

A regular meeting of the Board of Zoning Appeals was called to order at 7:30 p.m. on Tuesday, October 20, 1998, by the chairman, Kenneth Courtney.

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

Robert Davisson
Gary A. Shripka

ABSENT: James Giachino

Motion by Sosnowski
Supported by Fejes

MOVED, to excuse Mr. Giachino from the meeting as he is out of State.

Yeas: 6
Absent: 1- Giachino

MOTIN CARRIED

ITEM #1 Approval of Minutes – September 15, 1998

Motion by Fejes
Supported by Beltramini

MOVED, to approve the September 15, 1998, minutes as written.

Yeas: 6
Absent: 1- Giachino

MOTION TO APPROVE CARRIED

ITEM #8 VARIANCE REQUESTED: Harry & Nancy Boeck, 2035 Jeffrey, for relief of the rear yard setback.

Item #8 was taken out of order. Mr. & Mrs. Boeck requested tabling action for a full board.

Motion by Beltramini
Supported by Milia

MOVED, to table the request of Harry & Nancy Boeck, 2035 Jeffrey, until the November 17, 1998, meeting as requested by the petitioner.

Yeas: 6
Absent: 1- Giachino

MOTION TO TABLE REQUEST UNTIL NEXT REGULAR MEETING (NOVEMBER 17, 1998)
CARRIED.

ITEM #2 VARIANCE REQUESTED: Gary & Brenda Zelda, 2969 E. Big Beaver, for relief of the required landscaping and relief of the number of waiting spaces for a drive-up window.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to alter an existing building. The plot plan shows 1,555 square feet of landscaping. The Zoning Ordinance requires 3,000 square feet of landscaping. The plot plan also shows 7 back up waiting spaces for the drive-up window. The Zoning Ordinance requires 10 spaces.

Gary & Brenda Zelda were present. Mrs. Zelda stated that they feel the ordinance was written for larger scale buildings and buildings of a different use. They have a unique use and the building is only 150 square feet, they feel requirements are excessive for the use. Mrs. Zelda further stated that the Planning Commission has approved the site.

Ms. Beltramini summarized the Planning Commission draft of the minutes that were presented to the Board regarding this site.

Mr. Milia questioned the logic of the ordinance and Mr. Shripka explained the ordinance and requirements.

Mr. Milia questioned what times they felt they would have the most traffic on site. Mrs. Zelda noted, they feel the traffic would be greatest between 6:00 and 10:00 a.m. and they would hope to have a steady flow after that. They feel that the parking will not interfere with the other businesses. Mrs. Zelda further noted that if they were to provide 3,000 square feet of landscaping, it would use a good part of the parking area and have an impact on the plaza.

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

There was 1 written approval on file.

Motion by Beltramini
Supported by Sosnowski

MOVED, to grant Gary & Brenda Zelda, 3969 E. Big Beaver, a variance, as requested, for relief to provide 1,555 square feet of landscaping, where 3,000 square feet is required. And 7 back up waiting spaces for the drive-up window where 10 are required;

- The variance is not contrary to public interest.

Yeas: 6
Absent: 1- Giachino

ITEM #2

MOTION TO APPROVE REQUEST CARRIED

ITEM #3 VARIANCE REQUESTED: Patterson Construction, 800 E. Maple Road, for relief of (1) the front setback (2) the setback from the side lot line (3) the setback from the rear lot line, and (4) relief of the distance between an accessory building and lot line.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a new 2,335 square foot gas station. The plot plan shows the proposed construction would result in (1) A front setback of 16 feet from Maple Road. The Zoning Ordinance requires a minimum setback of 40 feet. (2) A 15.5 foot setback from the west lot line. The Zoning Ordinance requires a minimum setback of 20 feet. (3) A 5 foot setback from the rear lot line. The Zoning Ordinance requires a minimum rear yard setback of 30 feet. (4) An accessory building 3 feet from the west lot line. The Zoning Ordinance requires accessory buildings have a minimum setback of 6 feet from side or rear lot lines.

