

MACOMB TOWNSHIP ZONING BOARD OF APPEALS  
MINUTES OF A REGULAR MEETING HELD  
TUESDAY, SEPTEMBER 13, 2016

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

PRESENT: CHAIRMAN: EDWARD GALLAGHER  
MEMBERS: DINO BUCCI  
AARON TUCKFIELD  
DAWN SLOSSON  
KRISTI POZZI

ABSENT: NONE

ALSO PRESENT: TOM ESORDI, TOWNSHIP ATTORNEY  
PATRICK MEAGHER, PLANNING CONSULTANT  
(Additional attendance record on file with Clerk)

Call Meeting to Order.

Chairman GALLAGHER called the meeting to order at 5:00 P.M.

1. Roll Call.

Secretary SLOSSON called the roll. All members present.

2. PLEDGE OF ALLEGIANCE.

Chairman GALLAGHER asked all in attendance to join the 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 SLOSSON seconded by POZZI to approve the agenda as presented.**

**MOTION carried.**

4. Approval of the previous meeting minutes.

**MOTION by POZZI seconded by SLOSSON to approve the minutes of July 26, 2016 as presented.**

**MOTION carried.**

PURPOSE OF HEARING:

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

MACOMB TOWNSHIP ZONING BOARD OF APPEALS  
MINUTES OF A REGULAR MEETING HELD  
TUESDAY, SEPTEMBER 13, 2016

Agenda Number/Petitioner/ Permanent Parcel No.	Zoning Ordinance Section No.
(5) Allante Building Company Permanent Parcel 08-16-201-003	Section 10.0704B.3
(6) Jeffrey Pretzer Permanent Parcel 08-10-200-030	Section 10.0331(5) 10.0331(5)
(7) Custom Sign Center, Inc. Permanent Parcel 08-31-352-002	Section 20-6.A.
(8) Title Boxing Permanent Parcel 08-31-300-025	Section 20-6.A.
5. VARIANCE REQUEST FROM ZONING ORDINANCE Section 10.0704B.3-Request to allow a finish floor elevation of 5'4.31" where only 5' is permitted. Located on the south side of 24 Mile Road, east of Romeo Plank Road; Section 16. Allante Building Company, Petitioner. Permanent Parcel 08-16-201-003. A.K.A. 52936 Harmony Drive	

Chairman GALLAGHER presented the findings and recommendations of September 6, 2016. They are as follows:

The property in question is on the east side of Harmony Road. The petitioner is requesting a variance to allow the residential 1<sup>st</sup> floor elevation to exceed 5 feet above the lowest curb elevation on an adjacent roadway by 4.31 inches.

The following variance will be required to facilitate the request above:

**VARIANCE 1: Request to vary Section 10.0704.B.3 – Allow residential 1<sup>st</sup> floor to exceed 5 feet above lowest curb elevation on adjacent roadway by 4.31 inches. (5.36 feet proposed)**

The applicant is stating that this home is already roughed-in and is looking to progress to the next stage of construction. Upon inspection by the Township, it was brought to the attention of the applicant that it exceeded the Township ordinance by 4.31 inches.

**Planner's Recommendation:** Based on the fact that there is no practical difficulty present, and not being aware of the ordinance requirement does not warrant a variance, we recommend denial of this variance request.

MACOMB TOWNSHIP ZONING BOARD OF APPEALS  
MINUTES OF A REGULAR MEETING HELD  
TUESDAY, SEPTEMBER 13, 2016

The petitioner submitted a letter dated August 1, 2016 in support of the request and was included into the record as follows:

“After many years of building experience, I have found that today’s homebuyers prefer deep basements. To accomplish this, I started resting the ends of the I-beams on top of the basement walls. In constructing the homes on Lot #86 and #87 in the Harmony Acres Subdivision, this procedure was followed.

On Lot #87:

At the time the I-beam was placed on the basement wall, it caused a change in the F.F. site elevation. (I did not notice that the N.W. corner grade declined over a foot in a 71 ft. span.) On inspection of Lot #87, it was determined that the F.F. is now 0.33 ft. above the 5 ft. rule violating the Macomb Twp. Building code. Had I noticed this prior to the beam placement, adjustments would have been made. Without the variance, the structure will need drastic and costly alterations or removal.”

Patrick S. Meagher, Planning Consultant, stated that the Planning Commission is now looking at this particular ordinance that governs these provisions. He indicated that they are looking at increasing by one foot from 5 feet to 6 feet. The rationale behind this is to allow for larger homes to allow for basement to be finished that allows for a 9 to 10 foot basement.

Joseph Maples, Building Official, stated that his department did not see any issues with the recommendation and supported it.

Member TUCKFIELD stated the Planning Commission has heard that and are open for discussion but that future ordinance changes should affect the current ordinance when deciding on the motion.

