The Chairman, Christopher Fejes, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M. on Tuesday, April 18, 2006 in Council Chambers of the Troy City Hall.

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 MARCH 21, 2006

Motion by Courtney
Supported by Gies

MOVED, to approve the minutes of the meeting of March 21, 2006 as written.

Yeas: All - 7

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

The Chairman stated that Item #15 and Item #6 would be taken out of order.

ITEM #15 – INTERPRETATION REQUEST. SIDNEY FRANK, REPRESENTING GABECARE DIRECT RX, 1179 MAPLELAWN, for an interpretation that a doctor's office is an accessory use permitted in the M-1 (Light Industrial) Zoning district per Section 28.25.01 of the Troy Zoning Ordinance.

Mr. Stimac explained that the petitioner is requesting an interpretation that a doctor's office is an accessory use permitted in the M-1 (Light Industrial) Zoning District per Section 28.25.01 of the Troy Zoning Ordinance. The petitioner operates a prescription drug distribution facility in the M-1 Zoning District. This use complies with the principal permitted uses per Section 28.20.09 of the Zoning Ordinance. For some of the activities that the business does, the services of a licensed physician are required. The physician that provides these services has opened an office on site providing family practice services to patients. Some of these patients (approximately 35% per discussions with the petitioner) have no connection to the prescription drug distribution business. This activity has been determined to not be included within the permitted uses of the M-1 District. The petitioners are asking for an interpretation that this use is permitted per the provisions of Section 28.25.01.

ITEM #15 – con't.

Mr. Sidney Frank was present and stated that after meeting with Mr. Stimac and Mr. Doug Smith of Real Estate and Development and Ms. Bluhm, both he and his client are going to make a concerted effort to comply with the requirements of the City. Mr. Frank said that he would appreciate it if this request was postponed for thirty (30) days in order for he and his client to find a location for this office that will comply with the requirements of the Ordinance.

Motion by Maxwell
Supported by Gies

MOVED, to postpone the request of Sidney Frank, representing Gabecare Direct RX, 1179 Maplelawn, for an interpretation that a doctor's office is an accessory use permitted in the M-1 (Light Industrial) Zoning District per Section 28.25.01 of the Troy Zoning Ordinance until the meeting of May 16, 2006.

- To allow the petitioner to opportunity to find a site that will comply with the Ordinance.

Yeas: All – 7

MOTION TO POSTPONE THIS REQUEST UNTIL THE MEETING OF MAY 16, 2006 CARRIED

ITEM #6 – VARIANCE REQUESTED. ALLIED METALS CORPORATION, 1750 STEPHENSON, for relief of the Ordinance to construct an addition to their front parking lot that will result in a 24' front setback where Paragraph L of Section 31.30.00 of the Troy Ordinance requires that the 50' front yard remain as a landscaped open space. Presently the existing parking lot has a 35' front yard setback and is considered a non-

This item last appeared before this Board at the meeting of March 21, 2006 and was postponed to this meeting to allow the petitioner the opportunity to present detailed plans regarding this variance request. A letter requesting further tabling for 60 days has been received from the petitioner.

Motion by Courtney
Supported by Maxwell

MOVED, to postpone the request of Allied Metals Corporation, 1750 Stephenson, for relief of the Ordinance to construct an addition to their front parking lot that will result in a 24' front setback where Paragraph L of Section 31.30.00 of the Troy Ordinance requires that the 50' front yard remain as a landscaped open space until the meeting of June 20, 2006.

- Postponed at the request of the petitioner.

ITEM #6 – con't.

Yeas: All – 7

MOTION TO POSTPONE THIS REQUEST UNTIL THE MEETING OF JUNE 20, 2006 CARRIED

ITEM #2 – APPROVAL OF ITEMS #3 AND ITEM #4

RESOLVED, that Items #3 and #4 are hereby approved in accordance with the suggested resolutions printed in the Agenda Explanation.

Motion by Courtney
Supported by Maxwell

Yeas: All – 7

ITEM #3 – RENEWAL REQUESTED. DENNIS BOSTICK, TROY SPORTS CENTER, 1819 E. BIG BEAVER, for relief of the Ordinance to provide a landscaped berm in place of the 4'-6" high wall required along the north property line.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board since 1997 to provide a landscaped berm along the north property line in lieu of the 4'-6" high masonry-screening wall. Relief was originally granted based on the fact that the petitioner had demonstrated that conformance was unnecessarily burdensome and the wall would be less attractive than the landscaped berm. The adjacent residential property to the north is vacant. This item last appeared before this Board at the meeting of April 2003 and was granted a three-year (3) renewal at that time. Recently the depth of the non-residential zoning on the property to the west has been increased such that the wall is only required for the north property line. Other than that, conditions remain the same and we have no complaints or objections on file.

MOVED to grant Dennis Bostick, 1819 E. Big Beaver, a three-year (3) renewal of relief to provide landscaped berms along the north property line in lieu of the required 4'-6" high masonry screening wall.

- Variance will not cause an adverse effect to surrounding property.
- Conditions remain the same.

ITEM #4 – RENEWAL REQUESTED. ED KENDZIUK, KMART, 3100 W. BIG BEAVER, for relief of the masonry-screening wall required on the north and east side of the parking lot.