Ron Katchman, the architect with Building Design Group, representing Patterson and Speedway was present. Mr. Katchman stated that the reason it took them so long and the previous variance was not acted on, was that they have re-designed the building and site in an attempt provide a better flow on the site. The building has been turned resulting in a 16 foot front setback instead of 28 feet. The setback from the west lot line, which was 10 feet, it will now be 16'6". They have gone from double pump islands to single pump islands and a single canopy, which gives a better traffic flow. Acceleration and deceleration lane have been added, with a right turn lane providing a better traffic flow and more safety in turning. With the new design, they have been able to increase the landscaping. The parking, exiting, turning lanes, and an overall better layout is an improvement for the site. They are requesting renewal of their variance granted in August 1997 and a 16 foot setback from Maple Road.

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

There was 1 written objection on file.

Motion by Sosnowski
Supported by Alaimo

MOVED, to grant Patterson Construction, 800 E. Maple Road, a variance, as requested for relief to construct a new 2,335 square foot gas station, resulting in (1) a front setback of 16 feet from Maple, (2) a 15.5 foot setback from the west lot, (3) A 5 foot setback from the rear lot line, and (4) An accessory building 3 feet from the west lot line:

- The proposal is an improvement over the variance approved August 19, 1997.

Yeas: 6
Absent: 1- Giachino

ITEM #3

MOTION TO APPROVE REQUEST CARRIED

ITEM #4 VARIANCE REQUESTED: James and Sandra Kanninen, 637 Trinway, for relief of the maximum size accessory building.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 26'x24' addition on the rear of a detached garage. The plot plan shows the proposed addition would result in 1,307 square feet of accessory building. The Zoning Ordinance permits a maximum of 676 square feet in accessory buildings at this site.

James and Sandra Kanninen were present. Mrs. Kanninen stated that the proposed garage addition is to give them additional storage for their cars and sports equipment. This will allow them to store stuff that they do not want to store in their basement. It will provide weather protection for their vehicles and will provide security from vandalism. They feel that the garage will enhance the property. The original garage will be used for their cars and the addition for storage of the race cars. The race car on a trailer will not last if they must continue storing it outside on a trailer.

In response to questions from Mr. Milia, Mrs. Kanninen explained that they have race cars, their own cars, a trailer and sports equipment to store. They need protection from the weather. Because of the size of their lot, they will have no impact on neighboring properties. Mr. Kanninen also needs a place to work on his cars. Mr. Kanninen pointed out there are other garages in the area as large as, if not larger than his.

Mr. Milia commented that their property is huge, equal to approximately 6 normal size lots.

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 Milia

Supported by Sosnowski

MOVED, to grant James & Sandra Kanninen, 637 Trinway, a variance, as requested, to construct a 26'x24' addition to the rear of an existing detached garage;

- The variance is not contrary to public interest.
- The variance will not cause an impact on the neighborhood
- It would be unnecessarily burdensome to comply with the code.
- There are 4 approvals on file.

Yeas: 6

Absent: 1- Giachino

ITEM #4

MOTION TO APPROVE CARRIED

ITEM #5 VARIANCE REQUESTED: Srikant & Devika Raghavan, 1525 Oakcrest, for relief of the rear yard setback.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 42.75'x14' addition on the rear of an existing residence. The plot plan shows the proposed addition would result in a 31.8 foot rear yard setback. The Zoning Ordinance requires a minimum rear yard setback of 35 feet.

Srikant & Devika Raghavan and their architect, Raj Nijhon were present. Mr. Nijhon showed the Board a floor plan of the proposed addition. Mr. Nijhon stated that the Raghavan's were not happy with the plans. Mr. Nijhan stated that the family has two daughters, 17 and 13, they do not have a place to study and must go to their rooms. Mr. Raghavan is a professor and needs an area to work in the Mrs. Raghaven, is a teacher and needs an area to prepare for her classes. The addition will allow them to be together. The family does not have a common area that they can use. Also, the kitchen is not large enough to have family meals together, they have family and friends in often. Mrs. Raghavan loves to cook and would like a walk-in pantry. Because they back up to a commons or park area, there will be no impact on neighbors. The addition would not be seen from the street. The proposed addition will accommodate their lifestyle. The hardship is, the kitchen has no pantry, and they have to go to the basement for stored pantry items. The addition will be 2 feet less than their existing patio.

