The Vice-Chair, Glenn Clark, called the meeting of the Board of Zoning Appeals to order at 7:35 P.M. on Tuesday, June 17, 2008 in Council Chambers of the Troy City Hall.

PRESENT: Michael Bartnik
Glenn Clark
Kenneth Courtney
Marcia Gies
Dave Lambert
Thomas Strat

ALSO PRESENT: Mark Stimac, Director of Building & Zoning
Allan Motzny, Assistant City Attorney
Pamela Pasternak, Recording Secretary

ABSENT: Matthew Kovacs

Motion by Gies
Supported by Lambert

MOVED, to excuse Mr. Kovacs from tonight's meeting for personal reasons.

Yeas: 6 – Bartnik, Clark, Courtney, Gies, Lambert, Strat

MOTION TO EXCUSE MR. KOVACS FROM TONIGHT'S MEETING CARRIED

ITEM #1 – APPROVAL OF MINUTES – MEETING OF MAY 20, 2008

Motion by Lambert
Supported by Gies

MOVED, to approve the minutes of the meeting of May 20, 2008 as written.

Yeas: All - 6

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

ITEM #2 – APPROVAL OF ITEM #3 AND ITEM #4.

RESOLVED, that Item #3 and Item #4 are hereby approved in accordance with the suggested resolutions printed in the Agenda Explanation.

Motion by Lambert
Supported by Courtney

Yeas: All – 6

J-lj

ITEM #2 – con't.

MOTION TO APPROVE ITEM #3 AND ITEM #4 CARRIED

ITEM #3 – RENEWAL REQUESTED. ZION CHRISTIAN CHURCH, 3668 LIVERNOIS, for relief of the 4'-6" high screening wall required along the south side of off-street parking.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board for a 4'-6" high screening wall required along the south property line adjacent to their off-street parking. This relief has been granted on a yearly basis since 1985. The property to the south is owned by the City of Troy at this time and is undeveloped. This item last appeared before this Board in June 2005 and was granted a three (3) year renewal. Conditions remain the same, and we have no objections or complaints on file. The property immediately to the south of this parcel has been purchased by the City of Troy, with the potential of becoming a park.

MOVED, to grant Zion Christian Church, 3668 Livernois a three (3) year renewal of relief for the 4'-6" high screening wall required along the south property line adjacent to the off-street parking.

- The City's purchase of the adjacent property for park development only further justifies the need for the variance.
- Variance is not contrary to public interest.
- Conditions remain the same, and there are no complaints on file.
- Variance does not have an adverse effect on surrounding property.

ITEM #4 – RENEWAL REQUESTED. FIRST PRESBYTERIAN CHURCH, 4328 LIVERNOIS, for relief of the 4'-6" high screening wall required along the south, east and north sides of off-street parking.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board of the 4'-6" high wall required along the south, east and north sides of the property adjacent to the off-street parking. The original request was granted based on the fact that the adjacent property was either undeveloped or screened by dense woods. This relief has been granted on a yearly basis since 1988. This item last appeared before this Board in June 2005 and was granted a three (3) year renewal at that time. Conditions remain the same and we have no objections or complaints on file.

MOVED, to grant First Presbyterian Church of Troy, 4328 Livernois a three (3) year renewal of relief of the 4'-6" high wall required along the southeast and north sides of the property adjacent to the off-street parking.

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

ITEM #4 – con't.

- Conditions remain the same, and there are no complaints on file.
- The adjacent property is either undeveloped or screened by dense woods.

ITEM #5 – VARIANCE REQUESTED. JOHN SPUDICH, 6618 MOUNTAIN, for relief of the Ordinance to construct an addition on the rear of his home that will result in a 37' rear yard setback where Section 30.10.02 requires a 45' minimum rear yard setback in the R-1B Zoning District.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct an addition on the rear of his existing home. The plans submitted indicate a family-dining room addition with a proposed 37' rear yard setback. Section 30.10.02 requires a 45' minimum rear yard setback in the R-1B Zoning District.

Mr. Strat informed the Board that he was the Architect on this project as well as the interior designer and did have a financial interest in the outcome. Mr. Strat stated that he felt he should be excused from this presentation.

Motion by Courtney
Supported by Gies

MOVED, to excuse Mr. Strat from this item as he has a conflict of interest due to a financial interest in the outcome.

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

MOTION TO EXCUSE MR. STRAT CARRIED

Mr. Strat left the podium.

Mr. Courtney asked if this was the smallest lot in this subdivision due to lot averaging.

Mr. Stimac explained that they have used lot averaging in this subdivision. In the R-1B Zoning District the minimum lot width is 100'. This lot is 92' at the front property line and gets wider as it goes farther back. Lot area requirements in the R-1B Zoning District is 15,000 square feet, the side lot lines are 140 on the east and 150 on the west and Mr. Stimac said that it does appear that lot averaging was used. Mr. Stimac said that he was unable to say if this was the smallest lot in the subdivision.

