The Chairman, Matthew Kovacs, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M. on Tuesday, February 15, 2005 in Council Chambers of the Troy City Hall.

PRESENT: Kenneth Courtney
Christopher Fejes
Marcia Gies
Michael Hutson
Matthew Kovacs
Mark Maxwell
Wayne Wright

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

ITEM #1 – APPROVAL OF MINUTES – MEETING OF JANUARY 18, 2005

Motion by Gies
Supported by Courtney

MOVED, to approve the minutes of the meeting of January 18, 2005 as written.

Yeas: 6 – Fejes, Gies, Hutson, Kovacs, Maxwell, Courtney
Abstain: 1 – Wright

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

ITEM #2 – RENEWAL REQUESTED. NINO SALVAGGIO INVESTMENT CO. OF TROY, 6835 ROCHESTER ROAD, for relief of the Ordinance to maintain a 6' high landscaped berm in lieu of the 6' high masonry screening wall required along the south and west sides of the property.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board to provide a landscaped berm in place of the 6' high masonry-screening wall required along the south property line and the west boundary line. This relief has been granted on a yearly basis since 1995. This item last appeared before this Board at the February 2002 meeting and was granted a three-year renewal at that time. This renewal was granted based on the fact that the property to the west was approved for the development of a 50 plus townhouse community and the approval of a site plan for new development on the south. The development to the west has commenced and is about 20% occupied. The previously approved development to the south has not commenced. Other than that, the conditions remain the same and we have no complaints or objections on file.

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ITEM #2 – con't.

Mr. Kirk Taylor, President of Nino Salvaggio's was present. Mr. Taylor stated that there is a 50' E-P Zone next to the developed property on the west side and would like to see a permanent variance be granted on that side. On the south side of the property, the development that was proposed did not include the property that the kennel is on and this property is landlocked, which would prevent further development in this area. Mr. Taylor asked if this variance could also be made a permanent variance.

Mr. Courtney asked if the development on the west side was complete, although occupancy was not complete. Mr. Taylor said that was correct.

Motion by Courtney
Supported by Maxwell

MOVED, to grant a three-year (3) renewal to Nino Salvaggio Investment Co. of Troy, 6835 Rochester Road, relief of the Ordinance to maintain a 6' high landscaped berm in lieu of the 6' high masonry screening wall required along the south and west sides of the property. Further, that when this variance comes up for renewal in 2008, that a new public hearing be scheduled to consider making this a permanent variance.

- In 2008, occupancy should be complete in the developments surrounding this property.
- A new public hearing will determine if these variances can be made permanent.

Yeas: All – 7

MOTION TO GRANT RENEWAL OF VARIANCE FOR THREE (3) YEARS CARRIED

ITEM #3 – VARIANCE REQUESTED. TIM JUDY, 2352 LANERGAN, for relief of the Ordinance to construct a family room addition on the rear of his home, which will result in a 40' rear yard setback where Section 30.10.02 requires a 45' minimum rear yard setback in R-1B Zoning.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a family room addition on the rear of his home, which will result in a proposed 40' rear yard setback. Section 30.10.02 requires a 45' minimum rear yard setback in R-1B Zoning.

Mr. Judy was present and stated that he and his wife have five children and basically they have run out of room. They have looked into the possibility of moving, and although they have looked at approximately 45 homes they have found that new construction is too expensive, and homes that are affordable would put them in the same situation they are in now. They would like to keep their children in the same schools. Mr. Judy also said that they feel this is the best location for the addition as the house is set backwards on the lot and if they went off of the family room and kitchen

ITEM #3 – con't.

area the setback would be reduced even more. Mr. Judy said that they had considered putting the addition on the back of the garage, however, with seven people in the home, they would like to retain the option of adding another garage at some later date. In addition, they would like to put a basement under this addition.

Mr. Courtney asked if they had discontinued looking at other houses. Mr. Judy said that his sister-in-law is a realtor and she sends them regular e-mails showing what is available. Mr. Judy indicated that when he finds something that is affordable there is no difference in the size of the homes, and new construction is not affordable.

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

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

Motion by Maxwell
Supported by Wright

MOVED, to grant Tim Judy, 2352 Lanergan, relief of the Ordinance to construct a family room addition on the rear of his home, which will result in a 40' rear yard setback where Section 30.10.02 requires a 45' minimum rear yard setback in R-1B Zoning.

- Irregular shape of lot creates a hardship.
- Variance would not be contrary to public interest.
- Variance would not have an adverse effect to surrounding property.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #4 – INTERPRETATION REQUEST. MR. & MRS. GEORGE REED & MR. THOMAS KRENT, 3129 ALPINE, regarding the issuance of a building permit to construct a garage at 3129 Alpine.

Mr. Stimac explained that the petitioners are appealing the issuance of a building permit to construct a garage a 3129 Alpine. In support of that appeal they are requesting interpretation of Sections 1.30.00, 2.30.00, 2.50.02, 4.20.01, 4.20.03, 4.20.65, 4.20.71, 4.20.139, 10.10.00, 3.40.03 and 40.57.02 of the Troy Zoning Ordinance as they apply to that structure. The permit for this structure was issued in 2003 because the structure was found to be in compliance with the requirements of the Troy Zoning Ordinance. We have included all information provided by the applicants in support of their request however, without any specific information on the basis for their appeal of these sections, we are unable to provide a response at this time.

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Mr. Kovacs expressed concern about the lack of information provided by the petitioner and asked if additional information had been received. Mr. Stimac explained that the petitioner had delivered a disc that contains numerous pictures and a reference to other sections, however, nothing else was received. Mr. Stimac also indicated that Mr. Kingsepp would probably use this disc as well as others during his presentation.

Mr. Kovacs stated that the petitioners are asking the Board to interpret a number of sections of the Ordinance but they have not provided any information as to how they have interpreted these sections of the Ordinance and what result they would like to see. Mr. Kovacs also stated that Mr. Piscopo has not been able to see any of the petitioner's evidence and City Staff has not been able to prepare a rebuttal for the objections to the interpretation of these sections and asked if any other Board members had a problem with this item.

Mr. Courtney stated that he is not sure exactly what the Board is dealing with. Mr. Courtney also said that he had looked at the building and did not like it either, but was not sure if this building was put up according to the Ordinance which section of the Ordinance it would violate.

Mr. Kovacs said that he personally would like to see more data and how the petitioner feels that this structure does not meet the requirements of the Ordinance.

