

Mark Maxwell, Vice-Chairman, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M. on Tuesday, March 20, 2007, in Council Chambers of the Troy City Hall.

PRESENT: Glenn Clark  
Kenneth Courtney  
Christopher Fejes  
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 FEBRUARY 20, 2007**

Motion by Courtney  
Supported by Gies

MOVED, to approve the minutes of the meeting of February 20, 2007 as written.

Yeas: All – 7

MOTION TO APPROVE MINUTES OF FEBRUARY 20, 2007 CARRIED

**ITEM #2 – RENEWAL REQUEST. K-MART, 100 E. MAPLE**, for relief of the Ordinance to allow for an outdoor display of plant material in front of K-Mart along the north side of the fenced area and a four-foot section of the sidewalk at the west end of the building adjacent to the building.

Mr. Stimac explained that the petitioner is requesting renewal of a variance granted by this Board on a yearly basis since 1978, which allows for an outdoor display of plant materials in front of K-Mart along the north side of the fenced area and four-foot section of the sidewalk adjacent to the building, at the west end of the building. This display area is used for plants and flowers, and the variance is valid during the months of April through July. This request has previously been subject to the petitioner providing a corral type fence to both enclose the area of the display and maintain a safe sidewalk at the same time. This item last appeared before this Board at the meeting of March 15, 2005 and was granted a one-year renewal at that time. Conditions remain the same and we have no complaints or objections on file.

Mr. Stimac further explained that City Administration and the Planning Commission are working on a business license to allow these types of displays. If this occurs, this would be the last time this item would appear before this Board.

J-li

**ITEM #2 – con't.**

Ms. Sherri Haywood was present and stated that she had nothing to add.

Motion by Courtney  
Supported by Gies

MOVED, to grant K-Mart, 100 E. Maple a one-year renewal of relief of the Ordinance to allow for an outdoor display of plant material in front of K-Mart along the north side of the fenced area and a four-foot section of the sidewalk at the west end of the building adjacent to the building.

- This is the same request that has come before this Board for a number of years.
- Variance is not contrary to public interest.

Yeas: All – 7

**MOTION TO GRANT RENEWAL FOR ONE-YEAR CARRIED**

**ITEM #3 - VARIANCE REQUEST. SANKARAN BALAKRISHNAN, 1654 LIVERNOIS,** for relief of the Ordinance to construct a new gasoline station service building that would result in a 31.48' front setback where Section 30.20.07 requires a 40' front yard setback; a setback of only 9' from the R-1E (Residential One-Family) property to the northeast, where Section 30.20.07 requires a 75' setback; and 750 square feet of landscaping where Section 39.70.04 requires at least 1,547 square feet of countable landscape for a site this size.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct a new gasoline station service building. Section 30.20.07 requires a 40' front yard setback and a 75' setback from residential zoned property for developments in the H-S (Highway Service) Zoning District. The site plan submitted indicates a front yard setback of 31.48' to the west property line along Livernois and a setback of only 9' from the R-1E (Residential One-Family) Zoned property to the northeast.

In addition, Section 39.70.04 requires at least 1,547 square feet of countable landscape for a site this size. The site plan submitted indicates that only 750 square feet of countable landscaping will be provided.

This item first appeared before this Board at the meeting of February 20, 2007 and was postponed to allow the petitioner to present a new site plan showing the proposed driveway and a landscaping plan to the Board.

Since that meeting we have received revised plans for the development. These revised plans show that additional landscape area has been added. The plans with the additional landscape area shows that they would now be in compliance with the

**ITEM #3 – con't.**

minimum area of landscaping required on this site. The other variance requests regarding the front setback and setback from residential remain the same.

Jason Longhurst was present and stated that they had taken the comments of the Board from the last meeting and attempted to address as many concerns as possible. They have relocated the dumpster to the south side of the building and have also looked at adding more landscaping. Extra landscaping has been added to the front of the building and they also added to the landscaping along Maple so that everyone could see it and now meet the landscape requirement. If they shift the building one way or the other, the setback variances would have to be increased. They feel they have the building in the only place that fits the site correctly.

Mr. Maxwell asked if the petitioner could put any screening on the east side of the building. Mr. Longhurst said that they are proposing that it remain an access drive and they plan to add concrete paving on their portion of the property.

Mr. Courtney said that the house behind this property uses this alley as a driveway and the commercial property also uses it as a driveway. The only parcels that benefit from the alley are the ones that are owned by Maple Road Investments.

