

The Chairman, Mark Maxwell, called the meeting of the Board of Zoning Appeals to order on Tuesday, May 15, 2007 at 7:30 P.M., in Council Chambers of the Troy City Hall.

PRESENT: Kenneth Courtney
 Marcia Gies
 Matthew Kovacs (Arrived at 7:50 P.M.)
 Mark Maxwell
 Wayne Wright

ABSENT: Glenn Clark
 Christopher Fejes

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

Motion by Courtney
Supported by Gies

MOVED, to excuse Mr. Fejes from this meeting as he is out of town.

Yeas: 4 –Gies, Maxwell, Wright, Courtney
Absent: 2 – Clark, Kovacs

MOTION TO EXCUSE MR. FEJES CARRIED

ITEM #1 – APPROVAL OF MINUTES – MEETING OF APRIL 17, 2007

Motion by Wright
Supported by Courtney

MOVED, to approve the minutes of the meeting of April 17, 2007 as written.

Yeas: 4 – Gies, Maxwell, Wright, Courtney
Absent: 2 – Kovacs, Clark

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

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

Motion by Wright
Supported by Gies

MOVED, to approve Item #3 and #4 in accordance with the suggested resolutions printed in the Agenda Explanation.

ITEM #2 – con't.

Yeas: 4 – Maxwell, Wright, Courtney, Gies

Absent: 2 – Kovacs, Clark

MOTION TO APPROVE ITEM #3 AND #4 FOR A PERIOD OF THREE (3)-YEARS CARRIED

ITEM #3 - RENEWAL REQUESTED. REVEREND SIMION TIMBUC, BETHESDA ROMANIAN PENTECOSTAL CHURCH, 2075 E. LONG LAKE, for relief of the 4'-6" high masonry screening wall required along the east side of off-street parking.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board of the 4'-6" high masonry-screening wall required along the east side of off-street parking. This relief has been granted on a yearly basis since May 1998. This item last appeared before this Board at the meeting of May 2004 and was granted a three-year (3) renewal.

MOVED, to grant Reverend Simion Timbuc, 2075 E. Long Lake, a three (3) year renewal of relief of the 4'-6" high masonry-screening wall required along the east side of off-street parking.

- Conditions remain the same.
- There are no complaints or objections on file.
- Variance is not contrary to public interest.

ITEM #4 – RENEWAL REQUESTED. REVEREND PAUL STOVER, 2601 E. SQUARE LAKE, for renewal of relief to provide a berm in place of the 4'-6" high wall on the west side of off-street parking and deletion of the 4'-6" high wall required along off-street parking on the north side of the property.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board to provide a berm in place of the 4'-6" high wall on the west side of off-street parking and deletion of the 4'-6" high wall required along off-street parking on the north side of the property. This relief was originally granted in 1995 based on the fact that the property immediately north of the parking lot is wetlands and has substantial growth. This item last appeared before this board at the meeting of May 2004 and was granted a three (3) year renewal at that time. Conditions remain the same and we have no complaints or objections on file.

MOVED, to grant Reverend Paul Stover, 2601 E. Square Lake, a three (3) year renewal of relief to provide a berm in place of the 4'-6" high wall on the west side of off-street parking and deletion of the 4'-6" high wall required along off-street parking on the north side of the property.

ITEM #4 – con't.

- Conditions remain the same.
- There are no complaints or objections on file.
- Variance is not contrary to public interest.

ITEM #5 – VARIANCE REQUEST. RANDALL A. WHINNERY, 2078 TUSCANY, for relief of the Ordinance to construct an addition on the rear of an existing residence that will result in a 29' rear yard setback where Section 30.10.05 requires a 40' minimum rear yard setback in R-1D Zoning Districts.

The petitioner was not present. The Chairman moved this request to the end of the agenda, Item #11, to allow the petitioner the opportunity to be present.

ITEM #6 – VARIANCE REQUEST. VISION QUEST COUNSELING, 3455 LIVERNOIS (PROPOSED ADDRESS), for relief of the Ordinance to construct a new office building without a 6' high screening wall along the eastern, approximately 250' of the site, as required by Section 39.70.10.

The petitioner was not present. The Chairman moved this request to the end of the agenda, Item #12, to allow the petitioner the opportunity to be present.

