

**THE CHARTER TOWNSHIP OF CHESTERFIELD
ZONING BOARD OF APPEALS**

August 23, 2017

On August 23, 2017, a regular meeting of the Chesterfield Township Zoning Board of Appeals was held at the Township Hall located at 47275 Sugarbush, Chesterfield, MI 48047.

1. **CALL TO ORDER:** Chairman Stepnak called the meeting to order at 7:00 P.M.

2. **ROLL CALL:** Present: Marvin Stepnak, Chairman
James Klonowski, Vice-Chairman
Thomas Yaschen, Secretary
Carl Leonard, Planning Comm. Liaison
Hank Anderson, Twp. Board Liaison
Wendy Jones
Brian Carr

Others: Gary DeMaster, Building Department Administrator

3. **PLEDGE OF ALLEGIANCE:**

Chairman Stepnak explained the procedures to the audience.

4. **ZBA PETITION #2017-11: Conscious Senior Living Properties, LLC.**
5920 St. Clair Hwy., East China MI 48054. Requesting a variance on Sec 76-509
b. (3) all housing for the elderly must be constructed on parcels of at least 10
acres or more. The proposed senior living facility located on the north side of
23 Mile, east of I-94. Tabled 7-26-17.

Chairman Stepnak stated that is for the senior living facility. He mentioned that they previously discussed the idea of entertaining them separately instead of jointly.

Motion by Mr. Klonowski to take Petition #2017-11, #2017-12 and #2017-13 off the Table.

Supported by Mr. Yaschen

Ayes: All

Nays: None

Motion Granted

Chairman Stepnak stated that there were a few reasons why they tabled these petitions and sent them back to the Planning Commission and the Planner to review the information. He has also spoken to Mr. Palin and Mr. DeMaster on these petitions. He stated that he believed it went back to Planning and he asked Mr. Leonard to share some information with them as to what happened at that meeting.

Mr. Leonard stated that they discussed everything last night and resolved numerous things. He mentioned that a few items are going back to engineering. However, he would like to read the Planner's Recommendation: "While the parcel size is not consistent with the ordinance, the project is a perfect fit for this parcel. A single story, low intensity use located between two apartments and the condominiums. It will have a positive aesthetic impact" with a very low impact on the surroundings. We recommend approval of the project, subject to a variance for the lot size requirement.

Chairman Stepnak stated in his discussions with Mr. Palin and Mr. DeMaster he understood that they were looking at an ordinance that was meant for apartments and basically this is senior citizen housing; therefore, it is not the same type of use. He explained that when they do entertain the design or length of the building, they have to remember this is not an apartment building where it would be designed like row houses in England. This use is more of an institutional setting type instead of a residential type of development and it takes on a different flair. He explained that with this they could actually interpret the ordinance so if another institution comes before them with the same issue it would be approved, but not for apartments.

Mr. DeMaster stated then the ordinance would not apply to institutional or these types of developments.

Scott Bell, Lapham Associates, 116 S. 3rd Street, West Branch, MI 48661

Petitioner stated as in regard to their petitions they had several conversations with the Township Planner as well as the consultant. He mentioned that they have changed some things and one of the variances for the parking is no longer needed because they have reconfigured the parking lot and administratively they have concluded that if they use a calculation that they had on their site plan that was approved last night using two spaces for every three beds which is in the parking ordinance. He added that plus with six employees at one per parking space would put them at 44 spaces and they have 45 with the reconfigured site plan that was approved last night. Therefore, the parking has been alleviated and he is not even sure that needs to be brought forth.

Mr. DeMaster stated that that variance can be withdrawn.

Applicant agreed that at this point that variance can be withdrawn. He explained as previously mentioned about the length of the building, that ordinance was intended for apartment buildings and they would ask this board to make that interpretation.

