

**APPROVED MINUTES OF THE CITY OF ST. CLAIR SHORES  
ZONING BOARD OF APPEALS  
September 7, 2023**

**Present:**

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

**Also, Present:**

Eric Shepherd, City Attorney  
Julie Kandt, Recording Secretary  
Denise C. Pike, Community Director

**Absent:**

Mark Moffitt, Excused

**Call to Order**

Chairman Bertolo called the meeting to order at 7:01 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. 19-2023 – Steve Elias/Tony J's Bar and Grille – 32215 Jefferson**

**REQUEST:** Request for 3 foot side yard and 13 foot front yard variance for a patio poured without a permit or site plan approval. (*Chapter 48 - Zoning, Article XVIII. – 15.480 Schedule of regulations, Sec. 48-513. – Schedule limiting height, bulk, density and area by zoning districts*).

Budnick asked what's the primary use of this patio, petitioner Steve Elias said outdoor seating. Lince said if you would be serving liquor, it will have to be enclosed. Petitioner said the enclosure will be done, per liquor control commission. Lince asked what is your hardship. Petitioner said in November, I was trying to beat the snow, we had other issues. It was submitted in the original blueprints, then we had to wait because the ordinance was changing. We had to wait, but I rushed it and poured, and it was a poor judgement. Lince asked if you need a rat wall. Denise Pike said no. Elias said we had initial approval to add the space, all the liquor control commission needs is the approval when the patio is done. Scavone asked about the front 13 feet, said it looks like it fits well. Denise said the right-of-way extends deep into the setback. Scavone said I thought this patio was presented years ago. Denise said in November of last year, the interior build-out was consistent with the approved plans. It took some time for the new plans to come in. It has gone through Planning Commission and City Council. Scavone said I do like the bollards.

Bellestri asked what the enclosure will be. Petitioner said an aluminum railing, commercial grade, anchored to the cement, 42 inches high, gate facing the south side of the patio. Michno asked is there a minimum height. Denise said we're fine with 42 inches. Scavone said you did a good job with keeping it away from sidewalk. Bellestri asked about hours, Petitioner said liquor control commission allows us to sell until 2am, we have no neighbors, but we have no issues with 11pm. Stellas asked about a covering. Petitioner said no, it's a summer patio, we'll have umbrellas.

**Audience Participation:** None  
**Correspondence:** None

**It was motioned by Commissioner Budnick, supported by Commissioner Scavone, to approve the request for a variance.**

**A roll call vote was taken.**  
**Ayes: 7**  
**Nays: 0**  
**Motion: Passed**

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**At this point in the meeting, Chairman Bertolo made a motion, which was supported by Budnick, to hear Case 23-2023 at this time because Thomas McKenney can't stay for the whole meeting, and Bertolo had to recuse himself from this case. Bertolo handed the gavel over to Lince.**

**A roll call vote was taken.**  
**Ayes: 7**  
**Nays: 0**  
**Motion: Passed**

**Case No. 23-2023 – Tom Vasilos & Simon Zedan on behalf of Bambini LLC – 21916 Harper**

**REQUEST:** Request for 8 parking space variance to allow a salon at 21918 Harper and a future office or retail tenant at 21916 Harper. (*Chapter 48 – Zoning, Article XIX. – 15.495 General Provisions, Sec. 48-551. – Off-street parking requirements*).

Tom Vasilos said we bought the property about a year and a half ago, I own Crazy Gringo, I grew up in St. Clair Shores, we screened about 8 – 10 potential tenants. We want to keep the community nice and safe. We came across two good tenants, one is the hair salon, she has 4 chairs, and we have a really good guy named Complete Plumbing, just wants a storage area and set up a desk to do some paperwork.

**Audience Participation:** Blair Gilbert, 21920 Harper, read a statement saying I request this variance is denied. There are 22 spots behind my building, so I get 8, the other store gets 14. During peak business, parking is overflowing. I fail to see where the 8 additional spaces

would come from, this is a self-inflicted hardship, and it will be a hardship to me. This would hinder my ability to lease my property in the future. This business has been landmarked since 1949. If this happens, what will happen to the value of my property. This variance stays with the building, it will be at my expense. Budnick read additional correspondence from Jennifer Carlo, agreeing with Gilbert's statement and requesting this variance is denied. McKenney said Jennifer Carlo is the new owner of Gilberts.

Scavone asked Pike what the reason is for this request. Pike said they are splitting a single tenant into two spaces. The additional tenant would require 10 parking spaces, hence the variance request for 8. Scavone said if they only have one tenant, they're fine, they wouldn't need to be here. Pike said correct. McKenney asked who's the 2<sup>nd</sup> tenant. Petitioner said a plumber, just using it for storage, go in there, drop things off and then leave. Pike said storage is not an allowable use in that zoning district. Vasilos said it's like an office, nobody coming in. I've let Gilbert's customers park anywhere; I have no problem. I'm just asking for 2 tenants.

