

The Chairman, Matthew Kovacs, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M. on Tuesday, April 21, 2009 in Council Chambers of the Troy City Hall.

PRESENT: Michael Bartnik
Glenn Clark
Kenneth Courtney
Ed Kempen
Matthew Kovacs
David Lambert
Lon Ullmann

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

ITEM #1 – APPROVAL OF MINUTES – MEETING OF MARCH 17, 2009

Motion by Courtney
Supported by Clark

MOVED, to approve the minutes of the meeting of March 17, 2009 as written.

Yeas: All – 7

MOTION TO APPROVE MINUTES CARRIED

Motion by Courtney
Supported by Clark

MOVED, to move Item #5, Urbancaal-Oakland Plaza, LLC 124 John R. (proposed address) for relief of the Ordinance to construct a new commercial building, (Sonic Restaurant) to the end of the agenda, Item #9, due to the fact that the Board feels this item will need more discussion than other items on the Agenda.

Yeas: All – 7

MOTION TO MOVE ITEM #5 TO ITEM #9 CARRIED

Mr. Stimac explained that the Item #4 would be corrected to indicate that a 6' high wall rather than a 4'-6" high wall is required along the north property line of the site, 1819 E. Big Beaver.

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

Motion by Lambert
Supported by Clark

RESOLVED, that Item #3 and Item #4 are hereby approved in accordance with the suggested resolutions printed in the Agenda Explanation.

Yeas: All – 7

MOTION TO APPROVE RENEWALS CARRIED

ITEM #3 – RENEWAL REQUEST. S.O.C. CREDIT UNION, 4555 INVESTMENT DR., for relief to maintain a landscaped berm in lieu of the 6’ high masonry-screening wall required along the south property line where the property abuts residential property.

MOVED, to grant S.O.C. Credit Union, 4555 Investment Dr., a three-year (3) renewal of relief to maintain a landscaped berm in lieu of the 6’ high masonry-screening wall required along the south property line where the property abuts residential property.

- Conditions remain the same.
- There are no complaints or objections on file.

ITEM #4 – RENEWAL REQUESTED. DENNIS BOSTICK, TROY SPORTS CENTER, 1819 E. BIG BEAVER, for relief of the Ordinance to provide a landscaped berm in place of the 6’ high wall required along the north property line.

MOVED, to grant Dennis Bostick, Troy Sports Center, 1819 E. Big Beaver, a three-year (3) renewal of relief to provide a landscaped berm in place of the 6’ high wall required along the north property line.

- Conditions remain the same.
- There are no complaints or objections on file.
- Variance will not have an adverse effect to surrounding property.

ITEM #6 – APPROVAL REQUESTED. MAZIN & SENNICA NAFSU, 3769 MEADOWBROOK, for approval under Section 43.74.00 to park a commercial vehicle outside on residential property.

Mr. Stimac explained that the petitioner is requesting renewal of approval granted under Section 43.74.00 to park a commercial vehicle outside on residential property. The Ford cube van described in the application does not meet the exceptions as described in Section 40.66.00 of Chapter 39 of the Troy City Ordinance.

This item appeared before this Board at the meeting of March 20, 2007 and was granted approval for one-year. That approval has now expired. The new plan shows

ITEM #6 – con't.

that the petitioner has extended the driveway on the north side of his home such that the vehicle is now proposed to be parked an additional 20' back from the front property line.

This item last appeared before this Board at the meeting of March 17, 2009 and the Board's authority to grant a renewal was questioned. Since that meeting it has been determined that the Ordinance does not address granting a renewal of a Commercial Vehicle appeal and therefore each request must be considered as a new request at a Public Hearing. The Building Department has sent out the appropriate notices to property owners within 300' of this site and also has published this notice in the Somerset Gazette.

Mr. Nafsu was present and stated that he is using this vehicle as a personal vehicle and if he could sell it he would. Mr. Nafsu also stated that he has spoken to his neighbors and they have given him their approval to keep this vehicle on the property. The vehicle is not visible when parked at the back of the property.

Mr. Bartnik asked if there was any way screening could be added on the east side of the house as the truck was very visible as he was heading west on Scottsdale.

Mr. Kovacs stated that he believes when the truck is parked at the back of the drive it is not visible and is not sure that additional screening would help.

Mr. Bartnik said that perhaps the owner could put a gate across the drive.

