

A regular meeting of the Board of Zoning Appeals was called to order at 7:30 p.m. on Tuesday, May 19, 1998 by the Chairman, Kenneth Courtney.

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

Robert Davisson
Gary A. Shripka

ITEM #1 Approval of Minutes - April 21, 1998

Motion by Sosnowski
Supported by Milia

MOVED, to approve the April 21, 1998 minutes.

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

MOTION TO APPROVE CARRIED

ITEM #2 RENEWAL REQUESTED: Clark Refining & Marketing, 3400 Rochester Road for relief of the 6 foot high masonry screening wall required along the east and portion of the north property lines.

Mr. Shripka explained that the petitioner is requesting renewal of relief granted, by this Board, to maintain a 6 foot high fence in place of the 6 foot high masonry screening wall required along east and a portion of the north property line. This variance has been granted on a yearly basis since 1985, based on the preference of the adjacent owners to have the wood fence and landscaping in lieu of the masonry wall. In 1993 this was again renewed for a three year period and in 1996 was granted a one year renewal on the variance to maintain the fence in lieu of the masonry wall. In 1997, this property was again granted a one year renewable variance to maintain the 6 foot high fence in place of the 6 foot high masonry screening wall along their east and a portion of their north property lines. Conditions remain the same and there are no new complaints or objections on file.

The Board commented on the improved condition of the site.

Ken Ruona, Engineer for Clark Oil was present stated that they have had some changes and requested the Board consider a 3 year variance.

Motion by Sosnowski
Supported by Milia

MOVED, to grant Clark Refining & Marketing, 3400 Rochester Road, a 2 year renewal of their variance for relief to maintain a 6 foot high fence in place of the 6 foot high masonry screening wall required along the east and a portion of the north property line:

ITEM #2

1. There are no complaints or objections on file.

Yeas: All 7

MOTION TO RENEW VARIANCE FOR 2 YEARS CARRIED

ITEM #3 **RENEWAL REQUESTED: Wattles Investment Company, 4000 Livernois, for relief of the 6 foot high masonry screening wall required along the east property line and relief of the 30 inch wall or landscaped buffer required along Crestfield.**

Mr. Shripka explained that the petitioner is requesting renewal of a variance for relief of the 6 foot high masonry wall required at the east property line and renewal for relief of the landscaped buffer or 30 inch high wall required along the paper street Crestfield, to the north. This variance was originally granted in 1985, based on the fact the property to the east was undeveloped and it was higher than the subject property resulting in a natural barrier. Relief of the landscaped buffer or 30 inch high wall on the north was due to the fact Crestfield is not a developed street and there would be no need for screening along the property line. Conditions have now changed, and there is a subdivision development immediately to the east of the property. Other than that conditions remain the same and there are no objections or complaints on file. This item was tabled at our last regular meeting to give the petitioner the opportunity to be present.

Thomas Cavanaugh, a partner of Wattles Investment Company, was present and requested renewal. Mr. Cavanaugh stated he feels there is still no need for screening on the north because Crestfield is to be vacated. Mr. Cavanaugh states that there are very few homes east of their property, the subdivision is still under construction. He noted that he and the adjacent property owner would meet with the developer and builder of the subdivision and coordinate an agreement for screening.

Mr. Alaimo questioned the number of homes and completion of the subdivision. Mr. Shripka explained that we do not have a completion date, the subdivision has just been started. He also noted that he did not have information on the number of lots with him.

Motion by Alaimo
Supported by Fejes

MOVED, to grant Wattles Investment Company, 4000 Livernois, a 1 year renewal of their variance for relief of the 6 foot high masonry screening wall required along the est property line and relief of the 30 inch wall or landscaped buffer along the north property line abutting Crestfield;

1. As long as conditions remain the same
2. There are no complaints or objections on filed.

ITEM #3

3. The petitioner work with the developer of the subdivision to come to an agreement on screening.

Yeas: All 7

MOTION TO RENEW VARIANCE FOR 1 YEAR CARRIED

ITEM #4 **VARIANCE REQUESTED: Ronald A. & Denise M. Lance, 3369 Tothill, for relief of the required front setback.**

Mr. Shripka explained that the petitioner first appeared before this Board at their April 21, 1998 meeting. At that time the petitioner was requesting relief of the Zoning Ordinance to construct a 28'10"x11' addition to their garage. The plot plan shows the proposed addition would result in a 34'8" front yard setback, where the Zoning Ordinance requires a minimum front setback of 40 feet. At this meeting, this item was tabled until the next regular meeting to give the petitioner the opportunity to show whether or not the pool is a problem. Searching our records, we found on microfilm a permit for the pool that indicated 17 feet between the house and the nearest wall of the pool.

