

3. HEARING OF CASES

- A. **VARIANCE REQUEST, HARRY KWON, 38921 DEQUINDRE** – A variance from the requirement that the required obscuring wall along the west property line be constructed of common or face brick, or of poured or precast masonry or decorative block, in order to maintain the existing wood fence.

SECTION: 39.10.03



E WATTLES

DEQUINDRE

WARDLOW

BIRCHDALE

977

3976

2950

3961

3960

38921

3945

3944

38865

3928

38815

3 2884

3912

CITY OF TROY

BOARD OF ZONING APPEALS APPLICATION

CITY OF TROY PLANNING DEPARTMENT
500 W. BIG BEAVER ROAD
TROY, MICHIGAN 48084
PHONE: 248-524-3364
FAX: 248-524-3382
E-MAIL: planning@troymi.gov
<http://www.troymi.gov/Planning>



FILE NUMBER _____
LOCATION _____
REGULAR MEETING FEE (\$150.00) _____
VARIANCE RENEWAL (\$35.00) _____
SPECIAL MEETING (\$750.00) _____

NOTICE TO THE APPLICANT

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

A COMPLETE APPLICATION THAT MEETS ZONING ORDINANCE REQUIREMENTS IS PLACED ON THE NEXT AVAILABLE AGENDA OF THE BOARD OF ZONING APPEALS.

- ADDRESS OF THE SUBJECT PROPERTY: 38921 DEQUINDRE ROAD
 LOT NO. 23 SUBDIVISION EYSTER'S DEQUINDRE FARMS
 LOCATED ON THE West SIDE OF (ROAD) DEQUINDRE
 BETWEEN WATTLES AND BIG BEAVER
 ACREAGE PROPERTY: *Attach legal description if this an acreage parcel*
- PROPERTY TAX IDENTIFICATION NUMBER(S): 88-20-24-226-087
- ZONING ORDINANCE SECTIONS THAT ARE APPLICABLE TO THIS APPEAL: 0-1
- REASONS FOR APPEAL: *On a separate sheet, please describe the reasons justifying the requested action.*
- HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? If yes, provide date(s) and particulars: No

6. APPLICANT INFORMATION:

NAME HARRY KWON
COMPANY TROY EDUCATIONAL SERVICES, LLC
ADDRESS 38921 DEQUINDRE ROAD, #A
CITY TROY STATE MI ZIP 48083
TELEPHONE (248) 457-0640
E-MAIL KWON.HARRYH@GMAIL.COM

7. RELATIONSHIP OF APPLICANT TO THE OWNER OF THE SUBJECT PROPERTY:

SELF

8. OWNER OF SUBJECT PROPERTY:

NAME _____
COMPANY _____
ADDRESS _____
CITY _____ STATE _____ ZIP _____
TELEPHONE _____
E-MAIL _____

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

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

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

SIGNATURE OF APPLICANT *Harry Kwon* DATE Feb 11, 2011
PRINT NAME: HARRY KWON

SIGNATURE OF PROPERTY OWNER *Harry Kwon* DATE Feb 11, 2011
PRINT NAME: HARRY KWON

Troy Educational Services, LLC
Troy East & Bloomfield S. KUMON Math & Reading Center
38921 Dequindre Road, Ste. A
Troy, MI 48083
(p) 248.457.0640 (f) 248.457.0641

Justification for the Variance Appeal Application

As attached as Encl. #2, City had granted the Variance in December 14th 2004, after SUNOCO company denied the request to erect a concrete wall, as Encl. #4, after the initial variance request, Encl. #3, had been denied.

As a consequence, a wooden fence had been erected to satisfy all the parties involved. The variance granted was the result of circumventing the denial by the ROW owner, SUNOCO, of disallowing a concrete structure on the ROW.

Ever since, the Variance had been renewed every two(2) years just paying the renewal fee. At this juncture, I am requesting a permanent relief of the variance because we have to comply with the demand by the owner of the ROW on my premises.

Your thoughtful consideration will be greatly appreciated.

