

BOARD OF ZONING APPEALS

Springfield, Ohio

Monday, September 16, 2019

7:00 P.M.

City Forum, City Hall

Meeting Minutes

(Summary format)

Acting Chairperson Denise Williams called the meeting to order at 7:00 P.M.

MEMBERS PRESENT: Mr. Mark Brown, Mr. James Burkhardt, Ms. Zimmers and Ms. Denise Williams.

MEMBERS ABSENT: Mr. Mathew Ryan and Ms. Dori Gaier

OTHERS PRESENT: Stephen Thompson, Planning, Zoning, and Code Administrator
Cheyenne Pinkerman, Community Development Specialist.

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SUBJECT: Approval June 17, 2019 meeting minutes.

Ms. Williams asked if the Board had any corrections to add to the minutes.

Ms. Williams asked the Board members to voice yes if they were in favor of approving the minutes. Members voiced yes.

Ms. Williams asked if any opposed to voice nay. Hearing none, Ms. Williams stated the minutes stand approved.

SUBJECT: Approval August 19, 2019 meeting minutes.

Ms. Williams asked if the Board had any corrections to add to the minutes.

Ms. Williams asked the Board members to voice yes if they were in favor of approving the minutes. Members voiced yes.

Ms. Williams asked if any opposed to voice nay. Hearing none, Ms. Williams stated the minutes stand approved.

Case #19-A-22 Request from Reasonable Choices for a conditional use permit for a personal service establishment (spa) at 738 N Limestone St. in a CO-1, Commercial Office District

Ms. Williams stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

Mr. Thompson gave the staff report.

The applicant seeks a conditional use permit to establish a spa.

ANALYSIS for Conditional Use:

In considering an application for a conditional use, the Board shall give due regard to the nature and condition of all adjacent uses and structures, and the consistency therewith of the proposed use and development. Before authorizing a use as a conditional use, the Board shall review the facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that the proposed conditional use at the proposed location:

- (1) Would not be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of noise, smoke, odor, vibration, dust and dirt, cinders, noxious gases, glare and heat, fire and safety hazards, sewage wastes and pollution, transportation and traffic, aesthetic and psychological effects. The Board shall use and give recognition to those performance standards which are available in model codes or ordinances, or have been developed by planning, manufacturing, health, architectural and engineering organizations, and can be applied to the proposed use, to assist it in reaching a fair and objective decision;

Staff Comment: It would not.

- (2) Is in fact a conditional use as established under the provisions of this Springfield Zoning Code as eligible to be permitted in the district involved;

Staff Comment: Yes.

- (3) Will be harmonious with and in accordance with the general objectives, or with any specific objective of this Springfield Zoning Code;

Staff Comment: Yes.

- (4) Will be designed, constructed, operated and maintained as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;

Staff Comment: Yes, it is an existing structure that would only require internal changes.

- (5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools, or that the persons or agencies responsible for the establishment of the proposed

use shall be able to provide adequately any such services;

Staff Comment: Yes.

- (6) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

Staff Comment: It will not.

- (7) Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. Upon authorizing a conditional use, the Board shall impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this Springfield Zoning Code for the particular conditional use, as the Board may deem necessary for the protection of adjacent properties and the public interest.

Staff Comment: Yes.

STAFF RECOMMENDATION:

Approval of the conditional use permit.

Ms. Williams asked if the Board had any questions for Mr. Thompson.

Ms. Williams explained the case was from the previous month and the board wanted to know what kind of spa and what all would be offered.

Ms. Brenda Griffin, Reasonable Choices, 4867 Urbana Rd, Springfield, OH 45502, explained that Reasonable Choice was a 501(c) non-profit and the building would be used as a peer support spa. Ms. Griffin explained they had a Federal accreditation which allowed to provide peer support to the community in battling the opiate crisis. Ms. Griffin stated they would offer peer support, peer counselors certified by the state of Ohio, mentorship, educational classes, transportation, nutritional classes, online support, health and wellness classes, meditation, yoga, mental health screenings, computer lab, coffee, tea and light snack also provided. Ms. Griffin explained the spa would be offered at a reduced price or free, depending on the insurance coverage, to deal with the chronic pain issues in a holistic way. Ms. Griffin explained the spa would offer medical massage, deep tissue massage, relaxation massage, reflexology, reiki, mini facials, acne facial and anti-aging facials. Ms. Griffin stated everyone would be licensed and the building was insured. Ms. Griffin stated they had spent three years rehabbing the building and making a place where people could get the spa experience without the cost.

Ms. Williams asked if the spa would just be for patients or if it would be open to the public.

