The Chairman, Glenn Clark, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M. on Tuesday, July 21, 2009 in Council Chambers of the Troy City Hall.

PRESENT: Michael Bartnik
Glenn Clark
Kenneth Courtney
Ed Kempen
Matthew Kovacs
Dave Lambert
Lon Ullmann

ALSO PRESENT: Mitch Grusnick, Plan Analyst
Allan Motzny, Assistant City Attorney
Pam Pasternak, Recording Secretary

ITEM #1 – APPROVAL OF MINUTES – MEETING OF JUNE 16, 2009

Motion by Bartnik
Supported by Lambert

MOVED, to approve the minutes of the meeting of June 16, 2009 as written

Yeas: All - 7

MOTION TO APPROVE MINUTES CARRIED

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

Motion by Courtney
Supported by Kempen

RESOLVED, that Items #3 and #4 are hereby approved in accordance with the suggested resolutions printed in the Agenda Explanation.

Yeas: All - 7

ITEM #3 – RENEWAL REQUESTED. MR. & MRS. RICHARD VARKLE, 54 E. SQUARE LAKE, for relief of the requirement to provide hard surface parking and an access drive.

MOVED, to grant Richard & Melanie Varkle, 54 E. Square Lake, a three-year (3) renewal of relief of the requirement to provide hard surface parking and an access drive.

- Conditions remain the same.
- We have no objections or complaints on file.

ITEM #4 – RENEWAL REQUESTED. KENSINGTON COMMUNITY CHURCH, 1825 E. SQUARE LAKE, for relief of the 4'-6" high masonry screening wall required along the north and west side of off-street parking.

MOVED, to grant Kensington Community Church, 1825 E. Square Lake, a three-year (3) renewal of relief of the 4'-6" high masonry screening wall required along the north and west side of off-street parking.

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

ITEM #5 – APPROVAL REQUESTED. STEVE KALMAR, 411 LEETONIA, for approval under Section 43.74.01 to store a GMC semi tractor outside on residential property.

Mr. Grusnick explained that the petitioner is requesting approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property. This GMC semi tractor does not meet the exceptions found in Section 40.66.00 of Chapter 39 of the Troy Zoning Ordinance.

The petitioner was not present.

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

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

Motion by Kovacs
Supported by Courtney

MOVED, this item to the end of the Agenda, Item #8, to allow the petitioner the opportunity to be present.

Yeas: All – 7

MOTION TO MOVE THIS ITEM TO ITEM #8 CARRIED

ITEM #6 – APPROVAL REQUESTED. ANDREW PUMA, 951 E. SQUARE LAKE, for approval under Section 43.74.01 to store an enclosed utility trailer outside on residential property.

Mr. Grusnick explained that the petitioner is requesting approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property. This enclosed utility trailer does not meet the exceptions found in Section 40.66.00 of Chapter 39 of the Troy Zoning Ordinance.

ITEM #6 – con't.

The petitioner was not present.

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

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

Motion by Kovacs
Supported by Courtney

MOVED, this item to the end of the Agenda, Item #9, to allow the petitioner the opportunity to be present.

Yeas: All – 7

MOTION TO MOVE THIS ITEM TO ITEM #9 CARRIED

ITEM #7 – VARIANCE REQUESTED. MR. & MRS. JOSEPH D'ANGELO, 3100 WENDOVER, for relief of the Ordinance to construct an addition to their home. This home is a legal non-conforming structure in that it does not meet the current front yard setback requirements and the proposed addition will result in a 25'-1 ¾" front setback to the garage and a 22'-7" setback to the covered porch, where Section 30.10.02 requires a 40' front yard setback. Section 40.50.04 prohibits expansions on non-conforming structures in a way that increases the non-conformity.

Mr. Grusnick explained that the petitioner is requesting relief of the Ordinance to construct an addition to their existing home. This house is a legal non-conforming structure. It has an existing 24'-7 ¾" front yard setback where Section 30.10.02 requires a 40' minimum front yard setback. The site plan submitted indicates a proposed 25'-1 ¾" front setback to the garage and second floor addition and 22'-7" to the expanded covered porch. Section 40.50.04 prohibits expansions on non-conforming structures in a way that increases the non-conformity.

Mr. Courtney asked if the only part of this construction that will increase the non-conformity is the front porch and the fact that there is more building area. Mr. Grusnick said that was correct.

Mr. Bartnik asked if the other homes in the area were built before the 40' setback requirement and Mr. Grusnick said the subdivision was developed prior to the current zoning yard regulations and that several other properties have been before this Board for setback variances.

