

The Chairman, Glenn Clark, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M., on Tuesday, January 19, 2010 in Council Chambers of the Troy City Hall.

PRESENT: Michael Bartnik
Glenn Clark
Kenneth Courtney
Edward Kempen
Matthew Kovacs
Dave Lambert
Lon Ullmann

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

ITEM #1 – APPROVAL OF MINUTES – MEETING OF DECEMBER 15, 2009

Motion by Bartnik
Supported by Courtney

MOVED, to amend the minutes of the meeting of December 15, 2009 as follows:

Page 10, third paragraph to read: “Mr. Bartnik asked if there was an impact to the blue herons from this tower. Mr. Haley said that the tower would not have an impact to the heron rookery”.

Yeas: All – 7

MOTION TO APPROVE MINUTES WITH AMENDMENT CARRIED

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

Motion by Courtney
Supported by Lambert

MOVED, to approve Item #3 and #4 in accordance with the suggested resolutions printed in the Agenda Explanation.

Yeas: All - 7

MOTION TO APPROVE ITEM #3 AND #4 CARRIED

ITEM #3 – RENEWAL REQUESTED. FAITH APOSTOLIC CHURCH, 6710 CROOKS, for relief of the 4’-6” high masonry screening wall required along the north, east and south sides of off-street parking area, which abut residentially zoned property.

ITEM #3 – con't.

MOVED, to grant Faith Apostolic Church, 6710 Crooks, a three (3) year renewal of a variance for relief of the 4'-6" high masonry screening wall required along the north, east and south sides of off-street parking areas, which abut residentially zoned property.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.

ITEM #4 – RENEWAL REQUESTED. CATS BUILDING, 2100 W. BIG BEAVER, for relief of the 6' high masonry-screening wall required along the north end of the west property line.

MOVED, to grant CATS Building, 2100 W. Big Beaver, a three (3) year renewal of a variance for relief of the required 6' high masonry-screening wall required along the north end of the west property line.

- Variance is not contrary to public interest.
- Variance will not cause an adverse effect to surrounding property.

ITEM #5 – VARIANCE REQUESTED. WALLACE HALEY, 1890 E. SQUARE LAKE, for relief of the Zoning Ordinance to construct a 120' high cellular phone antenna tower within 500' of the west property line where the site abuts residentially zoned property.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct a 120' high cellular phone antenna tower within 500' of the west property line where the site abuts residentially zoned property. Paragraph C of Section 20.25.01 requires that the setback of the tower from abutting residentially zoned or used property be at least five times the height of the structure, which would mean that this tower would be required to be at least 600' setback from residentially zoned property.

This item last appeared before this Board at the meeting of December 15, 2009 at which time an alternative plan was presented showing the tower now located 208' from the west property line. Action on a standing motion for approval, originally made at the November 17, 2009 meeting, was postponed to allow the petitioner to provide more data regarding dropped and blocked calls, including days and times that would justify the need for the new tower.

Mr. Clark questioned the sections marked on the NEPA Review form turned in by the petitioner. Mr. Stimac stated that although he was not an expert on this form, in regards to the questions 9A, 9B & 9C he believes that only one of the sections needs to be addressed.

A discussion began regarding the motion made by Mr. Courtney at the November 17, 2009 to approve this request and Mr. Motzny said that if it is the board's desire to

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approve the request with different conditions, and then someone should make a motion to amend that motion.

Mr. Ullmann stated that the signature of the Engineer was missing from the NEPA Review form.

Mr. Haley was present as well as the owner of the bowling alley, and John Romsek, the Radio Frequency Engineer who prepared the Affidavit included in Mr. Haley's packet. Mr. Haley also addressed the e-mails he had received from both T-Mobile and Verizon indicating their interest in adding antennas to this tower. Mr. Haley explained the procedure for an environmental study and stated that an outside consulting firm is hired. This report is 195 pages long, however, he included only the summary page he felt this Board would be the most interested in. This application is not signed by the engineer until it is being submitted. The consultant has found that this proposed antenna would have no effect on the existing wildlife and they have worked with the Board in moving the tower behind the bowling alley.

