

**MINUTES OF THE
CITY OF ST. CLAIR SHORES
ZONING BOARD OF APPEALS
MARCH 4, 2021**

Present:

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

Alternates:

Thomas McKenney

Absent:

Peter Stellas, Excused

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. 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.

It was moved by Chairman Bellestri, supported by Commissioner Michno, to excuse Commissioner Stellas from tonight's meeting.

A roll call vote was taken.

Ayes: All

Nays: None

Absent: Stellas

Motion: Passed

Chairman Bellestri stated that case #08-2021 – 22588 Ardmore – Anne Switchulus has been cancelled for tonight's meeting.

Case No. 09-2021 – Bernard Yaldou for XO Sports Bar and Grill – 31033 Jefferson

Re: HUGO SCHERER'S DORION GARDENS SUBDIVISION (L3, P7) LOTS 4 AND 5

Location: South of 13 Mile Rd, West of Jefferson

Request: Request for an 8-space parking variance and 18-foot front setback variance for additional outdoor seating. (*Zoning Ordinance 15.500, Parking and 15.481, Schedule of Regulations*)

Mark Shimon, 31033 Jefferson, they want to add another patio similar to the one that they already have now. They would like to add additional space. It will be great for business and it will look great on Jefferson.

Audience: None

Correspondence: Secretary Budnick read the parking agreement

Commissioner Michno stated that there is an 18-foot front variance in addition to the parking space variance. Mr. Rayes stated that is correct it is within 60 ft. setback area. Commissioner Michno stated that Mr. Shimon has this bar for three years. They are duplicating it like the other patio. They also made some changes to the building.

Secretary Budnick asked Mr. Rayes if there have been any complaints with the existing patio. Mr. Rayes stated that there were no complaints that he has heard of.

Vice-Chairman Scavone asked the petitioner if there are any plans of having the patio covered. Mr. Shimon stated that they will be covering both patios which they received approval for. It will be a permanent structure. It will have a metal roof with vinyl siding that can be rolled up. It will never be enclosed it will only have the roll up vinyl siding. There will be no half walls.

Vice-Chairman Scavone asked about the hours of the new patio and if they will have entertainment. Mr. Shimon stated that the other patio they were approved to be open until 2:00 as long as they passed probation. They were originally open until 10:00 p.m. if they did not get any complaints during probation they can be open until 2:00 a.m. They may have TV's. Vice-Chairman Scavone stated that even though the houses are set back really far sound does travel. It looks like a nice plan.

Chairman Bellestri asked Mr. Rayes if they want to have entertainment what would they have to do. Mr. Rayes stated that they would need approval along with their liquor license to get approve.

It was moved by Commissioner Michno, supported by Vice-Chairman Scavone, to approve the request for an 8-space parking variance for additional outdoor seating.

A roll call vote was taken.

Ayes: All

Nays: None

Absent: Stellas

Motion: Passed

It was moved by Commissioner Bertolo, supported by Secretary Budnick, to approve the request for an 18-foot front setback variance for additional outdoor seating.

A roll call vote was taken.

Ayes: All

Nays: None
Absent: Stellas
Motion: Passed

Case No. 10-2021 – Anna and Rouzbeh Oskui for Syphus Training – 24114 Harper

Re: RIDGEWAY PARK SUBDIVISION (L4, P31) N 66' OF LOTS 96-98 EXC THAT PART LYING WITHIN 60' OF THE CENTERLINE OF HARPER AVE ALSO A 47.64% INTEREST IN A PARCEL OF LAND DESC AS RIDGEWAY PARK SUBDIVISION (L4, P31), LOT 94 EXC THE E. 2.5'; ALSO LOT 95 EXC THE S 72' OF THE WEST 30'

Location: North of 9 Mile Rd, East of Harper

Request: Request for 7 parking space variances for a fitness center. (*Zoning Ordinance 15.967 Off-street Parking*)

Anna & Rouzbeh Oskui, Grosse Pte. Farms. Ms. Oskui stated they are relocating Syphus Training. They feel that because of the different type of the fitness center. It is a boutique center that has a small class size which is about nine. They believe that the parking lot is sufficient and adequate for the classes that they have. They talked with all of the residential and neighboring businesses and submitted letters of support. There was one that they were unable to get in touch with them.

