

- I. Call the Meeting to Order  
Staff called the meeting to order at 4:02 pm  
Staff requested a motion to elect an acting chairperson for the meeting.

**MOTION AND VOTE**

*Moved by Bonnivier*

*Supported by Reno; RESOLVED to elect Board Member Moore as acting Chairperson.*

**MOTION CARRIED UNANIMOUSLY**  
(5-0)

II. Roll Call

Present: Steve Reno, Board Member  
Colleen Murphy, Board Member  
Stan Moore, Board Member (Acting Chairman)  
Todd Bonnivier, Alternate Board Member  
Rick Schneider, Alternate Board Member

Absent: David Zuehlke, Chairman  
Karen Joliat, Board Member  
Gary Crake, Vice Chairman  
Todd Hoffman, Board Member

General Public: Approximately 40

Also Present: Stacy St. James, Environ. and Housing Rehab Coordinator  
Amy Williams, Administrative Specialist  
Gary Dovre, Township Attorney  
Rob Merinsky, Director/Engineer  
Larry Lockwood, Superintendent/Planning

- III. Approve the Minutes of the November 20, 2018, regular meeting of the Zoning Board of Appeals as printed.

**MOTION AND VOTE**

*Moved by Reno*

*Supported by Bonnivier; RESOLVED to **APPROVE** the Minutes of the November 20, 2018 meeting as printed.*

**MOTION CARRIED UNANIMOUSLY**  
(5-0)

- IV. Approve the Agenda of the February 19, 2019, regular meeting of the Zoning Board of Appeals as printed.

**MOTION AND VOTE**

*Moved by Reno*

*Supported by Bonnivier; RESOLVED to **APPROVE** the Agenda of the February 19, 2019.*

**MOTION CARRIED UNANIMOUSLY**

*(5-0)*

V. Old Business

VI. New Business

Board Member Reno excused himself, as he also sits on the Planning Commission and cannot be present for the next case.

**Case No. 5526-A**

**Sidwell No. 13-25-200-032**, Section 25, T3N, R9E, Waterford Township, Oakland County, Michigan

Appeals by Summit Annex Investments, LLC, of the September 25, 2018, Planning Commission Special Approval Decision in Case No. 18-09-01 and Approval of Conceptual Site Plan No. 1330 for 435 N. Telegraph (Parcel 13-25-200-032)

**Property Location:** 435 N. Telegraph Rd  
**Property Zoned:** C-4, Extensive Business  
**Applicant:** Summit Annex Investments, LLC

Applicant or representative present: Gregory Obloy, representative

**Gary Dovre, attorney with Rosati, Schultz, Joppich and Amtsbuechler serving as representative for Waterford Township**, addressed the Board to give direction on actions required by the Board for this case. He indicated that this appeal is similar to the appeal that was heard at the November 20, 2018 meeting from the same applicant regarding the same property. However, there are some differences as well. He referenced a letter dated February 18, that he provided to the Board. He also referenced a motion template provided to the Board that they may use during the hearing of the case. The documents as stated have been provided to the applicant and the attorney for DTE. He indicated that before this case can be heard, the Board must first decide on the challenge by DTE that Summit Annex Investments is not a "person aggrieved" for purposes of a right to appeal. As being a legal issue, it is not subject to a public hearing. He recommended hearing from the applicant and the attorney for DTE prior to making a decision on that issue.

**Gregory Obloy, attorney with Carson Fischer serving as representative for the applicant**, introduced himself. He stated that DTE is continuing to challenge their standing, as they did at the November 20 meeting, claiming that the applicant has not

suffered special damages. He gave a brief description of the proposed project. He does not feel the zoning of the property accommodates the use and that the Planning Commission overstepped their authority in permitting the uses. He described the location of his client's property and how it relates to the proposed development. He stated that allowing the change of use will have a great impact on his client. He referenced a letter submitted by his client that was written and submitted for the hearing in November. Reading directly from the letter: "to permit DTE to use the property for uses not otherwise permitted in the C-4 zoning district will cause us special damages. These unlawful uses will severely diminish the value of our property as further development options will evaporate because no future user of our property that is subject to the Township's commercial zoning will want to be located next to an industrial-like user having a heavy duty truck storage, dispatch and servicing center with elevated fueling tanks and outdoor storage of electrical poles, transformers and spools of wire. Given our proximity to the DTE development, users of our property suffer from noise and air pollution due to the abundance of heavy duty trucks using the rear area of their property which immediately abuts our property. Moreover, the ingress and egress to the DTE property for its heavy duty trucks will be on Mall Drive. Mall and Summit Drives are private roads. The cost to maintain these private roads are burdened upon our property and the other properties accessing them. The use of these private roads by DTE's heavy duty trucks will damage the roads far beyond normal use and cause us to unnecessarily incur increased road maintenance fees." He referenced a staff report dated June 22, 2018 where the impacts to his client were noted and that additional site planning requirements would be needed so as not to have an adverse effect on adjoining properties. He feels the Planning Commission has overstepped their bounds with their approvals that his client is appealing.

**Emily Palacios, attorney with Miller Canfield serving as representative for DTE,** noted that Summit Annex Investments argument for aggrieved person status is based heavily on a letter that was also submitted for the appeal at the November 20, 2018 meeting. At that meeting, the Board concluded that the applicant didn't have aggrieved person status because it had not demonstrated special damages. She stated that at that meeting the applicant's attorney stated they were not an aggrieved person and did not have special damages. She indicated that nothing has changed since the November meeting. Their argument continues to be regarding the road even though it is a shared condition among other property owners serving a number of different properties, not just the applicant's properties. Any grievance regarding the maintenance of these roads should be taken up with the contractual provision contained in the easement. Many of the arguments stated are arguments made at the November meeting where the Board determined the applicant was not a party aggrieved and did not have any special damages.

**Mr. Obloy** expressed his disagreement with Ms. Palacios' statement that they admitted to not having any special damages at the previous meeting. He strongly felt they had special damages, but did not know specifically what they were and to what amount.

**Board Member Schneider** questioned how many buildings were owned by Summit Annex in the area.

**Mr. Obloy** stated he did not know specifically. He stated there were a variety of buildings owned by his client that were around the subject property.

**David Tisdale, property manager for the applicant**, spoke from the audience in further detail regarding the properties owned by the applicant. He stated they included the old Sam's Club building, the complex to the north of the subject property, the old Farmer Jacks site and various other properties around the mall complex.

**Mr. Obloy** clarified the properties in question are not all owned by Summit Annex Investments, but by other LLCs that may or may not have different members or managers.

**Chairperson Moore** stated that the claim for damages seemed to be premature. The mall has been closed for close to 10 years. While it was open, there was over 1,200,000 (one million two hundred thousand) square feet of retail space and a little over 6,000 (six thousand) parking spots. Every one of those stores got deliveries every single day. Sam's club probably had 10 – 12 deliveries daily. Taking into account all the traffic that used to pass through that complex on a daily basis, he feels the damages being alleged are premature. The outdoor storage of items are to be behind a beautiful screen. The Planning Commission has the ability to request extra screening and they did. His client currently has boats stored on property that is unscreened. He questioned the appearance of boats versus items behind a beautiful fence. He again stated that he felt the damages being alleged are premature.

