

**6. NEW BUSINESS**

**6A. PUBLIC HEARING - FILE NO. 86-758**

Location: 1961 E. Auburn Road, located on the north side of Auburn Road, west of Dequindre Road and east of Hessel Avenue, Parcel Number 15-25-483-009, zoned B-5 (Automotive Service).

Request: Item #1:

A request for a variance of 38 feet from Section 138-1111 (Schedule of Regulations) of the Code of Ordinances, which requires a minimum rear yard setback of 50 feet in the B-5 Automotive Business Zoning District. The submitted application for the remodel of the existing gas station indicates a rear yard setback of 12 feet.

Item #2:

A request for a variance of 50 feet from Section 138-1111 (Schedule of Regulations) Footnote (s) of the Code of Ordinances, which states that on corner lots in the B-5 district, the setback from the proposed right-of-way line shall be 75 feet, with both frontages considered as the front yard setback. The submitted application for the remodel of the existing gas station indicates a front yard setback of 25 feet from the proposed right-of-way of Hessel Avenue.

Item #3:

A request for a variance of 11'11" from Section 138-1111 (Schedule of Regulations) of the Code Of Ordinances, Footnote (v)(1), which states that a canopy shall be located not less than 10 feet from a proposed right-of-way. The submitted application for the remodel of the existing gas station indicates a canopy encroaching 1'11" within the proposed Auburn Road right-of-way.

Item #4:

A request for a variance of 10 feet from the proposed Auburn Road right-of-way from Section 138-659(5) (Required Conditions) of the Code of Ordinances which requires that gasoline pumps shall be set back not less than 20 feet from all existing and/or proposed street right-of-way lines. The submitted application for the remodel of the existing gas station reflects gasoline pump islands within 10 feet of the proposed Auburn Road right-of-way.

Applicant: Faiz Simon  
Fast Track Ventures  
24501 Ecorse Road  
Taylor, Michigan 48180

Vice Chairperson Colling read the request for the record, asked the applicants to come forward to the presenter's table, and provide a brief summary of their request.

Present on behalf of the applicant were Bob Kirk, Attorney, 19500 Hall Road, Suite 100, Clinton Township, Michigan, and Chester Stempien, Chester Stempien Associates, AIA, 29895 Greenfield Road, Southfield, Michigan.

Mr. Stempien stated there was an existing 400 square foot gas station facility on the property that had been on the site for 35 years. Since that time, new Ordinances had been put into effect, which produced a problem for that corner parcel, which is zoned B-5 (Automotive Service). He explained if they complied with the current setbacks, they would end up with a building that was only about a foot wide and about 30 feet long.

Mr. Stempien stated that it would be a hardship to comply with the Ordinance requirements, and noted it would be impossible to develop the site for any type of building. He referred to the site plan and pointed out the setbacks in order to show the hardships confronted with trying to rebuild the site. He referred to another plan, noting their proposal was to build a new facility that would be 1,600 square feet, and a combination gas station and convenience store. He noted that usually those buildings would be 2,500 to 5,000 square feet, although their proposal was only for 1,600 square feet. He stated they would be in compliance for parking if they developed the site as proposed. He noted the location of the existing building on the plan, which was outlined in pink.

Mr. Stempien stated he outlined an area in green to indicate they could still provide a very nice landscape buffer adjacent to the residential and on each side, extending out to Auburn Road and to Hessel Drive. He noted it could not be done based on the setback requirements.

Mr. Stempien stated they were proposing to enhance the corner, and would close off one of the driveway entrances from Auburn Road, creating a much safer corner, and alleviate a driveway entrance so close to the corner.

Mr. Stempien stated that the proposed building was quite a change from what typical gas stations were, and they wanted to enhance the corner while providing a well-designed building that would not necessarily look like a typical gas station, and in essence, be more neighbor-friendly. He explained that gas stations located on properties like this one cater to neighbors who usually "gas-up" close to home. Basically, they were trying to improve that corner, but they had the difficulty of presenting what they proposed to do versus what they could do.

