

The Regular Meeting of the Board of Zoning Appeals was held Tuesday, July 19, 1977 at the Troy City Offices. The meeting was called to order by the Acting Chairman, Patrick McDonough at 7:30 P.M.

PRESENT: Patrick McDonough
Leo Hinch
Alan Liebrecht
James Giachino
Carmelo Milia

ABSENT: John Lovio, Chairman
Kenneth Lashmet

ITEM #1. Approval of Minutes of June 21, 1977

Motion by: Giachino
Supported by: Hinch

MOVED, that the minutes of June 21, 1977 be approved as written.

Yeas: 5
Nays: 0
Absent: 2

MOTION TO APPROVE CARRIED

RENEWALS

ITEM #2. Renewal Requested. Bruce Pettypiece, 90 E. Square Lake Road, 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 used to be a church, located in a residential district. At the present time the antique shop is not operating in what is considered retail to passerby traffic. There are no objections or complaints on file.

Motion by: Hinch
Supported by: Giachino

MOVED, to renew the request of Bruce Pettypiece to maintain and operate an antique shop for for one year be approved for the following reasons.

1. Conditions remain the same.
2. There are no objections on file.

Yeas: 5
Nays: 0
Absent: 2

MOTION TO APPROVE FOR ONE YEAR CARRIED.

Item #3. Renewal Requested. Charles Riglay, 2315 E. Long Lake Road, for relief to maintain 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 his property. This stand is used to sell vegetables and plants grown on his site. The conditions are relatively the same and we have no objections or complaints in our files.

Motion by: Hinch
Supported by: Liebrecht

MOVED, that the request of Charles Riglay to maintain a vegetable stand at the front of his property at 2315 East Long Lake Road to be renewed for one year for the following reasons:

1. Conditions remain the same.
2. No objections or complaints on file.

Yeas: 5
Nays: 0
Absent: 2

MOTION TO APPROVE FOR ONE YEAR CARRIED.

Item #4. Renewal Requested. Red Roof Inns, 2530 and 2370 Rochester Court for relief of a 6 foot masonry screening wall along the south and west property lines

Mr. VandenBussche explained that the Red Roof Inn is requesting renewal of the relief granted by this board for a 6 foot 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 non-residential. The conditions remain the same and we have no objections or complaints on file.

Mr. Davis, representing the Red Roof Inns, Inc. was present and indicated that the conditions do remain the same and that the wall would serve no useful purpose as the residential land is undeveloped and that the evergreens are more desirable than a wall.

Motion by: Giachino
Supported by: Hinch

MOVED, that the request of Red Roof Inns, for relief of a 6 foot masonry screening wall be granted for one year for the following reasons:

1. The conditions remain the same.
2. There are no objections on file from the adjacent property owners.

Yeas: 5
Nays: 0
Absent: 2

MOTION TO APPROVE FOR ONE YEAR CARRIED.

Item #5. Renewal Requested. Drummer Associates, 2075 W. Big Beaver Road, for relief of a 6 foot high masonry obscuring wall.

Mr. VandenBussche explained that the petitioner is requesting renewal of the relief granted by this board for a 6 foot 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.

Mr. Colenback, representing Drummer Company, was present and indicated that he has removed a portion of the fence along lot #16 and has planted evergreens, he has left the fence along lot #15 and has removed the fence along lot #17 due to the heavily wooded area, which he feels provides a natural screening. Mr. Colenback also stated that the property owner, whose property backs up to lot #16 prefers the evergreens to the fence as it is more attractive and a far superior idea.

Motion by: Liebrecht
Supported by: Hinch

MOVED, that this item be tabled so the petitioner can request a Public Hearing for a permanent variance as he cannot make these changes on his own.

Yeas: 5
Nays: 0
Absent: 2

MOTION TO TABLE ONE MONTH CARRIED.

Item #6. Renewal Requested. Robert Jiggins, 1934 Livernois, for relief of a masonry wall.

Mr. VandenBussche explained that the petitioner is requesting renewal of 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 on file.

The petitioner was not present.

Motion by: Liebrecht
Supported by: Hinch

MOVED, that this item be placed at the end of this evenings agenda in case the petitioner comes in late.

Yeas: 5
Nays: 0
Absent: 2

MOTION TO MOVE ITEM TO LAST ITEM ON AGENDA CARRIED.

Item #7. Renewal Requested. Elerious King, 5601 Wright, for relief to park a 1-1/2 ton truck on residential property.

Mr. VandenBussche explained that the petitioner is requesting renewal of relief granted by this board to park a 1-1/2 ton truck on residential property. The conditions appear to be the same and we have no objections or complaints on file.