ITEM #7 – VARIANCE REQUEST. JASON BELL OF BEAUMONT SERVICES COMPANY, LLC REPRESENTING WILLIAM BEAUMONT HOSPITAL, 44201 DEQUINDRE, for relief of the Ordinance to construct a pedestrian bridge across Dequindre that will go right out to (and over) the front property line along Dequindre with the support tower located 18' from the property line, where Paragraph D of Section 18.30.04 requires that a main building be located no closer than 200' to a public street.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a pedestrian bridge across Dequindre Road at 44201 Dequindre. This hospital facility is located within the C-F (Community Facilities) Zoning District. Paragraph D of Section 18.30.04 requires that a main building be located no closer than 200' to a public street. The site plan submitted indicates that the enclosed pedestrian bridge will go right out to (and over) the front property line along Dequindre and that the support tower will be located 18' from this property line.

Mr. Maxwell asked what the distance was of the right of way line on Dequindre Road.

Mr. Stimac explained that the right of way is 120' for Dequindre Road.

Mr. Maxwell asked how far the support for the bridge would be from the actual pavement of Dequindre Road.

Mr. Stimac explained that it would be approximately 46' from the edge of the pavement.

ITEM #7 – con't.

Mr. Courtney asked if the petitioner had received approval from the City of Sterling Heights and the Oakland Road Commission.

Mr. Stimac explained that it was his understanding they had received approval from both the City of Sterling Heights and the Oakland County Road Commission. Mr. Stimac also said that City Council has final approval of the final site plan.

Jason Bell of Beaumont Services and Craig McEwen of Harley Ellis Devereaux were present. Mr. Bell said that the fundamental purpose of this bridge is so that staff can traverse both facilities. They are planning to locate outpatient services to the Sterling Heights side of the hospital. This would enable staff to move from one location to another without the use of shuttle buses or automobiles.

Mr. Maxwell asked where this bridge would connect.

Mr. Bell explained that it would open into an atrium on the Sterling Heights side and connect into the second floor of the main entrance of the hospital on the Troy side.

Mr. McEwen said that the bridge does create the ability to go back and forth between the two facilities. The bridge is not to be used so much for parking on one side and working on the other, but to enable staff to go back and forth between the two buildings without the use of a shuttle bus or automobile..

Mr. Courtney asked if it was going to be strictly a walking bridge or if a moving sidewalk would be put into it.

Mr. McEwen said that it is a walking bridge that will be about 14' wide. It will also slope down slightly to the Sterling Heights side. Mr. McEwen said that they have received approval from the Oakland County Road Commission.

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

There are two (2) written approvals on file. There are no written objections on file.

Motion by Wright
Supported by Gies

MOVED, to grant Jason Bell of Beaumont Services Company, LLC representing William Beaumont Hospital, 44201 Dequindre, relief of the Ordinance to construct a pedestrian bridge across Dequindre that will go right out to (and over) the front property line along Dequindre with the support tower located 18' from the property line, where Paragraph D of Section 18.30.04 requires that a main building be located no closer than 200' to a public street.

Item #7 – con't.

- Bridge will increase staff and patient safety.
- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.

Yeas: 4 – Wright, Courtney, Gies, Maxwell

Absent: 2 – Clark, Kovacs

MOTION TO GRANT VARIANCE CARRIED

Mr. Maxwell asked if it was possible for the Board to combine the next three (3) items at the same time since it is one petitioner.

Mr. Stimac stated that the items could be presented as one, but that a separate motion and vote would be required for each address as each variance is different.

ITEM #8 – VARIANCE REQUEST. SPALDING DEDECKER AND NOWAK & FRAUS, ON BEHALF OF THE OWNERS DAVID & JANE BISHOP, 1147 GARWOOD, for relief of the Ordinance to maintain a home that was constructed 7.60' from the east property line.

ITEM #9 - VARIANCE REQUEST. SPALDING DEDECKER AND NOWAK & FRAUS, ON BEHALF OF THE OWNER, SUZANNE FARRAN, 1161 GARWOOD, for relief of the Ordinance to maintain a home that was constructed 7.39' from the east property line.

