

City of Dearborn
Zoning Board of Appeals
Thursday, March 27, 2008
Minutes

Called to Order: 5:30 p.m.

Commissioners Present: Gary Jefferson (Acting Chairperson) Kenneth Gusfa, Randy Dubitsky (Alternate), and Roy Van Oast (Alternate).

Commissioners Absent: None.

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

Approval of Minutes. Motion by Commissioner Gusfa, supported by Commissioner Van Oast that the minutes of the previous regular meeting of Thursday, February 21, 2008 are approved as recorded. Motion carried unanimously.

Appeal #07-181

Applicant had not arrived, possibly due to poor weather. Motion by Commissioner Dubitsky, supported by Commissioner Van Oast to move this appeal to a point on the agenda when the applicant has arrived. Motion carried unanimously.

Appeal #07-175

From Joe Ricci, Joe Ricci Dodge, 14765 Michigan Ave, Dearborn, MI requesting to operate the existing car wash with the addition of storage/display of new vehicles for sale in the car wash off-street vehicle stacking spaces. The property size being 103' x 162', in a General Business (BC & VP) zoning district at:

14851 Michigan Ave (Dearborn Auto Wash)

Joe Ricci, Joe Ricci Dodge, 14765 Michigan Ave, Dearborn was introduced.

Mr. Paison read his Staff Report into the record. Mr. Paison reported that Mr. Ricci is using the existing site as vehicle display for Joe Ricci Dodge while also continuing to operating it as the Dearborn car wash. The property was recently re-zoned to BC along with adjacent property used for the dealership. The removal of an existing dumpster on site will allow employee parking, trash will be placed in dumpster on adjacent dealership property. Mr. Paison checked with the Traffic Safety and Records at the Police Department and found no records of traffic related issues regarding this property. Mr. Paison suggested some potential conditions based on the proposal.

Commissioner Jefferson read the Parking Variance Committee Report (PVAC) into the record which recommended approval of this variance request.

Commissioner Dubitsky asked for location of employee parking. Mr. Ricci responded the employee parking is currently just for the one employee who has a car.

Commissioner Gusfa asked for the days and hours of operation. Mr. Ricci responded the hours are Monday through Saturday from 8:00 a.m. to 5:30 p.m. The adjacent dealership is open until 8:00 p.m. on Monday and Thursdays but the car wash will continue to close at 5:30 p.m. Mr. Ricci reported that approximately 2,400 cars per month run through the car wash 40% of those from the dealership and the remaining percentage includes the City and other car wash contracts.

Commissioner Jefferson inquired about the number of spaces allowed for this property. Mr. Paison reported that there are a total of 16 spaces for vehicle display. Mr. Ricci stated that the display area is currently 10' x 20'. Mr. Ricci stated that the most cars washed totaled approximately 330 cars on one particular day. Mr. Ricci also reported that only approximately 15 cars are on property at any given time.

RESOLUTION. Motion by Commissioner Dubitsky, supported by Commissioner Van Oast, 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: 35 stacking spaces (Car Wash). Plan to provide: 9 stacking spaces is APPROVED (DZO 32.05, F.1. a).

4.01 (B.1(a)) Parking setback.

Zoning requirement: 20 feet from traveled portion of road R.O.W. Plan to provide: 13 feet from Michigan is APPROVED (DZO 32.05, F.1. a).

4.01 (B.1(a)) Parking setback.

Zoning requirement: 20 feet from traveled portion of road R.O.W. Plan to provide: 14 feet from Woodworth is APPROVED (DZO 32.05, F.1. a).

4.01 (D.2) Access aisle width.

Zoning requirement: 20 feet. Plan to provide: 15 feet is APPROVED (DZO 32.05, F.1. a).

7.02 (A.6) Minimum lot area.

Zoning requirement: 2 acres. Plan to provide: 0.37 acres (16130 sq. ft.) is APPROVED (DZO 32.05, F.1. a).

Approval of this appeal is CONDITIONED as follows: 1) The vehicle display use shall be limited to that which is affiliated with a larger adjacent auto dealership. 2) Owner shall move display vehicles to provide additional stacking spaces on-site if cars are waiting to enter the car wash begin to back up onto Woodworth. 3) Display vehicles on the site are to be limited to the 16 parking spaces shown on the submitted plans. 4) An automatic review of the variances granted for this appeal shall occur in one year to consider revoking, permanently authorizing, or extending the variances base on how the site is functioning. 5) The property shall participate in any SAD established for the area.

