

The Vice-Chairman, Marcia Gies, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M., on Tuesday, November 18, 2003 in Council Chambers at City Hall.

PRESENT: Kenneth Courtney
Christopher Fejes
Marcia Gies
Michael Hutson
Matthew Kovacs
Dennis Kramer
Mark Maxwell (8:10 P.M.)

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

ABSENT: Mark Maxwell

Motion by Hutson
Supported by Fejes

MOVED, to excuse Mr. Maxwell from attendance at this meeting.

Yeas: All – 6

MOTION TO EXCUSE MR. MAXWELL CARRIED

ITEM #1 – APPROVAL OF MINUTES – MEETING OF OCTOBER 21, 2003

Motion by Hutson
Supported by Fejes

MOVED, to approve the minutes of the meeting of October 21, 2003 with the correction listed below.

Vote to excuse Mr. Courtney and Mr. Maxwell from attendance at the meeting should indicate approval by five (5) members of the Board. Fejes, Gies, Hutson, Kovacs and Vleck.

Yeas: 5 – Gies, Hutson, Kovacs, Kramer, Fejes
Abstain: 1 – Courtney

MOTION TO APPROVE MINUTES OF MEETING OF OCTOBER 21, 2003 AS CORRECTED CARRIED

ITEM #2 - MR. JOHN POTVIN, 5648 CLEARVIEW DR., for relief of Section 30.10.02 to construct a family room addition, which would result in a 28' rear yard setback where 45' is required.

ITEM #2 – con't.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct a family room addition. The site plan submitted indicates a family room addition at the rear of the home with a proposed 28' rear yard setback. Section 30.10.02 requires a 45' minimum rear yard setback in R-1B Zoned Districts.

This item first appeared before this Board at the meeting of October 21, 2003 and was postponed to allow the petitioner the benefit of a full board.

Mr. Potvin was present and stated that he had spoken with his neighbors as well as with the Homeowners Association and they have no objection to this addition. Mr. Potvin believes that this is a beautiful plan and would add to the character of the home.

Mr. Courtney asked for clarification of the plot plan, which indicated 69.5' from the lot line to the south. Mr. Stimac explained that this was not the distance from the lot line, but the distance between the two houses.

Mr. Courtney then asked Mr. Potvin to demonstrate a hardship that runs with the land. Mr. Potvin said that he is asking for an additional room and this is the only place to put it. Mr. Courtney said that other than just wanting to enlarge the home he wanted to know what the hardship was with the property. Mr. Potvin said that he thought the hardship would be that the wall of the home would always be there.

Ms. Gies asked Mr. Potvin if it was possible to reduce the size of this addition. Mr. Potvin said that he had not spoken with his builder about making this addition smaller, but would be willing to do so.

Mr. Kramer asked if this addition could be added to the house in a way that would increase the north-south dimension and decrease the east-west dimension of the addition. Mr. Potvin said that he did not think this would be feasible, as too many other structural changes would need to be made to the home. Mr. Kramer indicated that he thought this variance request was excessive and thought that Mr. Potvin could explore other options regarding this addition.

Ms. Gies opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are two (2) written approvals on file. There is one (1) written objection on file.

Motion by Kramer
Supported by Courtney

ITEM #2 – con't.

MOVED, to postpone the request of Mr. John Potvin, 5648 Clearview Dr., for relief of Section 30.10.02 to construct a family room addition, which would result in a 28' rear yard setback where 45' is required, until the meeting of January 20, 2004.

- To allow the petitioner the opportunity to meet with his builder and determine if this addition could be made smaller.
- To allow the petitioner the opportunity to explore the possibility of constructing this addition along the north wall of this home.

Yeas: 6 – Hutson, Kovacs, Kramer, Courtney, Fejes, Gies
Absent: 1 – Maxwell

MOTION TO POSTPONE REQUEST UNTIL THE MEETING OF JANUARY 20, 2004
CARRIED

ITEM #3 - PAUL FLECK, 2805 RANIERI, for relief of Section 30.10.05 to construct a patio enclosure addition, which would result in a 26' rear yard setback where 40' is required.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a patio enclosure addition on the rear of his home. The site plan submitted indicates a 26' rear yard setback to the proposed patio enclosure. Section 30.10.05 requires a 40' minimum rear yard setback in R-1D Zoning Districts.

This item first appeared before this Board at the meeting of October 21, 2003 and was postponed to allow the petitioner the benefit of a full board, as well as for the petitioner to explore the possibility of adding a smaller addition; and to demonstrate to the Board the reasons the addition must be placed in this location.

This petitioner sent in a letter indicating that he would be out of town for this meeting and asked that his request be postponed until the December 16, 2003 meeting.