Mr. Kirk stated he had forwarded a letter by email earlier in the day, and would not review the entire letter at this time. He noted the letter set forth the practical difficulties with the Ordinances and the new requirements for gas stations as they had developed. He explained they were not looking to overbuild the site by way of adding pumps, but were trying to stay within the existing size and dimensions. He noted the convenience store was necessary in today's market environment.

Mr. Kirk stated he had set forth in his letter the reasons why they believed they had met the requirements for the Board to grant the variances, and noted other locations within the City that had been granted variances in similar circumstances.

Vice Chairperson Colling then called for a Staff report. Mr. Anzek stated there had been references made by the applicant to "new" Ordinances, but noted the Ordinances dated back to 1992. Nevertheless, the Ordinances were after the original gas station was built. He explained the proposed redevelopment, as depicted in the drawings, called for relief from four distinct sections of the Ordinance. He explained because the subject property was a corner, it basically

had two front yards, incorporating a 75-foot front yard setback from Hessel Drive. He noted the applicant was also requesting relief from the rear yard setback, noting the B-5 Zoning District required a 50-foot rear yard setback. He noted there was also the location of the canopy as it was proposed. He thought there was a concern with the canopy projecting into or encroaching into the projected right-of-way. He noted it was oftentimes difficult to grant and consider many variances to make a site work. He stated he would address any questions the Board might have. He added for the record that Mr. Kirk's letter was received late in the day; the Board had just received a copy of the letter; it was a rather lengthy letter, and noted he had not had much time to review the letter or respond to it.

Vice Chairperson Colling opened the Public Hearing at 7:43 PM.

**Richard Micale, 2830 Hessel Avenue**, stated he was the closest neighbor to the facility and indicated his two main concerns were the size of the building in front of his house, and the safety of his child. He was not sure where the entrance from Hessel used to be compared to where it was proposed to be. He also expressed concern about the property value of his home. He thought there would be a lot of traffic.

Vice Chairperson Colling asked if the former gas station was in operation when Mr. Micale purchased his home, and if he had any experience with the prior station. **Mr. Micale** stated the former station was there when he purchased his home, noting he had resided there about five years. He stated it was not a very large gas station, although it had enough pumps but not a big building. He felt as far as a convenience store, there was a Buscemi's about a tenth of a mile away to the east, and there was another convenience store three blocks to the west. He was not sure about the need for a convenience store.

**Mr. Micale** stated he was concerned about the transformer on the corner lot between the proposed building and his house. He wondered if that was a safety concern. He noted there were four different variances being requested and stated he would like a better idea of what each request was.

**Tom Motley, 2800 Hessel**, was concerned about the convenience store. He stated when the prior gas station was there, kids were there buying pop, chips and other items, and he had to pick up a gallon of trash every day. He was concerned about how far back the building would be, noting there was a brick wall in the back, and questioned whether the building would be right up to the adjacent property line to the north or whether there would be driveway there. He was also concerned about traffic, noting when the prior station was open there were many accidents on the corner. He felt there should be a stop sign installed at the corner of Dawson and Hessel to prevent speeding along the street.

**Mr. Micale** stated that in the five years he had resided in his home, he had seen an accident at that corner, and his stepdaughter was in accident heading eastbound on Auburn Road and turning left onto Hessel because that was where the left turn lane started. He explained there was not a left turn lane for Hessel from Auburn Road.

**Mr. Motley** expressed concern that when 9-11 happened, there were so many people lined up for gas at that station it caused a major roadblock.

Vice Chairperson Colling called for any other public comments. Seeing no one come forward, he closed the Public Hearing at 7: 50 PM. He then called for discussion by the Board.

Mr. Verschueren referred to the aerial photograph included in the packet and noted it showed the east property line running through the house on that adjacent parcel. He asked if the applicant had any plans for that house. Mr. Kirk noted they did not own the parcel with the house on it.

Mr. Verschueren noted the property line appeared to run right through a portion of that house. Mr. Kirk was not sure how accurate the aerial photograph was, noting he did not have a survey depicting the property line.

Mr. Verschueren wondered what bearing the property line would have on the development of the subject parcel.

Mr. Anzek stated that question had not been brought up during his meetings with either Mr. Stempien or Mr. Simon. He was curious if Mr. Simon was either buying that property or leasing that property. He thought the City's GIS system was accurate to within a foot, so the property line along the eastern boundary reflecting an encroachment probably existed.

