

**BOARD OF ZONING APPEALS
MINUTES OF MEETING HELD OCTOBER 8, 2012.**

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The Board of Zoning Appeals met in regular session on October 8, 2012 at 7:03 p.m. in the Municipal Building Council Chambers.

MEMBERS PRESENT:

The following members were present: Jonathan Greene, Mark Heistand, Pete Hutchinson, Scott Johnson and Jeff Jones.

MEMBERS ABSENT:

None.

ALSO PRESENT:

Also present was Kelli Novak, Zoning Officer and two visitors.

APPROVAL OF MINUTES:

The Board reviewed the August 13, 2012 meeting minutes.

Mr. Hutchinson moved to approve the August 13, 2012 minutes as presented.

ROLL CALL: Mr. Greene, yes; Mr. Hutchinson, yes; Mr. Johnson, yes; Mr. Jones, yes; Mr. Heistand, yes. 5-yes, 0-no. MOTION CARRIED

PUBLIC HEARING:

Mr. Heistand stated the Board would begin with Conditional Use Application #12-04, made by Andrea Szabados to allow a nail salon business on the property located at 7135 Weaver Road.

Mr. Heistand briefly explained to the audience the public hearing process.

Mr. Hutchinson stated that he lives within 200 feet of Ms. Szabados and asked the Board if he should participate in this hearing. Mr. Heistand stated that he would recommend that Mr. Hutchinson not participate in the discussion and abstain his vote.

Applicants Presentation:

Ms. Szabados stated that she has two children and she would like to stay home with them. She started doing nails in Florida and now has her Ohio license for nails. This would be a part-time business. The products that she uses are approved by the State Board. The State Board has many requirements and one is a separate restroom for customers. The driveway at the property is large enough to accommodate five cars. She would only be working with one or two clients at a time. She wrote all the details on the application.

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Mr. Johnson questioned how many clients she would be seeing. Ms. Szabados replied that she would not have any more than three clients a day. She will be working by herself; she had no intention of hiring any other employees.

Mr. Heistand questioned if the driveway would be large enough to accommodate the customers cars or will there be other parts of the property used for parking. Ms. Szabados replied that her driveway would accommodate her client's cars.

Staff Summary:

Mrs. Novak stated that this proposed Conditional Use is in compliance with the Planning and Zoning Code. She will be the only employee in the salon. The work is done in a mudroom. There will be no exterior signage and no exterior changes to the home. There may be interior changes to the home and she will be required to obtain a building permit from the City. The materials that are used are State Board approved. The clients visit the salon by appointment only and the driveway would be able to accommodate the clients vehicles. She will be required to file taxes with the City for her business.

Mr. Jones questioned Ms. Novak if the property was supplied with utility services from the City. Ms. Novak stated that she was not sure.

Mr. Hutchinson stated that since he lives in that area he knew that the properties were supplied with City water and they have septic systems.

Mr. Jones questioned Ms. Szabados if the access to the mudroom was from the exterior of the home. Ms. Szabados stated that the State Board will require her to have a separate entrance to the area she is using for the nail salon.

Mr. Greene stated that Ms. Szabados has in her application that a simple MSD sheet can be maintained. He thinks that this may be a good idea. It would show what she is using and disposing of in case of any problems.

Mr. Jones stated that we could make that a requirement.

A brief discussion took place regarding the MSD sheet and chemicals.

Open Public Hearing:

Mr. Heistand opened the Public Hearing at 7:12 p.m.

Proponents Recognized:

None.

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Opponents Recognized:

None.

Final Statement of Staff:

None.

Final Statement of Applicant:

None.

Close Public Hearing:

Mr. Heistand closed the Public Hearing at 7:13 p.m.

Deliberation and Decision:

Mr. Johnson stated that the State Board would be the one who would require the applicant to keep a MSD sheet. There are only certain materials that are required to be logged.

Mr. Jones stated in the restrictions she will have to meet all State requirements for licensure and operations.

Mr. Johnson questioned what has changed that the applicants can not have any signage. Mrs. Novak stated that Council has passed new legislation stating the changes.

A brief discussion took place regarding the new legislation regarding Home Occupations.

Mr. Heistand stated we have put several restrictions on Home Occupations in the past year regarding how many customers a Home Occupation may have. He would like to see the restriction of three clients a day be added to the motion.

The Board discussed the past applications and their restrictions regarding clients.

Mr. Jones moved to approve Conditional Use Application #12-04 for a Home Occupation for a nail salon located at 7135 Weaver Road with the Board's restrictions to include:

1. No more than three customers may visit the premise in a given day.
2. No one other than the immediate family members including Ms. Szabados and one other individual that does not live on site may be employed in the nail salon business.
3. The use shall be limited to the property; meaning the principal building and any accessory building as permitted per Ordinance No. 12-23, passed on April 16, 2012.

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4. Storage of equipment and inventory shall be in compliance with applicable Municipal Ordinances, including building, fire and property maintenance codes, with no outside storage of material, supplies, or equipment, including waste. Supplies must be contained inside the dwelling, the accessory buildings on site or the vehicles.
5. The applicant must dispose of any waste in a legal and sanitary manner.
6. The applicant must comply with all other County, State and Federal regulations including OSHA regulations that pertain to a nail salon business.
7. Any advertisement, including internet and Yellow Pages, may not include the address 7135 Weaver Road. Business cards may contain the address of 7135 Weaver Road

ROLL CALL: Mr. Greene, yes; Mr. Hutchinson, abstained; Mr. Johnson, yes; Mr. Jones, yes; Mr. Heistand, yes. 4-yes, 1-abstention. MOTION CARRIED

PUBLIC HEARING:

Mr. Heistand stated the Board would next hear Conditional Use Application #12-05, made by J. Gary Smith to allow a firearms repair business on the property located at 145 North Main Street.

