

**ZONING BOARD OF APPEALS**  
**Tuesday, October 19, 2010**  
**6:30 P.M. – City Council Chambers**  
**Rockford City Hall, 425 East State Street**

**Present:**

**ZBA Members:** Aaron Magdziarz  
Alicia Neubauer  
Dennis Olson  
Dan Roszkowski  
Scott Sanders  
Craig Sockwell

**Absent:** Julio Salgado

**Staff:** Jennifer Cacciapaglia – City Attorney  
Todd Cagnoni - Deputy Director, Construction Services  
Sandra Hawthorne – Admin. Assistant, Construction Services  
Jon Hollander – City Engineer, Public Works  
Matt Knott– Chief, Fire Prevention  
Jessica Roberts, Planner II

**Others:** Kathy Berg, Stenographer  
Applicants and Interested Parties

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Sandra Hawthorne explained the format of the meeting will follow the Boards Rules of Procedure generally outlined as follows:

The Chairman will call the address of the application.

- The Applicant or representative are to come forward and be sworn in.
- The Applicant or representative will present their request before the Board
- The Board will ask any questions they may have regarding this application.
- The Chairman will then ask if there are any Objectors or Interested Parties. Objectors or Interested Parties are to come forward at that time, be sworn in by the Chairman, and give their name and address to the Zoning Board secretary and the stenographer
- The Objector or Interested Party will present all their concerns, objections and questions to the Applicant regarding the application.
- The Board will ask any questions they may have of the Objector or Interested Party.
- The Applicant will have an opportunity to rebut the concerns, answer questions of the Objector or Interested Party
- No further discussion from the Objector or Interested Party will occur after the rebuttal of the Applicant.
- The Board will then discuss the application and a vote will be taken.

It was further explained to the public in attendance, applicants, objectors and interested parties that this meeting is not a final vote on any item. The date of the Codes & Regulations meeting was given as Monday, November 1, 2010, at 4:45 PM in Conference Room A of this building as the second vote on these items. The public in attendance, applicants, objectors and interested parties were instructed that they could contact Sandra Hawthorne in the Zoning Office for future information and that her phone number was listed on the top of the agenda which was made available to all those in attendance at the

beginning of the meeting. The City's web site address for minutes of this meeting are listed on the agenda as well.

The meeting was called to order at 6:30 PM. A **MOTION** was made by Craig Sockwell to **APPROVE** the minutes of the September 21, 2010 meeting as submitted. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 4-0 with Aaron Magdziarz and Alicia Neubauer abstaining as they were absent from the September meeting and Julio Salgado absent.

**ZBA 023-10**  
Applicant

**City of Rockford**  
City of Rockford Legal Department  
**Comprehensive Zoning Map Update** with multiple zoning amendments for City Wide Zoning Map

This item was heard at the August 17<sup>th</sup> Zoning Board meeting and was referred back to the Zoning Board to allow Staff to send notification letters to all properties that were affected by the Zoning Map update. Jessica Roberts, Planner for the City of Rockford, briefly reviewed the updates, stating the map amendments were designated in order to bring zoning districts closer to the consistency of use. As part of the modification of these updates, various groups were solicited, both in house and those outside for input, and two open houses were conducted.

Mr. Cagnoni stated prior to this meeting a written request was received from the Rockford Association of Realtors to lay this item over. In view of the 3,000 letters that were sent out and the public attendance at this meeting, Mr. Cagnoni expressed his feeling that it would be appropriate to hear all of the concerns and comments of those present in order to than incorporate these into their final recommendations. Mr. Sanders asked what the objective was in laying this item over. Mr. Cagnoni explained the process of notification of citizens and felt since there had been input from citizens and other parties that Staff would like an opportunity to use that input for any further modifications that may be appropriate.

Objectors and interested parties were present. A Petition signed by those properties along or adjacent to North Church Street was presented to the Board as well.

Tom Wartowski, Rockford Apartment Association was present as an Objector. He stated he represented 148 members of the association and also referenced the Rockford Association of Realtors. Mr. Wartowski presented a letter written by Paul Arena, President of the Rockford Apartment Association. In his letter, Mr. Arena stated their "concerns are focus on changes which will result in properties that are currently legal and conforming to the zoning designation for an area and will become non-conforming if the amendments to the zoning map are adopted." The letter further stated "neighborhoods that were originally developed with, or were lawfully converted to, a mixture of single family and multifamily properties should be zoned to allow the maximum number of properties within that neighborhood to conform to the zoning designation for that area" Mr. Wartowski reflected the Rockford Apartment Association's concerns that rezoning in some areas could have a negative impact on the values and marketability of properties in those areas where the zoning is inconsistent with the existing use. Mr. Wartowski requested this item be laid over to allow them time to continue working with the City to achieve a compromise for both parties.

