

**MINUTES OF THE
CITY OF ST. CLAIR SHORES
ZONING BOARD OF APPEALS
JULY 8, 2021**

Present:

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

Alternates:

Thomas McKenney
Mark Moffitt

Absent:

Also, Present:

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

Call to Order

Chairman Bellestri 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. 29-2021- Justin & David Roth for Shore Lanes - 31100 Harper (tabled 6/3/2021)

Re: ASSESSOR'S PLAT NO 69 (L43, P32) LOTS 4-8 ALSO PART OF LOT 1 OF ASSESSOR'S PLAT NO 33 DESC AS FOLL; COMM AT NE COR LOT 1; TH N85*43'30"W 655.15 FT, TH S2*23'W 170 FT TO PT OF BEG ; TH S2*23'W 453.55 FT; TH N89*45'W 133.10 FT; TH N2*23'E 453.76 FT, TH S89*45'

Location: South of Thirteen Mile Rd, East of Harper

REQUEST: Request for a use variance to allow a Commercial Recreation use outdoors within the B-3 District. Request for variance to allow the use of temporary chain link fencing in place of wrought iron or decorative aluminum fencing around an outdoor seating area. Request for a variance for a brick knee wall within the Harper Avenue Overlay Zone. Request for a 105-parking space variance for an outdoor seating and commercial recreation area. (Zoning Ordinance, 15.320 B-3 General Business District, 15.983 Outdoor Dining Areas, 15.981 Site Design Standards for Off-Street Parking, and 15.500 Off Street Parking Requirements)

Justin & David Roth, 31100 Harper, they are looking to enhance their business. This is a seasonal use of a small portion of the parking lot in the front of the facility. They want to

have bocce ball. He mentioned all of the bowling centers that have closed down. Outdoor recreation will help people engage year-round. With the traditional bowling world, they need to look for new and different things to keep up with the new trends and ideas.

They have been around 63 years. This industry took a huge hit they believe that this will help them. Shore Lanes has bowling which is an indoor event there are no outdoor activity as of right now. The Planning Commission and City Council approved this.

Bowling runs September through April and after that they have no business. Picture shows the bowling alley on a Wednesday with the house full it is a small portion of the parking lot is being used. They don't have a space issue there are approximately 175 parking spaces that are available. For the summer time if he could fill them, he would not be here asking for this. This is seasonal so a permanent decorative fence will not work. The difference between the fence that are required and the fence they are proposing is the esthetic of it. Putting a purely esthetic reason would be burdensome giving their circumstances of asking for seasonal. For the knee wall they understand the setback they are not infringing on the setback. Putting a knee wall there would take up some parking spaces and would be burdensome. He does not think a knee wall would make sense for what they are asking for. This would all be removed once the fall bowling season begins. They have 202 spaces for the facility. The neighbors on the right and left will help take the overflow. They have never needed all of their spaces. The 27 spaces will be brought back once the fall season starts. After looking at other cities and what their codes are for parking St. Clair Shores is on the higher side. There is not much on the north end. Adding food, beverages and Bocce ball would be a family event.

David Roth mentioned three articles in a magazine in regards to bowling.

Justin Roth stated in regards to the aluminum fencing there are other areas that use the same fencing. Kyte Monroe has them but they are zoned differently. They are asking for it for 4 months out of the year.

Correspondence: None

Audience Participation: None

Commissioner Bertolo asked if this is a temporary chain link fence. Justin Roth stated it is temporary and it would be from May to the end of August. The fence is rented and the company will pick it up when they are done. The tents would be taken down and stored.

Commissioner Stellas stated that they won't need the 105 spaces because they don't have the people inside for bowling. He would not anticipate that he would use the neighbor's parking. If they need the 105 spaces he will close up in the front.

Commissioner Stellas asked Mr. Rayes if the front knee wall is needed to circumference the front. Mr. Rayes stated that it is specific as part of the site plan approval process it is part of the current ordinance and now that they are changing the site plan, they have to meet the current code requirements and that is what makes that portion non-conforming. It was not required at the time that the building was built but it is now required as part of the site plan. It is unusual they own the property further out than the setback so there is some old history

there where they own property passed the setback. Mr. Rayes stated that if the knee wall is needed it would be at 60 feet. A variance would have to be granted to go beyond that point.

