

Board Members

James W. Ribbron
Director



Robert E. Thomas
Chairperson

Vivian Teague
Vice Chairperson

Robert G. Weed
Council District 1

Elois Moore
Council District 3

Jacqueline Grant
Council District 4

Emmanuel Calzada
Council District 6

Kwame Finn
Council District 7

City of Detroit
Board of Zoning Appeals
Coleman A. Young Municipal Center
2 Woodward Avenue, Suite 212
Detroit, Michigan 48226
Phone: (313) 224-3595
Fax: (313) 224-4597
Email: boardofzoning@detroitmi.gov

MINUTES OF THE BOARD OF ZONING APPEALS

A public hearing of the Board of Zoning Appeals was held on Tuesday **October 9, 2018** on the 13th Floor in the Auditorium, Coleman A. Young Municipal Building, 2 Woodward Avenue.

Vice- Chairperson of the Board Teague called the meeting to order and Director Ribbron called the meeting to order and called the roll at 9:00 a.m.

BOARD MEMBERS PRESENT:

- (1) Robert E. Thomas, Board Member
- (2) Vivian Teague, Board Member
- (3) Emmanuel Calzada, Board Member
- (4) Robert G. Weed, Board Member
- (5) Elois Moore, Board Member
- (6) Kwame Finn, Board Member
- (7) Jacqueline Grant, Board Member

BOARD MEMBERS ABSENT:

MINUTES:

Board Member Thomas made a motion to approve the minutes for September 25, 2018 with any corrections.

Affirmative: Mr. Thomas, Weed, Finn
Ms. Teague, Moore, Grant

Negative: None

PROCEDURAL MATTERS:

- (A) A motion was made, seconded and carried that the Director of the Board read into the record the notices, reports, letters, or any other information pro or con, on each individual case, and be filed and made a part of the record in each case.
- (B) A motion was made, seconded and carried that the appearance slips, be filled out by property owners or parties of interest who appeared at the public hearing, be filed in the individual case file and be made a part of the record in each case.
- (C) A motion was made, seconded, and carried that the recorded transcript of the proceedings of the various hearings, furnished by **BZA Staff**, be made part of the **MINUTES**.

9:15 a.m. **CASE NO.:** 44-18 (aka BSEED 181-17)

APPLICANT: YAHYA HAMMOUD

LOCATION: 5564 Woodward Ave Between: Palmer St and Ferry St in a B4 Zone (General Business District) – Council District #7

LEGAL DESCRIPTION OF PROPERTY: N 44.43 FT OF W 110 FT FRT BG N 43.92 FT OF W 110 FT REAR 1 W 110 FT 2 HUNT & LEGETTS L10 P40 PLATS, W.C.R. (PIN 01004239)

PROPOSAL: Yahya Hammoud seeks to construct a 972 square foot addition to an existing 5,029 square foot Motor Vehicle Filling Station with an existing Carry-Out Restaurant DENIED by BSEED (181-17) in a B4 zone (General Business District). This case is appealed because the Board of Zoning Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination that is made by an administrative official in the administration of this Zoning Ordinance, or any decision made by the Buildings and Safety Engineering Department involving Conditional Uses, Regulated Uses, or Controlled Uses, or any denial of a site plan by the Planning and Development Department; petitioner proposes to ADD another carry-out restaurant to the existing Domino’s Pizza; and 36 off-street parking spaces are required, 26 proposed; the site is located in Traditional Main Street Overlay District, as the new building is not located on the property lot line – O (zero) line setback; therefore if the denial of the use is overturned, variances will be required. NOTE: If the denial is overturned an additional fee is required to HEAR the variances and an additional FEE will be required. Should the petitioner want both APPEALS heard on the same day the additional FEE must be paid; and if the denial is upheld the additional fee will not be refunded. The petitioner may elect to hear the cases separate therefore the additional fee would not be assessed until the denial is decided. (Sections Setbacks 61-4-92 Other Variances, 61-3-231 Approve Criteria – Conditional Land Use (If Approved then 61-4-81 Approval Criteria to approve or deny the variances).AP

ACTION OF THE BOARD: Mr. Weed made a motion to adjourn this case at petitioner’s attorneys request to prepare for the case he was recently retained to represent. Ms. Grant seconded the motion.