Mr. John Spudich was present and stated that his hardship is that the setback requirement does not allow him to add the size of addition he is looking for. Mr. Greg Stamlych was also present and Mr. Spudich said that Mr. Stamlych would speak for him.

ITEM #5 – con't.

Mr. Stamlych stated that the petitioner had the opportunity to purchase a larger home in other areas; however, he decided to improve the existing property and stay in Troy. The lot shape is irregular in that it is wider in the back than the front and this creates the hardship. There are a large number of trees at the rear of the property creating a natural barrier. The 37' setback is on one corner of the house. This house was built in 1990 by Mr. Spudich and he will be putting in the addition on his own. Mr. Stamlych passed out renderings of what they are proposing for this home.

Mr. Courtney stated that on the small side the addition is 37' from the lot line and asked what the other side was.

Mr. Spudich said that he believes it is close to 44'.

Mr. Courtney said that no matter where the addition was, a variance would still be required. Mr. Courtney asked if the front yard setback was larger than other homes in the area.

Mr. Stamlych said that it is in line with other houses on the street.

Mr. Courtney said that even if the lot was rectangular they would still be short.

Mr. Stamlych said that if you measure directly out from where the addition is the east corner of the lot or perpendicular to the north/south lot lines an additional foot would be there.

Mr. Clark opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are no written approvals or objections on file.

Mr. Clark asked how far off would this addition be from the required setback if the lot was rectangular.

Mr. Stimac explained that the front setback of this home is in line with the other houses and it appears that the front yard setback is 52.9'. The minimum front yard setback is 40'. Mr. Stimac said that the house may have been setback this far on the lot due to the width of the house. The setbacks are 40' in the front and 45' in the rear, which would allow you to build a house that, is 55' in depth on a 140' lot. The existing house is 39'-4" and the addition is 16' -6" and this would allow a 55' depth. If this lot was square you should be able to put up a house with a 55' buildable footprint.

Mr. Bartnik asked if notices had been sent out to the surrounding property owners.

ITEM #5 – con't.

Mr. Stimac explained that notices were sent to occupants and owners of property within 300' of the property and the notice was also published in the appropriate newspaper.

Mr. Courtney pointed out that the three abutting properties did not object to this request.

Motion by Courtney
Supported by Gies

MOVED, to grant John Spudich, 6618 Mountain, relief of the Ordinance to construct an addition on the rear of an existing home that will result in a 37' 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.
- Variance will not establish a prohibited use within a Zoning District.

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

MOTION TO GRANT VARIANCE CARRIED

Mr. Strat returned to the podium.

ITEM #6 – VARIANCE REQUESTED. DEAN DEVONCE, 3490 CROOKS, for relief of the Ordinance to construct an addition to his home that will result in a 6.2' side yard setback where Section 30.10.02 requires a 10' minimum side yard setback in R-1B Zoning Districts.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct an addition to his home. The plot plan submitted indicates an addition with a proposed 6.2' side yard setback to the north property line. Section 30.10.02 requires a 10' minimum side yard setback in R-1B Zoning Districts.

Mr. Lambert stated that one of the objections received was from a homeowner on Portsmouth and asked what the relation of that property was to this property.

Mr. Stimac told Mr. Lambert that he would check the records and give Mr. Lambert an answer as soon as he could.

Mr. Dean DeVonce was present. Mr. DeVonce brought in three (3) approval letters from neighbors. Mr. DeVonce said that he had originally wanted to put this addition on the south side of the home but there is a 20' easement in this area and he would not be able to put an addition in this area. The existing home is 1,000 square feet and he needs additional room as his family is growing.

ITEM #6 – con't.

Mr. Courtney asked if Mr. DeVonce would consider a smaller addition.

Mr. DeVonce said that he had considered a smaller addition but needs the garage to store their vehicles in. Mr. DeVonce said that he owns three (3) vehicles and wants to be able to put his vehicles inside.

Mr. Courtney asked about the existing garage at the rear of the home.

Mr. DeVonce said that he is planning to remove this garage and will replace it with this larger garage. Mr. DeVonce said it is a block garage and the neighbors are very pleased that it will be torn down.

Mr. Bartnik asked why the addition couldn't be put at the rear of the home.

Mr. DeVonce said that because his home is on Crooks he wants to be able to leave the yard as it is so that his children will have an area to play in. If the addition was put on the rear of the home it would force his children to play in the side yard and he is concerned that they would wander onto Crooks Road.

Mr. Strat asked if there were any easements on the side of this property.

Mr. Stimac stated that the Building Department is not aware of any recorded easements on this property. This parcel is not part of a subdivision.

Mr. Strat said that he did not see any utilities at the rear of the property and stated that he just wondered where they might be.

Mr. Stimac said that in his opinion they would probably be located along Crooks Road. Looking at the aerial view of the property it appears that telephone poles are located along Crooks Road.

