

The Vice Chairman, Christopher Fejes, called the meeting to order at 7:30 P.M., on Tuesday, February 20, 2001.

PRESENT: Kenneth Courtney  
Christopher Fejes  
Michael Hutson  
Mark Maxwell  
Carmelo Milia  
Walter Storrs

ALSO PRESENT: Mark Stimac  
Bob Davisson  
Pam Pasternak

ABSENT: James Giachino

**ITEM #1 – APPROVAL OF MINUTES OF MEETING OF JANUARY 16, 2001.**

Motion by Courtney  
Supported by Milia

MOVED, to approve the minutes of the meeting of January 16, 2001 as written.

Yeas: 5 – Fejes, Hutson, Maxwell, Milia, Courtney  
Abstain: 1 – Storrs  
Absent: 1 – Giachino

**MOTION TO APPROVE MINUTES OF JANUARY 16, 2001 AS WRITTEN CARRIED**

Motion by Courtney  
Supported by Storrs

MOVED, to excuse Mr. Giachino from this Board of Zoning Appeals meeting as he is out of the country.

Yeas: 6 – Hutson, Maxwell, Milia, Storrs, Courtney, Fejes

**MOTION TO EXCUSE MR. GIACHINO CARRIED**

**ITEM #2 – RENEWAL REQUESTED. VFW POST 4037, 2375 E. MAPLE,** for relief to maintain an existing legal non-conforming use building and relief of the 4'-6" high masonry wall required adjacent to off-street parking.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board since 1969, to maintain a non-conforming building and use, and relief of the 4'-6" high masonry wall required at their off-street parking area. The use and structure are non-conforming in that they are located in a residential zoned district. The petitioner is requesting to continue use of the structure as well as relief of the wall required at their off-street parking area. This variance was last granted a three (3)-year renewal in

**ITEM #2**

1998. Conditions at the site have recently changed in that new residential homes have now been constructed adjacent to the east side of this site. We have no complaints or objections on file.

Mr. Eric M. Phipps, Senior Vice Commander was present and asked the Board if this variance needed to be renewed due to the fact that the neighbor to the back of this site has erected a 6' high privacy fence. Mr. Stimac stated that this situation is unique due to the fact that this is residential zoned property, while there are no specific requirements in the ordinance for this type of use, the ordinance generally requires a 4'-6" high masonry screening wall separating the parking areas of non-single family uses from adjacent residential homes. Mr. Stimac further stated that the entire north, west and east property lines would require this screening wall and therefore, this variance is still required.

Mr. Storrs voiced concern over the fact that the dumpster is at the northeast corner of the property, next door to a new residential home and visible from the street and asked if it could be moved farther away from this property line. Mr. Phipps stated that he thought the dumpster could be moved approximately 15' to the west.

Mr. Milia asked if parking in the front yard setback had been authorized and Mr. Stimac stated that prior to the widening of Maple Road a significant amount of parking was located in the front yard. Due to the fact that we are dealing with a non-conforming use there are few specific requirements that can be pulled from the ordinance. Mr. Stimac also said that that most patrons park in the back area and was not aware of anything that would prohibit parking in the front yard. Mr. Milia then asked the petitioner why anyone parked in the front yard setback. Mr. Phipps stated that the bartender always parks in the front due to the fact that he is usually the last person to leave the facility and this is the safest place for him to park. Mr. Phipps further stated that when members come to this location, they determine it is open when they see the bartender's car. Mr. Phipps also stated that there are presently approximately 112 members and most of these members are elderly. He said that their membership is diminishing due to death, and the fact that many members are moving to other climates as they become older. He stated that he is the only veteran of the Gulf War and is trying to increase the membership here, but so far has been unsuccessful. Mr. Milia also asked if there has been any discussion of this post being absorbed by another post, and the petitioner stated that he remains optimistic and even though this post has a very small membership, he hopes that it will remain separate.

