



Rochester Hills

Minutes

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 Gerard Verschueren
Members: J. Martin Brennan, Deborah Brnabic, Jim Duistermars,
Michael McGunn, Bryan Monaghan

Wednesday, November 11, 2009

7:00 PM

1000 Rochester Hills Drive

MINUTES of the ROCHESTER HILLS REGULAR ZONING BOARD OF APPEALS MEETING held at the Rochester Hills Municipal Building, 1000 Rochester Hills Drive, Rochester Hills, Oakland County, Michigan.

1. CALL TO ORDER

The meeting was called to order by Chairperson Colling at 7:00 PM.

2. ROLL CALL

Present 5 - Jim Duistermars, Deborah Brnabic, Gerard Verschueren, J. Martin Brennan and Ernest Colling

Absent 2 - Michael McGunn and Bryan Monaghan

Also Present: Derek Delacourt, Deputy Director, Planning Department
Joe Aprile, Ordinance Enforcement, Building Department
Judy A. Biak, Recording Secretary

Chairperson Colling stated for the record that Mr. McGunn had provided prior notice that he was unable to attend the meeting and was excused.

3. DETERMINATION OF A QUORUM

Chairperson Colling stated that a quorum was present.

4. APPROVAL OF MINUTES

4A. 2009-0490 October 14, 2009 Regular Meeting Minutes

Chairperson Colling called for any comments or corrections to the October 14, 2009 Regular Meeting Minutes. Upon hearing none, he called for a motion to approve.

A motion was made by Brennan, seconded by Duistermars, that the Minutes be Approved as Presented. The motion CARRIED by the following vote:

Aye 5 - Duistermars, Brnabic, Verschueren, Brennan and Colling

Absent 2 - McGunn and Monaghan

RESOLVED that the Minutes of the October 14, 2009 Regular Zoning Board of Appeals Meeting be approved as presented.

5. ANNOUNCEMENTS/COMMUNICATIONS

A. Planning & Zoning News, October 2009 Edition

Chairperson Colling noted the Board had received copies of the October edition of the *Planning & Zoning News* and called for any other announcements or communications. No other announcements or communications were provided.

Chairperson Colling stated that the procedure for conducting Public Hearings was outlined on a flyer located in the rear of the auditorium. He stated that any and all evidence, and any documents or exhibits submitted during tonight's proceedings, would be included as part of the public record of the meeting. He reminded the Board and the audience that all questions should be directed to the Chair.

6. UNFINISHED BUSINESS

**6A. 2009-0420 SIGN BOARD OF APPEALS
PUBLIC HEARING - FILE NO. 07-009**

Location: 1930 Star Batt Drive, located on the north side of Star Batt, east of Crooks Road, north of the M-59 Freeway, Parcel Identification Number 15-28-102-019, zoned I (Industrial).

Request: A request to permit one (1) off-premises sign to be located on Parcel Number 15-28-102-019 (northeast corner of Crooks and Star Batt) pursuant to Section 134-115(a) of the Code of Ordinances advertising the Star Batt Industrial Complex; the Karmanos-Crittenton Cancer Center, and the ConCorde Inn.

Applicant: SignGraphix, Inc.
39255 Country Club Drive, Suite B-35
Farmington Hills, Michigan 48331

Chairperson Colling noted for the record that this matter had been discussed at the October 14, 2009 Regular Meeting, and had been postponed. He then read the request for the record, noted the Board would be acting as the Sign Board of Appeals, and invited the applicant to come forward to the presenter's table, state his name and address for the record, and provide a brief summary of the request. He noted that any documents or other materials submitted at this meeting would become part of the permanent record.

Bill Lutz, SignGraphix, Inc., and Anne Vinstra, SignGraphix, Inc., 39255 Country Club Drive, Suite B-35, Farmington Hills, Michigan, were present.

Chairperson Colling recalled from the discussion at the October 14, 2009 meeting that the applicant was going to redesign their proposed sign and asked if that had been done.

Mr. Lutz briefly summarized the discussion from the October 14, 2009 meeting. He explained the Board had asked if the Gignac's Collision sign could be combined with their proposed sign to serve all parties in a fair manner. They subsequently redesigned the sign and had a concept that Mr. Gignac had approved and submitted a letter to that effect. All parties have agreed that made the most sense and that was the proposal in front of the Board this meeting.

Mr. Lutz stated there had been a slight alteration in the size of the sign to allow for the panel for the collision shop underneath the other panels, creating a 40 square foot sign with a 12- inch increase in height, although the sign remained the same width.

