



**APPROVED MINUTES OF THE REGULAR MEETING OF
THE ZONING BOARD OF APPEALS OF THE CITY OF ANN ARBOR
January 27, 2010**

The Regular Session of the Zoning Board of Appeals was held on Wednesday, January 29, 2010 at 6:00 p.m. in City Council Chambers, 100 N. Fifth Avenue, A2, MI. The meeting was called to order at 6:00 p.m. by Chairperson Carol Kuhnke.

ROLL CALL

Members Present: (8) J. Carlberg, C. Briere, D. Gregorka, and K. Loomis
C. Kuhnke, A. Pilot, S. Briere and
W. Carman (arr. 6:07 p.m.)

Members Absent: (1) D. Tope

Staff Present: (1) M. Kowalski

A – APPROVAL OF AGENDA

A-1 Without Opposition, the Agenda was Approved as Presented.

B - APPROVAL OF MINUTES

B-1 Draft Minutes of the 2009-10-28 Regular Session

Changes: Line 388 states *“Is the decision of the Zoning Administrator”* should be changed to *“Supports the decision of the Zoning Administrator.”*

Moved by K. Loomis, Seconded by S. Briere **“To approve the minutes of the October 28, 2009 Regular Session as Amended.”**

On A VOICE VOTE – MOTION TO APPROVE – PASSED - UNANIMOUS

C - APPEALS & ACTION

C-1 ZBA09-008 – 2955 PACKARD ROAD

Todd Quattro, petitioner for this property, requests two variances from **Chapter 62 (Landscape and Screening)**:

Variance 1- A variance from **Section 5:603** (Conflicting Land Use Buffers), of 10 feet and partial screening requirements in order to permit a Conflicting Land Use Buffer of 5 feet between the subject parcel and adjacent parcel to the west. 15 foot wide buffer is required.

Variance 2 - A variance from **Section 5:602(1)** (Right-of-way screening), of 6.5 feet and partial screening requirements in order to permit a Right-of-Way Buffer of 3.5 feet between the subject parcel and Packard Road. 10 foot wide buffer is required.

52 **Description and Discussion**

53

54 Todd Quatro is requesting two variances in order to allow the expansion of the existing gas
 55 station and modification of the parking and circulation area. The parcel is located on Packard
 56 Road, just west of Platt in the C1 (Local Business District) zone. The site has a 1,835 square-
 57 foot gas station/convenience store on site. The use (gasoline service station) is a non-
 58 conforming use in the C1 zoning district.

59

60 The petitioner is proposing to upgrade the site and currently has a site plan (for 464 square
 61 foot building expansion) and rezoning (in order to make the use conforming) petition under
 62 review by the City. The rezoning application requests a change from C1 (Local Business) to
 63 C2B (Business Service) in order to permit a gasoline service station by Special Exception Use.
 64 The site plan and rezoning were recommended for approval by the Planning Commission and
 65 the Special Exception Use was granted by the Planning Commission on January 5, 2010. The
 66 rezoning and site plan will need final approval from City Council if the variances are approved
 67 by the ZBA. The minutes of the January 5 Planning Commission are not available at this time.

68

69 **Variance #1** - The petitioner requests that the conflicting land use buffer along the western
 70 side be reduced from 10 feet from 5 feet and that the petitioner not be required to install an
 71 opaque wall 4 feet in height. Although the land immediately adjacent to the west is zoned O
 72 (Office), it is part of a parcel principally **used** (see **bold** in text above) for residential, thus a
 73 Conflicting land use buffer would be required.

74

75 There is no residential use directly adjacent to the western side of the site and it is unlikely a
 76 residential use will ever be placed within 60 feet of this side due to the location of the private
 77 drive (Cascade) 20 feet from the side property line. This private drive and the 20 feet between
 78 the edge of the drive and the property line form an unofficial 'buffer' on the adjacent site. This
 79 offsite 'buffer' is in addition to the 5 feet landscaping buffer being provided by the petitioner on
 80 the subject site. The petitioner is proposing the maximum amount of vegetation possible within
 81 the landscaped buffer area: 11 arborvitae evergreens as well as 1 deciduous tree. A berm or
 82 opaque wall is also required as part of the screening requirements, however the 5 foot wide
 83 buffer proposed does not allow enough room for the required vegetation and berm/wall. Staff
 84 would prefer the installation of vegetation over the installation of a wall or berm.

