

**City of Dearborn
Zoning Board of Appeals**

Thursday, August 23, 2007

Minutes

Called to Order: 5:33 p.m.

Commissioners Present: Susan Binder, Kenneth Gusfa, and Gary Jefferson.

Commissioners Absent: Mark Alfonsi.

Technical Advisors: Thomas Paison, Zoning Administrator; David Norwood, Building & Safety; and John Tanner, Corporation Counsel.

Approval of Minutes. Motion by Commissioner Gusfa, supported by Commissioner Binder that the minutes of the previous regular meeting of Wednesday, July 18, 2007 are approved with the correction of hours of operation for Appeal #07-112. Motion carried unanimously.

Motion to move appeal #07-160 to the end of the agenda. Motion carried unanimously.

Tabled Appeal #07-161

From Bill Bahalwan, 4764 Williamson, Dearborn, MI requesting to enlarge and renovate an existing industrial structure for use as a community center/mosque (classrooms and prayer services). The property size being irregular, in a General Business (BC) zoning district at:

3900 Schaefer (Dearborn Community Center)

Bill Bahalwan, 4764 Williamson was introduced.

Mr. Paison read his staff report dated July 10, 2007 into the record. The report indicated the following key facts and concerns:

- A summary of two internal studies that determined that many religious institutions in the City do not meet the site development and parking requirements of the ordinance. The proposed parking is near the average for that provided by similar institutions elsewhere in the City.
- Several of the variances are due to proposed changes to the site that reduce but do not fully eliminate existing nonconformities on the site and therefore are considered improvements with regard to zoning.
- The mix of room/uses proposed within the building are very similar to those included in similar sized religious institutions in the City.

Comr. Jefferson discussed previous concern with the usage of the proposed rooms.

Cmr. Jefferson read Parking Variance Advisory Committee (PVAC) report dated August 22, 2007 into the record. The report indicated that the adjacent apartments were willing to give permission for the Mosque to use their unused parking during peak periods. Cmr. Jefferson asked if 2 establishments using the same parking spaces have previously been approved by the PVAC. Mr. Tanner responded that the PVAC has previously approved businesses to share parking when there are complimentary uses during times of operation. The PVAC discussed with the petitioner because it was an excess parking leasing space was not permitted, but would allow usage of the spaces. PVAC was informed the only intense use of the proposed site would be on Fridays from 11:30a.m. to 1:30 p.m. for prayer call services and holiday services during the year and also the prayer room will not be used for any other activity. The cafeteria will be for gathering and light refreshments and no kitchen or banquet rental usage would be allowed.

Richard Skinner called Mr. Tanner and shared concern with the center being within 500 feet of a Michigan Liquor Control Commission (MLCC) regulated and entertainment use. Typically, a church or religious institution cannot operate within 1,000 of adult entertainment. Mr. Tanner contacted MLCC regulation officials and was informed the rule only applies when (i.e.) a bar moves next to church, not vice versa.

Cmr. Jefferson asked if there would be any day care on the premises requiring food preparation. Cmr. Jefferson asked about the proposal to lease parking from Advance Restaurant Equipment and Mr. Bahalwan responded that the agreement is pending. Mr. Bahalwan stated the Chase Rd. location currently has only 20 parking spaces and plans to move the congregation of less than 200 people to the proposed site. Cmr. Gusfa responded with traffic concerns at the busy intersection resulting from the congregation and suggested that a traffic study might be helpful. Mr. Paison indicated that requiring such a study would be of minimal value since the applicant's would be unable to do anything to their property that could improve the function of the intersection of Leonard and Schaefer. Mr. Norwood stated that Public Safety had done a study of that intersection and found it to operate acceptably and that the odd configuration actual enhanced safety by making drivers more cautious.

Cmr. Jefferson read a correspondence letter from Kris Miles and a letter dated July 16, 1007 from Richard Skinner into the record. These letters expressed concerns related to parking, traffic and pedestrians crossing Schaefer.

External correspondence: Letter from: Cynthia Grimwade, 4051 Bingham--wishes to request that a traffic study be conducted at the intersection of Schaefer, Leonard, Maple, and Prospect; as well as identifying any impact of add'l traffic to the adjacent neighborhood. This intersection is already dangerous particularly at lunch time and the end of the work day. The add'l traffic will further complicate movement of vehicles and/or increase the flow of traffic.