Motion by Courtney  
Supported by Maxwell

**ITEM #2**

MOVED, to grant VFW Post 4037, 2375 E. Maple, a three-year (3) renewal of their variance for relief to maintain an existing legal non-conforming use building and relief of the 4'-6" high masonry wall required adjacent to off-street parking.

- Dumpster will be moved 15' further west.
- There are no complaints or objections on file.

Yeas: 6 – Hutson, Maxwell, Milia, Storrs, Courtney, Fejes

MOTION TO GRANT VARIANCE FOR THREE (3) YEARS CARRIED

**ITEM #3 – VARIANCE REQUESTED. MR. RICK THEUER, 3556 JOHN R.,** for relief of the Zoning Ordinance to construct a detached garage, which will exceed both the size and height requirements, allowed.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct a detached garage. Section 40.57.04 limits the size of all accessory buildings to 600 square feet or one half the ground floor area of the main building whichever is greater. Based upon the size of the existing home a maximum of 838 square feet is permitted; also, Section 40.57.06 limits the height of accessory buildings to 14'. The plans submitted indicate a proposed detached garage 15' in height, and 1020 square feet in area.

Mr. Rick Theuer was present and stated that his home is built very close to John R. due to the fact that there is a floodplain within 1' of the back of his home. He also said that he and his wife take great pride in their home and work very hard to keep it well maintained. He further stated that he has a great deal of equipment as well as a home in the Houghton Lake area. Originally he had two homes up north, but was forced to sell one because of the amount of time and work it took to maintain three homes. He had 2 ½ garages in which to store a lot of his equipment, but upon the sale of one of the homes up north, he lost one garage and now is forced to keep some of his equipment in his garage and also at his brothers. Mr. Theuer wishes to have a larger garage to keep his personal property that enables him to maintain his property.

Mr. Courtney asked the petitioner how much of his equipment was used for commercial purposes and Mr. Theuer replied that he has a utility trailer, radial saw, drills, etc., which he uses for work. He also said that he has some recreational equipment as well, which he had stored up north, but now must relocate to Troy. Mr. Maxwell asked petitioner where his driveway would be and he stated that he wanted to add a garage door at the rear of the existing garage and extend a drive to the new garage where he would widen the driveway to the width of the garage doors. Mr. Milia complimented Mr. Theuer on the way his property looked, but expressed concern over the size of the garage. Mr. Theuer stated that presently he is using three garages now and cannot get all of his equipment in. He stated that although he could make the garage smaller, he would rather not so that it is more efficient not only for storing equipment, but also to work in.

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Mr. Milia then questioned Mr. Theuer on the height of the garage he is requesting. Mr. Theuer stated that he wanted a very steep pitch on the garage to help prevent ice damage and also stated that he wished to install a radiant heater in the garage and it works more efficiently with a steeper roof line. Mr. Milia then asked if this garage was going to be used for commercial purposes and Mr. Theuer stated that it definitely would not be used for commercial purposes.

Mr. Courtney asked if there was a way to eliminate some of the equipment he has due to the fact that there is a duplication of this equipment. Mr. Theuer stated that the majority of the equipment is merely to maintain his property. Mr. Fejes expressed concern over the fact that he felt that this request was for quite a large variance even though the size of the house would support a large garage, and asked Mr. Theuer if he could ask for a smaller variance on either the size of the garage or the height. Mr. Theuer stated that he did not want the garage smaller, but would be willing to bring the height down one foot.

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

There is one written approval on file. There are no written objections on file.

Mr. Maxwell stated that this a very large lot, but he was concerned about the size of the garage and asked Mr. Theuer if he could change either the square footage or the height of the building. Mr. Theuer stated that he did not wish to give up any of the square footage for the garage but would be willing to come down in height.

Mr. Courtney stated that he was concerned that this building would be used for commercial storage in a residentially zoned area. Mr. Theuer stated that the equipment would be used for his personal use only and would not be used for commercial purposes.

Motion by Maxwell  
Supported by Courtney

MOVED, to grant Mr. Rick Theuer a variance to build a detached garage, which will be 1020 square feet in size.

