

City of Dearborn
Zoning Board of Appeals
Thursday, February 21, 2008
Minutes

Called to Order: 5:39 p.m.

Commissioners Present: Gary Jefferson (Acting Chairperson), Susan Binder, and Kenneth Gusfa (Alternate).

Commissioners Absent: Donald Hostetler (Alternate).

Technical Advisors: Thomas Paison, Zoning Administrator; John Tanner, Corporation Counsel.

Approval of Minutes. Motion by Commissioner Binder, supported by Commissioner Gusfa that the minutes of the previous regular meeting of Thursday, January 24, 2008 are approved as recorded. Motion carried unanimously.

Appeal #07-177

From Said Arbid, 3 Parklane Blvd, #1028W, Dearborn, MI requesting to occupy existing building as a wholesale bakery. The property size being 120' x 87', in a Light Industrial (IA) zoning district at:

8826 Brandt (Cedar Bakery)

Said Arbid, 3 Parklane Blvd, #1028W, Dearborn was introduced.

Mr. Paison read the Staff Report dated February 4, 2008 into the record and stated that this is appeal has been previously heard with a different site plan. Mr. Arbid is asking to open a wholesale bakery in a light industrial district. The garbage and loading has been moved away from residential off the alley onto Brandt. There were 4 parking spaces in the previous site plan, now Mr. Arbid has submitted a site plan with 6 spaces, including one handicap space. The applicant stated that there will be 5 employees. There is a fire lane along Brandt that prevents on-street parking. The existing site and building appear to create a practical difficulty in terms of meeting the provisions of the ordinance.

Mr. Arbid stated that they attempted to contact the neighbor east of the property and across the street from the property to discuss a leasing agreement but did not get a response.

Chairperson Jefferson read the Parking Variance Advisory Committee (PVAC) report into the record recommending approval of this appeal. Chairperson Jefferson asked if the hours of operation would be from 4:00 a.m. to 2:00 p.m. Fouad Abbis, 2110 Jeffery, Troy, MI was introduced and stated the general hours of operation would be between 3:00 a.m. to 11:00 a.m. or 12:00 p.m.

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:

4.01 Off-street parking.

Zoning requirement: 9 spaces. Plan to provide: 6 spaces is APPROVED WITH CONDITIONS (DZO 32.05, F.1. j, m, n).

4.01 (B.1.b) Parking setback.

Zoning requirement: 20' from residential district. Plan to provide: 11' is APPROVED (DZO 32.05, F.1. j, m, n).

4.01 (D.4) Parking access.

Zoning requirement: Parking backing onto street prohibited. Plan to provide: 1 space backing onto Brandt is APPROVED (DZO 32.05, F.1. j, m, n).

Approval of this appeal is CONDITIONED as follows: 1) Limit to only 5 employees on site at any one time.

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 #07-181 (Use Variance)

From Jon Szutarski, American Tower Corporation, 39555 Orchard Hill Place, Ste L-70, Novi, MI requesting to locate a 100 foot tall pole for wireless antennas (disguised as a flag pole) and supporting ground equipment in the existing service yard at Whitmore-Bolles Elementary School. The property size being 420' x 640', in a One-Family Residential (RA) zoning district at:

21501 Whitmore (Whitmore Bolles Elementary)

Commissioner Hostetler had not arrived yet; the Board discussed moving this appeal use to later on the agenda due to the use variance required.

Motion by Commissioner Binder, supported by Commissioner Gusfa to reorder the agenda to move any appeals with use variances to a point on the agenda when four commissioners are present to hear the appeal.

Motion carried unanimously.

Appeal #07-189

From Yasser Chami, 7835 Steadman, Dearborn, MI requesting to retain a covered patio built without permits or variances. The property size being 36' x 111', in a One-Family Residential (RA) zoning district at:

7835 Steadman

The applicant was not present when called; staff recommended tabling the appeal to the end of the meeting to give the appellant a chance to be present in case he was running late.

Motion by Commissioner Binder, supported by Commissioner Gusfa to table this appeal to a later point in the agenda when the applicant is present. Motion carried unanimously.

