

The Chairman, Ted Dziurman, called the meeting of the Building Code Board of Appeals meeting to order at 8:32 A.M., on Wednesday, December 1, 2004, in the Lower Level Conference Room of the City of Troy City Hall.

PRESENT: Ted Dziurman
Rick Kessler
Bill Nelson
Tim Richnak
Frank Zuazo (8:45 A.M.)

ALSO PRESENT: Mark Stimac, Director of Building & Zoning
Ginny Norvell, Housing & Zoning Inspector Supervisor
Pamela Pasternak, Recording Secretary

ITEM #1 – APPROVAL OF MINUTES – MEETING OF NOVEMBER 3, 2004

Motion by Nelson
Supported by Richnak

MOVED, to approve the minutes of the meeting of November 3, 2004 as written.

Yeas: 4 – Dziurman, Kessler, Nelson, Richnak
Absent: 1 – Zuazo

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

ITEM #2 – VARIANCE REQUEST. SAFET STAFA, 3455 JOHN R., for relief of Chapter 83 to maintain a 6' high privacy fence installed without first obtaining a Fence Permit, along the front property line of 3455 John R.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 83 to maintain a 6' high privacy fence installed without first obtaining a Fence Permit along the front property line of his home. The Fence Permit application submitted indicates 100 linear feet of fence, 6' high, located in the front yard. Chapter 83 limits the height of fences in front yards to not more than 30" in height.

Mr. Stafa was present and stated that he did not realize a fence permit was required before the fence was installed. Mr. Stafa indicated that his home was built in approximately 1908 and he has done a lot of improvements in order to make the home livable. He had three (3) incidents of minor mischief done to his home and the reason he wanted this 6' high privacy fence was to provide security for his three (3) children, and also to provide a buffer from the traffic along John R. Mr. Stafa indicated that he would not be able to stay in this home if he was not allowed to keep the fence.

The Chairman opened the Public Hearing.

ITEM #2 – con't.

Ms. Samel of 3405 John R. was present and stated that she approves of Mr. Stafa's request. Ms. Samel indicated that when this home was first built, John R. was a two-lane road and now that it is five (5) lanes, she believes the fence will not only provide safety, but also act as a buffer to the traffic noise along John R. Ms. Samel also said that there are a number of properties along John R. that have 6' high privacy fences and does not think this fence would be an eyesore. Ms. Samel did express concern that the fence comes very close to the driveway and thought that it could be sloped down to increase visibility.

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

There are two (2) written approvals on file. There is one (1) written objection on file.

Mr. Kessler stated that in order for this Board to grant a variance, the petitioner needs to demonstrate a hardship that runs with the land. Mr. Kessler also said that this is a large piece of property and the petitioner could enclose the rear yard, which would provide safety for his children. Mr. Kessler also said that the petitioner could plant shrubbery along John R. that would act as a buffer to the traffic. Mr. Kessler stated that this is a self-imposed hardship as the fence was put up without obtaining the necessary permit.

Mr. Stafa said that his house is closer to John R. than other houses in this area and the south side of his property would be completely open. Mr. Stafa also said that this fence is not totally closed. Mr. Kessler stated that the existing fence is a "shadow-box" style and is not a non-obscuring fence. Mr. Stafa also said that he had cleaned up the area where he put the fence and had taken down an existing fence.

Mr. Nelson asked if a variance had been granted for the previous fence. Mr. Stimac stated that Building Department records did not indicate that either a variance or a permit had been obtained for that fence. Mr. Stimac also said that it was possible that the original fence predated the Ordinance.

Mr. Richnak indicated that he agreed with Mr. Kessler and felt this was a self-imposed hardship and was not in favor of granting this request.

Motion by Richnak
Supported by Kessler

MOVED, to deny the request of Safet Stafa, 3455 John R., for relief of Chapter 83 to maintain a 6' high privacy fence installed without first obtaining a Fence Permit along the front property line.

- Petitioner did not demonstrate a hardship.
- There are other options available to the petitioner.

ITEM #2 – con't.

