

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES

December 14, 2010

Chairman R. Hilt called the meeting to order at 4:00 p.m. and roll was taken.

MEMBERS PRESENT: E. Fordham, B. Larson, R. Hilt, T. Halterman, J. Clingman-Scott

MEMBERS ABSENT: S. Wisneski, S. Brock

STAFF PRESENT: M. Cameron, D. Leafers

OTHERS PRESENT: S. Holdeman, 2011 LeTart

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of November 9, 2010 be approved was made by B. Larson, supported by E. Fordham and unanimously approved.

PUBLIC HEARINGS

Hearing Case 2010-007: Request for a variance from the minimum lot area requirements in Section: 1100 (11), to allow a residential use as part of a building located in a B-2 Convenience & Comparison Business District, at 1996 W. Sherman Blvd., by Stephan Holdeman. M. Cameron updated board members on the developments since last month's meeting. He stated that the applicant had a land contract for one of the properties, and that had raised some additional issues with splitting the lot. S. Holdeman stated that he had talked to the bank and they would not refinance at this time, so he would be unable to split the lot. M. Cameron stated that the lot was well under the minimum lot size requirements for having a residential unit in the building. Board members and staff discussed the options if the case were denied or approved. M. Cameron stated that the City's court case involving this property was put on hold, pending the outcome of the ZBA case. If the request was denied, the City would proceed with their request for injunctive relief against Mr. Holdeman. They had to have a decision by December 31. M. Cameron stated that there were four separate units in the building, with one being residential. He provided some background information on the zoning and use of this property.

A motion to close the public hearing was made by B. Larson, supported by E. Fordham and unanimously approved.

S. Holdeman stated that he was able to accommodate the required parking. M. Cameron stated that the parking was in compliance; it was the square footage of the lot that was not.

The following findings of fact were offered: a) that the property could not be used (put to a reasonable use) for the purposes permitted in that zone district; b) that the plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions, c) that the proposed use would not alter the essential character of the area and will not materially impair the purposes of this ordinance or the public interest; d) that the alleged hardship is caused by the Ordinance and has not been created by any person presently having an interest in the property or by any previous owner; e) that the alleged hardship is not founded solely upon the opportunity to

make the property more profitable or to reduce expense to the owner; f) that the requested variance is the minimum action required to eliminate the hardship; g) that the use variance does not permit a use specifically identified by this Ordinance as a use excluded from the particular zone in which requested, h) the use does not seriously threaten the health of future residents or neighbors; i) the use is not a nuisance per se, or the use in that particular location does not constitute a nuisance.

A motion to approve the variance request from Section 1100 (item 11) permitting a reduction in the required lot size from the RM-2 District area of 14,520 square feet, to 10,625 square feet, be approved, with the conditions that 1) The variance is recorded with the deed to keep record of it in the future. 2) A new site plan is provided to staff that meets ordinance requirements and becomes approved, showing the required number of parking spaces with dimensions of the parking spaces indicated and dimensions of the fire & maneuvering lanes, 3) This variance is valid for the final approved site plan and submitted floor plan on record with this case, and 4) The additions to the property must be complete within one year (Sec. 2504) or the variance is void, was made by B. Larson, supported by J. Clingman-Scott and unanimously approved.

OLD BUSINESS

None

OTHER

None

There being no further business, the meeting was adjourned at 4:21 p.m.

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