
**MINUTES OF REGULAR MEETING
BOARD OF ZONING APPEALS
October 11, 2018, 6:30 P.M.
Neighborhood Empowerment Center - 600 W. Maple Street**

I. ROLL CALL

The meeting was called to order by Chairperson Marcie Alling at 6:30 p.m. Roll call was taken.

Present: M. Alling, M. Rice, C. Iannuzzi, K. Berryman, W. Sanford & M. Solak

Absent: J. Hovey & J. Leaming

Staff: S. Stachowiak

A quorum of five members was present, allowing voting action to be taken at the meeting.

II APPROVAL OF AGENDA

It was moved by Mr. Rice, seconded by Mr. Berryman to approve the agenda with the addition of "excused absences" under New Business. On a voice vote, the motion carried 6-0.

III. PUBLIC COMMENT

IV. ACTION

A. BZA-4041.18, 1924 Remsing Drive

Ms. Stachowiak stated that this variance request has been withdrawn by the applicant.

Robbi Goodine, 1918 Remsing, expressed concerns about the applicants and their wellbeing. She said that she and her husband live next door to the applicants and have helped them out on numerous occasions as they are elderly people. Ms. Goodine said that the house seems to be full of a stuff and may be a serious fire hazards. She said that they have contacted the City's Code Enforcement Office and the Mayor's Office but nothing has been done and the living conditions are deplorable. Ms. Goodine said that these people need help and are not getting it.

Thomas Goodine, 1918 Remsing, said that he and his wife have not seen David Arganian for some time and are concerned about his whereabouts. He said that the house is red tagged as there are multiple code violations and yet the owners are still living there. There are no working fire alarms and the house has not been inspected by the City in a very long time. Mr. Goodine stated that there are serious health and safety issues associated with the property and he is concerned for the owners and also the potential for damage to his house if there were to be a fire.

Ms. Stachowiak stated that she would make sure that Code Compliance and Fire follow up on these concerns and that the Police perform a well-check on the couple that live there.

B. BZA-4042.18, 628 Glendale Avenue

Ms. Stachowiak said the applicant, Kevin Ohl, is appealing a decision by the City's Zoning Administrator that the mobile home located on the property at 628 Glendale Avenue, which is zoned "A" Residential, is in violation of the Zoning Ordinance and must be removed. The Zoning Administrator has determined that the "A" Residential district permits one single family residential dwelling unit per parcel of land and that the mobile home constitutes a second dwelling unit as there is already a permanent house on the property. The applicant is appealing

the decision that the mobile home is considered a dwelling unit as it is only used for sleeping purposes and is not connected to any utilities. The applicant also contends that the structure is considered a trailer as opposed to a mobile home and is therefore, permitted to be parked on the property.

Ms. Stachowiak stated it is her determination that the structure that is the subject of this request is considered a mobile home, as that is the purpose for it was manufactured, and thus qualifies as a dwelling unit as defined by Section 1240.03 of the Zoning Ordinance. She said that by the standards of the Zoning Ordinance and the definitions contained therein, a mobile home is a structure, just like a house, that is designed for permanent occupancy. A trailer, by contrast, is a vehicle, such as a motor home or pop-up camper that is used for temporary living or sleeping purposes. Trailers are only permitted in the "A" Residential district, which is the zoning designation of the subject property, in a designated and approved trailer camp. A trailer camp is permitted in the "A" Residential district, with a special land use permit, on a site that is at least 10 acres in size. The subject property contains 8,905 square feet.

Ms. Stachowiak said that in the "A" Residential district, mobile homes are only permitted if they are firmly attached to a permanent foundation, have a core living space of at least 24 feet by 24 feet, an internal height of at least 7.5 feet and comply with the other design standards listed in Section 1240.03 of the Zoning Ordinance under the definition of "dwelling unit". As evidenced by the photographs contained in the meeting packet, the structure that is the subject to this request does not comply with any of these requirements.

