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A meeting of the Board of Zoning Appeals was called to order at 7:30 p.m. on Tuesday, October 16, 1984 by the Chairman, Kenneth Lashmet.

PRESENT: Kenneth Lashmet, Chairman
John Wilson
James Giachino
John Lovio
James Reece, Jr.
Richard Bonham

ABSENT: Carmelo Milia

ITEM #1. APPROVAL OF MINUTES - September 18, 1984 Meeting

Motion by Bonham
Supported by Wilson

MOVED, to approve the September 18, 1984 minutes as written after Item #7 is changed to read Motion by Lovio rather than Milia.

Ayes: 6
Nays: 0
Absent: 1 (Milia)

MOTION TO APPROVE, AS CORRECTED, CARRIED.

ITEM #2. RENEWAL REQUESTED, Orlando Saavedra, 2075 E. Long Lake Road, for relief of a 6 foot masonry screening wall required along the east property line.

Mr. VandenBussche explained that the petitioner is requesting renewal of a relief granted, by this board, on a masonry wall required along the east property line. This relief was granted in October of 1983 based on the fact that the area adjacent to the site was wooded and provided a natural screening and also there is a drain along the east side of the property that would hamper the erection of the wall. Because this site is located in a flood plain, a permit was not issued within the one year period of time that is required by the Zoning Ordinance. Therefore, it is suggested that the board take no action on this request at this time. Mr. VandenBussche indicated that he has contacted the petitioner and related this information to the petitioner's representative.

Philip Garcia, Jr. was present and asked if the board could renew the variance, indicating that he was working with the D.N.R. to obtain permission to build.

It was explained to Mr. Garcia that the Ordinance states a permit must be secured within one year on variances granted and because this site involved other variances a new appeal would have to be filed.

Motion by Reece
Supported by Lovio

MOVED, to take no action on this item as the one year time limit on variances has expired.

Ayes: 6
Nays: 0
Absent: 1 (Milia)

MOTION TO TAKE NO ACTION CARRIED.

ITEM #3. RENEWAL REQUESTED: Zion Evangelistic Temple, 3668 Livernois, for relief to maintain a berm with landscaping in lieu of a 4'6" masonry screening wall along the south and east property lines.

Mr. VandenBussche explained that the petitioner has contacted the office and has submitted an application for a new public hearing to request a permanent variance for a berm in lieu of a wall.

Motion by Lovio
Supported by Reece

MOVED, table this item for a period of thirty days until the next regular meeting (November 20, 1984)

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ITEM #3.

Ayes: 6
Nays: 0
Absent: 1 (Milia)

MOTION TO TABLE CARRIED.

ITEM #4. RENEWAL REQUESTED: Edward Kedrow (Main Landscaping and Tree Service) N.E. corner of Chopin and Alger, for relief to park landscaping trucks in the 50 foot front setback.

Mr. VandenBussche explained that the petitioner is requesting renewal of relief to park landscaping trucks in the front setback of an industrial zoned district adjacent to the street right-of-way. Encroachment on Alger Street where the trucks are parked is within 20 feet of the right-of-way. This renewal has been granted on a yearly basis since 1975 and we have no complaints or objections on file. Mr. VandenBussche further explained that the petitioner has submitted a letter stating that he wished to continue the variance, however, requested that his appearance be waived due to the fact that he has a breathing problem and cannot be out in the night air.

Motion by Wilson
Supported by Bonham

MOVED, to grant Edward Kedrow (Main Landscaping and Tree Service), Northeast corner of Chopin and Alger, renewal of relief to park landscaping trucks within the 20 feet of the front setback of Alger street.

1. There are no complaints or objections on file.
2. The variance does not adversely affect adjacent property owners.
3. This is renewal of a variance that has been granted since 1975.

Ayes: 6
Nays: 0
Absent: 1 (Milia)

MOTION TO RENEW VARIANCE FOR ONE YEAR CARRIED.

