

**MINUTES  
CITY OF KALAMAZOO  
ZONING BOARD OF APPEALS  
APRIL 12, 2018 - 7:00 p.m.  
CITY COMMISSION CHAMBERS**

**Members Present:** Matt Lager, James Houston, Reed Youngs, Chris Flach, Christina Doane, Jeff Carroll

**Members Absent:**

**City Staff:** Pete Eldridge, Zoning Administrator; Clyde Robinson, City Attorney; Deanna Benthin, Recording Secretary

**Chair Youngs called the meeting to order at 7:00 p.m.**

**NEW BUSINESS:** Mr. Eldridge noted the request for 2701 W. Michigan has been postponed per the applicant's request to the May 10<sup>th</sup> meeting.

**MINUTES:**

**Mr. Houston moved to approve the minutes of March 8, 2018 as submitted, seconded by Mr. Lager.**

**Motion approved by voice vote unanimously.**

**PUBLIC HEARINGS:** Chair Youngs 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. Houston read the application for 525 Sprague Avenue, Parcel # 06-21-114-002:

**ZBA# 18-04-07: 525 Sprague Avenue: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Mike Fleckenstein. The request concerns the property at 525 Sprague Avenue, which is situated in use Zone RM-15C, Residential – Multi Dwelling District (Campus Area). The applicant is requesting a dimensional variance from Chapter 5, Section 5.1, to authorize the conversion of a three unit apartment building (two units have six bedrooms each) into nine one bedroom apartments, which would reduce the lot area per dwelling unit to 779 square feet where 2,900 square feet of lot area per dwelling unit is required in Zone RM-15C. Please note on September 14, 2017, a dimensional variance was granted to convert the two six bedroom apartments to eight one bedroom apartments. However, there is a**

**third existing unit with one bedroom that was not included in this request. Therefore, this request is back before the Zoning Board of Appeals.**

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 forty-three notices of public hearing sent and zero responses were received.

Mr. Fleckenstein, stated when he was before the Board previously he was focused on the units to be remodeled and didn't identify the third existing studio unit. The only change is the reduction from the 876 square feet per lot space to 770 square feet per lot space. The parking spaces and occupant load is still reduced by four. He provided the Board with an amendment of his letter, they are well into the renovations, and all the permits have been approved.

Mr. Lager questioned the request in September when they were focused on the two six bedroom units that will be eight single bedrooms and studios; the studio being discussed tonight had already existed. They were focused on a reduction in the parking load which still exists. Mr. Fleckenstein stated yes, there is still a four tenant reduction in the remodel.

Mr. Eldridge commented the wording of the approval at the September meeting was very explicit for eight dwelling units; the basement level unit had to come back to the Board. He provided the Board with the floor plan of the buildings. At the September meeting they only had sections of the building layout. As Mr. Fleckenstein mentioned the overall occupancy with the existing layout with two duplexes with six bedrooms each plus the studio apartment was thirteen individuals, will be reduced to nine with single bedroom units, reducing the parking requirements. He discussed the zoning requirements for the RM15C zone this proposal meets the intent of the ordinance.

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

## **FINDING OF FACT**

Ms. Doane moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 525 Sprague Avenue shall include all information included in the notice of public hearing dated March 28, 2018.
- 2.) Forty-three 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, site plans, elevations and a letter.

- 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: Mr. Fleckenstein stated he was not aware the existing one bedroom unit needed to be in the original request and needed to return for Board review. He stated there would be less parking required and he had moved forward with the renovations. It was noted that the standard reductions will be at 779 square feet for all nine units. Mr. Eldridge stated approval was only for eight units and that the focus was on the eight units and the ninth was missed as an oversight.

