

The Chairman, Carmelo Milia, called a regular meeting of the Board of Zoning Appeals to order at 7:30 P.M. on Tuesday, March 21, 2000.

PRESENT:	Carmelo Milia	Mark Stimac
	Christopher Fejes	Lori Grigg Bluhm
	Kenneth Courtney	Pam Pasternak
	James Giachino	
	Lawrence Littman	
	Mark Maxwell	
	Michael Hutson	

**ITEM #1 – APPROVAL OF MINUTES, FEBRUARY 15, 2000 MEETING**

Motion by Maxwell  
Supported by Littman

MOVED, to approve the February 15, 2000 minutes as written.

Yeas: 6 – Courtney, Maxwell, Littman, Giachino, Milia, Hutson  
Abstain: 1 – Fejes

**MOTION TO APPROVE FEBRUARY 15, 2000 MINUTES AS WRITTEN CARRIED**

**ITEM #2 - S.O.C. CREDIT UNION, 4555 Investment** for relief to maintain a 6' high berm in lieu of the 6' high masonry-screening wall required along the south property line.

Mr. Stimac explained that petitioner is requesting renewal of a three year relief, originally granted by this Board in 1987 and last renewed in 1997, to maintain a 6' high berm in lieu of the 6' high masonry-screening wall required along the south property line where the site abuts residential zoning. The berm is in place and landscaping has been completed and it appears to be adequately screening the sites from the south. Conditions remain the same and there are no objections or complaints on file.

Ms. Sallylou Cloyd, representing S.O.C. Credit Union was present and stated she had nothing to add.

Motion by Fejes  
Supported by Courtney

MOVED, to grant S.O.C. Credit Union, 4555 Investment a three (3) year variance to maintain a 6' high berm in lieu of the 6' high masonry-screening wall required along the south property line.

**ITEM #2**

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

Yeas: All – 7

MOTION TO GRANT VARIANCE FOR THREE (3) YEARS CARRIED

**ITEM #3 - KMART, 100 East Maple**, for relief to display and sell flowers and plants in a designated area.

Mr. Stimac explained that petitioner is requesting renewal of a variance granted by this board which allows for outdoor display in front of K-Mart along the north side of the fenced garden center and a four-foot section of the sidewalk adjacent to the building at the west end of the building. The display is used for plants and flowers. This relief has been granted on a yearly basis since 1978 and the variance is typically valid during the months of April through July. This request has also been subject to the petitioner providing corral type fence to both enclose the area of the display and maintain a safe sidewalk at the same time. Conditions remain the same. We have no objections or complaints on file.

Mr. Bruce DePlanty, Manager of Kmart was present and stated that he had nothing further to add.

Motion by Courtney  
Supported by Fejes

MOVED, to grant Kmart, 100 E. Maple a one-year variance to display and sell flowers and plants in a designated area.

- Not contrary to public interest.
- There are no complaints or objections on file.
- The variance is for the months of April through July.
- A coral type fence must be installed to define the display area and maintain a clear sidewalk.

Yeas: All – 7

MOTION TO GRANT VARIANCE FOR ONE YEAR CARRIED.

**ITEM #4 - ST. GEORGE ORTHODOX CHURCH, 2160 E. Maple** for relief to maintain a 5' high landscaped berm along the south and east property

lines in place of the 4'6" high masonry screening wall and relief of the 4'6" high masonry wall required along the west side of off-street parking.

Mr. Stimac explained that petitioner is requesting renewal of relief granted, by the Board, in February 1993 which allowed for the construction of a 5' high landscaped berm, in lieu of the 4'6" high masonry wall, along the south and east property lines, and relief of the 4'6" high masonry wall required along the west property line. The relief was originally granted based on the fact the property to the west contains a non-residential use under the terms of a consent judgment and the neighbors preferred a berm in lieu of the wall. Conditions remain the same. This item was tabled at our last regular meeting to give the petitioner the opportunity to be present.

Deacon Elias Baz of St. George Orthodox Church was present and stated that he had nothing further to add.

Motion by Giachino  
Supported by Maxwell

MOVED, to grant St. George Orthodox Church, 2160 E. Maple a three (3) year variance for relief to maintain a 5' high landscaped berm along the south and east property lines in place of the 4'6" high masonry screening wall and relief of the 4'6" high masonry wall required along the west side of off-street parking.

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

Yeas: All – 7

MOTION TO GRANT VARIANCE FOR THREE (3) YEARS CARRIED.

**ITEM #5 - FLAGSTAR BANK, FSB, 5151 Corporate**, for relief to place an accessory building in a side yard. Petitioner has requested that this item be tabled indefinitely, so this project can be reassessed.

Mr. Stimac stated that the petitioner is requesting relief to locate carport structures covering 28 parking spaces on the south side of the office building currently under construction. This location is within the side yard of this site. Section 40.57.03 of the Troy Zoning Ordinance limits the location of accessory buildings to rear yard locations only. Because of the orientation of this site, with frontages on two parallel streets, there really is no rear yard. Petitioners are seeking relief to locate the accessory buildings in the side yard.

