

A regular meeting of the Board of Zoning Appeals was called to order at 7:34 P.M. on Tuesday, May 20, 1997 by Chairman Jerald Sosnowski in the Council Chambers of Troy City Hall.

Present: Michael Alaimo
Kenneth Courtney
Christopher Fejes
James Giachino
Carmelo Milia
Jerald Sosnowski
Wayne Wright

John Martin
Gary A. Shripka

ITEM #1. Approval of Minutes - April 15, 1997

Motion by Milia
Supported by Wright

MOVED, to approve the April 15, 1997 minutes as written.

Yeas: All Present (7)

MOTION TO APPROVE CARRIED.

RENEWALS

ITEM #2 RENEWAL REQUESTED: Clark Refining & Marketing, 3400 Rochester for relief of the 6 foot high masonry screening wall required along the east and a 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 lieu of the 6 foot high masonry screening wall required along the 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 of their variance to maintain this fence in lieu of the masonry wall. Conditions remain the same, there are no complaints or objections on file.

The petitioner has requested tabling this item to the June 17, 1997 Regular Meeting.

ITEM #3 RENEWAL REQUESTED: Big Beaver United Methodist Church, 3753 John R, for relief of the 4'6" high masonry wall required along the north, east and west sides of off-street parking.

Mr. Shripka explained that the petitioner is requesting renewal of a variance granted in 1994 for relief of the 4'6" high masonry wall required along the north, east and west sides of off-street parking areas. Relief has been granted based on the fact the wooded areas provide a natural screening and a variance would not cause an adverse effect to the properties in the immediate vicinity. Conditions remain the same, there are no objections or complaints on file.

Linda Fritsch of 615 Trinway was present on behalf of the church. She asked that the variance be changed from a one year to a three year renewal.

Motion by Giachino
Supported by Wright

MOVED, to grant Big Beaver United Methodist Church a three (3) year renewal of their variance for relief to maintain a 4'6" masonry wall along the north, east and west sides of the off-street parking areas, for the following reasons:

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

Yeas: All Present (7)

MOTION TO RENEW VARIANCE FOR THREE (3) YEARS CARRIED.

ITEM #4 RENEWAL REQUESTED: San Marino Social Club, 1685 E. Big Beaver, for relief of the 6 foot high masonry screening wall required along the north property line.

Mr. Shripka explained that the petitioner is requesting renewal of a variance granted, by this Board, for relief of the 6 foot high masonry screening wall required adjacent to the residential zoned district to the north. This relief has been granted on a yearly basis since 1976, primarily due to the fact the adjacent residential property is undeveloped and owned by the petitioner. Conditions remain the same, we have no objections or complaints on file.

The petitioner has requested tabling this item to the June 17, 1997 Regular Meeting

ITEM #5 RENEWAL REQUESTED: First United Methodist Church of Troy, 6363 Livernois, for relief of the 4'6" high masonry wall required along the north, south and west sides of off-street parking.

Mr. Shripka explained that the petitioner is requesting renewal of a variance granted, by this Board, in 1989 for relief of the 4'6" high masonry screening wall required along the north, south and west property lines. The request was originally approved based on the fact the area has substantial screening to the south and to the west and no useful purpose would be served by strict enforcement of the ordinance. Conditions remain the same, there are no objections or complaints on file.

The petitioner has requested tabling this item to the June 17, 1997 Regular Meeting.

ITEM #6 RENEWAL REQUESTED: Faith Lutheran Church, 37635 Dequindre, for relief of the 4'6" high masonry wall required along the west side of off-street parking.

Because the church has installed all necessary and required screening walls, no further action is necessary.

ITEM #7 RENEWAL REQUESTED: Jack Christenson, Inc., Realtors, 2282 W. Big Beaver, for relief of the 6 foot high masonry screening wall required along the north property line.

The petitioner is requesting renewal of a variance granted, by this Board, for relief of the 6 foot high masonry screening wall required along the north property line of their site which is adjacent to residential zoned property. This relief was originally granted in the 1970's primarily due to the fact the adjacent residential land to the north contains a large retention pond. Conditions remain the same, there are no objections or complaints on file.

