Motion by Courtney
Supported by Gies

MOVED, to have Mr. Clark act as Chairman for this evening's meeting.

Yeas: 6 – Bartnik, Clark, Courtney, Gies, Lambert, Strat
Absent: 1 – Kovacs

MOTION TO HAVE MR. CLARK ACT AS CHAIR CARRIED

Mr. Clark called the meeting of the Board of Zoning Appeals to order at 7:35 P.M. on Tuesday, May 20, 2008 in Council Chambers of the Troy City Hall.

PRESENT: Michael Bartnik
Glenn Clark
Kenneth Courtney
Marcia Gies
Dave Lambert
Thomas Strat

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

ABSENT: Matthew Kovacs

ITEM #1 – APPROVAL OF MINUTES – MEETING OF APRIL 15, 2008

Motion by Lambert
Supported by Courtney

MOVED, to approve the minutes of the meeting of April 15, 2008 as written.

Yeas: 6 – Courtney, Lambert, Strat, Bartnik, Clark
Abstain: 1 – Gies
Absent: 1 - Kovacs

MOTION TO APPROVE MINUTES CARRIED

ITEM #2 – VARIANCE REQUEST. FATHER JOZO ČUIĆ, REPRESENTING ST. LUCY CHURCH, 200 E. WATTLES, for relief of the Ordinance to construct a new barbeque shelter that will be 1,088 square feet in area. Accessory supplemental buildings in the R-1C Zoning District are limited to not more than 200 square feet in area per Section 40.56.03.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a new barbeque shelter at the existing church facility. This building, proposed to be used as a barbeque and picnic shelter, would be defined as an accessory supplemental

J-1h

ITEM #2 – con't.

building because it most closely fits the definition of a gazebo found in Section 04.20.03. The property in question is located in the R-1C (One-Family Residential) Zoning District. Accessory supplemental buildings in the R-1C Zoning District are limited to not more than 200 square feet in area per Section 40.56.03. The site plan submitted indicates that the proposed building is to be 1,088 square feet in area.

Mr. Lambert asked if the Board could place any stipulations or limitations on what this shelter could be used for.

Mr. Stimac said that basically it is basically a "park-like" structure. Restricting the uses becomes somewhat difficult as some of the uses may or may not come close to the Board's description. Mr. Stimac suggested that the Board could place time limitations on when the structure could be used, but was unsure of what concerns there would be regarding the use as this is an open-sided covered shelter and the logical uses are somewhat limited.

Mr. Lambert said that he was concerned that this shelter would be used for storage.

Mr. Stimac did not believe that it would be used in this manner as it is not an enclosed building.

Mr. Bartnik asked if there was a problem with the type of materials proposed to be used in the construction of this shelter.

Mr. Stimac stated that these materials were in compliance with the Building Code. A full review has not been done at this time, but the plans will be examined to make sure that the building is structurally compliant.

Mr. Bartnik asked if the proposed building was only 8% of the allowable building area for this property.

Mr. Stimac said that there is an overall limitation to the amount of accessory buildings on this site. That limitation is 2% of the land area plus 450 square feet. Mr. Stimac said that he believes this would be a pretty close number.

Mr. Courtney said that he was concerned about the aesthetics of this building compared to the appearance of the Church and asked if a time limit could be placed on this variance request.

Mr. Motzny said that generally a time limitation could not be placed on this type of variance. In his opinion the only way a time limitation could be placed on the request was pertaining to the use of the land.

ITEM #2 – con't.

Mr. Lambert stated that he thought he had seen a sign on the triangular part of the property next to this site indicating that the property was up for a re-zoning request. Mr. Lambert asked if Mr. Stimac knew what the proposed re-zoning was.

Mr. Stimac said that he was not aware of a current request for re-zoning however; the previous request was for O-1 (Office) use.

Father Jozo Ćuić and Slavko Stajninger of St. Lucy's Church were present. Mr. Stajninger said that he was a parishioner of the Church and the only purpose of this structure was to facilitate a picnic/barbeque facility. Right now it is being done in an open space and this would provide shelter and safety for the people working these picnics. The Church is located in a Residential area and they did receive Special Use Approval in 1993 for the Church. This location was proposed as it will be close to the kitchen facility and because of the unusual shape of the property it falls in a side yard. It is screened by the Church and a number of trees and will not be easily visible.

Mr. Lambert asked if the intent was to put all the picnic tables under the shelter if this variance was approved.

Mr. Stajninger said that the shelter was not large enough to put the tables underneath it.

Mr. Strat asked if the petitioner would be willing to add extra landscaping and Mr. Stajninger said that they would if the Board felt it was necessary. The shelter will be placed very close to existing trees and there is a budget for the Church to add extra landscaping from time to time.

Mr. Stimac noted that if this was a lawn equipment/storage building, a variance would not be required as a storage building could be constructed this size. As a "gazebo" the 200 square foot limitation applies. If it was a storage building other than being built further south the size would not be a question.

Mr. Stajninger said that they had looked into another location for this building, but it was not practical due to the fact that this location will be very close to the kitchen area.

Mr. Clark opened the Public Hearing.

