The Board of Zoning Appeals meeting was called to order by Chair Lambert at 7:30 p.m. on February 15, 2011, in the Council Chamber of the Troy City Hall.

1. ROLL CALL

Present:
Michael Bartnik
Glenn Clark
Kenneth Courtney
William Fisher
A. Allen Kneale
David Lambert
Thomas Strat

Also Present:
Paul Evans, Zoning and Compliance Specialist
Christopher Forsyth, Assistant City Attorney
Kathy L. Czarnecki, Recording Secretary

2. APPROVAL OF MINUTES

Resolution # BZA 2011-02-007
Moved by Courtney
Seconded by Bartnik

MOVED, To approve the January 18, 2011 Regular meeting minutes as presented.

Yes: Bartnik, Clark, Courtney, Fisher, Kneale, Lambert
Abstain: Strat

MOTION CARRIED

3. POSTPONED ITEMS

A. VARIANCE REQUEST, CAMELIA SANDULACHE, 405 E. MAPLE – In order to enlarge the existing building proposed to be used as a dental office: 1) A 16 foot variance from the required 20 foot side yard (east yard) setback, 2) An 11 foot variance from the required 30 foot yard front yard (west yard) setback, and 3) A 10 foot variance from the requirement that the proposed handicapped ramp be set back 20 feet from the west property line.

ORDINANCE SECTIONS: 1) and 2) 30.20.01, 3) 41.45.00

Mr. Evans addressed the location and surrounding zoning. He reviewed the actions taken to date by both the Planning Commission and Board of Appeals. Mr. Evans individually addressed the three variances requested. He stated the revised plan now lines up the proposed addition with the existing building, which results in a 14

foot setback from the east property line, not the originally requested 16 foot setback. In response to a Board member question, Mr. Evans indicated it appears the width of the parcel on Maple Road is 60 feet, noting that the petitioner could confirm that.

Mr. Bartnik said it appears that the request is for 50 feet worth of setbacks on a 60 foot lot, given that the Zoning Ordinance requires a 20 foot setback on the east side as well as a 30 foot setback on the west side.

Mr. Evans replied that appears to be a correct assessment.

Mr. Clark asked if staff has met with or been in contact with the petitioner and the neighbor to the north who voiced opposition to the variance requests.

Mr. Evans replied that he spoke on the telephone with both the applicant and the neighbor to the north. He said there was no indication from either party whether an agreement has been reached.

Paul Sugameli of Sugameli & Sugameli, P.L.C., 2833 Crooks Road, Troy, was present to represent the petitioner. Mr. Sugameli stated there was email dialogue among the parties. Mr. Sugameli addressed six conditions that the neighbor to the north, Dr. Robert Sklar, requested in a written communication dated December 22, 2010. He indicated that the applicant has accommodated four out of the six requests.

Mr. Sugameli individually addressed the neighbor's requests to which the applicant has agreed to accommodate:

- The addition will be in line with the current structure on the eastern side.
- The air conditioning units will be surrounded by shrubs.
- There will be no other structures located in the east greenbelt area, including but not limited to garbage collection units and power transformers.
- There shall be a trash enclosure located on the Western side of the building.

Mr. Sugameli stated that lining up the proposed addition on the eastern side results in a net loss of actual building and an additional $10,000-plus cost to the applicant. He briefly addressed the proposed screening around the air conditioning units. Mr. Sugameli said the applicant is offering these concessions as a means of good faith and compromise.

Mr. Sugameli next addressed the neighbor's requests to which the applicant is not in agreement with, nor wishes to accommodate:

- The parking spaces need to be reduced one foot in length, adding two feet to the North greenbelt area. With this added space, we would ask that tall shrubs or small shade trees be planted.
- The total number of treatment rooms must be reduced to three. With the additional space made available by eliminating one treatment room, a staff lounge or doctor's private office should be incorporated. There cannot be space

made for a future fourth patient/treatment room. We want an assurance that there will be no more than three treatment/patients rooms.