Harry Kwon
Owner,
Troy Educational Park,
38921 Dequindre Road
Troy Michigan 48083

- Encl. #1: Mortgage Survey of the Land**
- Encl. #2: Variance Renewal Letter from the City, dated December 14, 2004**
- Encl. #3: Revised Variance request dated November 12, 2003.**
- Encl. #4: Denial Letter from SUNOCO, disallowing a concrete wall, dated October 24, 2003**
- Encl. #5: Variance Denial Letter from the City, dated September 23, 2003**

Encl #1

MORTGAGE SURVEY

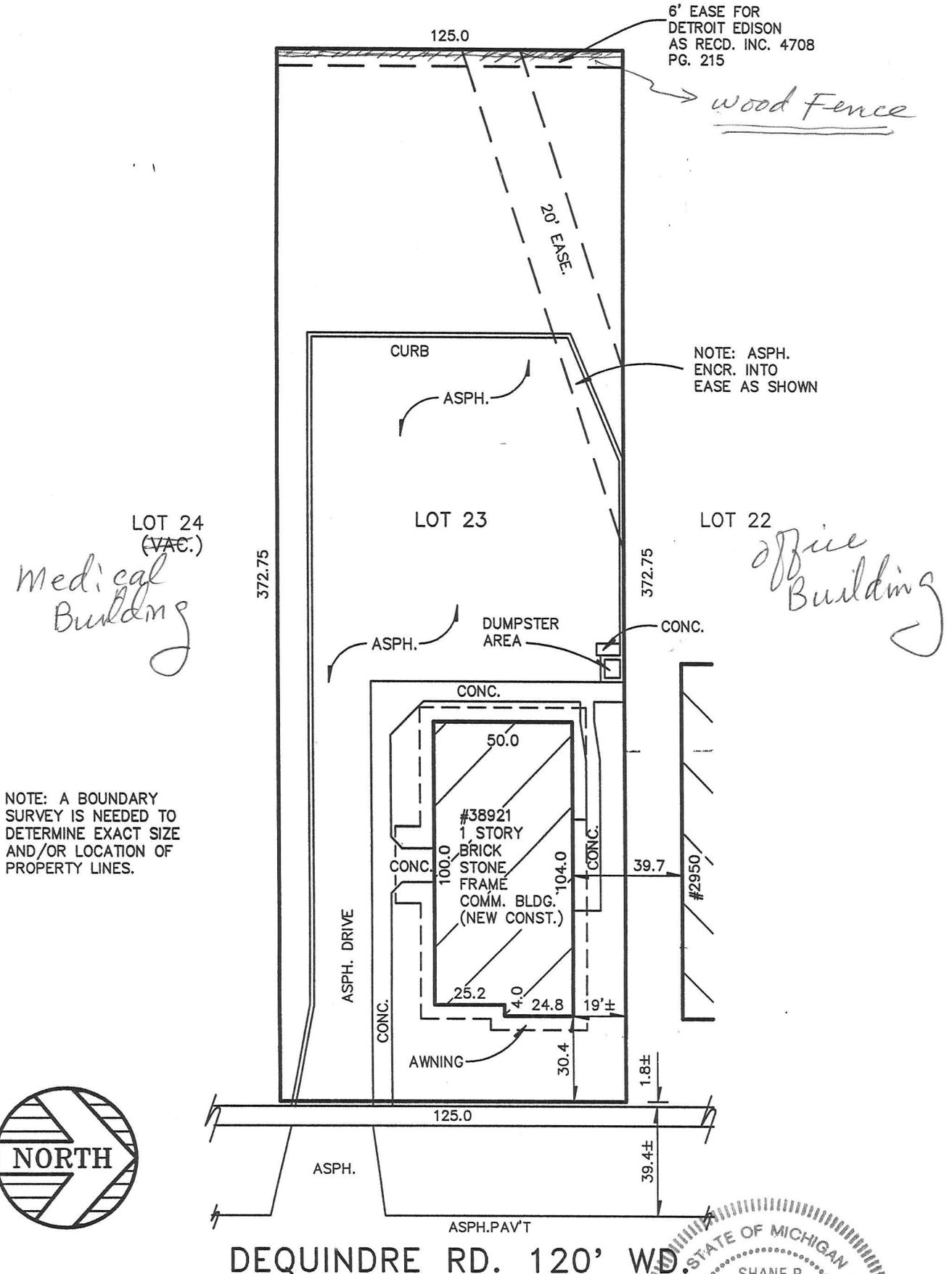
CERTIFIED TO

Comerica Bank

Applicant: HARRY H. AND SUNNIE KWON

Property Description:

Lot 23; EYSTER'S DEQUINDRE FARMS SUBDIVISION NO. 5, being a part of the N.E. 1/4 of Sec. 24, T.2 N., R.11 E., Troy Twp. (now City of Troy), Oakland County, Michigan, as recorded in Liber 55 of Plats, Page 58 of Oakland County Records.



NOTE: A BOUNDARY SURVEY IS NEEDED TO DETERMINE EXACT SIZE AND/OR LOCATION OF PROPERTY LINES.



DEQUINDRE RD. 120' WD

WE HEREBY CERTIFY that we have made a mortgage survey of the property herein described and that the buildings and improvements are located as shown and that there are no visible encroachments upon said property unless noted and shown. NOTE: This survey is for MORTGAGE purposes only and no property corners were set. Do not use for establishing fence or building lines.

Certified to all Title Companies.

Shane P. Azbell

JOB NO: 03-24424

SCALE: 1"=50'

DATE: 08/12/03

DR BY: MGD



KEM-TEC
LAND SURVEYORS

22556 Gratiot Avenue
Eastpointe, MI 48021-2319
(586) 772-2222
FAX: (586) 772-4048



KEM-TEC WEST
LAND SURVEYORS

800 E. STADIUM
Ann Arbor, MI 48104-4355
(734) 994-0888 * (800) 433-6133
FAX: (734) 994-0887



Encl # 2

