

CHARTER TOWNSHIP OF MONITOR  
Zoning Board of Appeals  
April 19, 2012

The meeting was called to order by Chairman Horen at 7:00 p.m.

Members present: J Horen, D Darland, J Gwizdala, J. Krueger, T. Miller

Members absent: W. Sinke

Also present: R. Austin, Township Attorney; D. DeGrow, Building Official

Also in Attendance Were: Jim Martin, Michigan Sugar; Harold Miller; Andrew Concannon, Miller's attorney; multiple residents.

Pledge of Allegiance was recited by all.

**Motion by T. Miller seconded by J. Krueger to adopt the agenda as presented.**

Motion carried.

**Motion by J. Krueger seconded by J. Gwizdala to approve the minutes of January 19, 2012 with the addition of the real estate sheet showing square footage of the Lewandowski structure.**

Roll call vote:

Yes: Horen, Darland Gwizdala, Miller, Krueger

No: None

Absent: W. Sinke

**Motion carried.**

**Public Input**

Public input was opened and closed at 7:05 p.m. with no one wishing to speak.

**New Business**

Michigan Sugar 09-100-038-200-710-00 Lot 8—Height Variance

Chairman Horen read the letter that went out to surrounding residents of Michigan Sugar.

Letter from Monitor Fire Department dated April 11, 2012 was noted. No public in attendance had comment.

Jim Martin, director of engineering from Michigan Sugar, made a presentation on the need to have the 117 foot diffuser tower to replace the old stacks that were 126 feet tall. One of the present diffusers is 1968 vintage and the other 1985. An aerial view was presented.

Chair Horen asked several questions regarding the stairway and fire issues. Building Official DeGrow added that he, the fire chief and fire marshal went to the site and addressed many of the concerns. The method developed to deal with fire suppression efforts was explained addressing the concerns of the Fire Department in their letter of April 11, 2012.

J. Gwizdala and D. DeGrow discussed the means of lowering an injured employee from the tower.

They no longer offer diffuser systems with the required capacity that meet the height restrictions of the ordinance.

H. Miller asked whether this would change the odor of the air in this area or affect adjacent property values. Mr. Martin indicated that the diffuser will not change the situation in that way, but neither would it impact adjacent owners' property values as it probably will look better.

Mr. Martin said that the current silo height on the property is about 130 feet. There were five that were taller than the proposed, but now there will be only one.

D. Darland requested that the aerial views provided by Monitor Sugar become part of the record and the Commissioners concurred.

Mr. Martin was apprised of there only being four members of the Zoning Board that will be voting and offered to have the matter tabled. If there were a tie vote, the request would be denied. Mr. Martin chose to proceed.

**T. Miller moved that given that Michigan Sugar Company meets the three criteria under Section 18.10 a, b, and c and 18.11 of the ordinance, the request for a variance to construct a one hundred seventeen (117) foot tower diffuser be granted as there has been no evidence presented that there would be any substantial detriment to the adjacent property owners or that there would be any material impairment of the purpose or intent of the ordinance. Supported by Darland.**

Roll call vote:

Yes: Miller, Krueger, Horen, Darland

No: None

Abstain: Gwizdala

Absent: Sinke

**Motion carried.**

Miller/Batschke 09-100-037-400-050-00 Side Yard Variance (32:00)

Chairman Horen read the letter of notification that was sent to the surrounding neighbors. Mr. Miller requested an eleven and two-tenths (11.2) foot setback variance for the south side of his building at 1600 S. Euclid Avenue.

Andrew Concannon, attorney for Harold Miller, presented arguments in favor of the variance.

Concannon: Good evening, Mr. Chairman, members of the Board, I am Andrew Concannon. I am an attorney with the law firm of Smith, Bovill in Saginaw and I represent Harold Miller Builders and Harold Miller. Thank you for the time and opportunity to appear here this evening.

I understand that the board has had the opportunity to review the petition that was filed here and the application that was filed here. I do have a smaller version or I can go up and show the site plan if need be on the board.

We have a fairly isolated issue at this time. As the board is well aware, the property is at 1600 Euclid which was a garden center for a lengthy period of time. It is my understanding that several generations had actually owned that business, 75-80 years it's been there.

Mr. Miller through his company had reacquired this parcel of land and had sought to rehabilitate and add to the structure in calendar year 2011. Originally, communication was made with then building official of the Township Dick Sabias. The permitting records reflect for the Township of Monitor that a building permit

application was filed October 18, 2011. I believe some additional fees were actually filed preceding to that date, back in May of 2011.

The project was basically in two different spots. One was going to be the addition of a building to the south which was conveyed to Mr. Sabias, and, in addition, there was going to be considerable work done on the northern building which was an existing structure and that is the building that we are talking about right now. That structure was essentially Quonset-type huts for the nursery operation. It was fairly dilapidated. Part of what Mr. Miller's company was doing was going to be putting in a fairly nice strip center that was going to have substantial businesses in there and they wanted to make the whole building look considerably more sightly, if you will, that the prior building had looked. In fact, at the time that the Stop Work order was entered this past winter, he had had two leases already signed. One leaseholder has already broken the lease because they couldn't get in and the other one is perilously close to doing that.

Be that as it may, the south building was proceeding in due course without any problem. There became a problem in relationship to the north building. Specifically, it was...the Stop Work order that was issued was, I believe, in March.

DeGrow: I think it's the reverse. The south building is the one in question. The north one is the one that is ok. Just so we don't...

Concannon: I apologize. I need to look at my notes, Mr. DeGrow. If I can look at your, I had I thought I had my copy with me, but the Stop Work order was issued, I believe, February 17 and it says there was 'violation of the site plan, not compliant with the special use permit, lack of approve prints and approved permits, lack of inspections'. Thank you, Mr. DeGrow.

And what was interesting was that, at that time, there was really no issue with the setback. What I hope the board could understand from our application and I will reiterate it right here, is that the structure's footprint wasn't changed. When the footings were poured, I believe in the fall after the October 18 application, those footings were poured with Mr. Sabias on site, I believe, that day. Presently, in a matter of days to weeks, we had additional activity where we had the blocks were put up, the framing was put up. And at no time, did Mr. Sabias make any complaint when he was on site, or any other time, because Mr. Miller would be in communication...I mean, you folks know better than I that Mr. Miller has been a builder who has done a lot of work in this area in Bay County and certainly in Monitor Township, so they would communicate with some frequency and there was never any issued raised in relationship to the setback. The setback was raised at the time that McKenna and Associates did a review of the site plan, I believe in March of this year, I believe March 29 or 28, I believe was the letter.

