

**CITY OF SOUTH LYON  
ZONING BOARD OF APPEALS  
January 15, 2009**

Chairman Weipert called the meeting to order at 7:06 p.m.

PRESENT: Chairman Weipert and Commissioners James Herman, Keith Bradley, Tom Goodcase and Bill Rodman. Also present, Director of Building Safety and Engineering, Joe Veltri and City Attorney Jennifer Hill.

ABSENT: Ron Morelli, Excused

Chairman Weipert – We have one (1) vacancy on the board.

**APPROVAL OF MINUTES:**

**ZBA 01-15-09 APPROVAL OF MINUTES – November 20, 2008**

Motion by Rodman, supported by Bradley

To approve the minutes of November 20, 2008 corrected as follows:

Page 5 – Paragraph 10 – **Inspector Goodcase** should have been **Commissioner Goodcase**.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

**OLD BUSINESS**

None

**NEW BUSINESS**

**Jeff Malmsten – 439 Reese Street**

Chairman Weipert – Come up and introduce yourself.

Mr. Malmsten – I live at 439 Reese Street in South Lyon. I have a photo to show all the buildings on the property. There are currently four (4) buildings on the property, the home, the garage, a workshop and the current building that I am here for tonight to get a variance on. The second page shows a close up photo of the new accessory building. I recently had a survey which shows the outline of the property and the

placement of all the buildings on the property. The last page is some of the building features. It is a quality built building with 50 year shingles, vinyl sided and the exterior is painted. There is electrical service, shutters, curtains and a paver walkway. The purpose of this building is for my fiancé to garden and she is a basket maker. The survey shows it has the proper side and rear set-backs. Overhead wires are not an issue. Those are the reasons I don't believe it violates the intent of the ordinance. It is quality construction. I tried to understand why this is in the ordinance. The only thing I can think of is if someone put up ten (10) metal sheds or something that is an eyesore. This does have a useful purpose. The other two (2) accessory buildings are a garage and workshop.

Chairman Weipert – Joe, do you have any background on this since the building is obviously there?

Inspector Veltri – Yes. There were letters that were sent, tickets that followed and court.

Mr. Malmsten – There was a little dispute with the property boundary lines with my rear neighbor.

Chairman Weipert – There was nothing resolved in the court on this?

Inspector Veltri – The court gave him options. One of the options was to come and apply for a variance. He came in the following day.

Commissioner Rodman – Did he ever apply for a building permit?

Inspector Veltri – No. He did afterwards. I could not issue the permit because he already had two (2) accessory structures and the ordinance does not allow a third.

Commissioner Rodman – Was the building already built?

Inspector Veltri – It was under construction.

Chairman Weipert – What is unique about your property? What are the practical difficulties about your property that you feel you should get a variance from this ordinance?

Mr. Malmsten – If you look at the survey, it shows the property is a double lot. There is certainly a tremendous amount of square footage to build on. When I purchased the house in 1978, the garage and the wood shed were existing. I use the wood shed for a workshop and the garage is a garage. Its placement is at the rear and it has plenty of rear and side set-backs. There was no other place for her to do the gardening and the baskets. That is the reason I put it there.

Chairman Weipert – Is this double lot a buildable lot?

Inspector Veltri – I don't think so, not with the placement of the way the original house is. He did say it was a double lot but it is one (1) parcel. Lots #9 and #10 are one (1) parcel. An accessory structure can be no closer than 3' from any property line and cannot be on any easement.

Chairman Weipert – So, you have a double lot. Is there anything else?

Mr. Malmsten – My house is a little unique. There is a whole mix of different things. My house is the oldest in the area and it was built in 1899. I think the garage was built in 1943 and I have no idea when the wood-shed was built. It certainly is not an eyesore or a nuisance. It is fitting with the theme of a house that was built in 1899. The garage is a hip and gable structure.

Commissioner Herman – Is the work shop on a concrete slab?

