

A regular meeting of the Board of Zoning Appeals was called to order at 7:30 p.m. on Tuesday, October 21, 1997 by the chairman, Gerald Sosnowski.

PRESENT: Michael Alaimo Gary A. Shripka
Kenneth Courtney John Martin
Christopher Fejes
James Giachino
Carmelo Milia
Gerald Sosnowski
Wayne Wright

ITEM #1 Approval of Minutes - September 16, 1997

Motion by Courtney
Supported by Fejes

MOVED, to approve the September 16, 1997 minutes.

Yeas: 6
Abstain: 1 - Alaimo

MOTION TO APPROVE CARRIED

ITEM #2 VARIANCE REQUESTED: Bryden Development, 835 Troywood, for relief of the required lot width.

Mr. Shripka explained that this item first appeared before this Board at the September 16, 1997 meeting. At that time the petitioner was requesting relief of the Zoning Ordinance to split a parcel into 4 lots, A-D. The plot plan showed two of the lots, C & D, were only 76.5 feet wide. The Zoning Ordinance requires a minimum lot width of 85 feet. At that meeting, this item was tabled to give the petitioner the opportunity to submit an alternate plan for the lot split.

Gerald S. Cook, Attorney for Bryden Development - Dennis Siavrakas and Brian Vargason of Bryden Development were present. Mr. Cook showed a site plan of the area, explained the development of Edenderry Subdivision. Mr. Cook showed plan A which was submitted at the last meeting and showed their alternate plan B. On plan B the only lot that does not meet the minimum width is parcel D. Parcel D would need a 5 foot variance. Mr. Cook further noted that if this were approved, they would need a 3 foot setback variance on the corner parcel. They have looked at several alternatives, some of which were a cul-de-sac, a private street and a dead end street. The other alternatives would not work. Mr. Cook also referred to a letter from Mr. Keisling, Planning Director for the City of Troy and his recommendation that plan A was the preferred plan, as the corner lot could meet the setbacks.

Motion by Giachino
Supported by Wright

MOVED, to grant Bryden Development, 835 Troywood, a variance to split a parcel of land into 4 lots, A-D, with lots C & D being 76.5 feet wide where 85 feet is required, based on the following:

1. The proposal was recommended by the City Planner, Laurence Keisling.

ITEM #2

- 2. The variance is not detrimental to the surrounding area.
- 3. The variance does not create a new use.
- 4. The petitioner has agreed to pave a portion of Troywood as it runs along the petitioners property.

Yeas: All 7

MOTION TO APPROVE REQUEST CARRIED

ITEM #3 VARIANCE REQUESTED: Troy Commerce Center, 1100-1170 E. Big Beaver, for relief to provide parking in the required front setback.

Mr. Shripka explained that the petitioner is requesting to continue parking in the required front setback form Big Beaver. The Zoning Ordinance requires a 50 foot setback and does not permit structures or parking in the required setback. The petitioner had previously appeared before this Board, beginning in 1973 and had obtained a variance and renewals up until July 21, 1997. At that time the request for renewal was denied based on the fact the petitioner has failed to appear for a number of meetings.

Mike Dooley was present and stated that the conditions remain the same. They cannot provide enough parking in the rear because of a large drain. They have approximately 52-56 parking spaces in the front. Mr. Dooley stated that if the drain were ever enclosed they would provide parking and give up parking in the front.

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 Fejes
Supported by Giachino

MOVED, to grant Troy Commerce Center, 1100-1170 E. Big Beaver, a one year renewal of their variance to provide parking in the required front setback;

- 1. The petitioner has a unique piece of property which does not permit full use of the rear yard area for parking.

Yeas: All 7

MOTION TO APPROVE VARIANCE FOR ONE YEAR CARRIED

ITEM #4 INTERPRETATION REQUESTED: 190 E. Maple Investments L. P. c/o Etkin Equities, 190 E. Maple for an interpretation of their use.

ITEM #4

Mr. Shripka explained that the petitioner is requesting an interpretation of the Zoning Ordinance for parking designations. The petitioner is requesting an interpretation that their use be a furniture/appliance sales showroom. The City has determined that this site, to be occupied by Michigan Chandelier, a company which retails electrical supplies and lighting fixture, should be considered as a general retail store, which requires parking at the rate of 1 space for every 200 square feet of gross floor area. The petitioner believes he should be categorized as a furniture/appliance and service trades showroom and sales use. This use only requires 1 parking space for each 1,000 square feet of gross floor area, plus one for each employee.

