

A regular meeting of the Board of Zoning Appeals was called to order at 7:30 P.M. on Tuesday, January 18, 2000 by the Chairman, Carmelo Milia.

PRESENT:   KENNETH COURTNEY                   MARK STIMAC  
              MARK MAXWELL                     BOB DAVISSON  
              GARY CHAMBERLAIN               PAM PASTERNAK  
              CARMELO MILIA  
              MICHAEL HUTSON  
              CHRISTOPHER FEJES

ABSENT:     JAMES GIACHINO

Mr. Milia asked that a moment of silence be observed due to the untimely death of Dr. Jerald Sosnowski on January 5, 2000.

Motion by Chamberlain (*Motion occurred later in the meeting*)  
Supported by Courtney

MOVED to excuse Mr. Giachino from attendance from this meeting.

**ITEM #1 - APPROVAL OF MINUTES, DECEMBER 21, 1999**

Motion by Maxwell  
Supported by Chamberlain

MOVED, to approve the December 21, 1999 minutes as written.

Yeas:           6 – Maxwell, Chamberlain, Milia, Hutson, Fejes, Courtney  
Absent:         Giachino

MOTION TO APPROVE MINUTES FOR DECEMBER 21, 1999 AS WRITTEN  
CARRIED

**ITEM #2       THE BHARAYTIA TEMPLE, 6850 ADAMS ROAD, renewal requested for relief to maintain a berm in lieu of the 4'6" high masonry screening wall required where off-street parking abuts residential and relief of the minimum number of trees required along South Boulevard.**

Mr. Stimac explained that the petitioner is requesting renewal of a variance originally granted by this Board in December 1990 for relief to maintain a berm in lieu of the 4'6" high masonry screening wall required where off-street parking abuts residential and relief of the minimum number of trees required along South Boulevard. The request was originally granted because the location is far enough away from South Boulevard and already protected by a wooded area and pond. Conditions remain the same and we have no complaints or objections on file.

Mr. N. P. Kanat was present and stated that they have a very good rapport with their neighbors and that the berms provided a natural barrier.

**ITEM #2**

Motion by Fejes

Supported by Courtney

MOVED, to grant The Bharaytia Temple, 6850 Adams Road, a three (3) year variance for relief to maintain a berm in lieu of the 4'6" high masonry screening wall required where off-street parking abuts residential and relief of the minimum number of trees required along South Boulevard.

- Conditions remain the same.
- No complaints or objections on file.

Yeas: 6 – Milia, Hutson, Fejes, Courtney, Maxwell, Chamberlain

Absent: Giachino

MOTION TO GRANT VARIANCE FOR THREE (3) YEARS CARRIED

**ITEM #3      COVENANT BAPTIST CHURCH, 38505 DEQUINDRE, renewal  
requested for relief of the 4'6" high masonry wall required adjacent  
to the north, south and west sides of off-street parking.**

Mr. Stimac explained that the petitioner is requesting renewal of a variance originally granted by this Board in December 1976 for relief of the 4'6" high masonry wall required adjacent to the north, south and west sides of off-street parking. This variance was granted due to the fact that the adjacent land was undeveloped and the petitioner could install landscaping to screen the parking area. A new residential subdivision, called Glenwood Park, is now under construction to the south of the site. Other than the adjacent construction, conditions remain the same and we have no complaints or objections on file.

Mr. William Sevich representing Covenant Baptist Church was present and stated that he had nothing to add.

Motion by Fejes

Supported by Courtney

MOVED, to grant Covenant Baptist Church, 38505 Dequindre, a three-year (3) renewal of relief of the 4'6" high masonry wall required adjacent to the north, south and west sides of off-street parking.

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

Yeas: 6 – Milia, Hutson, Fejes, Courtney, Maxwell, Chamberlain

Absent: 1 – Giachino

MOTION TO GRANT VARIANCE FOR THREE (3) YEARS CARRIED

**ITEM #4      KOREAN UNITED METHODIST CHURCH, 42693 DEQUINDRE, renewal requested for relief to maintain a landscaped berm in lieu of the 4'6" high masonry screening wall required along the south side of off-street parking.**

Mr. Stimac explained that the petitioner is requesting renewal for relief to maintain a landscaped berm in lieu of the 4'6" high masonry-screening wall required along the south side of off-street parking. This variance was originally granted by this Board in October 1987 with the stipulation that a substantial planting of trees and shrubs, enough to protect against motorcycles and snowmobiles, be included in the berm construction. The church site and building were recently expanded to the north and the required screen walls on the north and west side of the new parking lot were installed with that expansion. On the south side of the site, conditions remain the same and we have no complaints or objections on file.

