

The Chairman, Christopher Fejes, called the special meeting of the Board of Zoning Appeals to order at 6:02 P.M. on Tuesday, October 18, 2005 in Council Chambers of the Troy City Hall.

PRESENT: Kenneth Courtney  
Christopher Fejes  
Marcia Gies  
Michael Hutson  
Matthew Kovacs  
Mark Maxwell

ALSO PRESENT: Mark Stimac, Director of Building & Zoning  
Lori Grigg-Bluhm, City Attorney  
Susan Lancaster, Assistant City Attorney

Mr. Wright did not attend this presentation as he previously attended a similar presentation when it was given to the Planning Commission members.

Ms. Bluhm gave a presentation to the members of the Board regarding rules and procedures for the Board of Zoning Appeals.

Motion by Gies  
Supported by Courtney

Moved, to adjourn the special meeting of the Board of Zoning Appeals.

Yeas: 6 – Courtney, Fejes, Gies, Hutson, Kovacs, Maxwell  
Absent: 1 – Wright

MOTION TO ADJOURN MEETING CARRIED

The special meeting of the Board of Zoning Appeals adjourned at 7:24 P.M.

The Chairman, Christopher Fejes, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M. on Tuesday, October 18, 2005 in Council Chambers of the Troy City Hall.

PRESENT: Kenneth Courtney  
Christopher Fejes  
Marcia Gies  
Michael Hutson  
Matthew Kovacs  
Mark Maxwell  
Wayne Wright

ALSO PRESENT: Mark Stimac, Director of Building & Zoning

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Susan Lancaster, Assistant City Attorney  
Pamela Pasternak, Recording Secretary

**ITEM #1 – APPROVAL OF MINUTES, MEETING OF SEPTEMBER 20, 2005**

Motion by Courtney  
Supported by Wright

MOVED, to approve the minutes of the meeting of September 20, 2005 as written.

Yeas: All – 7

MOTION TO APPROVE MINUTES CARRIED

**ITEM #2 – APPROVAL OF ITEMS #3 THROUGH #10**

Motion by Courtney  
Supported by Hutson

MOVED, to approve a three (3)-year renewal of Items #3 through #10 as suggested in the Agenda Explanation.

Yeas: All – 7

**ITEM #3 – RENEWAL REQUESTED. FIFTH THIRD BANK, 2220 W. BIG BEAVER,**  
for relief of the 6' high screening wall between office and residentially zoned property.

Mr. Stimac explained that the petitioner is requesting renewal of relief of the Ordinance requirement for a 6' high screen wall along the north property line where this site abuts residentially zoned property. The Zoning Ordinance requires a 6' high screening wall between office and residential sites. This item last appeared before this Board at the meeting of October 15, 2002 and was granted a three (3) year renewal at that time. This request runs concurrent with the variance request at 2282 W. Big Beaver. Conditions remain the same and we have no objections or complaints on file.

MOVED, to grant Fifth Third Bank, 2220 W. Big Beaver, a three (3) year renewal of relief for the 6' high screening wall required between office and residential zoned property.

- The adjacent property is used as a retention pond.
- Conditions remain the same.
- Variance is not contrary to public interest.
- Variance will not have an adverse effect on surrounding property.

**ITEM #4 – RENEWAL REQUESTED. FIFTH THIRD BANK, 2282 W. BIG BEAVER,** for relief of the 6' high masonry screening wall required along the north property line where this site abuts residential zoned property.

Mr. Stimac explained that the petitioner is requesting relief of the 6' high masonry-screening wall required along the north side of their site where it abuts residentially zoned property. This Board originally granted the relief in 1983 and last renewed it in 2002, in part, due to the fact that the property to the north is a retention pond for the Standard Federal Bank building. Conditions at the site remain the same and we have no objections or complaints on file.

MOVED, to grant Fifth Third Bank, 2282 W. Big Beaver, a three (3) year renewal of relief of the 6' high masonry-screening wall required along the north side of their site where it abuts residentially zoned property.

- The adjacent property is used as a retention pond.
- Conditions remain the same.
- Variance is not contrary to public interest.
- Variance will not have an adverse effect on surrounding property.

**ITEM #5 – RENEWAL REQUESTED. TROY MASONIC TEMPLE ASSOCIATION, 1032 HARTLAND,** for relief of the required 4'-6" high masonry screening wall adjacent to off-street parking.

Mr. Stimac explained that the petitioner is requesting relief of the 4'-6" high masonry-screening wall adjacent to their parking lot. This Board originally granted this variance in 1970. This item last appeared before this Board in October 2002 and was granted a three (3) year renewal of this request. Conditions at the site remain the same and we have no objections or complaints on file.

MOVED, to grant Troy Masonic Temple Association, 1032 Hartland, a three (3) year renewal of relief of the 4'-6" high masonry screening wall adjacent to off-street parking.

