

MINUTES OF THE MEETING OF THE ZONING BOARD OF ADJUSTMENT

Tuesday, July 27, 2021 - 4:00 p.m.

Pursuant to notice, the Zoning Board of Adjustment of the City of St. Joseph met in the 3rd Floor Council Chambers, City Hall, on Tuesday, July 27, 2021 at 4:00 p.m.

	<u>Name</u>	<u>Members' Term Attendance</u>	<u>End of Term</u>
MEMBERS PRESENT:	Terry Hall	(02-00)	06/14/26
	Seth Slayden	(02-00)	02/23/24
	Jo Pruitt	(02-01)	03/22/26
	Allison Tschannen	alternate member	
MEMBERS ABSENT:	Michael Grimm	(11-01)	05/21/24
	Terri Lowdon	(24-07)	03/14/21
STAFF PRESENT:	Ted Elo, Assistant City Attorney		
	Zack Martin, City Planner		
	Rebecca Shipp, Executive Administrative Assistant		

Four members constitute a quorum.

Hall called the meeting to order at 4:04 pm.

(Verbatim transcript starts)

Hall: Certified chapters 11, 26 and 31 are available. Rebecca, can we have a roll call please?

Shipp: Terri Lowdon

silence

Shipp: Jo Pruitt

Pruitt: Present

Shipp: Michael Grimm

silence

Shipp: Terry Hall

Hall: Present

Shipp: Seth Slayden

Slayden: Present

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Shipp: Allison Tschannen

Tschannen: Present

Hall: Unless there is an objection from the Board, we'll, ah, postpone the approval of minutes and regular business ah, agenda items until the end of the meeting and deal with the case before us. The following rules of conduct have been adopted by this Board; if you're to speak, give your name and complete address. No one may speak more than twice on the same item. No one may speak more than ten minutes at any time without permission of the Chairperson. No one may speak a second time on a question until every person who wants to speak has done so. All submissions of evidence, i.e., photos, drawings, etc., will be retained by the Board of Adjustment and will become a part of the permanent file. So really what that means is, if you give us something, you're not getting it back. Case before us today is Case # 2488 request for a variance from Section 31-025(c)(6) and all, and any and all other Sections of Code of Ord(sic)Ordinances necessary to allow a resi(sic), resi(sic) residential care facility consisting of up to 16 occupants on the property located at 2102 Village Drive. Applicants are Abigail and Austin Barnes. Is there anyone here to speak on behalf of that? Okay. City have a report?

Martin: Uh, yes, again the item is a request for a variance to allow four beds over the code-permitted amount at a residential care facility located at 2102 Village Drive, requested by Abigail and Austin Barnes. Uh, the location of the property and zoning map is included in the packet. Uh, the property has a former residential care facility on site, formerly known as "Eastgate Manor" which was geared towards senior residents. The property's current zoning allows residential care facilities by right, uh, a, though code those facilities are limited to 12 beds, thus the reason for this request. In reviewing this request staff found that there was no physical hardship or condition of the topography of the property that would result in a hardship, rather that the conditions of the zoning district were the issue. Staff found that the facility would be capable of four additional beds and that the lot is a standard commercial lot, the regulations of which would be applicable to other properties in the same zoning classification; and that the hardship has not been created by the applicant, as stated above the hardship is the limitations outlined within the zoning code itself; and that the requested variance is a permitted use within the existing zoning district, in keeping with the city's adopted land use plan and would not be detrimental to the public health, safety, welfare, etc. of the neighborhood it is located in. So, with all of that in mind, Staff recommends approval of the request.

Hall: Are there any questions for the Staff?

Pruitt: I, I have a question. What is the, what is this gonna be used for? It's not a senior facility anymore?

Martin: No. And the applicant can speak in a little more detail regarding that aspect of it, but I believe it is a substance abuse residential care facility.

Citizen: Yes, it's a substance abuse

Hall: Hold on one moment please. Uh, I need to swear you in that you're going to tell the truth and nothing but the truth.

Citizen: Yep, I do.