Mr. Sugameli stated the proposed parking meets all Zoning Ordinance requirements. He referenced the Planning Consultant report dated January 17, 2011 which states that the applicant meets minimum parking requirements and has provided an extra parking space.

Mr. Sugameli addressed the request to limit the number of treatment rooms to three. He said the number of treatment rooms has no relation to setbacks or dimensions and is not within the purview of the Board of Zoning Appeals review.

Mr. Sugameli said that any use on that parcel as zoned would be before this Board for variances.

Mr. Courtney asked if the requested elimination of the extra parking space would provide space for additional landscaping and/or greenbelt.

Mr. Sugameli replied in the negative.

Arthur Kalajian, project architect, of 1871 Austin Drive, Troy, was present. Mr. Kalajian said that technically a 20'x19' parking space could be eliminated and possibly one tree planted, but he believes that would not satisfy the intent of the neighbor to screen the parking lot. Mr. Kalajian said discussion with the neighbor leads him to believe the neighbor would prefer an extra parking space to alleviate his concern of a shortage of parking. Mr. Kalajian addressed the additional 10 inches of greenbelt he added to the plan with 14"-16" low landscaping.

Mr. Kalajian said the revised site plan design has a tucked-in entrance that creates a more congested area and a smaller waiting area. Mr. Kalajian noted that architecturally speaking he prefers the original plan. He said the revised plan works and is more costly; it is compromised and more complex solution. Mr. Kalajian said that everything possible and practical was done with the revised configuration.

Mr. Bartnik asked what changes, if any, were required to the wheelchair ramp with the new entrance.

Mr. Kalajian replied the planter next to the ramp was reconfigured but not the ramp itself, and the entrance became more of a diagonal configuration rather than a straight configuration. He confirmed that the wheelchair ramp is in the same location and has the same dimensions and slope as originally planned. Mr. Kalajian confirmed the width of the property along Maple Road is 60 feet.

PUBLIC HEARING OPENED

Richard Taubman of 32255 Northwestern Highway, Farmington Hills, was present on behalf of Dr. Robert Sklar, the neighbor to the north at 415 E. Maple. Mr. Taubman said a request for a dimensional non-use variance is available to relieve property owners of the burden of practical difficulties caused by the property itself and not by how the property owners propose to use the property. Mr. Taubman said the subject property is a flat rectangle, and there is nothing unusual about the shape or elevation that creates a practical difficulty. He stated it is a self-created problem because the applicant is attempting to shoehorn a development on a parcel not big enough for the proposed use.

Mr. Taubman disagreed with the applicant's claim that a variance or variances would be required for any use on the site. He said appropriate uses for the property would be a therapist, certified public accountant or any office that could simply house a computer and desk.

Mr. Taubman said granting of the variances requested would allow the expansion of a nonconforming structure, when nonconforming structures are intended to be extinguished with time. Mr. Taubman apprised the Board that his client purchased and invested in the difficult t-shaped lot for the development of his practice with the belief that he could rely on the Zoning Ordinance being fairly and evenly applied to all property owners.

Mr. Taubman shared that one of the suggestions the applicant approached his client with was to place the shrubbery and trees on his client's property. Mr. Taubman said this highlights the situation that the applicant does not have the space to buffer on their property and would like to use his client's property to solve their problems. Mr. Taubman urged the Board to deny the variance application, or to limit any variance the Board might be inclined to grant.

Mr. Kneale asked Mr. Taubman to expand upon his statement that granting a variance would be an expansion of the nonconforming structure.

Mr. Taubman said the existing structure is dimensionally nonconforming and a new structure could not be constructed as it is now because of its proximity to Maple Road. The variances, if granted, would expand the nonconforming structure.

PUBLIC HEARING CLOSED

Mr. Bartnik asked if the application before the Board is for a variance or an expansion of a nonconforming use.

