



MEETING MINUTES
ZONING BOARD OF APPEALS

Tuesday, July 17, 2018

7:00 PM

Civic Center, 2100 Ridge Avenue, Council Chambers

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

Members Absent: Myrna Arevalo

Staff Present: Melissa Klotz, Scott Mangum

Presiding Member: Mary Beth Berns

Declaration of Quorum

With a quorum present, Chair Berns called the meeting to order at 7:05 p.m.

Minutes

Ms. McAuley motioned to approve the meeting minutes of June 19, 2018, which were seconded by Ms. Dziekan and approved 4-0 with one abstention.

Ms. Cullen arrived.

New Business

710 Main St.

18ZMJV-0055

Adam Paranto, lessee, applies for a special use permit for a Type 2 Restaurant, Reprise Coffee Roasters in the B2 Business District (Zoning Code Section 6-9-3-3). 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.

Adam Paranto, lessee, explained the proposal:

- Will serve bakery items, wraps, bowls, and small plates in addition to coffee.
- Coffee is roasted at a facility in Winnetka
- Baked goods are not made on site
- Deliveries will occur through the back door/parking lot
- Milk delivery will occur 1 time per week during morning hours
- One on-site parking space is dedicated to this business
- Maximum of two employees per shift, and expect most employees will walk/bike/take transit rather than drive to work
- Will compost coffee grounds and recycle applicable materials
- Will comply with Sustainability Plan
- No exterior modifications to the building are proposed
- Plan to have outdoor seating starting next year

Shawn Chinsky, 714 Main St., owns the 710 Main St. building. Mr. Chinsky encourages support of this type of active storefront business, which is good for the entire business district.

Alan Price, 700-708 Main St., owns the 700-708 Main St. property, and stated this new business will help the Main Street Business District by increasing foot traffic.

Deliberation:

Mr. Gingold noted this is an excellent project that appears to have strong support from many in the business district. Ms. Cullen agreed.

Chair Berns asked what maximum hours of operation are appropriate, and the Board agreed to 6am - 10pm.

The Standards 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 recommended for approval with conditions:

1. Hours of operation shall not exceed 6am - 10pm, 7 days a week.
2. Employees shall not use metered parking spaces on Main Street.
3. Sustainability Plan shall be followed.
4. Substantial compliance with the documents and testimony on record.

3318 Grant St.

18ZMJV-0054

Phil & Marcia Vickman, property owners, apply for major zoning relief to enlarge a one-car attached garage into a two-car attached garage in the R1 Single Family Residential District. The applicants request 32.1% building lot coverage where 30% is allowed and 30.7% currently exists (Zoning Code Section 6-8-2-7), a 0.82' west interior side yard setback where 5' is required and 0.82' currently exists (Zoning Code Section 6-8-2-8-A-3), and a 26.5' rear yard setback where 30' is required and 28.7' currently exists (Zoning Code Section 6-8-2-8-A-4). The Zoning Board of Appeals is the determining body for this case.

Ms. Klotz read the case into the record.

Bernard Citron, attorney, and Marcia Vickman, owner, explained the proposal:

- Garage was existing when the owners bought it, but the owners did obtain a variation in 1999 to construct an addition and attach the garage to the house.
- Alternative would be to tear down the garage and rebuild it elsewhere on the property, which is wasteful.

- Submitted a photograph of the property immediately to the west that has an attached garage.
- Purchased the home in 1993.
- Wanted to attach the garage in 1999 because they built an addition on the house that was 2' from the existing garage location so it made sense to attach it.
- Other properties on the street also have attached garages - they are not out of character to the neighborhood.
- Have 3 vehicles so currently one car is in the garage, one on the driveway, and one in the street.
- Detached garage would need to be on the southwest corner of the property but that is where garbage trucks cut the corner of the alley to make the turn.
- The applicant submitted photograph of the alley intersection.
- The other corner of the rear yard has mature trees in the way of a garage.
- It would be a hardship to tear down the existing garage since there is nothing wrong with it.
- It would be a hardship to use a substantial portion of the rear yard for a detached garage, walkway to the garage, and driveway.
- The applicant submitted a letter explaining the request to 16 surrounding neighbors and received back letters of support from 10 neighbors and no opposition.

