

The Regular Meeting #2 of the Board of Zoning Appeals was held Tuesday, June 22, 1976 at the Troy City Offices. The meeting was called to order by Chairman, Kenneth Lashmet, at 7:40 P.M.

PRESENT: Kenneth Lashmet
Chairman

D. Gene Shellie
Randall Husk
John Lovio
Leo Hinch

ABSENT: James Giachino
Patrick McDonough

ITEM #1. Approval of minutes, May 18, 1976

Motion by Husk
Support by Lashmet

MOVED, that the minutes of May 18, 1976 be approved with the following corrections:

ITEM # 10 to read:

ayes - All - 6
nays - none
absent - 1

ITEM # 15 to read

ayes - 3
nays - 3 - Giachino, McDonough, Husk
absent - 1

MOTION CARRIED

ITEM #2. Renewal Requested, Paul R. Jackson, 1886 Larchwood, for relief from hardsurfacing his parking area and maneuvering lanes.

Mr. Stanley explained that the petitioner is requesting renewal of the relief granted by this board in June 1975 for the requirement of hardsurfacing of a parking lot at an industrial site on Larchwood. This variance was granted previously, for a period of one year, based on a report from the Engineering Department, recommending the delay due to improvements that were being installed on Larchwood. These improvements were to include a storm sewer and a provision for the parking lot to drain to it. We have no report from the Engineering Department as to the status of these installations.

Mr. Paul Jackson was present and stated that he has submitted plans to the Building Department, for an addition and will have this addition completed within one year. He further stated that he needs this renewal until the drain is covered to allow parking in this area.

Motion by Husk
Support by Lovio

MOVED, that the variance renewal requested at 1886 Larchwood, for relief from hardsurfacing of the parking area and maneuvering lanes be tabled for thirty days for the following reason:

1. To obtain a report from the Engineering Department regarding the status of the improvements.

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED

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ITEM #3. Renewal Requested, Mrs. Irene J. Giusti, 4515 Rochester Road, for relief to use a temporary stand for the sale of flowers and vegetables.

Mr. Stanley explained that the petitioner is requesting relief of a variance to continue the use of a temporary stand on Rochester Road to sell flowers. He indicated that this variance has been granted on a yearly basis since 1967 and there are no objections or complaints in the files. Mr. Stanley further indicated that an inspection of the stand had been made and this inspection revealed that the stand was in sound structural condition. Mr. Stanley explained that Mrs. Giusti is crippled and unable to attend this meeting, however, if the board had any questions of her, she would make an attempt to be present at the next meeting.

Motion by Shellie
Support by Lovio

MOVED, that the variance renewal requested at 4515 Rochester Road, for relief to use a temporary stand for the sale of flowers and vegetables be approved for one year providing that the stand is used for the sale of flowers and vegetables grown on her property only.

ayes: All - 5
nays: none
absent: 2

ITEM #4. Renewal Requested, R & M Farmers Market, 2558 East Maple, Lot 5, S/P Plainview Farms, for relief to allow outdoor sales and display in a B-1 use district.

Mr. Stanley explained that the petitioner is requesting renewal of a relief granted by this board to allow retail sales and display for a specific area in front of a mercantile building in a B-1 district. This relief has been granted on a yearly basis since 1972.

Ray Conser was present and stated that he needs this outside area for large produce and the display of flowers. He indicated that he would make an attempt to keep the market area free of as many empty crates as possible to alleviate the unsightly conditions that are present.

Motion by Husk
Support by Lashmet

MOVED, that the variance renewal requested at 2558 East Maple, for relief to allow outdoor sales and display in a B-1 use district be approved for one year provided that the outdoor sales be limited to the present fenced in area in front of the building for the following reasons:

1. It is not detrimental to the surrounding neighborhood.
2. No objections or complaints on file.

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED

ITEM #5. Renewal Requested, Columbian Developers, 1100-1170 East Big Beaver, part of Lot 25, S/P #11, for relief to allow parking in the required front yard setback.

Mr. Stanley explained that the petitioner is requesting relief of a variance granted by this board to park in a required front yard of an industrial district. This approval was granted in June 1973 based on the hardship caused by an open drain that crosses the center of this site. This drain is still an open drain and the petitioner does not own any portion of property where the drain is enclosed. When the drain is covered the petitioner will be able to use this property for parking.

Motion by Husk
Support by Hinch

MOVED, that the variance renewal requested at 1100-1170 East Big Beaver, for relief to allow parking in the required front yard setback be tabled for thirty days to allow the petitioner to be present at the meeting.

