

A regular meeting of the Board of Zoning Appeals was called to order at 7:30 p.m. on Tuesday, February 17, 1998, by the Chairman, Jerald Sosnowski.

PRESENT: Michael Alaimo Gary A. Shripka
Robin Beltramini Peter A. Letzmann
Kenneth Courtney
Christopher Fejes
James Giachino
Carmelo Milia
Jerald Sosnowski

ITEM #1 Approval of Minutes - January 20, 1998

Motion by Courtney
Supported by Milia

MOVED to approve the January 20, 1998 minutes.

ITEM #2 RENEWAL REQUESTED: King Venture Inc., 950 E. Big Beaver (Burger King), for relief of the 6 foot high masonry screening wall required along the west property line.

The chairman moved this item to the end of the agenda (Item #13) to give the petitioner the opportunity to be present.

ITEM #3 RENEWAL REQUESTED: Infinity Management, 4080 John R., for relief of the 6 foot high masonry screening wall required along the east property line.

Mr. Shripka explained that the petitioner is requesting renewal of a variance granted in 1995, for relief of the 6 foot high masonry screening wall required along the east property line. This relief was originally granted, based on the fact the land to the east is undeveloped and a wall would serve no useful purpose. Conditions remain the same, we have no objections or complaints on file.

Kevin Cosgriff was present noted that there was no development to the rear and he had nothing further to add.

Motion by Milia
Supported by Beltramini

MOVED, to grant Infinity Management, 4080 John R., a three (3) year renewal of their variance for relief of the 6 foot high masonry screening wall required along the east property line;

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

Yeas: All 7

MOTION TO RENEW VARIANCE FOR THREE (3) YEARS CARRIED

ITEM #4 RENEWAL REQUESTED: Veterans of Foreign Wars Post 4037, 2375 E. Maple, for relief to maintain an existing legal non-conforming building and use and relief of the 4'6" masonry wall required adjacent to off-street parking.

Mr. Shripka explained that the petitioner is requesting renewal of relief granted, by this Board, to maintain a non-conforming building and use, and relief of the 4'6" high masonry wall required at their off-street parking area. The use and structure are non-conforming in that they are located in a residential zoned district. The petitioner is requesting to continue use of the structure as well as relief of the wall required at their off-street parking area. This relief has been granted on a yearly basis since 1969, based on the fact there were no objections from adjacent property owners. Conditions remain the same, we have no objections or complaints on file.

Ed Duerr was present to represent the petitioner and had nothing to add.

Motion by Alaimo
Supported by Fejes

MOVED, to grant the Veterans of Foreign Wars Post 4037, 2375 E. Maple, a three (3) year renewal of their variance, for relief to maintain an existing legal non-conforming use and building and relief of the 4'6" high required adjacent to off-street parking;

- 1. As long as conditions remain the same.
- 2. There are no objections on file.

Yeas: All 7

MOTION TO RENEW VARIANCE FOR THREE (3) YEARS CARRIED

ITEM #5 RENEWAL REQUESTED: Carl E. Skrzynski, 2300 Grand Haven (proposed address), for relief of the 4'6" masonry wall required along the north and east sides of off-street parking.

The chairman noted that a letter has been received, from the petitioner, requesting tabling until the next regular meeting (March 17, 1998).

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

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. In February of 1997, the petitioner was granted a 6 month renewal which would allow the opportunity to provide the landscaping of the berm in accordance with the variance and the landscape requirements. That has now been completed, and other than that conditions remain the same, we have no objections or complaints on file.

ITEM #6

Leo Salvaggio was present and had nothing to add.

Motion by Giachino
Supported by Milia

MOVED, to grant Nino Salvaggio Investment Co. of Troy Ltd., 6825 Rochester, a one (1) year renewal of their variance for relief of the 6 foot high masonry screening walls required along the south and west property lines;

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

Yeas: All 7

MOTION TO RENEW VARIANCE FOR ONE (1) YEAR CARRIED

ITEM #7 RENEWAL REQUESTED: BRB Properties, 1655 W. Big Beaver, for relief of the 6 foot high masonry screening wall required along the south property line.