Barbara Chaney, 124 and 126 South Chicago. Resident of Highland Association Neighborhood and a realtor, presented information of over 300 properties in the South Highland neighborhood. She feels zoning her neighborhood from R-2 to R-1 will not be beneficial to those residents. She expressed this rezoning will make 33 duplexes in the neighborhood which are now conforming, non-conforming. She stated changing the zoning to R-1 will not make renters or duplexes go away. It is her opinion that making a major change in the zoning code to stop conversions is not effective. She stated of the 30 duplexes in her neighborhood sold, 20 of them were foreclosures. She is concerned with how the plan can support their neighborhoods.

Kenneth Becker, 729 North Gardiner, Realtor. Mr. Becker stated he has buildings listed that he cannot get buyers for. He distributed a sample contract for purchase and sale for existing multi-family residences. Mr. Becker stated there is a section in this contract that requires written zoning from the City that confirms whether a property is conforming or non-conforming. He feels the proposed zoning change will make this situation worse, that property values will drop and it will destroy incentives for investors to purchase in Rockford. He further stated if they do invest, they will have a difficult time getting out from under these investments. He asked Mr. Cagnoni to explain the rulings of the Illinois Supreme Court as it pertains to Zoning Map Amendments.

Mr. Cagnoni explained the Zoning Map Amendments before the Board was a process started 18 months ago and legal notification procedures were followed that were in effect at the time. The Illinois Supreme Court has since determined that all property owners that are affected by a Zoning Map Amendment be determined to the best of our ability and written notification shall be sent to them. To comply with this, 3,000 letters were sent out prior to this meeting by Staff. Mr. Cagnoni explained these neighborhoods are mixed uses. He clarified that the specific concern of Gardiner Avenue that is not in the Highland Neighborhood is not affected by this zoning change.

William Howard, 124 North Water Street. Attorney Howard stated he represented clients on North Church Street. Attorney Howard stated the law states that a change like this cannot be made. He stated there are six criteria that have to be used to make these changes: the existing use of zoning of nearby properties; the extent of which values of property are affected by zoning classification; the extent to which destruction to property values affect health, morals, and general welfare; the relative gain to the public as compared to the hardship imposed on the property owner; the suitability of subject property to its zoned purpose; and the length of time the property has been zoned at the existing zoning. Attorney Howard feels the city is proposing to take property without compensating the owner.

Mr. Sanders referred to the word "taken" used frequently by Attorney Howard. He asked Attorney Howard if he was suggesting the city is "taking" people's property. Mr. Howard stated he was, referencing a non-conforming structure that is destroyed and could not be rebuilt as it currently exists.

Todd Orr, 323 Madeline Trail. Mr. Orr owns a vacant lot at 611 S. 3<sup>rd</sup> Street, which is the property of concern. Mr. Orr stated this property is currently vacant and it was his intent to possibly build a two-family on this lot. If the proposed R-1 zoning goes through, this will greatly affect his investment. He stated the majority of the homes in that area are all multi-family properties and feels the zoning should be left as is or at least give property owners the option to "opt out" of the proposed zoning change.

Russell Cockrell, 975 North Church Street, stated he was speaking on behalf of the 900 block of Church Street. He is currently zoned C-1, runs a business out of this property and it is also a 3-family. Mr. Cockrell does not see the need to reduce zoning to R-1. He stated there are only about 3 properties on the 900 block that are large enough to be a business and feels this would reduce the value of his property considerably if it were to be rezoned as R-1.

Dallas Heffran, 3112 Rice Avenue. Mr. Heffran stated he did not receive a notification. His home is a single-family home in an older neighborhood and he purchased it as a foreclosure. Mr. Heffran stated he has invested quite a bit of money in his property. He is concerned that multi-family units will be built if the zoning is changed. He explained the area is getting a lot more traffic with rentals, stating there is one area that has 6 vehicles from people living in one of the rental home, stating there seems to be a tendency to overcrowd rental units with the number of people staying there.

