

**MINUTES
REGULAR MEETING OF THE OWOSSO ZONING BOARD OF APPEALS
CITY OF OWOSSO
NOVEMBER 15, 2011**

The meeting was called to order by Chairman Randy Horton at 9:33 a.m.

Roll call was taken by Recording Secretary, Marty Stinson.

MEMBERS PRESENT: Chairperson Randy Horton, Vice-Chairperson Christopher Eveleth, Secretary Daniel Jozwiak, and Commissioner Kent Telesz.

MEMBERS ABSENT: Vacancy (Burton Fox was elected to Council).

OTHERS PRESENT: Adam Zettel, Assistant City Manager and Director of Community Development; Pete Karsten, President of Baker College, Owosso; Patric Parker, Attorney for Baker College.

MINUTES: It was moved by Board Member Jozwiak and supported by Board Member Eveleth to approve the minutes of the meeting of October 18, 2011.

AYES: All. Motion carried.

NAYS: None.

COMMUNICATIONS:

1. Staff memorandum
2. ZBA minutes from October 18, 2011
3. Variance request materials – 508 W. Williams St.

COMMISSIONER/PUBLIC COMMENTS: None.

PUBLIC HEARINGS:

1. Variance Request – 508 W. Williams Street #2011-04

Mr. Adam Zettel, Assistant City Manager and Director of Community Development, introduced the area of discussion as the southeast corner of North M-52 and West Oliver Street. It is the western one half of the block. Baker College acquired the property and wants to use it for institutional purposes. The Planning Commission has approved the parking lot use pending approval by the Zoning Board of Appeals. This is a single family dwelling in a multi family zoning. The questions are:

- A. Can it be changed to institutional use? If so, would this parcel and structure conform?
- B. Will this fit the intent of the RM-1 zoning?

Patric Parker is the attorney for Baker College. He introduced Peter Karsten, President of Baker College. Mr. Karsten stated that the house at 508 W. Williams Street was given to the college in 2008 from Mr. George Hoddy. There were two conditions for the college to follow upon receiving the home. They were to (1) maintain and (2) show the house. James Oliver Curwood built the home; and the home is a tribute to Mr. Hoddy. They have had some showings and may only do that for about a year. He can't see students living there, but possibly in the other homes in the same block. The Hoddy home is not set up well for classrooms. There is not adequate parking for very many vehicles.

Commissioner Telesz asked what do you anticipate for the rest of the block. Mr. Karsten replied that the rest of the houses were rental units and will continue. They will be updated in the next five years. The vacant house on the corner needs renovating.

Commissioner Jozwiak asked if the vacant house would be used as a sorority house. Mr. Karsten replied that he couldn't visualize that now as the college doesn't have sororities. It may be an International Students setting in the future.

Ms. Janet Washburn, 419 N. Shiawassee Street (Todd House), stated that the intersection of M-52 and Oliver Street has difficult traffic occasionally. She can see a boondoggle sometime in the future. If the house is used in a limited manner, that would be acceptable. It is residential. This is a nice historical neighborhood. There is a parking lot across the street. During Curwood Festival, there was an Authors Tea at the Hoddy House.

Mr. Adam Zettel reviewed the interpretation. The uses permitted in R-1 zoning are allowed in R-2; the uses allowed in R-2 are allowed in RM-1. The site doesn't conform to RM-1 requirements. Setbacks don't match requirements. Intent is to preserve structures. Mr. Zettel doesn't see any negatives. The public interest would rather see the Hoddy House rather than an office building

Commissioner Eveleth stated that MDOT is having hearings about making a left turn lane onto Oliver Street from M-52 relieving the left turns onto Williams Street

Chairman Horton said there are possibly ten parking spaces on Williams Street. Do you see daily or spot use? Mr. Karsten stated spot use in the short term to show the house. Long term may look for more latitude. It may be used for a business incubator with offices. They may arrive at nine and leave at five. They don't foresee high traffic like a real estate office.

Commissioner Telesz said when Baker took over the YWCA building, that wasn't a 20 acre site. What was the decision there? Mr. Zettel replied that he had no idea. We may have to rewrite the ordinance.

Commissioner Telesz stated whenever Baker College takes on a property it looks nice, and they address citizen concerns.

Commissioner Eveleth stated that the Planning Commission has already approved it. He likes the sign and the walkway.

Motion by Commissioner Eveleth, supported by Commissioner Jozwiak that the Owosso Zoning Board of Appeals, upon examination of the zoning code, finds that uses permitted as-of-right in the R-1 zoning district are also permitted as-of-right in the RM-1 zoning district by virtue of the cumulative zoning clauses that permit R-1 uses in the R-2 zoning district and R-2 uses in RM-1 districts.

