The Board of Zoning Appeals meeting was called to order by Chair Clark at 7:30 p.m. on May 18, 2010, in the Council Chamber of the Troy City Hall.

1. ROLL CALL

Present:
Michael Bartnik
Glenn Clark
Kenneth Courtney
Donald L. Edmunds
Edward Kempen
Matthew Kovacs
David Lambert

Also Present:
Paul Evans, Inspector Supervisor
Allan Motzny, Assistant City Attorney
David J. Roberts, Assistant Fire Chief/Fire Marshal
Wanda Norman, Planning Department Intern
Kathy L. Czarnecki, Recording Secretary

2. APPROVAL OF MINUTES – April 20, 2010

Resolution # BZA 2010-05-015
Motion by Bartnik
Support by Courtney

MOVED, To approve the April 20, 2010 Regular meeting minutes as presented.

Yes: All present (7)

MOTION CARRIED

3. RENEWALS

A. **RENEWAL REQUEST, BOYS & GIRLS CLUB OF TROY, 3670 JOHN R** – For relief of the 4'-6" high masonry screening wall required along the east and north property lines between the parking lot and the adjacent residentially zoned property.

Mr. Evans announced the petitioner requests a postponement to the June 15, 2010 meeting.

Resolution # BZA 2010-05-016
Motion by Courtney
Support by Edmunds

MOVED, To postpone the item to the June 15, 2010 Board of Zoning Appeals meeting.

Yes: All present (7)

MOTION CARRIED

B. **RENEWAL REQUEST, EVANSWOOD CHURCH OF GOD, 2601 E. SQUARE LAKE** – For relief of the 4'-6" high wall on the west side of off-street parking and deletion of the 4'-6" high wall required along off-street parking on the north side of the property.

and

C. **RENEWAL REQUEST, BETHESDA ROMANIAN CHURCH, 2075 E. LONG LAKE** – For relief of the 4'-6" high masonry screening wall required along the east side of off-street parking.

Mr. Evans announced the petitioner for Agenda item #3B, Evanswood Church of God, could not be present for tonight's meeting and requested to postpone the item to the June meeting.

Resolution # BZA 2010-05-017
Motion by Courtney
Support by Bartnik

MOVED, To grant the renewal requests for both Agenda items #3B and #3C as follows:

Grant Evanswood Church of God, 2601 E. Square Lake, a three (3) year renewal for relief to provide a berm in place of the 4'-6" high wall on the west side of off-street parking and deletion of the 4'-6" wall required along off-street parking on the north side of the property.

- Conditions remain the same as they did when the Board last heard the item.
- No complaints or objections are filed with regard to the request.

Grant Bethesda Romanian Church, 2075 E. Long Lake, a three (3) year renewal for relief of the 4'-6" high masonry screening wall required along the east side of off-street parking.

- Conditions remain the same as they did when the Board last heard the item.
- No complaints or objections are filed with regard to the request.

Discussion on the motion on the floor.

There was discussion on the protocol in granting a renewal of a variance when the petitioner is not present, and in this case, the petitioner's request to postpone.

Mr. Motzny advised that the Board could grant or deny the request for postponement, or the Board could take action to either approve or deny the request.

Vote on the motion on the floor.

Yes: All present (7)

MOTION CARRIED

4. HEARING OF CASES

A. **VARIANCE REQUEST, MOHAMMAD AND UZMA ALI, VACANT PROPERTY BETWEEN 2100 AND 2020 CHARNWOOD** – In order to construct a new 29.9 foot tall home, a variance from Zoning Ordinance Section 31.30.00 (U) that limits the building height to 27 feet without an approved fire suppression system and fire retardant materials for roof framing and sheathing.

Mr. Evans provided a brief report on the variance request. The item was postponed from the April 20, 2010 meeting to allow a representative of the Fire Department to be present to answer questions. Mr. Evans noted the Fire Department has provided a more recent review and recommendation.

David Roberts, Assistant Fire Chief/Fire Marshal, was present. Assistant Fire Chief Roberts referred to his memorandum dated May 7, 2010 to Patrick Dyke, the project architect. He offered to verify the information provided in the memorandum and answer questions of the Board.