Applicant stated that they do not mind being the Guinea pigs to bring this change forward. He stated that it is something that the Building Administrator would be able to look at and determine it falls into this narrow category of exceeding the length of the building. He explained that what they are proposing is that this is more of an institutional look with a unique configuration. He mentioned that they need to have everything connected in order to accommodate the residents that they have at the facility. He explained that they do not want to break everything all up into a bunch of little buildings and that is why they have requested the variance. He stated that lastly there is the question of the acreage and that was something that the Planner addressed in his comments. They believe that they have a unique product on a unique site in a residential area where a transitional type of use fits in very nicely for this vacant parcel. He stated that when the Planning Commission approved this last night that was one of their comments in the approval.

Ms. Jones stated if the ordinance specified a 10 acre parcel and the property is only 3 ½ acres, she wondered why did they purchase the property. She does not see a practical difficulty there. She then verified that with 45 parking spaces, that would be two parking spaces for every three beds? She asked is that correct?

Applicant replied that is correct.

Ms. Jones asked with the parking spaces, how many are allotted for handicapped parking?

Applicant replied for that amount of parking they are only required to put two handicapped spaces and they have put four handicapped parking spaces proposed on the plan.

Ms. Jones asked how many employees do they have?

Applicant replied that they have listed six employees with eight to ten at a peak shift.

Ms. Jones asked if this is a nursing home or assisted living.

Applicant replied it is assisted living.

Chairman Stepnak asked how many parking spaces were on the original plans?

Applicant replied he thought there were about 35. He mentioned that with assisted living typically the residents do not drive; 38 of the parking spaces are for guests of the residents. He stated that they used six as the requirement for the employees to derive at the 44 required parking spaces. He added that they were able to squeeze another parking space in there so they actually have 45 on the site plan.

Mr. Yaschen stated that if Planning recommended approval he does not have any more questions.

Mr. Carr had the same issues he had as before. He thought they purchased a lot knowing the restrictions and they were hoping to get it through. He thought the lot was being maximized beyond the capacity; however it is an attractive building. He stated as far as parking about 95% of the time there will not be an issue, but at other times where will the overflow go. He stated that people are probably going to be parking next door at the apartment buildings on the east side. He thought that they were trying to squeeze too much on that parcel.

Mr. Anderson stated that any questions he had have been answered satisfactorily.

Mr. Klonowski stated that he agreed with Hank that they have resolved most of the problems. With regard to the 3 ½ acres as opposed to the 10 required by the ordinance but those are for senior living facilities which is for a much more active group of individuals. He stated in his experience most assisted living facilities are like convalescent homes; the people are not mobile so he feels the 3 ½ acres is adequate. He added that the parking has been resolved and the length of the building was explained about it being institutional verses houses.

Mr. Leonard stated that they took a second shot at the meeting last night and a number of things were modified on the plans such as the amount of stone, brick and the parking. He commented that they pretty much covered everything in two meetings and came away with the conclusion that this would work.

Chairman Stepnak stated that he would like to start with a Motion on #2017-11. He mentioned that the petitioner has stated that #2017-12 was to be withdrawn and actually the calculations were went over at the Planning Commission level so they would not take any action on that one. He added that #2017-13 would be a decision call not only for this project, but other ones down the road.

Motion by Mr. Klonowski to approve ZBA Petition #2017-11 to allow the facility to be constructed on a 3 ½ acre parcel as opposed to the 10 acre parcel required by the ordinance. He added that this size parcel would be acceptable for a convalescent type of assisted living facility.

Supported by Chairman Stepnak

Ayes: Klonowski, Stepnak, Leonard and Anderson

Nays: Yaschen, Jones and Carr

Motion Granted

- 5. **ZBA PETITION #2017-12: Conscious Senior Living Properties, LLC.**
5920 St. Clair Hwy., East China MI 48054 Requesting a variance on Sec. 76-509, b. (1) Parking, one off-street space for each dwelling unit, proposed senior living facility located on the north side of 23 Mile, east of I-94 tabled 7-26-17.

Chairman Stepnak stated that in accordance with the aforementioned discussion this item has been withdrawn and there would be no action taken.

