

City of Dearborn
Zoning Board of Appeals
Thursday, June 21, 2007
Minutes

Called to Order: 5:35 p.m.

Commissioners Present: Daniel Stanley (Chairperson), Susan Binder, Kenneth Gusfa, and Gary Jefferson.

Commissioners Absent: Mark Alfonsi.

Technical Advisors: Robert DeBerardino, Deputy Director of Building & Safety; John Tanner, Corporation Counsel; David Norwood, Director of Building & Safety.

Approval of Minutes. Motion by Commissioner Jefferson, supported by Commissioner Gusfa that the minutes of the previous regular meeting of Thursday, May 24, 2007 are approved as recorded. Motion carried unanimously.

Tabled Appeal #07-124

From Mitch Hazime, Children's Garden Development Center, Dearborn, MI requesting to construct a 2-story addition with a basement to an existing 1-story building for use as a Day Care facility. The property size being 220' x 86', in a Community Business (BB) zoning district at:

12720 Ford Road (Children's Garden Development Center)

Petitioners Mitch Hazime, 20555 Fairview St., Dearborn Heights, and John DeBruyne were introduced.

Mr. DeBerardino reported that this item was approved September 23, 2004 for present use as a day care, with several variances for outdoor play area, parking, and setback issues. The proposed addition, with basement is 2 stories above grade on the west elevation of property. Parking will be relocated to the most northern part of the property.

Mr. Norwood reported that Planning Commission issues have been resolved regarding the expansion of this property.

Chairperson Stanley read notes stating that the operating hours of 6am to 6pm and the attendance of 14 to 15 children per classroom, determined square footage for playground and parking for this property.

Mr. Hazime stated that only 2 classes of children at a time are permitted in the play area for safety precautions.

Mr. Hazime stated the expansion is needed because of the recent increased enrollment due to Ford Motor Company closing their centers.

Mr. Tanner stated the Planning Commission's recommendation is important to this appeal based on Item N of Ordinance Section 32.05. F (Relationship to adjacent land uses).

Petitioner Mr. DeBruyne stated the proposed dumpster location will not block parking or maneuvering area. He reported that PVAC recommended approval of the parking variance. Mr. Hazime uses his pick up truck for deliveries therefore eliminating the need for semi-truck or large truck deliveries. Petitioner Mr. DeBruyne stated this also eliminates the need for 2 loading spaces. Mr. DeBruyne researched the variances pertaining to the outdoor play area and found the ordinance was amended to 50 square feet per child. The L-shaped property faces four (4) streets, consequently creating practical difficulty issues to the properties side yard and front yard setback requirements. The rear yard setback is near the extension of an existing setback, currently owned by Mr. Hazime.

Commissioner Binder reported the Planning Commission parking issues and made the drop off area safer. The Planning Commission agreed that there was a need for this center because of the closing of other day care centers in the area.

Chairperson Stanley stated that following the required Child Care Center setback variance would decrease the amount of classrooms. Mr. Norwood stated that the technical advisors from Planning, Building & Safety, Economic & Community Development and the Legal Department recognized that this unique L-shaped property impacts the setbacks for this property and supported the project

Chairperson read the Building & Safety staff report dated May 24, 2007 into the record. The staff report recommends approving this appeal upon the following conditions: relocating dumpster forward of proposed location and increasing landscaping.

Chairperson Stanley read the Parking Variance Advisory Report dated May 17, 2007 into the record. The PVAC report recommends approving this appeal. Loading will take place in the alley creating a larger landscaping area.

Ali Najar, 5492 Maple, Dearborn, MI, supports this appeal. He currently has two children enrolled at this day care and finds it to be very convenient.

External correspondence: Phone call from: Joseph and Helen Pellegrino, 5648 Appoline, are in support of the Children's Garden Development Center.

RESOLUTION. Motion by Commissioner Gusfa, supported by Commissioner Binder, 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:

2.14 (A) Dumpster Location.

Zoning requirement: Shall not encroach on required parking; clear access for servicing vehicles. Plan to provide: Blocks entry and maneuvering area to parking lot is APPROVED (DZO 32.05, F.1. m).

3.05 (B.1) Alter a Non-Conforming Structure.

Zoning requirement: Nonconforming structure shall not be enlarged or extended. Plan to provide: 2-story addition with basement is APPROVED (DZO 32.05, F.1. n).

4.01 Off-Street Parking.

Zoning requirement: 84 spaces. Plan to provide: 62 spaces is APPROVED (DZO 32.05, F.1. c).

