



CITY OF IOWA CITY

IOWA CITY BOARD OF ADJUSTMENT

December 12, 2018

5:15 p.m.

Emma Harvat Hall

STAFF REPORT

CITY OF IOWA CITY

Department of Neighborhood & Development Services

AGENDA
IOWA CITY BOARD OF ADJUSTMENT MEETING
WEDNESDAY, December 12, 2018 – 5:15 PM
EMMA J. HARVAT HALL

- A. Call to Order**
- B. Roll Call**
- C. Consider the August 8, 2018 Board Minutes**
- D. Review Board Procedures**
- E. Staff Announcements**
- F. Adjourn**

NEXT BOARD OF ADJUSTMENT MEETING — January 9, 2019
EMMA J. HARVAT HALL

If you will need disability-related accommodations in order to participate in this meeting, please contact Jesi Lile, Urban Planning at 319-356-5240 or at jessica-lile@iowa-city.org. Early requests are strongly encouraged to allow sufficient time to meet your access needs.



CITY OF IOWA CITY MEMORANDUM

Date: December 10, 2018
To: Board of Adjustment
From: Jesi Lile, Associate Planner
Re: Board of Adjustment Procedures

The Board of Adjustment reviews its procedures on an annual basis. This year there was a change that addressed provisions for an alternate member when a board member recuses him/herself for a conflict of interest in an appeal from an administrative decision.

Please review the current procedures. The Board will discuss suggested changes or improvements, if any, as well as any questions or concerns at the meeting on December 12.

**MINUTES
BOARD OF ADJUSTMENT
AUGUST 8, 2018 – 5:15 PM
EMMA J. HARVAT HALL, CITY HALL**

PRELIMINARY

MEMBERS PRESENT: Gene Chrischilles, Connie Goeb, Ryan Hall, Tim Weitzel
MEMBERS ABSENT: Bryce Parker
STAFF PRESENT: Susan Dulek, Luke Foelsch, Sarah Walz
OTHERS PRESENT: Barik Kuku, Kirsten Frey, Brian Skay, Dawn Skay, Tim Lehman

CALL TO ORDER:

The meeting was called to order at 5:15 PM.

ROLL CALL:

A brief opening statement was read by Chrischilles outlining the role and purpose of the Board and the procedures that would be followed the meeting.

CONSIDER THE JUNE 13, 2018 MINUTES:

Goeb moved to approve the minutes of June 13, 2018. Hall seconded the motion.

A vote was taken and the motion carried 4-0.

SPECIAL EXCEPTION ITEM EXC18-00006:

Discussion of an application submitted by Sudanese Community Center to locate a General Community Service use in the Intensive Commercial (CI-1) zone at 536 Southgate Avenue.

Walz noted this item is a continuation of the public hearing from the June 13, 2018, meeting. She wanted to make a few points to refresh the Board on the key items of this application. The purpose of the Intensive Commercial (CI-1) zone is to provide areas for the sales and service functions for businesses whose operations are typically characterized by outdoor display and storage of merchandise, by repair and sales of large motor vehicles, by outdoor commercial and amusement recreation activities, or by activities or operations conducted in buildings or structures not completely enclosed. Uses allowed in the Intensive Commercial (CI-1) zone include building trade uses (an example would be a plumbing supply company), wholesale operations, warehouse storage and vehicle and equipment repair. CI-1 zones tend to be dominated by these uses because they are not typically located in highly visible areas or on main commercial corridors. Walz noted that the CI-1 zone does allow other uses, retail sales, personal services uses (ex. spas or salons), office uses, and restaurant uses. The community service use is allowed in the CI-1 zone only by special exception.

The application submitted by the Sudanese Community Center focuses on teaching classes and

providing a level of counseling or other forms of assistance to recent immigrants and refugees such as group discussions and a library. The application does not mention large gatherings or other large group events. That was an issue that was much discussed at the June meeting. If a regular, or principal use, of the building was to be events or gatherings or celebrations this application would not fall under the community service classification. For example, if they were to use the building to rent out for ceremonies or regularly have large parties that strays into another use category, which is religious or private group assembly and that is a use that is allowed in this zone, but requires quite a bit more parking. Walz noted one member of the Board observed at the June meeting the Sudanese Community does occasionally hold large events from time to time and those events have been held at public facilities like the rec center. That is appropriate because those centers provide a great deal of parking and have all the other facilities that are meant to handle such events. Walz reiterated that these sorts of large events were not listed in the Sudanese Community Center's request.

