

Board Members

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Robert E. Thomas
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Robert G. Weed
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Council District 3

Jacqueline Grant
Council District 4

Emmanuel Calzada
Council District 6

Kwame Finn
Council District 7

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MINUTES OF THE BOARD OF ZONING APPEALS

A public hearing of the Board of Zoning Appeals was held on Tuesday **October 30, 2018** on the 13th Floor in the Committee of the Whole, Coleman A. Young Municipal Building, 2 Woodward Avenue.

Chairperson of the Board Thomas 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) Elois Moore, Board Member
- (4) Kwame Finn, Board Member
- (5) Jacqueline Grant, Board Member
- (6) Emmanuel Calzada, Board Member

BOARD MEMBERS ABSENT:

- (1) Robert G. Weed, Board Member

MINUTES:

Board Member Teague made a motion to approve the minutes for October 16, 2018 with any corrections.

Affirmative: Mr. Thomas,
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.:** 98-17 (aka BSEED 25-17)

APPLICANT: RANDY SHABE / THE HERBAL CENTRE

LOCATION: 14325 WYOMING Between: Lyndon St and Intervale St in a M4 Zone (Intensive Industrial District) – Council District #7

LEGAL DESCRIPTION OF PROPERTY: W WYOMING 284 ASSESSORS DETROIT PLAT NO 20 L74 P28 PLATS, W C R 16/469 27,922 SQ FTG

PROPOSAL: Randy Shabe / The Herbal Centre requests a Variance of Spacing / Locational Regulation TO establish a Medical Marihuana Caregiver Center (MMCC) in a 1,277 square foot portion of an existing two-story 27,306 square foot building which was APPROVED with conditions in (BSEED 25-17) in an M4 zone (Intensive Industrial 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 a Controlled Use or a Religious Institution. The proposed use is within 1,000 radial feet of one (1) Controlled Use: (Leaf Zone MMCC) located 381’ feet away at 14445 Wyoming 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: Ms. Teague made a motion to dismiss this appeal due to the petitioner not needing a spacing variance from the Board of Zoning Appeal because he already has a business license issued by BSEED. Ms. Grant seconded the motion.

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

Negative:

DISMISSED

10:00 a.m.

CASE NO.: 104-17

APPLICANT: CARLOS RICHARDS

LOCATION: 8100 LYNDON ST Between: Roselawn St and Greenlawn St in a M2 Zone (Restricted Industrial District). – Council District #7

LEGAL DESCRIPTION OF PROPERTY: N LYNDON 679 THRU 683 OAKFORD SUB L35 P56 PLATS, WCR 16/246 103.80 X 100

PROPOSAL: Carlos Richards appeals the decision of the Buildings Safety Engineering and Environmental Department’s Correction Order dated May 15, 2017 & May 18, 2017, which states; “your application to establish a Medical marihuana Caregiver Center has been DENIED because the location is within a “Drug Free Zone” and “pursuant to your letter stating that this department [BSEED] made a Drug Free Zone determination in error, we respectfully disagree with your findings”, in a M2 zone (Restricted Industrial District). This case is appealed because appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center in a Drug Free Zone. The locational specifications related to drug-free zones of subsection 354(b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed. Also, the proposed MMCC located at 8100 Lydon has been identified as being in a Drug Free Zone (DFZ) based on its proximity to the Clinton Park/Playground located at 8145 Chalfonte found on page 86 and 112 of the 2017 Parks and Recreation Improvement Plan. Therefore, because 8100 Lyndon is approximately 890 feet from (Clinton Park/Playground), it (Sections 61-4-72 Appeals and 61-3-354(b)(1) Conditional Uses; Procedures; Waivers; Public Nuisance).AP

ACTION OF THE BOARD: Ms. Teague made a motion to affirm the proposed MMCC is located within a Drug Free Zone. Support by Ms. Grant

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

Negative: Mr. Finn

AFFIRMED DRUG FREE ZONE

10:45 a.m.

CASE NO.: 105-17 (aka BSEED 46-16)

APPLICANT: STUART CARTER / UTOPIA GARDENS

LOCATION: 4400 OAKMAN BLVD. Between: Grand River Ave and W. Chicago Blvd. in a M2 Zone (Restricted Industrial District). – Council District #7

LEGAL DESCRIPTION OF PROPERTY: W OAKMAN BLVD 82 THRU 79 AND VAC ALLEY ADJ ROBT OAKMAN LAND COS GRAND RIVER & OAKMAN HWY RESUB L58 P7 PLATS, WCR 18/447 ALSO THAT PT OF 25 THRU 28 LYG W & ADJ THERETO MAPLEGROVE SUB L24 P61 PLATS, WCR 18/389 33,258 SQ FT

PROPOSAL: Stuart Carter/Utopia Gardens requests a Variance of Spacing / Locational Regulation TO establish a Medical Marihuana Caregiver Center (MMCC) in an existing 9.762 square foot building (basement and first floor) which was APPROVED conditionally in (BSEED 59-16) and in a M2 Zone (Restricted Industrial 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 a Controlled Use (other than arcade) or a Religious Institution. The proposed use is within 1,000 radial feet of four (4) Religious Institutions: Detroit Baptist Temple located at 4320 Oakman – 331' away, Great Faith Ministries located at 10735 Grand River – 510' ft. away, Strictly Biblical Bible Teaching located at 10709 Grand River located at 560' ft. away and Thy Kingdom Come COGIC located at 8333 Plymouth – 800' ft. 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: Ms. Teague made a motion to dismiss this appeal at petitioner request. Support by Mr. Finn.