Motion by Kovacs
Supported by Hutson

MOVED, to postpone the request of Paul Fleck, 2805 Ranieri, for relief of Section 30.10.05 to construct a patio enclosure addition, which would result in a 26' rear yard setback where 40' is required until the meeting of December 16, 2003.

- To allow the petitioner the opportunity to be present.

Yeas: 6 – Kovacs, Kramer, Courtney, Fejes, Gies, Hutson
Absent: 1 – Maxwell

MOTION TO POSTPONE REQUEST UNTIL MEETING OF DECEMBER 16, 2003
CARRIED

ITEM #4 - MR. & MRS. DEWITT, 4871 RIVERS EDGE, for relief of Section 30.10.02 and Section 41.50.00 to construct a screened porch addition, which would result in a rear setback of 43'-2" to the wall where 45' is required, and a 40'-8" minimum rear yard setback to the roof overhang where 42' is required.

Mr. Stimac explained that the petitioners are requesting relief of the Ordinance to construct a screened porch addition at the rear of their home. The site plan submitted indicate a screened porch addition with proposed rear setbacks of 43'-2" to the wall and 40'-8" to the roof overhang. Section 30.10.02 requires a 45' minimum rear setback to the wall and Section 41.50.00 requires a 42' minimum rear yard setback to the roof overhang in the R-1B Zoning District.

This item first appeared before this Board at the meeting of October 21, 2003 and was postponed to allow the petitioner the benefit of a full board.

Mr. Dewitt was present and stated that he felt that the variances he was asking for were very minimal and would not have an adverse effect to surrounding property.

Ms. Gies 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.

Ms. Gies asked the petitioner if he wished to postpone his request until the meeting of December 16, 2003 to allow the opportunity for a full board and Mr. Dewitt stated that he did not wish to postpone this request.

Motion by Kovacs
Supported by Courtney

MOVED, to grant Mr. & Mrs. Dewitt, 4871 Rivers Edge, relief of Section 30.10.02 and Section 41.50.00 of the Zoning Ordinance to construct a screened porch addition, which would result in a rear setback of 43'-2" to the wall where 45' is required, and a 40'-8" minimum rear yard setback to the roof overhang where 42' is required.

- Variance request is minimal.
- Variance is not contrary to public interest.
- Variance would not have an adverse effect to surrounding property.
- Without a variance, literal enforcement of the Ordinance would be unnecessarily burdensome.

Yeas: 6 – Kramer, Courtney, Fejes, Gies, Hutson, Kovacs
Absent: 1 – Maxwell

MOTION TO GRANT VARIANCE CARRIED

ITEM #5 - JAMES HARRIS, 2888 BINBROOKE, for relief of Section 30.10.02 to construct a master suite addition on the west side of his home, which would result in a 6'-2" side yard setback where a minimum 10' minimum side yard setback is required.

Ms. Gies moved this item to the end of the agenda, Item #9, to allow the petitioner the opportunity to be present.

ITEM #6 – VARIANCE REQUESTED. FRANK ZIMMER, OF THE HONEY BAKED HAM COMPANY, 1081 E. LONG LAKE ROAD, for approval under Section 43.80.00 of the Zoning Ordinance to place two temporary storage containers outside for a period from December 10, 2003 through December 31, 2003.

Ms. Gies moved this item to the end of the agenda, Item #10, to allow the petitioner the opportunity to be present.

ITEM #7 – VARIANCE REQUESTED. MR. & MRS. ROBERT ROOT, 4250 BUTTERNUT HILL, for relief of Section 30.10.01 and Section 40.50.04 to construct an addition to an existing legal non-conforming structure, which will result in a 36' setback where 40' is required.

Mr. Stimac explained that the petitioners are requesting relief of the Ordinance to construct an addition to 4250 Butternut Hill. This lot is a double front corner lot. Therefore, Section 30.10.01 of the Zoning Ordinance requires a 40' front setback along both Butternut Hill and Pine Hill. The existing home has a 32.2' setback from the property line along Pine Hill. Due to the age of this home it would be classified as a legal non-conforming structure. The proposed kitchen/family room addition would continue the non-conformity with a 36' proposed front setback to Pine Hill. Section 40.50.04 prohibits expansions of non-conforming structures in a way that increases the non-conformity.

Mrs. Root was present and stated that basically this is a very small home and they are hoping to update it. Mrs. Root said that right now the home has two (2) bedrooms and one (1) bath and they wished to make it a three (3) bedroom home with two (2) baths, which would be more consistent with other homes in the neighborhood, and would bring the total square footage of the home to approximately 2100 square feet. Mrs. Root said that because this lot is pie-shaped it is very difficult to put the addition in another area.