## **MOTION AND VOTE**

*Moved by Moore*

*Supported by Murphy; to make the following decision on the issue raised by DTE Energy that the applicant, Summit annex investments, LLC, is not a person aggrieved by the September 25, 2018, Planning Commission decisions being appealed and to **DENY** the appeal based on the following:*

- 1. This Board's final November 20, 2018, decision in case No. 5526 that the applicant did not show that it had suffered special damages so as to be a person aggrieved by and having a right to appeal the August 14, 2018, Planning Commission decision in that case.*
- 2. No material change in circumstances since the Board's prior decision has been shown regarding the special damages claimed by the applicant.*
- 3. The claimed special damages presented at and for this hearing are generalized concerns that would be shared by other property owners, are speculative in nature, and do not establish any unique pecuniary or other interest that will be directly affected by the Planning Commission's decisions.*

**MOTION CARRIED UNANIMOUSLY**

(4-0)

**MOTION AND VOTE**

*Moved by Moore*

*Supported by Murphy; to still proceed with a hearing of the appeals.*

**MOTION CARRIED UNANIMOUSLY**

(4-0)

**Mr. Obloy** addressed the Board explaining the appeals being proposed. One appeal relates to the decision made by the Planning Commission to grant Special Approval and the other is the Conceptual Site Plan Approval. He briefly described the proposed use of the subject property as previously stated. He feels the proposed use is counter to what the property is zoned and master planned for, and what other property owners in the area are bound by. He felt the proposed use is industrial-like, not commercial or relevant with regards to being a Planned Destination Area as defined by the Master Plan. Mr. Obloy continued to read the definition of Planned Destination Area to the Board. He stated the special notice issued for the September 25<sup>th</sup> Public Hearing requested four special uses as part of a regional utility service center. He felt it sounded similar to the definition of a public utility service facility, which is not permitted in the C-4 district. He stated this district is exclusive, not inclusive. If the use is not expressly provided for, it is not permitted. He claims that the Planning Commission acted outside their limitations in approving these special uses due to improper notification, the uses not being permitted in the zoning district and not being included for in the Master Plan. He continued to briefly detail the special uses and how he felt by definition they were not allowed in the C-4 zoning district.

**Mr. Obloy** further stated that he did not feel that DTE should be allowed to speak against this as outlined in the by-laws. They should be limited to the public hearing portion of the hearing.

**Mr. Dovre** stated DTE could speak during the public comment.

**Ms. Palacios** noted that the applicant has already waived those by-laws and allowed her to speak at the November 20, 2018 meeting without objection and for the aggrieved party status.

**Mr. Obloy** further noted that the Board just adopted those by-laws at the last meeting, so he could not have waived something that was not yet in place.

**Mr. Dovre** interjected that DTE will have an opportunity to speak on this at some point, either now or during the public hearing. He did agree that the by-laws were not in effect at the November 20, 2018 meeting.

**Mr. Dovre** referenced the letter he supplied the Board in that there is no right under Michigan Zoning Law for someone to appeal a Special Approval decision unless the ordinance provides for it. Our ordinance does, but in a limited fashion. They first need to review the record of the Planning Commission, decide whether it reasonably addressed the approval criteria of the ordinance. The Board is not to substitute their own opinion for that of the Planning Commission in deciding if the decision of the Planning Commission was contrary to the explicit or implied expression of the intent and the terms and provisions of the Special Approval section of the ordinance. The statement of appeal in this case noted three general themes. First, was that the Planning Commission had not found that each of the review and approval criteria of Special Approval had been met. This is not a requirement of the ordinance. The ordinance requires that they address the criteria. He feels that this was done. Second, was a claim of deficiency with the notice of public hearing at the Planning Commission on September 25, 2018. He said the zoning statute requires a description of the nature of the request. The Board must determine if the public hearing notice sufficiently described the nature of the request. Finally, that the DTE uses approved by the Planning Commission did not fall within any of the special approval uses listed in the C-4 district. That was the reason for the unclassified use decision in August. The Planning Commission determined that what DTE was proposing to do was sufficiently comparable to what is listed in the ordinance and allowed the request to proceed to the Special Approval process. He feels that this information has been lost in the applicant's presentation. He also noted that it was not even acknowledged in the statement of appeal that as part of the Planning Commission's September decision, they put 17 conditions on the Special Approval, many of which were to ensure that the uses be compatible with adjacent uses of land.

During the public portion of the meeting, the following spoke during this request.

**Emily Palacios, attorney with Miller Canfield serving as representative for DTE,** said that had she been allowed to comment when it was questioned whether the merits of this appeal should be heard a second time she would have added that the Zoning Ordinance does not allow for appeals of Zoning Board of Appeals decision, back to this Board. She feels that is what is before the Board with this request. Mr. Obloy's argument focuses only on the language of the C-4 district and ignores the language in the Zoning Ordinance that supports the decision of the Planning commission in August. She noted and relied on her November 13<sup>th</sup> letter regarding the ordinance definitions of principal use, accessory use, and ancillary use, and how everything that the Planning Commission did in terms of its analysis was supported by the ordinance. The applicant is arguing the same as what was approved by the Planning Commission in August and affirmed by this Board in November. He is asking this Board to second-guess their decision. The Planning Commission applied what was approved in August to their September 25<sup>th</sup> meeting. She feels the appeal is weak in that it is based upon the language in the public hearing notice, which is an administrative activity that she did not feel qualified for an appeal, and arguments provided by the applicant with regards to the master plan of the subject property. She feels this aspect of the appeal should be

denied based upon the statement by Mr. Dovre and that it presents an issue that has already been determined by this Board.

**Mr. Dovre** spoke to the Board in reference to the motion template provided and the options available with regards to making a motion on the appeal. He offered to read the motion, as decided by the Board, into the record.

## **MOTION AND VOTE**

*Moved by Moore*

*Supported by Bonnavier; to make the following decision under ordinance section 6-100.4.g, to **AFFIRM** the September 25, 2018, Planning Commission decision that approved the requests for special approval by DTE Energy because:*

- 1. The decision did address each of the review and approval criteria in sections 4-006 of the ordinance, which does not require that each of those criteria be met.*
- 2. The uses that were approved by the Planning Commission on September 25, 2018, had already been determined appropriate on the property by the Planning Commission August 14, 2018, decision that was affirmed by this Board on November 20, 2018, in Case No. 5526.*
- 3. The notice of the Planning Commission's public hearing did sufficiently describe the nature of the outdoor storage, major vehicle repair facility, and fueling station special approval requests that were to be considered.*
- 4. The applicant's arguments based on the uses which were granted special approval not falling within the standards and criteria for special approval uses listed in the ordinance for the C-4 district, disregards the August 14, 2018 Planning Commission unclassified use decision that allowed DTE's uses to be considered for special approval even though they were not specifically listed.*
- 5. This Board is not to substitute its judgment for that of the Planning Commission.*
- 6. Under section 3-302 and 4-006 of the ordinance, the Planning Commission is given the discretion to make unclassified use and special approval decisions, and nothing has been presented in this appeal that warrants the Board overturning those decisions in this case.*
- 7. The Planning Commission imposed 17 conditions on the special approval it granted, consistent with ensuring that the approved uses would be compatible with adjacent uses of land and promoting the use of land in a socially and economically desirable manner as provided in section 4-006.5 of the ordinance.*
- 8. Based on the record of the Planning Commission and arguments and materials presented for this hearing, the Board finds that the Planning Commission decision was not contrary to the explicit or implied expression of intent and the terms and conditions of section 4-006 of the ordinance.*

9. *The Planning Commission's decision was consistent with and supported by the principal, accessory and ancillary use analysis presented by DTE.*

**MOTION CARRIED UNANIMOUSLY**

(4-0)

**Mr. Obloy** stated the last appeal deals with the Planning Commission's approval of the conceptual site plan on September 25<sup>th</sup>. He would like to re-incorporate his prior statements from the prior appeal in that the conceptual site plan violates the Township Site plan ordinance because it is not compatible with plan development patterns expressed in the Township's Master Plan. It permits uses that are not otherwise permitted in the C-4 District. The approved concept plan is in opposition to the Master Plan and allows uses that are not permitted.

