The Chairman, Mark Maxwell, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M. on Tuesday, January 15, 2008 in Council Chambers of the Troy City Hall.

PRESENT: Michael W. Bartnik
Kenneth Courtney
Marcia Gies
Matthew Kovacs
Mark Maxwell
Wayne Wright

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

ABSENT: Glenn Clark

Motion by Wright
Supported by Bartnik

MOVED, to excuse Mr. Clark from tonight's meeting as he is out of the county.

Yeas: All – 6

MOTION TO EXCUSE MR CLARK CARRIED

ITEM #1 – APPROVAL OF MINUTES - MEETING OF NOVEMBER 20, 2007

Motion by Courtney
Supported by Gies

MOVED, to approve the minutes of the meeting of November 20, 2007 as written.

Yeas: All - 6

MOTION TO APPROVE MINUTES CARRIED

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

Motion by Courtney
Supported by Wright

MOVED, to approve Item #3 and Item #4 as in accordance with the suggested resolutions printed in the Agenda Explanation.

Yeas: All - 6

J-1c

ITEM #2 – con't.

MOTION TO APPROVE RENEWAL REQUESTS CARRIED

ITEM #3 – RENEWAL REQUESTED. HARRY & SUNNIE KWON, 38921 DEQUINDRE, for relief to maintain a 6' high wood fence in lieu of a 6' high masonry screen wall required by Section 39.10.01 for a 35' long portion of the west property line where the property borders residential property.

Mr. Stimac explained that the petitioners are requesting renewal of a variance granted by this Board to maintain a 6' high wood fence in lieu of a 6' high masonry screen wall for a 35' long portion of the west property line where the property borders residential zoned property. This item last appeared before this Board at the meeting of January 2005 and was granted a three-year renewal. Conditions remain the same and we have no complaints or objections on file.

MOVED, to grant Harry & Sunnie Kwon, 38921 Dequindre, a three-year renewal of relief to maintain a 6' high wood fence in lieu of a 6' high masonry screen wall as required by Section 39.10.01 for a 35' long portion of the west property line where the property borders residential property.

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

ITEM #4 – RENEWAL REQUESTED. FRANCO MANCINI, 6693 ROCHESTER ROAD (PROPOSED ADDRESS), for relief of the Ordinance to construct a new one-story office building adjacent to Residential Zoned property without a screen wall as required by Section 39.10.01.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a new one-story building adjacent to Residential Zoned property without a screen wall as required by Section 39.10.01. This item last appeared before this Board at the meeting of January 16, 2007 and was granted approval for one year. This building has not been constructed at this time therefore an approval for one additional year is suggested.

MOVED, to grant Franco Mancini, 6693 Rochester Road 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 #5 – APPROVAL REQUESTED. JOHN SCISLOWICZ, 2002 ATLAS, 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 property. The GMC "Top kick" truck described in the application does not meet the exceptions found in Section 40.66.00 of Chapter 39 of the Troy City Ordinance. A similar request was approved by City Council under the previous criteria for two years in 2005. That approval has now expired and the petitioner has submitted a new application to this board for approval.

Mr. Scislowicz was present and stated that he had tried to park his vehicle in other places however, he is on call 24 hours a day and he needs to have the truck at his disposal. Mr. Scislowicz stated that he has not had any problems or complaints from his neighbors. Mr. Scislowcz further stated that he has had a similar vehicle parked in this location for the last twenty-one years and has not had any problems.

Mr. Courtney asked what this vehicle was used for.

Mr. Scislowicz stated that he has a mobile truck repair business.

Mr. Courtney asked where the office for this business was located.

Mr. Scislowicz explained that the office is in his home. He gets calls and goes out on the road or to another place of business to work on the vehicles that require repair. At one time he also had two trailers that he used to haul his tools, but downsized this business in the 90's and now only has the one vehicle. Mr. Scislowicz indicated that this vehicle is actually smaller than the last vehicle he had.

Mr. Bartnik asked how close this vehicle was parked to the lot line.

Mr. Scislowicz said that it is parked right next to the fence and his neighbor indicated that he did not have a problem with that.