Mr. Stimac explained that the petitioner is requesting renewal of variance granted by this Board for relief of the 4'-6" high masonry wall required where their parking lot abuts

ITEM #4 – con't.

residential zoned property. This variance has been granted on a yearly basis since 1998 and last appeared before this Board at the meeting of April 2003. At that time this request was granted a three-year (3) renewal. Conditions remain the same and we have no objections or complaints on file.

MOVED, to grant Ed Kendziuk, 3100 W. Big Beaver, a three-year (3) renewal of relief of the 4'-6" high masonry wall required where their parking lot abuts residential zoned property.

- Conditions remain the same.
- Variance is not contrary to public interest.

ITEM #5 – VARIANCE REQUESTED. 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 a 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 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.

This item last appeared before this Board at the meeting of February 21, 2006, and was postponed to this meeting to allow the petitioner the opportunity to obtain a lot split of his property. An inquiry with the City Assessor's Office shows that as of this date, a split request has not been received.
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Mr. Nichols was present and stated that he had turned in an application for a lot split to the Assessing Department, however, they told him they would not act on this request until the Board of Zoning Appeals had made a decision regarding the location of this shed.

Mr. Stimac said that he had spoken with Nino Licari, the City Assessor this afternoon, and he had not received a request for a lot split for this property. Mr. Stimac suggested that perhaps someone else in the Assessing Office had received the request and Mr. Licari may not be aware of it. Mr. Nichols said that he had turned his application in to Kim and did not understand why the Assessing Office was not aware of it.

Mr. Stimac stated that there is a buildable area at the back of the house and if the shed was put in this area it would comply with the Ordinance.

ITEM #5 – con't.

Mr. Nichols apologized for putting the shed in without a permit, but indicated that he had lived in both Warren and Lapeer and permits were not required in either City for an accessory structure that was less than 200 square feet. Mr. Nichols indicated that he still would have applied for a variance as he feels this is the best location for the shed. Mr. Nichols said that he grew up in this neighborhood and planted the trees that are now on the property. He was fortunate to be able to purchase this home and the main reason he wanted this property was because of the number of large mature trees that are on the property. He has seen the area lose a number of trees, and he feels that if he has to move the shed he would be required to take out some of the existing trees. Mr. Nichols said that he has a history with these trees and they are very significant to his family. They are valuable as they help to contain the flood area, act as noise buffers and provide shade. Mr. Nichols staked out the property after a lot split and does not believe there is any area to move the shed without taking out some of the trees.

Mr. Courtney stated that the original reason this request was postponed was to allow the petitioner the opportunity to obtain a lot split and if he no longer wishes to split the lot the shed could be moved to another location. Mr. Courtney did not see a reason for a variance as there is a large area to put the shed that would comply with the Ordinance.

Mr. Nichols said that the lot split was taking place before the shed was constructed. Mr. Courtney said that until this parcel was split there is no valid reason for a variance.

Mr. Stimac confirmed that the back portion of the parcel is 127' wide and asked why that dimension was chosen. Mr. Nichols said that their present home does not have a basement and they plan to build a new home on the back portion of the parcel that will have a basement. Mr. Nichols mother is planning to buy their present home.

Mr. Stimac said that the majority of the trees are on the property that they are planning to leave. Mr. Nichols said that the eastern portion of this property would be as large as they can make it so they can preserve as many trees as possible.

Mr. Courtney said that the petitioner is asking for a variance on property that they are planning to sell. Mr. Nichols said that would be some years away and they have 3 children and very limited storage. Mr. Courtney then asked what Mr. Nichols' future plan was. Mr. Nichols said that they are hoping to build a new home within the next 4 to 5 years and that is a significant amount of time to be without storage.

Mr. Wright confirmed that regardless of whether a lot split is obtained or not this shed would still be in the front yard setback and would still be in violation of the Ordinance. Mr. Stimac said this was correct.

Mr. Fejes asked what this shed was used for. Mr. Nichols said it is used to store bicycles, lawn equipment and other miscellaneous things. The garage is used as a

ITEM #5 – con't.

basement would be used, and they use it for the extra storage of clothing. Mr. Courtney asked what the square footage of their home is and Mr. Nichols said that it is just less than 1700 square feet.

Mr. Nichols said that he has a lot of money invested in this lot split.

Mr. Fejes said that in his opinion this is a lot with double frontage and even if the petitioner does decide to build a new home, anyone purchasing the existing home would need more storage.

Mr. Courtney stated that he does not feel there is a hardship that would justify a variance as the shed could be placed on the property and would comply with the Ordinance. Mr. Fejes asked if Mr. Courtney would be happier to deal with this issue once the property is split and Mr. Courtney stated that he would like to see the split actually occur.

Mr. Wright said that there is plenty of room now and even after the lot split he would have a problem leaving the shed within 8' of the front setback along Wisconsin.

Mr. Nichols said that there is a 6' high privacy fence that runs along that side of the property with a great deal of trees. Mr. Nichols contacted the surrounding neighbors and he said that no one in the area objected to this shed. The roof line is the same as his home and in his opinion he put up a building that would aesthetically pleasing and not just a temporary metal structure. He does not want to lose any of the existing trees and this shed is a necessity to his family for storage.

