

**MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
July 9, 2009 - 7:00 p.m.
CITY COMMISSION CHAMBERS**

Members Present: David Artley, Karl Guenther, Rachel Hughes-Nilsson, Karl Freed, Charles Martell (alternate), Doris Jackson

Members Absent: John Kneas, Assistant City Attorney

City Staff: Pete Eldridge, Project Coordinator; Deanna Benthin, Recording Secretary

Chair Artley called the meeting to order at 7:05 p.m.

MINUTES

Mr. Guenther, supported by Mr. Martell moved to approve the minutes of June 11, 2009 as submitted.

Motion approved by voice vote unanimously.

NEW BUSINESS:

PUBLIC HEARINGS: Chair Artley summarized the process and explained the Zoning Board of Appeals public hearing rules of procedures stating that a full board consists of six members and that approval requires four affirmative votes. If only four members are present the applicants would have the option to hold their requests over to the next meeting or present their requests with the hopes of getting all four affirmative votes.

Mr. Guenther read the application for 130 East Cork Street, CCN# 06-34-201-002:

ZBA# 09-07-11: 130 East Cork Street: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by the applicant Joanne Cramer. The request concerns the properties 130 East Cork Street, which is situated in use Zone CC (Commercial – Community District). The request, if approved, would authorize a variance for a temporary use (flower sales) south of the parking lot on the east side of the Boonzaaijer Bakery building annually for an additional two month period for July and August. A variance was granted on June 10, 2004, which authorized annual flower sales at this location for May and June. Per the Chapter 4, Section 4.3 of the Zoning Ordinance, city staff can approve a temporary uses administratively for a maximum of 30 days per calendar year, but for temporary uses operating beyond this time period a variance is required.

Please note that this request will not change the zoning classification of the property. This is a request for a variance only regarding the items described above. There were 13 notices of public hearing sent and zero responses were received.

Jo Cramer, the applicant for the variance shared she had received some favorable responses from neighbors who said they had no complaints with her selling flowers on the property. Ms. Cramer asked the Board to approve her request to sell flowers at this location.

There were no comments from the public.
Chair Artley closed the public hearing.

FINDING OF FACT

Ms. Hughes-Nilsson moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 130 East Cork Street shall include all information included in the notice of public hearing dated June 24, 2009.
- 2.) Thirteen notices of public hearing were sent and zero responses were received.
- 3.) A public hearing was held before the board and public comments were accepted.
- 4.) The Zoning Board of Appeals received documents on the request including lot diagrams with boundaries and drawings, aerial photographs, sketch of the site and a copy of the 2004 Zoning Board of Appeals approval for the original application.
- 5.) The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing, which are summarized to include without limitation, the following: Jo Cramer spoke in favor of the request stating she had received additional responses from neighbors that stated they didn't have any complaints about this application. She stated she just wanted to continue to sell flowers at this property location with the existing variance for an extended period of time.

Mr. Freed supported the Finding of Fact.

Mr. Freed questioned if the property had a 30 day variance approval. Mr. Eldridge replied they were operating under the previous variance of June 10, 2004 from the Vroegop's for May and June. Ms. Cramer is now requesting to extend it for two additional months. Staff looks at the "land use," not the different applicants. The flower sales location is exactly the same as when approved in 2004. Mr. Freed wanted clarification if it had a variance or an

administrative approval for 30 days. Mr. Eldridge stated they were operating under the variance approval for sixty days.

Mr. Eldridge asked for clarification as to the hours of operation. Ms. Cramer stated between 9:00 a.m. to 6:00 p.m. with set up and take down time also. They are closed on Sundays.

Mr. Martell asked Mr. Eldridge to clarify the use variance mentioned in the June 15, 2004 letter and the new application talking about a dimensional variance. Mr. Eldridge stated the verbiage used in the 2004 packet was just little confusing but, was for a temporary use.

Chair Artley questioned if both the Finding of Fact and variance request was approved they would get sixty days from today. Mr. Eldridge stated they actually get through the end of August. They applied for the variance and continued with the sales.

Motion approved for the Finding of Fact by voice vote unanimously.

Mr. Martell moved to approve the application for the authorization of annual flower sales from May through August, supported by Mr. Freed.

Chair Artley commented when granting a variance the Board must ensure the spirit of the ordinance is observed, public safety public safety secured and substantial justice done.

Motion approved by roll call vote unanimously.

Mr. Freed moved to adjourn the meeting and was supported by Mr. Guenther.

ADJOURNMENT

The meeting was adjourned at 7:20 p.m.

Submitted By _____ **Date** _____

Reviewed By _____ **Date** _____

Approved By _____ **Date** _____