

**MINUTES  
CITY OF FARMINGTON HILLS  
ZONING BOARD OF APPEALS  
CITY HALL – COUNCIL CHAMBER  
JULY 14, 2015**

**CALL MEETING TO ORDER**

Chair Seelye called the meeting to order at 7:30p.m. and made standard introductory remarks explaining the formal procedure, courtesies and right of appeal.

**ROLL CALL**

The Recording Secretary called the roll.

Members present: Lindquist, Masood, Paramesh, Rich, Seelye, Stevens and Vergun

Members Absent: Barringer

Others Present: Attorney Morita and Zoning Division Supervisor Randt

**SITE VISIT JULY 12, 2015**

Chair Seelye noted when the Zoning Board of Appeals members visited the site.

The Sunday site visit begins at 9:00a.m. at City Hall. It is an advertised open, public meeting under the Open Meetings Act, is only for informational purposes; the Board members abstain from any action, hearing testimony, or any deliberations.

**APPROVAL OF AGENDA**

There were no changes to the agenda.

**MOTION** by Rich, support by Lindquist, to approve the agenda as published.

**MOTION CARRIED 7-0**

**OLD BUSINESS**

A. ZBA CASE: 6-15-5556  
LOCATION: 24000 Haggerty  
PARCEL I.D.: 23-30-101-020  
REQUEST: In order to build a 30 foot tall, 360 square foot billboard sign in a L1-1 Zoning District, the following is requested: 1) Approval and permission from the ZBA pursuant to 34-5.5.7 to install a freestanding non-accessory sign, 2) A 10 foot variance from the 20 ft. height limit 3) A 160 sq. ft. variance to the 200 sq. ft. area limit  
CODE SECTION: 34-5.5-7  
APPLICANT: Curtis Outdoor Inc.  
OWNER: Arie Farmington LLC

Zoning Division Supervisor Randt discussed the location of the property and presented an aerial map of the site, a rendering of the proposed landscaping and sign and specifications of the proposed sign. He stated that the proponent is asking for approval of a digital electronic billboard sign that is 30 feet in height and 360 square feet. He noted that they are offering to clean up the current site and comply with the Engineering regulations. He added that the proponent provided staff, as requested, with wind study

calculations and those were sent out to an independent builder which confirmed that the sign will withstand a heavy wind.

Jay Carll, Curtis Outdoor Inc., 44 Grandville Ave, explained that after last month's meeting he received a letter from staff outlining the Boards issues which needed to be addressed. He provided the following updates:

- In regards to the issues with the easements on the property, they have revised their plan and moved the sign over 7 feet so that it does not overhang the easement, the footing will be 16.5 feet away from the nearest edge of the easement and the City's Engineering Division is comfortable with that location, as well as the depth of the sewer in relation to the depth of the footings.
- The Engineering Division was uncomfortable with the proposed block wall so they have revised the landscape plan and are now working with the topography of the site as it exists. They have changed some of the plant material to help secure erosion of the basin, moved the fence to the back edge of the sign so that the landscaping will be more visible and they have located the gate approximately 30 feet west which will provide a 20 foot gate access for the basin.
- To address the concerns with property maintenance, they have provided the Board with a letter from the property owner stating they will comply with any code issues relative to the tenants and the lease agreement between Curtis Outdoor Inc. and Arie Farmington LLC will include performance provisions.
- With regards to the intermittent lighting, they did not realize that the City's interpretation was every 30 seconds, as the State allows for every 8 seconds, however, as a condition, they will rotate the message every 30 seconds.
- A photo of a sign similar to the proposed sign was presented to the Board which shows that it does not cast any light off onto the ground because the lighting control is set at 4.5% which is what they are proposing.
- In regards to the Wind Study, they have provided the requested information to City staff and have voluntarily designed the structure to meet the International Building Code requirement of a 115MPH wind tolerance; Farmington Hills has adopted the Michigan Building Code which has a 90 MPH wind tolerance but they will build the structure to the higher standard.
- To help determine the amount of the bond to cover the costs relative to sign removal, landscape maintenance, and to maintain the LED's, they have provided costs estimates for the following: total cost for sign removal from an independent company is \$8,300, the cost for landscape maintenance every two weeks including weed control, trimming of the bushes and to provide fall and spring cleanup is \$1,160, the frequency of service calls is estimated at every 15 months which is roughly \$600 per year, the LED's are warranted for 10 years, all parts are covered and if there is any malfunction an email will be sent to them as well as the manufacturer, 80% of the issues can be dealt with remotely from the plant and if it does require a service call the sign shuts off until it is repaired.
- As far as appearance of the sign, he presented a before and after photo as seen from I-275 heading south, in which the landscape architect imposed images of the proposed sign and landscaping.
- In regards to the visibility of the sign from Haggerty Road, photos were provided to the Board taken at various points and they used the telephone pole adjacent to the sign and 70 feet to the top as a baseline to determine if the sign would be visible from any point on Haggerty Road. As seen in the photos, anywhere you drive along Haggerty Road you can barely see the top of the telephone pole and the only place it is visible is right at the driveway as you drive past the property. They intend to cap off the side with the same decorative

material that is on the top, so the only thing visible on the side would be the decorative material and the stone on the bottom. No light would omit from the front of the sign.

Charles Semchena, 23649 Woodward Ave, representing Curtis Outdoor Inc., stated that since the last meeting they have added some items to their list of conditions, including to only change the message every 30 seconds. He explained that the use would not be detrimental and the standard only applies to adjoining properties, meaning touching, and there are not any commercial or residential properties touching this industrial zoned property, the parcel is surrounded by industrial properties. He stated that with all the extra conditions they are putting into their proposal it is evident that they are trying to make this project as nice as possible and with what they have presented as far as the design, landscaping and placement of the sign, there will not be any detrimental effect, in fact, the project will do substantial justice not only to the applicant but to other property owners.

Mr. Semchena explained that this is a permitted use in the industrial zone and typically if strict conformance with the ordinance prevents an owner from using their property as a permitted purpose, it is an indicator that a variance should be granted. It is due to the height of the nearby road and the distance from the road that they need a higher and bigger sign so that it is visible without creating a distraction, 360 square feet is much smaller than industry standards for signs that are located close to expressways. He added that staff indicated that the only other sign like this within the City is the one they plan to tear down, therefore, there should not be any concern that someone else is going to come along and offer to tear down an outdated, ugly sign in exchange for a new sign, and if the proposed sign is permitted, the City will end up with one sign that is much more attractive than the current sign. He noted that this site is ideal for this type of sign, it will not bother anyone, and it will enhance the existing property and fit in nicely in the industrial zone, as intended by the ordinance.

Member Rich asked how far the power line poles are from the proposed sign. Mr. Carll responded that they are approximately 17 feet to the closest edge.

Member Rich stated that theoretically, if there were a problem with excess wind, it is possible that the sign could hit the power lines. Mr. Carll noted that the sign is significantly underneath the power lines; the power lines are up at about 45-50 feet.

Member Stevens asked if there had been any discussions with Michigan Department of Transportation (MDOT) for approval and permitting. Mr. Carll responded yes, that MDOT has a cap in place and signs cannot be built without an interim permit, which they have, and getting the Boards approval is the first step as MDOT requires authorization from local authorities stating that the sign is in compliance with the ordinance, prior to the issuance of a permit.

Chair Seelye opened the public portion of the meeting. There being no public comments, Chair Seelye closed the public portion of the meeting.

