

The Chairman, Christopher Fejes called the meeting to order at 7:30 P.M., on Tuesday, September 18, 2001.

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

Also Present: Mitch Grusnick  
Bob Davisson  
Pam Pasternak

**ITEM #1 – APPROVAL OF MINUTES OF MEETING OF AUGUST 21, 2001**

Motion by Courtney  
Supported by Storrs

MOVED, to approve the minutes of the meeting of August 21, 2001 as written.

Yeas: 7 – All

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

**ITEM #2 – VARIANCE REQUESTED. JACQUES MILOIAN, 1739 COVENTRY**, for relief of the Ordinance to construct a shed, which will exceed the maximum allowable square footage for accessory buildings.

Mr. Grusnick explained that the petitioner is requesting relief to construct a shed, which will exceed the maximum allowable square footage for accessory buildings. A permit for a 576 square foot detached garage has been issued and is currently under construction on this lot. An application has been submitted to construct a 100 square foot shed, which would result in 676 square feet of accessory buildings. Section 40.57.04 of the Zoning Ordinance limits the total square footage of all accessory buildings at this site to 600 square feet.

Mr. Miloian was present and stated that due to the fact that his existing garage was only a one and one-half (1 ½) car garage; he needed the extra room to store his lawn equipment. Mr. Miloian stated that he wants to keep his yard looking neat. Mr. Miloian further stated that he is also looking into the possibility of adding a family room addition to his home, which would increase the square footage of living space he has and allow for the extra storage building.

Mr. Fejes stated that the Board had received an objection from the neighbor immediately behind Mr. Miloian’s property stating that he was very concerned about his property being flooded out. Mr. Miloian stated that he plans to pour the slab for the shed at ground level, which would not raise the grade. Mr. Miloian feels that there should not be any concern regarding flooding with this plan.

**ITEM #2 – con't**

Mr. Storrs asked how much higher the garage was and Mr. Miloian stated that it is approximately 13" higher. Mr. Miloian again stated that the slab for the shed would be put at ground level. Mr. Courtney asked how close the shed would be to the neighbor's property line and Mr. Miloian stated that he planned on placing it approximately 8' from the fence line.

The Chairman opened the Public Hearing.

The property owner, directly across the street from 1739 Coventry, wished to speak and stated that he approves of the petitioner's request 100%. He stated that he did not believe adding this shed would do any damage.

Mr. James Redmond, 1700 Castleton, stated that he lives directly behind Mr. Miloian and 29' of his property abuts 1739 Coventry. Mr. Redmond stated that he is very concerned about this shed, due to the fact that the grade will be raised and he believes this will cause his property to flood. Mr. Redmond also said that the grade of the properties on Coventry already have a 1' higher elevation than the homes on Castleton. Mr. Redmond believes that this is the way the subdivisions were originally platted. Mr. Redmond also said that he was a surveyor and brought in drawings indicating what he has determined will happen when this slab is put in. Mr. Redmond stated that he has had a problem with flooding and has attempted to alleviate it by adding a ditch for drainage. Mr. Redmond also said that with the addition of the slab and fill dirt, a 10 ½" rise will be created in order to allow the petitioner to go into this shed.

Mr. Fejes asked Mr. Redmond if he would approve of this request, if Mr. Miloian did not raise the floor of the shed, or add any fill dirt, but in fact did pour it at ground level. Mr. Redmond stated that he would probably approve this request, as long as this stipulation was in writing. Mr. Hutson stated that he thought that there were existing drains on this site, and Mr. Redmond stated that these drains are rather old and because of the improvements made by the residents, these drains are no longer effective. Mr. Redmond stated that he has put in extra drainage at his own expense to try and alleviate the flooding problem, however, due to the high water table in the area, he still has a problem with flooding.

Mr. Storrs suggested that Mr. Redmond contact the Engineering Department to come out and take a look at the grade and existing drains in order to determine if there is something they could do to help the flooding problem.

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

There are six (6) written approvals on file. There are three (3) written objections on file.