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 #07-181 (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)

Jon Szutarski, American Tower Corporation, 39555 Orchard Hill Place, Ste L-70, Novi was introduced.

Mr. Paison read his Staff Report into the record. Mr. Paison stated this appeal was originally tabled at the November 2007 ZBA hearing to research alternate locations for the proposed 100' cell tower and also alternate locations on the site. The area is zoned is currently zoned RA and there is commercial zoning currently located north and south of the site on Monroe and to the southeast along Outer Drive. The staff recommends denial because the school district is unwilling to consider alternate locations on the site that would be more internal and provide more of a buffer for the nearby homes. In the case of a variance, particularly a use variance, the burden of any potential negative impacts from the proposal should be born by the applicant or land owner requesting the variance to the maximum extent possible. It is generally not acceptable to request something like this and put it directly adjacent to your neighbors if there are other options. The only explanation offered is that it would effectively inconvenience school operations if more centrally located near the building, as noted in the Zoning Enabling Act mere inconvenience does not meet the criteria for practical difficulty or unnecessary hardship.

Mr. Tanner stated that prior discussions regarding the other suggested locations should not be heard; only the current site of this appeal should be discussed as that is the issue before the Board.

Mr. Szutarski reported that the principal and Operations rejected placing the tower in the rear service court yard because the access would cut through the current playground area and additional vandalism.

Commissioner Van Oast responded to the submitted letters regarding the cell tower being an eyesore and the decrease of property values. Commissioner Van Oast stated because of his 39 years of experience as a realtor in this area, he supports both comments. Mr. Szutarski inquired if the board ever looked into the cell tower currently located in Dearborn Heights and its effect on the surrounding community and was told by Mr. Paison that each tower is researched on an individual basis and that particular tower had not been discussed.

Commissioner Jefferson stated that Mr. Szutarski had not proven unnecessary hardship for this use variance request. Mr. Szutarski disagreed by stating that other locations would require more variance requests (setback requirements). Commissioner Dubitsky is concerned about impacts to adjacent land uses and doesn't think the plans adequately address the issue.

Mr. Paison noted that the area has been used, zoned and master planned for residential use and small scale commercial for decades and has been consistently applied that way as well.

Commissioner Jefferson stated that according to the City Ordinance this is not an

approved use for this area.

Mr. Szutarski asked for suggested locations on this property. The Board recommended returning with alternate plans after more inquiries.

Commissioner Jefferson noted that cell phones are becoming an essential service and the Board has to find ways to accommodate them where they are needed and reasonable.

The audience was surveyed and approximately 20 residents were in attendance and were against this appeal.

Charlene McBride, 3100 Monroe, Dearborn submitted a petition signed by nearby residents within a 4 block radius opposed to this appeal. Ms. McBride was informed that each household is considered to be one signature. Ms. McBride informed the Board that she is also a representative of the Whitmore-Bolles PTA.

John Sanchez, 3042 Katherine, Dearborn (a real estate agent) reiterated that the property value will decrease if a cell tower is allowed.

Michelle Featherston, 3645 Roosevelt, Dearborn (President of Southwest Outer Drive Neighborhood Association) met with the residents of this area and encouraged residents to send their own letters. Ms. Featherston also reported no support for this appeal and suggested collocating.

Bobbie Douglass, 15135 Poplar, Southgate mentioned the many school group affiliations of the students in attendance to this hearing and their concern with health issues regarding cell towers. Commissioner Jefferson read Section 7.04 of the Federal Communications Act of 1996 into the record. Commissioner Dubitsky and Commissioner Jefferson emphasized to Mr. Douglas health issue concerned is not relevant to this hearing.

External correspondence: Letter from June & William Schwesinger, 3354 McKinley-- are opposed to this appeal. They do not feel a cell tower is needed in their area because no one has ever complained of any coverage problems.

