

A regular meeting of the Board of Zoning Appeals was called to order at 7:30 p.m. on Tuesday, July 21, 1998 by the chairman, Kenneth Courtney.

PRESENT: Robin Beltramini
Kenneth Courtney
James Giachino
Carmelo Milia
Jerald Soznowski

Lori Bluhm
Gary A. Shripka

ABSENT: Michael Alaimo
Christopher Fejes

Motion by Sosnowski
Supported by Milia

MOVED, to excuse Michael Alaimo as he is out of the county.

Yeas: All 5
Absent: Alaimo, Fejes

MOTION CARRIED

ITEM #1 Approval of Minutes - June 16, 1998

Mrs. Beltramini noted that Item #8 -- Collins & Aikman Corporation, 5755 New King, the second paragraph, last sentence should be corrected to read: An agreement is in place that future maintenance of planting, sprinkling, etc. is the responsibility of Manor Homes of Troy, and is predicated on the approval of the variance.

Motion by Beltramini
Supported by Milia

MOVED, to approve the June 16, 1998 minutes as corrected.

Yeas: All -5
Absent: Fejes, Alaimo

MOTION TO APPROVE, AS CORRECTED, CARRIED

ITEM #2 VARIANCE REQUESTED: Joseph & Linda Coulter, 2161 Harned, for relief of the minimum lot width.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to split a lot into two parcels. The plot plan shows the proposed lot 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. This item was tabled at our last regular meeting at the request of the petitioner.

Joe and Linda Coulter were present. Mr. Coulter stated that although the lot did not have the required width, it has more than the required square foot area. They plan to construct a home for themselves on the newly created lot and sell the home they presently live in. Mr. Coulter stated that the 2000 square foot home he proposes would fit on the new lot. The only way they can split the lot, to meet code, would be to demolish the existing home or substantially alter the home.

Mr. Giachino questioned Mr. Shripka on lot splits in the area. Mr. Shripka explained that there had been some lot splits for new homes, which do conform with the ordinance. There are also lots south on Jarman where larger lot of lots were made.

The chairman opened the public hearing:

Mattie Wright, 2149 Harned, was present and objected to the variance, stating the ordinance requiring 75 feet should be maintained.

No one else wished to be heard and the public hearing was closed.

There were 3 written objections on file.

Motion by Sosnowski
Supported by Milia

MOVED, to deny the request of Joseph & Linda Coulter, 2161 Harned, for relief to split a lot resulting in the proposed lot being 63.95 feet wide where 75 feet is required:

1. No practical hardship has been shown.
2. The width variance is too large.

ITEM #2

Yeas: All 5
Absent: Alaimo, Fejes

MOTION TO DENY REQUEST CARRIED

ITEM #3 VARIANCE REQUESTED: William Hamel, 112 Tacoma, for relief of the side yard setback.

The chairman moved request to the end of the agenda (Item #9) to give the petitioner the opportunity to be present.

ITEM #4 VARIANCE REQUESTED: James & Marguerite Ayers, 4190 Walnut Hill, for relief to construct a 79 foot antenna.

Mr. Shripka explained that the petitioner first appeared before this Board at their June, 1998 meeting. At that time the petitioner was requesting relief of the ordinance to construct an antenna 79 feet high. The Zoning Ordinance limits antennas to a maximum height of 25 feet. At that meeting, this item was tabled 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. And to allow Troy Fire Chief Nelson to be present at the meeting.

James Ayers was present and stated that his son-in-law, Andy Fisher, needs the requested antenna height for efficient radio operation. Mr. Ayers stated that the radio and communications is very important to his son-in-law. He provides a relay service for the Emergency Services of Oakland County. Mr. Ayers cited the high cables and poles along Wattles, stating that when you become accustomed to them, they become less unappealing.

Mrs. Beltramini questioned the amount of time that Mr. Fisher used the radio - Mr. Ayers and Mr. Fisher commented that it is probably 15 to 20 hours a week, including weekends.

ITEM #4

Mr. Milia questioned who specifically was assisted: Detroit, Pontiac, the City, or out of the country. Mr. Fisher works through the repeater in Pontiac. Mr. Milia questioned the height and it's effect. Mr. Fisher stated he needs the height for better communications. He is aware of other antenna towers and police and fire department antennas that are that high, if not higher. If they can have them that high why not him. Mr. Fisher noted that to broadcast on UHF and VHF he needs a tower between 70 and 100 feet high. Mr. Fisher stated that he would be able to operate emergency communications when telephones were down. Mr. Fisher stated that he could crank the antenna down to 45 feet when not in use, but wanted to proceed on the variance request without a crank down stipulation.

Mr. Giachino noted the second variance, noting that a variance had been granted in January for an antenna and wondered why an additional variance was necessary. Mr. Giachino noted the number of documents and information submitted at that time. Also, it was stated that the tower being erected was all that was needed to service the City and County during an emergency situation. Mr. Fisher responded that he was new in ham radio communications at that time and he is now involved with emergency communications and needs additional height. Mr. Fisher stated that most people involved in emergency communications have radio antenna towers 70 to 100 feet high. Mr. Fisher stated that he does not need an antenna higher than the 79 feet being requested. He will not be asking for additional height if the 79 foot high request is granted.