Motion by Kovacs
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 May 16, 2006.

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

Yeas: All – 7

MOTION TO POSTPONE THIS REQUEST UNTIL MAY 16, 2006 CARRIED

ITEM #7 - VARIANCE REQUEST. SAIF JAMEEL, 3031 CROOKS RD., for relief of the Ordinance to construct a new commercial building containing a restaurant with a drive-up window on a site which is .51 acres in size, where Section 23.25.01 of the Troy Ordinance requires a site that is at least one acre in size in order to have a drive-up window facility in the H-S (Highway Service) Zoning District.

ITEM #7 – con't.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a new commercial building. A majority of this property is located within the H-S (Highway Service) Zoning District. The plans submitted indicate that the development will include a drive-up window accessory to the restaurant use proposed in the building. Section 23.25.01 of the Troy Zoning Ordinance requires a site that is at least one acre in size in order to have a drive-up window facility in the H-S (Highway Service) Zoning District. This site is only .51 acres in size.

This item last appeared before this Board at the meeting of March 21, 2006 and was postponed until tonight's meeting to allow the petitioner the opportunity to present his site plan to the Planning Commission, and to allow this Board to study the comments made by the Planning Commission. This item was presented to the Planning Commission at there meeting of March 28, 2006. While the Planning Commission did not take official action and they did not reach consensus on the matter, their minutes are included for your review.

Mr. Fejes asked Mr. Wright to summarize the discussion of the Planning Commission.

Mr. Wright stated that there was no real consensus by the Planning Commission. They were pleased that this would create an opportunity for a cross access easement to the property to the north, however, they were concerned about the size of the property and also about the traffic in this area. The Planning Commission also felt that the building was located too close to the corner and felt that this location would hamper emergency vehicles.

Mr. Fejes asked if the Planning Commission felt that this was a workable lot and Mr. Wright said that in his opinion the majority of the members thought it could be workable if a variance was granted. If this variance was granted and this Board allowed the drive thru on this ½ acre parcel, and if Starbuck's were to close and a fast food restaurant were to come in, they would have the same variance. There was some concern on the Planning Commission's part regarding the number of stacking that was available.

Mr. Fejes asked if a motion could be made that would put constraints on what type of drive-thru would be allowed on that lot. Ms. Lancaster said that they may be able to make a motion that as a condition of approval, a new restaurant would either have to keep the drive-thru where it is or not use the drive-thru at all. Ms. Lancaster also said that a variance runs with the land, but she feels that putting a condition on the drive-thru would be appropriate. Mr. Fejes asked if they could limit it to a restaurant with a limited menu. Ms. Lancaster said she did not think it was possible to restrict the type of restaurant as it would be just about impossible to enforce.

Mr. Fejes asked if the Board could put a restriction of the amount of people that would be stopping for coffee. Ms. Lancaster said that the restriction would have to be that the

ITEM #7 – con't.

drive through would be the same as shown on this plan or there would be no drive through at all. The drive through would have to comply with this plan.

Mr. Fejes then asked if they could grant a temporary variance, for a certain number of years and have them come back for a renewal. Ms. Lancaster said that there is a specific section of the Ordinance that allows for renewals of variances for screen walls, however, it does not cover general building.

Mr. Courtney asked if they could stipulate that this drive through would be for coffee only. Ms. Lancaster said that this would become an enforcement issue and how to enforce this issue would be very difficult.

Mr. Stimac said that the difficulty you would have is that Starbuck's sells other food items besides coffee and determining what type of items would be available through the drive through would not be feasible. Any fast food restaurant or Starbuck's could go in this location today as long as it did not have a drive up window. The issue before the Board is the fact that a restaurant with a drive up window requires one-acre minimum of property and this parcel is only .51 acres.

Ms. Gies asked what would happen if it turned out that traffic was a problem. Ms. Lancaster said that if there were cars blocking pedestrians or traffic that would be a Police issue and would not fall under the jurisdiction of the Building Department.

Mr. Courtney said that recently he had visited a Starbuck's in the middle of the morning, that did not have a drive through, but customers took up a lot of parking. He has doubts that this drive through would not be a problem. He would like to see Starbuck's go in there and then come back and ask to add the drive through.

Mr. Kovacs stated that the only variance this petitioner is asking for is the one-acre requirement for a drive through and asked where this requirement came from. Mr. Stimac stated that this requirement was developed after an evaluation of sites that had drive up services offered. This requirement was based on McDonald's, Burger King and other sites that typically had approximately 60 to 100 seats inside the restaurant and 36 to 60 parking spaces. This restaurant only has between 18 and 20 seats inside the restaurant. All of the other requirements are met other than the one-acre requirement.

Mr. Kovacs said that in his opinion the petitioner has to demonstrate to the Board how this restaurant will work on this parcel and he believes the one-acre requirement is an arbitrary number. Mr. Stimac said that in his opinion if this site was one-acre in size the restaurant would be larger and there would be more parking available.

Mr. Fejes asked if they would have more stacking lanes. Mr. Stimac said that on the larger developed sites, you don't normally find additional designated stacking areas, but you will find stacking lanes that are behind parked cars. Mr. Courtney said that he

ITEM #7 – con't.

thought the original intent of the one-acre minimum was to allow for more stacking of cars waiting in line.

