

*City of Southgate
Board of Zoning Appeals
Agenda*

Monday, February 22, 2021

5:30 PM (Zoom)

**WEB MEETING @ <https://us02web.zoom.us/j/89711938124>
CALL-IN @ + 1-312-626-6799 Passcode: 897 1193 8124**

1. Roll Call: Anderson, Byers, Clark, Coombs, Foucher, Orman, Richardson
2. Minutes: Minutes of BZA Meeting dated March 9, 2020
3. Correspondence:
4. Old Business:
5. New Business:
 - A. Interpretation of the Zoning Ordinance and the permitted and special uses within the Market Center Overlay District specifically the allowance of plasma donation centers that are currently permitted in the (M-1) Light Industrial – Research District Zoning District.
6. Adjournment:

1/27/2021

City of Southgate
Board of Zoning Appeals
March 9, 2020

A meeting of the Board of Zoning Appeals of the City of Southgate was held in the Municipal Council Chambers, 14400 Dix-Toledo Highway, Southgate, Michigan on Monday, March 9, 2020 and called to order by Tom Coombs, Chairman at 5:30 p.m.

Present - Linda Clark, Patricia Anderson, Jerry Orman, Dennis Richardson, Tim Foucher, Tom Coombs

Also Present - Plan Consultant John Enos, Building Inspections Director, Bob Casanova, Councilmember John Graziani, City Administrator Dustin Lent, City Attorney Ed Zelenak

Minutes:

Moved by Foucher, supported by Byers, to approve the minutes of the Board of Zoning Appeals Meeting dated January 13, 2020 Motion Carried Unanimously.

New Business:

1. Application from Mustafa Hasham, 15200 Fort Street seeking relief from required setbacks.

Notices were sent out. There were no letters of objection received by the Clerk's Office.

Before the variance request, Chairman Coombs gave the following instructions:

1. Prior to addressing the Board, please state your name and address for the record.
2. Indicate the interest you have in this variance request, if any.
3. Based on the number of speakers, we may limit the time you have to address the Board.
4. You may speak only once until all speakers have had a chance to speak.
5. Additional time may be given to the applicant if deemed necessary.
6. All comments by the public and the BZA shall be directed to the Chair.

Moved by Clark, supported by Orman, to open the Public Hearing requesting a variance from required setbacks. The applicant is seeking a dimensional variance from the minimum front and side yard setback requirements in the C-1 Community Business zoning district. As contained in the Section 1298.01 table, the minimum front yard setback requirement is twenty-five (25) feet from the property line; the proposed front yard setback distance is on the property line by the sidewalk along Fort Street. The minimum side yard setback requirement is twelve and half (12.5) feet from the property line; the proposed side yard setback distance is on the property line at the sidewalk along Cherry Street.

Moved by Foucher, supported by Byers, to close this Public Hearing. Motion carried unanimously.

Discussion was held by the Board.

Chairman Coombs advised the Board to keep in mind the criteria on making their decision:

1. That compliance with the ordinance results in a practical difficulty;
2. That the problem requiring the variance is unique to the applicant's property and is not shared by properties in the same zoning district;
3. That the problem is not self-inflicted;
4. That the variance is the minimum necessary to permit reasonable use of the property; and
5. That the variance, if granted, would not compromise the public health, safety and welfare.

Moved by Clark, supported by Orman, that the Board of Zoning Appeals, SUPPORTS and APPROVES, the application to relax required front yard from 25 feet to the property line and required side yard setback of 12.5 to the property line on Cherry Lane.

Motion Carried Unanimously.

Moved by Byers, supported by Foucher, that this meeting at the Board of Zoning Appeals be adjourned at 6:00 p.m. Motion Carried Unanimously.



Carlisle | Wortman
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To: Board of Zoning Appeals
From: John L. Enos, AICP, City Planner
Date: February 5, 2021

Subject: Plasma Center Permitted Locations Interpretation

The applicant is proposing to open a full-service plasma donation center within the area classified and zoned as the Market Center Overlay District (MCOD). The Building Director in review of the request and upon discussion with the City Planner concluded that the area known as (MCOD) is a unique and important commercial district. Upon review of the Zoning District rules and requirements for this district we concluded that "Plasma Centers" are not a use listed as a permitted use or a use subject to special conditions within the MCOD. We would not consider this a typical medical office that typically offers care and treatment to patients, not the sale of Biological materials such as a blood bank or plasma center.

To further clarify we are of the opinion the MCOD is intended to encourage distinctive pedestrian oriented development that will further the goal of creating a viable downtown, shopping, entertainment and cultural center in Southgate. As such, the plasma center use does not fit with the intent or purpose of the MCOD. While the BZA is well experienced in dimensional variances, this request is unique as the applicant is questioning whether a determination made by another City Commission or Official is correct as regulated in the Zoning Ordinance. The Ordinance allows for the BZA to decide on an interpretation based on the following:

Section 1264.05 Appeals. An appeal may be taken to the Board of Zoning Appeals by any person wishing to appeal any ordinance provision or any final decision of the Director of Inspections or the Planning Commission. All appeals must be applied for in writing on forms provided by the City. More specifically the Ordinance allows for the BZA to hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Director of Inspections or other administrative official in carrying out or enforcing this Zoning Code.

Analysis

The MCOD or the City's "downtown" is planned as one of the main commercial centers for Southgate or most any other community. It is a location that, when successful, is a compatible mix of commercial and service uses along with more dense residential uses such as townhomes or apartments above restaurants and other compatible commercial uses. The Ordinance describes the intent and purpose to allow uses of specific design and character and review provisions to accomplish this, with a special sensitivity to the contextual relevance of a unique commercial area along the Eureka Road Corridor. The BZA should consider the following and whether plasma donation centers should be permitted in the MCOD and whether they are better suited elsewhere in the City based on the following:

1. Upon review of the Zoning District rules and requirements for this district we find that "Plasma Centers" are not a specific use listed as a permitted use or a use subject to special conditions within the MCOD. While a typical medical office could be permitted, we would **not** consider this similar as it relates to the manner of offering of care and treatment to patients/clients.
2. A plasma donation center is more compatible within the M-1 Light Industrial/Research areas of the City. To further clarify so that the use is excluded within the City, the City Council unanimously agreed and adopted a clearer definition of the use as permitted in the M-1 District.
 - a. ***Definition in Section 1260.07 (104) "Biological Material Depository" means a private business, which provides compensation to patrons for the sale of biological material drawn from the patron's body including blood, plasma or other tissues or fluids.***
3. Compliance with the ordinance does not result in a practical difficulty. There are several areas in the City zoned M-1 that permits plasma donation centers.
4. That the problem requiring the interpretation is not unique to the applicant's property and is not shared by properties in the same zoning district. The MCOD allows a wide variety of commercial and service uses, therefore the City is not severely limiting the use or the reasonable use of the property to an extent it cannot be leased for another permitted use.

Recommendation

We recommend **denial** of a Biological Material Depository and in this particular case, a plasma donation center within the MCOD based on the following;

1. The use does not meet the intent and purpose of the MCOD.

2. The use is better suited and specifically permitted within the M-1 Light Industrial District. A variety of other uses could be installed in the building that are more compatible with the area.
3. That the granting of such may create a precedent for other biological material facilities to be allowed within the MCOD and be materially detrimental to the public welfare or materially injurious adjacent properties or improvements in which the property is located.