During the public portion of the meeting, the following spoke regarding this request.

**Ms. Palacios**, said that if the uses are permitted in the C-4 district, there has been no error made by the Planning Commission when they approved a site plan. The Master Plan is an important document for future vision, policies and goals for development but in no way binds the Township's land use decision. The mall has been a very difficult property for the Township for many years, and the Township has looked at a way to redevelop and rejuvenate the area.

**MOTION AND VOTE**

*Moved by Moore*

*Supported by Murphy; to make the following decision under ordinance Section 6-100.4.F, to **AFFIRM** the September 25, 2018, Planning Commission decision that granted conceptual site plan approval for the DTE Energy plans because it has not been shown to have been contrary to the explicit or implied expression of intent and the terms and provisions of section 4-004.3 of the ordinance under which it was granted.*

**MOTION CARRIED UNANIMOUSLY**

(4-0)

**Case No. 5527**

**Sidwell No. 13-08-151-002**, Section 8, Lot 195 & part of Lot 196, "Whitfield Estates", T3N, R9E, Waterford Township, Oakland County, Michigan

**Requesting** a 3.2 ft. variance from Section 2-305.A to allow the proposed generator to come to within 1.8 ft. of the south side property line. (5 ft. minimum required)

**Property Location:** 3249 Whitfield Ct  
**Property Zoned:** R-1C, Single-Family Residential

**Applicant:** Shirley Collom

Applicant or representative present: Josh Quick of Oak Electric, representative; Shirley Collom, applicant

**Mr. Quick** gave a brief description on the request. He stated that it would be unsafe to locate the generator in any other location due to the location of the windows around the house. He felt the neighbor was in support of the request.

During the public portion of the meeting, the following spoke regarding this request.

**Paul Swanson, 3241 Whitfield**, stated that he had no issues with this request.

### **MOTION AND VOTE**

*Moved by Reno*

*Supported by Bonnivier; RESOLVED to **APPROVE** Case No. 5527.*

**MOTION CARRIED UNANIMOUSLY**

(5-0)

### **Case No. 5528**

**Sidwell No. 13-08-101-042**, Section 8, Lot 203, "Whitfield Estates", T3N, R9E, Waterford Township, Oakland County, Michigan

**Requesting** a 1.5 ft. variance from Section 2-305-A to allow the proposed generator to come to within 3.5 ft. of the north side property line. (5 ft. minimum required)

**Property Location:** 3210 Whitfield Ct  
**Property Zoned:** R-1C, Single-Family Residential  
**Applicant:** Michael Clement

Applicant or representative present: Josh Quick – Oak Electric, representative; Michael Clement, applicant

**Mr. Quick** stated it was a similar situation as the previous case regarding the location of the generator with regards to the location of the windows.

**Mr. Clement** stated he had the support of the neighboring property owner most impacted by the request.

During the public portion of the meeting, no one spoke regarding this request.

### **MOTION AND VOTE**

*Moved by Bonnivier*

*Supported by Reno; RESOLVED to **APPROVE** Case No. 5528.*

***MOTION CARRIED UNANIMOUSLY***  
*(5-0)*

**Case No. 5461-A**

**Sidwell No. 13-35-377-003**, Section 35, NELY 50FT of Lot 2 & SWLY 50.35 FT of Lot 3, "Supervisor's Plat No 41", T3N, R9E, Waterford Township, Oakland County, Michigan

**Requesting**

1. A 18.92 ft. variance from Section 3-901, Footnote 4, to allow the proposed house to come to within 44.08 ft. of the southeast lakefront property line. (63 ft. minimum required for the subject property)
2. A 22.0 ft. variance from Section 2-104.2 to allow the proposed roof eave and gutter to come to within 38.0 ft. of the southeast lakefront property line. (60 ft. minimum required for the subject property)
3. A 5.0 ft. variance from Section 3-900 to allow the proposed house to come to within 30.0 ft. of the northwest lake rear property line. (35 ft. minimum required)
4. A 8.25 ft. variance from Section 2-104.2 to allow the proposed roof eave and gutter to come to within 23.75 ft. of the northwest lake rear property line. (32 ft. minimum required)
5. A 2.75 ft. variance from Section 2-104.2 to allow the proposed roof eave and gutter to come to within 2.25 ft. of the northeast side yard property line. (5 ft. minimum required)
6. A 2.75 ft. variance from Section 2-104.2 to allow the proposed roof eave and gutter to come to within 2.25 ft. of the southwest side yard property line. (5 ft. minimum required)
7. A 1,404 sq ft (9%) variance from Section 3-901 Footnote 2.B(1)(B) to allow the propose house and its impervious surfaces to encompass a total area of 9,319 sq. ft. (59%). (7,915 sq ft (50%) maximum impervious surface allow for the subject property)

**Property Location:** 3665 Lake Front St  
**Property Zoned:** R-1C, Single-Family Residential  
**Applicant:** Louis DesRosiers

Applicant or representative present: Darren Naimi, owner; Louis DesRosiers, applicant

**Mr. DesRosiers** stated that this is a request to renew a variance that was approved at the November 22, 2016 Zoning Board of Appeals meeting. Although he was not at the last meeting, there were concerns regarding drainage onto neighboring properties. Because of this, he submitted drainage plans to the Engineering Department at the Township. With the help of Alpine Construction Civil Engineers, they have devised a plan so that no water would drain onto adjacent properties, but would be directed to the lake.

During the public portion of the meeting, the following spoke regarding this request.

**Joy Dearstone, 3605 Lake Front St, on behalf of her father Larry Landmesser, at 3605 Lake Front.** She objected to the Board hearing the request because a survey showing the location of the house and drainage system was not available for review. She stated why zoning regulations are set and how those regulations should be used. She questioned as to how the Township could allow something like this to happen adjacent to their property. Again, she stated that is why regulations are put into place. She also questioned the size of the house and indicated it is not in character with the development of the neighborhood. Her main concern is that the property is higher than theirs and the drainage will impact their lot. Also, that the proposed house is too large for the property. She felt that the property owner was aware of the restrictions of the property when they purchased it and that the requested variance are not minor in scope. The requested variances are from all setback requirements. She read through the requests and again stated they were not minor. She did not feel the requested variances were justified. Based upon the plan she reviewed, she felt the water runoff would be increased. She felt that flooding would occur and would only impact their property. She did not feel like the concerns with flooding have been addressed which could impact sale of their property in the future. She questioned the accuracy of the survey submitted by the applicant. She provided a Google Map image to the Board.

Discussion between the Board members regarding the location of the properties and the requested variances occurred.

**Ms. Dearstone** continued to express her concern with flooding of her property if the variances were granted. She stated that if the Board approved the request, they would be filing the necessary legal action to enforce their rights with regard to unlawful drainage onto their property. She felt that all property owners should comply with the zoning regulations. She is concerned that if granted, other property owners would also ask for similar variances, which would have a negative impact to the neighborhood. She did not feel the requested variances were justified. She expressed her concern regarding the view of the lake and the potential sale of their property in the future.

**Mr. DesRosiers** made a clarification regarding one of the requested variances with regard to lot coverage.

**Board Member Murphy** questioned the applicant with regards to whether a grading plan was submitted for review by the engineering department.

**Mr. DesRosiers** indicated that a plan was designed by a civil engineer and submitted for review.

**Staff** confirmed that the grading plan has been reviewed by the engineering department.

**Chairman Moore** questioned staff regarding the requested variance and how they compared to what was previously approved.

