



MEETING MINUTES

ZONING BOARD OF APPEALS

Tuesday, January 9, 2018

7:00 PM

Civic Center, 2100 Ridge Avenue, Council Chambers

Members Present: Lisa Dziekan, Mary Beth Berns, Kiril Mirintchev, Scott Gingold,
Violetta Cullen

Members Absent: Mary McAuley, Myrna Arevalo

Staff Present: Scott Mangum, Melissa Klotz, Mario Treto
Presiding Member: Mary Beth Berns

Declaration of Quorum

With a quorum present, Chair Berns called the meeting to order at 7:10 p.m.

Approval of Minutes

The minutes from the December 19, 2017 Zoning Board of Appeals meeting were motioned for approval by Ms. Cullen and seconded by Ms. Dziekan. The minutes were approved 5-0.

New Business

1723 Simpson St.

ZBA 17ZMJV-0103

Robert Crayton, lessee, applies for a special use for a Type 2 Restaurant, dba Gold Star Enterprises, in the B1 Business District (Zoning Code Section 6-9-2-3). The Zoning Board of Appeals makes a recommendation to City Council, the determining body for this case.

Mr. Mangum read the case into the record and noted recommended conditions.

Applicant Robert Clayton explained the proposal:

- The building is currently vacant but was previously a grocery store and restaurant.
- Propose to operate the restaurant only, not the grocery store.
- Phase 1 of the restaurant will occur first, with no more than 10 people in the building at a time (since there is only one ADA restroom currently).
- Phase 2 will add a second ADA restroom and then the occupancy will not be limited to 10 people.
- Applicant does not currently have enough capital to add the second restroom, but plans to begin Phase 2 within 2 years.
- Both phases include take-out service and counter service.
- Applicant agrees to comply with the conditions DAPR recommended.
- Restaurant will serve breakfast and lunch and operate from 7am - 3pm.
- Maximum of 4-5 staff per shift.
- May add dinner hours at a later date.

Mr. Mangum clarified the building code maximum occupancy of 10 includes staff.

The applicant continued:

- Garbage pickup will occur via the rear of the property.
- Deliveries will come in after school hours so not to conflict with school buses, and will be a small van that will deliver on Simpson St.

Chair Berns asked if deliveries could be done on the side street rather than Simpson St. and the applicant responded it is likely deliveries could be done via the rear, and then agreed deliveries will not occur on any street.

Chair Berns noted a Sustainability Plan was not submitted by the applicant. Mr. Mangum explained the Plan to the applicant, who agreed to submit it.

The applicant continued:

- No awnings are proposed.
- The property has one on-site parking space in the rear for the operator.
- The operator has not run a restaurant previously. The end goal is to use the building as a community gathering place but the restaurant is what will pay the bills.

The ZBA entered into deliberations:

Mr. Gingold noted the special use does not need to condition Phase 1 vs. Phase 2 because the ADA requirement and building code dictates it. Mr. Gingold also noted the plans are not fully detailed, but overall the proposal sounds good. Mr. Mirintchev agreed.

Ms. Cullen stated she likes that the operator is community oriented and the business sounds like a great use for that corner.

Chair Berns clarified the applicant agreed that deliveries can occur off-street.

Ms. Dziekan noted it is very important that the block windows be changed to clear windows, so there should be a condition that the facade improvement grant be submitted prior to any approval. Ms. Cullen and Mr. Mirintchev agreed.

Chair Berns agreed that a community gathering place would be a great thing for the neighborhood and stated her excitement to see Phase 2.

The Standards were addressed:

1. Yes
2. Yes
3. Yes
4. Yes
5. Yes
6. Yes
7. Yes
8. Yes
9. Yes

Ms. Dziekan motioned to recommend approval, which was seconded by Ms. Cullen and unanimously approved with the following conditions:

1. The block windows must be removed and replaced with transparent and unobstructed windows without bars.
2. The facade improvement grant application for storefront modifications shall be submitted prior to any approvals.
3. Employees shall not park on the street.
4. Hours of operation shall not exceed 6am-10pm, 7 days a week.
5. Deliveries shall occur via the rear only and not on the street.
6. Substantial compliance with the documents and testimony on record including submittal of a signed Sustainability Plan.

