

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

PRESENT: Michael Alaimo
Robin Beltramini
Kenneth Courtney
Christopher Fejes
Games Giachino
Carmelo Milia
Jerald Sosnowski

ITEM #1 Approval of Minutes - February 17, 1998

Motion by Beltramini
Supported by Milia

MOVED, to approve the February 17, 1998 minutes.

Mr. Giachino noted that Item #11 should show Fejes supported motion.

Yeas: All 7

MOTION TO APPROVE, AS NOTED, CARRIED

ITEM #2 RENEWAL REQUESTED: K-Mart, 100 E. Maple, for relief to display and sell flowers and plants in a designated area.

Mr. Shripka explained that the petitioner is requesting renewal of a variance granted by this Board, which allows for outdoor display in front of K-Mart along the north side of the fenced area and in a 4 foot section of the sidewalk adjacent to the building. This 4 foot section is at the west end of the main building. The display is used for plants and flowers. This relief has been granted on a yearly basis since 1980 and the variance is valid for the months of April through July. This request has also been subject to the petitioner providing the corral type fence to both enclose the area of the display and maintain a safe sidewalk at the same time. Conditions remain the same and we have no objections or complaints on file.

Jeff Gray, the Store Manager was present and stated the display would be the same as previous years.

Motion by Milia
Supported by Alaimo

MOVED, to grant K-mart, 100 E. Maple, renewal of their variance for relief to display and sell flowers and plants in the designated area for the months of April through July;

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

Yeas: All 7

ITEM #2

MOTION TO RENEW VARIANCE CARRIED

ITEM #3 RENEWAL REQUESTED: Muffler Man, 34835 Dequindre, for relief to use one required parking space for a dumpster enclosure.

The chairman moved this request to the end of the agenda (Item #14) to give the petitioner the opportunity to be present.

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

Mr. Shripka explained that the petitioner is requesting renewal of a variance granted for relief of the 6 foot high masonry screening wall required along the west property line which abuts residential zoned property. This relief has been granted on a yearly basis since 1976, primarily due to the fact the Master Land Use Plan indicates that this adjacent land could become non-residential in the future. Conditions remain the same, we have no objections or complaints on file. This item was tabled at the February meeting to give the petitioner the opportunity to be present.

Michael Polsinelli was present to represent Burger King. Mr. Polsinelli showed the Board a plot plan of the area and stated that they are working on purchasing and rezoning additional property to the west and are proposing rezoning of the property.

Motion by Alaimo
Supported by Courtney

MOVED, to grant King Venture, Inc., 950 E. Big Beaver, Burger King, a one (1) year renewal of their variance for relief of the 6 foot high masonry screening wall required along the west property line;

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

Yeas: All 7

MOTION TO RENEW VARIANCE FOR ONE (1) YEAR CARRIED

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

ITEM #5

Mr. Shripka explained that the petitioner is requesting renewal of a variance granted in 1997 for relief of the 4'6" 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 area and drives and the adjacent residential property. Other than the fact, this project has not begun construction, conditions remain the same and there are no objections or complaints on file. This request was tabled at the February meeting at the request of the petitioner.

Brian Peterson, the architect, was present and had nothing to add. Mr. Courtney questioned start and completion times of the project. Mr. Peterson stated that they hoped to start soon, possibly in April, but could give any projection on completion.

Motion by Courtney
Supported by Fejes

MOVED, to grant Carl E. Skrzynski, 2300 Grand Haven (proposed address) , Magnola Gardens, a one (1) year renewal of their variance for relief of the 4'6" high masonry screening wall required along the north and east sides of off-street parking.

Yeas: All 7

MOTION TO RENEW VARIANCE FOR ONE (1) YEAR CARRIED

ITEM #6 VARIANCE REQUESTED: Martha & John Laymac, 2605 Wisconsin, for relief of the required lot size.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to split an existing lot into two lots, parcel A and parcel B. The proposed split results in parcel "B" being 7,223 square feet in size. The Zoning Ordinance requires lots in this residential zoned district to have a minimum area of 7,500 square feet.

