

The Chairman, Christopher Fejes, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M., on Tuesday, January 17, 2006 in Council Chambers of the Troy City Hall.

PRESENT: Kenneth Courtney
Christopher Fejes
Michael Hutson
Matthew Kovacs
Mark Maxwell
Wayne Wright

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

ABSENT: Marcia Gies

Motion by Courtney
Supported by Wright

MOVED, to excuse Ms. Gies from this meeting for personal reasons.

Yeas: All – 6

MOTION TO EXCUSE MS. GIES CARRIED

ITEM #1 – APPROVAL OF MINUTES – MEETING OF DECEMBER 20, 2005

Motion by Courtney
Supported by Wright

MOVED, to approve the minutes of the meeting of December 20, 2005 as written.

Yeas: 4 – Hutson, Courtney, Wright, Fejes

Abstain: 2 – Kovacs, Maxwell

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

ITEM #10 – (taken out of order) - VARIANCE REQUEST. BOYS & GIRLS CLUB OF TROY, 3670 JOHN R (PROPOSED ADDRESS), for relief to construct a new facility with a portion of the building to be constructed 30' in height where Section 30.10.04 of the Ordinance limits the height of building in the R-1C Zoning District to not more than 25' in height.

ITEM #10 – con't.

Petitioner is also asking for relief of the Ordinance to have parking located at the rear property line where the Ordinance requires a 50' setback from adjacent residentially zoned property; and relief of the required 4'-6" high masonry screen wall required along the east property line between the parking lot and the adjacent residentially zoned property.

Mr. Fejes informed the people in the audience that Item #10 was going to be postponed until the meeting of February 21, 2006, to allow Building Department staff the opportunity to re-send the Public Hearing notices.

Motion by Wright
Supported by Hutson

MOVED, to postpone the request of the Boys & Girls Club of Troy, 3670 John R. (proposed address), for relief to construct a new facility with a portion of the building to be constructed 30' in height where Section 30.10.04 of the Ordinance limits the height of buildings in the R-1C Zoning District to not more than 25' in height; and relief of the required 4'-6" high masonry screen wall required along the east property line between the parking lot and the adjacent residentially zoned property; and, for relief to have parking located at the rear property line to the meeting of February 21, 2006.

- To allow the Building Department to send out Public Hearing notices to property owners within 300' of this property.

Yeas: All – 6

MOTION TO POSTPONE THIS REQUEST UNTIL THE MEETING OF FEBRUARY 21, 2006 CARRIED

ITEM #11 – (taken out of order) – INTERPRETATION REQUEST. JIM MCCAULEY, REPRESENTING THE SHALLOWBROOK SUBDIVISION HOMEOWNERS ASSOCIATION, REGARDING THE PROPOSED BRIGGS PARK CONDOMINIUMS, for an interpretation on the validity of a site plan approval for the Briggs Park Condominium Development granted by the Planning Commission under the R-1T (One-Family Attached Residential) provisions of the Troy Zoning Ordinance.

Mr. Fejes explained that the Board had received a memo from the City Attorney indicating that this Board did not have jurisdiction to act on this request.

Motion by Courtney
Supported by Hutson

ITEM #11 – con’t.

MOVED, to take no action on the Interpretation Request, Jim McCauley, representing the Shallowbrook Subdivision Homeowners Association, regarding the proposed Briggs Park Condominiums, for an interpretation on the validity of a site plan approval for the Briggs Park Condominium Development granted by the Planning Commission under the R-1T (One-Family Attached Residential) provisions of the Troy Zoning Ordinance.

- City Attorney determined that this Board did not have jurisdiction to act on this request.

Yeas: All – 6

MOTION TO TAKE NO ACTION CARRIED

Mr. Fejes stated that if anyone had questions regarding this matter that they could talk to the City Attorney.

APPROVAL OF ITEMS #2 THROUGH #4

Mr. Kovacs stated that he is employed by Siemens Automotive, Item #3, and felt that he should excuse himself from a vote on this item.

Motion by Courtney
Supported by Wright

MOVED, to excuse Mr. Kovacs from a vote on Item #3.

Yeas: 5 – Wright, Courtney, Fejes, Hutson, Maxwell
Abstain: 1 – Kovacs

MOTION TO EXCUSE MR. KOVACS CARRIED

Motion by Wright
Supported by Courtney

MOVED, to approve Item #2 and Item #4 are in accordance with the suggested resolutions printed in the Agenda Explanation.

Yeas: 6 – Maxwell, Wright, Courtney, Fejes, Hutson, Kovacs

ITEM #2 - RENEWAL REQUESTED. KOREAN UNITED METHODIST CHURCH, 42693 DEQUINDRE, for renewal of relief to maintain a landscaped berm in lieu of the 4'-6" high masonry screening wall required along the south side of off-street parking.

