

**MINUTES OF THE
CITY OF ST. CLAIR SHORES
ZONING BOARD OF APPEALS
January 7, 2021**

Present:

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

Alternates:

Thomas McKenney
Mark Moffitt

Absent:

Also, Present:

Eric Shepherd, City Attorney,
Shantelle Hubbard, Recording Secretary
Chris Rayes, Community Director

Note: Meeting was conducted via ZOOM.

Call to Order

Chairman Bellestri called the meeting to order at 7:06 p.m., roll was called and a quorum was present. The Pledge of Allegiance was said by all. Chairman Scavone 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. 02-2021 – Ryan Balicki for Copper Hop Brewing Co. – 23401 Greater Mack

Re: NINE-MACK URBAN RENEWAL PLAT NO. 1 (L78, P34-36) LOT 39 & LOT 41 EXC THAT PART TAKEN FOR GREATER MACK

Location: South of 9 Mile Rd., West of Greater Mack

REQUEST: Request for a 33-space parking variance for a second permanent outdoor seating area. (*Zoning Ordinance 15.500, Parking*)

Ryan Balicki - Macomb, MI representing 23401 Greater Mack, they added a side patio during the temporary patio junction due to Covid-19. They were able to get a lease from ACE for the space. They applied with the state for permanent seating. Based on the square footage it came back with a parking variance that was needed. He submitted a letter stating that ACE will let them use some of their spaces which they have 106 spaces. The busy time is later in the evening. There is not a ton of overlap of hours there with the businesses.

Audience Participation: None

Correspondence: Letters in the file

Commissioner Michno asked Mr. Rayes with all of this taken in did the board give Ace Hardware a

parking variance. They gave them an outdoor storage variance but not a parking variance. With the theater plans he is not sure that it would affect that. Mr. Shepherd, city attorney, stated that the board should not make considerations on future ventures.

Commissioner Lince asked Mr. Rayes what is the city bans on blocking egress or ingress. Mr. Rayes stated that it is not a problem in fact ACO was glad to give it up because of the traffic concerns. There are plenty of access points. City council approved the plan to allow them to close it.

Commissioner Michno stated he has been there quite a bit and the cars are going through there quickly. He said it is unsafe and by doing what they did it made it safer. He commented that this business has added a lot to the neighborhood and he has done a lot with the store.

Chairman Bellestri stated that at the council meeting they stated that it is safer and looks great.

Commissioner Bertolo asked the petitioner if the cement barriers will stay in place near the street. He said yes and he will have planter boxes around them.

Vice-Chairman Scavone asked about outdoor music. The petitioner stated we don't have the permit as of right now. That will be something that they will apply for later. Their goal is to have outside music. There isn't a lot of residential around.

Chairman Scavone asked Mr. Rayes if there are certain hours that they will have to follow on an outdoor space. Mr. Rayes doesn't recall if city council gave them hour restrictions as part of their site plan. Mr. Balicki stated that the latest they are open is midnight.

Chairman Scavone stated that this is much safer the way it is. He believes that it is a great addition to the city.

Commissioner Stellas asked the way that the request is written it states second outdoor seating area he is wondering how many spaces they were given for the first outdoor seating area? The first space there was only for 16 people. The petitioner stated that if they look at the plans there should have been 28 spaces that are directly behind them. Those are for them not ACE. They use it because it is right behind them. The parking lot was just restriped which added about 10 more spots which was not done before this variance was requested.

Mr. Rayes stated that there were 33 spaces after the restriping.

Secretary Budnick asked about ACE typically comes to the board for the outdoor storage. We only gave them one year. There was no parking variance given it was just for the storage. Mr. Rayes stated "just storage".

Vice-Chairman Scavone stated this is unique that people are fighting for parking spaces over there the 9 Mack area and what is unique about this property is that Mr. LaHood owns most of the buildings to the north along with that building. It's his tenants that is impacted by this. The unique ability for ACE to share with Mr. Balicki. Mr. Balicki stated that in our strip the stores usually close early except Cedar Gardens which they are open a little later. They have been there a little over a year and they have not had any parking issues.

It was moved by Commissioner Michno, supported by Vice-Chairman Scavone, to approve the request for a 33-space parking variance for a second permanent outdoor seating area.

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A roll call vote was taken.

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

Nays: Stellas

Absent: None

Motion: Passed

Case No. 03-2021 – Dominik Wietrzynski for Hillstream Dental – 31850 Harper

Re: EUCLID BEACH SUBDIVISION (L3, P31) LOTS 169 & 170 EXC THE W 27' OF LOT 170 TAKEN FOR HARPER AVE

Location: South of Masonic, East of Harper

REQUEST: Request for a variance to allow a chain-link fence in lieu of a concrete wall. (*Zoning Ordinance 15.508, Walls*)

Dr. Robert Hubbard, 2024 Albany Ct., Oakland Township, also managing partner for Hillstream Dental.

