

**CHARTER TOWNSHIP OF CANTON
ZONING BOARD OF APPEALS
November 10, 2022**

A meeting of the Zoning Board of Appeals of the Charter Township of Canton was held Thursday, November 10, 2022, at the Township Administration Building located at 1150 S. Canton Center Road, Canton Township, Michigan 48188.

John Badeen called the meeting to order at 7:00 pm and led the Pledge of Allegiance to the Flag.

ROLL CALL:

Members Present: John Badeen, Clarence Lee, Alan Okon, Mark Quimby, Aaron Tassell

Staff Present: Patrick Sloan

ACCEPTANCE OF AGENDA FOR November 10, 2022

Motion by Mark Quimby, supported by Alan Okon to accept the agenda.

Ayes: All

Nays: None

APPROVAL OF MINUTES FOR THE October 13, 2022 MEETING

John Badeen noted that we should change the word “appoint” to “nominate.”

“Motion by Mark Quimby, supported by Alan Okon to *nominate* John Badeen as Chairperson for tonight’s meeting.”

Motion by Mark Quimby, supported by Clarence Lee to approve the minutes as amended.

Ayes: All

Nays: None

GENERAL CALENDAR

1. Application 074-ZBA-7520. Applicant, Cherry Hill Village Homeowner’s Association, DBA CHV II, for property located at 389-427 Filmore St., which is located on the south side of Filmore St. between the north side of Hancock St. and the west side of Roosevelt St. (Parcel ID 074-03-0000-000), Zoning is Cherry Hill Village Overlay District with underlying R-1, Single Family Residential district. Requesting variances from the following sections of the Zoning Ordinance: 1) Section 4.01(B)(4), Parking lot not accessed by aisle or driveway; 2) Section 4.01(D)(4), Parking backing onto street/alley; and 3) Section 6.03(A)(6), required 25’ setback between residential and parking.

Leland Ropp of 262 Constitution stated the most of what he has to say will be in regard to this agenda item and the 2nd agenda item. When development ceased in Cherry Hill Village (CHV) #2 for over a six-year period, two (2) lots reverted to Cherry Hill Village No. 2 under the master deed. Both of those lots were designed to have 10-unit structures built on them with single family garages. Once it reverted to CHV #2 the question became: what do they do with those lots? Over his 12 years on the board, they have had many complaints about lack of parking. A rough survey would show the average parking for houses and condos in that area would be about two (2) parking units per structure. In some parts of Cherry Hill Village, some units have 4 or more cars to park. He stated that they approached Canton Township about putting in gravel lots, but understandably Canton said “no,” and that they have to be constructed to code. Three to four years ago it would cost about \$7,000 per parking space. The plan is to subdivide each of those lots, reserve about a third of the lots for parking and then hopefully sell off the other portions for single family houses on the southernmost lot (Agenda Item # 1) and possibly a multi-unit structure on the other lot (Agenda Item #2). What they are requesting is drive-in parking spaces, about six to seven on

each lot. The north lot (Agenda Item # 2) comes off of an alley. The other lot (Agenda Item #1) comes off of Filmore Street.

Patrick Sloan, Canton Township Community Planner, read from the report of Planning Consultant, Vidya Krishnan of McKenna dated November 1st, 2022. There are two (2) variances being requested: The first is off-street parking and loading requirements to construct the parking spaces directly off of Filmore Street when Section 4.01(B)(4) of the Zoning Ordinance states that each off-street parking space shall open directly onto an aisle or driveway of sufficient width and design as to provide safe and efficient access to or from a public street or alley. Since the proposed spaces back up directly onto a street, it requires a variance application from Section 4.01(B)(4) of the Zoning Ordinance. The second variance is similar but states that there is a requirement to construct the parking spaces with no defined driveway or aisle when the Section 4.01(D)(4) of the Zoning Ordinance states that all spaces shall be provided with adequate access by means of clearly defined maneuvering lanes and driveways. In this case it is neither, it would be directly off of a street. Mr. Sloan continued to say that McKenna has reviewed the findings pursuant to Section 27.05(D)(1) of the Zoning Ordinance and their recommendation is for approval of these variances. McKenna states that the variance request is unusual in that it is not to provide benefit to a single individual or entity but is to the benefit of all residents in an area. Based on the information provided and subject to any additional comments received at the public hearing, it is McKenna's recommendation that the Zoning Board of Appeals **approve** the requested variances for Cherry Hill Village Homeowners Association to construct a parking lot along Filmore Street as shown. The recommendation is based on the findings of fact as noted in that November 1st letter.

Mark Quimby said that there is a reference that this wouldn't impede the movement of traffic. He asked if there was a traffic review or study done?

Patrick Sloan said that there wasn't a traffic study done. However, with the streets being narrower and the speeds much slower than some other subdivisions, cars will naturally go slower in this area. That was some of the basis of allowing it in that specific area. He continued to say that the Cherry Hill Village has a development plan and a master deed that was recorded many years ago with these vacant lots. That part applicable to these lots would have expired and the lots revert, so they are no longer single-family development lots. If the Association wants to sell them for development in addition to getting a variance, they will have to go through the condominium process to create those units. It would be a process with both the Planning Commission and the Township Board to create two new lots in the condominium.

A member asked if there is a vote from the homeowner associations.

Leland Ropp said absolutely. There has to be a vote of two-thirds of all the owners of Cherry Hill Village #2.