What is unique about the old building and I think now the rehabilitated structure was that, to my understanding, it transitions between C zoning and R-1 zoning. There is a length of that wall that is in R-1 Residential which is approximately twenty-three feet. The remaining fifty-plus feet, I believe, is in the C or Commercial zoning. So, basically, you have this transition where it is perfectly compliant with the fifteen foot commercial setback, but you have a slice of that building, due to its uniqueness and its location and the lot size and the like, that encroaches within that setback. It clearly does, but it is the same setback problem that had been present for...before Mr. Miller undertook to undertake the activities at the building.

The essential position of Harold Miller and Harold Miller Builders is that he made clear...his own drawings that were submitted to the Township, certainly before the Stop Work order. For example, I note that McKenna's report reflects receipt of the actual plans, I believe, February 13 by the Township, which was before the Stop Work order which reflects or suggests, certainly, that those plans had not been properly

submitted. It is Harold Miller's position that they certainly had been. But the fact is, the setback was plainly indicated on the drawings. There was no secret about it. There was good faith on the part of Harold Miller and Harold Miller Builders.

Mr. Miller's contention is that he made clear even in his own drawings which were submitted to the Township, before the stop work order. McKenna's report reflects receipt of the plans on February 13, 2012 by the Township. Mr. Miller contends that the plans had been properly submitted. The setback was plainly indicated on the drawings and there was good faith on the part of Harold Miller and Harold Miller Builders. This is the same footprint that there was before. And, again, he proceeded with the comfort he got from Mr. Sabias not indicating that there was any present problem doing what he was doing given the existing footprint. Two of the four walls remained standing. And so, what we ended up having once we got this setback notification is that, we do need a variance or we've been told we need a variance. So that is why we are here.

And apropos of what counsel has talked about is both 18.10 and the zoning enabling acts make pretty clear what are the standards that we would need to meet for this panel and this board to grant the variance in this case.

First of all, It is our position that, given the nature and size of this building in relationship to the lot both the buiding before he made the change and the building and after he made the additions or changes and modifications to that south building is the fact that that is an extraordinary situation. And the statute actually talks about other extraordinary situation of the land or structure which would allow, at least, for one component of the zoning ordinance to be met to allow for a variance here. We do think there is an exceptional shape, because I don't think this goes to the third issue which I think Ms. Krueger mentioned in the last one. How often is this going to come up? Is this going to be a recurrent problem where this board would somehow tie the hands of the Township in granting a variance in this particular circumstance: It is Harold Miller's position and Harold Miller Builder's position that this is not one that is likely going to occur and to be a problem.

When we look at the application itself, I think the actual footage we are talking about is ninety feet approximately of the wall and the north twenty-three feet of that wall is located within the setback. Quick math it's roughly twenty-five percent (25%), give or take, that is arguably violative of the setback and seventy-five percent (75%) would not be violative of the setback. (43:12)

I think that is significant because we believe that that would allow this board to properly determine that substantial compliance with the zoning ordinance can be maintained in the face of granting an ordinance request here.

The middle part of the ordinance of 18.10 deals with a practical difficulty where an undo hardship would exist if it was carried out to the letter. It is not necessarily this positive here, but Mr. Miller and Harold Miller Builders took this building back at great cost from the prior owner. The building had become dilapidated. To my understanding, Harold, were there tax issues involved as well? Significant? Can you tell the Board how much approximately?

Mr. Miller: There were three years back taxes.

Concannon: There was a substantial amount of money that was required just to undertake this operation to begin with. Ultimately, from the time that Mr. Sabias and Mr. Miller had begun their communications, additional money was expended. The pouring of the footings, the insulation of the block, putting up the

walls. Ultimately this building had gotten roofed. They had to do the backfill and everything before that, obviously.

Probably up and until the block had been placed you could have turned around and, hey, we caught the setback problem. In this particular circumstance we are going to make you get a variance now. And, if he could have tried then and if he didn't get it, he still would have had an option. He doesn't have an option under this circumstance.

With that being said, we believe that 18.10 b) is met on the grounds that there is a practical difficulty or undo hardship if you were to carry out the ordinance of 9.04 in relation to the R-1 setback. So we do believe that we have met the requirements of the zoning ordinance in allowing for the granting of the variance.

Also, in reference to counsel's reference to Sec. 18.11, I was acquainted this evening, as was Harold, with some documentation from other neighboring property owners. To the extent that 18.11 would be considered as well in conjunction with 18.10, I would respectfully submit to the board that sub paragraph (a) would allow for variance to still be issued provided that at least two of the following facts and conditions exist:

“(a) That there are exceptional or extraordinary circumstances or conditions applying to the specific property that do not apply generally to other properties in the same zone;”.

I can't speak to specifics on this, but I don't know that there are that many properties, certainly nothing has been identified either by the McKenna Group or the neighbors who have complained, that this particular transition zone is common on Euclid Avenue there. So, I think subsection (a) has been met here or can be met here. (46:07)

Secondly, we think the variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by the properties in that zone. In this particular circumstance we believe that a substantial property right exists to Harold Miller Builders and Harold Miller when you consider the amount of money that has been invested in rehabilitating this property, it is going to be beneficial to the Township.

I would address at this time some of these particular issues which were raised by some of the concerned neighbors. And I wouldn't diminish anything said expressly except to say this: I think several of the issues raised would have been present with the old building in any event. There is a concern about property values may be declining. Well, to the extent that this board would find that significant, number one, I would submit there's nothing that has demonstrated that to be true. But they say, 'Residents would lose privacy of their backyards.' Well, I don't think anything about these dimensions has changed. Unlike the Monitor Sugar Building where the dimensions had changed which might have impacted on...again, I will use the term "unsightliness" if you will forgive me. We don't have that here. So I don't think there is anything new with regard to privacy rights.

'Properties would mostly likely lose market value.' I can tell you, and you have been to the site. Strike that. I would assume some have been and had a chance to get familiar. I don't think anyone would suggest that Mr. Miller's activities devalue his own site, and thus, I think we can safely assume that it wouldn't devalue the nearby properties. Because, again, the use isn't changing. It is the same greenhouse. In fact,

all he is doing is making the back area considerably more attractive. I would respectfully suggest that the board can conclude that the properties would most probably lose market value.