ITEM #5. RENEWAL REQUESTED: Eric Pearson, 5565 John R., for relief to keep less than 10 dogs for personal use (hobby and training purposes)

Mr. VandenBussche explained that the petitioner is requesting renewal of relief to maintain less than ten dogs on a residential premise for personal use. That use being for hobby and training purposes. This renewal has been granted on a yearly basis since 1965. The conditions remain the same and there are no complaints or objections on file regarding this variance.

Eric Pearson was present and indicated that he had nothing to add to Mr. VandenBussche's explanation.

Motion by Lovio
Supported by Bonham

MOVED, to grant Eric Pearson, 5565 John R. renewal of relief to keep less than ten dogs on a residential site for hobby and training purposes.

1. The conditions remain the same.
2. There are no complaints or objections on file.
3. The property is well maintained.

Ayes: 6
Nays: 0
Absent: 1 (Milia)

MOTION TO RENEW VARIANCE FOR ONE YEAR CARRIED.

ITEM #6. RENEWAL REQUESTED: John L. Barker, 1985 Butterfield, for relief of the 6 foot masonry screening wall required along the east and west property lines.

Mr. VandenBussche explained that the petitioner is requesting renewal of relief granted, by this board, regarding a 6 foot masonry screening wall required along the east and west property lines of this site. The site is zoned office and the property lines abut residential zoning on the east and west. This relief was originally granted because the Master Land Use Plan indicates that the adjacent land may at some future date become non-residential. This relief has been granted on a yearly basis since 1981 and the conditions remain the same.

John Barker was present and had nothing to add.

Motion by Giachino
Supported by Wilson

MOVED, to grant John L. Barker renewal of relief of the 6 foot masonry screening wall along the east and west property lines.

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

Ayes: 6
Nays: 0
Absent: 1 (Milia)

MOTION TO RENEW VARIANCE FOR ONE YEAR CARRIED.

ITEM #7. RENEWAL REQUESTED: Evanswood Church of God, 2601 E. Square Lake, for relief of the 4'6" masonry screening wall along the west property line adjacent to the off-street parking.

Mr. VandenBussche explained that the petitioner is requesting renewal of relief granted, by this board, for a 4'6" masonry wall required at the off-street parking area that is used by the church. This relief was originally granted in 1976 primarily due to the fact that the residential property adjacent to the parking area is undeveloped and has a natural screening of dense woods. The conditions remain the same and we have no objections or complaints in our file.

James Landbach, a representative of the church, was present and had nothing to add.

Motion by Bonham
Supported by Giachino

MOVED, to grant Evanswood Church of God, 2601 E. Square Lake Road renewal of relief of the 4'6" masonry screening wall required at the off-street parking.

1. The conditions remain the same.
2. There are no complaints or objections on file.
3. This is a continuation of a variance granted since 1976.

Ayes: 6
Nays: 0
Absent: 1 (Milia)

MOTION TO RENEW VARIANCE FOR ONE YEAR CARRIED.

ITEM #8. RENEWAL REQUESTED: Troy Masonic Temple, 1032 Hartland, for relief of the 4'6" masonry wall required at the off-street parking.

Mr. VandenBussche explained that the petitioner is requesting renewal of relief granted, by this board, for a 4'6" masonry wall required at the off-street parking adjacent to residential zoning. This relief has been granted on a yearly basis since 1970 primarily due to the fact that the adjacent property owners did not object. Conditions remain the same and we have no complaints or objections on file.

ITEM #8.

George Curtis was present to represent the Troy Masonic Temple and indicated he had nothing to add to Mr. VandenBussche's explanation.

Motion by Lovio
Supported by Wilson

MOVED, to grant Troy Masonic Temple, 1032 Hartland renewal of their variance for relief of the 4'6" masonry screening wall at the off-street parking adjacent to residential.

1. The conditions remain the same.
2. The adjacent property owners do not object.

Ayes: 6
Nays: 0
Absent: 1 (Milia)

MOTION TO RENEW VARIANCE FOR ONE YEAR CARRIED.

