



**ZONING BOARD OF APPEALS**

May 4, 2021

A regular meeting of the City of Petoskey Zoning Board of Appeals was conducted virtually from remote locations, with staff at the City Hall Council Chambers on Tuesday, April 6, 2021. Roll was called at 7:00 P.M.

Present: Ben Crockett, Petoskey, Emmet County, MI  
Mary Clinton, Petoskey, Emmet County, MI  
Chris Hinrichs, Petoskey, Emmet County, MI  
Jim Knibbs, Petoskey, Emmet County, MI  
Lori Pall, Petoskey, Emmet County, MI  
Scott Morrison, Petoskey, Emmet County, MI

Others: Peter Bucci, Harbor Hall  
James Dittmar, 914 East Lake Street  
Jeff Grantham, 801 Baxter Street

Staff: Amy Tweeten, City Planner  
Lisa Denoyer, Administrative Assistant

Upon motion and support, the minutes from April 6, 2021 regular meeting were approved 6-0.

**Case #851 – Requested Temporary Use  
for a Weekly Carwash at 114 Rush Street**

Staff informed the Board that Harbor Hall was requesting a temporary use for a weekly Saturday donation carwash from 12:00 P.M. to 4:00 P.M., May to September at 114 Rush Street. The Property is located in the B-2B Mixed Use Corridor and the last temporary use request for the carwash was in 2018 for a carwash held in Rush Street. The ZBA conditionally granted the temporary use on a bi-weekly basis from 1:00 P.M. to 4:00 P.M., June to October.

Staff noted that letters of support had been received from Tim Kepford and John Carruthers, owners of 125 Fulton Street, and conditional support, if traffic were limited to Emmet Street, from John Agria, 714 Baxter Street. Letters of opposition were received from Debora and James Ernst, 702 Elizabeth Street, Jeff Grantham and Sandra Kolinski, 801 Baxter Street, Vivienne and Allen Russel, 815 Baxter Street and James Dittmar, 914 East Lake Street. Concerns raised were noise from vacuums, yelling, traffic, storm water runoff, unfair competition for other non-profit carwashes and that the request does not meet the standards for approval.

Board member Clinton stated that she reviewed the materials received regarding water discharge but did not have time to thoroughly read it all. She asked if staff had concerns relative to the water usage or discharge from the carwash.

Staff responded that the storm water would run into a filtration basin before it would ever surcharge back to the City's storm water system. It is not something staff feels would be an issue; however, if the Board of Appeals feels that it is something that needs to be looked at it would need to go before the Planning Commission.

Board member Morrison asked if no carwashes were held in 2019 or 2020. Staff responded that they were not.

Board member Pall responded that the carwash was held offsite in 2019 due to construction of a new building on the property.

Peter Bucci, representative for Harbor Hall, responded that they did not have the carwash in 2020 and that the carwash was moved to a church on Anderson Road in 2019. The purpose of the carwash is for residents to generate funds to pay for offsite clinical activities, such as basketball at NCMC, a canoe trip down the Jordan River, etc. Recreational activities have been reduced and they are a large portion of treatment for their patients. They have received great support from the community and now that they have the space and ability to provide the carwash on site they would like to bring it back to Harbor Hall.

Board member Knibbs asked what the average number of cars washed per day was.

Mr. Bucci responded that the maximum number is around 50 cars per day and the average is approximately 20 to 30.

Board member Clinton stated that she read a comment from one of the letters received that there has previously been early morning activity prior to the listed hours.

Mr. Bucci responded that there had not been any carwashes prior to their start time. House cleaning is the only early morning activity.

Board member Pall stated that she remembered reading, possibly in an explanation in previous meeting minutes, that patients had been cleaning Harbor Hall vehicles in the early morning hours.

Mr. Bucci responded that it was possible but unlikely as they usually have those vehicles cleaned off site.

Chairperson Crockett asked Mr. Bucci if he could explain what type of environmentally safe products would be used for the carwash and what sort of practices might be used to help alleviate some of the concerns with sediment, grease and oil runoff.