Mr. Courtney stated that he thought the truck was probably not parked at the back of the driveway and this is the reason it was visible to Mr. Bartnik. When the truck is at the back of the lot oncoming traffic cannot see the vehicle.

The Chairman opened the Public Hearing.

John Stier of 3785 Meadowbrook was present and stated that he lives right next door to the petitioner and has no objection to this vehicle. Mr. Stier believes that parking this vehicle at another location would cause a hardship for the petitioner. Mr. Stier is in favor of this request.

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

There are three (3) written approvals on file. There is one (1) written objection on file.

Mr. Kovacs asked how long the apron was from the front of the house to the back.

Mr. Stimac stated that according to the plans provided by the petitioner it is approximately 45' from the front corner of the house to the rear of the driveway.

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Mr. Lambert stated that he feels the petitioner meets the criteria listed in the application, especially B and C.

Motion by Clark
Supported by Courtney

MOVED, to grant Mazin & Sennica Nafsu, 3769 Meadowbrook, approval under Section 43.74.00 to park a commercial vehicle outside on residential property for a period of two (2) years.

- Vehicle is to be parked at the rear of the driveway.
- Petitioner has met B and C of the criteria for approval.
- Vehicle will not have an adverse effect to surrounding property.

Yeas: All – 7

MOTION TO GRANT APPROVAL FOR TWO (2) YEARS CARRIED

ITEM #7 – VARIANCE REQUESTED. CAMERON MITCHELL RESTAURANTS, 2915 COOLIDGE, for relief of the Ordinance to construct a covered outdoor seating area with an 11' front setback where Section 30.20.03 requires a 30' front yard setback.

Mr. Stimac explained that the petitioner is requesting relief of the ordinance to expand the outdoor seating area and install a new roof over the existing and new seating area at the existing Ocean Prime Restaurant. This property is located in the O-S-C (Office-Service-Commercial) Zoning District. Section 30.20.03 requires a 30' minimum front yard setback for buildings in the O-S-C Zoning District. The proposed new roof covering over the patio results in a front setback of 11' from the property line along Coolidge.

Mr. Kovacs asked if in the event the variance was granted, a stipulation could be made that would not permit this addition to be permanently enclosed.

Mr. Stimac stated that if it was the Board's preference that this was to remain a covered outdoor dining room area, a stipulation stating that should be made.

Mr. Bartnik asked if a temporary type of sheeting could be added to the sides of this outdoor seating area.

Mr. Stimac said that it depend on the decision of the Board, a stipulation could be made that this would remain a covered and unenclosed area.

Mark Knauer, President of Knauer Incorporated, was present and stated that Ocean Prime has been in this location for two years and the restaurant has improved this

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corner of what was a parking lot. Originally they had planned to put the restaurant at the back of the lot and have parking surrounding it. The Planning Commission felt that this area would be enhanced by having the restaurant at the corner. Unfortunately due to the Michigan weather it is sometimes difficult to predict whether or not people can be seated outside. They have tried using umbrellas, and also make use of heaters, but people sitting outside are often uncomfortable.

Mr. Courtney asked how much seating was provided inside the restaurant.

Mr. Knauer said there were about 280 seats. Mr. Knauer also stated that they do not plan on adding any type of foundation or enclosing this area. Absent a variance, literal enforcement of the Ordinance would be unnecessarily burdensome.

Mr. Lambert stated that with Michigan weather he can certainly understand the need to cover this area.

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

There is one (1) written approval on file.

Mr. Kovacs stated that he does not want to see this space enclosed as part of the restaurant and would like strict language that would not allow for a foundation to be built.

Motion by Bartnik

Supported by Courtney

MOVED, to grant Cameron Mitchell Restaurants, 2915 Coolidge, relief of the Ordinance to construct a covered outdoor seating area with an 11' front setback where Section 30.20.03 requires a 30' front yard setback.

- This covered outdoor seating area will not be enclosed as a permanent seating area.
- Absent a variance the welfare of the guests would be adversely affected.
- Variance will not have an adverse effect to surrounding property.
- Variance is not contrary to public interest.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #8 – VARIANCE REQUESTED. DON TREFRY, TROYWOOD SHOPS, LLC, 3718-3734 ROCHESTER ROAD, for relief of the Ordinance to alter an existing tenant space for a new 50-seat restaurant that will result in a parking requirement for this shopping center of 153 spaces per Section 40.21.00 where only 121 parking spaces are available.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to alter an existing tenant space at 3734 Rochester Road for a new 50-seat restaurant. The addition of a 50-seat restaurant to the other existing uses within the shopping center results in a required number of parking spaces of 153 per the requirements of Section 40.21.00 of the Troy Zoning Ordinance. The site plan submitted indicates that there are only 121 parking spaces available on the site.

