

FLINT ZONING BOARD OF APPEALS
Meeting Minutes
April 21, 2020

Board Members Present

Matthew Telliga, Chair
John E. Hardy II
Ari McCaskill
Jacqueline Jordan
Carol-Anne Blower
Lauren Coney
Florlisa Stebbins
Johnetta Ricks

Staff Present

Suzanne Wilcox, Director
Bill Vandercook, Planner I
Keizzy Anpalagan, GIS Technician
Kelly Thompson, Assistant City Attorney

Board Members Not Present

Jerry Kea, Vice-Chair

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 through Zoom meetings

ADOPTION OF THE AGENDA:

M/S – / Blower/McCaskill

Motion to adopt the meeting agenda.

Unanimously carried.

APPROVAL OF MINUTES:

The Board reviewed the minutes of 10-15-2019.

M/S – Ricks/ Blower

Motion to approve the minutes of 10-15-2019.

Unanimously carried

PUBLIC FORUM:

No one spoke at the Public Forum.

REPORTS:

Ms. Wilcox updated the Commission on the status of the new zoning ordinance. Ms. Wilcox said the adoption of a new zoning ordinance was dependent upon City Council first adopting a permanent marihuana ordinance. Currently, the adoption of the marihuana ordinance has been postponed for another 60 days. Ms. Wilcox said once there is a permanent marihuana ordinance in place we will bring the zoning Code to Council.

COMMUNICATIONS:

Ms. Wilcox said we had received some letters which could be addressed with the case items. Chairman Telliga requested in the future all email correspondence be included in Commissioners packets. Ms. Wilcox said staff could include emails, but wanted the Commission to be aware we can receive correspondence up till 5:00 pm on the day of a meeting.

PUBLIC HEARING:

ZBA 20-2234: Voices For Children requests a use variance for expansion of a non-confirming office and parking in a B- Two Family zoned property at 515 East Street. (Parcel ID # 41-07-451-046).

Voices For Childen, Claudynse Hollman, Director presented the application. Ms. Hollman explained “ I wanted to explain what voices for children do before they get into the nuances of what we're trying to do and expand. Voices for children is the only provider of child abuse services in Genesee County and the services that we provide go hand in hand with law enforcement and CPS. So, any kid in Genesee County that's a victim of child sexual abuse, severe physical abuse, human trafficking, witness to violence or neglect come to our center first, and what we do is we provide what's called a forensic interview.

A forensic interview is a kid-friendly way of talking to kids about trauma. And what the kids don't always know is that when they're coming in the front door, when you typically already have law enforcement and CPS, they're in another room where they are watching via closed-circuit TV. The forensic interview that the staff voices do so our interviewer goes into the room with the kid. The interviewer wears an earpiece and it's an evidence-based program, an evidence-based model that we have where we start talking to the kid about the trauma. And then whenever law enforcement or CPS has a question, they're able to ask the question, and it's really a way for law enforcement not to have to talk to a kid about trauma, and to make sure that we are asking the kid the right investigation questions, but in a kid-friendly way to not further traumatize them.

It is typically the first time that a kid is talking about the sexual abuse that has happened to them. So, whenever a teacher thinks that something is going on anytime that a call is made into the centralized intake or to 911, a call is also equally made to Voices For Children. We get that interview scheduled, and we're working with law enforcement and CPS on those cases.

While the kid is in the forensic interview, our staff meets with the family to provide whatever basic needs the child has. So that includes counseling on-site for the kids, as well as medical exams, if they need food at their homes, if the family is homeless, and we're working to provide those services, those case management services to them as well.

We also provide on-site medical exams for the children. Like I said, we also do counseling, we do support groups. We also have a program that works with the kids that end up in foster care so that they have a meaningful adult in their life and they're not just being bounced around from home to home. And when the kid goes to court, we go to court with the child to make sure that the child and the family know what's going on so that they have an advocate there. We do have a canine advocate named Daphne, that also goes to court or sits in the forensic interview with them.

We also are the agency that provides prevention education to the community about child abuse as well as we have a grant from the health department to do work with families that were impacted by trauma. The trauma related to the water crisis as well. So we have about 10 to 30 parents that come to each month actually, they're meeting right now via zoom, to talk about the impact of the water crisis and what their kids are going through. And all of our kids, all of our families know this as the Big Blue House. We provide services each year to about 900 kids. So that's kids that are new kids or kids that are continuing care in their counseling or going to therapy or via support groups. And it is our big blue house. They call it their big blue house. We just have the privilege of being able to work there. So I can go on and on about our agency because I feel like it is one of the critical jewels of Genesee County. After all, not every county not every place has a place that is dedicated directly to kids like this to make sure that we are providing services to kids that are victims of abuse and neglect.

