

Zoning Board of Appeals

Special Meeting Agenda

Monday, February 8, 2016
7:00 p.m., Council Chambers



City of South Haven

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda
5. New Business – Public Hearing

Karyn Adler Fasel, daughter of property owner Barbara Ann Adler, is asking for relief from the off-street parking requirement for dwellings above a retail use in the CBD. The first dwelling unit does not require parking but each subsequent unit requires two (2) parking spaces. The applicant plans to create two (2) residential units in the second floor of 409 Phoenix (Harbor Toys).

6. Commissioner Comments

8. Adjourn

RESPECTFULLY SUBMITTED,

Linda Anderson
Zoning Administrator

South Haven City Hall is barrier free and the City of South Haven will provide the necessary reasonable auxiliary aids and services for persons with disabilities, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting to individuals with disabilities at the meeting upon seven (7) days notice to the South Haven City Hall.



Agenda Item #5 904 Phoenix Street Parking Variance

City of South Haven

Background Information: *(Note: This applicant requested the special meeting in order to meet the deadlines to receive funds from a state grant. The funds are part of the MSHDA Rental Rehab Program [see attached program information sheet]. The city has received the funds but the parking issue needs to be resolved before the funds may be released to the applicant.)*

Karyn Adler Fasel, daughter of property owner Barbara Ann Adler, is asking for relief from the off-street parking requirement for dwellings above a retail use in the CBD. The applicant plans to create two (2) residential units in the second floor of 409 Phoenix (Harbor Toys). According to zoning ordinance section 601-16, the first dwelling unit does not require parking but each subsequent unit requires two (2) parking spaces.

The applicant currently has two (2) spaces in the rear of the building but one is part a separate commercial lease agreement and unavailable for use and the other space will be used to accommodate a required fire escape for the second floor.

Recommendation: Staff recommends that the ZBA members review all attached and visit the property before making a determination on the variance. The members must find that the request complies with all standards of zoning ordinance section 2205 to approve a variance.

Support Material:

- Application and narrative
- Photos of 409 Phoenix
- Aerial of property
- MSHDA information sheet
- Staff Findings of Fact

**ZONING VARIANCE REQUEST
CITY OF SOUTH HAVEN
BUILDING DEPARTMENT
539 PHOENIX STREET, SOUTH HAVEN, MICHIGAN 49090
FOR INFORMATION CALL 269-637-0760**

NOTE: Incomplete applications will not be processed. A fee of \$300 will be required at the time the application is submitted.

Name: Barbara Ann Adler (Contact: Karyn Adler Fasel, daughter)

Date: 1-15-16

Address: 38 Lake Shore Drive

Phone: 610-827-2107

Address of

Property in Question: 409 Phoenix Street, 2nd floor

Present Zoning of Property: CBD

Name of Property Owner(s): Barbara Ann Adler

Dimensions and area of property: 99 x 23.5 feet

Dimensions of all buildings on the property (also shown on a diagram) 79.5 x 23 feet

Setback measurements of all structures on the property (also shown on diagram)

Front - 51'
Sides - 0'
Rear - 10'

Present Zoning of Neighboring Properties to the :

North CBD South CBD East CBD West CBD

Which Sections of the South Haven Zoning Ordinance are you requesting a variance from? Please indicate Section and Paragraph numbers. (City staff will help determine which variance(s) are required).

Section(s): 601-16

Under Article XXII, Section 2205 of the South Haven Zoning Ordinance, the Zoning Board of Appeals may not grant a variance from the regulations within the Ordinance unless certain conditions exist. No variance in the provisions of this Ordinance shall be authorized unless the Board finds, from reasonable evidence, that all of the following standards have been met:

1. Such variance will not be detrimental to adjacent property and the surrounding neighborhood.

Adjacent property to the east (411 & 411 1/2 Phoenix Street) are owned by the applicant. The property is located in the main commercial district of the City. Applicant seeks to renovate the 2nd floor of this vacant area for residential use as is similar to existing immediate properties. Extensive public parking is currently available

2. Such variance will not impair the intent and purpose of this Ordinance.

The ordinance as it stands would permit one residential unit to be developed without a designated parking space. However, two residential units require two parking spaces. Applicant seeks to develop two affordable residential units. Available parking on the property is committed to an existing commercial tenant and the remaining space will be utilized for a rear stairway exist/fire escape from the 2nd floor.