**Staff** stated that the current requests were the same as to what was approved at the November 22, 2016 meeting.

### **MOTION AND VOTE**

*Moved by Reno*

*Supported by Murphy; RESOLVED to **APPROVE** Case No. 5461-A.*

**MOTION CARRIED UNANIMOUSLY**

(5-0)

### **Case No. 1878-A**

**Sidwell No. 13-35-453-002**, Section 35, Lot 461, "Venice of the lakes No 1", T3N, R9E, Waterford Township, Oakland County, Michigan

### **Requesting**

1. A 1.0 ft. variance from Section 2-104.2 to allow the proposed roof eave and gutter to come to within 4.0 ft. of the northwest side property line. (5 ft. minimum required)
2. A 1.0 ft. variance from Section 2-104.2 to allow the proposed roof eave and gutter to come to within 4.0 ft. of the southeast side property line. (5 ft. minimum required)
3. A 23.0 ft. variance from Section 2-104.2 to allow the proposed roof eave and gutter to come to within 9.0 ft. of the northeast lake rear property line. (32 ft. minimum required)
4. A 4.0 ft. variance from Section 2-305.A to allow the proposed exterior appliances to come to within 1.0 ft. of the southeast side property line. (5 ft. minimum required)
5. A 25.0 ft. variance from Section 2-305.A to allow the proposed exterior appliances to come to within 10.0 ft. of the northeast lake rear property line. (35 ft. minimum required)

**Property Location:** 1224 Brambles Dr  
**Property Zoned:** R-1C, Single-Family Residential  
**Applicant:** Fadiya Sarafa

Applicant or representative present: Fadiya Sarafa, applicant; Craig Sarafa, representative

**Ms. Sarafa** said that her and her husband purchased the home 25 years ago. Her husband passed away several years ago and she would now like to renovate and make this her retirement home. The home is too small.

**Mr. Sarafa** felt the requests are similar to neighboring properties who may have obtained similar variances due to the size of their lots.

During the public portion of the meeting, the following spoke regarding this request.

**Eric O'Dell, 1240 Brambles**, stated that he had concerns regarding the setbacks. He thought the renovation would be mostly upward and not so close to the water.

**Board Member Murphy** questioned the resident as to if he had a chance to look at the site plan and how the proposed house was shown to line up with the adjacent houses with regards to the lakefront setback.

**Mr. O'Dell** indicated he did not review the site plan.

**Staff** explained the requested variances to help correct his misconception caused by the wording of this request. The request was not in relation to the lakeshore property line, but was requested for the roadside property line.

Discussion continued between the Board, staff and the resident.

**Ron Turner, 1220 Brambles**, indicated he did have a chance to review the site plan and that it was in line with neighboring properties. He indicated he was in favor of the request. His only question involved having a greenbelt and landscaping along the roadside. He indicated having received several variances to build his house.

Discussion continued between the Board and the resident regarding the proposed plan.

**Mr. O'Dell** indicated that after reviewing the plan it doesn't appear that anything is changing. However, with regards to the wording of the variances, they appear to be substantial.

**Staff** indicated that in 1981 a variance was granted to construct the current house. The proposed house is shown to be further from the roadside property line than what was previously approved and constructed.

**Board Member Schneider** questioned the height of the house and if variances would be required.

**Ms. Sarafa** indicated that proposed house was within what was allowed and would be similar to what has been constructed in the area.

### **MOTION AND VOTE**

*Moved by Reno*

*Supported by Murphy; RESOLVED to **APPROVE** Case No. 1878-A.*

**MOTION CARRIED UNANIMOUSLY**

(5-0)

### **Case No. 5529**

**Sidwell No.13-27-378-001**, Section 27, Lot 35 with Exclusions, "Elizabeth Lake Golf & Country Club Summer Home Sites", T3N, R9E, Waterford Township, Oakland County, Michigan

### **Requesting**

1. A 22.5 ft. variance from Section 3-901 Footnote 4 to allow the proposed covered porch to come to within 42.5 ft. of the southwest lakefront shoreline. (65 ft. minimum required for subject property)
2. A variance from Section 2-702.A to allow for the expansion of a nonconforming building. (No such building shall be allowed to expand and/or undergo substantial improvement)

**Property Location:** 4933 Cooley Lake Rd  
**Property Zoned:** R-1C, Single-Family Residential  
**Applicant:** Mark Garver

Applicant or representative present: Mark Garver, applicant

**Mr. Garver** stated that he purchased an older home. He wished to remodel and bring it up to code. He indicated that part of his issue is that the property sits low on the lot. He referenced existing and proposed elevations of the house. He felt the neighbors were in support of the request.

During the public portion of the meeting, the following spoke in favor of this request.

**Todd Brangan, 4898 Cooley Lake Road**, like that the applicant is improving the home.

**Board Member Murphy** questioned if the applicant was tearing down the existing house to rebuild it or just remodeling.

**Mr. Garver** indicated that he is just proposing to remodel the existing house.

**MOTION AND VOTE**

*Moved by Bonnivier*

*Supported by Reno; RESOLVED to **APPROVE** Case No. 5529.*

**MOTION CARRIED UNANIMOUSLY**

(5-0)

**Case No. 5530**

**Sidwell No.13-21-454-045**, Section 21, Lot 8 and part of Lot 9, "Crescent Lake Country Club Sub", T3N, R9E, Waterford Township, Oakland County, Michigan

**Requesting**

1. A 10.2 ft. variance from Section 3-900 to allow the proposed addition to come to within 24.8 ft. of the north front property line. (35 ft. minimum setback required)
2. A 8.2 ft. variance from Section 2-104.2 to allow the proposed roof eave and gutter to come to within 23.8 ft. of the north front property line. (32 ft. minimum setback required)
3. A variance from Section 2-702.A to allow for the expansion of a nonconforming building. (No such building shall be allowed to expand and/or undergo substantial improvement)

**Property Location:** 5453 Brunswick Blvd  
**Property Zoned:** R-1C, Single-Family Residential  
**Applicant:** Chris & Shanna Suver

Applicant or representative present: Mark Suver - representative; Chris Suver - applicant

**Mr. Mark Suver** stated that they have submitted the approvals of the neighbors most impacted by the request. He indicated that the neighboring house is well in front of the applicant's house. He feels the request in minimal.

During the public portion of the meeting, no one spoke regarding this request.

**MOTION AND VOTE**

*Moved by Bonnivier*

*Supported by Schneider; RESOLVED to **APPROVE** Case No. 5530.*

**MOTION CARRIED UNANIMOUSLY**

(5-0)

**Case No. 4558-A**

**Sidwell No. 13-17-376-042**, Section 17, Lots 3, 4 & 5, "Elwood Farms Sub No 1", T3N, R9E, Waterford Township, Oakland County, Michigan

**Requesting** a 14.0 ft. variance from Section 2-508.A to allow the proposed freestanding ground sign to come to within 1.0 ft. of the south right-of-way line. (15 ft. minimum required)

**Property Location:** 6780, 6768, & 6756 Highland Rd  
**Property Zoned:** C-3, General Business  
**Applicant:** Haitham Sitto, David Bowen – Sitto Industries

Applicant or representative present: Haitham Sitto, applicant

**Mr. Sitto** is requesting to construct a monument sign at the subject property. He felt the request was pretty straight forward. The proposed sign is in compliance with regards to height and size. They are only requesting a setback variance. He felt the request was in character with other sign locations in the area. The hardship is that the sidewalk on this property comes more into the property than with other properties in the area, which pushed the sign location back further into the property. He references aerial photos on the property. They would like to come as close as possible to the walk so that they can have a sign. The current sign is parallel to the road and does not meet the needs of the property.

**Board Member Moore** asked if the other signs, including the new constructed R & D Drywall related sign would be removed. He also questioned to location of the proposed sign in relation to the sidewalk.