The chairman opened the public hearing.

Steve Harris, 88 Rankin, was present and stated that effective radio communications are line of sight. The Troy Police and Fire Departments have their antennas on the top of high buildings. Mr. Harris stated that municipal radio systems do not communicate with one another. If telephone and electric power was down, the communications would have to be handled by ham radio. He feels comfortable with a major relay station in Troy like Andy Fishers'. He could reach most anyone in the county.

Mr. Milia asked for an estimate of the percentage of radio use that was dedicated to hobby/personal and the percentage for emergency communications. Mr. Harris stated maybe 98% for personal/hobby is extreme. They practice emergency situations once a month during tornado season. Andy goes to Pontiac to coordinate the testing.

Mr. Courtney questioned distances reached with the present antenna and a 79 foot antenna. Mr. Harris stated that an antenna on the top of a building reaching 150 feet would reach 40 miles, and estimated that an 80 foot antenna would reach 20 miles and the present antenna would reach 10 to 12 miles.

ITEM #4

David Jacobs, 24001 Dane, Oak park, was present and approved, stating that the only reliable communication when there are no telephones or electric power is the ham radio. Mr. Jacobs had a hand held ham radio and said that he can only reach 1-2 miles without a repeater.

Bruce Zick, 4565 Mill Pond, was present and stated that he approves of the request. Mr. Zick stated that distance reached depends on frequency and height.

Ed Kalinka, 4159 Walnut Hill, was present and objected, stating that he is not opposed to what Mr. Fisher is trying to accomplish. Mr. Kalinka noted you cannot compare an antenna to the telephone/electric poles and lines cited by Mr. Ayers. Also, the pictures of the poles and wires are not in their immediate area. He feels the 79 foot height is an eyesore and feels that an agreement should be reached, which would be reasonable for Mr. Ayers, Mr. Fisher the neighbors and the City. Mr. Kalinka noted an antenna that would be cranked down when not in use would not be objectionable. Mr. Kalinka noted that it was his understanding the radio was used in the evening for 1 to 3 hours and felt it could be cranked down during the day when neighbors would be observing it. Mr. Kalinka also noted that it is his understanding from the F.C.C. rulings and that case on that, some negotiations can be reached with antenna height variances.

Mary Oliver, 4125 Butternut Hill, was present and objected to any antenna. She did not feel a residential area was the place for an antenna of the proposed type.

Robert Dixon, 4135 Walnut Hill, was present and was opposed to the variance, but would go along with Mr. Kalinka's proposal.

Mr. Fisher commented that he feels the higher the antenna, the less visible, because people are not looking up.

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

Mr. Courtney noted that it was the Board's understanding that the antenna must be up to use it as a repeater. Mr. Courtney questioned whether there were any tall buildings, in Troy, that would allow a ham club to erect a repeater antenna. Mr. Fisher stated that there were none. Mr. Courtney noted that it was his understanding the only repeater, at this time, was in Oak Park. Mr. Fisher stated that was correct.

Motion by Milia
Supported by Giachino

MOVED, to grant James & Marguerite Ayers, 4190 Walnut Hill, a variance to erect a 79 foot high antenna with the following restrictions:

ITEM #4

1. The antenna has the feature to be cranked down to 35 feet .
2. The antenna remain cranked down to 35 feet except when used for a few hours in the evening, or when there in a genuine emergency.
3. The variance is as stipulated is a reasonable compromise.
4. The variance will accommodate amateur communications, and represents the minimum practicable regulation to safeguard the interests of the neighborhood and the community.
5. The variance is limited to 5 years.

Yeas: All 5
Absent: Fejes, Alaimo

MOTION TO APPROVE, AS STIPULATED, CARRIED

ITEM #5 VARIANCE REQUESTED: James Christensen, 34835 Dequindre, for relief to use one parking space for a dumpster enclosure.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to continue using one of their required parking spaces for a dumpster enclosure. This item had appeared before this Board for many years and at the April, 1998 meeting the Board moved to deny the variance request for Muffler Man, based on the petitioner's lack of interest in this matter. Notices were sent to the petitioner and he has since re-applied for a new public hearing.

Michael Darga, Manager of Muffler Man was present. Mr. Darga noted that the dumpster was used for discarded mufflers and was needed by Muffler Man.

Mr. Milia noted that the dumpster enclosure is in need of repair and Mr. Darga agreed, stating that he would have something done about it.

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

Motion by Milia
Supported by Beltramini

MOVED, to grant James Christensen, 34835 Dequindre (Muffler Man) a one year renewable variance to maintain a dumpster enclosure in one required parking space, based on the following:

ITEM #5

1. The variance is not contrary to public interest.
2. The variance will not establish a prohibited use.
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. That the current enclosure be embellished with the necessary carpentry and paint to correct the current eyesore.
6. That the dumpster be satisfactorily maintained.

