

The Chairman, Mark Maxwell, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M. on Tuesday, April 17, 2007, in Council Chambers of the Troy City Hall.

PRESENT: Glenn Clark
Kenneth Courtney
Marcia Gies
Matthew Kovacs
Mark Maxwell
Wayne Wright

ABSENT: Christopher Fejes

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

Motion by Wright
Supported by Clark

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

Yeas: 6 – Gies, Kovacs, Maxwell, Wright, Clark, Courtney

MOTION TO EXCUSE MR. FEJES CARRIED

ITEM #1 – APPROVAL OF MINUTES – MEETING OF MARCH 20, 2007

Motion by Clark
Supported by Wright

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

Yeas: 6 – Gies, Kovacs, Maxwell, Wright, Clark, Courtney

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

ITEM #2 – RENEWAL REQUESTED. FATHER MAXIMUS HABIB, ST. MARK COPTIC ORTHODOX CHURCH, 3603-3615 LIVERNOIS, for relief of the Ordinance to construct a landscaped berm and use existing natural vegetation in lieu of the 4'-6" high masonry wall required along the south property line and relief of the 4'-6" high masonry wall on the north property line.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board for relief to construct a landscaped berm and use existing natural vegetation in

ITEM #2 – con't.

lieu of the 4'-6" high masonry wall required along the south property line and relief of the 4'-6" high masonry wall on the north property line.

This renewal last appeared before this Board at the meeting of April 2004 and was granted a three (3) year renewal at that time. Conditions remain the same and we have no complaints or objections on file.

Motion by Courtney
Supported by Clark

MOVED, to grant Father Maximus Habib, St. Mark Coptic Church, 3603-3615 Livernois, a three (3) year renewal of a variance for relief to construct a landscaped berm and use existing natural vegetation in lieu of the 4'-6" high masonry wall required along the south property line and relief of the 4'-6" high masonry wall on the north property line.

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

Yeas: 6 – Kovacs, Maxwell, Wright, Clark, Courtney, Gies

MOTION TO GRANT RENEWAL FOR THREE YEARS CARRIED

ITEM #3 – APPROVAL REQUESTED - MS. BULAK-RAMADEN, 1263 WRENWOOD,
for approval under Section 43.74.00 to park a commercial vehicle outside on residential property.

Mr. Stimac explained that the petitioner is requesting approval under Section 43.74.00 to park a commercial vehicle outside on residential property. The cube van described in the application does not meet the exceptions found in Section 40.55.00 of Chapter 39 of the Troy Zoning Ordinance. A request for approval to park this vehicle outdoors on the site was previously approved for two years by City Council, under the old standards in 2004.

Mr. Wright asked if it was possible for the petitioner to construct an additional garage on this site.

Mr. Stimac stated that he did not believe there was enough land area available to construct another building, and did not think this vehicle would fit in the existing garage because of the door height.

Mr. Clark asked if the existing vehicle would fit into the garage if they raised the existing door.

ITEM #3 – con't.

Mr. Stimac said that he was not sure because he was not aware of the dimensions of the garage regarding width and height.

Mr. Maxwell asked if they had attempted to find another location to park this vehicle.

Ms. Bulak-Ramaden was present and stated that they need this truck for work and no one in the area objects to parking it in this area. Ms. Bulak-Ramaden said that there is no room in the garage and her husband uses the vehicle for work. They have not looked at storing the vehicle in another area. They cannot afford to park the vehicle anywhere else and the expense of purchasing another vehicle for her husband to use to get to where the truck would be parked would create a hardship.

Mr. Maxwell explained that they need permission to park the vehicle on this property. The Board wants people to make an effort to see if there is somewhere else to park the vehicle. Even though the Board looks at what the neighbors say that is not the main reason approval is granted.

Ms. Bulak-Ramaden said that she brought in two (2) additional approvals from neighbors regarding parking this vehicle on the property.

Mr. Clark asked what length of time was standard when approving these requests.