Chairperson Colling asked for Staff's comments regarding the redesigned sign. Mr. Aprile did not have any questions or concerns regarding the proposed redesigned sign.

Chairperson Colling asked if the applicant had anything additional to add. Mr. Lutz indicated he did not. Chairperson Colling stated a public hearing had been held at the October 14, 2009 meeting, but noting the audience in attendance, indicated he would provide another opportunity for anyone who wished to speak on this matter. He opened the Public Hearing at 7:05 PM, and hearing no requests to speak, closed the Public Hearing at 7:06 PM. He then called for discussion from the Board.

Mr. Verschueren asked if the Board should consider the square area of the proposed sign. Chairperson Colling noted if approved the Board would be granting a variance for the sign and it would not be held to the standard monument sign dimensions, which had been established at the October meeting. He pointed out the sign was not that much larger and was reducing the signage on that parcel by one entire sign. He did not see that the proposed sign was that egregiously large compared to the monument signs permitted by Ordinance.

Mr. Verschueren stated he had asked because he would like to have that on the record.

Mr. Duistermars did not object to the sign and stated he was pleased that two possible variances had been reduced to one possible variance.

Chairperson Colling agreed there could have been two variances on the corner and now there would only be one. He thought it was a better looking sign than what would have existed otherwise.

Mr. Brennan concurred noting he thought it was a very nice looking sign.

Mrs. Brnabic agreed with the comments made by the Board.

Chairperson Colling called for any further discussion on the proposed sign variance. Upon hearing none, he called for a motion.

Mr. Duistermars moved the following motion, which was seconded by Mrs. Brnabic:

MOTION in the matter of File No. 07-009, that a request for one off-premises sign, pursuant to Section 134-115(a) of the Code of Ordinances, to provide way-finding and to advertise the Star Batt Industrial Complex, the Karmanos-Crittenton Cancer Center, the ConCorde Inn, and Gignac's Collision to be located at the corner intersection of Crooks Road and Star Batt Drive, be **GRANTED** with the following Findings and Conditions:

Findings:

1. That special conditions or circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district. Particularly, none of the businesses advertised on this off-premises sign front on a major road nor are they visible from the intersection of Crooks Road and Star Batt Drive.
2. That literal interpretation or application of the provisions of this chapter would deprive the applicant of property rights commonly enjoyed by other properties in the same district under the terms of this chapter. Specifically, the public will have difficulty locating or will have no general awareness of where the businesses are located. Both the Karmanos-Crittenton Cancer Center and the ConCorde Inn will primarily draw public from many different areas, and will not be serving just residents familiar with or residing in the immediate vicinity.
3. Allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this chapter, the individual difficulties that will be suffered by a failure of the Sign Board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance, and will not be contrary to the public purpose and general intent and purpose of this chapter.
4. The applicant has obtained permission from the property owner of Parcel Identification Number 15-28-102-019, to locate an off-premises sign on that particular parcel on the north side of Star Batt Drive and Crooks Road.

5. The subject businesses are unusual in that they serve a large segment of the population but are located in an industrial corridor that does not typically contain these types of businesses.

Conditions:

1. The sign may remain in place as long as the subject businesses exist. Should the businesses fold, terminate or close, the sign will be removed.
2. The sign shall be specifically for way-finding for the Star Batt Industrial Complex, the Karmanos-Crittenton Cancer Center, the ConCorde Inn and Gignac's Collision.
3. For consideration of being placed on the subject sign, Gignac's Collision has agreed to remove their currently existing way-finding sign upon installation of the subject sign.
4. The sign will be constructed according to the plans dated received by the Planning and Development Department dated October 21, 2009.
5. The sign is to be located on Parcel Identification Number 15-28-102-019, on the north side of Star Batt Drive and Crooks Road.
6. The sign must meet all ordinances and requirements as per City Code and be permitted through the City's Building Department.

Chairperson Colling suggested Condition #6 be removed. Mr. Duistermars agreed noting Condition #4 would suffice. He referred to Condition #1 and asked if one business folded, whether the entire sign would have to come down or just the panel for that business. Chairperson Colling suggested Condition #1 be amended to indicate that all the businesses would have to fold. He explained the Board was granting a sign variance for the buildings the businesses were located in. He commented one of the businesses could change through retirement or some other event, and suggested any panel change be reviewed by the Sign Board of Appeals.

Mr. Duistermars agreed to amend Condition #1 to include that provision.