3. Exceptional or extraordinary circumstances or conditions apply to the property in question or to the intended use of the property that do not apply generally to other properties in the same zoning district. Such circumstances shall create a practical difficulty because of unique circumstances or physical conditions such as narrowness, shallowness, shape or topography of the property involved, or to the intended use of the property. See Section 2204(2).

The Ordinance from which we seek variance requires designated parking to be assigned to residential units. Due to the physical conditions of the downtown area and this property, it is impossible to assign adequate designated parking spaces to new residential development.

4. 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.

Lacking a variance from this ordinance, it will be impossible to develop this property to provide affordable housing in the downtown district.

5. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

At this time a variance is the only remedy to this problem.

6. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, shall not be the result of actions of the property owner. In other words, the problem shall not be self-created.

In order to achieve the goal of increasing affordable downtown housing, the parking situation by the ordinance must be addressed and in this case, applicant feels that seeking a variance is the best solution.

7. That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.

Strict compliance with this ordinance will prevent the owner from developing suitable affordable housing on the property.

8. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.

Applicant seeks a variance for adequate parking to meet the requirements of the ordinance.

9. That the variance will relate only to property under the control of the applicant

The variance will not affect adjacent private property owners in the area.

I hereby give permission for the members of the Zoning Board of Appeals and City Staff to access and inspect the property in question for the purpose of gathering information to make an informed decision on this variance request.

Kayn Adls Paul
Property Owner

1-19-16
Date

THE INFORMATION CONTAINED WITHIN THIS APPLICATION IS TRUE TO THE BEST OF MY KNOWLEDGE AND SUBMITTED TO THE ZONING BOARD OF APPEALS FOR THEIR REVIEW. I REALIZE THAT ANY INFORMATION THAT I SUPPLY THAT IS NOT CORRECT COULD VOID ANY DECISION BY THE BOARD. I ALSO ACKNOWLEDGE THAT IF THE VARIANCE IS GRANTED BY THE BOARD, THE WORK WITHIN THE REQUEST MUST BE CARRIED OUT WITHIN ONE YEAR OF THE PUBLIC HEARING OR THE VARIANCE BECOMES NULL AND VOID.

