

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A SPECIAL MEETING HELD
JUNE 16, 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 7:01 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.

There were no minutes provided.

PURPOSE OF HEARING:

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

Agenda Number/Petitioner/ Permanent Parcel No.	Zoning Ordinance Section No.
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- | | | |
|-----|------------------------------------|---------------|
| (5) | Parkview Investments | 10.2107(A)(1) |
| | Permanent Parcel No. 08-17-300-014 | 10.0335 |
| | | 10.2107(A)(4) |

5. VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;
Section: 10.2107(A)(1)-Request to allow a parcel to be created of less than 2 acres in size.
Section 10.0335-Request to allow a parcel to be created that will have 70 feet of frontage rather than 150 feet.
Section 10.2107(A)(4)-Request to allow a parcel that will exceed the 3 to 1 ratio. Ultimate dimension of 167 feet x 495 feet.
Located on the north side of 23 Mile Road approximately 1/2 mile west of Romeo Plank Road; Section 17; Parkview Investments, Petitioner. Permanent Parcel No. 08-17-300-014.

Chairman FLORENCE read the findings and recommendations of June 11, 2008. They are as follows:

The petitioner is requesting allowance to create a parcel that will not meet the requirements of the Zoning Ordinance with respect to size, frontage and the 3 to 1 ratio.

The property in question was approved by the Township in 2003 as Phase II of the Regency Commerce Center. The Regency Commerce Center was designed to provide for three parcels with street frontage and an additional three parcels which would be added to parcels already created in Phase I of the Regency Commerce Center. The major difference will be the extending of the 23 Mile Road parcel from 310 feet deep to a depth of 540 feet.

The Ordinance provides for newly created parcels to meet the standards of the Zoning Ordinance. In this instance the frontage requested is 70 feet for the extension of Leone Drive, the creation of a parcel less than two acres in size fronting on 23 Mile Road and the extension of the 3 to 1 ratio for the parcel on 23 Mile Road.

RECOMMENDATION:

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

1. Compliance with the strict letter of the frontage, size and 3 to 1 ratio requirements would not unreasonably prevent the ownership from using the property as zoned. Other similar developments planned in Macomb Township will be required to comply with the same zoning ordinance requirements, which is evidence that the proper application of the zoning ordinance 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 similar developments in Macomb Township. The other owners are or will be required to comply with the zoning ordinance requirement. As a result the other property owners do not have the opportunity to make use of benefits granted by a variance.

There is nothing unusual about the parcel in question that sets it apart from other parcels in the area or in Macomb Township. There is nothing to prevent any part of the provisions of the ordinance from being met. 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 May 21, 2008 in support of the request and was included into the recorded as follows:

“We are requesting a variance for the above referenced matter. Petitioner has provided copies of survey drawings for the proposed site. This lot is currently part of the proposed Regency Commerce Center Phase II and under that approved site plan meets the size requirement. We are attempting to make it a separate lot since it fronts 23 Mile Road and as a practical matter has no relationship to the rest of the industrial park. The lots on either side of this lot are not part of the proposed Phase II.

As noted in the assessor’s comment, the proposed lot would meet the size requirements but for the right of way exclusion. To increase the lot size would require increasing the depth which would only create a new boundary line cutting into the lot at the rear and make the lot an irregular shaped lot and much more difficult to develop. We submit that the smaller lot would only mean that a slightly smaller building could be built. This would in fact be better because the practical use of a deep narrow lot would require a long narrow building which is less desirable. Generally the size of a one acre lot is approximately 150’ x 300’. Since the proposed lot is only 165’ wide, to make it two acres per the ordinance would require a depth of over 525’ which I believe violate the 3 to 1 depth to width ratio.

As to the resulting parcel 2, the proposed Phase II development already provides for division of the property under the Condominium Act with each remaining lot meeting the Township’s ordinance requirements.

With respect to the assessor’s comment on the approved site plan, the revision suggested would still require Zoning Board of Appeals approval of the proposed lot since it is non-conforming and therefore could not be approved by the Planning Commission. The proposal being made when compared to the approved site plan shows the same physical result. The only real change is the lot being excluded from the condominium site. From the beginning this entire parcel has been difficult to deal with because it is at least fifteen

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time deeper than its width. The current economy and the very slow rate of absorption of such a development have forced us to consider a phased development which is what we are pursuing.”