Pike read what's allowed in a B-1. Michno said we've had similar cases and if along the way the user doesn't use the space properly, we're stuck. I just don't think it's a wise decision.

If this was granted, it would go with the land. City attorney said correct. McKenney said what percentage is the hair salon, petitioner said the salon is about 65 % of the building. And the plumber is an office. Pike said the office or showroom needs to serve the residential area, they would need to be available. They would need to have access to the public. She said if he's not available to the public, it's not serving the adjacent residential area. That's my interpretation.

**Correspondence:** None

**Motion by McKenney supported by Commissioner Michno, to deny the request on the basis that we would be allowing something that is against our city ordinance.**

**A roll call vote was taken.**

**Ayes: 7**

**Nays: 0**

**Motion: Passed**

Petitioner asked to table the request. City attorney said no. Motion was made and voted on.

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McKenney thanked the board and announced he is stepping down. Board members said you've been here 35 years, it's been an honor.

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**Case No. 20-2023 – Breanna Alex/Full Spectrum Body Art – 26519 Little Mack**

**REQUEST:** Request for an adult personal service business (body art facility) within a B-1 District. (*Chapter 48 – Zoning, Article XI. – 15.260 B-1 Local Business District, Sec. -48-305. Principal uses permitted*).

Breanna Alex said we are trying to open a tattoo facility at this location. Michno said has the ordinance been changed. Denise said somewhat, but it doesn't allow for the facility. You can assume a revision to the zoning ordinance is underway, the board has also made a decision on tattoo establishments in the past.

Petitioner said we brought emails from neighboring residents and businesses. She submitted them to the board. Board read emails aloud, all supporting this request, including the neighboring salon Cosmo Prof.

**Audience Participation:** None  
**Correspondence:** None

**It was motioned by Commissioner Michno, supported by Commissioner Bellestri, to approve the request for a variance.**

**A roll call vote was taken.**  
**Ayes: 7**  
**Nays: 0**  
**Motion: Passed**

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**Case No. 21-2023 – Brian Goodman on behalf of Brandon Vermeesch – 27840 Jefferson**

**REQUEST:** Request for 1.167 foot wall height variance for a garage constructed with a permit allowing for only 9 foot walls. (*Chapter 48 – Zoning, Article XIX. – 15.495 General Provisions, Sec. 48.550. – Accessory buildings / structures*).

Brian Goodman said this was not done in spite, back in May we submitted engineered plans to get permit approval. We were given the permit and given the approval of our plans, where it clearly stated 10-foot walls, but it was approved as the package. As soon as I found out we were red tagged, we emailed the city. We're still below the 15 feet in total height. This was just a mistake.

Michno said you don't need the clearance for the truck. Brian said it's a standard opening, it requires a 2-ft header, that's the reason we need the wall height.

Scavone said it looks like a quality building, in looking at the plans, it was an oversight, I think people who don't do this all the time could easily overlook it. I like that it is still less than 15 in overall height, it's well done. Doesn't impact any neighboring properties. Bellestri said I agree with Steve, and it would be impossible to lower this structure. You're still under 15 feet total height.

Stellas said how many structures have you built in SCS, petitioner said many in this area. It is the responsibility of the builder to know the rules and regulations for building in the City.

**Audience Participation:** Homeowner at 22571 and 22570 Shorewood said we're here to support Brandon, he's done leaps and bounds to make improvements. We hope you get approved. Homeowner at 22565 Shorewood drive said I'm in favor. Homeowner at 22501 Shorewood said I don't mind it, it fits in, it is not obtrusive.

**Correspondence:** None

**It was motioned by Commissioner Lince, supported by Commissioner Scavone, to approve the request for a variance.**

**A roll call vote was taken.**

**Ayes: 6**

**Nays: 1**

**Motion: Passed**

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**Case No. 22-2023 – Joshua Castmore of Castmore Law, PLLC on behalf of Real Pros LLC– 22812 Pleasant**

**REQUEST:** Request for 1 foot rear yard setback variance for a deck, request for 9 foot front setback variance for front porch, and request for 5.39% total lot coverage variance for a deck and front porch constructed without permits. (*Chapter 48 - Zoning, Article XVIII. – 15.480 Schedule of regulations, Sec. 48-513. – Schedule limiting height, bulk, density and area by zoning districts*).

Joshua Castmore said when my client purchased the property, there was a front porch and rear deck there. My client just wanted to repair dilapidated structures with nicer looking structures. Porch was made of wood and lattice, unappealing. The back deck was wood with rotted out boards. My client requested a permit, received a tax drawing from building department. There are no changes to the size of either structure, both the porch and deck are the same size as when they purchased the property. Petitioner submitted 6 photographs to the board of current conditions and tax information for the property to show previous conditions.

