The Chairman, Mark Maxwell, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M., on Tuesday, October 16, 2007, in Council Chambers of the Troy City Hall.

PRESENT:
Michael W. Bartnik
Glenn Clark
Kenneth Courtney
Marcia Gies
Matthew Kovacs
Mark Maxwell
Wayne Wright

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

ITEM #1 – APPROVAL OF MINUTES – MEETING OF SEPTEMBER 18, 2007

Motion by Wright
Supported by Gies

MOVED, to approve the minutes of the meeting of September 18, 2007 as written.

Yeas: All - 7

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

ITEM #2 – VARIANCE REQUEST. MR. & MRS. DERRICK ROBINSON, 4472 LANCASHIRE, for relief of the Ordinance to construct a patio enclosure on the rear of their home that has a proposed 21' rear yard setback where Section 30.10.04 of the Ordinance requires a 40' minimum rear yard setback in R-1C Zoning Districts.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a patio enclosure on the rear of their home. The site plan submitted indicates the addition on the rear of the home will result in a 21' rear yard setback. Section 30.10.04 of the Ordinance requires a 40' minimum rear yard setback in R-1C Zoning Districts.

This item last appeared at the meeting of September 18, 2007 and was postponed to allow the petitioner the opportunity to bring in exact plans of what they want to construct. Mr. Stimac further explained that the petitioner was presenting two plans to the Board, one which would result in a 25'-6" rear yard setback and would result with the size of the enclosure 31' x 13'; the other would result in a 29' rear yard setback and the room would be 18' x 11'.

Mr. McMahon was present and discussed the two (2) plans that he had submitted to the Board members. The homeowner's first choice was the larger room that would result in

File

ITEM #2 – con't.

a 25'-6" rear yard setback. If the room was moved farther east the pedestrian garage door would not be able to be used and Mr. McMahon feels that the proposed location would be the best solution for this proposed patio enclosure.

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

Mr. Courtney asked what the plan was for the existing deck.

Mr. McMahon said that the deck was in pretty rough shape and they would remove it and create a stamped concrete patio.

Mr. Clark asked what was on the property to the north.

Mr. McMahon said originally he thought there were wetlands located on that lot and therefore was unbuildable.

Mr. Stimac explained that there is a house facing John R. on the lot to the north and a county drain is located in this area. This site is in a flood plain and therefore unbuildable.

Motion by Kovacs
Supported by Wright

MOVED, to grant Mr. & Mrs. Derrick Robinson, 4472 Lancashire, relief of the Ordinance to construct a patio enclosure on the rear of their home that will result in a 25'-6" rear yard setback where Section 30.10.04 of the Ordinance requires a 40' minimum rear yard setback in R-1C Zoning Districts.

- Variance is not contrary to public interest.
- Irregular shape of lot creates a hardship.
- Property to the north is unbuildable and will not be affected.
- Variance does not permit the establishment of a prohibited use in a Zoning District.
- Literal enforcement of the Ordinance precludes full enjoyment of the property in question and is unnecessarily burdensome.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #3 – VARIANCE REQUEST. COY CONSTRUCTION, REPRESENTING MR. & MRS. MICHAEL TAORMINO, 1874 WYNGATE, for relief of the Ordinance to construct a rear porch enclosure that will result in a 43' rear yard setback where Section 30.10.02 requires a 45' rear yard setback for buildings in the R-1B Zoning District.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a rear porch enclosure that will result in a 43' rear yard setback. Section 30.10.02 requires a 45' rear yard setback for buildings in the R-1B Zoning District.

This item last appeared before this Board at the meeting of September 18, 2007 and was postponed to allow the petitioner the opportunity to be present.

Mr. Michael Coy of Coy Construction and Mr. Michael Taormino, the homeowner, were present. Mr. Coy explained that the homeowner had been before this Board earlier this year and was denied a variance as the proposed patio enclosure at that time required a very large variance. Mr. Coy stated that they had moved the patio enclosure farther east and now require a very minimal variance to construct this room.

Mr. Maxwell asked how large the proposed room would be.

Mr. Coy stated that it would be 12' x 15' room and they will be able to construct it in such a way that it will appear to have been built at the same time the home was constructed. They plan to put in a deck and that will extend past the edge of the enclosed structure.

Mr. Bartnik stated that he is very concerned as this is a new subdivision and when looking down the line of homes they all have 45' setbacks. The whole row of homes on this street, backs up to the wetlands. The Zoning laws were put in place for a reason and Mr. Bartnik feels that to ask for a variance at such an early time could be precedent setting.

Mr. Taormino stated that many of the homes on either side of him already have concrete patios with walls around them.

Mr. Bartnik asked if they were enclosed and Mr. Taormino stated that they were not.