Mr. Maxwell explained that it could be up to two (2) years.

Mr. Clark stated that being the newest member of the Board he is seeing people that are coming back for renewals and asked what the rule of thumb was for these types of requests.

Mr. Maxwell stated that it could turn out that way, but at this time there were no renewals coming before the Board as the petitioners went before City Council for approval. New criteria and language has been adopted and the authority to grant approvals has been transferred to this Board.

Mr. Stimac explained that previously Commercial Vehicle Appeals were heard before City Council under a different set of criteria. City Council changed the criteria and gave this Board the authority to act on these requests. Criteria have changed according to Section 43.74.01 of the Ordinance. The petitioner now has the obligation to meet two (2) out of three (3) of the criteria. Item C has to be found in all cases that are approved, "A garage or accessory building on the subject site cannot accommodate, or cannot reasonably be constructed or modified to accommodate the subject commercial vehicle".

Mr. Maxwell said that he thought the existing garage would require the roof to be raised and the door height to be increased.

ITEM #3 – con't.

Mr. Bulak-Ramaden said that she thought any modification to the garage would make the garage roof higher than their home. Right now the garage is 16' high and has a 12' door.

Mr. Maxwell said that this is a very large vehicle.

Mr. Maxwell opened the Public Hearing.

Charles Leffert, 1302 Wrenwood was present and stated that these are very good neighbors and he supports this request. Mr. Leffert brought in a petition signed by approximately twenty (20) people that also support this request. A lot of people in the neighborhood were unaware that there was a commercial vehicle on the property because of the location it is parked in.

Dennis Zinchook, 1251 Wrenwood was present and stated that the truck is not as visible in person as it looks in the pictures. When he moved in the truck was there and it does not bother him at all. He does not feel it affect the value of his home as the City has raised the assessed value of his home. Mr. Zinchook said he supports this request.

Virginia Brooks, 1327 Wrenwood was present and supports this request as she believes if they are forced to move this truck it will create a real hardship. Ms. Brooks asked that the Board grant this request.

Ann Penumbi, 1262 Wrenwood was present and stated that she lives across the street and did not even know that the truck was there. The truck does not bother anyone and she is in support of this request. These are the nicest neighbors and she would like to see the request granted.

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

There are sixteen (16) written approvals on file. There is one (1) written objection on file.

Mr. Kovacs stated that he is having a problem with the new criteria. He believes that when the petitioner was granted approval before City Council the verbiage was less strict. Regarding this request he believes Item #C and Item #B apply. Alterations to the garage would be extensive and unreasonable. The location on the residential site is adequate and will not negatively impact residents or citizens in the area. The garage or accessory building cannot accommodate or be altered to accommodate the vehicle.

Mr. Maxwell said that in his opinion Item C does apply.

Motion by Kovacs
Supported by Gies

ITEM #3 – con't.

MOVED, to approve the request of Ms. Bulak-Ramaden, 1263 Wrenwood under Section 43.74.00 to park a commercial vehicle outside on residential property for a period of one (1)-year.

- One-year time frame will allow petitioner to seek an alternate solution.
- Variance is not contrary to public interest.
- Petitioner met Item B and C of required criteria.

Yeas: 5 – Kovacs, Maxwell, Clark, Courtney, Gies

Nays: 1 – Wright

MOTION TO GRANT APPROVAL FOR ONE-YEAR CARRIED

Mr. Maxwell urged the petitioner to look at alternatives. This is only a temporary approval and in his opinion is a very large commercial vehicle in a residential area. Parking of this vehicle is disturbing the residential Ordinance. He would like to see them come back next year and show the Board that they have researched other alternatives.

Mr. Courtney suggested that they look into the feasibility of making the garage larger.

Ms. Bulak-Ramaden asked if the approval of the neighbors bears weight to the Board's decision.