Robert Bednas of Etkin Equities was present and stated that the nature of the business is contractor and design construction sales. This makes up 2/3 of their business. They have a large storage area, an administration area and a staff geared to service trades. The retail is only a small portion of the business. They feel it is a service trades showroom. Mr. Bednas stated that he feels you would not see 40 cars at the site at any one time.

Mr. Giachino questioned the City's interpretation and Mr. Shripka explained the City's interpretation of the use and ordinance.

Mr. Courtney indicated that maybe they should seek a parking variance instead of an interpretation.

Doug Etkin, Etkin Equities was present and explained their purchase of the site from Beckwith Evans and difficulties with the property. Indicating it was developed before present codes, which creates a practical hardship.

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

Motion by Giachino
Supported by Milia

MOVED, to grant 190 E. Maple Investments, L. P., c/o Etkin Equities, 190 E. Maple, an interpretation that the use of the subject property is a furniture/appliance showroom, not a retail sales by nature;

- 1. 2/3's of the business is service trades oriented.

Yeas: 6- Milia, Sosnowski, Fejes, Alaimo, Wright, Giachino
Nays: 1- Courtney (to not approve does not deny the proposed use, they could seek a parking variance.

MOTION TO APPROVE INTERPRETATION CARRIED

ITEM #5 VARIANCE REQUESTED: Oldrich & Stefania Fukala, 1662 Westwood, for relief of the rear yard setback.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 12'x15.5' sun room. The plot plan shows the proposed addition would result in a 30 foot rear yard setback. The Zoning Ordinance requires a 35 foot rear yard setback.

Oldrich Fukala was present. Larry Wesley, (a neighbor) 1663 Westwood, was present to speak on behalf of Mr. Fukala. Mr. Wesley stated that the house is very small and there are no windows on the south side. They only have one room to live in and this is the only way they can expand the home. They plan to enclose the existing deck area with the sun room, allowing them more living area. Mr. Wesley also noted that the neighbors had no objections. Mr. Wesley stated that he approved of the request.

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

Motion by Alaimo
Supported by Fejes

MOVED, to grant Oldrich & Stefania Fukala, 1662 Westwood, a variance, as requested, for relief to construct a 12'x15.5' sun room addition, resulting in a 30 foot rear yard setback where 35 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. Conforming is burdensome given the layout of the home.

Yeas: All 7

MOTION TO APPROVE REQUEST CARRIED

ITEM #6 VARIANCE REQUESTED: Jack Christenson, 2282 W. 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 reinstatement of a zoning variance. The Zoning Ordinance requires a 6 foot high masonry screening wall along the north property line where non-residential abuts residential zoning. The petitioner is requesting a variance to omit that wall. This variance was originally heard before this Board in 1983. At that point relief was granted relief and renewed until July of 1997. At that time the request was denied based on the fact the petitioner has failed to appear for renewal hearings.

ITEM #6

Jim Haggerty was present to represent the petitioner. Mr. Haggerty stated that conditions remain the same as before and they would like to reinstate the variance.

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

Motion by Milia
Supported by Wright

MOVED, to grant Jack Christenson, 2282 W. Big Beaver, a one year, renewable variance, for relief of the 6 foot high masonry screening wall required along the north property line where non-residential abuts residential:

1. This is a reinstatement of a variance granted 1983.
2. There are no objections or complaints on file.

Yeas: All 7

MOTION TO GRANT VARIANCE FOR ONE YEAR CARRIED

ITEM #7 VARIANCE REQUESTED: Dave & Lynn Khadra, 5283 Standish, for relief of the rear yard setback.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct an 18'x16' sun room addition. The plot plan shows the proposed addition would result in a 28.5 foot rear yard setback. The Zoning Ordinance requires a 40 foot rear yard setback.

Dave and Lynn Khadra were present. Mr. Khadra showed the Board a site plan of the area and surrounding lots. Mr. Khadra stated that the lots they back up to are large lots and there is no home directly behind them. He feels that the proposed addition would have no impact on the properties to the rear. Mr. Khadra further stated that they had a similar enclosure at their previous home and would like to have one again. The proposed addition is smaller than an existing deck. This would be a 3 season sun room.

Mr. Giachino questioned construction of a 10 or 14 foot deep sun room addition. The petitioner did not indicate that he would be willing to change the size.

