

The Chairman, Glenn Clark, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M. on Tuesday, August 18, 2009 in Council Chambers of the Troy City Hall.

PRESENT: Michael Bartnik (Arrived 7:42)  
Glenn Clark  
Kenneth Courtney  
Ed Kempen  
Dave Lambert  
Lon Ullmann

ALSO PRESENT: Mark Stimac, Director of Building & Zoning  
Allan Motzny, Assistant City Attorney  
Pam Pasternak, Recording Secretary

ABSENT: Matthew Kovacs

**ITEM #1 – APPROVAL OF MINUTES – MEETING OF JULY 21, 2009**

Motion by Lambert  
Supported by Courtney

MOVED, approve the minutes with the following changes made.

Final sentence at the end of the first paragraph on Page 5 to read: “Mr. Kalmar said that it is not his intention to keep the vehicle on his property, it is not a permanent parking place and that this is only temporary while he was waiting for parts to repair it and to remove it to a farm in Midland County where it belongs.”

Final sentence of the end of the first paragraph on Page 7 to read: “The street is narrow without sidewalks and with street parking and Mr. Bartnik said that he does not feel that Mr. Kalmar meets any of the criteria under Section C and that we do not even need to get to the criteria under A or B.”

Yeas: 5 – Clark, Courtney, Kempen, Lambert, Ullmann

Absent: 2 – Kovacs, Bartnik

MOTION TO APPROVE MINUTES AS AMENDED CARRIED

**ITEM #2 – APPROVAL OF ITEM #3 THROUGH ITEM #5**

Motion by Courtney  
Supported by Ullmann

**RESOLVED**, that Items #3 through Item #5 are hereby approved in accordance with the suggested resolutions printed in the Agenda Explanation.

**ITEM #2 – con't.**

Yeas: 5 – Kempen, Lambert, Ullmann, Clark, Courtney

Absent: 2 – Kovacs, Bartnik

**ITEM #3 – RENEWAL REQUESTED. WILLIAM NELSON, CITY OF TROY FIRE CHIEF, 4850 JOHN R.**, for relief of the Zoning Ordinance requirement for a 4'-6" high masonry screening wall between the off-street parking area and adjacent residential property on the east side of the site.

MOVED, to grant William Nelson, City of Troy Fire Chief, 4850 John R a three (3) year renewal of relief of the Zoning Ordinance requirement for a 4'-6" high masonry screening wall between the off-street parking area and adjacent residential property on the east side of the site.

- Conditions remain the same.
- There are no complaints or objections on file.

**ITEM #4 – RENEWAL REQUESTED. ST. ELIZABETH ANN SETON CHURCH, 280 E. SQUARE LAKE ROAD**, for relief of the 4'-6" high masonry screening wall required on the north and northern portion of the west side of the property where the parking lot abuts residential zoned property.

MOVED, to grant St. Elizabeth Ann Seton Catholic Church, 280 E. Square Lake, a three-year (3) renewal of relief of the Zoning Ordinance requirement for a 6' high masonry-screening wall required on the north and northern portion of the west side of the property where the parking lot abuts residential zoned property.

- Variance is not contrary to public interest.
- Conditions remain the same.
- There are no complaints or objections on file.

**ITEM #5 – RENEWAL REQUESTED. MI DEV AMERICA, INC. 600 WILSHIRE**, for relief of the required 6' high masonry-screening wall on the west property line abutting residential zoned property.

MOVED, to grant MI DEV America, Inc., 600 Wilshire, a three-year (3) renewal of relief of the Zoning Ordinance requirement for a 6' high masonry-screening wall on the west property line abutting residential zoned property.

- Variance is not contrary to public interest.
- Conditions remain the same.
- There are no complaints or objections on file.

**ITEM #6 – APPROVAL REQUESTED. ANDREW PUMA, 951 E. SQUARE LAKE,** for approval under Section 43.74.01 to store an enclosed utility trailer outside on residential property.

Mr. Stimac explained that the petitioner is requesting approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property. This enclosed utility trailer does not meet the exceptions found in Section 40.66.00 of Chapter 39 of the Troy Zoning Ordinance.

This item first appeared before this Board at the meeting of July 21, 2009 and was postponed to allow the petitioner the opportunity to remove the advertising from the trailer and to determine if this vehicle can be parked behind the front face of his home and use it as a utility trailer.

Mr. Stimac said that Building Department staff has been in contact with Mr. Puma and he has re-located the trailer and taken the signage off. Mr. Stimac also stated that the Building Department is waiting for further documentation regarding this item and the Board can either postpone action on this request or can resolve to take no further action.