ITEM #9. RENEWAL REQUESTED: Ring Screw Works, 1849 Ring Road, for relief of the required number of parking spaces.

Mr. VandenBussche explained that the petitioner is requesting renewal of a variance granted to maintain a parking lot for 19 cars. The Zoning Ordinance requires space for 43 cars for a building of this size and use. This request was originally approved in 1979 based on the fact that the petitioner did not need the additional parking and that he would be required to appear before the board on a yearly basis in case the status of the building would change and parking would be required. The conditions remain the same and there are no complaints or objections on file.

Harold Chapel of Ring Screw Works was present and indicated that they still have no need for the additional parking spaces and requested the board act favorably on the renewal request.

Motion by Bonham
Supported by Lovio

MOVED, to grant Ring Screw Works, 1849 Ring Road renewal of relief to maintain a parking lot for 19 cars where 43 spaces are required.

1. This is a continuation of a variance granted since 1979.
2. The conditions remain the same.
3. There are no complaints or objections on file.
4. The renewal be granted with a stipulation that the petitioner prepare a document, for filing, that would make a new purchaser aware of the variance and conditions of the variance, should the property be sold for another use and the additional parking be needed.

Ayes: 6
Nays: 0
Absent: 1 (Milia)

MOTION TO RENEW VARIANCE, AS STIPULATED, FOR ONE YEAR CARRIED.

ITEM #10. RENEWAL REQUESTED: Bruce Pettypiece, 90 E. Square Lake Road, for relief to maintain and operate an antique shop.

Mr. VandenBussche explained that the petitioner is requesting renewal of a permission granted, by this board, to maintain and operate an antique shop in what used to be a church. The use is located in a residential district and the conditions are substantially the same as on previous requests. There are no complaints or objections on file regarding this use. This item was tabled at the last regular meeting to give the petitioner the opportunity to be present.

Bruce Pettypiece was present and indicated that he had nothing to add.

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ITEM #10

Motion by Giachino
Supported by Bonham

MOVED, to grant Bruce Pettypiece, 90 E. Square Lake Road renewal of relief to maintain and operate an antique shop in a residential zoning.

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

Ayes: 6
Nays: 0
Absent: 1 (Milia)

MOTION TO RENEW VARIANCE FOR ONE YEAR CARRIED.

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

Mr. VandenBussche explained that the petitioner had contacted the Building Department and requested that his application for a variance of the rear yard setback be withdrawn from the Board's agenda.

Motion by Lovio
Supported by Giachino

MOVED, to take no action of the request of Terence Furnell, 4298 Beach Road for relief of the rear yard setback as the petitioner has indicated his desire to withdraw his application for relief.

Ayes: 6
Nays: 0
Absent: 1 (Milia)

MOTION TO TAKE NO ACTION CARRIED.

ITEM #12. VARIANCE REQUESTED: Latafat Hamzavi, 4035 John R., for relief of the front setback from Wattles Road.

A representative of the petitioner was present and requested that this item be tabled until the end of tonight's agenda as their architect would be there in about a half hour.

Motion by Lovio
Supported by Wilson

MOVED, to table the request of Latafat Hamzavi, 4035 John R. until the end of the agenda (Item #19) to give the petitioner the opportunity to be present.

Ayes: 6
Nays: 0
Absent: 1 (Milia)

MOTION TO TABLE UNTIL THE END OF THE AGENDA (Item #19) CARRIED.

ITEM #13. EXPANSION OF A NONCONFORMING USE: William Zack, 601 Minnesota, for relief to expand an existing legal nonconforming.

Mr. VandenBussche explained that the petitioner is requesting a permit to construct an addition to an existing light industrial building. The site plan indicates that the existing site has a parking lot that is 60 feet wide. The Zoning Ordinance requires that when you have 90° parking, the width of the parking lot must be 62 feet. The plans indicate that in the construction of the addition, the 60 foot wide parking lot will be extended for additional parking spaces. The Zoning Ordinance prohibits the expansion or extension of nonconforming conditions of this type.

ITEM #13.

