The Chairman, Matthew Kovacs, called the meeting of the Board of Zoning Appeals to order at 7:31 P.M. on Tuesday, February 17, 2009 in Council Chambers of the Troy City Hall.

PRESENT: Michael Bartnik
Kenneth Courtney
Ed Kempen
Matthew Kovacs
Lon Ullmann

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

ABSENT: Glenn Clark
David Lambert

Motion by Courtney
Supported by Kempen

MOVED, to excuse Mr. Clark and Mr. Lambert from this meeting as they are out of the county.

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

MOTION TO EXCUSE MR. CLARK AND MR. LAMBERT CARRIED

ITEM #1 – APPROVAL OF MINUTES – DECEMBER 16, 2008

Mr. Kempen said that on page 7 the Section number in the second paragraph under Item #6 should be listed as 40.56.02 rather than 40.45.02.

Motion by Courtney
Supported by Bartnik

MOVED, to approve the minutes of the meeting of December 16, 2008 as amended.

Yeas: 4 – Kempen, Kovacs, Bartnik, Courtney
Abstain: 1 - Ullman
Absent: 2 -Clark, Lambert

MOTION TO APPROVE MINUTES AS AMENDED CARRIED

Mr. Kovacs informed the Board that he is employed by Siemens Automotive, which is Item #4 and thought that he should excuse himself from voting on this item.

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Mr. Motzny agreed that it may be appropriate for Mr. Kovacs to be excused so there is no appearance of conflict of interest. Mr. Motzny suggested that Item #4 be removed and considered separately.

ITEM #2 - APPROVAL OF ITEM #3 THROUGH ITEM #7

Motion by Courtney
Supported by Kempen

RESOLVED, that Item #3, #5, #6 and Item #7 are hereby approved in accordance with the suggested resolutions printed in the Agenda Explanation.

Mr. Courtney also moved that Item #3 be set up as a Public Hearing when this renewal expires in order that the Board may consider making this a permanent variance.

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

ITEM #3 – RENEWAL REQUESTED. KOREAN UNITED METHODIST CHURCH, 42693 DEQUINDRE, for relief to maintain a landscaped berm in lieu of the 4'-6" high masonry screening wall required along the south side of off-street parking.

MOVED, to grant the Korean United Methodist Church, 42693 Dequindre, a three (3) year renewal of relief to maintain a landscaped berm in lieu of the 4'-6" high masonry screening wall required along the south side of off-street parking.

- Conditions remain the same.
- There are no complaints or objections on file.
- A Public Hearing will be held in 2012 in order for the Board to consider making this a permanent variance.

ITEM #5– RENEWAL REQUESTED. DANIEL LESKE, DDS, 5895 JOHN R., for renewal of relief of the 4'-6" high masonry wall required along the south property line and the 6' high masonry screening wall required along the west property line where the site abuts residential property.

MOVED, to grant Daniel Leske, DDS, 5895 John R., a three (3) year renewal of relief of the 4'-6" high masonry wall required along the south property line and the 6' high masonry screening wall required along the west property line where the site abuts residential property.

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

ITEM #6 – RENEWAL REQUESTED. FRANCO MANCINI, 6693 ROCHESTER, for renewal of relief granted to construct a new one-story office building adjacent to Residential Zoned property without a screen wall as required by Section 39.10.01.

MOVED, to grant Franco Mancini, 6693 Rochester, a one-year renewal of relief to construct a new one-story office building adjacent to Residential Zoned property without a screen wall as required by Section 39.10.01.

- One-year time frame will give the Board the opportunity to determine if a screen wall would be more effective.
- One-year time frame will give the Board the opportunity to see the final construction of the building.
- One-year time frame will give residents in the area the chance to determine if the natural vegetation will provide enough screening.

ITEM #7 – RENEWAL REQUESTED. TROY AMERICAN HOUSE, 2300 GRAND HAVEN, for renewal of relief of the 4'-6" high masonry wall required along the north and east side of the off-street parking area where it is adjacent to residentially zoned land.

