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

1. ROLL CALL

Present:
Michael Bartnik
Glenn Clark
Kenneth Courtney
Donald L. Edmunds
William Fisher
A. Allen Kneale
David Lambert

Also Present:
R. Brent Savidant, Acting Planning Director
Christopher Forsyth, Assistant City Attorney
Kathy L. Czarnecki, Recording Secretary

2. APPROVAL OF MINUTES – June 15, 2010

Resolution # BZA 2010-07-030
Motion by Clark
Support by Edmunds

MOVED, To approve the June 15, 2010 Regular meeting minutes as printed, with the correction of two minor typographical errors on page 1.

Yes: All present (7)

MOTION CARRIED

APPROVAL OF AGENDA

Resolution # BZA 2010-07-031
Motion by Courtney
Support by Edmunds

MOVED, To place Agenda item #4 D after Agenda item #4 E.

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. Savidant gave an overview of the renewal request before the Board. The item was adjourned several times since the February 16, 2010 Board of Zoning Appeals meeting to allow the Boys & Girls Club and the adjacent neighbor to the north to come to an agreement regarding site drainage. Mr. Savidant indicated Board members received, prior to the beginning of tonight's meeting, a copy of a Memorandum of Understanding signed by both parties acknowledging resolution of the drainage issue.

Mr. Clark asked (1) if the property owners to the south are satisfied with the drainage concern; and (2) if representation from the Witkowski family is present at tonight's meeting.

Mr. Savidant indicated he was not aware of any issues associated with the property owner to the south. Further, Mr. Savidant assumed there was no representation from the Witkowski family, by the indication of no hands in the audience.

Steve Toth, Executive Director of the Boys & Girls Club, and Troy resident, 2312 Niagara, was present. Mr. Toth said concerns with the property owners to the south and east were addressed and resolved. He indicated that with the support of the property owner to the north, Ms. Witkowski, the drainage issue is resolved, as well as the screening of car headlights and maintenance of the swale and landscaping. Mr. Toth acknowledged the hours volunteered by Comcast to complete the swale. He shared photographs of the completed work and indicated everything appears to be functioning well. Mr. Toth said the Boys & Girls Club has a very positive and neighborly relationship with Ms. Witkowski.

Mr. Forsyth stated the signed Memorandum of Understanding is for the Board's information only and does not need to be referenced in the Resolution.

Mr. Clark asked what remedy the property owner and/or the Board would have should Ms. Witkowski not be satisfied in the future.

Mr. Savidant replied that based on the positive relationship between the Boys & Girls Club and Ms. Witkowski, as represented by Mr. Toth this evening, any issues would be addressed by the Boys & Girls Club.

Mr. Forsyth noted that the Court system is an option should drainage become such an issue that a nuisance is created.

Resolution # BZA 2010-07-032
Motion by Courtney
Support by Clark

MOVED, To grant the 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, a one (1) year renewal.

Discussion on the motion on the floor.

Mr. Edmunds indicated he would vote no on the motion. He said the Engineering Department clearly stated that the swale was not necessary, and a standard renewal would have been appropriate. He commended the Boys & Girls Club for their good neighborly spirit in working out a reasonable resolution with the neighbor to the north.

Mr. Kneale questioned the construction of the swale as relates to City standards and requirements.

Mr. Savidant stated that the swale was not required by the City.

Mr. Toth addressed a memorandum from the Engineering Department stating that the City had no issues with the existing swale. He stated the Boys & Girls Club worked directly with the surveyor contracted by the Witkowski family to complete the swale work, and it is the conclusion of both parties that the completed swale is beneficial to both parties.

Vote on the motion on the floor.

Yes: Bartnik, Clark, Courtney, Lambert
No: Edmunds, Fisher, Kneale

MOTION CARRIED

4. HEARING OF CASES

A. **VARIANCE REQUEST, JERALD A. BOCK, 2397 VERMONT DRIVE** – In order to construct an addition to the attached garage, a 10 foot variance to the required 35 foot rear yard setback.

Mr. Savidant gave a brief report on the proposed variance with respect to its location and zoning of adjacent properties. He noted that because the home is addressed on Vermont, a variance to the rear yard setback is needed. Mr. Savidant confirmed that if the home was addressed on Milverton, the petitioner would not need a variance because the side yard setback is 50 feet. Mr. Savidant also confirmed that the property to the north is owned by the County.

The applicant, Gerald Bock, was present. Mr. Bock stated that the County purchased 80 feet of his property and removed the 10 x 14 foot barn he used for equipment storage. He indicated the garage addition would give him room to store lawn and garden equipment.

