

PROCEEDINGS OF THE
ZONING BOARD OF APPEALS REGULAR MEETING
CHARTER TOWNSHIP OF WEST BLOOMFIELD
4550 WALNUT LAKE ROAD -- TOWN BOARD ROOM
TUESDAY, SEPTEMBER 19, 2006 -- 5:30 P.M.

Members present: Chairman Turnquist; Board Members Montante, Goyeau, Stoner, and Robertson.

Members absent: None.

Staff present: Douglas Plachcinski, AICP, Planning Director
Linda L. Smith, Senior Recording Secretary

Others present: None.

General public: 14 Members

CALL TO ORDER Chairman Turnquist called the meeting to order at 5:30 p.m.

OLD BUSINESS:

ITEM #1 ASE #40-06 QAZI PROPERTY

Parcel: Lot 20 of Bloomfield Glens Subdivision
Sidwell #18-25-301-023

Location: 6405 Middlebelt Road

Request: Petitioner is requesting the following: **1)** a variance of 5’ in the required north side yard setback (12.5 feet required, 7.5 feet proposed), and **2)** a variance of 2.45 feet in the maximum permitted height of a single family residential gates (max. height of 6.0 feet is permitted, 8.45 feet is proposed) in order to construct two 8.45 foot high ornamental iron gates within the front yard on an existing single family residential parcel. (Sec. 26-56 and 26-75)

Applicant: Mohammad Qazi

Discussion: Chairman Turnquist called the case, and asked Mr. Plachcinski to update the Board. Mr. Plachcinski stated that on 2/11/05, the Building Department issued a building permit for the subject property for garden and retaining walls. Per the approved plans drawn by Zaremba & Co. the majority of the garden and retaining walls were to be 4’ high with 2 sets of pillars at a maximum height of 6’. What was constructed were 2 sets of pillars at 7.3’ high. A Stop Work Order was posted on 6/13/06.

Mr. Plachcinski stated that this case was first heard on 6/20/06, and was a request for 1) a 5' variance in the required side yard setback, and 2) a 2.45' variance in the maximum permitted height for single-family residential gates to construct two (2) 8.45' high ornamental iron gates within the front yard on an existing single family residential parcel. The subject property consists of 1 lot located on the east side of Middlebelt Road and north of Maple Road. The total lot area of the parcel is approximately 6.48 acres. The subject property is zoned R-15, Single Family Residential.

The proposed gates will be a maximum height of 8.45' as measured from the existing grade, and will be supported by 2 stone piers with limestone caps. The pillars measure 7.3' high from existing grade per the drawings dated stamp 4/5/06. This requires a variance of 2.45' in the maximum permitted height for residential gates.

As per the drawings, gate #1 will be located approximately 7.5' from the north side yard lot line, and 353' from the centerline of Middlebelt Road. This requires a variance of 7.5' in the required north side yard setback as proposed. Gate #2 will be located approximately 48.3' from the south side yard lot line and 324' from the centerline of Middlebelt Road.

At the 6/20/06 meeting, a motion was made to **deny** this case, the existing pillars were to be removed or reduced to 6' in height to comply with the Zoning Ordinance; and the construction fence, which is in violation, must be removed as a Certificate of Occupancy has been issued in 2005.

At the 7/18/06 meeting, a motion was made to rescind the 6/20/06 motion to deny, and the case was tabled to this evening based on the Petitioner's comments that the variances being requested would be greatly reduced. Since the 7/18/06 meeting, the Petitioner submitted revised an as-built survey and plans date stamped 8/14/06 with additional photos.

According to the revised submitted plans, the gates will still be a maximum height of 8.45' as measured from existing grade, and will be supported by 2 stone pillars with limestone caps. The stone pillars are proposed to be reduced to 6' high, as measured from existing grade as per the drawings dated stamp 8/14/06. This still requires a variance of 2.45' in the maximum permitted height for residential gates.

As per the revised drawings, gate #1 will be located approximately 10.7' from the north side yard lot line and 353' from the centerline of Middlebelt Road. This requires a variance of 1.8' in the required north side yard setback, as proposed. Gate #2 will be located approximately 51' from the south side yard lot line, and 324' feet from the centerline of Middlebelt Road.

Jeffrey Leib from Leib, Leib, and Kramer, P.C., claimed that the plans have substantially changed. He stated that the pillars have been proposed to be reduced to 6', and were located more than 300' from the road. He stated that he felt the property was unique. He added that the Petitioner has young children, and that there is no usable area in the rear yard for them to play. He continued that the site is large, and the landscaping is just about finished. He stated that the house was very magnificent, on property that was very deep and very wide. He remarked that the photographs he took showed that the northern most gate would not be visible from Middlebelt Road. He commented that the new survey showed that the north gate is 10.7' from the property line, requiring a 1.8' variance on the north side, as proposed. He stated that the photographs also showed gates along Middlebelt Road and Maple Road, and that the proposed gates were intended to provide the homeowner with security. He commented that they tried to

substantially reduce the non-conformity; the height of the gates remain the same as what was originally proposed, but the pillars have been reduced to 6' from 7.3'. He asked that the Board grant the variances.

