

The Chairman, Michael Hutson, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M. on Tuesday, July 16, 2002.

PRESENT:	Kenneth Courtney	ALSO PRESENT:	Mark Stimac
	Marcia Gies		Allan Motzny
	Michael Hutson		Pam Pasternak
	Matthew Kovacs		
	Mark Maxwell		
	David Waller		

ABSENT: Christopher Fejes

#### **ITEM #1 – APPROVAL OF MINUTES – MEETING OF JUNE 18, 2002**

Motion by Kovacs  
Supported by Gies

MOVED, to approve the minutes of the meeting of June 18, 2002 with the correction listed below.

Vote on Item #12 should indicate that there were six (6) Yes Votes, and one (1) No Vote - Kovacs

Yeas:	5 – Gies, Hutson, Kovacs, Maxwell, Courtney
Abstain:	1 – Waller
Absent:	1 - Fejes

APPROVAL OF MINUTES OF MEETING OF JUNE 18, 2002 WITH CORRECTION CARRIED

#### **ITEM #2 – RENEWAL REQUESTED. VERSATUBE CORPORATION, 4755**

**ROCHESTER**, for relief of the 6' high masonry-screening wall required along the north and west property lines where the property abuts residentially zoned property.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board in regard to a 6' high masonry screening wall required along the north and west property lines of their site that abuts residential zoning. The Zoning Ordinance requires that a 6' high masonry-screening wall be provided at the zoning boundary. This Board has granted this relief since 1985. The Board granted relief allowing the petitioner to install an 8' high steel fence in lieu of the wall based on the fact that the fence suits the needs probably as well as, if not better, than the masonry wall. This item last appeared before this Board in August 1999 and was granted a three-year renewal. An application to rezone the adjacent property to the north to allow a residential townhouse development has recently been submitted to the City. Other than that, conditions remain the same and we have no complaints or objections on file.

The petitioner was not present.

**ITEM #2 – con't.**

Motion by Courtney

Supported by Gies

MOVED, to grant Versatube Corporation, 4755 Rochester, a three (3) year renewal for relief of the 6' high masonry-screening wall required along the north and west property lines where the property abuts residentially zoned property.

- Conditions remain the same.
- There are no complaints or objections on file.

Yeas: 6 - Gies, Hutson, Kovacs, Maxwell, Waller, Courtney

Absent: 1 – Fejes

MOTION TO GRANT RENEWAL FOR THREE (3) YEARS CARRIED

**ITEM #3 – RENEWAL REQUESTED. MR. & MRS. AL KING, 2212 LIVERNOIS, ATLAS VENEER FIREPLACES**, for relief to maintain a metal fence in lieu of the 6' high masonry screening wall required along the east property line where this commercial property abuts residentially zoned property.

Mr. Stimac explained that the petitioners are requesting relief to maintain a metal fence in lieu of the 6' high masonry-screening wall required along the east property line where this commercial property abuts residentially zoned property.

This Board originally granted this relief in 1983, primarily due to the fact that the petitioner owns the property to the east, which is undeveloped. This item last appeared before this Board in July 2000 and was granted a two (2) year renewal. Conditions remain the same, and we have no complaints or objections on file.

Mrs. King was present and stated that she had nothing to add.

Motion by Kovacs

Supported by Maxwell

MOVED, to grant Mr. & Mrs. Al King, 2212 Livernois, Atlas Veneer Fireplaces, a three (3) year renewal of relief to maintain a metal fence in lieu of the 6' high masonry screening wall required along the east property line where this commercial property abuts residentially zoned property.

- Conditions remain the same.
- There are no complaints or objections on file.

Yeas: 6 – Hutson, Kovacs, Maxwell, Waller, Courtney, Gies

Absent: 1 – Fejes

MOTION TO GRANT RENEWAL OF VARIANCE FOR THREE (3) YEARS CARRIED

**ITEM #4 – RENEWAL REQUESTED. MIDWEST GUARANTY BANK, 5950**

**ROCHESTER**, for relief of the 6' high masonry screening wall required along the south and east property lines where it abuts residentially zoned property.

