The Chairman, Matthew Kovacs, called the meeting of the Board of Zoning Appeals to order at 7:33 P.M. on Tuesday, December 16, 2008 in Council Chambers of the Troy City Hall.

PRESENT: Michael Bartnik (arrived at 7:37 P.M.)
Glenn Clark
Kenneth Courtney
Edward Kempen
Matthew Kovacs
David Lambert
Tom Strat

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

ITEM #1 – APPROVAL OF MINUTES – MEETING OF NOVEMBER 13, 2008 & MEETING OF NOVEMBER 18, 2008

Mr. Lambert asked that page 7 of the minutes of the meeting of November 13, 2008 be amended to read "Mr. Lambert stated that he understands the petitioner's needs, but would like clarification from staff on the natural features provision and how it would justify a variance."

Motion by Lambert
Supported by Clark

MOVED, to approve the minutes of the meeting of November 13, 2008 as amended.

Yeas: 5 – Clark, Courtney, Kovacs, Lambert, Strat
Absent: 1 – Bartnik
Abstain: 1 - Kempen

MOTION TO APPROVE MINUTES OF NOVEMBER 13, 2008 AS AMENDED CARRIED

Motion by Lambert
Supported by Clark

MOVED, to approve the minutes of the meeting of November 18, 2008 as written.

Yeas: 5 – Lambert, Strat, Clark, Courtney, Kovacs
Absent: 1 – Bartnik
Abstain: 1 – Kempen

MOTION TO APPROVE MINUTES OF NOVEMBER 18, 2008 AS WRITTEN CARRIED

J-19

Mr. Bartnik arrived at 7:37 P.M.

ITEM #2 – APPROVAL OF ITEM #3 AND ITEM #4

Motion by Courtney
Supported by Lambert

Yeas: All – 7

RESOLVED, that Item #3 and Item #4 are hereby approved in accordance with the suggested resolutions printed in the Agenda Explanation.

ITEM #3 - RENEWAL REQUESTED. COMMUNITY BOWLING CENTERS, 1950 E. SQUARE LAKE, for renewal of relief to maintain a 6' high earth berm in lieu of the 6' high masonry-screening wall required by Section 39.10.01 at the west property line where it abuts residential zoning.

MOVED, to grant Community Bowling Centers, 1950 E. Square Lake, a three (3)-year renewal of relief to maintain a 6' high earth berm in lieu of the 6' high masonry-screening wall required by Section 39.10.01 at the west property line, where it abuts residential zoning.

- The adjacent property is used for a purpose other than a single-family residence.
- We have no objections or complaints on file.

ITEM #4 – RENEWAL REQUESTED. RENEWAL REQUESTED. ST. LUCY CROATIAN CATHOLIC CHURCH, 200 E. WATTLES, for renewal of relief of the 4'-6" high masonry screening wall required by Section 39.10.01 along the east and west sides of off-street parking where this property abuts residential zoned property.

MOVED, to grant St. Lucy Croatian Catholic Church, 200 E. Wattles, a three (3)-year renewal of relief of the required 4'-6" high masonry screening wall required by Section 39.10.01 along the east and west sides of off-street parking where this property abuts residential zoned property.

- The adjacent property is used for a purpose other than a single-family residence.
- Conditions remain the same.
- We have no complaints or objections on file.

ITEM #5 – APPROVAL REQUESTED. LAWRENCE DALBEC, 376 COLEBROOK, 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 seeking approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential

ITEM #5 – con't.

property. The Chevrolet box 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 would be able to build another garage on this property.

Mr. Stimac stated that if given a moment he would calculate the amount of accessory structures on the property and give Mr. Bartnik that information.

Mr. Dalbec was present and stated that he has had this type of vehicle parked on his property for thirty (30) years. His neighbors do not have a problem with the truck as it is parked out of sight and many did not know a commercial vehicle was on the property. Mr. Dalbec is a small business man and with the economy the way it is, it would be a hardship for him to add another building or to have to pay to have it stored at another location. Mr. Dalbec said that he keeps his truck in good working order and clean and painted. This vehicle does not have a negative impact on the neighborhood and is never parked on the road.

Mr. Kovacs explained to Mr. Dalbec that the requirements have changed and when the Board is voting on whether or not the vehicle could stay they must look at the requirements as written on the commercial vehicle application. Mr. Kovacs stated that Mr. Dalbec indicated on his application that he met the requirements of Item B stating that he did not have anywhere to put another building to house this vehicle.