There was discussion on:

- Troy home(s) installed with fire suppression sprinkler system(s).
- Safety factor of draft stoppage in 1,200 sq. ft. home compared to 2,000 sq. ft. home.
- Fire protection as relates to noncombustible roof trusses, fire retardant treated materials for roof sheathing and soffits.
- Basis of Zoning Ordinance requirement to provide fire suppression system.
- Fire Department recommendations in second review; each recommendation equal in importance.
- Installation of sprinkler systems with new construction; aesthetically pleasing with hidden piping and sprinkler heads.
- Home fire escape plan and fire extinguisher use in relation to Zoning Ordinance enforceability.
- Practical difficulty of variance request.

- Architectural and roof design in terms of fire safety.
- Safety of neighboring homes, occupants, and firefighters.

Assistant Fire Chief Roberts said a fire suppression system is the most reliable means of containing a fire and keeping it small, protecting occupants in the structure. He indicated that the petitioner is going in the right direction by providing alternative fire safety precautions, but Assistant Fire Chief Roberts supports the Zoning Ordinance requirement to install a fire suppression system in a home of this size and height. Assistant Fire Chief Roberts met with the project architect and consulted with the Fire Chief. He said the recommendations in the Fire Department review is to accommodate the owner and project architect and offer precautions in addition to the proposed draft stoppage that the Fire Department believes would help make the structure reasonably safe from fire. Assistant Fire Chief Roberts addressed the difficulty in putting out a fire in a home of this size and height using the standard firefighting tactics.

Patrick Dyke, Project Architect of 46065 Royal Drive, Chesterfield Twp, was present to represent the petitioner. Mr. Dyke addressed the concessions proposed by the petitioner; draft stoppage, lot area coverage less than 50% of the allowable, 54 foot side yard setbacks, near proximity to the Fire Station, smoke detectors with alarm system and fire escape plan. Mr. Dyke questioned the Zoning Ordinance requirements in relation to churches.

Mr. Dyke addressed the similarity in the code of ethics of a professional architect and firefighter. He said, in his opinion, the recommendations of the Fire Department would be far more of an overkill versus bringing the roof down to 27 feet and complying with the Zoning Ordinance. Mr. Dyke said it is his opinion that the requested 29.9 feet, which is at the very tip of a peak and is a very small percentage of the roof, and all the concessions is equivalent to the required 27 feet without any concessions. Mr. Dyke said a fire would be easier to contain in the open layout of the proposed house, than it would be in a smaller home with smaller hallways and bedrooms. Mr. Dyke asked the Board to honor the original variance approval in 2007.

Mr. Dyke addressed the practical difficulty. He said the existing Zoning Ordinance language provides very little adjustment to the construction of houses on larger lots. He said as many design principles were reduced as possible to keep the height of the house low without compromising the integrity of the home design. Mr. Dyke compared the proposed home to a 1,228 square foot colonial on a 40 x 120 lot in Royal Oak with similar depth and height proportions, and Zoning Ordinance requirements of other communities. He said the City's existing height restriction results in a home that is one-third the size. Mr. Dyke said the integrity of the City of Troy Zoning Ordinance is not consistent.

Mr. Lambert asked Mr. Dyke to specify which recommendations of the Fire Department he would be willing to comply. Mr. Dyke's responses follow each Fire Department recommendation and are indicated in italics and underlined.

- Use noncombustible roof trusses and fire retardant treated materials for roof sheathing and soffits. *NO*
- Protect any exposed trusses and/or lightweight engineered wood and I-beams used in a load-bearing assembly with an approved thermal barrier. *NO*
- Off-set attic eave/cornice vents from second floor windows. *NO*
- Any installation of equipment resulting in the penetration of rated fire separation assemblies, e.g., draft stopping, must be sealed by an approved means. *YES*
- Increase driveway width and thickness to accommodate fire apparatus weight, height, and turning radii. Site plan subject to fire department approval. *NO*
- Schedule a hydrant flow test of one or more hydrants with the Troy Water Department and Troy Fire Department prior to construction to determine available water. *Questioned if test is required of all new construction, cost and at whose expense*
- Install and maintain a monitored fire alarm system with smoke detectors throughout. Fire alarm must be registered with the City of Troy annually. *YES*
- Install and maintain readily accessible fire extinguishers throughout. Occupants to receive adequate training on extinguisher use. *YES*
- Develop and practice a home fire escape plan defining two ways out of each room. Plan to be practiced regularly by all occupants. *YES*

