The Chairman, Matthew Kovacs, called the meeting of the Board of Zoning Appeals to order at 7:32 P.M., on Tuesday, September 16, 2008 in Council Chambers of the Troy City Hall.

PRESENT:	Michael Bartnik Kenneth Courtney Marcia Gies Matthew Kovacs Dave Lambert
ALSO PRESENT:	Mitch Grusnick, Residential Plan Analyst Allan Motzny, Assistant City Attorney Pamela Pasternak, Recording Secretary
ABSENT:	Glenn Clark Wayne Wright

Motion by Courtney
Supported by Bartnik

MOVED, to excuse Mr. Wright from this meeting for personal reasons.

Yeas:	5 –Courtney, Gies, Kovacs, Lambert, Bartnik
Absent:	2 – Clark, Wright

MOTION TO EXCUSE MR. WRIGHT CARRIED

Mr. Kovacs informed that the petitioners that they did have the option of postponing their requests due to the fact that there are two members missing.

ITEM #1 – APPROVAL OF MINUTES – MEETING OF AUGUST 19, 2008

Motion by Lambert
Supported by Courtney

MOVED, to approve the minutes of the meeting of August 19, 2008 as written.

Yeas:	4 – Courtney, Kovacs, Lambert, Bartnik
Absent:	1 – Clark
Abstain:	1 – Gies

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

ITEM #2 - APPROVAL OF ITEMS #3 THROUGH ITEM #6

JHC

ITEM #2 – con't.

RESOLVED, that Items #3 through #6 are hereby approved in accordance with the suggested resolutions printed in the Agenda Explanation.

Motion by Courtney
Supported by Gies

Yeas: 5 – Kovacs, Lambert, Bartnik, Courtney, Gies
Absent: 1 - Clark

ITEM #3 – RENEWAL REQUESTED. HANDLEMAN REAL ESTATE LLC, 500 KIRTS, for relief of the 6' high masonry screening wall required along the west 606' of the north property line where it abuts residentially zoned land.

Mr. Grusnick explained that the petitioner is requesting renewal of relief, granted by this Board, of the required 6' high masonry-screening wall along their northern property line where it abuts residentially zoned land. This relief was originally granted in 1984, based on the fact that the petitioner would be installing a berm with evergreen and deciduous plantings to screen the residential sites. A portion of the property to the north has been rezoned to the C-F zoning classification and therefore the renewal of relief is only required for the west 606 feet. This item last appeared before this Board in September 2005 and was granted a three (3) year renewal at that time. Other than the change of adjacent zoning the conditions remain the same and there are no complaints or objections on file.

MOVED, to grant the request of Handleman Company, 500 Kirts, a three (3) year renewal of their variance for relief of the 6' high masonry-screening wall required along the west 606 feet of their northern property line where it abuts residentially zoned land.

- A berm with landscape is provided along the property line.
- Conditions remain the same.
- There are no objections or complaints on file.

ITEM #4 – RENEWAL REQUESTED. PB & J INTERNATIONAL DEVELOPMENT, 6050 LIVERNOIS, for relief to maintain a 6' high wood fence in lieu of the 6' high masonry screen wall required along the north property line.

Mr. Grusnick explained that the petitioner is requesting renewal of relief granted by Board to maintain a 6' high wood fence in lieu of the 6' high masonry-screen wall required along the north property line. The Board originally granted this relief in 1989 when the second building was constructed. This item last appeared before this Board in September 2005 and was granted a three (3)-year renewal at that time. This property has since been sold to different corporations and therefore now requires two (2) renewals. We have no objections or complaints on file.

ITEM #4 – con't.

MOVED, to grant the request of PB & J International Development 6050 Livernois, a three (3) year renewal of relief to maintain a 6' high wood fence in lieu of the 6' high masonry-screen wall required along the north property line.

- There are no objections or complaints on file.
- Conditions remain the same.

ITEM #5 – RENEWAL REQUESTED. F & A INVESTMENTS, 6054 LIVERNOIS, for relief of the Ordinance to maintain a 6' high wood fence in lieu of the 6' high masonry screen wall required along the north property line and also along the east property line where the site abuts residentially zoned property.