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED

ITEM #6. Renewal Requested, Faith Lutheran Church, 37635 Dequindre, for relief of a masonry obscuring wall.

Mr. Stanley explained that the petitioner is requesting renewal of a relief granted by this board for a masonry obscuring wall required at the off street parking area used by the church. This relief has been granted on a yearly basis since 1967 based on the undeveloped conditions of the adjacent residential land. The conditions remain relatively the same and there are no objections or complaints in our files.

Mr. Fernlee, representing Faith Lutheran Church, was present and indicated that the adjacent property is still undeveloped and would like to continue this variance.

Motion by Lovio
Support by Husk

MOVED, that the variance renewal requested at 37635 Dequindre, for relief of a masonry obscuring wall be approved for one year for the following reasons:

1. The conditions remain the same.
2. There are no objections or complaints in the files.
3. The adjacent property to the west and north is a densely wooded area and there is no possibility of building residential homes in that area.

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED

RECONSIDERATION

ITEM #7. Variance Requested, John Augustine, 2293 Niagara, for relief of the minimum side yard setback requirement from 5' to 0', for relief of the total side yard requirement from 15' to 7'9" and for relief to erect a wood deck and an accessory structure in a required side yard which will be located on the lot line a distance of 3' from the main structure.

Mr. Stanley explained that the petitioner is requesting to construct a wood deck and an accessory building in a required side yard. The subject structure will be located on the lot line and the accessory structure will be approximately 3' from the main building (home). This type of location would result in a 0' side yard setback and the zoning ordinance requires a minimum side yard setback of 5' and a total side yard of 15'. The total side yard proposed on this application would be 7'9". The zoning ordinance also requires a minimum distance of 10' between a main structure and an accessory structure on the site. This item is being reconsidered because of the confusion of the motions at the original meeting, the petitioner felt that he had not been given an adequate decision. At the board's request, new public hearing notices have been sent out.

Mr. John Augustine was present and stated that if the accessory building were not approved in the proposed location he would have to erect it in the rear of the yard posing an inconvenience to him. He stated that there is no exit from his residence to the rear of his yard, only to the side, which would make a patio in the rear inconvenient to him for access.

The Chairman opened the public hearing

No comments from the audience

Two letters of approval on file from William T. Kaminski, 2281 Niagara; and Elizabeth Guiliano, 2323 Traverse.

Two letters of objection on file from Robert Berlin, 2245 Traverse; and Mr. & Mrs. Dale Milne, 2245 Niagara.

Motion by Husk
Support by Hinch

MOVED, that the request for the variance to erect an accessory structure in the required side yard, a distance of 3' from the main structure be denied for the following reason.

1. No hardship shown.

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED

Motion by Husk
Support by Lovio

MOVED, that the request for the variance to erect a wood deck in the required side yard be tabled for thirty days to allow the petitioner the benefit of being heard before a full board.

ayes: 4
nays: 1 - Shellie
absent: 2

MOTION CARRIED

PUBLIC HEARINGS

ITEM #8. Variance Requested, Robert and Louise Wheeler, 2168 Virginia, for relief of Chapter 39 of the Troy Zoning Ordinance, Section 02.20.75 to maintain more than three dogs on residential property.

Mr. Stanley explained that the petitioner is requesting permission to raise and breed four great danes on a residential site. The zoning ordinance, Section 02.20.75, does not permit more than three household pets at a residential premise without being considered a kennel. The petitioner is raising these dogs for a hobby and feels that the ordinance has been incorrectly interpreted and is primarily asking for an interpretation of the ordinance.

Mr. Robert Wheeler was present and stated that he will be raising and breeding these dogs as a hobby rather than trying to make a business out of the dogs. He feels that it is necessary to have two pairs of mates in order to obtain the proper blood lines. He indicated that he will be selling the puppies. Mr. Wheeler indicated that his lot is fenced in and he has a 6' dog pen that the dogs are kept in.

The Chairman opened the public hearing.

Mr. Don Tacia was present and stated that he has no objection to Mr. Wheeler raising and breeding these dogs.

One letter of approval on file from Norman Brown, 2121 East Maple

Six letters of objection on file from Melvin Proxmire, 2103 Virginia; Ann Wiktorski, 2433 Elmhurst, Royal Oak; John Csontos, 2363 East Maple; Paul and Claudene Nelson, 2154 Virginia; Mary and Sam Dungjen, 2229 Virginia; Jack and Ora Bonds, 2259 Virginia.

