

**PROPOSED MINUTES OF THE
CITY OF ST. CLAIR SHORES
ZONING BOARD OF APPEALS
JANUARY 6, 2022**

Present:

Bill Lince, Chairman
Tony Bellestri, Vice-Chairman
Steve Scavone
Thomas Budnick, Secretary
Lee Bertolo
Mark Moffitt
Duane Michno

Alternates:

Thomas McKenney

Also, Present:

Eric Shepherd, City Attorney
Shantelle Hubbard, Recording Secretary
Denise C. Pike, Community Director

Absent:

Peter Stellas, Excused

Call to Order

Chairman Lince called the meeting to order at 7:00 p.m., roll was called and a quorum was present. The Pledge of Allegiance was said by all. Secretary Budnick instructed the petitioner that it is understood by the Zoning Board of Appeals that their presence here tonight constitutes that they are a legal representative of the petitioner and that each statement of intent, promise and/or pledge, made by the petitioner or agent, either orally or in writing, permitted by ordinance shall be binding upon the petitioner and shall be a condition of set variance if approved.

Case No. 01-2020 –Spencer Channell – 24409 Jefferson (tabled at 1/9/2020 ZBA meeting)

Re: HEFFNER & FLEMMING'S ELM DRIVE SUBDIVISION (L8, P90) LOT 115 EXC THE E 20' OF THE N 40.38', LOT 116 EXC THE N 40.38' AS MEAS PAR TO THE W LINE OF LOT 116, ALL OF LOTS 119-126 & ALL OF ADJ VAC ALLEY

Location: North of Stephens, West side of Jefferson

REQUEST: Request for a variance to allow existing fence in place of a concrete wall.
(Zoning Ordinance 15.508 Walls)

Spencer Channell, 22522 Maple, he is here requesting a variance to allow the existing fence in place of the concrete wall between the neighbor and Dragon's Landing. He stated that the neighbor does not wish to have the concrete wall. The fence allows him access from the parking lot into his yard. Mr. Channell would like to uphold his wishes. He said that this particular tenant would not mind if this is a temporary deal or if another tenant comes in, he can come in front of the board again. The neighbor's hardship is that he cannot get his equipment in and out of his yard without the gate.

Audience Participation: None

Correspondence: Letter read into record – *“To Whom It may concern, my name is Steven M. Onufrak. I own my house at 22629 Downing, St. Clair Shores, MI. I have heard that there may be a wall going up between my property and Dragon’s Landing off of Jefferson. First, I would rather look at a fence than a concrete wall. Second, that would completely stop my ability to get my trailer and my garden tractor in and out of my back yard, rendering my backyard useless and making it difficult for me to cut my lawn. My yard is not small and a riding mower is what I use as I am not getting any younger. The existing fence is too close to my garage to fit even my riding mower through, much less my trailer. Please take into account these items when making your decision about the wall. Thank you, Steven M. Onufrak.”*

Commissioner Michno asked the petitioner what has changed since the last time he was in front of the board. Petitioner stated that nothing has changed.

Commissioner Michno stated that the gate has not been opened in years. The petitioner stated that the tenant uses the gate all of the time.

Commissioner Michno stated that the petitioner has to prove the hardship not the neighbor. The fence is in terrible shape. The petitioner stated that his hardship is the consideration for the neighbors. He wants to keep peace with the neighbors that he operates his business directly next to. Commissioner Michno stated that is not a hardship and he is a big believer in walls not fences but there have been exceptions.

Commissioner Michno asked Mr. Shepherd about the gate. Mr. Shepherd stated that the city does not like to put a gate in the wall. There have been exceptions in the past. The board we can put a condition in the motion to have a gate placed in the wall.

Commissioner Michno likes having the walls because it stops trash from going all over and it will benefit the petitioner’s parking lot, he will have less snow problems. The petitioner stating it is not a matter of putting one in but giving his neighbor what he wants. The wall will be safer, easy to maintain, look a lot nicer but with the trees and the fence it looks terrible.

Commissioner Michno stated that he is not in favor of giving a variance on this.