Mr. John Kingsepp, representing the petitioners was present. Mr. Kingsepp said that he had informed the Assistant City Attorney that he would be providing by disc and laptop the background for this petition, but not his argument and she agreed that this would be fine. Mr. Kingsepp said that they are objecting to the Building Official's decision to issue a Building Permit for this structure. Mr. Kingsepp said that he planned to show a presentation with simulations regarding this structure. Mr. Kovacs said that he is concerned because the property owner in this case does not have any idea what would be presented tonight. Mr. Kingsepp said that the property owner is not the applicant, the real interested party is the City and their interpretation. Mr. Kingsepp also said that if the owner of the property came forward and said he did not have enough information regarding this petition, the matter could be postponed until he felt he had enough information; however, Mr. Kingsepp was not aware of anything in the Ordinance that states he had to supply the owner with this information.

Mr. Kovacs said that he is looking for an interpretation of these issues and is concerned that the homeowner does not have any knowledge of this hearing. Mr. Kovacs then said that even though Mr. Kingsepp said this issue doesn't involve the homeowner, ultimately the structure is the homeowner's and he would be affected. Mr. Kingsepp said that he would not predict the outcome of this hearing and would suggest that if any member of this body feels the homeowner should present their case, he would be willing to postpone this request until another meeting. Mr. Kovacs said that he just wants to make sure that this Board is fair to everyone.

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Mr. Motzny said that the Board has the discretion to postpone this matter if they feel additional information is needed, however, he would suggest that the Board listen to the presentation and make a decision after this presentation.

Mr. Maxwell asked if this Board was being asked to provide an interpretation of the various sections of the Ordinance that were used to grant this Building Permit. Mr. Motzny said that this question would be better directed to the petitioner, although, Mr. Motzny said that he understands the petitioners believe the Building Permit was issued incorrectly based on their interpretation of the Ordinance. Mr. Maxwell then asked if this Board had the power to rescind this Building Permit. Mr. Motzny said that it was within this Board's power to determine that the Building Official made a decision to issue a Building Permit that was in violation of the Ordinance.

Mr. Stimac said that officially the Board does not have the power to rescind the permit. The Board does have the power to find that the permit was issued contrary to the provisions of the Zoning Ordinance. On that finding, it is the Building Official's responsibility to enforce this decision and take whatever steps are necessary to make sure that this building would comply with the Ordinance. Mr. Motzny said that this interpretation was correct.

Mr. Courtney stated that the booklet he was given did not define any of the sections the petitioners mentioned. Mr. Kingsepp stated that the information was on a disc, but Mr. Courtney said that he did not have the ability to look at a disc.

Mr. Kovacs said that the petitioner stated that he does not have to show any of his material to the homeowner and Mr. Kovacs asked for an interpretation on this statement by City staff. Mr. Motzny said that there is no requirement under the Ordinance that the petitioner provide any of his information to the homeowner, as long as the petitioner's information is provided to members of the Board.

Mr. Hutson said that this Building Permit was issued in the summer of 2003 and the building is complete. Ordinance 43.55.00 states that "....any person or entity affected by the decision of Director of Building and Zoning may appear at the hearing in person or by a representative ....." and in Mr. Hutson's opinion means that this appearance would be done at the time the permit is issued and not after completion of the construction. Mr. Hutson also said that perhaps this item should be presented in Circuit Court. Mr. Kingsepp said that this was a good observation, but that he has to go through the administrative process as suggested by case law. The appeal taken under the City's Ordinances and under the State Enabling Act allows him to go to Circuit Court. Mr. Kingsepp also said that according to the Ordinance there was no hearing on this matter, the Building Permit was issued and the residents were not aware of what was going up until it was already in the process of being done. The residents approached City Council as they felt this was the proper procedure and since no occupancy permit has been issued, the residents have the right to object. Mr. Hutson

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also said that they should have come to the Board of Zoning Appeals first. Mr. Kingsepp said that this was not true as it should have been the owner of the property who would have had to appear before this Board.

Mr. Kovacs said that he wished Mr. Kingsepp to make his presentation and said they may not open it up to a Public Hearing. Mr. Kovacs also said that he did not want to hear anything regarding the debris in the yard and some of the other things in the yard of this property. Mr. Kovacs said that this would not be a complaint fest and further stated that anyone that speaks on this item would have to limit their comments only to the structure itself.

Mr. Kingsepp said that he had spoken to their clients and told them that they should be very succinct and very pointed regarding the issue itself, which is the size of the structure. Mr. Kingsepp also said that the site is depicted in the CD Rom. Mr. Kovacs said that he did not want this to be a catfight between neighbors and Mr. Kingsepp agreed with this statement.

Mr. Maxwell said that he felt that any type of commercial activity at this site would also be relevant to this hearing. Mr. Kovacs said that this would be considered more a use violation and is not based on the structure. Mr. Maxwell said that he thinks this issue would be relevant to this hearing. Mr. Courtney also said that there are a number of people who do believe he is using this as a commercial site, but does not believe that is something this Board can address. Mr. Kovacs also said that it is up to the Building Department to make sure he is in compliance with the code.

Mr. Kingsepp said that in the presentation there is a demonstration simulating the size of the structure and what it could be used for as to the interior. The purpose of that has a direct connection to the definitions in the Ordinance.

Mr. Kovacs cautioned the Board as to what they are to understand and what they are here to interpret.

Mr. Courtney asked if there were some recommendations made to change the Ordinance to not allow this size structure to be built in a residential area. Mr. Stimac said that there are Public Hearings that have been conducted in front of the Planning Commission proposing revisions to the Zoning Ordinance relating to the size of accessory buildings both attached and detached. Those Public Hearings were held and a recommendation was made to City Council as a result, City Council referred it back to the Planning Commission for further study on specific items, which was held on February 7, 2005. Mr. Stimac said that he thought the new recommendations would be going back to City Council in March.

Mr. Wright said that at the Planning Commission meeting of February 7th, the item was postponed as the Planning Commission is committed to the maximum height of 8' for a

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garage door height, which was questioned by Council. There was a difference between the recommendations of the Planning Commission and City staff's recommendations and Mr. Wright said that they were quite sure they would be able to bring this before Council some time in March.

Mr. John Kingsepp began his presentation and said that this a very unusual request. This locale consists of single-family residences and 3129 Alpine is the residence that has the 6000 square foot attached garage that is in question. Mr. Kingsepp also said that he thought a proposed development of condominiums on the corner had been approved and was also a single-family multiple development. This area is geared toward single-family living. The application applied for in July 2003, contains reference to an addition and a 6000 square foot attached garage. Mr. Kingsepp stated that this is the applicant's description of what that structure was going to be. The Building Department stated that this structure would have to meet all codes and inspections. The Building Permit spoke in the context of a garage. This word is defined in the Zoning Code. The applicant forwarded a supplemental explanation August 6, 2003, using the adoptive word garage so that he may park his equipment and/or his commercial vehicle. This is what the applicant's intention was.