Dr. Hubbard stated they have a concrete wall behind their business. After their remodel for them to get a final occupancy they need to extend the wall all the way to the sidewalk. The neighbor right behind them takes care of some of their maintenance and he mention to him about the wall. He did not like the idea of having a wall he would rather see a chain-link fence. Dr. Hubbard stated that it does not matter to them they will deal with it either way.

Audience Participation: None

Correspondence: None

Commissioner Michno asked the petitioner that on the paperwork it stated that it would block the neighbor's view. The petitioner explained that if the neighbor were on his front porch, he would be looking at a wall instead of a chain-link fence.

Commissioner Michno stated there is no communication from the neighbor. Mr. Rayes said that he spoke to the property owner about 2 or 3 months ago when this first became a case that he does not want the wall and that he has a narrow driveway. The wall would serve no purpose it is nicely landscaped.

Commissioner Michno said that it makes no sense not to follow the ordinance. He stated that the neighbor's driveway is wide enough. He has plenty of room. This will not narrow the area down at all. He is not in favor of granting the variance. The wall contains the trash and it is for a safety and there is an ordinance for the wall.

Commissioner Stellas said that after looking at the situation along the side of the dental building there is grass all the way down the street. It is kind of an unbroken line of front yards and grass. From his vision a wall will just separate the grass. If it were to change the grassy area then he can see. It looks pleasing and a wall would create some kind of a barrier.

Commissioner Michno asked Mr. Rayes if this would be a drop-down wall. Mr. Rayes stated that it starts at 30". So, this may give him some of the view.

Vice-Chairman Scavone asked how far back does it start. Mr. Rayes stated that it starts one foot behind the sidewalk at 30" steps up to 6 feet at the 25' mark. By the time it hits the front of the house it will be six feet. This is unique because a lot of the commercial buildings don't have brick around the building. There is a mechanical unit back there and a transformer the wall will shield some of that. It is a nice-looking building brick all the way around. A step-up wall would keep it fairly consistent open look.

It was moved by Commissioner Bertolo, supported by Commissioner Stellas, to approve the request for a variance to allow a chain-link fence in lieu of a concrete wall.

A roll call vote was taken.

Ayes: Bertolo, Stellas, Budnick

Nays: Lince, Michno, Scavone, Bellestri,

Absent: None

Motion: Failed

Case No. 04-2021 – Frank Garnatz – 22490 Ardmore Park Drive

Re: ARDMORE PARK SUBDIVISION (L22, P38) LOT 73

Location: South of 11 Mile Rd, East of Jefferson

REQUEST: Request for 21.5-foot variance to allow a garage to be built forward of the front porch.
(*Zoning Ordinance 15.481, Schedule of Regulations*)

Frank Garnatz, 21526 Maple St. St. Clair Shores, he is here for 22490 Ardmore Park Drive, St. Clair Shores. He stated they purchased a lot five years ago on Ardmore Pk. and at that time it was an empty lot that sat for 12 years. Their intentions were to build a home with a projected garage with a side entry. Over the years he had some trees cut down and he had his seawall repaired.

He got caught in the COVID-19 pandemic and the ordinance changed. They had a design with a home with a projected two car garage. The lot is 254 feet deep and it is narrow. He prefers the garage in the front. The pandemic put him behind. If the pandemic didn't happen, he would have started his plans prior to the ordinance changing. This is his practical difficulty. He is here for the variance. They are building a house that belongs on that street. It is very diverse. He has many letters for support no negatives. He received the home owner's association approval.

He said that the previous house that was there 12 years ago it showed that it had a projected garage on it and he had aerial images from 2002 and 2004. The neighbors across the street have a projected garage. There are on 80 lots - 79 with homes and one empty lot which is his. There are a lot of houses with projected garages greater than five feet included in those are side entry. Three or four of them have a 3-car garage he is only asking for a two-car garage. He says that it will fit in the neighborhood. It has been built like this before with the exception of a side entry garage. His neighbor to the west prefers that he have a side entry than a front entry garage. He feels the new ordinance is really targeted. This unique deep canal lot will accommodate the plans. If he were to have a front facing garage his driveway would be right next to the neighbor's driveway. The driveways would be better staggered on the front lawn. He has a 50-foot setback. The lot is about three times bigger than an average lot in St. Clair Shores. He emailed Liz Koto, city planner, on May 20th, 2020 about this. He wants to build his house that he has dreamed of and they are practically using the same footprint as the house that was there before.

