

CLINTON TOWNSHIP BOARD OF APPEALS

REPORT OF MEETING

NOVEMBER 15, 2006

PRESENT: Francis Marella, Chairperson
Michael Nickerson, Vice-Chairperson
Robert M. Campbell, Secretary
Peter M. Catalano
James D'Angelo
Denise C. Trombley

ABSENT: None

STAFF: Carlo Santia, Director
DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

The meeting was called to order at 6:30 p.m.

Mr. Marella explained the parameters under which this Board can act and how the public hearing will be conducted. He further explained that, as stipulated in the Township Ordinances, all variances granted by the Board of Appeals are subject to several standard conditions as follows: 1) The petitioner must comply with all applicable requirements of Township ordinances; 2) The project work requiring the variance must be completed within two years of the date that the variance was granted; 3) The project work must be completed substantially in accordance with the plans submitted to the Board of Appeals; and 4) The variance is valid only for the useful life of any structure(s) on the property for which variance is granted.

APPROVAL OF AGENDA

Mr. Campbell informed that a letter was received from the petitioner of Item #7 (Van Buren Office Building), requesting to withdraw his petition. Mr. Campbell also suggested addressing Items #8 and #9 together, as they are both petitioned by the same individual and involve the same business.

Mr. Nickerson indicated that on Item #2 (Sirianni Condominiums), he will be recusing himself because he has done legal work with Mr. Kirk, the petitioner's representative for that case. He felt it would be a conflict of interest.

Mr. Marella noted that the Board of Appeals is already short one member due to a recent resignation, and with Mr. Nickerson not voting on Item #2, he inquired as to whether the

petitioner for Item #2 would prefer to wait until January, when they anticipate the vacancy on the Board will be filled.

Mr. Sirianni stated he would prefer to proceed with the case tonight.

Motion by Mr. Catalano, supported by Mr. D'Angelo, to approve the agenda with the above-noted amendments. Motion carried.

LOTS 16 THROUGH 23, 36 THROUGH 45, HOMESTEAD ACRES AND 0.817 AND 0.982 ACRES WEST OF CARLBRO, NORTH OF 15 MILE ROAD (SECTION 26)

-- **APPEAL: HIDDEN ESTATES (REPLAT OF HOMESTEAD ACRES SUBDIVISION)
FILE #6172: PETITIONED BY JIM BUDZIAK, S & B DEVELOPMENT
REPRESENTED BY WM THOMPSON, LEHNER ASSOCIATES**

Pertinent correspondence was read and entered into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 63 owners and/or occupants of property located within 300 feet of the land in question, with none of those returned as undeliverable, and no letters received in response to the mailing.

Bill Thompson, Lehner Associates, 17001 19 Mile Road, Clinton Township, Michigan 48038, explained that in January 2006, the petitioner received a variance to allow 55-foot-wide lots in lieu of the minimum required 65-foot width; however, the variance granted for the minimum square footage per lot was not in proportion to the width. They are currently working on a plan that would provide 6,600 square feet for some of the smaller lots, which is still larger than many of the lots in the adjacent neighborhood.

Mr. Campbell noted that the layout submitted is basically identical to what this Board approved in January. He acknowledged that they have had an opportunity to do a more detailed survey, and this Board overlooked the fact that some of the lots were 6,600 square feet. He suggested that any motion to approve should be linked to the current variance and should not be a separate variance.

Motion by Mr. Campbell, supported by Mr. Marella, with reference to File #6172 and application from Jim Budziak, S & B Development, 18530 Mack Avenue, Grosse Pointe Farms, Michigan 48236, as represented by William J. Thompson, Lehner Associates, Inc., 17001 19 Mile Road, Suite 3, Clinton Township, Michigan 48038, for variance to Clinton Township Planning and Zoning Code, Chapter 1292.01, Schedule of Regulations Limiting Height, Bulk, Density and Area; Chart, concerning Lots 16 through 23, 36 through 45, Homestead Acres and 0.817 and 0.982 acres west of Carlbro, north of 15 Mile Road (Section 26), that variance granted by this Board on January 18, 2006 regarding this development be amended to change the minimum lot size allowed from 7,525 square feet as previously granted to 6,600 square feet; further, this amendment is made because an error was made in the analysis and review of the materials submitted to this Board in January; further, this grant of variance is contingent upon compliance

with all other requirements of Township ordinances. Roll Call Vote: Ayes - Campbell, Marella, Nickerson, Trombley, Catalano, D'Angelo. Nays – None. Absent – None. Motion carried.

2.96 ACRES OF LAND FRONTING THE SOUTH LINE OF MILLAR, EAST OF GARFIELD ROAD (SECTION 20)

-- **APPEAL: SIRIANNI CONDOMINIUMS**
FILE #6168: PETITIONED BY FRANK SIRIANNI
REPRESENTATED BY DONNA SIRIANNI

Pertinent correspondence was read and entered into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 36 owners and/or occupants of property located within 300 feet of the land in question, with 10 of those returned as undeliverable and 2 written responses received. He read the letter of opposition from Steven Mancini, 37532 Hidden Lane, Clinton Township, Michigan 48036, and summarized the letter from Bob Kirk, of Kirk & Huth, who was also expressing opposition to the variance request.

