The Chairman, Ted Dziurman, called the meeting of the Building Code Board of Appeals to order at 8:30 A.M., on Wednesday, September 7, 2005 in the Lower Level Conference Room of the Troy City Hall.

PRESENT: Ted Dziurman
Rick Kessler
Bill Nelson
Tim Richnak
Frank Zuazo

ALSO PRESENT: Mark Stimac, Director of Building & Zoning
Pam Pasternak, Recording Secretary

ITEM #1 – APPROVAL OF MINUTES – MEETING OF AUGUST 3, 2005

Motion by Richnak
Supported by Kessler

MOVED, to approve the minutes of the meeting of August 3, 2005 as written.

Yeas: All – 5

MOTION TO APPROVE MINUTES CARRIED

ITEM #2 – VARIANCE REQUEST. TAMELA CORBIN, 503 RANDALL, for relief of Chapter 83 to install a 6' high privacy fence in the front yard setback along Tallman.

Petitioner is requesting relief of the Ordinance to install a 6' high privacy fence. This property is a double front corner lot. It has front yard setback requirements along both Randall and Tallman. Chapter 83 limits the height of front yard fences on this property to not more than 30". The site plan submitted indicates a 6' high privacy fence setback 2' from the east property line along Tallman.

This item first appeared before this Board at the meeting of August 3, 2005 and was postponed to allow the petitioner the opportunity to present the height and a picture of the fence she wishes to install, to allow the petitioner to present a landscaping plan to the Board and to allow the Building Department the opportunity the chance to research the records regarding a previous variance.

A review of the Building Department records show that on June 14, 1973, a variance was granted by the Building Code Board of Appeals for a 6' high privacy fence running along the east property line, south, 60' from the rear property line, then continuing south with a 4' high privacy fence for 16' and connecting to the house at a 4' height. A copy of the minutes from that meeting is included for your reference.

The Chairman postponed this item until the petitioner came in.

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ITEM #3 – VARIANCE REQUEST. MARK DURETTE, 2463 AVERY, for relief of Chapter 83 to install a 48" high privacy fence in the front setback of Foxcroft Drive.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to install a 48" high fence. This lot is a double front corner lot. As such, it has front yard requirements along both Avery and Foxcroft Drive. The lot does, however, have a common rear-yard-to-rear-yard relationship to the property behind it. In these cases, Chapter 83 limits fences in the required front setback along Foxcroft Drive to a non-obscuring fence (more than 50% open) not more than 48" in height. The site plan submitted indicates a 48" high privacy fence in the front setback along Foxcroft Drive.

Mr. Durette was present and stated that the fence has been installed. He explained that they had hired a contractor who said that all permits had been obtained and the fence put in correctly. Aesthetically this fence is very attractive and Mr. Durette's neighbors have indicated that they approve. The fence is back from the corner and does not obscure traffic because this lot is on a cul-de-sac. Their family room faces Foxcroft and they wanted this fence to increase their privacy from traffic along Foxcroft.

Mr. Dziurman asked why they had put their fence up next to the neighbor's fence on the north side of the property. Mr. Durette explained that they have a dog and because the neighbor's fence was a split rail fence, they added the fence to prevent their dog from going on the neighbor's property. They chose a black chain link fence so that it would not take away from the split rail fence. Mr. Dziurman then asked how far the fence was from the sidewalk and Mr. Durette said it was about a foot back.

Mr. Kessler stated that he feels the fence looks nice but does not see a hardship running with the property that would justify this variance. Normally corner lots are larger than other lots in the area and the Board asks for a minimum setback of 10' from the sidewalk to allow for landscaping, which will soften the look of the fence. Mr. Durette said that there is a line of trees that are approximately 10' from the sidewalk. Mr. Kessler then stated that the fence could be located farther back than the 10'. Mr. Durette said that he had driven through the area and there are a number of fences that are both 6' high and right next to the sidewalk. Mr. Dziurman stated that the Board does not know the history of these fences and it was possible that they were put up in accordance with variances that had been granted.

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. Kessler asked if visibility was obstructed when backing out of the driveway. Mr. Durette indicated that this fence had been in place for the last two years and does not believe that visibility is compromised because of the fence. Mr. Durette also said that they are extremely careful when backing out of the drive. Mr. Kessler stated that he strongly objects to a fence along the driveway.

ITEM #3 – con't.

Mr. Dziurman asked if Mr. Durette would be willing to modify his request and angle the fence line near the driveway. Mr. Durette said that he could probably do that and asked how large a setback the Board would want. Mr. Dziurman said that he personally would like to see it back about 10' or angle the fence by the driveway.

Mr. Zuazo asked how far back the tree line was from the sidewalk and Mr. Durette said that it is approximately 10' back and he believes that the previous owner had put the trees in to provide screening.

Mr. Richnak stated that he could not make a motion to approve this request and Mr. Kessler said that he would like to see the fence brought straight back about 15' to 20'. A discussion began regarding the utility boxes and the sump pump outlet. Mr. Nelson said that he would like to see the fence moved back to increase visibility.