- 6. **ZBA PETITION #2017-13: Conscious Senior Living Properties, LLC.**
5920 St. Clair Hwy East China MI 48054 Requesting variance on Sec 76-335 3 (g) No multiple family building shall exceed 180 feet in length along any one face of the building proposed for the senior living facility located on the north side of 23 Mile, east of I-94, tabled 7-26-17.

Chairman Stepnak stated that on this one they must make a decision as to whether they would allow this type of building because this would be considered an institutional setting or because this particular development needs this type of structure.

Mr. DeMaster stated that the determination could be made that the ordinance was intended for multi-family structures and this would be an institutional structure or they can just issue the variance.

Mr. Leonard stated that they talked this out last night. The building is one store, they have added brick, and the recreation areas are internal to the building which kind of created the length. This is just a different type of facility that they have not seen in this community.

Motion by Chairman Stepnak to approve ZBA Petition #2017-13 for the length of the building due to the fact that it is an institutional use rather than an apartment or multi-family structure. But they are handling this on a case by case basis and are only approving the variance and not interpreting a change in the ordinance at this time.

Supported by Mr. Leonard

Ayes: All

Nays: None

Motion Granted

- 7. **ZBA PETITION #2017-14: JPB Car Wash, 29939 S. River Road, Harrison Twp., MI 48045.** Request is to appeal the decision to deny the PUD #2016-25 application for the Dockside Car Wash located at 47319 Jefferson tabled 7-26-17.

Motion by Mr. Yaschen to take ZBA #2017-14 off the Table

Supported by Mr. Klonowski

Ayes: All

Nays: None

Motion Granted

Chairman Stepnak stated that there was a discussion about possibly having alternates for this Petition. He mentioned that certain people did not feel that was needed, however, personally he thought this would change the dimension of this board because they have the liaisons who have actually voted on it. He mentioned that they did not have the Township's legal counsel present, but in the past the only way they would have someone sit out would be if there was a monetary gain or loss on a project. He stated that legal counsel informed the liaison's that they already voted on this matter and could not vote again so they have to abstain. He asked Mr. Gendernalik if it was okay if the liaison's asked questions or do they have to abstain totally.

Gary Gendernalik, 52624 Laurel Oak Lane, Chesterfield, MI 48047 addressed the board.

Petitioner replied that the statute requires that they abstain totally. He mentioned that in other communities when members are recused they do not sit at the board table. He stated that was up to the Chair, but based on the statute and Mr. Siebert stated previously that they cannot participate because the statute states that they are precluded from participating because they voted on this issue before.

Chairman Stepnak stated let the meeting minutes show that they may be excused from the table.

Mr. Anderson and Mr. Leonard both took a seat with members of the audience.

Petitioner stated that this is an appeal de novo pursuant to the State Statute and the Chesterfield Township Zoning Ordinance. He stated that his client through his architect applied for a PUD after some preliminary discussions with some Township officials. He explained that it went through the Planning Commission process for a couple of reviews and then it went to the Township Board for their review because in essence the PUD is a rezoning type of activity; it is similar to a conditional rezoning. He stated that the idea behind it was to allow for a particular use on this particular piece of property. He explained that in 2006 and 2008 he was representing the Village of East Harbor and at the time they had a PUD to expand their facility and part of that PUD was a request to put up a 4-story building at the corner of Callens and 23 Mile Road and that too was similar to a conditional rezoning. He stated that the Planning Commission approved it and it went to the Township Board. It was a PUD and all the