Mr. Forsyth replied that the Board should apply both the variance standards and the expansion to nonconforming standards. Mr. Forsyth asked that the record fairly reflect that the use is not a nonconforming use. He stated the use complies with the

Zoning Ordinance, and the existing structure as built does not meet the setback requirements.

Chair Lambert noted that the Board is in receipt of one communication from the neighbor at 1923 Kirkton in support of the application.

Mr. Strat said it appears that construction of a new office building on the subject parcel would be highly improbable given the property dimensions and configuration of the subject parcel. He indicated he would vote in favor of the variances based on the fact that the property configuration presents a hardship and development is needed in the City.

Mr. Courtney said the proposed use appears to be excessive for the parcel size. He said a smaller office along the lines of accounting and insurance would be more appropriate. Mr. Courtney does not agree that another use could not go on the parcel without the requirement of any variances.

Resolution # BZA 2011-02-008
Moved by Bartnik
Seconded by Kneale

MOVED, To amend the prior motion (Resolution # BZA 2010-12-057) to grant the requested variances and to the extent that it is calling for an expansion of a nonconforming structure, to grant the petition.

Preliminary Findings:
- That the expansion or variances, as the case may be, are not contrary to the public interest.
- That the variances or expansion do not permit the establishment of a prohibited use within the zoning district.
- That the expansion does not cause, or the variances do not cause, an adverse effect to properties in the immediate vicinity or within that zoning district.
- That the petition relates only to this piece of property described.

Special Findings:
- That the expansion is necessary to implement the spirit of the ordinance or to accomplish substantial justice, including on the grounds that conforming is unnecessarily burdensome.
- That the variances that have been requested are not excessive especially the ones that have been amended and are before us today.
- That the practical difficulties result from the unusual characteristics of the property including the size, the location and the configuration. The 60’x122’ corner lot of the standard rectangular configuration is difficult or impossible for the petitioner to make a reasonable use of the premises with regard to this structure or another structure and be in full compliance of the ordinance.
- That this motion is inclusive of the drawings and presentations made this evening.

Yes: All present (7)

MOTION CARRIED

Discussion on the original motion (Resolution # BZA 2010-12-057), as amended.

Chair Lambert thanked the applicant for the efforts made to accommodate the neighbors to the east and north. He indicated he would vote favorably on the motion.

Mr. Courtney stated the proposed use is excessive for the size of the parcel. He indicated he would vote against the motion.

Vote on the original motion as amended.

Yes: Bartnik, Clark, Fisher, Kneale, Lambert, Strat
No: Courtney

MOTION CARRIED

B. VARIANCE REQUEST, DAN IVANOVIC CONSTRUCTION, 5188 SERENA – In order to enlarge the attached garage, a 5 foot variance to the required 40 foot front yard setback.

SECTION: 30.10.01

Mr. Evans addressed the location, surrounding zoning and requested front yard setback variance. He indicated the applicant's intent is to keep the existing matching elevation.

Dan Ivanovic of Ivanovic Construction Inc., 54245 Queensborough Drive, Shelby Township, was present to represent the property owner. Mr. Ivanovic said his client, Dr. Evan Black, conducts training for ophthalmic surgical procedures. The doctor offers his home to guests who are in town for the training and would like a garage big enough to accommodate the additional vehicles during those stays. Mr. Ivanovic said he spoke with surrounding neighbors and there appears to be no objections to the proposed garage. Mr. Ivanovic said the garage expansion would not change the look of the house elevation; the only difference would be that the garage is 7 feet longer on the street side.

Dr. Evan Black of 5188 Serena Drive, Troy, was present. Dr. Black, an ophthalmic plastic and reconstructive surgeon, said there is usually only one guest at a time, and the visits are infrequent. He said it is an offer of goodwill on his part and sister hospitals to accommodate the guests attending the surgical training. Dr. Black said a guest could stay anywhere from one to two weeks. Dr. Black said parking of vehicles is especially difficult during the winter months with the clearing of snow. He would like a garage big enough to accommodate guest vehicles as well as use the space efficiently for typical garage items.

