

ZONING BOARD OF APPEALS

CITY OF LIVONIA

MINUTES OF SPECIAL MEETING HELD TUESDAY, MARCH 15, 2022

A Special Meeting of the Zoning Board of Appeals of the City of Livonia was held on Tuesday, March 15, 2022.

MEMBERS PRESENT: Gregory G. Coppola, Chairman
James Baringhaus, Vice Chairman
Timothy Klisz, Secretary
Joel Turbiak
Michael Testa
Tamara Oliverio

MEMBERS ABSENT: Christopher Boloven

OTHERS PRESENT: Bob Stroble, Inspection Department
Mike Fisher, Legal Department
Valerie Bertani, CEO 9489

The meeting was called to order at seven p.m. Chairman Coppola explained the Rules of Procedure to those interested parties. Each petitioner must give their name and address and declare hardship for appeal. Appeals of the Zoning Board's decisions are made to the Wayne County Circuit Court. The Chairman advised the audience that appeals can be filed within 21 days of the date tonight's minutes are approved. The decision of the Zoning Board shall become final within five (5) calendar days following the hearing and the applicant shall be mailed a copy of the decision. There are four decisions the Board can make: to deny, to grant, to grant as modified by the Board, or to table for further information. Each petitioner may ask to be heard by a full seven (7) member Board. Six (6) members were present. No one chose to reschedule. Secretary then read the Agenda and Legal Notice to each appeal, and each petitioner indicated their presence. Appeals came up for hearing after due legal notice was given to all interested parties within 300 feet, petitioners, and City Departments. There were four (4) people present in the audience.

(7:00)

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APPEAL CASE NO. 2022-02-03 (Tabled February 15, 2022): An appeal has been made to the Zoning Board of Appeals by Stark Road Holdings, LLC, 14255 Stark Road, Livonia, MI 48154, seeking to erect wall signs upon a physical therapy/fitness facility building resulting in excess number of wall signs and wall sign area.

Number of Wall Signs:

Allowed: Zero
Proposed: Five
Excess: Five

Wall Sign Area:

Allowed: Zero Square ft.
Proposed: 313 Square ft.
Excess: 313 Square ft.

The property is located on the west side of Stark Rd. (14255), between Schoolcraft and Lyndon, Lot. No. 084-99-0003-000, N-2 Zoning District (Parks and Community). Rejected by the Inspection Department under Livonia Vision 21 Ordinance, Section 11.08, "Sign Regulations for Residential Districts."

Coppola: Alright, thank you very much. Why don't – this has been tabled so we need a motion to remove from the table.

Testa: Mr. Chair.

Coppola: Mr. Testa.

Testa: Move to remove appeal case 2022-02-03 from the table.

Klisz: Support.

Coppola: Okay, I've got a motion by Mr. Testa, support by Secretary Klisz to remove appeal case 2022-02-03 from the table. All in favor?

Board: Aye.

Coppola: Okay. Mr. Stroble, anything you'd like to add?

Stroble: Not at this time, Mr. Chair.

Coppola: Alright, are there any questions for the inspection department? Alright, seeing none, if the petitioner could step up. I'll need a name and address first please.

Hartzell: Thank you. Jonathon Hartzell, 14255 Stark Road.

Coppola: And Jonathon Hartzell, what is your relationship to the petitioner?

Hartzell: I'm one of the owners.

Coppola: Okay, alright, I apologize for the snaf – the snafu we had last time. Hopefully we can get this thing moving forward. Why don't you tell me a little bit about the project.

I'd like to understand what's in the – what's going to be in the building? What's kind of the goal of the facility? I notice that there's some tenants. I'd like to know how that's going to work. Just kind of give an overview of everything that you'd like to get.

Hartzell: Okay. So, our group, we have Detroit Rising Development, I'm the principal of that, we own a few restaurants and food and beverage developments in the City of Detroit, we're developing also in Lansing and for a while we've been looking to create a training facility with good length and width for multiple sports. There's a short for all of that in the community for youth sports and older. The YMCA came up for sale during COVID and it actually fit the exact criteria we've been looking for, so our real name use originally was for the back gyms. There's three (3) attached gyms to that. So, we converted the first two. One was a tennis court, one was gymnastics into turf space of which we've been using for club – club and youth sports including Madonna University, which brings through multiple sports – football, basketball, football, baseball, softball, lacrosse. Boys and girls sports during the day and at night several community clubs have been using it to train out of and then the weekend and evenings there's been leagues run out of the training space. The former back tennis court space we converted to pickle ball courts in door, and so we've had a real good experience with the older community playing pickle ball – you know – from 7am till 8 pm at night indoor space there, and then traditional building on the front end – we converted former workout space into two (2) tenant spaces in which one has been leased up by Health Quest Physical Therapy, which they just got their final approval and just started business last week. The front space and second space doesn't have an operator yet. We converted their original office and daycare space down to what future space with café, arcade, my personal hospitality group's office and we have a third room we haven't defined yet. And then finally the pool is being brought back into use by the third party named Sailfish –which there will be youth training and youth sports swimming in that space. There's a fourth indoor gym that used to be a hard court and converted to baseball training space and turf space, which we've had a lot of baseball youths come in there using batting cages for that. There's also four indoor racquetball courts that haven't been defined yet, and the locker rooms haven't been defined yet. Though we have a – a really nice spa user out of the City of Detroit looking to put a health spa in the basement for like steam rooms and cold plunge baths and things of that nature.

Coppola: Okay, why don't you tell me a little bit about your sign package.

Hartzell: The sign package is beautiful – you know – the building is a 90,000 plus square foot building with a lot of brick, metal siding and block siding – just a lot of square footage and just kind of doesn't have very much decorative look to it, so we like to use signage as a bit of a way to break that up, A, promote and present who we are, and B, have a little bit of elevation and depth change doing the same thing. I guess I can add that part of that elevation is like 270,000 actual square feet of siding and elevation. We're proposing to do 313 total feet of signage on the building, which when I just did the calculations it was actually more like 240. We only added two signs in the builder package, so my calculation's a little bit high on that. We are looking to remove the monument sign that's in the grass, that felt a little bit too industrial to us, we felt like it belonged in more of like an automotive – auto tech neighborhood, where this is a little more flattering.

Coppola: So, you're not going to have a monument sign.

Hartzell: That's right. We're removing that.

Coppola: Alright, I noted in – in Council's approval that they referenced sign package A201. Seeing on page A-201, that is just the – that's the north facing side, but then there's an A202, which is your east facing. They only include A-201. I guess my question to you, although their notes specifically state something in regards to the size of a – of a sign on the east elevation, which is obviously --

Hartzell: I--I can just state that this is the same package presented to them if there's a – if there's a miss in the write up, I don't know, I didn't notice that myself.

Coppola: I'm trying to figure out which one's which, so 201 is the actual east elevation and 202 is the north elevation, because your tenant side is facing north, right? It's facing the parking lot?

Hartzell: Yep. Well, it's goofy. It is one side facing the parking lot, which is when you're driving down Stark Road, you'll absorb that sign. In other words, you won't see the rest – face Stark Road, which I also get goofed up with construction. I think that's north --

Coppola: Yes, it goes Stark Road is east --

Hartzell: -- and then east is towards Stark Road, yes.

Coppola: -- and then the parking lot's north.

Hartzell: That is correct.

Coppola: What's the purpose of the Red Cross sign?

Hartzell: That's the wellness center, that's the wellness side of it, so it's Health Quest and it will be recovery – we're trying to find a recovery lounge in the other tenant space, so it's really just towards that.

Coppola: And--and when you presented this to Council, they saw the tenant sign?

Hartzell: I believe so. I believe this is all the same package.

Coppola: Again, the confusion is again, they did specifically identify A201 --

Hartzell: Yeah --

Coppola -- that could have been an error, but this -- this page -- page 2.02 isn't approved.

Hartzell: Yeah, a big part of the package was we reduced down to below 350, was a big yes for them and part of that big number was that sign facing north on the parking lot side. We've actually reduced and shrunk everything by a certain percent below that, and then – like I said, we reduced it a little more to get down to like more like 240.

Coppola: So, how long you been in operation – operating now?

Hartzell: We bought June 4th of last summer, it's my wife's birthday, so if I forget I'm in trouble. And then we went through it – and the back half of the building, the turf space, we opened up in November, but we haven't really opened up the front traditional building side. Health Quest is the first to operate out of it.

Coppola: Okay. How have people found your building thus far?

Hartzell: Right now, it's outreach – you know – it's contacting clubs and groups of that nature, social media and – and private contacts.

Coppola: I noticed your tenant has a sign – a banner sign in the window.

Hartzell: Yep. That's their temp sign till we get something.

Coppola: But it doesn't look like they're going to have much by the way of a tenant sign on the front, so how will people find their business?