Member Stevens confirmed there was an affidavit of mailing on file with no returned mailers.

Attorney Morita reminded the Board that this case is a two-step process; first the applicant needs approval of the sign and then the variances would follow. She advised the Board that they cannot offer a lessor relief because that would trigger new drawings and the applicant would then have to submit a new application.

Chair Seelye stated that at the last meeting the proponent offered a \$50,000 cash bond and he asked if they were still willing to provide that and if the City was happy with that amount. Mr. Carll responded that they are. Attorney Morita responded that yes, as far she knows.

Member Masood asked if the Engineering Department made any recommendations. Attorney Morita responded that Engineering looked at the sign in terms of the wind study in which they had sent out to a third party for review, and they are satisfied with it. She noted that there is an email that was provided to the Board that discusses the detention pond and some conditions that staff would like to see due to concerns over the maintenance with the retention system.

Zoning Division Supervisor Randt stated that as far as a recommendation for approval, the Engineer's did not make any recommendation for or against, only recommendations based on Engineering standards.

Member Rich questioned if the Board were to grant the permission and variances, would there be a second approval of conditions necessary for the detention pond maintenance. Attorney Morita responded that they would hope that the Board would condition the variances upon the agreement for Storm Water Detention to be provided in a form acceptable to the City, along with the list of items in Ms. Gushard's email that she would like attended to.

Member Stevens asked if there has been any discussion at the department level with regards to the location of the sign relative to northbound I-275, as one of his concerns is that the proposed sign is in a position where on northbound I-275 you have to make a decision just before approaching the sign to either head on to I-96 or over to I-696/M-5 and it seems like that is a bad time to have a drivers attention distracted. Zoning Division Supervisor Randt responded that staff had determined that this was an MDOT regulation, therefore, they did not weigh in on it.

Member Lindquist stated that it is his understanding, although the applicant has an interim permit, is that it is still considered a conditional approval from MDOT and if MDOT still has the right to approve or disapproval a specific location if it were distractive to traffic.

Attorney Morita explained that she took a brief read of the statute that applies and noticed that there are spacing requirements that have to be met, however, in terms of the actual MDOT permitting process they are not exactly sure as they are not in the business of putting up billboards so this may be a better question for the applicant.

Mr. Carll stated that the interim permit is not an approval and explained that if approved by local authorities at a specific site, the interim permit allows them to apply to get a MDOT permit for that site, if they did not have an interim permit then they cannot even apply to qualify for a MDOT permit; they are still required to meet all MDOT standards as far as ramp spacing, zoning, etc., it does not mean they automatically get authorization from MDOT.

Member Lindquist commented that the Board is required to think about the impact on neighboring properties and the character of the neighborhood and apply that, with respect to a standard of fairness, to other property owners; the MDOT process, as described, has spacing requirements so that if there is a billboard placed at this location it would effect the availability of billboard placements in other locations, therefore, this sign does have an impact neighboring landowners as to whether or not they would be able to install the same sort of billboard based on the exact same conditions.

Attorney Morita explained that the ordinance pertaining to the permission or the approval of the sign, since it is a non-accessory sign, has the adjoining property language in it and the ordinance pertaining to

the variances has the substantial justice to the neighboring property language in it, so the Board really has to look at both standards.

Member Lindquist asked if they should look at them sequentially, with the first one being the permission.

Attorney Morita responded that was correct, if the Board is not inclined to give the permission then there is no reason to look at the variances; and if the Board is not inclined to grant the variances, then there is no reason to give the permission because the applicant would have to come back and submit a new application.

Discussion was held regarding the ordinance requirements for free standing, non-accessory signs and the conditions they are subject to.

Member Rich commented that in the ordinance it refers to the renewal of the permit by the code enforcement officer, he asked what standards the code enforcement officer would use in order to either approve or not approve a renewal after the two year period. Attorney Morita responded that it is a permissive ordinance which states that it may be renewed, meaning that the code enforcement officer has the ability to deny the renewal and she expects that they would be looking at the maintenance of the sign as well as the property, to make sure it is being properly maintained and not a hazard; if there is a safety, health or welfare issue they would then deny it and require the proponent to come back before the Board for another permission or take the sign down.

**MOTION** by Rich, support by Vergun, in the matter of ZBA Case 6-15-5556, to GRANT the petitioner's request for permission from the ZBA pursuant to 34-5.5.7 to install a freestanding non-accessory sign; and request for the following variances: a 10 foot variance from the 20 ft. height limit and a 160 sq. ft. variance to the 200 sq. ft. area limit; because the petitioner did demonstrate practical difficulties exist in this case in that he set forth facts which show that:

1. Compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose or would render conformity with the ordinance unnecessarily burdensome; this sign is set back a large distance from the freeway where it is intended to be visible, the grading of the property is such that at 20 feet it would be difficult to see the sign for northbound heading traffic.
2. That granting the variance requested would do substantial justice to the petitioner as well as to other property owners in the district; the sign is located on a freeway, the adjacent and neighboring properties are light industrial, the freeway itself is not subject to detriment from this sign based on the specifications of the sign in terms of brightness, maintenance and positioning.
3. That the petitioner's plight is due to the unique circumstances of the property, in terms of how far the setback requirements are with respect to the freeway such that it would not be able to be seen.
4. That the problem is not self-created; in that the property exists as it is currently found and the applicant is looking to improve the nature of the property.

**SUBJECT** to the following conditions:

- The sign shall be constructed in a manner that withstands normal wind forces, as identified by the applicant and indicated in the studies provided to the City
- The sign shall be properly maintained
- The permit shall be issued by the Board for a period of 2 years
- The height of the sign shall be 30 feet from the current grade level, therefore, if the grade were to be raised the 30 foot sign would no longer be allowed
- Per the City's Engineering Division:
  - The detention basin outlet shall be cleaned and any deficiencies be addressed
  - Along the east side of the basin, any removal and replacement of plantings shall occur between the existing retention basin fence and wooden right-of-way fence
  - All dead wood shall be removed from the detention area
  - The access gate location must be identified and addressed
  - The Agreement for Storm Water Detention must be provided to the City
  - The north side of the basin shall be regraded and the retaining wall originally proposed in this area be eliminated
- The proponent must work with and obtain approval from all appropriate City Departments
- The sign shall be built according to the plans submitted; including the appearance of the sign, the structure itself, the surrounding area and the landscaping
- The sign shall not change in a period shorter than 30 seconds
- Lighting controls on the LED sign shall be 4.5% of maximum brightness; with a consistent level of lighting, based on the overall lighting detected by the sensors, so that the sign's appearance in terms of brightness would remain the same throughout the day and evening
- The proponent shall provide a \$50,000 bond in accordance with staff recommendations
- The proponent shall agree to a Maintenance Agreement with a licensed landscaping company; in which the company shall be subject to performance review by appropriate City staff
- The billboard at 24780 Hathaway is to be removed prior to the initiation of construction of the proposed sign
- The proponent shall build the sign in compliance with the International Building Code, as modified, if at all, by the State and City

Member Lindquist stated that he would be voting against the motion because he does not feel that the proponent has met the standard for granting a variance and therefore, the permission would be moot, although he may have been inclined to grant the permission under separate or similar circumstances.