Two petitions on file objecting signed by Clyde R. Chappell, 2244 Virginia; Sophie and W.B. Tilley, 2228 Virginia; Marvin Wheeler, 2243 Virginia; Nancy Caravos, 2286 Virginia; June Tan, 2106 Virginia; William Branam, 2211 East Maple; Paul Nelson, 2154 Virginia; Shirley Zapinski, 2090 Virginia; Harry Zapinski, 2151 Virginia; John Easton, 2121 Virginia.

Motion by Hinch
Support by Husk

MOVED, that an interpretation of the Zoning Ordinance, Section 02.20.75 be in agreement with the interpretation of the Building Department for the following reasons:

1. A vast majority of the surrounding neighbors are in objection.
2. The requirement of the ordinance is reasonable.

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED

ITEM # 9. Variance Requested, G. B. Dupont Company, 500 West Long Lake, for relief to erect a 180' x 120' addition to a nonconforming structure.

Mr. Stanley explained that the petitioner is requesting to construct an industrial addition to a nonconforming structure at Long Lake and Deinmore. The existing structure is nonconforming in that it has a 32.74' setback from Deinmore where 50' is required. The proposed 180' x 120' addition will continue this setback encroachment an additional 180' to the north. The zoning ordinance states that nonconforming structures may not be enlarged or extended upon.

Mr. Dick Reynolds was present and stated that the addition would be a continuation of the building for about 180'. He stated that the addition will be used for shipping and receiving and the storage of materials and the present shed located on the property would be eliminated. Mr. Reynolds indicated that they have purchased as much of the surrounding property as possible to create a buffer to the residential area.

The Chairman opened the public hearing.

Mr. John Major of 5215 Daniels was present and stated that he objects to the Dupont building becoming any larger due to the noise and traffic that he feels is presenting a nuisance at the present time.

Mr. Hoesti of 5227 Daniels was present and felt that extending the industrial use would present a nuisance problem to the residents in the area.

No letters on file

Motion by Shellie
Support by Lovio

MOVED, that the variance requested at 500 West Long Lake, for relief to erect a 180' x 120' addition to a nonconforming structure be approved based on the following reasons:

1. The company has been in existence for many years and has the forethought to buy up a considerable amount of land to create a buffer to the residential land area.
2. A city street runs through the property creating a hardship.

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED

ITEM #10. Variance Requested, James R. Stoia, 4915 Rochester, for relief to construct an addition to an existing nonconforming structure.

Mr. Stanley explained that the petitioner is proposing to construct a 28' x 34' addition to an existing nonconforming building. The existing building is nonconforming in that it is located approximately 5' into the proposed right-of-way of Rochester Road. The petitioner has indicated that the addition is attached in such a manner that when the Rochester Road right-of-way becomes a reality the nonconforming existing portion could be demolished and the addition would comply with all setbacks of the district.

The petitioner was not present

The Chairman opened the public hearing.

No comments from the audience.

No letters on file.

Motion by Shellie
Support by Husk

MOVED, that the variance requested at 4915 Rochester for relief to construct an addition to an existing nonconforming structure be tabled for thirty days to allow the petitioner to be present.

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED

ITEM #11. Variance Requested, Palmer Custom Builders, on Badder, Acreage parcel, 34-278-008, for relief of the minimum front setback requirement from 50' to 25', relief of the required parking spaces from 14 to 13 and relief of the required landscaping area from 1716 square feet to 1110 square feet.

Mr. Stanley explained that the petitioner is proposing to construct an industrial building that will have a front setback of 25'. The site plan indicates 13 parking spaces for the buildings use and the total landscaping provided will be 1,110 square feet. The zoning ordinance, Article 30.20.09, requires a minimum 50' front setback from any thoroughfare in an industrial district. The square footage of the building requires a minimum of 14 parking spaces as indicated in Article 40.12.11. The zoning ordinance also requires a minimum landscaping area of 1,716 square feet for a site of this size. The petitioner obtained relief of the minimum front setback in 1974, but did not obtain a building permit for construction of his building within one year of that date, therefore, the original relief of the front setback to 25' is no longer valid. The zoning ordinance was revised to increase the parking requirements of the district and also to include a landscaping requirement. These revisions resulted in the discrepancies described, regarding to parking and landscaping.

Mr. Chuck Palmer was present and stated that he purchased this property with the stipulation that a variance would be granted. He was granted a variance, however, due to financial backing, he did not obtain a building permit within one year. He indicated that he would be using this building for his own business, which is a small building company, for storing equipment and materials and for office use. He has intent to lease space within the building.

