

A regular meeting of the Board of Zoning Appeals was called to order at 7:30 p.m. on Tuesday, February 16, 1999 by the chairman, Kenneth Courtney.

PRESENT: Michael Alaimo  
Gary Chamberlain  
Kenneth Courtney  
Christopher Fejes  
James Giachino  
Carmelo Milia  
Jerald Sosnowski

Robert Davisson  
Gary A. Shripka

**ITEM #1      Approval of Minutes - January 19, 1999.**

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Motion by Sosnowski  
Supported by Milia

MOVED, to approve the minutes as written.

Yeas:            6- Alaimo, Giachino, Milia, Sosnowski, Fejes, Courtney  
Abstain:        1- Chamberlain

MOTION TO APPROVE CARRIED

**ITEM #2      RENEWAL REQUESTED: William Beaumont Hospital, 44201 Dequindre, for relief of the 5 foot high berm required along the southwest property line and the 4'6" masonry wall required along the west property line.**

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Mr. Shripka explained that the petitioner is requesting renewal of a variance to continue relief of the 5 foot high berm required along the southwest portion of their site, where their property abuts residential zoning. They are also requesting relief of the 4'6" high masonry screening wall required at their off-street parking area. The Board had previously granted relief of the berm, primarily due to the fact, the dense woods adjacent to this land provides natural screening. Relief of the masonry wall was granted because the adjacent residential property was used as a city park. Currently there are many projects underway on this site, but other than that conditions remain the same. We have no objection or complaints on file.

Louis Poineau, Director of Services for Beaumont, was present and stated that nothing has changed and answered questions from Mr. Sosnowski regarding the projects under construction and projected completion's.

Motion by Milia  
Supported by Sosnowski

MOVED, to grant William Beaumont Hospital, 44201 Dequindre, a 3 year renewal of their variance for relief of the 5 foot high berm required along the southwest property line and the 4'6" masonry wall required along the west property line:

- There are no objections or complaints on file.

Yeas: 6- Chamberlain, Milia, Sosnowski, Fejes, Courtney, Alaimo  
Abstain: 1- Giachino

MOTION TO RENEW VARIANCE FOR THREE (3) YEARS CARRIED.

**ITEM #3 RENEWAL REQUESTED: Seth E. Walker & Company, 2300 W. Big Beaver, for relief of the 6 foot high masonry screening wall required along the north property line.**

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Mr. Shripka explained that the petitioner is requesting renewal of a relief granted, by this Board, for the requirement of a 6 foot high masonry wall required along the north property line of the site, which abuts residential zoned property. This relief has been granted on a yearly basis since 1974, due to the fact the adjacent property is used as a retention pond. Conditions remain the same, we have no objections or complaints on file.

Martha Walker was present and had nothing to add.

Motion by Sosnowski  
Supported by Fejes

MOVED, to grant Seth E. Walker & Company, 2300 W. Big Beaver, a 3 year renewal of their variance for relief of the 6 foot high masonry screening wall required along the north property line:

- Conditions remain the same.
- There are no complaints or objections on file.

Yeas: All 7

MOTION TO RENEW VARIANCE FOR THREE (3) YEARS CARRIED.

**ITEM #4 RENEWAL REQUESTED: King Venture, Inc., 950 E. Big Beaver Rd. (Burger King), for relief of the 6 foot high masonry screening wall required along the west property line.**

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The property to the west of this site has now been re-zoned to other than residential. Therefore, no action is required as a wall is no longer necessary.

**ITEM #5 RENEWAL REQUESTED: Weldmation, Inc., 2707 American Drive, for relief of the 6 foot high masonry screening wall required along the north property line.**

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ITEM #5

Mr. Shripka explained that the petitioner is requesting renewal of relief granted, by this Board, for the requirement of a 6 foot high masonry screening wall along the north property line of their site, which abuts residential zoning. This relief was originally granted in 1990, primarily due to the fact the wall would be located in the Spencer Drain which is in the flood way and does not allow for the construction of structures. Conditions remain the same, we have no objections or complaints on file.

James Gell was present to represent the landlord and had nothing to add.

Motion by Alaimo  
Supported by Milia

MOVED, to grant Weldmation, Inc., 2707 American Drive, a 3 year renewal of their variance for relief of the 6 foot high masonry screening wall required along the north property line:

- As long as conditions remain the same.
- There are no objections or complaints on file.