Mr. Bartnik asked if the vehicle was taller than the fence and Mr. Scislowicz said that it was.

Mr. Maxwell asked what the dimensions of the vehicle were. The height of the shrub appears to be below the eve of the garage and the vehicle appears to be very wide.

Mr. Scislowicz stated that he was not sure but he thought it was approximately 7'.

Mr. Maxwell asked if it would fit into the garage.

Mr. Scisclowicz stated that this vehicle will not fit into his garage.

ITEM #5 – con't.

Mr. Kovacs asked what type of vehicle this was.

Mr. Scislowicz said it was a 4500 series GMC and was perfect for his purposes.

Mr. Wright stated that one of the restrictions put on a home based business was that there could not be any outward appearance of a business operating out of a house. In his opinion, this truck indicates that a business is being run out of this house.

Mr. Maxwell asked for a clarification of this point.

Mr. Stimac stated that the definition of a home occupation indicates that there cannot be any outside storage or display of the materials that are part of the business, there can't be any signs on the property advertising a business and there cannot be any parking outside, other than what is typically found in the immediate adjacent neighborhoods. Nothing can be visible to the neighbors indicating that a business is being run out of the home. This does not preclude the parking of a commercial vehicle of the size permitted by the Ordinance. The only reason he is before this Board is because of the size and type of this vehicle.

Mr. Maxwell confirmed that this vehicle did not necessarily indicate that a business was being run out of this home.

Mr. Stimac said that as long as there was not an outdoor display, a commercial vehicle would be allowed as long as it complied with the exceptions regarding commercial vehicles in the Ordinance.

Mr. Courtney asked if Mr. Scislowicz had entertained the thought of raising the height of the garage.

Mr. Scislowicz said that he had but said that he believes he is already at the limit for accessory buildings allowed on his property and did not feel he would be able to raise the height of the garage due to power lines directly above the garage.

Mr. Maxwell said that this may be an option that Mr. Scislowicz may want to explore at a further date.

Mr. Maxwell opened the Public Hearing.

Mr. Gary Toivonen, 2015 Atlas was present and stated that he has been a resident of Troy for over forty years and Mr. Scislowicz has lived in this home for more than twenty years. Mr. Toivonen stated that Mr. and Mrs. Scislowicz are model neighbors and citizens of Troy. This house is the sign of a good neighbor as the property is kept up and this commercial vehicle is not bothersome at all. Mr. Toivonen stated that the only time he hears or sees this truck, is when Mr. Scislowicz is either going to or coming

ITEM #5 – con't.

from work. Mr. Toivonen strongly supports this request, as this is Mr. Scislowicz's only source of income, and a hardship would be created for Mr. Scislowicz if the vehicle needed to be stored at another location.

Mr. Kovacs asked Mr. Toivonen if he had ever seen this vehicle parked in front of the house or any other location.

Mr. Toivonen said that the vehicle is always parked in the driveway and unless you are looking for it as you drive by, it is very difficult to see.

Mr. Doug Snooks, 1990 Atlas, was present and stated that he lives on the other side of this home. Mr. Snooks stated that he supports this request and said that you won't see the truck unless you stop and look down the driveway.

Mr. Curtis Childs, 1931 Atlas, was present and stated that he supports this request.

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

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

Mr. Maxwell pointed out that this was a temporary parking approval and if approved the maximum amount of time for approval was two years.

Mr. Bartnik stated that the vehicle is parked in a good location, but this area is zoned residential and is concerned because it is parked right along the property line. Further, Mr. Bartnik said that if this Board keeps granting renewals, eventually they become a permanent variance and are contrary to the Ordinance.

Mr. Courtney stated that he would like to see some exploration in enlarging the garage in order to accommodate this vehicle.

Mr. Kovacs stated that he has a Dodge Ram 1500 and this truck is not much larger than his. Recreational vehicles are allowed to park outside on residential property and in his opinion it is ludicrous that this truck would not be allowed to park here. As far as parking at the lot line, the driveway extends that far. Mr. Kovacs said that his concerns were that he was moving it forward and the neighbors have stated this is not the case. Mr. Kovacs said that in his opinion this vehicle was not much larger than a pick up truck.