Mr. Strat asked if he thought there were any telephone poles at the rear of the property.

Mr. Stimac said that he could not determine if there were any poles at the rear of the property from the aerial view.

Mr. Courtney asked if there was any written verification of a 20' easement on the south side of this property.

Mr. Stimac said that this is not a platted lot and he is not aware of an easement in this location. The easement would be privately recorded.

Mr. Courtney asked if the petitioner had anything indicating that there was an easement on the property.

ITEM #6 – con't.

Mr. DeVonce said that there is a sewer line 13' off of the south side of the property from west to east. Originally he wanted to put the addition on that side of the house but was turned down by Engineering.

Mr. Strat asked if Mr. DeVonce was certain there was an easement in this location.

Mr. DeVonce confirmed that there was an easement on the south side of this property.

Mr. Courtney suggested postponing this request for thirty-days so that the Building Department could get verification of an easement.

Mr. Bartnik asked if that information was in fact available.

Mr. Stimac said that there is no way to tell from Building Department records if there is an easement in this area as it is not a platted subdivision.

Mr. Strat said that there would be problems if anything was constructed on an easement and asked if the petitioner had received a mortgage survey at the time he purchased this property.

Mr. DeVonce said that he did and originally wanted to build on the south side of his home, but because of the sanitary sewer easement on this side he was not able to put the addition there.

Mr. Strat asked if the easement was indicated on the mortgage survey.

Mr. DeVonce said that it was not.

Mr. Strat asked if he had a title search done on the property.

Mr. DeVonce said that he did not, but in fact relied on the mortgage survey. When he showed his plans to the Engineering Department, he was told that he could not build in this area due to the sewer easement.

Mr. Strat asked if he could see where the water flows.

Mr. DeVonce said that he can watch the water flow in this area.

Mr. Clark opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are seven (7) written approvals on file. There is one objection on file.

ITEM #6 – con't.

Mr. Stimac informed Mr. Lambert that the property on Portsmouth that objected to this request is located on the north side of Portsmouth and is not adjacent to this property.

Motion by Courtney
Supported by Gies

MOVED, to grant Dean DeVonce, 3490 Crooks, relief of the Ordinance to construct an addition to his home that will result in a 6.2' side yard setback where Section 30.10.02 requires a 10' minimum side yard setback in R-1B Zoning Districts.

- Sewer easement is on the south side of the property.
- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.
- Variance applies only to the property described in this application.

Yeas: All – 6

MOTION TO GRANT VARIANCE CARRIED

Mr. Bartnik said that in his opinion this was a very unique piece of property and believes the variance will have a positive impact to surrounding property.

ITEM #7 – VARIANCE REQUESTED. MLS EQUITY, LLC, 1800 W. BIG BEAVER, for relief of the Ordinance to expand the existing parking that will be within 10' of the front property line along McClure, where Section 29.50.07 requires that in the R-1B District the front yard setback is 40'.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to expand the existing parking lot. The northern portion of this site is in the P-1 (Vehicular Parking) Zoning District. The property to the immediate north is in the R-1B (One-Family Residential) Zoning District. Section 39.50.07 of the Zoning Ordinance states that when a P-1 District is contiguous with a Residential District that has common frontage on the same block, there shall be a front yard setback at least equal to the required residential setback. In the R-1B District the front yard setback is 40'. The current parking lot meets this setback. The site plan submitted indicates that the expanded parking lot will be within 10' of the front property line along McClure.

Mr. Dave Hunter of PEA Associates, the Civil Engineer on the project, and Mr. Mike Locricchio one of the owners of the property were present. Mr. Hunter stated that presently the property consists of a 21,000 square foot office building. On the first floor of the building there is an Architectural Office and a Medical Office. A new Medical Office use is being proposed for the second floor. A parking variance was granted in

ITEM #7 – con't.

2004 and the petitioner wants to add additional parking so that it is closer to the Medical Office. This would allow the patients to park closer to the side door rather than at the back of the property. Mr. Hunter also said that they do plan to add a screen wall around these new parking spaces that will match the existing screen wall. They have submitted a site plan to the Planning Department.

Mr. Bartnik asked what the net number of parking spaces that would be added in this section.

Mr. Hunter said that nine new stalls would be added.

Mr. Bartnik asked if they had considered moving the driveway north and putting the parking in farther south so that the parking spaces would be closer to the entrance of the building.

Mr. Hunter said they had not considered that but it was a possibility.

Mr. Bartnik also said that the application submitted indicates that there are other properties on Big Beaver Road that have a 10' setback to the property line.

Mr. Hunter said that directly to the west on the curve the parking lot is similar in nature and also that driveway lines up with their driveway.

Mr. Clark asked if the parking spots would be designated for the re-habilitation center.

Mr. Locricchio said they plan to put up signs that indicate that this parking is for the medical center and not for office parking. They want to make sure there is sufficient parking for the tenants, but also want to provide this parking for the use of the medical office.