Mr. Bartnik asked for dimensions of the existing driveway and the number of cars that can park in the driveway without obstructing access to the garage.

Dr. Black replied that three to four cars can easily park in the circular driveway. He distributed photographs to the Board members.

PUBLIC HEARING OPENED

No one was present to speak. Chair Lambert noted there is no correspondence on file from neighbors.

PUBLIC HEARING CLOSED

Resolution # BZA 2011-02-009
Moved by Bartnik
Seconded by Courtney

MOVED, To approve this variance.

Preliminary Findings:
- That the variance is not contrary to public interest.
- That the variance does not permit the establishment of a prohibited use within a zoning district.
- That the variance does not cause an adverse effect to properties in the immediate vicinity.
- That the variance relates only to the petitioner's property.

Special Findings:
- The petitioner has the following practical difficulties that flows with the configuration of this house, in particular with regard to the shape of the lot, the location of the driveway and the turn into the garage.
- Conforming is unnecessarily burdensome. Variance is not excessive.
- That the practical difficulties result from the size, location and configuration.

Yes: Bartnik, Clark, Courtney, Fisher, Lambert, Strat
No: Kneale

MOTION CARRIED

C. VARIANCE REQUEST, LOUIS PAULL, 1396 COUNTRY – In order to construct an uncovered patio structure, an 8 foot variance from the required 30 foot setback adjacent to Pine Way Road.

SECTIONS: 30.10.02 and 41.45.00

Mr. Evans addressed the location, surrounding zoning and requested setback variance.

The petitioner, Louis Paull of 1396 Country, Troy, was present. Mr. Paull addressed the proposed deck with alternative locations and sizes. He indicated that a deck with zero encroachments would basically be unusable. He said placing the deck at the rear of the house would necessitate the removing existing trees, redirecting sprinkler valves, and relocating the air conditioner, downspouts and gutters. Mr. Paull addressed several deck options, elevations and photographs.

Mr. Bartnik asked if the photograph displaying the deck with orange tape is the same deck configuration that he viewed during his site visit.

Mr. Paull replied in the affirmative. Mr. Paull confirmed the drawing labeled A02a is the deck displayed in the photograph with orange tape, and the deck most reasonably situated, usable and aesthetically pleasing. Mr. Paull said he thoroughly researched possible variations.

Mr. Courtney asked Mr. Paull how much usable area would remain if the distance was taken off between the two stakes.

Mr. Paull replied that would cut down the usable area quite a bit. He said from the original plan, he reduced the size of the encroachment area about 45% and reduced the internal dimensions of the patio by 32%.

Mr. Courtney said he thinks the applicant could reduce the size more, but most likely could not reduce it enough to avoid seeking a variance.

Mr. Paull said his research proved constructing a deck with zero encroachments impractical. He confirmed situating the deck in the rear would involve removing existing trees, redirecting sprinkler valves, and relocating the air conditioner, downspouts and gutters.

Mr. Strat said it appears to him that from the functionality of the applicant's home, the most logical location is at the side of house near the nook sliding door. Mr. Strat said it appears not to be practical for the applicant to situate the deck in the rear, not to mention incurred costs. He said it appears the applicant has no other options with respect to the deck location.

Mr. Paull agreed that from a functionality standpoint, the side yard is the only logical location.

PUBLIC HEARING OPENED

No one was present to speak. Chair Lambert noted one correspondence is on file from the homeowners association giving approval to construct a deck.

PUBLIC HEARING CLOSED

Resolution # BZA 2011-02-010
Moved by Clark
Seconded by Fisher

MOVED, To approve this variance.

