

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A SPECIAL MEETING
HELD APRIL 14, 2008

LOCATION: MACOMB TOWNSHIP MEETING CHAMBERS
54111 BROUGHTON ROAD, MACOMB, MI 48042

PRESENT: CHAIRMAN, BRIAN FLORENCE
MEMBERS: EDWARD GALLAGHER
NUNZIO PROVENZANO
DAWN SLOSSON
TERRY CAMPION

ABSENT: NONE

ALSO PRESENT: COLLEEN O'CONNOR, TOWNSHIP ATTORNEY
JEROME R. SCHMEISER, PLANNING CONSULTANT
(Additional attendance record on file with Clerk)

Call Meeting to Order.

Chairman FLORENCE called the meeting to order at 7:02 P.M.

1. Roll Call.

Secretary SLOSSON called the Roll Call. All members present.

2. PLEDGE OF ALLEGIANCE.

3. Approval of Agenda Items. *(with any corrections)*
Note: All fees have been received and all property owners were notified by mail.

MOTION by GALLAGHER seconded by SLOSSON to approve the agenda as presented.

MOTION carried.

4. Approval of the previous meeting minutes:

MOTION by GALLAGHER seconded by PROVENZANO to approve the meeting minutes of March 11, 2008 as presented.

MOTION carried.

PURPOSE OF HEARING:

To consider the requests for variance(s) of Zoning Ordinance No. 10 for the following:

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Agenda Number/Petitioner/ Permanent Parcel No.	Zoning Ordinance Section No.
(5) John L. Harkins	Section 10.1805(D) 10.0323(A)(5)(a)

5. VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;
Section 10.1805(D)–Request to reduce the rear yard from 100 feet to 5.5 feet.
Section 10.0323(A)(5)(a)–Request to eliminate the 10 foot escape lane from the auto wash.
Located on the northwest corner of 23 Mile Road and Milano Drive; Section 18;
John L. Harkins, Petitioner. Permanent Parcel No. 08-18-451-006.

Chairman FLORENCE read the findings and recommendations of April 1, 2008. They are as follows:

The petitioner is requesting that the Zoning Ordinance be varied to allow for an expansion of the existing auto wash facility. However, a rear yard setback variance is required as well a variance to eliminate the escape lane.

The property is zoned to C-4 and measures 210 feet x 286.16 feet.

The petitioner is proposing to add a canopy for an automatic pay station for the car wash. The current stack up spaces for the car wash passes the area for the proposed canopy. However, the construction of the canopy extends to within 5.5 of the rear property line.

The request also involves the elimination of the escape lane which is required by the Zoning Ordinance. A circular drive arrangement is provided in the north central portion of the site which does provide a certain amount of escape possibilities for someone needing to leave the site before their car is washed.

However, the current escape lane does not provide access for the main stack up lanes along the north and west property lines.

RECOMMENDATION:

It is recommended that the variance request be denied for the following reasons:

1. Compliance with the strict letter of the Zoning Ordinance requirements would not unreasonably prevent the ownership from using the property as zoned. Other auto wash structures planned in Macomb Township will be required to comply with the same setback and escape lane requirements, which is evidence that the application of the requirements would not be unnecessarily burdensome.

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2. The granting of a variance as requested would give to the applicant an advantage or benefit not received by any other property owners in auto wash developments in Macomb Township. The other owners are or will be required to comply with the setback and escape lane requirements. As a result the other property owners do not have the opportunity to make use of the additional space requested for the variance.

There is nothing unusual about the parcel in question that sets it apart from other parcels in area or in Macomb Township. There is nothing to prevent any part of the ordinance being applied. For example, there are no significant grade differences or natural feature such as a stream or wetland to prevent full use of the parcel according to the ordinance as written.

The petitioner submitted a letter dated March 19, 2008 in support of the request and was included into the record as follows:

- “1) Jon’s Auto Wash is located on a major road in the heart of Macomb Townships largest industrial district. No residential uses are possible near the car wash with the only vacant land adjacent being the site to the west that currently has an approved site plan for a mini storage. I am requesting the rear yard variance to enable the installation of a high quality canopy with construction and metal roofing that matches the existing car wash building. The canopy will be bolted down to engineered buried pylons, similar to gas station canopies. Please see attached photographs. I am also requesting a variance to eliminate the 10’ escape lane. There is an existing variance in effect for this from July 2002. When I originally built the car wash in 1993, the zoning ordinance did not require an escape lane.

The difficulty would be felt by limiting my use and improvement of my property without affording any benefit to the neighbors or Township in general. My planned addition of automatic pay stations will look great, increase safety, improve traffic flow and be welcome technology for the customers.

- 2) This parcel of C4 is unique in that it is completely surrounded by industrial use land with no residential uses possible. Often, the commercial zoning in Macomb Township is adjacent to residential property that demands a greater setback for the safety and quality of life for the residents.
- 3) I purchased this property, already zoned C4, in June 1993. All property surrounding this site was already zoned industrial and the Master plan for the area was in force.

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- 4) Due to the location of the proposed canopy, somewhat “out of sight” from 23 Mile Road and Milano, the unique location of this particular C4 site surrounded by industrial uses, the proposed and approved mini storage facility directly adjacent to the west property line and the absence of any residential uses near the car wash, I feel granting the rear yard set back variance would not confer special privileges or have an negative impact.