Mr. Bucci stated that the catch basin would stop all sediments and that the dish soap and car cleaning products they would be using would not attack grease or oil on a vehicle. They do not use professional or caustic cleaners and would consider using other products if requested.

At this time, the meeting was opened for public comment.

Jeff Grantham, 801 Baxter Street, stated that as a nearby neighbor he can see Harbor Hall from his home and that in the past there have been Harbor Hall vehicles cleaned prior to the start of the carwash. The noise from car radios, vacuums, etc. is not relaxing and he in fact purchased an air conditioner so that he could close his windows to keep out the noise from the carwash. He asked the board to review and consider comments received when making their decision.

James Dittmar, 914 East Lake Street, stated that he hoped concerns submitted would be discussed prior to reaching a decision. He voiced concerns with potential disruption to the neighborhood, as well as environmental concerns. He cited documents published by the DNR and DEQ and believes the requested carwash is more intense than a municipal carwash. He commented that he had suggested to the City Planner that if the request were approved, that a DNR permit be required. He also stated that he had a lengthy conversation with the Director of Public Works on how wastewater enters into the retention area. He thought it was interesting that Harbor Hall was able to hold the carwash at a remote site and liked the idea.

There being no further comments, the meeting was closed to public comment.

Board member Hinrichs commented that he has mixed feelings on the request. He feels sympathetic for close neighbors given the amount of disruption there has been with past construction, etc. and the request for 22 Saturdays during the nicest time of year to have to listen to vacuums, etc. could be bothersome. At the same time, the new building shields the neighbors from the noise but it is hard to know if the noise pollution would be mitigated.

Board member Clinton stated that she too is conflicted. Each year there seems to be one more person that comes forward with concerns and she too has concerns with the water issue; however, there have not been any changes in the ordinance or in the request and being that it has been approved previously she struggles with denying the request. She recommended approval of a bi-weekly carwash, a restriction of vacuuming to no earlier than 30 minutes prior to the start time and that prior to any future request that Harbor Hall explore the water situation and communicate with the DNR to determine if the carwash is safe and whether or not a permit would be required.

Board member Hinrichs stated that he would be amenable to a bi-weekly carwash.

Chairperson Crockett stated that he has concerns with pollutant issues with approximately 500 cars being washed per summer and the chemicals that would be entering the water system. He did not feel that hosting the carwash at a different site was a solution to the problem.

Board member Morrison stated that he agreed that the noise would be contained with the addition of the new building. If cars are not being washed at Harbor Hall, they would likely be washed somewhere else in town and the runoff would be going into the same system. He stated that he understands the concerns with noise and pointed out that there will always be noise with construction, lawnmowers, etc. He was okay with the request so long as the noise is within the proposed hours of operation.

Board Member Knibbs stated that the new building may abate the noise and it was a tough decision to make. While it is good for Harbor Hall residents, it is also a nuisance to nearby residents.

Board member Pall stated that Harbor Hall is trying to do good things and encourage good conduct, however, the Board's job is to uphold the zoning ordinance and a carwash is not an allowed use in this district. This is not a single carwash but rather an intense use and it is illegal to have runoff enter into the storm sewer. She voiced concerns with noise pollution and stated that yard sales are restricted to three days in a 90-day period, which are low impact on neighborhoods, and this request would create a much greater impact all summer.

Board member Clinton stated that she appreciated Board member Pall's concerns and when reviewing the request wondered how the Board ever got to the position of approving it in the past. As an attorney, she struggles with denying the request as it has been approved in the past and

once something is approved it creates the expectation that it will be approved in the future. For this reason she suggested approving it with greater restrictions and due diligence on the part of Harbor Hall relative to the issues with water quality and the products used.

Chairperson Crockett stated that no decision by the ZBA is precedent setting in any way.

Staff concurred and reminded the Board that the initial request was brought before them after the carwash had been going on for years without approval. The main concern at that time was that they were using Rush Street to wash cars and all of the water was going directly into the storm drain.

Board member Morrison asked if Harbor Hall was approved for bi-weekly carwashes in the past. Staff responded that the last approval was for bi-weekly carwashes.

