The Chairman, Michael Hutson, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M., on Tuesday, September 19, 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: Mitchell Grusnick, Residential Plan Analyst
Christopher Forsyth, Assistant City Attorney
Pamela Pasternak, Recording Secretary

ITEM #1 – APPROVAL OF MINUTES – MEETING OF AUGUST 15, 2006

Motion by Courtney
Supported by Gies

MOVED, to approve the minutes of the meeting of August 15, 2006 as written.

Yeas: 5 – Courtney, Gies, Hutson, Kovacs, Maxwell
Abstain: 2 – Fejes, Wright

MOTION TO APPROVE MINTUES OF AUGUST 15, 2006 AS WRITTEN CARRIED

ITEM #2 - VARIANCE REQUEST. SAIF JAMEEL, 3031 CROOKS ROAD, for relief of the Ordinance to construct a new commercial building with a drive up window accessory to a 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 made up of two separate parcels that total only .53 acres in size.

Mr. Grusnick 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 a 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 made up of two separate parcels that total only .53 acres in size. The Board denied a similar request in April of 2006. This request is different in that the current plan eliminates the connecting drive with the property to the north.

This item last appeared before this Board at the meeting of August 15, 2006 and was postponed to allow the petitioner the opportunity to be present.

ITEM #2 – con't.

Mr. Hutson stated that a letter was received by the Building Department asking that this item be withdrawn.

Motion by Courtney
Supported by Gies

MOVED, to accept the withdrawal request of Saief Jameel, 3031 Crooks Road, for relief of the Ordinance to construct a new commercial building with a drive up window accessory to a 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 made up of two separate parcels that total only .53 acres in size.

- At the request of the petitioner.

Yeas: All – 7

MOTION TO ACCEPT WITHDRAWAL CARRIED

ITEM #3 – VARIANCE REQUEST. MARSHA BUTKOVICK OF JEFFREY A. SCOTT ARCHITECTS, P.C., 3339 ROCHESTER, (proposed address), for relief of the Ordinance to construct a new Dunkin Doughnuts restaurant with a drive-up facility at the southwest corner of Rochester Road and Vanderpool, on a parcel of land that is only .96 acres in size where Section 21.30.02 requires at least one acre; and is also proposing that this proposed building result in a 43' front setback to the east property line where Section 30.20.05 requires a 75' front yard setback.

Mr. Grusnick explained that the petitioner is requesting relief of the Ordinance to construct a new Dunkin Doughnuts restaurant with a drive-up facility at the southwest corner of Rochester and Vanderpool. This property is in the B-2 (Community Business) Zoning Classification. Section 21.30.02 requires sites for restaurants with drive-up facilities in B-2 Districts to be at least once acre in size. The site plan submitted indicates that the site is only .96 acres.

In addition, Section 30.20.05 requires a 75' front yard setback in B-2 Districts. The site plans indicate a front setback of only 43' to the east property line.

Burt Kassab was present and stated that they have been working on this project for quite some time and originally proposed this restaurant with a driveway approach on Vanderpool. The petitioner found that there was a school bus stop on Vanderpool and the neighbors were very upset about the possibility of increased traffic on their street. The petitioner removed the Vanderpool driveway approach leaving the Rochester Road driveway approach. They have also moved the driveway further from the corner of Rochester and Vanderpool and both the entrance and exit are one-way drives. Mr.

ITEM #3 – con't.

Kassab also stated that they have a legally binding deed restriction that will prohibit a driveway onto Vanderpool. The west side 30' of the property has been dedicated to E-P (Environmental Protection) Zoning and they are trying to move the building as far east as possible so that it will have a minimal impact on the neighbors. The property on the north side of Vanderpool is zoned B-3, which has a 40' front setback, and this proposed building will have a 43' front setback. The lot itself has a lot of awkward corners and is irregular in shape. Mr. Kassab indicated that they have had a number of neighbor meetings and feel that they have reached a workable solution both for themselves and the neighbors. They have moved the speaker box to the south side of the building, which is next to a shopping center and therefore would have little impact on the neighbors. The maximum seating in the restaurant will be twenty. Required parking is nineteen spaces, and they will provide thirty-one spaces.

