

**CITY OF IONIA**  
**Zoning Board of Appeals**  
**January 8, 2024**  
**Regular Meeting Minutes**

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**CALL TO ORDER**

The meeting was called to order by City Manager Precia Garland at 6:30 PM at Ionia City Hall.

**ROLL CALL**

Present: Logan Bailey, Jim Denny, Mike Kirgis, Amanda Ondersma, and Troy Waterman.

Absent: None.

Also Present: City Manager Precia Garland, Assistant to the City Manager Jonathan Bowman, Planning Consultant Bradley Kotrba, Tim McAllister from the Daily News, applicant Rodney Hensley and several community members including Mindy Hensley, Darin Elliot, Cathy Hoppough, Gordon Kelley, and Mark Jennings.

**ELECTION OF OFFICERS**

A. Chairperson

Member Denny made a motion to nominate Member Mike Kirgis to be Chairperson. Member Waterman seconded the motion. MOTION CARRIED.

B. Vice-Chairperson

Member Kirgis made a motion to nominate Member Logan Bailey to be Vice-Chairperson. Member Waterman seconded the motion. MOTION CARRIED.

C. Secretary

Member Bailey made a motion to nominate Member Troy Waterman to be Secretary. Member Denny seconded the motion. MOTION CARRIED.

**APPROVAL OF AGENDA**

Chairperson Kirgis introduced the agenda and asked if there were any requested changes. No changes were requested. It was moved by Member Denny and seconded by Member Waterman to approve the agenda as presented. MOTION CARRIED.

**APPROVAL OF MINUTES**

Minutes from the meeting on February 6, 2023, were reviewed. It was moved by Denny, seconded by Bailey to approve the minutes from February 6, 2023. MOTION CARRIED.

## **PUBLIC HEARINGS**

Public Hearing to receive comments on the requested change in nonconforming use of equal or less nonconformity from Sozo Coffee at 310 Cleveland Street in accordance with section 1278.03 (d) to allow the storage and roasting of coffee on the property through a use variance.

Chairperson Kirgis requested the applicant provide information on the request.

The applicant Rodney Hensley, owner of Sozo Coffee and 310 Cleveland Street, addressed the board indicating that he had been searching for a property for a couple of years and 310 Cleveland Street appeared conducive to what he was looking to do. Mr. Hensley noted that he was not aware of the nonconforming status of the property until after the purchase was finalized.

Chairperson Kirgis asked the applicant what the plans were for the apartments on the property.

Mr. Hensley responded that the residential use was not a buying factor, but he would like the residential to remain as it presently exists for financial reasons. He informed the Board that once he discovered the nonconforming status of the parcel, all activities onsite to adapt it to his planned use were paused. His ultimate goal is to rezone the parcel to I-1, Light Industrial.

Member Bailey inquired into if the applicant expects high traffic volume on the site.

Mr. Hensley responded that he expects one shipment container per month to the property. He indicated that there will be two employees at the facility, and he believes the traffic will be less than what occurred at the former business, Bert's Glass.

City Manager Garland asked where the product produced on site will be going and how many trips are expected to result from this activity.

Mr. Hensley answered that primarily the items will go to his coffee shop in Ionia and other products will be hand delivered by him to other businesses. He added that UPS pickup may be used for other deliveries. Overall, Mr. Hensley believed these activities will result in a couple of deliveries per week and a couple of vehicles per day.

Member Waterman asked the applicant if retail was planned for the location.

Mr. Hensley answered that there are no plans for retail at 310 Cleveland Street.

Member Denny asked if the applicant knew the property was zoned B-1, Neighborhood Business District when it was purchased.

Mr. Hensley responded yes, but indicated that he did not see a difference between what was being done on the property at the time and what he intended to operate.

Member Denny inquired into when the applicant intends to apply for a rezoning.

Mr. Hensley responded that he had the paperwork with him at the meeting.

Mark Jennings, 152 E. Washington Street, commented as a member of the public, client of Mr. Hensley, former planning commissioner, and former ZBA member that he did not think Mr. Hensley's use would be intrusive to the surrounding properties. He asked the ZBA, "what else would you zone it to and not have problems?" Mr. Jennings noted that from his recollection of his time on the planning commission this property was left alone because no matter what you zone it there will be issues due to its surrounding uses. He viewed the property as a red herring.

Chairperson Kirgis asked City staff for a response to Mr. Hensley's comments and application.

City Manager Garland provide historical context for the property, and a letter from May of 2023 that detailed the nonconforming uses at 310 Cleveland Street to a potential buyer, the property owner, and selling real estate agent. Consultant Kotrba presented a staff report discussing the required standards.

### Completeness of Submittal

The applicant submitted the required application fee and the application for a use variance in accordance with the City of Ionia code. The hearing was noticed per Statute and Ordinance regulations (Section 1244.07). The following standards from Section 1278.03 (d) were reviewed.