Mr. Malmsten – Yes it is. There is a concrete floor in the garage. I thought it was very stylish and well planned a salt box style.

Chairman Weipert – I was out there and took pictures if you want to look at them. I went into your neighbor's yard to look at your yard and the neighbor did not care if the building was there.

Commissioner Rodman – I still don't understand your practical difficulty as it pertains to the ordinance. There is nothing unusual about your property that gives us any applicable reason why you need a third out building. It's not like you can't utilize your garage or shed. Everything that you have on your property that pertains to our ordinance, which is the garage and the shed you can fully utilize. The ordinance states you cannot have more than two (2) out-buildings.

Mr. Malmsten – We needed another building for a meaningful purpose and use.

Commissioner Herman – According to the ordinance there are only two (2) buildings allowed. What about your garage?

Mr. Malmsten – It violates the square footage. In the early 80's the wood-shed had a footprint that was 5' by 18' wider than what it is now and I reduced it.

Chairman Weipert – The ordinance says two (2) and you have three (3) already.

Mr. Malmsten – I could not add to the wood-shed because it is non-conforming.

Commissioner Rodman – I still don't see any practical difficulties. You are fully utilizing the two (2) out structures that are on your property now and the ordinance clearly states two (2). It does not say if I need more space, I can have three (3). It says two (2). So far I haven't heard anything from you that indicates that you have a practical difficulty on the property other than that you want more space. You have to have a reason and not for your own enjoyment or your benefit but because there is something unique about your property that gives us a reason to approve a third out structure.

Mr. Malmsten – I had a drawing showing all the tree locations and canopies. To add or do it any other way would not have been possible.

Commissioner Rodman – The issue is that the ordinance says two (2) and you have three (3). You have not shown us any practical difficulty of why you need the third building.

Mr. Malmsten – I don't understand what you are asking me.

Commissioner Rodman – There has to be something unique about your property and not your enjoyment or recreational needs but your property and the circumstances surrounding your property as to why you need that third structure.

Mr. Malmsten – I could not add onto the wood shed structure because of the provision on the survey. I asked Joe about that and it is a non-conforming building. Where the cedar tree is at and the driveway and the garage it is impossible to add on.

Chairman Weipert – One thing about the neighborhood is that it has a lot of mixed use. The way you have it laid out could be better.

Mr. Malmsten – You were there today. Was that the most perfect place for that structure?

Chairman Weipert – No, it didn't work for me. I could see it working somewhere else on lot #10. We do not have a full board and you can wait for a full board.

Commissioner Rodman – But we do have a quorum.

Commissioner Herman – Do you have power in your work shop and did you get a permit to do that?

Mr. Malmsten – Yes, back in the early 80's.

Commissioner Herman – Didn't you think you needed a permit for this?

Mr. Malmsten – No.

Chairman Weipert – We are only looking at the circumstances of your property, the practical difficulties. Any questions from the audience?

Ms. Jackie Swanson – 439 Reese Street. One of the original plans of putting in the third building in was to tie in a paver walkway from the back along all of the structures to make one walkway.

Chairman Weipert – Personally, I like garden sheds and brick walkways. You still have the ordinance.

Mr. Malmsten – That is why I don't believe that it violates the intent of the ordinance. This looks awesome. The property is nice, the buildings are nice and everything is well built and well maintained.

Chairman Weipert – I agree.

Commissioner Rodman – We have to go by what the ordinance states.

Mr. Malmsten – Three (3) is three (3) and two (2) is two (2) but I don't feel it violates what the intent of the ordinance was.

Commissioner Rodman – The intent of the ordinance we really don't know since no one here wrote the ordinance. The intent of the ordinance is how it is written in the book. We can't throw our viewpoints into it. You can put your viewpoints into it to try to state why you need the variance. We have to go by what the ordinance says to grant the approval to have a variance of that ordinance. Not based on what we think the ordinance means.

Mr. Malmsten – Isn't that the reason we are here for a variance for that ordinance?

