

STERLING HEIGHTS ZONING BOARD OF APPEALS
REGULAR MEETING
CITY HALL
April 28, 2016

LOCATION: City Council Chambers, 40555 Utica Road, Sterling Heights, MI
SUBJECT: Minutes of the Regular Meeting of the Zoning Board of Appeals held April 28, 2016.

Mr. D'Angelo called the meeting to order at 7:03 p.m.

Members present at roll call: Derek D'Angelo, David Graef, Stefano Militello,
Pashko Ujkic, and Ray Washburn

Members absent at roll call: Dale Deming - Excused

Also in attendance: Chris McLeod, City Planner
Don DeNault, City Attorney

APPROVAL OF AGENDA

Motion by Militello, supported by Graef, to approve the Agenda.

Ayes: Ujkic, Washburn, D'Angelo,

Nays: None

Absent: Deming

Motion carried.

CORRESPONDENCE

Mr. McLeod stated there are hard copies of site plans, correspondence from a resident subject to a case, and hard copies of the minutes.

PZBA 16-0002 - AutoZone Development LLC - Jeff Kauerz

Requesting variances for: 1) twenty-eight foot parking lot setback variance along Van Dyke; 2) eight foot building setback variance along Utica Road; 3) twelve foot parking lot setback variance along Utica Road - East side of Van Dyke, west of Utica Road in Section 03

Property Address: Part of 43020 Van Dyke

Mr. McLeod gave a summary of requested setback variances. This included parking lot encroachment into Van Dyke Road setback, parking lot encroachment into Utica Road setback, and building encroachment into Utica Road setback. He described the parcel as unique in that it fronts both Van Dyke and Utica Roads. The applicants have provided a number of aesthetic improvements around the building, as well as a number of architectural upgrades to the building itself to reduce the overall visual impact of the building.

Mr. D'Angelo asked representatives to state name and add any information that would help explain the request.

Wes Berlin from PEA - AutoZone civil engineering consultant on behalf of AutoZone, thanked the board for consideration of approval. He explained the applicants have gone to a great deal of effort to make the site work within the criteria of the zoning codes. The "pinch point" at the north end of the site severely limits them in regards to buildable area of site. **They put a heavy emphasis on landscaping (as a buffer) and building façade** upgrades to make sure the site is attractive. They have tried to stay consistent with adjacent properties. They have also prepared a detailed landscape plan, color building elevation, and several site renderings to show how well they believe the site will fit in.

Mr. D'Angelo informed Mr. Berlin there were only five board members present and would need four to pass approval. Mr. Berlin gave approval to proceed.

Mr. D'Angelo asked about the difference in the drawing that was used in meeting versus the drawing previously given to board, dealing with parking lot arrangement between the bar and the AutoZone parking lot.

Mr. McLeod stated the cross access drive to the north will not exist. The adjacent property is non-conforming to current standards.

Mr. D'Angelo asked if there will be cross access to the Comerica Bank to the south.

Mr. McLeod stated there will be a cross access set up from the AutoZone piece to connect to the bank. At this point, the bank does not want the connection to occur; it is their drive-thru lane. It will be set up should the traffic pattern change or property owner change. Along Utica it will be connected, along Van Dyke it will not be connected.

Mr. D'Angelo asked Mr. Berlin if 6,000 square feet is a standard size for an AutoZone.

Mr. Berlin stated it is the smallest prototype they have.

Mr. D'Angelo asked if board members had any questions.

Mr. Graef asked if there is any thought for a speed bump to be added due to people may want to cut through to avoid the light. He also asked if this is a new business or relocation.

Mr. Berlin stated there is no intention to put in a speed bump. He stated it is a new business.

Mr. Washburn asked Mr. Berlin what the maximum number of cars might be in the parking lot on a busy Saturday.

Mr. Berlin stated the busiest hour occurs on a Saturday about 11 a.m. and the maximum number of cars is roughly fifty.

Mr. D'Angelo asked for questions from the public.

Karen Birdie of 31851 Mound Rd., Warren, MI 48092, Representing AI's Hideaway, stated the new building will leave their property non-viable. They have been working with AutoZone and they will be purchasing a part of the land to make AI's Hideaway more viable. They are in support of AutoZone's variances and hope the board will grant the variances.

Mr. D'Angelo asked for questions from the public. Being none, addressed Mr. McLeod regarding the ownership of property and how it will be split.

Mr. McLeod stated the entire parcel is owned by Comerica Bank. The applicant has not sought lot split, they are waiting to see if they receive approvals. The sale is contingent upon ZBA and Planning Commission approvals. If approved, they will seek the lot split application. At that point, with the property to the north, a subsequent sale/transaction would occur for the property to the north.

