

City of Dearborn
Zoning Board of Appeals
Thursday, January 14, 2016
Minutes

Called to Order: 5:32 p.m.

Commissioners Present: Stephen Gedert (Chairman), Glen Green (Vice Chairman), Kenneth Gusfa (Secretary), Gerald Stockwell, and Chris Sickle.

Commissioners Absent: None.

Technical Advisors: Thomas Paison, Assistant Director of ECD; David Breneau, Zoning Administrator; William DeBiasi, Assistant City Attorney.

Approval of Minutes. Motion by Commissioner Stockwell, supported by Commissioner Gusfa that the minutes of the previous regular meeting of Thursday, November 18, 2016, are approved as recorded. Motion carried unanimously.

Tabled Appeals.

Appeal #15-136

From Nina & Ali Bazy, Bazy Investments LLC, 4770 Greenfield, Dearborn, MI requesting to increase the permitted occupant load of an existing banquet hall by providing on and off-site valet parking.

4770 Greenfield

The applicant introduced himself.

Staff summarized the report (dated Jan. 5, 2016), noting the banquet facility exists under prior variances, including a parking variance based on an occupancy load of 344 persons. The current request to modify the variance to allow a greater occupancy load of 751 was tabled at the request of the applicant in September to allow the applicant time to review options to accommodate self-parking. The banquet hall requires 425 parking spaces for the requested occupant load. The applicant is proposing to valet all but 13 parking spaces, with 60% of the valet parking to be located on neighboring properties through lease agreements. Staff noted some concerns with the on and off-site parking, including that the proposed leases do not sufficiently bind the properties purportedly supplying the additional parking and therefore will not serve as a basis for a permanent parking variance. Staff also noted nearby vacant land that the applicant could pursue purchasing for parking. Staff also discussed the general failure of variances based on parking leases in the past throughout the city. The Staff report recommends conditions if the Board approves the variance.

City Attorney: Noted the leases are already almost a year old and are not binding if tenancy changes or properties are sold or otherwise transferred; in order to properly support a variance the applicant needs either title to land or valid, recorded easements. Also the hall rental agreement does not reflect the proper occupancy load of 344, as it is required to do by ordinance. Applicant's business frequently hosts events with guests exceeding the permitted occupancy load of 344. The valet plan apparently does not take into consideration the ability to park sufficient vehicles if guests drive trucks or other

larger vehicles, or that many guests do not like valet parking and will street park in adjacent neighborhoods, causing congestion and disruption in those areas. If a "leased" property which is being depended upon to provide parking becomes unavailable due to a transfer in ownership or cancellation of the lease, there would be no way for the applicant to supply the parking required by the requested variance.

Applicant: made changes to the plan by adding the self-parking as requested using already striped parking. Applicant said they walked the site with the fire marshal and received an okay from them. They removed designated parking from party store to avoid problems with the conflicting hours. They are looking for an occupancy load of 644 persons. They advocated that the lease agreements are sufficient to supply appropriate parking, and stated that easements are difficult to obtain because they burden the property owner.

City Attorney: Said easements or other permanent parking arrangements are necessary since variances run with the land, especially in this instance in which an approximate 300 space variance is sought.

Staff mentioned the vacant land and stated they are asking to have a third of their parking on the hall site. Applicant said the owner of the vacant land is asking too much and said other similar businesses have gotten parking variances.

Board mentioned other variances have created problems. The Board protested the \$1 lease amount and mentioned traffic backups created by certain valeted businesses and similar shared parking arrangements in town.

Board repeated the extent of the variance and fragility of the lease arrangements with the potential loss of over a hundred spaces and said there have already been problems and neighborhood complaints.

Board noted permanence of variance and expressed concerns about creating an unworkable situation.

Staff noted working lease agreements where business would not overlap or change their nature, such as agreements between retail and churches.

Board asked about daytime banquets. Applicant said those are small. Large parties are on the weekends. Board noted the applicant is regularly exceeding the established occupant load. Applicant said that's been corrected and they bought the hall based on city's occupancy load of 644. He said he's done what the Council and the Mayor wanted.

Board noted a 1000 occupant load advertised on the hall's website; applicant said it's on there, but the hall is never at that number.

City Attorney asked the applicant about the occupancy load listed on the hall's rental agreement. The applicant stated he does not know what the rental agreement says. The City Attorney noted that the city never approved an occupancy load of 644 contrary to the representations of the applicant.

The Board opened public comment.

Margaret Szymanski distributed her opposition letter to the Board and read it (on file).

Correspondences: Staff and the Board noted three correspondences of opposition from the prior meeting that are attached to the current Staff report, including a petition signed by 43 people.

Board: noted there was much discussion in September about the impact on the neighborhood, the problems, the noise, the trash, the cars parking in the neighborhood; The Board said the self-parking is 3% of total load, which is not enough and many do not want to be valeted.

Board repeated key facts from the Staff report, added that there is no backup plan if the valet plan fails, and requested a motion.

RESOLUTION Motion by Commissioner Gusfa, supported by Commissioner Green, for the reasons stated on the record during the public hearing to DENY the variance,

4.01 Parking

Zoning requirement: Minimum 425 spaces. Plan to provide: 131 standard spaces (350 on and off-site valet spaces and 13 self-park spaces) is DENIED (DZO 32.05, F.1. g,j,k,l).

Motion carried unanimously.

Appeal #16-101

From Abdulla Shariff, 7 Turnberry, Dearborn, MI requesting to reuse an existing 960 sq.ft. insurance office as a pharmacy.

2101 Monroe

Applicant introduced himself.

