

ZONING BOARD OF APPEALS

CITY OF LIVONIA

MINUTES OF MEETING HELD TUESDAY, JULY 26, 2022

A Meeting of the Zoning Board of Appeals of the City of Livonia was held on Tuesday, June 14, 2022.

MEMBERS PRESENT: James Baringhaus, Vice Chairman
Tamara Oliverio
Martha Ptashnik
Michael Testa

MEMBERS ABSENT: Gregory G. Coppola, Chairman
Timothy Klisz
Christopher Boloven

OTHERS PRESENT: Harry Ramsden, Inspection Department
Mike Fisher, Legal Department

The meeting was called to order at seven p.m. Vice Chairman Jim Baringhaus 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. Four (4) 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 seven (7) people present in the audience.

(7:00)

TABLE OF CONTENTS

APPEAL CASE #	PAGES
<u>Appeal Case No. 2022-06-01</u> Nicholas Ritts, Sheldon Center, LLC	3-11
<u>Appeal Case No. 2022-06-02</u> Events Extraordinare, Inc	12-30
<u>Appeal Case No. 2022-06-03</u> Jeffrey Gibson, Over the Moon, LLC	31-42

APPEAL CASE NO. 2022-06-01: An appeal has been made to the Zoning Board of Appeals by Nicholas Ritts, Sheldon Center, LLC, 33327 Plymouth Road, seeking to erect exterior wall signs upon a new commercial retail building, resulting in excess number of signs and sign area.

The property is located on the south side of Plymouth Road (33327) between Farmington and Woodring, Lot No. 134-99-0003-004, C-2 Zoning District, "General Business." Rejected by the Inspection Department under City of Livonia Ordinance, Section 11.08 (3) "Sign Regulations."

Testa Appeal Cases Number 2022-06-01, An appeal has been made to the Zoning Board of Appeals by Nicholas Ritts, Sheldon Center, LLC, 33327 Plymouth Road, seeking to erect exterior wall signs upon a new commercial retail building, resulting in excess number of signs and sign area.

Baringhaus Thank you. Does the board have any questions for the inspection department? Are there any questions for the Law Department? I do have one question for the Law Department. Mr. Fisher. Seeing how we do have four members present this evening. In the event that the Board would make a tabling motion, but it wouldn't receive four votes. At that point is that considered a denial of variance?

Fisher When you do a tabling motion, you only need three.

Baringhaus You only need three. Okay, very good. I just wanted to clarify that.

Fisher If people abstain, you can have two.

Baringhaus Ok very good. Okay, thank you. Will petitioner please come to the podium?

Ritts Nicholas Ritts, 33327 Plymouth Road Dairy Queen in Livonia. This is my daughter and lead advisor, Maya. She's involved in all our projects by her choice, not mine.

Baringhaus There you go. Please state your requested variance.

Ritts Sure. I have notes if that's okay.

Baringhaus That's fine.

Ritts So due to the new outlot style of the shopping center to vehicular access to the Dairy Queen is from the rear. Planning Commission require the building be four-sided architecture. So, it'd be logical to have signs on all four sides for identification from any direction for safety of vehicles and pedestrians. Jimmie Johns, the neighbor, was given the same for wall signs and directional signs for a drive-thru at a ZBA meeting March 2016.

Baringhaus So, at this point, really, you're basically talking about the wall signage for the building because what we're looking at tonight. Can you tell me about the directional signage for the property?

Ritts That's the point where you goes through the drive-thru.

Baringhaus I understand but can you tell me, I didn't see this on the plan but you have a number of signs proposed for directional signage?

Ritts I don't know off the top my head I wasn't involved in those. What is it, eight total that we need? I think a few of them are those.

Baringhaus Do you drive thru facility in the building? Do you have them a menu board?

Ritts Yes.

Baringhaus Okay. Well, they carry Dairy Queen signage as well or logos as well?

Ritts I don't believe so. I'm not 100% certain, but I don't believe that is considered signage. I don't believe there's anything at Dairy Queen other than the blizzard and those kind of items.

Baringhaus Can you tell me, I noticed by the side of the building there was a grill and chill sign? What's the purpose of that? Is it to communicate to your customers?

Ritts Great question. That's kind of the secret weapon out of what Dairy Queen is doing from what they used to do. I mean, everybody else has little red barns, that were all over. And now we're seeing the new drive-thru lines. The story with the small ones, the tree only stores, they call them, is they really struggled in the winter in Michigan. So now the goal is to promote the food also. So, you have the grill and chill it's really, it's kind of cool, two different kitchens in there, you basically have a cold kitchen where ice cream is produced and then you have the hot kitchen and the wild part about it is you have the goal of both coming together within three minutes after you place your order to get out the window. And being a guy who's been in the restaurant and bar business for 17 years. I'm almost scared of the three minutes to be honest but we're going to do it.

Baringhaus Can you outline your hardship to the Board and what's your hardship and what caused you to request a variance for the number of signs?

Ritts Really safety of the vehicles and the pedestrians to be able to see where you're going, to see the Dairy Queen and know what's what then the shopping center. It's a busy area and I think it's probably going to get a bit busier once we're in there and once Lee's Chicken is next door. So, I believe it would be important for people to know where to go.

Baringhaus Okay very good. Just looking at the Jimmy John's which is in place right now. That has four signs, basically one on each side of the building. you're requesting six signs, what's your justification for the two additional signs?

Ritts Well, on the building, it would just be the four around it, and then we have the directional signs just as Jimmy John's does, I believe they have the same number.

Baringhaus Question for the Inspection department is the chill and grill sign included in the count for that signage?

Ramsden It is. So, there's four signs on the west elevation, which includes pictures of an ice cream and there's two signs with the chill and grill on the north, which is Plymouth Road and then there's one east and one south that just says DQ so in this application, there's no directional or menu boards in the application. All eight are on both sides on the building.

Baringhaus Okay, thank you. Are there any questions for the petitioner?

Ptashnik Mr. Chair, I have one question.

Baringhaus Yes, Ms. Ptashnik.

Ptashnik Question. I know that the front of the building is technically going to be on the north side. Correct. The way I'm looking at this?

Ritts The north.

Ptashnik Yes, yes. And then so I guess what is the frontage on the east or west side? I guess I'm thinking west facing Farmington Road.

Ritts What do you mean when you say frontage?

Ptashnik The length of that, let me see what the size of that wall is, and I can't seem to find it on here.

Ritts Off top my head, probably 50 feet.

Ptashnik I'm just trying to determine if this is a question for Mr. Fisher. Is this considered a corner lot or no looking at where the frontage is on Plymouth Road? I know this shopping center well and I know I've seen the construction but I'm not sure legally if this is considered a corner spot or not because that comes into play with signage.

Fisher Well it is kind of a flexible concept being on a corner lot.

Ptashnik That strip mall is on the corner of Plymouth and Farmington, but I wasn't sure since it's a big freestanding building legally.

Fisher Generally speaking, where you're what you're talking about, in the corner for this purpose is visibility on two streets and named the end unit, where the others are all on the same street. And you know, as for this one, at least traditionally, we've not considered it a corner lot.

Ptashnik Okay. I know that it's more on Plymouth, I just wanted to make sure before I made a decision.

Testa Mr. Chair, I have a question for the Inspection Department.

Baringhaus Yes, Mr. Testa.

Testa The way this is written up in the legal notice or the way it went out to the public, it says proposed eight. But in the actual proposal that we have it shows 6. Am I missing two signs?

Ramsden Yes, there's two signs. There's a total of four signs on the west elevation. One is Dairy Queen. One is let me see what page that is. One is an ice cream cone, and one is a spoon. And the fourth one is grill and chill. They're all separate signs separated by space for this elevation drawing.

Testa Understand, so they're calling some of these signs combined together as one, but we're counting them separate because they are not actually combined signs.

Ramsden That's correct. Yeah, and that's page 10 out of 12.

Testa Yes thank you. So, question of the petitioner. Is there any way you can combine any of these signs to make the quantity less? Like, is the spoon really necessary?

Ritts I believe it is. And I don't know if you've visited the new store in Taylor that's absolutely beautiful. I I don't think Taylor should have a nicer store than Livonia. In my opinion. I believe that the spoon is very much part of what the baseball team is going to take their picture next to and what the town is going to enjoy.

Testa Okay, I like the spoon. Maybe I shouldn't have asked it that way. Perfect for me. The first thought I saw was food and maybe like Red Robin, because of their handles on their doors. I thought they had something exterior like that but they don't. Do you know anything else in the city of Livonia that has some type of exterior, not, maybe I won't consider this a sign, but it totally is just an object that sits out there.

Ritts I wish I did. I'm going to assume somewhere there probably is. There's so many beautiful buildings and businesses within Livonia. I'm sure somebody else has some art or a version of that but I don't know off the top of my head.

