

CITY OF NORTHVILLE
Board of Zoning Appeals
August 2, 2017 – 7:00 PM
City of Northville – Council Chambers
215 W. Main Street

I. CALL TO ORDER:

Vice Chair McKindles called the meeting to order at 7:00 p.m.

II. ROLL CALL:

Commissioners: Present: Michelle Aniol
John Callahan
Ryan McKindles
Patti Mullen
Jay Wendt
Douglas Bingham – alternate
Lou Ronayne - alternate

Absent: David Marold (excused)
Dominic Silvestri (excused)

Also present: Sally Elmiger, Planning Consultant

III. APPROVAL OF THE AGENDA:

Motion Aniol, support by Mullen, to approve the agenda as published.

Voice vote: Ayes: All. Nays: None. Motion unanimously carried.

IV. MINUTES OF PREVIOUS MEETING: July 5, 2017

Motion Aniol, support by Callahan, to approve the July 5, 2017 meeting minutes as published.

Voice vote: Ayes: All. Nays: None. Motion unanimously carried.

V. CASES TO BE HEARD – BY CASE:

- A. Case is called.
- B. Appellant presents case.
- C. Board questions & comments.
- D. Public comments on the case.
- E. A motion (usually to grant the variance) is made and seconded; discussed then voted upon; the results are announced by the Chair.

VI. CASE #17-010

**GUIDOBONO BUILDING
236 S. CENTER**

Request to permit a temporary office use on premises zoned R-2, Second Density Residential District, at 236 S. Center St., Northville, Michigan, 48167, parcel number 48-003-03-0216-000. The applicant is seeking approval from Section 25.04(3) of the Zoning Ordinance to use an existing residential structure as an office for twelve months.

Secretary Callahan called the case.

Ed Funke, Guidobono Building Company, PO Box 331, Northville MI was present on behalf of this application. Renee Guidobono, owner, was also present.

Mr. Funke said that they owned 236 South Center, a residential home two buildings south of the Cady parking deck. Guidobono Building Company was a custom homebuilder that had been based in Northville for over 30 years.

Mr. Funke explained that Guidobono also owned a property on East Main Street directly east of the Early Bird Restaurant. Their plan was to renovate the Main Street property and turn it into a permanent office. They had purchased that building in December with the idea that they would be well underway with renovations. However, there were issues with that structure that they were trying to resolve.

Guidobono had been based for a number of years in a sales trailer in a neighborhood off 8 Mile Road. They had one property left to sell at that site, and needed to find another more permanent location. They were hopeful the BZA would consider their case and allow them to occupy the home on South Center for a year, as they finalized and moved into their Main Street building.

The Guidobono staff consisted of Eric and Renee Guidobono, Mr. Funke, a project manager, and a laborer. Full time staff in the office would include Ms. Guidobono and Mr. Funke; office hours would be Monday through Friday, 8:00 a.m. until 5 or 6 p.m. Mr. Guidobono would be in the office daily but would spend a good part of his time on the job site. The project manager would also be spending most of his time on the job site and the laborer would spend 100% of his time on the job site. So while there were 5 people employed by Guidobono, only 2 would be in the office full time.

They would not be open on weekends. No construction equipment or trucks would be parked on the property. Mr. Funke and Ms. Guidobono would park their cars on the property, as would Mr. Guidobono when he was in the office.

Mr. Funke said that Guidobono had occasional customer meetings with clients at their office but most often those meetings were held on the site where construction was taking place.

Again, they were hoping for a 1-year temporary use until they were able to move into their Main Street property.

Member Mullen asked about customer meetings at this location. When such meetings were held, would just one additional car be present? Mr. Funke said most often the clients – usually a husband and wife – drove together. They would only meet with one client at a time.

Vice Chair McKindles asked if commercial vehicles would be parked on the site. Mr. Funke said they would not be parking any construction equipment there. They did have a company pickup truck that was typically parked at the job site; their laborer drove this. When he left work for the day he would leave the pickup at the job site and drive his own car home. There would not be any overnight parking at this location.

Member Aniol asked if they had tried to lease office space elsewhere in the city. Mr. Funke said they had not.

Member Bingham asked if there would be any modifications to the building, other than installing a residential light at the rear entrance as recommended by the Planning Commission. Mr. Funke said they were planning on extending the privacy fence all the way back to the garage to protect the neighbor to the north. They were also going to clean up the landscaping, which was overgrown and tired. They would like to bring in boxwoods, improve the lawn, and otherwise improve the landscaping. There would be no signage.

