

The Regular Meeting of the Board of Zoning Appeals was held Tuesday, December 17, 1974 at the Troy City Offices. The meeting was called to order by James Giachino, Chairman, at 7:45 PM.

PRESENT: James Giachino
Chairman

Randall Husk
Kenneth Lashmet
Gene Spilman
Leo Hinch
D. Gene Shellie

ABSENT: Donald Boyd

ITEM #1. Approval of minutes, Regular Meeting, November 19, 1974

Motion by Husk
Support by Lashmet

MOVED, that the minutes of the Regular Meeting of November 19, 1974 be approved with the following corrections:

ITEM #14.	yeas: 6	ITEM #15.	yeas: 5
	nays: 0		nays: 1 (Husk)
	absent: 1		absent: 1

yeas: All - 6
nays: none
absent: 1

RENEWALS

ITEM #2. Renewal Requested, Martin Schaefer Greenhouse Inc., 6825 Rochester, for relief to maintain eight temporary accessory buildings.

Inspector VandenBussche explained that the petitioner is requesting renewal for relief to maintain eight temporary buildings for use as greenhouses. This relief has been granted on a yearly basis since 1971. The conditions remain the same and we have no objections or complaints in our file. The petitioner has called the Building Department and indicated that he would not be able to attend this month's meeting because of business commitments. The petitioner is also handicapped and had difficulty in appearing at city hall. He also indicated that if there were any questions, he would be willing to attend the meeting in January if necessary.

Motion by Husk
Support by Lashmet

MOVED, that the renewal requested at 6825 Rochester, for relief to maintain eight temporary accessory buildings be tabled until the next regular meeting for further study.

yeas: All - 6
nays: none
absent: 1

ITEM #3. Renewal Requested, Troy Swim Club, 538 East Long Lake, for permission to operate a private swim club.

Inspector VandenBussche explained that the petitioner is requesting to renew a variance 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 which I have attached to your agenda. In the past year we have had some question as to the occupancy load and membership limitation.

Mr. Hanna was present and stated that he would like to renew this variance for another year, and he asked the board for a clarification as to their definition of a family as the stipulations limits the membership to 75 family memberships. Mr. Hanna commented that possibly this could be amended to correlate with the State Health Department's regulations.

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Motion by Husk
Support by Spilman

MOVED, that the renewal requested at 538 East Long Lake, for permission to operate a private swim club be approved. This is issued for one year subject to the following rules and regulations:

That a permit is hereby granted to Jack Hanna to operate the Troy Swim Club, 538 East Long Lake Road, City of Troy, Oakland County, Michigan for the 1975 season on the following rules and regulations:

1. Permit to be issued to Jack Hanna and be not transferable to any other person, firm, or corporation or location within the limits of the City of Troy.
2. Permit issued for the period of January 1, 1975 to December 31, 1975 and subject to renewal on an annual basis thereafter.
3. The number of persons using the premises at any one time shall be limited to the capacity set forth in the regulations set by the State of Michigan, Department of Public Health for swimming pool use.
4. The hours of operation shall be 11:30 a.m. to 8:00 p.m. daily except Sunday, when said pool shall be open 12:30 p.m. to 6:30 p.m. The pool shall be closed Monday except that the pool can be open any Monday during June, July, and August for the children of the Oakland County Children's Village.
5. The use of loud speakers and audible warning devices of any nature are hereby prohibited.
6. The use of flood lights whose rays extend beyond the property limits at 538 East Long Lake Road is prohibited.
7. The pool shall be allowed to be open and operated on Labor Day during the regular hours.
8. A tournament of (1) day duration shall be allowed to be conducted at said pool at the close of the season.
9. All provisions of Chapter 68, Troy City Codes, shall be complied with and the foregoing conditions set forth therein, and a license be obtained by making applications through the City Clerk's Office.
10. A life guard shall be in attendance at all hours when pool is open.

yeas: All - 6
nays: none
absent: 1

ITEM #4. Renewal Requested, Fraternal Order of Eagles, on Big Beaver, East of existing Troy Elks, for relief of a masonry obscuring wall along north property line.