Testa Okay, I couldn't think of it either. Maybe there used to be a restaurant on Plymouth Road, maybe having a statue of liberty, I might be thinking

differently. So, I get the four signs, but I am also struggling why you need more than that. So, if you could, maybe explain better why you think you need more than, to me, I'm counting it up, and I see it as more than what Jimmy John's has, I appreciate your comparison to Jimmy John's, because they're right next to you, but I'm viewing your proposal as more signs than that.

Ritts Because they're counted separately, and I think we didn't look at it that way. I want the Board to be happy, I want the city to be happy. And I've done business in a good amount of cities and I kind of look at it like the waves behind my vote is I go through a city and I want to say you're going to love me. So, if there's something that they hate about this project, I'm happy to adapt. But I would love for it to look like all other beautiful Dairy Queen stores that are getting built. I don't think that any city or anybody's been upset with the new Dairy Queen with how they came out, the new concept is beautiful and the feedback we're getting like we just have a Facebook page for the coming soon from the city of Livonia. And yeah, it's like so much like thank you and just it's such a heartwarming and welcoming feeling for opening a place here.

Testa Is there any way you can provide on that side of the spoon, or the grill and chill and Dairy Queen together make them one sign? Maybe I don't understand the concept about needing them separate?

Ritts How would you like to combine or what would you like to see.

Testa Maybe the DQ and grill and chill together?

Ritts I'm sure we can do that.

Testa And then on the other wall we have DQ, it makes sense to me why you want it on all four sides. And then, it just, eight to me seems excessive overall, that's why I'm questioning whether you can combine any of them. Thank you.

Baringhaus Any other questions?

Oliverio Mr. Chair?

Baringhaus Yes, Ms. Oliverio.

Oliverio So, the blue, the blue sign, is that what sort of fabric? Or like, is that something you interchange out based on the season? Or how would that work? Or is that permanent?

Ritts It's permanent, it's art.

Oliverio Thank you.

Baringhaus Any other questions? Okay, very good. I'll just have you take a seat. I'm sorry. Are there any comments from the audience? Okay, great. Are there

letters? Okay, no worries at this point. Okay, very good. So, we have no letters on public comments. I'll just ask you to make a closing statement at this point, regarding your request for a variance.

Ritts I appreciate the way the city of Livonia has dealt with us through this whole project. It's not easy to build a building from the ground up and this is my first one quite like this, everyone else has been taking over other ones. So, I know I appreciate the Board's comments. And I think you've asked some great questions and great comments. I appreciate whatever decision you make.

Baringhaus I do have two quick questions for you just kind of jog my memory. Do you own additional Dairy Queens as well?

Ritts No, this is my first one. We were at a drive thru, I have five kids, we were in the drive thru at the family and my wife said we need a Dairy Queen and I said no, we don't. And then we started talking and we realized that the business we've been in with cars and restaurants, everything we do we get these wild free shakes and all these desserts and stuff. And it's about making people smile. And that's been our whole secret to everything in our life making people happy. And we realized how much we love Dairy Queen as a family. And that's how it all started. And then I took a drive in Livonia, and it was just it was perfection.

Baringhaus Okay, very good. And then the other question I have I noticed she had the, as mentioned earlier, you have four signs on the west side of the building was there some rationale for doing that?

Ritts So the side that faces Farmington, well, that's where the patio is. That's really one of the main faces of the building. I think that's also one that you'll hopefully see a little bit from the stoplight. You know I'm not sure once this is done and the way we set down and back how it's going to work, but we're hoping that that's the prominent side.

Baringhaus Tell me a little bit about the patio area.

Ritts Just a small patio.

Baringhaus A small patio on the west side of the building. Okay, very good. Okay, thank you.

Ritts Okay, we're going to make Maya talk next time. Thank you. Thank you very good.

Baringhaus I will close the public portion of the meeting at this point. And then we'll begin the Board's comments with Ms. Ptashnik.

Ptashnik So, I do appreciate you guys bringing a Dairy Queen in and maybe I won't appreciate it because I do love myself a blizzard. But I can understand why you'd want signage on all four sides, and I will be in support.

Baringhaus Ms. Oliverio.

Oliverio First and foremost, it's beautiful. So, I think that area will have a positive impact on the area with what that looks like. Secondly, thank you for bringing smiles to Livonia. And to that point, I completely support with what we have here especially considering the safety considerations that came out of the Planning Commission and why that was needed in order to make sure people understand, that is right, that is going to be a very busy area and it's likely going to have a lot of children so making sure that they're safe is certainly paramount. So, I will be in support.

Baringhaus Thank you, Mr. Testa.

Testa So, I will probably be a big customer at this location compared to going to Eight Mile That's just a treat so you're adding, the burgers are going to be helpful. I'm not going to be the vote to stop this from happening but normally I would not be in favor of this number of signs. I think it sets us up in the future for other businesses coming in asking for the same thing, that's kind of why I was questioning the way it was, if there's any way to reduce the number of signs down, so i won't be the no vote that would stop this. So, if there's enough votes to pass that it will also be become a yes vote.

Baringhaus First of all, a very well thought out plan, very well organized. I did have some questions about the grill and chill signage as well but as you explained it, it's almost like a piece of artwork for the building as well. To me this type of signage falls in, is it signage or artwork or is it both? I think, once you explained the concept of the spoon to me that it's sort of fell in place and I'm still kind of struggling with the upside-down milkshake, but we'll move past that. Basically, I think it's very well located. I think it's a great addition or community and based on that support the variance as well. So, with that the floor is open for a motion.

Oliverio Mr. Chair.

Baringhaus Thank you, Ms. Oliverio.

Oliverio All right. This is my first one. So, bear with me. I resolved that the variance appeal case number 2022-06-01 filed by Nickolas Ritts, Sheldon Center LLC, 33327 Plymouth Road, be granted for the following reasons and findings of fact, the variance is fair in light of its effect on the neighboring properties and the spirit of the zoning ordinance, because it is in compliance with the Master Plan and the proposed variance is not inconsistent with that classification.

Baringhaus Do you want to speak to the uniqueness requirement of the property?

Oliverio Yes, the uniqueness requirement is met because of the guidance given by the Planning Commission and the requirements for safety.

Baringhaus And then what would be the impact of developing? Reduce visibility to customers, of the Dairy Queen facility. And then you mentioned that it was fair and light of any neighboring properties. And in spirit of the zoning ordinance, and then the classification for a property or general business, so its C-2 zoning.

Fisher Actually, it's Corridor Commercial.

Oliverio Corridor Commercial okay, very good that is what it is. And then do you have any additional conditions? That the project be built as presented this evening? Okay, very good. Do I have the support?

Ptashnik Support.

Baringhaus Motion by Ms. Oliverio, support by Ms. Ptashnik. Any discussion? Secretary Testa, can we please take a vote?

Upon Motion by Oliverio, supported by Ptashnik, it was:

RESOLVED: CASE NO. 2022-06-01. An appeal has been made to the Zoning Board of Appeals by Nicholas Ritts, Sheldon Center, LLC, 33327 Plymouth Road, seeking to erect exterior wall signs upon a new commercial retail building, resulting in excess number of signs and sign area.

The property is located on the south side of Plymouth Road (33327) between Farmington and Woodring, Lot No. 134-99-0003-004, C-2 Zoning District, "General Business." Rejected by the Inspection Department under City of Livonia Ordinance, Section 11.08 (3) "Sign Regulations." **be granted for the following reasons and finding of fact:**

1. The variance is fair in light of its effect on the neighboring properties and the spirit of the zoning ordinance, because it is in compliance with the Master Plan and the proposed variance is not inconsistent with that classification.
2. The uniqueness requirement is met because of the guidance given by the Planning Commission and the requirements for safety.
3. The impact of developing without the variance would reduce visibility to customers and of the Dairy Queen facility.
4. The granting of this variance will not adversely affect the purpose or objective of the Master Plan because this property is classified as "Corridor Commercial" under the Master Plan and the proposed variance is not inconsistent with that classification.

FURTHER, the variance be granted with the following conditions:

1. The project should be built as presented.

ROLL CALL VOTE

AYES: Testa, Ptashnik, Oliverio, Baringhaus

NAYS: None

ABSENT: Coppola, Klisz, Boloven

DENIED: None

Baringhaus Well, congratulations, your variance has been approved, so you're free to you know, begin your signage project based on how you outlined it tonight. So again, I think it's a great addition obviously, you have four new customers sitting here. Welcome to Livonia.

Ritts Thank you can't wait.