Motion by Militello, supported by Graef, in the case of PZBA16-0002, AutoZone Development, a portion of 43020 Van Dyke, move to APPROVE the variance with the following conditions:

1. That the decision of the Board will remain valid and in force as long as the facts and information presented to the Board in Public Hearing are found to be correct, and that the conditions upon which the motion is based are forever maintained as presented to the Board. The petitioner agrees to abide by and comply with all the ordinances of the City of Sterling Heights and the regulations of every lawful agency or governing authority now or hereafter in force;

2. Notice of the approval of the variance shall be delivered to the City Clerk's office within 60 days after the approval date of the applicable meeting minutes for recording with the Macomb County Register of Deeds. Failure to file this notice shall serve as grounds to revoke the variance;
3. A Hold Harmless Agreement, in favor of the City of Sterling Heights, shall be delivered to the City Clerk's office within 60 days after the approval date of the applicable meeting minutes for recording with the Macomb County Register of Deeds. Failure to follow this agreement shall serve as grounds to revoke the variance;
4. That the proposed property split be accomplished, meeting the requirements of the City; and
5. That the Lilac hedge be extended to the north property line between the cross connection road and the Van Dyke Road right of way.
6. That revised plans be provided for planning review that reflect the revised property line, removal of the cross access maneuvering lane to the north, revisions to the landscape plan, etc.

With the following findings of fact:

1. The property is uniquely shaped due to the convergence of Utica and Van Dyke Roads at an acute angle and that front yard setbacks are required along both road frontages for both the building as well as parking.
2. The applicant has provided additional architectural amenities to limit the visual impact of the building encroachment into the required front yard setback.
3. The front yard encroachment of the building is limited to the far northeast corner **of the building, not the entire building façade.**
4. The applicant has provided an increase in landscaping within the front yard setbacks along Van Dyke and Utica Roads to offset the reduced size of the required greenbelt.
5. The parking lot encroachment into to the front yard setback along Utica Road is limited to a small portion of the northeast corner of the parking lot, not the entire parking area.
6. The parking setbacks for the properties on either side of the proposed development extend essentially to the property line and do not conform to the minimum thirty five (35) foot greenbelt requirement.

Mr. D'Angelo asked for any other discussion. Being none, called for a vote.

Ayes: Militello, Graef, Ujkic, Washburn, D'Angelo
Nays: None
Absent: Deming
Motion Carried

PZBA 16-0003 - Imad Potres

Requesting Board approval for a variance to allow for the expansion of an existing non-conforming use - East side of Merrill Road between 19 Mile Road and 19 ½ Mile Road in Section 04.

Property address: 43700 Merrill Road

Mr. McLeod gave a summary regarding the request for an addition of 1,316 square feet to the existing place of worship. This is not intended to be utilized as additional seating capacity but rather a gathering space for persons already there.

Mr. D'Angelo invited petitioners to come forward and add any additional information regarding request.

Imad Potres, with Futuristic Design Consultant, and Father Matthews Zetouna, Associate Pastor from Holy Martyrs Catholic Church were present.

Mr. Potres stated the facility is becoming more common to the Catholic Chaldean Church. It is a place to be used for worship and prayer but not at mass service times.

Father Matthews explained the addition would be an Adoration Chapel, also for devotion. A place common in Catholic churches where parishioners can go to pray.

Mr. D'Angelo asked the hours it would be open and if someone would be present.

Father Matthews stated it would be open 24/7 and, at this time, there would not be someone always present. As the church grows, having someone present is possible in the future.

Mr. D'Angelo asked for questions from the board.

Mr. Washburn asked if the whole building would be open 24/7 or just the chapel, how many of the congregation would use the building, and if they would use the chapel for possible overflow of a regular service.

Father Matthews stated just the chapel would be open continually. He stated on average 5-10 people would be in the chapel in evening through the night hours. The chapel would not be used for overflow, as the church has two halls that are equipped to handle overflow.

Mr. D'Angelo asked if there is any concern for security with the building being open and not supervised.

Mr. Potres stated there will be an alarm system and Father Matthews stated there may be security cameras in the future.

Arthur Kalajin, Architect, showed a drawing of the area where chapel will be built. He explained position of building, plantings, and entrance. He stated they are using an existing outdoor worship area and making it into both and indoor and outdoor.

Mr. D'Angelo asked for any further question from board, being none, opened to public for participation.

Connie O'Malley of 6171 Goff, Sterling Heights, wanted to confirm the building would not extend out beyond currently grassed area and that no parking would be taken away. She also stated, especially at holidays, parking is an issue.

Mr. D'Angelo asked for any other public participation. Being none, asked petitioners about loss of parking.