Mr. Verschueren stated that this property had been before the Sign Board of Appeals for a sign variance, and based on discussions held by the Board at that time, it appeared the east property line went through the adjacent building. He was not sure how this would affect the property line.

Vice Chairperson Colling suggested a thorough survey should be conducted to verify the issue. Mr. Anzek noted if the eastern property line were shifted, it would also affect the setbacks.

Mr. Verschueren asked if the Michigan Department of Transportation (MDOT) had anything to do with this property. Mr. Anzek explained that MDOT would be the party responsible for the access or curb cut on Auburn Road. He noted it was a site plan issue, not a consideration for the Zoning Board of Appeals; however, the applicant's proposal to consolidate the two curb cuts on Auburn Road to one curb cut would be a plus.

Mr. Verschueren asked if an extended left turn lane was proposed for Auburn Road, noting that currently there were three lanes almost up to the subject property, running from Dequindre. Mr. Anzek stated he would have to check but knew there were improvements scheduled in the County's thoroughfare plan for Auburn and Dequindre. Typically those improvements would require land and approach improvements as well.

Mr. Verschueren felt the Board should have that information before they made a decision.

Vice Chairperson Colling referred to the aerial photograph and the proposed plans, and asked if the current location of the canopy was where the new canopy would be located. Mr. Stempien stated they did not plan on relocating the canopy or the pumps, but noted the canopy was

currently in violation because the proposed right-of-way should be twenty feet, and they were at ten feet from the proposed.

Vice Chairperson Colling asked if the proposed right-of-way was indicated on the submitted plans. Mr. Anzek stated it was on the site plan provided to the Board.

Vice Chairperson Colling stated it appeared the proposed right-of-way was where the 1'11" variance came in, noting the proposed right-of-way ran across the canopy. He clarified that the applicant did not propose to rebuild the canopy, other than some cosmetic cleanup, nor were they planning to relocate the pumps. The applicant indicated that was correct.

Vice Chairperson Colling stated it was likely the pumps and canopy were installed more than 30 years ago, before the right-of-way came through. He was concerned about the impact of the building on the adjacent neighborhood. He did not see anything other than a tree line behind the existing structure, and it was hard to tell if there was an alleyway behind the parcel.

Mr. Anzek stated there was a 20-foot wide public alley, noting it was not private easement, and ran between the subject parcel and the property to the north. He pointed out that because the canopy was existing, it would be a pre-existing, legal, nonconforming canopy. In accordance with the Ordinance, when eliminating or taking down more than 75% of the value, all nonconforming issues are required to come into compliance, which is why that was included in the variance request.

Vice Chairperson Colling agreed he was aware of that, and pointed out it did not create any more of a nonconformance than was currently existing.

Mr. Anzek referred to one of the resident's concerns, and noted that although it was a site plan issue, if the site were redeveloped, they would be required to have a Type B Buffer, which required a six-foot wall or fence along the northern property line. It would serve as a safety factor for children, and would serve as an aesthetic block and there would also be landscaping and a green area, which Mr. Stempien had pointed out. He noted a 25-foot distance was also required, but the variance as presented, would reduce that 25 foot buffer to a 12-foot buffer width.

Vice Chairperson Colling clarified the buffer width would be the distance from the wall at the north edge of the property to the northern edge of the structure. Mr. Anzek stated that was correct, and noted the site plan also depicted that there would not be any parking, travel or traffic along the alley, but would remain a grass area behind the building.

Mr. Duistermars asked if the Board could include a condition that the area had to be maintained and kept clean. Mr. Anzek stated that could, but noted the Code Compliance Ordinances would monitor that as well.

Mr. McGunn referred to the shaded area in front of the proposed building dimensioned on the site plan from the property line called "setback lines". Mr. Stempien stated that was where the

setbacks were, but noted that Hessel should also be considered a front yard, as well as Auburn Road, which shrunk those measurements.

Mr. Anzek explained the grey area was reduced even further, because in the draft of the plans received by the Board, the 75-foot setback from Auburn was taken from the existing right-of-way, not the proposed, which pushed that building back another ten feet.

