The Chairman, Glenn Clark, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M. on Tuesday, September 15, 2009 in Council Chambers of the Troy City Hall.

PRESENT: Michael Bartnik
Glenn Clark
Kenneth Courtney
Edward Kempen
Matthew Kovacs (Arrived 7:48)
Lon Ullmann

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

ABSENT: Dave Lambert

ITEM #1 – APPROVAL OF MINUTES – MEETING OF AUGUST 18, 2009

Motion by Bartnik
Supported by Courtney

MOVED, to approve the minutes of the meeting of August 18, 2009 with the following amendment.

Page 7, paragraph 9 to read "Mr. Bartnik said that is a "permitting situation" rather than "permitted situation"....

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

MOTION TO APPROVE MINUTES AS AMENDED CARRIED

ITEM #2 – RENEWAL REQUESTED. S & MM INTERNATIONAL INVESTMENTS, 1728 MAPLELAWN, for relief of the required 6' high masonry obscuring wall at the north property line where the site abuts residential zoned property.

Mr. Stimac explained that the petitioner is requesting renewal of a variance granted by this Board in October 2007 for relief of the required 6' high masonry obscuring wall at the north property line where the site abuts residential zoned property per Section 39.10.01 of the Zoning Ordinance.

This item first appeared before this Board in October 2007 at which time the property was owned by Somerset Pontiac GMC Truck, Inc. and was granted approval for a period of one year. This site has since come under new ownership and is before the Board for a renewal of that variance.

M-1a

ITEM #2 – con't.

The petitioners have expanded the parking area at the rear of the site and have placed a 6' high screen wall at the north edge of the parking area. However this wall is approximately 20' south of the property line and does not extend the full width of the property. Mr. Stimac also stated that the area has a lot of foliage and screening that also helps to screen this area from the surrounding residential area.

Mr. Clark asked about the change in ownership and the time lapse of this renewal.

Mr. Stimac explained that originally this property was owned by Somerset GMC but was sold to S & MM International Investments, and the expiration date of the original variance was missed.

Mr. Larry Smith, owner of S & MM International Investments was present and stated that they had put up the wall in order to help screen this property. Mr. Smith indicated that they had also put up a wall on the east side of the property. The wall is approximately 15' – 20' inside the northern property line and foliage is on the outside of the wall.

Motion by Courtney
Supported by Kempen

MOVED, to grant S & MM International Investments, 1728 Maplelawn, a three-year (3) renewal of relief of the required 6' high masonry obscuring wall at the north property line where the site abuts residential zoned property per Section 39.10.01 of the Zoning Ordinance.

- Existing screen wall provides adequate screening of developed area
- Remainder of the site is undeveloped and heavily wooded.
- We have no complaints or objections on file.

Mr. Clark clarified the location of the wall. Mr. Stimac said that the wall has been installed at the eastern edge of the property. However, that adjacent property is also industrially zoned. The Ordinance dictates that a 6' high wall is required between this property and residentially zoned property.

Mr. Clark asked if the petitioner planned to keep the trees in this area and Mr. Smith replied that this is their intention.

Mr. Kempen stated that if he was a resident of the abutting residential area, he would prefer to look out and see trees rather than a wall.

Vote on the motion to approve.

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

ITEM #2 – con't.

Absent: 2 – Lambert, Kovacs

MOTION TO GRANT RENEWAL FOR THREE (3) YEARS CARRIED

ITEM #3 - 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. The enclosed utility trailer described in the application does not meet the exceptions found in Section 40.66.00 of Chapter 39 of the Troy Zoning Ordinance.

This item last appeared before this Board at the meeting of August 18, 2009 and was postponed to this meeting to allow the petitioner to present further documentation to the Building Department regarding the use of this trailer. Mr. Stimac further explained that the petitioner had not given any further documentation to Building Department Staff.

Motion by Courtney
Supported by Bartnik

MOVED, to deny the request of Andrew Puma, 951 E. Square Lake, for approval under Section 43.74.01 to store an enclosed utility trailer outside on residential property.

- Petitioner has indicated that this trailer will not be used for commercial purposes therefore approval is not required.

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

MOTION TO DENY REQUEST CARRIED

ITEM #4 – 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.