Stephen Langley, 753 John Street, stated he has lived in the Signal Hill area for over 20 years and is the CEO of Stepping Stones located at 904 Church Street since 1998. Mr. Langley stated their neighborhood has suffered over the years due to absentee investors purchasing homes and using them as rental units, some of which have been converted illegally. Mr. Langley read a statement that they were in support of the proposed R-1 zoning. He stated the growth anticipated by the city under the C-1 zoning designation has not occurred. It was his recommendation that the 900 and 1000 blocks of North Church be returned to R-1, as well as the 1000 and 1100 block of North Main. Mr. Langley would like to see the Burpee

Museum become part of a historical gateway to the community and North Main to become a two way street. He responded to other comments expressed by previous Objectors that those who are concerned with losing their Commercial zoning have a valid concern, but pointed out that those who have R-1 zoning also have the same concerns. Mr. Cagnoni responded to Mr. Langley, stating if a structure was legally conforming previously it would remain legally conforming under the proposed zoning. Mr. Langley then stated under those circumstances, the realtor and attorney who previously spoke were incorrect in stating there would be a loss to the owner if the property were damaged.

Ms. Neubauer asked for clarification – Mr. Cagnoni explained the two areas discussed were a mixture of uses. There were 113 two family homes and 187 one family homes so those areas are predominately single-family neighborhoods. He clarified again that under the current zoning a single family could be converted to a two family.

Mr. Olson asked about Mr. Becker’s statement that if an R-2 now becomes R-1, it affects the sale of the home. Mr. Cagnoni stated it does not change the legally established uses of any property. If it was legally established as a two-family it can remain a two-family. There are 2-families that are legally non-conforming. They were legally established and will remain legally non-conforming under the new zoning. The other scenario is the R-2 properties that are currently conforming – legally established as two families and meet density requirements – would go from conforming to non-conforming. In 2008 the ordinance changed to allow properties that were built as two families originally to be rebuilt as two-families. In two other areas there were 70 two-family structures, only 2 of which would become legally non-conforming. Mr. Cagnoni stated there may be other options Staff could address based on public comments received this evening, which could be achieved by a Lay Over.

Mr. Cagnoni thanked the public for coming to the meeting to present their views. He expressed that the City will take their comments seriously, and will look at the specific areas mentioned when finalizing the amendments.

A **MOTION** was made by Aaron Magdziarz to **LAY OVER** the Comprehensive Zoning Map Update with multiple zoning amendments for City Wide Zoning Map as presented. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 6-0.

**ZBA 027-10**  
Applicant  
Ward 6

**3129 16<sup>th</sup> Street**  
Noah Lee Miller

**Variation** to reduce the front yard setback from 25 feet to 20 feet for a three-season porch in an R-1, Single-Family Residential District

The subject property is located on the west side of 16<sup>th</sup> Street, approximately 143 feet north of Sawyer Road and is a single-family residence built in 1955. Noah Lavon Miller, son of the Applicant, reviewed the request for Variation. Mr. Miller presented photos of the existing home showing the proposed 10’ x 10’ sunroom, to be built on the existing concrete slab, along with site plans. Mr. Miller’s father is 83 years old and he enjoys sitting outside on a daily basis. It is not their intent to increase the value of the home, but to provide security and comfort for his father to sit out of the sun and insects. Mr. Miller addressed issues of water runoff, stating this structure would not result in any drainage issues.

Staff Recommendation is for Approval with 2 conditions. No Objectors were present. Letters of support from neighbors were submitted. Mr. Cagnoni stated condition 1 referring to a site elevation plan could be stricken since the Applicant presented this at the meeting.

A **MOTION** was made by Scott Sanders to **APPROVE** the Variation to reduce the front yard setback from 25 feet to 20 feet for a three-season porch in an R-1, Single-Family Residential District at 3129 16<sup>th</sup> Street. The Motion was **SECONDED** by Dennis Olson and **CARRIED** by a vote of 6-0.

Approval is subject to 1 condition:

1. Must meet all applicable building codes for a three season porch and may not be converted to a bedroom without meeting applicable codes for heating.

