

**CITY OF TALLMADGE  
PLANNING & ZONING COMMISSION**

MINUTES OF MEETING HELD August 1, 2019 7:00 p.m. Council Chambers  
Date Time Place

MEMBERS PRESENT: Gerald Taylor, Julie Oliver, Pat Larson, Kevin Heilmeier, Stephan Ryder

MEMBERS ABSENT:

CHAIRMAN: Gerald Taylor

SECRETARY: Kelli Funk

REGULAR MEETING

SPECIAL MEETING

PRESENT: Dave Kline, Mayor  
Megan Raber, Law Director  
Helene Hussing, Planning and Zoning Manager

**ITEMS TO BE DISCUSSED**

- 1. Item #PZ19-08-01: Conditional Zoning**  
Global Kitchen LLC – Applicant  
TJ Circle One LLC – Owner  
12 Tallmadge Circle
  - Dining establishment serving alcoholic beverages
  - For acceptance of application and scheduling of Public Hearing
  
- 2. Item #PZ19-07-01: Amendment to the Zoning Map (C-3 to R-3)**  
Architectural Options, Inc. - Applicant  
Rita Reeves & Deborah Johnson - Owners  
PN6004384 – Southern Portion of 323 W Overdale Dr
  - For review & recommendation
  
- 3. Item #PZ19-07-02: Conditional Zoning**  
Michelle R. Hatch, Scratch Kitchen & Catering – Applicant  
Ward Holdings LLC – Owner  
137 East Avenue, Suite 44
  - For review & recommendation

The August 1, 2019 meeting of the Planning and Zoning Commission was called to order at 7:00 p.m. by Chairman, Gerald Taylor.

The meeting was opened with the Pledge of Allegiance.

Roll called. All members were present.

Mr. Taylor: Next item is the approval of the minutes of July 2, 2019.

Mrs. Oliver: **I'd like to make motion to approve the minutes as written.**

Mr. Heilmeier: **Second.**

Roll called. All members voted in favor. (5-0)

Mr. Taylor: Agenda additions? I don't see anything. Mayor, do we have any additions?

Mrs. Hussing: We do not have any additions, speaking for the Mayor.

Mr. Taylor: Correspondence and communications. We did receive from the Zoning Department, an email regarding the property on...323 Overdale property. A resident supporting passing that item. Do we have anything else? Any other communications regarding that item?

Mrs. Hussing: No, we did not receive any other communications.

Mr. Taylor: No phone calls...

Mrs. Hussing: Nothing.

Mr. Taylor: Ok, first item on the agenda:

**Item #PZ19-08-01: Conditional Zoning**

Global Kitchen LLC – Applicant

TJ Circle One LLC – Owner

12 Tallmadge Circle

- **Dining establishment serving alcoholic beverages**
- **For acceptance of application and scheduling of Public Hearing**

Mr. Taylor: **I'll move to set the Public Hearing for Item #PZ19-08-01, Global Kitchen LLC, applicant, TJ Circle One LLC, owner, for 12 Tallmadge Circle, based on the plans and application submitted to the Planning & Zoning Department on July 16 & 18, 2019 for the following month on Thursday, September 5 at 7:01 PM.**

Mr. Heilmeier: **Second.**

Roll called. All members voted in favor. (5-0)

Mr. Taylor: Ok, next item on the agenda:

**Item #PZ19-07-01: Amendment to the Zoning Map (C-3 to R-3)**

Architectural Options, Inc. - Applicant

Rita Reeves & Deborah Johnson - Owners

PN6004384 – Southern Portion of 323 W Overdale Dr

- **For review & recommendation**

Ms. Reeves and Ms. Johnson were sworn in.

Ms. Reeves: We're just requesting that the property behind our house be changed from commercial to residential.

Mr. Taylor: Now, this property basically is on the back of your property along Overdale. Is that near where we just vacated that street?

Ms. Reeves: It's on the side of it.

Mayor Kline: If I may Mr. Taylor, you can see this is the street that you just vacated. They live right at this location. The lot right here is the one in question.

Mr. Taylor: Does that encompass any other properties there?

Mayor Kline: That's a stand-alone parcel number and then you have the Rocco, now Meyers property right here and then you have that strip of land right there, still is by itself...