Hall: Okay. And then, please state your name and complete address please.

Citizen: Yep. Austin Barnes. 2014 Loves Lane, Saint Joseph, Missouri 64505.

Hall: Okay.

Barnes: And yes, it will be a residential substance abuse facility.

Hall: Any other questions for the applicant or for the Staff? Were there any other comments that you would like to make?

Pruitt: Uh, uh, yeah, I, I would ask about, I, I had a another person approach me about that building and they had some resistance from the people uh, in the area uh, and this has been about a year ago. And their concern was uh, it says here that there was no change in the character of the neighborhood. But there would be. Um, so I'm just curious, uh, do we, do we talk to the neighbors?

Martin: No. There's no need. This is a permitted use within the zoning district for the facility as it currently is. And the only regulations regarding these types of facilities is that they cannot be within a thousand feet of another facility of that type and that the appea(sic) appearance of the exterior has to be consistent with the neighborhood. This is a fully permitted use within the district. We're not discussing that aspect of it. It's just the number of beds.

Barnes: Yep, and to add on to that, we weren't even a year ago, I don't know who would have known about it cause it wasn't anything that was in the works yet a year ago.

Pruitt: I won't tell you her name but

Barnes: No, no, I don't want to know her name but

Pruitt: Yeah

Barnes: And, and there is, there is, some push back and that's normal you know. I, I, get some of the concern but at the end of the day, we're here to help the community. We've been in this almost a decade now uh, really want to help out. Where I came from and where I struggled, I want to come back and help others. So, not everyone is gonna see eye to eye but

Pruitt: I agree.

Hall: Any other questions? Do you have any other comments that you would like to make?

Barnes: Nope. Unless anyone else has questions.

Hall: Rebecca, were notices sent out?

Shipp: Yes.

Hall: Have we received any back?

Shipp: No.

Hall: Okay. Is there anyone else here to speak on behalf?

Barnes: Uh, my wife Abigail is also the co-owner.

Hall: Okay.

Inaudible-speaking away from microphone

Hall: Anybody here to speak against? Are there any other questions from the Board? Okay. Uh, it takes four full votes to pass. And since we are one member short, that means it must be unanimous to, to pass. So, I'll entertain a motion to call the question.

Slayden: So moved.

Hall: Second?

Tschannen: Second.

Hall: Rebecca, can we have a roll call vote please?

Shipp: Jo Pruitt

Pruitt: I'm, I'm gonna vote no. Sorry.

Shipp: Terry Hall

Hall: Approved

Shipp: Seth Slayden

Slayden: Approved

Shipp: Allison Tschannen

Tschannen: Approve

Hall: I'm sorry. Because we did not have the number of votes that uh, the petition is denied.

Martin: So, that means the variance for 16 beds has been denied however, you can still have a residential care facility with 12 for that exact same purpose. Um, and we can elaborate more on what that means outside of this as well.

Citizen: Can I ask a question?

Hall: Yes. You need to come to the microphone and state your name please. And address.

Citizen: My name is Abigail Barnes. Address 2014 Lovers Lane, Saint Joseph 64505. Um, do we ever have the opportunity to present it again to the Board at a later date? Is that ever

Elo: One year.

Martin: Sorry. Ted is our legal counsel. You would have one, you'd have to wait one year to present it again.

Tschannen: Ted, do they have an appeals process?

Elo: Uh, to the circuit court of Buchanan County. Um, if the, if the decision is not supported by competent and substantial evidence um, the court can remand back to the BZA for rehearing additional evidence. Um, but the court cannot substitute its own judgement for that of the Board.

Tschannen: Thank you.

Barnes, Abigail: Thank you. I was just wondering.

Hall: That's alright. Thank you. Okay. In front of you, you have the minutes from uh, the June 22nd meeting. Please review those and I'll entertain a motion to accept.

Slayden: So moved.

Hall: Is there a second?

*inaudible *

Shipp: I'm sorry, who seconded?

Hall: Jo did. All those in favor signify by saying aye.