Mr. Maxwell stated that the Board has to look at all the requirements and determine what is allowable. It is important that the petitioner provide evidence to this Board to support this request. The Board does not know if it is possible to enlarge the garage, but the Board would like to see some evidence from the petitioner that he cannot accomplish this. Mr. Maxwell said this in his opinion he can see approving this for no

ITEM #5 – con't.

more than one year, and have the petitioner come back to the Board and provide support for his request and show how he cannot comply with the criteria provided on the application.

Mr. Bartnik stated that in his opinion it was up to the petitioner to provide the necessary information the first time they come before the Board for an approval as opposed to coming in for a renewal.

Mr. Maxwell stated that was correct, however, people being people did not always understand what was required.

Mr. Courtney said that this petitioner is on call 24 hours a day and does believe that Item A does pertain to this request. Mr. Courtney also said that he would like to see the garage enlarged.

Mr. Maxwell said that he would like more information provided.

Motion by Courtney
Supported by Gies

MOVED, to approve the request of John Scislowicz, 2002 Atlas, under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property for a period of one year.

- Allow the petitioner to bring evidence that a larger garage is not feasible.
- Allow the petitioner to show that he has explored other possibilities for storing this vehicle.

Mr. Bartnik asked how many votes were required to approve this request.

Mr. Stimac explained that a variance requires four (4) affirmative votes. An approval requires a majority of affirmative votes. If there were only five members present, only three (3) votes would be required to approve this request.

Mr. Bartnik asked what the requirement was regarding parking recreational vehicles next to the lot line.

Mr. Stimac explained that recreational vehicles are required to park behind the front line of the house and parked no closer than 3' to the side or rear property line.

Vote on the motion to approve for one year.

Yeas: 4–Kovacs, Maxwell, Courtney, Gies
Nays: 2–Wright, Bartnik

ITEM #5 – con't.

MOTION TO GRANT APPROVAL FOR ONE YEAR CARRIED

Mr. Courtney pointed out that if the garage is expanded, the petitioner would not be required to come back before this Board.

ITEM #6 – APPROVAL REQUESTED. KEVIN FERGUSON, 2127 ATLAS, 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 property. The Chevrolet cube van described in the application does not meet the exceptions found in Section 40.66.00 of Chapter 39 of the Troy City Ordinance. A similar request was approved by City Council under the previous criteria for one year in July of 2006. That approval has now expired and the petitioner has submitted a new application to this board for approval.

Mr. Kevin Ferguson was present and stated that he has not received any complaints from his neighbors, except for one, and has had this vehicle for four (4) years. He is a window installer and he can guarantee that this vehicle would be broken into within three weeks of parking it outside at another location. Before he had moved here, he had parked his vehicle at a bar parking lot and it was broken into. Mr. Ferguson travels all over Michigan and Ohio.

Mr. Maxwell asked if Mr. Ferguson had attempted to find another location for this vehicle.

Mr. Ferguson said that the way the economy is now; he cannot afford to park the vehicle in another location. He needs the vehicle at his home and it is not feasible to park it elsewhere. Too much time would be involved getting to the jobs he is needed at if the truck was parked some where else. Mr. Ferguson also said that the vehicle would be broken into.

Mr. Maxwell said that he understands Mr. Ferguson is renting this home. Mr. Maxwell also said that the petitioner is required to present some information that he has contacted other locations to store this vehicle.

Mr. Ferguson said that one of the reasons he chose this home to live in was that he could park this vehicle at the back of the property and he is the longest tenant that has leased this property.

Mr. Bartnik asked if Mr. Ferguson had taken the photographs included in his presentation.

ITEM #6 – con't.

Mr. Ferguson stated that Mr. Phillips, Housing and Zoning Inspector, had taken this photo in 2007 and there is approximately 2' of clearance against the fence.

Mr. Bartnik stated that when he went by this location it appeared that the truck was right up to the fence post.

Mr. Ferguson said that it was at least 2' from the south property line. There is room to walk by the truck.