Hartzell: I think they're also on the same vein as us, where it's a lot of word of mouth and they're predicating on business picking up in our spot – in our space to ramp up their business. And actually, now it makes sense to me why it says 350. There is, in that original package, there's window details were approved, that's why we got three (3) 344 in our package.

Coppola: Can you remove those then, or do they stay?

Hartzell: I removed those because I wasn't going to use those wall details, that's why I got down to 344.

Coppola: Okay. Any questions for the petitioner?

Baringhaus: Mr. Chairman.

Coppola: Vice Chair Baringhaus.

Baringhaus: Yeah, on sign four (4), can you -- it shows like you have a number of tenants in the building. How many tenants are you going to have and what -- what lines of business or service will you offer?

Hartzell: So, like I said, the two (2) marquees are the two (2) tenants that will be in the wellness area, so like on the bigger ones, the two bigger spaces, Health Quest will be one and then whatever that third party – or second party is another tenant. We've talked to a group like Ramp Detroit and groups like that are wellness, and then the smaller businesses are kind of like the Sailfish and groups like that, My Hospitality Company and then we have the four (4) racquetball rooms that are -- which are set up really nicely for private trainers and groups like that.

Baringhaus: So, you'll have--if everything goes according to plan, ten (10) tenants in here?

Hartzell: Potentially. Yes.

Baringhaus: Also, it seems like on the North side of the building the areas maybe between the north entrance and the east entrance seemed to be kind of dirty and worn looking. Do you have any plans for that?

Hartzell: On the stone?

Baringhaus: On the stone, yeah.

Hartzell: Yeah, that is actually permitted to be clad over we just ran out of budget this year.

Baringhaus: Okay, very good. Thank you.

Hartzell: Thank you.

Turbiak: Mr. Chair.

Coppola: Mr. Turbiak.

Turbiak: Through the Chair to the petitioner, in, I believe in the previous packet that we had for this case it was mentioned and you probably hear it as well, that you guys were considering rezoning. Is that true?

Hartzell: It's still – it's still a conversation. There's some use in the backyard we'd like to get to. It's not currently zoned correctly.

Turbiak: Okay. What--what zoning would you change to, and it sounds like you're saying just a portion of the property or were you --

Hartzell: Well, no, I know Mark Taormina is coming from your board on board to help work on his master plan and change --

Turbiak: Oh, okay.

Hartzell: Yeah, yeah. So, we're waiting for that to happen and understand what the path would be for us. So, I just don't know what the right path is currently, but it would be zoning for the whole thing, but a big part for us is opening up that back tennis court area. There's a lot of open area tennis courts back there that have been grown over for a long time. There's a good amount of square footage back there that we need to acclimate for more social use.

Turbiak: Okay. And – and forgive me because I'm not familiar going on with the zoning – I mean – I know we released it in August and there's been some updates recently that are kind of in the works. I don't know how that pertains to your site and I believe your site is currently zoned N-2 neighborhood? Is that your understanding?

Hartzell: I believe so.

Turbiak: Okay. So--and just clarify for me again, forgive me, are you planning to rezone the N-2, is that going to go away and what would it change to? It sounds like you don't know what it will change to, but is it potentially going away?

Hartzell: Yeah. I couldn't tell you. Mark's mentioned a few items in the past. My office went through and proposed something, but he just said pause and wait, that might not be appropriate anymore based on his change. I don't know that answer.

Turbiak: I see. I see, so it seems like it's a pretty dynamic situation. Has he given you any idea of a timeline of when he thinks it would come to – he could give you a recommendation?

Hartzell: I believe there is the 21st of this month was the next hearing.

Turbiak: Okay.

Hartzell: So, after that I'll ask that.

Turbiak: Okay. And maybe this is moot at this point, but I think it also alluded to – you know – based on some zoning of what you guys were asking for was not a lot more than what was allowed and so I was curious to understand what zoning that was compared to, but it sounds like you don't really know that, so --

Hartzell: Right.

Turbiak: Okay. That's all at this time. Thank you, Mr. Chair.

Hartzell: Appreciate it.

Testa: Mr. Chair.

Coppola: Mr. Testa.

Testa: Thank you. So, for the record I spoke on the phone with John yesterday at length. So, thank you for the updated package. It's a lot more clear than what was submitted originally and I can completely understand the overall package, but thank you.

Hartzell: You're welcome.

Testa: I did wanna clarify above your two entrances you have an awning. I think one's reddish and one's bluish or greenish, I forgot, steel blades as you call it or steel cladding?

Hartzell: Yeah.

Testa: Do you plan on putting signage on that?

Hartzell: No.

Testa: Because I thought the original proposal had signage on that.

Hartzell: No, yeah those? Yeah, those will never be signs

Testa: Okay, so they will stay just the solid color.

Hartzell: That's correct.

Testa: Okay, and then to the point regarding the signs themselves, all five (5) of them, how did you come up with the size of each sign? In terms of maybe like the sign font does it need to be that big?

Hartzell: You know—in the proportion to the size of that wall that it's on and the length of that side of the building, right? So, I think it's proportioned to as you're driving down Stark Road from far way, how do you absorb and read that sign to understand what you're seeing? There's a long drive there, a long jog as well if you jog or not, but it's proportioned to that elevation.

Testa: Okay. Just trying to balance it out. And sign four, is this a product of how many tenants you plan to have?

Hartzell: Yes.

Testa: On the side of the font. Sign three I think is clear, sign two and sign one, I assume your answer will be similar to sign five?

Hartzell: That's correct.

Testa: Regarding the monument sign and the ground sign that you're not going to have now, is there a reason you chose a new wall signage instead of a monument sign?

Hartzell: I – as I think I mentioned earlier, it's just a lot of elevation of the same color material, and you want to break that up a bit and just kind of design on one piece and then also on signage facing the other.

Testa: Okay. And regarding, as you mentioned, the – it was asked earlier, the portion of the building that's not brick, it's kind of stone, you're going to clad over that?

Hartzell: There's a permit to be cladded over.

Testa: Can you maybe better explain what you mean by cladding?

Hartzell: Well, there's a material that has an angled lineal look to it and we're going to, got to figure out the carpenter, we haven't really hired anyone, fasten over the stone. You can bring it over and it will just clad against – I guess, I don't really have a term for that. Overlaying it maybe is the best way, but it would be fully accompany enclosed so you wouldn't see that.

Testa: Okay. And then to follow up on the question earlier about vinyl stickers in the window. Those are removed. I was there yesterday, two days ago. But from the original – the plan that was submitted you had them on there also on the doors. You plan on putting anything back on the doors? Or will the doors be completely glass?

Hartzell: Yeah, I didn't have a plan for that. Might – might be tenant request at some point, which we would tell them – you know – apply for a permit and that.

Testa: Okay and maybe the last question I have and then I'll turn back over. Can you speak for the lighting of each sign?

Hartzell: So, let me make sure I have a plan with my numbers. So, sign one, two, both of those on the east elevation, they both have ground lights shooting up. I don't know the lighting package for the small little sign – sign three. Sign four is backlit, right? So, it will illuminate the tenant space. And then sign five has goose neck lighting over it so it shines down.

Testa: Okay. Thank you. So, sign one and two would be my – my concern. So, it is ground lit pointed up towards the sign, so it's not going to be illumination pointed out towards – there's houses back there.

Hartzell: No, it's going to be towards the building.

Testa: Okay. Thank you for that bit of information.

Hartzell: Thank you.

Testa: Thank you, Mr. Chair.

Coppola: Any further questions? Mr. Baringhaus, do you have any questions?

Baringhaus: I'm good. Thank you.

Coppola: I have a question for Mr. Fisher. So, this – this, and maybe there's something that wasn't included in the package. This zone right now is a District Parks and Community, so it allowed to have multi-tenant --

Fisher: Well, that's part of the changes that the petitioner's talking about. The idea is increasingly in this new environment of the Livonia Vision 21 Zoning Ordinance, where we're trying to be more dynamic and take advantage – be a little more nimble and take advantage of exciting new proposals as they come along, the thought was that we would make this what's called a planned general development, and it's – a planned general development is sort of the maybe commercial office equivalent of that you use for residential planned residential development and so the thought is that this property will probably be rezoned to some commercial classification and the planned general development will sort of be the rubric for this development. You can sort of see how – I mean – this of course use existed all this time is the why, basically this is the same sort of a for-profit of the way that we're talking about here. So, we sort of always had that we just didn't call it anything. So, now what it will be called is a planned general development.

Coppola: Okay. So, are they operating under some type of zoning variance or operating --

Fisher: Well—to the extent they're operating, which obviously is not a full blown operation yet, but to the extent they're operating this way its on the precedent of how the property has been used all these years.

Coppola: They're – they're leasing it out to tenants --

Fisher: Well, but they're leasing it out to tenants who do the same stuff that the Y did at that space, for the most part, so.

Coppola: Okay.

Hartzell: Can I note that the YMCA leased to DMC in the space too.

