



MEETING MINUTES

LAND USE COMMISSION

Wednesday, May 11, 2022

7:00 PM

Lorraine H. Morton Civic Center, 2100 Ridge Avenue, James C. Lytle City Council Chambers

Members Present: Myrna Arevalo, John Hewko, Jeanne Lindwall, Kiril Mirintchev, Max Puchtel, Matt Rodgers, Kristine Westerberg

Members Absent: Violetta Cullen, George Halik, Brian Johnson

Staff Present: Johanna Nyden, Melissa Klotz, Meagan Jones,

Presiding Member: Matt Rodgers

Call to Order

Chair Rodgers opened the meeting at 7:06pm. A roll call was then done and a quorum was determined to be present.

Approval of April 13, 2022 Meeting Minutes

Ms. Jones pointed out several edits to be made. Commissioner Westerberg then made a motion to approve the Land Use Commission meeting minutes from April 13, 2022 as amended. Seconded by Commissioner Puchtel. A voice vote was taken and the motion passed, 5-0, with two abstentions.

New Business

A. Appeal | 1566 Oak Avenue | 22ZMJV-0031

Chris Dillow, appellant, appeals the decision of the Determination of Use issued by the Zoning Administrator on March 17, 2022, regarding operations of Connections for the Homeless at the Margarita Inn at 1566 Oak Avenue, which found the operations to be consistent with the Zoning Ordinance definition for Rooming House (Section 6-18-3) and also found existing Special Use Ord. 51-O-74, adopted in 1974, is no longer valid. The Land Use Commission is the determining body for this case in accordance with Section 6-3-9-8 of the Evanston Zoning Code and Ordinance 92-O-21.

Ms. Klotz read the case into the record then noted that the application was revised on April 30th to include co-appellant John Cleave and that one comment within the meeting packet is actually a request for a continuance of the agenda item. Chair Rodgers explained the common operating procedures regarding continuances, explaining that testimony will still be taken at this meeting.

Presentation

John Cleave, co-appellant, provided a presentation explaining his appeal and arguing that calling the use a rooming house violates special use standards (note: a Special Use application is not being considered as part of this appeal) and that there are several other special uses in the code that more closely describe how Connections for the Homeless is using the Margarita Inn, including: Transitional Shelter, Transitional Treatment Facility and Assisted Living Facility. He pointed out that Connections for the Homeless has referenced themselves as being a shelter and provides a number of supportive services to provide physical and mental healthcare as well as substance abuse care for residents that need those services.

Mr. Cleave also noted that as of 2018, there were 46 rooming houses in the City and they do not operate as Connections for the Homeless operates. He continued, explaining that designating the Margarita Inn as a Rooming House violates four Special Use standards then explained that if the City designates the Inn as a rooming house, the City loses some ability to control what occurs at the property. He also noted that there has been a sharp increase in police and medical calls to the site, 260 total, at an average of 3 a week since Connections for the Homeless began using the Margarita Inn. This diminishes desirability and property values of both residential and commercial properties near the site and drains Police and Fire services. He then urged the Commission to not uphold the Administrator's decision as it opens the door to other similar applications and holds the use to the laxest standards. The City, Commission and Connections should work together to figure out the best definition and solutions.

Questions

Commissioner Puchtel asked Mr. Cleave which use he believes should be assigned. Mr. Cleave responded that it should be a transitional shelter but it is a conundrum because it provides temporary shelter as well as extensive social services and programs. It is a unique model. He provided other examples in other municipalities that worked to define what the use is and what actually occurs at the site.

Chair Rodgers then asked Ms. Klotz if she would like to provide insight into her decision making process. Ms. Klotz stated that she did not deem the use to be a transitional shelter due to the amount of time people are staying at the Margarita Inn. Transient guests are specifically defined in the code and the average stay for people staying at the Inn currently is 9 to 10 months or more. A transitional treatment facility did not fit as the zoning ordinance specifically designates that use for drug rehabilitation. Assisted Living facilities are licensed by the state under assisted living licensing and zoning uses the same use interpretation for that and therefore deemed this use was not an assisted living facility.