It is then said that 'it is unreasonable to nearly eliminate the said setback by reducing it by nearly 50%. Again, I would simply remind the board that this is no new setback reduction. It is the same that was present before. And again, I think that is why Mr. Sabias, whether it was right or it was wrong, by the way, simply didn't have a problem with it because it wasn't representative of a change to him. (48:50)

And then the last one, I would confess to the board, I don't know if I am in a very good position to say anything about the issue of electrical trunk lines or utilities except to tell the board that I think when you look at the McKenna report, there is no notation that I saw that raised any issue with that. So, I think with respect to those concerns of property owners, I do not think that even in the face of those concerns, it would be improper to grant a variance at this time. Indeed, I would respectfully submit that it would be perfectly proper to grant the request for a variance for setback relief under Sec. 18.10 and 18.11 to the extent applicable as well, so we can have relief from *any* violation of Sec. 9.04.

And with that, I thank you for your time. If you have any questions, I will answer what I can.

Horen: I don't know if you are familiar with the plan, for the residents here. We will put it up. I want to bring something to everyone's attention.

We have one gentleman here, Donald Jones, (who has submitted a letter and) he has no objection to the granting of the variance. He lives at 3473 Clover Lane. We also have several names that just came in today. It is more or less surrounding property owners that is opposed to the side yard variance of Harold Miller.

Horen: What we are talking about here, Ladies and Gentlemen, is on the south property line, he has already taken...this is the north end right up in here against Prime Brothers. Everyone is aware of that, correct? And where we are talking about is this portion right and back over. (Mr. DeGrow assisted in noting the area on the site plan.)

DeGrow: About 23 feet.

Concannon: This little slice around in here. And this is the property owner Mr. Jones, I believe, immediately abutting that area. The other point I was asked to make, is that there would be, Harold, some six foot fencing along this area? Harold: Yes, a six foot wide steel fence has already been started.

Speaker: Are you going to have the parking in the back against the Prime Brother?...That's

DeGrow: Excuse me. At this point, he is coming back to the Planning Commission with a revised site plan. Technically, all we are looking at is that variance right there (indicating the area.) There will be some minor changes to the site plan come the next Planning Commission meeting.

Horen: I'll bring it to everyone's attention that Mr. Sabias used to be our Building Inspector. He is no longer with the Township. Dave (DeGrow) is our new gentleman that takes care of all that. (53:12)

T. Miller: Chair, could we ask Mr. DeGrow to give us his perception of the content of the request?

DeGrow: I wonder if I should go at this point or defer to the Township attorney first and then, possibly, answer some questions afterwards.

Horen: Ok. Joy has a question.

Krueger: When the original building that you had there before, Quonset-type nursery buildings, right?

H. Miller: Yes.

Krueger: I realize that it was nonconforming at that point and it was grandfathered in, but, I want to know how many feet to the south did you move the southerly wall from the Quonsets.

H. Miller: It is in the exact same spot. Identical spot.

Krueger: Right now it is inline with the front building. Wasn't it set back before?

H. Miller: No.

Horen: No. What there was there, Joy, years ago, back many years ago when I worked there at Batschke's, actually, there was a solid concrete wall that came up so high and that supported another wall that came up with glass and had glass peaks to it. And since the more or less glass framing and stuff was taken down, I imagine it turned into like a Quonset hut where they put the framing on to it. That wall was always, actually, been there and they may have taken out the big cement pillars and proceeded probably with the new foundation there. It is a gray area here. I know it is a nonconforming and always has been up until that point.

Darland: You worked there for x number of years and I bought plants there over the years, the glass part on the very south side, weren't those like 6-foot side walls?

Horen: They were up there quite a bit. The concrete were at least four feet. There was enough for this drive that used to come down through here.

Darland: I guess what I am getting at is, the side walls weren't very high, the glass part...didn't go that much higher than the concrete, maybe six feet, maybe seven feet. What is there now, and it has been a while since I have seen the pictures, I believe is more like fourteen foot side walls.

Horen: Years ago...this one had big peaks on it facing the south.

Darland: Ok, so the side walls would be six to seven feet high and then the peaks were another seven feet up or so of glass instead of a solid wall.

Horen: That is correct. (57:25)

Darland: I would like to ask either Mr. Austin or Dave, on a nonconforming structure, if remodeling of that structure is going to be more than 50% of the value of that structure, isn't remodeling not allowed?

Attorney Austin: Let me step in at this point. It is the Township's position that the work that was performed required site plan approval and there was none here. It required a building permit and the review of the Township records shows that there was no building permit issued. And it required inspections and the review of the Township records reveals that there is no record of any inspections. Now, counsel for the applicant has relayed conversations that Mr. Miller says took place between Mr. Miller and the former building inspector. I don't know whether those conversations took place or not. I'm not calling anybody a liar. I don't know whether they took place or didn't take place. I've not spoken to Mr. Sabias and I don't intend to speak to Mr. Sabias. All I know is that there is no record of any permits being issued and our position is permits should have been issued. There is no record of inspections having been made and inspections should have been made for the south building. It is our position that, even if conversations took place between Mr. Miller and Mr. Sabias where Mr. Sabias said, "Aw, shucks! Go ahead. No

problem. You don't need a permit. Go ahead." That Mr. Sabias would have had no authority to say that. That would have been in error and that the Township is not estopped in any way from enforcing its ordinances and that you should not now tonight consider that in any way as a hardship in furtherance of this application tonight. Now, there may well be hardships that Mr. Miller has that merit consideration by you, but that they do not consist of any estoppel to the Township because of anything that Mr. Sabias may or may not have said in error. That is our position legally. Our position is the work Mr. Miller has performed on site there required a building permit and none was obtained and required inspections and no record of any inspections is on record here at the Township hall.

Darland: Mr. Austin, I respect you and your opinion, however, would you answer my question? My question was, in a nonconforming structure, if any type of remodeling is to be done and it is going to cost more than 50% of the cost of the structure, is that allowed? (1:01:46)

Austin: No.

Darland: This past week, well twice in the past two weeks, I have met with Mr. Sabias several times. He happens to work somewhere very close to me and we have run into each other a couple of times. Mr. Sabias' statement was, "I did tell Mr. Miller" ...the situation was Mr. Miller wanted to put a truss roof up over the existing structure on the south end. Mr. Sabias said, "Yes, you can put up a truss roof over that." Mr. Sabias said that that did not include replacing any walls or anything with the foundation. Mr. Sabias also stated that he made no inspections of the foundation on the south end of the building. He made inspections on the north addition was all on the site plan by permits, but nothing on the south end of the building. And I met with him twice and he went over the same information both times.