Mr. Strat asked if they had any control over the parking to the east of this site.

Mr. Hunter said that they are working with the property owner to the east regarding a cross access easement.

Mr. Strat asked if this document had been submitted to the Planning Department.

Mr. Hunter said that they did not have the document as this time, but felt that it would be ready by the time they came to the Planning Commission. There is a cross access easement agreement underway.

Mr. Strat asked if this could be a conditional variance regarding landscaping.

ITEM #7 – con't.

Mr. Motzny said that this Board can impose a condition on the variance that landscaping is required.

Mr. Stimac said there are other sites that have a 10' greenbelt in front in this area, but that is because they are in other Zoning Districts. The northern portion of this site is zoned P-1, the opposite side of the street on McClure is in the O-1 Zoning District and they are allowed a minimum 10' greenbelt.

Mr. Strat asked if there was a requirement regarding the screen wall.

Mr. Stimac said that besides the setback, another requirement in the P-1 Zoning is in fact a screen wall. The petitioner plans to put up the screen wall but is asking for a reduced setback to 10'.

Mr. Strat asked if this request also includes a request for a reduction in landscaping.

Mr. Stimac said that the petitioner has not asked for a variance or exception to the landscape requirement so they would be required to meet the 10' greenbelt with one tree per 10'.

Mr. Strat said he understands that but he is looking for more than that. Mr. Strat wants the screen wall to be compatible with the existing building. Once a variance is granted there is no control over it unless the variance is conditioned including landscaping.

Mr. Courtney asked if Mr. Strat was concerned about the property on the north or west sides.

Mr. Strat said that he is concerned about both sides and he sees the property to the north as a gateway to the residential area.

Mr. Hunter stated that they plan to install a wall that matches the wall that is there currently and do plan to have the screen wall come across the south property line.

Mr. Courtney asked if they had any objection to additional screening.

Mr. Hunter said that they did not.

Mr. Clark opened the Public Hearing.

Dr. Lee Weinstein was present and stated he has a medical practice in Bloomfield Hills. Dr. Weinstein reached an agreement with the owners of this property in March to open an office in this location. To be able to accomplish the building alterations for the suite they want to lease, they require more parking. This is creating a hardship for them and Dr. Weinstein asked that the Board approve this request.

ITEM #7 – con't.

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

There are no written objections or approvals on file.

Mr. Strat asked if Mr. Stimac knew how far the front of the house to the north of this property was from the property line.

Mr. Stimac said that the existing greenbelt in front of the parking area is at the 40' setback and it appears that the front of the house is 20' farther back than that. Mr. Stimac said that he thought the house was approximately 60' back from the front setback. Right now the parking extends beyond the front line of the house and the petitioners are asking to add an additional 30' to the parking area.

Mr. Strat said that he was wondering if there was any room to add additional landscaping on the north side to buffer the residential property.

Mr. Stimac said that the petitioners are proposing to run the screen wall from its current location and extend it to within 10' of the property line and come straight south from there.

Mr. Strat asked where the location of the wall was.

Mr. Hunter stated that is was 1' off the property line.

Mr. Strat said that he would like to see more landscaping around this wall. Mr. Strat also said that he wants the wall to be compatible with the building and enclosing the entire parking area. Landscaping should be provided along both the north and west side of the wall as per the request of the Planning Commission.

Motion by Strat
Supported by Gies

MOVED, to grant MLS Equity, LLC, 1800 W. Big Beaver, relief of the Ordinance to expand the existing parking that will be within 10' of the front property line along McClure, where Section 29.50.07 requires that in the R-1B District the front yard setback is 40'.

- Screen wall to enclose the parking area from the street to the north side compatible with the existing building material.
- Landscaping is provided along the north as well as the west side of the wall suitable to the Planning Commission requirements.

Mr. Clark asked what type of building material would be required.

ITEM #7 – con't.

Mr. Stimac said that the new screen wall would be constructed the same as the existing screen wall. The existing building appears to be constructed of face brick and if Mr. Strat wishes the screen wall to be constructed the same as the building material that could be a condition of the motion.

Mr. Clark said that the existing screen wall may not be constructed of the same material as the existing building and asked if this would be an issue.

Mr. Strat said that when he drove by the area, he thought the existing screen wall was a poured wall and it does not appear to match the building. The existing screen wall is far back on the property, so if there is a dissimilarity of the material he wouldn't worry about it. He is more concerned about the appearance of the wall along the west side of the property.

Mr. Bartnik asked if the north wall that would now be extending west would be compatible to the existing building as well as the part of the wall that is running north and south.

Mr. Strat said that was correct.

Yeas: All – 6

MOTION TO GRANT VARIANCE CARRIED

Ms. Cathie Walton, the building manager for 1740 W. Big Beaver was present and asked if the new wall would be different from the existing wall.

Mr. Stimac explained that the new screen wall along the north side and along the south side would be brick, which would match the building.