Chair Lambert noted there is no written correspondence on file.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # BZA 2010-07-033
Motion by Bartnik
Support by Fisher

MOVED, To grant the variance request.

Preliminary Findings:
- That the variance is not contrary to public interest.
- That the variance does not permit the establishment of a prohibited use within a zoning district.
- That the variance does not cause an adverse effect to properties in the immediate vicinity or zoning district.

Special Findings:
That the petitioner has one or more of the following practical difficulties:
- Conforming to the specific ordinance that was cited in the application would be unnecessarily burdensome.
- These practical difficulties result from the location and size of the property.

Yes: All present (7)

MOTION CARRIED

B. **VARIANCE REQUEST, WILLIAM L. GUGAN, 6163 LIVERNOIS** – In order to construct an addition to the front of the house, an 8 foot variance to the required 40 foot front yard setback.

Mr. Savidant gave a brief report on the proposed variance with respect to its location and zoning of adjacent properties. He addressed the petitioner's rudimentary measurements that demonstrate his home is the furthest away from Livernois in comparison to other homes on the street. Mr. Savidant said the petitioner proposes to construct the addition that would be consistent with the existing home façade.

The applicant, William Gugan, was present. Mr. Gugan said the proposed addition is the desire of his wife who is a quilter. The addition would accommodate the space needed to place quilts on the wall during the quilting process. Mr. Gugan makes canes for a veteran program called 'Lean on Me' and the extra space would accommodate his hobby also. Mr. Gugan said he and his wife would like to put the addition on the front of the home for security and financial reasons.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Chair Lambert noted there is no written correspondence on file.

Resolution # BZA 2010-07-034
Motion by Courtney
Support by Edmunds

MOVED, To grant the variance.

Preliminary Findings:
- The variance is not contrary to public interest.
- The variance does not permit the establishment of a prohibited use within a zoning district.
- The variance does not adversely affect anyone on the street or any of the neighbors.
- The variance relates only to this parcel.

Yes: All present (7)

MOTION CARRIED

C. **VARIANCE REQUEST, DANIEL MACLEISH, 4938 ADAMS POINTE COURT** – In order to cover an existing terrace, a 6.5 foot variance to the required 45 foot rear yard setback.

Mr. Savidant gave a brief report on the proposed variance with respect to its location and zoning of adjacent properties. He indicated the applicant submitted several elevations. Mr. Savidant addressed correspondence received from a neighbor relative to concerns with drainage, and identified the property in relation to the applicant's property.

There was discussion on the structural design of the patio in relation to the extension of the house, gutters, drains and insulation.

The petitioner, Daniel MacLeish, was present. Mr. MacLeish is the builder and developer of the Adams Pointe subdivision. He addressed in detail the drainage system installed during the development stages. Mr. MacLeish said he spoke to Mr. White about his concern of potential drainage problems and reassured him there would be no additional stormwater runoff than what runs off the patio. Mr. MacLeish addressed the intent of the applicant and their desire for a covered terrace. He shared elevations of the structure and indicated the applicant has no intention of closing in the patio because they want a breeze. He noted that the footings would go deep enough should the resident want to close it in the future.

PUBLIC HEARING OPENED

Daniel White of 4949 Valley Vista Road, Troy, was present. Mr. White said the proposed addition is very attractive and he has no problem with the structure. He addressed his concerns with the drainage. Mr. White acknowledged the professionalism of Mr. MacLeish as a builder and developer. He asked what recourse he would have should Mr. MacLeish not be able to complete the work for some unforeseen reason. Mr. White also asked if it would be appropriate to place a condition on a variance approval requiring that the existing swale and rear yard drainage configuration remains in place. He voiced concern with re-grading the property between the wall and structure.

Mr. Forsyth said the Board has the authority to attach conditions to a variance approval as long as the condition relates to the land. He indicated in this case, a condition to keep the existing drainage in place relates to the land and would be a valid condition.

Mr. MacLeish said construction would not impact the existing drainage system. He noted a permit would be required to do any type of work that would involve the City stormwater system.

PUBLIC HEARING CLOSED

Chair Lambert noted the only written correspondence on file is the letter from Daniel White.

Resolution # BZA 2010-07-035
Motion by Clark
Support by Courtney

MOVED, To grant the variance.

Preliminary Findings:

- The variance is not contrary to public interest.
- The variance does not permit the establishment of a prohibited use within a zoning district.
- The variance does not cause an adverse effect to properties in the immediate vicinity or zoning district.

Further, That the swale and berm would remain there as part of the approval for the variance.

