The Chairman, Ted Dziurman, called the meeting of the Building Code Board of Appeals to order at 8:33 A.M., on Wednesday, July 1, 2009 in the Lower Level Conference Room of the Troy City Hall.

PRESENT: Ted Dziurman
Keith Lenderman
Tim Richnak
Mark Stimac

ALSO PRESENT: Paul Evans, Inspector Supervisor
Pamela Pasternak, Recording Secretary

ABSENT: Frank Zuazo

ITEM #1 – APPROVAL OF MINUTES – MEETING OF JUNE 3, 2009

Motion by Lenderman
Supported by Stimac

MOVED, to approve the minutes of the meeting of June 3, 2009 as written.

Yeas: 4 – Dziurman, Lenderman, Richnak, Stimac
Absent: 1 – Zuazo

MOTION TO APPROVE MINUTES CARRIED

ITEM #2 – 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.

This item first appeared before this Board at the meeting of June 3, 2009 and was postponed to allow the petitioner to mark her property as to the location of the fence; to allow the petitioner to discuss this variance request with her neighbors to see if they would approve of the request; and to allow Building Department staff to provide a map of this area indicating the neighbors that were opposed to this request.

Ms. Shantry was present and passed out the documents that the Board had asked for, which included a letter from the veterinarian as well as a petition signed by several of her neighbors indicating approval of this request.

ITEM #2 – con't.

Mr. Stimac asked if the flags and fence posts on the property were in the proposed location of the fence and if the fence material was the same as that of the fence installed along the south property line. Ms. Shantry said that was correct.

Mr. Dziurman questioned the petition that Ms. Shantry brought in.

Ms. Shantry stated that there are eight (8) homeowners that have indicated approval.

Mr. Dziurman asked if the hardship was the fact that the dog could jump a fence that was less than 6' and Ms. Shantry said that was correct.

Mr. Lenderman said that in reading the material Ms. Shantry brought in, a 6' high chain link fence was recommended so that the dog could see what was outside of the fence.

Ms. Shantry said this was not a privacy fence but a picket fence so that the dog would be able to see out of the yard.

Mr. Stimac asked if Ms. Shantry had indicated to the people she approached with her petition that the measurement of the location of the fence would be from the edge of the pavement.

Ms. Shantry said that the only people that had concerns were people that thought the fence was going to block the corner.

Mr. Stimac said that documents had been submitted that a 6' high fence was required to contain the dog, but indicated that the fence could be placed farther back on the property line. Mr. Stimac also said that the house is 40' from the property line.

Ms. Shantry said that if the fence is moved back it would cut off her yard and she wants to be able to use all of it. The distance from the corner of the house to the pavement is 59'. Ms. Shantry said that she would lose 40' of her property that she would like to be able to use.

Mr. Stimac stated that Ms. Shantry would still have an 82' wide fenced yard.

Ms. Shantry passed out pictures of her yard and stated that she would like to be able to enjoy the yard and not cut it in half.

Mr. Lenderman asked what the height restriction was and Mr. Stimac said that the Ordinance limits the height of fences in the front yard to not more than 30" in height. Mr. Lenderman further stated that he believes that dog could be trained to stay in the yard and did not see a lack of training as a hardship.

ITEM #2 – con't.

Ms. Shantry indicated that she had just gotten the dog and has been working with him on her own as well as in obedience school.

Mr. Stimac said that from the pictures and site visits that it appears that this property is lower than the road on Aspinwall.

Ms. Shantry said that there is a drainage ditch that runs along Aspinwall although she had never noticed that her property was lower.

Mr. Richnak asked how far the fence would be from the property line.

Mr. Stimac said that he thought it would be about 3 ½' back. Ms. Shantry said that they had measured 24' from the Road and thought the distance would be 5' from the property line.

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

Ms. Shantry presented a petition with eight (8) homeowners indicating approval of this request.

Motion by Stimac
Supported by Richnak

MOVED, to grant Christine Shantry, 6195 Blackwall, relief of Chapter 83 to install a 6' high picket style fence located 3.5' from the north property line along Aspinwall.

- This property has a significant amount of trees between the fence and the front property line.
- This fence is a non-obscuring type of fence.
- This property is lower than the level of the street pavement on Aspinwall giving the appearance of a shorter fence.