Motion by Mark Quimby supported by Aaron Tassel, to open the Public Hearing at 7:14pm

Ayes: All

Nays: None

Ethan Payton resides at 439 Filmore Street, directly south of the lot in question. He said that it was stated that this would require a vote of the members of Cherry Hill Village #2, which is the condo owners. This vote does not include Cherry Hill Village #1 members which is the single-family home members and he feels this is an issue. He confirmed that the speeds are low in this area and there is high visibility. He said that since the streets are narrow and there are cars parked along the side of the road, it could be the case

that when backing out of the proposed parking spots they could back into those parked cars. He has not heard any positive comments in regard to this change.

Clarence Lee asked if these parking spots are open to the public, the cars that park on the street could potentially park in these spots, and this could relieve a parking issue.

Ethan Payton said that the parking issue seems to be more kiddy-corner to this area. He said that having additional parking would be a benefit to the neighborhood, but not sure if this location would help or not. Building an additional two houses there could create more cars to fill these particular parking spots.

Mark Quimby asked what type of negative comments Mr. Payton has heard.

Ethan Payton said that he hears arguments that new structures would take away green space where kids play and people walk their dogs.

Mark Quimby said that the issue in front of the ZBA is the variance for the side street parking. It looks like the street is 50 feet wide. Is there a safety issue with cars backing out onto Filmore?

John Badeen said that what is before them is the requested variances to allow this proposed development as applied to the standards within the statute and the Zoning Ordinance. Are there any unique circumstances? Is there a hardship?

Ethan Payton said that if parking is the issue, then why not make a larger parking lot in this area with a lot more parking?

Rebecca Adams resides at 50165 Harding Unit 243, which is just north of the second lot (i.e., application 074-ZBA-7567). She provided written comments to the ZBA via email earlier. She is in opposition to this change specifically to adding the parking directly off the alley. It fails to provide a safe and efficient access. It will increase congestion on a narrow alley. The alley is used by many delivery trucks, maintenance vehicles, and owners of both condos and single-family homes that can only access their garages. She said that the condos on the south side of the alley do not have a street in front of their units. Their sole motor vehicle access to their homes is this alley. She would also like to know how this would impact snow removal and Public Works. Typically, the snow gets dumped right where this parking is going to be. She feels that all of these reasons would impact safety.

Motion by Clarence Lee, supported by Mark Quimby to close the public hearing at 7:25pm

Ayes: All

Nays: None

John Badeen said that what is technically before them tonight is a set of statutory standards about whether the property owners requested uses meet those standards. Many of the concerns the public is raising are valid and those are things that would be brought up at the time the homeowners association gets its vote, possibly even brought up to the Planning Commission once the developments make it down to that level. What is before us today is whether or not this particular proposal meets the requirements for a variance under Michigan law and the Zoning Ordinance. He feels that they do, but that these spots should be limited for public use so that there can't be restrictions and that the variance should be subject to proof to the Department of proper HOA approval.

Mark Quimby would tend to agree with John Badeen on this one. He may have a few concerns with the Agenda # 2.

Alan Okon also agreed with John Badeen and likes that if they approve this, then it gives the Association the opportunity to go to their members to vote on this.

Badeen asked if the motion includes HOA approval and that the parking spaces be public, and Quimby stated yes.

Motion by Mark Quimby to approve the variances from Section 4.01(B)(4) and Section 4.01(D)(4) of the Zoning Ordinance as presented by the applicant, pending an HOA approval, based on the recommendation and findings of fact in Section 27.05(D)(1) of the Zoning Ordinance stated by McKenna in its letter.

Supported by Alan Okon.

Ayes: All

Nays: None

Variance granted.

2. Application 074-ZBA-7567. Applicant, Cherry Hill Village Homeowner's Association, DBA CHV II, for property located at 268-318 Filmore St., which is located north of Filmore St., and west of Roosevelt St. (Parcel ID 074-03-0000-000), Zoning is Cherry Hill Village Overlay District with underlying R-1, Single Family Residential district. Requesting variances from the following sections of the Zoning Ordinance: 1) Section 4.01(B)(4), Parking lot not accessed by aisle or driveway; 2) Section 4.01(D)(4), Parking backing onto street/alley; and 3) Section 6.03(A)(6), required 25' setback between residential and parking.

Leland Ropp of 362 Constitution was representing the Cherry Hill Village Homeowner's Association. He wanted to make a few additional comments. He stated that this processed has been discussed for many years. He is now hearing that the community members now like having the little green spaces; however, there are two (2) park areas about a block to a block-and-a-half away that have large wide open spaces. For many years, the spaces in question were just dirt, weeds, and rubble. Because the association didn't have money for this, many people volunteered their time to rake out the topsoil and place grass seed to try to make it look nicer. Recently, the major concern is the how the noise and construction vehicles of any new units will affect the homeowners. He said that tonight is the first-time traffic issues have even come up.