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

Zoning requirement: Internal circulation routes used by trucks shall be 31 feet in width. Plan to provide: 14 foot one-way is APPROVED (DZO 32.05, F.1. k).

4.02 (B.2) Loading Space.

Zoning requirement: 2 spaces. Plan to provide: 1 space is APPROVED (DZO 32.05, F.1. n).

7.02 (G.2) Outdoor Play Area.

Zoning requirement: 14,300 square feet. Plan to provide: 8,792 square feet is APPROVED (DZO 32.05, F.1. n).

7.02 (G.4) Child Care Center Setback.

Zoning requirement: 25 foot sideyard setback. Plan to provide: 7.2 foot side yard setback is APPROVED (DZO 32.05, F.1. n).

29.02 Rear Yard Setback.

Zoning requirement: 20 feet. Plan to provide: 9.88 feet (for addition) is APPROVED (DZO 32.05, F.1. n).

Approval of this appeal is CONDITIONED as follows: 1) Petitioner agrees to fully participate in any 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.

Appeal #07-140 (Use Variance)

From Ahmad Ali Alghaiti, Bisher Market, 3440 Wyoming, Dearborn, MI requesting to slaughter and process chicken within the existing facility. The property size being 120' x 100', in a Light Industrial (IA) zoning district at:

3440 Wyoming (Bisher Market)

Petitioners Mike Hachem, Ahmad Ali Alghaiti, and the property owner's attorney were introduced.

Mr. DeBerardino reported that an appeal to build rear addition to the existing property was granted by the ZBA in 2003 with the condition that processing would not occur. Mr. DeBerardino recommended annual reviews for the property if this appeal is approved.

Mr. Tanner reported that there were issues with 3 other poultry processing concerning sanitation issues and requested the assistance of Mr. Phil DeLage, Field Inspector, to

inspect the property. Mr. DeLage's impromptu inspection found no slaughtering and no sanitation issues.

Petitioner stated there will be a special freezer for waste storage to prevent sanitation problems, which will be picked up daily. The petitioner stated that up to 75 live chickens per day would be processed (Halal), in the designated additional space. The delivery can be as many as 400 chickens to the designated area 3 times per week.

Commissioner reported that the property is isolated on a dead end street surrounded by large trucking company and Ford Motor Company in an Industrial District.

Mr. Tanner stated that this is allowed as a special land use in an IC district causing restricted activity and recommends approval because the lack of IC properties available for this proposed appeal.

Mr. Greg Winnicki, (DPW Highway Division), 5530 Jonathon, Dearborn, MI was initially concerned with parking issues, but subsequently approves of this appeal.

External correspondence: Phone call from: Richard Skinner 3400 Wyoming objects to this appeal because of potential sanitation issues and air pollution.

RESOLUTION. Motion by Commissioner Gusfa, supported by Commissioner Jefferson, 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:

18.02 (A) Use Not Permitted.

Zoning requirement: Slaughtering is allowed as a special land use in IC districts. Plan to provide: Poultry slaughtering and processing in IA district is APPROVED (DZO 32.05, F.1. l).

Approval of this appeal is CONDITIONED as follows: 1) ZBA reserves the right to review annually the variance granted for this use. If problems or complaints are determined to be a result of this use, the ZBA may revoke the variance.

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.

Appeal #07-141

From Mona Hammoud, 22750 Law, Dearborn, MI requesting to develop an off-street parking lot on VP portion of parcel, for use by a truck repair garage to the north, and a future development to the south. The property size being 475.5' x 424', in a Medium Industrial (IB & VP) zoning district at:

Eagle & Robert

Mr. DeBerardino stated that VP lot is placed in the middle of the proposed plan within abutting districts. This property was rezoned, creating the zero side yard setback. Commissioner Jefferson is concerned that the property is platted on a combined parcel. Mr. Tanner recommends that this proposed property cover a combined parcel.

Mona Hammoud, 22750 Law, Dearborn, MI was introduced and stated that there will be future commercial/retail use in the IA district on Eagle Avenue. Ms. Hammoud requested special land use because of the difficulty in creating buffers and created VP zoning. The parking will be used for future commercial/retail use. Ms. Hammoud pointed out the landscaping surrounding the property, therefore requesting that no other landscaping be required.

Chairperson Stanley recommended the condition that no future variances are granted relating to parking on the existing 3 parcels, upon approval of this appeal. Commissioner Jefferson recommends denying this appeal. Mr. DeBerardino stated that because its VP zoning, a 6 foot setback is required.

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

25.03 Side Yard Setback.

Zoning requirement: 6 feet. Plan to provide: Zero side yard setback on north and south is APPROVED (DZO 32.05, F.1. j).

