

A meeting of the Board of Zoning Appeals was called to order at 7:30 p.m. on Tuesday, July 17, 1984 by the Chairman, Kenneth Lashmet.

PRESENT: Kenneth Lashmet, Chairman
John Lovio
John Wilson
Richard Bonham
Carmelo Milia
James Reece, Jr. (arrived 8:00 p.m.)

ABSENT: James Giachino

ITEM #1. APPROVAL OF MINUTES: June 19, 1984 Regular Meeting and July 3, 1984 Special Meeting.

Motion by Bonham
Supported by Wilson

MOVED, to approve the June 19, 1984 and the July 3, 1984 minutes as presented.

Ayes: 5
Nays: 0
Absent: 2 Reece and Giachino

MOTION TO APPROVE CARRIED.

ITEM #2. RENEWAL REQUESTED: David Alschbach, 46 E. Square Lake Road, for relief of the required hard surfacing of a parking lot and relief of the 6 foot masonry screening wall required adjacent to residential.

Mr. VandenBussche explained that the petitioner is requesting renewal of relief, granted by this board, to maintain a gravel parking area and relief of the masonry screening wall required at the residential zoning district line. This relief was originally granted in July of 1982 based on the fact that the board felt the petitioner had incurred undue hardship while reconstructing the building to a business use. Conditions remain the same and we have no objections or complaints on file.

David Alshbach was present and indicated that the conditions do remain the same and he hopes to complete his renovations within the next year or two.

Motion by Wilson
Supported by Milia

MOVED, to grant David Alschbach, 46 E. Square Lake Road renewal of relief to maintain a gravel parking area and omit the 6 foot masonry screening wall adjacent to residential.

1. This is a continuation of a variance granted in 1982.
2. The conditions remain the same.
3. There are no complaints or objections on file.

Ayes: 5
Nays: 0
Absent: 2 Giachino and Reece

MOTION TO RENEW VARIANCE FOR ONE YEAR CARRIED

ITEM #3. RENEWAL REQUESTED: Kenneth Neuman & Associates, 801-803 W. Big Beaver Road, for relief of the required parking and relief of a 6 foot masonry screening wall required at the south property line.

Mr. VandenBussche explained that the petitioner is requesting renewal of relief parking spaces; 349 spaces whereas 387 are required and relief of a masonry screening wall required at the residential zoning district line to the south. This renewal has been granted on a yearly basis since 1980, based on the fact that the site design was more aesthetically pleasing both in the parking area and at the residential zoning district line without the required parking and the screening wall. The conditions remain relatively the same and we have no objections or complaints on file regarding this request.

Kenneth Neuman was present and requested renewal of their variance indicating that the building was not completely leased and therefore, there is no basis to whether the additional parking is needed or not. They do not have any problem with parking and do not foresee any at this time.

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ITEM #3.

Motion by Lovio
Supported by Milia

MOVED, to grant Kenneth Neuman & Associates, 801-803 W. Big Beaver Road renewal of their variance for relief of the required parking spaces and relief of the 6 foot masonry screening wall required at the south property line adjacent to residential zoning.

1. The conditions remain the same.
2. There are no objections or complaints on file.
3. The building is not completely occupied and therefore the parking needs cannot be tested.

Ayes: 5
Nays: 0
Absent: 2 Reece and Giachino

MOTION TO RENEW VARIANCE FOR ONE YEAR CARRIED.

ITEM #4. RENEWAL REQUESTED: Child Inc., 3515 Rochester Road, for relief to maintain a 6 foot chain link fence in lieu of a 6 foot masonry screening wall.

Mr. VandenBussche explained that the petitioner is requesting renewal of relief, granted by this board, to maintain a 6 foot chain link fence in lieu of the required masonry screening wall. This site is located in a business district and abuts residential zoning. The Zoning Ordinance requires a masonry screening wall separating non-residential from residential. This relief was originally granted in 1977 based on the fact that the chain link fence would be more compatible to a nursery school use. The conditions remain the same and we have no objections or complaints in our file.

Lester Hall was present to represent Child Inc. Mr. Hall indicated that he had nothing to add.

