

The Chairman, James Giachino, called the Board of Zoning Appeals meeting to order at 7:30 P.M. on Tuesday, October 17, 2000.

PRESENT: Kenneth Courtney  
Mark Maxwell  
Lawrence Littman  
James Giachino  
Carmelo Milia  
Michael Hutson

ALSO PRESENT: Mark Stimac  
Bob Davisson  
Pam Pasternak

ABSENT: Christopher Fejes

**ITEM #1 - APPROVAL OF MINUTES OF MEETING OF SEPTEMBER 19, 2000**

Motion by Courtney  
Supported by Littman

MOVED, to approve the minutes of the meeting of September 19, 2000 as written.

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

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

**ITEM #2 – VARIANCE REQUEST. MR. AFRAM K. YERMIAN, 5818 WILLOW GROVE**, for relief of the Zoning Ordinance to split an existing lot, which will result in a non-conforming lot width.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to split an existing lot. The site plan submitted indicates that the resultant vacant parcel would have only 75' of frontage on Willow Grove. Section 30.10.04 of the Zoning Ordinance requires that lots in the R-1C Zoning District, not served by City sewer, have at least 120' of frontage.

This item appeared before the Board at the July 18, 2000 meeting and was tabled for thirty (30) days to allow the petitioner the benefit of a full Board, and to allow the petitioner to bring back to the Board the projected use of this property. At the August 15, 2000 meeting this item was again tabled for sixty (60) days to determine what type of variance would be requested if the City purchased some of this property and what the intended use would be.

Mr. Stimac explained that he had spoken with the City's Real Estate and Development Office and they are in fact interested in purchasing approximately the rear third of this lot. Mr. Stimac further explained that the developer who is purchasing the vacant property wishes to put in a subdivision and use the 75' of frontage as a right of way

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for a public street to get back to the subdivision. He further stated if the developer were to plat this area this lot split would not be required. Mr. Stimac suggested that if a variance were to be granted, the Board may want to place a condition that there could be no building constructed on the west 300 feet. This would assure that the narrow portion of the property be used for street or driveway access. Mr. Hutson asked what use the 75' lot would have and Mr. Stimac stated that it could either be used as a right of way for a public street to access the back portion of the property developed as a subdivision or be used as a private driveway to a single home on the rear of the property. Mr. Giachino asked what would happen if the split were granted to split off the west portion of the property in the future and Mr. Stimac stated that it could not become a building site by itself. Mr. Maxwell asked how many homes could potentially be built on this property and Mr. Stimac replied that it was difficult to say due to the fact that part of the property is located in a flood plain, and part of the property has wetlands on it as well as a County drain.

Mr. Afram Yermian was present and stated that he had already sold part of this property to a developer to use as an easement to get to the back of the property and now he pays for part of the taxes and Mr. Garrett, the developer, pays for part of the taxes. He wishes a variance so he can split this property off separately. Mr. Stimac explained that Mr. Yermian owned a total of 9 acres including the house on the 135' wide portion of the lot. Mr. Yermian sold by a land contract with Mr. Garrett, 8 acres of the property along with the 75' wide piece. Since this division does not meet the minimum width, the City will not divide the property. In the eyes of the City this is still one continuous piece of property. If Mr. Garrett plats the land and includes the 75' wide portion as a road to the back of the subdivision, a variance is unnecessary.

Mr. Yermian stated that he wanted to have his house on it's own property and unless this property is split, he cannot sell his home.

Mr. Maxwell stated that there were a number of complaints from the neighbors at the July 2000 meeting when this item first appeared before the board. Mr. Hutson stated that Mr. Garret is a partner of his, but did not believe this would affect his vote, however, he would defer to the Board if they wished him to leave the room for this hearing. Mr. Giachino excused Mr. Hutson from the vote on this item.

Motion by Courtney  
Supported by Maxwell

MOVED, to deny the request of Mr. Afram K. Yermian, 5818 Willow Grove, for relief of the Zoning Ordinance to split an existing lot, which will result in a non-conforming lot width.

**ITEM #2**

- Variance would have an adverse effect on surrounding property.

- Platting of the property would make the variance unnecessary.
- Variance is contrary to public interest.