Correspondence: Three letters in the file

Vice-Chairman Scavone asked the petitioners as to how the gym works. The petitioner stated that these are strictly classes they are about an hour long. It is progressive circuit training. Classes are scheduled. They come in for an hour. They have a lane on turf and you go through circuits of exercises. There is a trainer and a max of nine people at a time. When one class ends, they would leave then another class comes in.

Vice-Chairman Scavone asking as to how many spots are there right now. There is a total of 36 spots. Vice-Chairman Scavone stated that he spoke to Gloria at Carl's Boats to the south and she was all for it and she has no issues. It is a big size lot. The petitioner stated that the hours depend on the demand of clients. They have classes 5:30 a.m. to 11:00 a.m. then pick up in the afternoon at 3:30 p.m. to 8:30 p.m. The last class being at 7:30 p.m. Right now, they are running reduced capacity due to COVID. After COVID there will be one class at time.

Commissioner Bertolo stated that they are currently on Nine Mile and that parking lot was never completely full. The parking lot was never packed.

Commissioner Michno stated this is a very unusual parking lot the way it is cut up. Most of the parking spaces are used up by Carl's Boats and they have no objection. The way the business is operated it is his opinion that this will not cause any problems.

Vice-Chairman Scavone stated that the way the parking lot is configured it will be hard to spill over onto another parking lot.

Audience Participation: Colleen Fitzgerald stated she is the current owner of the building. Carl's Boats has people in and out and at one time they had 16 customers and employees and they have never had a problem.

It was moved by Commissioner Bertolo, supported by Commissioner Michno, to approve the request for a 7-parking variance for a fitness center.

A roll call vote was taken.

Ayes: All

Nays: None

Absent: Stellas

Motion: Passed

Commissioner Michno asked if they have overgrown the building so that is why they are moving. The petitioner stated that myself and some partners are in the process of purchasing the building and some partners are in the process of buying the business. They are looking to relocate because they purchasing the building versus leasing.

Case No. 11-2021 – Laronda Dukes for Tea & Toes Play Spa – 22410 Harper Ste B

Re: WALTER C. HOFER SUBDIVISION (L9, P93), LOT 17 EXC THE E 10' ALSO A 18.44% INTEREST IN A PARCEL OF LAND DESCRIBED AS E. 10' OF LOTS 15-20, ALSO THE S. 130.5' OF LOTS 27 & 28 EXCLUDING THE E. 4' OF LOT 28

Location: South of 9 Mile Rd, East of Harper

Request: Request for 9 parking space variances for a salon. (*Zoning Ordinance 15.500 Parking*)

Laronda Dukes, 22410 Harper, Ste. B, stated that this is a children's spa. The children will come in for manicure and pedicure. A pampering service for little girls for birthdays and special occasions. The parking lot is large and not being used at this time. Bellacino's is on one side they are not doing dine in just curbside pickup. The other side is a music store and they don't open up until after 5:00. So, they close around 8:00 p.m. Holtz Catering right now has pick up only. They are all in agreement with her. The city code stated that they can only have so many stations inside of her salon based on the parking spaces that are allowed. So, this would only give them 3 stations. They would like to accommodate more than one child at a time. They would like two spaces for nails, two spaces for hair and two spaces for pedicures. They can accommodate more than one child at one time. They are usually dropped off and picked up. Because of COVID they are limited to how many people can be inside.

Audience: None

Correspondence: None

Commissioner Michno asked Mr. Rayes what if people wait in the cars. This could cause a problem. What if the COVID lifts what if there are more people. What if she gets busy and they have no parking available? Once approved it is approved it runs with the building so long as the building is used as the same purpose. Mr. Rayes stated that the variance does not depend on COVID or not. They don't plan on operating under COVID indefinitely. The only consistence is Holtz Catering they are a unique business where they don't have much customer traffic. If they were to go out of business or change business this will put a different load on the parking. They have to look at what is being presented before them and not what COVID is doing. It will be done at the end of the summer. Commissioner Michno asked about Bellacinos? They have some limited seating.

