

The Chairman, James Giachino, called the regular meeting of the Board of Zoning Appeals to order at 7:30 P.M. on Tuesday, September 19, 2000.

PRESENT:	Kenneth Courtney	Mitch Grusnick
	Mark Maxwell	Bob Davisson
	Lawrence Littman	Pam Pasternak
	James Giachino	
	Carmelo Milia	
	Michael Hutson	
	Christopher Fejes	

ITEM #1 – APPROVAL OF MINUTES, MEETING OF AUGUST 15, 2000

Motion by Courtney
Supported by Littman

Moved to approve the minutes of the meeting of August 15, 2000 as written.

Yeas: All – 7

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

ITEM #2 – TROY SWIM CLUB, 538 E. LONG LAKE, for relief to maintain and operate a private swim club.

Mr. Grusnick explained that the petitioner is requesting relief to maintain and operate a private swim club. This relief has been granted on a yearly basis for the last 30 years, with specific stipulations attached to the approval. In September 1997, this Board granted this renewal for a period of three (3) years. Conditions remain the same and we have no objections or complaints on file.

Ms. Shirley Hanna was present and stated that the Swim Club has been in business for at least fifty (50) years and owned by the Hanna family for the past thirty (30) years.

Mr. Milia asked Mr. Davisson if it were possible for the Board to grant a permanent variance due to the fact that the City and the Troy Swim Club have had an excellent relationship and believes that this is an undue burden for the petitioner to come back to the Board to renew this variance.

Mr. Davisson thought it would be inappropriate for the Board to grant a permanent variance, but said he would look into the matter. Mr. Hutson stated that he felt that this swim club was in existence before the Zoning Ordinance and felt that it should be made a permanent variance also. Mr. Giachino asked the Board members for an informal vote to determine what their feeling was on this

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motion, and the Board members unanimously agreed that they would like to see a permanent variance granted for the Troy Swim Club.

Motion by Milia

Supported by Courtney

MOVED, to table the request of Troy Swim Club 538 E. Long Lake for thirty days, until October 17, 2000, for relief to maintain and operate a private swim club.

- To allow the Legal Department to determine if:
 - a) this could be granted as a permanent variance.
 - b) since this swim club was established prior to the adoption of the Zoning Ordinance, a variance for the non-conforming use may not be required.
- There are no complaints or objections on file.

Yeas: All – 7

MOTION TO TABLE REQUEST FOR THIRTY DAYS, UNTIL OCTOBER 17, 2000 CARRIED

ITEM #3 – VARIANCE REQUEST. MR. THOMAS RICHARDS, 2754 DOWNEY, for relief of the side yard setback for an accessory structure.

Petitioner is requesting to allow a deck built without a building permit with a 0' side yard setback. The existing pool, with the newly constructed deck attached to it, are accessory structures by the definitions of the Zoning Ordinance. Section 40.57.05 of the Zoning Ordinance requires a 6' minimum setback from any accessory structure to a side or rear property line. The on-site inspection and permit application indicate the deck was constructed right up to the north property line.

This item originally appeared before the Board at the July 18, 2000 meeting and was tabled for thirty (30) days to allow the petitioner the opportunity to present his request before a full board. At the August 15, 2000 the item was tabled again at the request of the petitioner.

The Building Department has received a written request from Mr. Richards to withdraw this request. Mr. Richards also requested a thirty day time limit to remove the deck. No further action taken on this item.

ITEM #4 – VARIANCE REQUEST. MR. AND MRS. MICHAEL TILLARD, 5761 HOUGHTEN, for relief of the side yard setback for an attached garage addition.

The Chairman moved this item to the end of the agenda to allow the petitioner the opportunity to be present.

ITEM #5 – VARIANCE REQUEST. WILLIAM E. FULLER, TRUST, 1835 MAPLELAWN, for relief of the required landscaping to construct an addition to an existing building and construct a new building.