Donald Zack was present and stated that the additional room was needed for warehousing of the materials used in their business. The addition as it is proposed is the most feasible layout. As far as the parking lot width, there is nothing they can do about it. It was approved when they built and they cannot add to it as they do not have the property available to them. They have always had more parking than needed and do not foresee the need for any additional parking with the addition; they are providing additional parking places in compliance with the ordinance.

The chairman opened the public hearing.

There were no comments from the audience.

The chairman closed the public hearing.

Motion by Giachino
Supported by Lovio

MOVED, to deny William Zack, 601 Minnesota, the variance, as requested to add to a building where they would have to go through an existing legal nonconforming parking lot.

1. The petitioner has not demonstrated a sufficient hardship, the property can be added to within the scope of the ordinance.

Ayes: 6
Nays: 0
Absent: 1 (Milia)

MOTION TO DENY REQUEST CARRIED.

ITEM #14. VARIANCE REQUESTED: Bellemead of Michigan, Inc., 5555 New King, for relief of the required number of parking spaces.

Mr. VandenBussche explained that the petitioner is requesting a permit to construct a new office building. The site plan indicates there will be 413 parking spaces. The Zoning Ordinance requires a minimum of 510 parking spaces for a building of this size and use. The petitioner's proposal indicates that additional landscaping is proposed in lieu of the parking. They have also indicated that they will accept a yearly renewal to verify that the parking spaces are not needed. This request is similar to a variance granted to this petitioner on their office building just north of this one and that site is also subject to a yearly review by the Board of Zoning Appeals.

Marvin Kramer, Attorney for Northfield Hills Associates, was present to represent the petitioner. Mr. Kramer stated that a portion of the site to be developed is a heavily wooded area and they hope to preserve this area. This wooded area and landscaping would be retained in place of a paved area. This will enhance the natural amenities of the site and provide a larger buffer along Northfield Parkway. The petitioner emphasized that the proposed landscaping in lieu of the parking will not permit the site to be overbuilt. This area will be kept so that additional parking can be added if the need arises. Their surveys have shown that there is ample parking for their needs. Their discussions with the City Planning Department and the Parks and Recreation department have revealed their desire that the developers preserve the natural resources of the site.

The chairman opened the public hearing.

There were no comments from the audience.

The chairman closed the public hearing.

There was one letter of objection on file: Ex-Cello Corporation, owner of parcel #08-228-001.

ITEM #14.

Motion by Bonham
Supported by Wilson

MOVED, to grant Bellemead of Michigan, 5555 New King a temporary renewable variance to provide 413 parking spaces whereas 510 parking spaces are required.

1. The absence of the variance would significantly destroy or have a negative affect on the natural features of the site.
2. It is a temporary renewable variance which is reviewed yearly and if the parking is needed the petitioner has stated it would be installed.

Ayes: 5
Nays: 1 (Lovio - insufficient hardship)
Absent: 1 (Milia)

MOTION TO APPROVE FOR ONE YEAR CARRIED.

ITEM #15. VARIANCE REQUESTED: Gary Bernot, 129 Miracle, for relief of the rear yard setback.

Mr. VandenBussche explained that the petitioner is requesting permission to maintain an open wood deck and the site plan indicates that the deck has a 28 foot setback from the rear lot line. The Zoning Ordinance requires a minimum rear yard setback of 35 feet to open decks in this residential zoned district.

Gary Bernot was present and stated that he erected the deck without knowledge of a permit requirement. Their property faces a 5 acre park and the easement for access to the park is on their east side so there will never be any homes to the rear or east that would be affected by the deck. The deck was built for the enjoyment of family.

The Chairman opened the public hearing

There were no comments from the audience.

The Chairman closed the public hearing.

There were two letters of approval on file: Pamela Tully, 146 Miracle and George Whitebread, 198 Miracle.

Motion by Lovio
Supported by Bonham

MOVED, to grant Gary Bernot, 129 Miracle a variance, as requested, for relief of the rear yard setback.