Ms. Stachowiak said that Chapter 1248, Section 1248.02 of the Zoning Ordinance lists a "one-family dwelling" as a use permitted by right in the "A" Residential district. Chapter 1248 makes no provision for allowing more than one dwelling unit on a single parcel of land, except as a planned residential development which requires approval by the City Council, following a public hearing and a recommendation from the Planning Board. In order to be approved for a planned residential development, the site and the buildings located thereon would have to comply with numerous requirements for parking, lot size, setbacks, open space, distance between buildings, etc. The subject property is too small to accommodate the minimum requirements for approval of a planned residential development. For example, a minimum of 2 on-site parking spaces would be required for each unit. As evidenced by the attached photographs, the location of the trailer only leaves room for 2 parking spaces in the driveway. In addition, a minimum lot size of 12,000 square feet would be required for a 2-unit planned residential development. The subject property is 8,905 square feet in area.

Ms. Stachowiak stated that the mobile home cannot be considered a permissible vehicle as it is not drivable on its own, it is not incidental to the primary use of the property (single family dwelling) and it is clearly being stored on the lot as it has not moved in several weeks. In fact, the information provided by the appellant indicates that, if given the necessary approvals, he intends to leave the structure on the property and continue to use it for sleeping purposes indefinitely.

Ms. Stachowiak said that in addition to the Zoning Ordinance issues, the mobile home cannot be occupied, especially for sleeping purposes, as it does not comply with minimum housing or building code requirements for such use. No structure may be used for sleeping/residential purposes that is not connected to the necessary electrical, mechanical and plumbing utilities required by code to make it a safe and sanitary environment for human occupancy. Therefore, even if the zoning issues are resolved by a ruling from the Board of Zoning Appeals in favor of the appellant, the structure would have to be brought into compliance with all applicable housing and building codes for residential occupancy. This will include properly connecting the structure to electrical, mechanical and plumbing utilities.

Ms. Stachowiak said that it is her position that the structure that is the subject of this request is not permitted on the property at 628 Glendale Avenue for the following reasons:

- * The structure is considered a mobile home which, by Zoning Ordinance definition and by design is a "dwelling unit".
- * Since the subject property is zoned "A" Residential, one dwelling unit is permitted. The mobile home constitutes a second dwelling unit as there is also a permanent home on the property.
- * The issue of whether the structure falls under the definition of a mobile home or a trailer is irrelevant as the structure would be in violation of the Zoning Ordinance in either case. If it is a mobile home, it is a 2nd dwelling on a parcel zoned "A" Residential. If it is a trailer, it is only permitted to be parked in a designated trailer park.
- * The structure, even though it may be classified as a vehicle by the State of Michigan, is not considered a vehicle permitted to be parked on a single family residential lot by the standards of the Zoning Ordinance. The structure is not "incidental" to the principal use of the lot which is a single family residential home and it is clearly being stored rather than just parked on the lot.
- * The structure does not comply with Housing or Building Code requirements for human occupancy, even if it is used only for sleeping quarters.

Kevin Ohi, 628 Glendale Avenue, stated that it is his position that he and his wife are only using the trailer for sleeping accommodations and therefore, it is not a violation of the Zoning Ordinance. He said that the trailer is not connected to any utilities connections although he does plan to connect a free-standing certified 100# propane tank to the furnace of the trailer so that they will have heat in cold weather. Mr. Ohi said that he and his wife were forced to move and with their limited social security, their only option was to park the trailer in their daughter's driveway. He said that his daughter is a single mother with 5 kids and she does not have room in the house for them to sleep so they sleep in the trailer. He said that he has diabetes and Leukemia and he also saw this as an opportunity to spend more time with his daughter and grandchildren. Mr. Ohi stated that he contacted the City's Code Enforcement Office and it was his understanding that as long as the trailer is used only for sleeping, it would not be a problem.

Mr. Ohi said that the State of Michigan titled the property as a trailer/coach as opposed to a mobile home. He said that his wife spoke with Brian McGrain, Director of Economic Development & Planning for the City and he indicated that the trailer was permitted as long as it was only being used for sleeping purposes. Mr. Ohi said that if the trailer needs to be hooked up to utilities, he could do that work himself. He said that he is requested that the Board find in his favor so that he and his wife can continue to stay in the trailer on his daughter's property and they cannot afford to rent a lot in a mobile home park.

