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

PRESENT: Kenneth Courtney
Christopher Fejes
Marcia Gies
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

ITEM #1 – APPROVAL OF MINUTES – MEETING OF AUGUST 16, 2005

Motion by Wright
Supported by Courtney

Moved, to approve the minutes of the meeting of August 16, 2005 with the following correction:

Page #8, last paragraph, change the word "the" to "they" wanted to maintain…."

Yeas: All – 7

MOTION TO APPROVE MINUTES WITH CORRECTION CARRIED

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

Motion by Courtney
Supported by Gies

MOVED, to approve a three (3)-year renewal of Items #3 through #5 as suggested in the Agenda Explanation.

Yeas: All – 7

ITEM #3 – RENEWAL REQUESTED. HANDLEMAN REAL ESTATE LLC, 500 KIRTS, for renewal of relief of the 6' high masonry-screening wall required along the west 606' of the northern property line where it abuts residential zoned property.

Mr. Stimac explained that the petitioner is requesting renewal of relief, granted by this Board, of the required 6' high masonry-screening wall along their northern property line

ITEM #3 – con't.

where it abuts residentially zoned land. This relief was originally granted in 1984, based on the fact that the petitioner would be installing a berm with evergreen and deciduous plantings to screen the residential sites. A portion of the property to the north has been rezoned to the C-F zoning classification and therefore the renewal of relief is only required for the west 606 feet. This item last appeared before this Board in September 2002 and was granted a three (3) year renewal at that time. Other than the change of adjacent zoning the conditions remain the same and there are no complaints or objections on file.

MOVED, to grant the request of Handleman Company, 500 Kirts, a three (3) year renewal of their variance for relief of the 6' high masonry-screening wall required along the west 606 feet of their northern property line where it abuts residentially zoned land.

- A berm with landscape is provided along the property line.
- Conditions remain the same.
- There are no objections or complaints on file.

ITEM #4 – RENEWAL REQUESTED. F & R INVESTMENTS, 6050-6054 LIVERNOIS, for renewal of relief of the 6' high masonry-screen wall required along the north and east property lines where they abut residential zoned property.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by Board to have a 6' high wood fence in lieu of the 6' high masonry-screen wall required along the north property line and relief of the 6' high masonry screen wall along the east where the site abuts residentially zoned land. The Board originally granted this relief in 1989 when the second building was constructed. This item last appeared before this Board in September 2002 and was granted a three (3)-year renewal at that time. Conditions remain the same and we have no objections or complaints on file.

MOVED, to grant the request of F & R Investments, 6050-6054 Livernois, a three (3) year renewal of relief to have a 6' high wood fence in lieu of the 6' high masonry-screen wall required along the north property line and relief of the 6' high masonry screen wall along the east where the site abuts residentially zoned land.

- There is existing vegetation along the east property line.
- Conditions remain the same.
- There are no objections or complaints on file.

ITEM #5 – RENEWAL REQUESTED. ST. NICHOLAS GREEK ORTHODOX CHURCH, 760 W. WATTLES, for relief to provide a 4'-6" high landscaped berm in lieu of the 4'-6" high masonry screen wall required where the parking area abuts residential zoned property.

ITEM #5 – con't.

Mr. Stimac explained that the Petitioner is requesting renewal of relief granted by this Board to provide a 4'-6" high landscaped berm in lieu of the 4'-6" high masonry-screen wall required along their parking areas which abut residential zoned property. This relief was originally granted in 1990 based on the fact that one side abuts a cemetery and the petitioner would install 4'-6" high landscaped berms. This item last appeared before this Board at the meeting of September 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.

MOVED, to grant St. Nicholas Greek Orthodox Church, 760 W. Wattles, a three (3)-year renewal of relief to provide a 4'-6" high landscaped berm in lieu of the 4'-6" high masonry-screen wall required along their parking areas which abut residential zoned property.