Walz stated that after the June meeting Staff met with the applicant to ensure that community service was the use they meant to apply for. They had long discussions regarding parking and the needs for parking, and how the building would be used. With those discussions it was clear the representative made clear that they intend to use the building for classes and those types of services, not large group events. Walz noted one of the issues that was raised at the June meeting was parking, the subject property is able to meet its required parking of seven spaces, however when there is overflow it is somewhat of a challenge as parking is prohibited on Boyrum and Southgate Streets. The applicant could request the City lift the prohibition of parking on either street since they are 36-foot wide streets. However, on Southgate the Bicycle Master Plan calls for bicycle lanes, so parking would not be lifted there. If parking were to be lifted on part of Boyrum Street that would have to be approved by City Council.

Walz noted the occupancy load for the Sudanese Community Center is 40 people and that is based on the square footage of the building. That square footage and occupancy load is also the number used for the rationale for the parking requirements. Neighboring property owners did question how such an occupancy limit would be enforced and most likely the City would become aware of overuse of the building by complaints from the public and enforcement would be handled through a municipal infraction process. The City does handle these types of complaints in housing and with bars and restaurants on a regular basis. Such infractions can result in fines and court costs not only for the applicant but also the property owner.

Staff believes it is reasonable to allow for occasional events that would draw more than 40 people, but that would only be allowed through the temporary use permit process to give the City better opportunity for enforcement. Staff did discuss the temporary use permit process with the applicant and that it would require the applicant to come up with a plan to deal with parking and to control litter. A temporary use permit can impose a limit on the size of the event and if events are not managed in accord with the temporary use permit, new permit requests can be denied at the discretion of Staff. Walz noted the Board asked how many events could be held with a temporary use permit and there is no rule, however Staff believes that more than four events begins to stray into an area of being a different use. The principal use of the property is meant to be smaller, less intense uses (teaching of classes, counseling, occasional group discussions) but not for larger gatherings.

At the June meeting it was discussed that the use of the backyard of the property, especially if the use involves children or young people, may be of a concern. This is due to the use and materials of the neighboring property as well as due to folks who might stray across the property line and that is why Staff suggest the condition of enclosing the property with a fence limiting

access to the backyard from the street frontage.

Staff recommends approval of EXC18-00006, an application for a General Community Service Use in the Intensive Commercial (CI-1) zone at 536 Southgate Avenue, subject to the following conditions:

- Large gatherings (more than 40 persons) may only be held on an occasional basis (less than four times per year) and require a temporary use permit as follows:
 - Any event that will be attended by more than 40 people requires a temporary use permit.
 - The permit application must include a plan for how to address parking, transportation, and, in the event of outdoor activities, litter/recycling collection.
- A 6-foot fence must be installed to enclose the open space to the rear of the building (east, west, and north sides).
- Installation of required bicycle parking (4 spaces).
- Restriping of the parking area to provide 7 parking spaces.

Goeb asked if there was any discussion regarding the maximum number of persons allowed at the temporary use permit events (up to four times per year). Walz said not at this time, when the applicant applies for the temporary use permit they will have to indicate size of event and staff can discuss at that time and approve if staff feels there is a plan to accommodate the number of people requested. Walz noted that typically the number for occupancy for gatherings is one per seven square feet, but will depend on plan for parking.

Dulek stated that for each event there would need to be a separate temporary use permit application.

Weitzel asked for this use if there were any requirements for lighting. Additionally, how the control for littering and trespassing would be handled. Walz said staff addressed the concern regarding trespassing with the requirement for the fence so people would have to enter the property from the front. Dulek said if someone thinks people are trespassing illegally on their property a notice would be given to make them aware of the trespassing and then after that if the trespassing continues they could prosecute.

Goeb asked if six feet is the maximum height for a fence. Walz said six feet is not the maximum, but to go higher than six feet would require a building permit. Walz noted the fence height was discussed with the applicant.

Hall noted that with activities such as soccer, a six-foot fence may not be all-containing and perhaps there needs to be some good-will between the neighbors regarding items that may enter into neighboring yards.