Ms. Griffin stated it would be open to patients for the time being.

Ms. Zimmers asked how many visitors would be at the facility at one time.

Ms. Griffin stated there would be no more than 15 at one time.

Ms. Zimmers asked what kind of parking they had to accommodate that many visitors.

Ms. Griffin stated there was an agreement with the Fellowship Christian church to use there parking lot.

Ms. Zimmers questioned if there was any opposition with the neighbors.

Ms. Griffin stated the neighbors were very supportive.

Ms. Williams asked if the board had any questions for the applicant. Hearing none, Ms. Williams asked if there was anyone else that wished to speak at that time.

Mr. Patrick Chimento, 89 Bexley Avenue, Springfield, OH 45503, explained that he owned the insurance building directly next to Reasonable Choices. Mr. Chimento stated he was concerned about parking. Mr. Chimento stated there was a lot of litter coming from the customers and the customers were taking over his parking lot. Mr. Chimento stated he would like to be assured no one would park in his parking lot.

Ms. Griffin stated the clientele at that time was a lot bigger than they had planned. Ms. Griffin explained they had rented another building at another location that houses their clients. Ms. Griffin stated the building would strictly be used for no more than 15 people at a time. Ms. Griffin explained the customers that will be using the services are people that the company had chosen to go deeper with. Ms. Griffin explained they would have regular inspections by the state.

Ms. Williams asked if the company would keep up on the trash and regular maintenance of the building,

Ms. Griffin stated the property had steadily been improving since they bought it. Ms. Griffin explained they had a maintenance crew that kept up with the regular maintenance.

Mr. Chimento agreed they had improved the building tremendously and that he did not have a problem with the building. Mr. Chimento stated his parking concern had been addressed.

Ms. Zimmers asked how Reasonable Choice planned to communicate with their clients about parking.

Ms. Griffin explained that most of their clients do not have cars and they would be providing the transportation. Ms. Griffin stated she would make sure the clients that do drive park where they are supposed to.

Ms. Zimmers questioned the hours of operation.

Ms. Griffin stated Monday, Wednesday and Saturday they would be open from 10:00 am - 6:00 pm, Tuesday and Friday by appointment only, Thursday 2:00 pm - 8:00 pm and they would be closed Sundays and all major holidays.

Ms. Zimmers stated they would be normal business hours and not late night.

Ms. Griffin stated that was correct.

Ms. Griffin asked what the difference between a commercial and a service establishment was.

Mr. Thompson explained the zoning code defines various commercial uses into separate uses. Mr. Thompson was unable to give the exact definition of a spa type use but stated it was different from the other commercial uses.

Ms. Williams asked if there was anyone else that wished to speak. Hearing no further discussion, Ms. Williams asked if there was a motion to close the public hearing.

MOTION: Mr. Brown made a motion to close the public hearing. Seconded by Mr. Burkhardt. Approval by voice vote.

Ms. Williams stated that the public hearing was now closed and asked for a motion to approve Case #19-A-22.

MOTION: Motion by Mr. Burkhardt to Approve Case #19-A-22 Request from Reasonable Choices for a conditional use permit for a personal service establishment (spa) at 738 N Limestone St. Seconded by Mr. Brown.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. The board's concerns were addressed by the applicant.
2. There is adequate parking with the church's permission.
3. Maximum of 20 clients and no late hours.

YEAS: Mr. Brown, Mr. Burkhardt, Ms. Zimmers and Ms. Williams.

NAYS: None

Motion Approved 4 to 0.

Case #19-A-23 Request from Acme Electric for a variance from Chapter 1153.04(a) to allow for a gravel parking lot at 244 W Pleasant St. in a RS-8, Medium-Density, Single-Family Residence District

Ms. Williams stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

Mr. Thompson gave the staff report.

The applicant is requesting a variance from Chapter 1154.04(a) to construct a gravel parking lot. The parking lot would be used for trailer and employee parking. Chapter 1154.04(a) states "all parking and stacking spaces, drives and aisles shall be constructed of Asphalt, Concrete, Brick/Block (Permeable) Pavers, Grass Pavers/Porous Pavement or Pervious Concrete." Gravel is not a permitted surface. Engineering and the Service Department recommended denial. Typically, gravel can cause issues with the City's sewer system. In the application, the applicant did not present a practical difficulty that would necessitate the variance.

ANALYSIS for Variance:

The Board may grant a variance only where there exists a “practical difficulty” as defined by the courts in Ohio in established case law. The Ohio Supreme Court’s decision in Kisil v. City of Sandusky, (1984) 12 Ohio State 3d 30, is a land mark decision in establishing common law governing variances by distinguishing between “use” and “area variances.” Area variances involve an exception from such requirements as yard, lot, and height standards. The Supreme Court established that a practical difficulty must exist before an area variance can be granted.