Frank Sirianni, 12754 Millar, Clinton Township, Michigan 48036, explained that the reason he is requesting the variance is because his property abuts Cranbrook and he is seeking a setback variance from the perimeter property line so that he can conform with homes on the adjacent property. He felt he needs to build houses in the 5,000-square-foot range because the houses in Cranbrook measure 6,000 square feet or greater.

Bob Kirk, 19500 Hall Road, Suite 100, Clinton Township, Michigan 48038, explained that he has been a resident in the Township for fifteen years and is currently having a house built in Cranbrook. He could not see where a hardship was presented. He felt the petitioner can build one unit less in the development and he would be able to meet ordinance requirements. He urged the Board to deny the variance request.

Mr. Campbell could not see a practical difficulty. He felt that the petitioner would be able to construct six units on the property without the need for a variance.

Mr. Marella agreed that no practical difficulty was presented and the property can be developed without a variance if one unit is eliminated.

Mr. Campbell commented that Millar is a beautiful road, and the majority of development along that road has exceeded the minimum required front yard setback. He felt that to build something closer to the road would be out of character with the rest of the neighborhood.

Mr. Sirianni pointed out that if he has to reduce the size of the building envelopes, he will have to reduce the size of the homes.

Mr. Santia advised that the petitioner can reduce the size of the building envelopes as long as the homes meet the minimum square footage requirement.

Mr. Sirianni stated that if this is denied, he will discuss the plans with his engineer to reduce the size of the building envelopes.

Motion by Mr. Marella, supported by Mr. Campbell, with reference to File #6173 and application from Frank Sirianni, 17254 Millar, Clinton Township, Michigan 48036, as represented by Donna Sirianni, same address, for variance to Clinton Township Planning and Zoning Code, Chapter 1292.01-(c), Single-Family Land Condominium Option; Minimum Distance to Perimeter Property Line, concerning 2.96 acres of land fronting the south line of Millar Road, east of Garfield Road (Section 20), that request for variance to permit development of single-family detached condominiums (Sirianni Condominiums) in the R-1 One-Family Residential District with Unit 7 having a setback from the perimeter property line of ten (10) feet, and Unit 1 having a setback from the perimeter property line of twenty (20) feet, being thirty (30) feet and twenty (20) feet, respectively, less than the minimum required forty (40) feet, be denied by reason that the practical difficulty is self-created and the petitioner has other options available to him. Roll Call Vote: Ayes – Marella, Campbell, Catalano, D'Angelo, Trombley. Nays – None. Abstain – Nickerson. Absent – None. Motion carried.

2.0 ACRES OF LAND FRONTING THE EAST LINE OF HAYES ROAD, NORTH OF 18 MILE ROAD (SECTION 7)

-- **APPEAL: SHIELD'S RESTAURANT/BAR**
FILE #6174: PETITIONED BY PATTY LOOSE, SIGN FABRICATORS
REPRESENTED BY ROBERT ROOCK, SIGN FABRICATORS

Pertinent correspondence was read and entered into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 161 owners and/or occupants of property located within 300 feet of the land in question, with 6 of those returned as undeliverable and 1 written reply received. He read the letter of objection from the resident at 41465 Greenspire Drive, Clinton Township, Michigan 48038.

Robert Roock, representative, explained that the petitioner would like more signage on Hayes Road, and because of its location, it will not cause problems for the surrounding area. He emphasized that it is aesthetically uniform to the building, and he stressed that they need to identify the services they offer.

Jerry Vento, operating partner for Shield's, explained that the Shield's restaurants have been around since 1946, when their first restaurant opened. He added that they provide a family atmosphere, and they anticipate being at this location for a long time. They are open seven days a week, and the building is set further back off the road than some of the neighboring businesses, so he felt the signs will enhance their business. He pointed out that the speed limit on Hayes is 45 miles per hour, so the signs will help to identify their business. He noted that he, along with the Shield's family, would appreciate if the Board would grant this variance.

Vince Severini, 18557 Canal, Clinton Township, Michigan 48038, stated he has visited Shield's but had a difficult time finding it. He felt the proposed signs would enhance the building.

Mr. Nickerson felt the duplication of wording on both sides is “overkill”. He often travels on Hayes and felt the pylon sign is sufficient.

Mr. Campbell agreed with Mr. Nickerson. He pointed out that they have a changeable copy sign that is the maximum size permitted by ordinance, although he added that it is not in compliance because the message changes too frequently and not all at once. He explained that the message cannot “move in” and he cautioned that they need to bring the sign into compliance because it is an issue of traffic safety. Mr. Campbell acknowledged that Shield’s has been in the Detroit area for many years and is known for their great pizza, although they are expanding beyond pizza to offer other food. He felt they make a good point that the total square footage of the three signs combined would not exceed 120 square feet. He has felt that more than one sign is acceptable in some situations as long as the total combined square footage does not exceed what the ordinance allows. He felt, however, that the business will be attracted from the pylon sign.