Mr. Maxwell asked if they knew how many cars would be going through this drive-thru during peak hours. Mr. Steve Collins, a representative of Dunkin Donuts said that it would depend on the traffic in the area and would be very difficult to give a number at this time although it could be between 100 and 120 cars during the peak morning hours.

Mr. Courtney asked if a variance would be required if the building were moved back. Mr. Kassab said that they could move the building farther back on the property and would not require a variance, but they were trying to work with the neighbors and this is the reason they moved the building as far east as they could. They have spent a lot of time studying traffic flow and believe this is the best solution.

Mr. Courtney stated that in the past Dunkin Donuts was always a place that people parked their cars and went in and either ordered take out or sat down and ate, and wondered how important this drive-thru window would be. Mr. Collins said that it will depend on the site and it is difficult to say how much traffic will be using the drive-thru. Typically 60% to 80% of business is done through the drive-thru.

Mr. Fejes said that a variance goes with the land, and wondered if a McDonald's would be able to go into this location. Mr. Forsyth stated that a variance runs with the land so that if a McDonald's came in they would be entitled to that variance.

Mr. Fejes said that he was unfamiliar with the menu of a Dunkin Donuts and asked what type of food was offered. Mr. Kassab stated that the menu consists of bagels, muffins, donuts, breakfast sandwiches and coffee. The menu is very limited. Mr. Fejes then asked if lunch was offered. Mr. Kassab stated that they do not have a very large sandwich menu. Mr. Collins confirmed that the menu is primarily a breakfast menu.

Mr. Courtney asked if the drive-thru would be shared since this a dual operation, which includes Baskin & Robbins. Mr. Kassab said that was correct and said that plenty of parking would be available for people that wish to come into the restaurant.

ITEM #3 – con't.

The Chairman opened the Public Hearing.

Laura Balyeat, 965 Vanderpool, was present and stated that she lives almost directly across from the house that is to be demolished. Ms. Balyeat stated that she has been to a number of meetings over the last eighteen months and the neighbors have lost the fight to have this property re-zoned. Ms. Balyeat stated that she is very concerned over the safety of the children in the area and does not want the noise or extra traffic that this business will generate. No one has informed the neighbors what the hours of operation will be. Ms. Balyeat stated that she does understand that seventeen (17) of her neighbors did approve of this request. Ms. Balyeat said that she wants the setback to be at whatever will be the safest for the children in the area.

Ms. Balyeat also stated that the Ordinance indicates that a drive-thru requires at least one-acre and since this site does not meet that requirement a variance should not be granted.

Mr. Fejes asked Ms. Balyeat to explain her concerns for the safety of the children. Ms. Balyeat said that she felt it would be up to the Board to determine what the safest solution would be for the children in the area. She is concerned about the increase in traffic on the street, cars lined up on Rochester Road, and believes that people trying to turn into the location will create a traffic hazard.

Mr. Courtney asked what the difference would be between Dunkin Donuts and Dunkin Donuts with a drive-thru. Ms. Balyeat said that she believes there will be an increase in traffic and wants the Board to determine what the safest location would be for this restaurant. Mr. Courtney said that he does not believe the setback will influence safety in any way.

John Billinger, 943 Vanderpool was present and stated that since this project has started he has tried to suggest alternatives to prevent encroachment into residential areas. Mr. Billinger is concerned about the impact of noise and negative effect on the value of residential property. Mr. Billinger said that he had asked the developer if they could build the restaurant without a drive thru or build it in a strip mall. He was told that Dunkin Donuts Corporate Office would not allow a structure to be built without a drive-thru or in a strip mall. After looking at the new plan with the 30' of E-P Zoning, the City Council members were impressed with the plan and approved the re-zoning application. The building still comes too far into the subdivision and the neighbors will see nothing but a wall. He does not believe that the developer worked with the residents and never really considered changing their original plan.

Richard Wiles, 975 Vanderpool was present and lives directly across the street from this project and does not understand why the neighbors object to this drive-thru. Rochester Road will be widened in the future and a median will be put in. Baker School busses children in and out so you do not see children hanging out at the different sites.

