



MEETING MINUTES
ZONING BOARD OF APPEALS

Tuesday, June 19, 2018

7:00 PM

Civic Center, 2100 Ridge Avenue, Council Chambers

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

Members Absent: Scott Gingold, Myrna Arevalo

Staff Present: Melissa Klotz, Scott Mangum

Presiding Member: Mary Beth Berns

Declaration of Quorum

With a quorum present, Vice Chair Cullen called the meeting to order at 7:00 p.m.

Minutes

Ms. Cullen motioned to approve the meeting minutes of May 15, 2018, which were seconded by Ms. McAuley and approved 4-0 with one abstention.

New Business

2901 Central St.

ZBA 18ZMJV-0037

Kathia Jones and Ryan Jones, lessees, apply for a special use permit for a Type 2 Restaurant, Gata Bee Karma In. DBA – Gotta B Crepes, in the B1a Business District and oCSC Central Street Overlay District (Zoning Code Section 6-9-5-3). 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.

Kathia and Ryan Jones, applicants, explained the proposal:

- Have been making crepes for 15 years
- Use locally sourced food when possible
- 12 employees; max 6 employees per shift
- 4 parking spaces; 1 is for cargo van
- Some employees use public transit
- Deliveries 3 times per week after 7am in mid to late morning
- Mostly breakfast and lunch hours, evening hours on Thursday - Sunday
- New awnings on existing frame; no other exterior changes
- Will add bench out front on private property

Deliberation:

Ms. Dziekan noted she is excited to see a current Evanston business expand and fill a space that has been vacant for at least two years. Ms. McAuley agreed.

Ms. Cullen agreed that this small business will fit in well on Central Street. Mr. Mirintchev agreed.

Chair Berns discussed hours of operation in the area, noting maximum hours of existing businesses from 6am - 11pm with most businesses closing by 10pm.

Standards:

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

Ms. Dziekan motioned to recommend approval with conditions, seconded by Ms. Cullen, and unanimously recommended for approval.

1. Hours of operation shall not exceed 6am - 10pm
2. Employees shall not park in on-street metered spaces
3. Sustainability Plan
4. Substantial compliance with the documents and testimony on record.

1822 Lyons St.

ZBA 18ZMJV-0047

Cooper Kerins, property owner, applies for major zoning relief to establish a third dwelling unit in an existing two-family residence in the R4 General Residential District. The applicant requests a multiple family residence on a lot width of 40' where a lot width of 50' is required (Zoning Code Section 6-8-5-5), a total lot size of 2,358 square feet where a lot size of 2,500 square feet per dwelling unit is required (Zoning Code Section 6-8-5-4), and the addition of zero parking spaces where 2 additional parking spaces are required (Zoning Code Section 6-16-3-5). The Zoning Board of Appeals makes a recommendation to City Council, the determining body for this case.

The applicant was not present.

750 Chicago Ave.

ZBA 18ZMJV-0044

Thomas Ahleman, architect, applies for major zoning relief to establish an outdoor seating area at FireHouse Grill in the C1a Commercial Mixed-Use District. The applicant requests to eliminate two ADA parking spaces for a total of zero parking spaces where 28 parking spaces were originally required and 2 parking spaces currently exist (Zoning Code Section 6-16-3-5 Table 16B), a 3' tall wood fence (continuous planter box) that is 1' behind the front building facade (Chicago Ave.) where fencing must be at least 3' behind the front building façade (Zoning Code Section 6-4-6-7-F-2-e), and an 8' tall wood fence with a 0' street side yard setback (Madison St.) where the maximum allowed fence height is 6' and a 2' street side yard setback is required (Zoning Code Section 6-4-6-7-F). The Zoning Board of Appeals makes a recommendation to City Council, the determining body for this case.

Ms. Klotz read the case into the record.

Pat Fowler, restaurant owner, explained the proposal:

- Purchased restaurant last year
- 8' fence is needed due to fire and safety concerns and was reviewed by DAPR
- Want the taller fence to obscure the train embankment
- Currently the restaurant has seating for 100 on the first floor (second floor rarely used but for special events) and the patio holds 36. The expanded outdoor seating will increase the patio to 76 seats.
- Trash enclosure is 6' tall and wood.

Ms. Dziekan asked how the proposed 8' fence is keeping with the intent of the Zoning Ordinance and if there are other restaurants with similar situations that have been allowed an 8' fence.

Chair Berns asked why additional patio seating is needed, and the applicant responded the current area is not attractive and would be better utilized as an outdoor space for more people to enjoy, and with the new residential high rises in the area there are more restaurant patrons. The applicant pointed out the site plan that shows nearby on-street ADA spaces.