Mr. Stimac explained that the alley in question was originally platted as an alley. Last year at the request of the property owners the alley was vacated. The adjacent property owners have agreed to keep it open and use it as a shared driveway. Mr. Maxwell asked if this was done at the request of all of the property owners from Chopin to Maple. Mr. Stimac explained that this is a private agreement among the property owners, the City has no interest in it.

Mr. Stimac went on to say that the owners that have retail businesses along Maple use this alleyway as a driveway as well as the home on the south side of Chopin. Mr. Stimac also said that he does not believe there is any access to the alley to the retail building to the North.

Mr. Maxwell said that the residential property would be sharing the access with Commercial property.

Mr. Clark had a question about the screening wall. Mr. Longhurst said that they are going to extend a screening wall from the building to the corner of the lot.

Mr. Maxwell opened the Public Hearing.

Mr. Sydney Frank, representing the property owner who has the commercial property at 35, 37 E. Maple and 26 Chopin. Mr. Frank said that in his opinion there is no difference other than the increase in landscaping from the plan that was presented last month. It is there understanding that a variance is granted to accommodate a property owner if

**ITEM #3 – con't.**

there is a deficiency with the property. Nothing about this property compels a variance. This is a piece of property that could not possibly comply with the zoning setbacks. That is the exact condition that existed on this property when it was purchased. It was non-conforming and could not possibly be put in conformance. The little store is presently about 40' or 50' away from the back end of this house. It is not 75' from the property line. The petitioner wants to move that store and make it significantly larger - just about three times its size, which will then put the building 20' away rather than 50' away. If the owner of the residential property wanted to put on an addition to this home, it would look directly down on the gas station whether there is or isn't a screen wall. The petitioner is here for one purpose only, and that is to make more money. The petitioner wants to put up a 1200 square foot building. He could move the building back and made it 400 square feet. He doesn't want to do that because he it would not give him the ability for the extra income.

Mr. Maxwell stated that the petitioner could put up a phone booth and it would still require a variance.

Mr. Frank said that was correct, but when this property was purchased and subsequently re-zoned the petitioner was told that they would not be able to change the property without a variance. All you are getting is a prettier gas station. You are getting more landscaping, a prettier view and a screened dumpster. It will have a negative effect to residential property and diminish the value of this property. Granting this variance will create a different type of non-conformity.

Mr. Kovacs said that currently the view from the back of the residential property is a chain link fence. If the petitioner moves his building and puts up a screen wall the view from the residential property will still be a wall. You would still see a gas station, which has been on that site for a number of years. The owner of the residential property knew that was a gas station and should have assumed it would remain a gas station.

Mr. Frank stated that when the property was originally purchased, although it was a gas station, it was not zoned Highway. The owner of the property did not realize it would always be a gas station. Before it was re-zoned Highway there was a possibility that it could have been something else. This is an area of Maple that does not look very good but by granting a variance you are solving a small problem, and creating a much larger problem. Mr. Frank said that he did not know what the alternative to the problem was.

Mr. Courtney said that when this gas station was constructed it was not Highway Service, but when Mr. Frank's client moved in there was an existing gas station and therefore complied with the requirements of the zoning at that time. The current zoning classification came into effect many years later. Mr. Courtney went on to say that in his opinion, Mr. Frank's client's side of Chopin is a detriment to that side of Chopin. One of the existing homes has a front door that fronts the alley.

**ITEM #3 – con't.**

Mr. Frank made it clear that his client did not own all four of the homes on Chopin. Mr. Frank said that if she ever wanted to enlarge her property or improve it, it would be extremely difficult. Mr. Frank said that they are requesting this variance be denied.

Mr. Stempien the Architect for this project was present. He stated that his job is to design a building that will not affect the health, safety and welfare of the surrounding community. He believes this will be a dramatic improvement to the area. They have eliminated driveways and this will make it a much safer area. There are a lot of stations that have been abandoned and boarded up. The landscaping and the new building will enhance this area. It will help the owner to survive on this corner. It is impossible to do anything with this site unless the Board allows them to bend the rules, so to speak, and create a better building and serve the community. Mr. Stempien said that gas station owners do not make a lot of money selling the gas, but in fact survive on people purchasing the items provided in the service station store.