ITEM #3 – con't.

Mr. Wiles has lived next to a wall for thirty years and likes it as it gives him privacy. The big issue was the entrance on Vanderpool, but as soon as the petitioner removed this driveway, Mr. Wiles did not feel that there was a problem with this restaurant going in this location.

Kim Antoine, 968 Vanderpool was present and stated that he lives directly adjacent to this location. In the near future they are going to put a median on Rochester Road that will run past Long Lake Road and he does not believe there will be a hazard for children crossing the street. Elementary school children go west into the subdivision and are not anywhere near Rochester Road. Mr. Antoine said that he expects some noise, although the developer will be adding buffers. Mr. Antoine is in favor of this request.

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

There are four (4) written objections on file. There is one (1) written approval on file.

Mr. Fejes said that because the variance goes with the land, he is concerned that someone other than Dunkin Donuts will come in and also be entitled to this variance.

Mr. Hutson said this matter has been discussed regarding other locations and compared to other sites; this is a very small variance request.

Mr. Kovacs asked how far they would be allowed to go back. Mr. Grusnick said that the current required building envelope is 75' from the rear property line and includes the 30' E-P Zoning. They cannot put any parking in the 30' that is in the E-P Zoning.

Mr. Courtney asked if they would meet the setback requirement without a drive-thru. Mr. Grusnick said that they would in fact meet the Ordinance requirements.

Mr. Hutson said that he is impressed that they have moved the entrance from Vanderpool to Rochester Road in an attempt to buffer any noise or disturbance to the neighbors.

Motion by Courtney
Supported by Wright

MOVED, to grant Marsha Butkovick of Jeffrey A. Scott Architects, P.C., 3339 Rochester, (proposed address), relief of the Ordinance to construct a restaurant with a drive-up facility on a parcel of land that is only .96 acres in size where Section 21.30.02 requires at least one acre; and also to have a 43' front setback to the east property line where Section 30.20.05 requires a 75' front yard setback.

- Setback is being done for the convenience of the surrounding neighbors.
- Variance request of .04 acres is minimal.

ITEM #3 – con't.

- Building to be constructed as shown in the plan presented to the Board.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #4 – VARIANCE REQUEST. JAE DUK CHO, OF ADA ARCHITECTS, 1304 E. MAPLE, for relief of the Ordinance to alter an existing industrial building, that will result with a parking lot on the north side of the building to within 10' of the north property line and 21'-8" to the east property line. Section 30.20.09 requires a 50' front setback and Paragraph L of Section 31.30.00 requires that front yard remain free of parking and maneuvering lanes.

Mr. Grusnick explained that the petitioner is requesting relief of the Ordinance to alter an existing industrial building. The site plan submitted indicates the expansion of the parking lot on the north side of the building to within 10' of the north property line along Maple Road and within 21'-8" of the east property line along Allen Drive. Section 30.20.09 of the Zoning Ordinance requires a 50' front setback in the M-1 (Light Industrial) Zoning District and Paragraph L of Section 31.30.00 requires that this front yard remain free of parking or maneuvering lanes.

The parking lot along the east property line farther south on the lot is currently located 21'-8" from the front property line along Allen Drive based upon a variance granted in 1992.

Dan Saleet, Partner and Architect of ADA Architects, and Jae Duk Cho, Project Manager for ADA Architects were present. Mr. Saleet explained that Restaurant Depot is a wholesale distributor for restaurant operators and they currently have a location in Dearborn. They sell food and restaurant equipment in bulk. They are approximately 50 franchise locations around the country. This is a 52,000 square foot building and they plan to eliminate the front building along Maple. Right now they have about 115 parking spaces, 97 of which are in the rear, but there is a four-bay truck dock back there that requires a lot of turning and stacking. They plan to leave some of these spaces that will be utilized mainly for employee parking.

Mr. Jae Cho stated that they plan to demolish the existing one-story building that is primarily office space and the connecting vestibule. They want to put in a new parking lot for their customers and front parking is essential for convenience. The parking at the rear of the building would be primarily for employees. Restaurant Depot provides everything that a restaurant would need and is not open to the public. A Tax I.D. is required for customers to purchase products from this store.

