

REQUEST

(VAR1903) Advantage Industries, 2196 Port Sheldon St., is requesting to have zero trees for landscaping/streetscape on Port Sheldon, a variance of 15 trees from the minimum of 15 trees required in Sec. 3.11, in an (I) Industrial district, on a parcel of land described as P.P. # 70-14-22-368-004 (-001, -002, -003), located at 2196 Port Sheldon St., Georgetown Township, Ottawa County, Michigan.

SITUATION

On March 7, 2019, Advantage Industries submitted an application for revised site plan approval to construct an addition. As in all cases, new site plan review includes all the current ordinances, including landscaping. The site plan was submitted and tentatively approved showing the correct number of trees (15) along Port Sheldon. The applicant had multiple conversations with Township staff requesting the elimination of the requirement of the trees based on a clear vision corner. Staff explained that no one, other than the Zoning Board of Appeals, has the authority to waive any of the ordinance requirements.

Note the language in Sec. 3.11 states that “Landscaping is viewed as a critical element contributing to the aesthetics, development quality, stability of property values, and overall character of the Township. Clearly the intention of the Zoning Ordinance is for the businesses to contribute to the aesthetics of the community.

Sec. 3.11 GREENBELTS AND PROTECTIVE SCREENING.

It is the intent of this provision to promote the public health, safety and welfare by establishing minimum standards for the design, installation, and maintenance of landscaping as greenbelt buffer zones between potentially incompatible uses and as streetscapes along public roadways. Landscaping is viewed as a critical element contributing to the aesthetics, development quality, stability of property values, and overall character of the Township. As such the following standards shall be met, as applicable.

Staff suggested that they contact a landscape architect to determine if there options for a type of tree that could be planted that would not grow to a size big enough to obstruct traffic. Staff also suggest that a landscape plan should be submitted showing some types of plantings that would stay closer to the ground to not obstruct the clear vision in order to “give” something comparable, if a variance was sought, for the ZBA to consider rather than the regular trees.

However, the applicant did not respond to either of those suggestions and rather just decided to submit an application for a variance from the requirement of the 15 trees along Port Sheldon, without proposing any other options. Below are the emails where the suggestions were made for them to contact a landscape architect to research other options including clustering or types of plantings, but they did not respond to that.

Requiring some type of landscaping, such as plantings close to the ground which would meet the intention of the ordinance while not obscuring traffic, could be required as a condition of approval if the variance was determined by the ZBA to meet the 7 standards and was determined to be granted.



Fri 3/22/2019 4:51 PM

Tom Miedema <tom@mmbsinfo.com>

RE: Advantage Industries

To Mannelle Minier

i You replied to this message on 3/22/2019 4:57 PM.

Mannelle

We have decided to file for a variance.

We will get you the paper work on Monday.

Tom Miedema
Miedema Metal Building Systems Inc.
3309 Hudson Trails Dr.
Hudsonville, MI 49426

Office – 616-896-1700
Mobile – 616-437-3858
www.mmbsinfo.com

From: Mannelle Minier [mailto:mminier@georgetown-mi.gov]
Sent: Friday, March 15, 2019 4:27 PM
To: Tom Miedema <tom@mmbsinfo.com>
Subject: RE: Advantage Industries

Sure. That is fine. Actually I have completed the review and other than the elevations being missing, everything is good. Providing the elevations can be a condition of approval. I will wait to hear from you on Monday to give the formal approval. Have you contacted a landscape architect about this? They may have some ideas or suggestions. Other sites likely have this same concern and there may be ways to handle it with species or clustering.



Tue 3/26/2019 3:31 PM

Tom Miedema <tom@mmbsinfo.com>

RE: Advantage Industries

To Mannelle Minier

Cc mmeadows@advind.com; Kirk Klynstra

i You replied to this message on 3/26/2019 3:32 PM.

