The Chairman, Christopher Fejes, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M. on Tuesday, December 20, 2005 in Council Chambers of the Troy City Hall.

PRESENT: Kenneth Courtney
Christopher Fejes
Marcia Gies
Michael Hutson
Wayne Wright (arrived at 7:35 P.M.)

ALSO PRESENT: Mark Stimac, Director of Building & Zoning
Susan Lancaster, Assistant City Attorney
Pamela Pasternak, Recording Secretary

ABSENT: Matthew Kovacs
Mark Maxwell

Motion by Courtney
Supported by Gies

MOVED, to excuse Mr. Kovacs and Mr. Maxwell from this meeting for personal reasons.

Yeas: 4 – Fejes, Gies, Hutson, Courtney
Absent: 1 – Wright

MOTION TO EXCUSE MR. KOVACS AND MR. MAXWELL CARRIED

ITEM #1 – APPROVAL OF MINUTES – MEETING OF NOVEMBER 15, 2005

Motion by Courtney
Supported by Gies

MOVED, to approve the minutes of the meeting of November 15, 2005 as written.

Yeas: 4 – Gies, Hutson, Courtney, Fejes
Absent: 1 – Wright

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

ITEM #2 – APPROVAL OF ITEMS #3 THROUGH #5

RESOLVED, that Items #4 and #5 are hereby approved in accordance with the suggested resolutions printed in the Agenda Explanation.

Motion by Courtney
Supported by Gies

ITEM #2 – con't.

Yeas: 5 – Hutson, Wright, Courtney, Fejes, Gies

MOTION TO APPROVE ITEMS #4 AND #5 CARRIED

ITEM #4 – RENEWAL REQUESTED. COMMUNITY BOWLING CENTERS, 1950 E. SQUARE LAKE, for renewal of relief to maintain a 6' high earth berm in lieu of the 6' high masonry-screening wall required at the west property line, which abuts residential zoning.

MOVED, to grant Community Bowling Centers, 1950 E. Square Lake, a three-year (3) renewal of relief to maintain a 6' high earth berm in lieu of the 6' high masonry-screening wall required at the west property line which abuts residential zoning.

- The adjacent property is used for a purpose other than a single-family residence.
- We have no objections or complaints on file.

ITEM #5 – RENEWAL REQUESTED. ST. LUCY CROATIAN CATHOLIC CHURCH, 200 E. WATTLES, for renewal of relief of the required 4'-6" high masonry screening wall along the east and west sides of off-street parking where this property abuts residential zoned property.

MOVED, to grant St. Lucy Croatian Catholic Church, 200 E. Wattles, a three-year (3) renewal of relief to maintain a 4'-6" high masonry-screening wall along the east and west sides of their off-street parking.

- The adjacent property is used for a purpose other than a single-family residence.
- Conditions remain the same.
- We have no complaints or objections on file.

ITEM #3 – RENEWAL REQUESTED. TROY CHRISTIAN CHAPEL, 400 E. LONG LAKE, for renewal of relief to maintain a fence and landscaped berm in lieu of the required 4'-6" high masonry-screening wall along a portion of the south and west property lines that abut residential zoning.

Petitioner is requesting renewal of a variance granted by this Board, since 1986, for relief to maintain a fence and landscaped berm in lieu of the required 4'-6" high masonry-screening wall along a portion of the south and west property lines that abut residential zoning. This relief was originally granted based on the fact that the abutting neighbors requested the berm and fence in lieu of the required masonry wall. This item last appeared before this Board at the meeting of December 2002 and was granted a three (3) year renewal at that time. Conditions remain the same and we have no complaints or objections on file.

ITEM #3 – con't.

Motion by Courtney
Supported by Gies

MOVED, to postpone the request of Troy Christian Chapel, 400 E. Long Lake, for renewal of relief to maintain a fence and landscaped berm in lieu of the required 4'-6" high masonry-screening wall along a portion of the south and west property lines that abut residential zoning until the meeting of January 17, 2006.

- To allow the Building Department the opportunity to publish a Public Hearing to consider the possibility of making this a permanent variance.

Yeas: 5 – Wright, Courtney, Fejes, Gies, Hutson

MOTION TO POSTPONE THIS REQUEST UNTIL THE MEETING OF JANUARY 17, 2006 CARRIED

ITEM #6 – INTERPRETATION REQUEST. JLJ INVESTMENTS, LLC, 4048-4060 ROCHESTER ROAD, for an interpretation, per Section 43.75.00 of the Zoning Ordinance, that a facility that provides for the sales, rental, and service of musical instruments along with music lessons is a permitted use in the B-1 (Local Business) Zoning District.