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 Fejes
Supported by Courtney

ITEM #7

MOVED, to grant Dave and Lynn Khadra, 5283 Standish, a variance, as requested for relief to construct an 18'x16' sun room addition, which results in a 28.5 foot rear yard setback where 40 feet is required;

1. The variance is not contrary to public interest

- 2. The variance will not establish a prohibited use within the zoning district.
- 3. The variance relates only to the property described in the application.
- 4. The property to the rear is unique and the variance will not take away from the value of the surrounding property.

Yeas: 5- Courtney, Wright, Milia, Sosnowski, Fejes
 Nays: 2- Alaimo, Giachino

MOTION TO APPROVE REQUEST CARRIED

ITEM #8 VARIANCE REQUESTED: James Ayers, 4190 Walnut Hill, for relief to exceed maximum height allowed for an antenna.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to maintain an amateur radio antenna erected without a permit. The Zoning Ordinance requires roof mounted antennas extend no more than 12 feet above the highest point of the roof. The petitioners antenna extends 23 feet above the highest point of the existing roof.

James Ayers was present and stated that the antenna was a mast antenna attached to the rear of the garage. His son-in-law, Andy Fisher, is an amateur radio enthusiast. They were not aware that a permit was required. Andy Fisher was present and indicated the reasons he needed the height for radio communications. Mr. Fisher also briefly explained some of the documents submitted with the application regarding F. C. C. regulations.

Phil Ode, 4805 Whisper Way was present and stated he was President of the Hazel Park Radio Club. Mr. Ode stated several functions the ham radio operators participate in, and the services they provide. If the petitioner were to erect an antenna to meet specifications, it would not be usable.

The chairman opened the public hearing.

Jim Murphy, was present and approved of the request, stating that to have less antenna, the petitioner would require more power to operate.

Tom Krausnick, 174 Lange, was present and approved of the request.

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

The Board, Mr. Fisher and Mr. Ode further discussed amateur radio and antenna needs.

ITEM #8

There was 1 written approval and 2 written objections on file.

Motion by Courtney
Supported by Milia

MOVED, to table the request of James Ayers, 4190 Walnut Hill, to maintain an antenna that extends 23 feet above the highest point of the roof where 12 feet is permitted;

1. Tabling action will give the petitioner the opportunity to apply to the Planning Commission for a change to the ordinance.
2. The petitioner can maintain the antenna during this time.
3. Tabling action is for three (3) months.

Yeas: All 7

MOTION TO TABLE REQUEST CARRIED

ITEM #9 VARIANCE REQUESTED: John Bertoia, 1076 Birchwood, for relief of the relief of the square foot area required for a duplex.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 2500 square foot duplex. The plot plan shows the parcel is 9,600 square feet. The Zoning Ordinance requires a minimum lot area of 10,000 square feet to construct a duplex.

John Bertoia and his son Jack Bertoia were present. Jack Bertoia stated that they can meet the minimum width required for construction. They are only short 400 square feet and can meet the setback requirements. There are other duplex homes in the area, setting a precedent on the street. They plan to demolish the structure on the property, as it has deteriorated beyond repair and construct a new duplex which will enhance the neighborhood.

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

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

Motion by Milia
Supported by Courtney

MOVED, to grant John Bertoia, 1076 Birchwood, a variance, as requested, for relief to construct a 2500 sq. ft. duplex on a 9600 square foot site where 10,000 is required;

1. The variance is not contrary to public interest.
2. The variance does not establish a prohibited use in the zoning district.

ITEM #9

3. The variance does 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. A duplex is consistent with the neighborhood.
6. It is an improvement over the present condition of the property.

Yeas: All 7

MOTION TO APPROVE REQUEST CARRIED

ITEM #10 VARIANCE REQUESTED: Jerry D’Adamo, 4889 Rochester, for relief of the required setback from Rochester Road.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 15’x28’ play area addition. The plot plan shows the proposed addition would result in a 70 foot front yard setback. The Zoning Ordinance requires a 75 foot front yard setback.

Mr. D’Adamo was present and stated that their request was to construct a play area attached to the restaurant. The play area addition is to remain consistent and competitive with other restaurants. Mr. D’Adamo stated his hardship is that he could meet the setback until the City took 5 feet of the property for additional right-of-way.

The Board asked Mr. D’Adamo if he could pull the addition in 5 feet and he indicated that he could not, because he would not have enough seating.

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

There was 1 written objection on file.

