MEETING MINUTES
ZONING BOARD OF APPEALS
Tuesday, February 18, 2020
7:00 PM
Civic Center, 2100 Ridge Avenue, Council Chambers

Members Present: Mary McAuley, Violetta Cullen, Myrna Arevalo, Kiril Mirintchev, Lisa Dziekan, Max Puchtel,

Members Absent: Jill Zordan

Staff Present: M. Klotz, Cade W. Sterling

Presiding Member: Violetta Cullen

Declaration of Quorum
With a quorum present, Chair Cullen called the meeting to order at 7:01 p.m.

Minutes
Ms. Arevalo motioned to approve the meeting minutes of January 21, 2020. Second by Mr. Mirintchev and approved 6-0.

1825 Lemar Avenue, Unit C 20ZMJV-0005
Oniel Johnson, applicant, submits for major zoning relief to construct an open front porch and fence in the R2 Single-Family Residential District. The applicant requests a 19’ front yard setback where 22.5’ is required (Zoning Code Section 6-4-1-9 (B) 1.) and a fence located in the front yard where the required front yard is not adjacent to a Type 1 Street (Zoning Code Section 6-4-6-7 (F) 2. (a)). The Zoning Board of Appeals is the determining body for this case.

Deliberation:

M. Klotz explained that the applicant was not present and the case was intended to be formally withdrawn in order to pursue compliant design alternatives.

L. Dziekan made a motion to continue the case without discussion to a date uncertain. Second by K. Mirintchev (Vote 6-0).

1224 Oak Ave. 19ZMJV-0084
Donna Lee Floeter, architect, applies for major zoning relief to construct an attached garage, deck, and attic addition, in the R3 Two-Family Residential District and Ridge Historic District. The applicant requests a 3’ rear yard setback where 30’ is required (Zoning Code Section 6-8-4-7), a 3.2’ north interior side yard setback where 5’ is required (Zoning Code Section 6-8-4-7 (A) 3.), a 1’ south interior side yard setback for an accessory structure (deck) where 5’ is required (Zoning Code Sections 6-8-4-7 (C) 3. and 6-4-6-3), and building lot coverage of 51% where 45% is required (Zoning Code Section 6-8-4-6). The Zoning Board of Appeals is the determining body for this case.
An open motion for conditional approval, with testimony closed, will be considered by members not present at the preceding (01.21.20) meeting.

Deliberation:

M. Klotz explained the previous motion made by Mr. Mirintchev at the preceding meeting:

- Recommend approval of the request, which was seconded by Ms. Arevalo with the following conditions:
  1. Removal of the second floor roofed screen porch above the proposed garage and replacement with an open rooftop deck and railing. A roofed elevator shaft shall be permitted.
  2. The applicant shall develop the subject property in substantial compliance with the testimony and representations of the Applicant to the Zoning Board of Appeals, and the plans and documents on file in this case.

M. Klotz explained that the motion failed to reach four concurrent votes (3-1) and will be considered, with testimony closed, at tonight’s meeting by members not present at the January 21 meeting.

L. Dziekan questioned if removal of the second floor roofed porch was the least deviation required for approval, and stated concern that the proposal with conditions is inappropriate.

- In response, K. Mirintchev clarified his position and motion made at the last meeting.
  - The relationship between the property to the north and the intensity of use on the second floor of the garage was his primary concern.
  - Less intense activity and less bulk in this location is appropriate.
  - The roofed portion being the most problematic, because it created a long expanse of solid building wall. Removal of this roofed structure, was a considerable improvement.
- M. Arevalo clarified that the elevator could remain roofed, but limited in size.

L. Dziekan stated her concern that the board was making considerable concessions for the property owner to accommodate additional vehicles.

- M. McAuley stated her position that the property is unique and the owners desire to age in place make the three car garage a preferable design as compared to a two car garage or open off-street parking

Vote:

Member Dziekan, McAuley, and Puchtel vote for approval with the conditions as stated in the January 21 meeting. Final vote for approval 6-1.
Richard A. Shapiro, applicant, submits for a special use for an Office, for Richard Shapiro Attorney At Law, in the R5 General Residential District (Zoning Code Section 6-8-7-3). The Zoning Board of Appeals makes a recommendation to City Council, the determining body for this case.

M. Klotz read the case into the record.

Tom Quinn, attorney, requested that the case be continued due to Mr. Shapiro’s health condition not allowing him to attend.

M. Klotz explained that the meeting had been continued previously, once by the City and once more by the applicant. M. Klotz stated it was the City’s position that since the Board was a recommending body only, it would be beneficial if the case were introduced tonight and allowing Mr. Shapiro to come to the following meeting to provide additional testimony only if the Board felt it necessary.

