

The Chairman, Christopher Fejes called the meeting to order at 7:30 P.M., on Tuesday, August 21, 2001.

PRESENT: Kenneth Courtney
Christopher Fejes
Marcia Gies
Michael Hutson
Matthew Kovacs
Mark Maxwell
Walter Storrs

Also Present: Mark Stimac
Lori Grigg Bluhm
Pam Pasternak

ITEM #1 – APPROVAL OF MINUTES OF MEETING OF JULY 17, 2001

Motion by Courtney
Supported by Gies

MOVED, to approve the minutes of the meeting of July 17, 2001 as written.

Yeas: 6 – Gies, Hutson, Kovacs, Maxwell, Storrs, Courtney
Abstain: 1 – Fejes

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

ITEM #2 – RENEWAL REQUESTED. ST. AUGUSTINE LUTHERAN CHURCH, 5475 LIVERNOIS, for relief of the 4’6” masonry wall required along the south and west sides of off-street parking.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board for the 4’6” high masonry wall required along the south and west sides, adjacent to the off-street parking. The relief was originally granted in 1993 based on the fact that the variance would not be contrary to public interest and conforming would be unnecessarily burdensome. In 1998 this Board granted renewal of this variance for a period of three (3) years. Section 39.10.01 of the Zoning Ordinance does not require that a screen wall be provided between the parking lot of a church and adjacent single-family residential property when a public street separates them. Therefore, no wall was required along the north side of their parking lot.

Mr. Stimac further explained that In October 1999 the Building Department received a complaint from Mrs. Baylerian, 70 McKinley drive regarding the traffic congestion, and lack of extra landscaping on this site. The church was granted a variance to install only 22 trees along the McKinley street frontage where Section 39.80.02 would require at least 66 trees (one tree per 20’ of frontage) are planted. This variance was granted, in part because the church was only developing the eastern 440’ of their 1317’ deep parcel. The trees were installed within this developed portion of their site. Since that time the church has, in fact, sold the western 300 feet of their property.

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Mr. Les Kuykendall, a member of St. Augustine Church was present and stated that they would like to make this a permanent variance. Mr. Kuykendall pointed out that presently they have a berm along the west entrance, which is at least 6' high and heavily landscaped, and also have a large stand of trees on the south side of the property. He feels that this landscaping provides enough privacy to the surrounding homes. Mr. Kuykendall further stated that this is a small congregation, and although they have some activities in the evenings, they are on a very limited basis, and usually have only twelve cars in the lot. On Sundays, Mr. Kuykendall stated that there are approximately 80 cars in the lot.

Mr. Kovacs asked Mr. Stimac for clarification on granting this a permanent variance and Mr. Stimac stated that the Board of Zoning Appeals has the authority to make this a permanent variance, however, before this could happen a new Public Hearing would have to be held. Mr. Stimac also pointed out that the Ordinance had recently been changed and now is asking for a berm to be installed rather than a wall. Mr. Stimac also stated he thought that if the Church were to add more landscaping to the berm on the west side of the parking lot it may comply with the Ordinance. Mr. Stimac went on to say that the south property line is approximately 10' from the property line and there is not enough room for the church to add a berm, that would comply and also that the majority of the trees in this area are on the neighboring property and not on the Church's property.

Mr. Courtney asked if there was a possibility of adding a driveway onto Livernois, and Mr. Kuykendall stated that in previous reviews the City felt it would be better to keep the drive on McKinley. Mr. Kuykendall further stated that he thought the Church would want to look into the possibility of a new Public Hearing to make this a permanent variance.

Motion by Courtney
Supported by Kovacs

MOVED, to grant St. Augustine Lutheran Church, 5475 Livernois, a three (3) year renewal of a variance for relief of the 4'6" masonry wall required along the south and west sides of off-street parking.

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

Yeas: All – 7

MOTION TO GRANT RENEWAL OF VARIANCE FOR A PERIOD OF THREE (3) YEARS CARRIED

ITEM #3 – VARIANCE REQUESTED. RICHARD SOWINSKI, 810 TRINWAY, for relief of the Zoning Ordinance to construct a 728 square foot garage, which will exceed the maximum allowable space permitted for accessory structures.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 728 square foot detached garage at his residence. Section 40.57.04 limits the combined ground floor area of all accessory buildings on a parcel to one-half the ground floor area of the main building or 600 square feet whichever is greater. Presently there is an existing 360 square foot detached garage and a 343 square foot shed which exists on the property. Because the size of the existing residence is 1128 square feet, the maximum size of all accessory buildings on this site is limited to 600 square feet.