500 West Big Beaver
Troy, Michigan 48064
Tel: (248) 524-0851
www.cityoftroy.org

December 14, 2004

- Area Code (248)
- Assessing 524-3317
- Code Inspections 524-3343
- Code Operations 524-3365
- City Clerk 524-3348
- City Manager 524-3320
- Community Affairs 524-3347
- Engineering 524-3383
- Finance 524-3311
- General Administration 524-3379
- Human Resources 524-3339
- Information Technology 524-3279
- Law 524-3326
- Library 524-3345
- Parks & Recreation 524-3364
- Planning 524-3364
- Public Administration 524-3363
- Public Works 524-3370
- Purchasing 524-3335
- Real Estate & Development 524-3398
- Treasurer 524-3334
- General Information 524-3300

Harry & Sunnie Kwon
2135 Alfred
Troy, MI 48085

RE: Variance Request – 38921 Dequindre

Mr. & Mrs. Kwon:

The variance granted to you for relief to install a 6' high wood fence in lieu of a 6' high masonry screen wall for a 35' long portion of the west property line where the property borders residential property, is scheduled for renewal in January.

If you wish to continue this variance, the **\$25.00** renewal fee must be paid prior to the meeting. If this payment is made by mail, be sure to include the address of the site requiring approval.

Your request will be **Item #2** and will appear on the Board of Zoning Appeals agenda of **Tuesday, January 18, 2005**. The meeting convenes at 7:30 p.m. in Council Chambers, Troy City Hall, 500 W. Big Beaver Road, Troy, Michigan.

Renewals are acted on as part of a consent agenda, however, any Board member may pull the item in order to address any questions he or she may have. Failure to appear before the Board could result in denial of your variance renewal.