Ms. Dziekan asked how most Evanston restaurants handle ADA parking and Ms. Klotz explained if a business has any on-site parking then they must provide ADA parking as well. However, many Evanston restaurants do not have any on-site parking therefore they are not required to have any ADA parking on site. Ms. Dziekan noted it seems this restaurant is being penalized for having on-site parking that limits the patio size, whereas other restaurants do not have that issue.

Ms. McAuley noted the canopy over the seating area should help mitigate noise concerns from nearby residents. Ms. Dziekan explained there is a noise concern beyond the patio - that when the front restaurant door is propped open the noise from inside travels down the Chicago Ave. corridor.

The applicant clarified:

- Restaurant and patio are open from 11:30am - 11pm at the latest.
- Will make sure not to prop the door open any more to mitigate noise from traveling out of the building.

Mary Goering, 715 Madison St., brought 2 letters from neighbors who will be unable to attend; marked Neighbor Exhibits 1 and 2. The main concern is visibility from the corner - many bicyclists take this route to the lake and many children take the route to travel to Lincoln School. An 8' fence will block visibility near the corner, which will be even more problematic when delivery trucks are there. Ms. Goering recommended improving the embankment with landscaping and/or public art instead. There are also concerns about adequate parking in the area, and often there are 4-5 vehicles parked on the property even though there are officially only 2 parking spaces.

Steve Goering, 715 Madison St. noted he recently saw a ComEd truck working that was parked in the area of the proposed fence and it had a surprisingly large impact on visibility. Mr. Garing submitted a letter Neighbor Exhibit #3.

The applicant responded they can lower the wood fence to 6' and pull it away from the property line to increase visibility around the corner, and could add one more planter in the area instead. Ms. Klotz clarified the reduced fence size and location is code compliant if it is set 2' north of the street side yard (Madison St.) property line.

Deliberation:

Ms. Dziekan noted it is the minimum change necessary to pull the fence 2' away from the property line and lowering it to 6', which would then be compliant, and asked if the patio hours should be limited to earlier than 11pm due to the noise concerns. Chair Berns suggested a condition to keep the main restaurant door closed, and that the restaurant owner will likely patrol the patio noise himself to maintain a good relationship with the neighborhood.

Ms. McAuley noted the canopy is desirable to neighboring residents since it will mitigate noise.

Chair Berns stated she is against taking away any ADA parking stalls because it marginalizes one group over another. Ms. Cullen agreed.

Standards:

1. Yes
2. Yes
3. No (Chair Berns, Ms. Cullen - since 2 ADA spaces already exist, that is the minimum change)
Yes (Ms. McAuley, Ms. Dziekan - because most restaurants in the area do not have on-site ADA parking so it is unfair to this business. There is ADA parking on the street, one on-site, and the area is transit oriented)
4. No (Chair Berns, Ms. Cullen - because there is no practical difficulty if the patio area is not expanded)
Yes (Ms. McAuley, Ms. Dziekan - because the additional seating is needed for the business to remain competitive and be able to grow)
5. No (Chair Berns, Ms. Cullen - because the outdoor seating benefit is at the expense of ADA individuals). Ms. McAuley suggested the applicant speak with Inclusion Solutions, a local company that finds solutions to issues such as this to find a way ADA patrons can utilize the restaurant appropriately i.e. to call ahead and have the restaurant ready with valet to park for ADA individuals.
6. No (Chair Berns, Ms. Cullen)
Yes (Ms. Dziekan, Ms. McAuley)
7. No (Chair Berns, Ms. Cullen)
Yes (Ms. Dziekan, Ms. McAuley)

The case was separated into 3 motions:

Ms. McAuley motioned to recommend approval of the amended site plan with 1 on-site ADA parking space, which was seconded by Ms. Dziekan and recommended for approval 3-2 with one condition, and with Chair Berns and Ms. Cullen dissenting:

1. The restaurant shall seek help from Inclusion Solutions regarding additional parking for ADA patrons.

Ms. McAuley motioned to recommend approval of the 3' tall planter box fence, which was seconded by Ms. Dziekan and unanimously recommended for approval.

Ms. McAuley motioned to recommend denial of the 8' wood fence, which was seconded by Ms. Dziekan and unanimously recommended for denial.

2112 Ewing Ave.

Margaret Henz, property owner, applies for major zoning relief to eliminate conditions imposed on granted variation case ZAR 01-33-M to allow the coach house to be legally occupied and rented by persons who are not members of the family occupying the principal dwelling unit (as would otherwise be allowed by City Code if not for the variation conditions) (Zoning Code Section 6-3-8-14). The Zoning Board of Appeals is the determining body for this case.

Ms. Klotz read the case into the record.