Commissioner Lince stated that it is not one foot into the property line. Mr. Rayes stated "no" it is at the setback line. Mr. Rayes stated that 20 years ago he and Mr. Ross worked out an easement to allow the sidewalk to go in because there was not a sidewalk back then.

Chairman Bellestri asked how far from the sidewalk will the knee wall go in. Mr. Rayes stated that it would be lined up with the sidewalk shown in the plans on the right side where the diagonal is it would be at the top portion of the diagonal not the bottom portion. They would lose 13 spots if the board requires them to put the knee wall up.

Commissioner Bertolo asked why not a temporary use variance? Mr. Rayes stated that this is a temporary use variance. It depends on the petitioners as to how long will this be for a couple of seasons or forever. Justin Roth stated that if they get closed down again, he would like to use the outside area. He is asking for seasonal he doesn't want to come back and ask again for this temporary area.

Commissioner Michno asked Justin Roth how many spaces? They have a total of 202 spaces. The city is requiring them to have 105 additional spaces if they want to have this permanently. The 27 is the front area where they are using for the temporary use. He believes that the 175 spaces in the back are enough for the temporary use. They have 175 plus overflow if this was ever needed.

Commissioner Michno stated he doesn't think that the fence would look nice.

Commissioner Michno stated that they can ask for less space if needed. He is all for what he is doing. He does not like the fence at all he would like to see the kneewall. With the 175 spaces how many times would they have to use the overflow. Justin Roth stated that in the 12 years that he has worked there and there has only been a few occasions that they used the overflow. He likes everything else but doesn't like the aluminum temporary fencing.

Justin Roth stated that they can do a temporary knee wall. Another place did wood planks and cinder blocks. He said that they can do cement blocks.

Commissioner Michno asked Mr. Rayes if there is a temporary kneewall. Mr. Rayes stated "no". He asked the petitioners if they need the fence because they are serving alcohol. The petitioner stated that their goal is to serve alcohol and they want to put a barrier between the temporary equipment. Mr. Rayes stated that the LCC requires it to be 30" high. It has to be so they cannot carry drinks off the site. They are proposing a 5' fence. David Roth stated that they would like a 5' fence for people coming onto the premise at night. Mr. Rayes would have to verify if it is 30" or 36". The city uses those temporary metal ones they have seen them down at Blossom Heath. Those are 36".

Commissioner Michno stated that the kneewall would not hurt your business at this time of the year it may hurt during the busy times.

Secretary Budnick asked are there any plans for entertainment. Justin Roth stated that they may. That is not in the plans right now. Secretary Budnick asked Mr. Rayes about the fence. Would this be a permanent fence request? Mr. Rayes stated that traditionally they have not given a permit temporary anything especially if it's new and we are not sure how it is going to go. If they granted a temporary variance for 1, 2, or 3 years. They may come back and said that they are done with this or they may come back saying they want more. Secretary Budnick stated what if we let them go today and three years from now, they come back and they want a covered area addition. Would this come back to them for the knee wall at that point or would it carry through. Mr. Rayes stated that this would carry through to give them a temporary approval for a certain number of years and at that point they come back because they want to keep the permit then there might be an answer for the question. This is a big investment for something that may or may not happen.

Secretary Budnick stated that they do make a screen for the temporary fencing. He would be in favor for the screen. Mr. Rayes stated that it has to be plain otherwise it would be a sign.

Secretary Bellestri asked Mr. Rayes is there any reason as to why the knee wall cannot go by the sidewalk if he doesn't get his request does, he still has to put the knee wall up. Mr. Rayes stated that it is for the change in the site plan. If he is denied he does not have to put the wall up.

Justin Roth stated that they are entrepreneurs. He wants to make it temporary just in case it does not work. He understands if there are conditions put on this variance.

Commissioner Michno asked if they plan to cover it. Justin Roth said it is not in their plans.

Commissioner Michno asked Mr. Rayes if they are able to move the wall more to the sidewalk 30" or 36" knee wall could they do that. Mr. Rayes stated "no" it is not advertised to put the wall in the setback they can table that portion.