Commissioner Bertolo stated if they put a wall there all of the trees will have to come down. The petitioner stated that the neighbor does not want any of his plant life destroyed.

Commissioner Scavone asked if it is the tenant that does not want the tree line destroyed. The petitioner stated “yes”.

Commissioner Scavone stated that the board granted a large variance on the whole south property line. If the tenant moves out the new tenant could be stuck with the current fence that is there. The petitioner stated that if a variance is granted and a new tenant comes in, he will come in front of the board again and ask for a variance. Commissioner Scavone stated that we have an ordinance and this has been put off for a long time since the large variance was given. He said that the fence has not been kept up and it is in bad shape.

Commissioner Moffitt stated to the petitioner that there have not been many variances given for this in the city. The wall would clean up the residential and the commercial areas.

Commissioner Moffitt made a motion to deny the request.

Commissioner Michno asked Commissioner Moffitt if a gate can be put in the motion.

Commissioner Moffitt does not think that a gate should be in there because there is no right of way or alley.

Commissioner Michno said that if a gate was put there it may be blocked from cars parking there. And he does not see a hardship

Commissioner Scavone asked Mr. Shepherd if we would be granting an easement for that property onto the owner's property if we allowed the gate. Mr. Shepherd stated that we would not be granting an easement it would be best if we had an easement in place. At any time, the commercial property owner can cease allowing that individual access to their parking lot. This would be like inferring that there is an easement there which could cause issues in the future for any future tenants that live there or property owners. This does not necessarily create a legal easement at that point. It does infer that they have permission to use that property which could by circuit court order in the future it could be infer a belief that there was an easement.

It was moved by Commissioner Moffitt supported by Commissioner Michno, to deny the request for a variance to allow existing fence in place of a concrete wall due to the fact that the petitioner did not have a hardship.

A roll call vote was taken.

Ayes: Moffitt, Michno, Scavone, Budnick, Bellestri, Lince

Nays: Bertolo

Absent: Stellas

Motion: Passed

Case No. 56-2021 – David S. Harden for Cache Cocktail & Wine Bar – 23218 Greater Mack (tabled at 12/2/2021 ZBA meeting)

Re: NINE-MACK URBAN RENEWAL PLAT NO. 1 (L78, P34-36) LOT 22 EXC THAT PART TAKEN FOR GREATER MACK ALSO a 3.38% INEREST IN SAD #33 DESC AS NINE-MACK URBAN RENEWAL PLAT NO. 1 (L78, P34-36) THE S 1' OF LOT 24, THE W 3' OF LOT 24, THE N 6' OF LOT 24, ALL OF LOT 25, AND ALL OF VAC ALLEY LYING ADJ

Location: South of Nine Mile Rd., East side of Greater Mack

REQUEST: Request for a 41-space parking variance for a wine bar with service over the counter. (Zoning Ordinance, 15.500 Parking)

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David S. Harden, 22427 Milner, he would like to open a cocktail wine bar. A packet was given to the board members from Mr. Harden. He reviewed the packet with the board.

Audience Participation: Mark Fuga, 22694 Wildwood, is an owner of properties in the south lot. He spoke to a lot of the businesses in the south part and they are all in support of Mr. Harden setting up his business. He said there is a gate between the south lot and the north lot where there is a brick wall. He said that they will close and lock that gate. This would be a great asset to the Greater Mack district. He does not think this would be a burden at all for any of them.

Layne Taggart, 28025 Grant, S.C.S., he is involved with two of the businesses in the immediate area with family members. According to the city ordinance which was put in place October 2021 for requirements of the parking spots. When his daughter went into business three years ago in that particular area, she was required to have 11 spots and he noticing that she is only getting 6 spots. He wants to know where this great amount of parking spots is in that back are. There are not that many parking spots. He wants businesses in the Shores but this has been a problem for over 30 years. There is part of the building which is still listed as a warehouse not retail. He cannot find anything that shows it was rezoned. There is a lot of commercial equipment back there taking up parking spots. He feels that the city needs to add parking spots and stick to the numbers. When something changes it takes parking spaces away from the existing professional businesses that have been there for a long time. And these are growing businesses also.

