This meeting was held as an electronic meeting under the authority of Executive Order 2020-15 issued by Governor Gretchen Whitmer.

**Members Present:** Matt Lager, Dick Skalski, Chris Flach, Christina Doane, Jeff Carroll, Beth van den Hombergh

**Members Absent:**

**City Staff:** Pete Eldridge, Assistant City Planner; Clyde Robinson, City Attorney; Deanna Benthin, Recording Secretary

**Chair Lager called the meeting to order at 7:02 p.m.**

Chair Lager noted the meeting was being streamed live on Facebook and the City’s YouTube channel.

Mr. Eldridge stated the public had the ability to call in for audio and the public could call in to 269-226-6573 to leave comments for either of the properties on the agenda.

**MINUTES:**

Mr. Skalski, moved to approve the minutes of September 10, 2020 as submitted, seconded by Ms. van den Hombergh.

Motion approved by voice vote unanimously.

**NEW BUSINESS:**

**PUBLIC HEARINGS:** Chair Lager summarized the process and explained the Zoning Board of Appeals public hearing rules of procedures. For each request, the secretary will read the application into the public record. The applicant or their representative will have 10 minutes to present their comments, followed by public comments received via phone will be aired for the panelist and audience. Then the public hearing would be closed on the request. The Board would then conduct the finding of facts. The Board must approve the Finding of Fact. Therefore, the first vote you here is not a ruling on the request, but the Finding of Fact, then the Board discusses the request in order to determine a ruling. The Board reserves the privilege to ask questions of persons who have already spoken even though the public comment portion is now closed. Once discussion has ended the Board moves onto a roll call
vote. A full board consists of six members and four affirmative votes are required to grant a motion for a non-use or use variance.

Ms. Doane read the application for 833 W. South Street, Parcel #06-16-474-003:

**ZBA #20-10-20: 833 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 Rebecca Macleery owner of 833 W South Street which is situated in Zone CC, Commercial – Community District. The applicant is requesting a dimensional variance from Chapter 50, 50-7.2 A, to authorize a variance of three (3) off-street parking spaces which would result in one off-street parking space for the proposed art studio where four (4) off-street parking spaces are 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 ninety-three notices of public hearing sent and five responses were received.

Ms. Macleery, the applicant for the variance stated the 1600 sq. ft. building will have an art studio, retail space, small coffee kitchen and garden area, if approved the back area has a partial garden and is partially paved, she intends to install a privacy fence pending approval of the variance in December. She'd have art tables and patio heaters, etc. for outside art area. The kitchen is at the rear of the building, she has a future kitchen window proposed to pass through coffee. She spoke to the many native plants to create natural dyes and a compost area proposed.

Mr. Eldridge displayed the lot diagram for the Board to view.

Chair Lager discussed the lot diagram layout showing the street parking with one parking spot allocated. Chair Lager stated without the variance she'd have to remove the garden and put in parking there. Ms. Macleery commented part of the driveway is on her property five foot of it is on the neighbor's property, she doesn't have an easement. It's a shared driveway she wouldn't be able to put up privacy fencing, she'd have to pave it.

Mr. Eldridge commented Ms. Macleery’s project started prior to any of the changes being on the agenda for the Planning Commission meetings. He spoke to the changes to Downtown Zoning Map and Ordinance Text Amendments and spoke to the rezoning of the D1, D2 and D3 to Live Work 1 areas, they are moving forward to the City Commission and could be approved in early November if everything proceeds smoothly. The property at 833 W. South Street would be rezoned from CC to LW1 in these amendments. What was discovered is that one of the exemptions for off-street parking will be applicable to 833 W. South Street once the zoning is changed to LW1. Mr. Eldridge further explained Ms. Macleery's art studio would fall under “craftsmen industrial” per Chapter 50, Article 7, C (3) A commercial establishment, including the non-manufacturing element of craftsmen industrial, containing up to 2,000 square feet of floor area, located in a building constructed on or before October 18, 2005, and not located in the Community Commercial zoning district, shall be exempt from all requirements to provide off-street parking spaces. If the text amendments are approved by the City Commission as they are currently written, then 833 W. South Street would not have any off-street parking requirements. Mr. Eldridge stated he doesn't have a timeline though.
Attorney Robinson stated the consideration was submitted for the October 19th meeting and the text amendments and the rezoning map, the rezoning map is conditioned on the text amendments being approved by the in November and will hopefully be approved by the first November meeting, but stated there’s no guarantee’s. The City Commission will likely approve it, any concerns wouldn’t be with properties like being discussed currently, but with marijuana uses, and height of buildings in the core of downtown that could delay the approval. He commented the Board may want to place a condition on the request, that “if the upcoming ordinance text amendments are approved this variance shall drop-off as the property would then be parking exempt by right.”

Chair Lager asked it the variance would run with the land, if they don’t place that condition on it. Attorney Robinson stated it would and could have implications for future owner’s in the chain of title work, commenting it would be a cleaner way to state it.

Mr. Eldridge commented he has a letter that would be sent out to note the changes made if the mapping changes are approved, he mentioned the support letters from surrounding neighbors.

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

FINDING OF FACT

Ms. van den Hombergh moved the Finding of Fact as follows:

1.) The Finding of Fact for 833 W. South Street shall include all information included in the notice of public hearing dated September 23, 2020.

2.) Ninety-three notices of public hearing were sent, and 5 responses were received and two emails 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: Rebecca Maclerely, owner of the property was requesting a variance resulting in one off-street parking space for the studio where four spaces are required. Ms. Maclerely noted the kitchen, urban garden, café, art space is a 1600 sq ft area, in the back would be a garden with a privacy fence to be installed in December if the variance is approved. There would be
a gathering area to do art, have coffee, with a retail space, a future service window, urban retreat space, urban garden to produce plants for natural dyes, compost space. Chair Lager asked about the one lane driveway, there is a shared driveway that’s 22 ft wide, but is actually 17 ft wide because it’s a shared driveway with no easement and had safety concerns with the driveway. Mr. Eldridge noted Ms. Macleery’s project had been in the works before changes in the updated downtown zoning, the CC area zoning is moving to a D1, D2, D3 changes to a to a Live Work 1, and would be classified as Industrial Craftsman Ms. Macleery’s property meets all the requirements and if it goes into effect the property would be exempt for off-street parking, which should happen in November. Attorney Robinson suggested a condition on the variance to be null and void should it be approved in November to simplify things if the property is sold at a later date. Ms. Macleery is asking for the variance to avoid additional parking on her property.

Mr. Skalski seconded the Finding of Fact.

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

Mr. Skalski moved to approve the application, with the condition should the upcoming ordinance be approved that this variance would drop off because as a matter of right the property would be exempt from the parking requirement, seconded by Ms. van den Hombergh.

Mr. Skalski stated he was for the walk able community, it’s an urban area and supports this request.

Chair Lager stated this use is consistent with the character of the South Street area, the ordinances is moving towards this use.

Motion approved by roll call vote unanimously.

OTHER BUSINESS:

Mr. Eldridge stated that Mr. Skalski would be leaving the Board at the end of the year, he’ll be looking for new applicants and will contact the interview team when ready.

ADJOURNMENT:

The meeting was adjourned at 7:36 p.m.