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A meeting of the Board of Zoning Appeals was held on Tuesday, December 16, 1980 at the Troy City Offices. The meeting was called to order by Chairman, John Wilson at 7:30 p.m.

PRESENT: John Wilson
Chairman

James Giachino
Kenneth Lashmet
Ruth Vail
Richard Bonham
John Lovio

ABSENT: Carmelo Milia

ITEM #1. Approval of November 18, 1980 minutes

Motion by Lashmet
Support by Lovio

MOVED, to approve the minutes of November 18, 1980 as written

ayes: 6
nays: 0
absent: 1 - Milia

MOTION TO APPROVE CARRIED

RENEWALS

ITEM #2. Troy Swim Club, 538 East Long Lake, for permission to operate a private swim club.

Mr. VandenBussche explained that the petitioner is requesting renewal of a variance granted by this board to operate a private swim club in a residential district. This renewal has been granted on a yearly basis for more than ten years with specific stipulations attached to the approval. A list of these stipulations has been included in with your packets. There are no objections or complaints in the files.

Mr. Jack Hannah was present. He had no additional comments.

Motion by Lovio
Support by Bonham

MOVED, to approve renewal of permission to operate a private swim club at 538 East Long Lake for one additional year based on the following reasons:

1. The conditions remain the same.
2. No objections in the files.
3. The regulations are to remain the same.

ayes: 6
nays: 0
absent: 1 - Milia

MOTION TO APPROVE FOR ONE YEAR CARRIED

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ITEM #3. Belair Diversified, 1950 East Square Lake, for relief to erect a commercial building with a 6' earth berm in lieu of the required 6' masonry wall along the west property line.

Mr. VandenBussche explained that the petitioner is requesting renewal of relief granted by this board for an earth berm in lieu of the required 6' masonry wall along the west property line abutting residential zoning. This relief was originally granted based on the fact that the residential zoning was undeveloped. There are plans for a church to be constructed on this residential land to the west so that the use of the land will probably never support single family dwellings. There are no objections or complaints in the files.

Mr. James Johnson, representing Belair Diversified, was present. He had no additional comments to contribute.

Motion by Lashmet
Support by Giachino

MOVED, to approve renewal of relief to maintain a commercial building with a 6' earth berm in lieu of the required 6' masonry wall along the west property line for one additional year based on the following reasons:

1. The conditions remain the same.
2. The adjacent land is now a church and there is no need for a masonry wall.

ayes: 6
nays: 0
absent: 1 - Milia

MOTION TO APPROVE FOR ONE YEAR CARRIED

ITEM #4. Rottman Construction, 465-555 Morse, to maintain the wood fence and carports in lieu of the 6' masonry fence required along the east property line.

Mr. VandenBussche explained that the petitioner is requesting renewal of relief granted by this board to maintain a wood fence and carports along the off-street parking area for their multiple use in lieu of the required 4'6" masonry wall. The original variance was granted in 1979 based on the fact that there is a school to the east of this site and a wall is not required between these two uses. Also that the area may be future multiple use. The conditions remain the same and there are no objections or complaints in our files.

Mr. Al Rottman was present. He had no additional comments to contribute.

Motion by Giachino
Support by Lovio

MOVED, to approve renewal of relief to maintain the wood fence and carports in lieu of the 6' masonry fence required along the east property line at 465-555 Morse for one additional year based on the following reasons:

1. No changes in the wall
2. The conditions are the same
3. No objections

ayes: 6
nays: 0
absent: 1 - Milia

MOTION TO APPROVE FOR ONE YEAR CARRIED

ITEM #5. Ted Schaefer, 6791 Rochester Road, for relief to maintain eight temporary accessory buildings.

Mr. VandenBussche explained that the petitioner is requesting relief to renew a variance granted by this board to maintain eight temporary structures for use as greenhouses. This variance has been granted on a yearly basis since 1971. The conditions remain the same and there are no objections or complaints in our files. Mr. VandenBussche explained further that Mr. Schaefer had been into the Building Department and paid his fee and indicated that he may not be able to attend the hearing tonight. If there were any problems that the board had with this renewal, the petitioner would definitely be at the January 1981 meeting.

The petitioner was not present.