Mr. Brian Howard was present and stated that he is the Architect for Maple Properties. This existing building is 400 square feet. He does not believe that the petitioner needs a 1600 square foot building. The size of the building could be reduced by 238 square feet and the new building would still be 1362 square feet. This would increase the front setback and keeps the building in line with the other buildings on Livernois.

Mr. Kovacs asked for a clarification of Mr. Howard's interest in this property. Mr. Howard said that he is the Architect for the adjacent property owner. Mr. Kovacs said that the building to the north of this site is much closer to Livernois than the existing gas station.

Mr. Howard said that if the building to the north was torn down, this Board would have to grant the same variance to allow them to re-build. This would be precedent setting.

Mr. Maxwell said that variances are granted based on the present circumstances as the Board has no way of knowing what is going to happen in the future.

Mr. Stimac informed the Board that the property to the north is zoned B-1 and has a 25' front setback requirement.

Mr. Howard said that the petitioner could still reduce the size of the proposed building and meet the setback requirements.

Mr. Nick Stefanson, the owner of the property to the north said that right now there is much better exposure for his building. In the fast food industry it has been realized that the northeast corner is the most desirable location. Visibility, and accessibility to the building to the north will be affected by the new building. Mr. Stefanson said that he thinks 40' should be taken into consideration before granting a variance for 31.48'.

**ITEM #3 – con't.**

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

Mr. Fejes asked what would be a good business for this corner.

Mr. Stimac explained that the setbacks shown on the plan would be required for any building on this corner. The H-S Zoning (Highway Service) requires a 75' setback from Residential Zoning. Within the last two years the property was re-zoned from B-1 to H-S Zoning. B-1 Zoning does not require a 75' setback to residential property. Regardless of the use of the building, there is only a small triangle in the corner that would meet all of the setback requirements for this Zoning District.

Mr. Clark asked if there was any current business category that allows a commercial building to be 9' from a residential area.

Mr. Stimac said that without research he thought 20' would be the minimum setback requirement from a residential area.

Mr. Clark said that he thought the setback from Livernois was important, but he was hoping that the building could have been pushed up closer to Livernois and farther away from the residential property. Mr. Clark said that he had lived in the area for several years and he thinks this building is going to be bearing down on the existing home. Mr. Clark said that in his opinion there is a large difference between having a screen wall close to your property or a building. There are many homes in this area and he believes that this building will have a negative impact on both the Chinese restaurant as well as the residential property. He does not like the building encroaching on the neighbor. He believes this is a big foot development on a small parcel and he is very concerned about the impact to the surrounding property.

Mr. Maxwell stated that the job of this Board is to determine if this variance will have a detrimental effect to the property.

Mr. Courtney stated that last year this Board had heard a very similar request and at that time the building was 18' from the residential property. The reason it is now 9' is because the owner of the property on Chopin petitioned to have this alley vacated. In his opinion when looking down the alley this new building will be an improvement and will create the illusion of a longer wall. He also stated that an improvement to the neighborhood would be if the houses were demolished. Maple Road Properties are not demonstrating any responsibility for the physical condition of the residential property. The Chinese restaurant will still have at least two-thirds of the building shown going north. This new building will be an improvement and increase safety in the area because they are eliminating two driveways, one on Maple and one on Livernois. Mr. Courtney said that he would like to see someone living and working in Troy able to benefit from changes being made. Mr. Courtney also said that Mr. Frank's client was

**ITEM #3 – con't.**

interested in developing this property and that is the reason they are against granting this variance.

Mr. Maxwell said that he did not believe moving the building closer would have a detrimental effect to the surrounding property.

Mr. Fejes said that he agrees with Mr. Courtney in that this new building would be an improvement to the surrounding area. Mr. Fejes also stated that the petitioner has made a concerted effort to improve this corner and has satisfied the landscaping requirement. Mr. Fejes said that there are a lot of gas stations that are boarded up and would not want that to happen to this corner.

Mr. Frank stated that Mr. Courtney's comments were out of order and to use a property owner's residence as part of a reason to make a decision is totally out of order. A variance is not justified by whether or not someone lives in Troy or somewhere else. Two years ago, Mr. Frank's client was interested in developing the area. Mr. Frank further stated that his client is no longer interested in trying to develop her property with this parcel. A variance should be granted based on a hardship with the land. Mr. Frank also said that his client believes that the development of this property to a larger service station will have a negative effect on her property.

Mr. Maxwell said that financial considerations are not to be taken into account in the decision to grant a variance, but they have to look at whether or not the variance will have a negative effect to surrounding property.