Goeb asked for clarification on the process if there were complaints. Dulek explained there are different processes depending on the complaint. Littering is dealt with on an individual basis but if there is an issue, then the next time the applicant applies for a temporary use permit Staff can decide to deny it based on past issues.

Chrischilles noted that parking seems to be an issue in this application, and asked if Staff has come up with any concrete solutions or provisions for the large gatherings. Walz reiterated that parking right now is prohibited on both Southgate Drive and Boyrum Street, City Staff would evaluate any request to lift the prohibition on parking. On Southgate it is unlikely to be lifted due to the Bicycle Master Plan. However, Boyrum Street might be an option, but that is something

the applicant would have to request. That request doesn't change Staff's recommendation with regards to large events, if they would like to make it easier for overflow on regular events they could request parking on Boyrum Street. Chrischilles feels the parking issue would be good to resolve before the Board votes on this application because, if a temporary use permit is requested, how parking would be evaluated. Walz replied that in the case of special events that require a temporary use permit the applicant could, for example, ask neighbors for use of their parking lots during off hours, and that could meet the City's requirements.

Walz reiterated the Board should focus on the Community Service Use of the property. If the Board is uncomfortable with the options for large gatherings they can make a condition that no large gatherings will be allowed.

Chrischilles asked if the Board stated no large gatherings and one was held would the applicant lose their special exception. Dulek explained they would not, what would happen is the City would file a municipal infraction, a civil citation, which could ask for a civil penalty, the landlord could be held responsible, or go so far as to get a court order. It is dealt with like any other zoning code violation.

Barik Kuku (Sudanese Community Center) noted that at the last meeting he asked for more time in the location before being judged for the activities of the Center. Since the June meeting he has been communicating with his community and they all have been grateful to learn from the City Staff about the community and the people of Iowa City. He stated they have handled the large capacity of people and parking issue and assure the Board they will not have any large gatherings and will not disturb the neighbors. If they do have any large events they will rent another facility for that event such as the Rec Center. With regards to the trespassing and littering his people have been made aware of the concern and paying close attention to not go near the neighboring buildings. Kuku also noted that the yard space is very small and they will not play soccer or any sport back there, they have also removed the volleyball net. Kuku stated they are focusing on the building which will hold teaching classes for language and other cultural needs. He noted they have also talked with the neighbor with regards to installing a fence and added that there are a lot of pedestrians in that area and the trespassing may not be his folks, but others.

Goeb asked if there have been any incidents between the June meeting and today with conflicts or trespassing or litter, etc. Kuku is not aware of any. He had spoken with the neighbor and had promised him they would be good neighbors and have good relations. When they had one event, a barbeque, he noted the neighbors waved friendly to them.

Chrischilles asked about activities at the Center and if Kuku would be okay with the Board granting the exception with the condition of no large gatherings. Kuku said large gatherings would be an issue not only for the neighbors but for the police driving by and for the Center for having to go through the application process. Therefore, they realize if they want to have a large gathering they will think of other options for locations.

Kirsten Frey (920 South Dubuque Street) is an attorney in Iowa City and represents Dawn and Brian Skay, owners of Skay Automotive Services, Inc., located at 1936 Boyrum Street. Frey submitted a letter to the Board (included in the agenda packet) regarding this application and wanted to respond to comments raised this evening. With regards to trespassing or parking on her client's property or a violation of the zoning ordinance it has been stated that the clients could just complain and it be handled through a municipal infraction process. That line of thinking concerns Frey for two reasons. First, the purpose of today's decision before the Board

is if this use is acceptable or not because it is not an appropriate use under the current zoning. And to permit this use the Board must make a determination that the use does not adversely impact the surrounding property owners. How this use affects her client's property is directly before the Board and Frey states the Board has to make a determination that this exception will not adversely impact her client's property. Frey states that by saying if an infraction happens there is a mechanism in place to deal with that shows why the use is not currently allowed in the zone without a special exception. Second, in this case there is not currently a special exception in place and while the applicant is going through the process of the request, knowing the questions and issues, there are still concerns with problems of trespassing, large gatherings with tents set up and clearly more than 60 chairs set up, and if ever one was to be on their best behavior to follow all the conditions of the special exception the time to do so would be while the application is pending and that has not been the case.

Hall stated that the photos that were taken were not of the Sudanese Community and wanted the speaker to assure all in the room that none of the assumptions being made are racially motivated.