Mr. King the petitioner was present and indicated that his situation remains the same.

Motion by: Giachino
Supported by: Hinch

MOVED, to renew the request of Elerious King, 5601 Wright, relief to park a 1-1/2 ton truck for one year for the following reasons:

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

Yeas: 5
Nays: 0
Absent: 2

MOTION TO APPROVE FOR ONE YEAR CARRIED.

Item #8. Renewal Requested. Cranbrook Realtors, 2280 West Big Beaver Road, for relief of a 6 foot 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 foot 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 we have no complaints or objections on file.

Mr. Mike Callahan, representing Cranbrook Realtors, was present and had nothing to add to Mr. VandenBussche's explanation.

Motion by: Hinch
Supported by: Liebrecht

MOVED, to renew the request of Cranbrook Realtors, 2280 W. Big Beaver Road, for relief of a 6 foot masonry obscuring wall for one year for the following reasons:

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

Yeas: 5
Nays: 0
Absent: 2

MOTION TO APPROVE FOR ONE YEAR CARRIED.

Item #9. Renewal Requested. Big Beaver United Methodist Church, 3153 Rochester Road, 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 was not present, that the petitioner had called him and indicated that they would like to request a Public Hearing for a permanent relief for landscaping and a berm in lieu of the masonry wall.

Motion by: Giachino
Supported by: Hinch

MOVED, to table this item until the next regular meeting to give the petitioner the opportunity to file for a Public Hearing on a permanent relief.

Yeas: 5
Nays: 0
Absent: 2

MOTION TO TABLE FOR ONE MONTH TO PREPARE A PUBLIC HEARING CARRIED.

Item #10. Renewal Requested. Leo's Contracting, 555 Oliver, for relief to erect a 6 foot high chain link fence in lieu of a 6 foot decorative screening wall along Oliver Street with the requirement that it be slatted to block the view and that it be maintained in a good condition.

Mr. VandenBussche explained that the petitioner is requesting relief of the requirement for a 6 foot high screening wall that is required to screen an industrial storage area from Oliver Street. This relief was granted in July of 1976 for one year with the stipulation that the chain link have an obscuring element in it. One of the conditions regarding this relief was that a second building would be erected within the next year. He indicated that if the second building was not erected, he would install the masonry fence. The proposed building has not been erected and we have no application or plans for a permit to erect a second building at the present time.

Mr. Dan Lozon of Leo's Contracting was present and indicated that they still intended to erect a building, if not for their subsidiary, a spec building would be constructed. If they did not erect the building they would erect the block wall.

Motion by: Giachino
Supported by: Hinch

MOVED, that relief to maintain a chain link fence with slatting in lieu of the 6 foot masonry wall be granted for one year for the following:

1. The petitioner intends on erecting a building as indicated in his original request.
2. There are no objections or complaints on file.
3. The fence has been maintained in a good condition.

Yeas: 5
Nays: 0
Absent: 2

MOTION TO APPROVE FOR ONE YEAR CARRIED.

PUBLIC HEARINGS

Item #11. Variance Requested, George Birkenshire, southwest corner of Wattles Road and Dequindre, 24-226-028, for relief of required rear yard from 20 ft. to 6 ft.

Mr. VandenBussche explained that the petitioner is requesting a permit to erect a commercial building that will have a rear yard setback of 6 ft. The Zoning Ordinance, Section 30.20.04, requires a minimum rear yard setback of 20 ft. in a B-1 zoned district.

Mr. Mitchell and the Petitioner, Mr. George Birkenshaw, were present and indicated that they felt that this was the best feasible way to construct the building they required, stay off the Buckeye Pipeline easement, and within the regulations of the City of Troy.

The Chairman opened the Public Hearing.

A representative of the Rauhut Family, owners of the property located at 39155 Dequindre was present and stated they had no objection.

Mr. Stanek, owner of property west of the above captioned property on Wattles Road, was present and was concerned regarding the placement of building on the property. Since the variance involves the South property line rather than the West property line he had no objection.

The Chairman closed the Public Hearing.

Letters of objection on file from - Sophie T. Kwiatkowski (24-226-026) and Charles Markuz, 2939 E. Wattles Road.

Motion by: Giachino
Supported by: Hinch

MOVED, that the variance requested be granted with the stipulation they maintain a 12 foot setback in lieu of the 6 foot setback requested in their request, for the following reason:

1. The right-of-way for the Buckeye Pipeline easement does create a definite hardship in placing a building on the property and meeting the other regulations set forth in the Zoning Ordinance.