Yeas: 4 – Lenderman, Richnak, Stimac, Dziurman
Absent: 1 – Zuazo

MOTION TO GRANT VARIANCE CARRIED

ITEM #3 – VARIANCE REQUESTED. MR. & MRS. KENNETH BUDRY, 884 HIDDEN RIDGE, for relief of Chapter 83 to install a 5' high privacy fence.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to install a privacy fence. Because of the location of this lot and the orientation of the adjacent homes, this lot is classified as a double front corner lot. As such, it has front yard

ITEM #3 – con't.

requirements along Hidden Ridge Drive both on the north and east side of the property. Because of the common rear yard relationship with the property to the west, Chapter 83 limits fences in the yard to the north of this house to a non-obscuring fence not more than 48" in height. The site plan submitted indicates a 5' high obscuring fence at the front property line along the north property line adjacent to Hidden Ridge.

Ms. Olivia Olsztyn-Budry was present. Ms. Budry stated that she and her husband have two (2) young children that play in the yard most of the day and she wants to put up this fence in order to protect her children from people walking and driving by. Although the children are not alone when they are outside, they are visible to people passing by. Ms. Budry has chosen a white PVC fence in order to eliminate any type of maintenance and it carries a lifetime warranty. Ms. Budry said that she had spoken to the people across the street and one person said that they did not care, but the homeowner at 859 Hidden Ridge indicated that they would not approve a 6' high fence but would be in favor of a 5' high fence. There is an existing chain link fence around the property and the 5' fence would be put in that location.

The Chairman opened the Public Hearing.

Ms. Jan Duzzie, 827 Hidden Ridge was present. Ms. Duzzie indicated that her home was near this home and stated that this is a very difficult corner. Ms. Duzzie said that this neighborhood is relatively safe and if a variance is granted for a 5' high fence at this location, other owners of corner lots could come in and ask for the same thing. Ms. Duzzie feels that a privacy fence will make this property look like a fort. There is an existing fence around this property and another neighbor had created a hedge along his chain link fence which increased the privacy of this yard.

Ms. Budry said that she had contacted the Deputy Engineer for the City regarding traffic problems at this location and the City had done both a traffic study and a traffic count. This is what is considered an "eyebrow" turn and is quite wide. In order for this curve to be changed it would require a special assessment and due to the economic climate Ms. Budry decided not to pursue this. The City Engineer did put up a reflector to help and slow down traffic. Ms. Budry also stated that the homeowner at 859 Hidden Ridge said that they would not approve a 6' high fence but would consider a fence that is 5' high. Ms. Budry further stated that she and her husband do not like hedges or arborvitae. They do not want to maintain this type of shrubbery and this is one of the reasons that they chose to put up a PVC fence.

Ms. Duzzie stated that in her opinion if you buy a house on a corner lot, then that is what you have. Ms. Duzzie does not think that a child's safety is enough of a hardship to put up a 5' high fence. Child safety is up the parents. Ms. Duzzie said that she has lived in her home for twenty-nine (29) years and has not witnessed any type of problem. Ms. Duzzie also stated that she believes additional shrubbery will add to the screening

ITEM #3 – con't.

of the yard and would be aesthetically pleasing. Ms. Duzzie said that she is opposed to this request.

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

There is one (1) written approval on file. There are no written objections on file.

Mr. Dziurman asked if the existing fence was permitted by Ordinance and Mr. Stimac said that a 4' high non-obscuring fence was permitted.

Mr. Stimac asked if Ms. Budry would be willing to start the fence at the northwest corner of the property and go back, which would provide privacy for the rear yard.

Ms. Budry said that if they did that, a great deal of their yard would be cut and they would not be able to see the children. They have a swing set, a patio and a garage behind the house and Ms. Budry did not believe this would add enough security.

Mr. Stimac said that presently the children could walk around the fence and end up on the street.

Ms. Budry said that they keep the fence locked and the area that Mr. Stimac is proposing is used to play sports and she does not want to enclose that area.

Mr. Stimac stated that this lot is 100' wide while most of the lots in this subdivision are 76.5' wide. Corner lots are made larger with the knowledge that the area cannot always be used 100%. Mr. Stimac stated that if they maintain a 4' high fence the whole yard would be enclosed.

Ms. Budry said that she is aware of people in the area that have criminal records and she wants to be able to provide a secure back yard for her children.

Ms. Budry was asked if this was the only place the fence could be located.