Then subsequent to this case, in Duncan v. Village of Middlefield, (1986) 23 Ohio 3d 83, the Ohio Supreme Court more fully explained the practical difficulty standards. The factors to be considered and weighed in determining whether a property owner seeking a variance has encountered a practical difficulty in the use of his/her property include, but are not limited to:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

Staff Comment: Yes.

2. Whether the variance is substantial;

Staff Comment: Yes. Gravel is not a permitted surface for parking.

3. Whether the essential character of the neighborhood will be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

Staff Comment: Yes it would.

4. Whether the variance would adversely affect the delivery of government services (e.g., water, sewer);

Staff Comment: Gravel can adversely affect the City’ sewer system. This parking lot is at the intersection of two streets.

5. Whether the property owner purchased the property with the knowledge of the zoning restrictions;

Staff Comment: No.

6. Whether the property owner’s predicament can be obviated through some method other than a variance; or

Staff Comment: Yes. An approved parking surface could be utilized.

7. Whether the spirit and intent behind the zoning requirement would be observed and

substantial justice done by granting the variance.

Staff Comment: No.

STAFF RECOMMENDATION:

Denial of a variance from Chapter 1154.04(a) to construct a gravel parking lot.

Ms. Williams asked if the Board had any questions for Mr. Thompson.

Ms. Zimmers questioned if there were any other lots in the city of Springfield that were approved to have gravel.

Mr. Thompson stated there were no lots approved but some gravel drives had been approved that were further out towards the county.

Ms. Williams asked if the Board had any questions for the applicant. Hearing none, Ms. Williams asked if there was anyone else that wished to speak at that time. Hearing no further discussion, Ms. Williams asked if there was a motion to close the public hearing.

MOTION: Mr. Burkhardt made a motion to close the public hearing. Seconded by Mr. Brown. Approval by voice vote.

Ms. Williams stated that the public hearing was now closed and asked for a motion to approve Case #19-A-23.

MOTION: Motion by Mr. Brown to approve Case #19-A-23, request from Acme Electric for a variance from Chapter 1153.04(a) to allow for a gravel parking lot at 244 W Pleasant St. Seconded by Ms. Zimmers.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. The applicant was not present.
2. Gravel parking is inappropriate for the location.
3. Gravel parking lots are difficult to maintain.

YEAS: None.

NAYS: Mr. Brown, Mr. Burkhardt, Ms. Zimmers and Ms. Williams.

Motion Disapproved 4 to 0.

Case #19-A-24 Request from Acme Electric for a variance from Chapter 1156.01(c) to allow for an eight-foot chain link fence around the property at 244 W Pleasant St. in a RS-8, Medium-Density, Single-Family Residence District.

Ms. Williams stated that the public hearing was now open and asked for Mr. Thompson to read

the staff report.

Mr. Thompson gave the staff report.

The applicant is requesting a variance from Chapter 1156.01(c) to construct an eight-foot chain link fence around the new parking area. The applicant stated the taller fence would better protect equipment on the property. Chapter 1156.01(c) states “In an R or C District or within fifty (50) feet of an R or C District along the same frontage, walls, hedges or fences within the front yard shall not exceed a height of four (4) feet.” This variance would be a 100% increase in the permitted height of fence on this property.

ANALYSIS for Variance:

The Board may grant a variance only where there exists a “practical difficulty” as defined by the courts in Ohio in established case law. The Ohio Supreme Court’s decision in Kisil v. City of Sandusky, (1984) 12 Ohio State 3d 30, is a land mark decision in establishing common law governing variances by distinguishing between “use” and “area variances.” Area variances involve an exception from such requirements as yard, lot, and height standards. The Supreme Court established that a practical difficulty must exist before an area variance can be granted.

Then subsequent to this case, in Duncan v. Village of Middlefield, (1986) 23 Ohio 3d 83, the Ohio Supreme Court more fully explained the practical difficulty standards. The factors to be considered and weighed in determining whether a property owner seeking a variance has encountered a practical difficulty in the use of his/her property include, but are not limited to:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

Staff Comment: Yes.

2. Whether the variance is substantial;

Staff Comment: Yes. It is a variance of 100% in the height maximum.

3. Whether the essential character of the neighborhood will be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

Staff Comment: No.

4. Whether the variance would adversely affect the delivery of government services (e.g., water, sewer);

Staff Comment: No.