Assistant Fire Chief Roberts addressed the recommendation to schedule a hydrant flow test. He said it is typical to conduct hydrant flow tests on commercial buildings, but not residential. Assistant Fire Chief Roberts recommended a hydrant flow test should the petitioner not be required to install a fire suppression system. He noted that if the house was constructed to meet existing Zoning Ordinance requirements, in other words, met the required roof height restrictions, a hydrant flow test would not be scheduled because the matter would not have come to their attention. Assistant Fire Chief Roberts said the person responsible for paying the cost of the test is the person who needs the information to construct the home; i.e., architect, owner, or general contractor.

Mr. Lambert brought to the petitioner's attention that the response time for the City's volunteer fire staff might not be as quick as a full-time staffed station.

Mr. Dyke said the proposed draft stoppage is more than satisfactory. He addressed the first three recommendations and said they are costly and, in his opinion, unnecessary. Mr. Dyke addressed the footprint and depth of a home in terms of roof height.

The petitioner, Mohammad Ali of 3597 Sleepy Fox Drive, Rochester Hills, informed the Board that the economy's decline in 2007 was the reason why he did not construct the home then. He expressed his fondness to become a Troy resident. Dr. Ali researched other communities and was told there would be no problem

constructing a home of the same layout in cities such as Rochester Hills, Bloomfield Hills and Birmingham. Dr. Ali addressed the original application and approval, and questioned the City's concerns now when the application has not changed. He also addressed the requirement to conduct a hydrant flow test. Dr. Ali said his profession is to save lives and he would not subject his family or anyone else to any harm. Dr. Ali said he would consider complying with the Fire Department recommendation to protect exposed trusses.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # BZA 2010-05-018
Motion by Kovacs
Support by Courtney

MOVED, To grant relief of the Zoning Ordinance to construct a single family residence with a building height of 29'9" on the vacant property between 2100 and 2020 Charnwood.

Preliminary Findings:
- The variance would not be contrary to public interest.
- The variance request is minimal.
- The variance does not permit the establishment of a prohibited use in a Zoning District.
- The variance applies only to the property described in this application.
- Literal enforcement of the Ordinance would be unnecessarily burdensome.

Additional requirements for the petitioner to be granted this variance are:
- To provide minimum side yard setbacks of 54 feet.
- To provide roof draft stopping at a 1,200 square foot maximum.

Discussion on the motion on the floor.

Mr. Kovacs addressed his position that it would be unnecessarily burdensome for the petitioner to install a fire suppression system. He said the petitioner could build the house at a 27-foot roof height and provide none of the fire protection he is proposing for the additional roof height because the Zoning Ordinance requires none. Mr. Kovacs believes the petitioner is proposing a better and safer home than a home constructed at a roof height that meets Zoning Ordinance requirements. Mr. Kovacs addressed the risks that everyone takes on a daily basis, and he thinks the risks the petitioner is taking are extremely minimal and his personal business. Mr. Kovacs stated his house has no fire suppression system and he has three young children. Mr. Kovacs said the proposed home is beautiful and a beautiful example of the American dream, and he supports the petitioner. He expressed concern in setting a precedent should the Board reverse its original decision of 2007.

Mr. Courtney expressed support for the motion and said the Board should not reverse its original decision. He said the petitioner would not be before the Board today if he had taken out a permit back in 2007 and did nothing but turn a shovel every six months.

Mr. Bartnik expressed support for the motion. Mr. Bartnik said he has taken into consideration all the comments and communications provided by the Assistant Fire Chief, architect, homeowner and Board members. He addressed what he feels is a practical difficulty with respect to the distances between the adjacent properties and the relatively small proportion of the roof that is outside of the minimal height level.

Mr. Edmunds said he could not in good conscience vote to grant the variance. He said the applicant has not claimed financial difficulty and he sees no practical difficulty with the property.

Mr. Lambert said he would reluctantly vote no on the proposed motion. He said good arguments were made on both sides, but he would prefer to see more concessions offered by the petitioner as a compromise. Mr. Lambert expressed concerns with the potential risk to the volunteer fire department.

