

The Regular Meeting #1 of the Board of Zoning Appeals was held Tuesday, July 20, 1976 at the Troy City Offices. The meeting was called to order by Acting Chairman, John Lovio, at 7:30 P.M.

PRESENT: John Lovio
Acting Chairman

Randall Husk
Leo Hinch (arrived 7:40)
Patrick McDonough
James Giachino
Kenneth Lashment (arrived 9:30)

ABSENT: D. Gene Shellie

ITEM #1. Approval of minutes, June 1, 1976 and June 22, 1976

Motion by Husk
Support by Giachino

MOVED, that the minutes of June 1, be approved with the correction of Item #2 to be supported by Hinch.

ayes: All - 4
nays: none
absent: 3

Motion by Husk
Support by Lovio

MOVED, that the minutes of June 22, be approved with the correction of Item #2 to be changed to read Motion by Hinch and Support by Husk.

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED

ITEM #2. Renewal Requested, Angelo's Crushed Concrete, 1951 Barrett, for relief to operate a cement crusher.

Mr. VandenBussche explained that the petitioner is requesting to operate a concrete crusher on the west side of Barrett Street, just south of the new Senta building. The conditions have been greatly improved since last year. The petitioner has erected a fence on the property and is in the process of installing some type of landscaping in the front. A portion of the fence at the front has been removed by the Senta people during their construction. The petitioner has indicated that this will be replaced.

A representative of Angelo's Crushed Concrete was present and stated that they would like to maintain the operation for another year. They have installed berms, shrubbery and landscaping to improve the appearance of the property and they will complete the fence within the next week.

Motion by McDonough
Support by Husk

MOVED, that the renewal requested at 1951 Barrett, for relief to operate a cement crusher be approved for one year for the following reasons:

1. There have been no changes or complaints.
2. The area has been upgraded.

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED

D1

ITEM #3. Renewal Requested, Drummer Associates, 2075 West Big Beaver, for relief of a 6' masonry obscuring wall at the west property line and relief to maintain a wood panel fence in lieu of a masonry wall along the south property line.

Mr. VandenBussche explained that the petitioner is requesting renewal of the relief granted by this board for a 6' masonry obscuring wall required at the west and south property lines of the site and relief to maintain a wood panel fence in lieu of a masonry wall at the residential district zoning line behind the Eden Glen Restaurant. The conditions are relatively the same. The residential zoning to the west is heavily wooded and to the south, there is a retention pond. The petitioner indicated, at the time of the last renewal, that he would provide some type of screening along the west property line and the proposed screening would be available for the board to review, however, no plans have been submitted at this time.

Mr. Lloyd Colenback was present and submitted a new plan with proposed screening walls and proposed plans to upgrade the property and feels that this plan will be superior in appearance to either an obscuring wall or redwood fence and be consistent with the overall plan of the site. He also indicated that he would be meeting the ordinance on parking regulations.

Motion by Husk

Support by McDonough

MOVED, that the renewal requested at 2075 West Big Beaver, for relief of a 6' masonry obscuring wall at the west property line and relief to maintain a wood panel fence in lieu of a masonry wall along the south property line be approved for one year for the following reasons:

1. The land to the south and west is shown on the Master Land Use Plan as future nonresidential.
2. No changes have been made in the request.

ayes: All - 5

nays: none

absent: 2

MOTION CARRIED

ITEM #4. Renewal Requested, Robert Jiggins, 1934 Livernois, Lot 43, Addison Heights, for relief of a masonry wall.

Mr. VandenBussche explained that the petitioner is requesting renewal of the relief granted by this board for a masonry wall required at the residential zoning district line to the east. This relief has been granted based on the residential property being undeveloped and heavily wooded. The conditions are relatively the same and there are no objections or complaints in our file.

Mr. Robert Jiggins was present and stated that he has purchased the property directly in back of his present site and would like to continue this variance.