Mr. Kovacs stated that the petitioner has done their best to avoid blocking the business to the north. This building is still visible and the signage for the building will still be visible. The residence on the northeast corner will not be impacted because it is still sitting next to a restaurant, gas station and commercial property. The view will remain the same and this site has a definite hardship because of the H-S Zoning classification, which allows a building to be constructed on a very small triangle.

Motion by Kovacs  
Supported by Wright

MOVED, to grant Sankaran Balakrishnan, 1654 Livernois, relief of the Ordinance to construct a new gasoline station service building that would result in a 31.48' front setback where Section 30.20.07 requires a 40' front yard setback; and a setback of only 9' from the R-1E (Residential One-family) property to the northeast, where Section 30.20.07 requires a 75' setback.

- Setback variance to Livernois is not contrary to public interest.
- Variance does not permit the establishment of a prohibited use.
- Variance does not cause adverse effect to surrounding property.

**ITEM #3 – con't.**

- Literal enforcement of the Ordinance is unnecessarily burdensome.
- The health, safety and welfare of the citizens will be improved due to the elimination of two (2) driveways.

Yeas: 6 – Kovacs, Maxwell, Wright, Courtney, Fejes, Gies  
Nays: 1 – Clark

**MOTION TO GRANT VARIANCE CARRIED**

**ITEM #4 – VARIANCE REQUEST. ALLEN ROSTAM, 6595 EDITH,** for relief of the Ordinance to construct an addition to a walk out basement that will result in a 33'-3" rear yard setback, where Section 30.10.05 requires a 40' minimum rear yard setback in R-1D Zoning Districts.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct an addition to an existing home. This addition is at the level of the walkout basement and includes an open patio above with a proposed 33'-3" rear yard setback. Section 30.10.05 requires a 40' minimum rear yard setback in R-1D Zoning Districts.

Mr. Courtney asked if the original deck would be removed. Mr. Stimac explained that the current deck would be removed and a new deck would be constructed with steel and concrete.

Mr. Kovacs asked if the structure below would still require a variance if it was constructed without windows.

Mr. Stimac explained that it would be the same because of the way the upper structure is constructed; it in fact becomes a roof. Instead of being an area under the deck, it now becomes a roof over an occupiable room.

Mr. Rostam was present and stated that the present deck requires a lot of maintenance. There is no access proposed from the basement to the area under the deck; they have a staircase they use. This new deck will increase the value of the property, he has spoken to his neighbors, and they approve of this request.

Mr. Kovacs confirmed that Mr. Rostam did not have any direct access to the deck.

Mr. Kovacs asked why this would be considered an addition without direct access. Mr. Stimac compared it to an attached garage without direct access from the house. The structure would still have to comply with the setbacks.

Mr. Courtney asked if there was a poured basement. Mr. Rostam said it was a poured walkout basement.

**ITEM #4 – con't.**

Mr. Maxwell opened the Public Hearing.

Kyle Humphrey, the builder, was present and stated that at one time the petitioner was thinking about breaking into the basement and putting in a door, but that is not part of this plan.

No one else 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 said that in his opinion this was a very unique situation and did not believe that this type of structure was addressed anywhere in the Zoning Ordinance.

Motion by Courtney  
Supported by Gies

MOVED, to grant Allen Rostam, 6595 Edith, relief of the Ordinance to construct an addition to a walk-out basement that will result in a 33'-3" rear yard setback where Section 30.10.05 requires a 40' minimum rear yard setback in R-1D Zoning Districts.

- Variance request is not excessive.
- Variance will not change the use of the property.
- Variance will not have an adverse effect to surrounding property.

Yeas: 6 – Kovacs, Maxwell, Wright, Courtney, Fejes, Gies  
Nays: 1 – Clark

MOTION TO GRANT VARIANCE CARRIED

Meeting recessed at 8:40 P.M.

Meeting resumed at 8:45 P.M.

**ITEM #5 – VARIANCE REQUEST. MAZIN AND SENNICAFSU, 3769 MEADOWBROOK**, for approval under Section 43.74.00 to park a commercial vehicle outside on residential property.

Mr. Stimac explained that the petitioners are seeking approval under Section 43.74.00 to park a commercial vehicle outside on residential property. The Ford cube van does not meet the exceptions as described in Section 40.66.00 of Chapter 39 of the Troy City Ordinance.

