The Chairman, Ted Dziurman, called the meeting of the Building Code Board of Appeals to order at 8:30 A.M. on Wednesday, June 3, 2009 in the Lower Level Conference Room of the Troy City Hall.

PRESENT: Ted Dziurman
Keith Lenderman
Tom Rosewarne
Mark Stimac
Frank Zuazo

ALSO PRESENT: Pamela Pasternak, Recording Secretary

ITEM #1 – APPROVAL OF MINUTES – MEETING OF MAY 6, 2009

Motion by Zuazo
Supported by Stimac

MOVED, to approve the minutes of the meeting of May 6, 2009 as written.

Yeas: All – 5

MOTION TO APPROVE MINUTES CARRIED

ITEM #2 – VARIANCE REQUESTED. WARREN EMERSON, SMART, 2021 BARRETT, for relief of Chapter 83 to install new fencing at the SMART facility on Barrett.

The Chairman moved this request until the end of the Agenda, Item #6, to allow the petitioner the opportunity to be present.

ITEM #3 – VARIANCE REQUESTED. PATRICK STIEBER, ALLIED SIGNS, 3039 ROCHESTER, for relief of Chapter 85 to erect two 44 square foot ground signs (menu boards).

Mr. Stimac explained that the petitioner is requesting relief to install two (2) 44 square foot ground signs (menu boards) as part of the construction of a new McDonald's restaurant. Chapter 85.01.04 (A) (3) does not restrict menu board signs that are not visible from any adjacent right-of-way and that do not exceed 36 square feet in area. The two proposed ground signs are 44 square feet each.

Patrick Stieber of Allied Signs and Jim Rauschenberger of McDonald's were present. The operator of this proposed location was also present.

Mr. Dziurman asked if these signs would be visible to any right of way.

Mr. Stimac stated that based on the site plan submitted the signs would be visible but would not be readable.

ITEM #3 – con't.

Mr. Steiber stated that this location will be the first of its kind in Michigan as it will have a double drive through. These menu boards are needed to inform customers of the type of product that is available. 70% to 75% of McDonald's business is done through the drive through and because there will be two entrances they want to be able to accommodate people as quickly and safely as possible. The actual viewing size of the sign is 34.8 square feet and the framing adds more square footage which brings the total amount of square footage to 44 square feet. This location will be a brand new configuration as it is the first double drive through and the signs will only display information and not display the Logo.

Mr. Rauschenberger stated that this location is a high traffic area as it is on the corner of Big Beaver and Rochester and the plan to have two driveways into the site will help to keep congestion down.

Mr. Dziurman asked what the difference was between these proposed signs and other McDonald signs in the area.

Mr. Rauschenberger stated that they are all the same.

Mr. Stimac stated that he was not aware of any other requests of this type.

Mr. Zuazo said that he felt people should be familiar with the products offered and asked why these signs were larger.

Mr. Rauschenberger said that only a small percentage of customers are considered "heavy users" and these menu boards will help other customers find out what type of products are available.

Mr. Zuazo asked if they had received any complaints about people not being able to read the existing signs.

Laura, the operator for this location, said that they have not received any complaints and these proposed signs will be exactly the same as the signs located at other McDonald locations.

The Chairman opened the Public Hearing.

Paul Missar, 70 Habrand, was present and stated that he likes the larger sign as they are easier to read.

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

There are no written approvals or objections on file.

ITEM #3 – con't.

Mr. Dziurman expressed concern that other fast food franchises may want to add larger signs and this could be precedent setting.

The representative of this location said that she did not believe these sites have a lot of ability to make signs larger. There are only two or three certified sign installers that are chosen by McDonald's to construct their signs. She also explained that the pictures on the menu boards are supplied by McDonald and are sent out to all franchisees at the same time.

Mr. Stimac asked if the back of the reversible panel of the sign would be illuminated and was told that it would not be.

Mr. Dziurman asked if all the other signs on the site comply with the Ordinance.

Mr. Stimac said that based on the plans submitted all of the other signs will be in compliance as presented. Mr. Stimac asked if the petitioner was stating that every McDonald's has the same size sign.

Mr. Rauschenberger stated that at least 75% of the signage is the same. When a McDonald's is located inside of gas station, etc. the signs are smaller.

Motion by Rosewarne
Supported by Lenderman

MOVED, to grant Patrick Stieber, Allied Signs, 3039 Rochester, relief of Chapter 85 to erect two (2) 44 square foot ground signs (menu boards).

- Double drive through at this location justifies the need for two (2) signs.
- Message of text of the sign is not intended to be read by the public from the thoroughfare and is only for the use of the customers at the drive-up window.
- Variance will not be contrary to public interest.
- Variance applies only to the property described in this application.

