

VARIANCE REVIEW STANDARDS ZONING ORDINANCE SECTION 15.04 (E) (2)

Dimensional or other non-use variances shall not be granted by the Zoning Board of Appeals unless it can be determined that all of the following facts and conditions exist:

- a) Exceptional characteristics of property for which the variance is sought make compliance with dimensional requirements substantially more difficult than would be the case for the great majority of properties in the same zoning district. Characteristics of property which shall be considered include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation and other similar characteristics.
- b) The characteristics which make compliance with dimensional requirements difficult must be related to the premises for which the variance is sought, not some other location.
- c) The characteristics which make compliance with the dimensional requirements shall not be of a personal nature.
- d) The characteristics which make compliance with dimensional requirements difficult must not have been created by the current or a previous owner.
- e) The proposed variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property value within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.

BOARD OF ZONING APPEALS

The Board of Zoning Appeals is a group of seven of your neighbors or peers appointed by City Council to pass judgment on requests for variances and other matters that are brought before them. A variance is a relaxation of the literal provisions of the Zoning Ordinance. Petitioners must indicate a hardship or practical difficulty running with the land that would warrant the granting of the variance.

PROCEDURE

The Board will hear the items in the order that they appear on the agenda. When an item is called, the Chairman will verify that the petitioner is present. Then the City Administration will summarize the facts of the case. The petitioner will then be given an opportunity to address the Board to explain the justification for the action requested.

After the petitioner makes their presentation, and answers any questions that the Board may have, the Chairman will open the Public Hearing. Any person wishing to speak on the request should raise their hand and when recognized by the Chairman, come up to the podium and sign in on the sheet provided. The speaker should identify themselves with name and address, indicate their relationship to the property in question (i.e. next door neighbor, live behind the property, etc.) and state whether they are in favor of or against the variance request and give reasons for their opinion. Comments must be directed through the Chairman. Comments should be kept as brief as possible and closely pertain to the matter under consideration. Only one person will be recognized by the Chairman to speak at one time.

At the conclusion of public comments the Chairman will close the Public Hearing. Once the Public Hearing is closed, no other public comment will be taken unless in response to a specific question by a member of the Board. The Board will then make a motion to approve, deny, or table (delay action) the request. In order for the request to pass a minimum of four votes for approval are needed. If the request is not granted, the applicant has the right to appeal the Board's decision to Oakland County Circuit Court.



ZONING BOARD OF APPEALS MEETING AGENDA REGULAR MEETING

500 W. Big Beaver
Troy, MI 48084
(248) 524-3364
www.troymi.gov
planning@troymi.gov

David Lambert, Chair, and Allen Kneale, Vice Chair
Michael Bartnik, Glenn Clark, Kenneth Courtney
William Fisher, Thomas Strat
Bruce Bloomingdale and Orestis Kaltsounis (Alternates)

April 17, 2012

7:30 P.M.

Council Chamber

1. ROLL CALL
2. APPROVAL OF MINUTES – March 20, 2012
3. APPROVAL OF AGENDA
4. HEARING OF CASES
 - A. VARIANCE REQUEST, GAIL MORO, MAEDERS WEST GARDEN CENTER LLC, GPRZ Real Estate LLC, 6530-6550-6566 COOLIDGE HIGHWAY – A variance in order to expand the existing nonconforming use.

SECTION: 14.03

5. MISCELLANEOUS BUSINESS – Board discussion regarding Alternates
6. COMMUNICATIONS
7. PUBLIC COMMENT
8. ADJOURNMENT

NOTICE: People with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk by e-mail at clerk@troymi.gov or by calling (248) 524-3317 at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.

Vice Chair Kneale called the Zoning Board of Appeals meeting to order at 7:30 p.m. on March 20, 2012, in the Council Chambers of the Troy City Hall.

1. ROLL CALL

Present:

Michael Bartnik
Bruce Bloomingdale
Kenneth Courtney
William Fisher
Orestis Kaltsounis
Allen Kneale
Thomas Strat

Absent:

Glenn Clark
David Lambert

Also Present:

Paul Evans, Zoning and Compliance Specialist
Lori Grigg-Bluhm, City Attorney
Susan Lancaster, Assistant City Attorney

2. APPROVAL OF MINUTES – February 21, 2012

Moved by Courtney
Seconded by Kaltsounis

RESOLVED, to approve the February 21, 2012 meeting minutes.

Yes: All present

MOTION PASSED

3. APPROVAL OF AGENDA

Moved by Strat
Seconded by Courtney

RESOLVED, to hear case 4B and then case 4A

Yes: All present

MOTION PASSED

4. HEARING OF CASES

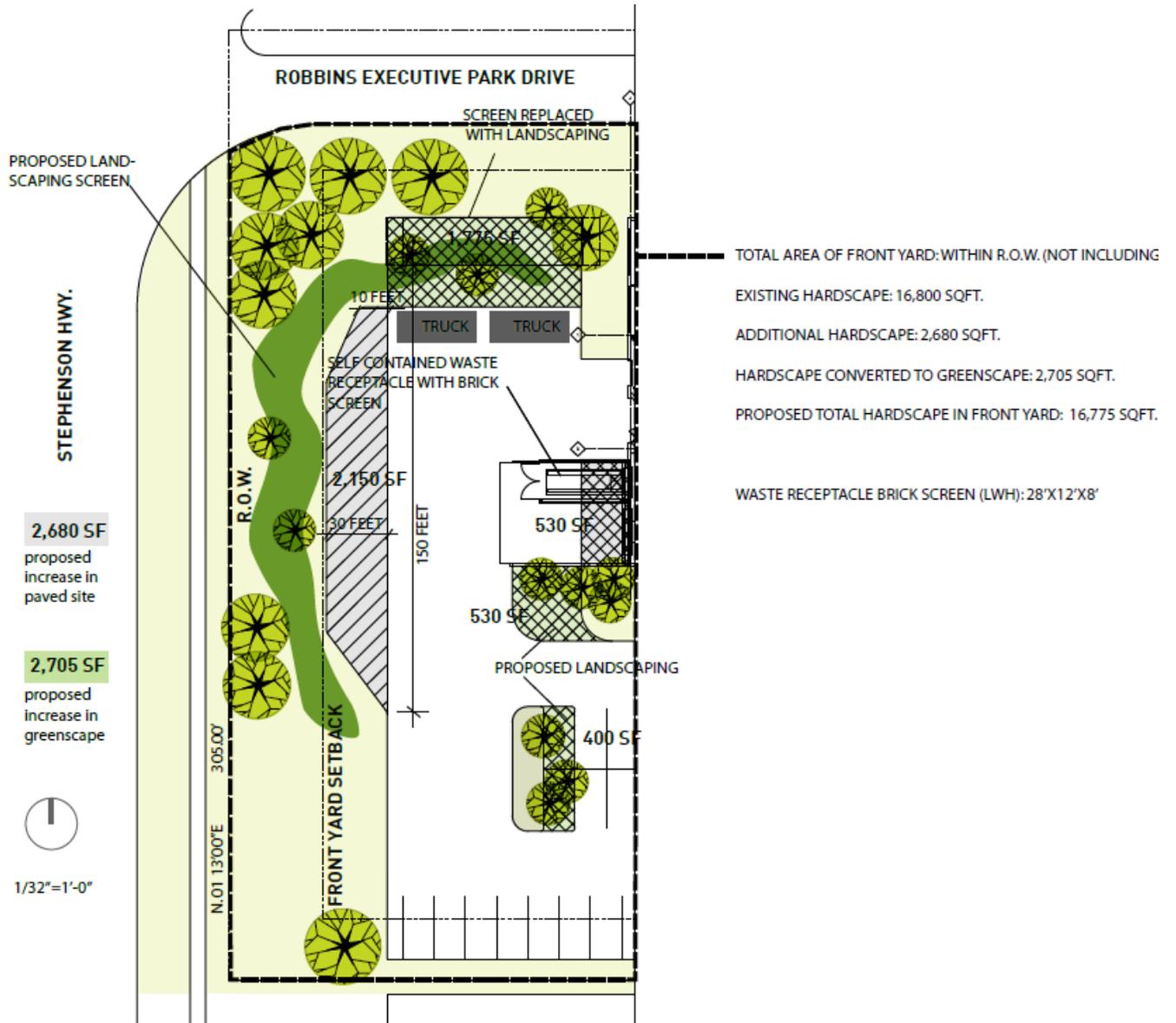
- A. VARIANCE REQUEST, JIM BARDY OF CONTINENTAL SERVICES, 700 STEPHENSON HIGHWAY – A variance to place/construct the following improvements in the front yard: a trash container, a loading area, and a maneuvering lane. The Zoning Ordinance does not allow these items in the front yard.

Moved by Courtney
Seconded by Bartnik

RESOLVED to grant the variance as requested with the following conditions:

- That the existing berm be extended north and west as depicted on the attached drawing.
- That the new berm height and massing match that of the existing berm.
- That the new berm be undulating.
- That the new berm not be required where it will interfere with existing screening trees.
- That additional screening vegetation be installed in the front yard and on the berm.
- That the aforementioned vegetation species, height, and placement effectively screen the view of the trucks located in the front yard from Stephenson Highway.
- That the vegetation provides year round screening.
- That the greenscape created would exceed the amount lost.

MOTION PASSED



- B. VARIANCE REQUEST, GAIL MORO, MAEDERS WEST GARDEN CENTER LLC, GPRZ Real Estate LLC, 6530-6550-6566 COOLIDGE HIGHWAY – A variance in order to expand the existing nonconforming use.

Moved by Courtney
Second by Bartnik

RESOLVED, to postpone the request to the April 17, 2012 Zoning Board of Appeals meeting.

Yes: All

MOTION PASSED

5. COMMUNICATIONS – None
6. PUBLIC COMMENT – There was no public comment.
7. MISCELLANEOUS BUSINESS – A) City Attorney Lori Grigg-Bluhm gave presentations on the Open Meetings Act and the Freedom of Information Act. B) The Board agreed to postpone discussion about Board Alternates to the April 17 meeting.
8. ADJOURNMENT – The Zoning Board of Appeals meeting ADJOURNED at 10:35 p.m.

Respectfully submitted,

Allan Kneale, Vice Chair

Paul Evans, Zoning and Compliance Specialist

4. HEARING OF CASES

- A. VARIANCE REQUEST, GAIL MORO, MAEDERS WEST GARDEN CENTER LLC, GPRZ Real Estate LLC, 6530-6550-6566 COOLIDGE HIGHWAY – A variance in order to expand the existing nonconforming use.

SECTION: 14.03



W SOUTH BLVD

GRENADIER

DUCHESS CT

PIPPIN CT

JOHNATHON

RUSSET

MCINTOSH

COOLIDGE HWY

MOUNTAIN

PINOAK

APPLE

WHITE BIRCH

BUCKTHORN

ELM PARK

ELM CT

ELM

MOUNTAIN CT

LOCUST

POPLAR

FOREST PARK

REDBUD

CRABAPPLE

TAMARACK

TAMARACK CT

PARK VIEW

RED OAK

SHAGBARK

TANGLEWOOD

BUCKTHORN



6580

1707

1699

168

COOLIDGE HWY

6550

6530

1942

1926

1910

1894



(EP)

1698

PINOAK

1735

1714

169

1699

1713

1727

1731

1715

1706

1692

167

1707

1699

1687

1671

6557

655

6580

(R-1B)

COOLIDGE HWY

6550

(R-1A)

6530

6557

655

PARK VIEW

6515

6506

TANGLEWOOD

1974 1958

1942

1926

1910

1894

(R-1B)

1878

6499

6490

ASPEN

BUCKTHORN

1862

ZONING BOARD OF APPEALS APPLICATION

CITY OF TROY PLANNING DEPARTMENT
500 W. BIG BEAVER ROAD
TROY, MICHIGAN 48084
PHONE: 248- 524-3364
E-MAIL: evanspm@troymi.gov
<http://www.troymi.gov/CodesEnforcement/#>



REGULAR MEETING FEE **\$150.00**
SPECIAL MEETING FEE **\$650.00**

REGULAR MEETINGS OF THE CITY BOARD OF ZONING APPEALS ARE HELD ON THE **THIRD TUESDAY OF EACH MONTH AT 7:30 P.M. AT CITY HALL**. PLEASE FILE A COMPLETE APPLICATION, WITH THE APPROPRIATE FEE, AT LEAST **27 DAYS BEFORE** THE MEETING DATE.