Mr. Maxwell stated that the rules have changed and there is a proliferation of commercial vehicles in the City. There is a group of citizens that would like to see all commercial vehicles eliminated. Approval of neighbors does have some bearing on approvals, but it is not 100%.

ITEM #4 – VARIANCE REQUESTED. MR. & MRS. JOHN RENNER, 1888

MILVERTON, for relief of the Ordinance to maintain a shed constructed without first obtaining a Building Permit that exceeds the maximum area of accessory buildings on the property.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to maintain a shed constructed without first obtaining a Building Permit. The site plan submitted indicates a 1,072 square foot detached garage currently located on the property.

The proposed 80 square foot shed would increase the total area of all accessory buildings to 1,152 square feet. Section 40.56.02 limits the total square footage of all accessory buildings on this property to 858 square feet. This is based upon a calculation of 2% of the lot plus 450 square feet. A previous variance granted in 1987 to a previous owner allowed it to be increased to 1,064 square feet.

ITEM #4 – con't.

Mr. Renner was present and stated that there was an existing shed on the property. All of their garden tools are stored in this shed. The original shed was in a state of disrepair and they decided to replace it with a nicer shed.

Mr. Courtney asked if the previous shed had been approved.

Mr. Stimac stated that the previous owner asked for a variance in 1987 to increase the size of the detached garage and at that time there was no indication of a shed on the property. Mr. Stimac believes that the original shed was also constructed without a permit.

Mr. Clark asked if beside the fact that a Permit was not obtained, the issue was actually the size of the shed.

Mr. Stimac explained that in 1987 the shed was not there. Action by the Board at that time allowed a detached garage to be constructed that is larger than what the Ordinance allows for. The critical issue is the amount of square footage for a detached structure.

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

There are five (5) written approvals on file. There are no written objections on file.

Mr. Maxwell said that in his opinion this was a very small structure and he did not see a problem with it.

Mr. Clark stated that he lives about fifteen houses north of this site. The yard and property are well cared for and this is a very nice building. Shed does provide value to the neighborhood because everything is kept very orderly.

Motion by Clark
Supported by Gies

MOVED, to grant Mr. & Mrs. John Renner, 1888 Milverton, relief of the Ordinance to maintain a shed that exceeds the maximum area of accessory buildings on the property.

- Shed will aid the petitioner in keeping the property orderly and well organized.
- Not contrary to public interest.
- Variance will have no adverse effect to surrounding property.

Yeas: 5 – Maxwell, Clark, Courtney, Gies, Kovacs
Nays: 1 – Wright

ITEM #4 – con't.

MOTION TO GRANT VARIANCE CARRIED

ITEM #5 – VARIANCE REQUESTED. MASOUD SESI, 1553 E. MAPLE (PROPOSED ADDRESS), for relief of the Ordinance to construct a new hotel on a 2.5 acre site where 3 acres are required by Paragraph B of Section 22.30.03; the proposed building is four stores and appears to be 45' tall where Section 30.20.06 limits buildings to no more than three stores and 40' in height; to have a front setback of 34'-6" to the Porte Cochere where Section 30.20.06 requires a 40' front setback; and, to have parking spaces that are 9' wide where Section 40.25.03 requires a minimum parking space width of 9'-6".

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a new hotel. The property in question is located in the B-3 (General Business) Zoning District. Paragraph B of Section 22.30.03 requires a minimum 3 acre parcel size for hotels in the B-3 Zoning District. This parcel is only 2.5 acres in size.

In addition, Section 30.20.06 limits buildings to no more than three stories and 40' in height. The proposed building is four stories and appears to be 45' tall as measured by the Zoning Ordinance.

Furthermore Section 30.20.06 requires a 40' front setback in the B-3 District. The site plan submitted indicates 34'-6" to the Porte Cochere. Also, Section 40.25.03 requires that parking spaces be a minimum of 9'-6" in width. The site plan shows the spaces to be only 9' wide.