2014 Orrington Ave.

ZBA 17ZMJV-0018

Rabbi Dov Hillel Klein, property owner, applies for a special use permit for the expansion of a Religious Institution, Lubavitch Chabad of Evanston, LLC, in the R1 Single Family Residential District (Zoning Code Section 6-8-2-4). The applicant also requests major zoning relief for an addition including a third story with a 35' peak height and exterior knee-wall above 3' where 2.5 stories with a peak height of 35' and a maximum 3' exterior knee-wall are permitted (Zoning Code Sections 6-8-2-9-A & 6-18-3), a 5.4' north interior side yard setback and 9.5' south interior side yard setback where 15' is required for a non-residential structure (Zoning Code Section 6-8-2-8-B-3), a 27.3' front yard setback where 34' is required (Zoning Code Section 6-4-1-9-A-3), and a 24.8' front yard porch eave setback where 27.6' is required (Zoning Code Section 6-4-1-9-B). The Zoning Board of Appeals makes a recommendation to City Council, the determining body for this case.

Mr. Mirintchev noted he is the architect of record for the case and therefore recused himself.

Ms. Klotz read the case into the record.

Rabbi Klein, applicant, explained the proposal:

- Approximately 40 years ago a special use was recommended by the ZBA for approval but was denied by City Council. The special use was approved via a court case.
- The facility provides Hebrew club, interfaith programs, religious services, special holiday celebrations and meals, etc.
- The facility is not currently ADA compliant with egress and bathrooms.
- Currently there is a winding staircase egress from the second floor, which would not be a safe exit in the case of a fire.
- The facility does not currently have meeting rooms, classrooms, etc. and needs more space to add those. The capacity/impact of the use will not increase – instead operations will not have to share or shuffle spaces.
- A rear addition was proposed years ago but it was never constructed.
- The front façade has been re-designed 7 times throughout this process, and the front of the second story has been reduced in bulk to closer match the neighborhood.
- The existing building is closer to the front property line than the requirement, so any change requires variation.

- No one lives in the building currently, but previously Rabbi Klein lived there and there may be an emergency that necessitates someone to live there. The applicant would like to keep the option for the future, though the building design does not specifically include a dwelling unit buildout.
- Okay with the condition of the 30 person limitation as listed in the original special use.
- Neighbors and the applicant have agreed to a list of conditions that are appropriate.

Chair Berns asked what the hardship of the property is, rather than the hardship of the use or structure, and Mr. Mirintchev responded the institutional use is the largest hardship since the building was originally constructed as a single family home.

Chair Berns asked what the hardship is to exceed the 3' knee-wall, and Mr. Mirintchev explained it is necessary to gain more space, but the third floor is barely visible because the existing parapet wall is 3' tall and blocks much of it from view.

Ms. Klotz clarified the very first plan submitted included dormers rather than a third story, but the design did not meet the Zoning Ordinance definition of a dormer because the space was bigger than just an addition to accommodate a window opening, so the 3' knee wall limitation was then applicable and the addition was considered a third story. A third story just comprised of dormers as defined by the Zoning Ordinance would not provide enough head roof for the use.

Mr. Mirintchev further explained how the impact/capacity of the facility will not increase with the added space, and explained how the current operations require the constant moving of things to use the same rooms for multiple uses.

Chair Berns asked if the height beyond the 3' knee-wall is needed to make the minimum headroom in the rear interior stair, which is needed for egress, and Mr. Mirintchev said yes, the stairwell needs the full third story to accommodate a 7'2" headroom.

Dave Schoenfeld, neighbor, explained that conditions agreed to by the neighbors are important, especially the limitation of uses added in since the 1978 ordinance. Member Gingold noted those uses would require special use approval anyway.