Affirmative: Mr. Thomas, Weed, Finn
Ms. Moore, Teague, Grant

Negative:

Mr. Calzada was not present for the vote

ADJOURNED WITH FEE UNTIL DECEMBER 12, 2018

9:45 a.m.

CASE NO.: 23-18 – ADJOURNED FROM JULY 10, 2018

APPLICANT: HASON WHITE

LOCATION: 2411 W Eight Mile Rd. Between: Woodward Ave and Queenston Pl in a R2 Zone (Medium Density Residential District). – Council District #2

LEGAL DESCRIPTION OF PROPERTY: S W EIGHT MILE RD 599 THRU 578 WOODWARD SUB L48 P89 PLATS, W C R 2/155 440 X 100

PROPOSAL: Hason White request to overcome a Presumption of Abandonment to re-establish a Restaurant (permit #74202 December 28, 1980 & BZA 442-77) by proposing a Carry-Out Restaurant on a 44,000 square foot lot in a 9,000square foot building in an R2 zone (Medium Density Residential District). This case is appealed because the Board of Zoning Appeals shall have the authority to hold hearings and render decisions with respect to nonconforming uses, buildings, and structures. Sec. 61-15-21. Loss of nonconformity status; abandonment. Once abandoned, a nonconforming use shall not be re-established or resumed, except in accordance with the provisions of Sec. 61-15-18 of this Code. Any subsequent use or occupancy of the structure or open land must comply with the regulations of the district where it is located and all other applicable requirements of this Zoning Ordinance; Overcoming Presumption of Abandonment. A presumption of abandonment based on the evidence of abandonment, as provided for in Subsection (2) of this section, may be rebutted upon a showing of all of the following, to the satisfaction of the Board of Zoning Appeals, that the owner: this restaurant has been vacant since 2013 and the business license has not been renewed since 2011, It is the opinion of this department [Buildings, Safety Engineering and Environmental Department], that Asian Corned Beef must re-establish the restaurant. (Sections 61-15-7 Board of Zoning Appeals, 61-15-21 Loss of nonconformity status; abandonment and Approval criteria 61-15-18(3) Eligibility for re-establishment).AP

ACTION OF THE BOARD: Mr. Weed made a motion to Deny request to change from one nonconforming use (Standard Restaurant) to another (Carry out Restaurant with commissary. Support by Ms. Grant.

Affirmative: Mr. Thomas, Finn, Calzada, Weed
Ms. Teague, Grant, Moore

Negative:

CHANGE OF NON CONFORMNG USE DENIED

10:15 a.m. **CASE NO.:** 42-18 (aka BSEED 182-17)

APPLICANT: PAUL SZLAGA / CORKTOWN BREWING COMPANY, LLC

LOCATION: 1087 Beaufait St Between: St. Paul St and E. Lafayette Blvd in a M4 Zone (Intensive Industrial District). – Council District #5

LEGAL DESCRIPTION OF PROPERTY: W BEAUFAIT LOTS F THRU H HIRAM RE-SUB L11 P54 PLATS, W C R 15/142 90 X 154.6

PROPOSAL: Paul Szlaga request to establish a Microbrewery with consumption on the premises in a 9,295 square foot building; one story masonry with a flat roof, approved with conditions by BSEED (BSEED 182-17) in an M4 zone (Intensive Industrial District). This case is appealed because the Board of Zoning Appeals shall be authorized to hear dimensional variance requests for matters that are beyond the scope of Buildings and Safety Engineering Department ten percent (10%) administrative adjustments where, after investigation by the Board, it is found that such modification is necessary to secure an appropriate development of a specific parcel of land, provided, that any such modification will not be inconsistent with other requirements and general purpose of this Zoning Ordinance; Location or Amount of Off-Street Parking. For a variance from the required location of off-street parking facilities or the amount of off-street parking facilities required, or both, where, after investigation by the Board, it is found that such modification is necessary to secure an appropriate development of a specific parcel of land, provided, that any such modification will not be inconsistent with other requirements and general purpose of this Zoning Ordinance; 24 (twenty-four) parking spaces are required, a parking credit can be given for 4 (four) parking spaces, 20 spaces are required; 0 spaces provided. NOTE: The applicant was informed that the land directly across from the proposed site on the east side MAY be available to use upon approval from the Assessor’s Office under “Award 24”; as of September 5, 2018 the BZA has no confirmation of this approval nor confirmation of “Award 24”. Therefore a variance for the 20 parking spaces is needed. (Sections 61-4-92(1) Permitted dimensional variances; Location or Amount of Off-Street Parking and 61-4-81 Approval Criteria).AP