Mr. Verschueren noted a business could be sold, and suggested the word "sold" be added to Condition #1.

Mrs. Brnabic wanted to verify that these are the only three businesses located in that district that are non-industrial. Mr. Duistermars stated that Condition #2 covered that situation. He explained the sign included way-finding for the Star Batt Industrial Complex in total, basically covering four entities.

Mrs. Brnabic clarified she wanted to verify that the three businesses the Board was agreeing to a variance for were the only three businesses considered non-industrial in that district. Chairperson Colling was not sure about the non-industrial, but noted they were the only three the variance was being granted for the signage, which was the pertinent point.

Mr. Duistermars suggested Condition #2 could be amended to state the sign shall be specifically for way-finding for only the Star Batt Industrial Complex, the Karmanos-Crittenton Cancer Center, the ConCorde Inn and Gignac's Collision. Chairperson Colling noted that was pretty much what the verbiage of Condition #2 said.

Mr. Verschueren asked if the proposed sign would be out of the right-of-way. Mr. Aprile stated he would verify the sign was on private property and met the standard setback requirements of a monument sign.

Mr. Verschueren asked if that should be included as a condition in the motion. Mr. Duistermars thought Condition #5 satisfied that requirement, noting the parcel should be out of the right-of-way. Chairperson Colling stated the proposed sign was lined up with the existing sign on the parcel, which was far enough back for the right-of-way setback. Mr. Duistermars suggested Condition #6 be added as follows:

6. The sign shall not be installed in any right-of-way.

Mr. Verschueren discussed the area of the subject parcel which he thought could change the dimensions for the sign setback. Chairperson Colling noted the requirements for setting the sign back from the right-of-way for visibility purposes.

Mr. Verschueren noted that Crooks Road would be widened and he wanted to avoid any future problem. Chairperson Colling thought the addition of Condition #6 would prevent that and the location would be verified by Staff.

Mrs. Brnabic stated that the rendering of the proposed sign included flowers and shrubbery and asked if that landscaping would be included when the sign was installed. Mr. Lutz stated it was their anticipation there would be landscaping adjacent to the sides of the sign. It would make maintenance much easier, but pointed out that flowers would probably not be planted until next Spring. He thought some basic landscaping was included in the plan.

Mrs. Brnabic suggested a condition be included in the motion because it would give the sign a nicer look. Mr. Duistermars suggested Condition #7 be added as follows, which was agreed to by the motion seconder:

7. The sign shall be landscaped consistent with the plans submitted.

Chairperson Colling asked if Condition #7 was acceptable to the applicant. Mr. Lutz concurred but stated he thought it would be reasonable to assume that some of the landscaping might not be planted until Spring given the time of the year. Chairperson Colling agreed that was acceptable.

Chairperson Colling called for any other discussion on the proposed motion on the floor. Upon hearing none, he called for a roll call vote:

Complete Motion as Voted:

A motion was made by Duistermars, seconded by Brnabic, that this matter be Granted. The motion CARRIED by the following vote:

Aye 5 - Duistermars, Brnabic, Verschueren, Brennan and Colling

Absent 2 - McGunn and Monaghan

RESOLVED in the matter of File No. 07-009, that a request for one off-premises sign, pursuant to Section 134-115(a) of the Code of Ordinances, to provide way-finding and to advertise the Star Batt Industrial Complex, the Karmanos-Crittenton Cancer Center, the ConCorde Inn, and Gignac's Collision to be located at the corner intersection of Crooks Road and Star Batt Drive, be **GRANTED** with the following Findings and Conditions:

Findings:

1. That special conditions or circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district. Particularly, none of the businesses advertised on this off-premises sign front on a major road nor are they visible from the intersection of Crooks Road and Star Batt Drive.
2. That literal interpretation or application of the provisions of this chapter would deprive the applicant of property rights commonly enjoyed by other properties in the same district under the terms of this chapter. Specifically, the public will have difficulty locating or will have no general awareness of where the businesses are located. Both the Karmanos-Crittenton Cancer Center and the ConCorde Inn will primarily draw public from many different areas, and will not be serving just residents familiar with or residing in the immediate vicinity.

3. Allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this chapter, the individual difficulties that will be suffered by a failure of the Sign Board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance, and will not be contrary to the public purpose and general intent and purpose of this chapter.
4. The applicant has obtained permission from the property owner of Parcel Identification Number 15-28-102-019, to locate an off-premises sign on that particular parcel on the north side of Star Batt Drive and Crooks Road.
5. The subject businesses are unusual in that they serve a large segment of the population but are located in an industrial corridor that does not typically contain these types of businesses.