buildings were laid out and the Township Board turned it down because the Zoning Ordinance only allowed 2-story buildings. He then went to the ZBA and the ZBA approved the PUD with the 4-story building. He mentioned that the building was never constructed because during the time frame of 2006 and 2008 the economy took a deep dive and it has not been built. He remarked that sometime in the near future they were going to come back on that project. So, that historically shows that they can come here to the ZBA and this is a new determination by this board. It is not dependent on what the Planning Commission did or what the Township Board did because this is a de novo hearing, which means a new hearing. He stated that this property for 20+ years was occupied by Forest Lumber and he showed them an aerial photo from 1964 showing Forest Lumber; he stated that it was a heavy commercial lumber yard and hardware store. He remarked that the lumber yard burned down and the property sat vacant for years. He explained that is the same piece of property that is now occupied by the car wash. He showed the board an aerial of the car wash as it now exists and it was built in 1988. He mentioned that generally in Chesterfield a car wash is supposed to be in a C-3 district, but this is zoned as C-1 and it was probably C-1 back in 1988 when it was approved and built. He stated that the property has been used and operated as a car wash ever since. He showed another depiction that shows the car wash and adjacent properties. He reiterated that the property is zoned C-1 and is occupied by the car wash and he pointed out the vacant property here and residential in this area. He then showed a more recent aerial which shows that after his client bought the property he built a front and back awning on a steel structure with a foundation so that people that enter from the back side have protection from the weather. He pointed out the building and then the area to the south that his client wants to build on. On a more recent aerial he also pointed out the residential properties at the back and also pointed that they have a 20' buffer between the residential and the car wash which is an access to the detention basin area that services the subdivision. He mentioned that when all the houses were built, the car wash was already there. He stated that in the Planning Commission site plan it showed one large building and that has been modified. He stated that the original plans for the new building was a long structure with 10 bays and it was much taller. He showed a depiction of the elevations of the first proposal on the south side. He mentioned that the property is all one piece and has always been one piece. It was built on at the north side and the south side was left empty for future development. He remarked that the carport would stay the same and they would put two new buildings with one at the north end and one at the south and the detention basin would stay at the same place. He explained that they revised the drawings and brought it down to six new bays with the hand car wash and detailing in this building. He stated that they would maintain the same entrance and there would be three lanes for cars to come in; one to get to the car wash and two to get to the bypass. He explained that in the depiction is the building with detention in the back with an existing concrete wall and the arborvitaes were there. Recently the Planning Commission did give his client permission to replace the arborvitaes with a masonry wall and there is the additional 20' buffer in between. He stated that the original proposed building was 31' high and

the revised building is only 21 feet high. He remarked that they felt that would cut down on the visual impact for the residents across the street and behind. He showed configuration for the two floor plans; building #1 and building #2, gave them the elevations and explained that there were 5 bays here and 5 bays here. He mentioned that there was some concern about noise, but there is nothing in the zoning ordinance about noise in a C-1 district or a C-3 district. He explained that there are qualifications in industrial districts that state they cannot exceed 65 decibels. So he stated those do not apply. He remarked that the new floor plans are less intense with less height and new elevations. He mentioned that in the existing car wash they were going to remove the existing canopy at the front and put a stone front with stone along the north side. He showed pictures of all sides of the elevations and stated that the door opening sides would be away from the residents at the back. He showed depictions of the driveway the landscaping and the buffering at the back of the property. He stated in their submission they gave them documentation that they brought to the Township board on June 12th. He brought up the fact that there were a series of building permits and site plan approvals that were issued from the Planning Commission for the canopy at the front and the back and a new sign which were all things his client did to improve the property. He brought up the fact that some people seem to think this is a non-conforming use because it is a C-3 business in a C-1 district; however, his position is that the Township should have never allowed those improvements to take place because someone could say that was an expansion of the non-conforming use. He stated that in this PUD because it is a conditional rezoning those restrictions are applicable and in essence it is the same or similar type of operation that exists now; a carwash for upscale cars. He gave them in the submission a court of appeals case that he was involved with in Marine City that basically said that there was a stone yard owned by the county that was transferred to private use, more stone was going to come in from the St. Clair River and more stone was going to go out, but that was not considered an expansion of a non-conforming use. This was a reported case which is binding on this community and all communities in the State of Michigan that basically if the essence of the operation is similar, the property owner could be allowed that activity. In exhibit A. he had an excerpt from the May 25th Special Meeting of the Planning Commission and this was part of their discussion of the Master Plan for this sector of Chesterfield Township. In that exhibit A. he referenced a comment from Mr. Meagher that said, "that it was a 20 year plan" "However, he has to wonder what good they are doing by going down Jefferson and putting our Marinas out of business by forcing them to have less boats stored and adding improvements when they cannot afford to stay in business as it is and you folks want to chase them out of town. "He asked if they could help him out with this?" Applicant stated that historically looking at the Jefferson corridor, he gave them a list of all the businesses, the open and closed ones, and there hasn't been significant commercial development from Altman Road to Hall Road. He stated that this gentleman improved the property that was abandoned and purchased in a bankruptcy/bank foreclosure. He has made improvements and he wants to continue to improve and invest in the community. He gave the Township Board a letter dated March 15, 2017 which references excerpts from 76-374 Local Commercial Districts

