The Chairman, Christopher Fejes, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M., on Tuesday, August 16, 2005 in Council Chambers of the Troy City Council.

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

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

ITEM #1 – APPROVAL OF MINUTES – MEETING OF JULY 19, 2005

Motion by Wright
Supported by Gies

MOVED, to approve the minutes of the meeting of July 19, 2005 with the following corrections:

- Page 2 – Duplicate paragraph under Item #4 indicating Mr. Stimac's explanation, to be removed.
- Page 13 – Address listed as 4392 Beach to be changed to 4342 Beach.

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

MOTION TO APPROVE MINUTES WITH CORRECTIONS CARRIED

ITEM #2 – APPROVAL OF ITEMS #3 THROUGH ITEM #8

Motion by Courtney
Supported by Gies

MOVED, to approve a three (3)-year renewal of Items #3 through #5 and Items #7 and #8 as suggested in the Agenda Explanation; and also, MOVED, to postpone Item #6 to allow the Building Department the opportunity to publish a Public Hearing to consider the possibility of granting a permanent variance.

Yeas: All – 7

J-19

ITEM #3 – RENEWAL REQUESTED. PSI HOLDINGS, 2525 CROOKS, for relief of the 6' high masonry-screening wall required along the west and south property lines where this property abuts residential zoned property.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board to have a six-foot high wood fence along the west and south property line where it abuts residential zoned property. This relief was originally granted in 1983, primarily because there already was a six-foot high wood fence along the property line and the petitioner would have to remove a number of established trees in order to install the wall. This item last appeared before this Board in August 2002 and was granted a three (3) year renewal at that time. Conditions remain the same and we have no objections or complaints on file.

MOVED, to grant PSI Holdings, Inc. 2525 Crooks Road, a three (3) year renewal of their variance for relief of the 6' high masonry-screening wall required along the west and south property line where it abuts residential zoned property.

- There is an existing 6' high fence at this location.
- Conditions remain the same.
- There are no complaints or objections on file.

ITEM #4 – RENEWAL REQUESTED. MG ACQUISITIONS, 2555 CROOKS, for relief of the 6' high masonry-screening wall required along the west property line where this property abuts residential zoned property.

Mr. Stimac explained that the petitioner is requesting renewal of a variance granted by this Board for relief of the 6' high masonry screening-wall required along the west property line of their site that abuts residential property. This relief was originally granted in 1984 based on the fact that a wood fence from the Somerset Apartment complex currently screens the property. This item last appeared before this Board in August 2002 and was granted a three (3) year renewal at that time. Conditions remain the same and we have no objections or complaints on file.

MOVED, to grant MG Acquisitions, 2555 Crooks a three (3) year renewal of relief of the 6' high masonry-screening wall required along the west property line where this property abuts residential zoned property.

- There is an existing 6' high fence at this location.
- Conditions remain the same.
- There are no complaints or objections on file.

ITEM #5 – RENEWAL REQUESTED. CROOKS OFFICE LLC, 2585 CROOKS, for relief to maintain a 6' high stockade fence in lieu of the decorative masonry screening-wall required along the west property line of this site where it abuts residential zoned property.

ITEM #5 – con't.

MOVED, to grant the Crooks Office L.L.C., 2585 Crooks Road, a three (3) year renewal of relief granted by this Board to maintain a 6' high stockade fence in lieu of the decorative masonry screening-wall required along the west property line of their site that abuts residential zoned property.

- There is an existing 6' high fence at this location.
- Conditions remain the same.
- There are no complaints or objections on file.

ITEM #6 – RENEWAL REQUESTED. OAK MANOR, INC., 2316 JOHN R., for relief of the required 4'-6" high masonry screening-wall along the east and south areas of your parking lot where it abuts residential zoned property.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board of the requirement for a 4'-6" high masonry screening-wall along the east and south areas of their parking lot where they are adjacent to residential zoned property. This relief was originally granted in September 1985 based on the fact that the wall would serve no useful purpose in this area. The property to the east is an apartment complex and the property to the south is a church. This item last appeared before this Board in August 2002 and was granted a three (3) year renewal at that time. Conditions remain the same and we have no objections or complaints on file.