Mr. Bartnik said that after reading the minutes from the Council meeting, they indicate that City Council required a wooden fence across the driveway in front of this truck.

Mr. Ferguson said that he has a wooden fence post with one gate. He could not put up a second gate because the mirrors extend too far from the side of the truck. Mr. Ferguson also indicated that the appearance of the truck is worse with the gate across the front of it.

Mr. Maxwell asked what the dimension of the truck was.

Mr. Ferguson said that it was 11'4" high.

Mr. Courtney asked if this was a home business.

Mr. Ferguson said that he is a sub contractor for Sears and only does work for Sears. It is impossible to find somewhere to park a cube van. It is a big truck and won't fit at inside storage facilities. He has spoken to bar owners to park this vehicle on their property, but he can guarantee that the truck would be broken into.

Mr. Courtney asked if he had ever found anywhere to park this vehicle.

Mr. Ferguson said that he needs his truck at his disposal, and it just would not work for him to store this vehicle forty-five minutes from his home. Mr. Ferguson said that he believes "blue-collar" workers are being run out of Troy.

Mr. Maxwell stated that this was absolutely not true. A majority of people got together and decided that they do not want to live with commercial vehicles. This issue is not just about any petitioner with a commercial vehicle; it pertains to the area where people live. Sometimes these things impact other people in the neighborhood. It is up to this Board to make a decision that is fair to all citizens and not just one. Many years ago all kinds of businesses went through neighborhoods, but these commercial vehicles were not parked in residential areas. The Board has to look at everybody and determine what is fair for everyone. Mr. Maxwell said that the petitioner did not present any evidence that he was unable to find a storage facility that would accept this vehicle.

ITEM #6 – con't.

Mr. Maxwell also stated that this is a very large vehicle and it fills up the entire driveway. It is very large compared to the size of the home and the lot. Mr. Maxwell said that in his opinion a vehicle that is as large as this one, should be parked on a lot that is larger than the present property.

Mr. Courtney stated that he did not feel this vehicle needed to be on call twenty-four hours a day and did not see a hardship with it parked off-site. Mr. Courtney then asked how many employees Mr. Ferguson had.

Mr. Ferguson said that it is just himself and his partner. His partner usually goes directly to the job. Mr. Ferguson also said that he may have a helper if there is a large job, and he either will meet him on the job or at his home.

The Chairman opened the Public Hearing.

Mr. Steve Johnson, 2105 Castleton was present and stated that he lives behind the petitioner. Mr. Johnson said that he can see this vehicle from his back door. Mr. Ferguson is just making a living. Mr. Johnson approves this request. Mr. Johnson said that it is easy for someone to say "buy a bigger lot" but not everyone can afford to do that. Business is very bad and if he had a choice he would move out of Troy. Mr. Johnson stated that he plans to buy a cargo van next month and is curious as to whether or not he will be able to park it at his home. Mr. Johnson said that he has a truck with a ladder on the top and cannot fit into his garage. He will appeal any decision that would not allow him to park his vehicle on his property, 24 hours a day if he has to. Mr. Ferguson is a good neighbor and Mr. Johnson said that there are too many restrictions on the parking of commercial vehicles. We are in a one-state recession and some people cannot afford a huge home on a large lot.

Mr. Maxwell disagreed with Mr. Johnson's statement and stated that it does not have anything to do with this request. The Board cannot make a fair decision without proper evidence from the petitioner indicating that there are no other alternatives available.

Mr. Johnson said that this goes on every year and asked if any type of solution had been found yet.

Mr. Maxwell said that it had not and it has put this Board in a very tough position. Mr. Maxwell said that they are trying to come up with a fair solution for everyone with the rules that they have to go by. Large commercial vehicles do have an impact on residential areas.

A discussion began regarding recreational vehicles and commercial vehicles. Mr. Maxwell stated that if the petitioners are not happy with the rules created, they need to

ITEM #6 – con't.

go before City Council and tell them. If this Board did not like something, they would have to do the same thing. Solutions are needed for commercial vehicles and the criteria provided are very confusing.