Chair Berns noted there is a detached garage on the property to the south that is located in the corner of the alley intersection and the garbage trucks maneuver around that building.

- The applicant stated they were told about 10 years ago that the City would have the garbage trucks rerouted so they would not cut through the corner of their property, but they never were.
- The applicant currently shuffles cars around to get the one out of the garage, which is inconvenient.

Nancy Schlossberg, architect, explained:

- They will retain as much of the existing garage as possible.
- The garage addition makes the proposed garage 19' deep which is the minimum needed to fit a car.
- The addition is approximately 80 square feet.
- The property is legally nonconforming due to lot size. If the lot was a standard lot size the building lot coverage would be compliant.
- Construction will include new foundations/footings under the existing garage - will underpin to 42" below grade.

Chair Berns asked if it is cost prohibitive to underpin the current garage and explained it would be cheaper to tear down the existing garage. Ms. Schlossberg agreed.

- As DAPR requested, the roof plan was modified to include a continuous gutter with underground drainage into the front yard and rear yard on the private property so that stormwater is all contained within the property.
- The side yard setback variation will match the existing garage setback at .82'.

- The requested variations will not impact any neighbors because the garage abuts the alley.
- The existing driveway and walkway will be removed to aid in drainage. The new garage will feature access directly off the alley.
- Different options were proposed to the homeowners, but all options were an attached garage since that is what the homeowners wanted. All options required variations. A garage in a compliant location was never considered.

Chair Berns noted a detached garage would have a smaller footprint, which would help the building lot coverage.

The applicant explained:

- A detached garage is a hardship because you have to walk outside in the elements to get to the detached garage, and would have to walk down the alley since there is not a door off the rear of the house besides the sliding door that cannot be locked from the outside.
- Owner was told it would cost \$4,000 more to demolish the current garage and build a new one.

Mr. Mirintchev asked if the option to add on to the garage along the side of the house instead of towards the rear yard was considered. The architect responded no because that would block significant windows and light from the house.

Mr. Mirintchev noted safety measures will be needed for when vehicles exit out of the garage into the alley since the garage is so close to the alley and you cannot see if anyone is coming down the alley while backing out. The architect responded mirrors can be installed on the garage to address that.

Mr. Citron summarized that the condition was not created by the current homeowners since the garage was in that location when the property was purchased. It was connected to the house in 1999, but the location was already there. Mr. Citron also noted it is unfair to tell someone to tear down their existing structure to build it elsewhere on the property. The request is the minimal garage enlargement needed to fit two vehicles. With parking for two vehicles, the property is brought into compliance for the number of parking spaces required.

Deliberation:

Ms. McAuley stated Grant St. is very narrow and heavily traveled, so there is a benefit to getting vehicles off of the street. Tearing down a structure to follow the strict letter of the zoning requirements is not ideal. There is good sense in approving these variations.

Mr. Mirintchev stated he lives in that area. He explained there is a mixture of a self-created hardship in this case, but on the other hand it would be beneficial to add a parking space to get a vehicle off of the street. Given that benefit, the variation should be approved. However, expanding the current garage will be more costly than simply tearing it down. Alternative plans should have been explored.

Ms. Dziekan stated she appreciates that the owners want to invest into the property.

Mr. Mirintchev explained the building lot coverage variation was self-created when the current owners constructed the addition on the house.

Ms. Dziekan stated there are Standards that are not met, such as the stated hardship of walking outside to get to a garage. There is no financial hardship. Some of the issues are self-created due to the addition to the house and attaching the garage in 1999. While it is understandable the homeowners would not foresee the future, not all Standards are met.

Mr. Gingold explained the hardship was self-created. The building lot coverage variation was self-created when the house addition was constructed in 1999. The side yard setback of the garage itself was not self-created. However, the property is substandard in lot size, and if it were a compliant lot size there would not be a building lot coverage issue.

Ms. Cullen stated the most important point is that a vehicle will be removed from parking on the street, so she supports the proposal. Ms. McAuley agreed, noting that is a substantial public benefit.

Ms. Dziekan noted the public benefit standard is not an issue because the proposed garage is not intended to extract additional income from the property.

