

MINUTES
VONORE BOARD OF ZONING APPEALS
November 1, 2016

Members Present

Allen Cansler, Chair
Mike Garren, Sec.
Bob Lovingood, Mayor
Harold Davis
Tom Sundstrom
Jennifer Wiggins

Members Absent

April Sloan

Others Present

Ruth Viergutz Hawk, Planner
Greg Altum, The Buzz

Others Present: Stephany Atkins, Alicia Anderson, Rodney Lee, Linda Cook, Janet Hunt, Shannon Lankford, Tammy Hoelzel, Tammy Lynn, Frank Thurston, Beryl Moser, James Brown, Betty K. Sparks, Angela Sheffer, Courtney Dalton Viar, Michael Moore, W. Tyler Weiss, Ethan Teague, Claude Teague, Alvin Thomas, Douglass Dunn, Arthur Seymour

CALL TO ORDER

Chairman Cansler called the meeting to order at 6:00 p.m. Chairman Cansler announced that the meeting was being recorded and that any person who wished to speak to come forward and be sworn in. Several attendees came forward and were sworn in.

INTERPRETATION OF THE VONORE ZONING ORDINANCE, CHAPTER 4.
SECTION 11-405. R-2, HIGH DENSITY RESIDENTIAL DISTRICT, 2., h., AS TO
WHETHER A FACILITY LICENSED AS AN ADULT RESIDENTIAL TREATMENT
FACILITY THROUGH THE STATE OF TENNESSEE DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE SERVICES SHOULD BE INTERPRETED AS
BEING AN ASSISTED CARE LIVING FACILITY

Staff explained that the question before the Board of Zoning Appeals is if a use licensed under the State of Tennessee Department of Mental Health and Substance Abuse Services as Mental Health Adult Residential Treatment, Mental Health Adult Supportive Residential, and Mental Health Supportive Living is an Assisted Care Living Facility under the *Vonore Zoning Ordinance*. Although this determination would affect all such facilities with such licenses, the question is regarding the facility owned by Gaither's Inc., known as Magnolia House and Magnolia of Vonore, and located at 350 Dawson Street.

Staff reviewed and explained the information submitted to the Board members:

1. Initial License for Magnolia of Vonore from the State of Tennessee Department of Mental Health and Substance Abuse Services;
2. The definition of "Assisted Living Facility" from *The New Illustrated Book of Development Definitions*;
3. Section 11-405. R-2, High Density Residential District of the *Vonore Zoning Ordinance*;

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4. A letter from Magnolia of Vonore to local business owners requesting Christmas gifts for residents which identifies the facility as an “Adult Residential Treatment Facility”;
5. Page 1 of the “Rules of Department of Mental Health and Developmental Disabilities Chapter 0940-5-17 Minimum Program Requirements for Mental Health Adult Residential Treatment Services” (March, 2003 (Revised));
6. Page 1 of the “Rules Tennessee Department of Mental Health and Developmental Disabilities Chapter 0940-05-51 Minimum Program Requirements for Adult Supportive Residential Facilities” (February, 2010);
7. Page 1 of the “Rules of Tennessee Department of Mental Health and Mental Retardation Chapter 0940-5-19 Minimum Program Requirements for Mental Health Supportive Living Facilities” (September, 1999 (Revised)); and
8. Pages 1 & 2 of the “Rules of Tennessee Department of Health Board for Licensing Health Care Facilities Chapter 1200-08-25 Standards for Assisted-Care Living Facilities” (December, 2009 (Revised)).

Staff stated she spoke with Alex King, Director of the Tennessee Department of Mental Health and Substance Abuse Services who stated that the licenses held by the Magnolia House are the types of licenses that would be consistent with classifying them as a Group Home. Mr. King also stated that Magnolia House is a Residential Mental Health Facility, that Assisted Care Living Facilities are more kin to a nursing home, and that Magnolia House is not an Assisted Care Living Facility.

Staff pointed out that the license for an assisted care living facility is issued from the Tennessee Department of Health Board for Licensing Health Care Facilities rather than the Tennessee Department of Mental Health and Substance Abuse Services.

Douglass Dunn (Attorney), Tammy Hoelzel (Director of Magnolia House), and Arthur Seymour (Attorney) spoke on behalf of Magnolia House and as to why they felt the facility would be classified as an Assisted Care Living Facility.

Michael Moore (Dawson Street resident) spoke against classifying facilities with these types of state licenses as Assisted Care Living Facilities. Mr. Moore stated he had spoken with the Sheriff's Departments of the communities with other facilities owned by Gaither's, Inc. These facilities currently house registered sex offenders and individuals who have served jail time and the law enforcement officers expressed their numerous issues with the facilities to Mr. Moore. Mr. Moore also read some of the most recent police reports filed regarding the Magnolia House. Staff distributed copies of the Vonore Police Department Police Reports on the Magnolia House to the Board members.

The Board asked questions of staff and of those that testified.

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Mayor Lovingood made a motion that a facility licensed as an Adult Residential Treatment, an Adult Supportive Residence, and Supportive Living is not an Assisted Care Living Facility. Commissioner Garren seconded the motion and the motion passed unanimously.

REVIEW OF REQUEST FOR APPROVAL FOR A SPECIAL EXCEPTION OF AN ASSISTED CARE LIVING FACILITY LOCATED AT 350 DAWSON STREET, KNOWN AS MAGNOLIA HOUSE

Staff announced that in light of the ruling of the Board of Zoning Appeals, this item would not be heard.

ADJOURNMENT

Commissioner Garren moved to adjourn. Commissioner Davis seconded the motion and the motion passed unanimously and the meeting adjourned at 6:50 p.m.

Secretary

Date