Yeas: 5
Nays: 0
Absent: 2

MOTION TO APPROVE AS INDICATED CARRIED.

Item #12. Variance Requested. Giuseppe Bommarito, 3035 John R, for relief of the 30 inch masonry screening wall that is required in lieu of the 10 ft. greenbelt and relief of the 6 ft. masonry obscuring wall along the north property line.

Mr. VandenBussche explained that the petitioner is requesting to occupy a commercial building on the west side of John R., just north of Big Beaver Road that will not have the masonry walls required by the Zoning Ordinance in the site plan approved by the Planning Commission. This site plan required a 30 inch masonry screening wall along the Manhattan Street frontage and a 6 foot masonry wall along the north property line abutting residential zoning. The Zoning Ordinance Section 39.10.01, requires a 6 foot masonry wall at the zoning district line separating the B-1 from residential. The 30 inch wall was a stipulation of the Planning Commission approval for the protection of the residential Manhattan Street.

The petitioner, Mr. Bommarito was present and indicated that he owned the property to the north and there was presently a lot line dispute between himself and the adjacent property owner. He also stated that he has observed many trucks traveling along Manhattan owned by persons living on Manhattan and he felt it was unreasonable for him to be prohibited from using Manhattan and would like relief on the 30 inch wall required along his property fronting on Manhattan.

The Chairman opened the Public Hearing.

There were no comments from the audience.

The Chairman closed the Public Hearing

There was one letter of objection on file from Dennis K. Bostick, 3111 Manhattan.

Motion by: Liebrecht
Supported by: Milia

MOVED, that the request for relief of the thirty (30) inch wall required along the Manhattan frontage be denied for the following reasons:

1. There was no hardship shown.
2. Mr. Bommarito was aware of this requirement when he received his site plan approval from the Planning Commission.

Yeas: 5
Nays: 0
Absent: 2

MOTION TO DENY CARRIED.

Motion by: Liebrecht
Supported by: McDonough

MOVED, that the request for relief of the six (6) foot masonry obscuring wall along the North property line be approved for one (1) year due to the litigation regarding property lines.

Yeas: 5
Nays: 0
Absent: 2

MOTION TO APPROVE FOR ONE YEAR CARRIED.

Item #13. Variance Requested, Gearl Pennington, 1770 Rochester Road, Lot #72 and 73, Stumpf's Beech Grove, for relief to expand a non-conforming commercial building by erecting a 24' x 30' addition.

Mr. VandenBussche explained that the petitioner is requesting a permit to erect a 24'x30' addition to the existing automobile collision shop. This addition will be used for the storage of his show cars and will be added onto the southeast corner of the existing building. The existing building has a 12 foot rear yard setback and this addition will extend this setback an additional 30 foot to the south. The Zoning Ordinance requires a minimum rear yard setback of 20 feet, and Section 40.10.00 does not permit extension of a non-conforming setback.

The petitioner, Gearl Pennington, was present and indicated that he wanted to construct this addition as he does not have the area required for the storage of his show cars. He indicated that he was not encroaching any further into the rear yard, just squaring off the existing building, which he felt would not adversely affect the building. Also, that he could not partition off an area within his present building for this type of storage without cutting down on his business and it is too dusty to store the cars in the building without some type of partitioning.

The Chairman opened the Public Hearing.

Kathy Correll, 1037 Birchwood was present and indicated that she had no objections.

Stella Smith, from Vermont Street was present and indicated that they had no objections to the building addition, but did indicate some concern about the trucks entering off of Vermont.

The Chairman closed the Public Hearing.

There was one letter of approval on file from Mr. Edward Frasure, 1076 Birchwood.

Motion by: Hinch
Supported by: McDonough

MOVED, that the request to add to an existing non-conforming building, extending a non-conforming setback be approved for the following reasons:

1. The petitioner cannot store these automobiles without cutting down his business.
2. This addition would not create a further encroachment into the setback, it only extends the existing.

Yeas: 5
Nays: 0
Absent: 2

MOTION TO APPROVE CARRIED.

Item #14. Variance Requested, Child Incorporated, northwest corner of Rochester Road and Trombley, Lot #23, Supervisor's Plat #6, to erect a six (6) foot chain link fence in lieu of a six (6) foot masonry obscuring wall.

Mr. VandenBussche explained that the petitioner is requesting a permit to construct a nursery school and the site plan shows a chain link fence at the west property line that abutts residential zoning. Section 39.10.00 requires a six (6) foot masonry wall at the property line that separates business zoning from residential.