Letter from Marcia Freeman, 3051 Dudley-- is against this appeal and has the following concerns: 1) Has another location other a grade school been evaluated? Why does this tower need to be placed on school property? 2) Does the school district benefit monetarily if the pole is placed in the maintenance yard? If not, who will? 3) How are safety issues being addressed? Will the metal pole act as a potential lightening rod to the area? Is it for certain that there are no potential health issues? 4) How will the values of the homes be impacted? Who will compensate homeowners if the values decline?

Letter from David James, 901 N. Mildred --owns a home on Gertrude and is opposed to this tower because it may decrease property values and will be an eyesore in the neighborhood. Mr. James also feels there was not enough research done to find alternate locations.

Letter from Michelle Featherston, 3645 Roosevelt --stated nearby residents received a newsletter regarding the request for the cell tower and reported that 80 residents were against the proposal; 20 residents prefer an alternate site in a business district; and 2 residents did not have an issue with the cell tower only if it will be placed in an attractive enclosure, not a flag pole.

Letter from Judy Struble, 22131 Cleveland, Apt #102-- feels the cell tower will not be safe and should not be placed near school property.

Letter from Daniel Featherston, 3645 Roosevelt-- states the cell tower will violate the city's height requirement.

Letter from Charlene McBride, Whitmore Bolles PTA Secretary-- on behalf of the majority vote from PTA council members, the PTA requested to speak at tonight's hearing.

RESOLUTION. Motion by Commissioner Dubitsky, supported by Commissioner Van Oast, 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:

2.16 (B) Height.

Zoning requirement: Maximum 45 feet. Plan to provide: 100 feet is DENIED (DZO 32.05, F.1. g, h, l, m, n, o).

10.02 Use not permitted.

Zoning requirement: Not permitted in residential district. Plan to provide: Wireless telecom facility concealed as flag pole is DENIED (DZO 32.05, F.1. g).

Reasons for DENIAL: 1) Negative impact on land values, neighborhood character and adjacent properties. 2) Proposal is counter to the Master Plan policies related to residential areas. 3) Appellant was unwilling to modify its plans to reduce impacts on adjacent properties.

Motion carried unanimously.

Tabled 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

POSTPONED. The appeal was requested to be postponed prior to the meeting by the applicant and administration; it was left on the table to be heard at a later meeting.

Appeal #08-107

From Dr. Luis Jorge, MD, AMD, 2200 Monroe, Dearborn, MI requesting to place a mobile MRI unit at 1711 Monroe for diagnostic use. The property size being 109' x 100', in a Business Office (OS) zoning district at:

1711 Monroe (Affiliated Medical of Dearborn)

Dr. Luis Jorge, 2200 Monroe, Dearborn was introduced. David Williams, 861 Downhill Lane, Rochester Hills was introduced.

Mr. Paison read his Staff Report dated March 7, 2008 into the record. Mr. Paison stated this is unusual request because the proposed medical facility would be outside the existing

building and the state and federal regulatory issues that surround these types of facilities. Facility will not effect parking requirements and that the mobile MRI unit may not be moved into a building in approximately 3 years. Mr. Paison stated that the unit will not need the use of a generator; there will be an electrical drop from the building used for its daily operation.

Mr. Tanner inquired about the Certificate of Need process. Mr. Williams explained that he would provide documentation as soon as possible to prove this part of the process. Mr. Williams stated that approximately 30 doctors signed a commitment to do the required 600 scans. Mr. Williams said the Certificate of Need will be approved for this site June 1, 2008 is currently going through a statutory review period. Mr. Williams stated that he is strictly a regulatory consultant and has no connections with the sale or the lease of the mobile MRI unit.

Mr. Gusfa asked about the relocation of this unit. Mr. Williams stated that they plan to move to a potential location within the year. Mr. Jorge stated that he bid on a building near Southfield and Ford Rd. (on Executive Drive) and is currently going through negotiations for this location. Mr. Williams stated that setup for the unit can begin approximately in July 2008.

Mr. Jorge stated that hours will be 7:00 a.m. to 7:00 p.m., Monday through Saturday. 6000 adjusted procedures are needed to be approved for a permanent facility. Mr. Williams agreed that there would be approximately 20 to 24 people a day for MRI scans on site, which would include 2 full time technicians and 2-3 patients at a time. Mr. Jorge stated the unit has to be moved twice per year per state regulations.