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

**ITEM #6 – RENEWAL REQUESTED. WATTLES PROPERTIES, LLC, BROOKFIELD ACADEMY, 3950 LIVERNOIS,** for relief of the 4'-6" high masonry screening wall required along the east side of off-street parking.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board of the 4'-6" high masonry screening wall required along the east side of off-street parking. This relief was originally granted in 1982 and expanded in 1988, in part, due to the fact that a chain link fence with redwood slats had been installed. This item last appeared before this Board at the meeting of October 2002 and was granted a three-year renewal with the stipulation that the fence would be repaired and kept in good

**ITEM #6 – con't.**

repair. Conditions at the site remain the same and we have no objections or complaints on file.

**ITEM #6 – con't.**

MOVED, to grant Wattles Properties, LLC, Brookfield Academy, 3950 Livernois, a three (3) year renewal of relief of the 4'-6" high masonry screening wall adjacent to off-street parking.

- Fence to remain in good repair.
- Conditions remain the same.
- There are no complaints or objections on file.

**ITEM #7 – RENEWAL REQUESTED. ST. AUGUSTINE EVANGELICAL CHURCH, 5475 LIVERNOIS**, for relief of the 4'-6" high masonry wall required along the south and west sides of off-street parking.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by the Board for the 4'-6" high masonry wall required along the south and west sides of the property, adjacent to the off-street parking. This relief was originally granted in 1993 based on the fact that the variance would not be contrary to public interest and conforming would be unnecessarily burdensome. This item last appeared before this Board at the meeting of October 2004 and was granted a one-year renewal to allow the neighbors to determine if the special use for the day care center would create any type of problems. Conditions remain the same and we have no objections or complaints on file.

MOVED, to grant St. Augustine Evangelical Church, 5475 Livernois, a three (3) year renewal of relief of the 4'-6" high masonry wall required along the south and west sides of the property, adjacent to the off-street parking.

- Variance is not contrary to public interest.
- There are no complaints or objections on file.

**ITEM #8 – RENEWAL REQUESTED. MARC DYKES, HOME PROPERTIES, CANTERBURY SQUARE APARTMENTS II, N. SIDE OF LOVINGTON, E. OF JOHN R.**, for relief of the 4'-6" high masonry screening wall required along the north and east sides of off-street parking where these areas abut residentially zoned land.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board for relief of the 4'-6" high masonry screening wall required along the north and east sides of off-street parking areas where these areas abut residentially zoned land. This relief has been granted since 1974 primarily due to the fact that the adjacent residential land is undeveloped. The property to the north is now developed for a multi-story senior citizen housing project and the City for use as a future park development

**ITEM #8 – con't.**

has acquired the property to the east. This item last appeared before this Board at the meeting of October 2002 and was granted a three-year renewal. Conditions remain the same and we have no objections or complaints on file.

MOVED, to grant Marc Dykes, Home Properties, Canterbury Square Apartments II, N. side of Lovington, E. of John R., a three (3) year renewal of relief of the 4'-6" high masonry screening wall required along the north and east sides of off-street parking areas where these areas abut residentially zoned land.

- Adjacent property is not developed with single-family residences.
- Variance will not have an adverse effect to surrounding property.
- Variance is not contrary to public interest.
- Conditions remain the same.

**ITEM #9 – RENEWAL REQUESTED. LIFE CHRISTIAN CHURCH INTERNATIONAL, 3193 ROCHESTER ROAD,** for relief of the 4'-6" high masonry screening wall required along the north and west sides of off-street parking.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board for relief of the 4'-6" high masonry screening-wall required along the north and west side of off-street parking. This Board originally granted this relief in 1980. This item last appeared before this Board in October 2002 and was granted a three (3) year renewal. Since that time the church property has been sold from Troy Baptist Church to the current owner. Other than that, conditions remain the same and we have no complaints or objections on file.

MOVED, to grant Life Christian Church International, 3193 Rochester Road, a three (3) year renewal of relief of the 4'-6" high masonry screening-wall required along the north and west side of off-street parking.

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

**ITEM #10 – RENEWAL REQUESTED. BLUE HERON INVESTMENTS, LLC, 2032 E. SQUARE LAKE,** for relief of the 6' high screen wall required along the east side of the property, where commercial zoned property abuts residential zoned property.

Mr. Stimac explained that the petitioner is requesting relief granted by this Board to delete the 6' high screen wall along the east side of the property, where Commercially zoned property abuts Residential zoned property. This item last appeared before this Board at the meeting of October 2002 and was granted a three (3) year renewal.

**ITEM #10 – con't.**

MOVED, to grant Blue Heron Investments, LLC, 2032 E. Square Lake Road, a three (3) year renewal of relief of the 6' high screen wall along the east side of the property where it abuts residentially zoned land.