Motion by Giachino
Supported by Fejes

MOVED, to grant Jerry D’Adamo, 4889 Rochester Road, a variance, as requested, for relief to construct a 15’x28’ addition on the front of an existing building, resulting in a 70 foot front setback where 75 feet is required;

1. The variance is not contrary to public interest.
2. The variance will not cause an adverse affect to properties in the immediate vicinity of zoning district.
3. The addition, at the site, would meet the setbacks if the City had not increased the right-of-way.

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

ITEM #10

MOTION TO APPROVE REQUEST CARRIED

ITEM #11 VARIANCE REQUESTED: John R. Doctor & Elaine I. Doctor, 6255 Evanswood, for relief to construct an accessory building in the side yard, relief to exceed the allowed size for an accessory building, relief to exceed the height permitted for an accessory building.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 46’x52’ detached garage. The plot plan shows the garage would be located in the north side yard. The Zoning Ordinance permits accessory structures in the rear yard only. The plan also shows the garage is 2,340 square feet and 25 feet high. The Zoning Ordinance limits the size of accessory buildings at this location to 2,044 square feet and limits accessory buildings to 14 feet in height.

Mr. Doctor showed the board plans and renderings for the his site. The plans showed the proposed home addition, the proposed accessory building, their locations and the location of trees on the property. Mr. Doctor stated that he proposes to locate the accessory building in the side yard to preserve several large trees. Also, to move the building back on the property to be in the rear yard, he would be very close to the wetlands area. Mr. Doctor stated that the size of the accessory building and height is needed to store his recreational vehicles. The barn like design of the barn is to match the home and create a country like atmosphere.

The Board questioned Mr. Doctor on lowering the height of the accessory building. Mr. Doctor stated he needed the height for his recreational vehicles.

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

Motion by Courtney
Supported by Wright

MOVED, to grant John R. & Elaine I Doctor, 6255 Evanswood, a variance, as requested, for relief to construct a 46'x52' x 25' high accessory building in the side yard, where the Zoning Ordinance limits the size of an accessory building to 2044 square feet, 14 feet high and limits placement to the side yard;

1. The variance will permit the petitioner to save mature trees.
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 is not contrary to public interest.
5. The variance relates only to the property described in the application.

ITEM #11

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

MOTION FAILS - REQUEST DENIED

ITEM #12 ITEM WITHDRAWN FROM AGENDA

ITEM #13 VARIANCE REQUESTED: Dipti Sharat Shah, 2606 W. Square Lake Road (proposed address), for relief of the front setback.

Mr. Shripka explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 5,033 square foot single family residence. The plot plan shows the proposed construction would result in a front yard setback of 30 feet. The Zoning Ordinance requires a 50 foot front yard setback.

Vishal Shah, the owner/petitioner and Robert Lindh, of Urban Land Consultants were present. Mr. Lund stated that the layout of the property is unique in its shape. The Square Lake Road Right-Of-Way increases at the east property line of this site. The setback variance will allow room in the rear yard for a deck and pool. A private driveway is planned access all three sites abutting Square Lake Road. Mr. Shah stated that his family would be constructing homes on the other two lots.

Mr. Giachino questioned relocation of the home on the lot, allowing a greater setback from Square Lake or turning the house on the lot. Mr. Shah stated that his rear yard would be adjacent to the neighbor's side yard, which he feels would not be desirable for the neighbor. To turn the home on the lot would result in the living area being placed where they would get noise from the road traffic. Mr. Shah also stated that he wanted to construct a home comparable to the neighboring homes in the area.

The chairman opened the public hearing.

Jon Parisen, 2759 Charnwood, was present and after reviewing the site plan and plans with Mr. Lindh and Mr. Shah, objected to the variance, stating he would like to see the petitioner meet the required setbacks.

Kent Hascall, 2825 Charnwood (Lot #5) , was present and after reviewing the site plan and plans with Mr. Lindh and Mr. Shah, objected to the variance, indicating that the lot was being overbuilt, most homes in the area are 2300 to 2500 square feet. Mr. Hascall also noted that the owner of Lot #4 also objected to the variance.

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

There was 1 written approval and 2 written objections on file.

ITEM #13

Motion by Giachino
Supported by Milia

MOVED, to deny the request of Dipti Sharat Shah, 2606 W. Square Lake Road (proposed address), for relief to construct a 5,033 square feet home, resulting in a 30 foot front setback where a 50 foot front setback is required;

1. The petitioner has not presented a sufficient hardship.
2. The site is buildable without a variance.

Yeas: All 7

MOTION TO DENY REQUEST CARRIED

The Board of Zoning Appeals adjourned at 9:45 p.m.

GAS/ddb