Public Portion:

Sam DiMercurio, petitioner, was in attendance, stated he had been building 2 houses simultaneously next to each other, being the same house. He didn’t realize the pitch of the curb at 1 ½ foot at 70 feet.

**MOTION by SLOSSON seconded by POZZI to close the public portion.**

**MOTION carried.**

**The following resolution was offered by BUCCI and seconded by SLOSSON:**

MACOMB TOWNSHIP ZONING BOARD OF APPEALS  
MINUTES OF A REGULAR MEETING HELD  
TUESDAY, SEPTEMBER 13, 2016

**Whereas, it has been satisfactorily presented that special conditions prevail that would cause a practical difficulty 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 10.0704B.3-Request to allow a finish floor elevation of 5'4.31" where only 5' is permitted; Located on the south side of 24 Mile Road, east of Romeo Plank Road; Section 16. Allante Building Company, Petitioner. Permanent Parcel 08-16-201-003. A.K.A. 52936 Harmony Drive. The variance was granted based on the grade of the lot which creates a situation where non-compliance makes it lower than one in compliance. This in itself makes it a practical difficulty with regard to the property.**

**MOTION carried.**

**6. VARIANCE REQUEST FROM ZONING ORDINANCE**

Section 10.0331(5)-Request to construct an attached garage of 1,338 square feet where only 850 is permitted;

Section 10.0331(5)-Request to construct a detached accessory structure of 4,400 square feet where 3,000 is permitted.

Located on the east side of Foss Road, south of 25 Mile Road; Section 10. Jeffrey Pretzer, Petitioner. Permanent Parcel 08-10-200-030. A.K.A. 54354 Foss Road

Chairman GALLAGHER presented the findings and recommendations of September 6, 2016. They are as follows:

The property in question is located on the east side of Foss Road, south of 25 Mile Road. The request is to vary Section 10.0331.5 which allows detached accessory buildings to have a maximum of 3,000 square feet in floor area for parcels with 5 acres or more land (this property is 11.28 acres). The applicant is requesting a 4,400 square foot (55' x 80') detached accessory structure. The applicant is also requesting a variance to allow an attached garage with 1,338 square feet of floor area whereas only 850 square feet are permitted.

**VARIANCE 1: Request to vary Section 10.0331.5 – Permit a detached accessory building with 4,400 square feet of floor area (3,000 square feet permitted). A variance of 1,400 square feet.**

**VARIANCE 2: Request to vary Section 10.0331.5 – Permit an attached accessory building with 1,338 square feet of floor area (850 square feet permitted). A variance of 488 square feet.**

MACOMB TOWNSHIP ZONING BOARD OF APPEALS  
MINUTES OF A REGULAR MEETING HELD  
TUESDAY, SEPTEMBER 13, 2016

**Planner's Recommendation:** We are recommending denial of this variance request due to the fact that a practical difficulty does not exist. The Township recently amended the ordinance to reflect what was reasonable for such size lots/parcels. This would grant a special privilege not permissible to the surrounding properties and other properties within the same Zoning District.

The petitioner submitted a letter dated August 22, 2016 in support of the request and was included into the record as follows:

“Out Building

I'm requesting to build a bigger “out building” for the purposes of agricultural use. I plan to continue to farm the back 5 acres of my property and will need indoor storage areas to hold the equipment and materials.

Garage

I'm requesting to build a bigger garage because I'd like to have a “work area/tool storage” in my garage that won't impede with the ability to park 3 cars in the garage.”

Jeffrey Pretzer, 21440 Rome, petitioner was in attendance.

Patrick S. Meagher, Planning Consultant, stated that with regard to the detached accessory building, the applicant has agreed to sign an affidavit indicating the out building would be used to farm the property and based on that it is an agricultural use and its an agricultural structure and therefore would not need a variance. He noted the Building Official being in attendance is aware of this and can process the application without a variance. In addition, he reviewed the garage and stated that 850 square feet is permitted and they are asking for 1,338 square feet, and noted that no practical difficulty exists that would warrant that larger structure.

Jeffrey Pretzer stated he was looking to have a work shop and a place to store the kids toys away from the cars. We have 11 ½ acres and are not trying to cram it on a tiny lot.

Member BUCCI asked Patrick Meagher if the first variance was being waived as long as an affidavit was signed.

Patrick S. Meagher, Planning Consultant, stated that was correct.

Member BUCCI asked if there was anything that has been recently approved for a larger garage.

MACOMB TOWNSHIP ZONING BOARD OF APPEALS  
MINUTES OF A REGULAR MEETING HELD  
TUESDAY, SEPTEMBER 13, 2016

Patrick S. Meagher, Planning Consultant, stated the Board recently approved a variance for an larger attached garage in Twin Rivers because he had a double lot. He also noted that in discussion with Joseph Maples if a portion of the garage is intended to be a workshop they could be a wall or obstacle to prevent cars from parking in certain portions.