Yeas: 5 – Littman, Giachino, Milia, Courtney, Maxwell

Abstained: 1 – Hutson

Absent: 1 – Fejes

MOTION TO DENY REQUEST OF MR. AFRAM YERMIAN CARRIED

**ITEM #3 – VARIANCE REQUEST RENEWAL. MS. SHIRLEY HANNA, 538 E. LONG LAKE,** for relief to maintain and operate a private swim club.

Mr. Stimac 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.

This item first appeared before the Board at the meeting of September 19, 2000 and was tabled to allow the Legal Department to determine that since this swim club was established prior to the adoption of the Zoning Ordinance, a variance for continuing the non-conforming use would not be required.

Mr. Davisson stated that he had done research on this matter and believes that it definitely falls under the category of legal non-conforming use. Mr. Davisson further stated that he did not feel that this item belonged before the Board of Zoning Appeals, unless any type of expansion was requested. Mr. Stimac stated that based upon the determination of the City Attorney, the City Administration requests that this item be withdrawn. Mr. Courtney wished the minutes to state that this location is considered to be “legal non-conforming use”.

No further action taken by the Board.

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

Mr. Stimac stated that the 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.

**ITEM #4**

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.

This item again appeared before this Board at the meeting of September 19, 2000. It was again tabled for thirty-(30) days to allow the petitioner the opportunity to be present, and to allow the Building Department to contact the petitioner to determine if another solution could be found.

Mr. Stimac stated that he had spoken with Mr. Tillard and Mr. Tillard stated that he was going to modify his plans so a variance would not be required.

Motion by Courtney  
Supported by Littman

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

- The Petitioner presented no hardship.
- Petitioner will change plans to comply with ordinance.

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

MOTION TO DENY REQUEST CARRIED

**ITEM #5 – VARIANCE REQUEST. MR. MANFRED MAIER, VICE PRESIDENT HELLER MACHINE TOOLS, 1225 EQUITY DRIVE**, for relief of the Zoning Ordinance to construct a tent structure to be used as a temporary storage building.

Mr. Stimac explained that the petitioner is requesting relief to construct a tent structure at the rear of an existing industrial building to be used as a temporary storage building. Section 43.80.00 of the Troy Zoning Ordinance requires approval from the Board of Zoning Appeals for temporary buildings or structures.

Mr. Alfred Montag, representing Heller Machine Tools was present and stated that they are slightly embarrassed to be asking for this structure, due to the fact that they have only moved into their building addition 6 months ago and did not plan on needing this extra room. Mr. Montag further stated that their business has grown considerably and their customers are demanding extra parts. Mr. Montag also said that they did not have a problem with the storage of these parts outside until construction of the new shopping complex began. He stated that trucks park in their lot overnight and now they are

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experiencing the theft of some of these parts. Mr. Montag feels that this structure would be an asset to this property due to the fact that these parts would be screened from sight. Mr. Montag also stated that the fabric used to construct this structure is only guaranteed for two years. He stated that the tent is made of steel and covered with plastic and has a lifespan of 2000 hours of full sunlight. Mr. Montag indicated that

Heller Machine Tools has plans to expand their building and this structure would definitely be short term.

Mr. Hutson raised question regarding the wording in the Ordinance and wondered if this structure would be in violation of this Ordinance. Mr. Stimac stated that the Section that would apply the closest to this request is 43.80.00 that state that the Board can approve temporary structures for a period of up to 2 years. Mr. Courtney raised the question of timing and wondered if the 2 year time limit would be enough to allow a new addition to be built. Mr. Montag explained that they have a large order of parts due in March 2001 and Christmas 2001, and that is the reason they need this temporary structure.

Mr. Littman referred to a letter of objection written by Mr. Nelson, the owner of the shopping center adjacent to this property, regarding the temporary nature of this tent. Mr. Montag stated once again that this definitely would not be a permanent structure and that they only needed it for a short time.

There are two written approvals on file.  
There is one objection on file.

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

Mr. Giachino asked what steps the City would take if this structure were to become an eyesore. Mr. Davisson stated that the Building Inspector can go out and issue a criminal citation if the property is not maintained.