Mr. Paison notes that the proposed operation meets the parking requirement in the ordinance. Whether this will be adequate will depend on how they run the office, medical operations are highly variable with regard to how effective they are managing appointments and scheduling.

Mr. Tanner reported that this is an accessory use to principal use which is not an issue for the board at this time. The medical office is a permitted use in this district.

David Polk, 21725 Homer discussed concerns with: increased parking, the length of the trailer, code violations regarding residence fencing, the unit becoming a potential eyesore and litter problems. Mr. Tanner reiterated that this will be a temporary use and not a permanent installation. Mr. Paison noted that the state and federal regulation make it impossible to put in a permanent facility without doing this first. Commissioner Jefferson stated that there is a potential need for this facility offering more prompt service per the Certificate of Need process.

Shirley Polk, 21725 Homer expressed concerns about increased parking due to other offices in the area not having sufficient parking and was informed that Mr. Jorge meets parking requirements. Mrs. Polk was informed by Mr. Paison that the unit would not be computed in the existing square footage but that parking calculations were based on exam room requirements and it was included as an exam room.

Commissioner Jefferson asked for data regarding noise output pertaining to the air conditioning unit was told that the sound is like an average central air unit for homes.

External correspondence: Letter from Jim & Lynn Barbour, 21500 Homer --would like to oppose this appeal for the following reasons: 1) This Mobil MRI Trailer should fall under the same city ordinances that any resident would be accountable for if they had a Mobil Trailer parked outside their home. 2) If the commercial building does not conform to

placing the diagnostic unit inside then the business owner should look for a building that will comply. and 3) Although Mr. & Mrs. Barbour support the business community, setting a Mobil Trailer outside the building will promote a city block/neighborhood "eyesore" resulting in a reduction in housing value and curb appeal.

Letter from David Swan, 21716 Homer --is opposed to allowing a mobile MRI trailer at the offices of 1711 Monroe for the following reasons: 1) What is essentially a storage trailer will not add to the neighborhood appearance (and not likely be tolerated by the City if done by residents). 2) Mobile implies temporary but there is no mention of duration for this request. 3) There is not enough room to store a trailer. 4) Mr. Swan is opposed to increased traffic. 5) Present parking lot on both sides of Homer is insufficient. 6) Due to non-residential parking, snow removal has been compromised. ...and 6) "No Parking" Service Days has already been ineffective.

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

13.03 (A.2) Outside storage of equipment.

Plan to provide: Mobile MRI unit is APPROVED WITH CONDITIONS (DZO 32.05, F.1. m).

Approval of this appeal is CONDITIONED as follows: 1) Must have Certificate of Need approved by the State of Michigan by June 1, 2008. 2) Hours of operation are permitted Monday through Saturday, from 7:00 a.m. to 7:00 p.m. 3) The length of time permitted for proposed Mobile MRI unit is limited to 18 months from 3/27/2008.

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 #08-111

From Tom Bugay, CBS Outdoor, 88 Custer, Detroit, MI requesting to convert an existing 25' x 60' billboard to 20' x 60', south face to be upgraded to a LED display. The property size being irregular, in a Community Business (BB) zoning district at:

6151 Mercury Dr

Tom Bugay, CBS Outdoor, 88 Custer, Detroit was introduced.

Mr. Paison read his Staff Report dated March 7, 2008 regarding modification of an existing billboard at the Southfield expressway and Paul St. which is a nonconforming use/structure. Any alteration to a nonconforming use requires a variance. Mr. Paison reported the Detroit residents within the 300' radius of this site have been sent notice regarding this appeal.

Mr. Bugay stated the billboard does not face residence but the expressway.

Mr. Paison noted that the specifics of the brightness and operation of the LED sign will be reviewed by the Building Board in detail and is not the specific issue of the Zoning Board under this appeal.

Mr. Van Oast expressed concern if the LED sign would illuminate light too bright for residents. Mr. Bugay responded that the concern has been addressed and that the lighting will be less intense than the recent case in Detroit that was too disturbing an adjacent area. The LED billboards are reprogrammable via wireless connection, so they can be adjusted as needed if there is a problem.