1. To deny the variance would be unnecessarily burdensome to the petitioner.
2. The literal enforcement of the Zoning Ordinance would preclude the full enjoyment of the property by the petitioner.
3. It is not detrimental to the area and will not affect the health, safety or welfare of the area.

Ayes: 5
Nays: 1 (Giachino)
Absent: 1 (Milia)

MOTION TO APPROVE CARRIED.

ITEM #16. VARIANCE REQUESTED: Donald Waggoner, 1400 Rochester Road, for relief to provide off-street parking in the front setback.

Mr. VandenBussche explained that the petitioner is requesting a permit to construct a parking lot which will extend into the 50 foot front setback of Rochester Road. The Zoning Ordinance prohibits off-street parking and the maneuvering lanes to be located in the required front setback of an industrial zoned district. The site presently has parking into this required setback on the south portion of their site. This parking existed prior to Zoning Ordinances and is legal nonconforming. Their request is to receive approval for parking in the setback along the north portion of their site.

Dawn Phillips, Attorney for Waggoner Corporation and Vincent Alvaro, the Contractor were present. Ms. Phillips stated that they did not realize the requirements for parking when they submitted their plans for their Phase I addition. They have placed 8 inches of concrete for the parking and approaches. They also have a permit and have started construction of Phase II and are contemplating Phase III. When computing the parking requirements for Phase III they realized that they would not have enough area to meet the parking requirements and purchased a lot on Souter adjacent to their property. To remove the existing 8 inches of concrete would be a tremendous cost and also constitute a great loss in the purchase of property for their expansion program. Ms. Phillips also pointed out that shrubs and trees have been planted in front to improve the site.

The chairman opened the public hearing.

Robert Campbell, Quality Chaser Company, 1460 Rochester Road was present and stated that he objected to the variance and stated that if Waggoner should receive such a variance, he should receive one also as they also needed the parking area.

There were no further comments from the audience.

The Chairman closed the public hearing.

There was one letter of objection on file: Robert Campbell, Quality Chaser Co., 1460 Rochester Road.

There were four letters of approval on file: Michigan Timber and Truss, 1258 Rochester Road - Laura Sies, 1402 Souter Blvd. - Laura Sies, 1470 Souter Blvd. and Steve Tallman, Morrell Company, 1050 E. Maple Road.

Motion by Lovio
Supported by Reece

MOVED, to table the request of Waggoner Corporation, 1400 Rochester Road for relief to provide parking in the front setback area of Rochester Road until the next regular meeting (November 20, 1984) to give the petitioner the opportunity to prepare and present a detailed site plan of the entire proposed project to the board.

Ayes: 6
Nays: 0
Absent: 1 (Milia)

MOTION TO TABLE UNTIL THE NEXT REGULAR MEETING (November 20, 1984) CARRIED.

ITEM #17. VARIANCE REQUESTED: Gary Burlak, 654 Troywood, for relief of the maximum height allowed for an accessory building.

Mr. VandenBussche explained that the petitioner is requesting a permit to construct an accessory building (garage) that will be 21 feet in height and have a second story storage ability. The Zoning Ordinance limits accessory buildings to one story and not more than 14 feet in height.

ITEM #17.

Gary Burlak was present and stated that they have a ranch type home on a slab and need additional storage. The height of the structure is for easier storage; with the additional height they can walk around in the upper level to store items. The existing storage building on the site will be removed. They have proposed a two story accessory building rather than more than one or a longer type building to preserve their open rear yard.

The chairman opened the public hearing.

There were no comments from the audience.

The Chairman closed the public hearing.

There were two letters of objection on file: Paul Eichbrecht, 3671 Root and John Bickel, 670 Troywood.

Motion by Lovio
Supported by Bonham

MOVED, to deny the request of Gary Burlak, 654 Troywood for a variance to erect an accessory building 21 feet in height whereas the ordinance only permits 14 feet.

1. The petitioner has not presented sufficient hardship, there are other alternatives.
2. The building is higher than needed for normal storage.

