
brought up, which is one of the -- the
entrance to Walden Woods phase one, which has
their own homeowners association, but still
carries the Walden Woods subdivision
entryway. So they have the same fence-in area we are proposing.

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

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

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

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

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

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

CHAIRPERSON GRONACHAN: Would you
like to make a motion?

   Would anyone like to make a motion?

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

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

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

   MS. KAUR: Okay.

   CHAIRPERSON GRONACHAN: Member Krieger?

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

   MS. RAMSAY: The 9th.

   MS. KRIEGER: February 9, 2016 ZBA meeting.
MR. FERRELL: Second.

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

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

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

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

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

But there is no obligation for them --

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

MS. SAARELA: If they want to vote on it today, knowing full well what may happen, that's up to them.
MR. FERRELL: Given the new information, it's your choice to decide.

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

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

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

MS. SAARELA: A revised plan, correct.

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

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

CHAIRPERSON GRONACHAN: If we table it for tonight, you would be coming -- returning to the board next month, and hopefully, I mean, there is no guarantee what the vote could be, but we would have seven
members instead of six. And that would mean there would be an odd number of votes, which would change your chances of having it pass. So right now, it's three, three, we know, which means you would lose tonight. So we are giving you the opportunity to table it, in the meantime, my suggestion earlier was to go back and talk to the homeowners association. I understand that there is some challenges.

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

MS. SAARELA: You may not.

CHAIRPERSON GRONACHAN: As long as nobody calls in sick.

MR. FERRELL: Madam Chair?

CHAIRPERSON GRONACHAN: Yes.

MR. FERRELL: Like she said, there might be, there might not be. It all depends. Can we give them a few minutes? I
don't know if we are allowed to give them a few minutes to talk.

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

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

MS. KAUR: Yes, please. Thank you.

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

THE BOARD: Aye.

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

(Short recess taken.)

CHAIRPERSON GRONACHAN: Calling the meeting back to order.

What did you lovely folks decide to do?

MS. KAUR: Just make a comment first. You asked us to go back to the association to talk it out. And do you want to point out that the HOA, the board members
themselves do support this already. And everyone who is here objecting is not on the board.

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

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

CHAIRPERSON GRONACHAN: We will go ahead and table it.

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

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

THE BOARD: Aye.

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

MR. BOULARD: Excuse me. If you
could, if you have any additional
information, if you could get it to us prior
to the first of February, so we can make sure
that's included to the packets to all the
members.

MR. VOJTKOFSKY: Okay.

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

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

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

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

MR. RAYES: Steve Rayes,
R-a-y-e-s, New General Signs, 11177 East
Eight Mile Road in Warren.

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

MR. NAFSO: Yes.

MR. RAYES: Yes.

MR. FERRELL: Go ahead and proceed.

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

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

When I went there, I looked, I was driving the parking lot, it's like for me, it's like where is this, you know, I
couldn't find where I have to go.

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

That's all we are asking for.

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

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

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

MR. NAFSO: We don't have renderings. We have temporary signage. I'm
not sure if anybody had a chance to see it.

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

MR. NAFSO: I have it on my phone.

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

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

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

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

(No audible responses.)

CHAIRPERSON GRONACHAN: Seeing none, building department?

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

CHAIRPERSON GRONACHAN: Thank
you.

Mr. Secretary, is there any correspondence?

MR. FERRELL: Yes, Madam Chair.

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

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

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

MR. NAFSO: You talking about from Twelve Mile?

MR. BYRWA: Yes.

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

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

MR. NAFSO: Twelve Mile.

MR. FERRELL: Cabaret.

MR. NAFSO: That's what it is.

There is a side street, Cabaret. I mean,
that's as far as I can tell you.

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

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

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

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

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

MR. BYRWA: I can see if you were looking at -- you know, like say you were at
Dick's and you were on Twelve Mile, there is quite a big parking lot, and, you know, there is a large distance or whatever, but it doesn't seem like we have that here, maybe you can clear that up and explain what your target, you know, draw area is. And what you're -- other than wanting a big giant sign, you know, what are you trying to do, something so far over the ordinance.