RESOLUTION. Motion by Commissioner Dubitsky, 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 WITH CONDITIONS the variances detailed below:

3.05 (B) Alter a Non-Conforming Structure.

Plan to provide: convert existing billboard to 20' x 60' LED display is APPROVED (DZO 32.05, F.1. d).

Approval of this appeal is CONDITIONED as follows: 1) The proposed LED billboard will be subject to the review and approval of the Building Board of Appeals and must comply with all conditions of the Building Board of Appeals.

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 #08-112

From Abdulrahman Khalil, 7535 Pinehurst, Dearborn, MI requesting to remodel bakery as a light auto repair shop. The property size being 227' x 110', in a Community Business (BB & VP) zoning district at:

15301 Tireman (Noor's Bakery)

Abdulrahman Khalil, 7535 Pinehurst, Dearborn was introduced.

Mr. Paison read his Staff Report dated March 11, 2008 into the record. Auto services are required to be 500 feet apart. There is currently a gas station at the corner of Tireman and Greenfield, which is just 100 feet away from this property. Mr. Paison noted that no vehicle storage is allowed on the other side of the alley in the existing VP lot and reported that there was a variance from 1956 requiring landscape screening between the parking and residence for the VP lot. David Norwood, Director of Building & Safety, spoke to the neighbor on Yinger and informed Mr. Paison the residents would prefer the obscuring wall to be placed on the commercial side of the property rather than a privacy fence on their side.

Commissioner Gusfa was informed the entrance to the garage would be on the side of the property. Mr. Khalil stated that there would be a car accessory retail along with the auto repair with 3 bays on the property under the same tenant/operator.

Mary Petlichkoff, Oakman Grove Neighborhood Association President, 7840 Payne, Dearborn, is opposed to this particular business because of potential increase traffic and parking issues along with possible eyesore and theft issues. Ms. Petlichkoff also

expressed concerns with the previous failures on this property and the potential problems with re-occupying this property after the proposed bay doors are installed.

Mr. Tanner and Mr. Paison noted that the request is not a use variance, it is a dimensional variance and as such the standard is practical difficulty.

Mohamed Daher, 7925 Coleman, expressed concerns of possible littering of the parking area on this property and was informed by Mr. Tanner that some type of obscuring wall or landscaping would be required. Commissioner Jefferson agreed with resident and asked if there is 16 foot buffer between residence and the existing parking lot and also suggested relocating the dumpster from the VP lot or enclosing the existing dumpster. Mr. Paison responded that an exact location for a relocated dumpster would need to be worked out with Sanitation to ensure that it is fully accessible.

Commissioner Gusfa noted the broad range of permitted uses that could be allowed on the site without any variances.

David Saad, on behalf of Hussein Saad, 7930 Yinger, Dearborn, inquired about a wall being placed between the alley and the parking lot to confine noise from the nearby residents. He also noted concerns with the location of the dumpster and past problems with odor. Commissioner Jefferson responded that masonry (block) walls have normally been required for obscuring walls and that dumpster be relocated.

Suzanne Saad, daughter of Hussein Saad, 7930 Yinger, Dearborn, expressed concerns regarding noise and air pollution with the auto repair proposal.

Commissioner Van Oast noted that this location may not be sufficient for retail.

Mr. Khalil explained how he assembled the property, cleaned it up and renovated the building to its current improved state. Mr. Khalil stated that he maintains the property well and discussed past failures of businesses on this property. Mr. Khalil chose a light mechanic shop for this property because of the current market situation. He would prefer an office or retail use to avoid having to alter the building substantially. Mr. Khalil stated that he would not be able to afford meeting the proposed dumpster and obscuring wall requirements under current circumstances. Three hydraulic autolifts are proposed as part of the renovations.

Commissioner Jefferson noted that the Board appears to be inclined to require the wall and dumpster enclosure relocation, and then the applicant will have to do them or the appeal will be declined. Mr. Khalil stated that he cannot afford to do these additional improvements along with the necessary renovations to the building at this time due to economic conditions and the real estate market.

Suzanne Saad, daughter of Hussein Saad, 7930 Yinger, Dearborn, expressed how well her father's home is maintained with great care.

Mr. Khalil expressed further disagreement with the dumpster relocation and obscuring wall requirements at this time due to financial considerations. Commissioner Dubitsky stated that rulings on variances are not based on personal matters or issues, but that there are set standards that have to be followed.