Mr. Milia questioned the impact of the addition of a patio or deck. It was noted that a patio did not require a permit and there would be no setback problem. Mrs. Raghavan stated that a deck in not planned at present. Should they choose to construct a deck, they would come back to the Board.

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

There were 2 written objections on file.

Motion by Alaimo
Supported by Sosnowski

MOVED, to deny the request of Srikant & Devika Raghavan, 1525 Oakcrest, to construct a 42.75' x 14' addition, resulting in a 31.8 foot rear yard setback;

- The petitioner has not presented a hardship.
- The petitioner has not justified a variance under the conditions the board must find to grant a variance.

ITEM #5

The chairman asked the petitioner if they would like to table their request and the responded, they would take their chances.

Yeas: 3- Alaimo, Beltramini, Sosnowski
Nays: 3- Courtney, Milia, Fejes
Absent: 1- Giachino

MOTION FAILS

Motion by Milia
Supported by Fejes

MOVED, to grant Srikant & Devika Raghavan, 1525 Oakcrest, a variance, as requested, to construct a 42.75'x 14' addition, resulting in a 31.8 foot rear yard setback;

- The variance would have little or no impact on the neighbors.
- The use is not contrary to public opinion.
- The objections are purely academic, the properties are too far away and not impacted.
- Conforming is unnecessarily burdensome.

Mr. Courtney suggested tabling the resolution, indicating that the vote would probably be the same and the motion would fail. The petitioner should be given the benefit of a full Board.

Motion by Alaimo
Supported by Fejes

MOVED, to table the resolution to approve until the next regular meeting (November 17, 1998) to give the petitioner the benefit of a full board.

Yeas: 6
Absent: 1- Giachino

MOTION TO TABLE RESOLUTION UNTIL THE NOVEMBER 17, 1998 MEETING CARRIED

ITEM #6 VARIANCE REQUESTED: Leo Derderian, 1825 Birchwood (proposed address), for relief of the setback from Bellingham and relief to provide parking is the required setback.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 17,316 square foot industrial building at the northeast corner of Birchwood and Bellingham. The plot plan shows the proposed building would have a 25 foot setback from Bellingham. The Zoning Ordinance requires a 50 foot setback. The plan also shows parking in the front setback from Bellingham. The Zoning Ordinance does not permit parking within a required setback from the street.

ITEM #6

Mr. Derderian was present and stated that he has been working for over one year to purchase and put this parcel together. Mr. Derderian stated that it is a difficult parcel to develop in that it has two front setbacks. It requires a large area for greenbelt and landscaping because of the two front setbacks. The development will clean up and enhance the area. If he did not have two front yards he could develop the structure proposed. In response to a question from the Board, Mr. Derderian stated he did not have a tenant for the site at this time.

Mr. Courtney questioned whether either of the two streets were scheduled for vacation. Mr. Shripka explained that neither street was scheduled at the present time.

The chairman opened the public hearing.

Doug MacPetrie, 1830 Woodslee was present and objected to the variance, indicating that he has two setbacks and complied to the ordinance. Other buildings in the area meet the setbacks.

Mr. Derderian stated that to construct a building that met setbacks would not allow utilizing the property to its full extent.

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

There were 3 written objections on file.

Motion by Fejes
Supported by Alaimo

MOVED, to deny the request from Leo Derderian, 1825 Birchwood (proposed address), for relief to construct a new 17,316 square foot industrial building, resulting in a 25 foot front setback from Bellingham;

- The petitioner has not shown a hardship.
- This is a large variance.

Yeas: 6
Absent: 1- Giachino

MOTION TO DENY REQUEST CARRIED

ITEM #7 VARIANCE REQUESTED: Craig M. Zito & Mary T. Chester, 600 Redwood, for relief of the side yard setback.

ITEM #7

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 22'x20' detached garage. The plot plan shows the proposed garage would be 3 feet from the south lot line. The Zoning Ordinance requires a minimum setback of 6 feet from the side or rear lot line.

Craig Zito was present and stated that their subdivision has small lots. Also, he has a large tree in the rear yard, which limits the location of the garage. Over 90% of the garages in the area are 3 feet from the lot line. If he were to construct a garage 6 feet from the lot line it would look out of place compared to others in the area. Also, to place the garage at a 6 foot setback from the side lot line would make maneuvering out of the garage difficult.

