The Board of Zoning Appeals meeting was called to order by Chair Clark at 7:30 p.m. on April 20, 2010, in the Council Chamber of the Troy City Hall.

1. ROLL CALL

Present:
Michael Bartnik
Glenn Clark
Kenneth Courtney
Donald L. Edmunds
Edward Kempen
Matthew Kovacs
David Lambert

Also Present:
Paul Evans, Inspector Supervisor
Allan Motzny, Assistant City Attorney
Kathy L. Czarnecki, Recording Secretary

2. APPROVAL OF MINUTES – March 16, 2010

Resolution # BZA 2010-04-011
Motion by Courtney
Support by Edmunds

MOVED, To approve the March 16, 2010 Regular meeting minutes as published.

Yes: All present (7)

MOTION CARRIED

3. RENEWALS

A. **RENEWAL REQUEST, BOYS & GIRLS CLUB OF TROY, 3670 JOHN R** – For relief of the 4'-6" high masonry screening wall required along the east and north property lines between the parking lot and the adjacent residentially zoned property.

Mr. Evans reported the Planning Department received correspondence from the Boys & Girls Club stating that a proposed solution has been agreed upon and applicable work should be complete prior to the Board's May 18, 2010 Regular meeting. The petitioner is requesting postponement of the item to the May Regular meeting, to allow both parties involved sufficient time to evaluate the completed work. Mr. Evans indicated that tabling the matter would not cause an adverse effect to surrounding property.

Resolution # BZA 2010-04-012
Motion by Courtney
Support by Kempen

MOVED, To postpone Agenda item 3 A, the Boys & Girls Club of Troy, 3670 John R, to the May 18, 2010 Regular meeting.

Yes: All present (7)

MOTION CARRIED

B. **RENEWAL REQUEST, ST. MARK COPTIC ORTHODOX CHURCH, 3603-3615 LIVERNOIS** – For relief to construct a landscaped berm and use existing natural vegetation in lieu of the 4'-6" high masonry wall required along the south property line and relief of the 4'-6" high masonry wall on the north property line.

Mr. Evans presented a brief report on the renewal request. The three (3) year renewal granted in 2007 to waive the required screen wall along the south and north property lines has expired. Mr. Evans said there are no objections on file. He reported that existing landscaping has matured nicely.

Resolution # BZA 2010-04-013
Motion by Courtney
Support by Kempen

MOVED, To grant St. Mark Coptic Orthodox Church, 3603-3615 Livernois, a three (3) year renewal of relief to maintain a landscaped berm and use existing natural vegetation in lieu of the 4'-6" high masonry wall required along the south property line and relief of the 4'-6" high masonry wall on the north property line.

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

Yes: All present (7)

MOTION CARRIED

4. HEARING OF CASES

A. **VARIANCE REQUEST, MOHAMMAD AND UZMA ALI, VACANT PROPERTY BETWEEN 2100 AND 2020 CHARNWOOD** – In order to construct a new 29'9" tall home, a variance from Zoning Ordinance Section 31.30.00 (U) that limits the building height to 27 feet without an approved fire suppression system and fire retardant materials for roof framing and sheathing.

Mr. Evans reported the petitioner is requesting relief of the Zoning Ordinance to construct a single family residence at a height of 29'9". The Zoning Ordinance allows the building height of a single family residence in the R-1A zoning district to

exceed 27 feet when the structure is fully protected with an approved fire suppression system and fire retardant materials for roof framing and sheathing. Mr. Evans reported that because the variance request relates to fire safety, the matter was referred to the Fire Department for a recommendation. The report prepared by the City's Assistant Fire Chief, dated April 1, 2010, recommends the petitioner comply with Zoning Ordinance requirements by installing an approved fire suppression system. He assured the Board that the materials in front of the Board this evening are the same materials provided to the Fire Department to prepare its recommendation. Mr. Evans said the variance request is the same request that was presented to the Board in 2007.

Patrick Dyke, Architect, of 46065 Royal Drive, Chesterfield Twp, was present to represent the petitioner. Mr. Dyke represented the petitioner at the time of the original request in 2007 and is before the Board this evening because of the statute of limitation on the application. He said the project material provided to the Board this evening is identical to the original presentation. Mr. Dyke said he met with the Fire Department in 2007 to discuss good strategies of fire suppression. He indicated that sheet A-5 of the plans in tonight's presentation illustrates the proposed draft stopping plan that was approved by the Board of Zoning Appeals in 2007.

Mr. Dyke addressed design features of the house. He asked the Board to focus on the differential of the house, noting the tallest peak (the reason for which the variance is being requested) is one small section of 2'9" in size. Mr. Dyke indicated that the Zoning Ordinance allows a footprint twice the size of the proposed footprint.