Patrick Sloan, Canton Township Community Planner, read from the report of Planning Consultant, Vidya Krishnan of McKenna dated November 1st, 2022. There are three (3) variance requests. The first variance is from Section 4.01(B)(4) of the Zoning Ordinance to construct the parking spaces directly off the alley when this section states that each off-street parking space shall open directly onto an aisle or driveway of sufficient width and design as to provide safe and efficient access to or from a public street or alley in a manner that will least interfere with the smooth flow of traffic. The second variance is from Section 4.01(D)(4) of the Zoning Ordinance to construct the parking spaces with no defined driveway or aisle when the Zoning Ordinance states that all spaces shall be provided with adequate access by means of clearly defined maneuvering lanes and driveways. The third variance is from Section 6.03(A)(6) of the Zoning Ordinance which states that parking lots and parking lot access drives shall not be located closer than 25 feet to a wall of any residential structure which contains windows or doors, nor closer than 7 feet to a wall of any residential structure which does not contain openings. Sloan said that the proposed

structure on the plan is less than 25 feet from the proposed parking area. If the proposed parking area is approved for both the variance application and the site plan application, then any future development of a house less than 25 feet would be based on the variance request in the application. This parking lot would back onto an alley and not a road the width of Filmore Street. Referencing the previous application, the right-of-way width of Filmore is 50 feet, but the actual pavement width might be closer to 23 or 24 feet which allows for parking on one side and a narrow drive for vehicles. In this case, usually one vehicle passes at a time if a vehicle is parked. The proposal in the subject application is onto an alley which is slightly narrower. Sloan said the alley may be 18 feet wide, but along this alley there are homes both to the north and to the west with garages that back into the alley. Essentially, there would be a similar condition with backing out of the cars from the proposed parking lot on the subject site. They'll back out northward into the alley similar to the garages of maybe 10 or 12 dwelling units north and farther west along this alleyway. Mr. Sloan noted that also along the alley speeds tend to be even lower than they are along streets like Filmore Street. Based on those findings, the Consultants with McKenna recommend approval. They've made findings according to Section 27.05 of the Zoning Ordinance and they state that the variance request is not to provide benefit to a single individual or entity but is to the benefit of all residents in an area. Based on the information provided and subject to any additional comments received at the public hearing, it is our recommendation that the Zoning Board of Appeals **approve** the requested variances for Cherry Hill Village Homeowners Association to construct a parking lot on 268-318 Filmore Street as shown on the plans. The recommendation is based on the seven (7) finding of fact that are listed in the McKenna letter.

Mark Quimby wanted to verify that the homes that back out onto the alley would have the same amount of space to back out as those backing out of the proposed parking spaces. Patrick Sloan said that is correct. There is no parallel parking along that alleyway. He added that there is on-street parking in front of these houses so they could also park there.

Motion by Clarence Lee, supported by Mark Quimby to open the public hearing at 7:35 pm.

Ayes: All

Nays: None

John Badeen noted that an email from Rebecca Adams has been appended into the record.

Rebecca Adams resides at 50165 Harding St, Unit 243. She wanted to note that her previous comments in application 074-ZBA-7520 apply to this item also. She wanted to add that she is part of Cherry Hill Village 1 Homeowners Association so she will not have a vote in this. Any of the single-family homeowners in her association do not have a vote. Her house has a garage that backs onto the alley where these parking spots will be. She says that for over 5 years she has never had an issue with parking. There is always parking available in front of her home.

Motion by Clarence Lee, supported by Mark Quimby to close the public hearing at 7:37pm.

Ayes: All

Nays: None

Mark Quimby said that he originally had a concern with the backing onto the narrow alleyway, but since it would be the same as the homes with the short driveways, and because there is a recommendation to support from McKenna, he will also support it.

John Badeen says that he feels the same about this variance request as the previous case (074-ZBA-7520) as long as the parking stays public and has HOA Approval.

Mark Quimby wanted to make sure that those terms were added to his first motion. John Badeen said that yes it was added.

Motion by Mark Quimby to approve the variances from Section 4.01(B)(4), Section 4.01(D)(4), and Section 6.03(A)(6) of the Zoning Ordinance as presented by the applicant, subject to the parking being public and HOA approval, based on the recommendation and findings of fact in Section 27.05(D)(1) of the Zoning Ordinance stated by McKenna in its letter.

Supported by Clarence Lee

Ayes: All

Nays: None

Variances are granted.

3. Application 058-ZBA-7575. Applicant, AT&T Mobility for property located at 44505 Ford Rd. on the south side of Ford Rd., west of Sheldon Rd. (Parcel ID # 058-99-0001-016), Zoning is MRD, Mid-Rise Development in the Central Business District Overlay. Requesting a variance from the Zoning Ordinance Section 2.26, Screening of roof mounted mechanical units.

Bryan Monaghan is representative of AT&T, located at 929 W. University, Suite 102 in Rochester, MI 48307. He referenced Exhibit 1 in his packet what's known as radio frequency maps. AT&T has an existing large gap in its coverage in the Canton Township area. It's approximately a mile-and-a-half to two miles wide and is centered to the north of the intersection of Ford and Sheldon roads. They came into community to see what they could do to remedy that gap and stay consistent with the Canton Township Zoning Ordinance. The Ordinance strongly encourages collocation on either existing towers or other tall structures such as the Canton Place Senior Building Center which is where the proposal is. It's an 80', eight story tall Senior Living Community. They looked for a tall structure and found the Canton Place. It is permitted use under the Zoning Ordinance. The only issue is the screening issue. There are three pieces of equipment that will be placed on top of the roof. They will be leasing an 11' x 25' area on the rooftop for these three pieces of equipment. The three pieces of equipment are a very small generator, similar to a whole house generator. There are two equipment racks. They are both 3' x 3' in width dimension. One is six feet tall and one is three feet tall. They are not talking about screening the antennas there. It's just the equipment that's going to be placed on the roof. They can't put a traditional equipment shelter or wall because the building is maxed out in terms of potential wind loading. Exhibit 4 in our letter is a structural opinion letter from GPD group and a Michigan licensed and registered professional structural engineer indicating that the current loading on the building would be far exceeded by any type of traditional screening that could put on the roof via an equipment shelter or wall. To add screening, they would need to do a complete retrofit of the interior portion of the building, including shoring up all of the load-bearing walls and connecting walls. The cost of doing that would be in excess of \$250,000 and relocate two floors of elderly residents from their existing homes in order to accommodate this. They went to the Planning Division and they suggested that we put something called a metallic luster reflective tape. This is a metallic luster film wrap that literally sticks to the equipment itself so there's absolutely no additional wind impact. The actual screening requirement of Section 2.26 of the Zoning Ordinance is not specific as to what type of screening is required, it simply indicates that there should be some screening to mask the equipment shelter from the view of adjacent properties and or nearby roadways. When they proposed this metallic screening to the Planning Division, Planning did not believe that this type of metallic screening complied with the screening requirement of Section 2.26 even though the provision doesn't specify what kind of screening is required. He is requesting one of two variances: Either a variance just eliminating the need to screen the equipment shelters at all; or, alternatively, they would like a variance from the