From: Mannelle Minier [mailto:mminier@georgetown-mi.gov]
Sent: Tuesday, March 26, 2019 3:28 PM
To: Tom Miedema <tom@mmbsinfo.com>
Cc: mmeadows@advind.com; Kirk Klynstra <kklynstra@advind.com>
Subject: RE: Advantage Industries

I understand and certainly am not suggesting that the parking should be removed. However, with the great concern shown for adding the trees, it would seem that the concern should be extended to the parking which would also be sight-obscuring to those trucks leaving Center Industrial Dr.

The Township did allow the parking and would allow the trees now too. Like I suggested earlier, a landscape architect might be able to come up with a plan of types of trees and location of trees to have a less impact on the traffic.

Also, please see the email I sent right before this where Fred Keena suggested that the angle be redrawn based on a right or through turn from Center Industrial Dr., rather than a left hand turn. There is no reason the trucks couldn't turn right and go out to Chicago Dr.

Please address redrawing the angles and all of this information and emails will be presented to the ZBA.

Thanks.

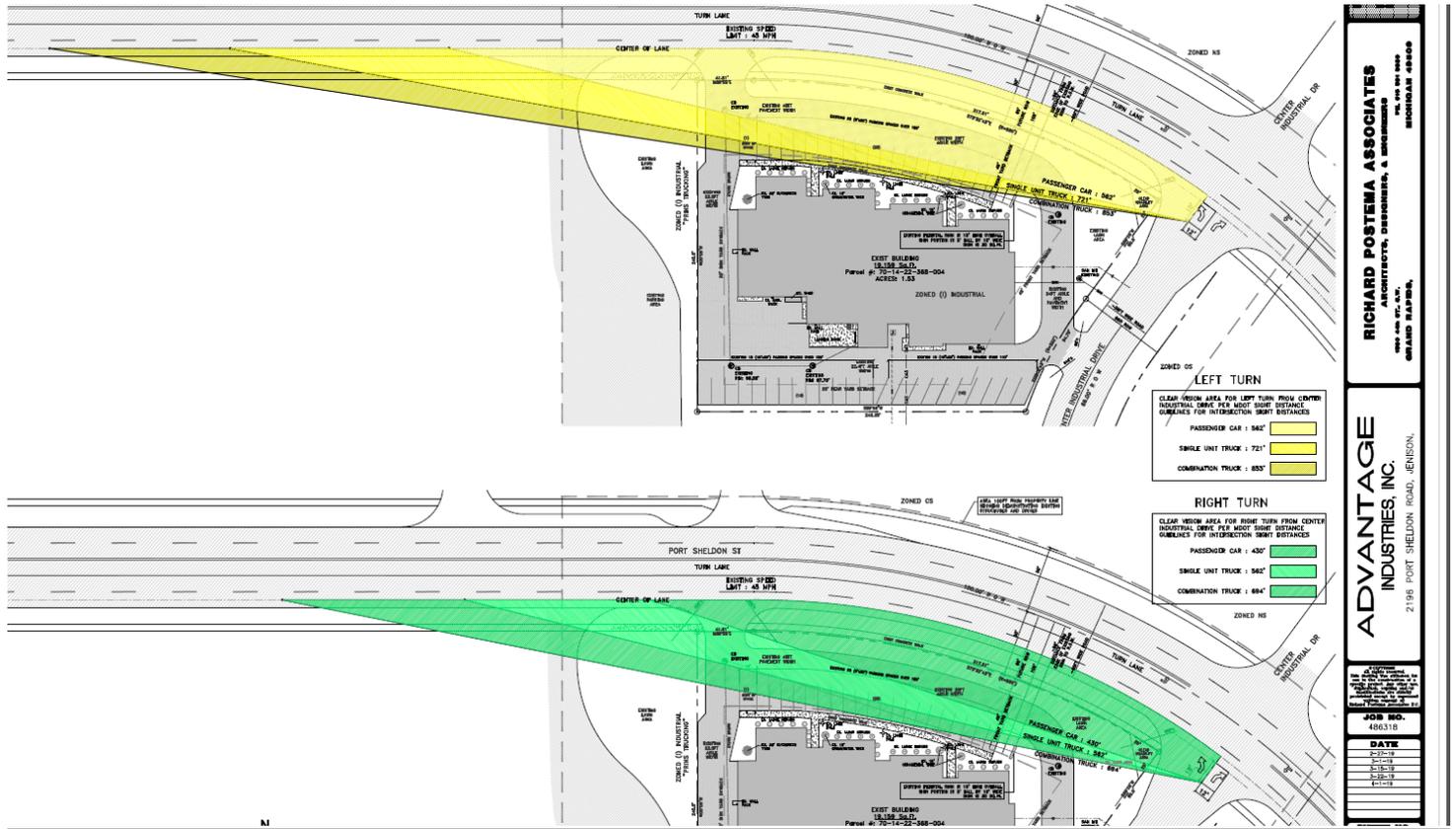
Mannelle Minier | Zoning Administrator/Elections Director
 1515 Baldwin St. P.O. Box 769
Jenison, MI 49429-0769
(616) 226-6003

