

City of Dearborn
Zoning Board of Appeals
Thursday, April 26, 2007
Minutes

Called to Order: 7:03 p.m.

Commissioners Present: Kenneth Gusfa, Gary Jefferson, and Nancy Siwik.

Commissioners Absent: Mark Alfonsi, John Matthews, and Daniel Stanley.

Technical Advisors: Robert DeBerardino, Deputy Director Building & Safety;
John Tanner, Corporation Counsel; Michelle DaRos, Deputy
Director Economic and Community Development.

Approval of Minutes. Motion by Commissioner Gusfa, supported by Commissioner Siwik that the minutes of the previous regular meeting of Wednesday, March 28, 2007 are approved as recorded. Motion carried unanimously.

Motion by Commissioner Gusfa, supported by Commissioner Siwik to change the order of the agenda, bringing Appeal #07-128 forward. Motion carried unanimously.

Appeal #07-128

From Kamal Majed, Core Construction, 27850 Plymouth, Livonia, MI requesting to construct a single family dwelling with an attached garage. The property size being 35' x 119', in a One-Family Residential (RA) zoning district at:

6318 Hartwell

Mr. DeBerardino stated that this property is currently vacant and that the previous home was demolished. The proposed plans exceed maximum lot coverage with deficient yard setbacks.

Chairperson Gusfa read the compatibility review report of J. Michael Kirk (architect/consultant for the City of Dearborn), dated April 17, 2007, into the record. Mr. Kirk's report recommends this proposed residential design should be modified to place the garage at the rear of the lot and incorporate a front entrance and porch to reinforce the welcoming qualities of this neighborhood streetscape.

Chairperson Gusfa read the Building & Safety staff report for 6318 Hartwell, dated March 22, 2007, into the record. The staff report recommends denying this appeal.

Kamal Majed, Core Construction, 27850 Plymouth, Livonia, MI and Daphne Zargar were introduced. Mr. Majed stated that the petitioner is requesting the proposed attached garage to provide greater safety and ease of use for Mrs. Zargar and her baby. The petitioner opposed the suggestion by Mr. Kirk to attach the garage in the back of the property because it would be difficult for Ms. Zargar to enter/exit the garage from that location.

Commissioners commented that the justifications stated by the petitioner were matters of personal preference and do not demonstrate a required practical difficulty due to characteristics of the land.

There was no external correspondence.

RESOLUTION. Motion by Commissioner Gusfa, supported by Commissioner Siwik, for the reasons and subject to the facts, representations and stipulations stated on the record during the public hearing, to DENY the variances detailed below:

2.05 (A.7) Compatibility Review Required.

Zoning requirement: Review by City Planner.

Plan to provide: Review Required is DENIED (DZO 32.05, F.1. h).

29.02 Maximum Front Yard Concrete Coverage.

Zoning requirement: 40% (350 sq. ft.)

Plan to provide: 48% (421 sq. ft.) is DENIED (DZO 32.05, F.1. a).

29.02 Maximum Lot Coverage.

Zoning requirement: 35% (1,457.75 sq. ft.)

Plan to provide: 37% (1,543.75 sq. ft.) is DENIED (DZO 32.05, F.1. a).

29.02 (fn a.) Combined Side Yard Setback.

Zoning requirement: 10 foot combined.

Plan to provide: 8 foot combined is DENIED (DZO 32.05, F.1. a).

Reasons for DENIAL: 1) based upon the recommendation to deny contained in the compatibility review report prepared by J. Michael Kirk (architect/consultant for the City of Dearborn); and 2) the petitioner did not meet burden of proof to demonstrate a practical difficulty that would necessitate the requested variances.

Motion carried unanimously.

Tabled Appeal #06-186

From Mr. Ali Khaleif, 20473 River Oaks, Dearborn Heights, MI requesting to construct a 1-story, retail strip center. The property size being 182' x 112', in a Community Business (BB) zoning district at:

Schaefer Road (Lots 49 to 57, Schaefer Tireman Park Subdivision, between Diversey & Morross)

Mr. DeBerardino stated that there have been several attempts for this appeal regarding the L-shaped building which does not fulfill the dumpster requirement, has deficient off-street parking, reduced aisle width, and an insufficient rear setback. The proposed plan does not demonstrate a practical difficulty.

Commissioner Jefferson made reference to the staff report and the report of the Parking Variance Advisory Committee (PVAC). The PVAC report recommends denial of the requested parking variance.

Mr. Khaleif stated that the hardship for this proposal is the size of the lot. It is not deep enough for his proposed plan.

Mr. Khaleif has previously been advised to reduce the size of the proposed structure to meet the requirements of the zoning ordinance. Mr. Tanner and the Commissioners stated that the deficient parking is the most significant issue presented, the proposed building is too large for the site, and the petitioner's attempts to revise the plans have been minimal and insufficient.