ITEM #8 – VARIANCE REQUESTED. NORM & CARLA JOHNSON, 1090 ROCHESTER, for relief of the Ordinance to construct a new outdoor seating area at an existing restaurant that is a legal non-conforming structure. The site plan submitted indicates that the outdoor dining area will have an 18' front yard setback. Section 40.50.04 prohibits the expansion of a legal non-conforming structure in any way that increases the non-conformity.

Mr. Stimac explained that the petitioners are requesting relief of the Ordinance to construct a new outdoor seating area at an existing restaurant. The property in question is located in the M-1 (Light Industrial) Zoning District. Restaurants are not a principal permitted use in the M-1 District. The use of the property as a restaurant predates the current Ordinance restrictions that prohibit the use; therefore, the use of the site as a restaurant is a legal non-conforming use. Section 40.50.05 of the Zoning Ordinance prohibits the expansion of a legal non-conforming use.

ITEM #8 – con't.

In addition, Section 30.20.08 of the Zoning Ordinance requires a 50' front setback for buildings in the M-1 District. The existing building is only 18' from the front property line along Rochester Road. Because of the age of the development this condition makes this building a legal non-conforming structure. The site plan submitted indicates that the outdoor dining area will continue the 18' front setback. Section 40.50.04 prohibits the expansion of a legal non-conforming structure in any way that increases the non-conformity.

Mr. Stimac further stated that the Ordinance was changed within the last few years to allow a restaurant in the M-1 Zoning District with Special Use Approval. This site has not yet received this Special Use Approval.

Mr. Courtney asked if a variance would be required if this site was given approval for a Special Use.

Mr. Stimac explained that a variance would still be required in order to allow the expansion of a legal non-conforming structure. There is no guarantee that they would get a Special Use Approval from the Planning Commission. This is a discretionary decision by the Planning Commission. Because of the location and age of this building there are a number of things that do not conform.

Mr. Strat said that real advantage to a Special Use Approval is that they could require more landscaping to help beautify the area. Mr. Strat likes the idea of outdoor seating and is very supportive of this effort, but would also be in favor of a Special Land Use Approval as they would be able to get more amenities added.

Mr. Courtney said that even if they went to the Planning Commission they may come back before this Board.

Mr. Strat said that speaking for himself he is very much in favor of this request. The Planning Commission supports requests to beautify the property and encourages businesses to add improvements to the area.

Norm and Carla Johnson were present. Mr. Johnson stated that they had purchased this property approximately six months ago and they are trying very hard to enhance the south end of Troy. There are a lot of businesses close by and Mr. Johnson believes that they would take advantage of the outdoor dining as these patrons would not have to drive to get to this location. They have had many customers that have asked for outdoor dining and they would like to be able to accommodate them. The goal for the restaurant is to offer great food and service in a relaxed atmosphere. Mr. Johnson said that they understand that they do not meet the 50' requirement but this area will be fenced and will not distract drivers and there will be no noise concerns. The only way to enter or exit the outdoor area will be through the restaurant. Mr. and Mrs. Johnson have worked very hard to improve the look of the restaurant and believe that they have

ITEM #8 – con't.

made many positive changes. Mr. Johnson said that outdoor dining is critical to the success of their business.

Mr. Bartnik asked for more detail on the proposed fencing and the windows.

Mr. Johnson said that he is willing to do whatever the Board wants them to do in order to get the outdoor dining. Mr. Johnson said that he did not realize the scope of work that needed approval and he would do what he has to do.

Mr. Clark 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. Courtney asked if there was a way to approve this request so that they could operate and require them to apply to the Planning Commission for a Special Use Approval. Mr. Courtney said that he liked this idea and did not want to tie up the petitioner for any length of time.

Mr. Strat asked if Mr. Stimac had any idea of how long it would take for this item to be placed on the agenda for the Planning Commission.

Mr. Stimac stated that the item would have to be published as it is a Public Hearing and thought it would probably take between thirty and sixty days before it would come before the Planning Commission. Mr. Stimac said that he did not know what the deadline was for requests to come before the Planning Commission.

Mr. Strat said that the Planning Commission meets three times a month so he would hope that the item could be expedited and asked if there was any way it could be moved ahead. Mr. Strat said that he believes this is a great idea and thinks that it would be supported by the Planning Commission.

Mr. Stimac stated that the Building Department would be more than happy to provide Mr. Miller with whatever information he required to place this item on the agenda for the Planning Commission.

Mr. Courtney said that he thought the item could be postponed for 30 days to determine the time table for it to appear before the Planning Commission. This item could be acted upon next month if it was going to take too long to appear before the Planning Commission.

Mr. Bartnik said that notices for this Public Hearing have already been sent out, as well as being published in the newspaper and there have been no responses indicating disapproval of this request.

ITEM #8 – con't.

