



MEETING MINUTES
ZONING BOARD OF APPEALS

Tuesday, April 17, 2018

7:00 PM

Civic Center, 2100 Ridge Avenue, Council Chambers

Members Present: Scott Gingold, Violetta Cullen, Myrna Arevalo, Lisa Dziekan,
Mary Beth Berns

Members Absent: Kiril Mirintchev, Mary McAuley

Staff Present: Melissa Klotz, Scott Mangum

Presiding Member: Mary Beth Berns

Ms. Cullen motioned to approve the meeting minutes of March 20, 2018, which were seconded by Ms. Dziekan and unanimously approved.

825 Church St.

18ZMJV-0021

James Pomerantz, lessee, applies for a special use permit for a Type 2 Restaurant, Falcon Eddy's in the D2 Downtown Retail Core District (Zoning Code Section 6-11-3-4). 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.

James Pomerantz, operator, explained the proposal:

- The space was previously Dixie Kitchen and then Yahala Inn for a short time.
- The new restaurant will be a BBQ restaurant that serves chicken, pork, ribs, etc.
- Customers will order at the counter and pick up food from the counter.
- Kitchen was redone 18 months ago for Yahala Inn.
- Deliveries and garbage pickup will occur via the alley.
- Grubhub delivery vehicles will park on the street and come in the front.
- 10-12 employees maximum per shift.
- There is no employee parking on the property so employees will park in City garages (incentive provided) or take public transit.
- No exterior changes are proposed to the building.
- The seating area is for 46-48 customers.
- Will comply with the Sustainability Plan that includes recycling.
- Hours of operation from 10am-9pm during the week and 10pm on weekends.
- Will serve beer and wine; no bar or full liquor license.
- Commissary deliveries will be made between 8:30am-4pm.

Deliberation:

Mr. Gingold stated it is great a current Evanston business owner has found success and is opening another business. Ms. Dziekan agreed.

Ms. Cullen noted this is a great use for the space. Chair Berns noted the change from a Type 1 to a Type 2 Restaurant is minimal so there should not be any added impact to the neighborhood.

The Standards were addressed:

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

Mr. Gingold motioned to recommend approval with the following conditions:

1. Hours of operation shall not exceed 10am-midnight, 7 days a week
2. Employees shall not utilize on street parking.
3. Deliveries take place in the rear via the alley.
4. Sustainability Plan is required.
5. Substantial compliance with the documents and testimony on record.

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

1503 Church St.

18ZMJV-0016

Angelo Frigo, property owner, appeals the Zoning Administrator's decision to deny minor zoning relief (case number 18ZMNV-0002) to construct a 26.5' x 29.5' detached garage with a proposed building height of 27' where 20' is the maximum permitted building height for a detached accessory structure in the R1 Single-Family Residential District (Zoning Code Section 6-4-6-2-G). The Zoning Board of Appeals is the determining body for this case.

Mr. Mangum read the case into the record.

Angelo Frigo, 1503 Church St, explained the appeal:

- Mr. Frigo's wife is a middle school art teacher and he is a designer, so they need work space outside of the house but want to stay close to home.
- Originally applied for 27' height but can reduce it to 24'.
- Height is the only way to get a usable second floor.
- Could attach the garage to the house instead and then go up to 35' height but that would consume a lot of green space on the property.

Ms. Dziekan asked why the second story cannot be accomplished within the 20' height requirement. The applicant responded that they looked into it, but would only get 200 sq ft of space, which is not enough.

Chair Berns noted 200 sq ft is roughly the size of two bedrooms and the applicant concurred but stated that is not enough space. Work is currently done at the kitchen table.

Mr. Gingold asked if there are any other garages taller than 20' in the area and the appellant responded not within a two-block radius, but there are a lot of them a little further away that are typically with larger houses.

Chair Berns asked staff how staff worked with the appellant to find a solution, and Mr. Mangum responded the staff planner that reviewed the plans explained how a second story with dormers could comply with height and achieve almost the same usable square footage as the ground floor of the garage. Chair Berns reiterated this to the appellant, noting 16' x 30' is a large usable space and perhaps an architect can help design a compliant garage that achieves the overall goal.

Deliberation:

Chair Berns noted the case should be considered based on the 5 Minor Variation Standards.

Mr. Gingold noted it is difficult to complete work within a house and understands the desire for a separate work space. However, the appellant has been able to work within the home for the last 4 years. Ultimately the Standards are not met since a space could be established that accomplishes the goal and complies with zoning.

Ms. Dziekan asked Chair Berns to explain how a compliant second story could be established, and Chair Berns explained there are no maximum dormer sizes for second floors, so large dormers on each side of the garage would expand the headroom and usable space.

Mr. Gingold also noted this case could set a precedent if approved that could lead to an influx of height variations for all residents who want more space than their home provides.

Chair Berns explained the end goal is understandable and she sympathizes, but there is a way to meet the goal and comply with zoning. She reiterated an architect may be able to help find a solution.