Motion by Courtney  
Supported by Hutson

MOVED, to grant Heller Machine Tool, 1225 Equity relief to construct a temporary tent structure at the rear of their existing industrial building to be used as a temporary storage building.

- Tent will be removed by February 2002.
- Variance is not contrary to public interest.

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

**ITEM #5**

MOVED TO GRANT VARIANCE REQUEST CARRIED

**ITEM #6 – VARIANCE REQUEST. MR. MARK LIVINGSTON, 5846 JOHN R.,** for relief of the side yard setback to construct an attached garage.

Mr. Stimac explained that the petitioner is requesting relief of the side yard setback to construct an attached garage. Section 30.10.04 requires a 10' minimum side yard

setback in the R-1C Zoning District. The site plan submitted indicates a 7'-4" side yard setback from the proposed garage to the south property line.

Mr. and Mrs. Livingston were present and stated that this home had burned down in 1985. The house was rebuilt and placed in a unusual area of the lot. Mr. Livingston stated that the former owner used the home for the kenneling and breeding of dogs and was not concerned regarding the layout of the home. Mr. Livingston also stated that they had looked into other options but felt that this was the best location for the attached garage. It would give them access to the kitchen and laundry room. He also feels that an attached garage is much safer.

Mr. Milia asked why they needed another garage when they already had a reasonably nice garage. Mr. Livingston stated that they would like to attach a garage to their home due to the fact that it would be more practical since the other garage is quite a distance from their home, and he feels it would be safer.

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 on file.

Motion by Littman  
Supported by Hutson

MOVED, to grant Mr. Mark Livingston, 5846 John R. relief of the Zoning Ordinance to construct an attached garage which will result in a 7'-4" side yard setback where 10' is required.

- This variance is not contrary to public interest.
- This variance will not establish a prohibited use.
- This variance applies to this property only.

Yeas: 5 – Courtney, Maxwell, Littman, Giachino, Hutson  
 Nays: 1 – Milia  
 Absent: 1 – Fejes

**ITEM #6**  
**MOTION TO APPROVE REQUEST CARRIED**

**ITEM #7 – VARIANCE REQUEST. MR. NORMAN MCCOMB, ATC CONSTRUCTION, 231 OLYMPIA (PROPOSED ADDRESS),** for relief to add to an existing non-conforming single-family residence converting it to a duplex.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to add to an existing single-family residence converting it to a duplex. The existing

residence at 233 Olympia has an existing 7' front yard setback. Section 30.10.09 requires a 25' minimum front yard setback in the R-2 (Two Family Residential) Zoning District making the existing structure a legal non-conforming structure. The permit application indicates attaching a second dwelling unit to this structure creating a duplex. Section 40.50.04 prohibits expansion of non-conforming structures.

Mr. Milia expressed concern over the fact that Olympia is a dirt road and wondered if this road were paved, if the granting of this variance would create a severe non-conformity due to the location of the right-of-way. Mr. Stimac stated that Olympia Road was platted in the 1920's and has a 70' right-of-way, which is in fact in excess of what is required today.

Mr. Norman McComb was present and stated that he is a lifetime resident of Troy and this home was built in 1947. He also stated that many of the older homes do not comply with the code regarding setbacks. He further said that he bought this home in the late 1960's and this is where he raised his family. Mr. McComb owns the property behind and east of this home. Mr. McComb also said that his son lives across the street from this house and he believes that this construction will add to the value of the homes in this neighborhood.

Mr. Maxwell stated that he did not feel that the new construction would add to the value of the home due to the fact that the new construction does not look like the existing home at all. Mr. Milia also stated that he visualizes both sides of a duplex to look very similar and felt that although the new house is very pleasing, the old house looks totally different. Mr. McComb stated that the present house is a block house built in 1947 and he likes to keep the owners as separated as he can and that is the reason he wishes to attach this home at the garage.

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

Motion by Littman  
Supported by Milia

There are five written objections on file.  
There is one written approval on file.

**ITEM #7**

MOVED, to deny the request of Mr. Norman McComb, 231 Olympia (proposed address) relief of the Zoning Ordinance to add to an existing single-family residence converting it to a duplex.

