



ZONING BOARD OF APPEALS

Quality Services for a Quality Community

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MINUTES

July 17, 2019

54-B District Court, Courtroom 1
101 Linden Street

Present: Chalgian, DeVries-Burd, Ditschman, Hittner, Lal, Laxton, and Ruddell

Absent: Bradley and Cole

Staff Present: Haywood

1) OPENING

A) Roll Call

Laxton called the meeting to order at 7:03 p.m.

At the calling of the roll, members Bradley and Cole were absent.

B) Approval of the Agenda

Agenda was approved unanimously as amended to change the November 11, 2018 minutes to November 7, 2018 minutes.

C) Approval of the Minutes

Minutes of November 7, 2018 approved unanimously as presented.

Minutes of January 9, 2019 approved unanimously as presented.

Minutes of February 6, 2019 approved unanimously as presented.

2) COMMUNICATIONS

A) Written

- Letter from Michael Corcoran dated July 17, 2019 regarding 1108 E. Grand River Avenue.

B) Oral – None

3) NEW BUSINESS

A) A public hearing will be held to consider a variance request from Mohamed Shetiah for the property located at 947 Trowbridge Road, in the B-2, Retail Sales Business District, from the following requirement of Chapter 50 – Zoning Code of the City of East Lansing:

Section 50-813(2) – Minimum number of stacking spaces for restaurant uses of 10 per window. The applicant is proposing a Biggby coffee shop with a drive thru window with six stacking spaces.

Chalgian stated she may have a potential conflict of interest being that her father’s law firm is next to the proposed site. Laxton asked if there is direct benefit to her father’s law firm. Chalgian replied negatively.

Motion: Ruddell moved to recuse Chalgian for the above reasons. The motion was seconded by Hittner.

Laxton stated he would be voting against the motion as he does not see any direct financial benefit to the Chalgian family.

Vote: All nays. Motion failed unanimously by a vote of 0 to 6.

Haywood described the property, location, and the proposal as indicated in the Staff Report. He further stated the Board heard the same proposal last year and the approval has since expired.

Laxton asked if it is the same request heard previously by the Board. Haywood replied affirmatively.

Mandy Mann, Operations Administrator for the Franchisee, addressed the Board and offered to answer any questions.

Motion: It was moved by Ruddell and seconded by Ditschman to grant variance approval for the request from Mohamed Shetiah for the property located at 947 Trowbridge Road, in the B-2, Retail Sales Business District, from the following requirement of Chapter 50 – Zoning – of the Code of the City of East Lansing:

Section 50-813(2) – Minimum number of stacking spaces for restaurant uses of 10 per window. The applicant is proposing a Biggby coffee shop with a drive thru window with six stacking spaces.

The Board finds that under Special Finding (1), that there are practical difficulties or unnecessary hardships resulting from the physical characteristics of the property in question which make it unfeasible to carry out the strict letter of the Zoning Code; based on the following grounds:

1. Placement of the building on the lot.

Laxton stated he would be voting in favor for the same reasons as before.

Vote: All yeas. Motion passed unanimously by a vote of 7 to 0.

B) A public hearing will be held to consider an application from ABCD Properties, LLC for the property located at 1108 E. Grand River Ave., in the East Village zoning district for a variance from the following requirements of Chapter 50 – Zoning Code of the City of East Lansing:

1. *Variance: Section 50-812(2)r.2 – Required parking ratios for “other” non-residential uses. The applicant is proposing four parking spaces when nine are required.*
2. *Variance: Section 50-815(4) – Parking and driveway setbacks. The applicant is proposing parking spaces having no setback to the side property lines at the northwest and southeast areas of the property.*
3. *Interpretation of Section 50-94a(b)(6) – No medical marijuana provisioning center shall be allowed to locate within 500 feet of the lot lines of another medical marijuana provisioning center except that in the medical marijuana provisioning center facility overlay district located in the DDA District, no medical marijuana provisioning center facility shall be permitted to locate within 1000 feet of another medical marijuana provisioning center facility.*

Haywood described the property, location, and the proposal as indicated in the Staff Report. He further stated the application was returned since the City does not grant use variances. He said the two dimensional variances they are requesting will ultimately be decided by whatever use they settle on, but the abandoning of provisioning center use is a necessity due to the requirements of separation between provisioning centers in the code.

DeVries-Burd asked how the Board is to respond to an interpretation of the Code. Laxton discussed the process.

The Board discussed:

- Use as a liquor store
- Restructuring of the building to create more parking spaces
- Parking code requirements

Mike Corcoran, 800 Cottage View Drive, Traverse City, addressed the Board and spoke to the history of the property. He stated they are not tying the use to a provisioning center and they have the option of opening a beer/liquor store by October and that is the only option without getting a variance for parking.

Corcoran further stated he would be happy to answer any questions.