The Building Department is in receipt of a letter from the Petitioner asking that this item be withdrawn.

Motion by Courtney
Supported by Gies

MOVED, to accept the withdrawal request of JLJ Investments, LLC, 4048-4060 Rochester Road for an interpretation per Section 43.75.00 of the Zoning Ordinance.

Yeas: 5 – Wright, Courtney, Fejes, Gies, Hutson

MOTION TO ACCEPT WITHDRAWAL REQUEST APPROVED

ITEM #7 – VARIANCE REQUEST. LAHKMAN AL-HAKIM, 1553 E. MAPLE, (PROPOSED ADDRESS), for relief of the Ordinance to construct a new hotel on a B-3 zoned parcel that is 2.5 acres in size where Paragraph B of Section 22.30.03 requires a minimum 3 acre parcel; and, also to have the "tower" portion of the building 52'-6" high, where Section 30.20.06 limits the height of buildings to no more than 40'.

The petitioner asked that this item be moved to the end of the agenda to allow the opportunity for their architect to be present. Mr. Fejes moved this request to Item #11.

ITEM #8 – VARIANCE REQUEST. CHRISTOPHER ENRIGHT ARCHITECTS, 1600 WEST MAPLE, for relief of the Ordinance to alter an existing building. The site plan submitted indicates that there is not a sidewalk provided along the northwest and a portion of the west side of the building. Section 39.70.03 requires that a 5' wide sidewalk be provided between the building face and a vehicular use area (parking or drive); and in addition, Section 40.25.03 requires a minimum 24' wide, two-way driveway width. The site plan submitted indicates that a portion of the drive adjacent to the boiler room will only be 20' in width.

Mr. Stimac explained that the petitioner is requesting approval to alter an existing building. This building, although originally designed and constructed as an industrial building, has recently, at the petitioner's request, been rezoned to the B-3 (General Business) Zoning District. Section 39.70.03 requires that a 5' wide sidewalk be provided between the building face and a vehicular use area (parking or drive). No such sidewalk is provided along the northwest and a portion of the west side of the building. In addition, Section 40.25.03 requires a minimum 24' wide, two-way driveway width. The site plan submitted indicates that the portion of the drive adjacent to the boiler room will only be 20' in width.

Mr. Courtney asked if pavement was in the area where the sidewalks were to be eliminated. Mr. Stimac said that there is pavement along the bump out of the building, and also around a portion of the northwest section of the building. The rest of this area will be landscaping in order for them to meet the minimum landscape area requirements.

Mr. Enright stated that this is an existing building that was used as a manufacturing facility. His client wants to use the existing factory, warehouse space as a gymnastic studio and the front of the building would be available for lease. At the moment they do not have any tenants with a signed contract to lease this space. They plan to remove a portion of the northeast side of the building and also plan to fill in an existing truck well. The rest of the lot will be striped for parking spaces. Due to the fact that this area has moved from the Industrial Zoning District to the Business Zoning District they wanted to limit the number of variances that would be required and they wanted to make sure that the area met the landscaping requirements. By eliminating the sidewalk on the northwest portion of the building they will save approximately (thirteen) parking spaces.

Mr. Enright informed the Board that the "bump out" indicated on the building is currently the machinery area housing a boiler which heats the front portion of the building as well as the water meter and water service and there and an air handling unit. They were hoping to be able to maintain this portion of the building as is.

Mr. Courtney asked how many parking spaces are required and how many are present on the site. Mr. Enright said that there are 73 parking spaces shown on the proposed plan and 73 parking spaces is the required number of parking spaces.

ITEM #8 – con't.

Mr. Courtney asked how tight the driveway is compared to the size of a normal drive. Mr. Stimac explained that the petitioner's plans indicate that the proposed driveway would be 19.11' wide and normally a two-way driveway with adjacent parking is 24'. Mr. Courtney asked how wide a normal residential street is. Mr. Stimac said that it is 26' of pavement, but includes one lane of parallel parking.

Mr. Enright also said that this is an existing condition, and they are hoping to be able to maintain that condition. Mr. Courtney said that although it is an existing condition, the petitioner is hoping to create more traffic that could cause problems down the road.

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

There is one (1) written approval on file. There are no written objections on file.