A representative from Child Corporation was present and indicated that because they felt this use appears more residential than commercial, they felt that a chain link fence with plantings would be more desirable around the play area, thus not giving it a commercial appearance.

The Chairman opened the Public Hearing.

Joel Garrett, 4086 Rochester Road, was present and indicated that he had no objection to this request.

The Chariman closed the Public Hearing.

There was one letter of objection on file from Mr. & Mrs. Harry Ragap, 965 Trombley.

Motion by: Liebrecht
Supported by: Milja

MOVED, that the chain link fence with landscaping in lieu of a 6 foot masonry obscuring wall be approved for one year for the following reasons:

1. The proposed use (Nursery School) would be more compatible to this type of screening.
2. It would be a hardship to require a masonry obscuring wall when normally a nursery schools only require a chain link fence.

Yeas: 5
Nays: 0
Absent: 2

MOTION TO APPROVE FOR ONE YEAR CARRIED.

Item #15. Variance Requested. M & S Plumbing, 1147 Rankin, to erect a 50'x 39' industrial addition that will be 30 feet from the front property line where 50 feet is required.

Mr. VandenBussche explained that the petitioner is requesting a permit to construct a 50' x 39' addition to an existing industrial building on the north side of Rankin. The site plan shows that the addition will result in a 30 foot front setback. The Zoning Ordinance, under Section 30, requires setbacks in an industrial district to be 50 feet.

The petitioner, Sam Seltzer, was present and indicated that he needed this addition for storage purposes.

The Chairman opened the Public Hearing.

There were no comments from the audience.

The Chairman closed the Public Hearing

There was one letter of approval on file from Mr. C. Carnes, 1006 Rankin.

Motion by: Milia
Supported by: Liebrecht

MOVED, that this item be tabled for one month to allow the petitioner time to prepare an appeal as to why he needs this particular size addition rather than a size that would not encroach into the required setback.

Yeas: 4
Nays: 1 (Hinch)
Absent: 2

MOTION TO TABLE ONE MONTH CARRIED.

Item #16. Variance Requested, Marco Building Company, 885 Rochester Road, to expand a non-conforming building by erecting an addition that would extend the existing 7 foot setback from Elmwood an additional 80.57 feet. A 50 foot setback is required.

Mr. VandenBussche explained that the petitioner is requesting a permit to construct an industrial addition, 80.57' x 48' at the southwest corner of their existing shop. This addition will extend an existing 7 foot setback a distance of 80.57 feet. The Zoning Ordinance requires a minimum setback of 50 feet from any street in an industrial district. Section 40.10.00 does not permit extension of existing non-conforming setbacks.

Mr. Irwin Swider, the owner of Future Products and the Builder, Mr. Bill Kopetzki, were present and stated that they required this addition to move machinery and install additional machinery in order to stay at that location and provide an efficient operation.

The Chairman opened the Public Hearing.

There were no comments from the audience.

The Chairman closed the Public Hearing.

There were no letters on file.

Motion by: Giachino
Supported by: Liebrecht

MOVED, that the request to extend an existing 7 foot setback be denied for the following reason:

1. The petitioner was unable to present the board with a floor plan of his machine layout to justify a hardship.

Yeas: 5
Nays: 0
Absent: 2

MOTION TO DENY CARRIED.

Item #17. Variance Requested, PMA Home Builders, Lot #130, Lake Charnwood #4, 6695 Limerick Lane, for relief of the front yard setback from 40 feet to 36 feet. and relief of the rear yard setback from 45 feet to 43 feet 4 inches.

Mr. VandenBussche explained that the petitioner is requesting a permit to construct a single family residence that will have a front yard setback of 36 feet and a rear yard setback of 43 feet 4 inches. Section 30.10.01 requires a minimum front setback of 40 feet and a rear yard setback of 45 feet in this residential district. The site plan indicates the rear yard encroachment will be caused by a chimney and the front yard encroachment is a result of an open covered front porch that extends 4 foot into the required front yard.

Mr. Eric Kopsch of PMA Home Builders was present and stated: If he were to build a house that met the required setbacks the house would be only 24 feet deep. That to change this house would take away from the architectural design of the house. He also stated that the design of the house is a very important and would enhance the area more than the open field full of weeds.

The Chairman opened the Public Hearing.

There were no comments from the audience.

The Chairman closed the Public Hearing.

There were no letters on file.

Motion by: Liebrecht
Supported by: Milia

MOVED, that the request for relief of the front yard setback from 40 feet to 36 feet and the rear yard from 45 feet to 43 feet be approved for the following reasons:

1. There are no complaints on file.
2. The encroachment is minimal
3. The architectural encroachment is essential to the style of the building.