1. ADDRESS OF THE SUBJECT PROPERTY: 6530-50-66 Coolidge Highway, Troy, MI 48098
2. PROPERTY TAX IDENTIFICATION NUMBER(S): 20-05-151-039
3. ZONING ORDINANCE SECTIONS APPLICABLE TO THIS APPEAL: _____
4. REASONS FOR APPEAL: *On a separate sheet, please describe the reasons justifying the requested action. See Submittal Checklist*
5. HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? If yes, provide date(s) and particulars: No appeals from current owner
6. APPLICANT INFORMATION:
NAME Gail Moro
COMPANY Maeders West Garden Center, LLC
ADDRESS 6550 Coolidge Highway
CITY Troy STATE MI ZIP 48098
TELEPHONE 248-413-7741
E-MAIL gmoro@comcast.net

7. APPLICANT'S AFFILIATION TO THE PROPERTY OWNER: Owner

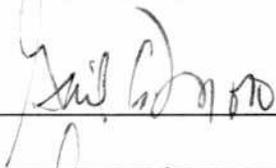
8. OWNER OF SUBJECT PROPERTY:

NAME Gail Moro
COMPANY Maeders West Garden Center LLC
ADDRESS 6550 Coolidge Highway
CITY Troy STATE MI ZIP 48098
TELEPHONE 248-413-7741
E-MAIL gmoro@comcast.net

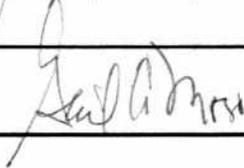
The undersigned hereby declare(s) under penalty of perjury that the contents of this application are true to the best of my (our) knowledge, information and belief.

The applicant accepts all responsibility for all of the measurements and dimensions contained within this application, attachments and/or plans, and the applicant releases the City of Troy and its employees, officers, and consultants from any responsibility or liability with respect thereto

I, Gail Moro (PROPERTY OWNER) HEREBY DEPOSE AND SAY THAT ALL THE ABOVE STATEMENTS AND STATEMENTS CONTAINED IN THE INFORMATION SUBMITTED ARE TRUE AND CORRECT AND GIVE PERMISSION FOR THE BOARD MEMBERS AND CITY STAFF TO CONDUCT A SITE VISIT TO ASCERTAIN PRESENT CONDITIONS.

SIGNATURE OF APPLICANT  DATE 2/21/12

PRINT NAME: Gail Moro

SIGNATURE OF PROPERTY OWNER  DATE 2/21/12

PRINT NAME: Gail Moro

Pursuant to the Board's suggestion, I asked the City to help me clarify my application. The City suggested I compare the 1975 Interpretation to what I'm purposing in my application. Therefore, I'm listing the eight 1975 line items, followed by my proposal/response.

Please note: This property is zoned residential, however, I really can't use the property for its permitted use because it lies in a flood zone (see attachment #4). The flood zone is an exceptional characteristic peculiar to the property and not to general neighborhood. My proposed variance will not be harmful, it won't alter the essential character of the area.

City 1975 Interpretation

1. Limited to sale of potted plants and cut and potted flowers to retail and wholesale customers from inside of existing greenhouse building only.

1. Petitioner: Limited to the sale of greenhouse, nursery, florist and garden center items to retail and wholesale customers in the area west of the white dotted line on the map marked attachment #1. The following list are examples of items that might be sold in the area west of the white dotted line on the map, but not limited to these items.

- Cut flowers; potted plants, flowers and vegetables; flats of plants, flowers and vegetables; terrariums of plants, flowers and vegetables; fruit and vegetable products; and bagged potting soil, mulch and fertilizer
- Small bushes and shrubs (not to exceed 24" in size);
- Plant containers (ceramic, wood, cement, glass and plastic vases and urns);
- Garden Accessories - small hand garden tools, garden gloves;
- Seasonal garden and lawn art/ornaments, plaques, trellis', Shepard's hooks, statutes and sculptures and decorative seasonal flags;
- Bird feeders, birdhouses, fountains & bird baths;
- Artificial and real indoor and outdoor wreaths, swags, grave blankets, Christmas trees and decorations

No retail sales will take place in the area east of the white dotted line on the map. After clean-up of the area east of the white dotted line on the map, it will be maintained in a manner similar to a garden/nature center/park like setting. Landscaping and landscaping items such as pavers, trees/shrubs larger than 24", and loose bulk form materials will not be sold on the property.

City 1975 Interpretation

2. No storage or display or sale of any products is permitted outside of the greenhouse buildings.

2. Petitioner: To permit greenhouse, nursery, florist and garden center items listed in "1. Petitioner" request above, to be displayed for sale, inside and outside the greenhouse, in the area west of the white dotted line on the map. Note, items for sale will be seasonal displayed and not permanently displayed.

City 1975 Interpretation

3. No signs are permitted indicating that any products are for sale at retail on the site, a small sign will be permitted indicating the name of the business on the site and the fact that the business deals in cut and potted flowers and plants.

3. Petitioner: No Changes

City 1975 Interpretation

4. No landscape type materials are to be grown or “heeled in” in mulch, woodchips or other materials on the site.

4. Petitioner: No Changes

City 1975 Interpretation

5. No additional permanent or temporary greenhouses or other structures are permitted on the site would tend to expand or increase the nonconforming buildings and use in any way.

5. Petitioner: To permit, plant displays and shader/arbors/pergolas/ outside the greenhouse, to provide shade to plants that are displayed outside. **All shader/arbors/pergolas will be easily removable; they will provide shade to the plants or be decorative only.** The shader/arbors/pergolas will look similar to the ones depicted in attachment #2 and will be located as indicated on the map (attachment #1).

City 1975 Interpretation

6. No vehicle or truck in excess of 3/4 ton capacity shall be stored outside of a building on any portion of this site.

6. Petitioner: No Changes

City 1975 Interpretation

7. The temporary greenhouse on the site is not a nonconforming use and is subject to annual renewal request and is subject to having the renewal denied by the Board at any renewal hearing.

7. Petitioner: No Changes

City 1975 Interpretation

8. The attached submitted by the petitioner is submitted as a representation by petitioner of the approximate location of existing buildings and vehicle parking areas and the parking area will not be expanded or increased in any way as depicted in the aerial photo. Barriers of a permanent substantial material will be erected to prohibit parking on grassy areas.

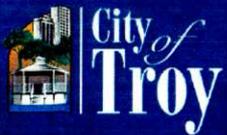
8. Petitioner: No Changes

Attachment #2 – This is a sample of what the shader/arbors/pergolas might look like –

All shader/arbors/pergolas will be easily removable, they will provide shade to the plants or be decorative only.

Note the first two photos in the top row depict the arbors/pergolas that were previously on the property to provide shade to the plants or were decorative. "A" depicts a flat shader, "B" is a decorative shader and "C" is a decorative arbor-trellis and "D" is a pergola.





Flood Hazard Area

City of Troy Planning Department



- Legend**
- Road Centerline
 - Major Road
 - Industrial Road
 - Local Road
 - Ponds and Basins
 - Streams and Creeks
 - Flood Hazard Area - 2009
 - X (500 Year)
 - A (100 Year)
 - AE (100 Year With Eng)
 - AE (100 Year With Eng Within Floodway)
 - Parcels
 - Aerial Photos - 2010
 - Red: Band_1
 - Green: Band_2
 - Blue: Band_3

204 0 102 204 Feet

Scale 1: 1,226



Note: The information provided by this application has been compiled from recorded deeds, plats, tax maps, surveys, and other public records and data. It is not a legally recorded map survey. Users of this data are hereby notified that the source information represented should be consulted for verification.

Printed: 2/3/2012

PRIOR ZONING BOARD MINUTES CLARIFYING
ALLOWED NONCONFORMING USES FOLLOW THIS
PAGE

August 21, 1973

ITEM #3. Variance Requested, Ronald & Susan Helin, 6650 Coolidge, for relief to expand a nonconforming use.

Inspector VandenBussche explained that the petitioner is proposing to convert an existing residential structure and expansion of a legal nonconforming greenhouse operation on this site. This item was tabled at our last regular meeting to allow the petitioner to be present as they were unable to attend our last regular meeting due to a personal emergency.

The petitioner was not present.

Motion by McKenna
Support by Boyd

MOVED, that the variance requested at 6650 Coolidge, for relief to expand a nonconforming use, be denied for the following reasons:

1. There was no hardship shown.
2. There has been no indication of interest by the petitioner.

yeas: All - 6
nays: none
absent: 1

~~ITEM #4. Variance Requested, Shaw D. Hakim, N. side of Maple, 900' W. of Dequindre, for relief of the required number of parking spaces from 362 to 283.~~

~~Inspector VandenBussche explained that the petitioner is requesting relief of the required parking spaces for a roller skating rink use. The proposal that was placed before the Board at our last regular meeting was for relief of 130 cars, and the petitioner has since revised their site plan to provide for an additional 51 cars. The revised proposal indicates this additional area will not be paved. Waiver of the paving would have to be granted on a new public hearing notice as the zoning ordinance does require all parking areas to be hardsurfaced. The new proposal will provide for a total of 283 spaces where the ordinance requires 362. The relief required would be for 79 cars. This item was tabled at our last regular meeting for further study.~~

~~Mr. Hakim was present and stated that the additional parking spaces that have been proposed will also be hardsurfaced.~~