Inspector VandenBussche explained that the petitioner is requesting relief of a masonry wall required at the residential zoned district line of the site. This relief was granted for a period of one year. Subsequently, a permit was never issued for the lodge hall construction and, therefore, no action is required on this request.

Mr. Grisdale, representing the Fraternal Order of Eagles, was present and stated that they understand the reason for no action and would apply again for the variance at such time they are ready to commence construction.

No action was taken.

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ITEM #5. Renewal Requested, Condominium Developers, Inc., 1551-1651 W. Big Beaver, for relief of a masonry obscuring wall.

Inspector VandenBussche explained that the petitioner is requesting renewal of a relief granted by this board on a masonry obscuring wall. This relief was granted in November of 1971 with the stipulation that a 6' wood obscuring fence would be erected in lieu of the wall. This request has never appeared before this board since that time as the renewal was inadvertently overlooked. The wood obscuring fence that was erected has fallen into disrepair and no attempt to replace it has been made.

Mr. Chabut and Dr. Wallace were present and stated that the fence would be repaired just as soon as possible. They also stated that there was some confusion as to constructing the other portion of the fence as they assumed that the property was to be rezoned for parking.

Motion by Husk
Support by Spilman

MOVED, that the renewal requested at 1551-1651 W. Big Beaver, for relief of a masonry obscuring wall, be approved for six months to allow time for the construction of the center portion of fence that was not previously constructed and to allow time for the existing fence to be repaired. This is granted for the following reasons:

1. The petitioner is the owner of one of the adjacent residential lots and plans to use it for parking in the future.
2. There is a possibility that the residential property in this area will be rezoned to other than residential in the near future.

yeas: All - 6
nays: none
absent: 1

TABLED

ITEM #6. Renewal Requested, Somerset Properties, 2401-2601 W. Big Beaver, for relief of a masonry obscuring wall.

Inspector VandenBussche explained that the petitioner is requesting relief of a masonry wall required at the residential zoned district lines abutting the Somerset Office Complex. The original relief was granted with the stipulation that a 6' fence be erected in lieu of this wall. This stipulation was never complied with. At the September regular meeting the petitioner was granted a 60 day renewal in order to allow him sufficient time to erect this fence.

Mr. Cornacchia, from Somerset Inn, was present and stated that the fence was scheduled to be erected on December 2, 1974, but due to the unexpected weather conditions, it has not been possible to erect this fence.

Motion by Lashmet
Support by Hinch

MOVED, that the renewal requested at Somerset Properties, 2401-2601 W. Big Beaver, for relief of a masonry obscuring wall, be tabled for two months to allow the petitioner time to erect the fence.

yeas: All - 6
nays: none
absent: 1

ITEM #7. Variance Requested, Joseph Pittiglio, 1970 Brinston, for permission to keep more than three dogs for security purposes in a M-1 zoned district.

Inspector VandenBussche explained that the petitioner is requesting to keep five dogs on an industrial site. The zoning ordinance states that the keeping of more than three dogs on any site constitutes a kennel use; and, therefore, would not be permitted at this location. The petitioner indicated that the dogs were for security purposes and is requesting relief to continue having the amount of dogs described.

Mr. Angelo Lanni, representing Joseph Pittiglio, was present and stated that the dogs are needed for security purposes at night as there has been attempts of break-ins and they have valuable equipment and materials located in their yard area. He also stated that the dogs are surrounded by a 6' chainlink fence at night and are kept in a pen during the day. The five dogs were purchased before they became aware of the fact that only three dogs were permitted.

Motion by Lashmet
Support by Shellie

MOVED, that the variance requested at 1970 Brinston, for permission to keep more than three dogs but not more than five dogs in a M-1 zoned use district, be approved for the following reasons:

1. More than three dogs are necessary to protect the petitioner's property and the warehouse.
2. The dogs would also provide some security to the adjoining properties.

yeas: 4
nays: 2 (Hinch, Husk)
absent: 1

MOTION FAILED

Reasons for denial:

1. No hardship was shown.
2. Three dogs would be adequate in protecting this property.

PUBLIC HEARINGS

ITEM #8. Variance Requested, Ted Gzyl, 5865 Patterson, Lot #275, Stoneridge Subdivison, for relief of the minimum rear yard setback from 35' to 33'.

