

**CITY OF IONIA**  
**Zoning Board of Appeals**  
**September 13, 2021**  
**Regular Meeting Minutes**

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**CALL TO ORDER**

The regular meeting was called to order by Chairperson Kirgis at 6:30 PM at Ionia City Hall.

**ROLL CALL**

Present: Members David Cook, Jim Denny, Mike Kirgis, and Troy Waterman

Absent: None

Also Present: City Manager Precia Garland, Assistant to the City Manager Jonathan Bowman, and representatives from Leoni Wellness including property owner Ray Formia.

**APPROVAL OF AGENDA**

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

**APPROVAL OF MINUTES**

Minutes from the meeting on July 12, 2021 were reviewed. It was moved by Cook, seconded by Waterman to approve the minutes from July 12, 2021. MOTION CARRIED.

**PUBLIC HEARINGS**

Chairperson Kirgis opened the floor to receive comments on the request from Leoni Wellness LLC. located at 416 Brown Boulevard, for the following non-use variances:

- A. A variance from Section 1286.01(c) (2) and (3) and the Schedule of Regulations in Appendix I all of which require an accessory structure to be set back 10 feet from a side lot line. The applicant wishes to place a dumpster one foot from the side lot line and is therefore requesting a variance of nine feet.
- B. A variance from Section 1282.01 (a) which requires all off street parking areas to be set back a minimum of five feet from the side lot line. The applicant wishes to construct a new parking lot adjacent to the side lot line and is therefore requesting a variance of five feet.

There were no comments during the Public Hearing.

Chairperson Kirgis closed the Public Hearing at 6:30 PM.

**PUBLIC COMMENTS**

None.

## **OLD BUSINESS**

None.

## **NEW BUSINESS**

### A. 416 Brown Boulevard – Leoni Wellness LLC. Request for Non-Use Variances

#### **Variance Request # 1**

A variance from Section 1286.01(c) (2) and (3) and the Schedule of Regulations in Appendix I all of which require an accessory structure to be set back 10 feet from a side lot line. The applicant wishes to place a dumpster one foot from the side lot line and is therefore requesting a variance of nine feet.

#### **Section 5.185(3)(h) - General Standards**

All ZBA variances must meet the following general standards; meaning, if granted, the variance will not:

- a. Impair an adequate supply of light and air to adjacent property.
- b. Unreasonably increase the congestion in public streets.
- c. Increase danger of fire or endanger public safety.
- d. Unreasonably diminish or impair established property values within the surrounding area, and
- e. Impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Ionia.

#### **Non-Use Variance Standards**

*Standard 1:* That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district.

*Standard 2:* That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.

*Standard 3:* That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

*Standard 4:* The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.

*Standard 5:* The variance will not impair the intent and purpose of this Ordinance.

*Standard 6:* That the immediate practical difficulty causing the need for the variance request was not created by action of the applicant.

Moved by Board Member Denny and seconded by Board Member Cook to approve a variance from Section 1286.0l(c) (2) and (3) and the Schedule of Regulations in Appendix I for Leoni Wellness LLC. located at 416 Brown Boulevard. This approval is based on the findings that the non-use variance complies with the General Standards of Section 5.185(3)(h) and the six non-use standards, as detailed and discussed above. MOTION CARRIED.

### **Variance Request # 2**

A variance from Section 1282.01 (a) which requires all off street parking areas to be set back a minimum of five feet from the side lot line. The applicant wishes to construct a new parking lot adjacent to the side lot line and is therefore requesting a variance of five feet.

### **Section 5.185(3)(h) - General Standards**

All ZBA variances must meet the following general standards; meaning, if granted, the variance will not:

- a. Impair an adequate supply of light and air to adjacent property.
- b. Unreasonably increase the congestion in public streets.
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### **Non-Use Variance Standards**

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*Standard 6:* That the immediate practical difficulty causing the need for the variance request was not created by action of the applicant.

Moved by Board Member Denny and seconded by Board Member Cook to approve a variance from Section 1282.01 (a) for Leoni Wellness LLC. located at 416 Brown Boulevard. This approval is based

on the findings that the non-use variance complies with the General Standards of Section 5.185(3)(h) and the six non-use standards, as detailed and discussed above. MOTION CARRIED.

B. Adoption of Zoning Board of Appeals Bylaws

City Manager Precia Garland introduced the updated bylaw document and outlined the following proposed changes:

The first change noted in the bylaws is section 2.5 where alternate board members have been mentioned. This coincides with the addition of two alternate board members to section 1244.01 of the City Ordinance. The membership is not explicitly being changed in the bylaws because section 2.1 cites City Ordinance directly rather than listing the members. Alternates were added by the City Council due to the small size of the Board and high voting threshold required to take action on certain requests. Alternates are allowed to take the place of a board member if there is an absence or if a board member must abstain from a request due to a conflict of interest. Overall, these positions on the Board will assist with reaching quorum and having enough members present to take action.