Fisher: Right.

Klisz: Mr. Chair.

Coppola: Mr. Klisz.

Klisz: For Mr. Fisher, if this zoning did change, would that change the allowed signage on the building?

Fisher: Yes.

Klisz: And would it – what would that be, if you know off hand?

Fisher: I've not figured that out.

Stroble: Mike, what would the zoning be? C-1, C-2?

Fisher: One or the other.

Stroble: Yeah, see then you only have – then it's based on frontage only, so now you're talking about --

Coppola: So, the frontage would be what's on Stark Road?

Stroble: That's correct.

Fisher: Right. So, I guess the bottom line is – no matter what – no matter what district you're in you're going to need a variance is the bottom line.

Coppola: Okay. That's helpful, thank you. Any other questions? Seeing there's none, is there any correspondence?

Klisz: There's none.

Coppola: Absolutely no correspondence, so then I'm assuming, well is there anybody in the audience that would like for or against this. There is nobody, so, Mr. Hartzell would you like to make a final statement before we close the public portion and make our vote?

Hartzell: Perfect, thank you. I do appreciate it when taking time and being part of a Board like this. It does matter to the community, right? Working with Detroit and Lansing I do see how Government can improve the experience for the community and developers so I appreciate the work you guys are doing and I hope you can move this forward, thank you.

Coppola: Alright, thank you. I'm going to close the public portion and start the Board's comments with Mr. Testa.

Testa: Thank you, Mr. Chair. So, I am a little torn on this one. I do appreciate the new tenant – the new owner taking over the building for the Y, I very much like the vision for the property. I've been out there and, I didn't go inside and tour it, but I definitely looked around outside. It had a lot of potential and I'd like to see something done with it. The sign package as it stands does seem maybe too much. I'm not sure I want to use the word excessive but based on the explanation of why they chose that – they're trying to do that is kind of esthetics, balance out the building. It is an older looking building. I could support

this if there's enough votes for it, but I would also support a looking at reducing some of the signs. That's what other Board Members were looking for. Thank you.

Coppola: Thank you. Vice Chair Baringhaus.

Baringhaus: Thank you, Mr. Chair. I agree with Mr. Testa's remarks as well. Currently the plan size, I think they could be streamlined a bit and reduced down to three. If you look at the north side of the building, I think I'm fine with the location of signs number five and number four. Looking on the east side of the building, I think they could be streamlined and condensed a little bit and I guess my comments would be the wellness sign, just the cross sign, I looked at the illustration tonight and I really didn't know what that meant. I don't think it's significant and I think you have alternatives of communicating that you have a wellness center in the building without utilizing that sign. In terms of sign number one and sign number two, I guess you could go two ways with that. You could either pick one of those two signs. Either the logo or the sign that just says Livonia Athletic Club District or my recommendation to you is looking at sign number five, which has a combination of Livonia District and the logo, and then just doing a smaller version of that on the Stark Road side because as a business you do need identification and visibility for your customers, so based on that I'd like to see the sign package reduced from five to three and that's for a table at this point.

Coppola: Alright, thank you. Ms. Oliverio.

Oliverio: I'm torn on this one a bit too. On one hand I appreciate the innovation behind this – I really do, and I love the concept overall. That being said, I'm a little hesitant because we know this whole zoning conversation happening as well right now. Because – you know – if there is other plans happening with zoning, that and perhaps that should be taken into consideration. I know many of us are not privy to those conversations, and that being said, I do agree with sign number three. I think it's a little – I think it opens the door if that particular tenant is gone, then the new tenant might want another sign there, so that's a little bucket of precaution to me too, but I do think that number five, four and – you know -- a combination of one and two, I don't know – I'm not 100% that we need both of them. I can certainly appreciate, but that being said I also appreciate the thought behind the lighting as well – you know – it's a residential area, there's a school right next door and there's a park nearby too, so I think overall I could be in support with some modifications as we've already discussed here.

Coppola: Alright, thank you. Mr. Turbiak.

Turbiak: Thank you, Mr. Chair. Yeah, so I first off, the top, I think that this package that presented tonight is a lot better than what I understood based on the previous meeting, so I think the fact that we didn't have a previous meeting last time, although it was unfortunate, I think it's kind of working out already in my opinion. My biggest concern with this is the current N-2 zoning and setting some kind of precedent of putting signage in that zoning. And given that, it sounds like there's talks on going at this time, I'm leaning a lot towards tabling to kind of give a change for that to play out. At one point, in addition –

you know -- I have some feedback on the sign package, which -- you know -- as far as the red cross for the wellness, I saw that and I thought it was like medical and I think maybe that could be misinterpreted as some kind of place to go for medical, and maybe that's what's provided. It's not clear to me at this point, so possibly that sign could make sense to -- to communicate some other way like maybe inside the building or on another sign, like maybe the kind of sign right on the east elevation near the door. Like Mr. Baringhaus mentioned I think the east elevation could use some modifications. My first thought is that that LED sign is not proportional to the building or the space that it's filling, it looks kind of oversized. And when he mentioned -- you know -- maybe looking at sign five and putting that, something like that on the east side, I think that makes a lot more sense -- you know -- in between those two windows. I think that would be a clean look. but I'm not 100% opposed to having signs on separate sides of that southern window, but -- you know -- the square footage in that area looks a little oversized for me. And -- you know -- just to touch on a little bit more about why this package is so much better than what we saw last time. I think removing the monument sign and the reason that you gave really made sense and I think it goes a long way to making this overage well, again we don't know how much overage it would be, because it's going to be a new zoning classification not a neighborhood, but whatever that overage is it seems a lot more digestible given that there's not, like I said, an industrial looking sign right there on the road. So, I really appreciate the fact that you've given a thought in what you're trying to achieve here, but for me mainly the fact that it's an N-2 and we -- I don't think there's any precedent for this, I guess I should have asked inspection earlier in the meeting, but that's my biggest concern and I think there's other reasons that make sense to table this tonight unfortunately.

Coppola: Alright, thank you. Secretary Klisz.

Klisz: I'm gonna take some of the nuggets that have been said by my fellow Board Members here. Mr. Turbiak mentioned the possible confusion of sign three, I agree. That was going to be my point -- you know -- we don't want to confuse somebody thinking this is a medical facility, I'm going to stop here because I have a broken arm. So, just on its own by itself it really doesn't make sense. Again, maybe putting it as part of the tenant sign is probably a good idea, so that one can be -- should be eliminated I think in a revised package. And then what Mr. Baringhaus and Mr. Turbiak talked about was potentially moving and combining signs one and two on the north elevation. I think that makes more sense. The logo by itself doesn't really mean much. It's not a famous logo or something we're familiar with, but together it does make sense. So, I think that it sounds like, and I think the petitioner can get the idea, there are probably enough votes here to have this happen with some modifications and hopefully they can take that back and come in with something that should be able to get approval next time. Those are my thoughts for tonight.

Coppola: Alright, thank you. First of all, Mr. Hartzell, I appreciate you coming into Livonia and taking what potentially could have been a really difficult building to do something with and actually make it something I think will be pretty viable and it's already being used quite a bit by the Community, so it was needed. I don't know why the Y left. It was needed.

But I appreciate you doing that. That said, I think something Mr. Turbiak really hit the nail on the head for me. I think what I would prefer is to wait to get the zoning and get the variance to the zoning that it's applied to. I think that's a cleaner – a cleaner process. It gives a cleaner variance than to have a variance precedence on a – and I don't know I'm not sure how many actually there are of N- zoning – N- zoning district properties, but to keep it kind of clean, that said, I think – you know -- in the interim, while I don't think we need to give any type of variance – you know – putting up a banner in the interim similar to what you have here probably is acceptable. One of your tenants has a banner on the window. I'd like to know what kind of – what I'm approving and for what I'm approving it for and what actually the variance is in a sense the magnitude of what's allowed so, I don't know where they're at on that process or how long it will take for you to get – to get your zoning fixed. That would be my preference. But, not understanding that, comment wise, I agree with the comment in regards to sign three, which is the – it doesn't – it doesn't make sense to me, and when we get -- it helps remove the excess. I think that's positive. I have a real issue with sign five per se, I think it actually looks pretty good where it's at and the size and scale looks like it works pretty well. I am a little – I do have problems with signs one and two. I think something a little – a lot more modest on that whether it's just the logo itself up in the corner or something like that that helps to identify it but isn't overbearing. Right now, I think there's just way too much going on on that side of the building. And then the tenant sign, let's see what the zoning is. I'm a little concerned on the size of that tenant sign. I guess the alternative was, I don't know if the monument signs probably include signs, so they could probably put all their tenants on the monument sign, so the tradeoff – there's a tradeoff, which I think I prefer – I would rather that than a bunch of tenants on a monument sign in a neighborhood across from the park and next to a school, and all the other kind of fun stuff, so definitely support tabling, definitely support looking at a revised package based on the feedback that you got. Ideally, I would prefer to – to know what we're approving for what ultimately will be the zoning for this property – again – I don't know if the timing works or not. You could use some banner sign or something to keep it – it looks like you're doing very well without – without much signage as it is right now, but I understand why you want some. In that respect, you kind of got my feedback, you know where my heads at. I'm going to open up the floor for a motion.

