

The Chairman, Ted Dziurman, called the meeting of the Building Code Board of Appeals to order at 8:32 A.M., on Wednesday, March 5, 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
Pamela Pasternak, Recording Secretary

ITEM #1 – APPROVAL OF MINUTES – MEETING OF FEBRAURY 6, 2008

Mr. Dziurman stated that he wished the minutes amended to indicate that he had abstained from the vote on Item #4, which was the interpretation of the 2003 Michigan Building Code.

Motion by Richnak
Supported by Kessler

MOVED, to approve the minutes of the meeting of February 6, 2008 as amended.

Yeas: All – 5

MOTION TO APPROVE MINUTES AS AMENDED CARRIED

ITEM #2 – VARIANCE REQUEST. THOMAS KEMP, KEMP BUILDING & DEVELOPMENT CO., 2477 W. MAPLE, for relief of Chapter 83 to construct a 6' high chain link fence along the south property line.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 83 to construct a 6' high chain link fence along the south property line at 2477 W. Maple Road. The rear of this property abuts the private road Equity along its south property line. Having frontage on a street on both its north and south sides makes this property a double front-through lot. As such it has a front yard requirement along both streets. Section 3 of Chapter 83 of the City Code (the Fence Ordinance) prohibits fences in front yard locations on Industrial Zoned property.

Ian Hurst and Tiffany Rust from Kemp Building Company, and Eugene Shanzo of 2477 W. Maple were present. Ms. Rust indicated that they plan to put in a detention pond with a one on four slope and it will require protection. They do not have access to Equity Drive and therefore do not believe this should make their property a double front through lot.

ITEM #2 – con't.

Mr. Hurst stated that because they do not have access to Equity Drive, this area is used as more a back yard than a front yard.

Mr. Dziurman asked if the detention pond required a fence around it.

Mr. Stimac said that the petitioner has other options available and the petitioner should demonstrate why this detention pond needs to be at this slope or at this location. Mr. Stimac is not aware of any objections that the Engineering Department has to the slope of the detention pond.

Mr. Dziurman asked if a fence was required because the slope of the pond is proposed to be one on four.

Mr. Stimac said that if the slope were changed to no greater than one on six a fence would not be required.

Mr. Shanzo stated in his opinion the fence should be put in to increase the safety factor around the detention pond.

Mr. Richnak asked if the required parking would become an issue if the detention pond were moved to the north and the grade changed.

Mr. Stimac said that the front end of the property has a building under construction for indoor storage. The rear of this property is proposed to provide storage for commercial and recreational vehicles. The number of spaces is not dictated by the Ordinance, but rather by the petitioner.

Mr. Dziurman asked if a fence could be constructed at the south of the parking area if the detention pond was not fenced in.

Mr. Stimac said that was correct if the detention pond was at least 50' wide.

Mr. Richnak asked about the one on six slope.

Ms. Rust said if they enlarged the detention pond it would take out the drive lane. This would amount to approximately 35'.

Mr. Richnak said that they would lose approximately four spaces per row.

Mr. Kessler stated that in order to grant a variance there are requirements that have to be met. A hardship is required in order for this Board to grant a variance. This is a new project, and he believes underground detention is a possibility in the front of the property. Mr. Kessler does not feel that the petitioner has provided a hardship.

ITEM #2 – con't.

Mr. Hurst indicated that he believes the hardship is that they do not have access to Equity Drive.

Mr. Richnak explained that the issue is the adjacent property, not the use.

Mr. Hurst stated that their neighbor to the west use their property as a back yard and also have a pond in that location.

Mr. Kessler said that they would rather see trees and landscaping and not a pond at all. Mr. Kessler did not see a hardship demonstrated.

Ms. Rust stated that they are proposing to install trees along the south property line.

Mr. Kessler stated that the newer buildings along Equity meet the required setbacks. Arvin Meritor had parking in existence when the street was developed. Maintaining setbacks would be more pleasing to property owners in the area.

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.

Ms. Rust stated that the hardship is that there are two front yards on this property.

Mr. Shanzo said that although there is frontage on Equity, they do not have any access to Equity.