Before the vote, Commissioner Telesz asked if we vote this in, does this affect all future projects? Mr. Zettel answered yes. This has the effect of a law in the future.

**AYES: All. Motion carried.
NAYS: None.**

BUSINESS ITEM: Variance Request – 508 W. Williams Street #2011-04

Mr. Zettel commented does this fit into the definition of college use? He explained the reason for the 20 acre minimum may be for a new institution and not having it colonize in an apartment. This is an expansion of an established college use. Should it be allowed even though it's only an acre? This is a quasi-public use building. This is the best utilization for this building.

Commissioner Telesz stated when Mr. Hoddy gave the gift, it was mentioned that Baker College keep the house. They could tear it down and rebuild.

Mr. Zettel commented that if they did, they would have to come back for a site plan review. It's harder to get variances on a new build than for an existing structure. He referenced Chapter 38-278 (b)(e).

Attorney Parker stated that aside from the above the zoning and land use, you do have the assurance of the family of Mr. Hoddy. They won't allow us to put in a McDonald's.

Commissioner Eveleth reviewed Section 38-504 from the City Code for the conditions for a variance.

Motion by Commissioner Eveleth, supported by Commissioner Jozwiak that the Owosso Zoning Board of Appeals, finding the structures at 508 W. Williams Street, parcel number 050-470-001-006-00, to be a Class A non-conforming hereby approves the petition, as attached, to permit the reuse of the existing structures and parcel for use as an "institutional" and/or "college" use as defined by ordinance and as requested by the petitioner, further finding that such reuse is within

the intent of the ordinance. Furthermore, the ZBA recognizes the validity of the parking lot site plan that was approved by the Owosso Planning Commission on May 23, 2011, contingent upon affirmation of site use as an "institutional" use by the ZBA.

AYES: All. Motion carried.

NAYS: None.

BOARD / CITIZEN / STAFF COMMENTS:

Mr. Karsten appreciated the board's consideration. He asked the members to please stop by the Hoddy House sometime.

Commissioner Eveleth stated that Mr. Burton Fox is no longer on this board and he will be looking forward to a new member.

Mr. Zettel commented that he had word that Alternate Liz Frasier will be submitting a letter of resignation.

ADJOURNMENT:

Motion by Board Member Telesz, supported by Board Member Jozwiak to adjourn at 10:24 a.m.

AYES: All. Motion carried.

NAYS: None.

Dan Jozwiak, Secretary

m.m.s.

CITY OF OWOSSO
ZONING BOARD OF APPEALS
REQUEST FOR HEARING

NOTE TO APPLICANTS:

1. All applications received by the 31st of the month will be heard on the 3rd Tuesday of the following month at 9:30 a.m., lower level of City Hall.
2. The applicant, or legal representative of the applicant, must be present at the Public Hearing for action to be taken.
3. In order that this application may be processed, the applicant must complete Page 1 of this form and make payment of a non-refundable fee of \$90.00 to the City Treasurer's Office to cover costs the City incurs.
4. Questions about this application may be directed to (989) 725-0540.

Request is hereby made to the City of Owosso for a hearing before the Zoning Board of Appeals for one or more of the following:

- Variance
- Administrative Interpretation
- Class A Non-Conforming Status or Expansion
- Appeal of Staff or "Board" Decision
- Exception/Special Approval

APPLICANT: Baker College of Owosso, a Michigan non-profit corporation
ADDRESS: 1020 S. Washington St. LOCATION OF APPEAL: 508 W. Williams
Owosso, MI 48867 Owosso, MI 48867
PHONE NO.: (989) 729-3350 DATE APPEAL FILED: October 14, 2011

APPEAL: (Indicate all data pertinent to this case, both present and proposed.)

The property located at 508 W. Williams, Owosso (the "Property"), commonly known as the "Hoddy House", is presently zoned RM-1. Owner Baker College of Owosso seeks to use the Property for educational purposes, including, but not limited to, use for instructional use, general office use, and use as a visitor center and facility.

Baker seeks an interpretation from the Zoning Board of Appeals pursuant to 38-504 (2) of the City of Owosso Code of Ordinances that the proposed use is allowable under the present zoning classification.

Attached hereto as Schedule 1 is a more detailed explanation of the legal basis for the request.

If this is a variance request, indicate how the strict enforcement of the Zoning Ordinance would result in practical difficulty to the property owner, and how this difficulty is peculiar to the property.
(Note: For a dimensional variance it is necessary to submit a site plan with this application.)