Mr. McGunn asked about the drawing presented at the meeting which depicted a "slim" line. Mr. Stempien stated that was the actual setback from all property lines.

Mr. McGunn verified there were issues on Auburn, Hessel and the rear lot line, but not on the east property line. Mr. Anzek responded the drawing depicted a 25-foot setback for a structure from the east side. He noted that could be subject to change depending on the house encroachment on the east property line.

Mr. Duistermars pointed out that if Auburn Road was developed using the proposed right-of-way, the additional land would be taken, and the canopy would have to come down. Mr. Anzek responded he was not sure, noting there had been a similar situation with the Crooks Road widening and the Sunoco Station at South Boulevard and Crooks Road. He explained with the Sunoco site, the canopy was on the right-of-way line. He pointed out that traffic would not be moving directly under the canopy because of the safety distance, the run-out areas, the tree lanes, between the actual movement lanes and the edge of right-of-way.

Mr. Duistermars asked what the distance was for the right-of-way line. Mr. Anzek stated that currently it was 50 feet from the centerline, and the master thoroughfare plan called for 120 foot right-of-way, which would be an additional ten feet for the subject site. Mr. Duistermars noted that would be 60 feet from the centerline, and pointed out if the road were improved, the sidewalk would be under the edge of the canopy.

Vice Chairperson Colling stated the dilemma the Board was faced with was that effectively the size of the lot, based on today's Ordinances, was unbuildable, noting it was zoned B-5 (Automotive Service). He stated if nothing was done, the property would deteriorate; and if the parcel was rezoned, it would still be a small parcel, and he did not believe anyone would ever want to develop it for a single family residence. The Board would have to come to a decision of how the property could be re-developed as a B-5 use without a variance. He thought this was probably the smallest B-5 parcel that had come before the Board.

Mrs. Brnabic agreed that from a planning perspective, without a variance, there was not anything that could be done with the property. She noted the proposal fit the current right-of-way, but the proposed right-of-way caused a problem. She was not concerned at this point about the Auburn Road widening, but might be more concerned about a left-turn lane. She noted some good questions had been asked about the property line which the Board needed answers to. She pointed out that a six-foot wall existed at the property line, and if the Board granted a variance for the rear setback, the proposed building would back up 12 feet to the existing wall, with the additional twenty feet of alleyway between the wall and the residential yard to the north. She noted the property was small for the B-5 zoning it had.

Mr. Anzek stated this site was zoned B-5, and noted the B-5 designation ran to the center of the alley. He indicated there was one other parcel along the Auburn Road corridor that was also zoned B-5, which was the gas station to the west. He noted with the exception of the two gas stations, the balance of the properties running east and west of the subject parcel, from Dequindre to Culbertson, were all zoned C-I (Commercial Improvement). He explained Commercial Improvement was an incentive to promote redevelopment of that corridor. He stated the C-I designation entitled those properties to zero lot line development. In other words, they could build right up to the lot lines, as a way of encouraging reinvestment and a reintensification of the area to help sustain what is there and what will hopefully be there in the future. He thought it was ironic that the City had extreme setbacks for a B-5 zoning district, which might work at an intersection such as Rochester Road and Tienken Road, but might not work with the subject parcel because of the context of the site. That context being a Commercial Improvement District promoting zero lot line development. He stated this was a site that probably was obsolete and that needed to be redeveloped. He suggested the Board consider whether the applicant's proposal was a reasonable redevelopment of the site that would fit within the context of the neighborhood. He questioned whether the proposed building was the minimum size building to make the project work; whether it was possible to make the site work with less parking that could help reduce the building size or perhaps bring the building forward, that would still provide a reasonable return and reasonable use of the site, and still fit within the context as proposed.

Vice Chairperson Colling asked about the term "zero lot lines". Mr. Anzek explained that zero lot lines in the Commercial Improvement (C-I) District meant that the buildings could be built right up to the property lines.

Vice Chairperson Colling asked if the applicant's parcel was part of the C-I District. Mr. Anzek explained it was in the corridor, but it was specifically zoned B-5.