- Existing vegetation provides adequate screening.
- Conditions remain the same.
- There are no complaints or objections on file.

**ITEM #11 – VARIANCE REQUESTED. DAVID DONNELLON, THE CHOICE GROUP, 4254 BEACH ROAD,** for relief of the Ordinance to split an existing parcel of land from its Beach Road frontage.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to split an existing parcel from its Beach Road frontage. The site plan submitted indicates a split of this property from its Beach Road frontage and creating access to the property from the western end of the stub street Prestwick. This would result in the only street frontage for this property being the 55 feet at the end of Prestwick Drive. Section 30.10.02 requires that properties in the R-1B Zoning District have a minimum of 100' of frontage on a public street.

This item first appeared before this Board at the meeting of August 16, 2005 and was postponed until this meeting at the request of the petitioner to allow him the opportunity to discuss other options with the neighbors that may be acceptable to everyone.

The Building Department received a letter from Mr. Donnellon of the Choice Group and Mr. Kyle Jones, representative of the Greentrees Homeowners Association asking that this request be postponed until the meeting of November 15, 2005.

Motion by Wright  
Supported by Maxwell

MOVED, to postpone the request of Mr. Donnellon, 4254 Beach Road, until the next scheduled meeting of November 15, 2005 for relief of the Ordinance to split an existing parcel of land from its Beach Road frontage.

- Per the request of the petitioner as well as the representative of the Homeowners Association.

Yeas: All – 7

**MOTION TO POSTPONE REQUEST UNTIL THE MEETING OF NOVEMBER 15, 2005  
CARRIED**

**ITEM #12 – VARIANCE REQUESTED. ARNOLD BECKER, 2840-2880 ROCHESTER ROAD**, for relief of the Ordinance to expand the existing parking lot at 2840-2880 Rochester Road with a 10' setback from the north property line and without a screen wall. Section 29.50.07 requires a 25' front setback and also requires a 4'-6" high screen wall to be installed at this setback line.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to expand the existing parking lot at this commercial property. The property immediately to the east is zoned R-1E. Section 29.50.07 of the Troy Zoning Ordinance requires a 25' front setback for Vehicular Parking (P-1) zoned parcels when they have contiguous frontage with residential districts. It further requires a 4'-6" high screen wall installed at this setback line. The site plan submitted indicates a setback of only 10' from the north property line and no screen wall.

Mr. Maxwell asked if there was a screen wall now. Mr. Stimac explained that the property where the expansion is planned previously had houses on it that were demolished and was re-zoned from R-1E to P-1 (Vehicular Parking).

Mr. Courtney asked if the building to the east was a home and Mr. Stimac stated that it was an occupied single-family residence.

Eileen Youngerman, General Manager for Arnold Becker was present and stated that they are only requesting a variance for the screening wall on the north property line. They believe that landscaping would be more aesthetically pleasing than a screen wall. They would lose a whole row of parking on the north side if the 25' setback is required and the area on the south side of the property is nothing but utilities and easements and they cannot have them moved.

Mr. Fejes asked what kind of business was going in this area and Ms. Youngerman said that they are presently working with a client that has a wood working business and another that is a window business. This parking would make the area more accessible. Mr. Fejes then asked if the parking available would meet the parking requirements and Mr. Stimac said that there is a different parking standard between a furniture store and a retail shoe store for example. A furniture store would require less parking than a shoe store. Ms. Youngerman said that the client that they are working with right now would be for the sales of wood working equipment and a few classes. Ms. Youngerman said that offices were in this building before it was Corey Dinette.

Mr. Stimac asked how large this building was and Ms. Youngerman stated that it was approximately 11,020 square feet. Mr. Stimac said that a building this size would require 51 parking spaces on the current site. Ms. Youngerman said that they are also considering parking on the south side of the property. They did not develop the southeast corner of the parcel but left it as a green space.

Mr. Hutson asked what would happen if the variance was not granted and Ms. Youngerman stated that they would lose eight (8) parking spaces. With the design that

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they have worked with they would only have only one entrance off Henrietta if the 25' setback was required. Mr. Hutson asked if they would still be able to use the building for the proposed use and Ms. Youngerman said that she thought the parking would be below what is required.

Mr. Courtney asked how wide the lots were and Ms. Youngerman said that they are 50' wide. Ms. Youngerman said that they would lose an entire row of parking on the north face on Henrietta.

Mr. Hutson said that one objection from the property that is further east of the frame building has been received, and this property owner wants a screen wall. Mr. Hutson went on to say that if he were living next to this property he also would want some type of screening, although not necessarily a masonry wall. Ms. Youngerman said that there will be a 4'-6" high wall between the parking and the east property line. Ms. Youngerman said that she has worked with Nancy Haynes, the neighbor immediately to the east, and are more than willing to put up this screening wall.