Motion by Bonham
Supported by Wilson

MOVED, to grant Child, Inc., 3515 Rochester Road renewal of relief to maintain a 6 foot chain link fence in lieu of a 6 foot masonry screening wall.

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

Ayes: 5
Nays: 0
Absent: 2 Giachino and Reece

MOTION TO RENEW VARIANCE FOR ONE YEAR CARRIED.

ITEM #5. RENEWAL REQUESTED: Charles Riglay, 2315 E. Long Lake Road, for relief to maintain a temporary plant and vegetable stand.

Mr. VandenBussche explained that the petitioner is requesting renewal of relief, granted by this board, to maintain a temporary plant and vegetable stand at the front of his property. The stand is used to sell vegetables and plants grown on his site and this variance has been granted on a yearly basis since 1975. The conditions remain the same and we have no complaints or objections regarding this request.

Ronald Riglay was present to represent Charles Riglay and confirmed that the conditions remain the same and other than that, he had nothing further to add.

Motion by Wilson
Supported by Milia

MOVED, to grant Charles Riglay, 2315 E. Long Lake Road renewal of relief to maintain a temporary plant and vegetable stand at the front of his property.

1. This is a continuation of a variance granted in 1975.
2. The conditions remain the same.
3. There are no objections or complaints regarding this request.

Ayes: 5
Nays: 0
Absent: 2 Giachino and Reece

MOTION TO RENEW VARIANCE ONE YEAR CARRIED.

ITEM #6. RENEWAL REQUESTED: St. Mark Coptic Church, 3603 Livernois, for relief to maintain an earth berm with landscaping in lieu of a 4'6" masonry screening wall.

Mr. VandenBussche explained that the petitioner is requesting renewal of relief, granted by this board, to maintain berms and landscaping in lieu of the 4'6" masonry wall required at the off-street parking areas of the church. The original Planning Commission approval required masonry screening walls to the north and south of the parking areas. The relief was originally granted in December, 1981 for a period of 6 months so that the petitioner could comply with landscaping and berming requirements set by the Board. The berm along the north side of the property is in place and landscaped and the south side appears to be adequately screened by a natural foliage. There are no complaints or objections on file regarding this request. This item was tabled at the last regular meeting to give the petitioner the opportunity to be present.

Mr. Nakahla was present to represent the church. He indicated that the church proposed some construction in the future and when that was completed the other side would be bermed to match the north side.

Motion by Milfa
Supported by Lovio

MOVED, to grant St. Mark Coptic Church, 3603 Livernois renewal of relief to maintain an earth berm in lieu of a 4'6" masonry screening wall adjacent to their parking.

1. The existing landscaping and screening appears adequate.
2. There are no objections or complaints on file.
3. The conditions remain the same.

Ayes: 5
Nays: 0
Absent: 2 Giachino and Reece

MOTION TO RENEW VARIANCE ONE YEAR CARRIED.

ITEM #7. VARIANCE REQUESTED: Louis DesRosiers & Associates, 201 W. Big Beaver Road, for relief of the side yard setbacks.

Mr. VandenBussche explained that the petitioner has withdrawn his request for a variance, therefore no action is required on this item.

ITEM #8 VARIANCE REQUESTED: Albert Morolli, 403 Starr, for relief of the minimum lot size.

Mr. VandenBussche explained that the petitioner is requesting permission to split a lot to create a building site for a single family residence. This request would require the split of a lot which is 118 feet wide; this split would result in one lot of 60 feet and another lot of 58 feet. The Zoning Ordinance requires a minimum lot width of 60 feet in this residential zoned district. The proposed site for a new residence would have a 60 foot lot and the existing residence would be located on the 58 foot lot.

Michael Sadler was present to represent the petitioner and indicated that the house that is presently on the lot is located to one side and they propose to split the lot to create another building site. At present there is quite a distance between the present house and the next home. He feels that 58 feet is adequate for the house that is presently there and a 2 foot difference is not a great difference. There are other similar lot sizes on the area. They cannot purchase additional land because the adjacent lot is too small to be split.