Frey acknowledged that none of the claims are racially motivated, however there is no way of knowing those causing the infractions are not of the Sudanese Community. The pictures of the installation of the fence on her client's property are of members of the Sudanese Community. She noted her clients have stated, as did the applicant, the conversations between her clients and the applicant have been pleasant and not incredibly hostile and it is absolutely not racially motivated. The concern is that her client runs an automobile repair shop, consistent with the rights and obligations of the zoning, which means sometimes there are vehicles in his parking lot that are either damaged or in disrepair (they may be leaking fluids, broken glass, etc.) and that is a huge liability concern for her client. Frey noted her client does not want people walking around in an area that may not be safe for people to be in, the area is not intended for people to be walking around in.

Hall interrupted that the intent of the Sudanese Community Center is not to have folks trespassing on other's property. Walz spoke, noting that the time was now to allow those with concerns about the application to share their concerns and that the board should then discuss or ask questions about which, if any of the concerns shared, were valid in terms of the special exception.

Dulek offered a reminder to the board and the public that zoning is about what, not about who. The focus is on the use of the property, not specifically who is using the property.

Frey agreed this is absolutely about the what and not the who, this is an area where large flatbed trucks come in, there are inoperable vehicles and she does feel that is a good area for children to be playing and it is not an area to be having picnics and large gatherings. Frey would also raise the issue that the applicant has indicated that many of the activities at the Center take place at nights and weekends and even the City (Walz) is suggesting the Center use the neighbor's parking lots for their overflow. Frey feels if businesses are not open, people will park in the lots, including her clients, after hours for weekend or night activities. Frey noted that is concerning to her client.

Goeb asked for specific incidents Frey's clients have encountered while this application has been pending. Frey noted her client would have to answer that as they are there and she is not, however she does know when the Sudanese Community Center came and told her client's they were going to put up the fence her client's indicated that was fine but asked they not trespass

onto her client's property and they did. The large tent gathering was before the June meeting.

Hall asked if the Board was to remove the condition around allowing large events to ever take place there would her client be amenable to the special exception. Frey said there would still be concerns because the Sudanese Community application states they have 75 current active members.

Chrischilles questioned how the Sudanese Community members being in the area were any different than residents of the Shelter House who also walk around in the area. Frey said the difference is at the Shelter House the people are using the services and they are out, whereas at the Center there are congregations of people, hanging out in the area, whether that be barbeques, classes, or community events. The other significant issue is her clients are not at their business on nights and weekends to ensure the property is safe and the vehicles are not being tampered with.

Weitzel asked if Frey would have the same issues if the use was a spa or a bank. Frey said with a spa or a bank, one goes into the business, conducts the business, and leaves. There are not picnics in the back yard.

Chrischilles said the focus is on the primary use of the property, the concerns are with secondary possible uses of the property. Frey said the secondary use is the large gatherings in excess of 40 people, so a barbeque with 30 people or a class with 35 people it is under the primary use. She reiterated that is different than the use of a bank where people go in, do their business, and leave. This is a community gathering space and that is not an appropriate use in a commercial intensive zone.

Brian Skay (1936 Boyrum Street) owns the business next door to the Sudanese Community Center and added since the June meeting it has been relatively calm next door to his business, they have removed the volleyball court, and he feels that is all for the reason so they can get this application to pass. Skay reiterated that when Mr. Kuku told him they would be working on the fence Skay reminded him to not trespass on his property and they disrespected that and trespassed they very next day. The fence that was constructed, the fence posts are over 7' tall and the fence itself is 6', Skay called the City and was told according to Code that is not legal, the fence posts cannot be any taller than the fence without a permit. The back fence is only 4' tall and should be 6'.

Goeb asked if other than the fence incident has there been any other incidents of concern. Skay confirmed that was correct.

Chrischilles asked if the trespassing occurred when they were installing the fence. Skay replied that yes, they went onto his property to roll out the fence, establish the fence polls, there were ladders on his side after he reminded them not to be on his property. Chrischilles asked if Skay is in favor of a fence being there and Skay agreed he was, however he is in favor of a fence that is correctly built.

