The Chairman, Christopher Fejes, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M. on Tuesday, June 21, 2005 in Council Chambers of the Troy City Hall.

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

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

ABSENT: Matthew Kovacs

Motion by Gies
Supported by Wright

MOVED, to excuse Mr. Kovacs from this meeting for personal reasons.

Yeas: 6 – Fejes, Gies, Hutson, Maxwell, Wright, Courtney

MOTION TO EXCUSE MR. KOVACS CARRIED

ITEM #1 – APPROVAL OF MINUTES – MEETING OF MAY 17, 2005

Motion by Courtney
Supported by Gies

MOVED, to approve the minutes of the meeting of May 17, 2005 as written.

Yeas: 6 – Gies, Hutson, Maxwell, Wright, Courtney, Fejes

MOTION TO APPROVE MINUTES CARRIED

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

Motion by Maxwell
Supported by Courtney

MOVED, to approve Item #3 and Item #4 in accordance with the suggested resolutions printed in the Agenda Explanation.

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

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board for a 4'-6" high screening wall required along the south property line adjacent to their off-street parking. This relief has been granted on a yearly basis since 1985. The property to the south is owned by the City of Troy at this time and is undeveloped. This item last appeared before this Board in June 2002 and was granted a three (3) year renewal. Conditions remain the same, and we have no objections or complaints on file. The property immediately to the south of this parcel has been purchased by the City of Troy, with the potential of becoming a park.

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

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

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

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board of the 4'-6" high wall required along the southeast and north sides of the property adjacent to the off-street parking. The original request was granted based on the fact that the adjacent property was either undeveloped or screened by dense woods. This relief has been granted on a yearly basis since 1988. This item last appeared before this Board in June 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 First Presbyterian Church of Troy, 4328 Livernois a three (3) year renewal of relief of the 4'-6" high wall required along the southeast and north sides of the property adjacent to the off-street parking.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect on surrounding property.
- Conditions remain the same, and there are no complaints on file.
- The adjacent property is either undeveloped or screened by dense woods.

Yeas: All – 6

ITEM #2 – con't.

MOTION TO APPROVE ITEM #3 AND ITEM #4 CARRIED

ITEM #5 – VARIANCE REQUEST. SANKARAN BALAKRISHNAN, 1602 LIVERNOIS, to reconstruct a gasoline station service building that will result in a front yard setback of 11'-8" from Livernois and setback of only 30'-3" from the residential property to the northeast where Section 30.20.07 requires a 40' front yard setback and a 75' setback from residential zoned property. In addition, the site plan submitted indicates only 384 square feet of landscaping where Section 39.70.04 requires at least 1,674 square fee of countable landscaping for a site this size.

The petitioner was not present and this item was moved to the end of the agenda, Item #9, to allow the petitioner the opportunity to be present.

ITEM #6 – VARIANCE REQUEST. GARY ABITHEIRA, HIDDEN CREEK SITE CONDOMINIUM DEVELOPMENT, for relief of the height requirement to construct a new home. The proposed house has a building height of 27' when calculated in accordance with Section 04.20.23. Section 30.10.06 limits houses in R-1E Zoning Districts to 25' maximum building height.

The petitioner was not present and this item was moved to the end of the agenda, Item #10, to allow the petitioner the opportunity to be present.

ITEM #7 – VARIANCE REQUEST. DENVER ASSOCIATES, LLC, 1010 NAUGHTON, for relief of the Ordinance to expand an existing parking lot that will result in front setbacks of 14' to Acacia and 23'-7" of Naughton. Paragraph L of Section 31.30.00 requires that the 50' front yard setback required by Section 30.20.09 be free of parking.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to expand an existing lot. This property is located within the M-1 (Light Industrial) Zoning District. Paragraph L of Section 31.30.00 requires that the 50' front yard setback required by Section 30.20.09 be free of parking. The plans submitted indicate that the parking lot is being expanded to within 14' of Acacia and within 23'-7" of Naughton.

Mr. Courtney said that based on the petitioner's request it was indicated that this space would be used as a show room and asked what type of show room it would be. Mr. Stimac said he did not have the answer but thought the petitioner would be able to explain it.

