

Agenda
Zoning Board of Appeals, City of Ypsilanti
Council Chambers
Wednesday, June 27, 2012
7:00 p.m.

I. Call to Order

II. Roll Call

John Bailey, Chair	P	A
Rod Johnson	P	A
Mike Shecket	P	A
Godfrey A. Udoji	P	A

III. Approval of Minutes – March 23, 2011

IV. Purpose of Meeting

V. Old Business

VI. New Business

1. Election of chair and vice-chair
2. Upcoming training – Aug. 22, 2012

VII. Adjournment

**ZONING BOARD OF APPEALS
MEETING MINUTES
March 23, 2011
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. Clark, K. Short, M. Shecket,

Absent: L. Ailts (excused) G. Udoji

Staff: T. Gillotti, City Planner,
N. Schuette, Executive Secretary

III. CLOSED SESSION

Commissioner Short moved to go into closed session to consider materials exempt from discussion or disclosure by state or federal statute (attorney-client privileged communication) pursuant to section 8(h) of the Open Meeting Act: MCL 15.268(h) (Support: M. Shecket) and the motion carried unanimously. Closed session adjourned at 7:30 p.m.

IV. OPEN SESSION

Commissioner Shecket moved to return to Open Session (Support: G. Clark) and the motion carried unanimously. Open Session reconvened at 7:31 p.m.

V. APPROVAL OF MINUTES – December 2, 2010

Commissioner Short moved to approve the minutes of December 2, 2010 (Support: G. Clark) and the motion carried unanimously.

VI. PURPOSE OF MEETING

Commissioner Bailey stated that the purpose of the meeting is to consider an administrative appeal for 317 N. Washington.

VII. OLD BUSINESS

None

VIII. NEW BUSINESS

1. Administrative Appeal: 317 N. Washington

Ms. Gillotti, City Planner, presented the appeal for 317 N. Washington Street providing some background, which was included in the commissioners' packet. This property is commonly referred to as the Sunoco Gas Station located on the southwest corner of Washington and Cross Streets. This is in the Residential Commercial Zoning District. The owner is Knight Enterprises, Inc. and they propose to open a gas station at the current facility at 317 N. Washington. Knight Enterprises, Inc. has owned the property since 2002 and owns several gas stations in southeast Michigan.

The specific appeal is based on an administrative decision that Ms. Gillotti provided on November 23, 2010. At that time, the applicant did apply to re-open the gas station in its existing form, which consists of a small commercial office-type building that is approximately 441 sq. ft. as well as a single service station island that is still located on the site. At that time, she informed the applicant that per our zoning ordinance, it was a legal non-conforming use of the property to use it as a gas station, however, due to it being inactive for more than 365 days, a special use permit and site plan approval would be required to re-open the gas station. The last time the service station was in use was approximately September 10, 2001 according to city records and that was the basis of the administrative decision at that time. There had been some previous decisions, which were included in the letter to the applicant and are also included in the commissioners' packet; however, this appeal is specific to her recent decision in 2010.

Based on the zoning ordinance, which does allow for an appeal process of the administrative decision, the applicant did file for, and is requesting, a reversal of her administrative decision so they can open the gas station in its existing configuration. She pointed out that if there was an expansion of the facilities, i.e. another service island or expansion of the store, that would trigger the special use and site plan approval because it would be an expansion of the special use and at that time, and it would have to go before the Planning Commission for review.

Commissioner Shecket moved to open the public portion of the hearing (Support: G. Clark) and the motion carried unanimously.

Ellis Freatman, Attorney, 125 N. Huron – representing the owner, Carroll Knight. This has been an on-going process for several years. Mr. Knight actually started this process with the former City Planner, Nathan Voght, some time ago trying to get this matter resolved. There have been several people trying to purchase this property from Mr. Knight and get it re-opened and they have been rebuffed consistently. Knight Enterprises just recently decided to push forward to get this re-opened in its current configuration. They would expect, and would be required, to do code related things to the building, subject to building inspection, and would be making any improvements to get the building up to code. The concept of abandoning the use is a matter of intent and it has been interpreted on numerous occasions, but it is his opinion that the use was not abandoned and the intent was never to abandon the use and that the tanks

have been maintained all along. They are suitable for refilling today. Mr. Freatman maintains that the use is appropriate and is asking that the decision by the City Planner, Ms., Gillotti, be overturned.

Carroll Knight, 34214 Old Timber Road, Farmington Hills, MI 48331 - stated that he is not trying to change the footprint of this property. There are actually two pump islands. The tanks have been tested and met the requirements of the State of Michigan. He met with the inspector and had no problem with the underground storage. It was designed as a gas station; he bought it as a gas station and wants to re-open as a gas station.

