



Rochester Hills

Minutes - Draft

Zoning Board of Appeals

1000 Rochester Hills Dr
Rochester Hills, MI
48309
(248) 656-4600
Home Page:
www.rochesterhills.org

Chairperson Ernest Colling, Jr.; Vice Chairperson Kenneth Koluch

Members: Deborah Brnabic, Bill Chalmers, Jayson Graves, Dale A. Hetrick, Charles Tischer

Wednesday, November 13, 2019

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

Chairperson Ernest Colling called the Regular Meeting to order at 7:00 p.m. in the Auditorium.

ROLL CALL

Present 6 - Deborah Brnabic, Bill Chalmers, Ernest Colling, Jayson Graves, Dale Hetrick and Kenneth Koluch

Excused 1 - Charles Tischer

Quorum present.

Also present: Kristen Kapelanski, Manager of Planning
John Staran, City Attorney
Maureen Gentry, Recording Secretary

APPROVAL OF MINUTES

[2019-0493](#) September 11, 2019 Regular Meeting

A motion was made by Koluch, seconded by Brnabic, that this matter be Approved as Presented. The motion PASSED by an unanimous vote.

COMMUNICATIONS

A). Planning & Zoning News dated September - November 2019

PUBLIC COMMENT

Chairperson Colling opened Public Comment at 7:01 p.m. Seeing no one come forward, he closed Public Comment.

NEW BUSINESS

[2019-0492](#)

CITY FILE NO. 19-039

Location: 2240 Avon Industrial Dr., located north of M-59 and west of Crooks Rd., Parcel No. 15-29-251-015, zoned I Industrial.

Request: A request for a variance of seven to eight (7-8) feet from Section 138-5.100, Table 6 (Schedule of Regulations) which states that the maximum height in the I Industrial District is 42 feet. Submitted application for new silos indicate a height of 49+ feet.

Applicant: Ajax Materials Corporation
1957 Crooks Rd., Suite A
Troy, MI 48084

(Reference: Staff Report prepared by Ms. Kapelanski dated November 6, 2019 and application documents had been placed on file and became part of the record thereof).

Present for the applicant were Mark Boden, Ajax Materials Corporation, 1957 Crooks Rd., Suite A, Troy, MI 48084 and James Urban, Butzel Long, 41000 Woodward Ave., Bloomfield Hills, MI 48304.

Mr. Boden thanked the members for taking the time to meet with them. He said that they were present to request an approval of a dimensional variance for three, 49-foot silos at their plant located at 2240 Avon Industrial Dr., which had been owned and operated by Ajax since June of 2003. He noted that the existing silo equipment had been in place prior to Ajax owning the plant. They could not find any records of how long the silos had been in place, but they believed it dated back to the 1970s. He had been working for Ajax for just over 30 years, and they were in place when he started in 1989. He stated that a key part of any asphalt plant was silo storage. They were used to store asphalt mix until it was loaded into trucks to be hauled away to paving jobs. Ajax intended to install three additional silos matching the existing silo height. He claimed that the Ajax silos were the smallest used in the market. He noted that the City's current height limit was 42 feet in Industrial, and Ajax was asking no more than to simply match the existing height, in order to improve their efficiency and be able to compete in the market. They understood that the current 42-foot limit was enacted because adjacent properties could be adversely affected by tall buildings. To demonstrate their intent, he had brought two scale models to show that neither the site lines nor adjacent properties would be adversely affected if the ZBA granted a variance. The model was made of PVC pipe that represented the five silos currently onsite at 49 feet and the three additional silos they would like to install. He stated that from any direction, because they would be matching the silos in place, the site line or the vertical profile would not be negatively impacted when three silos were added. He showed another model representing the three silos at 42 feet high. He maintained that no matter which way an observer looked at them, the vertical profile still would not be lower overall even though the silos would be lower.

Mr. Urban added that the submission was that there would be no impact whatsoever on any adjacent properties, because the profile of the facility would not change visibly. He stated that the strict adherence to the 42-foot height limitation for the proposed new silos would gain nothing and have no positive benefit to the adjacent properties. It would put an unreasonable burden on Ajax in trying to remain competitive and operate more efficiently.