The Standards were addressed:

1. No
2. No
3. Yes
4. NA
5. No

Mr. Gingold motioned to affirm the Zoning Administrator's decision and deny the appeal, which was seconded by Ms. Cullen and unanimously affirmed.

3233-3249 Central St:

Ms. Klotz read the case into the record.

Eileen Schoeb, applicant, explained the proposal:

- Denied by the ZBA in February for a 14 unit building

- Considered comments from the neighborhood and ZBA members, and now propose a 12 unit building.
- The surrounding neighborhood has smaller 1 and 2 story homes.
- Explained 9-unit as of right townhome proposal that appears taller and bulkier, with a larger building footprint but no detached garage.
- 9 unit proposal has 3 bedroom units that would house more people than the proposal at hand.

Mr. Gingold asked how this proposal differs from the February proposal that was determined to not meet the Standards, specifically by extracting additional income from the property, and without substantial public benefit. Ms. Schoeb explained this 12 unit proposal is for 2-bedroom moderate sized units that will rent at a lower cost than if they were compliant, large 3 bedroom units. The public benefits are the same as previously proposed (clarifying bus pad but not a bus shelter) as well as graveling the alley throughout and after construction. The alley is in poor condition currently, so all construction will stay on the west half so as not to disturb the entire alley, and will regrade and fill potholes to leave the alley in better condition than it currently is upon completion of the construction.

Chair Berns noted if one on-site affordable housing unit would increase the number of units permitted to 11 so that a variation is only needed for 1 more unit. Dan Schermerhorn responded that they are providing “inclusionary” housing that is inclusive of disabled individuals. It is not economically feasible to provide one one-site affordable unit. There are also other large costs including stormwater detention. Mr. Schermerhorn explained how the affordable housing calculation works, with an estimated rent at 60% AMI of \$800 a month.

Mr. Gingold asked if the other units could have a rent \$100 more per month to make up the difference of the affordable unit, and Mr. Schermerhorn explained no, then the rent would be too high for a building that is not a high rise and that does not have amenities, noting a comp to the AMLI building.

Chair Berns also noted 3 parking spaces could be eliminated if the on-site affordable housing unit is in place, which would further reduce costs. Mr. Schermerhorn responded the demand is for 2 parking spaces per unit, so they would not eliminate any parking or cost. Mr. Schermerhorn added they could construct 9 units as-of-right but after hearing the neighbors’ concerns, he felt the 12 unit proposal and stated public benefits are the best for the community. The public benefits cannot be provided with fewer than 12 units.

Chair Berns asked how it will work if someone wants to rent a unit that needs modification to become accessible, and who pays for those modifications. Ms. Schoeb explained the only modification needed would be to lower the countertop, and the plumbing is already lower so that it would be easy to do so. People have different accessibility needs, so it is not feasible to construct units to accessible requirements from the beginning because needs may still not be met - for instance older individuals may need higher countertops rather than lower.

Chair Berns noted that if units are handicap accessible from the beginning, the units will stay available to handicapped individuals since able-bodied individuals will not want those units. If units are only made adaptable, those units will quickly rent to able-bodied individuals. There is a better chance of a disabled individual renting within the building if units are already ADA accessible.

Bill Schermerhorn explained the expensive handicap things are building built in up front - the door widths and wheelchair clearances. Mr. Schermerhorn stated some units could be built with lower counters, but they may not want them so then they will have to be raised.

Chair Berns asked if all ground-floor units could be constructed as fully accessible rather than adaptable. Ms. Schoeb explained that the first floor units are all fully accessible. The second floor is adaptable only because of the stairs up to that level.

Ms. Schoeb further explained the 12 unit proposal has fewer bedrooms than the as-of-right 9 unit proposal and is therefore less dense.

Mr. Gingold asked if the project costs differ from the previous 14-unit proposal. Mr. Schermerhorn responded yes, there is one less stairwell, a little less building material, and a little less storm water detention. The cost per unit is around \$300,000 per unit, but by eliminating 2 units the cost did not go down by \$600,000. The difference is likely \$200,000-\$250,000.

Ms. Dziekan asked staff to clarify the chart in the staff memo, and Ms. Klotz explained the chart compares the base zoning district regulation and whether the 3233-3249 Central St. proposal would comply with building lot coverage if the density was met, which it appears it would.

Mr. Gingold noted the cost savings to build is approximately \$250,000. By losing 2 units (from the 14 unit proposal) you lose \$60,000 per year. Mr. Gingold calculated that there is no money lost until year 27 by providing one affordable unit. Mr. Schermerhorn explained he cannot obtain a bank loan with the affordable unit included because that is \$600,000 of revenue lost over the 25 year term. Mr. Schermerhorn noted it appears the threshold for a development being able to sustain on-site affordable units is closer to 20 units, not 10. Mr. Schermerhorn stated his bank determined roughly \$600,000 less would be lent based on the rent-roll, if one unit was affordable.