Mr. Dalbec said that he would have to take down the present garage to put in a larger garage in the back of the property. Because the truck is 10' high, he would have to put up a garage with a 12' door. The present location of the truck is between two garages and there are a number of trees in the area.

Mr. Kovacs said that he believes Mr. Dalbec has met the criteria in item C, but is not sure that Mr. Dalbec has shown enough due diligence in exploring the possibility of putting up another building or storing the vehicle off-site. Mr. Kovacs then asked if Mr. Dalbec could modify the existing garage by putting in a higher door.

Mr. Kovacs asked what the size of the current garage is.

Mr. Dalbec said that it is 22' x 24' with an addition on the back of the garage that is 17' x 28'. Mr. Dalbec said that he was not sure if another building could be constructed. There are a lot of trees surrounding the property that he would also lose if he had to put up a larger structure.

Mr. Kovacs asked why Mr. Dalbec did not feel he could modify the existing door of the garage.

ITEM #5 – con't.

Mr. Dalbec did not believe that he could do this because of the existing roof line.

Mr. Lambert stated that there is a garage shown at the front of the property and asked if the garage added to the back of this building was approximately the same height.

Mr. Dalbec said that it was and he uses it mainly for storage of lawn equipment and some work equipment. Mr. Dalbec also stated that he does not have anyone come to the house for work.

Mr. Kovacs said that he thinks the truck is tucked into the space nicely and does not have a problem with the criteria in Item C.

Mr. Bartnik stated that Mr. Dalbec indicated that there is not enough room to negotiate the truck around the driveway and asked how close it was to the house to the west of his property.

Mr. Dalbec said that the garage is about 17' away from the property line. Mr. Dalbec also explained that part of the neighbor's garage is on his property and this vehicle is parked between two garages.

Mr. Bartnik asked how much of the neighbor's garage was on Mr. Dalbec's property and Mr. Dalbec stated it was about 4'.

Mr. Strat asked what was behind the truck.

Mr. Dalbec said that there is a shed behind the truck.

Mr. Strat asked if Mr. Dalbec works from his home and Mr. Dalbec said that he did.

Mr. Strat asked if there was an approval letter from the neighbor that lives next door.

Mr. Dalbec was not sure if a letter had come in from the homeowner across the street.

Mr. Courtney said that the homeowner at 356 Colebrook would not be able to see this vehicle as it is so well hidden. Mr. Courtney stated that he feels it would affect the neighbor across the street more than the next door neighbor.

Mr. Courtney said that he is opposed to trucks on residential property; however, this vehicle is very well hidden.

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

There are six (6) written approvals on file. There are no written objections on file.

ITEM #5 – con't.

Mr. Stimac addressed Mr. Bartnik's earlier questions regarding additional accessory structures on this property and said that basically there are two types of accessory structures, attached and detached. It appears that the ground floor of the home is 1,369 square feet and the attached garage is 1,211 square feet allowing an additional 150 square feet of attached garage. The site has an area of 15,300 square feet which would allow up to a 756 square foot detached accessory building. There is an existing detached building at the south end of the driveway and another located on the far east side of the site. That square footage of these buildings is unknown at this time, and would have to be deducted from the 756 square footage allowed for detached accessory buildings.

Motion by Courtney
Supported by Clark

MOVED, to grant Lawrence Dalbec, 376 Colebrook, approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property.

- Vehicle is well concealed and would not have a negative impact to surrounding property.
- Not reasonable to have petitioner put more storage space on this property.
- Petitioner has met the criteria in Item B and Item C.
- Approval would be for a period of two (2) years.

Mr. Strat asked if there was a time limit on this approval.

Mr. Stimac explained that the Board can grant approval for a period up to two (2) years.

Mr. Bartnik stated that he did not believe the petitioner met the criteria in Item C and believes that there is a negative impact to surrounding property.

Mr. Kovacs said that he does believe that the petitioner met the criteria in Item C as the vehicle is well hidden and does not know exactly what is reasonable in these times to expect the petitioner to do.

Mr. Bartnik said that he believes the petitioner could do something to the existing structure so that this vehicle would fit into the existing garage. Mr. Bartnik asked what the petitioner would be able to do with this garage.

Mr. Dalbec said that he would have to put in a 12' door and trusses and would build a garage that is 2 stories high in the front of the house. Presently there are two (2) personal vehicles inside the garage and it would be very difficult to fit this vehicle inside of the garage. In this economy it is very hard to spend $20,000.00 or $30,000.00 to re-construct the garage.

ITEM #5 – con't.

Mr. Bartnik asked what other alternatives the petitioner has explored regarding offsite storage of this vehicle.

Mr. Dalbec stated that he has not looked into other locations.