ITEM #2 – con’t.

MOVED, to grant Korean United Methodist Church, 42693 Dequindre, a three (3) year renewal of relief to maintain a landscaped berm in lieu of the 4’-6” high masonry screening wall required along the south side of off-street parking.

- Conditions remain the same.
- There are no complaints or objections on file.
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ITEM #4– RENEWAL REQUESTED. DANIEL LESKE, DDS, 5895 JOHN R., for renewal of relief of the 4’-6” high masonry wall required along the south property line and the 6’ high masonry screening wall required along the west property line where the site abuts residential property.

MOVED, to grant Daniel Leske, DDS, 5895 John R., a three (3) year renewal for relief of the 4’-6” high masonry wall required along the south property line; and a three (3) year renewal of relief of the 6’ high masonry screening wall required along the west property line abutting residential.

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

Motion by Courtney
Supported by Wright

ITEM #3 – RENEWAL REQUESTED. SIEMENS AUTOMOTIVE, 4685 INVESTMENT DRIVE, for relief to maintain a landscaped berm along the west and south sides of the site where a 6’ high decorative masonry screen wall is required.

MOVED, to grant Siemens Automotive, 4685 Investment Drive, a three (3) year renewal of relief to maintain a landscaped berm along the south and west sides of the site where a 6’ high decorative masonry screen wall is required.

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

Yeas: 5 – Courtney, Fejes, Hutson, Maxwell, Wright
Abstain: 1 – Kovacs

MOTION TO APPROVE RENEWAL FOR THREE (3) YEARS CARRIED

ITEM #5 – VARIANCE REQUEST. 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.

ITEM #5 – con't.

Mr. Fejes asked if Mr. Enright wished to have this item heard or if he wanted to postpone it until the next meeting for the opportunity of a full Board. Mr. Enright said that the owner of the building was also present and wished to have this request heard this evening.

Mr. Stimac explained that the petitioner is requesting 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. This item first appeared before this Board at the meeting of December 20, 2005 and was postponed until tonight's meeting to allow the petitioner the opportunity to present his site plan to the Planning Commission showing a reduction in parking spaces.

Mr. Enright stated that they had put the plan in front of the Planning Commission and had answered their concerns regarding the parking issues. The Planning Commission has requested that instead of keeping 23 to 24 parking spaces at the front of the building for the lease space, these parking spaces would be designated for the gymnasium area. In looking at the plan Mr. Enright and Mr. Buechner have determined that there would be a practical difficulty in having them remove the bump out area of the building in order to provide parking spaces.

Mr. Courtney asked if a parking variance would still be required with a reduction in the use of the building. Mr. Enright stated that they have enough parking spaces as shown on the site plan with the current use.

Mr. Hutson asked if a variance is required for the parking. Mr. Enright said that it is his understanding from the Planning Commission that originally they wanted 48 spaces for the gym and 24 spaces at the front of the building designated for a future use, and after going before the Planning Commission the Planning Commission denied the waiver. Mr. Hutson said that at the last meeting they were granted one variance regarding the sidewalk, but were concerned about the width of the driveway. Is a variance still required if the Planning Commission has already granted approval on the site plan. Mr. Enright said that he acted on behalf of Mr. Buechner, and once they eliminated the bump out in the building there was a consistent 24' width for the driveway. After further investigation, they have determined that it would be very difficult to remove this bump out and therefore are asking for a variance in the driveway width that would allow them to maintain this part of the building.

Mr. Fejes said that the Board has been concerned about safety with a smaller driveway width. Mr. Fejes said that he thought they were going to go and see if they could get a reduction in parking spaces. Mr. Enright said that the solution at the last meeting was for them to eliminate the bump out and the Planning Commission approved that plan. Mr. Fejes then asked why they could not eliminate that part of the building and Mr. Enright said it would be very difficult for them to move water lines and other utilities to

ITEM #5 – con't.

the building. Mr. Fejes then asked Mr. Enright to give the members that were not present at the last meeting an over view of this request.

Mr. Enright said that the building is approximately 27,000 square feet. 22,000 square feet is the large warehouse part of the building, and there are approximately 5,000 square feet of office space on the south side of the building. The Planning Commission has determined that the whole 5,000 square feet has to be used within a gymnastics type usage. They cannot lease that space out because of the parking issue. Mr. Fejes asked how long this building has been this way. Mr. Buechner said that the building was built in 1960.

Mr. Hutson asked if parking has always been in the location where the bump out is. Mr. Buechner said that there was. There are no other site improvements that have been done to this site. Mr. Hutson then asked if semi trucks were going to use this area. Mr. Buechner said that originally it was a tool and die shop, and it was very possible that they used semi trucks at that time. Mr. Buechner also stated that they would not need semi trucks any longer. Mr. Buechner further stated that as the owner of the building he wants to be as safe as possible, but also wants to remain prudent about the changes to this site. The boiler room controls the lifeline in the building and they would like to avoid taking it off. They have looked at other options in changing the parking around, but they would lose parking spaces. They want as much parking as possible.

