

A meeting of the Board of Zoning Appeals was called to order at 7:30 p.m. on Tuesday, March 21, 1989 by the Chairman, Carmelo Milia.

PRESENT: Peter Dungjen  
James Giachino  
John Lovio  
Carmelo Milia  
James Starr  
J. Charles Swindell

ABSENT: Sherwood Shaver

ITEM #1. Approval of minutes - February 21, 1989

Motion by Lovio  
Supported by Dungjen

MOVED, to approve the February 21, 1989 minutes.

Yeas: 6  
Nays: 0  
Absent: 1- Shaver

MOTION TO APPROVE CARRIED

ITEM #2. RENEWAL REQUESTED: Stuart Frankel Development, Maple Commerce Park, North of Maple, West of Livernois, for relief of walls at residential district lines.

Mr. VandenBussche explained that the petitioner is requesting renewal of a relief granted by this board to provide a landscaped berm in lieu of a 6' foot masonry wall that is required along their north property line and a portion of their east property line. This variance was granted in March of 1987 based on the fact that the adjacent residents preferred this type of screening. This complex has never been built and as of July of last year, 1988, the Plan Commission approval expired. It would appear at this time that no action is required on this request and the appeal process would have to start over again.

No action was taken on request.

ITEM #3. Faith Lutheran Church, 37635 Dequindre, for relief of the 4'6" masonry screening wall at the off-street parking adjacent to the north and west property lines.

Mr. VandenBussche explained that the petitioner is requesting renewal of relief granted by this board for the requirement of a 4'6" masonry screening wall along the west and north edge of their parking area. This relief has been granted on a yearly basis since 1976 and in 1984 they expanded the parking lot. The board then granted additional relief for the new parking areas. Conditions adjacent to the areas remain the same and we have no objections or complaints on file regarding this request for renewal.

Gaylen McDonald was present to represent the church and had nothing to add.

Motion by Giachino  
Supported by Swindell

MOVED, to grant Faith Lutheran Church, 37635 Dequindre, renewal of their variance for relief of the 4'6" masonry screening wall required at the off-street parking adjacent to residential, based on the following:

1. The conditions remain the same.
2. There are no objections or complaints on file.

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## ITEM #3.

Yeas: 6  
Nays: 0  
Absent: 1- Shaver

MOTION TO RENEW VARIANCE FOR ONE YEAR CARRIED.

ITEM #4. RENEWAL REQUESTED: S. O. C. Credit Union, 4555 Corporate Drive, for relief of the 6' masonry screening wall required along the south property line.

Mr. VandenBussche explained that the petitioner is requesting renewal of a relief granted by this board to maintain a 6' high berm in lieu of a 6' high masonry screening wall that is required at their south property line that abuts residential zoning. The berm is in place and the landscaping has been completed. The berm appears to adequately screen the site from the south. We have no objections or complaints regarding this request for renewal.

Elton Thompson was present to represent the church and had nothing to add.

Motion by Starr  
Supported by Swindell

MOVED, to grant S. O. C. Credit Union, 4555 Corporate Drive, renewal of their variance for relief to maintain a 6 foot high landscaped berm in lieu of the 6 foot high masonry screening wall required along the south property line, based on the following:

1. The conditions remain the same.
2. There are objections or complaints on file.

Yeas: 6  
Nays: 0  
Absent: 1- Shaver

MOTION TO RENEW VARIANCE FOR ONE YEAR CARRIED.

ITEM #5. RENEWAL REQUESTED: Michigan Bell Telephone, 6950 Crooks Road, for relief of the 4'6" masonry screening wall required at the off-street parking adjacent to the east property line.

Mr. VandenBussche explained that the petitioner is requesting renewal for relief of a 4'6" masonry screening wall required at the off-street parking area of this site. This variance has been granted on a yearly basis since 1971 primarily due to the fact that the adjacent land is undeveloped. Conditions remain the same and we have no objections or complaints in our file regarding this request for renewal.

Chuck Dakin was present to represent Michigan Bell Telephone and had nothing to add.

Motion by Giachino  
Supported by Dungjen

MOVED, to grant Michigan Bell Telephone, 6950 Crooks Road, renewal of their variance for relief of the 4'6" masonry screening wall required adjacent to their off-street parking, based on the following:

1. The conditions remain the same.
2. There are no objections on file.

Yeas: 6  
Nays: 0  
Absent: 1- Shaver

MOTION TO RENEW VARIANCE FOR ONE YEAR CARRIED.

ITEM #6. RENEWAL REQUESTED: Edward J. McTaggart, 840 E. Big Beaver, for relief of the 6' high masonry screening wall required along the south property line.

