

**CITY OF WIXOM  
ZONING BOARD OF APPEALS MEETING  
49045 PONTIAC TRAIL  
MONDAY, APRIL 15, 2019**

**APPROVED AS AMENDED**

**June 10, 2019**

The meeting was called to order by Chairman Caplan of the Zoning Board of Appeals at 7:48 p.m. at which time allegiance was pledged to the American flag.

**BOARD:** Jeff Caplan (Chairman), David Berry, Steve Winters, Peter Behrmann and Tom Marcucci  
**ABSENT:** Joe Barts (Excused), Roy Thorsell (Excused) and Michael Schira  
**OTHERS:** Justin Sprague (CIB Planning) and Nancy Fisher (Recording Secretary)

**Determination of a Quorum:**

A quorum of the Zoning Board of Appeals was present for this meeting.

**Agenda:**

No additions or changes were made to the agenda.

**Approval of the December 10, 2018 Zoning Board of Appeals Meeting Minutes:**

MOTION and seconded by Boardmembers Behrmann and Winters to approve the December 10, 2018 Zoning Board of Appeals Meeting Minutes.

**VOTE: MOTION CARRIED**

**Approval of the February 22, 2019 Joint Meeting Minutes:**

MOTION and seconded by Boardmembers Berry and Marcucci to table approval of the February 22, 2019 Joint Meeting Minutes.

**VOTE: MOTION CARRIED**

**Correspondence:**

City Manager's Update – March 12, 2019  
City Manager's Update – March 26, 2019  
City Manager's Update – April 9, 2019

**Call to the Public:**

There were no comments made by the public.

**Unfinished Business:**

There was no unfinished business listed on the agenda for this meeting.

**New Business:**

- 1. PUBLIC HEARING FOR VARIANCE #016-18; TREMEC CORPORATION, 46643 RYAN COURT, WIXOM, MI, 48393:** The applicant is seeking a variance to allow an encroachment into the rear yard setback to build an exterior bulk delivery storage system. The Wixom Municipal Code requires approval of a dimensional variance from the Zoning Board of Appeals when it can be shown that Ordinance standards have been met. The property is zoned M-1, Light Industrial, where industrial uses are permitted in that district. The parcel number is 22-04-326-005.

Chairman Caplan informed all the applicants that they would need to secure four out of the five Boardmember votes in order to receive approval of their requests for variance tonight.

Tom Bryant, P.E. and Erika Cleary, Tremec Corporation, 46643 Ryan Court, Wixom. Mr. Ryan is the engineer representing the applicant and Ms. Cleary is the applicant's Health & Safety Coordinator. Mr. Bryant said this project is in conjunction with the Corvette C8 power train program. He noted that he has previously worked with General Motors. They will have trucks pulling up to the back of the facility. They will install a 4-inch drip pan for containment with a 25-foot by 30-foot building over the top of it. In order to meet the Fire Marshall's requirements, they will need 100 feet of concrete and asphalt lane in the opposite direction of the ballards. Due to the odd shaped lot and the presence of railroad tracks, they will require a variance.

Chairman Caplan confirmed with the applicant that it needs a minimum of 20 feet. Chairman Caplan asked how tall it is. The applicant said that the Fire Marshall wants 13 feet, 6 inches. They have 14 inches on the low end but with a 2-1/2 inch slope. Chairman Caplan asked whether there will be any fire suppression. The applicant said that there is no need since it is located so far off the building. He noted that he has been working with the City's Fire Department for the last 6 months. Chairman Caplan noted that Mr. Avantini had expressed some concerns about the compliance with construction codes and pitched ground surfaces. The applicant noted that they will take the drip pan off the building 15 feet from the structure and then another 20 feet for the fire trucks with a 1 percent slope to the corner with a drain. They will have interior and exterior gallons. Chairman Caplan asked if the items depicted on the schematic are air conditioning condensers. The applicant said that they are chillers. He confirmed that the overhang will not be over there and it will not overheat them.