Mr. Courtney said that a tool and die shop does not have a lot of traffic compared to a gymnastic facility that would have lots of traffic. Mr. Courtney then asked how many parking spaces are required based on the use of this building. Mr. Enright said that underneath a gymnastics use there isn't a specific requirement. The closest use that they could come up with was a health club, which would require 400 parking spaces. Mr. Enright also said that Mr. Miller thought that number of parking spaces was absurd, and the Planning Commission determined that 72 parking spaces would be adequate for this building. Presently there are 72 parking spaces on the site.

Mr. Courtney asked if City Council still had to rule on the number of parking spaces. Mr. Stimac said that the Planning Commission has in their authority to look at non-simultaneous use of spaces and simultaneous function of parking spaces. It is Mr. Stimac's understanding based upon the petitioner's testimony that the Planning Commission found that for a gymnastic facility of this size 72 parking spaces is the minimum required number of parking spaces for that use. The petitioner originally did not intend on using any portion of the front part of the building for the gymnastic facility. Originally they planned to have the gymnastic facility in the back and were planning to lease out the front 5,000 square feet to another retail user, and now the Planning Commission has told them that they cannot do that as they need all 72 spaces for the gymnastic facility. City Council does not have to act on the request for a gymnastic facility with 72 spaces available. If they were to lease out the front of the building, they would be required to appear before City Council for a waiver.

ITEM #5 – con't.

Mr. Maxwell asked how many spaces would need to be removed to make that area an acceptable driveway. Mr. Enright said that he thought it would be three (3) parking spaces, which would bring the count down to 69. Mr. Maxwell said that he would much rather see the reduction of three parking spaces. Mr. Maxwell then asked if 69 parking spaces would be adequate. Mr. Buechner said that he wants to be a good neighbor and wants to make sure that there is enough parking for this business. Mr. Maxwell then asked if in his opinion, Mr. Buechner could run this business with 69 parking spaces. Mr. Buechner said that he did not think that would be adequate in the future. Mr. Maxwell said that in his opinion this is an extremely tight radius and does not feel that granting the width variance would be in the best interest of safety. Mr. Maxwell also said that he feels the petitioner would be better off with the loss of three parking spaces, but have a safer facility.

Mr. Courtney also said that a portion of this property is being used by someone else as a parking area. Mr. Buechner said that currently Belle Tire is utilizing this area and due to the configuration of the site, it would be difficult to put parking in this area. Mr. Enright said that the only way to utilize that space effectively would be to have access through the Bell Tire site. Mr. Enright said that they have looked into that, but it did not work out with Mr. Buechner's interest. Mr. Buechner said the property has a very odd angle and it would be very difficult to put parking in this area.

Mr. Buechner went on to say that he is also interested in keeping this area safe. He has spoken to the Fire Marshall, and has been informed that they require an 18' wide aisle for their fire trucks. There are two entrances off of Blaney and they are trying to accommodate everyone. Mr. Maxwell also said that there are a number of driveways in this area and a lot of traffic and he does not feel this is a safe solution. Larger vehicles would have a more difficult time making the turn and he believes the petitioner would be better off with three less parking spaces.

Mr. Courtney asked if the petitioner had thought of making this drive one-way. Cars could come in off of Blaney and leave through the other drive. Mr. Enright said he did not realize that was an option and felt that the Planning Commission would have to act on that request. Mr. Courtney said they could have both ways off of Blaney and just one way off of Maple, or the petitioner could try to re-design the corner. Mr. Enright said that if they want to use the space up front as lease space, they will have to enter into an agreement with the neighbors around them to use the spaces for other uses. They cannot use the 5,000 square feet for lease space because of the determination of the Planning Commission.

Mr. Kovacs asked if this was a training facility and Mr. Buechner said that it would be instruction for gymnastics. Mr. Kovacs also asked if they would lose parking spaces by making them angled parking. Mr. Stimac said that the parking spaces dimensions stay the same, 9 ½' wide by 19' long, however, when you go to a one-way driveway the drive width would change because you would not have two cars passing by. The width of

ITEM #5 – con't.

that driveway varies anywhere from 13' to 21'. This is an unusually shaped site and usually unless you have a very large parking lot you would lose spaces by going to angled spaces. Mr. Kovacs said that he thought that only the 12 or 13 spaces in question could be angled, and thereby increase safety. Also, if they went to a one-way drive they could maintain the driveway width. Mr. Kovacs also suggested that it may be beneficial for the petitioner to go back to the drawing board to see if there was another option that would not require a variance.