Mr. VandenBussche explained that the petitioner is requesting renewal of a relief granted by this board in regard to a 6' masonry screening wall required at the south property line of their site that abuts residential zoning. This relief has been granted on a yearly basis since 1983, primarily due to the fact that the master land use plan indicates the land to the south will become nonresidential in the future. Conditions remain the same and we have no objections or complaints in our file.

Charles Reid was present to represent the petitioner and had nothing to add.

Motion by Lovio  
Supported by Dungjen

MOVED, to grant Edward J. McTaggart, 840 E. Big Beaver Road, renewal of his variance for relief of the 6 foot high masonry screening wall required along the south property line, based on the following:

1. The conditions remain the same.
2. There are no complaints or objections on file.

Yeas: 6  
Nays: 0  
Absent: 1- Shaver

MOTION TO RENEW VARIANCE FOR ONE YEAR CARRIED.

ITEM #7. RENEWAL REQUESTED: Rainbow Muffler, 34835 Dequindre, for relief of one parking space to be maintained as a dumpster enclosure.

The petitioner was not present.

The chairman moved this item to the end of the agenda (Item #18) to allow the petitioner the opportunity to be present.

ITEM #8. RENEWAL REQUESTED: Kmart, 100 E. Maple Road, for relief to permit the display and sale of plants.

Mr. VandenBussche explained that the petitioner is requesting permission to renew a variance allowing the outdoor display in front of the Kmart store along the north side of the fenced area and a 4' section of the sidewalk adjacent to their building. This 4' section is just west of the canopy. The display will be used for plants and flowers. The relief has been granted on a yearly basis since 1980. The length of time that the request is valid for is usually through the months of April to July. The last time the board renewed this request was in June of 1988. At that time the board requested that this renewal appear in March so it could be granted before display of the flowers rather than an after-the-fact action.

The board expressed their concern that the area always tends to exceed that permitted.

Kurt Rainey, General Manager and Bruce Perry, Operations Assistant Manager, were present and assured the board that they would not exceed the limitations placed, on them, by the board.

Motion by Giachino  
Supported by Dungjen

## ITEM #8

MOVED, to grant K mart, 100 E. Maple Road, renewal of their variance allowing the outdoor display/sale of plants and flowers (April thru July) within a 4 foot wide section of sidewalk adjacent to the front of their building, west of the canopy and within an 8 foot section along the north side of the fenced area and with the condition that the area will be checked and if they do not comply, corrective steps shall be taken.

Yeas: 6  
Nays: 0  
Absent: 1- Shaver

MOTION TO RENEW VARIANCE FOR ONE YEAR CARRIED.

ITEM #9. VARIANCE REQUESTED: Metro Chinese Christian Missionary Alliance Church, 5353 Livernois, to place a temporary structure (trailer) on their property for a period of two years.

Mr. VandenBussche explained that Mr. Cheu, the petitioner, contacted the Building Department and requested that their request for a variance be withdrawn.

The board took no action on this request.

ITEM #10. VARIANCE REQUESTED: Troy Church of Christ, 800 Trombley, for relief to expand a non-conforming building.

Mr. VandenBussche explained that the petitioner is requesting a permit to construct a 1500 square foot addition onto the rear of an existing facility (church). The church is an existing legal non-conforming building because it does not front on a major thoroughfare. The Zoning Ordinance does not permit additions or expansions to non-conforming conditions. The petitioner is requesting that the board give them relief to construct their proposed addition.

William Palmer and Gene Colley were present to represent the church. The petitioners stated that the proposed addition was for a fellowship hall which would also consist of a kitchen, classrooms and a boiler room. The reason they need the room is that their membership has increased and there are more people involved in their fellowship activities. The petitioners stated that it would not be practical for them to relocate their church and if a variance was not received it would probably stop their membership growth. The petitioners also indicated that, as far as they knew, there no problems with the church being on a residential street.

The chairman opened the public hearing.

There were no comments from the audience.

The chairman closed the public hearing.

There were 3 letters of approval on file: Roy & Gladys Emery, 711 Vanderpool - Russell J. Stehle, Sr., 737 Vanderpool and James S. Reckker, 878 Trombley.

Motion by Giachino  
Supported by Lovio

MOVED, to grant Troy Church of Christ, 800 Trombley, a variance, as requested, for relief to construct a 1500 square foot addition to an existing legal non-conforming use, based on the following:

1. While the intent of the ordinance is not to allow continuation of non-conforming uses, in this case the church was here a number years before the ordinance was adopted.