Mr. Stimac went on to say that the Building Department had received revised drawings late today and the petitioner has addressed the 40' front setback and the size of the parking spaces. Variances would be required for the 45' height, the number of floors and the 2.5-acre size of the parcel.

Mr. Courtney asked how this request was different from the original request.

Mr. Stimac said that one of the main differences is that this is a four (4)-story structure. Originally there was a portion of the building that exceeded the 40' height but the petitioner had withdrawn that request. The only variance granted previously was the 2.5-acre site.

Haiem Hannawa, representing Mr. Sesi was present and stated that the reason they are asking for a four-story structure is because they wish to put in one hundred (100) rooms. They want to attract people by keeping the space vertical and have added extra landscaping. They would like to have people that would like to stay for an extended period of time.

ITEM #5 – con't.

Mr. Clark asked about the three-acre requirement and said that overall there is ½ acre that won't be there and wondered if there was an issue regarding the parking lot and driveways.

Mr. Stimac explained that the revised layout of the site does comply with all the other requirements. In terms of minimum setbacks and landscape area, the revised plans are in compliance. The driveway and parking layout are also in compliance with the Ordinance.

Mr. Courtney asked about the parking requirements.

Mr. Stimac said that the revised plans meet the parking requirements of the Ordinance.

Mr. Courtney asked if a variance was required if they dropped the fourth story.

Mr. Stimac explained that if they eliminated the fourth floor and lowered the building height by 5' they would meet the requirements.

Mr. Kovacs questioned the height of the building as shown on the drawings.

Mr. Stimac explained that the overall height of the building is 51'-5", but when measured at the average of the eve and the peak the height is 45'.

Mr. Kovacs asked to see an area map.

Mr. Stimac put up the aerial map and stated that north of this site is the Troy Mobile Home Park, but the majority of the surrounding property is commercial.

Mr. Clark stated that a hotel would suit this area, as residential property is not adjacent to this site. There would not be an encroachment to other areas and he would be in support of this request. Troy is trying to create a hotel, entertainment, and restaurant area and as this is very close to the Big Beaver Corridor it would fit right in.

The Chairman opened the Public Hearing.

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

There are no written approvals or objections on file.

Mr. Wright stated that he did not have a problem with the 45' height as the building would sit right next to I-75 and traffic would be looking down on it.

ITEM #5 – con't.

Motion by Wright
Supported by Courtney

MOVED, to grant Masoud Sesi, 1553 E. Maple relief of the Ordinance to construct a new four-story hotel on a 2.5-acre site, resulting in a height of 45' where Section 30.20.06 limits building to no more than three stories and 40' in height and Paragraph B of Section 22.30.03 requires 3 acres for a hotel.

- Hotel is very close to I-75 Highway which is elevated above this site.
- Literal enforcement of the Ordinance is unnecessarily burdensome.
- Variance is not contrary to public interest.
- Variance will not have a negative effect to surrounding property.
- Variance applies only to the property described in this petition.

Yeas: 6 – Wright, Clark, Courtney, Gies, Kovacs, Maxwell

MOTION TO GRANT VARIANCES CARRIED

ITEM #6 – VARIANCE REQUESTED. MICHAEL AGNETTI, 1113-1115 BIRCHWOOD (PROPOSED ADDRESS), for relief of the Ordinance to construct a duplex on a parcel of land that is 9,600 square feet in area, where 10,000 square feet is required by Section 30.10.09.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance construct a duplex. The site plan submitted indicates the demolition of a single-family residence at 1117 Birchwood, and construction of two-family dwelling (duplex) on the 9,600 square foot parcel of land. Section 30.10.09 requires a 10,000 square foot minimum lot area for two-family dwellings in R-2 Zoning Districts.

Mr. Agnetti was present and stated that he had tried to purchase additional property but has been unable to do so. There are other duplexes that have been built on a 80' x 120' lot. Mr. Agnetti believes this duplex will improve the area.

Mr. Maxwell said that he thought there were two other lots on this street that appeared to be the same size.