Mr. Stimac explained that the petitioner is requesting relief of the 6' high masonry screening wall required along the south and east property lines. These property lines abut residential zoning and relief was originally granted in 1977 based on the fact that a river surrounded the area and there was a substantial brush growth that adequately screens the abutting residential land. This item last appeared before this Board in August 1999 and was granted a three (3) year renewal. Conditions remain the same, and we have no objections or complaints on file.

Mr. Dale Pfeiffer, Branch Manager for Midwest Guaranty Bank was present and stated that he had nothing to add.

Motion by Courtney  
Supported by Waller

MOVED, to grant Midwest Guaranty Bank, 5950 Rochester, a three (3) year renewal of relief of the 6' high masonry screening wall required along the south and east property lines where it abuts residentially zoned property.

- Conditions remain the same.
- There are no complaints or objections on file.

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

MOTION TO GRANT RENEWAL OF VARIANCE FOR THREE (3) YEARS CARRIED

**ITEM #5 – RENEWAL REQUESTED. OSPREY LTD, 2701 TROY CENTER DRIVE**, for relief of the 6' high masonry screening wall required along the north property line where it abuts residentially zoned property.

Mr. Stimac explained that the petitioner is requesting relief of the 6' high masonry-screening wall required along the north property line. The petitioner was originally granted this relief based on the fact that they would install 280' of decorative metal fencing and landscaping along this north property line that abuts a residential apartment complex. This item last appeared before this Board in August 1999 and was granted a three (3) year renewal. Conditions remain the same, and we have no objections or complaints on file.

Mr. Roger O'Toole of Osprey LTD was present and stated that there has been very little or no change to this property and wished to extend this variance request.

Motion by Maxwell  
Supported by Courtney

**ITEM #5 – con't.**

MOVED, to grant Osprey LTD, 2701 Troy Center Drive, a three (3) year renewal of relief of the 6' high masonry screening wall required along the north property line where it abuts residentially zoned property.

- Conditions remain the same.
- There are no complaints or objections on file.

Yeas: 6 – Maxwell, Waller, Courtney, Gies, Hutson, Kovacs

Absent: 1 – Fejes

**MOTION TO GRANT RENEWAL OF VARIANCE REQUEST FOR THREE (3) YEARS CARRIED**

**ITEM #6 – VARIANCE REQUESTED. KENT MELLEBRAND, 1065 HARTLAND,** for relief to construct a 576 square foot detached garage that would result in 896 square feet of accessory building where 600 square feet are permitted.

Mr. Stimac explained that the petitioner is requesting relief to construct a 576 square foot detached garage that would result in 896 square feet of accessory building where 600 feet are permitted. This item first appeared before this Board at the meeting of June 18, 2002 and was postponed to allow the petitioner to explore the possibility of attaching this proposed garage to his home.

Mr. Kent Mellebrand was present and stated that if he had to attach the garage to his home, he would have to cut down several mature trees and would rather have the garage detached.

Mr. Courtney asked Mr. Mellebrand if he planned on taking down the other existing garage and Mr. Mellebrand stated that he was not planning on removing this building.

Mr. Waller asked why Mr. Mellebrand felt he needed a larger garage, and Mr. Mellebrand stated that because the existing garage is very narrow, it is very difficult to get a car in and open the car door. Mr. Mellebrand went on to say that there is 18" from the side of the car to the side door, and this makes it very difficult to pull the car in and open the door in order to exit the vehicle.

There are two (2) approvals on file. There are two (2) objections on file.

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

Motion by Courtney  
Supported by Gies

**ITEM #6 – con't.**

MOVED, to deny the request of Kent Mellebrand for relief to construct a 576 square foot detached garage that would result in 896 square feet of accessory building where 600 square feet are permitted.

- Petitioner did not demonstrate a hardship with the land.
- Petitioner could comply with the Ordinance, if he removes the existing accessory building.