85

86 **Variance Request #2** - The petitioner requests that the right-of-way screening requirement be
 87 reduced from 10 feet to 3.5 feet along Packard Road. The petitioner will install a hedge row
 88 and 3 trees within the buffer proposed. An berm or opaque wall is also required as part of the
 89 screening requirements, however the 3.5 foot wide buffer proposed does not allow enough
 90 room for the required vegetation and berm/wall. Staff would prefer the installation of vegetation
 91 over the installation of a wall or berm.

92

93 The buffer does meet the required right-of-way screening width along the east and west sides
 94 of the front line, the area deficient in width is approximately 70 feet long in front of the gas
 95 pumps between the two drives. Installing the buffer at the required width of 10 feet would
 96 require the re-location of gas pumps, possibly closer to the residential area. It would also
 97 require the re-location of the pump canopy.

98

99 **Previous Variance History:**

100

101 This parcel received a front setback variance of 18 feet in May 2008 to allow the construction
 102 of a new canopy over the existing gas pumps. The canopy has not been constructed yet and
 103 will be constructed as part of the overall site improvements and building addition.

104

105 The location and size of the canopy currently proposed does match the location and size as
 106 approved on the May 2008 submitted plans.

107
 108 The parcel also received four variances (information in petitioner's application packet) in April
 109 1989: variance from the conflicting land use buffer on the east side, rear setback variance for
 110 building addition, front setback variance for canopy construction and permission to expand or
 111 add to the life of a non-conforming use.

112
 113 **Questions to Staff by the Board**

114
 115 W. Carman – Is there no intention to have a sidewalk put in on their side of Cascade? (There
 116 isn't currently sidewalk there. It's a private street, but if the owners of that wanted to come in
 117 and install a sidewalk, they could submit plans and do that.) This portion of this area is R4A
 118 (residential) and that entire area surrounding this site is zoned R4A – It's all residential,
 119 correct? (Correct. And the rest of the current parcel in question is zoned "O" or Office). Do
 120 you know when that happened? (Pre-1980. We take snapshots of the areas up to that period,
 121 so I don't know exactly).

122
 123 A. Pilat – So the curb cut their requesting is not in the same place, but it's very, very close?
 124 (Correct. What's there now doesn't meet code, so they're modifying it.)

125
 126 D. Gregorka – I'm curious about the order we're going in here. You're asking for us to approve
 127 a variance, but then they'll still need a re-zoning and a site plan approval variance? (Yes.)
 128 Shouldn't the rezoning go through first so that we know what we're approving a variance for?
 129 (We could, however, the way we've handled things in the past is that that comes between the
 130 Planning Commission and City Council, I don't know if Council could approve something that
 131 had a zoning contingency.) I'm concerned about the rezoning. We don't even know where
 132 we're starting from.

133
 134 C. Kuhnke – But any variance we might give them wouldn't matter if they didn't get the
 135 rezoning. (M. Kowalski – Right. If they don't get the rezoning, none of the site improvements
 136 can be done.)

137
 138 W. Carman – So, if we grant the variances, and it is rezoned but they don't continue to have a
 139 gas station there, but decide that they want to build a large apartment building or whatever
 140 else would fit the new zoning on that site, would these variances go away? (Yes. The
 141 variances would go away because it would have to have a new site plan and those don't go
 142 with any new plan. There are some changes that they could make, like the opaque wall
 143 wouldn't be necessary, etc.) I'm trying to find out that if the variance that I grant this guy will
 144 somehow 'sneak' its way into some other C-2 use? (No, not if you say "Per Submitted Plans").

145
 146 K. Kuhnke – We could also stipulate that the variances are granted based on whether the
 147 rezoning is complete.

148
 149 K. Loomis – When we granted the previous variance for the canopy, we granted that per
 150 submitted plans, so do we now need to re-grant that since this will be changing? (The
 151 submitted plans did not show this addition on it. The submitted plans do have the same
 152 dimensions and information as the first one, but it did not show this addition on the back.
 153 There was a change, but what you granted the variance for did not change.)

