



**BOARD OF ZONING APPEALS
Findings of Fact Meeting Minutes
July 27, 2021 at 6:30pm Via Videoconference**

The meeting was called to order by Mr. Jaskiewicz at 6:30pm.

Roll call:

Members present – Tom Jaskiewicz (Chair), Diana McCoy, Michael Terry

Members absent – Janika Adler, Randa Prendergast

Also present: Taylor Brill (Zoning Official), Paul LaFayette (Solicitor)

Approval of Meeting Minutes

Board of Zoning Appeals-Regular Meeting- July 20, 2021

Mr. Jaskiewicz motioned to approve the July 20, 2021 meeting minutes, seconded by Mr. Terry. All in favor.

Communications:

Zoning (Ms. Brill)

- No updates.

Old Business:

CU-21-2; 0 US 42: Conditional Use (ER Auto Care); Applicant- William Pizzino, P.E.

The board has previously heard the applicant's testimony and resident testimony. Exhibits such as photos and resident letters were also reviewed by the Board. Mr. Jaskiewicz explained the process to the residents in attendance.

Mr. Jaskiewicz motioned to adopt the Findings of Fact as amended, presented by Mr. LaFayette, seconded by Mr. Terry. All in favor.

Mr. Jaskiewicz explained that buildings may be built on this area, but some other businesses may have less of an impact than others. However, other such as a grocery stores will cause similar problems as this proposed use. It is not relevant to look at conditional uses as they compare to permitted uses, but the Board should decide on the merits of the applications itself.

The Board walked through Codified Ordinance 1138.06 which states: The Board of Zoning Appeals shall approve an application for a conditional use if the following three conditions are met:

- A. The proposed use is a conditional use of the zoning district, and the applicable development standards established in the Zoning Ordinance are met.

The board agreed this application is for a conditional use.

- B. The proposed development is in accord with appropriate plans for the area.

This is one of the big questions that the Board is deliberating on.

C. The proposed development will be in keeping with the existing land use character and physical development potential of the area.

The board is also concerned with this condition.

The board may also choose to approve the application, with certain conditions.

To disapprove a conditional use, The Board of Zoning Appeals shall only disapprove an application for a conditional use for any one of the following reasons:

- A. The proposed use is not a conditional use of the zoning district, or the applicable development standards are not and cannot be met.

- B. The proposed development is not in accord with appropriate plans of the area.

- C. The proposed development will have undesirable effects on the surrounding area and is not in keeping with the existing land use character and physical development potential of the area.

Mr. Jaskiewicz does not think that there are enough modifications to list to satisfy resident concerns. The owner could manage certain things, but things like safety and the speeding probably will not be able to change. Mr. Jaskiewicz noted that the Board has heard the resident concerns, expressed at the last meeting. Every resident opinion was in opposition to this application. The business owner was able to alleviate some concerns, but the overall conditional use for this property, if approved, would not cover things like if the business changes hours or leaves their doors open. The board cannot restrict how the business operates. In Mr. Jaskiewicz's opinion there is not a good standing to approve the application.

Mr. Terry agreed with Mr. Jaskiewicz. He agreed with the previously stated conditional usage determinations. Mr. Jaskiewicz added that the business owner may be able to find another property that is more appropriate for this business. He does believe that the community can support the business but agrees that this is not the best spot and that conditions B and C cannot be met. He restated that something will be built on that lot, and if it's a permitted use, they will not need to come to this board so residents should be aware of that impact in the future.

Ms. McCoy agreed that B and C cannot be met. She is most concerned with condition C and agrees that this use is not in the desired land use.

Mr. Terry motioned to deny application CU-21-2, seconded by Mr. Jaskiewicz. All in favor.

The deliberations will be entered into the Findings of Fact.

New Business:

None

Meeting adjourned at 6:52 pm.