AGENDA

Regular Meeting
Tuesday, January 21, 2014
7:00 p.m.

Green Oak Charter Township Hall
10001 Silver Lake Road
Brighton, MI 48116

1. Call to Order
2. The Pledge to the Flag
3. Roll Call of the Board
4. Approval of the Agenda

5. Election of Officers

6. ZBA Case 02-2014, Steve Avey/Dennis Dubuc, 10630 Rushton Road, Building 4.
   Request to change the non-conforming use from indoor storage to a health and fitness
   club.

   38-495 (6) says that any nonconforming use of a structure, or a structure and premises, may be changed
   to another nonconforming use of the same or a more restricted classification, provided that the Zoning
   Board of Appeals either by general rule or by making findings in the specific case, shall find that the
   propose use is equally appropriate to the district than the existing nonconforming use.

   a. Applicant’s Presentation of the Case – maximum of ten minutes
   b. Board members may question the Applicant
   c. Open Public Hearing – a maximum of three minutes shall be allotted to individuals, and a maximum
      of five minutes to a group representative
   d. Close Public Hearing
   e. Rebuttal by Applicant – a maximum of two minutes allotted
   f. Decision of the ZBA

7. ZBA 03-2014, The Bloch Group LLC/ Fairmont Sign Company, 12660 Ten Mile Rd,
   South Lyon MI 48178. Request an electronic message sign and two wall signs on the
   non-street frontage of a medical office building.

   38-410. Electronic Message Signs, Electronic message signs (LED) shall be permitted only within the
   LB, RO, GB and HC zoning districts.
   38-406 (4) Wall Signs, only one wall sign be located on a building that faces a street or highway.

   a. Applicant’s Presentation of the Case – maximum of ten minutes
   b. Board members may question the Applicant
   c. Open Public Hearing – a maximum of three minutes shall be allotted to individuals, and a maximum
      of five minutes to a group representative
   d. Close Public Hearing
   e. Rebuttal by Applicant – a maximum of two minutes allotted
   f. Decision of the ZBA

ZONING BOARD OF APPEALS
Joe Weinburger, Chairperson
Sarah Pearsall, Vice Chairperson
Wendy Hoover, Secretary

Gary Gaylord, Member
Billy Linthner, Alternate

10001 Silver Lake Road, Brighton, Michigan 48116-8361    (810) 231-1333
Fax (810) 231-5080
www.greenoaktwp.com
8. ZBA 04-2014, Joe & Betty Peraino/Poloski Construction Inc. 11423 North Shore Dr. Whitmore Lake, MI 48189 Request a variance to allow an 18 foot waterfront yard setback, 11 foot front yard setback and south side yard of 2 feet this would allow a new home to be built.

38-136 Schedule of Regulations states that in the R-1 zoning district that the waterfront and front setback be a minimum of 30 feet and the side yard to be a minimum of 10 feet.

   a. Applicant’s Presentation of the Case – maximum of ten minutes
   b. Board members may question the Applicant
   c. Open Public Hearing – a maximum of three minutes shall be allotted to individuals, and a maximum of five minutes to a group representative
   d. Close Public Hearing
   e. Rebuttal by Applicant – a maximum of two minutes allotted
   f. Decision of the ZBA

9. ZBA 05-2014, Joe & Betty Peraino/Poloski Construction Inc. 16-32-100-054 between 11404 & 11430 North Shore Dr. Whitmore Lake, MI 48189. Request a variance to allow an accessory building on a parcel without a principal building on the same lot.

38-1, Accessory building or structure means a supplementary building or structure on the same lot or parcel of land as, and detached from, the principal building or part thereof occupied by or devoted exclusively to any accessory use.

   a. Applicant’s Presentation of the Case – maximum of ten minutes
   b. Board members may question the Applicant
   c. Open Public Hearing – a maximum of three minutes shall be allotted to individuals, and a maximum of five minutes to a group representative
   d. Close Public Hearing
   e. Rebuttal by Applicant – a maximum of two minutes allotted
   f. Decision of the ZBA

10. Set Regular Meeting Dates for 2014

11. New Business

12. Old Business

13. Approval of September 17, 2013 Meeting Minutes

14. Correspondence

15. Call to the Public – maximum of three minutes shall be allotted to individuals, and a maximum of five minutes to a group representative

16. Adjournment

Posted: December 18, 2013

ZONING BOARD OF APPEALS

Joe Weinburger, Chairperson
Sarah Pearsall, Vice Chairperson
Wendy Hoover, Secretary

Gary Gaylord, Member
Billy Lintner, Alternate

10001 Silver Lake Road, Brighton, Michigan 48116-8381 (810) 231-1333 Fax (810) 231-5080
www.greenoaktwp.com
To elect Sarah Pearsall as Vice Chair.