Ms. Youngerman introduced her architect, Dustin Elliott of Orchard Hills McClintock (OHM) and said if the Board had any questions, he would be more than willing to answer them.

Mr. Hutson said that he did not feel the requirement of 25' of green space is appropriate under these circumstances. Ms. Youngerman said that they more than meet the green space requirement for both lots.

Mr. Kovacs asked for an explanation of the drawing of the parking area on the east side and how wide the cut out area was. Mr. Elliott said that they are at least 7' in depth to allow a car to back out of a stall and pull out without going over a curb. The Ordinance requirements have been met along the east property line, the variance request is for the north property line.

Mr. Stimac clarified that the two lots that are proposed to be developed are within the P-1 (Vehicular Parking) Zoning classification. P-1 Zoning has a somewhat unique requirement in that if you have P-1 zoning which is contiguous with residential, the Ordinance says that the setback for that parking has to be the same setback as the houses. You can't have a parking lot that sticks out in front of the houses. It further says that at that front setback line you need to have a screen wall between the parking lot and the street. The parking lot would need to begin 25' from the north property line and is further required to have a 4-6" screening wall along this 25' setback. Petitioners wish to reduce the 25' setback to 10' and are also asking for the elimination of the screening wall.

Mr. Kovacs asked what the setback was to the east property line and Mr. Stimac stated that there is no setback mandated by Ordinance.

**ITEM #12 – con't.**

Mr. Courtney said that if they put the wall in the only thing they would be screening is another wall. Ms. Youngerman said that they are also planning to plant trees along this area.

Mr. Stimac explained that if the building is 11,020 square feet and the Zoning Ordinance requires one parking space per 200 square feet at general retail space. That would require 55 parking spaces for the building to the north. The building to the south contains automobile related repair facilities and per the petitioner contains five bays on each side. Mr. Stimac went on to say that the Zoning Ordinance requires two parking spaces per bay that would require 20 for this building, and 55 for the building to the north for a total of 75. Mr. Stimac said that with the new plan, he counted 98 parking spaces on the site as shown.

Mr. Hutson asked if it will then meet the requirements for a general retail store and Mr. Stimac said that it would exceed the requirements for general retail. Mr. Hutson asked if there were other uses that could go in this area that would require more parking and Mr. Stimac said that restaurants and medical offices could require more parking. Mr. Hutson asked if they insisted on a 25' setback and the petitioner lost eight (8) parking spaces, what the effect on retail would be. Mr. Stimac said that based on his count they would still have 90 parking spaces, and the Ordinance would require 75 parking spaces.

Mr. Fejes asked what Board the petitioner would have to appear before if one of the other uses came into this area and more parking was required. Mr. Stimac said that the petitioner would have to request a parking variance from City Council.

Mr. Kovacs asked if a sidewalk would need to be expanded in the 10' area. Ms. Youngerman said that one of the reasons they did not show a sidewalk in this area was because the master plan indicates that this area will all be commercial some day. Mr. Kovacs then asked if they had ever considered putting a slight berm in this area. Ms. Youngerman said that they have redesigned these plans at least six times and they are not planning to put in a berm at all.

Mr. Fejes asked if the petitioner is in compliance with the landscaping requirement. Mr. Stimac said that he believes the Planning Department did confirm that they do meet the landscape requirements.

The Chairman opened the Public Hearing.

Nancy Haynes, 1046 Henrietta was present and stated that she is the first house next to this property. Ms Haynes does not object to this request, however, would like to see a 25' setback and greenbelt area.

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Mr. Courtney clarified the location of Ms. Haynes property and Ms. Haynes said that her home is right next door to the proposed parking lot. Mr. Courtney said that he did not see how this request would effect her property. Ms. Haynes said that in her opinion when she is backing out of her driveway her view would be obstructed without the 25' setback. Mr. Stimac explained that the screen wall along the east property line would start at a 25' setback as required by the ordinance. If the petitioner were to receive their variance the screen wall would start at a 10' setback line.

Mr. Hutson asked if Ms. Haynes wanted the screen wall along her property line and she said that she did. Mr. Hutson also said that in the petition it was indicated that the Master Plan calls for this area to be all developed as Commercial property and Mr. Stimac said that was true. Ms. Haynes said that she and her neighbors hope that it does go Commercial.

