

**CHARTER TOWNSHIP OF CANTON
ZONING BOARD OF APPEALS
August 25, 2022**

A meeting of the Zoning Board of Appeals of the Charter Township of Canton was held Thursday, August 25, 2022, at the Township Administration Building located at 1150 S. Canton Center Road, Canton Township, Michigan 48188.

Vicki Welty called the meeting to order at 7:02 pm and led the Pledge of Allegiance to the Flag.

ROLL CALL:

Members Present: Vicki Welty, Alan Okon, John Badeen, Aaron Tassell, Greg Demopoulos

Members Absent: Clarence Lee

Staff Present: Patrick Sloan, Community Planner

ACCEPTANCE OF AGENDA FOR August 25, 2022

Motion by John Badeen, supported by Greg Demopoulos to accept the agenda.

Ayes: All

Nays: None

APPROVAL OF MINUTES

No Minutes to be approved at this meeting.

Vicki Welty explained the procedures of the Zoning Board of Appeals to the audience.

- 1) Applicant Emily Zambuto, for Canton Renewables, LLC located at 4345 South Lilley Road, on the east side of S. Lilley and south of Michigan Ave. (Parcel ID 137-99-0013-706), Zoning is GI, General Industrial. Appealing the following sections of the Township Code of Ordinances: Section 78-131(1) for a wall in an industrial district to exceed the maximum height of 8 feet (16 feet proposed); and Section 5.08(A)(5) of the Zoning Ordinance for a poured or precast concrete wall finished on the outer side.

Representative from Archaea Energy stated that they are looking for a variance on wall height so they can provide a lower decibel threshold. They have a lot of processing equipment and under very serious cases they might exceed the decibel threshold without a wall so they are looking to add a wall so the surrounding properties don't hear as much. This would be typical of a sound wall that you may see on the highway. The wall will be plain, but they still have an option to choose different colors.

Patrick Sloan, Canton Township Community Planner, stated that they received a variance application to install a wall of 12 feet to 16 feet in height for a sound barrier along portions of the subject property line at the existing facility. There are two variances from the Zoning Ordinances that are proposed. The first is from Chapter 78, Article V, Subsection 131 (1) to construct a 12' to 16' tall wall when the ordinance states that in all industrial zoned districts, fences and walls may be constructed up to 8' in height. The

applicants propose a height of between 12 and 16 feet. The second variance request is from Section 5.08(A)(5) of the Zoning Ordinance which requires walls to be constructed of masonry material which matches the primary masonry of the principal structure on site and finished on both sides. Standard concrete block walls and poured or precast concrete walls are not permitted. The applicant is requesting a variance is to construct/install a poured or precast wall and have a finished side only on the outside.

The site itself is a landfill gas capture facility. The purpose of the original site plan application is to install additional equipment to increase their capacity to capture landfill gas and reuse it as opposed to burning it off, so to create more renewable fuel. The Zoning Ordinance standards of Section 27.05 (D)(1) of the Township Zoning Ordinance states the criteria for granting a variance request.

The Planning Commission approved a site plan for the proposed site improvements on August 9, 2022, subject to the condition that the applicant receives variances from the ZBA for the proposed walls and that the walls be 16 feet in height. Staff recommendation to the ZBA is to approve the requested variances for Canton Recyclables located at 4345 Lilley Rd. with the proposed concrete walls being 16 feet in height. The recommendation is based on the following eight findings of fact as noted in the report from our Planning Consultants at McKenna.

1. The proposed wall is being installed in response to the Township's direction to implement measures to address noise impacts from equipment on the site.
2. Strict compliance with the ordinance standards would not allow for the taller walls and will likely result in noise ordinance violations.
3. The variances would provide substantial justice to the applicant and are not averse to the intent of the Township Ordinances.
4. The proposed walls will not impede line of sight or affect traffic movement on abutting streets.
5. The proposed walls will not likely create any issues for health, safety, morals and welfare.
6. The use of the site is uncommon and the request for variances is tied to the use of the site.
7. The variances will not alter the character of the neighborhood.
8. The request for variances is unique due to the use of the site and is not likely to set a precedent.