Commissioner Westerberg asked if the extent of services offered to residents push the limit on whether or not a use is a rooming house. Ms. Klotz responded that she considered that. The zoning definition does not say that services cannot be provided

and gave the YMCA as an example of a use that provides other programming or services as needed.

Commissioner Westerberg inquired if zoning addresses the issue of licensing of these facilities and what can be provided. Ms. Klotz responded that in certain uses this does occur; some uses are licensed through the state and other licensing occurs through the Health Department.

Commissioner Puchtel inquired if there were other examples of transitional shelters and rooming houses that were referenced to help in decision. Ms. Klotz responded that the YWCA operates as a rooming house but is also a domestic violence shelter that provides supportive services as well. There are a variety of smaller multi-family buildings that non-profits run that fly under the radar since they are residential. Boys Hope and Girls Hope with about 15 or so teenage students that operate as a rooming house and live there during the school year and some services are provided. Ms. Klotz then explained that she believes that transitional shelter was established after Hilda's Place got established so there may not have been a use established since then.

Commissioner Lindwall inquired if there was a separate definition for the Boys & Girls Hope. Ms. Klotz confirmed that it is a child residential care home - type II.

Ms. Klotz also explained that there are a variety of other rooming house examples but most of those buildings do not have supportive services.

Commissioner Westerberg asked what oversight the City has regarding rooming houses. They are a special use so conditions can be added to provide as much oversight as the City wants but there is no one standard.

Public Comment

Chair Rodgers asked that speakers reference the appeal that is before the Commission at this meeting and not other items.

Chris Dillow stated that the guests at the YMCA pay rent, are vetted, are prohibited from using drugs/alcohol and there are fewer services provided. This does not compare to how the Connections for the Homeless/Margarita Inn operates. He explained that in March 2020 the City authorized Connections to operate a Homeless Shelter, many documents reference this use as a shelter and that emergency order ended in May 2020. He added that the use goes against occupancy limits and ignores the previously established MOU prohibiting alcohol. Mr. Dillow then stated that there are a large number of individuals there with no criteria and parameters on who can stay, resulting in 265 calls to the site, 5 times the amount per resident at Albany Care for which there are attempts to revoke its license. He expressed that changing sheets once a week is not enough regulatory oversight to call this a rooming house and the Commission should decide to view it as the City has previously referenced.

Eric Paset explained that he has been involved in real estate for 45 years and that this use adversely affects the neighborhood. The tax burden has been shifted to landlords and they have been forced to raise rents. He shared that some residents in his building will not renew their leases due to Margarita Inn being next door and he has had to lower rents while expenses have increased. Mr. Paset then suggested that residents would not be appealing if the Margarita Inn had been good neighbors and that he does not see problems at other locations as seen here: tons of congregating, harassing neighbors, demanding money. The neighborhood has changed and partially because of this building

Tina Paden expressed that there are differences between the YMCA and Margarita Inn. She provided reference from Connections for the Homeless' presentation defining transitional shelter and a rooming house, then provided a comparison of the operations for each. Ms. Paden then explained that staff had responded to questions at the Homeless and Housing Commission regarding how long people stay at each; YMCA was up to 20 years and Connections averaged 265 days. She also pointed out that Connections for the Homeless has referenced themselves as a shelter. She then referenced the increased calls to the site and asked the Commission to call the Inn what it is then follow the code accordingly with a 30 occupant maximum.

Jenny Sovary has been a donor and volunteer at Connections, seen their operations and has seen that they are doing their work properly. She then explained that she has purposely walked, run, driven and rode her bike past the site and has not seen extreme cases previously mentioned. She finished by stating she purposely moved back to Evanston for its inclusiveness and that the City should walk the walk.

