

**MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
JUNE 13, 2019 - 7:00 p.m.
CITY COMMISSION CHAMBERS**

Members Present: Matt Lager, Dick Skalski, Reed Youngs, Christina Doane, Jeff Carroll

Members Absent: Chris Flach

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.

MINUTES:

Mr. Carroll moved to approve the minutes of June 13, 2019 as submitted, seconded by Mr. Lager.

Motion approved by voice vote unanimously.

NEW BUSINESS:

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. Carroll read the application for 1012 S. Westnedge Avenue, Parcel # 06-21-299-003:

ZBA# 19-05-13: 1012 S. Westnedge Avenue: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Michael Schick owner of 1012 S. Westnedge Avenue which is situated in Zone CO, Commercial – Office District. The applicant is requesting a use variance from Chapter 4, Section 4.2 Q.3, to allow the conversion of the ground floor level of the structure from an office to a residential dwelling unit, where commercial office use is required on the ground floor level in the Commercial Office District.

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 one hundred and six notices of public hearing sent and zero responses were received.

Austin Perry, with the AIM Corporation, was present to represent the owner, Mike Schick who had recently acquired the property. Mr. Perry stated it was originally a home, and then converted to commercial office space. Mr. Schick wants a variance for the ground floor to be use residential use. They will convert the back offices space into a shower; add a kitchen and other upgrades, making it a three bedroom residence. He referred to the enclosed photographs. He stated they had the support of Sharon Ferraro the Historical Preservation Coordinator.

Mr. Lager spoke to the support from Ms. Ferraro and questioned her reasoning. Mr. Perry stated Mr. Schick had reached out for her support prior to his working with the company, and he couldn't speak for him.

Chair Youngs questioned the awning out in front of the house and if it would be removed. Mr. Perry stated the awning has already been removed.

Mr. Eldridge commented Ms. Ferraro stated this property doesn't meet the ADA requirements; it would need an exterior ramp, a wider exterior door, and an ADA bathroom if it would continue to be used as a commercial use. Ms. Ferraro commented it was built for residential purposes and the Historical Board would prefer to not have the exterior altered.

Mr. Eldridge reiterated this property doesn't meet the current ADA requirements; the surrounding properties in the commercial office zone district have a lot of residential uses, residential only also. It would not be out of character with the surroundings.

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

FINDING OF FACT

Mr. Lager moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 1012 S. Westnedge Avenue shall include all information included in the notice of public hearing dated April 23, 2019.
- 2.) One hundred and six 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: Austin Perry with AIM Property Management stated the property was originally built

for residential use. The prior owner used the first floor as office space, in the opinion of the applicant; it would be best used for residential use, by converting one office to a kitchen, and adding a shower, it would be suitable as residential. Mr. Eldridge commented if the property remained commercial it would have to be modified to meet current ADA requirements. The Historical Preservation Coordinator supports returning it to residential use to not disturb the building envelope. Mr. Eldridge also commented the area has a lot of other residential uses and it would be in keeping with the character of the area.

Mr. Carroll seconded the Finding of Fact.

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

Mr. Lager moved to approve the application, seconded by Mr. Skalski.

Mr. Skalski stated it would be in keeping with the character of the area and modifying it to meet ADA requirements would change the look of the building with an exterior ramp, he's in support.

Motion approved by roll call vote unanimously.

Mr. Carroll read the application for 527 W. South Street, Parcel #06-16-498-003:

ZBA# 19-06-16: 527 W. South Street: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Diekema Hamann Architects on behalf of the W.E. Upjohn Institute for Employment Research. The request concerns the property at 527 W. South Street in use Zone RM-15, Residential – Multi Dwelling District. The applicant is requesting a use variance from Chapter 4, Section 4.1, to allow the former Hospital Hospitality House to be converted to commercial office space where in Zone RM-15, commercial offices are not permitted.

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 thirty-one notices of public hearing sent and one response was received.