Audience Participation: Jason Ruthig of TR Design Group, LLC, lives in Shelby Twp., is Mr. Garnatz architect and is here for support.

Correspondence: Eight letters of support

Chairman Bellestri asked Mr. Ruthig if the garage will have the same details as the front of the house. Mr. Ruthig stated that it will look like a two-story home than a garage. Commissioner Lince asked Mr. Rayes when the ordinance went into effect. It went in effect Sept. 16th. As he looks at the site plans the petitioner is meeting all of the setbacks.

Chairman Bellestri stated that he will not be obstructing anyone's view.

Vice-Chairman Scavone asked Mr. Rayes that he heard different comments from the folks that drafted this new ordinance. Do they just want the garage pushed back? Mr. Rayes stated that they want more of a street presence of a home than a garage.

Vice-Chairman Scavone stated that more of the modern buyers want a garage closer to the front of the house which may take up the whole front of the yard and this garage will not. With the ordinance if we push the garages back even with the front of the house it will take a lot of the living area on the first floor. This will make the houses a lot deeper. He is in line with everyone else in the neighborhood. If they are adding a detached garage it will cut 10 feet off of the house and having to put this in the backyard where they have potential water front views. He would like the ordinance to have a little more detail in it in regards to the waterfront. He said that the architect did an amazing job blending this house in. Normally he would not be here. He has a 50-foot front setback usually it is a 25-foot setback. He is in favor of this.

Commissioner Stellas asked Mr. Rayes that there is a living space over the garage and then becomes a two-story building. Does it have any bearings on the guidelines with this new ordinance. Mr. Rayes stated "no" it is permitted by ordinance there is nothing special about it.

Vice-Chairman Bellestri stated that if this ordinance does come back to the table to discuss it, he would like to be involved. He does see a call of rear yard garages which makes the home smaller which cuts into the tax which he believes that this will hurt St. Clair Shores. He has never once built a detached garage. Most garages they want it attached. This plan is nice there are many houses on the street and it enhances the street.

Vice-Chairman Scavone stated that this house is in conformance with all of the new houses on the street.

Commissioner Michno asked do you know how long the street is from Jefferson to the lake. It is approximately 5,000 ft. When he went down there, he counted nine houses. There are all kinds of variances. He said that the zoning board does not create the ordinances they are a strictly sounding board for the residents and the business owners. The city ordinance takes precedence over a homeowner's organization. Is there any way that they can move the house back towards the lake? He sees him sticking out farther than the neighbor to the east and the west. Mr. Ruthig stated that he is flushed right at the 50 feet with the neighbors. The survey that he has shown is at 50 ft. Commissioner Michno stated that two council people objected to this ordinance. This was in the works and discussion for a while. Every case is different. Can the house be moved? Mr. Ruthig stated that there is an estimated rear yard line because of the overhead power lines which they try to keep 10 to 12 feet from that. He cannot move forward or back because the way it is designed. He would never design a house with a detached garage on a water lot. The petitioner started the design back in 2019 and he planned on

already building before the ordinance.

Commissioner Michno asked Mr. Rayes if this will be building a non-conforming house. Mr. Rayes stated "correct".

It was moved by Vice-Chairman Scavone, supported by Commissioner Lince, to approve the request for a 21.5-foot variance to allow a garage to be built forward of the front porch reason being the house is conforming with many of the houses on the street and very similar to all of the new houses. This will be right in line with the other house and moving the house back will be detrimental.

A roll call vote was taken.

Ayes: All

Nays: None

Absent: None

Motion: Passed

Commissioner Budnick stated that the next two cases are the same petitioner. The design is exactly the same he wants to know if they can do these together. Mr. Shepherd stated that it should be two separate votes.

Case No. 05-2021 – Jeff Salvatore – 27906 Vogt

Re: GROVE POINTE GARDENS SUBDIVISION (L2, P237) LOTS 94

Location: North of 11 Mile Rd, West of Jefferson

REQUEST: Request for a 5.83-foot variance to allow an attached garage to extend forward of the front porch. (*Zoning Ordinance 15.481, Schedule of Regulations*)

Paul Agulair, 38537 Lake Shore drive, Harrison Township. He stated back in November 2019 they purchased an eyesore of a house that was on two lots in St. Clair Shores. There were about 5 or 8 dumpsters of garbage that was within the house and on the property. In March 2020, they allowed the swat team, police, and fire department to use the house for training purposes. After that they used it, they tore down the house in March 2020 After that they broke it into two lots with two addresses. As they were going through the planning stages Covid-19 hit. Once the plan was submitted, the new ordinance became into effect. They want the garages to extend out about five feet from the houses. They are not trying to build outside of the realm of the neighborhood. They are not trying to build a garage past everyone else's garage. They are maintaining a 26 feet setback as pertaining to the ordinance. The ordinance wasn't clear to them when they submitted the plans. They have a St. Clair Shores resident wants to buy this house and continue on living in the City of St Clair Shores. It is not extending past the neighbors. It is a clean simple practical house where they want to go with an 18' garage door instead of a 16' garage door.

