

The Chairman, Michael Hutson, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M., on Tuesday, November 19, 2002.

PRESENT: Kenneth Courtney  
Christopher Fejes  
Marcia Gies  
Michael Hutson  
Matthew Kovacs  
Mark Maxwell  
Cindy Pennington

ALSO PRESENT: Mark Stimac  
Allan Motzny  
Pam Pasternak

**ITEM #1 – APPROVAL OF MINUTES, MEETING OF OCTOBER 15, 2002**

Motion by Fejes  
Supported by Gies

MOVED, to approve the minutes of the meeting of October 15, 2002 as written.

Yeas: All – 7

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

**ITEM #2 – APPROVAL OF ITEMS #3 THROUGH #6**

Mr. Courtney asked if Items #5 and #6 could be made permanent variances and Mr. Stimac stated that he would suggest that Item #5 only be renewed for another three years. Mr. Stimac explained that the residential property that abuts this property, which is supposed to be screened, may at sometime in the future change use. Mr. Stimac further explained that this property is owned by the Industrial building and is an isolated piece of property. In addition the property to the north is controlled by Consent Judgment and is still vacant and at this time City Staff does not know what will ultimately be built on this property.

Mr. Stimac further stated that in regards with Item #6 and said that he had spoken to Mr. Welch regarding making this a permanent variance. Mr. Stimac also stated that the area around this property has remained stable. Mr. Welch indicated that he would be willing to have this request heard as a Public Hearing.

**RESOLVED**, that Items #3 through #5 are hereby approved in accordance with the suggested resolutions printed in the Agenda Explanation.

Motion by Courtney  
Supported by Pennington

**RESOLVED**, that Item #6 is postponed until the meeting of December 17, 2002.

- To allow a Public Hearing in order that this request is made a permanent variance.

**ITEM #3 – RENEWAL REQUESTED. BLOOMFIELD MANAGEMENT COMPANY, 1100-1174 E. BIG BEAVER**, for relief to permit parking in the front yard setback of an industrial site.

Petitioner is requesting renewal of a variance granted by this Board to locate parking within the front yard setback of an M-1 Zoned site. This variance was originally granted in 1973 because of the large open drain that runs through the back of the site, preventing the installation of parking in the usual rear yard location. This item last appeared before this Board in 1999 and was granted a three (3) year renewal. Conditions remain the same and we have no objections or complaints on file.

MOVED, to grant Bloomfield Management Company, 1100-1170 E. Big Beaver, a three-year (3) renewal of relief to permit parking in the front yard setback of an industrial site.

- The large drain on the site creates a practical difficulty in that it does not permit parking in the usual rear yard location.
- Conditions remain the same.
- We have no objections or complaints on file.

**ITEM #4 – RENEWAL REQUESTED. COLEMAN'S WRECKING SERVICE, 1871 BIRCHWOOD**, for relief to maintain a 7' high obscuring fence in lieu of the 6' high masonry-screening wall along Birchwood.

Petitioner is requesting renewal of relief granted by this Board to screen an outdoor storage area with a 7' high obscuring fence in lieu of the normally required 6' high masonry screen wall. This Board has granted this variance on a yearly basis since 1986. This item last appeared before this Board in November 1999 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 Coleman's Wrecking Service, 1871 Birchwood, a three (3) year renewal for relief to maintain a 7' high obscuring fence in lieu of the 6' high masonry screen wall along Birchwood.

- Conditions remain the same.
- There are no complaints or objections on file

**ITEM #5 – RENEWAL REQUESTED. SCHENCK-PEGASUS, 2890 JOHN R.,** for relief of the 6' high masonry-screening wall required along the east and a portion of the north property line.

Petitioners are requesting relief granted by this Board of the 6' high masonry screen wall required along the east property line and a portion of the north property line where their site abuts residential zoning. This relief has been granted on a yearly basis since 1969 primarily due to the fact that the residential land at the east end of their site is undeveloped and owned by the petitioner as well as the fact that the land to the north, although residentially zoned, is controlled by consent judgment and is in fact a portion is developed as an office development. This item last appeared before this Board at the meeting of November 1999 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 Schenck-Pegasus, 2890 John R., a three (3) year renewal of relief of the 6' high masonry-screening wall required along the east and a portion of the north property line.