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

ITEM #6 – VARIANCE REQUESTED. OAK MANOR, INC., 2316 JOHN R., for relief of the required 4'-6" high masonry-screening wall along the east and south areas of the parking lot where this property abuts residential zoned property.

Mr. Stimac explained that the petitioner is requesting relief of the requirement for a 4'-6" high masonry screening-wall along the east and south areas of their parking lot where they are adjacent to residential zoned property. This relief was originally granted in September 1985 based on the fact that the wall would serve no useful purpose in this area. The property to the east is an apartment complex and the property to the south is a church. This item last appeared before this Board in August 2005 and was postponed in order for the Building Department to publish a Public Hearing to consider making this a permanent variance.

Mr. Dale Garrett was present and stated he had nothing further to add.

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 Courtney
Supported by Gies

MOVED, to grant Oak Manor, Inc., 2316 John R., relief of the required 4'-6" high masonry-screening wall required along the east and south areas of the parking lot where this property abuts residential zoned property.

ITEM #6 – con't.

- Screening wall would serve no useful purpose in this area since it would screen other parking areas.
- Variance is not contrary to public interest.
- Variance would not have an adverse effect to surrounding property.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #7 – VARIANCE REQUESTED. LISA HIGH OF CDPA ARCHITECTS, 1639 E. BIG BEAVER (PROPOSED ADDRESS), for relief of the Ordinance to construct a new building for the Suma Medical Center that will result in only 9,176 square feet of landscaping, where Section 39.70.02 and Section 39.70.04 require 14,738 square feet of landscaping.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a new building for the Suma Medical Center. Section 39.70.04 requires that ten (10) percent of the net site area be developed as landscaped open space. This landscaping must be located in the front or side yard and must be in addition to the 10' green belt required by Section 39.70.02. The required landscaping for a site this size is 14,738 square feet. The site plan submitted indicates that only 9,176 square feet of landscaping is provided, making the site deficient 5, 562 square feet.

This item last appeared before this Board at the meeting of August 16, 2005 and was postponed to allow the petitioner the opportunity to explore the possibility of an alternative plan indicating how much landscaping would be provided if the building were to be moved back 15'; or to show a revised plan displaying 11,867 square feet of landscaping with the E-P Zoned Section of the of property not taken into the landscape requirement. New plans have been submitted moving the building back showing an increased amount of landscaping of 12,499 square feet.

Mr. Stimac also stated that in going over the plans with Ms. High it was discovered that there were countable areas of landscaping, which are considered to be "hardscape" that were not included in the original estimate and should have been. If the E-P Zoning is not taken into consideration, the total amount of landscaping required for this site is 11,867 square feet.

Ms. High was present and stated that she did not have any additional comments.

Motion by Maxwell
Supported by Wright

ITEM #7 – con't.

MOVED, to grant Lisa High of CDPA Architects, 1639 E. Big Beaver (proposed address) for relief of the Ordinance to construct a new building for the Suma Medical Center that will result in 12,499 square feet of countable landscaping where Section 39.70.04 requires 14,738 square feet of landscaping.

- Alternate plan is considered to be a very good compromise.
- Lot is difficult to build on because it is very narrow.
- Without E-P Zoning taken into account, landscaping requirement is 11,867 square feet.
- Building will be in line with other buildings along Big Beaver.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #8 – VARIANCE REQUESTED. KRIS HULLIBERGER, 1289 BEATTIE, for relief of the Ordinance to construct an addition that will result in lot coverage of 30.71%, where Section 30.10.04 of the Zoning Ordinance limits the total lot area covered by buildings to 30%.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct an addition to his home. The proposed addition would result in a 2,580 square foot structure on an 8,400 square foot lot. This calculates out to a building area covering 30.71% of the lot area. Section 30.10.04 of the Zoning Ordinance limits the total lot area covered by buildings to 30%.