**ZBA 027-10**  
**Findings of Fact for a Variation**  
**To Reduce Front Yard Setback from 25' to 20'**  
**For a Three-Season Porch**  
**In an R-1, Single-Family Residential District at**  
**3129 16<sup>th</sup> Street**

**Approval** of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

**ZBA 028-10**

Applicant

Ward 1

**6336, 6358, 6382, 6394 Brigantine Lane**

Troy Haggstad et al

**Variation** to allow an eight foot (8') privacy fence along the back of petitioner's properties within the front yard along Spring Creek Road in an R-1, Single-Family Residential District

The subject properties are located on the south side of Spring Creek Road and are four single-family residences within Devonshire Subdivision. The lots of all four properties abut Spring Creek Road to the north and Brigantine Lane to the south. Troy Haggstad, one of four applicants, reviewed the application for Variation. Mr. Haggstad explained the rear yards of all of the properties abut Spring Creek. Traffic is extraordinarily heavy on Spring Creek and it is expected to increase once the proposed I-90 exchange goes through. Some of the Applicants have small children and safety is an issue; however, noise volume from traffic is the larger concern. Mr. Haggstad stated they have spoken to a consultant on noise abatement and the consultant's findings were that an 8' structure would be needed to control noise pollution. The fence would be into the wooded area, set back from the utility easement. Mr. Haggstad stated they had looked into planting an 8' berm, but it would remove many trees and would cost an extraordinary amount of money. Photos of the proposed PVC maintenance free fence were shown as well as photos of the area.

Mr. Roszkowski asked why the neighbor to the east, 6408 Brigantine Lane did not wish to be part of this application since a portion of his rear yard also abutted Spring Creek. Mr. Haggstad responded that several attempts to contact this neighbor were unsuccessful.

Mr. Sanders asked if this would affect traffic view from Tanglewood. Mr. Cagnoni explained that Staff's position was that the Traffic Engineer would have an opportunity to review this. The Applicants have agreed that if there is any area where the fence needs to be set back a little further they will do so as required. Mr. Cagnoni stated the request was to set back 15 feet from the property. He explained the 20 foot triangle aspect from the corner and verified with Mr. Haggstad that the Applicants will maintain that 20 feet.

Staff Recommendation is for Approval with 1 condition. No Objectors or Interested Parties were present.

A **MOTION** was made by Scott Sanders to **APPROVE** the Variation to allow an eight foot (8') privacy fence along the back of petitioner's properties within the front yard along Spring Creek Road in an R-1, Single-Family Residential District at 6336, 6358, 6382, 6394 Brigantine Lane. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. The applicant shall work with the Traffic Engineer to ensure that the fence will not be located within a sight triangle prior to issuance of a fence permit.

**ZBA 028-10**  
**Findings of Fact for a Variation**  
**To Allow an Eight Foot Privacy Fence Along the Back of Petitioner's Properties**  
**Within the Front Yard Along Spring Creek Road**  
**In An R-1, Single-Family Residential District at**  
**6336, 6358, 6382 and 6394 Brigantine Lane**

**Approval** of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

**ZBA 029-10**

Applicant  
Ward 1

**6640, 6660, 6730 Fincham Drive**

Garrison Development Co.

**Special Use Permit for a Planned Unit Development** for a Multi-Family Residential Development consisting of 48 units in a C-2, Limited Commercial District

The subject property is located north of Fincham Drive and east of Mid America Street and is currently vacant. Kathy Ullrich, representing the Applicant, reviewed the request for Special Use Permit. She explained her client, Garrison Development Co., is proposing a 48 unit development consisting of 8 one-bedroom units, 20 two-bedroom units, and 20 three-bedroom units. The rent will be from \$320 to \$800 and available to households earning 60% of the area median income or less. The development will consist of 4 two-story buildings.

Staff Recommendation was for Approval with 8 conditions. Objectors or Interested Parties were present.

Ron Clewer, 1910 Jonquil Place was present to speak in support of the project as an Interested Party. He is with William Charles who owns the land. He explained this sale will be on a deed restriction. Mr. Clewer feels the Applicant is a seasoned developer with good experience.

Brian Byrne, 1007 Britannia Way lives in the subdivision behind the proposed site. Mr. Byrne asked if the land adjacent would be developed with more apartment buildings. Mr. Clewer responded the future development of adjacent land would depend on what potential developer was interested.

Mr. Sanders asked for clarification on the vacant parcels referred to by Mr. Byrne. To the east and north there is a parcel that extends from Fincham to Mill Road and Mr. Clewer stated this is the parcel Mr. Byrne is referencing.

Mr. Cagnoni clarified to the Board that Mr. Clewer was an interested party, and not the Applicant. Ms. Ullrich was representing the Applicant. Questions pertaining to the project should be directed to Ms. Ullrich.

Mr. Olson asked Fire Chief Knott if there was any concern with equipment accessing the proposed area to which Chief Knott stated they had adequate access and turnaround area.