- Conditions remain the same.
- There are no complaints or objections on file.

**ITEM #6 – RENEWAL REQUESTED. WILLIAM D. WELCH, HOLLYWOOD MARKETS, 2670 W. MAPLE,** for relief of the 6' high masonry-screening wall required along the north property line where it abuts residential zoning.

Petitioner is requesting relief of the 6' high masonry-screening wall required along the north property line where it abuts residential zoning. This relief has been granted, by this Board, on a yearly basis since 1976 primarily due to the fact that the property to the north is a Michigan Bell telephone utility site, which is permitted use in a residential zoning district. This item last appeared before this Board at the meeting of November 1999 and was granted a three (3) year renewal at that time. Conditions remain the same and we have no complaints or objections on file.

**RESOLVED,** that Item #6 is postponed until the meeting of December 17, 2002.

- To allow a Public Hearing in order that this request is made a permanent variance.

**ITEM #7 – VARIANCE REQUESTED. ANTHONY TISLER, 854 BROOKLAWN,** for relief of the side yard setback to remove and replace an existing carport with a larger attached garage having a 3.5' side yard where 10' is required.

The Chairman moved this Item to the end of the Agenda, Item #10, to allow the petitioner the opportunity to be present.

**ITEM #8 – VARIANCE REQUESTED. BRYAN MONAGHAN, SCHNELZ, WELLS, MONAGHAN & WELLS, REPRESENTING NEXTEL WEST CORPORATION, 6966 CROOKS ROAD**, for relief of the Zoning Ordinance to construct a 100' tall monopole tower with a 100' setback to residential property where a 500' setback to residential property is required for a 100' tower.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 100' tall monopole tower. The adjacent property to the east is located in the R-1B (One Family Residential) Zoning District and the property located 208' south of this site is in the REC (Residential Elder Care) Zoning District. Paragraph E of Section 24.30.05 of the Troy Zoning Ordinance requires that freestanding communication towers be located no less than a distance five times their height from residentially zoned property. In the case of a 100' tower this would require a 500' setback. This tower is proposed to be located 100' from the east property line and 310' from the residential property to the south.

Mr. Bryan Monaghan of Schnelz, Wells, Monaghan & Wells, was present and Ron Roach, a Radio Frequency Supervisor from Nextel, was also present. Mr. Monaghan stated that in the spring of last year a request was brought before City Council for a similar tower on the property on the west side of Crooks Road and due to a very large number of residents that objected to this tower, City Council rejected their proposal. Mr. Monaghan also stated that City Council had suggested that Nextel look at other locations for a tower. Mr. Monaghan explained that they had attempted to co-locate their equipment by using existing towers, however there are none available that would give them the coverage they desire. Mr. Monaghan also explained that they had looked into the possibility of locating this tower at the Pine Trace Golf Course in Rochester Hills, however, once again they would not gain the coverage they desire. Mr. Monaghan had brought in several radio frequency maps and explained to the Board how far the coverage extends. Mr. Monaghan said that there are areas along I-75, Coolidge and South Boulevard, where calls are dropped due to the fact that there are not any towers in the area that can receive signals. Mr. Monaghan also explained that this tower will be over built for safety and that the tower is designed to buckle rather than fall completely over. Mr. Monaghan said that monopoles have a history of not falling over in storms, and due to the fact that it would be 100' from the property line, and in conjunction with the fact that it is designed to buckle he does not believe that safety would be an issue. Mr. Monaghan also stated that they have a mandate from the Federal Government as part of their license, which states that they have to complete the coverage area and this is their biggest concern.