Mr. Nickerson stated he would consider a variation, as they have done in the past for other businesses that have a fairly large frontage. He suggested he would be willing to approve the variance provided that the wording was not repetitive, and they could advertise “restaurant” on one side and “bar/pizzeria” on the other, with the total combined square footage not exceeding what is allowed by ordinance.

Mr. Campbell agreed with Mr. Nickerson’s suggestion and asked the petitioner if that would be an acceptable compromise.

Mr. Vento assured that would be acceptable, and he would have the plans revised to reflect the suggested change.

Motion by Mr. Campbell, supported by Mr. Nickerson, with reference to File #6174 and application from Patty Loose, Sign Fabricators, 43984 Groesbeck, Clinton Township, Michigan 48036, as represented by Robert Roock, Sign Fabricators, same address, for variance to Clinton Township Building and Housing Code, Chapter 1488.02-(e)-(2), Signs; Definitions and Restrictions; “Business sign”, concerning 2.0 acres of land fronting the east line of Hayes Road, north of 18 Mile Road (Section 7), that variance be granted to permit three (3) wall signs at a restaurant (Shield’s) in the B-2 Community Business District being two (2) wall signs in excess of the maximum permitted one (1) wall sign; further, this variance is granted with the condition that the petitioner eliminate the duplication of language on both sides of the front, and that the total combined square footage of the three (3) signs shall not exceed one-hundred (100) square feet; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Campbell, Nickerson, Trombley, Catalano, D’Angelo, Marella. Nays – None. Absent – None. Motion carried.

Mr. Campbell requested that the Certificate of Approval emphasize that all other Township ordinances must be met.

**2.062 ACRES OF LAND FRONTING THE WEST LINE OF HAYES ROAD, SOUTH OF
CANAL ROAD (SECTION 7)**

-- **APPEAL: CANAL PLAZA**

FILE #6175: PETITIONED BY ALBERT M. SANTIA

Pertinent correspondence was read and entered into the record. Mr. Campbell informed that he observed that the existing sign is situated less than fifteen (15) feet from the ingress/egress, so he felt a variance is also needed for the location. He advised that notice of this public hearing was issued by regular mail to 38 owners and/or occupants of property located within 300 feet of the land in question, with 12 of those returned as undeliverable. He added that there were no letters received in response to the mailing.

Albert M. Santia, 17477 Iris Circle, Clinton Township, Michigan 48036, explained that he and his father purchased this property approximately eight or nine years ago and they had problems immediately because half of the tenants did not have leases, and approximately 40% of the plaza was vacant. They hired an architect to redesign the front and they subsequently obtained all of their permits. They anticipate starting construction in a couple of weeks. He has had a number of telephone calls from prospective tenants, and they all have the same problem that there is no exposure to the road. He assured he would try his best and hired the sign contractor to work on it. He was sure that it will be an uphill battle to get the place revived because of the low rent the tenants were paying, but he is asking this Board to grant the variance as requested because of the economical hardship on the tenants.

Mr. Campbell reminded that an economic hardship is not a valid reason for this Board to grant a variance. He pointed out that the sign ordinance was revised in 1994, and originally business owners were given five (5) years to bring their signs into compliance. Because of the undue expense by having everyone change their signs at one time, the ordinance was revised to allow the signs to remain until such time as they are changed, and then they would be required to be brought into compliance with current ordinance requirements. Mr. Campbell felt that it is time to change the subject sign and bring it into compliance. He estimated that the sign is nearly twenty-five (25) years old. He pointed out that both the height and square footage exceed ordinance requirements, and the location is not in compliance with the ordinance. Mr. Campbell reviewed that this Board has been consistent with their action on sign variance requests. He informed that, since the sign ordinance has been revised, there have been 41 requests for height variances, and only 7 of those have been granted partial variances, 2 of those being granted a temporary period of time until the sign had to be brought into compliance, and 5 others were approved but all of those were located on State highways (i.e., Groesbeck, Gratiot or M-59). He felt it was important to see the signs along roads like Hayes and Garfield brought into compliance.

Mr. Albert Santia complained that his existing tenants will all leave if they do not have sufficient signage to advertise their businesses.

Mr. Nickerson inquired as to whether the Board would consider granting a variance for the excess square footage if the petitioner would be willing to remove the “Canal Plaza” portion at the top of the sign. He calculated that the sign would then be 100 square feet, which is 20 square

feet in excess of the maximum permitted 80 square feet. He noted that removing the top portion of the sign would thereby reduce the height variance as well. He suggested the Board could then place a time frame, such as five years, for the petitioner to bring the sign into compliance with current ordinance requirements.

Mr. Campbell felt that if the petitioner removes the top of the sign and the remainder of the sign is 80 square feet, he would only need a variance for the location of the sign.

Mr. Albert Santia could not see the sense in spending so much money for a sign that he would have to remove in five or ten years.