Mr. Shripka explained that the petitioner is requesting renewal of relief granted, by this Board, for portions of the 6 foot high masonry screening wall required along the south property line. The petitioner has constructed 6 foot high wood fence in lieu of the masonry wall in certain areas where they are trying to preserve trees. Conditions remain the same, we have no objections or complaints on file. This item was tabled at the last regular meeting, January 20, 1998, to give the petitioner the opportunity to be present.

James Beachum was present and had nothing to add.

Motion by Milia
Supported by Alaimo

MOVED, to grant BRB Properties, 1655 W. Big Beaver Road, a three (3) year renewal of their variance for relief of the 6 foot high masonry screening wall required along the south property line;

1. Conditions remain the same.
2. There are no objections on file.

Yeas: All 7

MOTION TO RENEW VARIANCE FOR THREE (3) YEARS CARRIED

ITEM #8 VARIANCE REQUESTED: Somerset Park Apartments, 2314 - 2260 Golfview, for relief of the required setback from the north property line.

ITEM #8

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct carports and garages along a portion of the north property line of their complex. The plot plan shows the buildings would have a zero (0) foot setback from the property line. The Zoning Ordinance requires a minimum 6 foot setback.

Stanley Frankel was present and stated that there is a 6 foot high masonry screening wall along their property line where the carports are proposed. If they were to construct the carports 6 feet from the lot line, it would leave a 6 foot void. The reason they would like to abut the carports to the wall is for safety and security. The carports are to serve residents of the complex, many have requested that a shelter be provided for their vehicles.

Mrs. Baltramini questioned the affect to required parking. Mr. Frankel stated that required parking spaces would not be affected.

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

Motion by Giachino
Supported by Courtney

MOVED, to grant Somerset Apartments, 2314 - 2260 Golfview, a variance, as requested for relief of the required setback from the north property line;

1. The variance is not contrary to public interest.
2. The variance will not establish a prohibited use in the zoning district.
3. The variance will not cause an adverse effect to properties in the immediate vicinity.
4. The variance relates only to the property described in the application.
5. No reasonable use can be made of the 6 foot distance.

Yeas: All 7

MOTION TO APPROVE REQUEST CARRIED.

ITEM #9 INTERPRETATION REQUESTED: John D. Mertz, 33259 Dequindre, for an interpretation that his proposed use complies with the Industrial Zoning District permitted uses.

Mr. Shripka explained that Mr. Mertz originally proposed to us, a new tenant for the building located at 33259 Dequindre, that tenant being a travel agency. When we reviewed this and explained, to Mr. Mertz, and to his broker and real estate agent, this would not be a permitted use within the M-1 Zoned District as it is already a permitted use in Chapter 39 under Article 21, B-2 Commercial Business Districts and in Article 24, O-1, Low Rise Office District.

ITEM #9

The same would be true for Mr. Mertz's second possible tenant, that being a company which processes insurance matters for medical, by telephone. Again, this is a use permitted in other districts. Responding to my denial.

Mr. Mertz has now indicated he wishes to approach the Board of Appeals for an interpretation and still feels that these uses are permitted in Chapter 39, under M-1 Zoning, under Section 28.20.09, which discusses distribution services and processing centers for commercial and service uses, whose basis operation or business function occurs in other non-residential districts. We do not feel this is accurate for this proposed use at this site, based on the fact the section is designed for uses such as; Michigan National Bank, which has its headquarters and has it outlet banks, in other than residential zoned districts, but also has some of their processing centers located within the M-1 Districts. Another example of this section is Penny's no longer has storage facilities and warehousing within the main retail stores. They have now put in a distribution center within the M-1 Zoned District and they supply their retail stores located in other non-residential zoned districts. The travel business tenant Mr. Mertz has proposed does not in fact process travel information for the other retail outlets, but in fact is a travel agent for General Motors.

