

**MINUTES
ZONING BOARD OF ADJUSTMENT
CITY OF RICHARDSON, TEXAS
FEBRUARY 6, 2019**

The Zoning Board of Adjustment met in special session at 6:30 p.m. on Wednesday, February 6, 2019, in the Council Chambers, at the City Hall, 411 West Arapaho Road, Richardson, Texas.

MEMBERS PRESENT: Jason Lemons, Chairman
Scott Rooker, Vice Chairman
Brian Shuey, Member
Shamsul Arefin, Member
Marsha Mayo, Alternate

MEMBERS ABSENT: Jordan Everhart, Member

CITY STAFF PRESENT: Sam Chavez, Assistant Director of Development Services
Daniel Harper, Planner
Amber Hogg, Administrative Secretary I
Brent Tignor, Building Official
Kevin Laughlin, City Attorney

BRIEFING SESSION

Prior to the start of the regular business meeting, members of the Zoning Board of Adjustment met with staff to receive a briefing on agenda items. No action was taken.

REGULAR BUSINESS MEETING

Opening comments: Chairman Lemons introduced City staff and explained that the staff serves in an advisory capacity and does not influence any decisions the Board might make. Chairman Lemons summarized the function, rules, and appeal procedures of the Zoning Board of Adjustment.

- 1. PUBLIC HEARING ON ZBA FILE V 19-06:** a request by Yueli Ke, Pure Massage to appeal the Building Official's revocation of the certificate of occupancy issued to Yueli Ke for the property located at 1889 N. Plano Road, Richardson, Texas.

Staff Comments

Mr. Chavez presented regarding Variance 19-06. He stated that this was a request from the applicant to appeal the Building Official's revocation of the business owner's certificate of occupancy. He presented to the board members a timeline in which the original certificate of occupancy was issued and the latest actions of the City beginning in November 2018.

Brent Tignor, Building Official, presented the case. He stated that the first certificate of occupancy was issued to Guozhen Shang on July 13, 2015 and that certificate of occupancy was held until March 20, 2018. He stated that during that time frame three events occurred in which the City's police department had charges of attempted prostitution which occurred while Ms. Shang was the owner of the business. He stated that on March 20, 2018, a new certificate of occupancy was applied for and issued to Ms. Yueli Ke as a result from a change of ownership. A lease transfer occurred on April 1, 2018 from Ms. Shang to Yueli Ke. He stated that the Richardson Police Department had introduced charges for attempted prostitution in the months of April, May, and July of 2018 under Yueli Ke's certificate of occupancy. He stated that he made the decision to revoke the certificate of occupancy based on the unlawful occurrences at the location, the police department's affidavit, as well as the charges of attempted prostitution.

He stated the certificate of occupancy holder was asked to do a pre-determination hearing to determine if the incidents occurred and to get feedback as to why or why not that was the case. Based on the pre-determination hearing it was determined that the unlawful activities occurred, and that information provided on the certificate of occupancy application was incorrect. The applicant's attorney stated that the unlawful activities were not under her direction and that she was either out of the country or not available during those incidents.

He stated that an appeal was received from Ms. Yueli Ke's attorney Andrew Farkas.

Board Discussion

Member Mayo asked for a clarification between prostitution and attempted prostitution.

Andrew Farkas stated that attempting prostitution is the offer to engage in sexual activity in exchange for money before performing any sexual act. He stated that the affidavit shows two citations for Class C misdemeanors for attempted prostitution that were issued on April 25, 2018 and May 3, 2018 this certificate of occupancy.

With no further comments, Chairman Lemons opened the public hearing.

Public Comments

Andrew Farkas, applicant's attorney, stated that he received information from the building official about the two cited dates of April 25, 2018 and May 3, 2018. He stated that he was not aware that the incident that occurred in July 2018 would be brought up in the meeting.

Mr. Farkas provided two affidavits from Ms. Shang and Ms. Ke. On March 10, 2018, Ms. Shang enter into an agreement with Ms. Ke to buy Pure Massage. Ms. Ke obtained a certificate of occupancy in which a person by the name of Shu Shen helped to prepare the application. Ms. Ke had not yet obtained the required ME License so therefore she could not operate the business.

He stated that Ms. Shang and Ms. Ke had an agreement that Ms. Shang would continue to operate the business. He stated that Ms. Ke didn't know that she might be held liable for things that she had no knowledge of before she took over business operations. Mr. Farkas presented checks showing that Ms. Shang continued to make payments to the property owner SKL Investments during the time after the certificate of occupancy was granted.

He stated that Ms. Ke did not have a role in the operation of the business while the events in question occurred.

Ms. Ke received the ME License on May 7, 2018. He stated that Ms. Ke left the country for a family emergency between May 14 and August 23. He stated that Ms. Ke began operating the business on September 1, 2018. He stated that when she received the letter that the certificate of occupancy was or would be revoked she had no knowledge of prostitution or the attempts of prostitution at the business.

Mr. Farkas made himself available for questions.

Mr. Kevin Laughlin, City Attorney, clarified that the board should only focus on the incidents that occurred on April 25, 2018 and May 3, 2018.

Member Mayo asked if the owner of the establishment, Yueli Ke, is licensed with the State of Texas.

Mr. Farkas stated that he is not sure if Ms. Ke had a Massage Therapy License.

Member Shuey asked why the transfer of lease was not tied to the license.

Mr. Farkas stated that Ms. Shang and Yueli Ke did not think of that.

Vice Chairman Rooker asked what was the relationship between Ms. Shang and Ms. Ke.

Mr. Farkas stated they really didn't know each other well. They were two women that came together with a written agreement. Ms. Ke learned of Pure Massage being for sale through the community.

Vice Chairman Rooker asked what error was made by the City in its decision to revoke the certificate of occupancy.

Mr. Farkas stated that the error in which Ms. Ke allowed certain activities to take place at the establishment or that she was vicariously liable for anything that happened in the business.

Member Arefin asked Mr. Farkas to clarify the check deposit and the plane ticket.

Mr. Farkas presented bank statements that showed different days of a check register and documentation showing her travel records.

Member Shuey asked if the transaction was made via cash.

Mr. Farkas stated that he would assume that the payments were paid in cash.

Member Arefin asked if the employees arrested were licensed therapist.

Mr. Laughlin stated that there were no arrests made and only citations were issued.

Member Arefin asked if the employees were still employed at the business.

Mr. Farkas stated that the employees no longer work for the business.

No further comments in favor or opposed were received, Chairman Lemons closed the public hearing.

Board Action

Member Mayo spoke in favor to uphold the building official's decision.

Member Shuey spoke in favor to uphold the building official's decision.

Motion: Member Shuey made a motion to uphold the decision of the building official for the revocation of the certificate of occupancy listed in Variance 19-06 as presented; second by Member Arefin. Motion Approved 5-0.

Adjournment

Motion: Chairman Lemons called for a motion to adjourn the regular business meeting. Member Mayo made a motion to adjourn the regular business meeting; second by Member Arefin. Motion Approved 5-0.

There being no further business, the meeting was adjourned at 7:22 p.m.

Jason Lemons, Chairman
Zoning Board of Adjustment