Mr. Rayes stated that the long-term issue is if something happens and there is additional parking load they will park on the street and when that happens it becomes a complaint and usually, they put limited parking on the street which prevents them from over there.

The petitioner stated that she did not know that she can bring the letters in. She asked the neighbors what did it looked like pre-covid. They all said the same thing that they don't usually use the parking lot. Even with COVID or without she can only accommodate two children at one time.

Commissioner Michno stated that they do have an ordinance that states three spots per chair.

They are appointment only. As of right now with staffing they cannot accommodate "walk-ins". They can book an appointment on their website. Chairman Bellestri asked Mr. Rayes if that is a right turn only sign after they get out of the parking lot towards Harper. Mr. Rayes stated that the ordinance is based on that account for adults. They may have more vehicles. If she is only having children. They are only having children and it is for pretend there is no actual hair washing. Mr. Rayes stated that here is no left turn going onto the side street.

Commissioner Bertolo stated that Bellacino's never have more than 4 cars in the parking lot maybe six with two employees. Hotz Catering is really never busy they must be a specialized catering place. That parking lot is fairly large. So, there may be 6 or 8 cars at there at one time.

Vice-Chairman Scavone asked if she is the only part of the SAD with 6 spots. Mr. Rayes stated that there is other parking but she is only with the SAD.

Chairman Scavone stated that they approved similar businesses farther north and he drives by there every day and there are not many cars parked there. If this was an adult salon then it would not fit. If they wanted to add more chairs she would have to come back for further variance. There will be two pedicure, two manicure and one hair station. Vice-Chairman Scavone asked how many employees? The petitioner stated that there is usually one other and herself. If there is a situation that have more than 2 to 4 children at one time, they may be a third employee.

It was moved by Commissioner Michno, supported by Commissioner Moffit, to approve the request for 9 parking space variances for a salon with the stipulation that if she adds more than 5 work stations she will have to come back for another variance.

A roll call vote was taken.

Ayes: All

Nays: None

Absent: Stellas

Motion: Passed

She has five stations installed and she is using another area for pictures and make up. Is that ok? They will check before she starts to make sure it is alright. Mr. Rayes doesn't see that there will be a problem.

Case No. 12-2021 – David Parnell on behalf of Renee Butler for CherD Beauty Bar Cafe – 22210 Harper

Re: HEFFNER & FLEMMING'S GLENHURST SUBDIVISION (L10, P37) LOT 302 EXC THE E 25' also A 28.62% INTEREST IN A PARCEL DESCRIBED AS HEFFNER & FLEMING'S GLENHURST SUBDIVISION (LIBER 10, PAGE 37) LOTS 301 & 410, THE E. 25' OF LOTS 411-414, THE W. 20' OF LOT 409 AND THE E. 25' OF LOTS 302-306

Location: South of 9 Mile Rd, East of Harper

Request: Request for 4 parking space variances to allow 2 additional chairs at an existing salon. (*Zoning Ordinance, 15.500 Parking*)

David Parnell, 21929 Nine Mile, St. Clair Shores, he represents Renee Butler, which she has a beauty bar located on Harper between California St. and Gaukler. They are asking for a parking variance to accommodate six chairs. Currently she has four chairs and she has 14 parking spaces. They want to install two additional stalls to accommodate beauty supplies and hair care. Under the ordinance that would require 18 spaces and they seeking a variance from article 19.005 section 35.73. They have more spaces than they need. It is by appointment only.

Stylists run their own schedules and they have their own stalls and equipment. They submitted letters from Custom Realty and Crazy Gringo and they fully support this petition.

Audience Participation: None

Correspondence: In the file is a letter of support

Commissioner Michno asked Mr. Rayes why does he see a City of St. Clair Shores certificate of occupancy. Mr. Rayes stated that it appears that they are taking over an existing business and they were out there doing an inspection for the new certificate of occupancy and at that point she decided she wanted to add two additional chairs.

It was moved by Commissioner Bertolo, supported by Secretary Budnick, to approve the request for 4 parking space variances to allow 2 additional chairs at an existing salon.