Appeal #08-105

From Mike & Sherri Saad, 620 Crescent Dr., Dearborn, MI requesting to add a taller peaked roof to a new home. The property size being 180' x 100', in a One-Family Residential (RA) zoning district at:

620 Crescent Dr.

Mike Saad, 620 Crescent Dr., Dearborn was introduced.

Mr. Paison read the Staff Report dated February 4, 2008 into the record and stated that that this is a new home, new construction. The applicant has constructed the home with a small flat roof in place of the central peak designed for the house due to an error during construction that lead to the house exceeding the height limit. They are now asking for permission to increase the height of the peak by 1' or 1 ½' to meet the original intent of the home design. Mr. Paison reported that Mike Kirk did a Compatibility Review report and found no issues with the height of the proposed peak.

Chairperson Jefferson asked if the measurements of the plans were true to the submitted plans and Mr. Saad responded that the measurements would be the same as the plans and stated that his builder and architect stated that the overall elevation on the plans was 29' 11" but went through and checked the measurement of the components and came up to 30' 10", so the error appeared to be due to a discrepancy in the plans according to the applicant.

Commissioner Binder recently built houses on Gulley make this compatible, but if the homes remained ranch style homes, this appeal would not be taken under consideration.

Mr. Tanner stated that in some cases homes are built to the desired height (exceeding ordinance) without the City's approval and noted that this is not the case with this appeal because the applicant is asking for permission before construction.

External correspondence: Letter from Nick & Sharon Palise, 539 Crescent -- objects to this appeal. They feel the house is already overwhelming and are opposed to adding a taller peak. Mr. Paison noted that he had several phone calls from people in the neighborhood; the general issue was the overall scale of the home.

The Board discussed how this neighborhood and other similar ones are changing and how modern desires in terms of home size and layout were changing and how ranch homes are now less popular.

Mrs. Saad stated that she voluntarily elected to downsize the proposed garage from a 3-car to a 2-car garage to fit into the neighborhood better after it was approved and under construction.

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 below:

2.05 (A.7) Compatibility Review.

Zoning requirement: Proposed variance triggers compatibility review. Plan to provide: 31.5' building height is APPROVED (DZO 32.05, F.1. m).

29.02 Height.

Zoning requirement: Maximum 30'. Plan to provide: 31.5 feet is APPROVED (DZO 32.05,

F.1. 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 #08-106

From Stacy Cline, Bob Evans Farms, Inc., 3776 S. High St., Columbus, OH requesting to build a new Bob Evans Restaurant then tear down the old restaurant once construction is near completion. The property size being irregular, in a Community Business (BB & IB) zoning district at:

23729 Michigan (Bob Evans Restaurant)

Rick McKinney, Bob Evans Farms, Inc., 3776 S. High St., Columbus, OH was introduced.

Mr. Paison read the Staff Report dated February 4, 2008 into the record. Mr. Paison reported the plans show the loading and garbage dumpsters will be off the back of the building. The existing dumpster enclosure and cooler at the rear of the site will be removed. The proposed layout shows a similar amount of seating and parking on the site to what currently exists.

Commissioner Binder agreed that the Planning Commission passed this appeal to Council for re-zoning.

Chairperson Jefferson read the Parking Variance Advisory Committee (PVAC) report dated February 4, 2008 into the record recommending approval of this appeal.

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 APPROVE the variances detailed below:

4.01 Off-Street Parking.

Zoning requirement: 109 spaces. Plan to provide: 91 spaces is APPROVED (DZO 32.05, F.1. j, l, 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 #08-108

From Shaker Abdul AlKadhum, 6401 Oakman Blvd, Dearborn, MI requesting to construct a new commercial building for retail use. The property size being 60' x 100', in a Local Business (BA) zoning district at:

6016 Chase

Ali Raichouni (Architect/Designer), 7555 Greenfield, Detroit, MI, Architect, was introduced.