Chair Berns asked if the garage could be made smaller, to the minimum change necessary, to reduce the building lot coverage variation. Ms. Schoeb explained the garage is larger to accommodate the required bicycle parking, and to accommodate individuals who are in wheelchairs or need more maneuvering space with walkers, etc. since that is who the building is designed for. Ms. Schoeb acknowledged the garage could be made somewhat smaller if necessary.

Segrid Pilgrim, 2750 Bernard Pl., supports the proposal. Zoning was not followed for the Albion development, which is a large scale building. If large developers do not have to follow regulations, then small developers should get the same. But overall the zoning for all projects should be followed.

Michael Sulton, 3225 Central St., on behalf of his building association, he is in favor of the development. It fits well with the neighborhood and is less dense than a larger as-of-right proposal. The alley gravel is a huge public benefit to the immediate neighborhood.

Matt Stork, 2545 Hastings Ave., supports the proposal. The zoning regulations are not helping the community in this instance.

Sue Loelback, Joining Forces for Affordable Housing, explained her group supports the DAPR recommendation to support the on-site affordable unit and recognizing the need for affordable units in the community.

Kathy Leoni, 3253 Central St, explained she was vehemently against the 14-unit proposal. The 12 unit proposal is better than the 9 unit proposal which had very little greenspace. Ms. Leoni noted there were about 25 people at the neighborhood meeting and about 20 raised their hand in support of the 12-unit proposal. However, the alley is a mess and additional traffic/parking in the alley will make it worse. Ms. Leoni inquired whether the City could use reclaimed asphalt that is pervious until the City has the resources to fully pave the alley. Ms. Leoni asked if the project could move the air conditioner condensers closer towards the front of the building, but still on the side, so that they are further from her house and yard.

Chair Berns asked Ms. Leoni to expand on why she is in favor of the 12-unit proposal but was opposed to the 14-unit proposal. Ms. Leoni explained there is now a lot more space between her house and the proposed building - that makes all the difference.

Ms. Schoeb responded that the air conditioners will be 25' from the property line and surrounded by evergreens. Ms. Schoeb also explained the current site drains towards the alley, but once redeveloped that will not be allowed and instead there will be on-site stormwater management, so even with more vehicles, there will be less water in the alley so the alley will stay in better shape.

Chair Berns asked if one affordable unit could be provided elsewhere in Evanston, and Mr. Schermerhorn responded that he spoke to City staff Sarah Flax about that but it would have to be an equivalent unit, meaning in the same area of the City, and there is not an opportunity for that near 3233-3249 Central St.

Deliberation:

Mr. Gingold commended the applicant for the significant changes since the last proposal, which is shown by the fact that many neighbors spoke against the project at the February ZBA meeting, but no one is speaking against the 12-unit proposal. In fact, two neighbors who were opposed to the previous project spoke in favor of tonight's proposal. The push-back on the on-site affordable unit is concerning - it is clear that the fee-in-lieu is too low.

Ms. Dziekan agreed that this is a good proposal but is also concerned with the lack of the affordable unit. Ms. Cullen agreed.

Ms. Arevalo commended the applicant for working so closely with the neighborhood to address concerns. The turnaround of the neighborhood is remarkable.

Chair Berns explained if the proposal is truly accessible, then all first floor units should be constructed to ADA accessible standards including countertop heights. Mr. Gingold agreed.

Chair Berns also noted the garage should be made smaller, but Mr. Gingold disagreed, explaining people may need more space to exit their vehicles if they also need accessible units. Ms. Dziekan agreed.

Mr. Gingold summarized he is troubled by the refusal to put one affordable unit on-site, but the code requirement for inclusionary housing is met. Therefore, he is supportive of the development with the bottom 6 units fully accessible to more likely house people who need affordable units.

The Standards were addressed:

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

Mr. Gingold motioned to approve the development subject to the condition the project be in substantial compliance with the documents and testimony on record including the 6 ground floor units be constructed handicapped accessible from the beginning. The motion was seconded by Ms. Cullen and unanimously approved.

2035 Dodge Ave.

18ZMJV-0022

Junior Anderson, property owner, applies for major zoning relief to construct a 2-family residence with a detached garage in the R3 Two-Family Residential District. The applicant requests 2 dwelling units on a total lot size of 5,943 sq. ft. where a minimum 7,000 sq. ft. lot size is required for 2-family residences (Zoning Code Section 6-8-4-4). The Zoning Board of Appeals is the determining body for this case.

Ms. Klotz read the case into the record.

Chair Berns noted there are many inconsistencies among the plans that show differences that need to be worked out so the case should be continued. The building is shown at varying widths, the garage height is inconsistent, and the roof is shown differently.

Committee members discussed their availability for continuing the case to May 1, 2018 at 7pm.

The continuance was motioned by Ms. Cullen and seconded by Mr. Gingold and unanimously approved to be heard on May 1, 2018.

Adjourned 9:45pm.