This item first appeared before the Board of Zoning Appeals at the meeting of November 16, 1999 and was tabled to allow the petitioner to come up with an alternative plan. The petitioner has changed the size of his variance request.

Mr. and Mrs. Sowinski were present and stated the shed listed in the Public Hearing notice is only 339 square feet rather than 360 square feet. Mrs. Sowinski further stated that the reason they need this garage is due to the fact that they own two large vehicles as well as three (3) classic cars and have nowhere to park them. Mrs. Sowinski also said that due to the fact that their property is almost an acre, they have a large amount of lawn equipment that they need to store and presently have nowhere to put it. Mrs. Sowinski stated that this area is a country type setting in that all of the homes are on large lots. The Sowinskis indicated that they do not want to attach the garage to their home but would prefer having a separate building. Mr. Sowinski indicated that originally their request was for a garage that was 30' x 40' and now they would like a building which would be 26' x 28'.

Mr. Courtney asked for clarification on which buildings the Sowinskis planned to tear down, and Mr. Sowinski stated that the only building they would remove would be the existing garage. Mr. Kovacs asked for clarification regarding the square footage in this variance request and Mr. Stimac stated that they are asking for a variance, which will result in 1,070 square feet of accessory buildings where 600 square feet are permitted.

Mr. Maxwell asked what would be required if the Sowinskis were to attach the garage to their home and Mr. Stimac explained that at least one corner of the building would have to share a common wall with their home. Mr. Maxwell then asked what the ramifications would be regarding property assessment and Ms. Bluhm stated that she would be unable to answer that without checking with the Assessing Department. Mr. Maxwell went on to state that he felt that this building could be attached to the home by a breezeway and the result would be that the petitioner would have a larger garage. Mr. Sowinski stated that they do not wish to add this garage onto their home, due to the fact that there is a drop in the property that would require a large amount of fill to be brought

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in at considerable expense. Mr. Sowinski went on to say that there is a large, mature maple tree and he is afraid that if he were to move the garage addition, it would affect this tree. Mr. Maxwell stated that he was concerned about the size of the variance, because the storage buildings would be larger than the size of the home. Mr. Sowinski stated that many of his neighbors have very large garages and he does not feel that he should be penalized because his home is small.

Mr. Courtney stated that the tree is behind the existing garage, and if the new garage were constructed from the house to the back of this existing structure, it would result in a garage which would be 30' deep, without effecting the tree, and which would be larger than what they are presently asking for. Mrs. Sowinski stated that they do not want an attached garage.

Mr. Fejes asked what would happen if this variance were not granted and Mr. Sowinski stated that he would put a new roof on the existing garage and a larger door, and possibly add a carport. Mr. Fejes stated that he was concerned about the size of the variance request, and did not feel that there was a hardship with the land. Mrs. Sowinski stated that she did not feel it was right to own cars that they could not keep on their property.

The Chairman 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.

Motion by Courtney
Supported by Maxwell

MOVED, to deny the request of Richard Sowinski, 810 Trinway, for relief of the Zoning Ordinance to construct a 728 square foot garage, which will exceed the maximum allowable space permitted for accessory structures.

- Variance request is considered excessive.
- Petitioner did not prove a hardship
- The Board feels that the petitioner has other options available to him.

Yeas: 6 – Hutson, Maxwell, Storrs, Courtney, Fejes, Gies
Nays: 1 – Kovacs

MOTION TO DENY CARRIED

ITEM #4 – VARIANCE REQUESTED. PATIO ENCLOSURES, 3827 GATE, for relief of the Zoning Ordinance to construct a patio enclosure, which will result in a 36.41' rear yard setback where 40' is required.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to replacing an existing covered patio with an enclosed sunroom 36.41' from the rear property line. Section 30.10.04 requires a 40' minimum rear yard setback in the R-1C Zoning Districts. A variance from the Board of Zoning Appeals on August 21, 1973 permitted the existing covered patio.