The locale of the particular structure shows storage in one area, materials in another area, storage beside the building, and no indication of a single commercial vehicle. Mr. Kingsepp said that he did not know if the structure was being constructed to store that, but he did not construe that to mean equipment necessary for the business that is being constructed from this site. Mr. Kingsepp showed pictures depicting the height of this structure as compared to people and the adjoining property. There are two (2) doors on the garage, one a pedestrian door, about 8' tall, and the other door is 14' high. In most communities the height of a garage is 14', in this case the door is 14' high. Mr. Kingsepp showed pictures taken in the inside with a number of vehicles inside and also shows what appears to be an appliance being stored inside. The area around this home is serene, quaint and unencumbered by large buildings. It includes garages that are attached to the house that are the same roof height, and have the same architectural flow. The City Assessor reviewed this area and stated that it has some of the largest attached garages in the community.

Mr. Kingsepp said that the structure in question is manufactured by Star Building Products, which manufacturers warehouses, airplane hangers, shopping centers and industrial buildings. This company does not manufacture garages that one would deem appropriate to a residential district. Mr. Kingsepp went on to say that these are commercial structures. In this particular structure, 6,000 square feet, two 18-wheelers as well as twenty-two (22) full-size pickup trucks would fit inside. The structure itself is 3.78 times larger than the main residence on the site, which is a single-family residence. Mr. Kingsepp had pictures of similar buildings in Troy, which are in Light Industrial Zoning Districts, not Residential Zoning but had a similar appearance to the garage in question. Statement of applicant indicated an attached garage, and Mr. Kingsepp said

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this is not an attached garage, but a commercial sized building that can accommodate equipment and certainly more than one commercial vehicle.

The opportunity now exists for this type of construction to be attached to other homes in Troy as long as the lot size can accommodate it. This is the result of this type of intrusion. Mr. Kingsepp also said that he cannot determine anywhere in the City Code that this is what the City wants.

Mr. Kingsepp showed pictures of attached garages and pointed out the relationship of the size of the attached garages as compared to the homes. Mr. Kingsepp pointed out the compatibility between these garages and the homes they are attached to.

Mr. Kingsepp pointed out the size of this structure compared to other structures in this area. Mr. Kingsepp also said that he thought the interpretation of the Ordinance in this case might have been misconstrued.

Section 01.30.00 – Greater Restrictions. Mr. Kingsepp paraphrased this Section to say that greater restrictions being imposed where applicable.

Section 04.20.01 – Accessory Building. Something subordinate and use of that which is incidental to the main building. Mr. Kingsepp said that in his opinion a 6000 square foot attached commercial garage is not a subordinate building to the single-family residence at 3129 Alpine.

Section 04.20.03 – Accessory Use. Use is subordinate to the main use. This is a single-family residence to which is attached a mammoth structure.

Section 04.20.39 – Dwelling Unit. A residential structure designed for the occupancy of one family.

Section 04.20.71 – Home Occupation. .... within the walls of the dwelling unit, not visible or noticeable in any matter or form outside the walls of the dwelling and accessory structures. Mr. Kingsepp said that he believes the home occupation in this case is an office located within the home, and does not believe that a office located in the home requires the 6,000 square foot structure.

Section 10.10.00 - Intent . R-1A through R-1E are to be most restricted of the Residential areas as to use. To promote the area, to keep the consistency – not to create extraordinary large attachments.

Section 40.55.00 – Accessory Buildings and Structures. Mr. Kingsepp feels that this clarifies home occupation as they must be compatible with a residential parcel and compatible with the surrounding area, maintain the residential character of area and avoid the reduction of property values. Building devoted primarily to home occupation

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and business, which in this case is an office. Secondary and clearly incidental to the principal building on the parcel of land.

Mr. Kingsepp went on to look at the definitions of certain terms in the Ordinance. Garage – A building of not less than 180 square feet designed for the periodic parking or storage of one or more private motor vehicles. Garage is also defined as an accessory building for parking or storage of not more than the number of vehicles as may be required in connection of the permitted use of the principal structure. Mr. Kingsepp queried the Board as to whether this definition was ambiguous. Mr. Kingsepp went on to define other terms used such as attached, connected, garage, incidental from the dictionary, etc.

Mr. Kingsepp went on to say that he used our Code to demonstrate that there are sections of the Code that clearly describe and define this particular structure. The interpretation that you have is quite clear based on the Code. The appeals are made by any person or entity affected by a decision of the Director of Building and Zoning.

Mr. Kingsepp went on to say that a significant section of the Code is Section 43.75.00, Interpretation. "The Board has the power to interpret that a use or combination of uses of land and structures be permitted if the provisions of this Chapter are not precise enough to determine the legality of the use or the combination of uses". The residents of this community have the right to rely on the experience training, and background of the administration to interpret the Ordinances that exist to their benefit. They have the right to rely upon the plain and ordinary meaning of those Ordinances. Mr. Kingsepp said that they had tried to show that the Ordinances are clear and plain an unambiguous given the description of the owner of 3129 Alpine as to what he intended to construct. Mr. Kingsepp said that the key phrase was 6,000 square foot attached garage. Mr. Kingsepp also said that he felt it was up to the Building Official to deny this request and tell the petitioner to come before the Board of Zoning Appeals. At that time this Board would have known exactly what he was proposing and could have placed conditions on this request. Mr. Kingsepp said that the residents had to come before this Board instead. Once the door is closed, Mr. Kingsepp questioned how the Ordinance would be enforced as to the use of this building. Mr. Kingsepp also said that the wording in the Ordinance should have been used to make sure this building was a "garage", a "subordinate building".

Mr. Kingsepp further stated that the City Assessor went out and filed a report with City Council indicating that the property values in this area would be depreciating because of the size of this structure. The Assistant City Attorney, when asked if the City could expend public funds to abate the hideous appearance of this structure, used the term "garage" and concluded because it was a private garage, public funds could not be used. Members of the City Council exclaiming that this is a commercial structure and as long as there is no legislation that prohibits this, this type of structure could be in every other residential district.

