



Sheldon Neeley
Mayor

CITY OF FLINT

FLINT ZONING BOARD OF APPEALS

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Draft Meeting Minutes

May 17th, 2022

Board Members Present:

Matthew Telliga, Chair
Jerry Kea, Vice-Chair
Ari McCaskill
Ramie Yelle
Johnnetta Ricks
Lauren Coney
Derek Dohrman
John E. Hardy II

Staff Present:

Joanne Gurley, Assistant City Attorney
William Vandercook, Zoning Coordinator
Jonathon Mateen, Planner I
Max Lester, Planner I

Planning Commission Representative:

N/A

Absent:

Florlisa Stebbins

ROLL CALL:

Chairperson Telliga called the meeting to order at 6:02 p.m. Roll was taken, and a quorum was present. The meeting was held in the Council Chambers at the City of Flint City Hall as well as via Zoom meeting.

Matthew Telliga, Chair – appearing in person
Jerry Kea, Vice-Chair – appearing virtually in Flint, MI
Ari McCaskill – appearing virtually in Flint, MI
Lauren Coney – appearing in person

Florlisa Stebbins – absent
Johnnetta Ricks – appearing virtually in Flint, MI
John E. Hardy II – appearing in person
Derek Dohrman – appearing in person
Ramie Yelle – appearing in person

Commissioner McCaskill will arrive later in the meeting.

ADOPTION OF May 17, 2022 AGENDA:

Chairman Telliga asked for any changes or comments to be made to the agenda.

Commissioner Coney asked about the spelling of marihuana in the agenda. Chairperson Telliga explained this is the municipal spelling.



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Commissioner Hardy made a motion to approve the agenda as presented. Commissioner Ricks supported the motion.

Chairman Telliga asked for a roll-call vote.

Commissioner Stebbins, absent
Commissioner Hardy, yes
Commissioner McCaskill, absent
Commissioner Yelle, yes
Commissioner Dohrman, yes

Commissioner Kea, yes
Commissioner Ricks, yes
Commissioner Coney, yes
Commissioner Telliga, yes

M/S – Hardy/Ricks

7 – yes, 0 – no, 2 – absent

Motion carried.

ADOPTION OF March 15, 2022 MINUTES

Chairman Telliga asked if there were any changes to the minutes of March 15, 2022.

Commissioner Kea asked about a point of discussion related to zoning and variances. On Page 3 a correction is suggested to clarify that variances stay with the property regardless of the owner.

Commissioner Kea motioned to approve the minutes from March 15, 2022 with the stated changes. Commissioner Coney supported the motion.

Chairman Telliga asked for a roll-call vote.

Commissioner Stebbins, absent
Commissioner Hardy, yes
Commissioner McCaskill, absent
Commissioner Yelle, yes
Commissioner Dohrman, yes

Commissioner Kea, yes
Commissioner Ricks, yes
Commissioner Coney, yes
Commissioner Telliga, yes

M/S – Kea/Coney

7 – yes, 0 - no 2 – absent

The motion carried.

PUBLIC FORUM:

No one spoke at this time.

REPORTS:

No reports at this time.



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COMMUNICATIONS:

William Vandercook stated there are several communications for two of the cases.

Chairperson Telliga stated that he asked in the previous meeting for an update on the Draft Zoning Ordinance every meeting from Planning staff under Reports or Unfinished Business. Commissioner Kea stated that this would be more appropriate to be given in the Reports section.

PUBLIC HEARING:

ZBA 22-5: First Dort Enterprises, LLC, DBA Michigan Organic Solutions, requests a use variance to allow operation of a Group F Marihuana Processing Facility in the D-6 district at 3549 S. Dort Hwy. (PID 41-21-351-034)

Mr. Vandercook read the provided Staff Report.

At 6:22 p.m. Chairperson Telliga noted that Commissioner McCaskill joined the meeting. Chairperson Telliga also noted that the applicant sent an email to some of the commissioners and does not believe the communication was inappropriate and there was no new information provided. Mr. Vandercook stated he did not receive communications from any commissioners that there has been discussion between themselves on the case.

Commissioner Kea stated that he believes if information is sent to some commissioners, it should be sent to all commissioners and that it is in violation of the charter. Chairperson Telliga instructed the commissioners to disregard the information in that email and to base their decisions on the information provided to all commissioners and the information given at that night's meeting only.