Motion by Greg Demopoulos, supported by John Badeen, to open public hearing

Ayes: All

Nays: None

No one from public wished to speak

Motion by Alan Okon, supported by John Badeen to close the public hearing.

Ayes: All

Nays: None

Motion by Alan Okon to approve the requested variances for the Canton Renewables, located at 4345 South Lilley Rd., from Section 78-131(1) for a 16-foot-high wall and Section 5.08(A)(5) of the Zoning Ordinance for a poured or precast concrete wall finished on the outer side based on the 8 items that are in the McKenna letter dated August 15, 2022.

Supported by John Badeen.

Ayes: All

Nays: None

Variances are approved (5-0).

2. Applicant Pat Perry for property at 45550 Muirfield Ct., which is located south of Cherry Hill Road between Beck Rd. and Canton Center Rd. (Parcel ID 081-01-0035-000), Zoning R-3, Single Family Residential and located in a Planned Development District (PDD). Requesting a variance from the following section of the Zoning Ordinance: Section 26.02 for an addition to the principal building within the required rear yard setback (35 feet required rear yard setback in the PDD and 40 feet required rear yard setback in the R-3 district). The proposed rear yard setback is 21.51 feet.

Jacob Woods with Great Day Improvements, the construction company for the sun room, approached the podium. They are looking for the variance because the original house was built on the setback lines of 35 feet, not allowing the homeowner to add any additional building on the property later at any point. The homeowner currently has a paver patio there that exceeds the 16 by 21 sunroom and deck that they would like to add. There is a lot of shrubbery on the backside between the neighbors that would make it very hard for neighbors to see the sunroom. He believes there were letters submitted from neighbors to the left and right encouraging the sunroom.

Patrick Sloan, Canton Township Community Planner, stated that the variance is for the property at 45550 Muirfield Court which is located in the Fairway Pines at Pheasant Run Development. Zoning is R-3 Single Family Residential. There is a Planned Development District overlay on the site. The applicant is proposing to construct an approximately 16 ft. by 21 ft. addition to the west side of the dwelling which is in the rear yard setback of 35 ft. and a setback of 21.51 feet is proposed so the variance request results in a 13.49 ft of encroachment into the rear yard setback. Section 27.05(D)(1) of the Zoning Ordinance specifies criteria by which a variance should be considered and there are a number of findings that our Planning Consultant, McKenna, has made in their letter about the variance and looking at the practical difficulty standard of whether one exists. Among those findings are that there is a conforming dwelling on a conforming lot and the desire for a 3-season room just by itself is not necessarily a practical difficulty. The existing dwelling on the site has an area of about 2,700 sq. ft. excluding any basement living area. It's located on a cul-de-sac and has significant side yard space. The depth of the lot in the middle is approximately 125 feet, which is a common lot depth in the Fairway Pines at Pheasant Run development. This lot does not seem to be any shallower than any other lot. Approval of the variance from the rear yard setback requirement will provide substantial justice to the applicant but is averse to the interest of other property owners. Such a deviation granted because the applicant wants an all-season room will set a precedent for similar requests from other property owners and violate the basic PDD agreement that already provides relief.

There are no exceptional circumstances associated with the property. The applicant desires to reuse an existing concrete patio as the foundation for construction of the new addition. Many of the homes in the neighborhood are similarly built to their required setbacks. The need for the variance at this time is entirely self-created based on a desire, not a necessity. A variance is not necessary for the applicant to enjoy property rights. As previously noted, the site is occupied by a significant sized dwelling and is similar in layout to many other dwellings in the neighborhood. Patrick Sloan states that in Section 27.05(D)(2) there is more specific criteria applicable to the variance. In this case, we find the proposed addition essentially reduces the required R-3 district setback from 40 feet to 21.51 feet. As previously noted, the governing PDD agreement for the development already allows for a reduced rear yard

setback of 35 feet. Approval of the variance would have implications not just for the subdivision in which the subject site is located, but all R-3 zoned properties within the Township.