All in attendance stated aye in unison

Hall: Okay. We have two findings of fact. Uh, the first one is for case number 2487 the request for an exemption of Article VI Section 6 (J)(1) and any and all other sections of The Commons Precise Plan for the purpose of construction of two pylon signs on the property located at 4525 Commons Drive. So, do I have a motion to sign and approve this finding of fact? This was the Randy Reed pylon signs and the Board approved the variance.

Slayden: I'm sorry Terry. If I can ask for some clarification?

Hall: Sure.

Slayden: I know we approved it so what exactly are the findings of fact that we're making

Elo: They're official written documents that goes in the file that um, sets forth the basis for the approval and then becomes a part of the appropriate record.

Hall: Really, really what we're doing is saying, yeah, we did approve it and by signing.

Inaudible-several speaking at once

Slayden: I haven't seen it a copy of that document, but I'll vote to approve that that's what we

Hall: Yeah.

Slayden: We approved the variance. I was there. I remember that.

Hall: Yeah. We approved the variance at the last meeting so.

Tschannen: Um, I'm sorry. Do you need four on this as well? I, I, I'm an alternate so I wasn't here. I'll trust you if you need it.

Hall: Ted.

Elo: Because it's the formal approval of the findings of facts, it does need four affirmative votes. So, and I can understand where Ms. Tschannen is coming from so, um, without her vote we'll have to carry it over to next month.

Hall: Okay

Elo: That may become an impossibility since um, Ms. Lowdon won't be here and then doctrine of necessity will allow it to pass with fewer than four votes. But, right now, that does not apply.

Hall: Okay.

Tschannen: Sorry.

Hall: That's alright. We had a motion to accept is there a second? No? Then this will be remanded until the next hearing and I'm assuming since you weren't present for the other one either that uh, nope, you were here this one. This is case number 2486 request for a variance from Section 31-(sic)

Tschannen: The garage?

Hall: Yes.

Tschannen: Yep, I can do that.

Hall: And any and all other sections of Chapter 31 of the Code of Ordinances necessary to allow a 30'x40' detached garage to be built on the property located at 2102 N 2nd Street. Applicant is Charles Ytell. So, is there a motion to approve the findings of fact?

Tschannen: I'll move.

Pruitt: I'll second.

Hall: Second. Rebecca, can we have a roll call vote please?

Shipp: Jo Pruitt

Pruitt: Yes

Shipp: Terry Hall

Hall: Yes

Shipp: Seth Slayden

Slayden: Yes

Shipp: Allison Tschannen

Tschannen: Yes

Pruitt: Can, can I ask a question on, on the um, 2488 the request for variance on the 2102 Village Drive?

Hall: Oh, the uh,

Pruitt: The, the, uh, bed facility. Is it too late to ask a question?

Hall: No.

Pruitt: Um, I, I'm just, I'm just curious cause you've probably spent more time, we didn't spend a lot of time talking about this so I'm, just curious I'm just sitting here thinking what, what is the, what does this mean for the 12 to 16? What's the point of doing that if, if we, couldn't have the seniors have the 16, why? Like is there a benefit for uh,

Martin: Their facility was designed to hold up to that many. It just simply didn't. It's a financial obligation for them so that's why they requested it. There was no real determining factor for them to not because it's a permitted use. So, them being able to have that facility was never a debate. They can still have it with twelve currently.

Pruitt: Right. No, that's not, I just wanna make sure, like, I'm thinking if, if, the seniors couldn't have it, that many, and how, but if its built and designed to hold that many um,

Hall: They, the seniors just never applied to increase the bed size, or the number of beds.

Pruitt: So, cause what I don't want to do, we have a need in our community for drug abuse centers and I don't want to be uh, an obstacle financially for them to not be able to do that so can I revoke? And change my vote from a no to a yes.

Elo: You can request the motion to reconsider.

Pruitt: Then I request a motion to reconsider the vote.

Elo: It needs to be seconded from anyone else.

Hall: Yeah

Tschannen: I'll second it.

Hall: Discussion?