#### **ITEM #5**

A public hearing was held regarding this item at your February meeting. The item was then tabled to allow the petitioner a full board, to allow the board to re-visit the site, and to allow the petitioner to meet with the adjacent residents and discuss their concerns.

We have now received a request from the petitioner to table this request again to allow them to review their options.

Mr. Robert Yurk, representing Flagstar Bank was present and stated that they have met with the Northfield Hills Condominium Association and are in the process of re-assessing their request, and at this time they wished to withdraw their request for a variance.

Mr. Nelson Ritner, 5527 Whitfield, was present and stated that he was representing the members of Heatherwood Subdivision Homeowners Association and they are vehemently opposed to granting Flagstar Bank any type of variance for these carports. Mr. Milia thanked him and stated that the board would make note of this protest. Mr. Ritner also asked that the board not allow Flagstar Bank to bring this appeal back to the board. Mr. Stimac explained that the Board does not have the power to limit the type of appeal that appears before the Board once an application is filed.

No further action required on this variance request.

**ITEM #6 - MS. LILY ANN HICKS, 2019 Vermont (proposed address)** for relief of the rear yard setback.

Mr. Stimac explained that petitioner owns an existing home on the northeast corner of John R and Vermont. The existing home fronts on John R. They are proposing to split off the eastern portion of the property to create a new parcel fronting on Vermont. The resulting lot would only be 83.27 feet deep. The petitioner is requesting relief of the rear yard setback to construct a new residence on this parcel, which will result in a rear yard setback of 34.27 feet. Section 30.10.06 of the Zoning Ordinance requires a rear yard setback of 35 feet in the R-1E Zoning District.

The Board brought up many questions regarding the lot size. Mr. Stimac explained that there is no minimum lot depth found within the Zoning Ordinance, however, the minimum house depth is required to be 24'. He also explained that the front setback in the R-1E Zoning District is 25' and the rear setback is 35'. He confirmed that the proposed lot meets the required lot width and area requirements

Mr. Harvey Hicks, husband of the petitioner, was present and stated that they wished to sell the existing house and keep this lot with the possibility of building a home on it in the future. He further stated that the City had already made sewers available for this property.

**ITEM #6**

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

Mr. Courtney stated that even though this was a small request for a variance it would result in a major change. Mr. Maxwell asked if all the lots on Vermont were the same depths. Mr. Stimac explained that the lots immediately east of the parcel are about twice as deep as the property, and that lots at the east end of the street are even deeper.

There are no written complaints or approvals on file.

Motion by Courtney  
Supported by Maxwell

MOVED, to deny the request of Ms. Lily Ann Hicks, 2019 Vermont (proposed address) to split off the eastern portion of the property to create a new parcel fronting on Vermont, which would result in a rear yard setback of 34.27'. Section 30.10.06 of the Zoning Ordinance requires a rear yard setback of 35' in the R-1E Zoning District.

- Petitioner could not justify the variance.
- The only hardship presented was monetary in nature.
- The hardship is self-created.

Yeas: 4 – Hutson, Courtney, Maxwell, Milia  
Nays: 3 – Fejes, Littman, Giachino

MOTION TO DENY VARIANCE REQUEST CARRIED.

**ITEM #7 - REVEREND JONATHAN SAMS, 5500 North Adams,** for relief of the required parking space depth.

Mr. Stimac explained that the Petitioner had a site plan approved showing a conforming parking lot layout utilizing a one-way driveway system and angled parking spaces. The petitioner is now requesting relief of the Zoning Ordinance to lay out their parking lot with 90 degree parking spaces at a stall depth of 18'-7". Section 40.25.03 requires parking stall depths of 19'-0" for 90 degree parking.

Reverend Jonathan Sams was present and stated that they wish to get as many parking spaces for their congregation in the parking lot as possible. On Sunday they have a very large number of vehicles coming in which makes it a problem. Previously they had the lot striped in this pattern and had not experienced any problems. He also stated that if they have angle parking, he would be concerned that the one-way driveway arrangement would cause congestion.

**ITEM #7**

Mr. Courtney asked if the original site plan had included 90-degree parking or angle parking. Mr. Joe Valeri, Architect, was present and stated that the site plan had included both types of parking. The southern row was 90 degree and the northern row

was angled. However, the paving contractor had incorrectly striped the asphalt base of the parking lot at 90 degrees throughout, this resulted in nine additional parking spaces. Mr. Valeri also stated that if this variance was not granted, the parking lot could be striped according to the site plan.

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

There is one written objection on file.  
There are two written approvals on file.

Motion by Hutson  
Supported by Maxwell

MOVED, to grant Reverend Jonathan Sams, St. Stephens Episcopal Church, 5500 Adams, relief of the Zoning Ordinance to lay out their parking lot with 90 degree parking spaces at a stall depth of 18'-7". Section 40.25.03 requires parking stall depths of 19'-0" for 90 degree parking.