Gina Fuga, 22694 Wildwood, she is opening a chiropractor office. She stated that a lot of the equipment in the parking lot will be moved which that is a private parking lot. Her business hours would not be affected with her parking spots it would be great to have something in the evenings.

Correspondence: A packet was given to the board members. He reviewed the packet with the board.

Commissioner Michno asked if Ms. Pike if she went over the figures in the packet. She stated that she has not received a packet so she has not seen what is in the packet.

Commissioner Michno stated that we don't need to address the audience he stated that currently the city is in the process of bringing in someone for a traffic study. The Cool City Committee came up with the idea to make this whole area an attraction and a destination social area. This issue has been an ongoing problem for years. He believes that their intention was to bring in business. There are businesses that are in favor of this business. We can place conditions on the motion if needed. He said that we can limit businesses to do what the board feels that they should do. He would like to wait until it happens. Ms. Pike stated that they are looking at April 1st to have the study completed. We have all been in favor of small businesses. This area is a touchy area and it needs work. He said that he would be in favor of it.

Vice-Chairman Bellestri asked if he is saying that 1,456 sq. ft. would be the seating area and it would be full service. Mr. Harden stated that the rest is a small kitchen area, office, storage, utility room and restrooms.

Commissioner Scavone asked Ms. Pike and/or Mr. Shepherd are there any options for businesses to try to open with less capacity. Ms. Pike stated that Mr. Harden mentioned in the packet that some of the businesses that are willing to share parking with him if this was formalized into an agreement and provided to the city that would be one option. Mr. Shepherd stated that there needs to be a formal shared parking lot agreement that is prepared by everyone. We are able to get a formal agreement in place to allow Mr. Harden to use their spots this could take care of this variance. This agreement should be signed by both properties which would include a duration period which cannot be infinite just in case there is a tenancy or property owner change. And laying out the exact details to what parts they are agreeing to. Commissioner Scavone asked if there is something that we can grant temporarily? Ms. Pike stated that they can grant a variance condition upon a formal agreement. Mr. Shepherd stated that if the board would like to do this that they give a timeline that this needs to be completed. That way the city can pay attention on how we need to enforce this. He said that when any of the board members make a motion that the standard is a non-use dimensional variance so this is practical difficulty.

Mr. Harden stated that if he gets a variance he would like to be opened by mid-January.

Mr. Shepherd stated that the variance would run with the land.

Commissioner Bertolo asked about a temporary use until the city gets something situating. Mr. Shepherd cautions the board with doing a temporary use. The only issue with this is that Mr. Harden will be opening the business and if they give a temporary use in this situation there is a chance that at the end of use that the board can deny the variance. The petitioner would be taking a risk with that situation. He would caution the board of putting a condition in for a temporary use.

Ms. Pike asked Mr. Hardin how long would it take him to get a shared parking agreement. Mr. Hardin stated that the letters should be considered an agreement. She said that this needs to be a formal agreement.

Secretary Budnick stated that the agreements that are here would this be based on the current use of the property and do they have spaces available to share. Ms. Pike stated that this would be similar to what the letters indicate it would be signed by the business owners including Mr. Harden and a duration period would be in there. It would be for the businesses that are currently there. Because that is the number of spaces that we know. If another business were to evolved, they would be going through the same process as Mr. Harden and Mr. Fuga are. Commissioner Budnick questioned that if a salon were to go in a retail, they would need to go through the same process. Ms. Pike agreed. Mr. Shepherd stated that the formal agreement would have to have the property owner signatures not the tenants.

Commissioner Moffitt stated that this has been a problem for 30 years so we are going to give agreements with the other property owners that most likely got a variance sometime in the past. The bars that are there that received variances stating that they would love to have him and we would give them some of their spots no one has spots to give down there. He is not sure what changed from last month. It was turned down then tabled. We are still at the same point. We are still dealing with the same problem he does not hear any

solutions. Everyone else in that area have done the same thing. They still have the same spots. He said that city council did a fine job of attracting that area to try to promote by getting businesses down there. This is what we want. He said that there is a business that wants in that area and it is a right fit and it is what the city wants. His opinion is to approve this.