Motion by Lovio
Support by Giachino

MOVED, to approve relief to maintain eight temporary accessory buildings at 6791 Rochester Road for one additional year based on the following reasons:

1. The conditions remain the same.
2. No complaints or objections in the files.
3. Unusual conditions exist.

ayes: 6
nays: 0
absent: 1 - Milia

MOTION TO APPROVE FOR ONE YEAR CARRIED

ITEM #6. Wabeek Properties, 1494 John R, for relief of the masonry wall abutting residential property (68').

Mr. VandenBussche explained that the petitioner is requesting renewal of relief of a 6' masonry wall required at the easterly 68' of the south property line that abutts residential zoning. This relief was originally granted in 1976 based on the determination of the Planning Department that the adjacent land could become nonresidential in the future. It is presently undeveloped. The conditions remain the same and there are no objections or complaints in our files.

Mr. John Higgins was present. He had no additional comments to make.

Motion by Lashmet
Support by Lovio

MOVED, to approve renewal of relief of the masonry wall abutting residential property at 1494 John R for one additional year based on the following reasons:

1. The conditions remain the same.
2. It is not detrimental to the area.
3. There is one house affected by this variance and they are not objecting.

ayes: 6
nays: 0
absent: 1 - Milia

MOTION TO APPROVE FOR ONE YEAR CARRIED

ITEM #7. St. Mark Coptic Church, 3603 Livernois, for relief to install an earth berm with landscaping in lieu of the required 4'6" masonry screening wall adjacent to residential zoning.

Mr. VandenBussche explained that the petitioner is requesting renewal of relief granted by this board to maintain berms and landscaping in lieu of a 4'6" masonry wall required at the off-street parking area of the church. The original Plan Commission approval required masonry screening walls along the north and south sides of the parking area. This relief was granted by the board primarily because of the stipulation that the church would install berms and landscaping. There are no objections or complaints in the files and the conditions remain the same.

Dr. Milead, representing St. Mark Coptic Church, was present. He indicated that there are 15 trees on the north side of the property and the south side is heavily treed.

Motion by Lovio
Support by Bonham

MOVED, to approve relief to maintain landscaping in lieu of the required 4'6" masonry screening wall adjacent to residential zoning for one additional year with the understanding that the petitioner improve the south side before coming back for either a permanent variance or a renewal based on the following reason:

1. No objections in the file.

ayes: 6
nays: 0
absent: 1 - Milia

MOTION TO APPROVE FOR ONE YEAR CARRIED

ITEM #8. Hoyem-Basso Associates, 3955 West Big Beaver, for relief to erect an earth berm in lieu of a masonry obscuring wall.

Mr. VandenBussche explained that the petitioner is requesting renewal of relief granted by this board to maintain an earth berm in lieu of a masonry obscuring wall required at the off-street parking area for church use. This relief was originally granted in 1977 and the conditions remain the same. There are no objections or complaints in the files. The petitioner has sent in a communication indicating that he would like this item tabled until the January meeting at which time he will apply for a permanent variance.

The petitioner was not present.

Motion by Giachino
Support by Lovio

MOVED, to table this item for 30 days.

ayes: 6
nays: 0
absent: 1 - Milia

MOTION TO TABLE FOR 30 DAYS CARRIED

TABLED

ITEM #9. Charles Campbell, 6516 Norton, for relief to maintain an accessory building for agricultural use on a parcel of land less than 5 acres. The accessory buildings are 1,950 square feet in excess of the principal structure.

The petitioner was not present.

Motion by Lashmet
Support by Lovio

MOVED, to table this item until the end of the agenda and hear it as Item #19.

ayes: 6
nays: 0
absent: 1 - Millia

MOTION TO TABLE CARRIED

ITEM #10. Hollywood Building and Investment, 2670 West Maple, for relief of the 6' decorative masonry screening wall required along the north property line abutting residential property.

Mr. VandenBussche explained that the petitioner is requesting renewal of relief of a 6' masonry screening wall required along the north property line of the ir site abutting residential zoned land. This relief was originally granted in November of 1976 based on the fact that the property to the north is a Bell Telephone Utility site that is permitted in residential districts. The conditions remain the same and there are no objections or complaints in our files. This item was tabled at the last regular meeting due to the petitioner not being present.

Mr. Jay Welch was present. He had no additional comments to contribute.

Motion by Giachino
Support by Boffham

MOVED, to renew relief of the 6' decorative masonry screening wall required along the north property line abutting residential property at 2670 West Maple for one additional year based on the following reasons:

1. The conditions remain the same.
2. No objections in the files.

MOTION TO APPROVE FOR ONE YEAR CARRIED

ITEM #11. Frank Petruzzello, 6950 Rochester Road, for relief of the walls on the east and south property lines.