Sincerely,

Mark Stimac
Director of Building & Zoning

MS/pp

Encl #3



E. TROY / BLOOMFIELD HILLS CENTER

E. Troy/Bloomfield Hills Center
~~2885 East Long Lake, #B • Troy, MI 48098~~
~~Tel: (810) 879-1658 (C) • Fax: (810) 879-5901~~

RECEIVED

NOV 12 2003

BUILDING DEPARTMENT

Mr. Mark Stimac
Director, Building & Zoning
City of Troy
500 W. Big Beaver
Troy, Michigan 48084

November 12, 2003

**RE: Variance Request - Troy Professional Park
38921 Dequindre**

Dear Mark,

City has denied my request for the relief of the Zoning Ordinance in September on the basis of the ROW contract on the easement by SUNOCO submitted by me to the Board.

Since then, Sunoco has produced a Right Of Way contract attached to the Deed of my property, which was unknown to me at the time of submission of the original ROW contract from the Register of Deed office for the August/September Board Hearing.

In light of the newly found the ROW contract, Sunoco is demanding that there will be no permanent structure on the easement.

I am requesting City to reconsider my request of the Variance on the City Ordinance which has been submitted, heard and been denied in September Hearing because of the incorrect information.

Your expedited effort in this matter will be greatly appreciated.

Regards,

Harry & Sunnie Kwon
Troy E KUMON Math & Reading Center
38921 Dequindre Road, Suite A
Troy, MI 48083
(p) 248.457.0640
(f) 248.457.0641
(m) 248.835.6740

- Attachment: 1) Letter of Denial Notice from the City,
2) Letter from Sunoco Logistics demanding no permanent structure.
3) Copy of the ROW Easement contract Sunoco sent us

Encl # 4-1



Sunoco Logistics



Sunoco Pipeline L.P.
Eastern Area Headquarters
525 Fritztown Road
Sinking Spring, PA 19608

October 24, 2003

Mr. Harry Kwon
38921 Dequindre Road
Troy, MI 48307

VIA FAX & U.S. MAIL

Re: Troy Professional Park
Transit and Storage Company 1942 Easement
Troy Township, Oakland County, MI
16" CMAR-CTOL, MAC-426A,
SPL FILE # 20021279

Dear Mr. Kwon:

This is in follow up to yesterdays telephone conference call with myself; Russell Jones, Manager of Right-of-Way for Sunoco Pipeline L.P. (SPLP); and SPLP's later discussion with the City of Troy Attorney, Mr. Alan Montgny concerning the proposed concrete wall construction on the subject project. SPLP can not allow barrier walls that encroach within and across SPLP's pipeline right-of-way and easement.

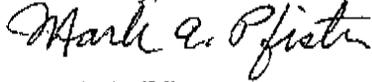
SPLP has learned that at your variance request hearing in September 2003, you produced only the original 1913 Agreement and that the City Zoning Board denied your request for a variance. The enclosed companion Agreement dated June 2, 1942, between Transit and Storage Company; and Nickolas J. Fleming, et als strictly forbids any restriction to SPLP's right of access to maintain the pipeline. Although, in SPLP's opinion the 1913 Agreement alone restricts such interference with the easement rights, the 1942 Agreement further outlines the limitations to which the easement may be burdened. Mr. Montgny advised us that you may submit the 1942 Agreement to the Zoning Board and for reconsideration of your request for a variance. Be advised that SPLP must first review and approve any alternative design plans prior to submittal of the same to the City of Troy.

At this time, no work will be allowed in SPLP's right-of-way and easement until we have approved your alternate design plans. Once SPLP has approved alternate design plans and the City of Troy has granted your variance for the same, formal approval of your project from SPLP will be in the form of an Amended Right of Way Agreement. The agreement must be fully signed and notarized before any work is permitted in SPLP's right of way and easement.

Mr. Harry Kwon
October 24, 2003
Page 2 of 2

Should you have any question concerning this matter please feel free to contact me at 610-670-3289 or through my email address MAPfister@sunocologistics.com.