Mr. Stimac explained that originally this subdivision was platted with 40' x 120' lots and some residents have combined two lots to make them a single lot. There are a number of single-family homes that have been constructed on the 40' lots. There are other duplexes on the south side of the street. Mr. Stimac did not have an exact breakdown of these lot sizes.

ITEM #6 – con't.

Mr. Agnetti said that there is also another duplex on the north side of the street and passed pictures to the Board members. Mr. Agnetti also passed around a picture of the building he would like to put on this parcel.

The Chairman opened the Public Hearing.

Jack Bertoia, was present and said that he is a property owner in Troy and is in support of this request. There are other duplexes in this area and he believes that it will improve the area and help strengthen an area of Troy that is in need of help.

Mr. Courtney asked if Mr. Bertoia lives on this street. Mr. Bertoia said that he lives in Troy and owns one of the duplexes on this street.

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

There are nine (9) written approvals on file. There is one (1) written objection on file.

Motion by Kovacs
Supported by Gies

MOVED, to grant Michael Agnetti, 1113-1115 Birchwood, relief of the Ordinance to construct a duplex on a parcel of land that is 9,600 square feet in area, where 10,000 square feet is required by Section 30.10.09.

- Variance is not contrary to public interest.
- Variance does not permit the establishment of a prohibited use in a Zoning District.
- Variance will not have an adverse effect to surrounding property.
- Literal conformance to the Ordinance is unnecessarily burdensome.

Mr. Clark asked if a single-family home could be constructed on this property.

Mr. Stimac explained that a single-family home requires a parcel that is 7,500 square feet in area and could be constructed on this parcel without a variance. A duplex requires 10,000 square feet and because this parcel is only 9,600 square feet in area a variance is required.

Mr. Kovacs said that his motion is for a duplex to be constructed on this site.

Mr. Clark asked if other duplexes in the area had variances.

Mr. Stimac stated that he did a search and the other parcels in the area that have duplexes on them are equivalent in size. Mr. Stimac did not have the opportunity to review the files to find out if they had also required a variance.

ITEM #6 – con't.

Yeas: 5 – Clark, Gies, Kovacs, Maxwell, Wright
Nays: 1 - Courtney

MOTION TO GRANT VARIANCE CARRIED

ITEM #7 – APPROVAL REQUESTED. STEVE ROWE, 6771 WESTAWAY, for approval under Section 43.74.00 to park a commercial vehicle outside on residential property.

Mr. Stimac explained that the petitioner is requesting approval under Section 43.74.00 to park a commercial vehicle outside on residential property. The 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 request for approval to park this vehicle outdoors on the site was previously approved for two years by City Council, under the old standards in 2005.

Mr. Maxwell asked the petitioner if he had looked anywhere else to park this vehicle.

Mr. Rowe stated that he has lived in the area forty-one (41) years and has never had any problems. Mr. Rowe also said that if he had to move his vehicle, it would need to be parked somewhere under lock and key so his equipment was not stolen. Mr. Rowe also said that he had not looked into storing his truck anywhere else. Modification to the garage is not feasible.

Mr. Maxwell asked how large the lot was and Mr. Stimac stated it was approximately 176' wide and 310' deep.

Mr. Maxwell asked how large the garage was.

Mr. Rowe stated that is a three-car (3) garage and he would not be able to raise the roof enough to get the vehicle inside.

Mr. Clark said that the previous petitioner had planted extra trees in the area and another person had a fence to conceal his vehicle. According to the picture presented it appears as though this driveway is gravel.

Mr. Rowe said that the truck is only visible to traffic heading north on Westaway. The truck is back behind the house. One of his neighbors has large evergreen trees along his drive and therefore the truck is not visible to him. The other neighbor is very close, has a fence, which conceals the truck on the north side.

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

There are four (4) written approvals on file. There are no written objections on file.

ITEM #7 – con't.