Zoning Board of Appeals

March 4, 2021

Page 6 of 14

A roll call vote was taken.

Ayes: All

Nays: None

Absent: Stellas

Motion: Passed

Case No. 13-2021 – The Kroger Co. of Michigan – 22801 Harper

Re: ASSESSOR'S PLAT NO. 5 (L14, P20-21) LOTS 4-6 EXC THE S 418.5'; ALSO HARPER AVENUE SUBDIVISION (L8, P51), LOTS 11-25 AND LOTS 29-44; ALL TOGETHER WITH ALL ADJ VAC STREETS AND ALLEYS EXC THAT PART TAKEN FOR HARPER AVE

Location: South of 9 Mile Rd, West of Harper

Request: Request for a variance to allow a precast screen wall to be located 4.5 feet from the property line. Request to allow a precast screen wall that is not brick embossed. Request to allow a concrete panel wall system in place of 6-foot precast panels or poured-in-place wall. (*Zoning Ordinance 15.508 Walls*)

Commented [HS1]:

Here tonight is Mike McPherson from Atwell LLC, and Garrett Foley from Kroger's are here.

Mr. McPherson stated that this is regarding the new Kroger's at Nine Mile & Harper. Along the west rear side of the building is the location of this particular screen wall. This was an existing Kmart store previously and there was an existing block screen wall that was in poor condition and falling apart. This was mainly due to overgrowth vegetation, overhead utility lines and adjacent residential structures close by. This wall was replaced with the precast panel wall in stucco pattern finish which is more in line of the look of the existing wall that remains on the south side of the property. The former wall was about 1 ½' on the Kroger property. The new wall was placed about 4 ½' onto the Kroger property due to conflicts and construction difficulties with the large trees and many garages and overhead utility lines. Out of respect for the adjacent residences the wall was moved three feet more onto their property. In order not to impact residential properties by removing trees and potentially impacting their garage foundations.

This is for the location of the wall and the look and type of the wall. The wall is six feet tall and masonry which meets the codes.

Audience: None

Correspondence: Letters in the file

Commissioner Lince asked Mr. Rayes how do we handle these people's properties when their backyard will have an additional 2' or 3'. Will this go on the tax roll. Who is the responsible to do the upkeep the property? Mr. Rayes stated that It is Kroger's property it is up to Kroger to keep it maintained.

Commissioner Lince asked if they are deeding the additional 2' or 3'. Mr. Rayes stated not to his knowledge.

Commissioner Michno asked about the north west corner the American Car Care there is no wall, is there anything going up. Mr. Rayes stated that no wall is required by ordinance because it is commercial. Commissioner Michno asked about the south wall will this wall be taken down and a new one put up. Mr. McPherson stated that the existing block wall that was there has been removed and has been replaced the new masonry and it is three feet further onto Kroger which is one of variance request.

Mr. Rayes stated that the wall on the south property line is in conformance and does not need to be replaced. The south wall is a concrete precast panel wall system.

Commissioner Michno asked about the gate will it remain. Mr. Rayes stated that they don't have an issue with the gate.

Commissioner Michno asked about the south wall west of the dumpster heading east. Mr. McPherson stated that wall ends about 150 feet from Harper Avenue.

Commissioner Michno stated that the left-hand turn entrance of the building down to the north east corner and making a left past the pharmacy will they finish the wall along Nine Mile which would be a knee wall. Mr. McPherson stated that the intent is to have a knee wall along Nine Mile road.

Commissioner Michno stated that the knee wall looks nice and it will do a lot. And it will keep the trash out and the snow. He thinks it looks really nice.

Vice-Chairman Scavone asked Mr. McPherson the wall that is installed there, are there footings at every vertical post or is it continuous. Mr. McPherson stated that there are post footings. Everywhere there is a column like look there is a post footing there and there is a masonry panel in between there with a cap on top.