Yeas: 3 – Courtney, Gies, Hutson

Nays: 3 – Waller, Kovacs, Maxwell

Absent: 1 – Fejes

**MOTION TO DENY FAILS**

Motion by Maxwell

Supported by Waller

MOVED, to postpone the request of Kent Mellebrand for relief to construct a 576 square foot detached garage that would result in 896 square feet of accessory building where 600 square feet are permitted.

- To allow petitioner to revise his plans and reduce the size of the proposed garage.
- To allow the petitioner the opportunity to decide if he can comply with the Ordinance and remove the existing building.

Yeas: 3 – Kovacs, Maxwell, Waller

Nays: 3 – Courtney, Gies, Hutson

Absent: 1 – Fejes

**MOTION TO POSTPONE REQUEST FAILS**

The Chairman, Mr. Hutson asked Mr. Motzny what the procedure would be now on this item. Mr. Motzny stated that at this point a variance has not been granted or denied and felt that the petitioner should request to be placed on the agenda for the Board of Zoning Appeals meeting of August 20, 2002.

**ITEM #7 – VARIANCE REQUESTED. WILLIAM SWETLAND, 575 TRINWAY,** for relief to construct a detached garage which would bring the total area of all accessory buildings to 870 square feet where only 750 square feet are allowed on this site by Section 40.57.04.

Mr. Stimac explained that the petitioner is requesting relief to construct a detached garage. The application submitted indicates that the proposed detached garage would be 624 square feet. The site plan submitted also shows an existing 245 square foot shed, which would bring the total area of all accessory buildings to 870 square feet.

**ITEM #7 – con't**

Section 40.57.04 limits the area of all accessory buildings on a site to 600 square feet or one-half the ground floor area of the main building; whichever is greater. The house footprint is 1500 square feet. As such, accessory buildings are limited to 750 square feet on this site.

Mr. Swetland was present and stated that this is Phase I of his project. Mr. Swetland indicated that he had looked for a property like this for quite some time, and eventually would like to remodel the kitchen and add a breezeway that would connect this garage to his home. Mr. Swetland also stated that the lot is heavily wooded and therefore the garage would be very well screened.

Mr. Brent Anderson, of Father and Son Construction, was also present and stated that he had drawings which show the proposed kitchen addition and breezeway.

Mr. Courtney stated that if Mr. Swetland remodeled his kitchen and added the breezeway to the garage a variance would not be required. Mr. Swetland stated that he was single and felt he could live with an older kitchen for a while, and would prefer to have a garage. Mr. Swetland indicated that he planned to remodel the kitchen at a later date. He also stated that he is very happy with this property and plans on staying in Troy.

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

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

Motion by Waller

Supported by Maxwell

MOVED, to grant William Swetland, 575 Trinway, relief to construct a detached garage which would bring the total area of all accessory buildings to 870 square feet where only 750 square feet are allowed on this site by Section 40.57.04.

- Variance request is minimal.
- Variance is not contrary to public interest.
- Variance does not have an adverse effect to surrounding property.
- The property is very large and can easily support the additional building area.

Yeas: 4 – Gies, Kovacs, Maxwell, Waller

Nays: 2 – Courtney, Hutson

Absent: 1 – Fejes

MOTION TO GRANT VARIANCE CARRIED

**ITEM #8 – VARIANCE REQUESTED. WILLIAM WARREN, 6044 NILES**, for relief to construct a storage shed in the side yard of this property where a rear yard location is required by Section 40.57.03.

Mr. Stimac explained that the petitioner is requesting relief to construct a storage shed. The site plan submitted indicates the proposed location of the shed on the north side of the home. This location places the proposed accessory building in the side yard of the property. Section 40.57.03 prohibits the placement of an accessory building in any yard except a rear yard. Mr. Stimac further noted that he believed that this property at one time fronted on Square Lake and that when the portion of the property on the south was split off to create the office portion the lot was re-oriented towards Niles. Once that was done the lot became a very shallow, wide parcel.

Mr. Warren was present and stated that due to the location of his home on the property, he does not have a rear yard, and feels that by placing the shed in this location, it would be very well screened. Mr. Courtney asked if he could place the shed behind his garage, and Mr. Warren stated that if he did that he would not comply with the minimum 6' rear yard setback required.

