

MINUTES OF THE ZONING BOARD OF APPEALS
April 26, 2021

The regular meeting of the Zoning Board of Appeals was conducted virtually due to public health concerns and called to order by Chairman Matthew Krummick at 7:00 p.m.

Members present: Chairman Matthew Krummick, Amy Flores, Mark Moore, Walter Oakley, Richard Pyter, Kurt Schultz, and Eric Steffe.

Members absent: None.

A quorum was established.

Village Staff present: John Spoden, Director of Community Development; David Smith, Senior Planner; and Jeff Cooper, Village Engineer.

Others present: Brooke Lenneman, Village Attorney.

Board Member Oakley moved, seconded by Board Member Moore, to approve the April 12, 2021, Zoning Board of Appeals minutes.

Motion carried 7 - 0.

OLD BUSINESS: None.

NEW BUSINESS:

**ZBA 21-05 Dos Amigos Mexican Restaurant, Applicant
101 W. Rockland Road**

Request is for a variation to reduce the minimum required number of parking spaces from 69 to 60 in order to allow the Dos Amigos Mexican Restaurant to expand into the abutting commercial tenant space addressed as 103 W. Rockland Road for property located in a C-3, General Commercial District at 101 W. Rockland Road and to further allow the property owner to seek occupancy for the tenant space addressed as 113 W. Rockland Road for a Retail or Service type of land use without requiring a subsequent application for variation.

Mr. David Smith, Senior Planner, stated that the petitioners for Dos Amigos Mexican Restaurant are requesting a variation to reduce the minimum required number of parking spaces in order to allow their restaurant to expand into the adjacent tenant space located in the Rockland Plaza. Mr. Smith stated that the subject site is located at the southwest corner of Rockland Road and Milwaukee Avenue in the C-3, General Commercial District at 101 W. Rockland Road.

Mr. Ken Henry, attorney and representing agent for the petitioners, presented their case for the variation request. He stated that Dos Amigos has occupied their current tenant space at 101 W. Rockland Road within the Rockland Plaza since 2017. He stated that now they have the

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opportunity to expand into the adjacent vacant tenant space at 103 W. Rockland Road within the Rockland Plaza. He stated that the vacant space was previously occupied by a retail user. He stated that most of the other current tenants in Rockland Plaza support the Dos Amigos expansion.

Mr. Henry presented the applicant's response to each of the Standards for Variation to the Zoning Board of Appeals. Mr. Henry stated that written responses to each of the Standards for Variation are incorporated into the application materials as well. Mr. Henry stated that there is a limited amount of land on the property and that there is no off-street parking available elsewhere. He stated that the property's land area will not enable a physical expansion of parking at the site. He stated that Dos Amigos Mexican Restaurant it is at its busiest when the other commercial tenants in the Rockland Plaza are at their least busy with patrons. Mr. Henry stated that the strict application of the Code would deny Dos Amigos their substantial rights to operate their restaurant service. Mr. Henry stated that they anticipate that the Dos Amigos business will flourish after the pandemic but will not result in an inconsistency with the Village Code. He stated that they do not anticipate a negative impact upon the traffic and that the approval of the requested variation will not be detrimental to light, air, congestions and will not impose an increase in flood or fire hazards.

Mr. Tom Cappelle, 201 W. Rockland Road, stated that he lives at the neighboring property to the west and that he supports the requested variation. He stated that he has never seen the Rockland Plaza parking lot more than half full.

Board Member Pyter stated that he supports the variation request. He asked if the Rockland Elementary School parking lot is available to Rockland Plaza spill over parking. Mr. Henry stated that Rockland school parking lot is not available for Rockland Plaza.

Board Member Steffe stated that he supports the variation request. He asked about the increase in the number of tables and seating. Mr. Henry stated that the expansion will double the number of existing tables.

Mr. Oscar Garcia, Dos Amigos Mexican Restaurant, stated that there will be an increase of eleven (11) more tables. He stated that due to Covid they have capped the number of tables by 50% in their current tenant space.