Mr. Kalajin stated one spot may be lost due to relocating fire hydrant and the clearance zone around it.

Mr. D'Angelo asked for any other questions. Being none, called for a motion.

Motion by Militello, supported by Ujkic, in the case of PZBA16-0003, Holy Martyrs Catholic Church, 43700 Merrill, I move to APPROVE the variance to allow the expansion of a nonconforming use with the following conditions:

1. That the decision of the Board will remain valid and in force as long as the facts and information presented to the Board in Public Hearing are found to be correct, and that the conditions upon which the motion is based are forever maintained as presented to the Board. The petitioner agrees to abide by and comply with all the ordinances of the City of Sterling Heights and the regulations of every lawful agency or governing authority now or hereafter in force;
2. Notice of the approval of the variance shall be delivered to the City Clerk's office within 60 days after the approval date of the applicable meeting minutes for recording with the Macomb County Register of Deeds. Failure to file this notice shall serve as grounds to revoke the variance;
3. A Hold Harmless Agreement, in favor of the City of Sterling Heights, shall be delivered to the City Clerk's office within 60 days after the approval date of the applicable meeting minutes for recording with the Macomb County Register of Deeds. Failure to follow this agreement shall serve as grounds to revoke the variance;
4. Other than incidental use, the chapel may not be used simultaneously with the remainder of the church facility.

This motion is supported by the following findings of fact:

1. The continuation of the use of the site for religious purposes does not conflict with the current and past use of the property in that the overall intensity of the site is not being intensified since the proposed building addition does not increase overall seating capacity and does not intensify the nonconforming use.
2. The proposed building addition is a one (1) story addition and will not impact the surrounding properties in that they are industrial properties to the north and the south, and the proposed addition will be buffered to the north by the existing church building and to the south by the recently approved senior living facility.
3. The City has recognized the use of the property as a nonconforming use which was previously lawful.

Mr. D'Angelo asked for any other discussion. Being none, called for a vote.

Ayes: Militello, Ujkic, Washburn, D'Angelo, Graef
Nays: None
Absent: Deming
Motion Carried

PZBA16-0005 - Larry & Kristin Parker

Requesting Board approval to permit a 6.51' variance to the required rear yard setback - West side of Ladrone, between Southgate Drive and Martha Street in Section 13.
Property address: 39063 Ladrone Avenue

Mr. McLeod gave an overview of the request for setback variance for a covered, unenclosed patio structure.

Mr. D'Angelo invited petitioner to come forward and add any information regarding request.

Kristen Parker stated they would like to have the covered patio for protection from the sun in the family's living area.

Mr. D'Angelo asked for questions from the board.

Mr. Militello asked who was building the house. Ms. Parker stated her and her husband.

Mr. Washburn asked if the petitioner was planning on ever enclosing the patio.

Ms. Parker stated no.

Mr. D'Angelo asked for any other discussion from board. Being none, opened to public.

Mr. McLeod stated a letter from Alan and Kim Waldorf expressed concern for the side yard setback.

Mr. D'Angelo asked for any other discussion. Being none, called for a motion.

Motion by Graef, supported by Militello, in the case of PZBA16-0005, Larry and Kristen Parker, 39063 Ladrone Ave. I move to APPROVE the variance with the following conditions:

1. That the decision of the Board will remain valid and in force as long as the facts and information presented to the Board in Public Hearing are found to be correct, and that the conditions upon which the motion is based are forever maintained as presented to the Board. The petitioner agrees to abide by and comply with all the ordinances of the City of Sterling Heights and the regulations of every lawful agency or governing authority now or hereafter in force;
2. Notice of the approval of the variance shall be delivered to the City Clerk's office within 60 days after the approval date of the applicable meeting minutes for recording with the Macomb County Register of Deeds. Failure to file this notice shall serve as grounds to revoke the variance;
3. A Hold Harmless Agreement, in favor of the City of Sterling Heights, shall be delivered to the City Clerk's office within 60 days after the approval date of the applicable meeting minutes for recording with the Macomb County Register of Deeds. Failure to follow this agreement shall serve as grounds to revoke the variance;
4. The structure shall not be enclosed to create a three or four season room or other interior living space without additional review by the Zoning Board of Appeals.

This motion to approve is supported by the following findings of fact:

1. That the structure will be open air and consist of only a roof supported by columns.
2. The encroachment into the rear yard is for a structure that is only sixteen (16) feet in width.
3. The proposed structure is built in harmony with the remainder of the residential structure.
4. The proposed structure does not create additional public cost for public facilities and services.

Mr. D'Angelo asked why the structure on the parcel was not centered in the back of the house.

Ms. Parker stated they wanted to create a larger space for their kids to play instead of having two smaller areas.