C-1 as to permitted uses in the district. He mentioned that included in the list of permitted uses, not SLU's was accessory buildings or accessory uses and they say that this building is an accessory to the existing facility; with an aligned similar activity. He stated that there is no provision in the ordinance that says it has to be of a certain size or dimension. He elaborated that in their initial site plan and in their revised site plan with a smaller building, they meet all the setback requirements for Jefferson and they have the masonry wall and 50' setback to the residential. He stated that the carport that backs up will act as a noise buffer and the building now faces to the east now which should mitigate any noise that would emanate from the building. He also presented to them the June 2017 letter in which he referenced seven existing carwashes in Chesterfield Township. He stated that the majority of those are in the C-3 district, but some of them are in C-1. He mentioned however, five out of the seven immediately abut residential and he has listed the names and locations of these carwashes; five out of six don't even have any screening. He stated that since his client purchased the property he replaced a wall that was falling down, put up arborvitaes, and he is going to put up a new wall here (pointing to a depiction of the plans) and he already has permission to do that. He stated in an effort to answer Planning Commission concerns they offered to put a gate at the driveway which would stop people from coming into the facility after hours, but that is not specifically allowed in the ordinance so they suggested they delete that. He mentioned that his client is still willing to put up the gate for security to keep people off his property when he and his employees are not there. He stated that in the community where a majority of these carwashes immediately abut residential properties it clearly represents to him from a practical prospective that those two types of facilities can exist without a lot of calamity or people coming to the Township to complain about the car washes making too much noise. He gave them some legal references as to how the ordinance as far as land use is a sacrosanct right of a property owner and should be interpreted in the property owner's favor. He stated that his client has invested a lot in this and piece and when he was in the process of buying it he had discussions with then Township officials as far as the use of it and he felt that he could improve the existing facility and expand it in an aligning use at that time. He thought that there are not a lot of records in existence as to when the car wash was approved, but he did obtain this document from the Building Department that shows in 1988 that the Gentle Touch Car Wash got the approval from the Township. He mentioned in the recent past the property owner to the south wanted to rezone his property from C-1 to single-family. He filed the petition and was turned down on April 4, 2016, so the C-1 district remained (he passed out the paperwork to the board). The last two pages show a building permit that allowed that property owner to build a garage in conjunction with that existing home in the C-1 district. So it seems to him that the Township let that property owner expand his residential facility immediately next door and that is zoned C-1. Therefore, it is reasonable in this situation to allow his client to build a revised building to incorporate his ongoing existing activity in those buildings. It was noted at the Planning Commission meeting that the screening requirements did meet the ordinance requirements and the most important one was to the west adjacent to the residential homes, because you always have to have screening and they will now have a

masonry wall to add to the existing wall. He mentioned that to the north and south they did not need screening because they are existing commercial, but there is a little screening on the north side because his clients property runs further back on Jefferson than the one to the north, which in essence a rezoning requirement to allow these two buildings.

Mr. Yaschen asked Mr. DeMaster how the garage was approved?

Mr. DeMaster stated that was a non-commercial use of that property. He explained that the people needed a place to put their cars and they built a residential garage for a residential house. He stated that it was nothing more than that and it was not an expanding use of the property.