DeGrow: Maybe in response or clarification, I have a different definition of remodel and replace. You remodel something that is existing such as, gutting it, etc. Replacing two walls with footings, foundation and walls and then a roof over it is replacement, not remodeling. I believe the zoning laws with reference to nonconformity does not allow you to tear down and replace at any given time. I think it also states you cannot enlarge. The only thing you can do is make smaller. The object of a nonconformity...I mean, legal nonconforming use means that it is grandfathered in until such time that it is either damaged, tore down, whatever that might be, then the use is supposed to go back to what it was intended for or zoned. I'm not here tonight to make any judgment, I'm just here to give you the information to help you make your decision. It is also my understanding that in all cases that I know of, the hardship is to the property. Not financial, not personal, not even physical. In other words, if you were handicapped and you wanted to build your house down by the river in the flood plain, it can't happen so you can see the river. So the issue is, I guess, does it meet the hardship set forth by the zoning and the law and that is the decision that you have to make this evening. (1:05:32)

T. Miller: Are you saying that a nonconforming structure, a nonconforming building cannot be replaced by another nonconforming building?

DeGrow: No. This is a series of pictures, the dates are on the back. I have a picture of where the two buildings meet. Obviously the footings were totally replaced because the new footings are new and taller than the building that it abuts to. Again, I was not in this township at the time. There are pictures that the assessor had in black and white and I printed them off in color.

Austin: On the front of the picture there is a stamp of 1-24-12. On the back it is penned 1-25-12. Am I correct, Dave, this shows the southerly wall and the new footing that has been put in there?

DeGrow: Yes. And to answer your question directly. No, you cannot replace a nonconforming building with another nonconforming building unless you get a variance. That is one of the options, get a variance.

Darland: This is the original site plan that had nothing happening to that area we are looking at.

Krueger: Does the building permit you have have anything to do with the south?

DeGrow: No. It was for a ...I don't know. You can present that and let them look at it.

Harold Miller: Yeah, this building permit does say, and it is right in Sabias' writing, that the addition and the remodeling was all included on this permit.

Austin: I don't have any problem at all with this picture becoming part of the record of tonight's meeting. We are going to have to make a copy of it though.

Darland: This was an October 18, 2011 permit which I am going to make an assumption that is based on the approved site plan that was approved August 2<sup>nd</sup> by the Planning Commission. It does say, "Retail Space/Finish Exterior. Description: Addition and Remodel" which is the north end of the building as per the site plan. This does not specify north or south and I wouldn't say that it should have to because site plans are required for additions to buildings on commercial properties. (1:09:54)

Krueger: No. That is fine. You answered my question.

H. Miller: Mr. Chairman, may I speak to that?

Horen: Yes, Mr. Miller.

H. Miller: The addition is on the north end and I hate to tell Mr. Darland he is wrong, but he is. Because the remodeling that Sabias himself wrote on there was the remodeling on the back and it's in his own hand. He wrote it. So the remodeling part was the part of the back. The addition was on the north end. If he would have said "remodeling", he wouldn't have had to write "addition". So, Mr. Darland, you are not correct. (1:10:22)

Austin: Mr. Miller, would you like us to make a copy of that and put it in the record of the meeting tonight? I would be happy to do that.

H. Miller: Yes.

Concannon: We can make a copy of that as well.

Austin: Sure.

Horen to Austin: Did you want to take a look at the more or less approved plan?

Austin: I've seen that.

DeGrow: May I just take a peak at that pink copy?

T. Miller: Now what exactly are you saying by this pink copy? That you had approval?

DeGrow: This is just an application. If you would like, I could go print out the actual permit that was issued.

Horen, T. Miller: I think that would be very beneficial.

H. Miller: That is the permit.

T. Miller: This is a building permit application.

H. Miller: That is the permit. That is what we were given when we paid our fee and that is what Sabias gave us.

T. Miller: Let's take a look at the actual permit.

Darland: I think you are normally given like a piece of cardstock that says "Building Permit" on it.

H. Miller: That is the permit right there.

Austin: Mr. DeGrow is going to print off what he says is the permit. So we will make a copy of this pink document before the meeting is out and make this...

J. Horen: I can go make a copy of it right now.

Austin: Can you make a copy of this picture as well?

Idle conversation while waiting.

Austin: Let's return the original pink document to Mr. Miller. Let's return the original colored picture to Mr. DeGrow.

(Copies distributed.)

Horen: At this time Mr. Austin is going to read the people in the surrounding properties that objected to it.

Austin: Yes, the document is marked as received April 19, 2012 by the Township. We don't need to read the entire document. It will speak for itself, but the property owners are identified as Lonnie and Barbara Jones at 3463 Clover Lane, I'm going to butcher the rest of this... There are two signatures I can't really make out, but the address is 3455 Clover Lane (Joe and Tanya Baker). Joyce and Arthur Andrzejewski of 3435 Clover Lane. Then there is Kelly and Ron Podsiad 3445 Clover Lane, Nancy Baker at 3428 Clover Lane, Terry Norlak and Roy Bellhorn at 3456 Clover Lane, Laraine and James Schumacker 3464 Clover Lane, and I'm not going to make an attempt at the name at 3474 Clover Lane (Douglas Hunt). (1:17:32)

Krueger: He's a doctor.

We also now have as our third exhibit, the building permit that was issued subsequent to the application.

The application being dated October 18, 2011 and the permit number PB11-3658 issued 10-18-11.

'Remodel exterior and 5200 square foot addition.' So that's what that says. I'm not going to try and speak to that. That's just what it says.

Darland: Dave, I know that you weren't the inspector at the time, but when you see on a building permit, "Remodel exterior", would you make the assumption—I know assumptions are dangerous—that that is siding, windows, possibly fascia...

DeGrow: If you are building a new building attached to an existing structure, you are not going to leave the existing one with the existing's exterior. You are probably going to try to match it, bring it up to whatever you are going to have whether it be stone, brick, metal siding, metal roof, whatever. It is all going to look the same because it is now going to be, per se, a strip mall or multiple use building. So, to remodel the exterior is exactly what it says. It doesn't mean rebuild, remove, replace. It means remodel.

Darland: Using the building permit system that you have in Monitor Township, a building addition of 5200 square feet with the remodeling, you see *that* a cost of \$993.75 for the building fee for an estimated cost of \$100,000. Would that pretty much cover the 5200 sq. ft. and the matching the exterior? (1:20:55)

DeGrow: Yeah. And each building would have to have their own separate permits, because each building the way it was redone and everything else, would require blueprints, stamped prints. You don't take stamped prints for one building and use them for the entire complex. We received, to my knowledge, the first set of prints for that building sometime in March for the south building. Actually, it included the north and the south. They were submitted for site plan approval. Well, at that point is when I determined it was time to put a Stop Work order because they could not go to the Planning Commission without a site plan

being substituted with building prints. So, that is when I issued ...whatever the date was on the Stop Work order is when ... I think a day or two prior to that...is when I got building permits in place of a site plan.  
Krueger: February 17, 2011.