Nia Tavoularis, Director of Development for Connections for the Homeless, stated she is proud to be part of leadership with 90 employees. She explained that the organization delivers services to those with housing insecurity and indicated that she will respond in full to concerns raised at the proper time. She stated that last year the organization served 4000 people with homeless prevention, bridge housing, and long term support. 300+ people were housed over the last year, at one point in 3 different hotels there is currently a waitlist of over 50 people. She then explained that the Inn is using a program that uses hotels and rooming houses (as started during the pandemic) and that Connections partners with other organizations. Services are provided including mental health, but are not required of residents. Ms. Tavoularis explained that the primary reason for using the Margarita Inn is location and what it provides (rooms, staff space, close to transit and other services) and that those benefits deserve to be used by the building residents, adding that a majority of residents are from Evanston. She then stated that Connections for the Homeless is refining bridge housing, adding staff, adjusting programming and is open to new solutions but the current model works well.

Chair Rodgers asked what the process for intake is. Ms. Tavoularis walked through the process explaining that people are provided shower services, food and other items. A person is able to sit with a case manager (part of street outreach) during drop-in hours, where they would be asked what their needs are. She then expressed that some people

fully explain their circumstances, others do not. There is not a place to scoop people up and immediately place them (i.e. at the Margarita Inn). Diversion services are provided if possible. She added that they do offer access to the Pacific Garden Mission as it takes weeks to get into the Margarita Inn and this is part of the continuum of care and a big part of consideration is the vulnerability level, how vulnerable is someone to death if they do not get help.

Linda Baum stated that she does not understand, if this is a rooming house, how residents determine where problems are coming from. She explained that she sees drug sales and use and urinating in the alley. Ms. Baum then expressed that she does not believe there has not been furor because Connections operated well, but because of Covid and seeing the need for housing. She stated that there need to be better regulations and perhaps intake procedures. She finished by stating the use is not a rooming house, it is a homeless shelter and code should be followed.

Mike Joyce stated that the use is not considered transitional but if a resident is not paying rent, why not stay? He stated that neighbors have not had issues with anyone at YMCA or YWCA. He shared that he has heard arguing in the middle of the night at the Margarita Inn and he does not know what is being done to fix issues that have arisen. He then expressed that the comparison to the YMCA and YWCA is ridiculous.

Mr. Cleave explained that ultimately residents are connected to Evanston and want to work to correct issues. Mr. Dillow added that everything Connections for the Homeless said is spot on and proves they are a transitional shelter; the City should start there and move on.

Chair Rodgers then revisited the request for continuance that was submitted in the meeting packet from Andrew Scott, legal representation on behalf of the owner of 1566 Oak Ave LLC, expressed that the reason behind requesting the continuance was because there were a number of different items relating to the use of the Margarita Inn that needed to be addressed and he believed it made more sense to hear and discuss all of those issues within the same meeting, however, that has not occurred. William McKenna, legal representation on behalf of Connections for the Homeless (along with Donna Pugh), they have comments to make regarding the Zoning Administrator's decision and would assist Mr. Scott when he is able to present.

Chair Rodgers expressed that his feelings are that the two appeals are two different cases dealing coming at the determination from different approaches. The next appeal he believes relates to whether the special use granted in 1974 is still valid and it is current practice to permit testimony even when a continuance is received and granted. He added that he does not believe the current appeal relates to the upcoming appeal nor does he know that granting the continuance assists anyone. Mr. Scott responded that he believes some of the issues and questions raised by Mr. Cleave relate to the upcoming appeal especially relating to special use standards. Chair Rodgers reiterated that the Commission is not to decide on a special use or those standards at this meeting, solely on the appeal of the Zoning Administrator's decision on what the use is.