ITEM #10 - VARIANCE REQUEST. SPALDING DEDECKER AND NOWAK & FRAUS, ON BEHALF OF THE OWNERS, MARK & KATHLEEN PETERSON, 1175 GARWOOD, for relief of the Ordinance to maintain a home constructed 7.30' from the east property line.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to maintain homes that were constructed 7.60, 7.39 & 7.30', respectively, from the east property line. Section 30.10.04 of the Troy Zoning Ordinance requires a minimum 10' side yard setback in the R-1C Zoning District. Updated surveys have been submitted showing this existing home is only 7.30' from the east property line and not in compliance with the minimum side yard setback.

Mr. Stimac further explained that at the time the lots are platted, lot irons are placed at each corner of the lot. Lot #6, #7 and #8 were platted showing 80' in width. Rather than the lot stakes placed in the correct locations, the lots were staked approximately two and one-half (2 ½') to east of where they should have been placed.

The "As-Built" surveys submitted to the Building Department indicated that each home was constructed on the lot indicating a 10' side yard setback. It has since been

ITEMS #8, #9 & #10 – con't.

determined that these “As-Built” surveys were in error as they were based on the incorrect placement of the lot irons.

Mr. Courtney asked if the Building Department was sure these lots were the only lots that were incorrect.

Mr. Stimac stated that the home on the lot to the east was placed correctly as it was surveyed from the other end of this subdivision.

Mr. David Miller from Nowak & Fraus and Mr. George Platz of Spalding DeDecker were present. Mr. Miller stated since they discovered this error they have gone back and surveyed each additional lot in the subdivision and made sure that they were positioned correctly. Mr. Miller said that the only lots involved are the lots before the Board tonight. Mr. Miller also stated that the homeowners were not aware that this was a problem and if these variances are granted, they will set out new lot irons indicating the correct dimensions of each lot.

In order, to have these lots conform part of each house would have to be removed and this would be an extreme difficulty.

The Chairman opened the Public Hearing.

Mr. Chan Chung of 1189 Garwood was present. Mr. Chung said that his home is the lot right next to these lots. Mr. Chung said that he feels he is a victim because he does not think there is enough room between his home and the home next door. Mr. Chung also wanted to know how this happened and how to fix the system so that it would not happen again.

Mr. Maxwell said that it was simply an unintentional error.

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

There are two (2) written approvals for each request. There are no written objections.

Mr. Maxwell said that obviously this was not a mistake on the homeowners' parts and he does not feel that they should have to be penalized for this mistake.

ITEM #8

Motion by Kovacs
Supported by Wright

ITEM #8

MOVED, to grant Spalding DeDecker and Nowak & Fraus, on behalf of the owners, David and Jane Bishop, 1147 Garwood, for relief of the Ordinance to maintain a home that was constructed 7.60' from the east property line where a 10' minimum side yard setback is required by Section 30.10.04.

- Error in size of side yard setbacks was an honest mistake.
- Variance is not contrary to public interest.
- Variance does not have an adverse effect to surrounding property.
- Literal enforcement does preclude full enjoyment of the property and conformance would be unnecessarily burdensome.
- A 20' total side yard setback must be maintained.

Yeas: 5 – Courtney, Gies, Kovacs, Maxwell, Wright
Absent: 1 – Clark

MOTION TO GRANT VARIANCE CARRIED

ITEM #9

Motion by Kovacs.
Supported by Gies

MOVED, to grant Spalding DeDecker and Nowak & Fraus, on behalf of the owner, Suzanne Farran, 1161 Garwood, relief of the Ordinance to maintain a home that was constructed 7.39' from the east property line where a 10' minimum side yard setback is required by Section 30.10.04.

- Error in size of side yard setbacks was an honest mistake.
- Variance is not contrary to public interest.
- Variance does not have an adverse effect to surrounding property.
- Literal enforcement does preclude full enjoyment of the property and conformance would be unnecessarily burdensome.
- A 20' total side yard setback must be maintained.

Yeas: 5 – Courtney, Gies, Kovacs, Maxwell, Wright
Absent: 1 – Clark

MOTION TO GRANT VARIANCE CARRIED

ITEM #10

Motion by Kovacs
Supported by Courtney

ITEM #10

MOVED, to grant Spalding DeDecker and Nowak & Fraus, on behalf of the owners, Mark & Kathleen Peterson, 1175 Garwood, relief of the Ordinance to maintain a home constructed 7.30' from the east property line where a 10' minimum side yard setback is required by Section 30.10.04.