Ms. Budry indicated that she would be willing to move it back a few feet, but their plan was to take out the existing fence and put the new fence in the same location.

Mr. Stimac asked if there was any location that Ms. Budry would be willing to compromise regarding the location of this fence and Ms. Budry said that she would be willing to move it back 5'.

Ms. Budry said that her front yard is very well maintained and landscaped. She and her husband do not like obscuring vegetation and feels that it requires a lot of work.

ITEM #3 – con't.

Mr. Richnak stated that personal preferences are not always considered when this Board grants a variance. In many cases, this Board requires obscuring vegetation along a fence line to soften the appearance along the property line. There is a lot of plant material available that may not require as much care. Mr. Richnak said that he would have a hard time approving this request if Ms. Budry did not accept the fact that obscuring vegetation would be required.

Mr. Stimac asked if this fence came in different colors. Ms. Budry said that it comes in khaki like color and a darker brown, but these colors are more expensive.

Mr. Stimac said that in his opinion the worst thing you can do aesthetically is put up a solid white fence at the property line without screening. Mr. Stimac suggested that Ms. Budry contact a landscaping company to see what type of plant material would be available.

Ms. Budry asked if she could move the fence back 5' and put in hostas. Mr. Richnak stated that there would not be any type of screening in the winter.

Mr. Stimac said that the Board would want to have some type of screening year round.

Mr. Lenderman said that he is not comfortable granting this variance as it appears that approval would mean that Ms. Budry's children would be guaranteed to be kept safe. Mr. Lenderman said that he is opposed to the assumption that a 5' high fence would keep them safe.

Ms. Budry said that she understands that and the 5' high fence would keep them screened from traffic, and she does not like the idea that people can see her children in the yard. Ms. Budry said that she would also like another child so they will have young children for quite some time.

Mr. Stimac said that Ms. Budry is very close to the outside corner clearance triangle and people do come around the corner very fast.

Ms. Budry indicated that she would be willing to move the fence back.

Mr. Stimac said that it would still require a variance. This fence will have a greater impact on the southern portion of Hidden Ridge.

Motion by Stimac
Supported by Richnak

ITEM #3 – con't.

MOVED, to postpone the request of Mr. & Mrs. Kenneth Budry, 884 Hidden Ridge, for relief of the Chapter 83 to install a 5' high privacy fence.

- To allow the petitioner to investigate landscape alternatives.
- To allow the petitioner to consider moving the fence back off of the property line.

Yeas: 4 – Richnak, Stimac, Dziurman, Lenderman
Absent: 1 – Zuazo

MOTION TO POSTPONE THIS REQUEST UNTIL THE MEETING OF AUGUST 5, 2009 CARRIED

ITEM #4 – VARIANCE REQUESTED. ROBERT MOORHOUSE, OF R.E. MOORHOUSE & ASSOCIATES, 767 W. BIG BEAVER, for relief of Chapter 85 to erect a third ground sign that is proposed to be thirty-six (36) square feet in area.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to erect a third ground sign at 767 W. Big Beaver. This property is located in the Office-Service-Commercial (O-S-C) Zoning District. Section 85.02.05 of the Troy Sign Ordinance allows two (2) ground signs per building in the O-S-C Zoning District. There is an existing ground sign on this parcel that is fifty (50) square feet and a second ground sign that is thirty-six (36) square feet in area. This proposed third ground sign exceeds the allowable number of signs.

Mr. Moorhouse of R.E. Moorhouse & Associates and Mr. Tony Antone of 755 Tower Associates were present. Mr. Moorhouse stated that the hardship is the fact that Ruth Chris Steakhouse, 755 W. Big Beaver, is setback 400' from Big Beaver. In the future another restaurant, Granite City will be constructed in front of 755 W. Big Beaver and the view to this restaurant will be blocked.

Mr. Antone stated that his company is the management-owner of National City Center, 755 W. Big Beaver. Granite City is a 1.9 acre site that is not yet developed. Ruth Chris has just extended their lease significantly and they have increased the size of their restaurant by approximately 2000 square feet and have updated the look of the restaurant. Mr. Antone said that once Granite City goes in they will not have the visibility they will need.

Mr. Dziurman asked if other tenants in the building have ground signs.

Mr. Antone said that other tenants would not be allowed to have other signs.