Mr. Kovacs said that the language has changed and he does not believe the petitioner understands that this is only a temporary approval. This is a very big lot and Mr. Kovacs thinks that the vehicle is very well concealed.

Mr. Maxwell asked if Mr. Kovacs thought additional screening would be necessary and Mr. Kovacs said that in his opinion no additional screening would be required.

Mr. Maxwell advised the petitioner that he needs to look into alternative parking for this vehicle.

Mr. Rowe said that his tools are inside this truck and this is his livelihood. He would need to find a place that the truck could be stored under lock and key and he would need to have someone on the site.

Mr. Maxwell suggested he contact the Building Department for a list of available areas.

Motion by Kovacs
Supported by Gies

MOVED, to grant Steve Rowe, 6771 Westaway approval under Section 43.74.00 to park a commercial vehicle outside on residential property for a period of one-year.

- Variance is not contrary to public interest.
- Garage cannot be reasonably modified to accommodate this truck.
- Variance will not have an adverse effect to surrounding property.
- One-year time limit will allow petitioner time to seek an alternate parking area.

Yeas: 5 – Clark, Courtney, Gies, Kovacs, Maxwell
Nays: 1 – Wright

MOTION TO GRANT APPROVAL FOR ONE-YEAR CARRIED

ITEM #8 – VARIANCE REQUEST. RANDALL A. WHINNERY, 2078 TUSCANY, for relief of the Ordinance to construct an addition on the rear of an existing residence that will result in a 29' rear yard setback where Section 30.10.05 requires a 40' minimum rear yard setback in R-1D Zoning Districts.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct an addition on the rear of his existing home. The site plan submitted indicates the addition will result in a 29' rear yard setback. Section 30.10.05 requires a 40' minimum rear yard setback in R-1D Zoning Districts.

Sharon Sarotte and Randall Whinnery were present. Ms. Sarotte said that their patio faces south and there is absolutely no shade until late afternoon. They can't step out

ITEM #8 – con't.

onto their deck because of the heat and often hose it down before walking on it. The deck has been damaged by the sun and needs to be replaced. The furniture on the deck also has to be hosed down as it gets too warm. Her husband has had skin cancer and has to limit his exposure to the sun and her son has Multiple Sclerosis and also has to limit his time outside.

There is a detention pond behind their home and therefore this room would not affect any other neighbors. There are no neighbors behind their property. The neighbor to the east is totally blocked off by trees and a large pine tree blocks the neighbors to the west. Once they retire, they would like to add glass windows to this room and do not believe this would impact any of the neighbors. We can enjoy the up north feeling in the summer, fall and winter.

Mr. Maxwell said that although the Board sympathizes with the medical conditions of their family members, a variance is granted because of a hardship with the land.

Ms. Sarotte said that she fails to see the difference between having a deck there and at the very least a pavilion type room with pillars. Ms. Sarotte said she does not understand why a roof would affect the structure.

Mr. Maxwell explained that once a roof is added the deck is considered a covered structure.

Mr. Stimac explained that provisions in the Ordinance apply to decks that are uncovered and unenclosed. Those types of decks can encroach into the rear yard setback up to 15'.

Ms. Sarotte asked if they could have a Pergola.

Mr. Stimac said that is considered a covering and would not be allowed to encroach into the setback. Mr. Stimac also explained that they could have a free-standing Gazebo as long as it was detached and met setbacks.

Ms. Sarotte asked how far the Gazebo would have to be from the house.

Mr. Stimac said that it would need to be at least 10' from the house. An accessory structure could be constructed as a free-standing structure.

Motion by Courtney
Supported by Clark

ITEM #8 – con't.

MOVED, to postpone the request of Randall Whinnery, 2078 Tuscany, for relief of the Ordinance to construct an addition on the rear of an existing residence that will result in a 29' rear yard setback where Section 30.10.05 requires a 40' minimum rear yard setback in R-1D Zoning Districts until the meeting of May 15, 2007.

- To allow the petitioners the opportunity to look into other options.