Chair Berns stated the degree of nonconformity was increased when the garage was attached to the house. Functionally, it will be nearly impossible to park in the garage since the alley is 16' wide and the setback is less than 1'. A multiple-point turn will be required to park within the garage as it is proposed. The hardship was self-created. Chair Berns suggested if the variation is approved, it should be conditioned that if the existing garage cannot be underpinned and needs an entirely new foundation where the existing garage will essentially be torn down, then the variation should not be valid.

The Standards were addressed:

1. Yes
2. Yes
3. No (Berns); Yes (Gingold) - because the property is substandard in size.
4. No (Berns); Yes (McAuley) - having to tear down a structure on the property is a hardship.
5. Yes
6. No (Berns, Gingold, McAuley)
7. No (Berns); Yes (McAuley) - it is the least deviation necessary without tearing down the existing garage.

Ms. McAuley motioned to approve the variations, which was seconded by Ms. Cullen, with the condition that if the entire existing garage cannot be underpinned and must be torn down and reconstructed, the variation is no longer granted. With a vote of 3-3, the case continues to August 28th ZBA for the final ZBA member to cast a vote. Testimony is closed so no additional information may be provided.

2118-2120 Ashland Ave., 1625 Payne St., & 2147-2149 Dewey Ave. 18ZMJV-0058
Kathy Lichtenstein, lessee, applies for special use permits for a Daycare Center –

Domestic Animal, and a Kennel, Rex's Place, in the MXE Mixed-Use Employment District (Zoning Code Section 6-13-4-3). The applicant proposes a special use permit to expand the current Daycare Center – Domestic Animal at 2120 Ashland Ave. to include 2118-2120 Ashland Ave., and to include 2147 Dewey Ave. as the manager's residence with outdoor animal space and 2149 Dewey Ave. as the business owner's residence with outdoor animal space. The applicant also proposes a special use permit to expand the existing Kennel at 1625 Payne St. (that was previously approved as an accessory use to the Daycare Center – Domestic Animal at 2120 Ashland Ave.), and to include a Kennel at 2118 Ashland Ave. with outdoor animal space at 2147-2149 Dewey Ave. 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 and explained the proposal, including the current legally-nonconforming status of the business.

Kathy Lichtenstein, applicant, explained:

- Animal noise will be minimized by soundproofing the walls and ceiling, mats on the floors, and individual kennels that do not face each other.
- The closest residence will be the manager's house.
- Dogs are typically outside for one hour at a time per day.
- Currently have 50-90 dogs in the daycare, and propose 40 at the kennel.
- Dogs are typically not walked around the neighborhood - there isn't enough staff. Instead the dogs are walked down the alley into the outdoor space.

Ms. McAuley noted she owns the property across the alley, and she does hear the dogs bark a lot when they are outside. She also explained there are burn spots in the grass all over the neighborhood from a combination of this business and another dog business in the area.

Mr. Gingold noted a condition to recommend for the special use would be that the applicant work with neighbors to soundproof to minimize the noise to the extent possible. Ms. Lichtenstein agreed she would do that, and explained that with the expansion the business will have additional funds available for more improvements such as additional soundproofing.

The applicant continued:

- On nice days only, 20-25 dogs are walked through the alley into the outdoor play area. That has been done for the last 8 years.
- Proposed kennel is at 2118 Ashland Ave. with t-shirt shop in between the proposed kennel and existing doggy daycare, all in the one building.
- Dogs are not taken outside until after 9am and are back inside by 1pm.
- Not all kennel dogs will use the outdoor space - some are not able to be around other dogs and need to remain in a cage.
- The amount of dogs in the outdoor play area at one time will not increase.
- The dogs do make noise during the day - usually during drop off since they are excited. Dogs in the kennel do not typically make noise; they just sleep.

Ms. McAuley asked if a condition prohibiting the dogs being walked in Twiggs Park would be acceptable to ensure the park is not damaged, and Ms. Lichtenstein agreed.

Charles Edwards, lives across the street and works at Auto Doctor, has no issue with the business itself, but clients that drop off dogs park everywhere. Ms. Lichtenstein explained she has applied for a loading zone in front of the garage door of the doggy daycare at 2118-2120 Ashland location, which would not remove any street parking. Mr. Edwards added the dogs that are outside do bark and it is loud and annoying. The expansion will be right next to his waiting room so he wants to ensure the noise from dogs outside will not travel into his quiet waiting room.