Mr. Maxwell asked about the height of the existing towers and Mr. Monaghan stated that he did not have that information, however, there are a number of areas that are under 100', as well as a number of roof top antennas. Mr. Maxwell asked if a higher height would be more beneficial and Mr. Monaghan said that sometimes the higher tower creates more interference. Mr. Maxwell then asked if there was any way Nextel could change their current towers to provide the coverage they are looking for with this

**ITEM #8 – con't.**

new monopole tower, and Mr. Roach of Nextel stated that they do not have any way to modify these towers, which would give them the coverage they are seeking. Mr. Monaghan also said that each location has a number of cell phones that they are able to reach and cellular technology limits the height of towers. Mr. Maxwell then asked what the purpose of the tower was and Mr. Monaghan said that the tower is merely there to hold the apparatus for the antennas. Mr. Maxwell then asked if there were any options available at this location for the construction of the monopole. Mr. Monaghan said that he thought that the tower could be moved farther west on the property and also that Nextel would be agreeable to complying with that request.

Mr. Courtney asked why the tower couldn't be moved to Northfield Commons. Mr. Monaghan stated that that had been their first choice, however, due to a large number of complaints by the adjacent neighbors, City Council rejected their proposal.

Mr. Kovacs stated that he was not worried about the intensity of the rays from cell phones, but asked about the rays from the tower. Mr. Monaghan stated that the Federal Government has taken over the entire field of safety in regards to cell towers. Mr. Monaghan said that the emissions are less than 1% of the standards set by the Federal Commission. Mr. Monaghan also stated that there is a very low power wattage due to the fact that they are designed to cover very limited areas and receive a finite number of calls. Mr. Monaghan also stated that OSHA has very strict exposure standards for the people that work on these towers on a daily basis and these guidelines are very strict.

Mr. Courtney asked if other carriers also had dropped calls in this area and also needed extra coverage. Mr. Monaghan said that this tower has been designed to accommodate three other carriers and if they wished they would be able to add their equipment to this tower. Mr. Monaghan again stated that if they had been able to co-locate their equipment with an existing tower they would have, however, there are no existing towers in the area that would meet their needs.

Mr. Fejes asked what the current problems were in this area for cell phone users. Mr. Monaghan stated that presently calls are dropped and this is the main issue. Mr. Monaghan also said that this problem is complicated by the amount of traffic in this area, which makes it very difficult for calls to get through. Mr. Monaghan also said that there are a number of customer complaints that they get from people in this area during peak traffic hours. Mr. Fejes also asked about the platforms that would be added to the monopole. Mr. Monaghan also said that Nextel's platform would be at the top of the tower, and each co-locator would add a platform as close to the top platform as they could. Mr. Fejes asked about the distance between towers and Mr. Monaghan said that in area where there is a lot of traffic and a high demand, several towers may be required to cover the area. Mr. Fejes said that he is concerned due to the fact that he thinks that this may open the door to other carriers coming in and asking for towers also and thinks that there may be a proliferation of towers in the area. Mr. Monaghan also said that this is a very difficult area due to the fact that there is not any space available that is non-

**ITEM #8 – con't.**

residential. Mr. Monaghan further stated that this tower will allow three (3) other carriers to co-locate on this tower. Mr. Fejes then asked how many carriers were in the area and Mr. Monaghan said that presently there are six. Mr. Monaghan also said that he thought some of these companies would probably merge and therefore be able to use the same tower. Mr. Monaghan said that in other areas where a tower had the maximum number of co-locaters on it, the solution was to raise the tower an additional 40', which made room for the other carriers to put their platforms on it. Mr. Fejes then asked what would happen if the variance was denied and Mr. Monaghan said that there are a number of options available that Nextel would have to explore. Mr. Monaghan also said that there is not another location in this area that a tower could be added.

Mr. Courtney asked if Mr. Monaghan had ever approached Council after they had explored the possibilities that Council had suggested and Mr. Monaghan stated that they did not. Mr. Courtney also asked what the coverage area would be with a 50' tower and Mr. Monaghan said that a 50' tower would not give them the coverage they are looking to get.

Mr. Kovacs asked if the tower could be located at the westernmost edge of the building and Mr. Monaghan stated that it would probably add another 80 or 90 feet. Mr. Stimac said that it appears that if they could move the tower to the west end of the building, the tower would be approximately 200' from the property line.