Mr. Sanders asked Staff if they were comfortable with conditions of approval that all areas such as detention, concentration, etc. will be conformed to. Mr. Cagnoni stated Public Works has reviewed this project as well as the Fire Department and discussion have occurred. Staff feels the development is appropriate, as well as is the building design. Mr. Cagnoni did express disappointment that Garrison Development, the Applicant, was not present themselves to discuss and review their project. Mr. Sanders echoed Mr. Cagnoni's feelings on this matter. He feels the storm water management is very conceptual at this point and hopes this is not too preliminary of a stage.

Craig Sockwell asked for an explanation of low income housing credits. Mr. Clewer stated he has worked more on this area and wished to respond. He explained that the developer presents a figure of what the development costs and the tax credit is based on this. This allows the developer extra equity to help in the costs of development. It makes it viable for the developer to offer a lower rent. A criminal background check is required. He stated these should not be confused with low income vouchers that a tenant uses for rent. There is a 15 year limit on this project that will prevent the units from going to Section Eight housing for that period of time.

Mr. Hollander, Public Works, wished to clarify Staff condition 7, stating Public Works would like public sidewalks to be incorporated into this project.

A **MOTION** was made by Dennis Olson to **APPROVE** the Special Use Permit for a Planned Unit Development for a Multi-Family Residential Development consisting of 48 units in a C-2, Limited Commercial District at 6640, 6660, 6730 Fincham Drive. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 5-1 with Alicia Neubauer voting Nay.

Approval is subject to the following conditions:

1. The Special Use Permit shall be in conformance with the approved building elevations as shown on exhibits E.
2. The Special Use Permit shall be in substantial conformance with the submitted site design, layout and access from Mid America and Fincham Drives as depicted in Exhibits F.
3. Revised landscaping plan for the Special Use Permit shall be submitted and shall be in accordance with the City of Rockford Ordinances as reviewed and approved by staff. A Type A landscaping buffer is required throughout the development and plans shall be revised to reflect this requirement.
4. An illumination plan shall be submitted for review and approval by Staff.

5. All dumpsters shall be enclosed with the same brick material as the buildings and a dumpster enclosure permit shall be acquired for such.
6. All applicable building and fire codes shall be met as part of the development of the site.
7. Pedestrian walkways connecting the development to the adjacent properties shall be submitted for review and approval. Sidewalks shall be incorporated surrounding the property within the public right-of-way.
8. A tentative and Final Plat shall be submitted prior to further development of the site or building permit issuance.

**ZBA 029-10**  
**Findings of Fact for a Special Use Permit for a Planned Unit Development**  
**For Multi-Family Residential Development Consisting of 48 Units**  
**In a C-2, Limited Commercial District at**  
**6640, 6660 and 6730 Fincham Drive**

**Approval** of this Special Use Permit for a Planned Unit Development is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community. The proposed development is consistent with the mix of uses in the area and does encourage the connectivity of the surrounding uses and future growth of the property.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The future land use designation and the existing zoning district are considered Commercial. However, due to the mix of uses in the vicinity and adjacent multi-family and general and limited commercial in the area the proposed development is in line with the intent of the existing zoning and the future land use designation through the Planned Unit Development Process.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-2, Limited Commercial Zoning District in which it is located through the Planned Unit Development and Special Use process.

**ZBA 030-10**  
Applicant  
Ward 10

**4728 East State Street**

Denise Lewis

**Special Use Permit** for body art services consisting of piercing, tattooing, and body art in a C-3, General Commercial Zoning District

The subject property is located on the northwest corner of Flintridge Drive and East State Street intersection and is surrounded by commercial and residential uses. This application is a result of a violation for a tattoo shop without a Special Use Permit or Building Permit.

Montri Saejia representing the Applicant, reviewed the request for Special Use Permit. Mr. Saejia explained they were not aware of the requirement for Special Use Permit when they opened the business in July of this year. Mr. Saejia explained their safety precaution of gloving to avoid any contamination of the client. He expressed that they are anxious to get this approved because they have not had money coming in since they closed in July.

Staff Recommendation is for Approval with 4 conditions. Objectors or Interested Parties were present.