MOVED, to postpone the request of Oak Manor, Inc., 2316 John R., for relief of the required 4'-6" high masonry screening-wall along the east and south areas of the parking lot where it abuts residential zoned property until the meeting of September 20, 2005.

- To allow the Building Department to publish a Public Hearing in order to consider a permanent variance.

ITEM #7 – RENEWAL REQUESTED. ANDREW MANNING, OF THE DETROIT EDISON COMPANY, 3080 JOHN R., for renewal of relief of the landscaped berms required along the north, east and west property lines.

Mr. Stimac explained that the petitioner is requesting renewal of a three (3) year variance for relief of the landscaped berms required along the north, west and east property lines. This variance was originally granted in September 1992, based on the fact that a number of mature established trees that currently provide adequate screening would have to be removed in order to install the berm. This item last appeared before this Board in August 2002 and was granted a three (3) year renewal at that time. The southern portion of the property has now been sold, rezoned to the P-1

ITEM #7 – con't.

(Vehicular Parking) zoning classification, and is being developed in conjunction with the adjacent day care facility. Other than that, the conditions remain the same and we have no objections or complaints on file.

MOVED, to grant Andrew Manning, Detroit Edison, 3080 John R., a three (3) year renewal for relief of the landscaped berms required along the north, west and east property lines.

- There are several mature trees providing screening.
- Conditions remain the same.
- There are no complaints or objections on file.

ITEM #8 – RENEWAL REQUESTED. VERSATUBE CORPORATION, 4755 ROCHESTER, for relief of the 6' high masonry-screening wall required along the north and west property lines where the property abuts residentially zoned property.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board in regard to a 6' high masonry screening wall required along the north and west property lines of their site that abuts residential zoning. The Zoning Ordinance requires that a 6' high masonry-screening wall be provided at the zoning boundary. This Board has granted this relief since 1985. The Board granted relief allowing the petitioner to install an 8' high steel fence in lieu of the wall based on the fact that the fence suits the needs probably as well as, if not better, than the masonry wall. This item last appeared before this Board in July 2002 and was granted a three-year renewal. The property to the north is now zoned R1-T (One Family Attached) but remains vacant. Other than that, conditions remain the same and we have no complaints or objections on file.

MOVED, to grant Versatube Corporation, 4755 Rochester a three (3) year renewal of relief of the 6' high masonry-screening wall required along the north and west property lines where the property abuts residentially zoned property.

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

ITEM #9 – VARIANCE REQUESTED. INDEPENDENT BANK, 5950 ROCHESTER, for relief of the required 6' high masonry screening wall required along the south and east property lines where this property abuts residentially zoned property.

Mr. Stimac explained that the petitioner is requesting of relief of the 6' high masonry-screening wall required along the south and east property lines where it abuts residentially zoned property. These property lines abut a multiple-family residential development and relief was originally granted in 1977 based on the fact that a drain surrounded the area and there was a substantial brush growth that adequately screens the abutting residential land. This item last appeared before this Board in July 2005 and

ITEM #9 – con't.

was postponed to allow the Building Department the opportunity to publish a Public Hearing to consider this a permanent variance. That notice has been completed and the Public Hearing scheduled for this meeting.

Mr. Scott Whitford of Independent Bank was present and stated that he had nothing further to add.

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

There are no written approvals or objections on file.

Mr. Kovacs said that he was concerned that if this property was altered in the future, the vegetation may be removed. Mr. Whitford said that they have no future plans for expansion and they would not be able to move the building farther back because of the existing creek.

Motion by Courtney
Supported by Wright

MOVED, to grant Independent Bank, 5950 Rochester, relief of the required 6' high masonry-screening wall required along the eastern property line where this property abuts residentially zoned property.