Mr. Johnson stated that people are having a hard time as it is, and these rules are making it harder for them. In his opinion certain people are targeted and he does not feel it is fair.

Mr. Maxwell said that he can assure Mr. Johnson that each petitioner gets a fair hearing and a decision is based on the information provided. Mr. Maxwell also said that the good of the community as a whole has to be taken into consideration.

Mr. Johnson also stated that it costs approximately $300 per month to store a vehicle and the way business is, it is very difficult to come up that amount of money.

Mr. William Buban, 2126 Atlas, was present and stated that he lives directly across the street. This was supposed to be a temporary variance and the petitioner did not meet the requirements of Council in putting up a fence. Once again, this petitioner is seeking approval. This truck is too large for this area. There are five or six cars in the household and they cannot fit into the drive and therefore are parked in the street. Mr. Buban is against this request.

Mr. Curtis Childs, 1931 Atlas stated that he lives down the street and does not see a problem with this truck. Mr. Childs said that he never sees it parked on the street and even when he and his children go for a walk, this truck is difficult to see.

Mr. Buban, 2126 Atlas came back to the podium and stated that his neighbor had a difficult time selling his home and he believes it was in part due to this truck.

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

There are two (2) written approvals on file. There are four (4) written objections on file.

Motion by Bartnik
Supported by Wright

MOVED, to deny the request of Kevin Ferguson, 2127 Atlas, for approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property.

- This approval would be contrary to public interest.
- Petitioner has not met the criteria of Item C.
- Petitioner has not submitted any evidence that he has met the criteria in either Item A or B.

ITEM #6 – con't.

- Approval would permit the establishment of a prohibited use in a residential area.

Mr. Kovacs stated that the criteria has been changed very recently and he believes that the Board is expecting too much of the petitioners. The petitioners have had these vehicles parked at their homes for years and now he thinks that the Board needs to give the petitioners some leeway on these commercial vehicle requests. Mr. Kovacs also stated that he feels the petitioner did comply with the criteria listed in Item C.

Mr. Maxwell said that this petitioner would not be able to build a larger garage as this is not his home. Mr. Maxwell also said that he does believe this vehicle is too large for this area, but is concerned because he believes the petitioner needs to have a time frame to look for other parking.

Mr. Wright stated that the petitioner has had more than a year to look for another location.

Mr. Maxwell said that he believes the petitioner needs to have some time to look into other arrangements.

Mr. Courtney said that he is highly opposed to this request, but would be willing to give him some time to look into alternative locations for this vehicle.

Mr. Maxwell said that he does believe this vehicle has a negative effect to surrounding property because it is extremely large.

Vote on motion to deny

Yeas: 2 – Wright, Bartnik
Nays: 4 – Maxwell, Courtney, Gies, Kovacs

MOTION TO DENY FAILS

Motion by Courtney
Supported by Gies

MOVED, to grant approval to Kevin Ferguson, 2127 Atlas, 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 permit Mr. Ferguson the opportunity to explore all criteria required in the application.
- Outdoor storage of this vehicle is the only solution for this request.

ITEM #6 – con't.

Mr. Wright said that he wished to amend the motion for the petitioner to comply with the requirements made by City Council to put a fence across the driveway.

Mr. Courtney said that Mr. Ferguson said he could only use one side, because the other gate would bang into the mirrors on the vehicle. Mr. Courtney did not believe it would apply since this approval was only for a period of six (6) months.

Motion to amend fails due to lack of support.

Vote on motion to approve for six months.

Yeas: 4 – Courtney, Gies, Kovacs, Maxwell
Nays: 2 – Wright, Bartnik

MOTION TO GRANT APPROVAL FOR SIX (6) MONTHS APPROVED

Mr. Maxwell explained to the petitioner that he does have the opportunity to present a case in the next six (6) months that would justify this Board granting approval for a longer period of time. Mr. Maxwell also stated that the criteria presented is very poorly written, and makes it very difficult for the Board to make a decision and encouraged Mr. Ferguson to appear before City Council and make his concerns known. Mr. Maxwell further stated that in his opinion this vehicle is too large for this location. Commercial vehicles do have an impact on residential areas and do have an impact on the quality of life in a residential area. Mr. Maxwell suggested that perhaps the solution would be to zone a section of the City to allow the parking of these trucks.