Don Trefry, the representative of the property owners of Troywood Shops, LLC was present. Mr. Trefry passed out a site plan to the Board members showing how the spaces have changed. Pecar Home Theater has downsized from leasing 5,304 square feet to 2,758 square feet. The new restaurant coming in serves Indian Cuisine and 55% of their business is take-out. Most of the sit down dining would be in the evening when the other restaurants do not have the high volume of traffic they have at lunch time. Without a variance this space will probably remain vacant. Mr. Trefry also pointed out that from October 1990 to December 2002 152 parking spaces were required and there were only 121 available.

Mr. Kovacs asked why a variance was not required at that time.

Mr. Stimac stated that he would have to go back and research the records. The plans that were submitted to the City as part of this request indicate that Pecar Home Theater occupied 2,564 square feet. The plans submitted by the petitioner tonight indicate that the actual square footage is 2,758 square feet, which will require 154 parking spaces. The Board will have two (2) options regarding this request. This item can either be postponed so that the Building Department will have the opportunity to re-advertise this request; or the Board may grant a variance based on 32 parking spaces as advertised.

Mr. Courtney asked if the parking required is different now from what it was.

Mr. Trefry said that he did not think so. The focus is more on lunch than dinner.

Mr. Bartnik stated that he had never seen this parking lot full and did not feel this variance would be a problem.

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.

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Mr. Kempen asked if the petitioner knew what percentage of business was done between lunch and dinner.

Mr. Trefrey stated that take-out for lunch is the primary use for two of the restaurants in this strip mall. Mr. Trefrey believes that there is more traffic during the lunch hour rather than the dinner hour.

Motion by Bartnik
Supported by Lambert

MOVED, to approve the request of Don Trefrey, Troywood Shops, LLC, 3718-3734 Rochester Road, relief of the Ordinance to alter an existing tenant space for a new 50-seat restaurant that will result in a parking requirement for this shopping center of 153 spaces per Section 40.21.00 where only 121 parking spaces are available.

- Variance is not contrary to public interest.
- Variance will not permit the establishment of a prohibited use in a Zoning District.
- Variance will not have an adverse effect to surrounding property.
- Literal enforcement of the Ordinance is unnecessarily burdensome.
- Variance is approved for a reduction of 32 parking spaces.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

The Chairman called for a short recess at 8:27 P.M. The Board of Zoning Appeals meeting resumed at 8:32 P.M.

ITEM #9 – (ITEM #5) - VARIANCE REQUESTED. URBANCAL-OAKLAND PLAZA, LLC, 124 JOHN R. (PROPOSED ADDRESS), for relief of the Ordinance to construct a new commercial building. (Sonic Restaurant)

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a new commercial building (Sonic Restaurant). The site plan submitted shows the following: 1. A canopy that is located only 10' from the front property line where Paragraph G of Section 31.30.00 requires a 25' front setback for canopies in the H-S (Highway Service) Zoning District. 2. A driveway on the east side of the building that is only 12' wide where Paragraph G of Section 31.30.00 requires a minimum one-way driveway width of 15'. 3. A 27'-4" rear yard setback where Section 30.20.08 requires a 30' rear yard setback. 4. Only six (6) vehicle waiting spaces for the drive-up window where Paragraph C of Section 23.25.01 requires a total of nine (9) vehicle spaces. 5. Parking spaces encroaching into the 10' wide landscape greenbelt along the front property line required by Section 39.70.02. 6. Only 2,463 square feet of countable

ITEM #9 – con't.

landscaping where Section 39.70.04 requires a minimum of 4,408 square feet of landscaping for a site this size.

This item first appeared before this Board at the meeting of March 17, 2009 and was postponed to allow the petitioner the opportunity to provide the Board members with the numbers of cars using the drive-thru an hour; the wait time involved; the total number of customers per hour; the percentage of business that goes through the drive through; and a traffic impact study of this area; and to allow the petitioner to determine if they can eliminate one drive from John R.

Mr. Kovacs asked a question regarding the traffic plan in this area.