Mark Kozlow, 1058 Henrietta was present and said that when the Zoning was changed in this area the residents were told that the businesses would comply with the Ordinance. City Council approved it even though the residents did not want the Zoning changed and now everything is changing. Mr. Kozlow stated that the Ordinance was designed to benefit the residents, and the future use is supposed to be for businesses. Mr. Kozlow said that they have been waiting for that to happen for a long time and nothing seems to be happening. They are taking the property away piece meal. Mr. Kozlow also said that he would be more than willing to sell his home. Mr. Kozlow said that he would like to see the Ordinance followed. Mr. Courtney asked if Mr. Kozlow wanted a wall to go east and west all along Henrietta. Mr. Kozlow said that he would like the 25' setback and would like to see the Ordinance followed.

Mr. Fejes said that they are trying to understand Mr. Kozlow's objection and asked if he wanted to see a wall. Mr. Kozlow said that he doesn't care about the wall, but would like to see the 25' setback met.

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

There is one (1) written objection on file. There are no written approvals on file. There are also two (2) verbal objections.

Mr. Kovacs said that 75 parking spaces are required by the Ordinance, there are presently 90 parking spaces proposed to be available and asked what the justification was for this request. Mr. Elliott said that the perceived parking on this property appears to be deficient and the hardship would be getting over that perception.

Mr. Wright said that in his opinion this would be more of a financial hardship rather than a hardship that runs with the land. Mr. Wright did not see any justification to grant a variance for these eight (8) parking spaces. The Ordinance requires 75 parking spaces and presently there are proposed to be ninety (90) spaces available. Perception is not

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a hardship that runs with the land. Ms. Youngerman said that she understands that but they were looking at the way it pertains to one building and the adjacent parking.

Mr. Courtney said that the perception would be changed by anyone going down Henrietta.

Motion by Courtney  
Supported by Hutson

MOVED, to grant Arnold Becker, 2480-2880 Rochester, relief of the Ordinance for a required 4'-6" high screen wall on the north side of the parking area where the parking lot abuts a public street.

- Wall would serve no purpose.
- Wall would be contrary to public interest.

Mr. Fejes asked if another motion would be made regarding the setback and Mr. Courtney said that the only motion he was making was on the lack of the required 4'-6" screen wall.

Mr. Stimac said that a separate motion could be made on the setback request. Mr. Stimac also asked if Mr. Courtney's intent was to deny the request for the setback variance. Mr. Courtney said that he was hoping someone else on the Board would make a motion regarding the setback variance.

Mr. Maxwell said that the parking spaces are not needed today but may be needed in the future. Mr. Maxwell asked if it was possible for the petitioner to withdraw their request for the 25' setback. Mr. Kovacs asked if this request was not withdrawn and conditions change, if they could come back to the Board. Ms. Lancaster said that it could come back if the circumstances were substantially different. Mr. Kovacs asked what would happen if the tenant changes in the building itself and requires additional parking. Ms. Lancaster said if the request was denied based on the variance running with the land, the petitioner would not be able to come back.

Ms. Lancaster also asked if a parking variance that was denied based on a hardship that runs with the land, had ever been able to come back. Mr. Stimac said that he was not aware of any second requests for a parking variance based on a change of tenant. If the adjacent property to the east is rezoned from the R-1E classification to a non-residential classification a variance for the setback would not be required. The fact that the property to the east is zoned residential mandates the 25' setback.

Mr. Courtney asked for a vote on his motion for the screen wall.

The Chairman called for a vote.

**ITEM #12 – con't.**

Yeas: All – 7

**MOTION TO GRANT THE REQUEST ELIMINATING THE 4'-6" HIGH SCREEN WALL ON THE NORTH SIDE OF THE PARKING LOT CARRIED**

Motion by Courtney to deny the request for a 10' setback. Mr. Fejes stated that Mr. Maxwell wanted to see if the petitioner would withdraw this request. Mr. Maxwell said if the petitioner withdrew this part of their request they could come back to the Board sometime in the future. Mr. Courtney said that he thought they could deny this request because presently it is not needed but if the usage changed in the future he thought the petitioner would be able to come back to the Board.

Ms. Lancaster asked if Mr. Courtney meant a change in tenant regarding usage. Ms. Lancaster said that they could not do that because a variance runs with the land, and they could not re-visit the same request if a new tenant comes in. The variance has to be granted on the present use of this land. Mr. Courtney said that resolutions have been passed in the past with conditions.

Mr. Stimac said that in looking at what the Board is going to do, and if Mr. Courtney's motion to deny is based on the fact that the proposed parking spaces are over and above what is required by the Ordinance, then if conditions were to change on the site in terms of the tenancy of the building, and the additional parking spaces were required by the Ordinance, that would constitute a substantial change and he feels it could come back for another variance request.

Ms. Lancaster said that Mr. Stimac is looking at this as a reconsideration because circumstances have changed and not a variance that runs with the land, they could come back to the Board.

Mr. Hutson said that the neighbors are objecting to this setback variance request. If the petitioner is denied the request for the 10' setback they would not be able to come back to this Board and suggested that petitioner withdraw their request for the setback. Mr. Fejes said that he concurs with Mr. Hutson.