Boardmember Marcucci asked whether there is a side or whether it is just a roof. The applicant said that it will be 80 percent open on the Tremec building side where the hose comes out. There will be a wall between the chillers. The Fire Marshall wants a wall to keep snow, wind and rain out of there on the far side. Boardmember Marcucci noted the four pad footings for the steel beams. Boardmember Behrmann confirmed with the applicant that it is seeking a 5-foot variance. The applicant is pushing the curb back 9 feet. Mr. Sprague noted that the structure itself will be 5 feet.

Boardmember Berry noted that it is a 1,100-gallon capacity for the oil. He asked the applicant how much oil they will have. The applicant said that it is containment. Boardmember Berry noted that he is asking about the tank and the pad. How much oil can it contain if there is a hole? The applicant said that one tank is 500 gallons and the other is 600 gallons for a combined total of 1,100 gallons. The trucks coming in will carry 3,000 to 6,000 gallons. The tank will be contained in the containment pad. The trucks are arriving full. Boardmember Berry asked what would happen if there is a failure and the oil cannot be shut off. Would they lose 13,000 gallons of oil? The applicant said there will be emergency shutoffs on the truck and on the hose. The Fire Marshall has reviewed this, analyzed it for the worst case scenario and deems it sufficient. Boardmember Berry confirmed with the applicant that there will be oil containment pads.

Chairman Caplan noted that this is pretty cut and dry. It is 5 feet in and does not affect anything in the neighborhood. It was not self-created. It is an irregularly shaped lot. Boardmember Behrmann confirmed with the applicant that they are renting the building. They did not build it. Boardmember Marcucci said that he is fine with the applicant's request.

**MOTION** and second by Boardmembers Behrmann and Winters to approve Variance #016-18, Tremec Corporation's request for a 5-foot variance to allow an encroachment into the rear yard setback to build an exterior bulk delivery storage system due to the irregular shape of the property. The property is located at 46643 Ryan Court, Wixom, Michigan 48393, is zoned M-1, Light Industrial and the parcel number is 22-04-326-005.

## VOTE:

## MOTION CARRIED

2. **PUBLIC HEARING FOR VARIANCE #001-19; JOHN & VALERIE JENNINGS, 4058 W. MAPLE, WIXOM, MI, 48393:** The applicant is seeking a variance to allow a property to be split into two (2) separate parcels when they would exceed the maximum 4 to 1 lot depth-to-width ratio under Section 16.28.030 of the City Ordinance. The Wixom Municipal Code requires approval of a dimensional variance from the Zoning Board of Appeals when it can be shown that Ordinance standards have been met. The property is zoned R-3, One Family Residential where single-family residential uses are permitted in that district. The parcel number is 17-31-151-014.

Mr. Sprague noted that the City staff reviewed this project. He wants to clarify that tonight's variance is strictly to approve or deny compliance of the 4:1 ratio. It is not for the lot split which would be a separate matter. There are a couple other things they would like to get clarification on from the applicant including: 1) the 3.08-acre subject site is one of the larger parcels in the area and appears to have the potential to be divided into more than two parcels proposed. Additional information is needed to determine if extraordinary circumstances exist with this property and why the requested width-to-depth ratio must be adhered to; 2) information as to why compliance with the strict letter would unreasonably prevent the use of the property; and 3) information for any possible future lot splits/divisions and circumstances that restrict the proposed division into two lots. The staff has two recommendations. If the applicants are unable to provide sufficient information tonight, they suggest that the ZBA table this matter until the applicant can provide the information. If the applicants can provide the information tonight, the staff are comfortable with the ZBA approving the requested variance.

Chairman Caplan confirmed with Mr. Sprague that this is only for the applicant to get a deeper lot. The variance can stipulate that the depth exceeds the 4:1 ratio but that it can only be split into two lots. Mr. Sprague said that is not really the ZBA's place. Instead, they should look at why the minimum ratios cannot be met. Are there unreasonable circumstances? The applicant should be able to adequately answer the above three questions.

Boardmember Behrmann asked Mr. Sprague what the plan is looking for. Does the City want to make sure that the property cannot be further developed? Mr. Sprague noted that the City would like to see it be developed in accordance with the Ordinance standards. They would like to know whether the applicants are proposing future lot splits. Also, why can it not be split according to the 4:1 ratio? Is there a reasonable explanation?