Conditions:

1. The sign may remain in place as long as the subject businesses exist. Should the businesses fold, terminate or close, the sign will be removed. Should one of the subject businesses be sold or change names or a new business be established in that location, any panel change on the sign should be reviewed by the Sign Board of Appeals.
2. The sign shall be specifically for way-finding for only the Star Batt Industrial Complex, the Karmanos-Crittenton Cancer Center, the ConCorde Inn and Gignac's Collision.
3. For consideration of being placed on the subject sign, Gignac's Collision has agreed to remove their currently existing way-finding sign upon installation of the subject sign.
4. The sign will be constructed according to the plans dated received by the Planning and Development Department dated October 21, 2009.
5. The sign is to be located on Parcel Identification Number 15-28-102-019, on the north side of Star Batt Drive and Crooks Road.
6. The sign shall not be installed in any right-of-way.
7. The sign shall be landscaped consistent with the plans submitted.

2009-0420

Chairperson Colling stated for the record that the variance had carried. The applicant thanked the Board for their time and consideration.

Chairperson Colling stated that the Board would resume as the Zoning Board of Appeals.

7. NEW BUSINESS

7A. 2009-0491 PUBLIC HEARING - FILE NO. 83-352

Location: 1301 S. Rochester Road, located on the east side of Rochester Road, south of Avon Road, north of Yorktowne Drive, Parcel Identification Number 15-23-151-037, zoned B-3 (Shopping Center Business).

Request: Item #1: A request for a variance of 43 feet from Section 138-5.100 (Schedule of Regulations) of the Code of Ordinances, which requires a minimum front yard setback of 75 feet in the B-3 Shopping Center Business Zoning District. The submitted application for a proposed addition to the existing building indicates a front yard setback of 32 feet.

Item #2: A request for a variance from Section 138-3.104 (Nonconforming Structures) of the Code of Ordinances, which states that no structure may be enlarged or altered in a way which increases its nonconformity. The submitted application for a proposed addition to the existing building will extend the existing nonconforming setback along the front of the building by approximately 15 feet.

Item #3: A request for a variance of 48 feet from Section 138-5.101(F)(6) (Schedule of Regulations) of the Code of Ordinances, which requires a front yard setback on any street frontage and from any adjacent parcel not zoned B-3. The south side of this parcel abuts Yorktowne Drive. The submitted application for a proposed addition to the existing building indicates a side yard setback of 27 feet (south side of the building).

Item #4: A request for a variance from Section 138-3.104 (Nonconforming Structures) of the Code of Ordinances, which states that no structure may be enlarged or altered in a way which increases its nonconformity. The submitted application for a proposed addition to the existing building will extend the existing nonconforming setback along the south side of the building by approximately 24 feet.

Applicant: Frank Martin
Dorchen/Martin Associates

29895 Greenfield Road
Southfield, Michigan 48076

Chairperson Colling read the request for the record, and invited the applicant to come forward to the presenter's table, state his name and address for the record, and provide a brief summary of the request. He noted that any documents or other materials submitted at this meeting would become part of the permanent record.

Mr. Frank Martin, Dorchen/Martin Associates, 29895 Greenfield Road, Southfield, Michigan, and Mr. George Fetsco, owner, Rochester Hills Chrysler Jeep, 1301 S. Rochester Road, were present.

Mr. Fetsco thanked the Board for their time. He stated he established his first location in Downtown Rochester in early 1973, and built the current location in 1978 when this was still Avon Township. He was currently designated as the "dealer of intent" by Chrysler Corporation to receive the "Dodge" branding. In compliance with genesis requirements, Chrysler was demanding a particular look and size for his showroom. That is what brought him before the Board with this request. Since the breakdown in the gas prices a year ago this spring, and heading on into the calamity experienced in the economy in September, and right on through the General Motors and Chrysler Corporation bankruptcies, the national czar of sales has gone down from 17 Million to less than 10 Million. Without the Dodge branding, it would be very difficult for his business to continue as a profitable venture in the City of Rochester Hills, noting this was his 37th year in the City.

Mr. Fetsco stated Mr. Martin and some of Mr. Martin's associates were present, along with Mr. Jack Gannon, the Executive in charge of Dealer Development Network for Chrysler Corporation, and were available to answer any questions the Board might have.

Chairperson Colling asked for an explanation of the phrase "Dodge branding".