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 Dumpster Setback.

Zoning requirement: 20 feet. Plan to provide: 3.5 feet is APPROVED (DZO 32.05, F.1. h).

4.01 Off-street Parking.

Zoning requirement: 160 spaces. Plan to provide: 77 spaces is APPROVED WITH CONDITIONS (DZO 32.05, F.1. m).

5.02 (B.1) Landscaping Adjacent to ROW.

Zoning requirement: 10 foot greenbelt. Plan to provide: 4.5' greenbelt along Leonard [previously 0'] is APPROVED (DZO 32.05, F.1. j).

5.02 (B.2) Number of Plantings.

Zoning requirement: 5 trees and 32 shrubs. Plan to provide: 3 trees and 22 shrubs along Leonard [previously 0/0] is APPROVED (DZO 32.05, F.1. j).

5.03 (C) Landscaping Requirement.

Zoning requirement: 5,013 sq.ft. (10%). Plan to provide: 4,461 sq.ft. (8.9%) [previously 4.9%] is APPROVED (DZO 32.05, F.1. j).

7.02 (R.1) Minimum Site Area.

Zoning requirement: 5 acres. Plan to provide: 1.15 acres is APPROVED (DZO 32.05, F.1. m).

7.02 (R.2) Minimum Lot Width.

Zoning requirement: 200 feet. Plan to provide: 129 feet, 11 inches (Maple) is APPROVED (DZO 32.05, F.1. m).

7.02 (R.3) Parking Setback.

Zoning requirement: 15 feet from any property line. Plan to provide: 4.5' north; 0' south and east is APPROVED (DZO 32.05, F.1. j).

7.02 (R.4) Frontage and Access.

Zoning requirement: Located on and with vehicular access from a major thoroughfare. Plan to provide: Frontage along Maple; Access from Leonard and Prospect is APPROVED (DZO 32.05, F.1. j).

Approval of this appeal is CONDITIONED as follows: 1) There shall be no day care provided at this site. 2) There shall be no rental of the facilities. 3) The petitioner shall continue to seek additional parking for this site. 4) This approval shall be subject to annual review by the ZBA if there are complaints related to traffic and parking and may be revoked by the Board.

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.

Motion to move appeal #07-160 forward from the end of the agenda. Motion carried unanimously.

Tabled Appeal #07-160

From Nozmi Elder, 22725 Alexandrine, Dearborn, MI requesting to construct a 1-story addition and large porch on the front and a 1-story addition and deck to the rear of an existing home with in-ground pool. The property size being 79' x 103', in a One-Family Residential (RA) zoning district at:

22725 Alexandrine

Nozmi Elder, 22725 Alexandrine was introduced.

Mr. Paison read his staff report dated July 10, 2007 into the record. The report indicated the following key facts and concerns:

- Plans have been modified to square off the rear addition to the house; this makes the home more nonconforming for the combined side yard setback and requiring the addition of the listed variance from that requirement.
- Combination of the proposed porch, deck and rear addition make the home substantially nonconforming for lot coverage.
- The deck and railing between the proposed rear addition and pool appears to mitigate safety issues relating to the small setback between the two.

Com. Jefferson read the correspondence letter from Linda Stechison, 22741 Alexandrine into the record. The letter was in favor of the proposal.

Com. Binder discussed her concern with how the permit process was handled before the requested variances were granted and why a compatibility review had not been done for the proposal. Mr. Paison indicated that the phasing of the project had led to a situation where compatibility review was not triggered per the provisions of the ordinance; permits had been applied for and issued for the renovation of the exterior brick and front entrance before the zoning appeal was brought forward. Mr. Elder stated that his porch is compatible with neighboring properties. Com. Binder and Com. Gusfa suggested tabling this appeal based on the completion of a compatibility report from J. Michael Kirk.

External correspondence: Letter from: Linda Stechison, 22741 Alexandrine--supports the neighbor at 22725 Alexandrine in their efforts to improve their property which would add to the attractiveness of the neighborhood.