Mr. Dave Rossman of Patio Enclosures was present and stated that the existing structure needs repair and the homeowner would like to replace it with a new structure. Mr. Harold Mercer, the homeowner, was also present and stated that the covered structure was approved by the Board in 1973 when the original home was built. Ten years ago the homeowner enclosed this patio.

Mr. Fejes asked if this was a non-conforming structure and Mr. Stimac stated that the covered slab was legal, however, the action of the homeowner enclosing this structure without prior approval, made the structure non-conforming. Mr. Stimac went on to say that if the homeowner was only going to replace the existing covered structure, the action of the Board in 1973 would still apply and the covered patio would conform to the Ordinance.

Mr. Hutson stated that he did not feel there was a hardship with the land that would justify a variance. Mr. Courtney stated that there was already a 4' variance, and if the walls were removed the structure would be in compliance. Mr. Rossman pointed out that he feels that the definition of hardship was open to interpretation and basically the existing porch is an eyesore that the homeowner wants to remove and improve on.

The Chairman 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.

Motion by Maxwell
Supported by Kovacs

ITEM #4

MOVED, to grant Patio Enclosures, 3827 Gate, relief of the Zoning Ordinance to construct a patio enclosure, which will result in a 36.41' rear yard setback where 40' is required.

- Variance request is minimal.
- Variance will not affect the existing setback established in 1973.
- This variance is not contrary to public interest.

Yeas: 6 – Kovacs, Maxwell, Storrs, Courtney, Fejes, Gies

Nays: 1 – Hutson

MOTION TO APPROVE REQUEST CARRIED

ITEM #5 – VARIANCE REQUESTED. ERICH HAGEN, 2339 GREENSBORO, for relief of the Zoning Ordinance to construct an enclosed patio, which will result in a 34.6' rear yard setback where 40' is required.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct an enclosed patio. Section 30.10.04 of the Zoning Ordinance requires a 40' minimum rear yard setback for an enclosed or covered structure in the R-1C Zoning District. The site plan submitted indicates that the proposed enclosure built over an existing raised patio would result in a 34.6' rear yard setback.

Mr. Hagen was present and stated that due to the configuration of his lot, if he measured straight back from the proposed enclosed patio the 40' setback would be complied with. Mr. Hagen went on to state that only one corner of this enclosure would be in violation of the Ordinance.

The Chairman opened the Public Hearing.

Mr. Mike Grube, 4076 Middlebury was present and stated that he is a neighbor of Mr. Hagen's and he would approve of this request. Mr. Grube went on to say that he feels that this enclosure will add to the value of the property as well as create an aesthetically pleasing appearance.

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

There are three (3) written approvals on file. There are no written objections.

Motion by Hutson
Supported by Gies

ITEM #5

MOVED, to grant Erich Hagen, 2339 Greensboro, relief of the Zoning Ordinance to construct an enclosed patio, which will result in a 34.6' rear yard setback where 40' is required.

- This variance is not contrary to public interest.
- Conforming would be unnecessarily burdensome to the petitioner.
- This variance will not have an adverse effect on surrounding property.
- The angle of the rear lot line makes complying with the ordinance difficult.

Yeas: All – 7

MOTION TO APPROVE CARRIED

ITEM #6 – VARIANCE REQUESTED. DR. RICHARD SCHUSTER, 4221 GATESFORD CIRCLE, for relief of the Zoning Ordinance to construct a family room addition, which will result in a 34'-8" rear yard setback where 40' is required.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct a family room addition. The site plan submitted indicates a family room addition with a proposed 34'-8" rear yard setback. Section 30.10.04 of the Zoning Ordinance required a 40' minimum rear yard setback in the R-1C Zoning District.

Dr. Schuster was present and stated that they wished to square off the existing home, and because of the irregular shape of the lot a variance is required. Mr. Courtney asked if the Homeowners Architectural Committee had been contacted for approval and Dr. Schuster stated that he has not yet contacted them. Mr. Courtney suggested that if the variance were to be approved, they should contact the Architectural Committee before beginning construction.

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

There are six (6) written approvals on file. There are no written objections on file.

Motion by Maxwell
Supported by Kovacs

MOVED, to grant Dr. Richard Schuster, 4221 Gatesford Circle, relief of the Zoning Ordinance to construct a family room addition, which will result in a 34'-8" rear yard setback where 40' is required.