RESOLUTION Motion by Commissioner Gusfa, supported by Commissioner Siwik, for the reasons and subject to the facts, representations and stipulations stated on the record during the public hearing, to DENY the variances detailed below:

2.14 (A) Dumpster Proximity to Residential.

Zoning requirement: As far as practicable from adjoining residential.

Plan to provide: Not as far as practicable (11 feet) is DENIED (DZO 32.05, F.1. a).

2.14 (A) Dumpster Location.

Zoning requirement: Clearly accessible to servicing vehicles.

Plan to provide: Blocked by loading zone is DENIED (DZO 32.05, F.1. a).

2.14 (A) Dumpster Setback.

Zoning requirement: 20 feet.

Plan to provide: 11 feet (2 feet + 1/2 alley) is DENIED (DZO 32.05, F.1. a).

4.01 Off-Street Parking.

Zoning requirement: 33 spaces.

Plan to provide: 25 spaces is DENIED (DZO 32.05, F.1. a).

4.01 (D.2.b) Access Drive/Aisle Width.

Zoning requirement: 31 foot, 2-way.

Plan to provide: 28 foot, 2-way is DENIED (DZO 32.05, F.1. a).

6.01 (E) Obscuring Wall.

Zoning requirement: Abutting Residential (with line-of-sight compliance at NW Corner).

Plan to provide: No obscuring wall is DENIED (DZO 32.05, F.1. a).

29.02 Rear Yard Setback.

Zoning requirement: 20 feet.

Plan to provide: 11 feet (2 feet + 1/2 alley) is DENIED (DZO 32.05, F.1. a).

Reasons for DENIAL: 1) the proposed project is new construction on a reasonably sized parcel, petitioner should design project to fit the parcel and meet zoning ordinance requirements; and 2) the petitioner did not meet burden of proof to demonstrate a practical difficulty that would necessitate the requested variances.

Motion carried unanimously.

Tabled Appeal #07-111

From Mr. Michael Tucker, 24432 Michigan, Dearborn, MI requesting to construct a 1-story rear addition to an existing single-story commercial office building. The property size being 20' x 100', in a Community Business (BB) zoning district at:

24432 Michigan

Mr. Michael Tucker was introduced.

Mr. DeBerardino read the Building & Safety staff report for 24432 Michigan, dated April 26, 2007, into the record. Building is an existing, non-conforming use. The issue regarding the door opening out onto the parking area has been corrected.

Mr. Tanner read a 1966 court order, "Briar Hill Homes, Inc vs. City of Dearborn" that stated the parking strip provided along the north side of the alley can be used by Michigan Avenue businesses during business hours. Therefore, this parking strip can be considered as compensating for the requested parking variance.

Mr. Tanner further added that the PVAC report recommends approval of the requested parking variance based upon the court order, previously introduced.

Commissioner Jefferson suggested that any motion to approve this request should contain a condition stating that the storage area as indicated on plan will not be used for office space.

There was no external correspondence.

RESOLUTION. Motion by Commissioner Gusfa, supported by Commissioner Siwik, for the reasons and subject to the facts, representations and stipulations stated on the record during the public hearing, to APPROVE WITH CONDITIONS, the variances detailed below:

3.05 Alter a Non-Conforming Structure.

Zoning requirement: Non-conforming structures shall not be expanded.

Plan to provide: 300 square foot addition is APPROVED (DZO 32.05, F.1. j).

4.01 Off-Street Parking.

Zoning requirement: 4 spaces.

Plan to provide: 1 space is APPROVED WITH CONDITIONS (DZO 32.05, F.1. k).

29.02 Maximum Lot Coverage.

Zoning requirement: 40% (800 sq.ft.).

Plan to provide: 65% (1,300 sq.ft.) is APPROVED (DZO 32.05, F.1. j).

Approval of this appeal is CONDITIONED as follows: 1) the new addition shall not be used for office; use shall be storage or as indicated on the plan; and 2) the petitioner agrees to participate in any future parking Special Assessment Districts (SAD).

This motion is conditioned on the petitioner's continuous compliance with all applicable ordinances, codes, laws and statutes; and, the petitioner must perform all work under plans, permits and final inspections approved by the City of Dearborn.

Motion carried unanimously.

Tabled Appeal #07-118

Appeal POSTPONED at request of applicant.

Appeal #07-119

Appeal POSTPONED at request of applicant.