Chair Clark said he would reluctantly vote no on the proposed motion also. He thanked Assistant Fire Chief Roberts for his presence at tonight's meeting. Chair Clark addressed the various professions involved in this case and pertinent information and input provided by each profession. Chair Clark believes there is no practical difficulty with the property because the homeowner could lower the roof. He took into account the potential risk to firefighters and Troy residents. Chair Clark stated City Council is the appropriate body to implement changes to the Zoning Ordinance.

Chair Clark further addressed the matter with respect to the difference in fire safety regulations for a church and residence, noting that people do not live in a church structure.

Chair Clark noted there are no objections or communications on file for this item.

Mr. Dyke said he has not recently estimated the cost of a fire suppression system because financial impact is not a consideration for a variance request.

<u>Vote on the motion on the floor.</u>

Yes: Bartnik, Courtney, Kempen, Kovacs
No: Clark, Edmunds, Lambert

MOTION CARRIED

B. **VARIANCE REQUEST, HAITHAM SITTO, VACANT PROPERTY ADJACENT TO AND WEST OF 835 E LONG LAKE** – In order to construct a new single family home, a 2.3 foot height variance to the 25 foot height limit.

Mr. Evans gave a brief report on the proposed variance with respect to its location and zoning of adjacent properties. He visually displayed the substantial portion of the roof for which the petitioner is requesting a height variance. Mr. Evans said the Zoning Ordinance does not require fire draft stoppage in the R-1C (One-Family Residential) zoning district.

Chair Clark noted one communication is on file in opposition of the proposed variance request.

Mr. Courtney addressed the written communication that expresses concern in destroying wetlands.

Mr. Evans said he would search the specific property on the environmental/wetlands map.

Neither the petitioner, nor a representative, was present.

PUBLIC HEARING OPENED

Paul Rizza of 800 Creston, Troy, was present. Mr. Rizza expressed opposition to the proposed variance request. Mr. Rizza addressed concerns that new construction would destroy the wetlands environment and result in poorer drainage of the existing properties. He also does not want a three story house overlooking his back yard. Mr. Rizza said his neighbor, June Watts of 766 Creston, shares the same concerns but was not able to attend tonight's meeting.

It was explained to Mr. Rizza that the proposed variance request relates only to the height of the roof of the house. He was informed that drainage and environmental concerns should be directed to the Engineering and Building departments, and that the BZA has no authority to stop construction of a house.

The location of Mr. Rizza's home was visually displayed on the screen in relation to the proposed new home construction.

Chris Bolzan was present to represent his father-in-law who lives at 790 Creston, Troy. Mr. Bolzan said his father-in-law's house sits directly behind and one lot over from the proposed new home construction. Mr. Bolzan voiced opposition to the proposed variance request to increase the height of the roof. He indicated that the back of the proposed house would face the front of his father-in-law's home.

PUBLIC HEARING CLOSED

Mr. Courtney suggested postponing the item so that the petitioner has an opportunity to appear before the Board at the June meeting.

Resolution # BZA 2010-05-019
Motion by Courtney
Support by Kovacs

MOVED, To postpone the item to the June 15, 2010 Board of Zoning Appeals meeting.

Yes: All present (7)

MOTION CARRIED

Mr. Evans confirmed that the subject property is not located within wetlands or a flood hazard area. He encouraged those concerned to address any flooding and drainage issues with the Building and Engineering departments.

After a brief discussion, it was determined that the item would not require publication of a legal Public Hearing notice nor mailing notification to the public because the item was adjourned to a date certain.

C. **VARIANCE REQUEST, RONALD KACHMAN, 291 ELMWOOD** – In order to renovate the exterior of the building and add design features, a 2.75 foot variance to the required 50 foot front yard setback.

Mr. Evans gave a brief report on the proposed variance with respect to its location, zoning of adjacent properties and proposed building improvements.

The petitioner, Ronald Kachman of 291 Elmwood, was present. Mr. Kachman said now that the interior improvements are complete, they would like to go forward with exterior improvements. He addressed the proposed exterior design layout. Mr. Kachman feels the improvements would enhance the site, and said the proposed front yard setback would not be out of line with adjacent properties.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # BZA 2010-05-020
Motion by Lambert
Support by Edmunds

MOVED, To approve the variance request.

