

MINUTES OF THE ZONING COMMITTEE
Thursday, March 29, 2018 - 3:30 p.m.
City Council Chambers, 3rd Floor
City Hall and Court House
15 West Kellogg Boulevard

PRESENT: Baker, Eckman, Edgerton, Fredson, Ochs, and Reveal
EXCUSED: DeJoy, and Lindeke
STAFF: Kady Dadlez, Samantha Langer, and Allan Torstenson

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.

Kady Dadlez presented the staff report with a recommendation for revocation of the conditional use permit due to noncompliance with the permit and its conditions. She stated that there were 3 letters of support for the B & B (against revocation of the permit), no letters in favor of revoking the permit, and no recommendation from District 3.

The permit holder, Scott Kramer, 241 George St. W., said he is here is because of the apparent violation of the fourth condition of the conditional use permit, which prohibits any use or advertising for use of the bed and breakfast residence as a reception house for parties. He said he has been following the conditions of the modified conditional use permit to the letter, and the issue over his New Year's Eve party is a misunderstanding. He said the New Year's Eve party invitation did not include his name and makes it unclear that this was his party. He has had New Year's Eve parties since 2006. This year he teamed up with two friends in the music business to co-host the party, in which he provided the house and they planned the event and got invitations out through Facebook. They came up with the idea of selling of tickets for \$35.00 to cover expenses and added another dance floor. It went viral through Event Bright and reached capacity right away. He said he has never done a party like this before, and if he were to do it again he wouldn't charge, but rather ask for donations. He said it is his house and his party and he made sure there wasn't an impact on the neighborhood by doing a sound check of the audio equipment and locating a smoking lounge in the attic to limit people being outside.

In response to a question by Commissioner Baker, Mr. Kramer said the first misunderstanding is whether or not this was his party, because his name was not on the invitation as it had been in the past. He said the selling of tickets made it look like a commercial operation, but it was just promoted through his Facebook friends and not open to the general public.

Commissioner Ochs asked if Dark Energy Minneapolis is an event coordinator. Mr. Kramer said he is a D.J., and does coordinate events.

Commissioner Eckman said there are specific login requirements to set up an account with Event Brite connected to PayPal to collect fees, and that has to be intentionally set up because they charge processing fees. She clarified that Event Brite did not randomly pick up this event and that this was an intentional posting.

In response to a question by Commissioner Eckman, Mr. Kramer said he was not confused by condition 4 of the conditional use permit. It didn't occur to him that he could not have a private party co-hosted by his friends in his own home. He knew he could not rent the home to a third party for receptions or parties. He said that Dark Energy Minneapolis set up an account to accept money through PayPal using Event Brite, but it wasn't a commercial event even though

they regularly coordinate events at other venues. He said they charged admission to pay for overhead costs.

In response to another question by Commissioner Eckman, Mr. Kramer said that Caswell Kramer Enterprises LLC owns the property.

Commissioner Eckman asked about the rules for events at a bed and breakfast. Ms. Dadlez said a requirement is that the bed and breakfast only be open to registered guests.

In response to a question by Commissioner Fredson about the possibility for a variance to allow his New Year's Eve party, Mr. Torstenson said state law generally doesn't allow a use variance for a commercial use in a residential zoning district.

Commissioner Reveal said there was no ambiguity about the decision made by the Zoning Committee and Planning Commission in not allowing social events.

Commissioner Ochs asked Mr. Kramer if the bed and breakfast has been operating successfully since the March 2017 modifications to the conditional use permit to increase the number of guest rooms from 4 to 6, and how he advertises the bed and breakfast.

Mr. Kramer said last March they had discussed whether it would be a hardship not to rent the house for receptions, and at the time he said it would not be a hardship if he could not have outdoor events. He said in 2014 - 2016 his average net income for the B & B was \$27,000.00, and in 2017 it was \$1,570.00. He is unsure how much of the change is due to increased competition from Airbnb rentals. Mr. Kramer said he offers a room and continental breakfast through Airbnb and VRBO. Being able to rent out 6 guest rooms allows him to rent out the whole house, but a lot of people want to rent a house like this to stay at and have an event. He added that it has become difficult to manage this house on a single income.

No one spoke in favor of revoking the conditional use permit. Eight people spoke in support of the B & B (against revocation of the permit).

Sol Garling-Squire, 610 Woodduck Tr., Woodbury, said Mr. Kramer tends to rely on others to help with internet things, and he has helped Mr. Kramer. As a personal friend to Mr. Kramer, he understands that during the time of this party Mr. Kramer had a lot of stress in his life, and that he had no intention of creating a problem.

Jim Sazevich, 454 N. Smith Ave., a St. Paul historian, said the restoration of this fine home was carefully done by Mr. Kramer. He said he was at this upscale and contained New Year's Eve gathering, which was a private party and the ticket cost went to help fund clean up.

Collette Peterson, 2 E. George St., said her parents bought the Dearing Mansion in 1976 and renovated it into a nice family home. She sold it to Mr. Kramer in 2005, and he has been an asset to the neighborhood by making the house beautiful. She said they have dealt with many slum properties on the West Side, with no help from the City. She said that Mr. Kramer would not deliberately do anything that would cause him to lose the house, because he loves it so much, and it would be a disgrace to see this become a slum property again.

