MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
MARCH 11, 2021 - 7:00 p.m.

This meeting will be conducted electronically in order for members, staff, and the public to comply with the Emergency Order Under MCL 333.2253 – Gathering Prohibition and Mask Order issued by Robert Gordon, Director of the Michigan Department of Health and Human Services, on October 29, 2021.

Members Present: Matt Lager, Ross Township, Kalamazoo County, MI; Christina Doane, City of Kalamazoo, MI; Jeff Carroll, City of Kalamazoo, MI; Beth van den Hombergh, City of Kalamazoo, MI; Remi Harrington, City of Kalamazoo, MI; Alternate, Jeremy Terpening, City of Kalamazoo, MI;

Members Absent: Chris Flach

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

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

Chair Lager noted the meeting was being streamed live on Facebook and the City’s You Tube channel. He 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. Carroll, moved to approve the minutes of February 11, 2021 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 ten 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 hear 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 1600 and 1708 W. Michigan Avenue/500 Burrows Road, Parcels #: 06-21-110-001, 06-20-239-001 and 06-21-107-001:

**ZBA #21-03-03: 1600 and 1708 W. Michigan Avenue/500 Burrows Road:** An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Kalamazoo College, owners of 1600 and 1708 W. Michigan Avenue / 500 Burrows Road, which are situated in Zone IC, Institutional - Campus District. The applicant is requesting a use variance from Ordinance 1896. This Ordinance approved by the City Commission in 2012, established limits on use of the soccer field and football field lights for the Kalamazoo College athletic complex. The COVID-19 Pandemic has altered the collegiate sports calendar and seven sports teams will practice and compete in the Spring and Fall of 2021. Kalamazoo College is requesting a use variance to allow for 105 nights of light use on the soccer field where the current limit is 60 (75% increase) and 35 nights of light use on the football field where the current limit is 20 (75% increase) for the 2021 calendar year.

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

Greg Diment, Chief Information Officer at Kalamazoo College, and Neighborhood Liaison to the West Main Neighborhood Association, he stated the College is seeking a variance to allow additional use of their stadium lights in the calendar year of 2021. They are seeking the variance due to the impact of the pandemic that impacted the college operations, they are capped due to the number of times they can use the lights in a calendar year. He explained that last year’s sports seasons were canceled, therefore they are playing both fall and spring sports this spring, they need additional use of the lights, they will comply with the time to turn the lights off. They wrote letters to all the forty-seven surrounding neighbors within the 300’ radius and notified them of their plans. They only heard back from two neighbors; both were in support and read them to the Board, he received support from the West Main Neighborhood Association Board also. In the last nine years they’ve been good neighbors. Becky Hall, Athletic Director spoke to the challenging times with COVID and all sports moving to spring. They need to be out on the fields to compete for which the athletes came to the school for. She spoke to the support of the community; they have stringent policies on campus. They have seven sports competing on two fields and are limited by the light allowances. On bright days, they stay in the gym, but now competition and fall begins. They’ll turn the lights off still on time.

Mr. Eldridge spoke to Mr. Diment and Ms. Hall’s comments on the COVID 19 pandemic and the unique circumstances with the allowed lighting usage that is governed by the Ordinance 1896 that was passed when the Campus was rezoned in 2012. Everyone expected there to be a stadium lighting ordinance in place, but there isn’t one currently. They had to request a use variance for any additional light usage; it’s only for the 2021 calendar year. The soccer lights by shut off by 10:30 p.m. and football field lights by 8:30 p.m.
There were no comments from the public.
Chair Lager closed the public hearing.

**FINDING OF FACT**

Mr. Carroll moved the Finding of Fact as follows:

1.) The Finding of Fact for 1600 and 1708 W. Michigan Avenue/500 Burrows Road shall include all information included in the notice of public hearing dated February 24, 2021.

2.) Forty-eight notices of public hearing were sent, and one response was 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 of support from the West Main Neighborhood Association.

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. Diment and Ms. Hall, employees of Kalamazoo College spoke on behalf of the application, the request is a result of the COVID 19 pandemic cancellation of fall sports, the collegiate sports governing association they partner with has rescheduled the fall sports to the spring of 2021 they plan on adhering to all established turn off times per the ordinance. Mr. Diment mentioned approaching forty-seven neighbors, contacted for feedback, two replied with overwhelming support, the West Main Hill Association was contacted and supported the request with a written response.

Mr. Terpening seconded the Finding of Fact.

