

The Chairman, Ted Dziurman, called the meeting of the Building Code Board of Appeals to order at 8:30 A.M. on Wednesday, September 3, 2008 in the Lower Level Conference Room of the Troy City Hall.

PRESENT: Ted Dziurman
Rick Kessler
Keith Lenderman
Tim Richnak
Frank Zuazo

ALSO PRESENT: Mark Stimac, Director of Building & Zoning
Paul Evans, Housing & Zoning Inspector Supervisor
Pam Pasternak, Recording Secretary

ITEM #1 – APPROVAL OF MINUTES-MEETING OF JULY 2, 2008

Motion by Kessler
Supported by Richnak

MOVED, to approve the minutes of the meeting of July 2, 2008 as written.

Yeas: All – 5

MOTION TO APPROVE MINUTES CARRIED

ITEM #2 – VARIANCE REQUESTED. PAUL DETERS, OF METRO DETROIT SIGNS, 5505 CORPORATE, for relief of Chapter 85 to install two (2) additional ground signs each measuring 50 square feet in area.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 85 to install two additional ground signs. This site currently has a 192 square foot ground sign. Chapter 85.02.05 (C) (3) allows one ground sign for each building in accordance with table 85.02.05 and one additional ground sign for each building, not to exceed thirty-six square feet in area. The site plan submitted indicates that the new signs would each be 50 square feet in area.

Paul Deters of Metro Detroit Signs and Bill Wylonis, Property Manager for these properties were present. Mr. Deters explained that Items #2, #3 and #4 were very similar and all applied to properties in Baluster Park. Basically they are asking for signage to identify the entire property. This proposal involves two monument signs which will identify certain areas within the park and also identify the different tenants located in each building. Signage is a critical element for the success of this location.

Mr. Deters went on to say that one of these signs would be located along Corporate Drive and the other sign would be located along New King. The proposed signs are 6'

ITEM #2, #3 & #4 – con't.

tall monument signs and will be illuminated internally. There are no signs on the building at 5505 Corporate; however there is a sign at the corner, which they identify as an entrance sign that reads Baluster Park. The proposed signs will give that property an opportunity to identify tenants located in the facility. The signs are non-obtrusive and will create a significant upgrade of the existing signs.

Mr. Dziurman asked if the Board wished to hear all three items at the same time since they were requests from the same petitioner and somewhat similar in nature.

Mr. Stimac stated that he felt that they could hear the requests at the same time, but the Board would need to take separate action on each item.

Regarding Item #3, 700 Tower, Mr. Deters said that they wish to keep uniformity along the entire campus of Baluster Park. The proposed sign is a low monument sign, which would identify Baluster Park and would also identify location of the tenants within the building.

Mr. Deters stated that Item #4, 5600 New King, would be an entrance sign.

Mr. Dziurman asked if there was an existing entrance sign.

Mr. Deters said that there was but they would be replacing that sign, which is literally right along the sidewalk. The new sign would be smaller and they plan to move it back closer to the existing landscaping. The existing sign is 14' or 15' tall and the proposed sign would be 6' tall.

Mr. Richnak asked if Baluster Park covered different areas.

Mr. Wylonis stated that there are three (3) buildings located on Tower and there are also properties on Corporate and New King.

Mr. Richnak asked if the petitioner would be coming back before the Board for additional variances along Tower.

Mr. Deters stated that there are existing signs at these locations. The signs they are proposing are smaller than what presently exists. This is a large facility and the entrance sign on Tower and Crooks would make it easier for people to get in and out.

Mr. Richnak asked how many other buildings are in this complex.

Mr. Wylonis stated that there are a total of eight buildings in the complex.

Mr. Dziurman asked if each location would have a sign.

ITEM #2 – con't.

Mr. Deters stated that some of the signs have already been approved by the Building Department. Mr. Deters also said that they are requiring a variance for the sign at 5600 New King because they wish to place the sign closer to the road than what is allowed.

Mr. Dziurman asked if the other signs would fall into what is allowed by the Ordinance.

Mr. Deters said that was correct.

Mr. Kessler asked what the difference in square footage was between the proposed signs and the existing signs.

Mr. Deters said that the proposed signs would be 45 square feet compared to 50 square feet.

Mr. Kessler stated that one of the requirements for the Board to grant approval is for the petitioner to demonstrate a hardship that is unique to this site. Without a hardship everyone else would be entitled to the same variance.