Yeas: All – 5

MOTION TO DENY REQUEST CARRIED

Mr. Stafa once again asked the Board to reconsider this request. Mr. Stimac indicated that the vote was unanimous and Mr. Stafa could work with the Building Permit to put up a fence that would comply with the Ordinance and provide Mr. Stafa the security he is seeking.

ITEM #3 – VARIANCE REQUEST. CHARLES FOLKERT, 4290 WASHINGTON CRESCENT, for relief of Chapter 83 to install a 6' high privacy fence.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 83 to install a 6' high privacy fence. Based upon the configuration of this corner lot and that of the homes around it, any fencing behind the front line of the house, located in the yard adjacent to Forest Trail, is limited to a non-obscuring fence not more than 48" in height. This limitation is found in Section 2A of Chapter 83 of the Troy City Code. The site plan submitted indicates a 6' high privacy fence along the rear property line extending out to the property line along Forest Trail.

Mr. Folkert and Ms. Browning were present. Mr. Dziurman asked about the fence along Forest Trail. Ms. Browning indicated that this is an existing split rail fence, which has to be replaced and this is where they would like to put the 6' high fence. Ms. Browning said that the neighbor adjacent to their property has three (3) dogs, one of which is a dachshund that barks at her whenever she is out in the yard.

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.

Mr. Nelson asked for clarification regarding the location of the fence and the shape of this property. Mr. Stimac explained that it could not be any closer to the property line along Forest Trail than 26.6' of the existing home and cannot be in the front yard along Forest Trail.

Mr. Folkert said that the fence is 67' from the neighbor's driveway and 75' from his driveway and does not feel that it would hinder visibility from either driveway.

Mr. Kessler asked why a 6' high fence was required instead of a 4' high fence. Ms. Browning stated that she wanted as much privacy as possible. Ms. Browning went on to say that they have had problems with this neighbor in the past and feels the best solution is a 6' high fence. Mr. Folkert said that the neighbor is unapproachable when it

ITEM #3 – con't.

comes to the dog barking issue. Mr. Kessler then asked which side of the fence would be facing the neighbor. Mr. Folkert said that it did not matter to him which side of the fence was facing the neighbor and felt that a privacy fence would also be an advantage to this neighbor. Mr. Kessler then asked what would happen to the existing fence. Ms. Browning said that it would be taken down and replaced with this privacy fence.

Mr. Richnak asked if the deteriorating fence was on their property. Ms. Browning said that she thought it was along the property line. Mr. Folkert said that he would not want to replace the split rail fence with anything other than a privacy fence.

Mr. Zuazo asked if the area they were talking about was a 15' gap in the fence line. Ms. Browning said that the dog can see her all along the existing fence. Mr. Zuazo then asked if they had thought of putting in heavy shrubbery. Ms. Browning said there is already existing shrubbery and the dog can see under the shrubs. Ms. Browning also said that they don't get along with the neighbor. Mr. Zuazo then asked if they want the fence because of the dog or the neighbor and Ms. Browning said that the 6' high fence would be for the neighbor.

Mr. Richnak stated that they could put up a 6' fence 26.6' from the point of the sidewalk to the north and they could up a 4' high non-obscuring fence. Ms. Browning said that there was no point in putting up a 4' high non-obscuring fence.

Mr. Richnak then said that they could put of a 6' high privacy fence on part of the property and then drop it down to a 4' high fence. Mr. Stimac indicated that the Ordinance would allow a 4' high fence but it would be required to be 50% open. This Board would have to grant a variance that would allow a privacy fence.

Mr. Folkert asked what the intent of the Ordinance was regarding this rule on the fence. Mr. Stimac stated that the basic intent of the Ordinance is to find equitable treatment of all neighbors in the area. In general, the Ordinance does not allow anything more that a 30" high fence in the front yard of the homes across the street on the north side of Forest Trail. Ms. Browning said that she does not feel this fence is in the front yard but along the back of the property.

Mr. Nelson asked if they were planning to remove the shrubbery in this location. Ms. Browning said that they have to take out one of the shrubs, but the other shrubs would be staying.

Motion by Nelson
Supported by Richnak

ITEM #3 – con't.