Commissioner Rodman – Right and there are City guidelines on how we grant an ordinance. There has to be a practical difficulty. So far I have not heard a practical difficulty for this particular outbuilding.

Mr. Malmsten – Could you give me an example of what that might be?

Chairman Weipert – Something that is unique about your property that makes it different from other properties. That is what we mean about practical difficulty.

Mr. Malmsten – It looks like I took the wrong approach with using the intent of the ordinance versus practical difficulty.

Chairman Weipert – Do you feel the intent of the ordinance should not apply to you?

Mr. Malmsten – Yes. Perhaps I would like to table it and do a little homework on it.

Chairman Weipert – Does anyone have a problem with that?

Commissioner Rodman – I don't see any reason to grant a variance for this building. There is no practical difficulty on this property. Trees are not included. The intent of the ordinance is no more than two (2) out buildings. There needs to be a reason why you need a third one on that property, because of the property, not because you want to plant or need more space. It has to be unique about that property. Not your intent, not your viewpoints, not your personal enjoyment, not monetary. There can't be any reason other than why you need that building on that lot.

Mr. Malmsten – Would that include something like the house was built in 1899 and if you look at this style of structure home does not fit with an attached garage. That is one of my options to attach the house to the garage. To me, I thought that was more of a building, but that is okay?

Chairman Weipert – Does anyone have a problem tabling it to let him do more research?

Commissioner Rodman – If he wants to reapply and come back at the next meeting. Do we just table this or do we have to have a reason to table it?

Chairman Weipert – We table it for more information from the applicant.

Commissioner Goodcase – For one (1) month.

**ZBA 01-15-09 – JEFF MALMSTEN – 439 REESE STREET**

Motion by Herman, supported by Rodman

Motion to table this until next month's meeting for the purpose of collecting more information.

**VOTE:**

**4 YEAS, 1 NAY**

**James Barnes -Gateway Commons Office Development, LLC – 26000 Pontiac Tr.**

Chairman Weipert – State your name and the reason for the request.

Mr. Barnes – Gateway Commons Development, 403 E. Grand River, Brighton, MI.  
Thank you for the opportunity to present this to you today. I would like to give a little

background on the development. A couple of the members were here during the planning process in 2004-2005.

Chairman Weipert – I took a photo of it if you want to see it. If you want to wait until we have a full board you may.

Mr. Barnes – In 2004 we started the planning of the development and currently there is the 30,000 sq. ft. retail center anchored by the Rite Aid, the Comerica Bank site and currently there is the Gateway office building which is where the request is made. When we first started the planning process on this development, the site that is in question, which is the office building, was a Big-Boy user that is currently in the southern part of South Lyon. It was a referendum that delayed and as a result of the referendum, the user decided to look for alternative sites. We lost our user. It was developed for the Big Boy site which has the branding of a Big Boy which from the road you would know it was a Big Boy. When we lost the Big Boy user, we took a second look at it. It was rejected by the Planning Commission for the office building and we ended up taking it to Council which ultimately got approved for the office building. In losing that user, we could not find another retail user and we felt the office building was a better transition between the retail development and residential. We elected to pursue the office building as an alternative. We were approved and built the office building. It is a 10,000 sq. ft. footprint. We were fortunate enough to land a great user for us as well as the City of South Lyon. The user is Beaumont Hospital. Today I have the two (2) physicians here that would like an opportunity to speak. That is the history. The retail has been successful it is currently 92% occupied. For the most part it has been a very successful project. We were always really looking for medical users since we felt that was a better fit for the community and for us. When we originally got the project approved we knew going in that the ordinance indicated the size that we currently have which is the Gateway Commons sign right at the corner by Rite-Aid at the northern most entrance. We knew it would be difficult because of the distance between the road and the building for exposure. What Beaumont has requested from us is some type of signage along Pontiac Trail that would have the Beaumont logo, their names and some type of branding that can bring the potential customer/patient into the development to know where to go. It is a little tricky to get back there. It is a beautiful building and a great location however; it is a couple hundred feet from the road. Basically our hardship is that it is so far from the road and we are trying to bring patients in. We would like the opportunity to put the signage on Pontiac Trail. We are not adding any additional walls there is a nice screen wall that we put in the wetland. We are looking at reusing that wall with an application of a sign on both sides of the wall to be seen going north or south with Beaumont's name and the physician user names. The hardship is the distance from the road and the confusion of the complex. To get to the office building it is a little bit difficult.