Elo: What your discussing is you're reconsidering whether or not to approve or deny and if you guys have any discussion you can go from there.

Hall: We have a motion to reconsider the vote on case number

Pruitt: 2488

Hall: 2488 the variance from Section 31-025(c)(6) to increase the number of beds from 12 to 16 or up to 16. Are there any other questions or discussions? Can I ask why you're reconsidering?

Pruitt: Because my only thought was if the senior facility went from 12 uh, if the senior facility was limited to 12, I didn't know why we were increasing it, the capacity but if it's built for those beds and you feel like it's built to hold that many beds and not become a burden on the community uh, uh, then I don't want to stop the community from having a health facility

Martin: Sure

Pruitt: that could help one of our burdens here which is our drug problem.

Martin: Yeah, and again the facility itself was designed to hold more the code just states for all residential care facilities the limit is 12. So that particular facility it is permanently shut down so when I went to do the research it's a little hard to get some information to that end, but it is, it's an organization that just never approached for additional beds. I don't know if there was no interest in that facility having more beds or if there was more competition in other parts of town. I couldn't speak to that. It simply just never came forward. So the facility could hold more. That was the purpose of this request.

Tschannen: Did they, did they ever have discussions with you about whether or not they could have more than 16 or was that always their, their request? Like did you guys have discussions about okay what the size of this facility, what can, what's the capacity of it, did they tailor their request to that or did they already *inaudible*

Martin: They already knew they wanted 16 beds I think based on their business plan that was the number that would be achievable for them for, to operate this facility and to still be able to offer the level of care that they expected to be able to. So, they came in with that number.

Tschannen: Thank you.

Hall: Okay, can we call, is there a motion to, oh, go ahead.

Tschannen: No, I'm sorry. I was just going to ask where we're at procedurally.

Elo: A yes vote will, will, will basically mitigate the previous no vote and then, then the issue will be voted on again.

Hall: Yeah, we just, we, we just need a motion to call the question and then revote.

Pruitt: Motion, I make a motion to call the question.

Hall: Is there a second?

Elo: No, no. You've already got a motion to reconsider on the floor.

Hall: Okay.

Elo: you simply just need to vote on it.

Hall: Okay. Rebecca, can we have a roll call vote then?

Shipp: This is a roll call vote to reconsider the previous motion on 2488. Jo Pruitt

Pruitt: Yes

Shipp: Terry Hall

Hall: Approve

Shipp: Seth Slayden

Slayden: Approve

Shipp: Allison Tschannen

Tschannen: Approve

Elo: And now you have to have the vote to approve or deny it due to it's now been allowed to be heard again

Hall: Since we

Elo: Yes.

Hall: reversed the decision on the previous vote now we have to, so, do we have to have a motion to revote or

Elo: Yeah. Ask the clerk to call the question.

Hall: Rebecca can you

Elo: Call the roll call

Hall: call the roll call vote for the question on the 16 beds

Shipp: Jo Pruitt

Pruitt: Approved

Shipp: Terry Hall

Hall: Approve

Shipp: Seth Slayden

Slayden: Approve

Shipp: Allison Tschannen

Tschannen: Approve

Martin: Okay. I'll reach out to the applicants and let them know the uh, updated decision on that.

Hall: Okay. Is there any more business before the board?

Elo: Uh, no. Zack, is there anything for next month?

Martin: Uh, at this time I've not received anything. I believe our deadline is the end of the week so if we receive anything in the meantime, we will keep y'all in the loop.

Hall: We should probably have the meeting anyway to finalize the findings of fact that we postponed from this week.

Elo: Yeah, I wanted to bring it up we'll probably be going back to zoom meetings uh, uh, as a result of the higher positivity rate of covid in the community and, and the notice will be sent out to allow that.

Hall: Okay.

Elo: And probably other Boards and Commissions as well unfortunately.

Hall: Well, then I'll entertain a motion to adjourn.

Slayden: So moved.

Hall: Thanks everyone.

(Verbatim ends)

Meeting adjourned 4:23 pm

Minutes respectfully submitted.

Rebecca Shipp