The petitioner was not present.

Motion by Lashmet
Support by Vail

MOVED, to table this item until the end of the agenda and hear it as Item #20

ayes: 6
nays: 0
absent: 1 - Millia

MOTION TO TABLE CARRIED

PUBLIC HEARINGS

ITEM #12. Merchant of Vino, 4050 Rochester, for permission to park a trailer along side of his building for the months of November and December.

The petitioner was not present.

MOTION BY Lovio
Support by Lashmet

MOVED, to table this item until the end of the agenda and hear it as Item #21.

ayes: 6
nays: 0
absent: 1 - Milia

MOTION TO TABLE CARRIED

ITEM #13. Gust Papadelis, 3305 John R, for permission to maintain a greenhouse

Mr. VandenBussche explained that the petitioner is requesting a permit to maintain a 30' x 60' pole barn type greenhouse on a site that has a legal nonconforming use. The zoning ordinance does not permit nonconforming uses to be expanded, altered, or enlarged in any manner. The zoning ordinance also does not permit accessory structures of this type without the board of zoning appeals approval.

Mr. Gust Papadelis was present. He indicated that he has two children that run the greenhouse. He stated that he questioned the building inspectors and was told that he would not require a building permit if he was just altering the building. Therefore, he proceeded to alter the building a little at a time. He owns five acres and has torn down three accessory buildings that were previously existing. He has rebuilt the previous greenhouse into a pole barn to be used as a storage building in conjunction with his greenhouses. The property has a pipe line going through the middle of it.

The Chairman opened the public hearing.

Mr. Lawrence Domas of 1961 Crimson was present and objected.

Mr. James Johimsthal of 1862 Lakewood was present and objected.

Mr. Chicklas of 1937 Crimson was present and objected.

Thirteen letters of objection on file from Mary & Al Ventimeglio, 1889 Crimson; Judith Hyland, 1913 Crimson; Lawrence Domas, 1961 Crimson; L. Stadnik, 1842 Lakewood; Roger Klinzman, 1855 Lakewood; Frank Minlettin, 1949 Crimson; Richard Gidel, 1846 Lakewood; John Mioyay, 1902 Crimson; Mr & Mrs. Lawrence Petrucci, 1925 Crimson; Mrs. Arthur Carter, 1901 Crimson; Terry Robinson, 1890 Crimson; Mrs. Janice Aleck, 1865 Crimson; and Michovil Buschbacher, 1877 Crimson.

The Chairman closed the public hearing.

Motion by Lovio
Support by Bonham

MOVED, to deny relief to maintain a pole type barn to be used as a greenhouse and storage at 3305 John R for the following reasons:

1. Petitioner has in fact replaced a greenhouse with a pole barn which is an excessive expansion of a nonconforming use.
2. No hardship demonstrated
3. Did not obtain a permit
4. Thirteen objections in the files.

ayes: 6
nays: 0
absent: 1 - Milia

MOTION TO DENY CARRIED

ITEM #14. Grigore Tabac, Lot #12, Tucker, Eysters John R Acres, for permission to split a 205' wide lot into two lots of 100' and 105' where 110' is required to erect a single family residence.

Mr. VandenBussche explained that the petitioner is requesting a permit to erect a single family residence on a lot that will be split into two parcels, 100' and 105'. The zoning ordinance requires a minimum lot width of 110' in this residential use district without sewers.

Mrs. Amin was present. She indicated that they bought the lot to build one house and due to financial reasons can no longer afford to build unless they build two houses and sell one or sell a portion of the lot. The lots will conform with the ordinance once sewers go in on the street.

The Chairman opened the public hearing.

No comments from the audience.

Five letters of objection on file from Ernst Kienitz, (owners of 12-301-013 & 12-301-014); Mr. & Mrs. Thomas Schoenherr, 2216 Tucker; Mr. & Mrs. Patrick Flynn, 2267 East Long Lake; Mr. & Mrs. Patrick Flyn, 2267 East Long Lake (for Betty Ashcroft); Hallock F. Burden, 2287 East Long Lake; Mr. & Mrs. Edward Schultz, 2217 Tucker.

The Chairman closed the public hearing.

