
**MINUTES OF REGULAR MEETING
BOARD OF ZONING APPEALS
September 14, 2017, 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. Ms. Alling read the BZA introduction. Roll call was taken.

Present: M. Alling B. McGrain J. Quick K. Litwiller Mr. Rice

Absent: J. Hovey J. Leaming

Staff: S. Stachowiak

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

Ms. Alling called for a moment of silence in honor of Emily Horne who served on the BZA for many years until her passing on this day.

II APPROVAL OF AGENDA

It was moved by Mr. McGrain, seconded by Mr. Rice to approve the agenda with the following changes:

* Addition of “excused absence” under “new business”.

* Hear the cases in the following order:

1. BZA 4031.17, 222 N. Chestnut Street
2. BZA 4030.17, 816 Call Street
3. BZA 4032.17, 601 W. Saginaw Street

On a voice vote, the motion carried 5-0.

III. HEARINGS/ACTION

BZA-4031.17, 222 N. Chestnut Street

Ms. Stachowiak stated that this is a request by the Michigan Community College Association to construct a parking lot in the front yard at 222 N. Chestnut that would have setbacks of 12.02 from the front property line along W. Ionia Street and 6.17 feet from the front property line along N. Chestnut Street. Section 1284.03(a) of the Zoning Ordinance prohibits parking within the required 20 foot front yard setback in the “D-1” Professional Office district, which is the zoning designation of the property at 222 N. Chestnut Street. Variances of 7.98 feet and 13.83 to the required front yard setbacks for a parking lot at 222 N. Chestnut Street are therefore, being requested. Staff recommended denial on a finding that the variances would not be consistent with the practical difficulty criteria of Section 1244.06 (c) or the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application.

Ms. Stachowiak said that there is nothing unique about the subject property that sets it apart from the other properties in the same general vicinity, most of which are relatively small, have limited on-site parking and contain older homes that have been converted to offices over the years. In fact, the subject property is actually one of the largest lots in the area. While the amount of parking on the site may be

inadequate to accommodate the use, there is on-street parking provided in the area and there may be

opportunities for shared parking with other offices or institutions in the surrounding area.

Ms. Stachowiak said that the area is characterized by buildings located close to the streets with the parking either to side or rear of the buildings so that parking does not dominate the streetscape. There was a house located north of the existing building that was demolished in 2003, within a few months of the applicant purchasing the property. The demolition of the house has left a vacancy on a corner lot which has been disruptive to the development pattern in the area. Allowing that greenspace to be converted to a parking lot, particularly with reduced setbacks, would be even further disruptive to the appropriate and orderly development of the area.

The following comments were obtained at the public hearing held on July 13, 2017, at which no quorum was present:

Kathy Taskey, Business Manager, Michigan Community College Association, 222 N. Chestnut Street, spoke in support of the request. She said that there are 10 employees in the building for the Association. She said that it serves as a training facility and provides programs for the 28 community colleges in the State of Michigan. Ms. Taskey said that they do share parking with the church across the street but they have a lot going on as well and their parking lot is full much of the time. She said that when they host events and training programs, their visitors and employees often have to use the on-street metered parking. Ms. Taskey stated that they are in need of more on-site parking and the vacant lot is a logical place for it. She said that the house that previously existed at that location was far too dilapidated for it to be cost effective to renovate. Without the variances, they could construct about 6 spaces as a matter of right but makes more sense to construct a double row of parking with a nice landscape buffer which will look a lot nicer than what it looks like now as a vacant lot.

Jeff Kyes, Kees, Inc., 2116 Haslett Road, Haslett, MI, spoke in support of the request. He said that it would not be feasible for the applicant to only construct 6 parking spaces. Mr. Kyes said that the site is rectangular but it is small and without a variance, it cannot be developed appropriately. He said that they originally wanted to construct 15 parking spaces but scaled it back to 12 in order to accommodate an appropriate landscape buffer.

Mr. McGrain asked how the Association came to own the property and what their intent was when it purchased the property.

Ms. Taskey said that they purchased it in 2003, demolished the house because of its level of deterioration and combined that lot with the lot to the south at 222 N. Chestnut Street so that it all became one parcel.

Michelle Taylor, Michigan Community College Association, 222 N. Chestnut Street, spoke in support of the request. She said that rather than investing in the house that they demolished, which was far too costly given the level of deterioration, they decided to invest in the house that is still standing on Ionia. Ms. Taylor said that the church already leases some of its spaces but they frequently run out of parking.

End of public hearing.

Mr. McGrain said that the applicant could construct parking on the subject property, just not within the required 20 foot setback along the front property lines.

Mr. Rice said that he is struggling to find a justification for approving the variance as the parking lot will change the character of the area. He said that parking challenges are a reality in the downtown but there are the parking ramps and on-street parking in the area which may not be as convenient but nevertheless, available.

