

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A MEETING HELD
JULY 14, 2009

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

PRESENT: CHAIRMAN, DINO BUCCI
MEMBERS: EDWARD GALLAGHER
CLIFFORD FREITAS
TERRY CAMPION
DAWN SLOSSON

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 BUCCI called the meeting to order at 7:00 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.

Chairman BUCCI stated there had been two letters received asking to have the items tabled. The items to be tabled are agenda items 5 and 6.

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

MOTION carried.

4. Approval of the previous meeting minutes.

MOTION by GALLAGHER seconded by SLOSSON to approve the meeting minutes of May 12, 2009 as presented.

MOTION carried.

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A MEETING HELD
JULY 14, 2009

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.
(5) B-B Sign and Lighting Permanent Parcel No. 08-06-202-004	10.1605(I)(3)
(6) Verizon Wireless Permanent Parcel No. 08-14-300-011	10.2603(J)(3)
(7) The Kroger Company of Michigan Permanent Parcel 08-06-202-008	10.1705(C)
(8) Aspen Restaurant/R & S Aspen Land, LLC Permanent Parcel No. 08-33-478-001	10.1605(D)(1) 10.0323(A)(5)(b) 10.0319 10.1605(I)(6)(c)

5. VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;
Permission to vary
Section 10.1605(I)(3) – Request to increase the allowable size of 2nd sign from 1/3 of 64 square feet to 32 square feet.
Located on the southwest corner of 26 Mile Road and Romeo Plank Road; Section 6. B-B Sign & Lighting, Petitioner. Permanent Parcel No. 08-06-202-004.

Tabled at the request of the petitioner to September 8, 2009.

6. VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;
Permission to vary section:
Section 10.2603(J)(3) – Request to eliminate the masonry wall enclosure.
Located on the east side of Card Road, ¼ mile north of 23 Mile Road; Section 14; Verizon Wireless, Petitioner. Permanent Parcel No. 08-14-300-011.

Tabled at the request of the petitioner to September 8, 2009.

7. VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;
Permission to vary Section 10.1705C - Request to allow a 130 square foot building in contrast to the minimum 700 square foot in a C-3 zone.
Located on the southwest corner of 26 Mile Road and Romeo Plank Road; Section 6; The Kroger Company of Michigan, Petitioner. Permanent Parcel No. 08-06-202-008.

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A MEETING HELD
JULY 14, 2009

Jerome R. Schmeiser, Planning Consultant, presented the findings and recommendations of July 8, 2009. They are as follows:

The petitioner is requesting permission to construct a 130 sq. ft. commercial building for a gas station in lieu of a structure required to be a minimum of 700 sq. ft.

It should be noted that each of the other Commercial Districts found in the Township Zoning Ordinance; (C-1, C-2 and C-4) also require a minimum of 700 sq. ft. of floor area. The minimum floor area as currently written has been in place since the adoption of the present Zoning Ordinance in 1972. To the knowledge of the undersigned there has not been a request to vary the minimum floor area requirement for commercial buildings.

The minimum floor area was established as a community standard for all commercial buildings in order to protect property values within the commercial districts which has been found to be reasonable since its adoption in 1972.

RECOMMENDATION:

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

1. Compliance with the strict letter of the minimum floor area requirement of 700 square feet would not unreasonably prevent the ownership from using the property as zoned. Other commercial structures planned in Macomb Township will be required to comply with the same minimum floor area requirements which is evidence that the regulations in place are not be unnecessarily burdensome.
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 commercial developments in Macomb Township. The other owners are or will be required to comply with the minimum floor area requirement. As a result the other property owners do not have the opportunity to make use of a smaller building size.

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 the building from being a minimum of 700 square feet. 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 variance would amount to a reduction of the building by 570 square feet or by approximately 82% from the required floor area.

The petitioner submitted a letter dated June 12, 2009, in support of the request and was included into the record as follows:

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A MEETING HELD
JULY 14, 2009

“The specific focus of this request is to appeal the interpretation and application of the definition of a “building” as defined in the MTZC.

Zoning Code Analysis:

We have researched the MTZC and found that a “Building” is defined as “A structure having a roof supported by columns or walls...” We believe under this definition that the canopy should be defined as the “building”; not solely the enclosed kiosk. We believe the kiosk would be a part, or a “room”, within the building. If it is accepted that the canopy is the “Building”, then the “Building” would exceed the minimum size for a C-3 zone and be permitted on this site.