Preliminary Findings:
- That the variance would not be contrary to public interest.
- That the variance does not permit the establishment of a prohibited use within the zoning district.
- That the variance does not cause an adverse effect of properties in the immediate vicinity or zoning district.
- That the variance relates only to the property described in the application for variance.

Special Findings:
- The petitioner would have to conform to an unnecessarily burdensome rule.
- That the variance is not excessive.
- That the practical difficulties result from the small size of the property and its location in an older part of Troy.

Discussion on the motion on the floor.

Chair Clark noted there are no communications on file.

Mr. Bartnik commended the petitioner for an aesthetically pleasing and well-designed proposal. He indicated his support for the variance request.

Chair Clark commended the petitioner as well. He said it is encouraging to see a business doing well in this economy.

Vote on the motion on the floor.

Yes: All present (7)

MOTION CARRIED

D. **VARIANCE REQUEST, MARTHA WALDRON, 3688 ROCHESTER ROAD** – In order to construct a new car wash/retail store and relocate gasoline pumps, vacuums, etc., a variance from the requirement that 10 percent of the net site area be landscaped. Applicant proposes to provide 4 percent net site area landscaping.

Mr. Evans provided a brief report on the variance request. Mr. Evans noted the Zoning Ordinance requires the landscaping to be in the front and side yards. He reported the Planning Commission considered the Special Use and Preliminary Site Plan application at their April 13, 2010 Regular meeting, at which time no action was

taken so the petitioner could come before the BZA for relief of the required landscaping.

Discussion followed on the following:
- Percentage of existing landscaping.
- Property condemnation by the City of Troy.
- Practical difficulty of site as relates to ingress/egress, stacking, maneuverability.

Robert Waldron of 3688 Rochester Road, Troy, was present to represent Martha Waldron and the business, Pro Car Wash. Mr. Waldron said the site has been through two condemnations for road widening. He indicated the recent taking constituted over 6,000 square feet from the property frontage. Mr. Waldron addressed the viability of a car wash/service station with respect to providing enough property for stacking of cars, gasoline pumps, driveway ingress/egress and maneuverability of gasoline tank trucks. He said the site layout has been arranged to accommodate as much landscaping as possible. He shared the good news that the center of Rochester Road would be landscaped, which might offset their facility's lack of landscaping. Mr. Waldron said they propose to add a fountain area with shrubs and a flagpole in the front.

Mr. Edmunds reported that the Planning Commission favorably reviewed the preliminary site plan application. Mr. Edmunds commended Mr. Waldron for the business sense he exemplified with the recent renovation of the Pro Car Wash located on the west side of Rochester Road, and for his spearheading a campaign to keep business flowing during the City's condemnation process.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Chair Clark noted there are no communications on file for this item.

Resolution # BZA 2010-05-021
Motion by Kovacs
Support by Edmunds

MOVED, To grant the variance request.

Preliminary Findings:
- The variance is not contrary to public interest.
- The variance does not permit the establishment of a prohibited use within a zoning district.
- The variance does not cause an adverse effect to properties in the immediate vicinity or zoning district.

Special Findings:

- The service station/car wash facility is an allowable use on the site, and the site is extremely long and extremely thin which makes it unnecessarily burdensome for the petitioner to meet the required landscaping requirement.

Yes: All present (7)

MOTION CARRIED

E. **VARIANCE REQUEST, BRUCE REESE, 2496 WEXFORD** – In order to add a sunroom to the rear of the house, a 5 foot variance to the required 40 foot rear yard setback.

Mr. Evans gave a brief report on the proposed variance with respect to its location and zoning of surrounding properties. He addressed the architectural illustration provided by the petitioner.

Mr. Bartnik asked if the brick wall on the east side of the property is required because of the nature of the apartment building.

Mr. Evans responded in the affirmative, and said he presumes the wall is on the apartment building property.

Mr. Kovacs expressed concern that the building addition could turn into an enclosed bedroom in the future.

Mr. Motzny said the Board could put conditions on the variance as relates to the structure itself as long as there is a reasonable basis for the condition.