Mr. Kovacs said that in his opinion Section 23.25.01 would have required more stacking if that was the reason for the one-acre minimum. Mr. Courtney said that they did not have to require more than the minimum amount of stacking. At the time the one-acre minimum was put into effect it was to allow for more stacking. Mr. Kovacs said that in his opinion the one-acre allows for more seating and more parking not for more stacking. Mr. Courtney said that if there are sixteen cars in line at McDonalds there would not be out in the middle of the road because the site is larger, and if there were sixteen cars in line at this location, they would be out in the road.

Mr. Hutson said that he felt the discussion was based on policy, which should be held after a motion was made. Mr. Fejes said that the would like as much information as possible before a vote was taken.

Michele Sargeant of JSN Design and Mr. Saif Jameel, the lessee of this property. were present. Ms. Sargeant said that they meet all the other requirements of the Ordinance with the exception of the one-acre requirement. The Corporate Office of Starbuck's has approved this plan and the drive up window is vital to them. They exceed the landscape requirement and the hardship is that this property is located at an intersection and part of the property was taken away when Big Beaver was widened. They are willing to work with the Planning Commission and take care of any concerns they may have. Ms. Sargeant said that they also understand this is a busy intersection and they plan to make the entrance from Crooks a one-way drive. They also have a good-faith agreement signed by the property owner to the north that will allow for a cross access easement. Right where this easement is located, the property is fairly level and so a lot of grading will not be required.

Mr. Jameel said that besides the good faith agreement from the property owner next door, they also have a letter from the Sandy Corporation stating that if the variance is granted they will sell Mr. Jameel the additional property. Mr. Jameel indicated that he has control over this site for the next twenty (20) years.

Mr. Hutson said that Ms. Sargeant indicated that one of the hardships for this parcel of property was the widening of Big Beaver and asked if they had a property interest in this parcel before the widening of Big Beaver. Mr. Jameel said that he had purchased this property in 2004. Mr. Hutson said that was after Big Beaver was widened. Mr. Hutson said that in his opinion this is not a hardship, as he did not acquire an interest in this parcel until after the widening of Big Beaver and was aware of the dimensions of this lot. Mr. Hutson said that his concern is that they are asking for the use of a drive through on a parcel of land that is just over ½ acre where 1 acre is required. Mr. Hutson said that in his opinion they are trying to over use the property. This is one of the busiest

ITEM #7 – con't.

intersections of Troy and he believes that it will create a tremendous health, safety and health problem.

Mr. Jameel said that if he were to open this as a gas station he would create more traffic than Starbucks ever would and would have more traffic coming in and out. He would probably have 700 cars a day and Starbucks would not. Mr. Jameel also controls the other corner in this intersection and he has to make the best financial decision for himself.

Ms. Sargeant said that the west portion of the site, which Mr. Jameel acquired, has a deed restriction that will not allow for a curb cut or any type of building to be put on this property. Starbucks is very popular and would be an asset to this area.

Mr. Maxwell asked how the access to the property to the north would help the traffic flow in this area, especially with traffic flowing in two directions. Ms. Sargeant said that the parking lot to the north is very difficult for people to get in and out from and this access will help to alleviate some of this congestion. Mr. Maxwell said that in his opinion this would actually create more congestion as there will be people coming in and out from every direction and he does not feel that it will help. Ms. Sargeant said that they did that at the request of the City and basically the lot to the north is a dead end parking lot. It is very difficult for cars to get back out onto Crooks Road. Mr. Maxwell said that he understood it was done at the request of the City, but does not feel it will help this site at all. Ms. Sargeant said that if there were 12 to 13 cars that wanted to be in the stacking lane, this would prevent them from going onto Crooks Road. Mr. Maxwell said that in his opinion you would find more cars on Crooks Road.

Mr. Stimac said that according to the Ordinance, eight stacking spaces are required plus one at the window and that is what is indicated on the plans that have been submitted.

Mr. Fejes said that he would like to see a Starbucks here but has a problem with the traffic in this area. People that know that are going to get stuck in the right turn lane, they will fight to move into the other lanes to make a right turn. Mr. Fejes believes it will be worse in the morning than in the evening. Mr. Fejes also said that he believes there will be a backup of traffic along both Crooks and Big Beaver.

Mr. Jameel asked if there was a backup there when this location was a gas station, and Mr. Fejes said that traffic was backed up. Mr. Jameel said that the gas station moved out of this area because their lease ended and he does not believe another gas station will make it in this area. They would have only one curb cut along Big Beaver, which he believes will prevent a traffic backup. Mr. Fejes said that he was not convinced that this would not be a problem.

ITEM #7 – con't.

Mr. Courtney said he would rather see them close the Crooks entrance and use the cross access to the north. If they could buy the property to the north that would solve the whole problem. Ms. Sargeant said that they made the entrance off of Crooks a one-way drive to help alleviate the problem.

Mr. Kovacs said that there is a problem with traffic in this area. The burden of proof is for the petitioner to prove that they will not increase the traffic problem in this area. Mr. Kovacs said that in his opinion the petitioner has done that. He does not believe this restaurant will make the traffic problem any worse than the existing problems and this area will always be a traffic problem.