Kris Hulliberger was present and stated that when the subdivision was platted in the early 1970's it was zoned R-1C with the open space requirement and the minimum lot size was 70' x 120', which is the size of this lot. The City has changed the minimum lot size requirement to 70' x 125', which, if taken into consideration, would result in an increase of the footprint of buildings allowed on this lot.

Mr. Fejes asked why the petitioner wanted this addition. Mr. Hulliberger stated that the home has an existing sun porch that has a poorly poured foundation that is actually pulling away from the house. The Hullibergers plan to rip out that foundation and believe this would be an ideal location for an addition. Mr. Fejes asked how many people live in this home. Mr. Hulliberger stated that there are only two at this time.

Mr. Courtney asked if they had considered cutting the size of the addition so that a variance would not be required. Mr. Hulliberger stated that they had, but with their objectives a smaller addition would not meet their needs. They would end up with a master bedroom that would be approximately 11' x 12 ½' and would not meet the standards in Troy. Mr. Courtney stated that the reason these lots were created small was so that they could have an open space in another area of the subdivision. Mr.

ITEM #8 – con't.

Hulliberger agreed with that statement, however, he feels that the City changed the Ordinance because they realized that these lots were too small.

Mr. Kovacs asked how large the living space of this home was. Mr. Hulliberger stated that it was approximately 1,860 square feet, and that it was a three bedroom, 2 and ½ bath. This addition would create three bedrooms and an office. Mr. Kovacs asked if this office could be used as a bedroom and Mr. Hulliberger stated that it could.

Mr. Fejes asked why Mr. Hulliberger needed to do this. Mr. Hulliberger said that the addition would increase the master suite and add an office. Mr. Hulliberger also said that he believes this hardship runs with the land because of the fact that the City has now changed the Ordinance.

Mr. Courtney questioned the extra space away from the original footprint of the house. Mr. Hulliberger stated that it is approximately 2' x 9'. Mr. Courtney said that he had a problem with that section. Mr. Hulliberger said that it would give the area high east windows, which would allow morning light in the master bedroom. This area would create more openness in the room. Mr. Courtney asked if they could survive without this 2' and Mr. Hulliberger said that they could, however, it would not be as aesthetically pleasing.

The Chairman opened the Public Hearing.

Mr. Don Edmunds, 1304 Player, was present and stated that both he and his wife are in strong support of this request. Mr. Edmunds is the President of the Golf Trail Homeowners and stated that the request is minimal and believes it will be a great improvement not only to this property, but also to the surrounding neighborhood. Mr. Edmunds went on to say that Mr. and Mrs. Hulliberger maintain their home extremely well.

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

There are six (6) written approvals on file. There are no written objections on file.

Mr. Maxwell stated that he thought this property would meet all setback requirements even with the addition and also said that he did not feel this would be over-building in any way.

Mr. Stimac stated that the existing building and the proposed building addition meet all setback requirements because the setbacks that were in place when the subdivision was developed were applied to this request. If the setbacks were applied as they were adopted when the lot size was increased, the addition would not meet the current setback requirements.

ITEM #8 – con't.

Mr. Fejes said that he did not feel this property would be over-built. Mr. Courtney said that he did not have a problem except for the extra two feet.

Ms. Gies stated that the extra two feet would make a larger difference to the size of this room and believes it would add to the look of the room.

Motion by Maxwell
Supported by Hutson

MOVED, to grant Kris Hulliberger, 1289 Beattie, relief of the Ordinance to construct an addition that will result in lot coverage of 30.71%, where Section 30.10.04 of the Zoning Ordinance limits the total lot area covered by buildings to 30%.

- Variance request is minimal.
- Variance is not contrary to public interest.
- Variance will not cause over-building of this property.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #9 – VARIANCE REQUESTED. MR. & MRS. RICHARD RESS, 2608 DEVONWOOD, for relief of the Ordinance to construct an addition and raised patio that will result in a 13.5' side yard setback to the proposed addition and a 10' side yard setback to the raised masonry patio. Section 30.10.01 requires a minimum 15' side yard setback in R-1A Zoning Districts.