Yeas: All 7

MOTION TO RENEW VARIANCE FOR THREE (3) YEARS CARRIED.

**ITEM #6 RENEWAL REQUESTED: Nino Salvaggio Investment Company of Troy, 6825 Rochester Rd., for relief of the 6 foot high masonry screening wall required along the south an west property lines.**

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Mr. Shripka explained that the petitioner is requesting renewal of relief granted, by this Board, to provide landscaped berms in place of the 6 foot high masonry screening wall required along the south property line and the west boundary line. This relief was originally granted in 1995. Conditions remain the same and we have no objections or complaints on file.

Kirk Taylor was present to represent the petitioner and requested a 3 year renewal of their relief.

Motion by Sosnowski  
Supported by Fejes

MOVED, to grant Nino Salvaggio Investment Company of Troy,6825 Rochester Road, a 3 year renewal of their variance for relief to maintain a 6 foot high landscaped berm in place of the 6 foot high masonry screening wall required along the south and west property lines:

ITEM #6

- There are no complaints or objections on file.

Yeas All 7

MOTION TO RENEW VARIANCE FOR THREE (3) YEARS CARRIED.

**ITEM #7      RENEWAL REQUESTED: Oakland Park Club, 2300 Grand Haven (Magnolia Gardens), for relief of the 4'6" high masonry wall required along the north and east sides of off-street parking.**

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Mr. Shripka explained that the petitioner is requesting renewal of a variance granted in 1997 for relief of the 4'6" high masonry wall required along the north and east sides of off-street parking. This variance was originally approved, based on the fact there is more than adequate room between the parking areas and drives and the adjacent residential property. This site is currently under construction and other than that, conditions remain the same and there are no complaints or objections on file.

Mark Chamberlain of Ehresman & Associates was present to represent the petitioner and stated that conditions have not changed, indicating they should have the project completed by next January.

Motion by Fejes  
Supported by Milia

MOVED, to grant Oakland Park Club, 2300 Grand Haven (Magnolia Gardens), a 1 year renewal of their variance for relief of the 4'6" high masonry wall required along the north and east sides of their off-street parking:

- As long as conditions remain the same and
- There are no objections or complaints on file

Yeas:            All -7

MOTION TO RENEW VARIANCE FOR ONE YEAR CARRIED

**ITEM #8      RENEWAL REQUESTED: St. Lucy Croatian Catholic Church, 200 E. Wattles, for relief of the 4'6" masonry wall required along the east and west sides of off-street parking.**

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## ITEM #8

Mr. Shripka explained that the petitioner is requesting renewal of a variance granted, by this Board, in 1993 for relief of the requirement to install a 4'6" high masonry screening wall along the east and west sides of their off-street parking. This relief was originally granted, based on the fact, the walls would serve no useful purpose. Conditions remain the same, there are no objections or complaints on file. This item was tabled at the December 15, 1998 and January 19, 1999 meetings to give the petitioner the opportunity to be present.

Vlado Markoevac, representing the church, was present and stated they were asking the maximum variance.

Motion by Giachino  
Supported by Alaimo

MOVED, to grant St. Lucy Croatian Catholic Church, 200 E. Wattles, a 3 year renewal of their variance for relief of the 4'6" masonry wall required along the east and west sides;

- Conditions remain the same
- There are no complaints or objections on file.

Yeas: All -7

MOTION TO RENEW VARIANCE FOR THREE (3) YEARS CARRIED

**ITEM #9      VARIANCE REQUESTED: Tony Morganelli, Tech-Mor, Inc., 1900 Heide, for relief to expand a non-conforming building and relief of the side yard setback.**

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Mr. Shripka explained that the petitioner originally appeared before this Board at their January 19, 1999 meeting. At that time the petitioner was requesting relief of the Zoning Ordinance to construct a 10,247 square foot addition to the north, east and south sides of an existing building. The plot plan showed the existing building and proposed addition would have a side yard setback, from the south property line, ranging from 8 feet to 9.25 feet. The Zoning Ordinance requires a 10 foot side yard setback. Also, the existing building is non-conforming because of the side yard setback. The Zoning Ordinance does not permit additions to, nor expansions of non-conformities. In 1997, the Board had granted relief of the ordinance to construct an addition connecting the two buildings. That relief was granted to expand a non-conforming building. At the January, 1999 meeting, the Board moved to table this item to give the petitioner the opportunity to seek additional property so that a variance would not be necessary.