Mr. Fareed Mojaradi was present and stated that they are looking into using the extra space in the building as a show room for office furniture. The main building would be used as a warehouse where this furniture would be stored and assembled. The show room would be used to display the finished product.

ITEM #7 – con't.

Mr. Maxwell asked how many parking spaces were available and why the current parking was not sufficient and Mr. Mojaradi said that based on market studies, the market is changing and this particular client would like to be able to provide more parking to make it more convenient for prospective clients. Mr. Mojaradi said that presently there are thirty- (30) parking spaces available. Mr. Mojaradi said that they would like to add fifteen (15) additional parking spaces.

Mr. Courtney asked how many customers they get. Mr. Mojaradi said he did not know, as they have not leased this space out yet. Mr. Courtney said this sounds more like a retail operation. Mr. Mojaradi said that the potential customer they have talked to indicated that this space would be used so people could look at the finished product and order same, but would not be purchasing office furniture here and taking it with them. This would not be used as a retail space.

Mr. Hutson asked if there were any tenants in the building now and Mr. Mojaradi said that the tenants had moved out approximately three months ago. Mr. Hutson then asked how many employees would be in this facility and Mr. Mojaradi said he did not know. Mr. Hutson said the Board was not being given a lot of information regarding the need for this variance. Mr. Mojaradi said he has not been involved in talking to the client, but does know the owner of the building wants to dress up this building and wants to dress up this building and also be able to provide more parking to any potential customers. Mr. Hutson said that he does not understand why he needs more parking. Mr. Mojaradi said that without adequate parking it is very difficult to service customers. Mr. Hutson said that he thought Mr. Mojaradi was talking about a retail building. Mr. Mojaradi said that any office building needs plenty of parking. Mr. Hutson then asked why extra parking would be required, if this was a one-man operation. If there is a lot of traffic or a lot of employees coming in or out extra parking would be required, but he did not feel that need has been demonstrated at this time. Mr. Mojaradi said that he could send the Board documentation of studies indicating the need for adequate parking; however, Mr. Hutson said that was not necessary. Mr. Hutson asked if this potential client was going to lease the entire building. Mr. Mojaradi said that it was his understanding that they were going to use the whole building. Mr. Hutson said he did not see a hardship supporting this request.

Mr. Mojaradi said that the hardship is the fact that the building was built thirty-six (36) years ago and the need for parking was not the same then as it is now. Mr. Mojaradi went on to say that renting this space would be beneficial to the City. The potential client they had spoken to was going to use most of the building to store material and also to repair any office furniture as necessary.

Ms. Gies asked if a variance would be necessary if this was an interior lot. Mr. Stimac explained that the are encroaching on the front yards of both streets; therefore, both streets will require a variance. If this was an interior lot there would not be a parking setback requirement.

ITEM #7 – con't.

Mr. Wright asked if this statement would hold for Acacia and Mr. Stimac said it would. Mr. Wright said that he has always thought of Acacia as more of a service drive and Mr. Stimac said it is a street and the Ordinance requires a setback from all public streets.

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

There are no written approvals or objections on file.

Mr. Fejes asked if the petitioner was coming to this meeting and Mr. Mojaradi said that as far as he knew he was planning to attend this meeting.

Motion by Courtney
Supported by Hutson

MOVED, to deny the request of Denver Associates, LLC, 1010 Naughton for relief of the Zoning Ordinance to expand an existing parking lot.

- Petitioner has not demonstrated a hardship.
- Believes that they will increase the showroom, which would be considered retail.

Mr. Maxwell stated that before he would vote, he would like more information regarding this request as to what this building would be used for. Mr. Mojaradi said that he would answer any questions, however, Mr. Maxwell stated that Mr. Mojaradi did not have the information the Board needed to make a decision.

Mr. Fejes said that he agreed with Mr. Maxwell and would like more information regarding this request.

Mark LaFave, Manager of Denver Associates, arrived at 7:50 P.M.

Ms. Lancaster asked if the Board wished to vote on the motion, or if they wanted to re-open this hearing to hear from the petitioner.