Ms. Pennington asked about the placement of the tower at the Golf Course. Mr. Monaghan said that this is in the City of Rochester Hills and Ms. Pennington asked about the coverage of the tower from this location. Mr. Monaghan said that part of the coverage area here is because of the topography in the area. Mr. Monaghan further stated that the golf course is in a low area, and therefore the area on I-75 loses coverage.

Mr. Courtney asked if they could put the tower there and raise the height of the tower and Mr. Monaghan said that the location of the tower would have to be at the east end of the golf course near residential developments and would also require a variance from the City of Rochester Hills.

The Chairman opened the Public Hearing.

Mr. John Kennedy, 1825 W. South Boulevard, was present and said that the location of the tower would be approximately 400' from his home and he objects to the location of the tower. Mr. Kovacs asked if Mr. Kennedy had a cell phone and was concerned about the safety issue or the look of the tower. Mr. Kennedy said that it is a combination of both in that he is concerned about the waves from the tower as well as the look of the tower.

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

**ITEM #8 – con't.**

There is one (1) written objection on file. There are no written approvals on file.

Mr. Fejes expressed concern over the construction of the tower and said that he is afraid that this will open the door for a large number of towers in the area. Mr. Fejes also said that he would not want to look out his window and see a tower.

Mr. Courtney stated that he would prefer to see a number of small towers in the area, rather than a very high tower. Mr. Courtney feels that the higher towers are more of an eyesore than the shorter towers.

Mr. Hutson stated that Mr. Monaghan had indicated that they are mandated by the FCC to provide full coverage for their customers, and asked what the penalty was if this coverage was not met. Mr. Monaghan said that he did not know, but did not think there was any real penalty other than the fact that they would have to redo their application with the FCC indicating the area that they could cover. Mr. Monaghan said that the FCC does not put a time limit on this area coverage requirement. Mr. Monaghan also stated that the life of their license runs for approximately 25 years and a new application indicating the area they would be able to cover would have to be filled out at that time.

Mr. Maxwell asked what would happen if the tower height would be limited to 80'. Mr. Monaghan said that they would be able to operate at that height however, they still would not get the coverage they desire and doesn't believe that the height difference would be noticeable. Mr. Maxwell asked if the height of the current towers could be raised and give them the coverage they desire and Mr. Monaghan stated that he did not believe that would alleviate the problem and also stated that the height of their building mounted antennas are limited.

Motion by Kovacs

Supported by Courtney

MOVED, to grant Bryan Monaghan, Schnelz, Wells, Monaghan & Wells, representing Nextel West Corporation, 6966 Crooks Road, relief of the Zoning Ordinance to construct a 100' tall monopole tower installed at the farthest edge on the west side of the property, where a 500' setback to residential property is required for a 100' tower.

- Tower is to be constructed at the farthest western edge of the building.
- Public Health, Safety and Welfare could be affected if this variance is not granted.
- Variance is not contrary to public interest.
- Variance does not establish a prohibited use in a Zoning District.

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

Nays: 1 – Fejes

MOTION TO GRANT VARIANCE CARRIED

**ITEM #9 – VARIANCE REQUESTED. BOYS AND GIRLS CLUB OF TROY, 3670 JOHN R. (PROPOSED ADDRESS),** for relief to the Zoning Ordinance to construct a new community recreation facility with parking located at the rear property line where the ordinance requires a 50' setback of the parking lot from adjacent residentially zoned property. They are also asking for relief of the required 4'-6" high masonry screen wall required along the east property line between the parking lot and the adjacent residentially zoned property.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct a new community recreation facility at 3670 John R. (proposed address). This property is located in the R-1C Zoning District. Paragraph C of Section 10.30.07 requires that a 50-foot wide landscape area be maintained in any yard adjacent to residential districts. The plans submitted indicate parking in the rear yard adjacent to the residential property (Barnard Elementary School) to the east. In addition, Paragraph E of Section 10.30.07 requires a 4'-6" high masonry screen wall be provided along parking areas adjacent to residential land. No such wall is shown along the east property line where the parking lot is adjacent to the residential land (Barnard Elementary School).