Member Lindquist explained that the requirements to grant a variance require that the petitioners plight be due to the unique circumstances of the property and the problem not be self-created; currently the City does not have a billboard sign in the proposed location or any similar signs anywhere in the City and he does not consider the creation of a billboard sign in that location to be a unique circumstance, which then creates a plight that requires a variance. The application for a larger than normally permitted sign is, to his view, a self-created problem, therefore, he finds at least two of the required elements to grant a variance lacking and that is why he cannot support the variance and since both the variance and permission must be voted on together, he will be voting against the permission as well.

Member Stevens commented that under the section of the ordinance that allows the Board to grant approval for non-accessory signs the language used is may, and he questioned that because it uses the term may, if there are other conditions or provisions that the Board feels have not been met, then the Board should consider that when determining whether or not to grant such approval.

Attorney Morita responded that the way the Board should read the ordinance is that they should only grant the approval if the provisions have been met and only grant the variance if the conditions have been met.

**MOTION CARRIED 5-2 (Lindquist, Stevens opposed)**

**NEW BUSINESS**

A. ZBA CASE: 7-15-5557  
LOCATION: 21175 Farmington  
PARCEL I.D.: 23-33-429-014  
REQUEST: In order to build a 1,200 square foot detached garage in an RA-4 Zoning District, the following variance is requested: 1) A 450 square foot variance to the 750 square foot maximum permitted for accessory structure floor area for this site.  
CODE SECTION: 34-5.1.2.D.  
APPLICANT: Harold Cassie  
OWNER: Harold and Vesta Cassie

Zoning Division Supervisor Randt discussed the location of the property and presented aerial maps of the site, photos of the house, a site plan, and a depiction of the proposed garage.

Harold Cassie, applicant, 21175 Farmington Road, explained that he is requesting the variance because his house is built on a crawl space so there is no basement for storage and the existing one car garage is too small to store even his personal vehicles. He would like to have room to store his Jeep with a plow, which the City does not allow him to park in the driveway, and his two antique cars which are stored other places and this will allow him to work on and maintain them at home. He stated that he spoke to the lady behind him and she has no problem with the garage and will provide a letter in support if necessary. He added that the new garage would improve the look of the property and give him the storage space that he needs and if the variance is granted, he will remove the existing shed and the existing garage.

Zoning Division Supervisor Randt commented that it appears that there are three curb cuts to the property and noted that the Engineering Division has had issues in the past with too many curb cuts on parcels of property.

Mr. Cassie stated that there was an existing house on the south side of his home which had a driveway, he removed that house last year and combined the properties. He noted that he also owns the 80 feet of vacant property to the south of the proposed garage. He explained that his property is on the corner of Farmington Road and Arnold Street so he has one curb cut on the back of his property off Arnold Street and two off Farmington Road, one at the front of his home and one left from the house he tore down.

Zoning Division Supervisor Randt asked which way the vehicles will enter the proposed garage. Mr. Cassie responded that he intends to put a door on both sides of the garage so that he can enter off Arnold Street and exit onto Farmington Road.

Chair Seelye questioned the square footage of the existing home. Mr. Cassie responded that is was approximately 1,450 square feet.

Member Lindquist commented that during the site visit he was fascinated by the curb cut situation particularly for the northerly cut off Farmington Road which is basically the sidewalk along the Arnold Street side of the home. He asked if the house that was torn down sat on the 21175 lot. Mr. Cassie

responded that it was on 21147 and the lots in that area are 20 feet across the front and he owns the two lots south of the lot that his home sits on.

Member Lindquist explained that when looking at the aerial map that shows the old house, it appears that the old driveway is on the other lot, but the diagram showing the proposed location of the garage shows that it would be further south than the old house.

Mr. Cassie stated that that proposed garage will be to the north of the old driveway.

Member Lindquist asked if the drive will be located on the adjacent property. Mr. Cassie responded that those are vacant lots in which he owns but are not added to the property where his home sits.

Member Lindquist commented that the driveway will then be on a separate property and potentially the applicant could sell that lot and not have the driveway anymore.

Mr. Cassie stated that he has no intentions on selling the property.

Member Lindquist explained that when the Board looks at granting this type of variance, they have to take all possibilities and future intentions into account. He stated that during the site visit he was confused by the layout and he is now even more confused because although the applicant owns the other lots he has not merged them into his residential property and he did not realize that the driveway would be located on another property.

Zoning Division Supervisor Randt suggested that if the Board were to consider granting the variance, they should condition it on the northerly curb cut being removed from Farmington Road, with the Engineering Division's approval.

Member Lindquist stated that would be an appropriate condition but he is still concerned that the southerly curb cut one goes onto another property.

Attorney Morita commented that Mark Stec from the Planning Department was pretty clear on the fact that they felt that the curb cut closest to Arnold Street could be unsafe, so if the Board were to consider granting the variances they would not be opposed to conditioning it on having that particular curb cut removed and this is something that the Board should discuss with the applicant.

Member Lindquist commented that this did not address his concern that the southerly curb cut on Farmington Road is not on the property in which the garage is proposed.

Attorney Morita stated that the applicant owns that property so the Board can condition the variance on a combination of the lot so that it is one zoning parcel, opposed to two.

Member Lindquist asked the applicant, if the Board were to condition approval on merging the adjoining 20 foot parcel and getting rid of the curb cut closest to Arnold Street, would that be acceptable. Mr. Cassie responded yes but questioned whose expense it would be to close off the curb cut.

Attorney Morita explained that the Board can condition that the curb cut be removed and the applicant work with the Building and Engineering Department as to how to get that done, but as to who exactly would be responsible for paying for it, she does not know.

Member Lindquist asked if they can make a condition simply that the applicant agrees to abandon it and not utilize it anymore. Attorney Morita responded that the Board should make it a condition to do whatever it takes to have the curb cut removed as there is no way for staff to enforce it if it is still there.

Member Lindquist questioned if the applicant intends to remove the existing garage and shed. Mr. Cassie responded yes.

Chair Seelye opened the public portion of the meeting. There being no public comments, Chair Seelye closed the public portion of the meeting.

Member Stevens confirmed there was an affidavit of mailing on file with 2 returned mailers.

**MOTION** by Lindquist, support by Stevens, in the matter of ZBA Case 7-15-5557, to GRANT the petitioner's request for a 450 square foot variance to the 750 square foot maximum permitted for accessory structure floor area for this site because the petitioner did demonstrate practical difficulties exist in this case in that he set forth facts which show that:

1. Compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose or would render conformity with the ordinance unnecessarily burdensome.
2. That granting the variance requested would do substantial justice to the petitioner as well as to other property owners in the district.
3. That the petitioner's plight is due to the unique circumstances of the property; as this is a corner lot with older existing property lines and combination of lots.
4. That the problem is not self-created; the petitioner intends to remove a garage and construct a garage, both are permitted on this zoning lot.

**SUBJECT** to the following conditions:

- The petitioner must file a lot combination application with the City Assessor to merge the next adjacent lot to the south into his residential lot at 21175 Farmington Road
- The existing garage and shed be removed
- The existing northerly curb cut on Farmington Road must be vacated and disused by the proponent
- Prior to construction, the proponent must have an agreement with the City as to how the curb cut will be removed and who will be responsible for the associated costs
- The proposed garage shall be constructed in accordance with the plans and specifications submitted, using similar materials and methods as the existing house

**MOTION CARRIED 7-0**

B. ZBA CASE: 7-15-5558  
LOCATION: 29975 - 29977 Orchard Lake  
PARCEL I.D.: 23-03-433-045  
REQUEST: In order to build a second story addition to an existing non-conforming structure in a B-2 Zoning District, the following variances are requested: 1) An 11.61 foot variance to the

required 75 feet minimum front yard setback requirement from the proposed right-of-way; 2) Variance that no structure may be enlarged or altered in a way which increases its non-conformity.  
CODE SECTION: 34-3.1.24.E.; 34-7.3.A.; 34-2.0  
APPLICANT: Darren Zebari for DAZ Architectural Design, Inc.  
OWNER: CLV Orchard, L.L.C.

