

AGENDA
TRAVERSE CITY BOARD OF ZONING APPEALS
REGULAR MEETING
TUESDAY, JUNE 14, 2016
7:00 P.M.
Committee Room, Governmental Center, 2nd Floor
400 Boardman Avenue
Traverse City, Michigan 49684
231-922-4464

- 1. CALL MEETING TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF MINUTES-** Approval of the May 10, 2016 regular meeting minutes.
- 4. PUBLIC COMMENT**
- 5. OTHER BUSINESS**
- 6. ADJOURNMENT**

The City of Traverse City does not discriminate on the basis of disability in the admission or access to or treatment or employment in, its programs or activities. Penny Hill, Assistant City Manager, 400 Boardman Avenue, Traverse City, Michigan, 49684, 922-4440, T.D.D., 922-4766, has been designated to coordinate compliance with the non-discrimination requirements contained in Section 35.107 of the Department of Justice regulations. Information concerning the provisions of the Americans with Disabilities Act, and the rights provided thereunder, are available from the ADA Coordinator. If you are planning to attend and you have a disability requiring any special assistance at the meeting and/or if you have any concerns, please immediately notify the ADA Coordinator.

MINUTES
TRAVERSE CITY BOARD OF ZONING APPEALS
REGULAR MEETING
TUESDAY, MAY 10, 2016
7:00 P.M.
Commission Chamber, Governmental Center, 2nd Floor
400 Boardman Avenue
Traverse City, Michigan 49684
231-922-4464

PRESENT: Members Raferty, Hanley, Donaldson, Colombo, Szajner, Carol, Matson, Koebert, and Vice-Chairperson Callison.

ABSENT: Member Chairperson Cockfield.

1. CALL MEETING TO ORDER

The meeting was called to order at 7:00 p.m.

2. APPROVAL OF MINUTES- Approval of the October 13, 2015 regular meeting minutes.

Motion by Member Matson seconded by Member Callison to approve the October 13, 2015 regular meeting minutes as presented. Upon vote the motion carried 4-0.

3. REQUEST 16-BZA-01 – A REQUEST FROM THOMAS GILBERT, PRESIDENT OF TC RETREAT, P.O. BOX 1941, TRAVERSE CITY, MICHIGAN for:

An appeal from a determination of the City of Traverse City Zoning Administrator dated January 20, 2016 that the use of the property commonly known as **1702 Comanche Street** is a Residential Care and Treatment Facility and is not a permitted use in the R-1b, Single Family Dwelling District.

David Weston, City Zoning Administrator, presented to the Board.

Thomas Gilbert, President of TC Retreat, P.O. Box 1941, Traverse City Michigan, presented and answered questions from the Board.

Lauren Tribble-Laucht, City Attorney, presented and answered questions from the Board.

Thomas Gilbert, President of TC Retreat, P.O. Box 1941, Traverse City Michigan, answered questions from the Board.

The public hearing was opened.

Jeff Cockfield, 1621 Comanche Street, Traverse City, Michigan spoke in opposition of reversing the determination of the City of Traverse City Zoning Administrator dated January 20, 2016 that the use of the property commonly known as 1702 Comanche Street is a Residential Care and Treatment Facility.

Jack Boynton, 1719 Comanche Street, Traverse City, Michigan spoke in opposition of reversing the determination of the City of Traverse City Zoning Administrator dated January 20, 2016 that the use of the property commonly known as 1702 Comanche Street is a Residential Care and Treatment Facility.

Jacquelyn Anderson, 1725 Comanche Street, Traverse City, Michigan spoke in opposition of reversing the determination of the City of Traverse City Zoning Administrator dated January 20, 2016 that the use of the property commonly known as 1702 Comanche Street is a Residential Care and Treatment Facility.

Deborah Donick, 1708 Comanche Street, Traverse City, Michigan spoke in opposition of reversing the determination of the City of Traverse City Zoning Administrator dated January 20, 2016 that the use of the property commonly known as 1702 Comanche Street is a Residential Care and Treatment Facility.

Marsha Smith, 529 Washington Street, Traverse City, Michigan spoke in favor of reversing the determination of the City of Traverse City Zoning Administrator dated January 20, 2016 that the use of the property commonly known as 1702 Comanche Street is a Residential Care and Treatment Facility.

Tom Wilson, 1630 Indian Woods Drive, Traverse City, Michigan spoke in opposition of reversing the determination of the City of Traverse City Zoning Administrator dated January 20, 2016 that the use of the property commonly known as 1702 Comanche Street is a Residential Care and Treatment Facility.

Jessica Doerr, 1707 Comanche Street, Traverse City, Michigan spoke in opposition of reversing the determination of the City of Traverse City Zoning Administrator dated January 20, 2016 that the use of the property commonly known as 1702 Comanche Street is a Residential Care and Treatment Facility.

Patricia Stuck, 1730 Comanche Street, Traverse City, Michigan spoke in opposition of reversing the determination of the City of Traverse City Zoning Administrator dated January 20, 2016 that the use of the property commonly known as 1702 Comanche Street is a Residential Care and Treatment Facility.

Doug Burwell 2672 Boardman Lake Road, Traverse City, Michigan spoke in favor of reversing the determination of the City of Traverse City Zoning Administrator dated January 20, 2016 that the use of the property commonly known as 1702 Comanche Street is a Residential Care and Treatment Facility.

Bob Eichenlaub, 531 Randolph Street, Traverse City, Michigan spoke in favor of reversing the determination of the City of Traverse City Zoning Administrator dated January 20, 2016 that the use of the property commonly known as 1702 Comanche Street is a Residential Care and Treatment Facility.

Janice Carter, 1734 Comanche Street, Traverse City, Michigan spoke in favor of reversing the determination of the City of Traverse City Zoning Administrator dated January 20, 2016 that the use of the property commonly known as 1702 Comanche Street is a Residential Care and Treatment Facility.