Planning Division's decision that the metallic screening is not sufficient. They are more than happy to cover everything up there in this metallic screening. They believe that the request meets every one of the standards of 27.05(D) of the Zoning Ordinance.

Clarence Lee showed a picture from the packet and asked if what he was pointing at were antennas. Bryan Monaghan said that, yes, there are existing antenna on the building for two other carriers. Verizon and T-Mobile are already up there and they don't have screening on any of their material because they put that up there before the screening requirement was instituted. He said that they are going to be adding three antenna arrays on the corners and adding the three cabinets he previously discussed. The antennas would be exempt from the screening requirements because they're not the accompanying equipment.

A ZBA member asked what the height of the parapet is. Bryan Monaghan said that the building is 80 feet tall, he would guess it's probably an additional 18 to 20 feet tall on top of that. They will be above the parapet by 3 feet. Those are the antenna which are a permitted use.

Clarence Lee questioned what will be visible from adjacent properties and the road.

Bryan Monaghan thinks it's possible that you will be able to see the very top of the 6' tall rack of equipment.

Mark Quimby asked to clarify that the variance is not for the antennas, it's the equipment platforms?

Bryan Monaghan said that the Section 2.26 requires shielding only for the accompanying equipment.

Mark Quimby asked why couldn't they move the equipment to the more center part of the roof.

Anthony Zolnierzak, project representative, with Black and Veach, of 123 Cloverwalk Drive, Conway, South Carolina stated that he had looked at a few different locations for this equipment platform but there are HVAC vents there preventing it and other locations and it would not pass structurally.

Alan Okon asked if these new antennas will be lower than the existing ones that are currently.

Bryan Monaghan said that is correct. They will be lower than what is seen in that picture.

Patrick Sloan, Community Planner, stated that he received a letter dated November 1st, 2022 from the Township Planning Consultants, McKenna. The variance is from Sub-section 2.26 of the Zoning Ordinance. Screening of roof-mounted mechanical equipment; to provide no screening for the elevated equipment platform on the roof, when the Zoning Ordinance states that *all roof-mounted mechanical units shall be screened from view from adjacent property and/or public rights-of-way. Screening shall be designed as an integral part of the architecture of the building (such as parapet extensions) or compatible with the design and building materials of the building.* He said that the antennas are not subject to that. He showed the picture submitted by the applicant with the images superimposed on the building. It is mostly seen from the back of the building. Patrick Sloan says they would not recommend using the film that is proposed by the applicant. He would recommend either that the Planning Consultants recommendation be upheld or if there's a variance granted from that screening requirement. He wouldn't recommend film because it's not something that's been used in the township and the Zoning Ordinance states that it has to be an integral part of the structure or compatible with the design and building materials. The film has been untested so if it's put on there and it looks worse, then we're stuck with it. If the film was allowed in the Zoning Ordinance, it could set a precedent for other mechanical equipment

and it could dramatically change the visual character of not just Ford Road corridor but in a lot of areas of the township. Sloan said that he does not believe that the film is compliant with this section. The McKenna letter notes the findings of Section 27.05(D) of the Zoning Ordinance. One of the items that is noted is whether there can be a screen attached to the cabinet or equipment itself. If it's six feet high, it's exposed to wind so that equipment is subject to a wind load and the question was whether something could be attached directly to that equipment so instead of seeing a cabinet you could have something that's architecturally compatible installed onto that equipment itself. The consultant's recommendation is to either table the request to allow the applicant to submit additional information to demonstrate why the proposed equipment can handle the wind load while an attached screen cannot. Also, McKenna requested a detailed breakdown of the \$250,000 estimate as stated by the applicant for making the modifications to the roof and unit below for installation of a screen. Alternatively, McKenna recommends a denial of the requested variance for the for the cabinet equipment (not antennas). The consultant's recommendation for denial is based on 10 different findings of fact that are listed in the November 1st letter.

Mark Quimby asked about how the financial burden is not a reason for a variance. The Township is saying that they want the antennas to be collocated, so they're basically saying put it on the structure and the structure doesn't have the structural load in its current capacity. That seems like it's more than just a financial burden, and it will be inconvenience to the residents. He also asked Sloan to explain the finding of fact # 10, issue being self-created.

John Badeen says that the Building Division has often said that money is not considered a practical difficulty.

Sloan said that usually it's self-created if it's something that the applicant does to initiate the need for a variance. In this case, they've opted to locate on top of the roof versus other areas where they could locate in other available zoning districts or poles or other installations. They're proposing a new installation. It's an action that they took and as a result of them locating the equipment where they do without the screen, it's an issue that they create.

