

City of Dearborn
Zoning Board of Appeals
Thursday, June 26, 1008
Minutes

Called to Order: 6:33 p.m. Due to a prolonged power outage at City Hall the meeting was moved across the street to the auditorium at the Arab American National Museum at 13624 Michigan Avenue, Dearborn, MI 48126. Due to the relocation the meeting was not recorded as usually due to lack of access to adequate recording equipment. As such, the minutes of this Zoning Board of Appeals meeting are not as fully detailed as is usual. The services of a Court Reporter were utilized at the meeting to make a full record of all testimony and deliberations, a transcript of the appeal hearings can be acquired as needed for additional detail.

Commissioners Present: Gary Jefferson (Chairperson), Susan Binder, Chris Gibbs, Kenneth Gusfa, Donald Hostetler, and Roy Van Oast (Alternate). Commissioner Hostetler (Alternate) sat for Commissioner Binder for Appeals 08-129, 08-130, 08-131, and 08-132.

Commissioners Absent: Ahmed Elahrag

Technical Advisors: Thomas Paison, Zoning Administrator, Steve Guile, Deputy Director, Economic and Community Development, and 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, May 22, 2008 are approved as recorded. Motion carried unanimously.

Commissioner Binder stepped down for the appeals associated with the Montgomery Wards redevelopment project due to the fact that she serves on the Planning Commission and had voted on the Special Land Use permit and Site Plan approval for the proposed senior apartments component (4480 Calhoun). Commissioner Hostetler took her seat for those appeals (08-129, 08-130, 08-131 & 08-132).

Appeal #08-129

From Ken Till, Redico Management, One Towne Square, Suite 1600, Southfield, MI, requesting to construct a 4 story, 96 unit senior independent living apartment building.

4480 Calhoun (Dearborn Town Center (former Montgomery Wards site)

Zoning District: General Business (BC & BD) Property Size: 490' x 104'

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 APPROVE WITH CONDITIONS, the variances detailed below:

Section	Description	Code Requirement	Provided	Criteria (32.05.F.1)
4.01	Off street parking	112 spaces	30 spaces (+ spaces in proposed deck)	n
7.03 A.2	Lot Coverage	Maximum of 30%	67%	j
29.02	Front Setback	50 feet from Calhoun St centerline	34 feet	j
29.02	Rear Setback	20 feet	14 feet (5' + 1/2 alley)	j
32.05 E.6	Approval period	Construction must commence within 12 months	24 months	j

Approval of this appeal is *CONDITIONED* as follows:

- 1 -Occupants must have full access to parking deck.
- 2 -Dumpster pickup is only allowed between 8:00 a.m. to 5:00 p.m.
- 3 -Approval for senior independent living use only.

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

Motion carried unanimously.

Appeal #08-130

From Ken Till, Redico Management, One Towne Square, Suite 1600, Southfield, MI, requesting to construct a large multi-level parking structure.

13550 Osborn (Dearborn Town Center (former Montgomery Wards site))
 Zoning District: General Business (BC & BD) Property Size: 194' x 242'

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

Section	Description	Code Requirement	Provided	Criteria (32.05.F.1)
29.02	Building Height	4 Stories/50 feet	6 Levels/61' 3"	n
29.02	Lot Coverage	Maximum of 50%	83.2%	m
29.02	Front Setback	50 feet from Osborn St Centerline	34 feet	m
29.02	Rear Setback	20 feet	13 feet	j

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

Motion carried unanimously.

Appeal #08-131

From Ken Till, Redico Management, One Towne Square, Suite 1600, Southfield, MI, requesting to construct a 2 story 24,938 sq. ft. retail/office building.