DeGrow: Ok. It was in February then. I think my first day on the job was February 15. So, it was then determined that we couldn't wait another month to let the work continue while we waited for ...he missed the February meeting...so it would be either the March or April meeting, whatever it was to come back for Planning Commission approval.

Krueger: I stopped to see Mr. Miller on Sunday and he graciously showed me through his building and it is going to be very nice. I called Mr. Sabias on Monday. I hate to even be here because I like the way your building looks. I didn't realize...I'm not part of the Planning Commission, so the lot looks nice from the outside. It's going to be a nice building. Definitely an improvement. But, there is a nonconforming issue. The quonset existing one and now the one that we have here today to talk about.

I called Mr. Sabias and he told me...and I'm just telling you exactly what he told me over the phone...that in no uncertain terms, he did not issue a permit for the walls on the south side. He did not inspect the footings on the south side. This is hearsay, of course, but he told Mr. Miller about the truss roof improvements over the existing structure that he said isn't a problem. He emphatically, I asked him twice...did you inspect the footings on the south side. He said, "No."  
And I think your building is looking very nice, the exterior.

Mr. Miller: May I speak? Well, the footings on the north end and the footings behind the ones that we are talking about were all done at the same time. And we called for a footing inspection, and it is Mr. Sabias' responsibility as an inspector...and I've been an inspector many years, certified by the State...when you get called out to make an inspection, it is your responsibility to inspect the whole job. (1:24:51) Now, if Sabias didn't make the inspections back there, it's not our fault because we dug them all together. We have pictures of all these footings being involved around the front, or on the north end and behind and Sabias was there and he did look at them. Whether he walked down there and maybe didn't look at them, I think he is doing a little backpedaling now, because he doesn't put anything in recording and...but, he does say that he had footing inspections in his computer, but, he says, "Dave doesn't know how to get them off the computer." Exact words, 'cause he called me today. He says, I did make the inspections. I put it in the computer even though he may have told you something different, but he did tell me that. And they are on the computer.

N. Ross: Mr. Chairman, my name is Nickie and I work over here at Unique's and as Mr. Darland had made mention of having conversation with Dick Sabias and, Joy, you as well, I'm looking at and trying to figure this out. I, being at that building, I was not privy to the conversations that they had, but I will attest to the fact that Mr. Sabias spent a lot of time over there and I find it hard to believe that he wouldn't have done the proper inspections. But, I don't think you can sit here any more and say Mr. Darland's conversations that *he* had with Mr. Sabias and, Joy, the same with you, that you can sit here and say that he did or did not have that same conversation with Harold. Because, you are all going under assumption. So, you are saying what he told you do this, this, this and this. I find it hard to believe as an inspector that he spent as much time at our building as he did without doing the proper inspections.

And with that being said, I also question why he was gone. I know there is dispute on that of how he actually left from being the inspector from what? After twenty-six, twenty-eight years? And why was inspector number two released from his position? And I understand that he was only temporary, but he was

working well with us to get all these issues resolved that apparently Mr. Sabias did not address. So, if you are going to sit here and try and take what Mr. Darland had to say on his conversations, or what Joy had to say, I don't think you can take that into consideration any more than conversations with Mr. Miller.

Krueger: I happen to agree with you.

Concannon: Mr. Chairman, can I make a couple of observations? There are a couple of items of significance. Number one, the permit is dated October 18, 2011. None of the work was done until after that date. I don't think anyone said that considerable work hasn't been done. I think Ms. Krueger had been complimentary of how it looks. We had a site plan that was submitted. We have a permit that was issued. And one of the things I would think is instructive, or I would respectfully submit is instructive for the board, is that, to the extent that this panel would be asked to determine that the original site plan and the modifications that were being done, whenever they were, were exterior only. (1:28:04) The cat was out of the bag pretty darn quickly, I would imagine. Because Mr. Sabias was aware that considerable work was being done. It wasn't just exterior work. So, it seems to me, that's consistent with what Mr. Miller said all along which is that he didn't hide anything. If, in fact, there was an issue with exceeding the scope of what the site plan was, one would think that would have been brought to the attention of Harold Miller and Harold Miller Builders much sooner before it actually was. Because, again, we have a considerable amount of activity. And the argument that I would address something that Mr. Austin raised which is an argument of estoppel. He says that the Township can't be estopped from denying its own ordinances. I will tell you that I have represented municipalities and I have been on both sides of it. The law is fairly well split on this. The fact of the matter is that when a representative of a township makes representation on behalf of the township, the township can't just say he was wrong or he was acting outside the scope of what his authority was. Now, I understand now, from what is being said is that there is a dispute about what Mr. Sabias actually said, but the fact of the matter is what we can rely on is the fact that this was very conspicuous activity. And we clearly know what was not said. Let's turn it around 180 degrees.

Sabias never came to you. Nobody every came to you and said, "Hey, wait a minute! They are exceeding the scope of what this site plan was. They are doing this, this and this between October and February 22<sup>nd</sup> of 2012". Now you can say that's not our problem, but for purposes of the limited scope of this review tonight in relation to a variance request on a setback where, by the way, the setback doesn't change one iota...I would effectively submit that it is clearly significant. The fact that he was induced to undertake the activity he undertook is significant in considering this variance request tonight

As Mr. DeGrow mentioned, there are other issues about whether or not a certificate of occupancy might ultimately issue, that is not what we are here for tonight. The extent to which certain items of the physical structure of the building don't mirror what were present previously, I would respectfully suggest isn't up for tonight.

I want to address one issue though. This was not some extension of a nonconforming structure. Mr. Miller asked the question, "Can you replace a nonconforming structure?" Mr. DeGrow said you can do that with a variance. Two things I would say to that. At least I agree with half of what he said, because a variance...it doesn't change the eligibility for a variance, but I would disagree with the notion we were replacing anything. We were modifying an existing building. Well, no, in fairness, we replaced two walls. That is true. But in fact, it is the same building with the same footprint that was being substantially modified to match up with the other building and to enhance the overall property.

When you factor all of that in, in conjunction with the fact that this was open, it was clear what was going on. Even if this board were to determine that it exceeded the scope of the particular site plan back in May of 2011, which was subject to the October permit, I still believe a variance is proper under the circumstances here as confined under the zoning ordinance. Whether or not this building ultimately gets an occupancy permit, is another matter for another day, and I think that is what those other issues would relate to. So, with respect to the board, I would renew my request that the board move and approve a motion to grant the variance as proposed.