Mr. Enright said that in his opinion it is much safer to have two two-way drives in and out and once the facility is completed, he believes that most people would use the entranceway off of Blaney rather than Maple Road.

Mr. Wright said that personally he would rather see a one-way drive off of Maple, which would solve the width problems, allow them to keep the three parking spaces and have traffic exit onto Blaney. Mr. Wright also said that there are a number of members of the Planning Commission who believe that parking will be very tight even with 72 parking spaces.

Mr. Buechner said that safety is his number one concern, and he also wants to be able to provide as much parking as possible. This business is the busiest from 5:00 P.M. to 9:00 P.M. and also on Saturdays. Most people will enter from Blaney. They originally planned to have Hertz at the front of the building but this deal fell through. He is trying to set up some other type of exercise facility at the front of the building and has lost a lot of money because he cannot lease this space out to some other type of business. This building has been vacant for three years and he is trying to create a win-win situation for everyone involved. He would like to come up with some kind of compromise. Mr. Buechner said that he does not want to lose a couple of spaces and furthermore a lot of the time people are going to be parking in the back where there is a lot of extra parking. He has seen semi-trucks coming in to drop off equipment and they have not had a problem.

Mr. Courtney said that semi-trucks are not fighting the way in with people dropping off children. Mr. Courtney further stated that he thinks the best solution may still be a one-way drive.

Mr. Courtney asked if a variance would still be required if this drive was made into a one-way drive. Mr. Stimac said if the parking was angled, it could make the driveway wide enough but without laying out the plan, he didn't know how many parking spaces would be provided. If it is made into a one-way drive, angled parking would be imperative. Mr. Stimac said that he did not know if that would create a reduction in parking spaces.

Mr. Courtney asked about the landscaped area. Mr. Buechner said that they do plan to comply with the landscaping requirements.

ITEM #5 – con't.

Mr. Fejes asked the petitioner would go with a one-way drive off of Maple and retaining the parking spaces. Mr. Enright said that whether they could go with a one-way drive and angled parking, they would probably still require a variance. Mr. Courtney said that if the parking is not angled enough another variance could be required. Mr. Enright said that another variance would not be the same as the one they are asking the Board for this evening.

Mr. Fejes asked if the petitioner could ask for a postponement for another month. Mr. Stimac said that in his opinion it was the sentiment of the Board that the petitioner could modify his plan and have a one-way drive that would eliminate the need for a variance; or the Board could deny the request of the petitioner, which would force them to modify the site. If the modification results in the reduction of the number of available parking spaces, they may need to go to City Council for a waiver of parking spaces. If they were to angle their parking spaces and in order to maintain the bump out of the building, they may still have to come to this Board for a variance for driveway width. The Public Hearing notice was for a driveway width of 19.11' where 24' is required, and after modification it is discovered that this driveway width would change, a new Public Hearing notice would be required. The petitioner could investigate the angle parking and if it complies with the Ordinance, he would not need to come back to this Board. If he does go with the angle parking, he may need a different variance than what has been advertised.

Mr. Wright said that in his opinion they would lose one parking space if they angled this space. Mr. Stimac said it was difficult to say without doing the layout.

Motion by Wright

Supported by Maxwell

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 40.25I.03 of the Ordinance requires a minimum 24' wide two-way driveway to the meeting of February 21, 2006.

- To give the petitioner the opportunity to investigate angle parking in order to eliminate the need for this variance.

Mr. Kovacs said that he would like to see more input before he would grant a variance. If the angle parking doesn't work, he would like the petitioner to present the reasons why it would not work.

Mr. Hutson said that the area leased to Belle Tire could be used for parking, and without a written contract they would be able to do that. Mr. Buechner said that is one of the reasons they have not signed a contract with them. Mr. Buechner said that the Board has given them a number of options that he would like to look into.

ITEM #5 – con't.

Mr. Fejes called for a vote on the motion to postpone.

Yeas: All – 6

MOTION TO POSTPONE THIS REQUEST UNTIL THE MEETING OF FEBRUARY 21, 2006 CARRIED

ITEM #6 – VARIANCE REQUEST. TROY CHRISTIAN CHAPEL, 400 E. LONG LAKE, 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.

Mr. Stimac explained that the petitioner is requesting 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. A variance has been granted on this property since 1986. This item last appeared before this Board at the meeting of December 20, 2005 and was postponed to allow the Building Department to publish Public Hearing Notices in order to consider making this a permanent variance. Those hearing notices have now been sent.

A representative of the Troy Christian Chapel was present.

Mr. Fejes 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.

Motion by Courtney
Supported by Wright

MOVED, to grant Troy Christian Chapel, 400 E. Long Lake 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.

- Current treatment is much better than a screen wall.
- Conditions remain the same.
- There are no complaints or objections on file.