- Existing vegetation along east property line must remain, even if this property is developed further.
- A wall would be an eyesore to the surrounding property and would be difficult to install because of the creek on the property.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #10 – VARIANCE REQUESTED. OSPREY, LTD, 2701 TROY CENTER, for relief of the 6' high masonry screening wall required along the north property line where this property abuts residentially zoned property.

Mr. Stimac explained that the petitioner is requesting relief of the 6' high masonry-screening wall required along the north property line where it abuts residentially zoned property. This variance was originally granted based on the fact that the petitioner would install 280' of decorative metal fencing and landscaping along this north property line that abuts a residential apartment complex. This item last appeared before this Board in July 2005 and was postponed to allow the Building Department the opportunity to publish a Public Hearing to consider this a permanent variance. That notice has

ITEM #10 – con't.

been completed and the Public hearing has been scheduled for this meeting. This entire area was planned for multiple family dwelling, however, did not materialize beyond the first building that was constructed there and the remaining sites around this property were developed in the office classification. The Zoning Ordinance does require that a 6' high masonry screen wall be provided between the Office Zoning classification and the residential property to the north.

Mr. Roger O'Toole was present and stated that the cement wall is currently in place along most of the northern property line. The principal beneficiaries are the inhabitants of the Village Green Apartments. There is a section along the tennis courts on the northern property and the cement wall is not in this area. Mr. O'Toole believes that the intent of the Ordinance has been met and only a small portion of the tennis courts is visible from the office building.

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

There are no written objections or approvals on file.

Motion by Courtney
Supported by Gies

MOVED, to grant Osprey, LTD, 2701 Troy Center, relief of the 6' high masonry-screening wall required along the north property line where this property abuts residentially zoned property.

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

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #11 – VARIANCE REQUESTED. DAVID DONNELLON OF THE CHOICE GROUP, 4254 BEACH, for relief of the Ordinance to split an existing parcel 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.

ITEM #11 – con't.

This item first appeared before this Board at the meeting of July 19, 2005 and was postponed at the request of the petitioner to allow him the opportunity to discuss other options with his client.

The Building Department has received a request from the petitioner to postpone this item until the meeting of October 18, 2005.

Motion by Wright
Supported by Hutson

MOVED, to postpone the request of David Donnellon of the Choice Group, 4254 Beach, for relief of the Ordinance to split an existing parcel from its Beach Road frontage until the meeting of October 18, 2005.

- Per the request of the petitioner.

Yeas: All – 7

MOTION TO POSTPONE THIS REQUEST UNTIL OCTOBER 18, 2005 CARRIED

ITEM #12 – VARIANCE REQUESTED. LISA HIGH OF CDPA ARCHITECTS, 1639 E. BIG BEAVER (PROPOSED ADDRESS), for relief of the Ordinance to construct a new building for the Suma Medical Center that will result in only 9,176 square feet of landscaping, where Section 39.70.02 and Section 39.70.04 require 14,738 square feet of landscaping.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a new building for the Suma Medical Center. Section 39.70.04 requires that ten (10) percent of the net site area be developed as landscaped open space. This landscaping must be located in the front or side yard and must be in addition to the 10' green belt required by Section 39.70.02. The required landscaping for a site this size is 14,738 square feet. The site plan submitted indicates that only 9,176 square feet of landscaping is provided, making the site deficient 5, 562 square feet.

This item first appeared before this Board at the meeting of July 19, 2005 and was postponed to allow the petitioner the opportunity of a full Board.

Mr. Stimac also indicated that he had provided an aerial map of this area indicating the setbacks of other buildings along Big Beaver in this area. This was not a formal survey, but was information taken from an aerial photograph.

Mr. Maxwell asked how much of this property was zoned E-P (Environmentally Protected). Mr. Stimac indicated that it is approximately 28,713 square feet.

ITEM #12 – con't.

Mr. Hutson stated that Mr. Stimac had indicated that the parcel to the west of this property had received a variance that is now over one-year old, and asked if it was for a medical office or general office. Mr. Stimac said that he did not recall but thought that it was for general office.