- Variance is not contrary to public interest.
- Variance will not establish a prohibited use in the Zoning District.
- This variance will not have an adverse effect on surrounding property.

ITEM #6

Yeas: All – 7

MOTION TO APPROVE CARRIED

ITEM #7 – VARIANCE REQUESTED. BROOKSHIRE DEVELOPMENT, LLC, 26 INGRAM (PROPOSED ADDRESS), for relief of the Zoning Ordinance to construct a new single family home with a 41.58' front yard setback to a major thoroughfare where 50' is required.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct a new single-family residence. The site plan submitted proposes construction of a new house with a 41.58' setback from the Livernois Road right-of-way. Section 10.60.03 of the Zoning Ordinance requires a 50' minimum setback from major thoroughfare right-of-way lines in the R-1B Zoning District.

Mr. Maxwell asked if this was a self-imposed hardship and Ms. Bluhm replied that the hardship could be considered to be self-imposed.

Mr. Tom Caporuscio and Mr. Darrin Peebles, the Builders and owners of this property were present and stated that this lot was one of four lots that they bought as a package and are having a difficult time determining what type of home they can build on this lot which would conform with the Ordinance. Mr. Caporuscio stated that the homes in this subdivision are very stately looking homes, and due to the fact that there is an existing floodplain, as well as easements, they would have to build a home that is narrower than the surrounding homes, which they believe would not look right. Mr. Caporuscio further stated that this home would be right near the entrance drive to the subdivision and would be partially hidden behind existing landscaping.

Mr. Fejes asked if they were forced into purchasing this lot and Mr. Caporuscio stated that it was part of a package and they are having quite a difficult time determining what type of design to use for a home, which will fit in with the other homes in this subdivision. Mr. Caporuscio went on to say that if they do conform to the Ordinance, the garage would be nearly one half of the front of the house. Mr. Courtney stated that he felt that the developer did not intend for a house to be built on this lot, but rather that it would be used as a retention pond. Mr. Peebles pointed out that there are two retention ponds south of Ingram, and did not feel that this lot needed to be used for this purpose.

Mr. Kovacs asked for clarification on the distance required for the setback and Mr. Stimac replied that basically it is 110' from the centerline of Livernois or a setback, which should measure 51' from the sidewalk. Mr. Kovacs asked what the setback from the road would be once Livernois was widened and Mr. Stimac stated that depending on whether turn lanes or decel lanes were added, the property line could be as little as 18' from the curb line. Mr. Kovacs then asked if there was a possibility of altering half of the drainage ditch and Mr. Stimac replied that the restrictions fall under the Department

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of Environmental Quality and FEMA, and he felt that if it were possible to shift the floodplain any further, the developer would already have done it.

Mr. Storrs pointed out that this lot is buildable by City standards, however, the petitioner wishes to build a home that will match other homes in this area. Mr. Maxwell asked how wide the lots were and Mr. Peebles replied that there is approximately 120' between lots 1 and 2, and the other lots in this subdivision are approximately 90' wide. Mr. Stimac pointed that the Zoning for this property is R-1B and with a side entrance garage, the buildable width of a home on a 90' wide lot is 56'; and without a side entrance garage the buildable width is 65'. On this particular lot there is a buildable width of 59.2' at the front setback and just under 48' of width at the rear setback. Mr. Stimac went on to say that the builder is proposing to build a home that would be 62.5' wide.

Mr. Courtney asked if this home could be moved up on the lot and Mr. Caporuscio replied that he did not think this would look right. Mr. Courtney stated that the home could be 60' wide x 35' deep. Mr. Caporuscio stated that they wished to build the home 62' wide x 50' deep. Mr. Courtney suggested that the home could be 40' wide and 60' deep and Mr. Caporuscio stated that the garage would take up half of the front of house. Mr. Caporuscio also said that they did not wish to put up a house that would be a "shoebox" design.

The Chairman opened the Public Hearing.

Mr. and Mrs. George Green of 6811 Livernois were present and stated that they object to this variance. Mrs. Green stated that they have had a number of problems with flooding due to the development of this subdivision and she does not want any more problems. Mrs. Green went on to say that there is another home in the subdivision that does not conform to the other homes and it is not an eyesore. Mrs. Green went on to say that this property was purchased knowing the size of this lot, and she did not want to see this variance granted.