Motion by Courtney  
Supported by Ullmann

MOVED, to take no further action on the request of Mr. Andrew Puma, 951 E. Square Lake, for approval under Section 43.74.01 to store an enclosed utility trailer outside on residential property as there is no approval required.

Mr. Kempen asked if the petitioner would have to start all over again if he decided to use this trailer for commercial purposes.

Mr. Stimac said that if he did decide to use this trailer for a business he would have to appear before this Board again.

Motion by Kempen  
Supported by Lambert

MOVED, to postpone action on the motion on the floor until the meeting of September 15, 2009.

- To allow the petitioner to present further documentation to the Building Department regarding the use of this trailer.

Yeas: 5 – Lambert, Ullmann, Clark, Courtney, Kempen  
Absent: 2 – Bartnik, Kovacs

**ITEM #6 – con't.**

MOTION TO POSTPONE ACTION ON THIS MOTION UNTIL SEPTEMBER 15, 2009  
CARRIED

**ITEM #7 – VARIANCE REQUESTED. W. KAYE BARCLAY, 5501 HOUGHTEN,** for relief of the Ordinance to maintain accessory buildings at 5501 Houghten. The site plan submitted indicates that there is a total of 7001 square feet of accessory buildings on this property. Section 40.56.02 of the Ordinance limits the combined square footage of all accessory buildings on this site to not more than the ground floor footprint of the living area of the home or 1816 square feet in this instance.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to maintain accessory buildings at 5501 Houghten. The site plan submitted indicates that there is a total of 7001 square feet of accessory buildings on this property. Section 40.56.02 of the Ordinance limits the combined square footage of all accessory buildings on this site to not more than the ground floor footprint of the living area of the home or 1816 square feet in this instance.

Mr. J. Mark Brown, Ms. Barclay's son was present. Mr. Brown explained that he lives across the street from his mother's home. The original property was purchased as a single lot approximately 40 years ago. Sometime later, his father purchased the property behind his home and they decided to raise horses. The City required them to have covered buildings to take care of the horses and the owners put up these structures. Permits to keep animals on the property were obtained from the City. The owners came to the Board of Zoning Appeals for a variance regarding the barn structure. The buildings fell into a state of disrepair and after his father passed away, his mother wanted to repair them. The contractor she hired stated that since they were not changing the footprints of the buildings, no permits were required.

Mr. Bartnik apologized for being late and asked the petitioner what he was hoping this Board would do.

Mr. Brown stated that he was hoping for a favorable response from the Board, which will allow them to obtain the necessary permits.

Mr. Bartnik asked what the property is being used for and Mr. Brown said that it is used as residential property.

Mr. Brown said that the house is unique as it is situated at a double dead end of the street. The property is completely tree lined and the buildings are not visible. On the west the property is bordered by I-75 and on the north side is a large commercial building.

The Chairman opened the Public Hearing.

**ITEM #7 – con't.**

Mr. Mark Hayes, 230 McKinley was present. Mr. Hayes stated that for the first five years he lived in this area he was completely unaware that these buildings were on the property. None of the neighbors have any complaints as the property is well maintained. Mr. Hayes read a letter from his wife and she also approves of this request.

No one else wished to be heard and the Public Hearing was closed.

There are no written approvals or complaints on file.

Mr. Courtney asked if there were any animals on the property now.

Mr. Brown stated that they have five miniature horses and a dog.

Motion by Lambert  
Supported by Courtney

MOVED, to grant W. Kaye Barclay, 5501 Houghten, relief of the Ordinance to maintain a total of 7001 square feet of accessory buildings where Section 40.56.02 limits the square footage of all accessory buildings on this site to not more than 1816 square feet.

- Variance is not contrary to public interest.
- Variance does not permit the establishment of a prohibited use in a Zoning District.
- Variance relates only to the property described in this application.
- Conformance is unnecessarily burdensome.
- Property is large and bordered by a highway and a large commercial development.

Yeas: 6 – Lambert, Ullmann, Bartnik, Clark, Courtney, Kempen  
Absent: 1 – Kovacs

MOTION TO GRANT VARIANCE CARRIED

**ITEM #8 – APPROVAL REQUESTED. MR. & MRS. ROBERT RASCOL, 635 HARTLAND,** for approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property.

Mr. Stimac explained that the petitioners are seeking approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property. The Ford F450 stake truck described in the application does not meet the exceptions found in Section 40.66.00 of Chapter 39 of the Troy City Ordinance.