Mr. D'Angelo asked for any other discussions on the motion. Being none, called for vote.

Ayes: Graef, Militello, Ujkic, Washburn, D'Angelo,
Nays: None
Absent: Deming
Motion Carried

PZBA16-0007 - Ronald McClain

Requesting Board approval to permit a 3.5' variance to the required front yard setback on a corner lot - West side of Casmira Drive, north of Martha Street in Section 13.
Property address: 39305 Casmira Drive

Mr. McLeod gave a brief summary of request for approval variance for front yard setback.

Mr. D'Angelo invited petitioner to come forward and add any information regarding request.

Ronald McClain, landowner, stated he has owned property since 1991. In designing the ranch style home, they desire certain amenities. He described appearance for front of house.

Mr. Militello asked what size the house will be and who is building the house.

Mr. McClain stated it will be a 2,400 square foot ranch style home with a three car garage. They are subcontracting to build the home.

Mr. Washburn asked to see any printed plans for the house.

Mr. McClain provided and described the drawings of the home. He stated the garage will be a two car, off of Casmira, and extend back (tandem) along Martha. He explained Martha is a busy street and with the garage extending the length of the house (on Martha side) the noise level in the home will be less. He stated the variance will add space to the kitchen, not the garage.

Mr. D'Angelo asked for any other questions from board. Being none, opened for public participation. Being none, called for motion.

Motion by Graef, supported by Militello, in the case of PZBA16-0007 Ronald McClain, 39305 Casmira, I move to APPROVE the variance with the following conditions:

1. That the decision of the Board will remain valid and in force as long as the facts and information presented to the Board in Public Hearing are found to be correct, and that the conditions upon which the motion is based are forever maintained as presented to the Board. The petitioner agrees to abide by and comply with all the ordinances of the City of Sterling Heights and the regulations of every lawful agency or governing authority now or hereafter in force;
2. Notice of the approval of the variance shall be delivered to the City Clerk's office within 60 days after the approval date of the applicable meeting minutes for recording with the Macomb County Register of Deeds. Failure to file this notice shall serve as grounds to revoke the variance;
3. A Hold Harmless Agreement, in favor of the City of Sterling Heights, shall be delivered to the City Clerk's office within 60 days after the approval date of the applicable meeting minutes for recording with the Macomb County Register of

Deeds. Failure to follow this agreement shall serve as grounds to revoke the variance;

This motion to approve is supported by the following findings of fact:

1. As noted within the applicant's correspondence provided, several variances to the required setbacks have been granted within the Wanda Park subdivision.
2. The existing lot depth (frontage along Martha Street) is only one hundred and ten (110) feet rather than the required one hundred and twenty (120) feet.
3. The proposed structure does not create additional public cost for public facilities and services.

Mr. D'Angelo asked for any other discussions on the motion. Being none, called for vote.

Ayes: Graef, Militello, Ujkic, D'Angelo,

Nays: Washburn

Absent: Deming

Motion Carried

APPROVAL OF MINUTES

Motion by Washburn, supported by Militello to postpone approval of minutes for March 24, 2016 to the May 26th meeting.

Mr. Washburn stated reason to postpone is to be reviewed by full board.

Ayes: Washburn, Militello, D'Angelo, Graef, Ujkic

Nays: None

Absent: Deming

Abstained: None

Motion Carried

NEW BUSINESS

Mr. D'Angelo referenced Jackpots by Lakeside Mall. He stated there are many lawn signs displayed and wanted verification if there was a sign permit requested and granted to allow those signs.

Mr. McLeod stated there would not be a sign permit for those and they would not be a permissible display of signage.

Mr. D'Angelo stated if ordinances are not followed, he will bring back to board to revoke variance.

Mr. Militello asked if board has the right to call it back.

Mr. DeNault stated yes. It would be added to the board agenda as a revocation hearing to review the compliance with the variance conditions that were granted.

Mr. D'Angelo stated it may have been an oversight by property owner and would like to notify them so they are aware of the laws in Sterling Heights.

Mr. McLeod stated he will notify the property owner and also notify code enforcement.

Mr. Graef asked if a sign on a truck (that doesn't move) at 15 Mile Rd. and Schoenherr was allowed.

Mr. McLeod stated it will be noted.

OLD BUSINESS

None

PUBLIC PARTICIPATION

None

MOTION TO ADJOURN

Motion by Militello, supported by Washburn, to adjourn.

Ayes: Militello, Washburn, Ujkic, D'Angelo, Graef

Nays: None

Absent: Deming

Motion Passed

Meeting adjourned at 8:30 P.M.

Respectfully submitted,

Derek B. D'Angelo, Chairman
Zoning Board of Appeals