Commissioner Herman – Where exactly are you talking?

Inspector Veltri – It is in your package.

Mr. Barnes – I would like to add something that I did not put on the request. I would like to add something on the four panel sign that says Gateway Office Building (like a header).

Commissioner Rodman – You are just here for the size of the sign.

Mr. Barnes – That is correct.

Commissioner Bradley – You want a variance of 53 sq. ft.

Mr. Barnes – Let me introduce the physicians.

Dr. Scharer – My name is Micha Scharer and this is Brandy Eberhardt, 26000 Pontiac Trail. Basically we are both working for Beaumont as new physicians; we just finished our training back in July. We did a drive through of South Lyon last February and looked at spaces that Beaumont had offered us and this is the spot we thought was a good location. We are asking for the opportunity to put the sign out so people know we are there. For our purposes, we are here to serve the community. We are Beaumont employees, but ultimately we hope to be private physicians' operating out of that space so our name recognition will be very important to us.

Dr. Eberhardt – Just a little history on how we chose to come to South Lyon. My family has lived here for about seven (7) years. I grew up in the Novi area. It is somewhere we can grow. We did not want a saturated community. That is how we ended up here.

Dr. Scharer – As new physicians, part of our concern is we just want people to know we are there so people can see us. We are not a business where you seek us out unless you know it is there. We are starting at zero and trying to build a patient base which is important to us. For the seniors, it would let them know they are in the right complex.

Commissioner Rodman – For the practical difficulty, what you are stating is that your difficulty for this property is placement of the building on the property and setbacks in relationship with all the other buildings. They kind of screened it from the visible areas that are needed for recognition.

Dr. Scharer – Yes, we feel that if you did not know that complex very well, they could have difficulty finding us from the road.

Commissioner Rodman – This will not count against any of the signage that is on the building already?



Inspector Veltri – There is no signage on the building. What the variance is for is for a third ground sign for the complex. You are only allowed two (2) and they have two (2) and they want a third one. If you approve this, signs are limited to 24 sq. ft. and he is going for 26 something sq. ft. It would be a little larger, but if you approve the sign you are also approving the size. Each tenant can have a 1 ft. sq. sign on the building.

Commissioner Bradley – If we grant a variance it is for the third ground sign, if we don't state a size?

Inspector Veltri – It would be what he applied for.

Chairman Weipert - Looking at this picture, it could be more stylish.

Mr. Barnes – If you want something more stylish we are happy to give it to you. The current Gateway sign is sleek looking. It has black lettering with a chrome background. It is very simple and sleek. We did not want this four panel sign to override that so we intentionally played it down.

Inspector Veltri – Is it illuminated?

Mr. Barnes – It would be a ground mounted light. No different than the other lights that are shining on signs now.

Commissioner Goodcase – The wall was already there?

Mr. Barnes – Yes.

Chairman Weipert – I have no problem with it, however, is there landscaping.

Mr. Barnes – On one side there is some low ground cover that we would probably remove.

Commissioner Rodman – It is not a back lit sign so there is no reason why it has to be a paneled sign.

Mr. Barnes – The panels were intended to have the Beaumont doctor's names on it. We do want to put a header across the top that states Gateway Office Building. I would be happy to put up whatever you want.

Inspector Veltri – The same dimensions that you are showing on your drawing.

Mr. Barnes – That is correct.

Commissioner Rodman – You are asking for two (2) 26 x 6 sq. ft. paneled signs.