John and Martha Laymac were present. Mrs. Laymac stated that her brother was in a very bad accident. It is their intent to split the lot, at the captioned address, and construct a small home, for her brother, so he can be somewhat independent. Their son presently lives at 2605 Wisconsin.

Mr. Courtney questioned the fact easements are not shown on the plot plan submitted. The petitioner stated they are not aware of any easements on the property. Mr. Giachino asked if setbacks would be met. Mr. Shripka noted the proposed plot plan meets the setback requirements. Mr. Giachino also pointed out the number of neighbor objections on file.

The Chairman opened the public hearing.

James Sialik, 2651 Wisconsin, was present and objected, stating that the proposed home would block his view, and he feels they are overbuilding the lot.

ITEM #6

Jeff Myers, 1302 Minnesota, was present and stated his property is adjacent to the site, he feels the home would be too close and the Zoning Ordinance should be enforced.

Manuel Ray, 895 Minnesota, was present with other neighbors and objected to the variance.

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

There were 6 written objections on file.

The Board had questions regarding the minimum size home for the area, the average size lot in the area, assurance that the easements did not cause the need for further variances. The Board also questioned as to whether the present home could be added to without variances. The Laymac's indicated that they felt an addition would not be aesthetically pleasing.

Motion by Alaimo
Supported by Beltramini

MOVED, to table the request of Martha and John Laymac, 2605 Wisconsin, for relief of the minimum lot area, until the next regular meeting, April 21, 1998 to;

1. Give the petitioner the opportunity to get site plans showing easements and that easements would not interfere with required setbacks.
2. Give the petitioner the opportunity to resolve differences with neighboring property owners in the area.

Yeas: All 7

MOTION TO TABLE REQUEST UNTIL NEXT REGULAR MEETING (APRIL 21, 1998) CARRIED

ITEM #7 VARIANCE REQUESTED: James C. Ori, 4647 Squirrel Hill, for relief of the rear yard setback.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a roof over an existing deck. The plot plan shows a 42 foot rear yard setback. The Zoning Ordinance requires a 45 foot rear yard setback.

James Ori was present and stated that his deck faces west and the sun makes the deck unusable. Mr. Ori pointed out that if he did not have a deck, a 3 foot roof overhang on his house roof as an architectural feature, could encroach 3 foot into the required setback. Mr. Ori noted that the request was for a roof only and also noted that if he were to move the roof back to meet the setback the support members would be in the middle of his deck.

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

ITEM #7

There were 2 written approvals on file.

Motion by Giachino
Supported by Fejes

MOVED, to grant James Ori, 4647 Squirrel Hill, a variance, as requested, for relief to construct a roof over his deck resulting in a 42 foot rear yard where a 45 foot rear yard setback is required;

1. This is a reasonable interpretation to allow the variance, on the basis that the roof in itself would be allowed, the fact that he has a deck requires a variance of the ordinance.
2. The petitioner has modified his previous request.
3. The variance is not detrimental to the surrounding area.
4. The variance does not create a special use or condition.

Yeas: All 7

MOTION TO APPROVE REQUEST CARRIED

ITEM #8 VARIANCE REQUESTED: St. Mark Coptic Orthodox Church, 3615 Livernois (proposed address) , for relief of the required side (north) yard setback.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a new 28,104 square foot church to the rear of their existing church at 3603 Livernois. The plot plan shows the proposed church would result in a 35 foot side yard setback from the north property line. The Zoning Ordinance requires a 50 foot setback. Also, the proposed bell tower would exceed the maximum height permitted by 9 feet.