The Chairman 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 are no written objections on file.

Motion by Kovacs  
Supported by Courtney

MOVED, to grant William Warren, 6044 Niles, relief to construct a storage shed in the side yard of his property where a rear yard location is required by Section 40.57.03.

- Variance is not contrary to public interest.
- Variance would not have an adverse effect on surrounding property.
- Literal enforcement of the Ordinance is unnecessarily burdensome.

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

MOTION TO GRANT VARIANCE CARRIED

**ITEM #9 – VARIANCE REQUESTED. RICHARD GERMAN, 1281 BOYD**, for approval, as required by Section 40.57.10, to maintain a pigeon coop on residential property and to have accessory buildings totaling 748 square feet where only 600 square feet are permitted by Section 40.57.04.

Mr. Stimac explained that the petitioner is requesting relief to maintain a pigeon coop which was constructed without first obtaining a Building Permit. The site plan submitted indicates that there are two (2) sheds; a garage and the proposed pigeon coop currently

**ITEM #9 – con't.**

on the property. Petitioner has indicated that he would remove the two (2) sheds if granted a variance for the pigeon coop.

The pigeon coop and detached garage that will remain have a combined floor area of 748 square feet. Section 40.57.04 limits the total of all accessory buildings on a site to 600 square feet or one-half the ground floor area of the main building; whichever is greater. The ground floor area of the house is 920 square feet, which means that the total allowable area of accessory buildings cannot exceed 600 square feet.

Also, Section 40.57.10 requires Zoning Board of Appeals approval for the placement of any accessory building other than a shed, garage, cabana, doghouse or antenna.

Mr. Richard German was present and stated that he has been raising pigeons for fifty (50) years. Mr. German brought in a petition signed by his neighbors indicating approval of this pigeon coop. Mr. Hutson asked if these were homing pigeons and Mr. German stated that they were, however, he does not release them, but uses them mainly for show purposes. Mr. German also stated that this coop has a special floor, which can be easily removed and cleaned.

Mr. Maxwell asked how many pigeons Mr. German owned and Mr. German replied that he has approximately 65 pigeons. Mr. German also stated that this new coop will help him keep his pigeons healthier and the area cleaner.

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

There are four (4) written approvals on file. There is one (1) written objection on file.

Motion by Waller  
Supported by Maxwell

MOVED, to grant Richard German, 1281 Boyd, approval as required by Section 40.57.10, to maintain a pigeon coop on residential property and to have accessory buildings totaling 748 square feet where only 600 square feet are permitted by Section 40.57.04.

- Two (2) existing sheds will be removed.
- Variance is not contrary to public interest.
- Variance will not have an adverse effect on surrounding property.

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

MOTION TO GRANT VARIANCE CARRIED

**ITEM #9 – con't.**

Mr. Kovacs addressed the concerns in the written objection by stating that since these pigeons are not released, bird droppings would not create a problem to surrounding property.

**ITEM #10 – APPROVAL REQUESTED. JOE FEKO, 917 DURHAM**, for approval to construct a freestanding gazebo as required by Section 40.57.10.

Mr. Stimac explained that the petitioner is requesting relief to construct a deck and freestanding gazebo. Section 40.57.10 requires the Board of Zoning Appeals approval for the placement of any accessory structure other than a garage, shed, cabana or doghouse.

Mr. Feko was present and stated that they felt the addition of a freestanding gazebo would enhance their property and also act as a screened in porch.

The Chairman opened the Public Hearing.

Mr. George Kohut, President of the Washington Square Estates Homeowners Association, stated that their board supports this type of improvement to the homes in the area. Mr. Kohut went on to say that they encourage the property owners in their sub to make as many improvements to their property as they can.

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

There are eleven (11) written approvals on file. There are no written objections on file.

Motion by Courtney  
Supported by Maxwell

MOVED, to grant Joe Feko, 917 Durham, approval to construct a freestanding gazebo as required by Section 40.57.10.