Mr. Dyke said to suppress the house, one must suppress all floors, which he said is a massive and expensive undertaking, approximately $80,000. Mr. Dyke further stated that he has not encountered another house in Troy that has a complete fire suppression system installed. He said none of the issues addressed in the Assistant Fire Chief's report were issues in 2007. Mr. Dyke said he respects the recommendation of the Assistant Fire Chief but does not agree.

Mr. Dyke addressed the practical difficulty. He said the City's current Zoning Ordinance formula to determine maximum allowable roof height does not relate to the larger lot size, the increased setbacks, or the current needs and desires of families who desire to live in larger homes. Mr. Dyke said the ceiling heights of both the first and second floors would have to be decreased to comply with the existing ordinance regulations. Mr. Dyke addressed the aesthetics of a single family residence with respect to width and height in relation to its roofline.

Discussion continued on the following items:

- Draft fire stopping method.
- Recommendation of Assistant Fire Chief.
- No recommendation from the Planning Department.
- Board discussion at July 17, 2007 and August 21, 2007 Board of Zoning Appeals meetings.
- Current Zoning Ordinance regulations relating to setbacks, lot size, square footage, residential -vs- non-residential buildings.
- Estimated cost of fire suppression. Petitioner current estimate is $80,000; 2007 minutes reflect estimate at $40,000-$45,000.
- Safety factor of neighboring residences.
- Evidence (or lack of evidence) that fire suppression is critical.
- Relationship of master bedroom fireplace to highest peak of roof.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Chair Clark said there are no objections on file for the variance request.

Resolution # BZA 2010-04-
Motion by Kovacs
Support by Courtney

MOVED, To grant relief of the Zoning Ordinance to construct a single family residence with a building height of 29'9" on the vacant property between 2100 and 2020 Charnwood.

- Variance is not contrary to public interest.
- Variance does not permit the establishment of a prohibited use in a Zoning District.
- Variance applies only to the property described in this application.
- Literal enforcement of the Ordinance would be unnecessarily burdensome.
- Variance request of 2'9" is minimal.
- Minimum side setback of 54' will be provided.
- Roof draft stopping would be at a 1,200 square foot maximums.

(No roll call taken on motion).

Discussion on the motion on the floor.

Mr. Edmunds said he is disappointed that the petitioner had no discussion with the Assistant Fire Chief on the concerns identified in the Fire Department report. Mr. Edmunds said he would like to see the petitioner install a fire suppression system.

Chair Clark addressed comments provided by the Assistant Fire Chief. He questioned the safety placed on surrounding neighbors if a complete fire suppression system is not installed. Chair Clark said more information on the matter would be helpful, as well as a recommendation from the Planning Department. He asked when the Zoning Ordinance regulation applicable to the variance request was effective.

Mr. Evans indicated the applicable section of the Zoning Ordinance was effective 04/12/99.

Mr. Lambert addressed the recommendation of the Fire Department in 2007 and the current recommendation of the Assistant Fire Chief. He said the petitioner provides good reasons to grant the variance, and he sees some advantages to allow the request. Mr. Lambert suggested to postpone the matter to provide an opportunity to clarify some of the concerns discussed this evening.

Mr. Courtney asked the Planning Department to seek information on the Fire Department's recommendation that all single family residences should be required to install complete fire suppression systems, and whether the Assistant Fire Chief is a proponent of that recommendation.

Mr. Kovacs said he is not in favor of postponing the matter. He said the variance request is minimal and he believes a fire suppression system is not necessary. Mr. Kovacs referenced comments by the Administration on allowances in the Zoning Ordinance for additional roof height when setbacks are increased, and noted a church would not be required to install a fire suppression system. He addressed the "shakiness" of the current Zoning Ordinance as relates to residential versus non-residential construction. Mr. Kovacs said he would not want 30' of water pipes in his house.

Mr. Bartnik said one difference between a single family residence and a church is the fact that people reside in the home during evening hours and that is not true with a church. Mr. Bartnik is in favor of postponing the item because it would provide an opportunity to clarify some issues and possibly persuade him to support the variance request.

The Board requested the presence of the Assistant Fire Chief at the May meeting.

Resolution # BZA 2010-04-014
Motion by Lambert
Support by Edmunds

MOVED, To postpone action until the May 18, 2010 Regular meeting.

Yes: Bartnik, Clark, Edmunds, Lambert
No: Courtney, Kempen, Kovacs

MOTION CARRIED

5. COMMUNICATIONS

None.

6. MISCELLANEOUS BUSINESS

None.

7. ADJOURNMENT

The Board of Zoning Appeals meeting adjourned at 8:21 p.m.

Respectfully submitted,

Glenn Clark, Chair

Kathy L. Czarnecki, Recording Secretary

G:\Board of Zoning Appeals Minutes\Final\04-20-10 BZA Meeting_Final.doc