**Mr. Sitto** indicated all signs, including the one stated by Board Member Moore, would be removed from the property. He stated the proposed sign would come to within one foot of the sidewalk. He further explained where the sign would be located in relation to other aspect of the subject and neighboring property.

During the public portion of the meeting, no one spoke regarding this request.

**Board Member Bonnivier** had a concern regarding the proximity of the sign to the sidewalk and visibility of pedestrians. He questioned if it would cause a visual hazard.

**Board Member Murphy** indicated that it was still well away from the road right-of-way.

Discussion continued between the Board and applicant.

#### **MOTION AND VOTE**

*Moved by Schneider*

*Supported by Murphy; RESOLVED to **APPROVE** Case No. 4558-A.*

**MOTION CARRIED UNANIMOUSLY**

*(5-0)*

**Case No. 5531**

**Sidwell No. 13-27-302-009**, Section 27, Lot 8, "Furler's Cresthaven", T3N, R9E, Waterford Township, Oakland County, Michigan

### Requesting

1. A 142 sq. ft. variance from Section 2-213.2.C to allow the existing 60 sq. ft. gazebo and existing 162 sq. ft. pergola, having a total combined area of 222 sq. ft., to remain in the required lakefront yard. (80 sq. ft. maximum combined area allowed for structures constructed in a required lakefront yard)
2. A 0.83 ft. variance from Section 2-213.2.C to allow the existing 8.83 ft. high pergola to remain in the required lakefront yard. (8 ft. maximum height allowed for structures constructed in a required lakefront yard)
3. A 0.88 ft. variance from Section 3-302.7.A to allow the existing 4.88 ft. high fence to remain in the required lakefront yard. (No fence shall be higher than 4 ft. above grade plane in a required lakefront yard)

**Property Location:** 4902 Cooley Lake Rd  
**Property Zoned:** R-1A, Single-Family Residential  
**Applicant:** Maria Teresa Bancolita-Cook

Applicant or representative present: Maria Teresa Bancolita-Cook

**Ms. Bancolita-Cook** referenced the complaint that stated her property improvements were blocking the view of the lake. She gave a detailed account of her request regarding answers to the application questions as included in the member packets. She described her property and house and how it relates to the lake and canal. The existing pergola provides screening from the canal, after a tree was damaged and had to be removed. She felt the improvements took into account the neighbors and protecting their views. She gave accounts of unknown people utilizing her dock, prior to the pergola being constructed. She felt the pergola would deter people from docking their boats and using her dock without permission. With regards to the request for the fence, she felt the majority of the fence is within the height requirements. It is essentially just two pillars near the lake that exceeds the height limitations, which is mainly due to the light fixtures within the pillars. She also references the solar powered globe on the top of the pillar. She stated that when it loses power it may begin to flicker, but did not feel it was an issue. She disconnect the power to the globes, due to the complaint. In reference to exhibits submitted with the application, she described the types of activities occurring on adjacent properties. She also described the view shown from adjacent properties with regards to the improvements on her property. She did not feel like any views were being blocked. With all things being considered, she did not feel like the complaints were justified.

During the public portion of the meeting, the following spoke against this request.

**Todd Brangan, 4898 Cooley Lake Road**, stated that like the previous cases, he went through proper channels to request permission before building. He felt the applicant just proceed to build and then is asking for forgiveness after the fact. He stated he followed the guidelines when he constructed his house. He was concerned regarding the fence and flickering lights along the road and that it provided a safety issue. He felt the pergola obstructed his lakeside view.

**Stephanie Newland, 4914 Cooley Lake Road**, echoed her neighbor, with regards to asking for permission instead of forgiveness. She feels the applicant did not research what was allowed to be constructed. She did compliment the applicant with improving the property. She added that her view of the lake is also impacted by the improvements. She understands the need for privacy, but did not feel the improvements provided for it. However, she is concerned with how this will affect property values.

**Jessica Brangan, 4898 Cooley Lake Road**, stated that they did not have the opportunity to speak against this prior to it being built. She commented that lakefront property owners pay extra for their views. She indicated having conversations with the applicant and her contractor prior to construction. She did her due diligence when improving her property and she expect that her neighbors would have to do the same. She indicated that other neighbors were not in support of the request.

**Patrick Newland, 4914 Cooley Lake Road**, said the he was very involved with the lake and was part of the lake association. He feels the lake view is very important. He does not agree with someone doing work then asking for forgiveness. He did not feel it was difficult to due the due diligence prior to starting the work.

**Mark Garver, 4933 Cooley Lake Road**, agrees with the beautification of the neighborhood, but is concerned that the fence does pose some traffic issues.

**Rob Breen, with Breen's Landscaping, the contractor for the applicant**, spoke in defense of the applicant to confirm the height of the fence. He felt the pillars were for beatification. He indicated speaking with neighbors prior to construction. He indicated they were in support of the project. During the month and a half that the project was built, no one approached him with any kind of issues.

**Mrs. Newland** indicated they received no advanced communication with regards to the improvements, except for the fence. She felt the information she did receive was not accurate.

**Board Member Bonnivier** questioned which improvements were and were not in compliance.

Staff and other Board Members provided clarification.

**Chairman Moore** questioned staff as to what is allowed on a lake front property. Staff provided clarification on the ordinance requirements.

Discussion between Staff, the Board and applicant continued.

**Chairman Moore** questioned the requirements with regards to building permits being required. Staff indicated that due to the size and nature of the improvements, building permits were not required.

#### **MOTION AND VOTE**

*Moved by Reno*

*Supported by Murphy; RESOLVED to **APPROVE** Case No. 5531.*

**MOTION CARRIED UNANIMOUSLY**

(5-0)

#### VI. Discussions

#### VII. All Else

##### Election of Officers

1. Chairperson
  - a. Nominations
  - b. Vote(s) to elect
2. Vice-Chairperson
  - a. Nominations
  - b. Vote(s) to elect
3. Secretary
  - a. Nominations
  - b. Vote(s) to elect

#### **MOTION AND VOTE**

*Moved by Reno*

*Supported by Bonnivier; RESOLVED to **POSTPONE** the Election of Officers until the next meeting due to the lack of a full Board.*

**MOTION CARRIED UNANIMOUSLY**

(5-0)

#### VIII. Public Comment

#### IX. Adjourn the Meeting

Acting chairperson Moore adjourned the meeting at 6:07pm.

**Case No. 5526-A**

**Property:** 435 N Telegraph Rd  
**Applicant:** Summit Annex Investments, LLC  
**Zoning:** C-4, Extensive Business  
**Site Use:** Proposed Public Utility Regional Service Center  
**Proposal:** Appeal of the September 25, 2018, Planning Commission Special Approval Decision in Case No. 18-09-01 and Approval of Conceptual Site Plan No. 1330

**Analysis**

Summit Annex Investments, LLC has requested an appeal to the Zoning Board of Appeal of the September 25, 2018, Planning Commission Special Approval Decision in Case No. 18-09-01 and Approval of Conceptual Site Plan No. 1330 for 435 N. Telegraph (Parcel 13-25-200-032)). Attached you will find the following information:

- Zoning Board of Appeals Application from Summit Annex Investments, LLC, which includes their statement of appeal and various information referenced in their statement
- Documents of record for the September 25, 2018 Planning Commission Meeting (which includes the approved minutes from that meeting)
- Letters from Miller, Canfield, Paddock and Stone, P.L.C., legal counsel to DTE Energy, dated February 8, 2019 and November 13, 2018
- Staff generated aerial photo of subject property

The documents of record for the September 25, 2018 Planning Commission meeting, as referenced above, include a staff report with input from legal counsel.

**You can expect to receive a letter from Gary Dovre, the attorney for Waterford Township, by email** in reference to the request for appeal. The first issue is to determine whether Summit Annex Investments, LLC is entitled to an appeal as a person aggrieved.