The chairman opened the public hearing.

Merrial Dehart, 423 Starr was present and objected to the split, indicating that the code should be met and that he feels it would create a water problem.

Homer Lanctot, 399 Starr was present and objected indicating that the ordinances should be met.

There were no further comments from the audience.

The chairman closed the public hearing.

There was one letter of approval on file: Mary Hickman, 424 Starr.

There were two letters of objection on file: M. P. Schliek, 171 Massachusettes, Highland Park (owner of E. 40' of Lot #114, Greenough Heights) and William Aulph, 412 Starr.

ITEM #8.

Motion by Lovio
Supported by Bonham

MOVED, to deny Albert Morolli, 403 Starr the variance, as requested, to split Lot #116, creating two lots, one of 58 feet and one of 60 feet.

1. Insufficient hardship.
2. No indication of practical difficulty has been presented.
3. There are 4 objections to the request and only 1 approval.

Ayes: 4
Nays: 2 Milia (minimal variance/it is vendictive to begrudge the variance) and Wilson
Absent: 1 Giachino

MOTION TO DENY REQUEST CARRIED.

ITEM #9. VARIANCE REQUESTED: Michael George and James Jonna, 5990 John R. (corner of Square Lake Road), for relief of the masonry screening wall required abutting residential.

Mr. VandenBussche explained that the petitioner is requesting a permit to construct an office building at the southeast corner of Square Lake Road and John R. The site plan does not show a masonry screening wall along the east property line which abuts residential. The Zoning Ordinance requires a 6 foot masonry screening wall at property lines where non-residential abuts residential zoning.

Brian Palmer, the architect, was present. Mr. Palmer explained the background of the site, the Plan Commission approvals and the City initiated rezoning of the area adjacent to the site in question. Mr. Palmer indicated that the area adjacent to the petitioner's site is owned by the petitioner and they have no plans for residential development of the area and feel it will be rezoned to something other than residential, he also indicated that they do not plan on selling their property. He also indicated that the area to the east of the site is a densely wooded area and there is quite a distance to the first residence.

The chairman opened the public hearing.

There were no comments from the audience.

The chairman closed the public hearing.

There was one approval on file; a telephone call from Mrs. Helvi Younk, 5890 John R., indicating there were no objections to the variance request.

Motion by Bonham
Supported by Lovio

MOVED, to grant Michael George and James Jonna, 5990 John R. a variance, as requested for relief of the 6 foot masonry screening wall required at the east property line adjacent to residential zoning.

1. The variance is for one year and renewable.
2. The petitioner has stated that the land to the east is owned by them and has stated that it will remain under their ownership and will not be used as residential.
3. There are no objections.
4. They have no plans to develop the land to the east.

Ayes: 5
Nays: 1 Reece - He feels that the Plan Commission will try to hold to the present zoning of residential
Absent: 1 Giachino

MOTION TO GRANT A ONE YEAR VARIANCE CARRIED.

ITEM #10. VARIANCE REQUESTED: Gino and Kathryn Sovran, 2669 Cheswick, for relief of the rear yard setback.

Mr. VandenBussche explained that the petitioner is requesting a permit to erect a 15'6"x18' addition to the rear of an existing residence. The proposed addition results in a 44 foot rear yard setback. The Zoning Ordinance requires a minimum rear yard setback of 45 feet in this residential zoned district.

ITEM #10

Frank Mastroianni of Italy American Construction, the contractor for the job, was present. Mr. Mastroianni stated that when they contracted the job they did not realize that there was a set-back problem and header beaming, door walls, carpeting furniture and other construction materials have been purchased for the addition. They are replacing an existing screened-in type porch which has been deformed by the snow load and the foundations have been damaged by the frost heave. The lot is a corner lot, with other homes behind and to the east, they feel the minor encroachment will not interfere with the neighboring properties. They have also had a survey since the filing for a variance and have found the encroachment will be just a little less than one foot. The addition elevation, the elevation of the land and kitchen window location prevent the addition from being changed. The family uses the existing screened-in porch constantly during the Summer, late Spring and early Fall months and need the room, as they have become accustomed to the extra living area.