The chairman moved this item to the end of the agenda to give the petitioner the opportunity to be present.

TABLED ITEMS

ITEM #8 RENEWAL REQUESTED: Michigan Bell Telephone, 6950 Crooks Road, for relief of the 4'6" high masonry wall required along the east side of off-street parking.

The petitioner is requesting renewal of a variance for relief of the 4'6" masonry screening wall required at the off-street parking on this site. This variance has been granted on a yearly basis since 1971, primarily due to the fact that the adjacent land to the east is undeveloped. Conditions remain the same, we have no objections or complaints on file. This item has been tabled at the last two regular meetings to give the petitioner the opportunity to be present.

The chairman moved this item to the end of the agenda to give the petitioner the opportunity to be present.

ITEM #9 VARIANCE REQUESTED: Hooters of Troy, Inc., A Michigan Corporation, 1686 John R., for relief of the required landscaping and relief of the 5 foot wide sidewalk required between the face of the building and a vehicular use area.

Mr. Shripka explained that the petitioner originally appeared before this Board at the April 15, 1997 meeting. At that time the petitioner requested relief of the Zoning Ordinance to expand their parking lot. The Zoning Ordinance requires 3,365 square feet of landscaping. The plot plan shows 2,213 square feet. The Zoning Ordinance also requires a 5 foot wide sidewalk between the face of the building and any vehicular use area. No sidewalks are shown on the plot plan. At that meeting, the Board tabled action on this item to give the City the opportunity to respond to questions of a wall along Virginia.

The chairman opened the public hearing.

Charles Lang, Attorney for Hooters, Michael VanLoon, Architect and Brent Rittersdorf, Manager, were present on behalf of Hooters. They will build a brick wall between Hooters and the immediate property to the east. He noted that they had met with the spokesperson for the residents but had not come to any agreement. There is no City requirement to put wall along Virginia Avenue, but they would be willing to put a greenbelt with a berm and dense arborvitae planting. He felt that walls were unsightly and the planting would help to beautify the area. With the variance for the landscaping, they could have up to an additional 21 parking spaces, making a total of 90 spaces. If they do not get the variance, they will lose at least 6 parking spaces. There is no way to expand as the party store to the south does not plan to sell their property. He noted that the City Council has asked them to expand their parking area. He felt that it

Virginia Avenue was opened, no parking signs could be placed on both sides of the street to curb any parking problems.

The chairman declared the public hearing open.

Jim Groebeck of 2044 Virginia was present and objected to the variance.

Dorothy Smith of 2026 Virginia was present and objected to the variance. She has had considerable problems recently with a grease vat at the rear of the restaurant property. Hooters did send someone out to clean up the grease and replaced her decorative stones, but now the area is yellow again and smells. She was opposed to the variance.

Rocco Poselli of 2017 Virginia was present and objected to the variance. He felt that a cement wall is necessary between the parking and Virginia.

Larry Johnson of 2103 Virginia was opposed to a variance. He felt that the restaurant should be isolated from the residential area as much as possible.

Mike Zapinski of 2160 Virginia was opposed to a variance. He did feel that if Virginia is permanently closed, more landscaping and parking would help the situation.

Mr. Lang felt that the parking expansion would eliminate the problems. Hooters does not have a preference regarding the street closing. He noted that most of the problems predate the barricading of the street.

The Board indicated their preference for more landscaping, possibly the elimination of just three parking spaces and a potential variance for just 500 square feet of landscaping.

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

Motion by Giachino
Supported by Wright

MOVED, to grant a variance to Hooters of Troy, Inc., A Michigan Corporation, 1686 John R., relief of the Zoning Ordinance for the 5 foot wide sidewalk required between the face of the building and a vehicular use area;

1. The sidewalk variance will not negatively effect the neighbors.

Yeas: Courtney, Fejes, Giachino, Sosnowski, Wright

Nays: Milia, Alaimo

MOTION FOR THE 5 FOOT WIDE SIDEWALK VARIANCE CARRIED.

Motion by Milia
Supported by Fejes

MOVED, to deny the request of Hooters of Troy, Inc., A Michigan Corporation, 1686 John R., for relief of the Zoning Ordinance for the required landscaping.