This item last appeared before this Board at the meeting of August 18, 2009 and was postponed to allow the petitioner to bring in documentation regarding costs of

ITEM #4 – con't.

constructing a garage; and also to allow the petitioner to explore other sites to park this vehicle.

Mr. Rascol was present and passed out quotes regarding construction of a garage. Mr. Rascol also stated that he did not find anywhere else to park this truck that would be considered a secure area. Mr. Rascol indicated that he had found commercial sites that may allow him to park his vehicle, but he does not feel they are safe.

Mr. Courtney asked if Mr. Rascol had contacted the Building Department regarding parking of this vehicle and he said that he did not.

Mr. Courtney stated that there is a list of secured parking for commercial vehicles that Mr. Rascol could look at. Mr. Courtney further stated that no one was around this vehicle at this time and asked why Mr. Rascol considered it safe in this location.

Mr. Rascol said that there were neighbors around. Mr. Rascol also brought in paperwork from the City Council meeting from 1998, which he had interpreted as granting approval of the storage of this vehicle outside.

Mr. Courtney pointed out that it was only for one-year.

Mr. Rascol stated that he believed that once he had received approval from City Council he did not need to come back or do anything else.

Mr. Bartnik asked why Mr. Rascol was before this Board.

Mr. Rascol replied that it was because someone from the City had notified him that he needed to do this.

Mr. Bartnik confirmed that the City had let him know there was a violation. Mr. Rascol said that was correct and he wants approval under the existing law.

Mr. Bartnik said that Mr. Rascol does not make any attempts to move this commercial vehicle until he is told there is a violation.

Mr. Rascol said that he believed the approval from City Council was for more than one year.

Mr. Bartnik pointed out that in March 2008, Mr. Rascol was given a six-month time frame to look into other alternatives for this vehicle and he did not come back before the Board. Mr. Rascol apologized.

ITEM #4 – con't.

Mr. Clark stated that Mr. Rascol had given the Board several quotes regarding the construction of a garage ranging in price from $21,900.00 to $26,000.00. Mr. Clark asked if Mr. Rascol would be able to construct a garage at this time.

Mr. Rascol said that right now it would be a financial hardship.

Mr. Clark said that this parcel is very deep and there is a list available regarding outside storage of this vehicle.

Mr. Bartnik asked if Mr. Rascol has had a commercial vehicle on his property since he moved to Troy in 1996. Mr. Rascol said that was correct.

The Chairman opened the Public Hearing.

Mr. Alan Brown, 672 Hartland, was present and stated that he lives across the street. Mr. Brown indicated that Mr. Rascol maintains his home and truck and it is never parked beyond the front of the house. Mr. Brown said that you couldn't ask for a better neighbor and is in favor of this request.

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

Mr. Kovacs asked how many objections were on file regarding this vehicle.

Mr. Clark looked through the file and determined that there are four (4) approvals and two (2) objections on file.

Mr. Stimac said that these responses did not include the property occupied by Mr. Rascol in 1996 at 680 Hartland.

Motion by Bartnik

MOVED, to deny 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.

- Petitioner did not meet the criteria outlined in Item C.
- Petitioner has made no attempt to indicate that he is seeking a temporary approval.

Motion to deny fails due to lack of support.

Mr. Kovacs apologized for missing the August meeting and stated that he had been on vacation and also apologized for being late at this meeting.

ITEM #4 – con't.

Mr. Courtney said that he did not like the truck parked in a residential area, but that the location on the side of the house where it was parked was not a problem. Mr. Courtney indicated that he would rather not see a garage constructed on this property and indicated that Mr. Rascol should be looking into alternative parking spots. Mr. Courtney also said that he would be willing to grant a short term approval at this point so that Mr. Rascol could look into other locations to park this vehicle.

Motion by Courtney
Supported by Ullmann

MOVED, to grant Mr. & Mrs. Robert Rascol, approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property for a period of nine (9) months.

- The petitioner has complied with the requirements of Items B & C.
- To allow petitioner the opportunity to explore other sites on which to park this vehicle.

Mr. Kovacs stated that he did not understand why the petitioner does not meet the criteria outlined in Item C.

Mr. Bartnik said that in his opinion this is a large stake truck and believes that the box makes it appear larger.

Mr. Kovacs stated that the vehicle is always parked behind the front of the house and if it were a recreational vehicle it would be allowed to park in this area.