Mr. Lee Nardi, 97 E. Wattles was present and stated that he is concerned about the aesthetics of this building. He would object to this request if the building is going to be located close to Wattles. As long as the building is shielded, he does not object. Another concern of Mr. Nardi's is the noise that will result from this shelter. In the past the music has gone on past midnight and he does object to this. Mr. Nardi stated that he has called the Church and complained in the past and they have not paid any attention to his request to adjust the volume of the music.

ITEM #2 – con't.

Mr. Courtney informed Mr. Nardi that if he did not get any satisfaction from the Church he would have the option to contact the Police Department regarding a noise complaint.

Mr. Nardi stated that he would not call the Police Department and complain about a Church.

Mr. Clark asked Mr. Stimac to describe the location of this shelter on the property.

Mr. Stimac identified the proposed location of the building and noted that there is drain that straddles the northern Church property line. The drain area is very heavily treed and Mr. Stimac believes that it will provide some screening of this proposed building from Mr. Nardi's property.

Mr. Clark also addressed the objection of Mr. Nardi regarding the noise coming from the Church property.

Mr. Stimac explained that Chapter 88 of the City Code establishes that the maximum noise level at the property line is 65 decibels. There are certain instances where permits can be obtained if the noise level will exceed that. Normal regulation would apply with that limit.

Mr. Clark stated that the petitioner could contact either the Police Department or the Building Department during normal business hours, if the noise level is a problem.

Mr. Richard Peters, 115 E. Wattles was present and stated that he is very concerned about the noise level that will come from this shelter. Another factor is that he had read on the internet that Gazebos are considered a sign of white supremacy in India and if this is accurate he would definitely oppose this structure.

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

There are two (2) written approvals on file. There are no written objections on file.

Mr. Courtney said that one of the approvals asked that time limitations be placed on the use of this shelter.

Motion by Bartnik
Supported by Courtney

MOVED, to grant Father Jozo Ćuić, representing St. Lucy Church, 200 E. Wattles, relief of the Ordinance to construct a new barbeque shelter that will be 1,088 square feet in area. Accessory supplemental buildings in the R-1C Zoning District are limited to not more than 200 square fee in area per Section 40.56.03.

ITEM #2 – con't.

- Variance will not have an adverse effect to surrounding property.
- Variance is consistent with the use of that property.
- Variance is not contrary to public interest.

Yeas: 6 – Lambert, Strat, Bartnik, Clark, Courtney, Gies
Absent: 1 – Kovacs

MOTION TO GRANT VARIANCE CARRIED

ITEM #3 – VARIANCE REQUEST. GARY ABITHEIRA, 3244 TALBOT, for relief of the Ordinance to construct three new single-family homes on a parcel of land. Two of the parcels are proposed to be 56.40' in width and one is shown as 56.22' wide. Section 30.10.06 of the Ordinance requires a 60' minimum lot width in R-1E Zoning Districts.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct three new single family homes on a parcel of land. The site plan submitted indicates demolishing the existing home and other buildings currently on this parcel and then splitting the property into three (3) parcels. Two of the parcels are proposed to be 56.40' in width and one is shown as 56.22' wide. Section 30.10.06 of the Ordinance requires a 60' minimum lot width in R-1E Zoning Districts.

Mr. Abitheira was present and stated that he would like to put three (3) houses on this property and remove the commercial building.

Mr. Courtney stated that he likes what Mr. Abitheira is planning to do but one of the approvals that came in, stated that they would like three (3) homes to go in but would not like to see four (4) homes or a new road.

Mr. Abitheira said that he got a letter from the Planning Department indicating that he could have a private road with four (4) houses. Mr. Abitheira stated that he did not want to develop the property that way as he would prefer less density and feels that three (3) houses facing the street would be more aesthetically pleasing.

Mr. Courtney asked how many lots are there right now.

Mr. Abitheira said that right now there are two and a partial of a third. He wants to improve the neighborhood and wants to create a nicer looking neighborhood.

Mr. Lambert asked if a variance would be required if Mr. Abitheira wanted to put a private road in this area.

Mr. Abitheira said that according to the Planning Department a variance would not be required.

ITEM #3 - con't.

Mr. Lambert confirmed that Mr. Abitheira was asking for the minimum in putting these houses.

Mr. Abitheira said that he did not believe it would look as nice with four (4) homes in the area as the lots are deep and he thinks it would be nice to have large lots for the three (3) homes. Mr. Abitheira is against putting in a road and four (4) homes.

Mr. Strat said that it would be impractical for Mr. Abitheira to put a road in. Mr. Abitheira said that was correct.

Mr. Abitheira also said that ¾ of the property has asphalt and goes straight to a drain.

Mr. Clark opened the Public Hearing.

Mr. & Mrs. Richard Bowman, 3260 Talbot was present and said that she lives in the house directly to the north of this property. Ms. Bowman said that they are definitely not in favor of putting in a private road or four (4) houses. Ms. Bowman said that they are in favor of putting in the three (3) homes as proposed. Mr. Bowman said that they do not want four (4) homes on this property.

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.