Mr. Haley said that there are no other parcels in the area that would require such a small variance and this tower would be in keeping with the Master Plan. Mr. Haley also stated that he had met with Mr. Romsek and they did a study of dropped calls from October 1, 2009 through December 31, 2009 and found that there were over 250 dropped calls in that period, although, Mr. Haley stated that on December 18, 2009 there were 633 dropped calls. Mr. Haley did not have the data supporting this number. These dropped calls are not recorded on an hour by hour basis but done on a daily basis. These numbers are considered excessive and this tower would help to improve this service. Mr. Haley also said that during this time frame there were 78 911 calls. AT&T has done its job and has proved the practicality of this location. There is no other place to put this tower as other areas in the City would require a greater variance.

Mr. Clark called Mr. Stephon Bagne, the attorney representing Holy Trinity Romanian Church to the microphone. Mr. Bagne stated that he does not have access to AT&T data, but has contacted people at the bowling alley and also went to the AT&T store and spoke to some of the sales people. No one indicated that they have any problem with dropped calls or lack of service. Mr. Bagne said that he believes that AT&T has a better system than Verizon and provides more coverage. Mr. Bagne also questioned the credibility of the sales people selling these phones and wondered how many people are bringing their phones back with complaints of dropped calls. If this was a problem in the neighborhood the people would indicate to the carriers that it was a problem. The people that belong to this Church and have AT&T service do not have a problem with service. Failure to grant this variance does not preclude the owner from using this property. Mr. Bagne stated that it is up to the petitioner to demonstrate a need for this tower and he does not believe they have accomplished that. Furthermore, Mr. Bagne stated that the Board does not need to accommodate AT&T.

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Mr. Bartnik addressed pages 5 and 6 of Mr. Haley's letter that discusses the standards for a setback under Michigan Law. The height restriction in the City's Ordinance is more restrictive than what is allowed under Michigan Law.

Mr. Bagne responded that from a legal perspective, he does not believe a variance is necessary. Property is being used as it is zoned and does not need to be used for a number of different purposes. Parking issues would create a practical difficulty. This property can and is being used as a bowling alley and the owner will get additional income at the expense of the neighbors.

Mr. Kovacs confirmed that Mr. Bagne had spoken to sales people at the store and stated that when you talk to a sales person for a particular product they will usually not tell you of any problems that have come up with their service.

Mr. Bagne disagreed and stated that when buying a car, the salesman will usually tell you what the short falls are regarding your choice of vehicle.

Mr. Kovacs stated that it was possible that Mr. Bagne had spoken to someone that was unaware of problems in this area.

Mr. Bagne said that the sales person in that area is going to be selling phones to people in that area and people in the neighborhood that have a problem will come back to the store and complain.

The Chairman opened the Public Hearing.

Mr. Dumitru Puiu, Council President of the Church was present and stated that he had spoken to the manager of the store and was informed that they have not had any problem with coverage in this area. Mr. Puiu passed out a map of AT&T coverage that he had gotten from AT&T's website indicating tower locations in the area. Mr. Puiu said that there are different towers on every square mile and he does not believe there has been any concrete data provided to indicate that this tower is necessary. The Global System is for mobile communication and people can still use their lap tops or land lines and this extra energy would not be required. Mr. Puiu said that he has not had any problem with AT&T and uses his cell phone everywhere. The towers are leased and after five years the tower could be sold and would not be under any control. Mr. Puiu also stated that he had tried to get data on dropped calls but was unable to do so.

Dan Simihea a member of the Church brought out his cell phone and showed the Board members how strong the signal was in Council Chambers. Mr. Simihea said that he has never had a problem with dropped calls in this area. Mr. Simihea also stated that he does not believe a tower is crucial in this area.

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John Romsch, also a member of the Church was present and stated that he believes this request is all business and does not believe a tower is needed in this area.

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

Mr. Lambert asked the T-Mobile representative to come up to the microphone and asked her if T-Mobile also wished to co-locate on this tower.