Bob Donick, 1708 Comanche Street, Traverse City, Michigan spoke in opposition of reversing the determination of the City of Traverse City Zoning Administrator dated January 20, 2016 that the use of the property commonly known as 1702 Comanche Street is a Residential Care and Treatment Facility.

The Board continued discussions.

Motion by Member Koebert, seconded by Member Carol to reverse the determination of the City of Traverse City Zoning Administrator dated January 20, 2016 that the use of the property commonly known as 1702 Comanche Street is a Residential Care and Treatment Facility and is not a permitted use in the R-1b, Single Family Dwelling District based on the Statements of Conclusions and Findings of Fact contained in the Order Granting for Appeal No. 16-BZA-01. Upon vote the motion carried 7-2 with Member Colombo voting in opposition and Member Raferty abstaining.

4. OTHER BUSINESS

None.

5. ADJOURNMENT

The meeting was adjourned at 9:20 p.m.

David Weston, Planning and Zoning Administrator

Date: _____

**CITY OF TRAVERSE CITY
ORDER GRANTING
APPEAL NO. 16-BZA-01**

Pursuant to the City of Traverse City Code of Ordinances § 1324.05(b), Appeals, the Board of Zoning Appeals hereby grants an appeal for the following:

Street Address: 1702 Comanche Street, Traverse City, Michigan.
Property Description: LOT 104 FIRST INDIAN WOODS ADD EXC THE E 10 FT & THE E 15 FT OF LOT 103
Appeal Granted: To reverse the determination of the City of Traverse City Zoning Administrator dated January 20, 2016 that the use of the property commonly known as 1702 Comanche Street is a Residential Care and Treatment Facility and is not a permitted use in the R-1b, Single Family Dwelling District
Applicant/Owner: Thomas Gilbert, president of TC Retreat, P.O. Box 1941, Traverse City, Michigan.

It is determined that the determination made by the City of Traverse City Zoning Administrator dated January 20, 2016 that the use of the property commonly known as 1702 Comanche Street is a Residential Care and Treatment Facility and is not a permitted use in the R-1b, Single Family Dwelling District be reversed. The findings of fact and reasons upon which this determination is based are as follows:

1. The attached Statements of Conclusions and Findings of Fact are incorporated herein by reference.
2. The procedures and requirements for an appeal required by law and ordinance have been followed.

I hereby certify that the above Order was adopted on _____, _____ at a regular meeting of the Board of Zoning Appeals for the City of Traverse City at the County Committee Room, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan.

Date: _____

David Weston, Planning and Zoning
Administrator

Note: A decision of the Board of Zoning Appeals shall be final. However, any party having a substantial interest affected by an order, determination or decision of the Board of Zoning Appeals may appeal to the Circuit Court if made to the Court within 30 days after the Zoning Board of Appeals certifies its decision in writing signed by the Chairperson or within 21 days after the Board of Zoning Appeals approves the minutes of its decision, or upon grant by the Court of leave to appeal.

STATEMENTS OF CONCLUSIONS AND FINDINGS OF FACTS 16-BZA-01

The following are the Statements of Conclusions supported by evidence submitted to the Board of Zoning Appeals in connection with a request for an appeal, Request No. 16-BZA-01, for the property commonly known as **1702 Comanche Street**, Traverse City, Michigan.

1. The determination made by the Zoning Administrator dated January 20, 2016 that the use of the property commonly known as 1702 Comanche Street is a Residential Care and Treatment Facility and is not a permitted use in the R-1b, Single Family Dwelling District was made based upon limited information as described in the determination letter.
2. Subsequently the Applicant provided additional and clarifying information with its application for appeal to the Board of Zoning Appeals.
3. The Zoning Administrator indicated at the hearing his determination would have been different if he had been provided the information available on appeal prior to issuing the January 20, 2016 determination letter.
4. The Zoning Administrator indicated his opinion that the determination should be reversed.
5. The City Attorney provided an analysis of the relevant sections of the Zoning Code at the hearing including a PowerPoint presentation.
6. A Residential Care and Treatment Facility is defined by Section 1320.07 of the Zoning Code as a facility providing:
 - a. Services, programs and temporary shelter for residents who are undergoing alcohol or substance abuse rehabilitation.
7. The Applicant testified to the following at the hearing:
 - a. There are no programs or services offered or occurring at the subject property.
 - b. The subject property is used to house up to six male individuals in recovery from alcohol and substance abuse.
 - c. The use of the subject property does not require any licensure.
 - d. Neither the subject property nor the entity that owns the property is licensed to provide treatment or services.
 - e. No employees of the property owner live at the property.
 - f. Residents pay \$550.00 per month for shared living expenses, which includes utilities.

- g. Residents must commit to a minimum 6 month stay, but may exit the residence upon 30 days notice.
 - h. The residents live as a single housekeeping unit.
8. The City Attorney indicated her opinion at the hearing that the use as testified to by the Applicant would be viewed by a court as a single housekeeping unit in a single family dwelling and the residents in recovery are subject to the Americans with Disabilities Act and the Fair Housing Act due to a qualifying disability.
 9. The property commonly known as 1702 Comanche Street, legally described as LOT 104 FIRST INDIAN WOODS ADD EXC THE E 10 FT & THE E 15 FT OF LOT 103, is located in a R-1b Single Family Dwelling District.
 10. The subject property is a single family dwelling.
 11. The individuals residing in the subject property meet the definition of a family under the Zoning Ordinance and are living as a single housekeeping unit.
 12. There are no programs or services being offered on site to the residents of the subject property.
 13. The property commonly known as 1702 Comanche Street is not a Residential Care and Treatment Facility.