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

Negative:

DISMISSED WITH PREJUDICE AND WITHOUT RETURN OF FEE

11:30 a.m.

CASE NO.: 106-17 (aka BSEED 121-16)
APPLICANT: STEPHANIE STEPHEN / THE TREE HOUSE CLUB

LOCATION: 10325 W EIGHT MILE RD Between: Birwood St and Griggs St in a B2 Zone (local business & Residential District). – Council District #2

LEGAL DESCRIPTION OF PROPERTY: S EIGHT MILE ROAD 11 GRAND PARK SUB L42 P16 PLATS, W C R 16/404 20 X 100

PROPOSAL: Stephanie Stephen / The Tree House Club requests a Variance of Spacing / Locational Regulation TO establish a Medical Marihuana Caregiver Center (MMCC) in a 605 square foot building which was APPROVED with conditions in (BSEED 121-16) in a B2 zone (Local Business & Residential 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 a Controlled Use or a Religious Institution. The proposed use is within 1,000 radial feet of one (1) Controlled Use Full Basket Liquor located at 10345 W. Eight Mile – 63’ ft. away and one (1) Religious Institutions (Detroit Ecclesiastic Bible) located at 20501 Wyoming Ave. – 900’ ft. 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. Calzada made a motion to affirm the proposed MMCC is located within a Drug Free Zone. Support by Ms. Moore

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

Negative: Mr. Thomas

DRUG FREE ZONE AFFIRMED

Case No. 94-17 Property located at 13624 E. EIGHT MILE RD.

Director Ribbron informed the Board that Pursuant to Section 61-2-57 of the Zoning Ordinance, the decision in each case shall not become effective until 4:00 p.m. on the third business day after the Board has voted thereon, unless the Board finds the immediate effect of such decision necessary for the preservation of property or personal rights and so certifies on the record. With respect to any case not given immediate effect as provided herein, a member of the Board on the prevailing side of the decision may, not later than 4:00 p.m. on the third business day after the Board's vote, notify the Director in writing that he or she wishes to move for a reconsideration of the decision. Upon receipt of such notice, the Director shall enter a copy of the notice, including the date and time of delivery, whether in person, via U.S. Mail or electronically, together with the name of the member, in the record of the case and advise the Board that such motion will be made and considered at its next meeting. At such meeting, the member that requested the reconsideration shall make the motion to reconsider the decision, and the Board shall vote on the reconsideration. Following approval of a reconsideration, a new motion and full vote of the Board shall be required, either (i) for a final decision on the underlying case or (ii) to take the case under advisement, pursuant to Section 5.05. Prior to any such new motion, the Board may hear new information related to the underlying case.

October 17, 2018 @ 10:52am Board Member Moore sent via email seeking reconsideration of the vote

October 19, 2018 @ 12:12pm Board Member Finn sent via email seeking reconsideration of the vote

PROPOSAL: Manar Abbo / Plyburt, LLC. requests a Variance of Spacing / Locational Regulation TO establish a Medical Marihuana Caregiver Center (MMCC) in an existing approximate 1,434 square foot building, which was APPROVED conditionally in (BSEED 145-16) 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 a Controlled Use (other than arcade). The proposed use is within 1,000 radial feet of one Controlled Use, (Rainbow Market) located at 13510 E. Eight Mile Rd. – 357.7' 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: Ms. Moore made a motion to Re-Consider the vote to **Grant Variance of Spacing / Locational Regulation TO establish a Medical Marihuana Caregiver Center (MMCC) in an existing 1,434 square foot building, which was APPROVED conditionally in (BSEED 145-16) in a B4 zone (General Business District).** Support by Mr. Finn

Affirmative: Mr. Finn, Thomas
Moore

Negative: Grant

Ms. Teague abstained from the vote

**RECONSIDERTION OF VOTE DENIED DUE TO VOTE
COUNT**

Attorney Rodgers gave a brief statement and regarding determinations regarding the standing of community appellants for the community appeals.

Attorney Rodgers also informed the Board of Case No. 26-17 property located at 15837 Mack Ave. Circuit Court gave a court order to give the Board the option to decide if they want to consent to a remand for a re-hearing due to a letter of a Pastor in the community as to whether he was representing himself or the Morningside Community.

ACTION OF THE BOARD: Ms. Grant made a motion to not Re-Hear the case. Support by Ms. Teague

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

Negative:

RE-HEARING REQUEST DENIED

**ADVISEMENTS CONTINUED INDEFINITELY UNTIL FURTHER
NOTICE.**

There being no further business to be transacted, Board Member Teague motioned that the meeting be adjourned. Board Member Finn seconded this motion which was unanimously carried and the meeting adjourned at 11:45 A.M.

RESPECTFULLY SUBMITTED

JAMES W. RIBBRON
DIRECTOR

JWR/atp