Mr. Severini felt the current ordinance encourages business owners to leave eyesores because they are required to bring their sign into compliance if they try to keep them in good repair.

Mr. Campbell commented that business owners will not make money when they advertise on an ugly sign.

Considerable discussion took place regarding what compromise could be made.

Mr. Albert Santia stated he understood that his sign had to be 15 feet back from the driveway, but he inquired as to whether the Board of Appeals would consider granting him a variance on the location as long as the total square footage of the sign does not exceed 100 square feet. He replied to inquiry that he thought the sign has been redone since 1994, and he has bills for the sign, showing that the former owners of the plaza spent \$25,000 for that sign.

Mr. Campbell felt that if the sign was erected after 1994, they would not have been granted a permit because it did not adhere to Township ordinance requirements. He concluded that it would have to have been put up illegally if it was done after 1994.

Motion by Mr. Campbell, supported by Mr. Marella, with reference to File #6175 and application from Albert M. Santia, Santia Family-Canal Plaza LLC, 17477 Iris Circle, Clinton Township, Michigan 48036, for variance to Clinton Township Building and Housing Code, Chapter 1488.02-(e)-(1)-B-1, -2 and -3; Signs; Definitions and Restrictions, "Business sign" "Pylon sign", concerning 2.062 acres of land fronting the east line of Hayes Road, south of Canal Road, addressed as 42314 Hayes Road (Section 7), that request for variance to permit continued existence of a pylon sign for a commercial development (Canal Plaza) in the B-2 Community Business District with: 1) Height of twenty-three (23) feet being eight (8) feet in excess of the maximum permitted fifteen (15) feet; 2) A ten (10) foot by ten (10) foot addition (100 square feet) to the existing eighty (80) square foot sign (top of existing sign), being one hundred (100) square feet in excess of the maximum permitted eighty (80) square feet; and 3) Distance of the clearance from the bottom of the face of the sign to grade level of five (5) feet, being one (1) foot less than the minimum required six (6) feet, be denied based on the fact that unusual hardship has not been demonstrated; further, that variance be granted to permit the existing sign to remain in its current location for a period not to exceed ten (10) years, with distance from ingress/egress being less than the minimum required fifteen (15) feet; further this grant of variance is based on

claimed hardship that it would involve considerable movement of the support structure. Roll Call Vote: Ayes – Cannon, Marella, Nickerson, Trombley, Catalano, D’Angelo. Nays – None. Absent – None. Motion carried.

LOTS 237 THROUGH 291, 363 THROUGH 390, 530 THROUGH 538, GRATIOT CITY SUBDIVISION (SECTIONS 33/34) *(located at the southwest corner of Little Mack Avenue and Sharkey at 34950 Little Mack)*

-- **APPEAL: BAKER COLLEGE**

FILE #5373: PETITIONED BY JIM MORGAN, J. R. MORGAN CONSTRUCTION

Pertinent correspondence was read and entered into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 184 owners and/or occupants of property located within 300 feet of the land in question, with 7 of those returned as undeliverable. He added that there were no letters received in response to the mailing.

James Morgan, 5454 Gateway Centre, Suite C, Flint, Michigan 48507, stated that when the college first opened at this location in 1990, they had 160 students enrolled. This fall, they had 5,281 students enrolled, so they have experienced considerable growth and do not see any end in sight. They are a non-profit open-enrollment college and boast of a 99% placement rate for graduates. They have a large staff, 65% of which are from the local community. He explained that they were originally granted this variance in 1999 because of their rapid growth and their inability to acquire sufficient land fast enough to keep up with the demands. He noted that they have had to purchase one house at a time, so it has been a slow process. They appreciated the variance they were granted, although a 7-year time frame was placed on it. During that time, the college has expanded the parking lot. They also purchased the former Bill Lee Oldsmobile dealership site and have converted it into a technical center. He noted that they will soon be revising their plans for that site. Mr. Morgan informed that the main campus has 1,327 parking spaces, which is a combined total of the original lot and the expanded lot. He noted that they have 1,741 students on their busiest night, plus an additional 110 staff members, and these numbers do not reflect their technical center, which is in a separate location. At this time, they have not been able to acquire additional lots to provide additional parking to their main campus, and by not allowing the variance to continue, they would be forced to eliminate 85 parking spots. He noted that would be a huge practical difficulty, because it would result in approximately 115 students not having a parking spot on a busy night.

Mr. Marella felt that Baker College has been a boon to this community and will help the southeast end of the Township rejuvenate. He would like to see this Board grant a permanent variance as requested; however, he felt if they are able to acquire additional land in the future, the newer parking lots should meet minimum ordinance requirements.