- Significant number of objections by neighbors.
- Variance would have an adverse effect on surrounding property.

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

MOTION TO DENY REQUEST OF MR. NORMAN MCCOMB CARRIED

**ITEM #8 – VARIANCE REQUEST. MR. & MRS. SAL LUMETTA, 2966 LANERGAN,** for relief of the front yard setback to construct an addition.

Mr. Stimac explained that the petitioner is requesting relief of the front yard setback to construct a foyer and covered front porch addition. Section 30.10.02 of the Zoning Ordinance requires a 40’ minimum front yard setback. The site plan and floor plan submitted indicate a 35’ front yard setback to the proposed addition.

Mr. Kerry Sutton, agent for Mr. & Mrs. Lumetta was there and stated that this home was building in the 1950s and does not have a covered porch to protect guests from the elements or foyer for them to step into. Mr. Sutton further stated that the foyer would be 5’ x 5’ and the covered porch would extend another 3’.

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

There are six written approvals on file.  
There is one written objection on file.

Mr. Littman stated that he did not feel the objection sent in was regarding this property but another property that has some unfinished landscaping.

Motion by Littman  
Supported by Milia

MOVED, to grant Mr. and Mrs. Sal Lumetta, 2966 Lanergan, a variance to construct a foyer and covered front porch addition that will result in a 35’ front yard setback where 40’ is required.

- Variance is not contrary to public interest.
- There are a large number of approvals on file.

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

MOTION TO APPROVE REQUEST CARRIED

**ITEM #9 – VARIANCE REQUEST. MR. EDWARD SCHMITT & MRS. JOAN TACKABURY, 6021 NILES DRIVE,** for relief of the rear yard setback to construct an addition.

Mr. Stimac explained that the petitioner is requesting relief of the rear yard setback to construct an addition to their residence. Section 30.10.02 requires a 45’ minimum rear

yard setback. The plans submitted indicate a 31.1' rear yard setback to the proposed addition.

Mr. Doug Gardner of Gardner Builders was present, representing the petitioners and stated that they wished to add a sunroom to be able to enjoy their very large lot. Mrs. Tackabury was also present and stated that her father had serious back problems and the sun would be very beneficial for his recovery process.

Mr. Hutson asked if the sunroom would be the same size as the existing deck and Mr. Gardner indicated that it would be the same size, although the deck would be removed.

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

Motion by Milia  
Supported by Maxwell

MOVED, to grant Mr. Edward Schmitt & Ms. Joan Tackabury, 6021 Niles Drive relief of the rear yard setback to construct an addition to their residence, which will result in a 31.1' setback where 45' is required.

- Lot is very large and the variance will not have a negative impact on surrounding neighbors.
- The variance is not contrary to public interest.
- Variance will not establish a prohibited use in a Zoning District.

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

MOTION TO APPROVE REQUEST CARRIED

**ITEM #10 – VARIANCE REQUEST. MR. JAMES RYAN, 648 VANDERPOOL**, for relief of the maximum square footage of accessory buildings to construct a second detached garage.

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 on a site to one half the ground floor area of the main building or 600 square feet, whichever is greater. The residence on this property has 1,119 square feet of ground floor area. The permit application indicates relocating an existing 403 square foot detached garage to the rear and constructing a second 624 square foot detached garage. This would result in a total of 1,027 square feet of accessory buildings where a maximum 600 square feet is permitted.

Mr. James Ryan was present and stated that he wishes to change his request to a garage that will be 24' x 24'. Mr. Stimac indicated to the Board that we have not

received any type of notice indicating this change. Mr. Stimac further stated that the proposed garage would be 576 square feet rather than 624, which would result in a total area of 979 square feet of accessory buildings, which would still require a variance.

Mr. Courtney asked Mr. Ryan why he wished to move the present garage. Mr. Ryan stated that the present garage holds one car that he stores as well as a great deal of lawn equipment and his sons toys. Mr. Ryan also said that he plans on adding to his home and by placing the proposed garage in this area, eventually he will be able to tie all of this together.

The Chairman opened the Public Hearing.