Commissioner Gusfa noted that while Mr. Khalil has a good record maintaining this property, future ownership of the site may not be as diligent and therefore the Board must consider conditions necessary to address how the use operates in the future under any potential ownership. Mr. Khalil said that he could provide the wall and enclosure relocation in a couple of years, but cannot afford to do it now.

RESOLUTION. Motion by Commissioner Dubitsky, 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:

7.02 ((B)(4)) Minimum distance between auto service uses.

Zoning requirement: 500 feet. Plan to provide: 100 feet is DENIED (DZO 32.05, F.1.a).

Reasons for DENIAL: 1) Petitioner not willing to comply with obscuring wall and dumpster relocation conditions required by the Board. 2) Petitioner did not prove practical difficulty.

Motion carried unanimously.

Appeal #08-113

From Jerome Misiolek, 260 S. Highland, Dearborn, MI requesting to construct a prefabricated 6' x 8' shed. The property size being 54.5' x 103.3', in a One-Family Residential (RA) zoning district at:

260 S. Highland

Rose Marie Misiolek, 260 S. Highland, Dearborn was introduced.

Mr. Paison read his Staff Report dated March 11, 2008 into the record. The orientation of the home on the lot may constitute a practical difficulty as it leaves very little room behind the house as a rear yard.

Mrs. Misiolek acknowledged that there is a fence adjacent to the garage with a gate. Mr. Paison stated that building the shed would not affect utility services on the property, but does require Council action to encroach on the utility easement. The proposed shed would encroach approximately a foot onto the easement. Mrs. Misiolek stated that there is already obscuring landscaping that faces their neighbor.

Commissioner Jefferson reported the appellant submitted a petition of 6 nearby households in favor of this appeal. The petition did not include the neighbor to the north because they are out of town, but Mrs. Misiolek indicated her husband had spoken to them about the proposal.

Commissioner Gusfa asked what the practical difficulty is, as a shed is not required. Mr. Tanner and Mr. Paison stated that all residences are allowed a 10' x 10' x 10' shed by right, the issue here is where they are forced to locate it due to the configuration of the lot.

RESOLUTION. Motion by Commissioner Dubitsky, 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 WITH CONDITIONS, the variances detailed below:

2.03 ((C)(1)) Detached accessory building location.

Zoning requirement: Not permitted in required side yard. Plan to provide: Side yard is APPROVED (DZO 32.05, F.1.a).

Approval of this appeal is CONDITIONED as follows: 1) Encroachment on the utility easement must be approved by City Council. 2) Existing shrubs and screening must remain. 3) Execution of Hold Harmless Agreement must occur per Engineering Dept. requirement.

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 #08-115

From Khader & Susan Masri, Masri Sweets, 4186 Spring Lake Blvd, Dearborn, MI requesting to occupy the existing building as a travel agency. The property size being irregular, in a Community Business (BB) zoning district at:

5725 Schaefer

Khader Masri, 4186 Spring Lake Blvd, Dearborn was introduced.

Mr. Paison read his Staff Report dated March 11, 2008 into the record. Mr. Paison reported that the petitioner would like to occupy the smaller building as a travel agency and that the existing parking area will be resurfaced and the fencing around the parking will be removed. As a less intense permitted use, staff is generally supportive of the proposal compared to the alternatives.

Commissioner Jefferson summarized the PVAC report and incorporated it into the record by reference. The report recommended approval of this variance request.

Mr. Paison stated that the property consists of connected buildings separated by a concrete wall that exists on one lot.

Commissioner Gusfa was informed that the existing gate around the property will be removed. The parcel/lot split is in process and looks like it will be approved because the split creates no new nonconformities.

Commissioner Dubitsky noted the constant issue brought up by trying to accommodate modern parking requirements on sites that were laid out and developed many years ago when few people had cars or drove everywhere.

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

4.01 Off-street parking.

Zoning requirement: 12 spaces. Plan to provide: 5 spaces is APPROVED (DZO 32.05, F.1. h, j).

Approval of this appeal is CONDITIONED as follows: 1) Removal of the fence and gate around the off-street parking area.

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: 8:21 p.m.