ITEM #4 – con't.

Mr. Hutson asked how many parking spaces are required for a site this size. Mr. Grusnick stated in M-1 Zoning, calculations for this space indicate that the parking requirement is for 115 spaces. Mr. Hutson asked how many parking spaces are presently on this site. Mr. Grusnick stated that presently there are 116 parking spaces available. This count of parking spaces does not include the expansion at the front of the building.

Mr. Courtney asked how many spaces are proposed on this plan. Mr. Cho stated that there are 165 parking spaces shown. Mr. Courtney said that 115 are required, 116 are present and they are proposing 165 spaces. Mr. Courtney asked why they need this many spaces. Mr. Saleet said that they want a separation of drive, pedestrian access and employee parking and this is one of the reasons they want to put in this parking area. Mr. Courtney asked why they need an additional 50 parking spaces. Mr. Saleet said that it is for the convenience of the customer and to create a pleasant shopping experience. They want to make it expedient for the customers to get in the store, shop and leave and want the parking as close to the entrance as possible.

Mr. Courtney asked how many employees are at this location and Mr. Cho said that there are between 40 and 50 employees. Mr. Courtney asked how many parking spaces would be along Allen. Mr. Saleet said that there are approximately 51 parking spaces and Mr. Courtney asked how large the customer base was. Mr. Cho said that they do a large volume of business and currently they are targeting parking at 150 spaces. They would like between 90 and 100 spaces for customers and 40 to 50 spaces for employees.

Mr. Kovacs said that he was having a hard time understanding why this much parking would be required. The business is not open to the public and he cannot believe that they would require that many parking spaces for customers. Mr. Saleet said that he thought there would be customers coming to this store within a 50-mile radius. The Dearborn store is the first in Michigan and this will be the second location.

Mr. Kovacs said that the entrance and exit are to the front of the building and suggested that they change the orientation of the entrance to the building to be along Allen. This variance would be granted for the parking up front, and the side parking would go to waste because they are so far away. Mr. Kovacs also said that he felt that changes could be made and if necessary the petitioner could come to the Board at a later date, once it has been established that extra parking would be required.

Mr. Saleet said that there is a 5' sidewalk to the east side of the property and they are planning to add a 10' sidewalk. Part of the parking spots would be lost right in the middle of the east side and inside there are coolers and freezers that have a connection with the truck docks and they need to be oriented to the southwest corner of the building. If this entrance is changed it would result in a very poor layout for the interior of the store. There is not as much wasted space with this configuration.

ITEM #4 – con't.

Mr. Fejes asked why this site was chosen as the petitioner is asking for a large variance. Mr. Saleet said that they were not in on the actual choice of the site. Jeff Cavazos was present and helped Restaurant Depot in the selection of this site. They had looked at two other sites south of fourteen mile and felt that they were too close to the Dearborn Store. This site is the right size and configuration. They need the extra parking as they try to separate the customers from the truck parking to increase safety for the customers. They put up a canopy area for loading and unloading and if they had to put it on the east side of the building they would lose a number of parking spaces.

Mr. Courtney asked where the other stores were located. Mr. Cavazos said that other than the Dearborn store, there are no other stores in Michigan. They are in other locations such as Los Angeles, San Francisco, and Cleveland and in other parts of the country. Mr. Courtney said that in his opinion this proposal sounds like a Sams Club or Costco. Mr. Cavazos said that the general public cannot join this corporation. You have to have a Tax I.D. stating that you are a restaurant business or a non-profit organization. This is strictly a cash and carry business. Mr. Cavazos said that they have pre-determined how many members they will have and although he cannot say for sure, he believes this location would have approximately 2,000 members to start with.

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 stated that in his opinion this site will be overbuilt and parking will intrude into the setback and he would like to keep space and greenery between the road and the building. He does not believe there is a hardship that runs with the land and the site already provides a significant amount of parking.