The second change can be seen in section 3.2. This is proposed to update the established meeting time of the Board. The revised time reflects current practice of the Zoning Board of Appeals.

Finally, section 3.7 clarifies the voting threshold needed to approve specific requests or motions. This clarification reflects changes made to section 1244.05 of the City Ordinance. Prior to the proposed changes, the ordinance and bylaws were unclear and appeared to contradict each other. If the change is approved both documents will align. Non-use variances will require a concurring vote of a majority of the members of the Board, also known as an affirmative vote of three members. Use variances will require an affirmative vote of four members of the Board.

It was moved by Denny and seconded by Waterman to adopt the updated bylaws as presented to reflect current practice and recent changes made to the City Ordinance by City Council. MOTION CARRIED.

C. Ordinance No. 560 – Recommendation to City Council

City Manager Garland introduced Ordinance No. 560 to the Zoning Board of Appeals.

**AN ORDINANCE TO AMEND CHAPTER 1244, “BOARD OF ZONING APPEALS” OF TITLE SIX, “ZONING” OF PART TWELVE, “PLANNING AND ZONING” OF THE CODIFIED ORDINANCES OF THE CITY OF IONIA, MICHIGAN**

**THE CITY OF IONIA ORDAINS:**

**Section 1. Amendment of Section 1244.05(b).** Section 1244.05(b) of Chapter 1244, “Board of Zoning Appeals” of Title Six, “Zoning” of Part Twelve, “Planning and Zoning” of the Codified Ordinances of the City of Ionia, Michigan, is amended to read in its entirety as follows:

(b) Variances. To authorize, upon an appeal, a variance from the strict application of the provisions of this Zoning Code, in accordance with the standards, requirements, and procedures of this Chapter.

The Board of Zoning Appeals, after a public hearing, shall have the power to grant requests for variances from the provisions of this Zoning Code where it is demonstrated by the applicant that there are practical difficulties in the way of carrying out the strict letter of the Zoning Code relating to the construction, placement, or alteration of buildings or structures so that the spirit of the Code shall be observed, public safety secured, and substantial justice done.

The Board of appeals may also authorize, upon appeal, variances from the strict application of Chapter 1234, "Signs" of Title 4, Subdivision Regulations" of Part Twelve, "Planning and Zoning" of the Codified Ordinances of the City of Ionia. In considering requests for variances from Chapter 1234, the Board of Zoning Appeals shall apply the standards for non-use (dimensional) variances, per subsection 1 below.

- (1) Non-Use (Dimensional) Variance. A use variance may be allowed by the Board Zoning of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:
  - A. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district.
  - B. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Unique circumstances include: exceptional narrowness, shallowness, 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 involve practical difficulties.
  - C. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
  - D. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
  - E. The variance will not impair the intent and purpose of this ordinance.
  - F. That the immediate practical difficulty causing the need for the variance request was not created by action of the applicant.
- (2) Use Variance. Subject to other provisions of this Zoning Code, the Board of Zoning Appeals shall have the jurisdiction to decide applications for use variances. The Board of Zoning Appeals shall not grant a use variance unless it finds that unnecessary hardship will occur unless the variance is granted. Additionally, the Board of Zoning Appeals shall not grant a use variance unless two-thirds (2/3) of the total membership of the Board of Zoning Appeals finds that all of the following standards below are met.
  - A. That the building, structure, or land cannot be reasonably used for any of the uses permitted by right or special approval in the zone district in which it is located.
  - B. 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.

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

**Section 2. Publication.** After its adoption, the City Clerk shall publish this ordinance or a summary thereof, as permitted by law, along with its date of adoption in the Sentinel Standard a newspaper of general circulation in the City.

**Section 3. Severability.** If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word in this Ordinance is declared invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of this Ordinance.

**Section 4. Effective Date.** This ordinance shall take effect immediately after it, or a summary thereof, as permitted by law, along with the date of its adoption, is published in the Sentinel Standard, a newspaper of general circulation in the City.

It was moved by Denny and seconded by Waterman to recommend City Council approves Ordinance No. 560, amending Chapter 1244, “Board of Zoning Appeals” of Title Six, “Zoning” of Part Twelve, Planning and Zoning” of the Codified Ordinances of the City of Ionia. MOTION CARRIED.

#### **MEMBER COMMENTS**

None.

#### **ADJOURNMENT**

Motioned by Denny, seconded by Waterman to adjourn the meeting at 6:40 PM. MOTION CARRIED.

Respectfully Submitted:

Precia Garland, City Manager