ANOTHER POINT

The applicant has submitted a copy of a traffic study which states and shows that the clear vision corner of this curving intersection affects a greater distance than a regular 90 degree intersection. The business would like a variance from the requirement of the landscaping along Port Sheldon.

However, note that in both of these studies, **the parking in front of the building** is shown to obscure traffic on Port Sheldon. Therefore, if they have a concern for visibility, maybe the parking should not be there because the height of many pickups and SUV's would be much taller and much larger than a tree. If trees in this area pose a danger to obstruct traffic, the study they presented also shows that the parking in front of the building poses the same danger.

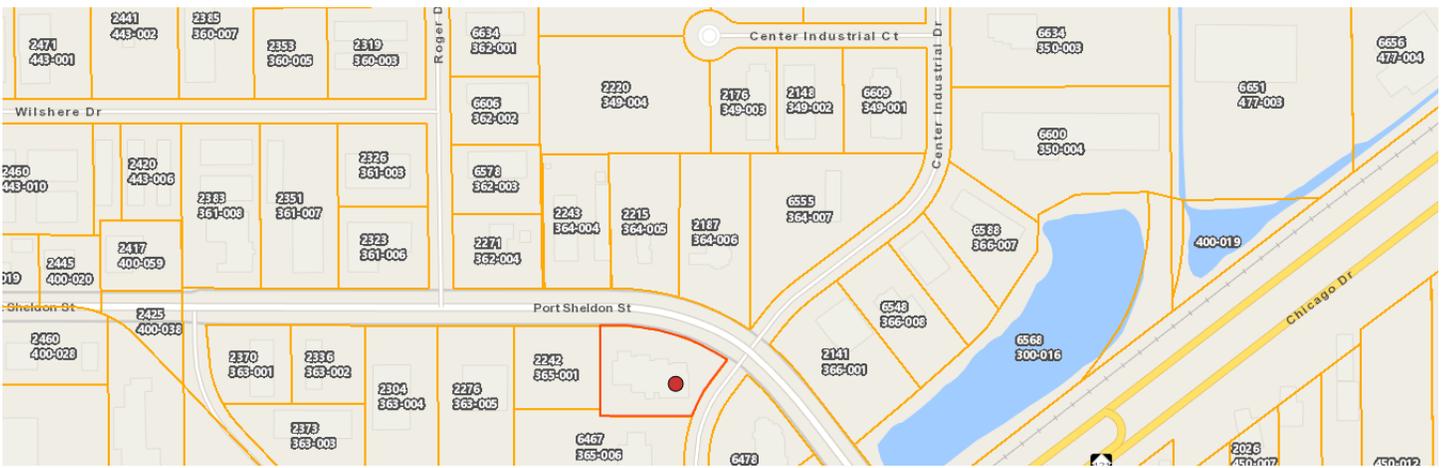
Further, no other options were provided by the applicant for ways to meet the intent of the ordinance requirement for landscaping, such as shorter shrubs or ground cover plantings.