Staff summarized the report (dated Dec. 1, 2015), noting the small size of the building and property. The proposed use requires 6 spaces, but the property can accommodate 3 (on-site). Francis Street can accommodate the other 3 on the applicant's side (on-street). However, upon reviewing the local parking demand Staff believes there is an overall lack of parking in the area; Staff outlined who nearby has deficient parking. The request would add to the deficiencies. The property can accommodate limited other uses due to its small size: office or a personal service without a variance. Staff recommended that any variance should be conditioned on limited hours of operation.

The applicant bought the building a year ago and wants to serve the area with the pharmacy. He noted the small size of the building. They do not expect much walk-in traffic. He wants to target seniors and nearby doctors to send patients. Half of his business is delivery. 20-25 walk-in customers per day, that's 2-3 per hour. He introduced his architect; they looked at various scenarios. He said he'd have two staff for now; a pharmacist and a technician. He has a letter from a nearby physician allowing the pharmacy's staff to park in the doctor's lot; Dr. Bazy's building, 1537 Monroe, which is across the street from the applicant.

Staff stated that 1537 Monroe has deficient parking through a variance and Staff believes that cars regularly parking on Francis are from 1537 Monroe.

Applicant wants to do what it takes to satisfy the Board and is willing to buy the apartment building next door to provide parking. Staff liked the idea.

Board: Some houses do not have driveways. There are problems on snow removal days; on-street parking is not available on those days. The area is congested. This request adds to the deficiency.

Discussion of history of on-street parking on Monroe, which was removed when Monroe

was reconfigured. Staff mentioned some potential uses requiring little parking, such as a lawyer's office. Staff mentioned not wanting to limit uses to the point of leaving buildings unoccupied and derelict. The Board expressed concerns over limiting use of building based on parking.

Applicant said cars parked on Francis are from the dermatologist.

Board noted excessive deficiency and concern with people parking in front of hydrant and in front of residences. Inquired if there is permit parking for residences (no signs).

Some discussion of double parking behind(pharmacist's) building. There is space available, but still needs variance to allow spaces to not have direct access to drive aisle. There is a need to ensure clear access to the building's back door and to accommodate trash bins.

Discussion of a variance running with the land. A suggestion was to limit it to a pharmacy and no other use. A concern expressed over competition and leaving an empty pharmacy with the variance.

The Board opened public comments.

Dr. Robert Miller, 2135 Monroe, the third building from Francis, is opposed to the request. Notes 2 pharmacies are within walking distance. The immediate community is served by pharmacies and doesn't need a third. The area is congested with parking. He arrives at 7:00 am and Francis is completely full and he has difficulty accessing the alley behind his office. He has 20-25 patients a day; they are scheduled and their time there is limited. He uses all of his 12 parking spaces. 3 spots won't work and they will use other businesses' parking lots. The alley is narrow and service trucks have difficulty. The parking arrangement will make maneuvering difficult for the trucks and for pharmacist's customers with the proposed parking arrangement. The dermatologist (Dr. Goldfarb) generates lots of traffic. He does not know where people will park. Dr. Goldfarb works until 8pm and couldn't come, but is also against the request. They should consider acquiring the vacant building, which is poorly maintained and he wants it removed and they could put parking there.

Board inquired of who is causing parking problem.

Miller: Goldfarb

Board objected to Goldfarb's opposition to the variance. Has seen growth of Monroe into a medical district. Objected to making the applicant buy property when others create the problem.

Board does not want to make problem worse.

Board: City should provide parking. Applicant did not create problem.

Board noted numerous pharmacies in the area already.

Board said let the market determine market saturation.

Applicant wants to make his pharmacy work, will make parking arrangements with others. He will buy a lot for shared parking. He is willing to have Staff check on him to make sure arrangements are working. He asked for ideas.

Board: There is congestion due to people parking on Francis on public service days.

Applicant said his customers would be local and come for prescriptions only, and do not

shop for other goods like at major chains; they are in and out in 5 minutes. And he has delivery.

Board asked if there is additional staff to do the delivery.

Applicant: the pharmacist cannot leave, technicians do the delivery either throughout the day or in batches. He will work with local physicians to make it is convenient for customers.

Board asked if the variance would remove the incentive to accommodate more parking.

Applicant will work with everyone, customers would be from local physicians and would walk, many deliveries; he will strive to improve parking even if the variance is granted.

Staff notes the variance would run with the land and does not expire when other arrangements or improvements are made.

A concern is expressed over the width of the alley and the arrangement of parking, but Staff notes the spaces are bumped in 2 feet to allow proper maneuvering.

Board mentions 2 correspondences opposing the request (attached to report) and read a letter from the Parking Variance Committee report (in file), which makes suggestions to consider.

Board emphasizes what is before them: request for parking variance and not what should occupy the building. Board welcomed the applicant to possibly return with a different plan or variance. Discussed problems with double parking, such as cars blocking each other in and snow removal. Board does not want to overengineer the problem. The Board requested a traffic study to see who is creating the problem, but Staff noted anyone can legally parking in street unless it is permit parking.

Board repeated key facts from the Staff report, requested a motion.

RESOLUTION. Motion by Commissioner Gusfa, supported by Commissioner Stockwell, for the reasons stated on the record during the public hearing, to DENY the variance.

4.01 Parking.

Zoning requirement: Minimum 6 spaces. Plan to provide: 3 feet is DENIED (DZO 32.05, F.1. a,j,h).

Roll call

Gedert: support motion

Green: support

Gusfa: support

Sickle: oppose

Stockwell: support

Motion carries 4:1 to deny, it is so ordered.

Other Business:

Election of Officers

Chairman

Green nominates Gedert; Stockwell supports; Motion carried unanimously.

Vice chairman

Stockwell nominates Green; Gedert supports; Motion carried unanimously.

Secretary

Gedert nominates Gusfa; Stockwell supports; Motion carried unanimously.

Meeting Adjourned 7:05pm