Mark Quimby said that it feels a little subjective to him.

Sloan said that it is subjective. When the building was created, it wasn't built with the idea that there would be wireless facilities on top. So, now that they're putting cell facilities on them, it's a self-created issue where they have to structurally prepare the roof if they want to do the collocation because there's a chance that the owner of the building is getting revenue by leasing the space. So, there's an economic interest for the building owner. We do allow collocations and we do encourage collocations; however, when a co-location is proposed without the required screening, we have to review whether it's a practical difficulty.

Aaron Tassel asked how high the equipment screening must be.

John Badeen said the purpose is to screen it from neighboring properties and the road, so the screening height depends on the equipment.

Mark Quimby asked if each piece of equipment would have own screen or one screen blocking all.

Patrick Sloan said that the building is 8 stories high, so they just have to screen the equipment somehow so that it can't be seen from the road.

John Badeen asked the applicant his opinion on the suggestion by the Planning Division and the consultant to do some type of attached screen and how that affects the wind shear.

Bryan Monaghan said that that's exactly what they're proposing with the film. The film literally attaches to the equipment. The roof won't tolerate a traditional brick fascia. The wind loading requirements of the roof won't tolerate it. This film screening also comes in brick film. He said that the visible area is about the top two feet of the one equipment shelter which is six feet tall. You will not even see the three-foot high ones. In regard to the finding of it being self-created, he stated that if they would have requested a new tower about a half a mile from this building they likely would have been asked by the Township to co-located on an existing facility. No community wants a tower if they don't have to have one.

John Badeen said what the Planning Division is asking is that if you can put a film on the equipment, then why can't a structure be attached to the equipment?

Bryan Monaghan said that based on the letter from the structural engineer, the roof won't tolerate any additional items that would increase wind load without retrofitting the building itself. If the ZBA is leaning in any direction to deny, they would absolutely take the table alternative to provide the additional information.

Mark Quimby asked Sloan what the problem with the film screen is.

Sloan said that some of the problem is the unknown of what it will look like once installed. For a film like this, it's not something that we have in the township and it's not really something they have visually tested. If the ZBA were to approve a variance and wanted the film as a condition, he would probably not recommend including that film as a condition without more information. We don't have the information to say that the film screening satisfies either the Zoning Ordinance requirement or a condition.

Motion by Alan Okon supported by Clarence Lee, to open the Public Hearing at 8:10pm.

Ayes: All

Nays: None

No one from the public wished to speak.

Motion by Alan Okon, supported by Aaron Tassel to close the public hearing at 8:10pm.

Ayes: All

Nays: None

John Badeen said that there are two requests in front of the ZBA now and he thinks procedurally it's very important that they don't set some type of unwanted precedent here. The first is to eliminate the screen. The Planning Division interprets the screen to be an independent freestanding structure that surrounds the box or whatever is on the roof. The second request is to say that the Planning Division is wrong in its interpretation of Section 2.26 of the Zoning Ordinance and that putting this film on it constitutes a screen. Personally, he is fine with a film but he would grant the variance requested (request #1) so they don't need a screen as the Township interprets it, subject to putting a film design of which the Planning Division approves.

Alan Okon said that it's one piece of 6-foot-high equipment that is 80 feet in the air, so it's about two feet that we might see from the ground level. Their antennas don't have to be screened. Their antennas are actually going to be lower than the Verizon and the T-Mobile ones. Okon stated that the co-location is a

benefit to the community because Canton keeps getting larger and larger in population, and this is definitely a need for the community. He has no problem with eliminating the screen requirement on this application.

Clarence Lee stated that he doesn't like the idea of the film screen. It is a tall building and there's already so much equipment on there.

Mark Quimby said that looking at Appendix 2, they showed what the building would look like with the new equipment. It really doesn't look any different than what's already there. He doesn't want to make a precedent saying that screening is required, but in this case, you can't tell the difference between the equipment that is already there and the top of this new equipment.

John Badeen said that he would entertain a motion to grant the variance with a film requirement subject to the Planning Division's approval.

Mark Quimby asked how does that work if we grant them variance but then we say they need the Planning Commission's approval?

John Badeen said that if they deny it then they can appeal that denial and they come to the Zoning Board of Appeals on an appeal basis which is their alternative relief is appealing what the definition of the screen requirement is. They need to make sure that the motion includes specific findings of fact that are unique to this building and explore the hardship so that we aren't setting an inappropriate precedent.

Sloan said the motion could include the findings that if it's not visually impactful based on the ZBA's discussion, then the equipment would not warrant any additional screening just because of how far it is from the road or how high it is.

Motion by Mark Quimby to grant a variance from Section 2.26 of the Zoning Ordinance to not requiring a screen for the proposed equipment on the building due to the equipment being indistinguishable from other equipment already on the building and lack of structural support for screening.

Supported by Alan Okon

John Badeen verified that there was no mention of film being added in the motion.

Mark Quimby stated that he sees no value in the film in this case and left it out of the motion.

Motion on the floor.

Ayes: All

Nays: None

Variance granted.

4. Application 057-ZBA-7581. Applicant, William E. Wisniewski for property located at 43608 Laurelwood Ct., located south of Ford Rd between Sheldon Rd. and Morton Taylor Rd. (Parcel ID 057-02-0124-000), Zoning is R-5, Single Family Residential. Requesting variances from the following sections of the Code of Ordinances: 1) Section 78-129(h), Fence located in a front yard setback; and 2) Section 78-131(4)(b), Fence on a corner lot located in a front yard setback.