**Case No. 5527**

**Property:** 3249 Whitfield Ct  
**Applicant:** Shirley Collom  
**Zoning:** R-1C, Single-Family Residential  
**Site Use:** Single Family Residential  
**Proposal:** Generator

**Analysis**

The applicant is proposing to install a generator at the subject property. The proposed generator is shown to be located within the side yard. The ordinance requires all exterior appliances (generators, a/c units, etc.) meet the minimum setbacks for the property. For this case, the minimum side yard setback is 5.0 ft. The proposed generator is shown to come within 1.8 ft. of the side yard property line. Based upon the photos provided by the applicant, it appears the neighboring property also has a generator within their side yard, in a similar location as to what is being proposed. That same neighbor has also submitted a letter in support of the applicant's request (see packet).

The applicant has provided information addressing the standards listed below on the attached "Supplemental Information" sheet. These standards and the information provided by the applicant addressing these standards shall be used by the Zoning Board to determine whether the requested variance shall be granted.

#### **ZBA Review Standards**

Variance –granting authority shall be exercised in accordance with a ZBA finding of practical difficulties requiring demonstration by the applicant of all of the following:

- A. *Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.*
- B. *The variance will do substantial justice to the applicant, as well as to other property owners.*
- C. *A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.*
- D. *The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.*
- E. *The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.*
- F. *The spirit of the Zoning Ordinance will be observed, public safety and welfare secured, and substantial justice done."*

#### **Draft Motion for Denial**

If the Zoning Board of Appeals chooses to deny the applicant's request, the following is a draft motion that will reflect such a decision:

**RESOLVE to DENY the variance requested in ZBA Case No. 5527 based on the following findings:**

- 1) No practical difficulty exists in the case.
- 2) Compliance with the strict letter of the ordinance would not unreasonably prevent the use of the property for a permitted purpose and would not render conformity with the ordinance unnecessarily burdensome.
- 3) The applicant has not provided any proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 4) The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variances.
- 5) The need for the variances requested is self created.

#### **Draft Motion for Approval**

If the Zoning Board of Appeals chooses to approve the applicant's request, the following is a draft motion that will reflect such a decision:

**RESOLVE to APPROVE the variance requested in ZBA Case No. 5527 based on the following findings:**

- 1) Practical difficulty exists in the case.
- 2) Compliance with the strict letter of the ordinance would unreasonably prevent the use of the property for a permitted purpose and would render conformity with the ordinance unnecessarily burdensome.
- 3) The applicant has provided proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 4) The applicant has demonstrated that the property is unique, warranting the requested variances.
- 5) The need for the variances requested is not self created.

**Case No. 5528**

**Property:** 3210 Whitfield Ct  
**Applicant:** Michael Clement  
**Zoning:** R-1C, Single-Family Residential  
**Site Use:** Single Family Residential  
**Proposal:** Generator

**Analysis**

The applicant is proposing to install a generator at the subject property. The proposed generator is shown to be located within the side yard. The ordinance requires all exterior appliances (generators, a/c units, etc.) meet the minimum setbacks for the property. For this case, the minimum side yard setback is 5.0 ft. The proposed generator is shown to come within 3.5 ft. of the side yard property line. Based upon the photos provided by the applicant, it appears the neighboring property and the subject property have an a/c unit within their side yard, in a similar location as to what is being proposed. That same neighbor has also submitted a letter in support of the applicant's request (see packet).

The applicant has provided information addressing the standards listed below on the attached "Supplemental Information" sheet. These standards and the information provided by the applicant addressing these standards shall be used by the Zoning Board to determine whether the requested variance shall be granted.

**ZBA Review Standards**

Variance –granting authority shall be exercised in accordance with a ZBA finding of practical difficulties requiring demonstration by the applicant of all of the following:

- A. *Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.*
- B. *The variance will do substantial justice to the applicant, as well as to other property owners.*
- C. *A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.*
- D. *The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.*

- E. *The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.*
- F. *The spirit of the Zoning Ordinance will be observed, public safety and welfare secured, and substantial justice done."*

**Draft Motion for Denial**

If the Zoning Board of Appeals chooses to deny the applicant's request, the following is a draft motion that will reflect such a decision:

**RESOLVE to DENY the variance requested in ZBA Case No. 5528 based on the following findings:**

- 1) No practical difficulty exists in the case.
- 2) Compliance with the strict letter of the ordinance would not unreasonably prevent the use of the property for a permitted purpose and would not render conformity with the ordinance unnecessarily burdensome.
- 3) The applicant has not provided any proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 4) The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variances.
- 5) The need for the variances requested is self created.

**Draft Motion for Approval**

If the Zoning Board of Appeals chooses to approve the applicant's request, the following is a draft motion that will reflect such a decision:

**RESOLVE to APPROVE the variance requested in ZBA Case No. 5528 based on the following findings:**

- 1) Practical difficulty exists in the case.
- 2) Compliance with the strict letter of the ordinance would unreasonably prevent the use of the property for a permitted purpose and would render conformity with the ordinance unnecessarily burdensome.
- 3) The applicant has provided proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 4) The applicant has demonstrated that the property is unique, warranting the requested variances.
- 5) The need for the variances requested is not self created.

**Case No. 5461-A**

**Property:** 3665 Lake Front St  
**Applicant:** Louis DesRosiers  
**Zoning:** R-1C, Single-Family Residential  
**Site Use:** Single Family Residential  
**Proposal:** New House (variances previously granted November 22, 2016)

**Analysis**

The applicant is proposing to construct a new house at the subject property. On November 22, 2016 variances were granted with regards to the proposed house. However, the variances expired on November 22, 2017, prior to work beginning. The ordinance requires an applicant to come back before the Board if the variances expire. The requested variances are the same as what was originally approved on November 22, 2016. That review is listed below. At that meeting, the variances were granted with the stipulation that the engineering plans are provided. The applicant has provided the necessary plans as requested and engineering has reviewed and approved the plans.

*November 22, 2016 Staff Review:*

*The applicant is proposing to construct a new house on the subject property. The new house is shown to require variances from all minimum required lot line setbacks. On the lake rear (road) side, the proposed house is shown to be located within 30' of the property line (35' minimum required). In addition, the overhang is shown to be located within 23.75' of the property line (32' minimum required). On the lake front side, the proposed house is shown to be located within 44.08' of the shoreline (63' minimum required for the subject property). In addition, the overhang is shown to be located within 38' of the shoreline (60' minimum required for the subject property). On the sides, the house is shown to meet the minimum 5' setback. However, the overhangs are shown to come to within 2.25' of both side yard property lines.*

*The final variance requested is in relation to how much of the lot is covered by impervious surfaces. This ordinance is intended to ensure that each zoning lot possesses sufficient surface area to provide onsite storm water drainage capacity so as to not negatively impact neighboring properties with run-off. The ordinance allows for an impervious surface area up to 50% of the subject property. The applicant is requesting a 9% variance to allow for 59% of the subject lot to be covered by impervious surfaces. Upon application for a building permit, the applicant will be required to submit a detailed grading plan demonstrating the run-off will be handled in a way as to not negatively impact neighboring properties. Historically, staff is not opposed to an increased impervious surface ratio for lakefront properties and they have a natural retention area in which to direct run-off.*

The applicant has provided information addressing the standards listed below on the attached "Supplemental Information" sheet. These standards and the information provided by the applicant addressing these standards shall be used by the Zoning Board to determine whether the requested variance shall be granted.