Constantine Pappas, the architect was present to represent the church. Mr. Pappas explained the site and the meetings they had with the Planning Commission and the surrounding property owners. Mr. Pappas noted that he could construct a two story church and meet the setback requirements, but the neighbors and Planing Commission determined a one story building would be less intrusive. Mr. Pappas stated that because of the needs of the church and the narrow lot ,it is a difficult site to develop and they cannot provide a 50 foot setback from the north property line. Mr. Pappas also noted that they were requesting a landscaped berm along the south property line in place of the required wall. This was an agreement between the neighbors and the church. Mr. Shripka noted that he has not received the plans, therefore, this item would have to be considered on another agenda. Mr. Pappas stated that the reason they are requesting a variance on the bell tower is because of the bell tower location and angles. The location of the bell tower and size is also a part of the church doctrine. If they are not approved, they can go back to the original plan where they meet the height requirements, setback requirements and parking requirements.

Mrs. Beltramini noted that the Plan Commission was not happy with the first proposal for a two story structure and explained some of the Planning Commission comments and requests. The Board questioned the possibility of acquiring property to the north. The petitioner stated that there is no property available.

ITEM #8

Mrs. Beltramini also questioned the possibility of a loop drive around the site. The petitioner noted that it would not allow for landscaping, and would not function because of the narrow lot.

The Chairman opened the public hearing.

Richard Hughes, 3252 Louis, was present and approved of the variance, noting the hardship has been caused by Westwood Subdivision. The site has been re-designed to work with the neighbors and he does not understand the problem.

Ed Angell, Sales Manager, Tadian Homes, was present on behalf of the Westwood Home Owners Association and approved of the request noting it created the least impact on neighboring properties.

Salim A. Momom. Lot #13, 3161 Ruthland, was present and approved of the request, noting that the petitioner has worked with the neighbors.

Ted Huang, Lot #11, 188 Millstone, was present and approved of the request but noted his concerns on the height of the berm and the screening by trees and shrubs.

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

There were 2 written approvals on file and 5 written objections on file.

Motion by Alaimo
Supported by Courtney

MOVED, to grant St. Mark Coptic Orthodox Church, 3615 Livernois (proposed address), a variance, as requested, for relief of the north side yard setback, 35 feet where 50 feet is required and relief to permit the bell tower to exceed the maximum height allowed by 9 feet;

1. The variance is not contrary to public interest.
2. The variance does not establish a prohibited use within the zoning district.
3. The variance will not cause an adverse effect to properties in the immediate vicinity or zoning district.
4. The changes voluntarily given may mitigate the affect to neighboring properties.
5. The variance relates only to the property described in the application.
6. Conforming is unnecessarily burdensome.

Yeas: 5 - Courtney, Alaimo, Giachino, Sosnowski, Fejes.
 Nays: 2 - Beltramini, Milia (Mr. Milia noted that his nay vote was because the lot is too narrow and it is a flawed plan.)

MOTION TO APPROVE REQUEST CARRIED

ITEM #9 VARIANCE REQUESTED: Terry Bannerton, 3853 Finch, for relief to exceed the size permitted for a garage.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 1,200 square foot detached garage. The Zoning Ordinance limits the size of accessory buildings to ½ the ground floor area of the main building or 600 square feet, whichever is greater. The maximum size garage permitted for this site would be 1,017 square feet.

Terry Bannerton, was present and stated that he has 2-1/2 acres of property. He needs the garage for storage of his 4 cars, lawn equipment and his boat. Mr. Bannerton stated that he had contacted his adjacent neighbors and they have no objection to the garage size.

Mr. Milia commented on the size of the garage and noted that he felt a 1,017 square foot garage, which would be permitted was certainly a generous size garage. Mr. Bannerton stated that the proposed garage is a kit and he did not think it could be adjusted. Mr. Bannerton commented that he could really use a larger structure, but has scaled it down. He noted he has 4 boats a canoe and hopes to also purchase garden equipment and a classic vehicle.

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

There was 1 written approval and 2 written objections on file.