Mr. Grusnick explained that the Petitioner is requesting renewal of relief to maintain a 6' high wood fence in lieu of the 6' high masonry screen wall required along the north property line and relief of the 6' high masonry screen wall required along the east property line where the site abuts residentially zoned property. The Board originally granted this relief in 1989 when the second building was constructed. This item last appeared before this Board in September 2005 and was granted a three (3)-year renewal at that time. This property has since been sold to different corporations and therefore now requires two (2) renewals. We have no objections or complaints on file.

MOVED, to grant F & A Investments, 6054 Livernois a three-year (3) renewal of relief to maintain a 6' high wood fence in lieu of the 6' high masonry screen wall required along the north property line and relief of the 6' high masonry screen wall required along the east property line where the site abuts residentially zoned property.

- There is existing vegetation along the east property line.
- Conditions remain the same.
- There are no objections or complaints on file.

ITEM #6 – RENEWAL REQUESTED. ST. NICHOLAS GREEK ORTHODOX CHURCH, 760 W. WATTLES, for relief to maintain a 4'-6" high landscaped berm in lieu of the 4'-6" high masonry screen wall required where the parking abuts residential zoned property.

Mr. Grusnick explained that the petitioner is requesting renewal of relief granted by this Board to maintain a 4'-6" high landscaped berm in lieu of the 4'-6" high masonry-screen wall required along their parking areas which abut residential zoned property. This relief was originally granted in 1990 based on the fact that one side abuts a cemetery and the petitioner would install 4'-6" high landscaped berm. This item last appeared before this Board at the meeting of September 2005 and was granted a three (3)-year renewal at that time. Conditions remain the same and we have no complaints or objections on file.

ITEM #6 – con't.

MOVED, to grant St. Nicholas Greek Orthodox Church, 760 W. Wattles, a three (3) year renewal of relief to maintain a 4'-6" high landscaped berm in lieu of the 4'-6" high masonry-screen wall required along their parking areas which abut residential zoned property.

- Conditions remain the same.
- There are no objections or complaints on file.

ITEM #7 – APPROVAL REQUESTED. MELISSA & BRIAN VANTONGEREN, 5361 LIVERNOIS, for approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property.

Mr. Grusnick explained that the petitioners are requesting approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property. The Ford F350 Cube Van described in the application does not meet the exceptions found in Section 40.66.00 of Chapter 39 of the Troy City Ordinance. In 2003, the petitioners were granted approval under the previous procedures by City Council, to store a cube van outdoors on the property. In 2006 they applied for renewal of that approval but later withdrew that request because they had sold the vehicle. They now have apparently purchased another vehicle and are asking for approval to park this vehicle outdoors on the property.

This item first appeared at the meeting of August 19, 2008 and was postponed to allow the petitioner the opportunity to present the Board with documentation regarding their efforts to meet the criteria in "A" or "B"; and also to allow the petitioners to bring in a plan showing the addition of more landscaping.

Mr. & Mrs. Vantongeren were present. Mrs. Vantongeren presented the Board with documentation showing the routes that Mr. Vantongeren takes as well the cost involved with storing the vehicle at an outdoor storage lot and presented the Board with a letter from the Ace Door Company indicating that their garage could not be modified to accommodate this vehicle.

Mr. Kovacs said that in his opinion the different routes that make up Mr. Vantongeren's job make it difficult to store this vehicle at another site. There are storage units close to the home that are in the city. Mr. Kovacs said that he felt the petitioner met the criteria "B" that demonstrates that the existing structure cannot accommodate this vehicle.

Mr. Kovacs informed the petitioner that they needed four (4) votes for approval and if they wished they could postpone this request until the meeting of October to allow the opportunity of a full Board or they could have the Board vote on this request tonight.

Mr. Lambert stated that before the petitioners decided to request postponement, they might allow the Board the opportunity to discuss this item. Mr. Lambert further stated

ITEM #7 – con't.

that based on the information the petitioners distributed to the Board, he feels that approval would be appropriate as they meet criteria "B".

Mr. Kovacs said that the petitioner has met the burden that indicates this garage cannot be added too.

Mr. Bartnik said that in his opinion the petitioners did supply evidence that they cannot modify this particular garage. Mr. Bartnik further stated that he feels the petitioner met criteria "B" and provided a letter from a garage door builder indicating that this structure could not be made any larger.