Boardmember Berry asked Mr. Sprague about the rationale for restricting width to depth. Mr. Sprague said that it is codified in the Michigan Land Division Act which the City's Ordinance has to adhere to. Chairman Caplan noted that is strange and that he did not realize this was part of State law. Boardmember Behrmann noted that the applicant's proposal is to go to 1:4.29.

John Jennings and Valerie Jennings, 4058 W. Maple, Wixom. Mr. Jennings said that he does not understand the whole multi-split issue. They have a rectangular lot. They want to split it in half and build a house next door. It exceeds the 4:1 ratio, a requirement which has been around for 11 years. However, they bought their home 28 years ago and were unaware that the law changed. There is a power line there. If it is split 125 feet and 125 feet, it could not be further split since there is a minimum

frontage width. He does not know how you could access that without putting a road in order to get to the back. There are no future plans to split it other than down the middle.

Chairman Caplan confirmed with the applicants that they live in the house to the west and they have 3.08 acres including their home. They want to make it a separate lot and build a house. Chairman Caplan asked who owns the property behind the applicants. Can the applicants donate a little bit of land to the people behind them in order to meet the Ordinance? The applicants said that they are running out of time to get the house built and closed in before winter arrives. They did not want to go to the expense of retaining a real estate lawyer to split it. Chairman Caplan noted that the 3.08-acre site is one of the largest lots. If they split it, they will keep it. He noted that perhaps the City is concerned that it could be made into a subdivision of sorts. He noted that the City is looking for additional information about the applicants' extraordinary circumstances and why they cannot deal with it as it is.

Boardmember Behrmann asked whether the back portion of the lot is wooded. The applicants said no. The property depth is not usable since they lose 50 feet in front for the easement. They are paying taxes from the center of the road backward. They have no future plans to make more than a 2-part split. Mr. Sprague noted that based on the lot size and shape, he believes it could be split in a way where there could be two 4:1 properties. What is preventing the applicants from doing that? He read from page 2 of the City staff's report that lays out the City's concerns in this regard. It could be split in the middle to have two lots that are 4:1. Chairman Caplan noted that it is 250 feet. They could meet 125 feet. The applicants noted that the house is spread out and instead of 125 feet, it could be 123 feet. Mr. Sprague noted that the only thing the applicants submitted to the City was a drawing with a line down the middle and no survey.

Boardmember Marcucci asked the applicants split it down the middle would they be okay with that? Chairman Caplan noted that the depth is 536 feet. If you split it down the middle for four lots, it would still be 36 feet over. The applicants said that they are trying not to spend the \$2,000 for the survey and risk not winding up with a variance in the end anyway. If it was an empty lot, they may have split it three ways for frontage requirements. Chairman Caplan said that they all came to the conclusion that if it is split down the middle at 125 feet, they are still 36 feet short. The ZBA could approve the ratio but the lots have to have 125 feet of frontage. Boardmember Marcucci suggested that the applicants could survey it and find out if it is too close to their house. The applicants noted that there is an existing house. Since the driveway is on the side, you need to allow more room. Chairman Caplan noted that the applicants are not telling the ZBA how much they need. The applicants said they are good with 125 feet. Chairman Caplan suggested that maybe the house next door could have a skinnier driveway. Does the ZBA want to give them a little more than the 4:1 ratio? Boardmember Winters said that would work. Boardmember Marcucci noted that the applicants could come back after they do a survey and find out there is not enough room for the driveway. Mr. Sprague noted there would have to be shared access and that would have to be in place before a split occurs. The focus of tonight's meeting is the ratio. They do not want the applicants creating an illegal lot. If a ratio of greater than 4:1 is approved, the applicants will need to provide complete design plans. The City needs to see where the black line on the applicants' drawing falls. Chairman Caplan noted that they will lose their driveway if they do that. The applicants said that they will put in a new driveway. Chairman Caplan said that the applicants will have to work with the City to figure out how to split it.