Mr. Deters stated that after speaking with Mr. Evans and being informed what was required to obtain a variance, they feel that they do meet these requirements. This variance would not be contrary to public interest, nor would it have an adverse effect to surrounding property. This property owner has made a significant investment and these signs would help identify the location and would also create uniformity for Baluster Park. The signs would also be a significant improvement. This property is unusual in that there are a number of different tenants.

Mr. Richnak stated that the sign at 5600 New King is just a couple of feet from the sidewalk and he understands that the proposed sign cannot meet the setback requirements as it would be located in the middle of the existing trees.

Mr. Deters stated that the proposed sign would be 12' farther back from the existing sign.

Mr. Dziurman asked if this situation falls under the same circumstances as Beaumont Hospital.

Mr. Stimac stated that it did not as the zoning for each location is different and Beaumont is one site, whereas Baluster Park has different locations.

Mr. Dziurman said that he thought there was similar need for signage.

Mr. Stimac stated that they are all different sites.

ITEM #2, ITEM #3 & ITEM #4 – con't.

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

There is one written approval for Item #3. There are no written objections on file.

Mr. Kessler asked if a permit would be required to change out the sign face.

Mr. Evans stated that a permit would not be required unless they are changing the dimensions of the sign.

Mr. Deters stated that the existing signs were not constructed in a way that would allow them to change the face. The proposed signs are smaller and will create a nicer look.

Mr. Kessler asked if a variance would be required to replace an existing sign with a sign that is the same size or smaller.

Mr. Stimac stated that it would depend on the specific nature of the request.

Mr. Kessler inquired about the variance granted by this Board at 700 Tower.

Mr. Stimac explained that in April 2008 this Board granted a variance for a "For Lease" sign that was 48 square feet in area for a period of two years.

Mr. Kessler stated that when the Board considers a hardship, it must be something that is unique about the particular site and the Board cannot consider financial expenditures a hardship. There have been multiple instances where the speed of traffic near the site or mature landscaping has created a hardship that is unique to a property. In this case people are already in the complex and the buildings have identification on them.

Mr. Deters stated that regarding 700 Tower, the entrance is along Long Lake Road and traffic heading westbound would be traveling at a significant rate of speed. A new sign will make it easier to communicate where the building and tenants are located.

Mr. Kessler asked if Mr. Deters thought the present Sign Ordinance allows enough signage for identification of multi-tenanted buildings.

Mr. Deters said that he did not. Tenants would like some form of identification to let people know where they are located.

Mr. Kessler stated that if this Board were to grant a variance without a hardship, every multi-tenanted building would come before this Board asking for the same consideration. Without a hardship this Board cannot grant a variance.

ITEMS #2, #3 & #4 – con't.

Mr. Deters states that he feels this is a very unique property. The Ordinance allows a 36 square foot sign and they are proposing a 45 square foot sign. The existing sign is 50 square feet, and Mr. Deters said that they are keeping within the spirit of the Ordinance by proposing this sign to be smaller.

Mr. Zuazo said that presently there are six (6) tenants that are identified on the existing sign and asked if the number of tenants was set for each building.

Mr. Wylonis stated that there are not a set number of tenants, however, signage would only be allowed for the six (6) largest tenants. The smaller tenants usually don't ask for signage.

Mr. Zuazo asked what would happen if more than six tenants asked for signage.

Mr. Wylonis stated that they would form a waiting list and if any additional tenants wanted signage they would have to wait until one of the other tenants vacated the building.

Mr. Richnak indicated that he was prepared to make motions and take each item one at a time so that everyone understands what each hardship is.

Mr. Dziurman agreed and said that Item #4 would be a smaller sign and would require a variance for the setback.

Mr. Stimac stated that from the aerial view the petitioner had presented to the Board regarding the location for each sign, it appears that one sign at 700 Tower would be located on Long Lake Road, and the other sign along the driveway to 700 Tower located further in on the property. Mr. Stimac went on to say that this property owner, owns eight of the existing 28 buildings in this area.

Mr. Wylonis stated that they have three (3) buildings on Tower and five (5) buildings on Corporate and New King.

Mr. Dziurman asked which properties on Tower were parts of Baluster Park.

Mr. Wylonis stated that 700, 750 and 800 Tower were Baluster Park.