Mr. Taylor: Is that commercial?

Mayor Kline: That is residential and that abuts the Garden Street that has not been vacated at this point so this would not be land locked because it's got that. This parcel... they're going to Z that together. That commercial right now and that's commercial.

Mr. Taylor: So, the property to the East, who does that belong to?

Mayor Kline: The long strip? Frank Rocco. Rocco Family LLC.

Mr. Taylor: Ok. And that is residential?

Mayor Kline: That's correct.

Mr. Taylor: Currently, this property has no access to West Avenue, is that correct?

Ms. Reeves: That's correct.

Mr. Taylor: You did say in the letter, you indicated that you wanted to use this as a buffer between the commercial property on West Avenue and your residence, is that correct?

Ms. Reeves and Ms. Johnson: Yes, that's correct.

Mr. Larson: So, Mr. Mayor, the property just to the left of that, that's all commercial also?

Mayor Kline: That's correct.

Mr. Larson: That parcel of property goes all the way to West Avenue?

Mayor Kline: So, here's West Avenue, that's the Rocco's skating rink plaza and the parcel goes back...

Mrs. Hussing: That's not the skating rink...

Mayor Kline: Oh, here's the plaza and here's the skating rink. Frank Rocco still owns this. And then this strip is also part of the dry cleaners out front.

Mr. Taylor: Are you considering future development of that property into residential or subdivision or anything like that?

Mrs. Reeves: No, we just want to leave it as is.

Mr. Taylor: I mean with that property plus your residence there, what is that, about 5 acres?

Mrs. Reeves: 3.77 total.

Mr. Taylor: With your residence and that, 3.77, so it's really not big enough to develop, unless you subdivided it. Individual lots.

Ms. Johnson: We have no intention of that.

Mr. Taylor: Ok, I'm just bringing up questions. Any questions by Commission Members? Mr. Mayor, any objection?

Mayor Kline: No, our first preference long ago was for the developer on West Ave to purchase that lot, but he did not do that, they purchased it and that's what we always tell people, you want to protect your backyard, buy the property. They did and they own it and they're requesting to convert it back to residential plus I think, weren't you going to put a little addition on your house, that would encroach the property line.

Ms. Reeves: Right, it would go like 3 feet over.

Mayor Kline: And now that they own it, the Mylar that you just signed, once they record that, that will be Z'd together so it's all one big parcel from West Overdale back to this parcel so, that's the frontage on W Overdale. So, we don't really have a problem with it.

Mr. Taylor: Ok, is there anyone else in the audience that would want to speak in favor or against this proposal?

Ms. Tonkin was sworn in.

Ms. Tonkin: So, I'm happy that it's happening and I'm happy the street is vacated and now I can put in a proper driveway. It was hard snow blowing for 26 years, all that gravel, so now I can put in a proper driveway. So, I'm happy about it. It's nice to know that no commercial will be building back there. I'm really pleased.

Mr. Taylor: Ok. Just one thing, since this is an amendment to the zoning map, and I talked to the Zoning Department, this motion will require the 5 motions that are listed on the Staff Report. We'll have to cover each one of those. Some of them are quite lengthy and we'll help you go through it. Some of them apply and I think there's a couple that they're sort of questionable but we could do that.

**Mr. Larson: I move for a finding, based upon the evidence presented, that the proposed zoning amendment for approximately 3.77 acres located at the southern portion of 323 West Overdale**

**Drive is consistent with the Comprehensive Plan and the economic development goals of the City and the intent of the zoning code for promoting the health, safety and welfare of the citizens.**

Mr. Heilmeier: **Second.**

Roll called. All members voted in favor. (5-0)

Mr. Larson: **I move for a finding, based upon the evidence presented, that there has been a change in demand for land which alters the information upon which the Zoning Map is based.**

Mrs. Oliver: **Second.**

Roll called. All members voted in favor. (5-0)