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

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

MOTION TO GRANT APPROVAL CARRIED

**ITEM #11 – VARIANCE REQUESTED. MAPLEWOOD CT. LLC, 440 E. MAPLE (PROPOSED ADDRESS)**, for relief to construct an 11,872 square foot multi-tenant light industrial building with parking in the front setback where a 50' landscaped front yard is required by Paragraph L of Section 31.30.00.

**ITEM #11 – con't.**

Mr. Stimac explained that the petitioner is requesting relief to construct an 11,872 square foot multi-tenant light industrial building. This property is located at the southeast corner of Maple and Combermere. The site plan submitted shows parking within 10' of the property line along Combermere. Section 30.20.09 (L) of the Zoning Ordinance requires a 50' front setback from all public streets and does not allow parking or structures within the required setback. Mr. Stimac also noted that a similar plan had been presented to the Board in October of 2000 and received approval of a variance for parking in the front setback. That variance has now expired and the new request is from a different petitioner and is based upon a different plan.

Mr. Paul Siver and Mr. David Tenniswood, both of Maplewood Ct. LLC were present. Mr. Siver stated that there are numerous buildings on Combermere which allow parking in the front setback, and due to the narrowness of the lot it is very difficult for them to construct a building that would allow for parking in any other area.

Mr. Maxwell expressed concern regarding the northern driveway near Maple and felt that it could create a traffic hazard due to the fact that it was within 50' of Maple. Mr. Tenniswood stated that typically traffic would enter at one driveway and exit from the second driveway. Mr. Tenniswood also stated that this was not a walk-in business and he did not think traffic would be a concern. Mr. Maxwell asked if it would be possible to move the building back from Combermere and provide parallel parking and Mr. Tenniswood stated that they would lose a large number of parking spaces. Mr. Maxwell asked Mr. Tenniswood if they could make the building any smaller and add parking to the South end, and Mr. Tenniswood stated that could not make it smaller, because it would not be economically feasible. Mr. Maxwell also stated that they could have a smaller building and Mr. Tenniswood again stated that a smaller building was not economically feasible.

Mr. Waller asked if the petitioners had been to the Planning Commission, and also stated that he felt that the Planning Commission would address the issue of the north driveway. Mr. Waller then asked if they met the requirement for parking and Mr. Tenniswood stated that they were presently over the minimum requirement for parking. Mr. Tenniswood stated that he and his partner are aware of how much parking is required, and in all of their buildings they provide extra parking for the tenants. Mr. Waller then asked about angle parking and Mr. Stimac stated that they would still be parking in the setback. Mr. Stimac explained that in comparison to the previous site plan submitted, the width of the driveway in the front of the building has been decreased and the proposed building is deeper than the original request in October 2000. Mr. Stimac went on to say that the Ordinance would require 27 parking spaces, and presently 33 parking spaces are provided.

Mr. Courtney asked how large a building was approved by this Board back in October 2000 and Mr. Stimac stated that at that time the request was to build a building which would have been 9,548 square feet. Mr. Stimac also said that the proposed driveway is closer to Maple than previously requested. Mr. Kovacs asked how the City feels about the driveway in this location, which would be closer to Maple Road. Mr. Stimac

**ITEM #11 – con't.**

stated that as Mr. Waller had indicated, both the Planning Commission and Traffic Engineer would look at the site plan and address the issue of this driveway. Mr. Stimac also stated that the location of the driveway is subject to the approval and review of the Planning Commission as part of the site plan approval process, and they may require them to move this driveway farther south. Mr. Stimac also stated that that may result in the elimination of one or two parking spaces at the northerly end but will not change the east west dimensions that predicate the need for a variance before this Board.

Mr. Waller asked about the retention pond at the north end of the property. Mr. Siver sated that the retention pond would be included. Mr. Waller also stated that the building would honor the setback from Maple, and thinks that the orientation of the building would get considerably smaller before it would meet the requirements of parking in the setback.

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

There is one (1) written objection on file. There are no written approvals on file.

Mr. Courtney stated that he felt that the previous variance request was excessive and also feels that this request is excessive. Mr. Waller stated that he is quite impressed with the properties that have been developed and improved by this petitioner. Mr. Waller also stated that these folks invest themselves in Troy, and believes they should be given some consideration.