Chairman Turnquist stated that he heard what Mr. Leib said, and that at no time did he address why the variances were being requested. He heard that the lot is a large one, and that it was a unique lot, which was well landscaped. He asked Mr. Leib to explain why a side yard variance was needed. He explained that what was being requested was a 1.8' variance on a property that was over 240' wide. He asked why that pillar could not be moved outside of the setback. He also asked why the gates in front of the home could not be lowered. He added that if they were lower, a variance would not be necessary.

Mr. Leib said that the request was for a variance to place gates in the front yard. Chairman Turnquist explained that the request was a 2.45' variance for the height of the gates; 6' is the limit for fences/gates. He said that Mr. Leib is aware of that requirement.

Mr. Leib stated that it was true that the proposed gate peaks at 8.45'. He added that it would have no impact on the neighbors, and would be only for the benefit of the homeowner. He stated that the original request was for a 5' side yard variance, and recalled the Board asking that the variance request be eliminated or substantially reduced. He stated that the property was resurveyed, and the new survey showed that the northern gate was proposed 10.7' from the side yard setback, 7.5', as originally proposed.

Mr. Leib stated that the pillars have already been constructed, and it would be a substantial undertaking to move them. He added that it would impact the driveway, and the landscaping. He stated that he felt that the request was insignificant.

Chairman Turnquist noted that this request was previously denied, and rescinded on 7/18/06 because Mr. Leib indicated that there would be some changes to the proposal. Mr. Leib replied, "And we did." Chairman Turnquist stated that nothing has been changed. Mr. Leib stated that: "We are changing it." He added that the pillars are proposed to be over a foot less in height. He continued that they were taking credit for the discovery that the survey was wrong, and that the side yard variance request was reduced as a result. He stated that he believed that the variance requests were substantially reduced.

Ms. Montante asked if Mr. Leib's reason for not reducing the side yard setback variance request was because the pillar is already built, and the homeowner did not want to move it. Mr. Leib replied that that was correct, and added that it would be substantial to remove it. He contended that the request was insignificant. He suggested that it would be a good idea if the Board visited the site to see that the home next door could not be seen from the location of the pillar.

Patrick Zaremba, Zaremba & Company, landscape designers/contractors, stated that the pillars and the walls were on the building plans, and constructed accordingly, and added that apparently there is a stamp on the building permit that indicates this permit does not supersede any other approval or variances that may be needed. He stated that when the permit was obtained, the pillars and walls were constructed. He claimed that they went through the proper channels for engineering and building.

Ms. Montante commented that 6' tall fence/gates are permitted. She noted that it appeared that the Petitioner was determined to have an 8.45' high gate. She questioned why the photographs were

presented, as they showed gates that are not 8' tall; some are 4' tall. Mr. Leib explained that he did not submit the photographs of the gates to justify that there are 8' gates in the Township, but to show the Board that there were other gates in the Township along Middlebelt Road, and along Maple Road. He added that his point was that they were all really close to the road. He stated that his request was for gates that were not that close to the road, and would not be seen from the road.

Ms. Montante reminded Mr. Leib the property owner is permitted to install a gate without a variance, and was not required to come before the Z.B.A. She stated that the Petitioner or his representative have not explained why an 8.45' gate was necessary.

Mr. Leib again explained that he presented the photographs to show that the Petitioner's property was quite a distance from Middlebelt Road. Ms. Montante stated that it was obvious that the gate would be out of the road right-of-way, however, as the Chairman indicated, a gate can be installed without the need for a variance. She explained that that was the point of the Z.B.A., to determine if alternatives exist.

Mr. Leib stated that he was told that a variance was needed because the gates were proposed in the front yard. Chairman Turnquist replied that that is true, and that that is in the request. Ms. Montante stated that she did not have a problem with that part of the request.

Mr. Goyeau stated that it was incumbent upon the Petitioner to reduce the gate to 6', to meet the Ordinance.

Mr. Robertson reminded the Petitioner that when the original plans were submitted and approved, the pillars were proposed to be landscape features, which were permitted within inches of the lot line, however, when the Petitioner decided to add gates, that changed everything. He stated that had that the Township been made aware of that fact, the Petitioner would have been told exactly where the pillars were permitted. He continued that the Petitioner has not demonstrated any need for additional height. He stated that it appeared that the gates were to be installed to keep vehicular traffic out, and that any 6' gate would do just as good a job as an 8.45' gate. He added that the property was not totally encompassed with a fence, and the gates would serve no purpose to keep people out. He continued that the height of the gates is irrelevant for security purposes.

Mr. Leib stated that he was certain Mr. Zaremba and Mr. Qazi could come to terms with the requirements of the Ordinance regarding the height, and design a gate within the Ordinance limitations. He stated that he would recommend that to his client.