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Mr. Kingsepp also said that this is a situation that interpretation of the Ordinance is not reconciled with the terms of the Ordinance. If the Board determines that the Building Permit was issued and if it is found that the interpretation of the Ordinance was incorrect the Board can declare. The owner of the property can then make an appeal and if the Court sustains the decision of this Board, he would have no claim against the City. Mr. Kingsepp said that he believes the interpretation does not reconcile with the definitions of the Ordinance. Mr. Kingsepp also said that the public has the right to rely on the clear, unambiguous meanings of the Ordinance.

Mr. Maxwell asked Mr. Kingsepp to comment on the structural attachment of this so-called attached garage. Mr. Kingsepp said that he was unable to comment. Mr. Maxwell asked if this was a stand-alone building that would remain if the house were removed. Mr. Kingsepp said he used the words that the applicant used at the time he applied for the Building Permit. If it is not covered by the Ordinance, the owner should have come before this Board. Mr. Kingsepp also said that he did not know how to define it. Mr. Maxwell said that this Board may have to be interpret the definition as to structurally attached.

Mr. Stimac asked Mr. Kingsepp's if it was part of his testimony that this was not an attached garage. Mr. Kingsepp stated that he thought it was an attached garage.

Mr. Courtney said that if he interprets each section to mean exactly what they say, what would Mr. Kingsepp want from him. Mr. Kingsepp said that if you believe any of the sections he provided and if he believes that the definitions in the Ordinance are clear, he wants the Board to determine that the Building Permit was issued improperly because it did not meet the interpretations within the Ordinance as they arose from a description from the applicant as to what he wanted to do. Mr. Kingsepp does not believe that there is anything in the Ordinance with the definitions used that would allow for a 6,000 square foot structure. Mr. Courtney asked what would give him the right to determine that the Building Official made an error in issuing a Building Permit. Mr. Kingsepp that the Board has the right to interpret the wording in the Ordinance. Mr. Kingsepp also said that the members of the Board should ask administration to show how the permit was issued based on the wording in the Ordinance. Mr. Courtney said that he feels that each section means exactly what it says. Mr. Kingsepp said that not all situations could be covered in the original Ordinance and therefore Boards were created to allow for these variances.

Mr. Wright said that in talking about attached garages, his has a 30' common wall. Mr. Wright also said that he believes the structure in question is totally independent, and the homeowner just happened to put it next to the house. Mr. Kingsepp said that if this is one of the interpretations that has to be made under the existing Ordinance now, it is better made until legislation comes into play by an application of this body, and not by an interpretation by the Building Department that the residents in the community have difficulty understanding and interpreting.

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Mr. Kingsepp said that as a matter of disclosure, Mr. Kingsepp and Mr. Hutson are very good friends and as a matter of fact are godparents to each other's children. Mr. Kingsepp and Mr. Hutson both said it would not affect any matters brought forth at this time.

Mr. Kovacs said that the Board has heard evidence by the petitioner that the Building Department had issued a permit for a structure that did not meet the requirements of the Ordinance. Mr. Kovacs asked Mr. Stimac if he wanted to prepare something in rebuttal as to why this permit was issued. Mr. Stimac stated that the permit was issued for this structure as it did comply with the Zoning Ordinance. Having the opportunity to hear Mr. Kingsepp's presentation, now providing additional information would require some time to put together a response. In addition to the information provided in the application for appeal, Mr. Kingsepp has also drawn on other parts of the Ordinance that were not identified earlier so the Building Department would like the time and opportunity to reply. Mr. Stimac also said that after hearing Mr. Kingsepp's presentation, he still did not believe there was anything presented that proved that this structure did not comply with the Zoning Ordinance.

Mr. Kovacs also asked that if there had been any type of similar situation and if there had been any legal precedents set regarding an interpretation of the Ordinance. Mr. Motzny said that there is no legal precedent exactly on point, but there are cases where the Court has decided the issue of whether a BZA has properly interpreted the decision of a Building Official and each case is different. There are cases out there, but not exactly the same.

Mr. Hutson said that this was a good presentation but asked if Mr. Kingsepp could summarize in writing his arguments and points in the working of the Ordinance. Mr. Kingsepp said that would not be a problem. Mr. Hutson also asked if there is a burden of proof standard for a BZA such as by the preponderance of the evidence clear and convincing. Mr. Kingsepp said that there is case law that says on interpretation it is not clear and convincing, it is by the preponderance of evidence but Mr. Kingsepp also said that he believes that case law is somewhat weak on interpretation. Mr. Kingsepp also said that he would try to furnish some authority.

Mr. Motzny also said that there is very little case law on what the actual burden of proof is, but as with any decision this Board makes he would say that if it rules in favor of the applicant or denies the applicant, this Board's decision must be based on competent ,substantial, and material evidence on the record.

Ms. Gies asked if there was a maximum size for garages. Mr. Stimac said that there is no minimum size for a garage and it is his opinion that there currently is no language in the Ordinance that establishes the maximum size of a garage other than the setbacks on the property and the lot coverage on the property. There are also height restrictions that are in regards to an attached garage. With regards to a detached garage, the

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Zoning Ordinance states that a detached accessory structure cannot exceed ½ the ground floor area of the main building or 600 square feet whichever is greater. Further it provides that all of those buildings have to be in the rear yard and cannot take up more than 25% of the required rear yard. Ms. Gies asked if this structure had met all of those requirements. Mr. Stimac said this structure was reviewed as an attached garage and it did meet all setback requirements in the R-1B Zoning District and was not more than 30% of the lot coverage. Ms. Gies asked if an attached garage had a maximum size allowance. Mr. Stimac stated that in his opinion there was no language in the Zoning Ordinance that restricts the size of an attached garage.

Mr. Kovacs said that he believes the petitioner's case is that based upon his interpretation of the Zoning Ordinance there is a maximum size allowed for an attached garage, and the petitioner wants the Board to also determine what that maximum size is for an attached garage. Mr. Kovacs apologized to the members in the audience for the length of the meeting, but also stated he wants to make sure they are totally fair to all parties concerned. Mr. Kovacs said that he would like to give Mr. Stimac time to reply to this presentation and in his opinion he would like to give the property owner the opportunity to also hear this presentation. Mr. Courtney said that the property owner should be notified about these proceedings. Mr. Stimac said that the property owner at 3129 Alpine was notified about this hearing. Mr. Stimac also said that he did not believe this Board could compel the property owner to attend a hearing. Due to the fact that there were a large number of people in the audience, Mr. Stimac asked that the Public Hearing be opened, which would allow him to get all of the facts and then come back with an appropriate response.

Mr. Kovacs opened the Public Hearing.

