

The Chairman, Michael Hutson, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M. on Tuesday, November 21, 2006 in Council Chambers of the Troy City Hall.

PRESENT: Kenneth Courtney
Marcia Gies
Michael Hutson
Matthew Kovacs
Mark Maxwell
Wayne Wright

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

ABSENT: Christopher Fejes

Motion by Hutson
Supported by Gies

MOVED, to excuse Mr. Fejes from this meeting due to illness.

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

MOTION TO EXCUSE MR. FEJES FROM THIS MEETING CARRIED

ITEM #1 – APPROVAL OF MINUTES – MEETING OF OCTOBER 17, 2006

Motion by Courtney
Supported by Maxwell

MOVED, to approve the minutes of the meeting of October 17, 2006 as written.

Yeas: 5 – Hutson, Kovacs, Maxwell, Wright, Courtney

Abstain: 1 - Gies

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

Motion by Courtney
Supported by Maxwell

MOVED, to hear Item #6 on the Agenda out of order.

- Same request has appeared before this Board for a number of years.

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

MOTION TO TAKE ITEM #6 OUT OF ORDER CARRIED

ITEM #6 – VARIANCE REQUEST (Taken out of Order.) JOHN BRODERICK, OF HONEYBAKED HAM, 1081 E. LONG LAKE, for relief of the Ordinance to place two temporary storage containers for the time period December 10th through December 31, 2006.

Mr. Stimac explained that the petitioner is requesting approval under the Zoning Ordinance to place two temporary storage containers outside at 1081 E. Long Lake from December 10, 2006, through December 31, 2006. Section 43.80.00 of the Zoning Ordinance gives the Board of Zoning Appeals the authority to permit temporary buildings for permitted uses for a time frame not to exceed two years. This Board has granted similar requests for this site in the past. The Building Department has no record of complaints as a result of previous approvals.

Mr. Broderick was present and asked if this Board could grant this request for this year and next year. Other than this time request, this request is identical to the other requests made by this petitioner.

Mr. Stimac explained that although this Board had the authority to grant this request for a period of two years, in his application, the petitioner had only requested the time frame that was published.

Mr. Hutson suggested that the petitioner ask for the additional time needed the next time they came before the Board.

The Chairman opened the Public Hearing. No one 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.

Motion by Maxwell
Supported by Wright

MOVED, to grant John Broderick, of Honey Baked Ham, 1081 E. Long Lake, relief of the Ordinance to place two (2) temporary storage containers outside for the time period December 10th through December 31, 2006.

- Variance is not contrary to public interest.
- There are no objections on file.
- Variance will not have an adverse effect to surrounding property.

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

MOTION TO GRANT VARIANCE CARRIED

ITEM #2 – 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 where Section 30.20.09 requires a 50' front setback and Paragraph L of Section 31.30.00 requires that the front yard remain free of parking and maneuvering lanes.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to alter an existing industrial building.

The site plan submitted indicates the removal of the existing office portion of an industrial building and 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 this lot is currently located 21'-8" from the front property line along Allen Drive based upon a variance granted in 1992.

This item last appeared before this Board at the meeting of October 17, 2006 and was postponed to allow the petitioner the opportunity to look at other options that are available; and to allow the petitioner to demonstrate to the Board the reason this much parking will be required. Since that meeting revised plans have been submitted with an alternate parking layout that would increase the greenbelt along the Maple Road property line to 43'.

Mr. Dan Saleet was present and stated that they had listened to what the Board had to say at the last meeting and believe they have come up with a solution that will appeal to the Board. They have reduced the number of parking spaces to ninety-three (93), which will be enough for their needs. They have also increased the amount of greenspace along Maple Road that will now result in a 43' setback.

Mr. Maxwell stated that he appreciated the compromise that the petitioner had made and thought this variance request was more reasonable.

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 stated that this plan is much better and likes the fact that the petitioner is providing more greenspace.

Motion by Kovacs
Supported by Courtney

ITEM #2 – con't.

MOVED, to grant Jae Duk Cho, of ADA Architects, 1304 E. Maple, 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 43' of the property line along Maple Road, where Section 30.20.09 requires a 50' front setback and Paragraph L of Section 31.30.00 requires that the front yard remain free of parking and maneuvering lanes.

- 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.
- Literal enforcement of the Ordinance would be unnecessarily burdensome.
- Variance does not permit the establishment of a prohibited use within a Zoning District.
- The revised site plan will result in less paving in the front yard than currently exists.

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

MOTION TO GRANT VARIANCE CARRIED

ITEM #3 – 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. Stimac 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.

