

The Regular Meeting of the Board of Zoning Appeals was held Tuesday, November 18, 1975 at the Troy City Offices. The meeting was called to order by Acting Chairman, Kenneth Lashmet, at 7:30 P.M.

PRESENT: Kenneth Lashmet  
Acting Chairman

James Giachino  
John D. Lovio  
Patrick McDonough  
D. Gene Shellie  
Kenneth Strobel

ABSENT: Leo Hinch

ITEM #1. Approval of minutes, Regular Meeting #2, October 28, 1975  
Approval of minutes, Regular Meeting #1, October 30, 1975 (rescheduled from  
October 21, 1975)

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Motion by Strobel  
Support by McDonough

MOVED, that the minutes of the Regular Meeting #2 of October 28, 1975 be approved as written.

yeas: All - 6  
nays: none  
absent: 1

Motion by McDonough  
Support by Lovio

MOVED, that the minutes of the Regular Meeting #1 of October 30, 1975 be approved as written.

yeas: All - 6  
nays: none  
absent: 1

#### RENEWALS

ITEM #2. Renewal Requested, Vel Corporation, 3236 Rochester Road, for relief of a masonry obscuring wall.

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Inspector VandenBussche explained that the petitioner is requesting renewal of an obscuring wall required along the rear property line. This variance has been granted on a yearly basis since 1968 in that the adjacent residential property is undeveloped. Conditions remain relatively the same, and we have no objections or complaints in the file.

A representative from Vel Corporation was present and stated that the adjacent residential property is still undeveloped and there is no anticipated development for this property in the next year.

Motion by Strobel  
Support by Giachino

MOVED, that the renewal requested at 3236 Rochester Road, for relief of a masonry obscuring wall, be approved for one year for the following reasons:

1. The conditions remain the same.
2. There were no objections or complaints in the file.
3. It will not be detrimental to the area.

yeas: All - 6  
nays: none  
absent: 1

D-1

ITEM #3. Renewal Requested, Gertrude Evans, 4832 Rochester Road, for relief to maintain use of a temporary building.

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Inspector VandenBussche explained that the petitioner is requesting to renew a variance to continue use of a temporary building for the display of vegetables and plants. This variance has been granted on a year to year basis since 1964, and we have no objections or complaints in our file.

Mrs. Evans was present and stated that the conditions are the same, and she would like to continue the variance for another year.

Motion by Shellie  
Support by Lovio

MOVED, that the renewal requested at 4832 Rochester Road, for relief to maintain use of a temporary building, be approved for one year for the following reasons:

1. There were no objections or complaints in the file.
2. The conditions remain the same.

yeas: All - 6  
nays: none  
absent: 1

ITEM #4. Renewal Requested, Angelo's Crushed Concrete, 1951 Barrett, for relief to operate a concrete crusher.

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Inspector VandenBussche explained that the petitioner is requesting to renew a variance to operate a concrete crusher. This variance has been granted on a yearly basis since 1965. There has been a change in ownership of this site, and since this tenancy, we have had numerous complaints regarding the unkempt condition of the property and excessive noise originating from this site.

A representative of Angelo's was present and stated that the new owner has only been operating at this location for approximately six months, and was having some problems with his equipment. This situation has now been corrected and the site has been cleaned up. He also stated that they have applied for a fence permit in order to eliminate dumping in the front setback area close to the road.

Motion by Giachino  
Support by Strobel

MOVED, that any decision regarding the renewal requested at 1951 Barrett, for relief to operate a concrete crusher, be delayed until a new public hearing can be held and that the outside storage of materials and equipment be referred to the Plan Commission for their determination.

yeas: 2  
nays: 4 - McDonough, Lashmet, Lovio, Shellie  
absent: 1

MOTION FAILED

Motion by McDonough  
Support by Shellie

MOVED, that the renewal requested at 1951 Barrett, for relief to operate a concrete crusher be approved for six months for the following reasons, with the stipulation that the petitioner erect a berm in lieu of a fence subject to the approval of the Chief Building Inspector and that it be installed in the 50' setback.

1. This operation has existed on this site for a number of years.
2. The petitioner has cleaned up the property and has agreed to installation of the berm.
3. This operation is no more objectionable than the other businesses in the area.

yeas: All - 6  
nays: none  
absent: 1

ITEM #5. Renewal Requested, Gale Electric, 2021 Barrett, for relief to operate a concrete crusher.