Mr. Richnak clarified that these buildings are not side by side but are in fact separated.

Mr. Dziurman said that one area is on the east side of Crooks Road and the other is on the west side of Crooks Road.

Mr. Kessler asked what the square footage of the signs along Tower were.

ITEMS #2, #3 & #4 – con't.

Mr. Deters stated that each existing sign is 50 square feet and they plan to replace these signs with two (2) signs that will be 45 square feet.

Mr. Kessler asked what the gross square footage of signage was at 5505 Corporate, Item #2.

Mr. Deters stated that they plan to install two smaller entrance signs, one located on Corporate and the other one on New King that will be "L" shaped. These signs will be the same size as the proposed signs along Crooks Road.

Mr. Richnak stated that the signs for 5505 Corporate, Item #2 were not replacement signs and the new signs would be 50 square feet in area. Mr. Richnak also stated that the sign on Corporate Drive is very close to the driveway.

Mr. Deters stated that there is a sanitary sewer easement in that area.

Mr. Evans said that the sign needs to be moved closer to Corporate due to the easement.

ITEM #2

Motion by Richnak

MOVED, to approve the request of Paul Deters, of Metro Detroit Signs, 5505 Corporate, for relief of Chapter 85 to install two (2) additional ground signs each measuring 50 square feet in area.

Motion dies due to lack of support.

Motion by Kessler
Supported by Zuazo

MOVED, to postpone the request of Paul Deters, of Metro Detroit Signs, 5505 Corporate, for relief of Chapter 85 to install two (2) additional ground signs each measuring 50 square feet in area until the next scheduled meeting of October 1, 2008.

- To allow the petitioner the opportunity to reevaluate their request.

Yeas: All – 5

MOTION TO POSTPONE THIS REQUEST UNTIL OCTOBER 1, 2008 CARRIED

ITEM #3 – VARIANCE REQUESTED. PAUL DETERS, OF METRO DETROIT SIGNS, 700 TOWER, for relief of Chapter 85 to install two (2) additional ground signs each measuring 45 square feet in area.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to install two (2) additional ground signs each measuring 45 square feet in area. This site currently has a 48 square foot ground sign that was approved by variance in April 2008 for up to two years. Chapter 85.02.05 (C) (3) allows one ground sign for each building in accordance with table 85.02.05 and one additional ground sign for each building not to exceed thirty-six square feet in area.

Mr. Richnak asked if the sign that was approved by variance in April 2008 was going to be removed.

Mr. Stimac stated that there was no indication that the existing sign would be removed.

Mr. Wylonis stated that there has been a lot of activity in this area and they are presently working with a perspective tenant. If that tenant moves into the building there is a strong possibility that the sign would be removed as the building would be 90% occupied.

Motion by Richnak
Supported by Kessler

MOVED, to grant Paul Deters of Metro Detroit Signs, 700 Tower, relief of Chapter 85 to install two (2) additional ground signs each measuring 45 square feet in area.

- Variance is not contrary to public interest.
- Variance would not have an adverse effect to surrounding property.
- Variance will allow greater visibility to people entering the complex.

Yeas: All – 5

MOTION TO GRANT VARIANCE CARRIED

ITEM #4 – VARIANCE REQUESTED. PAUL DETERS, OF METRO DETROIT SIGNS, 5600 NEW KING, for relief of Chapter 85 to erect a ground sign.

Mr. Stimac explained that the petitioner is requesting relief of the Sign Ordinance to erect a new ground sign. Table 85.02.05 of the Sign Ordinance requires that ground signs over 100 square feet in area be setback more than 30' from the street right of way. The application submitted indicates a ground sign measuring 191 square feet in area setback 14' from the Crooks Road right of way and 22'-7" from the New King right of way.

ITEM #4 – con't.

Mr. Richnak stated that the existing sign on Crooks is at a location that is very close to the sidewalk. The new sign would be moved back, which he believes would be an improvement.

Motion by Richnak
Supported by Kessler

MOVED, to grant Paul Deters, Metro Detroit Signs, 5600 New King, relief of Chapter 85 to erect a ground sign measuring 191 square feet in area setback 14' from the Crooks Road right of way and 22'-7" from the New King right of way.

- New sign will be placed farther back from the corner.
- Variance will not have an adverse effect to surrounding property.
- Existing mature trees prevents placement of the sign at a conforming location.