HISTORY OF THE ZBA DECISIONS

Township records from as far back as 1974 show that **no variances were ever granted from the streetscape requirement or to have less trees than required.**

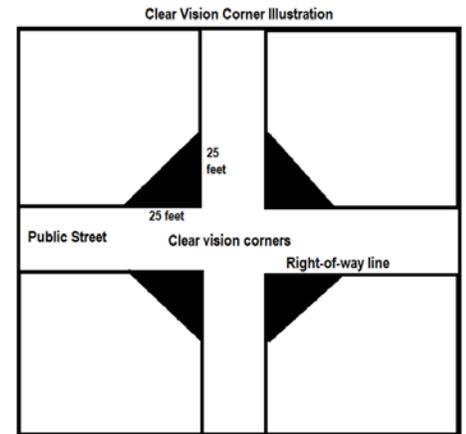
MAPS SHOWING LOCATION OF SITE



RELEVANT ORDINANCE SECTIONS

Sec. 3.10 CLEAR VISION.

- (A) No plantings shall be established or maintained on any corner lot which will obstruct the view of a vehicle driver approaching the intersection. Such unobstructed corner shall mean a triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines or in the case of a rounded property corner from the intersection of the street property lines extended. This shall not prohibit the planting of shrubbery which will not achieve a height at maturity of more than thirty (30) inches.
- (B) No plantings shall be established in any required front yard which, in the opinion of the Zoning Administrator, will obstruct the view from driveways or adjacent roadways of vehicles entering or leaving the site.
- (C) No plantings, landscaping, fences, or other structures or obstacles, except mailboxes, shall be placed in any road right-of-way.



Sec. 3.11 GREENBELTS AND PROTECTIVE SCREENING.

It is the intent of this provision to promote the public health, safety and welfare by establishing minimum standards for the design, installation, and maintenance of landscaping as greenbelt buffer zones between potentially incompatible uses and as streetscapes along public roadways. Landscaping is viewed as a critical element contributing to the aesthetics, development quality, stability of property values, and overall character of the Township. As such the following standards shall be met, as applicable.

- (B) Streetscapes.
- (1) It is the purpose of streetscapes to provide visual screening of parking areas and buildings along public streets; to separate public right-of-way from private property; to define points of ingress and egress; and to enhance the aesthetics of the community.
 - (2) Where required by the approving authority as designed in Chapter 19, the streetscape shall contain only living materials and planting beds, except for approved sidewalks, bikepaths, signs, driveways, and essential services. Wood chips, stone bark, or similar materials may be permitted to accent and complement the living plant material, but shall not comprise the majority of the surface area of the streetscape.
 - (3) The streetscape shall contain one (1) tree for each twenty-five feet of frontage or fraction thereof, measured along each individual street right-of-way line (not totaling the frontage of multiple street lines for the calculation), including driveway openings. Up to one-third (1/3) of the required trees may be evergreens (unless the approving authority as designed in Chapter 19 finds that a larger percentage of evergreens will provide better screening or better enhance the aesthetics of the community). The remainder shall be deciduous canopy or ornamental trees.
 - (4) All required deciduous trees shall be a minimum of two (2) inch caliper and evergreens shall be a minimum of five (5) feet high at time of planting.
 - (5) Such trees need not be evenly spaced along the street, but may be clustered or staggered to provide greater aesthetic interest.
 - (6) Landscaping materials and arrangement shall ensure adequate sight visibility for motorists, adequate clearance for pedestrians and vehicles, and accessibility to fire hydrants.
 - (7) In addition to the required trees, other landscaped elements such as shrubbery, hedges, and flower beds are encouraged in order to create an attractive foreground for buildings and a pleasant streetscape along public thoroughfares within the community.
 - (8) All trees and other landscaped areas within the greenbelt shall be maintained in a healthy and growing condition, neat and orderly in appearance.

REVIEW –

The standards that have objectively been met are noted with an “X” in the “yes” column and the standards that have objectively not been met are noted with an “X” in the “no” column. Any standards left blank could not be objectively met or not met and therefore must be determined by the ZBA.

