



**Call to Order:** 4:10 PM

**Roll Call:**

Tilburt, Powell, Skelonc, Stout, present. Blair, absent.

Zoning Administrator Gross, and Township Attorney Leisman also in attendance.

(*Tilburt*) Quorum is present; any action taken requires 3 of 4 in agreement

**Pledge of Allegiance:**

**Approval of Last Meeting Minutes:** Motion to approve April 19, 2023, minutes by Stout, second by Skelonc, all Ayes, Motion Carried.

**Approval of Agenda:** Motion to approve by Skelonc, second by Stout, all Ayes, Motion Carried.

**Public Comment – Matters not the Subject of Agenda Items:** No public comment.

**Agenda Matters to be reviewed by the Zoning Board of Appeals:**

1. Cedar Springs Retail Management/Stonefield Engineering – Variance Request for 3584 17 Mile  
Michael Gold representing Stonefield Engineering  
Eric Starck representing Miller/Johnson, Attorneys  
Max Nathan – Alrig/CS Retail Mgmt Project Manager  
Mr. Gold – comments are based on 3/15/2023 drawings submitted but now have dimensions clarified in red.
  - Proposed variance is approval of 18 parking spaces in the 75' front yard setback from 17 Mile Rd.
  - Setback as shown in the new site plan is 66.3 ft to 17 Mile right of way; is irregular shaped lot so setback only is 30.9 ft at NE corner
  - Seeking variance due to practical difficulties with surrounding easements, nine ft. grade change front to rear, and neighboring commercial business with parking in the front setback.Mr. Starck – Reiteration of four standards required for variance stated at April Meeting.
  - *Practical Difficulties, Special Conditions, Deprivation of Property Rights, No Substantial Detriment to other Properties.*
  - We are here because Planning Commission required us to come to ZBA*Comments/Questions – ZBA:*
  - (*Leisman*) *Re: Draft Resolutions* – one resolution for approval, one to deny. Each has the standards in the ordinance; note that variance would not be effective unless Planning Commission approves.
  - (*Gross*) Zoning may have changed; some businesses were granted a variance since ordinance took affect; must go with current ordinances(*Tilburt*) The ZBA will now go through the standards in the ordinance and apply them to both resolution to approve and resolution to deny
  - The need for additional parking is a self-created hardship; topographical issues are not an excuse for something not in the best interest of the township; concern on how a variance would affect further development of 17 Mile corridor.
  - The unusual lot line on 17 Mile does not affect the situation – parking is still in setback even when measured to the maximum curb line.
  - The lot does not support all the parking required for the floor space of the businesses

- proposed; developer can still develop the property; the proposed businesses the developer is trying for is the reason for this application.
- Do 3 frontages create a special condition? The three frontages were known; they purchased property with that condition then are asking for a variance
  - *Re: Item C – depriving applicants rights commonly enjoyed by properties in same zoning district.* This application is asking for more encroachment than the other neighboring properties; overall, other properties have a larger setback from centerline of 17 Mile.
  - The Planning Commission has not yet determined if a medical clinic or two principal uses in one building are permissible – applicant is asking for a dimensional variance for a use that may not be permitted.
  - (*Leisman*) Need to focus on approving and disapproving of the variance; other facts should allow ZBA to make decision.
  - *Re: Item D – variance would not be a detriment to adjacent properties...not be contrary to spirit and purpose of the zoning ordinance.* Approval resolution says development is visually consistent with other properties, denial says applicant designed parking for 2 uses on same lot – which is inconsistent with other properties in the area; other properties do not have 2 uses.
  - (*Gross*) Parking requirements are different for a restaurant and medical building; larger restaurant would require more parking; parking for a medical building might be adequate without going into setback.

*Applicant Comments:*

Mr. Gold – Input to help justify some of those resolutions

- Excess parking required for the 2 uses.
- If site plan were shifted south to avoid front setback area, parking would be eliminated in the rear
- Previously submitted plan with drive-through – was changed to keep patrons from walking through drive aisles
- If shifted parking south to maintain front yard setback, we're limited by easement and topography for trash enclosure and loading areas; would still be under irregularities of the front property line, the surrounding easements, dual frontages, and potential retaining walls.
- With the front parking as shown we still maintain the 64 feet to the 17 Mile right of way even on the closest portion, except for the jogs as shown on the plan.

Mr. Starck – Suggested that to deny a variance to us based on health, safety and welfare, when every other property around us has a similar situation, because you don't like our prospective use, is going to be difficult to defend in court; from a legal standpoint, we feel pretty good about that.

*Comments/Questions – ZBA:*

- Difficult for the ZBA due to PC requiring variance without knowing what businesses are going on the property
- This is for a parking variance, not a use variance regardless of how many spaces needed
- There will be need for a fire suppression plan – underground tank, etc., and engineering issues; they're not leaving much open ground area; would need to follow PC guidelines
- With topography and existing road frontages, proposal could have been for either a medical clinic or a restaurant; thus, is a self-induced hardship

(*Tilburt*) Motion to adopt the resolution to approve the variance, second by Powell.

*Discussion:*

- Motion has condition – won't go into effect unless Planning Commission approves
- (*Leisman*) The changes discussed limit this plan to develop the property; do not limit property from other buildings being developed.
- Is time to get the 17 Mile corridor setback issue resolved; we don't want continued

variances and/or threat of legal action

(Tilburt) Motion to adopt the resolution to approve the variance and called for vote.

Ayes in favor – Tilburt and Powell

Opposed – Stout and Skelonc

Tie vote – Motion failed.

(Tilburt) Called for motion to deny the variance. Motion to deny variance by Skelonc, second, Stout.

Ayes in favor – Tilburt, Stout, Skelonc

Opposed – Powell

Motion Carried

Conclusion: (Leisman) To clarify: Change the date and time; on 2(b)ii, change the 17 parking spots to 18; on 2(c)i, “the applicant has not presented complete information regarding AutoZone...” to board.

**Other Matters to be reviewed by the Zoning Board of Appeals:** N/A

**Old Business:** N/A

**Open discussion for Issues not on the Agenda:**

1. Correspondence Received: N/A
2. (Gross) Has inquiry from a resident in a development who’s considering a pole barn in front yard; may come to ZBA

**Report of Township Board Representative:** (Stout) (Board) doing a good job

**Report of Planning Commission Representative:** N/A

**New Business:** N/A

**Additional Discussion:**

1. (Tilburt) Will bring the 17 Mile corridor comments from Skelonc to the Planning Commission. e.g., how to regulate this; how to set appropriate setbacks given existing conditions
2. (Leisman) Timeline: will confirm this resolution and send to Zoning Administrator, Gross; Gross will have ZBA Chair, Tilburt sign if approved then return to him; will be next week; plan to give them a signed resolution next week.
3. (Starck) Request to table our discussions at the Planning Commission

**Adjournment:**

(Tilburt) Called for motion adjourn. Motion to adjourn by Stout, second by Skelonc. All Ayes, Motion Carried. Meeting adjourned at 5:10 PM.

*Next Scheduled ZBA Meeting: Wednesday, June 21, 2023*

Secretary: \_\_\_\_\_

Date: \_\_\_\_\_