**Mr. Lager seconded the Finding of Fact.**

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

**Ms. Doane moved to approve the application, seconded by Mr. Lager.**

**Motion approved by roll call vote unanimously.**

Postponed until the May 10, 2018 meeting per the applicant:  
2701 W. Michigan Avenue, Parcel #06-20-330-100:

**ZBA# 18-04-08: 2701 W. Michigan Avenue: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of by Main Street Properties V, LLC. The request concerns the property at 2701 W. Michigan Avenue, which is situated in use Zone CC, Commercial – Community District. The applicant is requesting a use variance from Chapter 4, Section 4.2 Q.3, to change commercial space on the ground floor level to residential apartments, where retail or other commercial floor space is required on the ground floor level in Zone CC.**

Mr. Houston read the application for 1414, 1422, 1430 Bryant Street, Parcel #06-26-143-314, #06-26-143-315, #06-26-143-316:

**ZBA#18-04-09: 1414, 1422, 1430 Bryant Street: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Chris Wahmhoff. The request concerns the properties at 1414, 1422 and 1430 Bryant Street, which are situated in use Zone RS-5, Residential – Single Dwelling District. The applicant is requesting a use variance from Chapter 4, Section 4.3 B, to allow for an accessory use (chicken coop and a 30 ft. x 50 ft. fenced enclosure) on the vacant properties before a principal use (house) is constructed. The Zoning Ordinance states that accessory uses and structures must be constructed in conjunction with or after the principal building (house).**

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 eighty-four notices of public hearing sent and three responses were received in opposition.

Chris Wahmhoff, 1407 Bryant St., owner of the property provided the Board with a petition and signatures of people in support of the request, and a business card from Ramo's Lawn Service stating they offered to help with the upkeep of the property. He wants to start an education program called Edison Ducks in a Row; he started the program in 2015 with three people, Temetrion Hegler, Tj Owens Pryor and Alexandria Linderberg. The program began with a couple ducks and chickens for kids in the neighborhood, they liked feeding the ducks. He lost his Board members and has since been struggling. He admitted there were some valid critics about his house and its condition. He held an event at the Edison Neighborhood Association, to talk with his neighbors and has tried to have open meetings with his neighbors. He asked that his neighbors understand this program was never meant to have been on his property. He was homeless over the winter, and has been working to pay off his fines. The property across the street will be different; Ramo's Lawn Service has offered to help take care of his property if he allows them to park their vehicles on his property. He's applied for an EPA grant of \$100,000 with the help of his new Board. This will provide over 2000 employable hours for gardening, for kids in the neighborhood, working with microgreens can take place indoors. The temporary enclosure will be limited to 50 sq. ft. per bird; he's still working on all the processes. It gives the birds plenty of space. He will have to hook up City water so the birds have water available on that property. The programs will give access for the kids to be around the ducks. He commented he may not be the best person to run this program, but with his new Board, he can help the kids. He'd sent the City plans for the building on 12/18/17 and in January and has been waiting on a response from the City. Once he gets a response from the City he's ready to go.

#### Speaking in Support:

Andrew Argos, 1106 S. Park St, stated he's a friend and supporter of this request. He grew up on Lane Blvd.; he stated there's support for this request. Kids need education on animals and agriculture. He spoke of the community gardens in other areas. The animals are therapeutic and teach skills to children from urban areas.

#### Speaking in Opposition:

Susan Chapman, 1428 Lay Blvd, stated she drives by this property several times a day and that the property is disgusting. When he first started this idea, she talked to him, he stated he wasn't sure what he was doing, she told him she was willing to help him with the animals he needed help with. She commented he clearly doesn't know what he's doing, the animals have suffered, and he doesn't know what he's doing. Over the years Animal Control has been there a couple times, once they seized all of the animals. She had a copy of the veterinary report and gave copies of the pictures of the animals they removed. She stated Mr. Wahmhoff isn't living in the house, he couldn't pay the electric bill and the water pipes broke. Animal Control gave him back half the animals they seized. The City found the birds living in the house that's already condemned when they went to shut the water off. She doesn't see how this will work, the animals have been out in the cold, the rain, starved, drinking dirty water.

Keith Myers, an Officer with Kalamazoo County Animal Services stating he was not present speaking on behalf of the County or representing Animal Services, he'd come from work and was currently on call. He stated ninety percent of his knowledge on this situation is because of his job, and ten percent is from having lived about five blocks away from this property. He

agrees that the Edison Neighborhood could use programs and funds to help the area. Mr. Myers stated he doesn't believe any reasonable person could see the condition of Mr. Wahmhoff's house currently or in the past, or how he has cared for the animals in the past and see how he could move forward and execute this plan in any way that would resemble anything that would make sense or be a good thing. He can only see more issues and more problems if this were to move forward.