Kayn Adls Paul
Applicant Signature

1-19-16

Date



ST ICE CREAM

269.637.7391



409/2 409

RAINY DAY ACTIVITIES + BEACH TOYS TRAVEL GAMES + AND MORE

SALT WATER TAFFY
CHOCOLATES
BULK CANDY
NUTS

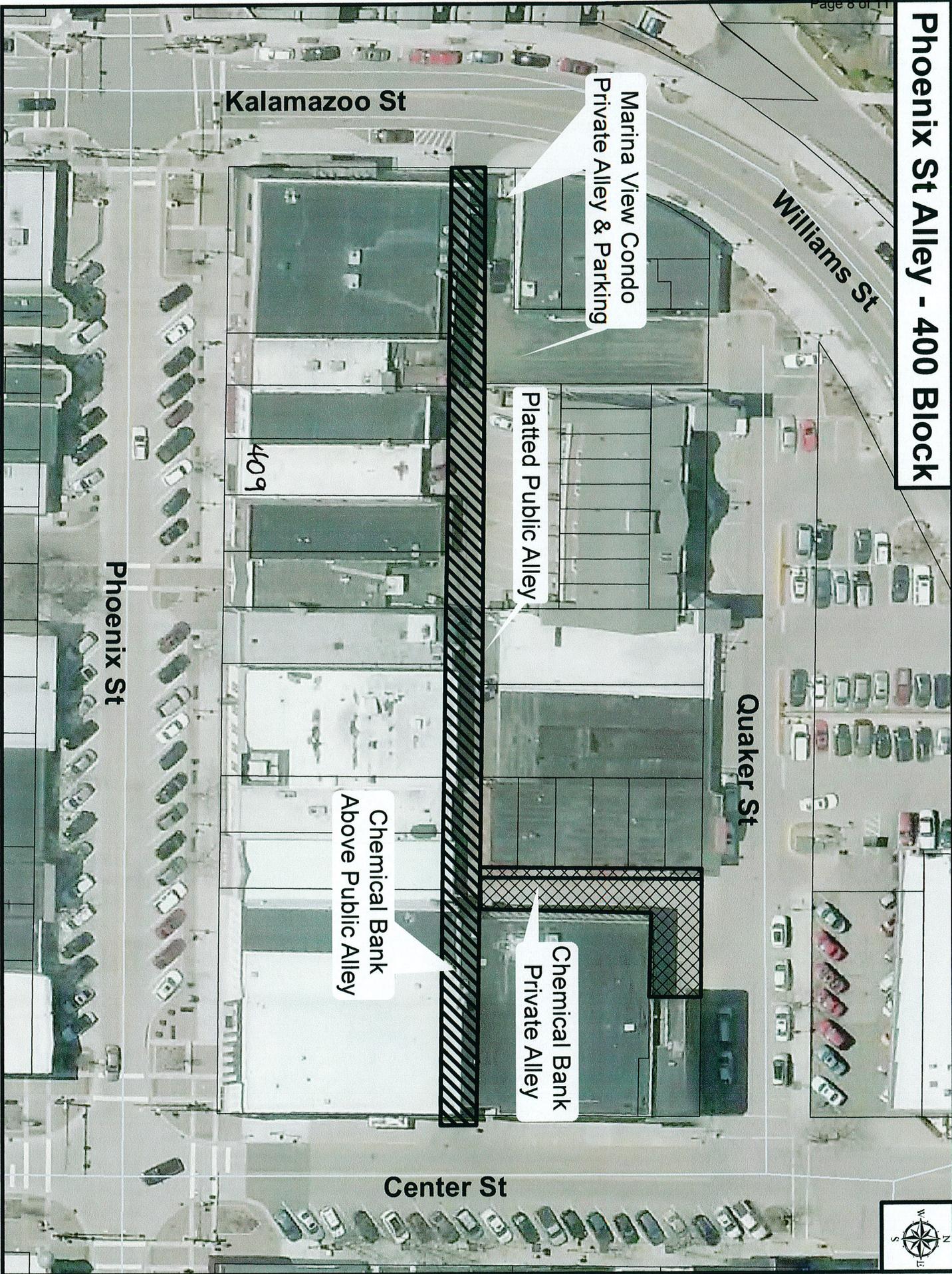


UNAUTHORIZED
VEHICLES
WILL BE TOWED
AT OWNER'S
EXPENSE
LEE'S TOWING
& COMPANY
209-637-3847



225

Phoenix St Alley - 400 Block



Kalamazoo St

Marina View Condo
Private Alley & Parking

Williams St

Platted Public Alley

409

Phoenix St

Quaker St

Chemical Bank
Above Public Alley

Chemical Bank
Private Alley

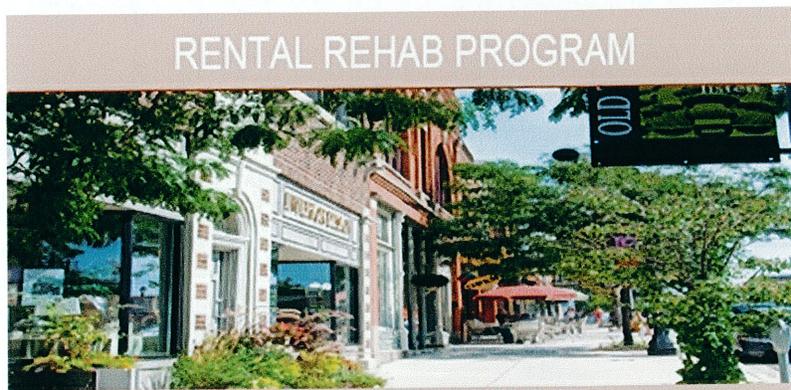
Center St



www.michigan.gov
(To Print: use your browser's print function)

Release Date: April 27, 2002
Last Update: September 29, 2011

Rental Rehabilitation Program



MSHDA's Community Development Division's (CD) Rental Rehabilitation program is designed to improve investor-owned properties and spur economic development in Michigan's downtowns. Funding for Rental Rehab is generally provided through the unit of local government with jurisdiction for code enforcement and/or rental licensing.

- Property owners fund at least 25% of project costs
- Affordability at initial occupancy
- \$35,000 per unit maximum for the creation of rental units in previously non-residential space
- \$25,000 maximum for any unit in legal residential use and occupied during the last 5 years

Refer to CD's [Housing Resource Fund Summary](#) for more detail. Housing Resource Funds may be combined with MSHDA's [Property Improvement Program](#).

