

**MINUTES**

**ZONING BOARD OF APPEALS**

**October 24, 2018**

**COUNCIL CHAMBERS, CITY HALL**

**CALL TO ORDER:**

Chairman Elwood Anderson called the Zoning Board of Appeals to order at 5:00 p.m.

**ROLL CALL:**

**Present: Anderson, Bray, Guest, Keller, Lamble, Lewis**

**Absent: None**

Chairman Anderson opened the public hearing and explained the procedures for the hearing.

**Public Hearing of Case ZBA18-05**

Adam Poll, Planning and Development Director presented the use variance as follows: Framon Manufacturing Company, 909 W. Washington Avenue, Alpena, MI 49707 on behalf of Thunder Bay Properties, is requesting a use variance to allow for the operation of light manufacturing equipment in addition to their retail/service business (Frank's Key & Lock Shop) to be located at 1201 W. Chisholm Street in an B-2 General Business District. Article 5.17

**Property Address: 1201 W. Chisholm Street**

Notices were sent to all adjoining property owners within 300 feet of the subject property. Adam Poll said he did not receive any correspondence either for or against this variance.

To authorize a variance, the board shall find that all of the following conditions are met:

1. The building, structure, or land cannot be reasonably used for any of the uses permitted by right or by special use permit in the zoning district in which it is located.
2. The need for the requested variance is due to unique circumstances or physical conditions of the property involved such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
3. The proposed use will not alter the essential character of the neighborhood.

4. The immediate hardship causing the need for the use variance was not created by the property owner or previous property owners (self-created).

**CONDITIONS:** The Zoning Board of Appeals may impose such conditions or limitations in granting a variance as deemed necessary to protect the character of the area, as provided for in Section 9.9.

**FINDING OF FACT:** In granting or denying a variance, the board shall state in a written statement of findings of fact, which you can do verbally, the grounds upon which it justifies the granting of the variance.

Staff evaluation of the four conditions relative to this petition is as follows:

The applicant is requesting to relocate their existing business (Frank's Key & Lock Shop) from 909 W. Washington Avenue (3,093 square feet) to a larger building at 1201 W. Chisholm Street, former Wright & Fillippis (6,600 square feet). The existing business is principally retail/service based and currently includes the light industrial machines in question which are allowed in the current location without a use variance as a legal non-conforming use.

1. The property could be utilized as a form of many general business uses that are permitted by right. The unique size and layout of the building has led to it being vacant or underutilized since Wright & Fillippis moved out of the location two years ago.
2. The applicant has indicated they are in need of a larger building and want to remain in Alpena. This building would meet their needs and still allow them to operate their existing business with additional space for their needs.
3. The proposed use would not appear to alter the essential character of the neighborhood. Wright & Fillippis utilized this space as a retail/medical storefront. Frank's Key & Lock Shop would utilize the space principally retail and service purposes. Frank's Key & Lock has been in operation for many years at their location at 909 W. Washington Avenue and at a similar distance to residential houses and there have not been any complaints known.
4. The applicant did not cause the immediate hardship. The building has a unique size and location that has led it to be vacant or underutilized for two years. Frank's Key & Lock would like a building with additional floor space and this would appear to meet their needs.

In granting a variance, the board may attach conditions regarding the location, character and other features of the proposed structure as it may deem reasonable in furtherance of the purpose of this ordinance. In granting a variance, the board shall state the grounds upon which it justifies the granting of said variance.

**Staff observations:**

This request is unique in the fact the use in question is an existing use within a business that has been located adjacent to residential homes for many years without altering the character of that neighborhood. The applicants are proposing to move their existing business which consists principally of retail/service, but includes a limited number of light manufacturing machines into an existing building within the B-2 zoning district.

Businesses allowed in the B-2 General Business District include auto repair garages, auto washes and other uses that utilize machinery. The machinery in question would not appear to have any more impact than uses already allowed.

Therefore, staff would recommend **approval** of the requested use variance as it appears to meet the use variance criteria listed in the ordinance with the condition that the primary use of the building remain a use that is allowed in the B-2 zoning district.

