

The Regular Meeting of the Board of Zoning Appeals was held Tuesday, December 16, 1975 at the Troy City Offices. The meeting was called to order by Chairman, Leo Hinch, at 7:30 P.M.

PRESENT: Leo Hinch
Chairman

James Giachino
John D. Iovio
Patrick McDonough
Kenneth Lashmet
D. Gene Shellie
Kenneth Strobel

ITEM #1. Approval of minutes, Regular Meeting, November 18, 1975

Motion by Iovio
Support by McDonough

MOVED, that the minutes of the Regular Meeting of November 18, 1975 be approved as written.

yeas: All - 7
nays: none
absent: 0

RENEWALS

ITEM #2. 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 10 years with specific stipulations which I have attached to the agenda.

Mr. Hanna was present and stated that the conditions remain the same, and that they have had no problems operating under the restrictions set by the board.

Motion by Lashmet
Support by McDonough

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 1976 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, 1976 to December 31, 1976 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 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 one (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 - 7
nays: none
absent: 0

D-3

ITEM #3. Renewal Requested, Ted Schaefer, 6825 (6791) Rochester, for relief to maintain 15 temporary accessory buildings.

Inspector VandenBussche explained that the petitioner is requesting a renewal for relief to maintain 15 temporary structures for use as greenhouses. This variance has been granted on a yearly basis since 1971 and the conditions remain the same. We have no objections or complaints in our file.

Mr. VandenBussche further stated that Mr. Schaefer contacted him by phone and indicated that he would not be able to attend the meeting as he is handicapped and could not locate someone to help him get to the City Hall. He also stated that if the board had questions, he possibly could arrange to attend another meeting.

Motion by Giachino
Support by Shellie

MOVED, that the renewal requested at 6825 (6791) Rochester, for relief to maintain 15 temporary accessory buildings, 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 - 7
nays: none
absent: 0

TABLED

ITEM #4. Variance Requested, Paul Capraro, 1940 East Maple, for relief of the minimum landscape requirement for this site from 1,533 to 954 square feet, and for relief of the 5' wide sidewalk required along the west building side.

Inspector VandenBussche explained that the petitioner is requesting to improve an existing nonconforming site and the plot plan indicates 954 square feet of landscaped area where the Zoning Ordinance requires a minimum of 1,533 square feet. The plan also does not indicate a 5' wide walk required between the structure and the vehicular use area on the west side of the building. This item was tabled for 60 days in order to allow the petitioner time to obtain a traffic study that will substantiate his need for two entrance drives.

Mr. Capraro was present and stated that he had the traffic study made and submitted copies to the board. He also stated that he felt that the study revealed that the intersection was not that heavily traveled as compared to other intersections in the City, and that the two drives would not create traffic congestion. He further added that he could provide the 5' wide walk along the west side of the building, and could landscape the area to the amount required, but not all of it would be located in the areas designated by ordinance.

Motion by Strobel
Support by Lashmet

MOVED, that the variance requested at 1940 East Maple, for relief of the minimum landscape requirement for this site from 1,533 to 954 square feet, and for relief of the 5' wide sidewalk required along the west building side, be tabled until the next regular meeting for the following reasons:

1. It will give the traffic engineer, employed by the City, time to review and study the material submitted by the petitioner, and to provide the board with a written recommendation.
2. It will give the petitioner time to meet with the traffic engineer to discuss this matter.

yeas: 5
nays: 2 - Shellie, Lovio
absent: 0

PUBLIC HEARINGS

ITEM #5. Variance Requested, Paramount Homes, 3666 Wakefield, Lot #455 Raintree Village #2, for relief of the minimum side yard setback requirement in a RLC use district from 7'-6" to 5'-9".

Inspector VandenBussche explained that the petitioner is requesting to construct a single family residence on a corner lot at the intersection of Wakefield and Glenwood. This lot requires a double frontage and a minimum setback of 30' from each of the street right-of-ways. The minimum side yard setback of the district is 7'-6". The site plan indicates a side yard setback of 5'-9". Therefore, the petitioner is requesting relief of 1'-9" at the side yard setback.

Mr. Pollack, representing Paramount Homes, was present and stated that this home will fit on all of the interior lots in the subdivision, and feels that there was a poor design of corner lots in this subdivision making it impossible to build the average size house on these lots.

The Chairman opened the public hearing.

No comments from the audience. No letters on file.

Motion by Lashmet
Support by McDonough

MOVED, that the variance requested at 3666 Wakefield, for relief of the minimum side yard setback requirement in a RLC use district from 7'-6" to 5'-9", be denied for the following reasons:

1. The petitioner has stated that he does have a model that will fit on this lot and conform to the ordinance.
2. No hardship was shown.

yeas: All - 7
nays: none
absent: 0

ITEM #6. Variance Requested, Rose Halsey, 3305 John R, for relief to erect a fence that will be located in the proposed right-of-way of John R.

Inspector VandenBussche explained that the petitioner is requesting to erect a 4' chain link fence that will be located 35' from the center of John R. The Zoning Ordinance does not permit structures to be located in proposed right-of-ways of major thoroughfares. The Master Thoroughfare Plan calls for a 60' right-of-way from the center of the road. Therefore, this fence would be encroaching on this right-of-way approximately 25'.

Mrs. Halsey was present and stated that the fence will be 6' along the rear of the property and 4' in the front. She also stated that she needs the fence for protection of her garden and home.

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

No letters on file.