Chairman Turnquist asked if the Petitioner had a drawing available for the other gate. Mr. Leib replied that he thought both gates would be identical. Chairman Turnquist asked if that gate is proposed to be 8.45', as well. Mr. Leib replied that both gates would be reduced to 6' high.

Chairman Turnquist asked how high was the brick wall. Mr. Leib replied that the columns are going to be reduced. Chairman Turnquist again asked how high was the brick wall. Mr. Qazi asked if Chairman Turnquist was asking about the wall beyond the columns. Chairman Turnquist replied, "Yes." Mr. Qazi replied that the height of the wall is not shown on the plans, but claimed that it's about 4.5'.

Chairman Turnquist recalled Mr. Leib stating that the fences, and gates were for security reasons. Mr. Leib replied, "Yes." Chairman Turnquist stated that the argument of security was questionable. Mr. Leib stated that Mr. Qazi indicated to him that the brick wall and gates were intended to secure the children in the yard. Chairman Turnquist noted that the brick wall is an architectural feature.

Action: Motion by Robertson, supported by Goyeau,

to **grant** in Case #40-06, Qazi property, **#1) a variance of 1.8 feet in the required north** side yard setback to allow the Petitioner to use one (1) pre-existing, non-conforming pillar as a support structure for a gate on the basis that it is a practical solution, it would not be deleterious to the surrounding neighborhood; this is a unique, substantial property that is 6.48 acres; there is a significant distance from the traveled portion of the road; and it would serve no useful purpose to deny this request; on the condition that no other variances will be required, it will be 6.0 ft. or less in height; and it will be in accordance with the revised plan date-stamped 8/14/06.

Ayes: Stoner, Montante, Goyeau, Robertson.

Nays: Turnquist.

MOTION CARRIED.

Action: Motion by Goyeau, supported by Montante,

to **deny** in Case #40-06, Qazi property, **#2) a variance of 2.45 feet in the maximum permitted height of a single family residential gates in order to construct two 8.45 foot high ornamental iron gates within the front yard on an existing single family residential parcel on the basis that: 1) the Petitioner has not demonstrated that a practical difficulty exists; 2) there are many alternatives available to the Petitioner; 3) it would be deleterious to the surrounding neighborhood and the Township; 4) it is not in keeping with the spirit and intent of the Zoning Ordinance; 5) in denying the gate at this height, this denial in no way, denies the Petitioner of any property rights enjoyed by others in the Township; and 6) this denial in no way denies the Petitioner the use of the subject property as intended in this R-15 single family Zoning District.**

Ayes: Robertson, Turnquist, Stoner, Montante, Goyeau.

Nays: None.

MOTION CARRIED.

Action: Motion by Robertson, supported by Montante,

to **grant** in Case #40-06, Qazi property, permission to construct the fence/gate in the front yard in the driveway area, as depicted in the *revised* plan submitted and date-stamped 8/14/06, and this fence/gate can be located in the driveway area, but *no where else* on the property *that would require a variance*, on the basis that it is a practical solution; it is not deleterious to the surrounding properties, and it is in

keeping with the spirit and intent of the Zoning Ordinance.

Ayes: Goyeau, Turnquist, Stoner, Montante, Robertson.

Nays: None.

MOTION CARRIED.

ITEM #2 CASE #62-06 LENNEMAN PROPERTY

Parcel: Lots 124-126 of Zox Lakeside Park Subdivision
Sidwell #18-03-107-025

Location: 1711 Post Avenue

Request: Petitioner is requesting the following: **1)** a variance of 250.0 square feet in the minimum lot area for Parcel “A” and “B” (10,000.0 feet required, 9,750.0 feet proposed), and **2) a variance of 25.0 feet in the minimum lot width for Parcel “A” and “B” (100.0 feet required, 75.0 feet proposed)** in order to established Parcel “A” as a vacant, legal, non-conforming building site with lot area of 9,750.0 square feet and a lot width of 75.0 feet and established Parcel “B” as a developed, legal, non-conforming building site with lot area of 9,750.0 square feet and a lot width of 75.0 feet for Parcel “B”. (Sec. 26-26 & 26-56)

Applicant: Jeffrey Leib for Kenneth Lenneman

Discussion: Chairman Turnquist called the case, and asked Mr. Plachcinski to update the Board. Mr. Plachcinski stated that this petition is a request for a variance in the required minimum lot area to divide a developed, conforming 3-lot parcel into Parcel “A”, and “B”. The subject property is located on the west side of Post Avenue within Zox Lakeside Park Subdivision. The 3-lot parcel has approximately 150’ of frontage on Post Avenue, and is 130’ deep along the north property line. The total lot area of the existing 3 parcels is approximately 19,500 square feet. The subject property is zoned R-10, Single Family Residential.

The Petitioner would like to divide the developed, conforming parcel and create Parcel “A” as a vacant, legal, non-conforming building site and Parcel “B” as a developed, legal, non-conforming building sites. However, after a review of the Petitioner’s application for the division by the Township Planning Department, it was determined that the lot split as proposed cannot be approved without there first being variances granted by the Zoning Board of Appeals. Under the provisions of Section 26-56(m) of the Zoning Ordinance, Parcel “A” and “B” must have a minimum lot area of 10,000 square feet and a minimum lot width of 70’ for Parcel “A” and “B” to meet the minimum lot area and lot width requirement of the R-10, Single Family Residential District.