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

Chair Lager spoke to the special circumstances that must be met to qualify, the lighting ordinance on the fields and the pandemic needing them to request the variance, he stated he was in favor.

Ms. Doane stated she was in favor, especially since it’s limited to 2021 calendar year only. Mr. Carroll agreed with her comments.
Ms. Harrington questioned if the games were open to the public.

Ms. Hall replied the athletes can only have three people attend after a screening process.

**Ms. Doane moved to approve the application, seconded by Ms. van den Hombergh.**

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

Ms. Doane read the application for 625 Winchester Place, Parcel #: 06-18-185-158:

**ZBA #21-03-04: 625 Winchester Place: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Robb Liekis and Meagen Anderson, owners of 625 Winchester Place, which is situated in Zone RD-19, Residential – Duplex District.** The applicants reside in the south side of the duplex and are requesting a use variance for the north side to allow for a short-term rental or ‘lodging’ land use for this property located in Zone RD-19 where rentals are limited to 30 days or more under the definition of ‘household living’.

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

Robb Liekis and Meghan Anderson, owners of 623/625 Winchester, are asking for approval for a short-term rental. He stated both their parents need help with their health care. Mr. Liekis stated his need for access to help his Dad to healthcare at the VA and future possible in-home stay should the need arise. They closed on their home, made major repairs. He spoke to the criteria he needs to meet for approval of the variance;

- **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 identified in Sec. 4.1: Use Table, which is a right commonly enjoyed by other land in the same zone district.** For a long-term tenancy of thirty days or more in his concern it would be complicated by having to break a lease to have one of their parents to have to move in on short notice.

- **There is unnecessary hardship based on special circumstances or conditions that are peculiar to the land or structure for which the use variance is sought that is not applicable to other land or structures in the same zone district.** He thinks the mixed zone use of the neighborhood should be open to short term rental due to its proximity to the highway and is 300’ from the commercial zone of West Main Street.

- **The special circumstances are not the result of the actions of the applicant.** Their parents would like to move in with them rather than a nursing home.

- **The granting of the variance is the minimum action that will make possible the use of the land or structure that is not contrary to the public interest, and that would carry out the spirit of this Ordinance.** It would be the minimum action needed to use of their
needs. There are other duplexes in their zone and are owner occupied and they’d support a broader rezoning for short term tenants given the care and attention other pay to their property. It’s not contrary given the letters of support they’ve received.

- The granting of the variance will not adversely affect adjacent land in a material way. He stated they’ve only improved the property.

- The granting of the variance will be generally consistent with the purposes and intent of this Ordinance. Granting this request will meet the ordinance, they’ll be vigilant of the tenants.

Mr. Carroll questioned if the unit is currently rented. Mr. Liekis stated no, but they’ve had renters stay there in the past for more than thirty days. They are working from there currently. Mr. Carroll questioned Mr. Eldridge what the intent of the ordinance was.

Mr. Eldridge stated the intent of the ordinance is to restrict in residential zone districts the use of dwellings for household living; it’s defined as thirty days or more, month to month, six- month leases for rental units. Less than thirty days it’s looked at under the ordinance as “lodging” as hotel or motel lodging. Mr. Carroll stated that is not the intent of the ordinance. In the City of Kalamazoo most residential does not have the right to do less than a sixty-day rental. Mr. Eldridge replied correct. Mr. Carroll commented this is not the first request to come before the Board, The City hasn’t made any indication that they want this use. He questioned Mr. Eldridge if he felt the ordinance would change. Mr. Eldridge commented on the more intensive residential zoned use districts, it’s still under discussion, there’s no big push, especially with the COVID pandemic. Mr. Carroll questioned a ninety-day notice clause, or other strategies, or month to month leases. Ms. Anderson stated they just don’t know when her father-in-law will need to move in, they’ve had a one-day notice to need to have him move in.

Mr. Carroll questioned if they granted this request, should they grant all other requests from other any other neighbor, or should they repeal the ordinance. Mr. Liekis stated he can’t speak for everyone; however, he’s concerned with the issues he’s brought forth, and spoke to the needs of the citizens. Ms. Anderson commented her neighbors have helped them and are behind them and can only speak for themselves. She spoke to their commitment to the community and their involvement.

Chair Lager asked how they would locate their renters for booking. Ms. Anderson commented possibly online, and other responsible ways.