MR. NAFSO: I think it's again -- there is a large parking lot, where we sit, and we are the only building because it's new construction in the middle of Fountain Walk, so I don't -- comparing it to the other signage, I could be wrong, I don't know about Powerhouse in relationship to the size of their facility, I think they're larger than we are, because they have their guy or whatever on there, so that's bigger than us, and then, again, it's trying -- somebody comes in, you know, they see it's new, it's going to be well-lit, look nice. And it's more so how the building sits is our concern because we have a middle entrance, having the signage in the middle of the building, it
would probably be okay to have a smaller one, because of the fact it's in the middle, kind of drive in, you see it.

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

MR. BYRWA: Okay, thank you.

CHAIRPERSON GRONACHAN: Member Sanghvi?

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

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

MR. NAFSO: Yes.

MR. SANGHVI: It's facing the west side?
MR. NAFSO: It is a corner entrance --

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

MR. NAFSO: Well, there is two entrances.

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

MR. NAFSO: Yes, correct.

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

MR. NAFSO: No.

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

So I understand you need a big sign. (Unintelligible) how big it is. And in my mind, it should be visible from Cabaret Drive or you can't see it from Twelve Mile
Road, or the other side, I-96 or anything because you are inside, you are kind of land-locked at that particular point, where you have your facility, and so you need a big sign.

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

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

CHAIRPERSON GRONACHAN: Member Ferrell?

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

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

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

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

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

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

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

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

Even that said, it's still like -- I wouldn't want it to be excessive. So I feel like this is a little bit outside that range, for me anyways.

MR. RAYES: It's not going to affect nothing, especially it's all in line with -- the sign is going to be lit white. You know, it's not going to affect nothing, more light in whole parking lot, so I don't think so. It's going to be -- they have a
lot of signage in the same plaza, which is
especially the Powerhouse, I noticed it's a
lot of sign for --

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

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

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

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

So we considered what we put
on the signage, further out we are worried
about somebody coming in, thinking that's the
entrance. If I put the signage right in the middle in building, people they drive up, be like, oh, this is this where we come in, that's what we were concerned about.

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

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

CHAIRPERSON GRONACHAN: Member Montville?

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

As far as a size standpoint, they provided professional renderings -- excuse me, they have done a lot of due
diligence. It's in their best interest to
have signs that look professional, look
appealing to their potential customers. I
think they have provided that information,
they've approved that they have done the due
diligence from that aspect.

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

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

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

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

MR. BOULARD: Not to exceed 65
square feet.

MR. BYRWA: So it's a standard
amount regardless of your lineal frontage or --

MR. BOULARD: It's based on the setback in the road, but then there is a cap. In this case, the cap of 65 feet is what limits the sign, that's allowed on the building.

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

MR. BOULARD: Yes.

MR. BYRWA: Okay.

CHAIRPERSON GRONACHAN: Anything else? Is there a motion?

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

MR. ZEBARI: Can I make a quick comment?

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

MR. ZEBARI: My name is John Zebari.

CHAIRPERSON GRONACHAN: Why don't you wait until you get to the microphone please, so other people at home can hear you.
MR. ZEBARI: My name is John Zebari, Z-e-b-a-r-i.

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

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

So 1,000 feet to 700 feet from the two main places where we would want it to be visible to these west and south facing signs, if that helps had. I have been out there.
CHAIRPERSON GRONACHAN: That is 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.

Once you get into the complex, it's a maze all in its own right.

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

MR. NAFSO: Correct.

CHAIRPERSON GRONACHAN: That's the only problem that I have. I'd like to see the south sign a little smaller. But the rest of it, given the uniqueness of the entire complex, the different height variations, we have had other businesses come to us in the past, there is different
elevations when you're driving, when you're coming in from Twelve Mile, the building is below you, when you're coming in from Cabaret, the building is above you, when you're coming behind, the building could be anywhere.