Mr. Stimac explained that the petitioners are requesting relief of the Ordinance to construct an addition and raised patio on the rear of their home. Section 30.10.01 requires a 15' minimum side yard setback in R-1A Zoning Districts. The site plan submitted indicates a 13.5' side yard setback to the proposed addition and a 10' side yard setback to the raised masonry patio. Mr. Stimac also said that this patio is 18" above the grade and includes a wall around the patio.

Mr. Ress was present and stated that they wish to increase the size of the living room as well as the master suite. They have discussed having Mrs. Ress' parents moving in with them. The patio will enhance the back yard and eventually they would like to add a hot tub.

Mr. Kovacs asked what the combined side yard setback in R-1A Zoning was. Mr. Stimac said that the setbacks are 15' minimum and a combined total of 30'. Mr. Kovacs then asked what the side yard setback was on the other side of this home. Mr. Ress stated that his home was 25' from the lot line and an additional 18' to the homeowner on that side of the property.

ITEM #9 – con't.

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

There are five (5) written approvals on file. There are no written objections on file.

Motion by Courtney
Supported by Wright

MOVED, to grant Mr. & Mrs. Richard Ress, 2608 Devonwood, relief of the Ordinance to construct an addition and raised patio that will result in a 13.5' side yard setback to the proposed addition and a 10' side yard setback to the raised masonry patio where Section 30.10.01 of the Ordinance requires a minimum 15' side yard setback in the R-1A Zoning District.

- Lot is irregular and makes conformance unnecessarily burdensome.
- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #10 – VARIANCE REQUESTED. KIM CONNIFF, 2131 GULLIVER, for relief of the Ordinance to add a cantilevered bay off the rear of a house addition that is under construction, which will result in a 38.3' rear yard setback. Section 30.10.05 of the Zoning Ordinance requires a 40' rear yard setback in R-1D Zoning Districts.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a cantilevered bay to an existing residence. The site plan submitted indicates adding a cantilevered bay off of the rear of the house addition that is under construction, which will result in a 38.3' rear yard setback. Section 30.10.05 of the Zoning Ordinance requires a 40' rear yard setback in R-1D Zoning Districts.

Mr. Art Conniff was present and stated that the bay window was approved at the time they submitted their plans for this addition. They were told that they could use a window ledge and they would meet the setback requirement. Rather than a window ledge, they want to be able to build all the way to the floor and therefore be able to utilize the space as living space.

Mr. Kovacs asked how large this bay would be and Mr. Conniff said that it was 2' deep by 11' wide.

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

ITEM #10 – con't.

There are no written approvals or objections on file.

Motion by Kovacs
Supported by Gies

MOVED, to grant Kim Conniff, 2131 Gulliver, relief of the Ordinance to add a cantilevered bay off the rear of a house addition under construction, which will result in a 38.3' rear yard setback where Section 30.10.05 of the Zoning Ordinance requires a 40' rear yard setback in R-1D Zoning Districts.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.
- Variance request is minimal and amounts to 1.7 feet.
- Variance applies only to the property in this application.
- Variance will add a function to this space.
- Literal enforcement of the Ordinance would make conformance unnecessarily burdensome.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

Mr. Stimac apologized to the Board regarding the oversight announcing Ms. Lori Grigg-Bluhm's presentation relating to exparte communication and other matters that would pertain to the Board of Zoning Appeals. This presentation will be placed on the Agenda for the meeting of October 18, 2005, beginning at 6:00 P.M.

Mr. Hutson asked for copies of Chapter 39 regarding changes that have been made to the Zoning Ordinance.

The Board of Zoning Appeals meeting adjourned at 8:15 P.M.

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Christopher Fejes, Chairman

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Pamela Pasternak, Recording Secretary