Mr. Boden continued that in order to fulfill their orders and to maintain the demands in the market, with only five silos, which were the smallest at any of their other plants, they had to stop and start the plant more often than they would with three additional 49-foot silos. Starts and stops of the plant were bad because energy consumption was increased. Upon startup, the plant had to be heated, and the material handling equipment needed to be started. Any time a manufacturing process was started or shut down, there was material wasted at the beginning and end of each run. The starts and stops also introduced variability to the product that could compromise quality. He noted that MDOT was the single, biggest end user of their asphalt mixes. Their specifications were becoming more and more stringent as time went on, and decreasing variability was very important to be able to comply with their specifications. Also, with eight silos instead of five, it would enable them to run more continuously and shut down sooner, because they could store mix in the silos in advance of the haul trucks arriving at the plant.

Mr. Boden reiterated that the existing silos onsite were the smallest used in the segment of the industry that they competed. No other silos in their market were smaller than 49 feet. Most silos were significantly bigger, with 300 tons of mix. Theirs only held 200. Most other silos in the market were 68 feet tall.

Mr. Urban said that for purposes of the asphalt manufacturing market, height was not really considered; it was capacity. Capacity converted to height, and the 200 ton silos were the minimum capacity silos used in fixed location, continuous operation asphalt plants for efficiency and production cycling. For relative purposes, the 200 ton silos that had been onsite for over 30 years and the three that Ajax proposed to add to match the existing, were the shorter end of what was used in the industry.

Chairperson Colling asked if there was some documentation regarding industry standard to show that 300 ton was the standard or that 200 ton was substandard. He asked if they were just comparing themselves to

other vendors in the area.

Mr. Urban responded that it was not a published AASHTO standard (American Association of State Highway and Transportation Officials) or an MDOT spec standard. It was more of an industry market standard, and they were the capacities required to stay competitive and have an efficient operation.

Chairperson Colling considered that since it was hot, mixed asphalt, they would be storing a heated product. He assumed that the silos would be insulated to keep the temperature up, which was confirmed. Chairperson Colling also thought that through some sort of an auger mechanism that they would take the mix from the bottom and fill the trucks, which was also confirmed. Mr. Boden referred to his model again and said that the black lines represented the portion where the trucks would drive through. A truck would come in and park underneath the silo. There was a scale operator who operated the gates remotely. They were clam gates that opened, and the appropriate amount of mix for the truck would dump into the silo, and the gate was closed. Chairperson Colling asked if every silo could be driven under. Mr. Boden said that every silo had to be driven under in order to dispense the material. It was an enclosed tunnel. Chairperson Colling related that he had some experience with silos and the concept.

Mr. Boden noted that Chairperson Colling had asked about documentation. In response, he said that of their six asphalt plants in the southeast Michigan area, they had a total of 43 silos. 34 were 300 ton capacity and 68 feet tall, which was significantly taller than they had in Rochester Hills. One of the silos was 57 feet, and eight were 49 feet, of which five existed in Rochester Hills. He felt that it demonstrated that they were the smallest silos used in their market, and that was why they wished to stay with the height they had. He pointed out that the industry had created a demand for a greater variety of asphalt mixes. When he started in the business a little more than 30 years ago, they could satisfy customer and industry demands using a small variety of asphalt mixtures for uses ranging from driveways to freeways. Today's market routinely required them to make many types of mixes each day, and in order to be competitive in their market, they needed more vessels. There might be a driveway mix in one silo, a mix for I-75 in another and so on. Because only one type of mixture could be placed in a silo at any given time, adding three silos would definitely enable them to compete where they were lagging behind only having five silos. He hoped that the models he had put together demonstrated that the profile of the facility would not

materially change by adding three silos of the same height as the existing, and therefore, that no hardship would be realized by any residents or other properties in the City if the variance was granted. He said that he would be happy to answer any other questions.

