

A regular meeting of the Board of Zoning Appeals held on Tuesday, June 16, 1998 at Troy City Hall, 500 W. Big Beaver. The meeting was called to order at 7:33 p.m. by the Chairman, Kenneth L. Courtney.

PRESENT: Michael Alaimo
Robin Beltramini
Kenneth L. Courtney
James Giachino
Carmelo Milia
Jerald Sosnowski

Robert Davisson
Gary Shripka

ABSENT: Christopher Fejes

Excuse Absent Member

Moved by Milia
Seconded by Sosnowski

MOVED, that the absence of Christopher Fejes be excused.

Yeas: All-6
Absent: Fejes

MOTION TO CARRIED

ITEM #1. Approval of Minutes - May 19, 1998

Moved by Beltramini
Seconded by Milia

MOVED, to approve the May 19, 1998 minutes.

Yeas: All-6
Absent: Fejes

MOTION TO APPROVE CARRIED

ITEM #2 RENEWAL REQUEST: William Flavin, W. F. Realty, 1735 E. Big Beaver.

This variance is no longer required because the property to the north has been rezoned.

**ITEM #3 VARIANCE REQUESTED: Joseph & Linda Coulter, 2161 Harned,
for relief of minimum lot width.**

The petitioner is requesting relief of the Zoning Ordinance to split a lot into 2 parcels. The plot plan shows the proposed split would result in one lot being 63.95 feet wide. The Zoning Ordinance requires a minimum lot width of 75 feet in this residential zoned district. Due to an unforeseen problem, the petition is requesting tabling action on this request.

Moved by Milia
Seconded Sosnowski

MOVED, that this item be TABLED to July 21, 1998.

Yeas: All-6
Absent: Fejes

MOTION TO TABLE UNTIL JULY 21, 1998 MEETING CARRIED

**ITEM #4 VARIANCE REQUESTED: William Hamel, 112 Tacoma, for relief
of the side yard setback.**

The petitioner is requesting relief of the Zoning Ordinance to construct a 22' x 22' detached garage. The plot plan shown the proposed garage would have a 3 foot side yard setback from the east lot line. The Zoning Ordinance requires a minimum side yard setback of 6 feet.

The petitioner asked that this item be rescheduled.

**ITEM #5 VARIANCE REQUESTED: James & Marguerite Ayers, 4190 Walnut
for relief to erect a 79 foot high antenna.**

The petitioner is requesting relief of the Zoning Ordinance to construct an amateur radio antenna. The plan shows the antenna is 79 feet high. The Zoning Ordinance limits antennas to a maximum height of 25 feet. In January of 1998, the petitioner was before this board and received relief of the ordinance to construct an antenna 23 feet above the highest point of the home where 12 feet is permitted.

Mr. Milia expressed his concern with the safety of the residential neighbors if the tower should fall.

Mr. Fisher, the petitioner, stated he is one of approximately 20 operators who help with the Oakland County Emergency Management team and fields calls when local receivers are out and during emergency situations and wishes to replace his existing tower that has a total height of approximately 79 feet. Most amateur towers are 70 to 130 feet and are safe at 150 mph winds. At high wind speeds, he can lower the tower to approximately 3 feet above the ground level. In response to questions from the Board, Mr. Fisher said it was 68 feet to the closest power lines and if the tower fell, it would short out; he usually transmits at night and for about 2 hours, however the tower would remain up most of the time. The power source is house current and a generator for backup. Three neighbors, Mr. Kalinka, 4159 Walnut Hills, Robert Dixon, 4135 Walnut Hill and Nancy Barnett, 4241 Butternut Hill, objected to the tower and the added height.

In response to questions from the Board, Assistant City Attorney Robert Davisson stated the Board can negotiate with the petitioner relative to the health, safety and welfare issues and stated Fire Chief Nelson could respond to questions about the Oakland County Emergency Management Team.

Mr. Milia suggested tabling the item to the next meeting to allow the petitioner to react to the concerns of the neighbors and questions from the Board regarding cranking the antenna down when not in use as well as allowing Chief Nelson to be present at the meeting.