Commissioner Stellas asked if this is approved will they start it this year. Justin Roth stated that the original idea was to make it a simple application. He said that he may.

Commissioner Stellas asked if they would look at this as a temporary condition so that this would potentially be brought up before the board every year to be renewed and if they find that there are issues, they would have to make adjustments etc. Justin Roth stated he has no issues of making the adjustments if necessary. Commissioner Stellas told the petitioners that when he read through this and some of the things that he saw he was not in favor of it. It does meet some criteria and some not for a variance. At the same time, it does say it proves that it is potentially beneficial to view on the city and maybe a little bit of a temporary use this year it would give them further knowledge of what they want to do. Also look into some type of fencing. He is good by making this temporary basis renewable every year until we prove that it is not creating an issue.

Vice-Chairman Scavone asked Mr. Rayes if the kneewall and the fencing are two separate items that are both required. One is not in lieu of the other. Mr. Rayes stated "yes" because the knee wall would not be high enough to meet the LCC if it has to be at least 36" high. It would be separate at that point. Vice-Chairman Scavone asked if this was temporary how

would we push off the knee wall requirement without granting a permanent variance to not ever have it on that property. Mr. Rayes stated that it's not a variance at this point until such time a final decision is made. If they want to give them a three year it would be reconsidered at that time.

Vice-Chairman Scavone stated that the commercial recreation use is a great idea. It's a big lot. He does not have an issue with the parking. He stated that there is not one establishment in the city that we have allowed a temporary six-foot chain-link fence. It would horrible coming on Harper. He thinks a temporary use for a year to see how it works for them. If he can come up with a decorative lower fence, he would be more in favor for that.

Justin Roth stated that he can make the fence look more decorative. Vice-Chairman Scavone said that they can look at the knee wall down the road.

They are voting on all four variances individually. They said that it may be for a year. David Roth asked about LCC they may come and say that the fence has to be three feet.

It was moved by Vice-Chairman Scavone, supported by Commissioner Michno, to approve the request for a use variance to allow a Commercial Recreation use outdoors within the B-3 District for the term of 13 months from August through September 2022.

A roll call vote was taken.

Ayes: All

Nays: None

Absent: None

Motion: Passed

It was moved by Secretary Budnick, supported by Commissioner Bertolo, to approve the request for variance to allow the use of temporary chain link fencing in place of wrought iron or decorative aluminum fencing around an outdoor seating area from now to September 2022. The height to be compliant with the LCC regulations. Some decorative covering. Approved by CDI.

A roll call vote was taken.

Ayes: Budnick, Bertolo, Michno, Stellas

Nays: None

Absent: Lince, Scavone, Bellestri

Motion: Passed

It was moved by Commissioner Scavone, supported by Secretary Budnick , to approve the request for a variance for a brick knee wall within the Harper Avenue Overlay Zone to be postponed until after September 2022.

A roll call vote was taken.

Ayes: All

Nays: None

Absent: None

Motion: Passed

It was moved by Commissioner Stellas, supported by Vice-Chairman Scavone, to **approve** the request for a 105-parking space variance for an outdoor seating and commercial recreation area. The size of the lot due to the nature of the business of the necessary to have that many parking spots for facility during the months that they are not needed indoor through September 2022 and there are cooperative neighbors to the use of their parking spots.

A roll call vote was taken.

Ayes: All

Nays: None

Absent: None

Motion: Passed

Case No. 34-2021 – Corrado Contracting, LLC for Credit Union One – 28201 Harper

Re: GREEN GARDEN SUBDIVISION NO. 3 (L8, P91) LOTS 985-996 EXC THAT PART TAKEN FOR HARPER AVE & 1/2 OF VAC ALLEY

Location: South of Martin Rd, West of Harper

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

Robert Mocha 150 Seyrene Drive, he is here on the behalf of Credit Union One. There is an existing wooden fence about 204 feet long along the back of the property. The fence is rotting and falling apart. The credit union would prefer to put up a white vinyl fence. The main reason for this is the trees in the neighbor's yard have been growing right up against it. To put a concrete wall up it will be detrimental to the neighbor and to the credit union. The vinyl posts would be easier to work around the trees. They have been there 10 years. At the far southwest corner of the property there is a manhole and cash basin there the concrete wall would block it. That is another obstacle that they are trying to work around.