Mrs. Root brought in a revised survey, which indicates that the proposed addition would be 35.6' from the lot line rather than 36.0' as advertised in the Public Hearing. City Administration and the Assistant City Attorney both agreed that the Board could not grant a variance that would result in less than a 36.0' setback.

Mr. Courtney asked the petitioner if they would like the Building Department to re-advertise the Public Hearing indicating a lesser setback, or if they wished to stay with their original request. After some discussion, Mrs. Root determined that they would continue with their present request. Mr. Stimac indicated that based on the angle involved a change in their construction plans would vary between 3" and 4", and these changes could be made very easily.

Ms. Gies opened the Public Hearing.

ITEM #7 – con't.

Mr. Robert Carrigan, 2922 Pine Hill Drive, was present and stated that he was in full support of this variance request. Mr. Carrigan indicated that because Pine Hill Drive is approximately 20' wide and there is about 20' between the road and the property line, any type of encroachment would not be visible. Mr. Carrigan said that he thought this addition would be an improvement to this site.

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

Mr. Maxwell arrived at 8:10 P.M.

There are four (4) written approvals on file. There are no written objections.

Motion by Courtney
Supported by Hutson

MOVED, to grant Mr. & Mrs. Robert Root, 4250 Butternut Hill, relief of Section 30.10.01 and Section 40.50.04 of the Zoning Ordinance to construct an addition to an existing legal non-conforming structure, which will result in a 36' setback where 40' is required.

- Variance is not contrary to public interest.
- Variance does not establish a prohibited use in a Zoning District.
- Variance would not have an adverse effect to surrounding property.
- Addition would be an improvement to this home.

Yeas: 6 – Courtney, Fejes, Gies, Hutson, Kovacs, Kramer
Abstain: 1 – Maxwell

MOTION TO GRANT VARIANCE REQUEST CARRIED

ITEM #8 – REQUEST FOR RECONSIDERATION. HARRY & SUNNIE KWON, 38921 DEQUINDRE, for reconsideration of denial of the variance for the required screen wall for a 35' long portion of the west property line where the property borders residential zoned property.

Mr. Stimac explained that the petitioners are requesting reconsideration of a denial of relief of the required screen wall for a 35' long portion of the west property line where the property borders residential zoned property. The Board at their meeting in September of 2003 originally denied this request. We have included a letter from the petitioner as well as a copy of correspondence from the Assistant City Attorney regarding additional easement documents in this matter. If this item were approved for reconsideration, we would ask that you postpone final action until the meeting of December 16, 2003 so that we may send out new Public Hearing notices.

Mr. Stimac also informed the Board that he had spoken to Mr. Kwon and indicated that he did not feel Mr. Kwon needed to be present at this meeting as he felt the additional paperwork spoke for itself.

ITEM #8 – con't.

Mr. Hutson stated that after reading Mr. Motzny's memo and supporting documentation he still does not feel that Sunoco has the right to prohibit Mr. Kwon from adding this screen wall. Mr. Hutson further stated that he interpreted the documents to mean that a wall could be added as long as it did not touch the ground. Mr. Hutson further stated that he had seen a number of walls that were approximately 6" off the ground and felt that this might be an alternative screen wall. Mr. Stimac said that he also had seen elevated walls in the City; however, he had not seen one that would be elevated for a 35' length.

Mr. Courtney asked if any documentation had come in that detailed what Sunoco would or would not allow regarding the construction of this screen wall. Mr. Stimac stated that Administration had attempted to get Sunoco to come to this meeting, but they had not replied to this request.

Mr. Courtney asked if there was any reason to re-consider this request until Sunoco had provided any documentation. Mr. Hutson said he thought that perhaps this request for reconsideration should be postponed to allow City Administration to meet with both parties to determine what would be allowed; and also because he still did not feel that Sunoco could prevent Mr. Kwon from adding this wall.

Mr. Hutson asked what was required by the Ordinance. Mr. Stimac said that the Zoning Ordinance requires a 6' high masonry wall.

Motion by Hutson
Supported by Courtney

MOVED, to postpone reconsideration of the request of Harry & Sunnie Kwon, 38921 Dequindre, for reconsideration of the denial of the variance for the required screen wall for a 35' long portion of the west property line where the property borders residential zoned property until the meeting of December 16, 2003.

- To allow City Administration to contact Sunoco for a determination of what Sunoco is willing to allow to be constructed on this property.