APPEAL CASE NO. 2022-06-02: An appeal has been made to the Zoning Board of Appeals by Events Extraordinaire, Inc., 16000 Middlebelt Road, seeking to maintain two storage sheds (each 10' x 14') adjacent to the rear (east) wall of the existing building, which is not allowed. The accessory buildings are not incidental or customary to the building occupying a tenant space within the building.

The property is located on the east side of Middlebelt (16000) between Terrence and Sunnydale, Lot No. 050-01-033B-004, C-1 Zoning District, "Local Business." Rejected by the Inspection Department under City of Livonia Ordinance, Section 7.23 D "Accessory Structures and Uses."

Testa Appeal Cases Number 2022-06-01, An appeal has been made to the Zoning Board of Appeals by Events Extraordinaire, Inc., 16000 Middlebelt Road, seeking to maintain two storage sheds (each 10' x 14') adjacent to the rear (east) wall of the existing building, which is not allowed. The accessory buildings are not incidental or customary to the building occupying a tenant space within the building.

Baringhaus Does the board have any questions for the Law department? Are there any questions for the Building and Inspection Department at this point? Okay, thank you. All petitioners, please come forward.

C. Scaglioni Good evening. I'm Cynthia Scaglione. I am 16000 Middlebelt is location. I'm the owner and CEO of Events Extraordinaire which is doing business as the P.E.P Center. This is my daughter, Nicole, she is the COO of the P.E.P Center. And what we do at the P.E.P Centers we provide Skill Building, Supportive Employment Services and Respite Services to developmentally disabled adults.

Baringhaus And then can you state the nature of your hardship?

C. Scaglioni Okay, the nature of the hardship in one word is COVID. Still is COVID. Pre-COVID, we had probably, I think I had 58 to 60 people on a daily basis for the day program. I am a Medicaid provider, and I'm contracted with Detroit, Wayne, Integrated Health Network in Wayne County as behavioral health providers. And we had 60 participants in there and there is 7200 square feet in the building, it's very large, but it used to be a physical therapy location, I believe. So, there are a lot of smaller rooms within it, that we have converted to micro enterprise areas, classroom kinds of things. And there's a very large center area, where you have to understand that our participants range from very severely impaired to very high functioning. So, we've had to adapt the environment there to fit all of those needs. Pre-COVID we had eight-foot tables, okay with 60 people. And at that point there I had to 12-15 staff that also needed seating when feeding, you know, a lot of what, half of our people need to be fed, probably half are in wheelchairs. So, we need massive amounts of space in there. Pre-COVID. It was all okay, they were all

together. Well, we had, I had to completely renovate in order to be COVID compliant. Because we were closed for 17 months, I had no revenues coming in whatsoever. I took advantage of grants, and took advantage of PPP loans, I took advantage of SBA loans, and any other assistance that I could get. So, what I had to do was go from the eight-foot tables that were all together in there, and probably 80 chairs, to desks that were six feet apart for social distancing mandates, and the chairs and then had to get, we could no longer use fitness equipment, which is we have a fitness room in there. None of the things that were safety hazards for COVID, I had to eliminate all those. But I anticipate at some point that we will be able to get back to that. But all of the things, all those materials and equipment are now in a storage shed. I do not have the means financially to get a storage unit. Or I prefer not to because I'm trying to, we're trying to hang on to begin with. We do have the approval of the owner. He loves what we do at P.E.P Center. He has no problem with the sheds there. And a lot of the stuff, you kind of have to understand our guys a little bit. They break chairs, they kick walls, they put holes in things, they have behaviors. So, all of the things that we have to Okay, somebody so and so just broke a chair, we got to go out in the shed and get another one, you know, so that's the reason for the sheds in the back.

Baringhaus A question for the Inspection Department. There was a complaint filed on this property?

Ramsden There is an enforcement I believe going back to March.

Baringhaus Can you give us some background on that?

Ramsden So yeah, that was written March 2, regarding that. The owner was talked to on March 9. Husband was to pick up his belongings on lot there's also debris in the back there was part of this enforcement. Cynthia called said she needed more time to correct these violations that was on the 18th of March. Most of the logs in the rear had been removed and the debris, except for some small and there is a small storage container still out there in the very rear not including these two, which were a part of the application.

Baringhaus So some progress has been made, but there's still some outlying conditions at this point, which would be the shed, the storage pod, storage container whatever. And then two sheds.

Ramsden And a small amount of logs. The majority of it has been corrected.

Baringhaus Question on the two sheds. Are permits required for those sheds?

Ramsden They are.

Baringhaus Were they pulled?

Ramsden They were not.

Baringhaus Okay. And then in terms of the placement of the sheds themselves, was there any gravel construction required? Was that done? Not done? Is it just sitting on asphalt?

Ramsden Yes, currently they are

Baringhaus Sitting on asphalt. Well, in terms in terms of your storage requirements, did you consider off-site storage?

C. Scaglioni The problem with off-site storage is that when we need a chair or we need wheelchairs, there's medical, we have a lot of medical equipment too, that is in there in the storage sheds as well. and to go off-site to have to get it is a problem. Not to mention the fact that it costs money.

Baringhaus How did you store this medical equipment pre-COVID?

C. Scaglioni All inside P.E.P. Center. And again, lots of rooms were filled up with just resources.

N. Scaglioni We had to expand different rooms to be able to fit more of the desks. Socially distancing, is a best-case scenario for preventing COVID in our building because our guys cannot wear masks. 90% of them will not keep them on and they cause other issues. So social distancing is our best battle plan here. In terms of the cost of that, we are again a Medicaid provider. So for one hour, we get paid \$12 an hour to take care of our guys. So we are doing our best to stay afloat and keep the staff that we have because our participants require consistency in the same staff. And we have been blessed beyond measure to be able to do that and have the support of the owner of this property to give us the ability to do that.

C. Scaglioni Well at this point, we I we probably have only half of our pre-COVID numbers. So, my revenues are 50% down from what they were pre-COVID. My revenues now pay my payroll only. I have to cover loaning money.

Baringhaus One at a time, we're trying to record this. I guess my question is, the Inspection Department still noted that there's debris on the property as well as a storage unit in the back of the property and what are your plans to bring that into compliance?

C. Scaglioni I am prepared to get rid of the pod that actually has a wheelchair lift from a previous building that I was in that could not fit in the P.E.P Center. But at this point I can eliminate that, but I cannot eliminate the shed, sir, I don't know how I will.

Baringhaus You also have debris on the property.

C. Scaglioni That's completely clean. I have photos here I mean the parking lot is good. It's a very, very large parking lot back there. And that is completely cleaned up.

Baringhaus When I drove through the parking lot yesterday there was still random areas of wood debris towards the back by the storage spot. And I believe there was some lumber towards the front of the property as well.

C. Scaglioni I didn't think there was any lumber. The track for the wheelchair lift is sitting outside and that was moved by Consumers Energy, and they left it sitting there. And frankly, I have had medical issues for last two months, so I haven't been there very much.

Baringhaus Yeah, the lumber would be just looking at the storage.

C. Scaglioni Okay. Those may very possibly be live edge slabs. Is that what it looks like? Not a problem. I will get rid of them; those belong to my son actually.

Baringhaus It looks like there's more to the front, towards the front of our parking lot. By the rear of the building, same, similar material.

C. Scaglioni Is there an awning still sitting there? My parking lot, unfortunately, it's used as a dump for other people. That awning did not belong to me. I have had to remove lots of stuff from their parking lot. People come and use the dumpster, that awning was dumped from the shopping center right next door. Throw it over on the P.E.P. Center lot.

Baringhaus It does need to be addressed. Okay. Those are my questions. Does anybody else have any questions for the petitioner?

Oliverio Mr. Chair?

Baringhaus Yes.

Oliverio I do have a couple of questions. So, I'm curious one was due to COVID, I get that, but there certain regulations that you have to follow per the CDC,

tied to Medicaid or anything like that? Do you have anything around like the specific codes or anything like that or is it more specific to guidance?

C. Scaglioni It's more specific to guidance, where we have to follow social distancing, we have sanitizing stations in place, to have health checks done on every person that comes in, visitors are not allowed anymore, parents and group home staff cannot even come in anymore. They just drop off. So, but that's what we put in place. There isn't really a mandate for it other than the CDC guidelines.

Oliverio Are there any sort of mandates or guidelines that you have to follow because of the grants that you've got during COVID?

N. Scaglioni No. We are however, one of the few programs that have been able to stay open and sustained. A lot of the other programs have had to completely close down.

Oliverio Do you have any idea of how long you have to follow these guidelines?

C. Scaglioni I listen to the news every day, I'm assuming it's going to be going forward for quite some time.

Oliverio And then once you're not, you don't have to follow these guidelines, or you choose not to follow these guidelines in the future will be your intent of, you know, the storage units in the back.

C. Scaglioni I mean, they could be it could be stored somewhere else, I suppose is, but that's an added expense. That is a hardship.