Mr. Chong Lee was present and stated that he had nothing to add.

Motion by Courtney  
Supported by Maxwell

MOVED, to grant Korean United Methodist Church, 42693 Dequindre, a three (3) year variance for relief to maintain a landscaped berm in lieu of the 4'6" high masonry screening wall required along the south side of off-street parking.

- Conditions remain the same.
- We have no complaints or objections on file.

Yeas:            6 – Milia, Hutson, Fejes, Courtney, Maxwell, Chamberlain  
Absent:        1 - Giachino

MOTION TO GRANT VARIANCE FOR THREE YEARS CARRIED

**ITEM #5      DANIEL LESKE, DDS, 5895 JOHN R., renewal requested for relief of the 4'6" high masonry screening wall required along the south property line and relief of the 6" high masonry screening wall required along the west property line.**

Mr. Stimac explained that the petitioner is requesting renewal of a variance granted, by this Board, for relief of the 4'6" high masonry wall required along the south property line. This relief was originally granted in 1990, primarily based on the fact the property to the south, the day care center, had already installed a wood fence. The petitioner is also requesting renewal of a variance granted, by this Board, for relief of the 6' high masonry screening wall required along the west property line abutting residential. This relief has been granted on a yearly basis since 1982, based on a natural screening along the property line. Conditions remain the same, and we have no complaints or objections on file.

Dr. Daniel Leske was present and stated that he had nothing to add.

Motion by Courtney  
Supported by Maxwell

**ITEM #5**

MOVED, to grant a three (3) year variance to Daniel Leske, DDS, 5895 John R. for relief of the 4'6" high masonry wall required along the south property line and renewal of a variance for relief of the 6' high masonry screening wall required along the west property line abutting residential.

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

Yeas: 6 – Hutson, Fejes, Courtney, Maxwell, Chamberlain, Milia

Absent: 1 – Giachino

MOTION TO GRANT VARIANCE FOR THREE (3) YEARS CARRIED

**ITEM #6      MR. YEUN H. WONG, 3400 EAGLE, variance requested for relief of the rear yard setback.**

Mr. Stimac explained that the petitioner is requesting approval to construct a living room addition on the rear of an existing single family residence. The site plan submitted indicates a 29' rear yard setback would result from the proposed addition. Section 34.20.03 requires that a 35' minimum rear yard setback be provided. In November 1974 this Board granted a variance of the rear yard setback to 28' to construct a raised 16' x 16' patio with a 42" foundation. Petitioners are now asking approval to cover and enclosed this patio to create the living room addition. This item was originally brought to this Board in November 1999 and was tabled both in November and December to give Mr. Wong the benefit of a full board.

Mr. Milia explained to Mr. Wong that Mr. Giachino was absent from this meeting and also that there were two different members at this meeting and asked Mr. Wong if he wished to continue. Mr. Wong stated that he wanted his request heard this evening.

Mr. Wong explained that the present slab gets very little use, due to the fact that both he and his wife are very sensitive to insect bites. He also feels that because this slab is exposed to the weather, eventually it will deteriorate and therefore he will be unable to use same. Mr. Wong has spoken to his neighbors and his surrounding neighbors approve of the proposed construction. Mr. Wong further stated that this enclosure would be screened by mature trees and therefore would not be seen by his neighbors.

Mr. Maxwell pointed out that there are four written approvals on files, including one from the neighbor directly behind Mr. Wong's home.

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

Mr. Fejes asked Mr. Wong what he would use this room for. Mr. Wong stated that it would basically be a sunroom and would protect both him and his wife from insects.

Motion by Chamberlain  
Supported by Maxwell

**ITEM #6**

MOVED, to grant Mr. Yuen H. Wong, 3400 Eagle a variance to construct an addition on the rear of an existing single family residence resulting in a 29' rear yard setback, where a 35' setback is required.

- This variance is not contrary to public interest.
- The variance will not establish a prohibited use in a Zoning District.
- This variance applies to this property only.
- The construction will utilize the existing slab and footings.

Yeas: 4 – Fejes, Maxwell, Chamberlain, Hutson  
Nays: 2 – Courtney, Milia  
Absent: 1 – Giachino

MOTION TO APPROVE REQUEST CARRIED

**ITEM #7 THE PAULS CORPORATION, 4685 INVESTMENT DRIVE, renewal requested for relief to construct a landscaped berm in place of the 6' high masonry screening wall required along the south and west property lines.**

Mr. Stimac explained that petitioner is requesting renewal of a variance, granted by this Board, in December 1998 for relief to construct a landscaped berm in place of the 6' high masonry screening wall required along the south and west property lines. Conditions remain the same and we have no objections or complaints on file. This item was tabled from the Zoning Board of Appeals meeting on December 21, 1999 to allow the petitioner the opportunity to be present.