DeGrow: I think at some point we need to get back to the variance versus whether a building permit was issued or not. Whether who said, he said, whatever said. I would like to make a couple of clarifications. Under the Michigan Building Code you do not build a building without a building permit. You do not give inspections without a building permit. Period. Yes, in there, and I do know how to get to it, is the footing inspection only for the north building or that building permit period. Not the south buildings. There has been no permit issued for that. Plain and simple. (1:32:43)

Now, if we can get back to the variance itself, if you should so decide to look in favor of the variance, you do have a couple of options. One of which, right now they are requesting that it be 11.2 feet to the south property line. You can grant it for that which would mean they could continue building right on down the full length of that property line 11.2 ft. closer than what is required. Or, you can make it conditional and allow the variance only for that specific twenty-three feet that is in question so that if any of the other buildings do come down, they can't be put back without either a variance or moving them back the proper amount. A third option is, looking at the facts of the hardship to the property, you also have the option of denying it. Those are your three options this evening. I think the other issues will have to be handled in a different place at a different time.

Horen: That is correct. The only thing that we have going forth is the variance. Just that eleven point two (11.2) ft. is really the only thing we can take and do.

On that particular drawing...this small amount right here?  
(DeGrow pointing out the area that is actually in nonconforming.) And actually, what you would have to do is if you took an arc and swung a twenty-five (25) foot setback, it might even extend it a little further. You are saying approximately twenty-three feet. Is that what it is? I haven't measured it.

Mr. Miller: It's twenty foot by that eleven foot. So it is the last twenty foot of that building from left to right and goes back, like Dave said, eleven foot. (1:35:52)

DeGrow: Yeah, if you were to swing an arc, you might be more that twenty feet because you got to get that twenty-five foot from any given point, so that would be the furthest point that you would have to actually maintain a twenty-five foot setback. Ok?

That is the same philosophy as how everyone was notified tonight. You take a three hundred foot arc all the way around, including the properties across Euclid and down here, were all notified of the meeting. So you could have someone from whatever is across the street, the credit union?

Horen: Do we have any info from the surrounding property? I mean, the neighbors want to speak their piece? (1:36:46)

Lonnie Jones: Yeah, I'm kind of concerned about it. All I see now in my backyard if I look over toward Donnie Jones, who is my brother, is this big two-story building now. I'm concerned...he wants to make that eleven feet behind my property to whatever he wants to build? Is that what it is?

Horen: No, no.

Jones: But he said if he got a variance he could go all the way down then.

Gwizdala: Not without stipulations.

DeGrow: If you make it a blanket variance of eleven point two feet setback, then it could easily go the length of that property.

Horen: The only thing that we are going to see going on right now is this twenty foot by eleven point two foot.

DeGrow: Then that will have to be stipulated in the variance.

Horen: That will be stipulated in the motion right now. This original piece has been...

Jones: How much of that goes on to the back of Donnie's property then?

Horen: Back up in here?

Jones: What is built right now.

Horen: What is built right now is twenty...

Jones: Will that go behind Donnie's?

Mr. Miller: I don't know who Donnie is.

Jones: Donnie Jones, the first house...

Speaker:... right where you are putting the fence up today.

Mr. Miller: He's the only one that is actually...We aren't going to be behind yours. We are only going to be twenty feet behind his north east corner.

DeGrow: Whatever is there right now.

Concannon: Mr. Chairman, it is one building. The Don Jones residence is the only residence that is adjacent.

J. Baker: Is there an easement there, Harold, for Consumers?

Horen: Your name sir?

J. Baker: Joe Baker. I'm the third house down on the north side. We've had power problems before and they had to come in and they can't come in between the building and the fences, so they had to go around on the other side of the property to come in. So I don't know if there is an easement there...

L. Jones: You have a telephone pole between Donnie's lot and my lot.

Horen: Harold, you might be able to answer these questions here. Right now do you have a drive coming in?

Miller: It is thirteen foot.

Horen: It is thirteen foot from here to the property line.

Miller: That didn't change, you see, because the new building sits right where the old building was.

Horen: I guess your (Mr. Jones) concern is, do they have access to come in from this parking lot and come up through here? (1:39:33)

Mr. Miller: Nothing has changed. They still would have...I don't know.

DeGrow: Is there an easement? It would be on the property description if there was.

Mr. Miller: Yeah, whatever it was there, is there. We didn't do nothing...

Horen: In fact we could probably take a look at the plat book and it wouldn't show anything on there.

Darland: You would have to look at the original plat to see if ...

Speaker: Is there any problem with say, fire apparatus or anything getting through? I mean, I don't know what the stipulations are on commercial property.

DeGrow: Did we get anything from the Fire Department on this?

Horen: Nothing was presented to us from the Fire Department.

Speaker: I know it is a lightweight construction...

DeGrow: Even if you had a twenty-five foot setback, they aren't going to run a fire truck up in there if there's a fire.

Speaker: Depending on where the fire is.

DeGrow: There is total access all the way around the building. So like that pole, if those other Quonsets were taken down and if you maintained the twenty-five foot setback at that point, there would be plenty of room to get to that fire, to get to that pole. Just not necessarily through that thirteen foot opening.

Speaker: I don't know if Harold is going to take down any more of those Quonsets or not, but, if he takes those down, are those limits still grandfathered in? Because I think they are less than twenty-five feet, aren't they? From the property line?

DeGrow: No. Once you remove it you lose your grandfather clause. Any wall, especially that is adjoining the non-conformity, you remove it, it's gone.

Speaker: Are the greenhouses considered structures? Permanent structures? There is no foundation to them. Are they structures? (1:41:19)

DeGrow: Yes. Yes. They have been there for 60, 54 years? You can have a structure on top of the ground.

Speaker: That is what I am asking because some of them have come down.

Horen: Longer than that. It was deteriorated quite a bit the last few years there. Any other questions?

Speaker: Just another question. Is it twenty-five feet that they cannot build within that on the property owner of a residence?

Horen: That is correct.

Speaker: Is that a reason to protect the residents or the commercial or both?

Horen: Both.

Speaker: Because if it is that case, then I guess I would really urge you to look at this again. If it is a potential that this thing could be run down all the day down, what about the residential people? Do they count at all? Are we going to be allowed variance after variance after variance?

Horen: That is why you are here. Like Dave was saying, we can put the stipulation in here that no other variance can be given and we can stop at that particular point.