Mr. Fejes spoke for the Board members and stated that they would hold their vote until Mr. LaFave had a chance to address the Board.

Mr. LaFave explained that he had purchased this building in February 2005. This building is 15,000 square feet and is 36 years old. The marketplace has changed dramatically and he believes that amount of parking limits this chance to lease this building. This is a service-oriented economy and he fully expects to lease this building and because they would be using it as a higher ratio of office, they would need the higher number of parking spaces. They are asking to add an additional fifteen (15)

ITEM #7 – con't.

parking spaces – twelve (12) in the front of the building and three (3) in the back of the building bringing the total number of parking spaces to forty-five (45). Mr. LaFave also said they plan to modernize the exterior of the building as well as re-landscape the entire site.

Mr. Courtney said that he did not believe the petitioner's request was consistent with what is allowable in M-1 (Light Industrial) Zoning. Mr. LaFave said that his practical difficulty was in the fact that this building had eleven (11) foot ceilings, which was not really conducive to industrial uses. Mr. Courtney then stated it sounds like this building is planned to be predominantly office space. Mr. LaFave said the likely party to lease this building will be more like a high-tech type of business that will require a higher percentage of office space. Mr. LaFave said that he does not want to change the use of the building. Mr. LaFave said that he believes his ability to lease this building is limited because of the low ceilings and limited parking. Mr. Courtney said that the petitioner could request to have the property re-zoned and Mr. LaFave said that when he had come into the Building Department, he was advised that this was the best way for him to go.

Mr. Courtney asked how much office space is allowed in Industrial Zoning. Mr. Stimac stated that if the use was appropriate, you could use 100% of the building for office space.

Mr. Courtney then asked how many employees would be at this site. Mr. LaFave said that he could not answer that as he has not leased out this space yet.

Mr. Hutson asked for an explanation as to how a high-tech business was going to make a difference in the parking. Mr. LaFave said that the specific client that has expressed interest in leasing this building specializes in selling office furniture. Mr. Hutson then asked how much traffic would be coming in to this location and stated that he does not see the need for a variance. Mr. LaFave said that there would be salesmen at this location, but they would go out and meet with clients regarding this furniture. Mr. Hutson suggested that Mr. LaFave withdraw his application until he had a definite contract and then come back to the Board if he found that a variance would still be required.

Mr. LaFave said that based on his personal experience he believes this site would require additional parking to make it more usable. Mr. LaFave said that they would require 50% of this space to be used as an office and the other 50% to be used as a warehouse. Mr. Hutson said that he felt this was hypothetical and he would not be inclined to grant a variance based on this.

Mr. Fejes said that the petitioner had the right to withdraw his request and re-submit if necessary, when he had more definite information.

ITEM #7 – con't.

Mr. Maxwell said that he would like more definite information as to why the additional parking spaces are required although he did not believe that by granting the variance it would be detrimental to this area. Mr. Maxwell also stated that he thinks the improvements the petitioner is proposing would add to the value of the area and would ultimately help the City of Troy.

Mr. Wright said that with the renovations the petitioner is proposing, he may be better off to take down this building and put up a new building. Mr. LaFave said that he purchased this building on speculation and thinks it will be a first class building.

Mr. Fejes stated that he feels this is a large variance request and does not feel there is a hardship.

Mr. LaFave asked that this request be withdrawn until he has a specific tenant for this building.

Motion by Courtney
Supported by Wright

MOVED, to accept Mr. LaFave's request to withdraw his petition for a variance request.

Yeas: All – 6

MOTION TO ACCEPT WITHDRAWAL CARRIED

ITEM #8 – VARIANCE REQUEST. GEORGE FERRARO OF METCO SERVICES, 6850 ADAMS, for relief of the Ordinance to construct an addition on an existing religious facility. Paragraph B of Section 10.30.04 requires front, side and rear yards of churches to be at least 50'. Paragraph E of Section 10.30.04 requires that these yards be landscaped and kept free of parking when they are adjacent to public streets or adjacent to other residentially zoned sites. The site plan submitted indicates a driveway within 33.9' of Adams and within 26.3' of the south property line where it abuts single family zoned property.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct an addition on to an existing religious facility. Paragraph B of Section 10.30.04 requires that these yards be landscaped and kept free of parking when they are adjacent to public streets or adjacent to other residentially zoned property. The plans submitted indicate a parallel driveway within 33.9' of Adams Road and within 26.3' of the south property line where this site abuts single family zoned property to the south.