Motion by Bartnik
Supported by Lambert

MOVED, to grant Norm & Carla Johnson, 1090 Rochester relief of the Ordinance to construct a new outdoor seating area at an existing restaurant that is a legal non-conforming structure. The site plan submitted indicates that the outdoor dining area will have an 18' front yard setback. Section 40.50.04 prohibits the expansion of a legal non-conforming structure in any way that increases the non-conformity.

- Variance is not contrary to public interest.
- Variance would have a positive effect to surrounding property.

Mr. Clark said that the petitioner would do whatever was required and asked how he planned to enhance the outdoor area. Mr. Clark went on to say that he lives near 14 Mile and John R. and is not very impressed by the outdoor seating area provided by another restaurant in the area.

Mr. Johnson said that this was a hard question to answer. There is a property to the north of "Field of Dreams" that has an outdoor waterfall and if he could that is exactly where he would put this seating area. Traffic approaching from the south has a difficult time seeing this property as there is a large tree in the area that blocks out the view of the restaurant during the summer. The trees along Rochester Road already block the view of the building for traffic heading northbound. If they were to put in more trees it would be harder to see the building.

Mr. Clark asked where the trees were located.

Mr. Stimac explained that there are a number of trees on the southwest corner of Elmsford and Rochester and then extending for quite a way in the right of way north on Rochester Road.

Mr. Clark said that there is asphalt in the area and wondered how the area could be enhanced.

Mr. Stimac stated that the entrance is on the northwest side of the building.

Mr. Johnson stated that there is an asphalt area from the entrance extending to the north end of the building. This asphalt runs about 15' or 20'. There is a stairway on the north side leading to the basement and this is where the trucks park to unload deliveries. It would not be practical to put grass in this area.

Mrs. Johnson said that they could put in larger potted plants or smaller trees on the side of the building so that you would not be able to see the asphalt. Mrs. Johnson said that they would also incorporate some type of greenery in this area. They would be more

ITEM #8 – con't.

for decoration and this would enhance the appearance of the building. Mrs. Johnson said that the trees were going to be re-planted in the area where they plan to put in the patio.

Mr. Strat said that this is exactly what he is looking for and it would be somewhat inexpensive and would add color to the area. He also said that it appears that they want to put in a 6' cedar fence, which could be attractive and the greenery would add to the look of the property.

Mr. Clark asked if an amendment could be made to the motion.

Mr. Courtney said that he would like to see the words"landscaping as discussed" in the resolution

Mr. Stimac also stated that they could require that landscaping plans be submitted and approved by the Building Department.

Motion by Gies
Supported by Lambert

MOVED, to AMEND the previous motion to include:

- Landscaping plans must be submitted and approved by the Building Department.

Vote on Motion to Amend

Yeas: All – 6

MOVED, to grant Norm & Carla Johnson, 1090 Rochester, relief of the Ordinance to construct a new outdoor seating area at an existing restaurant that is a legal non-conforming structure. The site plan submitted indicates that the outdoor dining area will have an 18' front yard setback. Section 40.50.04 prohibits the expansion of a legal non-conforming structure in any way that increases the non-conformity.

- Landscaping plans will be submitted and approved by the Building Department.
- Variance is not contrary to public interest.
- Variance will have a positive effect to surrounding property.
- Variance will not have an adverse effect to surrounding property.

Yeas: All – 6

MOTION TO GRANT VARIANCE CARRIED

ITEM #9 – VARIANCE REQUESTED. LAITH HERMIZ OF RAMCO GERSHENSON, 730-738 E. BIG BEAVER, for relief of the Ordinance to construct a new commercial building with a proposed 15' front yard setback to the north property line along Big Beaver where Section 30.20.05 of the Zoning Ordinance requires a 75' front yard setback in the B-2 Zoning District.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a new commercial building. This building is located in the B-2 (Community Business) Zoning District. Section 30.20.05 of the Zoning Ordinance requires a 75' front yard setback in the B-2 Zoning District. The site plan submitted indicates a 15' front yard setback to the north property line along Big Beaver.

Mr. Stimac also said that this plan had received approval from the Planning Commission dependent on this variance. The Planning Commission also asked that this building be moved closer to Big Beaver in accordance with the Big Beaver Corridor study.

Mr. Laith Hermiz, Vice-President of Development was present and stated that the owner of this property also owns the property to the south better known as the Troy Marketplace. This property has been vacant for years and Mr. Hermiz believes the reason for this is because it is not a large piece of property and people do not believe it can be developed. The Zoning is B-2 and is surrounded by commercial properties. This parcel is .63 acres and has a 75' front setback, 30' rear setback and a 20' side yard setback. If all the setbacks are complied with the building would only be 6,132 square feet of developmental area and is not conducive to the development of retail or office space. Because of the ownership of the property to the south they can work with both properties and will provide a cross access easement. This proposed building would be consistent with the use and would fit in with the Big Beaver Corridor Study. There would be out door seating along Big Beaver. They have also encouraged pedestrian access along Big Beaver by adding sidewalks along Big Beaver. They have spoken with Dan MacLeish, the owner of the property to the west and he stated that he has no objections to this request. The Planning Commission gave site plan approval on May 13, 2008 with the caveat that this setback variance would be granted. Because of the size of this site, the practical difficulty is in meeting all of the setback requirements.

