

**MEETING MINUTES**

**City of Jackson Zoning Board of Appeals**

ZOOM Conference Call  
Meeting ID: 960 8766 2843

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**March 25th, 2021**

MEMBERS PRESENT: Karl Grieve, Shawn Christie, Clyde Mauldin, Bob VanSumeren

MEMBERS ABSENT: Peter Mulhearn

STAFF PRESENT: Adam East

**A. Call to Order**

Chairwoman Christie called the meeting to order at 5:35pm

**B. Roll Call**

**C. Adoption of Agenda**

Board Member Grieve moved, with support from Board Member Mauldin, to approve the agenda as presented.

**The motion passed unanimously on a voice vote.**

**D. Zoning Board of Appeals Public Comment and Correspondence**

None.

**E. Approval of the 02/25/21 Zoning Board of Appeals Meeting Minutes**

*Board Member Grieve moved, with support from Board Member VanSumeren, to approve the minutes as presented.*

**The motion passed unanimously on a voice vote**

**F. Consideration of variance requests**

A. 218 S. Mechanic St.

Staff presented the request of the applicant along with the Staff Report and Recommendation. Ms. Jennifer Spencer sought a supplemental variance to allow the installation of vinyl windows in the downtown, C-3 Zoning District. A city

inspector observed a contractor installing vinyl windows without a permit on 1/13/21 and subsequently issued a "Notice to Appear" for performing Work Without a Permit. The contractor then submitted an application for the vinyl windows which had been installed on the second (2<sup>nd</sup>) floor elevation. The permit application was denied as the Zoning Ordinance states in Sec. 28-115 (e) that vinyl windows are strictly prohibited in the C-3 zoning district.

Staff presented the Staff Report and Recommendation to deny the request on the grounds that the applicant failed to demonstrate that they met all seven (7) facts and conditions for granting a variance, as set forth in Zoning Ordinance Sec. 28-238 (c) of the zoning ordinance.

*Board Member Mauldin moved, with support from Board Member Grieve, to enter the Staff Report and Recommendation into the record as if read in whole.*

**The motion to enter the report and recommendation into the record passed unanimously on a voice vote**

#### Public Hearing Opened

John Christie-representative of the applicant, spoke in favor of the request stating that the windows were an improvement to the area and did not deteriorate the character of the area. He added that he believed City Staff had a narrow reading of the criteria for granting a variance. He stated that the building had been vacant and was not designated historic and that the windows were appropriate for the character of the area. He stated that the building was identical to others in the area with residential on the 2<sup>nd</sup> floor, and that the variance was only for the 2<sup>nd</sup> floor and not first floor elevation. He stated that Covid-19 in itself is an extraordinary circumstance.

Jennifer Spencer- applicant, spoke in favor of the request. Ms. Spencer stated that the windows were mostly boarded up before she replaced them, adding that Hanson's had dropped the ball on pulling permits. She stated that the windows were already installed and looked beautiful and similar to other buildings in the downtown. She stated that her new store has the support of all the neighbors and that she talked to dozens of people who looked at the building and walked away, but that she was excited about the opportunity and the location.

Cassandra Spicer- spoke in favor of the request. She stated that she owned the business on the street corner of Cortland and Mechanic St. and that she has known the applicant for about one year. She stated that she realized there were issues with the permits and process, but that the building had been vacant and in disrepair and that previous tenants had destroyed the building. She stated that she was excited that Ms. Spencer was trying to restore the building.

Staff read emails from the public who emailed in support of the request.

No other public comment. Public hearing closed.

#### Board Member Discussion

Board Member Mauldin stated that he felt particularly badly for the owner and added that he definitely agreed that the contractor sounded responsible for not pulling permits. He added that the ZBA does not have the ability to question the merits of the statute, but rather to review the application based upon the merits set forth in criteria for granting a variance. He stated that when reviewing the factors for granting a variance, he did not see how the application can be approved. Even if all neighbors wrote in and supported the request, you could make a case that the application meets Criteria #4, but without demonstrating how the application meets all the conditions, it creates a slippery slope.

Board Member Grieve stated that he tended to agree with Board Member Mauldin. He also agreed that a case could be made for Criteria #4 given the public support, but he added that he did not believe the application met Criteria #1 and #2, noting that the contractor hired by the owner installed the windows without a permit.

Board Member VanSumeren stated that when reading the ZBA criteria, it states that the Board must find that an application meets all the conditions. He added that it was hard to get around Criteria #1 and #2, and was concerned about precedent if applicants call build first and ask for forgiveness later.

Board Member Christie stated that she also felt badly for the applicant and was surprised to hear that Hansons, who is not a new contractor in town, did not pull permits. She agreed with Mr. Mauldin that since Hansons is getting paid for time, materials, and work done that they should be held responsible for the work done at the property.

Ms. Spencer added that Hansons explicitly told her that they did not need a permit to install the windows.

Board Member Grieve stated that he still struggled to see how the application met all the facts and conditions that must exist to grant a variance.

Board Member Mauldin stated that in all his years on the ZBA, any agent who is acting on behalf of the owner and is being paid has an interest in the property, and that he struggled to see how the application met muster.

