

**ZONING BOARD OF APPEALS
MEETING MINUTES
May 28, 2014
CITY COUNCIL CHAMBER
7:00 P.M.**

1. CALL TO ORDER

The meeting was called to order at 7:04 p.m.

II. ROLL CALL

Present: J. Bailey, G. Udoji, T. Roach, E. Seymour,

Absent: R. Johnson (excused)

Staff: T. Gillotti, Community Development Director
N. Schuette, Executive Secretary

III. APPROVAL OF MINUTES – April 23, 2013

Commissioner Seymour moved to approve the minutes of April 23, 2014 as read (Support: J. Bailey) and the motion carried unanimously.

VI. PURPOSE OF MEETING

Commissioner Bailey stated that the purpose of the meeting is to provide an opportunity to request a use variance and parking variance, which is not allowed in our standards. This is a right which other property owners in their particular areas do not have.

VII. OLD BUSINESS

None

VIII. NEW BUSINESS

1. 512 N. Hamilton

Ms. Gillotti, Community Development Director, stated that this is a request for approval of a use variance to permit a Substance Abuse Treatment Facility, specifically for a use that is not permitted by right in the area requested. This differs from a dimensional variance, as it requires findings not only that a hardship exists on the site but that the desired use, not allowed in the district, is the sole means to relief for the particular parcel being considered.

Ms. Gillotti gave some background information on this property stating that it is a duplex, zoned R2. It has been used as a group living capacity previously. The home was licensed by the State of Michigan as an Adult Foster Care home in 1973 and maintained that use until 2008. The property has been owned by Charles Smith and Pamela Kekes since 1973, which have either been involved or leased to the operators of the facility. The property is currently leased to Washtenaw County Community Mental Health and the facility is operated by Home of New Vision, which is a non-profit organization.

In 2008, the adult foster care home residents moved to a different facility since it did not fit with the best practices of barrier-free homes for adult foster care. Home of New vision took over the residence and began operations as a short-term crisis intervention boarding facility for adults with co-occurring substance abuse and mental health disorders and are inebriated but not in need of medical treatment. In 2011, the engagement center decided to withdraw the state license as the services they offer do not require an adult foster care license. The average length of stay is 4 days – the center has 8 beds and direct care staff 7 days a week, 24 hours a day. The variance they are requesting is not the minimum; the capacity could be reduced to six beds to be in line.

During a rental certification re-inspection of the property in 2013, city staff found the engagement center no longer was a state-licensed facility and found the use to be in violation of R2 zoning, which does not permit a Boarding Substance Abuse Treatment facility. Ms. Gillotti reviewed the Permitted Uses, Permitted Accessory Uses and Special Uses allowed in the R2 zoning. She also reviewed the standards for variances, after which, staff recommended denial of this request referring to the findings in her staff report.

Ms. Gillotti added that there are a number of larger homes in the same area primarily being used as rental properties, especially by students, due to the proximity to the university. Staff has not received any planning complaints - there have been two code enforcement complaints in the last two years due to litter, which is minimal. There have been a number of police calls primarily related to medical needs.

Commissioner Udoji asked if they reduced to 6 beds – would Adult Foster Care be allowed, to which Ms. Gillotti addressed, adding that they would still need the state license and meet all zoning requirements.

Commissioner Udoji moved to open the public portion of the hearing (Support: E. Seymour) and the motion carried unanimously.

Pam Kekes, 11760 Weiman Dr, Pinckney – owner of the property. They lease the property to Washtenaw County and the County has oversight for the program. The County in turn provides funds for both the program and the landlord. The residents were moved into another facility by the County since they were older and had problems getting up and down stairs. The license was withdrawn because it did not fit into the requirements of Adult Foster Care.

Marcy Scalera, Director of Coordinating, Washtenaw County Health Agency – stated that this initial opportunity to bring a unique program into this community was presented because of the number of homeless people. They were in the process of developing a program when the foster care home became available, which is how they started in 2008. They kept the adult foster care license for several years and as their program became more known to the community, it served as a model for programs in other areas. They dropped the license voluntarily because the work they were doing with homelessness and substance abuse did not fit into the Adult Foster Care Home as well as the length of stay could be anywhere from 24 hours to 72 hours and not the two weeks necessary to be considered under the adult foster care license requirements. They have a number of volunteer doctors and nurses who donate their time to assist.

Board members asked a number of questions regarding licensing and treatment, as well as average number of days of stay, which were addressed by Ms. Scalera.

Glynis Anderson, Founder and CEO of Home of New Vision – operates the program at N. Hamilton. They accommodate community needs – have been unable to determine what kind of licensing is required – currently they are accredited under crisis intervention helping people move on with their lives. They are good neighbors and have a list of people in close proximity that have signed a petition in support.

Commissioner Udoji asked if they had any letters from the State in support of their program, to which Ms. Anderson responded in the negative.