Mr. Ted Halsey, 663 Vanderpool, was present and stated that he has known the Ryans since they moved in and has no objection to this variance request.

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

There are six written approvals on file.

There are no objections on file.

Motion by Hutson

Supported by Courtney

MOVED, to grant the request of Mr. James Ryan, 648 Vanderpool, for relief of the Zoning Ordinance to construct a detached garage that will result in a total of 979 square feet of accessory buildings were 600 square feet is allowed.

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- Petitioner will turn in new building plans with the reduced area.
- Variance is not contrary to public interest.
- Variance will not have an adverse effect on surrounding property.

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

Absent: 1 – Fejes

MOTION TO APPROVE REQUEST CARRIED

#### **ITEM #11 – VARIANCE REQUEST. MR. & MRS. TOM BELIAN, 5270**

**SHREWSBURY**, for relief of the rear yard setback to construct a second floor expansion.

Mr. Stimac explained that the petitioner is requesting relief of the rear yard setback to construct a second floor expansion. Section 30.10.02 requires a 45' minimum rear yard setback in the R-1B Zoning District. The plot plan submitted indicates, that although

there is no record of a previous variance, the existing structure has a 38.77' rear yard setback to the cantilevered second floor. The proposed second floor expansion would continue this 38.77' rear yard setback.

Mr. Giachino asked when the Building Department discovered the fact that the rear yard setback did not comply with the Zoning Ordinance. Mr. Stimac stated that when the building permit application for the addition is received, the setbacks are checked to determine if the proposed construction would comply with the Ordinance. Mr. Hutson asked for clarification as to whether or not the proposed construction would increase the encroachment. Mr. Stimac stated that because the square footage of structure encroaching in the setback would be increased, the non-conformity would increase.

Mr. and Mrs. Belian were present. Mr. Belian stated that they purchased the home in 1996 and it sits closer to the lot line than the Zoning Ordinance requires. He also stated that they wished to continue the same parallel line and would not increase the encroachment by moving the addition out. Mr. Belian also stated that the addition would match the original construction so that you would not be able to tell an addition had been added.

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

There are three written approvals on file.  
There are no written objections on file.

Motion by Littman  
Supported by Maxwell

**ITEM #11**

MOVED, to grant Mr. and Mrs. Tom Belian, 5270 Shrewsbury relief of the rear yard setback to construct a second floor expansion.

- Variance will not increase the non-conforming setback.
- Variance will not have an adverse effect on surrounding property.

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

**MOTION TO GRANT REQUEST CARRIED**

Mr. Giachino called for a ten-minute break at 9:05 P.M.. The Board of Zoning Appeals meeting resumed at 9:15 P.M.

**ITEM #12 – VARIANCE REQUEST. MR. T.A. GUTH, 4150 CHERRYWOOD,** for relief of the rear yard setback to construct an enclosed patio.

Mr. Stimac explained that the petitioner is requesting relief of the rear yard setback to construct an enclosed patio. Section 30.10.02 requires a 45' minimum rear yard setback. The plans submitted indicate a 37' rear yard setback to the proposed patio enclosure.

Mr. and Mrs. Guith were present and stated that they have lived in Troy for the past 27 years. Mr. Guith stated that presently they have a cement patio and would like to make it into a screened porch. He also stated that he has spoken to his adjoining neighbors and they all approve of his plan.

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

There are three written approvals on file.  
There are no objections on file.

Motion by Maxwell  
Supported by Courtney

MOVED, to grant Mr. T. A. Guith, 4150 Cherrywood relief of the rear yard setback to construct an enclosed patio with will result in a 37' rear yard setback where 45' is required.

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

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

MOTION TO GRANT REQUEST CARRIED

**ITEM #13 – VARIANCE REQUEST. JOE & CHRIS MINIUK, 5660 MARTELL,** for relief of the rear yard setback to construct a patio enclosure at an existing residence.

Mr. Stimac explained that the petitioner is requesting relief of the rear yard setback to construct a patio enclosure. 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 42' rear yard setback to the proposed patio enclosure.

