

## **MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD ON DECEMBER 15, 2022**

The meeting was called to order by Vice-Chairman Ken Gibbs at 7:33 PM

Roll call was taken: **Present: Poettker, Loerch, Boothman and Gibbs**  
**Absent: Spielman, Powell and Hartman**

Vice-Chairman Gibbs asked if there were any additions or corrections to the minutes of the November 17, 2022 meeting. The following change was recommended:

- Under Petition Z-22-11-01, second paragraph, last sentence change “**The home on the property....**” to “**The homes on the property....**”

A motion was made by Loerch and seconded by Poettker to approve the minutes of December 15, 2022 as amended. Motion carried.

The Vice-Chairman asked if there were any petitions by citizens on non-agenda items. There were none.

The Vice-Chairman also asked if there were any corrections or deletions to the agenda. There were none.

The Vice-Chairman commented that only four members of the Zoning Board of Appeals were present and this constitutes a quorum. Per the Code of Ordinances, an affirmative vote of four members will be necessary to authorize any action of the Board. Therefore, all of the members present this evening will need to vote affirmatively for any action to be taken on tonight’s petitions.

### **PETITIONS:**

**Z-22-12-01    Review and Comment on a Petition to consider a Zoning Text Amendment to add “convenience store” as a permitted use in the B-2 zoning district as per 40-2-3(B) as requested by petitioner, Nick Patel.**

Mr. Nick Patel, the petitioner, was present to speak on behalf of this petition. Mr. Patel stated he would like to open a Sav-On Liquor and Wine convenience store in the Market Street Plaza. The store would sell soft drinks, tobacco products, cigars, chips, over-the-counter drugs and other sundries. Mr. Patel further stated he currently owns eight (8) service stations with convenience stores, a hotel and several car washes. The storefront he is looking at is approximately 4,400 sq. ft., and he estimates the retail area will be roughly 2,600 sq. ft.. Less than 35% of the retail space will be for liquor sales. He would also like to obtain a gaming license for a poker machine. Board member Poettker reiterated to the petitioner that a convenience store could only have a maximum of 35% floor space dedicated to the sale of alcohol products. Mr. Patel commented that he understood. Clarification was also made that 35% of floor space for alcohol products not only

included the public use space, but also any cooler space containing alcohol. A question arose about whether a convenience store should be a “special use permit” or a “permitted use” in a B-2 zoned district. After a short discussion, the consensus was that a convenience store should be a “permitted use” in a B-2 zoned district.

**Motion was made by Boothman and seconded by Poettker to recommend approval for a Zoning Text Amendment to add “convenience store” as a permitted use in the B-2 zoning district as per 40-2-3(B) as requested by petitioner, Nick Patel.**

**Members voted as follows: YES – Boothman, Poettker, Loerch and Gibbs.**

**Motion carried.**

**Z-22-12-02 Review and Comment on a Petition for a Zoning Text Amendment to add “pet washing and grooming” as a permitted use in the B-3 zoning district as per 40-2-3(B), as requested by petitioners Justine Hennrich & Kelsie Felix.**

Ms. Justine Hennrich, the petitioner, was present to speak on behalf of this petition. Ms. Hennrich is the owner of Adorable Beast Grooming. A fire recently damaged their business on Park Street, and they are looking to relocate the business to 203 West Mill. The business consists of dog grooming with a small retail shop selling dog grooming supplies. The future location on West Mill is currently not zoned for “pet washing and grooming” and the petitioners would like to change the permitted use of a B-3 zoned district to include this type of business. They typically groom about four (4) dogs each hour. There will be no boarding of animals or overnight stays.

**Motion was made by Poettker and seconded by Loerch to recommend approval for a Zoning Text Amendment to add “pet washing and grooming” as a permitted use in the B-3 zoning district as per 40-2-3(B), as requested by petitioners Justine Hennrich & Kelsie Felix.**

**Members voted as follows: YES – Poettker, Loerch, Boothman and Gibbs.**

**Motion carried.**

**Z-22-12-03 Review and Comment on a Petition for a Zoning Text Amendment to modify the accessory building section 40-3-2 to allow pre-manufactured patio cover kits.**

The Zoning Administrator spoke on behalf of this petition by the City of Waterloo. Pre-manufactured patio cover kits (gazebo-type structures) are becoming more popular. They are readily available and cheaper than a screened in porch. However, they do not meet the Zoning Code for an accessory structure. There have been numerous discussions over whether these patio kits should be classified as a temporary or permanent building. If the City classified these patio cover kits as an accessory structure, several changes would need to be made to the Zoning Code before they would conform to the code. The Ordinance Committee requested input from the Planning Commission and the Board of Appeals. The Planning Commission thought requiring a permit for these kits was over and above what the City should be governing and gave this

petition a negative recommendation. Governance of these structures should be at the HOA (Homeowner Association) level. Another concern was that if the City restricted the pre-manufactured patio cover kits, the homeowners would then utilize pop-up tents that are classified as temporary structures. The Zoning Administrator stated he has not received any complaints regarding the pre-manufactured patio cover kits. Theoretically, those who have already erected these patio cover kits violate the City code. However, the City also cannot issue a permit to allow these kits as they would need to be erected under the guidelines of an accessory structure, which would defeat the main purpose of wanting a gazebo-type structure in the first place. For clarification, if this petition passes, the patio kits would be classified as a permanent structure and would require a permit. In addition, the Zoning Code would need to be changed to facilitate these structures. If the petition fails, the patio kits would be classified as a temporary structure and no permit would be required.

Mr. Chris Volker stated that if the petition passes it would be difficult to manage/enforce. The Monroe County accessor could provide a list of those individuals who have installed the patio cover kits

The Vice-Chairman called for a motion regarding this petition and none was made.

The Vice-Chairman stated to let the record reflect that no motion was made, therefore, the petition is denied due to lack of a motion to approve.

#### **COMMENTS:**

The Zoning Administrator made the following comments:

- In January, the Zoning Board will review an annexation agreement on property located between Remlock and Natalie Estates. The potential new owner would like to build an accessory structure that exceeds the maximum of 900 square feet. The new owner seeks to be annexed into the City in order to receive City utilities.
- The Splash Pad will be another topic of discussion. The Park Board is trying to make the Splash Pad work and needs to cut expenses. One of the items they would like to cut is the paved parking lot.

Zoning Board Members had the following questions/comments:

- Dumpsters are still located in front of Reliable Sanitation. The Zoning Administrator stated he would address this issue.
- What is the status of the home on South Main Street that is in poor condition? The Zoning Administrator stated the owner has 60 days to get the home torn down.
- Gallagher's sign – Is a wall-mounted sign suppose to be 24 inches from the edge of the building to the internal edge of the sign, or a total of 24 inches from the edge of the building? The Zoning Administrator commented that the code states a wall-mounted sign can only project 24 inches in total from the building. However, Gallagher's received a special sign permit to extend 30" from the corner of the building.

- Are business window clings counted as signage? The Zoning Administrator stated that if the window clings were on the inside of the window they were not classified as signage. However, if they were located on the outside of the window they would be counted as signage.
- What is the status of the empty Family Video building? The Zoning Administrator commented that he has received inquiry calls about the building, but nothing appears to be serious.

**Motion to adjourn the meeting at 8:38 PM was made by Poettker and seconded by Boothman.**

**Motion carried.**

Minutes respectfully submitted by Mechelle Childers.