According to the submitted plans, Parcel “A” will have a lot width of 75’ as measured along the front (lakeside) yard lot line and a lot area of 9,750 square feet. This requires a variance of 250 square feet in the minimum lot area for Parcel “A” to be established as a vacant, legal, non-conforming building site.

The Petitioner has provided building plans for the home proposed on Parcel "A". The 2-story home with attached two-car garage has a footprint of 1,469 square feet. The footprint dimensions of the home are 49.3' wide and 36' deep and will be able to meet the minimum 8' wide side yard setback requirements. The front (lakeside) yard setback of the home is shown to be 66' for Parcel "A" and the rear (street side) yard of 30'. The percentage of lot coverage will be approximately 15%.

According to the submitted plans, Parcel "B" will have a lot width of 75' as measured along the front yard lot line and a lot area of 9,750 square feet. This requires a variance of 250 square feet in the minimum lot area for Parcel "B" to be established as a developed, legal, non-conforming building site.

The existing single-family residence on Parcel "B" will remain and the percentage of lot coverage will be approximately 12% for Parcel "B".

At the 8/15/06 meeting, the Z.B.A. tabled this case to 9/19/06 at the Petitioner's request because new information was provided by Staff. Since the 8/15/06 meeting, Staff has re-noticed this case for additional variance in the minimum lot width.

Parcel "A" and "B" will share a 20' ingress/egress easement according to the drawings dated stamp 7/28/06.

Jeffrey Leib from Leib, Leib, and Kramer, P.C., introduced himself and the Petitioner, Kenneth Lenneman. He reminded the Board that the lot width requirement in the R-10 District is 70', but because of the compatibility requirements the lot width must be 100', and continued to inform the Board what the lot widths were in the surrounding area. He explained that the existing home had an underground, side entry garage, and therefore neither the garage nor the existing driveway can be eliminated. He added that the lot width for proposed Parcel "A" could be 70', which would provide for an 80' lot for Parcel "B". He stated that a shared driveway would allow for a side entry garage on proposed Parcel "A". He remarked that if the Board hesitated on approving a shared driveway, they could modify the plans for a 70' wide lot for Parcel "A" to allow for a turning radius for the existing below grade garage.

Mr. Lenneman, the Petitioner, stated that he planned to live in the home. He added that the subdivision association approved the plans.

Mr. Goyeau noted that the Petitioner was requesting a variance for lot area. He remarked that the Petitioner indicated that the proposed developed Parcel "B" could be 80', which meant that vacant proposed Parcel "A" would be 70' wide. He noted that lots in Zox ranges from 50' wide and wider. He stated that he was apprehensive about approving a shared driveway.

Mr. Robertson stated that the requested lot widths were compatible with other lot widths in the neighborhood. He stated that he would prefer the lots not be the same width, rather than have a shared driveway. He suggested visiting the site.

Mr. Leib stated that there are house plans that do not require any variances with front entry garage for proposed Parcel "A".

Ms. Stoner stated that she agreed with visiting the site. She asked which house Mr. Lenneman planned to live in. Mr. Lenneman replied that he planned to live in the new house, and would sell the existing home on proposed Parcel "B".

Ms. Montante stated that she felt the shared driveway could be a problem. She stated that perhaps visiting the site was a good idea.

Marcia Schelter, 1694 Post Avenue, stated that she lived directly across from the proposed Parcel "A". She noted that their lot measured 120' deep by 110' wide. She stated that she too was concerned with the proposed shared driveway.

Mitch Ersher, 1650 Post Avenue, stated that he was concerned with the proposal to build another home, on a smaller lot.

Mr. Plachcinski stated that on the west side of the street, there are several narrower lots immediately across the street. He added that there is a 120' wide lot, 2 – 80' wide lots to the south, and 2 – 80' wide lots to the north, but was not sure if they met the minimum lot area requirements.

Nancy Kemp, 1665 Post Avenue, stated that she lived next to the subject property. She stated that she was concerned about flooding in the front yard, because she believed that the subject property was low lying, like her property is.

Michael McQue, 1891 Auburndale, stated that the lot was one of the largest in the area, and he would hate to see it go to waste.

Mr. Leib stated that he believed Mr. Lenneman was ready to return to the Board with a revised proposed for proposed Parcel "B" with a width of 70' and a proposal for a house with a front entry garage on proposed Parcel "A" with a lot width of 80'.

Action: Motion by Goyeau, supported by Montante,

to **table** Case #62-06, Lenneman property, to an On-Site Inspection on Saturday, November 4, 2006 at 9:00 a.m. to allow the Board to see the property first hand and its relationship to the surrounding properties, prior to which the Petitioner will stake the proposed lot lines and proposed house and provide revised plans if possible.

Voice Vote: Unanimous.