Inspector VandenBussche explained that the petitioner is requesting relief to erect a 20' x 10' covered patio that will be attached to an existing single family residence. The subject addition would result in a rear yard setback of 33' and the zoning ordinance requires a minimum setback of 35' in this residential district.

Mrs. Marilyn Gzyl was present and stated they already had the cement work put in as they did not realize that this setback restriction existed. To cut off two feet of this patio would make it awkward and useless.

The Chairman opened the public hearing. No comments from the audience.

One letter of approval on file from Mr. Renda, 2487 Coral Drive.

Motion by Husk
Support by Hinch

MOVED, that the variance requested at 5865 Patterson, for relief of the minimum rear yard setback from 35' to 33', be approved for the following reasons:

1. It would not be detrimental to the area.
2. There were no objections from adjacent property owners.
3. It is a slight variance.

yeas: All - 6
nays: none
absent: 1

ITEM #9. Variance Requested, David & Susan Hagelstein, on Rochester, Lot #13, Supervisor's Plat #13, for relief of a 6' masonry obscuring wall required at the residential district zoning line to the south.

Inspector VandenBussche explained that the petitioner is requesting relief of a required masonry wall at the residential zoning district line that abuts the southeast corner of the site. The residential property abutting this line is owned by the petitioner and the proposed business use on the site will be a florist. The zoning ordinance requires a 6' decorative masonry screen wall at all business zoned district lines abutting residential.

Mr. Hagelstein was present and stated that they would be dividing their own property with the wall, and that presently there is a natural barrier of trees and bushes. He also stated the proposed use for the building would be a florist shop and they do not anticipate heavy car traffic that would cause a disturbance to the residents on Urbancrest.

The Chairman opened the public hearing.

Mr. Dollar, 1033 Urbancrest, was present and stated that he had no objections.

No letters on file.

Motion by Spilman
Support by Lashmet

MOVED, that the variance requested at 3138 Rochester Road, for relief of a 6' masonry obscuring wall required at the residential district zoning line to the south, be approved with the stipulation that a 6' obscuring fence be erected in lieu of this wall. This is granted for the following reasons:

1. The fence will allow for some protection for the residents on Urbancrest.
2. The petitioner is the owner of the adjacent residential property.

yeas: 2
nays: 4 (Shellie, Hinch, Giachino, Husk)
absent: 1

MOTION FAILED

Motion by Husk
Support by Hinch

MOVED, that the variance requested at 3138 Rochester Road, for relief of a 6' masonry obscuring wall required at the residential district zoning line to the south, be approved for one year for the following reasons:

1. The parking area is far removed from the residential properties on Urbancrest.
2. There were no objections from surrounding property owners.
3. It would not be detrimental to the area.

yeas: 5
nays: 1 (Spilman)
absent: 1

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ITEM #10. Variance Requested, Paul Gastaris, 1600 Rochester, Lot #96-102, Stumpf's Beech Grove Subdivison, for relief to expand a nonconforming use and building.

Inspector VandenBussche explained that the petitioner is requesting to construct an addition to a legal nonconforming structure. The proposed addition will be approximately 50' x 60' and would be considered expansion of a legal nonconforming building in that the existing building is located approximately at the Maple Road Right-of-Way and the proposed addition will result in an 18' setback from the Rochester Road Right-of-Way. This district requires a setback of 50' from any building to a major thoroughfare right-of-way. The plans also indicate parking within this 50' setback. The zoning ordinance does not permit parking to be located in a front setback of an industrial district. The plans also indicate a parking area that would accomodate 39 cars of which all but 17 are located in a front setback area. The 39 car capacity would indicate an occupancy load of 117 people for the restaurant. To summarize the request, the petitioner is requesting expansion of a nonconforming building in regards to the location, and relief to expand a nonconforming use in that the restaurant is considered to be a business use in an industrial district, and to locate parking in required setbacks of the district.

Mr. Gastaris was present and stated that with the addition he is intending to convert the restaurant to a family-style type, and that he would not be able to continue operating if he cannot expand.