Commissioner Bertolo stated that if he gets the property owners to sign that there are going to give them shared parking then the variance is voided? Ms. Pike stated that he would not need a variance. He suggested that the board table this until he gets the property owner signatures. Ms. Pike stated that she cannot answer that question.

Mr. Hardin stated that he is paying rent waiting for the variance that keeps getting tabled. He said that he is talking about a business we are not talking about changing a fence. Every week that goes by it is money out of his pocket.

Commissioner Bertolo stated that he is trying to get shared parking agreement he would not need to come back here. If he had the formal agreement signed, he would not have to come back. Mr. Hardin stated that Al LaHood gave him spots last month.

Mr. Hardin stated that his liquor license is good to go. Commissioner Michno asked Ms. Pike or Mr. Shepherd if he would give the variance for two weeks for him to get the agreement. Can we approve this tonight based on the fact that he gets the letter and the required paperwork by two weeks? Mr. Shepherd stated that this board has the power to grant variances with conditions. The board can do this or deny the variance. Ms. Pike stated another option could be to grant a variance on a lower capacity that they use a lower amount of the square footage and that way the board can condition it so that there are lessor parking spaces and he can work on the formal agreement and once he has that he would then have the full number of spaces available to him. It could say that we are going to grant the variance to say on only the use of this specific section of the building and that would now allow in the future that the office maybe become a tasting room. Once he had a formal shared parking agreement then he would have access to the full number of spaces required by the ordinance currently.

Commissioner Scavone asked about the number. It is 1425 sq. ft. so it was 26.5 parking spaces and it would be 60% of the square footage of the building. This is considered non-use variance.

Commissioner Bertolo stated that this variance will stay with the land if approved tonight.

Vice-Chairman Bellestri asked if the service area changes then he would have to come in front of the board? Mr. Shepherd stated that the variance will run with the land unless it is rezoned if it is rezoned as a different use then the variance would not be there anymore because it would require a different amount of parking.

It was moved by Vice-Chairman Bellestri, supported by Commissioner Michno, to approve the request for a 27-parking space variance for useable square footage and has two weeks to come forward with a formal agreement.

A roll call vote was taken.

Ayes: Bellestri, Michno, Scavone, Moffitt
Nays: Bertolo, Budnick, Lince
Absent: Stellas
Motion: Passed

**Case No. 01-2022 – Mark Fuga on behalf of the Shores Place LLC – 23200 - 23208
Greater Mack**

Re: NINE-MACK URBAN RENEWAL PLAT NO. 1 (L78, P34-36) LOT 19 AND THE N 1/2 OF VACATED DOREMUS AVENU ADJ EXC THAT PART TAKEN FOR GREATER MACK ALSO A 25.5% INTEREST IN SAD #27 DESC AS NINE MACK URBAN RENEWAL PLAT NO. 1 (L78, P34-36) LOT 12, EXC BEG AT NE COR OF LOT 12; TH S24*42'30"W 78.23'; TH 32.39' ALG A CURVE TO SW, R=220, CB S28855'33"W 32.36';TH N69838'54"W 61.52'; TH N20*30'00"E 110" THE S69*38'54"E T2' TO THE POB; ALSO E 11' OF LOTS 13-18

Location: South of Nine Mile Rd., East side of Greater Mack

REQUEST: Request for a 16 parking space variance for a 3,250 square foot office and a request for a 15 parking space variance for a restaurant with service over the counter. (*Zoning Ordinance, 15.500 Parking*)