Rabbi Klein summarized that he believes the neighbors like the current proposal, which is less bulky than the original dormer proposal.

The ZBA entered into deliberations:

Member Gingold noted he supports the project and feels it meets the Standards, but is unsure if legally a special use can be conditioned on the operator rather than the land.

Ms. Cullen stated it is unlikely the property will ever revert back to a residential use.

Member Gingold noted there is a large cost to this project and the applicant intends to stay at the property indefinitely.

Ms. Dziekan commended the applicant for working so closely with the neighborhood and considering a variety of designs. The proposal does keep the residential feel of the neighborhood.

Chair Berns noted she does not see a hardship for the property - the hardship is due to the use. She explained she would have preferred to see a proposal with compliant dormers to see if that option would work. However, due to egress code requirements, the third floor with the larger knee-wall is needed.

Attorney Treto clarified the special use can limit the use to a religious institution, but cannot be conditioned to limit the current operation only to distinguish between different religious institutions. Any different type of use would need a different special use.

Ms. Klotz clarified any other religious institution would need either a Substitution of Special Use or new Special Use if there are any operational differences, and explained the Substitution of Special Use process, neighbor notification, and appeal process.

The Standards for Special Use were addressed:

1. Yes
2. Yes
3. Yes
4. Yes
5. Yes
6. Yes
7. Yes
8. Yes
9. Yes

Mr. Gingold motioned to recommend approval of the special use, which was seconded by Ms. Cullen and unanimously approved with the following conditions:

1. Adopt list of 9 conditions agreed to by applicant/neighbors with amendments as marked on Exhibit A that clarifies #3 and strikes #8.

The Standards for Variation were addressed:

1. Yes
2. Yes
3. Yes
4. Yes
5. Yes
6. Yes
7. Yes

Mr. Gingold motioned to recommend approval of the variations, which was seconded by Ms. Cullen and unanimously approved with the condition the project is within substantial compliance with the documents and testimony on record.

2626 Reese Ave. ZBA 17ZMJV-0077

William James, contractor, applies for major zoning relief to construct a 2-story single family residence in the R1 Single Family Residential District. The applicant requests

37.9% building lot coverage where a maximum 30% is allowed (Zoning Code Section 6-8-2-7), a 4' street side yard setback (Hartzell Street) where 15' is required for the principal structure (Zoning Code Section 6-8-2-8-A-2), a 3' street side yard setback where 15' is required for the accessory structure (detached garage) (Zoning Code Section 6-8-2-8-C-2), an accessory structure in a street side yard closer to the street than the principal structure (Zoning Code Section 6-4-6-2-F), and a 1' street side yard setback where 13.5' is required for the porch (yard obstruction) (Zoning Code Section 6-4-1-9-B-1). The Zoning Board of Appeals is the determining body for this case.

Ms. Klotz read the case into the record, and the applicant provided additional documents.

William James, applicant, explained the proposal:

- He spoke with staff prior to purchasing the property and was told variations are determined by their merits and whether they meet the Standards, and that lots like this one are not considered “unbuildable”.
- Achieved the DAPR recommendation for approval with reduced building lot coverage of 37.9% as the current plan shows.
- The hardship is that the City approved the subdivision of the lot and then created the zoning regulations that made it impossible to build on afterwards.
- The applicant explained the massing is appropriate to the neighborhood, and the massing is broken up via a front bay window, recessed middle portion of the house, and varying rooflines.
- The architectural style of the proposed house complements the neighborhood.
- The house is the minimum size needed to fit a typical single family home program of 3 bedrooms on one floor.
- The first floor also has a typical program, with the living room dimensioned on the interior at 15 x 14, dining room at 12 x 13, kitchen at 15 x 13, and 42” stair.
- There is no way to avoid the 15' street side yard variation, so the applicant chose to provide the full 5' interior side yard setback to comply on that side and only need the setback variation on the street side yard side.
- 1' street side yard setback variation is requested for the stoop, which the applicant believes should not trigger a variation.
- 13' wide section of the house has a cantilevered overhang (off of the south interior side yard).
- There is one step up to the stoop, not 2 as shown on elevations.
- Landscaping will be done around the house. There are large street trees surrounding the property so small landscaping/ornamental plants and trees will be placed throughout the property.
- The applicant explained most lots in the neighborhood are nonconforming due to lot size.