Mr. Stimac stated that the requirement for a deceleration lane was something that was noted by the County and also identified by the City. Due to the fact that the amount of the land is narrower the use of a right turn lane and deceleration lane may require that the existing sidewalk be moved.

Mr. Kovacs asked what the length of a deceleration lane was and Mr. Stimac stated that he did not know.

Mr. Courtney stated that he had visited the other locations in Michigan and found that at the location in Macomb, customers used the entrance going into the Meijer parking lot rather than the entrance on Groesbeck. Mr. Courtney did not see a large backup of traffic at this location. Mr. Courtney would still like to see the entrance off of John R. closed at this location, which would also eliminate the need for a deceleration lane.

Mr. John Gaber, the attorney for Sonic Restaurants as well as a number of other representatives from Sonic were present. Mr. Gaber explained that they do need all of the variances and stated that they have kept their request to the minimum required. Due to the economy the retail center is hurting and this restaurant would bring in an influx of customers. Fast food restaurants are usually clustered together and if they cannot construct this restaurant no other reasonable use can be made of this property. Other efforts have been made to make use of this property and have failed. Literal enforcement of the Ordinance makes conformance unnecessarily burdensome.

Mr. Logan from Sonic Restaurants was present and stated that he is responsible for working with the new franchisees. He will be on-site for approximately two (2) weeks and will oversee the operation. Sonic has a program that not only coaches the new franchisees but also has a traffic control program. When determining the best traffic pattern the engineers go from the center of the store and determine how to direct traffic. There are several different plans that they work with.

Mr. Kovacs asked what type of traffic control plans would be used. The concern among Board members is the drive on John R.

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Mr. Hornsby of Sonic restaurants stated that they are hoping to open this location in mid July. Traffic will drop off in August and September and they will have employees that will direct traffic so that their customers will be able to get in and out as quickly as possible. Mr. Hornsby also stated that they have new equipment coming in, which will increase the speed that food is prepared.

Mr. Kovacs asked what criteria was used to determine which stores were in the study sheets regarding wait time that were given to the Board.

Mr. Logan stated that he was unable to give out specific locations, but all of the stores listed had been opened within the last year.

Mr. Ullmann asked how they determine which stores to use for this study.

Mr. Logan said that the stores used were based on the amount of business they are predicting for this store.

Mr. Kovacs said that it appears that the wait time is between 3 and 4 minutes.

Mr. Kempen asked which states these stores were in.

Mr. Logan stated that they were in Ohio, Michigan, Kentucky and Tennessee.

Mr. Stimac asked if the wait times indicated were the times the vehicles arrived or ordered.

Mr. Logan stated that the wait times shown were from when the customer actually placed their order until they drive away from the window.

Mr. Stimac said that there are five waiting spaces between the window and where the order is taken, which would indicate that in some cases the wait time per car would be 30 seconds.

Mr. Hornsby said that there are opportunities when their staff can pull a vehicle around a vehicle that has a large order.

Mr. Kovacs asked what the ideal wait time was.

Mr. Logan said that 3 minutes at the drive through window and 3 ½ minutes at the drive-in is considered ideal.

Mr. Bartnik asked what type of on-site traffic control is available after the grand opening.

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Mr. Logan stated that they keep staff on for as long as necessary and traffic control has been provided for as much as three or four weeks.

Mr. Ullmann expressed concern regarding the amount of landscaping space between John R and the sidewalk. Mr. Ullmann said that in his opinion there is not enough room for a deceleration lane.

David Hunter of PEA Associates was present and stated that the Road Commission does not require a deceleration lane and they are not planning to put one in. There is approximately 12' of space available and if they have to move the sidewalk they will.

Mr. Ullmann said that the sidewalk would come right up to the cars parked in the drive in and with only 5' there is not a lot of room for landscaping.

Mr. Hunter said that landscaping in this area may be impossible to put in, but is quite sure they do not have to have a deceleration lane.

Mr. Ullmann said that the setbacks have changed a number of times due to re-zoning and in his opinion the landscaping proposed is minimal.

Mr. Hunter said that there is approximately 20' of space near the driveway approach, which means there is probably 12' available from the sidewalk to the back of curb.

Mr. Ullmann said that the sidewalk will be right next to a deceleration lane. There is not more than 6' to 8' of space.

Mr. Hunter said that the sidewalk is about 5' from the curb.

The Chairman opened the Public Hearing.