Preliminary Findings:
- That the variance is not contrary to public interest.
- That the variance does not permit the establishment of a prohibited use within a zoning district.
- That the variance does not cause an adverse effect to properties in the immediate vicinity or zoning district.
- That the variance relates only to property described in the application for variance.

Yes: All present (7)

MOTION CARRIED

4. HEARING OF CASES

A. TEMPORARY PARKING REQUEST, LARY LLEWELLYN, 475 E. LOVELL – A request to allow the temporary outdoor parking of a commercial vehicle in a one family residential district.

SECTION: 43.74.00

Mr. Evans addressed the location and surrounding zoning. He said the one-year renewal granted in 2010 expired and the applicant is seeking a two-year renewal. Mr. Evans said the City has received no complaints to date on this matter.

The petitioner, Lary Llewellyn of 475 E. Lovell, Troy, was present. Mr. Llewellyn said the circumstances are the same as they were when the City granted the temporary outdoor parking in 2010. He indicated his employer, Comcast, requires employees who are on call to keep the company vehicle within easy access for dispatch. Mr. Llewellyn said he is on call once a month for seven days. He is also classified as a home garage technician and in that capacity, he must be available for dispatch 24/7, 365 days a year to service Oakland or Macomb Counties.

Mr. Llewellyn addressed the cost estimate to expand the existing garage to accommodate a third vehicle. He indicated the estimate is approximately $20,000, and further explained the garage would be oversized because of the required clearance to accommodate the vehicle.

Mr. Courtney expressed that an oversized garage might be more of an eyesore than a well-hidden truck on the premises.

Mr. Clark stated it appears that existing mature landscaping obscures the truck from view of most passers-by. Mr. Clark asked the size of the applicant's lot.

Mr. Llewellyn replied that his lot is almost one acre in size.

Mr. Kneale asked if the applicant has a vehicle on the premises only when he is on call.

Mr. Llewellyn replied in the negative. He said the only time there is no commercial vehicle on the premises is when he is on vacation. Mr. Llewellyn explained that he is required to be on call 7 days out of each month; and further, in the capacity of a home garage technician, he is on call 24/7, 365 days.

Mr. Forsyth reminded the Board the matter before them is a temporary parking request for a commercial vehicle, and to apply standards in Section 43.74.00 to reach their determination.

PUBLIC HEARING OPENED

Dean Cox of 425 E. Lovell, Troy, was present to speak in favor of the request. Mr. Cox said he also submitted a written communication stating he had no objections to the request. Mr. Cox said the truck is barely visible to adjacent homeowners and causes no problems to the neighborhood.

Chair Lambert stated there are two communications on file from neighbors indicating they have no objections to the request.

PUBLIC HEARING CLOSED

Resolution # BZA 2011-02-011
Moved by Courtney
Seconded by Clark

MOVED, To approve the request for two years.

- The applicant meets Standards B and C of Section 43.74.01.
  - Standard C – The commercial vehicle does not negatively impact adjacent residential properties; nor does it negatively impact pedestrian and vehicular movement.
  - Standard B – A garage addition would be unsightly because of the necessity to make the clearance higher.

Discussion on the motion on the floor.

Mr. Bartnik stated it is evident the petitioner keeps a very well maintained home and configures the commercial vehicle to be nearly invisible to adjacent homeowners and passers-by. Mr. Bartnik said it is his opinion that the employer should be in front of the Board with commercial vehicle requests. He said it appears that Comcast requires their employees and independent contractors to keep commercial vehicles

at their residences and, in doing so, imposes the violation of local zoning ordinances upon their employees and independent contractors.

Vote on the motion on the floor.

Yes: All present (7)

MOTION CARRIED

B. VARIANCE REQUEST, DAN SIMIONESCU, 691 OTTAWA – In order to continue the presence of previously constructed accessory buildings, 1) a 1255 square foot variance to the requirement that the combined ground floor area of all detached accessory buildings not exceed 450 square feet plus 2% of the total lot area, 2) a 1.5 foot variance to the requirement that a detached accessory building be at least 6 feet from a side lot line, and 3) approval to use some of the buildings as barns.