Mr. Ferguson stated that the main reason he leased this home was because he thought it would be ideal as a location for this vehicle. Mr. Ferguson also said that he would never park this truck in front of this home or at the front of his driveway.

ITEM #7 – VARIANCE REQUESTED. TONY V'S SUNROOMS, 2024 LAKESIDE, for relief of the Zoning Ordinance to construct a patio enclosure that will result in a 28.18' rear yard setback and a 24' front setback to the east property line along Southpointe Drive. Section 30.10.05 requires a 40' minimum rear yard setback and a 25' minimum front yard setback in R-1D Zoning Districts.

Mr. Stimac explained that the petitioner is seeking relief of the Ordinance to construct a rear patio enclosure. This property is located at the southwest corner of the intersection of Lakeside and Southpointe. Because of the orientation of the adjacent houses it is a double front corner lot and has front yard setbacks along both streets. Because of the orientation of this house the south property line is considered to be the rear property line. The site plan submitted indicates a proposed 28.18' rear yard setback and a 24' front setback to the east property line along Southpointe Drive.

ITEM #7 – con't.

Section 30.10.05 requires a 40' minimum rear yard setback and a 25' minimum front yard setback in R-1D Zoning Districts.

Mr. Terry Cocetto, of Tony V's Sunrooms was present and stated that the hardship with this property is the way the house is situated on the lot. This is a corner lot and the house was constructed to the maximum of where it could be placed on the lot. The sunroom cannot be moved farther west as there is a pedestrian door there, and the sunroom would be in the middle of the door, which is the only access to the sunroom.

Mr. Maxwell asked if the deck was going to remain.

Mr. Cocetto stated that the sunroom was going to be constructed on top of the deck.

Mr. Kovacs said that he did not have a problem with the setback on the side; however, was concerned about the large request for the reduction of the rear setback. The whole house was constructed to the 40' rear property line and Mr. Kovacs feels this variance request is just too large.

Mr. Stimac said that the house was between 12' or 15' from the west property line.

Mr. Cocetto said that in most communities the rear yard setback is considered to be the sight line. The house to the west has a number of trees at the rear and this sunroom would not be visible.

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

Mr. Cocetto asked if notices had been sent to the neighbors.

Mr. Stimac said that they had.

Mr. Courtney indicated that there was an approval letter from the Homeowners Association.

Mr. Stimac stated that at the time this sub was platted they did not use the lot averaging concept but did allow for an adjustment of lot sizes. The 10% reduction in size does not apply to corner lots. This lot is an unusual shape to maximize the measured width.

Mr. Courtney said that he did not think the lot configuration was a hardship.

Mr. Wright said that in his opinion, this petitioner was being penalized because there were two (2) front yards; however, it could also be looked at as two (2) rear yards.

ITEM #7 – con't.

Mr. Kovacs said that he would have a problem with this request as he feels this 28' rear yard setback is too large.

Motion by Kovacs.
Supported by Maxwell

MOVED, to deny the request of Tony V's Sunrooms, 2024 Lakeside, for relief of the Ordinance to construct a patio enclosure that will result in a 28.18' rear yard setback and a 24' front setback to the east property line along Southpointe Drive. Section 30.10.05 requires a 40' minimum rear yard setback and a 25' minimum front yard setback in R-1D Zoning Districts.

- Variance request is too large.
- 28' rear yard setback is excessive.

Yeas: Gies, Kovacs, Maxwell
Nays: Bartnik, Courtney, Wright

MOTION TO DENY FAILS

Motion by Courtney
Supported by Kovacs

MOVED, to postpone the request of Tony V's Sunrooms, 2024 Lakeside, for relief of the Ordinance to construct a patio enclosure that will result in a 28.18' rear yard setback and a 24' front setback to the east property line along Southpointe Drive. Section 30.10.05 requires a 40' minimum rear yard setback and a 25' minimum front yard setback in R-1D Zoning Districts until the meeting of February 19, 2008.

