

## SAUGATUCK TOWNSHIP BOARD OF APPEALS

April 6, 2006

The Saugatuck Township Zoning Board of Appeals met on April 6, 2006, at the township hall on Blue Star Highway, Saugatuck, Michigan 49453.

Present: Marczuk, Oyler and Wester.

Absent: None

Also present: Alternate, Dayle Harrison, and Z. A. Ellingsen.

Chairman Oyler called the meeting to order at 4:04 p.m.

Approval of March 2, 2006 ZBA minutes, motioned by Wester, Marczuk seconded. Carried Unanimously.

Four hearings were scheduled: The first hearing was a request from Kevin Simmons, PO Box 116, Douglas, MI 49406 to allow for a "Change of Use" from an existing non-conforming use within an existing non-conforming building located at 3421 Holland St., Saugatuck, MI 49453 (Parcel #0320-380-014-00). The previous non-conforming use was a retail establishment known as "Mazzie and Me" and the current owners wish to operate a Real Estate/Mortgage Broker office on the premises. A "Change of Use" would be allowed if authorized by the Zoning Board of Appeals using the standards set forth in Section 40-1016 of the Saugatuck Township Zoning Ordinance. This is the second scheduled hearing for this request. The applicants were unable to attend the previous scheduled hearing on 2 March 2006.

Sue Koeman would be running the Real Estate/Mortgage Broker and Kevin Simmons is the landlord. Koeman would not change anything to the business. The reason Simmons closed Mazzie & Me was a job in Chicago. Sue Koeman would be the only occupant at this time but hopefully having agents working for her.

Marczuk questioned why Simmons didn't make it to the last scheduled ZBA. Simmons replied he didn't see the letter and was in Colorado at the time and apologized.

There was a letter from Joe Gorka in support of the change of use.

Referring to the 3 conditions in Sec. 40-1016.

- 1) No
- 2) No
- 3) No

Oyler motion to approve the change of use. Motioned by Wester, Marczuk seconded. Unanimously approved.

Second hearing: A variance request from Spectators, 6432 Blue Star Highway, Saugatuck, Michigan 49453 (Parcel #0320-003-021-00) to add an outdoor sitting and serving area to the existing restaurant. The building is non-conforming due to setbacks from both Blue Star Highway and 64<sup>th</sup> Street of less than the required 70 feet from the Right-of-Way (ROW) as stated in Section 40-424(1) of the Saugatuck Township Zoning Ordinance for the C-1 Zone. The applicant wishes to place the proposed landscaped area to within 8 feet of the ROW of 64<sup>th</sup> Street. A variance from Section 40-877(1) from the required buffer yard of 40 feet is also necessary.

Z. A. Ellingsen explained to the owners of Spectators, Clare Ray & Pat Paquette that it became a non-conforming building in 1998 when the Blue Star corridor was passed it changed the setbacks in all commercial zones to 70 feet from the original 40 feet so than it created Spectators as non-conformity. Under the site plan review requirements of the ordinance Spectators has to apply to the stipulations in regards to buffer yards and setbacks even though they're not putting up a building. Spectator's needs the variances first before it can go to the Planning Commission to go through the site plan review process.

Z. A. Ellingsen explained that Spectators has a unique situation because their lot line is on the other side of 64<sup>th</sup> St. Nederveld Associates explained that patrons sitting closest to the road would be off the right away 8' plus the 33' to the centerline of 64<sup>th</sup> St.

Liquor Control Commission requires a 42" height fence. Can only access to the outdoor serving area from the inside of the building, will not be able to walk in from the street onto the outdoor serving area. There will be a handicap accessible from the outdoor serving area but it will be latched at all times.

There were no negative letters or phone calls concerning this variance.

Chairman Oyler, Marczuk & Wester went over the 5 conditions for finding approval/denial of variance request:

- 1) No
- 2) No
- 3) Yes
- 4) No
- 5) Yes

Motion to approve the variance requested. Marczuk motion to approve both variances, Wester seconded, with conditions that the Planning Commission requested to review possibility of music played outdoors. Marczuk said he would bring it up to the Planning Commission since he sits on that board also. Marczuk agreed to that addition. Unanimously approved.

