The Chairman, Mark Maxwell, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M., on Tuesday September 18, 2007 in Council Chambers of the Troy City Hall.

PRESENT: Michael W. Bartnik
Glenn Clark
Kenneth Courtney
Marcia Gies
Matthew Kovacs
Mark Maxwell
Wayne Wright

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

ITEM #1 – APPROVAL OF MINUTES – MEETING OF AUGUST 21, 2007.

MOVED, to amend Page 3 of the minutes to read: …"one and one-half million to two million dollars"…

Motion by Wright
Supported by Gies

Yeas: All – 7

MOVED, to approve the minutes of the meeting of August 21, 2007 as amended.

ITEM #2 – VARIANCE REQUESTED. MR. & MRS. DERECK ROBINSON, 4472 LANCASHIRE, for relief of the Ordinance to construct a patio enclosure on the rear of their home that has a proposed 21' rear yard setback where Section 30.10.04 of the Ordinance requires a 40' minimum rear yard setback in R-1C Zoning Districts.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a patio enclosure on the rear of their home. The site plan submitted indicates the addition on the rear of the home will result in a 21' rear yard setback. Section 30.10.04 of the Ordinance requires a 40' minimum rear yard setback in R-1C Zoning Districts.

This item first appeared before this Board at the meeting of August 21, 2007 and was postponed to allow the petitioner to explore the possibility of changing the location of the sunroom in order to ask for a lesser variance.

Mr. Rob McMahon was present and gave each member two (2) alternate plans for this addition. The first plan indicated that the room would be 31' x 13', but moved to a different location of the house. With this rendition they would change the existing bay window to a doorway.

ITEM #2 – con't.

The second plan submitted by Mr. McMahon indicated a smaller room approximately 16' from the corner of the house. The smaller room would only enclose the deck and would be darker than the larger room.

Mr. Maxwell asked which plan the homeowner wished to have.

Mr. McMahon stated that they would much rather have the larger room as it would enclose the pool and allow them to use it twelve months out of the year.

Mr. Maxwell then asked how large a variance was required.

Mr. McMahon said that he believes the room would be 26' from the northwest corner of the lot, and therefore would require a 14' variance.

Mr. Stimac stated that he is concerned that since the setbacks are measured perpendicular to the lot lines, from the drawings submitted it is difficult to get an exact setback number.

Mr. McMahon said that he had the person from their company measure the distances to verify the setbacks.

Mr. Courtney asked what would be wrong with moving the room behind the garage so that it would meet the angle of this building.

Mr. McMahon stated that the problem is that there is an access door coming from the kitchen to the garage and it would be covered.

Mr. Kovacs asked for clarification regarding where the door goes.

Mr. McMahon stated that it goes to the garage and also believes it would be very difficult to level off the foundation at this point.

Mr. Courtney asked why the room couldn't be moved closer to the door.

Mr. McMahon stated that 31' is the smallest they can go. The second drawing submitted indicates that the smaller room would start right where the bay window is.

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. Maxwell stated that this is an irregular shaped lot and believes this condition creates a hardship.

ITEM #2 – con't.

Mr. Bartnik asked if there was any estimate of the distance from the eastern corner building on the alternative plan submitted to the lot line.

Mr. McMahon stated that the plan is drawn to scale and assumes it is about 40' or 45'.

Mr. Bartnik asked what was located just north of this property.

Mr. McMahon stated that the neighbors to the east, west and north have indicated that they approve of this request. The lot to the north is a protected wetland and nothing would be built in this area.

Mr. Bartnik asked if the Board could grant a variance based on the new plan submitted or if there would have to be another Public Hearing.

Mr. Stimac stated that this request was originally advertised with a 21' setback, and feels that if no one objected to that figure; it would be safe to assume that they would not object to a 26' or 29' setback. At this point there is no requirement to re-advertise this request.

Mr. Courtney asked what the difference was between the two rooms.

Mr. McMahon stated that basically the smaller room will enclose only the deck, and the larger room will enclose the pool area.

Mr. Clark asked a question about the wetlands.

Mr. Stimac stated that he was not aware of wetlands in this area, but stated that there is a flood plain north of this site.

Mr. Wright asked for a clarification of the measurements regarding the room sizes and angles presented.

Mr. McMahon stated that he was not able to explain the difference in the angles, but thought that the measurements would be accurate to within a foot.

Mr. Stimac said that it appears that the 31' wide room measured perpendicularly is 26' to the lot line. The Board has the power to establish a dimension to the rear lot line.

Mr. Kovacs asked if the Board could also determine the maximum width of the building.

Mr. Stimac stated that it certainly would be definable and enforceable for the Board to establish the maximum size of the building and its location along the rear of the home.

ITEM #2 – con't.

Mr. Courtney stated that he would feel better if he had a definite drawing of exactly what the petitioner is requesting.

Motion by Courtney
Supported by Wright

MOVED, to postpone the request of Mr. & Mrs. Dereck Robinson, 4472 Lancashire, for relief of the Ordinance to construct a patio enclosure on the rear of their home that has a proposed 21' rear yard setback where Section 301.10.04 of the Ordinance requires a 40' minimum rear yard setback in R-1C Zoning Districts until the meeting of October 16, 2007.