Mr. Grusnick explained that the petitioner is requesting relief of the Zoning Ordinance to construct an addition to an existing building and to construct a new building on the same property. In 1983 this property was granted a variance to display (park) vehicles 25' from the front property line where 50' is required by Paragraph L of Section 31.30.00. The site plan now submitted indicates only a 10' setback to the parking area. This reduction in the landscape area would also mean that only 7,563 square feet of countable landscape is provided where 14,756 square feet is required by Section 39.70.04.

Mr. William Fuller, owner of Troy Honda was present and stated that he has been in business in Troy for seventeen (17) years. He further stated that he owns three of the car dealerships in the Troy Motor Mall. Mr. Fuller said that he feels that none of the other dealerships meet the landscape requirement of the Zoning Ordinance going from a low of 2.3% to a high of 8.8%. He further stated that if he received the variances he was requesting he would end up with approximately 5.7% of the landscaping requirement. He stated that when he appeared before the Board in June 2000, he was asking for three variances; now he has determined that he will only require two variances. He stated that he needs to park display vehicles on the south side of his dealership, due to the fact that the Pontiac dealership next door blocks his view. He also stated that he has purchased half of the property in back of his dealership to use for storage of his vehicles, and due to the fact that he has purchased more property the landscaping requirement percentage has gone up, making it near to impossible for him to meet the requirement. Mr. Fuller also said that his dealerships are the only ones that presently comply to the landscaping requirement, Mr. Dick Lange, Architect for Mr. Fuller was present and stated that the Saturn dealership also complies.

Mr. Littman asked Mr. Grusnick about the 25' variance granted to Mr. Fuller in 1983. Mr. Grusnick explained that this variance was granted to display vehicles 25' from the front property line where 50' is required. Mr. Grusnick further stated that since this approval, the area north of the approach has been illegally paved to within 4' of the front property line. Mr. Fuller now wished to remove 6' of this parking area to get back to 10'. Mr. Fuller is now asking for relief of that 25'

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setback to park within 10' of the right of way. Mr. Grusnick stated that there is also a requirement for 10% of the site in landscaping in the front or side yards of the property.

Mr. Fuller stated that presently delivery trucks cannot make turns from the north side of the building going around the building, due to the fact that he has cars parked in this area and needs to move them each time a large truck comes in.

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

Mr. Littman asked how many feet would have to be added to the greenbelt to be in compliance with the landscaping area requirement. Mr. Fuller stated that if you were to leave the current paving on the north side of the driveway you would have to add significant landscape area on the southern portion of the site to make up the percentage. Mr. Fuller further stated that as a business continues to grow, the landscaping requirement also grows. Mr. Fuller also feels that a business is penalized due to the fact that the landscaping requirement is on the front or side of a building. Mr. Fuller stated that presently he meets the 10% requirement for landscaping, however, if his variance requests are successful he will end up with approximately 5.1% to 5.7% of the landscaping requirement.

Mr. Giachino asked if the addition could be built without a variance and Mr. Fuller stated that he would not add on to his building without a variance. Mr. Grusnick stated that the addition is in compliance, and would not need a variance. The variances are basically for parking and landscaping requirements.

Mr. David Berry, Attorney for Mr. Fuller was present and stated that an addition was put on the front of the building after the 25' variance granted in 1983. He stated that the 25' was possible to work with before the addition, but now is impossible for trucks to make the turn in this area. He also stated that they could move the required greenbelt back to 10' and still make the turn. Mr. Fuller added that when they put the addition on in 1995, they did not take into effect the width of the driveway. He also stated that he made the decision to extend the parking due to the fact that he felt he was still in compliance with the 10% landscape requirement. Mr. Fuller felt that this would match the look of the Pontiac dealership next to him.

Mr. Courtney stated if he understood Mr. Fuller correctly that the current landscape coverage is 10% and asked that when the addition is put on if they would still be in compliance. Mr. Berry replied that if he were to put on the addition and be required to comply with the 10% landscape area he would not have room to display his vehicles.