Ms. Sarotte said that this three-season room is what they want to do.

Mr. Courtney stated that if this request was postponed they could contact the Building Department and discuss what other options were available.

Mr. Maxwell said that in his opinion the request for an 11' variance was quite large and he recommended speaking with the Building Department to find out what their options are.

Mr. Clark said that he supported Mr. Courtney's motion as he had seen temporary free-standing sun blockers. This way they could explore all options. Mr. Clark said that he would not be in favor of the original request. Other furniture could be purchased that would not get as hot as metal furniture. Mr. Clark said that he believes the motion to postpone is the correct way to go as there is a plethora of options available. Mr. Clark did not see any hardships that would require a variance.

Yeas: 6 – Gies, Kovacs, Maxwell, Wright, Clark, Courtney

MOTION TO POSTPONE THIS REQUEST UNTIL MAY 15, 2007 CARRIED

ITEM #9 – APPROVAL REQUESTED. MICHAEL BRENNAN, 6704 LIVERNOIS, for approval under Section 43.74.00 to park two commercial vehicles outside on residential property.

Mr. Stimac explained that the petitioner is requesting approval under Section 43.74.00 to park two (2) commercial vehicles outside on residential property. The cube vans described in the application do not meet the exceptions found in Section 40.66.00 of the Chapter 39 of the Troy City Ordinance. A request for approval to park this vehicle outdoors on the site was previously approved by City Council, under the old standards in 2001.

Mr. Maxwell asked if the petitioner had looked into other locations to park his vehicle.

Mr. Brennan stated that he had one of the vehicles parked in the Maple and Livernois area and it was broken into. He lost thousands of dollars worth of parts and tools. His garage contains parts that he needs for his business and is too small for these vehicles. Mr. Brennan stated that both he and his wife are Electricians and that is the reason they

ITEM #9 – con't.

require two (2) vehicles. Mr. Brennan went on to say that when he first received approval from City Council he was not aware that there was a time limit. He spent \$10,000 to put up large evergreen trees that would screen these vehicles from the neighbors.

Mr. Brennan said that he does not believe these vehicles have a negative effect to surrounding property. In two (2) years he is hoping to be able to run his business from a store front and have parking available at that location. Right now, he is not using both trucks because of the down turn in the economy. He would like a little more time to research the possibility of opening a storefront business and storing the vehicles inside on that property.

Mr. Brennan also said that he has done what he could to screen these vehicles from traffic and has not received any negative comments from surrounding neighbors.

Mr. Wright stated that Mr. Brennan was running a business from his home and asked if he was aware of the restrictions of a home business. You are not supposed to have any outward appearance of running a business. There are two (2) outward appearances because of the trucks.

Mr. Brennan said that he thought that was why City Council had him put in large trees. Mr. Brennan said that in his opinion these trucks are hidden very well.

Mr. Wright asked if he needed two (2) trucks because both he and his wife were Electricians.

Mr. Brennan said that at one point he had both vehicles on the road but with the economy right now, only one (1) truck has been on the road and the other is parked on the property. Hopefully both trucks will be gone within two (2) years.

Mr. Courtney asked if the other man he has working for him comes to the house to pick up a truck.

Mr. Brennan stated that his business has been slow for about the last eighteen (18) months. Prior to that he had an employee come to the house. Mr. Brennan also said that it impossible for him to keep these vehicles anywhere else.

Mr. Courtney said that he could not have employees working from his house.

Mr. Maxwell suggested that Mr. Brennan contact the Building Department for a list of properties that will have parking for commercial vehicles.

Mr. Stimac explained that the information he has does not include whether the property has guards or inside parking, but the petitioner could contact them.

ITEM #9 – con't.

Mr. Courtney said this is really a business operation compared to the other requests.

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

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

Mr. Courtney said that he did not have a problem granting approval for one-year to allow Mr. Brennan to find another location for these vehicles.