4480 Schaefer (Dearborn Town Center (former Montgomery Wards site)

Zoning District: General Business (BC & BD) Property Size: 244' x 69'

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 APPROVE WITH CONDITIONS, the variances detailed below:

Section	Description	Code Requirement	Provided	Criteria (32.05.F.1)
4.01	Off-street parking	49 spaces	0 spaces (+spaces in proposed deck	h, j
4.02	Loading space	1 space (10' x 50') on-site	None (one 10' x 50' space on proposed deck lot)	h
5.03 A.2	Landscaping adjacent to R.O.W	10 foot greenbelt along Schaefer (7 trees & 42 shrubs)	None proposed)n
29.02	Rear Setback	20 feet	None	j, m
29.02	Lot Coverage	Maximum of 50%	74%	j, m
29.02	Front Setback	50 feet from Schaefer Rd Centerline	46 feet	j, m

Approval of this appeal is CONDITIONED as follows:

- 1 -Occupants must have full access to parking lot

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

Motion carried unanimously.

Appeal #08-132

From Ken Till, Redico Management, One Towne Square, Suite 1600, Southfield, MI, requesting to construct a 3 story, 166,107 sq. ft. medical office building.

13551 Michigan Ave (Dearborn Town Center (former Montgomery Wards site)

Zoning District: General Business (BC & BD) Property Size: Irregular

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

Section	Description	Code Requirement	Provided	Criteria (32.05.F.1)
4.01	Off-street parking	514 spaces	14 spaces (+spaces in proposed deck)	a, h
5.03 A.1	General site landscaping	6% (5,761 s.f.)	5% (4,792 s.f.)	a, h
5.03 A.2	Landscaping adjacent to R.O.W.	10' greenbelt along Michigan (3 trees & 50 shrubs)	None	a, h
5.03 A.2	Landscaping adjacent to R.O.W.	10' greenbelt along Schaefer (8 trees & 18 shrubs)	None proposed	a, h
16.03 A.2&3	Outside storage/use of equipment	Not permitted	Mobile MRI unit in dedicated dock	a, n
17.05 C.1	Front Setback	10 feet from Michigan R.O.W.	5 feet	a, j
29.02	Front Setback	50 feet from Schaefer Centerline	43 feet	a, j
29.02	Lot Coverage	Maximum of 50%	58.8%	a, j

Approval of this appeal is *CONDITIONED* as follows:

1 -Occupants must have full access to parking deck

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

Motion carried unanimously.

Commissioner Hostetler was excused and Commissioner Binder resumed her seat on the Board at 6:52 p.m.

Appeal #08-140 (Review of 04-215R)

From David Norwood, Director, Building & Safety Department, 4500 Maple, Dearborn, MI, requesting review of a previously granted appeal (04-215R) based on reports of violations of the conditions and representations upon which the approval was based.

4335-4337 Maple (Lebanese American Heritage Club)

Zoning District: General Business (BC) Property Size: Irregular

Comments: A review hearing was held on 11/28/07 as a result of reports that the conditions of the original approval for the LAHC were being violated. The variances were upheld with confirmation and clarification of the original conditions, an additional condition requiring that the matter be sent back to the ZBA should further confirmed violations occur was added.

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 RESCIND THE VARIANCES GRANTED UNDER APPEALS 04-215 AND 04-215R, the variance detailed below:

Section	Description	Code Requirement	Provided	Criteria (32.05.F.1)
4.01	Off street parking	63	16 spaces	(e, l)

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

Motion carried unanimously.

Motion by Commissioner Gusfa, supported by Commissioner Van Oast, to move appeal #08-143 up in the agenda to be the next item in order to allow the appellants an opportunity to catch their flight back to California this evening. Motion carried unanimously.

Appeal #08-143

From Leah Valentino, Kahl & Goveia Commercial Real Estate, 250 Brooks St, Laguna Beach, CA, requesting to renovate an existing commercial building in a shopping center for use as a coney island restaurant.

5600-5700 Mercury Dr (Mercury Plaza Shopping Center)

Zoning District: Community Business (BB) Property Size: Irregular

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 APPROVE this appeal, the variances detailed below:

Section	Description	Code Requirement	Provided	Criteria (32.05.F.1)
4.01	Off-street parking	401 spaces	348 spaces (for entire shopping center)	n

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

Motion carried unanimously.