Yeas: All – 5

MOTION TO GRANT VARIANCE CARRIED

ITEM #4 – VARIANCE REQUESTED. MARY BETH MILLIRON, 1951 NORTH LAKE, for relief of Chapter 83 to install a fence adjacent to John R.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to install a 4' high chain link fence located 20' from the property line along John R. Because of the orientation of this home and that of the adjacent houses, this property is considered to be a double front thru-lot. As such it has a front yard on both North Lake and John R.

ITEM #4 – con't.

Chapter 83 of the City Code states that no fence shall be constructed of a height of more than 30" above grade in the 30' required setback along John R.

Mary Beth Milliron and Mr. Paul Missar were present. Ms. Milliron stated that she had driven through the area and found a number of locations that have privacy fences on the corner. After looking at these locations, Ms. Milliron said that she wished to change the type of fence she wanted to put up from a chain link fence to a 3-rail split rail type fence with wire mesh. Ms. Milliron said that the reason she wants a higher fence is due to the fact that she has a new puppy and would like to provide security for it.

Mr. Stimac explained to the Board that this proposed fence will be 42" to 48" in height and based on the notices that were sent out action on the split rail fence would still be in order.

Mr. Paul Missar stated that there are a number of fences that go right up to the sidewalk and the homes across the street on John R have chain link fences.

Mr. Dziurman explained that this Board does not allow fences right up to the sidewalk.

Mr. Stimac explained that there are a number of lots in Troy and due to their configuration they are not considered double front thru lots and therefore fences that are 4' in height are allowed. There are some corner lots that are almost not considered corner lots and there are some lots that due to their orientation are allowed fences up to the property line. Each property is considered separately.

Ms. Milliron explained that part of her lot backs up to Raintree Park and the City has installed a split rail fence in that area. Ms. Milliron would like to be able to install a fence that would meet up to that fence.

Mr. Zuazo asked if the petitioner would consider putting up a fence on the inside of the tree line so that it would not be visible to traffic on John R.

Mr. Missar stated that there is a 20' berm in that area and they would not be able to run a straight line.

Mr. Zuazo asked if the fence of the other side of the trees would be visible from John R.

Mr. Missar stated that most of it would be blocked.

Mr. Rosewarne asked if they planned to put the fence between the trees.

Ms. Milliron said that they plan to weave the fence between the trees and plan to block the fence as much as possible so that it is not visible.

ITEM #4 – con't.

A discussion began regarding the location of the proposed fence and how it would fit in based on the pictures provided by the petitioner.

Mr. Missar said that he did not believe the fence would be setback 20' but would in fact be setback approximately 12' to 15' back.

Mr. Stimac stated that if the petitioner wished to have a setback that was less than 20' a new Public Hearing would have to be advertised and this request would be postponed.

Ms. Milliron indicated that she would be happy with the 20' setback as long as the fence was allowed to be installed at a 4' height.

The Chairman opened the Public Hearing.

Christine Shantry, 6195 Blackwall, was present and stated that she would like to see this variance granted.

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

There are no written approvals or objections on file.

Mr. Stimac stated that this fence could be installed if it was setback 30' from the property line and asked why the petitioner wanted a 20' setback.

Ms. Milliron stated that 30' would cut her yard in half and she really wants to have the fence look nice.

Mr. Stimac asked if the fence would be the same around the entire property.

Ms. Milliron said that the fence would be the same all the way around.

Mr. Zuazo asked if the fence would be weaved through the trees and asked if screening would be added to the portion of the fence that would be visible to John R.

Ms. Milliron said that she plans to add shrubs and mulch around the area.

Mr. Zuazo asked if the fence would be covered with some type of foliage.

Mr. Missar stated that at a 20' setback only a small portion of the fence would be visible and if they were to put the fence at a 30' setback none of it would be visible.

Motion by Lenderman
Supported by Rosewarne

ITEM #4 – con't.

MOVED, to grant Mary Beth Milliron, 1951 North Lake, relief of Chapter 83 to install a 4' high split rail fence adjacent to John R.

- Fence will be setback 20' from the property line.
- Fence will be woven among the trees and not visible to John R.
- Landscaping will be added to screen the fence.

Yeas: All – 5

MOTION TO GRANT VARIANCE CARRIED

ITEM #5 – VARIANCE REQUESTED. CHRISTINE SHANTRY, 6195 BLACKWALL, for relief of Chapter 83 to install a 6' high fence.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 83 to install a 6' high fence. Because of the location of this home and the orientation of the adjacent homes, this property is classified as a double front corner lot. It has front yard requirements along both Blackwall and Aspinwall. Chapter 83 limits the height of fences in front setbacks to 30". The site plan submitted indicates a 6' high picket style fence located 3.5' from the north property line along Aspinwall.

