

MINUTES OF THE ZONING COMMITTEE
Thursday, April 26, 2018 - 3:30 p.m.
City Council Chambers, 3rd Floor
City Hall and Court House
15 West Kellogg Boulevard

PRESENT: Baker, DeJoy, Eckman, Edgerton, Fredson, Lindeke, Ochs, and Reveal
STAFF: Cherie Englund, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Edgerton.

Dearing Mansion Bed and Breakfast - 18-035-742 - Revocation of a conditional use permit for a bed and breakfast due to noncompliance with conditions of the permit at 241 George St. W., between Ohio Ave. and Waseca Street.

Mr. Torstenson noted an April 25 memo from Kady Dadlez outlining options to revoke or not to revoke the conditional use permit.

In response to a question by Commissioner Reveal, Mr. Warner said that enforcement actions should be considered on a case by case basis.

Commissioner Fredson said there were no complaints about Mr. Kramer's New Year's Eve party and no testimony in support of revocation, and he supports not revoking the permit.

Commissioner Eckman asked about Mr. Kramer's previous permit violations that came before the Zoning Committee.

Chair Edgerton said that the Dearing Mansion Bed & Breakfast originally got a CUP for up to 4 guest rooms but was advertised for 6 guest rooms. Mr. Kramer received notice of the violation from the Department of Safety and Inspections (DSI), acknowledged his mistake, and said it wouldn't happen again. A few months later the Planning Commission was notified of another advertisement for 6 guest rooms. At Mr. Kramer's request, the Planning Commission approved modification of the permit to allow up to 6 guest rooms, reiterating that the bed and breakfast residence may not be used for commercial events (which had also been a previous violation).

Commissioner DeJoy remembered that commercial events seemed to have been part of Mr. Kramer's business plan, and the main issue at the 2017 public hearing was disturbance to one of the neighbors due to an outdoor event. She asked if commercial events are still part of his business plan.

Chair Edgerton and Commissioner Reveal said the CUP is only for the bed and breakfast residence and does not allow the Mr. Kramer to rent the house for commercial events. Chair Edgerton noted that Mr. Kramer can have a private party in his own home just like anyone else.

Commissioner Baker said Mr. Kramer seems to be a great person but noted the repeat violations of the CUP and said there has to be some responsibility on his part.

Commissioner Ochs said that how Mr. Kramer conducted his party in his private home was his business, even though it is a bed and breakfast with a CUP. He said there may have been a lack of judgement on Mr. Kramer's behalf, but if so he feels there should be a process to impose fines (similar to that DSI uses for code violations) rather than permit revocation.

Commissioner Lindeke said that this is a large historic house that could have had all kinds of social events. He had been to a non-profit fundraiser in a Summit Avenue mansion where tickets were sold, there are gray areas, and there should be some flexibility for such things.

Commissioner DeJoy asked if there was admission from Mr. Kramer that there was a violation. Chair Edgerton said yes, and Commissioner Baker noted testimony from Mr. Kramer's friends about admission that he had made a mistake.

Chair Edgerton noted Mr. Kramer's repeat violations, but that the neighborhood could suffer if the house reverted to its previous rundown condition because Mr. Kramer may not be able to keep the house if the CUP is revoked. The potential impact of the punishment doesn't fit the crime, neighbors spoke in favor of Mr. Kramer and said his New Year's Eve parties didn't bother them, but Chair Edgerton said he is not happy about repeat violations.

Commissioner Eckman asked if Mr. Kramer would still have Airbnb and VRBO options if the CUP for the bed and breakfast is revoked.

Mr. Torstenson said this question is addressed in the second to the last paragraph of the March 29, 2018 Zoning Committee minutes. If the CUP for the bed and breakfast residence is revoked he could still operate under short-term rental regulations. The short-term rental regulations limit total occupancy based on the definition of *family*, which would be more restrictive than the current CUP, and provide for a CUP for greater occupancy for large lots and houses.

Commissioner Baker said that if the permit is not revoked he thinks there needs to be more than just Mr. Kramer's word that he will not do this again.

Mr. Warner said the Zoning Code does not provide authority to impose fines. He noted that the nature of past violations were different than the party.

Commissioner Ochs said this feels too punitive. This is not a nuisance property, a land use issue, or even an issue where Mr. Kramer is treating the CUP with neglect to the point that he is creating problems for the neighborhood. It seems Mr. Kramer was pushing the limit on the number of guest rooms he could rent to keep it in operation, and maintains his business office onsite to reduce expenses. He noted that Mr. Kramer said he has had a New Year's Eve party every year, but this year he charged admission to pay for the costs associated with the party and allowed others to run and plan the event. There were no complaints from neighbors, nor has Mr. Kramer had any problems with neighbors, and he has improved the property since he purchased it. There are many gray issues, and it's hard to say the permit should be revoked.

Commissioner DeJoy said she appreciates the improvements to the property, but there was a complaint about use of the bed and breakfast residence for a commercial event not allowed by the conditional use permit. She does not want to put anyone out of business, but agrees with Commissioner Baker.

Chair Edgerton said that in 2017 there was evidence of advertising for rental of the house for commercial events and 6 guest rooms.

Commissioner Lindeke said the 2017 Zoning Committee meeting minutes of the discussion about the definition of an event show how we can make a simple thing very complicated. He said that there was also discussion about what people can do in their own home. This is a

question of whether the homeowner threw this party or if he rented it to another organization for profit. There are some fine distinctions that are not clear.

Chair Edgerton noted that the New Year's Eve party was organized by a D.J. who also organizes commercial events at other locations.

Commissioner Fredson made a motion not to revoke the conditional use permit. Commissioner Ochs seconded the motion.

Commissioner Reveal said she is ambivalent about this and will abstain from the vote. She said she is troubled that permit revocation (and its potential consequences) doesn't fit the violation, but also doesn't like the repeat violations and leans toward revocation.

Commissioner Baker said that permit revocation seems excessive, but he is not comfortable with not revoking the permit and just informing Mr. Kramer that he will be held to his word that he will abide by the conditions of the permit.

Commissioner Eckman said that without stronger language there is nothing to hold Mr. Kramer responsible for changing his behavior. She said she struggles with the two options and asked if there are any other conditions that can be added to ensure no other violations occur.

Mr. Torstenson said existing conditions of the permit include immediate referral of any violations to the Planning Commission for permit revocation.

In response to a question by Commissioner Ochs, Mr. Warner said there is no authority under the Municipal Planning Act to impose fines for Zoning Code violations.

Commissioner Ochs commented that Mr. Kramer is paying a price by having to come before the Zoning Committee and Planning Commission. A lot of his friends came to the Zoning Committee meeting last month, and he thought he could have his New Year's Eve party.

Commissioner Eckman noted that the owner of the Dearing Mansion Bed & Breakfast is an LLC, not Mr. Kramer, which makes a difference to her.

Commissioner Lindeke said the rules were not clear and he urged flexibility.

The motion failed by a vote of 3-4-1: Yeas – 3; Nays – 4 (Baker, DeJoy, Edgerton, Eckman); Abstained – 1 (Reveal)

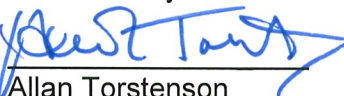
Commissioner Baker moved revocation of the conditional use permit. Commissioner Eckman seconded the motion.

The motion passed by a vote of 4-3-1: Yeas – 4; Nays - 3 (Fredson, Lindeke, Ochs); Abstained - 1 (Reveal)


Drafted by:


Cherie Englund
Recording Secretary

Submitted by:


Allan Torstenson
City Planner

Approved by:


Dan Edgerton
Chair