~~Motion by Lashmet
Support by Oberholtzer~~

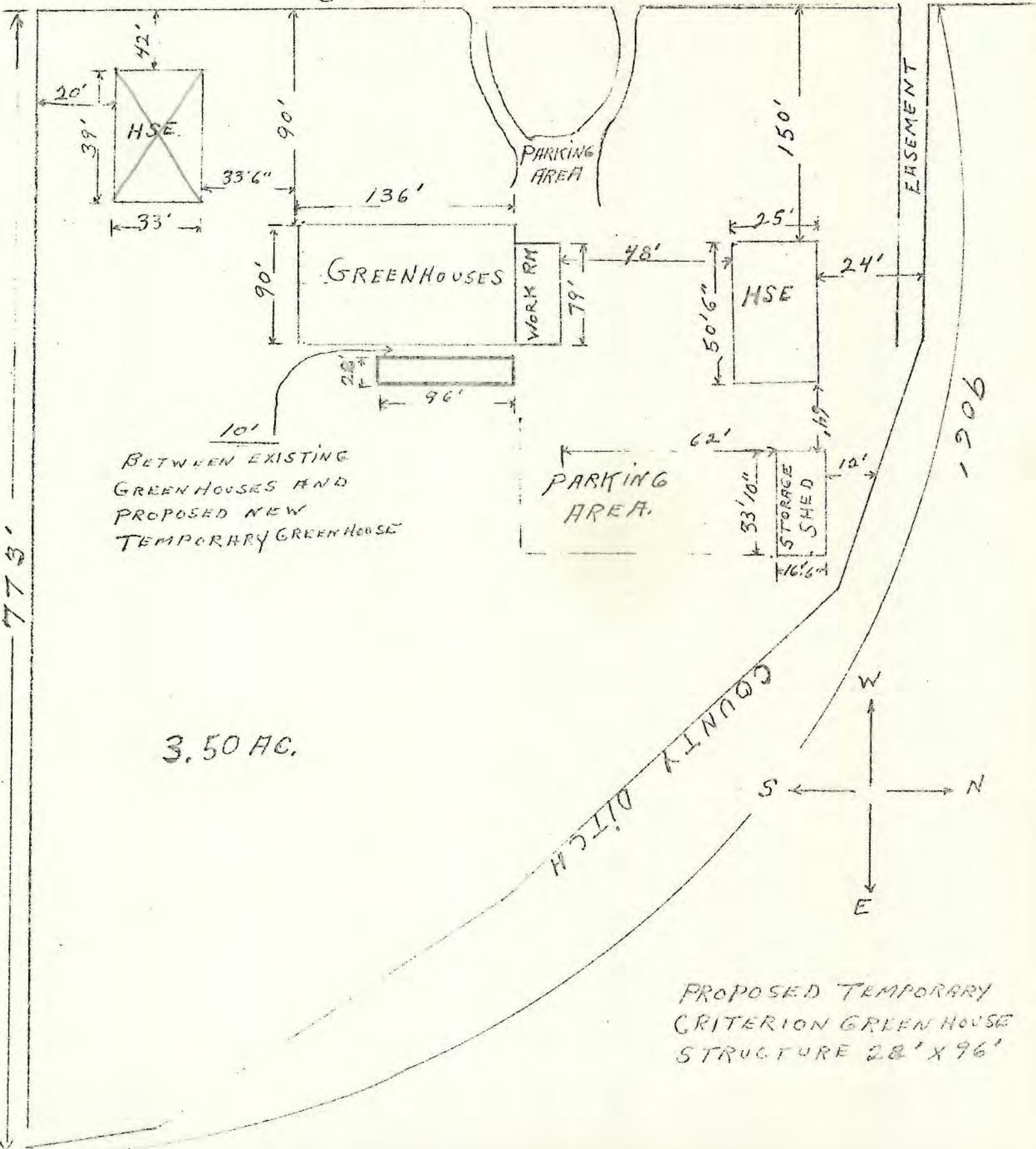
~~MOVED, that the variance requested on the N. side of Maple, 900' W. of Dequindre, for relief of the required number of parking spaces from 362 to 283, be approved for the following reasons:~~

- ~~1. The City has been analyzing parking requirements for uses of this type as they feel the present requirements are too strict.~~
- ~~2. It will not be detrimental to the area.~~
- ~~3. The petitioner has increased the number of parking spaces to make the particular parcel of land more suitable to the zoning ordinance.~~
- ~~4. The complaints that were made by the surrounding neighbors were aimed at the type of business rather than the parking requirements.~~

~~yeas: All - 6
nays: none
absent: 1~~

402'.5'

COOLIDGE HWY.



BETWEEN EXISTING GREENHOUSES AND PROPOSED NEW TEMPORARY GREENHOUSE

3.50 AC.

PROPOSED TEMPORARY CRITERION GREENHOUSE STRUCTURE 28' X 96'

MOVED, that the renewal requested at 3838 Livernois, for relief of a masonry obscuring wall be approved for one year for the following reasons:

1. The conditions remain the same.
2. There were no objections or complaints in the file.

Further, that the renewal requested at 3838 Livernois, for relief to maintain a temporary structure, be denied for the following reasons:

1. The original variance was granted on the grounds that the structure was to be temporary while construction was in progress.
2. No hardship was shown indicating a need to maintain the structure.
3. This board does not have the right to exceed two years in granting a variance for any temporary building or use.

yeas: 6
nays: 1 (Hinch)
absent: 0

PUBLIC HEARINGS

ITEM #6. Interpretation Requested, George Rohl, 6530-50-66 Coolidge, to verify the fact that the existing retail and wholesale nursery use has a legal nonconforming status.

Inspector VandenBussche explained that the petitioner is requesting an interpretation to verify the fact that the existing retail and wholesale nursery use has a legal nonconforming status. The Building Department files indicated that the greenhouse use for raising flowers and the sale of these flowers has been in existence prior to 1940 and this fact would indicate a legal nonconforming status. The property has a temporary greenhouse on it that appears before this board each year for renewal in that it is a temporary structure. This greenhouse is in addition to the existing structures on the site. The petitioner has submitted letters indicating verification that the use has been in existence prior to the zoning ordinance requirements. The reason for this request is because there will be a change of ownership and the prospective owners are requesting a verification of this legal nonconforming use. The zoning ordinance indicates that any change of tenants, ownership, or management would not affect this status providing there is no change of the nature or character of the use.

Mr. Arthur Barkey, representing the petitioners, was present and stated they are only requesting the board to confirm the legal nonconforming status of the site. This is so some type of legal determination can be made that this use was existing prior to the zoning ordinance requirements, and that it may continue as it has in the past and not be questioned at a later date. He also stated that if the new owner decides to change in any way the nature or character of the operation, he would have to reappear before this board.

The Chairman opened the public hearing.

No comments from the audience.

One letter of approval on file from Ethel Robertson, 6580 Coolidge.

Motion by Lashmet
Support by Hinch

MOVED, that the interpretation requested at 6530-50-66, to verify the fact that the existing retail and wholesale nursery use has a legal nonconforming status, be tabled until the next regular meeting for further study.

yeas: 6
nays: 1 (Giachino)
absent: 0

February 18, 1975

ITEM #5. Renewal Requested, Somerset Properties, 2401-2601 W. Big Beaver, for relief of a masonry obscuring wall.

Inspector VandenBussche explained that the petitioner is requesting renewal for relief of a masonry wall required at their property line abutting the residential zoned district to the east of their complex. The renewal has been granted on a yearly basis since 1971 based on the Plan Commission's determination that this residential zoned land will be rezoned sometime in the future. In 1973 the renewal was granted with the provision that an obscuring wood fence be erected on this property line. In August of 1974 this renewal was tabled because the requirement for the 6' wood fence was not complied with. Subsequently, this item was tabled on two additional meetings as the petitioner had problems installing his fence.

The petitioner was not present.

Motion by Husk
Support by Lashmet

MOVED, that the renewal requested at 2401-2601 W. Big Beaver, for relief of a masonry obscuring wall, be approved for one year for the following reasons:

1. The fence required in the original variance has now been erected.
2. It will not be detrimental to the area.
3. There were no objections on file.

yeas: All - 6
nays: none
absent: 1

ITEM #6. Interpretation Requested, George Rohl, 6530-50-66 Coolidge, to verify the fact that the existing retail and wholesale nursery use has a legal nonconforming status.

Inspector VandenBussche explained that the petitioner is requesting an interpretation to verify the fact that the existing retail and wholesale use on his site has a legal nonconforming status. This item was tabled at our last regular meeting for one month for further study.

Mr. Rohl was present and stated that the property has been sold and the new owners will not be changing the operation of the greenhouse in any way.

Motion by Husk
Support by Lashmet

MOVED, that testimony having been taken and exhibits having been presented regarding the existence of a nonconforming use at 6530-50-66 Coolidge Road, Troy, Michigan, and the petitioner having requested a determination of such nonconforming use and the extent and nature of such nonconforming use, it is determined that a nonconforming use does exist at the above address, which nonconforming use is expressly limited and restricted in the following manner:

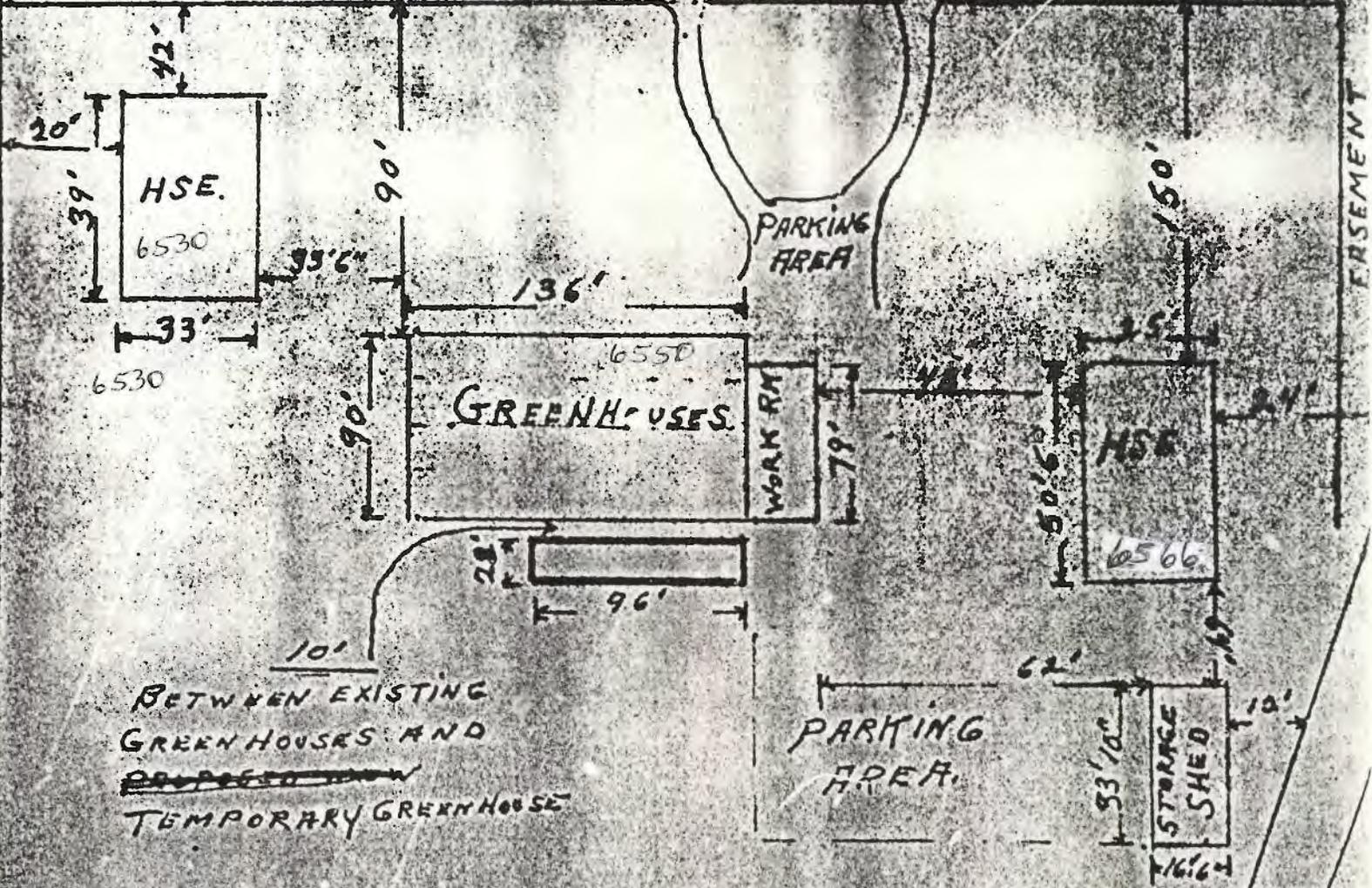
1. Limited to sale of potted plants and cut and potted flowers to retail and wholesale customers from inside of existing greenhouse building only.
2. No storage or display or sale of any products is permitted outside of the greenhouse buildings.
3. No signs are permitted indicating that any products are for sale at retail on the site, a small sign will be permitted indicating the name of the business on the site and the fact that the business deals in cut and potted flowers and plants.
4. No landscape type materials are to be grown or "heeled in" in mulch, woodchips or other materials on the site.
5. No additional permanent or temporary greenhouses or other structures are permitted on the site which would tend to expand or increase the nonconforming buildings and use in any way.
6. No vehicle or truck in excess of 3/4 ton capacity shall be stored outside of a building on any portion of this site.
7. The temporary greenhouse on the site is not a nonconforming use and is subject to annual renewal request and is subject to having the renewal denied by the Board at any renewal hearing.
8. The attached sketch submitted by the petitioner is submitted as a representation by petitioner of the approximate location of existing buildings and vehicular parking areas and the parking area will not be expanded or increased in any way. Barriers of a permanent substantial material will be erected to prohibit parking on grassy areas.

yeas: All - 6
nays: none
absent: 1

402' 5"

COOLIDGE HWY.