Commissioner Clark stated that he thought the station had opened for a short period at one time. Mr. Freatman responded that they tried to open but did not. Commissioner Clark also asked if the tanks were still approved for the use and Mr. King responded in the affirmative. Commissioner Bailey asked when the tanks were last tested and Mr. Freatman responded that they had been tested two months ago when they met with an inspector. Mr. King added that they were in compliance.

Taryn and John Scherer, 6720 Liberty Road, Ann Arbor, Michigan – stated that they own several properties in the area including 315 N. Washington, 320 and 314 N. Adams, and 217 W. Cross. The gas station closed on 9/11/01 and since that time, people have tried to open up illegally. Ms. Scherer has personally called the city on several occasions when gas has been put in the tanks as well as having Chief Ichesco come to check on them. She has been in contact with Mark Johns, in the Storage Tank Division in Lansing and asked him on a number of occasions on the status of the station. They have often cleaned up the property, removing weeds and trash. Ms. Scherer added that she was present when Mark Johns met with the owner a couple of months ago and at that time, stated her concerns about re-opening. She also spoke with Mr. Johns by telephone regarding calls she was receiving and at that time, Mr. Johns did not agree that the station was ready to be re-opened. Mr. Scherer stated that there had also been substantial spillage. Ms. Scherer stated that this property has been a blight to the area.

Chris Janowiak, owner of Funeral Home – stated that this gas station has been closed since 9/11/01 and has been a hindrance to the area in the last ten years with trash, weeds, and broken sidewalk. He agrees that the City Planner's decision should be upheld. It is his opinion that the property is not large enough to offer a full mart. In looking at the history of the corner, the station changed hands and was up for property taxes. If the City allows the property to re-open as a gas station, he would recommend that they acquire new tanks since the existing ones are over 30 years old; he would like to see a new building on the property with proper setbacks, all new concrete and city approved landscaping. Mr. Freatman stated that abandonment is a question of intent although no action has been taken on this property until the last six months.

Commissioner Short moved to close the public portion of the hearing (Support: M. Shecket) and the motion carried unanimously.

Commissioner Clark stated that the term "abandonment" means having no intent to run the business as a use for a gas station. He does not feel that this is what has happened and that it has always been the intent for the use to be a gas station. He also added that it is his opinion that the job of the commissioners is to determine in terms of zoning whether or not to go forward with the decision of the City Planner or reverse it.

Commissioner Shecket stated that the scope of what ZBA rules are in discussing this case is limited. It is not whether or not the property is unkempt but more that the board should evaluate whether the City Planner's opinion should be upheld or reversed in light of the law.

Commissioner Short stated that there is no specific proof that the applicant planned to abandon the property even although it has sat empty for a considerable length of time.

Ms. Gillotti stated that regarding the underground storage tanks, she spoke with Chief Ichescio who is our local liaison with MDEQ and they are current. There is an inspection coming up this spring to maintain the status of the tanks. The Fire Chief has a record going back many years regarding those particular tanks. They have been monitored by MDEQ. Recently, within the past year, the City of Ypsilanti did put the property on the dangerous buildings list because of various issues, i.e. the parking lot had become an informal skate park with a ramp. Since then the owner has completed all the issues in question, they have repainted, secured the building, cleaned up the parking lot, ensured that cars can no longer park there from the apartments nearby. In the past six months there have been improvements. She was asked how old the tanks were and she responded that she was unsure but possibly about 20+ years old. It is her understanding that they are currently approved and have an inspection due shortly. Commissioner Short asked about any requirement if they re-opened and Ms. Gillotti responded that the tanks need to have State approval – and since they are using the existing footprint, they would only require Building Department approval but no site plan review is necessary unless they plan some expansion.

Commissioner Clark moved to reverse the decision of the Planning Department regarding 317 N. Washington based on a lack evidence to support any intent to abandon the use on that site (Support: M. Shecket) and the motion carried 3:1. Commissioner Bailey opposed.

2. Election of Officers

Chairman Bailey was asked if he wished to continue the position of Chair of the Zoning Board of Appeals, to which he agreed. Commissioner Shecket agreed to accept the Vice-Chair position.

Commissioner Clark moved to re-appoint Commissioner Bailey as Chair of the Zoning Board of Appeals and appoint Commissioner Shecket as Vice-Chair (Support: K. Short) and the motion carried unanimously.

IX. ADJOURNMENT

Since there was no further business, Commissioner Short moved to adjourn the meeting (Support: G. Clark) and the motion carried unanimously. The motion adjourned at 8:15 p.m.

DRAFT