Aarika Hash co-worker, stated she has been out of work for 4 months and explained her co-workers are in the same position.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Special Use Permit for body art services consisting of piercing, tattooing, and body art in a C-3, General Commercial Zoning District at 4728 East State Street. The Motion was **SECONDED** by Alicia Neubauer and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Meet all Building and Fire Codes
2. Submittal of Building Permits for Staff review and approval.
3. The hours of operation will be limited to 12:00 P.M. to 10:00 P.M. Monday through Saturday.
4. The hours of operation will be limited to 12:00 P.M. to 6:00 P.M. Sunday.

**ZBA 030-10**  
**Findings of Fact for a Special Use Permit**  
**For Body Art Services Consisting of Piercing, Tattooing, and Body Art**  
**In a C-3, General Commercial Zoning District at**  
**4728 East State Street**

**Approval** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.

6. The special use shall, in all other respects, conform to the applicable regulations of the Zoning District in which it is located.

**031-10**

Applicant  
Ward 3

**1159 North 2<sup>nd</sup> Street**

Mark R. Cook

**Special Use Permit** for outdoor passenger vehicle sales and office, in a C-3 General Commercial District

The subject property is located on the southeast corner of North 2<sup>nd</sup> Street and Ethel Avenue and is currently a vacant commercial auto sales lot. Mark Cook, Applicant, reviewed his request for Special Use Permit. It is his intent to reopen this business in the same manner as the previous car lot. Mr. Cook stated the lot will remain clean and the building will be enhanced for aesthetic value. Mr. Olson asked if the vehicles would restrict the view on traffic to the north. Mr. Cook stated it would not. Renovation and improvements to the building, landscaping and parking lot are planned.

Mr. Cagnoni asked the Applicant to provide the name of his partner in this enterprise. Mr. Cook responded that it was Luke Meyer, owner of Luke's Mobil Home on Forest Hills. Mr. Cagnoni further asked the applicant to meet with him prior to the Codes and Regulations meetings to go over further conditions.

Mr. Sanders asked if this property was in or near the Browns Hills Historic District. Mr. Cagnoni was not aware of the exact location of the Historic District; however, Sandra Hawthorne stated the subject property was not in the Browns Hills Historic District, nor were the apartments directly behind the Applicant's property.

Staff Recommendation is for Approval with no conditions. No Objectors or Interested Parties were present.

Mr. Cagnoni reminded Mr. Cook to contact him prior to the November 1<sup>st</sup> Codes & Regulations meetings to discuss conditions of approval that may be added to this Special Use Permit.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Special Use Permit for outdoor passenger vehicle sales and office, in a C-3, General Commercial District at 1159 North 2<sup>nd</sup> Street. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 6-0.

**ZBA 031-10**  
**Findings of Fact for a Special Use Permit**  
**For Passenger Vehicle Sales and Office**  
**In the C-3, General Commercial District at**  
**1159 North 2<sup>nd</sup> Street**

**Approval** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-3, General Commercial Zoning District in which it is located.

**032-10**

Applicant  
Ward 1

**6957 Olde Creek Road**

John Harris

**Variation** to allow a second wall sign on the east elevation above the first floor on building one in a C-1, Limited Office Zoning District

The subject property is located south of the southwest corner of Olde Creek Road and Perryville Road, known as A Perryville Place. John Harris, Applicant, reviewed the request for Variation. Mr. Harris is requesting an additional sign on the east elevation for exposure to Perryville Road. The sign would be for Midland States Bank.

Mr. Roszkowski felt he would like to see a photo of the entire building because he feels the Board has already approved a lot of signs for this building. He is concerned that the Board's decision be consistent with applicants who have come before the Board in the past and were denied, or were approved with the condition that existing signs be removed. He feels this is the 3<sup>rd</sup> or 4<sup>th</sup> time that there has been a request for additional signage for this building. Mr. Harris stated there were now 2 signs on this façade. He further stated the 50 foot long MRI sign will be removed permanently.

Mr. Roszkowski pointed out that although the building is made to look like three separate buildings, it is actually one building. Mr. Roszkowski stated he had not seen the building prior to the meeting and that he would like to Lay Over this item for a month so that he can go out and look at the building. Mr. Harris was agreeable to Lay Over the item and present additional material at the November 16th meeting.

A **MOTION** was made by Aaron Magdziarz to **LAY OVER** the Variation to allow a second wall sign on the east elevation above the first floor on building one in a C-1, Limited Office Zoning District at 6957 Olde Creek Road. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 6-0.

With no further business to report, the meeting was adjourned at 9:07 PM

Respectfully submitted  
Sandra A. Hawthorne, Administrative Assistant  
Zoning Board of Appeals