Oliverio You said that you were moving things from the inside to the outside to accommodate the social distancing. Right. So, I guess what I'm saying is, so if and when there's comes a time where you don't have to do the social distancing anymore in the future, what would be your intent?

Baringhaus I would think we would probably have to continue with one shed. But we could probably bring a lot of the stuff, the tables, and that kind of thing back in there, but I don't see that happening for a long time because our guys are so medically fragile, and we have droolers, they like to touch each other, that kind of thing. So, until COVID is a non-issue, it's going to be tough.

Oliverio And then just for the sake of other people who come in that you that you care for what types of facilities do they come from?

Baringhaus They both live at home, and they live in group homes. So, the majority now live at home. A lot of the group homes post-COVID or after COVID, have not returned yet. In fact, we lost a lot of people through COVID from the group homes.

Oliverio And then insurance of their disabilities...

N. Scaglioni Cognitive impairments, severe multiple impairments. Some with cerebral palsy, some mild or moderate cognitive impairments. There's fewer of the mild and moderate autistic, ASD.

C. Scaglioni We have a lot of medical issues too. We have feeding tubes. We have colostomy bags, we have to cut up everybody's food, because they're choking risks. I mean, it's challenging population, that a lot of other people don't touch.

Oliverio Thank you.

Ptashnik Mr. Chair, I just had a couple questions and Inspection, I may have to ask you as well. Based on the sheds, I guess my concern there, you mentioned that they were not built on a rat wall. They just flush up against the building?

C. Scaglioni Oh, no, no, they're there on the parking lot.

Ptashnik No, but I'm talking to the back of the shed. I couldn't tell when I drove by there were.

C. Scaglioni No there is an area behind the building that is grass. And there's a curb, an asphalt curb all the way around and they sit right on the asphalt.

Ptashnik But there's still nothing in place. I guess that's my concern, because you are serving food, you do have, you know, a population going in and out. So that's where my concern is

Ptashnik Well, I understand. But I mean, anytime you have a facility with lots of people and food, and you have to be wary of rodent issues. You know, that was kind of one of my biggest concerns in hearing about this.

C. Scaglioni But none of that is in the sheds. I'm sure we have a lot more human issues back there. People love to sit on the picnic tables that we have back there and that kind of thing and leave their food sitting there. The parking lot is quite popular.

Ptashnik So I guess for Inspection without the rat wall, does that make the sheds completely illegal?

Ramsden They are currently.

Baringhaus Any other questions?

Testa Mr. Chair? Clarifying question for Inspection. How did we get here? Did they come to us asking for a permit or did someone notify us that the sheds are there? Or was the shed spotted and were there inspecting a complaint?

Ramsden I don't know the answer that question.

C. Scaglioni I do. Actually, there was a 20-foot storage cargo trailer back there, which was stolen with contents. I moved from a condo in Florida, brought all the contents back up there and there were several business items in it as well. And it was stolen on March 2. So, I believe that's where it started, because the police did come and came in the back there. And at the time, I was going through a nasty divorce and there was an RV, which was referenced in there that belonged to my husband at the time. And that has since been moved as well. But I believe that's where it started, was the theft of the cargo trailer.

Testa Okay. How long have those two sheds been there?

C. Scaglioni About three years. Two and a half years?

Testa Okay, so you had them installed?

C. Scaglioni I put them together myself.

Testa Okay. The owners of the building knows they are there?

C. Scaglioni Yes, he gave me permission. I just didn't know, I wasn't aware that I needed a permit.

Testa Question for Legal. Whose obligation is it to get the permit the owner or the person putting it in, the owner?

Fisher The owner is responsible it takes responsibility for the contractor, but they both are, I'd say.

Testa Should the owner be here?

Baringhaus I do have a letter from him and he did provide information that I attached to the application.

Fisher Well, it is true that only an owner can apply for a variance.

Testa Are they the correct petitioner to be asking for this?

C. Scaglioni It's not really the way the application read, that if I had all of the information on the owner, and he did fill out his portion, the property owner portion, that I could apply for it as a tenant.

Fisher Well you can't really apply for him, but there's no reason you can't advocate for it. WLB properties is the owner.

C. Scaglioni Correct.

Fisher This is John Liadis. So, this so this variance is being requested by the owner, it's just being advocated for by the tenant, which I would say it's probably not an unusual situation.

Oliverio It's not unusual?

Fisher It's not unusual for the tenant, the tenant is oftentimes the person most interested in getting the variance.

Testa Which name should be on the public notice, their name or the owner's or doesn't it matter?

Fisher I don't think it really matters, I don't think the public is worried about in the name on that.

Testa Okay, thank you, Mr. Fisher. Questions back to the petitioner. Through other questions, there is a third shed in the back of a lot?

C. Scaglioni A pod, that's actually a pod.

Testa So, it's not a shed. Is it the pod that you were referring to that you could get rid?

C. Scaglioni That has the wheelchair lift. My first location was right across the street from here, the building right across five miles with all that glass and it was a two story, I had the upper story. And I had installed a wheelchair incline platform lift, and it's too big to keep anywhere else. I paid \$20,000 for it. I even tried to give it away, and that's what's in the pod.

Testa Back to the shed, why do you choose sheds over pods?

- C. Scaglioni Because there's no monthly cost, I purchased them and there is no monthly fee.
- Testa Okay, so you're paying on that pod right now?
- C. Scaglioni I am paying on the pod.
- Testa Regarding the shed that you put in three years ago, obviously, that was pre-COVID.
- C. Scaglioni It was right around the same time.
- Testa Okay, so was it pre when you need it? I'm trying to understand. I understand what you're saying about what COVID caused in terms of needed more space, I can understand and appreciate that.
- C. Scaglioni We also needed more space as we start as we grew. Just before, I mean, I we were at the highest attendance when COVID hit.
- Testa Okay, thank you, that's leading towards COVID events, because you're also saying now that you're operating at a very lower capacity
- C. Scaglioni Now 50%
- Testa So, if you start operating at a higher capacity, aren't you going to need more space and are those two sets gonna satisfy?
- C. Scaglioni There are still plenty of rooms in there and as we get more people, we are expanding that to some of those different areas now that had tables and chairs in them before. Now they're sitting in the shed. So we still have room to bring other people in, but stuff's gonna go in the shed.
- Testa What's in those rooms now? If there's not people there, couldn't you use those rooms of to store what's in the shed?
- C. Scaglioni There are supplies. We have a vast amount of supplies for activities for our guys. Our guys don't just sit and color. They don't just sit and sleep. They there's a jewelry section, we make books in another room, all of the rooms are separated. and were used prior to me getting the building as therapy rooms. So every room has its own activity where maybe four to six guys can go with two staff or one staff at a time.
- N. Scaglioni I can expand on that just a little bit. My plan for the for the business to continue to hopefully give our guys a more meaningful day is, we have

simulation rooms. So, each one of them has to stay the way that they are in order to simulate a hotel room, simulate a bistro and give them an authentic experience to where they're not just coming in doing random activities. It's actually giving generalization to what is on the outside of our building.

Testa I love the concept and I appreciate it. It sounds like that wasn't your business model before COVID. Right.

C. Scaglioni Oh no it's always been the business model. So again, because we have to believe, it or not Medicaid has the home and community-based services final rule in the state of Michigan, where we have to work our guys towards employment, it doesn't matter what the disability is, they all have and that is what we do there with all these simulation rooms.

Testa Right, I understand simulation rooms, where I'm what I'm not understanding is your space limitation for needing the shed. So, obviously COVID created for social distancing. Right now, you're saying you're operating at half capacity. So, in theory, that means you're not using all your rooms.

C. Scaglioni We are using all the rooms because they were not pre-COVID. We were not social distanced. We have eight- foot tables, with 15 people at one table, sitting right next to each other. I do have a photo of pre and post, if that would help you to understand.

Testa If you had 50 people coming tomorrow, where would you put them?

C. Scaglioni We are we have between the three rooms that we're utilizing now, enough room for 50 people total.

Testa So you're at 27, I'm doubling it to 50 to be simple. Would you just use less social distance? Or do you actually still have...

C. Scaglioni No we would use more rooms. Okay, there are two very large rooms in the back, that building is very deceiving. It's 7200 square feet, there are two very large rooms in the back and one we have filled. There's one behind, we have what is a fitness area and there's glass separating that and that's where we're starting to move to now, with the desks, the same configuration that we have.

N. Scaglioni So pre-COVID, we were rotating a lot people were mixing. We had groups, everybody was going around, that's not happening anymore. So that's why it's quite different. And as a matter of fact, our fitness room that she's describing, which is now a multi-purpose room is more of a classroom style so that we can rotate just a couple in there at a time. And I've had to take

the stuff from that fitness room and put it into another room so that we can have that ability.