Mr. Koehs, in your letter to Mr. Adams, you suggest that we should also review the definition of a “canopy” in the MTZC. We have reviewed this definition and offer that it is not uncommon for structures to have multiple classifications in a zoning code, i.e. the structure in debate in this letter would also be classified as a “structure” per the MTZC. In this regard we believe this structure could in fact be a “canopy” and a “building”. In regards to the determination of the floor area of the structure, any structure will inherently have a horizontal, or floor, area associated with it. In this situation we believe the horizontal limits of the structure extended vertically to grade is a reasonable approach.

In defense of our approach to define the “Building Area”, we would also like to offer the definition of “Building Area” from the Michigan Building Code, Section 502.1. The definition of the area of a building includes language that states “Areas of the building not provided with surrounding walls shall be included in the building area if such areas are included within the horizontal projection of the roof or floor above.” Although I realize that this definition comes from the building code, not the MTZC, I believe it is appropriate to consider when it appears to support the definition of a “Building” included in the zoning code.

Business Analysis:

Although the fuel center is located on a separate condominium parcel, it will function, in the business sense, as an “Accessory Building”. The Kroger business model utilizes the Fuel Center strictly for the accommodation of a cashier and a restroom. The business model that most stand-alone fuel centers utilize to be profitable is to either have an automobile service function, or more commonly, a convenience store associated with it. Unlike other gas stations, Kroger encourages their fuel center customers to patronize the grocery store to purchase those items. Providing those products, other than cigarettes and candy bars, at the fuel center to fill a minimum 700 s.f. floor area would be contradictory to their proven successful business plan.

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A MEETING HELD
JULY 14, 2009

Specifically, the Kroger plan includes incentives for their customers to patronize the fuel center by providing reduced gas prices after the customer purchases a set dollar value of groceries. The expectation is that the customer will once again patronize the grocery during follow-up visits to the fuel center, which will once again contribute toward receiving additional discounts for fuel. This plan has proven to be successful for Kroger and the requirement for a minimum 700 s.f. building will impact Kroger's ability to operate a profitable business.

It is also important to understand the electronic business practicalities of how the Fuel Center operates. The fuel center point-of-sale works as a satellite connection to the main grocery store. From a practical technical perspective the fuel center cannot function as a standalone business enterprise because of its inherent point-of-sale requirements. In this sense the fuel center is truly an accessory function, or building, to the main function of the primary business.

Kroger's fuel center business plan will provide a highly competitive option for the purchase of fuel to the local community. Particularly in this economic climate, the consumer is highly price conscious and is appreciative of a competitive market.

Furthermore, any attempt to try to lease the excess 570 s.f. in this economic and real estate climate would prove to be very difficult. Although the 700 s.f. area is far more than what Kroger needs to operate their business, the additional 570 s.f. as a feasible leasable area is far too small.

Request for a variance to the MTZC, Section 10.1705.

Please note that this request for a variance is only appropriate if the ZBA decides to support the interpretation and application of the Planning Official issued as the administrative order above.

This variance is a request to allow a building of 130 s.f. in a C-3 Zoning District in contrast to this minimum 700 s.f. required per Section 10.1705. In support of this variance request, we offer the following for consideration as hardships as identified in the attached variance application.

1. Strict Enforcement of the provisions of the MTZC would cause an unnecessary hardship by requiring the construction of a fuel center kiosk (4) times the size that is needed for the practical and profitable operation of the business, solely to meet the minimum building size for this district.

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A MEETING HELD
JULY 14, 2009

2. Strict enforcement of the minimum building size would deprive the owner of the ability to operate a profitable fuel center business, whereas, the nature of other business owners in the C-3 district are not negatively impacted by the minimum building size limitations of this section.
3. The conditions and circumstances requiring this request are unique to the Kroger business model for the operation of a fuel center and the minimum building requirement of 700 s.f. established in the MTZC, Section 10.1705.
4. Granting this variance will not confer any special privileges to the Fuel Center. Other businesses in the C-3 district are not required to construct a building to operate their business in excess of the practical need of the business. Granting this variance will provide to Kroger the same right to construct a building based upon the practical operational needs of the business, similar to other businesses in the district.”

John Berry, representative for Kroger, was in attendance and stated that Kroger was challenging the interpretation of a “Building”. In Macomb Township Zoning Code it states that a building is supported either by columns and/or walls. We are interpreting the building as a canopy, not solely the kiosk. The point to consider as the Zoning Code is looked at, it states a building is a structure having a roof being supported by columns and/or walls. In that regard the canopy fits that category. The canopy is just under 4,000 square feet and therefore would exceed the minimum 700 square foot as required by the zoning code. Also, for a point of consideration is the Michigan Building Code, the definition of a building includes verbiage that states that areas of a building not provided with surrounding walls shall be included in the building area if such areas are included within the horizontal projection of the roof or floor above. Our interpretation of the canopy being the building would also be in agreement with how the Michigan Building Code would interpret this request.