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.

Commissioner Jefferson objected to approving this appeal because a buffer is not provided along the proposed side yard setback. Roll call vote requested.

Roll call: Yes: Commissioners Stanley, Binder, and Gusfa. No: Commissioner Jefferson. Motion carried.

Appeal #07-142 (Use Variance)

Appeal POSTPONED at request of applicant.

Appeal #07-143

From Mona Hammoud, 22750 Law, Dearborn, MI requesting to construct a 20' x 20' detached garage; existing wood deck at rear will be removed. The property size being 35' x 123', in a One-Family Residential (RA) zoning district at:

7020 Payne

Mr. DeBerardino stated that the petitioner requested a garage to create off-street parking required for this property and the deck that will be removed is a rear elevated deck with

no existing door access, therefore no porch is needed.

Chairperson Stanley recognized the smaller lot coverage creating the practical difficulty. Mr. Norwood reviewed this project and met with the neighbors and found there was no concern with the 2 foot setback, but want to maintain the existing fence line.

Ms. Mona Hammoud, 22750 Law, Dearborn, MI was introduced. Ms. Hammoud reports compatibility with neighboring homes concerning smaller lot coverages.

Petitioner Mr. Moussa El-Ammar, 7020 Payne, Dearborn, MI expressed potential parking and vehicle maneuvering difficulties with not having off-street parking.

Mr. Tanner recommended that there be a chain link fence between property and garage and hard, maintenance free surface, and no storage on the side of the proposed garage.

RESOLUTION. Motion by Commissioner Gusfa, supported by Commissioner Jefferson, 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:

2.03 (C.2.b) Side Yard Setback.

Zoning requirement: 3 feet. Plan to provide: 2 feet is APPROVED (DZO 32.05, F.1. m).

2.03 (C.2.d) Distance from Other Buildings.

Zoning requirement: 20 feet; maneuvering ability to 2nd parking stall. Plan to provide: 15 feet 2 inches between garage and dwelling is APPROVED (DZO 32.05, F.1. j).

29.02 Maximum Lot Coverage.

Zoning requirement: 35% (1,378 sq ft). Plan to provide: 39% (1,525 sq ft) is APPROVED (DZO 32.05, F.1. j).

Approval of this appeal is CONDITIONED as follows: 1) The surface between the garage and fence must be a hard, maintenance-free surface. 2) No storage is allowed between the side of garage and fence. 3) Petitioner must provide a chain link fence along the length of the garage.

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.

Appeal #07-144 (Use Variance)

From Hassan Serhan, USA Construction Inc., 5035 Wyoming, Dearborn, MI requesting to restore 2-family status to existing residential structure. The property size being 40' x 107', in a One-Family Residential (RA) zoning district at:

6013 Middlesex

Petitioner Hassan Serhan, USA Construction, Inc., 5035 Wyoming, Dearborn, MI was introduced.

Mr. DeBerardino reported that a certificate of occupancy was issued for a single family dwelling in 2003 that was constructed in 1925 as a single family dwelling. Certificate of occupancy was issued in 1999 for 2-family.

Mr. Norwood reported that he, John Cascardo, Deputy Director of Building & Safety, and Andrew Pizzino, Sr. Section Supervisor of Building & Safety spoke with Mr. Fakh regarding this property and discussed changing this to a single family home.

Chairperson Stanley reiterated that Building & Safety has no records of converting this property to a 2-family home between 1925 and 1999 and expressed concern with being converted into a 2-family home illegally. Commissioner Jefferson states the use variance requested requires proof of unnecessary hardship.

Mr. Tanner stated that the petitioner would have to prove that this property cannot be reasonably used as a single family.

Mr. Serhan could not prove unnecessary hardship regarding this appeal.

Mr. Victor Mulholland, 6047 Middlesex, Dearborn, MI reported that the property has always been a 2-family home and objects this appeal because of current overcrowded parking issues.

RESOLUTION. Motion by Commissioner Gusfa, supported by Commissioner Jefferson, 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: 4 spaces. Plan to provide: 2 spaces is DENIED (DZO 32.05, F.1. m, n).

10.02 Use Not Permitted.

Zoning requirement: Single-family residential. Plan to provide: 2-family residential is DENIED (DZO 32.05, F.1. m, n).

Reasons for DENIAL: 1) No permits were granted for 2-family dwelling. 2) Petitioner did not meet burden of proof to demonstrate an unnecessary hardship which would necessitate the requested variances.

Motion carried unanimously.

Appeal #07-147

Appeal WITHDRAWN by applicant.

Meeting Adjourned: 8:15 p.m.