Mr. McGrain said that the City has adequate parking, it is just underutilized. He said that there is a lot of pavement in the area and he does not want to see continued building demolitions to provide more parking. Mr. McGrain said that the City needs to reconsider its ban on overnight on-street parking.

Mr. McGrain made a motion, seconded by Mr. Rice to deny BZA 4031.17, for variances of 7.98 feet and 13.83 to the required front yard setbacks for a parking lot at 222 N. Chestnut Street, on a finding that the variances are not be consistent with the practical difficulty criteria of Section 1244.06 (c) or the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application. On a roll call vote, the motion carried (5-0).

Michelle Taylor, Michigan Community College Association, 222 N. Chestnut Street asked what their options are for appealing the Board's decision.

Ms. Stachowiak said that the applicant has 21 days to appeal the decision in circuit court.

BZA-4030.17, 816 Call Street

Ms. Stachowiak stated that this is a request by Michael Doherty to permit the house at 816 Call Street to be occupied by four (4) unrelated persons. Section 1248.03(m)(1) of the Zoning Ordinance permits a single family dwelling in the "B" Residential district, which is the zoning designation of the property at 816 Call Street, to be occupied by a maximum of three (3) unrelated persons. A variance of one (1) to the occupancy limitation for unrelated persons is therefore, being requested. Staff recommended approval on a finding that the variance would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application.

Ms. Stachowiak said while no practical difficulty can be discerned in this case, the applicant considers that denial of the variance would create an unnecessary hardship with regard to use of the dwelling at 816 Call Street. The applicant would like the option of utilizing the house at 816 Call Street for a "functional family" which is a group of unrelated persons living together as a single household unit. Ms. Stachowiak said that the hardship borne by the applicant cannot necessarily be considered "self-created" since the 4-bedroom house was constructed in 1918 and the applicant purchased it in 2003. She said that if the variance were to be denied, the house would be underutilized as one of the bedrooms would not be able to be used for its intended purpose.

The following comments were provided at the public hearing held on July 13, 2017, at which no quorum was present:

Michael Doherty, 816 Call Street, spoke in support of his request. He said that the subject property is one of the largest lots and one of the nicest houses in the area. He said that he has good tenants in the house and does not want to evict them. Mr. Doherty said that the house was in foreclosure at one point and he purchased it and brought it up to code. It has passed all inspections and by removing one of the doors inside the home, it now functions as a single family home rather than a duplex.

Mr. McGrain asked if the house was a duplex when Mr. Doherty purchased it. He also asked about the status of leases with the current tenants.

Mr. Doherty said that the house was set up as a duplex. He said that there are 2 leases, one for each couple in the houses.

Pamela Foster, 734 Call Street, spoke in opposition to the request. She said that she purchased her home because it is a single family residential area and she does not want to see it become overpopulated. Ms. Foster said that there have been issues with rentals in the neighborhood and she would rather have families that are going to have roots in the area rather than transient tenants in a rental unit.

Floyd Holloway, 735 Call Street, spoke in opposition to the request. He said that there is not adequate parking on the site for 4 vehicles and overnight on-street parking is illegal. Mr. Holloway said that he would rather have owner-occupied houses in the area instead of rentals. He said that it sounds like the subject property is going to be a rooming house which is not in the best interest of the neighborhood.

Rita Holtham, 819 Call Street, spoke in support of the request. She said that there are great people living in the home at 816 Call Street. She said that she lives right across the street and has lived in her home for 50 years. Ms. Holtham said that the house at 816 Call Street looks a lot better than most of the other houses on the street and she supports the request.

Joanne VonWerder, 745 Call Street, spoke in opposition to the request. She said that she cannot see where there is room for 4 vehicles on the subject property.

Mr. Doherty said that there is room on the side of the house to install additional parking. He said that he has been putting a lot of money into the property but does not have a lot of money to continue doing so. Mr. Doherty stated that he has other rentals in the City and he is not a slumlord.

Ms. VonWerder said that if Mr. Doherty has other rentals in the City, he should have checked on the rules regarding occupancy before things go to this point.

Ms. Stachowiak said that the only issue in this case is whether there can be a 4th unrelated person living in the house. She said that any house in the City of Lansing can become a rental so rental versus owner-occupied is not the issue.

Mr. Rice asked if the garage is being used for storage.

Mr. Doherty said that the garage has been converted to living space. He said that there is room for parking in the driveway on an angle for 4 vehicles but that he could construct additional parking on the site.

End of public hearing.

Ms. Stachowiak said that the primary concern is parking since the garage was converted to living space and 4 parking spaces are required if there are 4 people living in the house as a functional family. She said that there is an opportunity to create additional parking on the side of the garage.

Mr. McGrain said that he is inclined to vote yes on the request. He said that if it were a family as opposed to a functional family, they would only be required to provide 2 parking spaces, regardless of the size of the family.

Ms. Alling asked if the variance would extend to the next owner.

Ms. Stachowiak said that the variance will run with the land, not the owner.