**ZBA Review Standards**

Variance –granting authority shall be exercised in accordance with a ZBA finding of practical difficulties requiring demonstration by the applicant of all of the following:

- A. *Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.*
- B. *The variance will do substantial justice to the applicant, as well as to other property owners.*
- C. *A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.*
- D. *The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.*
- E. *The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.*

*F. The spirit of the Zoning Ordinance will be observed, public safety and welfare secured, and substantial justice done.”*

#### **Draft Motion for Denial**

If the Zoning Board of Appeals chooses to deny the applicant’s request, the following is a draft motion that will reflect such a decision:

**RESOLVE to DENY the variance requested in ZBA Case No. 5461-A based on the following findings:**

- 1) No practical difficulty exists in the case.
- 2) Compliance with the strict letter of the ordinance would not unreasonably prevent the use of the property for a permitted purpose and would not render conformity with the ordinance unnecessarily burdensome.
- 3) The applicant has not provided any proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 4) The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variances.
- 5) The need for the variances requested is self created.

#### **Draft Motion for Approval**

If the Zoning Board of Appeals chooses to approve the applicant’s request, the following is a draft motion that will reflect such a decision:

**RESOLVE to APPROVE the variance requested in ZBA Case No. 5461-A based on the following findings:**

- 1) Practical difficulty exists in the case.
- 2) Compliance with the strict letter of the ordinance would unreasonably prevent the use of the property for a permitted purpose and would render conformity with the ordinance unnecessarily burdensome.
- 3) The applicant has provided proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 4) The applicant has demonstrated that the property is unique, warranting the requested variances.
- 5) The need for the variances requested is not self created.

#### **Case No. 1878-A**

**Property:** 1224 Brambles Dr  
**Applicant:** Fadiya Sarafa  
**Zoning:** R-1C, Single-Family Residential  
**Site Use:** Single Family Residential  
**Proposal:** New House; A/C unit; Generator

#### **Analysis**

The applicant is proposing to construct a new house at the subject property. On August 18, 1981, a variance was granted to allow the existing house to be located closer to the lake rear (road) side

property line than what is allowed. This variance carries with the property. The proposed house is shown to be located within 10 ft. of the road side property line, where typically a minimum of 35 ft. is required. The previous variance allows for the reduced setback without requiring another variance for the proposed house. The first three variance requests are to allow the proposed roof overhang/gutter to come closer to the property lines than what is allowed, while the proposed house meets the minimum setbacks. The remaining variances are to allow the proposed generator and a/c unit to be located within the required road rear / side yards. Exterior appliances are required to meet the minimum setbacks. They are proposed to be located within 1.0 ft of the side yard property line and within 10 ft of the lake rear (road) side property line.

The applicant has provided information addressing the standards listed below on the attached "Supplemental Information" sheet. These standards and the information provided by the applicant addressing these standards shall be used by the Zoning Board to determine whether the requested variance shall be granted.

#### **ZBA Review Standards**

Variance –granting authority shall be exercised in accordance with a ZBA finding of practical difficulties requiring demonstration by the applicant of all of the following:

- A. *Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.*
- B. *The variance will do substantial justice to the applicant, as well as to other property owners.*
- C. *A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.*
- D. *The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.*
- E. *The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.*
- F. *The spirit of the Zoning Ordinance will be observed, public safety and welfare secured, and substantial justice done."*

#### **Draft Motion for Denial**

If the Zoning Board of Appeals chooses to deny the applicant's request, the following is a draft motion that will reflect such a decision:

**RESOLVE to DENY the variance requested in ZBA Case No. 1878-A based on the following findings:**

- 1) No practical difficulty exists in the case.
- 2) Compliance with the strict letter of the ordinance would not unreasonably prevent the use of the property for a permitted purpose and would not render conformity with the ordinance unnecessarily burdensome.
- 3) The applicant has not provided any proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 4) The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variances.
- 5) The need for the variances requested is self created.

#### **Draft Motion for Approval**

If the Zoning Board of Appeals chooses to approve the applicant's request, the following is a draft motion that will reflect such a decision:

**RESOLVE to APPROVE the variance requested in ZBA Case No. 1878-A based on the following findings:**

- 1) Practical difficulty exists in the case.
- 2) Compliance with the strict letter of the ordinance would unreasonably prevent the use of the property for a permitted purpose and would render conformity with the ordinance unnecessarily burdensome.
- 3) The applicant has provided proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 4) The applicant has demonstrated that the property is unique, warranting the requested variances.
- 5) The need for the variances requested is not self created.

**Case No. 5529**

**Property:** 4933 Cooley Lake Rd  
**Applicant:** Mark Garver  
**Zoning:** R-1C, Single- Family Residential  
**Site Use:** Single Family Residential  
**Proposal:** Covered porch

**Analysis**

The applicant is proposing to construct a covered porch on the existing non-conforming house. The porch is shown to come to within 42.5 ft of the lakefront shoreline. Based upon the average setback of the houses within 200 ft. of the subject property, the required minimum setback is 65 ft.

The applicant has provided information addressing the standards listed below on the attached "Supplemental Information" sheet. These standards and the information provided by the applicant addressing these standards shall be used by the Zoning Board to determine whether the requested variance shall be granted.

**ZBA Review Standards**

Variance –granting authority shall be exercised in accordance with a ZBA finding of practical difficulties requiring demonstration by the applicant of all of the following:

- A. *Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.*
- B. *The variance will do substantial justice to the applicant, as well as to other property owners.*
- C. *A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.*
- D. *The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.*

- E. *The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.*
- F. *The spirit of the Zoning Ordinance will be observed, public safety and welfare secured, and substantial justice done."*

#### **Draft Motion for Denial**

If the Zoning Board of Appeals chooses to deny the applicant's request, the following is a draft motion that will reflect such a decision:

**RESOLVE to DENY the variance requested in ZBA Case No. 5529 based on the following findings:**

- 1) No practical difficulty exists in the case.
- 2) Compliance with the strict letter of the ordinance would not unreasonably prevent the use of the property for a permitted purpose and would not render conformity with the ordinance unnecessarily burdensome.
- 3) The applicant has not provided any proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 4) The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variances.
- 5) The need for the variances requested is self created.

#### **Draft Motion for Approval**

If the Zoning Board of Appeals chooses to approve the applicant's request, the following is a draft motion that will reflect such a decision:

**RESOLVE to APPROVE the variance requested in ZBA Case No. 5529 based on the following findings:**

- 1) Practical difficulty exists in the case.
- 2) Compliance with the strict letter of the ordinance would unreasonably prevent the use of the property for a permitted purpose and would render conformity with the ordinance unnecessarily burdensome.
- 3) The applicant has provided proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 4) The applicant has demonstrated that the property is unique, warranting the requested variances.
- 5) The need for the variances requested is not self created.

#### **Case No. 5530**

**Property:** 5453 Brunswick Blvd  
**Applicant:** Chris & Shanna Suver  
**Zoning:** R-1C, Single-Family Residential  
**Site Use:** Single Family Residential  
**Proposal:** Addition

#### **Analysis**

The applicants are proposing to construct an addition on to the existing house. The proposed addition is shown to come to within 24.8 ft. of the front property line, where a minimum setback of 35 ft. is required. The current house is located 34.8 ft. from the front property line.

The applicant has provided information addressing the standards listed below on the attached "Supplemental Information" sheet. These standards and the information provided by the applicant addressing these standards shall be used by the Zoning Board to determine whether the requested variance shall be granted.