Vice Chairperson Colling stated he resided in that area; was familiar with the property, and the former gas station was probably a benefit to the neighborhood. He noted as the climate for business has changed, and most gas stations were now more of the convenience store/gas station variety. He did not think that 1,600 square feet would be sufficient to make the building a viable convenience store. He noted the former Clark station on the site gave up selling certain products because they could not move those products. He inquired about the minimum acceptable size building the applicant felt they could do business, and what other accommodations could be made to make this a viable site with a minimum impact to the neighborhood.

Mr. Kirk explained Fast Track had tried to come in and clean up numerous sites in the Metropolitan area, noting he had worked with them in Romeo in their historic district, and had worked with them in Shelby Township. He noted they operated about 70 stations in the area and knew the square footage they needed. He said they realized they were coming into tough sites and were trying to fit in, and this was the minimum they needed for this site. He noted Mr. Stempien had indicated that some stations were up to 5,000 square feet for their super centers. He explained they had tried to leave as much greenspace as possible, and he thought the company was aware of what they needed in order to make a site viable, as it was not a one-

location operation. He indicated they tried to work through the sites and did what they could to leave what existed and upgrade them by building nice buildings.

Mr. Duistermars noted it appeared the canopy would remain in its existing location. Mr. Stempien stated there were four pumps on the site and the canopy was just large enough to cover cars and allow people to get out and pump gas.

Mr. Duistermars asked if the canopy could be rotated 90 degrees so the canopy would be within the required setback for the proposed right-of-way. Mr. Stempien stated that based on the logistics of how people drive in to service stations, people will traditionally pull in to their right.

Mr. Duistermars said if the canopy was turned 90 degrees, a car pulling in off Auburn Road could pull up to a pump without a lot of maneuvering.

Vice Chairperson Colling noted the plan clearly stated the applicant was not moving the pumps or tanks on the site. In order to rotate the canopy as Mr. Duistermars suggested, would mean they would have to redo the tanks, the pumps and the canopy.

Mr. Duistermars thought rotating the canopy would reduce the number of variances required to redevelop the site. Vice Chairperson Colling did not disagree, but felt the Board should consider the case presented to them, and he did not feel much could be done to affect the canopy at this time based on the fact the applicant was not moving the pumps.

Mr. Verschueren stated he looked favorably on the request, but would like to have answers to a couple questions prior to the Board making a decision. He noted Mr. Stempien stated the plans presented were not final plans, and he would like to see a final plan. He stated he would also like to see a survey of the property to determine the east property line. He felt in order for the Board to make a decision, that matter should be cleared up.

Vice Chairperson Colling shared the concern about the home on the east property line. He noted the Board had encountered a similar circumstance with the Moose Lodge building on Livernois Road, which also encroached an adjacent property line.

Mr. Verschueren thought the situation should be resolved between the two property owners.

Vice Chairperson Colling thought the applicant's situation probably dated back to the 1950s or the 1960s, and was reluctant to do anything until the property line issue was resolved.

Mr. Duistermars asked if the adjacent house should be included on the applicant's drawings if it actually encroached on the applicant's property. He thought the applicant would have to design around that structure.

Vice Chairperson Colling suggested the applicant could request a postponement of this matter to give them some time to resolve the property line issue, and have a survey prepared to verify the situation. He noted the current proposed plan was not clean.



Mr. Verschueren told the applicant he liked their proposal, but would like to see a survey and a final print of the proposed plan.

Mrs. Brnabic asked if the proposal met the current parking requirements. Mr. Anzek stated they did or there would have been another variance request for relief from the parking standards.

Mrs. Brnabic understood that with today's market, and the particular piece of property, the applicant would like the site to be viable. She agreed the Board needed up-to-date site plan information, and the property line issue should be resolved. She asked if the applicant had an interest in purchasing the adjacent parcel to the east.

Mr. Stempien stated that was never brought up by the owners, noting it was zoned C-I, and was currently a residence on a commercial property. He did not realize the house was as close as it appeared on the aerial, which could be a problem. He did not believe the C-I classification would help their setback requirement issues.

Mrs. Brnabic stated she would consider the variance based on the circumstances once the Board received additional information.