Correspondence: None

Audience Participation: Leonard Smith, 28220 Glenwood, directly behind the entire fence. He has lived there about 27 years. He planted a row of trees at the back and about 10 years they look good. Some of the branches grew on their side of the fence. When the credit union purchased the property one of the first thing that they did was cut the branches up the fence line about 12' to 15' and he is now looking at tree trunks. They don't do anything that they use to do. The noise has gotten worse. He knows masonry walls are much more effective for noise abatement than a vinyl or a wood fence. It just wants them to go by the code. They were cleaning their parking lot and they used their vac trucks about 7:00 am on a Sunday they don't care about the neighbors. Make them put up a decent wall.

Celeste Yax, 28212 Glenwood, most of the backyard is this fence. The trees that they are referring to are on their side. She has three trees that are in our backyard that need to

come down or a brick wall. Her yard is currently a lake because of the credit union. The water overflows into their yard. She has notified the bank. She called the city and they came the next day. When they contacted her, they told her to have a plan in place for the deteriorating fence and it is going to be replaced by August 31st. In order to keep their trees, they will have to have a vinyl fence. The credit union called her and that they were approved for the vinyl fence. The noise is from the vehicles. The fence is falling apart. They want the 6-foot brick wall. It only makes sense to put brick walls as the other businesses have.

Commissioner Michno asked Mr. Rayes that for many years they could not have vinyl fencing. How is the success being with the vinyl fencing? Mr. Rayes stated that they have allowed PVC fences in lieu of the concrete wall. There were variances here. There is no consideration of changing the code to PVC.

Vice-Chairman Scavone stated that there has only been a few that the board allowed. In this situation, the ordinance is there to have a separation between the commercial and the residential. The fence is in rough shape. Even though a vinyl fence may look nice he thinks in this situation we have to uphold our ordinance for the concrete wall. Snow plowing will swipe out the vinyl fencing. He is in favor of denying the fence. He does not think that a hardship has been proven.

Commissioner Lince asked what raised the flag. Mr. Rayes stated it is the poor condition of the fence.

Vice-Chairman Scavone asked wasn't the wall ordinance in place when this property changed hands. The wall ordinance was in place and at that time the city council had the authority to waive the wall requirement or propose something else. Back when this building was put up as a bank the motion included the consideration that they could demand a wall to be put up at any time as part of that motion. City Council is no longer able to allow an extension or give variances for this.

Commissioner Stellas asked the petitioner that he mentioned that he felt that the trees would be injured. Was there any kind of study or consideration. Petitioner stated "no". Being in construction the concern that they have is the trees are right up against the fence. By doing a concrete fence they will be digging a footing those tree roots will be destroyed because they are growing under the fence. The trees will die. The credit union is concerned what will happen three or four years or six months down the road when the tree dies and the neighbors start saying that we killed their tree how would we go about rectifying that situation. The fence company that they have contracted said that trees will have to be removed before they build the concrete wall. There has to be some kind of understanding between the neighbors and the credit union on how that will take place and who would make the decision on what tree goes or stays. Is there a tree advocate through the city that goes over and rectify this situation?

Mr. Shepherd cautioned the board that will be a private situation between the credit union and the home owners to deal with the trees it will not be a determination of the board.

Commissioner Stellas stated he is not a big component of fences but in this case looking at the condition of the fence that is there and looking at the trees that are leaning against and looking at the overhead wires. The trees at one point will have to be trimmed by DTE. He is not concerned about salvaging the trees. He believes that the vinyl fencing is a good idea and consisted with that on either end of that particular stretch.

Vice-Chairman Scavone asked if the wall will be placed on their property so any tree on the bank property could be removed. The petitioner stated that he doesn't think that the credit union has any trees on their side. The trees that are pushing on the wall are on the resident's side.

Commissioner Michno stated that the existing fence is rotting in many places. The neighbors want a wall. He is advocate for the walls.