Board Member Flores stated that she supports the parking variation for Dos Amigos. She stated that there are certain events at Rockland Elementary School that produce spill over parking onto other properties including Rockland Plaza.

Mr. Garcia stated that there have been times when Rockland School has used the Jiffy Lube parking lot and the west end of the Rockland Plaza parking lot.

Board Member Schultz stated that he supports the parking variation for Dos Amigos.

Board Member Oakley indicated that he supports the parking variation for Dos Amigos.

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Board Member Moore stated that he supports the parking variation for Dos Amigos. He asked how many employees will Dos Amigos have after the expansion. Mr. Garcia stated that they have eight (8) now and may increase an additional four (4) or five (5) employees after the expansion.

Board Member Moore asked where the employees park now and in the future. Mr. Garcia stated that the employees are asked to park at the west end of the parking lot. He stated that this is required by the plaza owner.

Board Member Moore asked how the outdoor dining will be accommodated and if they will remove any existing parking spaces for outdoor dining. Mr. Garcia stated that they will continue to utilize the area that is striped out area that is not designated parking spaces.

Chairman Krummick asked the petitioner if they are ready for the Zoning Board of Appeals to render their recommendation tonight. Mr. Henry stated that they are ready for the Zoning Board of Appeals to make their recommendation to the Village Board tonight.

In the matter of ZBA 21-05, Board Member Schultz moved, seconded by Board Member Steffe, to recommend the Village Board of Trustees approve a variation to reduce the minimum required number of parking spaces from 69 to 60 in order to allow the Dos Amigos Mexican Restaurant to expand into the abutting commercial tenant space addressed as 103 W. Rockland Road for property located in a C-3, General Commercial District at 101 W. Rockland Road and to further allow the property owner to seek occupancy for the tenant space addressed as 113 W. Rockland Road for a Retail or Service type of land use without requiring a subsequent application for variation, in accordance with the plans submitted.

Motion carried 7 - 0.

Ayes: Krummick, Flores, Moore, Oakley, Pyter, Schultz, Steffe
Nays: None
Absent: None

ZBA 21-07 Durable Inc./Garden Investment Co., Applicant
1530 Artaius Parkway

Request is for a variation in order to allow loading spaces to be located closer to the public right-of-way, an existing easement for private road and underground utilities, than the facade of the building facing such right-of-way for property located in an I-1, Limited Industrial District.

ZBA 21-08 Durable Inc./Garden Investment Co., Applicant
1530 Artaius Parkway

Request is for a variation to increase the maximum allowed percentage of the width of a wall of a building facing a street containing loading docks or loading dock doors

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from 32% to approximately 42% for property located in an I-1, Limited Industrial District.

ZBA 21-09 Durable Inc./Garden Investment Co., Applicant
1530 Artaius Parkway

Request is for a variation to allow loading spaces located on a side of the building facing a street, an existing easement for private road and underground utilities, to not be enclosed by the building for property located in an I-1, Limited Industrial District.

Mr. David Smith, Senior Planner, stated that the petitioner, Darren Anders, Durable Packaging International, is requesting a Text Amendment to the Zoning Code, a Site Plan Permit, and multiple variations in order to construct truck dock loading area improvements and to expand parking lot area for property located in an I-1, Limited Industrial District at 1530 Artaius Parkway. Mr. Smith stated that the Plan Commission may recall that in 2019 Durable Packaging International requested and was granted a Special Use Permit for the 1530 Artaius Parkway property for the manufacturing of aluminum foil/wax paper rolls, inner paper cores and assembly and packaging of boxes to support the final assembly and distribution of such products. Mr. Smith stated that at that time the petitioner simply sought approval for their land use and occupancy without site improvements.

Mr. Jared Kenyon, Kimley-Horn: Planning and Design Engineering Consultants and agent on behalf of Durable Goods, presented the proposed improvements to the site and building. He stated that they agree to the Staff review comments found in the DRC Staff Review Report but that it may be a challenge to preserve one of the trees that they have indicated for removal in their plans.