Applicants Presentation:

Mr. Smith thanked the Board for their time and consideration.

He went on by saying he would have to obtain a Federal Fire Arm License and coming before the Board of Zoning Appeals is the first step of many. This business would be part-time and will have very little foot traffic and no retail sales to the public. He will not have any employees and will not have any exterior signs of any kind. There will be no structural changes made to the homes interior or exterior. He will not have any inventory stored on the property. He will be doing light gunsmithing and taking special orders of firearms for friends, family and some law enforcement. He will not order, store or sell any ammunition; there will not be any danger to the customers or neighbors. He has been doing this as a hobby for 15-20 years. Everything that he does is federally regulated. He will be required to have a background check and he would prefer to not discuss in detail his security in a public hearing but would be willing to speak off the record. He will have more than adequate security.

Mr. Jones questioned if there were specific Federal guidelines for the security of the weapons that are on site. Mr. Smith replied that there are several.

Mr. Johnson questioned if Mr. Smith would be having any ammunition on the property for sale. Mr. Smith replied that he does have his personal ammunition on the property but none for sale. Mr. Johnson questioned how Mr. Smith is certain that the firearm is repaired. Mr. Smith replied that he takes the firearms to a range to fire them.

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Mr. Greene questioned if Mr. Smith is purchasing firearms for friends and family how they will get their ammunition. Mr. Smith replied they would have to go to a retailer to purchase it.

Mr. Johnson questioned if any retail inventory would be kept anywhere else other than on the property. Mr. Smith replied no. Mr. Johnson questioned if he would special order something it would be considered a retail store. Mr. Smith replied as soon as the order would be delivered it would be picked up. There will not be any storage of retail items other than maybe for a day. There will not be any general sales of any nature.

Mr. Heistand questioned if he anticipates his customers coming to the door or will the items be mailed to the house. Mr. Smith replied that very little mail ordering will occur. He may receive parts in the mail to do repairs.

Mr. Hutchinson questioned if he plans on any advertisement on a website. Mr. Smith replied that he intends to get a P.O. Box.

Mr. Heistand stated that Mr. Jones and he attend the same church as Mr. Smith. He does not feel that should be a problem with them participating in the public hearing.

Staff Summary:

Mrs. Novak stated that this proposed Conditional Use is in compliance with the Planning and Zoning Code. He will be the only employee. The work is done in the basement of the home. There will be no exterior signage and no exterior changes to the home. His clients will be by appointment only. He will be required to file taxes with the City for his business.

She stated that a summery was given to the Board regarding the security and handling of the firearms on the property.

She went on by saying that she did speak with the Germantown Chief of Police and he has read the application. He does not have any problems with this proposed Home Occupation at 145 North Main Street.

Open Public Hearing:

Mr. Heistand opened the Public Hearing at 7:35 p.m.

Proponents Recognized:

None.

Opponents Recognized:

None.

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Final Statement of Staff:

None.

Final Statement of Applicant:

Mr. Smith stated that the Germantown Police Chief would receive notification of the business and his applications. He is required to meet with the Chief of Police.

Close Public Hearing:

Mr. Heistand closed the Public Hearing at 7:36 p.m.

Deliberation and Decision:

Mr. Johnson questioned how much ammunition would be on site. Mr. Smith replied that he does have his own personal ammunition on site.

Mr. Johnson questioned if a restriction on how many customers at any given time would be necessary. Mr. Jones stated he was not concerned about that restriction only because he is the only person working on the weapons and he can only repair so many weapons. He does have plenty of off street parking.

Mr. Johnson moved to approve Conditional Use Application #12-05 for a Home Occupation for a gunsmithing/firearms repair business located at 145 South Main Street with the Board's restrictions to include:

1. No one other than the immediate family members including Mr. Smith and one other individual that does not live on site may be employed in the firearms repair business.
2. The use shall be limited to the property; meaning the principal building, and any accessory building as permitted per Ordinance No. 12-23, passed on April 16, 2012.
3. Storage of equipment and inventory shall be in compliance with applicable Municipal Ordinances, including building, fire and property maintenance codes, with no outside storage of material, supplies, or equipment, including waste. Supplies must be contained inside the dwelling, the accessory buildings on site or the vehicles.
4. The applicant must dispose of any waste in a legal and sanitary manner.
5. The applicant must comply with all other County, State and Federal regulations that pertain to a firearms repair business.
6. Any advertisement, including internet and Yellow Pages, may not include the address 145 North Main Street. Business cards may contain the address of 145 North Main Street.

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ROLL CALL: Mr. Greene, yes; Mr. Hutchinson, yes; Mr. Johnson, yes; Mr. Jones, yes; Mr. Heistand, yes. 5-yes, 0-no. MOTION CARRIED

OTHER BUSINESS:

None.

ADJOURNMENT:

There being no further business to conduct, Mr. Johnson motioned to adjourn the meeting.

VOICE VOTE ON MOTION. ALL IN FAVOR. MOTION CARRIED.

The meeting adjourned at 7:43 p.m.

Respectfully Submitted,

Kelli R. Sanders-Novak
Clerk of Council