Mr. Courtney confirmed that they owned the property to the south.

Mr. Hermiz said that was correct.

Mr. Courtney pointed out that they could actually move the building back 75' and comply with the Ordinance. Mr. Courtney also said that he likes the proposed location better.

Mr. Clark opened the Public Hearing.

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

There is one (1) written approval on file. There are no written objections on file.

ITEM #9 – con't.

Motion by Lambert
Supported by Strat

MOVED, to grant Laith Hermiz of Ramco Gershenson, 730-738 E. Big Beaver for relief of the Ordinance to construct a new commercial building with a proposed 15' front yard setback to the north property line along Big Beaver where Section 30.20.05 of the Zoning Ordinance requires a 75' front yard setback in the B-2 Zoning District.

- Variance is in keeping with the Big Beaver Corridor Study.
- Variance will have a positive effect to surrounding property.
- Variance is not contrary to public interest.
- Variance will not establish a prohibited use in a Zoning District.

Yeas: All – 6

MOTION TO GRANT VARIANCE CARRIED

Mr. Strat complimented the petitioner and said that this area has one of the nicest retention areas in the entire City.

Mr. Clark asked if Mr. Hermiz knew what restaurant would be coming in.

Mr. Hermiz said that it is called Pei Wei, which is a fast casual concept restaurant of P F Chang's, which is located at Somerset Mall.

ITEM #10 – VARIANCE REQUESTED. AKZO NOBEL COATINGS, 1845 MAXWELL & 1716-1724 STUTZ, for relief Ordinance to construct an addition to their parking lot. A 6'-0" high masonry screening wall is required by Section 30.10.01 of the Zoning Ordinance where an M-1 (Light Industrial) Zoning District abuts Residentially Zoned Property. The site plan submitted does not indicate a screening wall along the north and a portion of the west property line.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct an addition to their parking lot. The property in questions in located in the M-1 (Light Industrial) Zoning District. The adjacent property to the west and north is located in the RM-1 (Multi-Family Residential) Zoning District. Section 30.10.01 of the Zoning Ordinance requires a 6'-0" high masonry obscuring wall where M-1 property abuts residentially zoned property. No such screening wall is shown on the site plan submitted along the north and a portion of the west property line.

Mr. Bartnik asked how far back on the property the wall would have to go.

ITEM #10 – con't.

Mr. Stimac said that it would have to go all the way back. There is an existing retention pond in the area and the Board could grant a renewable variance on this item if they were concerned about the appearance of the new parking lot.

Mr. Paul Oleskowicz, the Building Manager for Akzo Nobel Coatings was present and stated that this property originally consisted of two separate buildings. The owners of the building joined them into one building. They are asking not to put in a screen wall as there is a great deal of mature vegetation and it would have to be removed. This landscaping does act as a natural barrier to the parking lot and they are hoping that they would not have to destroy it.

Mr. Clark opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are no approvals or objections on file.

Mr. Courtney asked if the Board could grant a variance for more than one year.

Mr. Stimac stated that if the Board is going to approve landscaping or a berm rather than a wall the maximum time limit is one-year; if the Board is going to consider waiving the requirement for the screen wall the Board can grant the variance for a period of three (3) years subject to renewal.

Motion by Courtney
Supported by Gies

MOVED, to grant AKZO Nobel Coatings, 1845 Maxwell & 1716-1724 Stutz a three-year variance for relief Ordinance to construct an addition to their parking lot without a screening wall along the north and a portion of the west property line where a 6'-0" high masonry screening wall is required by Section 39.10.01 of the Zoning Ordinance where an M-1 (Light Industrial) Zoning District abuts Residentially Zoned Property.

- Three-year time limit will allow the Board to determine if the existing landscaping will provide enough of a barrier.
- Variance is not contrary to public interest.
- Lacking a variance, a large amount of natural vegetation would have to be destroyed.

Yeas: All – 6

MOTION TO GRANT VARIANCE FOR THREE-YEARS (3) CARRIED

Mr. Clark said that he would prefer to see natural screening rather than a masonry wall.

ITEM #11 – VARIANCE REQUESTED. ZACH & MELISSA KEEN, 3833 MEADOWBROOK, for relief of the Ordinance to construct a covered screen porch that will result with a 33.8' rear yard setback where Section 30.10.02 of the Ordinance requires a 45' minimum rear yard setback in R-1B Zoning Districts.

Mr. Stimac explained that the petitioners are requesting relief of the Ordinance to construct a covered screen porch. The site plan submitted indicates the construction on the rear of their home with a proposed 33.8' rear yard setback. Section 30.10.02 requires a 45' minimum rear yard setback in R-1B Zoning Districts.