Ms. Michelle Sanders was present and stated that they have been looking for a location in this area to add a tower for the past three years. The Zoning Ordinance does allow towers and this was one of the parcels identified by T-Mobile as a desirable location for a tower. They had approached the owner of the bowling alley about this location approximately one year ago, but he was already in discussions on a contract with AT&T.

Mr. Ullmann asked that Mr. Romsek explain the variation in color of the map provided showing coverage in this area. Mr. Romsek explained what the different colors meant to the amount of coverage.

Mr. Ullmann stated that he lives in this area and asked if the research was based on calls that are incoming from that area.

Mr. Romsek said that it is related to the placement of the transmitter, and stated that you may have good reception if you are standing in the front yard, but may not be OK if you are trying to make a call from inside your home.

Mr. Ullmann said that he has AT&T and has not experienced any problems.

Mr. Bartnik asked how the date was obtained regarding dropped and emergency calls.

Mr. Romsek stated that the system automatically creates the report. Dropped calls were in the report in this coverage hole.

Mr. Bartnik stated that he felt the wording from the original motion of November 17, 2009 needed to be changed to remove the stipulation that this tower be a "regular" tower rather than a monopine tower.

Motion by Bartnik
Supported by Ullmann

MOVED, to amend the motion of November 17, 2009 to grant Wallace Haley, Haley Law Firm, 1890 E. Square Lake, relief of the Zoning Ordinance to construct a 120' high cellular phone antenna tower to read:

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- Tower will be located 149' from the west property line.
- Tower will be located along the south property line.

Yeas: 6 – Kovacs, Lambert, Bartnik, Clark, Ullmann, Kempen

Nays: 1 – Courtney

MOTION TO AMEND MOTION CARRIED

Mr. Courtney suggested that the motion be further amended to not only remove the requirement of the type of tower, but to also remove the location of the tower as stated in that motion.

Motion by Courtney
Supported by Kovacs

MOVED, to further amend the motion of November 17, 2009 to grant Wallace Haley, Haley Law Firm, 1890 E. Square Lake, relief of the Zoning Ordinance to construct a 120' high cellular phone antenna tower.

Yeas: All – 7

MOTION FOR SECOND AMENDMENT CARRIED

Mr. Stimac stated that if this Board wants to approve the request the three conditions of the motion be removed. The petitioner wants to put up a monopine tower, 208' from the west property line. This approval could contain the stipulation referring to the plans submitted to the Building Department on December 10, 2009 from the petitioner.

Mr. Kempen suggested that the Board make reference to the recent plans.

Mr. Lambert stated that the plan that was presented asked that it was to be approved as a monopine tower.

Mr. Stimac said that based on the actions this evening, the Board has placed no conditions on the type of tower and that matter will be up to the Planning Commission.

Mr. Lambert stated that he would prefer a monopine tower and would defer to the Planning Commission.

Mr. Courtney disagreed and stated that he preferred a regular tower.

Mr. Clark stated that this Board is charged to consider granting variances with a hardship and he does not believe that the petitioner not being able to find a location is a hardship.

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Mr. Kovacs stated that a site with the distance our Ordinance dictates that the tower should be located from residential property does not exist in this area. Mr. Kovacs further stated that he understands the fears of the people of the church about phone towers, but it is not in the power of the Board to address those fears. This tower can sit 200' from the property line.

Motion by Kovacs
Supported by Courtney

MOVED, to grant Wallace Haley, Haley Law Firm, 1890 E. Square Lake, relief of the Zoning Ordinance to construct a 120' high cellular phone antenna tower.