Sincerely,



Mark A. Pfister
Right of Way Specialist

cc: Mark Stimac - City of Troy, Director of Building and Zoning
Alan Montgny - Attorney for the City of Troy
Russell Jones - SPLP Montello
Chet Kehs - SPLP Montello
Pete Heinrich - SPLP Inkster
Crestina Torrao - SPLP Inkster

Encl #5



September 23, 2003

500 West Big Beaver
Troy, Michigan 48064
Fax: (248) 524-0851
www.ci.troy.mi.us

Harry & Sunnie Kwon
2136 Alfred
Troy, MI 48085

Area code (248)

Assessing
524-3311

RE: Variance Request – 38921 Dequindre

Bldg Inspections
524-3344

Mr. & Mrs. Kwon:

Bldg. Operations
524-3368

Your request for relief of the Zoning Ordinance was heard before the Board of Zoning Appeals on Wednesday, September 17, 2003.

City Clerk
524-3316

The following is from the minutes of that meeting:

City Manager
524-3330

MOVED, to deny the request of Harry & Sunnie Kwon, 38921 Dequindre, for relief of the required screen wall for a 35' long portion of the west property line where the property borders residential zoned property.

Community Affairs
524-1147

Engineering
524-3383

- Determination of City Attorney's office that "right of way" agreement does not prohibit the construction of a structure on this easement.
- Petitioner has not demonstrated a hardship with this land.

Finance
524-3411

Fire-Administration
524-3419

Human Resources
524-3339

Yeas: All – 7

Information Technology
619-7279

MOTION TO DENY REQUEST CARRIED

Law
524-3320

Library
524-3545

Parks & Recreation
524-3484

Planning
524-3364

MS/pp

Police-Administration
524-3443

Public Works
524-3370

Purchasing
524-3338

Real Estate & Development
524-3498

Treasurer
524-3334

General Information
524-3300

Mark Stimac
Director of Building & Zoning



ITEM #2 – con't.

MOTION TO APPROVE RENEWAL REQUESTS CARRIED

ITEM #3 – RENEWAL REQUESTED. HARRY & SUNNIE KWON, 38921

DEQUINDRE, for relief to maintain a 6' high wood fence in lieu of a 6' high masonry screen wall required by Section 39.10.01 for a 35' long portion of the west property line where the property borders residential property.

Mr. Stimac explained that the petitioners are requesting renewal of a variance granted by this Board to maintain a 6' high wood fence in lieu of a 6' high masonry screen wall for a 35' long portion of the west property line where the property borders residential zoned property. This item last appeared before this Board at the meeting of January 2005 and was granted a three-year renewal. Conditions remain the same and we have no complaints or objections on file.

MOVED, to grant Harry & Sunnie Kwon, 38921 Dequindre, a three-year renewal of relief to maintain a 6' high wood fence in lieu of a 6' high masonry screen wall as required by Section 39.10.01 for a 35' long portion of the west property line where the property borders residential property.

- Conditions remain the same.
- There are no complaints or objections on file.

ITEM #4 – RENEWAL REQUESTED. FRANCO MANCINI, 6693 ROCHESTER ROAD (PROPOSED ADDRESS), for relief of the Ordinance to construct a new one-story office building adjacent to Residential Zoned property without a screen wall as required by Section 39.10.01.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a new one-story building adjacent to Residential Zoned property without a screen wall as required by Section 39.10.01. This item last appeared before this Board at the meeting of January 16, 2007 and was granted approval for one year. This building has not been constructed at this time therefore an approval for one additional year is suggested.

MOVED, to grant Franco Mancini, 6693 Rochester Road a one-year renewal of relief to construct a new one-story office building adjacent to Residential Zoned property without a screen wall as required by Section 39.10.01.

- One-year time frame will give the Board the opportunity to determine if a screen wall would be more effective.
- One-year time frame will give the Board the opportunity to see the final construction of the building.
- One-year time frame will give residents in the area the chance to determine if the natural vegetation will provide enough screening.

ITEM #6 – con't.

- This site plan addresses both the safety concerns and integrity of this corner.

Yeas: All – 7

MOTION TO APPROVE VARIANCES CARRIED

ITEM #7 – INTERPRETATION REQUESTED. JOHN PITRONE, OF THE HAYMAN COMPANY, 5700 CROOKS, SUITE 219, for an interpretation that the proposed use of an office space is permitted in the R-C Zoning District.