Moved by Alaimo
Seconded by Beltramini

RESOLVED, that this item be TABLED to the regular meeting of July 21, 1998.

Yeas: Alaimo, Beltramini, Courtney, Milia, Sosnowski
Nays: Giachino
Absent: Fejes

MOTION TO TABLE UNTIL JULY 21, 1998 CARRIED

ITEM #6 VARIANCE REQUESTED: Conversions Unlimited on behalf of Douglas and Linda Brooks, 2808 Cedar Ridge, for relief of their rear yard setback.

The petitioner is requesting relief of the Zoning Ordinance to construct a 20.9' x 12.8' sun room addition on the rear of an existing residence. The plot plan shown the proposed addition would result in a 37 foot rear yard setback. The Zoning Ordinance requires a minimum rear yard setback of 40 feet in this residentially zoned district.

Mr. Brooks explained that Mrs. Brooks has cervical disk problems and they wish to add a sun room with a hot tub for her use. Their lot is odd shaped and to put the sun room off the family room of the home, one corner of the room would encroach into the setback 4.5 square feet. If the room were redesigned to eliminate the encroachment, they would lose 30% of the room and there would not be room for the tub.

Moved by Sosnowski
Seconded by Alaimo

RESOLVED, that the request from Douglas and Linda Brooks to build an addition to their home at 2808 Cedar Ridge that would encroach 4.5 square feet into the rear yard setback, creating a rear yard setback of 37 feet where 40 feet is required, is hereby approved for the following reasons:

1. The variance is not contrary to the public interest,
2. The variance does not establish a prohibited use within the zoning district,
3. The variance does not cause an adverse effect to other properties in the area, and
4. The variance is minimal with the layout of the lot causing the difficulties.

Yeas: All-6
Absent: Fejes

MOTION TO APPROVE REQUEST CARRIED

**ITEM #7 VARIANCE REQUESTED: Walter N. & Linda M. Ament, 2449
Wexford, for relief of the rear yard setback.**

The petitioner is requesting relief of the Zoning Ordinance to construct a 184 square foot sun room addition on the rear of an existing house. The plat plan shows the proposed addition would result in 23'3" rear yard setback. The Zoning Ordinance requires a minimum rear yard setback of 30 feet. The petitioner was before this Board at the May 19, 1998 meeting at which time he was requesting relief of the ordinance to construct a sun room addition setback 21'2" from the rear yard. At that meeting, the item was denied based on the fact that the petitioner indicated there was medical need, but had not presented documentation showing the need. The petitioner is a two year resident and moved to the problem creating a self imposed hardship. A hardship or unique condition of the property has not been shown. And, finally, the lots are small and the encroachment is overbuilding of the lot.

Mr. Ament stated there are changes from his former request and submitted a letter from the doctor regarding his wife's medical problems. He stated they do not plan to build on both sides of the house and with the addition would still be built on only 25.9% of the lot instead of the maximum 30%, as allowed by ordinance. He also stated the neighbors abutting him do not object, however, two neighbors within 300 feet did speak against the proposed variance. In response to questions from the Board, Mr. Ament stated his wife also has allergies and the addition would allow her to be in the backyard without going into the backyard.

Moved by Milia
Seconded by Giachino

RESOLVED, that the request from Walter and Linda Amend for relief of the rear yard setback at 2449 Wexford to allow the addition of a sun room on their home, creating a 10 foot 9 inch variance that would result in a setback of 24.3 feet where a 30 foot setback is required, is hereby approved for the following reasons:

1. The variance is not contrary to the public interest,
2. The variance does not establish a prohibited use within the zoning district,
3. The variance does not cause an adverse effect to other properties in the area,
4. There are letters from their doctors explaining medical conditions that may improve with the addition,
5. The immediate neighbors approve of the request, and
6. The petitioner worked with the Board to modify their plan, creating the need for a smaller variance.

Yeas: All-6
Absent: Fejes

MOTION TO APPROVE REQUEST CARRIED

ITEM #8 VARIANCE REQUEST: Collins & Aikman Corporation, 5755 New

King (proposed address), for relief of the 6 foot high masonry screening wall required along the northwest property line.