Yeas: All – 5

MOTION TO GRANT VARIANCE CARRIED

Mr. Dziurman advised the petitioner to re-think the number of signs and the size of the signs they are proposing for Item #2, 5505 Corporate

Mr. Kessler advised the petitioner to determine the hardship that is unique to this location when they next appear before this Board.

ITEM #5 – VARIANCE REQUESTED. JOHN KIZY, CONCEPTS IN NEON & SIGNS, 300 JOHN R, SUITE A, for relief of Chapter 85 to erect two (2) wall signs.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 85, the Sign Ordinance to erect two (2) wall signs. Chapter 85.02.05 (C) (4) states that the total combined area of all wall signs for each tenant shall not exceed 10% of the front tenant area. The front of this tenant space is 836 square feet in area. The site plan submitted indicates two (2) wall signs with a total combined area of 234 square feet where 83.6 square feet of wall signage is allowed.

Mr. Tom Stegeman, the owner of the proposed restaurant at 300 John R., Suite A was present and stated that after looking at the plans, he thought he could reduce his variance request to signs that would be 167 square feet in area. This building was constructed in a manner which gives it two (2) store fronts. One side of the building faces John R. and the other corner faces north. There is quite a bit of mature landscaping that makes visibility poor for traffic heading southbound on John R. The posted speed limit is 40 MPH and there is a median in this area that also hurts visibility. Mr. Stegeman also stated that they are combining two (2) businesses and they are trying to use signage in the most effective way.

ITEM #5 – con't.

Mr. Kessler asked if Mr. Stegeman knew the restrictions on signage at the time he signed the lease on this building.

Mr. Stegeman said that he thought the previous tenant had signage on both sides of the building and did not realize that he would only be allowed signage on the front of the building.

Mr. Kessler stated that the other businesses in this plaza sit farther back from the road. The landlord can allow additional signage. Mr. Kessler also stated that people going out for lunch usually have a destination in mind and he does not think that the trees in front of this building are that large. Mr. Kessler further stated that he did not see anything that was unique about this location compared to the other businesses in the area. The Ordinance is designed to be equal to all businesses. Mr. Kessler stated that he understands what the owner is saying about mature vegetation but everyone in the complex has the same issue, which would allow all the business owners to seek a variance.

Mr. Stegeman said that there is zero visibility for traffic heading southbound on John R and believes that cutting the potential customers by half creates a hardship. Mr. Stegeman said that he agrees that the other businesses do have the same hardship.

Mr. Kessler stated that the Ordinance allows the petitioner a sign that is 83.6 square feet in area, but the petitioner is asking for approval of 167 square feet.

Mr. Stegeman said that he had adjusted the size of the sign as compared to his original request.

Mr. Stimac asked how the petitioner came up with the new figure and a discussion began regarding the proposed sign.

Mr. Evans asked if Mr. Stegeman had done a recalculation of the signage he is requesting.

Mr. Stegeman stated that after meeting with Mr. Evans he determined how the size of the signs was calculated. Mr. Stegeman said that he would like both signs placed symmetrically placed on both sides of the building.

Mr. Stimac stated that based on the drawing the petitioner had submitted it appeared that if the Board were to grant a variance for 167 square feet, the petitioner may not get the size of sign he thought he was getting.

Mr. Stegeman said that he is trying to get visibility on both sides of this building.

ITEM #5 – con't.

Mr. Richnak suggested the Board give Mr. Stimac the opportunity to determine the size of the sign the owner is requesting.

Mr. Kessler stated that if the Board grants approval based on 74 square feet as depicted in the drawing, the petitioner has to make the sign fit into that measurement. The aggregate sign area would be 148 square feet versus 234 square feet.

Mr. Stimac asked if the "Pizza Papalis" sign lettering was 24" high.

Mr. Stegeman said that was correct.

The Chairman opened the Public Hearing.

Mr. Charles Miller, Property Manager of 412 W. 14 Mile Road was present representing the owners of Oakland Plaza. Mr. Miller stated that they support this request and believes there is a hardship because this is a corner location. Mr. Miller also asked what determines the store front.

Mr. Evans stated that the façade facing the street determines the store front.

Mr. Lenderman asked if Mr. Miller had received complaints from other business owners in this area regarding the trees in this area.