Mark Fuga, 22694 Wildwood, said that they have the laser tag people come for a variance last year. She needed 30 parking spots the board granted her 24 spots. This cut her gross to 20% which in effect eliminated any profit margin that she had. He said they wanted to keep her because she is a great asset to the Greater Mack district. They reconfigured the floor plan where she has 4,000 less square footage. She is not using the Greater Mack frontage she is using the rear and upper level. This left him with about 4,000 sq. ft. of Greater Mack frontage. He understands the parking situation they own about 71% of the south parking lot all but two of the buildings. We have the Philly Cheesesteak where during the social district it was a great hit. It is a better business to set up on the north side of the south half of the building. This required 15 spots. He spoke to other businesses and the feedback is the other businesses that require a lot of parking spots that wouldn't work with us. They have talked to other owners they have deals in the work they are picking up more in the Greater Mack area. They are going to set up an office for them. We can use the square footage while they are there. They are in the area every day. His wife works there in the office and they will drive together. His daughter runs the office is going to work the front desk of the chiropractic office which is two doors down remotely for them. They are working with Firehouse Pub will be bringing in plans for overhead doors. The Greater Mack District will be great. He believes that with all of these people there has never been a parking issue. They will be blocking the opening between the north and the south lots to keep it separate. He said that his office requires a 16-spot variance.

Audience Participation: John Schrewe, 29913 Gloria, S.C.S. his wife owns the Mary Ellen Dance Studio at 23216 Greater Mack and it has been there for over 30 years. He said that the petitioner stated that he is going to block off the little walkway. The petitioner stated that he is talking about a gate. He prefers something permanent. He just wants to see that we

just put up a permanent nice railing that people cannot get through not just a gate. They were giving up spots behind there. He said that they are willing to work with them. He said that we keep on doing this and right now no parents are not allowed in the studio because of COVID. The parents are using up the parking spots. He said that he has a 3,000 sq. ft. they have spaces and they pay their rent. They are willing to work with everyone. He said that they want the board in the future to think about this business that has been there for 30 years.

Thomas Bejin, 970 Woods Lane, Grosse Pte. Woods, 48236. His family owns 23000 Mack Avenue. He has been there for 35 to 40 years. This is a private lot and he has abided by the zoning ordinance. He wants to know from the board if they received a letter from his office. The board has that. He objects to this. He said that people are missing the whole point. That this is a private parking lot. They own a percentage of the lot. Every time the board grants a variance it changes their ability to use their spaces.

Joseph Fuga, 29510 Jefferson, he said that when they were here the last time, he believes that there was a mistake because Bejin Realty has 28.13 parking spots that they own but their current requirement fits which means that they had a variance. He had a 100% variance.

Layne Taggart, 28025 Grant, is disappointed that the board does not look at the city ordinances. They are so office on parking it is ridiculous. This is new in October. He is hoping that he can come in for a variance for the parking lot when he goes to open new businesses along that Nine and Mack Area. He thinks that the board is going to shut him down because the board filled the parking spots 50 times with the same parking spots. He said that the numbers that they have for the parking spots back there are not true. There are dumpsters taking up spots. Trucks that come in and deliver. He said that the only thing that the city wants in there are bars they don't want professional people working in there. He wants businesses in there himself. He feels that the board wants only bars and liquor and every business like are the only ones that are supposed to be in there. They are giving away parking spots. He knows that a business is required 11 spots now they are taking it down to six spots. They are not going by the square footage. Next year they will change it and make variances for everyone else. Put up a parking structure down there. Have the city invest in the area. There are businesses that are trying to make it in there. As long as they have big money, they can own a building and they can do what they want to. It is the businesses that only have a 1200 sq. ft. business going and they keep taking his parking spaces.

Philip Washington, 22944 Pleasant, S.C.S. he runs Philly Cheesesteaks. The bars become a business that participates in multiple social districts. This year with approval they are looking forward to meet new people. He likes to continue serving the community. He is not a bar he just trying to open up a business the building that he will be next to is a chiropractor.

John Schrewe, 29913 Gloria, he said that they are talking about spaces and he counted every space in that area from Nine Mile and there are 468 parking spaces that all of the businesses have to share. Where are the numbers coming from? There are quite a few businesses down there. He didn't count Travis and furniture store. In the future the city has to draw a line somewhere. He said it may go down to Harper if they have no parking spaces

available. How many will we keep giving away? We need to put business and businesses where they have it.

Correspondence: Letter was read into the record today which was dated January 4, 2022 from Jeffrey M. Candela at Aloia Law which they representing Mr. Bejin at 23000 Greater Mack Avenue.