The Chairman opened the public hearing.

No comments from the audience.

One letter of approval on file from Charles F. Scherer, 1005 Elmsford

Motion by Husk
Support by Hinch

MOVED, that the variance requested on Badder, Acreage parcel, 34-278-008, for relief of the minimum front setback requirement from 50' to 25', relief of the required parking spaces from 14 to 13 and relief of the required landscaping area from 1716 square feet to 1110 square feet be denied for the following reasons:

1. No hardship shown.
2. The petitioner has sufficient land to build in compliance with the code.

ayes: 4
nays: 1 - Shellie
absent: 2

MOTION CARRIED

ITEM #12. Special Use, Full Gospel Business Mens Fellowship International, 1455 Stephenson, for relief to erect a 60' x 240' tent in the existing Hilton Inn parking lot for the dates of August 25 through August 28, 1976.

Mr. Stanley explained that the petitioner is requesting relief to erect a 60' x 240' tent in the existing Hilton Inn parking lot on August 25 through August 28, inclusive. The tent is considered a temporary structure and requires Board of Appeals approval for it's use, as requested by the petitioner. The board has previously granted relief to the petitioner to erect this tent in both 1974 and 1975. The request is identical and should not cause a problem on this site.

Mr. Ninowski, representing the Full Gospel Businessmen's Fellowship International, was present and stated that his request is the same as last year with the tent being the same size.

The Chairman opened the public hearing.

No comments from the audience.

No letters on file

Motion by Lovio
Support by Husk

MOVED, that the special use requested at 1455 Stephenson, for relief to erect a 60' x 240' tent in the existing Hilton Inn parking lot for the dates of August 25 through August 28, 1976 be approved for as long as the requirements of the Building Department are met and the stipulation that the board reserves the right to review the request if unforeseeable problems occur.

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED

ITEM #13. Variance Requested, Gulf Oil Company, 1601 Rochester Road, for relief to erect a canopy extending 15' into the required setback and for relief to install curb cuts on Maple within the Rochester Rd. proposed right-of-way and a curb cut on Maple at the Enterprise right-of-way line.

Mr. Stanley explained that the petitioner is proposing to construct a self-serve gas station at the northeast corner of Rochester Road and Maple Road. The site plan indicates a canopy that will extend 15' into the required setback of Rochester Road. The zoning ordinance requires a minimum setback of 75' in Article 30.30.07. The site plan also indicates curb cuts that will extend into the proposed Rochester Road right-of-way and a curb cut that will be at the junction of the Enterprise Street right-of-way. Both of these curb cuts will be on Maple Road, and Article 24.30.01 requires curb cuts to be at least 30' from any street intersection. This item appeared before the board at which time required setbacks from Enterprise and Maple were granted encroachments. A revised site plan has been submitted that includes the Rochester Road encroachment and curb cut location.

Mr. Lessnou, representing Gulf Oil, was present and indicated that after plans had been drawn up they were informed that the center of the road line was incorrect therefore throwing their plans off by 10'. They have no exit onto Enterprise. He felt that if this variance were not granted they would not be able to use this property for his intent and he would be put out of business. They do not anticipate any traffic problems.

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 1601 Rochester Road, for relief to erect a canopy extending 15' into the required setback and for relief to install curb cuts on Maple within the Rochester Road proposed right-of-way and a curb cut on Maple at the Enterprise right-of-way line be approved with the stipulation that the east curb cut on Maple Road be moved 5' westerly at the right-of-way for the following reason:

1. Considerable amount of land has been taken by the widening of the major thoroughfares, leaving the land unusable creating a hardship.

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED

ITEM #14. Interpretation Requested, BK Troy Development Company, 2939 Rochester Road, to permit a restaurant to have a drive-through service window to cater to patrons outside of the principle structure in a B-3 use district.

Mr. Stanley explained that the petitioner is proposing to construct a restaurant on Rochester Road, just south of Big Beaver. The site plan indicates a drive-through service window that is considered to be an open front store characteristic. The zoning ordinance permits drive-in and open front store uses only in HS districts. The proposed site is in a B-3 district. The petitioner is requesting an interpretation of this service.

Mr. Dick Roland, representing BK Troy Development Company, was present and indicated that their company has taken great precaution to make the parking area inaccessible to the drive-in window, thereby keeping the traffic created by this service window from accumulating on the property. He feels that this service window will create approximately 10% of his business and has found no other sites within the city that are available for this type of operation.