Mr. George Ferraro was present and stated that there were also two members of the Temple present. As part of the addition in the lower parking area is also a service entrance to the banquet area. They had also looked at going from the parking facility

ITEM #8 – con't.

basically paralleling the upper level where the parking was and tying back into the driveway that goes to South Boulevard. The down side of this plan is that there is a slope there with a lot of trees and the trees would have to be removed. This solution would be the least intrusive. They have also looked at putting in a screen wall and additional landscaping so that the addition would have the least effect possible.

Mr. Hutson said that when he had looked at this site it appears that the property to the south is very low with a lot of swamp and is vacant. Mr. Ferraro said that in order to build their driveway they would have to put in a retaining wall, as well as additional landscaping.

Mr. Courtney asked if a retaining wall would still be needed if they came from the north side of the property. Mr. Ferraro said that they would still need some retaining wall because the difference in grade is 20'.

Mr. Fejes asked what would happen if the variance was not granted. Mr. Ferraro said that they would put the road in to comply, but they would have to remove a large number of trees. Mr. Ferraro said that even with this variance, they will still have to remove a few trees.

The Chairman opened the Public Hearing. No one 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.

Motion by Hutson
Supported by Maxwell

MOVED, to grant George Ferraro of METCO Services, 6850 Adams, relief of the Zoning Ordinance to construct an addition on to an existing religious facility that will result with a driveway within 33.9' of Adams Road and within 26.3' of the south property line where this site abuts single family zoned property.

- Variance is not contrary to public interest.
- Variance does not establish a prohibited use with a zoning district.
- Literal enforcement of the Zoning Ordinance is unnecessarily burdensome.
- Variance will not have an adverse effect to surrounding property.
- A large number of existing trees would need to be removed in order to put the drive in a conforming location.

Yeas: All – 6

MOTION TO GRANT VARIANCE CARRIED

ITEM #9 (ITEM #5) - VARIANCE REQUEST. SANKARAN BALAKRISHNAN, 1602 LIVERNOIS, to reconstruct a gasoline station service building that will result in a front yard setback of 11'-8" from Livernois and setback of only 30'-3" from the residential property to the northeast where Section 30.20.07 requires a 40' front yard setback and a 75' setback from residential zoned property. In addition, the site plan submitted indicates only 384 square feet of landscaping where Section 39.70.04 requires at least 1,674 square fee of countable landscaping for a site this size.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to reconstruct a gasoline station service building. Section 30.20.07 requires a 40' front yard setback and a 75' setback from residential zoned property for development in the H-S (Highway Service) Zoning District. The site plans submitted indicate a front yard setback of 11'-8" from Livernois to the proposed new building and a setback of only 30'-3" from the R-1E (Residential One-Family) Zoned property to the northeast.

In addition, Section 39.70.04 requires at least 1,674 square feet of countable landscaping for a site this size. The plans submitted indicate that only 384 square feet of countable landscaping will be provided.

Mr. Courtney asked how much landscaping was presently on this space. Mr. Stimac said that there is landscaping on the north side of this site, although he does not have the total square footage, Mr. Stimac said he does believe that it is more than 384 square feet. Mr. Courtney clarified that the petitioner is asking for two (2) additional variances. Mr. Stimac explained that this property was recently re-zoned to H-S (Highway Service).

Mr. Fejes asked what zoning classification was previously on this property. Mr. Stimac said that in the previous zoning of B-1, a 75' setback was not required, however, a gas station was not a permitted use with that zoning.

Mr. Wright said that in order for him to rebuild the gas station, the Planning Commission felt that this should be a gas station and recommended that the zoning be changed.