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Mr. Giachino asked if they are currently in violation of the Ordinance. Mr. Grusnick stated that they paved the area in the parking lot to within 4' of the front property line without approval from the City. Mr. Fuller stated that this was done

in 1995 and did not believe a variance was called for. Mr. Giachino stated that he felt it was highly unusual for the City not to bring this item to the Board. Mr. Giachino also asked what Mr. Fuller would do if this variance were to be denied and Mr. Fuller stated that he could not put on the addition because the City would not issue the building permit unless he was in compliance.

Mr. Courtney asked if cars were parked where the trucks make the turn and Mr. Lange stated that when large trucks come in the cars are moved to allow the trucks to make the turn. Mr. Giachino asked what would happen if the request for parking 10' from the property line were allowed but not the reduction in landscape area, and both Mr. Lange and Mr. Fuller stated that these variances go hand in hand. Mr. Fuller further stated that they have given 10' of their property to the City for a drain. Mr. Grusnick stated that beginning in 1965 the Planning Commission started the review and approval of the Motor Mall and is not aware of similar variances granted by this Board. Mr. Giachino stated that he feels that the greenbelt and parking setback areas are not evident in this whole area. Mr. Giachino further stated that the Board was struggling on this issue due to the fact that a variance was granted for 25' and then an addition was added which created a second variance, and now a third variance is requested.

Mr. Courtney asked if Mr. Fuller needed a variance to allow enough space for a truck to make the turn. Mr. Grusnick stated that Mr. Fuller needed a variance to go to 10' where 25' is required to park vehicles.

Motion by Courtney
Supported by Littman

MOVED, to grant William E. Fuller, 1835 Maplelawn a variance to pave an area to within 10' of the greenbelt on the North side of the property.

- To allow a maneuvering lane for large trucks starting at the front and going north.
- No parking will be allowed in the area between 10' and 25' of the west property line for the display of vehicles.

Mr. Maxwell asked if there were a number of dealerships that park within the 10' setback and Mr. Grusnick stated that he thought there were approximately four dealerships that display vehicles in the required front setback. Mr. Maxwell then stated that if the Board did not grant the variance to park within the 25' he felt

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that the Board was not giving Mr. Fuller the same advantage as the other dealers.

Mr. Hutson stated that he feels that the purpose of the Zoning Ordinance is to make sure the use of property is not abused, and if left up to dealers, vehicles would be displayed on the streets.

Yeas: 4 – Courtney, Maxwell, Littman, Milia
 Nays: 3 – Hutson, Fejes, Giachino

MOTION TO GRANT A VARIANCE TO PAVE AN AREA TO WITHIN 10' OF THE GREENBELT AREA ON THE NORTH SIDE OF THE PROPERTY WITH THE ABOVE STIPULATIONS CARRIED

Mr. Milia asked a question regarding parking in the setback on the south side of the property and stated that the way he understood it, this property is between two dealers one of which complies with the ordinance and one that does not comply. Mr. Grusnick stated that when the original 25' variance was granted, he felt it to be a transitional variance.

Motion by Maxwell to grant a variance to 10' of the greenbelt area on the south side of the parking area. Motion dies due to lack of support.

Motion by Hutson
 Supported by Fejes

MOVED, to deny the request of William E. Fuller, 1835 Maplelawn for a variance to allow parking to within 10' of the property right of way on the south side of the property.

- Variance will have a negative effect on surrounding property.
- Variance is contrary to public interest.

Yeas: 6 – Fejes, Courtney, Littman, Giachino, Milia, Hutson
 Nays: 1 – Maxwell

MOTION TO DENY REQUEST TO ALLOW PARKING TO WITHIN 10' OF THE RIGHT OF WAY ON THE SOUTH SIDE OF THE PROPERTY CARRIED

Mr. Milia asked Mr. Grusnick what the hardship was regarding the landscaped area and Mr. Grusnick explained by adding property at the back, the amount of required landscape on the front and sides has increased. Mr. Grusnick also stated since the Building Department has not seen building plans showing

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parking 25' back from the property line, resulting landscaping percentages have not been established.