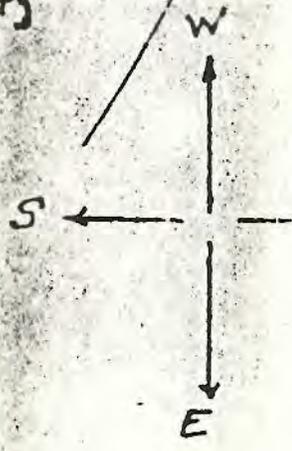
ERSEMENT



BETWEEN EXISTING GREENHOUSES AND ~~PROPOSED~~ TEMPORARY GREENHOUSE

3.50 AC.

HULL COUNTY DITCH



6530-50-66 Coolidge Road
Troy, Michigan 48084
George & Henry Roll

PUBLIC COMMENTS – these were all filed before the
March ZBA meeting.

RECEIVED

MAR 19 2012

March 17, 2012

PLANNING

City of Troy Planning Department:

This letter is in regards to a variance in order to expand the existing nonconforming use of the property located on 6530-6550-6566 Coolidge Highway in Troy, Michigan.

Being that our property at 1894 Buckthorn Court backs up to the rear portion of the property in question, we may have some concerns. There is some history regarding the illegal activity that went on with this property and what the City of Troy allowed for many years. Therefore, moving forward with some of the considerations in the new owner's request is a little disconcerting.

Starting in May of 2001, we had contact with the City of Troy for over three and a half years regarding what was being conducted on this property. (Please refer to typed notes taken from May of 2001 until December 2003, in addition to involvement from the City of Troy until September of 2004). As evident with the correspondence and pictures taken before and after Mr. Wilkop's changes, it is apparent why we would have some concerns regarding this property. If we knew then what we know now, we would have taken legal action. For over ten years, we have dealt with noise, extremely large trucks coming in and out at all hours, dirt, debris, dumping, safety concerns, etc. which were all non-existent when we purchased our property. What is even worse is that we were not given accurate information regarding what was legally allowed on this property. In fact, we were misled on many accounts. We were never informed about the 1975 Zoning Board Interpretation and, in fact, were given false information when questioned. City personnel should have referred to this or given us this information.

Overall, the changes/additions that Gail Moro from Maeders West Garden Center, LLC would like to make, appear to be very positive. After meeting her, we are confident that she has the best of intentions regarding her business and the property. However, in her application #1 states, "I would like to operate the business as a greenhouse/garden center/nursery/flowerist/landscape business and the items for sale would be items associated with those businesses."

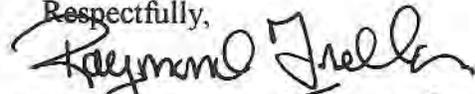
All of the aforementioned are acceptable to us except for the word "landscape". After issues with what was allowed illegally on this property for years, we have concerns. In reference to the February 1975 Zoning Board Interpretation of this property, #1 states that business on this property was to be, "Limited to sale of potted plants and cut and potted flowers to retail and wholesale customers from inside of existing greenhouse building only." Even though business on this property was to be limited to nursery type items, a landscaping type business was unfortunately going on for a number of years. **We do not want the word "landscape" allowed in the variance.** It is our understanding that Ms. Moro has no intentions of conducting this type of business; however, if/when she sells her business, **we do not want a new owner to be allowed to conduct any type of landscaping business.** As is apparent with the pictures, unfortunately trucks and

materials from the previous owner were visible for years, even though **this was not and should not have been allowed.**

In addition, #5 from the 1975 Zoning Board Interpretation states that “no additional permanent or temporary greenhouses or other structures are permitted on the site which would tend to expand or increase the nonconforming building and use in any way.” **The two smaller greenhouses that Ms. Moro is proposing appear to be acceptable and we have no concerns, unless other neighbors closer to these greenhouses do.** In addition, **the new gazebos appear to be aesthetically pleasing and therefore, we welcome this addition.** However, we have reservations regarding the proposed storage building at the back of the property to house a skid loader. The proposed building would be a new storage shed of 45' x 20' with a 10' elevation. This storage shed would be visible from our backyard deck, especially during fall, winter, and spring. As it is already, the view has changed dramatically in our back yard from the time we purchased our property until now. Looking at the pictures we have tells it all. It is sad that the dumping and illegal business was allowed to go on for so many years. Perhaps take a look at the back of this property from our point of view, view the pictures, and read the typed notes from years ago to have an idea why we may have some concerns. We would love to go outside on our deck after teaching all day or running our own business to what was once a beautiful piece of property.

We welcome a new owner to this property and believe her intentions of making this property a wonderful place are sincere. However, due to our past experience of business conducted on this property, we have two concerns – the word “landscape” in the variance and the proposed storage building.

Thank you for your consideration in this matter.

Respectfully,



Maureen and Raymond Trella
1894 Buckthorn Court
Troy, Michigan 48098
248.813.9297

City of Troy - Issue regarding Dumping behind us by Wilkop and Berm.

City of Troy - General Information 524-3300

Zoning Department 524-3344

5/7/01

Rick Kessler - Stated that Wilkop property is zoned R1B Residential - Legal Non-Conforming (There prior to zoning.) Referred me to Ginny Norval 524-3581

5/7/01

Ginny will write complaint (Anon.), giving it to her Ordinance Officer, Don Phillips (Inspector) to go out and look.
Don Phillips 680-7284 Office Hours 8-9:30 4-4:30

Ginny stated:

- ❖ Mark can have his equipment/trucks on property, but it can't be junky equipment, etc.
- ❖ Not allowed to dump dirt with bricks, etc.
- ❖ Was not allowed to do berm without permission and soil must be good.

5/10/01

I called and left message on Don's voice mail. Asked if anything was done so far.

5/11/01

Don returned call and left message for us asking if they can come on our property to view Wilkop from our side. Also said arranging joint inspection with Engineering Department for entire parcel.

5/11/01

I returned call and left message giving permission to come on our property, deck, and if desired into our house to view. Also, asked if they had spoken with Mark yet (since tractor was removed.) Also, informed Don that from now and next 4-5 months, actually appears to others that it looks better due to weeds growing on berm. Also, asked about hours of operating vehicles on property.

5/17/01

Call from ---- (Don?)

Engineering problem - our backyard. Yard man at Wilkop wouldn't allow them back there. Said he needs Mark's permission.

Referred:

Engineering - Tracey Slinak 534-3381

Lance Oakley 524-3408

Called 2 times to Tracey and Lance - no return phone calls. Said 4-5 feet on our property with berm filled with dirt and plantings etc. (brick, etc)

8/7/01

Don called and said he left many messages to Mark, but no return phone calls. Going out today.

8/7/01

Called Ginny to tell of concerns.

8/7/01

Ginny called and said she'll talk to Don. Stated that debris is not allowed. (wood chip, etc. allowed. Not allowed to bring dirt/old plantings, etc. from other jobs and dump. Must go to dump.)

8.7.01

Called Steve VanDette (city engineer) 526-5133 regarding berm. Left message stating I put calls in to Tracey and Lance (2x) regarding berm and haven't had response.

8.9.01 Thurs. 11:35 a.m.

Tracey called and left message regarding berm, stating that she will be speaking with Mark and ask him to remove debris and have decent plantings. She has concerns about that and knows that I do also.

8.13.01 8:35 a.m.

Called Don Phillips. He stated that Mark was not available when visited last week. Will go out again today and if not available, will send letter to Mark stating date junk must be removed and not allowed hereafter. (Blind CC to me)

Tracey - will talk with Mark this week. Must take out plantings, brick, etc. Must clean out visual stuff and debris and dead stuff. Must cover with something better and plantings. Must Stake property. Told to call back Thursday.

8.16.01 3:05 p.m.

Talked with Tracey?

Going over design standards with department. Landscape design standards. Talked with Ginny about this. Will put together a packet of standards for Mark, will go and give it to him and write letter giving him 20 days to comply.

12/18/01 9:45 a.m.

Called Don Phillips and left message regarding mess behind berm. Made a reference to letter.

12/18/01 9:55 a.m.

Called Tracey - not much help.

She feels that the berm is better to have than nothing. She stated that a good time to do something is winter () I told her this is winter with no snow, etc.- Perfect time for Wilkop to do something. She agreed. She doesn't want to push him (Wilkop). I told her this is the 3rd winter we've had to deal with this. He needs to be pushed. She said she'll get letter out to him this week about cleaning up berm, decent plantings, etc.

12/27/01

Don called and said Tracy was out until Jan. 2nd. She's in charge of berm.

3.13.02

I called Tracey. She said she hasn't heard from Mark or Don. She said she talked with city engineer, Steve and he said that Mark put berm in as sub was developing as a buffer. (Yes, but clean fill, good planting, etc. would be nice.) Tracey will get with Don and try to combine a letter to Mark. Also, Tracey stated that she thought Don told her Mark stated he does small jobs and brings back materials and then ~~his~~ ^{his} fuck come and bring to dump. I told her that he dumps here behind the berm and has a truck take away about 1 time per year, at best. This is dumping.

3.29.02 11:10-11:20

Left messages on voice mail with all regarding my frustrations with berm and dumping and nothing being done. Will try one last time and then go to Mayor and lawyer.

- ❖ Tracey
- ❖ Don
- ❖ Ginny
- ❖ Steve VanDette

4.1.02

Ginny called in a.m.

She apologized for nothing being done. Said that on her computer it stated that "dumping" issue was taken care of. She will talk with Don and get back on this.

Ginny Norval- boss to Don Phillips (dumping)

Steve VanDette -boss to Tracey Slinak (Berm)

4.1.02

Don called and asked if new stuff was dumped. I said there's new stuff, but where it came from, I don't know. Could have been moved from another part of property. Old stuff still there from 1-1/2 years ago. Asked for permission to come on property to take pictures. I said yes and to come on deck for best view from inside our house. He asked exactly what I'd like. I said:

- ❖ Re-survey property. (Wilkop came on part of our property when creating berm.)
- ❖ Remove all dumping materials.
- ❖ Do not dump anything in future.
- ❖ No berm. Get rid of it.

* Provide Plantings

4/1/02

Steve VanDette called (3 pm) and asked for information regarding Wilkop. I gave him a summary. He said he would get with Ginny and Don and point out Chapter #80 regarding berm requirements. (Must be 3 ft. high and have a 4foot slant, etc.)

He's hoping Wilkop will cooperate or they'll assess fines.

4/5/02 4:30 pm

Steve VanDette and Tracey Slintak came out to our property and asked Raymond if they could go in our backyard to look at berm. Raymond said yes and to go on our deck also if they wanted. Steve said Wilkop would work on berm and put in good plantings.

4/22/02

Called Ginny Norval (3:55 pm) and left message asking about "dumping" situation - if and when anything will be done.

Called Steve VanDette (3:55 pm) and left message asking about time frame for "berm".

4/24/02

Don Phillips called. I returned call (4:15 pm). Don stated that it's been hard getting ahold of Mark Wilkopp. I again reminded him about the letter that was sent last August about "unclean fill" and that it hasn't been removed. I asked about fining him and Don stated that basically they would have to take Wilkop to court and that he would probably be fined just \$50.00. He said pictures he took before were not very damaging/not much proof.

Don said he would come on our property tomorrow (Thursday 4/25/02), + Climb berm and take more pictures. I offered getting some of our pictures developed and giving them to him. I also stated that if something weren't done, I would contact the mayor/my lawyer.

Early May of 02

Don came and took pictures of dump behind berm.
Steve VanDette called and said they're not getting anywhere with Wilkop and therefore will need to take action.

7/9/02 10 am

Left message on Steve VanDette's voice mail asking for an update on Wilkop situation.