ACTION OF THE BOARD: Mr. Calzada made a motion to Grant parking variance to establish a Microbrewery with consumption on the premises in a 9,295 square foot building; approved with conditions by BSEED (BSEED 182-17) in an M4 zone (Intensive Industrial District). Support by Ms Grant

Affirmative: Mr. Weed, Thomas, Finn, Calzada
Ms. Moore, Grant, Teague

Negative:

PARKING VARIANCE GRANTED

12:30 p.m. **CASE NO.:** 85-17 (aka BSEED 218-16)
APPLICANT: MEDICAL HERBAL ESSENCE INC.
LOCATION: 18448 Morang Dr. (aka 18450 Morang Dr)
 Between: Glenwood St and Park Grove St in a B4
 Zone (General Business District). – Council District
 #4

LEGAL DESCRIPTION OF PROPERTY: E MORANG 34 TERNES
 SEVEN MILE DR SUB L56 P85 PLATS, W C R 21/876
 26.72 IRREG

PROPOSAL: Medical Herbal Essence Inc., requests a Variance of Spacing / Locational Regulation TO establish a Medical Marihuana Caregiver Center (MMCC) in an existing two-story 2,703 square foot building which was APPROVED conditionally in (BSEED 218-16) in a B4 zone (General Business District). This case is appealed because the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center: One thousand (1,000) radial feet from any zoning lot occupied by another medical marihuana caregiver center. The proposed use is within 1,000 radial feet of one (1) Controlled Use located at 18077 Kelly (In N’ Out) – 430 feet away, and two (2) Religious Institutions located at 18341 Morang (Presbytery of Detroit) – 134 feet away and located at 17220 Kelly (Charity Ev Lutheran Church) – 752 feet away. Also, the Board of Zoning Appeals may modify any spacing or locational regulation, also known as a locational variance, in Sec. 61-12-87 of this Code. (Sections 61-3-354 Conditional Uses; Procedures; Waivers; Public Nuisance, 61-12-92 Other uses-Spacing, 61-12-87 SPC (Spacing), 61-4-92(3) Other Variances, Variance of Spacing/Locational Regulation, 61-12-95 Waiver of General Spacing Requirements and 61-4-81 Approval Criteria).AP

ACTION OF THE BOARD: Mr. Finn made a motion to Grant Variance of Spacing / Locational Regulation TO establish a Medical Marihuana Caregiver Center (MMCC) in an existing two-story 2,703 square foot building which was APPROVED conditionally in (BSEED 218-16) in a B4 zone (General Business District). Support by Mr. Calzada

Affirmative: Mr. Thomas, Finn, Calzada
 Ms., Teague

Negative: Mr. Weed
 Ms. Moore, Grant

SPACING/LOCATIONAL VARIANCE GRANTED

ACTION OF THE BOARD: Mr. Calzada made a motion to add amendment to former motion to **Grant Variance of Spacing / Locational Regulation TO establish a Medical Marihuana Caregiver Center (MMCC) in an existing two-story 2,703 square foot building which was APPROVED conditionally in (BSEED 218-16)** in a B4 zone (General Business District) by adding conditions that no residential occupancy occur while the MMCC is operated in the unit below and for the petitioner to attempt to enroll in the Green Light Program. Support by Ms. Teague

Affirmative: Mr. Thomas, Finn, Calzada
Ms., Teague

Negative: Mr. Weed
Ms. Moore, Grant

AMENDMENT PASSES

Director Ribbron informed the Board that the Circuit Court issued an Order on July 11, 2018 denying the Motion for Relief from Order of Dismissal of Appeal Case No. 95-17 property located at 12833 Fenkell making it the Final Order and resolving the last pending Claim and closes the case. Case was dismissed with Prejudice.

**ADVISEMENTS CONTINUED INDEFINITELY UNTIL FURTHER
NOTICE.**

There being no further business to be transacted, Board Member Finn motioned that the meeting be adjourned. Board Member Grant seconded this motion which was unanimously carried and the meeting adjourned at 1:50 P.M.

RESPECTFULLY SUBMITTED

JAMES W. RIBBRON
DIRECTOR

JWR/atp