Motion by Courtney

Supported by Milia

MOVED, to grant William E. Fuller, 1835 Maplelawn, a variance of the landscape area, which will allow for parking and display of vehicles within 25 feet of the front property line on the south side of the site.

- Variance will be compatible with other dealerships in the Motor Mall.
- The purchase of additional storage area in the back of the site causes an undo burden to provide additional landscape area on the front of the site.
- Variance will not be contrary to public interest.

Yeas: 6 – Courtney, Maxwell, Littman, Giachino, Milia, Hutson

Nays: 1 – Fejes

MOTION TO GRANT VARIANCE FOR A REDUCTION IN THE LANDSCAPE AREA CARRIED

ITEM #6 – VARIANCE REQUEST. MR. AND MRS. ROBERT ZIMMERMAN, 6429 ELSEY DRIVE, for relief of the rear yard setback to construct an enclosed porch at an existing residence.

Mr. Grusnick explained that the petitioner is requesting relief to construct an enclosed porch on an existing residence. The site plan submitted indicates that the proposed porch enclosure would result in a 42.9' rear yard setback. Section 30.10.02 of the Zoning Ordinance requires a 45' rear yard setback in the R-1B Zoning District.

Mr. Zimmerman was present and stated that they are asking for a variance to add an enclosed porch to the rear of his residence. He also stated that currently he has a deck that is 14' x 24' and plans to remove it. The addition will result in a 11' x 16' enclosed porch. He also stated that he had shown his plans to his neighbors and they did not object to this addition.

Mr. Maxwell asked for clarification on the removal of the existing deck and Mr. Zimmerman stated that he does plan to remove the entire deck.

The Chairman opened the Public Hearing.

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Mr. Bill Sholudko, 6416 Elsey was present and stated that Mr. & Mrs. Zimmerman have been his neighbors for 15 years, and he feels that their home is one of the nicest in the area. Mr. Sholudko stated that he approves of the variance request.

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

There are three written approvals on file.

Motion by Littman
Supported by Maxwell

MOVED, to grant Mr. & Mrs. Robert Zimmerman, 6429 Elsey Drive a variance to construct an enclosed porch on the rear of an existing residence resulting in a 42.9' rear yard setback where a 45' rear yard setback is required.

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

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #7 – VARIANCE REQUEST. MR. AND MRS. STEVEN DIMSDALE, 3576 BEACH ROAD, for relief of the front yard setback to construct an addition at an existing residence.

Mr. Grusnick explained that petitioner is requesting relief to construct an addition at an existing residence. Section 30.10.02 requires a 40' minimum front yard setback in the R-1B Zoning District. The plans submitted indicate a 35.7' front yard setback from the proposed two-story porch addition to the front property line.

Mr. Kevin Koets, Architect, was present representing Mr. & Mrs. Dimsdale and stated that they wished to add a 4.3' porch on the front of their home. He stated that this home is 39.7' from the property line and does not feel that this addition would cause an adverse effect to surrounding property.

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

There are two written approvals on file.

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Motion by Milia
Supported by Fejes

MOVED, to grant Mr. & Mrs. Steven Dimsdale, 3576 Beach Road a variance to construct an addition to the front of their home.

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

Yeas: All – 7

MOTION TO APPROVE REQUEST CARRIED

ITEM #8 – VARIANCE REQUEST. MR. AND MRS. JOE MINIUK, 5660

MARTELL, for relief of the rear yard setback to construct a patio enclosure at an existing residence.

Mr. Grusnick explained that the petitioner is requesting relief of the rear yard setback to construct a patio enclosure at an existing residence. Section 30.10.02 of the Zoning Ordinance requires a 45' minimum rear yard setback in the R-1B Zoning District. The site plan submitted indicates a 36.4' rear yard setback to the proposed patio enclosure.