Mr. Courtney said that there are a lot of vehicles that cannot be stored in the garages that exist. Mr. Courtney said that he would be inclined to approve this request as long as there was a time limit placed on the variance.

Mr. Kovacs asked Mr. Courtney if he felt that the petitioner did not meet criteria "B".

Mr. Courtney said that just because the vehicle cannot fit into a garage, he would not want this type of vehicle stored outside next to his home.

Mr. Kovacs stated that criteria "B" states that that the structure cannot reasonably accommodate or be modified in a way that it could store this vehicle. Mr. Kovacs said that he believes Mr. Lambert and Mr. Bartnik feel that this structure could not be modified in a reasonable manner to accommodate this truck.

Mr. Courtney said that the he agrees but that there are a number of trucks parked outside that he would not want parked next to his house. Mr. Courtney further stated that he would agree to approve this request, but not for a long period of time.

Mr. Motzny stated that the approval cannot exceed two (2) years, but the Board could approve a time frame that would be less than the two (2) years.

Mr. Courtney said that he would be willing to allow approval for two (2) years, but also informed the petitioner that at the end of the two years, other accommodations should be made for this vehicle.

Motion by Courtney
Supported by Gies

ITEM #7 – con't.

MOVED, to grant Melissa & Brian Vantongeren, 5361 Livernois, approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property for a period of two (2) years.

- Petitioners have met criteria "B" and "C".
- At the end of two years, the petitioners will have to appear before this Board again for approval to keep this commercial vehicle on their property.

Yeas: 5 – Kovacs, Lambert, Bartnik, Courtney, Gies
Absent: 1 – Clark

MOTION TO GRANT APPROVAL FOR TWO (2) YEARS CARRIED

ITEM #8 – VARIANCE REQUESTED. WATTLES INVESTMENT CO., 4000 LIVERNOIS for relief of the 6' high masonry screen wall along the east side of the property as required by Section 39.10.01.

The petitioner had stepped out of Council Chambers and the Chairman postponed the hearing of this request.

ITEM #9 – VARIANCE REQUESTED. CHARLES MUNSELLE, 1340 CAMBRIA, for relief of the Ordinance to construct a 528 square foot attached garage and 328 square foot storage room, which would result in a total of attached accessory building on this property to 1,384 where Section 40.56.01 limits the maximum area of attached accessory use buildings to 1,240 square feet.

Mr. Grusnick explained that the petitioner is requesting relief of the Ordinance to construct an addition to the existing home. The site plan submitted indicates the construction of a proposed 528 square foot attached garage and 328 square foot storage room. This dwelling currently has an existing 528 square foot attached garage. If approved, this addition would increase the total of attached accessory use buildings on this property to 1,384 square feet.

Section 40.56.01 limits the maximum area of attached accessory use buildings to 75% of the dwelling's ground floor living area. Since the ground floor living area of the dwelling is 1,654 square feet, the total of all accessory use buildings cannot exceed 1,240 square feet.

Mr. Munselle was present and stated that he is asking for an additional 144 square feet. This residence is a two-story, four bedroom colonial on a lot that is 120' x 170'. There is no basement. The Munselles have an in-ground pool and are experiencing problems with the storage of pool equipment as well as landscape equipment. The present garage only has room for one car. Mr. Munselle had a garden tractor that he stored at his neighbor's home, however, that home was sold and when he lost the ability to store

ITEM #9 – con't.

the tractor he sold it. They would like to purchase bicycles but again have nowhere to put them.

Mr. Courtney asked if the existing garage were attached to the home if it would exceed the limit allowed by Ordinance.

Mr. Grusnick said that if the existing garage were converted to living space a variance would not be required to add another two-car garage. Part of the square footage is storage and does come under the accessory use. If the square footage of the storage room were deducted the garage would comply.

Mr. Kovacs asked if any other variances would be required.

Mr. Grusnick stated that the petitioner complies with the Ordinance regarding setbacks and lot coverage.

Mr. Kovacs asked what the allowable square footage for garages was before the Ordinance was changed regarding garages.

Mr. Kovacs said that there was no maximum as long as it complied with the square footage of the house and lot coverage. If this was a detached garage it could be constructed to equal 100% of the ground floor area of the home.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are four (4) written approvals on file. There are no written objections on file.