MOTION CARRIED.

ITEM #3 CASE #65-06 YOUSIF PROPERTY

Parcel: Lots 449 and 550 of Herndon's Walnut Lake Estates Subdivision
Sidwell #18-25-276-013

Location: 5760 Eastman

Request: *Petitioner is requesting a variance of 4.6 feet in the required west side yard setback (10.0 feet required, 5.4 feet proposed), in order to construct a new first floor living area addition on an existing single family parcel. (Sec. 26-56)*

Applicant: Duraid Yousif

Discussion: Chairman Law called the case, and asked Mr. Plachcinski to update the Board. Mr. Plachcinski stated that this case was originally heard on 8/15/06, and was a request for a 5.2' variance in the required east and a 4.6' variance in the required west side yard setbacks to construct a new 2nd floor living area addition on an existing single family parcel. The subject property consists of 2 lots located on the north side of Eastman within Herndon's Walnut Lake Estates Subdivision. The parcel has approximately 80' of frontage on Eastman Street and 130' deep as measure along the east property line. The total lot area of the parcel is approximately 10,400 square feet. The subject property is zoned R-12.5, Single Family Residential.

According to the submitted plans, the overall dimensions of the proposed 2nd floor living area addition are 21.75' x 21.75' x 49.25' x 28.22' for a total additional area of approximately 1,863 square feet. The overall height of the proposed addition appears to be approximately 27' from grade to peak of roof as measured along the front elevation.

As proposed, the addition will be located approximately 59' from the rear yard lot line, 35' from the front yard lot line, 4.8' from the east side yard lot line, and 5.4' from the west side yard lot line. This requires a variance of 5.2' in the required east side yard setback and a variance of 4.6' in the required west side yard setback to construct the addition as proposed.

The existing percentage of lot coverage is approximately 17.9% and the percentage of impervious surface will be approximately 17.6% for a total of 35.5%.

At the 8/15/06 meeting, the Z.B.A. tabled this case to this evening, at the Petitioner's request, to allow the Petitioner to revise and present accurate plans that reflect the request. Since the 8/15/06 meeting, the Petitioner submitted revised plans date stamped 9/5/06.

According to the revised submitted plans, the overall dimensions of the proposed 1st floor living area addition measure 21.75' x 32' for a total additional area of approximately 696 square feet. The overall height of the proposed addition appears to be approximately 27' from grade to peak of roof as measured along the front elevation.

As proposed, the addition will be located approximately 50' from the rear yard lot line, 48' from the front yard lot line, and 5.4' from the west side yard lot line. This requires a variance of 4.6' in the required west side yard setback to construct the addition as proposed.

Duraid Yousif, the Petitioner, and Brandon Ratliff, the builder, introduced themselves. Mr. Ratliff stated that when the house was built, a 5' side yard was required, but that now 10' was required. He stated that the Petitioner wanted to build a 2nd floor over the garage, and not project beyond what exists.

Mr. Robertson asked if any other work was planned for the house. Mr. Ratcliff replied new siding, and trim to match the addition.

Ms. Stoner stated that the request was a modest request, and would help update the home.

Mr. Goyeau asked if the Petitioner had a letter from a structural engineer regarding the foundation. Mr. Ratcliff replied that he had a letter from a civil engineer, which was provided to the Building Department. Mr. Goyeau asked if the civil engineer confirmed that the 1st floor would support the 2nd floor addition. Mr. Ratcliff replied, "Yes."

Action: Motion by Montante, supported by Stoner,

to **grant** in Case #65-06, Yousif property, a variance of 4.6 feet in the required west side yard setback in order to construct a new first floor living area addition on an existing single family parcel on the basis that it is a practical solution; it will enhance the home; the Petitioner has reduced his request so it is more conforming with the Zoning Ordinance; it is not deleterious to the surrounding neighborhood; it is consistent with the development in the area; and it would serve no useful purpose to deny this request; on the condition that the construction be in accordance with the plans submitted and date-stamped 9/5/06; and that no further variances are required.

Ayes: Robertson, Goyeau, Turnquist, Stoner, Montante.

Nays: None.

MOTION CARRIED.

NEW BUSINESS:

ITEM #4 CASE #73-06 MICHIGAN CATHOLIC CREDIT UNION PROPERTY

Parcel: Sidwell #18-06-103-018

Location: 7875 Cooley Lake Road

Request: Petitioner is requesting permission to erect one (1) temporary banner, measuring 9.5' x 3' located on the Credit Union property, by the ATM. The banner will be erected on October 1, 2006 and removed on February 28, 2007. (Sec. 26-34 and 26-77).

Applicant: Francine Corvell for Michigan Catholic Credit Union

Discussion: Chairman Turnquist called the case, and asked Mr. Plachcinski to provide the Board with some background information. Mr. Plachcinski stated that the Petitioner is requesting permission to erect 1 temporary banner measuring 9.5' x 3' for 28.5 square feet.

Michigan Catholic Credit Union is located on the south side of Cooley Lake Road and the east of Williams Lake Road. The subject property is zoned O-1, Office Building Districts.