Thomas Provst, 135 Isabel St. W., said Mr. Kramer is a meticulous craftsman and has done great work on this house. He said he doesn't believe he can keep the house if he cannot run it as a bed and breakfast. He said that he has been at the New Year's Eve parties and there is never any trouble.

Christopher Keith, 312 Summit Ave., said his Victorian house at 312 Summit is 14,000 square feet. There is no return on investment in these homes and it is important to keep people in them to maintain the historic assets of our city. He said Mr. Kramer needs the income from the bed and breakfast to maintain his house, which is done more for a love of history and architecture than as a business venture.

Terrence Madden, 929 Chippewa Ave., Mendota Heights, said the interior of this house is spectacular, and Mr. Kramer has restored it from derelict conditions. He said the party is an annual event that Mr. Kramer takes great pride in, and he has co-hosted this party with him in the past. He was using his home as any other residential property owner would.

Michelle Stillenger, 234 George St. W., said she lives across the street from this house and remembers the bad shape it was in. She agrees with the previous testimony. Mr. Kramer is an excellent neighbor. She did not go to the party this year and could not tell he was having a party because it was so quiet. She said she has never had a problem with any of his previous events and worries that if he cannot operate a bed and breakfast that he will sell the house and it could go into disarray again. It was disappointing to learn in 2017 that he would no longer be allowed to have events and weddings, because the house is so perfect for such events. She asked the Committee to consider giving Mr. Kramer another chance to make this right.

Laurie Sovel, 240 George St. W., said she works at the PCA and understands the City's position about following rules and regulations, but knows how much Mr. Kramer loves and has invested in this house, and neighbors on the West Side could never pay him back for what he has given. She is concerned with what could happen with this property if he loses his permit.

The public hearing was closed.

Commissioner Reveal asked about recourse for the permit holder if the permit is revoked. Mr. Torstenson said that Planning Commission decisions can be appealed to the City Council.

In response to a question by Commissioner Fredson, Mr. Torstenson said they do not have to find error in the staff recommendation in order not to revoke the permit. It is here for Zoning Committee review because of language in the conditional use permit that requires immediate referral to the Planning Commission for revocation if there is evidence that a condition of the permit was violated. Commissioner Ochs noted that finding 2 in the staff report states that the Planning Commission may choose to revoke the permit.

Commissioner Ochs asked about the origin of the complaint. Ms. Dadlez said a complaint was made to the Department of Safety and Inspections.

Commissioner Fredson said there seems to have been a clear violation of a permit condition. He agreed with Commissioner Eckman that Event Brite was an intentional posting. He said he's sympathetic after hearing from all of the neighbors, and this violation might not be enough for permit revocation.

Chair Edgerton agreed that the party seems to have been a commercial event, in violation of the permit. He noted the support of many neighbors for the B & B, and that permit revocation seems too strong for the violation. It would be good to reinforce the rules and give him another chance.

Commissioner Eckman agreed that a creative solution would be good. She also noted that renters can have the same appreciation for historic buildings as property owners.

Commissioner Baker said he appreciates the support Mr. Kramer has from his neighbors, and feels differently about this case after hearing their testimony. He also expressed concern that this is not his first violation, and as we are discussing a way around this, he noted that many business owners do not get the opportunity for second and third chances.

Commissioner Ochs said he thinks the punishment doesn't fit the violation, and that it would be good to have the option of a fine rather than permit revocation.

Commissioner Eckman agreed that loss of a business is a severe penalty for one complaint.

Commissioner Reveal noted previous violations and said that staff referred documentation of this violation to the Planning Commission as directed. She said that the conditions could be modified, noting that there are more requirements imposed on a bed and breakfast than on short term rental, or they can recommend revocation, which Mr. Kramer could appeal to the City Council. She is sympathetic to the neighbors and loves the house, but favors permit revocation.

Chair Edgerton asked if permit revocation would close the bed and breakfast. Commissioner Reveal said it would, but it could be appealed and would not put Mr. Kramer out of his home.

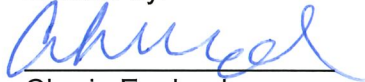
Commissioner Ochs said he would like legal advice from Mr. Warner, and moved layover to April 26, 2018. Commissioner Fredson seconded the motion.

In response to a question by Commissioner Eckman, Ms. Dadlez said that if the conditional use permit for the bed and breakfast is revoked he could operate under short-term rental regulations that limit occupancy based on the definition of *family*. For large lots and buildings, the regulations provide for a conditional use permit for short term rental to exceed the definition of family and the Planning Commission would consider what the appropriate number might be and attach conditions, but we would be in the same place with not allowing commercial events.

The motion passed by a vote of 6-0-0.

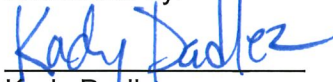
Adopted Yeas - 6 Nays - 0 Abstained - 0

Drafted by:



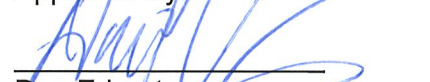
Cherie Englund
Recording Secretary

Submitted by:



Kady Dadlez
City Planner

Approved by:



Dan Edgerton
Chair