- Height of the garage will be reduced to 14'.
- This variance is not contrary to public interest.
- This variance will not have an adverse effect on surrounding property.

Yeas: 4 – Maxwell, Storrs, Courtney, Fejes

Nays: 2 – Milia, Hutson

**MOTION TO GRANT VARIANCE WITH STIPULATION CARRIED**

**ITEM #4 – VARIANCE REQUESTED. MR. KEN DENMARK, OWNER OF BOLD TECHNOLOGIES, INC., 2873 DALEY**, for relief of the Zoning Ordinance to pave a 19' x 28.5' area for additional parking in the front setback.

Mr. Stimac explained that petitioner is requesting relief of the Zoning Ordinance to pave a 19' x 28.5' area for additional parking in the front setback at 2873 Daley. The plans submitted show the proposed parking to be within 21.5' of the front property line. Paragraph 'L' of Section 31.30.00 prohibits parking within the 50' front yard setback in the M-1 Zoning District.

Mr. Ken Denmark, owner of Bold Technologies was present and stated that he wished to purchase this property in order to move his business. Although, the building itself is more than adequate for his growing business, he expressed concern over whether the parking is adequate for future employees. Mr. Denmark stated that his business is to provide on site computer services for companies and his employees would be on the road for 85% of the day. Mr. Denmark also said that presently the building was setback 50' with a 10' area of greenbelt space, bringing the total setback to 60'. Mr. Stimac further stated that the front setback of this building is 40' plus 10' of greenbelt area, which brings the total setback to 50'. Mr. Denmark further stated that this extra parking area would be required when the employees come to the building for meetings or assignments. Mr. Denmark further stated that he wished to improve the look of this area by adding more trees and landscaping in the front yard.

Mr. Fejes asked what would happen if Mr. Denmark's request was denied and Mr. Denmark stated that a great deal of time and money has been spent in searching for a location and he would have to rethink the purchase of this building. Mr. Hutson asked if a variance had been granted which allowed for parking in the front of the building on the east side of Daley and Mr. Stimac stated that a variance was granted in the past.

Mr. Storrs asked the petitioner where the front door of the building was located and Mr. Denmark stated that it was near the middle of the front of the building. Mr. Storrs then asked if the parking problem was due to the nature of this business and Mr. Denmark replied that most of the businesses on this street have had a problem with parking and thought that they had all requested an increase in their parking. Mr. Milia questioned Mr. Denmark as to the relation of parking between manufacturing and service and Mr. Denmark replied that manufacturing buildings have the square footage taken up by the number of machines. Mr. Milia stated that these machines still need employees to run them and if his employees were out on the road 85% of the day, parking would not be problem. Mr. Milia also asked how many employees Mr. Denmark had? Mr. Denmark stated that presently he has 6 employees, but is planning to add more once he moves into this building. Mr. Denmark said that he is looking to expand this building and would increase the number of employees as the workload increased.

Mr. Milia stated that he is concerned that with the construction at the end of Daley this area is experiencing renewed development and feels that by granting this variance, other businesses in the area would request the same type of variances for parking. Mr.

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Milia asked if the home located on Daley was occupied or vacant? Mr. Denmark and Mr. Stimac both stated that as far as they know this home is occupied. Mr. Stimac also stated that this is an unusual circumstance due to the fact that there is a residence in an Industrial Zoned area and did not comply with the industrial setbacks. Mr. Milia then asked if there was room to park in the back of the building. Mr. Denmark stated that if vehicles were parked in the back of the building it would be very difficult to move them out. Mr. Denmark also said that the property behind is used for the business located in the back and they have large trucks that pass through this area. Mr. Maxwell asked if Mr. Denmark had approached anyone from the buildings to the north or across the street to ask them if an arrangement could be made for parking. Mr. Denmark stated that their lot always appeared full and therefore he has not approached them.