Mr. Fejes asked what types of businesses are allowed in this area. Mr. Stimac explained that B-3 Zoning allows for any type of retail business, in addition, you can have many types of automotive retail stores, such as tire stores. Mr. Fejes then asked how large trucks would access this lot. Mr. Stimac said that there is access from both Maple and Blaney.

Mr. Hutson asked about the "bump out" in this building and asked if a variance was required to allow them to use this area as an entrance and egress. Mr. Stimac said that he had done extensive research and the building pre-dates most of our records. Although this is considered a non-conforming building, he was unable to find any previous site plan approval.

Mr. Courtney said that he is leery in granting a variance for this width in an area that will have retail businesses. He did not have a problem with granting a variance for the elimination of the sidewalk.

Mr. Hutson agreed with Mr. Courtney and stated that he did not have a problem with the elimination of the sidewalk, however, he is also concerned about increased traffic in this area, especially with parents picking up and dropping off children for the gymnastic center. Mr. Hutson asked if a semi truck would be able to get through this area. Mr. Enright said that it is wide enough for a truck to get through this area. Mr. Enright also said that it is his understanding that all the deliveries will be coming in off of Blaney.

Mr. Fejes asked how the building was used in the past and Mr. Enright stated that he did not know because when he came to this site, the building was vacant. Mr. Enright also said that he thought the main entrance was proposed to be from Blaney. Mr. Fejes asked what they would do if the variance was not granted for the driveway width. Mr. Enright said he was not certain but one option was to remove the parking spaces in the

ITEM #8 – con't.

front of the building. Mr. Enright also said that it would not be an easy option to eliminate the "bump out" due to the fact that it houses the mechanical room. Mr. Fejes said that he thought Mr. Enright might like to consider asking for a postponement for the driveway width as it takes four members to grant a variance.

Mr. Enright asked if they could still submit a site plan approval if the request for driveway width was postponed. Mr. Stimac said that the Planning Commission can consider reduced parking spaces depending on the use of the property. The petitioner has submitted a request to consider as part of their request for site approval, a reduction in the number of required parking spaces. Mr. Stimac went on to say that as he sees it there are two (2) alternatives available to the petitioner: One is to eliminate that portion of the building that protrudes or, two, is to eliminate parking spaces adjacent to that portion of the building and meet the driveway width. It would eliminate between two and five parking spaces in that area. It would then be up to the Planning Commission to consider the further reduced parking as part of this request.

Mr. Courtney asked if the Planning Commission has approved the reduced parking and Mr. Stimac said that it has not gone before the Planning Commission at this time. Mr. Fejes then asked who would handle the request for a parking variance and Mr. Stimac said that if a parking variance was required it would have to go before City Council.

Motion by Courtney
Supported by Gies

MOVED, to grant the request of Christopher Enright Architects, 1600 W. Maple, for relief of the Ordinance to alter an existing building, which will result in the elimination of a sidewalk along the northwest and a portion of the west side of the building.

- A sidewalk would serve no purpose at this location.
- Variance would not be contrary to public interest.

Yeas: 5 – Courtney, Fejes, Gies, Hutson, Wright

MOTION TO GRANT VARIANCE FOR THE SIDEWALK CARRIED

Motion by Courtney
Supported by Gies

MOVED, to postpone the request of Christopher Enright Architects, 1600 W. Maple for relief of the Ordinance to have a two-way driveway with a width of 19.11', where Section 40.25.03 of the Ordinance requires a minimum 24' wide two-way driveway width until the meeting of January 17, 2006.

ITEM #8 – con't.

- To allow the petitioner the opportunity to present his site plan to the Planning Commission showing a reduction in parking spaces.

Yeas: 5 – Courtney, Fejes, Gies, Hutson, Wright

MOTION TO POSTPONE REQUEST UNTIL JANUARY 17, 2006 CARRIED

ITEM #9 – VARIANCE REQUEST. PIERRE HARIK, 690 SYLVANWOOD, for relief of the Ordinance to split an existing parcel of land into two lots that will result in a lot width of 77.31' for each parcel. This property is located in the R-1C Zoning District. Section 30.10.04 of the Zoning Ordinance requires a minimum lot width of 85' for single family homes in this Zoning District.

Mr. Pierre Harik was present and asked that this item be postponed to allow the opportunity for a full Board.

Mr. Fejes asked if anyone in the room wished to speak on this item before it was postponed, but no one present wished to be heard.