Motion by Courtney
Supported by Lambert

MOVED, to grant Gary Abitheira, 3244 Talbot, relief of the Ordinance to construct three new single-family homes on a parcel of land where two of the parcels will be 56.40' in width and one is shown as 56.22' wide where Section 30.10.06 of the Ordinance requires a 60' minimum lot width in R-1E Zoning Districts.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.
- Variance will improve the appearance of the area.
- Variance will not establish a prohibited use in a Zoning District.

Yeas: 6 – Lambert, Strat, Bartnik, Clark, Courtney, Gies
Absent: 1 – Kovacs

MOTION TO GRANT VARIANCE CARRIED

ITEM #4 – VARIANCE REQUEST. JIM BUTLER, PEA ASSOCIATES, REPRESENTING 755 W. BIG BEAVER, 699 W. BIG BEAVER, for relief of the Ordinance to construct a new restaurant. Section 39.70.02 of the Troy Zoning Ordinance requires a greenbelt, a minimum of 10' in width with a minimum of one tree per 30' of frontage be provided between the development area and public street or freeway. The site plan submitted does not provide the greenbelt or trees along the I-75 freeway frontage on the east side of this site.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a new restaurant. Section 39.70.02 of the Zoning Ordinance requires a greenbelt, a minimum of 10' in width, with a minimum of one tree per 30' of frontage, be provided between the development area and public street or freeway. The site plan submitted does not provide the greenbelt or trees along the I-75 freeway frontage on the east side of this site.

Mr. Steve Sorense of PEA Associates was present and stated that this building was non-conforming and has been in existence since 1975. They are only asking to remove and replace what is already in place on the site. The vegetation on the adjacent property does provide an effective screening to I-75.

Mr. Courtney asked about the use of this proposed building and asked if they had a liquor license.

Mr. Sorense said that he did not know if a liquor license had been granted.

Mr. Strat said that this petitioner had appeared before the Planning Commission last week and the same question was asked and Mr. Butler stated that there was not a brewery inside; the use of the word "brewery" was just part of the name. Mr. Strat said that because it is a "special land use approval", the Planning Commission had denied the plan as presented and had asked that they come to the Board of Zoning Appeals so that they could have the patio closer to Big Beaver Road and eliminate the parking at the front of the building. Mr. Strat asked how many parking spaces would be lost if this variance was not granted.

Mr. Clark said that he had the same concern regarding parking.

Mr. Stimac said that a number of parking spaces would need to be eliminated if they had to put in the 10' greenbelt area. Mr. Stimac said that he has not done the parking calculation on this site if the variance was not granted, but a rough guess would be that 24 parking spaces would be eliminated.

Mr. Strat further stated that the petitioner also asked for a reduction in parking when they came before the Planning Commission.

ITEM #4 – con't.

Mr. Sorense said that although he is not working on this project himself, there are several engineers working on the project and they are working on the issues raised by the Planning Commission.

Mr. Courtney asked Mr. Strat if the Planning Commission wished to move the open area to the front of the property near Big Beaver, which would result in moving the parking spaces to the back of the site.

Mr. Strat said that was correct. The petitioner had submitted two plans to the Planning Commission but the plan presented to this Board indicates that the patio is on the side. The Planning Commission would rather have the patio facing Big Beaver so that traffic on Big Beaver could see the activity that is going on at this location. Mr. Strat also said that it would compliment the Big Beaver corridor study.

Mr. Clark opened the Public Hearing. No one wished to speak and the Public Hearing was closed.

There are two (2) written approvals on file. There are no written objections on file.

Motion by Courtney
Supported by Gies

MOVED, to grant Jim Butler, PEA Associates, Inc. 699 W. Big Beaver, relief of the Ordinance to construct a new restaurant without the required greenbelt or trees along the I-75 freeway frontage where Section 39.70.02 of the Troy Zoning Ordinance requires a greenbelt, a minimum of 10' in width with a minimum of one tree per 30' of frontage be provided between the development area and public street or freeway.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.
- Variance applies only to the property described in this application.

Yeas: 6 – Bartnik, Clark, Courtney, Gies, Lambert, Strat
Absent: 1 – Kovacs

MOTION TO GRANT VARIANCE CARRIED

ITEM #5 – ELECTION OF OFFICERS – 2008 – 2009

Motion by Courtney
Supported by Gies

MOVED, to elect Matthew Kovacs, Chairman and Glen Clark, Vice-Chairman for the 2008-2009 year.

ITEM #5 – con't.

Yeas: 6 – Bartnik, Clark, Courtney, Gies, Lambert, Strat
Absent: 1 - Kovacs

MOTION TO ELECT MATTHEW KOVACS, CHAIRMAN AND GLEN CLARK, VICE-CHAIRMAN FOR THE 2008-2009 YEAR CARRIED

Motion by Gies
Supported by Courtney

MOVED, to excuse Mr. Kovacs from tonight's meeting for personal reasons.

Yeas: 6 – Bartnik, Clark, Courtney, Gies, Lambert, Strat

MOTION TO EXCUSE MR. KOVACS CARRIED

The Board of Zoning Appeals meeting adjourned at 8:27 P.M.

Glenn Clark, Acting Chair

Pamela Pasternak, Secretary