Mr. Miller stated that Vitamin World has asked that the existing trees be trimmed and there are significant calls from the businesses that are set back in the plaza.

Mr. Kessler asked about the empty space between two areas where there are quite a few trees.

Mr. Miller stated that he thought the trees in the middle were removed due to the age of the trees and also to increase visibility to Oakland Plaza.

Mr. Kessler asked if the lease signed by the tenants addresses the sign restrictions in the City.

Mr. Miller stated that his office did not handle that part of the business but was sure that the lease states that the tenants must meet the City Code.

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.

ITEM #5 – con't.

Mr. Stegeman said that even if they knew the limitations in the Ordinance they still would have moved forward at this location as he feels they have met the requirements for approval of a variance as required by the City of Troy. He has shown the Board a hardship and that is to operate a business on ½ of the traffic that is going along John R. The existing vegetation creates the hardship and will only get worse as it matures. Mr. Stegeman said that in his opinion dinnertime is a destination location, but lunch is an impulse decision and the extra signage will help bring people to this location.

Mr. Kessler stated that if this restaurant was located at the back of the center, Mr. Stegeman would not have the option to ask for additional signage.

Mr. Stegeman indicated that he would not have leased this building if it was at the back of the center.

Mr. Kessler stated that in some cases the landscaping bring people to a location. This center has a lot of tenants that could ask for a variance.

Mr. Stegeman said that he is hoping his store will be an anchor for this plaza.

Mr. Kessler asked if Mr. Stegeman had looked at putting a smaller sign on the north side of the building.

Mr. Stegeman said that there are two (2) restaurants in the same building. "Pizza Papalis" is the main restaurant and will have the lion's share of trade. If the variance was denied the only sign they would put up would be the "Pizza Papalis" sign.

Mr. Kessler stated that he did not see anything unique about this site that would justify a variance.

Mr. Stimac said that he re-calculated the sign area based upon the drawings the petitioner had brought in today and believes that they are proposing to put up two signs each 98 square feet for a total of 196 square feet.

Mr. Dziurman asked if the petitioner would be willing to reduce the size of the sign.

Mr. Stegeman said that he would as long as he could put signs on both sides of the building.

Mr. Dziurman stated that Mr. Stegeman could have one legal sign and the Board could consider the request for a variance on the second sign.

Mr. Stegeman said that his main concern is signage on the north side of the building. One entire pipeline of traffic would not know about this location because of the existing vegetation.

ITEM #5 – con't.

Mr. Kessler asked how long the main sign was.

Mr. Stimac stated that "Pizza Papalis" is 25' long.

Mr. Dziurman asked if this Board could act on the petitioner's request to reduce the size of his variance.

Mr. Stimac said that the calculation he came up with would fall within the parameters of the Public Hearing Notice that went out.

Mr. Richnak stated that he believes the petitioner could stay within the 83.6 square feet allowed by the Ordinance on one side of the building, and could also see the petitioner adding a small sign to the north side of the building. Mr. Richnak also stated that he does not think a larger sign would influence the traffic heading southbound on John R.

Mr. Kessler suggested that the petitioner put up a compliant sign on the store front and postpone his request for the second sign so that he could look at his options and come back with an alternate plan. Mr. Kessler also stated that the petitioner could ask for two (2) signs that would meet the 83.6 square feet.

Mr. Richnak asked what the hardship would be to allow two signs.

Mr. Stimac stated that the petitioner could put up the code compliant sign of 83.6 feet and in the interim he could look at what options are available.

Mr. Stegeman stated that he was at a loss as to what type of hardship the Board was looking for. Mr. Stegeman believes that he has a visibility issue because there is a fully matured tree in the center of their building. Mr. Stegeman appreciates the Board offering to postpone this request but he just trying to get signage on the building that people will see. Traffic heading southbound on John R. cannot see the front of the building.

Mr. Richnak stated that the size of a sign makes a big difference. Mr. Richnak also stated that he believes the petitioner can look at other signs that would comply with the Ordinance. Postponing this request would give the petitioner the opportunity to come back before the Board with an exact rendering of what they want.

Mr. Stegeman said that he would be willing to work with whatever signage they could get.

Motion by Kessler
Supported by Lenderman

ITEM #5 – con't.

MOVED, to grant John Kizy, Concepts in Neon & Signs, 300 John R., Suite A, relief of chapter 85 to erect two wall signs.