SECTIONS: 40.56.03 (C), (D), (F)

Mr. Evans addressed the location, surrounding zoning and requested variances. Mr. Evans gave a brief history of the property and identified that there are six detached accessory buildings, of which the City currently has construction permits for the second garage and barn. He said the remaining detached structures are a small manure cover, an element shelter, and several coops for fowl and other types of animals.

Mr. Evans explained the two formulas in the same Section of the Zoning Ordinance that regulate the aggregate total amount of square footage for detached accessory buildings. He noted that the Public Hearing notice advertised that the combined floor area of all detached accessory buildings shall not exceed 450 square feet, plus 2% of total lot area, requiring a 1,255 square foot variance. Mr. Evans stated the second formula allows the applicant 2,336 square feet of accessory floor area, requiring a 1,146 square foot variance. He said the calculations differ somewhat from previously approved variances because the barn under consideration at the time was actually constructed a little bit smaller.

Mr. Evans briefly addressed the 1.5 foot setback variance required for the existing chicken coop and the applicant's request to keep the existing barns.

Brian Carrier, attorney, of 45670 Village Blvd., Shelby Township, was present to represent the property owner. Mr. Carrier addressed the previously granted variance for the construction of the barn. He noted that since that approval, there have been no additional buildings constructed. He stated further that there is a reduction in the square footage of accessory floor area because the goat shelter is removed and the barn was constructed smaller than originally approved.

Mr. Carrier said the property owner is in front of the Board this evening to allow a variance for the detached accessory buildings that have already been in existence; i.e., element shelter, chicken coop, pigeon coop, additional coop and manure cover. He noted that the property owner has already obtained permits and variances for the house, the garages and the barn.

Mr. Carrier cited the square footage of the following detached accessory buildings:

- element shelter, 370 square feet
- chicken coop, 120 square feet
- pigeon coop, 28 square feet
- coop, 20 square feet
- manure cover, 64 square feet

He indicated that a 542 square foot variance is requested this evening; 602 square feet, less the 60 square feet for the barn that was constructed smaller than originally planned.

Mr. Carrier referenced a petition signed by surrounding property owners stating they have no objections and are in agreement with the requested variances. He said the only objection to the requests is the neighbor residing at 761 Ottawa. Mr. Carrier stated the detached accessory buildings are not visible to the adjacent homeowners. He referenced a photograph of the element shelter and briefly addressed its purpose. The shelter would provide dry ground for the animals during inclement weather and cleaning of stalls.

Chair Lambert asked the applicant if he had contact with the neighbor to the west.

The property owner, Dan Simionescu, was present and said the neighbor to the west is elderly, never comes out of her home and he did not want to trouble her.

Mr. Courtney asked the applicant if he would have any objection to a Resolution that covers all the detached accessory buildings.

Mr. Carrier replied that would be his preference.

PUBLIC HEARING OPENED

No one was present to speak.

Chair Lambert acknowledged receipt of a petition signed by approximately fifteen neighbors in favor of the request, and one written objection from a neighbor.

PUBLIC HEARING CLOSED

Mr. Evans advised the Board the Planning Department became aware of the matter as a result of a resident bringing the matter to the attention of City Council at one of their Regular meetings. Mr. Evans said research found no minutes or plans on

record that grant approval of all the existing detached accessory buildings on this property. He indicated if the applicant is successful this evening, it would validate all the structures on site.

Mr. Bartnik asked that the record reflect he visited the subject property today and spoke with the petitioner, at which time the property owner stated the buildings were present as of 2001. Mr. Bartnik said the structures appear to be long standing structures and the property can support the structures. He sees no problem with the existing state of affairs and is in favor of granting the petition.

Mr. Kneale suggested to view aerial photography to see what structures existed.