Mr. Stimac explained that he had received a written request from Honigman Miller Schwartz & Cohn LLP, representing Mr. Pitrone asking that this request be withdrawn.

Motion by Courtney
Supported by Gies

MOVED, to accept the request for withdrawal of Honigman Miller Schwartz & Cohn LLP, representing Mr. Pitrone of the Hayman Company, 5700 Crooks, Suite 219, for an interpretation that a proposed use of an office space is permitted in the R-C Zoning District.

Yeas: All – 7

MOTION TO ACCEPT WITHDRAWAL REQUEST CARRIED

ITEM #8 (ITEM #2) – RENEWAL REQUESTED. HARRY & SUNNIE KWON, 38921 DEQUINDRE, for relief to maintain a 6' high wood fence in lieu of a 6' high masonry screen wall required by Section 39.10.01 for a 35' long portion of the west property line where the property borders residential property.

Mr. Stimac explained that the petitioners are requesting renewal of a variance granted by this Board to maintain a 6' high wood fence in lieu of a 6' high masonry screen wall for a 35' long portion of the west property line where the property borders residential zoned property. This item last appeared before this Board at the meeting of January 2004 and was granted a one-year variance to allow the Board to study both the appearance and need for maintenance of the fence installed. Conditions remain the same and we have no complaints or objections on file.

Mr. Kwon was present and stated that he had nothing to add.

Motion by Courtney
Supported by Fejes

ITEM #8 (ITEM #2) – con't.

MOVED, to grant Harry & Sunnie Kwon, 38921 Dequindre, a three (3) year renewal of relief to maintain a 6' high wood fence in lieu of a 6' high masonry screen wall required by Section 39.10.01 for a 35' long portion of the west property line where the property borders residential property.

- To allow enough time for the adjacent subdivision to be constructed.
- To make sure that maintenance is kept up on this fence.

Yeas: All – 7

MOTION TO GRANT RENEWAL FOR A PERIOD OF THREE (3) YEARS CARRIED

Mr. Hutson asked if this variance could be made a permanent variance because of the fact that this property is on an easement and Sun Oil will not allow any type of permanent structure to be put in this location. Mr. Stimac explained that Section 43.76.00 of the Ordinance requires that a variance on a screen wall be established for a period of three (3) years first, and after the initial three (3) years it could then be changed to a permanent variance. Mr. Stimac also said that one of the reasons for the three-year limit is to make sure that the petitioner is maintaining this screen wall.

Mr. Hutson then asked what would happen if this fence were not maintained. Mr. Stimac said it would then be in violation of the Zoning Ordinance and ultimately the Courts would require maintenance of this fence. Mr. Stimac further explained that the Building Inspection Department is responsible to make sure that these fences and/or walls are maintained.

Mr. Kwon said that part of their business is to provide customer satisfaction and they would maintain this wall.

Mr. Strat said that there are no reassurances that some time in the future this property would be sold and Mr. Kwon would not own it any longer.

The Board of Zoning Appeals adjourned at 8:28 P.M.

Matthew Kovacs – Chairman

Pamela Pasternak – Recording Secretary

ITEM #6 – con't.

MOTION TO DENY REQUEST CARRIED

ITEM #7 – VARIANCE REQUESTED. HARRY & SUNNIE KWON, 38921

DEQUINDRE, for relief to install a 6' high wood fence in lieu of a 6' high masonry screen wall for a 35' long portion of the west property line where the property borders residential zoned property. The 6' high screen wall is required by Section 39.10.01 of the Zoning Ordinance.

Mr. Stimac explained that the petitioner is requesting relief to install a 6' high wood fence in lieu of a 6' high masonry screen wall for a 35' long portion of the west property line where the property borders residential zoned property. This portion of the site has an underground pipeline easement. The 6' high screen wall is required by Section 39.10.01 of the Zoning Ordinance.