- Wall signs cannot exceed 100 square feet total.

Mr. Stegeman stated that due to the fact the "Pizza Papalis" was such a large sign it would take up most of the 100 square feet. Mr. Stegeman also asked if it would be acceptable if the second sign was slightly larger.

Mr. Stimac said that the signs as shown indicate that the lettering on the "Pizza Papalis" sign are 24" high and could be reduced to 18" in height, which would reduce the size of the sign but would still be visible.

Mr. Dziurman stated that the petitioner could put up a sign that was 100 square feet and could come back next month to ask for a second sign.

Motion by Richnak
Supported by Kessler

MOVED, to amend Mr. Kessler's motion to grant John Kizy, Concepts in Neon & Signs, 300 John R., Suite A relief of Chapter to erect two wall signs.

- Signs will not exceed 120 square feet in size.

Vote on amendment.

Yeas: All – 5

Vote on amended motion.

MOVED, to grant John Kizy, Concepts in Neon & Signs, 300 John R., Suite A relief of Chapter to erect two wall signs.

- Signs will not exceed 120 square feet in size.
- Number of signs will be limited to two.

Yeas: All – 5

MOTION TO GRANT VARIANCE CARRIED

ITEM # 6 – VARIANCE REQUESTED. RALPH GARABEDIAN, 2644-2648

LOVINGTON, for relief of the dwelling unit separation wall in the attic of a two family dwelling required by Section 317.1 of the Michigan Residential Code. The petitioner is the owner of a two-family dwelling originally constructed in 1969. Recently the home was inspected as part of property maintenance issues at the property. It was discovered that the fire resistance rated wall separating the two dwelling units did not extend through the attic of the units. Section 317.1 of the Michigan Residential Code requires that this wall extend to the underside of the roof sheathing. Upon being cited for this deficiency, the petitioner filed application for appeal of this item.

Mr. Garabedian was present and stated that he is the fifth owner of this property. He had rented this property to a tenant that was not very honest and in retaliation for an eviction notice, called the city complaining of mold in the bathroom. Mr. Don Phillips, Housing & Zoning Inspector came out and stated that due to property maintenance issues a complete inspection of the home would need to be done. City of Troy inspectors came out to the home and informed Mr. Garabedian that sixteen different items needed to be brought up to code. All of these items have been corrected, with the exception of the one-hour fire separation wall in the attic. Mr. Garabedian said that this home was inspected in 1969 and at that time no mention of a fire separation wall was brought up. Mr. Garabedian also stated that there are five (5) other duplexes on Lovington that do not have separation walls in the attic. Mr. Garabedian does not feel it is fair for the City to ask him to correct this problem, and also feels that the other duplexes should be brought up to Code.

Mr. Dziurman asked if Mr. Garabedian was saying there was a possibility that the other duplexes were not in compliance.

Mr. Garabedian said that he was positive that these duplexes did not have separation walls as he went and looked at them.

Mr. Kessler asked if the petitioner could present a letter stating that the other duplexes were also constructed with these separation walls.

Mr. Garabedian stated that the duplex to the west is being completely renovated and fire separation walls have been put in for compliance to the code.

Mr. Dziurman asked if a fire separation wall was required at the time this duplex was constructed.

Mr. Stimac said that the fire separation wall requirements in 1969 are the same as the requirements now. Mr. Stimac also stated that Building Department Staff has been unable to locate the original building plans and was not sure whether or not the separation wall was indicated on those plans.

ITEM #6 – con't.

Mr. Garabedian stated that any home that was constructed in the past probably has code violations. Mr. Garabedian also said that he had a letter from the City indicating that all the violations had been corrected.

Mr. Kessler asked if Mr. Garabedian had looked into correcting this deficiency.

Mr. Garabedian said that he has had a contractor come out and look at this home and a hole would have to be made in order to get the dry wall into the attic. The cost to him would be about \$2,000.00.

Mr. Kessler stated that there would be an open stud that you can piece the drywall through. Mr. Kessler also asked if Mr. Garabedian had looked into the rating the ceiling of each unit. In order for the Board to grant a variance it is up to the petitioner to demonstrate that he has looked into other options to correct the violation.

Mr. Garabedian stated that he does not feel he should be held responsible. This will create an interruption to his tenants.