Mr. Hurst said that they don't own the frontage on Equity Drive and believes someone else owns that property.

Mr. Stimac clarified that their property does in fact butt up to Equity Drive. Mr. Hurst said that was correct but Equity is a private road and they do have access to Equity Drive.

Mr. Stimac said that Equity Drive is a private road and the owners of adjacent property do not automatically have access to the road.

Mr. Dziurman asked how the detention pond would be maintained.

Mr. Stimac said that they would have access from the north side.

Mr. Lenderman asked if a fence would be permitted if Equity Drive was not there. Mr. Stimac replied that it would be allowed.

ITEM #2 – con't.

Mr. Richnak stated that there are many locations in Troy that are considered to be double front lots and the petitioners that come before this Board have to demonstrate a hardship that runs with the land. Not having access to Equity Drive is not a hardship.

Mr. Dziurman asked if this would change if they had access to Equity Drive. Mr. Richnak stated that if they had access to Equity Drive they would have to move the detention pond.

Mr. Lenderman asked if they could put up a fence on the north side of the pond. Mr. Stimac said that they could since it appears that it is 75' from Equity Drive.

Mr. Richnak asked the petitioner if they had given any thought to moving the detention pond or creating a one on six slope.

Mr. Shanzo said that when they appeared before the Planning Commission, they were told that storage is needed in the City for the storage of Commercial Vehicles as well as Recreational Vehicles so that they could be moved out of residential areas. If they move the detention pond they will lose some parking spaces, and they believe by providing this space it will benefit the City.

Mr. Kessler said that he agrees with what the petitioner is saying, but this Board is trying to maintain the setbacks and he does not feel the petitioner has demonstrated a hardship.

Motion by Kessler
Supported by Richnak

MOVED, to deny the request of Thomas Kemp, Kemp Building & Development Co., 2477 W. Maple, for relief of Chapter 83 to construct a 6' high chain link fence along the south property line.

- Petitioner did not demonstrate a hardship.

Yeas: All – 5

MOTION TO DENY REQUEST CARRIED

ITEM #3 – VARIANCE REQUEST. VASILE CARSTEA, 5353 LIVERNOIS, for relief of Chapter 83 to install entrance gates at 5353 Livernois, St. Nicholas Romanian Orthodox Church.

ITEM #3 – con't.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 83 to install entrance gates at 5353 Livernois. The site plan submitted indicates installing entrance gates at the north (Stalwart) and east (Livernois) driveways to the parking lot. The north gates are proposed to be 8'-10 ½" in height. The proposed east gates are shown to be 8'-6 ½" in height with decorative supporting columns and an archway up to 9'-4" in height. Chapter 83 limits the heights of the gates and support columns to a 6' maximum in R-1B Zoning Districts.

Mr. Vasile Carstea, Father George Carstea and Mr. Ilie Muresan were present. Mr. Carstea stated that they need this fence to protect their property from trespassers and from cars that come into their drive and use this area to cut through the subdivision.

Mr. Dziurman asked if the same results could be achieved with a 6' gate.

Mr. Carstea said that it could, but they have already purchased these gates.

Mr. Richnak asked where the fire hydrants were located on this property and Mr. Carstea indicated that they are right in front of the church on Livernois.

Mr. Kessler asked if the gates were going to be locked.

Mr. Carstea said that they have a magnetic locking system that requires 4 lbs of pressure to open.

Mr. Richnak asked if the Fire Department would be able to push the gates open and Mr. Carstea said that was correct.

Mr. Kessler confirmed that the petitioner wished to put these gates up to prevent people from cutting through their property.

Mr. Carstea said that they want to keep trespassers off of the property and between the hours of 3:00 P.M. and 5:00 P.M., vehicles use their drives as a cut through to the subdivision.

The Chairman opened the Public Hearing.

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

There is one written objection on file. There are no written approvals on file.

Mr. Lenderman said that the petitioner is proposing to restrict access to this property with the use of these gates. Mr. Lenderman went on to say that it has been his experience, that as soon as the public finds out that these gates can be opened with 4 pounds of pressure, locks and chains will be put on the gates to keep them closed.