Mr. Mertz was present and stated that because his building has 8-1/2 foot ceilings and because of the size, use of the building is limited. Mr. Mertz explained that because his proposed uses of the building do not have passerby or walk-in business and they do work for only a business located at another location, they would fit into the requirements of the Zoning Ordinance. Mr. Mertz presented the Board with an outline of his reasons for the interpretation. Mr. Mertz also gave his interpretation of sections of the ordinance, that he felt applied to his request. Mr. Mertz stated that he felt his business was processing, the same as an engineering firm.

The Board, Mr. Mertz, Mr. Shripka and Mr. Letzmann, discussed the requirements of the Zoning Ordinance for an interpretation. The requirements and uses permitted in different zoning districts and the uses permitted in M-1 Zoned Districts.

Dan Skapyak of Cushman & Wakefield, the real estate agent for the property was present and noted that the building was designed as an engineering facility, it is a single story structure with no truck well or overhead doors. Because of the design it cannot be used for most industrial uses. He did not see where the proposed uses would not be an approved use.

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

There was one written approval on file.

Motion by Alaimo
Supported by Beltramini

MOVED, to deny the interpretation request of John D. Mertz, 332259 Dequindre, that his proposed uses, presented, are interpreted as uses permitted in the M-1 Light Industrial Zoning District;

ITEM #9

1. Both are uses permitted in other zoning districts.

Yeas: 6- Courtney, Alaimo, Beltramini, Giachino, Sosnowski, Fejes
Nays: 1- Milia

MOTION TO DENY REQUEST CARRIED

ITEM #10 VARIANCE REQUESTED: Karen & Laith Hermiz, 6989 Westpointe, for relief of the required setback from South Boulevard.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 2253 square foot single family residence. The plot plan shows the proposed building would have a 47.34 foot front setback from the lot line abutting South Boulevard. The Zoning Ordinance requires a 50 foot setback.

Karen Hermiz was present and stated that they were requesting relief of the setback from South Boulevard. They propose constructing a single family residence on the corner of Westpointe and South Boulevard. If they were on an interior lot, or if they were on a corner on the interior of the subdivision, they would be able to meet the setbacks. Because they are on a corner lot with frontage on a major street, they are required to have a 50 foot setback. Their variance request is for only 2'8" which leaves them with only 84.6% of their property. To construct the proposed home of 1,622 square feet, they are only using 15.49% of their property for their home, whereas adjacent properties are utilizing 30%. They have notified their most affected neighbors of their proposal and they have signed a petition that they approve (a copy was given to the chairman for the file). If they cannot get a setback variance from South Boulevard, they would seek a side yard variance to construct the home 5.6' from the side lot line. Mrs. Hermiz in response to the Board's question about cutting down the size of the home, stated that if they were to cut down the size of the home, it would not be comparable to the homes in the area.

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

There were 2 written approvals on file.

Motion by Fejes
Supported by Courtney

MOVED, to grant Karen & Laith Hermiz, 6989 Westpointe, a variance, as requested, for relief of the required setback from South Boulevard, 47.34 feet where 50 feet is required;

- 1. The variance is not contrary to public interest.
- 2. The variance will not create a prohibited use within the zoning district.

ITEM #10

- 3. The variance will not cause an adverse effect to properties in the immediate vicinity or zoning district.
- 4. The variance relates only to the property described in the application.

- 5. A 2'8" variance is not significant.
- 6. If the lot were not abutting a major street, the petitioner could meet the setback requirements.

Yeas: All 7

MOTION TO APPROVE REQUEST CARRIED

ITEM #11 VARIANCE REQUESTED: Louis Montgomery, 2990 Sunridge, for relief of required setback from Adams and Sunridge.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct an addition on the rear, west side and front of an existing house. The plot plan shows the proposed addition would result in a 34.3 foot setback from Sunridge and a 38 foot setback from Adams. The Zoning Ordinance requires a 40 foot setback from both Sunridge and Adams.