Mr. Evans displayed 1990 and 2002 aerial photographs. It was difficult to determine from the aerial photography which structures existed at that time.

Mr. Strat said he likes the existing environment and is in favor of the request. He addressed legislation of every parcel in the City.

Resolution # BZA 2011-02-012
Moved by Courtney
Seconded by Clark

MOVED, To approve this variance, as written.

Preliminary Findings:
- That the property is large enough to support all the buildings.
- The variance does not have an adverse effect to surrounding properties.
- That the variance is not contrary to public interest.

Yes: All present (7)

MOTION CARRIED

C. VARIANCE REQUEST, JEFF GLASER, OUR CREDIT UNION, 6693 ROCHESTER – A variance from the requirement that a 6 foot high obscuring wall be provided to the residentially zoned properties north and west of the subject location.

SECTION: 39.10.01

Mr. Evans addressed the location, surrounding zoning, history of the property and the applicant's request for a permanent variance.

Chair Lambert referenced an email communication from a neighbor residing at 947 Hannah, requesting pine trees to obscure vehicular headlights of bank customers during evening hours.

It was noted that 947 Hannah is south of the credit union. Mr. Evans stated there is no requirement to provide a screen wall to the south because of the street separation between the properties.

Mr. Kneale acknowledged a past business relationship with the applicant. He said he has not seen the applicant for years and is comfortable hearing and acting on the agenda item.

The Board members agreed there was no reason for Mr. Kneale to recuse himself.

Jeff Glaser from Our Credit Union, 6693 Rochester Road, Troy, was present. Mr. Glaser briefly addressed the working relationship with the Planning Commission and the Board of Zoning Appeals with respect to providing a landscaped buffer for residential. Mr. Glaser said they want to be a good neighbor. He addressed various lighting of the building and premises, hours of operation, existing landscape and vegetation. He believes building a wall to the north and west would take away from the beauty of the area. Mr. Glaser addressed the existing vegetation with the changes of seasons.

Mr. Glaser addressed the communication from the resident at 947 Hannah. He indicated that he personally has driven around the drive-through area during evening hours and does not see how headlights could possibly reach residents on Hannah. Mr. Glaser indicated the resident on Hannah approached the construction supervisor during the construction phase with similar concerns. The credit union offered to plant trees on his property and/or along the lot line. Mr. Glaser said he assumed everything was resolved but the resident did not respond to that offer.

Doug Clark, project developer, from The Case Group, 28175 Haggerty, Novi, was present. Mr. Clark addressed the buffer to the west in relation to the building angle and drive-through. He noted the buffer is over six lots wide and vegetation is not yet at full maturity. Mr. Clark addressed the various stages of vegetation with the seasons.

Mr. Glaser stated the credit union has been in operation since December 6, 2010.

Mr. Courtney suggested consideration of a permanent variance would be more appropriate after the credit union has been in operation for three years.

Mr. Forsyth requested a time to research the Zoning Ordinance with respect to the number of years of operation.

PUBLIC HEARING OPENED

Marc Himelstein of 754 Sandalwood Drive, Troy, was present to represent the Sandalwood Condominium Association. Mr. Himelstein asked for consideration to construct a six-foot wall as a buffer to the north for at least three years while the business develops. He addressed concerns of Sandalwood homeowners with

respect to noise and safety. Mr. Himelstein said the homeowners have no objections to waiving the wall to the west.

Mr. Courtney informed Mr. Himelstein that the Board would not require the applicant to put up a wall on the pretense of taking it down three years later. He asked if the noise might be coming from Rochester Road instead, and indicated a wall is not a good deterrent for noise.

Mr. Himelstein said the noise complaints are from those residents living in the front of the building, and they fully understand that a wall is not a perfect solution but at least it would provide another barrier for safety.