Inspector VandenBussche stated that the petitioner is requesting to renew a variance to maintain a concrete crusher. This variance has been granted on a yearly basis since 1965. Conditions of this site remain relatively the same, and we have no objections or complaints in our file.

Mr. Oliver, representing Gale Electric, was present and stated that the conditions remain the same, and they would like to renew the variance for another year.

Motion by Shellie  
Support by McDonough

MOVED, that the renewal requested at 2021 Barrett, for relief to operate a concrete crusher, be approved for one year for the following reasons:

1. There were no objections or complaints in the file.
2. The conditions remain the same.

yeas: All - 6  
nays: none  
absent: 1

ITEM #6. Renewal Requested, Proctor Homer Warren, Inc., 2100 W. Big Beaver, for relief of a 6' masonry obscuring wall along the west property line.

Inspector VandenBussche explained that the petitioner is requesting relief of a 6' masonry wall required at the residential district abutting the west property line of the subject site. This variance was originally granted in November of 1973 based on the undeveloped condition of adjacent residential property. The conditions remain the same, and we have no objections or complaints in our file.

Mr. Campbell, representing Proctor Homer Warren, Inc., was present and stated that the adjacent residential property is still undeveloped and that there is a high pressure gas main located where the wall would be constructed.

Motion by McDonough  
Support by Lovio

MOVED, that the renewal requested at 2100 W. Big Beaver, for relief of a 6' masonry obscuring wall along the west property line, be approved for one year for the following reasons:

1. The conditions remain the same.
2. There were no objections or complaints in the file.

yeas: All - 6  
nays: none  
absent: 1

ITEM #7. Renewal Requested, Eric E. Pearson, 5565 John R, for relief to keep less than 10 dogs for a hobby and training.

Inspector VandenBussche explained that the petitioner is requesting renewal to keep less than 10 dogs on a residential premise for personal use as a hobby and for training purposes. This request has been renewed on a year to year basis for quite some time. We have no objections or complaints in our file.

Mr. Pearson was present and stated that presently he has four dogs, and that conditions remain the same. He also stated that he would like to renew the variance for another year.

Motion by Lovio  
Support by Shellie

MOVED, that the renewal requested at 5565 John R, for relief to keep less than 10 dogs for a hobby and training, be approved for one year for the following reasons:

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

yeas: All - 6  
nays: none  
absent: 1

TABLED

ITEM #8. Variance Requested, City of Troy, 4693 Rochester, for relief to install a landscaped berm in lieu of a wall along the south property line, and for relief of masonry obscuring walls along the north and west property lines.

Inspector VandenBussche explained that the petitioner is requesting relief of the required 6' masonry walls on the north and west boundaries on the site that abut residential zoning, and for relief to install a landscaped berm in lieu of the wall along the south property line. This was tabled at our last regular meeting to enable the City administrators time to meet with the property owners to answer questions that were brought out at our last regular meeting. This meeting did take place with these property owners on Tuesday, November 11, 1975. The property owners on Eckford indicated to the representatives of the City that they would prefer a wall. The City will install a wall if this is what their preference would be. The greatest concern of the property owners was one of security. The wall, as required by ordinance, would not provide this security.

Mr. Culpepper and Mr. Need, representing the City, were present and stated that in order to solve the problem of security which these property owners are experiencing, they propose to erect a 6' chain link fence with barbed wire along the top around the entire perimeter of the site. Along with this, they propose to install a landscaped berm inside the fence which will extend to the end of the business zoning, and to alleviate any drainage problems, they propose to install a drainage system along the rear property line of the properties facing Eckford.

The Chairman asked if any of the residents on Eckford were present, and if so, to indicate if this proposal was acceptable to them.

Mr. Osterhoudt, 749 Eckford, Mrs. Greeson, 501 Eckford, and Mr. Jiovani, owner of Lots #7 & 8, were present and stated that this proposal was acceptable to them.

Mr. Orlando, was present and stated that he objected.