Mr. Eldridge referenced the flyer that Mr. Wahmhoff supplied the Board; he stated this is a residentially zoned property, and a house is required prior to an accessory use being placed on the property. He questioned that Mr. Wahmhoff wants to expand the program and make it more comprehensive with the animal care and growing of crops. Having the educational component, workers basically learning career skills and he'd mentioned grant funds. He questioned if this request should be tabled, to evaluate if this request is right or if there is a better place/scale for this program. He mentioned he wanted to get the program up and running for the neighborhood, more than living on the property. The Board could postpone and evaluate the request before proceeding forward. Mr. Wahmhoff stated he still had some of the animals and they are cared for outside of the city, but wants access to the animals for the kids in the neighborhood. Mr. Wahmhoff stated his basement flooded because of the City meter and his house was condemned within three days after getting his electricity shut off from an investigation with Consumer's Energy on January 11, 2018.

Mr. Eldridge stated he was aware of those issues.

Mr. Houston commented from looking at the pictures and opposition for this request, before you can post activity you must have the capacity and your property presentable. The pictures and what Mr. Wahmhoff is showing, he needs to establish the foundation first, the property, gain the knowledge first. The fences are falling down on his property, and animals shouldn't even be kept there. He should be preparing the surrounding area first.

Mr. Lager commented on Mr. Eldridge's point, if there is a underlying legal issues is a timing issue, there's room to put a coop and a building there. So long as they are being built at the same time. The Board is being asked to approve the coop before the building, and they don't have the facts on the building. He would be in favor of tabling the issue to obtain more facts.

Mr. Eldridge stated the building permit was submitted with concept plans on March 11<sup>th</sup>. A letter was sent by Roger Iveson, the Lead Building Inspector on March 13<sup>th</sup> stating the need for engineered construction plans for the unique structure type. The building permit is on hold, for extensive information needed, it's built with recyclable materials, it's partially built into a hillside, and he's not sure how they are going to recreate the hillside. Mr. Wahmhoff asked for a copy of the letter.

Mr. Carroll stated he's stayed in an Earthship and was familiar with the construction type; it has a low impact on the earth. He's not sure he'd try it within the City limits. He does feel having the coop before the house can be an issue. He stated the Board for the Ducks in a Row needs to solidify and execute the vision they have prior to coming back to the City with the big picture. He would be in favor of it at that point. He's not in favor of tabling the request.

Mr. Flach questioned the home at 1407 Bryant was condemned? Mr. Wahmhoff stated it was not condemned. Mr. Eldridge clarified the residence was still condemned. Mr. Wahmhoff

stated he had utilities, his electric and gas condemnations were lifted. Mr. Eldridge responded that there is still no running water. Mr. Flach stated his first request before the Board was because there wasn't enough space; it didn't meet the requirements. Now he owns three lots across the street, he questioned why he needed a variance for a house. He does agree with concerns of the condition of Mr. Wahmhoff's house. He does support his visions though.

Mr. Houston commented the ordinance states that accessory uses and structures must be constructed in conjunction with or after the principal building or house on the property.

Chair Youngs commented you can't combine a house with property that's across the street, with a road between them.

Chair Youngs closed the public hearing.

### **FINDING OF FACT**

Mr. Carroll moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 1414, 1422 and 1430 Bryant Street include all information included in the notice of public hearing dated March 28, 2018.
- 2.) Eighty-four notices of public hearing were sent and three responses were received in opposition.
- 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, site plans, elevations and a letter.
- 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: Chris Wahmhoff, owner of the property in question provided nine signatures of support and the business card of Ramo's Lawn Service who has agreed to assist with the maintenance of the coop. His organization and Board has applied for grants related to sustainability. He stated the enclosure will have 50 sq. ft. per bird provided if approved. Mr. Wahmhoff has provided the City with plans twice within the last six months, but states he has not heard back from the City. City Staff indicated a response letter was sent requesting more information. Andrew Argos, of S. Park St. spoke in favor, Susan Chapman spoke in opposition based on past animal care issues. Keith Myers, an Officer from Animal Control has dealt with the applicant on violations with other properties that housed animals.

**Mr. Houston seconded the Finding of Fact.**

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

Mr. Houston questioned the three lots across the street, and if the coops would house the animals from the elements. Mr. Wahmhoff stated it would be a 10 foot long by 12 foot wide enclosure six foot high with two levels enclosed and insulated. He'd have to hook up City water and heated. Through the EPA program they can literally feed the ducks garbage for food.