Mr. Hutson stated that even though this request was for a small encroachment, it was still an encroachment and he was concerned about the residence on this street. Mr. Hutson also said that he felt that if this variance were granted, it would open up the possibility of the other businesses in the area requesting variances. Mr. Storrs said that he agreed with Mr. Hutson. Mr. Fejes stated that he believes Mr. Milia is correct and also thinks that the other businesses in the area would request parking variances also.

Mr. Denmark stated that presently there are a maximum of 7 parking spaces, and although he only has six employees at the present time, once they were settled in this building, they wish to hire extra employees to handle the increased workload. Mr. Denmark also said that they were coming to the Board now to prevent a "crisis situation" in two years, when he had extra employees with nowhere to park. Mr. Maxwell asked if he was planning to expand this building and Mr. Denmark stated that he had looked into a number of plans regarding the expansion of this building.

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. Maxwell stated that based on the discussion of the Board, he felt that at least two Board members would vote against this request and Mr. Fejes stated that if Mr. Denmark wished he could table this action in order to have the benefit of a full Board, or the petitioner could withdraw his request until a later date. Mr. Stimac stated that if the Board were to deny this request, the petitioner could not come back to the Board with the same request. Mr. Courtney asked if there was any way Mr. Denmark could stagger the work times of the employees, so that they would not be at the same location at the same time and Mr. Denmark stated that he would not be able to do this as the employees had to come to a "central spot" for assignments. Mr. Denmark again stated that they had spent a great deal of time and money looking for a location and if this variance was not granted, it was possible that they would not purchase this building.

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Mr. Storrs asked if instead of three (3) parking spaces, he could put in only two (2) spaces and Mr. Denmark stated that he would be willing to put in two (2) parking spaces now, or know that he could add them in the future. Mr. Maxwell stated that perhaps this request would receive a more favorable reaction from the Board, if Mr. Denmark already had the extra employees and needed the space immediately. Mr. Denmark stated that he was trying to save coming to the Board in two years or so when he was in a "crisis situation".

Mr. Storrs asked if the variance were granted if the landscape requirement would be met and Mr. Stimac stated that it would.

Mr. Denmark stated that he wished to withdraw his request at this time. No further action was taken on this item.

**ITEM #5 – VARIANCE REQUESTED. MR. PETRE GHIRAN, 4155 LIVERNOIS**, for relief of the Zoning Ordinance to construct an attached garage in the front setback along Carter and Livernois.

Mr. Stimac stated that the petitioner is requesting relief of the Zoning Ordinance to construct an attached garage. This lot is a double front corner lot. As such, Section 30.10.02 of the Zoning Ordinance, requires a 40' front yard setback from both Livernois and Carter. The plans submitted indicate replacing an existing one-car garage with a proposed two-car garage resulting in front setbacks of 12' from the property line along Carter and 28' from the future right of way line along Livernois.

Mr. Petre Ghiran was present and stated that due to the fact that the City had purchased some of his property for the widening of Livernois, it would be very difficult for his family to back out onto Livernois and this was why he wished to have his driveway off of Carter.

Mr. Maxwell questioned the fact that the proposed driveway would only be 12' in length due to the fact that it would be too short for the length of a vehicle. He felt that this would be very unsafe due to the fact that parked cars parked in front of the garage would extend out onto Carter. Mr. Maxwell also asked Mr. Ghiran if he had thought of adding a detached garage at the back of the property and adding a larger driveway off of Carter. Mr. Ghiran stated that he has a large backyard and did not want to put a garage at the back of the property. Mr. Maxwell also asked Mr. Ghiran if he had considered adding on to his present garage and putting in a driveway at the back of this structure. Mr. Ghiran stated that this would block the back of his home and he did not wish to do that. Mr. Ghiran also stated that his property slopes down approximately 4' to 5' from the house to the road. Mr. Storrs also said that he is concerned about the safety factor of cars backing out onto Carter or being parked and sticking out on Carter. Mr. Ghiran stated that if he had guests they would not have to park in the driveway but could park out on the street.