Mr. Fejes said that one of the concerns is that the variance runs with the land and will apply to anyone that goes into this area. Mr. Kovacs said that a restaurant can go in this area. Mr. Fejes said that it could, but it would not have a drive through. Ms. Sargeant said that in this day and age a drive through is vital. Mr. Fejes said that he agrees with that but he thinks they need more room.

Mr. Fejes said that he would like to see something done with this corner.

Motion by Hutson
Supported by Courtney

MOVED, to deny the request of Saif Jameel, 3031 Crooks Road, for relief of the Ordinance to construct a new commercial building containing a restaurant with a drive-up window on a site which is .51 acres in size, where Section 23.25.01 of the Troy Ordinance requires a site that is at least one acre is size in order to have a drive-up window facility in the H-S (Highway Service) Zoning District.

- Petitioner did not demonstrate a practical difficulty that would justify a variance.
- Variance would have an adverse effect to surrounding property.
- Widening of Big Beaver was completed before petitioner had an interest in this property.
- Traffic congestion could be increased along both Big Beaver and Crooks Road.

Mr. Kovacs said that he agrees with Mr. Hutson regarding the acquisition of this property after the widening of Big Beaver. Mr. Kovacs does not believe the traffic congestion will be any worse in this area with this business put in. This is a workable site and Mr. Kovacs believes that conformance to the Ordinance is unnecessarily burdensome.

Yeas: 4 – Wright, Courtney, Fejes, Hutson
Nays: 3 – Gies, Kovacs, Maxwell

MOTION TO DENY REQUEST CARRIED

ITEM #7 – con't.

Mr. Maxwell said that this restaurant has been kept to a very small size although he is not happy with the cross access easement with the property to the north.

ITEM #8 – VARIANCE REQUEST. S.O.C. CREDIT UNION, 4555 INVESTMENT DR., for relief to maintain a landscaped berm in lieu of the 6' high masonry-screening wall required along the south property line where the property abuts residential property.

Mr. Stimac explained that the petitioner is requesting renewal of a variance granted by this Board since 1987 to maintain a landscaped berm in lieu of the 6' high masonry-screening wall required along the south property line where it abuts residential zoning. The berm is in place and landscaping has been completed and it appears to adequately screen the sites from the south. This item last appeared before this Board at the meeting of March 21, 2006 and was postponed to allow the Building Department the opportunity to publish a Public Hearing to consider making this a permanent variance. The required notice has been provided to the nearby property owners and the item is appropriate for consideration.

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

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

There are four (4) written approvals on file. There are no written objections on file.

Mr. Maxwell said that although the berm is very nice, he does not find a solid line of trees on the berm. There are gaps in the tree line and he thinks that perhaps some of the trees need to be replaced. Mr. Maxwell is against a permanent variance.

Mr. Courtney pointed out that the people that abut this property have sent in approval letters.

Mr. Maxwell said that people move and in his opinion this should not be a permanent variance and looks fantastic now, but he would like to look at it every three years.

Motion by Maxwell
Supported by Kovacs

MOVED, to grant S.O.C. Credit Union, 4555 Investment Dr., a three (3)-year renewal of relief to maintain a landscaped berm in lieu of the 6' high masonry-screening wall required along the south property line where the property abuts residential property.

- To allow the Board to make sure that the landscaping is kept up.
- Variance is not contrary to public interest.
- Conditions remain the same.

ITEM #8 – con't.

- There are no objections on file.

Yeas: 6 – Courtney, Fejes, Hutson, Kovacs, Maxwell, Wright
Nays: 1 – Gies

MOTION TO RENEW VARIANCE FOR THREE (3) YEARS CARRIED

ITEM #9 – VARIANCE REQUEST. SUNNYMEDE APARTMENT, LLC, 561 KIRTS, for relief of the Zoning Ordinance to construct a detached garage with a 5' rear yard setback, where Section 40.57.00 requires a 30' minimum rear yard setback.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a detached garage. The site plan submitted indicates the proposed garage location 5' from the rear property line. Recent changes in the Zoning Ordinance require that the location standards for accessory buildings in zoning districts other than single family residential be the same as required for main buildings. As such Section 40.57.00 now requires a 30' minimum rear setback for accessory structures in RM-1 Zoning Districts.

Dennis Roys was present and stated that the first phase of this complex was completed in 1974 and phases one and two were completed in 1978. Recently a utility vehicle was stolen because it was parked outside. They have run out of storage space and when appliances are delivered, someone has to come from the office and put them inside vacant apartments so that they will not be stolen.

Mr. Courtney asked if they could put this garage at the end of the carports. Mr. Roys said that they would not meet the setback requirements and they would like this building in view of the office. Mr. Courtney asked where the current maintenance building was and Mr. Roys said it was farther north. Mr. Courtney asked if he would like to put this garage in that area but Mr. Roys said there is an existing gas line and telephone pole in that area that would prohibit the garage in this area.

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.

Mr. Hutson asked how large the complex was and Mr. Roys pointed out the entire area of the development. Mr. Hutson asked if there was any where else this garage could be located and Mr. Roys said that the only location would be in the area where the Austrian Pines are located and the owners would not permit that.

Motion by Maxwell
Supported by Courtney

ITEM #9 – con't.