William Wisniewski of 43608 Laurelwood Ct is seeking approval to replace an existing fence.

John Badeen asked if it will be using the same current footprint that the existing fence has.

William Wisniewski said yes.

Mark Quimby asked if the fence is placed right along the sidewalk.

William Wisniewski said it is about 10" off the sidewalk.

Patrick Sloan, Canton Township Community Planner, stated that they received a report dated November 1st from the Planning Consultants, McKenna. There are two (2) different variances requested because there are two (2) different sections of the Fence Ordinance that state that fences can't be located in a front yard setback and that corner lots can't have fences in the front yard setback area. The consultants recommend that the ZBA take one of the following actions. 1. Approve the proposed 4' tall ornamental fence to be placed at a setback of 5 feet from the lot line along Darwin Drive; or 2. Table the request to allow the Planning Commission the opportunity to amend the Fence Ordinance to allow for fences as proposed by the applicant or slightly modified.

Patrick Sloan said that at the Planning Commission meeting next week, they be looking at some preliminary text for proposed amendments to the fence standards. Final text has not been drafted yet, and it's going to be an evolving process that he expects will take two or more Planning Commission meetings to go through a lot of the standards. Most of the issues that we have in the fence ordinance are related to corner lot fences, many of which are corner lot fences adjacent to major roads. This one along Darwin Drive is not on a major road like Sheldon Rd. or Morton Taylor Rd. or Cherry Hill Rd., so there is a lot of residential traffic going through it. One of the benefits that's proposed in the application is that it is a four-foot-high fence. It is decorative and roughly 50 percent open, so it's in fitting with the character of that neighborhood. It is not like a six-foot-high opaque fence that would be a fortress-like structure. It also doesn't extend into the front yard on Laurelwood. The recommendation is based on seven findings of fact from our planning consultant that's on page five of their report. Their only recommendation is that it'd be placed at a setback of five feet from the lot line along Darwin Drive. The first recommendation is based on getting a little bit of spacing from Darwin Drive. That's farther into the property than where the current fence is, so that would be the only condition of approval recommended by our consultant. Otherwise, our consultant recommends tabling the application pending the outcome of a fence ordinance amendment. There are a couple of variance applications that were previously tabled pending the outcome of the ordinance.

Clarence Lee wanted to verify that the recommendation is to move the fence in 5 feet from the sidewalk.

Mark Quimby said yes, that's what the recommendation states. He is struggling with that recommendation since nowhere in the findings of fact was that mentioned.

Patrick Sloan said that in the absence of having anything in the Ordinance, the recommendation is a way of having something spaced from the sidewalk so there was some distance. In looking at a Google Street View, there is a little bit of green space right now about a foot between the sidewalk and the fence line because that one foot of green space is probably still technically the public right-of-way.

Motion by Clarence Lee, Supported by Mark Quimby, to open the Public Hearing at 8:25pm.

Ayes: All

Nays: None

No one from the public wished to speak.

Motion by Mark Quimby, supported by Clarence Lee to close the public hearing at 8:26pm.

Ayes: All

Nays: None

Clarence Lee agreed with Quimby on this and does not see why they would move the fence in five (5) feet and take away some of their yard area.

Motion by Mark Quimby, to approve variances from Section 78-129(h) and Section 78-131(4)(b) of the Code of Ordinance for the proposed four-foot tall ornamental fence to be placed in the same location that it's currently located in per the submitted plans, based on the recommendation and findings of fact in Section 27.05(D)(1) of the Zoning Ordinance stated by McKenna in its letter.

Supported by Alan Okon.

Ayes: All

Nays: None

Variance granted.

5. Applicant, Motor City Electric Utilities Co. for property located at 5390 Belleville Rd. on the west side of Belleville Rd. between Michigan Ave. and Van Born Rd. (Parcel IDs 132-01-0027-000, 132-01-0035-000, 132-01-0036-000, 132-01-0037-000, 132-01-0038-000, 132-01-0039-000, 132-01-0040-000, 132-01-0041-000, and 132-01-0035-000), Zoning LI, Light Industrial. Requesting variances from the following sections of the Zoning Ordinance: 1) Section 4.01(D)(5), paving requirements; 2) Section 22.03(A)(3) fencing requirement and outdoor storage setbacks; 3) Section 26.04, outdoor storage setbacks.

Michael Vogt, attorney from Clark Hill law firm, office address of 151 South Old Woodford, Birmingham, MI 48009, took the podium on behalf of Motor City Electrics Utilities Co.

Aaron Tassell disclosed that his company DiMaria Building Company does contract work from time to time with Motor City Electric.

John Badeen stated that he thinks it would be best if Aaron Tassell would recuse and step down from the panel.

Aaron Tassell did recuse himself and stepped down due to financial dealings with the applicant. At this time, there were 4 voting members for this case.