MOVED, to grant Troy American House, 2300 Grand Haven, a three-year renewal of relief of the 4'-6" high masonry wall required along the north and east side of the off-street parking area where it is adjacent to residentially zoned land.

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

Motion by Courtney
Supported by Ullman

MOVED, to excuse Mr. Kovacs from voting on Item #4 as there may be the appearance of a conflict of interest due to the fact that Mr. Kovacs is employed by the petitioner.

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

MOTION TO EXCUSE MR. KOVACS CARRIED

Mr. Kovacs left the podium.

Motion by Bartnik
Supported by Kempen

MOVED, to have Mr. Courtney act as Chairman for the presentation of Item #4.

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

Excused: 1 – Kovacs

ITEM #4 – RENEWAL REQUESTED. SIEMENS AUTOMOTIVE, 4685 INVESTMENT DRIVE, for relief to maintain a landscaped berm along the west and south sides of the site where a 6' high decorative masonry screen wall is required.

MOVED, to grant Siemens Automotive, 4685 Investment Drive, a three (3) year renewal of relief to maintain a 5' high landscaped berm along the west and south sides of the site where a 6' high decorative masonry screen wall is required.

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

Yeas: 4 – Ullman, Bartnik, Courtney, Kempen
Absent: 2 – Clark, Lambert
Excused: 1 – Kovacs

MOTION TO GRANT SIEMENS AUTOMOTIVE A THREE-YEAR (3) RENEWAL CARRIED

Chairman Kovacs returned to the podium.

ITEM #8 – APPROVAL REQUESTED. HARRY MAZEI, 39 HICKORY, 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 petitioner is requesting approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property. The Ford dump truck described in the application does not meet the exceptions found in Section 40.66.00 of Chapter 39 of the Troy City Ordinance.

Mr. Bartnik asked if the petitioner had submitted any documentation in support of Item A or Item B of the criteria on the application.

Mr. Stimac stated that no other documentation had been submitted by the petitioner beyond what was included in the application.

Mr. Harry Mazei was present and stated that altering the existing garage is out of the question and believes that the location where the truck is parked is far enough back on the property that it does not negatively affect any of the surrounding property.

Mr. Bartnik informed the petitioner that when someone applies for approval of a Commercial vehicle they need to supply evidence that supports the fact that they have no other place to store this vehicle or that there is no possible way that an additional structure could be constructed. Mr. Bartnik said that he feels the petitioner meets the criteria in Item C and asked what efforts had been made to store this vehicle off-site.

ITEM #8 – con't.

Mr. Mazei said that he had approached the owner of the property adjacent to his and asked if he could park his truck at that location, but the owner stated that he could not. Mr. Mazei further indicated that he did not go out and look at other places to store this vehicle and feels it is just common sense to know that this would not be a good time to construct another garage. If Mr. Mazei has to store the vehicle off-site there will be a number of financial concerns involved.

Mr. Kovacs asked when Mr. Mazei had purchased this truck.

Mr. Mazei said that originally he had lived in more of an industrial area and the parking of the truck was not a problem. Mr. Mazei said that he has owned this vehicle approximately 10 years but has only lived at this property for the last two years. One of the reasons he purchased this property was because it was a larger lot and he wanted to be able to keep the truck on his property.

Mr. Kovacs asked if Mr. Mazei had ever gone before City Council for approval to store this vehicle and Mr. Mazei stated that this is the first time he has asked for permission to store this vehicle on his property.

Mr. Kovacs asked if Mr. Mazei was aware of the rules in the City governing commercial vehicles.

Mr. Mazei said that a friend of his had said something to him once. If this request is not approved Mr. Mazei said that he will look into something else regarding the storage of this vehicle. Mr. Mazei said that he does not look into these types of things and feels that if he is doing something wrong, someone will let him know.