Mr. Fetsco explained that he was being awarded the Dodge franchise to allow him to sell Dodge cars. He stated he was currently franchised to sell Chrysler and Jeep only. The program that Chrysler is currently on - the genesis program - is to put all three brands into the same showroom country-wide with the same look. The Dodge Ram brand is being separated into a fourth brand. He noted a similar situation would happen in the future with General Motors - they would require an identity program for all their dealers with like and common facilities throughout the country. That was coming next spring.

Mr. Fetsco referred to the Dodge branding and added that since the go-down of dealers that happened last May about the time of the bankruptcy, he has had "orphan customers". He explained "orphan customers" were those whose delivering dealer is no longer in business.

Just since the spring, in four and a half months through September, he has had 1,000 customer contacts with orphaned customers. Approximately 50% of those were Dodge owners. If those customers wanted to buy a Dodge product, he could not deal with them. In essence, if they did not purchase from a competitive manufacturer in town, they would have to go outside the Rochester Hills business area to purchase a Dodge. There is not Dodge store on Rochester Road or in this Community.

Chairperson Colling asked if Mr. Fetsco would still be selling Chrysler products. Mr. Fetsco responded yes, and if he receives the awarding, he would have Chrysler, Jeep, Dodge cars and Dodge Ram - all four brands. Chairperson Colling clarified he would be selling all four brands. Mr. Fetsco responded yes.

Mr. Martin referred to the changes to Chrysler and the requirements for their dealers, and stated his firm had been involved with about twelve different dealerships, seven in Southeastern Michigan and several in Ohio and Indiana. They had gone into the dealerships of those dealers who have been not quite awarded the brand they were missing, but given the opportunity to meet the criteria that Chrysler has provided. Chrysler has guidelines regarding the look, the square footage of service departments and showrooms, and various square foot areas that are required.

Mr. Martin stated he was asked to visit Rochester Hills Chrysler Jeep and met with Mr. Fetsco, who hired Mr. Martin's firm to conduct an analysis. The analysis was done and the plan before the Board prepared, which meets the criteria Chrysler required. He stated if there were any questions regarding the criteria, Mr. Jack Gannon from Chrysler was present. He noted Mr. Gannon provided a letter that was included with the submittal materials.

Mr. Martin stated they attempted to work within the guidelines of the City's Zoning Ordinance and the existing front of building to meet the design requirements. They looked at trying to "push" the building and showroom back into the present service department, but did not want to get involved with adding anything additional to back of the service department because that would put them closer to the residential zoning behind the property.

Mr. Martin stated they did everything they could to minimize the impact on the right-of-way and the requested variance. He explained they moved to the north as much as they could, and moved to the south as much as possible. He displayed a photograph of the existing dealership building and pointed out the existing overhang. He explained they would only be 2-1/2 feet closer to the road than the present overhang. He stated the proposed addition to the showroom would not come to the edge of the concrete sidewalk along the front of the building. They did not propose to eliminate that walk or the existing parking as the new building design would be within the sidewalk. There would be a new arch feature that was part of the design criteria.

Mr. Martin referred to the proposed addition to the south of the showroom, and noted that when the building was originally designed, Yorktowne Drive did not exist. When that road was constructed, it changed the side yard of the building to a front yard. He stated there was a wall of vegetation and greenery along with a six or eight foot screen wall running along Yorktowne. He noted that Yorktowne had been reconfigured over the years so it did not run right along the property line. In looking at the present configuration of Yorktowne Drive, the property dimensions do not meet the requirement for the setback. However, visually from Yorktowne, if one were to see through the wall, they would have met the required 75-foot setback or been very close to it.

Mr. Martin believed the impact on Rochester Road was minimal. There was absolutely no impact on the residential neighbors. In looking down Rochester Road, there were other examples of other facilities that are closer to the property line. Although those facilities might be in different zoning districts, visually they were closer. He also believed that the proposed solution to the Chrysler requirements would be a very attractive addition that would lend itself nicely to Rochester Road.

Mr. Martin displayed a rendering of the proposed dealership, and pointed out the existing sidewalk. He explained the proposed solution included renovating the front which was essentially wrapping what currently existed. He noted the sidewalk was the same. He pointed out the existing Service Department, and the Used Car Building on the far left. He explained the proposed elevation was only two feet closer to Rochester Road than the existing canopy edge. He hoped for a favorable recommendation, noting they believed this was an important addition to the dealership. He stated they had asked Chrysler if they could reduce areas, but were bound by guidelines. He indicated they felt they had attempted to work with everyone to create something for the business owner to allow him to receive the Dodge brand, bringing that additional brand to Rochester Hills. He stated he would be happy to answer any questions.