1. The request is contrary to the public interest.
2. Public health, safety and welfare of the neighboring area would be adversely effected.

Yeas: All Present (7)

MOTION TO DENY LANDSCAPE VARIANCE CARRIED.

ITEM #10 VARIANCE REQUESTED: Ari EI Enterprises, Inc., for renewal of variance at 1893 Birchwood.

Mr. Shripka explained that the petitioner has originally sent a letter to the Board for their April 1997 meeting requesting renewal of a variance previously granted, based on the fact that they had not as yet secured a tenant for the building. At that meeting this item was tabled to give the petitioner the opportunity to be present.

The petitioner has requested tabling this item to the June 17, 1997 Regular Meeting.

The meeting recessed from 9:00 P.M. to 9:05 P.M.

PUBLIC HEARINGS

ITEM #11 VARIANCE REQUESTED: Sally S. & Kenneth N. Yee, 5125 Shady Creek, for relief of rear yard setback.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 34'3-7/8"x14'7-3/4" addition to the rear of an existing residence. The plot plan shows the proposed addition would result in a 38 foot rear yard setback. The Zoning Ordinance requires a 45 foot rear yard setback.

Moved by Giachino
Supported by Milia

MOVED, to allow Mr. Alaimo to abstain from discussion and voting on this item as he lives across from the subject property.

Yeas: Milia, Courtney, Wright, Sosnowski, Fejes, Giachino
Abstain: Alaimo

MOTION CARRIED

Todd Johnson of Four Seasons was present on behalf of Mr. And Mrs. Yee. He stated that the Yee's have seven children and also anticipate that elderly parents will be living with them. They have owned their home for two years and now would like to add a sunroom to the rear of their home for more space. Eric Bracke, also of Four Seasons, stated that the sunroom would be

used for dining and family gatherings from April to November as the room would not be heated. They have looked at the costs of finishing their basement or adding a room addition, but both were too expensive.

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

The chairman noted that there were 3 approvals and 2 objections on file.

Motion by Milia
Supported by Courtney

MOVED, to deny Sally S. and Kenneth N. Yee, 5125 Shady Creek, a variance as requested to construct 34'3 7/8" x 14'7 3/4" addition to the rear of an existing residence for the following reasons:

1. The variance is excessive and would constitute overbuilding of the lot.
2. It is a new house in a new development and is adequate for the size of their family.
3. Variance would be counterproductive to the property values in adjacent area.

Yeas: Courtney, Fejes, Giachino, Milia, Sosnowski, Wright
Abstain: Alaimo

MOTION TO DENY VARIANCE CARRIED.

ITEM #12 VARIANCE REQUESTED: William & Francine Penn, 543 Hidden Ridge, for relief of the maximum garage size.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 26'x32' detached garage. The plot plan shows construction of the garage would result in accessory buildings totaling 896 square feet. The Zoning Ordinance limits accessory buildings, at this site, to 600 square feet.

William Penn, the petitioner, was present and stated that he needed the garage for storage. Their home is a tri-level, which leaves only a small storage area in the furnace room. He drives a full-size Suburban and needs the extra depth. He has a very deep lot so did not feel that it would interfere with his neighbors. There is a small storage shed located on the property which would remain.

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

Motion by Giachino
Supported by Courtney

MOVED, to deny William and Francine Penn, 543 Hidden Ridge, relief of the Zoning Ordinance to construct a 26'x32' detached garage as the petitioner has not proved a hardship.

Yeas: All Present (7)

MOTION TO DENY VARIANCE CARRIED.

ITEM #13 VARIANCE REQUESTED, Charles Peringian, Troy Auto Body, 2075 Austin, for relief of the side yard setback.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to maintain a spray booth and related equipment. The mechanical equipment serving the spray booth is located in the north side yard, approximately 4 feet from the side lot line. The Zoning Ordinance requires this equipment to be located in rear yards only.

Charles Peringian, the petitioner, was present. He stated that he had hired Wright Tool of Troy to install the spray booth. Wright Tool was responsible for getting the proper permits from the City. They did get mechanical permits but did not realize that a variance was needed to locate the equipment in the side yard. The equipment meets the new government requirements and is environmentally safe.