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

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

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

MR. NAFSO: Yes, it's on the
MR. BYRWA: Isn't that second -- wouldn't that be an additional sign then?

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

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

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

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

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

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

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

MR. BYRWA: Then on the west
elevation you only have Airtime?

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

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

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

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

MR. BYRWA: One sign alone?

MR. RAYES: Exactly.

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

MR. BYRWA: But it's not even close to the Airtime. It's a completely different area. To me it's a second sign.
MR. NAFSO: There is an Airtime cellphone store, so we have to clarify.

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

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

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

MR. BYRWA: Got it.

CHAIRPERSON GRONACHAN: Any other questions?

(NO audible responses.)

CHAIRPERSON GRONACHAN: Is there a motion? Member Montville?

MR. BYRWA: In Case PZ15-0046,
sought by Generation Signs on behalf of Airtime, I move that we grant the variance as requested for the following reasons.

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

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

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

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

   MR. FERRELL:  Second.

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

   (No audible responses.)
CHAIRPERSON GRONACHAN:

Ms. Ramsay, would you please call the roll.

MS. RAMSAY: Member Ferrell?

MR. FERRELL: Yes.

MS. RAMSAY: Member Krieger?

MS. KRIEGER: Yes.

MS. RAMSAY: Member Sanghvi?

MR. SANGHVI: Yes.

MS. RAMSAY: Member Byrwa?

MR. BYRWA: No.

MS. RAMSAY: Member Montville?

MR. MONTVILLE: Yes.

MS. RAMSAY: Chairperson Gronachan?

CHAIRPERSON GRONACHAN: Yes.

MS. RAMSAY: Motion passes five to one.

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

So our next topic under other matters is the rules and procedures that Stephanie had sent us.
Give you a little background, when someone becomes a board member, we are given a packet of different information. And there seemed to be some question as to where -- what the current rules and procedures were.

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

So these rules are not --

MS. KRIEGER: Current.

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

But I don't want people to think that we are making the rules up because we are the ZBA. These are more of a guideline of procedures for how we are to conduct ourselves as Zoning Board of Appeals, how is that?
MS. SAARELA: They are actually more than the guideline. You have to follow them. They're rules for how you conduct your business, they're like bylaws.

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

MR. SANGHVI: Go ahead.

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

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

Can we have our own rules and guide --

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

CHAIRPERSON GRONACHAN: We can. Or rules of procedure?

MS. SAARELA: Yes.

CHAIRPERSON GRONACHAN: They do
not have to be approved by the City of Novi -- by the city council?

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

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

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

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

CHAIRPERSON GRONACHAN: Okay. Again, this really wasn't so much about that I thought that these needed to be changed outside that the time was wrong, in the
meeting and this one does reflect the 7:00.

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

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

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

CHAIRPERSON GRONACHAN: Correct.

MR. BYRWA: I was reading through the bylaws and everything and I felt that with the one case tonight we could have benefited from this here, and I don't know if we have -- tried to solicit a Zoning Board
member to also attend the planning board meetings. I think we are relying on Charles pretty much now or whatever, to fill us in.

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

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

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

MS. SAARELA: The problem with that is, depending on when the Planning Commission meeting falls, relative to your ZBA meeting. There might not be approved minutes ready yet. You can't just hand out draft minutes and make them part of your
record, if they're not approved by the Planning Commission.

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

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

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

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

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

    Because I was at the planning board meeting, and this and this happened there, and not necessarily you needed the minutes of the planning board.
MS. SAARELA: That's just what Member Gronachan asked, do we have the minutes. You can in some cases, in some cases you can't. Can someone attend a Planning Commission meeting, yes, you can attend. You know, anyone who wants to, it's a public meeting.

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

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

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

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

CHAIRPERSON GRONACHAN: That's what I mean, the packet. Thank you for the
clarification, but it's late.