- Tower to be located as shown on the site plan submitted to the Building Department on December 10, 2009.
- Variance is not contrary to public interest.
- Variance does not permit the establishment of a prohibited use in a zoning district.
- Variance applies only to the property described in this application.
- Literal enforcement of the Ordinance would preclude full enjoyment of the property and would be unnecessarily burdensome

Mr. Ullmann stated that out of 160 acres of property in this area, the petitioner is unable to find 1200' to put up this tower. In looking at the map, development is on the perimeter and the petitioner could put up a tower and find a 600' radius. Mr. Ullmann stated that the Board has been presented with a lot of facts but he does not believe that was all the facts. No charts or complete data has been submitted. This is an on-going process and this is not about today but about tomorrow. Mr. Ullmann said that he does not think this tower is needed in this area.

Mr. Kovacs stated that he understands that there are different properties in the area but does not believe they would allow the construction of a cell phone tower. A cell phone tower would not be allowed on residentially zoned property.

Mr. Ullmann stated that they could get a variance on another piece of property as well as this one.

Mr. Clark asked Mr. Stimac to explain how the Pastor can live on the same property that the Church is located on.

Mr. Stimac explained that this parcel of land is zoned R-1C (Single-Family Residential). The Church is a use permitted by special use approval and in addition is allowed to construct a single family residence to provide a home for the Pastor or other Church members on the site. The Zoning Ordinance allows a tower in an R-1 Residentially Zoned District but only on sites that are used or developed as something other than

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single family residences and cannot be located on a park site. The property located west of the Church would not comply as it is a park and the property located to the south of this location would also not comply as it is the site of a single family residence.

Mr. Courtney asked Mr. Haley how long it would take to construct this tower if approval is granted this evening.

Mr. Haley stated that they would have to appear before the Planning Commission and once they received a building permit, the tower could be constructed within thirty (30) days.

Mr. Bartnik stated that there is evidence of a need for this tower. The system report indicates a large number of dropped calls. Everyone wants cell phones and equipment is required to support these phones. Mr. Bartnik also stated that it is the constitutional right of the property owner to use their property any way they can within the law and can sell or lease part of their property. Mr. Bartnik indicated that he thought there would be a number of legal problems with the City's setback requirements if this variance was denied and thinks these requirements would be a problem to enforce. Cell towers do not fall down and they don't land on homes. There is no rational explanation of going five times the height of the tower.

Mr. Kempen said that the other carriers are eager to lease space on this tower which is an indicator that it is necessary in this location. Last week, people at Mr. Kempen's home had a number of dropped calls and although Mr. Kempen feels there may be some health issues connected to these towers, the Board cannot act on those concerns.

Vote on motion to approve.

Yeas: 4 – Kovacs, Lambert, Bartnik, Kempen

Nays: 3 – Clark, Courtney, Ullmann

MOTION TO GRANT VARIANCE CARRIED

Mr. Clark called for a five minute recess at 9:05 P.M.

The Board of Zoning Appeals meeting resumed at 9:10 P.M.

ITEM #6 – APPROVAL REQUESTED. LARY LLEWELLYN, 475 E. LOVELL, for approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property.

ITEM #6 – con't.

Mr. Stimac explained that the petitioner is requesting approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property.

This item first appeared before this Board at the meeting of December 15, 2009 and action on a standing motion to approve for a six month time frame was postponed to allow the petitioner to: 1) obtain a letter from Comcast indicating the use of this vehicle; and 2) to allow the petitioner the opportunity to bring in an estimate of the cost of constructing a garage.

Ms. Llewellyn was present and read a letter from her husband. Mr. Llewellyn indicated in his letter that he was required to bring the vehicle home for seven (7) days every 4 to 6 weeks as he was on call 24 hours a day. He does have alternative parking available, but it is on 16 and Van Dyke and it would take him too long to go there to pick up this vehicle. The vehicle itself is parked on the side of the house and is screened by shrubbery both on the sides of the vehicle and at the back. Mr. Llewellyn is an assistant coach for the Troy Baseball Boosters and he would have to give up coaching as he would not have enough time to get his vehicle to Sterling Heights and then drive home. Ms. Llewellyn also brought in a letter signed by fourteen of her neighbors indicating their approval of this vehicle.

Mr. Clark asked if any other information had been provided to City Staff.