Ms. Linda Doolittle, representing the Pauls Corporation was present and stated that it was her understanding that the property owners had requested this berm and that it satisfied the concerns of all parties involved.

Motion by Fejes  
Supported by Courtney

MOVED, to grant The Pauls Corporation, 4685 Investment Drive, a one-year renewal for relief to construct a landscaped berm in place of the 6' high masonry screening wall required along the south and west property line.

- One year will allow landscaping to mature on berm.
- Conditions remain the same.
- No complaints or objections on file.

Yeas: 6 – Courtney, Maxwell, Chamberlain, Milia, Hutson, Fejes  
Absent: 1 – Giachino

MOTION TO GRANT VARIANCE FOR ONE YEAR CARRIED

**ITEM #8      DR. PHILIP D. COHEN, 2950 E. WATTLES, renewal requested for relief of the 6' high masonry screening wall required along the south property line.**

Mr. Stimac explained that the petitioner is requesting renewal of a variance, granted by this Board in December 1993, for relief of the 6' high masonry-screening wall required along the south property line. Conditions remain the same and we have no objections or complaints on file. This item was tabled from the Zoning Board of Appeals meeting on December 21, 1999 to allow the petitioner the opportunity to be present.

Dr. Philip D. Cohen was present and stated the master plan has been amended to indicate that the property on the southwest corner of Wattles and Dequindre is office use.

Motion by Maxwell  
Supported by Courtney

MOVED, to grant Dr. Philip D. Cohen, 2950 E. Wattles, a three-year (3) variance for relief of the 6' high masonry screening wall required along the south property line.

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

Yeas:            6 – Courtney, Maxwell, Chamberlain, Milia, Hutson, Fejes  
Absent:        1 – Giachino

MOTION TO GRANT VARIANCE FOR THREE (3) YEARS CARRIED

**ITEM #9      ROBERT ZUKE AND MARLENE ZUKE, 525 ECKFORD, for relief of Section 40.65.00 of Chapter 39 of the Troy City Code.**

Mr. Stimac explained that the petitioners are requesting relief of the Zoning Ordinance to store a boat in the front yard of an existing property. Chapter 39, Section 40.65.00 of the Troy City Code prohibits recreational vehicles being stored in front of the front face a residential building. This item was tabled from the Zoning Board of Appeals meeting on December 21, 1999 to allow the petitioners the opportunity to be present.

Mr. Zuke was present and stated that presently his family owns 855' of frontage on Eckford. He also stated that he only wants a temporary variance as he has plans of removing this boat to a Marina as soon as the weather permits and does not plan to bring it back to this property.

Mr. Milia asked if the boat could be pushed back on the lot which would place it closer to the creek. Mr. Zuke stated that the boat was put on the property by a special trailer, which he leased from the Marina, and the land was not solid next to the Creek. He further said that he could not take the boat over the bridge due to the fact that the boat is 12' wide and the bridge is only 11' wide. Mr. Zuke is planning to build a home and at that time a provision will be made, if necessary, to store the boat at the back of the property.

**ITEM #9**

Mr. Maxwell asked what date would be the earliest that Mr. Zuke could move the boat. Mr. Zuke said that the Marinas will not allow a boat to be brought to them before April 20<sup>th</sup>. He also stated that he had spoken to his neighbors and no one objected to the temporary storage of this boat in the front yard setback. Mr. Zuke's family presently owns 9 acres of property on Eckford Street.

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

There are four written approvals on file.

Mr. Chamberlain and Mr. Maxwell both expressed concern over setting a precedent regarding the storage of a recreational vehicle and stated that they wanted to add a time limit to the variance. Mr. Stimac stated that in granting a variance the Board has the ability to place reasonable conditions on the variance. Since the petitioner has indicated that he only needs the variance for a short time, then a time restriction would be reasonable.

Motion by Courtney  
Supported by Fejes

MOVED, to grant Robert Zuke and Marlene Zuke, 525 Eckford, a variance to store a boat in the front yard of an existing property with the following stipulation:

- Boat is to be removed no later than May 15, 2000.

Yeas: 5 – Maxwell, Chamberlain, Hutson, Fejes, Courtney  
Nays: 1 – Milia  
Absent: 1 – Giachino

MOTION TO APPROVE REQUEST WITH STIPULATION THAT BOAT BE REMOVED  
NO LATER THAN MAY 15, 2000 CARRIED

**ITEM #10 MR. AND MRS. GARY DASSATT, 3392 EAGLE DRIVE, variance  
requested for relief of the rear yard setback.**

Mr. Stimac explained that the petitioners are requesting approval to construct a new 12' x 16' porch enclosure at the rear of an existing residence. This enclosure will result in a 31.7' rear yard setback. Section 34.20.03 requires that a 35' minimum rear yard setback be provided. The petitioners are asking for relief to provide the lesser setback.