5. Whether the property owner purchased the property with the knowledge of the zoning restrictions;

Staff Comment: No.

6. Whether the property owner's predicament can be obviated through some method other than a variance; or

Staff Comment: Yes. A four foot fence could be constructed.

7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Staff Comment: Yes. It would be a chain link fence, which would not have a negative affect if an eight foot fence is constructed.

STAFF RECOMMENDATION:

Approval for a variance from Chapter 1156.01(c) for an eight-foot fence in a front yard.

Ms. Williams asked if the Board had any questions for Mr. Thompson.

Ms. Zimmers gave some examples of similar fences inside the city limits.

Mr. Burkhardt stated the board had approved several similar variances before.

Mr. Thompson stated the chain link fence instead of a privacy fence allows for visibility and would not interfere with traffic at the intersection.

Ms. Williams asked how the chain link fence would deter people from getting to the equipment.

Board members suggested the fence would slow the person or persons down.

Ms. Williams asked if the board had any questions for the applicant. Hearing none, Ms. Williams asked if there was anyone else that wished to speak at that time. Hearing no further discussion, Ms. Williams asked if there was a motion to close the public hearing.

MOTION: Mr. Burkhardt made a motion to close the public hearing. Seconded by Ms. Zimmers. Approval by voice vote.

Ms. Williams stated that the public hearing was now closed and asked for a motion to approve Case #19-A-24.

MOTION: Motion by Ms. Zimmers to approve Case #19-A-24, request from Acme Electric for a variance from Chapter 1156.01(c) to allow for an eight-foot chain link fence around the property at 244 W Pleasant St. Seconded by Mr. Brown.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. There is no opposition.
2. It fits in the neighborhood.

3. It will help with protecting property and equipment.

YEAS: Mr. Brown, Mr. Burkhardt, Ms. Zimmers and Ms. Williams.

NAYS: None

Motion Approved 4 to 0.

Case #19-A-25 Request from Robert & Melissa Skinner for a variance from Chapter 1156.01(a) to allow for a six foot fence which is four feet from another structure at 1156 N Bechtle Ave. in a CC-2, Community Commercial District

Ms. Williams stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

Mr. Thompson gave the staff report.

The applicant is requesting a variance from Chapter 1156.01(a) to construct a six foot privacy style fence that is less than six feet from a structure. 1150 and 1156 N Bechtle Ave are parties to a court settlement requiring the construction of a six foot fence, 24 feet long from the rear of 1156 N Bechtle, heading east.

ANALYSIS for Variance:

The Board may grant a variance only where there exists a “practical difficulty” as defined by the courts in Ohio in established case law. The Ohio Supreme Court’s decision in Kisil v. City of Sandusky, (1984) 12 Ohio State 3d 30, is a land mark decision in establishing common law governing variances by distinguishing between “use” and “area variances.” Area variances involve an exception from such requirements as yard, lot, and height standards. The Supreme Court established that a practical difficulty must exist before an area variance can be granted.

Then subsequent to this case, in Duncan v. Village of Middlefield, (1986) 23 Ohio 3d 83, the Ohio Supreme Court more fully explained the practical difficulty standards. The factors to be considered and weighed in determining whether a property owner seeking a variance has encountered a practical difficulty in the use of his/her property include, but are not limited to:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

Staff Comment: Yes.

2. Whether the variance is substantial;

Staff Comment: No.

3. Whether the essential character of the neighborhood will be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

Staff Comment: No.

4. Whether the variance would adversely affect the delivery of government services (e.g., water, sewer);

Staff Comment: No.

5. Whether the property owner purchased the property with the knowledge of the zoning restrictions;

Staff Comment: No.

6. Whether the property owner's predicament can be obviated through some method other than a variance; or

Staff Comment: No. This variance request is a result of a court ordered settlement.

7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Staff Comment: Yes.

STAFF RECOMMENDATION:

Approval for a variance from Chapter 1156.01(a) for a six-foot fence that is four feet from a structure.

Ms. Williams asked if the Board had any questions for Mr. Thompson.

Ms. Zimmers questioned if the maintenance and cost of the fence would go to the flower shop owner.

Mr. Thompson stated that was correct.

Ms. Williams asked if the board had any questions for the applicant. Hearing none, Ms. Williams asked if there was anyone else that wished to speak at that time. Hearing no further discussion, Ms. Williams asked if there was a motion to close the public hearing.

MOTION: Ms. Zimmers made a motion to close the public hearing. Seconded by Mr. Burkhardt. Approval by voice vote.

Ms. Williams stated that the public hearing was now closed and asked for a motion to approve Case #19-A-25.