Vice-Chairman Scavone asked Mr. Rayes if there is another business that did this type of wall. What is the city's opinion on that style of wall with the panels stack in between the verticals? Mr. Rayes stated that he is not familiar with them in terms of the durability. In this case their plans showed the correct wall system. He was contacted by their contractor Keith Willingham and he asked him about this and he told them the wall is not permitted and they are required to be on the property line because of the issue who will maintain behind the wall. That was the last that they heard of no one came to him to ask to do it formally or a process. The wall was put up regardless of the explanation. The longer-term concern is who will maintain the property? They would get complaints that the residents don't want to maintain that four feet of land because it is not theirs. There is no way to maintain the four feet of land.

Vice-Chairman Scavone asked Mr. McPherson do they keep a supply of panels in case they get hit or damaged. What if down the line these panels don't exist what will they do. Mr. McPherson stated that wall system he does not think that they have additional panels. This was made by a local concrete fence supplier and it has been around a long time. If it is a condition of the board, he is sure Kroger's can keep a supply in case the wall is damaged.

Vice-Chairman Scavone stated that on the south wall driving through there the problem with the walls on the south is a lot of times the I-beam can shift and there are pretty good size gaps right now and they may fall. Will that be part of the final inspection. Mr. Rayes stated that this can be looked at. Vice-Chairman Scavone stated that he would prefer the wall to have a continuous footing.

Chairman Bellestri asked it is an open hole inspection. Mr. Rayes stated "correct". Mr. Rayes stated that the wall on the south side was put in 1963 when Kmart was built. From the administration perspective he would want the answer to the question how they are going to handle the gap between the wall and the residents. We will take a longer look at the other wall and we will give them a month as to how they will address those issues.

Mr. McPherson stated that they had plans to be brick emboss. This was the wall system that the contractor installed he thinks that the contractor thought he was meeting what was proposed on the plans. This was brought to his attention that it was not.

Vice-Chairman Scavone asked Mr. Rayes where there footing inspections done on this wall. Mr. Rayes stated that he would have to verify it.

Commissioner Michno asked Mr. McPherson that the south wall on the southwest corner where the garage is there is an "L" is it attached to the garage. Mr. McPherson stated that it is not attached to the garage. He believes that the former block wall the garage had a home improvement type of roof structure that was attached to the wall. That no longer exist.

Commissioner Michno commented that Kroger has gone out of their way to satisfy the city.

Secretary Budnick asked Mr. Foley with Kroger what is the plan to maintain the four 1/2 feet between the residents and the wall. Mr. McPherson stated that Kroger has no issue to maintaining the three to four 1/2 feet as long as the residents want them to. They will work with each individual resident who would like the grass cut. Mr. Foley went door to door previously to each resident about this issue and he received letters from the residents. The residents that they did not have direct contact with them they left information in regards to this.

Secretary Budnick asked if there will be chain-link fence to the back side of the property. Mr. McPherson stated that his understanding that some of the residents that had fencing he already extended it to the wall. What is the final grade it would be restored lawn it will be the same as the narrow strip on Kroger's side? Where will the water drain? Mr. McPherson stated that the majority of the drainage will drain on the lot with the drainage system. The pavement behind Kroger was purposely held down to make sure that there are no drainage issues.

Commissioner Michno asked Mr. McPherson are the residents there being gifted four feet on average to extend their lot and they won't be taxed on it but they can use. He asked Mr. Rayes if the city can compose a letter. Mr. Rayes stated "no" the challenge they have is the homeowners are getting older and they don't want more land. They need to go to the property owners and ask if they want the land gifted or they will have to maintain it. The city will not take on the responsibility to write letters on behalf of Kroger it is up to Kroger to do

that. Mr. Rayes stated that he wished that they had a solution in writing before they came in front of the board.

Commissioner Moffitt asked if Kroger would deed the four feet to each individual property owners. The wall may be there for 50 years. If someone will move into that they may not want the additional four feet. By doing this we would not have to worry about maintaining the property.

Vice-Chairman Scavone stated that it would be a nice solution. He seen this happen before. They would have to have to change the legal description. We may run into a problem where some people want it and some people don't so we would have a crazy looking property line. This will raise the assessing issues. Maybe we can table this for a month to see if something can be worked out.

Commissioner Moffitt stated that they are here because they did not want to put the wall on them property so they created their own hardship.

Commissioner Bertolo stated that they are willing the maintain the area behind the wall so he does not see the hardship.