Zoning Division Supervisor Randt discussed the location of the property and presented aerial map of the site, photo of the dry cleaners and a site plan of the proposed addition. He noted that they are proposing a second story addition on a non-conforming structure.

Darren Zebari, applicant, 30057 W. Eight Mile Road, explained that he has an existing 15 foot tall building that is occupied by a dry cleaners in about 1/3 of the space and the other 2/3 of the space will be a women's clothing store, the owners are proposing a 13 foot second floor addition making the total height of the building 28 feet. He added that they are not increasing the footprint of the building.

Chair Seelye asked if the building was in compliance when it was originally built. Zoning Division Supervisor Randt responded that when the property was built it was conforming but since that time, the road has been widened creating a non-conforming situation.

Attorney Morita stated that the Board has seen situations like this in the past, where a non-conformance was created because the City's ordinances has changed to require the setback from the proposed right-of-way, as opposed to the existing right-of-way, and in these types of cases the Board has looked at the difference between the existing proposed right-of-way and made the determination whether or not there is an issue from the existing right-of-way, if not, then the Board has tended to allow the variances as requested.

Chair Seelye questioned the size of the addition. Mr. Zebari responded that the second floor addition will only be 12 feet back from the front of the building and only used for mannequin displays.

Chair Seelye clarified that the addition would not be used as another store with customers; therefore, not creating any parking issues, it will only be used for storage.

Mr. Zebari stated that it will not be occupied; it is basically only for aesthetics.

Member Stevens questioned if the whole building façade will be remodeled. Mr. Zebari responded yes, and they also plan to add screens to increase the existing parapet height in order to block the rooftop units.

Member Lindquist asked if the access to the display area will be via a hatch. Mr. Zebari responded yes, there will be an access panel from the space below.

Member Lindquist questioned the egress out to the roof and if the only access to the roof would be through the display area. Mr. Zebari responded that there would be access to the roof from the display area and also from the service door.

Member Rich questioned if because there is an exit door planned from the addition to the roof, does there also need to be a fire escape ladder or a way to get off the roof. Zoning Division Supervisor Randt responded that this would be reviewed and determined by the Building Department during the permitting process.

Chair Seelye opened the public portion of the meeting. There being no public comments, Chair Seelye closed the public portion of the meeting.

Member Stevens confirmed there was an affidavit of mailing on file with 3 returned mailers.

**MOTION** by Masood, support by Rich, in the matter of ZBA Case 7-15-5558, to GRANT the petitioner's request for the following: An 11.61 foot variance to the required 75 feet minimum front yard setback requirement from the proposed right-of-way and a variance that no structure may be enlarged or altered in a way which increases its non-conformity; because the petitioner did demonstrate practical difficulties exist in this case in that he set forth facts which show that:

1. Compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose; which is zoned B-2 District
2. That granting the variance requested would do substantial justice to the petitioner as well as to other property owners in the district.
3. That the petitioner's plight is due to the unique circumstances of the property; as it faces Orchard Lake Road and the City ordinance standards have changed.
4. That the problem is not self-created.

**SUBJECT** to the condition that the addition be built in accordance with the plans submitted.

**MOTION CARRIED 7-0**

C. ZBA CASE: 7-15-5559  
LOCATION: 26490 Drake  
PARCEL I.D.: 23-17-427-015  
REQUEST: In order to build an addition to an existing non-conforming home and construction of a new detached garage in an RA-1 Zoning District, the following front, side and rear setback variances are requested: **(Proposed home addition)** 1. A 21.25 foot variance to the minimum 40 foot front yard setback is requested 2. A 26.2 foot variance to the minimum 35 foot rear yard setback is requested. **(Proposed detached garage)** 1. A 5 foot variance to the minimum 10 foot side yard setback is requested.  
CODE SECTION: 34-3.1.1.E.; 34-5.1.2.A.  
APPLICANT: Chris Bidigare  
OWNER: Kendallwood Investments, L.L.C.

Zoning Division Supervisor Randt discussed the location of the property and presented aerial map of the site, photo of the house and a site plan of the proposed additions. He explained that it was a very unusual historic property; it had been moved to this location many years ago and the new owner is trying to add to the home to make it more livable. He stated that they have been before the Historic District Commission and have received approval.

Chris Bidigare, applicant, 26545 Farmington Road, explained that this is a very unique property, it is on the National Historic Register as the Mark Arnold House, and he purchased the house in October 2013 from the previous owner who owned the property for over 25 years after they purchased it from the City

in 1989. Before the City sold the property, the lot that the house sits on was split into two lots and the historic house adjacent to this house, the Miller Cottage, was moved to the property. Prior to the split, the lot the size was about 16,500 square feet, which is smaller than the current RA-1 lots, and now the house sits on about 8,500 square feet and the Miller Cottage sits on 8,000 square feet. In relation to the topography, the houses are not part of a subdivision, they sit on small lots that are bounded on the south and east side by very large hills that back up to Old Homestead and on the north side by the upper branch of the Rouge River. Both homes sit extremely close to the road and currently, neither of the homes meet any setback requirements.

Mr. Bidigare stated that from an exterior prospective the house has been redone with finishes and foundation work and the inside is gutted to the studs and is deteriorating. He stated that per City record the house is listed at 1,100 square feet however, there is no second story so it is only about 700 square feet. He stated that his goal is to maintain the historic integrity of the house and he has approval from the HDC.

Mr. Bidigare explained that the house is not livable being only 700 square foot and with the addition he is proposing to go to a total size of just over 2,000 square feet. The existing structure does not have a garage or any type of shelter for vehicles, so he is proposing to add a detached garage. He stated that he is just looking to get the house finished as it has sat vacant for well over 30 years and in order to move forward he needs the variances. With the addition, he is proposing to connect the house and shed, the front yard setback of the addition is 18 feet and the existing house setback is 7.4 feet, therefore, what he is proposing is greater than what the house currently is. Since he is attaching the house to the shed, he needs a rear yard setback which will be less intrusive than what is currently there with this house as well as the house next door.

Mr. Bidigare stated that the stand alone garage requires a variance as well, because when the property was split and the other house moved to the property it was all done as part of the Drake Road restructuring in the 1980's and what was put in by the City was a common driveway that splits off into two parking pads. He explained that he is proposing to add the garage over the existing pad and the side yard setback required for RA-1 is 10 feet and he is asking for 5 feet from the property line. He noted that he has been collaborating with the neighbors, who are in support of his plan, as well as the Engineering Department. He stated that the houses sit at the bottom of the hill on Drake Road and the reason for the center drive was because it was considered dangerous to have two drives at the bottom of the valley, therefore, they put in a wide approach and split it off.

Zoning Division Supervisor Randt questioned the timeline for construction. Mr. Bidigare responded that he is looking to break ground as soon as possible

Chair Seelye asked if the applicant planned to live in the house or if it was just an investment. Mr. Bidigare responded that he just completed a house on Farmington Road and has moved in there, he is thinking after about 10 years when he does not want to maintain that property anymore he will move into this house.