Commissioner Scavone asked Ms. Pike with the changes that they see coming down how will it impact their property as far as what they are asking for. Does she feel our ordinances restrictive for their use the parking as to what we require for square foot, does she feel we are higher than neighboring cities or similar communities? She stated that she cannot speak for other communities as to what they require she does know that the city desires for this area to be more like a downtown area and to be very vibrant. She stated that she is not sure what the parking study will come out with she thinks that we have thoughts as to what it might look like that, she would not want to bias the decision with what she thinks. It is really what the study will find and then we would propose to go to planning commission should there be a need for ordinance changes and then subsequently to the city commission. She said that everyone wants this area to be vibrant and active and have a lot of opportunities for the people to enjoy downtown. Hopefully this will extend out to other areas of the city as well. Commissioner Scavone asked about the 16 parking spaces is this attributed solely to the office? She said that it is the office and Philly's Cheesesteak. She said that it is the restaurant use and the office use. This is an addition to the rowing, chiropractor and the laser tag.

Mr. Fuga stated that the sandwich shop would require 15 spots if they have two indoor lines. The office because of the square footage will require 16 spots. He said that they own 71% of the south SAD lot not 24%. And virtually that everyone around the lot signed letters supporting them including the tenants at the end building that they share and the Lords & Ladies Hair Place. The only businesses that would work in these two units that is not only great for the Greater Mack area use the minimal parking is the Philly's Cheesesteak which is carry-out and their office. He has complete control of the office. This is a perfect fit for there. They are only planning on bettering it.

Commissioner Scavone stated from the last time they were in they could have opened up before it was Harper Sports and that use was grandfathered. The uses now are more relaxed than what could have gone in there if they would have put another department. They could have just opened up without coming to the Zoning Board of Appeals. The problem down there, there is no public parking down there and the letter written from the law firm is spot on. Every spot there is owned by a private individual so every variance that is granted we are granting spots that people are paying for lighting, paving, plowing, sweeping and insuring them. It is difficult to grant spots over there. Things are changing there. He said that a lot of the owners down there are trying to make it more of a destination spot where they are going to have more activity higher density uses. Coming up in the future once the parking study is done probably some of the ordinances may be relaxed and may require less parking which in turn is going require less request for variances of this board. Before when someone would come up for a variance the whole room would be here in opposition. The last meeting there were mostly all support of the neighboring businesses. The last case there were so many businesses that have different hours there were a lot of businesses that were willing to help him out with the parking spots. This is one of the

reasons why he voted for the last case normally he would have been a “no” on that. What swayed his decision was there was a lot of support by the owners. This situation is a little different. What is the timeline on this can they wait until this decided? Mr. Fuga stated that the building is vacant right now. They wanted to meet with the architect to work on some prints so it may take until June until they build the office. Virtually around the south lots they own 71% except for the end building.

He stated that a solution is that Philly’s Cheesesteak grant the five parking spots for them that is all that is required because he is not doing indoor dining. If it is going, he may apply for a variance in about a year or two from now if he wants to do indoor dining. No one is going to park in a SAD lot and run around to the front for a sandwich. If there is a parking problem then the tenants will not be able to pay the rent. He said that they own the building were the beauty shop and Caselli isn’t going anywhere. The people that own the 24% of the lot has not paid him in over a year. He said that they pay 100% even though they only own 71%. Shores Theater he needs help with that so he is working with him. The office will be 3000 or 3100 sq. ft. They may be one person other than the owners. Business offices are professional offices so they are required to have one parking spot per 215 sq. ft. of gross floor area with the minimum of four spaces. Warehousing and storage would be one parking spot per every 1700 sq. ft. Commissioner Scavone stated that they are only asking for 16 parking spots.

Commissioner Scavone asked if there are no variances required for the warehouse. Ms. Pike stated that it states a request for 16 parking spaces for 3,750 sq. ft office and a request for 15 parking spaces for a restaurant. The restaurant if it were a take out would be one per 200 sq. ft. and one employee would be required for the largest working shift.

Secretary Budnick asked if these two businesses will fill the building. The petitioner stated “yes”.

Mr. Shepherd went over the standards with the board. This is a non-use dimensional variance which would require the standard of practical difficulty. There are a couple different standards that the board should take in consideration when granting or denying this variance.