Mr. Joe Roman, the Architect for this project was present. Mr. Roman stated that the owners are trying to expand their home to meet the needs of a growing family. They are

ITEM #7 – con't.

proposing to add a second story addition over the garage, which is a continuation of their existing second story. In order to balance the look of the home they are proposing to bump out the front of the garage to create more storage space. In the rear yard they are proposing to add a larger family room, dining room and kitchen area. There is a large tree in the middle of the yard and they are trying to preserve it. A wood deck will be put in this area, but will not affect this tree. The existing porch is covered all the way across the front of the house and the height of the porch from the slab to the ceiling is very low. This is a legal non-conforming structure and the 40' setback comes through the middle of the house. Also, due to the fact it is on a cul-de-sac the lot has an irregular shape and does not have a lot of frontage.

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

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

Motion by Kovacs
Supported by Courtney

MOVED, to grant Mr. & Mrs. Joseph D 'Angelo, 3100 Wendover, relief of the Ordinance to construct an addition to their home, which will result in a 25'-1 ¾" front setback to the garage and a 22'-7" setback to the covered porch, where Section 30.10.02 requires a 40' front yard setback.

- Variance is not detrimental to surrounding property.
- The shape of the lot is unique and creates a hardship.
- Variance is not contrary to public interest.
- Literal enforcement of the Zoning Ordinance precludes full enjoyment of the permitted use and makes conforming unnecessarily burdensome.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #8 – (ITEM #5) – APPROVAL REQUESTED. STEVE KALMAR, 411 LEETONIA, for approval under Section 43.74.01 to store a GMC semi tractor outside on residential property.

Mr. Grusnick explained that the petitioner is requesting approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property. This GMC semi tractor does not meet the exceptions found in Section 40.66.00 of Chapter 39 of the Troy Zoning Ordinance.

ITEM #8 – con't.

Mr. Kalmar was present and stated that he felt he should be approved for the temporary storage of this vehicle. Mr. Kalmar said that he feels he meets both B and C of the criteria needed. The garage door cannot accommodate this truck as the clearance required is 10' for that vehicle. Because of the location on the property it does not cause an adverse effect to surrounding property. Mr. Kalmar had submitted pictures indicating the location of this vehicle at the rear of the property. The vehicle is not visible except from the west when approaching his home. Mr. Kalmar said that it is not his intention to keep the vehicle on his property, but will be moved to a farm in Midland.

Mr. Courtney asked how long Mr. Kalmar thought it would take to fix the truck.

Mr. Kalmar said that he works full time and is also a volunteer fireman and he would like a few months and thought it should be done by the end of September.

Mr. Clark asked if there was a minimum time frame regarding this approval.

Mr. Motzny explained that the time frame is at the discretion of the Board.

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

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

Mr. Lambert asked if Mr. Kalmar drives the vehicle back and forth to work.

Mr. Kalmar said that he has only driven it once to the DPW to get it weighed.

Mr. Kovacs asked what the vehicle was used for and Mr. Kalmar stated that the designation from the Michigan Secretary of State is that it can only be operated as a log farm vehicle. Mr. Kalmar went on to say that it is used to haul farm machinery, grain, etc.

Mr. Bartnik asked how long this vehicle has been in this location and Mr. Kalmar said that it has been about 1 ½ years.

Mr. Bartnik asked if it has been sitting all that time.

Mr. Kalmar said that it runs, however it needs to have parts replaced to make the vehicle safer such as the tires and other parts in the engine.

Mr. Bartnik asked why Mr. Kalmar didn't take it up to Midland before.

ITEM #8 – con't.

Mr. Kalmar said that he got home with the truck around 2 AM from Illinois. During that drive he noted there were deficiencies in the way it ran and felt that they should be fixed before moving it another long distance. The truck was built in 1979 and parts are hard to get. Mr. Kalmar said that he got the parts from New Paris, Indiana from a salvage vehicle.

Mr. Bartnik said that the vehicle either could have been driven to Midland or Mr. Kalmar could have had it towed.

Mr. Kalmar said that he doesn't know the cost involved in towing the vehicle that distance. Mr. Kalmar said that it was never his intention to leave the vehicle here that long.

Mr. Bartnik asked how loud the vehicle was and Mr. Kalmar stated that he did not think it was any louder than a new tractor. Mr. Bartnik asked what the decibel reading was and Mr. Kalmar said that he had never taken a decibel reading and had no idea. Mr. Bartnik asked Mr. Kalmar why he needed an extension when the vehicle has been in this location for one and one-half years. Mr. Kalmar said that he only acquired the parts he needed last week.

Mr. Kovacs said that he thinks it is a much fairer assessment for Mr. Kalmar to say that he just ran out of time.

