The Chairman, Mark Maxwell, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M., on Tuesday, November 20, 2007 in Council Chambers of the Troy City Hall.

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

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

ITEM #1 – APPROVAL OF MINUTES – MEETING OF OCTOBER 16, 2007

Mr. Wright stated that the word "prohibited" be changed to "permit" in the motion for approval for Coy Construction on Page 4.

Mr. Bartnik stated that he wanted the following added to the discussion on Item #6:

"Mr. Bartnik asked if the owners and residents of the Somerset Park Apartments were notified of this variance request.

Mr. Stimac replied that both owners and residents within 300' of the subject property were notified."

Motion by Wright
Supported by Courtney

MOVED, to approve the minutes of the meeting of October 16, 2007 with the above amendments.

Yeas: All – 7

MOTION TO APPROVE MINUTES AS AMENDED CARRIED

ITEM #2 – VARIANCE REQUESTED. JOHN BRODERICK OF THE HONEY BAKED HAM COMPANY, 1081 EAST LONG LAKE, for approval to place two temporary storage containers outside at the rear of 1081 E. Long Lake for the time period from November 21st through December 31, 2007 and November 21st through December 31, 2008.

JHF

ITEM #2 – con't.

Mr. Stimac explained that the petitioner is requesting approval to place two temporary storage containers outside at the rear of 1081 E. Long Lake for the time period from November 21st through December 31, 2007 and November 21st through December 31, 2008. Section 43.80.00 of the Zoning Ordinance allows the Board of Zoning Appeals to permit temporary buildings for permitted uses for periods not to exceed two (2) years.

Mr. Maxwell asked if the Building Department had received any complaints regarding these storage containers in the past.

Mr. Stimac stated that he was not aware of any complaints regarding this request.

Mr. John Broderick was present and stated he hoped approval for these storage trailers would be granted. These storage trailers are the same as the ones that they have used in the past. They will not be any higher that the brick wall that is behind this business. The storage trailers are needed due to the seasonality of the business.

Mr. Clark asked what types of locks were used to secure these trailers.

Mr. Broderick stated that they are specifically designed commercial locks.

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

There are nine (9) written approvals on file. There are no written objections on file.

Motion by Courtney
Supported by Wright

MOVED, to grant John Broderick of the Honey Baked Ham Company, 1081 East Long Lake, approval to place two temporary storage containers outside at the rear of 1081 E. Long Lake for the time period from November 21st through December 31, 2007 and November 21st through December 31, 2008.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.

Yeas: All – 7

MOTION TO GRANT APPROVAL CARRIED

ITEM #3 – VARIANCE REQUESTED. KELLI BALOGH, 1336 WACON, for relief of the Ordinance to maintain a porch enclosure constructed without a Building Permit that result in a 33.1' rear yard setback and 3.8' away from a detached garage. Section 30.10.06 requires a 35' minimum rear yard setback in the R-1E Zoning District and

ITEM #3 – con't.

Section 40.45.02 requires a 10' minimum setback from this addition to the existing detached garage.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to maintain a porch enclosure constructed without a Building Permit. The site plan submitted indicates an enclosure constructed with a 33.1' rear yard setback and 3.8' away from a detached garage. Section 30.10.06 requires a 35' minimum rear yard setback in an R-1E Zoning District and Section 40.56.02 requires a 10' minimum setback from this addition to the existing detached garage.

Mr. Stimac further explained that a search of Building Department records indicated that this structure was in place since the 1960's and there is no record of a Building Permit issued at that time.

Mr. Kovacs asked if Mr. Stimac was 100% sure that no permit had ever been issued.

Mr. Stimac said that a search was done of both Building Department records as well as Assessing records and nothing was found indicating a permit was ever issued.

Mr. Courtney asked what the difference would be if this structure was attached to the garage.

Mr. Stimac explained that the 10' rule would not apply, but then the garage would have to meet the 35' minimum rear yard setback.

Ms. Balogh was present and stated that she bought this home approximately three (3) years ago. The porch enclosure was in place at that time. The home has needed a number of repairs, which she has done. Ms. Balogh also said that she thought the original structure started out to be aluminum, all window enclosure. When she tried to replace the windows and doors, she found out that they were no longer available. Ms. Balogh brought in pictures showing how the house looked with the old structure and how it looks now with the newer structure. Ms. Balogh stated that friends and family have done the construction of this new porch enclosure.

The Chairman opened the Public Hearing.

Mr. Ryan Peters, 1337 Wacon was present and stated that Ms. Balogh has done a number of exceptional improvements to this home and feels that this enclosure will improve the look of the home. Mr. Peters supports this variance request.

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

There is one written approval on file. There are no written objections on file.

ITEM #3 – con't.

Mr. Maxwell said that the structure appears to be the same size as the original structure and is not visible as there is a white picket fence around the property.

Mr. Clark asked if a contractor was doing the work.

Ms. Balogh stated that the work was being done by friends and family.

Mr. Clark then asked if that was why a Building Permit was not obtained.

Ms. Balogh said that was correct.

Mr. Courtney said that if this request was for the original structure, he would have been opposed to it.

Motion by Courtney
Supported by Clark

MOVED, to grant Kelli Balogh, 1336 Wacon, relief of the Ordinance to maintain a porch enclosure that results in a 33.1' rear yard setback and 3.8' away from a detached garage. Section 30.10.06 requires a 35' minimum rear yard setback in the R-1E Zoning District and Section 40.45.02 requires a 10' minimum setback from this addition to the existing detached garage.