Testa You just have one set?

C. Scaglioni Yes. That how it was set up pre-COVID and this is how its set up now.

Baringhaus Any other questions?

Testa Okay, thank you.

Baringhaus I have a couple of questions for you as well. In terms of the businesses in the area, have you seen an arrangement where they're using sheds for storage as well? No.

C. Scaglioni And nobody can see mine really either. They're back there and you can't really even see them. If the cargo trailer hadn't been stolen, we probably wouldn't be standing here.

Baringhaus Well, you've been advised by the city that you need to remove two sheds. Have you considered alternative storage areas to remove those sheds.

C. Scaglioni And I don't know where I'd remove the stuff to, because I cannot afford right now to pay for a storage unit.

Baringhaus I'm looking through the notice here and it says it looks like the last contact was back, there is a note here in March 18. And apparently that time you said he needed more time to correct the violations. At that point the city did follow up with you. Did you ever respond to that?

N. Scaglioni I can actually speak to that. Around March, right at that very date, she began having a very serious health issue where she couldn't and I was stepping in trying to take over that piece. So, I did in fact, speak to Jamie, Miss Gaston. So, in trying to make sure my mother was cared for I think maybe part of it got slipped in the cracks because she couldn't stay on a phone. She couldn't do email. She couldn't do anything. So, to that end, I mean obviously that we apologize, but that was it, out of our hands.

C. Scaglioni And then my daughter actually was the one to get the application in, the variance application. I got it all filled out and I had the owner do his part. She went to into City Hall or to Building Inspection to drop it off, and was it the next day, we were informed that \$350 permit fee or fee application fee had been changed \$450. And nobody told us that I paid 350. So that delayed a little bit of time, too.

N. Scaglioni It was responded to sir, I just it was a matter of transition time and trying to make sure the business was still running because she wasn't available for everyday operations.

Baringhaus Okay. Any other questions from the petitioner?

Ptashnik Mr. Chair? It's kind of a follow up to Mr. Testa's related questions, you stated that you're pretty much at like 50% capacity right now, for residents, or participants. So, I guess I'm confused as to why you couldn't use the other 50% of the property for storage currently, while you are able to get your sheds permitted or up to code or find alternate storage.

C. Scaglioni Because that that would be a safety factor number one, for people. I mean, there's a huge safety issue, we have guys that, we have roamers, we have some that may slip by the staff and go into a room, there just isn't room in there, having taken up all of our activity rooms, and our simulation rooms to even bring anything back in. So, if the variance isn't granted, I will sell stuff probably.

N. Scaglioni I can, I'd like to expand on that just a little bit. Since I'm day to day operations. With the HCBS rule, that was again, came down federally. We are required to increase the quality of the services that we provide. So that's where the plan that I spoke about comes into with all those activity rooms where we cannot just stuff things in there. So, it's not possible and with a constant switch of equipment, because of the physical needs of the participants that are there daily, meaning behaviorally, sometimes they stand up and slam their bodies down on a chair and it breaks, and I have to have the ability to go get that and make sure that they're safe. That all of those things combined would be the reason why we cannot take extra storage in the room in the building. In addition, we can only store things so high. So we do have audits that are done by the county, by Detroit Wayne Integrated Health Network, and they made sure that we can only store things so high. So there's only so much we can actually put in that building.

Ptashnik So you're fully utilizing every room inside the building. Yes, we are. Okay. But you still state that you have capacity to double your population inside the building.

N. Scaglioni If I institute different seating arrangements, rearrange our participant's entire day, yes, I can do different things. But you have to understand, I can't just do that on a whim as a Special Education Teacher with a master's degree, I can't just look at them and say you go here. I have to transition

something like that over a very long period of time because they don't accept change as we do. So that is a health and safety and wellness issue.

Ptashnik Thank you. I just wanted to clarify that last part.

Oliverio Mr. Chair. You said HCBS rule?

C. Scaglioni Home and Community Based Services rule is what it is. That is through Medicaid, and it comes down from the federal government goes to state government, then County and then us, that's kind of how the flow is

Oliverio Got it, yeah. So, I was trying to get at what are the regulations that are requiring...

C. Scaglioni They're really changing, that's, so far, we're in compliance.

Oliverio Okay, and I'm sorry, HCBS.

C. Scaglioni Yes

Testa Mr. Chair. So again, two sheds the owner the buildings is aware that you put them in?

C. Scaglioni Yes, he is.

Testa Did you or the owner talked about the necessity of getting a permit?

C. Scaglioni No, we did not.

Testa Were you aware that a permit was necessary?

C. Scaglioni I was not. I thought that that was his private property. It really was my assumption that he owns that property. He owns that parking lot, so it never even entered my mind.

Testa Okay, When and how did it come to your attention that you needed a permit?

C. Scaglioni With this? Tonight, really the first time a permit has even been mentioned. I wasn't told by Inspection that I needed to have permit for those. So, I went right from the violation to getting a variance, basically.

Testa And when you discussed with the owner putting the sheds in, was there an understanding of how long they'd be there?

C. Scaglioni No.

Testa So basically, indefinitely?

C. Scaglioni Correct.

Testa With the owner, did you discuss any other potential options besides putting in the shed, perhaps expanding the building?

C. Scaglioni Actually, yes, there was some discussion about actually adding on to the building and putting a supply, a building and supply room. Quite obviously, I'm not gonna, I can't do that now. Financially, there's just no way that I can even consider that at this point, but there had been some discussion about that.

Testa Okay, and at that time, why was that not pursued? Because he would put it on and charge you more rent to cover.

C. Scaglioni I wouldn't do it. In that case, I couldn't do it in that case, my rent is quite high there to begin with very high. And yet he's worked with me incredibly, as a landlord, because he loves what we do there.

Testa It sounds to me from your description that your space is big enough for what your needs are.

C. Scaglioni Well, you have to understand here that most places, most programs like we have, are in warehouses, okay. They're in a warehouse, no windows, these people are housed in there all day long. That was it. And my brother's one of my participants. He is He was my drive for building this business. I would not I would not operate period, if I had to operate like them. Because the spaces are cheaper. If you get into an industrial area, with no windows, I can get a cheap rental, or a cheap lease for maybe two grand a month, where I pay 8.

N. Scaglioni Our business owner when we opened our business when we first discussed that was decided upon, and being in a building with windows, if you will, because parents would come to me in the classroom crying because their children were sitting in a building with no windows and doing nothing. So our business model was to change that. And I do believe that we have adequate space in our building. But yes, there is some space outside needed to make sure that we have the equipment and medical, durable medical equipment and things that need to be interchangeable. But do we need more? No, we do not need more than two sheds.

Testa A questions for Legal. Can we approve this and not have it put in to get a permit and not put in a proper rat wall?

Fisher Well, I mean you have the discretion I guess to grant the variance and not require a rat wall. Yes. I guess you could.

Testa Do you know of a case where we've done that before? Not a specific case number.

Fisher I don't, I can't recall anybody ever saying okay, we're gonna waive the rat wall.

Testa We've given the shed but said you got to put it into code. So, if we do that tonight, approve these two sheds we tell you it's on the condition you put it into code, that doesn't really help you.

C. Scaglioni I don't know how that would be done.

N. Scaglioni We would probably have to discuss it with Mr. Liadis and see if he could help in any sort of way with that. I mean, if it's required, it's required.

Testa Okay, thank you. Thank you.

Baringhaus Any additional questions? Okay, very good. Are there any comments from the audience? Okay, very good. Would the Secretary please read any letters?

Testa I don't believe there are any letters, Mr. Chair. I'm checking. There are none.

Baringhaus Very good. With that, I will just ask that you make a final closing statement regarding the variance request.

C. Scaglioni I think it's pretty much all been said. I'll do what I have to do if it's tonight. But it's a necessity there right now, and probably for some time to come.

Baringhaus Thank you. Okay, we'll close the public portion of meeting at this point and we'll begin the voiced comments. Mr. Testa.

Testa Thank you, Mr. Chair. So, my daughter's 14, my oldest daughter, has special needs, so I can appreciate your business. She does go to therapy centers, I can completely picture everything you're telling me. And the picture has actually helped quite a bit. Unfortunately, the center she goes to right now, we weren't there pre-COVID, so I can't imagine what it looks like pre-COVID. The last time she was at a center before that was 10 years

ago and the needs were completely different. But I can imagine everything you're explaining. Like I said in the first case, I'm not going to be in the no vote here tonight. But I do struggle a lot with this case, I'm not comfortable with giving you a variance for the sheds and saying you don't have to meet code. So, I would be willing to table this case, allow you to go back and maybe workout, building alternative options, let him know your situation, the cost that it would take to bring those sheds up to code and see if there's any other options he can help you out with. But other than that, I'm really torn. I don't think I can vote yes, but if there's three other yes votes, so I'll be the fourth. Okay, thank you.