Ms. Youngerman said that currently they do not have a signed agreement with anyone and it would be impossible at this point to determine whether these parking spaces would be required or not. Rather than withdraw the request, Ms. Youngerman stated that she would rather ask for a postponement so that she could confer with Mr. Becker because it would involve a change in all the architecture that they have reviewed with the City. They are trying to be a good neighbor and have redrawn their plans at least six times. They may want to reconfigure their whole design.

Mr. Fejes said that he agrees with Mr. Wright in that there is no hardship that runs with the land.

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Mr. Courtney said that if the item was postponed until next month the petitioner would not necessarily have any additional information regarding the need for this setback, and perhaps it would be better to withdraw the request until they have a tenant. Mr. Courtney said that if the request was denied they would not be able to come back to this Board. Ms. Youngerman said that she felt that the “powers that be” needed to get together and determine what their course of action would be.

Mr. Fejes asked how much time the petitioner was allowed if her request was withdrawn. Ms. Lancaster said that if the request was withdrawn they could come back anytime with a new request.

Mr. Kovacs asked the petitioner if she has worked with the City Planning Department and if this was the best design they could come up with. Ms. Youngerman stated that they have worked extensively with both the Planning Department and Building Department. Mr. Kovacs said that he wondered why the Planning Commission felt that these spaces were necessary.

Mr. Stimac said that the Planning Commission has not voted on the site plan approval. In looking at this plan and at the dimensions available for the parking lot, this layout became the most efficient way to lay out parking and the most appropriate based on where the access roads are and where the current parking is. Mr. Stimac also said that they could do exactly what is proposed on the site plan and take out the top row of parking and he does not think they would have to redesign the entire parking lot.

Mr. Wright said that the petitioner indicated that one of their perspective tenants would be a wood-working shop and he did not believe that even 75 parking spaces would be required. Mr. Wright then asked what the parking requirement would be if a restaurant was going into this area. Mr. Stimac said that he would need to know the seating capacity for the restaurant before he could give him an exact amount. If for example, there were 78 parking spaces available for the northern building that would be enough for a 130 seat restaurant.

Motion by Courtney  
Supported by Wright

MOVED, to postpone the request of Arnold Becker, 2840-2880 Rochester, for relief of the 25' front setback required along the north property line where they wish to expand their parking lot, until the meeting of November 15, 2005.

- To allow Ms. Youngerman the opportunity to meet with Mr. Becker and determine what he would like to do regarding this request.

Yeas: All – 7

**ITEM #12 – con't.**

MOTION TO POSTPONE REQUEST UNTIL THE MEETING OF NOVEMBER 15, 2005  
CARRIED

Mr. Kovacs said that the petitioner for the next item, Mr. Dearment, had represented him in a real estate transaction and he has had some discussion with Mr. Dearment regarding the procedure process for this Board. Mr. Kovacs said that he would consider him a friend but feels that he could make an unbiased decision on this request. Mr. Kovacs said it would be up to the Board to determine if he could act on this request.

Motion by Courtney  
Supported by Wright

MOVED, to excuse Mr. Kovacs from hearing Item #13, the request of Richard Dearment, Crystal Springs Subdivision due to a possible conflict of interest.

Yeas: 1 – Wright  
Nays: 5 – Courtney, Fejes, Gies, Hutson, Maxwell

MOTION TO EXCUSE MR. KOVACS FAILS

**ITEM #13 – VARIANCE REQUESTED. RICHARD DEARMENT, LOT #69, CRYSTAL SPRINGS SUBDIVISION**, for relief of the Ordinance to construct a single family residence on a parcel that is 63.76' wide, where Section 30.10.04 of the Zoning Ordinance requires a minimum of 85' lot width in the R-1C Zoning District.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct a single-family residence. The petitioner resides at 740 Trinway on Lot #68 and also owns adjacent Lot #69. These lots are each 63.76' wide and Section 30.10.04 of the Zoning Ordinance requires that the minimum lot width in the R-1C Zoning District is 85'. Section 40.50.02 of the Troy Zoning Ordinance requires that when two or more lots with continuous frontage under a single ownership do not comply with the requirements for lot width or area, they are considered to be an undivided parcel. The petitioner is requesting approval to have these considered separate parcels and is permitted to build a second home on the vacant parcel.

Mr. Wright asked what the side yard requirements were in R-1C and Mr. Stimac stated that they are 10' on each side. Mr. Wright then confirmed that the maximum width a new home could be was 43'.

Mr. Dearment, 740 Trinway, was present and stated that he would like to construct a new home. This lot is very buildable and is about 21,000 square feet and he would be able to put his dream home here.

