

**WRITTEN SUMMARY
BOARD OF ZONING APPEALS
MEETING MINUTES
Thursday, September 1, 2016
1:30 p.m.**

Madam Chair Underwood-Kramer was not present. The Board of Zoning Appeals meeting was called to order by Acting Chairman Jonson.

Members Present:

Ms. Nancy Bushman, Mr. Desmond Maaytah, and Mr. George Jonson.

Members Absent:

Ms. Karen Underwood-Kramer and Mr. Michael Samoviski

City Staff Present:

Mr. John Creech, Mrs. Heather Hodges, Ms. Meredith Murphy, Ms. Kim Kirsch, and Ms. Kathy Dudley.

Acting Chairman Jonson explained that since there are only three members of a five member Board present, the vote of the members has to be unanimous for a request to pass. The Applicant can ask that the item be tabled until the next meeting, or it can be heard today. The Applicant that was present still wanted to proceed. Acting Chairman Jonson then gave an overview of the procedural process of the meeting.

Swearing in of Those Providing Testimony to the BZA:

Ms. Dudley swore in members in the audience who were going to testify, and verified that they have all signed in.

Old Business:

None

New Business:

Agenda Item #1 - 2016-11: Variance Request for 1150 Hooven Avenue

Staff: Ms. Meredith Murphy

Request for three (3) variances necessary in order to apply for a Conditional Use Application for an Automobile service and minor repair facility on property zoned I-1 Light Industrial Development located at 1150 Hooven (Max Colonial LLC, Applicant).

Ms. Murphy gave the specifics of the current agenda item, showed the aerial view of the property in question (outlined in red), and the Zoning map of the adjacent properties.

She then reviews the Introduction, Background, Property Details, and Use Specific Standards and Variances of the item as presented to the Board in their packets.

Introduction:

An application was submitted by Max Colonial LLC for three (3) zoning variances in order to apply for a Conditional Use to an Automobile Service and Minor Repair facility on the property located at 1150 Hooven Avenue (Exhibit A in Board packet). The property is zoned I-1 Light Industrial zoning district (Exhibit B in Board packet). The I-1 Light Industrial zoning district is regulated by Section 1123.00 of the Hamilton Zoning Ordinance, (HZO). An Automobile Service and Minor Repair facility use is listed as a Conditional Use in Section 1123.38.2 and has a number of conditions associated with it. If an applicant cannot meet those conditions, they must first receive approval of a zoning variance from the Board of Zoning Appeals for each condition they are unable to meet before applying for a Conditional Use.

An Automobile Service and Minor Repair Facility use requires Conditional Use approval by the City of Hamilton City Council (Section 1123.38.2). Section 1108.00 of the Hamilton zoning ordinance provides the official zoning definition for an Automobile Service and Minor Repair facility.

Background:

City records indicate that the property was previously a pavement business. In 1981, the property received approval for a variance to combine the existing two parcels into one on the property to allow for the construction of a storage building at 1150 Hooven Avenue. In November of 2015, the previous property owners applied for three Variances and Conditional Use approval to open a Major Automobile Repair facility at this location. The variance request was denied.

Property Details:

The property is zoned I-1 Light Industrial District and is comprised of a single 10,018 square foot lot. The lot is 50% of the required lot size for the proposed Automobile Service and Repair facility. The property has a total of 52 lineal feet of lot frontage along Hooven Avenue, which is about half of the amount of required frontage. There is an existing 1,742 square foot building on the property which is on the Hooven Avenue frontage property line. The properties to the north, east and south are zoned I-1 Light Industrial District. Immediately to the west is the Railroad.

Use Specific Standards and Variances:

If the three necessary zoning variances are approved by the BZA, the applicant intends to submit an application for a Conditional Use for an Automobile Service and Minor Repair facility on the property. Based on the variance application, the applicant has determined that three zoning variances are necessary prior to proceeding with a

Conditional Use application. The three (3) zoning variances from Section 1123.38.2 (also indicated in red below) is as follows:

1. A request to reduce the minimum lot area required for an Automobile Service and Minor Repair facility – the minimum lot area required is 20,000 square feet - the subject property is approximately 10,018 square feet in area.
2. A request to reduce the Minimum lot width required along an arterial street for an Automobile Service and Minor Repair facility – the minimum lot width required is 100 feet - the subject property is approximately 52 feet in length along Hooven Avenue, which is classified as an arterial street.
3. A request to reduce the Minimum lot frontage required on a corner for an Automobile Service and Minor Repair facility – the minimum lot frontage required on a corner is 100 feet on each street - the subject property has approximately 52 feet of frontage on Hooven Ave and 133 feet of frontage on Zimmerman.