Katie Potts with Diekema Hamann Architects stated she's speaking on behalf of the Upjohn Institute and had Don Edgerly present. The Upjohn Institute purchased the property from the Hospital Hospitality House. Their main office is at 300 S. Westnedge, west of that they own 515 W. South St. and use that as an office space, previously rezoned for commercial. The Upjohn Institute owns the parking lot off Lovell St. They had three staff members, and fully occupied there were about twenty-three occupants. They had an agreement with Upjohn to park on Lovell St. Now that Upjohn has purchased 527 W. South St. they want to use it for commercial office space for eight staff members. It won't impact traffic and discussed removing the 8' fence and adding a matching gate. They will remove the south porch and have an entry alcove with a lift. The Historical District approved converting the existing garage into

an ADA accessible suite. The intention is it would only be used by Upjohn's visiting economists from time to time so they could stay on site.

Mr. Carroll questioned the property in the middle of the Institute's campus area, how they'd feel being surrounded by the campus. Ms. Potts stated that neighbor is in support. When it was the Hospital Hospitality House at capacity there was twenty-three occupants, they are proposing only eight people using the parking lot now during normal business hours.

Mr. Carroll questioned the use of the carriage house. Mr. Eldridge mentioned the residential component is only in the carriage house behind it. He spoke of the offices downstairs and the layout; it wouldn't be a drastic change.

Speaking in Support:

Richard Emig, President of the South Street Properties, and owner of 523 W. South St. stated he owned the twelve unit apartment building in the middle of the campus they were discussing and was in support of the Upjohn Institute. He stated they were excellent neighbors and would be a quieter use than what the previous use was.

Chair Youngs closed the public hearing.

FINDING OF FACT

Ms. Doane moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 527 W. South St. shall include all information included in the notice of public hearing dated May 29, 2019.
- 2.) Thirty-one notices of public hearing were sent and one response was received in support.
- 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: Katie Potts was present from the architectural firm and Don Edgerly was present to represent the Upjohn Institute. They believe the changes will not adversely affect the parking situation. They don't believe more people would access the existing space. The carriage house would be used for Upjohn Institute guests only. They had previously had a maximum of twenty-three guests as the Hospital Hospitality House and the plan would not be a greater amount. They will use their own property

entrance next to the campus. Richard Emig, owner of the 523 W. South Street property spoke in favor; he feels the changes would not adversely affect the character of the area. The letter of support was from the property owner at 533 W. South St.

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. Carroll.

Motion approved by roll call vote unanimously.

Mr. Carroll read the application for 1000 King Highway, Parcel #06-14-367-004:

ZBA# 19-06-17: 1000 King Highway: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of by Bosch Architecture on behalf of Highway Partners, LLC. The request concerns the property at 1000 King Highway in use Zone M-1, Manufacturing – Limited District. The applicant is requesting a dimensional variance from Chapter 6, Section 6.3 D, to allow the screened waste receptacles (dumpsters) to be located in the front yard, where screened waste receptacles are required to be located to the rear or to the side of the primary structure.

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 twenty-nine notices of public hearing sent and zero responses were received.

Nick Loeks, Bosch Architects, was present to represent the request. Currently the parcel is fronted on three sides by streets. There is only one small area they can place the dumpster so they don't have to cut down two large fourteen foot diameter pine trees. The addition can't proceed without this variance. This is to allow them to move forward with the addition and have the dumpsters stay in the current location and add screening. They have to work around a truck dock area also. They discussed the location on the photographs provided in the Board's packets.

Mr. Lager questioned the screening. Mr. Loeks stated the screening would meet the ordinance requirements.

Mr. Carroll asked for more clarification on the pine trees. Mr. Loeks stated they could place the dumpsters in one location per the ordinance, but it would require the removal of two large pine trees, they are proposing leaving them in the current location, they've been in for over ten years. There was a discussion on the setbacks, and the fire department regulations they have to meet.

Mr. Eldridge commented the placement of the dumpster screening ten feet back from the front property line along the sidewalk on Walnut Street was the Planning Staff's recommend condition. There would be a fence around the dumpster, screened gates and the dumpsters won't be seen.

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

FINDING OF FACT

Mr. Lager moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 1000 King Highway shall include all information included in the notice of public hearing dated May 29, 2019.
- 2.) Twenty-nine 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: Nick Loeks spoke on behalf of the applicant stated the property was fronted on three sides by streets.

Ms. Doane seconded the Finding of Fact.