Motion by Courtney
Supported by Gies

MOVED, to grant Charles Munselle, 1340 Cambria, relief of the Ordinance to construct a 528 square foot attached garage and 328 square foot storage room, which would result in a total of attached accessory buildings on this property to 1,384 square feet where Section 40.56.01 limits the maximum area of attached accessory use buildings to 1,240 square feet.

- Variance request is small.
- Variance will not have an adverse effect to surrounding property.
- Variance is not contrary to public interest.

Yeas: 4 – Courtney, Gies, Kovacs, Lambert
Nays: 1 – Bartnik
Absent: 1 – Clark

ITEM #9 – con't.

MOTION TO GRANT VARIANCE CARRIED

ITEM #8 (TAKEN OUT OF ORDER) – VARIANCE REQUESTED. WATTLES INVESTMENT CO., 4000 LIVERNOIS for relief of the 6' high masonry screen wall along the east side of the property as required by Section 39.10.01.

Mr. Grusnick explained that the petitioner is requesting relief of Section 39.10.01, which requires a 6' high masonry screen wall along the east property line where this site abuts Single Family Residential Zoning. A variance for this wall was originally granted by the Board in 1985 based, in part, that the land to the east was undeveloped. When this item appeared for renewal in 1999, it was granted a one-year renewal and the Board indicated that at the end of that year a new public hearing should be scheduled since a majority of the adjacent property was then developed with new single family homes. A review of our records, however, does not indicate that the new public hearing was ever held. The current owners of the property are asking for a variance to continue to eliminate this required screen wall.

This item first appeared before this Board at the meeting of August 19, 2008 and was postponed to allow the petitioner to contact the surrounding property owners to see if there was another solution to add additional screening.

Since the meeting of August 19th, it has been verified that the City owns the 10' of property with the sidewalk to the east. Mr. Grusnick also informed the Board that the petitioner had presented a landscape plan to Ron Hynd, Landscape Analyst for the City and Mr. Hynd has determined that there is not enough space for the petitioner to add additional plantings used for screening.

Mr. Kovacs asked if it was indicated that the wall would be required.

Mr. Grusnick said that it has been determined that the City would not give approval for additional plantings as there is not enough space.

Mr. Michael Larco of Wattles Properties was present. Mr. Larco said that he had spoken to Mr. Bhalerao, the homeowner at 30 Crestfield, and they had proposed to add 55 emerald green arborvitae on the east side of the property. The homeowner indicated that he was in favor of this proposal. Mr. Stimac informed Mr. Larco that plantings on their property were not acceptable by the City because once the plants were matured; they could hang over a portion of the sidewalk and create a safety hazard for people walking along this area. Mr. Larco also suggested that he could put arborvitae along the property line of 30 Crestfield and along their east property line to the dumpster enclosure. If that is not acceptable Mr. Larco said that he would put in the wall.

ITEM #8 – con't.

Mr. Courtney said that the City has indicated that the arborvitae Mr. Larco is proposing would not be allowed due to the lack of space in this area. Mr. Courtney also asked if the petitioner was proposing to put the arborvitae on the property owned by Mr. Bhalerao. The only way that could happen was if the homeowner would allow him to do that.

Mr. Larco stated that the homeowner was present and he could let the Board know if he would allow that.

Mr. Kovacs asked Mr. Bhalerao to step up to the podium.

Mr. Bhalerao stated that he is the property owner immediately adjacent to 4000 Livernois and he would allow the petitioner to put the arborvitae on his property. Since Mr. Larco has presented this solution, Mr. Bhalerao said that he would be in favor of these plantings.

Mr. Kovacs said that he did not know if there was any way for the City to regulate these arborvitae. Mr. Kovacs was not sure who would be responsible for the upkeep of this landscaping.

Mr. Motzny said that the same question was asked at the last meeting and this Board does not have the authority to grant a variance subject to landscaping being placed on property that is not owned by the petitioner. This Board can grant a variance stating that he does not have to put a wall up, but it cannot make the petitioner put in landscaping on property owned by someone else.

Mr. Courtney asked if the Board could grant a short term variance and then if the petitioner did not put in the extra arborvitae could make him put up the wall.