Ayes: 6
Nays: 0
Absent: 1 (Milia)

MOTION TO DENY REQUEST CARRIED.

ITEM #18. EXPANSION OF A NONCONFORMING BUILDING: Broadway Market, 3615 Rochester Road, for relief to expand a nonconforming rear yard setback.

Mr. VandenBussche explained that the petitioner is requesting a permit to construct an 8'x12' addition to an existing commercial building. The addition will be basically a walk-in cooler erected at the rear of the building and will be constructed all the way to the rear property line. The existing site received a variance when it was constructed. The variance is for a 13 foot rear yard setback whereas 20 feet was required. The petitioner is now proposing that the cooler be allowed to extend the remainder of the distance to the rear property line. The site is located at the corner of Rochester and Colebrook and is surrounded by the Fountain's Fruit Market site, presently under construction.

Mario Valente and John DeAngeles were present. The petitioner stated that they have been notified by the Oakland County Health Department that bottled drinks and beer kegs must be kept separate from the deli items. The only way they can comply is to add an additional cooler and there is no room within the store. The only feasible way would be to add a walk-in cooler to the rear of their existing building. Three sides of their site will be surrounded by the parking for either their site or the fruit market's parking. There is a wall across the rear where the cooler is to be located and the cooler is in a 13 foot space which cannot be used for anything else. With the wall along their rear property line and the wall which would be on the north in line with the present building, an area that could become a hangout space for young people, will be closed in.

The Chairman opened the public hearing.

There were no comments from the audience.

The Chairman closed the public hearing.

ITEM #18.

Motion by Wilson
Supported by Lovio

MOVED, to grant Broadway Market, 3615 Rochester Road a variance to erect a walk-in cooler at the rear of their building which will be 8'x8' and extend to within 1 foot of their rear property line.

1. The erection of the cooler is to meet the requirements as requested by the Oakland County Health Department for the health, safety and welfare of the citizens of the City of Troy.
2. The petitioner has agreed to continue the existing wall to connect to the building to prevent a void in the screening wall.
3. The variance is not detrimental to the area.
4. There are no complaints or objections on file.

Ayes: 6
Nays: 0
Absent: 1 (Milia)

MOTION TO APPROVE REQUEST CARRIED.

ITEM #19. (Item #12) VARIANCE REQUESTED: Latafat Hamzavi, 4035 John R., for relief of the front setback from Wattles Road.

Mr. VandenBussche explained that the petitioner is requesting a permit to erect a retail shopping center at the northwest corner of John R. and Wattles Road. Originally the site plan indicated two encroachments into required setbacks and a request for relief of the parking stall length. The Board, at the last regular meeting, tabled this request to allow the petitioner the opportunity to revise the site plan and to look at possible other alternatives whereby the site could comply with the Ordinance. The petitioner has revised the site plan showing the building to be facing Wattles Road. The site plan now shows one variance, a 68 foot setback from Wattles Road where the Zoning Ordinance requires a 75 foot setback.

David Donnellon, the architect for the project, was present and stated that he has worked with the site and reduced the number of variances to what he would consider reasonable for the site. The site is a corner lot and with the setback requirements from future rights-of-way, the site is limited as to the type and size of construction. It is very difficult to erect a marketable retail center on a site of this size.

Motion by Giachino
Supported by Lovio

MOVED, to grant Latafat Hamzavi a variance to erect a retail shopping center at the northwest corner of John R. and Wattles Road, with a 68 foot setback from Wattles in lieu of the 75 foot setback as required.

1. The petitioner has revised the site plan reducing the number of variances as requested by the board.
2. The site is a corner lot and with the front setbacks from both future rights-of-way, the buildable area of the lot has been reduced.
3. The development is not detrimental to the area.
4. There could be no practical use of the property if the building were reduced in size.

Ayes: 5
Nays: 1 (Reece)
Absent: 1 (Milia)

MOTION TO APPROVE CARRIED.

The Board of Zoning Appeals adjourned at 10:30 p.m.