Standards of practical difficulty are as follows:

- 1) The special unique conditions and circumstances exist which are peculiar to the land, structure or building involved which are not generally applicable to other lands, structures and buildings in the same district.
- 2) A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance and that the variance is the minimum necessary.
- 3) The special conditions and circumstances do not result from the actions of the applicant the granting of the variance will be in harmony with the general purpose and intent of this ordinance.
- 4) The variance will not be injurious to the neighborhood or otherwise detrimental to the general welfare.
- 5) And that the spirit of the ordinance shall be observed public safety secured and substantial justice done.

He is asking the board to take this into consideration when making a decision.

Ms. Pike stated that according to the ordinance food takeout is one per 200 sq. ft. of the gross area plus one employee of the largest working shift. And the largest working shift is two individuals at the max. According to Mr. Fuga's calculations the Philly's Cheesesteaks 1100 sq. ft. so that would be 5.5 parking spaces. Mr. Fuga's stated that it is 750 sq. ft. but, on the plans, it states 1100 sq. ft. So, the minimum for carryout would be 7.5.

Secretary Budnick asked if we can consider the 7.5 space variance for the restaurant and table the office side of it to and see how the parking study comes out for the next few months.

Mark Fuga stated that Phil who is doing the Philly's Cheesesteak he will be working in the office from 8:00 to 11:30 then go to his place the Philly's Cheesesteak. He is the maintenance supervisor. Angela that works in the office she will be working remotely from the chiropractor office. His goal is to get everything built and open up by June.

Joseph Fuga stated it is a weird position because it creates more people parking by them not being there. When there is a food truck going that will eat up the spots and that is legal. They take the whole building that is maxed out with all of these businesses. It is allowed over a 100 parking spots with the variance that they have then. Even if we do the Philly's Cheesesteak they are still under. Their hardship is because they want to help the parking problem why are they coming in to ask for 30 less parking spots. He stated that 48 parking spots are exclusively for their building. With the laser tag it is a night time thing and they are taking up 22,000 sq. ft. When they are not there their people are there in the office.

Mark Fuga stated if they do not get the Philly's Cheesesteak to open then they cannot open.

Ms. Pike stated that they have seen the schematics.

Vice-Chairman Bellestri asked if someone comes in with the plans that proves a different seating arrangement in that space with a stamp print will they be able to vote on that stamp print seating space instead of the square footage. Ms. Pike stated that if the board grants them a variance tonight and they brought plans with a different space it will be denied. The variance is based on use it is a restaurant with seating which includes the two tables. If he makes the use carryout only that is 7.5 parking spaces comes in. If they condition it for carryout only and they come in with plans for seating they would deny the permit. Ms. Pike stated that for the office space the ordinance is based on gross square feet. She stated that they can bring in all of the plans they want to they will by what the ordinance states.

Commissioner Moffitt stated that the petitioners claim that they have a 100 parking spaces.

Joseph Fuga stated if it was retail, they are grandfathered in to the size of the building with 200 parking spots for 20,000 sq. ft. which is 100 and retail is 13,000 sq. ft which would be 5 so it would be 105 parking spots.

Chairman Lince stated to the city attorney that none of the board members wants to make a motion which way do they go now. Mr. Shepherd asked if the chairman wants to make a motion which he does not.

It was moved by Commissioner Moffitt, supported by Vice-Chairman Bellestri, to approve the request for a 16-parking space variance for a 3,250 square foot office.

A roll call vote was taken.

Ayes: Moffitt, Bellestri, Bertolo, Budnick, Michno, Scavone

Nays: Lince

Absent: Stellas

Motion: Passed

Commissioner Scavone stated that he is in favor of it because they are fighting for a lessor use and that is the only reason why.

Chairman Lince stated that the board can approve it with a lessor amount that is requested.

Commissioner Scavone stated after the study it may be determined that the ordinances are too strict.

It was moved by Commissioner Moffitt, supported by Commissioner Michno, to approve the request for an 8-parking space variance for a restaurant with service over the counter.

A roll call vote was taken.