Mr. Motzny said that this Board could not grant a temporary variance on this property. The Board would either have to grant the variance or deny it.

Mr. Courtney stated that he thought a wall variance had a time limit.

Mr. Motzny said that you could impose a time limit on the substitute for a required screen wall but if the Board was to grant a permanent variance that would mean that the screen wall would be eliminated.

Mr. Kovacs said that he can foresee several problems with granting a temporary variance based on the planting of more arborvitae. Other people will be affected by this variance and although this neighbor may be happy with that solution, other neighbors may not be.

ITEM #8 – con't.

Mr. Bartnik questioned the petitioner on the drawings that were submitted and asked how high the proposed wall would be.

Mr. Larco stated that the dumpster enclosure is 5' but the wall could be constructed at a height of either 4' or 6'. The petitioner submitted this picture so that the Board would have an idea of what type of wall they would be erecting.

Mr. Kovacs asked what type of material would be used for this wall.

Mr. Larco stated it was a concrete wall. Mr. Larco further stated that the only variance he would request regarding this wall, would be that it did not extend all the way to the sidewalk at 6'. Mr. Larco asked if a portion of the wall could be smaller so that traffic entering or exiting the driveway would have a clear view of pedestrians or oncoming traffic. Mr. Larco also said that there is a brick wall around the dumpster and he would like the concrete wall to stop at the dumpster. The new screening wall would be 6' high and 175' long.

Mr. Kovacs said that the variance could be granted with certain conditions. Mr. Kovacs asked Mr. Grusnick if this proposed wall would meet the requirements for a screening wall.

Mr. Grusnick said that it will meet all the requirements.

Mr. Bartnik asked if this wall would be 5' or 6'.

Mr. Larco said that in order to keep it in line with the dumpster it would be 5', but he would be willing to put up the 6' high wall.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

Mr. Courtney clarified that the wall would be 6' high.

Mr. Bhalerao stated that he would prefer a 6' high wall.

Mr. Kovacs said it makes sense to bring the wall back from the sidewalk as it would increase safety for both the driveway and sidewalk.

Motion by Bartnik
Supported by Courtney

MOVED, to grant Wattles Investment Co., 4000 Livernois, relief to put up a 6' high masonry screening wall that will run 175' on the property line.

ITEM #8 – con't.

- Wall placement will start at the first parking space north of the sidewalk and extend approximately 175' to the dumpster enclosure.
- Limited amount of space restricts landscaping.
- Variance is not contrary to public interest.
- Variance is permanent.

Yeas: 5 – Lambert, Bartnik, Courtney, Gies, Kovacs
Absent: 1 – Clark

MOTION TO GRANT VARIANCE CARRIED

ITEM #10 – VARIANCE REQUESTED. MR. & MRS. THOMAS SAWYER, 895 NORWICH, for relief of the Ordinance to construct a garage addition on a legal non-conforming structure which increases the non-conformity.

Mr. Grusnick explained that the existing home has side yard setbacks of 5.3' and 9.6', which total 14.9 when added together. Section 30.10.06 requires a 15' minimum for both side yards in the R-1E Zoning District.

The proposed garage addition will further result in a 22.3' front yard setback where 25' is required and a reduction of the 5.3' side yard down to a 4.4' side yard setback, which would reduce the side yard setbacks to 14'.

Section 40.50.04 prohibits expansions of non-conforming structures in a way that increases the non-conformity.

Mr. Larry Bertollini, the Architect for this project was present as well as Mr. Thomas Sawyer and his brother David Sawyer. A mortgage survey was done on this property and Mr. Sawyer met with Mr. Grusnick regarding this project. Mr. Grusnick suggested that in order to conform to the Ordinance the garage should be constructed at an angle and to construct a front entrance garage. Mr. Sawyer did not want to do that so he contacted Mr. Bertollini to look at other options. This property is at a disadvantage as his lot is on the curve, the setback increases at the center of the property.

Mr. Bertollini went on to say that Mr. Sawyer wants to improve the flow of the house, increase the size of the master bedroom and create a breakfast nook. The existing garage was created from a carport and is too small for two cars. The proposed garage would be 21'-6" wide and 22' deep. There are several other homes on Norwich that have received variances that have reduced their front setbacks also. Mr. Bertollini passed out pictures of other homes on Norwich that had received variances to construct new garages. Mr. Bertollini addressed each home that had received a variance and compared the end result with what they are proposing. Mr. Bertollini contends that these garages were larger than what Mr. Sawyer is asking for.