## ITEM #10

2. There is an exceptional condition in that the property owners that would be most affected by the traffic have not raised any objection, in fact three have approved.
3. The variance is necessary for the substantial benefit and use of the property owners.

Yeas: 5  
Nays: 1- Starr  
Absent: 1- Shaver

MOTION TO APPROVE VARIANCE CARRIED.

ITEM #11. VARIANCE REQUESTED: Tom Christenson, 343 E. Maple Road, for relief of the front and side yard setbacks, relief of the required width of an access drive and relief of the 5' wide walk required between the building and the driveway.

Mr. VandenBussche explained that the petitioner is requesting relief to change the occupancy of a residential building to commercial. The proposed plan shows that the existing residence is 14.5' from the right-of-way of Maple Road and also has side yard setbacks of 10' and 16.5'. The Zoning Ordinance requires a minimum front setback of 30' and a side yard setback of 20' in an office zoned district. The plan also shows a 16.5' wide driveway leading to the parking lot at the rear. The Zoning Ordinance requires the minimum width of a two-way drive to be 22'. Finally, the plan does not show a 5' sidewalk that is required between the building and driveway. The Zoning Ordinance requires a 5' sidewalk between any building and a vehicular traffic area at the front or rear. To sum up these requests, it would be to maintain a building that has inadequate setbacks at the front and sides to allow a 16.5' driveway where 22' is required and, finally, to allow the omission of a 5' sidewalk between a building and a vehicular traffic area.

Tom Christenson was present and stated that he has an offer to purchase the property conditioned on the variance. Mr. Christenson stated that he feels the lot is not buildable - the site to the west is commercial and the site to the east is residential. He has not been able to acquire property that is contiguous to develop. Mr. Christenson further stated that if he were able to get additional property he would develop the site within the requirements of the code. Mr. Christenson stated that the first 60 feet of the driveway does meet the code. Mr. Christenson also stated that he feels it is not feasible to use the structure as residential, nor would it be feasible to remove the structure.

The chairman opened the public hearing.

Cynthia and Larry Wilshire, 369 E. Maple Road, were present and objected to the variance, in particular the driveway width. The Wilshire's also stated that they were the first house east of the site and that their property was available for purchase.

There were no further comments from the audience.

The chairman closed the public hearing.

There was 1 letter of objection on file: William F. and Stella Chapman, 395 E. Maple Road.

Motion by Lovio  
Supported by Starr

MOVED, to deny the request from Tom Christenson, 343 E. Maple Road, for relief of the front and side yard setbacks, relief of the required driveway width and relief of the 5 foot walk required between the building and the driveway, based on the following:

1. The request is excessive.
2. The petitioner has not presented a practical difficulty or

ITEM #11

3. There is a strong objection from the neighbors.

Yeas: 5  
Nays: 1- Milia  
Absent: 1- Shaver

MOTION TO DENY REQUEST CARRIED.

ITEM #12. VARIANCE REQUESTED: Lawrence Holman, 2679 e. Square Lake Road  
for relief of the rear yard setback.

Mr. VandenBussche explained that the petitioner is requesting a permit to construct a single family residence on the north side of Square Lake Road just east of Evanswood. The plan indicates that they would have a 26' rear yard setback. The Zoning Ordinance requires a minimum 40' rear yard setback in this residential zoned district. This appeared before the Zoning Board at our last regular meeting. At that time the request was for relief of a required front setback. They have revised the plan and now the encroachment would be to the rear and would maintain a front setback that would be in compliance.

Lawrence Holman was present and stated that to build a home on this parcel that met the ordinance, he would be limited to 16'x65', which he feels is not desirable. He further stated that he feels this would be a hardship to him, the neighborhood and the city. He further indicated that there would be approximately 150 feet between this home and the house to the rear.

The chairman opened the public hearing.

William LeFaivre, 2751 E. Square Lake Road, was present and had no objection to the request.

Leon and Sandra Karash, 6042 Evanswood, owners of the property directly behind the petitioner, were present and objected to the variance, indicating they felt the minimum setbacks should be met.

There was 1 letter of approval on file: Mrs. Irene Thomas, 6113 Evanswood.

There were 3 letters of objection on file: Leon and Sandra Karash, 6042 Evanswood - Mr. & Mrs. Michael Karash, 6060 Evanswood - Marie Moore, 5953 Marble.

Motion by Dungjen  
Supported by Lovio

MOVED, to deny the request of Lawrence Holman, 2679 E. Square Lake Road, for relief of the rear yard setback - 26 feet where 40 feet is required, based on the following:

1. The variance is contrary to public interest.
2. Approval of the request would not be in harmony with the purposes of the Zoning Ordinance.