Mr. Mike Kozlowski was present and said he is the architect for this project. Mr. Kozlowski said that he believes the practical difficulty is that there is no buildable area on the north end of the site available. The only place they could do it would be on the south end of the property, which would result in a very small kiosk. Mr. Kozlowski also said that they feel a 1,600 square foot building was a modest size and would not cause this site to be over built. Furthermore, the residential property in question is owned in common by the commercial neighbor that they vacated the alley with. The alley was kept open so that he would have access to the back of the house. They are going through some steps in order to make some improvements to the site, one of which is the alley that they are planning to pave to the end of their property line, and also they are going to install screen walls where there are not driveways to substitute for the

ITEM #9 – con't.

areas that are supposed to have landscaping. Normally, when they do these stations they do try to provide buffering along the roads, but in this situation there is really no landscaping along the street, the sidewalks are right on the property lines. There is an increase in the ultimate right of way that is needed for both roads, approximately 8' wider. If they move to the ultimate right of way, there is no space for additional landscaping. Mr. Kozlowski said that they will be improving this site.

Mr. Courtney said that they are paving part of the alley and asked what else is there. Mr. Kozlowski said that the property is paved except for what is behind the building. Mr. Courtney then asked what is presently behind the building and Mr. Kozlowski said this area was landscaped. Mr. Kozlowski also stated that from the north end of the property to the north end of the adjacent commercial property they are planning on putting in a 6' high screening wall.

Mr. Hutson asked if they had an elevation of the proposed building. Mr. Kozlowski said that he had not brought one in with him. This building would be basically a flat roof building with veneer and with more windows and just generally be an improvement.

Mr. Courtney asked if Clark Oil owned this station and Mr. Kozlowski stated that it was not.

The Chairman opened the Public Hearing.

Mr. David Haron was present and stated that he was representing the owner of the commercial property to the east of this property, the residential property in back of this property and the two commercial buildings to the east of this property. Mr. Haron said that they object to this request for a variance. This request if granted would effectively ratify the former and partially current non-conforming use. The current owner purchased this property quite recently and he knew that this property was not a permitted use. Mr. Haron also said that based on his calculations the petitioner is asking for a 72% variance for the front yard, a 60% variance to the residential property and 75% - 77% variance for the landscape requirement. This petitioner is asking this Board to ignore the Ordinance. In each case the variance is necessary because there is a building on a corner, however, he does not feel this would be an improvement.

Another area Mr. Haron is concerned about is the 20,000 square foot requirement for a gas station, because this site is only 15,000 square feet. Mr. Haron also said that if the site were used for fuel only, the 15,000 square feet available would be adequate. This is an irregularly shaped parcel and the way he measures the site from the future right of way, he does not believe 15,000 square feet are available. If that were the case, another variance would be required. In terms of the use, this is a gas station with a convenience store, and the minimum requirement for a gas station with fuel only is 15,000 square feet. The convenience store adds another use to this site and would be subject to special use approval by the Planning Commission.

ITEM #9 – con't.

In terms of the dumpster location, the petitioner is planning to pave their portion of the alley, which is only 9'. Mr. Haron said that the dumpster drawing indicates a 10' opening, although he is not exactly certain what size the dumpster trucks are, but it could require driving over the adjacent property. The dumpster location is on the residential side, which will increase the noise and odor. The residential property needs to be protected and the petitioner is proposing a setback of 30' where 75' is required.

Mr. Haron also indicated that he believes if these variances were granted, the petitioner would still have to appear before the Planning Commission regarding special use approval. Mr. Haron said that they believe this is a self-imposed hardship and the variances should not be granted, and based on the Ordinance the land use should be compatible with the surrounding area. Mr. Haron said that the decrease in the setback to the residential property would not be compatible.

In a B-1 Zoning District, the setbacks were less and once the property was re-zoned the setbacks increased. Mr. Haron said that some other type of business could have been put on this corner and all of these variances would not have been required. The petitioner is also moving the curb cut, which will create a curb on the adjacent property. Mr. Haron also said that they are planning to put up two small walls in the front of the property and he does not know if this is appropriate. Mr. Haron also said that if his client wishes to develop anything on her property it will be more difficult because of the setback variances.