Motion by Shellie  
Support by Giachino

MOVED, that the variance requested at 4693 Rochester, for relief to install a landscaped berm in lieu of a wall along the south property line, and for relief of masonry obscuring walls along the north and west property lines, be approved with the stipulation that a 6' high chain link fence with barbed wire will be erected around the entire perimeter of the site, and that the drainage system be installed as indicated. This variance is granted for the following reasons:

1. The masonry obscuring wall, as required by ordinance, would not provide the protection that the adjacent property owners feel is needed.
2. The majority of the property owners on Eckford, affected by this request, have indicated that the City's proposal is acceptable to them.
3. The adjacent residential property to the north is used by a nonconforming factory, and the residential property to the west is protected by a heavily wooded area.

yeas: All - 6  
nays: none  
absent: 1

ITEM #9. Interpretation Requested, Jerry Abston, 2703 John R, Section 26, to permit an insurance office in an industrial district.

Inspector VandenBussche stated that the petitioner is requesting an interpretation from the Board of Appeals that the insurance office use would be permitted in an industrial district. This item was tabled at our last regular meeting at the request of the petitioner so that their planner could be present and give testimony in regards to this request.

Mr. Fisher, Mr. Dryker, and Mr. Abston, were present and stated that when the original building was constructed it was designed for two manufacturing firms with each having their own separate office areas. One of the manufacturing firms has expanded their operations and is now using the entire manufacturing area and one of the office areas. The other office area they are proposing to lease to an insurance agency. Without permission to use this area for this office use, this area would have to remain vacant and unusable to the owner of the building.

Motion by Strobel  
Support by Shellie

MOVED, that it is this board's interpretation that the insurance agency as described at 2703 John R would not be a permitted use in the M-1, Light Industrial, District.

yeas: All - 6  
nays: none  
absent: 1

#### PUBLIC HEARINGS

ITEM #10. Variance Requested, Jay Kogan, Oakland Mall, Fourteen Mile Road and John R, Section 35, for relief of the minimum required parking spaces for this complex from 9,826 to 8,553.

Inspector VandenBussche explained that the petitioner is proposing to expand the Oakland Mall Shopping Center and the site plan indicates parking spaces for 8,553 cars. The Zoning Ordinance, based on present requirements of one parking space for each 140 square foot of gross building area, would require 9,826 parking spaces. The petitioner is seeking relief of 1,273 spaces.

Mr. Kogan, Mr. Mossman, and Mr. Wiskman, were present representing Oakland Mall, and stated that they feel the parking requirements are excessive for Regional Shopping Centers with gross areas over one million square foot. No specific reference is made in the ordinance in regards to parking requirements for shopping centers of this type and size. They also stated that the addition could not be constructed without the variance as they do not have enough land to meet the parking requirements. At the present time they are operating under a parking ratio of approximately 6.4 per 1,000 square feet of gross lease area, and they feel that they have adequate parking with no problems except for approximately 20 hours a year during Christmas.

The Chairman opened the public hearings.

No comments from the audience.

No letters on file.

Motion by Giachino  
Support by Shellie

MOVED, that the variance requested at the Oakland Mall, Fourteen Mile and John R, Section 35, for relief of the minimum parking requirements for this complex be amended to allow parking under the same ratio that presently exists which is approximately 6.4 per 1,000 square foot of gross area available for lease. This variance is granted for the following reasons:

1. The additional parking that is required by ordinance, would only be utilized approximately 20 hours a year during the Christmas season.
2. The Zoning Ordinance does not relate specifically to large regional shopping centers in excess of one million square foot.
3. A shopping center of this type, consisting of a multitude of stores, presents practical difficulty in parking spaces particularly within a reasonable distance.
4. The petitioner presented letters establishing ideal parking ratios for this type of complex that were written by prime tenants. These ratios are considered by them ideal and his proposal exceeds these typical ratios.

yeas: 5  
nays: 1 - McDonough  
absent: 1

ITEM #11. Interpretation Requested, William Wieland, 2145 Crooks Road, Lot #1, Maplelawn Industrial Park Sub., Section 29, to permit office uses in a multi-tenant building in an industrial district.

Inspector VandenBussche explained that the petitioner is requesting an interpretation from the Board of Zoning Appeals that the tenants on the subject site are in compliance with the Zoning Ordinance in regards to uses permitted in an industrial district. The petitioner was cited by the Building Department for permitting tenants to occupy areas of their industrial building that are considered offices uses and not related to the industrial district that they are located in. The petitioner's application indicates insurance underwriters, construction company offices, and advertising agencies. The Building Department contends that other than the dental laboratory and industrial photography all the existing uses are in violation of the district.