Ms. Kapelanski felt that the applicant had given quite a bit of detail about the proposal. She advised that the applicants were specifically requesting a variance of seven feet, six and 5/16-inches. Currently, the property was home to Ajax, and the applicant would like to add three silos. The property was bordered by the Clinton River Trail, and the silos would be on the side closest to Avon Industrial Dr. The silos would be the same height as those that currently existed, which were grandfathered, because they were established prior to the City itself. The applicant had indicated that the proposed silos were the smallest available, and the ZBA was being asked to consider the practical difficulty as outlined in the staff report.

Chairperson Colling asked if staff knew the date the silos had been constructed. Ms. Kapelanski said that staff researched, but did not find any records. Chairperson Colling asked when the Ordinance for 49 feet came into existence, which was 1977. He pointed out that in 1967 it was 52 feet. He said that in all likelihood, the silos were built sometime between 1967 and 1977.

Chairperson Colling opened the Public Hearing at 7:19 p.m.

Ryan Duling, 2450 Norfolk, Rochester Hills, MI 48309 *Mr. Duling noted that he represented the ownership of the Lake Village Apartments of Rochester Hills just to the north of the proposed site. He stated that they were not present to hinder the ability of anyone to compete, but to understand the nature of how the silos would be laid out and to understand how their site might be impacted. Currently, from their parking lot, they could see the existing silos, so he maintained that there was a visual impact. Depending on where the new silos were placed, he considered that the impact could grow. They had some complaints from tenants related to the smell of the facility, so he felt that it would be good to understand the proposed changes to capacity and how that might impact. He said that he had been involved with the apartments since 2013 and since then, the open asphalt piles had grown and could be seen from the interstate. He wanted to know what they should expect in terms of more silos being added and how that might impact the aesthetics or the experience of their tenants. He noted that the Clinton River Trail was directly between their project and the proposed project.*

Chairperson Colling said that he assumed that when they started the apartment project that the asphalt plant was already there, which Mr. Duling agreed was in 1998. Chairperson Colling indicated that he really did not like to use the analogy, but when someone built next to a farm that had been there for years, the farm had the right to continue to do business. The board could not penalize a business that had been there for four decades, and say that it could not operate. Mr. Duling said that he had no desire for that - he just wanted to understand what to expect.

Chairperson Colling closed the Public Hearing at 7:23 p.m.

Mr. Kolach mentioned that he had driven past and seen the site many times. He had noticed that next to the existing silos, there were three other shorter towers. He asked if they were for mixing or if they were water towers. Mr. Boden explained that they were vertical liquid asphalt tanks. Mr. Koluch thought that they looked to be under 40 feet, and Mr. Boden clarified that they were shorter. Mr. Koluch did not think that there were many companies that built asphalt silos. He asked if they could purchase smaller, if they had no choice, and if they were made to order. Mr. Boden agreed that there were very few suppliers. They typically made silos in 200 ton capacity, which were 49 feet, 250 ton and 300 ton. He commented that anything was possible if enough money was thrown around. He had never gone to a manufacturer of asphalt silos and asked for a 42-foot silo, because that would not add the capacity and give the manufacturing flexibility and allow them to be competitive like the 49-foot silo would. It was never in his mind to get a custom build. Mr. Koluch said that regarding capacity, he wondered if they had four 42-foot silos if it would give the same overall capacity and not decrease productivity. Mr. Boden said that the problem was that they would be increasing the footprint, which they would not want to do. There was also the conveyance equipment to consider. They conveyed the material from one silo to the next. There was a conveyor that brought material from the mixing drum up to the top of the silos to a series of conveyors on top. He explained that it was the economy of scale, that is, the bigger the silo the more they could take advantage of the economy of scale. A lot of smaller silos would become cost prohibitive and defeat the purpose of the economic viability of the project. Mr. Koluch asked if the conveyor, as it was set up currently, was easily adjustable to different heights or if it was locked in. Mr. Boden stated that it was locked in. Mr. Koluch pointed out that they would potentially need a second conveyor or to modify the current with a shorter silo. Mr. Boden agreed, and said that the problem was also that with silos of varying heights, it would become an engineering nightmare.