Member BUCCI asked if that was something that could be done with the Building Department and done through the Zoning Board of Appeals.

Patrick S. Meagher, Planning Consultant, indicated that was correct.

Member BUCCI asked Jeffery Pretzer if that was something he would entertain.

Jeffrey Pretzer stated if the board denied the variance then yes.

Chairman GALLAHGER stated that variance one is going to be waived providing the affidavit is received indicating the building would be used for agricultural purposes.

Public Portion: None.

Member TUCKFIELD asked what the proper way was to remove the first variance.

Tom Esordi, Township Attorney, stated that you could have a motion to accept the withdrawal of the provision with the understanding that if the affidavit is provided the request will be granted.

**MOTION by TUCKFIELD seconded by SLOSSON to remove the variance request of Section 10.0331(5)-Request to construct an attached garage of 1,338 square feet where only 850 is permitted; Located on the east side of Foss Road, south of 25 Mile Road; Section 10. Jeffrey Pretzer, Petitioner. Permanent Parcel 08-10-200-030. A.K.A. 54354 Foss Road. This is done with the understanding the homeowner will submit an affidavit indicating the outbuilding will be used as an agricultural use.**

**MOTION carried.**

**MOTION by TUCKFIELD seconded by POZZI to deny the variance request of Section 10.0331(5)-Request to construct a detached accessory structure of 4,400 square feet where 3,000 is permitted; Located on the east side of Foss Road, south of 25 Mile Road; Section 10. Jeffrey Pretzer, Petitioner. Permanent Parcel 08-10-200-030. A.K.A. 54354 Foss Road. The variance was denied based on a lack of practical difficulty.**

**MOTON carried.**

MACOMB TOWNSHIP ZONING BOARD OF APPEALS  
MINUTES OF A REGULAR MEETING HELD  
TUESDAY, SEPTEMBER 13, 2016

7. VARIANCE REQUEST FROM ZONING ORDINANCE

Section 20-6.A. Requesting a wall sign on the east and west elevation which is 50% of the allowed wall sign area where only 20% of the allowable principal building frontage signage is permitted.

Located on the north side of Hall Road, 1,162 feet east of Hayes Road; Section 31. Custom Sign Center, Inc., Petitioner. Permanent Parcel 08-31-352-002.

Chairman GALLAGHER presented the findings and recommendations of September 6, 2016. They are as follows:

The property in question is located on the North side of Hall Road, between Tilch and Hayes Roads. The request is to vary Section 20-6.A.1 of the Township Sign Ordinance which allows signs on the side of a business a maximum of twenty (20%) percent of the total sign area that is allowed on the "Principal Building Frontage" (PBF). In this case, the applicants indicate the width of the PBF as 47.5'. Based on this width, the west and east side of the buildings are allowed signs measuring 9.5 square feet on the east and west (sides) elevations of the building. The applicants are requesting 21.36 square feet of sign area on both the east and west elevations.

***VARIANCE: Request to vary Section 20-6.A.1 of the Macomb Township Sign Ordinance – Request variance of 11.86 square feet of sign area for both the east and west elevations of the restaurant. Each side of the building is permitted 9.5 square feet of sign area.***

**Planner's Recommendation:** We are recommending denial of this variance request due to the fact that a practical difficulty does not exist. The applicant points out several reasons for the variance in the application package. We find the rationale provided falls short of supporting a practical difficulty and would grant a special privilege not permissible to other properties within the same Zoning District. The applicant is still permitted a 47.5 square foot front wall sign along with a monument sign.

The petitioner submitted a letter dated August 23, 2016 in support of the request and was included into the record as follows:

"Code and Ordinance, Chapter 20, Section 20-6 Building mounted signs, part A, paragraph 1 states that Principle Building Frontage (PBF) is allowed 1 sf of lineal frontage of building, (building frontage = 47.5') this gives us 47 sf directing facing Hall Rd. Additional elevations not (PBF) are allowed 20% of (Total PBF allowed) this means that he additional signs would be limited to 9.5 sf each. If you are driving up or down Hall Rd it would be hard at 45 mph (local speed limit) to be able to notice these small signs on the side of a building. If allowed to increase to 50% of the PBF the signs would be 23.75 sf (2.5 times the allowable size) these would be a great increase in exposure. We are asking for the same consideration given to other facilities in this location that have larger than allowed signs on the side of their buildings."

MACOMB TOWNSHIP ZONING BOARD OF APPEALS  
MINUTES OF A REGULAR MEETING HELD  
TUESDAY, SEPTEMBER 13, 2016

Patrick S. Meagher, Planning Consultant, stated this was a similar request to Bubba's 33.

Public Portion: None

Member BUCCI asked Patrick Meagher what he wanted to see happen with this item.