Mr. Richnak asked how long the petitioner believes the "For Lease" ground sign would remain on the property.

ITEM #4 – con't.

Mr. Antone said that it will probably be there forever. There is a lot of tenant turnover at this location and there is always space for lease. Even if the building was at a 70% - 85% capacity, Mr. Antone would have the "For Lease" sign remain.

Mr. Lenderman asked if they had acquired a lot of tenants through the "For Lease" sign.

Mr. Antone said that a lot of folks do not want to go through a broker and they do come in because of that sign.

Mr. Dziurman asked what the normal size of a ground sign was.

Mr. Stimac stated that depending on the location of the sign, the primary sign could measure up to 200 square feet. A second ground sign would be limited to 36 square feet. If the Real Estate sign was removed this proposed sign would not require a variance.

Mr. Dziurman asked how large the National City Center sign is and Mr. Stimac stated that it is 50 square feet.

Mr. Richnak asked if Granite City would be allowed to have two (2) ground signs and Mr. Stimac stated that was correct.

Mr. Antone stated that originally Granite City wanted to be located farther back from Big Beaver, but the Planning Commission stated that as part of the Big Beaver Corridor study they wanted it closer to Big Beaver. When this proposed location was moved closer to Big Beaver a hardship was created for Ruth Chris. Morton Steakhouse is much closer to Big Beaver and Ruth Chris is at a disadvantage as it is set farther back.

Motion by Lenderman
Supported by Stimac

MOVED, to grant Robert Moorhouse, R.E. Moorhouse & Associates, 767 W. Big Beaver, relief to Chapter 85 to erect a third (3) ground sign that is proposed to be thirty-six (36) square feet in area.

- The sale of the front parcel of property has created a hardship as to visibility for Ruth Chris.
- New sign will aid in identifying this restaurant.
- If the "For Lease" sign were ever removed, the proposed sign would be conforming.

Mr. Stimac questioned the location of the proposed sign as it is past the turnaround for Ruth Chris.

ITEM #4 – con't.

Mr. Antone said that they have done a number of studies and believe this is the best location because it will be visible for people heading westbound on Big Beaver and coming off of I-75.

Mr. Stimac said that he believes most of the people coming to this restaurant are coming past on West Big Beaver.

Mr. Antone said this is not a "way finding tool". Once people know that the sign is there it is directional. The only other location it could be placed was in the location of the existing "For Lease" sign.

Mr. Richnak asked if there was any thought to moving the "For Lease" sign and insert "For Lease" on the National City sign.

Mr. Antone said that presently there are two (2) panels available on that sign. They are reserved for any tenant that leases an entire floor.

Mr. Richnak asked if the sign could be increased to 200 square feet rather than 50 square feet.

Mr. Stimac stated that right now the sign is located at a 0' setback, which limits it to 50 square feet. Mr. Stimac also stated that he was somewhat concerned in the fact that the Granite City parcel was sold off so that there was no longer any frontage on Big Beaver and that is now being submitted as a hardship to the property.

Mr. Antone said that they did not make this a requirement of the sale and that they are under no obligation to do this for Ruth Chris. Ruth Chris will be blocked off because of Granite City, which will be a great addition to this location.

Mr. Dziurman asked if Morton's Steakhouse required a variance. Mr. Stimac said that he did believe a variance was granted for the wall signage but not for the ground sign.

Mr. Richnak pointed out that Morton's does not have a Real Estate Sign in place.

Mr. Stimac stated that the corporate colors for Ruth Chris are red and black and asked why the name on the National City Center sign was in different colors.

Mr. Moorhouse stated that the color scheme was dictated by the owners.

Mr. Stimac said that he thought the Ruth Chris name on the existing sign would be more recognizable if it was done in their corporate colors.

ITEM #4 – con't.

Mr. Antone said that the manager of Ruth Chris approached him and stated that he could remove their name from the sign whenever they wanted as he feels it does not help them at all.

A discussion began as to how Ruth Chris designates their location in their advertising and it is hoped that they state that they are located in the National City building.

Yeas: 4 – Stimac, Dziurman, Lenderman, Richnak
Absent: 1 – Zuazo

MOTION TO GRANT VARIANCE CARRIED

The Building Code Board of Appeals adjourned at 9:45 A.M.

Ted Dziurman, Chairman

Pamela Pasternak, Recording Secretary