Mr. Duistermars suggested the applicant make sure the adjacent house is included in their drawings if the encroachment is correct. He noted the City's Ordinances were guided by State Law and allowed a property owner to do what he wanted with his property based on zoning. He noted in the subject case, the parcel was zoned B-5, and the City should attempt to allow a landowner to take advantage of the principal or conditional uses permitted in that zoning district. He stated that in allowing a gas service station on a B-5 parcel, the Board needed to be cognizant of the current trends in the industry for that particular use. He thought repair garages were a thing of the past in the current market. He noted society had grown accustomed to giving up full-service for self-service, and now society was giving up repair facilities at gas stations. He agreed the Board should work with the applicant's situation, but needed some additional information in order to make the right decision.

Vice Chairperson Colling added that it was unlikely the property would be rezoned C-I because it would require a great expense to remove the underground tanks and clean up the site. He thought the Board was faced with a situation where the property would remain an automotive-service zoned district. He referred to the Clark station located on Rochester Road that came before the Board for modifications. He asked that Staff research when the gas station was put in and what the Ordinance requirements were at that time. He believed the site dated back to the 1960s.

Mrs. Brnabic asked if the applicant planned to improve the canopy. Mr. Stempien stated they would re-light and refurbish the canopy, and try to enhance what was there.

Mr. Stempien referred to the question regarding the accuracy of the drawing, and stated he thought the biggest issue was the east property line where the existing building appeared to encroach on the subject property. He asked if that was the Board's main issue at this time.

Vice Chairperson Colling stated it was an issue from the standpoint that if the applicant requested variances, and the Board granted variances to the applicant's property with a pre-existing condition, it could have unforeseen consequences. He stated the aerial seemed to indicate there was a conflict between the two properties, and the Board would like to ask the property owner to have a survey done to verify and resolve the issue prior to any action being taken by the Board. He suggested the applicant consider postponing their request based upon the fact the Board felt they had incomplete information before them. He clarified the Board could make a decision at this meeting, but would prefer to make the decision with all the information.

Mr. Kirk stated they did not have a problem requesting a postponement, but would like to know if there were any other issues the Board would like to see resolved. Mr. Stempien stated he wanted to narrow down the Board's requests with respect to the plan and in order to satisfy the Board they had done everything possible to present their proposal properly.

Vice Chairperson Colling stated the applicant's plan had been very well presented, but the Board had requested some additional information.

Mr. Anzek stated that the grey area shown on the plans that were provided to the Board was not accurate. He noted there was really only a one-foot wide buildable area, so that should be corrected. He stated the Board needed some additional notation that the canopy would remain as is. He indicated he would like to research MDOT's planned improvements to the Auburn Road corridor, and to find out what the time frame was for improvements to Dequindre at Auburn, and how those improvements might affect the frontage of the applicant's property, such as left-turn stacking lanes.

Mr. Anzek stated that reducing the access points on Auburn Road was a plus, but he would not want the curb cut to be in the wrong place if it conflicted with any MDOT improvements. He noted he would also research the history of the site and the Ordinances in effect at the time the site was built.

Vice Chairperson Colling stated it looked like the two existing curb cuts the applicant intended to keep would remain substantially the same. He noted if that was the case, he would like that noted on the site plans, as well as any changes the applicant intended to make to the curb cuts. In addition, he would like the applicant to identify or accurately describe the existing wall along the north edge of the property and what the applicant would be doing to that.

Mr. Duistermars stated he would like to see some dimensions for the four parking spots to the east and how close they would be to the existing building. He stated if the existing building was on the applicant's property, he would like to know how close those parking spaces would be to that existing structure.

Vice Chairperson Colling explained the applicant needed to show whether there was a discrepancy with the lot line, and reflect on their drawings how their project related to that existing home.

Mr. McGunn asked if the 1,600 square feet was an optimum size for this given situation, and if the parking was the minimum parking that was required by Ordinance. Mr. Stempien stated they had added more parking than was required.

Mr. McGunn clarified if the applicant complied with the regulations, they could pick up some additional greenspace on the property. Mr. Stempien stated they could eliminate the parking on the east property line.

Vice Chairperson Colling asked how the applicant would like to proceed at this point. Mr. Kirk asked that this matter be postponed in order to allow them to address the issues.

