

**CITY OF BRIGHTON
ZONING BOARD OF APPEALS
MINUTES
May 9, 2013**

1. Call to Order

Chairperson Angst called the meeting to order at 7:30 p.m. and the following members were present:

2. Roll Call

Gino Conedera – Present
Russ Gottschalk – Present
Patrick Rahilly – Present
Doug Angst – Present
Chad Cooper - Present
Dave Senak – Present
David McLane - Absent
Amy Cyphert
Lauri French

An audience of five was also present.

3. Approval of the March 14, 2013 Meeting Minutes

Motion by Board Member Cooper, seconded by Conedera, to approve the meeting minutes of March 14, 2013 as presented. Motion carried 5-0-1-1, with Board member Senak abstaining and one absence.

4. Approval of the May 9, 2013 Meeting Agenda

Motion by Board Member Cooper, seconded by Conedera, to approve the May 9, 2013 agenda as presented. Motion carried 6-0-1.

Old Business

New Business

- 5. Greg Garwood (on behalf of the property owner) 8550 W. Grand River (18-30-100-083) is** proposing to occupy the first floor of the existing building at the above address with a medical office use. The above address shares parking with the two neighboring sites (ABC Warehouse & Grand Medical Offices) through a shared parking arrangement. The three sites share 175 existing on-site parking spaces and 7 deferred parking spaces (total of 182). The proposed use will increase the required parking spaces to 211. **Section 98-85 Parking Space Requirements** states that medical office uses require one space for each 100 square feet of GFA. A variance of 29 parking spaces is being requested.

Chairperson Angst noted that Mr. Greg Garwood, who will be speaking on behalf of the applicant, is a personal friend and fellow realtor. He is disclosing this information in the event any of the Board members believe there might be a conflict of interest due to their friendship and he offered to abstain from any vote on this variance request. Mr. Cooper noted that there would not be a conflict of interest as long as there was not a financial benefit to Mr. Angst as a result of the vote and it appears there is not.

Chairperson Angst reviewed the applicant's request for a variance of 29 parking spaces and invited the applicant to present their information. Mr. Greg Garwood, Preview Properties, 130 W. Grand River, Brighton, MI, introduced himself and noted he was speaking on behalf of the owner of 8550 W. Grand River, Dr. Bashar Qalieh. He introduced Mr. Karl Vollmar from Pucci & Vollmar Architects, who reviewed the parking calculations

for the site (211 required with 175 on-site and 7 deferred spaces).

Mr. Cooper questioned what hardship the Board should consider for this variance request. Mr. Garwood noted that Dr. Kalia has been seeking a tenant for the past five years with no success. The parking lot is less than 50% full even at Christmas when you would expect more traffic at ABC Warehouse. From a practical sense, he noted that the existing spaces are not being fully utilized.

Dr. Bashar Qalieh, 8550 W. Grand River, Brighton, MI, stated that his practice is a pediatric office and they typically schedule family appointments one or two at a time, two to three patients per hour. They have few walk-in patients. This also applies to Dr. Dobracki who is more of a specialist and sees fewer patients per hour than a walk-in clinic. They ask their employees to use the 14 shared spaces at ABC Warehouse. He also noted he offered the lease space as general office space but was not successful.

Mr. Rahilly would like to see support from the other property owners before granting a variance and he suggested that Dr. Qalieh might like to ask the Board to table his request until he has had an opportunity to talk to the other property owners. Dr. Qalieh asked if the Board might consider approving the variance request with exclusion for certain types of businesses such as a walk-in clinic.

Chairperson Angst closed the regular meeting session at 7:50 p.m. and opened the public hearing. There were no public comments, and Chairperson Angst read four letters from ABC Warehouse, Pediatric Associates of Livingston, Dr. Dobracki and Grand Medical Offices, LLC into the public record (attached) with two opposed to the variance, one in support, and one requesting a meeting of all affected parties prior to making a decision about the variance request. Chairperson Angst closed the public hearing at 7:55 p.m.

There was discussion about whether the applicant had to demonstrate a hardship for the Board to approve the variance. Ms. Cyphert noted that a hardship is not required in the case of a parking variance request if, for example, the variance is required for development. Mr. Gottschalk and Mr. Rahilly both noted that the businesses affected should get together to discuss the variance request since a shared parking agreement currently exists and this would make a change to the number of spaces. Ms. Cyphert confirmed that all three parcels on the site share in the parking agreement. Mr. Rahilly stated that he could not support action today to approve the variance without support from the other businesses. He also noted that this area was originally zoned as Light Industrial with the ability to do mixed use to promote development. Ms. Cyphert stated that any future change of use for this site would require site plan approval.