I stated that on the day in May when he left message regarding Wilkop, that Wilkop stuck small bushes on top of $\frac{1}{2}$ of the berm ∇ mulch. Since he did a quick fix, weeds quickly grew back. Bushes on top are dieing since our sprinkler can't get to them due to weeds and thorn trees that are all overgrown.

Also, I asked for City Code/regulation/requirements for berm to be faxed to us.

February of 2003

Put in a call for Steve VanDette regarding berm. Left message.

No response.

March 18, 2003 (4:45 pm)

I called Steve VanDette for a response regarding my last phone call in February. (Berm situation - Wilkop)

March 18, 2003 (4:50 pm)

Steve VanDette returned my call. He stated that he received my call in February, but with the snow on the ground, he wanted to wait so he could take a look at the berm.

He'll be out on Thursday to look at the berm (dead bushes, etc.) and take digital pictures.

He said he'd contact "Building and real Estate" city worker regarding Wilkop's "Grandfather" deal. (Nursery or Landscaping Company?)
He said he'd contact City Landscaper (Ron Hand) regarding plan for the berm.

April 14, 2003 (4:45 pm)

I left a message on Steve's voice mail regarding follow-up of him looking at berm, Grandfather clause, and City Landscaper's plan.

May 5, 2003 (10:08 am)

I called Steve VanDette regarding not hearing from him since March 18th even though I left message on April 14th. Asked again for information on Zoning - What is Wilkop zoned for? What is actually allowed on property? City Landscaper - Did he come up with a plan for the berm? And did you (Steve) take pictures of berm on April 20th?

 May 5, 2003

Steve returned call and stated that Wilkop property is zoned single family, but that he's grandfathered in to do whatever they've done for the last 50 years. He referred me to Building and Zoning (Don Phillips - 680-7284) Steve stated that the City Landscaper suggested staggering Col. Spruce and Pines on berm - about 35 plantings staggered.

May 5, 2003

 Steve called back and said he spoke with Mark and that in two weeks he will replace the dead Arborvitae with C. Spruce - staggered. But that pines wouldn't do well there.

May 27, 2003

I called Don Phillips regarding dumping again and asked exactly what Wilkop is allowed to do.

June 2, 2003

Don Phillips called and left message on our recorder asking what Wilkop is dumping.

June 2, 2003 (5:50 pm)

I called zoning and use of property. Spoke with Mark Miller (524-3364). He said he would call me Tuesday after he speaks with Mark Steinmack (Don Phillip's boss) in building.

June 18, 2003

I called and left message with Mark Steinmack regarding exactly what Wilkop is allowed to do on property.

June 18, 2003

Called and spoke with "Kathy". I left a message with her regarding my call on 6/2/03 to "Planning Department" about zoning and exactly what is allowed on Wilkop property. I told her I believe I spoke with Mark Miller (since he was about to leave to go to a City Council meeting.) I told Kathy that Mark said he would speak to Mark Steinmack (Don's boss) and get back with me. However, I haven't heard from him. I left a message with Kathy since Mark was at lunch. She'll give Mark Miller the message.

June 18, 2003

Mark Miller returned my call and said he spoke with Mark Steinmack about Wilkop property and thought Steinmack would be calling me. He gave me Mark Steinmack's phone number. 248-680-7229

June 18, 2003

I left a message on Mark Steinmack's voice mail about the Wilkop property and what exactly is allowed.

June 25, 2003

I called and left a message on Steve VanDette's voice mail stating that basically nothing has been done with the berm except that some/a few of the dead plants were removed. There are no new plantings and the berm has not been cleaned up, etc.

June 25, 2003

Don Phillips left a message on our recorder thanking us for the information about the dumping and gave me Mark Steinmack's phone number (I had temporarily misplaced it.)

June 30, 2003

I called and left another message on Mark Steinmack's voice mail regarding Wilkop and allowance (zoning).

June 30, 2003

Mark Steinmack returned my call and said he wanted to get back to me to get all of the information he could. He stated:

- Wilkop property is legal, non-conforming
- It was there prior to Zoning Ordinance
- It can continue as long as someone wishes to use business
- However, the business is not suppose to expand (nurseries, etc. are more difficult to define vs. a hardware store)
- He owns business and property plus 2 houses (1 north and 1 south) and 1 other house on other side of creek (6580) which is not suppose to be used as business
- Difficult to go to court on "expansion".
- Most changes occurred between 1980 and 1990.
- Arial view shows activity in 1990 in back.

I stated that when we purchased lot, there was absolutely no activity in back - just property. I have picture. We never would have purchased this lot if there were any activity.

Also, I asked about trucks back there (semi's, bulldozers, etc.) and if these are allowed. (7 am Sat. and Sun, etc.)

Mark stated that there is a City Regulation regarding Construction and hours of operation, but not a business regulation. (i.e. 7-11 can have own hours, etc.) But, there is a "disturbing the peace" ordinance which again is difficult to enforce.

Mark Steinmack will talk to Mark Wilkop regarding hours of trucks operating.

Mark Steinmack will talk with city attorney (Lori) regarding if there's a case regarding "expansion of business".

Mark Steinmack asked if this went through if I'd be willing to share documents/pictures and go to court. I said, "Yes!"

As of 7/19/03 - No news from
Mr. Steinmack.

7/21/03 Mailed Letter to Mayor + City Council

12/1/03 - Called + left message w/
Steve ~~Van~~ Pette regarding nothing
being done about beam.

12/1/05 - Called + left message w/
Don Phillips about dumping
situation (+ I have pictures)

City of Troy
Building and Inspection Division
Notice

08/31/2001

MARK WILKOP
6550 COOLIDGE
TROY, MI 48098-1941

Re: 6530/6550 Coolidge - Litter violation

Dear Mr. Wilkop,

We have received complaints from adjoining property owners that litter (old shrubbery, pavers, trimmings, dead plantings etc) from landscaping services are being deposited along with fill dirt on your property.

You may not, under any circumstances deposit unclean fill on your property for any length of time.

Please remove any of these items that may be located on your property.

An inspection will take place on September 14, 2001, to insure compliance to the ordinance.

If you have any questions, please call me at 248-680-7284.

Sincerely,



Don Phillips
Housing & Zoning Inspector

MR



500 West Big Beaver
Troy, Michigan 48084
Fax: (248) 524-0851
www.ci.troy.mi.us

May 28, 2004

MAUREEN R. TRELLA
RAYMOND E. TRELLA
1894 BUCKTHORN COURT
TROY, MI 48098

Re: MARK WILKOP
Fail to Maintain Property
Case No. 04-000436-OM
1/14/04

Area code (248)

Assessing
524-3311

Bldg. Inspections
524-3344

Bldg. Operations
524-3368

City Clerk
524-3316

City Manager
524-3330

Community Affairs
524-1147

Engineering
524-3383

Finance
524-3411

Fire-Administration
524-3419

Human Resources
524-3339

Information Technology
619-7279

Law
524-3320

Library
524-3545

Parks & Recreation
524-3484

Planning
524-3364

Police-Administration
524-3443

Public Works
524-3370

Purchasing
524-3338

Real Estate & Development
524-3498

Treasurer
524-3334

General Information
524-3300

Dear Mr and Mrs. Trella:

Jury Selection in regard to the above referenced case has been scheduled for Friday, June 11, 2004 at 8:16 a.m. Your presence is NOT required at that time.

If this case proceeds to trial, you will be needed to testify sometime the following week. If this presents a problem, please contact me as soon as possible. You will be notified if your testimony is required.

If you should have any questions, please do not hesitate to contact me at 248-524-3321.

Sincerely,

CITY OF TROY
CITY ATTORNEY'S OFFICE

Kathy Bobick
Kathy Bobick
Legal Assistant

cc: 52-4 District Court
City Attorney File



500 West Big Beaver
Troy, Michigan 48084
Fax: (248) 524-0851
www.ci.troy.mi.us

Area code (248)

Assessing
524-3311

Bldg. Inspections
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524-3334

General Information
524-3300

September 13, 2004

Mr. and Mrs. Trella
1894 Buckthorn Court
Troy, MI 48098

Re: People of the City of Troy v. Mark Wilkop
Case No. 04-000436-OM
Fail to Maintain Property

Dear Mr. and Mrs. Trella:

Regarding the above-referenced case, enclosed is a copy of the diagram of the landscape design for the Wilkop property. I have also enclosed your photographs.

Sincerely,

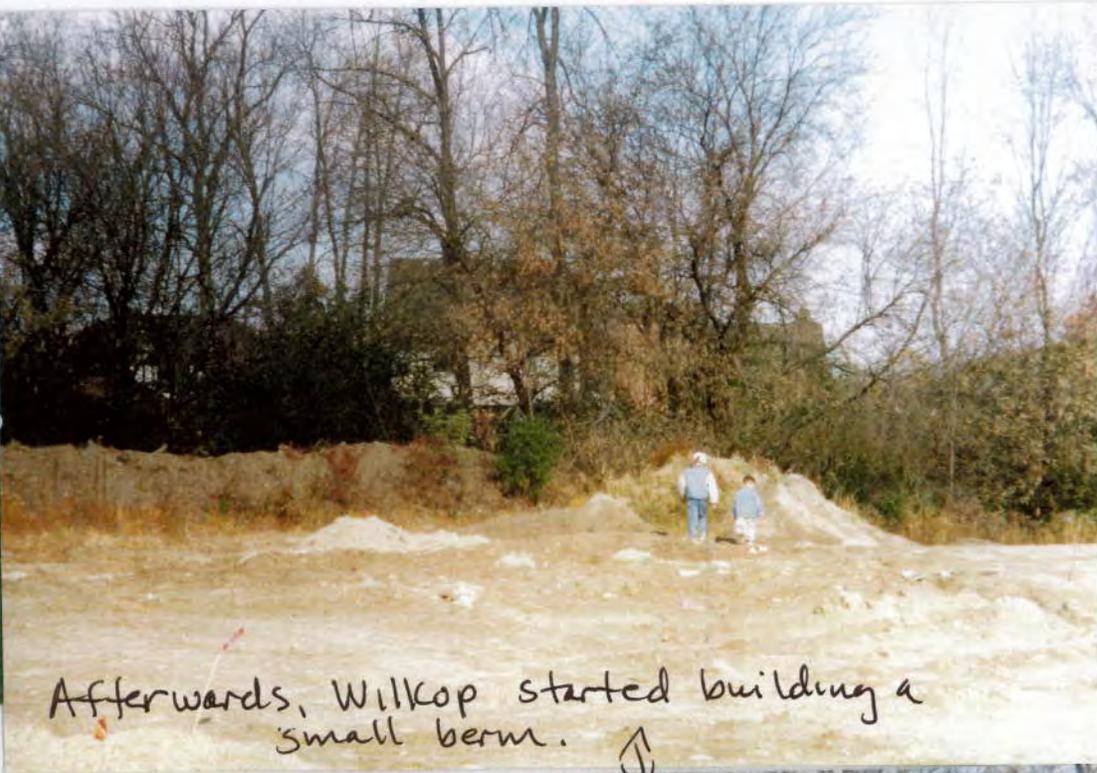
CITY OF TROY
CITY ATTORNEY'S OFFICE

Robert F. Davisson
Assistant City Attorney

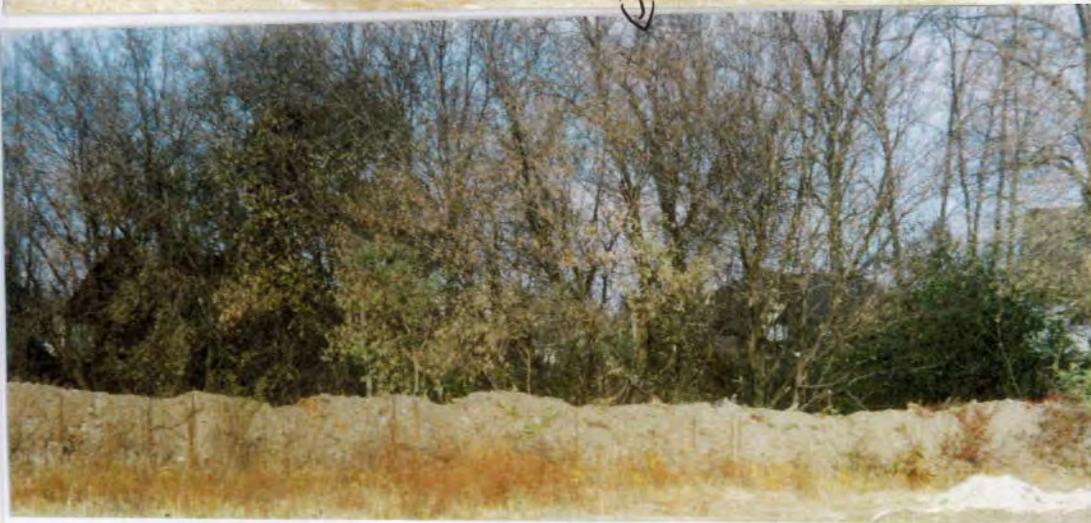
kb
enclosure



When property was first purchased.