Mr. Kovacs asked if this request was for the two vacant parcels along Big Beaver. Mr. Stimac said that this request was for only the one western parcel.

Mr. Courtney stated that the petitioner had indicated that they needed to build close to Big Beaver because other buildings were constructed close to the Big Beaver property line. From the aerial photograph provided, it is clearly shown that there are other buildings that have been placed farther back along Big Beaver. Mr. Courtney also indicated that he feels the building should be set back farther so that parking could be put in that would be more convenient to the patients requiring medical care.

Ms. High stated that this property has three (3) different zoning districts and the setback requirement for the O-1 Zoning District is only 30' from the property line; however, they are proposing a building setback of 88' from the property line. Ms. High also said that the area for the three zoning districts combined is 147,379 and the requirement for landscaping for that is 10% that is 14,738. We have provided 9,176 square feet at the front and side yards of the building. The other sites along Big Beaver do not have the depth of this parcel, or the narrow area. They are providing 12.9% landscaping of the front and side yards of the parcel. They are also providing 23.5% landscaping in the O-1 Zoning District . The total landscaping provided for this site will be 34.3% and the reason they require this variance is not because there is not enough landscaping on the total site, but there is not enough landscaping at the front of the property. Ms. High also feels that they have met the spirit of the Ordinance and when they went for the Zoning approval some of the residential properties had objections to this request and they provided the E-P Zoning next to the residential property and proposed to put the building at the front of the property in order to isolate the residential area from the commercial property.

Mr. Courtney suggested that if the building was moved back or made smaller this petitioner would not require a variance. Mr. Courtney also said that he felt the building could be moved farther back and more landscaping provided at the front of the property. In his opinion, the only reason they want the building in this location is for advertising. Ms. High stated that they wanted to maintain the street edge established by the other buildings and this medical center would be a small practice and not an emergency center. Mr. Courtney also stated that the building to west is seen after people pass this building. Ms. High indicated that the building to the west is actually 10' – 12' in front of the proposed location of this building. Mr. Courtney also stated that if either the building was built smaller or moved back, a variance would not be required, and he believes this is an unnecessary request. Ms. High said that the size of this building falls well into the

ITEM #12 – con't.

requirements of what the Ordinance allows, and if it was moved back farther it would be closer to the residential property behind this site.

Mr. Fejes stated that he is having a problem understanding what the hardship is regarding this request. Ms. High stated that the site is extremely narrow and hinders their ability to provide side yard landscaping. Mr. Fejes then asked if a variance would be required if this building was moved back. Mr. Stimac said that the countable landscaping is to the south of the proposed location. The area behind the building cannot be considered countable landscaping. If the building is moved back you would pick up more landscaping but it would be possible to lose some of the parking.

Mr. Stimac said that the landscape requirement of this site is being applied to the developed portion of this property, which includes the O-1, the P-1 and the E-P zoned area in the back. There is also a reasonable expectation that the property at the back which is zoned R-1E, will be developed into a single-family area and is not included in the 10% calculation. Technically because of the E-P zoning at the back, they are required to have an additional 2,871 square feet of landscaping at the front of the property. If they were given permission to pave this area, and not have the E-P zoning, they could put the parking area back here and move the landscaping up front.

Mr. Fejes asked if less of a variance would be required and Mr. Stimac said it would be less of a variance if they did not have the E-P zoning to deal with. Mr. Courtney stated that in his opinion the E-P should not be counted in the landscape requirement and a lesser variance request would be given more consideration.

Mr. Fejes stated again that he did not see what the hardship was in moving this building back farther on the property. Ms. High said that they would have to move the building back about 56' in order to meet the landscaping requirement and that would put them about 64' behind the adjacent building. Ms. High believes this will create a zigzag effect along the street edge and they would lose approximately eighteen (18) parking spaces. Because this is a medical building, they have very stringent parking requirements and could not afford to lose this much parking. They are also providing a green belt along the street and Ms. High stated that the will create a nice green edge along Big Beaver. Moving the building back they would probably add more grass in front of the building and does not see the necessity of adding more trees or shrubbery.