MOVED, to grant the request of Sunnymede Apartment, LLC, 561 Kirts, for relief of the Zoning Ordinance to construct a detached garage with a 5' rear yard setback, where Section 40.57.00 requires a 30' minimum rear yard setback.

- Variance is not contrary to public interest.
- Variance applies only to the property described in this petition.
- Variance will not have an adverse effect to surrounding property.
- The adjacent property is industrially zoned
- There are already carports that are on the property line.

Yeas: All – 7

MOTION TO APPROVE REQUEST CARRIED

ITEM #10 – VARIANCE REQUEST. JEFF WILLIAMS, 159 TELFORD, for relief of the Zoning Ordinance to construct a detached garage in a side yard location, where Section 40.56.02 (a) prohibits the location of a detached accessory building in any yard except a rear yard.

Mr. Stimac explained that the property owner of the platted lot at 159 Telford has purchased a portion of the acreage parcel extending north off of Square Lake Road adjacent to his lot. Petitioner is requesting relief of the Zoning Ordinance to construct a detached garage on this additional property. This location places it in the side yard. Section 40.56.02 (a) of the Zoning Ordinance prohibits the location of a detached accessory building in any yard except a rear yard.

Mr. Kovacs asked if a variance would be required if there was some type of cover between the house and this structure. Mr. Stimac said that it would comply, although he was not sure if the distance from the building to the property line would require a minimum 10' setback. As a detached building it could be as close as 6' to the property line. There is also a10' easement that runs on the property and nothing could be built on the easement.

Mr. Hutson asked what the property was that is behind the property along Telford. Mr. Stimac said this a commons area that was platted as part of the Telford Ridge Subdivision.

Mr. Williams was present and said that the area behind his home runs into a culvert. Mr. Courtney asked why he wanted the garage in this area rather than in an area that would comply with the Ordinance. Mr. Williams indicated that the property immediately behind his home has a large cement patio and aesthetically it would not look good. There is also a berm at the back of the property and he does not believe there is enough room to add a garage. There is a line of pine trees along the driveway and this garage would not be visible to the neighbors. The Homeowners Association approved

ITEM #10 – con't.

this plan, and running a driveway all the way to the back would be expensive. Mr. Courtney said that the petitioner would not see the garage, but the neighbor across the street would see it and objects to this location. Mr. Williams said he will only be able to see the face of the garage as the pine trees hide it.

Mr. Williams said that anyone coming down the street will see the garage. The face of the garage will match the brick on the house and the roof line will be the same as the roof line of Mr. Williams' home. Mr. Williams said that the Homeowners Association never came back and told Mr. Williams to put this garage in another location.

Mr. Courtney asked what the parking situation is now. Mr. Williams said that they have too many hobbies, which include a boat, and a third car that he works on, as well as the toys of his children. Mr. Williams said that this will enable him to clean up this site and the area will be more aesthetically pleasing.

The Chairman opened the Public Hearing.

Charles Stenback, 144 Telford, was present and said that he and the person next door would have the most visible view of the proposed structure. Mr. Stenback indicated that there are a large number of trees in this area and he does not believe this structure will create a problem at all. Mr. Stenback also said that he is a representative of the Homeowners Association and they did approve Mr. Williams' plans by quite a majority. There were 14 yes votes, 3 no votes and 3 members abstained. Mr. Stenback said that he is in favor of this request.

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

There is one written approval and one written objection on file.

Motion by Maxwell
Supported by Wright

MOVED, to grant Jeff Williams, 159 Telford, for relief of the Zoning Ordinance to construct a detached garage in a side yard location, where Section 40.56.02 (a) prohibits the location of a detached accessory building in any yard except a rear yard.

- Proposed garage will be well screened.
- 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 #11 – VARIANCE REQUEST. MIKE JOHNSON, LOTS 248-253 OF STUMPF'S BEECH GROVE SUBDIVISION, for relief of the Ordinance to split six (6) existing 40' wide platted lots into four 60' wide parcels that would result in 7,205 square feet in area. Section 30.10.06 requires a minimum of 7,500 square feet of area for lots in the R-1E Zoning Classification.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to take a series of six (6) existing 40' wide, 120.08' deep platted lots and to divide them into four 60' wide parcels and construct a new single-family home on each one. These resultant parcels would each be only 7,205 square feet in area. Section 30.10.06 requires a minimum of 7,500 square feet of area for lots in the R-1E Zoning Classification.

Mr. Courtney asked if the petitioner could put up a duplex on this parcel. Mr. Stimac said that he could put a duplex on this property.

Mr. Johnson was present and stated that he has a purchase agreement on the property and he has tentative approval from Assessing to split these parcels. Mr. Johnson said that the neighbors do not want any more duplexes in the area and he does not feel it is in the public interest of the neighborhood. Mr. Courtney said that he thought Mr. Johnson could put up three houses instead of four, and Mr. Johnson said that he chooses not to do this, as it is not in his best interests financially. Mr. Johnson said that he came before this Board about one year ago and received a variance for basically the same thing.

Mr. Johnson said that the neighbors do not want duplexes, they would rather have single-family homes in the area. Mr. Johnson said that he also believes that the neighbors do support this request and would rather have four (4) new homes in the area.