Mr. Maxwell stated that he also believes this variance request is quite large and does believe there are other alternatives available to the petitioner. A very large variance was given to the Allen Road side of this property many years ago. A 10' setback along Maple is very small and there are no other buildings in this area with a 10' setback for parking. Mr. Maxwell said that he would like the petitioner to look at other options to determine if the variance request can be reduced.

Mr. Hutson asked if the petitioner had any interest in going back and seeing if they could re-configure this site and then come back to the Board.

Mr. Saleet said that they have thought about reducing the size of the variance but that would reduce the amount of parking and they really do need all of the parking they are requesting. Mr. Saleet said that if they had thirty days they could look at everything that has been said to determine if they could make any other changes.

ITEM #4 – con't.

Mr. Kovacs said that he has listened to everything that has been said and needs more hard facts to back up this variance request. In his opinion, convenience is not a hardship that runs with the land. Mr. Kovacs really wants to see a reduction in the amount of parking along Maple or he wants to know exactly what reasons would require this much parking, other than convenience for the customers.

Mr. Courtney said that he would rather not see the parking there, but once a need is shown they could come back to the Board and show why they need this much parking.

Motion by Fejes
Supported by Maxwell

MOVED, to postpone the request of Jae Duk Cho, of ADA Architects, 1304 E. Maple, for relief of the Ordinance to alter an existing industrial building, that will result with a parking lot on the north side of the building to within 10' of the north property line and 21'-8" to the east property line until the meeting of October 17, 2006. Section 30.20.09 requires a 50' front setback and Paragraph L of Section 31.30.00 requires that front yard remain free of parking and maneuvering lanes.

- Variance request is very large.
- Board would like to see alternative plans that would reduce the size of the variance request.
- Board would like hard evidence that would support the need for the additional parking.

Yeas: All – 7

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

ITEM #5 – VARIANCE REQUEST. TED WAHL, 1659 ROCHESTER ROAD, for relief of the Ordinance to alter an existing industrial building that will result in a 5' wide landscaped open space with a 3' to 6' high screen wall between a new parking lot where Section 30.20.09 requires a 50' front yard free of parking or maneuvering lanes; 2125 square feet of countable landscape where 4,466 square feet is required by Section 39.70.04; and, the proposed driveway on the north side of the building to be only 22'-6" wide where Section 40.25.03 requires that a two-way driveway adjacent to parking be a minimum of 24' in width.

Mr. Grusnick explained that the petitioner is requesting relief of the Ordinance to alter an existing industrial building. The plans submitted indicate a 5' wide landscaped open space with a 3' to 6' high screen wall between a new parking lot and the west property line along Enterprise Drive where Section 30.20.09 of the Zoning Ordinance requires a 50' front yard, free of parking or maneuvering lanes.

ITEM #5 – con't.

The plans further indicate only 2,125 square feet of countable landscape where Section 39.70.04 requires 4,466 square feet of landscape for a site this size.

In addition, plans show the width of the driveway on the north side of the building to be only 22'-6" wide where Section 40.25.03 requires that a two-way driveway adjacent to parking be a minimum of 24' in width.

John Vitale of Vitale Architects was present and stated that he was representing Ted Wahl. Mr. Vitale said that they plan to renovate an existing building and have worked very hard with the City and tried to make this site work. They have very tight restraints and they wish to put in a parking lot and allow access to this lot. This would be an improvement to the property, which is presently a vacant lot. Mr. Vitale said that they have tried to put in landscaping wherever they could and have attempted to preserve as many setbacks as they could and also have tried to soften the appearance of the wall.

Mr. Hutson said that in his opinion this was a very difficult site.

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

There are no approvals or objections on file.

Mr. Vitale stated that they have tried to be as sensitive as they could to develop landscaping around the entry way as it would be close to the Road. The wall will not be on the property line so they could put vegetation in there to soften it. At the request of the City, they have agreed to lower the wall and will add screening to it.

Mr. Maxwell asked if parking spaces had been added. Mr. Vitale said that the north parcel of property is vacant and this is where they plan to put their parking, which will meet the parking requirement. Mr. Maxwell asked if they were going to add parking closer to Enterprise Road and Mr. Vitale said they were not but were going to develop the parcel to the north.