Mr. Yaschen asked what the business would be doing, detailing?

Applicant replied that it would be for detailing and individual car washing of top line cars that his client has contact with as far as those owners. He mentioned that they already have in place an existing mechanical car wash. He does not disagree with Mr. DeMaster's statement about the house next door about expanding the residential but the property is commercial and he is stating that they are commercial and been there since 1988, so let this similar facility be approved. He stated that there was flexibility in the community to let that neighbor build a garage to house his cars. He mentioned that to the south of them is more commercial land and in 7/2008 that property was approved for a strip mall but the economy took a nose dive and it was never built. He stated that there is not a lot of new commercial activity on Jefferson. He mentioned that the bank closed the bakery closed and they are building two new houses by the Fire Station.

Ms. Klonowski asked Gary if the ordinance on accessory buildings apply to this property?

Mr. DeMaster replied that this would be an expansion of the use; but he is not a Planner.

Mr. Klonowski asked if this would make the property more non-conforming?

Mr. DeMaster replied absolutely.

Applicant stated that was why they went through the PUD process because the PUD is a specific zoning methodology to allow this type of construction. It could have been done through a PUD or a conditional zoning request.

Mr. Klonowski asked if a PUD is allowed in a C-1 district?

Mr. DeMaster answered that PUD's are allowed if they are approved.

Applicant stated that if the PUD is approved then the official zoning map would say this is PUD # such and such for this particular piece of property.

Mr. Klonowski made it clear to the board that the applicant stated that there was no provisions within the ordinance for noise and under the standards under a PUD Section C. is states "that the proposed use shall be designed as to the location, design, site lay out, periods of operation of any such proposed use to eliminate any possible nuisance emanating there from that might be noxious to the occupants, or any other nearby usages permitted whether by reason of dust, noise, fumes, vibrations, smoke or lights.

Applicant stated that there is no criterion that indicates that they would emanate any unusual noise from this facility. He explained if there is a bank or a Walgreens in this district there would be noise from those cars.

John Bowen, 29939 North River Road, Harrison Twp., MI 48045 addressed the board.

Mr. Bowen stated that as far as noise, there is nothing now that would prohibit him from doing this work outside. Which would mean a bigger bother or noise factor for the neighbors. He explained that he did everything he could to appease the neighbors. He noted that when he bought the property the Planning Commission lady Janice was sick, so he tried to call Patrick Meagher because he knew his father. He stated that neither one of them responded because at the time Patrick was also sick. He went ahead and talked to the Supervisor at the time, which he is sure nobody really likes because he is not around anymore. But, he told Mr. Lovelock that there was an abandoned piece of property here that he wanted to fix up and it was in dire need of remodeling. He asked Mr. Lovelock if that property was zoned for what it is used for right now. Mr. Lovelock responded "well it's there isn't it". He informed Lovelock that he wanted to expand on the property next door. Mr. Lovelock asked if it was a separate lot and he informed him that it is one piece of property. He was then told it would not be a problem, just do the site plan and bring it in here. He stated that the first site plan he brought in and went through the PUD with Patrick's dad and he understands PUD's probably better than most people. He brought to this Township a plan that would not look commercial at all and he asked for all the recommendations, siding treatments or whatever they wanted him to do on that site to please the neighbors. He did not get anything but denial, denial and denial. Now he is listening and he wants to do an extension of his business. He stated that a member of the Planning Commission and the Township Board commented that he imagined that if he went for a walk he would not want to look at that building. He could not believe what he was hearing from his Florida residence, he is paying over \$10,000 a year for this piece of property and he does not even make \$10,000 a year profit on that car wash. He wanted to expand the business and do something very subtle and unique only to get shot down. He stated that if they shoot this down, he is not going to make any threats to anyone, but at this point he can put an Advanced Auto Parts store, a fruit market, or a grocery store over there and they could not do anything about it because