154
 155 D. Gregorka – In your report, you say that "staff would prefer the vegetation over the wall. Can
 156 you tell us why that recommendation was made? (Because walls, over time, generally don't
 157 look as good as landscaped. We have our choice, but the plan reviewer that does the

158 landscape review is a part of the building department and feels that it's generally a nicer 'look
 159 and feel' to the site if plant growth is over the wall. In some cases, we do recommend the
 160 wall. If it's abutting a sidewalk, or near a house or anything near the driveway there, we'd
 161 rather have vegetation there rather than just a wall.)

162
 163 So when the wall deteriorates and the plants die, what happens? (It becomes an enforcement
 164 issue. They would have to keep it according to the submitted plans.)

165
 166 **Questions to the Petitioner by the Board**

167
 168 C. Kuhnke asked for the petitioner to step forward to answer questions. (The petitioner was
 169 not present, and the owner stated from the back of the room that the contractor would be there
 170 in ten minutes.)

171
 172 J. Carlberg – (Stated that she didn't have a question, but an observation) - When this was
 173 presented to the Planning Commission, we tried to figure out ways that we could avoid them
 174 needing a variance on this, the petitioner showed us a diagram of what it took to get the gas
 175 tankers in and out of the station for filling the tanks and the need for that space and didn't
 176 leave much wiggle room for changing those boundaries.

177
 178 D. Gregorka – Stated that he believed that the Board should move forward with discussion and
 179 the meeting or suspend the meeting, but they should not sit and wait for the contractor to show
 180 up.

181
 182 C. Kuhnke – Suggested that the owner come up and try to answer questions for the Board.

183
 184 Mr. Charles Gallup, owner of this property came forth to answer any questions that he could.
 185 He stated that he was the owner of that gas station, and also operates a wholesale gas supply
 186 business, of which he also supplies his own station. He said that that station was built in the
 187 1950's.

188
 189 D. Gregorka (To Owner) – Can you tell us why you need the variances and why you can't
 190 make the requirements on the screening and the land use buffer?

191
 192 C. Gallup – Mr. Gallup stated that he didn't have a lot of knowledge about that, as the
 193 contractor had worked closely with Planning and Development Services staff to attain what he
 194 thought was best for the property and its appearance.

195
 196 C. Kuhnke – Asked if the Board wanted to move forward on this issue (yes.)

197
 198 **Public Comment** - None present, but there was one communication included in the ZBA
 199 Packet from the public regarding this matter that was opposed to the plan.

200
 201 **Discussion by the Board**

202
 203 W. Carman (To M. Kowalski) – There were obviously some meetings that took place regarding
 204 this (as referred to in the letter from the person in opposition, Can you provide us with the
 205 minutes from the Planning Commission meeting or any other information?)

206 M. Kowalski – The minutes of the January 5, 2010 meeting were not available. There was a
 207 brief summary from the Planning Commission Packet. The petitioner is required to hold two
 208 public meetings for the site plan and rezoning. The petitioner held the two required meetings;
 209 he had fifteen people attend the first meeting and six people attend the second. I don't have
 210 that summary, but maybe Jean Carlberg does.

211 What I have is the actual meeting minutes and I can go through what we discussed.

212

- 213 ➤ **Will the lighting be recessed to eliminate glare?** (They stated yes, and showed us a
- 214 new model of lighting.) This was the issue of concern to the person of record who sent
- 215 the initial email. D. Gregorka mentioned the lighting inside the store was also a point of
- 216 concern – was that discussed? (No.)
- 217 ➤ **There was a concern that this use would allow other uses and more intense uses.**
- 218 The Planning Commission liked the change to C2B because it gave us some control
- 219 over Special Exception Uses (which a gas station is).
- 220 ➤ **Will the changes add value to the property?** (Not necessarily. They're refurbishing
- 221 part of the area, but I don't know if that changes that.)
- 222 ➤ **There was concern about future development.** There was no particular part of the
- 223 development that they were opposed to, but they were concerned about that.
- 224 ➤ **Hours of Operation and music playing through canopies.** The usual things that
- 225 concern people about those. (They stated they would restrict the music and that it is not
- 226 a 24 Hr. per day station.)
- 227

227

228 **M. Kowalski noted that these were minutes from the meetings required to be held by the**

229 **petitioner.**

230

231 C. Kuhnke – Stated that for the record, that communication was from Rebecca Schatz who is

232 the resident directly across the street from the property in question. (The petitioner's

233 representative arrives at this time – 6:27 p.m.).