**I move for the adoption of the following findings, based on the evidence presented that:**

- (1) The proposed amendment and proposed use are in compliance with adopted plans, goals and policies.**
- (2) The proposed rezoning is suitable for the proposed use.**
- (3) There are adequate public facilities such as transportation, utilities, and other required public services to serve the proposed use.**
- (4) There is not a negative effect of the proposed rezoning on surrounding uses.**
- (5) There is not a negative effect of the proposed rezoning on the economic viability of existing developed and vacant land within the City.**
- (6) The use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the same area;**
- (7) The proposed rezoning will not be hazardous or disturbing to existing or future neighboring uses;**
- (8) The proposed rezoning will not be detrimental to property in the immediate vicinity or to the community as a whole;**
- (9) The proposed rezoning will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;**
- (10) The proposed rezoning will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets or roads.**
- (11) Any decision by this Commission is not based on a proposition that limitations upon financial gain from the land in question constitutes unreasonable zoning.**
- (12) Evidence does support that the proposed amendment would materialize in a better land use.**

Mr. Heilmeier: **Second.**

Roll called. All members voted in favor. (5-0)

Mr. Larson: **I move for a finding of this Commission that the adoption of the requested amendment to the Tallmadge Zoning Map is in the public interest and is not solely for the interest of the applicant.**

Mrs. Oliver: **Second.**

Roll called. All members voted in favor. (5-0)

**Mr. Larson: I move to recommend to Council to adopt the Amendment to the Zoning Map Application for Item #PZ19-07-01, Architectural Options LLC, Applicant, Rita Reeves & Deborah Johnson, owners of PN6004384, southern portion of 323 West Overdale Drive, consisting of approximately 3.77 acres from C-3 Commercial to R-3 Residential District.**

**Mr. Heilmeier: Second**

Roll called. All members voted in favor. (5-0)

Mr. Taylor: The motion resulted in 5 votes for and no votes against. You're approved. Your next step I think would be going to City Council. Ok next item:

**Item #PZ19-07-02: Conditional Zoning**

Michelle R. Hatch, Scratch Kitchen & Catering – Applicant

Ward Holdings LLC – Owner

137 East Avenue, Suite 44

- **For review & recommendation**

Ms. Hatch was sworn in.

Ms. Hatch: I am currently seeking a permit to serve alcohol. Beer, particularly beer.

Mr. Taylor: Ok, I didn't drive by the property today, and I see you're open so, you must be compliant with the previous owner that was in there that was a food service was in there before. Is that correct?

Mrs. Hussing: That is correct. There was food service in there before.

Mr. Taylor: Now, she complies with everything except...

Mrs. Hussing: She has to come before you because she applied for a D-1 liquor license and so our code states that she must ask for conditional zoning for that.

Mr. Taylor: Maybe explain to us what a D-1 permit is.

Ms. Hatch: A D-1 permit is basically for sales of beer only.

Mr. Taylor: Is that beer sold on the premises or...

Ms. Hatch: It can be sold on the premises or for carry out.

Mr. Taylor: This is not a typical drive through, carry out beer type thing. Explain the carry out.

Ms. Hatch: If someone came in and requested a 6 pack of beer out, they could actually purchase that and take it with them. I don't foresee that really happening. I see people coming in and drinking a beer with their meal and leaving. We wouldn't advertise that, it's just part of the permit that we can do that, through the state.

Mr. Taylor: So, if someone wanted to buy 3 or 4 beers of different types, you would sell that to them then they could take it out.

Ms. Hatch: Yes. It can't be opened or anything like that.

Mr. Taylor: Right.

Mr. Larson: Megan, I'm looking at the definition of a D-1 and it appears to me that, according to what I'm reading, it's for consumption for on premises only. Is that correct?

Mrs. Raber: Or in original sealed carry out container until 1 am. I don't know where you're looking, but in the background information, it says that. That's the full scope of what you can do. Again, I think the primary operation there is a restaurant serving alcohol and but, because they have a carry out service for the restaurant too, you can get carry out then you have the option. If you wanted to get your beer there too, you can do that.

Mr. Taylor: Oh, you have a carry out service for food? Someone calls in, they'll order.

Ms. Hatch: Yes, we're dine in or take out.

Mr. Taylor: Ok. They could pick up their order and say well we want a six pack of a certain beer.

Ms. Hatch: Yes. Or they want one beer with their meal.

Mr. Taylor: Oh, ok.