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

CHAIRPERSON GRONACHAN: Yes.

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

MR. BYRWA: Save some trees.

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

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

Is everybody good with that?

MS. KRIEGER: Yep.

CHAIRPERSON GRONACHAN:

Dr. Sanghvi?

MR. SANGHVI: I heard it.

CHAIRPERSON GRONACHAN: Are you
good with it?

MR. FERRELL: We can talk after.

CHAIRPERSON GRONACHAN: Go ahead.

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

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

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

MR. FERRELL: I was just curious on that.

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

CHAIRPERSON GRONACHAN: So we do
have the authority to table a case without
the petitioner's approval?

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

CHAIRPERSON GRONACHAN: Thank you
for that. Anything else?

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

So the petitioner can appeal
our decision within 30 days?

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

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

MS. SAARELA: Right, but if the
circuit court sees that you have a reason --
a well-reasoned basis for your decision and
it's set forth in the motion, the circuit
court isn't -- they're just going to say --
send it back and say that was within your
discretion. You made the decision based on
the applicable standards.

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

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

MS. SAARELA: Approved minutes,
yes.

MR. BYRWA: It could be two
months.

MS. SAARELA: It depends. So
sometimes when we don't have the minutes
ready, it could be two months. Like it was
for the November minutes, that we approved
today.
CHAIRPERSON GRONACHAN: Is there anything else anyone else would like to add?

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

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

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

As you know, like the city attorney just said, you know, if the court
looks at something and we leave something out. And I find that making motions is a challenge for all of us, me included.

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

How do you feel?

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

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

If you look at our own constitution of the United States, you know how many times it took them to amend it.
(Inaudible). Once you write down, and especially the language you put in, sometimes it's a habit staying forever without people realizing what it really means. And I think it should be part of the orientation process for the new ZBA members, explaining to them their duties and their responsibilities, and creating them to be part of board and making motions and all of that, rather than writing down in the rules of procedure.

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

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

CHAIRPERSON GRONACHAN: Okay.

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

CHAIRPERSON GRONACHAN: Thank
you. All right. We will strike that suggestion. Anything else?

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

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

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

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

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

    MS. SAARELA: Well, they should.
CHAIRPERSON GRONACHAN: Based on the conversation, that particular information was discussed, if you recall, the training meeting, and then we had an episode here and then since then it was added to the rules and it's on the -- whatever that sheet is called at the backdoor --

MS. SAARELA: Rules of conduct.

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

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

CHAIRPERSON GRONACHAN: Sometimes I --

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

MS. SAARELA: We can list it
somewhere else on the application or
something that. If that would help. I think
to having like mandate, repeating things.
Because you can sit here and say, well, this
is important from these rules of procedure,
why don't we say this up front at every
meeting, why don't we repeat what the
variance requirements are, because oftentimes
the petitioners aren't meeting the variance
requirements when they are coming up here and
talking --

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

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

MR. BYRWA: One of the important
things that I think we missed is that one case, that we postponed on the couple with the fence.

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

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

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

CHAIRPERSON GRONACHAN: Anything else?

So as it stands, the current
rules and procedures, I don't think there is any changes. So do we vote on this tonight?

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

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

MS. SAARELA: That's fine.

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

(No audible responses.)

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

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

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

Okay. Anything else? Any other matters for discussion?

MR. SANGHVI: You want to change the time?
CHAIRPERSON GRONACHAN: That's already been done. 7:00 p.m.

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

Nothing else.

Do I have a motion to adjourn the meeting?

MR. SANGHVI: So moved.

CHAIRPERSON GRONACHAN: All those in favor?

THE BOARD: Aye.

CHAIRPERSON GRONACHAN: The meeting is hereby adjourned.

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

** ** **
STATE OF MICHIGAN   )
)         ss.
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 THEREOF, I have hereunto set my hand at the City of Walled Lake, County of Oakland, State of Michigan, this 20th day of January 2016.

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