John Riser, 365 Hillcrest – is a board member of the Home of New Vision as well as the Ypsilanti Township Planning Commission. It is his opinion that substantial justice will be served by approving this request.

Barabara Hale, 310 N. Hamilton – has lived in her neighborhood since 1950 as a resident and landlord of nearby properties. She is opposed to this request.

Julie Brown, 313 Olive – has lived at her residence since 1978 – concerned about oversight of the people that visit this property. There are a number of children in the vicinity and she is concerned about the various “characters” she sees on a daily basis. She does not see any need for a crisis center where young children and older people live.

Kim Reynolds, 428 N. Hamilton – has lived in her home since 2004 – has three small children. She is also concerned about the number of transients. She added that the frequency of police calls has increased to once or twice a week.

Commissioner Roach moved to close the public portion of the hearing (Support: G. Udoji) and the motion carried unanimously.

After further discussion among board members with clarification by applicants, Commissioner Roach moved that the Zoning Board of Appeals deny the use variance permit of a boarding substance abuse facility per Section 122-273 and Sec 122-274, as submitted on April 1, 2014, with the following findings:

1. The applicant has shown insufficient practical difficulty under Sec 122-94(b)(1).
2. Such a variance is not necessary for the preservation and enjoyment of a substantial property right enjoyed by other property owners in the same district under the terms of the zoning ordinance, per the standards of Sec 122-94(2).
3. The practical difficulty being proposed is self-created, per Sec 122-94(3).
4. The allowance of the variance will not result in substantial justice being done, given the conditions spelled out in Sec 122-94(b)(5).
5. Denial of this variance does not preclude the applicant's ability to put the property to reasonable use with a permitted use in the R2 district without unnecessary hardship, per the standards of Sec 122-94(b)(7)(a).

The motion was supported by Commissioner Seymour and carried unanimously.

2. 50 Ecorse

Ms. Gillotti stated that this is a request for approval of a non-use variance to reduce the number of required parking spaces by 43 spaces. This is an odd shaped lot that is approximately 1.8 acres and includes the small strip mall that has the Dollar General but also has very small car dealership in the parking lot with used cars on display. They are operating under a special use permit approval in 2002 which limited the number of display vehicles to ten in the spaces designated for sales and display. The city has been pursuing enforcement action since they have been going over their limit of ten cars, ranging from 40 -70 cars on display. They are looking at options to come into compliance since the parking lot is not being utilized for the strip mall and they could expand the used cars sales if there was a variance in the parking requirement.

This would be a two-step process – one that is a variance on the dimensional requirement for parking and later on looking for a special use permit to expand from the 10 spaces to whatever number they would need to use.

Ms. Gillotti reviewed the table of required number of parking spaces as outlined in Sec 122-836. If the applicant submitted a special land use and site plan application in the future, the Planning Commission, under Section 122-832(4) may grant a reduction of required parking space up to 20%. She also reviewed the standards for variances with the city's response to each standard listed in the staff report dated May 23, 2014. Staff recommended denial of the request.

Commissioner Bailey asked if the zoning requirements would change when the new zoning ordinance went into effect and Ms. Gillotti agreed that there will be some changes that would affect the number of parking spaces required, which would possibly be a reduction in requirements.

Commissioner Udoji moved to open the public portion of the hearing (Support: E. Seymour) and the motion carried unanimously.

John McCausland, works with the landlord, who is the owner of the property. He reviewed various pictures of the surrounding facilities over the last few months at

different times of the day indicating that there are a large number of spaces not being used at the Dollar General and Dispensary. There are two staff members at each location. The dispensary services approximately 15 customers a week. The Dollar General never has more than 5-6 cars in their lot at any time of the day. There is no need for 80+ parking spaces. He is asking to free up some of the spaces, especially the ones behind the auto dealership that are never being used.

Jamal Garmo, 31600 W. 13 Mile Road, Farmington Hills – is the owner of the property. He is in agreement with Mr. McCausland's comments regarding the lack of use of the number of parking spaces behind the auto dealership and asked the board to approve his request.

Commissioner Udoji moved to close the public portion of the hearing (Support: E. Seymour) and the motion carried unanimously.

After discussion among the board members, Commissioner Udoji moved to table this request in order to give the applicant more time to explore other options (Support: T. Roach) and the motion carried unanimously.

IX. AUDIENCE PARTICIPATION

Richard Smith, 28 S. Washington, is a member of the Downtown Development Board. He is considering the purchase of the property on S. Washington next to the party store for possible use as a car wash. He attended the meeting to get the view of the Zoning Board if this could be a consideration. Staff informed him that this is not the correct zoning although he would be welcome to make his case before the board at a later meeting.

IX. ADJOURNMENT

Since there was no further business, Commissioner Roach moved to adjourn the meeting (Support: E. Seymour) and the motion carried unanimously. The meeting adjourned at 9:58 p.m.