

Spearfish Board of Adjustment



Minutes

Date: October 15, 2018

Dana Boke called the meeting of the Spearfish Board of Adjustment to order at 6:35 PM on Monday, October 15, 2018 in the Council Chambers of the Municipal Services Centre with the following members present: Boke, Clark, Hodgs, Jacobs, Klarenbeek and Lee. Martin was absent. Also present were City Administrator Harmon, Finance Officer Dutton, City Planner Watson, City Attorney McDonald and Finance Admin Assistant Weber.

Hodgs moved, Jacobs seconded and all voted to approve minutes from SBOA 12-18-2017.

Resolution 2018-25 – City Planner Watson stated applicants wish to appeal the Zoning Administrator’s interpretation of non-conforming use at 1105 W. Oliver. City Attorney McDonald outlined the board’s responsibilities upon hearing appeals. One of the applicants Barbara Junek Looney addressed the previous history of this property and the various businesses that have been there as tenants. She felt the proposed new use would not be any more intense than the previous. Zoning Administrator Watson discussed non-conforming use and stated staff feels the new proposed use is less compatible than the most recent use per City Ordinance.

Chairman Boke opened the public hearing at 6:52PM. Matt Haynes, FognDroz Vape Shop, stated the business expects more foot traffic than vehicular and the business is viewed as more of a lounge, seeing the majority of patrons as college students. They also plan to have items for disc golf there as the disc golf course is conveniently located across the street. Neighbor Scott Meyers spoke with concerns of increased traffic in a residential area. Neighbor Sandra Cape also spoke stating she did not like the idea of a retail establishment in a residential area. There were no further public comments and the public hearing was closed at 6:57 PM. Klarenbeek moved to affirm the Zoning Administrator’s determination by amending and approving Resolution 2018-25. Clark seconded and all voted to approve Resolution 2018-25 as amended.

RESOLUTION NO. 2018-25

A RESOLUTION PERTAINING TO AN APPEAL OF THE ZONING ADMINISTRATOR’S DECISION AT 1105 WEST OLIVER, SPEARFISH SD

WHEREAS, 1105 W. Oliver is zoned Single Family R-1 and is legally described as:

Tract B of Outlot 1 of the West Addition of the City of Spearfish, as shown on the Plat thereof recorded in Plat Book 3, Page 147, in the Office of the Lawrence County Register of Deeds
(hereinafter “The Property”)

WHEREAS, The Property has a history of existing nonconforming land use, most recently a taxi cab company.

WHEREAS, The Revised Ordinances of the City of Spearfish Appendix A Zoning Article V. Section 7. Nonconforming Uses provides:

“5. Where a nonconforming use exists, it cannot change to another nonconforming use of different quality and characteristics unless the use is more compatible with the characteristics of the neighborhood in which it is located. Where a nonconforming use has changed to a more compatible use, it shall not be changed back to a less compatible use.”

WHEREAS, The Property’s owner requested that the City of Spearfish Zoning Administrator determine that a new retail land use proposal be permitted as a more compatible land use than the previous use, a taxi cab company; and,

WHEREAS, The Zoning Administrator determined that retail land use is a nonconforming use of different quality and characteristics than a taxi cab company and is not a more compatible land use than the previous taxi cab company; and,

WHEREAS, The Property’s owner appealed the Zoning Administrator’s determination to the City of Spearfish Board of Adjustment which held a public hearing on October 15, 2018 and considered all testimony and the public record; and,

WHEREAS, the City of Spearfish has fully complied with all statutory requirements of SDCL 11-4-21 precedent to this Resolution.

NOW, THEREFORE BE IT RESOLVED by the Board of Adjustment of the City of Spearfish, Lawrence County, South Dakota, that the Zoning Administrator’s determination is hereby:

Affirmed

Reversed

Modified

(describe): _____

Dated this 15th day of October 2018

CITY OF SPEARFISH BOARD OF ADJUSTMENT

By:

Dana Boke, Chair

(Seal)

ATTEST:

David H. Dutton, Finance Officer

Adopted: October 15, 2018
Published: October 26, 2018
Effective: November 15, 2018

There being no further business before the Board of Adjustment, Klarenbeek moved, Hodgs seconded and all voted to adjourn at 6:56 PM.

Dated this 15th day of October 2018.

CITY OF SPEARFISH

BY: _____
Dana Boke, Chair

ATTEST:

David H. Dutton, Finance Officer

Published once at the approximate cost of _____.