Voice Vote: Ayes: Unanimous
        Nays: None

MOTION APPROVED

1. ZBA Case 02-2014, Steve Avey/Dennis Dubuc, 10630 Rushton Road, Building 4. Request to change the non-conforming use from indoor storage to a health and fitness club.

Representing ZBA Case 02-2014: Dennis Dubuc, 9559 Daleview, South Lyon
Steve Avey, Owner
9170 Walnut Dr. Whitmore Lake

Mr. Dubuc began to provide a history of the property, explaining some of the prior commercial uses that existed prior to being abandoned by the former owners, and prior to the rezoning of the property to residential. Mr. Dubuc expressed his opinion that the property is a commercial indoor storage use. Ms. Rosati reminded Mr. Dubuc that the issue of the nonconforming use of the property had been recently litigated through the state and federal courts, and the nonconforming use was indoor storage. Ms. Rosati suggested that Mr. Dubuc address the issue before the ZBA tonight regarding the proposed change of the nonconforming use and why the proposed use would be a change to another nonconforming use of the same or a more restricted classification and that the propose use if equally appropriate or more appropriate to the residential district than the existing indoor storage under Sec. 38-495.

Mr. Dubuc explained that the property is a commercial and public storage garage and that there are no restrictions as to what can be stored in the buildings. There is also no restriction on the hours of operation and if he advertised the property as storage anything could come in, even something that had diesel trucks. He felt that the current request is a benign use and that the ZBA had the authority to allow the change.

Ms. Rosati confirmed that this parcel is zoned single family residential with a non-conforming use for indoor storage only.

Mr. Dubuc explained that he would like the property to be zoned to General Business since it is less restrictive and it allows a health and fitness use. He gave the example of having a barber shop use which would not pose any hazards to the Township. He stated that there is no restriction now on what can be stored in the current use which could allow storage of fuels, fertilizer and hazardous waste. He also explained that there is no restriction on trucking hours of operation in the current use.

Ms. Rosati explained that the ZBA does not have the authority to change the zoning classification of the property or grant a use variance for this property.

Mr. Avey explained that the business provides functional training with the earliest class being offered at 5:30 a.m. and the latest class at 7:30 p.m. which is over by 8:15 p.m. Mr. Avey confirmed that this is a fitness studio not a health club. There are small
classes with a personal trainer. Mr. Avey explained that the classes are capped at 15 people, with the early morning class at 5:30 a.m. capped at 8 people. Mr. Avey stated that if he were to expand he would attempt getting the other large building on the property.

Mr. Dubuc stated that restrictions can be added such as hours of operation and if the business was to expand it would have to be moved to a larger building.

Mr. Weinburger opened the public hearing at 7:21 p.m. and closed it due to no one wishing to comment.

Mr. Dubuc asked that the Board consider what is best for Green Oak Township. He felt this use would be great for the Township.

Ms. Pearsall confirmed that the 5:30 a.m. class is capped at 8 people and is held on Monday and Wednesday.

Mr. Avey’s business partner Tyler Koronich explained that they do place caps on all of the classes that are offered. He also stated that the 5:30 a.m. class is limited to 8 people because it is a challenge session and it would never run earlier than 5:30 a.m. He explained that this is not a regular gym that offers memberships. They want to keep it small and offer a family atmosphere. Their total membership cap is about 300 members’ total, although there are generally no more than 20 people on site at one time for the classes. He explained that the facility located in Howell is 4,000 sq. feet and the one in Green Oak is 3,000 sq. feet. He did not see expanding the business anytime soon, if at all. He asked that the parking restriction on the weekends be more generous since they do hold special events on the weekends approximately every 7 weeks, and because there would be more cars in the parking lot when classes were changing. He stated that they would have no problem holding to the 35 cars during the week. He also explained that the Howell location backs up to residential and they have not had any issues in that location.

Ms. Brookins noted that if this variance was granted, that the personal trainer use would only be for building 4 and if the Personal Training business left the use would not revert to the inside storage.

Motion by Pearsall, second by Hoover
To approve the variance request for ZBA 02-2014, 10630 Rushton Road, Building 4. To change the non-conforming use from indoor storage to a personal training studio as represented by the applicant. All activities are restricted to the inside of the premises. Hours of operation are M-F 5:30 a.m.-9:00 p.m. There will be no loud music allowed, and music is not to be heard outside the structure. A restriction of 35 cars Monday-Friday and 50 cars on the weekend. The variance request is granted upon the finding that the impact of the personal training studio is less or equal to the impacts of the current use nonconforming use and more appropriate to the district. There is no exceptional or extraordinary circumstances.