Mr. Miniuk was present and stated that presently he has a deck which is 16' x 14' and plans to take down 8', in order to construct this patio enclosure. He stated that they wished to enjoy their property in the summer.

Mr. Courtney asked why the porch enclosure would be added to this area of the home and Mr. Miniuk stated that due to the fact that this area of the house has a gabled roof, this was the easiest place to add on. Mr. Littman asked what this enclosure would be made of and Mr. Miniuk gave him a pamphlet, which shows that it is an aluminum enclosure of glass and screens.

The Chairman opened the Public Hearing.

Mr. & Mrs. David Shaffer, 5661 Folkstone were present and stated that the property backs up to Mr. Miniuk's property. Mr. Shaffer believes that this request is excessive. Mr. Shaffer also stated that Mr. Miniuk's home is a Colonial and his home is a ranch. He believes that this addition would infringe on his space. Mr. Shaffer further stated that at the end of Martell, the property owners had put in a pool and gazebo and he would not object to a structure similar to that. Mr. Shaffer also stated that he may not object if the variance request were smaller.

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Mrs. Shaffer stated that although they get along with their neighbors, she feels that if this patio enclosure were to be put in she would feel very closed in and she also feels that this infringes on her property. She stated that she is opposed to the enclosure.

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

There are six written approvals on file.

Mr. Maxwell asked Mr. Miniuk why he was planning on adding this enclosure in the area that is the closest to the property line. Mr. Miniuk stated that he feels this is the most aesthetically pleasing way of doing it. Mr. Maxwell further stated that he felt he could move the enclosure over and Mr. Miniuk stated that that was the dining room and they didn't want to move it there.

Mr. Giachino told Mr. Miniuk that the Board was concerned about the amount of the variance request and asked him if he wished the Board to table the item, so that he could approach his neighbors and perhaps come back with a different request. Mr. Miniuk stated that he felt the Board could make a motion and vote on it.

Motion by Fejes
Supported by Maxwell

MOVED, to deny the request of Joe & Chris Miniuk, 5660 Martell to construct a patio enclosure on the rear of an existing residence resulting in a 36.4' rear yard setback where 45' is required.

- Petitioner failed to prove a hardship.
- Variance request is considered to be excessive.

Yeas: All – 7

MOTION TO DENY REQUEST FOR A VARIANCE CARRIED

ITEM #9 (ITEM #4) – VARIANCE REQUEST. MR. AND MRS. MICHAEL TILLARD, 5761 HOUGHTEN, for relief of the side yard setback for an attached garage addition.

The Chairman moved this item to the end of the agenda to allow the petitioner the opportunity to be present.

ITEM #9 (ITEM #4)

Petitioner is requesting relief of the Zoning Ordinance to construct an attached garage addition. The site plan submitted indicates a 5' side yard setback from the proposed garage addition to the north property line. Section 30.10.02 requires a 10' minimum side yard setback in the R-1B Zoning District.

This item first appeared before this Board at the meeting of August 15, 2000. It was tabled to allow the petitioner the opportunity to be present and explain the hardship requiring this variance and or submit revised plans.

Mr. Giachino asked if the Building Department had any contact with the petitioner, and Mr. Grusnick stated that Mr. Stimac had contacted him regarding

other possibilities, which the petitioner seemed receptive to, however, we have not heard from the petitioner since then.

Motion by Courtney
Supported by Fejes

MOVED, to table the request of Mr. & Mrs. Michael Tillard, 5761 Houghten, for relief of the side yard setback for an attached garage addition.

- To allow the petitioner the opportunity to be present.
- To allow the Building Department to contact the petitioner to determine if another solution could be found.

Yeas: All – 7

MOTION TO TABLE THE REQUEST UNTIL THE MEETING OF OCTOBER 17,
2000 CARRIED

The Board of Zoning Appeals meeting adjourned at 9:08 P.M.

MEG/pp