The Board of Zoning Appeals meeting was called to order by Vice Chair Bartnik at 7:32 p.m. on June 15, 2010, in the Council Chamber of the Troy City Hall.

1. ROLL CALL

Present:
Michael Bartnik
Glenn Clark
Kenneth Courtney
Donald L. Edmunds (arrived 7:48 p.m.)
Edward Kempen
Matthew Kovacs

Absent:
David Lambert

Also Present:
Paul Evans, Inspector Supervisor
Allan Motzny, Assistant City Attorney
Kathy L. Czarnecki, Recording Secretary

Vice Chair Bartnik announced that because a full Board is not present this evening, the petitioners have the right to request postponement of an item prior to the presentation of the matter.

Resolution # BZA 2010-06-023
Motion by Clark
Support by Courtney

MOVED, To excuse Members Edmunds and Lambert.

Yes: All present (5)
No: Edmunds (arrived 7:48 p.m.), Lambert

MOTION CARRIED

2. APPROVAL OF MINUTES – May 18, 2010

Resolution # BZA 2010-06-024
Motion by Courtney
Support by Kempen

MOVED, To approve the May 18, 2010 Regular meeting minutes as prepared.

Yes: All present (5)
No: Edmunds (arrived 7:48 p.m.), Lambert

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 gave a brief history of the variance renewal. He indicated the applicant has requested the item to be postponed to the July 20, 2010 Board of Zoning Appeals meeting because the final survey work is not complete at this time. Mr. Evans said the neighbor to the north is in agreement with the requested postponement.

Resolution # BZA 2010-06-025
Motion by Courtney
Support by Kempen

MOVED, To postpone the item to the July 20, 2010 Board of Zoning Appeals meeting.

Discussion on the motion on the floor.

Members Kovacs and Clark asked for the basis of the applicant's request to postpone.

Mr. Evans said the reasons given to postpone the item are that the survey work is not complete and there also appears to be a scheduling conflict. It is Mr. Evans' understanding that the applicant will be ready for the Board's consideration at the July 20th meeting. Mr. Evans is keeping the neighbor to the north advised of the status of the matter.

Vote on the motion on the floor.

Yes: All present (5)
Absent: Edmunds (arrived 7:48 p.m.), Lambert

MOTION CARRIED

4. HEARING OF CASES

A. **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 noted the request was postponed from the May 18, 2010 meeting because the applicant was not present.

The applicant, Haitham Sitto of 3131 Paramount Lane, Auburn Hills, was present. Mr. Sitto indicated his desire to go forward with the item, even though a full Board is not present for deliberation. Mr. Sitto gave a history of the family-owned property. He said it is an ideal location to build a home for his family. Mr. Sitto said because the land is flat and a walk-out basement is not feasible, the floor plan is custom designed and unique with a 10-foot high ceiling on the first floor, resulting in a higher roof line.

[Mr. Edmunds arrived at 7:48 p.m.]

There was discussion on potential concerns brought to the Board's attention at the May 18, 2010 meeting relating to drainage, flooding and wetlands.

Vice Chair Bartnik noted there is written correspondence on file from two residents voicing objections to the variance request.

Mr. Sitto stated site engineering would address potential drainage or flooding issues. He further stated that due diligence on the property confirmed there are no wetlands.

Mr. Kovacs addressed the differences in the Zoning Ordinance requirements relating to fire safety measures among the residential zoning classifications. He asked the applicant if he would agree to comply with the fire safety measures required for residential homes in the R-1 zoning district.

Mr. Evans cited the applicable Zoning Ordinance section: Section 31.00.00 (R) 1.

After a short deliberation, Mr. Sitto stated he would comply with the fire safety measures as a condition to granting the variance.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # BZA 2010-06-026
Motion by Kovacs
Support by Clark

MOVED, To grant the variance.