Motion by Giachino

Support by Hinch

MOVED, that the renewal requested at 1934 Livernois, for relief of a masonry wall be approved for one year based on the following reason:

1. The conditions remain relatively the same.

ayes: All - 5

nays: none

absent: 2

MOTION CARRIED

ITEM #5. Renewal Requested, Levitt and Sons, 5700 Coolidge, for relief to maintain a barn as a construction office.

Mr. VandenBussche explained that the petitioner has not made a request to renew this relief and plans to demolish the structure within the next few weeks are in process. Thereby, recommends a denial of this renewal.

The petitioner was not present.

Motion by Husk

Support by McDonough

MOVED, that the renewal requested at 5700 Coolidge, for relief to maintain a barn as a construction office be denied.

ayes: All - 5

nays: none

absent: 2

MOTION CARRIED

ITEM #6. Renewal Requested, Bruce Pettypiece, 90 East Square Lake, for relief to maintain and operate an antique shop.

Mr. VandenBussche explained that the petitioner is requesting renewal of permission to maintain and operate an antique shop in what use to be a church, located in a residential district. The conditions remain the same and we have no objections or complaints in our file.

Mr. Bruce Pettypiece was present and made the statement that the sewers have not been installed as of yet, however, they would be completely installed before the summer was over.

Motion by Giachino
Support by McDonough

MOVED, that the renewal requested at 90 East Square Lake, for relief to maintain and operate an antique shop be approved for one year for the following reason:

1. Conditions remain the same.

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED

ITEM #7. Renewal Requested, Elerious King, 5601 Wirght, Lot 55, Houghten Acres, for relief to park a 1-1/2 ton truck on residential property.

Mr. VandenBussche explained that the petitioner is requesting renewal of the relief granted by this board to park a 1-1/2 ton truck on residential property. The conditions appear to be the same and there are no objections or complaints in our file. This variance was originally granted in 1973.

Mr. Elerious King was present and stated that the conditions are the same. He has attempted to find another location for the truck, however, there are no available places within the City of Troy. This truck is used in his business.

Motion by Hinch
Support by Husk

MOVED, that the renewal requested at 5601 Wright, for relief to park a 1-1/2 ton truck on residential property be approved for one year for the following reasons:

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

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED

ITEM #8. Renewal Requested, Cranbrook Realtors, 2280 West Big Beaver, CT434-3, Acreage, for relief of the 6' masonry wall along the north property line.

Mr. VandenBussche explained that the petitioner is requesting renewal of the relief granted by this board for a 6' masonry wall required along the north property line adjacent to residential zoning. This relief was originally granted based on the fact that the residential property is a huge retention pond. The conditions are relatively the same and there are no objections or complaints in our files.

Mr. Mike Callahan was present and indicated that he would like to have this renewal granted for an additional year and he feels that the conditions have remained the same as previously indicated.

Motion by McDonough
Support by Hinch

MOVED, that the renewal requested at 2280 West Big Beaver, for relief of the 6' masonry wall along the north property line be approved for one year for the following reasons:

1. The conditions are relatively the same
2. There are no objections in the file.

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED

ITEM #9. Renewal Requested, WEC/Numa-Logic Department, 1462 East Big Beaver, for relief to use not more than 40 parking spaces across the street from their site that were originally designated as required parking spaces for the Elks Club.

Mr. VandenBussche stated that the petitioner has indicated in a letter that they have moved from this site and they are not requesting renewal for this site. Based on this fact, the variance should be denied.

Motion by Giachino
Support by Husk

MOVED, that the renewal requested at 1462 East Big Beaver, for relief to use not more than 40 parking spaces across the street from their site that were originally designated as required parking spaces for the Elks Club be denied.

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED

ITEM #10. Renewal Requested, Big Beaver Methodist Church, 3153 Rochester, for relief of a 4'6" high decorative masonry wall required along the sides of the parking area adjacent to residential zoning.

Mr. VandenBussche explained that the petitioner is requesting to renew a relief granted by this board in July 1975 for relief of the masonry wall required at the residential zoning district line to the west of their site. This original variance was granted on the fact that the parking area was in existence prior to the ordinance. The conditions remain the same and there are no objections or complaints in our file.