It was moved by Commissioner Lince, supported by Commissioner Michno, to deny the request for a variance to allow a wooden fence in lieu of a concrete wall. He does not see a true hardship in this situation.

A roll call vote was taken.

Ayes: All

Nays: None

Absent: None

Motion: Passed

Case No. 36-2021– Michael McAdory for Travis Coffee Shop – 23500 Greater Mack

Re: NINE-MACK URBAN RENEWAL PLAT NO. 1 (L78, P34-36) LOT 31 EXC THAT PART TAKEN FOR GREATER MACK

Location: South of Nine Mile Road, East of Greater Mack

REQUEST: Request for a seven-space parking variance for permanent outdoor seating. Request for 16-foot front setback variance for outdoor eating area. (*Zoning Ordinance 15.500, Off Street Parking Requirements and Zoning Ordinance 15.481, Schedule of Regulations*)

Michael McAdory, 23500 Greater Mack, they are trying to bring in some business any way they can. The downtown area of St. Clair Shores is nice. It is only 14' towards the road and 28' down it is a small section in the parking lot.

Correspondence: None

Audience Participation: None

Vice-Chairman Scavone asked about the brick pavers and what type of fencing. He spoke that it will be the same type of fencing like the one at Detroit's Finest Coney Island. The

fencing was approved by Planning Commission. They will be able to enter in from the street. The sidewalk is now going to be like Shores Inn. There is a tanning salon between them and the Shores Inn. He thinks that it will be a nice addition.

Secretary Budnick asked about the 24 hours they would like to be open 24 hours but they cannot find any help. Mr. Rayes stated that it would be a separate request. He is not doing 24 hours. Mr. Rayes stated that they can put the hours in the motion if he wants to change it he can come back.

Commissioner Stellas asked Mr. Rayes is there anything special put into when they stopped the parking right off of Greater Mack. Like giving them extra footage. Mr. Rayes stated that the McAdory's and Shores Inn own that portion of the property the part that they plan on putting the patio on. They weren't given any more they already had that there.

Commissioner Scavone stated that he is not too concerned about the parking lot. This will be used in the summer and a lot of people will walk and ride bikes. He doesn't think the demand on parking is going to be great.

It was moved by Commissioner Michno, supported by Commissioner Lince, to approve the request for a seven-space parking variance for permanent outdoor seating. The request for a 16-foot front setback variance for outdoor eating area with 7:00 am to 11:00 pm curfew.

A roll call vote was taken.

Ayes: All

Nays: None

Absent: None

Motion: Passed

Case No. 37-2021– Kapones Restaurant and Bar – 24301 Harper

Re: AP NO. 9 (L14, P40) PART OF LOTS 13 AND 14, ALL OF LOTS 91-93, PART OF LOTS 94-99, AND ALL OF VAC BLACKBURN AVE, DESC AS FOLLOWS: BEG AT A POINT IN THE WESTERLY LINE OF LOT 13, SAID POINT BEING 100' N OF THE SW CORNER OF LOT 13; THENCE N83°43'45"E 260.1'; THENCE N05°57'05"W 9.38'; THENCE N83°43'45"E 271.25' TO A POINT IN THE WESTERLY LINE OF HARPER AVE; THENCE NORTHERLY ALONG SAID WESTERLY LINE TO A POINT IN THE NORTHERLY LINE OF LOT 95; THENCE WESTERLY TO THE NW CORNER OF LOT 91; THENCE S74°39'05"W 159.35'; THENCE S79°05'15"W 52.25'; THENCE N84°13'25"W 199.56' TO A POINT IN THE WESTERLY LINE OF LOT 13; THENCE SOUTHERLY 241.16' TO THE POB, EXC THAT PART TAKEN FOR HARPER AVE

Location: South of Ten Mile Road, West of Harper

REQUEST: Request for knee wall and landscaping variance for parking lot abutting Harper. (*Zoning Ordinance 15.981, Site Design Standards for Off Street Parking*)

Dennis Dewulf, 27938 Worthington, St. Clair Shores and Khatina Breiss, 24310 Harper, St. Clair Shores. Mr. DeWulf is requesting a waiver from the knee wall requirement. The hardship basically is the landlord refuses to build a wall with a loss of \$30,000 or \$40,000 due to COVID amongst the 30 tenants he has across metropolitan area. The patio is held hostage to the wall requirement. The patio is 200 feet away at the back of the building so the hardship will be natural reasonable request at this time. The requirement of the knee wall will cause the loss of 10 valuable parking spaces on the Harper side shopping center. While we are not requesting a parking variance, they will still have enough excess parking if they loss those 10 spaces. The 10 spaces are valuable to the businesses on Harper. Majority of their customers do not park in the back they park in the front.