Boardmember Winters noted that if they give the applicants a greater ratio, they can go with an 80-foot lot. Mr. Sprague noted that they would have to meet the minimum lot requirements for R-3 zoning and setback requirements. The easement is where the setback goes, not the property line. The side of the house can even face the road.

Boardmember Berry asked the applicants when they purchased and built their current home. The applicants said it was 1989. Boardmember Berry asked Mr. Sprague what year the State put this law into place. Mr. Sprague said that with the requirements as it is today, it was amended in 1997. However, the Land Division Act was enacted in 1967, amended in 1983, 1991 and 1997. The 4:1 ratio was added in 1997.

Boardmember Behrmann noted that technically the applicants could split the land and fulfill the terms of the Ordinance and just make it wide enough to go back and keep a sliver to make it not as deep. However, if they split it down the middle, it will be better for resale. He confirmed with the applicants that they want it to live on. The applicants noted that they cannot make the property they want to build on any wider. Boardmember Behrmann and Chairman Caplan noted that the piece of property on the left could be L-shaped. Boardmember Behrmann noted that he has no problem with the applicants' request.

Chairman Caplan noted that the ratio does not make sense and that he has a piece of property like this. Mr. Sprague noted that the Land Division Act gives the approval process to the local municipality. Boardmember Berry noted that if the ZBA grants the variance and increases the lot to 4:1.29, it would be a variance against both State and local requirements. Mr. Sprague acknowledged that is correct. Boardmember Berry noted that this is not a self-created problem. Mr. Sprague noted that the law was not effective in its current form. They would have to go back to the original subdivision control act. Boardmembers Marcucci, Winters and Behrmann are all okay with the applicants' request.

**MOTION** and second by Boardmembers Behrmann and Berry to approve Variance #001-19, John and Valerie Jennings' request for a variance to allow a property to be split into two (2) separate parcels when they would exceed the maximum 4 to 1 lot depth-to-width ratio under Section 16.28.030 of the City Ordinance. The property is located at 4058 W. Maple, Wixom, Michigan 48393, is zoned R-3, One Family Residential and the parcel number is 17-31-151-014.

**VOTE:**

**MOTION CARRIED**

- 3. PUBLIC HEARING FOR VARIANCE #002-19; JOHN ROBINSON, 2465 BALSAM COURT, WIXOM, MI, 48393:** The applicant is seeking a variance to allow construction of an in-ground pool with associated cement and fencing above a drainage easement when it is not allowed per Section 18.13.040 of the Ordinance. The Wixom Municipal Code requires approval of a dimensional variance from the Zoning Board of Appeals when it can be shown that Ordinance standards have been met. The property is zoned R-3, One Family Residential where single-family residential uses are permitted in that district. The parcel number is 17-32-203-005.

John Robinson, 2465 Balsam Court, Wixom. He would like an in-ground backyard pool but requires sufficient width. His contractor discovered there is an issue because they have two easements on an irregular shaped property. He needs a variance to put the corners in that easement. Mr. Sprague noted that the City ultimately recommended approval following several conversations with the applicants. The City could not initially identify the easement owner. However, they eventually discovered it is a drainage easement as part of the condo association. They wanted to make sure the applicants have permission. There is a letter from the condo homeowners' association in tonight's meeting packet which Mr. Sprague read aloud to the Boardmembers. This alleviates the homeowners' association's concerns. Mr. Sprague noted that there are three conditions the City would like to see included in any approval: 1) the existing storm sewer should be located in the easement and verified during construction that it is not damaged; and 2) adequate information

must be provided to assure that there will be no obstruction to the drainage trying to reach the detention pond; 3) per the applicant's letter, the applicant agrees to pay for any removal/replacement of fencing and concrete required to maintain the drainage easement and existing storm drain. They also ask that the applicant pays for repair of the storm drain should it require replacement.

The applicant stated that his house is at the highest point. If he creates a drainage issue for anyone, it would be himself. He noted that the lot slopes down to the cul-de-sac. Boardmember Marcucci asked whether there is a drain, a concrete pipe or dirt where the pool is going. The applicant showed Boardmember Marcucci the schematic drawing depicting the drain pipe in relationship to the pool. Boardmember Marcucci noted that he wants to make sure that it will not be in the storm sewer. He noted that the applicant will need to find the storm sewer drain before he starts digging. It should be far enough out of the way.