Mr. Maxwell stated that he would like to see the driveway placed further south. Mr. Tenniswood stated that their intention is to have traffic enter from the south and exit at the north. Mr. Waller stated that their request would be more attractive to the Planning Commission with extra signs indicating one-way traffic.

Mr. Kovacs stated that he appreciated these comments, but felt that the Planning Commission should deal with these concerns. Mr. Stimac stated that action by this Board is required for the driveway on the north side due to the fact that it would be within the 50' setback from Maple Road. Mr. Stimac stated that officially this area also is supposed to be a greenbelt area. Mr. Stimac went on to say that he agreed with Mr. Waller's comments regarding one-way traffic, however, if traffic were leaving this site and wanted to make a left turn, it could still present a traffic hazard from Maple.

Mr. Stimac noted the difference between the 11,928 square foot building shown on the petitioner's plan and the 11,872 square foot building mentioned in his agenda explanation. Mr. Tenniswood confirmed that they are proposing to construct an 11, 928 square foot building.

Motion by Waller  
Supported by Gies

**ITEM #11 – con't.**

MOVED, to grant Maplewood Ct., LLC, 440 E. Maple (proposed address) relief to construct an 11,928 square foot multi-tenant light industrial building with parking in the front setback where a 50' landscaped front yard is required by Paragraph L of Section 31.30.00.

- North driveway will be pulled to the south so it is not past the east – west line of the north end of the building.
- Variance is not contrary to public interest.
- Variance will not have an adverse effect on surrounding property.

Yeas: 3 – Kovacs, Waller, Gies  
Nays: 3 – Maxwell, Courtney, Hutson  
Absent: 1 - Fejes

**MOTION TO GRANT VARIANCE FAILS**

Mr. Courtney stated that he would be in favor of granting the same variance that was approved in 2000.

Motion by Courtney

MOVED, to grant Maplewood Ct., LLC 440 E. Maple (proposed address) relief to construct an 9,548 square foot multi-tenant light industrial building with parking the front setback where a 50' landscaped front yard is required by Paragraph L of Section 31.30.00.

Motion dies due to lack of support.

Mr. Tenniswood indicated that there had been two other people interested in this property, and stated that they could not request a variance for a building which would be smaller, due to the fact that it was not economically feasible. Mr. Tenniswood also indicated that they had proposed the driveways on Combermere instead of Maple in order to keep traffic less hazardous.

Motion by Maxwell  
Supported by Waller

MOVED, to postpone the request of Maplewood Ct. LLC, 440 E. Maple (proposed address) until the meeting of August 20, 2002, for relief to construct an 11,928 square foot multi-tenant light industrial building with parking in the front setback where a 50' landscaped front yard is required by Paragraph L of Section 31.30.00.

- To allow the petitioner the opportunity of a full Board.
- To allow the petitioner the opportunity to present the Board with an alternative plan concerning the north driveway.

**ITEM #11 – con't.**

Yeas: 5 – Maxwell, Waller, Gies, Hutson, Kovacs

Nays: 1 – Courtney

Absent: 1 – Fejes

MOTION TO POSTPONE REQUEST UNTIL MEETING OF AUGUST 20, 2002  
CARRIED

**ITEM #12 – VARIANCE REQUESTED. WILLIAM JACKA, 3971 ESTATES,** for relief to construct a sunroom addition on the rear of an existing house with a 32' setback from the property line along Wattles where 40' is required by Section 30.10.02.

Mr. Stimac explained that the petitioner is requesting relief to construct a sunroom addition on the rear of his existing home. This property is located at the southwest corner of Estates and Wattles. This lot is a double front corner lot. As such, Section 30.10.02 requires a 40' minimum front setback from both Estates Drive and Wattles Road. The site plan submitted indicates a proposed sunroom addition with a 32' setback to the property line along Wattles Road.

In May 1970, the Board of Zoning Appeals for the construction of this home granted a variance with a 25' front setback to Wattles Road. This variance granted an exception for the original house only, and did not include future expansions.