Klisz: Mr. Chair.

Coppola: Secretary Klisz.

Upon Motion by: Klisz. Supported by: Turbiak.

RESOLVED: APPEAL CASE NO. 2022-02-03 (Tabled February 15, 2022): An appeal has been made to the Zoning Board of Appeals by Stark Road Holdings, LLC, 14255 Stark Road, Livonia, MI 48154, seeking to erect wall signs upon a physical therapy/fitness facility building resulting in excess number of wall signs and wall sign area.

Number of Wall Signs:

Allowed: Zero

Wall Sign Area:

Allowed: Zero Square ft.

Proposed: Five
Excess: Five

Proposed: 313 Square ft.
Excess: 313 Square ft.

The property is located on the west side of Stark Rd. (14255), between Schoolcraft and Lyndon, Lot. No. 084-99-0003-000, N-2 Zoning District (Parks and Community). Rejected by the Inspection Department under Livonia Vision 21 Ordinance, Section 11.08, "Sign Regulations for Residential Districts," **be tabled for the petitioner to take into account the comments of the Board and come back with another sign package and to find out how the zoning change may affect sign package.**

ROLL CALL VOTE:

AYES: Turbiak, Testa, Oliverio, Klisz, Baringhaus, Coppola
NAYS: None.
ABSENT: Boloven.

Klisz: Passes 6-0.

Coppola: Alright, Mr. Hartzell, so it's been tabled again and I apologize to the delay in what happened last time. I think this was helpful, this was extremely helpful compared to what was in our package. I'll leave – I'll leave that up to you. It sounds like there's some support to move forward without clarity on the zoning. So, you could take our comments and suggestions back, come up with a revised plan, and present that. Our next open meeting, as I mentioned earlier, is on April 19th, but you've only got till the 21st to get your revised package in. The next one after that I think is May 10th is the next one. So, I'll leave that up to you. You've heard our comments. If you want to come in early that's fine, if you want to wait I think that's fine. I think on the sense of a, Mr. Stroble, on the sense of it if they want to put a banner up or something, they just have to get a permit?

Stroble: That's correct. We have a temporary banner.

Coppola: Is there a limit? What's the limitation and is there some type of – you know --

Stroble: Usually it's a couple weeks.

Coppola: No, I'm saying a limitation on the size too.

Stroble: There is a size as well, but usually it's only a two-week time period, but we could work with that.

Hartzell: Yeah, I'd prefer just to wait (inaudible).

Coppola: Okay.

Hartzell: (inaudible)

Coppola: Are you picking that up, Val?

Bertani: It's quiet, but I can hear it.

Coppola: Can you come up to the microphone?

Hartzell: Yeah, we'll -- we'll just wait for our signage package. I can't control what the zoning changes are. We actually do have a proposal package that we'll present that reduces the signage on the north side. We're actually planning on not even doing one of them, I just wanted to get it approved, because I've already presented might as well approve it, but again our (inaudible) are 35,000 without that sign, so.

Coppola: Okay.

Hartzell: It's good for us to reduce so, we'll be able to come back quickly with that. Not the end of the world -- I mean -- this is our sixth meeting with two other Boards before you guys just to get a sign package, so -- Just context of timing and all that. And each group's had a different say in response and all that -- so,

Coppola: Understand.

Hartzell: -- we're going month nine by the time we're done. It takes time to get it right, so, we'll get it right, we'll present it the next time and thank you.

Coppola: Perfect, Mr. Hartzell.

Fisher: Thank you.

APPEAL CASE NO. 2022-02-05: An appeal has been made to the Zoning Board of Appeals by Ronald Emling, 34422 Rosati, Livonia, MI 48150, seeking to construct a new building on Industrial Zoned property resulting in deficient front yard setback and proposing to install fencing and a masonry screen wall, each six-foot tall, within the front yard setback, which is not allowed.

Front Yard Setback

Required: 50 ft.
Proposed: 35 ft.
Deficient: 15 ft.

The property is located on the west side of Rosati (34437), between Stark and West End, Lot. No. 111-03-0008-000, M-1 Zoning District (Tech and Manufacturing). Rejected by the Inspection Department under Livonia Vision 21 Ordinance, Section 4.03 (n)(i), "Footnotes to Schedule of Regulations," and Livonia Fence Ordinance, Section 15.44.100(A), "Industrial District Regulations."

Coppola: Alright, thank you. Anything to add, Mr. Stroble?

Stroble: Not at this time, Mr. Chair.

Coppola: Any questions for the Inspection Department?

Turbiak: Mr. Chair.

Coppola: Mr. Turbiak.

Turbiak: Through the Chair to inspection department. Do we have any other tow yards in Livonia? I'm more interested in -- you know -- how they handle the screen wall and fencing, garden fencing or any other kind of fencing they might have in the front yard setback.

Stroble: I do not believe we have any other tow yards that I can think of.

Klisz: How about Levan Towing?

Baringhaus: Livonia Towing?

Klisz: Yeah, the one on Levan.

Stroble: Besides those two, but I have no recollection of any others.

Turbiak: Alright, thank you.

Coppola: Alright, petitioner step forward, name and address please.

Baringhaus: Mr. Chairman. I do have a question for Mr. Fisher though. In the finding of facts sheet there's a comment in there regarding this case that says, FURTHER, no variance should be deemed to approve of the proposed use/occupancy of the subject property by Excellerated Towing & Recovery, LLC.

Fisher: Okay, so there's two ways its manifest itself. Number one, if you look at the plan, it actually says Excellerated – Excellerated Towing and Recovery, so Excellerated Towing and Recovery is actually before Council right now looking to get a waiver use of this property. I have no idea whether they're going to get it or not, but I didn't want the ZBA's approval to be taken as approving this thing that's before Council. And there are – there are two separate concepts because the owner of the property says he wants to build this building, which I guess is going to be uniform with some other buildings in the complex, regardless of what happens with Excellerated Towing, so we just want to keep those two separate is the whole point.

Coppola: So, you're just trying to be clear that we're only approving the variances that are before us and not --

Fisher: Yes, and I think it might be a – it might make sense to actually include something to that effect in the resolution just because as I say, if you're going to approve this, you're presumably going to approve this plan that has "Excellerated Towing" written on it.

Coppola: Real -- the petitioner is actually the owner, right?

Fisher: Yes.

Coppola: So, if we approve this, we'll be approving this – I understand that this is --

Fisher: Yes.

Coppola: -- and it's got names on it and stuff, but the petition itself won't have the owner's name on it.

Fisher: Right.

Coppola: We'll be giving the – when we give a variance, we give a variance to the property.

Fisher: Yes.

Coppola: Yes.

Fisher: I guess--I guess this is that whole approach of driving the stake through the vampire's heart – make sure that it doesn't come back.

Coppola: Alright. Understand. Thank you. Any other questions? That was a good question. Thanks for asking that. Petitioner if you could step forward – name and address please.

Emling: Good evening. Ronald Emling, 34422 Rosati Avenue, Livonia, MI 48150.

Coppola: Alright, Mr. Emling, you're the property owner?

Emling: Yeah, the owner and developer, yes.

Coppola: So, you own that whole – that whole section that's being developed?

Emling: That is correct.

Coppola: Okay, alright, why don't you go ahead and tell us a little bit about the project and the hardship that you have that would provide for us an approved variance.

Emling: Well, I bought the development about a year ago with the understanding that everything was status quo. We – we erected three buildings over there, about to do number four (4) and we have a surprise at the beginning at the building department saying that you're going to have to get your setbacks changed or approved. I said, "What do you mean?" He said, "Well they were changed in September of 21," or somewhere there - I don't know the exact date, but I was not notified, nor did I know anything about it. I bought the development with an existing drawing – all the setbacks and the buildings already on it, so again on the impression that all the setbacks were status quo. I bought the building, or the property, like so and then I had a potential buyer for this particular lot – lot number eight (8). We went to engineering, got the drawings submitted and everything's all done, and then come to find out that there's a setback issue that's going to cause a situation with the parking in the back that's needed for this particular operation – this tow yard or this tow company, so when we address this with planning, planning had some issues with the fencing in the yard in the way that the sign, where the fence was located. I said, "Well, we'll just move it back two feet to where it's even with the front of the building," cause it was coming out past that setback area, which is not allowed. So, we addressed that issue, then there was an issue with the – the drains. So, we addressed the drains, the storm drains, maybe there'll be some runoff when these cars are being towed in here, so we got through the Health and Safety Board last week and they approved the drains, so everything's going in the proper direction. We're just trying to get that setback issue resolved and this is the last hurdle, and the hardship is the actual ordinance change that we weren't aware of prior to the change, and when they changed the ordinance that's where the hardship involved after we already had the – you know – the design out there, and we want the buildings to all look alike, cause we're not going to build a smaller style building or a smaller parking lot for somebody next to somebody who just spent a million dollars on the building next door, so it's not about the – the hardship isn't the money, the hardship is what's going to cause us to do is push the building back 15 feet, which is going to squeeze the parking lot, which is going to squeeze out 12 parking spaces and the hardship began with this new variance and I wasn't aware of anything, I didn't get no

notice, I didn't get nothing, nobody sent anything out, it just happens and I guess that's the way it works in the real world. So, we're just trying to address that issue and try to get back to where we had it and it's always been, and my partner here does real estate, and he has something to submit to the Board if you don't mind him stepping up. He – he's more knowledgeable and he's done more research on the actual issue itself. If you don't mind, I'd like to introduce my partner.