Mr. John Spoden, Director of Community Development Department, stated that Staff can review the tree removal issue at time of construction permit application submission.

Board Member Steffe stated that he supports the petitioner's request and recognizes the unique circumstances of the subject site abutting a private road and located in an industrial area.

Board Member Shultz stated that he supports the petitioner's request and that the nature of the building orientation would make it difficult to make the necessary improvements without approving the petitioner's requests.

Board Member Pyter asked for clarification as to whether the scope of work includes making truck dock improvements on the north end of the building or not. Mr. Kenyon stated that there will be no trucks along the north end of the building.

Board Member Oakley stated that he supports the petitioner's requests.

Board Member Flores stated that she supports the petitioner's requests.

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Board Member Moore stated that he is concerned about the requested Zoning Code text amendment having a profound impact upon multiple zoning districts throughout the Village.

Mr. Spoden stated that there was an attempt at to incorporating limitations by only listing the three Industrial Districts.

Board Member Moore stated that there might be some circumstances in other locations where the type of variations being sought by the petitioner would not be warranted.

Mr. Darren Anders, Durable Goods, stated that he is concerned about the zoning process and that they are in need to make the modifications as soon as possible.

Ms. Brooke Lenneman, Village Attorney, stated that the petitioner is able to poll the Board before asking for a vote.

Board Member Steffe stated that he is supportive of the project as presented.

Board Member Schultz stated that he is supportive of the project as presented.

Board Member Pyter stated that the text amendment should be further modified to be more restrictive.

Board Member Oakley stated that he is supportive of the project as presented.

Board Member Flores stated that she is supportive of the project but should remove the I-2 and I-3 Industrial Districts out of the text amendment proposal.

Chairman Krummick stated that he is supportive of the project but should remove the I-2 and I-3 Industrial Districts out of the text amendment proposal.

Board Member Moore stated that the text amendment should be further modified to be more restrictive.

Mr. Anders stated that he concurs that it makes more sense to remove the I-2 and I-3 Industrial Districts out of the text amendment proposal. He stated that he is ready for the Board to make a recommendation to the Village Board tonight.

In the matter of ZBA 21-07, Board Member Schultz moved, seconded by Board Member Steffe, to recommend the Village Board of Trustees approve a variation in order to allow loading spaces to be located closer to the public right-of-way, an existing easement for private road and underground utilities, than the facade of the building facing such right-of-way for property located in an I-1, Limited Industrial District, in accordance with the plans submitted.

Motion carried 6 - 1.

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Ayes: Krummick, Flores, Oakley, Pyter, Schultz, Steffe
Nays: Moore
Absent: None

In the matter of ZBA 21-08, Board Member Pyter moved, seconded by Board Member Schultz, to recommend the Village Board of Trustees approve a variation to increase the maximum allowed percentage of the width of a wall of a building facing a street containing loading docks or loading dock doors from 32% to approximately 42% for property located in an I-1, Limited Industrial District, in accordance with the plans submitted.

Motion carried 5 - 2.

Ayes: Flores, Oakley, Pyter, Schultz, Steffe
Nays: Krummick, Moore
Absent: None

In the matter of ZBA 21-09, Board Member Schultz moved, seconded by Board Member Pyter, to recommend the Village Board of Trustees approve a variation to allow loading spaces located on a side of the building facing a street, an existing easement for private road and underground utilities, to not be enclosed by the building for property located in an I-1, Limited Industrial District, in accordance with the plans submitted.

Motion carried 6 - 1.

Ayes: Krummick, Flores, Oakley, Pyter, Schultz, Steffe
Nays: Moore
Absent: None

STAFF COMMUNICATIONS AND DISCUSSION: None.

Board Member Flores moved, seconded by Board Member Oakley to adjourn the meeting.

Motion carried 7 - 0.

Meeting adjourned at 8:50 p.m.