Yeas: All – 6

MOTION TO GRANT VARIANCE CARRIED

Mr. Courtney said that Item #7 had been postponed at the request of the petitioner to allow for a full Board and asked Mr. Harik if he wished to postpone this request again. Mr. Harik said that he would like his request heard this evening.

ITEM #7 – 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. Stimac explained that the petitioner is requesting 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 home sites in this Zoning District.

This item last appeared before this Board at the meeting of December 20, 2005 and was postponed at the request of the petitioner to this meeting to allow him the opportunity of a full Board.

Mr. Maxwell asked if there had been other lot split requests approved on Sylvanwood. Mr. Stimac said that he did not recall any on Sylvanwood, however, there was a similar request on Trinway, which the Board denied. Most of the lots on Sylvanwood are the same as they were when they were originally platted back in 1939. Mr. Maxwell said that this lot is in the middle of a number of lots that are not in compliance with the minimum 85' lot width for single-family homes.

Mr. Kovacs asked what the width of the lots to the north of this property were. Mr. Stimac said that he did not have the exact dimensions, but was sure they were at least 85' wide as they were in compliance with the Ordinance. Mr. Kovacs said that he didn't understand why these lots were platted with different lot widths.

Mr. Jeff Schlusser, an attorney, was present to represent Mr. Harik. Mr. Schlusser said that he thought the lots on the north side in this area were between 94' and 95' wide. Mr. Schlusser said that the plat for Sylvan Garden Subdivision was dedicated and accepted approximately around 1940 and originally consisted of 42 lots, but was amended to 60 lots. Lot #22 and #23 were platted as separate lots, but were allocated only one parcel I.D. number as a matter of convenience for the City and the owner never wanted to keep them as one lot. Mr. Harik is attempting to purchase this parcel. Mr. Miller, the owner of the property applied to the City to have these lots split and was subsequently denied. It is their belief that this variance request meets all the criteria of the Zoning Ordinance.

Mr. Schlusser said that granting this variance request would not be contrary to public interest; would not have an adverse effect to surrounding property; will only apply to the lots mentioned in this application and to deny the request of the petitioner would prohibit him from full enjoyment of his property. This property was platted as two individual lots

ITEM #7 – con't.

and should be entitled to all the uses of those individual lots. A plat is essentially an agreed upon measure by various parties including a municipality, to divide a portion of land in an organized fashion. Troy Township accepted the plat in compliance with all State statutes and Municipal Ordinances at the time, and in his opinion the City is required to be bound by that agreement. Mr. Schlusel questioned whether the Subdivision Control Act, allows the City to change that approval. The City's predecessor complied with all these requirements and he does not believe that the City has the right to deny a request retroactively.

Section 40.50.02 of the Ordinance addresses non-conforming lots. Mr. Schlusel said that this section of the Ordinance violates the Subdivision Control Act by essentially changing the conditions of the plat that were originally approved. If this variance is granted and Mr. Harik builds a home on each lot, these homes will comply with the setback requirements in the R-1C Zoning District. In addition, 77' lot sizes complies with the average lot size provision of the Zoning Ordinance, Section 34.10.00 that permits varying lot sizes as long as the average lot size meets the Zoning designation requirement and the lot size is not reduced by 10%. Mr. Schlusel has calculated that the average lot size in this area is 85.59' and if reduced by 10% the lot width would be 76.5' for width and these lots, if split, would result in a 77.31' lot width. Applying the new lot width standards to the single owner of two contiguous lots, on the day that the non-conforming lot provision was enacted, serves as an unauthorized taking of the land by the City. It prevents the owner from using the land as designated by the original plat. The City must remain bound by the agreements of its predecessors. There are instances when the owner of a non-conforming lot is allowed to rebuild on his property, if for example there is a casualty. It makes no legal or practical sense to create a hardship on someone that owns adjoining non-conforming lots by denying the same benefits to those lots that are conferred to other lots in the subdivision. It is simply a denial of equal protection to such an owner.

Mr. Schlusel went on to say that the non-conforming lot provision of the Ordinance essentially re-plats the subdivision by changing the size and number of lots in the subdivision. The Sylvan Garden subdivision was amended with 60 lots, and now because lot #22 and lot #23 are under one ownership, the subdivision has only 59 lots. Section 104 of the Subdivision Control Act only permits the replatting of a subdivision by a court order or requiring the consent of 100% of the owners within the subdivision. Neither the City nor anyone else can unilaterally amend the plat without complying with the requirements of the Subdivision Control Act.

Mr. Schlusel said that by not granting the variance it will create significant hardship to Mr. Harik and will have an adverse effect on the subdivision. The owner could remove the existing home and build one large home, however, it would be a "big foot home" and would be out of place in this area and would change the entire character of the neighborhood. The petitioner meets all of the requirements of the Zoning Ordinance for a variance to be granted.

ITEM #7 – con't.