They would be trying to convey hot mixed asphalt downhill and uphill, and it would have to be a complete custom job. In 30 years, he had never put a silo bank together that was not industry standard.

Mr. Koluch noted the public comment from Mr. Duling about the piles of asphalt increasing, and he asked if it was safe to assume that they could be lessened if they had more storage capacity or if that would be the way it was always. He asked if they always had open piles. Mr. Boden referred to the picture on the overhead, which showed different piles of aggregate sand and gravel. He thought that Mr. Duling was talking about the pile of recycled asphalt pavement. Many people did not know that it was the single most recycled product in the United States. They were able to recycle up to 50% of their product (from milling the roads), so it was a pretty green industry. They would bring it back to an asphalt plant, and it would be incorporated back into the mix to be reused. Mr. Koluch clarified that the open piles were from previously used material that went back into the mix.

Chairperson Colling asked if the piles were dependent upon the work they had at the time. That is, if they had a big project with the State, or a new subdivision that needed asphalt, they would use new product. He asked if the materials in the yard would fluctuate assuming on the types of jobs they had. Mr. Boden agreed, and he said that in the industry, they were referred to as RAP (recycled asphalt pavement) piles. Their RAP piles could vary in size depending on the inbound of millings coming off of a project.

Chairperson Colling mentioned the previous comment about the smell. He realized that there was a smell from an asphalt plant, but from the City enforcement's point of view, he asked if there were any outstanding issues with the plant that were in violation.

Ms. Kapelanski stated that the applicant was not in violation of anything. The City had gotten a complaint in the last couple of months about the noise. Mr. McLocklin from Ordinance Enforcement had been on top of it, but the applicant was not in violation of any Ordinances. Chairperson Colling asked if the noise was a violation or if someone just did not like the amount of noise. Ms. Kapelanski said that it had just been a general noise complaint and not found to be a violation.

Mr. Urban added that the plant operated under a permit. The permit had quite strict tolerances. Ajax operated its facility in accordance with the requirements of the permit.

Mr. Hetrick noted that Mr. Boden had mentioned the footprint which, it seemed, Mr. Boden did not want to increase. He asked if there could be a time in the future where they might come and ask for more silos. Mr. Boden said that the ultimate footprint would be determined by the length of the scale that resided underneath each bank of silos. The scale had to be just so long to accommodate the trucks that came to get loaded. With the new silo configuration, there would be no increase in footprint. Mr. Hetrick asked if they would ever envision a need to increase the footprint. Mr. Boden said that it was a hypothetical, and he could not really speak to that.

Mr. Hetrick said that with regard to a 42-foot silo, he got the impression, based on what Mr. Boden had earlier stated, that it would have to be custom made. Mr. Boden agreed. Mr. Hetrick clarified that for Ajax to compete, the minimum size they needed was a 200 ton. Mr. Boden also agreed, and said that it was the minimum asphalt plant he knew of in the area. They were sensitive to the height restrictions, and they were not asking to go to 300 ton silos at 68 feet high. Mr. Hetrick felt that the silos would be as far away as possible from the apartments without going off their property. The recycled asphalt was closest. He asked if the piles would reduce if they added silos. Mr. Boden said that they very well could. Mr. Hetrick clarified that they were not in the business of holding on to material but to move material out as quickly as possible, and Mr. Boden agreed that inventory was absolutely not their goal.

Chairperson Colling said that in terms of storage, the lot was only so big, and there was not room to expand. With the addition of three silos, they would be at or close to capacity for the facility. Mr. Boden said "perhaps." Chairperson Colling said that judging by the land allocated for storage of materials, adding more silos did not look to be too feasible. Mr. Boden said that it might if they went with a different configuration and moved some silos more towards the interior of the property. Chairperson Colling said that would be a major construction. Mr. Boden indicated that in other facilities, they had gotten creative from time to time. They had to weigh the cost of a complete re-do against the motive. Chairperson Colling said that not only would the silos at 42 feet be a custom build, but there would have to be a much more complex design of the conveyor systems, taking material from the plant to the silos for storage. They would have to move several different varieties of asphalt. Mr. Boden agreed that it would be extremely complex to have 42-foot silos comingled with their existing silos.