Christine Shantry was present and stated she has a dog that she would like to be able to keep in her yard, and there is a German shepherd that lives behind her home that she wants to be able to keep out of her yard. She would like to install a 6' high picket fence 22' from the property line along Aspinwall. Ms. Shantry is planning to put the fence through the trees and does not believe this fence would cause any type of obstruction. There will not be any type of fencing in the front yard and the fence will extend from the south front corner to the north rear corner of the property. Ms. Shantry brought in pictures of other fences in the area and pointed out one that was unkempt.

Mr. Dziurman explained that a number of the Ms. Shantry's neighbors sent in responses to this Public Hearing notice.

Mr. Lenderman stated that after reading one of the letters that was indicated as an approval, he believes it is actually an objection.

There are two (2) written approvals on file. There are four (4) written objections on file.

Mr. Lenderman asked about the proximity of the homes to this property that objected to this request.

Mr. Stimac explained that four (4) of the letters are from homes on the north side of Aspinwall, one (1) from the south side of Aspinwall and one (1) from the east side of Blackwall one or two houses to the south.

ITEM #5 – con't.

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

Mr. Dziurman stated that basically the petitioner wants the fence in order to keep her dog in the yard.

Ms. Shantry said that she also wants to keep the German shepherd out of her yard.

Mr. Stimac asked where the fence would be in relation to the trees.

Ms. Shantry said that part of the fence would be outside the trees and part of the fence would be inside the tree line.

Mr. Stimac asked how far back the fence line would be if the fence was put behind the entire tree line and also asked if there was a tree line on the north side of the property.

Ms. Shantry said that in her opinion it would look much nicer going between the trees.

Mr. Stimac stated that the front corner of the property could be impacted by the fence.

Mr. Lenderman said that there are quite a large number of people that are objecting to this request.

Ms. Shantry indicated that she had talked to the neighbors behind and next to her home and they indicated approval of this request. She did not approach the neighbors across the street.

Mr. Rosewarne asked if Ms. Shantry was concerned about the dog jumping the fence.

Ms. Shantry said that she is hoping the dog will not think of jumping the fence. Presently her dog is on a 40' tether. The dog has gotten out of the house when the children are running in and out. A 22.5' setback would have the fence going through the middle of the trees.

Mr. Stimac pointed out that if sidewalks were to be put in this area, the fence would only be 4.5' from the sidewalk.

Ms. Shantry was not concerned because she believes they would have to cover the drainage ditches and install sewers first.

Mr. Stimac asked if the petitioner would object to postponing this request to allow the Board to go out and see exactly where the fence would be installed.

ITEM #5 – con't.

Ms. Shantry said that she would rather not wait and is in fact renting a post hole digger to start the installation of the fence. Ms. Shantry said that she has made a lot of improvements to this property and does not think the fence should be a problem.

Mr. Lenderman said that because there are so many neighbors objecting to this request, he would like to able to go out and take another look at the property in order to determine where the fence line could be.

Motion by Lenderman
Supported by Zuazo

MOVED, to postpone the request of Christine Shantry, 6195 Blackwall, for relief of Chapter 83 to install a 6' high fence until the meeting of July 1, 2009.

- To allow Ms. Shantry the opportunity to place flags in the location of the proposed fence.
- To allow Ms. Shantry the opportunity to talk to the surrounding neighbors to see if they would approve this variance request.
- To allow Building Department staff to provide an aerial map indicating the locations of the homes objecting to this request.
- To allow the petitioner to provide a copy of a determination made by the Humane Society that recommends this type of fencing.

Yeas: All – 5

MOTION TO POSTPONE THIS REQUEST UNTIL JULY 1, 2009 CARRIED

ITEM #6 – (ITEM #2) – VARIANCE REQUESTED. WARREN EMERSON, SMART, 2021 BARRETT, for relief of Chapter 83 to install new fencing at the SMART facility on Barrett.

The petitioner was not present.

Motion by Stimac
Supported by Lenderman

MOVED, to deny the request of Warren Emerson, Smart, 2021 Barrett for relief of Chapter 83 to install new fencing at the SMART facility on Barrett.

- Petitioner failed to demonstrate a hardship that runs with the property.
- Petitioner has other options available to provide security absent a variance.

Yeas: All – 5

MOTION TO DENY REQUEST CARRIED

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

Ted Dziurman, Chairman

Pamela Pasternak, Recording Secretary