



CITY OF INDIANOLA BOARD OF ADJUSTMENT MEETING

July 6, 2022

6:00 PM

City Council Chambers

Minutes

1. Call to Order

The meeting was called to order at 6:00 PM.

2. Roll Call

Commission members present: Amy Mitchell, Lee Bash, Jane Whalen, Bill Mettee

Staff Present: Charlie Dissell, Emily Rizic, Miranda Chadwick

Citizens: Manuel Cornell Dorsey and Whitney LLP for Optimea

Susan Martin COO of Optimea

Doug Fulton City Attorney

3. Agenda Approval

A. Approval of July 2022 BOA Meeting Agenda

Motion for approval by Jane Whalen

Seconded by Lee Bash

4. Minutes Approval

A. Approval of Meeting Minutes for June 1st, 2022

Motion to approve minutes made by Amy Mitchell

Seconded by Jane Whalen

5. New Business

A. Consider the request from Brian Daleske for a variance under the terms of Section 165.02(3)(B) of the Code of Ordinances of Indianola, Iowa, to permit a gravel addition to an existing concrete driveway to which if allowed as requested, would not be in conformity with 135.14(5) and 165.07(2)(B)(1) of the Code of Ordinances of Indianola, Iowa. (WITHDRAWN)

B. Consider appeal from Manuel Cornell representing Optimaes Lifeservices, Inc. under the terms of Section 165.02(3)(B)(2) of the Code of Ordinances of Indianola, Iowa regarding the Zoning Administrators determination that a violation is occurring at 604 South E Street.

The origination began with a complaint from a resident in regards to the increase in police traffic. Charlie then got involved with when our city attorney looked into the type of residence this is. In summary, optimea has individual leases with each of the tenants. Optimea provides home-based assistance to these residents. There is not a 24 care giver.

Charlie then determined that it is a group residence based on the definition.

Manuel Cornell is here to address the case.

Requesting the overturn of the staff's determination on the use of the residence.

Susan Martin Speaks about what Optimeia offers to the individuals that utilize their services.

They have over a 140 homes just like the one here in Indianola. Partnering with those communities. Mentioning the waivers that those homes fall under. They provide support services with two large outpatient health clinics and two health care programs striving to provide a continuum of care. They were requested to provide care here in Indianola. They had two individuals that were having issues in the home and are no longer in the home. The state of Iowa has had issues with the DOJ. Opimeia is trying to help with that and wants to partner with the community to make it a win for the people they are supporting and the community as well.

Jane- Did you make sure that the homes were in the proper zone before providing residents with this option?

Susan- They do not believe that the crew on the ground did the leg work because they have not had issues in other towns.

Manuel- This is not a building of individual units.

They believe that this falls under the family definition. The arrangement is not temporary. They are there till they want to move out. Under this definition, it is not in violation. It is a home and community service-based home. It falls under such a waiver. The waiver is defined as a home and community-based waiver approved by the federal government and paid for by Medicaid. Manuel sites case law that supports the use of the home. Regardless how often police are at the home they should be treated whether it falls in the proper zoning for residential use. They are asking that the board reverse the decision made by the city staff.

Jane- Does each individual have a separate lease and how does that not allow them to fall under the "family" category?

Is there supervision for the residents?

Manuel- The legal definition does not state that they must be under one lease in order to qualify as family.

Susan- It depends on the individual and their goals. We are not sure of the amount of services that are provided.

Susan -We wish we would have known about the police calls so that we could have had a conversation with the community to address these issues before it got to this point.

Doug Fulton

We take a different view. The qualifier for the waiver exception 414.32.

When you are looking at the waiver issue, we were informed that there were no waivers until today nor have we seen them. Nevertheless, the community waiver section applies to the residence being rented to the recipient. The next part limits it to 4 residents. We were told that they rent from the property owner and now we are finding out that optimeia rents to each resident. We do think that it does fall in the group home category. It is not a well-written statute.

Jane- Do the residents rent from Optimeia or from the owner of the home?

Manuel- They rent from Opitmeia. If they do fall under the waiver

Lee makes a motion to continue to discuss this to August 3rd so that we can gather more information to make an informed decision.
Amy seconds the motion.

6. Comments

7. Adjourn

Meeting is adjourned at 7:00