**ITEM #5 – con't.**

A similar request was approved by City Council under the previously adopted criteria on February 23, 2004 for a period of two years. Copies of the minutes from that meeting were included for reference.

The site in question is approximately 12,500 square feet in area and has a home that has 1,302 square feet of living space on the first floor with a 420 square foot attached garage. A detached garage could be constructed up to 700 square feet in area. Another 556 square feet of attached garage could also be constructed on the site.

Mr. Maxwell asked for a clarification on the guidelines for approval of this request. Mr. Stimac gave an explanation of the requirements and changes for approval of the parking of commercial vehicles outside on residential property. Mr. Stimac also explained that if this Board grants this request now, the next time it comes back to the Board it will come back as a renewal.

Mr. Nafsu was present and stated that he had followed the guidelines set up by City Council and believes his neighbors are happy with the results.

Mr. Maxwell asked if it was possible for Mr. Nafsu to construct a garage.

Mr. Nafsu said that he didn't think he would be able to add on to his attached garage. He had planted bushes as requested by City Council, and extended his driveway, and has not received any complaints from the neighbors. He would be more than willing to come back to the City every two years and will do whatever the City requires.

Mr. Fejes asked why he needed to park his commercial vehicle at his home.

Mr. Nafsu said that he uses this vehicle everyday.

Mr. Courtney asked if he used this vehicle for everyday use. Mr. Nafsu said that he only uses it when he works.

Mr. Courtney asked what the nature of his business was and Mr. Nafsu said that he sells candy and the company he works for is very small and has only five or six employees. The property the factory is on does not have enough room to park these commercial vehicles.

Mr. Courtney informed Mr. Nafsu that the Homeowners Association had written a letter urging the Board to deny this request as they did not believe the conditions set by City Council were met.

Mr. Nafsu said that he thought it would be possible for him to make the trees look better.

Mr. Maxwell opened the Public Hearing.

**ITEM #5 – con't.**

Mrs. Nafsu was present and stated that City Council had request that they construct a side driveway, which they did. Mrs. Nafsu did not understand why they had to appear before the Board.

Mr. Maxwell stated that the City does not have business uses in the same location as residentially zoned property and they need permission to break the Ordinance law to park a commercial vehicle on a residential street.

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

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

Mr. Wright said that he is opposed to this request. In 2004 City Council instructed the Planning Department to find spaces that would allow for the parking of commercial vehicles that would not be on residential property. The Zoning Ordinance text amendments allows for 375 available spaces to park commercial vehicles. They were not in residential areas. One year ago Mr. Motzny, one of Assistant City Attorneys, informed the Planning Commission that this was basically a use variance. This Board does not have the authority to grant a use variance.

Mr. Forsyth, Assistant City Attorney, stated that he had reviewed Mr. Motzny's memo before tonight's meeting and stated that although it may be found to be a special use variance but under more general language it is considered a zoning matter. Mr. Motzny also stated that it was appropriate for this Board to act on this request. City Council gave this Board the authority to act on this type of request as long as certain criteria are followed.

Mr. Stimac said that the Zoning Ordinance does allow exceptions for the parking of commercial vehicles of a certain size on residential property. The reason the petitioner is here tonight is because his vehicle does not meet the exceptions regarding these vehicles. Mr. Stimac also said that Mr. Motzny said that there is the potential for a special use, but if this vehicle were smaller it would not require approval from this Board.

Mr. Maxwell said that basically it is a legal opinion and asked if Mr. Wright had any information of where this available parking would be.

Mr. Wright said that he had a whole list of available parking and passed it on to Mr. Stimac.

Mr. Stimac said that the document provided by the Planning Department in 2004, which is part of the Zoning text amendment, shows facilities that would allow for the parking of these vehicles with special use approval. It was his understanding however, that only one of the facilities has gone through the special use approval process.

**ITEM #5 – con't.**

Motion by Courtney  
Supported by Gies

MOVED, to approve the request of Mazin and Sennica Nafsu, 3769 Meadowbrook, under Section 43.74.00 to park a commercial vehicle outside on residential property.

- For a period not to exceed one-year.
- One-year approval will allow petitioner to explore the possibility of parking this vehicle in another location.
- Approval granted in accordance with Items B & C.
- Variance does not negatively impact the neighbors.

Mr. Clark asked the petitioner if he owns the truck. Mr. Nafsu said that was correct. Mr. Clark also asked what name was on the truck. Mr. Nafsu explained that the Police Department told him that he needed a name on the truck so that is his name.