This item originally appeared before the Board at the September 19, 2000 meeting. At that time the Miniuks were requesting relief of the rear yard setback to construct a patio enclosure, which would have resulted in a 36.4' rear yard setback. This request was denied. They have now submitted a new request with the reduced dimension.

Mr. Joe Miniuk and Rick, a representative from Mr. Enclosure, were present and stated that due to the fact that this is an unusually large lot they do not feel this enclosure would be obtrusive to the neighbors. Rick stated that originally they planned on adding this enclosure to the gabled part of the roof but Mr. Miniuk changed his plan. Rick further stated that he believes the present location of the proposed enclosure will be the most aesthetically pleasing. He also said they will be able to match the shingles on the roof, and color wise it will match the rest of the house. Rick said that due to the fact that this enclosure would be constructed of aluminum and glass it would have less of an impact than if it were made of wood.

The Chairman opened the Public Hearing.

Mr. and Mrs. David Shaffer, 5661 Folkstone, the neighbors directly behind this property were present and stated that they objected to this sunroom. Even though the setback is not as great, the elevation of the Miniuk's home is higher and they believe that this addition will invade their privacy. Mr. Shaffer also stated that they have planted many trees to try to shield their property and this addition would be in the only open space available. Mrs. Shaffer stated that originally they thought this room would be used only in the summer, but due to the fact that it is made of glass, it will be heated and has electricity and be used year round. Mrs. Shaffer definitely feels that their property will suffer a loss of privacy. Mrs. Shaffer feels that this will be an intrusion into their space and is against the variance.

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

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There are three written approvals on file.

Motion by Hutson

Supported by Maxwell

MOVED, to grant Mr. and Mrs. Joe Miniuk, 5660 Martell, relief of the rear yard setback to construct a patio enclosure, which will result in a 42' rear yard setback where 45' is required.

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

Yeas: 4 – Hutson, Courtney, Maxwell, Giachino

Nays: 2 – Littman, Milia

Absent: 1 – Fejes

**MOTION TO APPROVE VARIANCE CARRIED**

**ITEM #14 – VARIANCE REQUEST. BARRY MINSTER & LINDA WINBORN MINSTER, 3365 CROOKS,** for relief of the maximum size of accessory buildings and location of accessory buildings to construct an addition to an existing detached garage.

Mr. Stimac explained that the petitioners are requesting relief to construct an addition to an existing detached garage. Section 40.57.04 limits the size of all accessory buildings on a site to 600 square feet or one half the ground floor area of the main building – whichever is greater. The proposed garage addition would result in a total area of 926 square feet of accessory buildings where 771 square feet is permitted based upon the size of the existing house.

Also, Section 40.57.02 prohibits the placement of accessory buildings in any yard except a rear yard. The site plan submitted indicates the existing garage and proposed garage addition location in the required front yard along Banmoor.

Mr. Littman had several questions regarding the location of the existing garage and Mr. Stimac explained the lot is a double front corner lot and stated that the existing garage predates the Ordinance.

Mr. and Mrs. Minster were present and stated that they had inherited this property and have decided to do an extensive renovation and reside at the house. Mr. Minster also stated that the lot is 120' wide and 240' deep and he wants to keep the shed that is on the property for the storage of yard equipment. Mr. Minster further stated that his wife feels a sentimental attached to this shed due to the fact that her father was a landscaper and kept a number of his records written on the walls.

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Mr. Milia asked if they had thought of taking down the non-conforming garage and just adding a larger garage at a conforming location. Mrs. Minster stated that the property has a number of landscaped paths going through it as her father had made it a very lovely nature center, and she would rather not lose any of the landscaping that was there. Mr. Maxwell asked what was special about the shed and Mrs. Minster again stated that her father had many inscriptions on the wall and she would like to keep the nature area intact. Mr. Littman stated that he thought that the real hardship was the preservation of the natural beauty of the property. Mr. Giachino asked if the Minster had any plans to use this property for business purposes and the Minsters stated that they did not plan to use the property for business purposes.

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

There are three written approvals on file.  
There are no objections on file.

Motion by Littman  
Supported by Maxwell

MOVED, to grant Barry Minster and Linda Winborn-Minster, 3365 Crooks relief to construct an addition to an existing detached garage, located in a front yard, which would result in a total area of 926 square feet of accessory buildings were 771 square feet is permitted.