**ITEM #13 – con't.**

Ms. Gies asked if he also owns the lot right next to it. Mr. Dearment said that he does own 740 Trinway and wants to stay in Troy and this would be the best possible solution. Mr. Dearment further stated that he had submitted drawings of the home he would like to build, which would be about 1,500 to 1,800 square feet.

Mr. Courtney asked if the current home could be changed to do what Mr. Dearment wants. Mr. Dearment said that he did not believe the foundation would support any new building on it.

The Chairman opened the Public Hearing.

Rex Brown, owner of 717 & 949 Trinway was present. Mr. Brown stated that this property was on the market about two months ago. Mr. Brown said that older homes on this street are being knocked down and new homes are going in that are quite large. Mr. Brown also said that he did not think the existing home could be remodeled. Trinway is extremely popular right now and the new homes going in on the street have been in the \$400,000.00 to \$600,000.00 range. Mr. Brown said that he is quite surprised that you would want to build a dream home next to a small bungalow. Right now there are traffic problems on this street and Mr. Brown said that he would like to see the 85' lot width held up.

Mr. Kovacs asked what the widths of the properties were that Mr. Brown owns. Mr. Brown said that one of his properties has an 86' width and the other is 90.6' wide. Mr. Kovacs said that most of the lots around Mr. Dearment's property are small lots. Mr. Brown said that most of those are double wide lots with one home on them. Mr. Brown said that both of his neighbors have lots that are wider than the 85' width and perhaps the lots on the south side of the street the lots are smaller. Mr. Brown said that he could not see building a dream home next to a bungalow. Mr. Kovacs asked what his definition was of a dream home and Mr. Brown said that he was just repeating what Mr. Dearment had said. Mr. Brown also said that he thinks if this variance is granted, it would open the door for other property owners to split their property and put up homes on smaller lots.

Ms. Gies asked for an explanation of the lot sizes. Mr. Stimac said that based on the provisions of the Ordinance if a person only owns one lot that is considered to be a buildable lot. This petitioner owns two lots side by side and even though they were platted as two substandard lots, they are under common ownership and are considered to be undivided. Mr. Stimac indicated through a color coded site map that a majority of these lots although platted in the 1920's and 1930's as individual substandard lots, they have been combined to make one buildable parcel. On Sylvanwood there are a total of 53 home sites, 39 that meet the minimum lot width and area requirement and 14 parcels that do not meet the requirements. On Trinway there are a total of 51 home sites and

**ITEM #13 – con't.**

37 of these sites meet the minimum lot width requirement, while again there are 14 that do not.

Mr. Courtney asked how long Mr. Dearment has owned this property and Mr. Dearment said that he has been there since 1998. Mr. Courtney asked if it was a single site when he purchased it and Mr. Dearment said that it was. Mr. Dearment said that his plan is to build a home just for himself. Mr. Courtney said this variance would create two lots that are undersized.

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

There are no written objections or approvals on file. There is one verbal objection on file.

Mr. Dearment said that he had spoken to the neighbors on either side of him as well as the neighbor across the street and they all indicated approval.

Mr. Hutson said that in his opinion the trend is for larger lots rather than to build a home on a smaller lot. Mr. Hutson did not see a hardship. Both Ms. Gies and Mr. Wright agreed with Mr. Hutson.

Motion by Courtney  
Supported by Wright

MOVED, to deny the request of Richard Dearment, Lot #69, Crystal Springs Subdivision, relief of the ordinance to construct a single family residence on a parcel that is 63.76' wide, where Section 30.10.04 of the Zoning Ordinance requires a minimum of 85' lot width in the R-1C Zoning District.

- Petitioner did not demonstrate a hardship that runs with the land.
- Variance would have an adverse effect to surrounding property.
- Variance would be contrary to public interest.

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

**MOTION TO DENY VARIANCE REQUEST CARRIED**

**ITEM #14 – VARIANCE REQUESTED. JAMES POWERS OF RESIDENTIAL RENOVATIONS, 1641 WITHERBEE**, for relief of the Ordinance to construct an attached garage. This home is a legal non-conforming structure. It has an existing 5' side yard setback where 10' is required by Section 30.10.04.

**ITEM #14 – con't.**

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct an attached garage. This home is a legal non-conforming structure. It has an existing 5' side yard setback where 10' is required by Section 30.10.04. The site plan submitted indicates removing an existing carport and constructing an attached garage that would continue this existing 5' side yard setback.

James Powers, representing Ms. Howitt was present and stated that the homeowner would like to put up an attached garage and remove the existing carport. The attached garage would have the same setback as the carport. There are a number of garages that have been constructed in this area with the same setback.

Mr. Fejes confirmed that the side yard setback would not be increased. Mr. Powers said that he was proposing to tear down the carport and build an attached garage.