Motion by Giachino
Support by Lashmet

MOVED, to approve of two houses being built on Lot #12 of Eysters John R Acres with their lot width of 100' and 105' where 110' is required for the following reasons:

1. They are not major variations of the ordinance
2. When sewers go in, lots will conform.

ayes: 6
nays: 0
absent: 1 - Milia

MOTION TO APPROVE CARRIED

ITEM #15. Ronald L. David, west side of John R, 35-400-001 for an interpretation of Section B, Article 21.30.02 of Chapter 39 to permit open air recreational use at the Oakland Mall Complex.

Mr. VandenBussche explained that the petitioner is requesting an interpretation of the zoning ordinance to allow the erection of an open air recreational use (water slide) on the Oakland Mall site. The zoning ordinance requires that the recreational spaces be adjacent to a building mass to which they are secondary and that the use be similar to shuffle board, miniature golf or tennis. The site plan indicates that the proposed use is located approximately 600' from the closest building mass in the Oakland Mall Complex. The request is twofold in that the petitioner is requesting an interpretation that the location is in compliance with the ordinance and the use is similar to the use specified in the ordinance. This item was heard at our last regular meeting at which time an interpretation that the site was not part of the Oakland Mall Complex was made. Therefore, it was not allowed. The petitioner now contends that he has evidence that the site is in fact part of the Mall Complex and is providing evidence to substantiate that fact.

Mr. John Martin, Assistant City Attorney, indicated that once the Board of Zoning Appeals had made a decision, a petitioner could not bring the same item back before the board for a rehearing unless so ordered by the Circuit Court.

Mr. Ronald David was present and indicated that they now have proof that the site is in fact part of the Oakland Mall Complex.

Mr. Jay Kogan was present and substantiated the fact that this site is part of the planned development of Oakland Mall.

It was the determination of the Board of Zoning Appeals that they could not hear this item based on the advice of the Assistant City Attorney and that the only recourse for the petitioner was to present his case to Circuit Court.

ITEM #16. William Zobel, 615 Ottawa, for relief to erect a two story accessory structure.

Mr. VandenBussche explained that the petitioner is requesting a permit to erect a 28' x 40' two story garage. The zoning ordinance defines a garage as an accessory structure on a site and does not permit this type of structure to be more than one story.

Mr. William Zobel was present. He indicated that he needs the additional storage space to store parts for his farm machinery which the second floor in this garage will provide. It will also be used for his children to use as a hobby area.

The Chiirman opened the public hearing.

Mr. William Meyers of 642 Ottawa was present and objected.

Mr. Joseph Bilicki of 630 Ottawa was present and objected.

Mrs. Bailey of 635 Ottawa was present and objected.

Mr. Swain of 6408 Montclair was present and approved.

Nine letters of approval on file from George Fairman, 6464 Norton; Roy Morgan, 565 Ottawa; Les LeMieux, 535 Ottawa; Elaine Bailey, 638 Ottawa; Mary Bilicki, 630 Ottawa; George Tedder, 610 Ottawa; Mr. Roy Morgan, 565 Ottawa; Robert Swain, 6408 Montclair; and Clyde Hurst, 665 Ottawa.

The Chairman closed the public hearing.

Motion by Lovio
Support by Vail

MOVED, to approve relief to erect a two story accessory structure at 615 Ottawa for the following reasons:

1. Petitioner has large parcel of land.
2. This is a reasonable request
3. Height is immaterial, as petitioner could actually build 8' higher than requesting.
4. It is in keeping with past record of granting similar requests in other areas.
5. Will not be utilized as living quarters
6. The number of approval in the files.

ayes: 5
nays: 1 - Lashmet
absent: 1 - Milia

Reason for no vote: Lashmet: The adjacent neighbor has objected and neighbors across the street.

MOTION TO APPROVE CARRIED.

ITEM #17. Lauck, Leto, and Cavanaugh, 405 West Big Beaver, for relief to erect a ground sign in the proposed right-of-way of Big Beaver Road.

Mr. VandenBussche explained that the petitioner is requesting a permit to erect a 7' x 2 1/2' ground sign that will be located in the future right-of-way of Big Beaver Road. The site plan indicates the sign will be located approximately 40' into this proposed right-of-way. The zoning ordinance does not permit signs to be located in the proposed right-of-way of major thoroughfares.

Mr. Cavanaugh was present. He indicated that their sign will be the same distance from the street as the sign next door at the bank. If the right-of-way is ever needed in the future, they will remove the sign at their own expense.