Automotive Service and Minor Repair: (OR 2014-8-72) as defined (in part) in Section 1108.00 and must comply with the following conditions:

- Minimum lot area 20,000 square feet.
- Minimum lot area with accessory Car Wash 40,000 Square Feet.
- Minimum lot width 100 feet and must be located along a street classified as major arterial, minor arterial, or a collector street, in accordance with the City of Hamilton Street Designation.
- Facilities that are located on a corner lot shall have a minimum of 100 feet frontage on each street.

Ms. Murphy then went over the Zoning Variance Review, including staff information and applicant rationale (as provided in the Board packet). She stated that Public Hearing Notices were mailed to three (3) property owners within 100' of the property in question, and there was no feedback received to these notifications.

Recommendation:

Deny the Request- In order to grant a zoning variance, the Hamilton Zoning Ordinance (Section 1170.63) requires that the Board of Zoning Appeals must find that all four of the rationale for requesting a variance (Exceptional Circumstances, Preservation of Property Rights, Absence of Detriment, Not of a General Nature) have been adequately met.

Based on a review of the submitted information, there is reason to deny the three (3) variance requests to reduce the minimum lot area from 20,000 square feet to 10,018 square feet, request to reduce the minimum lot width along an arterial street from 100 feet to 52 feet, request to reduce the minimum lot frontage required on a corner lot from 100 feet on each street to the approximately 52 feet of frontage on Hooven Ave and 133 feet of frontage on Zimmerman and as follows:

1. The BZA finds that the variance application does not satisfy the four (4) standards for the granting of a variance as defined in Section 1170.63 Variance-Findings of the Board.
2. The property is only 10,018 square feet for a use that requires 20,000 square feet. The lot is only 50% of the required lot size for the proposed Automobile Service and Repair facility.
3. There is a strong concern that given the small size of the property and the few parking spaces and lot frontage provided that the proposed Automobile Service and Minor Repair facility could be detrimental to the adjacent properties and impair the purposes of the zoning ordinance to protect the public interest.
4. While the subject property is too small for the proposed Automobile Service and Repair use, the denial does not totally deprive the property owner of a reasonable economic use of the property because there are other permitted land uses in the I-1 zoning district.
5. Based on available information of the property and information provided by the applicant as part of the variance application the property is too small for the proposed use.

Ms. Murphy concluded her presentation and asked if there were any questions by the Board. Mr. Maaytah asked if there was a site plan submitted, and Ms. Murphy responded that there was not.

Acting Chairman Jonson asked if there was anyone in the audience who wished to speak.

Ms. Brittanna Bonilla, Office manager for the business operating at 1150 Hooven, was on hand to answer questions. After a brief discussion between the Board and Ms. Bonilla, Mr. Creech gave a bit more information to the Board about the other car lot that the applicant has.

With no one else wishing to speak on the item, Mr. Maaytah made a Motion to close the Public Hearing. With a 2nd by Ms. Bushman and all "ayes" to a roll call vote, the Public Hearing was closed.

Mr. Maaytah expressed concerns that he says are the same as they were in November, and made a Motion to Deny the request, and Ms. Bushman gave a 2nd. Acting Chairman Jonson stated that all items are approximately 50% of what they should be.

With all "ayes" to a roll call vote, the Motion is passed by a vote of 3-0 and the request is denied.

Minutes:

Approval of Meeting Minutes - Written Summary and Audio Recording for the following dates:

April 7, 2016 and June 2, 2016.

Mr. Maaytah made a Motion to accept both sets of minutes as presented. With a 2nd by Ms. Bushman and all "ayes", the Motion passes and the minutes are approved.

Adjourned:

With nothing further, Mr. Maaytah made a Motion to adjourn. With "ayes", the Motion passes and the meeting is adjourned.

Respectfully submitted,

Ms. Kim Kirsch
Administrative Assistant



Mr. John Creech
Secretary



Mr. George Jonson
Acting Chairman