Roll Call Vote: Ayes: Unanimous
MOTION APPROVED

2. ZBA 03-2014, The Bloch Group LLC/Fairmont Sign Company, 12660 Ten Mile Road, South Lyon MI 48178. Request an electronic message sign located at the front of the building and two wall signs on the non-street frontage of a medical office building and a 10.4 square foot directional sign with a 3 foot setback.

Representing ZBA 03-2014: Louis Harper
Nathan Bloch
Salem Hadad

Mr. Harper explained that the request is to use an electronic message sign in the L-l District. Also, a 12’ setback variance request to permit 1 10.4 square foot ground sign at a 3’ setback where a 15’ setback is required, this sign would be a directional sign. He also explained that Mr. Dubuc has approved the signage for this area. The final request is to use the wall signage on the rear elevation of the building. All entrances are facing in towards the parking lot and are difficult to see. The signs intensity of illumination will be sufficiently subdued so that it will not impede vision or safety in any way, and will not impact adjacent properties. The applicant will comply with all ordinances.

Mr. Harper explained that the practical difficulty is the lay of the land. Mr. Bloch explained that he would like to advertise the doctors that are available or advertise how many flu shots are available. He explained that the messages would not scroll fast and the lettering will be one color. Mr. Bloch also stated that he has signed letters stating that all of the neighbors are fine with the sign.

Mr. Weinburger opened the public hearing and closed it due to no one wishing to comment.

Motion by Gaylord, second by Pearsall
To approve ZBA 03-2014 because the applicant has shown a practical difficulty for the following reasons: There are practical difficulties exceptional circumstances and conditions applicable to this property that do not generally apply to other properties in the area or district specifically, the property is zoned light industrial but is basically in a commercial school area. The variances are necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same district or surrounding area. An improvement as an identification marker is necessary for the medical office for its clients. The granting of the variance will not be materially detrimental to the public welfare or adversely affect the surrounding properties in the district for the following reasons: the intensity of the illumination of the sign will not impede vision nor detract from traffic safety. The granting of the variance will not affect the purpose or objectives of the Master Plan because this area is largely commercial in its present use. The practical difficulty is not self-created for
the reason that the variance is needed for safety, visual, aesthetic and practical lay of the building for the proper egress of it's clients.

Roll Call Vote: Ayes: Unanimous
Nays: None

MOTION APPROVED

3. ZBA 04-2014, Joe and Betty Peraino/Poloski Construction Inc. 11423 North Shore Drive, Whitmore Lake, MI 48189 Request a variance to allow an 18 foot waterfront yard setback, 11 foot front yard setback and south side yard of 2 feet this would allow a new home to be built.

Representing ZBA 04-2014: Stan Poloski, Poloski Construction
Joe and Betty Peraino, Owners

Mr. Poloski explained that they are applying for a variance because they would like to tear down an existing ranch home and rebuild a new ranch home of approximately 1400 sq. ft. The home will encroach on the lot line. He explained there is a 38' buffer to the lake. The new home will not block any views of the lake.

Ms. Hoover questioned how far the home next door is from the road?

Jim Johnson, 11429 North Shore Drive – Mr. Johnson is the next door neighbor and he stated that he is 3' off the road.

Ms. Pearsall questioned what the practical difficulty is. Mr. Poloski stated that the lot size, grade and the proximity to the county road are practical difficulties. Mr. Peraino stated that when the snow is plowed it comes right up to their house. Mr. Poloski stated that the crown of the road runs towards the house. Ms. Pearsall stated that the applicant will be improving a non-conforming use.

Mr. Weinburger opened the public hearing at 8:10 p.m.

Carl Peter, 49673 S. Glacier, Northville – He explained that he owns property to the north of the applicant and that most of the homes in the area were built in the 20’s and 30’s and are 12’ from the road. He felt the variance should be approved and it will make the home even with the present homes.

Jim Johnson – He explained that there is a practical difficulty in maintaining their homes because they can't do any improvements with the current building codes. He stated that the Board should grant some leniency in this area because they can't maintain them without variances.

Randall Field, 12036 Brook Court – He explained that he lives 2 doors over to the north and there is no available parking in the front. He is concerned that his lake view would be blocked but after reviewing the plans he determined it would not block his view.
Dennis Cazan — He expressed concern that his lake view would be blocked but after reviewing the plans also determined it would not.

Mr. Weinburger closed the call to the public at 8:20 p.m. due to no further comments.