ITEM #10 – con't.

Mr. Bertollini said that this is a unique situation because of the way the house sits on the lot. The proposed plan with the addition shows that the wall is 9'-6" from the property line at the closest point and at the end of the addition it is 9'-9". In designing the addition they felt that a 22' width on the garage was the bare minimum. The side yard tapers 8' back from the furthest point of the house to the street and when you get to the far corner, it is non-conforming by 1'. This is not an across the board variance, but the front corner is approximately 2.7' and if this space is averaged out the triangular shape it would come to approximately 1'-4" all the way across. The site lines would not be any different to the neighbors to the north because of the way the home is on the lot. A lot of time and effort has been put behind this project and they are trying to keep sizes down as much as possible.

Mr. Courtney asked why not a 25' garage width rather than 27'.

Mr. Bertollini stated that the garage width is only 21'-6".

The Chairman opened the Public Hearing.

Ms. Donna Modras, 905 Norwich was present. Ms. Modras said that Mr. Sawyer had come over with some plans for this construction but never mentioned anything about expanding the master bedroom. Ms. Modras said that she has a number of concerns about the garage. Mr. & Mrs. Modras have small children and live directly north of this property and believe that this garage will obstruct her view of the children while they are riding their bikes on the sidewalk. Right now the area is visible from the front porch, but once the garage is built the view will be obstructed. Everybody would like a two car garage, but Ms. Modras does not believe that this subdivision allows the space for a two car garage. Ms. Modras also said that she does not want to look out of her front door and see the back of someone's garage. Ms. Modras believes this will bring property values down and will create a hardship for her in keeping an eye on her children. This garage would create an infringement on the enjoyment of her property.

Mr. Kovacs informed Ms. Modras that a garage could still be constructed without a variance. Essentially the variance would not be next to her property line. The corner that is the closest to Ms. Modras' home, meets the 25' setback.

Ms. Modras said that without a variance he couldn't come out that far.

Mr. Kovacs said that the corner of his house meets the front setback, the opposite corner does not meet the setback and this is the area that will require the variance.

Board members explained to Ms. Modras what the petitioner would be allowed to do absent a variance.

ITEM #10 – con't.

Mr. & Mrs. Richard Adams, 926 Norwich were present and stated that they objected to this request. Mr. Adams pointed out that the petitioner is also asking for a variance regarding the side yard setback.

Mr. Kovacs said that the side yard setback must equal 15' for both sides. Mr. Kovacs stated that the Board could ask the petitioner to move the garage over 6".

Mr. Adams said that he believes this is precedent setting and that Mr. Bertollini said that the variance would be less than 1'-4". Mr. Adams said that they do not have any problem with him adding to the foyer or the breakfast nook and said that the petitioner is asking for too large a variance.

Mr. Courtney said that the petitioner is asking for a very small variance.

Mr. Adams said that he not only objects to the front setback variance but also objects to the side yard variance.

Ms. Pam Lourim, 904 Norwich was present and stated that she lives directly across the street from this property. Ms. Lourim said that she objects to this request as this curve is a very high speed traffic area and does not feel the extension of the garage would be safe for the children.

Mr. Kovacs said that the garage will be 22.5' from the front setback.

Ms. Lourim said that it will stick out quite a ways on the curve. A lot of children cross the street in this area and the garage will block the visibility.

Mr. Kovacs said that the petitioner could put up 6' high shrubs along the front property line and this Board would only be able to request that this garage be pushed back 2'.

Mr. Courtney said that if there are a number of speeders on this street, the property owners should call the police.

Ms. Lourim said that they have and a stop sign was put in, however, traffic does not stop or slow down.

No one else wished to be heard and the Public Hearing was closed.

There are two (2) written approvals on file. There are four (4) written objections on file.

Mr. Kovacs asked if the petitioner would like to postpone this request until the next scheduled meeting to allow for the opportunity of a full Board. Mr. Bertollini indicated that he would like to hear some of the discussion of the Board before making his decision.

ITEM #10 – con't.