- Natural beauty of the land will be preserved.
- Variance will not have an adverse effect on surrounding property.

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

Absent: 1 – Fejes

MOTION TO APPROVE REQUEST CARRIED

**ITEM #15 – VARIANCE REQUEST. TELIGENT COMMUNICATIONS, INC., 2075 W. BIG BEAVER**, for relief of the Zoning Ordinance to allow a total of 19 roof top antenna where 5 antennas are permitted on an existing building.

Mr. Stimac explained that the petitioner is requesting relief to install roof top antennas on an existing building. Section 40.57.08 limits the number of antennas on a site/roof to 2 for the first 20,000 square feet of building area and 1 additional antenna for each additional 20,000 square feet of building area. Based on the square footage of the building (78,909 square feet), the building is permitted to have 5 antennas. The plan submitted indicates 14 existing antennas, 4 proposed antennas and 1 future antenna.

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Mr. Littman stated that he felt the Ordinance might be out of date taking into consideration all the new technology that is being developed. Mr. Stimac stated that newer technology has evolved where the new antennas are not as obtrusive. Mr. Hutson stated that the application indicates that the building can have 5 antennas and presently there are 14 existing antennas. Mr. Hutson wanted to know if other variances had been granted for this address and Mr. Stimac stated that he has been unable to locate any variances that were granted for this address regarding antennas. Mr. Giachino stated that he feels that this item should not be before the Board of Zoning Appeals and but should appear before City Council or the Planning Commission due to the fact that he thinks the Ordinance needs to be changed.

Mr. John Kurlander, representing Teligent Communications, Inc. was present and stated that the existing antennas are not their antennas. He stated that they cannot comply with the Ordinance and provide service to their customers. Mr. Kurlander also stated that the reason they had chosen this building was due to the fact that it would be an ultimate collection point for a number of their other facilities in the city and there are no obstructions of any to their other facilities. He further stated that they plan to place these antennas on the side of the penthouse, which will prevent them from being seen. Mr. Hutson asked if their operation was up and working now and Mr. Kurlander stated that it is linked but without these antennas it does not work as it should. Mr. Kurlander also stated that even though there are multiple wireless providers in the area, it does not mean that each provider is going to have a request for 10 antennas. Mr. Milia asked

if each company had to have dedicated antennas for their service and Mr. Kurlander replied that the FCC grants licenses so that each carrier will operate on a different frequency.

Mr. Courtney stated that the last time the Board had an item regarding antennas, it was proposed at that time that City Council and the Planning Commission, should look at the Ordinance to see if it would be possible to modify same. Mr. Giachino stated that he is concerned because this is coming before the Board as a variance and also believes that it should be addressed by City Council. Mr. Stimac explained that the Board can render an interpretation of the Ordinance regarding these antennas because the technology is changing so quickly. Mr. Giachino also asked if some of the existing antennas could be removed and Mr. Kurlander stated that he did not feel this was a viable solution.

Mr. Stimac stated that a policy was adopted by the City to discourage free standing communication towers and encourage collocation on existing towers and existing buildings. However the ordinance on the limit of antennas was not amended to encourage the implementation of this policy. Mr. Stimac also feels that the time for reevaluating the Ordinance regarding the number of antennas is long past due.

The Chairman opened the Public Hearing.

#### **ITEM #15**

Mr. Michael Lamb, 2065 Livernois, president of Orion Homes was present and stated that he was in favor of this variance.

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

Motion by Courtney  
Supported by Milia

MOVED, to grant the request of Teligent Communications, Inc. 2075 W. Big Beaver, for relief of the Zoning Ordinance to allow a total of 19 roof top antennas where 5 antennas are permitted on an existing building.

- Antennas are unobtrusive.
- Delaying approval would create a hardship for petitioner to provide service to customers.
- Ordinance needs to be reexamined regarding these antennas.

Mr. Hutson stated that there is a specific Ordinance, which requires a hardship, and that a variance implies a small deviation from the Ordinance, and he feels very uncomfortable voting to approve 19 antennas. Mr. Courtney stated that the petitioner did not ask for 19 antennas, his request is for only 5 antennas. Mr. Courtney further stated that he felt that this matter should be brought to the Planning Commission.