- Error in size of side yard setbacks was an honest mistake.
- Variance is not contrary to public interest.
- Variance does not have an adverse effect to surrounding property.
- Literal enforcement does preclude full enjoyment of the property and conformance would be unnecessarily burdensome.
- A total of a 20' total side yard setback must be maintained.

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

Absent: 1 – Clark

MOTION TO GRANT VARIANCE CARRIED

ITEM #11 (#5) - VARIANCE REQUEST. RANDALL A. WHINNERY, 2078 TUSCANY, for relief of the Ordinance to construct an addition on the rear of an existing residence that will result in a 29' rear yard setback where Section 30.10.05 requires a 40' minimum rear yard setback in R-1D Zoning Districts.

The petitioner was not present. The Chairman moved this request to the end of the agenda, Item #11 to allow the petitioner the opportunity to be present.

Mr. Stimac explained that this item first appeared before this Board at the meeting of April 17, 2007 and was postponed to allow the petitioners to look into other possibilities. Mr. Stimac did meet with the homeowners, but as of today, the Building Department has not received any revised plans or a request to cancel this request.

Motion by Kovacs

Supported by Wright

MOVED, to postpone the request of Randall A. Whinnery, 2078 Tuscany, for relief of the Ordinance to construct an addition on the rear of an existing residence that will result in a 29' rear yard setback where Section 30.10.05 requires a 40' minimum rear yard setback in R-1D Zoning Districts until the meeting of June 19, 2007.

- To allow the petitioner the opportunity to be present.

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

Absent: 1 – Clark

ITEM #11 – con't.

MOTION TO POSTPONE THIS REQUEST UNTIL THE MEETING OF JUNE 19, 2007
CARRIED.

ITEM #12 (ITEM #6) – VARIANCE REQUEST. VISION QUEST COUNSELING, 3455 LIVERNOIS (PROPOSED ADDRESS), for relief of the Ordinance to construct a new office building without a 6' high screening wall along the eastern, approximately 250' of the site, as required by Section 39.70.10.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a new office building. This property has been rezoned to O-1 (Low-Rise Office) Zoning District. Section 39.70.10 requires that a 6' high masonry screen wall be provided between this property and the R-1B zoned property to the north. The site plan submitted does not indicate the wall for the eastern, approximately 250' of the site.

Mr. Maxwell asked if a variance could be granted for this property with a time constraint.

Mr. Stimac said that because it is a screening wall, the Board has the authority to grant a variance for one-year initially and then if all conditions are met, the Board would have the ability to renew the variance for a period up to three (3) years.

Mr. Kovacs stated that it appears this parcel sits quite a bit higher than the residential property.

Mr. Stimac indicated that it is in fact, elevated above Livernois. Mr. Stimac said that he did not if was elevated as much above the subdivision. Right now he does not know how the building will mirror conditions on the land.

Mr. Brandon Kaufman of Fenn & Associates, was present. Mr. Kaufman stated that they want to construct a very nice office building. The site actually goes up and then goes back down and there is a 7' difference in this slope. The homeowners have asked that they construct the building as low as possible. Right now they are planning to remove a large amount of dirt to make the building as unobtrusive as possible. They do plan to make the site symmetrical with the back yards of the homeowners. There is a wall and a significant amount of natural screening.

Mr. Kaufman said that they have worked very hard with the homeowners and they do not want a wall. The homeowners have asked to leave as much natural vegetation as possible.

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 #12 – con't.

Motion by Kovacs
Supported by

MOVED, to grant Vision Quest Counseling, 3455 Livernois, relief of the Ordinance to construct a new office building without a 6' high screening wall along the eastern, approximately 250' of the north property line where it abuts residentially zoned property, as required by section 39.70.10 for a period of one-year.

- Not contrary to public interest.
- Absent a variance, significant natural features will be affected.
- Variance does not permit the establishment of a prohibited use in a Zoning District.
- Variance will not have an adverse effect to surrounding property.

Yeas: 5 – Maxwell, Wright, Courtney, Gies, Kovacs
Absent: 1 – Clark

MOTION TO GRANT VARIANCE FOR A PERIOD OF ONE-YEAR CARRIED

Motion by Gies
Supported by Courtney

MOVED, to excuse Mr. Clark from tonight's meeting for personal reasons.

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

MOTION TO EXCUSE MR. CLARK CARRIED

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

Mark Maxwell, Chairman

Pamela Pasternak, Recording Secretary