The Chairman opened the public hearing

Mrs. Pat Barlow was present. She has no objections to a sit-down type restaurant but feels that the drive-in portion of the restaurant will bring an undesirable element to the neighborhood.

One letter of objection on file from Patricia Barlow

Motion by Husk
Support by Shellie

MOVED, that the interpretation requested for 2939 Rochester Road, to permit a restaurant to have a drive-through service window to cater to patrons outside of the principle structure in a B-3 use district be considered as an open front store which is in violation of the zoning ordinance.

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED

ITEM #15. Variance Requested, Steve Erodi, for relief of the minimum front setback from 50' to 40' and relief of the minimum side setback requested from 10' to 1' and for relief to enlarge a nonconforming structure.

Mr. Stanley explained that the petitioner is proposing to construct an addition to an existing nonconforming industrial building located at the northeast corner of Maple and Thorncroft. The existing building does not comply with the zoning ordinance in that it has a 20' setback from Thorncroft and a 40' setback from Maple Road. The zoning ordinance requires a minimum setback of 50' from any thoroughfare in an industrial district. The proposed addition will continue this encroachment on Thorncroft for a distance of 38' and will be one foot from the property line at the southeast corner of the addition. This request appeared before the board at our last regular meeting at which time it was denied. The petitioner has subsequently reduced the size of the addition and stated that he had provided additional evidence of hardships, therefore qualifying his new application.

Mr. Steve Erodi was present and stated that he has purchased 5' additional property on the east side of his property and this is all that is available. He indicated as the land presently sets, only a 3' building could be built, making the land unusable without a variance being granted. Mr. Erodi indicated that this addition will be to increase the workable area for his business rather than to increase the volume of business. He has had no problem with parking in the past and anticipates no future problem with the addition.

The Chairman opened the public hearing.

No comments from the audience.

One letter of objection on file from Mr. Penner, 1630 Thorncroft.

Motion by Husk
Support by Lovio

MOVED that the variance requested at 1760 West Maple for relief of the minimum front setback from 50' to 40' and relief of the minimum side setback requested from 10' to 1' and for relief to enlarge a nonconforming structure be denied for the same reasons as last time, which are as follows:

1. There was not sufficient hardship shown.
2. The request does not run with the land since a conforming building could be constructed on it.

ayes: 3
nays: 2 - Lashmet, Hinch
absent: 2

MOTION CARRIED TO DENY

Motion by Lashmet
Support by Hinch

MOVED, that the variance requested at 1760 West Maple for relief of the minimum front setback from 50' to 40' and relief of the minimum side setback requested from 10' to 1' and for relief to enlarge a nonconforming structure be approved with the stipulation that parking should not be permitted in the proposed setback of Thorncroft for the following reason:

1. The property is unbuildable.

ayes: 2
nays: 3 - Lovio, Shellie, Husk
absent: 2

MOTION FAILED - Request denied.

ITEM #16. Variance Requested, Mark Jacobson Associates, 3767 Kingspointe, for relief of the side yard requirement from 7 1/2' to 4'

Mr. Stanley explained that the petitioner is proposing to continue construction of a single family residence at the corner of Kingspointe and Peachtree. The proposed site plan shows a 4' side yard where the zoning ordinance requires a minimum 7 1/2' side yard setback in this residential district. A permit was issued for this structure and the plot plan complied with all required setbacks of the district. The petitioner excavated for the basement and revised the residence to be larger than was approved. This discrepancy was noted by the building inspector and a stop work order was placed on the job prior to any footing placements. The petitioner is appealing the stop work order.

Mr. Tim Roberts, representing Mark Jacobson Builders, was present and stated that they had made an error on the plot plan that was submitted to the building department and consequently the wrong house was approved for the lot. He indicated that the purchaser wants this particular lot and they have tried to minimize the situation by moving both chimneys to the rear of the home.

The Chairman opened the public hearing.

No comments from the audience.

One letter of approval on file from Kandie Shubeck, 3624 Carmel Drive.

Two letters of objection on file from Denis A. Vista, 3579 Kingspointe Dr., and Robert Schehl, 1417 Madison.

Motion by Shellie
Support by Lovio

MOVED, that the variance requested at 3767 Kingspointe for relief of the side yard requirement from 7 1/2' to 4' be denied based on the following reasons:

1. No hardship shown that runs with the land.
2. Builder has a model that could be built without a variance.

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED

Meeting Adjourned 12:30