Mr. Courtney asked if the parking requirements were going to be met with a multi tenant building and Mr. Vitale said that they would meet the requirements. Mr. Courtney said that in his opinion this plan would be an improvement to what is there.

Motion by Kovacs
Supported by Wright

ITEM #5 – con't.

MOVED, to grant Ted Wahl, 1659 Rochester Road, for relief of the Ordinance to alter an existing industrial building that will result in a 5' wide landscaped open space with a 3' to 6' high screen wall between a new parking lot where Section 30.20.09 requires a 50' front yard free of parking or maneuvering lanes; 2125 square feet of countable landscape where 4,466 square feet is required by Section 39.70.04; and, the proposed driveway on the north side of the building to be only 22'-6" wide where Section 40.25.03 requires that a two-way driveway adjacent to parking be a minimum of 24' in width.

- Proposal offered by the petitioner is the best possible solution for this area.
- Literal enforcement of the Ordinance precludes full enjoyment of the permitted use of the property.
- Lacking a variance conformance would be unnecessarily burdensome.
- A lesser variance would not give substantial relief as requested.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #6 – VARIANCE REQUEST. DANNA SIGNS, D.B.A. ISSI EAST COAST, 2155 W. BIG BEAVER, for relief of the Ordinance to install a canopy structure over an automated teller machine resulting in a 17' setback to the east property line, where Section 30.20.03 of the Zoning Ordinance requires a minimum 30' side yard setback line.

Mr. Grusnick explained that the petitioner is requesting relief of the Ordinance to install a canopy structure over an automated teller machine (ATM) in the side yard of the existing Chase Bank. Section 30.20.03 of the Zoning Ordinance requires a minimum 30' side yard setback. The site plan submitted indicates a 17' setback to the east property line.

Dan Booth, was present representing Danna Signs and stated that Chase Bank has taken over Bank One. The existing ATM machine has a built in canopy and a new ATM machine is going to be installed, which will stand-alone and has a canopy that will accompany it. Lighting will be built into the canopy and will help to provide a safer environment for users of the machine. This new equipment will also require protection from the weather.

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.

Motion by Fejes
Supported by Wright

ITEM #6 – con't.

MOVED, to grant Danna Signs, D.B.A. ISSI East Coast, 2155 W. Big Beaver, relief of the Ordinance to install a canopy structure over an automated teller machine resulting in a 17' setback to the east property line, where Section 30.20.03 of the Zoning Ordinance requires a minimum 30' side yard setback line.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.
- Variance applies only to the property described in this application.
- Variance will not establish a prohibited use in a Zoning District.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #7 – VARIANCE REQUEST. JOE & MONICA GERHARDSTEIN, 2261 KRISTIN, for relief of the Ordinance to construct an addition to their existing home that will result in a 41' rear yard setback where Section 30.10.02 requires a 45' minimum rear yard setback in the R-1B Zoning District.

Mr. Grusnick explained that the petitioners are requesting relief of the Ordinance to construct an addition to their existing home. The site plan submitted indicates a rear great room addition with a proposed 41' rear yard setback. Section 30.10.02 requires a 45' minimum rear yard setback in the R-1B Zoning District.

Joe Gerhardstein was present and stated that his property backs up to an elementary school on the south side and there is a 6' fence that separates his property from the school property. The fence extends the entire length of the lot. There are six large trees that separate his property from the neighbor's property to the west. They are trying to develop a large play area for their growing family and do not believe this addition will encroach on any of the surrounding property. They have looked at other construction that would be available to them, but wished to keep their variance request at a minimum.

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

There are three (3) written approvals on file. There are no written objections on file.

Motion by Maxwell
Supported by Fejes

ITEM #7 – con't.

MOVED, to grant Joe & Monica Gerhardstein, 2261 Kristin, relief of the Ordinance to construct an addition to their existing home that will result in a 41' rear yard setback where Section 30.10.02 requires a 45' minimum rear yard setback in the R-1B Zoning District.