Yeas: All 5
Absent: Alaimo, Fejes

MOTION TO APPROVE REQUEST FOR ONE YEAR CARRIED.

ITEM #6 VARIANCE REQUESTED: Michael & Emmy Payne, 350 Kenyon, for relief of the rear yard setback.

Emmy and Michael Payne were present. Mrs. Payne stated that she would like to request tabling action for the benefit of a full Board.

Motion by Milia
Supported by Beltramini

MOVED, that the request of Michael and Emmy Payne, 350 Kenyon, for relief of the rear yard setback be tabled until the next regular meeting (August 18, 1998) as requested by the petitioner.

Yeas: All 5
Absent: Fejes, Alaimo

MOTION TO TABLE REQUEST UNTIL AUGUST 18, 1998 MEETING CARRIED

ITEM #7 VARIANCE REQUESTED: Van Allen Development, Inc., 1827 Buckthorn, for relief of the rear yard setback.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 2,700 square foot single family residence. The plot plan shows the proposed residence would result in a 40.14 foot rear yard setback. The Zoning Ordinance requires a 45 foot rear yard setback.

ITEM #7

Bill Allen, President, of Van Allen Development was present. Mr. Allen stated that this is a 5 sided lot on a cul-de-sac. They have made several attempts to fit the house on the lot, using their computer imager, and have been unable to make it work. They have even cut 2 feet off the garage. There will not be a home constructed to the rear of the lot as it backs up to wetlands. Also, the lot is unusual since there are 2 rear yards, which is caused by the irregular shape of the parcel. The home proposed is consistent with the neighborhood.

Mr. Milia commented that he felt the home could be turned to eliminate the variance. Mr. Allen stated the they have worked with location and to turn the home would create a situation where the front would face into the neighbors garage or block the view.

Mrs. Beltramini noted she does not like to see a new original home on a lot start out with a variance. A house should be designed that would fit the lot, and was concerned about setting a precedent for issuing variances on new homes.

Mr. Giachino noted that only a corner encroached and it was an unusual shaped lot. Mr. Giachino questioned if they would see the property back for a deck variance. Mr. Shripka noted that if submitted as indicated on the plot plan, they would not have to come back.

Mr. Courtney also stated he felt the home could be turned or made to fit the lot. Mr. Allen stated that to move or turn the home would cause the house not to be in a line with the others, and would interfere with someone else's view.

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 Milia
Supported by Sosnowski

MOVED, to deny the request from Van Allen Development, 1827 Buckthorn, for relief of the rear yard setback:

1. This is a large piece of property and although of an irregular shape, it is a buildable lot.
2. No reasonable justification for a variance has been shown.

ITEM #7

Yeas: 4-Courtney, Beltramini, Milia, Sosnowski
 Nays: 1- Giachino
 Absent: 2- Alaimo, Fejes

MOTION TO DENY REQUEST CARRIED

ITEM #8 VARIANCE REQUESTED: Gary & Brenda Zelda, 2969 E. Big Beaver, for relief of the required landscaping.

The chairman noted that the petitioner has requested tabling action until the September meeting.

Motion by Beltramini
 Supported by Sosnowski

MOVED, to table the request of Gary & Brenda Zelda, 2969 E. Big Beaver until the September 15, 1998 meeting, as requested by the petitioner.

Yeas: All 5
 Absent: 2- Fejes, Alaimo

MOTION TO TABLE REQUEST UNTIL SEPTEMBER 15, 1998 CARRIED

ITEM #9 (ITEM #3) VARIANCE REQUESTED: William Hamel, 112 Tacoma, for relief of the side yard setback.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 22'x22' detached garage. The plot plan shows 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. This item was tabled at the last regular meeting to allow the City to prepare revised notices of public hearing.

Mr. Hamel was present and stated that to construct the garage to 6 feet from the lot line would use too much of his rear yard. Half the garage would be behind the house. The lot is only 50 feet wide. Also, moving the garage over would cause maneuvering problems for entering and exiting the garage. Mr. Hamel also stated that he has talked with the most affected neighbor to the west and he approves of the variance.

Mr. Giachino questioned cutting the garage width down to 20 feet and moving it over 1 more foot to meet the setback. Mr. Hamel stated that 22 feet for a two garage is already pretty narrow, when used for 2 vehicles and storage.

ITEM #9 (3)

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

There was 1 written approval and 1 written objection on file.

Motion by Sosnowski
Supported by Giachino

MOVED, to grant William Hamel, 112 Tacoma, a variance, as requested, for relief to construct a 22'X22' detached garage 3 feet from the east 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 relates only to the property described in the application.
4. The most affected neighbor approves.
5. Literal enforcement precludes the petitioner the full enjoyment and use of his property.

Yeas: All 5
Absent: 2- Alaimo, Fejes

MOTION TO APPROVE REQUEST CARRIED.

The Board of Zoning Appeals adjourned at 9:10 p.m.

GAS/ddb