Motion by Alaimo
Supported by Giachino

MOVED, to deny the request of Terry Bannerton, 3853 Finch to construct a 1,200 square foot garage where a 1,017 square foot garage would be permitted by the Zoning Ordinance;

1. A hardship required to allow a variance has not been presented, therefore a variance is not justified.

Yeas: All 7

MOTION TO DENY REQUEST CARRIED

ITEM #10 VARIANCE REQUESTED: LaVerne Gruskiewich, Liza Cheuk May Chan & Stacey Chandler f/k/a Beverly Debski, 3232 Helena, for relief of the required lot size.

Mr. Shripka explained that the petitioners are requesting relief of the Zoning Ordinance to split an existing lot into two lots, parcel A and parcel B. The plot plan shows the split would result in parcel A, the north lot being 57.5 feet wide and 6,892 square feet in area. The Zoning Ordinance requires a minimum lot width of 60 feet and a minimum total lot area of 7,500 square feet.

ITEM #10

Stacy Chandler and Liza Chan were present. Ms. Chan stated that the proposal was to split a lot and construct a second home on the portion of the lot which would be split off. Ms. Chan stated that if a variance were granted to construct the new home, the unsightly out buildings on the lot would be removed. Ms. Chan indicated that the lot size would be consistent with some others in the area. The petitioners do not reside in the home on the site. The home is a rental.

The Board questioned a practical difficulty or hardship and noted that it appeared to be monetary only, gaining an additional building site where they could sell a home for profit. Ms. Chandler acknowledged the variance was solely monetary.

Ms. Chan noted that, it was her understanding you did not have to present a hardship for this type of variance, only a practical difficulty. The lot was within orientation with the subdivision.

The chairman opened the public hearing.

Richard Hughes, 3252 Helena, was present and approved of the variance, noting there is was a 60 foot lot approved next to him.

Christa and John Herrick, 3254 Helena, were present and objected to the variance. The Herrick's stated that they lived next door to the property and they purchased there because of the larger lots and they were told the lots were too small to split.

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

There was 1 written approval and 2 written objections on file.

Motion by Alaimo
Supported by Courtney

MOVED, to deny the request of LaVerne Gruskiewich, Liza Cheuk May Chan & Stacy Chandler f/k/a Bever;u Debski, 3232 Helena, for relief to split a lot, resulting in a lot 57.5 feet in width and 6,892 square feet in area, where the Zoning Ordinance requires a 60 foot lot with 7,500 square feet in area;

- 1. The petitioners are seeking to split a conforming site in order to create a non-conforming site.
- 2. The petitioner has not presented a practical difficulty with the property other than monetary gain.

Yeas: All 7

MOTION TO DENY REQUEST CARRIED.

ITEM #11 VARIANCE REQUESTED: Darrell & Laura DuBay, 668 Barclay, for relief of the required rear yard setback.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 763 square foot addition onto the rear of an existing residence. The plot plan shows the proposed addition would result in a rear yard setback of 37.5 feet. Zoning Ordinance requires a 40 foot rear yard setback.

Darrell & Laura DuBay were present. Mr. DuBay presented the board with a floor plan of their addition, which was approved by 10 neighboring property owners. Mr. DuBay stated their home is

1240 square feet with 5 people and they hope to have another child. They would like to construct an addition to provide additional bedroom area and increase the living room/family room area. Realizing they would be encroaching into setbacks, they have scaled their original plan down. They have a lot that narrows down and angles across the rear.

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

There were 6 written approvals on file.

Motion by Alaimo
Supported by Fejes

MOVED, to grant Darrell & Laura DuBay, 668 Barclay, a variance, as requested, to construct an addition resulting in a 37.5 foot rear yard setback where a 40 foot setback is required by the Zoning Ordinance;

1. The variance is not contrary to public interest.
2. The variance will not establish a prohibited use within the zoning district.
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. The shape of the lot creates hardship.
6. The variance is not excessive and meets the needs of the petitioner.