ITEM #3 – con't.

These locks will slow the response time of the Fire Department to get to the structure thereby endangering the lives of people inside the structure.

Mr. Carstea said that he had spoken to the Fire Marshall and stated that he will not lock the gates.

Mr. Stimac said that a gate at a height of 6' would still be an issue for the Fire Department to deal with.

Mr. Dziurman asked if the height of the fence was an issue.

Mr. Richnak stated that it was the height of the gates. These gates are proposed to be between 2' and 3 ½' higher than what is allowed by the Ordinance. The height of the towers are also included in this request.

Mr. Richnak asked if the petitioner had spoken to the home owners on Stalwart to determine how they felt about this proposed fence and gates.

Mr. Carstea said that he had not, but had spoken to the residents on either side of the Church and they did not object.

Mr. Kessler asked if they had talked to anyone about modifying the gates.

Mr. Carstea said that he had spoken to a contractor, but if the gates were modified at the top, they would be useless.

Mr. Dziurman asked why the petitioner bought the gates before he came to the Board.

Mr. Carstea said that he did not think of it.

Mr. Dziurman said that in his opinion these gates are too high.

Mr. Zuazo said that he feels there should be some way to modify the gates.

Mr. Carstea said that he does think it can be done.

Mr. Richnak said that he thinks these gates are too high, especially on Stalwart, which is a residential area.

Mr. Dziurman asked if there was anyway to compromise.

Mr. Stimac asked what the height of the grade was to the second horizontal piece of the gate.

ITEM #3 – con't.

Mr. Carstea said that he believes it is 42”.

A discussion began regarding the possibility of cutting off the bottom rail and re-welding it to make the gate shorter.

Mr. Carstea said that he had not thought of that option.

Mr. Stimac said that he could understand how the gate could not be modified at the top, but feels that the structural stability of the gate should not be affected if the rail is cut from the bottom of the gate and then re-welded on.

Mr. Richnak said that he did not have a problem with the proposed archway and felt that the last pillar on Livernois should be lowered. Mr. Richnak also said that it was feasible to postpone this request to allow the petitioner the opportunity to talk to contractors to determine what could be done to reduce the height of these gates.

Mr. Stimac informed the Board that the petitioner has to also appear before the Board of Zoning Appeals as these gates will affect the width of the driveways. If the Board of Zoning Appeals does not grant the request to reduce the width of the driveways, the petitioner may have to look into a great deal of modifications for these gates.

Mr. Lenderman asked if the gates swing in or out when opening.

Mr. Carstea said that they swing in.

Mr. Dziurman stated that it appears that it may be better to postpone this request for one month, to allow the petitioner to appear before the Board of Zoning Appeals and to allow the petitioner the chance to contact fence contractors to see what kind of modifications could be made to the gates.

Motion by Richnak
Supported by Kessler

MOVED, to postpone the request of Vasile Carstea, 5353 Livernois, for relief of Chapter 85 to install entrance gates at 5353 Livernois, St. Nicholas Romanian Orthodox Church until the meeting of April 2, 2008.

- To allow the petitioner the opportunity to appear before the Board of Zoning Appeals.
- To allow the petitioner the opportunity to meet with fence contractors to see what modifications could be made to these gates.

Yeas: All – 5

ITEM #3 – con't.

MOTION TO POSTPONE REQUEST UNTIL THE MEETING OF APRIL 2, 2008
CARRIED

Mr. Ilie Muresan asked why they can't put up a 9' high gate.

Mr. Dziurman said that he believes these gates are too high.

Mr. Richnak said that the Ordinance has requirements and these gates do not meet the requirements of the Ordinance. The petitioner has not demonstrated a hardship that would allow for this variance, and monetary expenditures alone are not considered a hardship. It is up to the petitioner to explain what the problems with this property are.

Mr. Dziurman stated that the Ordinance does not allow the gates to be more than 6' in height.

The Building Code Board of Appeals meeting adjourned at 9:30 A.M.

Ted Dziurman, Chairman

Pamela Pasternak, Recording Secretary