Mr. Brennan, representing Mr. Wieland, was present and stated that when this building was originally erected, it was designed to look more like an office building, and it has been very difficult to attract tenants that are specified in the ordinance as being permitted in the M-1 district. He also stated that he felt that the tenants that are presently occupying the building do come within the provisions of the district even though they are not specified in the ordinance.

The Chairman opened the public hearing.

No comments from the audience.

Letters of approval on file from Mr Thornton, 2105 Crooks, and Mr. Wright, 1738 Maplelawn.

Motion by Giachino  
Support by Lovio

MOVED, that it is this board's interpretation that the uses as described at 2145 Crooks, except for the main tenant, the dental laboratory, and the industrial photography, would not be permitted uses in the M-1, Light Industrial, District.

yeas: 4  
nays: 2 - McDonough, Lashmet  
absent: 1

ITEM #12. Variance Requested, Dr. Richard Havas, 5044 John R, Lot #2, Eyster's John R Acres Sub. Section 12, for relief to expand a nonconforming use and building, and for relief of the required number of parking spaces needed to accommodate this expansion from 17 to 9.

Inspector VandenBussche explained that the petitioner is requesting to expand a nonconforming building located on John R just north of Long Lake Road. The addition will be to the rear of the existing structure and the size is 68' x 40'. The proposed use of this addition is for cages and runs for domestic-type animals that will be used in conjunction with his veterinary clinic. The petitioner indicates parking spaces for 9 cars, and the Zoning Ordinance requires a minimum of 17 cars based on the square footage of the building and its use.

Mr. Bajgier and Dr. Havas were present and stated that because the Zoning Ordinance does not specifically relate to this type of use, they did not know what parking would be required when they submitted their application. They stated that they can meet the parking requirement and would not need the variance. They further stated that the dog runs and cages would be all enclosed.

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

Letters of approval on file from Mr. Pace, 5058 John R; and Mr. & Mrs. Merlo, 2115 E. Long Lake.

Motion by Strobel  
Support by McDonough

MOVED, that the variance requested at 5044 John R, for relief to expand a nonconforming use and building, be approved for the following reasons:

1. The proposed kennels and dog runs would be considered normal and incidental to the veterinary clinic in this instance.
2. There were no objections from adjacent property owners.
3. It will not be detrimental to the area.
4. The abutting residential district to the east is a county drain eliminating the possibility of residences in close proximity.

yeas: All - 6  
nays: none  
absent: 1

ITEM #13. Variance Requested, Fullerton Home Builders, Inc., 1448 Madison, Lot #506 except the west 36', Raintree Village Sub., #2, for relief of the minimum rear yard setback requirement in a residential open space district from 35' to 20' in order to erect a single family residence.

Inspector VandenBussche explained that the petitioner is requesting to construct a single family residence that will have a rear yard of 20'. The Zoning Ordinance requires a minimum rear yard setback of 35' in this residential district. The site plan indicates the house will be located on a lot that has a long curving frontage and this encroachment runs from a 20' setback to 35' which is the minimum rear yard setback of the district.

Mr. Hecktman, representing Fullerton Homes, was present and stated that the house can fit on the lot but would create a very unaesthetic appearance to the property because of the unique configuration of the lot.

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

Letters of objection on file from Mr. Griffith, 1539 Woodgate; Mr. Konieczny, 1446 Peachtree.

Motion by Giachino  
Support by Shellie

MOVED, that the variance requested at 1448 Madison, for relief of the minimum rear yard setback requirement in a residential open space district from 35' to 20' in order to erect a single family residence, be approved for the following reasons:

1. To place the house on the property in compliance with the Zoning Ordinance, would put the house in an awkward position in relationship to the lot.
2. There is a hardship in the irregular shape of the lot.
3. It will not be detrimental to the area.

yeas: All - 6  
nays: none  
absent: 1

ITEM #14. Special Use Approval, John MacFarlane, 1880 Warbler, Lot #254, Troy Estates #3, Sec. 20, for relief to erect an accessory structure (storage shed) that will exceed 179 square feet.