#### **ZBA Review Standards**

Variance –granting authority shall be exercised in accordance with a ZBA finding of practical difficulties requiring demonstration by the applicant of all of the following:

- A. *Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.*
- B. *The variance will do substantial justice to the applicant, as well as to other property owners.*
- C. *A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.*
- D. *The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.*
- E. *The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.*
- F. *The spirit of the Zoning Ordinance will be observed, public safety and welfare secured, and substantial justice done."*

#### **Draft Motion for Denial**

If the Zoning Board of Appeals chooses to deny the applicant's request, the following is a draft motion that will reflect such a decision:

**RESOLVE to DENY the variance requested in ZBA Case No. 5530 based on the following findings:**

- 1) No practical difficulty exists in the case.
- 2) Compliance with the strict letter of the ordinance would not unreasonably prevent the use of the property for a permitted purpose and would not render conformity with the ordinance unnecessarily burdensome.
- 3) The applicant has not provided any proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 4) The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variances.
- 5) The need for the variances requested is self created.

#### **Draft Motion for Approval**

If the Zoning Board of Appeals chooses to approve the applicant's request, the following is a draft motion that will reflect such a decision:

**RESOLVE to APPROVE the variance requested in ZBA Case No. 5530 based on the following findings:**

- 1) Practical difficulty exists in the case.

- 2) Compliance with the strict letter of the ordinance would unreasonably prevent the use of the property for a permitted purpose and would render conformity with the ordinance unnecessarily burdensome.
- 3) The applicant has provided proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 4) The applicant has demonstrated that the property is unique, warranting the requested variances.
- 5) The need for the variances requested is not self created.

**Case No. 4558-A**

**Property:** 6780, 6768 & 6756 Highland Rd  
**Applicant:** Haitham Sitto, David Bowen – Sitto Industries  
**Zoning:** C-3, General Business  
**Site Use:** Commercial Service Establishment  
**Proposal:** Sign

**Analysis**

The applicant is proposing to construct a new sign at the subject property. The proposed sign is shown to come to within 1.0 ft. of the right-of-way line, where a minimum setback of 15 ft. is required. The proposed sign is shown to comply with all other zoning requirements, including maximum height and maximum area.

The original approved site plan (see packet info) indicated a proposed sign location that meet the minimum setback requirements. However, on October 17, 2000 a variance was requested to allow for a reduced setback of 5.5 ft., in addition to a height variance to allow the sign to be 9 ft. in height, where a maximum height of 8 ft. is allowed. The requested variances were denied. The minutes reflect the basis of the denial (see packet info).

Currently, there is a sign on the property that appears to meet the minimum setback requirement. However, the sign was constructed parallel to Highland Rd. Based upon the size of the current sign, it does not appear it would have meet the required setback and would project into the parking lot if placed perpendicular to Highland Rd. In addition to the current sign, there appears to be another sign that was constructed without the required permits (see photos in packet). Both the existing sign and the newly constructed sign would be required to be removed if the Board granted the requested variances. If the Board chooses to deny the request, the newly constructed sign would still be required to be removed, as it violates the Zoning Ordinance.

The applicant has provided information addressing the standards listed below on the attached "Supplemental Information" sheet. These standards and the information provided by the applicant addressing these standards shall be used by the Zoning Board to determine whether the requested variance shall be granted.

**ZBA Review Standards**

Variance –granting authority shall be exercised in accordance with a ZBA finding of practical difficulties requiring demonstration by the applicant of all of the following:

- A. *Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.*
- B. *The variance will do substantial justice to the applicant, as well as to other property owners.*
- C. *A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.*
- D. *The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.*
- E. *The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.*
- F. *The spirit of the Zoning Ordinance will be observed, public safety and welfare secured, and substantial justice done."*

#### **Draft Motion for Denial**

If the Zoning Board of Appeals chooses to deny the applicant's request, the following is a draft motion that will reflect such a decision:

**RESOLVE to DENY the variance requested in ZBA Case No. 4558-A based on the following findings:**

- 1) No practical difficulty exists in the case.
- 2) Compliance with the strict letter of the ordinance would not unreasonably prevent the use of the property for a permitted purpose and would not render conformity with the ordinance unnecessarily burdensome.
- 3) The applicant has not provided any proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 4) The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variances.
- 5) The need for the variances requested is self created.

#### **Draft Motion for Approval**

If the Zoning Board of Appeals chooses to approve the applicant's request, the following is a draft motion that will reflect such a decision:

**RESOLVE to APPROVE the variance requested in ZBA Case No. 4558-A based on the following findings:**

- 1) Practical difficulty exists in the case.
- 2) Compliance with the strict letter of the ordinance would unreasonably prevent the use of the property for a permitted purpose and would render conformity with the ordinance unnecessarily burdensome.
- 3) The applicant has provided proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 4) The applicant has demonstrated that the property is unique, warranting the requested variances.
- 5) The need for the variances requested is not self created.

**Case No. 5531**

**Property:** 4902 Cooley Lake Rd  
**Applicant:** Maria Teresa Bancolita-Cook  
**Zoning:** R-1A, Single-Family Residential  
**Site Use:** Single Family Residential  
**Proposal:** Allow the existing gazebo, pergola and fence to remain in the required lakefront yard

**Analysis**

The applicant is requesting a variance to allow the existing gazebo, pergola and fence to remain within the required lakefront yard. The ordinance regulates the height and total area of buildings/structures within the required lakefront yard. The required lakefront yard is determined by the average setback of the houses within 200 ft. of the subject property. The ordinance allows buildings/structures within this setback as long as they do not exceed 8 ft. in height and a total of 80 sq. ft. Fences are allowed to have a maximum height of 4 ft. After receiving a complaint, staff verified violations to the ordinance requirements. The existing fence has been indentified to be 4.88 ft. height, requiring a .88 ft. height variance. The gazebo is shown to be 8 ft. tall and under 80 sq. ft., which would not require a variance. However, the pergola is 8.83 ft. tall and 162 sq. ft. Therefore, a .83 ft. height variance is required in addition to a 142 sq. ft. size variance (the total area of the gazebo and pergola is 222 sq. ft., where a maximum 80 sq. ft. is allowed). Building permits are not required for any of the work completed.

The applicant has provided information addressing the standards listed below on the attached "Supplemental Information" sheet. These standards and the information provided by the applicant addressing these standards shall be used by the Zoning Board to determine whether the requested variance shall be granted.

**ZBA Review Standards**

Variance –granting authority shall be exercised in accordance with a ZBA finding of practical difficulties requiring demonstration by the applicant of all of the following:

- A. *Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.*
- B. *The variance will do substantial justice to the applicant, as well as to other property owners.*
- C. *A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.*
- D. *The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.*
- E. *The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.*
- F. *The spirit of the Zoning Ordinance will be observed, public safety and welfare secured, and substantial justice done."*

**Draft Motion for Denial**

If the Zoning Board of Appeals chooses to deny the applicant's request, the following is a draft motion that will reflect such a decision:

**RESOLVE to DENY the variance requested in ZBA Case No. 5531 based on the following findings:**

- 1) No practical difficulty exists in the case.
- 2) Compliance with the strict letter of the ordinance would not unreasonably prevent the use of the property for a permitted purpose and would not render conformity with the ordinance unnecessarily burdensome.
- 3) The applicant has not provided any proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 4) The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variances.
- 5) The need for the variances requested is self created.

**Draft Motion for Approval**

If the Zoning Board of Appeals chooses to approve the applicant's request, the following is a draft motion that will reflect such a decision:

**RESOLVE to APPROVE the variance requested in ZBA Case No. 5531 based on the following findings:**

- 1) Practical difficulty exists in the case.
- 2) Compliance with the strict letter of the ordinance would unreasonably prevent the use of the property for a permitted purpose and would render conformity with the ordinance unnecessarily burdensome.
- 3) The applicant has provided proof that the requested variances would ensure fairness for the Applicant as well as surrounding property owners.
- 4) The applicant has demonstrated that the property is unique, warranting the requested variances.
- 5) The need for the variances requested is not self created.