Ms. Brnabic noted that Mr. Duling brought up a complaint about smell from his tenants. She wondered if something had recently stood out or if it was something that was usual.

Mr. Duling said that it had been an ongoing concern. It felt as if it had grown as the piles had grown. He wondered if the applicants could speak to what generated the smell.

Ms. Brnabic knew that there had been some windy days, but she indicated that happened variously. Mr. Urban said that the RAP piles were ground up, cured asphalt. There was no asphalt odor from that. It was not like smelling hot asphalt. Mr. Boden offered that Mr. Duling could contact him if there was a complaint, and Mr. Boden would personally meet with him. Ajax had a good neighbor policy, and they intended to always be good neighbors. He was a little saddened that he had not been aware of a complaint. He offered his business card, and he said that his office was in Troy, but he could be at the Rochester Hills facility within 20 minutes.

Chairperson Colling asked what it was that gave the odor to asphalt. He asked if it was heating the tar, for example. He knew that it was a petroleum distillate odor, but he wondered where it was coming from. Mr. Boden said that if Mr. Duling said that there was an asphalt smell, they would have to first determine if that was where the odor was coming from. Mr. Boden said that it could be a number of things. They have had complaints at other plants before when there had been a paving project going on around the corner. He really could not say the smell was from something certain, because he had no idea what the circumstances were when someone had smelled something.

Chairperson Colling realized that, but he wondered what in their processes had the potential to have an asphalt odor, assuming that somewhere a vapor would be produced. Mr. Boden said that the Rochester Hills plant had the best available control technology designed to capture potential odors. Sometimes, it was as simple as the haul trucks taking asphalt off site while it was still hot. It could have been a situation where the wind was going in a certain direction and the haul trucks were hauling off site. Mr. Urban noted that it was an issue that was completely unrelated to silos. Chairperson Colling understood, but it had been brought up by a resident.

Ms. Brnabic said that she was really happy that they chose to be good neighbors, and that they would be willing to meet with the neighbor if there

was a problem. She felt that was very important. She thought that the request for the variance was reasonable, and she did not have a problem with it.

Mr. Chalmers clarified that there was no I-2 zoning in the City, and he asked if it was safe to assume that if there was an I-2 development that there would have been more intensity, such as allowances of higher structures. Ms. Kapelanski said that she believed that I-2 was allowed 42 feet in height. The current I district encompassed those previous I-2 properties and carried over the height limitation. Mr. Chalmers asked if the City knew how the 42 feet came into play rather than 40 or 45 feet, for example. Ms. Kapelanski said that staff did not know; they tried to find some information, but there was not a lot to look at. Mr. Staran said that it had been 52 feet earlier, so they could wonder why it was that rather than 50 or 55, but they did not know.

Mr. Chalmers thanked the applicants for being a long-time business owner in the City. The Administration encouraged business and liked industrial projects as well. He asked if there were any lights on the existing silos for airplane warnings. Mr. Boden related that the height of the silos did not mandate lights for airplanes. The only lights on the silos were for visual at night, but they were displayed downward to illuminate walkways and so forth. Mr. Chalmers noted that there was equipment that went higher than the silos, and he asked Mr. Boden to reiterate the comment that was in his letter. Mr. Chalmers asked how much higher the conveyor equipment went than the silo. Mr. Boden advised that the conveyor that had hot mixed asphalt dumped into a series of horizontal conveyors. There were selector gates along the conveyors that directed the mix, depending on the type of mix, into whatever silo was appropriate. The existing conveyor had been in place from the beginning. With the addition of the silos, the overall height would not change. The reason they were talking about the silo height was because it met the definition of a building for Ordinance purposes. As far as the height of the conveyors, he did not have that with him, but there would be a nominal height increase of several feet. Mr. Chalmers said that whatever it was currently to the top of the equipment, it would not change when the new silos were added. For anyone looking at it, it would not be any higher. Mr. Urban agreed that it would be exactly the same. Mr. Chalmers clarified that they would be infilling underneath to be able to increase business and to be more competitive with different standards coming from their customers, to which both gentlemen agreed. Mr. Urban added that even if they went with the model with the shorter silos, the only thing that would happen would be that the drop shoot would be lengthened. The top horizontal

conveyor had to stay the same.