This item was heard before this Board at the meeting of September 17, 2003 and was denied based on a determination of the City Attorney's office that the "right of way" agreement did not prohibit the construction of a structure on this easement. On December 16, 2003 the Board voted to reconsider this item based upon some new easement documents that were found. At the December 16, 2003 meeting action on this item was postponed to allow for the publication of a new Public Hearing based on the vote to reconsider. New hearing notices have been sent out regarding the request.

Mr. Kwon was present and stated that he is willing to comply with the Zoning requirements and will abide by the decision of this Board. Mr. Kwon also said that he would have put up the wall; however, Sun Oil would not allow the construction of a permanent structure in the easement. Sun Oil has agreed to allow Mr. Kwon to put up a 6' high fence as long as this section could be removed if they had to have access to the pipeline.

Mr. Hutson asked Mr. Kwon about the construction of the fence. Mr. Kwon informed Mr. Hutson that originally they wished to put up a landscaped berm, but Sunoco would not allow a berm in the easement.

The Chairman opened the Public Hearing.

Michael Sucharski attorney for the development company of the land behind this property was present. Mr. Sucharski stated that they object to this variance due to the fact that the developer does not feel a wood fence in the middle of the masonry wall would be aesthetically pleasing and also expressed concern over the maintenance of the wood fence. Mr. Sucharski stated that a brick wall would be on either side of the wood fence, and feels that the future owner of the lot backing up to this property would object to the looks of this fence. Mr. Sucharski also suggested that perhaps footings could be put in on either side of the pipeline and then perhaps the brick wall could be put in supported by some type of beam.

ITEM #7 – con't.

Mr. Kovacs asked for clarification regarding what Mr. Sucharski is looking for regarding aesthetics. Mr. Sucharski said that they would like to see one look on this property rather than two different types of fencing. Mr. Sucharski was concerned because they would have approximately four (4) lots, which would back up to this wall and he felt that it would not be aesthetically pleasing.

Mr. Maxwell asked if this Board could recommend a landscaped berm along the entire property. Mr. Stimac indicated that although he was not involved in the original negotiations with Sun Oil, he thought that a landscaped berm was one of the options investigated that Sun Oil would not allow on this easement.

Mr. Kwon said that Sun Oil would not allow a berm in this easement because Sun Oil perceives this as a permanent structure. Mr. Kwon further stated that the wooden fence was agreeable to Sun Oil, and would be able to be removed if Sun Oil needed to get to this pipeline. Mr. Kwon also said that they were going to attempt to make this wooden fence match the masonry wall as much as possible, and stated that this was the final resolution agreed upon between Sun Oil and himself. Mr. Maxwell stated that he would like to see some visual conformity along this wall. Mr. Kwon said that they would make this fence look good on both sides and would try to make it look as much like the brick wall as possible.

Mr. Kovacs said that he understood from Mr. Kwon's comments that the wooden fence would look very much like the masonry wall. Mr. Sucharski stated that he did not understand why the brick wall could not be put in, as the pipeline runs under the streets, and was also worried about the maintenance issue of the wood fence. Mr. Kwon stated that there is nothing he can do, as Sun Oil dictates the requirements for this easement. Mr. Kovacs pointed out that the City has determined that Sun Oil has the right to limit what may be placed on this easement. Mr. Maxwell stated that if this variance was granted, it would be on a renewable basis and any concerns regarding the appearance and/or maintenance of this fence would be addressed before it was renewed a second time.

Mr. Stimac pointed out that many of the streets in the area pre-existed the easement, and there are certain regulations that the City must comply with regarding regulations of easement rights. Mr. Stimac also stated that there are different requirements for public improvements compared to private property rights.

No one else wished to be heard and the Public Hearing was closed.

There are no written approvals on file. There is one (1) written objection on file.

Mr. Stimac further stated that Mr. Kwon is proposing a wood fence, and he has not seen a wood fence that would exactly match a concrete wall. He indicated that although it could be stained to come close to the look of the masonry wall, in his opinion you would

ITEM #7 – con't.

be able to tell them apart. Mr. Stimac also said that he did not want the Board to think that this fence would look exactly like the brick wall.