Patrick Sloan said that subject to any additional information presented and discussed by the applicant, Board, and/or the public during the public hearing and incorporated into the record prior to any findings being made, we recommend that the Zoning Board of Appeals deny the requested variance for 45550 Muirfield Court. The above recommendation is based on the following findings of fact:

1. The applicant has provided no justification in the request for variance except to state a lack of knowledge about setbacks at the time of purchase.
2. There are no practical difficulties associated with the proposal.
3. The desire to have a specific type of living space is not adequate justification for granting a variance.
4. Compliance with the Ordinance standards would not deprive the property owner of any enjoyment of their property.
5. The location of the subject site is not unique and there are other properties within the immediate neighborhood with similar site layout.
6. A variance would provide substantial justice to the applicant but is averse to the interests of other property owners in the R-3 district.
7. Granting a variance is likely to set a precedent for similar requests from other similarly located properties in the R-3 District.
8. The subject site already has a relief from the R-3 rear yard setback requirement due to an existing PDD agreement.
9. Granting of a variance would set a precedent that may have an impact on public safety in the future with reduced separation between dwellings.

Patrick Sloan also noted that the Township received 2 letters from neighbors: one at 46430 Inverness and one neighbor from 46403 Inverness that made comments on this proposal.

Aaron Tassel asked about the definition of a building addition versus an accessory structure and if there's any setback requirements for any guidelines based on those definitions. He doesn't see a sunroom as an addition but more of an accessory structure.

Patrick Sloan said that if there's something that is constructed on the house or made part of the house, it is considered part of the principal structure and subject to the same setbacks as the principal structure. In some cases, the Zoning Ordinance does allow a closer setback to a lot line for things like detached accessory structures.

Motion by John Badeen, supported by Alan Okon, to open the Public Hearing.

Ayes: All

Nays: None

Ranson Smith resides at 46403 Inverness. He is a resident of Fairways, not Fairways Pines. He has an adjoining property to 45550 Muirfield. There is a tree line separating the two subdivisions. He has a clear line of sight to the property in question. He feels that if this variance is granted, it will decrease the property value of his home since there will be an addition encroaching into the back yard. Many people like these properties because of the sight lines and nice backyards. He is reluctant to have this type of structure built because of the precedent that it sets and he just doesn't want another structure built closer to his property.

Motion by Greg Demopoulos, supported by John Badeen to close the Public Hearing.

Ayes: All
Nays: None

Alan Okon asked if this work was presented to the homeowner's association.

Patrick Sloan said that nothing was submitted with the Zoning Board of Appeals application and the Building Division no longer requires that documentation to be submitted. It is now posted that the Building Division is not going to look through every association's approvals, and it is the homeowner's responsibility to meet the requirements of the HOA.

John Badeen noted that he is not a fan of telling people how they can use their property, but there's nothing unique or there is no hardship that he can see.

Vicky Welty said that there are two reasons that they can grant a variance, a practical difficulty and an unusual circumstance. So, this would have to have one of those two elements in it. She doesn't see them in this case.

Motion by John Badeen to deny the variance because the applicant has provided no justification in the request of the variance. There are no practical difficulties associated. The desire to have more living space is not adequate justification. The compliance with the ordinance standards does not change or affect the property owner's enjoyment of their property. There's no uniqueness to the local site and there are no other properties within the immediate neighborhood with similar layouts. A variance may help the applicant but would likely be averse to the interest of other property owners. Most importantly, granting a variance would set a precedent for other properties both in the subdivision and throughout the R 3 district. There is already some relief with the PPD agreement and once again precedent.

Supported by Alan Okon

Ayes: All
Nays: None

Variance is denied (5-0).