An owner, Greg Baker, stated that the company owns the property, which is 30,000 square feet, 2,500 of which is operated as a dispensary. The business employs eight people, most of whom live in Flint. The applicants are seeking the variance to operate a marihuana processing center, utilizing the kitchen area and the other space for packaging. Mr. Baker stated they expect to go to fifty employees and invest another \$500,000 into the building. Mr. Baker stated that similar variances have been approved in other cities and is allowed under state law.

Mr. Baker noted the case originally began as a request for a zoning change which was denied due to zoning changes staying with the property.

Mr. Baker stated they tried to lease the space for two years unsuccessfully. There are no intended changes to the outside of the building.

Chairperson Telliga opened the public hearing portion of the case.



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Benjamin Horner spoke about building one of the first medical marijuana facilities in 2010. Mr. Horner stated that the variance is essential for this business to be able to compete with new facilities.

Mr. Horner stated this property was in a unique situation due to having grandfathered status and read the description of City Corridor zoning in the Master Plan.

Juanita Richard, a manager at Michigan Organic Solutions, talked about how the variance would allow the business to hire more employees and help the business during a difficult time. Ms. Richard also spoke on the benefits of the business and upward mobility within the business.

Derek Walton, a manager at Michigan Organic Solutions, spoke about the upward mobility in the company. Mr. Walton supports the variance which he said will bring in more jobs.

Arthur Woodson stated he supports marijuana but does not agree with the revenue share going primarily to the State and to Genesee County. Mr. Woodson stated that he does not see the money being used in the City of Flint compared to other cities in the county. Mr. Woodson discussed Community Benefit Agreements and stated Flint needs a similar agreement to what is in Detroit.

Chairperson Telliga closed the public hearing and asked the applicant if the dispensary is currently for medical marijuana patients only or both medical and recreational purchases. The applicant replied both medical and recreational. Mr. Baker reiterated the company's desire to hire people from Flint.

Commissioner Yelle stated his conflicting feelings on the case as more jobs within the city is good and the location is grandfathered, but because the variance stays with the property the next person who owns the building could also use it as a processing center. Commissioner Yelle also agreed that the City of Flint should be getting more money from running dispensaries.

Mr. Baker stated that he believed the next applicant would need to go through the Planning Commission before being allowed to operate a marijuana facility in that location.

Mr. Vandercook clarified that the variance would allow for Group F processing facilities in this location and would stay with the land. Mr. Vandercook also stated that both the Building Department and Fire Department consider this classification as a bigger hazard due to the chemicals involved, which is incongruent with the Master Plan City Corridor which allows for institutional and commercial buildings, not industrial uses.

Chairperson Telliga asked if under the current City Ordinance if this use is not allowed at this location.



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Commissioner Dohrman asked for clarification if the Group F variance is for growing, processing, and safety compliance or just processing. Mr. Vandercook stated the variance is for a Group F processing facility only.

Commissioner McCaskill stated that the Zoning Board of Appeals does not base decisions on economic development or situational issues, only zoning.

Commissioner Ricks asked if this would be considered spot zoning. Mr. Vandercook stated that if this was a rezoning it would be spot zoning, but this is a variance request.

Mr. Vandercook read letters of support provided to the Commission from the Machine Shop and residents of the nearby trailer park.

Commissioner Kea noted that the form letters of approval submitted were for the rezoning from D-6 to F, not the variance request for a Group F processing facility. Commissioner Kea also restated the points of Commissioner McCaskill, stating the Zoning Board's duty is to consider the City Ordinances as they are written. Commissioner Kea stated that the City Ordinances allow processing centers in E and F zoned districts, not D-6.

Commissioner Yelle reiterated that the location is grandfathered in and approving this request would be overstepping on City Council responsibilities.

Commissioner McCaskill stated this case is unclear due to the grandfathered status. Chairperson Telliga agreed and stated it was his understanding that if a dispensary wanted to open in this location today it would not be allowed.

Commissioner Dohrman made a motion to approve the requested variance by First Dort Enterprises to allow a Group F processing center to be located within a D-6 General and Highway Commercial Service District.

Commissioner Dohrman used the following findings of fact for the motion: Standard 1, complies as the property would not otherwise be able to process products for the current marihuana facility at this location. Standard 2, the property is unique in having a grandfathered medical marihuana facility in operation. Standard 3, proposed use would not change the essential character of the area. Standard 4, the problem was not self-created. Standard 5, it does not pose a threat to public safety.

