

**CHARTER TOWNSHIP OF PENNFIELD**

**ZONING BOARD OF APPEALS**

**MEETING MINUTES OF MAY 28, 2013**

Chairperson Frank Schumacher called the meeting to order at 6:05 pm in the Pennfield Township Annex. Members present were Frank Schumacher, Perry Beard, Chuck Adams, Maryanne Herbstreith, Curtis Whitaker and alternate member Lindsay Draime. A quorum was met.

**Others Present:** Rob Behnke, Township Supervisor and Zoning Administrator; Recording Secretary Sandra Cummings, Mr. and Mrs. Carl Angelo, Kristi Angelo, Jon Markos and Roger Eaton.

**ADDITIONS/DELETIONS TO THE AGENDA**

There were no additions or deletions to the agenda.

**APPROVAL OF MAY 21, 2013 MEETING MINUTES:**

A motion was made by Curtis Whitaker, seconded by Chuck Adams, to approve the meeting minutes from May 21, 2013 with a correction to Page 6, paragraph 4, to remove "*and that no client be housed there who is on a current sex offender list*". Motion carried. The corrected minutes will now be forwarded to the Pennfield Township Attorney's office.

**PRESENTATION OF VARIANCE REQUEST BY O'REILLY AUTO PARTS**

No representative from O'Reilly was present at the Zoning Board of Appeals meeting. The variance request was presented in writing. The proposed plan is to remove an existing 2173 square foot building located at 1401 Capital Avenue NE, formerly operated as a restaurant owned by Carl Angelo, and replace it with a 6900 square foot metal building to house O'Reilly Auto Parts store. The variance consists of four parts:

North rear building setback from required 50' to 35.22' (relief of 17.78')

1) West side building setback from required 30' to 5.60' (relief of 24.40')

2) West Landscape buffer, from 30' to 5.60' (relief of 24.40'), and add a

6' privacy fence.

3) Parking allowance in the front building setbacks to the south and east.

The property is zoned C-2 and is compatible with other properties in this area. A privacy fence will be erected to shield operations from R-2 residential property to the west. The property will have access drives off two streets, Capital Avenue NE (M-66) and Hopkins streets. Deliveries will be made during overnight hours. O'Reilly Auto Parts stated that the development of this property will be consistent with other business ventures in the area, and that a valuable service will be provided to the neighbors in multi-family and single family residences.

### **ZBA MEMBERS QUESTIONS**

The Board members asked if any letters or phone calls had been received prior to the meeting. It was indicated that no phone calls were received. One letter had been received from the City of Battle Creek Department of Public Works, commenting on the fact that the proposed site is located within the 1-year time of travel for the Wellhead Protection Area, that Groundwater Protection Ordinances are in place within the township, and that the storage of Chemicals, oil and other contaminants should be taken into consideration if and when a site plan review takes place. The letter is on file at the township.

The Zoning Administrator indicated that a preliminary site plan had been provided by O'Reilly Auto Parts, and a more detailed site plan would be presented to the Planning Commission if and when the variance requests were approved by the Zoning Board.

The Board members had a number of questions and concerns. They were concerned about the closeness of the setback to the west side building line and the west landscape buffer. They were concerned about access of fire fighting vehicles, the storage of trash bins, sprinkler systems, front parking, and unloading of trucks with resulting noise and light issues in the nighttime hours. These concerns could not be addressed because of lack of representation from O'Reilly Auto Parts.

The Board members commented on the possibility that O'Reilly could acquire an adjacent property to enlarge their working space. Also mentioned was the possibility that the township could require the builder to downsize to allow them to meet setback requirements. The Board felt that the requirement of 30 parking spaces would be more than sufficient to accommodate the business.

### **PUBLIC COMMENT**

Roger Eaton, property manager of Eaton Hopkins LLC, owner of 267 Hopkins, Battle Creek, Michigan, the property directly to the west of the proposed building site, stated that he is concerned about safety issues

because there is not enough room for fire trucks in case of a fire, noise pollution and lights at night. He indicated that he had not been approached by O'Reilly Auto Parts with a request to sell his property.

Jon Markos, 249 Hopkins, Battle Creek, Michigan indicated he is concerned about traffic interfering with children entering and exiting school busses, the value of his property going down, and that he had not been approached by O'Reilly to sell to them, but that he had no intention of selling his property anyway. He is concerned about delivery trucks unloading during nighttime hours when people are trying to sleep.

Carl Angelo, 326 Cornell Drive, Battle Creek, Michigan, owner of 1401 Capital Avenue NE, indicated that this property has been a commercial enterprise since the 1940's, and that there are many other businesses operating already in the neighborhood.

### **NEW BUSINESS**

O'Reilly Auto Parts Variance Request

Perry Beard made a motion, seconded by Chuck Adams, to table the variance request due to lack of representation from O'Reilly Auto Parts, and reschedule after contact with O'Reilly. Motion carried. Roll call vote follows:

Perry Beard yes Frank Schumacher yes

Chuck Adams yes Maryanne Herbstreith yes

Curtis Whitaker yes

### **BOARD MEMBERS COMMENTS**

None.

### **ANNOUNCEMENTS**

None.

### **ADJOURNMENT**

Curtis Whitaker made a motion, seconded by Perry Beard to adjourn the meeting at 6:42 pm. Motion carried.

Submitted by,

Sandra Cummings, Recording Secretary