Motion by Shellie
Support by Lovio

MOVED, that the variance requested at 3305 John R, for relief to erect a 4' chain link fence that will be located in the proposed right-of-way of John R, be approved for the following reasons:

1. The petitioner needs the fence for protection of her property.
2. It will not be detrimental to the area.
3. There were no objections or complaints in the file.

Further, that this variance is granted with the stipulation that the petitioner will remove the fence at her own expense at the time the road is widened.

yeas: All - 7
nays: none
absent: 0

ITEM #7. Interpretation Requested, Paul J. Dietz, 1000 W. Maple, to permit an office use in an industrial zoned use district.

Inspector VandenBussche explained that the petitioner is requesting an interpretation be made by the Board of Appeals that an existing building in an industrial zoned district be permitted to be used as a commercial-industrial loan processing center. The building in question was originally constructed for executive offices in conjunction with the industrial use of Koltanbar Engineering. Subsequently, it was leased by North American Rockwell, but when North American Rockwell completed their new administrative building at their principal industrial site, they moved out of this building. The petitioner contends that the building is a free-standing structure compatible to office use and as such could be interpreted as having a nonconforming status in that office buildings related to industrial uses must be within the manufacturing facilities or physically connected to the manufacturing portion of the use. This requirement of connection in the Zoning Ordinance only came to pass in 1975 when the ordinance was amended to read in that manner. The Building Department contends that it is not a continuation of an existing nonconforming use in that the original and subsequent uses were industrially related even though they were primarily administrative offices for industrial uses.

Mr. Stanley, Director of Buildings and Inspection, was present and further elaborated on the history of the building and its use. He also related to the ordinance amendment passed in April of 1975 regarding office uses in the M-1 district. Mr. Stanley also explained to the Board the reasons for the petitioner asking for an interpretation in that a variance could not be granted as it would mean rezoning of the property which is not in the Board's realm of jurisdiction, and that the Planning Department has recommended against the petitioner appearing before the Plan Commission for rezoning as the Commission would probably not approve it since it would indicate spot zoning.

Mr. Dietz and Mr. Valentine, attorneys representing the Clawson Beaver Building Co. (owners of the property and building), were present and indicated that they are requesting an interpretation that the proposed use be considered as a continuation of a legal nonconforming use. They explained that the building was originally built in 1969 and used as executive offices for the Koltanbar Engineering Co. in conjunction with their manufacturing concern adjacent to this building. In 1972 the building was leased to North American Rockwell for executive offices until the fall of 1975, and was used as their corporate headquarters and was not directly involved with the manufacturing operations within the City of Troy. The Michigan National Bank proposes to use the entire building for its exclusive use as a commercial industrial loan originating and processing center, which will involve executive offices and some computer terminals, and they feel that this is the same use that the building has been designed, built and used for since its construction in 1969. In order to convert this building so that it could be used for normal industrial use would require extensive reconstruction of the interior of the building, and even then it would be difficult to interest a tenant to lease the building as the architectural design of the structure gives it an appearance of an office building.

The Chairman opened the public hearing.

Mr. Ronapoff and Mr. Jones, representing the Michigan National Bank, were present and further explained in detail the type of business that will be conducted in this structure.

One letter on file from Mr. Damone, Damone & Associates, owner of Northwood Industrial Park, indicating his objection.

Motion by Shellie
Support by Lovio

MOVED, that this Board interprets that the petitioner's use of this building is permitted as long as it is used as a single tenant corporate-type office use with no retail or commercial operations or any leasing or subleasing to other tenants for reasons as follows:

1. This building was built in 1969 as an executive office building as an ancillary use to manufacturing and was permitted under the code at that time.
2. That since construction, the building has been occupied by single tenants using it exclusively as executive offices.
3. That the Troy Building and Inspection Department, in issuing a permit for further extensive office partitioning, further condoned the use as executive offices in 1972.

We, therefore, find that the proposed use will be a continuation of the above described uses and as such will be a continuation of a legal nonconforming use as defined in the ordinance.

Further, that the Board hereby waives the five day waiting period prior to occupancy of the building.

yeas: All - 7
nays: none
absent: 0

ITEM #8. Variance Requested, Joseph Pittiglio, 1850 Brinston, Lots #135-139 & 164-168, John R Gardens, for relief to park in the 50' required front setback area in an industrial district.

Inspector VandenBussche explained that the petitioner is requesting to construct a light industrial building at the corner of Brinston and Alger Street. Alger is presently an undeveloped right-of-way. The site plan indicates a 50' setback from the Alger right-of-way to the building and a 20' setback to required parking. The Zoning Ordinance requires a 50' setback to any thoroughfare and does not permit parking in this setback.

Mr. Pittiglio was present and stated that at the present time Alger Street is not developed and there is a possibility that it may be vacated. He also indicated that he is planning on having two tenants occupy the building, and would like to have separate parking facilities for each tenant.

The Chairman opened the public hearing.

No comments from the audience.

No letters on file.

Motion by Giachino
Support by Lashmet

MOVED, that the variance requested at 1850 Brinston, for relief to park in the 50' required front setback area in an industrial district, be approved for one year for the following reasons:

1. Alger Street is currently undeveloped.
2. The petitioner indicated that he is trying to purchase more property to the south of this site.
3. If the road is developed, the parking area could be relocated.
4. The petitioner feels that parking is necessary on both sides of the building in order facilitate two tenants.

yeas: All - 7
nays: none
absent: 0

9/13/80

ADJOURNMENT: 11:00 P.M.