Variance ID	VAR1903		
Applicant	Advantage Industries		
Address	2196 Port Sheldon Ct.		
Request	Streetscape along Port Sheldon		
Date	For May 22, 2019 meeting		
#	YES	NO	CONDITIONS (Chapter 28.11-C)
1		X	Granting the variance(s) will be in the public interest and will ensure that the spirit of the Ordinance shall be observed.
2	X		Granting the variance shall not permit the establishment within a district of any use which is prohibited, nor shall any use variances be granted.
3			That there are practical difficulties in complying with the standards of the Zoning Ordinance resulting from exceptional, extraordinary, or unique circumstances or conditions applying to the property in question, that do not generally apply to other property or uses in the vicinity in the same zoning district; and have not resulted from the adoption of this Ordinance.
4			That the granting of such variance will not be of substantial detriment to adjacent properties or improvements in the vicinity; or, that the application of conditions of an approved variance will eliminate or sufficiently mitigate potential detrimental impacts.
5		X	That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.
6		X	That granting such variance will not cause any existing non-conforming use, structure, or condition to be increased or perpetuated, contrary to the provisions of Chapter 27 of this Ordinance, except in accordance with Section 27.12.
7		X	That the variance is not necessitated as a result of any action or inaction of the applicant.

FINDINGS

The ZBA should determine if standards 3 and 4 are met and if they concur with the review presented.

Standard #1 - Granting the variance will be in the public interest and will ensure that the spirit of the Ordinance shall be observed.

NOT MET. The spirit of the ordinance is stated below and allowing the business to have NO streetscape would not meet the intention or spirit of the ordinance.

HOWEVER, an option exists for a determination to be made that **this standard was met** if a condition of approval was added that some types of trees, shrubs, plantings or landscaping was required to be provided lower to the ground or less dense than a tree that wouldn't obscure traffic visibility. Such a plan should provide plantings comparable to the required 15 trees.

Sec. 3.11 GREENBELTS AND PROTECTIVE SCREENING.

It is the intent of this provision to promote the public health, safety and welfare by establishing minimum standards for the design, installation, and maintenance of landscaping as greenbelt buffer zones between potentially incompatible uses and as streetscapes along public roadways. Landscaping is viewed as a critical element contributing to the aesthetics, development quality, stability of property values, and overall character of the Township. As such the following standards shall be met, as applicable.

Note that staff had suggested that they contact a landscape architect to determine if there options for a type of tree that could be planted that would not grow to a size big enough to obstruct traffic. Staff also suggest that a landscape plan should be submitted showing some types of plantings that would stay closer to the ground to not obstruct the clear vision in order to "give" something comparable for the ZBA to consider rather than the regular trees.

However, the applicant did not respond to either of those suggestions and rather just decided to submit an application for a variance from the requirement of the 15 trees along Port Sheldon.

Standard #2 - Granting the variance shall not permit the establishment within a district of any use, which is prohibited, nor shall any use variances be granted.

MET.

Standard #3 - That there are practical difficulties in complying with the standards of the Zoning Ordinance resulting from exceptional, extraordinary, or unique circumstances or conditions applying to the property in question, that do not generally apply to other property or uses in the vicinity in the same zoning district; and have not resulted from the adoption of this Ordinance.

Appears to be met for the 15 trees which are required due to the curving road and site visibility for traffic.

However, NO practical difficulties are present that prevent a condition of approval being added that SOME TYPE of landscaping was provided that didn't obscure sight visibility for traffic. Nothing presents practical difficulties in providing some type of landscaping along this length of Port Sheldon.

Standard #4 - That the granting of such variances will not be of substantial detriment to adjacent properties or improvements in the vicinity; or, that the application of conditions of an approved variance will eliminate or sufficiently mitigate potential detrimental impacts.

The ZBA will have to determine if this standard is met. However, note that in the history of variances since 1974, no records exist of any variances being granted to waive the landscape requirement.

Again, the possibility exists for some type of landscaping to be provided that does not obscure the sight visibility for traffic.

Note that all other business are required to have landscaping as stipulated in the ordinance. Therefore, it could be considered detrimental to the neighboring properties that have provided the landscaping if none is provided here. The ZBA has the authority to require some type of landscaping along this stretch of Port Sheldon that would not obscure sight visibility for traffic. The situation would be fairer to the other businesses in the vicinity who have provided landscaping if something was required as a condition of approval.