Mr. Rice asked about the options for parking.

Ms. Stachowiak said that they could extend the drive to create a parking pad on the side of the house where it used to be the attached garage.

Mr. Rice said that parking may not be a problem.

Mr. McGrain said that constructing additional parking when it may not even be needed is not a good practice.

Mr. Quick said that if parking is the primary issue and it can be solved by adding parking on the side of the house, if necessary, he could support the request.

Mr. Rice made a motion, seconded by Mr. McGrain to approve BZA 4030.17 for a variance of 1 to the occupancy limitation for unrelated persons living at 816 Call Street, on a finding that the variance is consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application. On a roll call vote, the motion carried (5-0).

BZA-4032.17, 601 W. Saginaw Street

Ms. Stachowiak stated that this is a request by Iven Sharrak to construct a new 101 square foot, 21 foot high freestanding sign at 601 W. Saginaw Street (Marathon Gas Station) that would have setbacks of 5 feet from the front property lines along W. Saginaw and N. Pine. Section 1442.12(h)(5)(b) of the Sign Code requires a setback of 23 feet for a freestanding sign with this dimensions. A variance of 18 feet to the required setbacks is therefore, being requested. Ms. Stachowiak said that staff is recommending approval of the request, if the applicant can demonstrate that the proposed sign will not obstruct the Rathburn Insurance Agency sign on the building to the east. She said that the Board has been provided with a copy of a letter from John Keel, President of Rathburn Agency expressing concerns about the sign obstructing the view of his existing wall signs. Ms. Stachowiak said that this is a very legitimate concern and should be addressed before any variances are approved.

Ms. Stachowiak said that the applicant would like to install a new ground sign on the property at 601 W. Saginaw Street that would be located near the intersection of W. Saginaw and N. Pine Street. The existing ground sign is located west of the westernmost driveway on the site. The applicant would like to have it closer the intersection so that it is visible to southbound traffic on N. Pine Street. Based on the dimensions of the proposed sign (101 square feet in area and 21 feet in height), it would need to be setback 23 feet from the front property lines along both Saginaw and Pine. The applicant is requesting variances to allow the sign to be placed at the 5 foot setback from both property lines so that it would be visible to traffic from both directions without interfering with vehicular circulation on the site.

Mr. McGrain said that the proposed sign is larger than the existing sign. He also said that the way the sign would be positioned at the corner, according to the plan that they provided, it would not be visible from Pine Street anyway and that is the whole basis for the variance.

Ms. Alling opened the public hearing.

Lawrence Pingel, Vice-President, The Rathburn Agency, 529 W. Saginaw Street, spoke in opposition to the request. He said that the sign would not be visible from both streets so it would not serve the purpose that is the justification for the variance and it would block their signs until a motorist is right at the intersection. Mr. Pingel said that the Agency spent a lot of money on the signs and the proposed variance would render them useless.

David Finkbeiner, The Rathburn Agency, 529 W. Saginaw Street, spoke in opposition to the request. He said that the proposed sign will not just block the electronic message sign but the other wall sign that is lower on the building as well.

Seeing no one else wishing to speak, Ms. Alling closed the public hearing.

Ms. Stachowiak said that the Board is under no obligation to table this request as the applicant was notified and chose not to attend this meeting. She said that if the proposed variance would negatively impact another business, approval of the variance would not be warranted.

Mr. McGrain said that the he is inclined to vote no on the request as it would negatively impact the business to the east, it would not serve the intended purpose for visibility from both streets, and there are other options for the gas station such as reducing the size and height of the sign that would allow for signage closer to the intersection without necessitating a variance.

Mr. Quick said that he is also inclined to vote no on this request for the reasons stated by Mr. McGrain.

Mr. Quick made a motion, seconded by Mr. McGrain to deny BZA 4032.17 for a variance of 18 feet to the setback requirement to permit a 21 foot high, 101 square foot ground pole sign at 601 W. Saginaw Street that would have setbacks of 5 feet from the front property lines along W. Saginaw and N. Pine Streets, on a finding that the variance would not be consistent with the practical difficulty criteria of Section 1244.06 (c) or the impact criteria of Section 1244.06 (e). On a roll call vote, the motion carried unanimously (5-0).

IV. **OLD BUSINESS**- None

V. **PUBLIC COMMENT** - None

VI. **APPROVAL OF MINUTES**

Minutes of special meeting held on April 13, 2017

Mr. McGrain made a motion, seconded by Mr. Quick to approve the minutes from the April 13, 2017 meeting, as printed. On a voice vote (5-0), the motion carried unanimously.

VII. **NEW BUSINESS**

Mr. Rice made a motion, seconded by Ms. Litwiller to grant excused absences for Mr. Hovey & Mrs. Leaming. On a voice vote (5-0), the motion carried unanimously.

IV. **ADJOURNMENT AT 7:20 P.M.**

Respectfully Submitted,

Susan Stachowiak, Zoning Administrator