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

Mr. Milia stated that he sympathized with Mr. Ghiran but also asked if he could change his plan so that he would not have to back out onto any street. Mr. Courtney suggested turning the garage and adding the driveway off to the side. Mr. Courtney also suggested tabling this request until further alternatives could be researched. Mr. Fejes also suggested tabling to allow Mr. Ghiran the option to develop a safer way to expand the drive. Mr. Stimac stated that Mr. Ghiran could look into the possibility of keeping the existing garage and adding a detached accessory building in the back of the property. This would enable Mr. Ghiran to have more room and also allow a safer access to this garage.

There are no written approvals or objections on file.

Motion by Courtney  
Supported by Maxwell

MOVED, to table the request of Mr. Petre Ghiran, 4155 Livernois, to the next regularly scheduled meeting of March 20, 2001, for relief of the Zoning Ordinance to construct an attached garage.

- To allow the petitioner to explore other possibilities for the construction of this garage.

Yeas: 6 – Storrs, Courtney, Fejes, Hutson, Maxwell, Milia

MOTION TO TABLE REQUEST UNTIL THE MEETING OF MARCH 20, 2001  
CARRIED

**ITEM #6 – VARIANCE REQUESTED. MR. DAVID DONNELLON, DONNELLON SWARTHOUT ASSOICATES, REPRESENTING THE CHOICE GROUP, WEST WATTLES AND FINCH ROAD**, for relief of the Zoning Ordinance to construct a residential townhouse development with 33 feet between buildings where 40 feet is required.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct a residential townhouse development at the southeast corner of Finch Road and Wattles Road. Paragraph 'O' of Section 30.30.00 of the Troy Zoning Ordinance requires a minimum distance of 40' between buildings in the R-1T (One-Family Attached Residential) Zoning District. The site plan submitted indicates that the buildings will be as close as 33' apart.

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Mr. David Donnellon was present and stated that this property could be developed with 38-39 units without requiring a variance. Mr. Donnellon stated that they wished to only build 33 units so that they could provide prospective buyers the amenities they expect. He stated that these units would be between 2000 square feet and 2500 square feet, and would be 1½ story to 2 stories. Mr. Donnellon further stated that these units would have the master bedroom on the first floor, along with a kitchen dining room combination, as well as a great room – living room and that in order to provide units with these amenities the units were wider than the 30' module contemplated by the ordinance. Mr. Donnellon stated that these condominiums would appeal to retirees, singles, or couples. Mr. Donnellon further stated that he did not feel that this project would create more traffic, but would in fact have very little impact on traffic at all due to the fact that retired couples generate less traffic. Mr. Donnellon also said that if they were to construct more units, they would not be as large and would not provide the amenities required. Mr. Donnellon said that the Zoning Ordinance allows for flexibility and the reduction from 40' to 33' between units is a minor issue in the context of the total development. Mr. Donnellon also stated that the Choice Group is interested in constructing a quality project that will benefit the residents of Troy, and is not interested in developing the property to the maximum allowed.

Mr. Courtney stated that after looking at the proposed drawings, he could see that the configuration of the units was 4-3-4 and asked if it would be possible to change these units to 3-4-3 in order to comply with the Ordinance. Mr. Donnellon stated that he was sure that that could be done, but they had not looked into this possibility. Mr. Donnellon again stated that they could build 38 units and not have to come to the Board for a variance; however, the quality of the structures would not be the same. Mr. Courtney stated that he felt the quality could be maintained as well as compliance with the Zoning Ordinance. Mr. Donnellon said that he did not have the authority to change the plans and would have to consult with the owner of the Choice Group. Mr. Donnellon further stated that they had interpreted to the Ordinance to mean that they would be allowed to build these units with 33' space between six of them.

Mr. Maxwell asked where the bulk of the open space was and Mr. Donnellon stated that it was in front and back yards as well as along the street. Mr. Donnellon further stated that they plan in put in more landscaping which would include a berm to screen this property from the adjoining properties. Mr. Milia asked if they knew that there was a major utility easement running through the middle of the property and Mr. Donnellon stated they would take whatever steps were necessary to relocate this utility line.

The Chairman opened the Public Hearing.