In addition, he asked that the Board to consider this fuel center as an accessory type use to the primary use of the Kroger grocery store. The fuel station will be on a separate parcel wherein, lies the problem that the fuel center can't be considered as an accessory use to Krogers, but it is only a property line that exists on paper only. The fuel center will be part of the Kroger business. The business model for Kroger includes the requested small kiosk at their fuel center, unlike other fuel centers that typically have convenience store or possible automotive repair. The business model is to encourage the customer to purchase the fuel and visit the grocery store, which in turn they acquire points to receive discounts on their next gas purchase.

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A MEETING HELD
JULY 14, 2009

Lastly, he highlighted the four items mentioned by Mr. Schmesier that are included in your Zoning Code for a hardship and stated it was their interpretation the strict enforcement of the Zoning Code would cause an unnecessary hardship by requiring the construction of a fuel center four times the size as just mentioned that is needed for the practical and profitable operation of the business to solely meet the minimum building size. Secondly, strict enforcement of the minimum building size would deprive the owner the ability to operate a profitable fuel center business whereas the nature of other business owner in a C-3 district are not negatively impacted by the minimum building size limitations of this section. The point here is the business models of the other business in this district are not such that they can utilize a smaller building. Thirdly, the conditions and circumstances requiring this request are unique to the Kroger business model for the operation of a fuel center and the minimum building requirement of 700 square feet established in the zoning code. Granting this variance will not confer any special privileges to the fuel center or Kroger Company. Other businesses in the C-3 district are not required to construct a building to operate their business in excess of the practical need of the business. The practical need of the Kroger Company for this fuel center is a 170 square foot kiosk that house a cashier which the customer never accesses.

Member CAMPION asked if there were any other models located in Michigan.

Tom Frank, Kroger representative, stated there were 22 other facilities and 810 nationwide. He went on to state that they were hoping for 29 sites by the end of this year.

Member GALLAGHER asked if tobacco or windshield solvent was sold at the kiosk.

Tom Frank stated that tobacco was sold along with candy items, but primarily just gas.

Member GALLAGHER stated it was a retail sales outlet not just a gas kiosk.

Frank Hearsch, representing the gas station owners on the immediate corner, stated that listening to the presentation given by the applicant that he completely agrees with Mr. Schmeiser's analogy if this were in fact a request for a variance. It seems that after listening to the applicant he is not asking for a variance. The presentation was this thing that they want to build is not a building. They are not asking that the structure be determined to be a building but that they want it to be smaller than what a building should be, he is saying it's not a building. He is challenging the interpretation of the ordinance; that's not a matter before you tonight. If that in fact is their issue they should have gone to the Township requesting a building permit, been turned down because the building was not big enough and then come before you to interpret the ordinance to determine if this is a building or not. This is a self imposed problem they have created, they should have created their building larger. He stated that in his opinion this is not a variance and if in fact it is a variance he agrees with Mr. Schmeiser's recommendation and ask that this request be denied.

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A MEETING HELD
JULY 14, 2009

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

MOTION carried.

MOTION by GALLAGHER seconded by FREITAS to deny the variance request of Section 10.1705C-Request to allow a 130 square foot building in contrast to the minimum 700 square foot in a C-3 zone; Located on the southwest corner of 26 Mile Road and Romeo Plank Road; Section 6. The Kroger Company of Michigan, Petitioner. Permanent Parcel No. 08-06-202-008. The Board voted to deny the variance request. Mr. Gallagher also noted it would give an unfair advantage to other gas stations within the Township to grant this variance request.

MOTION carried.

8. VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;
Permission to vary Section 10.1605(D)(1)-Setback from 70 feet to 16.5 feet.
Section 10.0323(A)(5)(b)-Reduce parking from 246 spaces to 238 spaces.
Section 10.0319 and 10.1605(I)(6)(c)-Increase square footage of sign from 30 square feet to 116 square feet.
Located on the north side of Hall Road, west of Heydenreich Road; Section 33;
Aspen Restaurant/R & S Aspen Land, LLC., Petitioner. Permanent Parcel No. 08-33-478-001.

Jerome R. Schmeiser, Planning Consultant, presented the findings and recommendations of July 8, 2008. They are as follows:

The petitioner is proposing to develop a covered deck area and position it on the east portion of the current Aspen restaurant located on the above described property. The deck area is planned to be seasonal. The addition of the deck will require approximately eight more parking spaces and will contain 568 square feet. The deck will be located 16.5 feet from Hall Road. The petitioner is also requesting allowance for signage of up to 116 square feet.