N. Ross: Just to clarify what you are saying again, that the only individual whose property abuts up that would be the immediate concern, would be Mr. Don Jones which I presented the letter to and discussed with him and he actually had said, but then here again it goes back to what I said, it's hearsay, but he appreciated more looking at what was there now than what was there. So, if it is not going to down any further to anyone else's property line, and you have that condition in there, that's all we are asking for for number one.

Number two, it shouldn't be a concern to basically the rest because it is not butting up against their property. Nothing else is changing.

Speaker: That's what we are trying to understand, what's...

Horen: That's what we are trying to do is understand and Harold can probably answer some of your questions.

Mr. Miller: We did put the fence there, are putting the fence there just to give a little more privacy. It is new, steel fence, all white. We have already engaged that whole corner by the doctor's, then north and south and east and west there, just to give it the privacy. There were fences there. All we did is replace them—there were chain link fences there. (1:44:11)

J. Frank: Well, I have sat and listened to it all and I sit on the Monitor Township Planning Commission. He submitted a print, not this print. This is the after-fact print. He submitted a plan for 5200 sq. ft. with the north of this project which he was granted the... to build it. He was not granted any of this on the south end where he tore down and rebuilt it. He had no building permit. He had no clearance from the Planning Commission to build that building on the south. Am I right, Mr. Darland?

Darland: That is correct. This plan was submitted August 2, 2011 and it has the signatures on it that...regarding that back property not to be used signed by Harold and Mr. Sheppard, and somebody else.

Frank: If you look at that print, it was submitted last month. That's an after-fact print.

Concannon: This print bears the date of May, 2011.

Darland: This is dated May, 2011. This is the one that was presented to the Planning Commission at the August 2<sup>nd</sup> meeting. This is the one that was approved and the one that Harold signed along with John R. Jackson and Richard A Sheppard and these are the signatures where the area that is called 'Batschke Building Center', the back part of the building. There is small print on there, 'Not approved for any use.' That was to confirm that Harold understands that there is no use for that area ...

Mr. Miller: No, No! Say it right if you are going to say it!

Darland: It says, "Not approved for any use" right there.

Mr. Miller: He has the signature in that building.

Darland: We are talking about this area back here.

Mr. Miller: That is right.

Darland: I was not referring to anything up here. I was not referring to the area that is in question tonight.

Ross: Does this have anything to do with what we are talking about tonight?

Darland: This is the plan that was approved. Harold is supposed to be going by this plan as far as the square footage of everything. There was some changes to this plan already. Even the north end building has different dimensions than what was approved. Just for everybody's sake of understanding, at this month's Planning Commission meeting, I think the footage on the north end of the building there wasn't any problem with, right, Jack?

Frank: He actually made it a little smaller.

H. Miller; Mr. Chairman, I would like to...Mr. Inspector DeGrow requested that I have an updated plan because there were changes being made as you go along because you can't foresee everything and that is why we had this one made at the request of the building department.

Austin: I don't mean to throw any gas on any fires, just for clarification purposes, while this plan...I don't see a date on it readily, but it bears a received stamp of March 6, 2012 by the Township. "Revised per owner as constructed March 1<sup>st</sup>, 2012." I think it is fair to say that this is a March, 2012 document. Harold, is that fair to say?

Mr. Miller: Yeah. Dave requested it.

DeGrow: 'Cause it is different from the one that is approved. And, Mr. Darland, if you would be so kind, could you read what it actually says on that print over that south building on that print? Or Mr. Horen, either one.

Darland: The south building in question?

DeGrow: Yes, what does it say?

Darland: All it says is 6,700 sq. ft of Ex. Garden Material Storage.

DeGrow: Exterior Garden Material Storage. Would you be so kind as to read the one that is up there? That same building.

Austin: 6,700 sq. ft. of Exterior Garden Material Storage. Remodeled. Under construction.

DeGrow: So it changed from the approved print to this one here that was resubmitted. That is the only point I want to make. That original, I believe, I wasn't here, you will have to testify to that, what you approved. And I believe it was intended to approve that north building.

Mr. Miller: What was changed on that last one that you just read? It sounded like the same thing.

DeGrow: That whole bottom line was extra added.

Darland: And the square footage was changed.

Miller: It was probably smaller.

Darland: Yes.

K. Malkin: I have a question. Even if it goes smaller, do they have to get site plan approval?

Darland: They have to get site plan approval and if they are changing that building, it has to be done to conform with the ordinance.

Malkin: So when you earlier had said that there were new plans, you didn't mean new ,approved plans, you meant new plans that didn't get the site plan approved showing the difference from what he was approved and said he could do. In other words, it was approved with site plan approval and then you said there were subsequent new plans, you weren't saying they were approved, they were just new, but different than what was approved..

Darland: Correct. Plans that were submitted this month at the Planning Commission meeting have not been approved. They were waiting to find out what happens here to see if they had to work with a variance. The reason for that is parking areas, square footage, etc.

Austin: Which is normal operating procedure. Nothing nefarious about that in any way.

DeGrow: And the planning requested additional information on the next submitted plan. Whether it was approved plan or not, the site plan was not quite complete.

Concannon: We acknowledge there are a lot of issues still to come that are separate and apart from what are on the table tonight. That is accurate.

Horen: Maybe Mr. Miller could take and just answer me...Beforehand, when this building was actually in there and that little garden area, if I'm not mistaken, was nothing, but fiberglass sheeting on the side of it, correct?

Miller: Yeah. Plexiglass. When we talked to Sabias and he told us to go ahead and put a roof on, we discussed it and there's no way you can put a heavy loaded roof on plexiglass so, of course, we had to build the walls which he knew. So, yeah, no problem.

Horen: What I am trying to get at, if you go along and put a roof on it, then you have the side walls. You are sure not going to try to heat this thing with just plexiglass on the side. I don't know if you are going to take and do a remodel on it how you would try to keep plexiglass on the side of a house. It would be like having your house...

Darland: Well, I questioned to myself...a truss roof over a greenhouse, where a lot of time the older greenhouses have the steel 6x8 windowpanes and not a lot of heavy framework. I questioned that myself, but...I thought, ok, there must be heavier framework than I thought.

T. Miller: I would like to propose a motion that perhaps we can talk about if there's a second to it.

Darland: I will support your motion.