Oliverio Thank you, Mr. Chair. I agree this is a tough one. And because you know, because of everything that Mr. Testa explained, but I do struggle with, you know, what I've just listed and I understand the pain point and what you have, you know, what you're faced with. I do struggle with the owner of the buildings back there. And specifically, because you know, the reason you're here is because of the sheds in the back that were not to code. So, if they were established and put to code, we probably wouldn't be here right now. So, I agree with and be in favor of tabling it. Allowing some opportunity to get him to support and try to rectify the situation. So, it's not on your shoulders to do so.

C. Scaglioni Would he have to be present here? How would that work?

Fisher Well, you can, I guess between the Board and you, you can work that out anyway you please. It's probably well-advised to bring him because you can see that the tenor on the Board is, we want to hear from him.

Ptashnik Thank you, Mr. Chair. My concern also is about the construction of the sheds and the safety hazards of daily posts not being built to code. So, I do very much appreciate the work we do and the population you're working with. I'm also a teacher. So, I do appreciate that. My other concern is that the sheds were built prior to COVID and you're claiming that the need for them is because of COVID. So little disconnect on that. But the lack of rat wall, the fact that they were built illegally, that gives me a pause as far as supporting the variance. I would support the tabling. If the tabling is not where we're headed, then I would probably go against the variance.

Baringhaus Thank you very much. Basically, you're not in compliance and we have a history of being out of compliance starting with the trailer that you use for storage, you know, on the property itself, the storage shed, that's out of compliance, you still have debris, that's still out of the compliance. You have made some progress on it, but you're still not quite there yet. There really isn't any other businesses in the area that have storage in sheds like that,

and the sheds aren't in compliance. as well. I found it interesting that you do have a way of creating additional storage within the building. If you reconfigure the program and reconfigure the seating within that and it seems like that's something you'll need to pursue. I normally would never be in favor of granting a variance when a business is in violation with city ordinances like you currently are. However, I think another mitigating factor, you don't have full board tonight here you have four of seven. So, I think, in this instance, I would favor tabling motion, one just for you to come back with a plan with the owner, as already suggested, so we can discuss that with him directly as well. And then secondly, we'd like to hear a plan for having that properly cleaned up. The awning removed, the debris removed, the storage pod removed, and then we can focus the discussion on the necessity with the two sheds with the owner of the property itself. So, at this point I too would be in favor to the tabling the motion. So, with that floor is open for motion.

Testa Mr. Chair.

Baringhaus Mr. Testa.

Testa Move to table appeal case number 2022-06-02. To allow the petitioner time to discuss with the owner of the building alternative proposals and to consider the feedback the Board gave you tonight and to come back. Also, to give the petitioner time to address some compliance issues and clean up the existing issues on the lot.

Ptashnik Support.

Baringhaus Okay, motion by Mr. Testa.

Fisher Do you want to have a deadline on that?

Testa No, that's a good point. Thank you. Because of the nature of the business, and maybe some of the hardships they're facing, I would be willing to go even up to six months. But if anyone has an alternative time, I'm not going to let that be the hang up.

Baringhaus I mean, would you? Yeah, I mean, you're saying six months at this point, I would say before the end of the calendar year.

Testa Then we back before the end of the year.

Baringhaus That'd be my recommendation.

Testa Okay. Timing, come back before the end of the year.

Ptashnik Support.

Baringhaus Okay. Motion by Mr. Testa, support by Ms. Ptashnik. Any additional discussion? Mr. Testa, would you take the vote please?

Upon Motion by Testa, supported by Ptashnik, it was:

RESOLVED: APPEAL CASE NO. 2022-06-02: An appeal has been made to the Zoning Board of Appeals by Events Extraordinaire, Inc., 16000 Middlebelt Road, seeking to maintain two storage sheds (each 10' x 14') adjacent to the rear (east) wall of the existing building, which is not allowed. The accessory buildings are not incidental or customary to the building occupying a tenant space within the building.

1. The property is located on the east side of Middlebelt (16000) between Terrence and Sunnysdale, Lot No. 050-01-033B-004, C-1 Zoning District, "Local Business." Rejected by the Inspection Department under City of Livonia Ordinance, Section 7.23 D "Accessory Structures and Uses" **be tabled to allow the** petitioner time to discuss with the owner of the building alternative proposals, To consider the Board's feedback, and to clean up the existing issues on the lot.

FURTHER, Petitioner isto return to the Board by the end of the 2022 calendar year.

ROLL CALL VOTE

AYES: Testa, Ptashnik, Oliverio, Baringhaus

NAYS: None

ABSENT: Coppola, Klisz, Boloven

DENIED: None

Baringhaus Okay, this point your case has been tabled. And as you've heard some of the comments from the Board tonight. One, we're interested in having the owner present at the meeting. Two, we want to hear about the progress you've made where the building is in compliance in terms of debris being removed, the storage pod that she indicated, would be moved off the property, we want to focus the discussion on the existence of those two sheds. When you come back, and again, you need to come back before the end of this year.

N. Scaglioni Will there be a second application required?

Baringhaus No. What you would do is contact the Building Inspection Department when you're ready, it's tabled right now. So, you don't have to refile and pay another permit fee.

C. Scaglioni Okay, so it's the same application then.

Baringhaus Correct. Again, it would be just up to you and to say, we're ready to schedule your case with us get on our agenda. So, we can have a second hearing on this.

C. Scaglioni Now, if I can figure out alternative, an alternative plan or location, and do that in between time, then...

Baringhaus If you clean up the property, you decide I don't really need those sheds. I can take them out of there and everything's brought into compliance. Please correct me if I'm wrong, then there really wouldn't be a need for the variance at that point, because you're within ordinance, this is that a correct statement?

C. Scaglioni And then I would just notify you or notify Building and Inspection Okay. Thank you.

APPEAL CASE NO. 2022-06-03: An appeal has been made to the Zoning Board of Appeals by Jeffrey Gibson, Over the Moon, LLC, 29220 Seven Mile, seeking to maintain three (3) 8ft x 40ft metal shipping containers in rear yard as outside storage, which is not allowed.

The property is located on the north side of Seven Mile (29220) between Middlebelt and Parkville Street, Lot No. 003-01-0418-005, C-2 Zoning District, "General Business." Rejected by the Inspection Department under City of Livonia Ordinance, Section 6.52 (c) "Retail Sales, Outdoor Storage" and Section 7.23 (D) (i), "Accessory Structures and Uses."

Baringhaus Good evening, could you state your names and addresses for the record?

Reigsecker Tyler Riegsecker and our address is 29220 W Seven Mile.

Baringhaus Ok terrific. And then will you please describe the nature of your variance and the hardship and why you require it.

Riegsecker We are a garden supply store, we sell a lot of soil and we store a lot of soils that our facility we offer a lot of inside storage in the building. A lot of our storage is actually upstairs storage, but we have a weight limit of our upstairs storage area, pallets of soil are very heavy, usually 2000 pounds per pallet. So, the three storage containers on the back parking lot give us something like 56 pallets, storage spaces worth of storage at ground level, where it's safer, I guess.

Baringhaus Okay, so basically, you're storing bags of soil.

Riegsecker Whole pallets of bags of soil, usually 60 to 80 bags of soil per pallet.

Baringhaus What size are the packages, 20 pounds, 50 pounds?

Riegsecker It's in cubic feet, generally 1.5 to two cubic feet of soil per bag.

Baringhaus Prior to putting the storages on your property, how did you store the soil?

Riegsecker The storage units went in as soon as we purchased the rights to the business, I guess. GrowGeneration is a corporation, and they buy existing grow stores and expand them. So, the store that operated there before us was not operating on as large of a scale as we are. So, when we moved in, I believe, I wasn't around right when they moved in, I'm more of a slightly recent employee, but they dropped the container there for soil storage, which is what they do with all the other locations. I guess most of the other ones are zoned for storage containers like that. But they put the container in the back so that we can store soil, I believe right when we moved in.

Baringhaus When did you take over the business?

Riegsecker I am just a manager for our location.

Baringhaus When did the business come into existence sir, and change hands?

Riegsecker Middle of 2017 I believe.

Baringhaus So can you describe the business again?

Reisgseker We're like a garden supply store. We sell nutrients, soil, pots, everything you would need to grow anything.

Baringhaus So, what makes you different from like, a nursery like English Gardens?

Reisgseker Not sure if we are different, just our building is not laid out , like, we don't have a large yard, like how Home Depot or some of those places have a big yard out back, where they're able to store all their soil at ground level. Our inside storage, we don't have a lot of ground level storage, most of it's all upstairs. We have, there's like a hole cut out in the wall where we can use our forklift to raise pallets of lighter weight objects up there, and we're able to store a lot of our other supplies up there, but the soil is the one thing we just can't fit up there. It's too heavy for that area.