Mr. Funke further explained that Guidobono clients who needed a place to stay while their home was being built had most recently occupied the home.

Member Aniol noted that she had received an email today which included a motion from last night's Planning Commission meeting regarding this property. The motion read:

Based on the information received from the applicant, and reflected in the minutes of the June 6, 2017 meeting, the Planning Commission recommends that the Board of Zoning Appeals approve a temporary office use at 236 S. Center Street, as the office use does not constitute a change in the basic uses permitted in the district or on the property. The Planning Commission makes the following recommendations:

- 1. No cars are parked on the grass because it is not permitted by ordinance.*
- 2. A residential light fixture is installed at the back door of the house to provide additional lighting to the parking area.*

In response to questions from Member Mullen, Mr. Funke said the rear light would be a residential wall sconce. The light would be shielded and directed downward. The light would meet ordinance requirements for a residential home, was for the safety of the rear steps and door, and was not a parking lot light.

In response to questions from Vice Chair McKindles, Mr. Funke said the building was currently vacant. Guidobono would use only the 1st floor for office; the 2nd floor would be left unutilized. He pointed out that the staircase to the 2nd floor was steep and narrow. They would not use the 2nd floor for storage or for meetings.

Member Aniol's concern was that even though this request was for a temporary use, it was also for a commercial use in a residential district. The Master Plan also showed this property as mixed residential use, not commercial. How could they approve a use not permitted in this District? How confident was Mr. Funke that they would only need the use for 12 months?

Mr. Funke said that their plan was to only use this location for 12 months, after which they intended to move into the Main Street property. He gave some details of the Main Street property, which had

significant structural problems. If the BZA approved their request this evening, they would occupy the house in a month or two.

In response to a question from Member Aniol, Planning Consultant Elmiger said the property currently conformed to all dimensional ordinance requirements.

Member Mullen asked how the property would be used after the 12 month temporary use was up. Mr. Funke said this was uncertain, and would probably depend on whether the ordinance was changed in response to developmental needs of the neighborhood. They had purchased the property as an investment assuming that at some point down the road South Center would change and develop as envisioned in the Master Plan. If it didn't change they would use the property as residential rental income.

Vice Chair McKindles opened the public hearing.

Dan Shutt, 245 S. Wing Street, Northville MI gave Vice Chair McKindles a letter signed by 12 homeowners who had received legal notice of tonight's meeting. He emphasized that his comments this evening were professional, not personal.

Mr. Shutt said that as a community, the signers objected to the requested temporary use for the following reasons:

- Residential rezoning even on a temporary basis was a serious thing – there was a Master Plan in place in the City that should be taken seriously. The signers had lands and properties that were of value to them and were directly affected by how the Master Plan was executed.
- There was significant commercial property available in Northville; there was no need for Guidobono to encroach on a mature residential area even on a temporary basis.
- There was no mention in the application documents about traffic. Center Street was very busy, especially at 5:00 p.m. Traffic trying to pull in and out that close to the Cady Structure egress would be dangerous at best. The sight lines were horrible there due to trees and bushes that impeded sight.
- There was no language that legally prohibited the storage of materials or vehicles on this property. While verbal promises were being made in good faith, verbal promises were never binding. He and others had experience with a business operating illegally in their neighborhood, resulting in flooding and visual blight. Their homes were their greatest asset; being adjacent to commercial activity was not in their best interest.
- Most importantly, approving a temporary use set a negative precedent. Even if all promises were kept, they didn't want a negative precedent. They prized their neighborhood. Mr. Shutt himself had input into the Master Plan for the area, including what might happen down the road in the racetrack area. This request for a temporary commercial use set a negative precedent they did not want to see established.

Mr. Shutt concluded that they were asking the BZA to reject this request, and he respectfully suggested there were better options for Guidobono that would not involve encroaching into their cherished neighborhood.

In response to a question from Member Mullen, Mr. Shutt said he and the other 2 residents present owned properties on the east side of Wing Street that abutted the rear of the subject property.

Vice Chair McKindles thanked Mr. Shutt and said good points had been made.

Member Mullen asked Mr. Shutt if he felt 2 employees would impact traffic. Mr. Shutt said he was not a traffic specialist; his point was without a traffic study, no one could authoritatively draw conclusions regarding traffic impact. Also, it was the bigger picture to which they objected.