Laxton clarified an interpretation was not required for the application as it was not tied to a use like the prior application was. Corcoran agreed and stated that he would withdraw the interpretation request.

Motion: Ruddell moved to approve the applicant's request to withdraw agenda item 3.b.3. Motion was seconded by Ditschman. **Vote:** All yeas. Motion passed unanimously by a vote of 7 to 0.

Haywood stated that if the applicant chose to make no changes to the parking lot, it would be grandfathered in, but if the applicant chooses to make changes to the parking then the parking must be brought into conformance; therefore, a variance would be required.

Laxton stated he has a better understanding as to how much parking a use needs when he knows the use but in this case the use is unknown. Corcoran stated if all else fails they will replace the beer/liquor store.

Ruddell asked what types of businesses are allowed in the EV District. Haywood replied that it is broad and read from the Code.

Ditschman asked if it was fine not to have a specific use for a variance approval. Haywood replied affirmatively.

Nick Piedmonte, 911 Randolph, Traverse City, one of the owners, addressed the Board and discussed:

- Deliveries to the building
- Egress from the parking lot
- Parking reductions
- Requirements for a new building

Motion: It was moved by Chalgian and seconded by Ditschman to grant variance approval for the request from ABCD Properties for the property at 1108 East Grand River Avenue, in the East Village zoning district from the following requirements of Chapter 50 – Zoning Code of the City of East Lansing:

Section 50-812(2)r.2 – Required parking ratios for “other” non-residential uses, the applicant is proposing four parking spaces when nine are required.

The Board finds that under Special Finding (1), that there are practical difficulties or unnecessary hardships resulting from the physical characteristics of the property in question which make it unfeasible to carry out the strict letter of the Zoning Code and Special Finding (2), that that there are exceptional or extraordinary circumstances or conditions which apply to the property in question that do not apply to other properties and which have not resulted from any act of the applicant subsequent to the adoption of the Zoning Code; based on the following grounds:

1. Any business would struggle with just two parking spaces that are smaller than normal.
2. The way the building is situated on the site limiting parking.

Laxton stated he is voting in favor of the motion because it makes sense to use the building as is rather than tear it down and rebuild. Given the limited width of the property there is no ability to carve into the sides. It makes sense especially given they are improving the parking in the front.

Chalgian stated she agrees with Laxton and regardless what business would be in there no one is going to be able to get nine parking spots in there.

Hittner stated the owner purchased a piece of real estate that has limitation with parking, and he does not feel it is the duty of the ZBA to maintain the value when the owner can do something else with the property and as such will likely be voting no.

Vote: *Yeas:* Chalgian, Ditschman, DeVries-Burd, Laxton, and Ruddell. *Nays:* Hittner and Lal. Motion carried by a vote of 5 to 2.

Motion: It was moved by Ditschman and seconded by DeVries-Burd to grant variance approval for the request from ABCD Properties for the property at 1108 East Grand River Avenue, in the East Village zoning district from the following requirements of Chapter 50 – Zoning Code of the City of East Lansing:

Section 50-815(4) – Parking and driveway setbacks. The applicant is proposing parking spaces having no setback to the side property lines at the northwest and southeast areas of the property.

The Board finds that under Special Finding (1), that there are practical difficulties or unnecessary hardships resulting from the physical characteristics of the property in question which make it unfeasible to carry out the strict letter of the Zoning Code; based on the following grounds:

1. Due to the narrow and small size of the lot

Laxton stated he would be voting yes because they voted yes for the parking and there are no setbacks on the property.

Lal stated she will not be voting in favor of the motion. If they do not receive an approved variance, they will continue to use the two spaces in the front

Chalgian stated she agreed with Laxton's comments.

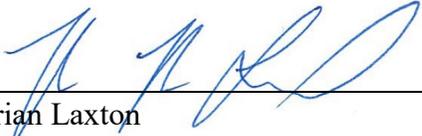
Vote: *Yeas:* Chalgian, Ditschman, DeVries-Burd, Hittner, Laxton, and Ruddell. *Nays:* Lal. Motion carried by a vote of 6 to 1.

- 4) **OLD BUSINESS** – None
- 5) **STAFF REPORTS** – None
- 6) **BOARD MEMBER CONCERNS** – None
- 7) **ANNOUNCEMENTS**

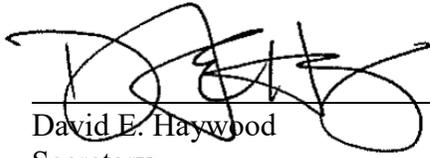
Ruddell stated she would not be in attendance for August 7.

8) ADJOURNMENT

Motion: Ruddell moved to adjourn. Hittner seconded the motion. **Vote:** All yeas. Motion passed unanimously by a vote of 7 to 0.



Brian Laxton
Chair



David E. Haywood
Secretary