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

Motion by Alaimo
Supported by Courtney

MOVED, to grant Charles Peringian, Troy Auto Body, 2075 Austin, relief of the Zoning Ordinance to maintain a spray booth and related equipment in the north side yard, approximately 4 feet from the side lot line for the following reasons:

1. A variance would not be contrary to the public interest.
2. Variance is only related to this property.
3. Public and employee health concerns will be improved with the new equipment.
4. It would be difficult to comply with the Zoning Ordinance.

Yeas: All Present (7)

MOTION TO GRANT VARIANCE CARRIED.

ITEM #14 VARIANCE REQUESTED, Tony Fowler, 938 Rankin, for relief of the front yard setback, relief to provide parking in the front yard setback and relief of the greenbelt width.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a new 6,164 square foot industrial building. The plot plan shows the proposed building would have a 25 foot front yard setback and there would be parking along the west property line within 13 feet of the front lot line, and a parking space in front of the building, 8 feet from the front lot line. The Zoning Ordinance requires a 50 foot front yard setback and does not permit parking or structures in the required setback. Also, the Zoning Ordinance requires a 10 foot wide greenbelt along property lines abutting streets. The plot plan shows the greenbelt will only be 8 feet wide in the area of the parking space in front of the building.

Tony Fowler, the petitioner, was present and stated that his reason for needing the variance was due to the growth of his company. He needed as large a building as possible as the new equipment is very large and he needed to stay abreast of new technology. Troy Collision will be the only tenant. He has considered leasing a building, but due to transportation problems it would not be feasible. He would reconsider some of the requested parking area.

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

Motion by Fejes
Supported by Courtney

MOVED, to table the request of Tony Fowler, Troy Collision, 938 Rankin, to the June 17, 1997 meeting in order to give the petitioner an opportunity to work with the City staff and return with a different proposal regarding the setback variance and to relocate front yard parking.

Yeas: All Present (7)

MOTION TO TABLE CARRIED.

ITEM #15 VARIANCE REQUESTED: M. Ross Baldwin & Virginia M. Lansing, 3404_ Adams, for relief of the rear yard setback.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 21'6"x33' addition to the rear of an existing residence. The plot plan shows the proposed addition would result in a 31 foot rear yard setback. The Zoning Ordinance requires a 45 foot rear yard setback.

Ross Baldwin, one of the petitioners, was present. He stated that the addition was planned to be a residence for his 86 year old mother. He does not have a basement and did not want to turn the garage into an apartment. He has a large corner lot which causes him to have double frontages. This appeared to be the only configuration that would work, in order to have windows in the addition and to have continuity with the architectural and roof design of the existing house.

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

Motion by Fejes
Supported by Giachino

MOVED, to grant M. Ross Baldwin & Virginia M. Lansing, 3404 Adams, relief of the Zoning Ordinance rear yard setback to construct a 21'6"x33' addition to the rear of an existing residence;

1. The petitioner has demonstrated a hardship.
2. The lot has double frontage as it is a corner lot.
3. The petitioners need the extra space to take care of an aging parent.
4. The variance will not have an adverse effect on the neighboring property.
5. The variance relates only to this property.

Yeas: Alaimo, Courtney, Fejes, Giachino, Sosnowski, Wright,
Nays: Milia

MOTION TO GRANT VARIANCE CARRIED

ITEM #16 VARIANCE REQUESTED: David & Jane Bishop, 2219 Newburgh, for relief of the rear yard setback.

David & Jane Bishop, 2219 Newburgh. This request has been withdrawn.

ITEM #17 RENEWAL REQUESTED: Jack Christenson, Inc., Realtors, 2282 W. Big Beaver, for relief of the 6 foot high masonry screening wall required along the north property line.

This item was tabled as the petitioner was not present.

ITEM #18 RENEWAL REQUESTED: Michigan Bell Telephone, 6950 Crooks Road, for relief of the 4'6" high masonry wall required along the east side of off-street parking.

This item was tabled as the petitioner was not present.

The meeting adjourned at 10:15 P.M.

GAS/eh