Mr. Kovacs asked why Mr. Mazei was in front of this Board as he did not make any effort to try and meet the criteria in Item A or Item B.

Mr. Mazei said that he knows what his budget is and he cannot afford to change his garage or add another garage so he did not feel it was necessary to bring in any documentation. The garage is too small to put a taller garage door on it. Mr. Mazei said that most people know what's going on and the economy is not good and he feels that it is just "common sense" to know what people can afford.

Mr. Kovacs said that it was up to the petitioner to prove his case and show the Board the necessity of this approval. Mr. Kovacs also asked what Mr. Mazei will do if this approval is denied.

Mr. Mazei said that he will figure something out. If he has to move it, he will. Mr. Mazei said that he knows the cost of construction and believes it is common sense to not expect someone to build a garage. Mr. Mazei said that he did not feel he should have to get a bid for a garage. He knows the cost of construction and cannot afford it.

ITEM #8 – con't.

Mr. Kovacs said that in order to grant this approval the Board needs a good reason and feels that the criteria and instructions contained in the application are quite clear.

Mr. Courtney stated that he can understand why Mr. Mazei wants the vehicle close to his home in the winter because of the snow plow but asked why he would need the vehicle there during the summer.

Mr. Mazei said that he uses the truck in the summer for his landscaping business and uses it to haul materials.

Mr. Courtney said that he likes where the truck is parked, but does not think it needs to be there during the summer.

The Chairman opened the Public Hearing.

Mr. Edward Berry, 57 Hickory, was present. He does not feel this is a high class area and does not think this truck is detrimental to the area. No one complains about the truck and he feels Mr. Mazei should be allowed to park it in this location. During the summer months it just looks like a regular truck. Mr. Berry said that it is hard to make a living now, and thinks it would be difficult to ask Mr. Mazei to pay to store this vehicle.

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

There are three (3) written approvals on file. There are no written objections on file.

Mr. Kovacs said that he would like to see this request postponed to allow Mr. Mazei the opportunity to make a better case and provide more information to the Board regarding this request.

Mr. Courtney stated that he thought Mr. Mazei could check into locations in the area to see if he could find a space for this vehicle.

Mr. Stimac informed the Board that the only locations allowed to store commercial or recreational vehicles are in the Industrial Zoning District, which would most likely be located south of Maple.

Mr. Bartnik stated that this area has homes that are well maintained and does not believe there are any slum locations in Troy.

Motion by Courtney
Supported by Ullman

ITEM #8 – con't.

MOVED, to postpone the request of Harry Mazei, 39 Hickory, for approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property.

- To allow the petitioner the opportunity to provide evidence to the Board that this request meets the criteria in Item A or Item B.

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

MOTION TO POSTPONE THIS REQUEST UNTIL THE MEETING OF MARCH 17, 2009 CARRIED

ITEM #9 – APPROVAL REQUESTED. ANDREW AN, 2019 LANCER, 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 petitioner is requesting approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property. The 1989 Chevy 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.

Mr. Bartnik asked a question regarding the zoning of the property to the south of this location and on the east side of Coolidge.

Mr. Stimac stated that the property to the south as well as the property on the east side of Coolidge are zoned R-1B, single-family residential.

Mr. An said that he cannot build another garage on this site and there are no neighbors on two sides of the site. Mr. An would like to be able to keep this truck on the site as he does not believe anyone in the immediate area would be affected.

Mr. Kovacs asked how long this truck has been parked at this location.

Mr. An stated that he had a business in Troy for 40 years and recently sold it and now uses his home as an office. This truck has been in this location since October 2008.

Mr. Kovacs asked if the petitioner had been trying to sell this vehicle.

Mr. An said that eventually he was going to sell the truck and thought the truck would probably be sold within a year.

Mr. Kovacs asked if Mr. An had looked into other places to store this vehicle.

ITEM #9 – con't.