Mr. Kempen said that he thought the vehicle could be moved farther back on the property.

Mr. Clark stated that he believes it is very difficult for families to keep going in this economy and said that he would like to amend the motion to approve for one-year rather than nine (9) months.

Mr. Courtney said that he would support an amendment as he would rather not see a garage on this site and would rather see the vehicle parked off-site.

Motion by Clark
Supported by Courtney

MOVED, to amend the original motion by striking 9 months and substituting a time period of one (1) year.

ITEM #4 – con't.

- To allow petitioner the opportunity to explore other sites on which to park this vehicle.
- To aid the petitioner during this economic climate.

Mr. Bartnik stated that he is objecting to this motion. This is a residential area, one block north of Big Beaver and he does not believe a commercial vehicle belongs in this location. Mr. Bartnik further stated that he does not understand why the Board would put a commercial vehicle in a residential area. Commercial vehicles devalue property and this approval is in place for people to come before this Board to ask for more time to look for other alternatives. This petitioner did not ask permission again and no effort has been made on his part to find another location. Mr. Bartnik said that he would like to deny both motions as this vehicle has been parked in a residential location for the last 10 to 12 years. Economics have changed up and down over the years and the truck has not been moved.

Mr. Kovacs said that in his opinion the petitioner meets the criteria outlined in Item C and furthermore, if this was a recreational vehicle it could remain in that location indefinitely. In order for this Board to grant approval the petitioner has to meet the criteria in Item C and either A or B. Mr. Kovacs said that he would like to give the petitioner one more year to find another location for this vehicle.

Mr. Clark said that he agrees with Mr. Kovacs in that the petitioner has met the criteria listed in Item C, but doesn't necessarily agree that any type of vehicle could be parked in this location. The facts are that southeast Michigan has been horribly impacted by today's economy and he believes this will only be a temporary situation. There are no traffic concerns in this area and the truck is gone for a good portion of each day. Mr. Clark is in favor of the amended motion.

Mr. Bartnik pointed out that a garage could be constructed based on the quotes brought in by the petitioner and he does not feel the petitioner meets the criteria in Item B.

Vote on motion to amend original motion.

Yeas: 4 – Kovacs, Clark, Courtney, Kempen
Nays: 2 – Bartnik, Ullmann
Absent: 1 – Lambert

MOTION TO AMEND MOTION CARRIED

Vote on amended motion which will state:

MOVED, to grant Mr. & Mrs. Robert Rascol, approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property for a period of one (1) year.

ITEM #4 – con't.

- The petitioner has complied with criteria B & C.
- To allow petitioner the opportunity to explore other sites on which to park this vehicle.
- To aid the petitioner during this economic climate.

Yeas: 4 – Clark, Courtney, Kempen, Kovacs
Nays: 2 – Ullmann, Bartnik
Absent: 1 – Lambert

MOTION TO GRANT APPROVAL FOR A PERIOD OF ONE (1) YEAR CARRIED

Motion by Courtney
Supported by Ullmann

MOVED, to excuse Mr. Lambert from tonight's meeting as he is out of town.

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

MOTION TO EXCUSE MR. LAMBERT CARRIED

Mr. Stimac informed the Board that it was possible that the October meeting would be cancelled, depending on whether any new applications were received. A discussion began regarding the by-laws of the Board of Zoning Appeals and it was determined that the by-laws do not address the cancellation of a regularly scheduled meeting.

Motion by Courtney
Supported by Kovacs

MOVED, to allow Mr. Stimac to cancel the next meeting of the Board of Zoning Appeals on Tuesday, October 20, 2009 if no other new items are presented.

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

MOTION TO ALLOW MR. STIMAC TO CANCEL THE OCTOBER MEETING CARRIED

Mr. Stimac addressed the Board regarding the memo sent out by the City Manager. Mr. Stimac said that Mr. Szerlag offered to attend a future Board of Zoning Appeals meeting to discuss the plans. He will also be attending other Board's meetings and would be happy to include the BZA members at any of those meetings as well. Mr. Stimac indicated that he would get a list together of the meetings Mr. Szerlag will be at and pass those along to the Board.

The Board of Zoning Appeals meeting adjourned at 8:31 P.M.

Glenn Clark, Chairman

Pamela Pasternak, Secretary