Motion by Mr. Marella, supported by Mr. Nickerson, with reference to File #5373 and application from Jim Morgan, J. R. Morgan Construction, 5454 Gateway Centre, Suite C, Flint, Michigan 48507, for variance to Clinton Township Planning and Zoning Code, Chapter 1296-02-(a)-(1), Off-Street Parking and Loading; Space Layout Standards, Construction and Maintenance, concerning Lots 237 through 291, 363 through 390, 530 through 538, Gratiot City Subdivision

(Sections 33/34), generally located at the southwest corner of Little Mack Avenue and Sharkey, that variance be granted to permit continued existence of an off-street parking lot for a public institution of higher learning (Baker College) in the R-5 One-Family Residential District, with parking space width of nine (9) feet being one (1) foot less than the required width of ten (10) feet; further, this grant of variance is based on claimed practical difficulty that the student population has rapidly grown and the acquisition of the available property in the area for the purpose of additional parking has been a slow process; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Discussion ensued.

Mr. Campbell felt there should have been discussion prior to a motion being made. He disagreed with an open-ended variance and felt a time frame should be placed on it. He also indicated that, according to the motion, this variance would allow that variance for anyone who occupies that property in the future.

Mr. Marella stated he made the motion with the intent that there would be discussion prior to a vote.

Mr. Campbell was emphatic that there should be a condition placed on the variance that it is only valid for a specific time frame and only as long as Baker College owns the property.

Mr. Marella felt that the space for them to grow is very limited due to the fact that the campus is surrounded by residential property. He felt that the college should be granted a permanent variance for the parking spaces requested; however, any additional parking should be required to meet ordinance requirements. He added that he would agree to add the condition that the variance is in effect as long as the site is owned by Baker College.

Mr. Campbell felt there are a number of alternatives available to the college, such as transferring programs to other facilities, which would relieve the parking situation at this facility.

Mr. Marella pointed out that the college has already acquired property at the back end of the former Bill Lee Olds site, but this area is landlocked and property acquisition is difficult.

Don Torline, 34950 Little Mack, Clinton Township, Michigan 48035, president of Baker College, agreed that it is possible to transfer programs to other campuses, and that is what they did with their technology program by moving it to the former Bill Lee Olds site. He cautioned, however, that many of the students are from the nearby area and the community expects the college to be there for them. They would not be willing to drive to the Auburn Hills or Port Huron campuses to take their classes.

Mr. Campbell clarified that he was referring to providing additional campuses in the area, such as the Bill Lee Olds site.

Considerable discussion took place.

Mr. Marella felt that if the college eventually opts to construct a parking garage, they would have to go to the Planning Commission and meet all ordinance requirements. He stressed that the variance would be null and void because it would no longer apply to the subject parking lot.

Mr. Morgan replied to inquiry that the property north of vacated Sharkey has 10-foot-wide spaces.

Mr. Catalano felt the development and growth of Baker College has been amazing, and he stated how proud he is that it is located in Clinton Township. He felt they have expanded the opportunity for knowledge and education to both young and old alike in Clinton Township and beyond.

Mr. Nickerson recalled that he was instrumental in placing the seven-year time frame on the previous parking variance for Baker College. He also expressed pride in what Baker College has accomplished, but he came here tonight thinking another seven-year variance would be sufficient. He talked with Mr. Torline tonight prior to the meeting, who pointed out that there is not much more property they can purchase in the area. He indicated that if something comes on the market, they try to purchase it, but they are becoming landlocked. Mr. Nickerson stated that he has changed his mind about placing a time frame on an approval. He further felt the variance, if granted, should include all of the current parking lot for the main campus. He agreed that it should be in effect only as long as Baker College owns the campus, and added that it would be null and void if they construct a parking structure at that location.

Motion by Mr. Marella, supported by Mr. Nickerson, to amend the motion on the floor to include the variance for the parking to be in effect for all of the existing parking on both the north and south side of vacated Sharkey Avenue, and any future property acquisitions and subsequent development for parking should meet all current ordinances. Roll Call Vote: Ayes – Marella, Nickerson, Trombley, Campbell, Catalano, D'Angelo. Nays – None. Absent – None. Motion carried.

The meeting recessed at 7:45 p.m. and reconvened at 7:54 p.m.

LOT 13, SUPERVISOR'S PLAT #2 SUBDIVISION (SECTION 35) *(located fronting the north line of 14 Mile Road, west of Harper Avenue)*

-- **APPEAL: ROYAL PLAZA**

FILE #6178: PETITIONED BY BENNY SORRENTINO, ICON BUILDING II

Pertinent correspondence was read and entered into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 29 owners and/or occupants of property located within 300 feet of the land in question, with none of those returned as undeliverable. He added that there were no letters received in response to the mailing.

Bill Madden, 35520 Forton Court, Clinton Township, Michigan 48035, explained that they came before this Board for a variance on the same site and would have requested this at the same time if they were aware at that time that it was needed. Mr. Madden relayed that they went to the

Township Board three or four weeks ago with the subject site plan for Special Land Use. They have a pending lease with Cuppy's Restaurant out of Florida to occupy Unit 25. He compared them to a Starbuck's; however, one of the Township Board members pointed out that the drive-thru window would be situated within 300 feet of a residential district, which is not allowed. He acknowledged that both end units, which they would like the option to lease as drive-through facilities, are within 300 feet of residential. He indicated that they will be required to go before the Township Board for any tenants they propose for those two units because drive-through facilities require Special Land Use approval. He felt the impact to residential property across Harper Avenue will be minimal. He added that much of the property across Harper has been rezoned to Office/Service, and he felt the noise from any drive-thru will not be heard over the Harper Avenue traffic. Mr. Madden pointed out that they do not anticipate it will be an extremely busy facility, citing McDonald's generates \$1.4 million each year, and Cuppy's generates about 25% of that.