Ms. van den Hombergh clarified some information, they’ve remodeled the duplex, its zoned for residential and if they have renters, they must be long term, not short term. The ordinance states for long term more than thirty days. Their parents have special needs, they want to rent for short term only and stay short term. She stated her concerns if it’s approved, the variance runs with the land. They’d be making an exception for their house only.

Mr. Liekis declared they are not interested in selling the house, or to move in the near future. They are in a transition neighbor and the single-family homes.

Mr. Terpening questioned the booking of an Air B&B and spoke to the allowable time notice of vacating in thirty days. Ms. Anderson commented when they had to help his Dad, they need
the short-term option for themselves. Financially it doesn’t work for them to do it any other way. It’d be a hardship to not be able to help their parents.

Mr. Carroll questioned if short term was an ordinance right when they purchased. Mr. Liekis stated no, they saw the space to have their parents, and they just saw the house to move into.

Ms. Harrington commented other families will be looking into this type housing as options for future issues for sustainability. How precedent setting will this be.

Chair Lager closed the public hearing.

Mr. Eldridge commented this is a variance specific to this particular property. It is not precedent setting, it’s a case by a case of the ordinance. He referred to Mr. Carroll’s comment if there isn’t a special circumstance or specific hardship and the Board approves them it could create a situation where other property owners could ask for a similar variance. The fair housing practice, short term rentals are a means of a more commercialized form of finding lodging like at a hotel.

Ms. Harrington questioned future uses of short-term rentals and how to address that. Other neighborhoods will want to have that opportunity also.

Mr. Eldridge commented this is not about who will be allowed to stay there, it’s about the length of time people can stay. The reason it’s in place is, it’s a commercialization of residential property with a turnover of people staying there. The other half of the house is a certifiable rental house.

Mr. Liekis spoke to the condition of the house when they moved in and being a short-term rental, they’ll have their eyes on the house more often and bale to keep up on the property.

No Public Comments:

**FINDING OF FACT**

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

1.) The Finding of Fact for 625 Winchester Place shall include all information included in the notice of public hearing dated February 24, 2021.

2.) Thirty-four notices of public hearing were sent, and three letters of support were received from Nathan Wiemers, Chad LaBrie, and David and Nicole Reed 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. Liekis and Ms. Anderson both have parents with special needs, they purchased a duplex, and spent $100,000 renovating both sides of it. They’ve invested in the home, their thoughts and concerns is a long term lease is not feasible, when they don’t have a family member living next door they want to rent it out as an Air B&B, their home is 300’ off West Main, the variance request is not the result of anything they’ve done, the minimum action will be taken, and it doesn’t cause an adverse action to the neighbors. The home is not being rented now, they haven’t tried a short-term rental, and zoning can’t do less than thirty days. The intent of the ordinance is to keep lodging at thirty days and manage the situation concerns with the granting if the property is sold. Mr. Carroll asked if prior research was done, on the property before purchasing it, Mr. Liekis stated no, discussed some fair housing questions, short term questions, this is not about who can stay, but how long they can stay. Short term rentals can be less disruptive,

Mr. Terpening seconded the Finding of Fact.

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

Mr. Carroll moved to approve the application, seconded by Ms. Harrington.

Mr. Carroll stated he doesn’t like this ordinance, but understands why it’s there, it can go both ways, they can infringe on other people rights, it matters what the law is. He likes what they are trying to do. He’s supportive personally, but as a member of the Board, he can’t support it, and gave his reasons. This request does not meet the criteria, they can still use the property for a long-term rental, their unique situation is personal, not land based, and it’s does not adversely effect of the adjacent property, but he doesn’t know the intent of the future. He’ll be voting no on the request.

Mr. Terpening commented on the thirty-day notice to move, it’s to give the tenant time to move out and find another place to live. The next owner, who purchases the property in years to come, may not be as great with the intent. He stated he’d be voting against it.

Chair Lager reviewed the criteria conditions that must be met to qualify and stated he would be voting against the request. It doesn’t meet the criteria, he’s sympathetic to their needs, but this is zoned for residential and not short-term rentals.
Ms. Harrington commented for the Board to be speculating 75 years into the future. She spoke to the short-term housing that this family is trying to maintain and take care of their children and aging family. She will be voting yes on the request.

Chair Lager commented this issue won’t go away, the City needs to examine this issue, there is a housing crisis and to clarify it.

**Motion denied by roll call vote.**

Yes: Harrington
No: Carroll, Doane, van den Hombergh, Terpening, Lager

**OTHER BUSINESS:**

**ADJOURNMENT:**

The meeting was adjourned at 8:30 p.m.