Mr. Gingold noted the veterinarian on Central Street faced concerns regarding animal noise from the office uses adjacent and above, so sound deadening measures were taken, and Mr. Gingold has never heard any noises walking past there daily.

Dolly Patterson, 1812 Brummel, stated her dog attends Rex's Place and she has seen the business grow over the years. The facility is extremely clean. Dogs are excited during drop off but then settle down. The only alternative in Evanston is caging at PetSmart, which is not a viable option for many animals.

Sally Bardon, 1111 Church St., explained she has a small, tense dog that is not happy when home alone so he attends Rex's Place a couple of times a week. Ms. Bardon explained her dog is aging and may need to be placed in a cage in the future instead of within the free-range area, so the additional kennels are extremely useful.

Rachel Talin, 2127 Ashland Ave., explained she does not want to discourage business expansion, but wants to ensure there is proper sound abatement ahead of time, and the drop-off parking situation needs to be addressed. There should be a formal plan established to ensure the drop-off zone is properly utilized.

Deliberation:

Mr. Gingold stated he hears legitimate concerns that need to be addressed via conditions, but is supportive of the proposal.

Ms. Dziekan noted her dog has attended Rex's Place on occasion and understands the community need. There are conditions to be thoughtful about minimizing impacts on adjacent properties.

Mr. Gingold stated sound abatement is needed for the current location and expansion locations, and that the applicant should work with staff to establish a drop-off zone. Ms. McAuley added there should be conditions for no dog walking in Twiggs Park or throughout the neighborhood.

Standards:

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

8. NA
9. Yes

Mr. Gingold motioned to recommend approval with conditions:

1. Hours open to the public for drop-off and pick-up are limited to 6am - 7pm
2. All subject properties shall be fit and retrofit with sound abatement measures to minimize the amount of sound audible to neighbors, including complaints that may occur after initial sound abatement measures are enacted.
3. Loading zone for pick-up and drop-off shall be established and approved by staff.
4. No dog walking in Twiggs Park and the grassy neighborhood areas.
5. Substantial compliance with the documents and testimony on record.

The motion was seconded by Ms. Cullen and unanimously recommended for approval.

90-92 Kedzie St.

18ZMJV-0059

Matt Rodgers, zoning consultant, appeals the Zoning Administrator's decision to deny minor zoning relief (case number 18ZMNV-0046) to construct a 6' fence in the front yard where 6' front yard fences are not permitted (Zoning Code Section 6-4-6-7-F). The Zoning Board of Appeals is the determining body for this case.

Ms. Klotz read the case into the record.

Matt Rodgers, zoning consultant, explained the appeal request:

- Requested a 6' metal fence in the front yard and was denied by the Zoning Administrator.
- 8 of the 27 front yard fences in the surrounding area are 6' fences. The ones that abut or are across the street from a park are typically the 6' fences.
- A compliant fence location does not secure the front of the property or entrances to the house or garage.
- The fence is needed due to nuisance intruders who want to ring the doorbell, leave gifts, talk to the wife and kids, etc.
- Different types of fencing such as an invisible dog fence were considered but the property owner is not willing to shock the dogs, and an invisible dog fence would not deter many nuisance intruders.

Chair Berns suggested the landscaping proposed in the front yard would deter nuisance people, and the appellant said that will help, but without a fence there are many that will not be deterred.

Mr. Gingold asked if the owner currently lives at the property and if there have been any incidences so far, and Mr. Rodgers said yes they live there and there have not been any issues so far, but there has been numerous news crew vehicles and the public hanging around the property since it recently became clear who lives there.

Mr. Rodgers explained the fence that is now on the property is a temporary fence that will be in place through construction of an addition, but will then be replaced by a permanent metal fence.

Ms. Dziekan asked if a 4' front yard fence with a 6' fence in the other compliant locations could achieve the same goal if also heavily landscaped in the front yard. The appellant stated if that is the wishes of the Board then yes but that is not as secure in achieving the goal of deterring nuisance trespassers.

Pierre Durand, 747 Sheridan Rd., asked how many properties right on the lakefront have 6' fences, and also asked what happens when the property is sold and the fence stays there even though there is no longer a nuisance concern.