This item last appeared before this Board at the meeting of October 17, 2006 and was postponed at the request of the petitioner.

Mr. Joe Foxa, representing Mr. and Mrs. Chen was present. He distributed drawings of other possibilities for this sunroom. Mr. Foxa indicated that they could convert the existing garage to a sunroom and then construct a detached garage at the rear of the property. Mr. Foxa stated that although he understands the neighbors are very much against this sunroom, in his opinion it would be better to look at a sunroom rather than a detached garage. The homeowners are amenable to changing the existing garage to a three-season room.

Mr. Hutson asked if a garage could be constructed without a variance. Mr. Stimac stated that although he was not sure if there were any easements at the rear of this property, the alternate plan submitted would comply with the Ordinance regarding the square footage of accessory buildings, lot coverage and setbacks.

ITEM #3 – con't.

Mr. Foxa stated that he did not think the people behind this home would like to look at the back of a garage. He said that he had attempted to contact the owners that abut this property but was unable to talk to them.

Mr. Hutson said that he was against this variance request and the alternate plan does not require any type of variance.

Mr. Courtney said that in his opinion the neighbors were probably more interested in what would be happening with the large recreational vehicle parked on the property.

Mr. Foxa said that he offered that vehicle to the neighbors as a bargaining tool to them and said if they would be willing to rescind their objection, he could probably convince the Chens to move the vehicle to a storage lot, but the neighbors did not accept that. The Chens also like to have the recreational vehicle parked in their yard. Mr. Foxa also asked if the neighbors would rather look at a garage, with a ladder hanging on the back, possibly painted orange or a sunroom 30' or 40' away.

Mr. Kovacs said that there are two plans available, one that would require a variance and one that does not. He sympathizes with the needs of the Chens, but this property does not warrant a variance. This is a spec home built to within the 40' line, and the petitioner is allowed to add a detached garage.

Motion by Kovacs
Supported by Courtney

MOVED, to deny 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.

- Petitioner failed to demonstrate a hardship running with the land.

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

MOTION TO DENY VARIANCE CARRIED

Mr. Hutson explained that the Ordinance requires a hardship with the land in order to grant a variance, and there is not a hardship running with this property.

ITEM #4 – VARIANCE REQUEST. JEFFREY AND DONNA ARCE, 3511 BEACH, for relief of the Ordinance to construct a covered front porch and laundry room addition to their existing, legal non-conforming home. These alterations would result in a 31' front setback to the new covered porch and a 37' front setback to the proposed laundry room addition. Section 30.10.02 requires a 40' front yard setback and Section 40.50.04

ITEM #4 – con't.

prohibits expansions of non-conforming structures in a way that increases the non-conformity.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a covered front porch and laundry room addition to their existing home. This home is a non-conforming structure. The original plans for the home from 1961 show that it would meet the minimum front setback. However, recent surveys show that it has an existing 36' front yard setback to Beach Road where 40' is required per Section 30.10.02. Plans submitted indicate a new covered porch with a proposed 31' front setback and a proposed laundry room addition with a 37' front setback to the front property line along Beach Road. Section 40.50.04 prohibits expansions of non-conforming structures in a way that increases the non-conformity.

Jeffrey and Donna Arce were present. Mr. Arce stated that they have been residents of Troy for sixteen (16) years and they are in the process of re-doing the roof. They thought this would be a good time to make the necessary changes they wanted to do to their home. There are a lot of renovations going on around the neighborhood and they believe this is the time to do it.

Mr. Arce explained that they cannot enter the house from the attached garage, and when they add the laundry room, they will change the entrance to the home and have a true attached garage. Even though the addition is going out 7' it will not go up to the edge of the house. The addition is approximately 17' x 11', and it will close off the breezeway and give them a true attached garage.

There is an existing 4' x 12' open porch and they plan to rebuild it, add the roof and some columns. They have been working on this project for about a year and Mr. Arce believes this will fit in very nicely with the other homes in the area. Mr. Arce said that he had spoken to a number of his neighbors and they have all been very supportive of these proposed changes. These changes will not expand the structure more than it already is.

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.

Motion by Maxwell
Supported by Wright

ITEM #4 – con't.

MOVED, to grant Jeffrey and Donna Arce, 3511 Beach, relief of the Ordinance to construct a covered front porch and laundry room addition to their existing, legal non-conforming home. These alterations would result in a 31' front setback to the new covered porch and a 37' front setback to the proposed laundry room addition. Section 30.10.02 requires a 40' front yard setback and Section 40.50.04 prohibits expansions of non-conforming structures in a way that increases the non-conformity.

- Variance will not decrease the existing setback of the home.
- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.