Chair Cullen stated agreement that the case should be heard and a continuance would not be beneficial

T. Quinn provided background information on Mr. Shapiro and the law practice in question.
- The office had grown slowly over time and Mr. Shapiro has helped many Evanston residents throughout his practice
- The nature of the practice is remote and mobile, especially now, but even in the past when house calls and phone consultations predominated
- Mr. Shapiro has taken care to keep the structures in good condition. No resident would assume the buildings were anything but residential from the exterior.
- The intensity of the use is low and will continue to be low.
- The area around the homes in question, it multi-family and business in nature with a higher intensity than a single-family residential neighborhood
- The business has not, and will not have a negative impact on proximate residences. Mr. Shapiro is a good neighbor and lives in a nearby multi-family building himself.
- The neighbors do not object to the current use and regard Mr. Shapiro as a good neighbor and upstanding member of the condo association in which Richard lives.

T. Quinn provided information on parking and access to the offices.
- The offices rent spaces in numerous proximate locations as well as three off-street parking spaces for a total of 27 rented spaces.
- Many employees ride bikes and walk to work.
- Half of the employees utilize public transportation due to the proximity to the Dempster CTA station and Davis Metra station.
- If the parking spaces were not rented by Mr. Shapiro, they would likely not be rented at all by nearby residents due to the abundant on-street and off-street parking conditions in the neighborhood.
T. Quinn stated that Mr. Shapiro is asking for a Special Use Permit only for the remainder of time Mr. Shapiro owns and operates the business.

M. McAuley inquired if the property was reclassified with the Cook County Assessor
- T. Quinn stated that it has not been, but Mr. Shapiro intends to back date the property
- M. McAuley stated it is often not easy to reverse a reclassification for a property with the assessor. People come to rely on that income and people buying it as a home have a difficult battle to reclassify it back to residential.
- T. Quinn stated that Mr. Shapiro would cooperate in any way possible

L. Dziekan asked for clarification on what precipitated the Special Use application now?
- T. Quinn stated that the City of Evanston was the precipitating event
- M. Klotz clarified that an anonymous complaint was made which triggered further investigation
- L. Dziekan stated that the irony of a tax attorney illegally operating a business out of a residential structure should not be lost on the board.
- T. Quinn stated that the case was a simple result of a home business growing gradually. Mr. Shapiro recognizes that he should have gone through this process long ago. Time got away from him.
- L. Dziekan asked if anyone knew what the difference would have been between it being taxed as commercial vs residential for such a long period of time
- M. McAuley stated that it would be a lot and that the County would certainly seek restitution. Commercial properties are taxed at a much higher, more than double, tax rate and the amount of revenue lost is significant.
- M. McAuley stated there was no excuse for a tax attorney to do this and an explanation is in order because he cannot claim ignorance.
- T. Quinn stated that the board would have to ask Mr. Shapiro agreeing it should have been reclassified earlier and Mr. Shapiro is prepared to make amends.
- T. Quinn stated that despite the lost tax revenue, the business has contributed to the local economy in a positive way

T. Quinn explained the financial investment Mr. Shapiro is prepared to undertake if the Special Use is approved
- Significant investment in life safety within the interior of the buildings although the ADA improvements are likely not necessary since on-site meetings do not occur often.
- Exterior life safety improvements discussed by the City are not required. The point has been deliberated at length. If they are required, the Preservation Commission would get involved. Mr. Shapiro is prepared to undertake them if mandated to do so.
- In total, Mr. Shapiro is prepared to invest $300,000 in improvements in addition to all back taxes.

Violetta Cullen inquired how many lawyers/paralegals are employed by Mr. Shapiro across the two sites
- T. Quinn stated that there are 44 on-site and 4 that work remotely. Although they don’t all come in at one time. Many choose to work remotely at any given time,
which Mr. Shapiro is supportive of. The peak would be 22 individuals in each building, although this doesn’t occur often.

- Mr. Shapiro is willing to accept the proposed limit on number of employees discussed at DAPR

L. Dziekan asked what would happen if the Special Use were not granted

- T. Quinn stated that Mr. Shapiro would move his business, likely to Chicago.
- L. Dziekan asked why Mr. Shapiro would do this. If he is as committed to Evanston as he says he is, why not lease space in Evanston’s healthy office market. There is space available, why move out of the community
- T. Quinn stated that there is no available space in Evanston which work as well as these two spaces do.
- L. Dziekan asked if he were to sell and move, would he be liable for the back taxes owed to the County?
- M. Klotz stated that this would ultimately be determined by the County but the City would certainly report Mr. Shapiro to the County Assessors and pursue restitution

L. Dziekan asked for clarification in the staff memo. Why does Planning and Zoning Staff recommend denial, but DAPR recommends approval? Aren’t there Planning and Zoning members on DAPR?

- M. Klotz clarified that the DAPR recommendation is based on individual specialties and perspectives. Although some Planning and Zoning Staff present voted in favor, they were representing unique aspects of the Division, such as Preservation. In total, the Planning and Zoning Division and Community Development Departments position is to recommend denial for a lack of accessibility and the potential precedent for allowing moderate office use in a residential area.