3. Applicant Carole Beck, for property located at 50037 – 50067 Monroe St., located on the south side of Monroe St. between Roosevelt St. and Filmore St. (Parcel ID 71-074-03-0000-000), Zoning is Cherry Hill Village Overlay, with underlying zoning of RA. Application is an appeal of a Planning Commission decision (074-SFP-7079) pursuant to Section 27.05 of the Zoning Ordinance. Public hearing was held at the April 14, 2022 ZBA meeting and was remanded to the Planning Commission.

Since Zoning Board of Appeals member, Alan Okon, is also on the Planning Commission, he is unable to vote on the same issue twice. He stepped down from the panel and will not partake in the deliberation of this agenda item.

Carole Beck has resided in Canton for 50 years. She currently resides at 591 Roosevelt. She bought into the concept of Cherry Hill Village (CHV). She heard that the property across the street wants to park two cars in their driveway. It is in the CHV Master Deed that you are only allowed to have one in car in the garage and one car in the driveway. Because of this, it will cost \$30,000 between the actual work, changing the deed and other costs. She feels this is outrageous because the they knew is situation when they purchased the home that the driveway was encroached upon. She does not feel it's okay to close the alley access and open up a driveway on to Roosevelt St. Roosevelt is a busy street and having a driveway installed is against the philosophy of the Village. She feels it is not fair to change the rules so someone can park two cars in their driveway.

John Calvin spoke on behalf of Dana Hearn who is one of the owners of the Monroe St. condos. He stated that when Cherry Hill Village (CHV) 1 was formed in 2001 the Subdivision Plan Exhibit B to the Master Deed showed exactly the physical layout of what the driveway would be. The driveway for the house was not a full two-car driveway. It came out and then narrowed toward the tip where it reached the alleyway and the driveway from the parking area for the other building, came through and cut off that corner of the driveway of the house. It has been that way for 21 years. That building that's now in CHV 2 was at the time Unit 101 of CHV 1. It was removed by the developer and then it was added to CHV 2 with the first amendment to the Master Deed. That same first amendment amended the provisions of Article 4 of the Master Deed for CHV 2 to make that parking area and that driveway a limited common element that's a pertinent to units 92 through 95, which include Ms. Hearn's unit. The Condominium Act provides that a co-owner's condominium unit dimensions or pertinent limited common elements may not be modified without the co-owner's consent. The co-owners from 92 through 95, those units have not consented to modifying that limited common element parking space or driveway. The Condominium Act provides except to the extent otherwise expressly provided by this Act, the undivided interest in the common elements allocated to any condominium unit shall not be altered and any purported transfer encumbrance or other disposition of that interest without the condominium unit to which it appertains is void. The Condominium Act provides unless expressly prohibited by the condominium documents a limited common element may be reassigned upon written application of the co-owners concerned to the principal officer of the association of co-owners. That hasn't happened. The owners of that four-unit building don't want this to happen. The Condominium Act provides to the extent that a condominium unit or common element encroaches on any other condominium unit or common element whether by reason of any deviation from the plans in the construction, repair, renovation, restoration, or replacement of any improvement, or by reason of the settling or shifting of any land or improvement, a valid easement for the encroachment shall exist. Finally, the Condominium Act provides that first mortgagees are entitled to vote on any amendments to the condominium documents regarding the modification or elimination of an easement benefiting the condominium unit subject to the mortgagee's mortgage."

John Calvin continued to say that for all of these reasons, he doesn't know what has led the condominium association board to the point where they are under the belief that they can remove these limited common elements that are that are pertinent to units 92 through 95. But those co-owners have not approved and do not consent to those modifications. These are the legal issues that Ms. Hearn wants to comment on, as well as to her practical issues. He says that the association does not have the legal right to do this without the approval of those co-owners.

Dana Hearn is the owner of Unit 94 at 50037 Monroe Street. She purchased the condo one year ago. She bought it with the understanding that everything would remain as is. She is mostly concerned about the safety of making a left turn out of the proposed driveway, since she is on the corner. She has a new driver in her home and is concerned about the safety issues. She questions if the proper process was followed.

She personally does not want anything in the condo changed. She asks the board to please consider the safety aspects as well as the legality issues.