I hereby state that all above statements and any attached documents are true and correct to the best of my knowledge.

Signature of Applicant

SCHEDULE 1

ZONING BOARD OF APPEALS APPLICATION

This Schedule is an attachment to the "Request For Hearing" of Baker College of Owosso submitted to the City of Owosso. The following is an explanation of the relief requested from the ZBA:

1. General. The property for which the relief is requested (the "Property") is presently zoned RM – 1. Prior to the conveyance of the Property to the Applicant, the Property was used as a single family home. The Applicant proposes to use the Property for educational purposes, including, but not limited to, use for instructional use, general office use, and use as a visitor center and facility (the "Proposed Use"). The Property is legally described as follows: Land situated in the City of Owosso, Shiawassee County, State of Michigan (the "Property"), being: Lots 1 and 4 Block 1, of ORIGINAL PLAT OF THE CITY OF OWOSSO, according to the recorded plat thereof.

Tax Parcel No.: 05-470-001-006-00

Commonly Known as: 508 W. Williams, Owosso, Michigan

2. Requested Relief. Applicant brings this request in conformity with the City of Owosso Zoning Ordinance, Chapter 38 (the "Ordinance"). Applicant seeks three distinct items of relief from the ZBA, each of which will be discussed in more detail below:
 - a. An interpretation, in accordance with the power contained in Section 38-504 (2) of the Ordinance, that the uses allowed in district R-1 are incorporated by reference into the uses allowed in district R-2, which are incorporated by reference into the uses allowed in RM-1. For this reason, the uses described in Section 38-53 (7) are allowed in district RM-1, the present zoning of the Property (the "Zoning District Interpretation"); and
 - b. A determination, either as an interpretation under in Section 38-504 (2), or as an approval of a "special condition", that the Proposed Use is allowable for the Property (the "Use Approval"); and
 - c. A determination that the existing house and grounds constitute a "Class A Nonconforming Use and Structure" pursuant to Section 38-378 of the Ordinance, such that the requirements of Section 38-53 (7) regarding for certain setbacks and other requirements do not need to be met (the "Nonconforming Structure Determination").
3. Discussion.
 - a. Zoning District Interpretation. The Property is located in district RM-1. RM – 1 allows as a principal permitted use "(1) All uses permitted and as regulated in

the R-1 two-family residential district;". R-2 allows as a principal permitted use "(1) All uses permitted and as regulated in the one-family residential districts." R - 1 is the one-family residential district. Therefore, a proper interpretation of the Ordinance should conclude that uses allowed in R -1 are also allowed as of right in RM -1.

b. Use Approval.

- i. Section 38-53 (7) provides for the use subject to special conditions as follows:

"(7) Colleges, universities and other such institutions of higher learning, public and private, offering courses in general, technical or religious education and not operated for profit, all subject to the following conditions:

a. Any use permitted herein shall be developed only on sites of at least twenty (20) acres in area.

b. All access to the site shall be in accordance with section 38-392.

c. No building shall be closer than eighty (80) feet to any property line.

d. Off-street parking lots shall be set back eighty (80) feet from a major or secondary thoroughfare, fifty (50) feet from a local street and twenty (20) feet from an adjoining residential lot."

Clearly, the Proposed Use fits the requirement of "Colleges, universities and other such institutions of higher learning, public and private, offering courses in general, technical or religious education and not operated for profit". As described below, the other specific conditions should be inapplicable due to the status of the Property as a nonconforming structure.

- c. Nonconforming Structure Determination. The Property, with its existing setbacks, has long been in existence. Section 38-53 (7), as quoted above, provides for certain setbacks and other requirements. Applicant requests that the ZBA determine that the Property is a "Class A Nonconforming Use and Structure" pursuant to Section 38-378 of the Ordinance. The standards contained in the Ordinance are as follows:

"(4) That the continuance of the use would not be contrary to the public health, safety or welfare or the spirit of this chapter."

The Proposed Use clearly meets this requirement. The educational use by the Applicant will be beneficial to the surrounding properties and to the City in general.

"(5) That the use or structure does not and is not likely to significantly decrease the value of nearby properties."

The Proposed Use clearly meets this requirement. The educational use by the Applicant will be positive to the value of surrounding properties.

"(6) That the use or structure was lawful at the time of its inception and that no useful purpose would be served by strict application of the provisions or requirements of this chapter with which the use or structure does not conform."

The existing building will continue to properly serve the neighborhood and the community, and compliance with the additional requirements of Section 38-53 (7) will not advance any community interest.

4. Conclusion. Applicant respectfully seeks the relief requested.

Prepared by:

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