Brief discussion centered on the Master Plan for Future Land Use, which showed the area as multiple-family. Currently the area between Fairbrook and Cady Streets was R-2. Further north of the subject site, on the east of Center, were several small businesses.

Vice Chair McKindles noted that if the temporary use were granted, this would be conditioned on prohibiting commercial storage on the property.

Mr. Shutt was concerned as to how this would be enforced; his experience had not been good where enforcement was concerned.

In response to questions from Member Ronayne, Mr. Funke said there would not be a sign, nor would there be construction equipment. He explained that Guidobono did not actually own construction equipment – that was all owned by subcontractors. They did own a pickup truck that stayed on job sites. There would be no parking on the property nights or weekends. No one would know they were operating a business there.

Mr. Funke reiterated that their intention was to spruce up the property – to get the landscaping in order. They would improve the property by being there. Client meetings were almost always on the job site because that was where the construction was taking place.

In response to a further question from Member Ronayne, Mr. Funke said they had been in Northville 30 years, and wanted to follow the rules of the City. They had evaluated other rental properties; financially it made no sense to rent elsewhere because lease rates were high and they already had a resource in the City. The temporary use would be extremely low impact – less impact than the previous tenants, who had children, play structures, bikes, cars, etc. They would be good neighbors. He noted that the garage on the site had heavy vegetation around it and thus would be buffered from the rear neighbors.

Mr. Shutt emphasized that with the exception of one property owner who could not be contacted, the statement signed by the neighbors was unanimous.

Member Ronayne asked if the Planning Commission had been aware of the neighbor's opposition to this temporary use request. Mr. Shutt said this was the only notification that the residents had received; they had not known about the Planning Commission meeting.

Planning Consultant Elmiger gave a brief explanation of process. When a temporary use was requested, the Ordinance called for comments from the Planning Commission regarding the request. The Planning Commission had provided comments. However, that type of Commission discussion did not have a noticing requirement. Since the BZA were the ones making the decision, legal noticing to surrounding neighbors was required.

Member Mullen pointed out that half of the signatures were from owners on the west side of Wing Street. How were those people impacted? Mr. Shutt explained that the signatures represented those homeowners who were legally noticed regarding tonight's meeting. All had signed the letter as written.

Candace Lynn, 311 S. Wing Street, said her main concern was regarding the domino affect if this temporary use were granted for one year. What would happen if the other Main Street location was not ready to be used – would this temporary use then be even longer?

Member Mullen commented if Guidobono was denied the temporary use, they could then rent the property. Would the neighbors prefer a tenant like this low-impact temporary use, or a Harley motorcycle gang, for example?

Mr. Shutt objected to the example. They could not deal with such unknown possibilities. He preferred the property be used as a residence. Theirs was a neighborhood with families and children. That was why they invested in the neighborhood and why they liked it.

Member Mullen said her point was rental homes were always a risk because of the uncertainty of who would live there. With the proposed temporary use, at least the neighbors had an idea of what they would have for the next 12 months.

Mr. Shutt said he had a rental home immediately to the south of him, with the best possible experience. Ms. Lynn was the owner of that home, and as such consulted with him about possible tenants, made sure that things were well maintained, etc. He had no objection to rental property, which was a permitted use in residential neighborhoods, and filled a specific economic need. He did object to a commercial use in his residential neighborhood.

Regarding traffic flow, Member Bingham said the home to the north of this parcel had vegetation that was overgrown toward the street, making exits onto Center Street difficult. A call to the City Manager's Office would likely address that issue.

Member Bingham asked if there was something Guidobono could do the subject property – some enhancements – that would make the temporary use more attractive to the neighbors.

In response to a question from Member Ronayne, Mr. Shutt approached the dais and showed on the map where he and the other residents who had signed the letter lived. He said that all names on the list were homeowners – he had not obtained renters' signatures.

Tim Borthwick, 241 S. Wing Street, said he lived directly behind the property in question. He was concerned with what came next. They were all interested in protecting their property values and did not want to see a commercial use, even on a temporary basis. They had all been residents for many years, and wanted to see their neighborhood remain residential in nature.

Ms. Lynn commented that it was up to the landlord to screen possible tenants and to take care of any rental property. A homeowner could be a bad neighbor and/or have a barking dog, for instance, while some tenants were excellent neighbors.

In response to a question from Ms. Lynn, Mr. Funke said Guidobono had purchased the property in November 2015. Ms. Lynn asked why the property had not been improved in that time. She was concerned about what would happen to the property in the future, not just now but also after the 12 months was up.