Inspector VandenBussche explained that the petitioner is requesting to construct a 20' x 20' accessory building at the rear of his residential site. The Zoning Ordinance requires that accessory buildings that exceed 179 square feet and are not designed as a garage, must have the use approved by the Board of Zoning Appeals. The petitioner has indicated that the use of the accessory building as storage for bicycles, recreational vehicles, and garden equipment.

Mr. VandenBussche further stated that the petitioner called him earlier in the day and indicated that he would not be able to attend the meeting.

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

Letters of objection on file from Mr. Tallant, 1894 Chatham; and Mrs. Novik, 1912 Warbler.

Motion by Lovio  
Support by Giachino

MOVED, that the special use approval at 1880 Warbler, for relief to erect an accessory structure, (storage shed) that will exceed 179 square feet, be approved for the following reasons:

1. It will not be detrimental to the area.
2. The petitioner has indicated that the building will be for the storage of recreational vehicles and garden equipment.

yeas: All - 6  
nays: none  
absent: 1

ITEM #15. Variance Requested, Lucassian Building Co., 1600 Rochester, Lots #94-102 & 177-180, Stumpf's Beech Grove Sub., Section 27, for relief of the minimum rear yard setback from 20' to 0', for relief of the minimum setback requirement from Maple Road from 40' to 10', for relief of the minimum setback requirement from Rochester Road from 40' to 32', for relief of the minimum required number of parking spaces from 67 to 66, for relief to permit four parking spaces in the future right-of-way of Rochester Road, and for relief of the 10' greenbelt required between off-street parking and the future right-of-way of Rochester Road.

Inspector VandenBussche explained that the petitioner is proposing to reconstruct a restaurant at the northeast corner of Rochester and Maple. The proposed site plan requires a multitude of variances. The proposed restaurant will be 80' x 58' in size and will be located on the rear property line. The Zoning Ordinance requires a minimum rear yard setback of 20'. The site plan indicates a 10' setback from the future right-of-way of Maple Road and a 32' setback from the future right-of-way of Rochester Road. The Zoning Ordinance requires a minimum 40' setback from these thoroughfares. The site plan shows parking spaces of 66 cars and the ordinance requires a minimum of 67 parking spaces for the occupancy indicated by the petitioner. Four of these parking spaces indicated are located in the future right-of-way of Rochester Road, and the ordinance does not permit future right-of-ways of major thoroughfares to be used in this manner. The site plan also does not indicate the 10' greenbelt required between off-street parking areas and the future right-of-way of Rochester Road. The total number of variances required in order to construct the restaurant in the manner submitted would be six. The petitioner has been requested to provide proof of ownership or intent to purchase the land designated as off-street parking for this use that is located on Chopin.

Mr. Lucassian and Mr. Gastaris were present and stated that they feel that their present proposal for a reconstructed building on this site is much better than their former plan for remodeling of the present building as it will place the building farther away from the proposed right-of-ways of Maple and Rochester.

The Chairman opened the public hearing.

No Comments from the audience

Letters of approval on file from Mr. Morrell, 1050 E. Maple; Cee Bee Co., 1655 Rochester; and Big Beaver Speciality Co., 1659 Rochester.

Letter of objection on file from Mr. Robert Harbert, 1684 Rochester.

Motion by Strobel  
Support by Giachino

MOVED, that the variances required for relief of the minimum rear yard setback from 20' to 0'; for relief of the minimum setback requirement from Maple Road from 40' to 10'; for relief of the minimum setback requirement from Rochester Road from 40' to 32'; and for relief to reduce the 10' greenbelt required between off-street parking and the future right-of-way of Rochester Road to 5' be approved for the following reasons:

1. The property is difficult to build on.
2. The proposed plan is an improvement over the former plan.

Further, that these variances are granted with the stipulations that the seating capacity of the restaurant will be based upon the amount of legal parking that the petitioner can provide, and that the petitioner must submit to the City prior to the issuance of a building permit satisfactory proof of ownership of the land designated for parking. This motion does not relieve required parking spaces and parking in the future right-of-way of Rochester Road is not permitted.

yeas: 5  
nays: 1 - Lashmet  
absent: 1

ADJOURNMENT: 1:00 A.M.