Mr. Courtney asked if the speaker had made their objection before the Planning Commission when the re-zoning request came up. Mr. Haron stated that due to a change of address, they did not receive notification of this re-zoning and therefore did not appear before the Planning Commission. Mr. Courtney said that Council re-zoned specifically for a gas station. Mr. Haron said that they would have rather raised these objections at either the meeting of the Planning Commission or Council, but did not receive notification.

Mr. Maxwell asked which property Mr. Haron's client owned. Mr. Haron stated that his client owns the property to the east, 35 E. Maple, the property east of that and the property on Chopin north of that. Mr. Maxwell asked if Mr. Haron would like to see this property used for something other than a gas station and Mr. Haron said that he would, or if something else was put there he would like to see it conform to the Ordinance. Mr. Maxwell also said that there is a building there right now, and if it was rebuilt, variances would still be required. Mr. Haron said that prior to the re-zoning, the building could not have been rebuilt. Mr. Haron also said that the existing building is non-conforming and if it was taken out, he does not believe it could be rebuilt. Mr. Haron said that he also believes that the canopies make this building non-conforming. Mr. Maxwell said that basically Mr. Haron believes this lot is too small and should not be used for a gas station. Mr. Haron said that was a fair statement.

ITEM #9 – con't.

Mr. Courtney said that the present owner could stay in this location with the building "as is" for the next fifty years, and he would rather see a new gas station put up and the area improved. Mr. Haron said that he and his client would rather see this area improved also, but they do not believe this gas station would be an improvement.

The owner of 35, 37 E. Maple came up and said that she does not see this request as an improvement. She believes that either he should buy her property or he should sell his property to her and the area should be changed to be very aesthetically pleasing. She also said that if these variances are granted, it would prohibit her from improving her property because of the setback requirements.

Mr. Courtney said that he feels her main objection is that the petitioner did not buy her property. The owner of the property said everyone likes to go to stores that are aesthetically pleasing and believes that this corner could be improved. Mr. Courtney said that in other words the petitioner should buy her property and she said or he should let her buy his.

Mr. Hutson said that the reality is that if no variances are granted, business is going to continue with the building "as is". Mr. Hutson also said that he thinks this new construction would improve the appearance of this corner. Mr. Haron said that he thinks if the variances were denied, there would be an attempt by the owners to find a solution for construction on the property. Mr. Haron also said that this is a small building going in there, and believes this will deprive the other owners of property in this area because of the decrease in the setbacks. If they want to make this area more productive, there are a lot of alternatives in this area. This building would be locked in because the variances run with the land.

Mr. Wright said that is one of probably half a dozen gas stations in the City that over the years has lost property because the roads have been widened, so in effect the City has made these parcels smaller than they are supposed to be. Mr. Wright said that the Planning Commission has determined that they would like to see improvement, and his opinion is that this would be an improvement.

Gary Abitheira, 178 Larchwood was present and stated that he lives three streets to the north of this site. Mr. Abitheira thinks this is a good plan, because the petitioner will be getting rid of two entrances/exits on this site. This is a hazardous traffic situation and this change will be a great improvement on this site.

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

There are no written approvals or objections on file.

ITEM #9 – con't.

Mr. Stimac addressed the Board and said that one of the questions that was raised stated that this lot did not meet the size requirements. According to the site plan the property in question is 15,606 square feet in area, subject to survey verification. Automobile service facilities have a larger area requirement. Originally this site was a non-conforming use as well as a non-conforming structure. When this property was re-zoned by City Council, it was no longer a non-conforming use. The use then conformed to the uses allowed in the re-zoning. The canopy location is technically conforming because it was granted a variance by the Board of Zoning Appeals some years ago.

Mr. Courtney said that he is in favor of this request, as he believes this is a vast improvement to the area.

Mr. Kozlowski said that his understanding was that the vacation of the alley was contingent on them retaining cross access so that the alley would remain open. They are happy improving the alley its full width if that would make the adjacent property owner happy. Both this property and the adjacent property are subject to the same setbacks and given the buildable area of this lot when the 40' setback is applied, there would be a very small envelope for building. Mr. Kozlowski also said that they would be happy to work with the Planning Commission regarding the dumpster enclosure and the alley.