Mr. Solak stated that there are code restrictions that would prevent the trailer from being connected to propane.

Mr. Rice said that he considers the structure to be a mobile home and thus, a second dwelling unit on a parcel of land zoned for single family residential use only. He said that the issue of whether the structure is connected to utilities or not is irrelevant. Mr. Rice said that he agrees with the Zoning Administrator's decision.

Mr. Berryman asked Mr. Ohi if he intends to keep the structure on the property permanently.

Mr. Ohi said that it would not be permanent but how long it would stay on the property depends on how long he has to live.

Mr. Berryman said that he considers the structure to be more of a trailer than a mobile home.

Mr. Ohl said that it will be problematic if he has to move the trailer to a park as he does not have the funds to do so.

Mr. Rice made a motion to uphold the decision of the Zoning Administrator for the following reasons:

- * **The structure is considered a mobile home which, by Zoning Ordinance definition and by design is a "dwelling unit".**
- * **Since the subject property is zoned "A" Residential, one dwelling unit is permitted. The mobile home constitutes a second dwelling unit as there is also a permanent home on the property.**
- * **The issue of whether the structure falls under the definition of a mobile home or a trailer is irrelevant as the structure would be in violation of the Zoning Ordinance in either case. If it is a mobile home, it is a 2nd dwelling on a parcel zoned "A" Residential. If it is a trailer, it is only permitted to be parked in a designated trailer park.**
- * **The structure, even though it may be classified as a vehicle by the State of Michigan, is not considered a vehicle permitted to be parked on a single family residential lot by the standards of the Zoning Ordinance. The structure is not "incidental" to the principal use of the lot which is a single family residential home and it is clearly being stored rather than just parked on the lot.**
- * **The structure does not comply with Housing or Building Code requirements for human occupancy, even if it is used only for sleeping quarters.**

Mr. Sanford seconded the motion.

Mr. Solak said that he agrees with the Zoning Administrator's decision as well but does not agree with the fifth bullet point regarding Housing & Building Code requirements. He offered a friendly amendment to strike that bullet as a reason for upholding the decision.

Mr. Rice and Mr. Sanford accepted the friendly amendment.

Mr. Sanford said that there is no practical difficulty or hardship associated with the request that would warrant approval to allow the structure to remain on the property. He also said that doing so would not be harmonious with the surrounding area which is one of the criteria that the Board must consider in making its determination.

Mr. Rice said that the criteria that Mr. Sanford mentioned relates to variances as opposed to administrative appeals.

Mr. Sanford said that the structure is a trailer rather than a mobile home and it is semi-permanent in nature.

On a roll call vote, the motion carried 5-1. Mr. Berryman cast the dissenting vote.

Mr. Solak asked that the City work with the applicant and be as flexible as possible in getting the violation corrected.

Ms. Stachowiak assured the Board that she would proceed in that fashion.

V. OLD BUSINESS**VI. APPROVAL OF MINUTES – Regular Meeting, September 13, 2018**

Mr. Rice made a motion, seconded by Mr. Berryman to approve the minutes from the regular meeting held on September 13, 2018, as presented. On a roll call vote, the motion carried unanimously (6-0).

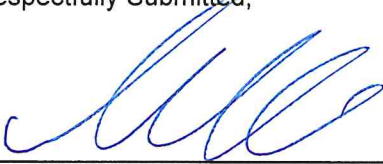
VII. NEW BUSINESS**A. Excused Absences**

Mr. Iannuzzi made a motion, seconded by Mr. Solak to grant excused absences for Mr. Hovey and Mr. Leaming. On a voice vote, the motion carried unanimously (6-0).

- B. Ms. Stachowiak said that the November meeting is going to be lengthy as there are four variances cases for medical marijuana dispensaries within 500 feet of each other on S. MLK. She said that there is at least one other variance case on the agenda as well for that evening. Ms. Stachowiak said that she will have one of the City Attorneys at the meeting.

VIII. PUBLIC COMMENT**VIII. ADJOURNMENT AT 7:00 P.M.**

Respectfully Submitted,



Susan Stachowiak, Zoning Administrator