Commissioner Coney supported the motion.

Chairman Telliga called for a roll call vote.



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Commissioner Stebbins, absent
Commissioner Hardy, no
Commissioner McCaskill, no
Commissioner Yelle, yes
Commissioner Dohrman, yes

Commissioner Kea, no
Commissioner Ricks, yes
Commissioner Coney, yes
Commissioner Telliga, no

Chairperson Telliga asked if a simple majority would be needed for a variance motion to pass. Commissioner Kea stated that he believed a variance motion requires two-thirds. Mr. Mateen confirmed two-thirds votes are required for a variance motion to pass.

M/S – Dohrman/Coney

4 – yes, 4 – no, 1 – absent

Motion fails –

ZBA 22-6: Richard Marrow-Bey requests a use variance to allow operation of a hall for hire business in the C-1 district at 3421 Industrial Ave Flint, MI (PID 47-31-380-022).

Chairperson Telliga asked for clarification on the correct address. Mr. Vandercook explained that the application was corrected to 3421 Industrial Ave.

Mr. Vandercook read the provided Staff Report.

Chairperson Telliga asked Planning staff what the most recent use of the property was. Mr. Vandercook stated he believed it was a bar.

Commissioner Yelle asked if this parcel was zoned to allow a bar, why the application was before them. Commissioner McCaskill stated it had been rezoned. Mr. Vandercook confirmed that it was rezoned to C-1 Residential and became a non-conforming use, once that use ended the property reverted to C-1.

The applicant Richard Marrow-Bey spoke about growing up in the community around this location. Mr. Marrow-Bey stated that he was notified that he needed permits and discovered the zoning issue when seeking the necessary permits.

Chairperson Telliga opened the floor to the public hearing.

Arthur Woodson spoke about a previous application for a property owned by RACER Trust which owned a parcel zoned for multi-family near Buick-City. Mr. Woodson stated he believed this was a similar situation. Mr. Woodson expressed support for the applicant.



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Chairperson Telliga commented on how the property is surrounded by empty lots, that the property has been used as a meeting hall historically, and that if the application is not approved the property will not be used at all.

Commissioner McCaskill asked how the applicant discovered the property was outside of compliance. Mr. Marrow-Bey said he went to get a permit and was sent to Mr. Mateen who noticed the property was zoned C-1.

Commissioner Kea asked about the map provided by Planning staff, whether the C-1 square in the center of a D-3 area is the subject property. Chairperson Telliga and Mr. Vandercook confirmed that was the subject property. Commissioner Kea asked what the variance was for. Chairperson Telliga stated the motion would be for a variance to allow a hall for hire business in the C-1 Multi-family district.

Mr. Vandercook stated there were no other communications received from the public.

Commissioner Dohrman made a motion to approve the requested variance by Richard Marrow-Bay to allow for a hall for hire at 3423 Industrial Ave, in the C-1 Multi-family Walkup Apartment district.

Commissioner Dohrman used the following findings of fact for the motion: Standard 1, the current use of the subject property is not permitted in the current zoning district thus not allowing the property owner use of their property as it has been used historically. Standard 2, the zoning is incompatible with the optimal use of the property. Standard 3, the variance would not alter the essential character of the area. Standard 4, the existing hardship was created by the City and not the property owner. Standard 5, the variance would not impede public safety and would grant the property owner substantial justice.

Commissioner McCaskill supported the motion.

Chairman Telliga called for a roll call vote.

Commissioner Stebbins, absent
Commissioner Hardy, yes
Commissioner McCaskill, yes
Commissioner Yelle, yes
Commissioner Dohrman, yes

Commissioner Kea, yes
Commissioner Ricks, yes
Commissioner Coney, yes
Commissioner Telliga, yes

M/S – Dohrman/McCaskill

8 – yes, 0 – no, 1 – absent

Motion carried –



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ZBA 22-7: Jamie Floria requests a use variance to allow multifamily housing in the A-2 district at 3529 Brandon St. Flint, MI (PID 40-23-302-004).

Mr. Vandercook read the provided Staff Report.