Mr. Courtney asked if Ms. High had checked to see how much a variance would be required if the E-P Zoning was not taken into account for the landscape requirement. Ms. High said that she had not.

Ms. High's associate, Najin Saymuah came up and stated that they had tried to buy the property to the east however it did not work out. He has heard all of the arguments and stated that there is no reason this building could not be pushed back. This property was re-zoned by the recommendation of the City Staff. The E-P Zoning was done by choice

ITEM #12 – con't.

as they did have the option of putting up a 6' high wall. According to the Zoning Ordinance and in reviewing them, he does not see any reason for this Board to reject this request other than construction could cause an adverse effect to surrounding property. It is possible that another building could be put on the property adjacent to this parcel and could be placed much closer to Big Beaver. This request does not affect the neighborhood and they could put this building up within 30' of Big Beaver. Mr. Saymuah also said that he appreciated the fact that it would be possible not to consider the E-P Zoning District. The Zoning Ordinance also allows developers to land bank 25% of the land for parking and they would like to do that.

Mr. Courtney asked how the landscaping requirement would be met if this building was placed within 30' of Big Beaver. Mr. Saymuah stated that he could make the building 20' wide and 200' long and would meet the landscape requirement. It is Mr. Saymuah's understanding that he could put the landscaping at the front and side of the building.

Mr. Saymuah stated that they are trying to do what is best for their client. They are professionals and have an obligation to be professional. They are not just planning to provide a parking lot but there will also be a garden area provided with a canopy. Behind the building they will provide benches so that people may relax and settle down after seeing the doctor. Mr. Saymuah stated that he feels this is a very reasonable request.

Mr. Maxwell asked if they would be willing to compromise on the distance to the road by approximately 15'. Mr. Saymuah said that they would be willing to do that and if this site were similar to the property to the west they would not have an objection to putting the building at the back of the property. Mr. Maxwell said that he understood that this lot is very narrow and part of this property is zoned E-P. If he was a resident in back of this property, he would prefer an office building as far away from his home as possible. Mr. Saymuah said that if the E-P area is not considered in the landscape calculations, they could put the building farther back.

Mr. Hutson stated that if the petitioner is thinking of a compromise, he would like to see it in a drawing and not base a decision on general talk and therefore would like to see the petitioner back again. Mr. Courtney agreed with Mr. Hutson and stated that he also would like to see drawings indicating a compromise. Mr. Saymuah said that they do not mind coming back as they would like to see this Board happy.

Mr. Fejes asked if they could put a stipulation on their motion or if a drawing was required. Mr. Stimac stated that if the building was moved back 15' there is nothing to indicate what kind of landscaping total would result from this move. If the petitioner is going to keep the same size building they have four (4) parking spaces to spare, but if the building was moved back 15', they would lose two (2) parking spaces in three (3) bays, which would result in a loss of six (6) parking spaces. The variance before the

ITEM #12 – con't.

Board is for the amount of landscaping required and is not a request for a setback variance.

Mr. Courtney indicated that he would be willing to make one of two resolutions, one of which would be to postpone this request until next month in order to see a new drawing; or to not include the E-P zoned portion of this property in the landscaping requirement. Mr. Stimac said that if the Board was so inclined to not require landscaping for the E-P in the final action, the landscaping requirement for this site would be 11,867 square feet and the petitioner is proposing to put in 9,176 square feet. Mr. Stimac said that the Board could pass a resolution to allow 11,867 square feet of landscaping where 14,738 square feet of landscaping is required, which would have the effect to not count in the E-P zoned property and then have the petitioner draw a plan showing how this would be accomplished; or, the Board could require the petitioner to come back with a revised plan.

Mr. Fejes stated that he would like to see a revised plan. Mr. Saymuah stated that this would not be problem.