The chairman opened the public hearing.

There were no comments from the audience.

The chairman closed the public hearing.

There were 5 letters of approval on file: Charles Cairns, 2670 Cheswick - James Thomas, 2641 Cheswick - Donald Malm, 2615 Lanergan - Ivan Shadko, 3655 Paddington - Amedee Roy, 2661 Cheswick.

There was one letter of objection: John J. Kovacs, 2800 Lanergan.

Motion by Milia
Supported by Lovio

MOVED, to grant Gino and Kathryn Sovran, 2669 Cheswick, a variance, as requested to build a 15'6"x18' addition to the rear of their existing residence.

1. The encroachment is less than 1 foot and minor in nature.
2. There are 5 approvals on file.
3. The encroachment will have no impact on the neighborhood.
4. There was only one objection, which did not give a reason for the objection.

Ayes: 5
Nays: 1 Reece
Absent: 1 Giachino

MOTION TO APPROVE CARRIED.

ITEM #11. VARIANCE REQUESTED: Terence Farnell, 4298 Beach Road, for relief of the rear yard setback.

Mr. VandenBussche explained that the petitioner is requesting a permit to construct an open wood deck to the rear of an existing residence. The site plan shows that the proposed deck will have a 15 foot setback from the rear lot line. The Zoning Ordinance requires a minimum 35 foot rear yard setback for open decks in this residential zoned district.

Mr. Farnell was present and indicated that they propose extending their deck in order to get it into a sunny area. They propose to put a hot tub in the deck and do not want this in an area where it is shaded. The present deck, on the east side of the home, is in the shade all afternoon and to add to that deck to the north, would place the deck behind the garage area, it would still be in a shady area and they would have to remove a very large apple tree. The area behind them is a heavily treed area and provides screening.

The chairman opened the public hearing.

There were no comments from the audience.

The chairman closed the public hearing.

Motion by Milia
Supported by Wilson

MOVED, to deny Terence Farnell, 4298 Beach Road, a variance, as requested, to erect a deck which will result in a 15 foot rear yard setback, whereas a 35 foot rear yard setback is required.

1. No sufficient justification.
2. The large nature of the variance

ITEM #11

3. There is a large amount of property which provides for alternatives.

Ayes: 3
Nays: 3 Lashmet, Bonham, Lovio
Absent: 1 Giachino

MOTION TO DENY REQUEST FAILS

Motion by Bonham
Supported by Lovio

MOVED, to table the request of Terence Farnell, 4298 Beach Road, for relief of the rear yard setback until the next regular meeting in August to give the petitioner the benefit of a full board and give the petitioner the opportunity to contact the Building Department on the procedure for petitioning the board for a variance of the Zoning Ordinance requirements.

Ayes: 6
Nays: 0
Absent: 1 Giachino
MOTION TO TABLE CARRIED.

ITEM #12. VARIANCE REQUESTED: W.D.R. Company, 1890 Crooks Road, for relief to add to an existing legal nonconforming building.

Mr. VandenBussche explained that the petitioner is requesting a permit to construct an addition to an existing light industrial building. The building presently has a 48 foot front setback. The Zoning Ordinance requires a minimum front setback of 50 feet in an industrial zoned district. The Zoning Ordinance does not permit the enlargement, extension or expansion of nonconformities of this type. The existing building on the site was formerly a residence that was converted to the industrial use and the front portion of this building had a bay on it and this is the portion that encroaches into the front setback.

Michael Trautman, the architect, was present and stated that the site has been surveyed and the encroachment is approximately 1.3 feet and is only a portion of the half circle or bay window on the front. The business located at this site is a wholesale and warehousing type business and there is a need to expand. The expansion will be compatible with the existing. Because the encroachment is so minor in nature they prefer not to remove any of the window, it is a part of their conference room and tables, etc. have been geared to fit the area.

The chairman opened the public hearing.

There were no comments from the audience.

The chairman closed the public hearing.

Motion by Wilson
Supported by Milia

MOVED, to grant W.D.R. Company, 1890 Crooks Road, a variance as requested to add to an existing legal nonconforming building.