Mr. Clark then asked if his office was in Troy. Mr. Nafsu said that he did not have an office. He buys and sells candy.

Mr. Kovacs asked if this was a 20' RV could be parked in this location. Mr. Stimac stated that the Ordinance allows for the parking of recreational vehicles in either the side or rear yard of a residence.

Mr. Courtney stated that he needed to amend his motion, as he believes that the petitioner can add on to his existing garage or add a detached building to park this vehicle.

Mr. Stimac stated that this site could have a detached garage up to 700 square feet and he could also add an addition 550 square feet to the attached garage. Based on the description of the property given by the petitioner he could build an additional structure on either side of his property.

Mr. Maxwell asked how the Board could vote on the motion when Item B is not applicable.

Mr. Stimac stated that the motion has been properly made but it is up to the Board on whether or not it can be voted on.

An amended motion was made.

Motion by Courtney  
Supported by Gies

**ITEM #5 – con't.**

MOVED, to approve the request of Mazin and Sennica Nafsu, 3769 Meadowbrook, under Section 43.74.00 to park a commercial vehicle outside on residential property.

- For a period not to exceed one-year.
- One-year approval will allow petitioner to explore the possibility of parking this vehicle in another location.
- Approval granted in accordance with Items A & C.
- Variance does not negatively impact the neighbors.

Yeas: 5 – Maxwell, Clark, Courtney, Fejes, Gies

Nays: 2 – Wright, Kovacs

MOTION TO GRANT APPROVAL FOR A PERIOD OF ONE-YEAR

**ITEM #6 – VARIANCE REQUEST. GARY ABITHEIRA, 727 COLEBROOK (PROPOSED ADDRESS)**, for relief of the Ordinance to construct a new home on an existing 10,000 square foot lot where Section 30.10.04 requires a 10,500 square foot minimum lot area in the R-1C Zoning District.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a new home. The site plan submitted indicates construction of this new home on an existing 10,000 square foot platted lot where Section 30.10.04 requires a 10,500 square foot minimum lot area in the R-1C Zoning District.

Records show this property is in single ownership with the adjacent property at 715 Colebrook that is also on a 10,000 square foot platted lot. Section 40.50.02 requires that lots with continuous frontage in single ownership that do not by themselves meet minimum lot area requirements be considered one undivided parcel. The conversion of these parcels into separate ownership and construction of an additional home on this lot is in violation of the Ordinance.

Gary Abitheira developer of the property was present, representing the owner of the property. The owner of this property purchased it in 1970 and is looking to sell the lot next door. He bought it as a buildable lot. Area was platted in 1924 as all 100' lots and the proposed house would meet all the setback requirements. The only requirement that would not be met is the 10,500 square foot area. Every other lot on the street is non-conforming and there is no other available property to purchase. Mr. Abitheira contacted the neighbors on each side and also across the street and no one objects to this request. Mr. Abitheira said that they are trying to split the lot that was subdivided off.

Mr. Kovacs asked Mr. Abitheira if any other variances would be required. Mr. Abitheira said that he would not require any other variances. All other setbacks would be met. The house would blend in with the other houses in the neighborhood.

**ITEM #6 – con't.**

Mr. Courtney asked how this home would blend in with the other homes.

Mr. Abitheira said that he thought there were eighty-two (82) lots on this street and most of them are built on 100' x 100' lots, and this home would conform to the other lots.

Mr. Stimac stated that there are sixty-five (65) houses on this street. There are a number of homes on this street that are in fact on 100' x 100' lots. Some of the lots are 150' x 200' also.

Mr. Abitheira pointed out that there are a few 50' stub streets that were put in to make the lots look wider. There are a few 150' lots.

Mr. Maxwell opened the Public Hearing.

Mr. Thomas McKaig of 3509 Bristol was present. Mr. McKaig said that his property backs up to this lot and he concerned that a two-story home would be out of place on this street as there are a lot of ranch homes in the area. Right now they have a very nice view and he would rather not look at the back of a large home.

Mr. Maxwell said that they are not in control of what he can build as long as he complies with the Ordinance.

Mr. McKaig said that he was wondering where the 10,500 square foot requirement came from.

Mr. Stimac explained that the City of Troy has five (5) different residential zoning districts and each district has a minimum lot area requirement. The minimum lot size establishes how dense an area is developed. This Board does have the power to place conditions on the structure to limit the size of the variance.