Ronald Lance was present and stated that he did meet with the builder and Mr. Shripka, and it was determined that from an engineering standpoint, the swimming pool is not a problem. The next door neighbor supports the addition as proposed, indicating the wall of a garage addition on the rear would block the view from their patio. Mr. Lance again stated that the garage addition would not go any further into the front setback than the columns of the existing front porch. Mr. Lance showed pictures of garages, in the area, which were designed like his proposal.

Mr. Giachino questioned the front porch setback. It was noted that the porch was probably constructed before the present ordinance.

Mr. Lance explained the layout, the proposed layout and the fact they were trying to correct a heating problem. He feels that an addition to the rear would create a negative impact to the neighbors and himself. Also, they have additional licensed drivers in the family and do not want the cars to set out in front.

Motion by Giachino
Supported by Fejes

MOVED, to grant Ronald A. & Denise M. Lance, 3369 Tothill, a variance, as requested, to construct a garage addition resulting in a 34.8 foot front yard setback where 40 feet is required;

1. The variance is not contrary to public interest

ITEM #4

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. Conforming is unnecessarily burdensome.
5. The variance is not excessive.

Yeas: 3-Fejes, Courtney, Giachino
Nays: 4-Milia, Sosnowski, Alaimo, Beltramini

MOTION FAILS - REQUEST DENIED

ITEM #5 VARIANCE REQUESTED: Bethesda Romanian Pentecostal Church, 2075 E. Long Lake (proposed address), for relief of the 4'6" high masonry wall required along the east side of off-street parking.

Mr. Shripka explained that the petitioner first appeared before this Board at their April 21, 1998 meeting. At that time they were requesting relief of the Zoning Ordinance to construct a new 14,616 square foot church. The Zoning Ordinance requires a 4'6" high masonry wall where parking abuts residential, and no masonry wall had been shown on the site plan for the proposed site. At that meeting, the Board moved to grant a variance, as requested, for relief of the 4'6" masonry wall required along the west side of off street parking. They also moved to table the request, until the next regular meeting, to give the petitioner the opportunity to revise the plans for the masonry wall required along the east property line of the site.

Arthur Kalajian architect for the church was present and stated that he has been meeting with the concerned neighbors and they are working on a solution. They are also waiting for information on any wetlands information form the D.E.Q. Mr. Kalajian stated that they would install a berm with plantings along the northeast section of their site. Trees will be planted in place of the 4'6" masonry wall required along the east property line if the current trees are not dense enough. Mr. Kalajian stated that if that area is determined to be within the wetland and they cannot plant there, trees will be planted on the neighboring property.

Mrs. Beltramini questioned the setback shown on the site plan for the church, noting that the original approved plan showed a 76 foot setback and the plot plan now shows a 50 foot setback from Tucker. Mr. Kalajian stated that Mr. Keisling had approved the change.

Mr. Alaimo questioned whether the wall variance would have any affect on the site plan showing a 50 foot setback if the change from 76 to 50 had not been approved. It was noted that the variance had nothing to do with setbacks.

ITEM #5

John Tosch, 2088 Tucker was present and had no objection to the plan but would like to see 15 foot high trees.

Motion by Giachino

Supported by Milia

MOVED, to grant the Bethesda Romanian Pentecostal Church, 2075 E. Long Lake (proposed address) a 1 year renewable variance for relief of the 4'6" high masonry screening wall required where off-street parking abuts residential, with the following requirements;

1. That a 4'6" high berm be constructed along the northern part of the east property line.
2. To grant relief of the 4'6" wall in the wetland, subject to proper drainage to alleviate any water problem to the adjacent neighbor.
3. Plantings be provided to sufficiently screen the neighbor's property at 2115 E. Long Lake, with plantings on the property adjacent to the church if there are wet ground conditions, which do not allow for tree planting.

Yeas: 5- Fejes, Courtney, Alaimo, Giachino, Milia

Nays: 2- Sosnowski, Beltramini

MOTION TO APPROVE FOR ONE YEAR

ITEM #6 **VARIANCE REQUESTED: Joseph S. & Darlene M. Ditrapani, 2463 Milverton, for relief of the rear yard setback.**

Mr. Shripka explained that this request first appeared on the April 21, 1998 agenda. At that time, the petitioner was requesting relief of the Zoning Ordinance to construct a 19.5'x21' addition on the rear of an existing residence. The plot plan shows the proposed addition would result in a rear yard setback of 29.8 feet. The Zoning Ordinance requires a minimum rear yard setback of 35 feet. At that meeting this item was tabled to give the petitioner the opportunity to be present.