The Zoning Ordinance requires a setback of 70 feet for permanent structures along Hall Road, eight parking spaces for 568 square feet of restaurant and 32 square feet of signage.

Because the restaurant/lounge was constructed prior to the adoption of the change in setback of 70 feet along Hall Road the Consultant can justify the decrease in setback requirement. However the parking and signage should comply with the ordinance because no preexisting situations would justify a change.

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A MEETING HELD
JULY 14, 2009

RECOMMENDATION:

It is recommended that the variance request to allow a variance for the setback be approved as noted above. It is also recommended that the parking variance and the signage variance be denied for the following reasons:

1. Compliance with the strict letter of the ordinance requirement would not unreasonably prevent the ownership from using the property as zoned. Other commercial structures planned in Macomb Township will be required to comply with the same parking and signage requirements and is evidence that the proper application of the ordinance would not be unnecessarily burdensome.
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 ordinance requirements. As a result the other property owners do not have the opportunity to make use of such variances.

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 ordinance from being met. For example, there are no significant grade differences or natural features 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 June 15, 2009, in support of the request and was included into the record as follows:

“A. Variance from Section 101605; Setback Requirements

Applicant requests a Variance from Section 10.1605.D.1, relative to the setback requirement for structures along Hall Road. Applicant’s building is currently 28 feet from the Right of Way Line. Applicant’s proposed patio/outdoor seating area would extend an additional 11.5 feet from the existing wall of the building.

B. Variance from Section 10.0323; Parking Requirements

Based upon the Ordinance requirements, the parking for the Applicant’s site and the surrounding complex, and the variance needed, would be calculated as follows:

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
 MINUTES OF A MEETING HELD
 JULY 14, 2009

	Parking Required	Square Footage	Spaces
Office	1 per 150 sq ft	15,500	103 spaces
Bank	1 per 500 sq ft	3,200	32 spaces
Restaurant	1 per 75 sq ft	7,736	103 spaces
Proposed Patio	1 per 75 sq ft.	568	8 spaces

Total Needed: 246 Spaces
Total Existing: 238 Spaces

Variance Requested: 8 spaces

C. Variance from Section 10.1605.I and 10.0319; Sign Requirements

Applicant's current wall sign is approximately thirty (30) square feet, and is mounted on the South Elevation of the Building, which faces Hall Road. Applicant's current sign variance request seeks two (2) small wall signs in addition to its existing wall sign, as follows: Applicant seeks one (1) additional sign for the East Elevation, and one (1) additional sign for the West Elevation. These additional signs allow the business far more visibility and ease of access from Hall Road.

1. How the strict enforcement of the provisions of the Township Zoning Ordinance would cause a practical difficulty or unnecessary hardship and how such enforcement would deprive the owner of rights enjoyed by all other owners of property within the same Zoning District.

Applicant's subject premises is located in a complex which also contains a bank and an office building, and is being properly utilized as zoned. However, based upon the existing configuration of the complex, Applicant is faced with a practical difficulty/unnecessary hardship in that Applicant has limited options to promote its business within the existing location. The size and location of the site, and the existing development in the surrounding area, limits the configuration of Applicant's proposed addition, as well as the number of parking spaces Applicant can add. Finally, Applicant's building currently has only one wall sign, facing Hall Road, which is not easily visible. As drivers approach from the east and the west, visibility of the front sign is extremely limited. Other businesses in the area have been granted variances, and granting the variances requested will bring Applicant's to a level similar to other businesses.

2. **How conditions and circumstances unique to the property are not similarly applicable to other properties located within the same Zoning District.**

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A MEETING HELD
JULY 14, 2009

Due to factors including the shape, layout, and configuration of the existing buildings in this complex, and in order to optimize business and make full use of the complex as zoned and to keep the business competitive, the Applicant requires the variances sought. Applicant is faced with an established complex of buildings which all contain established businesses, and which is nearby larger commercial enterprises along Hall Road. Allowing the Applicant the variances requested will allow full and competitive use of the property as zoned.

3. How conditions and circumstances unique to the property were not created by the owner, or his predecessor in title, within the time following the effective date of the provision alleged to adversely affect such property.

Applicant is located in an existing complex of buildings. Based on the current uses in the complex, and the current limitations imposed by the location, Applicant's requested variances are relatively minor. As the number of businesses and level of traffic on Hall road has increased, Applicant must remain competitive in its existing location.

4. Why the requested variance will not confer special privileges that are denied other properties that are similarly situated and which are located in the same Zoning District.