Mr. Heilmeier: I'm just asking the City now... they already have a liquor license, correct? So, if we voted no, what happens to their liquor license?

Mrs. Raber: Well, they would have the license, they wouldn't be in compliance with Zoning, so they're going through the process to be in compliance with Zoning and because this is how we regulate restaurants that serve alcohol in our Community, they have to go through the Conditional Use. More typically we have seen them historically when it's been a new restaurant coming in and they're... this is a location that's already existing that's just rebooting as a new restaurant with no serving alcohol. You're going to see a similar situation next month with Global Kitchen as well.

Mayor Kline: The state doesn't recognize our zoning.

Mr. Heilmeier: I guess that's the question.

Mrs. Raber: The state does not care what the underlying zoning is, you have to have certain districts that have already voted in the ability to get the permit so, that's all another layer of regulation. Then the Zoning compliance is a whole separate issue. The state does not check on Zoning Compliance before they issue the permits.

Mr. Larson: A couple things, first all, and this is in a Fine Dining district overlay. Is there a restriction on distance to a school? And how far are we from the preschool across the street?

Mrs. Raber: So, we amended that about a year or so ago, 2 years ago, and limited that restriction so that that plaza would be eligible considering the Child Scape, which is a daycare, if I remember correctly, with the intent to allow those commercial entities to be able to do this.

Mr. Larson: Even the store front that used to be the old Rite Aid? Would that be in compliance?

Mrs. Raber: I'm not sure.

Mr. Larson: But this one is?

Mayor Kline: This one is.

Mrs. Raber: I can look at it real quick.

Mr. Larson: Ok, and there no intention, you're not putting a bar in, you're just going to have beer in your cooler in the back in the kitchen and serve it so I don't know if your read through what we established in the City for restaurants serving alcohol, but there were some restrictions on floor space, but none of that applies here because you're not going to have a bar.

Ms. Hatch: No, we will not have a bar.

Mr. Larson: And I certainly can't see you selling enough beer to run into the percentage of food to alcohol that we have and that's the only restriction. As long as you're aware of what those restrictions are. Do you intend, at any point, to have any outside seating?

Ms. Hatch: Not in our current plan. There's very limited space there, I don't know how we would actually do that.

Mr. Larson: If at some point, they wanted to put a couple tables out in front, does this allow us, and I have to refresh my memory, if somebody was eating dinner there, would they be able to bring that beer outside the restaurant and sit on a patio?

Mrs. Raber: No, we specifically address that in the conditions that are recommended to you in the Staff Report. So, number 7 says that "in the event that they would want to do outside dining to include alcoholic beverages, they would need to come back and go through the process to change that". It would be a change in Site Plan anyway, would need to come from you anyway, would go for that amendment to the conditional zoning as well. And, Mr. Larson, to answer your earlier question, when we amended that in 2017, and I'm sorry, I couldn't recall off the top of my head what we did, we actually eliminated the distance to schools and to churches and so now the restriction is 250 to an Adult Entertainment business. The idea being that a lot of those in operation... you know, the dinner crowd is not necessarily there at the same time the church crowd is or whatever so, that was amended back in 2017, so it's in compliance.

Mr. Larson: Thank you.



Mrs. Oliver: Question either for the applicant or for the City, the actual liquor license, does that stay with the property? In other words, if you would decide that you want to move you facility to some other location, is the liquor license attached to that address or is it attached to your business?

Ms. Hatch: It's attached to my business.

Mrs. Oliver: Ok, so you move, you would take the liquor license with you?

Ms. Hatch: I own the liquor license.

Mrs. Oliver: Alright. And if you decided to close, you could sell the liquor license or whatever the case is or transfer it or something if you decided to do that.

Ms. Hatch: I believe so, yes.

Mrs. Oliver: Ok, thank you.

Mr. Taylor: Mr. Larson, as far as outside dining, I drove up there today just to take a look, and between the parking lot and the front door, there's just a very narrow sidewalk. I don't think they could even have a table there. The parking lot, the cars would be right up against the door almost. There was some comments in the Staff Report from the police department regarding the consumption of alcohol. It should not be visible by other patrons in the plaza. Do you know that the means Mayor?