Yeas: All 7

MOTION TO APPROVE REQUEST CARRIED

ITEM #12 VARIANCE REQUESTED: Robert & Jay Butcher, 3837 Lawson, for relief of the required rear yard setback.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 20'x22' sun room addition onto the rear of an existing residence. The plot plan shows the proposed addition would result in a 35 foot rear yard setback. The Zoning Ordinance requires a 45 foot rear yard setback.

ITEM #12

Rick Haddad, the contractor and Mr. Butcher were present. Mr. Haddad stated that there is a problem with the rear yard setback because the house is on a curve and the house had to be set back further on the lot. Also, the addition should not have any impact on the neighbor to the rear since the addition will be on the side where a portion of the lot backs up to the subdivision community park. The enclosure will be all glass so it will not block visibility. Also, he feels a precedent has been set because there are neighbors with similar additions. Mr. Haddad also indicated that the addition was proposed on an existing footing. The Board asked if a permit had been issued for the footing. Mr. Butcher said he was not aware one was required.

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

There were 2 written approvals and 2 written objections on file.

Motion by Milia
Supported by Alaimo

MOVED, to deny the request of Robert & Jay Butcher, 3837 Lawson, to construct a 20'x22' sun room addition, resulting in a 35 foot rear yard setback where 45 feet is required;

1. The proposal is overbuilding the lot.
2. The petitioner has failed to present a practical difficulty.

Yeas: All 7

MOTION TO DENY REQUEST CARRIED

ITEM #13 VARIANCE REQUESTED: Elder Land Development Corporation, 1819 Maplelawn (proposed address), for relief of the required landscaping.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 15,000 square foot stand alone dealership on their site at 1815 Maplelawn for their Saab franchise. The plot plan shows the site would have 18,888 square feet of countable landscaping. The Zoning Ordinance requires 30,010 square feet of landscaping for a site of this size.

Paul Sabatini, of the Jaguar dealership located at 1815 Maplelawn representing the petitioner and Tony Rea were present. Mr. Rea stated that the building was for a second dealership on the site, for Saab. They are requesting the building be setback to match others in the motor mall area. This is needed for exposure and to be competitive in the marketplace. To conform to the landscaping, they would have to setback further than the other dealers. Mr. Sabatini noted that General Motors consolidating its dealerships and requires a sand alone building for the dealership to keep the Saab franchise. Mr. Rea noted the only way they could meet landscaping would be to have less paving, which is needed to park their vehicles and it is more practical to have a sufficient number cars on site.

ITEM #13

Mr. Courtney questioned purchasing additional property. The petitioners indicated no property was available.

Mr. Giachino expressed concerns with two buildings on one site and insufficient landscaping.

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

Motion by Courtney
Supported by Beltramini

MOVED, to table the request of Elder Land Development Corporation, 1819 Maplelawn (proposed address) for relief of the landscaping until the next regular meeting (April 21, 1998).

- 1. to give the petitioner the opportunity to meet with the Planning and Building Departments in order to work out a plan for providing additional landscaping.

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

MOTION TO TABLE REQUEST UNTIL NEXT REGULAR MEETING (APRIL 21, 1998) CARREID

ITEM #14 **ITEM #3 RENEWAL REQUESTED: Muffler Man, 34835 Dequindre, for relief to use one required parking space for a dumpster enclosure.**

Motion by Alaimo
 Supported by Giachino

MOVED, to table the request of Muffler Man, 34835 Dequindre, for relief to use one required parking space for a dumpster enclosure, until the next regular meeting (April 21, 1998);

- 1. Tabling will give the petitioner the opportunity to be present.

Yeas: All 7

MOTION TO TABLE REQUEST UNTIL NEXT REGULAR MEETING (APRIL 21, 1998) CARRIED

The Board of Zoning Appeals adjourned at 10:15 p.m.

GAS/ddb