it is a C-1 district and the building size would be exactly the same. Originally he wanted a bigger building to bring in the million dollar RV's to detail them and clean them out, but they did not like that because it was 32' tall. So he went down after talking to his architect and was told he could build the smaller building. So he downsized and if tomorrow he could put up the same size building for another use, he would not even need to be in front of the board. He just wants them to look at this with an open mind and to what he is bringing to the table. He claimed that he met with Patrick and Jonathon and was misled. He was told the PUD was the way to go only to get his negative comments back. He was waiting to just get comments to put more landscaping in or a picket fence or siding but instead they stated it was just too big. He stated that he has invested a half-million dollars on the property and he will do what he has to do, maybe build a spec home, but he did not want to do that.

Applicant stated that he thought that Mr. Bowen meant a spec building which is an option in a C-1 district. This way with the PUD they knew what they were getting. They downsized the building and changed the siding, they used stone. He explained in the PUD process usually an applicant submits something and there is some give and take and they make modifications which his client did.

Chairman Stepnak commented that it is a C-1 and unless his Planning knowledge escapes him there is C-1, C-2 and C-3 and C-3 is more intrusive. It is great as a local car wash for people on Sugarbush, Jefferson and Cotton get their cars washed over there. However, when an applicant states that they will bring vehicles in and more people into the neighborhood, then it is no longer a C-1 district. He understands that the building has been there for a long time and they did allow them the wall to make it look good, however, the applicant is trying to put a C-3 business in C-1 zoning. There is a reason for different zoning qualifications and he has a strong issue with going along with the PUD for this one use.

Applicant replied that Presbyterian Village was for one use and your comment about not attracting more customers to him is a fallacy because the first permitted use in the C-1 district is a liquor store or a party store and those facilities generally have a large volume of people coming in and out because they are making convenience buys and moving on. He stated that they probably will have more customers coming in and out with a greater volume of traffic.

Chairman Stepnak commented that bringing in RV's from St. Clair to get detailed. He stated that people are not going to come in from St. Clair to buy a bottle of beer or a pop. He stated that this is a C-1 zoning and basically the local people will use it but they are trying to put something in place that will attract additional traffic flow into the area and it would be a different hardship on the community.

Mr. Bowen stated that is what Cabela's is doing.

Chairman Stepnak replied that Cabela's is right by the freeway.

Applicant replied that Jefferson is a main road; it used to be a State highway.

Mr. Carr thanked the owner because he spoke with a lot of passion and he does not think it is misguided. He stated that he was going to suggest more landscaping to make it a little more residential. However, it sounded like the applicant tried to do that and it wasn't received very well. He feels that the car wash has been there a long time and he bought it on the premise that he would be able to expand so he does not really have too much of an issue with it.

There were no Public Comments.

Chairman Stepnak cautioned the board that they are looking at this with a new set of eyes; any comments that they have heard before this evening should not be taken into their decision making process. He stated that the way the Township Board voted on this or the way the Planning Commission voted on this should not be taken into account. He stated that they are a separate board and they can move independently on this matter.

Motion by Chairman Stepnak to deny ZBA Petition #2017-14 the PUD for JPB Car Wash. He stated that the board feels that its current existence is a grandfathered-in car wash and it should normally be in a C-3 zoning. He stated that the property is zoned C-1 for local use only. He commented that with this petition the additions to this facility would increase the traffic flow and cause hardship on to the community.

Supported by Mr. Klonowski

Ayes: Stepnak & Klonowski

Nays: Carr, Jones and Yaschen

Motion Failed

Mr. Yaschen requested a five minute break.

Chairman Stepnak called for a five minute break and he asked the board members to refrain from discussing the matter in the hallway.

Chairman Stepnak reconvened the meeting at 8:16 PM

Mr. Carr asked if the PUD would change that site to C-3?

Chairman Stepnak replied no, it does not. He stated that a PUD is different as opposed to going through the rezoning process; it would be a kind of quicker, faster process.

Mr. Carr asked what happens if he builds this....