Motion by Hoover, second by Gaylord
To approve ZBA Case 04-2014 to allow the existing home to be torn down and a new one built with an 18' waterfront setback and an 11' front yard setback and a 2' side yard setback on the south property line. There are extraordinary circumstances that apply to this property that do not apply to other properties in the same zoning district because the lot size is smaller than typically required. It would not allow a new home that meets modern day standards to be constructed and there are grading and drainage issues as this house currently sits and the variance would correct that problem. The new home plan would be consistent with the surrounding neighborhood and would not be detrimental to the Townships Master Plan and would not create a safety concern.

Roll Call Vote: Ayes: Hoover, Pearsall, Gaylord, Tuthill
Nays: Weinburger

MOTION APPROVED

4. ZBA 05-2014, Joe and Betty Peraino/Poloski Construction Inc. 16-32-100-054 between 11404 and 11430 North Shore Drive. Whitmore Lake, MI 48189. Request a variance to allow an accessory building on a parcel without a principal building on the same lot.

Representing ZBA 05-2014: Stan Poloski, Poloski Construction
Joe and Betty Peraino, Owners

Mr. Poloski stated that the applicant would like to build a 26'x36' single story garage on the vacant lot that they own across the street from the home. He explained that there is no sewer tap or well on this lot. He explained that the applicant would park their cars there since there is no parking available at their primary residence and there is no room on the lot with the home to build a garage.

Mr. Peraino explained that they need a place for sheltered parking. Mr. Weinburger stated that there is no practical difficulty and the ordinance does not allow an accessory building to be on a lot without a principal structure. There was brief discussion regarding a deed restriction.

Mr. Weinburger opened the public hearing at 8:30 p.m.

Dennis Cazan. He expressed his concern regarding drainage onto his property if an accessory building was permitted. He explained that the applicant's lot slopes down to his house and he has had water issues in the past. He would love to have the applicant build a home on the lot - not an accessory structure. He stated that there is a pole barn
that was permitted on the other lot next to him and it has caused problems.

**Patricia Lintall, 11460 North Shore Drive** — She explained that they do have split lots with garages and houses and allowing this would impact their home values and drainage. The people that own the pole barn that Mr. Cazon mentioned were told by the Township to lower the roof and they have never followed through with that. She also explained that there is a low spot in the road which collects water and she is concerned with drainage.

Mr. Weinburger closed the public hearing at 8:35 due to no further comments.

Mr. Poloski stated that he appreciates Mr. Cazon’s concerns but if the applicant was to build a house there would still be an issue.

Mr. Peraino stated that his lot is flat but 2’ higher in height on the left side and if anything Mr. Cazon’s lot drains to his lot not the other way around.

Mr. Weinburger stated that he does not see a practical difficulty with this application.

**Motion by Gaylord, second by Pearsall**
To deny application ZBA Case 05-2014 since there are no exceptional or extraordinary circumstances or conditions applicable to the property that cannot apply to other properties in the area. Specifically, no accessory buildings are allowed on the parcel without a principal building according to Section 38-171. The variances are not necessary for the preservation and enjoyment of the property right by others in the same area and are not a condition or situation which is general or recurrent in nature for the following reasons: No accessory building can be built without a principal residence on the same property. The Granting of the variance would be materially detrimental, due to drainage concerns that exist and could be exacerbated by allowing the variance. The variance would adversely affect the objectives of the Master Plan because it is in clear violation of Section 38-136. The practical difficulty is self-created because it is a clear violation of the ordinance and it must be denied. There is no right to have a garage in the absence of compliance with ordinance requirements.

**Roll Call Vote:**
Ayes: Weinburger, Gaylord, Hoover, Pearsall
Nays: Tuthill

**MOTION APPROVED**

5. **Set Meeting Dates for 2014**

**Motion by Pearsall, second by Gaylord**
To approve the meeting dates for 2014 as presented.

**Voice Vote:**
Ayes: Unanimous
Nays: None
MOTION APPROVED

NEW BUSINESS - Ms. Brookins introduced Debbie McKenzie who will be the new Zoning Administrator upon Ms. Brookins retirement in February 2014.

OLD BUSINESS - None

APPROVAL OF MINUTES

Motion by Pearsall, second by Hoover
To approve the September 17, 2013 meeting minutes as presented.

Voice Vote: Ayes: Unanimous
Nays: None

MOTION APPROVED

CORRESPONDENCE – The Planning and Zoning Annual Report was in the Board members packets.

CALL TO THE PUBLIC - None

ADJOURNMENT

Mr. Weinburger adjourned the Zoning Board of Appeals meeting at 8:45 p.m. due to no further business.

Respectfully Submitted,

Kellie Angelosanto

Kellie Angelosanto
Recording Secretary