Chairperson Telliga asked Planning staff if the variance was granted for multi-family housing in the A-2 District, could a developer later build an apartment building in this location. Mr. Vandercook stated that they could. Chairperson Telliga also asked if the applicant divided the property into four properties if they could rent the properties under the current zoning. Mr. Vandercook confirmed they could.

Commissioner McCaskill commented that it seemed like even when divided the applicant would need a variance to rent the buildings. Chairperson Telliga stated that if the lots were split into what they were before the combination they could be rented individually.

Commissioner Dohrman asked if the applicant has attempted to split the properties or if they have been advised to. Mr. Vandercook stated the applicant was given several options including splitting the property, taking down three of the houses and leaving one, or seeking a variance.

Commissioner Yelle asked if the property was originally four parcels that were combined Mr. Vandercook confirmed a previous owner combined the lots.

The applicant, Jamie Floria, stated there are five total parcels that were combined. Mr. Floria asked if there was a way to make the variance conditional to leaving the buildings as is. Commissioner McCaskill said the only way to prevent an apartment complex from being built would be to not give a variance and let the property remain as is because the variance would stay with the land. Chairperson Telliga stated that the lots just need to be split and then no variance is needed.

Mr. Floria stated that he believed one house was on the border of two lots. Commissioner Yelle explained a way to split the four houses on the five lots to mitigate this issue. Mr. Floria asked if the shared driveways would be acceptable once the lot was split. Chairperson Telliga stated a relief could be given for the driveways, but a variance is not appropriate.

Mr. Mateen shared that according to the Michigan Zoning Enabling Act, the Zoning Board of Appeals may impose conditions as otherwise allowed under this act when it comes to variances.

Commissioner McCaskill stated that he does not believe a variance is the solution to this issue.

Mr. Vandercook asked that Attorney Gurley speak on whether conditions can be set for variances (Attorney Gurley provided an answer later in the meeting).



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Richard Butcher spoke in support of the applicant, stating that the property has been renovated and wants whatever it takes for the buildings to be occupied.

Matthew Jarvis spoke in support of the applicant, stating that the property has been uplifted.

Mr. Vandercook read a letter in support of the applicant and a letter in opposition to the applicant. Mr. Vandercook noted the letter in opposition was discriminatory.

Commissioner McCaskill asked if combining the lots was the only way to provide parking in the back for all units. Mr. Floria stated there was plenty of parking behind the units. Commissioner McCaskill asked the applicant if the driveway for Lot 166 was up to standard and if a site plan was reviewed and approved by an engineer. Mr. Floria stated there was a driveway between Lot 165 and Lot 164, and Lot 166 was all grass.

Commissioner McCaskill asked if the 20.5 ft driveway entering from Yale St egress and the 14 ft entering from Brandon St egress meets minimum standards for multi-use driveways. Mr. Vandercook stated that Fire Code will be applicable and there must be a 20 ft driveway coming into the site. Mr. Vandercook stated he could not speak on the Fire Code aspect but the two houses on Yale St. have access to the 20 ft driveway on Brandon St.

Commissioner Kea restated that they are examining a variance to allow multi-family homes in a single-family district. Commissioner Kea also pointed out that Mr. Vandercook noted to Standard 5 that the applicant can split the properties into four separate parcels to comply with the current zoning. Commissioner Kea stated that he can not accept the possibility that an apartment complex could be built on this property in the future if the variance is approved.

Attorney Gurley stated that per conditions to a variance, under case law the conditions must relate in some way to the standards of the local ordinance and the Michigan Zoning Enabling Act. Attorney Gurley commented that ["in terms of a specific timeframe the courts have waived but what is clear is that the impact of the variance cannot lessen the value of the surrounding properties."]

Commissioner McCaskill pointed out that as a multi-family the property may not have enough parking to meet the minimum, an issue that would not appear if the property was split into four different parcels.

Commissioner Dohrman stated that he believed splitting the parcels should be attempted first, and if that is not possible, they could consider the variance.

Mr. Floria asked for clarification on if a condition to the variance was possible. Chairperson Telliga stated that it was his understanding that it was not. Commissioner McCaskill said he



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believed it had to be aligned with the Zoning Enabling Act. Attorney Gurley stated that a condition must serve a legitimate purpose that points to the Zoning Ordinance.