MOVED, to grant Charles Folkert, 4290 Washington Crescent, relief of Chapter 83 to install a 48" high obscuring fence behind the front line of the house, located in the yard adjacent to Forest Trail where the Ordinance allows a non-obscuring fence not more than 48" in height.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.

Yeas: All – 5

MOTION TO GRANT VARIANCE WITH STIPULATION CARRIED

ITEM #4 – VARIANCE REQUEST. WILLIAM BETZ, OF WILD BILL & ASSOCIATES, REPRESENTING THE EAST LONG LAKE SUBDIVISION ASSOCIATION, for relief of Chapter 78 to maintain a subdivision identification sign in the median of Carnaby, 42" in height, located 19' from the right of way line of Long Lake Road.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 78 to maintain a subdivision identification sign in the median of Carnaby, 42" in height, located 19' from the right of way line of Long Lake Road. Paragraph C of Section 7.01.01 limits the height of signs in medians to not taller than 30" when located within 25' of the right of way of the intersecting street. The approved sign permit indicated that the sign would be 29' from the city right of way. The sign was incorrectly installed at the 19' setback.

Mr. John Ungvarsky, 5063 Abington and Mr. William Betz were present. Mr. Betz indicated that Mr. Ungvarsky would be the spokesperson as he was part of the Homeowners Association and had dealt with the City in the past.

Mr. Ungvarsky stated that they had received approval from City Council to put up this subdivision identification sign, located 29' from the right of way line of Long Lake Road. When Mr. Betz came out to put up this sign and began digging they ran into a concrete pipe. They attempted to move to two other locations, but again hit this piece of concrete pipe. Mr. Ungvarsky contacted the City and drawings were not available which indicated that this was an active line. The only determination made was that this was a line put in at a much earlier time and was no longer used. Mr. Ungvarsky said that he contacted Mr. Betz who was willing to rent whatever machinery was required to go through this concrete pipe and set the sign up. Mr. Ungvarsky went on vacation and when he came back the sign was installed. Mr. Ungvarsky called for a final inspection, which was disapproved as it was installed in the wrong location.

Mr. Betz indicated that at this time he had written a letter to the City requesting a variance.

ITEM #4 – con't.

Mr. Ungvarsky said that a chain link fence around an existing detention pond and a very large pine tree located east of this sign create a greater hazard to traffic than this sign does. Mr. Ungvarsky indicated that the fence is rusty, which makes visibility very difficult.

Mr. Betz stated that he had spent approximately one-half of a day trying to put the sign in the proper location, but was unable to do so. Mr. Betz also said that most subdivision signs are perpendicular to the main street and this sign runs parallel to the main street.

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

There are sixteen (16) written approvals on file. There are no written objections on file.

Mr. Kessler stated that the petitioner had obtained a Sign Permit with an approved location, and ignored this site plan and placed the sign in the wrong location. Mr. Kessler stated that he feels this is a self-imposed hardship and the petitioner cannot disregard policies and procedures. Mr. Kessler also said that a hardship did exist and the petitioner had the opportunity to come to the City for a variance before the sign was installed.

Mr. Betz said that he did not obtain the Sign Permit and was not aware of the stipulation. Mr. Ungvarsky said that he did not inform Mr. Betz of the 25' setback stipulation for this sign.

Mr. Richnak stated that he felt the way the sign was installed is totally inappropriate and does not believe there was a rush to install the sign. Mr. Richnak also said that they could have gone to the Building Department or the Public Works Department and informed them of the problem before installing the sign. Mr. Richnak agreed with Mr. Kessler that this was a self-imposed hardship.

Motion by Richnak
Supported by Nelson

MOVED, to grant William Betz, of Wild Bill & Associates, representing the East Long Lake Subdivision Association, relief of Chapter 78 to maintain a subdivision identification sign in the median of Carnaby, 42" in height, located 19' from the right of way line of Long Lake Road.

- Concrete pipe under ground creates a hardship.
- Sign does not create a hazard for traffic leaving the subdivision.

Yeas: All – 5

ITEM #4 – con't.