Jon’s Auto Wash has been operating successfully for the past six years with the existing variance for the 10’ escape lane that was granted in July 2002. The existing traffic patterns and escape lane will be maintained. My experience over the past three years using the automatic pay stations at my Chesterfield location is that they greatly improve traffic flow and safety.

It is difficult to find any commercial zoning within the Township that is so well shielded from residential uses and only abuts industrial zoning. This is the same reasoning that granting relief will not set precedent. The zoning ordinance is in place and needed to protect the citizen and be a guide for the orderly and safe development of the township. In this situation, granting relief would cause no harm to any of the industrial neighbors or reduce safety. The addition of the automatic pay stations will however, **significantly** improve traffic flow and employee and customer safety at the car wash.

I have been a business owner of good standing in the township for 15 years and I am hoping for many more. I plan to continue to operate Jon’s Auto Wash in the same professional, clean and safe manner that I have since day one 15 years ago. I am certain that those who patronize Jon’s Auto Wash will appreciate the improvements I have planned!”

John Harkins, petitioner, was in attendance, and stated he had an original variance granted for the site in 2002. He then presented renderings of a site he owns on Gratiot Avenue in Chesterfield Township to present the upgrades he desired to make with requesting said variances. Lastly, he stated there would be no change in the traffic flow pattern.

Member GALLAGHER inquired if the pay stations presented in the renderings could be installed without using the canopies.

John Harkins stated the pay stations could be installed without the canopies, but that the canopies were being used to block the machines from various weather conditions.

Chairman FLORENCE noted that after exiting from the canopy opening the concrete narrows into a one stack lane and asked if that could be further explained.

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John Harkins explained the payment process and that the gate arms lift after payment and then there are loops within the concrete to keep the cars in formation of received payment.

Chairman FLORENCE asked for comparative purposes the size of the lot in Chesterfield.

John Harkins stated it was 130' x 900'.

Member *CAMPION* questioned the location of the vacuum station and that it may interfere with the canopies and escape lane.

John Harkins stated it was an existing vacuum station, which did not need to be removed. The cars using the pay stations could not turn left from the gate so it would not interfere with the traffic pattern. He also indicated that there are attendants who continue to work the site. In addition, he stated the site was unique in that there was a mini storage approved to the west of the site and there was industrial surrounding his C-4 site. It would not be a visual eye sore since the proposal would be in the rear of his lot, there are no residential uses possible. No residents could see proposed improvements.

Public Portion:

Darrin Hagel, 50540 New Castle Drive, questioned when the mini storage would be constructed. He stated he owns a business behind the car wash and his priority was to remain visible from 23 Mile Road.

John Harkins stated it had been approved by the Planning Commission.

Roger Emard, 34380 Tom Drive, stated he also owns a business behind the car wash and stated he was against any improvements being made which would eliminate the visibility of his store.

Jason Lockemy, 49812 Shenandoah Drive, stated he too was against being boxed in by having improvements made to the car wash site.

MOTION by SLOSSON seconded by CAMPION to close the public portion.

MOTION carried.

John Harkins stated that he felt that it was not his responsibility for other peoples businesses to thrive.

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Member GALLAGHER stated that a practical difficulty had not been established. The business won't close if the variance is not approved. Furthermore, the Board could not grant variances without a practical difficulty being proven. The Township has not made any changes to the Zoning Ordinance since the car wash was built as far as the setbacks are concerned. The request could be located somewhere else on the site.

John Harkins stated he was trying to improve the site and the business.

Colleen O'Conner, Township Attorney, stated from a legal perspective the Board can not grant a variance unless there is a practical difficulty to do so and that it could not be an economical consideration. A practical difficulty has to be a problem with the property as zoned. You could not use your property as a C-4 district.

Member GALLAGHER stated the business is a very nice operation and if there was a way to help he would. Unfortunately, it can't be done. The rules we have to work under don't allow it.

John Harkins asked if he could have the definition of a structure.

Colleen O'Connor, Township Attorney, stated there was a definition in the Zoning Ordinance of a structure. She stated that it was anything that was built up and off the ground.

Member GALLAGHER read the from the Zoning Ordinance the definition of a structure.

MOTION by GALLAGHER seconded by PROVENZANO to deny the variance request of Section 10.1805(D)-Request to reduce the rear yard from 100 feet to 5.5 feet; Located on the northwest corner of 23 Mile Road and Milano Drive; Section 18; John L. Harkins, Petitioner. Permanent Parcel 08-18-451-006. The variance was denied since there was no practical difficulty displayed. The denial of the variance will not prevent use of the property as zoned and as currently being used.

MOTION carried.

MOTION by CAMPION seconded by SLOSSON to deny the variance of Section 10.0323(A)(5)(a)-Request to eliminate the 10 foot escape lane; Located on the northwest corner of 23 Mile Road and Milano Drive; Section 18; John L. Harkins, Petitioner. Permanent Parcel No. 081-8-451-006. The variance was denied from a safety standpoint.

MOTION carried.

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6. OLD BUSINESS

None.

7. NEW BUSINESS

None.

8. PLANNING CONSULTANTS COMMENTS

None.

9. MOTION TO RECEIVE AND FILE ALL CORRESPONDENCE IN
CONNECTION WITH THIS AGENDA

None.

ADJOURNMENT

**MOTION by CAMPION seconded by SLOSSON to adjourn the meeting at 7:47
p.m.**

MOTION carried.

Respectfully submitted,

Brian Florence, Chairman

Dawn Slosson, Secretary

Beckie Kavanagh, Recording Secretary

BK