Mr. Courtney asked when Mr. Harik purchased the property and Mr. Schlusel said that he has not purchased it yet, but he is hoping to close very soon. Mr. Courtney said that Mr. Harik is aware of the condition of the lot and that this Ordinance was passed a long time ago. The citizens of Troy would have been aware of the changes at that time. The only complaints Mr. Courtney has ever heard regarding the change in the Ordinance has been when someone has wanted to split a lot for monetary reasons and was unable to do so. Mr. Schlusel said that the lots were never split; the City just made them one lot. Mr. Courtney said that they became one lot by Ordinance.

Mr. Hutson stated that based on what Mr. Schlusel has stated a variance is not required because the City has done everything illegally and the lot does not need to be split. Mr. Schlusel said that the Assessing Department should have split the lot, however, because they didn't, a variance is required. Mr. Hutson asked what the practical difficulty is on this lot that requires a variance. Mr. Schlusel said that the owner is not entitled to build a home on each separate lot. Mr. Hutson stated that was not a practical difficulty and asked what is wrong with the lot itself that would require a variance. Mr. Schlusel said that as required by the Ordinance he was required to petition the Assessing Department for a lot split and after he was denied his only recourse was to appear before this Board.

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

There are four (4) objections on file. There is one approval on file; however, Mr. Courtney questioned the validity of that approval as it was from the owner of 690 Sylvanwood.

Mr. Stimac said that there were two points brought up by Mr. Schlusel that he wished to discuss. Mr. Schlusel indicated that under the lot averaging provisions of the Ordinance that he was permitted to have 76.5' wide lots, which is correct, however, it is stated in the Ordinance that the technique of averaging minimum lot sizes shall be acceptable only in instances where the entire preliminary plat, which has received approval from City Council turn into a final plat and then recorded in its totality. You cannot apply the lot averaging provision to lots within a subdivision that has already been platted. It is not to be used for lot splitting purposes and in Chapter 41, the Subdivision Control Ordinance, specifically says that you can only use the lot averaging sizes when you are in a subdivision that was platted under those conditions.

Mr. Schlusel said that he did not disagree with Mr. Stimac, but the point to be emphasized was that the City itself has contemplated the fact that there could be instances where you have lots in the R-1C Zoning District that are conforming lots that are 76' or larger. Or in fact, in the clustering provisions these lots could be taken down to 70'. Mr. Stimac said that if it was submitted, reviewed and approved under those

ITEM #7 – con't.

conditions that would be a correct assessment. Mr. Schlussel said that unfortunately those conditions did not exist in 1940, which is when this subdivision was platted.

Mr. Stimac also said that regarding the issue of the City combining the lots, presently there is a garage that is on the adjoining lot. The house was built in 1948, but he did not know when the garage was added. The garage is across the lot line, and in Mr. Stimac's opinion since the owner built the garage across both properties it would indicate that the parcels had been considered to be combined.

Mr. Maxwell stated that in this particular case, considering that the houses in the immediate vicinity are on basically the same size lots he would not have a problem granting this variance. Mr. Maxwell also agrees with the petitioner that if the lot is not split, it is more likely that a larger home would be built and he thought it would be detrimental to this neighborhood.

Mr. Courtney said that because the people directly across the street are against the split he would be opposed to it and also the only hardship that has been presented is monetary. Mr. Courtney did not see a hardship that runs with the land.

Mr. Kovacs said that every time we get into the requests for lot splits it is very easy to say that the hardship is financial and in this case Mr. Kovacs does not believe the hardship is monetary. Mr. Kovacs thinks that two houses would look better on this property and he is in favor of this request. Mr. Kovacs also agrees with the petitioner that originally this was two platted lots, which could support two homes and now the City has changed the rules. Mr. Kovacs also thinks that his hardship is that he cannot build two homes on these lots.

Mr. Courtney said that the petitioner does not live in Troy and believes he is only interested in this property for financial gain. Mr. Kovacs asked if Mr. Courtney's opinion would be different if it was the original owner asking for this split. Mr. Courtney said that the original owner sold this property as one lot. The current owner is selling the property as one lot and he believes that they have known for many years exactly what they are able to do with this property.

Mr. Wright said that he agrees with Mr. Courtney and thinks this is strictly a financial gain. In the past year most of these lot splits have been denied and Mr. Wright thinks that the City could open itself to litigation to approve this variance without a hardship with the land. Mr. Wright does not see a hardship that runs with the land.

Mr. Maxwell said that this Board considers each case individually and he sees a difference because of the location of this property. Looking at the neighborhood this lot split would be in line with the surrounding lots. Two smaller homes would look better in this area rather than one large home. Mr. Maxwell also said that the will make money whether he puts up one house or two.

ITEM #7 – con't.