It was moved by Vice-Chairman Scavone, supported by Commissioner Moffitt, to table the request for a variance to allow a precast screen wall to be located 4.5 feet from the property line. Request to allow a precast screen wall that is not brick embossed. Request to allow a concrete panel wall system in place of 6-foot precast panels or poured-in-place wall.

A roll call vote was taken.

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

Nays: Bertolo

Absent: Stellas

Motion: Passed

Case No. 14-2021 – Jessica Rice and Ed Lesniak – 21600 Pleasant

Re: LAKEVIEW GARDENS SUBDIVISION (L4, P88) LOT 201

Location: North of 9 Mile Rd, East of Harper

Request: Request for a 3-foot side yard setback variance for an egress window. (*Zoning Ordinance 15.481, Schedule of Regulations*)

Jessica Rice and Ed Lesniak, 21600 Pleasant, they would like the board to consider allowing them to have an egress window installed on the west side. It is the only location that could accommodate one. The north side has a porch. The east side has a driveway and the south side there is an addition. The hardship is that she works from home. She has an office and they would like to have an emergency exit. They have four children and a four-bedroom home. They have children sharing a room. There is not a lot of flexibility of where she can work. In the future she would like to put in a bedroom down stairs.

Zoning Board of Appeals

March 4, 2021

Page 10 of 14

Audience participation: None

Correspondence: None

Vice-Chairman Scavone asked if this is legal non-conforming. Mr. Rayes stated "yes". They don't allow the chimney on the side. To the petitioner he is happy that they are requesting this most people don't put this in they are creating a safety hazard. It looks like there is access on that side of the house. The fence stops a few feet pass the chimney. They will have a grate over the egress window.

Chairman Balestri stated that the reason for the steel grate is in case of an emergency the emergency personnel will be stepping on the grate then falling 2 or 3 feet down.

It was moved by Commissioner Michno, supported by Commissioner Lince, to approve the request for a 3-foot side yard setback variance for an egress window.

A roll call vote was taken.

Ayes: All

Nays: None

Absent: Stellas

Motion: Passed

Case No. 01-2021 – Mary Walker – 23904 Elmira (petitioner withdrew from previous meeting)

Re: DEZIEL JEFFERSON GARDENS SUB'N (L9, P17) LOT 214

Location: North of Masonic, West of Jefferson

Request: Request for variance to allow a shed in a side yard. Request for 0.34-foot side yard setback variance for a non-permitted garage. (*Zoning Ordinance 15.499, Accessory Structure*)

Mary Walker & Tom Walker, 23904 Elmira, Mr. Walker said that this was supposed to be a shed but it turned into a garage because of the square footage. On the west side, where the fence line is, they are too close to that fence by 2 ¾" or 3" or maybe 4". When it was measured out because by going from one end to the other it changes slightly by about an inch.

The hardship is the garage is already built. It is now deemed a garage basically the hardship is that it is already there. The small shed has already been arranged to move back behind the garage. The plans were already given to the city and it was approved and paid for. He said that the neighbor has no problem with it being so close to the fence line. They already signed a paper.

Audience participation: None

Correspondence: In the packet

Commissioner Bertolo asked Mr. Walker why were there any permits pulled on this. Where he lives, he did not know that they needed a permit for a shed. Because it was larger which it was converted to a garage. Mr. Walker stated that they need the board's approval to be able to pull the permit. There were no inspections done.

Commissioner Bertolo stated that there were no permits. They already put the garage up before the permit. They have pictures of the footings and everything.

Chairman Bellestri do they have plans that states the footings and re-rod.

Vice-Chairman Scavone asked how deep are the footings for the garage. Mr. Walker stated that the rat wall is 26" deep. Mr. Rayes will verify if it is 24". If the garage was larger it would have to be 42".

Commissioner Michno asked Mr. Walker about the fence on the property line. It was never surveyed. The fence line on the west side from north to south. Mr. Walker mentioned that it was not on the property line. Mr. Walker stated that it is on the property line. The property line does not go down the center of the fence. It is really on their side about 1". When the house was built in 1920 those were wooden poles that were there.