Mr. Kovacs said that the reason the petitioner came to the Board was because they did not feel they could make the building thinner. Mr. Kovacs wanted to know why the building could not be made thinner. Mr. Kovacs also asked what the zoning was for the property to the east. Mr. Stimac stated that a portion of it is zoned O-1, and P-1 along the back, but does not know if there is any E-P Zoning on the parcel. Mr. Kovacs then asked if the setback for O-1 zoning was 30' and Mr. Stimac confirmed that it was. Mr. Kovacs stated that his concern is that if this building is pushed further back and an adjacent building constructed within 30' of Big Beaver, this building could become a safety hazard for people trying to locate it. Mr. Courtney stated that they could put up address signs.

Mr. Kovacs then asked how much signage would be allowed for this site. Mr. Stimac explained that they could have one ground sign depending on its setback that could be up to 200 square feet and an additional wall sign that would be limited to 10% of the front area of the building.

Mr. Saymuah said that they are trying to do what is reasonable and it could be made narrower; however, the most efficient dimension is to have a hallway in the center and suites on either side. This would be the most optimum dimension. If the building were made narrower, Mr. Saymuah said that he did not think this would be in the best interests of his client. From a design standpoint a consistent streetscape also contributes to the community rather than buildings with a zigzag line.

ITEM #12 – con't.

Motion by Courtney
Supported by Hutson

MOVED, to postpone the request of Lisa High of CDPA Architects, 1639 E. Big Beaver (proposed address), for relief of the Ordinance to construct a new building for the Suma Medical Center that will result in only 9,176 square feet of landscaping, where Section 39.70.02 and Section 39.70.04 required 14,738 square feet of landscaping.

- To allow the petitioner the opportunity to present a revised plan to this Board.
- Revised plan to show how much landscaping will be provided if the building is moved back 15'; or;
- Revised plan to show 11,867 square feet of landscaping with E-P zoned section of property not taken into landscape requirement.

Yeas: All – 7

MOTION TO POSTPONE REQUEST UNTIL SEPTEMBER 20, 2005 CARRIED

ITEM #13 – VARIANCE REQUESTED. RUSSELL D. LONG, 1071 NORWICH, for relief of the Ordinance to remove a carport and construct an attached garage, which would result in a 5' side yard setback where Section 30.10.04 requires a 10' minimum side yard setback and a 26' front yard setback where 30' is required.

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. The site plan submitted indicates the existing carport has a 5' side yard setback and a 31' front setback. The proposed attached garage would continue the 5' non-conforming side yard setback and is proposed to have a 26' front yard setback.

Mr. Long was present and stated that he would like to construct a two-car garage in order to store his vehicles inside and off of the street. The carport is only large enough for one car, he has spoken to his neighbors, and they do not have any objections to this addition. This garage would improve the look of his property and would match other garages in the area. The existing side yard setback will not change. Mr. Long brought in pictures of other homes on his block showing how the garage would look. Mr. Long's garage would have four windows on the front.

Mr. Courtney stated that he felt this garage would look much better than the existing carport.

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

ITEM #13 – con't.

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

Mr. Kovacs asked what the dimensions of the proposed garage are. Mr. Long stated that it is 20' x 22'-6", which he feels is the minimum for a two car garage.

Motion by Maxwell
Supported by Courtney

MOVED, to approve the request of Russell D. Long, 1071 Norwich, relief of the Ordinance to remove a carport and construct an attached garage, which would result in a 5' side yard setback where Section 30.10.04 requires a 10' minimum side yard setback and a 26' front yard setback where 30' is required.

- Garage would be a nice improvement to the home.
- Variance is not contrary to public interest.
- Variance would not have an adverse effect to surrounding property.

Mr. Kovacs said that he would be in support of the petitioner getting another two feet for this garage, as he believes that 20' is too small for two cars. Mr. Stimac explained that the Public Hearing was published for a 26' front yard setback and without a new Public Hearing, the Board could not go below that number.

Mr. Courtney stated that the petitioner could have the opportunity to come back and petition for a larger garage. Mr. Long asked if this variance was approved and his builder suggested another two feet, if he could come back before the Board. Mr. Stimac said that the Board had a motion and a second to approve the original request. An additional two feet would require a new Public Hearing.