Mr. Campbell felt the separation required by ordinance from drive-thru facilities to residentially-zoned property is appropriate because of the loud speakers generally associated with the drive-thru windows. He observed that the homes on the south side of the facility are quite far away. He felt it would be possible to buffer the noise from the neighbors to the north by adding landscaping or a brick wall. He agreed that the noise on Harper Avenue would most likely buffer any noise from the drive-thru facility; however, he cautioned that it could have an impact at night.

Mr. Madden assured that he could do something to contain the noise and direct the speakers in such a way as to not become a nuisance to neighbors. He stated they can point the speakers down, landscape around them, and they can move the sign back so they can landscape around that as well.

Mr. Campbell requested that additional trees and vegetation be planted on the north and south side to block any noise as a result of the drive-thru speakers.

Mr. Madden replied to inquiry that there was only one resident present at the public hearing, and she did not offer any objection but was curious about the plans. She was pleased that the area will be cleaned up, and she was concerned that there would be a White Castle or similar tenant in the facility. Mr. Madden agreed to plant something two to three feet in height along Harper Avenue near the location of the speaker to buffer potential noise.

Motion by Mr. Campbell, supported by Ms. Trombley, with reference to File #6178 and application from Benny Sorrentino, Icon Building II, 35520 Forton Court, Clinton Township, Michigan 48035, for variance to Clinton Township Planning and Zoning Code, Chapter 1298.02-(24)-E, Supplementary Regulations; Uses Requiring Special Approval; Procedure; Fast Food Restaurants, concerning Lot 13, Supervisor's Plat #2 Subdivision (Section 35), generally located at the northwest corner of 14 Mile Road and Harper Avenue, that variance be granted to permit two (2) drive-thru windows, one on each end of a shopping center (Royal Plaza) in the B-3 General Business District with distance of 180 feet (Unit 1) and 210 feet (Unit 25) from residentially-zoned property, being 120 feet and 90 feet less, respectively, than the minimum

required distance of 300 feet; further, this variance is granted on the condition that the petitioner will take steps to provide additional plantings in the area of the proposed speakers and in the setback along Harper Avenue in an attempt to minimize the impact of the speakers on any residential property; further, this grant of variance is based on claimed practical difficulty that the noise and traffic generated from a drive-thru facility at this location is minimal compared to the traffic noise generated from Harper Avenue; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Campbell, Trombley, Nickerson, D’Angelo, Catalano, Marella. Nays – None. Absent – None. Motion carried.

**2.49 ACRES OF LAND LOCATED FRONTING THE SOUTH LINE OF 19 MILE ROAD,
EAST OF HAYES ROAD (SECTION 7)**

-- **APPEAL: VAN BUREN OFFICE BUILDING**
FILE #6155: PETITIONED BY BENNY SORRENTINO, ICON BUILDING II

This item was deleted from tonight’s agenda.

**64.81 ACRES OF LAND FRONTING THE SOUTH LINE OF CLINTON RIVER ROAD,
EAST OF GARFIELD ROAD (SECTION 20) (FILE #6179)**

AND

**0.256 ACRE OF LAND FRONTING THE EAST LINE OF GARFIELD ROAD, NORTH
OF CLINTON RIVER ROAD (SECTIONS 19/20) (FILE #6180)**

-- **APPEAL: FERN HILL COUNTRY CLUB**
PETITIONER: FRED SEVERINI, JR., FERN HILL COUNTRY CLUB
REPRESENTATIVE: BRYAN R. TERRY, NU-ART SIGNSHAPERS

Pertinent correspondence was read and entered into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 43 owners and/or occupants of property located within 300 feet of the 64.81 acres on Clinton River Road and 12 owners and/or occupants of property located within 300 feet of the 0.256 acre on Garfield Road, with none of those returned as undeliverable. He added that there were no letters received in response to the mailing.

Bryan Terry, Nu-Art SignShapers, 38300 Moravian Drive, Clinton Township, Michigan 48036, noted that the sign on Garfield exceeds the height and size requirements, and he admitted that it is tough to meet all the requirements necessary for this Board to grant a variance; however, he stressed that the property on which the sign is standing is not developable for anything else because it is too small and its original purpose many years ago was so the petitioner would have signage on Garfield. Mr. Terry pointed out that the adjacent gas station erected a 15-foot-tall canopy, so lowering their existing sign to meet ordinance requirements would do no good because it would be blocked. The northern property line has a natural barrier. He stated they may reduce the square footage of the sign but would still need the variance for the height and the fact that the sign is at an off-site location. Mr. Terry assured that he is very aware of sign

ordinances in communities and does what he can to educate his clients about readerboard signs, especially with regard to eliminating flashing and extreme brightness, etc.

