

City of Dearborn
Zoning Board of Appeals
Thursday, May 26, 2016
Minutes

Called to Order: 5:30 p.m.

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

Commissioners Absent: None.

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

Approval of Minutes. Motion by Commissioner Gusfa, supported by Commissioner Green, that the minutes of the previous regular meeting of Thursday, March 24, 2016, are approved as recorded. Motion carried unanimously.

Appeal #16-109

From Ali Makled, 155 Brentwood, Dearborn, MI requesting to build a house. The property size being 135' x 190', in a One-Family Residential (RA) zoning district at:

1225 Beechmont

The applicant introduced himself.

Staff read the report dated May 9, 2016. Key facts: A colonial was removed in 2013 and the proposed house is a ranch; the proposed house is larger than average and is on a lot that is larger than the surrounding. Staff noted several outside correspondences related to this request and that Staff spoke with the resident at 1177 Beechmont, who expressed being in favor of the house.

The Board clarified that its role is to determine whether there is a basis for a variance from the requirement for compatibility per the ordinance, and that the Board has no authority to enforce private deed restrictions.

Compatibility issues, as addressed in the City Staff's compatibility review, relate to arched windows, an attached 3 car garage, and a ranch style design as opposed to the surrounding homes, which are colonials.

The applicant addressed the arched windows, saying they are obscured by the porch. He notes the split in the road and states he does not want his family parking in the street, thus the 3-car garage. He stated he could not design the home to get the garage to face to the side of the lot. He notes nine 3-car garages within 2 blocks. He commented there are newer, larger homes in the areas, such as 6,100 sq.ft. homes across the street. He showed his neighbors the plans for the house, who liked it. He notes conforming setbacks and lot coverage. He said the association would not look at his plans due to

changes in their rules and would not work with him, which delayed his submittals to the city.

Board member Greene drove through the area and agrees with the applicant, seeing arched windows, 3-car garages. The lot is larger, meets setbacks, no issue.

The Chair opens public comment.

Numerous people voiced objections to the proposed house (including Gale Walsh (300 Meridan), Beth Sandrayou (1150 Beechmont), Margo Cleveland (525 Mohawk), Terra Franey (Emerson Street), Matt Flis, Janet Cross, Tom McKinley (Winona St.), Tricia Yolckham, Marilyn Wane, Marsha Chance (Beechmont St.), Joe and (daughter) Katie Konowski (Beechmont St.)), many of whom had submitted letters (on file), such as (Sandy McKinty, John Cusick, Martin Kaltenbach, Alyssa Husby, Susan Miller-Anderson, Lawrence Abramczyk (Winona St.), Lee Jacobson (Rockford St., anonymous letter)). Most people expressed the house, with its large size, large frontage, and its architectural character, is out of character for the 90-year-old neighborhood, which they chose because of deed restrictions and which they consider to be traditional, historic, unique. The house belongs elsewhere. No reason to grant a variance. There was considerable discussion of deed restrictions, neighborhood association rules and procedures, the relationship between the association and the city offices, and whether the association is included in the city's permitting process. Concern expressed about association not receiving notice. Scott Williams criticized the association, calling it racist and invalid due to lack of membership and selective rule enforcement.

Four people voiced favor for the proposed house, including Karl and Joanne Isern (next door on Beechmont), who had submitted a letter (on file) and a reference to the neighbor on the other side being in favor; Cheryl Ann Johnson (Livonia), and Mohammad Sobh (Dearborn).

Staff clarified the legal requirements for public notification of requests for Zoning variances, and that those requirements had been met. Staff further noted that past inclusion of the neighborhood association in the compatibility review process has been a courtesy, and is not a legal requirement. Staff clarified that the ordinance only requires a staff compatibility review for deed restricted neighborhoods.

Board clarified that granting the variance would not invalidate the deed restrictions. A resident expressed concern of a variance undermining the deed restrictions.

The applicant responded to the public comments and expressed feeling stonewalled by the association. He said he followed the rules, and alleged that the deed restrictions did not appear on his titlework and did not address neighborhood objections. He tried to work with association, but they delayed him four months. He cited racism. He said no one can build a 1920's house today.

The Board expressed concern over the public comments and conduct of the residents (outbursts, shouting matches, racist comments, emails). Commissioner Greene stated that other new homes have raised value of surrounding area, and that older neighborhoods undergo transformation.

Public comment continued with emphasis on historic nature of area and structure of

association. Realtor Daniel Want read from the restrictions and mentioned previous court decision upholding association rules.

Board notes outside correspondences.

The Board also stated compatibility precedent needs to be kept.

The Board noted a lack of communication between the association and the applicant during the process. Said the house will change the neighborhood but not harm it. Commented that the variance should not be granted in accordance with the legal standards for granting of a variance, such as undue hardship which prevents compliance. Applicant is building a new home on a large lot; there is no hardship because of many choices available in design.

Board members commented that Dearborn has unique neighborhoods; the applicant's current neighborhood (Golfcrest) has different needs and a different trajectory than Dearborn Hills, which does not need a house with a large façade, despite the large lot. House and garage would stand out due to its large size, creating a negative impact; a conforming house can be built. Since the applicant is building a new house on a large lot and controls the design, to the extent that it is incompatible with other dwellings any hardship is self created.

Board asked applicant if he would build a house or work with association after the meeting, the applicant stated that he would not.