Ms. Llewellyn stated that they did not look at other areas in the City to park this vehicle as there is alternative parking available. Ms. Llewellyn also brought in an estimate covering the cost of constructing an addition to the existing garage.

Mr. Bartnik asked if bringing this vehicle home was matter of choice or a condition of employment.

Ms. Llewellyn stated that he is on call every four to six weeks and if he is late for an emergency that will affect his evaluations.

Mr. Bartnik stated that Police and Fire are on call most of the time and they are not required to bring their vehicles home. Mr. Bartnik stated that he does not believe it is right for Comcast to require employees to bring trucks home. Mr. Bartnik also stated that approval is granted on a temporary basis and he can see this situation turning into a permanent situation.

Mr. Courtney stated that he does not see that this is a problem and believes that an addition to the garage would make this location more of an eyesore than the truck does. Mr. Courtney also stated that he is not worried about this becoming a permanent situation as the vehicle is very well hidden.

ITEM #6 – con't.

Motion by Kovacs
Supported by Clark

MOVED, to amend the original motion to grant Lary Llewellyn, 475 Lovell, approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property for a period of one year.

- Petitioner has met the criteria listed as “B” and “C”.
- Overwhelming number of neighbors have indicated approval of this request.

Mr. Clark stated that he agrees that this vehicle is very well hidden and that this is a reasonable request.

Mr. Kovacs said that based on liberal interpretation it is unreasonable to expect the petitioner to add on to his garage.

Mr. Kempen stated that it is aesthetically pleasing and the truck is well hidden, but is concerned about setting a precedent.

Vote on motion to approve as amended.

Yeas: 6 – Clark, Courtney, Ullmann, Kempen, Kovacs, Lambert
Nays: 1 – Bartnik

MOTION TO GRANT APPROVAL FOR A PERIOD OF ONE-YEAR CARRIED

ITEM #7 – VARIANCE REQUESTED. FRANCO MANCINI, 6693 ROCHESTER ROAD, for relief of the Ordinance to construct a new one-story credit union building adjacent to Residential Zoned property without a screen wall as required by Section 39.10.01.

Mr. Stimac stated that the petitioner is requesting relief of the Ordinance to construct a new one-story credit union building. The property to the north of this site is in zoned R-1T (One-Family Attached Residential). The property to the west of this site is in zoned R-1C (One-Family Residential). Section 39.10.01 requires a 6' high masonry screen wall between an O-1 (Office Building) zoned development and adjacent residential zoned property. The site plan submitted does not show any screening walls. The board had previously granted approval for relief of the screen walls on this site based upon a different plan to construct an office building on this site.

Mr. Kovacs asked about the history of this request.

Mr. Stimac explained that in 2008 a variance was granted to allow for the development of this parcel and was given a one-year time frame. This was intended to be enough

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time to allow for the construction of the building and to see if there were any complaints generated by this construction. In 2009 the petitioner asked for an extension of that time frame as he was unable to develop the site in the time frame allowed. At that time the Board granted approval for one more year.

Mr. Stimac went on to say that there is a retention pond adjacent to west side of the site however; there is not a lot of foliage on the retention pond site.

Mr. Bill Mosher was present and stated that they are planning to add more foliage and will provide as much screening as possible to the surrounding residential sites. Mr. Mosher also stated that they are planning to add foliage that will screen this site year round.

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 objections on file.

Motion by Kovacs
Supported by Lambert

MOVED, to grant Franco Mancini, 6693 Rochester Road, relief of the Ordinance to construct a new one-story credit union building adjacent to Residential Zoned property without a screen wall as required by Section 39.10.01 for a period of one-year.

- One year time frame will allow for the construction of the building.
- One year time frame will allow the neighbors to determine whether or not a screen-wall would be necessary.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #8 – VARIANCE REQUESTED. BOSTICK ROCHESTER ROAD

DEVELOPMENT, 1400 ROCHESTER, for relief of the Ordinance to construct an addition to an existing industrial building resulting in; a 40'-2' front yard setback where 50' is required; lot coverage of 41.8% where 40% maximum is allowed, 17,863 square feet of countable landscape where 45,184 square feet are required; and 196 parking spaces where enough land is required for 455 parking spaces.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct an addition to an existing industrial building. A portion of the proposed addition is within 40'-2" of the front property line along Rochester, where Section 30.20.09 requires a minimum front yard setback of 50' in the M-1 (Light Industrial) Zoning District; Section

ITEM #8 – con't.