The petitioner, Bruce Reese of 1458 E. Hayes, Hazel Park, was present. Mr. Reese is the general contractor hired by the owners to build the proposed addition. Mr. Reese said the site does not have enough area to construct the size of addition that the owners desire. He indicated the owners would like to use the room to share each other's company, to have some plants and watch some television. He confirmed the sunroom materials, sliding door, windows and exhaust fan as depicted in the application materials would be similar, if not identical, to what will be constructed.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Chair Clark noted three communications are on file in favor of the petitioner's request for a variance. He also noted the mortgage survey was provided to Board members, prior to the beginning of tonight's meeting.

Discussion followed on:
- Owner's intent/usage of proposed sunroom.
- Restrictions as relates to no permanent structure in the future; i.e., condition variance on plan presented to Board and on record.
- Location of sunroom as relates to residential homes and apartment complex.
- Sunroom design; i.e., all season use, top of the line design.
- Proposed material and design; all glass, entry door, windows and exhaust fan.

Resolution # BZA 2010-05-022
Motion by Lambert
Support by Courtney

MOVED, To grant the variance request.

Preliminary Findings:
- The variance is not contrary to public interest.
- The variance does not permit the establishment of a prohibited use within a zoning district.
- The variance does not cause an adverse effect to properties in the immediate vicinity or zoning district.
- The variance relates only to the property described in the application for variance.

Special Findings:
- That conforming is unnecessarily burdensome.
- That the variance is not excessive.
- That the practical difficulties are the size of the property in relationship with the adjoining apartment complex.

Discussion on the motion on the floor.

Mr. Bartnik said the request before the Board this evening meets all requirements and he supports it. He addressed the visual difference between the proposed addition before the Board for approval this evening and the addition above the garage on the home down the street to the north and at the end of the block.

Mr. Kempen expressed the appropriateness in granting the variance request with respect to the infringement on the apartment complex. He said it is a good example on how to improve a neighborhood and make a home more enjoyable for the residents.

Vote on the motion on the floor.

Yes: All present (7)

MOTION CARRIED

5. COMMUNICATIONS

None.

6. MISCELLANEOUS BUSINESS

A. **ELECTION OF OFFICERS**

Chair Clark asked for nominations from the floor for Chair.

Mr. Kempen nominated David Lambert for Chair. Mr. Kovacs supported the nomination.

Mr. Edmunds nominated Michael Bartnik for Chair. Mr. Lambert supported the nomination.

Hearing no further nominations, Chair Clark declared the nominations for the position of Chair closed.

Chair Clark said it was an honor to serve the Board as Chair. He said it was an interesting and enlightening experience. He thanked the City staff and Board members, and specifically thanked Mr. Kovacs for his assistance.

Roll Call Vote for the position of Chair

Roll Call	Vote
Courtney	Lambert
Edmunds	Bartnik
Kempen	Lambert
Kovacs	Bartnik
Lambert	Lambert
Bartnik	Bartnik
Clark	Lambert

Mr. Lambert was announced as Chair.

Chair Clark asked for nominations from the floor for Vice Chair.

Mr. Bartnik nominated Edward Kempen for Vice Chair. Mr. Lambert supported the nomination.

Mr. Courtney nominated Michael Bartnik for Vice Chair. Mr. Edmunds supported the nomination.

Hearing no further nominations, Chair Clark declared the nominations for the position of Vice Chair closed.

Vice Chair Bartnik said it was an honor to serve the Board as Vice Chair and thanked everyone for the experience.

Roll Call Vote on the position of Vice Chair

Roll Call	Vote
Edmunds	Bartnik
Kempen	Kempen
Kovacs	Bartnik
Lambert	Kempen
Bartnik	Bartnik
Clark	Kempen
Courtney	Bartnik

Mr. Bartnik was announced as Vice Chair.

Mr. Lambert thanked everyone for the vote of confidence.

There was a brief discussion on:

- Preparation of agenda packets.
- Prepared statement to address audience at the beginning of meetings.

7. ADJOURNMENT

The Board of Zoning Appeals meeting adjourned at 9:52 p.m.

Respectfully submitted,

Glenn Clark, Chair

Kathy L. Czárnecki, Recording Secretary

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