*Board Member Mauldin moved, with support from Board Member Van Sumeren, to accept the recommendation of city staff and to **DENY** the variance request in accordance with the staff report and on the grounds that the application did not meet all criteria for granting a variance.*

**The motion to deny the variance request passed 4-0 on a roll call vote  
(Van Sumeren- Y, Grieve-Y, Mauldin-Y, Christie-Y)**

B. 1001 Lansing Ave

Staff presented the request of the applicant, Viking Rental Properties, to utilize the building located at 1001 Lansing Ave for a residential dwelling and to have residential dwelling units at the first floor of the house.

The zoning ordinance states that residential dwellings are permitted in the C-2 zoning district, but that no portion of the ground floor may contain any residential dwellings. The use variance would allow the applicant to utilize the whole building for a multi-family dwelling.

The buildings were city-owned and had lost their legal nonconforming status due to a period of extended vacancy.

*Board Member Christie moved, with support from Board Member Grieve, to enter the report and recommendation into the record as if read in whole.*

**The motion to enter the report and recommendation into the record passed unanimously on a voice vote**

Public Hearing Opened

Rachael Wingle- applicant, spoke in favor of the request. Ms. Wingle stated that she was purchasing the buildings from the City, but that she had not yet closed on the property. She added that the building in question was built as a residential dwelling and that she was looking to renovate and restore the property and to hopefully continue restoring other properties in the area.

No other public comment. Public Hearing Closed.

Board Member Discussion.

Board Member Mauldin asked for clarification if the owner planned to demolish the brick building that had been damaged in the recent fire. Ms. Wingle stated that it was in the purchase agreement that she would demolish the brick building upon purchasing the property.

Board Member Grieve stated in reviewing the request and site conditions, he agreed with staff's report that even if a commercial use were added, there would not be enough parking to satisfy the zoning ordinance, and a variance may be needed for commercial parking requirements. He added that the building was adjacent to residential uses and parcels and believed the proposed use could be cohesive with the character of the area.

Board Member Van Sumeren asked for clarification if the property could still be used for a commercial purpose. Staff stated that the property would retain its commercial zoning designation and a future property owner could develop the site for a commercial purpose if they could meet all zoning and building codes.

*Board Member Mauldin moved, with support from Board Member Grieve, to support the recommendation of staff and to **approve** the use variance request*

*as staff recommended in the report. The motion included the condition that the commercial building be razed.*

**The motion to approve the use variance request passed 4-0 on a roll call vote  
(Grieve- Y, Mauldin-Y, Van Sumeren-Y, Christie-Y)**

C. 424 Hill St.

Staff presented the request of the applicant, Viking Rental Properties, to utilize the building located at 424 Hill St for a residential dwelling and to have residential dwelling units at the first floor of the house.

The zoning ordinance states that residential dwellings are permitted in the C-2 zoning district, but that no portion of the ground floor may contain any residential dwellings. The use variance would allow the applicant to utilize the whole building for a multi-family dwelling.

The building is city-owned and has lost its legal nonconforming status due to a period of extended vacancy.

*Board Member Christie moved, with support from Board Member Grieve, to enter the staff report and recommendation into the record as if read in whole.*

**The motion to enter the report and recommendation into the record passed unanimously on a voice vote**

Public Hearing Opened

Rachael Wingle- applicant, spoke in favor of the request. She stated that she wanted to renovate the former residence, same as her request for 1001 Lansing Ave. She stated that obtaining a variance was a condition of the purchase agreement. She added that the adjacent parking lot would be repaved to meet the current code requirements and would provide parking for the homes.

No other public comment. Public hearing closed.

Board Member Discussion

Board Member Grieve stated that he believed there were unique conditions on site, noting the split zoning. He added that the residential use would likely not alter the character of the area, noting the residential character of Hill St.

Board Member Christie added that she agreed.

Board Member Mauldin stated that he agreed with the staff report and recommendation and was in favor of the request as recommended.

*Board Member Grieve moved, with support from Board Member Van Sumeren, to **approve** the use variance for 424 Hill St per the staff report and recommendation.*

**The motion to approve passed 4-0 on a roll call vote  
(Mauldin- Y, Van Sumeren-Y, Grieve-Y, Christie-Y)**

**G. New Business- None**

**H. Board Member Comments**

Board Member Christie stated that she had a meeting conflict for the April meeting. Board Member Grieve added that he would make every effort to be present in case Ms. Christie could not attend.

**I. Next Meeting Reminder**

Chairwoman Christie reminded the Board that the next regular ZBA meeting was scheduled for April 22nd, 2021 at 5:30pm.

**J. Adjournment**

*Board Member Mauldin moved, with support from Board Member Grieve, to adjourn the meeting.*

**The motion passed unanimously on a voice vote**

Meeting adjourned at 6:45pm

Respectfully submitted,



Adam East  
Senior Planner

*These Minutes of the City of Jackson Zoning Board of Appeals are not considered final until approved at a scheduled City of Jackson Zoning Board of Appeals meeting*