Preliminary Findings:

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

Special Findings:

- The Zoning Ordinance in this case is not fair.
- This home should have the same privilege as a house in the R-1A or R-1B zoning district to allow the height to be 27 feet.
- The extra 2.3 foot height is minimal.
- Request that the owner, with the granting of the variance, meet the requirements of the R-1A zoning district to provide the fire safety system required for a 27-foot height, which basically equals the attic baffling.

Mr. Kovacs said the objections to the request relate to not wanting a house constructed on the site, and the Board has no power to grant that wish. Mr. Kovacs said the best possible outcome is a home of this size and beautifully proposed structure.

Vice Chair Bartnik asked legal counsel if the Board has the authority to impose a harsher requirement on the applicant.

Mr. Motzny replied that the Zoning Ordinance and Zoning Enabling Act authorize the Board to impose conditions to the granting of a variance as long as the conditions relate to the property. He said another requirement is that the condition is reasonable. Mr. Motzny said the condition is appropriate if the Board is satisfied that the condition imposed on the applicant is reasonable.

Mr. Clark said he chose to second the motion based on previous discussions on similar requests. He said it is a very reasonable modification to both sides.

Mr. Kempen said 10-foot high ceilings for first floor designs are becoming more common in home construction and modern architecture. He suggested that this consideration in relation to roof heights be addressed in the Zoning Ordinance rewrite.

Mr. Evans said the matter would be addressed in the comprehensive Zoning Ordinance rewrite, which should be complete within one year or less.

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

Yes: All present (6)
Absent: Lambert

MOTION CARRIED

B. **VARIANCE REQUEST, CITY OF TROY, 3775 ROCHESTER ROAD** – Because of the Rochester Road widening, a two-tenths (2/10^{ths}) of a foot variance to the required forty (40) foot front yard setback. The building is not being enlarged; the front property line is being moved towards the building, reducing the size of the front yard.

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

Mr. Motzny stated that the Condemnation Statute allows a governmental entity to request a variance on behalf of a property owner when the taking results in a non-conformity, as in this case. He also noted that, in this particular case, the matter is minor and has proceeded to trial on the assumption that the variance would be granted. Mr. Motzny informed the Board that should it grant the variance, the Resolution should incorporate wording that the variance is granted under the Condemnation Statute, MCL 213.54, and that "the property shall be considered by the governmental entity to be in conformity with the Zoning Ordinance for all future uses with respect to the nonconformity for which that variance was granted." Mr. Motzny noted that variance requests by a governmental entity are sometimes referred to a "super variances".

There was discussion on:
- Rationale in requesting conformity.
- Conformity status continuing with the land.
- "Super Variance" terminology, meaning.

The applicant, Patricia Petitto, Real Estate Consultant for City of Troy, was present. She confirmed that the variance request is for two-tenths (2/10^{ths}) of a foot.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # BZA 2010-06-027
Motion by Clark
Support by Courtney

MOVED, To grant approval of Item 4 B.

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

Special Findings:

- That under the Condemnation Statute, MCL 213.54, the property shall be considered by the governmental entity to be in conformity with the Zoning Ordinance for all future uses with respect to the nonconformity for which that variance was granted.

Yes: All present (6)
Absent: Lambert

MOTION CARRIED

C. **VARIANCE REQUEST, ROGER WADE, 4138 WASHINGTON CRESCENT DRIVE** – In order to construct additions to the house, a 4 foot variance to the required 30 foot front yard setback.

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

The property owner, Michael Bauhof of 4138 Washington Crescent, Troy, was present. Mr. Bauhof said they have shared the proposed plans with neighbors, eight of whom have offered their written signatures of approval. He said he and his family are looking forward to spending time on their new porch.

Roger Wade, project architect of 4826 Elmhurst, Royal Oak, was present. Mr. Wade gave a history of the home built in the early 1970's on a triangular shaped and curved frontage lot. Mr. Wade addressed the requested variances. One relates to the front porch that would allow the applicant to enjoy a similar size porch as their neighbors and appropriate placement of furniture. The second variance relates to the garage that would achieve the design intent of the proposed addition and renovations. Mr. Wade confirmed that the column farthest to the right is not designed for structural purposes of a room.