Yeas: 6 – Gies, Hutson, Kovacs, Maxwell, Kramer, Courtney
Nays: 1 – Fejes

MOTION TO POSTPONE RECONSIDERATION OF DENIAL UNTIL MEETING OF
DECEMBER 16, 2003 CARRIED

ITEM #9 – (ITEM #5) VARIANCE REQUESTED. JAMES HARRIS, 2888 BINBROOKE, for relief of Section 30.10.02 to construct a master suite addition on the west side of his home, which would result in a 6'-2" side yard setback where a minimum 10' minimum side yard setback is required.

ITEM #9 – con't.

Mr. Stimac explained that the petitioner is requesting relief of Section 30.10.02 of the Zoning Ordinance to construct an addition to his home. The site plan submitted indicates a master suite addition on the west side of the home resulting in a 6'-2" side yard setback on the west side and a total of both side yards of 23'-2". Section 30.10.02 requires a 10' minimum side yard setback and a total of both sides of 25' in a R-1B Zoning District.

This item first appeared before this Board at the meeting of October 21, 2003 and was postponed to allow the petitioner the opportunity to be present.

The petitioner was not present.

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 is one (1) written objection on file.

Motion by Courtney
Supported by Hutson

MOVED, to deny the request of James Harris, 2888 Binbrooke, for relief of Section 30.10.02 of the Zoning Ordinance to construct a master suite addition on the west side of this home, which would result in a 6'-2" side yard setback where a minimum 10' minimum side yard setback is required.

- Petitioner failed to appear before this Board and demonstrate a hardship, which would justify a variance.

Yeas: 5 – Kramer, Courtney, Fejes, Gies, Hutson
Nays: 2 – Kovacs, Maxwell

MOTION TO DENY REQUEST CARRIED

ITEM #10 - (ITEM #6) - VARIANCE REQUESTED. FRANK ZIMMER, OF THE HONEY BAKED HAM COMPANY, 1081 E. LONG LAKE ROAD, for approval under Section 43.80.00 of the Zoning Ordinance to place two temporary storage containers outside for a period from December 10, 2003 through December 31, 2003.

Mr. Stimac explained that the petitioner is requesting approval under the Zoning Ordinance to place two temporary storage containers outside at 1081 E. Long Lake from December 10th through December 31, 2003. Section 43.80.00 of the Zoning Ordinance requires approval from the Board of Zoning Appeals to permit temporary buildings for permitted uses not to exceed two years.

The petitioner was not present.

ITEM #10 – con't.

Mr. Maxwell asked if this was the same request this Board had seen in previous years. Mr. Stimac indicated that in years prior to 1999 this request had been heard by City Council. In 1999 it was recommended that the Board of Zoning Appeals hear this request. Mr. Stimac also explained that the Board of Zoning Appeals has the ability to grant a request for temporary storage for a period up to two years; however, this petitioner is only asking for these storage trailers to be in place from December 10th through December 31st.

The Chairman opened the Public Hearing.

Ms. Diane Zebracki, 1220 E. Long Lake was present and said that these hams are unloaded between 5:00 and 6:00 A.M., and there is a constant noise, which she finds very disruptive. Ms. Zebracki explained that she works an off-shift and this noise begins about the time she is trying to sleep. Mr. Kovacs asked if this noise was worse during the time period the petitioner is requesting the variance or if it continues year round. Ms. Zebracki said that it goes all the time, but is especially bothersome during the Holiday season.

Mr. Courtney asked if Ms. Zebracki had contacted the manager of the store to ask if they could unload these hams at a later time. Ms. Zebracki stated that she had not and asked if this system consisted of some type of conveyor belt that would create this noise. Mr. Courtney said that he thought that was probably the case, but said he thought the situation could be resolved by speaking directly with the manager.

Mr. Kovacs said that the Board is trying to determine if the noise from this location is constant or if it is worse during this time period. Ms. Zebracki asked where the trailers would be located. Mr. Stimac explained that they would be at the back of the shopping center, which would be the furthest north of Ms. Zebracki's house.

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

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

Motion by Courtney
Supported by Gies

MOVED, to grant Frank Zimmer, of the Honey Baked Ham Company, 1081 E. Long Lake Road, approval under Section 43.80.00 of the Zoning Ordinance to place two temporary storage containers outside for a period from December 10, 2003 through December 31, 2003.

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


Yeas: All – 7

Motion to grant variance carried.

Mr. Hutson stated that he would like the motion to indicate that he feels the petitioner should make an effort to appear before the Board when a variance request is made.

Mr. Motzny indicated that beginning in December, Susan Lancaster, Assistant City Attorney, would be the representative for the Board of Zoning Appeals. The Board thanked Mr. Motzny for all of his help during the year.

The Board of Zoning Appeals meeting adjourned at 8:36 P.M.


Mark Maxwell, Chairman


Pamela Pasternak, Recording Secretary