Mr. Maxwell asked Mr. Grusnick to look at the drawing, which Mr. Redmond submitted and comment on it. Mr. Grusnick stated that based on this drawing, it appears that the water flow would go directly toward the neighbor's property. Mr. Grusnick went on to

**ITEM #2 – con't**

say that he thought the amount of the water in the “swale” would run to the neighbor’s property and could create a water problem. Mr. Grusnick also said that he thought that due to the age of this subdivision, changes to the properties may be affecting the drainage ditches and the Engineering Department may need to do some maintenance on them.

Mr. Hutson stated that he was concerned about the suggestion of a flooding problem and wants the Engineering Department to go out and take a look at these properties, to determine if something can be done to eliminate the possibility of flooding. Mr. Fejes asked if Mr. Hutson felt that if the slab for the shed were to be placed at ground level, if this would take care of the problem. Mr. Hutson stated that even at ground level, adding fill dirt and cement could create an 18” wall.

Mr. Kovacs asked Mr. Redmond if he would be happy if the slab were placed at ground level. Mr. Redmond stated that he thought a “rain sheer” would be created, because the more concrete that is added creates less place for water to go. Mr. Redmond then stated that he is also concerned about the build up of dirt around Mr. Miloian’s garage.

Motion by Courtney  
Supported by Maxwell

MOVED, to table the request of Jacques Miloian, 1739 Coventry, for relief of the Ordinance to construct a shed, which will exceed the maximum allowable square footage for accessory buildings until the next scheduled meeting of October 16, 2001.

- This will allow the Engineering Department to examine the property, to determine if they can help to alleviate the water problem.
- Tabling will allow the petitioner to come back to the Board with an exact plan.

Yeas: All – 7

MOTION TO TABLE REQUEST UNTIL MEETING OF OCTOBER 16, 2001 CARRIED

**ITEM #3 – INTERPRETATION REQUESTED. CENTURY PARK PLACE, LLC, 400 E. BIG BEAVER (PROPOSED ADDRESS)**, requests an interpretation of Chapter 39, Section 41.50.00 and an interpretation of Chapter 39 Section 30.30.00 subsection S which would allow the construction a new office building that, absent these interpretations, will encroach into the required setbacks.

Mr. Grusnick explained that the petitioner is requesting an interpretation of Chapter 39, Section 41.50.00 that would allow him to construct his proposed new office building at 400 E. Big Beaver (proposed address). This property is located in the O-M (Mid-Rise Office) Zoning District. The plans submitted indicate a three-story building that is 35.5 feet in height. The Building Department has determined that Sub-paragraph S of

**ITEM #3 – con't.**

Section 30.30.00 of the Troy Zoning Ordinance requires that for a building of this height, a side yard setback of at least 38.25 feet must be provided on the east side of the site where it abuts residentially zoned property and 35.5 feet must be provided on the west side of the side where it abuts additional O-M property. The site plan submitted indicates a 30-foot setback on each side.

In addition, the plans submitted indicate glass walls enclosing the stairways that slope outward 3 feet from the face of the building. Based on the Building Department's interpretation of Chapter 39 Section 41.50.00, these glass walls are an encroachment into the required setback.

Mr. Peter Kanuck, General Manager of Century Park Place, and Mr. Frank D'Anna, Architect were present. Mr. Kanuck stated that he believes that the proposed glass walls are an "architectural feature" and therefore are allowed pursuant to Chapter 39 Section 41.50.00. Mr. Kanuck explained that these projections do not start at ground level, but begin above the first floor, and that the glass walls will not make contact with any of the floors. The use of the sloped glass walls will not increase the square footage of the building. Mr. Kanuck stated that the purpose of these glass walls was to make a very small building look larger, and be more aesthetically pleasing. Mr. Kanuck said the site is unique and very small and is surrounded by very large developments. He believes the site itself restricts the type of building that can be constructed. Mr. Kanuck believes that Petitioner's interpretation is not contrary to the spirit and intent of the Ordinance. Mr. Kanuck believes that as an "architectural feature" the sloping glass walls would not be detrimental to the preservation or enjoyment of the other buildings in this Zoning District.