Per Lince's inquiry, Pike said the original permit was issued on 6-1-22, for renovation, and included repair wood front porch. A final building inspection was conducted on 7-3-23, it was

disapproved because there was a new deck on the back with no plans, and the front porch had been replaced. The existing deck and porch were non-conforming because it was over on lot coverage. Once the non-conformity was removed, whatever was replaced either needed to conform, or request a variance. But they did not have a permit to build new, only to repair. On 7-6-23 the property owner came to the counter and said they would pull permit for porch and a deck. That second permit came in on 7-12-23 and was denied because it's over on lot coverage. Lince said the work was done without permits. Petitioner said my client's permit was for repair there was no gutting of the structures. We replaced boards, the front porch, there was concrete poured over the structure that was there. There was no gutting of what was there. I would say there was no new build, this was repair, what he was permitted for. The rear deck was there, we just replaced boards. Permit was pulled for repair, that's what we did.

Bertolo asked if he pulled any posts out. Pike said the inspector's comments from 7/3/23 said "new deck on back, no plans on file, no open hole or frame inspection, will need a test hole and part of skirting removed for inspection, beams not on post but will allow simpson 2 max, must submit plans for review." The second comment was "front wood porch has been replaced with CMU block porch, block not allowed, no inspections, will need plans and ZBA approval." Then on 7/12/23 there is a note that there was an application for permit for porch and rear deck, not approved, denied by zoning. Building inspector did not review."

Ryan Heward, owner of Real Pros, said the permit said back deck and front porch repair. We took the wood off front porch, there was block underneath already. We just poured a new slab, replaced block as needed, we didn't touch the footing. We put brick on the front as they wanted. On the back, we didn't replace posts, The inspector didn't wait for me to take off the boards to show him the posts and how they were properly tied. I didn't want to fight, so I submitted permits. The lady at the front counter said this is a nonconforming house to begin with. All we did was repair what was there already.

Scavone said the front porch that is there, it doesn't appear to be rebuilt larger. Pike said the former porch was existing nonconforming. We would allow a repair, not a replacement in wood. Scavone said had this come to us as a legitimate request, it probably would've been approved. I think it's obvious that what was applied for and what was done are different. What about permits for kitchen bathroom. Pike said he did have permits for the interior. Scavone said next time you're in our city, make sure you have the proper permits, foundation, etc.

Denise confirmed there were no stop work orders. Bertolo said a letter came in. Budnick read a letter submitted by Joanne Rottenbacher, opposing the variance for the property, saying flippers shouldn't be treated better than residents and should know permits are required, and the green space on this lot is small and too congested, rules are made to be respected, etc. Also runoff from downspouts is a problem at this property

Scavone said every house on the street would probably be non-conforming when they were built. I think the front porch is existing nonconforming and it doesn't appear to have grown. Scavone suggested breaking the request up. City attorney said you can break the motion into three separate motions.

**It was motioned by Commissioner Scavone, supported by Commissioner Budnick, to approve the request for a 9-ft front setback variance for the porch due to existing non-conforming.**

**A roll call vote was taken.**

**Ayes: 6**

**Nays: 1**

**Motion: Passed**

Pike said the rear deck may or may not have had a permit was it was originally built years ago, we don't know at this time. Heward said I was told if I stayed within the parameters of what's on the field sheet, I'd be fine. Scavone said it appears that the deck doesn't look out of place and is smaller than what was on the field sheet. Denise said if the board gives him the 5.39%, and it was slightly less than, you can go less, you can't go more. Scavone said we're just here about the size. Bellestri said the city will check footings and all that.

**It was motioned by Commissioner Bellestri, supported by Commissioner Budnick, to approve the request for a variance for total lot coverage of 5.39 (could be less) and the 1-ft rear yard setback.**

**A roll call vote was taken.**

**Ayes: 6**

**Nays: 1**

**Motion: Passed**

Pike said there appears to be an illegal sump pump. Heward said it's already been corrected. Pike said no you didn't, you have to connect to the storm. Heward said then you better cite everyone.

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**APPROVAL OF THE MINUTES FROM August 3, 2023, ZBA MEETING**

**It was motioned by Commissioner Lince supported by Commissioner Stellas, to approve the August 3, 2023, ZBA meeting minutes.**

**Ayes: All**

**Nays: None**

**Motion: Passed**

**Audience participation: None**

**Other Business**

**New Business**

Michno said it appears that we are approaching 50% almost 60% of people that do things without permits, misinformation, and I think it would behoove the city to look at what can be done about this problem. If you fine them, they're just going to pay the fine. Pike said we are working with Councilman Caron on the civil infractions for work without a permit. We are making a more concerted effort.

**Adjournment:**

**It was motioned by Commissioner Stellas supported by Commissioner Bellestri, to adjourn the meeting at 8:54 p.m.**

**Ayes: All**

**Nays: None**

**Absent: None**

**Motion: Passed**