1. The proposed use is comparable to or more conforming than the existing use in terms of its operations and compatibility with the character of the area in which it is located.

Staff commented that while not necessarily more conforming than the previous use, the proposed land use change (coffee roaster and warehousing) is similar in intensity when comparing it to the prior use (building supply sales and warehousing). While these changes are different in manner of uses, storefront and storage changing to food processing and storage, the applicant has commented to staff that the overall intensity for this change would most likely be less intensive than the previous use with regard to the amount of traffic produced, number of employees, and lack of retail customer visits. Therefore, staff considered the application submittal standard to be satisfactorily met for further ZBA consideration.

2. The proposed use does not increase the degree of nonconformity existing prior to such change of use.

Staff commented that the applicant is, at the moment, not proposing to expand the structures on the property in which the proposed use would take place. In addition to the proposed commercial changes, the existing nonconforming residential uses are not to be altered and the applicant has mentioned that the overall plan for the property's future is not to use it for residential purposes. It may therefore, be reasonably determined, that in the future, the applicant may cease to operate the two residential nonconforming apartment units that exist on the property in order to maintain the commercial operation on site. In addition, if the proposed change of use will take place inside the existing structures and no noxious fumes, excessive vehicular traffic, or noise will be apparent with the change it may be considered that this change will not be more extensive than the prior nonconforming use. Staff determined the application submittal standard to be satisfactorily met for further ZBA consideration.

3. No structural alteration of the existing structure will be required to accommodate the new use.

Staff commented that the applicant has not proposed to expand the existing structures on site in which the proposed use change would take place. Staff therefore determined the application submittal standard to be satisfactorily met for further ZBA consideration.

4. In permitting such change, the Zoning Board of Appeals may require conditions and safeguards in accordance with the purpose and intent of this Zoning Code.

Staff recommended conditions be placed on the application and any approved variance request to protect the health, safety, and general welfare of the neighborhood and community. Staff determined the application submittal standard to be satisfactorily met for further ZBA consideration.

### Use Variance Standards

In accordance with Section 1244.05(b)(3)(B) "Use Variance," the following use variance standards were reviewed with the Zoning Board of Appeals. The Rule of Undue Hardship was considered in determining the appropriateness of the use variance.

1. That the building, structure, or land cannot be reasonably used for any of the permitted uses by right or special approval in the zoning district in which it is located.

Staff commented that the property was previously used commercially, and it is uncertain exactly when this property was improved to make it nonconforming in nature. The zoning district in which the property lies (B-1 Neighborhood Business) is intended to meet the day-to-day convenience of shopping and service needs of persons residing in adjacent residential districts. The lot in questions is surrounded by the R-1 One-Family Residential District East/West/North and the I-1 Light Industrial District to the South. It should be noted that there are two small B-1 district parcel located immediately North of this lot that contains the General Signs shop. These are the only three B-1 district parcels located in this area of the City (Cleveland Street at the Southern City Limits) and all contain nonconforming uses, either as nonconforming commercial use (General Signs) or two primary nonconforming uses, both residential and commercial, applicant's property (SoZo Coffee).

The standard follows the Rule of Undue Hardship, meaning that the property must be determined to not be able to be used in any way permitted legally in the B-1 Neighborhood Business District. In addition to this consideration, the Board must decide if the applicant is submitting an application for a self-created hardship. The applicant must be the one to justify the hardship and that this hardship is not that of one that they or a previous owner could justifiably have prevented from occurring if following the lawful provisions of the City Ordinance in which all other property owners must follow in the same district. It may be reasonable for the Board to consider that the previous use(s) have existed for many decades and that the previous use was created (or carried on from) an existing use that existed prior to the adoption of the Ordinance (1975). If so, it may be reasonable for the Board to determine that the applicant or that the previous owner did not create the hardship because they were intentionally circumventing the Ordinance provisions as defined in the adopted Zoning Ordinance. However, if it is well known that the uses that occurred (both residential and

commercial) were created or expanded upon to further make the property nonconforming after 1975, the consideration of a “self-created” hardship is confirmed.

Could the property have been used in a manner that is permitted in the zoning ordinance similarly to all other property owners in that district. This answer is likely yes, that there is nothing preventing this property owner or any previous property owner from using it the way it was zoned intentionally to be used as in the past. However, it should be noted that this lot and the neighboring two B-1 district lots are the only such district parcels in this entire area of the City and that they were likely included into this district because its land uses didn't adequately fit categorically into the B-2 (downtown) or B-3 (general commercial) (i.e., Dexter Street or Lincoln Avenue) uses. The current City of Ionia Master Plan classifies these parcels to be used in the future exclusively as general commercial uses, but that this planned land use designation notes that “any development or redevelopment in this area should recognize that compatibility with existing residential uses is of importance” (p. 61).