Dawn Skay (1936 Boyrum Street) also owns the business next door to the Sudanese Community Center wanted to add that her business serves many different people in the community, all different races, they communicate with everyone, they are not biased. They just take a lot of pride in their business and have spent a lot of money on creating and maintaining their business and communication is very important. They continue to try to communicate and work with the Sudanese Community Center but want to make sure the integrity of the area is

kept, there is currently a chair with caution tape just sitting outside to mark the parking lot. Skay noted they do not have Shelter House residents walking through their property. She reiterated that communication is very important and she feels it is failing currently.

Hall noted his comment about race was only to ensure this conversation would be the same regardless of what community the center was representing.

Chrischilles closed the public hearing.

Hall stated he wants to make sure the conditions placed upon this application are favorable to both the Sudanese Community Center and to the neighbors (Skay Auto). He noted that Kuku stated there is no intent for the Center to have large gatherings at the location so questions whether the condition to allow large gatherings with the permit process should remain or be removed.

Goeb feels overall this is not an appropriate use for this property at all in this location.

Weitzel stated they are looking a zoning code and looking at a use that is allowed by special exception and need to determine whether that exception is allowable in this case given the particular facts of the matter. He feels in general, other than the incident with the fence, there would not be any questions. He also noted that whether the use is appropriate is not based on the tenant using it. Does this building hold the number of people allowed, yes, are there the right number of parking spaces for the use, yes, and so forth.

Chrischilles agrees with Weitzel and feels the general use of the property is appropriate and as such there is no reason why the building cannot be used as a community center. He does feel the problems and oppositions to this center are regarding large gatherings and feels perhaps a compromise of allowing the community general service use but not allowing any large gatherings at all.

Hall noted in the Comprehensive Plan it speaks to encouraging more locally owned businesses and mixed uses, and although there is an argument this center does not fit the current landscape of the zone it will most definitely serve as a resource for the community and fall in line with the Comprehensive Plan.

The Board reviewed the standards for this exception. First, the specific standard of the proposed use will not significantly alter the overall character of the zone and will not inhibit future development of uses for which the zone is primarily intended. The Board will consider such factors as size and scale of the development, projected traffic generation, and whether adequate transportation, transit, and pedestrian facilities exist to support the proposed use. Weitzel is prepared to adopt the findings of the fact in the Staff report for this standard. Hall, Chrischilles and Goeb agreed.

Next general standards. The specific proposed exception will not be injurious to the use and enjoyment of other property in the immediate vicinity and will not substantially diminish or impair property values in the neighborhood. Hall is prepared to adopt the findings of fact in the Staff report for this standard. Weitzel agreed and added the use on one property does not determine the safety on another property. If it is unsafe to walk across the neighbor's property, it is not the fault of this property. Chrischilles said that only applies to the large gatherings. Weitzel disagreed and said large gatherings do not create the dangerous situation.

Goeb noted her primary concern on this whole application is she does not feel this zone is appropriate for a community gathering spot and suited for this use. That could fall under the

standard of endangering the public health if the community, including young children, will be gathering in an intensive commercial zone. Goeb said she is not just concerned about large gatherings, it is the everyday use and the space will be used for small gatherings and that is not appropriate.

The specific proposed exception will not be injurious to the use and enjoyment of other property in the immediate vicinity and will not substantially diminish or impair property values in the neighborhood. Goeb noted her concern can also be placed under this standard. Chrischilles noted the Staff report states the space may be incompatible with outdoor activities in terms of safety, especially for activities that involve children and sports and that is why the recommendation of installing a 6' fence was added as a condition. The second aspect of the finding is with regards to large gatherings with the stipulations of a temporary use permit process. Weitzel, Hall and Chrischilles have no oppositions to this finding.

Establishment of the specific proposed exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zone in which such property is located. Chrischilles noted if the predominate use of the property remains as stated in the application's proposal it should not cause problems.

Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided. Yes, all necessary utilities and other facilities are already in place for this property and the neighborhood.

Adequate measures have been or will be taken to provide ingress or egress designed so as to minimize traffic congestion on public streets. Chrischilles noted they have an adequate parking lot for the intended usage. Weitzel agreed.

Except for the specific regulations and standards applicable to the exception being considered, the specific proposed exception, in all other respects, conforms to the applicable regulations or standards of the zone in which it is to be located. The Staff report notes bicycle parking is lacking and that adding bicycle parking will be a condition of approval. The parking is non-compliant as it is now, however that cannot be changed to meet the standard due to size and layout, however there will be a condition of the parking lot being restriped to distinguish the seven parking spots.