1. The variance is very minor in nature.
2. The variance will not be detrimental to the area, it will not endanger life, liberty or safety of citizens.
3. It will be an enhancement to that area of Crooks Road.
4. The rezoning in the area created the nonconformity.

Ayes: 6
Nays: 0
Absent: 1 Giachino

MOTION TO APPROVE CARRIED.

ITEM #13. VARIANCE REQUESTED: Walter Zuke, 525 Eckford, for relief of the maximum square footage allowed for accessory buildings.

Mr. VandenBussche explained that the petitioner is requesting a permit to construct a 32'x34' garage. The proposed garage will result in accessory buildings totaling 2,666 square feet. The main structure (house) on the site is 1,478 square feet. The Zoning Ordinance does not permit the square footage of accessory structures to exceed the square footage of the main structure.

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Robert Zuke was present and stated that they are replacing an accessory building, with a larger building. This is needed for the storage of two classic vehicles and yard/garden equipment, which is presently stored outside. The barn existing on the site is used to house their horses and the two other two accessory buildings on the site are actually cottages, which are occupied by family members and he thought those would be counted as living area rather than accessory structures.

The chairman opened the public hearing.

There were no comments from the audience.

The chairman closed the public hearing.

There were three letters of approval: Trammell Greeson, 501 Eckford - Frank Grosso, 600 Eckford and James C. Rider, 770 Eckford.

Motion by Bonham
Supported by Lovio

MOVED, to grant Walter Zuke, 525 Eckford a variance as requested to erect a 32'x34' garage addition the their barn.

1. The area is needed for storage and replaces an accessory structure which was destroyed by snowloads.
2. Assuming the cottages, occupied/lived in by family members, could be counted as living area; the accessory building size would not be in violation.
3. There are no objections on file and three approvals.
4. The accessory building would house equipment, etc stored outside and aid in the clean-up of the site, making it more pleasing.

Ayes: 6
Nays: 0
Absent: 1 Giachino

MOTION TO APPROVE CARRIED.

ITEM #14. VARIANCE REQUESTED: John and Robert Pomponi, 3885 Rochester Road, for relief to add to an existing legal nonconforming structure.

Mr. VandenBussche explained that the petitioner is requesting a permit to erect an addition to the north side of an existing commercial building. This addition will extend to the north property line following the line of the building that is existing. The existing building has a 14 foot front setback from the ultimate right-of-way of Rochester Road. The Zoning Ordinance requires a 40 foot setback from this ultimate right-of-way and does not allow expansion, enlargement, or extensions of nonconformities.

Robert and John Pomponi were present and indicated that they need an addition because of the limited work area and their increased business. An addition on the north side is the only practical way to go. To add to the south would require a complete change in the building and to add to the rear is not practical because of mechanical equipment. They indicated that any addition would be an expansion of legal nonconforming according to the code. They have purchased the property to the south and will provide a two-way drive on that side of the building for customer use, which they feel will be a definite safety factor over what is now existing.

The chairman opened the public hearing.

Carl Ostic, who owns the property next door (3603 Rochester Road, Henderson Glass) was present and indicated that he objected, indicating that the building sets too far forward in comparison to the other buildings in the area and to grant a variance encourages a nonconformity to remain longer than if they were to be required to meet the present Zoning Ordinances.

There were no further comments from the audience.

The chairman closed the public hearing.

There was one letter of objection on file: John Meldrum, owner of 3911-3913 Rochester Road.

Motion by Lovio
Supported by Bonham

MOVED, to deny John and Robert Pomponi, 3885 Rochester Road, a variance for relief to add to a legal nonconforming structure.

1. The request is excessive.

ITEM #14.

2. No hardship has been demonstrated, there is sufficient property to expand.
3. There are objections from the neighboring properties.
4. The request does not meet the intent of Article 43.10.03 of the Zoning Ordinance

Ayes: 6
Nays: 0
Absent: 1 Giachino

MOTION TO DENY REQUEST CARRIED.

The Board of Zoning Appeals meeting adjourned at 9:45 p.m.