The petitioner is requesting relief of the Zoning Ordinance to construct a new, two story, 60,000 square foot commercial building. The plot plan does not show the required masonry wall between the residential and non-residential properties. The Zoning Ordinance requires a 6 foot high masonry screening wall where non-residential abuts residential zoned property.

Michael Pudists of Yamasaki and Associates stated the residents to the west of the project want a berm in place of the wall . There is a 20 foot water and Edison easement on the west that cannot be built on, therefore, creating a hardship. In a compromise reached with the residences to the west, the proposed berm would be placed on the residential side and extend between 500 and 600 feet. Three steps are proposed on the commercial side and the residential side would be a 6 foot berm with 8 foot pines - 12 foot on center. The residents and the Planning Commission both want the berm in place of the required wall. There were 3 letters of objection from residents on Autumn, however Herbert Kay, representing the condo association, stated that at their annual meeting on May 15, 65 of their 107 members were present, viewed the presentation and no objections were expressed. An agreement is in place between the association and the developers to do the planting, sprinkling, etc., with maintenance to be done by the commercial owners, and is predicated on the approval of the variance. There is also a signed letter of understanding that the berm is to be constructed this summer, not next spring as originally planned.

Moved by Alaimo
Seconded by Sosnowski

RESOVLED, that the request from Collins & Aikman Corporation, 5755 New King (proposed address), for relief of the 6 foot high masonry screening wall required along the northwest property line, with said wall to be replaced with a 6 foot berm with 8 foot pine trees placed 12 foot on center, is hereby approved for the following reasons:

1. The variance is not contrary to the public interest,
2. The variance does not establish a prohibited use within the zoning district,
3. The variance does not cause an adverse effect to other properties in the area,
4. There is a practical hardship created with easements that cannot be built upon, and
5. The neighbors and petitioners have a signed agreement that will be followed regarding construction and future maintenance of the berm.

Yeas: All-6
Absent: Fejes

MOTION TO APPROVE REQUEST CARRIED

ITEM #9 VARIANCE REQUESTED: Todd D. Mosey, 65 Leetonia, for relief to expand a non-conforming residence and relief of the front setback.

The petitioner is requesting relief of the Zoning Ordinance to construct a 14' x 6' covered porch. The plot plan shows the proposed porch would result in a front yard setback of 16'6" where the Zoning Ordinance requires a minimum front yard setback of 30 feet. Also, because the existing front setback is only 22'6", this is an existing legal non-conforming structure. The Zoning Ordinance does not permit additions to or expansion of non-conformities.

Mr. Mosey stated he wants to cover his front porch to protect those people using it as an entrance to his house. There is not an overhang on the house and because ice can form quickly and unnoticed on the unprotected surface, they had a slip and fall accident last winter. The petitioner explained this is an older neighborhood with houses built closer to the street than is now allowed, causing the setback problem. There was an objection from a neighbor that the porch could be enclosed and used for a room, however, in answer to that question from the Board, Mr. Shripka explained the request was for a covered front porch only, not to be enclosed. Mr. Milia commended the petitioner on his well kept property and Dr. Sosnowski asked the petitioner if he intended to enclose the porch. Mr. Mosey stated he did not and would comply with any conditions the board imposed.

Moved by Milia
Seconded by Sosnowski

RESOLVED, that the request from Todd D. Mosey, 65 Leetonia, to construct a 14 foot by 6 foot covered porch on the front of his legal non-conforming home, creating a front setback of 16 foot 6 inches where a 30 foot setback is now required, is hereby approved for the following reasons:

1. The variance is for covered porch only, not to be enclosed,
2. The variance is not contrary to the public interest,
3. The variance does not cause an adverse effect to other properties in the area,
4. There is a safety problem with a small, uncovered porch, without an overhang, and
5. Conforming would be burdensome since the older home is already non-conforming to the current setback requirements and to remedy that, the house would have to be moved on the lot.

Yeas: All-6
Absent: Fejes

MOTION TO APPROVE REQUEST CARRIED

GAS/tr

The meeting was adjourned at 9:30 p.m.