## ITEM #9

Eric Flynn was present to represent Mr. Morganelli. Mr. Flynn presented the Board with a letter from Masco Tech and stated that they had been in contact with Masco Tech. Masco Tech has indicated they was not interested in selling any part of their property because of possible future development,

Mr. Giachino indicated that his concern and questions regarding obtaining additional property have been satisfied.

Motion by Sosnowski  
Supported by Alaimo

MOVED, to grant Tony Morganelli, TechMor, Inc., 1900 Heide, a variance, as requested, for relief to construct an addition to an existing legal non-conforming building, resulting in an 8 to 9.25 foot setback from the south property line:

- The variance is not contrary to public interest.
- The variance does not permit the establishment of a prohibited use in the zoning district.
- The variance does not cause a substantial adverse effect to properties in the immediate vicinity or zoning district.
- The variance relates only to the property described in the application.
- This is a good improvement to the aesthetic value of the property and the area.
- The variance does not further extend the non-conforming setback.

Yeas: All -7

MOTION TO APPROVE REQUEST CARRIED.

**ITEM #10 VARIANCE REQUESTED: Congregation Shir Tikvah, 3900 Northfield Parkway, for relief of the front setback.**

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Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to place a dumpster in their 50 foot front yard setback along Northfield Parkway. The Zoning Ordinance requires a 50 foot front yard setback and does not permit parking or structures within that setback.

Larry Littman was present to represent Congregation Shir Tikvah. Mr. Littman explained the parcel, its size and location. Because the parcel is narrow, to be in conformance, the dumpster would be next to the front door, which is not desirable. The dumpster would be too close to the neighbors if placed to the south or east. If placed on the west side, they would lose valuable parking spaces. Also, to place it in the parking lot, would make snow removal very difficult. Therefore, they are requesting approval to place the dumpster in the front setback from Northfield Parkway, which is a heavily wooded area. The dumpster would be less visible than other locations.

## ITEM #10

Mr. Littman stated no useful purpose would be served by strict enforcement and it would not be detrimental to the area. Mr. Littman stated that he has submitted plan for the dumpster location and received approval of their proposal from the City of Troy, Landscape Analyst.

The size of the dumpster and the reason for a dumpster was discussed by the Board and Mr. Littman.

The chairman opened the public hearing. No one wished to be heard and the public hearing was closed.

There were 3 written approvals and 2 objections on file.

Motion by Chamberlain  
Supported by Sosnowski

MOVE, to grant the Congregation Shir Tikvah, 3900 Northfield Parkway, a variance, as requested, for relief to place their dumpster enclosure in the required setback from Northfield Parkway:

- The variance is not contrary to public interest.
- The variance will not cause a substantial adverse effect to properties in the immediate vicinity or zoning district - it is more obscure than it would be in other locations.
- The variance relates only to the property described in the application.

Yeas: All -7

MOTION TO APPROVE REQUEST CARRIED.

**ITEM #11 VARIANCE REQUESTED: Michael & Kathryn Hutson, 2396 Ridge Dr., for relief of the front yard setback.**

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Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 10' x 20.33' addition to the front of an existing residence. The plot plan shows the proposed addition would result in a 29.7 foot front yard setback. The Zoning Ordinance requires a minimum front yard setback of 40 feet.

## ITEM #11

Mrs. Hutson was present and explained the many problems and hazardous conditions that have occurred as a result of the driveway slope. The driveway is very steep it drops 9 feet in 30. They have looked at several ways to alleviate the hazard and not exchange one hazard for another hazard. Mrs. Hutson stated that they are seeking relief of the Zoning Ordinance to construct an addition extending the garage out 10 feet. The proposed addition would lessen the incline and allow them to terrace the drive down at a more gradual slope.

The chairman opened the public hearing.

Joanne Vader, 2418 Ridge, was present and approved of the variance request, stating that she had witnessed many of the situations Mrs. Hutson had explained.

There were no further comments and the public hearing was closed.