234

235 Mr. Todd Quattro stated that he would answer any questions that the board might have and

236 apologized for his untimely arrival. He stated that the last meeting he was at was at 7:00, so

237 he assumed that this one did too.

238

239 The two variances for the turning radiuses are mainly for the maneuverability of the tanker

240 trucks. Although it is residential, the other side of the road is Office. Had this been a budding

241 office, we had more than enough room.

242

243 D. Gregorka – Matt, if this were zoned Office, what would the requirements be? (M. Kowalski

244 – It is zoned Office, but had it been an 'office building,' the conflicting land use buffer would not

245 have been required. Even though it's zoned "Office," it's a part of that larger parcel and

246 subject to that restriction.)

247

248 T. Quattro – We did move the pump configuration and that gave us a bit more room than we

249 had. (Petitioner passed around the latest site drawings to the Board.) As to the other variance

250 requested, we had a previous variance of thirteen feet in the back, and we actually pulled the

251 back wall into compliance at fifteen feet, giving it a little more of a greenbelt. In the front, We

252 have a variance for the canopy, but we would be pulling the canopy back three feet, making it

253 also closer to compliance. We're trying to stretch the landscape buffer and still keep the

254 configuration for tanker maneuverability (as well as moving the curb cut and providing

255 additional landscaping.)

256

257 S. Briere – Will these drives be one way in and one way out? (T. Quattro – Although we're

258 attempting to develop that, there is enough clearance for two way traffic.)

259

260 K. Loomis – Given the fact that the neighboring property is a road and a piece of land zoned

261 office – if that were a separate piece of property that was zoned multi-family residential that

262 takes up the rest of that parcel, this wouldn't be required, so this is minimal and I don't have a

263 problem with it.

264 D. Gregorka – Concurs with K. Loomis on the west side of the property as that is up against an
 265 office zoning, but concerning the Packard side of the property – the requirements state that the
 266 minimum has to be a 10 feet wide buffer, which is why they're asking for that 6 ½ foot variance
 267 so that they can a 3 ½ foot wide barrier. It also requires that gasoline or service stations
 268 provide a berm or opaque walls unless you have a landscape buffer strip of 15 feet or more.
 269 There are a couple of issues here. One is that you don't have the 10 foot minimum, and where
 270 it's less than 15 feet, there is also a requirement for the berm or the wall, so I'm not certain that
 271 the variance requested matches with the standard, but I would like to hear what the rest of the
 272 board thinks. If we grant this the way it's written, we still won't be able to grant this.

273

274 K. Loomis – Asked for a definition of a 'berm' from staff and whether the applicant plans to do
 275 that. (Relates more to height and a hedge can be a 'berm.')

276

277 *(Continued discussion amongst the board and staff.)*

278

279 W. Carmen – Disagrees with staff and concurs with D. Gregorka. (The board invited the
 280 petitioner to rejoin the conversation). Additional discussion within the Board regarding
 281 screening requirements. Board members have objections to the limited space for shrub
 282 plantings due to the wall.

283

284 **MOTION #1**

285

286 Moved by D. Gregorka, Seconded by W. Carmen, **"In the case of ZBA09-008, 2955 Packard**
 287 **Road, that in accordance with the established standards for approval, the Zoning Board**
 288 **of Appeals hereby grants a variance from Chapter 62, Section 5:603 (Conflicting Land**
 289 **Use Buffers), of 10 feet in order to permit a Conflicting Land Use Buffer of 5 feet**
 290 **between the subject parcel and the adjacent parcel to the west in consideration of the**
 291 **following findings of fact:**

292

- 293 a) **The western property boundary is for all intents and purposes office use and**
 294 **would only affect a private drive in that area. This variance is approved with the**
 295 **condition that this work follows the submitted plans.**