- To allow the petitioner to present exact drawings showing setbacks.

Mr. Clark stated that the revised plans should be submitted in advance of the meeting so that the Board has the knowledge to act accordingly.

Mr. Kovacs said that in his opinion it was not necessary to postpone this request because the Board has the ability to establish the dimensions required.

Mr. McMahon asked which plans the Board wanted him to submit.

Mr. Maxwell stated that he should talk it over with his clients and determine exactly what they would like and submit those plans. The critical number is the distance measured perpendicular to the rear lot line. Mr. Maxwell also stated that Mr. McMahon should verify that 29' is perpendicular to the rear lot line.

Mr. Bartnik suggested that the petitioner provide photos of the garage door, as he believes they would be very helpful in determining the location of the room.

Vote on motion to postpone.

Yeas: 5 – Gies, Maxwell, Wright, Clark, Courtney
Nays: 2 – Kovacs, Bartnik

MOTION TO POSTPONE REQUEST UNTIL THE MEETING OF OCTOBER 16, 2007 CARRIED

ITEM #3 – VARIANCE REQUESTED. MR. & MRS. RICHARD CUMMINGS, 2537 FOX CHASE, for relief of the Ordinance to construct a covered porch on the front the existing home with a proposed 34' front yard setback where Section 30.10.01 requires a 40' minimum front yard setback in R-1A Zoning Districts.

ITEM #3 – con't.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a covered porch on the front of the existing home. The site plan submitted indicates the covered front porch will have a 34' front yard setback. Section 30.10.01 requires a 40' minimum front yard setback in R-1A Zoning Districts.

Mr. & Mrs. Cummings were present. Mrs. Cummings stated that they have lived in this home for nineteen (19) years and they would like to protect people coming to the front door from the weather. Mrs. Cummings said that the porch would be across the front of the house.

Mr. Maxwell stated that this was a safety issue.

Mrs. Cummings said that the front of the house faces north and the sun does not reach this area.

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 are no written objections on file.

Mr. Clark clarified that the driveway is located on the same side of the proposed porch.

Mrs. Cumming stated that was correct.

Mr. Kovacs asked why they did not plan to also cover the step leading up to the porch.

Mrs. Cummings stated that there is only one step and then it's on to the porch.

Motion by Courtney
Supported by Wright

MOVED, to grant Mr. & Mrs. Richard Cummings, 2537 Fox Chase, relief of the Ordinance to construct a covered porch on the front of the existing home with a proposed 34' front yard setback where Section 30.10.01 requires a 40' minimum front yard setback in R-1A Zoning Districts.

- Variance applies only to the property described in this application.
- This covered porch would be aesthetically pleasing.
- This variance would not have an adverse effect to surrounding property.
- Variance is not contrary to public interest.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #4 – VARIANCE REQUESTED. COY CONSTRUCTION, REPRESENTING MR. & MRS. MICHAEL TAORMINO, 1874 WYNGATE, for relief of the Ordinance to construct a rear porch enclosure that will result in a 43' rear yard setback where Section 30.10.02 requires a 45' rear yard setback for buildings in the R-1B Zoning District.

The Chairman moved this item to the end of the agenda, Item #6, to allow the petitioner the opportunity to be present.

ITEM #5 – VARIANCE REQUESTED. BEHR AMERICA, 2700-2716 DALEY, for relief of the front yard setback requirement to have a parking lot located 31' from the north property line along Big Beaver where Section 30.20.09 of the Troy Zoning Ordinance requires a 50' minimum front yard setback in the M-1 (Light Industrial) Zoning District and Paragraph L of Section 30.30.00 requires that this yard remain free of parking.

Mr. Stimac explained that the petitioner is requesting relief of the front yard setback requirement. The original approved site plan indicated that as part of the development of this site, new parking spaces were to be added on the west side of the driveway out to Daley. The revised site plan submitted indicates these parking spaces moving to the north end of the parking lot and the pavement located 31' from the north property line along Big Beaver. Section 30.20.09 of the Troy Zoning Ordinance requires a 50' minimum front yard setback in the M-1 (Light Industrial Zoning District and Paragraph L of Section 30.30.00 requires that this yard remain free of parking.

Mr. Phil Tocco, representing Behr American was present.

Mr. Courtney asked who would be using the parking spaces along Big Beaver.

Mr. Tocco replied that employees would use them. Mr. Tocco went on to say that they had received site plan approval, however, discovered that there is a very beautiful, mature maple tree located in the center of where they had planned to put in a parking lot. They had previously tried to save several old trees when doing the original construction of the wind tunnel, but these trees died and now they are trying to prevent this tree from dying. This is the reason they wish to put these parking spaces on the east side of the lot. They also plan to add a masonry screen wall with a corporate sign.

Mr. Kovacs asked if there was any other location to put in a parking lot.

Mr. Tocco stated that if they tried to construct it in another location, they would run into the same problem regarding trees and vegetation. There are a number of utilities and fire hydrants located along Daley and the cost would be prohibitive to move all of these light poles and underground utilities.