Member Guest asked Adam Poll about the e-mail from Phil Agius that he had talked to another business associate that has a small machine shop about him renting a bit of space from them. How does that fit into the zoning request? That appears to be another potential non-conforming use.

Adam Poll said the board can discuss on whether or not to allow that use. Obviously there are already a few machines in there. He said he will let the applicant discuss what type of machines those may be.

According to Phil Agius' email, along with the machines they plan on moving to the new location, included will be one CNC Machining Center, lathe, grinder, Hone, and a Bridgeport (mill). He also mentioned in the email that typically their shop runs from 5:00 a.m. until about 3:00 p.m. They have never had a complaint about any noise issues in the 38 years they have been at the Washington Avenue location. Typically, any delivery trucks arrive mid-morning to early afternoon. He believes their current neighbors on Washington Avenue are closer in proximity than those at the Chisholm Street location.

**PUBLIC COMMENT:**

Chairman Anderson asked if there was anyone who desired to speak either for or against this variance.

Phil Agius of 619 Aqua View Drive, addressed the board. He said they work with Randy Patterson on Pearl Road. He operates the same type of machinery they do. He has about seven or eight machines right now, and he was thinking about sizing down. They were talking about Randy possibly moving in with them. Phil says he does not see that happening now. Because Phil said they are going to add a little bit more to the retail section of the business, which would invade

the area where they want to put their machines. Phil said realistically there would not be room for him to do this at this point or in the future.

Since no one wished to speak on this case, either for or against, Chairman Anderson closed the public comment portion of the meeting to deliberate for case ZBA18-05.

Member Guest is comfortable with the city's recommendation, but is a little bit uncomfortable with the thought that maybe there might be additional machines of a different type moved into the facility. Mr. Agius said that is no longer part of the plan. Do we want to in the motion specifically put language in there saying you cannot expand on the number and type of machines without coming back for another variance?

Member Lamble made a motion to approve the use variance as requested, with one condition the use variance be restricted to the needs of Frank's Key & Lock Shop with the type and nature of the equipment that he contemplates relocating to that site, i.e. a CNC Machining Center, lathe, grinder, Hone, and a Bridgeport (mill). I do not want to address whether or not they can replace this equipment. He has no objection if they need to replace equipment. The use variance would encompass the use, nature, and characteristics of the type of equipment that he is requesting to be relocated there. The variance would limit only the type of machines being used, not the number of machines. Also that the four conditions are being met.

Member Lewis seconded the motion with clarification that if he rents to somebody else that uses the same type of machinery, is that covered in this variance?

Member Lamble said he does not have any objection to that. The use variance would be restricted to the type of machinery being used for their business.

#### DISCUSSION BY BOARD MEMBERS:

There was no further discussion on this case.

#### ROLL:

Ayes: Anderson, Bray, Guest, Keller, Lamble, Lewis

Nays: None

The use variance to allow Framon Manufacturing to allow for the operation of light manufacturing equipment, i.e. CNC Machining Center, lathe, grinder, Hone and a Bridgeport (mill) in addition to their retail/service business Frank's Key & Lock Shop to be relocated to 1201 W. Chisholm Street has been granted.

**This variance meets all the following conditions:**

- 1. The building, structure, or land cannot be reasonably used for any of the uses permitted by right or by special use permit in the zoning district in which it is located.**
- 2. The need for the requested variance is due to unique circumstances or physical conditions of the property involved such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.**
- 3. The proposed use will not alter the essential character of the neighborhood.**
- 4. The immediate hardship causing the need for the use variance was not created by the property owner or previous property owners (self-created).**

**BUSINESS PORTION OF THE MEETING:**

**OLD BUSINESS:**

**Per Adam Poll, there was not any old business.**

**NEW BUSINESS:**

**The minutes from the August 29, 2018 were approved as printed.**

**Member Lamble made a motion to approve the minutes, second by Member Bray.**

**Ayes: All**

**ADJOURNMENT:**

**With no other business to discuss, Chairman Elwood Anderson adjourned the meeting.**

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**Alan Guest, Secretary**

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**Elwood Anderson, Chairman**