There was discussion on:
- Location of condominium units in relation to credit union.
- Detention pond in relation to credit union and condominiums.
- Discussion/communication between condominium association and credit union.
- Safety of children; near Rochester Road, detention pond, credit union parking lot.

PUBLIC HEARING CLOSED

Mr. Forsyth said it is at the Board's discretion to waive the wall. He cited Section 39.10.04 uses the word "may"; the wall could be permanent or more of a temporary nature as proposed by Mr. Courtney.

Mr. Courtney said the section refers to "after a three year period", and in this instance the variance has been granted for three years even though the variance was granted under different ownership.

Resolution # BZA 2011-02-
Moved by Courtney
Seconded by Kneale

MOVED, To grant the variance for one year, to allow more time to determine whether a wall should be constructed.

Preliminary Findings:
- The conditions remain the same.
- Allow sufficient time for residents to the north to determine whether a wall is necessary or not.

Discussion on the motion on the floor.

Mr. Bartnik expressed concern for residents to the north. He said the building looks completely different from when it was originally reviewed.

Mr. Courtney agreed the building is different from what was originally reviewed.

Mr. Clark said he agrees with a one year renewal. He addressed the concerns of the residents to the north, 24-hour ATM window, vehicular headlights and litter. Mr. Clark suggested in the future that the condominium association forward a formal resolution to the Board stating their concerns.

Mr. Evans suggested postponing the item to a date certain as an alternative solution to granting a variance for one year.

A short discussion followed.

Mr. Courtney said he would like to withdraw the west wall from the Resolution on the floor. His intent is to offer a following Resolution to grant a permanent variance for the required wall on the west.

Resolution # BZA 2011-02-
Moved by Courtney
Seconded by Kneale

MOVED, To grant a variance for one year for the required wall to the north.

Discussion on the motion on the floor.

Mr. Glaser addressed potential for litter on the property. He said the credit union produces as little paper as possible for security and cost reasons. Mr. Glaser addressed the wall to the north in relation to the elevation of the condominium units, noise, safety and traffic.

Chair Lambert asked if the applicant would prefer to postpone the item to allow time to address the condominium association concerns.

Mr. Glaser said he is amenable to the wishes of the Board. He said he is not sure anything short of a wall would be satisfactory to the residents.

Mr. Himelstein offered an invitation to the applicant to attend their annual board meeting held in the summer.

There was a brief discussion on granting a six month variance or postponing the item for six months.

Resolution # BZA 2011-02-013
Moved by Courtney
Seconded by Kneale

MOVED, To postpone action on the required wall to the north to the August 16, 2011 Regular meeting.

Discussion on the motion on the floor.

Mr. Evans announced with a postponement that notification to the public is not required.

Chair Lambert stated the motion to postpone takes precedence over the other motions on the floor.

Vote on the motion on the floor.

Yes: All present (7)

MOTION CARRIED

Resolution # BZA 2011-02-014
Moved by Courtney
Seconded by Fisher

MOVED, To grant a permanent variance on the west wall.

Yes: All present (7)

MOTION CARRIED

Mr. Kneale asked if it is appropriate to address the communication received from the neighbor to the south.

Mr. Forsyth said it would not be proper to address the communication, the reason being that the variance before the Board this evening dealt strictly with the north and west sides of the property.

5. COMMUNICATIONS

Mr. Evans announced that a Public Hearing is scheduled on the March 8, 2011 Planning Commission Regular meeting for the newly drafted Zoning Ordinance.

6. PUBLIC COMMENT

There was no one present who wished to speak.

7. MISCELLANEOUS BUSINESS

Chair Lambert welcomed Mr. Strat to the Board.

Mr. Bartnik encouraged members to take an active interest in the newly drafted Zoning Ordinance.

8. ADJOURNMENT

The Board of Zoning Appeals meeting adjourned at 9:57 p.m.

Respectfully submitted,

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David Lambert, Chair

_____

Kathy L. Czarnecki, Recording Secretary

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