Mr. Gary Dassatt was present and stated that the existing deck needs to be replaced as well as the existing slab beneath the deck. Mr. Dassatt feels that as long as he is going to incur the expense of replacing these items it would be a good time to add a sunroom with a hot tub.

Mr. Chamberlain stated that this property is located on a corner and is open. He did not feel that there is a hardship, which would justify the variance.

**ITEM #10**

The Chairman opened the Public Hearing.

Mr. Wong, 3400 Eagle Drive was present and stated that he lives next door to the Dassatts and has no objection to this proposed construction.

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

Mr. Maxwell asked how far out the current deck was and Mr. Dassatt replied that the existing deck is 16' out and 15' wide. Mr. Maxwell also questioned whether Mr. Dassatt could alter the proposed addition. Mr. Dassatt stated that if he changed his plans to comply with the variance it would result in room, which is 8 feet deep, and he does not feel that this would be sufficient for his needs.

There are no written approvals or objections on file.

Motion by Fejes  
Supported by Courtney

MOVED, to deny the request of Mr. and Mrs. Gary Dassatt, 3392 Eagle relief of the rear yard setback to construct a 12' x 16' porch enclosure at the rear of an existing residence.

- The petitioner has not demonstrated any hardship.

Yeas: 6 – Chamberlain, Milia, Hutson, Fejes, Courtney, Maxwell  
Absent: 1 - Giachino

MOTION TO DENY REQUEST CARRIED

**ITEM #11 MR. PHIL TOCCO, BEHR AMERICA, INC., SOUTH END OF DALEY STREET, variance requested for relief of Section 30.20.09 of the Zoning Ordinance regarding maximum building height.**

Mr. Stimac explained that the petitioners are proposing to construct a new 83,000 square foot industrial building on a parcel of land at the south end of Daley Street, south of Big Beaver Road. Part of that proposed development includes an 18,000 square foot wind tunnel testing facility. The height of the wind tunnel is proposed to be a total of 66' tall. Section 30.20.09 of the Zoning Ordinance limits the height of all buildings in the M-1 (Light Industrial) Zoning District to no more than 40'. Petitioners are requesting relief to allow this taller structure.

Mr. Phillip Tocco, representing Behr America, Inc. was present and stated that before coming to this Board he had spoken to several people in the City regarding this project and had received a great deal of support. Mr. Paul Landry, Architect for the project, stated that this project would include a two-story office building, a lab area that would be of equal in height to the two-story portion of the building, and the proposed wind tunnel. Mr. Tocco also stated that the parent company is located in Strickfaden, Germany and in order to maintain consistency when testing their products this new building needs to be a replica of the wind tunnel in Germany.



**ITEM #11**

Mr. Milia expressed concerns over the noise level and was told that the noise level from I-75 will be louder than the noise from the wind tunnel. Mr. Tocco also stated that they have designed the building so that the office area is the farthest from I-75, although it is adjacent to the wind tunnel. Mr. Tocco also stated that the wind tunnel is self-enclosed and due to the fact that the products are two to three years ahead of present production, no one from the outside will be able to see what is being tested.

Mr. Milia also asked why this site was chosen due to the fact that this is a very difficult piece of property to develop mainly because it is very hard to get to this site. Mr. Tocco stated that their first concern was visibility. The building will be seen from I-75, due to the fact that I-75 is 13' higher than grade and they hope to attract the business of Chrysler, Ford and GM.

Mr. Tocco also stated that they have worked very closely with the DEQ and when they begin to develop this property, they cannot disturb the flood plain in any way, nor can they cut down any trees within the drain. They also have to make sure that there is an acceptable crossing of the McCullough drain.

The Chairman opened the Public Hearing.

Mr. Patrick Smith, 1176 E. Big Beaver was present and stated that he had owned the property to the northwest of the McCullough drain and had no objection to the proposed construction.

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

There are no written complaints or objections on file.

Motion by Chamberlain  
Supported by Maxwell

MOVED, to grant Mr. Phil Tocco, Behr America, Inc., south end of Daley Street relief of Section 30.20.09 of the Zoning Ordinance to construct a new 83,000 square foot industrial building, which will include a wind tunnel that will be 66' tall.