30.20.09 further limits the amount of lot coverage by buildings to not more than 40% of the lot, where the building with the proposed addition will cover 41.8% of the lot; Section 39.70.04 requires that a minimum of 45,184 square feet of countable landscaping be provided on a site this size, where only 17,863 square feet of countable landscaping is provided; finally, Section 40.21.82 requires that there be enough land on the parcel to allow for the development of 455 parking spaces should the warehouse use of the building be converted to manufacturing in the future. The plans indicate that only 196 parking spaces will be available.

A discussion began regarding the lot coverage and number of parking spaces on the site. Mr. Stimac stated that presently there are 196 parking spaces and this addition will probably add about 4,000 square feet to this site. Mr. Stimac also stated that there is enough parking on the site for the uses proposed right now, but they have to have enough land to come up with 455 parking spaces.

Mr. Bartnik asked how long this building has been on this site and Mr. Stimac stated that it has been built in a series of phases and that the last addition had been there for approximately thirty years.

Mr. Ullmann asked if parking had been a problem in the past and Mr. Stimac stated that this site was not always used for full manufacturing. The northern portion was used for warehousing and the center section has the truck docks. Mr. Stimac stated that he was not aware of any significant parking issues.

Mr. Kovacs asked what the difference was between the parking requirement for manufacturing and warehouse. Mr. Stimac stated that warehouse use requires 1 space per 1,700 square feet. Manufacturing requires 1 space per 450 square feet. In addition, even if all parking that is required by the Ordinance is in place, they may be required to provide more parking if there are insufficient spaces available on the site for their employees.

Mr. Clark asked if there was any off-site parking available and Mr. Stimac said that he was not aware of any.

Mr. Kovacs stated that he did not understand why this amount of parking was required now.

Mr. Stimac explained that because they are proposing to add more area to the building and if there is not enough parking now it becomes a greater issue later.

Mr. Bartnik asked if this site is surrounded by Industrial Zoning and Mr. Stimac said that was correct.

ITEM #8 – con't.

Mr. Norman Hyman, the Attorney representing the petitioner, was present and stated that the 455 space requirement is the maximum and is done on a sliding scale. The petitioner meets the Ordinance now, there are 196 parking spaces available and are only required to have 191. The variance is to a hypothetical requirement of 455 spaces.

Mr. Hyman addressed the setback issue and stated that this is a very minor variance. Because of an existing wall which runs at a slight angle, this request would be for about 133 square feet of building. Outdoor HVAC equipment is located in this area which is a very thin triangle. If there is an increase in the manufacturing use of that building, the petitioner will have to come before the Planning Commission. Variance is for a slight amount and Mr. Hyman said it is not possible to use 455 parking spaces in this area.

Mr. Hyman went on to say that without this addition they meet the Ordinance requirements. The tenant coming in is a responsible tenant and is part of a General Dynamics Company.

Mr. Courtney asked if the use of this building was changed to full manufacturing, if a portion of the building could be used for enclosed parking.

Mr. Hyman said that they would want parking spaces for their employees.

Mr. Kovacs asked about what portions of the landscaping are countable on this site.

Mr. Stimac explained that this site is somewhat unique as it runs from Rochester to Souter. The Zoning Ordinance dictates that landscaping has to be either in a front or side yard. This parcel is considered a through lot therefore the entire site is in either a front or side yard. A portion of the landscaping at the southern portion of the site is not fully countable because it is in a drainage easement. The addition is in an area that has a majority of the existing landscaping and that will be removed. Currently there is approximately 30,000 + square feet of landscaping on the site.

Mr. Bartnik asked if the building was occupied.