Ayes: Moffitt, Michno, Bertolo, Budnick, Bellestri, Scavone

Nays: Lince

Absent: Stellas

Motion: Passed

Commissioner Scavone and Commissioner Bellestri approve it for the same reason as the other variance that was granted.

Case No. 02-2022 – Allemon Brothers Landscaping – 20451 Stephens

Re: STAR VALLEY SUBDIVISION (L32, P44-45) OUTLOT A

Location: North side of Stephens, West of Little Mack

REQUEST: Request for a temporary structure not to exceed 14 feet in height. (*Zoning Ordinance 15.499 Accessory Structures and 15.626 Hearing of Appeal*)

Charles Berschback representing the Allemon Brothers at 20451 Stephens for a temporary structure. This is an annual request for a temporary canopy for the storage of salt. This has been approved six times and nothing has changed. This is based on the temporary structure ordinance. Same type of canopy.

Audience Participation: None

Correspondence: None

Commissioner Michno asked Mr. Shepherd or Ms. Pike can we have them go multiple years. Mr. Shepherd stated that ordinance applies to the seasonal products it does not apply to this case.

Commissioner Scavone stated that there is a commercial yard across the street from it and he spoke to that gentleman and they had no issues with this. They have been compliant of everything.

It was moved by Commissioner Michno, supported by Secretary Budnick, to approve the request for a temporary structure not to exceed 14 feet in height for a period of six months.

A roll call vote was taken.

Ayes: All

Nays: None

Absent: Stellas

Motion: Passed

Audience Participation: Mr. Berschback stated that his brother and him have owned commercial property in St. Clair Shores for 30 years. He was the city attorney and worked with Planning Commission in Grosse Pointe for 20 years. His building is right by Mr. Ihrie's office. He has received of the first variance for the SAD #27 and just recently sold the building to Mr. Fuga. This area has been a mess for 30 years he is glad that the city is finally taking a study and maybe turning it into a social district. The decision all along with these properties has been difficult because of the prior ownership of the lot. Looking at the best thing for all of the communities and the city it is good to use that property as much as possible. People perceived there to be a parking problem because they want to be able to walk less than a block to get where they are going. It may not be possible in that area. people to use the area. This area can be turned into a downtown which is the original plan when the roads were configured. He would like the city to continue to work on this and to make this easier for everyone's concerns.

Layne Taggart, 28025 Grant, he is in support of the businesses. His concerns are there are no policing on what these variances have been applied to and how it effects the other businesses in the particular neighborhood. People don't walk. Copper Hop patrons are parking across the street behind where the weight watchers were and where Mr. Hardin is going into. He is hoping that there is policing by the city to make sure that there isn't a problem with the overlapping parking which is a problem in the whole city. He hopes that they are trying to get people together to help the local businesses that have been there for a long time don't get pushed under the rug. With being involved with the parking issues second hand all of the numbers that they are giving are wrong. A lot of this is overlooked all the time. The property over there is a funny situation. There are three or four people that own 95% of the parking. He wishes for policing or control by the city without passing these variances are given they are not checked on in the future to see if they are working. He said that in the future the variances are applied that the same problem doesn't get created over and over again. We have a warehouse that is not even zoned for a business which is taking up 30 parking spots when they are there. What happens if they don't work those jobs and they have double the amount of people parking.

Chairman Lince stated to the councilman, it is very important that we come up with some type of solution. Commissioner Bertolo stated that he doesn't want to go through this again.

Commissioner Michno stated that the city is doing something about it. The city is making this a social district and with the issues that are going on. The staff is making a good effort to resolve the issues in the shortest period of time as possible. They are trying to make everyone happy to make it a better city.

APPROVAL OF THE MINUTES FROM DECEMBER 2, 2021 ZBA MEETING

It was moved by Secretary Budnick, supported by Commissioner Michno, to approve the December 2, 2021, ZBA meeting minutes.

Audience participation: None

Adjournment:

It was moved by Commissioner Moffitt, supported by Commissioner Michno, to adjourn the meeting at 9:06 p.m.

Ayes: All

Nays: None

Absent: Stellas

Motion: Passed