The proposed use will be consistent with the Comprehensive Plan, as amended. Hall agrees the proposed falls in line with the Comprehensive Plan. Weitzel and Chrischilles agree.

Chrischilles stated he feels it is a good compromise to allow the general community service function at this building but thinks it is best for all parties involved that no large gatherings are allowed, period.

Weitzel moved to approve EXC18-00006, an application for a General Community Service Use in the Intensive Commercial (CI-1) zone at 536 Southgate Avenue, subject to the following conditions:

- **No large gatherings of more than 40 people allowed.**
- **A 6-foot fence must be installed to enclose the open space to the rear of the building (east, west, and north sides).**
- **Installation of required bicycle parking (4 spaces).**
- **Restriping of the parking area to provide 7 parking spaces.**

Hall seconded the motion.

A vote was taken and the motion carried 3-1 (Goeb dissenting).

Chrischilles stated the motion declared approved, any person who wishes to appeal this decision to a court of record may do so within 30 days after this decision is filed with the City Clerk's Office.

SPECIAL EXCEPTION ITEM EXC18-00007:

Discussion of an application submitted by Public Space One for a special exception to allow 2,900 sq. ft. of retail space and a reduction in the minimum off-street parking requirement for property located in the Mixed Use (MU) at 117 N. Van Buren St.

Foelsch showed a map of the area and pictures of the area. The zoning map of the area noted it is in an historic district, the Jefferson Street Historic District, and in the MU (Mixed Use) zone. Directly to the east is a CO-1 zone (Commercial Office), and CB-2 (Central Business) to the northwest and ARM-44 (Multifamily Residential) to the southeast. The purpose of the Mixed Use Zone is to provide a transition from commercial and employment centers to less intensive residential zones. The MU zone limits the size of sales oriented retail to 2,400 square feet. Additional square footage may be approved by special exception. The building includes 2,900 feet of gross floor area and thus an exception is necessary to allow the additional 500 feet. The Zoning Code does allow up to 5,000 square feet in this Zone by special exception. The applicant is also seeking a reduction in the required parking for the use. The minimum parking requirement for Sales Oriented Retail uses in the MU zone is 1 space per 300 square feet of gross floor area. The property at 117 N. Van Buren has 2,900 square feet of floor area and therefore would be required to provide 10 parking spaces in addition to a minimum of 4 bicycle spaces. Because they are in the Jefferson Street Historic District, and considered a key contributing property, it is eligible for up to a 100% reduction in parking however they are only asking for a reduction, not a 100% reduction.

The applicant is Public Space One, it is an artist run community driving nonprofit organization. The proposal is to use the space at 117 N. Van Buren as a complimentary venue, their main event space is three blocks to the west on N. Dubuque Street (The Wesley Center). The Wesley Center will remain the primary exhibit and group gathering space for the organization with the property at 117 North Van Buren being used principally for individual artist studio space with gatherings and exhibits being a secondary use. The ground floor will be used as an art gallery and common space for meeting and office use. Occasional (2-4 per month) special events will be held in the early evenings such as fundraisers, readings, and artist presentations. Seven artist studios will located be on upper floors and basement.

Foelsch noted the proposed use is somewhat difficult to categorize, but most closely aligns with the definition for Retail Use, which is a provisional use allowed in the MU zone. More specifically, it would fall under the Sales Oriented Retail use classification, as artist/artisan studios are considered to be a "cottage industry" component or retail. However this property will be at a lower intensity then a traditional Sales Oriented Retail. The applicant foresees the space being open about 12 hours total per week and while all studio spaces will be able to be used 24 hours each will be assigned to an artist and not general public.

With regards to the increase square footage request, the standard states the increase increased floor area will be supportable primarily by residents of the surrounding area. Foelsch noted the increase requested is relatively small and the surrounding area is pretty dense, it is primarily residential and a student population.

With regards to the parking requirements Foelsch noted the property is in a particularly walkable area of the city: near Downtown, close to campus, and is well served by bike facilities and transit routes. This use in this neighborhood won't necessitate a large supply of parking. Hours of operation will not be traditional 9 to 5. They will be hosting infrequent large events (fundraisers, artist showcases) a couple times per month and that will generate the largest amount of traffic but will be during evenings and weekends when street parking isn't as congested and metered parking available.