- Development of the site will be a benefit to the City.
- The variance is not contrary to public interest.
- The variance will not cause an adverse effect to properties in the immediate vicinity.
- The height of the adjacent I-75 pavement will diminish the impact of the building height.

Yeas: 6 – Milia, Hutson, Fejes, Courtney, Maxwell, Chamberlain  
Absent: 1 – Giachino

MOTION TO APPROVE REQUEST CARRIED

**ITEM #12      MR. ALEK KAWALEK, INTERNATIONAL TECHWELD, 1770  
MAPLELAWN, variance requested for relief of Section 30.20.09 of  
the Zoning Ordinance regarding maximum lot coverage.**

Mr. Hutson stated that he was a member of the law firm, which is representing Mr. Alek Kawalek of International Techweld, and wanted the Board to be aware of this. He also stated that each partner in his firm is responsible for their own clients, and he had not had any dealings with this client so there would not be a conflict of interest and felt that he could vote fairly.

Discussion ensued among the Board Members and it was determined that Mr. Hutson could hear the case and it was not necessary to abstain from the vote.

Mr. Stimac explained that the petitioners are asking approval to construct a 16,322 square foot addition onto an existing 74,696 square foot industrial building. This building, totaling 92,746 square feet, is proposed to be located on a site, which has a total area of 173,520 square feet. This would result in total lot coverage by buildings of 53%. Section 30.20.09 of the Zoning Ordinance limits the lot coverage in the M-1 (Light Industrial) Zoning District to no more than 40%. In June of 1983, a variance was approved by this Board for a 16,000 square foot addition that resulted in lot coverage of 43%. In addition the petitioners have recently filed for and received a parking variance from the Troy City Council to have 113 spaces where the Zoning Ordinance would require at least 142 paved parking spaces on site and that the site has enough area for 206 parking spaces. This request was approved by the City Council in December of 1999. Petitioners are now asking approval of this Board to exceed the maximum lot coverage.

Mr. Milia asked Mr. Stimac to summarize the use and zoning of the area around 1770 Maplelawn. Mr. Stimac stated the property was unified in zoning which is M-1 (light industrial). The area to the west of this site contains auto dealerships in a development known as the Troy Motor Mall. He further stated that dealerships are allowed in this area with a Special Use Approval. The area to the east of the petitioner's property is developed with a series of industrial buildings.

Mr. Tom Sawyer representing Techweld, Inc. was present and stated that presently raw materials are stored outside and this creates employee safety hazards as well as damage to the materials. He further stated that City Council had approved a parking variance that will enable them to construct this addition in place of these parking spaces. This building will be self-contained and centrally located.

Mr. Milia asked for a more specific use of the products involved and Mr. Dan McCabe of Techweld, Inc. stated that they are stamped parts, which are assembled using a welding process, for automobiles. They also store the returnable packaging in which the parts are shipped.

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

Mr. Chamberlain asked why outside storage was allowed at all in this location. Mr. Stimac stated that there are two provisions regarding outside storage: 1. Storage of raw materials used in the building for some process that takes place inside the building.

**ITEM #12**

That type of storage is permitted subject to special conditions, and 2. Outside storage of vehicles, equipment, or contractor storage requires Special Uses Approval. The storage of pallets in this case is the use of raw materials for a process in the building.

Mr. Chamberlain stated that he was concerned with granting a variance, which would result in lot coverage of 53% because if this property were sold the next owner would have the same variance. Mr. Courtney stated that if the variance was granted two stipulations could be attached to it. Mr. Sawyer stated that they had no objection to the variance with stipulations.

There is one written objection on file.  
There are no written approvals on file.

Motion by Courtney  
Supported by Fejes

MOVED, to grant Mr. Alek Kawalek, International Techweld, 1770 Maplelawn, relief of the Zoning Ordinance to construct a 16,322 square foot addition onto an existing 74,696 square foot industrial building which will result in total lot coverage by buildings of 53% where maximum allowable lot coverage is 40%. The following stipulations apply:

- Addition is to be used for storage only.
- All outside storage is to be discontinued.
- Existing outbuilding is to be removed.

Yeas: 5 – Milia, Hutson, Fejes, Courtney, Maxwell  
Nays: 1 – Chamberlain  
Absent: 1 – Giachino

**MOTION TO APPROVE REQUEST WITH STIPULATIONS CARRIED**

Mr. Chamberlain stated that this would be his last meeting and Mr. Lawrence Littman would be replacing him beginning with the February 2000 meeting.

Mr. Davisson stated that he will research Mr. Hutson's position regarding conflict of interest and will have an answer for the Board by the February meeting.

The Board of Zoning Appeals meeting adjourned at 9:15 P.M.

MS/pr