

**MINUTES  
MARSHALL CITY ZONING BOARD OF APPEALS  
Regular Meeting Thursday, January 21, 2016  
7:00 P.M. – COUNCIL CHAMBERS**

**CALL TO ORDER**

This meeting was called to order by Chair Feneley at 7:01 p.m.

**ROLL CALL**

Members Present: Board Members Byrne, Feneley, Karns, Revore, and Alternate Daily

Members Absent: Board Member DeGraw, Council Liaison Gerten, and Alternate Beach

Staff Present: Natalie Dean, Director of Community Services & Assistant City Manager and Jon Skiles, GIS Specialist & Project Manager.

**Motion** by Karns, supported by Daily, to excuse the absence of Board Member DeGraw. On a voice vote; **Motion Carried.**

**APPROVAL OF MINUTES**

**Motion** by Daily, supported by Byrne, to accept the minutes of the December 17, 2015 regular meeting as submitted. On a voice vote; **Motion Carried.**

**APPROVAL OF AGENDA**

**Motion** by Revore supported by Byrne, to approve the agenda of the January 21, 2016 meeting as submitted. On a voice vote; **Motion Carried.**

**AUDIENCE PARTICIPATION**

None

**NEW BUSINESS**

Appeal #16.01- filed by Terry Smith at 1240 S. Kalamazoo St. for a Use Variance to develop a used car lot (a commercial (B-4) use) in the Research and Technical District (I-1).

Staff reported that the lot at 1240 S. Kalamazoo St. was formerly used as car wash by the former owner Frank E. Boley. Although Boley originally aimed to demo the structure on the property, he is currently selling the property as-is to Terry Smith, who would like to develop a used car lot. Smith plans to remodel the building that currently stands to an office space for his used car lot. The cars will be parked in planned-spaces in the front of the lot. Staff explained that typically, car sales are only permitted in the B-4, Regional Commercial District. Due to this property being in the Research and Technical District, Smith has chosen to pursue a Use Variance from the I-1 Ordinance.

(official)

Terry Smith, of 704 E. Green St. Marshall, Michigan, reported that he plans to remodel the structure slightly to allow for an office space for his used car lot. Board members inquired as to the acreage of the property and whether he planned to pave any of the property behind the structure. Smith explained that the property is just over two acres, and that he did not plan on paving any of the property behind the building that stands. Smith discussed that he would not be doing any car repairs on site; a service contract with a local business would be established for any needed car repairs. Smith commented that he did look at other sites to house the used car lot, but he decided that the traffic that travels down the road would make the location favorable for business. Smith explained that because he already owns a used car lot upstate, he meets all of the state's licensing requirements. Smith told commissioners he will have no more than fifteen cars on the lot at any given time and the unused portion of land to the rear of the building will remain vacant.

Staff explained that if the use variance is approved, a site plan and special land use process through Planning Commission and City Council would be required. She also reported that the city utility departments have reviewed the site plan of the used car lot and confirmed that it would be a feasible project.

Using the Use Variance Worksheet, the board cited the following items pertaining to this variance:

- The current zoning ordinance prohibits the property owner from securing any reasonable economic return or making any reasonable use of the property. Under this standard, the ZBA must find that the property (land, structures, and other improvements) is not suitable for uses permitted in the zoning district. **Board Members discussed that because the property is large, measuring 118,800 square feet, one would be able to use the lot for industrial uses. When discussing future implications of the use variance, Board Members discussed whether or not a rezoning would be more fitting than a use variance. In regards to the current structure on the property, Board Members commented that it would not be suitable for uses permitted in the I-1 District.**
- The landowner's plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions. Circumstances common to the larger neighborhood may reflect that unreasonableness of the zoning itself, which should be addressed through a rezoning or other legislative action. **Board Members commented that current zoning of I-1 is appropriate for the surrounding industrial properties. It was also discussed that the used car lot would not look out of place in the area especially due to there being one non-conforming property (Moose Lodge) to the north of the parcel.**
- The use variance, if granted, would not alter the essential character of the neighborhood. This standard requires consideration of whether the intent and purpose of the chapter and zoning district will be preserved, and the essential character of the area will be maintained. **Board Members discussed that they would like to see the property developed and that, in their opinion, the used car lot would not significantly alter the essential character of the neighborhood.**
- The hardship is not the result of the applicant's actions. Under this standard, the ZBA must determine that the hardship that led to the use variance request was not self-created by the applicant. Purchase of a property with a pre-existing hardship does not constitute a self-created hardship. Financial hardships that would prevent reasonable use of the property shall be considered, but shall not be the only determining factor in granting a use variance. **Due to the previous use of the property being legal non-conforming, Board Members commented that the applicant is purchasing a property with a pre-existing hardship.**

(official)

On a roll-call vote-ayes: Byrne, Feneley, Karns, Revore, & Daily; nays -none. **Motion Carried.**

Consider approval of the Planning Commission, Zoning Board of Appeals and Joint Planning Commission Annual Report 2015.

**Motion** by Karns supported by Revore, to approve the Planning Commission, Zoning Board of Appeals and Joint Planning Commission Annual Report 2015. On a voice vote; **Motion Carried.**

#### **OLD BUSINESS**

None

#### **PUBLIC COMMENT**

None

#### **REPORTS**

None

#### **ADJOURN**

Meeting adjourned at 7:42 pm.

Respectfully submitted,

*Elizabeth Renaud*