- Variance is not contrary to public interest.
- Variance will not have an impact on any property in the vicinity.
- The rear yard backs up to Schroeder School.
- Variance request is very small.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #8 – VARIANCE REQUEST. YEN CHEN, 4679 JOHN R., for relief of the Ordinance to construct an addition at the rear of his home that would result in a 26' rear yard setback, where Section 30.10.04 requires a 40' minimum rear yard setback in the R-1C Zoning District.

Mr. Grusnick explained that the petitioner is requesting relief of the Ordinance to construct an addition at the rear of his existing home. The site plan submitted indicates the proposed three-season enclosure will result in a 26' rear yard setback. Section 30.10.04 requires a 40' minimum rear yard setback in the R-1C Zoning District.

Joe Foxa, owner of Creations and Restoration was present and stated that they have done a number of renovations on this home to help Mr. and Mrs. Chen's handicapped daughter. Their daughter cannot tolerate bug bites and they would like to put up a three-season sunroom, so that she can come out there and feel like she is outside while being protected from insects. They felt that a permanent structure would be more appealing to the surrounding neighbors. There is a large patio at the back of the house and the sunroom will be about the same size as this patio.

Mr. Courtney stated that the hardship is not with this property. Mr. Foxa said he is a little confused, but thought that the hardship is that they are short 14'. Mr. Courtney explained what type of hardship is considered to be running with the land.

Mr. Hutson gave examples such as a creek running through it, or an irregular shaped lot that would be considered a hardship.

Mr. Courtney asked if the child is in an insect free environment when they use the motor home. Mr. Foxa said that she has to stay inside the motor home, but is used to facilitate them moving their child.

The Chairman opened the Public Hearing.

ITEM #8 – con't.

Ms. Chen was present and stated that her daughter cannot go outside because if she gets a bug bite the area swells up very large. She likes to be out, but is prohibited from that because of her condition. She has a special walker and this room would enable her to use it and feel like she was outside.

Mr. Foxa said that they have made a number of alterations to the home to make it convenient for them to take care of their daughter. Because of these alterations they would not like to sell the home and move to another location.

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

There are three (3) written objections on file. There are no written approvals on file.

Mr. Maxwell stated that the Board is very sympathetic with the petitioner, but a variance runs with the property and will be there whether or not the petitioner lives there. This sunroom would be extremely close to the property behind this home and the variance request itself is very large. The neighbor behind would not want to look out and see this sunroom encroaching into their property.

Mr. Foxa said that the driveway where the motor home is parked goes even further than the proposed sunroom. Mr. Maxwell said that the motor home is not a permanent structure and could be moved. This sunroom would be permanent and in his opinion would encroach on the property of the neighbor behind them.

Mr. Courtney asked if they had looked at any other possibilities on the property. Mr. Foxa said that if this variance request was denied, he thought they could install a tongue and groove type deck, with a canvass awning and screens. Mr. Courtney said that they could look at the other side of the garage. Mr. Foxa said that they would have to move the motor home and Mr. Courtney said that they would have to make a choice.

Mr. Hutson asked if the second structure Mr. Foxa described would require a variance and Mr. Grusnick said that it would.

Mr. Hutson asked the petitioner if he would like some time to explore other possibilities and then come back to the Board. Mr. Hutson said that he also feels this is a very large variance request and the petitioner may want to explore other possibilities. Mr. Foxa said that if this is denied, the Board would probably be more inclined to deny a deck. Mr. Maxwell said that they are concerned about the size of the request.

Mr. Foxa asked that this petition be postponed for thirty days.

Mr. Courtney said that he thought they could look at other ideas and perhaps move the motor home.

ITEM #8 – con't.

Motion by Courtney
Supported by Gies

MOVED, to postpone the request of Yen Chen**,** 4679 John R., for relief of the Ordinance to construct an addition at the rear of his home that would result in a 26' rear yard setback, where Section 30.10.04 requires a 40' minimum rear yard setback in the R-1C Zoning District.

- To give the petitioner the opportunity to explore other options.

Yeas: All – 7

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

The Board of Zoning Appeals meeting adjourned at 9:12 P.M.

Michael Hutson, Chairman

Pamela Pasternak, Recording Secretary