MOTION: Motion by Mr. Burkhardt to approve Case #19-A-25, request from Robert & Melissa Skinner for a variance from Chapter 1156.01(a) to allow for a six foot fence which is four feet from another structure at 1156 N Bechtle Ave. Seconded by Ms. Zimmers.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. It solves an issue between businesses.
2. There is no opposition.
3. Similar fences exist in the surrounding areas.

YEAS: Mr. Brown, Mr. Burkhardt, Ms. Zimmers and Ms. Williams.

NAYS: None

Motion Approved 4 to 0.

Case #19-A-26 Request from Building Blocks Childcare Center for a conditional use permit for a daycare at 1323 W State St. in a CO-1, Commercial Office District

Ms. Williams stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

Mr. Thompson gave the staff report.

The applicant seeks a conditional use permit to establish a daycare center.

ANALYSIS for Conditional Use:

In considering an application for a conditional use, the Board shall give due regard to the nature and condition of all adjacent uses and structures, and the consistency therewith of the proposed use and development. Before authorizing a use as a conditional use, the Board shall review the facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that the proposed conditional use at the proposed location:

- (1) Would not be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of noise, smoke, odor, vibration, dust and dirt, cinders, noxious gases, glare and heat, fire and safety hazards, sewage wastes and pollution, transportation and traffic, aesthetic and psychological effects. The Board shall use and give recognition to those performance standards which are available in model codes or ordinances, or have been developed by planning, manufacturing, health, architectural and engineering organizations, and can be applied to the proposed use, to assist it in reaching a fair and objective decision;

Staff Comment: It would not.

- (2) Is in fact a conditional use as established under the provisions of this Springfield Zoning

Code as eligible to be permitted in the district involved;

Staff Comment: Yes.

- (3) Will be harmonious with and in accordance with the general objectives, or with any specific objective of this Springfield Zoning Code;

Staff Comment: Yes.

- (4) Will be designed, constructed, operated and maintained as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;

Staff Comment: Yes. The applicant has submitted a building permit application.

- (5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;

Staff Comment: Yes.

- (6) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

Staff Comment: It will not.

- (7) Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. Upon authorizing a conditional use, the Board shall impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this Springfield Zoning Code for the particular conditional use, as the Board may deem necessary for the protection of adjacent properties and the public interest.

Staff Comment: Yes.

STAFF RECOMMENDATION:

Approval of the conditional use permit.

Ms. Williams asked if the Board had any questions for Mr. Thompson.

Ms. Zimmers asked if there had been any opposition from the neighbors.

Mr. Thompson stated there was no opposition.

Ms. Williams asked if the applicant wished to speak.

Ms. Keyontee Beach, 2650 East High Street #140, Springfield, OH 45505, explained she wanted to open the daycare because of so many people asking her too. Ms. Beach expressed her concerns for the families and children. Ms. Beach stated her first shift schedule was already full and second shift was filling up. Ms. Beach expressed her passion for opening the daycare.

Ms. Williams asked if the Board had any questions for the applicant. Hearing none, Ms. Williams asked if there was anyone else that wished to speak at that time. Hearing no further discussion, Ms. Williams asked if there was a motion to close the public hearing.

MOTION: Mr. Brown made a motion to close the public hearing. Seconded by Ms. Zimmers. Approval by voice vote.

Ms. Williams stated that the public hearing was now closed and asked for a motion to approve Case #19-A-26.

MOTION: Motion by Ms. Zimmers to approve Case #19-A-26, request from Building Blocks Childcare Center for a conditional use permit for a daycare at 1323 W State S. Seconded by Mr. Burkhardt.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. There is no opposition.
2. It fills a need in the community.
- 3 The location is a great fit for a daycare.

YEAS: Mr. Brown, Mr. Burkhardt, Ms. Zimmers and Ms. Williams.

NAYS: None

Motion Approved 4 to 0.

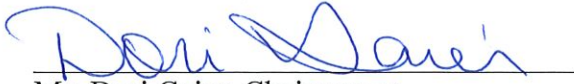
Board Comments: Ms. Williams opened the floor up for questions from the attending Wittenberg class.

Staff Comments: None.

Subject: Adjournment

Mr. Burkhardt made a motion to adjourn the meeting. Seconded by Ms. Zimmers.

Ms. Williams adjourned the meeting at 7:55 pm.

A handwritten signature in blue ink that reads "Dori Gaier". The signature is written in a cursive style and is positioned above a horizontal line.

Ms. Dori Gaier, Chairperson

Ms. Denise Williams, Vice-Chairperson