Patrick S. Meagher, Planning Consultant, stated he was recommending denial since he did not feel there was a practical difficulty. However, there is enough interest specifically along Hall Road that warrants the Planning Commission to possibly modify the ordinance. So, if the board denies the request and the Commission decides to change it they can then put the signs up and would probably fall in line with when they are ready to install the signs.

**MOTION by SLOSSON seconded by POZZI to deny the variance request of Section 20-6.A. Requesting a wall sign on the east and west elevation which is 50% of the allowed wall sign area where only 20% of the allowable principal building frontage signage is permitted; Located on the north side of Hall Road, 1,162 feet east of Hayes Road; Section 31. Custom Sign Center, Inc., Petitioner. Permanent Parcel 08-31-352-002.**

**MOTION carried.**

8. VARIANCE REQUEST FROM ZONING ORDINANCE

Section 20-6.A-Request to vary the allowance for maximum square footage for a sign from 60 square feet to 87.5 square feet.

Located on the northeast corner of Hall Road and Hayes Road; Section 31. Title Boxing, Petitioner. Permanent Parcel 08-31-300-025. A.K.A. 15385 Hall Road

Chairman GALLAGHER presented the findings and recommendations of September 6, 2016. They are as follows

The property in question is located at the Northeast corner of Hall and Hayes Roads. The request is to vary Section 20-6.A. of the Township Sign Ordinance which restricts the area of a wall sign to be no greater than one square foot of sign area for each lineal foot of business frontage. In this case, the applicants indicate the width of the Principal Building Frontage (PBF) as 60'. Based on this width, the wall sign may not exceed 60 square feet. The applicants are requesting 87.60 square feet of sign area.

***VARIANCE: Request to vary Section 20-6.A. of the Macomb Township Sign Ordinance – Request a variance to allow 87.60 square feet of sign area where the Sign Ordinance permits 60 square feet. This is a variance of 27.6 square feet.***

MACOMB TOWNSHIP ZONING BOARD OF APPEALS  
MINUTES OF A REGULAR MEETING HELD  
TUESDAY, SEPTEMBER 13, 2016

**Planner's Recommendation:** We are recommending approval of this variance request due to the fact that a practical difficulty does exist. The Ordinance does not provide for any scaling of sign size based on distance to the road. In this case the applicants are located at the extreme center of the shopping center and must be viewed from over 700' to Hayes Road and over 550' to Hall Road. The applicant points out the distance and speed of traffic as reasons for the variance in the application package. They also claim a practical difficulty with the angle of that portion of the building. The petitioner submitted a letter dated August 24, 2016 in support of the request and was included into the record as follows:

"#1 Long distance from intersection.

#2 Store front on an angle and

#3 High rate of travel speed on Hall Road."

Patrick S. Meagher, Planning Consultant, stated that in this particular instance the ordinance does not have a provision or allowance for scaling of signs. This particular unit couldn't be located in a worse location for the applicant. In one spot he is 700 feet from Hayes Road and then approximately 550 feet from Hall Road. In addition, he indicated that the intent of the ordinance was still being met and that a practical difficulty was there, perhaps created by the owner of the center by the design, however, for the applicant it does warrant a larger sign at this location.

Scott Van Almen, 3212 Huntington Circle, stated they are taking three store fronts and scales out much better across the frontage. Also the visibility is very critical for the success of the business from both Hayes and Hall Road.

Public Portion: None.

**The following resolution was offered by BUCCI and seconded by SLOSSON:**

**Whereas, it has been satisfactorily presented that special conditions prevail that would cause a practical difficulty 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;**

MACOMB TOWNSHIP ZONING BOARD OF APPEALS  
MINUTES OF A REGULAR MEETING HELD  
TUESDAY, SEPTEMBER 13, 2016

**Now, therefore, be it resolved, that the action of the Board is to grant the requested variance of Section 20-6.A-Request to vary the allowance for maximum square footage for a sign from 60 square feet to 87.5 square feet; Located on the northeast corner of Hall Road and Hayes Road; Section 31. Title Boxing, Petitioner. Permanent Parcel 08-31-300-025. A.K.A. 15385 Hall Road. The variance was granted due to the practical difficulties cited by the applicant.**

9. OLD BUSINESS

None.

10. NEW BUSINESS

None.

11. PLANNING CONSULTANTS COMMENTS

None.

Member TUCKFIELD made mention of the signage request and that with the building pie shaped if it wouldn't make more sense to measure based on square footage rather than frontage.

**ADJOURNMENT**

**MOTION by POZZI seconded by SLOSSON to adjourn the meeting at 5:30 p.m.**

**MOTION carried.**

Respectfully submitted,

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Edward Gallagher, Chairman

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Dawn Slosson, Secretary

Beckie Kavanagh, Recording Secretary

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