Mr. Bowen stated that a PUD is a Planned Unit Development and with it what is on the site plan is the bible. He could have changed the building heights, put different exterior finishes on it and mandate different landscaping or even tell him what doors to use, but not once during this PUD process did anyone make any recommendations; they just decided to deny it. He thought that was absurd and why would anyone do that and just have to look at a block building. He was trying to bring in some continuity to the existing homes there. He stated that the noise level would not be any more than anybody is doing in their garage. He brought up the fact that he is only open to 6 or 7 o'clock depending on the weather. He stated that they would not use the high DA's; it would mostly be hand car washing or at the most an orbital. He stated that with the finishes on these types of cars, they do not want to see a rubbing wheel. He stated that a PUD gives them a lot of different latitudes; a C-1, C-2 and C-3 can all be combined into one PUD.

Mr. Carr asked if the person goes out of business what happens to the PUD?

Mr. Bowne stated that the PUD stays with the site. He explained that if he tears it down, then the property goes back to C-1.

Chairman Stepnak stated that a PUD gives the Township a little more leverage as to what can go in there at the site. He stated that they are obligated to the petitioner to make a decision on this matter.

Mr. DeMaster asked if there is no support for the motion, doesn't the motion fail?

Chairman Stepnak replied that they have to get four positive votes to move forward.

Mr. DeMaster stated that with the lack of four votes, doesn't it get automatically denied.

Chairman Stepnak stated that he believed that they need four Ayes or four Nays.

Motion by Chairman Stepnak to Table ZBA #2017-14 to the September 13, 2017 meeting.

Supported by Mr. Yaschen

Ayes: All

Nays: None

Motion Granted

Ms. Jones stated that she thought they should make a decision on the matter that evening.

Chairman Stepnak stated that they needed a motion to approve or deny and no one came forward.

Ms. Jones then stated that she would make the motion because nothing is going to change in two weeks and they are going to come back to the same thing and she does not think that is fair to the petitioner.

Chairman Stepnak withdrew his motion to Table ZBA #2017-14.

Supported by Mr. Yaschen.

Motion by Ms. Jones to approve ZBA Petition #2017-14 to approve the PUD.

Mr. Klonowski asked if they approve the Petition is what is in the PUD going to take place.

Chairman Stepnak stated that whatever was agreed upon prior like the site plan and the revised building would be approved.

Supported by Mr. Yaschen

Ayes: Carr, Jones and Yaschen

Nays: Stepnak & Klonowski

Motion Failed

Chairman Stepnak stated that they have no choice but to Table the matter. He commented that the only way to solve this may be to get two other individuals.

Motion by Chairman Stepnak to Table ZBA #2017-14 to the September 13, 2017 meeting.

Supported by Mr. Yaschen

Ayes: All

Nays: None

Motion Granted

Mr. Bowen asked if there would have been anything else he could have done to make this pass. He wondered if it was because of the buildings or the usage or what?

Chairman Stepnak stated that it would probably be the use of the property; it seems to be more intrusive to the area.

Mr. Anderson and Mr. Leonard rejoined the board at the table.

8. **OLD BUSINESS:**

There was no old business.

9. **NEW BUSINESS:**

There was no new business.

10. **APPROVAL OF MINUTES FROM PRIOR MEETING:**

Motion by Chairman Stepnak to approve the meeting minutes from June 14, 2017 with changes to the minutes which reflect a true record of the Motions.

Supported by Mr. Yaschen

Ayes: All

Nays: None

Motion Granted

8. **COMMENTS FROM THE FLOOR:**

Mr. DeMaster mentioned that if anyone is interested in attending the MAP conference this year they should let Jonathon Palin know as soon as possible.

9. **ADJOURNMENT:**

Motion by Mr. Yaschen to adjourn at 8:38 PM

Supported by Mr. Anderson

Ayes: All

Nays: None

Motion Granted

Marvin Stepnak, Chairman

Grace Mastronardi, Recording Secretary