The Chairman opened the public hearing.

No comments from the audience.

Letters of approval on file from Walmil Co., 1025 E. Maple; Mr. Lambros, 1638 Rochester; Morrell Co., 1050 E. Maple; and Cee Bee Co., 1655 Rochester.

Motion by Shellie
Support by Lashmet

MOVED, that the variance requested at 1600 Rochester, for relief to expand a nonconforming use and building, be denied for the following reasons:

1. There is required parking located in the right-of-way which could be a hazard to traffic.
2. The petitioner could obtain more land in order to meet the parking requirement.

yeas: 2
nays: 4 (Hinch, Spilman, Giachino, Husk)
absent: 1

MOTION FAILED

Motion by Spilman
Support by Husk

MOVED, that the variance requested at 1600 Rochester, for relief to construct an addition to a nonconforming use and building, be approved for the following reasons:

1. There is a hardship in that the petitioner would not be able to continue operating without the addition.
2. The configuration of the lot makes it difficult to meet the requirements of the ordinance.
3. This property may be rezoned to a business district in the future.

Further, that the seating capacity of the restaurant will be regulated by the amount of legal parking the petitioner can provide, and that all parking between the street and building will be prohibited.

yeas: 5
nays: 1 (Lashmet)
absent: 1

ITEM #11. Variance Requested, Paul Trevarrow, on Long Lake, west of Livernois, for relief of the minimum setback requirement for a commercial complex from residential zoned property from 75' to 43', and for relief of the 10 percent landscape requirement.

Inspector VandenBussche explained that the petitioner is requesting to construct a commercial complex in a B-2 zoned district that will have a 43' setback to the residential district line at the east. The zoning ordinance requires a minimum setback of 75' to all structures in a B-2 use district from residential zoned land. The site plan also indicated that the environmental conditions regarding landscaped areas does not meet the requirement of 10 percent of the site. The ordinance requires 13,530 square feet for landscaped area, and the site plan indicates 11,818 square feet.

Mr. Trevarrow was present and stated that they could meet the requirements of the ordinance, but it would cause the building to lose its aesthetic appeal because the view would be blocked by the back of the building from the intersection.

The Chairman opened the public hearing.

No comments from the audience.

Letters of approval on file from Mr. Capaldi, 150 W. Long Lake Road; Mr. & Mrs. Fram, 121 W. Long Lake Road.

Motion by Husk
Support by Spilman

MOVED, that the variance requested on Long Lake, west of Livernois, for relief of the minimum setback requirement for a commercial complex from residential zoned property from 75' to 43', and for relief of the 10 percent landscape requirement, be denied for the following reasons:

1. No hardship was shown.
2. The building can be built on this property and meet the requirements of the ordinance.

yeas: All - 6
nays: none
absent: 1

ITEM #12. Variance Requested, Jerry Parr, 91 E. Maple, Lots #105, 106, & W. 1/2 of 107, Addison Heights Subdivision, for relief to structurally alter a nonconforming building.

Inspector VandenBussche explained that the petitioner is requesting to construct a second story addition to an existing nonconforming building in a business district. The existing building is 21' from the proposed right-of-way of Maple Road where the zoning ordinance requires a minimum 25' setback in a B-1 zoning district. The present building is also nonconforming in that it is located less than 10' from a side property line and the zoning ordinance requires that any structural alterations to existing nonconforming buildings must be approved by the Board of Appeals.

Mr. Parr was present and stated that due to the widening of Maple Road they had lost some of their parking area and will be removing a storage structure at the rear of this property in order to provide this parking. He also stated that they need additional room in order to provide an area for the storage they will be removing from this accessory structure.

The Chairman opened the public hearing. No comments from the audience.

Letters of approval on file from Mr. Miller, 95 E. Maple; and Gary Paser, 2793 Athena.

Motion by Shellie
Support by Lashmet

MOVED, that the variance requested at 91 E. Maple, for relief to structurally alter a nonconforming building, be approved for the following reasons:

1. The widening of Maple Road has placed a hardship on the petitioner to relocate parking area.
2. It would help enhance the appearance of the building.
3. The building adjacent to this one is a two story structure.

yeas: 4
nays: 2 (Spilman, Husk)
absent: 1

MOTION FAILED

Reasons for denial:

1. No hardship was shown other than an economic one.
2. The intent of the ordinance is not to encourage nonconforming uses and buildings.