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

MOTION TO GRANT VARIANCE CARRIED

ITEM #5 – VARIANCE REQUEST. TOBY BUECHNER, 1600 W. MAPLE, for relief of the Ordinance to eliminate the sidewalk along the northeast portion of the building and also to eliminate the sidewalk between the Maple road public sidewalk and the building perimeter sidewalk, both of which are required by Section 39.70.03.

Petitioner is also asking for relief of the dumpster enclosure screening required by Section 39.70.09.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to eliminate the sidewalk along the northeast portion of the building between the building and the vehicular use area and also to eliminate the sidewalk between the Maple Road public sidewalk and the building perimeter sidewalk, both of which are required by Section 39.70.03.

Petitioner is also asking for relief of the dumpster enclosure screening required by Section 39.70.09.

In August, 2006, the petitioner received a variance from this Board to reduce the amount of countable landscaping to 4,923 square feet where Section 39.70.04 of the Ordinance requires a minimum of 7,062 square feet of landscaping; and, in January 2006 Mr. Buechner received a variance to eliminate the sidewalk along the northwest and a portion of the west side of the building.

Mr. Buechner was present and stated that he is new to this business and he and his brother are trying to create a valuable business in the City of Troy. This is a uniquely shaped building. Mr. Buechner stated that the sidewalk in the back of the property does not come or go from anywhere and this is the reason he does not feel it is valuable. Regarding the sidewalk from the front of the building to Maple, Mr. Buechner said that

ITEM #5 – con't.

he did not believe anyone has ever walked to the building. He is trying to be practical and does not feel that this sidewalk is needed.

Mr. Buechner said that the dumpster is small, brand new and is actually screened by a tree and the building next door. There are a number of large dumpsters in this area that are not screened and he does not feel the dumpster on his property should require any additional screening. This building was vacant for three (3) years and he feels that they are moving in the right direction. Kids are having fun and there are seventeen (17) people employed.

Mr. Kovacs asked how people would safely walk to the entrance of the building if the sidewalk was removed behind the building. Mr. Buechner said that he does not believe in the nine (9) months that this building has been operational, anyone has ever parked at the back of the building.

Mr. Stimac explained that the reason there is no sidewalk along the west side of the building, is because this Board had previously granted a variance to eliminate that sidewalk. The plan originally seen by the Planning Commission and this Board had the parking and the driveway flipped. The driveway was at the northern edge of the property, but there is an existing pole with a guy wire, which makes it almost impossible to put a driveway in this area.

Mr. Courtney asked for clarification regarding the variance granted by this Board for the sidewalk on this property. Mr. Stimac explained that previously there was a request to eliminate the sidewalk along the northwest portion of the building and this variance was granted. Mr. Buechner said that this was due to the irregular shape of the building and constraints to provide adequate parking.

Mr. Courtney stated that he did not have a problem granting a variance for either sidewalk, but did have a problem eliminating the screening around the dumpster. Mr. Buechner passed a picture around to the Board members so that they could see what the dumpster looked like.

Mr. Hutson asked what type of screening would be put around this dumpster and Mr. Buechner said that he would probably put screening on three (3) sides of the dumpster, but does not feel this is very practical, and hopes that if he does have to add screening, no one will crash into it.

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.

ITEM #5 – con't.

Mr. Hutson said that this was a very difficult site. Mr. Buechner said that the beauty is on the inside of the building, and many employees of the City have brought their children over to use and enjoy this facility.

Motion by Courtney
Supported by Wright

MOVED, to grant Toby Buechner, 1600 W. Maple, relief of the Ordinance to eliminate the sidewalk along the northeast portion of the building also to eliminate the sidewalk between the Maple road public sidewalk and the building perimeter sidewalk, both of which are required by Section 39.70.03.

- There is no practical purpose for the sidewalks.
- Variance is not contrary to public interest.

Yeas: 6 - Courtney, Gies, Hutson, Kovacs, Maxwell, Wright

MOTION TO GRANT VARIANCES FOR THE ELIMINATION OF TWO SIDEWALKS CARRIED

Motion by Kovacs
Supported by Gies

MOVED, to grant Toby Buechner, 1600 W. Maple, relief of the Ordinance to eliminate the dumpster enclosure screening required by Section 39.70.09.

- Dumpster screening would be unnecessarily burdensome to the petitioner.
- Screening would make turning in the parking lot very difficult.

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

MOTION TO GRANT VARIANCE FAILS

The Zoning Board of Appeals meeting adjourned at 8:26 P.M.

Michael Hutson, Chairman

Pamela Pasternak, Recording Secretary