Mr. Kessler stated that the existing condition is unsafe.

Mr. Garabedian stated that his personal home was constructed in 1978 and at that time was constructed according to the Building Code and yet now it would probably be in violation of the new Building Code.

Mr. Kessler stated that this is a rental property.

Mr. Garabedian questioned whether the previous tenants had the right to call in the City for an inspection of the property.

Mr. Kessler stated that the space was leased to them and they did have the legal right to do that. A fire separation wall will allow them one minute to get out of the room.

Mr. Garabedian stated that he had installed smoke detectors in each bedroom.

Mr. Kessler stated that the right thing to do would be to bring this property up to Code. Mr. Kessler also stated that once a code violation has been brought to the attention of the City, the City will take action to make sure they are corrected. People that have rental properties also have certain responsibilities that they have to follow.

Mr. Garabedian said that he wants to do what is right and asked if the City would be willing to offer some type of monetary relief to help correct this violation. Mr. Garabedian believes that the City should share some of the responsibility for this violation.

ITEM #6 – con't.

Mr. Kessler stated that this Board cannot act on that.

Mr. Dziurman asked if there were modifications that could be made that would be less costly for the petitioner.

Mr. Kessler stated that he was hoping the petitioner would have brought in examples of how he had hoped to bring this home up to Code. Mr. Kessler stated that if the petitioner did not want to put in the fire separation wall, it was up to him to demonstrate an equivalent level of safety.

Mr. Lenderman stated that none of the other options that would address these deficiencies would be as inexpensive as adding the fire separation wall on both sides. Mr. Lenderman also said that he was sorry the deficiency was missed at the time of final inspection but when dealing with lives safety comes first. Mr. Lenderman also stated that when the City becomes aware of a deficiency, the City is obligated under law to make sure that the violations are corrected.

Mr. Stimac stated that a thorough search of Building Records was done and nothing indicates that a variance was ever granted for the omission of this fire separation wall. One of the options available to the petitioner is for the petitioner to provide an equivalent measure of safety for this property. Consideration of variances to the Building Code require that one of the following conditions apply: Code doesn't apply; the Code is applied incorrectly; or an alternative method that will provide the same degree of safety as what is required by the Code. Mr. Stimac went on to say that the City Inspectors have the right to enter any building and make an inspection. The Building Inspector did not have the authority to approve this construction without the fire separation wall. The petitioner can sue civilly. The Building Department will be pursuing the other structures in this area to make sure they are brought up to Code.

Mr. Dziurman said that the Fire Department has indicated that the fire separation wall could be done.

Mr. Stimac said that one possibility that is available is to rate the ceiling to a one-hour fire rating. If there is a fire in the attic there is no separation between the units. A fire suppressions system could provide the equivalent level of safety to the tenants. The installation of smoke detectors in the attic is something else the petitioner could look into it. The roof area of this property has a gable rear and a hip front. They would have to build a wall running perpendicular between the trusses.

Mr. Dziurman asked if they could use other materials besides dry wall.

Mr. Stimac said that it was possible that they could put in some type of wire separation and spray that with a fire retardant material.

ITEM #6 – con't.

Mr. Dziurman said that the petitioner could take that into consideration and look at other options to provide fire safety.

Mr. Lenderman asked what the square footage of the building was.

Mr. Garabedian said that each unit was 1300 square feet.

Mr. Lenderman stated that notification is not equal to separation. Smoke detectors would not protect any fire fighters on the roof. Mr. Lenderman stated that he thought that the petitioner needs to provide a one-hour fire separation.

Suggestions were provided to the petitioner regarding the installation of these walls, and also the use of other materials that would be equivalent to the one-hour fire separation.

Motion by Richnak
Supported by Kessler

MOVED, to postpone the request of Ralph Garabedian, 2644-1648 Lovington, for relief of the dwelling unit separation wall in the attic of a two-family dwelling required by Section 317.1 of the Michigan Residential Code until the meeting of October 1, 2008.

- To give the petitioner the opportunity to explore other options to provide equivalent fire safety.

Yeas: All – 5

MOTION TO POSTPONE THIS REQUEST UNTIL OCTOBER 1, 2008 CARRIED

The Building Code Board of Appeals meeting adjourned at 10:40 A.M.


Ted Dziurman, Chairman


Pam Pasternak, Recording Secretary