Mr. Welsh, representing the Big Beaver Methodist Church, was present and stated that there was still a financial hardship to erect this required wall.

Motion by Giachino
Support by McDonough

MOVED, that the renewal requested at 3153 Rochester for relief of a 4'6" high decorative masonry wall required along the sides of the parking area adjacent to residential zoning be approved for one year for the following reason:

1. The conditions remain the same as when the variance was originally granted.

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED.

ITEM #11. Renewal Requested, Charles Riglay, 2315 East Long Lake, for relief to erect a temporary accessory structure (vegetable stand).

Mr. VandenBussche explained that the petitioner is requesting renewal of the relief granted by this board to maintain a plant and vegetable stand at the front of his property. The stand is used to sell vegetables and plants grown on his site. The conditions are relatively the same and there are no objections or complaints in our file.

Mrs. Riglay was present and stated that she grows her own plants and vegetables on her property and would like to continue to sell them from the stand located in front of her property.

Motion by Hinch
Support by Husk

MOVED, that the renewal requested at 2315 East Long Lake for relief to erect a temporary accessory structure (vegetable stand) be approved for one year based on the following reason:

1. There are no complaints or objections.

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED

ITEM #12. Renewal Requested, Red Roof Inns, 2350 and 2370 Rochester Court, for relief of a 6' masonry screening wall along the south and west property lines.

Mr. VandenBussche explained that the petitioner is requesting renewal of relief granted by this board for a 6' masonry wall required along the south and west property lines of their site. This residential zoning is a triangle formed by Rochester Road and Rochester Court and the Master Land Use Plan indicates this area as future nonresidential. The conditions remain the same and there are no objections or complaints in our files.

Mr. Dave Davis, representing Red Roof Inns, was present and stated that they have planted evergreen trees along the property lines and feels that these evergreens are more desirable than a wall.

Motion by McDonough
Support by Hinch

MOVED, that the renewal requested at 2350 and 2370 Rochester Court for relief of a 6' masonry screening wall along the south and west property lines be approved for one year based on the following reasons:

1. The conditions that precipitated the original variance remain the same.
2. There are no objections.

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED

TABLED

ITEM #13. Renewal Requested, Paul R. Jackson, 1886 Larchwood, for relief from hardsurfacing his parking area.

Mr. VandenBussche explained that the petitioner is requesting relief from hardsurfacing the parking area of his site. This relief was originally granted based on the fact the street was scheduled for installation of improvements (storm sewers) and the hardsurfacing would serve no purpose at that time. The improvements are presently being installed on the street and probably will be completed by late fall. A report from the Engineering Department has been submitted to the board advising against the installation of the hardsurfacing at this site.

The petitioner was not present.

Motion by Giachino
Support by Husk

MOVED, that the renewal requested at 1886 Larchwood for relief from hardsurfacing his parking area be approved for nine months for the following reason:

1. To enable the road to be paved, at which time the board could review the variance.

ayes: All - 5
nays: none
absent: 2

ITEM #14. 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. VandenBussche explained that the petitioner is requesting to allow parking in the required front yard setback of an industrial district. This renewal was originally granted based on the fact that there is a large open drain running through their site and if and when the drain is enclosed they would install the parking in compliance with the ordinance. This item was tabled at our last regular meeting due to the petitioner not being present.

Mark Stone, representing Columbian Developers, was present and stated that he felt a continuance of this variance would be in the interest of all concerned until such time that Big Beaver was widened.

Motion by McDonough
Support by Giachino

MOVED, that the renewal requested at 1100-1170 East Big Beaver for relief to allow parking in the required front yard setback be approved for one year for the following reasons:

1. The fact remains the same that precipitated granting of the original variance
2. There are no objections.

ayes: All - 5
nays: none
absent: 2

MOTION CARRIED

ITEM #15. 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" to erect a wood deck in the required side yard.