Motion by Courtney
Supported by Gies

MOVED, to grant Sankaran Balakrishnan, 1602 Livernois, relief of the Ordinance to reconstruct a gasoline station service building that will result in a front yard setback of 11'-8" from Livernois and a setback of only 30'-3" from the residential property to the northeast where Section 30.20.07 requires a 40' front yard setback and a 75' setback from residential zoned property; and 384 square feet of landscaping where Section 39.7004 requires at least 1,674 square feet of countable landscaping for a site of this size.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.
- Variance applies only to the property in question.

Yeas: All – 6

MOTION TO GRANT VARIANCE CARRIED

Mr. Maxwell said that he had a bit of problem with this request, however, taking all the factors into consideration, including the egress driveways, he would approve of this request. Mr. Maxwell also said that he hopes in the future we get away from putting gas stations on corners, and he does approve of some of the changes that are being made.

ITEM #10 (ITEM #6) - VARIANCE REQUEST. GARY ABITHEIRA, HIDDEN CREEK SITE CONDOMINIUM DEVELOPMENT, for relief of the height requirement to construct a new home. The proposed house has a building height of 27' when calculated in accordance with Section 04.20.23. Section 30.10.06 limits houses in R-1E Zoning Districts to 25' maximum building height.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct a new house that will exceed the height requirements of Section 30.10.06. The construction plans submitted indicate that the proposed house has a building height of 27' when calculated in accordance with Section 04.20.23. Section 30.10.06 limits houses in R-1E Zoning Districts to 25' maximum building height.

Mr. Stimac also explained that there are five (5) different zoning classifications. The maximum building height for a building depends on which zoning classification you are in. R-1A and R-1B zoning classifications allows for additional storage that can be constructed on a house as well as provisions for some additional height. These provisions do not apply in the R-1C, R-1D or R-1E zoning classifications, primarily because we are dealing with smaller lot sizes and there is some concern about the spacing between buildings.

Mr. Hutson asked which classification this parcel was in. Mr. Stimac stated that it was in the R-1E classification, which limits buildings to two stories and 25' in height.

Gary Abitheira was present, stated that the home he is building is almost 4,000 square feet, and has a lot of depth to it. The roofline looks more aesthetically pleasing with the higher height. Mr. Abitheira said that he had gone to the Fire Department and got a letter from them stating that this would not create a fire hazard. Based on the site plan the rear yard will be about 400' from the houses on Hartland and there will be 27' to the houses on either side, and will be setback about 110' from the houses on the east side. Mr. Abitheira said that he had contacted 99% of the surrounding neighbors and did not receive any objections from them. There are a large number of trees in this area and his home will be screened from the surrounding property. Mr. Abitheira also said that he did get one objection from a long time resident who was concerned that the proposed complex would be done according to the plans submitted. These plans have been submitted to Engineering and have been approved. Mr. Abitheira also needs final site plan approval and will be going before City Council at their meeting of July 11, 2005.

Mr. Hutson asked if Mr. Abitheira was requesting a variance for all the proposed homes in this development. Mr. Abitheira said he only needs a variance on Unit #7.

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

There are two (2) written approvals on file. There is one (1) written objection on file.

ITEM #10 – con't.

Mr. Maxwell asked if this lot was larger than the other proposed lots. Mr. Abitheira said this is his own personal lot and would be about two and ½ acres. All of the houses in the cul de sac are basically the same elevation. Mr. Maxwell confirmed that he was asking for this variance because of the depth of this house and Mr. Abitheira said that was correct.

Motion by Maxwell
Support by Hutson

MOVED, to grant Gary Abitheira, Hidden Creek Site Condominium relief of the Ordinance to construct a new house that will exceed the height requirements of Section 30.10.06, this is 25'. The proposed house will have a roof height of 27'.

- Size of lot will support a house of this size.
- Variance request is minimal.
- Variance will not have an adverse effect to surrounding property.

Yeas: All – 6

MOTION TO GRANT VARIANCE CARRIED

The Board of Zoning Appeals meeting adjourned at 9:15 P.M.

7/19/05
Christopher Fejes, Chairman

Pamela Pasternak
Pamela Pasternak, Recording Secretary