Benjamin Henry, one of the attorneys for the Cherry Hill Village Homeowners Association. He represents the association that applied for the permit. They submitted written comments on August 23rd that cited what the review standards for this board should be looking at in determining whether or not it should appeal the decision of the Planning Commission. It is his understanding that the project has been approved now twice. An appeal has been filed and the Board is now being asked to see if that decision should be overturned. There are three main points with regards to the Board's legal standard of considering this. The first one is that Mrs. Beck is not legally a person who is aggrieved. The Michigan Supreme Court has defined and redefined who is an aggrieved person. Mrs. Beck does not meet that definition because she has not illustrated any special damages and that's contained within the lawsuit. The case that revisited this was Saugatuck Dunes Coastal Alliance v. Saugatuck Township upheld the definitions of special damages, including stating that incidental inconveniences such as increased traffic congestion, general aesthetic and economic losses, population increases or common environmental changes are insufficient to show that a party is aggrieved. There was a question about whether or not previously there was notice to be required of the Planning Commission to the neighboring owners. There was no notice required to be sent out to the neighboring owners for the Planning Commission in regards to a site plan amendment. Notices are only required to be sent out for variances to the Zoning Ordinance. The Board should just be looking whether there is any evidence that the Planning Commission failed to properly review this site plan under Section 27.02. There's been nothing presented to show that the Planning Commission failed in this review. Mr. Henry stated that there are at least 13 other units that have driveways that empty onto Roosevelt. This is not a unique situation.

John Badeen asked, "How does Ms. Beck meet prong one?"

Benjamin Henry asked, "Which prong one?"

John Badeen answered, "Participating in the earlier proceedings"

Benjamin Henry said that maybe, he did not go into that in his letter. He said that she had some back and forth with staff in regard to an objection to this. She might be able to meet prong one, but with regard to the three-part test, she has to meet all three, and if she fails to at least one, she doesn't qualify as a person aggrieved.

John Badeen asked Ms. Beck if she participated in the original Planning Commission meeting.

Answer was inaudible.

Ms. Beck noted that the driveways that come out onto Roosevelt are from single family homes, not a four-unit condo.

Chris Bowlby resides at 640 Roosevelt. He bought in Cherry Hill Village because of the aesthetic and this change does modify the aesthetic. He stated that he bought on this block because there are no front driveways. Removing trees and shrubs will give a sight line to four garages that are currently hidden. He is also concerned about safety. He has been trying to communicate to the Board for the last three weeks and he is not getting great answers back. He feels that making this change will now allow the resident's driveway to be on another property. He doesn't know how that's okay. He stated that everything was built to the original plans and he's not sure why this is a problem now. Lastly, he noted that the plan shows putting in a 16-foot driveway and the pattern book doesn't allow driveways over nine feet. The Board did

not comment if they got approval from the Village architect and the ADRC. He asked that this be rejected.

Leland Ropp is on the Cherry Hill Village Board and resides at 362 Constitution St. He states that this is not about parking two cars in a driveway. This is about a driveway that accesses a four-unit structure condominium unit coming off at a 45-degree angle, five feet from the garage and 9 1/2 feet wide. There are two known safety issues proven. One when they are backing out of their garage at the same time someone's coming out of the driveway, neither party sees the other. There have been many close calls. Also, there is a fence on the property owner's property that has been hit multiple times by drivers accessing the four-unit condo. They are unable to build a larger drive on the condo property due to the DTE transformer. He said that the 16.5 feet is a requirement of Canton Township. The Board is trying to do what's best for everyone. He would like to apologize to Ms. Beck that they weren't better at communicating earlier on in the process.

Brandon Walker lives at 628 McKinley Cir. He is the engineer for the project. As it stands now, the four-unit driveway does encroach on the resident's driveway. Regardless of the DTE equipment or transformer, there is not enough room to get a driveway between the drives in the current area. The solution is to bring the driveway out onto Roosevelt. This was approved in February and the appeal was heard in April, and this is to see if all form and function was followed by the Planning Commission.