Mr. Maxwell asked if the screen wall fronting on Big Beaver would be 4' high.

Mr. Tocco stated that the City wants the wall to be 4'. If a variance is required for the proposed sign, they will go through the proper channels to obtain that variance.

ITEM #5 – con't.

Mr. Courtney asked if a sign would still be constructed in this location if this variance request was not approved.

Mr. Tocco stated that they would change the configuration of what goes on the property between Big Beaver and where the parking lot starts.

Mr. Courtney asked about the sign.

Mr. Tocco stated that they expect that they will be able to get the sign and will put the sign on the wall. Mr. Tocco further pointed out that they are not asking for anything different than what the neighboring sites have. There are two companies that have parking right at the sidewalk.

Mr. Kovacs asked about the parking spaces that have been land banked.

Mr. Tocco stated that they do not want to use this area, as this is where the tree is located.

Mr. Stimac explained that on the original site plan there was additional parking on the west side of Daley. In addition there were land-banked spaces on the east side of the lot. Mr. Stimac also said that the petitioner's property is allowed to have a ground sign but this does not fall under the jurisdiction of this Board. The petitioner is proposing to put up a wall in lieu of the required 50' setback. This Board can require the wall as a condition of the variance. Officially, if the wall was not part of a variance request they could not put a masonry-screening wall at this location. A ground sign could be erected here as long as it complies with the Ordinance.

Mr. Maxwell asked if the Board would have to approve both a request for the setback variance as well as a wall. Mr. Maxwell also asked if the Board could specify that the wall be 6' in heights.

Mr. Stimac said that officially walls are not permitted in front yards. The Zoning Ordinance requires that walls screening parking lots be 4'-6" in height.

Mr. Bartnik stated that the property around Somerset Mall and other property along Big Beaver have a screening wall in one form or another. Mr. Bartnik asked if Somerset had received a variance for plantings rather than a wall.

Mr. Stimac explained that the Somerset Collection was in a different Zoning District and there is not a 50' setback required. There is a minimum 10' greenbelt required and the Ordinance requires a certain amount of plant materials be located in that greenbelt. The landscape plans for this development have been approved. A 6' high screening wall is required by the Zoning Ordinance to separate the different uses of properties. Parking areas for non-residential uses on property that abuts residential property

ITEM #5 – con't.

require a 4'-6" high screening wall. Mr. Stimac said that it is the Board's decision regarding the location and height of wall. The Board can approve the 31' setback request with no additional screening, or require a wall or a berm.

Mr. Bartnik asked if the Board is allowed to look at all the other properties along Big Beaver for aesthetics, to determine that this request meets all the requirements of approval. The brick wall seems to be consistent with what is in place along Big Beaver now.

Mr. Maxwell stated that it is up to the Board to decide.

Mr. Stimac addressed the statements that Mr. Tocco made regarding adjacent properties. Mr. Stimac explained that 1100 – 1174 E. Big Beaver has a variance to have parking in the front yard, and this variance is scheduled for renewal in 2008. The variance was granted because of a large open drain that runs through the property. The property to the east, 1180 E. Big Beaver, was constructed in 1969 and at that time the proposed right of way for Big Beaver was 75'. There was a 34' greenbelt installed as part of that development. The width of the road was changed from 75' to 102' in1972.

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

There are four (4) written objections on file. There are three (3) written approvals on file.

Motion by Courtney
Supported by Gies

MOVED, to grant Behr America, 2700-2716 Daley, relief of the front yard setback requirement to have a parking lot located 31' from the north property line along Big Beaver where Section 30.20.09 of the Troy Zoning Ordinance requires a 50' minimum front yard setback in the M-1 (Light Industrial) Zoning District and Paragraph L of Section 30.30.00 requires that this yard remain free of parking.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.
- Variance applies only to the property described in this application.
- A 4' high masonry screen wall will be installed at the 31' setback line to provide additional screening of the parking lot.
- Screen wall will be more aesthetically pleasing and will blend in with surrounding area.

Yeas: All – 7

ITEM #5 – con't.

MOTION TO GRANT VARIANCE CARRIED

ITEM #6 (ITEM #4) - VARIANCE REQUESTED. COY CONSTRUCTION, REPRESENTING MR. & MRS. MICHAEL TAORMINO, 1874 WYNGATE, for relief of the Ordinance to construct a rear porch enclosure that will result in a 43' rear yard setback where Section 30.10.02 requires a 45' rear yard setback for buildings in the R-1B Zoning District.

Motion by Courtney
Supported by Gies

MOVED, to postpone the request of Coy Construction, representing Mr. & Mrs. Michael Taormino, 1874 Wyngate, for relief of the Ordinance to construct a rear porch enclosure that will result in a 43' rear yard setback where Section 30.10.02 requires a 45' rear yard setback for buildings in the R-1B Zoning district.

- To allow the petitioner the opportunity to be present.

Yeas: All – 7

MOTION TO POSTPONE REQUEST UNTIL THE MEETING OF OCTOBER 16, 2007 CARRIED

The Zoning Board of Appeals meeting adjourned at 8:33 P.M.

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Mark Maxwell, Chairman

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Pamela Pasternak, Recording Secretary