Mr. Hutson asked what was on the property adjacent to this parking area and Mr. Stimac explained that it backs up to the school's athletic field.

Elizabeth Muzyk, of Ehersman Associates was present and stated that the nearest home is located 400' away from this proposed parking lot. Ms. Muzyk brought in a letter from the School District indicating support of the deletion of the screen wall due to the fact that they believe the increased visibility would be safer for the children at the school. Ms. Muzyk also said that the present fence allows for greater visibility of the children while in both play yards. Ms. Muzyk further stated that due to the configuration of the parcel it was not possible to provide the rear yard landscaped area and also provide other required elements of the site.

Mr. Maxwell asked how many additional parking spaces this would add. Ms. Muzyk stated that originally they had shown 53 parking spaces, this would now provide up to 100 parking spaces. Ms. Muzyk also said that they had spoken to each of the neighbors and they did not object.

Ms. Pennington asked if they felt they needed a 100 parking spaces and Ms. Muzyk said that they did not think that they would. Ms. Pennington then asked if they had approached City Council with the possibility of land banking and Mr. Stimac stated that there is no provision in the Ordinance to allow for land banking for uses of this type.

Mr. Maxwell stated that according to the plan submitted it was indicated that this area would have additional uses. Ms. Muzyk said that previously they were going to put in a blacktop area for basketball, however, now they would use it for parking.

**ITEM #9 – con't.**

Mr. Courtney asked if the petitioner would go back to City Council if this Board approved this request. Mr. Stimac explained that the number of parking spaces provided to City Council was 53 parking spaces, where up to 150 parking spaces are required. Because of the location of the parking in the rear yard, City Council could not grant a lesser parking variance until this variance request on the setback was granted.

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 Maxwell

Supported by Courtney

MOVED, to grant Boys and Girls Club of Troy, 3670 John R. (proposed address), relief of the Zoning Ordinance to construct a new community recreation facility with parking located at the rear property line where the ordinance requires a 50' setback of the parking lot from adjacent residentially zoned property; and relief of the required 4'-6" high masonry screen wall required along the east property line between the parking lot and the adjacent residentially zoned property.

- The adjacent property, although residentially zoned, is not used for single-family development.
- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.
- Variance will not establish a prohibited use in a Zoning District.

Yeas: All – 7

MOTION TO GRANT REQUEST CARRIED

**ITEM #10 (ITEM #7) - VARIANCE REQUESTED. ANTHONY TISLER, 854**

**BROOKLAWN**, for relief of the side yard setback to remove and replace an existing carport with a larger attached garage having a 3.5' side yard where 10' is required.

The Chairman moved this Item to the end of the Agenda, Item #10, to allow the petitioner the opportunity to be present.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to remove and replace a carport with an attached garage. The site plan submitted indicates a 3.5' legal non-conforming side yard setback to the existing house and carport. Section 30.10.04 requires a 10' minimum side yard setback in the R-1C Zoning District. The application submitted proposes replacing the 16' wide carport with a 28' wide garage, continuing the 3.5' side yard setback an additional 12'. Section 40.50.04

**ITEM #10 (ITEM #7) – con't.**

prohibits expansions to legal non-conforming structures in a way that increases its non-conformity.

Mr. Tisler was present and stated that the garage would not create another setback issue due to the fact that the front of it will come out even with his neighbor's garage. Mr. Tisler also stated that the carport was built on a slab without a footing and it is beginning to sink, which in turn is causing roof problems to the home due to the fact that it is attached to the roof.

The Chairman opened the Public Hearing. No one 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.

Motion by Maxwell  
Supported by Courtney

MOVED, to approve the request of Anthony Tisler, 854 Brooklawn, relief of the side yard setback to remove and replace an existing carport with a larger attached garage having a 3.5' side yard where 10' is required.

- This garage will fit in with other garages in the neighborhood.
- Variance will not have an adverse effect on surrounding property.
- Variance is not contrary to public interest.

Yeas: All – 7

MOTION TO GRANT REQUEST CARRIED

The Board of Zoning Appeals meeting adjourned at 9:10 P.M.

MS/pp