Vice Chairperson Colling agreed, and noted for the record that the applicant had indicated they would like to postpone this matter to a future date in order to acquire the information requested by the Board. He asked that Staff notice those individuals who spoke at this meeting when the matter is brought back before the Board.

The Board briefly discussed the left turn lane and traffic on Auburn Road near Dequindre with the residents who spoke during this meeting, and its affect on the proposed gas station. Vice Chairperson Colling noted this matter would come back before the Board at a future meeting.

The applicants thanked the Board for their input and discussion.

## 7. ANY OTHER BUSINESS

Vice Chairperson Colling called for any other business. He noted the next meeting was scheduled for April 23, 2007.

Mr. Duistermars asked if these small parcel gasoline service stations would be addressed during the Zoning Ordinance rewrite. He noted there appeared to be many conditions associated with the construction of a gas station.

Mr. Anzek agreed there appeared to be some issues around the Community that created a disparity in applying the uniform set of standards, such as the subject case, which was an older, smaller site. He noted the required setbacks almost required a 2-acre parcel of land in order to conform. He thought there should be some flexibility with respect to the context of the neighborhood where the facility is located. He felt there would be an opportunity to address these situations during the Zoning Ordinance rewrite.

Mr. Duistermars felt that the current Ordinance did not allow the development of gas stations on the parcels zoned B-5, noting that was one of the principal uses permitted in the B-5 zoning district.

Mr. Anzek commented that the Planning Commission was currently reviewing the rezoning of a gas station B-5 parcel to B-2 (General Business). He stated there was discussion during the Public Hearing that the City did not want to eliminate gas stations, noting there were about 20 or

21 existing stations, which were not that many for a City of 70,000 residents. He indicated those were stand-alone gas stations.

Mr. Duistermars commented that the modern gas station was more gas station/retail. Mr. Anzek stated it was a concern of both the Planning Commission and the Zoning Board of Appeals that the site plans reflect safe maneuverability on the site. He noted in reviewing the subject site plan, there were a couple of parking spaces where cars could be backing into each other in the northeast portion, and those spaces might have to be eliminated or relocated. He stated it was a matter of a City policy in what the City wanted to see when these gas station sites come up for redevelopment. He noted the owner of the property could have applied for a C-1 zoning classification; abandoned the B-5 zoning; cleaned up the site, which could be costly, but the cost could be transferred back in to intensity by putting as much as possible on the site, which did not mean it would be a good, workable site.

Mr. Duistermars commented the property owner could apply for brownfield credits on that site. Mr. Anzek agreed, but questioned whether there would be enough credits to make it worthwhile.

Vice Chairperson Colling stated the reason he asked for the history of the subject site was because he believed the station was there in the 1960s, which is over 40 years ago. He stated the Board was discussing a 50-year old approved site plan, and now it was time to update the site. The Ordinances had changed, but the site still had to be dealt with.

Mr. Duistermars asked if the Board wanted City Council to do something about the Ordinance as it applied to gas stations, especially because current gas station facilities are completely different than they were when the Ordinance was written, or when the B-5 Zoning District was created.

Vice Chairperson Colling agreed it was a changing situation, and recalled the Board had the opportunity at a recent meeting to send a message to City Council and/or the Mayor's Office by resolution about the key issues they felt were before the Board. He noted there were comments made about some of the recent cases, particularly the proposed day care center on South Boulevard, and asked if the Board wanted to send a message to the Council or the Mayor's Office by resolution recommending that in the case of that property, the Board felt the better answer was to change the zoning of the adjacent property from residential to B-2. That would more coincide because the Moose Lodge building sat over the property line, and it would be a better to change the zoning of the parking lot parcel, which would allow the day care center to be built without a variance.

Vice Chairperson Colling reiterated if the Board did not feel a variance was the right action, and there was something else that was beyond the purview of the Board, Mr. Staran had advised the Board they could, by resolution, impart that to the Council.

Mr. Duistermars proposed a motion to that effect. Vice Chairperson Colling called for a second to the proposed motion. No second was made, and the motion died for lack of support.

Mr. Verschuere suggested if the Board had a dilemma, they could ask legal counsel to attend a couple meetings.