And so I will throw it over to Creekwood. But, I am also going to share my screen so that you can see what the rendering looks like you will see it behind me. My virtual background is the house as it is right now. It is a restored mansion and we are trying to expand in the back parking lot on the back of the property that we do have and credit right now during the times that we are in with a pandemic. We are still providing services. We're still doing forensic interviews because every home is not safe while we're on a stay home stay safe. Every home for a kid is not safe.

So we have three interviews that we're doing tomorrow at the Center for kids. We were doing interviews last week, and so we have to be able to continue to provide those services. And the fact is we're completely out of space. And the last thing that I left out was that every law enforcement jurisdiction in Genesee County uses our center to provide the services for crimes against children. So basically, anytime they have a crime that's against the child, they're using our center to do these forensic interviews, and they want our staff to talk to the kids because they're just not equipped. And we don't want kids going to the police station, or having to go through multiple systems to have to tell their story about what happened.”

Bruce Calhoun from Creekwood Architecture explained “the existing building is 2266 square feet, the addition is 2892. That gives us a total of 5158 square feet. We're looking at expanding the parking also required for the zoning ordinances one per 300. That's 17 parking spaces, but we're looking for 32. And of course, that'll be addressed in the site plan review meeting. But the reason that we need to expand the parking so large is we have meetings at the facility where a lot of the local police departments come in right now they've been parking on the road. So we want to get them off the road and into the site. This is an existing non-conforming use. We're looking to expand that use to the surrounding uses of commercial, one being the church and surrounds the north and east side. There are two residential homes on the south and the north side, they're both being used as commercial. And two residential homes are well screened with a lot of trees and shrubs. It's been an office since 1930 voices took over in 2004. And we just like to continue here at this facility and expand it. Like Nyse said, This is known as the Big Blue House. And it's unique in that respect that the children that do come here I feel comfortable with the surroundings. So we just like to keep it here and expand the use”.

Commissioner Telliga opened the meeting for Public comment and asked if anyone would like to speak.

Sheriff Michael T. spoke in support of the variance for Voices For Children.

Commissioner Telliga asked staff to read any letters of support or in opposition.

Mr. Vandercook read the following letters received in support of the variance for Voices For Children, from Sheriff Christopher Swanson, Ron Wilds, Genesee County Association Chiefs of Police, Dan Kildee, Congress of the United States House of Representatives, Mark Sinila, Flint Cultural Center, David, Riverside Tabernacle Assembly of God, Jason, Central Park Neighborhood Association.

Commissioner Telliga asked if there was anyone else wishing to speak. No one else addressed the Commission.

Commissioner Telliga asks the applicant if they would like to address the Commission. Ms. Hollman noted those in favor of the variance. Then she said Voices For Children is a critical agency and they want to continue providing needed services, but we have run out of space for in house services and parking.

Commissioner Telliga closed the public hearing.

Commissioner Blower. I make a motion for voices of children's use variance for an expansion of a non-conforming office and parking in a two families zone. B 2 families zoned property located at 515 East Street (PID# 41-07-451-046).

M/S – Blower/ Stebbins

Motion to approve ZBA 20-2234 as presented.

Unanimously carried.

ZBA 20-2235: 4DMar, LLC – Mohamed El-Gazaryerli requests a location variance from the restriction: parcel would aggregate more than 4 Group “A” and Group “E” uses within 2,000 feet (requirement) for a medical marijuana provisioning center at 2401 South Dort Hwy. (PID # 41-21-101-020)

Commissioner Blower asked for a legal opinion regarding her role on the Commission as a representative of the City of Flint Planning Commission. Commissioner Telliga responded it was his understanding Commissioner Blower could participate in the discussion, but had to recuse from voting.

Kelly Thompson, Assistant City Attorney responded “That's correct. Mr. Chair, the ZBA members are free to ask any questions regarding the previous Planning Commission decision and their considerations. But as far as voting, there's a conflict of interest. So, but the Mr. Chair, it's up to you and the other members to determine what information you want to inquire about and go from there. But as far as the voting goes, correct, there's recusal as necessary.”

Attorney Paul Weisberger presented the application for 4DMar, LLC. Mr. Weisberger said, we are seeking a waiver through an appeal from the Planning Commission to allow more than four type A type E Adult Uses within 2000 feet of each other. Mr. Weisberger said their facility is literally in the shadows of three adult uses: Little Darlings, Deja Vu and Velvet Touch. Mr. Weisberger explained that the closest provisioning center was approximately 1025 feet to the north.

Mr. Weisberger said they felt the spirit of the ordinance was to prevent a new cluster of adult type uses that being adult-type provisioning centers within pockets of the city. Mr. Weisberger said they feel they have a unique application because they don't believe they will be changing the character of the commercial district from Mitchell to Lippincott. Mr. Weisberger said they were trying to sandwich themselves between adult uses and felt the best area to put their provisioning center would be next to the gentleman's clubs. Mr. Weisberger noted there is not an abundance of provisioning centers within 2000 feet of their proposed facility.