Mr. Nickerson felt that the Severini family has been wonderful for Clinton Township over the years, and he noted that his office is situated approximately 300 feet north of the Garfield sign, observing the sign every time he looks out of his window. He explained that he talked with the owners of his building and mentioned to them the proposal to change the Fern Hill sign on Garfield, and he claimed they were horrified that there would be any change to that sign, citing it is “almost historical”. Mr. Nickerson noted that he talked for a few moments tonight with Mr. Fred Izza, owner of the adjacent Marathon, who also felt the sign should be allowed to remain. He felt eliminating the top portion of the sign to cut down on the square footage would be fine, and he had no objection to the proposed electronic changeable message sign; however, he felt any grant of variance should be subject to the variance being in place as long as it is owned by the present owners and operated as a golf course/banquet center.

Mr. Marella felt practical difficulty can be found in that the abutting property owner of the gas station was allowed to construct a canopy that obstructs the view of the sign for the purpose it was intended. He added that the sign was unobstructed when it was first put up.

Mr. Campbell argued that the existing sign on Garfield should not be considered a pylon sign but rather a billboard sign, according to the Ordinance. The Township ordinance specifies that billboard signs are only allowed on property zoned I-2 General Industrial when it abuts a state highway. He felt the request for a variance was erroneous, and the analysis is applying the criteria that applies to pylon signs. He felt the variance that should be considered tonight is whether to allow a billboard sign on Garfield. He was totally opposed to such a sign on Garfield and did not feel it is an appropriate location. Mr. Campbell could not see how this Board could treat Fern Hill any different than Jim Riehl’s dealership when he made a similar request.

Mr. Marella felt that Jim Riehl’s was built five to seven years ago, but Fern Hill was constructed over thirty years ago.

Mr. Campbell felt the age of the sign is all the more reason the sign should be brought into compliance. He felt it could be removed, regardless of the height of the adjacent canopy. He suggested obtaining a legal opinion and clarification as to whether this should be considered a pylon sign or a billboard sign.

Vince Severini, one of the owners of Fern Hill, 18557 Canal Road, Clinton Township, Michigan 48038, explained that the small parcel on Garfield was purchased years ago for the purpose of erecting a sign. He noted that it is a small strip with a ditch running through most of the property. He stressed that it has no value other than for placing their sign and, if this is denied, the property will be donated to the County. He was adamant that he cannot pay taxes on something for which he has no use.

Mr. Santia replied to inquiry that he had mixed feelings as to whether this should be considered a billboard. He stated that billboard signs are generally much larger and they are intended to

change on a periodic basis to advertise one business or another. He considered it an off-premise sign because it has been there for many years. He replied to inquiry that, if the Board of Appeals would like, they can request a legal opinion as to whether this should be considered a billboard sign or an off-site pylon sign.

Mr. Nickerson felt this Board can grant a variance either way.

Mr. Campbell felt the ordinance is very clear, and this should be considered a billboard sign. He stressed the need to be consistent in the Township.

Mr. D'Angelo stated he has lived at his present address for 28 years, and he would use that sign as a landmark when giving directions. He expressed concern, however, that a digital sign would be so tall.

Mr. Marella reiterated that the gas station, in putting up their canopy, blocked the subject sign that was already in place, creating a hardship for the owner.

Mr. Campbell felt if that is the rationale of this Board, the sign should be even higher than proposed. He cautioned that the Board would be setting a dangerous precedent by granting this variance. He admitted that the sign has been at this location for many years and the owner is an established member of the community; however, he felt it is important to respect the fact that signs should come into compliance on Township roads like Garfield, especially when they fall under the category of billboard signs. He reminded that when they want to change more than 33% of the face panels, they are obligated to bring the sign into compliance with the current zoning ordinance.

Mr. D'Angelo stressed that his issue is with the digital portion of the sign.

Mr. Catalano felt this Board should be asking what they can do for the petitioner to make this work for him, rather than giving him a hard time. He commended the owners of Fern Hill for the wonderful addition they have been to the community over many years.

Mr. Marella assured there is no question about the benevolence of the Severini family. He recalled when the Goodfellows were in bad financial shape, the Severini's started hosting the annual Goodfellow dinner at Fern Hill, and it has been an extremely successful event ever since. He felt it is important to take care of people who have helped out, and he expressed his desire to do whatever he can to make sure Fern Hill gets proper identification.

Mr. Campbell cautioned that if the Board is inclined to approve this variance request, he did not feel it should be approved as a pylon sign because it cannot be considered a business sign. He read the definition of a "business sign", being "an accessory sign related to the business on which the sign is located". He pointed out that the business is not located on the same parcel as the sign; therefore, he considered it a billboard sign.