Joseph & Darlene Ditrapani were present. Mrs. Ditrapani stated that her mother is disabled and will be living with them on a permanent basis. The addition will allow them to enlarge their living area, making it easier for her to move about with her walker. Mrs. Ditrapani also stated that she teaches Lamaze classes in their home and there will be 12 couples in their family room and the added area will give them more comfort and room.

Mr. Giachino questioned a smaller addition and the Ditrapani's stated they felt they needed the room requested.

ITEM #6

Mr. Courtney pointed out that they could possibly make arrangements for a classroom for the Lamaze classes.

Mrs. Beltramini noted that she had concerns about the additional parking when classes were being conducted.

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 Alaimo

Supported by Sosnowski

MOVED, to deny the request of Joseph S. & Darlene M. Ditrapani, 2463 Milverton, for relief to construct a 19.5'x20' addition, resulting in a 29.8 foot rear yard setback where a 35 foot rear yard setback is required;

1. The petitioner failed to show a hardship or practical difficulty which would allow a variance.

Yeas: All 7

MOTION TO DENY REQUEST CARRIED

ITEM #7 **VARIANCE REQUESTED: Thomas F. Seidl, 1111 Ashley, for relief of the rear yard setback.**

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 20'x12' deck. The plot plan shows the proposed deck would result in a 22'6" rear yard setback. The Zoning Ordinance requires a minimum rear yard setback, to uncovered decks, of 25 feet.

Thomas Seidl was present and stated that the property directly behind him faces Rochester Road and there is a large open space between the two homes. Therefore, he feels there will be no impact on that neighbor. Mr. Seidl felt that the deck would have no negative impact on the properties either side of him. He is requesting to construct the deck in the area of a patio which has become unsightly and broken up. To meet the code, he would be permitted a 9 foot deck, which would not allow for entertaining.

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

ITEM #7

There was 1 written approval on file.

Motion by Milia

Supported by Beltramini

MOVED, to grant Thomas F. Seidl, 1111 Ashley, a variance, as requested, to construct a 20'X12' deck, resulting in a 29.8 foot rear yard setback where 35 feet is required;

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. There is a large open area to the rear, so there would be no impact on the neighbor.
5. The property is on a cul-de-sac, which causes a greater front yard setback.

Yeas: All 7

MOTION TO APPROVE REQUEST CARRIED

ITEM #8 **VARIANCE REQUESTED: Paul T. Roman, 5734 Folkstone, for relief of the side yard setback.**

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 16'x22' garage addition to the existing garage. The plot plan shows the proposed addition would result in the two side yard setbacks totaling 22'10". The Zoning Ordinance requires combined side yard setbacks totaling 25 feet.

Paul Roman and Peg Roman were present and stated that the proposed garage addition would allow him to store and work on his classic car. The garage addition will give needed room for storage of tools, lawn equipment and bikes, as well as their vehicles. They feel they should not have to park cars in the street; it poses a security problem and a safety concern for children in the neighborhood. The builder put two side entrance garages abutting one another and their drives are only 3 feet apart. Mr. Roman presented a letter of approval from the neighbor on both sides.

Mr. Giachino and Mrs. Beltramini questioned the size of the addition and number of vehicles. Mr. Roman explained the layout of the garage and that there are 5 vehicles in the family. The garage will allow for 4 cars but appear as a three car garage and give more green area between the homes.

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

There were 5 written approvals on file.

ITEM #8

Motion by Sosnowski
Supported by Fejes

MOVED, to grant Paul T. Roman, 5734 Folkstone, a variance, as requested, for relief to construct a 16'x22' garage addition, resulting in the two side yards totaling 22'10" where 25 feet is required;

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 or zoning district.
4. The variance relates only to the property described in the application.
5. The variance allows the property owner the full use and enjoyment of his property.
6. The variance is insignificant and improves the property.

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

Nays: 1- Giachino

MOTION TO APPROVE REQUEST CARRIED

ITEM #9 **VARIANCE REQUESTED: Walter N & Linda M. Ament, 2449 Wexford, for relief of the rear yard setback.**

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 15'1"x13'10" addition to the rear of an existing residence. The plot plan shows the proposed addition would result in a rear yard setback of 21'2". The Zoning Ordinance requires a minimum rear yard setback of 30 feet.

Walter and Linda Ament were present. Mr. Ament stated that the proposed addition was a conservatory greenhouse type addition of brick and glass. Mr. Ament stated that the addition is to give him and Mrs. Ament more use of their rear yard. Mrs. Ament has asthma and is forced inside when grass is mowed, pollens are present and neighbors burn fireplaces. Mr. Ament has arthritis and they plan to install a whirlpool/hot tub in the sun room for his comfort. Their home has a 35 foot rear yard setback, so they cannot construct any addition without a variance. Mr. Ament stated he has contacted neighbors and they approve of the proposed addition.