Ms. Betty Reed of 3147 Alpine was present. Ms. Reed stated that she lives right next door and would like to see this Board right a wrong that was done by the Building Department. After objections from neighbors the City Council ordered City management to negotiate with Mr. Piscopo, however negotiations broke down because Mr. Piscopo's demands were too unreasonable. One of Mr. Piscopo's demands was that City lease a commercial building for him to park his vehicle in. Both residents and non-residents believe that this is a commercial building and not a garage. This includes Mayor Schilling and Councilwoman Stine have stated publicly that they believe this is a commercial building in a residential area. Mr. Licari, the City Assessor, in a letter to the City Manager has stated that this garage has the potential to affect the value of the neighboring homes by as much as 10% and possibly more. Realtors have advised residents that it could reduce the number of potential buyers interested in homes in this neighborhood by as much as 90%. The homes are the only financial security for the future and to allow the City of Troy to take away part of the value of our homes is unbelievable and unacceptable. Should the City allow one person in the neighborhood to decrease property values of most of the surrounding neighbors. If this building remains it will not only decrease property values but will also affect the quality of living.

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The harmony and integrity of the neighborhood has been destroyed by the City's blunder. What is the purpose of having Ordinance's if they are not interpreted properly?

Mr. George Reed, 3147 Alpine was present. Mr. Reed stated that he and his wife as well as other neighbors have been told by realtors that property values could drop as much as 25% because of the monster garage. Mr. Reed also said that it would be more difficult for them to sell their homes. One realtor had told Mr. Reed that this structure gives the area a commercial appearance and homes in close proximity to commercial areas sell for less than homes that are in residential areas. It is a certainty that buyers given a choice would prefer to live in a strictly residential area rather than a commercial area. A second realtor informed Mr. Reed that it would be harder to sell a home in this area to a family looking for a clean quiet area. The properties in this area would more likely be sold to an investor looking for rental property or a homeowner looking for properties that would sell under market value. Buyers are looking for homes that are strictly residential not with business properties located next door. Three other realtors that live on Alpine have also concurred with these statements. Mr. Reed again pointed out that Mr. Licari reinforces these statements by saying that this structure could affect the value of the homes in this area by 10% or more. Mr. Licari also said that this situation does not exist anywhere else in Troy. Never in the past has the construction of a garage caused so much attention including at least 15 news articles and television reports. Mr. Reed stated that this structure is a concern not only to the residents of this area, but is also a concern to residents in other areas of Troy. Most of the residents of Troy are aware of the monster garage and are interested in the outcome of this hearing. Many neighbors have experienced disgust and anguish with City staff regarding this structure.

Jeanne Stine, 1915 Boulan was present. Ms. Stine said that she was not going to address the points in the Ordinance as she felt that Mr. Kingsepp had done an excellent job. Ms. Stine said that the entrance to this sub has not become an invitation to blight as the first thing you see is the wall of corrugated steel. As you proceed further into the sub, which contains only five streets, you will find seven (7) sites that have commercial vehicles. Underlying theme seems to be that if the garage is OK, why not other related items and this area has become a dumping ground. Ms. Stine invited Mr. Szerlag to come and look at what was going on and his first comment was "... this is Appalachia". Ms. Stine said that she is addressing this Board not as a member of Council but as a resident of this subdivision and is speaking regarding the concerns of the neighbors. Ms. Stine said this is a very close-knit group and they all watch out for each other. Ms. Stine said that the construction of this industrial warehouse is very devastating to the people in this subdivision. A neighbor so impacted by the construction of a garage next door, so as to suffer severe emotional distress, lack of enjoyment of their own back yard, depreciation of property value and disinheritance of Troy's quality of life. At least three members of City Council stated that nothing like this could happen in Troy and a mistake had been made. The Rivards who lived next door at 3109 Alpine for twelve years enjoyed their homestead and neighborhood until this monster garage was put up.

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Think of waking up to the pall of corrugated steel 150' deep along your side yard. It is inconceivable. The fact that the Rivard family no longer suffers the pain of the warehouse next door makes no difference to the rest of the neighborhood except for the fact that they have lost a good neighbor. The garage remains an embarrassment to the subdivision and the entire community. It is her understanding that this Board has some power and discretion to make this right. Ms. Gies asked Ms. Stine since she was involved right when the project started, why the City did not come out at the beginning. Ms. Stine said that she thought Mr. Szerlag thought it would be stopped, but when it was brought up at the next Council meeting, it was made known to Council and those in the audience that according to Mr. Stimac the Ordinance had been followed and Mr. Szerlag stated that there had been no mistake made.

Steven Japar, 4518 Whisper Way was present. Mr. Japar commended the petitioner on his presentation as he thought it was excellent and feels that something should be done about this situation. Mr. Japar said that he thinks it should be pretty clear that if someone was going to put up a 6,000 square foot building on residential property, that there would be some impact to the surrounding property. Mr. Japar also said that he wondered why the Building Department would allow this to proceed knowing what kind of impact it would have and why there was not a procedure in place that would not have allowed this permit to be awarded. Secondly, Mr. Japar, said that regarding Ms. Reed's statement about negotiations between the City and owner of the property, it points out very clearly what the intentions of the owner of the property were when he asked them to lease a commercial building for his use.

Walenda Green, 6811 Livernois was present. Ms. Green stated that she lives on the north end of Troy and works with contractors every day. Ms. Green stated that this is definitely not an attached garage, but an attached commercial building. Ms. Green watched this structure go up from the very beginning and there is no way that it can be construed as an attached garage. People on the north end of Troy also believe this building is an eyesore and are concerned that a similar structure could show up on this side of Troy. Ms. Green stated that she could up a large building on her property but would not do that because of the impact to her neighbors. Ms. Green also said that she did not believe this structure could be considered attached as there is only a small area that attaches the structure to the home. Ms. Green said she does not believe this is a normal attached garage. Anywhere outside of the City people consider this a monster garage. Ms. Green also said since he does not have an occupancy permit, she did not believe that anything should be able to be stored in the structure. Mr. Kovacs said that the Board is not there to make a judgment on that issue, but Ms. Green could file a complaint with City staff during normal business hours. Ms. Green said that the Mayor and City Manager stated in the newspaper on Sunday that they would like to keep Troy a premier City and they are becoming a premier City. Ms. Green also said that a mistake had been made and it is time to fess up to that mistake. This should have never been allowed. The Mayor states that first they must protect the integrity of the neighborhood and this eyesore does not protect the neighborhood.