Mayor Kline: I cannot answer that, but it most likely means the signage in the windows, which you're not allowed to do anyways, to say alcohol. You're going to have a beer sitting on a table inside the window...

Mr. Taylor: I don't know what they're talking about, not visible by other patrons in the plaza and music and other sounds. Were they worried about outside dining or someone sitting outside drinking a beer or something?

Mayor Kline: It's probably just a generic comment that they're not allowed to have amplified noise outside. That's not part of the liquor license...

Mr. Taylor: Ok, I just didn't understand what they were talking about. You're not having consumption outside the premises anyhow.

Ms. Hatch: No, sir.

Mr. Larson: So, if this is a recommendation from the police department, it's just a recommendation. We can choose whether we pay attention to it or not because quite frankly, if there's tables along the window, and those patrons are drinking, that beer can's going to be visible. How do you prevent that from happening? So, I just don't think that's that big of a deal.

Mayor Kline: I think he's more thinking, could it be a patio outside? There's not room for a patio outside.

Mrs. Hussing: Mr. Chairman, he also finished his comment by just pointing you to the hours of operation, which don't lend themselves to a rowdy bar crowd, in his words.

Mr. Taylor: Is there anyone else in the audience that would either like to speak for or against this? I don't see anyone. There's no one else present. Yea, this is a Conditional Zoning Certificate for Fine Dining. It does have a couple motions we have to go through. Mrs. Oliver, are you going to make a motion?

Mrs. Oliver: I sure will. **I move for adoption of the following findings, based upon the evidence presented, that the Conditional Zoning Certificate for Dining Establishment Serving Alcoholic Beverages at 137 East Ave., Suite 44:**

- (a) Is harmonious and in accordance with the general objectives of this Code;**
- (b) Is designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and so that such use shall not change the essential character of the same area;**
- (c) Is not hazardous or disturbing to neighboring uses;**
- (d) Is served adequately by essential public facilities and services;**
- (e) Is not detrimental to the economic welfare of the community;**
- (f) Does not involve uses, activities, processes, material, equipment and/or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.**
- (g) Does have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets or roads.**
- (h) Does comply with the City of Tallmadge Thoroughfare Plan. If additional street right-of-way width is required for compliance, the property owner shall dedicate the required land at a time requested by the City at no cost to the property owner.**

Mr. Larson: **Second.**

Roll called. All members voted in favor. (5-0)

Mrs. Oliver: **I move to recommend to Council to adopt the Conditional Zoning Certificate – Dining Establishment Serving Alcoholic Beverages for Item PZ19-07-02, Applicant Michelle R. Hatch, Scratch Kitchen & Catering and Owner Ward Holdings LLC at 137 East Avenue, Suite 44 based on the plans and application submitted to the Planning & Zoning Department on June 27, 2019.**

**Subject to the following conditions, modifications and/or amendments in addition to those set forth in Tallmadge Codified Ordinance Section 1189.05, subsection 131, based on the evidence presented:**

- 1) No banners shall be displayed outside of the building, unless permitted with a temporary sign permit;**
- 2) No alcohol advertisements shall be visible from the public right-of-way;**
- 3) No neon signage shall be exposed to the outside of the building;**
- 4) No amplified music shall be heard from the outside of the building;**
- 5) Sales receipts shall be made available to the city annually or upon request;**
- 6) That the area of the permitted conditional use shall be limited to indoor dining at the existing Scratch Kitchen & Catering restaurant, which is comprised of about 1,600 square feet and has the same address as on the application: 137 East Avenue;**
- 7) That any future improvements for outside dining area serving alcoholic beverages will require re-application for conditional zoning.**

Mr. Heilmeier: **Second.**

Mr. Larson: Do we need to add the suite number in there or is just the street address sufficient?

Mrs. Hussing: The street address should be sufficient because we called out 1600 sq ft.

Roll called. All members voted in favor. (5-0)

Mr. Taylor: Ok, the approval is 5 for and 0 against. Your next step will be City Council.

Mr. Larson: **I move to adjourn.**

Mrs. Oliver: **Second.**

Roll called. All members voted in favor. (5-0)

Meeting adjourned at 7:36pm.

Respectfully submitted,

  
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Kelli Funk, Secretary

  
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Gerald Taylor, Chairman