Michael Vogt stated that he also had Darren Ferguson, Vice President of Motor City Electric and engineer, Bob Lind from Urban Land Planning present to help answer any questions. He presented a slide presentation. Motor City Electric is a Wayne County based company that's grown a lot over the last several decades and does a lot of service here in Canton. This specific property would be used as a service hub for their trucks and equipment because they are a third-party contractor for DTE. This site was

previously an RV storage and sales facility. It was a non-conforming use that was allowed to continue legally, but when that use stopped our use came in. Our use is permitted by right as a contractor's establishment. He said that tonight we are talking about three variances which are all straightforward. At this facility, there are very low intensity operations for something that's zoned Light Industrial. They'll have about 22 service vehicles parked here. There will be a small office building that exists now and employee parking. Aside from truck parking, there will be equipment storage like the materials you'd see on these trucks like cabling and conduit. It is a very long, narrow property. The adjacent property to the south is Midwest Auto Yard. To the north is some kind of construction or landscaping business. To the west, this entire parcel is owned by Walmart. It is entirely landlocked and undeveloped and forested except for the top. They have reached out to all three of those neighbors and provided them with copies of our variance requests. Motor City Electric will be paving a large portion of the currently gravel lot. we have the two curb cuts where the vehicles will enter and leave. The only area they want to leave unpaved is the infield which is the inside of this access loop. They plan on storing equipment, some trailers, and trucks overnight. In this area that they're asking to keep unpaved, in order to mitigate any concerns about dust or gravel being dragged off the site, they're going to implement a chloride wash to keep the dust down and then they're going to add asphalt millings which keeps the gravel from leaving the area and keeps the dust down. Michael Vogt continued to say that the second variance is straightforward. When you have an outdoor contractor's facility with outdoor storage, the Zoning Ordinance states that you cannot store within the side yard setback and rear yard setback. Here, the setback requirements are 15 feet and 20 feet. The south side won't be an issue because nothing will be stored in that area. Along the west, they're requesting a variance to be able to store as the RVs did for however long they were there. Along the western border it's just an undeveloped landlocked parcel that Walmart owns and has approved of them storing in the rear yard setback along the west side. To the north, they just want to be able to store along the property line just like that owner actually does to the north on that industrial-commercial property. The owner to the north has signed for them to store materials in the setbacks as well. Michael Vogt then stated that the third variance gets a little bit more complicated. He is not sure that after reading the McKenna reports that McKenna fully reviewed what Motor City Electric was proposing and offering with respect to the screening. Motor City Electric is not requesting to leave the noted area the chain link fence or even just a chain link fence with vinyl slats. They have about 55 eight-foot-tall evergreens staggered providing a lot of screening in this area. The variance request is not to have to put up a full opaque privacy fence around the entire length of the facility and instead it's that kind of fencing in the middle and then vegetation on each side. On the west, we have privacy fence in there for safety and security reasons but screening serves no purpose or value on that undeveloped western track. He showed three signed letters from the surrounding properties in support.

Patrick Sloan said that the first variance is for parking within the infield area. The Zoning Ordinance requires that parking surfaces must have a hard surface like concrete or an asphalt surface. That area on the infield is an unpaved surface to store vehicles and other mobile equipment there. The Zoning Ordinance requires this area to be paved and hard surfaced. What the applicant is proposing is for it not to be hard surfaced and to allow it to remain unpaved. One of our main concerns of parking equipment there is that if it's gravel, it's going to track dust and dirt onto the road. A lot of this equipment is going to pick up a lot of gravel just based on the volume of the trips and the size of the equipment. There were some discrepancies in the plans with some of the notes showed that interior as being gravel. Other areas of the plan indicated that it would be asphalt millings. Asphalt millings tend to be a lot less dust producing. If it's gravel, we have a lot more concerns about the gravel for the reasons stated. So, the recommendation for the first variance is approval of a modified variance to allow the main circulation aisles paved with either concrete or asphalt, with the truck trailer parking spaces shall be provided with asphalt millings.

Michael Vogt said that he thinks that's actually what they're proposing: asphalt millings inside the loop in lieu of paving.

Mark Quimby asked is there a thickness requirement. Do you just mix the millings into the gravel that's already there? Is there any kind of standard on that?

Patrick Sloan said he doesn't think there is a standard for it because the Township requires everything to be paved. If it is approved, and if gravel is being tracked or they see aerial photos where it's not being kept up, they would probably have one of our Ordinance Officers tell them that they've got to re-surface it with millings.

Mark Quimby feels that the motion should include some reference that the millings must be maintained so that gravel is not exposed.

John Badeen said that Patrick's point is that we are giving them a variance from the Zoning Ordinance that allows for millings so if it gets to a point where it's more gravel than it is millings, then that's just a Code Enforcement issue.

Michael Vogt said for the second variance, there is a chain-link fence that goes the entire stretch of the property. They are proposing is for 85 feet to the west of the building and for 60 feet to the east of the building to construct a fence that complies with the Zoning Ordinance, and they are requesting the gate for the privacy fence on the gate as well. But in other areas they want to leave the eight-foot chain link fence in place right where it is and install privacy slats for additional screening. Then, in front of the front fence there will be a full line of mature evergreen trees staggered the entire way. They will have a total of 59 eight-foot high trees with additional vegetation a little closer to the road and it's going to wrap around the corners of each side. They are asking on the west side, where the Walmart undeveloped property is, to allow them to leave the security fencing in place with no additional privacy measures because they don't need them and Walmart doesn't need them. On the north side, they'd be happy to do the vinyl privacy slats.

Mark Quimby where this privacy fence ends. How long is it on the diagram?

Michael Vogt said there's no privacy fence behind the vegetation, it's just the existing chain link fence with vinyl slats. He showed on the diagram where the fence will be.