Mr. Maxwell said that he is operating a business out of his home and felt that a six-month time limit would be sufficient.

Mr. Brennan said he felt six-months (6) months would be a hardship unless there was a way to get the economy going.

Mr. Maxwell stated that the Board does not have any control over the economy.

Mr. Kovacs said that he was having a difficult time with this request as Mr. Brennan is running a business from his home and is violating the home office restrictions because he is not to have any employees come to his house. This is a direct violation of the Ordinance.

Mr. Brennan said that he does not have any employees right now.

Mr. Kovacs said that he understands the necessity of the two vehicles, because both Mr. and Mrs. Brennan are Electricians, however, this is too close to becoming a full fledged business rather than being used as an office.

Mr. Wright stated that he was inclined to deny this request as running a business out of the house violates the Ordinance.

Mr. Maxwell pointed out that the trucks are very visible from Livernois.

Motion by Courtney
Supported by Clark

MOVED, to grant approval for six (6)-months to Michael Brennan, 6704 Livernois under Section 43.74.00 to park two commercial vehicles outside on residential property.

- Six (6) – month time frame will allow petitioner to look into alternative areas to park his vehicles.

Yeas: 5 – Gies, Kovacs, Maxwell, Clark, Courtney

ITEM #9 – con't.

Nays: 1 – Wright

MOTION TO GRANT APPROVAL FOR SIX (6)-MONTHS CARRIED

Mr. Kovacs announced the birth of his daughter, Julie Michele on March 28, 2007. Mr. and Mrs. Kovacs have two sons and a daughter. Congratulations from the Board.

Ms. Lancaster stated that she finds the comments from the Board very helpful regarding commercial vehicles. The Planning Commission has been struggling with trying to adopt an Ordinance on this issue for quite some time. There are other Cities that do not allow commercial vehicles at all. They usually define commercial vehicles by weight or size.

Mr. Maxwell said that he thinks the criteria are very vague and any large commercial vehicle would have an effect to surrounding property. This is a time of transition as people have been using these trucks for their livelihood for a long period of time. The Board has to take some of the history of each case into account. The Board can make a case for or against these vehicles.

Mr. Courtney stated that he believes that more attention has to be paid to the word "temporary".

Mr. Kovacs said he believes temporary means just that. A time frame is involved.

Mr. Clark said that the petitioners tonight have stated that there was a economic hardship to have another vehicle to get them to these trucks when parked in another location. An Economic hardship is not one of the things this Board considers when making a decision. Mr. Clark also said that there are a number of commercial panel vans in his neighborhood and asked if they were allowed.

Ms. Lancaster explained that the current Ordinance on the books allows for some panel vans to be parked outside on residential property. Some of the people parking these vehicles for a long period of time have been doing that illegally.

Mr. Stimac stated that prior to 1991 parking anything over one-ton was against the Ordinance and there was no variance procedure in place. In 1991 City Council wanted to create some type of appeal process and allowed for appeals of commercial vehicles beyond what is depicted as pickup trucks or cargo vans. If you had something more than that it required approval. Approval was required for the number and type of vehicles. In 2006 City Council adopted and modified the requirements that are before you and also gave this Board the authority to act on these requests. The reason these approvals are temporary is because conditions change e.g. vehicle type or number of vehicles. Because of changing conditions these need to be looked at periodically. This was part 2 of a 3-part revision. The 3 part was the definitions of commercial vehicles

and what is allowed and what is not. There have not been any other recommendations from City Council.

Mr. Kovacs stated that he is having a very hard time understanding the language. He asked what was reasonable in Part B of the criteria.

Mr. Stimac stated that an extreme example of Part B would a two-story home with bedrooms above the garage having no place else to add on. Or, the land could be available but there are deed restrictions that preclude an accessory building. Another example would be a parcel that is maxed out on lot coverage.

The Board of Zoning Appeals meeting adjourned at 9:21 P.M.


Mark Maxwell, Chairman


Pamela Pasternak, Recording Secretary