Coppola: Sure. Please. I'll need your name and address first.

Sever: My name is Terry Sever, my address is 37172 Six Mile, Livonia, MI. I – I have been representing Mr. Emling through the whole process. He brought the variance issue to you, but I would agree with Mr. Fisher. To simplify things, we're really here looking for a variance on the setback. I – I brought some documents to show you. I actually presented this to the City Council during our request for the waiver to include the towing company as an entity that could move into that zoning classification. The way it is the zoning says that they're permitted but it has to have a waiver. Anyway, I have here, and I apologize, I have five copies, but I have three documents. I have all stapled together and they're separated by a blank sheet. Could I pass those out to you?

Coppola: Yes.

Sever handing out paperwork

Sever: What occurred, and the Planning Director, Mark, has admitted this and he admitted it in the City Council meeting. The first pages here is a public hearing. I'm sure you're aware you heard of the City's year long process to revise the zoning classifications, condensing and everything. On July 14th the City, by statute – by state statute as well held a public hearing. That public hearing was to disclose the action they were going to take to change the ordinance. On the first section, page three (3), after a lengthy comments and introduction by Mark, the planner, he finishes by saying that finally the PL (public land) ML Manufacturing Ltd, M-1 and M-2 Industrial district and P, parking district, and the nature preserve districts would all remain. So, from this public hearing on, it was the intent of the City to move forward and leave those districts as they were. In the next section, after the first blank page, this is the ordinance that existed at the time and on the second page what happened is there was an exception under the classification – the requirements for setbacks under 16.05(A), "A parcel with less than one acre in area where such building is situated on a lot having an area of one acre or less, the front yard setback shall be in depth of 50 feet." That means we qualify for that because we're an interior road in the industrial park, we're not the main drive. When the plans were done and approved back in 2006, they followed this requirement, so the setback should be as stated here, the 50 feet rear yard and 60 feet from center road. The next page there, 16.10, it – it refers to the setback under this subsection as being 60 feet from the center of the road, alright? So, this is in the ordinance, this is in the ordinance and the site plan was approved according to the ordinance. When the ordinance was adopted, inadvertently, and the Planning Director agrees to this, is that when it was typed or produced, the planner or whoever was responsible for drafting the new ordinance left that section out. So, if you

look at the new ordinance you'll see where it ends on the second page, it never refers to that subsection. So, the reason we're here, and the hardship is that the City inadvertently changed the setback requirement for our site and it just – a couple notes I might make – comments I'd make, one (1) is by having a public hearing and introducing the changes and not listing the changes for M-1 is a violation of state statute, and it probably is not necessary – it's probably not enforceable, but we're going the route that the planner recommended we come for a variance. They indicated at the meeting to us that they intend to change it back, but we're here because we want to move forward on the development, unfortunately three (3) buildings have already been built. The one on lot two (2) has been approved according to the setbacks on the original plan of 50 feet and we still have eight (8) or nine (9) lots that we'll probably, until they change the ordinance back, we'll have to keep coming back for the variance. That's technically why we are here.

Coppola: Okay. Just real quick, Mr. Fisher, I wonder how familiar with all that went on, but any comment you'd like to add would be extremely helpful.

Fisher: Well, I guess the, obviously the petitioner's claim is that he was blindsided and – I mean – I guess it's in the eye of the beholder or the person experiencing it. I don't – I honestly, although I spent many, many, many hours working on this, I do not remember the 35 foot verses 50 foot controversy coming under discussion at any point, and so I don't know – I don't know why we ended up with that – with that setback.

Sever: It was explained to us by Mark that it was a mistake, so I think what happened is whoever was responsible for typing, just missed typing that section into the ordinance when they were going back and forth, one to the other, cause it was clearly the intent of the city to not change those classifications and it just --

Fisher: Well, I will say this about that – I mean – I will say this about that – I mean – those – the other districts that we're talking about were changed more radically including the name of the district and these districts were all kept under the same name and more or less the same rules.

Sever: Right.

Coppola: That's kind of what the wording said. It basically says shall remain.

Fisher: Yes.

Coppola: Which suggests to me that that means there is no change. They – they – put in a name and no change.

Sever: Exactly. Technically, and I served 20 years on the City Council in Farmington Hills and mayor, technically the purpose of the meeting, where he declares that those are to remain, was the official public hearing for setting in process the overall changes the city wanted to make. So, when they declared they're not – that that would remain, there's no change, every person that owns property in those districts has the right to be noticed that

there is a change, so inadvertently, look, I'm not looking to point the finger around here because this is what happened, this is what has occurred, it wasn't intended and I'm sure what happened, it was more of a typo error, whoever was following the process didn't pick up that portion of it in the drafting of it submitted it, so I can't believe any City Council would have and represent a state that that section is going to remain, then go ahead and make the changes that wouldn't – wouldn't – wouldn't meet the mustard for the process, so, anyway, that's why we're here and we're probably going to have to come back eight more times.

Coppola: So, the two—I see, you said – you gave us a vicinity map as part of your package. I think that's what it says on it, it's on page 13. It shows two other buildings – existing buildings on there. And those are relatively new buildings?

Sever: There – actually there's--

Coppola: How many--

Sever: I'm not sure if you have the current aerial photograph or not, but the current aerial photograph shows the new building that Ron built starting in 2001, so there's actually three (3) buildings that have been built there with the approved site plan.

Coppola: And those setbacks are what?

Sever: Those are – those are 50 foot --

Emling: No, 35 foot.

Sever: 35 from the property line, 60 feet from the center of the road.

Emling : You have two other approvals, don't you?

Sever: Yeah. I've gotten two other ones that came in before the enactment of the new ordinance came into effect. So, when I – the purpose obviously is it's a smaller lots, interior lots. If you were to go out there you would see the setback is quite huge for that size street anyway and then if we start changing the setbacks, we're going to have a subdivision that has buildings further back and forward and since this is on a cul-de-sac it's more critical.

Coppola: Okay.

Turbiak: Mr. Chair.

Coppola: Mr. Turbiak.

Turbiak: Through the Chair to the petitioner just to clarify the verbiage that was left off in the Livonia Vision 21 Ordinance. Are you saying that Section 16.10, well at least the verbiage contained therein, is missing from Vision 21?

Sever: It--if you compare with the new one, the new one where I have it marked ended on the second page? Okay, that's where most of the ordinance was followed up to that point, and then from then on they missed.

Turbiak: I see.

Sever: Because the subsections, A, B, C, D, E, F are all -- they're all in there and it was followed exactly up to that point, and then I don't know whether they didn't pick up that page, or they didn't pick up that from where they left off -- you know -- I'm sure that somebody's sitting there trying to -- I mean -- it was quite an undertaking. It was a big job trying to keep what was to stay and wasn't and what was changed, and they had a number of changes in classification and designation for the different ordinances classifications that they wanted to keep them more condensed, so actually from that point on I think Section 16 probably was left off, all of that subsection --

Turbiak: Yeah, it looks like from 16.06 on --

Sever: Yeah --

Turbiak: -- is showing the same thing. Is it your understanding that the -- the City's intention, Mark Taormina's intention, to add this verbiage back?

Sever: He expressed to me that it was a mistake and that they would correct it and it would probably take him another year, eight months or something. Technically from what I know I thought the City Council was passing the buck. They could have acted on the site plan, and they probably could have approved it, but they chose not to do that for whatever reason. I'm sure some people are embarrassed by us exposing this mistake, but you know, it happens -- you know -- it's not nothing that was intended, and it just happened so.

Turbiak: Okay. Yeah, so, I'm vaguely aware or lightly aware that there are some revisions to the ordinance going through the planning commission from what I recall from the last meeting anyways. I don't know if the inspection department can speak to the turnaround time for generically a change and if you happen to know anything about the timing of the change -- this specific change.

Stroble: I do not.