Board member Pall thanked staff and Chairperson Crockett for their clarification and stated that neighborhoods change and situations change.

Board member Hinrichs stated that this is a quiet residential part of town and he does not feel the carwash is in harmony with the general character of the district.

Board member Morrison asked if Harbor Hall was next to an industrial district. Board member Pall responded that it was but only on one side.

Board member Pall asked Mr. Bucci why the recreation fee was not included in the charge for treatment and stated that she felt it should be included rather than through fundraising.

Mr. Bucci responded that they do not set the fees and there are restrictions that do not allow them to charge for additional therapies. The government does not necessarily see them as beneficial. There are not a lot of winter activities available, so they like to provide activities and experiences that their patients would benefit from. Unfortunately, these activities and experiences can be costly and the carwash helps to provide funding for them.

Chairperson Crockett asked if insurance was billed for patient participation in the carwash. Mr. Bucci responded that it is not. Patients participate on a voluntary basis. They are federally required to meet core hours; however, the carwash is consider a life skill and is an optional activity.

Mr. Dittmar again expressed concerns with the runoff water entering the storm sewer and stated that local carwash facilities, like the one at Fletch's, either collects and recycles or collects and disposes of the water used. He suggested that an offsite location would remove issues with pedestrian walkability and disruption to the neighbors.

Mr. Grantham thanked the board for their level of consideration and stated that he agreed with Mr. Dittmar. Things have changed. The site has changed and he believes that the orientation of the buildings will create an echo chamber. He believes this use is a high impact use and will create a disturbance on 22 Saturdays throughout the summer. He appreciated the conditions of approval that were in place in 2018 as they made a big difference. While lawn mowing and other noises are expected, this is not the same.

Chairperson Crockett stated that he struggles to believe the Zoning Board of Appeal would approve this request if it were coming to them for the first time. He voiced concerns with the water treatment and stated that he struggles with approving the request, as he does not believe it fits with the character of the neighborhood.

Board member Hinrichs agreed with Chairperson Crockett and stated that while it has a longstanding history, there is not necessarily a long history of approval by the ZBA.

Board member Morrison asked if the board would consider fewer dates. While it is unclear on how the new building will affect the noise on the neighborhood he likes the idea of Harbor Hall doing business in their neighborhood.

Mr. Bucci stated that they are by no means pushing to the full extent of 20 years ago. They are asking for flexibility. Many clients come from the community and it is a huge benefit for patients to be social and an added benefit to the community, not Harbor Hall itself. Any flexibility would be appreciated.

At this time, Board member Clinton made a motion, seconded by Board member Morrison, to approve the temporary use permit for a monthly carwash at 114 Rush Street from 1:00 P.M. to 4:00 P.M., through September 2021, with the following conditions:

1. No vacuuming prior to 12:30 P.M.
2. No activity in Emmet Street
3. Harbor Hall is to use the most environmentally friendly cleaning materials
4. Comply with sign permit requirements prior to car wash.
5. No further approvals of a temporary use until there is further discussion with the Michigan Department of Environment, Great Lakes and Energy.

The motion was based on the findings that:

1. The granting of the temporary use does not constitute a change in the basic uses permitted in the district nor on the property wherein the temporary use is permitted;
2. The temporary use does not require capital improvements; and
3. Under restrictions given, the use is in harmony with the general character of the district.

Motion failed 2-4 with Chairperson Crockett and Board members Hinrichs, Knibbs and Pall voting against the motion.

At this time, Board member Hinrichs made a motion, seconded by Board member Pall, to deny a temporary use permit for a weekly carwash at 114 Rush Street from 12:00 P.M. to 4:00 P.M. through September 2021, as the temporary use is not in harmony with the general character of the district.

Motion carried 4-2 with Board members Clinton and Morrison voting against the motion.

### **Updates**

Staff informed the Board that the Frenz Circuit Court oral arguments was rescheduled to May 10, 2021.

Staff anticipates there will be a June meeting for potentially two variance requests and a temporary use request.

The meeting was then adjourned at 8:20 P.M.