Mr. Eldridge commented if the Board moves the motion to approve, that a condition be placed when construction of the house must be commenced, otherwise the chicken coop be shut down.

Mr. Carroll question if a motion to not approve can be made. Attorney Robinson commented Roberts Rules prefers a motion in the affirmative, yes vote in favor, and no vote against the motion. They can make a motion to postpone also.

Mr. Lager commented on the underlying issues. There's a request to build an accessory structure prior to the main principle building first. The use variance criteria states:

- *The literal interpretation and enforcement of the terms and provisions of this Ordinance would deprive the applicant for all practical purposes from using the property for a permitted use. In this case, they are looking at a timing issue, so long as the principle building is being built; there is no denial of a permitted use. He can't see a basis under these elements for approving a variance. He stated he'd be voting against the request.*

**Mr. Houston moved to approve the application, seconded by Mr. Carroll.**

**Motion denied by roll call vote.**

**Yes: Flach**

**No: Carroll, Houston, Youngs, Lager, Doane**

Mr. Houston read the application for 828 and 832 S. Burdick Street, Parcel # 06-22-186-135 and #06-22-186-134:

**ZBA# 18-04-10: 828 and 832 S. Burdick Street: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Hurley and Stewart LLC on behalf of the Hospitality House of Southwest Michigan. The request concerns the properties at 828 and 832 S. Burdick Street, which are situated in use Zone CC, Commercial – Community District. The applicant is requesting a dimensional variance from Chapter 6, Section 6.1 G2, to allow for the required off-street parking to be located 490 feet from the building where the Zoning Ordinance states parking for commercial uses shall be within 300 feet of the building. The required off-street parking will be located in the Bronson Methodist Hospital parking ramp at the**

**corner of S. Burdick Street and E. Vine Street.**

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 seventy-three notices of public hearing sent and zero responses were received.

Judy Markusse Paget, Executive Director of the Hospital Hospitality House, spoke to request. Ms. Markusse Paget stated they provide accommodations to families who are in Kalamazoo supporting someone in one of their hospitals or someone getting out patient treatments in the area. They've been operating out of 527 W. South Street for about 33 years. They launched a campaign about five years ago to build two houses closer to each of their hospitals. In August 2017 they opened up the first house. They want to replace the old house on South Street which is not handicap accessible. Bronson Hospital gave them the above property to build on. The parking situation is what they need to address. They don't have on-site parking; they have a driveway they can tandem park in, but usually only have the overnight staff person park there. The guests tend to leave their cars at the Medical Facility where their patient is being treated, the hospitals shuttle the guests back and forth and will continue to at the new house on Burdick Street. They have a commitment with Bronson to provide parking spaces in their ramp, or at the church parking lot at Vine Street and Burdick Street. They will have seven guest rooms; the guests are at the hospitals during the days so parking isn't needed during the day.

Mr. Eldridge stated it's a commercial zoned district so the parking can be located within 300 feet, it's actually 490 feet away in the Bronson Hospital parking ramp, and Bronson will shuttle to and from the Hospital. Bronson will set aside seven spaces to cover the off-street parking requirement of the zoning ordinance. It's longer to the off-street parking, but they have a shuttle service provided.

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

**FINDING OF FACT**

Mr. Flach moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 828 and 832 S. Burdick Street shall include all information included in the notice of public hearing dated March 28, 2018.
- 2.) Seventy-three 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, site plans, elevations and a letter.

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: Judy Markusse Paget wants the variance for not having parking on-site. Bronson Hospital will provide shuttle service for the families, and off-street parking. The facts aligned with the application. They already received Downtown Design Review approval for the plan on March 27<sup>th</sup>, 2018.

**Mr. Houston seconded the Finding of Fact.**

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

**Mr. Houston moved to approve the application, seconded by Mr. Carroll.**

**Motion approved by roll call vote unanimously.**

**OTHER BUSINESS:**

**ADJOURNMENT:**

**The meeting was adjourned at 8:05p.m.**

**Motion approved by voice vote unanimously.**

Submitted By *Deanna Benson* Date *5/10/18*  
 Recording Secretary

Reviewed By *Peter Eldridge* Date *5/10/18*  
 City Staff

Approved By *Paul J. [Signature]* Date *5-10-18*  
 Chair