Mr. Nickerson felt the argument could be made that this is a unique situation, with regard to the sign's location, why it is there, how long it has been there, and the fact that the property is useless for any other purpose. He was not concerned about setting precedence because of the fact that this is so unique, there would be very few, if any, other signs that would qualify for such consideration.

Mr. Campbell brought up the point that if this is going to be considered a billboard sign, they would be allowed to have a 300-square foot display area and a height of fifty (50) feet.

Mr. Nickerson felt the motion should specify that the height will not exceed thirty-five (35) feet and the total area of the sign shall not exceed 150 square feet.

Motion by Mr. Nickerson, supported by Ms. Trombley, with reference to File #6180 and application from Fred Severini, Fern Hill Country Club, 17600 Clinton River Road, Clinton Township, Michigan 48038, as represented by Bryan R. Terry, Nu-Art SignShapers, 38300 Moravian Drive, Clinton Township, Michigan 48036, for variance to Clinton Township Building and Housing Code, Chapter 1488.02-(d)-(3), "Billboard sign", and Chapter 1488-02-(s), "Changeable copy sign", concerning 0.256 acre of land fronting the east line of Garfield Road, north of Clinton River Road (Sections 19/20), that variance be granted to allow an existing "billboard" (off-premise) sign to remain, with the stipulation that it not exceed a maximum height of thirty-five (35) feet nor a maximum of 150 square feet of display area; further, that a fifty (50) square foot panel be removed from the current sign and a twenty (20) square foot electronic "changeable message" sign be added, with the square footage for this electronic display calculated into the maximum 150 square feet permitted; further, this grant of variance is based on claimed hardship being the unique circumstances surrounding the parcel of property on which the sign is situated; further, this variance is granted with the stipulation that it is only valid as long as the current owners own and operate Fern Hill Golf Club and Banquet Center on Clinton River Road, and with the stipulations of height and size, as mentioned above; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Nickerson, Trombley, Catalano, D'Angelo, Marella. Nays – Campbell. Absent – None. Motion carried.

Discussion took place regarding the sign on Clinton River Road.

Mr. Terry explained that the variance would allow them to tear down the existing sign and up a new sign with a changeable copy panel. The property is zoned R-1 One-Family Residential, and changeable copy panel signs are not permitted in the residential district, which is why they have applied for the variance. He indicated there was some discussion regarding having the sign shut off after 11:00 p.m. or midnight and they would be willing to do that since it is in a residential area. He assured they will follow ordinance requirements with regard to the rate of change of the message on the sign, the lighting, contrast, etc.

Mr. Campbell felt that because Fern Hill is surrounded by residentially-zoned land, he inquired as to whether the petitioner would be willing to turn the sign off at 9:00 p.m. during the winter months and 10:00 p.m. during the summer months.

Mr. Severini agreed to the hours suggested by Mr. Campbell.

Motion by Mr. Campbell, supported by Ms. Trombley, with reference to File #6179 and application from Fred Severini, Fern Hill Country Club, 17600 Clinton River Road, Clinton Township, Michigan 48038, as represented by Bryan R. Terry, Nu-Art SignShapers, 38300 Moravian Drive, Clinton Township, Michigan 48036, for variance to Clinton Township Building and Housing Code, Chapter 1488.03, Schedule of Regulations, concerning 64.8102 acres of land fronting the south line of Clinton River Road, east of Garfield Road, addressed as 17600 Clinton River Road, that variance be granted to permit the removal of an existing pylon sign and installation of one (1) new pylon sign for a golf and banquet center (Fern Hill Country Club) in the R-3 One-Family Residential and FW Floodway Districts, with said sign being fourteen (14) feet in height and a total sign area of fifty-six (56) square feet, twenty (20) square feet of that being a digital display, or “changeable copy”, which is not permitted in a residential district; further, this grant of variance is based on claimed hardship that this facility and entire property is situated in a residential area and has been at this location for many years; further, this variance is granted on the condition that the sign will be turned off between the hours of 10:00 p.m. and 7:00 a.m. during the summer months and between 9:00 p.m. and 7:00 a.m. during the winter months; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Campbell, Trombley, Catalano, D’Angelo, Nickerson, Marella. Nays – None. Absent – None. Motion carried.

REPORTS OF MEETINGS

-- APPROVAL OF SEPTEMBER 20, 2006 MEETING

Motion by Mr. Nickerson, supported by Mr. Campbell, to approve the report of the September 20, 2006 meeting as written. Motion carried.

CONFIRMATION OF NEXT MEETING’S AGENDA AND ATTENDANCE

-- MEETING SCHEDULED FOR DECEMBER 13, 2006

Mr. Santia noted that they have not received any Board of Appeals applications for next month’s meeting, so it will be canceled.

ADJOURNMENT

Motion by Mr. Nickerson, supported by Mr. D'Angelo, to adjourn the meeting. Motion carried.
Meeting adjourned at 8:51 p.m.

Respectfully submitted,

Robert M. Campbell, Secretary
CLINTON TOWNSHIP BOARD OF APPEALS

ces:12/01/06
ces:01/05/07
ces:01/19/07-Revisions