Mr. Weisberger said they were approached by staff and told if they wanted to seek a waiver we could go to the Planning Commission. After going to the Planning Commission and making many similar arguments we feel that the decision was erroneous. Mr. Weisberger said he did not feel they were changing the character of the neighborhood because there are currently three adult uses close together.

Mr. Weisberger explained how the facility sat vacant for over ten years and even though listed by a broker, un-leased. Mr. Weisberger explained how they were proposing to bring over one million to one and a half million dollars in investment, add improvements and bring a viable business to that area.

Mr. Weisberger explained they feel this is an excellent opportunity to bring a million to million and one half dollar investment with jobs online. Then he noted this would bring personal

property taxes and increase the value. Mr. Weisberger said vacant buildings are more likely to bring criminal activities where improved occupied buildings with cameras and security systems and investment are more likely to bring the contrary.

Commissioner Telliga opened the Public hearing for those who wished to speak.

Ruby Mitchell spoke in opposition to allowing the facility at this location.

Commissioner Telliga closed the Public Portion of the meeting.

Commissioner McCaskill asked Mr. Weisberger to explain what a provisioning center is and what percentage of the property will be used for the business.

Mr. Weisberger explained how the building is just over 10,000 square feet. The provisioning center would be in the front consisting of 3988 square feet. Then he said by its legal term a facility that dispenses medical marihuana, not adult use, with a local and state license and what patients can take out each day.

Commissioner Telliga asked if the application was for medical only or medical and recreational.

Mr. Weisberger said the application is formally medical and according to staff there are additional requirements if they wanted to request recreational.

Commissioner Ricks asked Mr. Weisberger why this particular location aside from it being with other adult-use businesses. Mr. Weisberger said we like the building because it's in good shape, has good parking and easy to rehab. Mr. Weisberger said it is a good location with good visibility.

Commissioner McCaskill said his only reservation was that if you're only going to be using 4000 square feet of the building is there any intention of you leasing the remainder of the building to a similar type of business. Mr. Weisberger said they are under a lease and not the owner of the building and have no say in what goes on in the north half of the building.

Commissioner Telliga said his concerns are this appears to be a self-created hardship violation of the ordinance with four Group A and Group E within 2000 feet of the facility.

Commissioner Ricks noted that staff findings and opposition say other properties can be used and asked if other properties were investigated.

Mr. Weisberger said we looked around and I don't know it's appropriate, but it's related to your question and also the chairman's question or comment. I think there's a perception at least there was at the Planning Commission from one of the Planning Commission members that we knew that there were three adult uses plus the provisioning Center, which was four, and then we just decided to come in and apply to get a waiver. The specific marijuana ordinance allows for a waiver almost contemplates that there'd be a waiver involved. Normally, you don't put the waiver in there unless you're like a parking waiver where something might come up. I wouldn't say routinely, but it's contemplated.

Mr. Weisberger explained we applied back when we had no idea whether we would be the one selected or not. We thought we would be but we came in one slot out of that. And so, from a self-created hardship sample, I just want to make clear to the board members that we did not come in three months ago and just say I want to plunk one down here and try and get a waiver. We've been invested in this project for about two years now. We have a binding contract with

the landlord that says we have to use good faith efforts to obtain approval and seek a variance.

If we'd been awarded, we would not have been the fifth adult use. I don't know if that weighs too much on your self-created hardship. So we are all in on this location. Yes, there are other locations, but I do stand behind my arguments they're not frivolous and they're not insincere.

We do believe that having a provisioning center right next to adult use in a narrow pocket would be better than having it 1800 feet down the road across from residential or O'/Reillys auto parts. Mr. Weisberger discussed Austin, Texas way of concentrating land uses in narrow pockets without bringing any negative impact to neighbors. Then he said that's the gist of our argument.

Commissioner Telliga asked staff if the applicant had applied under the cap of twenty and were not approved, and then after the 20 were uncapped they were allowed to move forward.

Ms. Wilcox said originally they applied under the cap and scored as number twenty one. However, there was an applicant that was granted a license before 4DMar, LLC coming before the Planning Commission. Had they scored higher which I believe was the point of the staff findings they could have been reviewed before the new Group E granted license.

Commissioner Telliga asked Commissioner Blower to speak about the Planning Commission's ruling on 4DMar, LLC - 2401 South Dort Hwy. Commissioner Blower explained that she was present during the Planning Commission's meeting and vote for 4DMar, LLC. The Planning Commission unanimously decided to deny the applicant based on two findings 1) there were no unique conditions specific to the parcel 2) the hardship was self-imposed.