As proposed, the temporary banner will be installed parallel to Cooley Lake Road, in front of the ATM. The banner is proposed to be erected on October 1, 2006 and removed on February 28, 2006.

Ms. Stoner noted that the Petitioner provided a letter dated 7/19/06, which states that the date the banner will be removed is March 31st. Mr. Plachcinski stated that it might be a mistake.

Francine Corvell for Michigan Catholic Credit Union stated that the reason for the banner is for marketing and advertising of their business. Chairman Turnquist asked if Ms. Corvell worked for the Credit Union or the advertiser. Ms. Corvell replied that she worked for the Credit Union as a Branch Manager.

Ms. Stoner asked when the banner was proposed to be removed. Ms. Corvell replied that it would be removed on 2/28/07. Ms. Stoner asked how long has the Credit Union been on site. Ms. Corvell replied that it's then there since 1999. Ms. Stoner asked if the reason for advertising is due to a decline in the membership. Ms. Corvell replied that that was the case, and added they were beginning to offer commercial lending, which is something they have not been known to do. Ms. Stoner noted that the banner does not advertise for commercial lending. She asked if there would be any other type of advertising. Ms. Corvell replied that there are banners inside the windows that advertise for commercial lending, and added they are members of the West Bloomfield Chamber, and Lakes Area Chamber. Ms. Stoner suggested if the banner is granted, that it be for only 2 or 3 months. Ms. Corvell noted that they get a lot of exposure on Cooley Lake Road.

Ms. Montante stated that 6 months was too long.

Mr. Goyeau stated that there were other alternatives for advertising, and agreed that 6 months was excessive.

Mr. Robertson stated that he could support granting permission to install the banner for a shorter period of time, while construction is proceeding on Cooley Lake Road.

Chairman Turnquist stated that the Z.B.A. has granted temporary signage for civic, school, religious, non-profit groups in the past, but not for profit making organizations. He explained that each request is reviewed separately.

Action: Motion by Goyeau, supported by Montante,

to **deny** in Case #73-06, Michigan Catholic Credit Union property, permission to erect one (1) temporary banner measuring 9.5' x 3' located on the Credit Union property by the ATM. The banner will be erected on October 1, 2006 and removed on February 28, 2007 on the basis that: **1)** the Petitioner has not demonstrated that a practical difficulty exists; **2)** there are many alternatives available to the Petitioner; **3)** it is not in keeping with the spirit and intent of the

Zoning Ordinance; **4)** it would be deleterious to the Township; and **5)** this denial in no way denies the Petitioner the right to do business in the Township.

Ayes: Turnquist, Stoner, Montante, Goyeau.

Nays: Robertson.

MOTION CARRIED.

ITEM #5 CASE #74-06 KALO PROPERTY

Parcel: Part of Lot 8 of Walnut Lake Estates Subdivision
Sidwell #18-24-351-036

Location: 5295 Middlebelt Road

Request: Petitioner is requesting permission to *maintain* 4.0 foot high gates within the proposed right-of-way of Middlebelt Road on an existing single-family residential lakefront parcel property. (Sec. 26-56, 26-75 & 26-78)

Applicant: Jacob Kalo

Discussion: Chairman Turnquist called the case, and asked Mr. Plachcinski to provide the Board with some background information. Mr. Plachcinski stated that the Petitioner is requesting permission to maintain 4' high gates within the right-of-way of Middlebelt Road on an existing single-family residential lakefront parcel. The subject property consists of 2 lots, located on the east side of Middlebelt Road and north of Walnut Lake Road. The total lot area of the parcel is approximately 3.86 acres. The subject property is zoned R-15, Single Family Residential.

On 7/21/06, the Building Department issued a Zoning/Fence permit for the subject property to the Petitioner for 2 sets of 4' high masonry pillars. However, gates were attached to the pillars. The gates are a maximum height of 4' as measured from existing grade, and are supported by 2 stone pillars with limestone caps.

As per the drawings, the gate located on Parcel "A" is located approximately 42' from the south side yard lot line, and 65' from the centerline of Middlebelt Road. The gate located on Parcel "B" is located approximately 48' from the south side yard lot line, and 45' from the centerline of Middlebelt Road. This requires permission from the Zoning Board of Appeals to maintain the 4' high gates within the proposed right-of-way of Middlebelt Road.

Mr. Plachcinski stated that the request must be re-advertised for the height of the gates because they are higher than 4'.

Action: Motion by Stoner, supported by Robertson,

to **table** Case #74-06, Kalo property, to November 9, 2006 in order to allow Staff to re-advertise the request as the information submitted was incorrect.

Voice Vote: Unanimous.
MOTION CARRIED.

ITEM #6 CASE #75-06 FITNESS 19 / CROSSWINDS MALL PROPERTY

Parcel: Sidwell #18-14-302-002, 18-14-302-038 7 18-14-302-039

Location: 4301 Orchard Lake Road

Request: Petitioner is requesting permission to erect a temporary trailer for 120 days. Measuring 12' x 60' located at the Crosswinds Mall in the parking lot to recruit for memberships for Fitness 19. The trailer will be erected on October 15, 2006 and removed January 31, 2007. (Sec. 26-34 and 26-77).