- The variance is minor in nature.
- Variance is not contrary to public interest.
- The variance will not have an adverse effect on surrounding property.
- The variance applies to this property only.

Yeas: 6 – Fejes, Courtney, Maxwell, Giachino, Milia, Hutson  
Nays: 1 – Littman

MOTION TO APPROVE VARIANCE GRANTED.

**ITEM #8 - THOMAS A. SARACINO, 1152 E. Long Lake (proposed address)** for relief of the Zoning Ordinance regarding gross floor area per acre of site.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct a new two-story office building with a basement. The site plan submitted indicates that the proposed construction would result in a total of 45,008 gross square feet of building on a two-(2) acre site, which is 22,504 gross square feet per acre. Section 24.70.01 of the Zoning Ordinance limits the amount of building in the O-1 Zoning District to 15,000 square feet of gross floor area per acre per site.

#### **ITEM #8**

Mr. Stimac also explained that the Ordinance limitation is based on the gross square footage of the building regardless of use. Mr. Giachino expressed concerns that the space might be used for offices. Mr. Stimac further explained that a Certificate of Occupancy could be issued showing requirements and/or restrictions of the use of the basement. Ms. Bluhm stated that although the Certificate of Occupancy could limit the

basement to storage and mechanical, the City's only assurance that it will be used exclusively for storage and mechanical is from the petitioners.

Mr. Giachino then raised the question that if the space were to be used for offices, would it meet the parking requirement. Mr. Stimac stated that although the plans indicated parking in excess of the minimum required, there was not sufficient parking shown to allow for the conversion of the basement for office use.

Mr. Thomas Saracino was present and stated that originally they had planned to build an L-shaped building with a basement which would have been approximately 25,000 square feet per floor. They discovered that several utility lines would have to be moved in order to construct a building in this shape and that the cost was prohibitive. Mr. Saracino also stated that the basement was to be used strictly for mechanical equipment and storage. He said it would not be used for occupancy as offices.

Mr. Milia asked what the difference was between the original plan and the plan now submitted. Mr. Saracino stated that they went from a one-story building with a basement to a two-story, smaller footprint, building with a basement.

Mr. Courtney asked what the hardship was and Mr. Saracino stated that the main hardship was the relocation of the power lines due to the cost involved. Mr. Giachino asked if the Planning Commission had approved the plans. Mr. Saracino stated that both plans had been approved with the stipulation that they would need a variance from the Board of Zoning Appeals, in order to construct the basement.

Mr. Saracino also stated that if they build a one-story building, without moving the power lines, it would result in a building, which would be approximately 15,000 square feet, and this would not meet their needs. Mr. Pampalona was also present and stated that they planned to build a very nice building which would be an asset to the area.

Mr. Hutson raised concerns regarding limitations on the Boards actions as found in the language in the Zoning Ordinance. He stated that the Ordinance allows the Board to grant a variance as long as it is not excessive. He believes that this request is for an excessive variance.

The Chairman opened the Public Hearing.

#### **ITEM #8**

Ms. Nancy Zebracki, 1220 E. Long Lake was present and stated that she believes this building is way too large for the area. She also stated that she has concerns regarding; the length of time construction would take; how many windows would be facing her property; how the parking would affect her property and also questioned the fact that a basement could be put in an area which typically floods. Mr. Milia confirmed that she was against the granting of the variance and suggested that Mr. Saracino and Ms.

Zebracki meet and address some of her other concerns not germane to the request before the board.

Mr. Terence Bilovos, 4082 John R. was present and stated that he does not have an objection to this variance. He stated that according to the Building Code, up to 1/3 of floor area can be used as a mezzanine and not be counted as increased building area and he felt that the basement in this building would meet this criteria.

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

Mr. Giachino stated that he felt this variance request was excessive and suggested that the petitioner go over their plans and perhaps come to the board with a more reasonable request.

Motion by Hutson  
Supported by Littman

MOVED, to deny the request of Thomas A. Saracino, 1152 E. Long Lake (proposed address) for relief of the Zoning Ordinance regarding gross floor area per acre of site.

Before the vote was taken on the above motion, the following motion was made.

Motion by Courtney  
Supported by Giachino

MOVED, to table the request of Thomas A. Saracino, 1152 E. Long Lake (proposed address) for relief of the Zoning Ordinance regarding gross floor area per acre of site.

- Allow petitioner the opportunity to come back to the Board with a more reasonable request.

Yeas: 6 – Courtney, Maxwell, Littman, Giachino, Hutson, Fejes  
Nays: 1 – Milia

MOTION TO TABLE THE REQUEST OF THOMAS A. SARACINO, 1152 E. LONG LAKE (PROPOSED ADDRESS) UNTIL THE NEXT REGULAR MEETING, APRIL 18, 2000 CARRIED.

Mr. Stimac stated that at the last meeting, City Council had re-appointed Mr. Hutson and Mr. Fejes' for three year terms.

The Board of Zoning Appeals meeting was adjourned at 9:00 P.M.

MS/pp