Afterwards, Willkop started building a small berm. ↴



Berm grew,
containing,
bricks,
glass, rocks,
etc.
Dumping
behind berm.
Tractor
stored on
top for
weeks.





Behind
berm
on Wilkop
property
backing up
to
Buckthorn
Court

Behind
berm
on Wilkes
property
backing up
to
Buckhorn
Court



WILKOP PROPERTY

STORAGE BINS

-6
-A
-7

NOTES

6'-7' COLORADO SPRUCES TO
SCREEN BACK LOT 18 TOTAL
APPLY 2" OF MULCH TO
ENTIRE BERM
7 RETAINING WALLS CONSIST
OF 3 BOULDERS EACH 21
BOULDERS ALL TOGETHER.

EXISTING
TREE

BOULDER
RETAINING
WALL
1'-2'

COVER BERM
W/ 12 CUBIC
YARDS MULCH
2" DEEP

EXISTING
TREE
W/ BOULDER
RETAINING WALL
1'-2'

EXISTING
TREE
W/ BOULDER
RETAINING WALL
1'-2'

EXISTING
TREE W/
BOULDER
RETAINING
WALL 1'-2'

EXISTING TREE LAIN

BARRY MALONE

1910 BUCKTHORN COURT
TROY, MI 48098
(248) 318-6658
BARRYMALONE@YAHOO.COM

City of Troy Zoning Board of Appeals
500 W. Big Beaver Road
Troy, MI 48084

March 20, 2012

**RE: Variance Request, Gail Moro, Maeders West Garden Center, LLC
GPRZ Real Estate, LLC. 6530-6550-6566 Coolidge Highway**

Dear Board Members:

I reside at 1910 Buckthorn Court. The property's northern lot line is shared with the parcel now requesting a variance. I have several concerns with how the property has been used and will be used. The property has been a source of noise, dust, and disruption for several years. After reading the 1975 Interpretation of the Non-Conforming Use ("1975 Interpretation") and reviewing its accompanied site plan, I understand that many of the offending activities on this property were and are unlawful, particularly operating a landscaping business. The landscaping business has been the likely source of most offending activities. It brings with it loud trucks and construction equipment, unsightly storage and debris, and excessive dust. This illegal use has disrupted the adjoining properties for many years and should not be permitted to continue.

The applicant now makes two requests: 1) an interpretation on how the property may be used; and 2) approval to change/expand a legal nonconforming use.

The answers to these requests are relatively simple. First, the 1975 Interpretation is still the relevant and governing document. The previous owner's illegal conduct does not invalidate this Board's earlier interpretation. The 1975 Interpretation is the current interpretation of how the property may be used. The applicant has not alleged any fact or circumstance that invalidates the 1975 Interpretation.

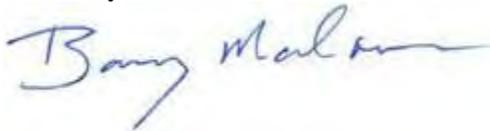
Second, a legal nonconforming use cannot be expanded. *See* City of Troy Zoning Ordinance, § 14.03.A. A legal nonconforming use may be changed. *See* City of Troy Zoning Ordinance, § 14.03.C. But any change to a legal nonconforming use is only permitted "throughout any parts of a building which were manifestly arranged or designed for such use, . . . but no such use shall be extended to occupy any land outside such building." *See* City of Troy Zoning Ordinance, § 14.03.C. The applicant is requesting authority to conduct significant business operations beyond what is permitted in the 1975 Interpretation, including storage outside the nonconforming green house, erect a large storage shed, and undertake a landscaping business.

The current owner has no legal right to request an expanded or changed use of a legal nonconforming use. Further, this Board has no authority to grant such a request. A change in ownership has no impact on the “nature or character” of a nonconforming use. *See* City of Troy Zoning Ordinance, § 14.06. Therefore, the applicant’s request is not within the lawful powers of this Board to grant.

The applicant is permitted to conduct the activities on the property that were allowed under the 1975 Interpretation. Any other activities are unlawful. The fact that the previous property owner continuously violated the law and, essentially, got away with it does not impact what the current applicant is permitted to do. If the applicant was misled as to how the property may be used, the proper remedy should be sought from the misleading party, not from this Board permitting an illegal property use.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink that reads "Barry Malone". The signature is written in a cursive style with a long, sweeping underline.

Barry D. Malone

Zoning Variance Request

**6530-6550-6566 Coolidge Highway
Gail Moro, Maeders West Garden Center LLC**

Comments and Analysis

Dr Graham P Bush, resident
1699 White Birch Court, Troy, MI 48098

16th March 2012

Summary

The previous application (1975) was continuously abused by the previous owners.

The location of the business will not support a domestic consumer / garden center activity. In order to survive, previous owners have been driven to bias their business towards commercial landscaping (i.e outside the provisions of the 1975 application). Recent history (2009 – 2011) is evidence that this business reality still applies.

The major concern is that the new business will be forced to follow the same Commercial Landscaping activity to survive, which has recently included:

- Excessive noise / dust from the grinding of trees / logs to produce mulch
- Heavy (class 6 / 7 multi-axle) truck deliveries of stones / gravel / bulk materials
- Vehicles beyond the weight restrictions of Coolidge Highway
- Excessive noise / dust from Skidloaders moving stones / rocks
- Excessive noise from Diesel engines, almost continuous in the summer.
- Excessive noise in the evenings and weekends (incl. Sunday) up to 9pm at night
- The storage of commercial vehicles on site (i.e in a residential zoned area).
- The risk of pollution from these vehicles in a flood plain / protected wetland.
- Debris (pallets / commercial items) being thrown in the river all the time.
- The modification of the site (bulldozed land, concrete loading area and silos) which have altered the route of the river and changed the flood pattern of the wetlands

Recent history

The original Wilkop's Landscaping business (until approx 2008):

Was primarily a commercial landscaping business, not a 'garden center'. Wilkop had a sustained landscaping business with customers in the affluent Bloomfield Hills area.

Coolidge Highway, at this point - it's northern end, is a very quiet road, which 'dead ends' on South Boulevard, about 1/3 mile north of the location in question. There is almost no through traffic, except 'back road' commuters trying to avoid the busier roads in the rush hour. It has no direct access from major freeways or highways. There is a 35mph speed limit, a few subdivision entrances and the Nature Center, but no other commercial buildings.

This location does not attract a lot of traffic that is likely to support a consumer based business, unlike Rochester Road or the new developments on Adams near the M59. This quiet, sleepy, 'dead end' lane should not be confused with the Troy's Commercial Mecca at Big Beaver a few miles further south.

Strong and plentiful competition for a 'Garden Center' business comes from:

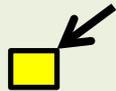
- DIY stores: Auburn & Squirrel, Auburn & Crooks, Rochester Road
- Supermarkets: Mijer (2), Walmart, Kroger (plants only)
- Garden centers: Auburn, Adams, Rochester Road, Livernois Road

[See the map on the next page for reference.](#)

Conclusion - any business trying to be a consumer 'garden center' in this location is **unlikely to survive** due to lack of passing traffic, no nearby / neighboring shopping destinations and strong local competition.

Legend:

Applicant



DIY store



Supermarket



Garden Center



Shopping area



I 75

M 59

Avon

Hamlin

Auburn

South

Coolidge

Square Lake

Squirrel

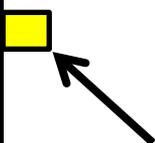
Squirrel

Adams

Crooks

Livernois

Rochester



Recent history

The original Wilkop's Landscaping business (until 2008) - continued:

The original business was primarily a source of supplies for local landscaping firms, who regularly purchased bulk stone, gravel, mulch etc. The movement of pickups and skid loaders was fairly constant in the spring and summer months; it was not unusual for these machines to be operating until dusk (i.e. 9pm or later), loading up their clients ready for the following morning's work. This was especially annoying on Saturday and Sundays - all day - morning, afternoons and evenings. The noise was pretty continuous in the summer; the grind of rocks, the heavy duty diesel engines of the skid loaders and the occasional deafening crash as a new truckload of stones was delivered.

Wilkop also ran his own landscaping firm and several commercial vehicles were stored on site. These were mainly class 2/3 Diesel heavy duty pickup trucks (Ford F250 / 350 or similar).

Satellite photos are shown on the next two pages to assist reading of these paragraphs.

In the application; the satellite photo shows the entire rear part of the property is paved with the heavy truck tipping area (deliveries of stones / gravel etc) and the concrete silos used to store the landscaping materials. The center part of the plot was used to grow mature 15 - 20 year old trees - the type that would be used by major corporations or developers to decorate landscapes. This is not the type of shrub that can be put into the back of a Honda Accord.

The Greenhouse area near the road never seemed that busy or well stocked, and the business always appeared to close down in the winter rather than diversifying into Xmas trees and decorations like other garden centers to keep consumers interested in going there (i.e keep the interest up in this 'out of the way' location until the spring came).

Conclusion - a commercial landscaping business with a **bias away from** selling small plants to consumers. From the road it looks like a tranquil place that sells small pots and plants to retirees in their Toyota Avalons, from the back it looks like a small annex to a concrete factory or a commercial tipping area for unusable topsoil.