Mr. VandenBussche explained that Mrs. Augustine has called the Building Department and indicated that they would be unable to attend this meeting as they were called out of town on an emergency and would abide by what ever decision the board granted. This item has been discussed at prior meetings and the board is aware of all circumstances involving the site.

The petitioner was not present.

Motion by Husk
Support by Giachino

MOVED, that the variance requested at 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" to erect a wood deck in the required side yard be approved for the following reasons:

1. A hardship lies in the fact that the door is to the side of the house with no door to the rear of the house.
2. There are no objections from the immediate neighbors.

ayes: 4
nays: 1 - McDonough
absent: 2

MOTION FAILS - Request denied.

Reason for denial:

1. There is no unique condition to the land to impel erection of the structure in lieu of an ongrade platform.
2. The deck would restrict the privacy of the adjacent neighbor.
3. It is a personal hardship and not to do with the land in question.

ITEM #16. Variance Requested, James R. Stoia, 4915 Rochester Road, for relief to construct an addition to an existing nonconforming structure.

Mr. VandenBussche explained that the petitioner is requesting relief to construct an addition to an existing structure and he has indicated that by constructing the addition in this manner the nonconforming portion of this structure could be removed at such time as the right-of-way of Rochester Road is fully developed. This item was tabled at our last regular meeting due to the petitioner not being present.

Mr. James Stoia was present and stated that at such time that Rochester Road is widened, the existing portion of his building that would be extending into the right-of-way could be removed resulting in compliance with all setback requirements.

Motion by Giachino
Support by Lovio

MOVED, that the variance requested at 4915 Rochester Road for relief to construct an addition to an existing nonconforming structure be approved based on the following reasons:

1. The reason for it's nonconformity lies in the fact that the building is in the future right-of-way.
2. If it were not for the future proposed right-of-way, he would not be put in this position.
3. The petitioner has agreed that at such time the right-of-way requires the building to be removed, he will remove that portion of the building and will be able to continue the operation of his business within the remaining portion of his building.

ayes: 3
nays: 2 - Husk, McDonough
absent: 2

MOTION FAILS - Request denied.

Reason for denial:

1. A building can be built on the property without having to be attached to the existing building and obtaining a zoning variance.
2. The mere fact of the building in the right-of-way absence of any additional support of facts is not sufficient reason to grant a variance.

PUBLIC HEARINGS

ITEM #17. Variance Requested, George Arnold, 230 West Maple Road, for relief of the required landscaping area from 8,206 square feet to 7,288 square feet and for relief of the required 5' wide concrete walk required between the side face of the proposed building and driveway.

Mr. VandenBussche explained that the petitioner has submitted a revised plan that complies with the ordinance completely. The revised plans indicated that the parking spaces have been reduced from 15 to 13 moving the building back to allow the required landscaping. He suggested that this item be tabled for one week to allow him to go over the plans in depth with the Planning Director.

George Arnold was present and indicated that he has revised his plans so that they now comply with the city ordinances.

The Chairman opened the public hearing.

No comments from the audience.

The Chairman closed the public hearing.

No letters on file

Motion by Lashmet
Support by McDonough

MOVED, that the variance requested at 230 West Maple Road, for relief of the required landscaping area from 8,206 square feet to 7,288 square feet and for relief of the required 5' wide concrete walk required between the side face of the proposed building and driveway be tabled for one week.

ayes: 6
nays: 0
absent: 1

MOTION CARRIED

ITEM #18. Special Use Request, R. J. Bodenback, 3355 Alpine, for relief to erect an accessory building to house a horse.

Mr. VandenBussche explained that the petitioner is requesting relief to use an accessory building to shelter a horse. Section 40.11.09 requires this accessory use to have the approval of the board of zoning appeals and public hearing notice to be sent out to adjacent property owners.

Mrs. Brenda Bodenback was present and stated that they have only one horse and do not contemplate any more horses.

The Chairman opened the public hearing.

No comments from the audience.

The Chairman closed the public hearing

Five letters of approval on file from, Doris Nail, 3356 Alpine; Frank Maisario, 3225 Alpine; Shirley Jordan, 3268 Alpine; John Hausfeld, 3204 Alpine; Lena A. Fiore, 3244 Alpine.