Applicant: Azoj, LLC (Michael Giddings) for Crosswinds Mall (Fitness 19)

Discussion: Chairman Turnquist called the case, and asked Mr. Plachcinski to provide the Board with some background information. Mr. Plachcinski stated that the Petitioner is requesting permission to place a temporary trailer on the subject property during construction of the existing facility at the Crosswinds Mall. The temporary trailer measures approximately 12' x 60' for a total area of approximately 720 square feet. As proposed the temporary trailer will be located within the existing parking lot in front of the proposed Fitness 19 site, and will take up 12 parking spaces. The temporary trailer will be erected on October 15, 2006 and removed on January 31, 2007.

Section 26-43 of the Township Zoning Ordinance, Temporary Structures and Use During Construction, permits temporary structures and temporary use for storage of materials during the construction only. The temporary trailer is only permitted with the review and approval of the Zoning Board of Appeals.

Michael Giddings, General Manager, Azoj, LLC, Crosswinds Mall stated that CVS vacated their former location, which measures 85' wide by 128' deep, and is approximately 11,000 square feet. He claimed that in a neighborhood shopping center it's difficult to find a tenant that can utilize those dimensions. He stated that they've acquired a conditional lease with Fitness 19, who provides a membership based workout facility. He added that Fitness 19 would occupy 6,400 square feet of the space. He explained that while the spot is being renovated, it was important for Fitness 19 to be able to build up their member base using a pre-sale center. He added that Ink Stop will rent the former ABC Eye Care space on the north end, and they are negotiation with Camerons & Mitchell Organization for a restaurant in the remaining space, which would be constructed at the same time. He continued that there is no retail space to offer Fitness 19 on a temporary basis for a pre-sale facility. He stated that they were close to being able to launch into construction, and was willing to reduce his request to 90 days instead of 120. He noted that Fitness 19 was prepared to install their permanent signage on the mansard of the building.

Ms. Montante noted that the request was made for October 15th to January 31st, which she was counting as 90 days. Mr. Giddings explained that since the application for a variance has been made, they have a

contractor selected, bids are done, the budget has been finalized with the tenant, and they were ready to begin building, and felt that 90 days would be sufficient. He added that they were hoping to have the facility ready by Christmas. Ms. Montante noted that size of the proposed temporary trailer, and asked if exercise equipment would be inside. Mr. Giddings replied that prior to submitting the application, he contacted several vendors, but they could not guarantee what size trailer would be available when it was needed. He stated that a 12' x 60' trailer is the maximum size, and that all they needed was a trailer that could accommodate 3 employees with desk's and guest chairs. He stated that he did not believe there to be trailers that were less than 12' wide, but perhaps when they were ready to order the trailer, they might be able to get a 42' or 48' long trailer. Ms. Montante asked if there would be a safety issue due to the number of parking spaces the trailer is proposed to block. Mr. Giddings replied that the parking lot in front of the vacant space has been consistently empty and sparse. Ms. Montante asked when the restaurant would open. Mr. Giddings replied that the restaurant could open near the end of the first quarter of 2007. He explained that the restaurant would require a liquor license, and would be requesting a meeting with the Township regarding outdoor seating.

Mr. Goyeau asked if the trailer would have self-contained restrooms. Mr. Giddings replied that the trailers are available with self-contained restrooms, however Bellicino's has offered the Fitness 19 employees to use their restrooms. Mr. Goyeau asked if security of the trailer would be provided privately or by the Township. Mr. Giddings replied that the trailer would only house office equipment, and no security personnel would be hired. Mr. Goyeau asked if they would be dealing with money. Mr. Giddings replied that the employees would not be dealing with merchandise or money.

Mr. Goyeau asked when would the trailer be open for business. David Texeira, partner of Fitness 19, replied that the pre-sale hours would be Monday-Thursday 9:00 a.m. to 9:00 p.m., Friday 9:00 a.m. to 8:00 p.m., Saturday 10:00 a.m. to 6:00 p.m., and Sunday 11:00 a.m. to 6:00 p.m. He added that most of the clubs take 60 days to be constructed, and that 90 days would be more than enough time. Mr. Goyeau asked if there would be any exterior lighting to illuminate the trailer. Mr. Texeira replied that normally they only use interior lighting, there would be no computers in the trailer, and a couple of exercise equipment to show potential members what type of equipment would be available. Mr. Goyeau asked if there would be any outside power. Mr. Texeira replied that they can acquire power for the trailer. Mr. Goyeau asked if there would be a generator. Mr. Texeira replied, "No." Mr. Giddings replied that there is a light pole near the proposed location of the trailer, which would provide limited power to the trailer. Mr. Goyeau asked if there would be any outside speakers. Mr. Texeira replied, "No." Mr. Goyeau asked if there would be any signage on the trailer. Mr. Texeira replied that they would like to have a sign on the trailer, if it is permitted. Mr. Goyeau stated something should connect the trailer with the building. Mr. Texeira replied that there could be signage attached to the windows of the building.