Audience participation: Mary Segura, 27909 Vogt, stated she is directly across the street. She lived in her home for 25 years. The previous owner had an attached garage with a breezeway. He did build a fence to help hide some of the debris. She is on a triple lot. She has a detached three car garage. Her home was built in 1927. She was not happy with two homes going in that place. She was hoping for one bigger home and hoping the property value to go up. Basically, was that the two homes will not be identical . They would look like twins. To her a 25' setback doesn't seem like much. She was concerned with them building the garages further out than the code allows.

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Correspondence: None

Chairman Bellestri asked Mr. Agulair in regards to the plans if he were to take the garage and set it back 5 more feet what would he be losing. Mr. Agulair stated that it is at 23' 11" and to take it back five feet he would lose the laundry room and the stairwell. He would have to minimize the size of the rooms. They are only 1944 sq. ft. homes.

Jeff Salvatore stated that allowing the city to use the house delayed them from demolishing the house and getting their permits in before the COVID-19. During this time his surveyor got COVID-19. The houses will not look the same. They will have difference colors, brick, different garages and different roof lines.

Chairman Scavone commented that these were designed before the ordinance took place. This only extends out 10 feet further than the front. It is a broader front house. They look like their beautiful homes. Nice design. They are just asking for a little over five feet. He said that this satisfies the spirit of the ordinance. He would like to see this than a house with the entire garage sticking out farther in front.

It was moved by Commissioner Budnick, supported by Commissioner Lince, to approve the request for a 5.83-foot variance to allow an attached garage to extend forward of the front porch Due to the timing of the approval of the new ordinance and the current situation. He believes that if this was an ordinary time the petitioner would not have to come in front of the board.

A roll call vote was taken.

Ayes: All

Nays: None

Absent: None

Motion: Passed

Case No. 06-2021 – Jeff Salvatore – 27914 Vogt

Re: GROVE POINTE GARDENS SUBDIVISION (L2, P237) LOTS 93

Location: North of 11 Mile Rd, West of Jefferson

REQUEST: Request for a 5.83-foot variance to allow an attached garage to extend forward of the front porch. (*Zoning Ordinance 15.481, Schedule of Regulations*)

It was moved by Commissioner Lince, supported by Vice-Chairman Scavone, to approve the request for a 5.83-foot variance to allow an attached garage to extend forward of the front porch. Due to the timing of the approval of the new ordinance and the current situation. He believes that if this was an ordinary time the petitioner would not have to come in front of the board.

A roll call vote was taken.

Ayes: All

Nays: None

Absent: None

Motion: Passed

Commissioner Budnick told Ms. Segura that they will still be at 26' because it is 1 foot behind the sidewalk where the property line is. It is more of the design of the house is the spirit of the ordinance.

Other Business:

APPROVAL OF THE MINUTES FROM DECEMBER 3, 2020 ZBA MEETING

Commissioner Michno stated that on page 6 of 13 second paragraph from the bottom it states: "Secretary Bellestri asked if they can do a three-year variance". It should read: "Commissioner Michno asked if they can do a three-year variance".

It was moved by Commissioner Michno, supported by Commissioner Lince, to approve the December 3, 2020, ZBA meeting minutes, as amended

**Ayes: All
Nays: None
Absent: None
Motion: Passed**

Audience participation: None

Vice-Chairman Scavone asked Mr. Rayes to see why we are the one of the only cities that determines the height by the total height to the peak instead of taking the average height between the top of the second floor and the ridge. This would eliminate a lot of the cases because with the newer design they are going with a higher pitch and architecturally it is hard to stay within the 30'. Mr. Rayes stated that the challenge would be that no one is going to know how high the house will be. We made the height higher than the average so everybody would know exactly how high the house will be. If we take the center point it will lower down to 22' or 25' feet. They would have to do the math and figure out how high the house would be. They raised the height higher and got rid of the average. Some of the houses that they see have their basement half out of the ground and really have a three-story house with a 12/12. This would be a good exception for the houses on the lake.

Adjournment:

It was moved by Commissioner Michno, supported by Commissioner Lince, to adjourn the meeting at 8:50 p.m.

**Ayes: All
Nays: None
Absent: None
Motion: Passed**

[THE PRECEDING MINUTES ARE A SYNOPSIS OF A ZONING BOARD MEETING AND DO NOT REPRESENT A VERBATIM RECORD]