Member Rich asked if the driveway will be widened at Drake Road or if it will only be widened further up once you are parallel with the front of the home. Mr. Bidigare responded that the drive would only be widened near the front of the home. He has discussed with this with the neighbors and had Engineering out last fall because water from Drake Road comes down the driveway creating an issue, therefore, they intend to put in an island 15-20 feet down the driveway so that it can catch the water and go down between his garage and the neighbor's property.

Chair Seelye opened the public portion of the meeting. There being no public comments, Chair Seelye closed the public portion of the meeting.

Member Stevens confirmed there was an affidavit of mailing on file with 2 returned mailers.

**MOTION** by Lindquist, support by Vergun, in the matter of ZBA Case 7-15-5559, to GRANT the petitioner's request for the following front, side and rear setback variances: 1) A 21.25 foot variance to the minimum 40 foot front yard setback, 2) A 26.2 foot variance to the minimum 35 foot rear yard setback and 3) A 5 foot variance to the minimum 10 foot side yard setback; because the petitioner did demonstrate practical difficulties exist in this case in that he set forth facts which show that:

1. Compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose, being residential, or would render conformity with the ordinance unnecessarily burdensome; in that this is a historic property in a unique set of circumstances.
2. That granting the variance requested would do substantial justice to the petitioner as well as to other property owners in the district.
3. That the petitioner's plight is due to the unique circumstances of the property; as this property is one of the most unique properties.
4. That the problem is not self-created; in this particular case it is almost a City created problem due to the placement of another home on the formerly large property and then dividing it.

**SUBJECT** to the condition that the construction be consistent with the plans submitted by the proponent and of similar material, style and appearance of the existing historic home.

**MOTION CARRIED 7-0**

D. ZBA CASE: 7-15-5560  
LOCATION: 21680 Haggerty  
PARCEL I.D.: 23-31-101-025  
REQUEST: In order to build a 120 square foot sign in an OS-4 Zoning District, the following is requested: 1) An 88 square foot special exception to the maximum permitted 32 square foot sign area.  
CODE SECTION: 34-5.5.3.B.; 34-2.0  
APPLICANT: Dempster Designs, Inc.  
OWNER: Westridge Haggerty, L.L.C.

Zoning Division Supervisor Randt discussed the location of the property and presented aerial map of the site, photo of the proposed sign and a site plan of the proposed sign.

Robert Dempster, 22 Barbara Lane, explained that they would like to use the existing monument sign base for the new sign which will allow for a more visible and up to date sign. He presented the Board with updated photos of the proposed sign and noted that they are not looking to move up toward Haggerty Road. He noted that from the top view you can see the existing sign and they intend to skin around it and the only reason they need a little bit more space is to allow them to maintain the landscaping.

Chair Seelye asked that when the sign is angled as proposed, if it is more than 3 feet at the end, do both sides count toward the square footage. Zoning Division Supervisor Randt responded that was correct. Chair Seelye asked if the applicant is willing to bring it down 3 feet in the back. Mr. Dempster responded that they can, however, they were trying to get more visibility from the road.

Mr. Dempster stated that this is an efficient way to update a sign and will provide strength for the proposed sign. He added that the sign is to scale for the size of both buildings and is and will be the only sign on the property since Gentherm has taken over both buildings.

Ken Bunyak, 21680 Haggerty Road, explained that the brick portion of the sign will be wrapped flat with aluminum, the new sign will be parallel or level and sit just below the top edge of the brick and the framework will be attached to the existing lower brick structure. When looking at the sign from the side you will see the nice wrapped aluminum base and the new sign just above that, no brick will be able to be seen. He stated that the sign will not protrude into the parking lot or any further toward Haggerty Road, it is just slightly wider at the rear and they will make the front as narrow as possible. He added that it did not make sense to tear it down to put another one in when they can use the existing sign without problems.

Chair Seelye asked if they were making the sign any larger. Mr. Dempster responded that the sign will be similar dimensions from the front edge of the original sign but back 25 feet towards the parking lot and the landscaping will stay as it is.

Member Rich commented that when looking at the drawing that was handed out, the new sign looks like a V on its side, the point of the V is on the western edge which is the portion that adjoins Haggerty Road and that looks as though it does extend closer toward the roadway.

Mr. Dempster stated that it may extend about 8 inches closer but that is just to complete the front face of the sign, they have to have a fascia going down to match the rest of the sign because they want it to look nice.

Member Rich questioned what will be in the spaces between the point of the V and the western edge of the current monument. Mr. Dempster responded that it was just a void; the bottom of the sign will not be sitting on the ground, the brick base will be wrapped with aluminum, the sign will be the shape of a piece of pie on top of the base, therefore, the landscaping can stay. He stated that the photo they presented to the Board this evening was their final design for the sign.

Member Lindquist stated that if it is the shape of a piece of pie, the outer pie edge cannot be more than 3 feet on any side, otherwise they have to count both sides of the sign and the area for both sides of the sign; and for what has been requested, the existing sign would need to be wrapped in a way that the wide side of the pie is not more than 3 feet, which means that there is less of an angle to the road and more of a rectangular shape. He added that the existing pie shape design shows the sign going 31.65 inches from the existing base toward Haggerty Road.

Mr. Bunyak stated that in order to meet 3 feet at the rear, they will have less of an angle at the front which will allow them to bring the front almost all the way back right to the edge of the brick and the spread on the diagram is roughly 68 inches on the rear and it will not be a problem bringing it back to 3 feet.

Member Stevens commented that the handwritten dimensions shown on the photo provided to the Board states the sign is 11.5 feet but the printing and the request states that it is 6 feet by 10 feet and he

questions which dimension are proposed. Mr. Dempster responded that the sign keeps changing and now that they know it cannot be more than 3 feet at the rear they will bring it back to 10 feet.

Mr. Bunyak stated that part of the dimension was based on being able to use the existing structure and have it at an angle, so if they have to bring it back in then it will shorten the sign up some.

Member Lindquist commented that the Board has only considered the special exception for the size of the sign face and they have not discussed the implications of the front edge of the sign being almost 3 feet closer to Haggerty Road and the sidewalk.

Zoning Division Supervisor Randt stated that when the applicant submitted the plans it was going to be 15 feet back from the sidewalk and he does not know if that is still correct.

Mr. Bunyak stated that knowing they have to bring the backend in then they should be within 1 foot of the original structure.

Member Lindquist questioned the area of the existing sign. Mr. Dempster responded that it was 4 feet by 8 feet, not including the base.

Member Lindquist commented that the special exception is for signage area and the bricks do not count as signage area. He stated that when looking at the design, it shows from the existing monument base the sign goes 31.65 inches beyond the brick toward Haggerty Road.

Mr. Bunyak stated that was correct but that is with having a much wider spread at the rear, since they have to bring the spread in half of what is on the drawing, then they can bring the front of the sign in to the front edge of the brick without a problem.

Member Lindquist commented that having two or three sets of drawings seems to be confusing the issue and the drawing that was handed out this evening shows the point extending beyond the edge of the base. He asked if the applicant is now suggesting that there will not be any extension beyond the base toward Haggerty Road. Mr. Bunyak responded it would only extend to allow for the framework that would be supporting it, maximum of 8-12 inches.

Member Lindquist stated that would imply that there is the same signage area and it seems like there is a shorter distance now, more equivalent to the size of the base.

Mr. Bunyak stated that if they can go towards the parking lot they would retaining the same size sign, if not, they would shorten the sign a little.