Linda Zettel, 3916 Finch was present and stated that her home and others on Finch Street would be the most directly affected by this development. She was very concerned about increase in traffic and the fact that she believes these buildings would be too close together. Mrs. Zettel is also concerned that these condominiums would

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decrease rather than increase the value of her property. Mrs. Zettel objects to this variance.

Mr. Frank Pulice, 3972 Old Creek, was present and stated that he had attended the Planning Commission meeting when this property was re-zoned and was against the initial re-zoning and asked the Board to deny this variance. Mr. Courtney pointed out that there are only 6 locations in this development that will not comply with the Ordinance. Mr. Courtney also stated that the developer is going to build on this site anyway, although now it is only 33 units rather than 38.

Ms. Joan Winer was present and stated that she was representing the residents of Wattles Creek and that the majority of the residents are in favor of this development.

Ms. Janet Martin, 3912 Old Creek, was present and stated that she did not agree with Ms. Winer and did not believe that the majority of the residents were in favor of these condos. Mr. Fejes pointed out that The Choice Group could build 38 units without a variance and Mr. Stimac stated these would be smaller units. Mr. Stimac also stated that the minimum square footage allowed by the Ordinance would be 1,000 square feet and the proposed condos would be between 2,000 and 2,500 square feet.

Mr. Donnellon said that these condos would sell for approximately \$300,000.00 and would definitely have a positive impact on this site. He stated that The Choice Group was offering the amenities that people want.

Mr. Kamal Shouhayib, Vice President of The Choice Group was present and stated that he has been building in Troy since 1984 and is not interested in over-developing this site, but would rather build a quality development. Mr. Shouhayib also said that he spent over a year looking for the proper site to build these condos and does not believe they will have a negative effect on surrounding property.

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

Mr. Courtney asked Ms. Winer about the survey that was taken with the Wattles Creek owners and Ms. Winer said that a formal survey was never taken, but this is the general feeling of the owners.

Mr. Hutson commended The Choice Group for designing these condos in Troy. He believes there is a growing need for this type of housing, due to the fact that there are many people who now live in Troy, whose homes are now too large for their families. Mr. Hutson also believes that the request for this variance is very minor.

Mr. Maxwell addressed the people in the audience who had come to object to this request. He stated that this property would be developed one way or another, and feels

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that it would be nicer to see larger condominiums rather than smaller condos but a larger number.

Mr. Storrs stated that the reason 40' came about was to break up the appearance of a single line of buildings and feels that it is very well done in Wattles Creek. He also stated that going from 40' to 33' is a lot more than 8% and thinks that it is possible to make a change in the size of the units.

Mr. Milia stated that the thrust of the petitioner's arguments has been based on the floor plan of the units, and asked if the units could be downsized and therefore comply with the 40' requirement. Mr. Donnellon stated that this could be done but even the reduction of one foot in a room would make a difference. Mr. Milia stated that he felt that The Choice Group could make a magnificent development but could comply with the Ordinance.

Mr. Courtney asked if they would be willing to try and see if they could make a combination of 3-4-3 units and see if they would then comply with the Ordinance. Mr. Fejes asked if the petitioner wanted to table this item to explore the possibility of changing the layout of these condos.

There are eight (8) written objections in file. There are no written approvals in file.

Motion by Courtney  
Supported by Hutson

MOVED, to table the request of Mr. David Donnellon, Donnellon Swarhout Associates, representing The Choice Group, West Wattles and Finch Road, for relief of the Zoning Ordinance to construct a residential townhouse development with 33 feet between buildings where 40 feet is required.

- To allow the petitioner to explore other options in regards to the construction of these units.

Yeas: 6 – Courtney, Fejes, Hutson, Maxwell, Milia, Storrs

MOTION TO TABLE THE REQUEST OF MR. DAVID DONNELLON UNTIL THE NEXT REGULARLY SCHEDULED MEETING OF MARCH 20, 2001 CARRIED

The Board of Zoning Appeals meeting was adjourned at 10:00 P.M.

MS/pp