Mr. Courtney said that a two-year time limit would allow the petitioner to look into other solutions.

Mr. Bartnik said he thinks two years is a long time and believes six months would be sufficient.

Mr. Strat asked how high the truck was.

Mr. Dalbec said that it is 10' high and in order to have enough room for the door to clear the vehicle, a new door would have to be 12' high.

Mr. Lambert said that he disagrees and believes Item C applies because of the neighbors and neighborhood and is concerned about the wording in Item B. Mr. Lambert suggested that the Board approve it for a one-year time frame if the Board concurs that the petitioner meets the criteria in Item B.

Motion by Lambert
Supported by Courtney

MOVED, to amend the motion made by Mr. Courtney.

- Approval to be granted for one-year.

Vote on the amendment.

Yeas: 6 – Lambert, Strat, Bartnik, Clark, Courtney, Kempen
Nays: 1 – Kovacs

MOTION TO AMEND CARRIED

Mr. Kovacs stated that he voted no on this amendment as he did not feel it was necessary.

Vote on amended motion:

MOVED, to grant Lawrence Dalbec, 376 Colebrook, approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property.

ITEM #5 – con't.

- Vehicle is well concealed and would not have a negative impact to surrounding property.
- Not reasonable to have petitioner put more storage space on this property.
- Petitioner has met the criteria in Item B and Item C.
- Approval would be for a period of one (1) year.

Yeas: 6 – Strat, Clark, Courtney, Kempen, Kovacs, Lambert
Nays: 1 – Bartnik

MOTION TO GRANT APPROVAL FOR ONE-YEAR CARRIED

ITEM #6 – VARIANCE REQUESTED. BARBARA BURNSTEEL, 1111 VERMONT, for relief of the Ordinance to construct a 528 square foot detached garage that will result in 37.7% of the rear yard being occupied by accessory buildings where Section 40.45.02 limits the area of accessory buildings in rear yards to not more than 25% of the required rear yard area.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a 528 square foot detached garage. The proposed garage as shown would occupy 37.7% of the required rear yard. Section 40.45.02 limits the area of accessory buildings in required rear yards to not more than 25% of the required rear yard area. This lot is a legal non-conforming lot as it is only 40' wide and 4,800 square feet in area.

A discussion began regarding rear yard setbacks in this area as well as the percentage of accessory buildings allowed on this parcel.

Mr. Clark also asked if there was an additional out building on this property.

Mr. Stimac said that he was not aware of any other buildings on this property.

Ms. Burnsteel was present and stated that she enjoys a number of crafts and would like to be able to have a place to park her car as well as room to work on her crafts. This home was constructed in the 1920's and in repayment of a loan for a friend Ms. Burnsteel was given a large amount of lumber. Right now she is paying over $220.00 for storage of this material and she would like to be able to get it out of storage and use it. A two-car garage would also help to maintain the value of this property.

Mr. Bartnik asked if Ms. Burnsteel had a garage at this time.

Ms. Burnsteel said that the only thing she had was a 6' garden shed and this would be removed if she was able to put up this garage.

Mr. Courtney stated that Ms. Burnsteel could take 178 square feet off of the garage and construct it without a variance.

ITEM #6 – con't.

Ms. Burnsteel said that would be a one-car garage and she would not have the extra room she is looking for.

Mr. Kovacs opened the Public Hearing.

Michael Agnetti, 1120 Colebrook was present and stated that he lives across the street from the petitioner and supports this request.

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

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

Mr. Kovacs said that in his opinion this is not an unreasonable request.

Mr. Strat stated that the size and configuration of this lot creates a hardship.

Motion by Bartnik
Supported by Strat

MOVED, to grant Barbara Burnsteel, 1111 Vermont, relief of the Ordinance to construct a 528 square foot detached garage that will result in 37.7% of the rear yard being occupied by accessory buildings where Section 40.45.02 limits the area of accessory buildings in rear yards to not more than 25% of the required rear yard area.

- Configuration and size of lot creates a hardship.
- Variance does not establish a prohibited use in a Zoning District.
- Conforming is unnecessarily burdensome.
- Absent a variance petitioner would not have full enjoyment of property rights.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #7 – MARK MILLER, CITY OF TROY PLANNING DIRECTOR. Mr. Miller will present the new City of Troy Master Plan.

Mr. Miller gave the Board a presentation of the new Troy Master Plan.

The Board of Zoning Appeals meeting adjourned at 9:00 P.M.

Matthew Kovacs, Chairman

Pamela Pasternak

Pamela Pasternak, Recording Secretary