There were 4 written approvals and 1 written objection on file.

Motion by Milia  
Supported by Chamberlain

MOVED, to grant Michael & Kathryn Hutson, 2396 Ridge, a variance, as requested, to construct an addition resulting in a 29.7 foot front yard setback where a 40 foot setback is required:

- The variance is not contrary to public interest.
- The variance does not establish a prohibited use in the zoning district.
- The variance does not cause a substantial adverse effect to properties in the immediate vicinity or zoning district.
- The variance relates only to the property described in the application.
- The petitioner has demonstrated a true hardship with safety concerns, regarding the slope of their driveway.

Yeas: All -7

MOTION TO APPROVE REQUEST CARRIED

**ITEM #12 VARIANCE REQUESTED: Somerset Plaza Limited Partnership, 2900 W. Maple, for relief of the rear yard setback, relief of the front setback and relief to add to a non-conforming building.**

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## ITEM #12

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 10,852 square foot addition to update a shopping plaza constructed in 1966.. The plot plan shows the proposed addition would result in a 35'1" rear yard setback and a 62.4 foot setback from Coolidge. The Zoning Ordinance requires a minimum setback of 75 feet from both the rear yard and Coolidge. Also, this is an existing legal non-conforming structure as the existing building does not meet the 75 foot rear yard setback requirement. The Zoning Ordinance does not permit additions to nor expansions of non-conformities.

Mr. Frankel was present and stated they were seeking a variance to remove an existing building at the west end of the shopping plaza and construct a 10,852 sq. ft. addition. The rear or north side of the addition abuts to a Consumers Power sub-station. The proposed addition will be less of an encroachment into the rear setback and the setback from Coolidge than what is existing. They propose to relocate curb cuts for the drive entrance off Coolidge, which will allow for improvements to Coolidge, resulting in the extending of the left turn lane for northbound Coolidge. This has been a traffic and safety problem for a long time. Mr. Frankel stated that part of the improvements to the site will be to add required landscaping.

The Board questioned reducing the size of the addition to provide the required setback from Coolidge. Mr. Frankel responded that the size was needed to make this a viable tenant space. If they could not get the setback variance from Coolidge, they probably would not proceed with the project.

Mr. Chamberlain pointed out the improvements to safety and traffic by the Coolidge road improvements. Mr. Chamberlain pointed out that there has been discussion, by the Planning Commission, over the past years regarding the problems with the left turn lane for Coolidge. Mr. Chamberlain also pointed out that Birmingham was unwilling to aid in Coolidge improvements

The chairman opened the public hearing.

Keith Edwards, City Planner, City of Birmingham was present. Mr. Edwards stated he was present to represent the City of Birmingham staff and objected to the variance, indicating a hardship has not been presented by Mr. Frankel.

There was 1 written objection on file.

Motion by Giachino  
Supported by Milia

MOVED, to grant Somerset Plaza Limited Partnership, 2900 Coolidge, a variance as requested for relief to construct an addition to an existing legal non-conforming structure, resulting in a rear yard setback of 31'4" where 75 feet is required:

## ITEM #12

- The variance is not harmful to the surrounding areas.
- The rear yard in the area of the addition is adjacent to a Consumers Power substation.
- The proposed addition encroachment into the rear yard setback is less than existing structure to be removed.

Yeas: All -7

MOTION TO APPROVE CARRIED

Motion by Chamberlain  
Supported by Sosnowski

MOVED, to grant Somerset Plaza Limited Partnership, 2900 W. Maple, a variance, as requested for relief add to a non-conforming structure, resulting in a 62.4 foot setback from Coolidge where 75 feet is required:

- The variance is not contrary to public interest, the proposed improvement will allow for improvements to Coolidge, providing for the extension of a left turn lane, improving safety and welfare.
- The variance will not establish a prohibited use in the zoning district.
- The variance will not cause a substantial adverse effect to properties in the immediate vicinity or zoning district.
- The variance relates only to the property described in the application.
- Conforming is unnecessarily burdensome and without a variance, the office building, which has a greater non-conforming setback will probably remain.

Yeas: All -7

MOTION TO APPROVE REQUEST CARRIED

The Board of Zoning appeals adjourned at 8:50 p.m.

GAS/ddb