Mr. Hutson said that he does not feel it is up to this Board to encourage smaller lots and smaller homes. To approve the lot split would be contrary to the intent of the Ordinance and would encourage developers to go the wrong way. Mr. Hutson does not believe the petitioner has demonstrated a practical difficulty that runs with the land such as streams, hills or huge landscaping that would require large trees that would have to be removed.

Motion by Courtney
Supported by Wright

MOVED, to deny 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.

- Petitioner did not demonstrate a practical hardship that runs with the land.
- Variance would be contrary to public interest.
- Variance would have an adverse effect to surrounding property.

Yeas: 4 – Hutson, Wright, Courtney, Fejes
Nays: 2 – Kovacs, Maxwell

MOTION TO DENY REQUEST CARRIED

ITEM #8 – VARIANCE REQUEST. K 4 ARCHITECTURE LLC, 734 W. LONG LAKE, (PROPOSED ADDRESS), for relief of the Ordinance to construct a new branch bank that will result in parking within 20' of the front property line along Long Lake Road, where Paragraph L of Section 31.30.00 requires a 50' front setback free of parking and maneuvering lanes to be provided in the R-C Zoning District.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a new branch bank. The property in question is in the R-C (Research Center) Zoning District. The existing office building on the site was constructed at a time that the site was zoned in the O-1 (Low-Rise Office) Zoning classification. Paragraph L of Section 31.30.00 requires a 50' front setback free of parking and maneuvering lanes be provided in the R-C Zoning District. The site plan submitted indicates parking within 20' of the front property line along Long Lake Road.

Marcos Makohon, from K4 Architecture, was present and stated that they are looking at picking up the southwest corner of the property. In order to maintain a balance between this use and 700 Tower, they are taking more land they need. They investigated the possibility of shifting the parking to a different part of the site, however, some premier client parking would be located in a rather awkward position. The clients would have to cross the lane that services the drive in facility. The adjacent parking will remain as is, and there is

ITEM #8 – con't.

full circulation on the site. They will continue to use known thoroughfares and Mr. Makohon does not believe this will be detrimental to the City.

Mr. Courtney asked if they could redesign the site and put the drive through on the other side of the building. Mr. Makohon said that if they were to turn the building it would cause a reverse flow and the drive up windows would be on the wrong side of the vehicle, and, also would create a problem for stacking. Mr. Makohon said that they have developed this site very carefully and would provide a safe site for their clients. The nearest lane would have a window with a drawer, and also a night deposit and ATM.

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

There are no written objections or approvals on file.

Mr. Kovacs asked if there is existing parking at the lot line on the adjacent site. Mr. Stimac said that in the redevelopment of this property they would have to comply with the requirements of the R-C District, which would require a 50' front landscaped area. The property not being re-developed would not be required to comply with the Ordinance.

Mr. Hutson asked if the present landscaping would be disturbed in any way. Mr. Makohon said that they plan to improve this area. They plan to reshape the area and add to it.

Motion by Kovacs
Supported by Courtney

MOVED, to approve the request of K 4 Architecture LLC, 734 W. Long Lake (proposed address), for relief of the Ordinance to construct a new branch bank that will result in parking within 20' of the front property line along Long Lake Road, where Paragraph L of Section 31.30.090 requires a 50' front setback free of parking and maneuvering lanes to be provided in the R-C Zoning District.

- Variance is not contrary to public interest.
- Variance would not have an adverse effect to surrounding property.
- Variance relates only to the property described in this petition.
- Literal enforcement of the Ordinance would preclude full enjoyment of the property and would be unnecessarily burdensome.
- Site plan as proposed provides adequate landscaping to shield the parking.

Yeas: All – 6

MOTION TO GRANT VARIANCE CARRIED

ITEM #9 – VARIANCE REQUEST. JOHN SECCO, 977 E. FOURTEEN MILE, for relief of the Ordinance to alter an existing building that will result in a parking lot that is proposed to be only 10' from the proposed 75' right of way line of Fourteen Mile, where Paragraph L of Section 31.30.00 requires a 50' front yard setback free of parking or maneuvering aisles.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to alter an existing building. The petitioner has submitted an application to rezone a portion of this property from the current B-3 (General Business) Zoning Classification to the M-1 (Light Industrial) Zoning Classification. If this request is successful, Paragraph L of Section 31.30.00 would require a 50' front yard setback free of parking or maneuvering aisles. The site plan submitted indicates the installation of a new parking lot and drive that is proposed to be only 10' from the proposed right of way line of Fourteen Mile Road.

The southern portion of the property was developed in the B-3 Zoning classification there is a parking area in the front of the building, which allows for parking within 10' of the south property line. As part of the redevelopment of the site, the petitioners will be adding additional parking on the east end of this site following this same line. If the property is rezoned to the M-1 zoning district a 50' setback is required. Mr. Stimac said that at this point in time this property has not be rezoned and officially this standard does not apply. Mr. Stimac suggested that if the Board chooses to grant this variance, they may want to put a condition that the variance will apply only if the petitioner is successful in obtaining the re-zoning.