Ideally, the proximity of all three B-1 parcels in this neighborhood and located next to industrially zoned land (I-1 Light Industrial) immediately to the South is more suitable to the application and uses of all these existing and proposed parcels specifically. This means that the existing and proposed uses in this area fit into the I-1 Light Industrial district by right presently and that a request for zoning district change of the property is probably the best solution to accommodate this request. However, it is important to remember that if this applicant were to eventually seek a rezoning, this property would have to cease to contain any residential land uses. Therefore, staff's preferred resolution to this situation is that the applicant should cease operation of the residential uses of the property and that a zoning district change be requested. But that is solely up to the applicant if they wish to pursue this course of action. The Board must determine if the applicant can prove justifiably that their request for a change, in opposition to the Ordinance, is necessary because the property cannot be used reasonably in any other permitted way in the district.

2. That the condition or situation of the specific piece of property or the intended use of such property for which the variance is sought is not so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Unique circumstances include: exceptional narrowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building, or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this chapter would cause unnecessary hardship.

Staff commented that the use of this property has no application when considering exceptional dimensional or physical constraints of the property. These particular items would be reviewed exclusively for a dimensional variance and therefore proving a “practical difficulty.” However, the Board should take into consideration if indeed this application's situation is of such a recurrent nature that this particular land use should be considered by the City amended the B-1 zoning district as a permitted use by right or use by special approval as a solution to any recurring nature. Staff's determination is that it is not of such a recurrent nature that it would cause for a wholesale zoning ordinance amendment to accommodate this situation in the future. The Board must determine if the justification by the applicant fully satisfies any

commonality of this request and if it should be amended in the Ordinance to prevent the necessity of any similar future variance request.

3. That the proposed use would not alter the essential character of the neighborhood.

Staff commented that the proposed use, while commercially different in some ways than the previous use, does not appear that it will drastically change the intensity of the use of the property and therefore, deteriorate the integrity of or health, safety, and general welfare of the neighborhood and community. The Board must determine if the request will not create a more intensive use and therefore greater detriment to the surrounding community.

Chairperson Kirgis asked the applicant to provide a response to City staff's review of the application.

Mr. Hensley indicated that there are challenges that any business would have on the property including the location in the floodplain. He questioned if any other uses would work at this location.

Member Denny commented that he is trying to understand how this is not self-inflicted.

Mr. Hensley responded that he viewed the property's existing use as similar to what he intended to use it for during his walkthrough. He did not see a big difference between the two businesses.

Consultant Kotrba commented that Board should consider what was there previously and for how long.

Chairperson Kirgis opened the floor at 7:22 PM to receive comments on the request from Sozo Coffee for a use variance at 310 Cleveland Street.

Gordon Kelley, 931 W. Main Street, commented that Mr. Hensley has been looking at many properties inside and outside of the City for a long period of time seeking something where the intended use would fit. He indicated that he believes the Board, City, and public should not be a roadblock, rather they should help businesses. He urged the Board that this is a great use of the property without harming the neighborhood, and that the previous uses need to be considered.

Kirgis closed the public hearing at 7:27 PM.

## **PUBLIC COMMENTS**

None.

## **OLD BUSINESS**

None.

## **NEW BUSINESS**

310 Cleveland Street – Sozo Coffee: Change in nonconforming use of equal or less nonconformity in accordance with section 1278.03 (d) through a use variance.

Member Bailey commented that the applicant was unaware of the nonconformity and he does not believe anything will substantially change. Bailey indicated that it is unlikely to find someone else to reasonably use the property.

It was moved by Board Member Bailey and seconded by Board Member Denny to conditionally approve the use variance submitted by Sozo Coffee for 310 Cleveland Street. The approval was based on the findings that use variance met the standards from Section 1278.03(d) and Section 1244.05(b)(3)(B). The approval included the following conditions.

1. That the property use cannot be expanded use-wise in any other way than that requested exactly as prescribed in this application in the future.
2. That the buildings, structures, and uses cannot be expanded physically anywhere on the property unless the applicant approaches the City to lawfully request that the property be rezoned into the neighboring I-1 Light Industrial zoning district, which would prevent any future need for this land use to request a further use variance.
3. That the two residential dwelling units not be expanded dimensionally or that any additional dwelling units be added to the property.
4. If the applicant chooses to expand the operations into additional structures on the site (i.e., accessory storage buildings), that the applicant seeks a formal zoning change, the use of the existing dwelling units will cease on the property and that only a single permitted land use be permitted on said property in the future.

MOTION CARRIED.

#### **MEMBER COMMENTS**

None.

#### **ADJOURNMENT**

Motioned by Denny, seconded by Bailey to adjourn the meeting at 7:35 PM. MOTION CARRIED.

Respectfully Submitted:

Precia Garland, Recording Secretary,  
for Troy Waterman, Secretary