Yes: All present (7)

MOTION CARRIED

E. **VARIANCE REQUEST, FATHER & SON CONSTRUCTION, 2891 IOWA** – In order to construct an addition to the house, variances from the requirement that the addition be set back at least 10 feet from the detached garage, and that a portion of the detached garage be allowed in the side yard. No alterations are proposed for the garage; the addition of the house would require the garage to be moved northward, so that the entire garage is north of the proposed house addition.

Mr. Savidant gave a brief report on the proposed variance with respect to the plot plan provided by the petitioner and Sections 40.56.02 (A) and (D) of the Zoning Ordinance.

There was discussion on:

- Access to the rear of the property in a fire emergency.
- Scenario of construction of small addition on new addition and connection to existing garage. Mr. Savidant determined it would make the site more non-conforming and a side yard setback would be required.
- Unknown object on aerial photography in lower left hand corner, immediately east of second accessory building and south.

The petitioner, Kip Langley, of Father & Son Construction, was present. He said Father & Son Construction has been in Troy for 47 years. He indicated the object in the aerial photography is a deck which would be removed prior to construction. He said there is 10 feet on the one side of the home for fire access in an emergency. Mr. Langley said the homeowners would like to add on to the 800 square foot home to meet family needs. He indicated there is no room to construct an addition in the front or the side. Mr. Langley said the addition would not bother any neighbor and would have no adverse effects.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Chair Lambert noted there is one communication on file in support of the variance request.

Resolution # BZA 2010-07-036
Motion by Bartnik
Support by Courtney

MOVED, To grant the variance.

Preliminary Findings:

- The variance is not contrary to public interest.
- The variance does not permit the establishment of a prohibited use within a zoning district.
- The variance does not cause an adverse effect to properties in the immediate vicinity or zoning district.

Special Findings:

- Due to the size and location of the existing buildings that conforming would be unnecessarily burdensome and would restrict the owners in a reasonable use of their property.

Yes: All present (7)

MOTION CARRIED

D. **VARIANCE REQUEST, BRIAN MCCALLUM FOR DETROIT MEETING ROOMS, 3586 ADAMS ROAD** – In order to reuse a single family home as a small church: 1) a variance from the requirement that the buildings be set back at last fifty (50) feet from the adjacent property lines, 2) a variance to allow parking within the front yard setbacks along Adams Road and Bolingbroke Drive, and adjacent to any land zoned for residential purposes, 3) A variance from the requirement that parking areas be screened from adjacent residential properties by a 4'6" high landscaped berm, and 4) Variances from the requirement that an 8 foot wide concrete sidewalk be provided along Adams Road, a 5 foot concrete sidewalk be provided along Bolingbroke Drive, and that 5 foot wide concrete sidewalks be provided from the public street frontage sidewalks to interior sidewalks serving parking areas and building entrances.

Mr. Savidant gave a brief history of the item, and reviewed the approval process of both the Planning Commission and Board of Zoning Appeals. Mr. Savidant identified each variance request and noted the variance request relating to required sidewalks along Adams Road and Bolingbroke is not necessary. He explained that sidewalks are off-site improvements and the petitioner must seek a waiver from the City's Traffic Committee.

Mr. Savidant said the Planning Department received numerous emails, correspondence and a signed petition in opposition of the variance request. He brought to the attention of Board members that a resident submitted to the Planning Department photographs of converted church properties located in other communities, prepared from the list of addresses provided by the applicant.

There was a brief discussion on the requirement for a berm to screen parking in terms of the existing berm, required height, required location(s) and Zoning Ordinance interpretation by City staff.

Nathan Robinson of Horizon Engineering, P.O. Box 182158, Shelby Township, was present to represent the landowner and the petitioner. Mr. Robinson gave a PowerPoint presentation detailing the following:

- Current site.
- Property use.
- Zoning regulations.
- Review process.
- Variance requests.

Mr. Robinson closed the presentation emphasizing the proposed use of the facility is minimal; two days a week and each session approximately two hours. He said the proposed location is ideal because it is on a main road. Mr. Robinson said the maximum number of people on the site per session would be 27 people; as well, the maximum number of vehicles on site per session would be 9.

Mr. Savidant verbally made a correction to one of the petitioner's PowerPoint slides (reference Review Process, Step 1) that indicated an informal meeting was held with staff and some members of Planning Commission. Mr. Savidant clarified that no members of the Planning Commission were present at that meeting.