Rental Rehab projects targeted at downtown business districts often have a long-term positive impact resulting from (a) increased activity in the downtown, (b) increased revenue to downtown property owners, and (c) productive use of space which is often inappropriate for homeownership. Applications that are part of a comprehensive downtown or gateway strategy for economic development have priority. Additionally, **CD will give preference to applications that meet the following criteria:**

1. The projects are ready to go with owner financing for the leverage portion in place at time of application submittal, (proof of leverage funds must be submitted with application).
2. Projects of 4-16 units must demonstrate long term financial viability.
3. Projects that create new units in the upstairs of commercial buildings in the downtown.
4. Projects that are strongly supported by the municipality, by tax incentives given to building owners. This could be a Neighborhood Enterprise Zone, Brownfield, or other program that reduces the taxes for the property owner.
5. Program/Projects with historic buildings that are eligible for historic tax credits (placed in service prior to 1936), and that are in a historic local district.
6. Programs/Projects in a Michigan Main Street Community.
7. Projects that preserve the historic character of the building.
8. Projects that include "green" standards using recyclable materials, and projects that achieve high energy efficiency standards.
9. Projects that create units with at least 750 square feet (SF) per unit (and at least one bedroom per unit). Projects less than 750 SF could be considered, but MSHDA would award a maximum of \$25,000 for these units.

NOTE: Beginning January 1, 2011, applications for downtown Rental Rehabilitation projects that meet all or most of the above criteria can come in at any time and do not have to wait for a funding window. Applications can be for one or more buildings, but should be a request to create at least two

STAFF FINDINGS OF FACT

CITY OF SOUTH HAVEN ZONING BOARD OF APPEALS

DATE: February 8, 2016
ADDRESS: 409 Phoenix Street (Harbor Toys)
ZONING DISTRICT: CBD, Central Business District
LOT DIMENSIONS: 25x100
LOT AREA: 2500 square feet
LOT COVERAGE: Not applicable in the CBD
REQUIRED FRONT SETBACK: Not applicable in the CBD

VARIANCE REQUEST: The applicant is asking for relief from the off-street parking requirement for dwellings above a retail use in the CBD. The first dwelling unit does not require parking but each subsequent unit requires two parking spaces. The applicant is asking for a variance from the required parking in order to construct two units above Harbor Toys.

DIMENSIONAL VARIANCE STANDARDS

City of South Haven Zoning Ordinance Section 2205:

1. Such variance will not be detrimental to adjacent property and the surrounding neighborhood.

There are many residences in the CBD both above retail stores and in condominium projects. The addition of more residences in the CBD will benefit the city and the vitality of the CBD. The variance in and of itself will not be detrimental to the surrounding neighborhood.

2. Such variance will not impair the intent and purpose of this Ordinance.

It is the intent of the ordinance to allow residences in the CBD provided that private parking on the property is available. This is to prevent the use of public parking spaces for residences and keep the public parking spaces for store owners and downtown visitors. The ZBA will need to weigh the advantages of more residents in the downtown against the loss of two (2) parking spaces.

3. Exceptional or extraordinary circumstances or conditions apply to the property in question or to the intended use of the property that do not apply generally to other properties in the same zoning district. Such circumstances shall create a practical difficulty because of unique circumstances or physical conditions such as narrowness, shallowness, shape or topography of the property involved, or to the intended use of the property. See Section 2204(2).

Staff does not find exceptional or extraordinary conditions as far as lot size or configuration within this CBD neighborhood.

4. 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.

As previously stated, there are many residences in the downtown both above stores and in condominiums. Many of those residences met the off-street parking requirements through the now defunct Community Parking Program. That

program allowed property owners to pay a fee to the city for each park space not provided. The funds collected from that program were used to create additional public parking in the downtown. With that program gone the building owners are able to create upper level residences only when off-street parking spaces are available. This is often not the case in the downtown where buildings exist on or very close to the property lines. The ordinance allows for one residence to be created without off-street parking but not the second unit as this applicant proposes. The ZBA needs to decide if this places an unnecessary burden on the owner.

5. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

This appears to be the first such variance request in the CBD in recent years. Staff is aware that these requests could increase as state funding is available for residential renovations in downtowns. Given that, it may be time for the city to consider a broader response to this issue. Until long term solutions are found, however, it is more prudent to consider these requests as they arise.

6. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, shall not be the result of actions of the property owner. In other words, the problem shall not be self-created.

The problem is not self-created except in the sense that the off-street parking spaces that are available with this property are tied to a lease agreement with other commercial store owners. The remaining two (2) spaces will need to be needed to build a fire exit stairs for the proposed apartments.

7. That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.

Without the requested variance, the applicant would be able to construct one residence but not two. This would result in unusable upper level space in the CBD. Whether this is unnecessarily burdensome for the owner is a ZBA consideration.

8. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship. **The applicant could create only one residence and the variance would not be necessary.**

9. That the variance will relate only to property under the control of the applicant. **The variance request only involves the property owned by the applicant.**