Third hearing: A request from Steve Genzink, 3720 64<sup>th</sup> St. for a variance from Section 40-185(a) to allow for the creation of a second parcel from a 5.5 acre parcel in the A-2 Zone. The parcel is located at the southwest corner of 129<sup>th</sup> Ave. and 66<sup>th</sup> St.

(Parcel #0320-021-028-10) with an existing single-family residence. The minimum lot area in the zone is 2.5 acres excluding the road (ROW). Since the parcel in question is a corner parcel then 0.72 acres would be deducted from the gross acreage, which would not leave sufficient area for the division.

Z. A. Ellingsen stated Genzink came to him earlier and wanted to know if he could split this 5.5-acre lot. Not having it surveyed Ellingsen did not know the exact width.

The issue is the road right away takes up so much area that even with 5.5 acres with the minimum 2.5 acres he still cannot do a land division. Being a corner lot he is losing 15% of the lot area because of the road right away. If it were a single lot next to another parcel he would be able to divide it. Planning Commission made this change in the ordinance 6 years ago. It wasn't to penalize corner lot owners it was to have a build able lot.

Genzink bought the corner lot a couple months ago with a misunderstanding he could do a land division. He feels he is being penalized because it's a corner lot. No letters were sent opposing the variance.

Referring to the 4 conditions required for a variance in Sec. 40-76.

- 1) Yes
- 2) Wester-No, Marczuk-Yes, Oyler-No
- 3) No
- 4) No

Motion by Wester to deny the variance. Oyler seconded, with a condition to ask the Planning Commission to review that part of the ordinance impacting this. Property adversely- (corner lot w/ 2 row calculations). And if comes back to the ZBA, fee will be waived. Motion passed 2 to 1, with Marczuk voting against.

Fourth hearing: A request for a use variance from Robert & Debby Kelley, 61720 U.S.31 S., South Bend, IN 46614 to either demolish and replace or repair and extend the existing non-conforming dwelling located at 465 S. Maple St., Saugatuck, MI 49453(Parcel # 0320-010-054-10). The present structure is located in the C-2 zone, which requires a 70-foot setback from both Maple Street and Blue Star Highway, of which both roads intersect at the southernmost point of the lot in question. The measured setbacks would not allow any build able area on this triangular lot. The parcel is currently owned by Novastar Mortgage, Inc., 8140 Ward Parkway, Kansas City, MO 64114. If the building is to be demolished and replaced, a variance from Section 40-417, Permitted Uses, and Section 40-424(1) & (2), Setbacks is required. If repairing and expanding the existing building, then the procedure found in Section 40-1012 would apply.

Wester excused himself from this hearing because of the involvement already in this case. Alternate Dayle Harrison replaced Wester.

Z. A. Ellingsen stated that this is a small lot and there is no build able area. The Kelly's did not apply for a building permit to do any repairs. It's located on the corner of Blue

Star and Maple St. The Blue Star corridor came in 1998 and the set backs were changed to 70'.

Chairman Oyler stated that there are no specific facts in what the Kelly's are asking for. The ZBA does not grant these types of variances because your buying property going in knowing that the use potential is limited. Chairman Oyler wants the Kelly's to consider doing is talking to Ellingsen and what you can do without getting a variance because if you need a variance the chances are slim in getting that because the type of property it is and also that you buying it knowing that you have all these problems. Chairman Oyler requested that you get a specific request if needed and narrow it down to what specific thing you want to do. Ellingsen did mention that they could reside, paint as long as they stay within the blueprint. Chairman Oyler stated that they table this hearing and if the Kelly's decide that they need to come back for an amended request that the ZBA would waive the fee.

Ronald & Betty Van Wieren, 445 S. Maple, are oppose to the addition going towards the North of the Kelly's lot.

Harrison motion to table based upon lack of specific plan, Marczuk seconded. The motion carried unanimously.

Motioned to adjourn, Motioned by Harrison, Marczuk seconded.

Meeting adjourned at 5:20 p.m.

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Lori Babinski, Recording Secretary