Motion by Courtney
Supported by Hutson

MOVED, to postpone the request of Pierre Harik, 690 Sylvanwood, for relief of the Ordinance to split an existing parcel of land into two lots that will result in a lot width of 77.31' for each parcel. This property is located in the R-1C Zoning District. Section 30.10.04 of the Zoning Ordinance requires a minimum lot width of 85' for single family homes in this Zoning District until the meeting of January 17, 2006.

- At the request of the petitioner.
- To allow the petitioner the opportunity of a full Board.

Yeas: 5 – Fejes, Gies, Hutson, Wright, Courtney

MOTION TO POSTPONE REQUEST UNTIL THE MEETING OF JANUARY 17, 2006 CARRIED

ITEM #10 – VARIANCE REQUEST. WILLIAM NICHOLS, 1080 MINNESOTA, to maintain a shed, constructed without first obtaining the necessary Building Permit, in the front yard setback along Wisconsin. Section 40.56.03 of the Ordinance prohibits the placement of an accessory building in the front yard.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to maintain a shed constructed in the front yard setback along Wisconsin. This lot is a double front corner lot. As such, it has a front yard setback along both Minnesota and Wisconsin. The site plan submitted indicates that a shed has been constructed without first obtaining the

ITEM #10 – con't.

necessary Building Permit, in the required front yard setback, 8 feet from the property line along Wisconsin. Section 40.56.03 of the Ordinance prohibits the placement of an accessory building in a front yard.

Mr. Hutson asked if the location of this shed would comply if this lot was not a corner lot. Mr. Stimac said that it would meet the requirements of the Ordinance.

Mr. Nichols was present and stated that they were trying to look ahead when planning the location for this shed. They like the neighborhood they are living in, however, their home does not have a basement, and they have three children and have run out of room. They are planning to have their lot split and therefore, he does not feel he can place the shed at the rear of the lot. Mr. Nicholas went on to say that they had received a variance to put up the privacy fence and did not know any other variances would be required. Mr. Nichols said that the structure is about 75% complete including the rat wall and it would be very difficult to move it to another location.

Mr. Fejes asked how large Mr. Nichols home was and Mr. Nichols stated that it was approximately 1900 square feet and had a two-car attached garage.

Mr. Wright stated that the Board needs to find a hardship that runs with the land and he believes that the petitioner did not demonstrate a hardship. Mr. Wright also stated that he thought this shed could be moved farther south on the property. Mr. Nichols said that there are a 40-year-old trees in the area as well as the air conditioning unit and it would be difficult to move these items. Mr. Wright said that he still did not see a hardship that ran with the land. Mr. Nichols said that if they put it behind the deck they would have to move 1-2 trees and it would be very costly. Mr. Wright said that financial considerations cannot be considered a hardship and perhaps this shed could be downsized and fit between the trees. Mr. Nichols stated that taking in the split of the lot and a new deck there is no room to place a decent size shed. Mr. Wright said that the future property split is a financial hardship not a hardship that runs with the land.

Ms. Gies asked when the petitioner was planning to attempt to split this lot. Mr. Nichols stated that he has a deposit down on a surveyor to come out and survey the property to request a split. They are trying to look down the road and after the property is split plan to build a new home at the back of the lot. Mr. Nichols also said that they need the space for storage and were just trying to get by for the next four years until they can accomplish the lot split and construction of a new home.

Mr. Hutson asked how long it would take to put in for a lot split. Mr. Nichols said that they are just waiting for the surveyor to come out and then they will get the request underway. Mr. Hutson then asked if he could place this structure on the back half of the lot once the property was split. Mr. Stimac explained that the Building Department could not issue a permit for an accessory structure to be the only building on a lot.

ITEM #10 – con't.

Mr. Courtney said that he felt if a lot split occurred it may create more of a hardship with the land and suggested postponing this request for a couple of months until this occurs.

Mr. Wright said that even with a lot split there would still be a shed sitting in the front yard setback. Mr. Courtney said that he thought this would be a hardship because it would create a smaller lot with two front setbacks.

The Chairman opened the Public Hearing.

Mr. Pierre Harik asked if the Board could grant a temporary variance for the location of this shed. Mr. Fejes said that the Board could not grant a temporary variance for this type of request.

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

There are two (2) written approvals on file. There are no written objections on file.

Ms. Nichols said that once they got the variance for the privacy fence they felt this area became their back yard and did not believe the shed would be visible to traffic driving by.

Motion by Courtney
Supported by Gies

MOVED, to postpone the request of William Nichols, 1080 Minnesota, to maintain a shed, constructed without first obtaining the necessary Building Permit, in the front yard setback along Wisconsin until the meeting of February 21, 2006.