Malkin: Before hearing what the motion is? (laughter)

**Motion by T. Miller 1) inasmuch as any verbal permission by the former Township building official is in dispute, the Township has no written record of a permit or inspection for this structure, moreover, there is no Planning Commission review of this building; 2) inasmuch as the available written permit given to Mr. Miller indicated remodeling which is inconsistent with the total construction represented by the footings and replaced structure; 3) inasmuch as a nonconforming structure cannot be replaced by another nonconforming structure; 4) inasmuch as 14 (fourteen) adjacent residents have indicated their opposition to such a variance; we find the variance would be inconsistent with Section 18.11 inasmuch as "will not be substantial detriment to the adjacent property..." and although we recognize a financial hardship may exist, we do not believe that is sufficient argument, according to Township ordinance, and the request is inconsistent with a, b and c of Section 18.10, I would, therefore, move denial of the requested variance of an 11.2' (eleven and two-tenths) side yard setback for the requested structure.**

Darland: Before I support that, I have one question for Dave. During the beginning, it mentioned that there was no permit issued for anything other than the north end and some remodeling. Was there a permit issued that you are aware of for trusses?

DeGrow: No

**Darland: I support your motion.**

T. Miller: I wonder if the Township Attorney has any observations, suggestions.

Austin: You, of course, did reference 18.10 a), b), and c). I would specifically, Terry, like to hear you comment on the requirement that, before granting any variance, there must be a finding of practical difficulty or unnecessary hardship and a finding of some type of uniqueness of the property so the requested variance wouldn't be so recurrent in nature as to make it reasonably practical. And you don't necessarily; you referenced 18.10 in your motion. I would like though, since we are being recorded, to hear you comment on whether or not you feel there has been any...aside from the arguments of whether Mr. Sabias did or didn't. Let's look at the property itself. In your opinion is there any uniqueness to the property that compels you to grant a variance here or not. And is there any uniqueness to this property that suggests that there ought to be a variance.

T. Miller: Well, it was nonconforming to begin with. So, I don't understand how you could replace it with another nonconforming structure without going through any kind of site plan review and getting permission and making the proper adjustments. There just doesn't seem to have been a following of due process in order to address these kinds of concerns. I'm not sure that the Planning Commission would have agreed that it should have been modified in the first place, because it is a nonconforming structure. It is already in violation. I'm not sure what else there is that you would like me to say.

Austin: No. I think that addresses it.

Darland: If I may, I challenge any board member up here to show me where it meets any of 18.10 a), b), or c), and it has to meet all three of those. In a) it talks about the shape of the property, the typography of the

property. It is a rectangular shape lot, fairly level, no ravines causing any undo hardship, there's no flood plain that we are aware of. As far as extraordinary situation of land, there isn't any.

T. Miller: In fact, a smaller building would have been in conformance to the outside plan review that perhaps proposed a smaller building could have been in conformance.

Darland: b) is where it is found that there is practical difficulty or unnecessary hardship in carrying out the strict letter of the ordinance. There isn't. The ordinance specifically says nonconforming building you do not tear down and rebuild. The shape of the property doesn't make it difficult to enforce the ordinance so, there is nothing there as far as that's concerned. The spirit of the ordinance is "follow the ordinance" and there is nothing in a) or b), so far, that would allow us to go against the way the ordinance is written. c) 'Where it is found that the condition or situation of a specific piece of property or the intended use of said property in which the variance is sought is not so general or recurrent in nature as to make reasonably practicable the formulation of a general regulation for such condition or situation in this Ordinance.' That's a mouthful, but I don't see anything that unique. And I believe I heard earlier in the meeting somebody says, "Can anybody show me something else on Euclid or we're not aware of anything on Euclid that is in the same situation?" There could have been buildings built that don't meet the current setbacks. Nobody can argue that. However, none of those are being remodeled that we know of right now or have been and, as far as I know, nothing in that situation has been given a variance along S. Euclid between Fisher and Salzburg. There is nothing that I remember during my term on the Planning Commission of getting a variance for a side yard setback. So it is not re-occurring.

T. Miller: Thank you, Dan. You have seconded...

Darland: Well, I was just asking, is there anybody that can disagree with anything I just said.

Horen: As far as your hardship goes, no. The building is already presented to us. It is already up. No matter who said what, I think what we have to do is try to take a look at this and how much it is going to take and put on Mr. Miller here to take and tear this down. Because that is what you are virtually going to have to do.

Darland: But, economics is not a hardship.

T. Miller: Yeah, does our ordinance require us to look at economics?

Darland: Court cases have proven, you can't base hardships on economics or on health reasons as Dave mentioned earlier. And there are court cases to support that.

Krueger: Years ago, Clover Lane, was that developed by Batschke?

Kowalski: Yes.

Horen: That was the original owners back there and there was only one house there and that is the house that we are talking about right there and that was part of the owner at that time.

Kruger: Oh, the one that doesn't have any problem.

Horen: Anything anyone else want to put in, Mr. Austin or Dave?

DeGrow: Only a point of definition for one of the terms we were looking for is "substantial improvement." You technically cannot substantially improve a nonconforming to keep it in non-conformity. Does that make sense? Substantial improvement is one of the terminology that you were speaking to in your question.

T. Miller: Call the question, Mr. Chairman.

Horen: Did we have a second?

T. Miller: Yes

Gwizdala: We've had discussion on it and are ready to vote.

**Roll call vote:**

**Yes: Gwizdala, Miller, Krueger, Darland**

**No: Horen**

**Absent: Sinke**

**Motion carried to deny the variance.**

Horen: Ok, Harold, at this particular time your variance has been denied.

Mr. Miller: I think it is pretty sad when a Township resident tries to improve a piece of commercial property ten feet by twenty...two hundred square feet that is a great improvement to the community and the Township, you people right here, would vote something like that down. I think that is pretty sad and pretty sick.

**Communications**

T. Miller: Mr. Chair, I would move that we accept Communications.

Darland: Support.

Much crowd noise.

Darland asked that everyone take a minute and review the Planning Commission stuff, because they are reviewing the sign ordinance and if ZBA wants input, they should consider those things now.

Horen noted his opposition to any electronic signs in the Township, specifically electronic billboards.

There is an electronic billboard on W.S. Saginaw that is electronic and that's not what was presented into the minutes.

Discussion about signs and the time between changes.

Horen's main concern on electronic signs is controlling the brightness and policing it.

Dave DeGrow talked to the ZBA about signs and said that the brightness can be enforced.

5 Minutes recess taken.

Reconvened. At 9:25 p.m.

J. Horen asked D. DeGrow about outbuildings.

D. Darland suggested a joint meeting between ZBA, Board and Planning on signs might be good.

Motion by Horen, supported by Darland to adjourn.

Motion carried.

The meeting was adjourned at 9:30 p.m.

Respectfully,

Terry Miller  
Secretary