- To allow the petitioner the opportunity of a full board.

Yeas: All - 6

MOTION TO POSTPONE THIS REQUEST UNTIL FEBRUARY 19, 2008 CARRIED

Mr. Maxwell began a discussion regarding the commercial vehicle requests. Mr. Maxwell said that both City Council and the Planning Commission need to look at the criteria for these vehicles as he believes the rules are very vague and right now the criteria is meaningless.

Mr. Wright indicated that the Planning Commission is working on changing the Ordinance that will also include recreational vehicles.

Mr. Courtney stated that they are not allowed to be parked in his subdivision. Recreational vehicles are only allowed to come into the area to load and unload and are stored at another location.

Mr. Maxwell said that he believes it is difficult for people that have had these vehicles at home for a long time to meet the criteria as presented.

Mr. Bartnik said that he thought there were locations zoned light industrial in the City, where these vehicles could be stored.

Mr. Maxwell said that he had understood there was a list of storage facilities available that could be given to these petitioners.

Mr. Stimac said that there is information regarding storage for commercial vehicles. There are also a number of storage yards that don't outwardly advertise that they have storage available, and this information would not be available. Mr. Stimac said that the information regarding storage yards could certainly be made available. One additional storage yard was approved at the last meeting of the Planning Commission and Mr. Stimac believes another one is coming before the Planning Commission for approval.

Mr. Stimac went on to explain the criteria established for these commercial vehicles. Specifically they have to comply with Item A or Item B and Item C. For example, in looking at the cases tonight: the vehicle parked in Mr. Ferguson's driveway does not allow for any access to the garage or the driveway. All other activity has to take place in front of the residence or in the front of the drive. When it is parked at the back of the driveway it prohibits all other use of the garage. You need to look at what impact a commercial vehicle has on the property itself.

Mr. Bartnik asked what is required to store vehicles in the M-1 (Light Industrial Zoning District).

Mr. Stimac said that outdoor storage of commercial vehicles in the M-1 Zoning District requires Special Use Approval from the Planning Commission and there are a number of facilities that have been approved for special use approval in the City that do allow for outdoor storage.

Mr. Bartnik said that as business owners, the cost of storing a commercial vehicle is part of the cost of running the business. There are a number of commercial buildings available and perhaps these business owners could look into these as another solution.

Mr. Courtney said that the vehicles needed to be protected and it may not be feasible to park them outside. The solution may need for the petitioner to rent space on a lot that has 24-hour protection.

Mrs. Gies said that it would make sense for them to park them in gas stations, if the locations are approved, because someone is always there.

Mr. Courtney said that the first petitioner needed his vehicle day or night, but the larger vehicle would need to be stored on a larger lot.

Mr. Kovacs said that he can understand how these petitioners feel discriminated against, as much larger vehicles, such as recreational vehicles, can be parked at property owners' homes. Mr. Kovacs said that he feels recreational vehicles should be treated the same as commercial vehicles and criteria should be established monitoring these vehicles also.

Mr. Maxwell said that he thinks the commercial vehicles can be detrimental to the area around them.

Mr. Kovacs said that he does not feel these recreational vehicles should be allowed to park outside either.

Mr. Stimac said that the Planning Commission is having a difficult time drafting language for the commercial vehicles and he knows they are still working on them.

Mr. Bartnik stated that he would like the Board to look at the by-laws as he feels that changes are required. Mr. Bartnik said he was not sure if this was a job for the Board but would like to see the discrepancies he found corrected.

Mr. Stimac said that there is another Planning and Zoning consolidation law that is coming to the Senate and there may be more changes made to the Board of Zoning Appeals by-laws and Zoning regulations. Mr. Stimac suggested that Mr. Bartnik e-mail or sends his concerns to him and he would be happy to look at them and bring any changes to the Board.

The Board of Zoning Appeals meeting adjourned at 9:02 P.M.

Mark Maxwell

Mark Maxwell, Chairman

Pamela Pasternak

Pamela Pasternak, Recording Secretary