A grant of the requested variances will not confer special privileges, but will instead allow the Applicant uses enjoyed by others in C-2 Districts. Not only is the success of local business beneficial to the community, the variances will allow a more full use of the business, as is enjoyed by other businesses in C-2 Districts."

Bob Kirk, representative, was in attendance and stated they would be withdrawing the variance request for Section 10.0319 and 10.1605(I)(6)(c)-Request to increase square footage of sign from 30 square feet to 116 square feet. He also stated that he concurred with Mr. Schmeisers recommendation on the setback. Lastly, he noted they are eight parking stalls short and stated he felt they were unique with the mixed use businesses and doubted that if 25% of the parking had ever been occupied at one time. He indicated that he felt the parking was excessive at this time, and suggested the idea of banking parking spaces and should they ever be needed that the outdoor patio would cease.

Member GALLAGHER asked if the center was owned by one person.

Bob Kirk stated no.

Member GALLAGHER asked if it would possible to get a cross easement agreement to use the parking stalls. He also indicated that the parking standards for the banking industry have recently been amended and asked if those eight spaces could be obtained that way.

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A MEETING HELD
JULY 14, 2009

Chairman BUCCI stated there was current litigation case with another business involving parking stalls and noted that if the Township were to allow this variance it would be opening a Pandora's Box. He went on to state he has no problems with the intention however; we need to help the Township.

Bob Kirk stated that each case is unique and you could impose a condition on the variance that should the parking ever be necessary they would stop using the patio.

Member CAMPION stated that the site contains mixed uses, and if an agreement were to be in place to utilize the parking stalls and the hours of operation of the bank and the office are not the same as the restaurant hours this area may be different than other areas within the township

Member FRIETAS asked if a time restraint could be placed on the hours of use for the patio.

Chairman BUCCI stated there were other avenues that could be used to obtain the necessary parking stalls. He further went onto to state if the Township were to allow the spaces to go we would be opening ourselves to litigation that we are already involved in.

Member GALLAGHER stated that each variance is an individual case. He further stated he did not know the current litigation case that was being referenced.

Chairman BUCCI stated the litigation case is Tina's.

Colleen O'Connor, Township Attorney, reviewed the standards of granting a variance based on a practical difficulty. It's not a question on what is given to one restaurant and not other but of whether there is a practical difficulty. The board can only grant a variance if there is a practical difficulty.

Bob Kirk stated the practical difficulty arises from the mixed use. He further went on to state he did not believe the Township had an ordinance which addresses the separate parking calculations for each use and what they were asking for would amount to a 3% reduction.

Public Portion:

Greg Billington, representative of Windemere #3 Homeowners Association, stated he had no concerns with the parking but with the noise level (bands, dancing, etc.) that may be generated. If there is outside activities, that a condition be placed to limit the hours so it would not emanate across the wall.

Chairman BUCCI asked the owner of Aspen if there would be music.

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A MEETING HELD
JULY 14, 2009

The owner of Aspen stated the restaurant has changed to a sports facility.

William Turnbull, 45426 Delmare, stated he had no problems with the restaurant and was in full support of the request being sought. He stated that in today's economic market it would be advantageous for them to compete with an outside patio.

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

MOTION carried.

Jerome R. Schmeiser, Planning Consultant, stated he like the suggestion of Chairman BUCCI of reviewing the matter via the process of a Consent Judgment. This gives an opportunity to resolve the situation outside of setting a precedence. The extra parking spaces that are being spoken about don't exist, however the space is there using the bank drive-in area.

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

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 10.1604(D)(1)-Request to reduce setback from 70 feet to 16.5 feet; Located on the north side of Hall Road west of Heydenreich Road; Section 33; Aspen Restaurant/R&S Aspen Land, LLC, Petitioner.

MOTION carried.

MOTION by GALLAGHER seconded by FRIETAS to deny the variance request of Section 10.0323(A)(5)(b)-Request to reduce parking from 246 spaces to 238 spaces; Located on the north side of Hall Road west of Heydenreich Road; Section 33; Aspen Restaurant/R&S Aspen Land, LLC, Petitioner.

MOTION carried.

9. OLD BUSINESS

None.

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A MEETING HELD
JULY 14, 2009

10. NEW BUSINESS

None.

11. PLANNING CONSULTANTS COMMENTS

Jerome R. Schmeiser, Planning Consultant, stated there would be a special meeting on July 28, 2009.

ADJOURNMENT

MOTION by SLOSSON seconded by CAMPION to adjourn the meeting at 7:49 p.m.

MOTION carried.

Respectfully,

Dino F. Bucci, Jr., Chairman

Dawn Slosson, Secretary

Beckie Kavanagh, Recording Secretary

BK