Commissioner Blower said she felt it was a slippery slope to say if you would have scored higher you would have been seen first and possibly would have received approval. The fact is that there are now four adult-use facilities within this area and 4DMar, LLC would be the fifth. Commissioner Blower said Commissioners concurred the spirit of the ordinance would not be fulfilled by allowing a fifth adult use to be located here. Commissioner Blower said Planning Commissioners conquered the reason they were following the ordinance was to protect the community.

Commissioner McCaskill asked if the group requesting the variance owned the building or are they just leasing the building. Mr. Weisberger said we are just leasing the building.

Mr. Weisberger asked to respond to the public. Then he addressed their parking and people crossing the street. He said he hoped their customers would be coming to the store in cars and they had ample parking.

Mr. Weisberger asked Mrs. Thompson if this was a review on its own or is this a review by the zoning board as to whether or not there was an erroneous decision made by the Planning Commission, because I do think this matters. Mrs. Thompson said she would look at the bylaws regarding the standard of review.

Mr. Weisberger said if this board was to hear this matter as if they had never heard the matter before as an appeal this carries a big difference in terms of the arguments I'm making. But, if it's whether the Planning Commission screwed up, was erroneous that would be the standard then that's a much higher bar for me to meet. If it's new then that's important and I think everyone on this Zoning Board has the right to decide. So I think it's unique to have three adult uses all pocketed within 100 feet of each other.

Commissioner McCaskill said he was concerned 4DMar, LLC was only renting a portion of the

property. Are we inviting another tenant into the property who could use this precedent to say you have already granted permission? Commissioner McCaskill said he didn't believe any City wants a red-light district and that is what we are creating. The standard in place is to prevent red-light districts.

Commissioner Telliga asked Mrs. Thompson if she could respond to the applicant's question. Kelly Thompson said the same ordinance still applies and that is what the Zoning Board is determining now.

Mr. Weisberger said he brought up the question because the Chairman said he was hesitant to go against the Planning Commission. Then said that a statement was made when you're looking at whether the Planning Commission is aired or not.

Commissioner Hardy made a motion to deny the variance for ZBA 20-2235 based on the following findings 1) there is no unique property conditions that specify the variance should be granted and 2) due to the 2000 feet standard which does not allow for 4 or more adult-use facilities within 2000 feet of each other.

Commissioner Stebbins yes to deny, Commissioner Hardy II yes to deny, Commissioner McCaskill yes to deny, Commissioner Jordan no to deny, Commissioner Telliga yes to deny, Commissioner Coney yes to deny, Commissioner Blower abstain, Commissioner Ricks yes to deny.

M/S – Hardy/Stebbins

Motion to deny ZBA 20-2235 as presented.

Carried (6 yes and 1 no)

CITY ATTORNEY REPORT:

Mrs. Thompson did not have any items to report.

UNFINISHED BUSINESS:

Commissioner Telliga discussed the Zoning Board of Appeals training. Mr. Vandercook discussed courses offered through the Michigan Planning Association and said that the Association was prepared to provide training through local planners. Ms. Wilcox said the training varies from beginner to advanced and can be geared towards Board members needs. Some of the classes can be offered in-person and some can be taken online. We will continue to make the Board aware of various courses and options available.

Commissioner McCaskill discussed training options available through MSU Extension with can be watched on-line. Commissioner McCaskill provided staff with links to the training sessions for distribution to Board members.

Commissioner Hardy II said the Board did an in-house training in 2017 and was provided a training booklet. Commission Hardy II asked if we could get the training booklet and provide it to the Board.

Ms. Wilcox said the City is working on becoming a Re-development Ready Community (RRC) and part of the requirements are making sure that our Planning Commission and Zoning Board have on-going training. Ms. Wilcox noted the City is working on a coordinated approach toward

training. Ms. Wilcox said if the Board members were interested in training material the Planning and Zoning Division can purchase them on your behalf. Commissioner Telliga asked if we could acquire the training book Commissioner Hardy II mentioned for the Board. Ms. Wilcox said yes, we can purchase for you.

NEW BUSINESS:

Ms. Wilcox explained how the Planning Department was operating without a Zoning Administrator and we are in the process of seeking proposals for a firm to provide zoning assistance to the City of Flint. We are in a hiring freeze, but would like to fill the Zoning Administrators position soon. Currently, we are very short-handed without a zoning Administrator and Lead Planner. Bill has been working to fill in the gaps with Keizy and I both trying to backfill this position, but it's extremely difficult especially with marihuana and the adult-use facilities coming up right now.

ADJOURNMENT:

M/S – Blower/McCaskill

The meeting was adjourned at 7:29 pm.

Unanimously carried.