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

Mr. Carroll moved to approve the application, the dumpster no closer than ten feet from the property line on E. Walnut Street, seconded by Mr. Skalski.

Mr. Lager was in support as to save the two large pine trees.

Chair Youngs stated his support also.

Motion approved by roll call vote unanimously.

Mr. Carroll read the application for 3227 Konkle Street, Parcel #06-35-227-104:

ZBA# 19-06-18: 3227 Konkle Street: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Patricia Ann Smith, the property owner. The request concerns the property at 3227 Konkle Street in use Zone RM-15, Residential – Multi Dwelling District. The applicant is requesting a dimensional variance from Chapter 5, Section 5.1, to authorize a 2.5 foot building

setback variance to allow the placement of a 10 foot by 20 foot carport 2.5 feet from the south side property line where a five foot building setback is required per the Zoning Ordinance.

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

Marti Graw, a friend of Patricia Smith was representing and speaking on behalf of the request along with Ms. Smith, she stated the carport is already in place. Ms. Smith has lived there for over thirty-five years and had a surveyor do a one lot line survey to determine the lot slants narrower and the carport is in violation by 2.5 feet. The Board referred to photographs in the packet, by moving it closer to the house there's a concern with where the window wells are located. There's an air conditioning unit in the way also. She is requesting the variance to allow the carport to stay in its current location.

Mr. Skalski questioned how long the carport has been in place. Ms. Graw stated about one year. Mr. Skalski asked if a building permit was obtained. Ms. Smith stated the carport was less than 200 sq. feet and didn't require a building permit.

Patricia Smith stated she feels the carport adds value to the home, her land was surveyed when she purchased it, the carport is in her driveway, but found out she's 2.5 feet off. She's asking for mercy, she didn't know, it's a nice metal carport.

Mr. Carroll questioned the distance of the window well and to the carport. Ms. Graw stated it would have ended up more narrow and the mower and snow blower couldn't pass. To go on the other side, the neighbors have a fence with threatening dogs.

Mr. Eldridge commented there would be 47" from the current carport location to the edge of the basement window well. It would reduce it to 17" if moved, not allowing the mower and snow blower to pass through.

Mr. Eldridge commented the neighborhood composition is all owner occupied, there were no letters of opposition received. Other properties of similar size lots had garages in the rear yard; the situation here is the house is centered on the lot with a shed immediately behind the house which disallows positioning the carport in the rear yard.

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 3227 Konkle Street shall include all information included in the notice of public hearing dated May 29, 2019.

- 2.) Twenty-five 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: Marti Graw a friend of the homeowner stated they had a new survey done that states the carport is in the wrong place by 2.5 feet. To move it would be a hardship, hazardous and make the path unusable for the snow blower and mower. A permit was not required due to the size of the structure. Ms. Smith stated she feels it adds value and convenience to the home and couldn't place it to the other side due to threatening neighbor dogs. Mr. Eldridge commented the area is owner occupied houses and it's telling there was no opposition, the house is placed in the center of the lot making placement of a carport atypical.

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. Skalski.

Mr. Carroll stated he personally was in favor. However, if Ms. Smith was applying to place this there prior to the placement, would he approve it? He would have voted no, he struggles with approving it. If they approve it, other home owners on the block will want the same approval.

Chair Youngs agreed with Mr. Carroll, the carport is already placed and now she's asking for forgiveness/approval.

Mr. Skalski also stated he struggled with this.

Motion denied approved by roll call vote unanimously.

Mr. Carroll read the application for 1104 Portage Street, Parcel #06-22-427-101:

ZBA #19-06-19: 1104 Portage Street: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Albox Properties, LLC. The request concerns the property at 1104 Portage Street, which is situated in use Zone CC, Commercial – Community District. The applicant is requesting

a use variance from Chapter 4, Section 4.1, to re-authorize a distillery operation in Zone CC where distilleries are classified as a 'Manufacturing and Production' use, which is only permitted in the manufacturing zone districts. A use variance was approved on January 12, 2017 for the distillery but that approval has since expired. The applicant is also requesting a use variance from Chapter 4, Section 4.2 Q 3, to authorize the conversion of a portion of the ground floor level of the structure from commercial to a residential dwelling unit, where only commercial use is permitted on the ground floor level in the Zone CC.