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Eugene West, 3205 Alpine was present. Mr. West said that he is a car collector and has a detached garage and it is a garage. There is no way that a commercial building in a residential neighborhood can be construed as a garage. The Building Department made a mistake and now the residents are expected to live with that mistake. Mr. West said that living in Troy he never expected to be screwed over by the City and in allowing this commercial building to be built on the property has cost him money in the value of his home. This is not a garage.

Peter Bamford, 3244 Alpine was present. Mr. Bamford said that he is a realtor that in his professional opinion the property values have diminished with this structure in the area. Mr. Bamford also pointed out that one of the Ordinances that was brought up indicates that if a structure is put up on the property, should be such that it does not diminish the value of the property and this structure does that.

Dennis Rivard, 2774 Portage Trail was present. Mr. Rivard said that he formerly lived at 3109 Alpine and the garage was put up 10' from his property line and moved because of this structure. Mr. Rivard said that a project like this should have gone through the variance process and would like the Board to consider whether they would have approved this for a variance. If not, Mr. Rivard believes a permit never should have been issued. Mr. Rivard said that Section 40.57.04 states that an attached garage can be no larger than 50% of the square footage of the home. Mr. Rivard said that this is the definition of an accessory building. Mr. Kovacs said that Section 40.57.04 covers a detached structure. Mr. Rivard said that a garage is an accessory building and should adhere to the definition of an accessory building. Mr. Rivard also said that Section 40.57.02 that says when an accessory structure is structurally attached to a main building, should be subject to or conform to all regulations to this chapter applicable to the main building. Mr. Rivard said that this is where the differences definitely come in and makes no sense, because a garage is still a garage. The City Tax Code does not comply with the interpretation of this Ordinance. When you sell your home, you do not consider the square footage of the garage and this is the other reason Mr. Rivard feels that this building should be considered an accessory structure. Mr. Rivard said that there is a difference between a garage and a house. Mr. Rivard also agreed with Mr. Hutson that if they had been notified that this structure was going up they would have approached the City much sooner but there is no obligation to notify surrounding property owners. Mr. Rivard said he knew Mr. Piscopo was going to put up a large garage, but he had no idea it would be this large and as soon as they saw the first girders going up they immediately approached the neighbor and the City. Mr. Maxwell asked what Mr. Rivard's definition of an attached garage was. Mr. Rivard stated that he knows his garage shares a common wall with the living room and if they would have stayed on Alpine they would have converted the garage to a family room. Mr. Rivard said that he believes this structure has a common doorway but is not sure if there is a common wall.

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Mr. Kovacs stated that when he was putting up his shed he had to have his neighbors sign a notification form and wondered why this property owner did not have to do the same. Mr. Stimac said that the Zoning Ordinance provides for notification of 50% of the property owners for the construction of a shed. Mr. Stimac also said that there is nothing in the Ordinance or Building Code that requires neighbor notification of construction of building garages.

Michael Bartnik, 3842 Burkoff was present and stated that he wanted to echo the sentiments of the other people that had spoken. Mr. Bartnik stated that this structure did not just affect the residents in the immediate area, but all of the residents of Troy. Mr. Bartnik also said that he is concerned about the enforcement of this issue, if this Board decides in favor of the petitioner. Mr. Bartnik believes the structure should be torn down, the property graded and then the property owner should come before this Board for a variance.

Zak Abuzaid, 3128 Alpine was present. Mr. Abuzaid said that he lives across the street from 3129 Alpine and had been approached by Mr. Piscopo and asked if he would have a problem with the construction of an oversized garage. He did not give Mr. Abuzaid any of the details of the construction. Mr. Abuzaid said that he does have a problem with this garage and would like the Board to look into it.

MaryAnn Bernardi was present and stated that although she does not live in this area, she believes a grave injustice has been done. Ms. Bernardi said that she is intensely concerned on how residential concerns are handled in this City. Ms. Bernardi believes that everyone needs to come to each other's aid when we need help and these residents need help. Regarding the intent of the Ordinance, Ms. Bernardi said that Mr. Kingsepp made an impenetrable argument that what was intended to be put on this site was a garage, but what is on the site is not a garage by definition and a multitude of Ordinances. Ms. Bernardi agrees that the conclusion must be to state that a Building Permit was issued in error. Ms. Bernardi said that she did look at this garage on Alpine, and said that the first thought that came into her mind was where did professional judgment come in here, because there would be such an impact to the area to put this type of structure up because it is such a grotesque piece of property. Ms. Bernardi compared the fact that this application was not questioned. City Staff members are professionals and Ms. Bernardi believes they are duty bound to question and determine what is in the best interests of the City. All cities are financially strapped, including Troy, and Ms. Bernardi believes that we are using tax dollars in Court and have been losing case after case and there are still sixteen (16) cases pending. Mr. Kingsepp said that if you were to find that the Building Permit was issued erroneously, which Ms. Bernardi believes is the case, the Court could not then come back to the City, which would be advantageous as it would not be a waste of tax dollars that are needed so desperately in other areas. Ms. Bernardi also said that to find that this Building Permit was issued in error would be the right thing for this Board to do.

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Patricia Ullman was present. Ms. Ullman said that she lives on Willow Grove and came tonight to support the residents on Alpine. In 1991 Ms. Ullman built a detached building and wanted to put a cupola on it, but was unable to do so because she was told it would be intrusive to the Golf Trail residents, and also exceeded the height requirements. Ms. Ullman did not see how anyone would not think this commercial building will be less intrusive. Ms. Ullman went on to say that this building is not an attached garage but a commercial building. Ms. Ullman husband was a truck driver and she knows what a commercial building looks like and this is definitely a commercial building.