Mr. Edmunds complimented the architect on the proposed plan.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # BZA 2010-06-028
Motion by Kovacs
Support by Edmunds

MOVED, To grant the variance requested by the petitioner.

Preliminary Findings:

- That the variance would not be contrary to public interest.
- That the variance would not permit the establishment of a prohibited use within a zoning district.
- That the variance does not cause an adverse effect to properties in the immediate vicinity or zoning district.

Special Findings:

- The practical difficulties result from the following unusual characteristics of the property: 1) size, 2) location, and 3) configuration.
- The request is extremely minimal for the column support and beautiful front porch.

Discussion on the motion on the floor.

Mr. Evans noted the Planning Department has on file two communications for the requested variance. One communication contains the signatures of eight neighbors who are in favor of the variance. The second communication expresses opposition to the requested variance.

It was noted the written objection is from a resident at 4123 Cambridge Crescent, whose location is several lots away from the requested variance.

Yes: All present (6)
Absent: Lambert

MOTION CARRIED

D. **VARIANCE REQUEST, KEVIN BIDDISON, NORTHWEST CORNER OF STEPHENSON HWY AND RANKIN** – In order to construct a new building and parking areas, a variance from the requirement that parking areas adjacent to Rankin Street and Allen Road be set back 50 feet from the right of way lines.

Mr. Evans gave a brief report on the proposed variance with respect to its location and zoning of adjacent properties. He addressed the three frontages of the site and parking areas within the required 50-foot setback along Rankin and Allen. Mr. Evans reported that the Preliminary Site Plan was before the Planning Commission at their last meeting, at which time no action was taken because a variance is required.

Kevin Biddison of Biddison Architecture, 850 Stephenson Highway, Troy, was present. Mr. Biddison addressed the variances requested along Allen and Rankin to allow for parking on the site. An approximate 3-foot concrete retaining wall, at a slope to the sidewalk, is proposed within the 25-foot greenbelt. Mr. Biddison said deciduous trees and plantings would be planted in that area to provide screening for

parked cars. Mr. Biddison said the newly constructed office building would bring 285 office positions and 180 prototype positions to the City of Troy.

Thomas Kemp of Kemp & Peyerk Development, 275 W. Girard, Madison Heights, owner of the property, was present. Mr. Kemp indicated the proposed retaining wall is to accommodate the wishes of the Planning Commission.

Brian Corcoran, Director of Operations of Vehma International, said the development would bring a capacity of 285 engineering/design positions and 80 manufacturing positions. He indicated 45 to 50 of the engineering/design positions and 20 of the manufacturing positions would be new heads.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # BZA 2010-06-029
Motion by Kempen
Support by Courtney

MOVED, To grant the variance requested.

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 a zoning district.
- That the variance does not cause an adverse effect to properties in the immediate vicinity or zoning district.

Special Findings:
- Conforming would be unnecessarily burdensome in this case.
- The variance is a small variance in this case.
- The proposed improvements would improve the area.

Discussion on the motion on the floor.

Mr. Clark asked if there were any communications on file from neighboring property owners or the public.

Vice Chair Bartnik replied in the negative. He noted the communications included minutes from the June 8, 2010 Planning Commission meeting and the City's Planning Consultant reports.

Vote on the motion on the floor.

Yes: All present (6)
Absent: Lambert

MOTION CARRIED

5. COMMUNICATIONS

None.

6. MISCELLANEOUS BUSINESS

Mr. Kovacs announced his resignation from the Board. He expressed appreciation for the wonderful people he met and the great experience his term brought him.

Everyone applauded Mr. Kovacs for his excellent participation on the Board.

Mr. Motzny announced this is his final meeting with the Board. Effective July 1, the City Attorney's office will begin rotation of legal counsel representation for Boards and Committees.

7. ADJOURNMENT

The Board of Zoning Appeals meeting adjourned at 8:42 p.m.

Respectfully submitted,

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Michael Bartnik, Vice Chair

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Kathy L. Czarnecki, Recording Secretary

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