RESOLUTION. Motion by Commissioner Jefferson, supported by Commissioner Gusfa, for the reasons and subject to the facts, representations and stipulations stated on the record during the public hearing, to LAY THIS APPEAL ON THE TABLE.

2.03 (C.2.d) Accessory Structure Setback.

Zoning requirement: 10 feet. Plan to provide: 5 feet between existing pool and proposed addition.

29.02 Combined Side Yard Setback.

Zoning requirement: 18 feet. Plan to provide: 8 feet.

29.02 Maximum Lot Coverage.

Zoning requirement: 2,841 sq.ft. (35%). Plan to provide: 3257 sq.ft. (40%), including porch, pool and deck.

Tabled Pending: 1) The Zoning Board of Appeals requested a compatibility analysis by the City's architecture consultant.

Motion carried unanimously.

Appeal #07-142 (Use Variance)

Appeal POSTPONED at the request of the Administration.

Appeal #07-145 (Use Variance)

Appeal POSTPONED at the request of the Administration.

Appeal #07-149

Appeal POSTPONED at the request of the Administration.

Appeal #07-150

Appeal WITHDRAWN by applicant.

Appeal #07-154

From Nina Hadbah, 21730 Edna St, Dearborn, MI requesting to construct a circular driveway in the front yard of an existing residence. The property size being 40' x 148', in a One-Family Residential (RA) zoning district at:

21730 Edna

Nina Hadbah, 21730 Edna was introduced.

Ms. Hadbah stated that her medical conditions and the traffic concerns from the nearby office are the main reason for this variance request.

Mr. Paison read his staff report dated July 10, 2007 into the record. The report indicated the following key facts and concerns:

- Grading and drainage issues with the proposed configuration.
- Placement of a straight drive to a parking pad in the rear yard would be a conforming alternative for achieving the indicated purpose for the drive.
- No other homes in the vicinity have such a driveway.
- Such drives are generally not permitted by the City due to compatibility issues unless there is a substantial traffic hazard in the area.
- This home is on a dead end street with limited traffic.
- The street is posted for 2 hour parking.

Cmr. Jefferson stated that the petitioner was aware of the 2 hour parking posted signs at the time of purchase. Ms. Hadbah stated that she was informed by another resident that the posted parking signs applied only to the neighboring business.

Cmr. Gusfa suggested she put a driveway from the front to the garage. Ms. Hadbah responded that would be too far and expensive. Placing a driveway to a parking pad just past the back of the property was suggested. Ms. Hadbah stated that a fairly large oak tree would prevent the driveway to be placed on the right of the property, but not on the left side of the property.

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 DENY the variances detailed below:

2.09 (3 (Note 3)) Circular Drive in Front Yard.

Zoning requirement: Drive permitted in front yard to provide access to rear yard or garage. Plan to provide: Circular drive for vehicle parking in front yard is DENIED (DZO 32.05, F.1. a).

Reasons for DENIAL: 1) Circular drives are not compatible with the neighborhood. 2) A conforming alternative is available to provide a driveway and additional off-street parking for this home. 3) The petitioner failed to demonstrate a practical difficulty.

Motion carried unanimously.

Appeal #07-157

From Leslie & Kevin Cardwell, 415 S. Melborn, Dearborn, MI requesting to remove the existing garage and foundation and build a new garage on the current non-conforming location. The property size being 40' x 120', in a One-Family Residential (RA) zoning district at:

415 Melborn S.

Petitioner did not appear.

RESOLUTION. Motion by Commissioner Binder, supported by Commissioner Gusfa, 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.b) Garage Side Yard Setback.

Zoning requirement: 3 feet. Plan to provide: 2 feet (same as existing) is DENIED. (DZO 32.05, F.1. a).

Reasons for DENIAL: 1) The petitioner failed to demonstrate a practical difficulty.

Motion carried unanimously.

Appeal #07-162

From Imad Fadlallah, 6150 Neckel, Dearborn, MI requesting to build a 22.5' x 24' shed on a pre-existing slab with footings. The property size being 72' x 189', in a One-Family Residential (RA) zoning district at:

6150 Neckel

Imad Fadlallah, 6150 Neckel was introduced.