RESOLUTION. Motion by Commissioner Gusfa, supported by Commissioner Zalewski, for the reasons and subject to the facts, representations and stipulations stated on the record during the public hearing, to DENY the variance

2.05(7) Compatibility. Zoning requirement: Compatible. Plan to provide: Not Compatible

is DENIED. (DZO Sec.32.05, F.1.j, h, a).

Roll call:

Stockwell: yes

Green: no

Gedert: yes

Gusfa: yes

Zalewski: yes

Motion carried to deny.

(15 minute break)

Appeal #16-106

From Tom Fakih, South Ford Rd Investments LLC, 5711 Schaefer, Dearborn, MI requesting to build a new fast-food restaurant. The property size being irregular, in a General Business (BC) zoning district at:

10401 Ford

The applicant and architect introduced themselves.

Staff read the report dated April 14, 2016. Key points: The restaurant is new (proposed) construction and the neighboring (existing) restaurant is new; the nearby Taystee Burger restaurant at the gas station does not have drive-through service; access to Interstate 94 is nearby; the corridor is largely industrial and trucking-related.

Clarification on the newly required traffic study and its relation to the applicant's site. Staff notes Ford Road is designed to handle a lot of traffic.

Applicant notes redesign due to ordinance change (drive-thru stacking).

Board said despite the restaurant's mutual proximity, the site configuration is good and gets its traffic off the road. No issue with request.

Discussion regarding deceleration lane, which is not needed.

Staff notes that site depth accommodates cross access, keeping traffic on site. Site plan revisions have improved the proposed traffic flow.

The Chair opens public comment.

Cheryl Ann Johnson, the manager of the drive-in movie theater across the street, expressed a concern about late-day left turns into and out of Tim Horton's. She said the theatre has long lines after 7pm., can stack 132 cars on site at box office, but lines often go down Ford Rd towards Wyoming. Theatre is open all night. Discussed traffic flows into and out of her facility and noted the location of the three egresses. Concerned about people trying to quickly drive or run across Ford from the theater to Tim Horton's.

There was discussion of the required traffic study and that it considered all nearby uses and was more of a consideration for the Planning Commission.

No outside correspondences.

RESOLUTION. Motion by Commissioner Gusfa, supported by Commissioner Stockwell, for the reasons and subject to the facts, representations and stipulations stated on the record during the public hearing, to APPROVE the variance

7.02(E7) Distance between fast-food establishments. Zoning requirement: 700ft. Plan to provide: none,

is APPROVED. (DZO Sec.32.05, F.1.j,n).

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 #16-107

From Frank Askar, 440 Woodcrest, Dearborn, MI requesting to remove an existing house and build a new house. The property size being irregular, in a One-Family Residential (RA) zoning district at:

440 Woodcrest

The applicant and his designer (Mona Hammoud) introduced themselves.

Staff read the report dated April 14, 2016. Key points: The existing and proposed house are both ranches; the proposed house is new construction; the house is deemed incompatible due to its dormer style and height.

Clarification on variance being related to neighborhood guidelines.

Designer said the house is 21ft-10inches height, 10" over the 21ft guideline maximum. 5 homes have arched windows and oval windows. Also there are 1½- and 2-story homes in the area.

Board confirmed the 5:12 roof pitch with Mona and noted the arched and oval windows and height, but noted the height is under 30ft. maximum for city ordinance. Noted precedent exists in this neighborhood for approval, large lots are unique to the area.

The Chair opens public comment.

Mike Maldigan, 457 Woodcrest, said the house is beautiful and it will work.

Chris May, who lives next to applicant, wanted to see the drawings earlier, but looks like a nice home. Wants applicant to adhere to drawings.

Discussion on house reconstruction and lead paint, asbestos, timelines.

Clarification on whether it is an addition or rebuild. Applicant said decided to do rebuild. Discussion on building practices and procedures. Staff clarified that applicant is required to adhere to drawings.

No outside correspondences.

RESOLUTION. Motion by Commissioner Gusfa, supported by Commissioner Green, for the reasons and subject to the facts, representations and stipulations stated on the record during the public hearing, to APPROVE the variance

2.05(7) Compatibility. Zoning requirement: Compatible. Plan to provide: Not compatible

is APPROVED. (DZO Sec. 32.05, F.1.h, 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 #16-108

From Mohamad Sobh, 22420 Law, Dearborn, MI requesting to reuse a paint store as a doctor's office. The property size being 66' x 100', in a Local Business (BA & BD) zoning district at:

904 Mason

The applicant and his designer (Mona Hammoud) introduced themselves.

Staff read the report dated April 19, 2016. Key points: The applicant proposes a change of use from retail to a doctor's office with minor site modifications; the proposed parking layout is deficient two spaces for the proposed use; while the site is near a public parking lot, the two lacking spaces are compensated by on-street parking along Mason Street.

Staff added that the Design Review Committee had just approved the plan.

Board noted that the public parking is very busy, but the doctor's hours will likely not conflict with the busier times. The applicant added that he is by appointment only, so he controls his traffic flow.

The Chair acknowledges there is no one in the audience to comment.

No outside correspondences.

RESOLUTION. Motion by Commissioner Gusfa, supported by Commissioner Green, for the reasons and subject to the facts, representations and stipulations stated on the record during the public hearing, to APPROVE the variances

17.03(F) Parking. Zoning requirement: 11 spaces. Plan to provide: 9 spaces

is APPROVED. (DZO Sec. 32.05, F.1.k, j, h).

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 9:20 p.m.