Commissioner Lince asked if we were to approve this will the inspector require him to dig down to verify the footings depth. Mr. Rayes stated they depending on that they can tell of the photos that it is meeting the requirements. Mr. Walker stated that he has a picture of a tape measure inside the hole showing the depth of each hole. The board is only here to approve the variance portion of it. The Walkers will have to satisfy the building inspector to get approvals. If the inspector does not like the photographs, they may ask him to dig down to verify the depth. They will not be able to check this until the spring time when the ground is thawed. Mr. Walker stated that the slab is 6 1/2" and he put in an extra bag for strength inside the concrete.

Vice-Chairman Scavone stated what do they do about this. This is a large structure being done without a permit. It sounds like he exceeded what the requirements are. What happens if he is not granted a variance in a case like this. Mr. Shepherd stated that if he is not granted with the variance, he would have to be compliant with the ordinance. He would have to move the garage over. Commissioner Bertolo stated that if he would have pulled the permit he would have known.

Vice-Chairman Scavone asked how long has the garage been there. It has been there 9 months or a year. Mr. Rayes stated that this was submitted to the city has a complaint.

It was moved by Commissioner Bertolo, supported by Commissioner Lince, to deny the request for variance to allow a shed in a side yard. Request for .34-foot side yard setback variance for a non-permitted garage because this was a self-created hardship.

A roll call vote was taken.

Ayes: All

Nays: None

Absent: Stellas

Motion: Passed

Vice-Chairman Scavone stated that if this would have been built with the side yard setback then it would have been a matter of him just pulling the permit.

Other Business:

APPROVAL OF THE MINUTES FROM FEBRUARY 4, 2021 ZBA MEETING

It was moved by Commissioner Michno, supported by Commissioner Lince, to approve the February 4, 2021, ZBA meeting minutes, as amended

Ayes: All

Nays: None

Absent: Stellas

Motion: Passed

Audience participation: John Caron thanked the board members for persevering through the Zoom meetings. Hopefully they can get them back in the council chambers starting in April. Good job in administering the meeting with all of the technical difficulties. On the Walkers denial did someone give them a process of appeals. With having a denial and having to move the garage is a big deal. He just wants to make sure that it gets communicated to them.

Mr. Shepherd stated the Walkers will have the ability to appeal the Zoning Board of Appeals decision up to the circuit court. They will have 30 days once the minutes are certified or the decision is put into writing. He suggested that they consult with an attorney to appeal or they can do it themselves.

Mr. Rayes stated that they will get a letter of denial. They can tell the petitioners that it is a circuit court action.

Mr. Shepherd stated that they can contact him or Mr. Ihrie to explain to them their appeal rights and what they need to do.

Sandra Skinner, 23012 Ardmore, would like to request a copy of the Zoning Board of Appeals minutes from February 4, 2021. She was told that she would have to file a FOIA through the clerk's office for that information. The city has five days to comply.

Mr. Rayes told the Zoning Board that they received a legal notice today suing the city and the Zoning Board of Appeals for the variance granted to the Switchulus. There are three residents that filed the legal notice. The Zoning Board granted just the set back on the garage. The height variance was tabled. He will get with the attorney in how to address the height variance so we can address it at the next meeting.

Commissioner Michno asked Mr. Shepherd about the situation about the lot at Nine Mile and Jefferson on the southwest side. There was a suit filed against the city. Mr. Rayes stated that the case was not dropped. We are not being sued by Leo's Coney Island we are being sued by Fred Andary. Right now, it does not affect the Zoning Board.

Commissioner Michno asked about the tobacco place in regards to their parking lot. The owner did not get the parking lot done before the ground froze so it will not be done until the ground defrosts.

Secretary Budnick stated that it was nice to see new businesses tonight. It is positive for the city. It is great to see the council people showing up on the zoom meetings. Commissioner Bertolo stated that some of these cases we tend to get off track we need to stick with what they are there for. Sometimes by getting off track it can put us in a legal mishap.

Adjournment:

It was moved by Commissioner Michno, supported by Commissioner Lince, to adjourn the meeting at 9:25 p.m.

Ayes: All

Nays: None

Absent: Stellas

Motion: Passed

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