Mr. Stimac noticed a discrepancy in the drawings between what the petitioner first submitted in April and what they submitted for this hearing.

Mr. and Mrs. Keen were present, as well as their builder Mr. Tim Mash. Mr. Keen turned in three (3) approval letters as well as an approval from the Homeowners Association. Mr. Keen stated that they do not have any neighbors behind them and this setback would not interfere with the surrounding property. The neighbors to the north have a line of foliage so this enclosure would not be visible to them and the neighbors to the south have a privacy fence. The proposed screen porch would not be visible to any one driving by the property on Meadowbrook.

Mr. Clark opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are a total of five (5) written approvals on file. There are no written objections on file.

Mr. Stimac explained that the original denial letter was based on the petitioner's request for a 33.8' setback. The new plans submitted show a 31.8' setback that would result in the size of the addition at the back of the house to be 16'. Public Hearing notices were sent out indicating that the variance was for a 33.8' setback and the Board does not have the authority to grant a greater variance. Mr. Stimac said that new Public Hearing notices would have to be sent out to surrounding property owners, indicating the new request.

Mr. Courtney asked the petitioner if they would like the Board to act upon the 33.8' request this evening or postpone the request for another month to allow new Public Hearing notices to be sent out.

Mr. Keen said that he would rather wait another month and ask for the larger variance.

Motion by Courtney
Supported by Gies

ITEM #11 – con't.

MOVED, to postpone the request of Zach and Melissa Keen, 3833 Meadowbrook, for relief of the Ordinance to construct a covered screen porch that will result with a 33.8' rear yard setback where Section 30.10.02 of the Ordinance requires a 45' minimum rear yard setback in R-1B Zoning Districts.

- To allow the Building Department to re-publish and send notices to property owners within 300' of this property indicating the request for a larger variance.

Yeas: All – 6

MOTION TO POSTPONE THIS REQUEST UNTIL THE MEETING OF JULY 15, 2008 CARRIED

ITEM #12 – VARIANCE REQUESTED. TROY-ROCHESTER PROPERTIES, LLC, 3339 ROCHESTER ROAD (PROPOSED ADDRESS), for relief of the Ordinance to construct a new Tim Horton restaurant with a drive-up facility on a .96 acre site. Section 32.30.02 of the Zoning Ordinance requires sites for restaurants with drive-up facilities in B-2 Districts to be at least one acre is size.

Mr. Stimac explained that the petitioners are requesting relief of the Ordinance to construct a new Tim Horton restaurant with a drive-up facility at the southwest corner of Rochester Road and Vanderpool. This property is in the B-2 (Community Business) Zoning Classification. Section 21.30.02 requires sites for restaurants with drive-up facilities in B-2 Districts to be at least one acre in size. The site plan submitted indicates that the site in only .96 acres.

Mr. Burt Kassab of Troy-Rochester Properties was present and stated that they had come before this Board asking for a variance to construct a Dunkin Donuts; however, Dunkin Donuts backed out of the deal. They now have a contract with Tim Horton. Mr. Kassab said that they exceed the parking requirements by seven (7) spaces and meet all of the other requirements. They have spoken to all of the surrounding neighbors and have not had any objections from them. The Planning Commission has given them site plan approval. They plan to add more landscaping and a screening wall.

Mr. Clark opened the Public Hearing.

Mr. Richard Wiles, 975 Vanderpool was present and stated that he lives directly north of this site. Mr. Wiles feels there is plenty of land for this request. Mr. Wiles also stated that the petitioner has been very diligent in working with the neighbors to resolve any objections they may have. Mr. Wiles supports this request.

Mr. Kim Antoine, 968 Vanderpool was present and stated that he had always hoped for a Tim Horton in Troy. Mr. Antoine does not see a problem with this request and is in favor of this request.

ITEM #12 – con't.

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

There is one (1) written objection on file.

Mr. Strat asked if they were going to extend the north wall all the way down to enclose the dumpster area.

Mr. Kassab said that the definitely would enclose this area.

Mr. Clark said that the neighbors approve this request and he does not see that it would a cause a problem for them.

Motion by Lambert
Supported by Courtney

MOVED, to grant Troy-Rochester Properties, LLC, 3339 Rochester (proposed address), relief of the of the Ordinance to construct a new Tim Horton restaurant with a drive-up facility on a .96 acre site. Section 32.30.02 of the Zoning Ordinance requires sites for restaurants with drive-up facilities in B-2 Districts to be at least one acre is size.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.
- Variance will not establish a prohibited use in a Zoning District.

Yeas: All – 6

MOTION TO GRANT VARIANCE CARRIED

The Board of Zoning Appeals meeting adjourned at 9:43 P.M.

Glenn Clark, Vice-Chair

Pamela Pasternak, Recording Secretary