Yeas: 5
Nays: 0
Absent: 2

MOTION TO APPROVE CARRIED.

Item #18. Variance Requested, Marco Building Company, Lot #110, Sandshores Lake #2, 6940 Northpointe, for relief of the front setback from 26 feet to 19 feet.

Mr. VandenBussche explained that the petitioner is requesting relief of a required front setback so that he can continue construction on a single family residence. The site plan shows a front setback of 19 feet and the Zoning Ordinance, under Article 30, requires a minimum front setback of 25 feet in this residential district. A permit was issued for construction of this residence based on a site plan that complied with all setbacks. During the construction the encroachment was noted by an inspector and a stop work order was placed on the job. The petitioner is now appealing for relief of this setback so that he can continue construction.

The petitioner, Bill Kopetzki of Marco Homes and the Developer, Sales Agent, Joel Garrett, were present and indicated that they have developed approximately 600 lots and this is the first time that this type of mistake has been made. It was also indicated that the only encroachment was one corner of the garage and because of the lots location on the court it is almost impossible to determine there is an encroachment. They also indicated that to remove this basement would be very costly and the delay would create a hardship on the owner.

The Chairman opened the Public Hearing.

There were no comments from the audience.

The Chairman closed the Public Hearing.

There was a letter in the file from the purchaser of the lot indicating their interest in the the appeal and indicating the hardship on them if the appeal were not granted.

Motion by: Giachino
Supported by: Liebrecht

MOVED: that the request for relief of the required front setback from 25 feet to 19 feet be granted for the following reasons:

1. This is a self-imposed hardship and the petitioner would have to remove the structure which would be costly.
2. It is almost impossible to detect the encroachment.
3. It is a sold house and would create a hardship on the purchaser.

Yeas: 5
Nays: 0
Absent: 2

MOTION TO APPROVE CARRIED.

Item #19. Interpretation Requested, J-P Properties, northwest corner of Long Lake and Coolidge, for an interpretation to permit an open front store (pedestal bank stall) in a B-1 zoning district.

Mr. VandenBussche explained that the petitioner is requesting an interpretation to permit drive-up service for their savings and loan bank type operation. The Zoning Ordinance, under Section 02.20.122, describes this type of service as an open front store and open front stores are not among the permitted uses in a business district.

The petitioner, Mr. Kal Jabara of J-P properties was present and indicated the pedestals are a new concept in banking and a customer convenience.

The Chairman opened the Public Hearing.

There were no comments from the audience.

The Chairman closed the Public Hearing

There were no letters on file.

Motion by: Giachino
Supported by: Liebrecht

MOVED, that the request to erect an open front store (pedestal bank stall) be granted as this is a suitable type operation for a savings and loan service.

Yeas: 5
Nays: 0
Absent: 2

MOTION TO APPROVE CARRIED.

Item #20. Variance Requested. J-P Properties, northwest corner of Long Lake Road and Coolidge, for relief of the required 6 foot masonry obscuring wall along the west property line.

Mr. VandenBussche explained that the petitioner is requesting a permit to construct a savings and loan bank type building. The site plan does not indicate a 6 foot masonry obscuring wall, which is required along the property line abutting residential zoning to the north. Section 39.10.01 requires a 6 foot decorative masonry wall along the business zoning district line that abutts residential.

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The petitioner, Mr. Kal Jabara of J-P Properties was present and indicated that the difficulty of erecting the wall due to the Rouge River basin following the zoning boundary line and they do propose a landscape plan that would provide an obscuring element between the business and adjacent residential property.

The Chairman opened the Public Hearing.

There were no comments from the audience.

The Chairman closed the Public Hearing.

There were no letters on file.

Motion by: Hinch
Supported by: Liebrecht

MOVED, that the request for relief of erecting the 6 foot masonry obscuring wall be granted for the following reasons:

1. It would be a hardship to construct this wall in the Rouge River basin.
2. The petitioner has indicated that he has a proposed landscaping plan that would provide equal obscuring elements to protect the adjacent residential district.

Yeas: 5
Nays: 0
Absent: 2

MOTION TO APPROVE FOR ONE YEAR CARRIED.

Item #6. Renewal Requested, Robert Jiggins, 1934 Livernois, for relief of a masonry wall.

Motion by: Liebrecht
Supported by: Hinch

MOVED, that this item be tabled thirty days to allow the petitioner to appear.

Yeas: 5
Nays: 0
Absent: 2

MOTION TO TABLE 30 DAYS CARRIED.

The meeting adjourned at 11:00 P.M.