ITEM #13. Variance Requested, Biltmore Homes, 3639 Millay, Lot #749, Raintree Village #3 Subdivision, for relief of the minimum setback requirement for a side yard that is abutting a street (corner lot) in a RIC open space district from 30' to 26.5'.

Inspector VandenBussche explained that the petitioner is proposing to construct a single family residence at the corner of Millay and Bishop Drive. This site requires a front setback from both streets. The site plan indicates a 26.5' setback from Bishop where 30' is required in this residential district.

Mr. Richard Komer, representing Biltmore Homes, was present and stated that they plan to build a model home on this lot, which is the closet lot to Rochester Road. He also stated that because of an easement to the south they cannot obtain adjacent land in order to create a larger lot.

The Chairman opened the public hearing. No comments from the audience.

No letters on file.

Motion by Husk
Support by Hinch

MOVED, that the variance requested at 3639 Millay, for relief of the minimum setback requirement for a side yard that is abutting a street (corner lot) in a RIC open space district from 30' to 26.5', be denied for the following reasons:

1. No hardship was shown.
2. The petitioner has stated that there are lots in this subdivision large enough to fit this model, and there will be models available in the future that will fit this lot without a variance.

yeas: All - 6
nays: none
absent: 1

ITEM #14. Variance Requested, Lawrence Winter, 2337 Hinge, Lot #2, Olde Forge Subdivison, for relief of the minimum rear yard setback requirement from 40' to 32'.

Inspector VandenBussche explained that the petitioner is proposing to maintain a 20' x 10' rear patio that is considered part of the principal structure and, therefore, would require compliance to the setbacks of the district. The addition will result in a 32' rear yard where 40' is required in this residential district.

Mr. Winter was present and stated that the patio is already constructed as he did not know a permit was required or that there were any setback restrictions. He also stated that he has a raised doorwall which is why the patio was constructed in this manner.

The Chairman opened the public hearing.

Mr. Borus, 3615 Historic; and Mr. Brosowski, 3640 Bellows, were present and stated that they approved.

Letters of approval on file from Mr. Kettner, 3576 Historic; Mr. DeYoung, 2375 Hinge; and Mr. Liedtke, 3634 Bellows.

Motion by Lashmet
Support by Shellie

MOVED, that the variance requested at 2337 Hinge, for relief of the minimum rear yard setback requirement from 40' to 32', be approved for the following reasons:

1. It will not be detrimental to the neighborhood.
2. There were approvals from adjacent property owners.

yeas: All - 6
nays: none
absent: 1

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ITEM #15. Variance Requested, Michael Liedtke, 3634 Bellows, Lot #53, Olde Forge, for relief of the minimum rear yard setback requirement from 40' to 20'.

Inspector VandenBussche explained that the petitioner is requesting to maintain a wood patio that is attached to the rear of a single family residence. This type patio is considered part of the principal structure, and, therefore, must respect the required yard setbacks. The site plan indicates rear yards of 20' where 40' is required in this residential district.

Mr. Liedtke was present and stated that the structure has been already erected because he was not aware that a permit was necessary. He also stated that he would not be able to have this type of patio without a variance as the home is already encroaching one foot into the setback area.

The Chairman opened the public hearing.

Mr. Borus, 3615 Historic, and Mr. Brosowski, 3640 Bellows, were present and stated that they approved.

Letters on file from Mr. Winter, 2397 Hinge; Mr. DeYoung, 2375 Hinge; and Mr. Napier, 3628 Bellows, all indicating approval.

Motion by Lashmet
Support by Shellie

MOVED, that the variance requested at 3634 Bellows, for relief of the minimum rear yard setback from 40' to 20', be approved for the following reasons:

1. It will not be detrimental to the neighborhood.
2. There were approvals from adjacent property owners.

yeas: All - 6
nays: none
absent: 1

ADJOURNED: 12:05 A.M.