Chair Berns noted adjacent lots that are nonconforming in size still meet the street side yard setback.

The applicant continued:

- Lots in the neighborhood should be more appropriately zoned R2 since they are small lots, which would then allow up to 40% building lot coverage so this proposal would comply.

- Explained there are more nonconforming street side yards than conforming in the neighborhood.

Ms. Klotz clarified the minimum lot width in the R1 District is 35' not 50' as shown in the presentation.

The applicant continued:

- He explained the four closest houses to the subject property have building lot coverage of 34.1%-41.6% (estimated via GIS).
- The proposal is more compliant than many nearby homes including 2910 Park Place, 3003 Park Place, 2821 Thayer, and others.
- The applicant reached out to neighbors to find a design acceptable to neighbors, mailed preliminary plans and asked for responses, held a meeting on June 22, 2017 with 3 alternative designs (provided in documents submitted).
- Neighbors did not want a driveway off of Hartzell due to traffic concerns.
- The applicant showed examples of other front stoops/porches close to the property line.

Public Testimony:

Richard Horsting, 2624 Reese Ave, spoke in opposition:

- Provided history of ownership at 2624 and 2622 Reese.
- Disputed the 37.9% lot coverage of 2624 Reese as calculated by the applicant.
- Described the narrow width of his home and explained the proposed house is more narrow.
- Expressed that his attorney would be happy to attend ZBA.
- Indicated that he would be interested in purchasing 2622 Reese.

David Lossi, 2644 Lincolnwood, spoke in opposition, and noted his concern with the aesthetics of the proposed house.

Scott Kirkpatrick, 2904 Hartzell, spoke in opposition, and noted the applicant paid too much for the parcel and obviously has a profit motive.

Colleen Barkley, 2622 Reese, spoke in opposition and noted:

- Vehicle and pedestrian safety is a very big concern due to the proposed location of garage so close to the sidewalk.
- Stormwater management since the house is so close to the sidewalk and water will have to go toward the sidewalk and may freeze.
- Impact of construction on adjacent trees and their root systems, and plant selection proposed.

Allison Stark, 2620 Reese, spoke in opposition and noted:

- Safety is a concern due to the commercial traffic in alley.
- The proposed house (4BR, 3BA) is not the minimum necessary. It is larger than a typical house in the neighborhood.

Mark Newman, 2833 Hartzell, spoke in opposition and noted the lot has remained undeveloped for so long because a house is not economically feasible on it.

John Walsh, 2736 Hartzell, spoke in opposition and stated the proposed house is too large.

Kathy Miller, 2831 Hartzell, spoke in opposition and explained the applicant made mistake in purchasing lot.

Joseph Paradi, 2907 Hartzell, spoke in opposition and stated the proposed house is not the minimum necessary, and there is a profit motive.

Dawn Larbalestier, 2627 Lincolnwood, spoke in opposition and Ann Herder, 2837 Hartzell, spoke in opposition, both agreeing with previous comments.

Jeff Clark, 2815 Hartzell, spoke in opposition and stated the only way the property can be developed is if it is with the lot to the south, which Mr. Horsting is not interested in selling.

Helen Madden, 2932 Park Place, spoke in opposition and stated there is not enough green space in the proposal.

Ann Rigoti-Clark, 2815 Hartzell, spoke in opposition and stated the applicant was comparing a proposed new home to pre-existing homes that were built decades ago.

Mr. Gingold motioned to continue the case to January 16, 2018 at 7:00 pm, which was seconded by Ms. Cullen and unanimously approved.

Other Business

There was no other business.

Discussion

There was no additional discussion.

The meeting adjourned at 11:03pm.