Mr. Storrs asked if the stairwells at the end of the building, would add square footage to the footprint of the building. Mr. Kanuck stated that they did not. Mr. Hutson asked if part of the stairwells would have to be removed if the vertical projections were removed. Mr. Kanuck stated no, indicating that the sloping glass walls and the stairwell are not connected.

Mr. Kovacs asked if the City has an exact definition of a "vertical projection". Mr. Grusnick stated no, but indicated that in the past "vertical projection" was interpreted to mean from "floor to ceiling".

Mr. Fejes expressed concern that if the Board were to approve this "architectural feature", it would create a precedent. Mr. Davisson stated that the Ordinance allows the Board to interpret the Ordinance. Mr. Hutson felt that since this is not a load-bearing wall, and if it were removed, there would not be any structural changes, it should not be a concern for the Board. Mr. Hutson felt that this is a unique situation and should be allowed.

Mr. Kanuck stated that the Board also needed to make an interpretation of Chapter 39, Section 31.30.00 subsection S. This ordinance requires additional setbacks in O-M

**ITEM #3 – con't.**

zoning districts under certain circumstances. Mr. Kanuck believes that this setback ordinance only applies to buildings of four stories or more.

Mr. Kanuck stated that the proposed building was going to be a three story, 35 foot six-inch high building. Mr. Courtney asked how far this building would encroach into the required setbacks and Mr. Kanuck replied that according to the City, it would encroach 8 ¼ feet at the side of the building adjacent to residential zoning and 5 ½ feet from the side of the building adjacent to commercial zoning. Mr. Kanuck again stated that he believed that this ordinance is inapplicable to his building because his building is under four stories in height. Mr. Kanuck also stated that this building would not create a cramped intrusion to surrounding buildings, as the nearest building on the west side is approximately 350 to 400 feet away. The nearest building on the east side is approximately 150 feet away. Big Beaver is on the north side of the development.

Mr. Storrs stated that the language in the Chapter 39, Section 31.30.00, paragraph S, is ambiguous. He will suggest to the Planning Commission that they make a recommendation to City Council regarding language changes to the ordinance.

Mr. Fejes stated that he thought the proposed design of the building was beautiful and that the petitioner was maximizing the use of this space due to the odd shape of the lot.

Mr. Hutson stated that these issues were unique to the parcel and that he thinks there was a mistake made in the wording of the Ordinance. He believes that the ordinance needs to be amended by City Council. Mr. Kovacs and Mr. Storrs both agreed that the language in Chapter 31.30.00, Section S is ambiguous and needs to be clarified.

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

There are no written approvals or objections in file.

Motion by Hutson  
Supported by Maxwell

MOVED, to adopt Petitioner's, Century Park Place, LLC, 400 E. Big Beaver (proposed address), interpretation of Chapter 39, Section 31.30.00 that the additional setbacks of subsection S, are inapplicable to buildings of less than four stories in height located in an O-M district.

- The Board finds that the language in Chapter 31.30.00, subsection S is ambiguous.
- The Board finds that because Petitioner's building is three-stories in height, Chapter 31.30.00, subsection S is inapplicable.

**ITEM #3 – con't.**

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

Nays: 1 – Courtney

**MOTION TO GRANT REQUEST REGARDING SETBACKS CARRIED**

Motion by Maxwell

Supported by Kovacs

MOVED, to adopt Petitioner's, Century Park Place, LLC, 400 E. Big Beaver (proposed address), interpretation of Chapter 39 Section 41.50.00 to include as an "architectural feature" the sloped glass walls as shown in Petitioner's architectural plans.

- The Board finds that Petitioner's proposed sloping glass walls are an "architectural feature" and not a "vertical projection" as set forth Chapter 39, Section 41.50.00.
- The Board finds that because petitioner's sloped walls are an "architectural feature", they are permitted to encroach up to 3' into the required setback by Section 41.50.00.

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

Nays: 1 – Courtney

**MOTION TO GRANT REQUEST OF "ARCHITECTURAL FEATURE" CARRIED**

The Board of Zoning Appeals meeting adjourned at 9:18 P.M.

MEG/pp