Vote on the motion to approve this request.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #14 – VARIANCE REQUESTED. MICHAEL CAMERON, MICHAEL'S CARPENTRY & BUILDING, REPRESENTING DAMON FRISCH, 2910 LANERGAN, for relief of the Ordinance to construct an addition that will result in a 27.3 front yard setback where 40' is required by Section 30.10.02.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct an addition at 2910 Lanergan. This house is a legal non-conforming structure. It has an existing 22.7' front yard setback where 40' is required per Section 30.10.02. The proposed addition on the east side of the home would have only a 27.3' front yard

ITEM #14 – con't.

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

Michael Cameron and the architect Richard Berilli were present. Mr. Berilli stated that they wished to add an additional 672 square feet to the existing 1500 square foot house. Because of the layout of the land and a glass curtain wall on the east side of the home this would be the best location for this addition. Mr. Berilli stated that they want to be able to provide a safe, dry, play yard adjacent to the living area and that is the reason they wish to push this addition forward. The north side of the property drops off very quickly and often has standing water there. Lanergan is one of the through streets from Adams to Coolidge and they are concerned about the amount of traffic going down this street. They desire to maintain the aesthetic quality of the homes in this area. If they were to push the addition back from the face of the garage, the garage would maintain its presence at the front of the property.

Mr. Courtney asked if the addition could be moved back at all. Mr. Berilli said that if they moved the addition back it would cover up the glass wall. Pushing the entire addition back to the 40' setback would render the glass wall completely gone.

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

There are eight (8) written approvals on file. There are no written objections on file.

Mr. Kovacs asked what the length of the glass wall was. Mr. Berilli stated that it is the entire width of the occupied portion of the house, which is about 23 to 25 feet. Mr. Kovacs asked where the stairs lead to on this plan and Mr. Berilli said they are putting in a basement in order to maintain the aesthetics of a single story home. Mr. Kovacs said that he understands why you want to keep the glass wall, but is concerned about the roofline and wondered if it could be moved back resulting in 13' of the glass. Mr. Kovacs also said that he understands their concerns regarding a safe play area for children. Mr. Berilli stated that they are trying to preserve as much of the glass portion of the house as they can.

Ms. Tortosa, the owner of this home stated that their yard is the lowest land in the neighborhood and when it rains, has a tendency to collect standing water.

Mr. Kovacs asked how close the house to the east would be with the new addition. Mr. Stimac said that although he did not have a survey in front of him, based on the aerial photograph the house to the east appears to be approximately 23' from the common property line, and the new addition would be 16' from the property line.

Ms. Tortosa said that the addition will be back farther than the existing garage and other garages in the area are closer to the street than their garage.

ITEM #14 – con't.

Motion by Kovacs
Supported by Wright

MOVED, to grant Michael Cameron, representing Damon Frisch, 2910 Lanergan, relief of the Ordinance to construct an addition that will result in a 27.3 front yard setback where 40' is required by Section 30.10.02.

- Variance is not contrary to public interest.
- Standing water creates a hardship, which runs with the land.
- Variance will create a safe environment for children.
- Variance will not have an adverse effect to surrounding property.
- Variance is necessary for the preservation, enjoyment, and substantial property rights possessed by the subject property.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

Mr. Stimac informed the Board that Ms. Lori Grigg-Bluhm, City Attorney for the City of Troy would like to make a presentation to the Board regarding ex-parte communication, open meetings act and a number of issues that are useful for Boards and Committees. If the Board agrees, Ms. Bluhm would make the presentation at the September meeting. Mr. Courtney stated that he would like some type of written communication regarding this presentation from Ms. Bluhm. Mr. Stimac said that if possible he would try to arrange for Ms. Bluhm make her presentation before the next meeting.

The Board of Zoning Appeals meeting adjourned at 9:00 P.M.

Christopher Fejes, Chairman

Pamela Pasternak

Pamela Pasternak, Recording Secretary