Mr. Courtney stated that sometimes it takes a long time to get parts for a vehicle this old. Mr. Courtney also stated that he could understand why Mr. Kalmar would rather drive the vehicle than have it towed.

Mr. Ullmann said that he owned a 1979 tractor and it would be very difficult to find thirty-year old parts.

Motion by Ullmann
Supported by Bartnik

MOVED, to grant Mr. Steve Kalmar, 411 Leetonia, approval under Section 43.74.01 to store a GMC semi tractor outside on residential property for a period of two (2) months.

- If the vehicle is not moved by that time, it is up to the petitioner to have the vehicle towed off of the property.

Motion by Kovacs
Supported by Kempen

ITEM #8 – con't.

MOVED, to amend the motion to change the approval period to three (3) months.

Mr. Bartnik stated that he has not seen any evidence presented by the petitioner that would support this approval. This vehicle has a negative effect to this residential property. Mr. Bartnik said that this vehicle has to be moved. The street is narrow and Mr. Bartnik said that he does not feel Mr. Kalmar meets any of the criteria provided in the application.

Vote on the motion to amend.

Yeas: 5 – Ullmann, Clark, Courtney, Kempen, Lambert
Nays: 2 – Bartnik, Kovacs

MOTION TO AMEND CARRIED

Vote on amended motion.

MOVED, to grant Mr. Steve Kalmar, 411 Leetonia, approval under Section 43.74.01 to store a GMC semi tractor outside on residential property for a period of three (3) months.

- If the vehicle is not moved by that time, it is up to the petitioner to have the vehicle towed off of the property.

Yeas: 6 – Clark, Courtney, Kempen, Kovacs, Lambert, Ullmann
Nays: 1 – Bartnik

MOTION TO GRANT APPROVAL CARRIED

ITEM #9 – (ITEM #6) – APPROVAL REQUESTED. ANDREW PUMA, 951 E. SQUARE LAKE, for approval under Section 43.74.01 to store an enclosed utility trailer outside on residential property.

Mr. Grusnick explained that the petitioner is requesting approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property. This enclosed utility trailer does not meet the exceptions found in Section 40.66.00 of Chapter 39 of the Troy Zoning Ordinance.

Andrew Puma and Judy Woodhouse were present. Ms. Woodhouse said that she also resides at this home and stated that they had spoken to the neighbors and they had no objection to this trailer. The trailer is parked next to the masonry screening wall and the commercial sign on the trailer does not show. Mr. Puma no longer has this landscaping business. Mr. Puma only uses the trailer a couple of days a week to do landscaping for

ITEM #9 – con't.

his family. Since it is no longer being used for a commercial vehicle, they would like to remove the sign and keep it in this location. They cannot put it in the back yard because it gets stuck and it will not fit into the garage. Mr. Puma said that he sold his business to a friend of his.

Mr. Grusnick stated that property could accommodate a utility trailer but it cannot be parked in the front yard.

Ms. Woodhouse asked if it could be parked in this location if the sign was off and Mr. Grusnick said that it cannot extend past the front of the house.

Ms. Woodhouse said that normally it is parked farther back. Mr. Grusnick said that the vehicle has been parked in different locations and that sometimes it is in the driveway and sometimes on the grass. Ms. Woodhouse confirmed that it has to be parked behind the front of the garage.

Mr. Clark asked about the truck that is parked on this property. Mr. Puma said that he has a Ford pickup truck.

Mr. Courtney said that the pickup truck is parked legally.

Motion by Courtney
Supported by Kovacs

MOVED, to postpone the request of Andrew Puma, 951 E. Square Lake, for approval under section 43.74.01 to store an enclosed utility trailer outside on residential property until the meeting of August 18, 2009.

- To allow the petitioner to remove the signage from the side of the trailer.
- To allow the petitioner the opportunity to determine if this trailer can be parked behind the front of the house.

Mr. Kempen asked if the petitioner could add landscaping in front of the trailer to increase screening of the trailer from the street.

Mr. Puma said that he was not sure about adding more landscaping as he backs the trailer up next to the arborvitae.

Mr. Kempen said that he thought parking it near the screen wall was a good location, but he would like to see some screening added.

Mr. Lambert asked if the Board would be the body to grant a variance for the use of this vehicle as a utility trailer or if this was something that would be addressed by City Staff.

ITEM #9 – con't.

Mr. Grusnick said that the petitioner could meet with City Staff to discuss this option.

Vote on the motion to postpone this request.

Yeas: All – 7

MOTION TO POSTPONE THIS REQUEST UNTIL THE MEETING OF AUGUST 18, 2009 CARRIED

The Board of Zoning Appeals meeting adjourned at 8:14 P.M.

_____
Glenn Clark, Chairman

_____
Pamela Pasternak, Recording Secretary