Alderman Melissa Wynne explained she met with a group of the neighbors including Mr. Durand and the wife of the client, and walked the property that featured a line showing where the proposed fence would be placed. Neighbors understand the reasoning for the fence, the materials proposed, the height of landscaping, and the view easement that exists in the rear yard that will not be disturbed. There was consensus among most of the neighbors that the proposal is acceptable so long as the landscaping is kept to the approximate height of the fence and the view easement in the rear yard is maintained.

Mr. Gingold asked if it is appropriate to grant a variation based on a homeowner's celebrity status, and Alderman Wynne responded she is merely relaying the discussion that took place among the neighbors.

Mr. Durand added the park across the street is very quiet and it is policed regularly. Additionally, if the fence is needed for security from dangerous people, those same people may go to his home or cut through his yard.

Carla Price, 814 Sheridan Rd., asked why the owner would purchase the property knowing there is a park across the street if he has security concerns. He should not be granted an exception because of who he is.

Alan Price, 814 Sheridan Rd., stated he has a fence that was recently replaced and was required to replace it as close to the same as the original fence dating back decades because there are specific standards for what can be done in historic areas.

Mr. Rodgers clarified the landscaping discussed with neighbors was agreed upon in the 6' - 8' range, and Alderman Wynne agreed, while Mr. Durand noted he would greatly prefer 6' to 8'.

Deliberation:

Mr. Gingold noted the appeal first needs to determine whether the Zoning Administrator's decision was erroneous.

Ms. Klotz read the Standards for Fence Variations.

Ms. Klotz clarified where on the property fencing is permitted by right.

Mr. Gingold stated there is a perceived safety concern, not necessarily a real safety concern since the owner has not had any incidents since moving to the property. The request is against the character of the neighborhood so the variation should not be granted.

Ms. Cullen agreed, noting she was there on the 4h of July when there were large crowds of people at the park and there were no safety issues. Ms. Cullen feels the zoning regulations should be upheld.

Ms. Dziekan agreed with Mr. Gingold and Ms. Cullen.

Ms. McAuley noted the fence in the easement has been there for a long time. A 4' fence along the front property line would not be as noticeable since it would be so much further back from the current easement fence.

Chair Berns noted the Standards for Fence Variations do not include a hardship standard. Chair Berns explained that the three Fence Standards appear to be met. Mr. Gingold asked when those Standards would not be met if requested by any other property or owner. Chair Berns responded that others may not meet those Standards, but in this case because there is so much space surrounding this property, which features a larger right-of-way, larger front yard setback, larger side yard and is abutting the lake, that it makes it a different case where it will not be injurious to neighbors.

Ms. McAuley noted there are some neighbors that do believe it will be injurious.

Mr. Gingold stated a compliant fence would achieve the same goals. The purpose sought by the variation can be met with a compliant fence. Chair Berns stated that is not a Standard.

Ms. Dziekan asked if a compromise can be achieved, and Chair Berns suggested a 4' fence with landscaping to further deter trespassing.

Standards:

1. Yes (Berns) No (Gingold, McAuley)
2. Yes (Berns) No (Gingold)
3. NA

Mr. Gingold motioned to uphold the Zoning Administrator's determination to deny the requested 6' front yard fence, which was seconded by Ms. Dziekan. The denial was upheld 5-1.

The ZBA discussed the possibility of a wrought-iron style fence at a 4' height with 5' piers, or else a 3' height with 4' piers.

Standards:

1. Yes (Gingold - only if the fence height is consistent with the surrounding neighborhood)

2. Yes (Gingold - only if the fence height is consistent with the surrounding neighborhood)
3. NA

Ms. McAuley motioned to approve a 4' fence with 5' piers along the front property line, with the condition the fence materials are consistent with the documents and testimony on record, which was seconded by Ms. Dziekan.

Upon further discussion, Mr. Gingold motioned to rescind the open motion, which was seconded by Chair Berns and unanimous approved to rescind the open motion.

Mr. Gingold motioned and Ms. Cullen seconded a motion to approve a fence at the front property line at a height consistent with the surrounding neighborhood, as determined by staff measuring the existing fences on Sheridan Rd. between Kedzie and Main St. The motion was unanimously approved.

[Note that following the meeting staff measured the fencing at 42 inches in height to the top of wrought-iron portions and predominantly 52 inches in height to the top of piers; therefore, this is the fence height authorized by the Zoning Board of Appeals.]

Adjourned 10:05pm