Patrick Sloan started with the Bellville Road side. It shows that the existing fence will remain but it'll be wood privacy fence panels installed along the Belleville Road frontage. Variance # 2 states that outdoor storage areas must be screened with fencing which is opaque and composed of a material compatible with design and materials of the primary building. Typically, per the fence ordinance, anything that's installed over a fence like a mesh or a vinyl slat for the purpose of screening is not permitted due to durability. The permitted opaque material is typically an opaque type of fence, so what the McKenna letter is recommending is that on the west side to have the chain link and the slats as proposed, but on the Belleville Road side and on the north side of the lot that those include opaque fencing panels. If the panels can be installed in a way that satisfies the Building Division that would meet that requirement, and they would still have that opaque fence that meets the requirements of the Zoning Ordinance as the trees grow in. The trees would provide some additional layers of relief and security for the site. Then there's a recommendation for also opaque fencing on the north side of the site adjacent to what appears to be a single-family residence to the north. It's zoned Light Industrial but it may be used for residential. He said that the highest recommendations would be to have the opaque screening along Belleville Road because

that's the most visible. The Township recommends approval of the variance on that west side and then the north side we would recommend the installation of six-foot-high solid opaque fence. With Bellville Road being more important just because of the visibility from the right-of-way.

Mark Quimby asked if the building to the north is zoned industrial, would they still have to screen it?

Sloan said yes, the screening requirement for outdoor storage is a Zoning Ordinance requirement.

Michael Vogt said that it also asked in the recommendation that we have privacy slats along the entire western side facing the Walmart property. Variance #3 is very straightforward. Motor City Electric is asking for a variance to be able to store within the setback areas. He believes it was actually recommended for approval without any modification.

Sloan said that the third variance is straightforward, which is to allow for the outdoor storage areas to occupy the north side yard and the west rear yard. The storage appears to be outside of all the other yard setbacks, and there's the landscaping along Belleville Road. There's also the pond on the south side of the lot. That was one recommended for approval without conditions.

Mark Quimby asked if using trees meets the screening requirements of the Zoning Ordinance.

John Badeen said that the proposal is to provide a variance from the specific screening mechanism subject to the landscape and then becomes an ordinance compliance issue to maintain those trees.

Clarence Lee wanted to confirm that they're going to have a fence behind the trees anyway with green slats.

John Badeen said yes, but that is not compliant.

Motion by Alan Okon supported by Clarence Lee, to open the Public Hearing at 8:58pm.

Ayes: All, 4-0 (Tassell recused)

Nays: None

No members of the public present.

Motion by Alan Okon, supported by Clarence Lee to close the public hearing at 8:59pm.

Ayes: All, 4-0 (Tassell recused)

Nays: None

John Badeen would like to entertain a motion to bifurcate the question and vote on each request individually.

Motion by Mark Quimby supported by Alan Okon to vote on each request individually.

Ayes: All, 4-0 (Tassell recused)

Nays: None

John Badeen started with variance request number one (Section 4.01(D)(5)).

Motion by Mark Quimby to approve the first variance request, Section 4.01(D)(5), as stated in the application and recommended in McKenna's report based on the findings of fact stated in the McKenna report.

Supported by Clarence Lee.

Alan Okon stated that he doesn't understand why we wouldn't make them pave the whole lot. He doesn't understand why they're only doing part of this parking lot and leaving the middle open. He believes that there are going to be trailers on it and vehicles parking on it. Okon doesn't see the benefit for the community of not fully paving the area as required in the Zoning Ordinance.

John Badeen doesn't have a problem with the variance proposed for the paving requirement for the area shown if the Planning Division and consultants are satisfied with asphalt millings meeting the purpose of substituting paving. Badeen doesn't have a problem approving.

Mark Quimby said that his understanding is this is going to be not for permanent parking but temporary parking.

Michael Vogt said that the weight of the equipment would be cause for frequent repair and replacement based on the load.

John Badeen for all those in favor of the motion approving the variance as described by McKenna, for the reasons stated by McKenna.

Ayes: Badeen, Lee, Quimby

Nays: Okon

Tassell recused

Variance #1 is granted (Section 4.01(D)(5) as shown on the plans).

John Badeen said that in regards to the second variance request (Section 22.03(A)(3)) he is fine with it as long as the trees are in front of it. Badeen doesn't really care about the west side storage, but agrees with the Planning Division with regard to the north because even though the north owners don't care now doesn't mean that somebody may not care in the future. He would personally recommend slats along Belleville Road with trees, privacy fence mounting where there aren't trees, privacy fence mounting along the north side, and no privacy fencing along the west side.

Alan Okon would agree.

Mark Quimby wanted clarification that the privacy fence to be added to the north side. They can't use the slats.

John Badeen said yes.

Mark Quimby would be okay with that too.

Motion by Mark Quimby to approve the second variance request, Section 22.03(A)(3)), to allow the chain link fence without vinyl slats on the west property line, but require a six-foot-tall solid opaque fence along the north property and along Belleville Road except where there is chain link fence with

vinyl slats and maintained trees, as stated in the application and according to the finding of facts stated in the letter by McKenna.

Supported by Alan Okon.

Ayes: All, 4-0 (Tassell recused)

Nays: None

Variance # 2 is granted (Section 22.03(A)(3) as shown on the plans).

John Badeen moved the conversation the third variance request (Section 26.04).

Motion by Mark Quimby to approve the third variance request, Section 26.04, to allow outdoor storage to occupy the north side yard setback and the west side rear yard setback as stated in the application and according to the finding of facts in McKenna's letter.

Supported by Alan Okon.

Ayes: All, 4-0 (Tassell recused)

Nays: None

Variance # 3 is granted (Section 26.04 as shown on the plans).

Aaron Tassell rejoined the Board.

Motion by Mark Quimby to adjourn meeting. Supported by Clarence Lee.

Ayes: All, 5-0

Nays: None

Meeting adjourned at 9:05 pm.

Alison Eisenbeis, Recording Secretary