Mr. Hutson asked if there was any way to put a garage in the back and Mr. Powers said that he wasn't sure and would have to check into what the Ordinance requirements would be for a detached garage. Mr. Hutson said that there are quite a number of carports in this area.

Mr. Wright said that this Board had approved the same type of request within the last few months in this area. Mr. Stimac confirmed that 1071 Norwich had been approved for a very similar request.

Ms. Gies asked if the reason so many carports were in this area was because the setback requirement was different for carports versus garages. Mr. Stimac said that he thought carports were very prevalent in this sub and he thought it may have been because they were very popular at the time this sub was built and not that they had different setback requirements.

Mr. Courtney said that he thought the attached carports were a big selling point.

Mr. Wright said that this is one of the older subdivisions in Troy and the setback requirements have been changed since that subdivision was developed.

The Chairman opened the Public Hearing.

Russ Long, 1071 Norwich was present and stated that he approved of this request as he feels that it will improve the neighborhood.

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

There are three (3) written approvals on file. There are no written objections on file.

**ITEM #14 – con't.**

Motion by Kovacs  
Supported by Gies

MOVED, to grant James Powers of Residential Renovations, 1641 Witherbee, relief of the Ordinance to construct an attached garage with a 5' side yard setback where 10' is required by Section 30.10.04.

- Variance is not contrary to public interest.
- Variance would not have an adverse effect to surrounding property.
- Variance will not permit the establishment of a prohibited use as the principal use within a zoning district.
- Variance relates only to the property described in the application.
- Literal enforcement of the Ordinance does preclude full enjoyment of the permitted use and makes conforming unnecessarily burdensome.
- A lesser variance does not give substantial relief.

Yeas: All – 7

**MOTION TO GRANT VARIANCE CARRIED**

**ITEM #15 – VARIANCE REQUESTED. RUSSELL LONG, 1071 NORWICH**, for relief of the Ordinance to demolish an existing carport and construct a new attached garage with a 5' side yard setback and a 24' front yard setback. Section 30.10.04 of the Ordinance requires a minimum 10' side yard setback and a 30' front setback in the R-1C Zoning District.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to demolish an existing carport and construct a new attached garage. Section 30.10.04 requires a 10' minimum side yard setback and a 30' minimum front yard setback for homes in the R-1C Zoning District. At the meeting of August 16, 2005 this Board approved a variance to construct an attached garage on this property with a 5' side yard setback and a 26' front setback. The revised plans would continue to use the 5' side yard setback and now indicate a 24' front yard setback. Section 30.10.04 requires a 30' front setback in the R-1C Zoning District.

Mr. Wright confirmed that the side yard setback was approved 2 months ago, and now the Board has to look at the 2' additional front yard setback.

Russell Long was present and stated that based on Mr. Kovacs recommendation he is now applying for an additional 2', which would allow them to open the car door without banging into the car next to him.

Mr. Wright said that based on the turning radius of the driveway he believes the extra 2' would help backing cars out of the garage.

**ITEM #15 – con't.**

The Chairman opened the Public Hearing.

Mary Ellen Howitt, 1641 Witherbee was present and stated that she is in support of this request as it would improve the neighborhood.

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

There is one written approval on file. There are no written objections on file.

Motion by Kovacs  
Supported by Gies

MOVED, to grant Russell Long, 1071 Norwich, relief of the Ordinance to demolish an existing carport and construct a new attached garage with a 5' side yard setback and a 24' front yard setback. Section 30.10.04 of the Ordinance requires a minimum 10' side yard setback and a 30' front setback in the R-1C Zoning District.

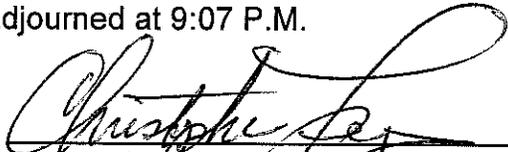
- Variance is not contrary to public interest.
- Variance would not have an adverse effect to surrounding property.
- Variance will not permit the establishment of a prohibited use as the principal use within a zoning district.
- Variance relates only to the property described in the application.
- Literal enforcement of the Ordinance does preclude full enjoyment of the permitted use and makes conforming unnecessarily burdensome.
- A lesser variance does not give substantial relief.

Yeas: All – 7

**MOTION TO GRANT VARIANCE CARRIED**

Mr. Kovacs explained that regarding Item #13, in his opinion that because the lot is 314' deep and 21,000 square feet in area, he felt that a house could be built on this parcel. He also felt that to deny the variance was to deny the petitioner his subject property rights and further that literal enforcement of the Ordinance was unnecessarily burdensome and that was the reason for his no vote.

The Board of Zoning Appeals meeting adjourned at 9:07 P.M.

  
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Christopher Fejes, Chairman

  
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Pamela Pasternak, Recording Secretary