Chairperson Colling requested that the photograph of the existing building and the rendering of the proposed addition be handed to the Board for review. He stated they would become part of the record and placed on file.

Chairperson Colling clarified that the existing sidewalk was in the same location in the rendering of the proposed addition. Mr. Martin indicated that was correct.

Mr. Martin displayed a photograph he took standing in the parking lot to the north of the existing building, and pointed out the bank to the south and the front of the existing fascia on the building. He provided that as reference to the location of other buildings along Rochester Road.

Mr. Martin stated that one of their challenges, and one of the reasons for the variance they were requesting, had to do with the 180-foot right-of-way along Rochester Road. He noted it was somewhat of a meandering right-of-way that had been adopted by the City's Master Thoroughfare Plan, but their figures were based on that right-of-way line.

Chairperson Colling called for a report from Staff.

Mr. Delacourt explained that four separate variance requests had been noticed which were identified in the Staff Report. One variance was the front yard setback and the associated section of Code related to the expansion of non-conformance. The second item was a side yard setback variance towards Yorktowne to the south of the facility, with the associated increase in non-conformance. He noted the Staff Report identified several circumstances that Staff felt created a unique situation, including the increased right-of-way width of Yorktowne Drive, and the separation of the road edge from Yorktowne to the actual property line where the setback is measured from, which in essence creates the intent of the Code as far as the proposed building setback.

Mr. Delacourt stated that additional right-of-way was proposed by the City that encroaches across the front of the property. He thought it was important to point out for the record that in this instance the existing building, the proposed addition, or any addition the variance would allow, would not increase into any of the public or proposed right-of-way, whether it was the Michigan Department of Transportation (MDOT) right-of-way or the City's. He thought the Zoning Board of Appeals was well aware that the City and MDOT had separate right-of-way for Rochester Road through this section to accommodate different potential future roadway expansion. Staff felt this created a unique situation for these properties.

Mr. Delacourt stated Staff had spent a great deal of time with the owner of the dealership and his professionals in looking at alternatives to expanding forward. When dealing with a showroom expansion, it becomes incredibly difficult, especially with this property, to do an expansion to the rear to create the room in the front. That would cause problems with maneuvering lanes and parking lanes. Staff felt this was the minimal necessary variance to accomplish what the applicant wanted to accomplish.

Mr. Delacourt clarified that all four variances were noticed. However, it was Staff's opinion that if the two setback variances are granted, the Board did not need to act on the increase in non-conformance variances. They were noticed in case the Board wanted to act on them, but it was Staff's opinion if the two setback variances were granted, the others would be rendered moot with the change in setback.

Mr. Delacourt asked for clarification from Mr. Martin regarding the side yard setback, which had been noticed as a 27-foot setback. He noted it appeared in the drawing that the service canopy would be 30-feet, which was a change of 3-feet. He explained it was noticed for the larger distance, but if the Board acted on that variance, it could be reduced by 3-feet for the side yard setback.

Chairperson Colling clarified Mr. Delacourt was referring to Item #3, which would be changed from 27-feet to 30-feet. Mr. Delacourt stated the side yard setback would be 30 feet. He wanted to be sure that the variance reflected the drawings that were provided.

Mr. Delacourt stated that two draft motions had been provided to the Board, one for each of Items #1 and #3 supplemental to the packet materials.

Chairperson Colling opened the Public Hearing at 7:39 PM and asked if there was anyone who wished to speak on this matter. There being no persons wishing to speak, he closed the Public Hearing at 7:39 PM.

Chairperson Colling advised the Board he was a contract employee of General Motors and had been involved in the automobile industry for some time. He stated he also had several relatives that worked for the Chrysler Corporation. He did not believe that would affect his decision in any manner, but asked if the Board had any concerns. No Board Member had any objections to Chairperson Colling participating in this matter.

Chairperson Colling then called for discussion from the Board. He asked the Chrysler representative to take a seat at the presenter's table and introduce himself for the record.

Mr. Jack Gannon stated he was the Dealer Network Development Manager at the Great Lakes Business Center.

Chairperson Colling stated that Rochester Hills did have a Dodge dealership, Meadowbrook Dodge, which did not make the cut, and noted there were no other Dodge dealerships in the area. He asked if it was the intent to make the one representative dealership full-branded for Chrysler.

Mr. Gannon stated that was the plan for Rochester Hills. He stated they rejected Meadowbrook and offered the franchise to Rochester Hills Chrysler Jeep.