Correspondence: None

Audience Participation: None

Commissioner Lince questioned why they would lose the parking spaces. Mr. DeWulf stated that there are 10 parallel parking spaces where the wall would be. It would be right up against the wall. They would not be able to open the doors.

Vice-Chairman Scavone asked Mr. Rayes would they require it across the whole strip mall. It is one owner and it is one site. We can't base it on someone wanted to do it or not or a financial hardship. Mr. DeWulf stated that it does create a hardship for his client who's the tenant.

This would be a practical difficulty.

Secretary Budnick stated that even if they lose the 10 spaces in the front there is adequate parking spaces in the rear. Mr. DeWulf stated the requirement is 268 parking spots. They have 301 parking spaces minus 10 parking spaces would leave them 291 parking spaces.

Secretary Budnick asked Mr. Rayes that if they deny the request what time frame would they have to put the knee wall up. Mr. Rayes stated that they can have up to five years would be reasonable. At that time if they don't do it her ability to use their patio would go away. Either they comply or they don't comply. They don't get to do both. If it is financial reason by giving them an extension gives them time to plan for the wall as opposed to, they are not going to financially strapped the rest of their life which would be the variance life. Secretary Budnick asked If they were to sell the building in the meantime the new owner will still have to put the wall up immediately. Mr. Rayes stated that he could put a trigger in there for five years or if the building were to be sold, they would have to put the wall up immediately. That way it becomes part of the whole deal. If they deny the request, they would still be able to continue with their plans and still be open. Mr. Rayes stated that the motion would be to deny the request. The motion would be to allow the patio with the condition that the knee wall will be built in X number of years and this would fall back on the owner.

Vice-Chairman Scavone asked for the dimensions in the parking lot. Mr. DeWulf stepped up to the board went over the plans in regards to the dimensions. Mr. Rayes stated that 20' is the minimum for an island 20' is the minimum for the parking spot.

Secretary Budnick asked that the request for the knee wall and landscaping in lieu of the brick wall. Mr. Rayes stated in lieu of that he can put a hedge row that is maintained as if it was a 30" wall in lieu of the brick wall.

It was moved by Secretary Budnick, supported by Commissioner Lince, to deny the request for a knee wall and landscaping variance for parking lot abutting Harper. And for the reason being that if the parking spaces will be loss there is still ample of parking. It is doable to have the knee wall and landscaping as required by the Harper Overlay and the ordinance. Will allow them to have three years to work with the city to install something per the ordinance.

A roll call vote was taken.

Ayes: All

Nays: None

Absent: None

Motion: Passed

Ryan Kattoo, 31000 Northwestern Highway, Ste. 200, Farmington Hills, MI. He is the owner of the building. He stated that in regards to the parking in the front this is valuable parking. Some of these tenants don't have access in the back they only have parking in the front. The reality to have the customers park in the back and come around to the front this is not feasible. In regards to the wall itself they would lose that parking it would be a hardship there will be a plowing issue. We have to figure out how to plow the snow we will have a building on one side and a wall on the other. The building was built 50 or 60 years ago and he understands that the city wants to add these walls to many places that they can go. There will be situations where the way the building was built won't make it feasible. They are right up against the sidewalk. What the petitioners are requesting is pretty small a little few hundred square feet that no one is going to see. They share a parking lot with Barrister House. They are dealing with COVID times he knows financial is not a hardship. The tenants were struggling. They are striping the parking lot and fixing the pot holes. They are trying to improve the shopping center. The asphalt in the front is done.

Secretary Budnick stated that he can come back to the board if needed for an extension or forgiveness at that time.