Mr. An said that there are a lot of places in Troy to store this vehicle but he does not want to pay rent.

The Chairman opened the Public Hearing.

Mr. Donald Gutman, 2018 Lancer was present and stated that he lives directly across the street from the petitioner. Mr. Gutman stated that the truck cannot be seen by traffic traveling northbound on Coolidge although it is visible to traffic heading southbound. Mr. Gutman said this is a temporary situation and it does not bother him at all. They are the original owners of this property and he believes the truck should be allowed to stay in this location.

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

There are two (2) written approvals on file. There are three (3) written objections on file.

Mr. Courtney asked where Mr. An was advertising to sell this truck.

Mr. An said that he will probably put in the newspaper but it is not listed at this point.

Mr. Courtney said that he did not mind it sitting there for six (6) months while it was for sale, but would have a problem with a longer period of time.

Motion by Courtney

MOVED, to grant Andrew An, 2019 Lancer, approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property for a period of six (6) months.

- To allow the petitioner the opportunity to sell the vehicle.

Motion dies due to lack of support.

Motion by Bartnik
Supported by Courtney

MOVED, to grant Andrew An, 2019 Lancer approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property for a period of three (3) months.

- Truck is visible to traffic along Coolidge as well as to neighbors along Coolidge.
- Area is zoned residential.
- If this truck is not sold, it can be moved to another location.

ITEM #9 – con't.

A discussion began regarding the fees involved with appearing before the Board for a renewal. Mr. Stimac explained that it would come back as a renewal and the cost would be considerably less than the original application.

Mr. Kovacs asked the petitioner if he thought he could come back in a month with more information to support his request.

Mr. An said that he wanted the Board to give him six (6) months.

Motion by Bartnik
Supported by Ullman

MOVED, to postpone the request of Andrew An, 2019 Lancer 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 March 17, 2009.

- To allow the petitioner the opportunity to provide evidence to the Board that this request meets the criteria in Item A or Item B.

Mr. An asked what kind of information the Board wants.

Mr. Kovacs explained that the Board needs supporting evidence as to why Mr. An cannot meet the criteria in Item A or Item B.

Mr. An said that he cannot build another garage and the vehicle is not blocking anyone and he believes six (6) months would be enough time.

A discussion began with Mr. An and the Board members regarding the construction of a garage and what Mr. An feels the City should allow him to do.

Mr. Kovacs stated that there are objections to the parking of this vehicle on this property.

Mr. Bartnik said that he does not believe the petitioner would put up a garage, but would like to see the petitioner provide information as to the cost of storing the vehicle at another location.

Mr. Stimac said that officially the petitioner is required to show compliance with the criteria in Item C and either Item A or Item B. It is up to the petitioner to choose which criteria he can meet. Mr. Stimac also stated that he could show where another garage could or could not be constructed. It is not up to the Board to decide which one the petitioner will comply with, it is up to the petitioner to determine which one he will comply with.

ITEM #9 – con't.

Mr. Courtney said that he feels the petitioner to spend his time on Item A since he has indicated that the vehicle will be for sale.

Vote on motion to postpone this request until the meeting of March 17, 2009.

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

MOTION TO POSTPONE THIS REQUEST UNTIL MARCH 17, 2009 CARRIED

A general discussion began regarding allowances for the storage of commercial vehicles on industrial property. Mr. Stimac explained that there are exceptional cases for the application of criteria A, especially when someone needs their truck on a 24-hour on-call basis. Financial issues alone regarding Item A should not be considered when making a decision.

Mr. Bartnik stated that in his opinion if you are running a business you should be able to find a place to store this type of vehicle.

Mr. Stimac indicated that 2477 W. Maple has just opened for the storage of recreational and commercial vehicles.

The Board of Zoning Appeals meeting adjourned at 8:35 P.M.

Matthew Kovacs, Chairman

Pamela Pasternak, Recording Secretary