Zoning Division Supervisor Randt suggested that the case be adjourned and new plans submitted to the Planning Department for review and then brought back to the Board with the special exceptions that may be required.

Attorney Morita stated that will work as long as the applicant does not need additional variances or special exceptions as a result of their new plan. She stated that the Board should ask the applicant whether or not they want to adjourn to a date certain, opposed to having a potential outright denial tonight.

Attorney Morita stated that the way the request is written now is to accommodate two faces of the sign which have to be counted because the spread is far enough apart, and each face of the sign is 60 square feet and that is why they are asking for the 120 square feet, if they make the sign back to back then they

would only need a 28 square foot special exception, however, if they are changing the location of the sign it should go back to Planning for review. She noted that the drawings that were submitted to the Board this evening show the sign being 31 inches closer to the road and that has not been reviewed by the City Planner.

Member Lindquist stated that he feels that this case should be adjourned and in the interim, the applicant should submit a complete plan including placement of the sign on an overview, the area of the sign, and distances from the parking lot, the entrance to the parking lot, Haggerty Road and the sidewalk and have that plan reviewed by the Planning Department so that they can make sure that another variance or another special exception is not required.

Mr. Dempster stated that if the problem is the sign going towards Haggerty Road then they can just bring it back, there is enough room.

Member Lindquist commented that the plan right now show that the sign will be built in a certain way on the base, if you are going to adjust your plan the Board needs to see an adjusted plan.

Mr. Dempster asked if they can just go to Mark Stec or do they have to come back before the Board at another meeting.

Member Lindquist stated that they will have to come back to the Board but before doing so they have meet with the Planning Department and present the amended plan for review and as long as no other variances or permission are required, then the Board can considered the case at the next meeting.

Member Lindquist asked if the applicant wanted a decision this evening or if they would like to adjourn to a date certain in August. Mr. Bunyak responded that they agree to adjourn.

**MOTION** by Lindquist, support by Vergun, in the matter of ZBA Case 7-15-5560, to ADJOURN the consideration of ZBA Case 6-15-5556 to a date certain, that being the Zoning Board of Appeals meeting of August 11, 2015, to allow for the proponent to present amended and complete plans for the sign to the Planning Department within the next 2 weeks so there is adequate time to prepare and provide the Board with an opinion.

**MOTION CARRIED 7-0**

- E. ZBA CASE: 7-15-5561  
LOCATION: 27555 Farmington  
PARCEL I.D.: 23-16-201-015  
REQUEST: In order to build a parking structure in an OS-4 Zoning District. The following interpretation or variances are requested: 1) An interpretation that a parking structure is not a building, if it is defined as a building, it exceeds the 20% lot coverage requirements for all buildings on a lot and the following variance is requested; 2) A 13.9 % variance to the 20% lot coverage requirement if it is interpreted as a building. 3) A 20 foot variance to the required 66 foot southern setback from the proposed right of way of I-696.  
CODE SECTION: 34-2.0, 34-3.1.22 B.; 34-3.5.2.P.  
APPLICANT: 27555 Farmington Road Office Building, L.L.C.  
OWNER: 27555 Farmington Road Office Building, L.L.C.

Zoning Division Supervisor Randt discussed the location of the property and presented an aerial map of the site, a site plan and a rendering of the proposed parking garage. He explained that the applicant is planning to create a parking structure and they are requesting an interpretation from the Board whether or not this structure is a building, if it is defined as a building then it exceeds the 20% lot coverage and will require a variance. He stated that what is unique about this case is how a parking structure is defined, is it a building or is something else. *Section 34-2.0 states a building means any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosures of persons, animals, chattels or property of any kind. This shall include tents, awnings, or vehicles situated on private property and used for such purposes.* He stated that the Planning Department struggled with this and has kicked it back to the Board to make a determination, if it is determined to be a building then it exceeds the lot converge variance and in either case it will need a 20 foot variance to the required 66 foot southern setback from the proposed right-of-way.

Attorney Morita informed the Board that there is a memo in their packet from Mark Stec that fairly and adequately explains what the Planning Department's issues are and why the interpretation is needed from the Board, which is one of the Board's powers of authority under the ordinance.

Tim Ponton, 2350 Franklin Road, explained that the property is zoned as an OS-4 district and is approximately 11.5 acres; the access for the site is via one full access driveway along Farmington Road and another full access driveway along 12 Mile Road, there are full dedicated left and right turn lanes from both access isles. He stated that according the City's Master Plan this site is planned as future use for a major office and the current intent per Section 30-3.1.22A for the OS-4 zone is to provide for a large office building in areas that have significant highway or road visibility, therefore, encouraging uses which have a relatively high value per acre of land that will supplement the City's tax base; so based on that intention of the ordinance this site meets the requirement as it has full visibility from 12 Mile Road, from I-696 and also from Farmington Road.

Mr. Ponton explained that there is an existing 3-story office building on site which is about 210,000 square feet; the current property owner acquired the existing building in 2012 and by January 2013 some of the largest tenants within the building had vacated, including Quicken Loans, and what the property owner did at that time was make significant time and financial investments into the building including the implementation of a cafeteria and a fitness facility, as of today the building is at 40% occupied with all very high quality tenants and now a potential commitment from Google. Google, being one of the world's largest companies, would take the entire 2nd floor, approximately 90,000 square feet, and bring the building to approximately 96% overall occupancy.

Mr. Ponton stated that they are proposing a single story parking deck located at the rear of the building between the building and I-696, it will not take away any green space or green belt and it is located within the current parking lot. He noted that it is not enclosed, it is open air and there will not be permanent storage of any vehicles. He added that they are implementing 89 trees throughout the site and also some additional landscaping which gives them an opportunity to try to meet the intent of the current landscaping ordinance for this site.

Mr. Ponton explained that they have 2 requests; their first request is what the Boards overall thought is in regards to the structure being a building or not, and in a letter from Mark Stec, it states that the Planning Department does not think this structure meets the definition of a building based on the fact that it does not provide any type of shelter, the second request is for a setback variance which is needed because I-696 converges with 12 Mile Road at this site as you go east toward Orchard Lake Road, therefore creating an asymmetric side yard setback.

Attorney Morita explained that the Board has to determine their interpretation under the zoning ordinance whether or not this structure is a building, if the Board makes the determination that it is a building then they have to consider the variance for the more than 20% lot coverage, if they make the interpretation that it is not a building, then they do not need to consider that variance but still have to deal with the setback issue no matter what.

Mr. Ponton commented that the letter from the Planning Department states that it is the opinion of the Planning Office that including parking decks in the maximum occupancy for lot coverage by all buildings is contrary to the spirit and intent of the OS-4 districts. He explained that they have had numerous meetings with the Planning, Engineering and Fire Departments regarding this site and have had extensive discussions on the best location for the parking deck; overall this is the location that everybody felt was best. He stated that there are some other areas they could have moved it to.

Mr. Ponton stated that the requirement for Farmington Hills for side yard setbacks is very unique as they have done projects in many other municipalities throughout the US and have never seen an equation like this. He feels the intention of the requirement is very unique to having frontage along roadways and is very different than having frontage on a highway where you do not have direct access. He stated that the highway has a different height and varies in height as compared to the development at this location and when looking at the requirement overall, which is based on length and height divided by a certain number depending on some requirements, it is very hard to meet that requirement and it ultimately introduces some practical difficulties for lots such as theirs that are much longer and wider, opposed to deeper, based on the fact that the main contributor to the side yard setback is the length. He stated that they could build much higher and have the same number of parking spaces and have it be ok but since the requirement is based on the length that proves that they cannot meet the setback for this location.