Turbiak: Okay. You mentioned maybe eight months to a year. I don't know if that's realistic or not and for me, it doesn't really matter at this point based on what I understand, so I think that's all the questions I have at this time. Thank you.

Sever: Okay. And the important thing is we have Mike, the owner of Excelerated who's ready to bring a – a needed towing company to a community that is this size, referred to a tow – it was a towing company is one, Livonia Towing on Levan. They're a much larger scale than him -- his scale of operation is more dealing with a homeowner that can't get their car started in the morning or had an accident and maybe be taken care of on an individual basis, or an insurance. He's not towing for the police or impounded and all those kinds of things. He's really more a service to the community and the residents in the community. Other than the two that were mentioned, I don't think there's any others that really serves in the community, so.

Turbiak: That's a good point. Thank you.

Coppola: If that's true than what's the purpose of the fence around the parking lot?

Sever: I think we've agreed to do that, right Ron? You've agreed on the fence to meet the ordinance, move it back? You're talking about the front yard?

Coppola: Yes.

Emling: Yeah, in the front yard we're going to put a wall there with the couple signs. And after going through planning, they said that your wall is two feet past the front of the building, which we don't allow. So, we agreed to set – just do a set – move it back so it's even with the front of the building and matches the façade of the building. They had said something about the sign as well, but we can always do a monument sign or some sort of building sign if that was still an issue with them. We were just trying to get past the Health and Safety Board and the Planning Board now it's this hurdle here and kind of put everything together. it was a couple different things in there if we approve this, then they're going to approve that and so we just want to make sure we're on the same page. But we did address those already and make the building department and planning as far as that sign, or that fence. It's like a wall that matches the façade of the building and then there's going to be -- there was going to be the name of the company on the wall. That's kind of what that was. That's kind of -- that would be just a sign -- again, that was brought up and we're just going to move everything back.

Coppola: Yeah, that's a whole different story whether they're signs allowed on the wall or fence, but what's the purpose of encasing the parking area if it's not going to be used for detention purposes. What's the purpose of enclosing that whole parking area?

Emling: Well, as you know, in any parking lot where there's commercial building or an area where that's left vacant for hours at a time in the evening, cars are sitting out there, you may have a car to be towed in or a car that's sitting there and someone says well, I want something out of it. I want to go back – I got a second set of keys, I want to go in my car and get my sunglasses, I left my wallet. That's not allowed. They're not allowed on the property. Do a simple fall and then there's a liability. There's nobody allowed in that parking area for a number of reasons, safety and it's just against the law to enter private property when there's – those cars are – it could have been a hit and run, it could have

been an accident where it killed somebody, that car is being detained for a certain reason. it's in that lot for a reason, it's to be locked up and under cameras.

Coppola: Okay. Before you said primarily, they're going to be helping people like tow their cars when the battery dies or it needs to go to the shop, so now, you're saying that this will be a detention yard?

Emling: I don't—Sir, I'm not a tow company guy I'm a builder developer, I'm trying to explain to you any circumstances that come on, if there's an icy condition that someone spins out on Stark Road and I-96 Service Drive and someone gets killed, he's going to tow it in – you know – I don't know what insurance company calls. I don't know how that business works, I'm a builder developer. I just know what -- I'm guessing that the purpose of a fenced in lot is to keep people out and keep the good in under the camera circumstances and the gentleman that owns the company is right here if you'd like to speak with him about that.

Sever: We've represented to Planning Commission and the Council that there may be vehicles there for a period of up to 30 – 90 days, three months. If there's an accident we wait for the insurance adjuster, insurance company to take care of it, so that would be – anything thereafter would be taken to the junk yard, whatever, if they get tied up, but it's not intended to be a junk yard per se, so. The fencing is just, we've learned, for privacy.

Baringhaus: Mr. Chairman.

Coppola: Vice Chair Baringhaus.

Baringhaus: Thank you. Can you go back to your statement earlier where you said you thought you were told the front setback is 35 feet and then you mentioned when the City ordinances were changed it was suddenly 50 feet and you weren't informed of it.

Emling: Yes, sir. That's exactly – exactly correct. I bought the development with a site plan already plotted out --

Baringhaus: Mmhmm.

Emling: -- with the -- all buildings on the development and we are under the impression that that was -- that we could move forward and do it with that.

Baringhaus: Well--okay. What gave you the impression it was 35 feet?

Emling: All the setbacks are 35 feet on the site plan – on the plot plan. And when we did the first three buildings, those were all 35 feet and then we go to do number four and the two existing buildings that were there before I built – bought the building, every one was 35 feet. We go to do this building on lot eight and they're saying this is going to need a variance, there's a new setback law and I said, "Where did it come from? You know – how come I wasn't notified or something. We would have got the drawings in earlier if I

would have known, I would have submitted drawings for all the rest of the nine lots.” But they said there’s been a change and you got to go address in front of Zoning - ZBA.

Baringhaus: Do you know when those buildings were built? Have they been there for a while or were they recently built?

Emling: Two buildings were built within ten years ago, and the other three I just got approved within the last year. So, all three of those that I have approved were 35-foot setbacks.

Baringhaus: Okay. Yeah, cause the new ordinance, which is Ordinance 403 subsection I, which is what you’re here for today, right? To – to have a conversation about. It says the front yard depth should have, and this is the Livonia Vision 21 Ordinance okay, so this is the current ordinance, in this section it says that the front yard should have at least 50 feet of depth, the rear yard should have 20 feet of depth, side yards 20 feet and the side yard butting the street shall not be less than 25 feet, but then in the document the other gentleman presented me, it has the older – it has – this is 543, which was the prior ordinance, which is what you were going on originally --

Emling: Mmhmm.

Baringhaus: --and in section 16.05(A), which is under the old ordinance, the old ordinance says that on parcels less than one acre, which you have, correct?

Emling: Yes.

Baringhaus: Okay, it says you should have a front yard depth of at least 50 feet, so what’s --

Emling: I mean--

Baringhaus: -- and the other 20 feet in the rear yard, side yards 20 and then side yards butting the street 25. It’s like a – it’s – Mr. Fisher, maybe you can clarify that?

Coppola: Give me one second. Mr. Stroble, do you have access to the system? Could you pull a permit, a recent – one of the newer permits from that development?

Baringhaus: Do you have this copy, Mike?

Fisher: Is it – is this the one from the public hearing?

Baringhaus: Well, this is the one he handed out.

Fisher: Yeah, Mike loaned me his.

Baringhaus: Unless I’m missing something.

Emling: Can you explain that to me?

Baringhaus: Well, no I'm actually waiting for clarification from Mr. Fisher and you'll have an opportunity when the Chair recognizes you.

Fisher: Well, it says 16.05 has the – oh, you're right. That's where you're getting the 50 feet from.

Baringhaus: Mmhmm. Correct. That's why I'm questioning it, unless you're seeing something different.

Fisher: Yeah, is this the same district we're talking about?

Sever: I can't explain that.

Fisher: So, this is M-1. Is your property M-2? No, it's in most of M-1. Huh. I don't know the answer to that. Sorry. But you said Section 16.10 has the – has different – I don't see it there either.

Sever: Yeah, the--the confusion is that that section says that it's 60 feet from the center of the road, typically you measure from property line and stuff like that.

Fisher: Oh, right.

Sever: So, they said 60 feet from there? So, the way he got to 35 feet was center road is 60 feet and then the road is 22, so you got 15 feet from the edge of the road to the property line, so 15 – 35 is the 50.

Fisher: I see.

Sever: That site plan was all approved according to that ordinance back in 2006 or 2005, something like that.

Fisher: So, you—you're taking advantage of the provision for Industrial Parks, which is clearly --

Sever: Yes, yes, yes.

Fisher: -- is and not the – okay, I understand.

Sever: Yes, we actually didn't, it was done by Mr. Rosati, he bought the property in '99 and got it approved in 2005 and then filled two buildings. Ron's come along and taken over the project and moved forward, but that's where the depth of the front yard at 15 feet, edge of the road to 35 feet from the property line, and then 50 feet and 60 feet at – I'm not sure why they just didn't stay with the language of front feet – front yard setback, but.

Fisher: Okay. So, his point is legit then.

Coppola: Okay.

Fisher: The problem is there are parallel sets of setbacks for just a single lot in an Industrial District, as opposed to something like this that's a Planned Industrial Sub.

Coppola: Okay

Fisher: So –

Coppola: So, the sub is you do the math instead of just a straight up is what you're saying?

Fisher: Yes. As he said. It's very unusual. We don't have many setbacks; in fact, this is the first one I can ever remember stumbling on to where the setback is actually from the middle of the road instead of the property line.

Sever: Right.

Coppola: Gotcha.

Baringhaus: Okay, interesting. We all learned something tonight.

Coppola: So, that's -- based on what he said it's just an omission in the new ordinances that needs to be corrected. If that's what they want to do, I guess. It was omitted on purpose, or it was omitted by mistake.