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

There are three (3) written approvals on file. There are two (2) written objections on file.

Motion by Maxwell
Supported by Storrs

ITEM #7

MOVED, to deny the request of Brookshire Development, LLC, 26 Ingram (proposed address), for relief of the Zoning Ordinance to construct a new single family home with a 41.58' front yard setback to a major thoroughfare where 50' is required.

- The Board believes this hardship to be self-imposed.
- The petitioner has other options to build on this lot.
- This variance would be contrary to public interest.

Yeas: All – 7

MOTION TO DENY CARRIED

ITEM #8 – VARIANCE REQUESTED. MR. & MRS. DAVID MEADOR, 1590

CRANBROOK, for relief of the Zoning Ordinance to construct a sunroom addition which will result in a 43' rear yard setback where 45' is required.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct a sunroom addition. The site plans submitted indicate the proposed sunroom will result in a 43' rear yard setback. Section 30.10.02 of the Zoning Ordinance requires a minimum 45' rear yard setback in the R-1B Zoning District.

Mr. Erik Heiderer of Polyarch, Inc. and Mr. David Meador were present. Mr. Meador stated that he and his wife wished to have a room that they could enjoy year round. Mr. Meador also said that his lot does not have a straight angle and three quarters of his addition would conform to the rear yard setback, and only one corner would not conform.

Mr. Courtney asked about the shape of the addition and Mr. Heiderer replied that the addition would be an octagon shape with glass on four sides. Mr. Heiderer went on to say that the reason for this shape of the addition was to be able to utilize the pool area. Mr. Courtney then asked what would happen if the variance were to be denied and Mr. Heiderer stated that they would have to pull back one foot and the addition would lose the octagon shape.

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.

Motion by Maxwell
Supported by Kovacs

ITEM #8

MOVED, to grant Mr. & Mrs. David Meador, 1590 Cranbrook, relief of the Zoning Ordinance to construct a sunroom addition, which will result in a 43' rear yard setback where 45' is required.

- Variance request is minimal.
- Conformance would be unnecessarily burdensome.
- This variance is not contrary to public interest.

Yeas: All – 7

MOTION TO APPROVE REQUEST CARRIED

ITEM #9 – VARIANCE REQUESTED. TRICIA YOUNG, 3278 WENDOVER, for relief of the Zoning Ordinance to construct a second floor addition, which will continue an existing 36.5' front yard setback where 40' is required. This structure is considered a legal non-conforming structure and Section 40.50.04 prohibits expansions to non-conforming structures in a way that increases its non-conformity.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct a second floor addition. This lot is a double front setback corner lot. Section 30.10.02 of the Zoning Ordinance requires a 40' minimum front yard setback in the R-1B Zoning District. The site plan submitted indicates a 36.5' front setback from the property line along Tothill Road to the existing home. The plans submitted indicate the proposed second floor addition will continue this 36.5' setback. Based upon the age of this house, it is classified as a legal non-conforming structure. Section 40.50.04 prohibits expansions to non-conforming structures in a way that increases its non-conformity.

Mrs. Young was present and stated that the extension of Tothill, creating the double setback condition was established after her home was built. Mrs. Young further stated that the subdivision behind her home runs at an angle that makes it harder for them to conform with this addition.

Mr. Fejes asked what the addition would be used for and Mrs. Young stated that their family was growing and it would be used as a bedroom.

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

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

Motion by Hutson
Supported by Courtney

ITEM #9

MOVED, to grant Tricia Young, 3278 Wendover, relief of the Zoning Ordinance to construct a second floor addition, which will continue an existing 36.5' front yard setback where 40' is required.

- This variance is not contrary to public interest.
- The variance will not have an adverse effect on surrounding property.
- Conforming would be unnecessarily burdensome.

Yeas: All – 7

MOTION TO APPROVE REQUEST CARRIED

Mr. Stimac informed the Board that he is still looking into the possibility of having alternate members appointed to this Board, and he will keep them updated. Mr. Stimac also informed the Board that he will not be at the September meeting, however, Mr. Grusnick will be attending the September meeting in his place.

The Board of Zoning Appeals meeting adjourned at 9:23 P.M.

MS/pp