Baringhaus Normally, like when you go to other retail establishments, like it's like yourself, and you mentioned Home Depot, and I mentioned English Gardens, a lot of times these materials are stored outside in the open, why do you choose to store them in these containers?

Riegsecker I didn't know if we were allowed to store them outside. That's not just a business decision I made personally. I'm sure it's a valuable product kind of thing where most soil bags are \$20 to \$40 per bag, if you have 70 bags on a pallet and we store 56 pallets worth out on those containers, that's a lot of money to sit out in the open like that.

Baringhaus Is there anything special about the soil because that's quite a bit higher than soils that you would purchase anywhere else.

Riegsecker Yeah, a lot of them are amended with a lot of organic inputs. So, the soils have the food in them already for the plants so that you don't actually have to feed them fertilizers and stuff like that.

Baringhaus Okay, thank you. Any other questions for the petitioner?

Ptashnik I have a question Mr. Chair. Have you considered bringing in maybe less inventory at a time or how fast is your inventory turning over that you do this kind of storage?

Riegsecker It turns over fairly quickly and with supply chain issues, it's easily twelve weeks to nine months out when we put an order in before it actually lands at our store. So, if we were to have smaller amounts on hand, we would sell out of it and then just have nothing to offer our customers for extended periods of time.

Ptashnik Okay, that makes sense. Just making sure. Have you thought about reconfiguring? How much of the inventory are you keeping inside the store versus how much are you keeping out in those containers?

Riegsecker We have, on our floor inside of the store, we're at max capacity, we don't have any extra space that we can put anything else we keep all of our, we have like racking kind of like Home Depot and Sam's Club. All the racking is loaded up full all the time, all of the bays down on the floor full all the time. So, we're completely full inside the store.

Ptashnik So, you're pretty much floor space inside without inventory like that inventory.

Riegsecker Yeah, exactly. We have that upstairs storage, but we usually store all of our lighter weight objects up there. We just don't want to put the strain on the second floor to be a safety hazard or anything like that.

Ptashnik Thank you.

Baringhaus Any other questions?

Testa Yeah. Questions to the Inspection Department, maybe for clarification. How did we get here? Did someone complain?

Ramsden Yes, there is an enforcement going back to February 15, 2022.

Testa Okay, so before they have been operating these sheds longer than that, or the storage units longer than that?

Riegsecker Yeah, the original one had been there since they purchased the store, I believe, they dropped it right away after the takeover.

Testa Okay, was the complaint specifically about the storage center or were we there for a different reason?

Ramsden The complaint was stated, large storage container and multiple wood pallets along with bags of dirt in the back.

Riegsecker The bags of dirt thing was, that we, unfortunately, had multiple trucks of soil land due to the supply chain issues, all back to back to back to where the entire inside of our store and the shipping containers were completely full and we just had more pallets of soil than we could manage to store. Because we have to order so many months in advance, we can't always anticipate how much we're going to go through in that amount of time. So, we had more in the building by the time the next truck came. So, we had to park them outside for a while, we tried to burn through them as quick as we could to get the ones from outside back inside or sold. So, we did end up selling a lot of the ones that were out in the back parking lot. I believe that was probably what that's referring to, we don't usually store stuff outside, we had to just

take a risk on that one and hope nothing got stolen while we were trying to work our way through it.

Testa And to expand on Chairman Baringhaus' question about Home Depot, or Menards and like that, they have outside of pallets, I did not have a chance to go out to your site, unfortunately. But looking at the pictures, your lot is not fenced in, correct.

Riegsecker Not it is not.

Testa So, that would allow anyone access to those pallets. Okay. Thank you. I think obviously, the difference is, some of the big box stores had everything kind of an enclosed area, fenced off, to people. Is that an option for you to build in a fenced in area that would allow you to store this?

Riegsecker I guess, I don't know what that would take. I mean, company wise, like our company would be fine with that, I know at some of our other locations, they do that. So, I don't know if the city even allows that in that area. I mean, I don't know what the rules are.

Testa Where are some of your other locations?

Riegsecker Were all over the US, California, Colorado, everywhere.

Testa Who's your main customer who buys from you?

Riegsecker What do you mean exactly?

Testa Would I go into your store?

Riegsecker Anybody would buy from us, I have a very large vegetable garden.

Testa And how long are you intending right now to keep those storage sheds? If you weren't here, would they be put in indefinitely?

Riegsecker Ideally, I believe so. Yeah.

Testa And then if you're getting approval, you would decide to keep them indefinitely?

Riegsecker Yeah, if we had to do anything to them to be able to maintain them, I don't think we would have a problem doing that.

Testa Okay. Have you considered any other alternative options?

Riegsecker I believe so, but I'm not sure what an alternative option would be for that amount of soil and having it in the distance that we would be able to get to that.

Testa Yeah, maybe where I'm going that, as you said, some of your other locations have a fenced in area and you could maybe build some wall, that type of thing to hide as well.

Riegsecker If we needed to, if that was something we had to do. I believe that's something they would be able to do.

Testa Question to Mr. Fisher, could they store pallets of soil outside in a fenced in area, would they need to be zoned differently or granted some type of variance?

Fisher For a start, fences are not permitted in commercial districts like this one, so, you need a variance for that. Once he has that, I mean, you're ordinarily not supposed to also do outdoor storage. So, I guess if you did in this situation, approve those variances it'd require you to basically come to the conclusion that those are better than we got now, which might be true.

Reigsecker There is also bugs to consider, when soil is stored outside, bugs do get into the soil, and then the customers when they buy them, they do end up getting some pests that they don't want in their garden. So, it's ideal to store it somewhat inside, the containers do help with that a little bit, and the shrink wrap. And the rain, when it gets rained on the bags get waterlogged and washes some of the nutrients out of the bag. So, it's not ideal to store them outside. If we were able to keep the containers that would be an ideal situation.

Fisher Mr. Chair, may I ask a question?

Baringhaus Please.

Fisher Would there be any reason this building couldn't be added onto? We heard about why the last building couldn't be. Is there some reason this building couldn't be added on to provide capacity to store these in a more compliant way?

Riegsecker That I don't know.

Testa Do you have it like a loading dock thing in the back?

Riegsecker Not like a raised one, it's just a garage door. Trucks have to back in now, they used to pull through and out our back parking lot when there was a parking lot behind us. But when the building moved in next door, there used to be the Toys R Us that closed down. Now it's a rental storage facility place. They took out that whole back parking lot and put a field there so the trucks can't pull through now and they have to back in. So, they don't even have access to our garage anyway. So, they pretty much just park along the side of our building, we come out with a forklift and unload them.

Testa Okay, thank you. I keep forgetting Toys-R-Us, I haven't been there this week, but I've been there long ago. Yeah, I would prefer, would an option be, could

you consider like building something off the back that's maybe just like an awning or large pavilion for outdoor storage that you could kind of secure with walls?

Yeah, correct. Okay, I'm on Google Maps right now it's showing one container back there.

Riegsecker Yeah, that's an old picture. It was parked diagonally; we've since moved it to square it up with the parking lot and adding two others. All our containers that allow us to store taller pallets of soil, some of our pallets are taller than would fit in the original container. So, we squared it up and made it look a little bit nicer.

Testa Okay, thank you.

Riegsecker We do also have letters from all of our neighbors too, we want to talk to everybody just like the I guess the form that you guys sent to us. We just photocopied it and took around everybody around us. So, everybody around us said they don't really mind the containers I think Hockey World is the only one where they've emailed it to their corporate office and never heard anything back, but I have those here with me if you want them.

Baringhaus Yeah. Any other questions? Wait there a moment if you will.

Riegsecker No problem.

Baringhaus Obviously, there's no audience communication at this point.

Oliverio Mr. Chair I do have a question.

Baringhaus Yes.

Oliverio You did say that you're not the owner of the building, who is the owner?

Riegsecker Jeffrey Gibson. He owns the previous grow store that existed there and we purchased it from him, as well as two of his locations in Lansing. So, he's still our landlord, but he wanted to not operate the business anymore. So, we are the primary people who work out of there, we rent the building from him.

Oliverio So he owns the real estate. Is he in Ingham County?

Riegsecker That I'm not sure, I believe somewhere in Lansing. I've never actually met or talked to him myself, my boss has been the go-between between us the entire time.

Baringhaus Thank you. Any other questions? Mr. Testa, will you please read the email letter?

