CITY OF LUDINGTON
BOARD OF ZONING APPEALS
Minutes – March 20, 2001

A regular meeting of the Ludington Board of Zoning Appeals was held on March 20, 2001 at the Ludington Senior Center, 308 S. Rowe St., Ludington, MI, and was called to order by Tom Tyron, Chairperson at 5:30 p.m.

PRESENT: Tom Tyron, Kaye Holman, Kathy Saxton, Christine Warne, and Joe Moloney

ABSENT: Greg Dykstra, Ken Vanderbilt (excused) and Brian Purtee (excused)

ALSO PRESENT: City Attorney, Roger Anderson, Building Inspector, John Healy and Recording Secretary Carol A Foote

ROLL CALL: The roll call gave the above results.

MINUTES: A motion was made by Kaye Holman seconded by Joe Moloney, to approve the minutes of the meeting of November 21, 2000. Motion carried unanimously.

PUBLIC HEARING
Consideration of a request from Dr. William Ingle for an interpretation of City of Ludington Zoning Ordinance #23-00 for the use of the property located at 420 N. Rath, TINKHAM'S ADDITION LOT 5 EXCEPT THE S 2 FT OF THE E 60 FT THEREOF BLOCK 15.

Dr. William Ingle, 1744 N. Marilyn Ave, I am not asking for a variance or a change. I am asking for it to continue as it was. I have a couple of tax statements here, and my property is still zoned commercial. Mr. Healy is saying he wants it converted back to residential.

Kaye Holman stated that the property was not zoned commercial, but R2A, with a nonconforming use. John Healy stated that the commercial status was a tax class, not zoning. He also explained that the current use, general office, was not similar enough to the nonconforming use to let it continue.

City Attorney, Roger Anderson, explained to the Board members about legal nonconforming use. The position that has always been taken is that the use does not have to be exactly the same to continue the nonconforming use. The nonconforming use ceases after the use stops. If this property was converted to a residence, they could not start office use there. This property is zoned R2A. Zoning class and tax class are two different things. If the property owner does not like the decision of the Zoning Administrator, he has the right to appeal the decision. In this case, John Healy has determined that the Staircase use is not similar enough to a professional office to continue it as a nonconforming use.

Connie Krusniak, 201 S James St., board member for Staircase, addressed the Board as to what Staircase is and what they do. She explained that they were a non profit organization that has been in community for twenty years. They provide counseling services and crisis intervention services in a five county area. They work closely with the schools and the courts. The nature of the work is outreach, so they do not have the traffic that a medical office does. They would have 3-5 clients or families coming from the building in a given day with a staff of three or 4. It is a professional office; state licensed, and state funded. It is providing professional service. It is not contemplated that there will be any additional hardship brought to the neighborhood. There will

be no groups of kids, any loitering or solicitation. It is pretty consistent of permitted uses, churches, daycares and nurseries. The hours would be nine to five. If anything, the nonconforming use would be decreased, given the traffic and the way it would fit into the neighborhood. Staircase is not buying the property, just a tenant.

Dr. Erv Harvey, President of the board of Staircase and fully licensed psychologist, stated that he would like to establish how close they were to any other medical practice. He supervises the director who is a therapist who in turn supervises a group of bachelor level therapist, so in terms of being a practitioner's office, we are indeed a practitioner's office.

Bonnie Vaught, 502 N. Robert, explained that she had been living in her present home since 1975. Before that she lived one block south of her present home. She remembered being surprised at the increased traffic. She feels that the 400 and 500 blocks of the area have changed very little in the past thirty-six years. The majority of the blocks are single family. The area is and has been zoned residential. Mrs. Vaught went on the give a history of the uses of the property in question. Medical use continued from 1950 to 1996. Since then, it has been a relief not to have the traffic. It is important to consider the intent of the zoning ordinance believe it is not the intent of the ordinance to penalize or deprive owners of the correct and legal use of their property. Mrs. Vaught explained the off street parking regulations and stated that the lack of off street parking has always been a problem. Although the office has been vacant for twelve months, it would seem fair to allow the continuation of medical office. If the office use were allowed to expand beyond that, it would be unfair and not appropriate to the residential needs of the area. She then asked if there would be temporary housing provided by Staircase.

Cindy Arnisan, Director of Staircase, explained that they place run away kids in foster care homes. They are never with them.

Bonnie Vaught stated that she would be against housing either in the office or the home.

Dr. Ingle, stated that there was enough room in the back for three parking spots. Also, the office was not vacant for twelve months. He had some equipment left there until February of 97. Then in November the respite care went in. Afterwards a contractor rented it as office space and storage.

Mark Otto, board member of Staircase, said that this use would not be any different than any therapy type use. It would be like a physical therapist. We only see two to three families a day. Parking required would be minimal. Three staff members would be there at the most during regular office hours. At no time have we housed anyone in this setting. We are 90% funded by the FIA. It is in a very limited number. It is mostly on an outreach basis. They look for runaway potential. Counseling keeps them off the street.

Close public hearing

Tom Tyron stated that the basic issue was the nonconforming use.

John Healy explained that if the building were converted back to a residence, it would still be nonconforming. There would be two residences on one parcel. Mr. Healy explained how he based his decision. He stated that he felt the current use was more general office use rather than a professional office use. My interpretation of the ordinance was not to prolong the use.

Kaye Holman said that she felt that they would be establishing precedence. A non-medical office would open the door for other general uses. This was an entirely different use than a medical doctor.

Kaye Holman made a motion to uphold John Healy's administrative decision, seconded by Tom Tyron.

Christine Warne stated that she felt that their knowledge was similar to medical and she did not have a problem with it.

Kathy Saxton stated that she agreed with Christine.

Tom Tyron said that it did not matter who went into the building. It is a residential area. He said that it was not hard for him to support John Healy.

Motion carried to uphold Mr. Healy's decision by a three to two vote.
Moloney, Holman, Tyron, yes Saxton, Warne, no

Attorney Anderson stated that the property owner had the right of appeal.

Tom Tyron called a recess at 6:30 p.m.

The meeting was called back to order at 6:35 p.m.

OLD BUSINESS:
None

NEW BUSINESS:
Set Day, Date, Time and Place of Meetings:
Joe Moloney made a motion to conduct meetings, when business, on the third Tuesday of the Month at 5:30 p.m. at the City Hall Building, with the exception of the April 17th meeting being conducted at the Senior Center, seconded by Kaye Holman. Motion carried unanimously.

Election of Officers:
Kathy Saxton made a motion to table the election officers until the April meeting, seconded by Joe Moloney. Kaye Holman made a motion to amend the motion to include Tom Tyron acting as chair until the election, seconded by Joe Moloney. Motion carried unanimously.

COMMENTS AND COMMUNICATIONS:
Tom Tyron welcomed all the new members to the Board.

ADJOURNMENT: A motion was made by Kaye Holman seconded by Tom Tyron, to adjourn the meeting. Motion carried unanimously and the meeting was adjourned at 6:40 p.m.

Respectfully submitted,
Carol Foote, Recording Secretary

Tom Tyron, Chairperson