Ms. Gies stated that she understands what the neighbors are saying about the position of the garage to the sidewalk, however, believes this is a very small variance request and has no problem with it.

Mr. Bartnik stated that he agrees with Ms. Gies.

Motion by Bartnik
Supported by Gies

MOVED, to grant Mr. & Mrs. Thomas Sawyer, 895 Norwich, relief of the Ordinance to construct a garage addition on a legal non-conforming structure, which will result in a front yard setback of 22.3' where 25' is required and a side yard setback of 14' where 15' is required.

- Variance request is minimal.
- Variance will not have an adverse effect to surrounding property.
- Variance is not contrary to public interest.
- Literal enforcement of the Ordinance does not allow the petitioner full enjoyment and permitted use of his residence.

Yeas: 5 – Bartnik, Courtney, Gies, Kovacs, Lambert
Absent: 1 – Clark

MOTION TO GRANT VARIANCE CARRIED

ITEM #11 – VARIANCE REQUESTED. MR. & MRS. CARROLL STRICKLAND, 3852 MEADOWBROOK, for relief of the Ordinance to construct a patio enclosure that will result with a proposed 33' rear yard setback where Section 30.10.02 requires a 45' minimum rear yard setback in the R-1B Zoning district.

Mr. Grusnick explained that the petitioners are requesting relief of the Ordinance to construct a patio enclosure on the rear of an existing home. The site plan submitted indicates the construction of a patio enclosure will result in a proposed 33' rear yard setback. Section 30.10.02 requires a 45' minimum rear yard setback in the R-1B Zoning District.

Mr. & Mrs. Strickland were present. Mrs. Strickland stated that their property backs up to a subdivision park and they have a large lot, 91' wide x 150' deep. This sunroom would not affect any of their neighbors. Right now they have a 48' setback to the rear lot line and if they complied with the Ordinance, the sunroom would only be 3' wide. The sunroom will not extend past the existing deck. Mrs. Strickland said the proposed sunroom is the size they need to have full use of the room. Mr. Strickland has arthritis in his spine and stairs are very difficult for him to negotiate. In addition, their one-year old grandson lives with them and this will allow him to have more living space also.

ITEM #11 – con't.

Mr. Kovacs stated that the Board sympathizes with the physical hardship that the petitioners have, however, the Board cannot act based upon any type of physical hardship, and a hardship for a variance applies to the land only.

Mr. Steve Gronley, of Tony V's Sunrooms was present and informed the Board that the sunroom would blend in with the house. The shingling on the sunroom would match the shingles on the house and he believes this construction will add to the value of the home. The siding on the sunroom comes with a lifetime warranty against chipping or fading.

Mr. Kovacs asked why this sunroom couldn't be put in the side yard. Mr. Kovacs said that he believes there is enough room in the side yard to add this room.

Mr. Grusnick explained that R-1B Zoning requires 25' for the total for both side yard setbacks. It appears that the north side is close to 10'.

Mr. Kovacs said that from the site plan submitted it appears that the petitioner has a 30.6' side yard setback to work with and the sunroom could be put in this area without requiring a variance.

Mr. Strickland stated that the entrance to the park is on the north side of the house and they would not want to put the sunroom on that side.

Mr. Kovacs said that it could be put on the south side as they only need 25' for a total of both side yard setbacks.

Mrs. Strickland said that they have a 3' high fence on that side, which starts at the deck and goes back to the rear property line. This fence would have to be moved.

Mr. Kovacs said that in his opinion there is a lot of property that would allow for this room to be constructed and a variance would not be required. Mr. Kovacs also stated that this is a large variance request and he did not see a hardship with the land.

Mr. Strickland said there is also a fireplace located in that area. Mrs. Strickland said that they had just redone the area around the fireplace, adding new tile and book shelves.

Mr. Kovacs said he understands that construction on the side may not be easy but it is something that could be done.

Mr. Courtney asked if the fireplace and book cases take up 20'.

Mrs. Strickland said she does not think it is 20', but this work was just done and they would not want to take it apart. There is a laundry room, hallway and then a garage.

ITEM #11 – con't.

Mr. Courtney said that he would like the petitioners to take the opportunity to look into the possibility of locating the sun room in the side yard.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are two (2) written approvals on file. There are no written objections on file.