Motion by Husk
Support by Lashmet

MOVED, that the special use request for relief to erect an accessory building to house a horse be approved for the following reasons:

1. The area appears to be well kept and they have enough land to accommodate a horse.
2. Numerous approvals on file
3. It is a double lot and the corral is at least 25' from adjoining properties.

ayes: All - 6
nays: none
absent: 1

MOTION CARRIED

ITEM #19. Variance Requested, James L. Brooks, east 85' of Lot #5, S/P #31 and the west 12' of Lot #9 of Troy Acres Subdivision, Aspinwall, for relief to erect a single family residence on a lot 97' in width where 100' is required.

Mr. VandenBussche explained that the petitioner is proposing to erect a single family residence on a lot, 97' in width and the zoning ordinance, Article 30.10.02, requires a minimum lot frontage to be 100' in a RLB district. The petitioner appeared before this board previously, at which time he was denied because the proposed site would create a nonconforming condition on the residential site to the east of his property. He has revised his request so that the property to the east would conform to the setbacks of the district and he has also obtained twelve additional feet to the west in order to comply as close as possible to the minimum lot width required.

Jim Brooks was present and stated that he has purchased an additional twelve feet on the west side of his site to help him comply with the requirements of the ordinance.

Earl Roberts of Roberts Real Estate was present and stated that there was an additional 712 feet to the east of the property in question. In order to make the remaining property comply with the ordinance only twelve feet could be sold to Mr. Brooks.

The Chairman opened the public hearing.

No comments from the audience.

The Chairman closed the public hearing.

Two letters of objection on file from Mr. Kenneth Trustman, 272 Aspinwall and Walter Ohnesorg of 292 Aspinwall.

Motion by Lashmet
Support by Glachino

MOVED, that the variance requested on lot #5, S/P #31 and the west 12' of Lot #9 of Troy Acres on Aspinwall be approved for the following reasons:

1. The petitioner has attempted to purchase additional property to comply with the ordinance and has obtained property to the east in order to make the property comply with the ordinance as close as possible.
2. It will not be detrimental to the area.
3. There were no objections at the public hearing.
4. The written objections concerned the drainage ditch.

ayes: All - 6
nays: none
absent: 1

MOTION CARRIED

ITEM #20. Variance Requested, Roy Bemis, 655 Robinwood, Lots 26 and 27, S/P #28 for relief of the required minimum rear yard setback from 35' to 25'8" in order to erect a 20' x 34'4" addition to the rear of the single family dwelling.

Mr. VandenBussche explained that the petitioner is proposing to construct a 34' x 20' addition to an existing residence, located on the east side of Robinwood, where the street makes a 90 degree turn. The house is restricted for expansion because the lot has a double frontage. The proposed addition will be at the rear of the existing residence and results in a rear yard setback of 25' 8". The zoning ordinance requires a minimum 35' rear yard setback in this district.

Mr. Roy Bemis was present and stated that he has tried to conform with the code as much as possible. His mother-in-law is now living with him and he needs the additional room to accommodate her. The addition will consist of a family room, bedroom and additional bathroom.

The Chairman opened the public hearing.

No comments from the audience.

The Chairman closed the public hearing.

Two letters of objection on file from Mr. & Mrs. L. E. Call, 660 Robinwood and R. W. Heaton of 644 Robinwood.

Three letters of approval on file from Diane C. Maes, 690 Robinwood; James Albers, 641 Robinwood, and Frank A. Perreault of 633 Robinwood.

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Motion by Lashmet
Support by Giachino

MOVED, that the variance requested at 655 Robinwood for relief of the required minimum rear yard setback from 35' to 25'8" in order to erect a 20' x 34'4" addition to the rear of the single family dwelling be tabled for thirty days to await the direction of the City Attorney.

ayes: All - 6
nays: none
absent: 1

MOTION CARRIED

Meeting adjourned 10:25