Mr. Paison read his staff report dated July 10, 2007 into the record. The report indicated the following key facts and concerns:

- The existing pavement coverage and foundations were constructed and approved per permits issued by Building and Safety.
- The lot is large and irregular in shape.
- The lot abuts a railroad R.O.W. and industrial district to the rear.
- The proposed shed is in a corner of the property that will have minimal impact on adjacent properties due to the unusual circumstances of the site.
- An existing playhouse will have to be removed if this variance is granted because the ordinance only allows one accessory structure shed.

Mr. Fadlallah stated that the shed is needed for storing his boat, tractor, mower, and generator. There is no direct impact on neighbor and there is a railroad abutting the rear of the property. According to the applicant the neighbor (a relative) will provide access to rear yard with existing double gate for boat passage.

Comr. Jefferson stated that there is an existing slab and that it appears that this large shed would have minimal impact on neighboring properties where it is proposed.

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.5) Shed Size.

Zoning requirement: maximum 10' x 10' x 10'. Plan to provide: 22.5' wide x 24' deep x 12'11" high is APPROVED WITH CONDITIONS (DZO 32.05, F.1. m).

Approval of this appeal is CONDITIONED as follows: 1) There shall be no automobiles allowed in proposed shed. 2) The existing play structure shall be removed. 3) There shall be a maximum of one overhead door with a width not exceed 10 feet. 4) The shed shall not have driveway access.

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 #07-163

From Elizabeth Kolinsky, 23311 Notre Dame, Dearborn, MI requesting to build a 14'4" x 24'6" side yard addition on the east side of the existing home. The property size being 110' x 67.5', in a One-Family Residential (RA) zoning district at:

23311 Notre Dame

Elizabeth Kolinsky, 23311 Notre Dame was introduced.

Mr. Paison read his staff report dated July 10, 2007 into the record. The report indicated the following key facts and concerns:

- The lot is very shallow and appears to create a practical difficulty in terms of additions to the home.
- The proposed side setback and spacing between homes would be typical of much of the surrounding residential area.
- The large width of the lot means that the ordinance requires a combined side yard setback well in excess of what is typical of the area.

Mrs. Kolinsky stated that this property was originally zoned as an estate eventually leading to selling of the back lot. Cmr. Jefferson stated that there is no apparent negative impact to adjacent properties.

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

29.02 Combined Side Yard Setbacks.

Zoning requirement: 20 feet. Plan to provide: 15.4 feet is APPROVED (DZO 32.05, F.1. a; 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.

Appeal #07-167

From Joe Fakih, USA Construction, Inc., 5035 Wyoming Ave, Dearborn, MI requesting to build a single story shopping center on existing commercial property. The property size being 360' x 120', in a Community Business (BB) zoning district at:

5838-5946 Schaefer

An architect from N.A. Designs (*name was unclear in the recording*), 6236 Cronin, Dearborn Heights was introduced and Mr. Tanner indicated that Mr. Fakih asked to allow the architect to represent him due to a cold.

Mr. Paison read his staff report dated July 10, 2007 into the record. The report indicated the following key facts and concerns:

- Site is less than 120 feet deep and therefore qualifies for the waiver of setback and landscape requirements under Ordinance 07-1114. This ordinance calls for better compliance with lot coverage and parking in exchange for the waiver.
- Site is short on parking relative to the requirement. The parking requirement was calculated based on retail uses (1/150 sq. ft. of usable floor area).
- The applicant was advised that more intense uses like restaurants would not be allowed without additional parking, but opted to proceed based on retail for parking.
- Applicant was asked if building could be further reduced to provide more parking and lower the requirement, he responded that the proposed building was the smallest that could support the cost of the project.
- Site was cleared for development by acquiring a group of problematic row housing.

Cmr. Jefferson shared concern with not following the built to fit policy and the updating of the parking variance code. He suggested removing one store from each end of the proposed site to meet requirements. The architect responded that to make the proposed site smaller will result in an investment loss.

Mr. Tanner commented that the prior administration supported the project as a way to address the problems with the row housing that used to be on this site.

Cmr. Binder suggested limiting parking impacts by placing a condition limiting the project to retail uses.

Joe Fakh, USA Construction, Inc. 5035 Wyoming addressed the board. He has worked with city personnel to refine the proposal and is concerned that any further delay or changes will move his project to next year.