Member Lindquist asked if there will be any loss of greenspace or trees. Mr. Ponton responded that they are proposing 89 trees overall and there are a couple of parking islands that will be eliminated which is very minimal. He stated that they have agreed with Jim Cubera of the Engineering Department, to essentially count this as new impervious coverage and take the entire area of the parking deck and treat it for storm water quality before it gets to the basin, which would be a significant upgrade to the site.

Member Lindquist commented that according to the plans it appears there is an entire row of trees that will be removed. Mr. Ponton responded that they are removing one area of greenspace and adding it back in another area.

Member Lindquist stated that it appears that as far as access to the lower level, you can drive underneath the deck from any point along the perimeter and questioned if that was accurate or if there will there be a wall in place. Mr. Ponton responded that was accurate and there will only be columns, no walls.

Chair Seelye opened the public portion of the meeting.

John Gaber, 380 N. Old Woodward, explained that he is representing five office buildings across Farmington Road to the east of this property, owned and operated by QTO Inc., QTF LLC, SRK Management and SRK Reality, and on behalf of those entities he is in front of the Board tonight to discuss this particular item. With respect to the interpretation issue they understand who the potential tenant could be for this building and that is great but they also understand that there is a certain responsibility the Board has regardless of the tenant. He stated that there are only 3 components to a building, it has to be structure, have a roof and has to be used or built for the shelter or enclosure of persons, animals, chattels or property of any kind, the definition includes tents, awnings, and vehicles, therefore, there is no need for the structure to be fully enclosed to constitute a building and they feel that

this is a building. The deck constitutes a roof for the bottom story, in inclement weather the top deck will act as a roof to provide shelter to the cars on the first floor, similar to a carport which is defined as a building under the definition in the ordinance. He stated that for those reasons they believe this structure is a building and should be construed under the ordinance as a building.

Mr. Gaber explained that with respect to the variance applications, the ordinance standards have not been met for this particular request. He discussed the following:

- With regard to the first criteria, this is an office building and has been used as such since its inception and is currently being used as an office building which is a permitted use. If the Board did not grant the variance there is nothing that they would be doing to say that they cannot use it as an office building, therefore, they do not meet that criteria.
- With regard to the second requirement, it may do substantial justice to the petitioner but that is not the case for the adjacent property owners. His clients are concerned that harm will result to them because of traffic due to the additional parking that will be installed. The Farmington Road access will create a public safety issue because there is only one access out of that site onto Farmington Road and it is directly across from the driveway of his client's properties. The intersection has access from each of the office complexes to the east and west, there is no signalization, there is a left turn lane making it a 5 lane road and you can only imagine what will happen when you insert additional traffic into this area. Upon request to see the traffic impact study for this property, they have were told one had not been done , however, there was one done for the Hamilton Hotel group which shows the 12 Mile and Farmington Road intersection is operating at a D and E. He stated that the ordinance requires 728 parking spaces, 957 already exist and they are asking to add an additional 237 spaces. He assumes they will be filled otherwise they would not be requesting them so this will continue to be a dangerous situation at that intersection and his clients are very concerned. He suggested that the plan be reviewed for some type of limitation, restriction, or improvements made to the area.
- They do not believe that the petitioner's plight is due to the unique circumstances of the property with regard to the lot coverage area, the applicant mentioned the shallow nature of the property may lend itself to having some impact relative to the setback issue but that does not apply to the lot coverage issue.
- This problem is self-created as they want to increase the density of the tenant occupancy within the building and that is their choice. The applicant can operate as an office building with amply parking currently but they are choosing not to do so and that is not due to the unique circumstances of the site, it is due to the actual tenant that they want to put in the building.

Mr. Garber stated that for all of those reasons they believe that the variance criteria have not been met. He noted that when he reviewed the Planning Commission minutes a couple of the Planning Commissioners raised a good point, that maybe this is the direction the City is moving and maybe the City should consider parking structures, however, the ordinances are currently not set up to facilitate parking structures and the City should look at the ordinances and potentially revise them. He stated that the Board should not use a strained interpretation of an ordinance or an unjustified variance to allow the applicant to use what really does not fit in the current ordinance. He suggested that if the City determines that this is appropriate, they should adjust the ordinances accordingly and since that has not been done the interpretation and variances are not merited in this case.

Member Lindquist asked Mr. Garber to point out on a map what properties he was representing.

Brian Kepes, property owner, 27600 Farmington Road, pointed out the properties that he owns. He explained that he has been at his building for 25 years and owns numerous buildings in that area.

There being no public comments, Chair Seelye closed the public portion of the meeting.

Mr. Ponton stated that in terms of the interpretation of the deck being a building, the keyword in the definition is storage and he feels that carports, garages, sheds and dog houses could all potentially store things, however, they are not storing things, and they are providing temporary parking for employees. He stated that the Planning Department agrees with that based on the letter they provided.

Mr. Ponton explained that in terms of the properties they would effect and not meeting the criteria for a public benefit, he believes that studies will show that as office space is occupied in Master Plan office areas there is a tremendous public benefit in terms of local businesses, commerce within the local area and potential job creation, therefore, that would be a public benefit.

Mr. Ponton stated that in terms of access, they have discussed this in length with the Engineering Department and have performed traffic counts on a consecutive Wednesday and Thursday in May. It was the Engineering Departments thoughts that they should wait to submit the traffic counts until they got to Engineering review but they are willing to share those results. He stated it sounds like that there is common ownership for all of the entities, potentially just one group, and he questioned how they think this site would impact them in terms of overall traffic.

Mr. Ponton explained that the proposed use is for office use and it is not changing; there are different parking requirements for different types of offices, medical, general, etc. and by adding spaces they are only looking to have some flexibility in terms of who they are allowed to have in the building opposed to only general office users.

Member Lindquist commented that the building is currently 40% occupied and with the new tenant it will go up approximately 56% and asked when Google's lease will start.

Gabe Schuchman, owner, 21 East Long Lake, explained that the building is about 40% occupied and they are currently under construction with several build outs, specifically for Google as they plan on moving in October 1, 2015.

Member Lindquist asked at 40% occupancy what percentage of parking is utilized on a daily basis. Mr. Schuchman responded that Botsford is in the building with ParaStar and DSSI is there as well. They did parking counts recently and there is about 250 spaces currently being utilized. He stated that they have 1,041 parking spaces all together, including the underground portion.

Member Lindquist questioned if it is a contingency in Googles lease to have this parking structure built or will they still move in without it. Mr. Schuchman responded that they will still move in without the deck and the thought process behind it is that they want to continue improving the property and they see that tenants are getting denser in their uses and they want to be proactive, improve the property and be ready for the future. They have invested a tremendous amount of money in this building and they want to continue to invest in this building. He added that they own other properties in the City and want to continue being good citizens of the City.

Member Lindquist stated that the indicated use by Google is for a call center and asked if it will be a 24 hour operation. Mr. Schuchman responded that it was not 24 hours and he was unsure of the exact hours, possibly from 7am-9pm.

Member Lindquist commented that if 250 spaces are being used currently during prime office hours that means that you need approximately 800 spaces for an equivalent number of employees spread out over the same space and additionally you may need those additional 350-450 spaces during different hours of the day, however, he does not understand the need for the additional 200 plus spaces. Mr. Schuchman responded that the need is for future density.