Mr. Robertson asked if there was any other location for the trailer. Mr. Giddings replied that the trailer could be located close to the building, at the end of the parking row. Mr. Robertson suggested the visual impact of the trailer be minimized.

Ms. Stoner asked if classes would be offered. Mr. Texeira replied that they do not offer classes.

Chairman Turnquist asked why the trailer was necessary, and asked about the construction inside the building. Mr. Giddings explained that when CVS moved out, they had to gut the building down to the 4

walls. He added that the entire perimeter has to be drywalled, partitions were needed for the bathrooms, the floor has to be opened up to install underground plumbing, and the walls need to be painted. He continued that the inside would be un-inhabitable during construction. Chairman Turnquist asked if construction was currently taking place. Mr. Giddings replied that the only thing they have permission to do is install the steel framing for the wall that separates the 2 suites. No drywalling has been done. Chairman Turnquist asked if new doors would be installed. Mr. Giddings replied that they've reconstructed the storefront 6-8 months ago.

Chairman Turnquist reiterated that temporary sales trailers are not something he envisions as part of West Bloomfield Township. Mr. Giddings replied that he would agree, however they were making an exception to their policy due to the hardship of the depth of the space, and difficulty renting it. He stated that when Fitness 19 applied to rent the space, he was told that the success of their business depends on the pre-sales, and felt that it was in everyone's best interest to accommodate them. Chairman Turnquist asked if an area inside the building could accommodate the pre-sale. Mr. Giddings replied that he did not think it was prudent due to the construction, and the disruption, and the dirt; and added that it would be a disruption to their employees, as well as the potential customers. He added that he did not have another vacant unit that could be used; both remaining unoccupied spaces have been rented. He stated that he would rather not see the trailer either, but there were no other alternatives.

Mr. Plachcinski explained that the Planning Department would be reluctant to issue a temporary Certificate of Occupancy for this purpose.

Mr. Goyeau commented that the drywall dust would cause a problem for the employees, and potential customers, and believed there to be a practical difficulty. He added that if there are no other alternatives, such as other available space within the shopping center, he would consider a limit of 45 days for a temporary trailer, provided it is smaller than 12' x 60'.

Ms. Montante commented that she was concerned about the size, and location of the trailer. She stated that she was not opposed to a smaller trailer, which looks like a temporary trailer used to service a particular business.

Chairman Turnquist noted that there was a consensus of the Board that a 12' x 60' trailer was too large.

Mr. Plachcinski suggested that it would be in the public interest to identify why the trailer is in the parking lot.

Ms. Stoner asked what color would the trailer be. Mr. Giddings replied that it would be a neutral color, not red, which was the color rendering provided to the Board.

Action: Motion by Robertson, supported by Montante,

to **grant** in Case #75-06, Fitness 19 / Crosswinds Mall property, permission to erect a temporary trailer for **no greater than 60 days** with a maximum size of 12' wide x 40' in length located at the Crosswinds Mall in the parking lot to recruit for memberships for Fitness 19. The trailer will be located so it will not obstruct the flow of traffic in either aisle ways; on the basis that it is a practical solution;

this is a unique situation and alternatives do not exist as all the available store fronts have been spoken for or leased; and there is no other place because the pre-existing store front is being divided and constructed and it is not safe for on-site use; it is to advertise mall space for a new business venture; it will not be deleterious for 60 days; on the condition that there will be no lights, spot lights, or flashing lights; no music; no Godzilla, or any other inflatable on the roof; the color of the trailer will be neutral; the Petitioner will coordinate with the Building Department and the Mall management, especially addressing safety and location; the signage may be one temporary sign measuring no greater than 4'x 8'; on the condition that the trailer will be removed no greater than 60 days from the date of installation on the property.

Ayes: Stoner, Turnquist, Goyeau, Montante, Robertson.

Nays: None.

MOTION CARRIED.

APPROVAL OF MINUTES

Action: Motion by Stoner, supported by Robertson,

to approve the minutes of the Zoning Board of Appeals Regular Meeting of July 18, 2006 and the On-Site Inspection on September 11, 2006, Case #58-06, Kaufman property, as presented.

Voice Vote: Unanimous.

MOTION CARRIED.

AND ANY BUSINESS THAT MAY COME BEFORE THE BOARD:

There being no further business, the meeting adjourned at 8:16 p.m.

Respectfully submitted,

Patricia Hicks

Patricia Hicks, Recording Secretary

Approved: 11/9/06

NOTE: All approved variances are valid for a period of one (1) year unless otherwise stated in the motion. If the variance is not consumed within that time period, a new appeal must be filed.

Minutes of this meeting are maintained as part of the Public Record and are available upon request. A fee will be required for copies of all meeting tapes and/or approved minutes. Please contact the Recording Secretary of the Planning & Environmental Department for information.