Mr. Kovacs suggested that the petitioner look into other options and postpone this request until October. Mr. Kovacs also stated that they would have the opportunity of a full Board.

Mrs. Strickland said that they do not want to tear out the work they have just done and if they postpone this project too much longer it will not get done because the weather will be changing.

Mr. Kovacs said that this is 12' encroachment into the rear yard setback and there is a lot of usable area that does not require a variance.

Mrs. Strickland said that she did not see why this would be a problem as they have a large park located behind their property.

Mr. Kovacs said that there is a house behind them that would be affected as well as the neighbors on either side.

Mr. Courtney said that he would like the petitioner to look into the feasibility of using the side yard and come back before the Board. A variance may not be required.

Mr. Lambert asked if any trees would have to be removed if the sun room was constructed in the side yard.

Mrs. Strickland said there was a large walnut tree that would have to be removed.

Mr. Kovacs said that he could not approve this request without other reasons showing why they need to put this room in this location.

Mr. Courtney said that it appears to him that the tree is where they want to put the room and not in the side yard.

Mr. Bartnik said that he was trying to get an understanding of why the room would not work in the side yard. Mr. Bartnik asked if there were windows or doors in that area.

Mrs. Strickland said that the door to the garage is in that area. If the sunroom was put in the side yard it would be necessary to cut a door.

ITEM #11 – con't.

Mr. Bartnik asked if it would be possible to move the sunroom farther to the north and that would decrease the size of the variance request.

Mrs. Strickland said that the sunroom would replace the deck. If they were to move the location of the sunroom they would have to cut a hole in the wall.

Mr. Courtney asked what else was located on the other side of the house.

Mrs. Strickland said that there was a dining room and kitchen.

Mr. Courtney asked if they could go through the dining room into the sunroom.

Mrs. Strickland said no and said that she did not want to build on that side of the house as it would be more costly.

Mr. Courtney stated that he was satisfied with the petitioner's request.

Mr. Bartnik agreed with Mr. Courtney.

Motion by Lambert
Supported by Bartnik

MOVED, to grant Mr. & Mrs. Carroll Strickland, 3852 Meadowbrook, relief of the Ordinance to construct a patio enclosure that will result in a 33' rear yard setback where Section 30.10.02 requires a 45' minimum rear yard setback in the R-1B Zoning District.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.

Yeas: 4 – Bartnik, Courtney, Gies, Lambert
Nays: 1 – Kovacs
Absent: 1 – Clark

MOTION TO GRANT VARIANCE CARRIED

Mr. & Mrs. Adams addressed the Board with concern of the approval of Item #10, 895 Norwich. Mrs. Adams asked what recourse they would have to appeal that decision.

Mr. Kovacs said that the next step is the Circuit Court of Appeals.

Mr. Motzny said that the Michigan Zoning Enabling Act governs parties that are aggrieved by a decision made by the Board of Zoning Appeals would seek relief though the Circuit Court.

Mrs. Adams asked what the time limit was for appeal.

Mr. Motzny stated that the time period was 30-days after the decision or 21 days after the meeting minutes were approved.

Mr. Courtney informed the petitioner that once construction begin it would be more difficult to win their case.

Mrs. Adams asked if Mr. & Mrs. Sawyer had received their Building Permit at this time.

Mr. Grusnick stated that they had applied for the permit, but that it was dependent on the decision of this board.

Mrs. Adams asked if construction could begin once the permit was obtained, or if it would be delayed.

Mr. Kovacs stated that the Board is done, there is nothing more that this Board can do.

Mrs. Adams asked what the procedure was for filing an appeal.

Mr. Motzny said that their best bet would be to contact an attorney and let him advise them of the correct procedure.

Mr. Bartnik said that they cannot give Mr. & Mrs. Adams any advice and also suggested that they contact an attorney.

Motion by Gies
Supported by Mr. Courtney

MOVED, to excuse Mr. Clark from tonight's meeting as he is out of town.

Yeas: 5 – Gies, Kovacs, Lambert, Bartnik, Courtney

MOTION TO EXUSE MR. CLARK CARRIED

The Board of Zoning Appeals meeting adjourned at 9:27 P.M.

Matthew Kovacs, Chairman

Pamela Pasternak, Recording Secretary