Mr. Hutson asked if the request for this variance was somewhat premature. Mr. Stimac said that they had met with the petitioners some months ago and determined that there were a series of steps that they would have to go through to get approval for their development. There were a lot of Boards that they had to appear before and unfortunately one decision was postponed, and now these items have gotten out of order. Mr. Stimac stated that under the original schedule, City Council would have acted on the re-zoning before the petitioner came to this Board.

Mr. Maxwell asked approximately how far the building is from the 50' setback line. Mr. Stimac said that there are no dimensions shown on the plan before him, but is quite sure that the building complies with the setback requirements. Mr. Stimac also said that there are industrial buildings in the City that are built right on the property line.

Mr. Courtney asked what the building was going to be used for. Mr. Kevin Koveck, Facility Director and the potential client and Mr. John Secco were present. Mr. Koveck said that the use of the building has not been released for public discussion at this time. Mr. Stimac said that in preliminary discussions with the petitioners it has been determined that the proposed use is appropriate for Light Industrial Zoning.

Mr. Secco said that the hardship is the rezoning of the property. Existing parking will be non-conforming once the property is re-zoned. They are trying to allow a driveway across the front of the property to insure proper circulation and provide access for emergency vehicles in the event of an accident. The building is 173,000 square feet and they would like to have full access around the entire building. Another reason to

ITEM #9 – con't.

have a driveway along the front would be to mirror what is at the back of the building and also to be able to provide additional handicapped parking for customers.

Mr. Kovacs asked where the other driveway was and Mr. Secco said that there are two driveways along Fourteen Mile Road, but you can only get to the front of the building from the west. The driveway at the east of the property just loops around to the back.

Mr. Kovacs asked why the petitioner needed an additional entrance. Mr. Secco said that the curb cuts are already there, and if there was an accident on Fourteen Mile and traffic backs up, it would make more sense to have another drive that emergency vehicles could use to access the entire building.

Mr. Courtney asked if the petitioner planned to increase the parking in the front yard along Fourteen Mile Road. Mr. Secco said that there would be an additional six (6) parking spaces along Fourteen Mile. Mr. Courtney confirmed that the additional parking on the side would be for employees.

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

There are no written objections or approvals on file.

Mr. Kovacs asked if the additional six (6) parking spaces were needed in order for the petitioner to meet the parking requirements. Mr. Stimac said that by Ordinance they do not need the additional six (6) parking spaces. The plans for the inside of the building have not been presented at this time, and in order to answer that question Mr. Stimac would need to know what percentage is for office space, and how much space would be used for prototype and warehouse uses. Currently there are 458 parking spaces proposed and they would be over the minimum requirement even if the building was used as strictly office space.

Mr. Koveck said that it their current hope to consolidate several facilities including prototype, headquarters, engineering and will have four hundred (400) employees. The parking out front would be ideal for customers. They come in from all over the world and they would like to use the side parking for employees.

Mr. Hutson said that when this building was used in the past he did not see any problem with traffic and if it is rezoned he does not see a problem with having them use this space for parking.

Mr. Wright said that he agrees with Mr. Hutson and all they are looking at doing is adding some additional parking.

Mr. Kovacs asked if the landscaping requirements would be met with this additional parking. Mr. Stimac said that he had a discussion with the Planning Department earlier

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today and they believe that they will exceed the landscape requirements based on the plans that they have presented. The Planning Department is working to verify those figures.

Mr. Secco said that they worked with Mark Miller very closely and they will not be requesting a variance for landscape. The former use of this building was a warehouse and a showroom. This client is planning to use it for their corporate headquarters, office staff, engineering department and this will create a need for a lot of parking.

Motion by Hutson
Supported by Wright

MOVED, to grant John Secco, 977 E. Fourteen Mile, relief of the Ordinance to alter an existing building that will result in a parking lot that is proposed to be only 10' from the proposed 75' right of way line of Fourteen Mile, where Paragraph L of Section 31.30.00 requires a 50' front yard setback free of parking or maneuvering aisles.

- Variance is conditioned on the re-zoning of this property to the M-1 Zoning District.
- Variance is not contrary to public interest.
- Variance will not cause an adverse effect to any of the properties within the immediate vicinity.
- Public health, safety and welfare would not be negatively affected.
- Literal enforcement of the Ordinance would be unnecessarily burdensome.

Yeas: All – 6

MOTION TO GRANT VARIANCE CARRIED

Mr. Wright informed the Board that if City Council goes along with the Planning Commission recommendation he will be serving on this Board for another year.

The Board of Zoning Appeals meeting adjourned at 9:26 P.M.

Christopher Fejes, Chairman

Pamela Pasternak, Recording Secretary