Mr. McKenna requested that if the Commission decides tonight, he asks that the Commission also consider their case at this meeting. Chair Rodgers explained the thought process of hearing items separately, is the Commission can determine that the use is a transitional shelter, in which case the rooming house issue is settled. Then the question is whether the 1974 special use is still valid based on the current use of the property. He stated that he would prefer to settle this issue then allow the 2nd appeal to be heard at the next hearing. Mr. McKenna stated that Connections believes this is properly use a rooming house and is a party to the case being heard and would prefer to present their views on what is being heard

Mr. McKenna explained that he supports the Zoning Administrator's decision but that each of the issues must be taken in the context. He expressed that several speakers had thrown around the term homeless shelter which is not in the code. He explained that the current operations align with a rooming house. Lodging excluding food service is provided to residents. \$75 per room is paid to the owner by Connections for the Homeless and it does not operate food service; it provides donated food but not a bundled item for sale. He explained that he believes this is a rooming house based on this fact. Mr. McKenna continued, stating that a transitional shelter does not match; residents are not required to leave 12 hours a day. The assisted living definition does not apply due to not providing assistance with daily living and activities. Connections for the homeless does not provide 24 hour service to residents. If in need of a special use permit, Connections will apply for one and be subject to standards and conditions. It operates similar to the YMCA

Commissioner Puchtel asked if it is decided that the use is a transitional shelter, what that would mean. Mr. McKenna explained that a transitional shelter places a different limitation on maximum occupants and that currently Inn residents have full utilization of their rooms all day and are not shifted out 12 hours a day. He concluded that Connections for the Homeless could not run Margarita Inn as currently run if it was made to be a transitional shelter.

Chair Rodgers revisited the request for a continuance and if there was support to grant it or address the review at the current meeting. Commissioner Westerberg expressed that she prefers to address tonight. There was no disagreement from other Commissioners and the continuance request was denied.

Chair closed the hearing.

Deliberations

Chair Rodgers emphasized that the discussion before the Commission is whether or not the Zoning Administrator's made an error in her decision on the current use being a rooming house.

Commissioner Lindwall agreed that rooming house seems to be the best fit but there is discussion on how this operates that shows this is not really a rooming house but a

hybrid model that does not really fit an existing definition. She then asked if the Commission needed to use existing definitions or can it work to create a more fitting definition. Chair Rodgers replied that the Commission must use the current definitions since this item is before the Commission at this particular time. If Connections for the Homeless is asked to submit a special use permit application they would need to choose a definition to apply for in order to move forward. Commissioner Lindwall suggested that they could do a text amendment. Chair Rodgers agreed and added that it would prolong the process with no guaranteed approval.

Commissioner Lindwall expressed that both sides make strong arguments and the issue is there is no current definition that really fits the current operations. Depending on how the 2nd appeal is resolved, there would still be issues with considering proper definition. Chair Rodgers responded that there would be something to apply the standards to and that the Commission's decision needs to be made based on current definitions that the code has.

Commissioner Westerberg said that choosing based on the existing definitions is the real dilemma. It does not appear to be a rooming house based on social services that need to be available. Residents do not pay rent even though Connections does pay the owner of the building. The rooming house definition does not seem to fit.

Commissioner Puchtel directed Commissioners to page 20 of the meeting packet. He then explained that the Commission is not trying to decide suitability of current definitions but is trying to decide if the Zoning Administrator's decision was arbitrary, ill-considered or erroneous. He expressed that, given the definitions available at the time, the Zoning Administrator picked the closest one feasible.

Commissioner Westerberg confirmed that the Commission is judging the decision of the Zoning Administrator's decision and not on the appropriateness of the available definitions. Chair Rodgers confirmed this to be the case and that the Commission is not creating new definitions for this case. He added that, given the definitions that the Code currently has, the Commission needs to look at if the Zoning Administrator's decision appears to be correct. He then expressed that there are some things that concern him regarding how the Margarita Inn currently operates. If possible tenants are being asked to wait, that does not address an emergency. Chair Rodgers then pointed out that in a rooming house, compensation is direct or indirect; there is indirect payment with Connections paying for the rooms being used. He believes that this leans closest towards a rooming house given the definitions that exist.