Mr. Graves did not believe that the drawing that the members had quite represented the orientation of the existing silos, and he asked if that was correct. Mr. Boden advised that there were five silos on site, and his model represented eight. Mr. Graves said that they were currently in a different orientation than what was shown on the plan as existing. Mr. Boden believed that the plan should have been consistent with the model. Mr. Graves said that the drawing showed a bank of three and then two, which made a trapezoidal shape. Mr. Boden put the drawing on the overhead. He referred to the top center of it, which he called the bird's eye view. It showed eight silos and to the right, it showed the new silos. On the lower left hand portion of the drawing, it showed the elevation view if someone was standing on the south facing north. The red lines on the lower left portion represented silos hidden in the background. The end view was from the east. On the lower right side, someone would be looking from the north facing south.

Mr. Graves asked if the silos shown in black represented the existing orientation. Mr. Boden said that it did not necessarily, because they had two rows of silos currently, and two of the silos on the north were offset from the three. Mr. Graves asked if they were going to relocate two silos. Mr. Boden agreed. He said that the total footprint of the silo bank with respect to how it would sit over the truck scales, would not change, because the truck scales defined the footprint. There would be some subtle relocation to fit some new conveyors. They would be putting in new truck scales, because they were antiquated. They would have to pour new foundations for the truck scales, which would play into things. Mr. Graves asked if there would be a complete reorientation of the existing silos. Mr. Boden said that it would not be complete, but there would have to be some reorientation to fit the silos in the compact space they had. Mr. Graves asked if there would be any way to go lower into the ground with the scales. That would lower the height of the tank. Mr. Boden stated that there was not. It would take a mass grade change and significant cost. The semi-trucks would have to drive into an underground tunnel, and they would have to have an approach angle no more than one-half inch per foot. Any kind of frost would not let the trucks get out, and there would be a confined space issue. He said that he could think of all sorts of issues. He said that he understood the question, but it was really a non-starter.

Mr. Graves pointed out that the whole project would be much larger than just adding three silos. Mr. Boden agreed that they would be putting in new truck scales. Mr. Graves noted that they would add new foundations

and reorient the existing silos. Mr. Boden said that when they put in new truck scales, they would have to put in appropriate foundations. Over the years, truck scales had changed. They were all digital load cells, and the precision of what was required for the support for those scales had changed. He maintained that it would be in the exact same spot where they currently were.

Mr. Graves said that Mr. Boden had stated that 200 ton was the smallest capacity silo available. Mr. Boden said that it was the smallest silo capacity that was usable in their competitive marketplace. There were some that were smaller, but they were typically used for small batch plants in rural areas or in portable plants that were moved around and job specific. In their modern economic climate, 150 ton silos were not a viable option. He said that it would be reckless for him to say that no other size was available, because in certain circumstances, small silos were used in appropriate areas, such as for an asphalt plant for a specific job.

Chairperson Colling asked if it was safe to say that even though there would be some reconfiguration of the plant, the drawing substantially showed what the end result would look like. Mr. Boden agreed that substantially it would. They were still working with their engineer. Until they got approval, it was somewhat hypothetical. The elevation would be the same. Whether the silos would be moved one over or the dominos were switched a little, they had to figure that out. From a profile view, nothing would be higher than it was. Chairperson Colling said that he had asked, because the issue was the height of the silo; they were not reviewing the site plan for placement.

Chairperson Colling stated that the plant had been in operation as long as he could remember, which was back into the 1960's. It had been a viable member of the community, paid taxes and provided jobs, and he did not want to see it go away. It was a viable business, and it did help the economy of the community. He said that he could make the case for allowing a construction that was equivalent to what was grandfathered in previously for the plant's efficiency. It was a unique situation, and he knew of no other asphalt plant in Rochester Hills, and in his opinion, it was impossible that another one would be built. As far as the issues mentioned by Mr. Duling, if there were further issues with odor or something, he asked Mr. Duling to address it with Mr. Boden to find the source. There might be nothing that could be done, but he knew that recycled asphalt did not have an odor. In another County that he was aware, when they milled the roads, they sold the recycled asphalt. He

said that he could support the variance.