Standard #5 - That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.

NOT MET. In fact, if the ZBA grants this variance without requiring some type of landscaping that wouldn't obscure sight visibility for traffic (in which case, the determination could be made that this standard is met), this property owner would have a property right that no others in the vicinity have. Also, under History, note that no other such variances were granted.

Standard #6 - That granting such variance will not cause any existing non-conforming use, structure, or condition to be increased or perpetuated, contrary to the provisions of Chapter 27 of this Ordinance, except in accordance in Section 27.12.

NOT MET. The fact that there is no landscaping is a nonconforming element which current exists. There are possibilities for some type of landscaping to be provided that wouldn't obscure sight visibility for traffic, in which case the determination could be made that this standard is met.

Standard #7 - That the variance is not necessitated as a result of any action or inaction of the applicant.

NOT MET. Although the curving street is the reason for the variance request and the curve in the street does not result from action of the applicant, the applicant applied for site plan approval to construct an addition and that initiated the requirement for the streetscape with 15 trees. However, the possibility exists for the determination to be made that this standard is met if some form of landscaping is provided that does not obscure the sight visibility for traffic.

SUMMARY AND DISCUSSION

It appears that the curve of the Port Sheldon as it veers east to southeast as it approaches Center Industrial Dr. presents unusual circumstances that may hinder a vehicle stopped at Georgetown Industrial Dr. waiting to enter onto Port Sheldon if 15 trees as required in the ordinance were planted along Port Sheldon (deciduous with a 2 inch caliper or evergreens a minimum of 5 feet tall at the time of planting). A clear vision problem could exist for the driver of the vehicle seeing other vehicles traveling east to southeast on Port Sheldon. **Note that if this situation would create a problem, as per the study presented by the application, the problem already exists with the parking in this clear vision area.**

However, NOTHING prevents some type of landscaping to be added (in such amounts that would compensate for the 15 trees) because options exists for planting to be closer to the ground or trees that are not sight-obscuring.

If the ZBA determines that the standards of the ordinance would be met if some type of plantings would be added, a condition of approval could be added requiring plantings. Since the applicant did not research or present any alternatives, the ZBA has the authority to either designate which kinds of plantings and in what amounts, or require the applicant to prepare and present a plan to either be approved by the ZBA at a next meeting or by staff in the course of the site plan review and approval.

OPTION FOR MOTION

The ZBA should determine if the seven standards of the ordinance have been met in order to grant a variance. If even one standard is not met, as per Sec. 28.11(C), the ZBA does not have the authority to grant the variance.

Motion: To adopt the staff report as finding of fact and to _____ (approve or deny) variance (VAR1903) Advantage Industries, 2196 Port Sheldon St., to have zero trees for landscaping/streetscape on Port Sheldon, a variance of 15 trees from the minimum of 15 trees required in Sec. 3.11, in an (I) Industrial district, on a parcel of land described as P.P. # 70-14-22-368-004 (-001, -002, -003), located at 2196 Port Sheldon St., Georgetown Township, Ottawa County, Michigan.; based on the finding that the request _____ (meets or does not meet) the seven standards of the ordinance. (If applicable) Specifically, standards (_____) have been _____ (met or not met) and the reasons are _____.

Failure to comply with the variance as granted results in a violation of the Zoning Ordinance section that is the subject of the request, which is Sec. 3.11.

Option for condition:

If the ZBA determines that the seven standards in Sec. 28.11 are met ONLY if a condition of approval is added that some type of landscaping is provided, the following is offered.

A condition of approval is added based on the determination that the seven standards of the ordinance are met only if some type of landscaping is provided. Therefore, the variance is granted to waive the requirement of the 15 trees along Port Sheldon conditioned upon landscaping being added in amounts equal to the 15 trees, but of such a type to not obscure sight visibility.

- a. The types of landscaping to be provided are _____ in the amount of _____.
- Or
- b. The applicant shall present a plan to the ZBA to be reviewed at a subsequent meeting (or could state to be reviewed administratively by staff). Such plan shall be provided approved prior to the site plan for the addition being approved because such landscaping shall be added to the site plan.