Mr. Ponton stated that the need is also dictated by the zoning ordinance and additional spaces are required for call center use, which is a permitted use.

Member Lindquist asked for clarification if the parking spaces for a call center use are different than for an office use and if the City is requiring that they have more available spaces. Mr. Ponton responded that is accurate and the requirement is one per 100, as opposed to one per 200 for general office.

Member Lindquist asked if the hours of operation veer on that as well. Mr. Schuchman responded that he did not think so. Mr. Ponton stated that it is not in the City's zoning ordinance.

Chair Seelye questioned if the City required the proponent to provide more parking because of the office use being a call center. Zoning Division Representative Randt responded yes, the applicant is proposing a call center for a portion of the office building which is typically a more intensive use and, therefore, has a higher parking demand.

Member Lindquist commented that he feels that this tortures the definition of a structure to say that this parking deck is not a structure and they count gazebos as structures and anything that has a roof and this is a roof over parking spaces that you happen to be able to park on top of, therefore, his opinion is that this is definitely a structure and something that should be considered as a structure despite the intended use or the opinion of the Planning Department.

Member Vergun commented that in terms of the text of the ordinance, as the Planner has interpreted it, he agrees that it is not a building but he stresses that perhaps the text should be revisited in the future

Attorney Morita explained that with the City's ordinances the Board is dealing with two separate definitions; the definition of a structure which is defined as anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, and the other is the definition of a building; and what is before the Board tonight is whether or not the parking structure meets the definition of a building. A building is defined as *any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosures of persons, animals, chattels or property of any kind. This shall include tents, awnings, or vehicles situated on private property and used for such purposes.* She stated that when the Board looks at the interpretation, she does not think there is debate that the parking garage itself constitutes a structure, it is whether or not this particular structure meets the definition of a building under the ordinance.

Member Vergun stated that he does not feel that having a roof, and used or built for the shelter or enclosures of persons, animals, chattels or property of any kind, can be connected with this version of a parking structure.

Member Stevens commented that he agrees with Mr. Lindquist and feels it is pretty clear that it shelters vehicles and with that being said he does think that consideration should be given in that this is unique since a parking structure is essentially being used as a parking lot, but there are circumstances and issues that are more under a building.

Member Rich commented that his view does not even go to the sheltering use, it goes to the enclosure issue because the purpose of the structure is to enclose the cars such that more cars can be placed in the same footprint, that being said, at this point he would not be prepared to give an interpretation that the parking structure is a building or even that it is not a building because different parking structures may have different configurations and potentially different uses. He stated that he would not want to give an interpretation that could be a blanket statement that would set precedence for any other parking structure that would be proposed.

Attorney Morita explained that if the Board is careful in the way that they interpret it and if they interpret it so it specifically applies to the plans that were presented to the Board and to this case in particular, then they do not have to worry about having it apply to subsequent cases unless someone comes in with the exact same design.

Member Paramesh asked if the Board decides not to interpret the structure as a building, how does that effect this request, and would they consider this based on it just being a parking structure.

Attorney Morita responded that if the Board interprets the proposed parking structure as not being a building then they do not have to consider the second variance request for the lot coverage. If the Board does interpret it as being a building, then they have to consider the second request as well as the third.

**MOTION** by Lindquist, support by Stevens, in the matter of ZBA Case 7-15-5561, to approve an interpretation that this plan qualifies as a building under the cited ordinance.

**MOTION FAILED 3-4 (Masood, Paramesh, Seelye, Vergun opposed)**

**MOTION** by Masood, support by Vergun, in the matter of ZBA Case 7-15-5561, to interpret that this parking structure is not a building because it does not provide shelter, its main purpose is to house additional parking spaces.

**MOTION CARRIED 4-3 (Rich, Lindquist, Stevens opposed)**

Member Rich questioned that given the size of the parking lot and the size of the structure, is it possible to change the orientation of the parking structure slightly so that the variance is not needed. Mr. Ponton responded that they spent a lot of time looking at that and based on the City's criteria for parking spaces and drive isle width dimensions, moving it creates unsafe circulation overall.

Chair Seelye asked if it would be a better fit if the parking structure were moved all the way west of the property line. Mr. Ponton responded that it would fit in better but if you imagine the overall garage shifting to this portion of the property it would force them to request a less intense variance but still require the variance for a side yard setback of about 10 feet. He explained that the reason they chose this area was because there are a number of existing easements and things of that nature that are in the west area of the property and based on the discussions with Planning, Engineering and Fire Departments, they have recommended that the deck be located as proposed.

Mr. Ponton stated that they submitted an application to the Planning Commission and were tabled based on a recommendation from the Planning Consultant, Mr. Arroyo. He suggested that they move the structure to the west about 20 feet from Farmington Road, so they pulled the application, revised it and met with the City again for resubmittal.

Member Paramesh asked if they have considered adding another level and retaining the required setbacks. Mr. Ponton responded that because of the ordinance requirements, they would need 5 levels in order to get the number of spaces needed based on the how much space is used for ramp area.

Mr. Schuchman stated that the other reason was because if they go too vertical, it would not look as attractive to the neighboring properties or to the tenants of the building. He added that they are investing a lot of money in the parking deck to make it as nice as possible.

Member Rich commented that the applicant indicated that right now they did not need the full number of spaces the parking structure would provide, that the idea for the structure was to allow for future growth so right now he does not know if they need the variance because they do not need the full size of the structure, with that being said, if the plan is for future growth he certainly would not approve or require them to build a smaller structure with the need to try to add on later, therefore he is declining to make a motion due to the conflicting positions.

Mr. Schuchman stated that the biggest challenge they face as a building owner is the ability to predict the future. They have a tenant coming in and there is a strong possibility that they will stay in the building and grow in the building long term and with the building at 40% occupancy currently, while the entire lot is not being utilized, it gives them the opportunity to build this structure. Once the building is at 95% occupied they will not be able to block off 300 plus parking spaces to build the deck. He stated that at 40% they do not need the deck but they can very well predict that in six months they will and now is the time to make the investment.

**MOTION** by Masood, support by Vergun, in the matter of ZBA Case 7-15-5561, to GRANT the petitioner's request for a 20 foot variance to the required 66 foot southern setback from the proposed right of way of I-696; because the petitioner did demonstrate practical difficulties exist in this case in that he set forth facts which show that:

1. Compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose in a business zone.
2. That granting the variance requested would do substantial justice to the petitioner as well as to other property owners in the district.
3. That the petitioner's plight is due to the unique circumstances of the property; as it is flanked by I-696 and Farmington Road and the layout and symmetry of the property is as is and the existing structure is there and cannot be moved.
4. That the problem is not self-created.

**MOTION CARRIED 6-1 (Lindquist opposed)**

**APPROVAL OF JUNE 9, 2015 MINUTES**

**MOTION** by Rich, support by Vergun, to approve the Zoning Board of Appeals meeting minutes of June 9, 2015, as submitted.

**MOTION CARRIED 6-0-1 (Masood abstained)**

**PUBLIC QUESTIONS AND COMMENTS**

There were no public comments.

Zoning Division Supervisor Randt introduced the new Zoning Board of Appeals Alternate Member, William Barnette, who was appointed at the City Council meeting on Monday, July 13, 2015.

**ADJOURNMENT**

**MOTION** by Vergun, support by Masood, to adjourn the meeting at 11:08p.m.

**MOTION CARRIED 7-0**

Respectfully submitted,

James Stevens, Secretary  
Zoning Board of Appeals

/ceh