MOTION TO GRANT VARIANCE CARRIED

ITEM #5 – VARIANCE REQUEST. GREGORY AERTS, 366. W MAPLE, for relief of Chapter 78 to install wall signage at a new building, which is under construction.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 78 to install wall signage at the new building under construction at 366 W. Maple Road. The Sign Permit application submitted indicates a proposal to install 22 automobile manufacturer's logos, each no larger than 1.6 square feet, totaling 35 square feet and 12 graphics depicting vehicles, each one 37.33 square feet in size, totaling 444 square feet. Although these graphics are designed to look like they are located inside windows, they are in fact located on the outside of the building wall and are subject to the area limitation of the Sign Ordinance. These proposed wall signs will result in a total wall signage of 479 square feet. Paragraph B of Section 9.02.04 of the Troy Sign Ordinance limits the area of wall signs on a building of this size to 36 square feet.

Mr. Gregory Aerts and Mr. Cordell Craig were present. Mr. Aerts stated that they had brought in an approval letter from Thunderbird Lanes, which is right next door to this car wash. Mr. Aerts explained that they wanted to do something different other than just depicting a car wash. The proposed pictures are of classic cars and a number of these pictures were taken at the Woodward Dream Cruise. Mr. Aerts further explained that the reason for this request is because of the maintenance involved if the signs were on the inside of the building. This building is very long and narrow, and the chemicals, water and soil could damage the signs if the space is not sealed. Mr. Aerts also said that Meteor Photo has a similar situation, although they do change their signage from the inside of the building.

Mr. Aerts also said that the pictures would be illuminated from the back and they felt that this proposal offered the best solution for the maintenance and look of these signs. Mr. Aerts said that this is a self-imposed hardship because of the design of the building, but did not think there were other options available, unless they altered the building.

Mr. Cordell Craig stated that this is the second business he owns in the City, that he has been a long time resident and is trying to create a very clean, high-end car wash. The chemicals used on the cars could harm open sign panels, and also harm the electrical connections involved in illuminating these panels. Mr. Craig also said that the proposed cement walls will help to provide additional security for the building.

Mr. Aerts said that this property is only 60' wide and most of these "windows" are on the east side of the building. Mr. Aerts said that he believes only one or two of the panels would be visible to traffic along Maple.

ITEM #5 – con't.

Mr. Craig indicated that Meteor Photo was not required to obtain permits and the car wash is not planning on changing the pictures, but will always keep them as classic cars.

Mr. Kessler stated that he did not believe an interpretation was necessary, as these panels would not be considered windows. Mr. Kessler said that he did not see a hardship that runs with this land and believes this request is excessive.

Mr. Dziurman asked Mr. Stimac about the interpretation of the Ordinance. Mr. Stimac stated that under provisions of the Sign Ordinance, signs located in the interior of a building are not subject to the restrictions of the Sign Ordinance. Meteor Photo appeared before this Board in 1979, and, in part, because the signs are accessed on the inside of the building, this Board determined that they were not subject to the requirements of the Sign Ordinance. Mr. Stimac also said that in this case there is no way to change or access these signs from the inside of the building.

The Chairman opened the Public Hearing.

Ms. Susan Thompson, representing the owner of 264 W. Maple was present. Ms. Thompson indicated that although they think the concept of these panels would look wonderful, she believes that they will create a safety hazard as traffic will be looking at these pictures and not paying attention to where they are going. Ms. Thompson said that this is already a very congested area, and although she realizes that Thunderbird Lanes approves of this request, their building is the one that will be facing these panels. Ms. Thompson further stated that Mr. Craig indicated that these signs will go up whether this variance is granted or not.

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

There is one (1) written approval on file. There is one (1) written objection on file.

Mr. Craig stated that he feels the hardship he has is the fact that because this building is so narrow and access would be next to impossible from the inside of the building. He further stated that the water, chemicals and soil from the cars would also create a hardship. Mr. Aerts indicated that they would not be in front of this Board if this were any other type of building.