- Testa Yes, thank you. I'll start with the first letter that we had received. Thank you for reviewing this zoning issue with me. I received the notice of the meeting this past Friday, July 22nd from our tenant, Perani's Hockey World I would like to ask, what is the difference between 3 shipping containers for additional storage and building an addition to the facility for extra storage? That is, if the purpose is to find an inexpensive way to add a building on to the premises, then shipping containers skirt the rules and regulations for building in the city. There are no footings, no foundation, no permanent construction technique and it creates a permanent eye sore. Alternatively, if this is for short term storage (with a set date for the containers to be removed and penalties if the containers are not removed), then can the area at least be fenced/screened off?. This is the owner of the building for Perani's Hockey World. The letter you just handed me, thank you, they are all signed. For my benefit. in brief, I'm not normally the Secretary. The shipping containers in question offer no obstruction or issue, Livonia Budget Storage. Approval. This is Nino Riggierello, perhaps? Sorry. Letter of approval. We good, no problems with us, no worries. Lori Williams. I just read it like it is, sorry. Approval. I have no problem with containers, Kyle Schema. I think I'm pronouncing it wrong, sorry. Approval. They have my approval for storage containers in rear. Chris Bailey. I didn't even read the address. Approval. Allied Leisure Corp. We have no problem with the with the outdoor storage. Glen Michrino, 19276 Middlebelt Road. And this is the one from Perani's Hockey World, basically the manager saying he sent a letter to headquarters on 7/21 and it is signed.
- Baringhaus Thanks very much. Would you like to make a closing statement regarding the variance request?
- Riegsecker Yeah. If we just needed to screen them in or obstruct them in some way playing some landscaping around them or do something like that to make them just look more visually appealing, I don't think we would have a problem doing that, if that's the complaint.
- Baringhaus Okay, very good. Okay, we'll close the public portion of the meeting at this point and then we'll begin with the Board's comments with Ms. Ptashnik.
- Ptashnik Thank you, Mr. Chair. My biggest issue with this is that they look temporary, and in kind of in conjunction with what the owner of Hockey World had to say, is, it's just a way of skirting some ordinances of the city. Financial return is not usually a reason that we will grant a variance and that sort of seems to be like this is a very inexpensive way and it's not inexpensive, but more inexpensive way, of making a permanent storage structure. So, that's my biggest issue with it, let alone, of course, aesthetics of what it looks like. So, honestly, I won't be the only no, if anyone else wants to go with a yes, but I'm kind of on the fence with this one.
- Baringhaus Okay, thank you. Ms. Oliverio.
- Oliverio Thank you, Mr. Chair. I I agree, I mean, it I feel like it's one of those, because you're growing and you're successful, you're outgrowing your space, to some

degree, too, right, and that happens when you're when you're in business and you have those types of situations, when you try to figure out how do you expand and grow? And so, with that point, you know, I don't know that putting in temporary structures in the back are the right way to approach that. To that point, also, just considering what Ms. Ptashnik said, and some of the feedback that we've received as well, and just I think if you could open the door a little bit, and probably quite frankly, not allow you to grow is your biggest potential, right, because you've got these big structures in the back as well. So, but I think there are other solutions to explore some of which we did talk. It sounds like you guys are open to it and maybe talk to your landlord as well. And that's why I don't think I will be in support of a variance in this particular situation.

Baringhaus Okay, thank you. Mr. Testa.

Testa Thank you Mr. Chair. So, I am not really a big fan, some of us are not in favor of these temporary storage sheds, or containers. Obviously, I don't see them every day, but I also don't want to set a precedent. We give it to you, we're gonna see other people, other businesses coming in for the same thing. I think there are other options, and you've expressed openness or willingness to pursue those. So, I'm giving this very similar as we did with the second case in which we table you, or I'm proposing, I would support a tabled motion, to allow you to study other alternatives with your landlord, that could be more permanent in appearance, but also permanent in actual implementation.

Baringhaus Okay, thank you. I share Mr. Testa's opinion as well. And actually, the board's opinion, Ms. Ptashnik and Oliverio as well, it's a blend. One, it was a temporary solution, and they're not attractive, let's be honest. And then, to Ms. Oliverio's point, I agree, I think you can, you know, sit down and come back with an alternative, that's maybe a little more integrated into your operation. Normally, you know, just to generate a higher return is not a hardship, but after having a discussion with you this evening, I understand you are storing very heavy materials that can't be supported safely in a two-story building, so, I get that part of it. But, on the other hand, too, I mean, what you're doing, I mean, your nature, your business, as a growing center, you're not that far removed from a nursery, and nurseries routinely storing these materials outside. So, taking that portion into consideration, I agree with Mr. Testa's point on a tabling motion, because you still are not complying with the fact that even when you come back with a revised plan, you're still storing these materials outside, which is not aligned with the ordinance. So, we'll still need further discussion on that. So, based on that, I would support a tabling motion at this point, give you an opportunity to come back with a more refined plan and how you're going to store these items outside. And yet still, you know, because it isn't a normal, traditional, like potting soil, it's a little more sophisticated product than what other retail stores sell, to justify special needs, I'm very interested in hearing how you would approach that as well. So, with that the floor is open for a motion.

Testa Mr. Chair.

Baringhaus Mr. Testa.

Testa Move to table appeal case number 2022-06-03 to allow the petitioner time to consider the feedback given by the Board tonight to study alternative plans and make different proposals.

Baringhaus Is there support?

Ptashnik Support.

Baringhaus Motion by Mr. Testa, Support by Ms. Ptashnik to table this case to allow the petitioner to come back with an alternative plan. Is there any further discussion? Mr. Testa.

Testa I failed as I did on the first one or second motion, in the second case, to put a time limit. I would also propose by year end to come back.

Baringhaus Okay, any other further discussion? Mr. Testa, would you please take a vote.?

RESOLVED: APPEAL CASE NO. 2022-06-03: An appeal has been made to the Zoning Board of Appeals by Jeffrey Gibson, Over the Moon, LLC, 29220 Seven Mile, seeking to maintain three (3) 8ft x 40ft metal shipping containers in rear yard as outside storage, which is not allowed.

1. The property is located on the north side of Seven Mile (29220) between Middlebelt and Parkville Street, Lot No. 003-01-0418-005, C-2 Zoning District, "General Business." Rejected by the Inspection Department under City of Livonia Ordinance, Section 6.52 (c) "Retail Sales, Outdoor Storage" and Section 7.23 (D) (i), "Accessory Structures and Uses" **be tabled** to allow the petitioner to come back with an alternative plan, and to return by the end of the 2022 calendar year.

ROLL CALL VOTE

AYES: Testa, Ptashnik, Oliverio, Baringhaus

NAYS: None

ABSENT: Coppola, Klisz, Boloven

DENIED: None

Baringhaus Okay, here at this point, your position has been tabled. You've heard, some of which will allow you to come back and reschedule another meeting with us to discuss an alternative plan to begin. You've heard some of the

feedback from the Board. As you know, they're not attractive. We'd like to see something more integrated, something more, streamlined into your operations. So, what you'll want to do is, we put a deadline on that, you need to come back to us by the end of the year. When you're ready, just contact the Building and Inspection Department and they'll put on an agenda. Thank you. Mr. Fisher, one question, can we approve the minutes from June 14 and June 28? We have a quorum.

Testa Do we need a quorum of the people that were here though?

Fisher Well, I guess what I'd say is, you got three votes, you can do anything except grant a variance.

Ptashnik Only two of us were here on the 28th right?

Fisher There's no legal rule that says you have to be.

Testa Move to approve the minutes for the meeting on June 14 2022.

Ptashnik Support.

Baringhaus Support by Ms. Ptashnik.

ROLL CALL VOTE

AYES: Testa, Ptashnik, Oliverio, Baringhaus

NAYS: None

ABSENT: Coppola, Klisz, Boloven

DENIED: None

Testa Move to approve minutes for the meeting of June 28 2022.

Ptashnik Support.

Baringhaus Support by Ms. Ptashnik. Second.

ROLL CALL VOTE

AYES: Testa, Ptashnik, Oliverio, Baringhaus

NAYS: None

ABSENT: Coppola, Klisz, Boloven

DENIED: None

Baringhaus Any other additional comments this evening, Mr. Fisher?

Oliverio Thank you for my badge.

Baringhaus Your official now. Okay. Very good. Then. Just one more motion.

Testa Move to adjourn.

Baringhaus Motion by Mr. Testa to adjourn. Support.

Oliverio Support.

Baringhaus Support by Ms. Oliverio. All those in favor say aye.

ROLL CALL VOTE

AYES: Testa, Ptashnik, Oliverio, Baringhaus

NAYS: None

ABSENT: Coppola, Klisz, Boloven

DENIED: None

Baringhaus We are adjourned. Thank you.

There being no further business to come before the Board, the meeting was adjourned at 8:59 p.m.

Gregory G. Coppola, Chairman

Timothy Klisz, Secretary