Ben Cheshire, 5388 Ridge was present. Mr. Cheshire is the new franchisee for this location. Mr. Cheshire spent the last six weeks in Cincinnati training to operate this store. He worked at a store that has been opened for approximately 1 ½ years and stated that traffic control is a non-issue. A deceleration lane was not needed and customers could get to this location either through a drive at the front of the store or through an entrance at the back. This location will be the 7th store in Michigan. Sonic is a novelty and they will add the most landscaping they can. The Sonic in Clinton Township increased the business at the existing Meijers store by 15%.

Mike Lucci was present. Mr. Lucci stated that he owns sixteen (16) Burger King restaurants in Michigan including the one next door to this site. The property for this Burger King was purchased from Douglas Mossman. The lack of a deceleration lane in this area could cause a great deal of congestion at the corner of John R and Fourteen Mile. There are requirements by the City and people should comply with those

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requirements. Mr. Lucci believes that the petitioner is trying to put too much on a small piece of property. There are other locations in Troy that this restaurant would be a better fit on. At the time the Burger King on Fourteen Mile was constructed they had requested a drive onto John R and were turned down.

Mr. Stimac asked Mr. Lucci if the City had turned them down.

Mr. Lucci explained that the entrance would have been too close to the gas station and the County did not want another curb cut in the area.

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

There is one (1) written objection on file. There are no approvals on file.

Mr. Bartnik asked if the owner or broker for this property was present.

A man from the audience came forward and stated that he is the Real Estate negotiator. He indicated that in his opinion a Sonic Restaurant would have the smallest impact on the traffic in this area.

Mr. Courtney asked who he worked for and he stated that he was working for the franchisee and was not the owner of the property.

Mr. Jeff Shostak representing Urbancal was present and stated that they had purchased the property in November 2007. They saw this piece of dirt as an opportunity. Times are tough and there are not a lot of businesses that want to build in Michigan.

Mr. Courtney stated that since Mr. Shostak has purchased the property, the economic climate has taken a downturn and this is not an ideal time to develop a piece of property. Mr. Courtney believes that when the economy picks up there will be other businesses that will want to expand.

Mr. Shostak stated that he believed the previous owner had attempted to sell or lease this property for a long time and was unable to do so. Sonic is a solution that will work for this area.

Mr. Kovacs asked how long this property has been vacant.

Mr. Stimac stated that he thought the current configuration of the property has been in place since the middle 80's.

Mr. Clark stated that he did not believe it was the Board's job to decide how this property is to be developed. This is a postage stamp size parcel and there are other

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businesses that would fit and would not increase the amount of traffic. Mr. Clark stated that he believes this restaurant would cause a massive influx of vehicles and also thinks the petitioner is asking for an excessive amount of variances. Furthermore, Mr. Clark does not see this as a piece of dirt but considers it be a greenbelt. Fourteen Mile is at the border of Madison Heights and there are some businesses on the south side of the City that are not very well kept. Burger King is very well maintained. Mr. Clark stated that he has a problem with the number of variances requested and believes it is the job of this Board to protect the property owners in Troy.

Mr. Lucci stated that he believes 30% of the traffic will come in through Burger King. The existing roads are at a failure level and he is not only concerned about the increase of traffic on John R. but also about the access that emergency vehicles will have.

Mr. Clark stated that the drive into Oakland Plaza is very close and could be utilized.

Motion by Bartnik
Supported by Lambert

MOVED, to grant Urbancaal-Oakland Plaza, LLC relief of the Ordinance to construct a new commercial building. (Sonic Restaurant) The variances are as follows: 1. A canopy that is located only 10' from the front property line where Paragraph G of Section 31.30.00 requires a 25' front setback for canopies in the H-S (Highway Service) Zoning District. 2. A driveway on the east side of the building that is only 12' wide where Paragraph G of Section 31.30.00 requires a minimum one-way driveway width of 15'. 3. A 27'-4" rear yard setback where Section 30.20.08 requires a 30' rear yard setback. 4. Only six (6) vehicle waiting spaces for the drive-up window where Paragraph C of Section 23.25.01 requires a total of nine (9) vehicle spaces. 5. Parking spaces encroaching into the 10' wide landscape greenbelt along the front property line required by Section 39.70.02. 6. Only 2,463 square feet of countable landscaping where Section 39.70.04 requires a minimum of 4,408 square feet of landscaping for a site this size.