Mr. Zuazo said that he is having a hard time with this request and asked if this was considered to be art or signage. Mr. Stimac explained that if this was a Bowling Alley, and a bowling pin and ball was painted on the outside of the building – it would be considered signage. These panels are considered signage because they are on the outside of the building and depict messages related to the business. Mr. Zuazo asked if these signs would comply if they were on windows. Mr. Stimac explained that if the signs were on the interior of the building, they would not be subject to the limits of the

ITEM #5 – con't.

Sign Ordinance. Mr. Zuazo asked what it would take to carry this into a window and Mr. Stimac stated that they have to be accessed from the inside of the building.

Mr. Zuazo asked if they could put in sliding doors on the inside and then put the pictures of the cars inside of that. Mr. Stimac indicated that the Board determined that Meteor Photo's signs were not subject to the limitations of the Sign Ordinance because they are accessible from the inside of the building.

Mr. Dziurman asked if they had thought of putting in windows and Mr. Aerts stated that they had, but decided to put in concrete instead.

Mr. Aerts explained that the images would always be of classic cars. Their goal is to make it look like a real window with a car behind it. Because they have a control room on the west side of the building, their only option was to put these panels on the east side of the building.

Mr. Craig stated that the panels are on this side of the building because of the traffic flow of cars from Maple to the car wash. Mr. Craig also said that even though these panels will be accessed from the outside of the building, he would still consider them windows. Mr. Dziurman asked if the cars enter the car wash at the back of the building and Mr. Craig indicated that this was correct. Mr. Craig said that he does not believe that more than two (2) windows would be visible to traffic.

Ms. Thompson said that they can see the entire wall from their building, and thinks that cars going into this location will create a traffic hazard. Ms. Thompson said that although she thinks it will look very nice, she is more concerned about the safety factor.

Mr. Dziurman asked why they did not put these panels inside the building. Mr. Craig said that they are going to have fluorescent lighting and maintenance would be difficult from the inside.

Mr. Nelson asked if this building was considered a windowless story by the building code. Mr. Stimac stated that as long as there were opening on each end of the building it did meet building code standards.

Mr. Zuazo asked if this request was a question of aesthetics versus hardship. Mr. Stimac said that he would have a deep concern if an interpretation was granted to say these signs were inside the building and felt that such a decision would set a precedent regarding other locations.

Mr. Zuazo then asked if this request would impose a hardship to 264 W. Maple. Ms. Thompson stated that this was not really a hardship, but there are concerns regarding egress and ingress because of the traffic congestion. Ms. Thompson said that their business has always complied with the Ordinance and felt that this business could also.

ITEM #5 – con't.

Mr. Kessler said that he feels this request is very similar to a “sign box”. Mr. Kessler also said that this site allows 36 square feet of signage and feels this request, which would bring the total to 479 square feet, is excessive.

Mr. Craig then asked if signs are permitted that are not visible to traffic. Mr. Stimac stated that the Ordinance allows signs that are not visible to traffic along the public road, up to 36 square feet in size. These types of signs are not subject to the limitations of the Sign Ordinance.

Mr. Aerts stated that from the outside he thinks these panels will look like windows. Mr. Kessler said that he did not agree as they were very similar to a sign box regarding the depth, lighting and framing.

Mr. Nelson stated that in his opinion these panels would not be considered windows. From the Fire Department’s standpoint a window is something that they could break into in case of an emergency. Because these panels have cement behind them access would be difficult for the Fire Department. Mr. Nelson said that if the interpretation was made that these would be considered windows, they would need to operate as windows.

Motion by Richnak
Supported by Kessler

MOVED, to deny the request of Gregory Aerts, 366 W. Maple, for relief of Chapter 78 to install wall signage at a new building, which is under construction.

- Petitioner did not demonstrate a hardship.
- Access to these panels is from the outside.
- Variance would have an adverse effect to surrounding property.
- Variance request is excessive.

Yeas: 4 – Nelson, Kessler, Richnak, Zuazo

Nays: 1 – Dziurman

MOTION TO DENY REQUEST CARRIED

The Building Code Board of Appeals meeting adjourned at 10:20 A.M.

Ted Dziurman, Chairman

Pamela Pasternak, Recording Secretary