Appeal #08-110

From Ali Nasser, 6422 Steadman, Dearborn, MI requesting to construct a 173 sq.ft. canopy over a walkout basement's exit and rear entrance area.

6422 Steadman

Zoning District: One-Family Residential (RA) Property Size: 66' x 102.2'

Comments: ZBA appeal #98-259 granted 2,599 s.f. of lot coverage when the home was built.

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

APPROVE WITH CONDITIONS, the variances detailed below:

Section	Description	Code Requirement	Provided	Criteria (32.05.F.1)
2.06 (A.3.note 4)	Rear setback	10 feet for a patio	9 feet	h
29.02	Lot coverage	2,599 s.f. (38.5%) per ZBA#98-259	2,772 s.f. (41.2%)	f

Approval of this appeal is CONDITIONED as follows:

1 -Canopy shall not be enclosed at any time.

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

Motion carried unanimously.

Appeal #08-125

From Ali Badawi, 6207 Oakman Blvd., Dearborn, MI requesting, to build a restaurant & coffee shop.

5959 Schaefer (Old Jim's Transmission)

Zoning District: Community Business (BB) Property Size: 113' x 114'

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 APPROVE WITH CONDITIONS, the variances detailed below:

Section	Description	Code Requirement	Provided	Criteria (32.05.F.1)
4.01 B.1.b	Off-street parking	35 spaces	25 spaces	j
4.01 B.1.b	Parking Setback	20' from residential district	9 feet	j
4.01	Parking setback	20' from travelled portion of road R.O.W.	14.5 feet	j
4.02 B.2	Loading Space	Adequate based on delivery vehicles	None	h
6.01	Obscuring Wall	Adjacent to residential district	None	h

Approval of this appeal is CONDITIONED as follows:

1 -Seating shall be limited to a maximum of 56 seats.

2 -Board reserves the right to review its parking variance if there are parking complaints. The variance and certificate of occupancy may be revoked after such review.

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

Motion carried unanimously.

Appeal #08-137

From Faouaz Mourad, Mourad Development, 5320 Schaefer Rd, Dearborn, MI requesting, to construct a 8,066 strip commercial center with parking, loading and dumpster located on property across the alley 73 feet to the east.

23955 Michigan

Zoning District: General Business (BC & IB) Property Size: Irregular

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:

Section	Sub	Description	Code Requirement	Provided	Criteria (32.05.F.1)
2.03	(A)(1)	Timing of Construction	No accessory use/ structure w/o a principal use/structure on the same lot	Parking, loading & dumpster enclosure on nearby lot	h, j
4.02		Loading space	1 space (10' x 50')	Proposing extra parking in place of loading zone (loading in alley)	h, j
29.02		Rear setback	20 feet	10 feet (1' + 1/2 of alley)	h, j

Approval of this appeal is CONDITIONED as follows:

1 -Employees required to park in the Kean St. lot.

2 -Provide easement agreement with each tenant space that allows dumpster and parking in Kean St, lot. Both parcels must remain under one ownership. Legal Department to approve easement agreement.

3 -Loading zone variance approved provided that loading area shown on plans shall be made into parking spaces.

4 -There must be adequate lighting for the Kean parking lot and along the alley behind the building.

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

Motion carried unanimously.

Appeal #08-138 (Use Variance)

From Patricia Darwish, Children's Garden Development Center, 12720 Ford Rd., Dearborn, MI, requesting to construct a 9,443 sq. ft./ two story addition to the west wing of the existing child care center to add kindergarten classrooms and to place a temporary storage container on the site.