Mr. Rayes told the petitioner that he does not believe that there was enough information presented tonight regarding the dimension of the parking spot. They can come back to the board and present it again. It is better to present it again sooner than later.

Mr. Shepherd stated that they have the right to appeal to the circuit court.

Case No. 38-2021– Sun Burst Home Improvement for Shelia Connolly– 33612

Jefferson

Re: KOPPIN & TSCHAECHER SUBDIVISION (L2, P93) LOT 1

Location: North of Masonic, East of Jefferson

REQUEST: Request for variance to allow an accessory structure in a front yard, a 5 foot total height variance, and a 40-foot front setback variance for a new garage.

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(Zoning Ordinance 15.481, Schedule of Regulations and Zoning Ordinance 15.499, Accessory Structures)

Martin Kraut, 48045 Fuller Road, Chesterfield and Sheila Connolly, 33612 Jefferson. The resident Shelia Connolly needs to get more storage for her property. She has two boat wells so they need more storage for the boat supplies and yard furniture. The family no longer meets the family living needs. The hardship for the setback she has a business out of her home and she needs parking spaces for her employees. That is the hardship for there. The other hardship is there is a lot of noise from Jefferson and the building will help block the noise. The five feet variance will help with the storage space and the noise from Jefferson. They have seen quite a few houses that have less setback than what they are asking for. There are couple of garages that are less than 30' from the curb line.

Sheila Connolly stated that she does not have a basement at the present time they have sail boats, kayaks and entertain a lot. Presently they are using storage in their neighbor's basement. She was looking to rent storage space but the cost was too high. She had to put a new water line and the whole driveway and whole front section was destroyed. She has a house that she is selling she needs more space. The furniture stays outside because there is nowhere to put it. Her garage is packed.

Correspondence: None

Audience Participation: None

Commissioner Stellas asked if the garage will stick past the neighbors' garages. Per the rough drawings and the stump picture they seem to be 2' beyond the neighbors' garages. The contractor stated "yes". So, they are closer to Jefferson then they are. The garage that they show are all in different spots and none have the height variance. She has lived there for 21 years of knowing what the street noise is like. Sheila Connolly stated that she had six cedar trees along there and they all started to lean. They were 30 feet high. The house is functional. The height specifically on the garage is nice to have not necessarily a need to have or have to have. Will she get all of the storage that she wants not necessarily. This becomes a self-inflicted portion of the hardship that is not a condition of the normal hardship. As far as the noise that condition of being on Jefferson is not any area that can be block by a higher garage. He is not opposed to putting a garage there in his mind it would have to go back as the same frontage as the neighbor and it would have conformed to the height restriction. Can't go past the closest neighbor to the north. Mr. Kraut asking if this would have to be even with the structure on the north. This would be Commissioner Stellas's opinion.

Commissioner Lince asked Mr. Rayes what is the right of way on Jefferson. Mr. Rayes stated that it is 60 feet from the center of the road. He would have to verify it because it varies. They would not be allowed to build in the right of the way. City council has control of the right of way not the Zoning Board of Appeals.

Secretary Budnick asked about 9.5' ceiling height in the garage. Mr. Kraut believes so because they were concerned about the height of the garage doors. The truss height is 10.8 feet high. Secretary Budnick stated that there are opportunities to bring the pitch down

and 8' ceiling. They have storage room trusses. They may use it for storage but the next owner might want to make it an apartment. They try to discourage the full height.

Sheila Connolly stated that the reason for the height is that her grandson has boats he would need a higher area in order to put larger boats in. Secretary Budnick said if they have an 8-foot height garage door the height attic storage space there are opportunities to bring that down. He is not opposed for the garage being in the front. So, they can push the structure back. It looks like they can go back about 20 feet. Mr. Kraut stated by doing that it would take away her parking spaces. It looks like a new walkway coming in off of the existing structure. He thinks that adjustments can be made.

Commissioner Bertolo asked how many employees do they have. She stated two employees. She has parking for the employees also for her clients. There is no true hardship in any of this.

Commissioner Michno asked if the existing garage stays. She said that the existing garage is attached to the house.