Motion by Hutson

Supported by Maxwell

MOVED, to table the request of Teligent Communications, Inc. 2075 W. Big Beaver, for relief of the Zoning Ordinance for sixty days to allow a total of 19 roof top antennas where 5 antennas are permitted on an existing building.

- To allow time for City Council to examine the Ordinance and act on it.
- If City Council does not act on this item within a reasonable amount of time, the petitioner would have the opportunity to bring it back to the Board.

Yeas: 3 – Maxwell, Giachino, Hutson  
 Nays: 3 – Courtney, Littman, Milia  
 Absent: 1 – Fejes

MOTION TO TABLE REQUEST FAILS

A vote was taken on the original motion to approve.

**ITEM #15**

Yeas: 4 – Courtney, Maxwell, Littman, Milia  
 Nays: 2 – Giachino, Hutson  
 Absent: 1 – Fejes

MOTION TO APPROVE MOTION CARRIED

**ITEM #16 – VARIANCE REQUEST. ORION HOMES, INC., 440 E. MAPLE, (PROPOSED ADDRESS),**for relief of the Zoning Ordinance to allow parking within the required front setback along Combermere.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 9,548 square foot multi-tenant light industrial building. The plot plan shows parking within 10’ of the property line along Combermere. Section 30.20.09 (L) of the Zoning Ordinance requires a 50’ front setback from Combermere and does not allow parking or structures within the required setback.

The Board of Appeals approved this item on November 17, 1998, however, the petitioner did not obtain a Building Permit within the one-year time frame and the approval has since expired.

Mr. Mike Lamb, President of Orion Homes, Inc. was present and stated that this present plan is exactly the same as the original plan. Mr. Lamb stated that they did not have the financing available at that time to begin construction of this building, but are now in a position to begin construction.

Mr. Giachino read the results of the Board of Zoning Appeals meeting of November 17, 1998. There were six yes votes and one no vote.

There is one written approval on file.  
There is one written objection on file.

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

Motion by Littman  
Supported by Maxwell

MOVED, to approve the request of Orion Homes, Inc. for relief to construct a 9,548 square foot multi-tenant light industrial building, which will result in parking within the required setback from Combermere.

#### **ITEM #16**

- The variance is not contrary to public interest.
- The variance does not create a prohibited use within the zoning district.
- The variance will not cause an adverse effect to properties in the immediate vicinity or zoning district.
- No practical use can be made of the property without a variance.
- The setback from Maple Road poses no visual safety problems.

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

Absent: 1 – Fejes

#### **MOTION TO GRANT REQUEST CARRIED**

Mr. and Mrs. Barry Minster, 3365 Crooks (Item #14) approached the Board and stated that they wished to address the Board. Mr. Minster stated that when Mr. Giachino asked him if they were planning on using their property for business purposes, he had said no, however, they do plan to use part of the garage as his wife's design studio. Basically, they would use this space for the storage of materials. Mr. Minster also stated that they have no employees, nor would customers come to this location.

Mr. Stimac asked if the addition to the garage would be used as an actual office or only for storage of materials. Mr. Minster stated that the design studio was going to be in the garage. Mr. Stimac stated that the definition of "In home occupation" was that the business would be within the walls of the dwelling. Mr. Davisson stated that the Ordinance is subject to many different interpretations.

Mr. Giachino addressed the Board members and asked them if this information would influence their vote in any way. The Board members stated that they would still grant this variance. Mr. Giachino suggested that Mr. and Mrs. Minster contact personnel in the Building Department to discuss what is allowed for a home business.

Mr. Stimac stated that the Church of God at 1285 E. Wattles has picked up their Building Permit to install the screening wall on their property. Mr. Stimac also informed the Board that the deck at 2754 Downey has been removed as requested.

Mr. Giachino also asked Mr. Stimac to look into the possibility of having two Board of Zoning Appeals a month in order to have a smaller agenda at each one.

The Board of Zoning Appeals adjourned at 11:05 P.M.

MS/pp