Mr. Coy stated that none of these homes have enclosed rooms on them and doesn't think the other homeowners would want to change their existing patios by adding enclosures.

Mr. Bartnik asked when the home was built.

Mr. Taormino stated that it was constructed in December 2005.

Mr. Bartnik stated that the plans presented were beautiful but he is still concerned that approval of this request would be precedent setting.

ITEM #3 – con't.

The Chairman 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. Maxwell stated that he did not think this was a very large variance request as it is only for 2'.

Mr. Courtney stated that this request was denied in February of this year by a vote of 5 - 2.

Mr. Kovacs said that he believes this request is quite different from the request presented in February.

Mr. Coy stated that they moved the room over so that instead of a 10' variance request it is now a 2' variance request.

Mr. Stimac explained that he had determined that this request was substantially different from the earlier request and this is the reason that it was brought before the Board at this time.

Mr. Courtney stated in February it was determined that the petitioner did not demonstrate a hardship that ran with the land, and that the variance request could be precedent setting.

Mr. Kovacs stated that the reason he had denied the original request was because he felt that the room could have been moved over at that time and a lesser variance required.

Motion by Kovacs
Supported by Gies

MOVED, to grant Coy Construction, representing Mr. & Mrs. Michael Taormino, 1874 Wyngate, relief of the Ordinance to construct a rear porch enclosure that will result in a 43' rear yard setback where Section 30.10.02 requires a 45' rear yard setback for buildings in the R-1B Zoning District.

- Variance request is minimal.
- Variance is not contrary to public interest.
- Variance does not permit the establishment of a prohibited use in a Zoning District.
- Literal enforcement of the Ordinance precludes full enjoyment of the property in question and is unnecessarily burdensome.

ITEM #3 – con't.

Mr. Bartnik stated that he still believes that this request could be precedent setting and will open the door for other homes in the area to ask for variances and there is no hardship that runs with the land.

Mr. Maxwell stated that each case is heard on its own merit and doesn't think this would set a precedent.

Mr. Bartnik agreed with Mr. Maxwell, but stated that this is a new subdivision and all of the lots along Wyngate back up to wetlands. Mr. Bartnik believes that this Board needs to look at the impact on the surrounding property.

Yeas: 5 – Kovacs, Maxwell, Wright, Clark, Gies
Nays: 2 – Bartnik, Courtney

MOTION TO GRANT VARIANCE CARRIED

ITEM #4 – VARIANCE REQUEST. LINDA CARDINALE, 2652 RONALD, for relief of the Ordinance to construct a sunroom on the rear of an existing home. The proposed sunroom would result in a 38.3' rear yard setback and would increase the percentage of lot area covered by buildings from an existing 28.4% to a proposed 30.4%. Section 30.10.05 requires a 40' minimum rear yard setback in the R-1D Zoning District and limits the maximum percentage of lot area covered by building to 30%.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a sunroom on the rear of an existing home. The proposed sunroom would result in a 38.3' rear yard setback and would increase the percentage of lot area covered by buildings from an existing 28.4% to a proposed 30.4%. Section 30.10.05 requires a 40' minimum rear yard setback in the R-1D Zoning District and limits the maximum percentage of lot area covered by building to not more than 30%.

Mr. Michael Selden was present and stated the only portion of this sunroom that would encroach into the rear yard setback was the bay on the back. Mr. Selden stated that they have lived in this home for twelve and one-half years and their family dynamics have changed. They have very small children and it is very difficult to watch them in the yard from inside the house. This sunroom would allow them to keep an eye on the kids from the inside of the home. Mr. Selden stated that they had spoken to the neighbors on either side of them and they have indicated approval.

The Chairman 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 #4 – con't.

Motion by Kovacs
Supported by Courtney

MOVED, to grant Linda Cardinale, 2652 Ronald, relief of the Ordinance to construct a sunroom on the rear of an existing home that will result in a 38-3' rear yard setback and would increase the percentage of lot area covered by buildings from an existing 28.4% to a proposed 30.4%. Section 30.10.05 requires a 40' minimum rear yard setback in the R-1D Zoning District and limits the maximum percentage of lot area covered by buildings to 30%.

- Variance request is extremely small.
- Variance is not contrary to public interest.
- Variance does not permit the establishment of a prohibited use in a Zoning District.
- Literal enforcement of the Ordinance would be unnecessarily burdensome.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #5 – VARIANCE REQUEST. DENNIS BOSTICK, 1881 E. BIG BEAVER (PROPOSED ADDRESS), for relief of the Ordinance to alter a tenant space for a new restaurant resulting in a parking requirements of 1,310 parking spaces per Sections 40.21.30 and 40.21.40 of the Troy Zoning Ordinance where only 1,179 parking spaces are available.