Boardmember Behrmann confirmed with the applicant that it will be a rectangular pool. Boardmember Marcucci asked how many feet from the back of the house the pool will be. The applicant said there is a paver patio and trees there. Also, it needs to slope away from the pool. It would be really close and he would have to remove the trees and patio. Boardmember Marcucci noted that he cannot tell whether it is a distance of 5 feet, 10 feet or 20 feet since it is not stated in the applicant's plans. Boardmember Behrmann confirmed with the applicant that their neighbors to their left also have a pool. He asked whether it is the same easement. The applicant said that he does not know.

Chairman Caplan noted that if the ZBA approves this, the applicant will still need to provide a letter to the City saying he will be responsible for any damage incurred during installation of any future damage. The existing storm sewer will have to be relocated. Mr. Behrmann said it is the applicant's choice to bear that risk. However, if the sewers are dug up, the house next door will have the same issue. Boardmember Behrmann noted that there are no stated dimensions. Mr. Sprague said that is because the applicant is not requesting a setback variance. Boardmember Behrmann asked what those dimensions would be. Mr. Sprague said 3-5 feet for an accessory structure. Boardmembers Marcucci and Behrmann are fine with the applicant's request. Chairman Caplan noted that it is an odd shaped lot.

**MOTION** and second by Boardmembers Behrmann and Berry to approve Variance #002-19, John Robinson's request for a variance to allow construction of an in-ground pool with associated cement and fencing above a drainage easement when it is not allowed per Section 18.13.040 of the Ordinance. This approval is conditioned upon: 1) the existing storm sewer should be located in the easement and verified during construction that it is not damaged; 2) adequate information must be provided to assure that there will be no obstruction to the drainage trying to reach the detention pond; 3) per the applicant's letter, the applicant agrees to pay for any removal/replacement of fencing and concrete required to maintain the drainage easement and existing storm drain. They also ask that the applicant pays for any required removal and replacement of any fencing, concrete or pool repairs connected to storm drain maintenance. The property is located at 2465 Balsam Court, Wixom, Michigan 48393, is zoned R-3, One Family Residential and the parcel number is 17-32-203-005.

**VOTE:**

**MOTION CARRIED**

**Call to the Public:**

None.

**Staff Comments:**

Mr. Sprague noted that there will be a few more cases for the May 13, 2019 ZBA meeting related to signage. They will start doing updates to the Zoning Ordinance and they still need to approve the Master Plan which will then come back to City Council for early adoption. Then they will kick off the Zoning Ordinance amendments. In preparation for doing the Ordinance amendments, they will review the last several years of requests for variance made to the ZBA to see if the Ordinance needs to be changed. He asked the Boardmembers to let him know if they have suggestions for proposed amendments. Chairman Caplan noted that the ZBA sees a lot fewer cases than it used to.

**Board Comments:**

Boardmember Berry asked Boardmembers Marcucci and Winters whether they forgot there was a meeting tonight. Chairman Caplan noted that their meetings are usually held on the second Monday. Boardmember Marcucci noted that his reminder on his phone did not go off. Boardmember Behrmann noted that they had a large number of applicants and thus attendees and that he felt bad for them having to wait and wondering whether there would be a meeting. He suggested having easy access to a list of phone numbers for the Boardmembers at future meetings.

Boardmember Winters noted that he was surprised that he had to ask a lot of questions that should have been asked before the meeting. Mr. Sprague noted that the staff did request information especially from the second applicant. However, he was unsure that they would have it in time. Chairman Caplan noted that the second case was confusing. Mr. Sprague noted that the staff did not feel comfortable making a recommendation because they did not have enough information. If the applicants wanted to, they could have turned it into four lots. Boardmember Marcucci asked about the lot at Wixom and Maple Road. Mr. Sprague said that it requires the same sized lot. In theory, they could have 10 lots if they tore down the current home.

**Adjournment:**

This meeting of the Zoning Board of Appeals was motioned and adjourned at 9:06 p.m.

Nancy Fisher  
Recording Secretary