Motion by Richnak
Supported by Nelson

MOVED, to approve the request of Mark Durette, 2463 Avery, for relief of Chapter 83 to install a 48" high privacy fence in the front setback of Foxcroft Drive.

- Fence should be moved north 15'.
- Installation should not interfere with the utility boxes.
- Moving the fence back will increase visibility.

Mr. Zuazo asked if the Board wanted any type of modification of the fence along the sidewalk. The other Board members did not want any other modification.

Yeas: 4 – Nelson, Richnak, Dziurman, Kessler
Nays: 1 – Zuazo

MOTION TO GRANT VARIANCE WITH STIPULATION CARRIED

ITEM #2 – TAKEN OUT OF ORDER. VARIANCE REQUEST. TAMELA CORBIN, 503 RANDALL, for relief of Chapter 83 to install a 6' high privacy fence in the front yard setback along Tallman.

Petitioner is requesting relief of the Ordinance to install a 6' high privacy fence. This property is a double front corner lot. It has front yard setback requirements along both Randall and Tallman. Chapter 83 limits the height of front yard fences on this property to not more than 30". The site plan submitted indicates a 6' high privacy fence setback 2' from the east property line along Tallman.

This item first appeared before this Board at the meeting of August 3, 2005 and was postponed to allow the petitioner the opportunity to present the height and a picture of

ITEM #2 – con't.

the fence she wishes to install, to allow the petitioner to present a landscaping plan to the Board and to allow the Building Department the opportunity the chance to research the records regarding a previous variance.

A review of the Building Department records show that on June 14, 1973, a variance was granted by the Building Code Board of Appeals for a 6' high privacy fence running south, 60' from the rear property line, then continuing south, a 4' high privacy fence for 16' and connecting to the house at a 4' height. A copy of the minutes from that meeting is included for your reference.

Ms. Corbin was present. Mr. Dziurman explained that because this Board had granted a variance back in 1973, if she wished to put her fence in the same place a new variance would not be required.

Ms. Corbin stated that instead of a 6' high privacy fence running along Tallman, she wished to install a 54" high lattice type vinyl fence. Mr. Stimac stated that would be within the variance granted in 1973 and she could withdraw this request.

Mr. Dziurman said that as long as she follows the variance granted in 1973 a new variance was not required.

Ms. Corbin stated that she would withdraw her request. Withdrawal request noted and filed. No further action taken by this Board.

ITEM #4 – VARIANCE REQUEST. CHRISTOPHER MEERSCHAERT, 5562 HUNTERS GATE, for relief of Chapter 83 to install a 48" high fence along Beach Road.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to install a 48" high fence. This lot is a double front through lot. It has front yard requirements along both Hunters Gate and Beach Road. This is because there are houses fronting on Beach Road within the same block. Chapter 83 limits fences in front yards to a maximum height of 30 inches. The site plan submitted indicates a 48" high fence 15' from the property line along Beach Road.

Mr. Meerschaert was present and stated that he felt that because there is an existing swimming pool in the yard a 48" high fence is required. Mr. Meerschaert also stated that there are a number of properties in the same area that have the same type of fencing he wishes to install.

Mr. Dziurman clarified that the petitioner was appearing before this Board because the height of the fence was 48". Mr. Stimac explained that because this was a double front through lot, Chapter 83 limits the height of fences in the front yards to 30". Mr. Stimac also stated that if the fence were moved back 40' from the east property line it could be

ITEM #4 – con't.

48" high and a variance would not be required; however, the petitioner is asking to place the fence 15' from the property line.

Mr. Dziurman asked what type of fence the petitioner wished to install. Mr. Meerschaert stated that he wants to meet the requirements of the Code for swimming pools and would have two gate entrances, one of which would run along Beach Road to allow direct access to the utility easements.

Mr. Dziurman asked which code took precedence when there was a conflict such as this: e.g. swimming pool versus front through lot. Mr. Stimac said that both codes are of equal importance and that there is nothing in the pool code that grants exceptions to Chapter 83.

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

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

Mr. Meerschaert stated that this portion of Beach Road is heavily wooded and the fence would not be visible. Mr. Richnak asked about the location of the fence and Mr. Meerschaert stated that the fence would be about 5 to 6' from the end of the tree line.

Mr. Zuazo asked if any portion of this home was visible from Beach Road. Mr. Meerschaert stated about 12' of 120'. They are planning to put in a brown wrought iron fence that would blend in with the existing vegetation.

Mr. Kessler asked if the fence would be put right up to the property line on the side. Mr. Meerschaert explained that the fence would be about 2 ½' inside of the property line and they plan to put in arborvitae. Mr. Kessler asked if they would mow the easement. Mr. Meerschaert said that is the reason for the gate at the back of the property.