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

Grant Fletcher, owner of the building stated it's about a 90 year old building; he's cleaned up the look of the corner. He was granted a variance for the distilling operation. He's requesting to convert half of the space for a residential space.

Chair Youngs verified if he would be the owner occupant. Mr. Fletcher stated yes, it would be the south west corner of the building.

Mr. Lager questioned if the frontage of the building would change. Mr. Fletcher stated no exterior changes, only interior. He'd have to add a fire wall between the uses.

Mr. Lager asked for clarification on the expiration of the former variance. Mr. Fletcher stated it expired due to not starting the operation of the distillery. The Federal permit hasn't been granted so he can't move forward. Mr. Lager clarified it would be a distillery with a small coffee shop. Mr. Fletcher replied the Zoning Board of Appeals in 2017 wanted a retail component on the street; it will be a takeout only café, then long term a tasting room for the distillery.

Mr. Skalski asked if there would be parking available. Mr. Fletcher stated he owns the attached parking lot and has approximately seven parking spaces.

Mr. Carroll questioned why the change to the residential use? Mr. Fletcher stated he recently sold his house and decided to live there.

Mr. Lager commented he and Mr. Fletcher serve on the Edison Neighborhood Association Board but have never discussed this project.

Ms. Doane asked how close he was to receiving his license. He had submitted for the Federal license, and is past the normal approval time period and is just waiting to hear.

Mr. Eldridge commented if the variances are acted upon, acquiring equipment, pulling permits, getting the State and Federal licenses, if there isn't action then the variances expires. The Board then can review the circumstances and renew or deny the request. Secondly, this residential use, before the building being a distillery and the retail space was added up front, which is what led to the approval, the addition of residential space is within keeping of the spirit of the mixed use development the City is promoting. He spoke of other mixed use buildings in the area that received variances for ground floor units.

Mr. Carroll questioned the uses in Zone CC if a distillery or a coffee shop could be in his house. Mr. Eldridge commented he could have a small wine maker's license as a home occupation if within the minimal square footage. Not a coffee shop in the living space but a beer making or distillery on a small scale as a home occupation.

Ms. Doane questioned if there have been changes between the first approval and now that would impact the area.

Mr. Eldridge commented the only changes would be the Kalamazoo Creamery project was in the infant stages when the first approval was granted, but the Doormouse Theater wasn't a known project at that time.

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

FINDING OF FACT

Mr. Lager moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 1104 Portage Street shall include all information included in the notice of public hearing dated May 29, 2019.
- 2.) Forty-seven 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: Grant Fletcher, owner of the property spoke on behalf of the request, stating he's been rehabbing the 90 year old building and wants to convert a portion of the ground floor for a residence for himself. This change will not change the exterior features or any of the current business plans for the building which were discussed and approved at the January 2017 ZBA meeting. He's currently awaiting Federal license to start the Distillery business. Mr. Eldridge noted added a residential unit in this area adds to the mixed use development scheme the City is promoting.

Mr. Skalski seconded the Finding of Fact.

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

Chair Youngs moved to approve the request for a use variance from Chapter 4, Section 4.1, to re-authorize a distillery operation in Zone CC where distilleries are classified as a 'Manufacturing and Production' use, which is only permitted in the manufacturing zone districts, seconded by Mr. Lager.

Chair Youngs commented it was approved once, and didn't see a reason to not approve it again.

Motion approved by roll call vote unanimously.

Chair Youngs moved to approve the application for a use variance from Chapter 4, Section 4.2 Q 3, to authorize the conversion of a portion of the ground floor level of the structure from commercial to a residential dwelling unit, where only commercial use is permitted on the ground floor level in the Zone CC, seconded by Mr. Lager.

Motion approved by roll call vote unanimously.

OTHER BUSINESS:

ADJOURNMENT:

The meeting was adjourned at 8:15 p.m.

Submitted By Deanna Bentzen Date 7/11/19
Recording Secretary

Reviewed By Peter C Eldridge Date 7/11/2019
City Staff

Approved By Rand J Youngs Date 7-11-19
Chair