Mr. Stimac explained that the Petitioner is requesting relief of the Ordinance to alter a tenant space for a new Buffalo Wild Wings Restaurant. This site is located at the northwest corner of John R. and Big Beaver. With the inclusion of the new restaurant with 293 seats a total of 1,310 parking spaces would be required for the entire development, by Section 40.21.30 and 40.21.40 of the Troy Zoning Ordinance. The site plans submitted indicate that only 1,179 parking spaces are available on the combined sites.

Mr. Dennis Bostick was present and stated that they are asking for a variance of 131 parking spaces. They are planning to alter the former Hollywood Video space. The shopping center has never exceeded 80% of the parking lot being used. Mr. Bostick passed pictures out to the Board members taken at different times of the day indicating the amount of parking used. The parking lot is usually at a 30% - 40% of its capacity.

Mr. Maxwell has been by the area many times and has never seen the parking lot full.

Mr. Courtney asked if parking was a problem during hockey games.

ITEM #5 – con't.

Mr. Bostick stated that during hockey games the west side of the lot fills up. The retail stores close early and usually there is abundant parking available.

Mr. Clark stated that he lives very close to this shopping center and is very familiar with this development. In the evenings most of the retail stores are closed and traffic is greatly diminished. Mr. Clark also stated that during sports events he has noted that the west end of the parking lot fills up.

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.

Motion by Clark
Supported by Wright

MOVED, to grant Dennis Bostick, 1881 E. Big Beaver, relief of the Ordinance to alter a tenant space for a new restaurant resulting in 1,179 parking spaces available, where Sections 40.21.30 and 40.21.40 of the Troy Zoning Ordinance required 1,310 parking spaces.

- Variance is not contrary to public interest.
- Variance does permit the establishment of a prohibited use in a Zoning District.
- Variance will not have an adverse effect to surrounding property.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #6 – VARIANCE REQUEST. SOMERSET PONTIAC GMC TRUCK, INC., 1728 MAPLELAWN, for relief of the required 6' high masonry obscuring wall at the north property line where the site abuts residential zoned property per Section 39.10.01 of the Zoning Ordinance.

Mr. Stimac explained that the petitioner is requesting Special Use Approval for the Outdoor Storage of Vehicles per Section 28.30.04 of the Troy Zoning Ordinance. This property is located in the M-1 (Light Industrial) Zoning District. The property immediately to the north is located in the R-M1 (Multiple-Family Residential) Zoning District. Section 39.10.01 of the Zoning Ordinance requires that a 6' high masonry obscuring wall be located at the north property line of the site where it abuts residentially zoned property. The petitioner does not indicate the required wall on plans submitted.

ITEM #6 – con't.

Mr. Charles LeFevre and Mr. Jack Fowler were present. Mr. LeFevre stated that they want to be able to use this area for the overflow of vehicle storage. They have an existing facility that they are presently using and this area would only be for the overflow. This property would only be used one or two months out of the year.

Mr. LeFevre stated that besides the very thick vegetation there is an existing fence running along the north property line. The trees overlap the parking structure on the north side of the property. Mr. LeFevre also stated that this area was developed in the early 1970's and if they are forced to put a barrier in they will have to destroy at least half of the existing vegetation. The only section they are planning to use for storage has a gravel base and be believes that the vegetation barrier is approximately 25' to 35'. The largest build up of inventory is March or April. The only other time they may have to use this area for storage would be during the model changeover in the summer months.

Mr. Maxwell asked if they were planning to add asphalt to this area.

Mr. LeFevre said that they are not planning to at this time and they do not want to change the existing structure.

Mr. Bartnik stated that Somerset Apartments are located from Crooks to Coolidge and he does not believe there is a lot of area that does not have a screening wall.

Mr. LeFevre stated that Maplelawn curves.

Mr. Bartnik asked what type of lighting would be on the site.

Mr. Fowler stated that they will have security lights; however he does not believe they would cause the neighboring property any problems.

Mr. Bartnik asked if the owners and residents of the Somerset Park Apartments had been notified of this request.

Mr. Stimac replied that both owners and residents within 300' of the subject property were notified.

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

Motion by Wright
Supported by Clark

ITEM #6 – con't.

MOVED, to grant Somerset Pontiac GMC Truck, Inc., 1728 Maplelawn, a one-year variance for relief of the required 6' high masonry obscuring wall at the north property line where the site abuts residential zoned property per Section 39.10.01 of the Zoning Ordinance.

- One-year will allow the Board to re-visit this request to determine that a screen wall is not required.
- Variance is not contrary to public interest.
- Variance will not cause an adverse effect to surrounding property.

Yeas: All – 7

MOTION TO GRANT VARIANCE FOR ONE-YEAR CARRIED

The Board of Zoning Appeals meeting adjourned at 8:28 P.M.

Mark Maxwell, Chairman

Pamela Pasternak

Pamela Pasternak, Recording Secretary