Steve Carnwath, trustee and elder for the Detroit Meeting Rooms community, 3109 Cummings, Berkley, was present. Mr. Carnwath addressed the following items at the request of the Board members:

- Similar capital investments acquired in other communities/states for same use/purpose.
- Church bylaws require ownership of facilities; leasing not an option.
- Worldwide church organization; Christian Fellowship Brethren, aka Plymouth Brethren.
- Maintenance of properties; specifically, 1722 Eleven Mile, Berkley. Stated damage shown in photograph occurred from City construction project.
- Purchase date/closing on property. Property acquired as high bidder in auction sale. City Assessor records show property was acquired in December 2009. Board member Edmunds indicated purchase of property was misrepresented by petitioner at April 13, 2010 Planning Commission.
- Established churches locally in residential homes; Berkley, Royal Oak, Clawson.
- Familiarity with City procedure on variances and site plan approval process.
- Makeup of community church.
    - One large church and smaller group facilities.
    - Traditional family gatherings.
    - Prayer and communion schedules; days, times, group size organized by committee.
    - Trustees conduct service in informal, conservative and quiet gathering.

- Major road frontage desired for local churches; sometimes, side road.
- Number of vehicles in relation to group size; one car per family.
- Traffic circulation; ingress and egress, directional signage.
- Screening of parking; would prefer board-on-board wood fence in lieu of berm.
- Size of facility in relation to proposed use.

Mr. Bartnik addressed the size of the property in relation to the proposed use and shared concerns with parking adjacent to neighboring residential. He feels the site is too small for the particular proposed use.

Mr. Savidant explained that should the Planning Commission grant the applicant a Special Use Approval, any and all future property owners would be required to adhere to that Special Use Approval and any conditions that were placed on its approval.

PUBLIC HEARING OPENED

The following persons were present to speak. All persons spoke in opposition of the variance request.

Thomas Cook	2855 Bolingbroke, Troy
Tom Hermann	2825 Wattles, Troy
Marc Flora	2544 Lanergan, Troy
Mary Masson	2856 Lanergan, Troy
Helen Lynch	2934 Bolingbroke, Troy
Dennis McCardle	2902 Sunridge, Troy
Bill Grier	2828 Sunridge, Troy
William Lynch	797 Tennyson Downs, Bloomfield Hills
Robert Anderson	3600 Adams Road, Troy
Lillian Fenstermacher	2964 Sunridge, Troy

PUBLIC HEARING CLOSED

Mr. Courtney said he would be favorable to a church on this site, but it appears the only practical difficulty shown this evening is that the applicant bought a parcel of property not big enough for the proposed use. Mr. Courtney believes that is not grounds enough to claim practical difficulty.

Resolution # BZA 2010-07-037
Motion by Courtney
Support by Kneale

MOVED, That the variance be denied.

Preliminary Findings:

- The applicant has not shown a practical difficulty other than the fact they bought a parcel that is too small.

Discussion on the motion on the floor.

Chair Lambert asked for a definition of a hardship that a petitioner would have to demonstrate for the Board to grant a variance.

Mr. Forsyth referenced Zoning Ordinance Section 43.72.00 (C), as an example of practical difficulty. It states: "Not cause substantial adverse effect to properties in the immediate vicinity or in the zoning district."

Chair Lambert noted a petition signed by 15 people in opposition of the variance request, as well as numerous letters and correspondence in opposition are on file.

Mr. Bartnik said that churches are clearly allowed in residential areas, and typically are located on main roads. He said this particular piece of property on Adams Road is too small for the proposed use as a church. Mr. Bartnik addressed the change in the Zoning Ordinance to require a berm in lieu of a masonry wall to screen adjacent parking areas from residential. He feels the parking and traffic from the proposed use would be adverse effects on surrounding properties.

Chair Lambert agreed. He expressed confidence that Detroit Meeting Rooms would be a good neighbor, but feels this type of facility on a small residential property requiring four variances is pushing the envelope too much. Chair Lambert noted he would be voting in favor of a denial.

Vote on the motion on the floor.

Yes: All present (7)

MOTION CARRIED

5. COMMUNICATIONS

None.

6. MISCELLANEOUS BUSINESS

Chair Lambert welcomed the new Board members, Messrs. Kneale and Fisher. He thanked Vice Chair Bartnik for serving as chair at the June regular meeting. Further, Chair Lambert thanked Members Kovacs and Kempen for their excellent service on the Board.

Mr. Forsyth gave a brief account of his service on various Boards.

7. ADJOURNMENT

The Board of Zoning Appeals meeting adjourned at 10:26 p.m.

Respectfully submitted,

David Lambert, Chair

Kathy L. Czarnecki, Recording Secretary

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