Jonathan and Kathy Johnson reside at 590 Roosevelt. Mr. Johnson stated that the common term he was hearing at the Planning Commission meetings is "flaw". The design was a flaw. He said that we can blame who designed it. There's been options to move the DTE transformer, which is probably not going to happen. He believes that we should listen to the professionals who have a solution to this problem.

John Calvin, representative for Dana Hearn, asked if the Planning Commission had all of the accurate information from the association in front of them. He asked if the Association had the right to ask the Planning Commission to do what it's asking them to do. According to the master deeds and the bylaws and the Condominium Act, they don't appear to have the legal right to do that.

John Badeen asked if that is before them now. He said that Mr. Calvin is talking about the enforcement of contractual rights. Mr. Badeen said that he is just there to determine whether or not the Planning Commission decision should be overturned.

John Calvin said that that is part of the question though. "Did the Planning Commission makes its decision based on good information?"

John Badeen stated that those are two different issues.

John Calvin said that the Board said that this is the way it was always meant to be, but the Master Deed and plan shows it the way it is now.

Patrick Sloan, Canton Township Community Planner, stated that his staff report included the following materials.

1. Planning Commission Materials (February 7, 2022 meeting).
2. Materials from Carole Beck, ZBA applicant, received on March 14, 2022
3. Materials from Brandon Walker, Engineer for the Site Plan Applicant, received on April 5, 2022

4. Additional materials received prior to and after the April 14, 2022 ZBA meeting
 - Email and pictures from Kathy O'Connor and Jonathan (residents at 590 Roosevelt), received on April 11, 2022.
 - Presentation from Carole Beck (resident at 591 Roosevelt) and Paul and Inderjeet Talwar (residents at 561 Roosevelt), presented at the April 14, 2022 ZBA meeting.
 - Email and pictures from Kathy O'Connor (resident at 590 Roosevelt), received on April 18, 2022.
 - Email from Dana Hearn at 50037 Monroe St. on July 11, 2022
 - Email from Kathy O'Connor on August 16, 2022 and police report
5. Minutes of the April 14, 2022 ZBA meeting
6. Minutes of the June 6, 2022 Planning Commission Meeting
7. Draft Minutes of the July 25, 2022 Planning Commission Meeting

Patrick Sloan stated that the standard for the appeal is in the Zoning Ordinance Section 27.05(D)(1) which states that in deciding upon an appeal from an action taken by an administrative official or body, the ZBA shall determine if the administrative official or body has made an error in any order, requirement, decision, or determination in the enforcement and/or interpretation of the Zoning Ordinance. Section 27.05(C)(3) of the Zoning Ordinance states that the ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, in accordance with the guidelines set forth in the Zoning Ordinance and may issue or direct the issuance of a permit. Based on the staff review and materials submitted, staff does not see where the Planning Commission made an error when it approved the original application. There have been materials submitted since the February 7th Planning Commission meeting and there have been public comments during public meetings and also through the information received. The Planning Commission made comments at its June 6th meeting and the July 25th meeting and adopted a motion to forward those comments to the Zoning Board of Appeals for review. Staff doesn't believe that the Planning Commission made an error at its February 7th meeting when it approved an amended site plan application for the proposed driveway. However, Planning staff recommends that the revised plans dated April 5th 2022, submitted by the site plan applicant, be approved by the ZBA, subject to the installation of a stop sign where the proposed driveway intersects with Roosevelt St. The Planning Division sent a supplement to the Zoning Board of Appeals that included findings of fact.