Motion by Board Member Cooper to deny the variance request due to opposition from adjacent businesses and lack of a hardship. There was no second to the motion, and the motion failed.

Motion by Board Member Conedera, supported by Senak, to allow the Zoning Board of Appeals to table the variance request for 29 parking spaces until the June meeting to give the applicant an opportunity to go back to the neighboring businesses to build a consensus before the Board votes on the variance request. Motion carried 5-0-1. Board Member Conedera specifically asked that Dr. Qalieh approach his neighbors to come to an agreement with them before coming back to the ZBA and that the board wants a neutral or support letter from all four businesses.

6. **Hugh & Rebecca Munce –125 N. Third Street (18-30-305-047)** is requesting a variance to allow a 6-foot fence 8 feet from the property line, which abuts a public street right-of-way. Section 98-38 states in the case of a corner lot, no fence more than 36 inches high shall be constructed that extends beyond the foremost position of the building on the site or within 25 feet of the public street right-of-way line, and it shall be ornamental in design. A variance of 3 feet is being requested to allow a 6-foot fence 8 feet from the public street right-of-way.

Chairperson Angst reviewed the applicants' request for a variance of 3 feet to allow a 6-foot fence 8 feet from the public right-of-way. Ms. Cyphert suggested that the board may want to include the petition that was attached to the applicants' application, and that this could be done during the public hearing portion of the meeting.

Hugh Munce, 125 N. Third St., Brighton, MI, outlined their request and noted that the fence would be installed

at the rear of their property along the side of State St. approximately 30 feet only on one side of the property to their back porch. He noted there are large bushes right along their property line and the fence would be located inside the bushes. He also reviewed some of the items on the application addendum in support of the variance, notably an increase in traffic on Third St. since the roundabout was installed, including busses and semi-trucks, and the funeral home overflow parking on State St. There is no sidewalk and visitors to the funeral home quite frequently walk on their property to get to the funeral home.

Rebecca Munce, also at 125 N. Third St., also wanted to let the ZBA board know that her husband was raised in that house. They have put a lot of work into it and want to be able to spend time in their backyard and not be bothered by strangers. She noted that the fence will be a solid design made of white PVC.

Chairperson Angst closed the regular meeting session at 8:20 p.m. and opened the public hearing. Rebecca Munce said she wanted to add that the ZBA board members are always welcome in their backyard. Hearing no further comments, Chairperson Angst closed the public hearing at 8:21 p.m.

Motion by Board Member Cooper, supported by Conedera, to include a copy of the petition in support of the variance request that was attached to the applicants' variance application in tonight's meeting minutes. Motion carried 6-0-1.

Motion by Board Member Cooper, supported by Gottschalk, to grant the requested variance of 3 feet to allow a 6-foot fence 8 feet from the public street right-of-way at 125 N. Third Street as outlined in the application as the request meets the requirements in Section 98-687 for granting a fence variance due to the proximity to a commercial business that generates a lot of traffic and supports the applicants' right to privacy from uninvited visitors. Also, the property improvement will have minimal impact on the surrounding neighborhood. A roll call vote was taken as follows:

Board Member McLane – absent
Board Member Cooper – Yes
Board Member Rahilly – Yes
Board Member Conedera – Yes

Board Member Senak - Yes
Board Member Angst - Yes
Board Member Gottschalk - Yes

The motion carried 6-0-1.

- 7. Staff Updates** – Ms. Cyphert advised that an alternate ZBA board member, Alicia Urbain, has been found and will be appointed at the next meeting. She also advised that Planning Commission is supportive of ZBA jurisdiction for temporary land use approval. There will be a meeting in June; there are currently two issues on the agenda. Mr. Conedera asked if the law office sign on the Patrick Financial building on Grand River was too large and whether it meets the sign ordinance. Ms. Cyphert responded that it is within the allowed square footage.

8. Call to the Public

Chairperson Angst made a Call to the Public at 8:30 p.m. Hearing no response, call to the public was closed.

9. Adjournment

Motion by Board Member Cooper, seconded by Conedera, to adjourn the meeting at 8:30 p.m. Motion carried 6-0-1.

Respectfully submitted,

Lauri French, Secretary
May 10, 2013