Mr. Rayes stated the city ordinance does not allow for home businesses that bring employees and clients to their home. So, she is not allowed to run a business out of the house. This has to do with parking spots for employees the city is not permitted any of those uses. She had mentioned parking for the employees and clients. Mr. Rayes stated that she will have to find a place for her business. This is residential not home and residential.

Vice-Chairman Scavone stated that these are very large lots he does not see an issue with the garage itself with the exception of the height. It is only a 20' deep garage the most they can get is a 19-foot boat in there if they squeeze it in. The height it's not going to be a 19' boat it has to clear an 8' door opening. There is room to push that garage back a little. They can build up to a 9' wall with an 8' door. He does not see a demonstrated reason to go over the 15' in height with a small attic. There will be plenty of storage up there with a pull-down stair case. He would be in favor of the garage not to go over 15' height and 9' walls and by pushing it back a little. He said Community Development could look at the neighboring properties and maybe propose a setback from the road. They cannot consider her parking issue because it is an illegal use.

She stated that she was told that she could have one client coming in it would not be a problem. Mr. Rayes stated that she said that she has employees and clients coming to her home that is a problem. She said that this is a financial business. Mr. Rayes stated to her that she cannot have employees running a business out of her home per ordinance.

Commissioner Bertolo does not see a true hardship here.

It was moved by Commissioner Bertolo, supported by Commissioner Stellas, to deny the request for a variance to allow an accessory structure in a front yard there has been a 5-foot total height variance, a 40-foot front setback variance for a new garage.

A roll call vote was taken.

Ayes: Bertolo, Stellas, Lince, Michno
Nays: Budnick, Scavone, Bellestri
Absent: None
Motion: Passed

Mr. Rayes stated that they can come back with a different proposal. It would be 95 feet from the center of the road in that zoning class. It cannot go closer to the road. He would still need a variance to place the garage in front of the house.

Other Business:

APPROVAL OF THE MINUTES FROM JUNE 3, 2021 ZBA MEETING

Page 2, 6th paragraph 4th line it states *“He said that **the wall is very thin and it** is about 1 ¾” they are beveled and at the bottom they are about an inch. In the middle it is about a 1” to 1 1/4”.* **It should be** *“He said that the **groove** is about 1 ¾” they are beveled and at the bottom they are about an inch.*

Page 4, 4th paragraph it states *“ Vice Chairman they can put the forms up and stop short..”* **It should read** *“They can put the forms up and pour the concrete and stop short of the pole.”*

Page 6, third paragraph 4th line down it states *“There would be room along the east side of the **garage** where a drive can be put in and this would not require a wall along the seawall.”* **It should read** *“There would be room along the east side of the **house** where a drive can be put in and this would not require a wall along the seawall.”*

Page 6, 4th paragraph, 6th line it states *“She would still own both properties.”* **It should read** *“If kept as is you would need a wall on the east and south portion.”*

Page 6, 5th paragraph, 2nd line it states *“He told the petitioner that when they go to sell it.”* **Remove that sentence.**

Page 6, 5th paragraph, 4th line it states *“If she were to split the property that would correct everything.”* **It should read** *“If they were to split the property **there would be a possibility that it would correct everything.**”*

Page 14, 2nd paragraph it states *“The fence is only 3 feet” .* **Remove that sentence.**

Page 19, 3rd paragraph it states *“The detached garage they have not been granting any variances of a second floor in the garage.”* **It should read** *“I can’t ever remember us granting a detached garage with a second floor.”*

It was moved by Commissioner Michno, supported by Secretary Budnick, to approve the June 3, 2021, ZBA meeting minutes, as amended.

Ayes: All

Nays: None
Absent: None
Motion: Passed

Vice-Chairman Scavone stated to Mr. Shepherd that Commissioner Moffitt wanted some clarity as to when a member of the board is presenting something do, we recuse ourselves how would this be handled. Should they stay up and be silent or leave the room should or they not come to the meeting. Mr. Shepherd stated that he will check into it.

Audience participation: None

Adjournment:

It was moved by Commissioner Stellas, supported by Commissioner Lince, to adjourn the meeting at 9:13 p.m.

Ayes:
Nays: None
Absent:
Motion: Passed