1. Unit 101 of Cherry Hill Village has a peninsula on its west side, which contains a connecting driveway between the alley to the west and the adjacent 4-unit building surrounded by Unit 101. There is no other access to this residential building.
2. The original site plan applicant, Herriman Associates, proposes to remove this driveway on the west side and construct a new curb cut access onto Roosevelt Street to the east, which is proposed to be the only access to the 4-unit residential building.
3. The current driveway in the west part of the site encroaches onto Unit 102 because a transformer was installed north of the existing driveway when the utilities were originally installed.
4. The existing driveway of Unit 102 is insufficient in length to allow for proposed parking, causing safety concerns for the residents of Unit 102 and the residents of the 4-unit residential building surrounded by Unit 101.
5. It is extremely challenging to move the transformer due to existing easements to the west of the transformer that would inhibit its relocation, and relocating the transformer as well as locating the driveway to be entirely within the western peninsula would result in a narrow driveway for the adjacent units on each side of the peninsula.

6. The Planning Commission followed proper procedure and did not make an error in its original approval of application #074-SFP-7079 on February 7, 2022 for the site plan amendment. A public hearing was not required by the Planning Commission.

7. The ZBA held a duly noticed public hearing on April 14, 2022 and considered all of the materials and information presented.

Patrick Sloan said that this action is pursuant to the following materials:

1. The Zoning Board of Appeals application consisting of 15 pages stamped received by the Township on March 12, 2022.
2. Response letter from Midwestern Consulting dated April 4, 2022.
3. Copy of original plan for the subject area.
4. Copy of original site plan application dated 12/8/2021, seeking amendment of the Cherry Hill Village site plan, along with site plan, letters and photographs from Midwestern Consulting, Inc.
5. Copy of presentation materials dated 4/14/2022 from Carole Beck and the Talwars.
6. Minutes of Planning Commission meetings held on 6/6/2022 and 7/25/2022, including materials submitted to the Planning Commission prior to and during the meetings.
7. Minutes of the Zoning Board of Appeals meeting on 4/14/2022.

Planning Staff drafted three motions to consider: One is a model motion to deny the appeal with conditions; the second is a model motion to deny the appeal without conditions; and the third is a model motion to approve the appeal.

Vicki Welty asked if a stop sign was included in the original plans.

Patrick Sloan said that it was not included in the original plans or the revised plans. However, after review, staff recommended that the driveway include a stop sign at the end of the driveway, where the driveway meets the sidewalk. The stop sign would face internal to the units. So, while exiting the site, they would stop at the stop sign before the sidewalk.

John Badeen said he was still stuck on the issue of legal standing.

Patrick Sloan said that he asked the Township legal counsel about that. The Township attorney's opinion was that she believed that the applicant, Ms. Beck, did have standing because the site plan applicant is the Association and Ms. Beck is a member of the Association.

John Badeen said that doesn't think that a lot of what was said today is what is supposed to be before the ZBA for its decision on this matter. If the Planning Commission should have considered that this is a limited common element that should have been addressed then and should have been taken to the Planning Commission. The Zoning Board of Appeals kicked this back to the Planning Commission in April because people have come forward with notice concerns and they had new information that they wanted to present to the Planning Commission. And now, again, there is new information that has not been brought to the Planning Commission. Badeen said that as he stated last time, he wasn't going to be inclined to be dealing with more new information. He said that that's a contractual right anyway. That is something that goes before a circuit court judge – not the Zoning Board of Appeals. John Badeen said that he would deny on both standing and the fact that there was not an error made by the Planning Commission. He does not think that they can add the stop sign without acknowledging the appeal and then exercising the authority under the statute.

Patrick Sloan said that with the ZBA applicant being a member of the Association and the site plan applicant being the Association itself, that may be something for a court to decide.

Aaron Tassell was in agreement to deny the appeal with the conditions of having the stop signs installed

Motion by John Badeen that we reserve the issue of standing considering the change in the standard and that we deny the appeal with conditions exercising our authority under MCL125.3604, sub 6, for the implementation of a stop sign, because the Planning Commission did not commit error in reaching its decision.

Supported by Greg Demopoulos.

**Ayes: All
Nays: None**

Variance is Denied, 4-0.

Alan Okon returned to the panel.

Motion by Alan Okon to adjourn meeting. Supported by John Badeen.

**Ayes: All.
Nays: None**

Meeting adjourned at 8:12 pm.

Alison Eisenbeis, Recording Secretary