Fisher: Well, it may have been partly to get rid of the anachronistic reference to the middle of the street. I mean that actually makes some sense, but whether it was intended to actually make you have the ability of building farther back, I don't know.

Coppola: If you – if you had a industrial park – I mean -- that's a special, so you have an industrial park and you have it, when you do something like that you have a site plan approved kind of like a subdivision, right?

Fisher: Right.

Coppola: And at that point the site plan was approved with 35-foot setbacks. Does that grandfather in a sense?

Fisher: A, I'm not sure that it was approved with any particular setbacks, because it wasn't approved with buildings on it, it was just approved with – you know – lots are going to be this size dimension, location, etc.

Coppola: Mmhmm.

Fisher: And that also should go as a question of whether there's any grandfathering. Remember grandfathering says what you're doing right now, you can continue to do later after it's become illegal, but they weren't – they weren't occupying. They didn't have a short setback all this time and now they're -- it's illegal, they had vacant lots. And it wasn't – it's not even this petitioner, it's Rosati that had the vacant lots.

Coppola: Right. Okay. So, the zoning that they were able to take advantage of to build at 35 feet did not continue on in the new zoning, so whether it was intentional or unintentional it's not there.

Fisher: That would appear to be the case.

Coppola: That's – that's kind of what I see the conclusion to be. So, there's been some – based on Mr. Emling's statements and Mr. Sever's statements that you've gotten feedback that the city is intending to correct that, now whether they correct that or not – I mean – if – if the Planning Department generally supports something it generally gets done unless it's really out there and Mark is usually not really out there, so I understand that. So, we've got – so we still have an issue here. We still have to give a variance if you want to build the building as is – as presented.

Emling: Can I say something--

Coppola: So, I guess it comes down to whether we've got something that rises to the level to provide a variance. There's a hardship presented. I think – you know – so we've got to approach it from that respect. That's why I appreciate the clarifications you've given us and such, so what you stated also to have to move it back another 15 feet would be a hardship, it would impact parking, it would impact the building to – to build the building that you want to build. You could build another building and do something different --

Emling: Right.

Coppola: -- but this is the building and it's not – you know – it is kind of an interesting lot, so understand that. So, what other questions do we then have for the petitioner?

Turbiak: Mr. Chair.

Coppola: Mr. Turbiak.

Turbiak: Well, I think the petitioner wants to say something, but I also would like to ask him to clarify if I heard him correctly that maybe it was Mr. Rosati who got the site plan, maybe that's not the right word, but something that had building envelopes on it? Is that correct?

Emling: That's correct.

Turbiak: So, there was something in the past that had 35 foot from the property line, 60 feet from the center of the road, just to kick them both out there, so that was kind of out there and available to be grandfathered, right? So, there is a print, from what I understand, and I see you nodding --

Emling: Yes, yes.

Turbiak: -- that -- that has that -- you know -- if that would be a consideration --

Fisher: That's not how grandfathering works I guess is the point.

Turbiak: Okay, well maybe that's the wrong word, but I guess for consideration and clarification to the Board there was something that when he bought it --

Fisher: Okay.

Turbiak: -- said that he could build 35 feet from the property line, again 60 feet from -- also, 60 feet from the center of the road and just my other comment -- I guess -- you know -- when I was discussing it with the petitioner and Mr. Sever earlier I was mentioned that it didn't really matter to me whether or not the city, or -- I guess -- I did need the clarification on the time when the city was going to do it. Again, from what I've -- I guess I'll save this for the comments section then. Sorry, thank you, Mr. Chair.

Baringhaus: Mr. Chairman.

Coppola: Vice Chair Baringhaus.

Baringhaus: Yeah, regarding the building itself, why is it a two-story building?

Emling: All the buildings that are in here from, you spend upwards of a million dollars on a building and I come in next door and I just build a one story little cracker box let's say, for a lack of a better term, you're going to just love that, so my plan is because I owned a development and it's in an association that all the buildings are going to be similar in shape and size so nobody loses value from one building to the next. Everybody's going to be under an association, they're going to pay their dues to keep the roads and the grass cut and all this other stuff, all maintained, and we don't want anybody going in there and cutting corners if you will and try to build something small in there just to run some kind of shoddy little shop thing, so we're trying to keep everything up. It's not that it's a two-story building -- you can put mezzanines up there - we have storage above ours above the office store, so you can put a mezzanine up there for a second floor, there's an opportunity, but using a warehouse, you're pulling a truck in or a car in, whatever, there's exhaust, you'd like to raise an eight foot ceiling, you're gonna get choked out. This is a commercial industrial park.

Baringhaus: So, all that exhaust is gonna up in the second story office area?

Emling: No, there's not a second story office, just storage.

Baringhaus: Oh, just storage. Okay.

Emling: Yeah, we just have second story cold storage out in the warehouse, so --

Baringhaus: Okay.

Emling: -- there's one other thing I'd like to address with that center line issue that Mr. Fisher was talking about. If we did go out of that old ordinance for that center line, you're (inaudible) that being on a cul-de-sac, in that center line in the cul-de-sac, it's going to give us 100 feet to that frontage of that building, not 35, so in looking at all the equations and you're looking at that particular spot that we're trying to build on, if we still go by the center line of that road, what I was looking at when I bought the property, that building was -- had plenty of setback at the time, so we're in quite a predicament with -- this gentleman here is kind of holding up the build, we just -- we don't know what direction we're going, so that's kind of --

Baringhaus: I'm curious, what type of work is going to be done in the shop area of this building?

Emling: I can have the gentleman speak --

Baringhaus: Yeah, that would be great.

Emling: Mr. Mike Fields.

Coppola: We'll need your name and address first please.

Fields: Michael Fields, 14310 21 ½ Mile Road, Marshall, MI.

Coppola: Alright, thank you. Go ahead.

Baringhaus: Yeah, great, maybe you could give us an overview of what type of operations are going to be carried out of the building.

Fields: Just towing and general service for all fleet vehicles that's what work is going to be going on inside the building.

Baringhaus: Yeah, the reason I'm asking the question is because on the blueprint we have on the first floor of the building there's an extensive shop area indicated. What activities are going to be conducted in that area?

Fields: Oil change, break changes, just normal maintenance. We're talking about vehicles that are 32, 34 feet in length so you need a little bit of shop floor to actually get them in and move them around.

Baringhaus: Will there be lifts in this building?

Fields: No.

Baringhaus: No. I mean that's a lot of floor space just for oil changes.

Fields: Well, we have 17 trucks that we're servicing.

Baringhaus: Okay.

Fields: I think you need more space --

Baringhaus: So, you service your own --

Fields: We do. We service all of our own trucks.

Baringhaus: And then you have a vehicle prep area? Can you describe what will be conducted there?

Fields: That's where the trucks get washed and every truck gets washed every day.

Baringhaus: And then the second floor will be used for storage --

Field: Storage for supplies.

Baringhaus: Okay, very good. Thank you.

Testa: Mr. Chair.

Coppola: Mr. Testa.

Testa: Thank you. Question for the petitioner. When do you plan on building?

Emling: Yesterday we planned on, but as soon as we get our referral and that's pretty much it. We're ready just a little setback, literally a setback.

Testa: You're ready to go if you're approved?

Emling: Fantastic, thank you.

Testa: So, you are ready to go.

Emling: Yeah, we are ready to go. Everything's sitting there, everything's approved, it's just pending -- Randy in the Building Department won't approve anything until he gets the word from Planning, and then Health and Safety and then this meeting here, so once all

three come together then that's it. And we've been approved by the other two, so, it's just a matter of getting through this one here.

Testa: Thank you. Mr. Fisher, do you know of any discussions on the Planning Commission to make changes on this issue specifically?

Fisher: I know there's discussion of making an array of changes, I, but this particular one is new to me, so but that doesn't mean anything. There's, as I say, there's talk about a lot of things going on.

Testa: They've already made some changes, right?

Fisher: Yes.

Testa: Okay, so us pushing you back to planning and asking them to wait for the ordinance change is going to delay definitely. Thank you.

Turbiak: Mr. Chair.

Coppola: Mr. Turbiak.

Turbiak: I almost forgot about this one. You mentioned, through the Chair to the Petitioner, you mentioned that the wall – that the fence would come off of would be pushed back to the front building line, is that correct?

Emling: That is correct. And there was an issue or something, I can't remember if it was Randy in Building or somebody addressed the issue of a concrete wall being there, that wasn't really standard either, so we told them we'll just go ahead and put the aluminum fence in there and just eliminate that wall and put, like you said, a monument sign up there or building – a sign on the building to – just to get past that – that little issue the neighbors have with it.

Turbiak: Okay. Just wanted to touch on that again because the drawings that we have in our package, which are dated 10/28/21, they don't show that wall being pushed back from what I can see. Do you have updated drawings?