Mr. McKaig said that in his opinion when you drive up and down the street, the new larger home look funny on small lots.

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

There are no written approvals or objections on file.

Mr. Courtney asked what type of home Mr. Abitheira was planning to construct.

Mr. Abitheira said that he wants to construct a four-bedroom colonial. Three bedroom ranches do not sell any more. There are other colonial style homes on the street and he wants to build what will sell.

**ITEM #6 – con't.**

Mr. Courtney asked what would happen if the Board placed a restriction limiting the new construction to either one story or one and one half stories.

Mr. Abitheira said that he may not be able to keep within the restrictions because everyone wants a four bedroom colonial.

Mr. Kovacs said that he understands the concern of the neighbor on Bristol, but does not think a colonial would be out of place in this area. Mr. Kovacs would not be willing to grant any other variance on this property.

Motion by Kovacs

Supported by Courtney

MOVED, to grant Gary Abitheira, 727 Colebrook, relief of the Ordinance to construct a new home on an existing 10,000 square foot lot where Section 30.10.04 requires a 10,500 square foot minimum lot area in the R-1C Zoning District.

- Variance is not contrary to public interest.
- Variance would not cause an adverse effect to surrounding property.
- Variance applies only to the property described in this petitioner.
- Literal enforcement of the Ordinance would be unnecessarily burdensome.

Mr. Courtney asked if a restriction could be placed on this request stating that no other variances could be added.

Mr. Stimac explained that if the subsequent owner wants to add something that would require a variance, this Board would have to listen to that request.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

**ITEM #7 – VARIANCE REQUEST. CHRIS MILLER, 3301 TALBOT**, for relief of the Ordinance to construct a covered front porch that will result with a proposed 23'-4" front setback to the roof support columns where Section 30.10.06 requires a 25' minimum front yard setback in R-1E Zoning Districts.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a covered front porch as part of additions on an existing single family home. The site plan submitted indicates the construction of a covered front porch with a proposed 23'-4" front setback to the roof support columns. Section 30.10.06 requires a 25' minimum front yard setback in R-1E Zoning Districts.

**ITEM #7 – con't.**

Mr. McGavin the designer of the alteration for this home was present. Mr. McGavin stated that it is only the porch posts that require a variance. They want to put a roof over the porch to protect the area from inclement weather.

Mr. Maxwell 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. Stimac explained that if they removed the posts, or stanchions, and could make this project from the home a variance would not be required.

Motion by Wright  
Supported by Gies

MOVED, to grant Chris Miller, 3301 Talbot, relief of the Ordinance to construct a covered front porch that will result with a proposed 23'-4" front setback to the roof support columns where Section 30.10.06 requires a 25' minimum front yard setback in R-1E Zoning Districts.

- 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.
- Variance request is minimal.

Yeas: All – 7

**MOTION TO GRANT VARIANCE CARRIED**

Mr. Stimac informed the Board that City Council had appointed Mrs. Gies to another three-year term on this Board and elections will take place in May to appoint a new Chairman and Vice-Chairman.

Motion by Courtney  
Supported by Gies

MOVED, to waive the rules of the Board of Zoning Appeals and appoint a Chairman and Vice-Chairman at this meeting.

Yeas: All – 7

**MOTION TO WAIVE RULES CARRIED**

Motion by Courtney  
Supported by Gies

Moved to appoint Mr. Maxwell, Chairman for the Board of Zoning Appeals, and Mr. Kovacs, Vice-Chairman until May 2008.

Yeas: All – 7

MOTION TO APPOINT MR. MAXWELL, CHAIRMAN AND MR. KOVACS, VICE-CHAIRMAN CARRIED

Mr. Stimac informed the Board that at last month's meeting there was a question regarding how the home on Hampton was constructed with a 20' setback from the front setback line. After further research, it was determined that in 1972 a variance was granted to allow the garage to be constructed within 25' of the front setback line.

Mr. Fejes stated that the Mr. Nafsu approached him after his hearing, as he did not understand the action of the Board.

Mr. Stimac explained that Mr. Nafsu will be receiving written notification of what this Board had approved regarding his commercial vehicle request.

The Board of Zoning Appeals meeting adjourned at 9:45 P.M.

  
\_\_\_\_\_  
Mr. Maxwell, Vice-Chairman

  
\_\_\_\_\_  
Pamela Pasternak, Recording Secretary