Louis Montgomery was present and stated that the proposed addition was to give them needed living area for their family, they now have three children. They have no neighbors on the west side of Adams and their other adjacent neighbors have indicated, to them, they have no objections to the proposed addition. Mr. Montgomery further stated that they could live without the addition on the south side, facing Sunridge, if the Board would consider the setback variance from Adams.

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

There were 4 written approvals on file.

Motion by Giachino
Supported by Feje

MOVED, to grant Louis Montgomery, 2990 Sunridge, a variance, as requested for relief of the required setback from Adams, 38 feet where 40 feet is required;

- 1. The request is not a major variance.
- 2. The request is in keeping with the platted area
- 3. The variance will not create a special use or cause an adverse effect to properties in the immediate vicinity or zoning district.
- 4. The variance will not impair the public health safety and welfare of the community.

Yeas: All 7

ITEM #11

MOTION TO APPROVE THE SETBACK FROM ADAMS CARRIED

Motion by Milia
Supported by Giachino

FURTHER MOVED, to grant Louis Montgomery, 2990 Sunridge, a variance, for relief of the required setback from Sunridge, 38 feet where 40 feet is required;

1. The variance is not contrary to public interest.
2. The setback will keep the addition in line with what is existing, it does not compound the existing non-conforming setback.
3. The variance will not establish a prohibited use within the zoning district.
4. The variance will not create an adverse effect to properties in the immediate vicinity or zoning district.
5. The variance relates only to the property described in the application.
6. The petitioner is in need of the added space for his young family.

Yeas: All 7

MOTION TO APPROVE A 38 FOOT SETBACK FROM SUNRIDGE CARRIED

ITEM #12 VARIANCE REQUESTED: PGS, Inc., 2545 Industrial Row, for relief of the front setback.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a truck well at the northeast corner of an existing building. The plot plan shows the truck well will project 20 feet into the required front setback and when a truck is in the well, it will project 45 feet into the required front setback. The Zoning Ordinance requires a 50 foot front setback and does not permit structures or parking in the required setback.

Richard Najarian was present and stated he hoped to purchase the building. He needs more space for his growing business. Because the building has an existing grade door, with a recessed area inside existing at the northeast corner of the building. Due to property constraints, this is the only location they can build a truckwell. Mr. Najarian stated that it would be cost prohibitive to put a truck well inside the building, and it would also take away area from the building.

The Board questioned a truck well on the rear of the building, as there was a 94 foot setback from Meijer. The petitioner noted that they did not have the room in the rear to provide a drive and turn area for a truck.

Jean Roth noted that there are other businesses with similar truck wells, in the setback, on he street.

ITEM #12

Paul Stavropoulos stated that the site has no access to Meijer, as it is fenced. He feels that the proposed truck well does not detract from the area.

The chairman opened the public hearing. Nick Stavropoulos, 2613 Industrial Row was present and approved of the variance, indicating that Royal Oak will not permit access to Meijer. He sees no problem with a truck well accessing Industrial Row.

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

There were 2 written approvals on file.

Motion by Giachino
Supported by Baltramini

MOVED, to deny the request of PGS, Inc., 2545 Industrial Row, for relief to construct a truck well which would project 20 feet into the front setback, resulting in a 45 foot projection into the required 50 foot front setback when there is a truck in the well;

1. The petitioner has not demonstrated a sufficient hardship other than monetary.
2. The petitioner does not own the property, he is seeking a variance on a very weak hardship to gain access to the property.

Yeas: 5-Giachino, Milia, Fejes, Alaimo, Beltramini
Nays: 2-Sosnowski, Courtney

MOTION TO DENY REQUEST CARRIED

ITEM #13 (ITEM #2) RENEWAL REQUESTED: King Venture Inc., 950 E. Big Beaver (Burger King), for relief of the 6 foot high masonry screening wall required along the west property line.

The chairman tabled the request of King Venture Inc., 950E. Big Beaver, (Burger King) until the next regular meeting (March 17, 1998) to give the petitioner the opportunity to be present.

The Board of Zoning Appeals adjourned at 9:25 p.m.

GAS/ddb