- To allow the petitioner the opportunity to obtain a lot split on this property.

Yeas: 5 – Gies, Hutson, Wright, Courtney, Fejes

MOTION TO POSTPONE REQUEST UNTIL FEBRUARY 21, 2006 CARRIED

ITEM #11 (ITEM #7) - – VARIANCE REQUEST. LAHKMAN AL-HAKIM, 1553 E. MAPLE, (PROPOSED ADDRESS), for relief of the Ordinance to construct a new hotel on a B-3 zoned parcel that is 2.5 acres in size where Paragraph B of Section 22.30.03 requires a minimum 3 acre parcel; and, also to have the "tower" portion of the building 52'-6" high, where Section 30.20.06 limits the height of buildings to no more than 40'.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a new hotel. The property in question is located in the B-3 (General Business) Zoning District. Paragraph B of Section 22.30.03 requires a minimum 3 acre parcel for hotels in the B-3 Zoning District. This parcel is only 2.5 acres in size.

ITEM #11 – con't.

In addition, Section 30.20.06 limits the height of buildings in the B-3 District to no more than 40' in height. The "tower" portion of the building is 51'-6" tall as measured by the Zoning Ordinance.

Mr. Tarek Zoabi from Parkside Construction was present and stated that they want to develop this property into a three-story hotel. The property backs up to I-75 and is surrounded by Commercial and Industrial property, the offices are closed by 5:00 or 6:00 P.M., and therefore parking is not a problem. Weekends would be the busiest times, he believes the configuration, and location of the property creates a unique hardship. There is a lot of landscaping and trees along both I-75 and Maple Road. The nearest neighbor would be approximately 200' away from the parking lot. The height of the tower is basically to get exposure from I-75. They are hoping to put in a Holiday Inn Express and believe this would benefit the City of Troy.

Mr. Fejes asked what the height variance was and Mr. Stimac said it was 12'. Mr. Zoabi said that the highway is higher and these towers would make it more visible. Mr. Fejes said traffic would have to bypass this hotel anyway as there is no exit to Maple Road, so traffic would have to exit at 14 Mile Road or 16 Mile Road. Mr. Zoabi said that the height of the tower would be more for advertising.

Mr. Fejes also asked if the height of these towers would present a problem for the Fire Department. Mr. Stimac said that the Fire Department is equipped with very fine apparatus and have ladders that reach up to 100'. The Fire Department would have fire lanes all around the building and would have access to all four sides.

Mr. Courtney asked what is planned to be inside of the tower and Mr. Zoabi said that there would not be anything in the towers. Mr. Courtney said that he had a problem with the height of the towers.

Mr. Wright agreed with Mr. Courtney and said that he does not see a hardship with the land that would require a 52' tower. Mr. Wright also said that the freeway in this area is approximately 25' above the property and the petitioner could put up a tower that is 40' in height.

Mr. Hutson asked if they had a signed franchise agreement with any hotel chain that would mandate the 52' tower. Mr. Zoabi said that they did not although they are working with Holiday Inn Express.

Mr. Fejes said that in his opinion the Board did not have a problem with the 2.5-acre parcel, but did object to the proposed height of the towers.

Mr. Zoabi conferred with Mr. Al-Hakim and stated that they wished to withdraw their request for the 52' high tower.

ITEM #11 – con't.

Motion by Courtney
Supported by Wright

MOVED, to accept Mr. Lahkman Al-Hakim, 1553 E. Maple request for withdrawal, for relief of the Ordinance to construct a new three-story hotel with a tower that has a building height of 52'-6".

- At the request of the petitioner.

Yeas: 5 – Hutson, Wright, Courtney, Fejes, Gies

MOTION TO APPROVE WITHDRAWAL REQUEST CARRIED

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

There are no written approvals or objections on file.

Motion by Wright
Supported by Gies

MOVED, to approve the request of Lahkman Al-Hakim, 1553 E. Maple, for relief of the Ordinance to construct a new hotel on a B-3 zoned parcel that is 2.5 acres in size where Paragraph B of Section 22.30.03 requires a minimum 3-acre parcel.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.
- Variance applies only to the property listed in this application.

Yeas: 5 – Wright, Courtney, Fejes, Gies, Hutson

MOTION TO GRANT VARIANCE CARRIED

The Board of Zoning Appeals meeting adjourned at 8:45 P.M.

_____
Christopher Fejes, Chairman

_____
Pamela Pasternak, Recording Secretary