Yeas: 4  
Nays: 2- Milia, Giachino  
Absent: 1- Shaver

MOTION TO DENY REQUEST CARRIED.

ITEM #13. VARIANCE REQUESTED: Duane and Cheryl Lawton, 5230 Cardinal,  
for relief of the rear yard setback.

## ITEM #13.

Mr. VandenBussche explained that the petitioner is requesting a permit for a 36' x 22' addition onto the rear of the existing residence. This addition would result in a 42' rear yard setback. The Zoning Ordinance requires a minimum 45' rear yard setback in this residential zoned district.

Duane Lawton was present and stated that they were asking for a 36 inch variance to enable them to construct a 16'x30' enclosed pool in a 36'x22-1/2' future addition. The addition as proposed would enable them to have a walkway on three sides of the pool. If they constructed the addition to meet code, the pool foundation would be within 1 foot of the house foundation and they would not be able to have a walkway between the pool and house, which they feel is a safety problem. The petitioner further indicated the addition would be pretty much in line with the houses on each side.

The chairman opened the public hearing.

There were no comments from the audience.

The chairman closed the public hearing.

There was 1 letter of approval on file: Sharon Buselmeier, 5225 Cardinal.

There were 2 letters of objection on file: Grace Keng, 2146 Curran and Buscum Gillespie, 5139 Cameron.

Motion by Swindell  
Supported by Lovio

MOVED, to grant Duane and Cheryl Lawton, 5230 Cardinal, a variance, as requested, for relief of the rear yard setback - 42 feet where 45 feet is required, based on the following:

1. The variance is not contrary to public interest.
2. The variance relates only to the property described in the application.
3. Conforming would be unnecessarily burdensome.

Yeas: 2  
Nays: 4- Milia, Dungjen, Giachino, Starr  
Absent: 1- Shaver

MOTION FAILS - REQUEST DENIED.

ITEM #14. VARIANCE REQUESTED: Louie Guisti, 107-109 Biltmore, for relief of the required lot width.

Mr. VandenBussche explained that the petitioner is requesting a permit to split and combine three lots that would result in two lots having a lot width of 77.5'. The one lot has an existing duplex on it and the petitioner proposes to construct a second duplex on the other lot. The lot width of 77.5' is deficient in that the Zoning Ordinance requires a minimum lot width of 80' for a duplex site. What would occur if this variance were granted, this would result in two sites that would be nonconforming. This site appeared before the Zoning Board previously in May of 1988. At that time the petitioner also did not meet the square foot requirements of a lot. Since that time there has been a vacation of an alley that resulted in additional square footage and the square foot deficiency is no longer present.

Mr. Guisti was present stated that the site now exceeds the square foot area required and he requires only a 2-1/2 foot variance. Mr. Guisti stated that he constructed the duplex on the adjacent site and that he extended the road to provide access to this property. It would be a hardship to him if he cannot develop the site as a duplex use.

The chairman opened the public hearing.

ITEM #14.

There were no comments from the audience.

The chairman closed the public hearing.

There was 1 letter of approval on file: James W. McClure, 91 Regents.

There was 1 letter of objection on file: Walter J. Wajda, 90 Biltmore

Motion by Swindell  
Supported by Dungjen

MOVED, to deny the request of Louie Guisti, 107-109 Biltmore, for relief of the required lot width, based on the following:

1. The variance is contrary to public interest.
2. The petitioner has not demonstrated a practical difficulty or hardship, the site is buildable.

Yeas: 6  
Nays: 0  
Absent: 1- Shaver

MOTION TO DENY REQUEST CARRIED.

The board recessed at 8:55 p.m. and reconvened at 9:10 p.m.

ITEM #15. VARIANCE REQUESTED: Walsh College, 3838 Livernois  
for relief of the minimum lot coverage and relief of the  
required site size.

Mr. VandenBussche explained that the petitioner is requesting a permit to construct a 33,350 square foot addition to the existing Walsh College. The proposed addition would result in lot coverage of approximately 61% for the building, parking and drives. The Zoning Ordinance limits lot coverage to not more than 50%. Also, the existing site is approximately 19 acres and the Zoning Ordinance requires a minimum of 22 acres for a facility that has a student enrollment of 1100. The ordinance requires two acres for each 100 students. Mr. VandenBussche further explained that a revised site plan was received and the petitioner is no longer asking for a variance on the lot coverage, a portion of the parking lot has been eliminated.