Mr. Koluch mentioned that other members had alluded to precedent and whether or not they could expect, if business continued to grow, additional silos to be requested. He felt that they should put a limitation in the motion that the variance would not increase the current footprint of the existing scales and silos, and that would cover it. He did not think there would be much room for additional building. He asked if people agreed with that.

Chairperson Colling asked if the intent of the limitation was to prevent the applicant from building any more silos. Mr. Koluch said that they would need to bring forward a different application. Chairperson Colling said that he would support that as long as it stayed an asphalt plant, that they would have the ability to expand if needed. He agreed that there could be a condition that it applied to the current use of the property, but he did not want to limit further expansion.

Mr. Staran felt that what Mr. Koluch had stated would make an excellent finding: As proposed, there would be no material expansion of the footprint or reconfiguration. He agreed with Mr. Koluch that for any future expansion, should they come back asking for three more silos, for example, they would have to go through the same process again and come before the ZBA and make a case. Granting the subject variance would not open the floodgate for more silos than what was being proposed; it would require another variance.

Mr. Urban said that as Mr. Boden mentioned, the engineering was still in the works for the new scales, and they would dictate where a silo had to be placed. If they were to impose a condition that it could not change the existing footprint, it would be problematic. Chairperson Colling explained that it was not the intent. They just wanted to see it built substantially as proposed. He assumed they would work with staff on the site plan, which Ms. Kapelanski confirmed.

Ms. Brnabic said that the request was for three additional silos, so she questioned whether they should add that to the motion to make it clear. Chairperson Colling said that he had no problem with that, as long as future expansion was not limited.

Hearing no further discussion, Mr. Koluch moved the following, seconded by Mr. Chalmers:

MOTION by Koluch, seconded by Chalmers, in the matter of City File No. 19-039, that the request for a variance from Section 138-5.100 (Schedule of Regulations) of the Rochester Hills Code of Ordinances to allow three new, hot mixed asphalt storage silos at a height of 49-feet, 6 and 5/16-inches, Parcel Identification Number 15-29-351-015, zoned I (Industrial), be **APPROVED** because a practical difficulty does exist on the property as demonstrated in the record of proceedings and based on the following findings:

1. *Compliance with the strict letter of the Zoning Ordinance will be unnecessarily burdensome due to prevailing industry standards and will not allow for additional silos of conforming size without substantial hardship to the applicant.*
2. *Granting the variance will do substantial justice to the applicant by permitting a use of the land that is consistent with prevailing conditions onsite.*
3. *A lesser variance will not provide substantial relief.*
4. *There are unique circumstances of the property that necessitate granting the variance, namely that the current storage silos, which have been in use for decades, are of minimum industry standards size used.*
5. *Alternatives do not exist that would allow the intended and/or reasonable use of the property that would allow the requirements of the Ordinance to be met.*
6. *The granting of this variance would not be materially detrimental to the public welfare or existing or future neighboring uses.*
7. *Approval of the requested variance will not impair the supply of light and air to adjacent properties, or otherwise have a detrimental impact on any other adjacent property or property owner.*
8. *This is a unique property within Rochester Hills and is not likely to be duplicated.*

Voice Vote:

Ayes: All

Nays: None
Absent: Tischer

MOTION CARRIED

Chairperson Colling stated that the variance had been approved, and he thanked the applicants.

ANY OTHER BUSINESS

There was no further business to come before the Zoning Board of Appeals.

NEXT MEETING DATE

Chairperson Colling reminded the members that the next Regular Meeting was scheduled for December 11, 2019.

ADJOURNMENT

Hearing no further business to come before the Zoning Board of Appeals, Chairperson Colling adjourned the Regular Meeting at 8:07 p.m.

Ernest J. Colling, Jr. Chairperson
Rochester Hills
Zoning Board of Appeals

Maureen Gentry, Secretary