Member Aniol said she could not get over the hurdle of the first standard for granting a temporary use: *The granting of the temporary use or building shall in no way constitute a change in the basic uses permitted in the district nor on the property wherein the temporary use is permitted.* Office uses were not permitted in the R-2 District, neither were office uses envisioned in the Master Plan. Why would even a temporary office use be permitted in a district that did not allow such a use? Traffic was not an issue for her. However, there were other locations in the City where Office was specifically permitted. Allowing a temporary use because it would be a financial benefit to the applicant was not a bonafide reason to grant the application.

Member Aniol noted that the BZA did have the ability to put conditions on any approval. However, she did not see how the application met the first standard as already noted.

Vice Chair McKindles said that variances by their nature involved requesting something that was not allowed in the ordinance. He was comfortable with the request as stated.

Vice Chair McKindles assured the residents that it was important to go through this process and hear from the public. The BZA did not rubber stamp requests. He was listening to the objections put forth. He also knew that Guidobono had been corporate citizens of the City for 30 years. Guidobono had made certain promises to which they could be held, if the request was granted. He did not think Center Street was in danger of becoming a commercial district.

Member Wendt pointed out that the June 23, 2017 Carlisle/Wortman review letter noted that the requested use was similar to a home occupation, and every home on the street could legally have a home office.

Member Aniol said a home occupation use was legal, but had certain requirements including having the home be primarily residential in nature, with someone actually living in the home. There were other requirements also.

In response to a question from Member Mullen, Mr. Funke said they would not be using this address as their business address. They had a post office box.

Regarding whether they were requesting this temporary use just for financial reasons, Mr. Funke said whether they paid a lease payment to someone else or paid a mortgage payment here, they would still be paying somebody. They just preferred to use their own building.

Mr. Shutt asked if this would represent a change for taxable considerations on this property. Member Aniol said that was a question for the assessor.

Member Wendt asked Planning Consultant Elmiger to comment further on home office use.

Planning Consultant Elmiger said in her opinion this was similar to a home office in that there were just 2 people using the building. She agreed with Vice Chair McKindles in that any request that came before the Board represented a request for something that was not allowed by Ordinance. Many of the Districts specifically called out *or uses similar to the uses enumerated above.* Again, she did think the requested use was similar to, but not the same as, a home occupation. Therefore the applicants had to come before the Board with this request.

Member Mullen asked about people who used their home offices, even when they did not sleep in the residence every night. For instance, if the home were used as a vacation home, it could still be used as a home office during the week.

Planning Consultant Elmiger summarized Section 18.15, which listed the standards that regulated home occupations in the City.

Mr. Shutt said that he felt Member Mullen was trying to open a pathway for the applicants to create the illusion of residency. He felt this was unethical.

Member Mullen said there were 5,000 people in Northville who likely had home offices.

Mr. Shutt countered that the proposed use was not a home office.

Member Mullen said there was a gray area between a home office and a business. There were many instances of people who used their homes for businesses – such as Avon sales – and the City could not do anything about that.

Mr. Shutt said those home-based businesses were legal. He argued that the proposed use was different than that.

Member Mullen said her opinion was that this was a lesser use, with 2 people on site between 8 to 5.

Mr. Borthwick pointed out that there was nothing that stated absolutely that only 2 people would be there.

Vice Chair McKindles asked the applicant to again clarify how many people would be using the office.

Mr. Funke said that Ms. Guidobono and he would be full time in the office. Mr. Guidobono would be in the office part of each day, but his function was field operations. He emphasized that their office operation was Monday through Friday, and they would only stop in on weekends if they had to get paperwork, for instance. They had one project manager who was always on site, but who might have to stop in from time to time. Their laborer Alec was in the office today for the first time in 3 weeks.

In response to further questions from Vice Chair McKindles, Mr. Funke said they had staff meetings usually once a week or every other week, with Mr. and Ms. Guidobono, himself, and the project manager. That would represent a total of 4 cars. Contractors did come to the office occasionally but that was rare.

Planning Consultant Elmiger said the Planning Commission's discussion had discussed the parking situation, which was why they had made the recommendation that any approving motion would contain a condition that no cars could be parked on the grass. There was room to park 4 cars on this site. Any other vehicles would have to park off-site. No additional parking pad could be constructed.

Mr. Shutt asked what their recourse was if this application was granted. Who had enforcement power if the conditions were violated? Vice Chair McKindles said enforcement would be through the City Manager's office or the Code Enforcement Officer.