Antonio Cavaliere, petitioner, was present, and stated the parcel as shown was to be part of Regency Commerce II. He reviewed the submitted survey and indicated that Parcel I would meet the acreage requirement, except the R-O-W can't be included into the calculation for acreage.

Jerome R. Schmeiser, Planning Consultant, stated that any new parcels must meet the Zoning Ordinance requirements. He indicated that he had no problem with the request of 86 feet of road frontage since it was the only entrance into the parcel.

Antonio Cavaliere stated the depth of the property is 540.06 feet and then the dedication of the 60 foot R-O-W makes it 480 feet, which still make it under the required 2 acres which is being appealed. Further, if the 60 feet were to be added to the back of the parcel it would then exceed the 3 to 1 ratio. Lastly, he stated he had a perspective buyer for the proposed parcel split. He indicated we would like to keep the north property line even with Lot 15 of Regency Commerce Center and that it would be logical to decrease the parcel by .15 acres rather than to grant a 3 to 1 variance.

Public Portion:

Dominick Kolpacki, 17775 23 Mile Road, asked if the property under consideration was property previously owned by Theisen Machine.

Antonio Cavaliere stated it was not. Furthermore, he stated it was impossible to create a lot without resolving one of the two issues.

Member GALLAGHER stated as long as the parcel was a stand alone it would not impact surrounding parcels.

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

MOTION carried.

The following resolution was offered by GALLAGHER and seconded by SLOSSON:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause an unnecessary hardship if the request would be denied, and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and

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intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;

Now, therefore, be it resolved, that the action of the Board is to grant the requested variance of Section 10.2107(A)(1)-Request to allow a parcel to be created of less than 2 acres in size; Located on the north side of 23 Mile Road, approximately ½ mile west of Romeo Plank Road; Section 17; Parkview Investment, Petitioner. Permanent Parcel No. 08-17-300-011. The variance was granted since the parcel has measurable frontage, it would be a stand alone parcel and it would do more harm to conform to the 2 acre requirement.

Member PROVENZANO stated there was a practical difficulty and concurred with Member GALLAGHER and that granting the variance was appropriate.

Member GALLAGHER stated this was would be the best use of the property.

Member CAMPION stated it was smart to use the land either by granting a variance for a parcel less than 2 acres or to grant a 3 to 1 variance.

Member SLOSSON stated there has been a practical hardship proven.

Chairman FLORENCE stated the granting of the variance allows the use of the property and that it would not be vacant property.

MOTION carried.

The following resolution was offered by SLOSSON and seconded by CAMPION:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause an unnecessary hardship if the request would be denied, and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;

Now, therefore, be it resolved, that the action of the Board is to grant the requested variance of Section 10.0335-Request to allow a parcel to be created that will have 70 feet of frontage rather than 150 feet; Located on the north side of 23 Mile Road, approximately ½ mile west of Romeo Plank Road; Section 17; Parkview Investment, Petitioner. Permanent Parcel No. 08-17-300-011.

MOTION carried.

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Chairman FLORENCE read the Zoning Ordinance for clarification on the need to grant a variance on the 3 to 1 since a variance had been granted for Section 10.2107(A)(1). Therefore it should not be necessary to grant the variance for Section 10.2107(A)(4) since the size of the property fell within the 3 to 1 with the granting of Section 10.21078(A)(1).

Colleen O'Connor, Township Attorney, stated the Board should not be granting variances that aren't necessary. If the variance is determined to be needed then the Board can reconsider the request at the July 8, 2008 meeting.

MOTION by GALLAGHER seconded by PROVENZANO to withhold action on Section 10.2107(A)(4)–Request to allow a parcel that will exceed the 3 to 1 ratio. Ultimate dimension of 167 feet x 495 feet; Located on the north side of 23 Mile Road approximately 1/2 mile west of Romeo Plank Road; Section 17; Parkview Investments, Petitioner. Permanent Parcel No. 08-17-300-014.

MOTION carried.

6. OLD BUSINESS

Discussion was held regarding the Chippewa Valley variances that had been considered and granted at the May 13, 2008 meeting, specifically the variance pertaining to the side yard setback from 7.5 feet to .7 feet.

7. NEW BUSINESS

None.

8. PLANNING CONSULTANTS COMMENTS

None.

ADJOURNMENT

MOTION by CAMPION seconded by SLOSSON to adjourn the meeting at 7:48 p.m.

MOTION carried.

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Respectfully submitted,

Brian Florence, Chairman

Dawn Slosson, Secretary

Beckie Kavanagh, Recording Secretary

BK