Mr. Floria stated he does not believe the property is bringing down land values in the area and that the houses will be there if the property is split or not. Attorney Gurley replied stating that she was not commenting on if this specific property is lessening neighborhood value, only that Michigan courts are looking to that as one of the conditions in deciding whether to uphold the conditional variance.

Chairperson Telliga asked Planning staff if the applicant split the property into four parcels with one house on each parcel, would there be an issue with renting these properties under the current A-2 zoning classification. Mr. Vandercook stated that the applicant has that option.

Commissioner Dohrman reiterated that if the applicant has an issue splitting the property, then he believes all five standards would be met. Commissioner Dohrman stated that without having attempted to split the lots he cannot support the variance at this time.

Commissioner McCaskill stated that the Zoning Board cannot make legal suggestions as it is not within their purview, and that there is no guarantee that a variance will be granted either way.

Chairperson Telliga stated that if the application is denied it can only come back if it is something different, the same application cannot come back.

Commissioner Ricks stated that all the commissioners support developing this area, but the conditions must be different.

Commissioner Ricks made a motion to deny the requested variance.

Commissioner Ricks used the following findings of fact for the motion: Standard 1, it would not allow the existing nonconforming use to be conforming like the surrounding properties. Standard 3, the proposed use would alter the essential character of the area.

Commissioner Kea supported the motion.

Chairman Telliga called for a roll call vote.

Commissioner Stebbins, absent
Commissioner Hardy, yes
Commissioner McCaskill, yes
Commissioner Yelle, yes
Commissioner Dohrman, yes

Commissioner Kea, yes
Commissioner Ricks, yes
Commissioner Coney, yes
Commissioner Telliga, yes



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M/S – Ricks/Kea

8 – yes, 0 – no, 1 – absent

Motion carried –

CITY ATTORNEY REPORT:

Attorney Gurley stated that she believed the Planning Commission is still considering if they should be appointing a Planning Commissioner to serve on the Zoning Board of Appeals just to bring information from the Planning Commission. Attorney Gurley stated there is still some confusion on what this member's role should be and asked that in the next month this issue be revisited.

Chairperson Telliga stated that in the past six years that he has been on the Zoning Board the Planning Commission member has had a vote except for cases that were being appealed from the Planning Commission.

Commissioner Kea stated that he believed based on prior training that the Planning Commission representative was there for information only unless there was a tied vote.

OLD BUSINESS:

Commissioner Telliga asked Planning Staff to include under reports in each subsequent meeting an update on the Draft Zoning Ordinance progress.

Commissioner Kea discussed the meeting he held with Mr. Vandercook on developing a standardized checklist of items that must be included with each application before coming to the Zoning Board of Appeals.

Mr. Vandercook stated that cases must be posted publicly 20 days before a meeting and asked if cases should be postponed if not all materials are in hand by that date.

Chairperson Telliga does not believe they should be delayed as the current open positions in Planning and Zoning may be the root of some delays and not the fault of the applicant. Commissioner Kea disagreed, saying that all materials should be available before coming to the Zoning Board of Appeals. Chairperson Telliga stated that he could not direct Planning staff in this regard.

NEW BUSINESS:

Commissioner Yelle noted that there should be a vote for officers next month.

Commissioner Kea stated that it might be a good idea to conduct new training for the members to ensure all commissioners are up to speed. Mr. Vandercook stated that he talked with Corey Christensen who can offer a 45-minute training at the next meeting. Chairperson Telliga stated it was his understanding that the commissioners would want this at a meeting where there was nothing on the agenda or as a separate meeting. Mr. Vandercook stated he can send an email to



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the commissioners with tentative dates. Commissioner Ricks asked if there would be a Zoom meeting option for the training. Mr. Vandercook stated he believed this could be set up.

Chairperson Telliga asked Attorney Gurley if the meeting would need to be open to the public as all the commissioners would be meeting. Attorney Gurley confirmed that the meeting would need to be published and open to the public.

ADJOURNMENT:

Commissioner Dohrman made a motion to adjourn. Commissioner Hardy supported the motion.

Commissioner Stebbins, absent
Commissioner Hardy, yes
Commissioner McCaskill, yes
Commissioner Yelle, yes
Commissioner Dohrman, yes

Commissioner Kea, yes
Commissioner Ricks, yes
Commissioner Coney, yes
Commissioner Telliga, yes

M/S –Dohrman/Hardy

The meeting was adjourned at 8:31 pm.