- Variance does not permit the establishment of a prohibited use in a Zoning District.
- Structure is shielded by a fence from surrounding property.
- Variance is not contrary to public interest.
- Variance will add to the property value.
- Variance will not have an adverse effect to surrounding property.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #4 – VARIANCE REQUESTED. GARY ABITHEIRA, 1110 BIRCHWOOD, EXISTING ADDRESS, TO 1106-1108 BIRCHWOOD, PROPOSED ADDRESS, for relief of the Ordinance to raze an existing single-family house and construct a two-family residence on a 9,600 square foot parcel of lance. Section 30.10.09 requires a 10,000 square foot minimum parcel size to construct a two-family residence in the R-1B Zoning District.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a residential duplex. The site plan submitted indicates razing a single-family house and constructing a two-family residence on a 9,600 square foot parcel of land. Section

ITEM #4 – con't.

30.10.09 requires a 10,000 square foot minimum parcel size to construct a two-family residence in an R-1B Zoning District.

Mr. Kovacs asked if Mr. Stimac knew the history of the homes in this area.

Mr. Stimac said that he had done a search of the area and there are nine (9) duplexes in the area. Three are in compliance with the requirements of the Ordinance. Four are on 9600 square foot lots, and there is no record of variances being granted. Three of these duplexes were built in the 1970's and one in the 1980's. Two duplexes were recently constructed on 9,600 square foot lots and were granted variances by this Board.

Mr. Courtney asked Mr. Abitheira if he had been before this Board asking for a variance to build two homes rather than a duplex on a lot that did not meet area requirements.

Mr. Abitheira stated that was true; however, this area is more conducive to duplexes rather than single-family homes. Mr. Abitheira also stated that the existing home is in a state of disrepair and is an eyesore to the area. There is Industrial zoned property very near this site and this is one of the reasons that people do not want to purchase a single-family home. The housing market is down and Mr. Abitheira does not believe he would be able to sell a single-family home. Mr. Abitheira also stated that he uses these duplexes to allow people to live in while they wait for their homes to be constructed. He is trying everything he can to bring people to this area.

Mr. Courtney stated that Mr. Abitheira could build a single-family home for people to live in while they wait for the construction of their homes.

Mr. Abitheira stated that he is trying to get people to come into this City. The duplexes in this area look very nice and being kept up by the people that live in them.

Mr. Courtney stated that basically it is not economical to build one home but is more economical to have people living in two units.

Mr. Abitheira stated that after reading the goals of the City Manager, he is trying to increase new development in the City.

The Chairman opened the Public Hearing.

Mr. Jack Bertoia was present and stated that he owns property on this street and is a resident of Troy. Mr. Bertoia said that he is trying to lease the new duplex across the street and has been unable to do so because of the appearance of the existing home on this site. Mr. Bertoia said that they want to bring quality people into this area and he believes this construction will help in doing so. Other variances have been granted and he is in support of this request.

ITEM #4 – con't.

Michael Agnetti, 1120 Vermont, was present and stated that he is in favor of this request. People are taking care of the homes in this area and he believes this duplex will be an asset to the area.

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

There is one (1) written approval on file. There is one (1) written objection on file.

Mr. Clark asked what the setbacks were for a single-family home and a duplex in this area.

Mr. Stimac that the setbacks for a single-family home in the R-1E Zoning District were 25' front setback, 35' rear setback and because it is on a corner there would be a 10' setback from Lydia and 5' along the east side of the property; the setbacks for a duplex are 25' front setback, 35' rear setback and a minimum of 10' on the sides.

Mr. Bartnik asked if this proposed construction met all the other setbacks.

Mr. Stimac said that it did.

Mr. Bartnik said that he believes that the proposed construction also is less than the 30% allowed by the Ordinance.

Mr. Stimac said that 2,880 square feet is allowed and the proposed construction is 2,829 square feet.

Mr. Bartnik said that this is still less than what is allowed.

Mr. Stimac said that was correct it is less than the 30% allowed by 51 square feet.

Mr. Maxwell said that this area is very close to Industrially Zoned property and there is a duplex directly across the street. Mr. Maxwell said that he believes this would be good for the area considering the location.

Motion by Bartnik
Supported by Wright

MOVED, to grant Gary Abitheira, 1110 Birchwood, existing address, 1106-1108 Birchwood, proposed address, relief of the Ordinance to raze an existing single-family house and construct a two-family residence on a 9,600 square foot parcel of land. Section 30.10.09 requires a 10,000 square foot minimum parcel size to construct a two-family residence in the R-2 Zoning District.

ITEM #4 – con't.

- Variance request is small.
- Construction will comply within other requirements of the Ordinance.
- Literal enforcement of the Ordinance would be unnecessarily burdensome.
- Variance will not have an adverse effect to surrounding property.
- Variance will not permit the establishment of a prohibited use in a Zoning District.

Yeas: 6 – Kovacs, Maxwell, Wright, Bartnik, Clark, Gies
Nays: 1 – Courtney

MOTION TO GRANT VARIANCE CARRIED

The Board of Zoning Appeals meeting adjourned at 8:07 P.M.

Mark Maxwell, Chairman

Pamela Pasternak, Recording Secretary