Margaret Henz, property owner, explained the request:

- Density - Will increase the total density of the block to 20, which is still appropriate. The Kendall College block has 19 homes with 11 coach houses, which brings the total number of families up to 30.
- Parking - would likely add 1 vehicle which will not change the character of the neighborhood or increase parking issues.
- There is a 2-flat on the block that is a rental and not owner occupied and has existed for over 100 years.
- The coach house is tucked in the back of a double lot and has a fence on both sides.
- If the coach house can be properly maintained due to normal rent, it will benefit the neighbor rather than the structure becoming dilapidated.
- The property is taxed as having 2 dwelling units.
- The suggested Affordability clause will reduce the property income by $\frac{1}{3}$ even though it is fully taxed, which is a large tax burden that could then not be recouped.
- City Council unanimously approved the rental of coach houses this year, and this coach house is now the only one in Evanston that cannot be rented out due to the variation condition.
- The Affordability condition from DAPR is not what the neighborhood wants - instead it is much preferred to have a condition for Owner Occupied within one of the units instead.
- The neighborhood is expensive and the tax bill is high. At 80% AMI the rent would be \$1523/month which is 66% of market value. The coach house is worth \$250,000 per the tax bill.
- Property was purchased 5 years ago and is currently owner occupied. It was fine to not rent out the coach house based on the old tax bill. Now that the new tax bill reflects a second dwelling unit, the coach house needs to be rented to cover that tax. When the property was purchased it was valued at \$300,000.
- For 2 weeks the previous house tenants (3 people) and the property owner lived at the property.

- Was under the impression the coach house could be rented out after a discussion with the Zoning Administrator a few months earlier.

Chair Berns asked what the public benefit is since the request will extract additional income from the property, and explained the staff recommendation to provide an affordable unit at this location is a good public benefit since there is a need for affordable housing and it is difficult to find affordable housing in the 6th Ward. The applicant responded that it would be a benefit to provide affordable housing, and is better than not being able to rent it out at all, but none of the other coach houses in the city are required to be affordable.

Chair Berns clarified the property owner received a benefit when the height variation was approved since the height allowed for a substantially larger second floor. The condition was in return for that benefit. If the condition is removed, the benefit to the property owner still exists. Chair Berns suggested the owner has an issue with the Cook County Assessor rather than the ZBA.

Ms. McAuley clarified the hardship is due to the Cook County Assessor, but getting the property reassessed due to a zoning condition is unlikely.

The property owner clarified she understands the affordable requirement, but feels this coach house is being singled out compared to other coach houses that do not have the requirement. Also, the pricing of an affordable unit is a difference of about \$700 a month.

Ms. Dziekan noted this would provide a smaller housing unit in the 6th Ward, where this type of housing is not often available, which is therefore a public benefit.

Ms. McAuley noted she is troubled that staff recommended an affordable requirement be placed on this coach house when not placed on other coach houses - it seems inequitable. However, it would be great to have an affordable unit in that area.

Abbey Prujan, 2108 Ewing Ave., explained when the original variation was granted, it was explained the second story would be used as a home office or in-law apartment. It was never supposed to become a rental dwelling unit. Ms. Prujan noted she only supported the original variation because it included that condition and would never have supported it without that condition. The structure would not exist today if not for the original variation and condition.

Jeanne Laseman, 2116 Ewing Ave., supports the rental of the coach house because it is important to have this type of small and nice housing in Evanston.

Brad Knight, 2109 Forestview, stated he is against rental of the coach house, and that it is unfortunate that this issue has divided the neighborhood multiple times. The argument that this coach house should be treated the same as other coach houses in Evanston is not valid because this structure is large and imposing and was granted a variation. The windows all face away from the main house and towards Mr. Knight's childrens' bedroom windows instead. Mr. Knight submitted photos of the coach house from his property's view, labeled Neighbor Exhibits 1-6.

Tanya Knight, 2109 Forestview, agreed with Mr. Knight and Ms. Prujan.

Laura Biandri, 2800 Payne, agreed that the coach house should be allowed as a rental, and noted she previously lived in a coach house elsewhere in Evanston and was very happy to be able to enjoy Evanston from that coach house.

Kinella Fabbri, 2111 Ewing agreed with Ms. Laseman in support of the rental.

Ms. Henz affirmed she only requests to rent the coach house due to the new high tax bill and recent change the City made that allows all other coach houses to be rented out. The coach house never should have been built as it was, but since it is now there, it is wasteful not to utilize it. The area is zoned R1 but there is a full rental 2-flat on the same street, and that property is not detrimental to the neighborhood. The neighbors that oppose the coach house have other houses closer to them. The property is currently listed with the coach house as having the potential to be rented, and is clarified to anyone showing serious interest in the property. One offer was received and then withdrawn once the potential buyer learned the coach house's current status.