Emling: Not--not currently because we're still going through all the process to make sure of everything we have to do, cause when we resubmit or there's a couple changes, we want to incorporate for the Engineering Department the filtration system that's going in the storms, the fence with the wall, that will be addressed and then the setbacks we don't really know where we're at, so are we redrawing them or are we setting the building back so there's elevation differences and we're just sitting on our hands until we figure out what goes on in this fine meeting.

Turbiak: Thank you for that.

Sever: I think it's fair to say we'll meet the ordinance; we don't need a variance on that.

Turbiak: Okay.

Sever: We'll meet the ordinance.

Turbiak: Okay. You're very clear, thank you.

Coppola: Anything else? Okay, seeing that there's none is there anyone in the audience that would like to speak for or against this? There's not any communication.

Klisz: No letters.

Coppola: No letters. Okay, we're going to go ahead and close the public portion but give you an opportunity to make a final statement.

Emling: I just wanna thank you for your time and taking all this into consideration and I look forward to working with you guys. It sounds like we're going to see each other again at some point. We've got nine more buildings to go. Thank you very much for your time.

Coppola: Alright, you're welcome. I'm gonna close the public portion of the case and start the Board's comments with Mr. Turbiak.

Turbiak: Thank you, Mr. Chair. For me, I think I can support this. It's my understanding that this was an oversight in the revision of the Livonia Vision 21 Ordinance update and - you know -- about the hardship that was expressed by the petitioner is that -- you know -- he bought it and has building two or three -- three buildings so far and then the ordinance changed. It is a hardship and -- I mean -- that's all that's before us today so I think we might see him again maybe about the sign that he was mentioning on the brick wall or the fence. I'm not clear if that's defined yet as far as what direction they want to go and it's not before us, but just want to raise that might be a concern as I understood it, so I would be in support of this tonight. Thanks.

Coppola: Alright, thank you. Ms. Oliverio.

Oliverio: I agree. I think I could support this -- you know -- especially understanding all of the information was just received around the history of -- you know -- the change with the ordinance. And I do appreciate the attention to detail, so thank you very much on bringing all that forward in the discussion, but yes, I could certainly be in support.

Coppola: Alright, thank you. Secretary Klisz.

Klisz: I agree. I think that, again, whether it was an oversight or not, we still have to look at this in terms of consistency even if it's not grandfathered, as Mr. Fisher mentioned. Under the technical term, it's still consistent with the other properties on the same street and the same planned development, based on that I think it makes sense to keep with

the consistency regardless of whether the ordinance gets fixed or not, It's appropriate to grant this particular variance and I'll be in support.

Coppola: Alright, thank you. Vice Chair Baringhaus.

Baringhaus: Thank you Mr. Chairman. I think you have a definite hardship, basically with the unusual shape of the property. It's a little bit of a challenge from my point of view, regardless of what ordinance you want to yield under. I think just the property alone more than justifies the need for a variance in this case. So, based on that, I'll support the variance as well.

Coppola: Alright, thank you. Mr. Testa.

Testa: Thank you, Mr. Chair. I can support this as well regardless of whether or not the ordinance change was a mistake or not. As Mr. Klisz said, for consistency standpoint, you own all the lots in that area, it makes sense to have them all at the same setback and uniform look. This is a very, I don't want to say it's a secluded area, it's kind of a very low traffic area. Not a lot of people are going back there, so it makes sense that all the properties look uniform in terms of that setback. I am in support of the setback, I don't want to include the fence in the motion if possible. It is on your petition, so, I want to make that clear that I will only be in support of the setback.

Coppola: Alright, thank you. I'm too in support. I think Secretary Klisz brought up a good point on consistency, although I would like to state that I think each of these will have to stand on its own, that's not a broad approval. If you are looking for any of the other locations, we'll have to deal with each of those lots as they come along. But this particular lot is a little bit challenged. I think it probably could have been platted a little bit differently and it wouldn't have been a challenge, but it is what it is at this point. And I think that being at the end of the development and kind of in the back I don't think it's really going to be that big of an issue for the community to have a little 15-foot setback issue. So, from that respect I'll be in support. In regards to the – again, we do have to discuss the fence, because it is on the petition. I am not in support of the petition, and would suggest that we have an approval in part and denial in part on the motion I would deny that portion of the petition. Alright, I will go ahead and open up the floor for a motion.

Baringhaus: Mr. Chairman.

Coppola: Vice Chair Baringhaus.

Upon Motion by: Baringhaus. Supported by: Testa.

RESOLVED: APPEAL CASE NO. 2022-02-05: An appeal has been made to the Zoning Board of Appeals by Ronald Emling, 34422 Rosati, Livonia, MI 48150, seeking to construct a new building on Industrial Zoned property resulting in deficient front yard setback and proposing to install fencing and a masonry screen wall, each six-foot tall, within the front yard setback, which is not allowed.

Front Yard Setback

Required: 50 ft.
Proposed: 35 ft.
Deficient: 15 ft.

The property is located on the west side of Rosati (34437), between Stark and West End, Lot. No. 111-03-0008-000, M-1 Zoning District (Tech and Manufacturing). Rejected by the Inspection Department under Livonia Vision 21 Ordinance, Section 4.03 (n)(i), "Footnotes to Schedule of Regulations," and Livonia Fence Ordinance, Section 15.44.100(A), "Industrial District Regulations," **be granted in part and denied in part for the following reasons and findings of fact:**

1. The uniqueness requirement is met because of the unusual shape of property.
2. Denial of the variance would have severe consequences for the petitioner due to impeding vehicle navigation on the property.
3. The variance is fair in light of its effect on neighboring properties and is in the spirit of the zoning ordinance because of no neighboring business protests.
4. The granting of this variance will not adversely affect the purpose or objective of the Master Plan because this property is classified as "Tech and Manufacturing" under the Master Plan and the proposed variance is not inconsistent with that classification.

FURTHER, that the requested setback variance be granted with the following conditions:

1. That the wall/fence that was proposed as a part of this variance be denied.
2. That the approval is not an endorsement as to use of the property by Excellerated Towing and Recovery, LLC.
3. That the building be built as presented.
4. That there is a waiver of the 5-day time to pull a permit.

ROLL CALL VOTE:

AYES: Turbiak, Testa, Oliverio, Klisz, Baringhaus, Coppola
NAYS: None.
ABSENT: Boloven.

Klisz: Passes 6-0.

Coppola: Motion by Vice Chair Baringhaus, supported by Mr. Testa, any discussion? Couple of suggestions on conditions. It would be – the building would be constructed as presented, everything as presented including structure and all that and then we can give a waiver of the waiting period for the permit.

Baringhaus: Yes, absolutely.

Klisz: I can support.

Coppola: Okay. I just want to, just for the record – just for clarification. So, this is to Vice Chair Baringhaus – I just want to make sure that I got it right. This motion is a approval in part and a denial in part. Approval in regards to the setback and then a denial in regards to the fence.

Baringhaus: Correct.

Coppola: That's your – that's your motion.

Baringhaus: Yes.

Coppola: Okay, with the conditions then as presented. The waiver period and then the statement that any approval that's provided is not to be deemed in any endorsement in regards to usage – any type of usage variance.

Baringhaus: Correct.

Coppola: Alright, Mr. Emling and Mr. Sever, so what we've done, just to be clear, so you've got an approval and denial. You've got an approval in the setback variance to 35 feet as requested, and we've denied your request for a variance for the front fence. So, you'll have to comply with the ordinance on that and the setback as it exists today. So, conditions are that you have to construct the building in the place and style that's been presented, and then we're going to go ahead and waive the waiting period, so you can go get a permit tomorrow, right Mr. Stroble?

Stroble: That's correct.

Emling: Fantastic.

Coppola: And just to be clear again that this variance is being provided no way should be considered an endorsement on a use variance and that lot could be approved in its own process.

Emling: Appreciate it.

Coppola: Okay?

Sever: By the way, on the design of the building we had somebody, the support of Scott Miller, Planning Department, did the building the width wise to get additional barrier in front of the street with regard to the operation of the (inaudible) in the back, it was designed to block it as much as possible.

Coppola: Yeah. I appreciate that.

Sever: But we appreciate that. Thank you very much.

Coppola: Alright, good luck.

Coppola: We've got some minutes.

Testa: Move to approve the meeting minutes from 3/1/22.

Baringhaus: Support.

Coppola: Motion by Mr. Testa, support by Mr. Baringhaus to approve the minutes of March 1st? All in favor?

Board: Aye.

Coppola: That's everybody.

Overlapping talking

Testa: Motion to adjourn

Klisz: Second

Coppola: All in favor?

Board: Aye.

Coppola: We are adjourned.

There being no further business to come before the Board, the meeting was adjourned at 8:38 p.m.

Gregory G. Coppola, Chairman

Timothy Klisz, Secretary

/vcb CEO 9489