Tom Krent, 3184 Alpine was present. Mr. Krent stated that he had brought in a petition with one hundred and nine (109) signatures on it objecting to this monster garage. This petition was presented to City Council. Mr. Krent said that the Zoning Ordinance is open to interpretation. Mr. Szerlag stated at the July 12th meeting of City Council that this City is structured to have the Director of Building & Zoning work in conjunction with the Planning Director to make interpretations of the Zoning Ordinance and arrive at decisions. Mr. Krent said that he did not believe these decisions did not utilize the sections of the Ordinance, which would have denied the issuance of this Building Permit. By issuing this permit they have allowed this industrial style structure to be built in a residential neighborhood. There are many sections in the Ordinance that should have prevented this building from going up. Mr. Krent said that he was going to concentrate on the section of the Ordinance that deals with Home Occupation. Definition of Home Occupation states that "occupation shall not be visible or noticeable in any form from outside the walls of the dwelling and accessory structure". The structure itself is in the "form" of an industrial building and is very noticeable and visible from the outside. This structure is associated with structures generally found in areas of Troy that are zoned M-1 (Light Industrial). Intent of the Home Occupation Section are to insure compatibility of the subject residential parcel with the surrounding residential area; to maintain the residential character of the area and to avoid reduction of property values. The structure at 3129 Alpine fails not just one of these conditions but all of the conditions listed in this section. This structure is not compatible with the residential character of this area, it does not maintain the residential character of the area and it will cause a reduction of property values. In addition to the reduction of property values near 3129 Alpine this structure has tainted the subdivision. Although the Home Occupation section as well as many other sections of the Ordinance could have prevented this structure from being constructed in a residential area, our City officials chose to issue a Building Permit. Mr. Krent showed pictures of this garage to Department Heads in Bloomfield Hills and Birmingham. Both official stated that they would not have allowed this structure to go up in a residential neighborhood and the head of the Building Department in Birmingham called this structure an abomination. The Official in Bloomfield Hills stated that even if it fit in with the Ordinances, he would not have allowed it to be constructed and the owner would have to sue the City to construct this type of building. The City Officials in Troy chose to have this structure put up in a residential area, which has had devastating effects including severe emotional stress as well as substantial financial cost. The Rivard family has moved out of Troy

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because they were so disgusted with City Officials in allowing this structure to be built. In conclusion, the City Officials did not use good judgment when interpreting the Zoning Ordinance and in particular the Home Occupation Ordinance.
Emma Burry, 3224 Alpine was present. Ms. Burry said that she has lived in this area for 56 years. Ms. Burry thanked all of the people who came to speak on this issue that do not live in this subdivision. Ms. Burry has always taken great pride in living in Troy and her friends from surrounding communities cannot understand what kind of Building Department we have to allow this structure to go up. Ms. Burry asked the Board if they would want this structure to go up next to their property. Ms. Burry said no matter where you live, you would not want this structure next to your property.

Lon Ullman on Willow Grove was present. Mr. Ullman said that one of the reasons you live in Communities is for protection and for Community values. The function of the Ordinance is to preserve those community values. Mr. Ullman feels that this individual has exploited loopholes in the Ordinance. Mr. Ullman also said that he thinks that our staff is more inclined to proceed with proven things and everyone makes bad calls. Mr. Ullman feels that this structure is the result of a bad call. However, Mr. Ullman said that he thinks what needs to be done here is to say that perhaps "we didn't use our best judgment" and proceed from there. Mr. Ullman said that citizens depend on government to protect them and does not believe this was done. This Board needs to be responsible to the community as a whole and the values and to rectify a situation that is obviously out of control. Mr. Ullman said that he is a residential builder and started building attached garages with wood studs 35 years ago. Structural steel is not considered to be residential material. Mr. Ullman does not believe this could be considered to be any type of residential structure. Mr. Ullman went on to say that the height of the garage door, which is 14', is to accommodate very high loads. Mr. Piscopo is a plumbing contractor and his uncle told Mr. Ullman that Mr. Piscopo removes material from inside of buildings. Mr. Ullman said that he could have put up a similar structure and would have been able to fit a commercial vehicle inside. Mr. Ullman further stated that if there is a problem with the Ordinance then it is time to go back and look at the Ordinances. Mr. Ullman also said that we have to find a way so that these professionals are not put into a corner where they say this individual meets all the requirements, therefore we must approve this. A point is needed where a professional does not have their hands tied. Mr. Ullman said that the Board needs to give this careful consideration and to help the people that are involved.

Ana Carry Barr, 3165 Alpine was present and stated that she lives two doors away from this monstrosity abomination and wants to add her voice for an appeal. She would also like to see a human admission that a mistake was made. Ms. Barr also said that she feels that these residents have been stolen from and if this building is allowed to remain the way it is or allowed to be put in operation in some way that is deceitful and is based on a lie and facilitated by a mistake, then the mistake must be admitted and they can go on from there. Ms. Barr further stated that because this area is rural, she does not believe there are looser methods of dealing with the planning.

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Walter Weldon, 1535 Banmoor was present and stated that his home had built in 1947 and studies history. Mr. Weldon read the book Troy Corners, the history of Troy and there are a number of homes in his neighborhood that have attached two-car garages. Over the years several homes have undergone changes, but they still fit in with the character of the area. If people want to build a garage, they should build it to fit in with everything else in the area. Mr. Weldon said that we should be preserving history and this garage should not be in a residential area. Everything should be natural and this structure is out of place and looks terrible.

Shirley Jordan, 3268 Alpine stated that this addition is five to six times bigger than the original house, and although he tore down a lot of the existing house, he did leave a couple of the existing walls, and wants to know if this gives him a tax advantage. Ms. Jordan believes it did. She also said that they have 200 condominiums coming in at the end of the street and the lots had been re-zoned and everything is a done deal. Ms. Jordan wanted to know if the residents would be notified of the construction going up in this area. Mr. Kovacs said that this Board has nothing to do with re-zoning and she would have to contact the Planning Commission. Mr. Kovacs said that the only reason they would come before this Board was if they required a variance for setback requirements. Mr. Wright stated that this proposed project has not come before the Planning Commission for approval at this time. There was an informational meeting last Tuesday night, however, it conflicted with the meeting of the Planning Commission and therefore members of the Planning Commission were not able to attend. Mr. Wright said that she should stay in contact with the Planning Director, Mark Miller, 248-524-3364, in order to keep on top of this situation. Ms. Jordan went on to say that she feels that she is getting beat up on. Mr. Wright said that they are trying to be fair. Ms. Jordan went on to say that this structure is a screw machine shop and definitely not a garage.

Mr. Abuzaid came up again and stated that the owner of the house does not live at this location and would like the Board to also look at this issue.

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

Mr. Kovacs said that it is his recommendation to postpone this issue until the meeting of March 15, 2005 as he would like to hear Mr. Stimac's rebuttal to this presentation. Mr. Kovacs also said that there is a differing opinion in the interpretation of these Ordinances and at that time he would also like to give Mr. Kingsepp the opportunity once again to give his input. Mr. Kovacs further stated that when they go to review this issue it should be structure to make a motion on each section and the motion should indicate whether they agree or disagree with the interpretation and the reasons why.

Mr. Courtney said that he thinks it is a little early to decide how they would handle it as it may be decided that the Board does not need to look at each section. Mr. Courtney also agreed that this issue should be postponed to the meeting of March 15, 2005. Mr. Courtney also said that he would like a written report from Mr. Kingsepp regarding the

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reasons for this petition. Mr. Kingsepp said that he did not believe this would be a problem and he also said that Mr. Motzny and himself may be able to help by guided by a proposed resolution by the City and a proposed resolution by Mr. Kingsepp. Mr. Courtney said he thought it would be very helpful.