**ITEM #8 – con't.**

This item last appeared before this Board at the meeting of March 18, 2008 and the petitioners were granted a six (6) month time frame to look into the option of enlarging the existing garage; and to explore the possibility of parking this vehicle at another site.

Mr. Rascol was present and stated that he and his wife lived in Troy since 1996 and previously had lived at 680 Hartland. They had been before Council and received a variance either in 1996 or 1997. Mr. Rascol went on to say that in October 1998, City Council granted approval for him to keep the truck on his property, which at that time was 680 Hartland. In May 2006 they moved across the street to a home that has a larger lot. Due to the economy, it is much easier for them to keep the truck on their property rather than spend the extra money to store it in another location. The truck is not visible and Mr. Rascol would like to be able to keep the truck parked on his property as it does not affect any of the adjacent property.

Mr. Bartnik said that in March 2008 the petitioner was given a six-month extension in order for him to look at other locations to store this vehicle or to determine whether or not a garage could be built.

Mr. Rascol said that he did not look into storing this vehicle off-site.

Mr. Bartnik stated that this truck has been parked on residential property for ten years and any approval granted is to be on a temporary basis, not longer than two years. City Council gave approval for one year. Ten years is more than temporary usage.

Mr. Rascol said that it was his understanding that the property was adequate to provide parking for this vehicle.

Mr. Courtney stated that the Ordinance has been revised and is now completely different. Mr. Courtney stated that he did not mind if additional time was granted.

A discussion began regarding the approval by City Council and the Board of Zoning Appeals.

Mr. Stimac stated that officially the Ordinance does not call this a temporary approval but does limit the approval of the time frame granted by the Board of Zoning appeals to not more than two (2) years.

Mr. Rascol stated that the truck does not affect his neighbors and he would like to keep it on his property.

Mr. Clark stated that this Board has the ability to approve this request anywhere from six months to two years. Mr. Clark said that he is very familiar with this area and the lots are quite wide and deep. Mr. Clark asked how close the truck was to the neighbors' property.

**ITEM #8 – con't.**

Mr. Rascol said that it is parked within 5' of the property line and there are a lot of trees that have been planted. Mr. Rascol said that he would be willing to move the truck back on the property.

Mr. Courtney asked how long Mr. Rascol has owned this truck.

Mr. Rascol said that he has owned this truck since 2006.

Mr. Courtney asked how long the neighbor has lived in his home.

Mr. Rascol said that he has been there for a long time and this truck does not bother him at all.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There is one (1) written approval on file. There are no written objections on file.

Mr. Lambert stated that he believes the petitioner meets the criteria under Item C, but there is no substantiation regarding Item A or B. Mr. Lambert suggested that the petitioner go out and determine if there is somewhere else he could park this vehicle. Mr. Lambert also stated that he would like this petitioner to come back before the Board with some kind of substantiation that he had explored other alternatives.

Mr. Bartnik said that this is a "permitting situation" and the Ordinance only calls for a temporary approval. Petitioner was granted a six month extension and did not come back before this Board for a year.

Mr. Rascol said that he had spoken to a couple of builders and they estimated that the cost of a garage would be between \$15,000.00 and \$25,000.00. Mr. Rascol said that they would put up a larger garage if they could. Mr. Rascol also stated that he did not check on parking this vehicle at a storage facility. In this economy it is very difficult to pay for outside storage. Mr. Rascol also stated that he believed that as long as he met the criteria listed in Item C, he did not have to meet any of the other criteria.

Mr. Courtney pointed out that the application states that the petitioner has to meet the criteria in Item C and also either A or B.

Motion by Courtney  
Supported by Lambert

MOVED, to postpone the request of Mr. & Mrs. Robert Rascol, 635 Hartland, for approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property until the meeting of September 15, 2009.

**ITEM #8 – con't.**

- To allow the petitioner to bring in documentation regarding construction of a garage.
- To allow the petitioner to explore other sites to park this vehicle.

Yeas: 4 – Lambert, Ullmann, Courtney, Kempen

Nays: 2 – Bartnik, Clark

Absent: 1 – Kovacs

MOTION TO POSTPONE THIS REQUEST UNTIL SEPTEMBER 15, 2009 CARRIED

Motion by Courtney

Supported by Lambert

MOVED, to excuse Mr. Kovacs from this meeting as he is out of the county on vacation.

Yeas: 6 – Ullmann, Bartnik, Clark, Courtney, Kempen, Lambert

Absent: 1 – Kovacs

MOTION TO EXCUSE MR. KOVACS CARRIED

The Board of Zoning Appeals meeting adjourned at 8:19 P.M.

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Glenn Clark, Chairman

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Pam Pasternak, Recording Secretary