M. McAuley stated that a number of parking spaces are leased, but there is intense traffic on Chicago Avenue at 5pm and these 27 cars are certainly contributing to that and this is a negative impact on the neighborhood.

- T. Quinn clarified that only 11 spaces are immediately adjacent to the structure and they were unaware of any traffic study which supports M. McAuley’s claim.
- M. McAuley stated that Chicago Avenue is a major thoroughfare
- T. Quinn stated that this point was well taken and a perfect rationale why the two buildings should be something other than residential

M. Puchtel asked for staff clarification on the threshold for a home occupation vs the special use they’re asking for

- M. Klotz stated that the primary difference is that Mr. Shapiro hasn’t lived in either building for many years. Additionally, there are limits on the number of employees which don’t live on-site. She believes this number is 1 or 2.
- M. Puchtel stated that the use has been out of compliance for some time then, which doesn’t support the claim that it grew organically
- T. Quinn stated that Mr. Shapiro had lived in one building until 2002 or so.
- V. Cullen asked if his mother helped run the business and if she lived on-site?
• T. Quinn stated that his mother helped out but did not manage or own the business in any way, nor did she live on-site.

L. Dziekan asked for clarification on the location of the parking spaces
• T. Quinn stated that the locations are distributed amongst City owned locations and spaces behind neighboring properties
• A couple of spaces are at small apartment buildings and a few spots on the other side of the alley.
• L. Dziekan stated that a recent letter of opposition suggests there is a waiting list for the spaces in City lots.
• M. Klotz stated that at some of the lots the waiting list is roughly two years
• T. Quinn clarified that no residents in the immediate area are on that waiting list. They canvased the neighborhood and no one was in need of a parking space
• T. Quinn stated that the staff memo suggests that any traffic congestion was not contributed to by the office use, at least to any high degree.

M. McAuley asked if there were significant changes to the exterior of the homes to undertake the life safety improvements, would the case need to be renoticed?
• M. Klotz stated that it would not need to be renoticed, but would require preservation review and would be reviewed by the commission before going to Council for action.

Public Comment:

J. Goodman provided testimony
• Family owns the eight unit building at 522 Greenwood. Mr. Shapiro has been a good neighbor. The best that they’ve had. There are very little comings and goings at the two office spaces. There is very little activity at all. Mr. Shapiro is asking for a very limited amount of time due to his age. He is dedicated to his employees and offers high quality jobs. This has resulted in many long-term employees.
• Provided clarification that most of the parking spaces are behind homes on Hinman Avenue. Street parking in the neighborhood is ok. Not great.
• M. McAuley asked about resident stickers. Where are they needed?
• J. Goodman stated that the block of Greenwood is two hour parking unless you have the resident sticker
• M. McAuley asked if R. Shapiro was using resident stickers?
• J. Goodman stated no

Tom Pelonis provided testimony
• Is the president of the condo association where R. Shapiro is a resident
• The property is in close proximity to the offices in question.
• Appreciate the efforts R. Shapiro is taking to bring his property back into compliance.
• Stated that the owners of the condo building were concerned at first about Mr. Shapiro’s request, specifically about how it could impact property values. However, they surveyed many realtors and they said there would be no reduction in property value as a result.
• Concern with ADA compliance but noted that Mr. Shapiro does provide accommodations to those who need it including house calls.
• Concern with the back taxes owed by Mr. Shapiro but it seems like he is willing to address this.
• Noted a note in the DAPR minutes where Mr. Shapiro was asked if he would landmark the two homes. He would be supportive of this effort because of concern the homes could be torn down at some point if they are ever re-zoned as business or commercial.
• Concerned with the precedent and eventual re-zoning of the properties.
• Has had no issues with Mr. Shapiro in over 20 years. Mr. Shapiro has promptly taken care of any issues that have come up with parking.
• Recommends, as a block of 20 owners to approve the special use permit as the uses are not intrusive. The owners are fully supportive if Richard brings the buildings into compliance and pays his owed taxes.
• L. Dziekan asked if modifications to the exterior of the building would change the views of the residents
• T. Pelonis stated that in general, no, but they would need to see what was proposed.

M. McAuley stated a desire to make a decision tonight and move the case forward since the board was only a recommending body.

K. Mirintchev stated that he personally wants to hear from Mr. Shapiro, especially to more fully understand the background on the historic of his use and how they evolved overtime.

M. McAuley agreed that it would benefit Mr. Shapiro to make a direct appeal. There has been a litany of inappropriateness with his actions, but it is difficult to recommend putting a 68 year old resident of Evanston out of business.

V. Cullen stated that the point the applicant made about doing business over the internet and in person is well taken, but this was likely a recent option.

T. Quinn stated that well before the internet, business was conducted by phone.

T. Quinn asked the Board for a continuance in order for them to hear directly from Mr. Shapiro

M. McAuley made a motion to continue the case to March 17. Second by L. Dziekan. Vote (5-1) M. Puchtel dissenting.

Adjourned 8:14pm