At this time Mr. Kovacs asked if they needed a motion to next month's meeting to hear the feedback from the Building Department and also asked if the Public Hearing would need to be re-opened next month. Mr. Stimac said that so far this evening the Public Hearing was closed, and if Mr. Kovacs wanted to hear additional testimony he would have to re-open the Public Hearing at the next meeting. Mr. Stimac also said that it would be possible for Mr. Kovacs to adjourn the Public Hearing until the next meeting.

Mr. Wright said that the question of Home Occupation, Section 40.20.71 comes to mind and basically states that the definition says ...an occupation that takes place inside the walls of a dwelling unit by a resident thereof having no employees that are not themselves residents. That occupation shall not be visible or noticeable in any manner or form from outside the dwelling unit." Mr. Wright believes that this structure violates all of that and back in September of 2000, the Building Department called the subject's wife regarding vehicles on the property and she stated that some of them belonged to the family and the other vehicles were employees that were picking up material that related to her husband's business. Mr. Wright said that this is a violation of our Ordinance.

Mr. Fejes said that he believes the same way Mr. Wright does. Mr. Fejes went on to say that regardless of what he hears back from the City, he does not feel this is an attached garage but is clear to him that it is against the law. There is clear evidence that it is not a garage. Mr. Fejes said that he would be ready to make a motion at this point and asked for a clear picture of what type of motion would be required.

Mr. Stimac stated that the question before the Board this evening is whether or not the structure on this property complies with the Ordinance. If the Board finds that it does comply we go on, if the Board finds that it does not comply with the Ordinance we would write a violation notice and enforce the Ordinance as this Board has determined. If it is required that the structure come down in order to comply then that so shall be ordered, or if it is required that the structure come down in size then that so shall be ordered. This Board does not have the authority to issue or revoke a permit, but does have the authority to interpret what does and does not comply with the Ordinance. The authority to enforce the Ordinance is Building Department's to carry out.

Mr. Kovacs stated that this is the reason he would like the Board to go through each section and state exactly whether they feel that this structure is in violation or not. Mr. Fejes said that there is enough here tonight that this is wrong and this gentleman built a warehouse and Mr. Fejes does not believe there is anything else to hear. Mr. Hutson said that what the Board needs to hear is an analysis of all the Ordinances and how

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they intertwine and whether or not it has been taken into account that in fact there's fact that supports any decision reliably. Mr. Hutson said that he did not feel a decision could be made on a gut reaction. Mr. Fejes stated that his application stated "garage". Mr. Fejes also said that if you read from the Ordinance you can park a vehicle or lawn equipment that is what is normally put into a garage. Mr. Hutson said that it may come to that but he would like to hear all the facts. Mr. Fejes stated that he would be willing to wait until next month, but he could make a decision today.

Mr. Kovacs said that he is not worried about future litigation, but what has to be taken into consideration that any of the decisions by the Board have to have a clear foundation. We can't just say that is an ugly garage, but Mr. Kovacs feels in his opinion that the Board needs to go in section by section and determine if this structure complies with each section. If this is not done Mr. Kovacs does not believe it would have any legal standing.

Mr. Maxwell said that this is one method of find a basis in fact and determining evidence. A decision is based on facts, this is also an interpretative thing and also the spirit, and intent of the Ordinance needs to be taken into consideration. Mr. Kovacs said that City staff granted the Building Permit because they feel that this structure did meet the requirements of the Ordinance, and in order to make a decision, Mr. Kovacs wants to hear why City staff came to this conclusion. Mr. Maxwell agreed with Mr. Kovacs and said that he also feels the general intent relating to the general welfare of the community also has to be taken into consideration.

Ms. Gies said that she understands that there is a problem here and asked how the Ordinance could be changed, if this Board determines that all the requirements of the Ordinance had been met. Ms. Gies asked who is responsible for correcting the Ordinances so that this problem never comes up again. Mr. Stimac explained that City Council has directed the Planning Commission to review this matter and propose revisions to the Ordinance to address those concerns. The Planning Commission has proposed a series of revisions to the Ordinance that they feel will address those concerns. They have gone through one set of Public Hearings and hopefully will be appearing before City Council for adoption in the near future. The Board of Zoning Appeals may offer their opinions but ultimately it is City Council and the Planning Commission to have those hearings. Ms. Gies asked if Mr. Stimac was going to offer a resolution to correct the problem. Mr. Stimac said that there has been a lot of information provided this evening and ultimately he needs to digest it and provide a summary. Mr. Stimac said that the only thing he would ask is that in reviewing each individual sections, and reviewing the structure, the Ordinance, intent and everything else, he would ask that if it found not to comply he needs to know what has to happen to it in order to comply; e.g. if 6,000 square feet is too big, how big is appropriate. If there is a decision to overturn his decision that is the decision that we will have to enforce – this structure does not comply you must change it in order to comply. Mr. Stimac asked for assistance from the Board in determining the level of compliance.

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Mr. Wright said that on the issue of Zoning Ordinance revisions, the Planning Commission did send some revisions to City Council some months ago, and one of the revisions was the maximum door height of 8'. The standard of most of the garage doors in the City is 7'. This garage door is 14' high. Not all of Council agreed with the door height as well as some of the other restrictions and sent it back to the Planning Commission. By a majority vote, the Planning Commission stuck with the 8' height requirement. Some members of City staff are opposed to that so they were going to present two versions to City Council, however the Planning Commission said they want the decision to be unanimous so that they did not come back to the Board of Zoning Appeals for a variance. Mr. Wright stated that the Planning Commission is waiting for City staff to come back to them with the reasons they do not wish to see the 8' height.

Motion by Courtney
Supported by Gies

MOVED, to postpone the interpretation request of Mr. & Mrs. George Reed & Mr. Thomas Krent, 3129 Alpine, regarding the issuance of a building permit to construct the garage at 3129 Alpine.

- To allow City Staff to prepare an answer to the presentation by Mr. Kingsepp.

Yeas: 6 – Kovacs, Maxwell, Wright, Courtney, Gies, Hutson
Nays: 1 – Fejes

MOTION TO POSTPONE THIS REQUEST UNTIL THE MEETING OF MARCH 15, 2005

Mr. Kovacs thanked the people from coming out to speak on this item and also for showing respect to the homeowner.

The Board of Zoning Appeals meeting adjourned at 10:22 P.M.

Matthew Kovacs – Chairman

Pamela Pasternak – Recording Secretary