

SAUGATUCK TOWNSHIP ZONING BOARD OF APPEALS

THURSDAY, December 5, 2013 5:00 p.m.
Saugatuck Township Hall
3461 Blue Star Hwy, Saugatuck, MI 49453

MINUTES

Chairman Shawn Powers called the meeting to order at 5:00 p.m.

Members present: Shawn Powers, Marcia Tucker & Mark Putnam.

Also present: Applicant, Terry Shull, Real Estate Agent, Dick Waskin, Zoning Administrator, Al Ellingsen.

Approval of minutes: **Motion by Putnam, seconded by Tucker to approve the minutes of October 31, 2013.**
Unanimously approved.

Chairman Powers read the notice: A request from Terrance Shull, 421 Summer Grove, Douglas to reestablish a residential use in the C-1, General Commercial Zone contrary to the provisions of Section 40-1014 which states that a “nonconforming use of a Building or Structure or of any land or premises shall not be reestablished after the following: (1) Discontinuance, vacancy, lack of operation or otherwise for a period of one year....” The property in question is located at 6541 Blue Star Hwy, Saugatuck (Parcel 0320-003-042-00) and is commonly known as the “Hooten Inn”, which previously existed as a prior legal non-conforming use since motels and accessory dwelling units associated with a business are currently Special Approval Uses in the C-1 Zone(Section 40-368). The use has been discontinued for well over a year. The applicant wishes only to reestablish the residential use on the parcel at this time.

Z. Administrator Ellingsen stated it’s primarily use variance is the SFR which has been discontinued well over a year. The motel part will have to go before the Planning Commission as a Special Approval Use which is allowable. The meeting today is to look at reestablishing the SFR only.

Z. Ellingsen mentioned that in the Industrial Zone applicants have gone before the ZBA for a use variance because a SFR are not allowed in the Industrial Zone and would not allow someone to put an addition on a home or construct a pole barn. Ellingsen stated that there are a lot of single family residences on Blue Star Hwy which are non-conforming.

Shull explained that he purchased the home as being a SFR. He wants to keep it the way it is. Shull stated he was not aware of a SFR in the C-1 zone would be discontinued because it was vacant for over a year. This was brought to his attention by Ellingsen after he had purchased the home.

Waskin stated he sold Shull the home and felt responsible because he was not aware that this home would be a non-conforming use. He feels Mr. Shull is under a hardship because it’s after the fact that this was brought to his attention. Waskin stated that it was listed under Woodland Realty and was advertising it as a conforming lot. Waskin stated that Macatawa did their appraisal and issued Mr. Shull a mortgage for the home. Waskin also pointed out that being it was in the C-1 district a residence and motel was allowed. Waskin feels that if Mr. Shull isn’t granted a use variance he would not be allowed to do anything, the bank would not allow him to tear it down because him having a mortgage. Waskin pointed out two homes on the Blue Star corridor in the C-1 district that were foreclosed or were not lived in over a year but did not have to go through the ZBA to ask for a

use variance. Waskin feels there should be some notification sent to those owners telling them it would become non-conforming if it's not lived in over a year. Waskin believes in being fair that the ZBA should grant Mr. Shull the use variance so he could live in his house.

Discussion took place on regards to the time element in the C-1 district in preventing a SFR to become non-conforming after a year if they are vacant due to foreclosure or a death in the family or the owner is relocated for over a year.

Z. Ellingsen stated he knew the Hootin Inn had been vacant and was foreclosed and so when he was getting calls from builders or realtors he mentioned to them that since it's been vacant over a year the home was non-conforming and that the motel would have to be brought to the planning commission for a Special Approval Use. Ellingsen stated that there really isn't a way he would know when houses are vacant over a year.

Tucker asked if there has ever been a situation like this before. Ellingsen stated there was an antique store which is a commercial use in the residential district and was vacant for a few years and then a newer owner came before the ZBA and asked to have it reestablished which they allowed.

Chairman Powers read through the 6 questions of finding the facts for approval/denial for the variance:

- 1) There are exceptional or extraordinary circumstances or conditions applying to the property in question, as to its intended use, that do not generally apply to other properties or classes of uses in the same zone. Putnam, yes, Powers, yes, Tucker, yes.
- 2) The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties or classes of uses in the same zone. The possibility of increased financial return shall not of itself be deemed sufficient to warrant the granting of a variance. Putnam, yes, Powers, yes, Tucker, yes.
- 3) The variance, if granted, will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this chapter or the public interest. Putnam, yes, Powers, yes, Tucker, yes.
- 4) The condition or situation of the property or its intended use is not of so general or recurrent a nature as to make reasonably practicable a general regulation for such condition or situation. Putnam, yes, Powers, yes, Tucker, yes.
- 5) Any exceptional or extraordinary circumstances applying to the property in question are not self-created. Putnam, yes, Powers, yes, Tucker, yes.
- 6) The property in question cannot be reasonably used as zoned and therefore a use variance is necessary. Putnam, yes, Powers, yes, Tucker, yes.

Motion by Putnam, seconded by Tucker to approve the use variance on the SFR. Unanimously approved.

Zoning Board of Appeals suggests that the Planning Commission better define the time element or a general solution so it that it doesn't have to go through the ZBA.

There being no further business meeting adjourned at 5:45 pm

Lori Babinski, Recording Secretary