Mr. Richnak asked if the petitioner was planning to adding any type of plant material to the side of the fence along Beach Road and the petitioner stated that he had planned to put shrubs on the inside of the fence. Mr. Richnak stated that he would like to see some type of plantings along Beach Road. Mr. Meerschaert stated that he had not planned to put in arborvitae in this location because of the Edison box. Mr. Stimac stated that this box would have clearance requirements on it. Mr. Meerschaert said that he had seen the damage done by Edison when they dig up an easement and that is the reason he would rather not add additional plantings. Mr. Zuazo stated that he could angle the fence away from the Edison box. Mr. Meerschaert said that he would be willing to add arborvitae.

Motion by Richnak
Supported by Kessler

ITEM #4 – con't.

MOVED, to grant Christopher Meerschaert, 5562 Hunters Gate, relief of Chapter 83 to install a 48" high privacy fence 15' from the property line along Beach Road.

- Either the corner of the fence is to be angled away from utility box, or
- Petitioner must add a minimum of five (5) arborvitae along the northeast fence line.

Yeas: All

MOTION TO GRANT VARIANCE WITH STIPULATION CARRIED

ITEM #5 – VARIANCE REQUEST. STONE AGE INVESTMENTS, LARRY FARIDA, 1613 LIVERNOIS, for relief of Section 403.2 of the State of Michigan Plumbing Code to eliminate separate men and women's bathrooms.

Mr. Stimac explained that the petitioner is requesting relief of Section 403.2 of the State of Michigan Plumbing Code to have a single, unisex bathroom available to the public where separate men's and women's facilities are required. Section 403.2 states: *Where plumbing fixtures are required, separate facilities are required for each sex.* The only exception closely applicable in this instance is exception three of that Section that states: *Separate facilities shall not be required in structures or tenant spaces with a total occupant load, including both employees and customers, of 15 or fewer.* This building has an occupancy load well in excess of 15 persons.

Larry Farida was present and stated that the lower level of this building has separate facilities for employees. Other than the month of December, the total number of customers is rarely more than 10 or 15 people.

Mr. Stimac explained that the previous State Plumbing Code did not require public facilities unless the building was more than 5,000 square feet. The new Plumbing Code requires that all businesses have public facilities available.

Mr. Dziurman stated that there are separate facilities in the lower level but there would one unisex restroom available on the first floor.

Mr. Kessler asked if the petitioner would not have more than fifteen people, including customers, in the store at one time. Mr. Farida stated that basically he moving his business from one corner of Livernois to another and believes that his customer base would remain the same.

Mr. Dziurman asked if he thought this new location would increase his customer base. Mr. Farida said that he does not believe he will gain a lot of new customers as this is mainly a wine shop and not a deli. If they have to add the additional restroom, they will lose the bottle return area.

ITEM #5 – con't.

Mr. Zuazo asked if they cut cheese in their existing building. Mr. Farida said that they cut cheese in cubes and it is sold in pre-packaged containers. Mr. Zuazo then asked how far the restroom facility was from the prepping area. Mr. Farida indicated that the restroom is in the back of the building and the prepping area is located at the front of the building. Mr. Zuazo then clarified that Mr. Farida was asking for one restroom for use by the general public instead of two.

Mr. Richnak asked if this would have been allowed under the previous Plumbing Code and Mr. Stimac explained that public facilities were not required unless the building was more than 5,000 square feet. Mr. Richnak then asked what would happen if the variance request was granted, and the building became something other than a retail store. Mr. Stimac explained that if the use changed, the property would have to be re-evaluated and the codes regarding the new use would have to be met.

Mr. Zuazo asked if they had any plans to add a deli and Mr. Farida said absolutely not. Mr. Farida said that the only thing they will sell will be pre-packaged cheese.

Mr. Kessler asked if the business doubled in six months if Mr. Farida would be willing to add another restroom. Mr. Farida said that if he had a number of customers asking to use the facilities, he would be more than willing to add a second restroom. Mr. Kessler said that technically the Plumbing Code requires a drinking fountain as well as restrooms for public use. Mr. Kessler also said that most people do not ask to use restrooms as they believe they are for employee use only. Mr. Farida stated that he could count the number of people asking to use the restroom on one hand since he took over this business in 2000.

Mr. Zuazo asked if Mr. Farida had a food service license. Mr. Farida indicated that less than 5% of their business is food service and they plan to eliminate selling sandwiches and cutting cheese. The only type of food that they will sell will be pre-packaged. Mr. Farida also said that they have a license under the Department of Agriculture.

Motion by Richnak
Supported by Nelson

MOVED, to grant Stone Age Investments, Larry Farida, 1613 Livernois, relief of Section 403.2 of the State of Michigan Plumbing Code to eliminate separate men and women's restrooms.

- Variance will not be contrary to public interest.
- Variance will not have an adverse effect.
- Board does not see the volume of customers that would require a second restroom.

Yeas: All

ITEM #5 – con't.

MOTION TO GRANT VARIANCE CARRIED

The Building Code Board of Appeals meeting adjourned at 9:43 A.M.

Ted Dziurman, Chairman

Pamela Pasternak, Recording Secretary