- Variance is not contrary to public interest.
- Variances will not establish a permitted use in a Zoning District.
- Variances will not have an adverse effect to surrounding property.
- Absent a variance no other reasonable use can be made of the property.
- Literal enforcement of the Ordinance would be unnecessarily burdensome.
- Variances are not excessive due to the size of the property.
- Practical difficulties result from the size and configuration of the property.
- Location of this property creates a practical difficulty as it is near the corners of Troy and Madison Heights.

Mr. Courtney stated that a deceleration might help.

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A discussion began regarding the installation of a deceleration and the criteria required by the Oakland County Road Commission as John R is a county road. It was also stated that it was possible that when this item appeared before the Planning Commission as part of the consideration of the Special Use Approval, it may be determined that a drive on John R would have a detrimental effect to surrounding property.

Mr. Kovacs stated that the Planning Commission could also deny the Special Use Approval as this site would be both a drive through and drive in restaurant.

Mr. Stimac stated that the Planning Commission would look at the ability to safely get to and from this site as part of their consideration.

Mr. Kovacs stated he believes traffic congestion would only occur for the first few weeks this business is opened. Businesses have to keep people moving in and out, otherwise people will choose to go to another location. Mr. Kovacs expressed concern that if a deceleration lane was added the safety of pedestrians would be comprised and also that absent a variance no reasonable use can be made of this property.

Mr. Ullmann stated that he does not think this is the perfect site for this business as there is too much stuff put into too small a space. There is not sufficient space for a sidewalk and a deceleration lane and this is not the best use of this property. Mr. Ullmann further stated that this site should not be utilized to throw away landscaping. Six (6) variances are excessive and the driveway onto John R should be eliminated. There will be no landscaping with a deceleration lane and the petitioner should be able to find another site to build this restaurant.

Mr. Kovacs stated that he would like to see the concrete remain in one location rather than move it to another location. This area is mostly commercial and industrial and he does not see this as a concern.

Mr. Kempen said that he has some serious concern about the safety of the people in this area. Many times drivers use the Burger King entrance as a short cut to avoid the light at Fourteen Mile and John R and this will affect Burger King as well.

Mr. Bartnik disagreed and stated that there are various restaurants that line up against the curb and there is not a lot of pedestrian traffic. Concrete is on both sides of Fourteen Mile and the only opposition to this request is from a competing business. The population in Michigan is declining and he sees this restaurant as something positive.

Mr. Clark stated that he lives in this area and the Oakland Mall area is congested most of the year. It is only fair for each business to follow the rules. Mr. Clark stated that this

Board had asked the petitioners to come back with other options. There are a lot of cars that come through this area and Troy is the largest City in Oakland County. Mr. Clark believes that six (6) variances are excessive and also that the petitioners can find another space for this restaurant. There are other businesses that would fit on this parcel. The Planning Commission is encouraging property owners to add more landscaping.

Motion by Courtney

MOVED, to postpone the request of Urbancaal-Oakland Plaza, LLC, 124 John R. (proposed address) for relief of the Ordinance to construct a new commercial building, (Sonic Restaurant), to the meeting of May 19, 2009.

- To allow the petitioner to come back to the Board with other options.

Motion dies due to lack of support.

Mr. Kovacs stated that he does believe there have been other businesses in Troy that have asked for a large number of variances. Mr. Kovacs also stated that a decision should be made on the type of variances proposed and not the total number of variances.

Mr. Lambert stated that there are definite traffic concerns and there are definite challenges as well with the number of variances requested. Mr. Lambert also stated that he is in support of this request as this is a commercial area, it would be a benefit to the adjoining property owners and it would have a positive effect on that part of Troy.

Mr. Clark asked how soon this petitioner could come back before this Board if this request was denied.

Mr. Stimac explained the deadline for the Board of Zoning Appeals.

Mr. Clark stated that he would be voting “no” on this request.

Mr. Courtney asked the petitioner if they would be willing to eliminate the driveway from John R.

Mr. Gaber stated that they cannot eliminate that driveway.

Vote on Mr. Bartnik’s motion to approve this request.

Yeas: 3 – Bartnik, Kovacs, Lambert
Nays: 4 – Clark, Courtney, Kempen, Ullmann

MOTION TO APPROVE REQUEST FAILS – NO OTHER MOTIONS MADE BY THE BOARD

The Board of Zoning Appeals meeting adjourned at 10:17 P.M.

Matthew Kovacs – Chairman

Pamela Pasternak, Recording Secretary