



City of Hamtramck - Zoning Board of Appeals  
City Hall Council Chambers  
3401 Evaline St., Second Floor  
Hamtramck, MI 48212  
313-800-5233 ext. 818

## MINUTES

---

REGULAR MEETING OF THE HAMTRAMCK ZONING BOARD OF APPEALS  
WEDNESDAY, OCTOBER 17, 2023  
6:00 P.M.

1. **Call to Order**

Chairperson Habitz called the meeting to order at 6:01 pm

2. **Pledge of Allegiance**

3. **Roll Call:**

**Present:** Moammer Alghazali, Tom Habitz, Malek Hussein, Gias Talukder (Arrived 6:04pm), Khalid Qsaimi, Abdullatif Dagenah

**Absent:** Asim M. Alshahri

4. **Approval of Minutes:**

A. September 19, 2023.

Motion by Malek Hussein to approve minutes as presented. Seconded by Khalid Qsaimi. Motion passed unopposed.

5. **Public Comment** (3 Minutes per Person)

No members of the public were present to comment.

6. **Public Hearings**

A. 11941 Joseph Campau Ave.

*The subject of the hearing is to consider a dimensional variance to the ordinance section 121.005(a)(1) for address 11941 Joseph Campau Street Hamtramck, MI 48212. Applicant is J Elias Management Inc., a Michigan corporation d/b/a Puff Cannabis Company. Parcel 41 004 01 0302 000. Applicant has requested a dimensional variance from the buffer of 1,000 feet of a pre-existing public or private school.*

Staff informed the Board that the City's Attorney advised that the ZBA only has authority to grant a variance to the City's Zoning Ordinance. Due to the fact that the regulation at hand is located in the City's Marijuana Businesses ordinance, and not in the city's zoning ordinance, staff stated in the staff report that the ZBA does not have the authority to grant a variance. The regulation is in 121.001-121.008 and restricts any marijuana establishments from being located within one thousand feet of an operational school.

Applicant's attorney Robert Pullack informed the Board the building and use is going to remain the same. The only change is at the state level is with the additional individuals being included into the ownership group. Pullack stated that all factors related to the City's zoning ordinance have been met, and argued the ZBA has authority to vote in this issue because the *Marijuana Ordinance* acts similar to a zoning ordinance regulating the use of land.

A follow-up letter from Blue Water Hamtramck, dated October 16, 2023, was passed out to the ZBA. This letter was a response to the staff report.

After the petitioner completed the presentation, the ZBA members inquired what options the city attorney advised the ZBA had available if the variance was not related to the zoning ordinance. Concerns were made clear that if the ZBA grants a variance and board has no authority to do so, would this set a precedent for other marijuana businesses. Board requested additional legal guidance from city attorney on appropriate powers of the ZBA to the granting of variances in cases where the ordinance is listed outside the city's zoning ordinance. The chair also asked about whether this case in general would meet the non-use variance standard.

**Motion** by Habitz, supported by Hussein, to table the vote on the agenda item until the board has more time to review case materials and receive additional consultation with City Attorney.

AYES: Alghazali, Dagneah, Habitz, Hussein, Qsaimi, Talukder  
NAYS:

**MOTION CARRIED**

**7. Old Business:**

A. 3894 Dorothy St.

*The subject of the hearing is to consider a variance request to the zoning ordinance section 155.050(E)(5) from applicant Hezam Mohamed Saleh for address 3894 Dorothy Street Hamtramck, MI 48212. Parcel 41005140191000. An addition to the house does not meet the minimum required 30 ft. rear setback.*

Staff informed the Board the applicant's site plan that was originally approved showed a 30-foot rear setback. Staff brought site plans to the meeting showing the original layout that was approved. Staff member Austin Colson reviewed the timeline and stated that there was a zoning approval letter on 1/17/2023 based on the plans showing the 30-foot rear setback. On April 3, there was an inspection, at which point it was discovered that what had been built had only a 19-foot rear setback. As well, there were other inspection issues related to building and fire code.

Applicant spoke. The applicant Hezam Salah was present and applicant's cousin, Soloman Salah, also spoke and translated. Hezam Salah stated that he was not aware of the situation and was moving forward based on what the architect and contractor stated. After the stop work order, and the discovery of the issue on April 3, a new contractor was hired to complete the project but remained to work with the same architect.

Board discussed having the variance approved with the condition no garage could be built. Members recalled during the previous meeting the applicant's architect stated the contractor made a mistake measuring the distance from the rear setback. Board discussed the fact that no neighbors came out. One board member stated that this is not self-created and another stated that it is considered self-created and referred to the Planning and Zoning handbook published by MML.

Motion was made by Hussein, supported by Qsaimi, to approve the requested variance because the situation resulting in the encroachment into the rear setback was due to the actions of the contractor and architect; it was argued this was not self-created.

AYES: Alghazali, Dagneah, Hussein, Qsaimi, Talukder

NAYS: Habitz

**MOTION CARRIED**

8. **New Business:**

9. **Board member Announcements**

11. **Staff Announcements**

12. **Public Comment** (3 minutes per person)

No members of the public were present to comment.

13. **Adjournment**

**Motion** by Habitz, supported by Hussein, to adjourn the meeting at 6:52pm

AYES: Alghazali, Dagneah, Habitz, Hussein, Qsaimi, Talukder

NAYS:

**MOTION CARRIED**