Site overview

Approximate extent of original 1975 application

Commercial heavy duty Diesel vehicle storage area

Concrete paved delivery and bulk stone / rock handling area with storage silos



Commercial sized tree and shrub growing area

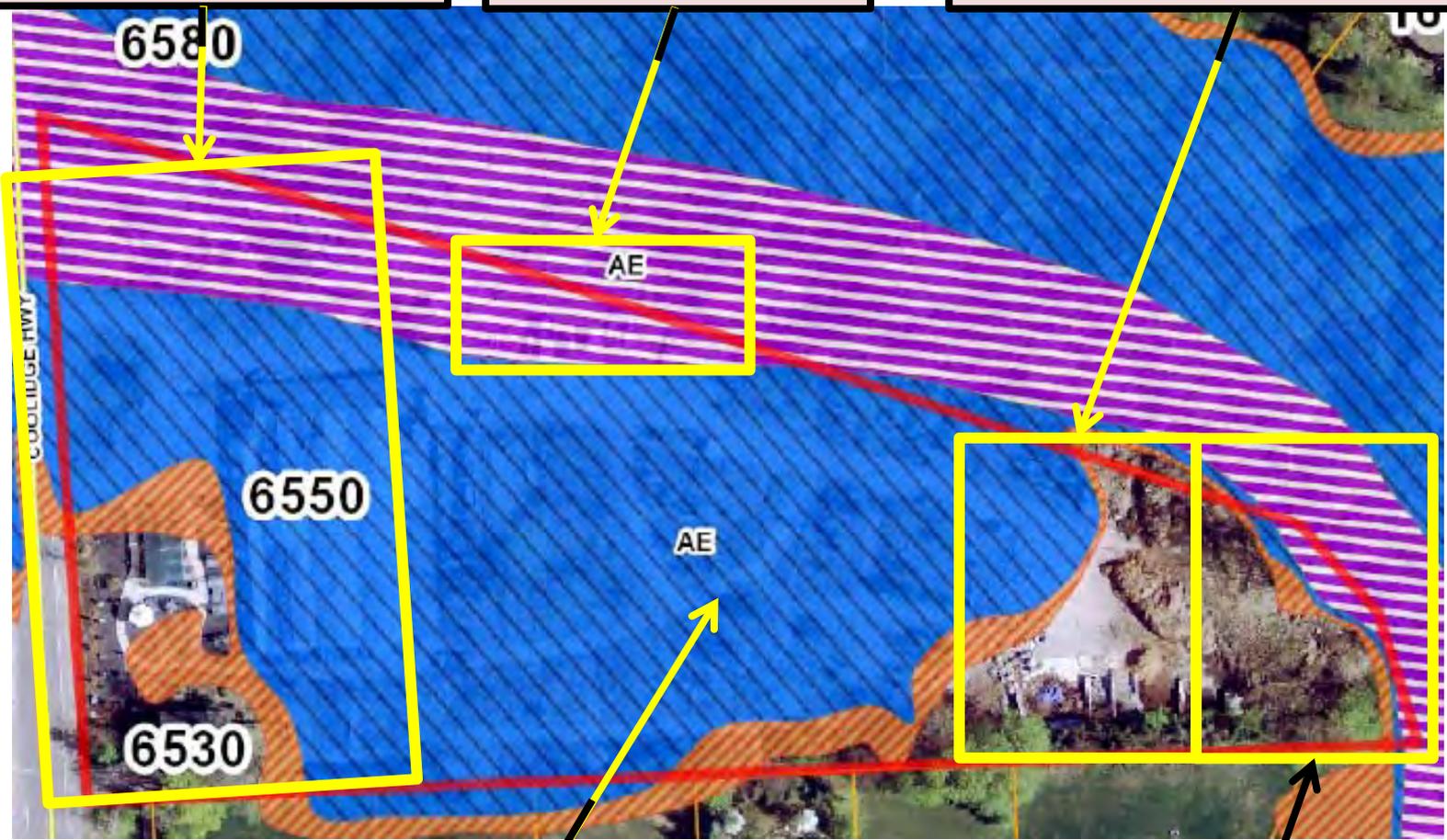
Dumped mud / debris that altered the flood pattern of the wetlands

Flood area analysis

Approximate extent of original 1975 application

Commercial heavy duty Diesel vehicle storage area

Concrete paved delivery and bulk stone / rock handling area with storage silos



Commercial sized tree and shrub growing area

Bulldozed mud / debris that altered the flood pattern of the wetlands

Recent history

The original Wilkop's Landscaping business (until 2008) - continued:

The delivery of bulk landscaping materials (rocks, stones, concrete slabs etc) requires heavy duty multi-axle trucks to carry the heavy payload. A delivery truck can be seen in the application photograph (circled in green ) This part of Coolidge Highway is not designed to tolerate this weight class of vehicle. The weight limitation signs state:

Single Axle: 18,000 lbs. , Tandem Axle: 26,000 lbs. During certain seasons (most likely spring thaw) these weights are reduced to single axle 10,000 lbs , tandem axle 18,000 lbs.

For example, a 24,000 lb GVW truck has an empty weight of 14,400 lb. With a single pallet of topsoil (50 bags @ 40lbs), this becomes 16,400 lb. Any more pallets would make this vehicle illegal. So are all deliveries to this site going to be limited to small pickups with one pallet? Is 'one pallet per delivery' economic? No. Is topsoil the only product that has this type of high weight / density? No – paving slabs, mulch, fertilizer, ornamental pots all have a high pack density. So how does any Garden Center / Landscaping business in this location expect to get their supplies delivered and stay within the law?

Perhaps the sinking of the road & recent flood repairs to Coolidge near South Blvd was partially due to this type of Heavy Duty traffic over a sustained number of years (at a cost to the taxpayer of course).

The storage of several Diesel Heavy Duty Pickup and Delivery Trucks was in a defined commercial vehicle parking areas at the middle and back of the property. These trucks and the skid loaders also operated in the concrete / stone handling areas / silos. Was the correct thickness of concrete pavement was laid down to withstand the axle loadings, and was correctly reinforced with steel 'rebar'? It can be assumed that no planning consent was asked for, or given, and so it is likely that this area was under-engineered to save cost.

It is also reasonable to assume that the surface has cracked / was never fully paved and that there is a risk that Diesel / Oil contamination from these vehicles has seeped into the ground. Have any boreholes been taken to verify that there is no risk of contamination of the wetlands and the river?

Recent history

The original Wilkop's Landscaping business (until 2008) - continued:

There were several trees lining the bank of the river. Over the years it is believed that they were knocked over, pulled down or bulldozed as the rear of the property was leveled to make way for the silos. These actions destabilized the river banks and altered the way the river flooded in the protected wetlands. The woods to the north of the river have mature trees which have grown to 60+ feet tall over many years. They are now suffering from repeated flooding (several times a year), which I am informed, didn't use to be the case. This flooding is weakening the roots and, combined with the ravages of the Ash borer, leads to many falling down. This is stark contrast to the healthy woodlands across the road in the Nature Center.

My neighbor's son used to work at Wilcop as a part time job (2005 /6). He used to cross the river using a plank as a short cut. This is now impossible because a 10 foot high mound of dumped soil and debris forms the south bank. This soil has knocked over some trees, others are now surrounded by mud & debris 10 or more feet above their natural roots. This soil has also encroached on the silos (see photo). It seems obvious that, in conducting a Landscaping Business, the previous owners dumped spare soil / debris removed from their client's land to avoid paying disposal charges.



Dumped mud / debris that altered the flood pattern of the wetlands

Recent history

The new Wilkop's business (may have traded under a different name) - roughly 2009 until 2011.

The original owner died in 2008 (I think). The family tried to sell the business, but in the end it was taken over by a relative from 'out of town'. They tried to resurrect the original business but the relative did not have the local landscaping contacts, who had no doubt found other sources for the bulk materials. He also had to start from scratch in developing his own landscaping business - just as the recession hit.

This was never going to work, and because the 'Garden Center' part of the business was never that strong, it was doomed to failure. After only 2 years, despite, it is reasonable to assume, 'family support', they decided to close.

Conclusion - this is **very strong and recent evidence** that, despite local family support, **this location will never survive as a 'Garden Center' alone**. It will always need the heavy duty landscaping business to survive.

Request (to Troy City Council officers reviewing this application);

When considering this application, please consider the business case aspects at this location. The previous owners blatantly abused the 1975 nonconforming use application, and circumvented zoning requirements in subsequent developments. They did this to support their core landscaping business, and it is reasonable to assume, survive.

The current applicant, will face similar business challenges, but does have the advantage of a flower / plant based business in Shelby Township. It is hoped that the judgment will focus on limitation of the activities to ensure that the neighborhood, the environment and the 1975 requirements are rigidly upheld.

Other points

Why did no-one complain about the noise etc. before?

They did – frequently (I am informed); usually to the police. It is uncertain what restrictions / actions were taken over the years as a result.

The existing Wilkop's business predated the building of the subdivision. It is reasonable to assume that the residents thought that it was correctly zoned / grandfathered in. Therefore a certain amount of tolerance can be expected. Now that we discover that this is not the case, it is reasonable to expect that no noise higher than the ambient will be allowed. I estimate that this will be in the range 45 – 50 dB(A) on a calm day.

Environmental

My understanding is that the woods to the north and the river are part of the wetlands / conservation associated with the river and the Nature Center. Many of the trees are marked / numbered with round metal tags, indicating that they are part of some kind of environmental oversight.

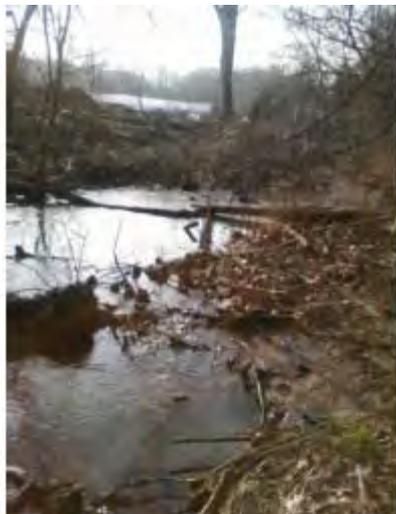
With all the Diesel vehicles stored and used on this property over many years - has anyone taken borehole samples to determine the pollution of the land / risk to the wetlands?

There was always debris in the river; usually pallets used to store bulk stone, mulch etc., plastic wraps of various types and miscellaneous discarded matter. In places the ground has subsided into the river, although attempts were made to plant small conifers to stabilize the bank. I have removed debris from the river on many occasions.

The following pages show photographs of debris and damage taken on 16th March 2012.

Who will pay to restore the wetlands and the river? It seems unreasonable to require Maeders West to do this. Perhaps the appropriate governing body can seek restitution from the previous owners who created this mess.

River / wetlands; photographs taken on 16th March 2012



Landscaping debris



Landscaping debris



Dumped soil & debris
alters river bank position



Wetland damage and
catalogued trees that
have fallen down



Landscaping debris



Dumped soil & debris river
bank is now 10 feet higher
than tree roots (trees buried)

River / wetlands; photographs taken on 16th March 2012



Landscaping boulder



Entire roll of plastic



Irrigation tubing and
plant containers

The new application (Gail Moro / Maeders West)

Business experience

There is a business in Shelby Township (Maeders Greenhouse, 5319 23 Mile Road, Shelby Twp., MI 48316, Tel: (586) 726-2563). This business has been in existence since 1994. It is assumed from the name of the new business (Maeders West), that this is owned by the same people.

As such it is reasonable to assume that they are seasoned veterans in the Garden Center business, and will have conducted a thorough 'due diligence' before deciding to expand their business into this location in Troy.

Prior to purchasing the property, I inquired if I could conduct business the same way as the seller and I was told I could conduct my business the same way. After I purchased the property, I learned of the February 14, 1975 zoning board interpretation of how the property can be used (see “Attachment #3 – 1975 Zoning Board Interpretation”).

This property is unique/unusual due to the fact that it is in a flood hazard area, limiting what can be done with the property (see “Attachment #4 – Flood Hazard Area). The 1975 interpretation of how the property can be used is 35 years old and the business that has been conducted on the property since the 1975 interpretation was different from what was outlined in that interpretation.

This implies that they were 'caught by surprise' over the 1975 application and their ability to operate here. This seems unlikely for 'seasoned veterans', especially local people. Do you always believe what the seller tells you without checking? No. Do your realtors / attorneys / banks allow such a purchase without scrutiny and a business plan? No. So what is going on here.....?

The existing (Shelby) business is on 23 Mile Road – one of the busiest in that area, with easy connections to the M59 via Mound Road. The passing traffic will be heavy and domestic customer access is easy. This is not the case on Coolidge; and as stated previously, the history of this site does not support a 'flower garden' type business.

The new application (Gail Moro / Maeders West)

Comments about the application

The language of this request and the 1975 documents are very similar. The 1975 conditions were abused.

The reason for this appeal is to request an interpretation on how the property can be used and to seek approval to change/expand a legal nonconforming use.

The word 'expanding' in the application is too vague – what does it mean? There are no specifics / no measurables to determine whether the 'expansion' is falling within the intent of the application and its approval. The previous owners abused the 1975 ruling in order to survive. If there are no measurables, how can anyone determine whether the new owners keep to the requirements? What is to stop them being forced in a similar direction?