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

There is one written approval and one written objection on file.

Mr. Hutson said that he remembers the request from last year and the neighbors wanted to see single-family homes rather than duplexes.

Motion by Hutson
Supported by Wright

MOVED, to grant Mike Johnson, Lots 248-253 of Stumpf's Beech Grove Subdivision, for relief of the Ordinance to split six (6) existing 40' wide platted lots into four 60' wide parcels that would result in 7,205 square feet in area where Section 30.10.06 requires a minimum of 7,500 square feet of area for lots in the R-1E Zoning Classification.

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- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.
- Variance applies only to the property in question.
- Conformance to the Ordinance is unnecessarily burdensome.

Mr. Kovacs asked if the petitioner could put up duplexes if this variance was approved. Mr. Stimac said that the petitioner would not be able to put up duplexes on lots that were 60' wide. He could split the lots in conformance with the ordinance and construct duplexes.

Yeas: 6 – Gies, Hutson, Kovacs, Maxwell, Wright, Fejes
Nays: 1 - Gies

MOTION TO GRANT VARIANCE CARRIED

ITEM #12 – VARIANCE REQUEST. BEHR AMERICA, 2716 DALEY (proposed address), for relief of the Ordinance to construct a new three-story office building that will be 55' in height where Section 30.20.08 of the Troy Zoning Ordinance limits the height of buildings in the M-1 (Light Industrial) Zoning District to not more than 40' in height; and to construct a new parking area right up to the front property line where Paragraph L of Section 31.30.00 requires a 50' front yard free of parking.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a new three-story office building at 2716 Daley. The site plan submitted indicates that the proposed building will be 55' in height. Section 30.20.08 of the Troy Zoning Ordinance limits the height of buildings in the M-1 (Light Industrial) Zoning District to not more than 40'. A previous variance granted by this Board allowed the wind tunnel portion of this development to be 60' tall. In addition, the site plan indicates a new parking area to be constructed on the site right up to the front property line along Daley. Paragraph L of Section 31.30.00 requires a 50' front yard free of parking.

Mr. Phil Tocco was present and stated that one of the biggest hardships with this property is that there is a lot of floodplain and low area, which will define the footprint of the building. The first floor is to be used as a test lab and this is the reason that they require the additional height. A test lab requires a higher ceiling in order to get the equipment in. The second and third floors will be used as regular offices and the ceiling height will be maintained at 8 or 10 feet.

Mr. Hutson asked what the petitioner meant when he stated that they require 15' floor to ceiling for view and light. Mr. Tocco said that they are trying to build this building to the same standard as the other buildings and this is a basic Behr standard that they follow. This standard dictates the amount of glass, the type of furniture and the amount of light that is in the building.

ITEM #12 – con't.

Mr. Fejes asked why they need so many parking spaces. Mr. Tocco said that this parking is required by the City of Troy. Mr. Stimac said that because of the amount of office use proposed, as evidenced by plans that indicate there will be workstations for 290 people, a large amount of parking is required. There is an intensive Research and Development area as well as office use.

Mr. Fejes asked if this was why the parking went right to the property line. Mr. Stimac said that there was not enough information and data submitted to do an exact calculation of required parking.

Mr. Courtney asked how tall the current office and lab building were. Mr. Tocco said that the office area is in a two-story building, but the way the one story lab is constructed, it is equal height and does not affect the height of the office building.

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.

Mr. Kovacs asked if the petitioner planned to remove any of the existing vegetation. Mr. Tocco said that there is an easement and setback from the stream along Daley. They are trying to build something that looks better and they would like to leave as much vegetation as possible.

Motion by Kovacs
Supported by Hutson

MOVED, to approve the request of Behr America, 2716 Daley (proposed address) for relief of the Ordinance to construct a new three-story office building that will be 55' in height where Section 30.20.08 of the Troy Zoning Ordinance limits the height of buildings in the M-1 (Light Industrial) Zoning District to not more than 40' in height; and to construct a new parking area right up to the front property line where Paragraph L of Section 31.30.00 requires a 50' front yard free of parking.

- Variance is not contrary to public interest.
- The existing drain and easements require multi-story construction.
- Petitioner will make the best use of this site.
- The height variance will go along with the current structure.
- Variance will not have an adverse effect to surrounding property.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #13 – VARIANCE REQUEST. WILLIAM BEAUMONT HOSPITAL, 44201 DEQUINDRE, for relief of the Ordinance to construct a new four story parking deck that will result in a 140' setback to the north property line and a 160' setback to the west property line. Paragraph D of Section 18.30.04 of the Troy Zoning Ordinance requires a minimum setback of 240' in each location.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a new four story parking deck that will be constructed with a 140' setback to the north property line and a 160' setback to the west property line. Paragraph D of Section 18.30.04 of the Troy Zoning Ordinance requires a minimum setback of 240' in each location. The setback is determined as 200' for the first two stories and an additional 20' for each additional story.

Mr. David Jaeger of Harley Ellis was present and stated that the health care is constantly changing. Beaumont in Troy has had the blessing of receiving a lot of patients and as part of that they have had to add to their master plan. The overall growth of the community is very dramatic and some of the outpatients cross Dequindre and use the parking on the Sterling Heights side of the campus. The hospital would like to increase the parking on the west side of the site.