Mr. Shutt gave some history of his and Mr. Borthwick's home being negatively impacted – including flooding – by people operating an illegal business directly behind them. They City had seemed unable to help in that situation.

Discussion followed as to how to register concerns with the City when ordinance requirements were not being met.

Ms. Lynn said her concern was the end of the 12 months. The applicants had purchased the property on speculation. She was afraid they wanted to keep the property commercial, even after the 12 months was over.

Vice Chair McKindles said that when the 12 months expired if the applicants wanted to renew the temporary use they would have to come before the Board again. He felt the applicants would have a difficult time obtaining that renewal, based on tonight's conversation.

Planning Consultant Elmiger advised that the BZA could condition any approval that no extensions be offered after the initial 12-month period.

Member Mullen asked if the public present would be more comfortable if that condition were added. Mr. Shutt said he personally would not be comfortable, but he could not speak for the other 11 people who had signed the letter. He urged the Board to reject the request, as it did not conform to R-2 zoning or to the Master Plan.

Member Ronayne spoke to Mr. Funke's reputation for honesty. He pointed out that the applicants could have moved forward with this action without coming before the Board, and likely no one would have noticed. He did not feel granting the temporary use would impact the neighborhood negatively.

Mr. Shutt pointed out that Guidobono had owned the property for 1-1/2 years and had taken no steps to improve the property, which by their own admission was tired and needed repair. They had shown no interest in making the property better for the good of the neighborhood.

Mr. Funke interjected that there was a difference between appearing tired and being unsightly. The property was not unsightly and was not an eyesore.

In response to a question from Member Bingham, Mr. Funke said there was nothing he wanted to modify in the request, based on the conversation this evening.

Seeing that discussion had ended, Vice Chair McKindles said he was ready to entertain a motion.

MOTION Mullen, support by Ronayne to grant a temporary use permit for a temporary office use at 236 S. Center as requested, with the following conditions:

- **Temporary use will last a maximum of 12 months, with no renewal option at the end of that time.**
- **No additional parking, and no parking on the lawn.**
- **A residential light fixture as described be installed at the back door**
- **No construction storage of any material or equipment on the site.**
- **A maximum of 4 cars be parked on site at any one time.**

- **No signage erected reflecting Guidobono Building Company, or any other commercial business.**
- **Landscaping improvement and maintenance of the property be accomplished as discussed this evening.**

And based on the following findings of fact:

- **The granting of the temporary use does not constitute a change in the basic use permitted in the district.**
- **The granting of the temporary use will be granted in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of said temporary permit.**
- **The temporary use does not present an issue with respect to public health, safety, peace, morals, comfort, convenience or general welfare for the inhabitants of the City of Northville.**
- **The temporary use does not require capital improvement.**
- **The temporary use is in harmony with the general character of the District.**
- **Notice was properly given to owners of the adjacent property.**

Vice Chair McKindles asked for a roll call vote:

Ronayne	yes
Aniol	no
Callahan	no
McKindles	yes
Mullen	yes
Wendt	yes
Bingham	no

Therefore the motion carried 4-3 (Aniol, Bingham, Callahan opposed).

In response to a question from Vice Chair McKindles, Planning Consultant Elmiger explained that permitting a limited temporary use was different than granting a use variance. What had been decided tonight was not a variance, but a limited temporary use for 12 months only.

Mr. Shutt asked if this decision was appealable. Vice Chair McKindles said the decision could be appealed via the Circuit Court.

Vice Chair McKindles said everyone on the Board took the residents' comments to heart. Hopefully the conditions had limited the temporary use enough to help the neighbors feel more comfortable.

Member Mullen said they hoped it was a better place after Mr. Funke spruced it up and that it would be quiet in the evenings and on weekends as represented.

VIII. PUBLIC COMMENTS:

None.

IX. DISCUSSION:

Mr. Shutt said he appreciated the input from the Board this evening and the reminder to be persistent and to bring continuing concerns to elected officials.

Member Mullen explained that the Board of Zoning Appeals did not set precedents. Each case was heard on its own merits.

Member Wendt thought the current ordinance officer Brent Strong was the best the City had in many years.

X. ADJOURNMENT:

Motion Aniol, support by Callahan, to adjourn the meeting at 8:10 p.m.

Voice vote: Ayes: All. Nays: None. Motion Unanimously Carried.

Respectfully submitted,

Cheryl McGuire, Recording Secretary

Approved as published 09/06/2017