Mr. Maxwell asked if there was any way to build a brick type structure to match the rest of the wall. Mr. Stimac said that it would be possible; however, he has not seen anything indicating that Sunoco would allow this type of structure. Mr. Maxwell then said that it may be possible for this Board to grant a variance, which would not require any type of wall or screening. Mr. Stimac confirmed that this Board could stipulate that nothing would be required. Mr. Maxwell stated that he would be in favor of either just landscaping or absolutely nothing in this easement. Mr. Hutson questioned Mr. Maxwell regarding his statement, and Mr. Maxwell clarified that he did not mean for Mr. Kwon to put in landscaping but that the future residents would put in the landscaping on their side of the property and if a screening wall was not required, at least it would be aesthetically pleasing.

Mr. Kwon expressed concern about not having anything to separate this property from the residential property. Mr. Kwon felt that the screen wall would protect the residents and was concerned about the liability involved if this property was not separated from the residential property.

Mr. Hutson asked what would be required to grant a variance. Mr. Stimac informed the Board that Section 39.10.04 of the Ordinance allows the Board of Zoning Appeals to "... waive or modify the requirement of a screen wall where cause can be shown that no good purpose would be served and also that such modifications would not be detrimental to the surrounding property..."

Motion by Hutson

Supported by Courtney

MOVED, to grant Harry & Sunnie Kwon, 38921 Dequindre a one (1) year renewable variance to install a 6' high wood fence in lieu of a 6' high masonry screen wall for a 35' long portion of the west property line where the property borders residential zoned property.

- Wooden structure to be as close in appearance as possible to the masonry-screen wall required by the Ordinance.
- Fence will comply with the dictates of Sun Oil regarding what may be constructed in this easement.
- One-year time frame will allow Board to study both appearance and need for maintenance.

Yeas: 5 – Maxwell, Courtney, Gies, Hutson, Kovacs

Absent: 1 – Vleck

ITEM #7 – con't.**MOTION TO GRANT VARIANCE FOR ONE (1) YEAR CARRIED**

Mr. Kovacs stated that he believes that this is the best solution the Board could arrive at due to the restrictions put on this property by Sun Oil.

ITEM #8 - VARIANCE REQUESTED. MR. & MRS. STEPHEN SLAVIK, 2949 VINEYARDS DR., for relief to construct a new, enclosed swimming pool addition on the rear of the existing home. This addition would result in an 18' rear yard setback where Section 30.10.01 requires a 45' rear yard setback in R-1A Zoning Districts.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct a new, enclosed swimming pool addition on the rear of the existing home. The site plan submitted indicates the addition will result in an 18' rear yard setback to the south property line. Section 30.10.01 requires a 45' rear yard setback in R-1A Zoning Districts.

Mr. Slavik was present and stated that he was the owner of this home as well as a Building Contractor. Mr. Slavik explained that the reason they chose this home was to be close to the school his daughter was attending. Mr. Slavik stated that his wife needs water therapy twelve months out of the year and that is the main reason they wish to put in this pool addition. This home is situated on a corner lot, which is long and narrow. The neighbor on the west would not be affected by this addition and the addition would be approximately 47' to the side entry of the garage of the neighbor directly to the south. Mr. Slavik did not feel this addition would affect either neighbor and furthermore the addition would sit down in a "hollow" and would not be visible from the street.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are four (4) written approvals on file. There is one (1) written objection on file.

Mr. Kovacs asked what the setback requirements were to put in a pool and Mr. Stimac explained that an in-ground or aboveground-uncovered pool could be placed within 6' from the side or rear property line and it is a recommendation that it be placed 10' from the house.

Mr. Maxwell asked what the height of the addition was and Mr. Slavik said that he thought it was about 17' to the peak of the addition.

Mr. Kovacs clarified that a pool was considered an accessory structure and therefore if uncovered could be placed within 6' of the property line. Mr. Kovacs said that he thought this was a very unique situation.