David Spencer, Vice President of Administration and Mr. Redstone the Architect were present. The petitioners explained how they felt that Walsh College was unique as a college and that it was a college of higher education and had no activities such as other colleges. They also explained how, because of their structuring of classes there would be no more than 960 students in the building at any one time.

The board discussed, with the petitioner, the possibility of posting an occupancy and not exceeding that occupancy. It was the board's interpretation that if occupancy could not exceed 950 they would be in compliance and a variance would not be required.

The chairman opened the public hearing.

Joseph Muller, 10 Wendelton, was present and objected citing a traffic problem.

Michael Norton, 30 Wendelton, was present and objected for the same reasons.

Mary Jean Wattles, 3864 Livernois, was present and objected to the variance indicating that the site is becoming more congested.

There were no further comments from the audience.

The chairman closed the public hearing.



## ITEM #15

There were 4 letters of objection on file: Floyd and Loretta Gates, 37 Scottsdale - Michael Norton, 30 Wendelton - Mary Jean Wattles, 3864 Livernois - Mr. & Mrs. Tom Marquardt, 11 Wendelton.

Motion by Lovio  
Supported by Dungjen

MOVED, to deny the request of Walsh College, 3838 Livernois, for relief of the required site size, based on the following:

1. Health, safety and welfare of the community would be greatly affected if the variance is allowed to continue.
2. No hardship or practical difficulty has been presented.

Yeas: 5  
Nays: 1- Swindell  
Absent: 1- Shaver

MOTION TO DENY REQUEST CARRIED.

ITEM #16. VARIANCE REQUESTED: Wade M. Gora, 5373 Allison, for relief of the rear yard setback.

Mr. VandenBussche explained that the petitioner is requesting a permit to construct a 16'x17' addition onto the rear of an existing residence. The proposed addition would result in a rear yard setback of 34'. The Zoning Ordinance requires a minimum 40' rear yard setback in this residential zoned district.

Wade Gora was present and stated that the proposed addition was for a family room. The living space is needed because of their expanded family, they have 3 children and a grandmother who will probably be living with them in the near future. Mr. Gora stated that he feels there will be no hardship to neighbors in that his property backs up to a large parcel of property owned by the Troy School District. The parcel is undeveloped and it is his understanding, the area is to remain a natural area. He is on a corner lot and the street along the side of his property is a short dead end street, therefore, there is only one neighbor whose property abuts his

The chairman opened the public hearing.

There were no comments from the audience.

The chairman closed the public hearing.

There were 4 letters of approval on file: Peter P. & Susan A. Botskis, 5421 Allison - Richard Harding, 5325 Allison - Thomas J. Brooks, 5366 Allison - Chester Przygoda, 5398 Allison.

Motion by Starr  
Supported by Dungjen

MOVED, to grant Wade M. Gora, 5373 Allison, a variance, as requested, for relief to construct a 16'x17' addition which will result in a 34 foot rear yard setback where 40 feet is required, based on the following:

1. The variance is not contrary to public interest.
2. The variance does not establish a prohibited use within the zoning district.
3. The variance does not cause an adverse effect to properties in the immediate vicinity or zoning district.
4. The petitioner has demonstrated a practical difficulty in the need for additional living space.

Yeas: 5  
Nays: 1- Milia  
Absent: 1- Shaver

MOTION TO APPROVE REQUEST CARRIED.

ITEM #17. VARIANCE REQUESTED: Ceasar Building Company, 3945 Wayfarer, for relief of the rear yard setback.

The petitioner was not present.

Motion by Lovio  
Supported by Starr

MOVED, table the request of Ceasar Building Company, 3945 Wayfarer, for relief of the rear yard setback, until the next regular meeting (April 18, 1989) to allow the petitioner the opportunity to be present.

Yeas: 6  
Nays: 0  
Absent: 1- Shaver

MOTION TO TABLE UNTIL NEXT REGULAR MEETING (April 18, 1989) CARRIED.

ITEM #18 (ITEM #7) RENEWAL REQUESTED: Rainbow Muffler, 34835 Dequindre, for relief of one parking space to be maintained as a dumpster enclosure

The petitioner was not present.

Motion by Dungjen  
Supported by Lovio

MOVED, to table the request of Rainbow Muffler, 34835 Dequindre, for relief of one parking space to be maintained as a dumpster enclosure, until the next regular meeting (April 18, 1989) to allow the petitioner the opportunity to be present.

Yeas: 6  
Nays: 0  
Absent: 1- Shaver

MOTION TO TABLE UNTIL NEXT REGULAR MEETING (April 18, 1989) CARRIED.

The Board of Zoning Appeals adjourned at 10:20 p.m.

GV/ddb