Staff recommends approval of EXC18-00007, a special exception to allow 2,900 square feet of retail use in the MU zone at 117 N. Van Buren St and a 60% reduction in required vehicle parking, subject to the following conditions:

- Installation of no fewer than 4 bicycle parking spaces on the property.
- Construction of 4 conforming vehicle parking spaces to the rear of the building, one space being a handicapped space.
- Installation of ADA accessible entry from the rear of the site with approval from the Historic Preservation Commission.
- The Use is limited to non-profit visual arts programming and artist studio space only.
- Common gathering space shall be limited to the ground floor of the building; all other spaces are for individual studio space, office, and storage space.
- Use of kilns, torches, or other heat-generating tools is prohibited.

Hall asked about the residential units in the building, currently there are 5 to 7 residents living in the space. Foelsch said the property is for sale and there will be no residential in the future, rooms are being converted to studio spaces.

Chrischilles noted that area also has on-street parking.

Hall asked about constructing the parking spaces in the rear and Foelsch stated there is enough room back there to fit the proposed spaces.

Chrischilles opened the public hearing.

Tim Lehman (70 Sturgis Corner) is representing the applicant and noted the applicant does plan to charge artists to use the rooms so is questioning the condition of the use is limited to non-profit visual arts programming. Walz stated that is fine, the condition is for the waiver of parking. Lehman also noted that most of the artists will bicycle or walk to the space, very little vehicle traffic. The owners of the property, Ralph and Larry Ramer, have used the house as an owner-occupied rooming house. The property cannot be sold as a rental space as no new rental permits are allowed for the area. Lehman also noted this is not a done deal, Public Space One has to raise the money for the down payment for the purchase of this property.

Chrischilles closed the public hearing.

Goeb stated this seems a reasonable use for the property. Weitzel agreed, other houses in the area are used for other uses rather than residential. Hall said it does fit the landscape.

Hall moved to approve EXC18-00007, a special exception to allow 2,900 square feet of retail use in the MU zone at 117 N. Van Buren St and a 60% reduction in required vehicle parking, subject to the following conditions:

- **Installation of no fewer than 4 bicycle parking spaces on the property.**
- **Construction of 4 conforming vehicle parking spaces to the rear of the building,**

one space being a handicapped space.

- **Installation of ADA accessible entry from the rear of the site with approval from the Historic Preservation Commission.**
- **The Use is limited to non-profit visual arts programming and artist studio space only.**
- **Common gathering space shall be limited to the ground floor of the building; all other spaces are for individual studio space, office, and storage space.**
- **Use of kilns, torches, or other heat-generating tools is prohibited.**

Weitzel seconded the motion.

Weitzel stated that regarding agenda item EXC18-00007 he concurs with the findings set forth in the staff report of August 8, 2018, and conclude the general and specific criteria are satisfied. So unless amended or opposed by another Board member he recommends that the Board adopt the findings in the staff report as our findings with acceptance of this proposal.

A vote was taken and the motion carried 4-0.

Chrischilles stated the motion declared approved, any person who wishes to appeal this decision to a court of record may do so within 30 days after this decision is filed with the City Clerk's Office.

BOARD INFORMATION:

Walz anticipates a September board meeting.

ADJOURNMENT:

Goeb moved to adjourn this meeting.

Weitzel seconded.

A vote was taken and the motion passed 4-0

**BOARD OF ADJUSTMENT
ATTENDANCE RECORD
2017-2018**

NAME	TERM EXP.	7/12	10/11	12/11	2/14	5/09	6/13	8/18
CHRISCHILLES, T. GENE	1/1/2019	X	X	X	X	X	X	X
GOEB, CONNIE	1/1/2020	O/E	X	X	O/E	X	X	X
HALL, RYAN	1/1/2023	--	--	--	X	X	X	X
PARKER, BRYCE	1/1/2022	O/E	X	X	X	X	X	O/E
SOGLIN, BECKY	1/1/2018	X	X	X	--	--	--	--
WEITZEL, TIM	1/1/2021	X	X	X	X	X	X	X

KEY: X = Present
 O = Absent
 O/E = Absent/Excused
 --- = Not a Member