296 **On a VOICE Vote – MOTION TO APPROVE – PASSED – UNANIMOUS**

297

298 **MOTION #2**

299

300 Moved by D. Gregorka, Seconded by K. Loomis, **"In the case of ZBA09-008, 2955 Packard**
 301 **Road, that in accordance with the established standards for approval, the Zoning Board**
 302 **of Appeals hereby grants a variance from Chapter 62, Section 5:62 (Right-of-way**
 303 **screening), of 6.5 feet in order to permit a Right-of-Way Buffer of 3.5 feet between the**
 304 **subject parcel and Packard Road, provided that the Petitioner constructs a 30" high wall**
 305 **immediately adjacent to the station's curbing as well as plantings and shrubs in**
 306 **clusters and groupings based on the ordinance and based on the following findings of**
 307 **fact:**

- 308 a) **The type of footprint of this site on the south side of this parcel and the need for**
 309 **gasoline tankers to maneuver in this site prohibits the petitioner the ability to**
 310 **provide any additional buffering along this side of the site, per submitted plans.**

311 *Discussion by the board on the pro's and cons of the concrete wall vs. a hedgerow.*

312

313

314 **AMEND MOTION #2**

315

316 **Moved by W. Carman, Seconded K. Loomis, accepted as a friendly amendment by D.**
 317 **Gregorka, to amend Motion #2 by removing the requirement for the wall and the clusters**
 318 **of plantings and install a hedge in that location, per the submitted plans.**
 319

320

321 **AMENDED MOTION #2**

322

323 **Moved by D. Gregorka, Seconded by K. Loomis, "In the case of ZBA09-008, 2955 Packard**
 324 **Road, that in accordance with the established standards for approval, the Zoning Board**
 325 **of Appeals hereby grants a variance from Chapter 62, Section 5:62 (Right-of-way**
 326 **screening), of 6.5 feet in order to permit a Right-of-Way Buffer of 3.5 feet between the**
 327 **subject parcel and Packard Road, provided that the Petitioner ~~constructs a 30" high wall~~**
 328 **~~immediately adjacent to the station's curbing as well as plantings and shrubs in~~**
 329 **~~clusters and groupings based on the ordinance install a hedge in that location per the~~**
 330 **submitted plans and based on the following findings of fact:**

331

332

333

- a) **The type of footprint of this site on the south side of this parcel and the need for**
gasoline tankers to maneuver in this site prohibits the petitioner the ability to
provide any additional buffering along this side of the site, per submitted plans.

334

335

336

337

On a VOICE Vote – MOTION TO APPROVE – PASSED – 7 YEAS & 1 NAY
YEA (7) W. Carman, J. Carlberg, C. Briere, K. Loomis C. Kuhnke, A. Pilot, and S. Briere.
NAY (1) D. Gregorka

338

339 **D. OLD BUSINESS –**

340

341 **D. Gregorka - Request was made of Matt Kowalski to provide D. Gregorka a paper copy of the**
 342 **packet for each meeting. Mr. Gregorka stated that this is a volunteer board and that the city**
 343 **should provide those documents instead of him printing those materials. He added that he**
 344 **was not able to get a copy for this meeting due to the lack of time to mail that item, and feels**
 345 **that staff needs to provide extra time to complete the packet to facilitate getting this information**
 346 **to the Board in a timely manner. Discussion among the Board about what to include in the**
 347 **packet in the future.**

347

348

349 **E. NEW BUSINESS**

350

351

352 **F. REPORTS & COMMUNICATIONS –**

353

354 **AUDIENCE PARTICIPATION – GENERAL – None.**

355

356

357 **ADJOURNMENT**

358

359 **Moved by D. Gregorka, Seconded by W. Carman, "that the meeting be adjourned."**

360

361 **On a Voice Vote – MOTION TO ADJOURN - PASSED - UNANIMOUS**

362


363 **Adjournment - 7:11 p.m. (Submitted by: Brenda Acquaviva, Administrative Support**
 364 **Specialist V – Zoning Board of Appeals)**

361

362

363

364


 Carol Kuhnke, Chairperson

Date: 3-24-10
 ZBA Minutes