Since 1975, the previous owner ran a landscaping/greenhouse/garden center/nursery/florist business and sold seasonal items (inside and outside the greenhouse) and services relating to their business. The previous owner constructed concrete and asphalt pathways, arbors, pergolas, display stands in front, on the side and in the back of the greenhouse that displayed their beautiful trees, shrubs, flowers and garden items for sale (see “Attachment #1 Aerial of Property Prior to Purchase” – note: pathways and arbors/pergolas). Because landscaping was a part of the previous owner’s business, on the property they had skid loaders, large trucks and other large vehicles (see “Attachment #2 – Truck, Skid Loader & Detached Greenhouse”).

This paragraph of the application is 'Disneyfying' reality. I'm sorry, but Bambi is across the road in the Nature Center, not here. Wilcop ran a Commercial Landscaping business with Heavy Duty Trucks, Skid Loaders, Commercial Gravel and Stone Silos, Mulch Grinders and lots of noise from Dawn until Dusk all summer long. Attachment #1 clearly shows this activity. There **were** 'beautiful trees', transported on vehicles that broke the weight limits of the road, planted by their Landscaping business in locations which resulting in the dumping of many tons of soil and debris at the rear of the property. The greenhouse, pathways and arbor / pergolas generated a relatively minor part of their income, and at best, just supported the Landscaping Business.

The new application (Gail Moro / Maeders West)

Comments about the application

I'd like for the business to operate similar to how the previous owner's operated their business as stated below in paragraph #1. In paragraphs #2 - #5, I've outlined the changes/expansion that I'd like to make to the property (see "*Attachment #5 – Site Plan and Attachment #6 - Site Plan over Aerial Photo*") and I'm attaching a copy of 1975 site plan for reference (see "*Attachment #7 – 1975 Site Plan*"):

1. I would like to operate the business as a greenhouse/garden center/nursery/Florist/landscape business and the items for sale would be items associated with those businesses. For example, the items for sale inside and out: potted flowers and plants (in different kinds of pots and flats), and cut and potted flowers to retail and wholesale customers, garden tools, benches, statues and ornaments/art, nursery stock, garden services, bagged mulch and soil, fall harvest fruits and vegetables and holiday plants, planters, wreaths, trees and decorations.

The description in Paragraph 1 is different to the 'previous owners' business which was primarily a Landscaping Business. I have no concerns about the idea of a domestic customer 'Garden Center', but recent history shows that this location is unlikely to support such a business. If this location is to become a 'growing center' for plants to be sent to their other location, or other garden centers, this may be possible as it does not rely on domestic customers. I think that this limited business model, with 'in-trade' revenue would be a suitable enterprise for this land; it effectively becomes a specialized cash crop farm with a shop front.

How can any of these suggested businesses operate with the weight restrictions on Coolidge Highway? How can they get goods and materials delivered or shipped?

The new application (Gail Moro / Maeders West)

Comments about the application

2. To display flowers outside the greenhouse in the front, on the side and back of the greenhouse, the previous owners had arbors/ pergolas and display stands as depicted in “Attachment #8 – Previous Owner’s Arbors/ Pergolas”. I’d like to have arbors/ pergolas and display stands similar to what the previous owner had, but I’d like to make the arbor/ pergolas cedar in color so that it’s consistent with the existing front entrance of the greenhouse. The arbors/ pergolas would be placed: (a) (two arbors) in front of the greenhouse (south side) with display stands, that would look similar to the photo labeled “Attachment #9 – Arbor/ Pergola” (the size of each of the arbor/ pergola 24’ x 26’ with an elevation of 10’); (b) one arbor on the front south side of the greenhouse, that would look similar to the photo labeled “Attachment #10 – Side Arbor/ Pergola (the size of the arbor/ pergola 72’ x 10’ with an elevation of 10’) – that arbor would lead to (c) two arbors on the south side of the greenhouse, that would be similar looking to the arbor/ pergola in attachment #9 (the size of each of the arbor/ pergola 22’ x 26’ with an elevation of 10’).

This is consistent with a domestic Garden Center Business. If the consensus is that this site should be a Garden Center (and not residential), then I do not see why the applicant should be limited to any specific display of domestic goods near to the road.

There should be a specific ruling on a sign, so that Maeders West can announce their presence.

The new application (Gail Moro / Maeders West)

Comments about the application

3. As stated previous, in the back of the greenhouse, there was a detached greenhouse, but prior to the tenant vacating the property, he removed approximately one-half of the detached greenhouse and when we took possession of the property on January 6, 2012, we determined the remaining one-half part of the detached greenhouse was unsafe and we're currently in the process of taking it down. In the place of that greenhouse, we'd eliminate the 10' area behind the greenhouse and construct two new smaller greenhouses (see "*Attachment 11 – Examples of New Greenhouses*"). The size of each of the proposed greenhouse – 29' x 100' with an elevation of 12'.

4. Because my primary business will be a greenhouse/nursery, one piece of equipment I've determined I'll need is a skid loader. I've proposed a storage building to the back of the property to house this piece of equipment (see "*Attachment 12 – Examples of New Storage Shed*"). The size of the proposed shed – 45' x 20' with a 10' elevation.

Both of these constructions will be outside of the original 1975 application. So this is effectively asking for planning permission to construct commercial buildings in a Residential Zoned Area not subject to previous judgments. It also implies approval of the existing site road structure, behind the greenhouses and outside the 1975 application.

Sadly Attachment 12 does not exist, and so it is impossible to know what the 'storage shed' looks like. However at a size of 45' x 20', I think the phrase 'Huge Industrial Garage' is more appropriate, far too big for the stated intended use (see next page). This structure is proposed to be on the most vulnerable part of the flood plain, but interestingly not in the same place that the previous owners stored their fleet of Heavy Duty Vehicles. Why?

My suggestion is that, if such a garage is to be constructed, it should be within the 1975 area, and preferably outside the risk of flooding near to the house at 6530.

The new application (Gail Moro / Maeders West)

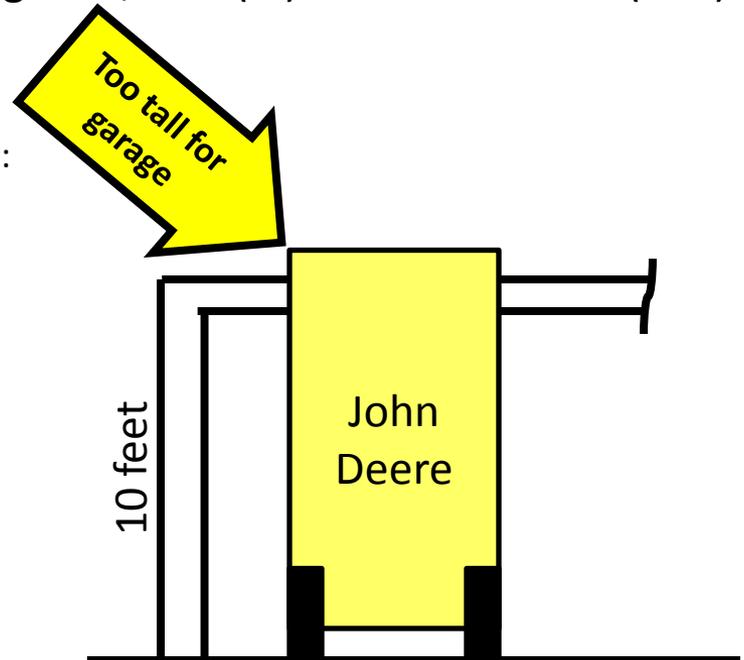
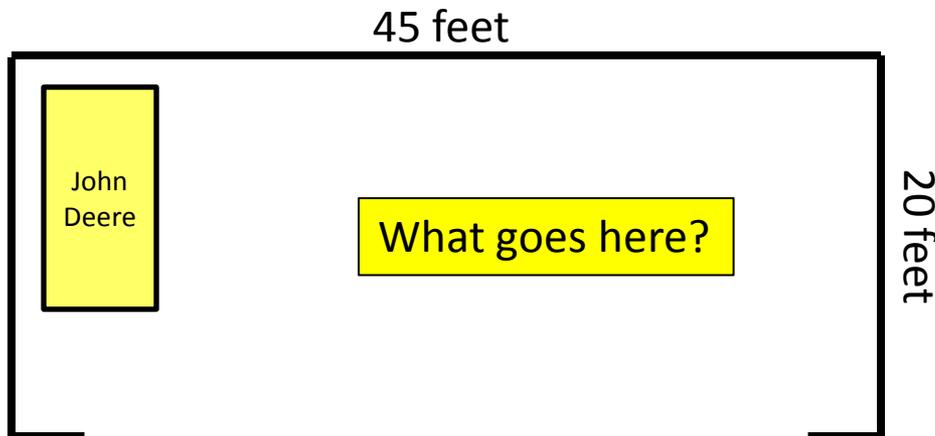
Comments about the application



John Deere 326D Dimensions:

Length with Bucket, mm (in)	3600 (142)
Length without Bucket, mm (in)	2990 (118)
Width without Bucket, mm (in)	1840 (73)
Height to ROPS, mm (in)	2120 (83)
Height to Hinge Pin, mm (in)	3180 (125)

Here is a plan view of this Skid Loader inside the proposed Garage:



The new application (Gail Moro / Maeders West)

Comments about the application

Garage location compared to flood plain

Previous Commercial Heavy Duty Diesel vehicle storage area

Proposed Huge Industrial Garage (storage shed)

- Uses existing site road
- Next to vulnerable river bank
- Outside 1975 application limit



5. The previous owner displayed a large assortment of Hosta plants on the front north side of the property – I’m proposing a gazebo (14’ Octagon with elevation 14’) in that area, to just make the property warm and inviting (see “Attachment 13 – Example of New Gazebo”). The size of the proposed gazebo – 14’ Octagon with a 14’ elevation.

The same comment as paragraph 2, this is consistent with a domestic Garden Center Business. If the consensus is that this site should be a Garden Center (and not residential), then I do not see why the applicant should be limited to any specific display of domestic goods near to the road.

The new application (Gail Moro / Maeders West)

Comments about the application

To conclude, my goal is to simply make pretty gardens around the property and sell garden related items, while maintaining the building and the other structures on the property. I'm praying the board will approve my changes/expansion and interpretation of how the property will be used, so my business will have a chance to be viable in today's economy. Also, I hope the board will take into consideration the limitations on the property due to the flood hazard. If the board approves my changes, please realize that it will take me a while to incorporate some of the changes, because of budget constraints. Most important, I would ask the board to please recognize that April through July is when a greenhouse makes its main source of income, so to receive a ruling before April on the interpretation of how the property can be used and on the arbors/pergolas is vital to my businesses survival.

No – the primary goal is to make money and survive, 'pretty gardens' are just one method to achieve this. I agree with the comment about urgency. The board have the following to consider:

- What to do about the structural weight limits on Coolidge Highway, and how it can support a business like this.
- Should the business be limited - no 'Landscaping' and no heavy duty activities (in my opinion – yes).
- How to protect the wetlands and woodlands, and restore the river to its former glory.
- How to prevent the previous abuse, including continuous noise, dust, pollution and dumping.
- What is the real long term plan here? This is residential land – or should it be re-zoned?

To my knowledge the applicant has made no attempt to contact the local residents, except those just to the south of the land. As we are all part of the same subdivision (Forest Creek), this seems a bit odd.

From: baldgib@aol.com
To: [Planning](#)
Subject: Variance to expand existing nonconforming use
Date: Sunday, March 11, 2012 4:26:22 PM

We received a notice of public hearing from the Zoning Board pertaining to the location noted below. We live directly behind this location and do not want additional noise, encroachment or traffic affecting the area. The previous landscape facility ran their trucks all day long as well as into the evening. It was very disruptive and annoying to residence in the area. Please explain in layman's terms what this request for variance is about:

Location: 6530-6550-6566 Coolidge Highway

Zoning Ordinance Sections: 14.03

Applicant / Property Owner: Gail Moro, Maeders West Garden Center LLC GRPZ Real Estate LLC

Gregory and Diane Bald
1707 White Birch Ct.
Troy, MI. 48098