

**CITY OF LAPEER
MINUTES OF A REGULAR
ZONING BOARD OF APPEALS MEETING
AUGUST 22, 2016**

A regular meeting of the City of Lapeer Zoning Board of Appeals was held in the Commission Chambers of Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan on Monday, August 22, 2016 at 7:00 p.m.

Members Present: Chairman Joe Black, Vice Chairman Bernard Jocuns, Mr. Paul Parsch, Mr. A. Wayne Bennett and Mr. Wes Butterfield.

Members Absent: Mr. Jeff Hogan.

Also Present: Mr. Scott Kree, Rowe Professional Services Company Planning Consultant.

Chairman Black called the meeting to order at 7:00 p.m.

MINUTES

It was moved by Mr. Parsch and supported by Mr. Jocuns to approve the minutes of the meeting held on July 25, 2016 as presented. **MOTION CARRIED.**

PUBLIC COMMENTS

There were no public comments

PUBLIC HEARING SCHEDULED

There were no public hearings scheduled

OTHER BUSINESS

Edenz Gardening Center – 960 Summit Street – Parking Variance

Mr. Kree reviewed the request from Mr. Brikho of Edenz Gardening Center for a variance to the off street parking requirements of Article 7.16.02 (Table 7.16.1) in order to operate an indoor garden supply business at 960 Summit Street. Mr. Kree stated Mr. Brikho submitted a shared parking agreement with Steve Shango, owner of the Lapeer Wine & Spirits property located at 543 S. Main, and that after calculating the available parking on the Wine & Spirits and adjacent strip mall site there is only one space to be shared which is located across a public street and presents a safety hazard.

Mr. Kree reviewed the layout of the 960 Summit Street site stating additional parking could be achieved by adding two tandem employee parking designated spaces along the south side of the building and designating one of the two existing loading/unloading space to a parking space. Mr. Kree reviewed the parking calculation based on a wholesaling use designation which is one of the lowest demand uses allowed in the B-2 General Business district and stated the existing building and parking lot design presents a hardship to utilize the site. Mr. Kree reported the applicant is currently operating out of the site and was presented with three options to resolve situation including obtaining a shared parking agreement with an adjacent property owner, applying for a variance or walling off and not using 30% of the building.

Discussion was held regarding parking calculations for various permitted uses in the B-2 district, the access to the subject site from a public alley, parking area available on the site, reducing the amount of the variance required by 3 spaces as suggested, previous businesses operating on the site and the wholesale and resale percentages of the existing operation.

During the meeting Mr. Brikho submitted a shared parking agreement with the Law Office of Todd Courser located at 455 S. Main Street and stated his business includes online sales and a warehouse type atmosphere, that this new building has provided more space for an easier operation and distributed a floor plan of the building. Mr. Brikho stated he has been in business in the City for 5 years with no issues, that his small businesses employees 6 people and that he believed by transferring the business registration to the new location he was all set, however, he missed the requirement of obtaining a Certificate of Occupancy for the new site. Mr. Brikho stated he is committed to being a good business owner, that he has pursued shared parking agreement with every adjacent neighbor, that the Courser Law Office has agreed to share spaces and that he thought the first agreement with Mr. Shango would be sufficient. Mr. Brikho also stated there is a low number of customers currently on site at one time, that his business is a hybrid type of use, that no extra parking demand has been created to date at the new location and the veterinary office has had no complaints about his business using their parking lot.

Discussion was held regarding the location and amount of parking available on the law office site, whether the applicant's business has had and parking citations issued, the amount of walk-in and online sales conducted at the location, the

Mr. Justin Dunaskiss, of Dunaskiss Consulting & Development, was present and reviewed the findings of fact including the fact it will be difficult to find a business that meets the use definition with the available parking on the site. Mr. Dunaskiss stated the variance will help the area by relocating the business from across the street while not creating any extra parking demand on the neighboring properties. Mr. Dunaskiss reviewed the uniqueness of the property including the position of the building on the site, the access from the alley, the lack of area to expand on-site parking, the fact the building size and parking was permitted when built in 1978, the fact the current owners did not build the structure and that multiple, higher parking demand tenants have operating at the site. Mr. Dunaskiss further stated the shared parking agreement will allow extra parking at the law office which will lessen the burden for surrounding building owners.

Discussion was held regarding the size of the building, the lack of adequate parking for a retail operation at the site, the low parking demand recently observed at the site and the alley access. The fact Dr. Taylor's veterinary office has not had any parking problems with Mr. Brikho's operation, the fact the building pre-dates the existing zoning ordinance, the location of the law office in relation to the subject site, alley parking generated by other area businesses were also discussed. Discussion was also held on the different parking calculations utilized for various types of uses at specific locations, parking requirements for future tenants at the subject site and the goal of the business owner to grow the business owner and relocate to a larger site in the future.

After discussion, it was moved by Mr. Parsch and supported by Mr. Butterfield to approve the request from Edenz Garden Center for a 2 space variance to the parking requirements of Article 7.16.02 (Table 7.16.1) in order to allow an indoor garden supply operation at 960 Summit Street due to existing practical difficulties of the ongoing use of the building, the building size relative to the size of the parking lot and with the following conditions:

- The two (2) tandem spaces along the south side of the building be labeled "Employee Parking Only"; and
- One (1) of the existing loading/unloading spaces is designated to a parking space.

The variance is based upon the following standards:

- The variance would allow for a reasonable use of the property. The property is zoned B-2. Most of the uses in the district would require twice the amount of parking as the proposed use. Without the variance the applicant would not be able to use over 30% of the existing building.
- The variance would allow for the reuse of the property for an activity with a relatively low parking demand in comparison with other uses in the B-2 district. A lower relaxation would not allow the entire building to be utilized.
- The uniqueness is the relatively large building on a lot with inadequate parking and a lack of room for additional parking.
- The applicant did not build the building or create the lot. It is unknown how the property was approved with such a small parking space.
- The purpose of the parking space regulations is to ensure an adequate number of off-street parking spaces are provided for.

MOTION CARRIED.

Discussion was held regarding the Michigan Zoning Enabling Act standards that Zoning Board of Appeals variances are required to meet.

ADJOURNMENT

There being no further business, it was moved by Mr. Bennett and supported by Mr. Jocuns to adjourn the meeting at 7:59 p.m. **MOTION CARRIED.**

Mr. Joe Black
Chairman