Deliberation:

Ms. McAuley noted this is a difficult case, and is troubling since the City recently approved the rental of all coach houses that are smaller and more affordable than other Evanston housing stock. It is understandable that someone would seek this type of housing in northwest Evanston to take advantage of the schools. It also seems reasonable of the City to require the affordable housing public benefit to encourage someone who is in need of affordable housing since there is not a lot of affordable housing in that area of the city.

Ms. Dziekan agreed, but noted she struggles with whether or not there should be an affordability clause since all other coach houses do not have that requirement. Ms. Dziekan noted her family lived in a coach house for 1.5 years in Evanston until her family was able to buy a single family home in that same neighborhood.

Chair Berns added this particular structure only exists because of the original height variation, which included the condition. Since the property owner received the benefit of constructing the building, the City should receive a benefit such as affordable housing as well. Chair Berns clarified to neighbors that any single family residence in the City can now construct a coach house and rent it out so long as they meet the zoning requirements. Since the City recently approved coach house rentals, it is appropriate to allow this coach house as a rental, and the rent basically pays the high tax bill.

Mr. Mirintchev agreed that the coach house should be a rental and affordable for 10 years since the City recently approved coach house rentals and the property owner that constructed the coach house received a benefit when the height variation was granted. Ms. Arevalo agreed.

Ms. Dziekan asked when the 10 year affordability begins, and ZBA Members agreed it starts right away, whether the structure is actually rented out or not, and sunsets 10 years from now.

Standards:

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

Ms. Dziekan motioned to approve removal of the rental conditions with the new condition that the coach house shall be an 80% AMI affordable unit for 10 years.

Ms. McAuley asked if the property should be conditioned that one unit on the property be owner occupied, and ZBA Members concurred that should not be a condition. Ms. McAuley amended the current motion to include a condition to prohibit the coach house as a Vacation Rental. The amended motion was seconded by Mr. Mirintchev and unanimously approved.

1822 Lyons St.

With the applicant now present, Ms. Klotz read the case into the record.

Cooper Kerns, property owner, explained the proposal:

- Purchased the property with a fully finished basement set up for laundry facilities.
- Since the space is finished, it is a waste not to put a dwelling unit down there.
- Will dig down about 1 foot to achieve the necessary ceiling height, build new walls, and finish out the basement as a dwelling unit.
- Property is owner occupied and intends to stay that way.
- There is no parking on site for any of the units.
- Owner currently parks on Lyons or Darrow and is always able to find parking.
- Basement would be a 2 bedroom unit at \$1200 per month (which is below the 80% AMI. Rent of the second floor unit is \$1250).

Ms. McAuley stated that in her experience street parking is difficult to find on Lyons and the surrounding area. Ms. Cullen agreed, noting she lives near there.

Ms. Cullen noted this area of the city has more than its share of affordable units.

Carlis Sutton, 1821 Darrow Ave., stated it is encouraging that this property would be owner occupied, and there is one building nearby with a basement unit. However, there are three affordable buildings in the vicinity and one is extremely problematic. Parking is very difficult in the area and vehicles often block Mr. Sutton's driveway. Recently a fire truck could not get through the street and had to back up.

Mr. Kerins noted the parking issues on Lyons stem from residents that live on Emerson St. and park on Lyons because it is not permit parking.

Deliberation:

Ms. Cullen clarified many residents in that area do not want to have to pay for permit parking, and noted there was a large drug problem on that block as little as one year ago but the area is doing much better now.

Ms. McAuley noted she is supportive of the proposal but does understand parking is a concern. Ms. Dziekan agreed, and asked if it is possible to condition the approval on the property being owner occupied.

Mr. Mangum suggested owner occupancy could be a condition included in the ZBA recommendation and then staff can confirm if the condition is legally acceptable prior to City Council.

Mr. Mirintchev noted his support for the request, even given the parking concerns. He also stated that the proposed site plan of the basement unit is not laid out well so consideration to changing the layout should be given.

Chair Berns explained her support including the owner occupancy condition.

Ms. Cullen was happy to see the building occupied since it previously sat vacant, and really likes the owner occupancy because that is what keeps bad tenants who sell or buy drugs away.

Standards:

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

Ms. Cullen motioned to recommend approval with conditions, which was seconded by Ms. Dziekan and unanimously recommended for approval:

1. Basement unit shall be an affordable unit for 10 years at 80% AMI.
2. Property shall be owner occupied for 10 years.
3. City Council should explore making Lyons and/or surrounding streets permit parking zones.

Other Business

There was no other business.

Discussion

There was no additional discussion.

The meeting adjourned at 9:54pm.