Chairperson Colling asked if there were plans to increase any other dealerships in the near vicinity. Mr. Gannon stated there was no plan whatsoever.

Mr. Verschueren stated he went to the Chrysler dealership earlier in the day and drove around the building. He then parked his car and went to the back and looked at the topography of that area, which was over three feet, making it impossible to do anything with the back of the existing building. Around the building he observed a continuous wall around the property. He met Mr. Fetsco and advised him to bring some photographs to the meeting which were helpful to the Board.

Chairperson Colling stated he personally did not want to lose the business in the City. It was his initial impression that the variance would not intrude any more into the right-of-way, and the front of the building would only be moved to the edge of the sidewalk. It was his opinion the variances should be granted.

Mr. Duistermars thought this particular situation was unique because the right-of-way was increased to 90-feet from the centerline, rather than 75-feet from the centerline. He agreed keeping a viable business on a parcel that was re-dimensioned created a unique situation. He thought this was a good case of a unique parcel.

Chairperson Colling thought it was a unique situation because the applicant's business was a long-established business and existed before much of the build-up was done around it. He noted when he first moved to the Community in 1978, the dealership was surrounded by empty fields. Now the area had developed and "fenced in" the applicant's parcel. He did not think a long-term business partner in the City should be denied the right to upgrade their franchise so they can continue to conduct business within the City.

Mr. Brennan agreed with the Board's comments. He was happy to support the request because he thought it made good business sense and there were legitimate grounds to support the request. Specifically, the change in Rochester Road with the proposed right-of-way, and the construction of Yorktowne Drive changing the parcel to a corner parcel. He asked if Yorktowne Drive was a residential street.

The applicant stated he had asked that question years ago, noting there had been a question of ownership of the drive.

Chairperson Colling pointed out Yorktowne looked like a road going nowhere, because the subdivision was so far back from Rochester Road.

Mr. Brennan asked if the residents had been informed about the proposed expansion. Mr. Delacourt stated that the required 300-foot notice had been mailed. He spoke to some neighbors who came to the Planning Department for information about the request. He stated that the general tone was that the neighbors were much happier to see the expansion toward Rochester Road rather than any expansion being done to the east toward the single family homes. Those were the comments he received. He noted the only concern was whether there would be a

curb cut from Yorktowne as part of the expansion. It was explained that no curb cuts would be made from Yorktowne Drive.

Mr. Brennan noted that the Board had not received any written communications objecting to the proposed request. Chairperson Colling confirmed that no written communications had been received and no one requested to speak at the Public Hearing.

Mr. Brennan thought that was important in the spirit of being a good neighbor, and noted that notice had been provided and a public hearing conducted.

Mrs. Brnabic stated she supported the project for the reasons mentioned by the Board. She thought Mr. Brennan had a good suggestion and encouraged the applicant to speak to the neighbors so they were aware of what was proposed and received the correct facts. If a logical problem was encountered, she felt those problems always worked out better if the neighbors are informed and involved in a project.

Mr. Duistermars clarified the proposed expansion was into the existing grassy area in front of the existing façade, and the parking would remain the same. He referred to the letter sent by Mr. Jack Gannon, and asked if Chrysler Corporation was satisfied with the land size of the dealership. Mr. Gannon responded yes, the land is satisfactory.

Chairperson Colling called for any further discussion from the Board. Upon hearing none, he called for a motion, noting two motions were in order.

Mr. Duistermars proposed the following motion, seconded by Mr. Brennan. Chairperson Colling called for discussion on the proposed motion on the floor. Upon hearing none, he called for a roll call vote.

Item #1:

A motion was made by Duistermars, seconded by Brennan, that this matter be Granted. The motion CARRIED by the following vote:

Aye 5 - Duistermars, Brnabic, Verschueren, Brennan and Colling

Absent 2 - McGunn and Monaghan

MOTION by Duistermars, seconded by Brennan, in the matter of File No. 83-352, that the request for a variance of 43 feet from Section 138-5.100 of the Schedule of Regulations of the Rochester Hills Code of Ordinances to allow a 32-foot front yard setback for an addition to the existing building (Item #1), be **GRANTED** for 1301 S. Rochester Road, Sidwell 15-23-151-037, with the following Findings and Conditions:

Findings:

1. A practical difficulty has been demonstrated for the subject property based on changes that have occurred to the surrounding properties since the construction of the subject buildings, including the change in the Rochester Road proposed right-of-way, the construction of Yorktowne Drive changing the subject parcel to a corner parcel. Specifically, compliance with the strict letter of the restrictions governing setback requirements will unreasonably prevent the applicant from using the property for its permitted purpose and conformity with the setback restrictions are unnecessarily burdensome.
2. Granting the variance will preserve a substantial property right for the applicant as enjoyed by other property owners in the District, and thus substantial justice shall be done. The Board has determined, based on the documentation submitted by the applicant that the setback variance is necessary in order to meet the Zoning Ordinance requirements.
3. The granting of the variance is based on the unique circumstances of the property as presented by the applicant and noted in Finding #1 above.
4. The problem is not self-created by the property owner.
5. The granting of this variance is not expected to impair an adequate supply of light and air to adjacent properties; unreasonably increase the congestion on public streets; increase the danger of fire or endanger the public safety; make the site inaccessible to fire department or other emergency vehicles or create any particular concern with the travelling public; or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City for all of the reasons stated above.

Conditions:

1. The granting of this variance is based on the site plan stamped as “received by the City of Rochester Hills Planning Department dated October 30, 2009”.
2. The addition shall conform to all applicable Codes and Ordinance Requirements, and all applicable permits shall be obtained from the Building Department.

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Chairperson Colling noted for the record that the motion had carried. He asked if the Board was prepared to make a motion on Item #3. Mr. Duistermars proposed

the following motion, seconded by Mr. Verschueren. Chairperson Colling called for discussion on the proposed motion on the floor. Upon hearing none, he called for a roll call vote.

Item #3:

A motion was made by Duistermars, seconded by Brennan, that this matter be Granted. The motion CARRIED by the following vote:

Aye 5 - Duistermars, Brnabic, Verschueren, Brennan and Colling

Absent 2 - McGunn and Monaghan

RESOLVED in the matter of File No. 83-352, that the request for a variance of 45 feet from Section 138-5.100 of the Schedule of Regulations of the Rochester Hills Code of Ordinances to allow a 30-foot side yard setback for an addition to the existing building (Item #3), be **GRANTED** for 1301 S. Rochester Road, Sidwell 15-23-151-037, with the following Findings and Conditions:

Findings:

1. A practical difficulty has been demonstrated for the subject property based on changes that have occurred to the surrounding properties since the construction of the subject buildings, including the change in the Rochester Road proposed right-of-way, the construction of Yorktowne Drive changing the subject parcel to a corner parcel. Specifically, compliance with the strict letter of the restrictions governing setback requirements will unreasonably prevent the applicant from using the property for its permitted purpose and conformity with the setback restrictions are unnecessarily burdensome.
2. Granting the variance will preserve a substantial property right for the applicant as enjoyed by other property owners in the District, and thus substantial justice shall be done. The Board has determined, based on the documentation submitted by the applicant that the setback variance is necessary in order to meet the Zoning Ordinance requirements.
3. The granting of the variance is based on the unique circumstances of the property as presented by the applicant and noted in Finding #1 above.
4. The problem is not self-created by the property owner.
5. The granting of this variance is not expected to impair an adequate supply of light and air to adjacent properties; unreasonably increase the congestion on public streets; increase the danger of fire or endanger the public safety; make the site inaccessible to fire department or other emergency vehicles or create any particular concern with the travelling public; or in any other respect impair the health, safety, comfort, morals or welfare of the inhabitants of the City for all of the reasons stated above.

Conditions:

1. The granting of this variance is based on the site plan stamped as “received by the City of Rochester Hills Planning Department dated October 30, 2009”.
2. The addition shall conform to all applicable Codes and Ordinance Requirements, and all applicable permits shall be obtained from the Building Department.

2009-0491

Chairperson Colling noted for the record that the motion had carried. The applicant thanked the Board for their time and consideration.

8. ANY OTHER BUSINESS

Chairperson Colling called for any other business. He noted the next regularly scheduled meeting was December 9, 2009.

Mr. Verschueren stated he would be out of town from December 16, 2009 through January 23, 2010.

Chairperson Colling called for any other business. No other business was presented.

9. ADJOURNMENT

Upon motion by Verschueren, seconded by Brennan, Chairperson Colling declared the Regular Meeting adjourned at 8:10 PM.

Ernest Colling, Chairperson
Zoning Board of Appeals
City of Rochester Hills

Judy A. Bialk, Recording Secretary

Approved as _____ at the _____ 2009 Regular Zoning Board of Appeals Meeting.

DRAFT

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DRAFT

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