Appeal #07-122

From Denise Capler-Wilamowski, 3368 Byrd, Dearborn, MI requesting to maintain the existing non-conforming detached garage. The property size being 40' x 115', in a One-Family Residential (RA) zoning district at:

3368 Byrd

Mr. DeBerardino read the Building & Safety staff report for 3368 Byrd, dated March 20, 2007, into the record. A permit was issued for construction of a rear addition based upon the petitioner's statement that the existing garage would be removed. The staff report recommends denying this appeal.

Ms. Capler-Wilamowski stated she will still be able to move in and out of her garage with the reduced setback. Ms. Capler-Wilamowski does not recall, but did not contest, whether her builder informed her of any promise to remove the garage as a condition for receiving the permit to construct the addition.

The Commission reviewed the facts and finds that it is possible to demolish the existing garage and reconstruct a conforming structure farther back on the property. A practical difficulty, therefore has not been demonstrated.

There was no external correspondence.

RESOLUTION. Motion by Commissioner Gusfa, supported by Commissioner Siwik, for the reasons and subject to the facts, representations and stipulations stated on the record during the public hearing, to DENY the variances detailed below:

2.03 (C.2) Setback from Dwelling.

Zoning requirement: 20 feet.

Plan to provide: 14 feet is DENIED (DZO 32.05, F.1. a).

Reasons for DENIAL: 1) the conditions resulting in this request for variance are self-created; and 2) the petitioner did not meet burden of proof to demonstrate a practical difficulty that would necessitate the requested variance.

Motion carried unanimously.

Appeal #07-132

From Mr. Atef Eid, Coiffeur Prestige, 10619 W. Warren, Dearborn, MI requesting to occupy a tenant space for use as a hair salon; within an existing commercial building with existing restaurant/carryout, first-floor retail, and second-floor office. The property size being 184' x 100', in a Community Business (BB) zoning district at:

13201 W. Warren (former Lesney Funeral Home)

Mr. DeBerardino read the Building & Safety staff report for 13201 W. Warren, dated March 22, 2007, into the record. The tenant space in question was previously approved for retail use. The proposed use, a hair salon, has a greater parking requirement. The staff report does not find any demonstration of practical difficulty and recommends denying this appeal.

The project architect, N.A. Designs, 6236 Cronin, Dearborn Heights, introduced himself. He referred to revised plans for the site that will reduce the number of parking spaces required.

Mr. DeBerardino confirmed that revised plans were submitted. However, those plans were submitted after the publication deadline for this hearing and have not been reviewed.

Mr. Pat Furgiuele, 7130 Bingham stated that he lives behind the subject property and objects to this appeal because of deficient parking, increased traffic, rat problems since new building was constructed, and difficulty accessing his garage.

There was no external correspondence.

RESOLUTION. Motion by Commissioner Gusfa, supported by Commissioner Siwik, for the reasons and subject to the facts, representations and stipulations stated on the record during the public hearing, to DENY the variances detailed below:

4.01 Off-Street Parking.

Zoning requirement: 77 spaces for all uses on the site (7 for hair salon).

Plan to provide: 76 spaces (26 on-site + 20 across Jonathon + 30 from a prior variance) is DENIED (DZO 32.05, F.1. a).

Reasons for DENIAL: 1) the petitioner did not meet burden of proof to demonstrate a practical difficulty that would necessitate the requested variance.

Motion carried unanimously.

Appeal #07-133

From Mr. Rick Marra, Marra Building Inc., 6700 Chase Road, Dearborn, MI requesting to install a 1,300 square foot outdoor dining patio area for 11 tables with 4 chairs each. The property size being irregular, in a General Business (BC) zoning district at:

18900 Michigan (Starters Bar & Grill; Fairlane Mall, G-115)

The project architect, N.A. Designs, 6236 Cronin, Dearborn Heights, and the business owner, Mr. Saad appeared before the board. Entry and exit onto the proposed patio will be through the restaurant only. The existing trees on the site will be relocated. The patio will be open during the restaurant's regular business hours, but may close earlier on days that demand for outdoor seating is low.

Commissioner Siwik asked if there are any other outdoor patios at Fairlane Mall. The petitioner believes there may be one other site.

No external correspondence.

RESOLUTION. Motion by Commissioner Gusfa, supported by Commissioner Siwik, for the reasons and subject to the facts, representations and stipulations stated on the record during the public hearing, to APPROVE the variances detailed below:

16.03 Outdoor Dining.

Zoning requirement: Business services shall be conducted within a completely enclosed building.

Plan to provide: Outdoor dining patio is APPROVED (DZO 32.05, F.1. j, m).

This motion is conditioned on the petitioner's continuous compliance with all applicable ordinances, codes, laws and statutes; and, the petitioner must perform all work under plans, permits and final inspections approved by the City of Dearborn.

Motion carried unanimously.

Meeting Adjourned: 8:09 p.m.