The northwest corner of this site was seen as ideal for expansion because any impact to surrounding property would be minimal and also the relationship would be congruent with the Emergency Room, which is consistently growing. The neighbors to the south would rather see parking in the northwest quadrant of this site also. This would be the highest and best use of the property that Beaumont has.

Parking on the Dequindre side has been maximized and they cannot put any more parking in that location. In order to support the long-term needs of the hospital, they need to make the best use of this property in the northwest quadrant.

Mr. Fejes asked if the reason for more parking was because of the growth of this hospital. Mr. Jaeger said that was correct.

Mr. Courtney asked if they were going to enlarge the parking spaces as compared to the current parking. Mr. Jaeger said that they were not at that stage at this time, but they would definitely consider the suggestion. Mr. Courtney also said that he certainly could understand the need for more parking.

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.

Mr. Wright said that he did not see a need to maintain a 240' setback as he feels the impact of this structure would be minimal.

Motion by Wright
Supported by Courtney

ITEM #13 – con't.

MOVED, to grant William Beaumont Hospital, 44201 Dequindre, relief of the Ordinance to construct a new four story parking deck that will result in a 140' setback to the north property line and a 160' setback to the west property line. Paragraph D of Section 18.30.04 of the Troy Zoning ordinance requires a minimum setback of 240' in each location.

- Variance will not have an adverse effect to surrounding property.
- The adjacent properties are not used for residential uses.
- Conformance to the Ordinance would be unnecessarily burdensome.
- No valid reason to require the minimum 240' setback.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #14 – VARIANCE REQUEST. CHRISTOPHER LAVOIE, 30 E. BIG BEAVER (proposed address), for relief of the requirement of Paragraph R of Section 31.30.00 of the Ordinance requiring setbacks to be measured from the right of way lines shown on the Master Thoroughfare Plan in the construction of a new restaurant.

Mr. Stimac explained that the petitioner is requesting relief of the Troy Zoning Ordinance to construct a new restaurant at the southeast corner of Big Beaver and Livernois. Paragraph R of Section 31.30.00 of the Troy Zoning Ordinance requires that front yard setbacks for developments along major thoroughfares be measured from the right of way established by the Master Thoroughfare Plan. The Master Thoroughfare Plan shows a 90-foot wide half-width for Livernois in this area. The plans submitted show the existing parking lot and other amenities are developed using the 60-foot wide half-width for Livernois Road.

Mr. Fejes asked if the petitioner would require a parking variance. Mr. Stimac explained that the Planning Commission will determine the amount of parking needed at the time of their site plan approval. The Planning Commission has the authority to look at non-simultaneous use of a site regarding parking.

Mr. Kovacs asked if there may be a problem with the site regarding parking based on the Master thoroughfare plan. Mr. Stimac said that he has had discussions with the City Engineer and the Traffic Engineer regarding a boulevard in this area and has been told that this is something that probably will not happen. The City is in the process of doing a Big Beaver visioning project to come up with a development plan for Big Beaver and that has not been finalized, and although, Mr. Stimac does not know what it is going to say, it appears that the boulevard section on Livernois will be eliminated. Should there be a development that includes a boulevard cross section in the future the City would be required to acquire additional land. The petitioner would have to replace any parking spaces that would be lost or show that he has sufficient parking on the site to accommodate this restaurant.

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Mr. Wright said that this has been discussed at their last Planning Commission meeting and it was determined that it was highly unlikely that they would ever use a 180' right of way width. This is because of the overpass on Livernois.

Mr. Courtney asked how many parking spaces are required and how many the petitioner would lose if the right of way was changed. Mr. Stimac said that he did not have that information at this time.

Mr. Jim Jonas was present and stated that they have a cross use agreement with the existing office building and there are more than enough parking spaces. If the City acquired more land they would lose approximately 100 parking spaces, but there is more than enough parking in this lot.

Mr. Kovacs said that they could build a restaurant right now, but did not understand why they required a variance. Mr. Stimac explained that the City would still acquire the property if necessary, however, the petitioner requires a variance because of the location of the existing improvements where there is a possibility that the right of way line will change.

Mr. Jonas said that the Engineering Department has indicated that they do not believe the City will acquire the additional land for a boulevard. Mr. Jonas also said that basically this is an American Grille that will appeal to families.

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

There is one written approval on file. There are no written objections on file.

Motion by Kovacs
Supported by Courtney

MOVED, to grant Christopher Lavoie, 30 E. Big Beaver (proposed address), relief of the requirement of Paragraph R of Section 31.30.00 of the Ordinance requiring setbacks to be measured from the right of way lines shown on the Master Thoroughfare Plan in the construction of a new restaurant.

- Conformance to the Ordinance is unnecessarily burdensome.
- Variance will not have an adverse effect to surrounding property.
- Variance is not contrary to public interest.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

Mr. Stimac informed the Board that the election of Officers will be held at the meeting of May 16, 2006.

Ms. Gies informed the Board that she will be out of town and will not attend the May meeting.

The Board of Zoning Appeals adjourned at 10:13 P.M.

_____
Christopher Fejes, Chairman

_____
Pamela Pasternak, Recording Secretary