Commissioner Hewko inquired what the practical outcome is with regards to Connections operations and upcoming cases; the current use does not fully meet any definitions. Chair Rodgers responded that he believes that is being premature as it will not immediately address issues raised by the neighbors which are legitimate issues. Based on the appeal, the Commission is looking at whether or not the use is that of a rooming house or something else based on definitions in the Zoning Code. He acknowledged that the use does not fit easily into any existing definitions.

Commissioner Hewko stated that issues that have been expressed cannot be solved with a different definition. Chair Rodgers expressed concern that the process has gotten this far and Connections for the Homeless has not applied for anything as typically when someone is found to be in violation does occur. The appeal stops the process. If the special use for this property is found to not be valid, then Connections for the Homeless will not be operating validly. He then explained that he would like to see a Special Use application submitted so that there is an application in hand and explained the proposed process of review based on the appeals received and if a special use application is submitted by Connections for the Homeless.

Commissioner Lindwall expressed that the question is simple: is this a rooming house or something else? Given the operation description that Connections for the Homeless gave she does not think it is a rooming house and it is not the same as the YMCA or student rooming houses in other neighborhoods. Commissioner Westerberg agreed. Commissioner Puchtel responded by asking if she was then saying the Administrator's decision was arbitrary, ill-considered or erroneous. Commissioner Lindwall responded that it was perhaps erroneous.

Commissioner Arevalo stated that she agrees with the Zoning Administrator's decision. In a transitional shelter you do not really live anywhere permanently; you have to carry all of your belongings with you every day and have to be out of the shelter for 12 hours, hoping you can get back in after that time.

Commissioner Mirintchev explained that the Zoning Administrator made a decision based on definitions in the Code and believes the decision to call it a rooming house was correct. He added that he does not think there is a definition that truly matches what the business model of Connections is.

Commissioner Hewko asked if one does not feel the current use does not meet the definition of a rooming house, does that mean we are calling it a transitional shelter or something else. Chair Rodgers responded that it must fit existing definitions if the Commission does not feel it is a rooming house.

Commissioner Lindwall suggested that a text amendment could be requested. Chair Rodgers agreed that this is an option

Ms. Klotz recommended making a determination on what use is or if a text amendment should be made. It should not be left to Connections for the Homeless to determine as that could continue to be appealed.

The Commission then reviewed the Standards for Determination of Use

1. Met
2. Met

3. Some disagreement occurred among Commissioners with Commissioner Lindwall explaining that this use being reviewed is different from other uses that are defined in the code; she did not believe this standard was met.
4. Met
5. Met

Commissioner Lindwall made a motion to uphold the Zoning Administrator's decision. Seconded by Commissioner Westerberg. A roll call vote was taken and the motion failed, 4-3. This case was, therefore, automatically continued in order to get six concurrent votes, in favor of approving or in favor of denying an item, required for cases in which the Commission is the determining body.

Chair Rodgers expressed that he would like to request that Connections for the Homeless submit a special use application within the next 10 days so that the case is on the docket and momentum on this is not lost should the appeal at the next meeting regarding the existing special use fail. That special use review would then be a time for conditions to be placed on the operations should it be approved. Mr. McKenna responded that that will be done.

Communications

Ms. Klotz explained that there is another appeal on the agenda for the next meeting; six concurrent votes will be needed for both appeals and she requested that Commissioners make best efforts to be in attendance.

Public Comment

Mr. Cleave thanked the Commission for reviewing the case and making a difficult decision.

Adjournment

Commissioner Lindwall motioned to adjourn, Commissioner Puchtel seconded, and the motion carried.

Adjourned 9:15 pm
Respectfully submitted,
Meagan Jones, Neighborhood & Land Use Planner