Mr. Dennis Bostick was present and stated that the building is unoccupied. No one has stayed in the building due to the economic climate. Mr. Bostick said that he feels very fortunate that they have attracted this military supplier. The tenant is planning to make this building their International Headquarters and Mr. Bostick said they are upgrading the building and bringing it up to all Codes. The building will be very attractive and Mr. Bostick stated that he believes this entire area of the City needs to be renovated.

Mr. Hyman said that they are spending several million dollars for upgrades. This area has relatively low traffic and it is anticipated that the employees working at this location will be less than 196.

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Mr. Kevin Biddison, the Architect on the project, was also present and stated that the proposed renovation will make it look like a new building. One of the reasons for the encroachment into the setback is because they want to encompass the outside mechanical system. They are planning to put up new masonry on the façade of the entire office portion of the building.

Mr. Biddison stated that they will also be adding landscaping material along the new addition. They are not planning to remove existing trees or anything of substance and will not be removing the greenbelt. The office area will be improved and the new addition will be fully occupied.

Mr. Bartnik asked if they are planning to remove the existing grass. Mr. Biddison stated that they are planning to replace existing grass and shrubs with new landscaping.

Mr. Bostick stated that they are planning to add a lot of quality even though the quantity may not be as much. Mr. Bostick said that they are planning to add new sod and shrubs as well as new trees along Rochester.

Mr. Kovacs asked when this building was constructed. Mr. Bostick said that he thought it was in the late 1940's.

Mr. Stimac said that the building was built in multiple phases over the years beginning in the 1950's and believes the northern portion was built in the 1980's.

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. Kovacs stated that he would like to make a motion to approve this request as a warehouse and asked if something changes in ten (10) years, if they would have to come back before this Board. Mr. Kovacs said that he would like to approve the request to allow 196 spaces as long as the existing building is used as a warehouse.

Mr. Hyman said that they are not really asking for a variance on the number of parking spaces as this is a hypothetical number. Mr. Hyman further stated that if this building was converted to manufacturing space the parking requirement would have to be met.

Mr. Kempen asked if there were alternatives available to create more parking spaces if necessary and asked if another lot would be available. Mr. Kempen also stated that this is a high density requirement for a manufacturing facility and believes that this portion of the Ordinance is probably obsolete.

ITEM #8 – con't.

Mr. Bostick agreed with Mr. Kempen and said that he does not believe parking will be a problem.

Motion by Kovacs
Supported by Courtney

MOVED, to grant Bostick Rochester Road Development, 1400 Rochester relief of the Ordinance to construct an addition to an existing industrial building result in: a 40'-2" front yard setback where 50' is required; lot coverage of 41.8% where 40% maximum is allowed; 17,863 square feet of countable landscape where 45,184 square feet are required; and to allow a 19,330 square foot addition resulting in a parking requirement for land for the development of 455 parking spaces where 196 parking spaces are provided.

- 40'-2" setback is a very small variance and is due to the slight angle of the property.
- Lot coverage of 1.8% is minimal.
- Old building with a number of additions on it.
- Variances are not contrary to public interest.
- Variances will not have an adverse effect to surrounding property.
- Literal enforcement of the Ordinance makes conformance unnecessarily burdensome.

Yeas: All – 7

MOTION TO GRANT VARIANCES CARRIED

Mr. Clark expressed condolences to Mr. Lambert on the loss of his father.

Mr. Stimac explained to Board members that City Council had approved a change in the Ordinance appointing a Zoning Administrator to take over the staff support functions to the Board of Zoning Appeals. This will be the last meeting that Mr. Stimac will be present at and thanked the Board members for their cooperation over the years.

Mr. Stimac introduced Brent Savidant, Paul Evans and Kathy Czarnecki of the Planning Department as the new City Staff that will be attending these meetings.

Board members thanked Mr. Stimac and Ms. Pasternak for all their help and wished them well.

The Board of Zoning Appeals meeting adjourned at 10:25 P.M.

Glenn Clark, Chairman

Pam Pasternak, Recording Secretary