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 (no restaurants), this appeal for:

4.01 Off-Street Parking.

Zoning requirement: 86 spaces. Plan to provide: 68 spaces.

4.02 Loading Space.

Zoning requirement: 1 space (10'x50'). Plan to provide: None.

Roll Call Vote (requested by Cmr. Jefferson): Yeas: Commissioners Binder and Gusfa.
Nays: Commissioner Jefferson. MOTION FAILED.

MOTION TO RECONSIDER by Commissioner Jefferson, supported by Commissioner Binder. Motion carried unanimously.

RESOLUTION. Motion by Commissioner Jefferson, supported by Commissioner Binder, for the reasons and subject to the facts, representations and stipulations stated on the record during the public hearing, to LAY THIS APPEAL ON THE TABLE.

Tabled Pending: 1) Tabled to allow for revision of plans to provide more parking. The petitioner is to consider reducing the size of the proposed structure in order to increase parking spaces and decrease parking demand.

Motion carried unanimously.

Appeal #07-168

From Italy-American Construction, Inc., 8401 N. Telegraph Rd., Ste. 101, Dearborn Heights, MI requesting to construct a 20' x 20' detached garage on existing concrete foundation. The property size being 40' x 100', in a One-Family Residential (RA) zoning district at:

5421 Mead

Paul Schiller, Italy-American Construction, Inc. was introduced.

Mr. Paison read his staff report dated July 10, 2007 into the record. The report indicated the following key facts and concerns:

- The lot is small and shallow; it therefore may represent a practical difficulty with regard to placing a two car garage on the site that meets the requirement of the ordinance.
- The utility easement at the rear of the lot contains a sewer line and therefore the garage cannot be placed further back in the yard.
- The existing house was built in the 1920's and creates the bulk of the existing lot coverage.

Mr. Tanner stated that this is the one of the more shallow subdivisions in Dearborn creating the practical difficulty. The existing garage foundation was previously permitted and approved by the Building and Safety Department.

The Commissioners briefly discussed the small size and depth of the lot and agreed that this did represent a difficulty with regard to placing the garage on the site.

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:

2.03 (C.2.d) Distance from Garage to Principal Structure.

Zoning requirement: All bays accessible for parking. Plan to provide: Right bay not accessible for parking is APPROVED WITH CONDITIONS (DZO 32.05, F.1. j).

29.02 Maximum Lot Coverage.

Zoning requirement: 35%. Plan to provide: 41% is APPROVED (DZO 32.05, F.1. j; h).

Approval of this appeal is CONDITIONED as follows: 1) Downspouts shall drain into lawn area, not driveway.

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 #07-172

From Frank Zychowski, AZD Associates, Inc., 35980 Woodward, Suite 300, Bloomfield Hills, MI requesting to renovate and occupy an existing commercial structure for use as an orthodontics office. The property size being 80' x 100', in a Local Business (BA) zoning district at:

2211 Monroe (formerly "Needle Arts")

Adrianna Melchior, AZD Associates was introduced.

Mr. Paison read his staff report dated July 10, 2007 into the record. The report indicated the following key facts and concerns:

- The property is relatively shallow and narrow, as is common in the commercial corridor along this portion of Monroe.
- The plans add substantial parking and improve the configuration of the parking on the site; this could be considered a mitigating factor related to the requested variances.
- The orthodontics office use was similar to other medical uses in this corridor and is providing more parking than many such uses in the area.
- The plans include squaring off the rear of the building, improvements to the façade, ADA access, and substantial internal renovations.

Cmr. Jefferson was informed that the parking calculations do not include on-street parking, which is located on Edison. Ms. Melchior presents architectural drawings.

The Commissioners briefly discussed the plans and determined that they appeared to be a substantial improvement to the property and addressed the existing conditions of the property as well as possible.

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

4.01 Off-Street Parking.

Zoning requirement: 14 spaces. Plan to provide: 11 spaces is APPROVED (DZO 32.05, F.1. j; m).

4.01 (B.1) Parking Setback.

Zoning requirement: 20 feet from a residential district boundary. Plan to provide: 10 feet 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.

Motion carried unanimously.

Appeal #07-173 (Use Variance)

Appeal POSTPONED at the request of the Administration.

Meeting Adjourned: 8:31 p.m.