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

There were 7 written approvals on file.

Motion by Milia
Supported by Beltramini

MOVED, to grant Craig M. Zito and Mary T. Chester, 600 Redwood, a variance, as requested, for relief to construct a 22' x 20' detached garage, 3 feet from the south lot line;

- The variance is not contrary to public interest.
- The variance is in character with the neighborhood.
- Compliance is unnecessarily burdensome.

Yeas: 6
Absent: 1- Giachino

MOTION TO APPROVE REQUEST CARRIED

ITEM #9 VARIANCE REQUESTED: Tech Express Corp. on behalf of Sun Company, Inc., 1490 E. Maple Road, for relief of the required setback from Stephenson, the required setback from Maple and relief to expand a non-conforming site.

ITEM #9

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a new canopy along Stephenson and replace pump islands and gas pumps under the existing canopy fronting on Maple. The plot plan shows (1) The new canopy supports would result in a 20.08 foot setback from Stephenson, and the canopy edges would have an 8 foot setback from Stephenson, and the pump island setback would be 19.8 feet from Stephenson. (2) New pump islands along Maple would have a 20.5 foot setback from Maple, where the existing canopy has a 20.8 foot setback to the supports and a 10 foot setback to the canopy edge. The canopy setback is an existing legal non-conforming setback. The Zoning Ordinance requires a 35 foot setback to canopy supports, a 25 foot setback to the canopy edge and a 30 foot setback to pump islands. Also, the Zoning Ordinance does not allow expansions of nor additions to non-conforming sites.

Kurt Beleck, of Tech Express, representing Sunoco was present. Mr. Beleck stated that Sunoco is being required to upgrade their station to meet the 1998/99 EPA regulations. Part of that requirement is they have to remove and replace non-conforming canopies and dispensers along both Maple and Stephenson. The entire island will have to be demolished and replaced with a new islands and underground piping has to be changed and upgraded. They are asking for a variance along Stephenson to provide a canopy for weather protection. Part of their plan, if they receive approval is clean up the clutter and directional signage. Knowing the dispensers along Maple Road are outside the setback, the plan to forgo the two dispensers and install one dispenser.

Mr. Sosnowski questioned if all islands were out of conformance and also asked if anything was being changed. Mr. Shripka responded that the canopy along Maple Road is existing, they are going to remove the island, clean it up and push it back. The main variance would be canopy along Stephenson.

Mr. Milia noted that the petitioner keeps referencing the removal and upgrading of the pump islands and dispensing units, noting that the confusion on the site seems to be the service garage. He noted the number of cars that were parked outside and the time they had been there. Mr. Milia asked if this was more of a service garage than gas dispensing station. Mr. Beleck responded that the primary revenue for the station is gasoline sales.

Ms. Beltramini questioned any impact on the landscaping of the site, especially the two trees along Stephenson. Mr. Beleck stated that the tree would only have to be trimmed, the canopy would not interfere with the tree.

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

Motion by Alaimo
Supported by Sosnowski

ITEM #10

MOVED, to grant Tech Express Corp., 1490 E. Maple Road, a variance, as requested, for relief to alter an existing non-conforming site resulting in: (1) a canopy with canopy supports 20.08 feet from Stephenson and the canopy edge 8 feet from Stephenson and the pump island 19.8 feet from Stephenson; (2) pump islands with a 30.5 foot setback from Maple, a canopy with supports 20.8 feet from Maple and the canopy edge 10 feet from Maple;

- The variance is not contrary to public interest.
- The variance will not establish a prohibited use in the zoning district.
- The variance will not cause an adverse effect to properties in the immediate vicinity or zoning district.
- The variance relates only to the property described in the application.
- This is a large piece of property, but because they have to live with the building they have it would be unnecessarily burdensome to
- The petitioner is cleaning up and improving the site.

Yeas: 6
Absent: 1- Giachino

MOTION TO APPROVE REQUEST CARRIED

The Board of Zoning Appeals adjourned at 9:00 p.m.

GAS/ddb