The Board questioned constructing the in the middle of the home where there is an open space between the two sections of building. Mr. Ament stated it would not be as aesthetically pleasing since it would have to be a shed type sun room with a flat roof, which would cause a problem with snow load and because of the doorwall openings and he would have no exit. Mr. Ament stated he did not feel it was out of character with the neighborhood and would add to the value.

ITEM #9

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

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

Motion by Alaimo
Supported by Milia

MOVED, to deny the request of Walter N. & Linda M. Ament, 2449 Wexford, for a variance to construct a 15'1"x13'10" sun room addition, resulting in a 21'2" rear yard setback where a 30 foot rear yard setback is required;

1. The petitioner has indicated there is a medical need for the addition, but has not presented documentation showing the need for the room.
2. The petitioner is a 2 year resident and moved to the problem, creating a self imposed hardship.
3. A hardship or unique condition of the property has not been shown.
4. The lots are small and the encroachment is overbuilding the lot.

Yeas: All 7

MOTION TO DENY REQUEST CARRIED.

ITEM #10 **VARIANCE REQUESTED: Emmy & Michael Payne, 350 Kenyon, for relief of required setback between buildings.**

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 28'x14' addition to the rear of an existing residence. The plot plan shows the proposed addition would result in a 5'4" setback between the house and detached garage. The Zoning Ordinance requires a minimum rear yard setback of 10 feet. Also, the proposed addition would result in a 29.33 foot rear yard setback. The Zoning Ordinance requires a minimum rear yard setback of 35 feet.

Robert Nair, Lunar Home Improvement, Emmy and Michael Payne were present. Mr. Nair stated that the he understands the reason for the distance between the garage and house if fire hazard. He stated that the garage would be fireproofed. They have a practical difficulty in the fact the lot and house are small. The Payne's now have 2 teen age children and the need for an additional bathroom and they propose a family room to provide additional living room area for their family. Mr. Nair stated that they had even looked at moving the garage back but it is at the minimum setback from the rear yard at the present time.

ITEM #10

The Board questioned the ability to maneuver vehicles in and out of the garage with the proposed setback. The petitioners noted that because the addition has an indent at that point, they feel there would be no problem. Relief of the Zoning Ordinance is needed to build any size addition that would be usable.

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

Motion by Giachino
Supported by Fejes

MOVED, to grant Emmy and Michael Payne, 350 Kenyon, a variance, as requested, for relief to construct a 28'x14' addition to the rear of an existing residence, resulting in a 5

foot distance between the residence and garage, where 5 foot is required and a 29.33 foot rear yard setback, where 35 feet is required;

1. The variance is not contrary to public interest.
2. The variance will not cause an adverse effect to properties in the immediate vicinity or zoning district.
3. The size of the property is confining.
4. Conforming would be unnecessarily burdensome.

Yeas: 3- Giachino, Fejes, Alaimo

Nays: 4- Beltramini, Milia, Sosnowski, Courtney

MOTION TO APPROVE FAILS - REQUEST DENIED

ITEM #11 **VARIANCE REQUESTED: DeAngelis & Company, 209 Park Street, for relief of the rear yard setback.**

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct an 18,852 square foot addition to the east side of an existing building. The plot plan shows the proposed addition would result in a rear yard setback of 10 feet. The Zoning Ordinance requires a minimum rear yard setback of 20 feet.

Andy DeAngelis and the architect Ken VanTine were present. The petitioners stated that this was a printing company and needed the addition to house a new press line, which is much larger. The configuration of the site and a large Ameritech trunk line limits the location of the addition. They have attempted to get the trunk line relocated, but it would be fall before Ameritech would do anything and they have the press on order. They are unable to purchase additional property. The press line can not be made smaller and to move the addition in would require a parking variance. They feel the setback would be less intrusive. They need the parking for their shift changes, they operate 24 hours a day, 7 days a week.

ITEM #11

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

Motion by Milia

Supported by Sosnowski

MOVED, to grant DeAngelis & Company, 209 Park, a variance, as requested, for relief to construct an 18,852 sq. ft. addition resulting in a rear yard setback of 10 feet where 20 feet is required;

1. The variance is not contrary to public interest.
2. The variance does not cause an adverse effect to properties in the immediate vicinity or zoning district.
3. The site is an isolated out of the way site at the outskirts of Troy.
4. The petitioner has demonstrated this is good for the City of Troy and considering the other options this is the least unsavory.

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

MOTION TO APPROVE CARRIED

The Board of Zoning Appeals adjourned at 9:50 p.m.

GAS/ddb