Mr. Paison read the Staff Report dated February 4, 2008 into the record and stated that the applicant wishes to demolish the current building and construct a new retail building. Mr. Paison's aerial photo shows the property in a B-A district adjacent to R-A and next to a supermarket at the corner. Mr. Paison stated that the applicant will be sharing the dumpster with the neighboring grocery but still needs to submit a dumpster agreement.

Commissioner Binder has concerns regarding the delivery truck parked on this site. Mr. Paison agreed that the grocery truck will have to go elsewhere; the commercial vehicles will have to find a legitimate place to store these vehicles. Mr. Raichouni was not aware of the parking and stated the truck will be moved because of demolition and construction.

Mr. Tanner stated that the parking setbacks of shallow lots had been frequently granted in the past because of practical difficulty. Mr. Raichouni submitted a dumpster lease agreement for review. Mr. Tanner stated that the tenant signature needs to be on the lease and that it should be submitted for his review and approval on behalf of the City.

Chairperson Jefferson asked if restricting the usage to general office or retail would create hardship for the property owner and Mr. Kadhair Al-Hemyari, 7433 Steadman, Dearborn was introduced and responded that this would be strictly retail/office space.

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:

4.01 (B.1.b) Parking setback.

Zoning requirement: 20 feet from a residential district. Plan to provide: 9 feet (1/2 alley) is APPROVED (DZO 32.05, F.1. j, m).

4.01 (B.1.b) Parking setback.

Zoning requirement: 20 feet from the traveled portion of a road. Plan to provide: 18 feet is APPROVED (DZO 32.05, F.1. j, m).

4.02 Loading space.

Zoning requirement: Adequate based on delivery vehicle type. Plan to provide: None is APPROVED (DZO 32.05, F.1. j, m).

Approval of this appeal is CONDITIONED as follows: 1) Signed agreement required for shared dumpster with Brothers Supermarket approved by the Legal Department.

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 #07-189

From Yasser Chami, 7835 Steadman, Dearborn, MI requesting to retain a covered patio built without permits or variances. The property size being 36' x 111', in a One-Family

Residential (RA) zoning district at:

7835 Steadman

Mr. Paison noted that the applicant was allowed to postpone his appeal in January to a hearing with at least four commissioners are present to hear the case. He asked whether the Board would like to offer the applicant that option again given that only 3 commissioners are present.

Mr. Chami stated that he would prefer to postpone the hearing for a fuller board.

Motion by Commissioner Gusfa, supported by Commissioner Binder to table the appeal until a fuller Board is present to hear it.

Appeal #07-181 (Use Variance)

From Jon Szutarski, American Tower Corporation, 39555 Orchard Hill Place, Ste L-70, Novi, MI requesting to locate a 100 foot tall pole for wireless antennas (disguised as a flag pole) and supporting ground equipment in the existing service yard at Whitmore-Bolles Elementary School. The property size being 420' x 640', in a One-Family Residential (RA) zoning district at:

21501 Whitmore (Whitmore Bolles Elementary)

Mr. Tanner explained to the Board and members of the public that without a quorum of four members present to take any action related to this appeal. Therefore having a hearing where the interested parties speak would do no good, as the appeal will have to be represented to new Commissioners then.

Mr. Paison noted that the application and supporting materials are public information available for review at the Economic and Community Development Department office in City Hall. Mr. Paison and Mr. Tanner gave a brief overview of the regulatory framework limiting the City's authority over cell towers.

Chair Jefferson stated that the case will not be heard tonight because the board does not have the quorum required by state law for action on a use variance.

Several members of the public stated their disappointment with the inability of the Board to hear them and take action on the appeal.

Chair Jefferson briefly discussed how cell towers have become considered an essential service by many residents and that the Board understands that the issue is sensitive to neighbors, schools, children and the City at large. He suggested that a petition could be submitted to show the neighborhood position on the subject; it is not binding but will be used for informational purposes.

Motion by Commissioner Gusfa, supported by Commissioner Binder to table this appeal to the next meeting where the required quorum for the use variance will be present.

Motion carried unanimously.

Meeting Adjourned: 6:49 p.m.