12720 Ford (Children's Garden Development Center)

Zoning District: Community Business (BB) Property Size: Irregular

Prior variance appeals granted to this property: 04-181 (original occupation as child care center), 07-124 (variances for expansion), 07-181 (use variance for kindergarten)

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:

Section	Description	Code Requirement	Provided	Criteria (32.05.F.1)
2.14 (A)	Dumpster location	Shall not encroach on required parking; clear access for servicing vehicles	Blocks entry & maneuvering area to parking lot	n, j
3.05 (B.1)	Alter a non-conforming structure	Nonconforming structure shall not be enlarged or extended	2-story addition with basement	n, j
4.01	Off-street parking	84 spaces	62 spaces	n, j
4.01 (D.2 fn2b)	Access drive/aisle width	31 feet for internal circulation routes use by trucks	14 feet one-way	n, j
4.02 (B.2)	Loading space	2 spaces	1 space	n, j
7.02 (G.2)	Outdoor play area	14,300 sq. ft.	8,792 sq. ft.	n, j
7.02 (G.4)	Child care center side yard setback	25 feet	7.2 feet	n, j
15.02	Use not permitted	Residential district	Private kindergarten	n, j
15.03 (A.3)	Outdoor storage	Not permitted	8'x40' container (max. 2 years/completion of addition)-displaces 3 parking	n, j
29.02	Rear yard setback	20 feet	9.88 feet	n, j
32.05 (E.6)	Approval period	1 year	Construction must commence	n, j

Approval of this appeal is CONDITIONED as follows:

1 -Outdoor storage is limited to 2 years or when the construction of proposed addition is completed, whichever comes first.

2 -Screening on north side to obscure the temporary storage unit.

This motion is conditioned on the applicant's continuous compliance with all applicable ordinances, codes, laws, and statutes; and APPLICANT MUST PERFORM all work under plans and permits approved by the City of Dearborn, and final inspections by the City

Motion carried unanimously.

Appeal #08-139

From Joseph Guido, Guido Associates, 23419 Ford Rd., Dearborn, MI requesting to build a large addition to an existing home.

23635 Sterling Place

Zoning District: One-Family Residential (RA) Property Size: 76.5' x 110'

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 **APPROVE**, the variances detailed below:

Section	Sub	Description	Code Requirement	Provided	Criteria (32.05.F.1)
29.02		Combined side setback	19 feet	17' 2"	n

Conditions:

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

Motion carried unanimously.

Appeal #08-144

From Abir Makled, 5914 Steadman St, Dearborn, MI, requesting to operate a group day care home with a maximum of 12 children and 4 employees. Hours of operation will be 7 a.m. to 6 p.m.

5914 Steadman

Zoning District: One-Family Residential (RA) Property Size: 39' x 111'

Appeal was postponed by the administration because the Special Use Permit and Site Plan were denied by the City Plan Commission on June 9, 2008. Appellant has submitted a revised application to the City Plan Commission to be considered at their August 2008 meeting.

Appeal #08-145

From Mazen Hammoud, 4726 Westland St, Dearborn, MI, requesting to replace an existing deck with 2 story rear addition to the existing home.

4726 Westland

Zoning District: One-Family Residential (RA) Property Size: 53' x 122'

Existing Non-Conformities: Side yard setback 2.5', combined side yard setback 12.8', no apparent variances or permits allowing existing deck or shed (ex. lot coverage 42.2%).

Motion by Commissioner Gusfa to APPROVE WITH CONDITIONS, the requested lot coverage variance, subject to reducing the addition roof height to match the existing roof peak and modifications to reduce the lot coverage request. Motion died for lack of support.

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 DENY, the variances detailed below:

Section	Sub	Description	Code Requirement	Provided	Criteria (32.05.F.1)
29.02		Lot coverage	35% (2,263 s.f.)	40.9% (2,645 s.f.)	j

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

The motion to **DENY THIS APPEAL** was approved upon roll call vote as follows: Yeas: Commissioners Binder, Gibbs, Jefferson, and Van Oast. Nays: Commissioner Gusfa.

Meeting Adjourned: 10:52 p.m.