The Chairman opened the public hearing.

No comments from the audience.

One letter of objection on file from Jack Shenkman (owner of parcel 21-476-010).

The Chairman closed the public hearing.

Motion by Giachino
Support by Lashmet

MOVED, to deny relief to erect a ground sign in the proposed right-of-way of Big Beaver Road for the following reasons:

1. Lack of sufficient hardship due to nature of business.
2. Adequate space to locate sign without being in right-of-way.

ayes: 4
nays: 2 - Lovio, Bonham
absent: 1 - Milia

Reason for no vote:

Lovio: Petitioner has reasonable request.
Bonham: Sufficient hardship was demonstrated.

MOTION TO DENY CARRIED

ITEM #18. Timothy Clyne, 1924 Birchwood, for relief to erect a 6' high obscuring fence 25' from Chopin Street where 50' is required.

Mr. VandenBussche explained that the petitioner is requesting a permit to establish an outside storage area on a site on the south side of Birchwood and has frontage not only on Birchwood but Chopin also. The site plan indicates a 6' high obscuring fence setback 25' from Chopin Street. The zoning ordinance requires a 6' high masonry screening wall obscuring the storage area from Chopin Street and requires a minimum 50' setback for storage areas from any street right-of-way.

Mr. Clyne was present. He indicated that Chopin will eventually be blocked off. He will erect a cyclone fence with wooden slats to provide obscuring measures.

The Chairman opened the public hearing.

No comments from the audience.

One letter of approval on file from Edward Kedrow (owner of parcel 26-481-012).

Two letters of objection on file from John Reilly, (owner of parcel 26-483-027) and Goldie Bird (owner of parcel 26-483-008)

The Chairman closed the public hearing

Motion by Lovio
Support by Giachino

MOVED, to approve relief to erect a 6' high obscuring fence 25' from Chopin Street for one year with the understanding that this is to be a cyclone fence with wooden slats for a period of one year based on the following reason:

1. It is a reasonable request due to the conditions of the street.

ayes: 6
nays: 0
absent: 1 - Milia

MOTION TO APPROVE FOR ONE YEAR CARRIED

ITEM #19. (ITEM #9) Charles Campbell, 6516 Norton, for relief to maintain an accessory building for agricultural use on a parcel of land less than 5 acres. The accessory buildings are 1,950 square feet in excess of the principal structure.

Mr. VandenBussche explained that the petitioner is requesting permission to maintain a 120' x 26' accessory building (greenhouse) on his site on the east side of Norton. The principal building on the site, his residence, has 2,000 square feet of floor area but the existing accessory building plus the proposed greenhouse will total 3,950 square feet of accessory buildings. This relief was originally granted in November of 1978, based on the fact that he had secured approval of the adjacent neighbors and that it would not be detrimental to the area. There are no objections or complaints in the files regarding this request. This item was tabled at our last regular meeting due to the petitioner not being present.

Mr. Charles Campbell was present. He had no additional comments.

Motion by Giachino
Support by Lovio

MOVED, to approve renewal of relief for one year to maintain an accessory building for agricultural use on a parcel of land less than 5 acres, for the following reasons:

1. No changes
2. No objections

ayes: 5
nays: 1 - Vail
absent: 1 - Milia

Reason for no vote:

Vail: It is an excessive request.

MOTION TO RENEW FOR ONE YEAR CARRIED

ITEM #20. Frank Petruzzello, 6950 Rochester Road, for relief of the walls on the east and south property lines.

The petitioner was not present.

Motion by Lashmet
Support by Lovio

MOVED, to deny relief of walls on the east and south property lines at 6950 Rochester Road for the following reasons:

1. Second month that petitioner has failed to appear.
2. Conditions of property are very unkempt.
3. Five citations against the property.

ayes: 6
nays: 0
absent: 1 - Milia

MOTION TO DENY CARRIED

ITEM #21. (Item #12) Merchant of Vino, 4050 Rochester Road, for permission to park a trailer along side of his building for the months of November and December.

Petitioner was not present.

Motion by Lovio
Support by Vail

MOVED, to deny relief to park a trailer along side of the building at 4050 Rochester Road.

ayes: 6
nays: 0
absent: 1 - Milia

MOTION TO DENY CARRIED

ADJOURNMENT

The Zoning Board of Appeals meeting adjourned at 9:55 p.m.