Mr. Jacka was present and stated that he has lived at this location for thirty-one (31) years, and has found it is extremely difficult to enjoy his yard with the increased traffic along Wattles Road. Mr. Jacka also stated that they had checked into the possibility of placing this addition in another location, however, if they met the setback requirement, the wall of the sunroom would be in the middle of their family room door wall, which would eliminate a great deal of light.

The Chairman opened the Public Hearing.

Carmelo Milia, 3911 Boulder, was present and stated that he has been Mr. Jacka's neighbor for twenty-nine years and totally supports Mr. Jacka's request. Mr. Milia also brought in a petition indicating approval from many of the neighbors.

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

There are seven (7) written approvals on file. There are no written objections on file.

Motion by Kovacs

Supported by Courtney

**ITEM #12 – con't.**

MOVED, to grant William Jacka, 3971 Estates, relief to construct a sunroom addition on the rear of an existing house with a 32' setback from the property line along Wattles where 40' is required by Section 30.10.02.

- Footprint of the home on the land creates a hardship with the land.
- Conformance to the Ordinance is unnecessarily burdensome.
- Variance is not contrary to public interest.
- Variance would not have an adverse effect to surrounding property.

Yeas: 6 – Waller, Courtney, Gies, Hutson, Kovacs, Maxwell

Absent: 1 – Fejes

**MOTION TO GRANT VARIANCE CARRIED**

**ITEM #13 – VARIANCE REQUESTED. DENNIS M. TORPEY, 3330 ROCHESTER ROAD (PROPOSED ADDRESS),** for relief to construct a new multi-tenant commercial building with a 39' front yard setback where 75' is required by Section 30.20.05.

Mr. Stimac explained that the petitioner is requesting relief to construct a new multi-tenant commercial building. The property in question is located at the northeast corner of Rochester Road and Torpey Drive and is in the B-2 (Community Business) Zoning District. The location of this property and the orientation of the properties around it make it a double-front corner lot. Section 30.20.05 of the Troy Zoning Ordinance requires a 75' front yard setback in the B-2 Zoning District. The site plan submitted indicates that the building is proposed to be located only 39' from the property line along Torpey Drive.

Mr. Dennis Torpey was present and stated that the narrowness of the lot combined with the double frontage of the lot creates a hardship. He noted that they could build a building of similar size by orienting the front of the businesses to the south, but felt that this orientation would be a hardship to the businesses due to a lack of visibility to Rochester Road. Mr. Torpey also stated that they placed the entrance driveway on Torpey to help eliminate some of the traffic along Rochester Road. Mr. Torpey explained that they also moved the location of the dumpsters up instead of putting them in the back corner.

Mr. Courtney asked how big this building would be compared to the original meat market and Mr. Torpey stated that the original market was 4400 square feet and the proposed building would be 4800 square feet.

Mr. Waller asked Mr. Torpey what he meant by a multi-tenant building and Mr. Torpey stated that the majority of it would be the meat market, but they also would like to add a bakery and vegetable market. Mr. Waller commended Mr. Torpey on the fact that he would have the driveway on Torpey rather than Rochester Road, and also on the fact that he is moving the dumpsters.

**ITEM #13 – con't.**

The Chairman 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 Kovacs  
Supported by Gies

MOVED, to grant Dennis M. Torpey, 3330 Rochester Road (proposed address), for relief to construct a new multi-tenant commercial building with a 39' front yard setback where 75' is required by Section 30.20.05.

- Literal enforcement of the Ordinance would be unnecessarily burdensome.
- Narrowness of the property creates a hardship.
- Variance is not contrary to public interest.
- Variance would not have an adverse effect to surrounding property.
- Variance will not permit establishment of a prohibitive use of the property.

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

**MOTION TO GRANT VARIANCE CARRIED**

Mr. Stimac stated that he felt that perhaps this was the time to address the requirement of Board of Zoning Appeals approval regarding gazebos. He said that he will begin working with the Planning Department staff to propose revisions to the Ordinance to potentially eliminate this required step.

The Board of Zoning Appeals meeting of July 16, 2002 adjourned at 9:09 P.M.

MS/pp